

May 11, 2007



*Filed electronically and via overnight Federal Express*

Public Utility Commission of Oregon  
ATTN: Filing Center  
550 Capitol Street NE, Suite 215  
Salem, OR 97308-2148

Re: 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  
Docket No. ARB 775

Dear Sir/Madam:

Enclosed for filing are an original and five copies of the Direct Testimony of Douglas Denney, Bonnie J. Johnson, and Michael Starkey with exhibits in the above-referenced matter.

Also enclosed is a certificate of service. I have also enclosed an additional copy of this letter and request that you date stamp its receipt and return it to me in the enclosed self-addressed, stamped envelope.

Sincerely,

A handwritten signature in blue ink that reads "Tobe Goldberg".

Tobe L. Goldberg  
Senior Legal Secretary  
Eschelon Telecom, Inc.  
612-436-6084 (Direct)  
612-436-6816 (Department fax)  
tlgoldberg@eschelon.com

Enclosures

cc: Jason Topp, Qwest (email and hand delivered)

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 the Direct Testimony of Douglas Denney, Bonnie J. Johnson, and Michael Starkey with exhibits on behalf of Eschelon Telecom of Oregon, Inc. was filed electronically with and the original and five copies were sent via overnight mail on the 11th day of May, 2007 to:

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

and a true and correct copy was sent via email and hand delivery on May 11, 2007, to:

Jason Topp  
Qwest Corporation  
200 South Fifth Street  
Room 395  
Minneapolis, MN 55402  
Jason.Topp@qwest.com

DATED this 11<sup>th</sup> day of May, 2007.

  
\_\_\_\_\_  
Tobe L. Goldberg

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**DIRECT TESTIMONY**  
**OF**  
**MICHAEL STARKEY**  
**ON BEHALF OF**  
**ESCHELON TELECOM, INC.**

May 11, 2007

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE**  
3 **RECORD.**

4 A. My name is Michael Starkey. My business address is QSI Consulting, Inc., 243  
5 Dardenne Farms Drive, Cottleville, Missouri 63304.

6 **Q. WHAT IS QSI CONSULTING, INC. AND WHAT IS YOUR POSITION**  
7 **WITH THE FIRM?**

8 A. QSI Consulting, Inc. ("QSI") is a consulting firm specializing in regulated  
9 industries, econometric analysis and computer-aided modeling. I currently serve  
10 as the firm's President.

11 **Q. PLEASE PROVIDE A SYNOPSIS OF YOUR EDUCATIONAL**  
12 **BACKGROUND AND RELEVANT WORK EXPERIENCE.**

13 A. Included with this testimony as Eschelon/2 is a thorough description of my  
14 educational background and relevant work experience. In brief, I have been a  
15 consultant to telecommunications providers, equipment manufacturers,  
16 government agencies and other private parties since 1996. Previous to my  
17 consulting experience, I served as the Director of Telecommunications for the  
18 Maryland Public Service Commission ("PSC") and prior to that, as the Office of  
19 Policy and Planning's Senior Policy Analyst for the Illinois Commerce  
20 Commission. I began my career as a Senior Economist at the Missouri PSC.  
21 Throughout my career I have spent a great deal of time studying

1 telecommunications networks, including substantial time and effort aimed at  
2 developing rationale, efficient means by which competing communications  
3 carriers can interconnect their respective facilities. I have likewise analyzed the  
4 underlying economic characteristics of communications networks and have on  
5 numerous occasions provided expert testimony regarding the costs of providing  
6 various services. Finally, I am very familiar with the negotiation, mediation and  
7 arbitration processes envisioned by Section 252 of the Telecommunications Act  
8 of 1996 and I have, since 1996, participated in dozens of negotiations and  
9 arbitrations<sup>1</sup> on behalf of some of the largest, and smallest, carriers in the nation.

10 **II. OVERVIEW AND INTRODUCTION TO DIRECT TESTIMONY**  
11

12 **Q. HOW IS ESCHELON'S DIRECT TESTIMONY PHYSICALLY**  
13 **ORGANIZED?**

14 A. Eschelon's direct testimony follows the organization of the Issues by Subject  
15 Matter List. I have provided as Eschelon/3 a copy of the Issues by Subject Matter  
16 List annotated to indicate where in Eschelon's direct testimony the discussion of  
17 that Subject Matter may be found (*i.e.*, which witness discusses that Subject  
18 Matter for Eschelon).<sup>2</sup> The Issues by Subject Matter List is a roadmap to all of

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<sup>1</sup> The docket numbers for the Qwest-Eschelon ICA arbitrations are, for Arizona, T-03406A-06-0572; T-01051B-06-0572 ("Arizona arbitration"); for Colorado, 06B-497T ("Colorado arbitration"); for Minnesota, P-5340, 421/IC-06-768 ("Minnesota arbitration"); for Oregon, ARB 775 ("Oregon arbitration"); for Utah, 07-2263-03; petition filed but no testimony yet ("Utah arbitration"); and for Washington, UT-063061 ("Washington arbitration").

<sup>2</sup> The Issues by Subject Matter List (non-annotated) was provided as Exhibit 2 to Eschelon's Petition for Arbitration.

1 the open issues, ICA Section numbers, and groupings of issues. The Issues by  
2 Subject Matter List follows the same grouping and issue numbering as found in  
3 the joint Revised Disputed Issues Matrix (“Disputed Issues Matrix”),<sup>3</sup> for ease of  
4 reference. In the Issues by Subject Matter List and the Disputed Issues Matrix,  
5 the issues are generally discussed in the order in which they appear in the  
6 Interconnection Agreement (“ICA”). Generally, the first number of the Issue  
7 Number refers to the Section number of the ICA. For example, Issue 2-3 refers to  
8 contract language that appears in Section 2 of the ICA (entitled “Interpretation  
9 and Construction”) and issue number three of the total open issues.<sup>4</sup>

10 There are 46<sup>5</sup> Subject Matter groupings identified on the Issues by Subject Matter  
11 List, with 26 remaining wholly or partially disputed. The discussion of these

---

<sup>3</sup> The Oregon Disputed Issues Matrix was filed initially as Exhibit 3 to Eschelon’s Petition for Arbitration in this matter on October 10, 2006. *See* Eschelon Telecom’s Petition for Arbitration of Inter-carrier Negotiations with Qwest Corporation under the Telecommunications Act of 1996. *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.* Oregon PUC Docket No. ARB 775 [“Eschelon Petition”], Exhibit 3. A brief written narrative summarizing Eschelon’s position with respect to the open issues is set forth in the Disputed Issues Matrix for each issue [“*Eschelon position statement*”]. The Disputed Issues Matrix also includes a brief written narrative drafted by Qwest that summarizes Qwest’s position for each issue [“*Qwest position statement*”].

<sup>4</sup> There will be gaps in the issue numbering. For example, there is no issue 1-2. These gaps are generally due to renumbering or closure of issues.

<sup>5</sup> At the time that the Issues by Subject Matter List was filed as Exhibit 2 to Eschelon’s Petition for Arbitration in this proceeding, there were 46 Subject Matter groupings on the list (with three of those subject matters – 19, 21 and 41 – shown as intentionally blank). Since that time, seventeen (17) additional Subject Matter groupings have been closed and other Subject Matter groupings have had some issues closed or, in some instances, altered. At the time of filing of this testimony, 26 Subject Matter groupings remain wholly or partially disputed. For each issue that has been partially or totally closed, Eschelon witnesses will provide the agreed upon language in Direct Testimony. Eschelon Direct Testimony will also point out any new or altered proposal for any of the remaining open issues. I have provided as Eschelon/3 to this testimony an updated Issues by Subject Matter List, showing the current status of the disputed issues (including the issues that have closed) and the Eschelon witness that addresses each disputed issue.



1 Subject Matters in individual Eschelon testimony will begin with headings  
2 indicating the Subject Matter number, followed by the Issue Numbers for that  
3 grouping and then the ICA Section numbers for each issue. In an electronic  
4 version of Eschelon's Direct Testimony, which will be provided on CD-ROM in  
5 addition to the hardcopy version, the files are linked such that the reader may  
6 generally click on the Subject Matter heading (1-46) in the Issues by Subject  
7 Matter List, and it will take the reader to that portion of Eschelon's direct  
8 testimony. It is Eschelon's hope that this will allow the Commission an efficient  
9 way to review each of the issues.

10 **Q. IN TERMS OF CONTENT, HOW IS ESCHELON'S DIRECT**  
11 **TESTIMONY ORGANIZED?**

12 A. I begin with an overview of the open issues and address Qwest's claim, with  
13 respect to a number of those issues, that they should be excluded from the  
14 interconnection agreement and dealt with outside of the contract, such as in  
15 Qwest's Change Management Process. After this overview, I turn to the  
16 individual issues set forth in the Issues by Subject Matter List. In my testimony  
17 and the direct testimony of the other Eschelon witnesses, Eschelon addresses each  
18 Subject Matter individually and asks the Commission to consider it on the merits.  
19 Eschelon generally begins with an explanation of the business need that led  
20 Eschelon to bring the particular issue – out of the numerous other issues that arise  
21 in the Qwest-Eschelon business relationship – to the Commission for resolution.  
22 Eschelon identifies its proposed language, briefly describes Qwest's position, and

1 then discusses the reasons why the Commission should adopt Eschelon's  
2 proposal. Ideally, an overview and introduction would include a brief summary  
3 of each Subject Matter. To avoid redundancy and given the length of the  
4 testimony, however, Eschelon instead refers the reader to its position statement in  
5 the Disputed Issues Matrix, as well as to the description of Eschelon's business  
6 need in the testimony, for a summary of each issue.

7 **Q. HOW IS CONTRACT LANGUAGE IDENTIFIED IN ESCHELON'S**  
8 **TESTIMONY?**

9 A. I provide the language proposals of both Eschelon and Qwest for each issue. The  
10 format used to identify the disputed language in my testimony will be similar to  
11 the format shown for Eschelon's proposed language in Exhibit 3 to Eschelon's  
12 Petition for Arbitration. When Eschelon's proposed language is shown, any  
13 language that is proposed by Eschelon and opposed by Qwest will be shown in  
14 underlined text to denote that the language is not agreed to. Oftentimes it is  
15 helpful to review Qwest's language alongside that of Eschelon's within  
16 Eschelon's proposed language to illustrate the differences in proposals, and in  
17 these instances, Qwest's proposed language is shown in ~~strikeout text~~. The same  
18 goes for when Qwest's proposed language is displayed: Qwest proposed language  
19 opposed by Eschelon is shown in underlined text, and Eschelon's language is  
20 shown in ~~strikeout text~~. Any agreed to language that is provided for context will  
21 not be highlighted in any way (*i.e.*, not underlined and not strikeout).

1 **Q. ARE THE 26 SUBJECT MATTERS THAT REMAIN OPEN<sup>6</sup> PROPERLY**  
2 **BEFORE THIS COMMISSION FOR DETERMINATION OF**  
3 **APPROPRIATE INTERCONNECTION AGREEMENT LANGUAGE**  
4 **RESOLVING THE ISSUE?**

5 A. Yes. Section 252(b) of the federal Telecommunications Act (“the Act”) indicates  
6 that interconnection “agreements [will be] arrived at through compulsory  
7 arbitration” for issues raised in the arbitration petition and any response thereto.<sup>7</sup>  
8 The issues are properly before the Commission for action to determine the  
9 interconnection agreement’s terms.

10 The 26 open Subject Matters represent only a small number of the total issues that  
11 Eschelon and Qwest confront in their business relationship. These 26 Subject  
12 Matters, however, rise to the level of needing Commission action to arrive at  
13 interconnection agreement terms. A key factor in determining the importance of  
14 an issue is often the effect on End User Customers. With respect to many of the  
15 issues, therefore, Eschelon will describe the customer impact when explaining  
16 Eschelon’s business need reflected in the issue to be arbitrated. If the End User  
17 Customer is harmed, Eschelon’s reputation and its ability to compete  
18 meaningfully are harmed as well. Many of the terms and conditions that Eschelon  
19 believes need to be included in the ICA have a direct impact on End User

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<sup>6</sup> The Issues by Subject Matter List provided with Eschelon’s Petition for Arbitration shows 46 Subject Matters. A number of Subject Matters have since closed. The closed language for these issues is shown in Eschelon’s direct testimony.

<sup>7</sup> 47 U.S.C. §252(b).

1 Customers, and those terms and conditions should not be changed without  
2 Commission oversight through approval of contract amendments.

3 Eschelon has no incentive to arbitrate unnecessarily. Qwest is the dominant  
4 carrier, and Eschelon is dependent on Qwest for the products and services  
5 governed by this Section 251/252 interconnection agreement. Eschelon's annual  
6 revenue is less than 2% of Qwest's annual revenue.<sup>8</sup> It is too time consuming and  
7 expensive for Eschelon to arbitrate unnecessarily. The Commission can fairly  
8 draw an inference that Eschelon – in bringing forward in this arbitration a  
9 relatively few, but specific, issues<sup>9</sup> winnowed from the vast number of day-to-day  
10 business issues – is raising them because the business need is compelling and a  
11 Commission determination of *ICA language* resolving the substance of each issue  
12 is critical. Obtaining ICA language resolving the language issues now will help  
13 avoid future disputes.

14 **Q. ARE THERE ANY EXHIBITS TO YOUR DIRECT TESTIMONY?**

15 A. Yes. Eschelon/2 through Eschelon/8 are exhibits to my direct testimony. These  
16 exhibits are described as follows:

- 17
- Eschelon/2: Curriculum Vitae

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<sup>8</sup> Eschelon's business is described further in the Testimony of Mr. Denney.

<sup>9</sup> Qwest will likely enumerate for the Commission the number of issues that Eschelon has brought to Qwest's Change Management Process (CMP). In addition, Eschelon must raise many more issues in weekly and monthly communications to the Qwest service management team, as described in the Testimony of Ms. Johnson. Although Qwest may attempt to characterize the number of arbitration issues as large (and the workload may feel that way), the number selected for arbitration is very small when compared to the total potential number.

- 1           • Eschelon/3: Issues by Subject Matter List (updated and annotated)<sup>10</sup>
- 2           • Eschelon/4: Qwest form showing that Qwest has impacted CLEC
- 3           customer address and circuit i.d. information readily available to it when
- 4           performing network maintenance and modernization activities (Issue 9-34)
- 5           • Eschelon/5: Minnesota PUC Orders dated 7/31/03 and 11/12/03 *In The*
- 6           *Matter of a Request by Eschelon Telecom for an Investigation Regarding*
- 7           *Customer Conversion by Qwest and Regulatory Procedures*. Minnesota
- 8           PUC Docket P-4211C-03-616 (“MN 616 orders”).
- 9           • Eschelon/6: Pages from the Minnesota hearing transcript in OAH Docket
- 10          No. 3-2500-17369-2/PUC Docket No. P5340,421/IC-06-768, *In the*
- 11          *Matter of the Petition of Eschelon Telecom, Inc., for Arbitration of an*
- 12          *Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C.*
- 13          *252(b)* (“Eschelon-Qwest Minnesota Arbitration”).<sup>11</sup>
- 14          • Eschelon/7: Pages from the Arizona hearing transcript in ACC Docket
- 15          Nos. T-03406A-06-0572/T-01051B-06-0572, *In the Matter of the Petition*
- 16          *of Eschelon Telecom of Arizona, Inc. for Arbitration with Qwest Corp.*

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<sup>10</sup> The Issues by Subject Matter List filed as Exhibit 3 to Eschelon’s Petition for Arbitration has been updated and annotated in Eschelon/3 to show closed issues and to show which Eschelon witness addresses each issue in his or her direct testimony.

<sup>11</sup> The Minnesota Arbitrators’ Report and the commission’s ruling with respect to it are attached to the testimony of Mr. Denney as Eschelon/29 and Eschelon/30. *See* Order Resolving Arbitration Issues, Requiring Filed Interconnection Agreement, Opening Investigation and Referring Issue to Contested Case Proceeding [“MN PUC Arbitration Order”], *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*, (March 30, 2007) [“Minnesota arbitration”] (Eschelon/30); see also Arbitrators’ Report, Minnesota arbitration, OAH No. 3-2500-17369-2; MPUC Docket No. P-5340,421/IC-06-768 (Jan. 16, 2006) (“MN Arbitrators’ Report”) (Eschelon/29).

1                   Pursuant to 47 U.S.C. Section 252 of the Federal Telecommunications Act  
2                   of 1996 (“Eschelon-Qwest Arizona Arbitration”).

3                   • Eschelon/8: Qwest Power Measuring Amendment (see Issue 8-21).<sup>12</sup>

4                   A.     ESCHELON BUSINESS NEED FOR INTERCONNECTION  
5                   AGREEMENT TERMS

6     **Q.     WHAT CRITICAL BUSINESS NEEDS ARE COMMON TO THE**  
7                   **REMAINING 26 SUBJECTS FOR WHICH ESCHELON SEEKS**  
8                   **DISPOSITIVE<sup>13</sup> LANGUAGE IN THE ICA?**

9     A.     Interconnection agreements are contracts. A primary reason why Eschelon needs  
10            an interconnection agreement addressing these issues is fundamental to most  
11            contracts – Eschelon needs certainty to plan and manage its business. The FCC  
12            has specifically recognized this need for CLECs to “rely on” interconnection  
13            agreements “on a permanent basis.”<sup>14</sup> While the interconnection agreement can  
14            be amended and therefore is not “permanent” in the sense that it is frozen in time,  
15            the FCC recognized that permanency is needed for the term of the contract when  
16            the parties do not agree to changes through contract amendment. Eschelon needs  
17            certainty and reliability to plan its business and effectively compete. The FCC

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<sup>12</sup> Note: This Exhibit is *not* an Eschelon ICA amendment. Eschelon has not signed the Power Measuring Amendment and so this amendment does not apply to Eschelon.

<sup>13</sup> By “dispositive,” I mean language that resolves the substantive dispute, and not language that defers the dispute for another day (such as language referring to Qwest’s ever changing Product Catalog, or “PCAT”).

<sup>14</sup> Notice of Apparent Liability for Forfeiture, *In the Matter of Qwest Corporation Apparent Liability for Forfeiture*, FCC File No. EB-03-IH-0263 (March 11, 2004) (“*FCC Forfeiture Order*”) at ¶ 32.

1 has also recognized that interconnection agreement terms can be “many and  
2 complicated.”<sup>15</sup>

3 Another business need common to these Subject Matters is the need for  
4 Commission involvement and oversight to address the imbalance created by  
5 Qwest’s continued dominance in the areas governed by the interconnection  
6 agreement. In terms of arbitrating issues brought to the Commission, Qwest’s  
7 special status as an incumbent monopoly provider for Section 251 products and  
8 services requires Commission intervention to break the deadlock when Qwest and  
9 Eschelon disagree. Eschelon does not have any of the leverage in negotiations  
10 that would result from saying it will go elsewhere to obtain the product, because  
11 Qwest is its only source for these types of products. Section 252(b) addresses the  
12 lack of this more typical customer leverage by instead giving CLECs an ability to  
13 obtain Commission resolution of disputes and interconnection agreement terms  
14 through “compulsory arbitration.” To fulfill this function of Section 252(b), an  
15 arbitration decision needs to provide the type of certainty and reliability  
16 recognized as a business need by the FCC. All of the issues in this proceeding  
17 have been negotiated by Eschelon and Qwest and are, therefore, properly before  
18 the Commission for resolution on their merits in this arbitration.

---

<sup>15</sup> Memorandum and Order, *In the Matter of Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, WC Docket No. 02-89, (rel. October 4, 2002) (“*Declaratory Ruling*”) at ¶ 8.

1            **B. ISSUES FOR WHICH QWEST AGREES COMMISSION SHOULD**  
2            **ADOPT ICA LANGUAGE**

3            **Q. DOES QWEST AGREE THAT THE ISSUES THAT ESCHELON IS**  
4            **ASKING THE COMMISSION TO RESOLVE IN THIS COMPULSORY**  
5            **ARBITRATION SHOULD RESULT IN DISPOSITIVE**  
6            **INTERCONNECTION AGREEMENT LANGUAGE?**

7            A. For certain issues, yes, Qwest agrees. As indicated by Qwest’s position  
8            statements in the Disputed Issues Matrix, Qwest arranges the issues into two  
9            categories: (1) interconnection agreement issues that do not belong in the Change  
10           Management Process (“CMP”)<sup>16</sup> so that Qwest agrees the Commission may  
11           decide upon ICA language resolving the issue in this arbitration [“contractual  
12           non-CMP issues”]; and (2) issues that Qwest claims inherently belong in CMP so  
13           that Qwest argues the Commission should not decide upon dispositive ICA  
14           language in this arbitration and should defer its oversight and decision making  
15           authority to CMP [“inherent CMP issues”].

16           **Q. FOR WHICH ISSUES DO ESCHELON AND QWEST AGREE THAT THE**  
17           **COMMISSION SHOULD DECIDE UPON DISPOSITIVE CONTRACT**  
18           **LANGUAGE ADDRESSING THE MERITS OF THE ISSUE?**

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<sup>16</sup> I discuss further Qwest’s claims regarding the ICA and the need for contractual certainty below. For a more detailed description of the terms of CMP, *see* the Qwest “CMP Document” which sets forth the rules for conduct of CMP. The CMP Document is attached to the Testimony of Ms. Johnson as Eschelon/53. (It is also Exhibit G to the SGAT and the proposed ICA.) The “scope” provision of the CMP Document (§1.0) provides that “CMP provides a means to address changes that support or affect pre-ordering, ordering/provisioning, maintenance/repair and billing capabilities and associated documentation and production support issues for local services (local exchange services) provided by Competitive Local Exchange Carriers (CLECs) to their end users.”



1 A. Eschelon and Qwest agree that the Commission should establish dispositive ICA  
2 language for the following Subject Matters<sup>17</sup> and decide them individually and on  
3 the merits to determine ICA language that provides certainty as to how issues will  
4 be handled for the term of the contract, unless amended:<sup>18</sup>

- 5 • **RATE APPLICATION (2)**<sup>19</sup>: Issue No. 2-3
- 6 • **EFFECTIVE DATE OF LEGALLY BINDING CHANGES (3)**: Issue  
7 No. 2-4
- 8 • **DESIGN CHANGES (4)**: Issue No. 4-5 and subparts<sup>20</sup>
- 9 • **DISCONTINUATION OF ORDER PROCESSING AND**  
10 **DISCONNECTION (5)**: Issue Nos. 5-6, 5-7 and subpart
- 11 • **DEPOSITS (6)**: Issue Nos. 5-8, 5-9, 5-11, and 5-12
- 12 • **REVIEW OF CREDIT STANDING (7)**: Issue No. 5-13
- 13 • **COPY OF NON-DISCLOSURE AGREEMENT (8)**: Issue 5-16
- 14 • **TRANSIT RECORD CHARGE AND BILL VALIDATION (9)**: Issue  
15 Nos. 7-18, 7-19
- 16 • **POWER (11)**: Issue No. 8-21 and subparts<sup>21</sup>
- 17 • **NONDISCRIMINATORY ACCESS TO UNES (14)**: Issue No. 9-31
- 18 • **NETWORK MAINTENANCE AND MODERNIZATION (16)**: Issue  
19 Nos. 9-33 and 9-34<sup>22</sup>
- 20 • **WIRE CENTER (17)**: Issues 9-37 – 9-42
- 21 • **UNBUNDLED CUSTOMER CONTROLLED REARRANGEMENT**  
22 **ELEMENT (UCCRE) (22)**: Issue No. 9-53
- 23 • **APPLICATION OF UDF-IOF TERMINATION (FIXED) RATE**  
24 **ELEMENT (22A)**: Issue 9-51
- 25 • **LOOP-TRANSPORT COMBINATIONS (24)**: Issue No. 9-55

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<sup>17</sup> 20 out of 26 open Subject Matters.

<sup>18</sup> This is Eschelon's current understanding based on Qwest's position statements in the Disputed Issues Matrix. For these Subject Matters, Qwest does not argue in its position statement that the issue should be addressed through CMP. As discussed below and demonstrated by the Exhibits to the Testimony of Ms. Johnson, Qwest's position on whether an issue belongs in CMP or not vacillates, so the list is a moving target.

<sup>19</sup> The number in parentheses indicates the Subject Matter Number on the Issues by Subject Matter List.

<sup>20</sup> Qwest's position as to whether design changes is a CMP issue has vacillated over time. See my discussion of the Design Changes example below, *e.g.*, quoting Exhibit 2 to Minnesota Petition for Arbitration (Joint Disputed Issues Matrix) (May 26, 2006), Qwest position statement at p. 15.

<sup>21</sup> Issue 8-22 has been closed since Eschelon's Petition for Arbitration was filed in this case.

<sup>22</sup> Issues 9-33(a), 9-35 and 9-36 are closed.

- 1 • **SERVICE ELIGIBILITY CRITERIA – AUDITS (25)**: Issue No. 9-56
- 2 • **COMMINGLED EELS/ARRANGEMENTS (26)**:<sup>23</sup> Issue Nos. 9-58
- 3 and subparts, 9-59
- 4 • **MULTIPLEXING (LOOP-MUX COMBINATIONS) (27)**: Issue No.
- 5 9-61 and subparts
- 6 • **RATES FOR SERVICES (44)**: Issue Nos. 22-88 and subparts and 22-89
- 7 • **UNAPPROVED RATES (45)**: Issue No. 22-90 and subparts

8 C. ISSUES WHICH QWEST SEEKS TO EXCLUDE FROM THE ICA  
9 AND IGNORE THE NEED FOR CONTRACTUAL CERTAINTY

10 **Q. FOR WHICH ISSUES DO ESCHELON AND QWEST DISAGREE THAT**  
11 **THE COMMISSION SHOULD DECIDE UPON DISPOSITIVE**  
12 **CONTRACT LANGUAGE ADDRESSING THE MERITS OF THE ISSUE**  
13 **IN THIS ARBITRATION?**

14 A. The list of open Subject Mattes on which Eschelon and Qwest disagree is shown  
15 below.<sup>24</sup> For each of these issues, Eschelon asks the Commission to decide the  
16 issue on the merits and provide much needed certainty for purposes of planning  
17 and conducting business and competing effectively. Eschelon provides ample  
18 support for its position and business need with respect to each of these issues and  
19 encourages the Commission to individually review the evidence related to each  
20 issue. Eschelon is not seeking to force Qwest to make substantial changes in how  
21 it does business. Indeed, several of the provisions that Eschelon proposed, and

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<sup>23</sup> See my discussion below of the Secret TRRO PCATs Example; see also Eschelon/59 (Secret TRRO PCAT Chronology) to the testimony of Ms. Johnson.

<sup>24</sup> Six out of the 26 remaining open Subject Matters. At the outset of the first arbitration (in Minnesota), about one-third of the total issues were on this list. After the Minnesota Arbitrators' ruling in the Qwest-Eschelon arbitration, a number of those issues closed with Eschelon's language for six states.

1 Qwest has opposed on the ground that they deal with issues that should be  
2 addressed outside the contract, did not require Qwest to make any change at all.  
3 Rather, those proposals merely reflected Qwest's current practices, often as  
4 reflected in its PCAT. In fact, several of the issues for which Qwest took this  
5 same position closed for all six states after a Minnesota arbitration ruling<sup>25</sup> with  
6 Eschelon language in the ICA, showing that they are appropriate for inclusion in  
7 an ICA. For the remaining issues of this type, Qwest may deny that Eschelon's  
8 language reflects its current practice, but Eschelon will show that it is Qwest's  
9 established practice even though Qwest may deny it in arbitration (see Issue 12-  
10 72, Jeopardies & Issue 12-87, Controlled Production) or Qwest has changed it  
11 unilaterally over CLEC objection (see Issue 12-67, Expedites) or Qwest has no  
12 proper process but instead implemented an alleged process outside of CMP and  
13 without CLEC input (see Issue 9-43, Conversions). For other issues, Eschelon  
14 will show that its proposal is similar to or incorporates existing Qwest practices  
15 (Issue 1-1, Intervals & Issue 12-64 Root Cause Analysis and Acknowledgement  
16 of Mistakes). By including the now closed and Eschelon's proposed language for  
17 the remaining open provisions in the interconnection agreement, the Commission

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<sup>25</sup> MN Arbitrators' Report, ¶229 (PSOs); ¶¶ 244 & 246 (Fatal Rejection Notices); ¶¶ 249 & 251 (Loss and Completion Reports and Trouble Report Closure); *see id.* ("Qwest would delete all of the disputed language. In the section concerning trouble report closure, it would simply reference the procedures available on its wholesale website. Qwest maintains inclusion of this language in Eschelon's ICA would 'lock in' these processes, preclude future changes, and require Qwest to operate in one way for Eschelon and another way for all other CLECs. . . . The disputed language exactly reflects Qwest's current practice. Inclusion of Eschelon's language in the ICA would not prohibit future changes, whether through the CMP or ICA amendment. Eschelon's language merely defines the minimum elements that make these resources useful to CLECs. Eschelon's language should be adopted for these issues.").

1 will be assuring that terms that Eschelon has come to rely on, and in some cases  
2 expended substantial resources helping to develop, will continue to be available.

3 As there is little, if any, substantive response that Qwest can make to Eschelon's  
4 evidence, Qwest instead asks the Commission to consider these issues in the  
5 abstract. Qwest asks the Commission to find that, regardless of whether these are  
6 pressing business issues for Eschelon, *conceptually* they are somehow different in  
7 some respect that makes them inherently inappropriate for inclusion in an ICA  
8 and appropriate for CMP instead (regardless of whether they have *already* been  
9 resolved in Eschelon's favor in CMP, as is the case for some of these issues).  
10 Qwest asks the Commission to leave the future uncertain and, instead of the ICA,  
11 rely upon Qwest's Product Catalog ("PCAT")<sup>26</sup> or Standard Interval Guide  
12 ("SIG")<sup>27</sup> language – for which the only certainty is that Qwest can accomplish  
13 change over Eschelon's objection without amending the interconnection  
14 agreement.

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<sup>26</sup> The "PCAT," which is an acronym for Product Catalog, is a web-site published by Qwest to distribute a catalog describing Qwest's products and services. Qwest's PCAT is provided for informational purposes only and does not govern rates, terms or conditions that exist between Qwest and Eschelon. Section 4.0 of both the SGAT and agreed upon language in the proposed ICA, for example, provide in the definition of "Product Catalog" or "PCAT" that: "Qwest agrees that CLEC shall not be held to the requirements of the PCAT." Not all Qwest PCAT changes are generated as a result of CMP. *See, e.g.,* Eschelon/59 (Secret TRRO PCAT Chronology).

<sup>27</sup> The "SIG," or Standard Interval Guide, is a Qwest document posted on Qwest's web site listing various provisioning intervals with respect to Resale, UNE and other Interconnection Services. *See, e.g.,* Qwest Communications Service Interval Guide for Resale, UNE and Interconnection Services, V73.0, updated 7/21/06 [http://www.qwest.com/wholesale/downloads/2006/060721/InterconnSIG\\_V73.pdf](http://www.qwest.com/wholesale/downloads/2006/060721/InterconnSIG_V73.pdf). CMP applies only to changes to intervals "in Qwest's SIG" (*see* Eschelon/53, CMP Document §§ 5.4.3 & 5.4.5). It does not control conflicting intervals in ICAs. (*Id.* at §1.0.)

1 The open Subject Matters identified on the Issues by Subject Matter List which  
2 Qwest currently places in this category are:

- 3 • **INTERVAL CHANGES AND PLACEMENT (1)**: Issue No. 1-1 and  
4 subparts
- 5 • **CONVERSION (18)**:<sup>28</sup> Issue Nos. 9-43 and 9-44 and subparts
- 6 • **ROOT CAUSE ANALYSIS AND ACKNOWLEDGEMENT OF**  
7 **MISTAKES (29)**: Issue No. 12-64 and subparts
- 8 • **EXPEDITED ORDERS (31)**: Issue No. 12-67 and subparts
- 9 • **JEOPARDIES (33)**: Issue Nos. 12-71, 12-72, 12-73
- 10 • **CONTROLLED PRODUCTION (43)**: Issue No. 12-87

11 **Q. YOU STATE THAT IT IS CRITICAL FOR THE ICA TO PROVIDE**  
12 **CERTAINTY. HAS QWEST RECOGNIZED THE NEED FOR**  
13 **CERTAINTY IN THE ICA DESPITE QWEST’S PROPOSAL TO**  
14 **EXCLUDE A NUMBER OF THE OPEN ISSUES FROM THE ICA?**

15 **A.** Yes. Qwest has confirmed that certainty is important and is a valid basis for  
16 deciding to include terms in an interconnection agreement. Qwest testified in the  
17 arbitrations in other states<sup>29</sup> that “a critical goal of this arbitration should be  
18 establishing clarity concerning the parties’ rights and obligations.”<sup>30</sup> Qwest added

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<sup>28</sup> See my discussion below of the Secret TRRO PCATs Example; *see also* Eschelon/59 (Secret TRRO PCAT Chronology) to the testimony of Ms. Johnson.

<sup>29</sup> Reference to the Minnesota arbitration refers to the ICA arbitration between Qwest and Eschelon in Minnesota PUC Docket No. P-5340, 421/IC-06-768; OAH Docket No. 3-2500-17369-2 [“Minnesota arbitration”]. The hearing was held in Minnesota the week of October 16-20, 2006. The MN Arbitrators’ Report is Eschelon/29 and the MN PUC Arbitration Order is Eschelon/30 (attached to the testimony of Mr. Denney). Reference to the Arizona arbitration refers to the ICA arbitration between Qwest and Eschelon in Arizona (ACC) Docket Nos. T-03406A-09-0572 & T-01051B-06-0572 [“Arizona arbitration”]; Reference to the Washington arbitration refers to the ICA arbitration between Qwest and Eschelon in Washington UTC Docket No. UT-063061 [“Washington arbitration”].

<sup>30</sup> Direct Testimony of Karen Stewart, Minnesota PUC Docket No. P-5340, 421/IC-06-768; OAH Docket No. 3-2500-17369-2; August 25, 2006 (“Stewart Minnesota Direct”), p. 13, lines 4-6; *see also* Direct Testimony of Karen Stewart, Washington UTC Docket No. UT-063061 (Sept. 29, 2006) (“Stewart Washington Direct”), p. 20, lines 6-8; *see also* Direct Testimony of Karen Stewart,

1 that “clear ICA language is necessary so that the parties *know what is expected of*  
2 *them* under the agreement and to avoid or minimize future disputes.”<sup>31</sup> Further,  
3 Qwest argued that it is a “reasonable expectation” that a party’s obligations  
4 “should be clearly defined and should not be subject to future interpretations” that  
5 a party “develops based on its needs and desires at a given time.”<sup>32</sup> Eschelon  
6 likewise needs and requests clearly defined obligations, especially for issues that  
7 are likely to impact its core business operation and ultimately its ability to  
8 effectively serve its customers. The Commission should clearly define these  
9 obligations by establishing interconnection agreement terms and conditions that  
10 must be filed, approved, and amended if changed. Unlike Qwest, Eschelon asks  
11 that the Commission define these obligations for all of the open issues in the  
12 arbitration, and not just a subset hand-picked by Qwest.

13 **Q. PLEASE ELABORATE ON YOUR LAST POINT. WHY DO YOU**  
14 **SUGGEST THAT QWEST IS ASKING THE COMMISSION TO RULE ON**  
15 **ONLY A SUBSET OF THE ISSUES?**

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Arizona (ACC) Docket Nos. T-03406A-09-0572 & T-01051B-06-0572 (Nov. 8, 2006) (“Stewart Arizona Direct”), p. 16, lines 5-6 (“paramount goal”).

<sup>31</sup> Stewart Minnesota Direct, p. 13, lines 6-7 (emphasis added); *see also* Stewart Minnesota Direct, p. 13, lines 16-17 (“the goal of avoiding future disputes under the ICA”); *see also* Stewart Arizona Direct, p. 16, lines 6-8; *see also* Stewart Washington Direct, p. 20, lines 8-9..

<sup>32</sup> Stewart Minnesota Direct, p. 13, lines 13-16; *see also* Stewart Washington Direct, p. 20, lines 12-14. Qwest was specifically referring to itself as the party at the time. *See id.* Eschelon believes the statement applies to Qwest as well, such as Qwest’s position that language should be subject to future interpretations that Qwest develops based on its needs and desires at a given time, through CMP (*see, e.g.*, CRUNEC example, Eschelon/56 – Eschelon/58), through disregarding CMP results (*see, e.g.*, the jeopardies example in Eschelon/110 and Eschelon/115), and through non-CMP activities (*see, e.g.*, Qwest’s recent collocation non-CMP notice discussed with respect to Issue 9-31, access to UNEs, and the non-CMP “TRRO” PCATs, discussed in Eschelon/59).

1 A. When an issue is to Qwest's advantage, Qwest welcomes, and often insists (*e.g.*,  
2 by requiring an ICA amendment),<sup>33</sup> on certainty in the ICA as to terms protecting  
3 Qwest's interests. Yet, for a number of issues for which Eschelon has asked for a  
4 definitive decision, Qwest argues (or has argued)<sup>34</sup> that the only decision that  
5 should be made is a decision to punt the issue to a forum in which it has much  
6 more control, and there is much less Commission oversight – *i.e.*, CMP.<sup>35</sup> For  
7 other important business issues, Qwest seeks to simply exclude them from the  
8 ICA in favor of Qwest's own discretion.<sup>36</sup> While Qwest may naturally desire to  
9 protect its own interests by picking and choosing the issues it would like the  
10 Commission to decide, the Commission's decision should be based upon the  
11 merits of each company's proposed language. A decision that the decision should  
12 be made elsewhere (*e.g.*, CMP), is no decision at all, especially when one

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<sup>33</sup> *See, e.g.*, Issue 12-67 (Expedites) & Eschelon/93 and, *see below*, CRUNEC example.

<sup>34</sup> A review of closed issues for which Qwest advocated use of CMP shows that Qwest is not applying a consistent test to decide whether issues belong in CMP or the ICA and these issues can be included in the contract if Qwest so desires. *See* Eschelon/45 (Matrix of Closed Language and Associated CMP Activity, if Any).

<sup>35</sup> Issue 1-1 (Interval Changes and Placement); Issue 12-67 (Expedited Orders); Issues 12-71 – 12-73 (Jeopardies). It is unclear whether Qwest is now proposing use of CMP for Conversions (Issues 9-43 and 9-44) and Commingled EELs (Issues 9-58 and 9-59). Qwest did not use CMP for unilaterally producing its non-CMP PCAT terms but is now claiming it may belatedly put some TRRO issues through CMP (rather than use the ICA change of law provisions or update its SGAT). *See* my discussion below of the Secret TRRO PCATs Example; *see also* Eschelon/59 (Secret TRRO PCAT Chronology) to the testimony of Ms. Johnson.

<sup>36</sup> Regarding Issue 12-87 (Controlled Production), Qwest does not even rely upon CMP. As discussed by Ms. Johnson with respect to this issue, Qwest is violating a previously agreed upon requirement to bring its IMA implementation guidelines through CMP. Instead, Qwest wants the ICA to be silent on the issue addressed by Eschelon's proposal (which reflects Qwest's current practice), leaving it entirely to Qwest's discretion to change course. Regarding Issue 12-64 (Root Cause Analysis and Acknowledgement of Mistakes), Qwest did not submit processes ordered by the Minnesota Commission to CMP despite its own claims about CMP, as discussed by Ms. Johnson regarding Issue 12-64.

1 considers the distinct advantage Qwest enjoys in implementing or denying issues  
2 via CMP (an issue I describe in more detail below).

3 **1. QWEST POSITION ON EXCLUDING ISSUES FROM ICA**

4 **Q. HOW DOES QWEST PROPOSE TO DETERMINE THE ALLEGED**  
5 **CONTRACTUAL OR NON-CONTRACTUAL NATURE OF AN ISSUE TO**  
6 **DETERMINE WHICH ISSUES SHOULD BE EXCLUDED FROM THE**  
7 **ICA?**

8 A. Qwest suggests a couple of criteria or tests in its Oregon position statements for  
9 determining whether an issue allegedly belongs only in CMP so that it must be  
10 excluded from the ICA, notwithstanding Section 252's arbitration provisions.  
11 The first Qwest-proposed standard is whether a label of "process" or "procedure"  
12 can be attached to the proposed provision.<sup>37</sup> According to Qwest, "processes" and  
13 "procedures" should be excluded from the ICA and relegated to CMP.<sup>38</sup>  
14 However, this type of labeling tends to be fairly circular, with the chosen label  
15 often restating the desired result. Even so (or perhaps because of this measure of  
16 control when needed to obtain desired ends), it does not necessarily lead to  
17 consistent or fair results. For example, as discussed with respect to "Minnesota

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<sup>37</sup> See, e.g., Disputed Issues Matrix to Eschelon's *Petition for Arbitration* ("Eschelon Petition"), Exhibit 3, p. 1 ("Eschelon is attempting to import PCAT-like process language into the ICA"). See also Eschelon/6 [Transcript, Vol. 1, p. 58, lines 1-11 (Testimony of Ms. Albersheim) Minnesota arbitration (Oct. 16, 2006) ("Q. Now, just as an overall question, am I correct to understand from your testimony that there are some issues that should be addressed only in the CMP and should not be in an interconnection agreement? A. Yes. Q. Is that right? A. I believe that process and procedure detail, which is covered in our PCATs, is intended to be managed through the CMP and not through individual interconnection agreements.")].

<sup>38</sup> See *id.*



1           616” example below, when Qwest was ordered to propose “*procedures*” for  
2           promptly acknowledging mistakes,<sup>39</sup> Qwest did not use CMP to implement the  
3           “procedures” it then put in place.<sup>40</sup> Similarly, Qwest agreed in its Oregon ICA  
4           with Covad to certain terms regarding repeat troubles like those it now claims are  
5           “processes” or “procedures” (such as an *interval*<sup>41</sup>), without any CMP activity.<sup>42</sup>  
6           Under the Qwest-Covad Oregon ICA, Covad may charge Qwest for dispatches in  
7           the case of certain repeat troubles.<sup>43</sup> If Qwest had placed these procedures  
8           through CMP, other CLECs would likewise be able to charge Qwest in such  
9           circumstances using these procedures. The label of “procedures” applies, but  
10          Qwest did not rush to CMP to implement this unfavorable ruling for Qwest or the  
11          undesirable ICA terms for Qwest.

12          The second standard that Qwest puts forward in multiple Oregon position  
13          statements is that CMP applies when provisions “affect all CLECs, not just  
14          Eschelon.”<sup>44</sup> A review of the first list above, which contains the issues on which

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<sup>39</sup> Order Finding Service Inadequate and Requiring Compliance Filing, *In the Matter of a Request by Eschelon Telecom for an Investigation Regarding Customer Conversion by Qwest and Regulatory Procedures*, Docket No. P-421/C-03-616, (July 30, 2003) (“MN 616 Order”). See Eschelon/5, Starkey/14.

<sup>40</sup> See also discussion of Issue 12-64 and subparts in Ms. Johnson’s testimony.

<sup>41</sup> Qwest’s Response to Eschelon’s Petition for Arbitration, Oregon PUC Docket ARB 775 (“Qwest Response”), p. 42, lines 10-12 (“Service intervals are exactly the type of *process* that the Commission and the industry anticipated that CMP would address.”) (emphasis added). Section 12.3.4.4 (second bullet point) of the Qwest-Covad Oregon ICA includes a three business day interval during which Covad must report the repeat trouble. See Eschelon/47, Johnson/5 [Qwest-Covad Oregon ICA, §12.3.4.4 (October 20, 2005)].

<sup>42</sup> See Eschelon/47, Johnson.

<sup>43</sup> See Eschelon/47, Johnson/5 [Qwest-Covad Oregon ICA, §12.3.4.4 (October 20, 2005)].

<sup>44</sup> See Disputed Issues Matrix, Exhibit 3 to Eschelon Petition (Qwest position statements for Issues 1-1, 8-20, 8-24, 8-29, 9-32, 9-43, 12-64, 12-67, 12-70, 12-71 – 12-73, 12-74, 12-75, 12-76, 12-81, 12-

1 the companies agree contract language should be included in the ICA, includes  
2 numerous examples of terms that could affect all CLECs as much as those on the  
3 second list (which contains the issues Qwest proposes to exclude from the ICA).  
4 Yet, Qwest considers the issues on the first list to be contractual non-CMP issues.  
5 The ruling discussed in the previous paragraph, which was unfavorable to Qwest,  
6 affected multiple CLECs.<sup>45</sup> Still, Qwest did not implement those multiple-CLEC  
7 affecting procedures through CMP.

8 As this and other examples in Eschelon's direct testimony show, Qwest's own  
9 proposed criteria fail based upon Qwest's past and current inconsistencies in  
10 labeling an issue as a "process" or asking if "multiple CLECs are affected." Both  
11 alleged criteria allow Qwest too much room to maneuver to achieve its desired  
12 results.

13 **Q. HAS QWEST IN THE PAST PROPOSED OTHER CRITERIA OR TESTS**  
14 **FOR EXCLUDING ISSUES FROM AN APPROVED ICA?**

15 A. Yes. Qwest in the past proposed limiting interconnection agreements to the  
16 schedule of itemized charges and associated descriptions of the services to which  
17 the charges apply – *i.e.*, limited to terms that advantage Qwest by ensuring its  
18 right to charge CLECs, without offering CLECs certainty as to what they will get

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86); *see also* Qwest Response, pp. 27, 35, and 38. Regarding issues for which Qwest made this CMP argument and then closed without CMP activity or CMP activity only as to a portion of the issue, see Eschelon/45 to the Testimony of Ms. Johnson.

<sup>45</sup> *See* Eschelon/5, Starkey/14 (MN 616 Order, 7/30/03). The Minnesota Commission ordered Qwest to develop procedures generally – not procedures specific only to Eschelon. *See id.*

1 in return.<sup>46</sup> Several of the issues on Qwest’s non-CMP contractual list relate to  
2 charges.<sup>47</sup> Qwest also points out that rates are outside the scope of CMP, when it  
3 does not want to address an issue in CMP, even if it has at some point relied on  
4 CMP for the same issue.<sup>48</sup>

5 **2. REJECTION OF QWEST’S PROPOSAL TO EXCLUDE**  
6 **TERMS FROM ICA**

7 **Q. HAS THE FCC CONSIDERED THIS QWEST PROPOSAL FOR**  
8 **LIMITING THE SCOPE OF INTERCONNECTION AGREEMENTS?**

9 A. Yes. The FCC expressly rejected Qwest’s argument. In its *Declaratory Ruling*,  
10 the FCC addressed the scope of the mandatory filing requirement under Section  
11 252(a)(1) of the Telecommunications Act. The FCC said:

12 [W]e find that an agreement that creates an ongoing obligation  
13 pertaining to resale, number portability, dialing parity, access to  
14 rights-of-way, reciprocal compensation, interconnection,  
15 unbundled network elements, or collocation is an interconnection  
16 agreement that must be filed pursuant to section 252(a)(1). This  
17 interpretation, which directly flows from the language of the Act,  
18 is consistent with the pro-competitive, deregulatory framework set  
19 in the Act. This standard recognizes the statutory balance between  
20 the rights of competitive LECs to obtain interconnection terms  
21 pursuant to section 252(i) and removing unnecessary regulatory

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<sup>46</sup> See e.g., Issue 12-67 (expedited orders – and specifically Integra’s comments, in Eschelon/94, Starkey/3-4, See also Eschelon/93, that Integra did not know when signing the Qwest template expedite amendment that Qwest would later remove unbundled loops from the Expedites Requiring Approval process). See also the “CRUNEC” example discussed below and the Secret PCAT Chronology in Eschelon/59 to the Testimony of Ms. Johnson (describing how Qwest required CLECs to sign the *TRRO* amendment before revealing password-protected terms to them).

<sup>47</sup> See, e.g., Issue 9-51 (Application of UDF-IOF Termination (Fixed) Rate Element).

<sup>48</sup> See, e.g., my discussion below of the Design Changes example; see also the discussion of Issue 4-5 (design changes) in the Testimony of Mr. Denney; See also the Exhibits to Ms. Johnson’s testimony relating to Issue 12-67 (expedited orders). See Eschelon/93 and Eschelon/94. See also Eschelon/80 – Eschelon/83 (optional testing charges introduced through CMP).

1           impediments to commercial relations between incumbent and  
2           competitive LECs. *We therefore disagree with Qwest that the*  
3           *content of interconnection agreements should be limited to the*  
4           *schedule of itemized charges and associated descriptions of the*  
5           *services to which those charges apply.* Considering the *many and*  
6           *complicated terms* of interconnection typically established  
7           between an incumbent and competitive LEC, *we do not believe*  
8           *that section 252(a)(1) can be given the cramped reading that*  
9           *Qwest proposes.* Indeed, on its face, section 252(a)(1) does not  
10          further limit the types of agreements that carriers must submit to  
11          state commissions.<sup>49</sup>

12   **Q.     CAN QWEST AVOID THE FCC’S RULING ABOUT THE CONTENT OF**  
13    **INTERCONNECTION    AGREEMENTS    BY    POSTING    THE**  
14    **INFORMATION ON ITS WEB-SITE, SUCH AS IN ITS PCAT OR SIG?**

15    A.    No. In its *Forfeiture Order*,<sup>50</sup> the FCC also expressly rejected Qwest’s claim that  
16    the *Declaratory Ruling* authorized posting of information regarding service  
17    offerings on a website in lieu of an agreement filed with, and approved by, state  
18    commissions. To that end, the FCC observed, “At no point did we create a  
19    general ‘web-posting exception’ to section 252(a)...[A] ‘web-posting exception’  
20    would render that provision meaningless, since CLECs could not rely on a  
21    website to contain all agreements on a permanent basis. Moreover, unlike the  
22    terms of an SGAT, web-posted materials are not subject to state commission

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<sup>49</sup> *Declaratory Ruling* at ¶ 8 (footnotes omitted) (emphasis added).

<sup>50</sup> Notice of Apparent Liability for Forfeiture, *In the Matter of Qwest Corporation Apparent Liability for Forfeiture*, FCC File No. EB-03-IH-0263 (March 11, 2004) (“*FCC Forfeiture Order*”).

1 review, further undermining the congressionally established mechanisms of  
2 section 252(e).”<sup>51</sup>

3 **Q. WAS CMP IN PLACE WHEN THE FCC MADE THIS DECISION?**

4 A. Yes. Qwest’s CMP has been in place since at least the fall of 2002,<sup>52</sup> and the  
5 FCC did not issue its *Forfeiture Order* until March of 2004. The FCC has created  
6 no special “web-posting exception” for postings (such as PCAT or SIG) that are  
7 made through CMP.

8 **3. CMP HISTORY ESTABLISHES ICA TERMS MAY VARY**  
9 **AND, WHEN THEY DO, ICA CONTROLS OVER CMP**

10 **Q. QWEST HAS REFERRED TO THE CMP AS A COMMISSION-**  
11 **APPROVED PROCESS, IMPLYING THAT IT HAS SOME SPECIAL**  
12 **MERIT BECAUSE IT WAS CREATED AS A VEHICLE FOR HELPING**  
13 **IMPLEMENT SECTION 271 OF THE ACT.<sup>53</sup> WOULD YOU LIKE TO**  
14 **RESPOND?**

15 A. While it is true that the CMP was developed related to Qwest’s request for Section  
16 271 relief, the FCC’s later decision in the *Forfeiture Order* confirms that CMP has  
17 no special merit that would allow it to supplant good-faith negotiations or  
18 interconnection agreements that result from Section 252 of the Act. This is  
19 especially true when a CLEC, like Eschelon, specifically identifies issues that are

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<sup>51</sup> *FCC Forfeiture Order* at ¶ 32.

<sup>52</sup> *See* Eschelon/53 to Ms. Johnson’s Testimony (Qwest CMP Document).

<sup>53</sup> *See, e.g.*, Qwest Response, p. 8.

1 important enough to its ongoing business and ability to compete to warrant  
2 Commission oversight in the form of arbitration (as in this case).

3 CMP will continue to play a role in the relationship between Qwest and Eschelon,  
4 because CMP is the vehicle that Qwest uses to announce changes related to terms  
5 that are not addressed in the ICA. Further, certain terms may not be included in  
6 the ICA by agreement and, in some cases, the issue may be left to CMP for  
7 resolution (per ICA Section 12.1.6). However, none of the issues addressed by  
8 the 26 remaining disputed Subject Matters are issues that Eschelon agrees to leave  
9 to CMP. As I discussed earlier, there are a multitude of other day-to-day issues  
10 that Eschelon has not brought forward in this arbitration, which are handled and  
11 will continue to be handled through CMP, service management, billing disputes,  
12 *etc.*

13 **Q. SINCE CMP WILL CONTINUE TO PLAY A ROLE, DO THE CMP**  
14 **RULES, SET FORTH IN EXHIBIT G TO THE ICA<sup>54</sup> (AND THE SGAT),<sup>55</sup>**  
15 **DETERMINE THE RELATIONSHIP BETWEEN CMP AND THE**  
16 **INTERCONNECTION AGREEMENT?**

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<sup>54</sup> Eschelon provides the CMP Document as Eschelon/53 to the direct testimony of Bonnie Johnson.

<sup>55</sup> The CMP Document is also Exhibit G to the SGAT. As explained below (when discussing the Secret TRRO PCATs), despite repeated statements that Qwest would be updating the SGAT, Qwest recently distributed a Level 1 CMP notice on 1 day's notice indicating that SGATs would no longer be available for CLEC opt-in. See Eschelon/66, Johnson/1. Eschelon has objected to the notice, although CMP has no formal comment period for Level 1 notices. See Eschelon/53, Johnson/38-39 (CMP Document). Level 1 changes "are defined as changes that do not alter CLEC operating procedures or changes that are time critical corrections to a Qwest product/process." *Id.* p. 38.

1 A. Yes. The “CMP Document” outlines the rules and procedures governing conduct  
2 of Qwest’s CMP. The following excerpt from Section 1.0 (“Introduction and  
3 Scope”) of the CMP Document<sup>56</sup> addresses the relationship between the  
4 interconnection agreement and CMP and clearly indicates that Commission-  
5 approved interconnection agreement terms control:

6 In cases of conflict between the changes implemented through this  
7 CMP and any CLEC interconnection agreement (whether based on  
8 the Qwest SGAT or not), the rates, terms and conditions of such  
9 interconnection agreement shall prevail as between Qwest and the  
10 CLEC party to such interconnection agreement. In addition, if  
11 changes implemented through this CMP do not necessarily present  
12 a direct conflict with a CLEC interconnection agreement, but  
13 would abridge or expand the rights of a party to such agreement,  
14 the rates, terms and conditions of such interconnection agreement  
15 shall prevail as between Qwest and the CLEC party to such  
16 agreement.

17 This requirement is so important and integral to CMP in relation to the ICA that  
18 the same language must appear in all CMP notices to inform CLECs receiving the  
19 notice that it does not apply to them if it conflicts with their interconnection  
20 agreements.<sup>57</sup> In other words, per the CMP terms and conditions, CMP changes  
21 may affect some, but not all, CLECs, depending on the terms of their  
22 interconnection agreements and whether the change conflicts with those terms for

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<sup>56</sup> See also Eschelon/54, Johnson/2-3 (Gap Analysis #150) (CMP redesign meeting minutes addressing CMP in relation to ICAs).

<sup>57</sup> Qwest is required, per the CMP Document, to include this language in CMP notices. See Eschelon/53, §5.4, which states (with emphasis added): “The following defines five levels of Qwest originated product/process changes and the process by which Qwest will originate and implement these changes. None of the following shall be construed to supersede timelines or provisions mandated by federal or state regulatory authorities, certain CLEC facing Web sites (e.g., ICONN and Network Disclosures) or individual interconnection agreements. ***Each notification will state that it does not supersede individual interconnection agreements.***”

1 each CLEC. This built-in recognition in the governing CMP document that ICA  
2 terms will vary from CMP disproves Qwest's claim repeated throughout its  
3 position statements that the "entire purpose" of CMP is to create processes "that  
4 are uniform among all CLECs."<sup>58</sup> Instead, Qwest is attempting to circumvent this  
5 clearly defined hierarchy under which the ICA controls by preventing issues from  
6 being included in the ICA. Qwest seeks to render this carefully crafted and  
7 "Commission approved" hierarchy meaningless by making CMP the only source  
8 of terms for several of the arbitration issues, so that in the end Qwest's *CMP*  
9 *controls* those issues through ever changing PCAT and SIG language.

10 Qwest received 271 approval, at least in part, based upon the availability of a  
11 CMP that reflected the hierarchy reflected in Section 1.0 of the CMP Document.  
12 The Commission should not allow Qwest, now that it has 271 approval, to use  
13 that very CMP to undermine the CMP's own governing provision as to its scope.  
14 Terms that rise to the level of being arbitrated and approved as part of an  
15 interconnection agreement not only govern as between Qwest and Eschelon, but  
16 also, per Section 1.0 of the CMP Document, are outside the scope of CMP.

17 The Minnesota Commission noted the integral role that the CMP scope provision  
18 plays when it examined this issue in the Minnesota Eschelon-Qwest arbitration  
19 case. The Minnesota Arbitrators, as affirmed by the Minnesota Commission,  
20 found that: "The CMP document itself provides that in cases of conflict between

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<sup>58</sup> See e.g., Oregon Disputed Issues Matrix, Exhibit 1 to Qwest's Petition (Qwest position statements for Issues 1-1, 8-20, 8-24, 8-29, 9-32, 9-43, 12-64, 12-67, 12-70, 12-71 – 12-73, 12-74, 12-75, 12-76, 12-81, 12-86).



1 changes implemented through the CMP and any CLEC ICA, the rates, terms and  
2 conditions of the ICA shall prevail. In addition, if changes implemented through  
3 CMP do not necessarily present a direct conflict with an ICA but would abridge  
4 or expand the rights of a party, the rates, terms, and conditions of the ICA shall  
5 prevail. **Clearly, the CMP process would permit the provisions of an ICA  
6 and the CMP to coexist, conflict, or potentially overlap.**<sup>59</sup>

7 **Q. IN ADDITION TO THE APPROVED CMP DOCUMENT ITSELF, ARE  
8 THERE OTHER INDICATIONS THAT CMP OR THE PCAT SHOULD  
9 NOT GOVERN A CLEC'S RIGHTS?**

10 A. Yes. Before Qwest obtained 271 approval, it needed to have an SGAT in place  
11 for requesting CLECs to adopt as their ICA. The Oregon SGAT provides, in  
12 Section 2.3, that: "In cases of conflict between the SGAT and Qwest's Tariffs,  
13 PCAT, methods and procedures, technical publications, policies, product  
14 notifications or other Qwest documentation relating to Qwest's or CLEC's rights  
15 or obligation under this SGAT, then the rates, terms and conditions of this SGAT  
16 shall prevail. To the extent another document abridges or expands the rights or  
17 obligations of either Party under this Agreement, the rates, terms and conditions

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<sup>59</sup> Minnesota Arbitrators' Report, OAH 3-2500-17369-2/MPUC No. P-5340,421/IC-06-768, ¶ 21. (emphasis added) The Minnesota Commission adopted the Arbitrators' Report in relevant part. See, Order Resolving Arbitration Issues, Requiring Filed Interconnection Agreement, Opening Investigation and Referring Issue to Contested Case Proceeding, *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*. ["Minnesota Qwest-Eschelon ICA Arbitration"], OAH No. 3-2500-17369-2; MPUC Docket No. P-5340,421/IC-06-768 (March 30, 2007) ["MN PUC Arbitration Order"]. See Eschelon/29 & Eschelon/30.

1 of this Agreement shall prevail.”<sup>60</sup> Consistent with this provision, the definition  
2 of “Product Catalog” in Section 4 of the SGAT explicitly provides: “Qwest  
3 agrees that CLEC shall not be held to the requirements of the PCAT.”

4 Both of these SGAT provisions recognize that there will be overlap between the  
5 ICA and CMP, including different terms for different CLECs, and when that  
6 happens, the ICA controls. After all, there would be no need for a provision  
7 regarding “cases of conflict between the SGAT and Qwest’s . . . PCAT, methods  
8 and procedures” if conflicts were not expected to occur because the CMP existed  
9 to make all PCAT terms and methods and procedures uniform. Both of these  
10 SGAT provisions, therefore, further disprove Qwest’s repeated claim that the  
11 “entire purpose” of CMP is to create processes “that are uniform among all  
12 CLECs.” If that were true, the CMP Document and the SGAT would both  
13 provide that, in cases of conflict, the CMP Document controls to maintain  
14 uniformity. They send the opposite message, however. The purpose of these  
15 provisions<sup>61</sup> is defeated if Qwest is successful in excluding terms from the ICA so  
16 no conflict may occur and CMP, by default, prevails.

17 **Q. DOES QWEST STILL MAKE SGATS AVAILABLE FOR CLEC OPT IN?**

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<sup>60</sup> This clause is also found in Section 2.3 of the ICA. See, Eschelon’s Petition, p. 17. [“...in cases of conflict between the Agreement and Qwest’s Tariffs, PCAT, methods and procedures, technical publications, policies, product notifications...this Agreement shall prevail.”]

<sup>61</sup> Both of these provisions are also part of the proposed ICA, as closed language in Section 2.3 and 4.0 (definition of “Product Catalog” or “PCAT”).

1 A. No. Qwest recently unilaterally notified CLECs that, per Qwest, SGATs are no  
2 longer available for opt-in by CLECs.<sup>62</sup> I discuss this new Qwest position below  
3 in my discussion of the secret TRRO PCATs.

4 **Q. ARE UNIFORM TERMS AND CONDITIONS FOR CLECS REQUIRED**  
5 **BY THE ACT?**

6 A. No. Nothing in the Telecommunications Act requires that terms and conditions of  
7 an interconnection agreement be identical for all CLECs.<sup>63</sup> To the contrary, the  
8 structure of the Act reflects the exact opposite: that an interconnection agreement  
9 should be tailored to accommodate specific needs of the CLEC in order to provide  
10 a meaningful opportunity to compete.<sup>64</sup> Had Congress intended that the  
11 interconnection agreement be a “one size fits all” document, as Qwest is trying to  
12 make it, Congress would have provided the SGAT as the sole means by which  
13 terms and conditions of interconnection would be made available by the ILEC.  
14 That Congress did not do so shows that it recognized the need for individual  
15 CLECs to be able to enter into ICAs that are specific to their particular  
16 competitive needs. Furthermore, when implementing the Act, the FCC defined an

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<sup>62</sup> See Eschelon/66, Johnson/1.

<sup>63</sup> Qwest claims (incorrectly) that processes and procedures should be “standardized” or made “uniform” across all CLECs through the CMP. *See, e.g.*, Qwest Response, pp. 7, 8, and 9 (“standardized”) and pp. 38, 39, 40, 41, and 43 (“uniform”)

<sup>64</sup> Indeed, the FCC has found that state commission implementation of the nondiscrimination requirements of the Act and FCC rules and orders is key. *See, First Report and Order* at ¶ 310 [“We expect that the states will implement the general nondiscriminatory rules set forth herein by adopting, inter alia, specific rules determining the timing in which incumbent LECs must provision certain elements, and any other specific conditions they deem necessary to provide new entrants, including small competitors, with a meaningful opportunity to compete in local exchange markets.” Emphasis added] *See also, US WEST Communications, Inc. v Hix*, 57 F. Supp. 2d 1112, 1119 (D. Colo. 1999).

1 “interconnection agreement” broadly, to include any “agreement that creates an  
2 ongoing obligation pertaining to resale, number portability, dialing parity, access  
3 to rights-of-way, reciprocal compensation, interconnection, unbundled network  
4 elements, or collocation.”<sup>65</sup> This shows that neither Congress nor the FCC  
5 intended the ICA to be as narrow as Qwest wants it to be.

6 **Q. HAVE OTHER STATE COMMISSIONS REJECTED QWEST’S**  
7 **STANDARDIZATION ARGUMENT?**

8 A. Yes. The Washington Commission has twice rejected such claims of uniformity  
9 or standardization and has found that asking for specific terms in an individual  
10 ICA is not a request for preferential treatment. The arbitrator in the recent  
11 Verizon arbitration case in Washington said:

12 The fact that there are differences in change of law provisions  
13 among various agreements is not discriminatory: It reflects the  
14 variations in negotiation and arbitration of terms in  
15 interconnection agreements. The interconnection agreements  
16 are filed with the Commission and available for review.  
17 CLECs have opted into a number of agreements, including the  
18 agreement originally arbitrated by MCI.<sup>66</sup>

19 In the same order, the Washington Commission found it reasonable to include  
20 “operational procedures to ensure customer service quality” in an interconnection

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<sup>65</sup> Declaratory Ruling, ¶ 8. See also, Forfeiture Order, ¶ 11.

<sup>66</sup> Washington State Utilities and Transportation Commission, Docket UT-043013, Order No. 17 *Arbitrator’s Report and Decision* dated July 8, 2005 at ¶ 79, [“*Washington ALJ Report*”], *affirmed in relevant part in “Washington Order No. 18.”*

1 agreement.<sup>67</sup> Similarly, the arbitrator made the following observation in the  
2 Qwest-Covad arbitration in Washington:

3 While Qwest relies heavily on “consensus” reached in the  
4 Section 271 proceeding as a strong reason for retaining the  
5 30-day period, that argument does not apply to an  
6 arbitration proceeding. Parties engage in arbitration to  
7 enter into an agreement tailored to the companies’ needs,  
8 not to adopt a standard agreement. Covad is not bound to  
9 the 30 day payment period simply because it was a party to  
10 the SGAT negotiations and hearings.<sup>68</sup>

11 Furthermore, in the recent Verizon/CLEC arbitration, the Washington  
12 Commission pointed to the likelihood of reducing the opportunity for future  
13 disputes as a basis for including specific contract language for issues addressed in  
14 the order.<sup>69</sup>

15 **Q. ARE PROCESSES AND PROCEDURES APPROPRIATE FOR**  
16 **INCLUSION IN THE ICA?**

17 A. Yes. The FCC has said that processes and procedures are appropriate content for  
18 interconnection agreements:

19 Individual incumbent LEC and competitive LEC arrangements  
20 governing the *process and procedures* for obtaining access to an  
21 UNE to which a competitive LEC is entitled, are more

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<sup>67</sup> *Washington Order No. 18* at ¶ 61 (quoting *Order No. 17* at ¶ 416, quoting *TRO* ¶ 586); *see also* ¶¶ 60-64, 112.

<sup>68</sup> Arbitrator's Report and Decision, *In The Matter Of The Petition For Arbitration Of Covad Communications Company, With Qwest Corporation, Pursuant To 47 U.S.C. Section 252(B) And The Triennial Review Order*, WUTC Docket No. UT-043045, Order No. 04, Nov. 2, 2004 [“WA Covad Arbitration Order”], at note 16 to ¶ 100. Although the Commission rejected Covad’s 30-day proposal (which is not an issue in this case), it did so on other grounds.

<sup>69</sup> *Washington Order No. 18* at ¶¶ 28, 31-32, 36, 42, 48, 58, 64; *see also* Conclusions of Law ¶¶ 102, 104, 105, 106, 111, 112.

1 appropriately addressed in the context of individual  
2 interconnection agreements pursuant to section 252 of the Act.<sup>70</sup>

3 **Q. HAS ANY BENEFIT OF INDIVIDUAL, NON-UNIFORM ICA TERMS**  
4 **BEEN RECOGNIZED?**

5 A. Yes. And, ironically, Qwest is among those that have previously proclaimed the  
6 benefits of unique interconnection agreements. On October 16, 2003, Qwest, in  
7 opposing the then current application of the FCC's "pick and choose" rule, filed  
8 extensive comments extolling the virtues of negotiated interconnection  
9 agreements and the importance of the "...dynamic, innovative interconnection  
10 negotiations intended by the Telecommunications Act of 1996."<sup>71</sup> Qwest  
11 recognized that: "ILECs and CLECs have a fundamental interest in making the  
12 interconnection process as cooperative and open as possible, since both parties  
13 benefit from well-negotiated and mutually beneficial wholesale arrangements."<sup>72</sup>

14 Even more specific to the point here, Qwest argued that:

15 "...the pick-and-choose rule restricts the ILEC's willingness to  
16 **tailor negotiations and contracts to the specific needs of**  
17 **CLECs and their business plans.** Further, the current rule does  
18 not realistically reflect the ordinary trade-offs and give-and-take  
19 that characterize free negotiations, in which an ILEC would  
20 ordinarily be willing to give up one term of a contract in order to  
21 get another."<sup>73</sup>

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<sup>70</sup> *TRRO* ¶ 358 (emphasis added).

<sup>71</sup> *Comments of Qwest Communications International Inc.*, CC Docket Nos. 01-338, 96-98, 98-147, October 16, 2003, p. ii.

<sup>72</sup> *Comments of Qwest Communications International Inc.*, CC Docket Nos. 01-338, 96-98, 98-147, October 16, 2003, pp. 3-4.

<sup>73</sup> *Comments of Qwest Communications International Inc.*, CC Docket Nos. 01-338, 96-98, 98-147, October 16, 2003, p. 4 [emphasis added]

1 Finally, Qwest summarized its arguments with the following opinion:

2 “The ability of carriers to negotiate binding agreements with each  
3 other was a cornerstone of the Act.”<sup>74</sup>

4 Now that Qwest has reaped the benefits of eliminating the pick-and-choose rule  
5 by making these arguments, Qwest seeks to deny Eschelon the very ability to  
6 “tailor negotiations and contracts” to Eschelon’s “specific needs” and “business  
7 plans” upon which Qwest relied to defeat that rule.

8 **Q. DOES INCLUSION OF TERMS, INCLUDING POTENTIALLY UNIQUE**  
9 **TERMS, IN AN INTERCONNECTION AGREEMENT MEAN THAT**  
10 **ESCHELON ARGUES FOR EXCLUSIVE TERMS FOR ITSELF?**

11 A. No. Contract language in a Commission-approved interconnection agreement  
12 allows the Commission to review the terms, decide disputed issues on the merits,  
13 and approve changes before they are made to avoid disruption that may occur  
14 without Commission oversight. The alternative, *i.e.*, a lack of contract language,  
15 leaves Eschelon in a position in which it will likely be forced to approach the  
16 Commission in crisis mode, after it is being faced with adverse consequences that  
17 impact its End User Customers,<sup>75</sup> perhaps requesting expedited relief.<sup>76</sup> It simply  
18 makes more sense to allow the Commission to consider the issues in an orderly  
19 manner through ICA arbitration, as envisioned by Section 252 of the Act.

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<sup>74</sup> *Comments of Qwest Communications International Inc.*, CC Docket Nos. 01-338, 96-98, 98-147, October 16, 2003, p. 6.

<sup>75</sup> *See, e.g.*, the “CRUNEC” example that I discuss below.

<sup>76</sup> This assumes resources are available to challenge individual issues on a piece-meal basis in every state affected. If that is not the case, Qwest may gain an unjust or anticompetitive advantage simply due to lack of resources rather than merit.

1 Further, if terms are arbitrated, the approved agreement is then available for opt-in  
2 pursuant to Section 252(i), or for use as a negotiations template/proposal,<sup>77</sup> by  
3 other, and potentially “multiple,” CLECs.

4 CLECs should have a choice of opting into ICAs and ICA amendments that best  
5 suit their business models, instead of all CLECs being forced to sign the same  
6 agreement or amendment. Clearly, Section 252(i) of the Telecommunications Act  
7 provides CLECs the ability to opt into other CLECs’ ICAs:

8           AVAILABILITY TO OTHER TELECOMMUNICATIONS  
9           CARRIERS.--A local exchange carrier shall make available any  
10           interconnection, service, or network element provided under an  
11           agreement approved under this section to which it is a party to any  
12           other requesting telecommunications carrier upon the same terms  
13           and conditions as those provided in the agreement.

14 This language recognizes that different CLECs have different business models  
15 and needs.

16 **Q. IN ANY EVENT, IS ESCHELON IN THIS ARBITRATION TRYING TO**  
17 **DEFEAT “UNIFORM PROCESSES?”**

18 A. No. Indeed, the majority of the contract language proposed by Eschelon for the  
19 issues Qwest initially wanted to exclude from the ICA matches Qwest’s current  
20 practices, including language describing the same terms in the PCAT.<sup>78</sup>

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<sup>77</sup> Although the FCC eliminated the pick-and-choose rule in favor of the all-or-nothing rule, when it did so, the FCC clearly stated that doing so did not limit the nondiscrimination provisions of the Act, which remain available to protect CLECs. See Section Report and Order, *In re. Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (Rel. July 13, 2004), at ¶¶ 20-23.

<sup>78</sup> See Eschelon/45. See also MN Arbitrators’ Report, ¶229 (PSOs); ¶¶ 244 & 246 (Fatal Rejection Notices); ¶¶ 249 & 251 (Loss and Completion Reports and Trouble Report Closure).





1 with all of the talk about “change requests” in CMP, which is sometimes  
2 described as an “industry forum,” it may come as a surprise to learn that the vast  
3 majority of changes in CMP occur through Qwest email announcements for  
4 which there is no discussion on the CMP calls. There is no collaborative  
5 development or even any mention of them. When reading the CMP Document  
6 (which is Exhibit G to the ICA and SGAT and which I described earlier as the  
7 document containing the governing rules and procedures for the conduct of  
8 CMP),<sup>80</sup> this may not be immediately apparent. The reader has to get through the  
9 description of the four “levels” of changes in the CMP Document (which I  
10 describe more fully below) to discover that only the highest, fourth level requires  
11 Qwest to submit a “request” rather than a notification. Even then, for product and  
12 process changes (which are different from “systems” changes), Qwest does not  
13 need any kind of vote on adoption of or consent to its “request” before  
14 implementing it, provided that Qwest follows the applicable time periods. In  
15 some cases, CLECs may comment, but Qwest may reject or “respectfully  
16 decline”<sup>81</sup> the comment and proceed as planned, as though the CLEC had never  
17 commented at all. In one of the examples below (“CRUNEC”), pretty much  
18 every actively participating CLEC objected to the Qwest CMP notification, but  
19 Qwest implemented it anyway. Qwest may have created a different impression  
20 when, throughout its position statements in the Joint Disputed Issues Matrix, it  
21 states that the purpose of CMP was to “ensure that the industry (not just Qwest or

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<sup>80</sup> See Eschelon/53 (“CMP Document”).

<sup>81</sup> See, e.g., Eschelon/56, Starkey/1, entry for 5/21/03.

1 one CLEC) is involved in creating and *approving* processes” (emphasis added).<sup>82</sup>  
2 Qwest requires no approval from CLECs to implement product and process  
3 changes in CMP. To the contrary, as the CRUNEC example described below  
4 shows, Qwest will implement a process change in the face of clearly articulated  
5 disapproval by multiple CLECs.

6 And, although much of the work of CMP is conducted through Qwest email  
7 “notifications,” not all Qwest email notifications are “CMP” notifications.<sup>83</sup>  
8 Carriers may choose among a variety of other notices, such as billing, contract,  
9 and network notices, and those notices do not follow the CMP procedures, such as  
10 assignment of “levels.” Similarly, with respect to Qwest’s PCAT, continual  
11 reference to the PCAT in conjunction with CMP may suggest that all PCAT  
12 changes are made through CMP. It is not the case that all Qwest PCAT changes  
13 are generated as a result of CMP, as one of the four examples discussed below  
14 (involving Secret TRRO PCATs) demonstrates quite clearly.

15 By recognizing these CMP and PCAT realities, Eschelon is not requesting  
16 changes to CMP or suggesting that the Commission needs to make a finding that

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<sup>82</sup> See Joint Disputed Issues Matrix, Exhibit 3 to Eschelon Petition (Qwest position statements for Issues 1-1, 8-20, 8-24, 8-29, 9-32, 9-43, 12-64, 12-67, 12-70, 12-71 – 12-73, 12-74, 12-75, 12-76, 12-81, 12-86).

<sup>83</sup> See Eschelon/59 (Secret TRRO PCAT Chronology, at footnote 5). The **SUBJECT** field of a Qwest announcement starts with “CMP” when it is a CMP notice. Not all Qwest customer “notices” and PCAT changes are generated as a result of CMP. Carriers may choose among a variety of notices, such as billing, contract, and network notices, that are not CMP notices. See <http://www.qwest.com/wholesale/notices/cnla/maillist.html>. In addition, if it is a CMP notice, the listed contact person is a CMP representative. If it is not a CMP notice, the contact person is the Qwest Service Manager or other contact. CMP notices with comment periods identify the timeframe for comment.

1 CMP is flawed before it can find in Eschelon's favor. Such findings are  
2 unnecessary for Eschelon to prevail. Eschelon's position on each issue is fully  
3 supported by the facts and should prevail on the merits of that issue, as discussed  
4 with respect to each individual issue throughout the direct testimony. The  
5 purpose in relating these CMP and PCAT realities is to ensure that the facts about  
6 CMP and the PCAT are known when evaluating claims made by Qwest and when  
7 reviewing the examples and chronologies. Several chronologies are attached to  
8 the testimony of Ms. Johnson, who was personally involved in those events.<sup>84</sup>  
9 Because the chronologies often relate to CMP events, they use a lot of CMP  
10 terminology (such as references to CMP numbering, the "levels" of notices, *etc.*).  
11 The absence of any reference in any of these chronologies to a vote being taken  
12 on adoption or rejection of any of the requests is explained, for example, by the  
13 discussion below explaining that there is no voting on adoption or rejection of  
14 product and process changes in CMP.

15 Certainly, the realities of CMP and the PCAT shed some light on why, for critical  
16 business issues, a CLEC may conclude it needs to exercise its Section 252 right to  
17 negotiation and compulsory arbitration. This is particularly true when the manner

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<sup>84</sup> Eschelon/56 (CRUNEC); Eschelon/59 (Secret TRRO PCATs); Eschelon 79 (No Build Held Order/Delayed Order); Eschelon/90 (Qwest Retail letter); Eschelon/93 (Expedites); and Eschelon/110 (Jeopardy and FOC). Mr. Denney also provides a CFA Design Change Chronology associated with Qwest's recent attempt to limit CFA changes to one per circuit at the time of the cut. *See*, Eschelon/27. Two further examples are Eschelon/79, the No Build Held Order (Delayed Order) Chronology, and Eschelon/80, CMP Documentation, Qwest CR # PC100101-5 (Optional Testing). CLEC's escalation of PC100101-5 and Qwest's response to CLEC's escalation of this CR are provided as Eschelon/81 - Eschelon/83 to the direct testimony of Ms. Johnson, respectively. These exhibits provide additional evidence of Qwest's inconsistent and improper use of the CMP process and the need for contractual certainty to govern Eschelon's relationship with Qwest.

1 in which Qwest has used CMP and the PCAT to achieve its objectives, as  
2 demonstrated by the examples, is taken into account. Even though CMP may  
3 inform Eschelon that Qwest is making changes that will be adverse to Eschelon's  
4 business, CMP provides Eschelon no real ability to keep Qwest from unilaterally  
5 making those changes.<sup>85</sup> Contract language appears to be the vehicle that will  
6 give Eschelon the ability to "force Qwest to the table" to negotiate those types of  
7 changes. As discussed above, Section 252 provides this ability to CLECs.  
8 Qwest's proposal (*e.g.*, use CMP) does not.

9 Significantly, the realities of CMP and the PCAT also run counter to Qwest's  
10 basic premise that some issues ("process" issues) are inherently CMP issues that  
11 should be excluded from the ICA. After providing background information about  
12 CMP and the PCAT, I describe four examples (CRUNEC, Design Changes,  
13 Minnesota 616, and Secret TRRO PCATs)<sup>86</sup> that each in its own way  
14 demonstrates how Qwest's own conduct is not in accord with that claim. Instead,  
15 Qwest has the capability to use, and sometimes uses, CMP as either a sword or a  
16 shield toward furthering its own policy initiatives.

17 a. CMP TERMINOLOGY AND PROCEDURES

18 **Q. PLEASE BRIEFLY DESCRIBE HOW CMP WORKS.**

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<sup>85</sup> See MN Arbitrators' Report", ¶22 ("Eschelon has provided convincing evidence that the CMP process does not always provide CLECs with adequate protection from Qwest making important unilateral changes in the terms and conditions of interconnection.").

<sup>86</sup> Qwest's handling of Jeopardies is another excellent example. Ms. Johnson discusses this example in her testimony relating to Issues 12-71 – 12-73 and Eschelon/110-Eschelon/118.

1 A. CMP generally works through a series of change requests (“Change Requests” or  
2 “CRs”) submitted by CLECs to Qwest (or, in some cases, by Qwest to Qwest) or  
3 announcements by Qwest to CLECs in the form of “CMP notifications.” Change  
4 Requests and a small sub-set of the Qwest CMP notifications are discussed on  
5 CMP monthly and ad hoc calls among Qwest and participating CLECs. Qwest  
6 maintains minutes of the calls and posts the minutes on its CMP web-site.<sup>87</sup> A  
7 “change request” contains a description of the request for a new, or change to an  
8 existing, product, process, or system. All CLEC proposed changes are submitted  
9 as change requests because there are no CLEC CMP notifications. CLECs must  
10 propose a change to Qwest, and Qwest may decide to either accept or reject a  
11 CLEC request for product or process changes. While some Qwest changes are in  
12 the form of change requests, Qwest generally announces its changes through its  
13 email notification process. As indicated above, although much of the work of  
14 CMP is conducted through Qwest email “notifications,” not all Qwest email  
15 notifications are “CMP” notifications.<sup>88</sup>

16 Each change (whether by request or notification) within CMP is classified by its  
17 potential impact on carriers, or the time-critical nature of the change. Changes to  
18 a product or process within CMP are assigned severity or “disposition” levels.  
19 Each change is classified as a Level 0, 1, 2, 3, or 4 change. The following table

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<sup>87</sup> See <http://www.qwest.com/wholesale/cmp/index.html>

<sup>88</sup> See Eschelon/59 (Secret TRRO PCAT Chronology, footnote 5).

1 provides a high level overview of the disposition levels used in the CMP  
2 notification process:<sup>89</sup>

3

Level 0	Level 0 changes are defined as changes that do not change the meaning of documentation and do not alter CLEC operating procedures. Level 0 changes are effective immediately without notification. [CMP Document, Section 5.4.2]
Level 1	Level 1 changes are defined as changes that do not alter CLEC operating procedures or changes that are time critical corrections to a Qwest product/process. Time critical corrections may alter CLEC operating procedures, but only if such Qwest product/process has first been implemented through the appropriate level under CMP. Level 1 changes are effective immediately upon notification. [CMP Document, Section 5.4.2.1]
Level 2	Level 2 changes are defined as changes that have minimal effect on CLEC operating procedures. Qwest will provide notification of Level 2 changes at least twenty-one (21) calendar days prior to implementation. [CMP Document, Section 5.4.3]
Level 3	Level 3 changes are defined as changes that have moderate effect on CLEC operating procedures and require more lead-time before implementation than Level 2 changes. Qwest will provide initial notification of Level 3 changes at least thirty-one (31) calendar days prior to implementation. [CMP Document, Section 5.4.4]
Level 4	Level 4 changes are defined as changes that have a major effect on existing CLEC operating procedures or that require the development of new procedures. Level 4 changes will be originated using the CMP Change Request process and provide CLECs an opportunity to have input into the development of the change prior to implementation. [CMP Document, Section 5.4.5]

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<sup>89</sup> A non-CMP Qwest notification (such as a billing, network, or contract notice) generally would not be assigned or contain these CMP disposition levels.

1 **Q. DO THE DESCRIPTIONS OF LEVEL 3 AND 4 CHANGES MEAN THAT**  
2 **ALL CHANGES THAT HAVE A MODERATE OR MAJOR EFFECT ON**  
3 **CLEC OPERATING PROCEDURES MUST GO THROUGH CMP?**

4 A. No. Many of the agreed upon ICA provisions, for example, have a moderate or  
5 major effect on Eschelon's operating procedures, but many of them did not go  
6 through CMP as they were negotiated or opted in to and publicly filed with the  
7 Commission.<sup>90</sup> CMP is expressly limited by its "scope" provision.<sup>91</sup> As  
8 discussed above, interconnection agreement terms are outside the scope of CMP  
9 and, when they conflict with CMP, the ICA terms control.<sup>92</sup> Sections 251 and  
10 252 of the Act, as well as state rules, apply to ICA negotiation and arbitration.

11 **Q. WHAT ARE PRODUCT, PROCESS, AND SYSTEM CHANGES?**

12 A. Change Requests and Qwest CMP notifications are classified by whether they  
13 relate to a Qwest product or process or system.<sup>93</sup> Changes to systems (such as  
14 Interconnect Mediated Access or "IMA")<sup>94</sup> are handled in CMP somewhat

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<sup>90</sup> See Eschelon/44 (table showing changes that were not noticed through CMP). See also Eschelon/45.

<sup>91</sup> See Eschelon/53 (CMP Document) at Section 1.0.

<sup>92</sup> See Eschelon/53 (CMP Document) at Section 1.0.

<sup>93</sup> Numbers are assigned to CMP notifications and change requests. Whether a CMP Change Request (Change Request) or notice is a product, process, or systems Change Request or notice is easily determined by looking at the assigned CMP number. If the number begins with "PROD" it is a product Change Request/notice, and if the number begins with "PROS," it is a process Change Request/notice. The CMP Document provides that changes that go through the process and product procedures "are not changes to OSS Interfaces" (*i.e.*, are not system changes). See CMP Document, §5.4.

<sup>94</sup> These are changes to the "systems," as distinguished from other processes (such as manual processes, which are handled as "process" changes), for purposes of CMP. Although the term "Operations Support Systems" or "OSS" may come to mind as it is sometimes used in this sense, the term "OSS" is broader and also includes the associated business processes, including manual processes. In the Third Report and Order (at ¶ 425), the FCC said: "In the *Local Competition First*



1 differently from product and process changes. None of the relevant changes in  
2 the four examples discussed below were systems changes. The notifications and  
3 change requests discussed here are product and process (*i.e.*, not systems)  
4 notifications and requests.<sup>95</sup>

5 **Q. DO QWEST AND THE CLECS VOTE ON ADOPTION OR REJECTION**  
6 **OF PRODUCT AND PROCESS CHANGE REQUESTS?**

7 A. No. Voting in the CMP occurs in only two narrow circumstances. First, voting  
8 occurs for changes to the CMP Document itself and certain procedures within the  
9 Document, *e.g.*, whether to change the disposition level of a Change Request<sup>96</sup> or  
10 whether to grant an exception to the CMP Document's procedures.<sup>97</sup> Second,  
11 voting occurs to prioritize (*i.e.*, rank) proposed systems changes.<sup>98</sup> If Qwest, in  
12 CMP, chose to change terms affecting any of the issues Eschelon has included in  
13 arbitration (as identified in the Disputed Issues Matrix), none of those changes

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*Report and Order*, the Commission defined OSS as consisting of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an incumbent LEC's databases and information. OSS includes the manual, computerized, and automated systems, together with associated business processes and the up-to-date data maintained in those systems." *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*. Third Report and Order and Fourth Further Notice of Proposed Rulemaking. CC Docket No. 96-98. FCC 99-238. Released 11/5/99.

<sup>95</sup> The only open issue relating to systems is Issue 12-87 (Controlled Production). For that issue, no change is required, as Eschelon's proposed language reflects Qwest's current practice documented in the Implementation Guidelines. *See* discussion of Issue 12-87 in Ms. Johnson's testimony. *See also* MN Arbitrators' Report ¶255 ("Qwest agrees that Eschelon's language accurately depicts its current practice, which does not require CLECs to recertify if they have successfully completed testing of a previous release; in addition, Qwest admits that Qwest can control whether a CLEC can access its OSS.")

<sup>96</sup> CMP Document Section 5.4.3.1.

<sup>97</sup> CMP Document Section 16.2.1.

<sup>98</sup> CMP Document Sections 5.2.1, 5.2.2, 10.3.3, 10.3.4 16.2, et al., and 17.0.

1 would be subject to voting as they relate to adoption or rejection of the changes.<sup>99</sup>

2 In other words, no vote is taken on whether a particular product or process change  
3 request should be implemented or not. Therefore, even if a change is universally  
4 opposed by CLECs, Qwest is still free to implement the change after the time  
5 period applicable to product and process changes has run its course. *See* CMP  
6 Document (Eschelon/53), Section 5.4. Although a CLEC may request that Qwest  
7 postpone a change, Qwest is the sole decision maker as to whether a  
8 postponement request is granted. If Qwest determines that it will not postpone  
9 the implementation of a proposed change, Qwest may implement the change  
10 thirty days after giving notice of its decision to deny the request to postpone.<sup>100</sup>

11 **Q. DOES QWEST IMPLEMENT MOST OF ITS OWN CHANGES**  
12 **THROUGH CHANGE REQUESTS?**

13 A. No. The vast majority of Qwest-initiated CMP changes are accomplished  
14 through Level 0-3 email notifications. When Qwest issues a Level 3 “Notice” to  
15 CLECs, indicating that it intends to implement a change, Qwest provides CLEC  
16 15 days to provide written comment on the proposed change. Qwest then  
17 responds to the CLECs’ comments. The CMP rules (in the CMP Document)  
18 allow Qwest to implement the proposed change no fewer than 15 days after it has  
19 provided its response to CLEC comments. If Qwest responds to CLEC

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<sup>99</sup> Eschelon would have thought that Issue 12-87 would be an exception to this, as it relates to a systems issue and systems changes are at least ranked in CMP. Qwest has recently claimed that the Implementation Guidelines are not subject to CMP, despite CMP redesign history to the contrary. *See* discussion of Issue 12-87 in Ms. Johnson’s testimony.

<sup>100</sup> CMP Document Section 5.5.3.3.

1 comments immediately following the close of the CLEC comment period, Qwest  
2 can implement its proposed changes (notwithstanding any CLEC objections), 31  
3 days following its initial notification.

4 Therefore, CMP affords Qwest a “Notice and Go” capability, *i.e.*, if Qwest wants  
5 to make a change, it simply notices CLECs, solicits and then may deny their  
6 requests for modifications, and implements its proposed change in as little as 31  
7 days after initial notice.<sup>101</sup> At times, this can be the “sword” that Qwest wields  
8 through CMP, such as when Qwest dramatically restricted Eschelon’s ability to  
9 successfully order DS1 capable loops, simply by changing one-word in its PCAT  
10 through a Level 3 email notification (see the CRUNEC example discussed  
11 below). Specific contract language in the interconnection agreement would offer  
12 Eschelon some defense against this type of behavior on the part of Qwest and  
13 provide Eschelon with some much needed measure of control over its own  
14 business.

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<sup>101</sup> As I use the term “notice and go,” the “go” in the “notice and go” allows Qwest to implement its proposed product or process change once the notice period is over (which is 31 days for a Level 3 Notice). No vote is taken regarding the product or process change and Qwest can reject objections from CLECs and implement the change. In other words, Qwest may “go” forward after the applicable notice period. Comments and objections are ineffectual if Qwest disagrees because it can implement its product and process changes even over unanimous CLEC opposition. [See CMP Document (Eschelon/53), Section 5.4. For example, in the CRUNEC example discussed below, the twelve active CLECs all unanimously objected, and Qwest moved forward anyway, until a state commission became involved. See Eschelon/56, Johnson/3-4] The issue is the ability of Qwest to move forward (*i.e.*, “go”) with its changes after issuing a notice of a product or process change, regardless of the comments or objections it may receive from CLECs.

1 Q. CAN CLECS EMPLOY THE SAME “NOTICE AND GO” APPROACH  
2 TO CHANGES THEY REQUEST IN CMP, OR IN DISPUTING A  
3 CHANGE ANNOUNCED BY QWEST?

4 A. No.<sup>102</sup> In contrast to the relatively quick “notice and go” process that is available  
5 to Qwest, if a CLEC disagrees with a change implemented by Qwest and desires a  
6 Commission determination to reverse the change, it may seek dispute resolution  
7 in each state affected by the change, but that is expensive and time consuming.<sup>103</sup>  
8 As part of a CMP dispute resolution, Eschelon filed a complaint against Qwest  
9 before the Arizona state commission in April of 2006.<sup>104</sup> In that case, Qwest  
10 argued vigorously against an October hearing date, citing its intent to conduct  
11 multiple depositions and other discovery as well as scheduling conflicts. On  
12 Qwest’s motion for reconsideration of the schedule, Qwest argued that six months  
13 to hear the single issue presented by the Complaint was so short an amount of  
14 time that Qwest had not even heard of rocket dockets proceeding that fast.<sup>105</sup> The

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<sup>102</sup> CMP Document Sections 5.4.5, 5.4.5.1.

<sup>103</sup> CMP Document Sections 5.4, 15.0. Any recourse within CMP that has Qwest as a decision maker, regardless of format (escalation, *etc.*), does not accomplish the goal of obtaining an outside, enforceable decision to resolve the dispute between Qwest and Eschelon. A third party decision maker is available through Alternative Dispute Resolution, but the CMP Document expressly provides: “***Without the necessity for a prior ADR Process***, Qwest or ***any CLEC*** may submit the issue, following the commission’s established procedures, with the appropriate regulatory agency requesting resolution of the dispute. This provision is not intended to change the scope of any regulatory agency’s authority with regard to Qwest or the CLECs.” *Id.* (emphasis added).”

<sup>104</sup> See Complaint, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (April 14, 2006) [“Arizona Complaint Docket”].

<sup>105</sup> AZ Complaint Docket, Transcript, Procedural Conference (July 27, 2006), at p. 18, lines 20-24 (Counsel for Qwest stated: “So the whole point is, we look at this scheduling question as one that is perplexing; that why is it that we are moving -- I mean I’ve been involved in rocket dockets. I’ve never seen a case that goes from beginning to end within this period of time that we’ve proposed in this case, and maybe there’s cases here that I’m unaware of. None in my experience.”)

1 hearing date was extended to February of 2007 – ten months after filing of the  
2 Complaint – with Qwest expressing an intention to conduct additional discovery  
3 during the intervening months. It has been extended again until August of 2007.  
4 This is a far cry from the 31 day notice-and-go process available only to Qwest.  
5 This case exemplifies that time required for a CLEC to obtain a result through  
6 CMP dispute resolution is much longer than the time in which Qwest can  
7 accomplish changes through Level 3 CMP notifications. Qwest’s expressed  
8 intent to conduct multiple depositions and other discovery in that case is also an  
9 example of the expense and resources that a CLEC in dispute resolution will  
10 experience that Qwest does not with its quick and easy notification process. It is  
11 clear that CMP dispute resolution is not a salve for all ills, particularly for issues  
12 that a CLEC has already spent the time and resources necessary to bring before  
13 the Commission through arbitration in an exercise of its Section 252 rights (as is  
14 the case here).

15 In addition, there may be some misimpression that there is a “special” process for  
16 CMP dispute resolution that offers benefits beyond a typical individual complaint  
17 case. That is not the case, as dispute resolution under CMP works much like  
18 dispute resolution under other provisions of the ICA, and may result in an  
19 individual CLEC filing a complaint against Qwest before the Commission, as  
20 with any other complaint. Any reference to “CMP” dispute resolution for issues  
21 involving “multiple” CLECs should not be construed to mean there is a special  
22 “multiple CLEC” CMP dispute resolution process. While companies may opt to

1 jointly bring complaints or intervene in them under Commission rules, those rules  
2 are no different for CMP.

3 The dispute resolution terms of the CMP Document are few and simple. When an  
4 individual CLEC disagrees with a Qwest action in CMP, the CMP Document  
5 contains dispute resolution procedures that provide that an individual CLEC “*may*  
6 pursue the dispute resolution processes...”<sup>106</sup> The dispute resolution procedures  
7 in the CMP Document are expressly qualified by the following statement: “This  
8 process does not limit any party’s right to seek remedies in a regulatory or legal  
9 arena at any time.”<sup>107</sup> Section 252 arbitration, for example, is one such  
10 “regulatory or legal arena” that a CLEC may pursue unhindered by the dispute  
11 resolution provisions of the CMP Document.

12 b. EXAMPLES: QWEST VACILLATES OR MANEUVERS  
13 ON CMP

14 **Q. WITH THAT BACKGROUND INFORMATION TO HELP EXPLAIN**  
15 **THE CMP TERMINOLOGY AND PROCEDURES, PLEASE PROVIDE**  
16 **THE FOUR EXAMPLES YOU MENTIONED EARLIER.**

17 A. As I mentioned previously, the four examples below illustrate that Qwest either  
18 has had trouble in the past identifying issues that are inherently tied to CMP, or  
19 Qwest chooses when to label certain issues as inherently relating to CMP for its  
20 own convenience or to achieve a particular purpose. I will refer to the four

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<sup>106</sup> See CMP Document Section 15.0 (emphasis added).

<sup>107</sup> See CMP Document Section 15.0.

1 examples as CRUNEC, Design Changes, Minnesota 616, and Secret TRRO  
2 PCATs.<sup>108</sup> I present an accurate explanation of each example and Ms. Johnson  
3 provides supporting documentation, including detailed chronologies, for three of  
4 these examples (*see* Eschelon/56, Eschelon/90, and Eschelon/59 attached to Ms.  
5 Johnson’s direct testimony), which allows for an independent review of the facts  
6 of these examples. To avoid voluminous filings of many exhibits, Eschelon has  
7 made efficient and proper use of summary information (such as chronologies) and  
8 excerpts (such as quotations from documents in those chronologies), while  
9 providing sufficient information (including URLs to information on Qwest’s own  
10 website) to allow further review of the entire documents (many of which were  
11 prepared by Qwest) if desired.

12 **i. CRUNEC EXAMPLE**

13 **Q. PLEASE DESCRIBE THE CRUNEC EXAMPLE RELATING TO**  
14 **SPECIAL CONSTRUCTION CHARGES.**

15 A. The first example involves a change that Qwest implemented through CMP  
16 relating to special construction charges, which Qwest calls “CLEC Requested  
17 UNE Construction” or “CRUNEC.”<sup>109</sup> Generally, special construction is not  
18 required to provide UNEs except in those situations when other alternatives have  
19 been exhausted and no facilities are available to provide the requested service.  
20 The other alternatives that Qwest must perform before indicating there are no

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<sup>108</sup> As indicated above, Qwest’s handling of Jeopardies is another excellent example. Ms. Johnson discusses this example in her testimony relating to Issues 12-71 – 12-73.

<sup>109</sup> See Eschelon/56 – Eschelon/58.

1 facilities include work that has been referred to as “Incremental Facility Work.”  
2 For example, Section 9.1.2.1.2 of the SGAT provides: “If cable capacity is  
3 available, Qwest will complete incremental facility work (*i.e.*, conditioning, place  
4 a drop, add a network interface device, card existing subscriber Loop carrier  
5 systems at the Central Office and remote terminal, add Central Office tie pairs,  
6 add field cross jumpers) in order to complete facilities to the Customer premises.”

7 If, after exploring all alternatives including “Incremental Facility Work,” facilities  
8 are still not available, these are “no-build situations.” No-build situations exist  
9 when Qwest will not build for CLECs because it would likewise not build for  
10 itself for the normal charges assessed to its customers. However, for “special”  
11 additional charges associated with the cost of building facilities, Qwest will build  
12 facilities when the CLEC submits an application and agrees to pay those higher  
13 charges through the process that Qwest calls “CRUNEC.” Eschelon does not use  
14 the relatively time-consuming and expensive special construction, or CRUNEC,  
15 process.

16 On April 30, 2003, Qwest sent to all participating CLECs a Level 3 (“notice and  
17 go”) CMP notification, indicating an effective date of June 16, 2003, for a one-  
18 word change to its PCAT. The notice said:

19 Qwest is modifying/changing the existing manual process by  
20 removing conditioning as a limiting factor of the CRUNEC



1           [“CLEC Requested UNE Construction”] process as it relates to  
2           DS1 Capable Loops when facilities are not available.<sup>110</sup>

3           Specifically, via this email notification, Qwest revised the PCAT dealing with  
4           special construction for UNEs so as to remove the word “conditioning” from the  
5           definition of “Incremental Facility Work” as follows:

6                   Incremental Facility Work: Completing facilities to an end-user’s  
7                   premises (*e.g.*, ~~Conditioning~~, Place a drop, add a Network  
8                   Interface Device (NID), Central Office (CO) tie pairs, field cross-  
9                   connect jumpers, or card in existing Subscriber Loop Carrier  
10                  systems at the CO and Remote Terminal).<sup>111</sup>

11          Qwest sends a substantial number of email notifications about a wide variety of  
12          issues and products (some of which, like CRUNEC, Eschelon generally does not  
13          order). Eschelon has to sift through the Qwest notifications for those impacting  
14          its business and has little reason to review those relating to CRUNEC (so was  
15          surprised, as discussed below, to find that such a notice could significantly impact  
16          its business).

17          On May 13, 2003, Covad objected to Qwest’s revision, expressing concerns as to  
18          how this relatively minor-looking change might be implemented by Qwest in  
19          undertaking conditioning activities used by Covad on a regular basis. Covad  
20          indicated its concerns were rooted in the fact that the section of the PCAT from  
21          which the word “conditioning” was being removed was a list of activities Qwest  
22          would undertake *without* the need for the special construction (CRUNEC) process

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<sup>110</sup> PROS.04.30.03.F.011071.CRUNEC. For further details, *see* Eschelon/56 and Eschelon/57 to the Testimony of Ms. Johnson.

<sup>111</sup> [http://www.qwest.com/wholesale/downloads/2003/030430/PCAT\\_CRUNEC\\_V4\\_1.doc](http://www.qwest.com/wholesale/downloads/2003/030430/PCAT_CRUNEC_V4_1.doc)

1 – *i.e.*, activities Qwest would perform in the normal course of providing UNEs *at*  
2 *no additional charge*.<sup>112</sup> Therefore, the likely impact of Qwest’s change would be  
3 to require additional costly special construction (CRUNEC) charges for  
4 conditioning activities in situations in which CRUNEC-related charges were not  
5 required before (*i.e.*, previously, Qwest had conditioned loops in the normal  
6 course of provisioning without additional charge).

7 On May 21, 2003, Qwest “respectfully declined” Covad’s comments. Instead of  
8 answering Covad’s concern, Qwest’s response to Covad in its entirety said:

9 Removal of the word “conditioning” from the PCAT language  
10 allows the CLEC to use CRUNEC for the build process of  
11 products where before they could not. Current products that have  
12 conditioning at no charge will not be affected. Qwest respectfully  
13 declines this comment.<sup>113</sup>

14 Qwest’s proposed change went into effect, as Qwest planned, on April 30, 2003,  
15 with no delay as a result of Covad’s expressed concerns. As indicated below,  
16 only later did Eschelon and other CLECs learn that, by extending the so-called  
17 opportunity to CLECs “to use CRUNEC for the build process of products where  
18 before they could not,” Qwest was, through its CMP email notification, actually  
19 requiring CLECs to pay special construction charges (*i.e.*, “use CRUNEC”) in  
20 situations when before they paid no additional charges pursuant to their  
21 interconnection agreements.

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<sup>112</sup> [http://www.qwest.com/wholesale/downloads/2003/030521/CNL3\\_response\\_CRUNEC\\_V4.doc](http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc)

<sup>113</sup> [http://www.qwest.com/wholesale/downloads/2003/030521/CNL3\\_response\\_CRUNEC\\_V4.doc](http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc)

1 **Q. DID QWEST'S CHANGE TO ITS PCAT CAUSE UNEXPECTED**  
2 **PROBLEMS FOR ESCHELON AND ITS END USER CUSTOMERS?**

3 A. Yes, though at first it was unclear that Qwest's CMP notice was the cause of the  
4 problem. There was no apparent reason to associate the two events. As I said  
5 earlier, Eschelon did not use the special construction (CRUNEC) process, so it did  
6 not expect changes in that process to affect its business. Almost immediately  
7 after the effective date of Qwest's unilateral email notification, however,  
8 Eschelon began experiencing a dramatic spike in the number of held orders  
9 relative to DS1 loops ordered from Qwest. Early on, Eschelon reported receiving  
10 more than *four times* the number of these held order notices in 25 days than it had  
11 received in the previous 170 days.<sup>114</sup> When an order goes "held," it is delayed, so  
12 the End User Customer does not receive service on the expected due date or, if  
13 cancelled, not at all. Therefore, inappropriate held orders are a serious  
14 competitive issue.

15 **Q. DID ESCHELON IMMEDIATELY NOTIFY QWEST WHEN IT**  
16 **NOTICED THAT THE NUMBER OF DS1 HELD ORDERS HAD SPIKED?**

17 A Yes. Eschelon queried Qwest as to the substantial increase in held orders via  
18 several emails, such as those attached to Ms. Johnson's testimony. Qwest  
19 responded that the increase was likely due to the CMP change identified above,  
20 and admitted that the effect of its CMP notice was to implement a new Qwest

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<sup>114</sup> Eschelon's Comments Regarding Staff Second Report, ACC Docket No. T-00000A-97-0238 (July 18, 2003), p. 5.

1 policy related to “charging” for certain activities for which it had assessed no  
2 charges in the past. Qwest said:

3 Qwest has in the past not fully enforced our contractual right to  
4 collect on the charges incurred when completing DS1 level  
5 unbundled services. Charging is the specific change that has  
6 occurred.<sup>115</sup>

7 Recall that rates and the application of rates are outside the scope of Qwest’s  
8 CMP process. Although Eschelon and Qwest disagree about what all this means  
9 and how Qwest implements it, Qwest admits that “discussion around rates  
10 associated with an Interconnection Agreement are outside the scope of the CMP  
11 process.”<sup>116</sup> In addition, Qwest has acknowledged that, in the meetings in which  
12 CMP procedures were developed (known as CMP “Re-Design”), “it was agreed  
13 that discussions on rate change were not in the scope of CMP.”<sup>117</sup> Nonetheless,  
14 through its email notification, Qwest had revised the PCAT, via CMP, so that it  
15 could “enforce [its] contractual rights” to assess charges by requiring use of  
16 Qwest’s CRUNEC process that it had not, in the past, assessed. I find it  
17 interesting here that Qwest used its CMP notice to enforce “contractual” rights  
18 that can only be interpreted as referring to an ICA (that is the primary contract  
19 dictating terms between Qwest and CLECs). In other words, even though the

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<sup>115</sup> Qwest (Teresa Taylor) email to Eschelon (July 3, 2003).

<sup>116</sup> See Eschelon/93 (Expedite Chronology, quoting Qwest’s response sent by email on November 7, 2005 (and dated November 4, 2005), to McLeod-Eschelon escalation. See [http://www.qwest.com/wholesale/downloads/2005/051104/Qwest\\_Response\\_to\\_Escalation\\_39\\_McLeodUSA.doc](http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc)

<sup>117</sup> See CMP Meeting Minutes (May 12, 2002); see <http://www.qwest.com/wholesale/downloads/2002/020614/ProductProcessCMPMeetingDistributionPackage06-19-02.pdf>

1 ICA is meant to govern when there are conflicts between an ICA and a CMP  
2 notice, Qwest purposefully used a CMP notice to implement a change in policy  
3 related to interpreting its ICAs.

4 Perhaps more importantly, however, is the fact that Qwest's use of CMP held up  
5 Eschelon's DS1 End User Customers relative to their normally-scheduled due  
6 dates. The orders went on hold, even though the ICA under which Eschelon and  
7 Qwest were operating had not changed (nor had the SGAT, quoted above). As  
8 leverage to obtain those higher charges, Qwest refused to provide facilities unless  
9 Eschelon and other CLECs requested special construction through "CRUNEC."  
10 The interval for a DS1 capable loop is nine business days in Oregon. Under  
11 Qwest's "CRUNEC" process, there are 3-, 2-, 5-, and 30-day intervals for various  
12 activities associated with obtaining a quote before construction even begins.<sup>118</sup>  
13 The interval to actually construct the facilities is unknown because the interval is  
14 Individual Case Basis ("ICB").<sup>119</sup> Even assuming a CLEC were willing to pay the  
15 expensive CRUNEC charges, the impact on serving the customer in a timely  
16 fashion is unacceptable when the CRUNEC process should not be required at all.

17 Before issuing its CMP notice, Qwest routinely performed "Incremental Facility  
18 Work" using UNE intervals and at no additional charge. This shows that Qwest  
19 had the capability to make facilities available in this way but had, through its  
20 "notice," simply chosen not to. Qwest's one-word CMP notice was just a means

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<sup>118</sup> See <http://www.qwest.com/wholesale/clecs/crunec.html>

<sup>119</sup> See *id.*

1 by which Qwest implemented a rate hike – using CMP as the vehicle to do so and  
2 causing End User Customer delays for Eschelon’s customers as the manner by  
3 which to force payment.

4 **Q. WERE COVAD AND ESCHELON THE ONLY CLECS TO OBJECT?**

5 A. No. Twelve CLECs were active in CMP, and all twelve joined in escalating  
6 Qwest’s conduct in CMP.<sup>120</sup> Qwest implemented the change in its notice in CMP  
7 over the strenuous objection of all of these active CLEC CMP participants.  
8 CLECs then had to complain to the Arizona commission, which still had an open  
9 271 proceeding at the time.

10 **Q. DID THE ARIZONA COMMISSION AGREE WITH ESCHELON?**

11 A. Yes. In a September 16, 2003 Order in the 271 Docket, Docket No. T-00000A-  
12 97-0238 (Decision No. 66242), the Arizona commission agreed with its Staff’s  
13 position, as outlined in a Staff report, that Qwest should suspend its new policy  
14 and not change rates in this manner, in the context of CMP. Specifically, the  
15 Commission said:

16 109. Staff agrees with Eschelon with respect to the recently  
17 imposed construction charges on CLECs for line conditioning.  
18 Staff is extremely concerned that Qwest would implement such a  
19 significant change through its CMP process without prior  
20 Commission approval. As noted by AT&T, during the Section 271  
21 proceeding, the issue of conditioning charges was a contested

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<sup>120</sup> On August 15, 2003, Allegiance, AT&T, Cbeyond, Contact Communications, Covad, Eschelon, MCI, McLeodUSA, MTI, Tel-West, Time Warner Telecom, and US Link proposed a resolution (the "12-CLEC Proposal"), to be discussed on the August 15th ad hoc CMP conference call, with respect to the CMP process, CRUNEC and CMP notices PROS.04.30.03.F.01071.CRUNEC\_ V4.0, PROS.05.21.03.F.01089.FNL\_CRUNEC, PROD.07.11.03.F.03468.UNECCRUNEC\_V5.0, and PROD.08.06.03.F.03494.DelayedResponseCRUNEC.

1 issue. Language was painstakingly worked out in the Qwest SGAT  
2 dealing with the issue of line conditioning which Qwest's new  
3 policy is at odds with. Staff recommends that Qwest be ordered to  
4 immediately suspend its policy of assessing construction charges  
5 on CLECs for line conditioning and reconditioning and  
6 immediately provide refunds to any CLECs relating to these  
7 unauthorized charges. Qwest should reinstitute its prior policy on  
8 these issues as reflected in its current SGAT. If Qwest desires to  
9 implement this change, then it should notify the Commission in  
10 Phase III of the Cost Docket, but must obtain Commission  
11 approval of such a change prior to its implementation. To the  
12 extent Qwest does not agree to these conditions, Staff recommends  
13 that Qwest's compliance with Checklist Items 2 and 4 be reopened.  
14 We agree with Staff.

15 **Q. SINCE THE TIME OF THIS EXAMPLE, HAS THE FCC CONFIRMED**  
16 **THAT QWEST MUST PERFORM THIS TYPE OF INCREMENTAL**  
17 **FACILITY WORK FOR ESCHELON AND OTHER CLECS?**

18 A. Yes. In its *Triennial Review Order* (“TRO”), the FCC confirmed that Qwest (and  
19 other ILECs) must make “routine network modifications” on behalf of CLECs  
20 ordering UNEs, under the same terms and conditions by which they undertake  
21 those same types of modifications for themselves and their own retail  
22 customers.<sup>121</sup> In other words, only if Qwest forces its own customers into a time  
23 consuming and expensive construction process to build new facilities in the same  
24 circumstances (which it does not), would the same treatment for CLECs be  
25 justified. Therefore, Qwest’s initial observation that it was not “fully enforcing”  
26 its rights to hold orders and apply charges for these types of “conditioning”

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<sup>121</sup> Report and Order and Order on Remand, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 (2003), *vacated in part and remanded*, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir.), *cert. denied*, 125 S.Ct. 313, 316, 345 (2004) (“TRO”) at ¶¶ 630-648.

1 activities<sup>122</sup> was mistaken from the outset – an issue Eschelon would almost  
2 certainly have raised if Qwest had been required to address the issue with  
3 Eschelon via negotiations or a contract amendment.

4 **Q. WHAT SHOULD THE COMMISSION TAKE AWAY FROM THIS**  
5 **EXAMPLE WITH RESPECT TO ADOPTION OF ICA LANGUAGE?**

6 A. Qwest, through its CMP notice described above, knew it was changing the  
7 manner in which it processed and assessed charges related to CLEC orders. It is  
8 clear that the process Qwest wanted to implement (*i.e.*, assessing additional  
9 charges for conditioning) was inconsistent with the current language in its PCAT  
10 – language that needed to be changed in order to square with Qwest’s intentions.  
11 Because that language was in the PCAT, and not specified in an ICA at a  
12 necessary level of detail, Qwest was able to implement that change unilaterally  
13 and over the objection of its multiple CLECs. This change substantially  
14 undermined Eschelon’s existing business processes and caused real-world orders  
15 to fail and Eschelon End User Customers to be delayed or go without service. If  
16 contract language in an ICA had governed this issue in more detail, Qwest could  
17 not so easily, or independently, have changed its policy (or its “contractual  
18 rights”) regarding this issue. Qwest would have had to offer the change in  
19 language to Eschelon, explain its intentions, and negotiate or arbitrate an  
20 amendment with Eschelon. Had Qwest been required to follow this approach,  
21 Eschelon’s End User Customers would not have been held up and the dramatic

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<sup>122</sup> Qwest (Teresa Taylor) email to Eschelon (July 3, 2003).



1 spike in Eschelon’s DS1 related “held orders” (each one representing an Eschelon  
2 End User Customer whose service is delayed) could have been avoided while the  
3 issue was debated.

4 Instead, Eschelon and other CLECs had to rush to a state commission in a crisis  
5 mode, while End User Customers were being negatively affected, and request  
6 speedy relief. Fortunately, Arizona happened to have an open 271 proceeding in  
7 which comments were soon due. The alternative today, without 271 proceedings,  
8 would be for each objecting CLEC to incur the expense of filing one or more  
9 complaints before the state commissions, under the CMP or ICA dispute  
10 resolution provisions (or both), asking the commissions for expedited relief.  
11 Inclusion of specific ICA language in the contract on open issues as a result of  
12 this arbitration will help avoid disputes and these kinds of crisis situations that  
13 require expedited action from the Commission.

14 **ii. DESIGN CHANGES EXAMPLE**

15 **Q. PLEASE DESCRIBE THE DESIGN CHANGES EXAMPLE.**

16 A. The substantive discussion of Issue 4-5, Design Changes, is contained in the  
17 testimony of Mr. Denney. I discuss the issue here because Qwest’s treatment of  
18 its proposed language for Issue 4-5 Design Changes is another example of  
19 Qwest’s directing – or, inconsistently, not directing – issues to CMP, to its own  
20 advantage (and the corresponding disadvantage) of CLECs. Consequently, the

1 issue highlights the need for the certainty of ICA language to govern the  
2 Qwest/Eschelon business relationship for the years to come.

3 A design change is a change in circuit design after engineering review that allows  
4 a CLEC to change a service previously requested without the unnecessary delay  
5 and cost involved in canceling and re-submitting the request. Qwest provided  
6 design changes to Eschelon without additional charge from the inception of the  
7 Qwest/Eschelon ICA until September 1, 2005. On that date, Qwest issued a  
8 unilateral, non-CMP announcement addressing two things that would occur in one  
9 month's time: (1) Qwest would commence billing CLECs new (non-Commission-  
10 approved) non-recurring charges for design changes to Unbundled Loop  
11 circuits;<sup>123</sup> and (2) Qwest would use a new definition of "design change."<sup>124</sup>  
12 When Eschelon inquired about these changes, Qwest CMP personnel responded  
13 that "this item is outside the scope of CMP."<sup>125</sup> While this statement would be  
14 correct regarding rates (which clearly do not belong in CMP), it does not answer  
15 the fact that Qwest chose to address the *definition* of design changes (a non-rate or  
16 rate application issue) outside the CMP, and also chose to unilaterally establish  
17 new rates not only outside CMP but without benefit of Commission review or  
18 approval.

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<sup>123</sup> Eschelon/10, September 1, 2005 letter from Qwest with the subject line "Billing for design changes on Unbundled Loop."

<sup>124</sup> In its September 1, 2005 letter, Qwest stated that design changes include the following activities: Connecting Facility Assignments (CFA) change, Circuit Reference (CKR) change, CKL 2 end user address change on a pending LSR, Service Name (SN) change, and NC/NCI Code change on a pending LSR.

<sup>125</sup> See, Eschelon/11, Denney/3.

1 Qwest then changed its position when it developed its position on design changes  
2 for arbitration. In its Minnesota position statement for the definition of design  
3 change (which was an open issue at the time) submitted with the first Disputed  
4 Issues Matrix submitted in arbitration, Qwest stated that:

5 Qwest agrees that there needs to be a common understanding of  
6 this definition, but this definition concerns a process that affects all  
7 CLECs, not just Eschelon. The entire purpose of CMP was to  
8 ensure that the industry (not just Qwest or one CLEC) is involved  
9 in creating and approving processes so that processes are uniform  
10 among all CLECs. Processes that affect all CLECs should be  
11 addressed through CMP, not through an arbitration involving a  
12 single CLEC. Further, implementing a unique process for Eschelon  
13 that Qwest does not follow for other CLECs would require Qwest  
14 to modify its systems or processes and would cause Qwest to incur  
15 costs it is entitled to recover under the Act.

16 Despite taking this position, Qwest then proceeded to agree to a definition of  
17 “design change” in the Eschelon arbitration – outside of the CMP – that differs  
18 markedly from the definition that it introduced in its September 2005 non-CMP  
19 letter to all CLECs.<sup>126</sup> Qwest’s vacillation on the treatment of a significant issue  
20 such as the governing definition for design changes illustrates the need for ICA  
21 contract language to govern dealings between Eschelon and its wholesale  
22 provider.

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<sup>126</sup> *Compare*, the closed definition of Design Changes, which states in part that, “Design change does not include modifications to records without physical changes to facilities or services, such as changes in the circuit reference (CKR)...or Service Name (NM)...” *with* the definition in Qwest’s September 1, 2005 letter, which states in part: “Among the charges for the design changes that will be billed, the following activities will generate a non-recurring design change charge per occurrence:...”Circuit Reference (CKR) change”...”Service Name (SN) change...” As Mr. Denney discusses further in his testimony, the jury is still out regarding Qwest’s actual application of the agreed upon new definition.

1 Qwest's treatment of the design change rate issue that arose in its unexpected  
2 non-CMP notice in September, 2005, is similarly illustrative of the need for  
3 certainty that only contract language can bring. In the September 1, 2005, notice,  
4 Qwest stated that it would "commence billing CLECs non-recurring charges for  
5 design changes to Unbundled Loop circuits" beginning in one month's time.<sup>127</sup>  
6 Qwest provided no basis for the sudden imposition of a new rate, indicating only  
7 that it would bill CLECs "at the rate found in the miscellaneous elements of  
8 Exhibit A or the specific rate sheet in your Interconnection agreement."<sup>128</sup> Such a  
9 reference would seem to presuppose support for the rate in the ICA, but, in fact,  
10 the only mention of design change charges in relevant governing documents is at  
11 Section 9.6.4.1.4 of the SGAT, which provides for design change charges not for  
12 loops but for "Unbundled Dedicated Interoffice Transport" (UDIT). In  
13 Minnesota, Qwest then admitted that there is no rate for design changes for loops.  
14 Ms. Stewart's rebuttal testimony in the Minnesota arbitration confirmed that the  
15 rates for design changes for loops Qwest implemented via a mere letter leapt  
16 straight from Qwest's business plans to its CLEC billings: "...neither Qwest's  
17 SGAT nor the parties' current ICA includes a design change charge for loops."<sup>129</sup>  
18 As Mr. Denney explains in his testimony, such an admission warrants Qwest's

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<sup>127</sup> Eschelon/10, September 1, 2005 letter from Qwest with the subject line "Billing for design changes on Unbundled Loop."

<sup>128</sup> *Id.*

<sup>129</sup> Rebuttal Testimony of Karen Stewart on behalf of Qwest Corp. Minnesota PUC Docket No. P-5340, 421/IC-06-768; OAH Docket No. 3-2500-17369-2. September 22, 2006, p. 6, lines 27-28 ("Mr. Denney is correct in stating that neither Qwest's SGAT nor the parties' current ICA includes a design change charge for loops.").

1 promptly crediting CLECs for the unsupported design change charges it has billed  
2 CLECs since October, 2005. Yet, despite Qwest's admission, Qwest continues to  
3 bill those charges, which Eschelon disputes.

4 **Q. WHAT SHOULD THE COMMISSION CONCLUDE FROM THIS**  
5 **EXAMPLE?**

6 A. Qwest's treatment of design change definition and charges shows that Eschelon  
7 must have contract language upon which it may fairly depend in its dealings with  
8 Qwest, and that Qwest's on-again, off-again reliance on CMP is in no way a  
9 substitute.

10 iii. MINNESOTA 616 EXAMPLE

11 **Q. TO WHAT DOES THE TERM "MINNESOTA 616" REFER?**

12 A. "Minnesota 616" refers to the last digits of the docket number for two Minnesota  
13 Public Utilities Commission ("PUC") orders dated 7/31/03 and 11/12/03 from the  
14 docket entitled *In The Matter of a Request by Eschelon Telecom for an*  
15 *Investigation Regarding Customer Conversion by Qwest and Regulatory*  
16 *Procedures* [Minnesota PUC Docket P-4211C-03-616 ("MN 616 orders")]. The  
17 abbreviated docket number is any easy, shorthand way to refer to the case that  
18 also avoids use of confidential customer-identifying information (as the name of  
19 the end user customer involved in that case is confidential information).

20 Eschelon has proposed contract provisions for its Oregon ICA that reflect

1 procedures adopted in the Minnesota 616 case by the Minnesota commission,<sup>130</sup>  
2 which also adopted Eschelon’s language for Issue 12-64 and subparts in the  
3 Minnesota arbitration.<sup>131</sup> The Minnesota Commission ordered Qwest to create  
4 procedures for acknowledging mistakes related to Qwest’s errors that affect  
5 CLEC’s End User Customers. Specifically, the Minnesota Commission said:

6 Within 30 days of the date of this Order, Qwest shall make a  
7 compliance filing detailing its proposal for remedying the service  
8 inadequacies identified in this Order. This proposal shall include  
9 ... (b) procedures for promptly acknowledging and taking  
10 responsibility for mistakes in processing wholesale orders; (c)  
11 procedures for reducing errors in processing wholesale orders,  
12 including a report on the feasibility of maximizing reliance on  
13 electronic processing, with an explanation of the necessity for each  
14 manual operation required for wholesale order processing.<sup>132</sup>

15 In a situation in which the End User Customer requests a written  
16 acknowledgement of the error causing the service disruption, Qwest should be  
17 required to acknowledge its mistake. As the Minnesota Commission observed,  
18 “Providing adequate wholesale service includes taking responsibility when the

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<sup>130</sup> See the discussion of Issue 12-64 in the testimony of Ms. Johnson. *See also* Eschelon/88 – Eschelon/91 (attached to the testimony of Ms. Johnson). In its position statement, Qwest argued that Eschelon’s proposed language is inappropriately expands the scope of the Minnesota 616 Orders, stating: “the Minnesota ruling Eschelon relies upon is flawed, Eschelon’s proposed language significantly expands the effect of the ruling by encompassing not just problems involving orders, but multiple other potential situations.” *See* Exhibit 3 to Arbitration Petition, Joint Disputed Issues Matrix, Qwest position statement, pp. 162-163. The Minnesota commission’s adoption of Eschelon’s language indicates the commission disagrees regarding the scope of its own order. *See* Eschelon/29, Denney (MN Arbitrators’ Report ¶208). In any event, there is no reason that an ICA provision that will apply on a going forward basis needs to be limited to the scope of the single example in that case. The example demonstrates the need for ICA language.

<sup>131</sup> Eschelon/30, Denney 23 [MN PUC Arbitration Order, p. 23, ¶4 (Topic 27)]. *See* the discussion of Issue 12-64 in the testimony of Ms. Johnson. *See also* Eschelon/88 – Eschelon/91 (attached to the testimony of Ms. Johnson).

<sup>132</sup> Order Finding Service Inadequate and Requiring Compliance Filing, *In the Matter of a Request by Eschelon Telecom for an Investigation Regarding Customer Conversion by Qwest and Regulatory Procedures*, MN PUC Docket No. P-421/C-03-616. July 30, 2003, p. 9 [“MN 616 Order”], *see* Eschelon/5, Starkey/14.

1 wholesale provider's actions harm customers who could reasonably conclude that  
2 a competing carrier was at fault. Without this kind of accountability and  
3 transparency, retail competition cannot thrive. Telecommunications is an  
4 essential service, and few customers will transfer their service to a competitive  
5 carrier whose service quality appears to be inferior to the incumbent's."<sup>133</sup>

6 Eschelon's need to protect against harm to its business and its reputation is as  
7 great in Oregon as it is in Minnesota; the Oregon Commission should therefore  
8 consider and adopt the reasonable measures proposed by Eschelon, for the  
9 reasons further described by Ms. Johnson regarding Issues 12-64 and subparts  
10 (Root Cause and Acknowledgement of Mistakes). I raise the Minnesota 616 case  
11 here with respect to Qwest's position on CMP. Ms. Johnson describes the facts  
12 of the case in her direct testimony.<sup>134</sup>

13 **Q. ARE THE FACTS OF THE MINNESOTA 616 CASE UNUSUAL?**

14 A. The unusual aspect of these facts is the "smoking gun" nature of the evidence.  
15 Usually, a CLEC may learn of such Qwest Wholesale-Qwest Retail contacts, or  
16 believe based on a course of events that they have occurred, but cannot prove  
17 Qwest's conduct. Rarely are the contacts in writing (as happened in the  
18 Minnesota 616 case) or, if they are written and provided to Customers, the  
19 Customers may not want to be caught in the middle by providing copies to the

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<sup>133</sup> Eschelon/5, Starkey/13.

<sup>134</sup> The 616 case is also described in the Minnesota Arbitrators' Report ¶¶204-208 (Eschelon/29, Denney/50-52).

1 CLEC. The absence of the “smoking gun” evidence in these more typical cases,  
2 however, does not mean that Qwest’s errors and improper Wholesale-Retail  
3 contacts, such as those demonstrated in the above example, do not occur.

4 Another example occurred just recently, when a Qwest End User Customer  
5 decided to switch to Eschelon. After Eschelon submitted the conversion order to  
6 Qwest Wholesale, this Customer received a letter from Qwest’s Retail group<sup>135</sup>--  
7 while its order to switch to Eschelon was still pending. The letter begins: “Thank  
8 you for once again putting your trust in Qwest. We’re pleased to continue  
9 bringing you the quality and reliability you demand . . . .” It then asked the End  
10 User Customer to “please verify your order details listed at left and review the  
11 enclosed instructions.” The order number given in the letter is the *Eschelon* order  
12 number for Eschelon’s order submitted to Qwest to switch the Customer to  
13 Eschelon. (In other words, Qwest is asking the Customer switching to Eschelon  
14 to verify whether Eschelon placed the order correctly.)

15 Carriers cannot use Customer Proprietary Network Information (“CPNI”) to  
16 attempt to retain a customer “during the time subsequent to the customer’s  
17 placement of an order to change carriers and prior to the change actually taking  
18 place.” The FCC has specifically found that this is anti-competitive:

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<sup>135</sup> See Eschelon/88 to the Testimony of Ms. Johnson (Qwest’s Retail letter to Eschelon’s End User Customer) and Eschelo/89 and Eschelon/90 (Email exchange and chronology of the events associated with this incident).



1 “[C]ompetition is harmed if *any* carrier uses carrier-to-carrier information, *such*  
2 *as switch or PIC orders*, to trigger retention marketing campaigns.”<sup>136</sup>

3 Furthermore, at a minimum, if Qwest’s letter ended with the above quoted request  
4 for order verification from Qwest Retail, it would still create customer confusion.  
5 The letter proceeds, however, with a fairly undisguised winback message: “As  
6 your communications needs expand and change, you know you can call us at 1-  
7 800-997-9378.” Although the letter invited the End User Customer to call Qwest,  
8 the End User Customer in this case did not initiate contact with Qwest. Instead,  
9 *Qwest’s Retail Business Office called the End User Customer directly about*  
10 *Eschelon’s wholesale order*. Qwest’s Retail Business Office told the End User  
11 Customer that the service would be disconnected at Eschelon’s request. Qwest’s  
12 Retail Business Office neglected to tell the End User Customer that his service  
13 would be transferred to Eschelon, so service disruption would *not* occur.  
14 Naturally, the End User Customer was extremely concerned and informed  
15 Eschelon that he was considering canceling his request of the service transfer to  
16 Eschelon. Only after Eschelon explained to the Customer that the Customer  
17 would not be losing service, despite Qwest’s use of the term “disconnect,” did the  
18 Customer agree to proceed with the service transfer. Clearly, had the Customer  
19 not contacted Eschelon to check the distorted “facts” presented by Qwest’s Retail  
20 group, Eschelon would not know why the Customer changed his mind, and why  
21 Qwest accomplished an improper “winback” so quickly. Eschelon requested a

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<sup>136</sup> See Order on Reconsideration and Petitions for Forbearance, FCC 99-223, CC Docket No. 96-149; Adopted August 16, 1999; Released September 3, 1999 (“CPNI Order”), at ¶69, 76.

1 root cause analysis on this incident, to which Qwest responded that Qwest's  
2 contact with this customer switching to Eschelon was incorrect and the result of  
3 "human error."<sup>137</sup> Although Qwest proposes exclusion of all of Eschelon's  
4 proposed language for Issue 12-64 and subparts from the ICA, incidents like this  
5 further bolster the need for inclusion of Eschelon's language in the ICA to prevent  
6 such incidents.

7 **Q. IS QWEST'S HANDLING OF THE PROCEDURES ORDERED BY THE**  
8 **MINNESOTA COMMISSION IN THE 616 CASE CONSISTENT WITH**  
9 **ITS POSITION ON CMP?**

10 A. No. Qwest chose not to implement the Minnesota Commission-ordered product  
11 and process procedures through CMP (for Minnesota or any state) or to inform  
12 other CLECs via CMP of the availability of such acknowledgments and how and  
13 when to obtain them. The CMP Document outlines procedures for initiating a  
14 Change Request (known as a "Regulatory CR") in CMP when a regulatory  
15 agency orders Qwest to make a change,<sup>138</sup> as well as for Qwest to voluntarily  
16 initiate a change request if not mandated.<sup>139</sup> A change may be implemented on a

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<sup>137</sup> See Eschelon/90, Johnson/3 (8/24/06 entry).

<sup>138</sup> The CMP Document defined a regulatory change request as follows: "A Regulatory Change is mandated by regulatory or legal entities, such as the Federal Communications Commission (FCC), a state commission/authority, or state and federal courts. Regulatory changes are not voluntary but are requisite to comply with newly passed legislation, regulatory requirements, or court rulings. Either the CLEC or Qwest may originate the Change Request." See Exhibit BJJ-1 to Ms. Johnson's testimony (CMP Document) at §4.1. If the requirements for a Regulatory CR are not met, a company may submit a regular change request. Consistent with its position that this issue should be addressed in the ICA, Eschelon did not initiate a Change Request.

<sup>139</sup> CMP Document (Eschelon/53), §5.4.

1 state-specific basis.<sup>140</sup> Eschelon is *not* advocating use of the CMP procedures, as  
2 it has consistently maintained that this issue should be addressed in the  
3 interconnection agreement. In contrast, Qwest’s stated position is that processes,  
4 procedures, and business practices should be handled in CMP and not in  
5 interconnection agreements to avoid “one-off” processes.<sup>141</sup> Yet, for this  
6 particular issue of acknowledging Qwest mistakes, Qwest did not use CMP even  
7 though Qwest later admitted its decision not to do so has resulted in a “one-off”  
8 process.<sup>142</sup> The inconsistency in Qwest’s position may reflect the fact that the  
9 results of the Minnesota Commission’s order were unfavorable to Qwest. Qwest  
10 simply chose not to implement them through CMP. While CMP is apparently

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<sup>140</sup> A process affecting “all CLECs” that Qwest contends belongs in CMP may be specific to one state. *See, e.g.*, the Washington-only expedite terms. *See* Eschelon 104, Johnson/3[Qwest’s PCAT, *Expedites and Escalations Overview – V. 44.0*, stating: “The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA).”].

<sup>141</sup> *See, e.g.*, Albersheim Colorado Rebuttal, p. 6, lines 3-7 (“Eschelon seeks to expand Qwest’s obligations and create *one-off, unique processes* for CMP-related ICA issues in dispute: Issue 1-1: service intervals, Issues 12-71 through 12-73: jeopardy notices, and Issue 12-67: expedited orders. Eschelon’s approach to these issues has a *dire effect* on the CMP . . . .”) (emphasis added). *See also* Qwest-Eschelon ICA MN Arbitration, Qwest (Mr. Linse) MN Direct, p. 12, lines 12-19 (“Even if Eschelon were to agree that its language constitutes a standing request to tag whenever necessary, this would still represent a significant ‘one-off’ from Qwest’s existing process. Eschelon’s proposed language would create a unique process that would apply only to Eschelon and other CLECs that may opt into Eschelon’s agreement. Qwest’s technicians on service calls would be unreasonably burdened with the responsibility of understanding this one-off process and keeping straight for which CLECs it applied. This would create significant administrative and logistical difficulties.”) (Issue 12-75, now closed).

<sup>142</sup> Ms. Albersheim admitted its proposal of a Minnesota-only provision for Issue 12-64 is a “one-off” process. Qwest-Eschelon Minnesota arbitration, Transcript, Vol. I, p. 15, line 17 – p. 16, line 3 (Albersheim) (Eschelon/6).

1 optional for Qwest when issues affect multiple CLECs,<sup>143</sup> Qwest does not propose  
2 to give Eschelon that option.

3 **Q. IN ADDITION TO REFERRING TO CMP, QWEST ARGUES THAT**  
4 **ESCHELON'S PROPOSAL TO REQUIRE ACKNOWLEDGEMENT OF**  
5 **MISTAKES IS UNNECESSARY BECAUSE OF THE EXISTENCE OF**  
6 **PERFORMANCE INDICATOR DEFINITIONS ("PIDS"). IS QWEST**  
7 **CORRECT?**<sup>144</sup>

8 A. No. Qwest's argument is incorrect for a number of reasons. First, PIDs do not  
9 capture all types of Qwest's inadequate service. Ms. Johnson's direct testimony  
10 contains Eschelon/87 that provides several real-life examples in which Qwest's  
11 mistakes affected Eschelon's End User Customers and for which Eschelon  
12 requested (and Qwest provided) root cause analysis. In one of these examples,  
13 Qwest's technician insulted Eschelon's End User Customer with profanity.<sup>145</sup> In  
14 another example, Eschelon's End User Customer was unnecessarily called to the  
15 customer premises at 10 p.m., while Qwest's technician did not show up (and did  
16 not need the Customer's presence at the customer premises).<sup>146</sup> PIDs do not  
17 measure these types of mistakes. Similarly, PIDs do not measure the harm to

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<sup>143</sup> In its order finding Qwest's compliance filing inadequate, the Minnesota Commission's fourteen ordering paragraphs (a-n) regarding the required contents of Qwest's next compliance filing included, for example, the following items that referred to "all" Qwest wholesale orders and CLECs generally (not only Eschelon): "(f) Procedures for extending the error acknowledgment procedures set forth in part (e) to *all* Qwest errors in processing wholesale orders." Order, *MN 616 Case* (Nov. 13, 2003) p. 4] (emphasis added).

<sup>144</sup> Qwest Response, pp. 43-44.

<sup>145</sup> Eschelon/87, Example 1.

<sup>146</sup> Eschelon/87, Example 4.

1 Eschelon's reputation done by Qwest's mistakes in situations in which the End  
2 User is led to believe that Eschelon was at fault. In the specific incident that  
3 prompted the Minnesota Commission to direct Qwest to create procedures for the  
4 acknowledgement of its mistakes, it was not the outage of service itself, but  
5 Qwest's conduct, that caused Eschelon to lose the End User Customer. The PIDs  
6 would capture the outage, but not Qwest's inappropriate conduct that  
7 misrepresented the outage as caused by Eschelon.

8 Further, even if Qwest is penalized for a specific instance of inadequate service  
9 via PIDs, Qwest may still have incentives to commit a mistake because gains  
10 from winning back a large End User Customer may exceed PID penalties. The  
11 specific incident that prompted Minnesota Docket No. P-421/C-03-616, for  
12 example, illustrates this problem: Qwest's conduct in that case caused Eschelon  
13 to lose, and Qwest to win back, a large End User Customer. The Commission's  
14 order notes that annual telecommunications bills from this End User Customer  
15 were approximately \$463,655 per year.<sup>147</sup> In this instance, Qwest's stream of  
16 recurring revenues is likely to far exceed one-time PID penalties from causing  
17 outage to the customer.

18 **Q. IS QWEST'S POSITION REFLECTED IN ITS POSITION STATEMENT**  
19 **IN THIS CASE CONSISTENT WITH THE POSITION IT HAS TAKEN IN**  
20 **LATER STAGES OF THE QWEST-ESCHELON ARBITRATIONS IN**  
21 **OTHER STATES?**

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<sup>147</sup> Eschelon/5, Starkey/7..

1 A. No. In Minnesota, Qwest agreed to the majority of Eschelon’s language for Issue  
2 12-64 and subparts. In Oregon, Qwest objects in its position statement to  
3 Eschelon’s proposed language for Issue 12-64 and subparts in its entirety,  
4 arguing, as it does with a number of other issues:

5 Further, this issue involves processes that affect all CLECs, not just  
6 Eschelon. The entire purpose of CMP was to ensure that the industry (not  
7 just Qwest or one CLEC) is involved in creating and approving processes  
8 so that processes are uniform among all CLECs. Processes that affect all  
9 CLECs should be addressed through CMP, not through an arbitration  
10 involving a single CLEC. Further, implementing a unique process for  
11 Eschelon that Qwest does not follow for other CLECs would require  
12 Qwest to modify its systems or processes and would cause Qwest to incur  
13 costs it is entitled to recover under the Act.<sup>148</sup>

14 Qwest’s previous conduct, however, shows that Qwest has excluded this issue not  
15 only from the ICA but also from CMP. When Eschelon has pointed this out in  
16 other states, Qwest changed its position (from the one quoted above) and testified:  
17 “This process is not one that requires Qwest to alter its procedures overall, nor  
18 does it apply to all CLECs.”<sup>149</sup>

19 As Qwest’s inconsistent conduct in the Minnesota 616 example shows, Qwest’s  
20 proposed tests of labeling an issue as a “process” or asking if “multiple CLECs  
21 are affected” are results oriented and do not provide a legitimate basis for  
22 excluding language from the ICA. Both proposed tests allow Qwest to

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<sup>148</sup> See Exhibit 3 to the Arbitration Petition, Joint Disputed Issues Matrix (10/10/06), Qwest position statement, p. 163.

<sup>149</sup> Albersheim Arizona Rebuttal, p. 40, lines 9-11; Albersheim Minnesota Rebuttal, p. 40, lines 13-15; Albersheim Washington Rebuttal, p. 39, lines 9-11 (same quote in all three states).

1 pigeonhole an issue as CMP or not (as in this case it did on different occasions for  
2 the same issue) at its unilateral discretion.

3 **iv. SECRET TRRO PCATS EXAMPLE**

4 **Q. WHY DO YOU REFER TO THE FOURTH EXAMPLE AS THE “SECRET**  
5 **TRRO PCATS” EXAMPLE?**

6 A. After the FCC issued its *TRO*, Qwest developed a PCAT document intended to  
7 implement terms of the *TRO* in a fashion Qwest claimed to be most consistent  
8 with its newly-defined obligations relating to UNEs. Qwest attempted to force  
9 CLECs to execute amendments reflecting Qwest’s interpretation of its post-  
10 *TRO/TRRO* obligations (when read in conjunction with its TRRO PCAT) without  
11 allowing CLECs the ability to review the PCAT documents in which Qwest  
12 placed operative language regarding Qwest’s interpretation. Qwest password  
13 protected the PCAT changes and initially refused to provide the password until  
14 after a CLEC signed Qwest’s *TRRO* amendment, so the CLEC would learn the  
15 full effect of those amendment terms only after signing it. Although the password  
16 is now available, these PCATs remain password protected. The term “secret” is  
17 used to distinguish them from the portions of the PCAT that are not password  
18 protected.

19 **Q. PLEASE ELABORATE ON THE “SECRET TRRO PCATS” EXAMPLE.**

20 A. On October 27, 2004, Qwest issued a change request entitled, “FCC Triennial  
21 Review Order CC 01-338 (TRO), U.S. Court of Appeals for the DC Circuit

1 decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance:  
2 Certain Unbundled Network Elements (UNE) Product Discontinuance.”<sup>150</sup> A  
3 chronology of events relating to this Change Request is attached to the testimony  
4 of Ms. Johnson.<sup>151</sup>

5 Qwest’s Change Request dealt with the availability of UNEs pursuant to Qwest’s  
6 interpretation of the *TRO*, USTA II Decision, and the FCC’s Interim Order. This  
7 notice said it was to inform CLECs that whatever UNEs Qwest claimed were  
8 “declassified” pursuant to these rulings would no longer be available through the  
9 PCAT or for CLECs without an ICA. Qwest indicated that there would be no  
10 transition for these changes and that the impacts of this notice would be  
11 retroactive.<sup>152</sup> On November 8, 2004, Covad escalated the issue in CMP, asking  
12 Qwest to withdraw the TRO/USTA II Change Request.<sup>153</sup> Covad objected on  
13 numerous grounds, including: (i) it was premature for Qwest to make these  
14 determinations about UNE availability since there were pending proceedings  
15 before the FCC and state commissions dealing with these exact issues; (ii) it was  
16 inappropriate for Qwest to implement its legal rights and obligations through  
17 CMP instead of ICAs; (iii) Qwest’s interpretation of the FCC’s rules and court  
18 orders was incorrect; (iv) and Qwest did not follow the proper steps for issuing a

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<sup>150</sup> Change Request No. SCR102704-1RG. Qwest originally filed this Change Request as a “systems” Change Request, but later changed that designation to a “product/process” Change Request.

<sup>151</sup> See Eschelon/59.

<sup>152</sup> Note that when the FCC’s *TRRO* came out, it included very specific transition timeframes for UNEs that are declassified.

<sup>153</sup> Covad Escalation No. PC102704-1E32.



1 regulatory Change Request.<sup>154</sup> Eschelon joined Covad’s escalation in November  
2 2004. Importantly, in its binding response to Covad’s escalation, Qwest on  
3 November 16, 2004, stated that the “Change Request is not superseding the  
4 language in the CLEC ICA” and that because “this is a change to limit the  
5 availability of certain products only, Qwest believes this is a Level 4 change and  
6 belongs in CMP.”<sup>155</sup> Eschelon and CLECs continued to raise concerns about  
7 Qwest’s Change Request in CMP monthly meetings and oversight committee  
8 meetings, stating that changes that affect UNE availability should be addressed in  
9 negotiation/arbitration and not in CMP.<sup>156</sup>

10 On January 7, 2005, Qwest refused to withdraw the TRO/USTA II PCAT. When  
11 the permanent rules were released in the *TRRO*,<sup>157</sup> it was evident that Qwest’s  
12 interpretation of its obligations set out in its premature PCATs did not comport

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<sup>154</sup> *See id.*

<sup>155</sup> *See* Eschelon/61 (11/16/04 Qwest binding response to Covad). Qwest’s entire response to Covad’s escalation is provided in Eschelon/61, and Covad’s escalation is provided as Eschelon/60.

<sup>156</sup> *See* Eschelon/59 (11/17/04 CMP November monthly meeting - Eschelon stated that “this should not be discussed in CMP. We do not discuss legal interpretation in CMP. This should be done in a different forum.” At the same CMP meeting, Covad stated, “this is an ICA negotiation discussion.” TelWest said “It should be arbitrated and not unilaterally implemented by Qwest.”); *see also id.* (1/4/05 CMP Oversight Committee Meeting - Eschelon indicated that “if Qwest will limit product availability in its existing ICA, Qwest would need to notify Eschelon through the change in law provisions of its contract and not through a PCAT CMP notice.” Bill Campbell from Qwest agreed.); *see also id.* (1/10/05 CMP Oversight Committee meeting - Eschelon expressed concern about dealing with these issues in CMP: “Bonnie Johnson said that product availability is based on the ICA and even though Qwest notices about product availability, CLECs can’t get the products without an agreement including the product.” Also “Liz Balvin [Covad] and Bonnie Johnson stated that the Change Request should not have defaulted to CMP as it was not the appropriate approach and the importance of keeping the CMP guidelines in tact.” Covad, Eschelon AT&T, TDS/Metrocom and MCI all recommended that the Change Request be deferred until permanent rules are issued.)

<sup>157</sup> Order on Remand, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313; CC Docket No. 01-338, FCC 04-290 (rel. February 4, 2005) (“*TRRO*”).

1 with the permanent rules. Qwest indicated that it would withdraw its previous  
2 PCATs that were inconsistent with the permanent rules and “*would notify via the*  
3 *same Change Request.*”<sup>158</sup> Although CLECs requested ICA negotiations rather  
4 than use of CMP, Qwest at least indicated it would do one or the other. At a June  
5 30, 2005 CMP ad hoc meeting, Qwest then indicated that it would negotiate ICAs  
6 with CLECs and that “no *TRO/TRRO* changes to its products and processes will  
7 be made across the board until such language is final.”

8 **Q. DID QWEST GO FORWARD WITH EITHER THE CMP APPROACH OR**  
9 **ICA NEGOTIATIONS FOR IMPLEMENTING ITS TRRO PCAT**  
10 **CHANGES?**

11 A. No. Qwest made matters even worse. Qwest initially told CLECs in CMP  
12 meetings that Qwest will negotiate the *TRRO* changes with CLECs and will not  
13 update the PCATs until language is finalized and PCAT changes are brought  
14 through CMP.<sup>159</sup> However, on September 12, 2005, Qwest issued a wholesale  
15 notification, entitled “Triennial Review Remand Order (*TRRO*) Products &  
16 Services.”<sup>160</sup> Contrary to Qwest’s statements in CMP, this notification was not a  
17 CMP notice, which means that it did not go through CMP and there was no  
18 opportunity for CLEC comment, input, or other participation. Qwest made this  
19 non-CMP notice effective three weeks after the issuance date – even quicker than  
20 the “notice and go” notifications Qwest issues through CMP. But Qwest’s non-

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<sup>158</sup> See Eschelon/59, Johnson/7 (2/16/05 CMP February monthly meeting minutes).

<sup>159</sup> Eschelon/59, Johnson/7-9 (Meeting Minutes from 6/30/05 AdHoc CMP meeting).

<sup>160</sup> Product Notice Document No. PROS.09.12.05.F.03236.TRRO\_Login\_Product\_Page

1 CMP notice<sup>161</sup> was even more egregious: *Qwest posted its proposed TRO/TRRO-*  
2 *related documents on a password protected website, and refused to provide*  
3 *CLECs with the necessary username/password to access the documents until*  
4 *after the CLEC executed the TRO/TRRO amendments.*<sup>162</sup> This is the secrecy  
5 referred to in “Secret” TRRO PCAT.<sup>163</sup>

6 **Q. DID ESCHELON RAISE CONCERNS ABOUT THE SECRET TRRO**  
7 **PCAT?**

8 A. Yes. On September 12, 2005, Eschelon requested a copy of the secret TRRO  
9 PCAT, and also raised concerns about Qwest’s intentions with respect to the non-  
10 CMP secret TRRO PCAT:

11 Does Qwest intend to try to take a similar approach, in which  
12 Qwest does not include terms in the ICA but then attempts to  
13 impose them through a PCAT (one that has not even been through  
14 CMP), after Eschelon has signed an Agreement?...the language  
15 described in the enclosed notice did not go through  
16 CMP...Qwest’s notice does not even allow for a comment  
17 period...This notice/conduct appears to be yet another reason to  
18 limit any reference to the PCAT in the ICA and deal with any  
19 terms that need to be negotiated in the ICA. The ICA controls; not

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<sup>161</sup> See Eschelon/59, Johnson/11 (1/18/06 CMP monthly meetings - Jill Martain (Qwest) stated that the TRRO notice “was separate and that it was a non-CMP notice.”)

<sup>162</sup> See Eschelon/59, Johnson/9-10 (9/12/05 - Qwest’s non-CMP announcement stated: “When the CLEC receives a copy of their signed amendment Qwest will also include a letter that advises them how to access the web site using an assigned USERID and Password to access the PCATs.” Qwest’s non-CMP notice included a similar “Note” that is included on CMP documentation stating that “in cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.”)

<sup>163</sup> Password-protected PCATs are referred to as “Secret” PCATs to distinguish them from generally available PCATs accessible without a password distributed through Qwest’s notice process.

1 the PCAT...If you want such terms with Eschelon, you need to  
2 propose them in negotiations and negotiate with us.<sup>164</sup>

3 On September 29, 2005, Qwest announced that “[a]s a result of customer  
4 feedback” the password for the secret TRRO PCAT was being made available to  
5 CLECs, but that it would continue to be distributed outside of CMP and would  
6 remain password-protected or “secret.”<sup>165</sup> Qwest continues to issue additional  
7 secret PCATs.<sup>166</sup> Additional users that want to review secret PCATs have to  
8 obtain the password before being able to do so.

9 **Q. DID QWEST EVER OFFER ANY REASON FOR ISSUING THE SECRET**  
10 **PCAT AS A NON-CMP NOTICE?**

11 A. Amazingly, Qwest claimed that there was agreement among Qwest and CLECs in  
12 CMP that Qwest could make changes *unaccompanied by any ICA negotiations,*  
13 *SGAT review, or any other method for CLEC input and participation and/or*  
14 *Commission oversight.* Qwest ignores that, when this issue was discussed in  
15 CMP, CLECs said the proper alternative to CMP was to handle TRRO changes in  
16 law through ICA negotiations that, if unsuccessful, would be decided by state  
17 commissions in ICA arbitrations.<sup>167</sup> Qwest also ignores its own statements

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<sup>164</sup> See Eschelon/59, Johnson/10 (9/12/05 – Eschelon email to Qwest).

<sup>165</sup> See Eschelon/59, Johnson/11 (9/29/05 Qwest announcement).

<sup>166</sup> See, e.g., Eschelon/64 (7/21/06 non-CMP Product notice document number PROS.07.21.06.F.04074.TRRO\_Reclass\_Termin\_V1). There are now 99 secret TRRO PCAT versions. See, Eschelon/77.

<sup>167</sup> See, e.g., Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes).

1 afterward that it would pursue its Change Request in CMP and to bring PCAT  
2 changes through CMP.<sup>168</sup>

3 Qwest claims that CLEC opposition to addressing these issues in CMP rather than  
4 ICA negotiations can somehow be construed as CLEC consent for Qwest to  
5 unilaterally impose its *TRRO* view “outside the scope of CMP”<sup>169</sup> with no  
6 negotiation or arbitration. No reasonable interpretation of CLEC comments leads  
7 to this result. For example, TelWest specifically said in CMP that the issues  
8 “should be arbitrated *and not unilaterally implemented by Qwest.*”<sup>170</sup> Qwest’s  
9 claim now that CLECs’ position on ICA negotiations meant that Qwest can  
10 unilaterally implement the TRRO PCATs flies in the face of such clear statements  
11 to the contrary.

12 CLECs, including Eschelon, maintained that Qwest should negotiate TRRO  
13 issues, including operational and conversion issues, in ICA negotiations,<sup>171</sup> as  
14 recommended by the FCC.<sup>172</sup> To the extent that there was any “agreement” to  
15 deal with issues later, it was to deal with them after the permanent rules were  
16 issued.<sup>173</sup> On February 16, 2005, Qwest said in CMP that, once it determined  
17 what the final rulings are, Qwest “would notify via this same CR” in CMP (*i.e.*,

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<sup>168</sup> See, e.g., Eschelon/59, Johnson/7-9 (6/30/05).

<sup>169</sup> See Eschelon/59, Johnson/11-12 (3/29/06 – Qwest service management email to Eschelon)

<sup>170</sup> See Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes)

<sup>171</sup> See, e.g., Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes).

<sup>172</sup> E.g., *TRRO*, ¶¶ 196 and 227.

<sup>173</sup> Eschelon/59, Johnson/6-7 (1/10/05); Eschelon/71 (1/10/05 CMP Oversight Committee minutes).

1 not outside of CMP).<sup>174</sup> The final rules were effective on March 11, 2005.  
2 Although Qwest has made unsupported assertions since then that there is some  
3 kind of agreement,<sup>175</sup> Qwest has provided no evidence at all of any agreement (or  
4 the time, place, date, parties to the agreement, or alleged content of any  
5 agreement) at any later date on this issue.

6 Qwest has said over time that the alleged agreement is specific to the Statement  
7 of Generally Available Terms (SGAT) and that changes will be made in  
8 conjunction with SGAT updates. Qwest has taken this position in CMP, through  
9 its service management team, and in ICA negotiations. On June 30, 2005, Qwest  
10 committed in CMP:

11 *. . . as SGAT language changes, we will have a comment period*  
12 *and that the States will engage you when decisions are made.*  
13 *Cindy also said that PCAT changes will be brought through*  
14 *CMP.*<sup>176</sup>

15 On March 29, 2006, Qwest service management similarly told Eschelon:

16 As agreed to at CMP, the PCATs/Business Procedures associated  
17 specifically to TRRO are handled outside the scope of CMP *until*  
18 *such time that there is an approved SGAT*, which is why the  
19 change was noticed as a non-CMP document.<sup>177</sup>

20 On April 6, 2006, the Qwest ICA negotiations team similarly told Eschelon:

21 From those discussions it was agreed that *until such time that a*  
22 *SGAT is filed* and the TRRO related issues were finalized that all

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<sup>174</sup> Eschelon/59, Johnson/7 (2/16/05).

<sup>175</sup> See, e.g., Eschelon/63, Johnson/1 (Qwest 9/7/06 email).

<sup>176</sup> Eschelon/59, Johnson/8-9 (6/30/05) (emphasis added).

<sup>177</sup> Eschelon/59, Johnson/11; see also Eschelon/63 (full text) (emphasis added).

1 of the TRRO processes and issues would be deferred from a CMP  
2 perspective.<sup>178</sup>

3 **Q. DO RECENT ACTIONS BY QWEST TELL A DIFFERENT STORY?**

4 A. Yes. Despite these assurances over more than a year's time from every one of  
5 these groups within Qwest that Qwest would update the SGATs and deal with  
6 "TRRO" issues (including those that Eschelon was asking Qwest to negotiate  
7 under Section 252) in CMP as Qwest did so, Qwest recently said that it had  
8 "*stopped updating its SGATs.*"<sup>179</sup> Qwest added that, "Indeed, the SGATs have  
9 not been updated to incorporate changes in law since 2003 and are therefore  
10 outdated documents."<sup>180</sup> Then, on November 15, 2006, Qwest issued a Level 1

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<sup>178</sup> Eschelon/59, Johnson/12 (4/6/06) (emphasis added). At the time this statement was made (4/6/06), Qwest had already filed its comments in the Oregon and Colorado wire center proceedings and its petition in the Minnesota wire center proceeding. *See, e.g.*, Conference Report, *In re. Covad, Eschelon, Integra, McLeodUSA, and XO Request for Commission Approval of Non-Impairment Wire Center List*, Docket No. UM 1251 (March 15, 2006); Qwest Corporation's Comments in Response to Commission Order Opening a Docket and Allowing a Response, Docket No. 06M-080T (March 1, 2006); Qwest's "Petition for Commission Investigation and Expedited Proceeding to Verify Qwest Wire Center Data and Resolve Related Issues," MPUC Docket No. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 (March 3, 2006). That Qwest made this statement more than a month *after* Qwest made its filings in the wire center proceedings shows that Ms. Stewart's claim that TRRO change request is deferred by "agreement" pending the completion of the wire center proceedings is false. *See* Stewart Minnesota Rebuttal, p. 72, lines 22-25. As the above quotation shows (*see also* full paragraph quoted at Eschelon/59, Johnson/12), in April of 2006, Qwest was still promising to raise the separate, business impacting "processes and issues" with the Commission in association with SGAT filings. Qwest made the latter statement in response to Eschelon's Section 252 request to negotiate collocation and APOT issues (*see id.* & Eschelon/64), which are not being addressed in the wire center proceedings. Yet, Qwest responded that it is "premature to initiate TRRO discussion at this time." *See* Eschelon/59, Johnson/12. Given that Eschelon asked to negotiate TRRO issues years ago (*see, e.g.*, Eschelon/59, Johnson/4-5, 11/17/04) and also the APOT issue promptly when Qwest finally disclosed it (*see* Eschelon/64), the Commission should not allow Qwest to exclude these issues from this arbitration because Qwest had steadfastly refused to take up the issues in negotiations (or even CMP) in the intervening months and years. Eschelon has properly brought them to negotiation and before this Commission in arbitration. [*See* Subject Matters 18 (Conversions) and 26 (Commingled Arrangements).]

<sup>179</sup> Stewart Minnesota Rebuttal, p. 36, line 14 (emphasis added).

<sup>180</sup> Stewart Minnesota Rebuttal, p. 36, lines 14-15.

1 CMP notice – effective on 1 day’s notice<sup>181</sup> – that informed CLECs that SGATs  
2 will *no longer be available for opt in*.<sup>182</sup> Qwest is attempting to address some of  
3 the inherent inconsistencies in its position by eliminating SGAT terms and  
4 conditions established in 271 proceedings so that these terms and conditions do  
5 not conflict with the terms and conditions Qwest has unilaterally established in its  
6 Negotiations Template Agreement. Qwest’s move to eliminate the SGAT  
7 without any Commission involvement is in direct conflict with the CMP  
8 Document’s scope provision (Section 1.0), which addresses potential conflict  
9 between the CMP and SGATs as well as ICAs. It is a prime example of why the  
10 FCC rejected Qwest’s proposed reliance on web-postings instead of 251/252  
11 ICAs.<sup>183</sup>

12 As the above quotations illustrate, Qwest has consistently pushed out dealing with  
13 business-impacting issues that have resulted from the TRO/TRRO based on its  
14 promise to deal with them collaboratively when the time is right – and when it  
15 updated its SGATs. At the same time, Qwest has been busily churning out

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<sup>181</sup> PROS.11.15.06.F.04322.MultLangChangeforSGATs (effective 11/16/06). As a result of this change, SGATs are no longer available for opt-in by CLECs and are available on Qwest’s website only as reference documents. See, Eschelon/65, Eschelon/66, and Eschelon/67. These exhibits show that Qwest provides SGATs on its website for “Reference Only.”

<sup>182</sup> Process Notification PROS.11.15.06.F.04322.MultLangChangeforSGATs (dated 11/15/06, effective 11/16/06) is provided in Eschelon/66. In addition to Qwest’s 11/15/06 notice, this exhibit contains Qwest’s testimony from the companion Minnesota arbitration proceeding (Ms. Stewart) indicating that Qwest has not updated its SGATs for a number of years and has no intention to do so. This exhibit also contains screen shots from Qwest’s website showing that Qwest has replaced SGATs on its website with Qwest’s Negotiations Template Agreements and now provides SGATs only as reference documents (in PDF). The link for “SGATs” takes the user to the Qwest template, not the SGAT. Then, the user has to use another link to get to the SGATs, which are identified as reference documents.

<sup>183</sup> The fact that Qwest withdrew its SGATs on one day’s notice supports the FCC’s finding that CLECs “could not rely on a website to contain all agreements on a permanent basis.”



1 business-affecting<sup>184</sup> secret (*i.e.*, password-protected) PCATs<sup>185</sup> that do not go  
2 through any collaborative process at all – not ICA negotiations (as requested by  
3 Eschelon and other CLECs),<sup>186</sup> not CMP (as promised by Qwest),<sup>187</sup> and not  
4 Commission proceedings (as also promised by Qwest).<sup>188</sup> Qwest implements its  
5 own “TRRO” view of the world through notifications that it chose *not to send*  
6 *through the CMP* notification or change request processes, while at the same time  
7 refusing to negotiate these issues under Section 252 on the grounds that *Eschelon*  
8 should take the issue to CMP or that it would do so when it updated the SGATs.  
9 Then, Qwest declared it would not update the SGATs at all. Eschelon has  
10 exercised its Section 252 right to raise these issues in negotiation and arbitration.  
11 Qwest, as the party advocating they belong in CMP, elected not to raise them  
12 there (or in any regulatory proceeding) before commencement of arbitration and  
13 should not be allowed to benefit from its contradictory statements and conducts

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<sup>184</sup> See Eschelon/77 (showing Qwest has implemented *ninety-nine* versions non-CMP secret TRRO PCATs).

<sup>185</sup> Eschelon/59, Johnson/9 & 12-14.

<sup>186</sup> See, *e.g.*, Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes).

<sup>187</sup> See, *e.g.*, Eschelon/59, Johnson/8-9 (6/30/05).

<sup>188</sup> Eschelon/59, Johnson/8-9 (6/30/05). Not only is there no such agreement, but also these business-affecting issues will not be decided in the wire center proceedings. Despite the above-quoted promises by Qwest that it would bring such issues to the Commission, Qwest asked the Commission in that proceeding only to identify the non-impaired wire centers, “confirm Qwest’s right” to assess non-recurring charges (“NRCs”) at tariffed rates, and establish a process for future updates of non-impaired wire centers. See Qwest’s “Statement of Issues,” Colorado Docket No. 06M-080T (April 28, 2006). Although circuit identification is discussed in that case, for example, it is in the context of costs if the circuit id is changed and not whether it should be changed. Given Qwest’s above-quoted statements about updating the SGATs with the state commissions and bringing issues to the CMP, CLECs could not have anticipated that Qwest would later argue that this narrow proceeding was the one place that CLECs should have raised the issues that Qwest itself promised to raise elsewhere. Consistent with this, this Commission did not address all of these business-affecting issues in its Order. See Eschelon/40.

1 by avoiding an arbitration ruling. This arbitration is the appropriate place to deal  
2 with the business impacting aspects of the TRO/TRRO.

3 **Q. BRIEFLY, WHY SHOULDN'T QWEST IMPLEMENT TRRO PCATS**  
4 **UNILATERALLY?**

5 A. Aside from the fact that Qwest agreed to negotiate these issues before making  
6 *TRRO* changes across the board and said it would at least bring TRRO PCATs  
7 through CMP,<sup>189</sup> the law and current interconnection agreements require Qwest to  
8 negotiate changes of law (such as *TRRO*) through interconnection agreement  
9 negotiation and arbitration.

10 While Qwest may argue that it has unilateral control over provisioning of  
11 elements that are no longer required to be unbundled, the transition away from  
12 UNEs is subject to Section 252, including its provisions giving authority to the  
13 Commission to decide these issues. In the Verizon arbitration in Washington, for  
14 example, the ALJ found that “the Commission specifically provided that the  
15 parties address through the Section 252 process the transition away from  
16 provisioning elements on an unbundled basis that the FCC has determined are no  
17 longer required to be unbundled.”<sup>190</sup>

18 In any event, Qwest’s so-called “TRRO” PCATs are not limited to provisioning  
19 of elements that are no longer required to be unbundled and address or at least

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<sup>189</sup> See Eschelon/59 (6/30/05 CMP ad hoc meeting minutes)

<sup>190</sup> See Verizon WA ALJ Arbitration Order, ¶105, citing *TRO*, ¶¶ 700, 701; *TRRO*, ¶ 142 n.399, ¶ 198 n.524, ¶ 228 n.630, ¶ 233.

1 impact UNEs and other Section 251 services. Qwest recently issued another non-  
2 CMP, secret PCAT notice about new Qwest terms for converting UNEs to  
3 alternative or analogous services.<sup>191</sup> This recent secret PCAT is discussed in  
4 Issues 9-43 and 9-44 (conversions). Although Qwest refers to it as a “TRRO”  
5 PCAT, it relates to collocation and contains terms that affect UNEs (such as a  
6 freeze on ordering and changing UNEs for a time). Eschelon has requested  
7 negotiation of these issues with Qwest and specifically asked for participation of  
8 Qwest subject matter experts to facilitate the discussion. Qwest has rejected  
9 Eschelon’s request, indicating that this issue should be addressed in CMP –  
10 despite the fact that Qwest did not issue a CMP notice on this change to begin  
11 with, and has refused to address this issue in CMP. Information is sketchy, but  
12 there appear to be significant problems (not the least of which is a freeze on any  
13 new orders or moves, adds, changes in affected collocations for a time) with  
14 Qwest’s new changes (for which the Qwest effective date has passed). These  
15 issues should be negotiated and reflected in ICA language.

16 **Q. WHAT DOES QWEST’S INSISTENCE ON ACTING UNILATERALLY**  
17 **SAY ABOUT ITS TRUE VIEW OF ICA NEGOTIATIONS AND CMP?**

18 A. When Qwest’s objective was to defeat the pick-and-choose rule, as I mentioned  
19 earlier, Qwest extolled the virtues of negotiated interconnection agreements and

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<sup>191</sup> See Eschelon/64 (7/21/06 - “TRRO-Reclassification of Terminations for Unbundled Network Element (UNE) Conversions – V1.0”).

1 the importance of “...*dynamic, innovative interconnection negotiations*.”<sup>192</sup>  
2 Qwest recognized that: “ILECs and CLECs have a fundamental interest in  
3 making the interconnection process as *cooperative and open* as possible, since  
4 *both parties benefit* from well-negotiated and mutually beneficial wholesale  
5 arrangements.”<sup>193</sup> Qwest added that the “ability of carriers to negotiate binding  
6 agreements with each other was a cornerstone of the Act.”<sup>194</sup> Similarly, regarding  
7 CMP, Qwest in its position statements in the Joint Disputed Issues Matrix  
8 (Exhibit 3 to the Petition) time and again asserts the benefits of ensuring that  
9 Qwest and multiple CLECs collectively create processes, suggesting this is to the  
10 benefit of all.

11 Here, we have another situation in which multiple CLECs are entreating Qwest to  
12 join each of them in that “cooperative and open” ICA negotiations process to  
13 negotiate *TRRO* changes to obtain a mutual benefit.<sup>195</sup> Previously, Qwest at least  
14 said it would bring the TRRO PCATs through CMP, which in this case it claims  
15 is the appropriate forum for “processes” and “procedures.” Despite the benefits  
16 that Qwest has, when convenient, extolled as to each of these procedures, Qwest  
17 has refused to use either of them with respect to the TRRO PCATs. Significant  
18 business issues, that may affect End User Customers and impose resource

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<sup>192</sup> *Comments of Qwest Communications International Inc.*, CC Docket Nos. 01-338, 96-98, 98-147, October 16, 2003 at page ii (emphasis added).

<sup>193</sup> *Id.*, pp. 3-4 (emphasis added). See also Eschelon/49 and Ms. Johnson’s description of Eschelon/46 and Eschelon/49 in her direct testimony.

<sup>194</sup> *Id.*, p. 6.

<sup>195</sup> Regarding additional Eschelon requests for Qwest to involve other CLECs in the negotiations and implementation of the Qwest template and *TRO* provisions, see Eschelon/51 and Eschelon/52.

1 burdens associated with implementation, require exchange of information,  
2 discussion, and negotiation. But, Qwest has provided no forum for this, despite  
3 significant passage of time and multiple requests from multiple CLECs, including  
4 Eschelon. Instead, Qwest has operated in secret behind the scenes to devise its  
5 own plan of implementing those changes in law, which it has presented as a fait  
6 accompli.

7 **Q. DID QWEST RECENTLY AGREE TO TAKE AT LEAST SOME OF**  
8 **THESE SECRET TRRO PCATS THAT QWEST UNILATERALLY**  
9 **DEVELOPED TO CMP?**

10 A. On October 16, 2006, Qwest sent Eschelon a letter advising Eschelon of “a  
11 policy-related decision Qwest has reached” to take the issue discussion under  
12 Issue 9-58 in this arbitration to CMP “within the next two months” (*see*,  
13 testimony of Mr. Denney for Issue 9-58).<sup>196</sup> Despite its previous protestations  
14 that there was an alleged “agreement” preventing Qwest from taking issues to  
15 CMP, Qwest made this policy decision on its own, without collaboration with or  
16 agreement from other companies to amend any alleged previous agreement. This  
17 shows that Qwest could have made this policy decision at any time. It does so  
18 now to avoid a Commission ruling when it prefers a forum without Commission  
19 scrutiny.

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<sup>196</sup> Qwest’s 10/16/06 letter and Eschelon’s 10/17/06 response letter are attached to Ms. Johnson’s testimony as Eschelon/78.

1           Then, at the Minnesota hearing, Qwest testified that it planned on taking *all* of the  
2           secret TRRO PCATs to CMP.<sup>197</sup> But, at the CMP Monthly Meeting held on  
3           November 15, 2006, Qwest announced that it was bringing only a sub-set of those  
4           secret TRRO PCATs to CMP. It said it would bring its former *TRO/TRRO*  
5           change request<sup>198</sup> out of deferred status to address *some* (but not all) TRO/TRRO  
6           issues in CMP.<sup>199</sup> Qwest was unable to provide any additional information on  
7           which PCATs it intended to take to CMP at the following ad hoc call. Later,  
8           Qwest indicated that it will not address issues that are in litigation and asked  
9           CLEC CMP participants to sort out what is in litigation and what is not. When  
10          re-designing CMP, New Edge pointed out that CLEC CMP participants are  
11          operational business people, not attorneys who could address “regulatory, legal  
12          type processes” and changes that “impacts an ICA.”<sup>200</sup> Qwest replied that CLECs  
13          should not be concerned about this because: (1) this has been addressed with  
14          language in the CMP Document that states the ICA controls over CMP; and (2)  
15          “contractual issues, themselves, would not be addressed” in CMP.<sup>201</sup>

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<sup>197</sup> Eschelon/6 [Minnesota Transcript, Vol. III, p. 57, line 5 – p. 58, line 4 (Oct. 18, 2006) (Ms. Stewart)].

<sup>198</sup> CR (PC102704-1ES). *See* Eschelon/59 (Secret TRRO PCAT Chronology).

<sup>199</sup> Qwest stated that “TRRO issues that are being addressed by Qwest and CLECs in arbitrations of their ICAs or items being challenged by law will not immediately be processed through CMP.” (11/15/06 CMP Monthly Meeting Minutes). However, as shown in Eschelon/78, Qwest has indicated its intention to take to CMP issues being addressed between Eschelon and Qwest in this arbitration under Issue 9-58.

<sup>200</sup> Transcript of 271CMP Workshop Number 6, Colorado Public Utilities Commission Docket Number 97I-198T (Aug. 22, 2001), pp. 291-292.

<sup>201</sup> Transcript of 271CMP Workshop Number 6, Colorado Public Utilities Commission Docket Number 97I-198T (Aug. 22, 2001), pp. 291-292 (Andrew Crain of Qwest and Penny Bewick of New Edge); *see id.* p. 292, lines 14-15 (Mr. Crain) (“Contractual issues, themselves, would not be addressed in the Change Management Process.”)

1 Implementation of the TRO/TRRO is a legal and contractual<sup>202</sup> issue. Recently,  
2 Qwest again asked CLECs to identify and discuss legal issues in CMP relating to  
3 the FCC's TRO/TRRO orders. CLECs indicated that Qwest's PCAT deals with  
4 legal issues (such as when a product is legally available under the FCC's rulings)  
5 that should be dealt with in ICAs and negotiation of those agreements. In  
6 response, Qwest agreed on a CMP ad hoc call to circulate to CLECs a redlined  
7 version of at least one non-CMP TRRO PCAT to show which issues it believed  
8 were "process" issues that should be dealt with in CMP and were not redundant  
9 of ICA or template ICA terms. At a later monthly CMP meeting, however, Qwest  
10 reneged on that commitment.

11 Now that Qwest has unilaterally developed terms outside of ICA negotiations  
12 (despite requests by Eschelon and other CLECs),<sup>203</sup> CMP (despite promises by  
13 Qwest),<sup>204</sup> and Commission proceedings (also despite promises by Qwest),<sup>205</sup> it is  
14 considering these terms and conditions as Qwest's "existing" process and Qwest  
15 may claim that it will be too costly or time-consuming to change them.<sup>206</sup> Qwest  
16 should not have been implementing *TRO/TRRO* terms and conditions unilaterally  
17 in the first place. If it ultimately incurs costs in changing processes that it should

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<sup>202</sup> See, e.g., TRRO ¶196 & note 519 & ¶198.

<sup>203</sup> See, e.g., Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes).

<sup>204</sup> See, e.g., Eschelon/59, Johnson/8-9 (6/30/05).

<sup>205</sup> Eschelon/59, Johnson/8-9 (6/30/05).

<sup>206</sup> Now that Eschelon has expended the money and resources to arbitrate Issue 9-58, Qwest is attempting to pull the decision away from the Commission and belatedly decide for itself in CMP. If the result is unsatisfactory, Qwest would send Eschelon back to "square one" to expend more money and resources to litigate the issues again.

1 not have put in place unilaterally and over Eschelon's objections, Qwest is the  
2 cost causer and should bear those alleged costs.<sup>207</sup>

3 **Q. WHAT INFORMATION CAN BE TAKEN FROM THE SECRET TRRO**  
4 **PCATS EXAMPLE?**

5 A. This example demonstrates a continuing need for Commission oversight and  
6 involvement. While Qwest may have learned its lesson with respect to this  
7 particular tactic, the possibilities available to Qwest in unilaterally implementing  
8 terms and conditions consistent with its own policy objectives seem endless.

9 This example also typifies my contention that Qwest has a tendency to use CMP  
10 as a "shield" or "sword," whichever benefits Qwest at that particular time. Qwest  
11 imposed its unilateral view, in CMP, of the *TRO*, *USTA II*, and FCC's Interim  
12 Rules, which proved to be premature and a poor reflection of the permanent rules  
13 that were ultimately established (*i.e.*, the sword). This was done over the strong  
14 objection of CLECs, who disagreed with Qwest's use of CMP to implement  
15 changes in law as well as Qwest's interpretation of those changes. Then, after  
16 permanent rules are issued, Qwest sends a notice notifying CLECs about new  
17 "secret" PCATs that are being established unilaterally outside the scope of the  
18 CMP to define Qwest's legal obligations (*i.e.*, the shield), without any  
19 participation by CLECs, and without CLECs even being afforded the opportunity

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<sup>207</sup> Qwest has implemented no fewer than 99 non-CMP TRRO PCAT versions. *See*, Eschelon/77 (list of Qwest non-CMP TRRO PCATs)



1 to review the initial *TRRO* PCAT language before being asked to execute the  
2 *TRRO* amendment.

3 **Q. IF ESCHELON DID NOT SIGN THE AMENDMENT RELYING ON THE**  
4 **“SECRET PCAT,” WHY IS IT RELEVANT IN THIS ARBITRATION?**

5 A. Qwest in this arbitration attempts to relegate to CMP a number of the issues  
6 brought forward by Eschelon, purportedly because those issues have some  
7 inherent relationship to the CMP process. Yet, Qwest’s own actions indicate that  
8 it views CMP as a vehicle that can be used to suit Qwest’s purpose, and that any  
9 inherent relationship between an issue and CMP appears to be defined solely by  
10 Qwest’s decision to pursue the issue there or not. Qwest stated in CMP before it  
11 issued the first secret PCAT that it would negotiate *TRO/TRRO* changes with  
12 CLECs, yet Qwest has in its negotiations with Eschelon again punted these issues  
13 back to CMP. Qwest then takes the position that an “agreement” exists between  
14 itself and CLECs not to act on those issues in CMP, so it refuses to address those  
15 issues in CMP, and establishes *TRO/TRRO* PCAT changes through non-CMP  
16 notices. Finally, once Qwest unilaterally establishes *TRO/TRRO* PCATs, Qwest  
17 decides to take some of the issues to CMP (after refusing to do so) with no  
18 indication that it will deviate from what it unilaterally established. If Qwest  
19 believed that CMP was the appropriate forum (which presumably explains Qwest  
20 referring Eschelon back to CMP again), Qwest would have issued its notice  
21 through CMP and followed the rules laid out for CMP. Now that Qwest has  
22 developed dozens of unilateral, non-CMP secret *TRRO* PCATs, it now claims

1 that that is has “existing” processes, some of which it may now take to CMP and  
2 argue that it would be costly and unnecessary to modify the “existing” processes  
3 Qwest unilaterally developed.

4 **Q. ANY FINAL OBSERVATION FROM THESE EXAMPLES?**

5 A. Yes. Qwest may attempt to claim that these examples are isolated incidents that  
6 may not occur again. In some respects, however, the significance of these  
7 examples is that they occurred at all. If CMP were the disciplined process Qwest  
8 claims it is, or if the line between ICA issues and CMP were as clear as Qwest  
9 suggests, these examples would not have occurred at all. The examples  
10 demonstrate, however, how much play there is in the process and how much room  
11 Qwest has to maneuver – and the fact that Qwest has used that room to advantage  
12 itself relative to its own policy positions. After reviewing these same examples in  
13 the Minnesota Eschelon-Qwest arbitration case, the Minnesota Arbitrators, as  
14 affirmed by the Minnesota Commission, found that “Eschelon has provided  
15 convincing evidence that the CMP process does not always provide CLECs with  
16 adequate protection from Qwest making important unilateral changes in the terms  
17 and conditions of interconnection.”<sup>208</sup>This shows that the potential for abuse in  
18 the future (*i.e.*, during the new ICA term) is real. Qwest is still the dominant

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<sup>208</sup> Minnesota Arbitrators’ Report, OAH 3-2500-17369-2/MPUC No. P-5340,421/IC-06-768, ¶ 22. The Minnesota Commission adopted the Arbitrators’ Report in relevant part. See, Order Resolving Arbitration Issues, Requiring Filed Interconnection Agreement, Opening Investigation and Referring Issue to Contested Case Proceeding, *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*. [“Minnesota Qwest-Eschelon ICA Arbitration”], OAH No. 3-2500-17369-2; MPUC Docket No. P-5340,421/IC-06-768 (March 30, 2007) [“MN PUC Arbitration Order”].

1 competitor in the markets in which Eschelon competes, as well as Eschelon's  
2 largest supplier. As such, safeguards are needed to protect against the capability  
3 that Qwest has to wield CMP as a shield and sword. Section 252 affords these  
4 safeguards through arbitrated interconnection agreement terms. Eschelon has  
5 exercised its right to bring certain terms and conditions to the Commission for  
6 review and to obtain a dispositive decision. By dispositive, I mean a decision that  
7 meets Eschelon's business need for certainty to plan its business and remain  
8 competitive and also helps avoid disputes in the future by providing clear  
9 contractual terms on important issues. Relegating those issues to CMP, rather  
10 than providing commercial certainty by deciding each issue on the merits of the  
11 disputed contract language, would not meet that need.

12 As these examples show, participating in CMP can be much like playing cards  
13 with a big brother. It's frustrating when, because he's bigger and has more access  
14 to information, he makes up the rules of the game as he goes along.<sup>209</sup> Eschelon's  
15 ability to compete is at stake, while Qwest as the dominant carrier holds the cards.  
16 Nonetheless, Congress has decided that it is the Commission who should set the  
17 "rules" by establishing interconnection agreement terms and conditions that must  
18 be filed, approved, and amended if changed.

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<sup>209</sup> This is particularly apparent in the jeopardies example, which is discussed at greater length below and Eschelon/110 to the Testimony of Ms. Johnson.

1                   **5. ESCHELON'S POSITION IS CONSISTENT WITH**  
2                   **SECTION 252 AND CMP SCOPE AND EACH ISSUE**  
3                   **REQUIRES DISPOSITIVE ICA LANGUAGE**

4   **Q.    IS ESCHELON TRYING TO CIRCUMVENT CMP OR OTHERWISE**  
5           **“END RUN” THE PROCESS ENVISIONED BY THIS COMMISSION OR**  
6           **THE FCC IN ESTABLISHING CMP?**

7    A.    No.    Eschelon's position is fully consistent with the terms and procedures  
8           developed by the Commission and the FCC during the 271 proceedings, as shown  
9           by the above discussion of the hierarchy adopted as part of the Scope of CMP and  
10          in the SGAT, and with terms and purposes of Section 252(i) and the all-or-  
11          nothing rule, also described above.

12          Although CMP has weaknesses that become self-evident when describing CMP  
13          procedures and providing examples of how Qwest has used CMP, the  
14          Commission does not have to find that CMP is “bad” or “broken” to determine  
15          any of the disputed issues in Eschelon's favor. The Commission simply has to  
16          recognize, as it did when addressing the scope of CMP,<sup>210</sup> that interconnection  
17          agreement terms may vary and, when issues warrant arbitration and inclusion of  
18          language in the contract, the resulting publicly available terms govern. The issue  
19          then becomes whether each arbitrated issue, on its own merits, warrants inclusion  
20          in the contract, and if so, whether Eschelon's or Qwest's proposed language better  
21          fits the bill. As I understand it, according to Section 252 of the Act, the

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<sup>210</sup> The Scope of CMP is Section 1.0 of Exhibit G to the ICA. The Commission also allowed the SGAT to go into effect, including Exhibit G containing this provision.

1 Commission must decide each issue in the arbitration petition and respond  
2 individually on the merits of that issue.<sup>211</sup> In the remainder of Eschelon’s direct  
3 testimony, Eschelon lays out each open issue and the reasons that Eschelon’s  
4 position and proposed contract language on each issue should be adopted on the  
5 merits, starting with Issue No. 1-1 and moving through the Issues by Subject  
6 Matter List.

7 **III. SUBJECT MATTER NO. 1: INTERVAL CHANGES AND PLACEMENT**

8 *Issue No. 1-1 and subparts: ICA Sections 1.7.2; 7.4.7, 9.23.9.4.3, Exhibit C*  
9 *(Group 2.0 & Group 9.0), Exhibit I (Section 3), Exhibit N, Exhibit O*

10 **Q. PLEASE DESCRIBE THE BUSINESS REASON REGARDING INTERVAL**  
11 **CHANGES AND PLACEMENT (ISSUE 1-1 AND SUBPARTS (A)-(E)).**

12 A. Provisioning intervals are critical to Eschelon’s ability to provide timely service  
13 to its End User Customers on the date they expect service. These provisioning  
14 intervals dictate the timing of service delivery to the End User Customer, as well  
15 as timing of the activities that the CLEC must perform in preparation for service  
16 provisioning. When provisioning intervals are lengthened, the End User  
17 Customer is forced to wait longer to receive service, and Eschelon is forced to  
18 incur costs and dedicate personnel to adjust its internal systems and processes to  
19 the longer interval. Shortened intervals, on the other hand, often benefit

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<sup>211</sup> See 47 U.S.C. §252(b)(4). *See also* MN Arbitrators’ Report ¶21 (“The Administrative Law Judges agree with the Department’s analysis that any negotiated issue that relates to a term and condition of interconnection may properly be included in an ICA, subject to a balancing of the parties’ interests and a determination of what is reasonable, non-discriminatory, and in the public interest.”) (Eschelon/29).

1 customers by allowing them to receive service more quickly, yet allow the CLEC  
2 to keep the longer interval to the point necessary to effect necessary internal  
3 adjustments.

4 The Interval Changes issues (Issue 1-1 and subparts (a)-(e)) will determine  
5 whether provisioning intervals for the products that Eschelon purchases from  
6 Qwest will reside in the ICA and require negotiation and Commission approval  
7 for critical changes, as proposed by Eschelon, or whether, as proposed by Qwest,  
8 the ICA will point to non-contractual sources (such as CMP/PCAT/SIG) for  
9 provisioning intervals that can be changed by Qwest over CLEC objection.

10 There are established intervals in place today for Qwest products. CLECs who  
11 have built systems and products to support these intervals, and customers who  
12 depend on those intervals to receive service, have come to rely on these  
13 established intervals. Inclusion of intervals in the ICA is the logical way to  
14 ensure End User Customers and their providers such as Eschelon an orderly and  
15 reliable provisioning process. In contrast, relegating these provisioning intervals  
16 to non-contractual sources, as proposed by Qwest, would result in (1) no binding  
17 commitment on the part of Qwest to continue to provision service within the  
18 existing intervals, (2) no certainty for Eschelon to rely on future provisioning  
19 intervals for its business planning because its ability to deliver timely services to  
20 its customers could change at Qwest's will, and (3) no vehicle for Commission  
21 filing. In other words, Qwest's proposal would defeat the purpose of a contract.

1 It is important to note that Eschelon is not asking for different intervals in this  
2 arbitration than what Qwest already provides. Eschelon is only seeking stability,  
3 unless and until the interval is changed through an orderly process. Qwest's  
4 resistance to including currently-existing intervals in the contract signals that  
5 Qwest will, indeed, change those intervals if and when it sees fit, regardless of the  
6 negative effects on Eschelon and its End User Customers.

7 **Q. WHAT IS ESCHELON'S PROPOSAL ON ISSUE 1-1?**

8 A. Eschelon proposes alternative ICA language modifications (Eschelon proposed  
9 language shown in underline) for Issue 1-1. The first option would: (i) include  
10 provisioning intervals in Exhibit C to the ICA; (ii) require ICA Amendment  
11 (using a streamlined process) and Commission approval to lengthen provisioning  
12 intervals; and (iii) allow shortening of intervals to be implemented through CMP.  
13 Eschelon's second option for Issue 1-1 also includes provisioning intervals in  
14 Exhibit C but provides that ICA Amendment (using the streamlined process) and  
15 Commission approval would be needed for all interval changes, not just when  
16 intervals are lengthened.

17 **Issue 1-1 (1<sup>st</sup> of 2 options)**

18  
19 1.7.2 If the Commission orders, or Qwest chooses to offer and  
20 CLEC desires to accept intervals longer than those set forth  
21 in this Agreement, including Exhibit C, the Parties shall  
22 amend this Agreement under one (1) of the two (2) options  
23 set forth in Section 1.7.1 (an interval Advice Adoption  
24 Letter or interval interim Advice Adoption Letter  
25 terminating with approval of negotiated Amendment)  
26 pertaining to the new interval (rather than new product) (or

1 as otherwise ordered by the Commission). The forms of  
2 such letters are attached hereto as Exhibits N -O).

3  
4 1.7.2.1 Notwithstanding any other provision in this  
5 Agreement, the intervals in Exhibit C may be  
6 shortened pursuant to the Change Management  
7 Process (CMP) without requiring the execution or  
8 filing of any amendment to this Agreement.

9  
10 **Issue 1-1 (2<sup>nd</sup> of 2 options)**

11  
12 1.7.2 If the Commission orders, or Qwest chooses to offer and  
13 CLEC desires to accept intervals different from those set  
14 forth in this Agreement, including Exhibit C, the Parties  
15 shall amend this Agreement under one (1) of the two (2)  
16 options set forth in Section 1.7.1 (an interval Advice  
17 Adoption Letter or interval interim Advice Adoption Letter  
18 terminating with approval of negotiated Amendment)  
19 pertaining to the new interval (rather than new product) (or  
20 as otherwise ordered by the Commission). The forms of  
21 such letters are attached hereto as Exhibits N -O).

22 **Q. WHAT IS ESCHELON'S PROPOSAL FOR ISSUES 1-1(A) THROUGH**  
23 **(E)?**

24 **A.** In Issues 1-1(a) through (e), Eschelon addresses the same issues as 1-1 (*i.e.*,  
25 intervals should be in the ICA and changed through amendment and Commission  
26 approval) in the appropriate ICA sections regarding specific products Eschelon  
27 may purchase from Qwest pursuant to the ICA. Issue 1-1(a) applies to  
28 interconnection trunk intervals; 1-1(b) applies to UDIT rearrangement intervals;  
29 1-1(c) applies to Local Interconnection Services (LIS) Trunking intervals; 1-1(d)  
30 applies to Individual Case Basis intervals; and 1-1(e) applies to LMC (Loop-Mux  
31 Combinations) intervals.

32 **Issue 1-1(a)**



1           7.4.7 Intervals for the provision of Interconnection trunks will  
2 conform to the performance objectives set forth in Section  
3 20. Intervals are set forth in Exhibit C. Any changes to the  
4 Interconnection trunk intervals will be made as described in  
5 Section 1.7.2 through the Change Management Process  
6 (CMP) applicable to the PCAT, pursuant to the procedures  
7 set forth in Exhibit G. Operational processes within Qwest  
8 work centers are discussed as part of the CMP. Qwest  
9 agrees that CLEC shall not be held to the requirements of  
10 the PCAT.  
11

12           **Issue 1-1(b)**: [Eschelon proposes deletion of Qwest's proposed footnote regarding  
13 UDIT rearrangements from Exhibit C, and include intervals in  
14 Exhibit C].

15           **Issue 1-1(c)**: [Eschelon proposes to include the LIS Trunking intervals in Exhibit  
16 C].

17           **Issue 1-1(d)**<sup>212</sup>

18           3.1.1 For the following products and services, for which the  
19 interval is ICB, Qwest shall provide the ICB due date  
20 interval to CLEC as follows:

21  
22           3.1.1.1 No later than seventy-two (72) hours after the application  
23 date for:

- 24           a) 25 or more 2/4 wire analog loops;  
25           b) 25 or more 2-wire non-loaded loops;  
26           c) 25 or more 4-wire non-loaded loops;  
27           d) 25 or more xDSL-I capable loops;  
28           e) 9 or more conditioned loops for 2/4 wire non-loaded,  
29 ADSL compatible, xDSL-I, ISDN; and  
30           f) 25 or more lines Quick Loop and Quick Loop with LNP.  
31

32           3.1.1.2 No later than one-hundred and ninety two (192) hours after  
33 the application date for:

- 34           a) 25 or more DS0 UDITs;  
35           b) 25 or more DS0 EEL/Loop Mux;

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<sup>212</sup> The language for Issue 1-1(d) resides in Section 3 of Exhibit I (ICB intervals) to the ICA.

- c) 4 or more DS3 UDITs; and
- d) 4 or more DS3 EEL/Loop Mux

**Issue 1-1(e)**<sup>213</sup>

~~9.23.9.4.3 Standard s~~ Service intervals for LMC(s) are set forth in Exhibit C. in the Service Interval Guide (SIG) available at [www.qwest.com/wholesale](http://www.qwest.com/wholesale)

**Q. WHAT IS QWEST'S PROPOSAL FOR ISSUES 1-1 AND (A)-(E)?**

A. Qwest proposes the following language for these issues:

**Issue 1-1**

1.7.2 Notwithstanding any other provision in this agreement, the attached Exhibit C will be modified pursuant to the CMP process without requiring the execution of an amendment.

**Issue 1-1(a)**

7.4.7 Intervals for the provision of Interconnection trunks will conform to the performance objectives set forth in Section 20. Intervals are set forth in Exhibit C. Any changes to the Interconnection trunk intervals will be made through the Change Management Process (CMP) applicable to the PCAT, pursuant to the procedures set forth in Exhibit G as described in Section 1.7.2. Operational processes within Qwest work centers are discussed as part of the CMP. Qwest agrees that CLEC shall not be held to the requirements of the PCAT.

**Issue 1-1(b)**

Qwest proposed footnote in Exhibit C: "For UDIT rearrangements see Qwest's wholesale website for the Service Interval guide."

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<sup>213</sup> The remainder of Section 9.23.9.4.3 not shown under Issue 1-1(e) is addressed under Issue 9-61(a) and 9-61(b) below.

1        **Issue 1-1(c)** [Qwest proposes deletion of entire Section 9.0 of Exhibit C (LIS  
2        Trunking Service Intervals).]

3

4        **Issue 1-1(d)**<sup>214</sup>

5                3.2    For ICB intervals for those standard products and services  
6                that require negotiated project time lines for installation,  
7                such as 2/4 wire analog loop for more than twenty-five (25)  
8                loops, Qwest shall make every attempt to provide an FOC  
9                to CLEC pursuant to the guidelines contained in the  
10               Service Interval Guide.

11

12        **Issue 1-1(e)**

13                                [24.4.4.3] Standard Service intervals for LMC(s) Loops  
14                                are in the Service Interval Guide (SIG) available at  
15                                www.qwest.com/wholesale-set forth in Exhibit C.

16        Qwest's proposal for Issues 1-1 and 1-1 (a) through (e) are designed to address  
17        provisioning intervals in non-contractual sources such as CMP, PCAT, and SIG,  
18        rather than in the ICA. Qwest's language for Issue 1-1 makes clear that changes  
19        will be made to these intervals as Qwest desires, without ICA amendment or  
20        Commission approval. Qwest makes several arguments in support of its  
21        proposals on Issue 1-1 and (a)-(e), most of which relate to its overarching position  
22        that the CMP process should be used to ensure uniformity among CLECs.<sup>215</sup>

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<sup>214</sup> Qwest's proposed language for Issue 1-1(d) resides in Exhibit I (ICB intervals) to the ICA.

<sup>215</sup> See, e.g., Qwest Response, p. 41. I address Qwest's position on the CMP process and the extent to which it should be relied upon in the ICA in place of contractual certainty above.

1 Issue No. 1-1: Changes to Intervals – Section 1.7.2 and Exhibits N and O

2 **Q. WHAT ARE THE KEY REASONS THAT YOU RECOMMEND**  
3 **ADOPTION OF ESCHELON’S LANGUAGE OVER QWEST’S FOR**  
4 **ISSUE 1-1 “INTERVAL CHANGES”?**

5 A. Eschelon’s proposed language offers the reliability and consistency necessary for  
6 End User Customers and their providers such as Eschelon to plan for their  
7 business needs. The ability to look to the ICA for an essential term of each  
8 product – the interval in which it will be provisioned – is consistent with the  
9 scheme of the ICA and also with pronouncements of the FCC, as discussed more  
10 fully below. The Eschelon language offers the Commission the opportunity to  
11 use its regulatory oversight in a manner that is consistent with the Commission’s  
12 mission, yet streamlined. And Eschelon’s proposed language would not create a  
13 system that is unduly burdensome for either Qwest or regulators.

14 **Q. YOU MENTIONED THAT ESCHELON’S LANGUAGE CREATES THE**  
15 **OPPORTUNITY FOR THE COMMISSION TO ASSERT ITS**  
16 **REGULATORY OVERSIGHT. CAN YOU EXPAND ON THIS?**

17 A. Eschelon’s language is necessary to ensure that the Commission considers and  
18 approves a longer interval before it goes into effect. This would allow the  
19 Commission to consider the effects that these longer service intervals will have on  
20 CLECs and their End User Customers and weigh that against Qwest’s reasons for  
21 lengthening the intervals. The Commission will also be able to consider whether  
22 Qwest’s new provisioning intervals meet applicable rules and regulations. For

1 example, the Commission must determine that the longer interval still meets the  
2 FCC’s requirement that UNEs be provided on terms that are just, reasonable, and  
3 nondiscriminatory, and that the UNE is provided in “substantially the same time  
4 and manner” (for an element with a retail analogue) and in a way that provides a  
5 “meaningful opportunity to compete” (for an element with no retail analogue).<sup>216</sup>  
6 The Commission would have no opportunity to make these determinations before  
7 Qwest makes these changes if Qwest has its way.

8 **Q. HAS ANY STATE COMMISSION RECOGNIZED THE POTENTIALLY**  
9 **HARMFUL EFFECTS OF QWEST LENGTHENING PROVISIONING**  
10 **INTERVALS?**

11 A. Yes. The Washington Commission recognized this in the context of its review of  
12 Qwest’s request for Section 271 authorization. In that case, Qwest proposed an  
13 interval for DS1 loops that was longer than the interval that the Commission had  
14 established when it approved US WEST’s merger with Qwest, and the  
15 Washington Commission directed that the proposed interval be reduced to that  
16 which the Commission had previously approved.<sup>217</sup> In addition, in the recent  
17 Verizon/CLEC arbitration in Washington, the Washington Commission found it

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<sup>216</sup> Memorandum Opinion and Order, *In the Matter of the Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, FCC 99-404, CC Docket No. 99-295 (rel. December 22, 1999) (“NY271 Order”) at ¶ 125.

<sup>217</sup> Twentieth Supplemental Order, Initial Order (Workshop Four): Checklist Item No. 4; Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272, *In the Matter of the Investigation into US WEST COMMUNICATIONS, INC.’s Compliance with Section 271 of the Telecommunications Act of 1996 and In the Matter of US WEST COMMUNICATIONS INC.’s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*. Washington Docket Nos. UT-003022 and UT-003040 (November 14, 2001) (“WA 271 Order”), ¶ 125.

1 appropriate to include an interval in the ICA to protect both ILEC and CLECs  
2 “from unnecessary delay and gamesmanship.”<sup>218</sup>

3 **Q. HAS ANOTHER STATE COMMISSION FOUND THE NEED TO EXERT**  
4 **ITS AUTHORITY WITH REGARD TO QWEST INTERVAL CHANGES?**

5 A. Yes. When Qwest previously tried to move from a 5-day to a 9-day loop interval  
6 by simultaneously lengthening the interval for its retail customers, the Minnesota  
7 Commission rejected Qwest’s parity argument and found that the 5-day loop  
8 interval allowed competitors a meaningful opportunity to compete.<sup>219</sup> The  
9 Minnesota Commission found that Qwest cannot make intervals “unreasonable by  
10 lengthening the intervals for provision of retail service.”<sup>220</sup>

11 **Q. WOULD ESHELON’S PROPOSAL #1 REQUIRE COMMISSION**  
12 **APPROVAL FOR ALL INTERVAL CHANGES?**

13 A. No. Eschelon’s language will allow Qwest to shorten intervals without amending  
14 the ICA, only requiring negotiation and amendment for lengthening the intervals.  
15 According to Qwest’s website, Qwest shortened service intervals in its SIG 39  
16 times from July 2002 to June 2006. In contrast, according to Qwest, it has not

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<sup>218</sup> Washington Order No. 18, ¶¶ 70, 114.

<sup>219</sup> Findings of Fact, Conclusions of Law and Recommendations, *In the Matter of a Commission Investigation into Qwest’s Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 1,2,4,5,6,11,13, and 14*, Docket No. P-421/CI-01-1371 (Sept. 16, 2003) (“*MN ALJ 271 Order*”), ¶125.

<sup>220</sup> *MN ALJ 271 Order*, ¶ 125.

1           lengthened any service intervals during this same time frame.<sup>221</sup> Based on past  
2           Qwest experience,<sup>222</sup> a vast majority of interval changes (if not all changes) would  
3           not require ICA amendments under Eschelon’s proposed language. Therefore,  
4           Eschelon’s proposal would not be burdensome because it would rarely, if ever, be  
5           used, and would be used only when there is a disagreement between the CLEC  
6           and Qwest. Qwest’s proposal, on the other hand, would first require CLECs to  
7           address this issue in CMP, during which time Qwest can implement longer  
8           intervals over the challenge of CLECs, and then require the CLECs to come to the  
9           Commission when Qwest’s changes affect the service provisioned to CLEC End  
10          User Customers.

11       **Q.    YOU STATED THAT ESCHELON’S PROPOSAL FOR THIS ISSUE IS**  
12       **CONSISTENT WITH THE SCHEME OF THE ICA. IS IT TRUE, AS**  
13       **QWEST IMPLIES, THAT CMP CONTROLS SERVICE INTERVALS**  
14       **THAT ARE CONTAINED IN ICAS?**

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<sup>221</sup> Qwest Response, p. 41, lines 16-18. Qwest states “To date, since Qwest obtained 271 approval, *all* such modifications have been reductions in the lengths of service intervals for various services and have been for the benefit of CLECs.” Qwest also states at page 42 of its Response: “Eschelon seeks protection against modifications that have not occurred even once since 271 approval, that is, the lengthening of service intervals...” Eschelon counted two lengthened intervals during this time frame, but these lengthened intervals were to make corrections and comply with state service quality rules. Qwest “Service Interval Guide for Resale, UNE & Interconnection Services History Log” [http://www.qwest.com/wholesale/downloads/2006/060615/HL\\_SIG\\_V71.doc](http://www.qwest.com/wholesale/downloads/2006/060615/HL_SIG_V71.doc)

<sup>222</sup> Though Qwest points out that all interval changes have been shortened intervals, it has not made any commitment to continue this trend. And, unlike in previous years, no 271 approvals are pending to incent Qwest to shorten intervals.

1 A. No. According to the CMP Document, the only interval changes required by  
2 CMP to go through CMP are interval changes to Qwest's SIG.<sup>223</sup> If an interval in  
3 the contract conflicts with an interval in the SIG, the CMP Document is very clear  
4 that the ICA controls.<sup>224</sup> Qwest's assertion that these intervals should be  
5 relegated to CMP to ensure uniformity is belied by Qwest's CMP documentation  
6 that discusses potential differences between the intervals established in SIG and  
7 those negotiated or arbitrated between Qwest and the CLEC in an ICA.

8 **Q. YOU ALSO TESTIFIED THAT ESCHELON'S PROPOSAL FOR**  
9 **INTERVALS IS CONSISTENT WITH FCC FINDINGS. HAS THE FCC**  
10 **ADDRESSED RELIANCE ON NON-CONTRACTUAL WEBSITE**  
11 **POSTINGS, AS ADVOCATED BY QWEST IN ITS PROPOSAL?**

12 A. Yes. In its *Forfeiture Order*, the FCC held that at "no point did we create a  
13 general 'web-posting exception' to section 252(a)."<sup>225</sup> In other words, the FCC  
14 has made clear that Qwest cannot avoid negotiation or arbitration simply by  
15 posting changes (in this instance, changes to intervals) to the internet – which is  
16 what Qwest is attempting to do here.

17 **Q. YOU EXPLAINED ABOVE THAT COMMISSION APPROVAL WOULD**  
18 **RARELY, IF EVER, BE NEEDED BECAUSE LENGTHENED**  
19 **INTERVALS HAVE NOT OCCURRED IN THE PAST. HAS ESCHELON**

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<sup>223</sup> CMP Document, Eschelon/53, Johnson/40, §5.4.3 ("Reduction to an interval in Qwest's SIG"); and Johnson/44, §5.4.5 ("Increase to an interval in Qwest's Service Interval Guide (SIG)").

<sup>224</sup> Exhibit Eschelon/53, CMP Document at §1.0.

<sup>225</sup> *FCC Forfeiture Order*, ¶32.



1           **DESIGNED ITS PROPOSAL SUCH THAT IT IS NOT UNDULY**  
2           **BURDENSOME ON THE RARE OCCASION THAT COMMISSION**  
3           **APPROVAL IS SOUGHT FOR A LONGER INTERVAL?**

4    A.    Yes. Amending the contract for changes in intervals is an efficient process  
5           because Eschelon’s language uses established streamlined procedures to amend.  
6           Eschelon’s proposed Section 1.7.2 and Exhibits N and O largely mirror Section  
7           1.7.1 and Exhibits L and M, which contain streamlined procedures agreed to by  
8           Eschelon and Qwest, to implement new products in the ICA.<sup>226</sup> And, assuming  
9           Qwest does not radically change past policy to pursue longer intervals, ICA  
10          amendments would not be necessary for interval changes under Eschelon’s  
11          Proposal #1.

12   **Q.    GIVEN THE IMPORTANCE OF INTERVALS, SHOULDN’T THE ICA**  
13   **STATE THAT ALL INTERVAL CHANGES REQUIRE COMMISSION**  
14   **APPROVAL?**

15   A.    Eschelon’s Proposal #1 does not require Commission approval for shortened  
16          intervals because shortened intervals can benefit the CLEC and its End User  
17          Customers, and a longer due date can be obtained, if needed. Since changes to  
18          shorten intervals would almost certainly be agreed to, and occur much more

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<sup>226</sup> Compare closed Exhibits L (Advice Adoption Letter) and M (Interim Advice Adoption Letter) that apply to new products to Eschelon-proposed Exhibits N (Interval Advice Adoption Letter) and O (Interval Interim Advice Adoption Letter) that apply to new intervals. The differences between the agreed-to Advice Adoption Letters and the Eschelon-proposed Advice Adoption Letters is that Eschelon’s proposed Advice Adoption Letters use the term “new interval for product/service” instead of the term “new product” (with a few additional textual changes to refer to intervals instead of “rates, terms and conditions” for a new product). The agreed-to Advice Adoption Letters also require the rates, terms and conditions related to the new product be attached to the Letter, whereas the Eschelon-proposed Letter would refer to the new interval in the body of the Letter.

1 frequently than lengthened intervals, Eschelon’s proposal efficiently utilizes  
2 resources of the Commission, Qwest and CLECs by requiring Commission  
3 approval only when disagreement about the change in interval may occur.

4 However, given the importance of intervals, the Commission may desire that all  
5 interval changes require Commission-approved amendments. If so, Eschelon  
6 proposes a second language option (Proposal #2), which requires ICA amendment  
7 whether an interval is lengthened or shortened. This option also uses the  
8 established, streamlined procedures that have been applicable in the past to new  
9 products (see proposed ICA Section 1.7.1)<sup>227</sup> to expedite these amendments.

10 Issue No. 1-1(a): Interconnection Trunks – Section 7.4.7; Issue 1-1(b): UDIT  
11 Rearrangements—Exhibit C, Group 2.0; Issue 1-1(c): LIS Trunking—Exhibit C,  
12 Group 9.0; Issue 1-1(e): Intervals for Loop Mux Combinations (LMC)—Section  
13 9.23.9.4.3 (Eschelon)/ Section 24.4.4.3 (Qwest)

14 **Q. WHAT IS THE RATIONALE BEHIND ESCHELON’S PROPOSALS ON**  
15 **ISSUES 1-1(A) INTERCONNECTION TRUNKS, 1-1(B) UDIT**  
16 **REARRANGEMENTS,<sup>228</sup> 1-1(C) LIS TRUNKING, AND 1-1(E) LOOP-**  
17 **MUX COMBINATIONS?**

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<sup>227</sup> See also SGAT Section 1.7.1 and subparts & Exhibits L and M.

<sup>228</sup> Qwest’s website describes a UDIT Rearrangement as follows: Rearrangement allows you to move or rearrange your UDIT or E-UDIT terminations on your demarcation point or change your UDIT or E-UDIT options. These Rearrangements are available through a single office or dual office request. Single office Rearrangements are limited to the movement of terminations within a single wire center. Dual office Rearrangements are used to change options or movement of terminations in two wire centers. Rearrangement is only available for existing and working UDITs or E-UDITs. <http://www.qwest.com/wholesale/pcat/udit.html>

1 A. These issues also relate to whether intervals for various products that Eschelon  
2 purchases from Qwest must be contained in the contract, or whether it is sufficient  
3 for the contract to include references to Qwest's PCAT, SIG or its website.

4 The intervals proposed by Eschelon in Exhibit C for each of these products are  
5 identical to the intervals that Qwest provides for the products today. Therefore,  
6 Eschelon's proposal requires no change by Qwest; Eschelon seeks only the  
7 inclusion of the current intervals in the Eschelon / Qwest contract, with the ability  
8 of Qwest to lengthen intervals through the amendment process. Indeed,  
9 Eschelon's proposed language virtually mirrors SGAT Section 9.23.5.3 (which is  
10 also the same language as in the Qwest-AT&T ICA approved by this  
11 Commission). In contrast, a unilateral lengthening of product intervals by Qwest  
12 could significantly adversely affect Eschelon's business and its ability to compete.  
13 And Qwest has identified no business reason, new circumstance or other basis for  
14 varying from what is in the SGAT or ICAs with other carriers.

15 Issue No. 1-1(d): ICB Provisioning Intervals – Exhibit I, Section 3

16 **Q. WHAT IS ESCHELON'S RATIONALE FOR ITS PROPOSAL FOR ISSUE**  
17 **1-1(D)?**

18 A. Again, Qwest's language points to non-contractual sources (here the SIG) for the  
19 timeframe in which Qwest will provide ICB intervals. Eschelon's proposal, on  
20 the other hand, includes the ICB due date intervals in the ICA.

1 **Q. ARE THERE OTHER REASONS THAT ESCHELON’S LANGUAGE**  
2 **SHOULD BE ADOPTED FOR ISSUE 1-1(D), BESIDES ESCHELON’S**  
3 **OVERALL REASONING THAT INTERVALS SHOULD BE INCLUDED**  
4 **IN THE ICA?**

5 A. Yes. Section 3.1 of Exhibit I (“Individual Case Basis”) states that Qwest will  
6 provide an ICB interval within 20 business days, unless the ICA contains a  
7 “specific provision” for when the ICB interval will be provided. Qwest provides  
8 an ICB interval for certain products in the Firm Order Confirmation (FOC), which  
9 arrives in much less than 20 days. Therefore, Eschelon’s proposal for Issue 1-  
10 1(d) is designed to include in the ICA the same ICB provisioning intervals for  
11 certain products that Qwest provides via FOCs in less than 20 business days  
12 today.<sup>229</sup> Eschelon’s proposal requires no change by Qwest in its ICB due date  
13 intervals<sup>230</sup> and, unlike Qwest’s proposal, gives meaning to Section 3.1 of Exhibit  
14 I.

15 **Q. PLEASE ELABORATE ON HOW ESCHELON’S PROPOSAL GIVES**  
16 **MEANING TO SECTION 3.1 OF EXHIBIT I.**

17 A. Section 3 of Exhibit I discusses “specific provision(s)” in which ICB intervals  
18 will be less than 20 business days. Eschelon’s proposed language only spells out  
19 some of those specific provisions – provisions that exist today – to ensure that

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<sup>229</sup> These products and intervals are found in Eschelon’s proposed language for Issue 1-1(d), shown above.

<sup>230</sup> [http://www.qwest.com/wholesale/downloads/2006/060615/InterconnSIG\\_V71.doc](http://www.qwest.com/wholesale/downloads/2006/060615/InterconnSIG_V71.doc)

1 Qwest provides these ICB intervals in the FOC as it does today and not the much  
2 longer 20 business day interval.

3 In addition, Section 9.2.4.3.1. of the ICA provides in agreed upon language that,  
4 for certain loop products, Qwest will return a FOC to CLEC within 72 hours from  
5 order receipt. It states that “[s]uch FOC will provide CLEC with a firm Due Date  
6 commitment...” There is no exception for ICB due dates. Eschelon’s proposed  
7 language would therefore connect the dots between Section 3.1 of Exhibit I,  
8 which discusses specific provisions in which Qwest will provide ICB intervals  
9 within the FOC period, and Section 9.2.4.3.1.2, which discusses FOC intervals of  
10 72 hours.

11 **Q. DID THE MINNESOTA COMMISSION AGREE WITH ESCHELON’S**  
12 **POSITIONS ON ISSUES 1-1 AND SUBPARTS WHEN THESE SAME**  
13 **ISSUES WERE EXAMINED IN THE MINNESOTA ARBITRATION**  
14 **PROCEEDING?**

15 A. Yes. The Minnesota Arbitrators’ Report, as affirmed by the Minnesota  
16 Commission, ruled in favor of Eschelon on Issues 1-1 and subparts, finding:

17 22. Eschelon has provided convincing evidence that the CMP  
18 process does not always provide CLECs with adequate  
19 protection from Qwest making important unilateral changes in  
20 the terms and conditions of interconnection. Service intervals  
21 are critically important to CLECs, and Qwest has only  
22 shortened them in the last four years. Qwest has identified no  
23 compelling reason why inclusion of the current intervals in the  
24 ICA would harm the effectiveness of the CMP process or  
25 impair Qwest’s ability to respond to industry changes. The  
26 Administrative Law Judges recommend that Eschelon’s first

1 proposal for Issue 1-1 be adopted and that its language for  
2 Issues 1-1(a)-(e) also be adopted.<sup>231</sup>

3 The Minnesota Commission agreed with Eschelon that Qwest can make unilateral  
4 changes to intervals in CMP, and that adopting Eschelon’s proposal (the same  
5 proposal Eschelon has offered in this proceeding for Issues 1-1 and subparts)  
6 would not harm the effectiveness of CMP or Qwest’s ability to respond to  
7 industry changes. Furthermore, as I discuss above in my discussion of CMP and  
8 the need for contractual certainty, the CMP Document’s scope provision  
9 recognizes potential differences in terms between ICAs and CMP, and says that  
10 when these differences arise, the ICAs rule. Though Qwest has recognized and  
11 discussed the CMP scope provision,<sup>232</sup> Qwest argues that including terms in ICAs  
12 that are different from the CMP would “subvert”<sup>233</sup> or “undermine”<sup>234</sup> the CMP.  
13 The Minnesota Arbitrators, as affirmed by the Minnesota Commission, found that  
14 Qwest is wrong:

15 The CMP document itself provides that in cases of conflict  
16 between changes implemented through the CMP and any CLEC  
17 ICA, the rates, terms and conditions of the ICA shall prevail. In  
18 addition, if changes implemented through CMP do not necessarily

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<sup>231</sup> Eschelon/29, Denney/7 (Minnesota Arbitrators’ Report, OAH 3-2500-17369-2/MPUC No. P-5340,421/IC-06-768, ¶ 22). The Minnesota Commission adopted the Arbitrators’ Report in relevant part. See, Eschelon/30, Order Resolving Arbitration Issues, Requiring Filed Interconnection Agreement, Opening Investigation and Referring Issue to Contested Case Proceeding, *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*. [“Minnesota Qwest-Eschelon ICA Arbitration”], OAH No. 3-2500-17369-2; MPUC Docket No. P-5340,421/IC-06-768 (March 30, 2007) [“MN PUC Arbitration Order”].

<sup>232</sup> E.g., Direct Testimony of Renee Albersheim in Colorado Docket 06B-497T (Eschelon-Qwest Arbitration case), p. 7 (12/15/06).

<sup>233</sup> See, e.g., Albersheim Colorado Direct Testimony, Colorado Docket No. 06B-497T, p. 7, line 31.

<sup>234</sup> See, e.g., Qwest Response, pp. 10, line 1; p. 13, line 26; p. 43, line 11.

1 present a direct conflict with an ICA but would abridge or expand  
2 the rights of a party, the rates, terms, and conditions of the ICA  
3 shall prevail. Clearly, the CMP process would permit the  
4 provisions of an ICA and the CMP to coexist, conflict, or  
5 potentially overlap. The Administrative Law Judges agree with the  
6 Department's analysis that any negotiated issue that relates to a  
7 term and condition of interconnection may properly be included in  
8 an ICA, subject to a balancing of the parties' interests and a  
9 determination of what is reasonable, non-discriminatory, and in the  
10 public interest.<sup>235</sup>

11 Given that ICA and CMP terms can "coexist, conflict, or potentially overlap,"  
12 there is no basis for Qwest's position that intervals should be excluded from the  
13 ICA because they are also addressed in CMP. The same goes for the other issues  
14 that Qwest recommends excluding from the ICA and relegating to CMP (*see, e.g.*,  
15 Issues 12-67 and 12-71 – 12-73).

16 **Q. PLEASE SUMMARIZE THE INTERVAL CHANGE ISSUES (ISSUES 1-1**  
17 **AND (A)-(E)).**

18 A. Provisioning intervals are critical to Eschelon's ability to provide timely service  
19 to its End User Customers on the date they expect service. Eschelon's proposed  
20 language calls for this key term to be included in ICA language for the relevant  
21 products offered by Qwest. Eschelon does not ask for any change to Qwest's  
22 current intervals, just the inclusion of the terms in the ICA to provide necessary  
23 reliability for end users and Eschelon. Eschelon's proposal allows the  
24 Commission appropriate regulatory oversight over these significant provisions,  
25 but allows for an existing, streamlined process to execute any change. Eschelon's  
26 language is consistent with the relationship between the ICA and CMP and in

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<sup>235</sup> Eschelon/29, Denney/6-7 (MN Arbitrators' Report, ¶ 21).

1 harmony with FCC findings requiring more than ILEC “website posting” of terms  
2 and conditions. The Commission should reject Qwest’s language, which would  
3 allow Qwest non-contractual control over provisioning intervals.

4 **IV. SUBJECT MATTER NO. 11: POWER**

5 Issue No. 8-21 and subparts: ICA Sections 8.2.1.29.2.1; 8.2.1.29.2.2; 8.3.1.6;  
6 8.3.1.6.1; 8.3.1.6.2 and subparts, 8.1.4.1 and subparts, 8.6.1.3.1 and Exhibit A

7 **Q. WHAT IS THE BUSINESS NEED ESCHELON ADDRESSES IN SECTION**  
8 **8 OF THE ICA WITH ITS PROPOSED CONTRACT LANGUAGE**  
9 **RELATED TO ISSUES 8-21 (A)-(E)?**

10 A. Eschelon purchases DC (“Direct Current”) power from Qwest to electrify  
11 telecommunications equipment it houses in collocation areas within Qwest’s  
12 central offices. Eschelon purchases DC power produced by the same “power  
13 plant” equipment Qwest uses to electrify its own telecommunications equipment.  
14 The contract language proposed by Qwest would force Eschelon to pay for large  
15 amounts of power plant capacity it does not use. Likewise, it would force  
16 Eschelon to pay more for DC power than Qwest itself pays. Eschelon’s proposed  
17 language is meant to ensure that Eschelon pays for the DC power and the power  
18 plant capacity that it uses, and no more. Likewise, Eschelon’s language is meant  
19 to prohibit the type of discrimination inherent in Qwest’s proposal.

20 **Q. WHAT IS ESCHELON’S PROPOSAL FOR ISSUES 8-21 AND (A)-(E)?**



1 A. Eschelon proposes the following language for Issues 8-21 and (a)-(e). Eschelon-  
2 proposed language opposed by Qwest is shown in underlined text, while Qwest-  
3 proposed language that Eschelon opposes is shown in ~~strikeout text~~:

4 **Issue 8-21**

5 8.2.1.29.2.1 CLEC orders DC power ~~plant~~ feeder cables in  
6 increments of twenty (20) amps per feed minimum. If CLEC  
7 orders an increment larger than sixty (60) amps, engineering  
8 practice normally terminates such feed on a power board. Qwest  
9 measures power ~~usage~~ on the power board, as described in Section  
10 8.2.1.29.2.2 below. If CLEC orders an increment of sixty (60)  
11 amps or less, the power feed will normally appear on a Battery  
12 Distribution Fuse Board (BDFB). No power usage measurement  
13 occurs at a BDFB.

14 **Issue 8-21(a)**

15 8.2.1.29.2.2 Measurement of ~~Power~~ Usage at the Power Board –  
16 Unless CLEC requests power measurement, power will not be  
17 measured. Qwest will bill CLEC ~~power usage~~ based on the size of  
18 the feeder cable ordered pursuant to Section 8.2.1.29.2.1 above  
19 ~~amount of power ordered~~ unless power measurement is requested  
20 and until a reading is taken pursuant to this Section. Qwest will  
21 measure ~~power~~ usage at the power board on a semi-annual basis.  
22 However, Qwest also agrees to take a reading within thirty (30)  
23 Days of a written CLEC request. Qwest will perform a maximum  
24 of four (4) readings per year for a particular Collocation site.  
25 ~~CLEC is required to have its equipment in place prior to making~~  
26 ~~any request for Qwest measure power usage.~~ If the initial  
27 measurement is zero, CLEC must notify Qwest when its equipment  
28 is in place and allow Qwest an additional reading to measure  
29 power. Based on these readings, if CLEC is utilizing less than the  
30 ordered amount of power, Qwest will reduce the monthly ~~power~~  
31 usage rate to CLEC's actual use based on the reading from the date  
32 of CLEC's measuring request on a going forward basis until the  
33 next reading. If CLEC is utilizing more than the ordered amount,  
34 Qwest will increase the monthly usage rate to the CLEC's actual  
35 use. Once Qwest receives a CLEC measuring request, it will bill  
36 the actual power usage rate based on the reading from the date of  
37 the CLEC's measuring request, on a going forward basis, until the  
38 next reading.

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**Issue 8-21(b)**

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8.3.1.6 -48 Volt DC Power. There are two -48 Volt DC Power charges, as described below, one for -48 Volt DC Power Plant and one for -48 Volt DC Power Usage. Both Power Charges described in this Section are adjusted based on usage readings when power is measured.

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**Issue 8-21(c)**

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8.3.1.6.1 There are two -48V DC Power charges: (1) The -48 Volt DC Power Plant charge provides -48 Volt DC power to CLEC collocated equipment and is fused at one hundred twenty-five percent (125%) of request. The DC Power Plant Charge recovers the cost of the capacity of the power plant available for CLEC's use. (2) The -48 Volt DC Power Usage Charge, which is also specified in Exhibit A. Both -48V DC Power charges may be either non-measured or measured, as follows:

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**Issue 8-21(d)**

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~~8.3.1.6.2 The -48 Volt DC Power Usage Charge recovers the cost of the CLEC's power usage. -48 Volt DC Power Usage can be provided and charged on a non-measured basis, or, in some cases specified below, on a measured basis.~~

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a) ~~Non-Measured -48 Volt DC Power Usage Charge – Qwest will apply the -48 Volt Power Usage charge for the quantity of power ordered by the CLEC. Qwest will not adjust the billed usage based upon power usage readings. This applies to all CLEC orders for -48 Volt DC Power which are equal to or less than sixty (60) amps. Qwest will apply the -48 Volt DC Power Usage Charge for the quantity of power ordered by CLEC. Qwest will not adjust the billed usage based upon actual usage. –power usage readings. This charge also applies to all CLEC orders for -48 Volt DC Power Usage which are greater than sixty (60) amps, unless CLEC orders -48 Volt DC Power Measurement, in which case CLEC will be charged for~~

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1 ~~Measured -48 Volt DC Power Usage as described in~~  
2 ~~Section 8.3.1.6.2(b) below.~~

3 b) ~~Measured -48 Volt DC Power Usage Charge – This~~  
4 ~~measured power usage charge applies, if elected by CLEC,~~  
5 ~~on a per amp basis to all orders of greater than sixty (60)~~  
6 ~~amps. For orders of greater than sixty (60) amps, CLEC~~  
7 ~~may elect Measured -48 Volt DC Power Usage pursuant to~~  
8 ~~this provision by ordering -48 Volt DC Power~~  
9 ~~Measurement. Qwest will initially apply the -48 Volt DC~~  
10 ~~Power Usage Charge to the quantity of power ordered by~~  
11 ~~CLEC. Qwest will determine read the actual power usage~~  
12 ~~as described in Section 8.2.1.29.2.2 and will charge based~~  
13 ~~on the power usage at the time of the reading, on a going~~  
14 ~~forward basis, until the next reading.~~

15  
16 **Issue 8-21(e)**

17 8.1.4 Power Plant

18 8.1.4.1.1 Less Than 60 Amps, ~~per Amp Ordered~~

19 8.1.4.1.2 Equal to or Greater Than 60 Amps, ~~per Amp Ordered~~

20 8.1.4.2 Power Usage

21 8.1.4.2.1 Less Than 60 Amps, ~~per Amp Ordered~~

22 8.1.4.2.2 Greater Than 60 Amps, ~~per Amp Ordered or Used~~

23 Eschelon and Qwest also disagree on the appropriate power plant rates under  
24 Issue 8-21(e). Eschelon proposes rates of \$9.20 and \$7.32 for rate elements  
25 8.1.4.1.1 and 8.1.4.1.2 of Exhibit A, respectively, compared to Qwest's proposed  
26 rates of \$11.95 and \$9.31, respectively. Mr. Denney addresses these rate element  
27 issues under Issues 22-90 and subparts.

28 **Q. WHAT IS QWEST'S PROPOSAL FOR ISSUES 8-21 AND (A)-(E).**

1 A. Qwest's proposed ICA language is shown below. Qwest proposed language that  
2 Eschelon opposes is underlined and Eschelon-proposed language opposed by  
3 Qwest is shown in ~~strikeout~~.

4 **Issue 8-21**

5 8.2.1.29.2.1 CLEC orders DC power plant feeder cables in  
6 increments of twenty (20) amps per feed minimum. If CLEC  
7 orders an increment larger than sixty (60) amps, engineering  
8 practice normally terminates such feed on a power board. Qwest  
9 measures power usage on the power board, as described in Section  
10 8.2.1.29.2.2 below. If CLEC orders an increment of sixty (60)  
11 amps or less, the power feed will normally appear on a Battery  
12 Distribution Fuse Board (BDFB). No power usage measurement  
13 occurs at a BDFB.

14 **Issue 8-21(a)**

15 8.2.1.29.2.2 Measurement of Power Usage at the Power Board –  
16 Unless CLEC requests power measurement, power will not be  
17 measured. Qwest will bill CLEC power usage based on the ~~size of~~  
18 ~~the feeder cable ordered pursuant to Section 8.2.1.29.2.1 above~~  
19 amount of power ordered unless power measurement is requested  
20 and until a reading is taken pursuant to this Section. Qwest will  
21 measure power usage at the power board on a semi-annual basis.  
22 However, Qwest also agrees to take a reading within thirty (30)  
23 Days of a written CLEC request. Qwest will perform a maximum  
24 of four (4) readings per year for a particular Collocation site.  
25 CLEC is required to have its equipment in place prior to making  
26 any request for Qwest measure power usage. ~~If the initial~~  
27 ~~measurement is zero, CLEC must notify Qwest when its equipment~~  
28 ~~is in place and allow Qwest an additional reading to measure~~  
29 ~~power.~~ Based on these readings, if CLEC is utilizing less than the  
30 ordered amount of power, Qwest will reduce the monthly power  
31 usage rate to CLEC's actual use based on the reading from the date  
32 of CLEC's measuring request on a going forward basis until the  
33 next reading. If CLEC is utilizing more than the ordered amount,  
34 Qwest will increase the monthly usage rate to the CLEC's actual  
35 use. Once Qwest receives a CLEC measuring request, it will bill  
36 the actual power usage rate based on the reading from the date of  
37 the CLEC's measuring request, on a going forward basis, until the  
38 next reading.  
39

1           **Issue 8-21(b)**

2           8.3.1.6 -48 Volt DC Power. There are two -48 Volt DC Power  
3           charges, as described below, one for -48 Volt DC Power Plant and  
4           one for -48 Volt DC Power Usage. ~~Both Power Charges described~~  
5           ~~in this Section are adjusted based on usage readings when power is~~  
6           ~~measured.~~  
7

8           **Issue 8-21(c)**

9           8.3.1.6.1 ~~There are two -48V DC Power charges: (1) The -48 Volt~~  
10          ~~DC Power Plant charge provides -48 Volt DC power to CLEC~~  
11          ~~collocated equipment and is fused at one hundred twenty-five~~  
12          ~~percent (125%) of request. The DC Power Plant Charge recovers~~  
13          ~~the cost of the capacity of the power plant available for CLEC's~~  
14          ~~use. The -48 Volt DC Power Usage Charge, which is also~~  
15          ~~specified in Exhibit A. Both -48V DC Power charges may be~~  
16          ~~either non-measured or measured, as follows:~~  
17

18          **Issue 8-21(d)**

19          8.3.1.6.2 The -48 Volt DC Power Usage Charge recovers the cost  
20          of the CLEC's power usage. -48 Volt DC Power Usage can be  
21          provided and charged on a non-measured basis, or, in some cases  
22          specified below, on a measured basis.

23  
24          a)       Non-Measured -48 Volt DC Power Usage Charge –  
25          Qwest will apply the -48 Volt Power Usage charge for the  
26          quantity of power ordered by the CLEC. Qwest will not  
27          adjust the billed usage based upon power usage readings.  
28          This applies to all CLEC orders for -48 Volt DC Power  
29          which are equal to or less than sixty (60) amps. Qwest will  
30          apply the -48 Volt DC Power Usage Charge for the  
31          quantity of power ordered by CLEC. Qwest will not adjust  
32          the billed usage based upon ~~actual usage.~~ power usage  
33          readings. This charge also applies to all CLEC orders for -  
34          48 Volt DC Power Usage which are greater than sixty (60)  
35          amps, unless CLEC orders -48 Volt DC Power  
36          Measurement, in which case CLEC will be charged for

1 Measured -48 Volt DC Power Usage as described in  
2 Section 8.3.1.6.2(b) below.

3 b) Measured -48 Volt DC Power Usage Charge – This  
4 measured power usage charge applies, if elected by CLEC,  
5 on a per amp basis to all orders of greater than sixty (60)  
6 amps. For orders of greater than sixty (60) amps, CLEC  
7 may elect Measured -48 Volt DC Power Usage pursuant to  
8 this provision by ordering -48 Volt DC Power  
9 Measurement. Qwest will initially apply the -48 Volt DC  
10 Power Usage Charge to the quantity of power ordered by  
11 CLEC. Qwest will determine read the actual power usage  
12 as described in Section 8.2.1.29.2.2 and will charge based  
13 on the power usage at the time of the reading, on a going  
14 forward basis, until the next reading.

15 **Issue 8-21(e)**

16 8.1.4 Power Plant

17 8.1.4.1.1 Less Than 60 Amps, per Amp Ordered

18 8.1.4.1.2 Equal to or Greater Than 60 Amps, per Amp Ordered

19 8.1.4.2 Power Usage

20 8.1.4.2.1 Less Than 60 Amps, per Amp Ordered

21 8.1.4.2.2 Greater Than 60 Amps, per Amp Ordered or Used

22 **Q. DOES THIS ISSUE DEAL WITH THE PROPER APPLICATION OF**  
23 **RATES?**

24 A. Yes. Language contained in Issues 8-21 and (a) through (e) deals with the proper  
25 application of DC Power Rate elements assessed by Qwest when Eschelon  
26 purchases DC power to electrify telecommunications equipment Eschelon  
27 collocates in Qwest central offices. Eschelon takes issue with the manner by  
28 which Qwest intends to assess those rates. Specifically, Eschelon has asked

1 Qwest to measure the amount of electrical usage Eschelon consumes in  
2 electrifying its equipment, and assess its DC Power rates based upon that usage  
3 (on a “per Ampere” or “per Amp” basis). Qwest has agreed to that approach for  
4 one of its rate elements (*i.e.*, the rate element specifically assigned to the current  
5 used by Eschelon’s equipment), but not the other (a rate element meant to recover  
6 Qwest’s investment in the “power plant” facilities that convert AC current  
7 purchased by Qwest from the electric utility into the DC power required by  
8 telecommunications equipment). The companies also disagree about the  
9 appropriate interim rates for Power Plant, see Mr. Denney’s discussion of Issues  
10 22-90 and subparts.

11 **Q. PLEASE DESCRIBE THE TWO DC POWER-RELATED RATE**  
12 **ELEMENTS THAT YOU REFERENCE ABOVE.**

13 A. Qwest, in Exhibit A, identifies two rate elements related to -48 Volt DC Power:  
14 (i) a *Power Usage* element that recovers the cost of the electrical current that  
15 electrifies telecommunication equipment (Exhibit A, 8.1.4.1.2) and (ii) a *Power*  
16 *Plant* element that recovers Qwest’s investment in the physical equipment that  
17 converts the AC power purchased from the utility to the -48 Volt DC Power used  
18 by most telecommunications equipment (Exhibit A, 8.1.4.1.1). Both rate  
19 elements are identified in Exhibit A as being applied “per ampere, per month”  
20 (*see*, 8.1.4.1). The disagreement arises as to whether the “amps per month”  
21 should be based upon the electricity Eschelon actually uses (*i.e.*, a measured  
22 basis), or whether Qwest should be allowed to use the size (in amps) of

1 Eschelon’s power distribution cables connecting its collocation arrangement to  
2 the Qwest power plant to assess the rates (what Qwest erroneously refers to as  
3 Eschelon’s “power order”). There are six discrete sections of the ICA (including  
4 Exhibit A) in which contract language has not been agreed to (representing Issues  
5 8-21 and subparts), and each of these issues is directly tied to this overall  
6 disagreement.

7 **Q. WHAT IS POWER PLANT, AS THAT TERM IS USED IN YOUR**  
8 **TESTIMONY?**

9 A. There are four basic components which comprise a central office power system  
10 used to electrify telecommunications equipment: (i) AC commercial power  
11 (shown in black in Figure 1 below),<sup>236</sup> (ii) standby AC power equipment (shown  
12 in green),<sup>237</sup> (iii) DC power plant (shown in blue)<sup>238</sup> and (iv) DC power  
13 distribution including power cables that connect a collocation area to Qwest’s  
14 power plant (shown in red)<sup>239</sup>:

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<sup>236</sup> For non-color copies, “AC Commercial Power” is the large rectangle box entitled “Commercial AC” excluding the small rectangle box entitled “Stand By Power.”

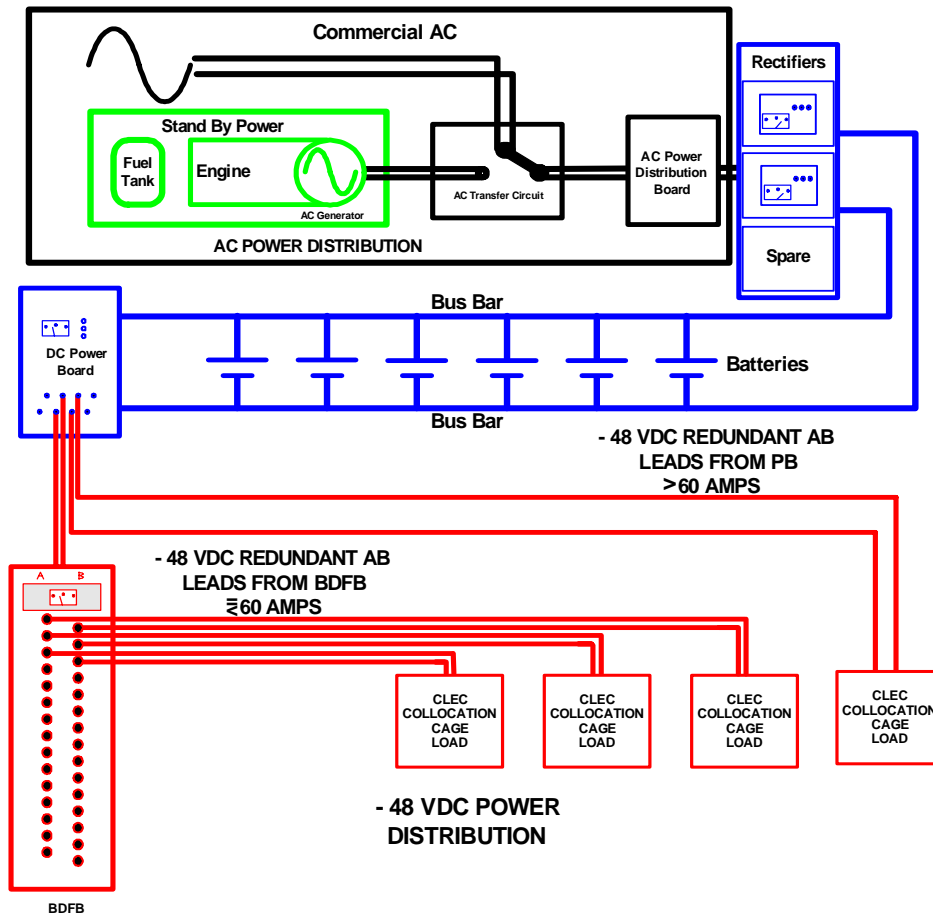
<sup>237</sup> For non-color copies, “Standby AC Power” is the small rectangle box entitled “Stand By Power” inside the larger rectangle box entitled “AC Commercial Power.”

<sup>238</sup> For non-color copies, “DC Power Plant” encompasses equipment from the “rectifiers” to the “DC Power Board.”

<sup>239</sup> For non-color copies, “DC Power Distribution” encompasses equipment from the “DC Power Board” to the BDFB and CLEC collocation (or Qwest equipment – not shown on diagram).



Figure 1



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The primary purpose of the “power plant” is to convert the AC power purchased from the utility, to the DC power required by telecommunications equipment. DC power plant generally consists of the following equipment: (i) rectifiers, which are used for the AC/DC conversion; (ii) batteries, which provide the necessary current to power the equipment, serve as a filter to smooth out fluctuations in the commercial power, remove the ‘noise’ that power often carries, and provide necessary backup power should commercial power fail; and (iii) controllers, which manage the DC power. Power plant is a shared resource that serves all

1 equipment in the central office. Qwest and its collocators power their equipment  
2 from the same power plant facilities.

3 **Q. DOES ESCHELON OR ANY CLEC ORDER A CERTAIN AMOUNT OF**  
4 **POWER PLANT CAPACITY?**

5 A. No. A key point in this disagreement relates to Qwest's erroneous claim that  
6 when a CLEC orders power cables (150 amp power cables, for example), a CLEC  
7 is simultaneously placing an order for 150 amps of power plant capacity. Qwest  
8 has made this erroneous claim time and again in testimony in other states (in an  
9 attempt to support its application of the power plant rate based on the size of the  
10 CLEC power cable), but has failed to cite any documentation or any authority at  
11 all, for that matter, that supports Qwest's claim. Qwest's collocation application  
12 asks CLECs for their requested *power cable size* – there is no place on the Qwest  
13 collocation application that asks the CLEC for their requested *power plant*  
14 *capacity*, nor does Qwest inform CLECs that it equates the power cable order  
15 with an order for power plant capacity. And, as I explain below, Qwest's own  
16 Technical Publications dictating the manner by which it engineers power cables  
17 and power plant capacity belie Qwest's claims. In other words, Qwest's own  
18 Technical Publications and safety standards require cables to be sized larger than  
19 the power that is expected to be carried by those cables. Yet, it is this claim that  
20 serves as the fundamental premise for Qwest's position that applying the Power  
21 Plant rate element on a measured basis would allow a CLEC to pay for less power  
22 plant capacity than it ordered. The bottom line is this: CLECs do not order power

1 plant capacity from Qwest. Instead, CLECs order power feeder cables from  
2 Qwest, who then purportedly engineers its power plant facilities based upon those  
3 feeder orders (in contravention of its Technical Publications). Unfortunately, the  
4 available evidence shows that Qwest attributes a far larger portion of its power  
5 plant facilities to CLECs than it does to itself for the same level of power usage,  
6 resulting in a highly discriminatory rate structure. This causes CLECs to pay for  
7 substantially more of Qwest's power plant investment relative to their power  
8 usage, than does Qwest.

9 **Q. MUST QWEST PROVIDE COLLOCATION POWER IN A**  
10 **NONDISCRIMINATORY MANNER?**

11 A. Yes. This is an important point because Qwest will undoubtedly argue in its  
12 testimony on Issues 8-21 and subparts that it sizes power plant for its own  
13 equipment based on peak usage, but sizes power plant for CLECs based on a  
14 higher amount dictated by the size of power cables. This is discriminatory on its  
15 face. And this treatment runs contrary to the clear language of the ICA which  
16 requires Qwest to provide collocation power in a nondiscriminatory manner:

17 8.2.1.1 Qwest shall provide Collocation on rates, terms and  
18 conditions that are just, reasonable and non-discriminatory. In  
19 addition, Qwest shall provide Collocation in accordance with all  
20 applicable federal and State laws.

21 Therefore, Qwest's different treatment of Eschelon with regard to power plant  
22 sizing (which leads to Qwest overcharging Eschelon for power plant) is  
23 prohibited conduct under the Qwest/Eschelon ICA.

1 Furthermore, though I am not an attorney, it is my understanding that the FCC has  
2 established that the prohibition against discrimination that appears throughout §  
3 251 of the Act is *unqualified and absolute*. Unlike § 202 of the Act, § 251 does  
4 not qualify the term “nondiscriminatory” with the words “undue” or “unjust and  
5 unreasonable.”

6 By comparison [with section 202], section 251(c)(2) creates  
7 a duty for incumbent LECs "to provide . . . any requesting  
8 telecommunications carrier, interconnection with a LEC's  
9 network on rates, terms, and conditions that are just,  
10 reasonable, and nondiscriminatory." The  
11 nondiscrimination requirement in section 251(c)(2) is not  
12 qualified by the "unjust or unreasonable" language of  
13 section 202(a). We therefore conclude that Congress did  
14 not intend that the term "nondiscriminatory" in the 1996  
15 Act be synonymous with "unjust and unreasonable  
16 discrimination" used in the 1934 Act, but rather, intended a  
17 more stringent standard.<sup>240</sup>

18 Therefore, the nondiscriminatory provisions of § 251 of the Act do not allow for  
19 “justified discrimination” as Qwest will likely attempt to argue.

20 **Q. HAS QWEST AGREED THAT ONE OF THE RATE ELEMENTS**  
21 **DESCRIBED ABOVE, I.E., POWER USAGE GREATER THAN 60 AMPS**  
22 **(8.1.4.1.2.2) SHOULD BE BILLED BASED UPON ESCHELON’S ACTUAL**  
23 **ELECTRICAL USAGE, RATHER THAN THE SIZE OF THE POWER**  
24 **FEEDER CABLES ESCHELON MAINTAINS BETWEEN ITS**  
25 **COLLOCATION AND QWEST’S POWER PLANT?**

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<sup>240</sup> See, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325, First Report and Order, 11 FCC Rcd.15499 ¶ 217 (1996) (“Local Competition Order”).

1 A. Yes. In late 2004, Qwest made available to its collocating CLECs an ICA  
2 amendment that would change the way Qwest assesses its DC power rate  
3 elements – the *DC Power Measuring Amendment* (a copy of that amendment is  
4 included with this testimony as Eschelon/8). In its amendment, Qwest agrees to  
5 change the manner by which it would assess at least one of its DC power rates  
6 (*i.e.*, *Power Usage Greater than 60 Amps* – 8.1.4.1.2.2). Qwest agreed to  
7 measure the amount of electricity actually used by collocators and assess its  
8 Power Usage rate based upon the measured amperage, rather than applying its per  
9 amp rate to the number of amps capable of being carried by the collocators’  
10 power distribution cables as it had done in the past.

11 **Q. DID QWEST’S PROPOSED AMENDMENT INDICATE THAT IT**  
12 **WOULD ALSO CHANGE THE WAY IT ASSESSES ITS *POWER PLANT***  
13 **RATE, *I.E.*, WHETHER IT WOULD NOW ALSO CHARGE ITS *POWER***  
14 ***PLANT RATE* BASED UPON MEASURED USAGE?**

15 A. There is substantial debate between Qwest and at least one of its collocators in  
16 that regard.<sup>241</sup> The Amendment can certainly be read to suggest that Qwest did  
17 indeed agree to change the manner by which it charges CLECs its *Power Plant*  
18 rate as well (*i.e.*, agreeing to assess it based upon measured usage), however, that  
19 issue is moot in this circumstance. Eschelon did not sign the amendment.

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<sup>241</sup> McLeodUSA filed complaints against Qwest regarding Qwest’s application of the power plant rate based on an Amendment that McLeodUSA and Qwest signed. *See, e.g., McLeodUSA Telecommunications Services, Inc. v Qwest Corporation*, Colorado PUC Docket No. 06F-124T. Eschelon did not sign the Power Measuring Amendment and this Amendment does not apply to Eschelon.

1           Instead, because Eschelon was already in discussions with Qwest regarding a  
2           successor ICA, Eschelon has addressed this issue in its ICA negotiations and now  
3           in this arbitration. Nonetheless, whether Qwest should assess its per amp Power  
4           Plant rate by applying it to the number of amps actually used by Eschelon (as  
5           measured by Qwest), or to the number of amps defining the capacity of  
6           Eschelon's power distribution cables remains the underlying question. Eschelon's  
7           proposed language, Issues 8-21 (a)-(e), would require Qwest to assess both its  
8           *Power Usage* and *Power Plant* rates based upon the number of amps Eschelon  
9           actual uses (as measured by Qwest). Given that Qwest has agreed to assess its  
10          power usage charge in this fashion, the remaining dispute involves only the  
11          *Power Plant* element.

12   **Q.   WHY SHOULD QWEST ASSESS THE POWER PLANT CHARGE**  
13   **BASED ON THE POWER USED BY ESCHELON RATHER THAN THE**  
14   **SIZE OF THE POWER CABLE ESCHELON ORIGINALLY ORDERED?**

15   A.   Qwest sizes its power plant facilities so that they are capable of producing enough  
16    electricity to power all of the telecommunications equipment in the central office  
17    (equipment for both Qwest and collocators) at peak demand. More specifically,  
18    Qwest power engineers identify, over time, the "busy hour" that exists in a given  
19    year, meant to reflect the absolute maximum or "peak" electrical drain required of  
20    the power plant by all existing equipment. The engineers then ensure that the  
21    power plant is sized so as to accommodate that "peak drain" – what power  
22    engineers often refer to as the "List 1 drain" for the central office. In this way the

1 power plant is driven by the amount of DC power used by the equipment in the  
2 central office (or stated differently, costs related to increasing the size of the  
3 equipment are incremental to additional usage). This is consistent with the  
4 application of *Power Plant* rates based on a collocator's usage because it requires  
5 power users who consume more electricity to pay for a larger portion of the power  
6 plant needed to meet their needs, while smaller electrical consumers pay less  
7 because they use less of the power plant's overall capacity.

8 **Q. WOULD APPLYING QWEST'S "PER AMP" POWER PLANT RATE TO**  
9 **THE SIZE OF ESCHELON'S POWER CABLE (MEASURED IN AMPS)**  
10 **BRING ABOUT A SIMILAR RESULT?**

11 A. No. DC power distribution cables are sized not based upon peak demand under  
12 normal operating conditions (*i.e.*, List 1 drain) like power plant is, but instead on  
13 the maximum current that the equipment may draw when the batteries providing  
14 DC power are approaching a condition of total failure (loosely defined as "List 2  
15 drain") – and as such, the equipment must draw more current (amps) so as to  
16 maintain necessary voltage. At the highest level, power cables are sized to  
17 accommodate the much larger List 2 drain because they anticipate *non*-"normal  
18 operating conditions" that may occur. If Eschelon or any other collocator is  
19 regularly using enough DC power to fully load its power feeder cables, a serious  
20 problem exists. For that reason, Qwest, by assessing its Power Plant rate based  
21 upon the size of Eschelon's DC power cables (instead of its measured usage),

1 forces Eschelon to pay for a substantial amount of power plant capacity that it  
2 doesn't use.

3 The List 2 drain is also known as the recommended amperage because it is the  
4 amperage level Eschelon must order for its power cables to operate the equipment  
5 properly and in accordance with manufacturer's recommendations and safety  
6 standards. The recommended amperage is set at a higher amperage level  
7 (compared to the amperage that will actually be used by the equipment under  
8 normal circumstances) because it takes into account the worst case scenario, such  
9 as low voltage during a battery discharge.

10 When sizing power cables a power engineer must identify the allowable  
11 maximum voltage drop between the BDFB/PB and the telecommunications  
12 equipment or CLEC collocation. This allows the engineer to size the smallest  
13 diameter power cable based on the cable length that must be traversed with a  
14 given amperage. Therefore, CLECs (and Qwest) are required by manufacturer's  
15 recommendations and safety standards to size power cables to a larger capacity  
16 than the power that will be carried by those cables, but Qwest pretends that  
17 CLECs expect to use as much power as their power cables will carry at maximum  
18 capacity as support for charging CLECs more for power than it charges itself.

19 **Q. YOU STATE THAT QWEST SIZES DC POWER PLANT BASED ON THE**  
20 **PEAK USAGE OF ALL TELECOMMUNICATIONS EQUIPMENT IN**



1           **THE CENTRAL OFFICE. WHAT IS YOUR BASIS FOR THAT**  
2           **STATEMENT?**

3    A.    Qwest uses engineering requirements and guidelines memorialized in Qwest's  
4           own Technical Publications to size power plant (and other components of central  
5           office power systems). Qwest's Technical Publications dictate that power plant  
6           should be sized based on peak usage (*i.e.*, List 1 drain). For example, Bellcore  
7           technical document "Power Systems Installation Planning" BR-790-100-652  
8           requires Qwest engineers, when sizing power plant, to "determine equipment  
9           powered directly from the dc plant and the average busy hour current drain of the  
10          equipment at normal operating voltage." This engineering manual goes on to  
11          describe the procedure used by Qwest engineers to size power plant as follows:

12                    "Step 1: Identify all DC operated telecommunications equipment that  
13                    needs power,  
14                    Step 2: determine operating voltages (nominal and limits) of all DC-  
15                    operated telecommunications equipment,  
16                    Step 3: determine List 1 drains of all telecommunications equipment,  
17                    Step 4: compute and plot all busy-hour and power failure drains, Step 5:  
18                    Select DC plants."

19          Steps 3 and 4 are particularly relevant to this point because they show that Qwest  
20          sizes DC power plant on peak usage.

21    **Q. CAN YOU PROVIDE A SIMPLE EXAMPLE OF HOW QWEST**  
22    **ENGINEERS WOULD GO ABOUT SIZING POWER PLANT FOR THE**  
23    **CENTRAL OFFICE?**

24    A.    Yes. In a basic example of a Qwest central office, Qwest power engineers  
25          monitor the actual usage of DC power and observe the peak power usage that

1 takes place at the busy hour. Qwest engineers would then take steps to ensure that  
2 the DC power plant is capable of handling the usage that occurs at this peak  
3 period. In other words, DC power plant is sized based on the maximum power  
4 draw that takes place on a central office-wide basis during the busy hour. Or,  
5 perhaps more appropriately, Qwest engineers identify a “target” usage level  
6 which may indicate to them that the existing power plant, given forecasted peak  
7 usage, may fall short in a busy hour scenario. Hence, when usage hits that “target”  
8 level, they begin to explore augmentation alternatives. Importantly, however,  
9 Qwest DC power engineers do not augment the DC power plant infrastructure  
10 based on particular orders for power distribution cables of a CLEC or Qwest.  
11 Given that DC power plant is sized based on forecasted peak usage for all  
12 equipment in the office, there is no correlation between Qwest’s  
13 investment/augmentation in DC power plant and sizes of power cables (whether  
14 they are from Qwest or a CLEC).

15 **Q. PLEASE DEFINE THE TERMS “BUSY HOUR DRAIN” AND “LIST 1**  
16 **DRAIN.”**

17 A. The “busy hour drain” is the load (or amount of power usage) of the central office  
18 for the busy day of the busy season, and represents the point at which the load on  
19 the central office power plant is greatest. The “busy hour” is simply the hour,  
20 once per year, that represents the highest level of drain on the power system, and  
21 oftentimes occurs sometime on Mother’s Day, though the busy hour can vary by  
22 central office. List 1 drain is the busy hour current during normal plant operation,

1 as indicated by Qwest Technical Publication “*Power Equipment and Engineering*  
2 *Standards*,” Technical Document No. 77385 (Chapter 2):

3 **2.4 Engineering Guidelines**

4 When sizing power plants, the following criteria shall be used:

5  
6 **List 1** drain is used for sizing batteries and chargers; *the average busy-*  
7 *hour current at normal operating voltage should be used.* Telephony List  
8 1 drains are measured at 9 ccs or at 18 ccs for the first 2 hours of a  
9 discharge and 6 ccs thereafter.

10 **Q. ARE THERE OTHER SOURCES THAT REQUIRE POWER PLANT TO**  
11 **BE SIZED BASED ON PEAK USAGE?**

12 **A.** Yes. For instance, Qwest Technical Publication 77385 discusses the sizing of  
13 battery plant – a component of DC power plant – as follows:

14 BATTERY PLANT SIZING — when a battery plant is initially  
15 installed, the meter and bus bar should be provided based on the  
16 projected power requirements for the life of the plant. Base  
17 chargers and batteries should be provided based on the projected  
18 end of engineering interval connected average busy-hour current  
19 drains (List 1).

20 In addition, Bellcore’s “*DC Distribution*,” Technical Document No. 790-100-656,  
21 Section 2 “Telecommunications Equipment Loads” states as follows:

22 List 1 – These drains are used to size batteries and rectifiers.  
23 These drains represent the average busy-hour current at normal  
24 operating voltages.

25 Furthermore, legacy document REGN 790-100-654RG “DC Plant” (published by  
26 Qwest) states as follows:

27 When selecting DC power plants and system components, the  
28 following current drain types can be used:

1  
2 List 1 drains are used to size batteries and rectifiers. These drains  
3 represent the average busy-hour current at normal operating  
4 voltages...

5 Another excerpt from Qwest's engineering manuals specifically warns against  
6 sizing power plant on any other standard. Qwest technical document REGN 790-  
7 100-655G "Batteries" Issue No. 9 dated February 2006 (at page 22) states:

8 In some cases, List 2 drains are significantly higher than List 1  
9 drains, and if they were used, would result in sever [sic] oversizing  
10 of the battery plant.

11 This last quote is particularly relevant because by applying the power plant charge  
12 based on cable size (which are sized based on List 2 drain), as Qwest proposes,  
13 Qwest is assessing charges on Eschelon based on a severely oversized DC power  
14 plant.

15 **Q. EARLIER YOU MENTIONED LIST 2 DRAIN. WHAT IS LIST 2 DRAIN**  
16 **AND WHAT IS ITS SIGNIFICANCE?**

17 A. Qwest's Technical Publications define List 2 drain as follows:

18 List 2 – These drains are used to size feeder cables and fuses.  
19 These drains represent the peak current for a circuit or a group of  
20 circuits under worst case operating conditions.

21 The concept of List 2 drain is significant because Qwest proposes to assess Power  
22 Plant charges based on the size of Eschelon's power cables, which as noted  
23 above, are sized based on List 2 drain (so that the cables are capable of handling a  
24 worst case scenario). However, the numerous Qwest Technical Publications

1 referenced above require power plant to be sized based on the lower List 1 drain  
2 (peak usage under normal operating conditions). Hence, while Qwest sizes power  
3 plant based on List 1 drain (peak usage), it assesses the power plant charge based  
4 on the higher List 2 drain (used to size the power cables). For example, let's  
5 assume that both Qwest's and Eschelon's List 1 drain is 100 amps and their List 2  
6 drains (or the size of their power cables) is 200 amps. Further, assume that the  
7 TELRIC rate for power plant (Equal to or Greater than 60 Amps is \$7.32  
8 (Eschelon's proposed Power Plant rate, Exhibit A, 8.1.4.1.2). Under this  
9 hypothetical scenario, Qwest would assign \$732.00 ( $\$7.32 \times 100$ )<sup>242</sup> in power  
10 plant costs to itself, but would assign \$1,464 ( $\$7.32 \times 200$ )<sup>243</sup> in power plant  
11 costs to Eschelon. This is despite the fact that, in this example, both Qwest and  
12 Eschelon have identical power and load characteristics (List 1 drain and List 2  
13 drain). If we change the example to assume that Qwest's List 1 drain increases to  
14 150 amps, Qwest would assign \$1,098 ( $\$7.32 \times 150$ )<sup>244</sup> in power plant costs  
15 to itself (less than to Eschelon), even though Qwest is consuming more power  
16 plant capacity than is Eschelon. This is discrimination prohibited by the Act and  
17 the companies' ICA.

18 This is problematic because it forces Eschelon to pay Power Plant rates based  
19 upon the much higher List 2 drain upon which its power cables are sized, when it  
20 actually uses a much smaller amount of electricity and, in turn, a much smaller

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<sup>242</sup> This number would be \$931 based on Qwest's proposed power plant rate of \$9.31.

<sup>243</sup> This number would be \$1,862 based on Qwest's proposed power plant rate of \$9.31.

<sup>244</sup> This number would be \$1,397 based on Qwest's proposed power plant rate of \$9.31.

1 component of Qwest's power plant capacity. In other words, it forces Eschelon to  
2 pay for more of Qwest's power plant than Eschelon actually uses. Because Qwest  
3 uses the majority of the electricity in the central office, and therefore, it uses the  
4 majority of the power plant capacity, Eschelon's overpayment reduces the amount  
5 of capacity Qwest must recover from its own services supported by its equipment.  
6 This results in a discriminatory situation in which Eschelon pays substantially  
7 more for DC power than does Qwest – a situation specifically prohibited by the  
8 FCC's rules governing prices for collocation and unbundled network elements.

9 **Q. IN ADDITION TO THE DISAGREEMENT ABOUT THE POWER PLANT**  
10 **RATE APPLICATION, ESCHELON AND QWEST ALSO DISAGREE**  
11 **ABOUT THE COMMENCEMENT OF POWER CHARGES. PLEASE**  
12 **EXPLAIN.**

13 A. This disagreement is under Issue 8-21. Eschelon's proposal is that, once the  
14 CLEC's equipment is in place in its collocation, it will notify Qwest so that Qwest  
15 can measure, and charge based on, actual usage. Qwest's proposal would require  
16 the CLEC to have its equipment in place before making a request for measured  
17 power usage. Qwest's proposal appears to be designed to prevent CLECs from  
18 requesting power measurement before installing equipment (so that the measure is  
19 zero) and after installing equipment, obtaining up to six months of zero usage  
20 charges. Eschelon agrees that this should not occur and its language would  
21 require CLEC to notify Qwest when equipment is placed so that Qwest can take a  
22 measurement – and so that the situation that apparently concerns Qwest does not

1 occur. Eschelon's language has an added benefit that Qwest's proposal does not:  
2 Eschelon's proposal would keep Qwest from charging Eschelon for power that it  
3 does not use. It makes no sense for Qwest to assess power charges associated  
4 with Eschelon's power draw before Eschelon even has the ability to draw power;  
5 yet that is what Qwest's proposal would require. Eschelon's proposal, on the  
6 other hand, treats both sides fairly by allowing Qwest to measure power draw  
7 once equipment is collocated and, at the same time, not forcing Eschelon to pay  
8 for power that it never uses.

9 **Q. YOU MENTIONED ABOVE THAT THE COMPANIES DISAGREE**  
10 **ABOUT THE APPROPRIATE RATE FOR POWER PLANT. ARE YOU**  
11 **ADDRESSING THE DISAGREEMENT RELATED TO THE RATE**  
12 **ELEMENT AMOUNTS?**

13 A. No, my testimony on Issues 8-21 and subparts focuses on the proper application  
14 of the interim Power Plant rates – Mr. Denney addresses the rate levels for the  
15 interim rates. For the Power Plant – Less than 60 Amps rate element (Exhibit A  
16 8.1.4.1.1), Eschelon proposes an interim rate of \$9.20, compared to Qwest's  
17 proposed interim rate of \$11.95. For the Power Plant – Equal to or Greater than  
18 60 Amps rate element (Exhibit A 8.1.4.1.2), Eschelon proposes an interim rate of  
19 \$7.32, compared to Qwest's proposed interim rate of \$9.31. Qwest's proposed  
20 interim rates for Power Plant exceed the Commission approved rates in all other

1 Qwest states in which Eschelon does business, with one minor exception.<sup>245</sup> Mr.  
2 Denney addresses Eschelon's proposed interim rates for power plant under Issues  
3 22-90 and subparts and explains how they were developed.

4 **Q. PLEASE RECAP WHY ESCHELON'S PROPOSED ICA LANGUAGE IS**  
5 **THE SUPERIOR LANGUAGE?**

6 A. As I mentioned above, the disagreements under Issues 8-21 and subparts stem  
7 from an overarching disagreement about how the Power Plant power charge  
8 should be assessed. For the reasons explained above, Eschelon's proposal to  
9 apply the Power Plant charge on measured usage is based on Qwest's Technical  
10 Publications and is consistent with proper cost recovery principles. I have also  
11 explained that Qwest's proposal to apply the Power Plant rate to the size of the  
12 Eschelon power cable would result in Qwest double-recovering its costs and  
13 Qwest discriminating against Eschelon in violation of the Act, FCC rules and  
14 orders, and the Qwest/Eschelon ICA by forcing Eschelon to pay for a larger  
15 portion of the shared central office power plant than Qwest pays. Based on this  
16 premise that the Power Plant rate should be assessed based on measured usage  
17 (like Power Usage), Eschelon's proposals for Issues 8-21 and subparts should be  
18 adopted for the following reasons:

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<sup>245</sup> The Power Plant Equal to or Greater than 60 Amps rate element in Washington is \$9.34, compared to Qwest's proposed interim rate in Oregon of \$9.31. However, in Washington, unlike Oregon, there is no rate differentiation for Power Plant Below 60 Amps and Equal to or Greater Than 60 Amps (i.e., both Power Plant varieties in Washington are priced at \$9.34).



- 1
- Issues 8-21 and 8-21(a): Qwest proposes to insert the word “usage”  
2 in Section 8.2.1.29.2.1 and “power usage” in Section 8.2.1.29.2.2  
3 to support its position that only one charge (*i.e.*, Power Usage) of  
4 the two power charges (*i.e.*, Power Usage and Power Plant) should  
5 be assessed based on usage. Eschelon disagrees and proposes to  
6 strike “usage.” In addition, Eschelon proposes language in  
7 Sections 8.2.1.29.2.1 and 8.2.1.29.2.2 to clarify that CLECs order  
8 power cables and not power plant capacity. And for the reasons  
9 discussed in the immediately preceding Q&A, Eschelon’s language  
10 regarding commencement of charges in Section 8.2.1.29.2.2 should  
11 be adopted.
  - Issues 8-21(b), 8-21(c) and 8-21(d): For the reasons explained  
12 above, Eschelon proposes language in Sections 8.3.1.6, 8.3.1.6.1,  
13 and 8.3.1.6.2 to clarify that both power charges should be billed  
14 based on power measurement.
  - Issues 8-21(e): the Power Usage and Power Plant rate elements in  
16 Exhibit A should be applied in the manner described in Section 8  
17 of the ICA as explained under Issues 8-21 and subparts (a) through  
18 (d). Qwest proposes to add text in Exhibit A to the Power Usage  
19 and Power Plant rate elements (8.1.4) that reflects its proposal to  
20 apply measured usage only to the Power Usage rate element and  
21 bill the Power Plant rate element based on the amps “ordered.”  
22

1 Eschelon disagrees with this language because measured usage  
2 billing should apply to both power charges and because CLECs do  
3 not “order” power plant, but order power cables instead. Section  
4 8.1.4.1 of Exhibit A indicates that the power charges apply “per  
5 amp, per month” and Section 8 of the ICA describes whether the  
6 charge should be assessed based on measured usage or the size of  
7 the power cable (what Qwest refers to as the “ordered” amps).  
8 Furthermore, as discussed by Mr. Denney, Eschelon’s proposed  
9 interim rates for Power Plant should be adopted.

10 **Q. PLEASE SUMMARIZE ISSUES 8-21 AND (A)-(E).**

11 A. Power plant is a shared resource within the central office that is used by all power  
12 users in the central office, including Qwest, to electrify their respective  
13 telecommunications equipment. Accordingly, the investment in power plant  
14 should be recovered from the users of that power plant based on the proportionate  
15 usage of each power user. Eschelon’s ICA language ensures that the Power Plant  
16 rate element is applied in this manner. Qwest’s proposed language would result  
17 in Eschelon paying for power that Eschelon does not use, and Eschelon paying  
18 more than Qwest pays to use the very same power plant. Or, in other words,  
19 Qwest’s language is discriminatory. For all of the reasons described in  
20 Eschelon’s business need and in these responses, the Commission should adopt  
21 Eschelon’s language for Issues 8-21 and (a)-(e).

1 **V. SUBJECT MATTER NO. 12: NEBS STANDARDS**

2 *Issue No. 8-24: ICA Section 8.2.3.9*

3 **Q. HAS ISSUE 8-24 CLOSED SINCE ESCHELON'S PETITION FOR**  
4 **ARBITRATION WAS FILED?**

5 A. Yes. This issue was closed based on Eschelon's proposed language for Section  
6 8.2.3.9 and a slight modification to Section 8.2.3.10. This language is shown  
7 below, with the agreed-to modification in Section 8.2.3.10 shaded in gray:

8 8.2.3.9 Qwest will determine and notify CLEC, in the manner described  
9 below, within ten (10) Days of CLEC submitting its Collocation  
10 application if Qwest believes CLEC's listed equipment does not  
11 comply with NEBS Level 1 safety standards or is in violation of  
12 any Applicable Laws or regulations, all equally applicable to  
13 Qwest. If CLEC disagrees, CLEC may respond with the basis  
14 for its position within ten (10) Days of receipt of such notice  
15 from Qwest. If, during installation, Qwest determines CLEC  
16 activities or equipment other than those listed in the Collocation  
17 application do not comply with the NEBS Level 1 safety  
18 standards listed in this Section or are in violation of any  
19 Applicable Laws or regulations all equally applied to Qwest,  
20 Qwest has the right to stop all installation work related to the  
21 activities or equipment at issue until the situation is remedied or  
22 CLEC demonstrates that Qwest's determination was incorrect...

23  
24 8.2.3.10 This section 8.2.3.10 applies as set forth herein, notwithstanding  
25 anything that may be to the contrary in Section 8.2.3.9. All equipment  
26 placed will be subject to random safety audits conducted by Qwest.  
27 Qwest will not enter CLEC's caged Collocation space or access CLEC's  
28 cageless Collocation equipment as part of a random safety audit. These  
29 audits will determine whether the equipment meets the NEBS Level 1  
30 safety standards required by this Agreement. CLEC will be notified of  
31 the results of this audit. . . .

1 **VI. SUBJECT MATTER NO. 14: NONDISCRIMINATORY ACCESS TO**  
2 **UNES**

3 *Issue No. 9-31: ICA Section 9.1.2*

4 **Q. WHAT IS ESCHELON'S BUSINESS ISSUE RELATING TO**  
5 **NONDISCRIMINATORY ACCESS TO UNES (ISSUE 9-31)?**

6 A. Nondiscriminatory access to UNEs and interconnection is the cornerstone of local  
7 competition. The FCC has read this nondiscriminatory access requirement for  
8 UNEs to apply broadly and has required that UNEs must be provisioned in a way  
9 that would make them useful. This means Qwest is required to provide  
10 nondiscriminatory access to the UNEs themselves as well as to the means of  
11 obtaining the UNEs, repairing the UNEs, and modifying the UNEs. This is  
12 critical for CLECs because these are all activities that Qwest performs for its own  
13 retail customers, and if CLECs are unable to obtain these activities related to  
14 UNEs on reasonable terms and conditions and at cost based rates, CLECs will be  
15 competitively disadvantaged vis-à-vis Qwest. Qwest has proposed language that  
16 would modify the nondiscriminatory access to UNEs provision of the ICA to  
17 create a loophole that may allow Qwest to charge tariff rates for activities that  
18 have historically been provided at TELRIC rates pursuant to Qwest's Section 251  
19 obligations to provide access to UNEs without first obtaining Commission  
20 approval. Eschelon opposes this language and asks the Commission to adopt its  
21 language, which would ensure that TELRIC rates continue to apply to access to  
22 UNEs unless Qwest obtains an order to the contrary.

1           Although Section 9.1.2 contains language regarding nondiscriminatory access to  
2           UNEs, it became clear that -- notwithstanding Section 9.1.2 and all other  
3           provisions of the ICA -- Qwest's position is that it may charge tariff rates for  
4           activities that have historically been provided at TELRIC rates without first  
5           obtaining Commission approval. Qwest did not raise this issue initially in a cost  
6           case. Eschelon first learned of this Qwest position through revised Qwest rate  
7           proposals, in which Qwest referred to the tariff instead of Commission approved  
8           rates for certain elements, including miscellaneous charges of the type listed in  
9           Eschelon's proposed language. Per Qwest, application of TELRIC rates is limited  
10          to the enumerated list of UNEs;<sup>246</sup> if not named on that list (*e.g.*, local loops),  
11          according to Qwest, it is not an activity for which TELRIC pricing applies -- even  
12          when these activities are performed on UNE orders.<sup>247</sup> This reasoning would  
13          vitiate the law on *access to* UNEs in lieu of a simplistic look at the enumerated  
14          UNEs. Although Eschelon believes that such an approach is inconsistent with the  
15          unmodified language of Section 9.1.2, Qwest's position shows that more explicit  
16          contract language is needed.

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<sup>246</sup> See §51.319; *see also* FCC First Report and Order ¶ 27 ["The minimum set of network elements the Commission identifies are: local loops, local and tandem switches (including all vertical switching features provided by such switches), interoffice transmission facilities, network interface devices, signalling and call-related database facilities, operations support systems functions, and operator and directory assistance facilities.]"

<sup>247</sup> *See, e.g.*, Colorado arbitration, Albersheim Direct, p. 52, line 17 ("expedites are not UNEs"); Colorado arbitration, Million Rebuttal, p. 31, line 3 ("FCC's list of Section 251 elements"). *See also* Qwest (Senior Attorney Harisha Bastiampillai) letter to Eschelon (copied to Mr. Denney and Ms. Johnson) (April 5, 2006), pp. 4-5 ("Qwest will not process expedites for Eschelon unbundled loop orders without a duly executed amendment. The amendment for expedites will reflect Qwest's **tariffed rate** for expedites (along with applicable installation charges)" (emphasis added). Mr. Denney discusses Expedited Orders in his testimony regarding Issue 12-67.

1           On August 31, 2006, Qwest confirmed this position by issuing a non-CMP  
2           notification announcing that it intended to post a new “template” interconnection  
3           agreement on its website on September 1, 2006 (on one day’s notice). *See*  
4           Process Notification PROS.08.31.06.F.04159.Amendments.ComlAgree.SGAT.<sup>248</sup>  
5           This new Qwest negotiations template added a tariff reference for the following  
6           rate elements: Additional Dispatch, Trouble Isolation Charge, Design Charge,  
7           Expedite Charge, Cancellation Charge, and Maintenance of Service Charge.  
8           During negotiations on design changes (*see* Issue 4-5 discussed by Mr. Denney)  
9           Qwest also submitted a proposal that would have applied tariff rates to certain  
10          activities – much like its 8/31/06 non-CMP notice. Qwest later changed its  
11          position in negotiations, but indicated that Qwest’s change in position for  
12          negotiations should not be construed as Qwest giving up on its tariff rate proposal  
13          for design changes, and that Qwest fully intended to pursue this proposal outside  
14          of negotiations. By changing its position in negotiations with Eschelon while  
15          maintaining its tariff position outside of arbitration, Qwest is attempting to leave  
16          the door open for Qwest to ultimately impose its tariff proposal on Eschelon  
17          (despite the considerable time and resources expended to arbitrate this issue).

18          The activities that Qwest listed in its notice as activities for which tariff rates will  
19          apply are the same activities in Eschelon’s proposed language for Issue 9-31 (to  
20          be included as necessary to access to UNEs). Eschelon’s language for Issue 9-31  
21          puts this issue squarely before the Commission, and a Commission ruling is

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<sup>248</sup> Eschelon/28, Denney.

1 needed to ensure that CLECs receive the nondiscriminatory access to UNEs to  
2 which they are entitled and avoid future disputes.

3 **Q. ARE YOU AWARE OF OTHER EXAMPLES DEMONSTRATING THE**  
4 **NEED FOR ESCHELON’S LANGUAGE?**

5 A. Yes. One example is Qwest’s 12/9/05 CMP notice, which introduced as a CMP  
6 change<sup>249</sup> that added language to the DS1 Loop product description that stated  
7 that, “Unbundled Loops are not available for telecommunications services  
8 provided directly to you or for your own administrative purposes *nor are they*  
9 *available to serve another CLEC, IXC, or other Telecommunications Provider.*”  
10 (Emphasis added.) Since Qwest introduced this change in CMP, it was not  
11 required to show how its proposed changes that prohibit CLECs from using UNE  
12 loops to serve another telecommunications carriers comport with 47 C.F.R  
13 §51.309, which provides that subject to certain limited restrictions, the ILEC  
14 “shall not impose limitations, restrictions, or requirements on requests for, or the  
15 use of, unbundled network elements for the service a requesting  
16 telecommunications carrier seeks to offer.”<sup>250</sup> None of the restrictions on the use

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<sup>249</sup> CMP Document No. PROD.12.09.05.F.03543.EEL\_and\_LMC\_MTE.

<sup>250</sup> 47 CFR § 51.309 provides:

- (a) Except as provided in §51.318, an incumbent LEC shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements for the service a requesting telecommunications carrier seeks to offer.
- (b) A requesting telecommunications carrier may not access an unbundled network element for the exclusive provision of mobile wireless services or interexchange services.
- (c) A telecommunications carrier purchasing access to an unbundled network facility is entitled to exclusive use of that facility for a period of time, or when purchasing access to a feature, function, or capability of a facility, a telecommunications carrier is entitled to use of that

1 of UNEs prohibits a CLEC from using a UNE to provide service to another  
2 CLEC, IXC or Telecommunications Provider.

3 Since the ICA does not include Qwest's PCAT restriction and says, to the  
4 contrary, that no other limitations on the use of UNEs shall be imposed,<sup>251</sup>  
5 Eschelon believes that the ICA language controls and that this clause would not  
6 apply to Eschelon. Qwest had every opportunity to propose this language during  
7 this arbitration, but did not. All of this notwithstanding, based on the manner in  
8 which Qwest has chosen issues that it has and has not addressed in CMP to its  
9 advantage, Eschelon is concerned that it could get through this entire case without  
10 this language found anywhere in the contract, yet Qwest would still apply the  
11 restriction to Eschelon (perhaps by claiming that the contract is silent on the  
12 matter, which it is not).<sup>252</sup>

13 **Q. HAS QWEST ISSUED ADDITIONAL CMP NOTICES THAT FURTHER**  
14 **RESTRICT ACCESS TO UNES SINCE THEN?**

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feature, function, or capability for a period of time. A telecommunications carrier's purchase of access to an unbundled network element does not relieve the incumbent LEC of the duty to maintain, repair, or replace the unbundled network element.

(d) A requesting telecommunications carrier that accesses and uses an unbundled network element consistent with paragraph (b) of this section may provide any telecommunications services over the same unbundled network element.

<sup>251</sup> "9.1.1.2.1: Except as provided in this Section 9.1.1.2.1 and in Section 9.23.4.1, Qwest shall not impose limitations, restrictions, or requirements on requests for, or the use of, Unbundled Network Elements for the service CLEC seeks to offer."

<sup>252</sup> The operative language makes clear that no other limitations on UNEs will be imposed (beyond those in the contract) and the restriction on using UNEs to serve other carriers is not in the ICA.



1 A. Yes. On September 11, 2006, Qwest issued a Level 3 CMP notice<sup>253</sup> that revised  
2 its Provisioning and Installation Overview and changed the verbal supplement for  
3 CFA slot change on the due date. Qwest added the following language:

4 NOTE: For CFA or slot changes, it is the CLEC's responsibility to  
5 provide Qwest with a new CFA that will work. Qwest will only  
6 accept one verbal CFA change on the due date. If that CFA fails to  
7 work, Qwest will place the order in jeopardy (customer jeopardy).  
8 No further action will be taken on Qwest's part until Qwest  
9 receives a valid supplemental request to change the due date and  
10 the CFA (if applicable). Additional charges may apply.

11 This language restricts the availability of CFA changes,<sup>254</sup> unnecessarily  
12 complicates the provisioning process and leaves the door open for Qwest to assess  
13 "additional charges" – which, coupled with Qwest's 8/31/06 notice (discussed  
14 below in the next example), means that Qwest will apply tariff charges. As  
15 indicated in Eschelon's proposed language for Issue 9-31, design changes are  
16 activities that are necessary for nondiscriminatory access to UNEs, and this type  
17 of arbitrary restriction on this access is concerning to Eschelon. While Qwest  
18 later retracted this CMP notice,<sup>255</sup> on October 26, 2006, Qwest issued an internal  
19 notification (MCC) that it distributed to CLECs which again limits CFA changes  
20 to one per circuit on the day of the cut, but directs Qwest testers to "determine if it  
21 is reasonable to expect the next CFA change to resolve the issue" and if Qwest's  
22 tester decides that this expectation is not reasonable, the "CFA change should be

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<sup>253</sup> PROS.09.11.06.F.04161.P\_&\_I\_Overview\_v91.

<sup>254</sup> Design changes, and more specifically CFA changes, are addressed in Issue 4-5 (Design Changes) in the testimony of Mr. Denney.

<sup>255</sup> Qwest filed a notice on 10/20/06 (PROS.10.20.06.F.04281.Retract\_CFA\_P&I\_OvrvwV91) to retract PROS.09.11.06.F.04161.P\_&\_I\_Overview\_v91.

1 refused and the CLEC should be pointed to the supplemental process.” Qwest’s  
2 10/26/06 document also states that “If Qwest receives frequent attempts from a  
3 CLEC to verbally request numerous changes on DD before a good CFA is found,  
4 the Tester should post a Customer Jeopardy to the order and contact the CLEC’s  
5 Service Manager to inform them of the situation.” Qwest claims (incorrectly) that  
6 it has always been Qwest’s intent to limit CFA changes to one per circuit on the  
7 day to the cut, and that this MCC notice only reiterates the current practice.  
8 Eschelon has asked Qwest to retract this MCC notice, explaining that this is a  
9 change in process and should be issued as a Level 4 CMP change request, and that  
10 limiting CFA changes on the day of the cut to one per circuit was not Qwest’s  
11 intent and that Qwest has been performing multiple CFA changes for four  
12 years.<sup>256</sup> The intent to apply to multiple CFA changes is evident on the face of  
13 the change request. It provides examples to illustrate the request, and one of those  
14 examples includes multiple changes to one CFA. Nevertheless, Qwest’s actions  
15 with regard to its CFA change notices is further proof that Qwest’s promises  
16 regarding nondiscriminatory access to UNEs and its actions are two different  
17 things and that the Commission should remedy this situation by making Qwest’s  
18 obligations clear in the contract under Issue 9-31.

19 **Q. WHAT IS ESCHELON’S PROPOSAL ON ISSUE 9-31?**

20 A. Eschelon has two alternative proposals for Section 9.1.2:

21 **Proposal #1:**

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<sup>256</sup> Mr. Denney provides a CFA Change Chronology as Eschelon/27. This exhibit includes Qwest’s CFA change notices and Eschelon’s request for Qwest to retract its 10/26/06 MCC notice.

1            ~~Access to Activities Available for~~ Unbundled Network Elements  
2 includes moving, adding to, repairing and changing the UNE  
3 (through *e.g.*, design changes, maintenance of service including  
4 trouble isolation, additional dispatches, and cancellation of orders)  
5 ~~at the applicable rates.~~

6  
7            **Proposal #2:**

8            9.1.2    ..... ~~Access to Activities available for~~ Unbundled Network  
9 Elements includes moving, adding to, repairing and changing the  
10 UNE (through, *e.g.*, design changes, maintenance of service  
11 including trouble isolation, additional dispatches, and cancellation  
12 of orders)~~at the applicable rates~~ and will be provided at TELRIC  
13 rates....

14            Because Section 9.1.2 deals only with Section 251 access to unbundled network  
15 elements,<sup>257</sup> TELRIC rates apply. Therefore, if any reference to rates is made in  
16 this section, it should specify TELRIC rates, as shown in Eschelon's proposal #2.  
17 If Qwest later challenges use of TELRIC rates and succeeds in obtaining a ruling  
18 allowing it to charge tariff rates in one or more of these cases, the ICA has change  
19 of law provisions for use in such situations.

20            **Q.    WHAT IS QWEST'S PROPOSAL ON ISSUE 9-31?**

21            A.    Qwest originally proposed to omit Eschelon's language and provided no  
22 competing language. In support of this position, Qwest states that Eschelon's  
23 language would require Qwest to provide a "superior network" and may be an  
24 attempt by Eschelon to get modifications to UNEs without paying for them.<sup>258</sup>

25            Qwest has since modified its proposal as follows:

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<sup>257</sup> See definition of Unbundled Network Element in Section 4.0 of the proposed ICA.

<sup>258</sup> Qwest Response, p. 23.

1                    Activities available for Access to Unbundled  
2                    Network Elements includes moving, adding to, repairing and  
3                    changing the UNE (through *e.g.*, design changes, maintenance of  
4                    service including trouble isolation, additional dispatches, and  
5                    cancellation of orders) at the applicable rates.

6    **Q.    WHY HAS ESCHELON PROPOSED TO INCLUDE MOVES, ADDS,**  
7                    **REPAIRS AND CHANGES TO UNES IN THE DESCRIPTION OF**  
8                    **ACCESS TO UNES?**

9    A.    It is crucial to include these items to ensure that CLECs get nondiscriminatory  
10                    access to UNEs, as Qwest’s attack on TELRIC pricing for these activities clearly  
11                    demonstrates. The importance of making this clear in the ICA is evident in both  
12                    the existing ICA between Eschelon and Qwest as well as FCC rules and orders.  
13                    As both companies’ proposals now include the phrase “Unbundled Access to  
14                    Unbundled Network Elements includes moving, adding to, repairing and  
15                    changing the UNE (through *e.g.*, design changes, maintenance of service  
16                    including trouble isolation, additional dispatches, and cancellation of orders),” the  
17                    remaining open issue is whether these activities – which under both companies’  
18                    proposals apply to “the UNE” – are provided at TELRIC rates (subject to the  
19                    change in law provisions of the ICA should a later decision change the status  
20                    quo). Eschelon’s position is that TELRIC rates apply not only to the enumerated  
21                    UNEs but also to “access to” those UNEs.

22   **Q.    PLEASE ELABORATE ON HOW THE FCC ADDRESSED “ACCESS TO**  
23                    **UNES” IN ITS ORDERS.**

1 A. In its *First Report and Order* at ¶ 268, the FCC found that the requirement to  
2 provide “access to UNEs” must be read broadly, concluding that the Act requires  
3 that UNEs “be provisioned in a way that would make them useful” and “[t]he  
4 ability of other carriers to obtain access to a network element for some period of  
5 time does not relieve the incumbent LEC of the duty to maintain, repair, or  
6 replace the unbundled network element.”

7 **Q. WHAT OTHER FCC ORDERS OR RULES GOVERNING NON-**  
8 **DISCRIMINATION FOR UNES APPLY HERE?**

9 A. Section 251(c)(3) of the Telecommunications Act requires that Qwest provide  
10 access to unbundled network elements, including unbundled local loops, on rates,  
11 terms and conditions that are just, reasonable and non-discriminatory. The FCC  
12 *First Report and Order*<sup>259</sup> further defined the meaning of “just, reasonable and  
13 non-discriminatory,” which was included in 47 CFR §51.313. Specifically, the  
14 Order stated that at the minimum, the obligation of “just, reasonable and non-  
15 discriminatory” includes two conditions: First, the ILECs should provide  
16 unbundled network elements to requesting carriers under terms and conditions  
17 that are equal to the terms and conditions under which the ILEC provides the  
18 service to itself.<sup>260</sup> Second, the ILECs should offer equal terms and conditions to

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<sup>259</sup> First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98, 95-185, 11 FCC Rcd 15499 (1996) FCC Dockets CC Nos. 96-98 and 95-185, (“*Local Competition Order*”) adopted on August 1, 1996.

<sup>260</sup> 47 CFR §51.313(b).

1 all carriers requesting unbundled network elements.<sup>261</sup> Further, the Order noted  
2 that the obligation of “just, reasonable and non-discriminatory” terms and  
3 conditions are conditions that provide the requesting carriers a meaningful  
4 opportunity to compete:

5 The duty to provide unbundled network elements on "terms, and  
6 conditions that are just, reasonable, and nondiscriminatory" means,  
7 at a minimum, that whatever those terms and conditions are, they  
8 must be offered equally to all requesting carriers, and where  
9 applicable, they must be equal to the terms and conditions under  
10 which the incumbent LEC provisions such elements to itself. We  
11 also conclude that, because section 251(c)(3) includes the terms  
12 "just" and "reasonable," this duty encompasses more than the  
13 obligation to treat carriers equally. Interpreting these terms in light  
14 of the 1996 Act's goal of promoting local exchange competition,  
15 and the benefits inherent in such competition, we conclude that  
16 these terms require incumbent LECs to provide unbundled  
17 elements under terms and conditions that would provide an  
18 efficient competitor with a meaningful opportunity to compete.  
19 Such terms and conditions should serve to promote fair and  
20 efficient competition. This means, for example, that incumbent  
21 LECs may not provision unbundled elements that are inferior in  
22 quality to what the incumbent provides itself because this would  
23 likely deny an efficient competitor a meaningful opportunity to  
24 compete.<sup>262</sup>

25 In addition, the Order stated that the provision of unbundled network elements  
26 does not relieve the ILEC from the duty to maintain and repair the unbundled  
27 network element:

28 We conclude that we should adopt our proposed interpretation that  
29 the terms "access" to network elements "on an unbundled basis"  
30 mean that incumbent LECs must provide the facility or  
31 functionality of a particular element to requesting carriers, separate  
32 from the facility or functionality of other elements, for a separate

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<sup>261</sup> 47 CFR §51.313(a).

<sup>262</sup> *Local Competition Order* at ¶ 315 (emphasis added; footnotes omitted).

1 fee. We further conclude that a telecommunications carrier  
2 purchasing access to an unbundled network facility is entitled to  
3 exclusive use of that facility for a period of time, or when  
4 purchasing access to a feature, function, or capability of a facility,  
5 a telecommunications carrier is entitled to use of that feature,  
6 function, or capability for a period of time. The specified period  
7 may vary depending on the terms of the agreement between the  
8 incumbent LEC and the requesting carrier. The ability of other  
9 carriers to obtain access to a network element for some period of  
10 time does not relieve the incumbent LEC of the duty to maintain,  
11 repair, or replace the unbundled network element.<sup>263</sup>

12 The final rules defining the meaning of “just, reasonable and nondiscriminatory”  
13 access to UNEs prescribed that an ILEC must provide a carrier purchasing UNEs  
14 with the pre-ordering, ordering, provisioning, maintenance and repair, and billing  
15 functions of the incumbent LEC's operations support systems.<sup>264</sup>

16 **Q. HOW DOES THE EXISTING ESCHELON AND QWEST ICA ADDRESS**  
17 **THIS ISSUE?**

18 A. Section 5.1 to Attachment 8 of the ICA states, in part:

19 5.1.1 USWC shall provide repair, maintenance, testing, and  
20 surveillance for all local services and unbundled Network  
21 Elements and Combinations in accordance with the terms  
22 and conditions of this Agreement and at least to that which  
23 USWC provides for itself or any other Person.  
24

25 5.1.2 During the term of this Agreement, USWC shall provide  
26 necessary maintenance business process support as well as  
27 those technical and systems interfaces required to enable  
28 CO-PROVIDER to provide at least the same level and  
29 quality of service for all services for resale, functions,  
30 features, capabilities and unbundled Network Elements or  
31 Combinations of Network Elements as USWC provides

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<sup>263</sup> *Local Competition Order* at ¶ 268 (emphasis added; footnotes omitted).

<sup>264</sup> 47 CFR §51.313(c).

1                   itself, its subscribers, any of its Affiliates or subsidiaries or  
2                   any other Person. At a minimum, USWC shall provide  
3                   CO-PROVIDER with the same level of maintenance  
4                   support as USWC provides itself in accordance with  
5                   standards and performance measurements that are at least  
6                   equal to the highest level of standards and/or performance  
7                   measurements that USWC uses and/or which are required  
8                   by law, regulatory agency, or by USWC's own internal  
9                   procedures, whichever are the most rigorous. These  
10                  standards shall apply to the quality of the technology,  
11                  equipment, facilities, processes, and techniques (including,  
12                  but not limited to, such new architecture, equipment,  
13                  facilities, and interfaces as USWC may deploy) that USWC  
14                  provides to CO-PROVIDER under this Agreement.

15  
16                  5.1.3 USWC shall provide a SPOC (Single Point of Contact) for  
17                  CO-PROVIDER to report maintenance issues and trouble  
18                  reports via real-time electronic interfaces twenty four  
19                  (24)hours a day, seven (7) days a week. The SPOC  
20                  Residence 800 number, and SPOC Business 800 number,  
21                  will be the numbers used for all of USWC's 14 states.

22  
23                  5.1.4 USWC shall provide CO-PROVIDER maintenance dispatch  
24                  personnel on the same schedule that it provides for its own  
25                  end users.

26   **Q.    BASED ON THE EXISTING ICA AND APPLICABLE FCC RULES AND**  
27           **ORDERS, WHY IS IT CRUCIAL FOR THE ITEMS IDENTIFIED IN**  
28           **ESCHELON'S LANGUAGE TO BE SPECIFICALLY IDENTIFIED IN**  
29           **THE ICA AS "ACCESS" TO UNES?**

30    A.    Because without the nondiscriminatory access to UNES that would result from  
31            Eschelon's proposed language (and which would not be preserved under Qwest's  
32            proposal), Eschelon would not have a meaningful opportunity to compete.  
33            Eschelon has an expectation, as supported by governing rules and orders, that it  
34            will continue to have access to the same maintenance and repair procedures and



1 level of quality available to Qwest’s other customers – whether retail, resale or  
2 QPP – under terms and conditions that are nondiscriminatory.

3 **Q. WHY IS THE MODIFIED LANGUAGE THAT QWEST RECENTLY**  
4 **PROPOSED NOT SUFFICIENT TO CLOSE THIS ISSUE?**

5 A. Qwest opposes Eschelon’s language because, according to Qwest, it  
6 impermissibly expands Qwest’s obligations and would prevent Qwest from  
7 recovering its costs.<sup>265</sup> Qwest originally recommended striking all of Eschelon’s  
8 language, but has since modified its language proposal for Section 9.1.2, and  
9 Qwest’s modified proposal misses the point. The Commission needs to decide  
10 that moving, adding to, and repairing the UNE are part of nondiscriminatory  
11 access to UNEs. Qwest's language states that these activities are “available for”  
12 UNEs, and strikes the key word “access.” Qwest's choice of "available for"  
13 suggests that the activities are not UNE activities but rather are non-UNE  
14 activities that Qwest may make in some manner "available for" UNEs, a concept  
15 with which, as noted, the FCC disagrees. Qwest’s modified language does  
16 nothing to address Eschelon’s concern that the ICA clarify that these activities are  
17 part of Qwest’s obligation to provide nondiscriminatory access to UNEs at  
18 TELRIC-based rates. Further, Qwest’s language leaves the door open for Qwest  
19 to charge expensive, non-cost based charges (potentially tariff rates) for these  
20 activities that Qwest would argue are not under the Commission’s purview. The  
21 fact that Qwest had agreed to make these activities “available for” UNEs would

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<sup>265</sup> Qwest Response, p. 23.

1 be of little comfort to Eschelon if the prices Qwest assesses for these activities are  
2 set at expensive, non-cost based levels, providing Qwest a significant cost  
3 advantage when serving its customers.

4 **Q. DID THE MINNESOTA COMMISSION AGREE WITH QWEST THAT**  
5 **ESCHELON’S PROPOSAL FOR THIS ISSUE IMPERMISSABLY**  
6 **EXPANDS QWEST’S OBLIGATIONS AND WOULD KEEP QWEST**  
7 **FROM RECOVERING ITS COSTS FOR THESE ACTIVITIES?**

8 A. No, the Minnesota Commission disagreed with Qwest’s arguments. The  
9 Minnesota Arbitrators, as affirmed by the Minnesota Commission found:

10 It is difficult to understand Qwest’s position that Eschelon’s  
11 language might require Qwest to provide access to an “as yet  
12 unbuilt, superior network” or that it might mean Qwest would be  
13 unable to charge at all for making such changes. It is a real stretch  
14 to find this kind of ambiguity in Eschelon’s language. Qwest has  
15 pointed to nothing in the language that would require it to perform  
16 an activity that is obviously outside of its existing § 251  
17 obligations.<sup>266</sup>

18 The Minnesota Commission also recognized the problem with Qwest’s proposed  
19 “applicable rate” language as follows:

20 Qwest’s proposed language is in fact more ambiguous than  
21 Eschelon’s, because it would leave unanswered the question  
22 whether routine changes in the provision of a UNE would be  
23 priced at TELRIC or at some other “applicable rate.”

24 Federal law requires that when a CLEC leases a UNE, the ILEC  
25 remains obligated to maintain, repair, or replace it. Unless and  
26 until the Commission or other authority determines to the contrary,  
27 these types of routine changes to UNES should be provided at

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<sup>266</sup> Eschelon/29, MN Arbitrators’ Report, ¶130, affirmed in relevant part in the MN PUC Arbitration Order.

1 TELRIC rates. Eschelon's language should be adopted for this  
2 section.<sup>267</sup>

3 The Minnesota Commission adopted Eschelon's proposed language for Issue 9-  
4 31.<sup>268</sup>

5 **Q. PLEASE SUMMARIZE ISSUE 9-31**

6 A It is critical that the ICA language make clear that Qwest must continue to provide  
7 nondiscriminatory access to UNEs, including activities performed to make the  
8 UNE useful and allow Eschelon a meaningful opportunity to compete. This is  
9 supported by FCC rules and orders as well as the current Eschelon/Qwest ICA.  
10 For all of the reasons described in Eschelon's business need and in these  
11 responses, the Commission should adopt Eschelon's language for Issue 9-31.

12 **VII. SUBJECT MATTER NO. 15. DELAYED ORDERS WHEN FACILITIES**  
13 **ARE NOT AVAILABLE**

14 Issue No. 9-32 and Subparts (a) – (c): ICA Sections 9.1.2.1.3.2.1; 9.1.2.1.3.2.2;  
15 9.2.2.3.2; and 9.2.2.16

16 **Q. IS SUBJECT MATTER NO. 15 (ISSUES 9-32 AND SUBPARTS (A) – (C))**  
17 **NOW CLOSED?**

18 A. Yes. Since Eschelon's Petition for Arbitration was filed, the parties have closed  
19 Subject Matter No. 15 (Issues 9-32 and subparts (a) through (c)) based on the 90  
20 day held order policy provided as Eschelon's Option #2 (Issue 9-32(a)) shown at

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<sup>267</sup> Eschelon/29, MN Arbitrators' Report, ¶¶131-132, affirmed in relevant part in the MN PUC Arbitration Order.

<sup>268</sup> Eschelon/29, MN Arbitrators' Report, ¶132, affirmed in relevant part in the MN PUC Arbitration Order.

1 pages 80-83 of the Disputed Issues List (Exhibit 3 to Eschelon's Petition for  
2 Arbitration). By agreement of the parties, Section 9.2.2.3.2 was slightly amended  
3 from what is shown in the Disputed Issues List, and the closed Section 9.2.2.3.2  
4 reads as follows:

5 9.2.2.3.2 If CLEC orders a 2/4 wire non loaded or ADSL  
6 compatible Unbundled Loop for an End User Customer served by  
7 a Digital Loop Carrier System Qwest will conduct an assignment  
8 process which considers the potential for a LST or alternative  
9 copper facility. If a LST is not available, Qwest may also seek  
10 alternatives such as Integrated Network Access (INA), hair  
11 pinning, or placement of a Central Office terminal, to permit  
12 CLEC to obtain an Unbundled Loop. If no such facilities are  
13 available, Qwest will make every feasible effort to unbundle the  
14 IDLC in order to provide the Unbundled Loop for CLEC. Qwest  
15 will hold the order for ninety (90) Days. If, after 90 Days, no  
16 copper facility capable of supporting the requested service is  
17 available, then Qwest will reject the order.

18 **VIII. SUBJECT MATTER NO. 16. NETWORK MAINTENANCE AND**  
19 **MODERNIZATION**

20 *Issue Nos. 9-33, 9-33(a), 9-34, 9-35 and 9-36: ICA Sections 9.1.9 and 9.1.9.1<sup>269</sup>*

21 **Q. HAVE SOME OF THE NETWORK MAINTENANCE AND**  
22 **MODERNIZATION ISSUES UNDER SUBJECT MATTER NO. 16**  
23 **CLOSED?**

24 **A. Yes. Issues 9-33(a), 9-35 and 9-36 have closed. The closed language is shown**  
25 **below.**

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<sup>269</sup> The ICA language shown below for these issues may differ from what is shown in the exhibits to the Petition for Arbitration. See Exhibit 3 to Eschelon's Petition for Arbitration (Disputed Issues Matrix) and Exhibit 4 to Eschelon's Petition (redlined copy of ICA). Qwest and Eschelon have modified some of their proposals since the Petition and Response were filed.

1 **Q. PLEASE DESCRIBE THE REMAINING NETWORK MAINTENANCE**  
2 **AND MODERNIZATION ISSUES (9-33 AND 9-34) AND EXPLAIN THE**  
3 **BUSINESS NEEDS BEHIND ESCHELON’S LANGUAGE PROPOSALS.**

4 A. The two network maintenance and modernization issues are (1) whether minor  
5 changes in transmission parameters include changes that adversely affect the End  
6 User Customer’s service on more than a temporary or emergency basis [Issue 9-  
7 33]; and (2) whether, in situations when Qwest makes changes that are specific to  
8 an End User Customer, Qwest should include the circuit identification and End  
9 User Customer address information in the notice [Issue 9-34].

10 First, regarding Issue 9-33, Qwest has refused to provide any commitment in the  
11 ICA that network maintenance and modernization activities that the companies  
12 have agreed will involve only “minor changes to transmission parameters” will  
13 not adversely affect service to Eschelon’s End User Customers on more than a  
14 temporary or emergency basis. Adversely affect is a known term in the industry,  
15 as it has been used by the FCC in its rules. This issue concerns Eschelon  
16 customers who have a working circuit and are up and running without any service  
17 problems. Qwest then makes changes to the UNEs in its network that were not  
18 requested by Eschelon or Eschelon’s Customer. Resulting customer disruption  
19 would be unexpected from the End User Customer’s perspective because the  
20 problem was caused by a Qwest-initiated maintenance or modernization activity –  
21 not an Eschelon-initiated or customer-initiated request. Sometimes, however,  
22 temporary customer disruption is unavoidable, and Eschelon is not attempting to

1 hold Qwest to a zero outage standard for maintenance and modernization  
2 activities. Eschelon's proposed language clearly anticipates and addresses  
3 reasonably anticipated temporary service interruptions and emergencies.<sup>270</sup> The  
4 expectation in Section 9.1.9 should be that once any anticipated, temporary  
5 disruption (such as a brief outage during non-working hours needed to perform  
6 the work) or any emergency (such as when a brief anticipated outage develops  
7 into an unanticipated extended outage) *has ended*, the End User Customer's  
8 service will work without any adverse affect to that service. This is different, for  
9 example, from situations in which copper is retired and replaced with fiber  
10 pursuant to Section 9.2.1.2.3. In those copper retirement situations, the  
11 expectation is that the End User Customers' service *will* be adversely affected (so  
12 Qwest must provide 91 Days notice, CLECs are allowed to object, *etc.*).<sup>271</sup> In  
13 contrast, for Section 9.1.9 activities, Eschelon's proposed language appropriately  
14 provides that, after those modifications and changes to the UNEs in Qwest's  
15 network that result in minor changes to transmission parameters, the End User  
16 Customer's service will be restored (if a temporary interruption or emergency  
17 occurs) and will continue to work within the transmission limits of the UNE

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<sup>270</sup> Former Issues 9-35 and 9-36 are closed. Therefore, the terms relating to emergencies in Section 9.1.9.1 are agreed upon and closed. Although the language of Section 9.1.9.1 is now closed, Qwest has not agreed to Eschelon's proposal to include a cross reference in Section 9.1.9 to Section 9.1.9.1, even though a primary purpose of the cross reference is to assure Qwest that the "adversely affect" language is not a zero outage standard, as Eschelon's proposed language clearly recognizes that emergencies will occur.

<sup>271</sup> See Section 9.2.1.2.3 of the proposed ICA (closed language).

1 ordered by Eschelon.<sup>272</sup> Eschelon needs this commitment in the ICA to ensure  
2 that it may continue to provide working service, using the UNEs for which it has  
3 compensated Qwest, to its Customers.

4 Regarding Issue 9-34, Eschelon's proposed language provides that, in the limited  
5 scenario when changes are specific to an End User Customer, the notice of the  
6 change will contain the circuit identification and End User Customer address  
7 information. Qwest's technicians will need this information in order to perform  
8 changes that are specific to an End User Customer and Qwest should also provide  
9 this information to Eschelon. Eschelon needs this information to be prepared to  
10 address any temporary service interruptions and to communicate with its  
11 Customer.

12 **Q. WHAT IS ESCHELON'S PROPOSAL TO ADDRESS ISSUES 9-33 AND 9-**  
13 **34?**

14 A. Eschelon proposes the following language:

15 **Issue 9-33 (Option #1)**

16 9.1.9 .....Such changes may result in minor changes to  
17 transmission parameters but the changes to transmission  
18 parameters will not adversely affect service to any CLEC End User  
19 Customers (other than a reasonably anticipated temporary service  
20 interruption, if any, needed to perform the work). (In addition, in  
21 the event of emergency, see Section 9.1.9.1).<sup>273</sup>

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<sup>272</sup> Closed language in Section 9.1.9 provides: "Network maintenance and modernization activities will result in UNE transmission parameters that are within transmission limits of the UNE ordered by CLEC."

<sup>273</sup> Eschelon also continues to offer in the alternative: "but will not adversely affect service to any End User Customers. (In the event of emergency, however, see Section 9.1.9.1)."

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**Issue 9-33 (Option #2)**

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. . . If such changes result in the CLEC’s End User Customer experiencing unacceptable changes in the transmission of voice or data, Qwest will assist the CLEC in determining the source and will take the necessary corrective action to restore the transmission quality to an acceptable level if it was caused by the network changes....

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**Issue 9-34 (Option #1)**

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9.1.9.....Such notices will contain the location(s) at which the changes will occur including, if the changes are specific to an End User Customer, the circuit identification and End User Customer address information, and any other information required by applicable FCC rules. . . .

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**Issue 9-34 (Option #2)**

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.....Such notices will contain the location(s) at which the changes will occur including, if the changes are specific to an End User Customer,<sup>274</sup> circuit identification, if readily available, and any other information required by applicable FCC rules.

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**Issue 9-33(a) is now closed with the following language:**

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This Section 9.1.9 does not address retirement of copper Loops or Subloops, which are addressed in Sections 9.2.1.2.2 (and subparts), 9.2.1.2.2.3, 9.2.1.2.3 (and subparts), and 9.2.2.3.3.

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**Issues 9-35 and 9-36 are now closed with the following language:**

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9.1.9.1 In the event that Qwest intends to dispatch personnel to the Premises of a CLEC End User Customer, for the purpose of maintaining or modernizing the Qwest network, Qwest shall provide CLEC with email notification no less than three (3) business days in advance of the Qwest dispatch and within three (3) business days after completing the maintenance or modernization activity. In the event of an emergency (e.g., no dial tone), Qwest need not provide CLEC with advance email notification but shall notify CLEC by email within three (3) business days after completing the emergency maintenance or

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<sup>274</sup> Note: Eschelon will accept “End User Customer” or “CLEC End User Customer” here.



1 modernizing activity. In such emergencies, once Qwest personnel  
2 involved in the maintenance or modernization activities are aware  
3 of an emergency affecting multiple End User Customers, Qwest  
4 shall ensure its repair center personnel are informed of the network  
5 maintenance and modernization activities issue and their status so  
6 that CLEC may obtain information from Qwest so that CLEC may,  
7 for example, communicate with its End User Customer(s). CLEC  
8 may also contact its Service Manager to request additional  
9 information so that CLEC may, for example, communicate with its  
10 End User Customer(s). In no event, however, shall Qwest be  
11 required to provide status on emergency maintenance or  
12 modernization activity greater than that provided to itself, its End  
13 User Customers, its Affiliates or any other party. To the extent  
14 that the activities described in Sections 9.1.9 and 9.1.9.1 include  
15 dispatches, no charges apply.

16 **Q. WHAT IS QWEST’S PROPOSAL TO ADDRESS THESE ISSUES?**

17 A. Qwest proposes the following language:

18 **Issue 9-33**

19 9.1.9 .....Such changes may result in minor changes to  
20 transmission parameters ~~but will not adversely affect service to any~~  
21 ~~End User Customers (other than a reasonably anticipated~~  
22 ~~temporary service interruption, if any, needed to perform the~~  
23 ~~work). (In addition, in the event of emergency, see Section~~  
24 ~~9.1.9.1).~~

25 **Issue 9-34**

26 9.1.9.....Such notices will contain the location(s) at which the  
27 changes will occur ~~including, if the changes are specific to an End~~  
28 ~~User Customer, the circuit identification and End User Customer~~  
29 ~~address information,~~ and any other information required by  
30 applicable FCC rules. . . .

31 Qwest’s proposal for Issue 9-33 omits the “adversely affect” and “unacceptable  
32 changes” language in Eschelon’s Proposals #1 and #2, suggesting that under  
33 Qwest’s proposal, “minor” changes can have an adverse effect on Customers’  
34 service and result in unacceptable changes to the transmission of voice and data  
35 and Qwest need not take corrective action to fix the problem. Qwest argues that

1 Eschelon’s language is vague, not tied to industry standards, inappropriately  
2 focuses on service provided to Eschelon’s end users, and would lead to future  
3 disagreements.<sup>275</sup> It bears noting that the Minnesota Commission adopted  
4 Eschelon’s Proposal #2, which is based on the proposal of the Minnesota  
5 Department of Commerce, to resolve Issue 9-33 and rejected the same concerns  
6 Qwest raises here. The Arbitrators found (at paragraph 142), as affirmed by the  
7 Minnesota Commission, that “The Department’s recommended language should  
8 be adopted. It appears to balance the reasonable needs of both parties in an even-  
9 handed manner...The reference to correcting transmission quality to ‘an  
10 acceptable level’ does not, as Qwest argues, make this language unacceptably  
11 vague. The language merely commits Qwest to taking action to restore  
12 transmission quality to that which existed before the network change.”<sup>276</sup>

13 For Issue 9-34, Qwest omits the language that would require inclusion of circuit  
14 ID and customer address information in network change notices for changes that  
15 are specific to End User Customers in Eschelon’s Proposal #1. Qwest also  
16 recommends omitting Eschelon’s language for Proposal #2 which simply requires  
17 Qwest to provide the circuit i.d. information “if readily available” for changes that  
18 are specific to an End User Customer (or “CLEC End User Customer”). Qwest  
19 contends that the information that it currently provides CLECs through its  
20 network change notifications is compliant with FCC rules and provides Eschelon

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<sup>275</sup> Qwest Response, p. 24. See also, Qwest’s Position Statement in the Disputed Issues Matrix (10/10/06), pp. 90-91.

<sup>276</sup> MN Arbitrators’ Report, ¶ 142, affirmed in relevant part by the MN PUC Arbitration Order.

1 with sufficient information to determine if the change will affect its End User  
2 Customers.<sup>277</sup> When examining this same issue in Minnesota, the Minnesota  
3 Commission adopted Eschelon’s proposal #2 for Issue 9-34, finding that “if this  
4 information is readily available, Qwest should provide it.”<sup>278</sup> In response to  
5 Qwest’s stated concern that the term “End User Customer” was an attempt by  
6 Eschelon to extend the requirement beyond its own customers to customers of  
7 other carriers, Eschelon offered to accept “CLEC End User Customer” instead of  
8 “End User Customer.”

9 **Issue 9-33: Affect on End User Customers - Section 9.1.9**

10 **Q. IS ESCHELON’S LANGUAGE FOR ISSUE 9-33, WHICH STATES THAT**  
11 **“MINOR” CHANGES IN TRANSMISSION PARAMETERS WILL NOT**  
12 **ADVERSELY AFFECT ESCHELON END USER CUSTOMERS,**  
13 **GROUNDING IN FCC RULES AND ORDERS?**

14 **A.** Yes. 47 CFR § 51.319(a)(8) states:

15 (8) *Engineering policies, practices, and procedures.* An incumbent  
16 LEC shall not engineer the transmission capabilities of its network  
17 in a manner, or engage in any policy, practice, or procedure, that  
18 *disrupts or degrades* access to a local loop...

19 The FCC’s rule prohibits Qwest from making changes to transmission parameters  
20 that “disrupts” or “degrades” access to the loop over which a CLEC provides  
21 service to its End User Customer. Though Qwest complains that Eschelon’s

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<sup>277</sup> Qwest Response, p. 25, lines 8-9. See also, Qwest’s Position Statement in the Disputed Issues Matrix (10/10/06), p. 94.

<sup>278</sup> MN Arbitrators’ Report, ¶153, as affirmed by the MN PUC Arbitration Order.

1 “adversely affect” language is not tied to industry standards and is vague,<sup>279</sup> the  
2 FCC rule is not tied to an industry standard and does not delineate the degree of  
3 degradation that would be prohibited – it just prohibits degradation and  
4 disruption. Eschelon’s proposal for Issue 9-33 requires the same standard.

5 **Q. ARE THERE OTHER FCC RULES THAT SUPPORT ESCHELON’S**  
6 **LANGUAGE FOR ISSUE 9-33?**

7 A. Yes. 47 CFR § 51.316(b), entitled “conversion of unbundled network elements  
8 and services,” states:

9 (b) An incumbent LEC shall perform any conversion from a  
10 wholesale service or group of wholesale services to an unbundled  
11 network element or combination of unbundled network elements  
12 without *adversely affecting* the service quality perceived by the  
13 requesting telecommunications carrier's end-user customer.  
14 (emphasis added)

15 The FCC uses the term “adversely affecting” in FCC Rule 51.316(b) to describe  
16 the ILECs’ obligations regarding performing conversions the same way  
17 Eschelon’s proposal uses the term to describe Qwest’s obligation regarding  
18 network maintenance and modernization activities. Again, the FCC’s rule does  
19 not define an industry standard, nor does it define a specific level of degradation  
20 that would be allowed. The FCC has used the same term (*i.e.*, “adversely affect”) as  
21 Eschelon’s proposal and for the same purpose (*i.e.*, requiring the activities to be  
22 performed by the ILEC in a manner that is seamless from the perspective of the  
23 End User Customer). The above FCC rules show that any criticism by Qwest that

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<sup>279</sup> Qwest Response, p. 24.

1 Eschelon’s “adversely affect” language is vague, ambiguous or not tied to  
2 industry standards<sup>280</sup> is misplaced and is really a collateral attack on the FCC’s  
3 rules and orders.

4 In addition, it is entirely proper for Eschelon’s language to focus on the service  
5 quality perceived by Eschelon’s End User Customer, just as FCC Rule 51.316(b)  
6 does.<sup>281</sup> Eschelon’s Customers rely on Eschelon’s service for their service  
7 including dial tone and 911 service, and Eschelon, in turn, relies on the service  
8 Qwest provides to Eschelon to serve its Customers. Therefore, it is impossible to  
9 separate Eschelon’s service needs from the service needs of Eschelon’s End User  
10 Customers in terms of service quality.

11 **Q. REGARDING THE EFFECT OF QWEST’S NETWORK MAINTENANCE**  
12 **OR MODERNIZATION ACTIVITIES ON END USER CUSTOMERS,**  
13 **PLEASE EXPLAIN WHY THE COMMISSION SHOULD ADOPT**  
14 **ESCHELON’S PROPOSAL.**

15 A. The Commission should either adopt Eschelon’s Option #1 or Option #2 for Issue  
16 9-33 primarily because “minor changes to transmission facilities” should not  
17 adversely affect the service of End User Customers (aside from temporary  
18 interruptions needed to perform the work and emergencies, both of which will be

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<sup>280</sup> See, e.g., Qwest Response, p. 24, lines 10-15 (“Eschelon’s proposed requirement...is flawed because it is not tied to industry standards and is too vague...”; “Eschelon’s failure to tie the phrase ‘adversely affect service’ to any measurable standard creates ambiguity...”)

<sup>281</sup> Qwest ignores the FCC’s focus on the service quality perceived by the End User Customer when it criticizes Eschelon’s proposal for Issue 9-33 for focusing on the End User Customer. Qwest Response, p. 24, lines 8-9 (“Eschelon’s proposed standard improperly focuses on the service Eschelon provides to its customers, not on the service Qwest provides to Eschelon.”).

1 remedied). In other words, if the Customer's service worked before Qwest makes  
2 changes to the UNEs in its network, the service should work afterward. Eschelon  
3 has also offered Proposal #2 which states that if these changes do result in the  
4 CLEC End User Customer experiencing unacceptable changes in the transmission  
5 of voice or data, Qwest will assist the CLEC in identifying the source of the  
6 problem and fixing it. As shown by Eschelon's Proposal #1 and Proposal #2, the  
7 overarching purpose of Eschelon's language is to ensure that maintenance or  
8 modernization activities do not disable Eschelon's reliable, working circuit and to  
9 protect its End User Customers from such service-affecting problems, while at the  
10 same time allowing Qwest to perform "necessary"<sup>282</sup> maintenance and  
11 modernization activities as needed.

12 Eschelon's language does not hold Qwest to a strict or extreme standard under  
13 which service will never be adversely affected. In fact, Eschelon's language  
14 specifically carves out reasonably anticipated temporary service interruptions  
15 necessary to perform the work, emergencies, and copper loop retirement as  
16 described in Section 9.2.1.2.3 as three instances in which adverse effects on  
17 customer service may result. In the two situations governed by Section 9.1.9  
18 under Eschelon's proposal (temporary service interruptions and emergency  
19 situations), the End User Customer's service should be restored. In the third  
20 (cooper loop retirement), Section 9.2.1.2.3 governs. Eschelon's proposal

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<sup>282</sup> As shown above in Eschelon's proposed language for Issue 9-33, a sentence preceding the disputed language states, in closed language, "Qwest may make *necessary* modifications and changes to the UNEs in its network on an as needed basis." (emphasis added)

1 documents the expectation that service which worked before Qwest performed a  
2 change not requested by Eschelon or its Customer will also work after Qwest  
3 completes that change.

4 In contrast, Qwest is taking the position that a network modification, and resulting  
5 change in transmission parameters of a UNE, may be considered “minor” even if  
6 the change results in a loss of service to End User Customers. As improbable as  
7 that sounds, Eschelon added the “adversely affect” language to its proposal for  
8 Section 9.1.9 after Qwest actually took this position while discussing a customer-  
9 affecting situation involving dB levels, which I discuss further in response to the  
10 next question. A service outage is not “minor,” especially from the perspective of  
11 the Customer whose working service was unexpectedly disabled when it is due,  
12 not to a request by Eschelon or the Customer, but to Qwest’s network changes.

13 **Q. IN ADDITION TO PROVIDING THAT CHANGES TO TRANSMISSION**  
14 **PARAMETERS WILL BE “MINOR,” CLOSED LANGUAGE IN**  
15 **SECTION 9.1.9 PROVIDES THAT QWEST’S ACTIVITIES WILL**  
16 **RESULT IN UNE TRANSMISSION PARAMETERS THAT ARE WITHIN**  
17 **THE TRANSMISSION LIMITS OF THE UNE ORDERED BY**  
18 **ESCHELON. WHY DOESN’T THIS CLOSED LANGUAGE**  
19 **ADEQUATELY ADDRESS ESCHELON’S CONCERNS?**

20 A. Qwest has previously taken the position that it meets its obligations under this  
21 language if it provides a UNE within transmission parameters, even though the  
22 circuit is *not operational* and there is a way to provision an operational circuit

1 that is within transmission parameters. Eschelon, in the past, had a situation in  
2 which Qwest was claiming that it met the industry standards regarding decibel  
3 (dB)<sup>283</sup> loss for DS1s, but Qwest did not provide an operational circuit to  
4 Eschelon. I will refer to this as the dB loss example. An email exchange and  
5 supporting documentation on this example is provided by Ms. Johnson as  
6 Eschelon/86. When Eschelon provided the facts of this example in ICA  
7 negotiations, Qwest confirmed that it interpreted the language of Section 9.1.9 as  
8 proposed by Qwest to allow Qwest to render an End User Customer's circuit non-  
9 operational if such a situation arose under the ICA as a result of Qwest network  
10 maintenance and modernization activities. Eschelon's proposed language for  
11 Issue 9-33 is needed, therefore, to avoid that result.

12 **Q. PLEASE ELABORATE ON THE DB LOSS EXAMPLE.**

13 A. In the 2004 timeframe, Qwest provisioned certain DS1 circuits to Eschelon that  
14 did not work. These DS1 circuits required a repair immediately after Qwest  
15 provisioned them because the dB settings were set at levels that did not work for  
16 the service requested. The standard for dB loss is a range between 0 and -16.5  
17 dBs.<sup>284</sup> When Qwest sets the dB level within this range (including at a level of -  
18 7.5 dBs), often the service works. In some cases, however, Eschelon encounters  
19 situations in which Qwest has set the dBs at a level that, although it is within this

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<sup>283</sup> A decibel is a unit of measure of signal strength, usually the relationship between a transmitted signal and a standard signal source, known as a reference. Newton's Telecom Dictionary, 20<sup>th</sup> edition at 233.

<sup>284</sup> It is undisputed that the relevant industry standard in this example provides a *range* from 0 to -16.5 for dB loss. See, Eschelon/86, Johnson/1 (Qwest said: "As you know the ANSI range is -16.5 as the lowest setting and "0" as the highest setting for dB levels.")



1 range, the circuit is not operational. In such situations, Eschelon asks Qwest to  
2 adjust the dB level to another point *within the standard range* to make the circuit  
3 operational (such as an adjustment from -7.5 dBs to -1.0 dBs). For example, if  
4 the circuit does not work at the Network Interface Unit (“NIU”) (this means that  
5 the trouble is not in Eschelon’s equipment, which may not even be connected  
6 yet), an adjustment in the dB level may be needed to obtain an operational circuit.  
7 A simple adjustment at either the Qwest central office card or the NIU or both  
8 often will correct the problem.

9 For a period of time, Qwest began to deny requests for an adjustment in the dB  
10 level even though, with the adjustment, the level would still be within the  
11 standard range of 0 and -16.5 dBs. Eschelon escalated this issue and spent quite a  
12 bit of time attempting to resolve this issue with Qwest. When examples of Qwest  
13 denials continued to occur despite Eschelon’s efforts, Eschelon even requested  
14 and received the participation of staff from the Minnesota Department of  
15 Commerce in its attempts to resolve the issue. During Eschelon’s efforts to  
16 resolve this problem, Eschelon learned that Qwest had unilaterally implemented a  
17 network maintenance plan to set the dB levels at a specific level (-7.5) as a  
18 default, even though the industry standard was not -7.5, but rather a dB range of  
19 between 0 and -16.5. Qwest claimed that it was appropriately delivering the  
20 circuit within the industry standard, even though the circuit was not  
21 operational.<sup>285</sup> Eschelon received no notice of Qwest’s maintenance and

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<sup>285</sup> See Eschelon/86, Johnson/1 & 9.

1 modernization plan. Instead, it was revealed in an email from Qwest to Eschelon  
2 dated 10/12/04<sup>286</sup> as follows (see, Eschelon/86, Johnson/1):

3           ...techs were instructed to reset the db at -7.5 whenever they did a  
4           repair. This was first given as an instruction four years ago and  
5           has been repeated over time. Thus, in order to allow for proper  
6           performance of end-user equipment, Qwest has been moving the  
7           network over time to a default setting of -7.5.

8           Qwest's admission in this email shows that Qwest instructed its technicians that,  
9           whenever performing work needed for repairs, to also reset the dB level at -7.5  
10          (not as part of the repair but rather as part of its move to a different default  
11          setting). It stands to reason, however, that if Eschelon had to obtain an  
12          adjustment in the dB level during installation to obtain an operational circuit, that  
13          a later action to return the dB setting back to the former level would likely once  
14          again cause the circuit to become non-operational. Because Qwest provided no  
15          advance notice to Eschelon of the instruction that Qwest provided to its  
16          technicians in this regard, however, Eschelon would not have known when  
17          troubles or repeat troubles occurred that changes made per this instruction had  
18          been the cause.

19          Qwest said that it was making this change for the purposes of "moving the  
20          network over time to a default setting of -7.5." This Qwest statement is indicative  
21          of a network maintenance or modernization policy that Qwest established to, over  
22          time, move its network to a new default dB setting – a setting that results in DS1s

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<sup>286</sup> Email from Qwest – Senior Attorney (Joan Peterson) to Eschelon (including Ms. Johnson) dated 10/12/04. Eschelon/86, Johnson/1.

1 that do not work in some instances (*i.e.*, causes a previously working circuit to not  
2 work for the customer). Though the particular problems Eschelon brought to  
3 Qwest’s attention at that time arose during installation,<sup>287</sup> in the course of  
4 investigating the cause of this problem, Qwest revealed its *maintenance and*  
5 *modernization policy* to proactively reset dB settings at a default of -7.5 during  
6 repairs. This maintenance and modernization policy could cause some customers  
7 to lose service – service that had been up and working fine.

8 When Eschelon provided the facts of this example in ICA negotiations as a basis  
9 for its proposed language for Section 9.1.9, Qwest confirmed that its position is  
10 that Qwest may appropriately deliver a circuit anywhere within the industry  
11 standard, even if the circuit is not operational and a different setting also within  
12 the ANSI standard range would make the circuit operational. This example  
13 demonstrates that Qwest will defend a non-working circuit (that previously  
14 worked just fine for the Customer) as being acceptable, within transmission  
15 limits, and meeting the ICA if it can conceivably be described as within those  
16 limits, even though it *does not work*, when another setting – also within  
17 transmission limits – would both meet the standard and *work*. Therefore, while it  
18 may have seemed obvious (given use of the word “minor” in the ICA) before this  
19 example arose that the service should work as it did before Qwest performed its  
20 network maintenance and modernization activities, it is now clear that the ICA  
21 needs to expressly address this point.

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<sup>287</sup> Qwest delivered DS1s of such poor quality that they needed an immediate repair.

1 **Q. IS ESCHELON ASKING QWEST TO PROVIDE SERVICE OUTSIDE OF**  
2 **INDUSTRY STANDARDS?**

3 A. No. If a setting of -7.5 always resulted in working service, the industry standard  
4 would logically be -7.5. Instead, the industry standard is a range (-16.5 to 0)  
5 because, logically, the service may or may not work at all the settings in the range  
6 but should work somewhere within that range depending on other factors (such as  
7 Qwest cards in the central office or at the NIU – which the standard allows for).  
8 In the dB loss example, Eschelon’s request was simply for Qwest to provide  
9 working service *within this range* (i.e., within industry standard transmission  
10 limits), including near the top of the range if necessary to make the service work  
11 (or work *again* in the case of network maintenance and modernization). Eschelon  
12 is not asking Qwest to set the dB levels outside the range. Eschelon is not even  
13 asking Qwest to re-set the default level, so long as Qwest adjusts the level within  
14 the range when needed. Eschelon is paying Qwest for these circuits and, when  
15 working service is obtainable somewhere within the applicable standard, Eschelon  
16 should be able to expect that these circuits for which Qwest is being compensated  
17 will be operational. With its proposed language, Eschelon is asking the  
18 Commission to recognize a key purpose of industry standards – to ensure working  
19 service for End User Customers.

20 **Issue 9-34: Notices - Location at Which Changes Occur - Sections 9.1.9**

21 **Q. DO THE FCC RULES ADDRESS THE INFORMATION ILECS MUST**

1           **PROVIDE ON THEIR NETWORK CHANGE NOTICES?**

2    A.    Yes. In 47 CFR § 51.327, the FCC provides a list of items that a public notice of  
3           network changes must include, one of which is the location at which the changes  
4           will occur. The FCC described this list as “minimum” requirements. Therefore,  
5           the FCC anticipated the potential for this list being supplemented – just as  
6           Eschelon’s proposal for Issue 9-34 does.

7    **Q.    ARE THERE OTHER FCC RULES THAT SUPPORT ESCHELON’S**  
8           **PROPOSAL?**

9    A.    Yes. The term “location” in the rule must be considered in the context of 47 CFR  
10           § 51.325(a), which states that the public notice must include notice regarding any  
11           network change that “will affect a competing service provider’s performance or  
12           ability to provide service.” Unlike Qwest’s proposal, Eschelon’s proposal is  
13           consistent with 47 CFR §51.327 *and* 47 CFR §51.325 taken together, in that it  
14           provides that Qwest’s customer-specific network notices will provide the location  
15           of the customer for whom the CLEC’s performance will be affected. Eschelon’s  
16           language (Proposal #1) calls for the circuit ID and customer address information,  
17           which are necessary in this regard.<sup>288</sup> Eschelon’s Proposal #2, which is based on  
18           a proposal made by the Minnesota Department of Commerce in the Minnesota  
19           arbitration and adopted by the Minnesota Commission, states that Qwest will  
20           provide the circuit i.d. information to Eschelon for changes that are specific to an  
21           End User Customer (or “CLEC End User Customer”) “if readily available.”

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<sup>288</sup> Circuit ID is the generally accepted locator within the network and the customer address is the locator within the CLEC’s list of customers.

1 Without this information, the notice provided by Qwest would not achieve the  
2 intent of the FCC's notice rules.

3 **Q. ESCHELON'S PROPOSAL FOR ISSUE 9-34 INCLUDES CIRCUIT ID**  
4 **AND CUSTOMER ADDRESS INFORMATION IN THE QWEST**  
5 **NETWORK CHANGE NOTICE FOR CHANGES THAT ARE SPECIFIC**  
6 **TO AN END USER CUSTOMER. WHY IS THIS INFORMATION**  
7 **NEEDED?**

8 A. Eschelon's proposal is designed to make Qwest's notices of network changes that  
9 are specific to an End User Customer meaningful. Circuit ID and customer  
10 address information is needed for network changes that are customer specific so  
11 that Eschelon can determine if a network change will affect Eschelon's End User  
12 Customers. Circuit ID is the generally accepted locator within the network and  
13 the customer address is the locator within the CLEC's list of customers. This  
14 information identifies particular customers in the network, and with this  
15 information, Eschelon can cross reference its records to determine which  
16 customers Qwest's network change will affect. Eschelon can then inform and  
17 assist these customers, as necessary. Furthermore, Eschelon is less likely to  
18 contact Qwest's repair department if Qwest's notices provide adequate  
19 information to determine whether Eschelon's customers will be affected by a  
20 change, which would reduce the amount of work for both Qwest and Eschelon.

21 **Q. DOES EVIDENCE EXIST DEMONSTRATING THAT QWEST CAN**  
22 **IDENTIFY CHANGES THAT ARE SPECIFIC TO AN END USER**

1           **CUSTOMER AND PROVIDE CIRCUIT ID AND CUSTOMER ADDRESS**  
2           **INFORMATION TO ESCHELON?**

3    A.    Yes. Agreed upon language in Section 9.2.1.2.3 provides that, although notices of  
4           copper retirement will generally be posted on its website, Qwest will provide  
5           direct notice to Eschelon of any planned replacement of copper with fiber “when  
6           CLEC or its End User Customers will be affected.” This shows that, when  
7           making a change, Qwest can distinguish between changes that will affect  
8           Eschelon’s End User Customers and those that will not. Qwest has not provided  
9           any reason why this would not also be true for network maintenance and  
10          modernization activities. Also, to perform changes that are specific to an End  
11          User Customer, the Qwest technician logically needs this type of customer  
12          identifying information to perform the work. Qwest should share this information  
13          with Eschelon.

14          Furthermore, I have attached, as Eschelon/4, a document that Qwest’s new service  
15          manager recently provided to Eschelon about a network change – a change  
16          resulting in a different dB level (the very type of change used as an illustration in  
17          negotiations when describing the facts of the dB loss example). The document is  
18          a Qwest form (with a date of October 27, 2005 for the form itself) for copper  
19          retirements and Impacted CLEC circuits. The form provides for one of two  
20          “Foreseeable Impacts to the CLEC Community”: (1) “Copper to Fiber (Hybrid)”;  
21          or (2) “Negative impact on Loop Make-up (Length or Gauge Change).” By its  
22          terms, the first impact is when the copper is moved to fiber (hybrid) and the

1 second is when the copper is replaced with copper but the length or gauge  
2 changes. In the particular example shown in Eschelon/4, which is dated October  
3 17, 2006, Qwest checked the second box (for replacement of copper with copper).  
4 When Eschelon inquired about the anticipated impact of this change, Qwest  
5 indicated that the change may result in a greater dB loss but, with the length or  
6 gauge change, service should continue to work just fine.

7 Significantly, on Eschelon/4, Starkey/1 Qwest provides the “circuit ID” and  
8 “Impacted Address” (as well as other information) for the Eschelon circuits that  
9 will be impacted by the change. This is clear evidence that Qwest already  
10 possesses and processes this information on impacted circuits for network  
11 changes and, therefore, adopting Eschelon’s language for Issue 9-34 would not  
12 result in a unique process for Eschelon or costly modifications to Qwest’s systems  
13 or processes. Qwest’s own form shows that this falls within the “Impacted CLEC  
14 Circuits” portion of the form and is not a copper retirement job involving  
15 replacement with Fiber to the Home (“FTTH”) or Fiber to the Curb (“FTTC”)  
16 Loops because it contains an effective date only 10 days after the announcement  
17 date,<sup>289</sup> when such copper retirement notices must be issued at least 90 days in  
18 advance of the retirement.<sup>290</sup> Therefore, what Eschelon/4 shows is that Qwest can  
19 already provide the precise information that Eschelon is requesting under Issue 9-  
20 34 for End User Customer specific changes.

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<sup>289</sup> The form is dated 10/17/06 with an effective date of 10/27/06.

<sup>290</sup> 47 CFR § 51.333(b)(2).



1           When Eschelon inquired further about this notice, Qwest told Eschelon that it sent  
2           the notice to Eschelon “in error” and that it “should not have been sent to  
3           Eschelon.”<sup>291</sup> Qwest referred Eschelon instead to the “generic network disclosure  
4           concerning the copper retirement posted to the Qwest website.”<sup>292</sup> Eschelon has  
5           not been able to discern which generic notice that would be. As Qwest obviously  
6           has this more specific information, including circuit identification and End User  
7           Customer address, it should be required to provide this information to Eschelon as  
8           well.

9   **Q.   IS QWEST OBLIGATED TO PROVIDE THIS INFORMATION TO**  
10 **ESCHELON?**

11   A.   Yes. To comply with the nondiscrimination requirements of Section 251 of the  
12   Act, Qwest must provide CLECs service that is “at least equal in quality to that  
13   provided by the local exchange carrier to *itself* or to any subsidiary, affiliate, or  
14   any other party to which the carrier provides interconnection.”<sup>293</sup> *See also* 47  
15   CFR § 51.313(b).<sup>294</sup> Eschelon/4 shows that Qwest generates and provides circuit  
16   ID and customer address information to itself for changes made to circuits, and  
17   therefore, Qwest must provide it to Eschelon.

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<sup>291</sup> Eschelon/4, Starkey/3.

<sup>292</sup> Eschelon/4, Starkey/3.

<sup>293</sup> Section 251(c)(2)(C) emphasis added.

<sup>294</sup> Rule 51.313(b): “Where applicable, the terms and conditions pursuant to which an incumbent LEC offers to provide access to unbundled network elements, including but not limited to, the time within which the incumbent LEC provisions such access to unbundled network elements, shall, at a minimum, be no less favorable to the requesting carrier than the terms and conditions under which the incumbent LEC provides such elements to itself.”

1 **Q. ESCHELON’S LANGUAGE FOR ISSUE 9-34 ADDRESSES SITUATIONS**  
2 **THAT ARE SPECIFIC TO AN END USER CUSTOMER, OR IN THE**  
3 **ALTERNATIVE “CLEC END USER CUSTOMER.” PLEASE**  
4 **ELABORATE ON WHAT AN “END USER CUSTOMER SPECIFIC”**  
5 **CHANGE IS, AND THE TYPES OF CHANGES THAT WOULD BE END**  
6 **USER CUSTOMER SPECIFIC.**

7 A. A change that is specific to an end user customer is a change that is made to the  
8 service of a customer at an address and not a change made that affects a  
9 geographic area (or many customers). The dB loss example discussed above and  
10 referenced in Eschelon/86 is an example of a change specific to an end user  
11 customer at a particular address. Qwest has attempted to confuse this issue by  
12 claiming that Eschelon’s language is vague and not practical. In support of these  
13 criticisms, Qwest claims that it would be required to provide circuit ID and  
14 customer address information in the case of a change to local dialing from 7 to 10  
15 digits or a switch upgrade. However, these changes are made for all customers in  
16 a geographic area, and are therefore not specific to End User Customers and  
17 would not be addressed under Eschelon’s proposal for Issue 9-34.

18 **Q. PLEASE SUMMARIZE THE NETWORK MAINTENANCE AND**  
19 **MODERNIZATION ISSUES (ISSUES 9-33 AND 9-34).**

20 A. First, minor changes to transmission parameters should not disrupt service for End  
21 User Customers. Eschelon’s Customers’ service should not be adversely affected  
22 by Qwest’s maintenance and modernization activities, especially when there are

1 special exceptions when service may be disrupted, with disruptions that may not  
2 be temporary being addressed separately in Section 9.2.1.2.3 relating to copper  
3 retirement. If these changes do result in unacceptable changes to the transmission  
4 of voice or data service, however, Qwest should work with the CLEC to identify  
5 and fix the problem, as Eschelon's Proposal #2 reasonably requires. Second,  
6 when Qwest makes changes that are specific to an End User Customer or a CLEC  
7 End User Customer, Qwest should be required to provide information sufficient to  
8 allow Eschelon to identify and provide quality service to the affected  
9 Customer(s). Qwest provides this information to itself and should provide this  
10 information to Eschelon. For all of the reasons discussed with respect to  
11 Eschelon's business need and in these responses, the Commission should adopt  
12 Eschelon's language for Issues 9-33 and 9-34.

13 **IX. SUBJECT MATTER NO. 18: CONVERSIONS**

14 Issue Nos. 9-43 and 9-44 and subparts: ICA Sections 9.1.15.2.3; 9.1.15.3 and  
15 subparts; 9.1.15.3.1; 9.1.15.3.1.1; 9.1.15.3.1.2

16 **Q. WHAT IS ESCHELON'S BUSINESS ISSUE REGARDING**  
17 **CONVERSIONS (ISSUES 9-43 AND 9-44 AND (A)-(C))?**

18 A. A conversion happens when a circuit that was formerly available as a UNE must  
19 be converted to a non-UNE alternative arrangement, as the result of a finding of  
20 "non-impairment." By definition, conversions will take place on live circuits that  
21 are up and running and currently supporting service to End User Customers.  
22 Therefore, a seamless and error free conversion is crucial because if problems

1 arise during the conversion, the likelihood that an Eschelon customer will be  
2 placed “out of service” is high.

3 Further, it is important to note the “conversions” discussed in this testimony  
4 involve only changing the rate charged for the facility and, in the vast majority of  
5 circumstances, the CLEC and its End User Customer should be using the same  
6 facility that was used prior to the conversion. These conversions are required  
7 solely for purposes of implementing a regulatory construct and have nothing to do  
8 with improving or otherwise managing the customer’s service – in essence, the  
9 conversion is intended to re-label as something different what was before a UNE.  
10 These facts reinforce the need for conversions to be transparent to Eschelon’s End  
11 User Customers, as any disruption in service would be completely unexpected and  
12 difficult to explain. In other words, even though these conversions are being  
13 undertaken to effectuate Qwest’s reduced legal obligations relative to UNEs, it is  
14 Eschelon who bears all the risk of failure. Furthermore, the FCC has found that  
15 CLECs should not be assessed conversion charges associated with serving a  
16 customer for the first time because the CLEC is already serving the customer and  
17 service is working fine. Eschelon, therefore, is highly motivated to ensure that  
18 conversions can be accomplished seamlessly, reliably, efficiently and cost-  
19 effectively, and Eschelon is concerned that Qwest will not abide by its obligation  
20 in this regard.

21 **Q. IS THERE GOOD REASON FOR ESCHELON’S CONCERN THAT**  
22 **QWEST WILL MAKE THE CONVERSION PROCESS**

1           **UNNECESSARILY CUMBERSOME AND POTENTIALLY DISRUPT**  
2           **SERVICE TO ESCHELON’S END USER CUSTOMERS?**

3    A.    Yes. In my discussion of the ICA and need for contractual certainty above, I  
4           explained that Qwest has issued several non-CMP “secret PCATs” used to advise  
5           CLECs of Qwest’s view of how its obligations regarding UNEs has changed due  
6           to the *TRO/TRRO*. These notices are password protected, and since they do not  
7           go through CMP, there is no opportunity for CLEC comment about the changes.  
8           Qwest issued one of these password-protected, non-CMP secret PCAT notices on  
9           7/21/06<sup>295</sup> entitled “TRRO – Reclassification of Terminations for Unbundled  
10          Network Element (UNE) Conversions – V1.0,” with an effective date of  
11          7/28/2006 – just one week from the 7/21/06 date of announcement. This notice  
12          announced a “procedure that is needed when you [CLECs] are converting UNE  
13          Services to Finished Services in Non-Impaired Central Offices as required by the  
14          TRRO.” Or, in other words, Qwest announced in a non-CMP PCAT that CLECs  
15          would need to go through a “procedure” to effectuate the same type of  
16          conversions that are the subject of Issues 9-43 and 9-44.

17          This procedure, as explained in Qwest’s notice, requires the CLEC to submit a  
18          collocation application for each central office to “reclassify UNE terminations,”  
19          which is explained as having “Qwest reclassify your UNE Collocation  
20          terminations to a Finished Service Interconnection Tie Pair (ITP) with the  
21          DEMARC outside the collocation as required by the TRRO.” Qwest went on to

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<sup>295</sup> Document No. PROS.07.21.06.F.04074.TRRO\_Reclass\_Termin\_V1 (Qwest Wholesale Notification – not CMP notice). See, Eschelon/64.

1 explain that DS1s would be reclassified in blocks of 28 DS1s as part of  
2 reclassification and must reside in the same cable sheath,<sup>296</sup> with DS3  
3 terminations being reclassified on an ICB basis. According to Qwest's notice,  
4 when Qwest completes all of this work, it will send the CLEC a revised  
5 Alternative Point of Termination ("APOT"), and the CLEC will then have the  
6 responsibility to update its databases to reflect the new cabling arrangement.

7 In sum, Qwest's notice indicates that Qwest intends to require a significant  
8 amount of work to convert a UNE to an alternative service – work that could  
9 potentially put Eschelon's customers out of service. Qwest's procedure is also  
10 very time consuming – 45 day and ICB intervals, depending on whether the  
11 circuit is a DS1 or DS3 – and Qwest indicates that unless CLECs "reclassify" or  
12 "convert" their UNE circuits that are no longer impaired pursuant to Qwest's new  
13 procedure, it will stop accepting the CLEC's connect, change and disconnect  
14 orders. Worse yet, Qwest's procedure requires the CLEC to either complete or  
15 cancel all work in progress related to the cables being reclassified, which would  
16 put a "freeze" on these cables and customers for a minimum of 15 calendar

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<sup>296</sup> In a document Qwest provided to Eschelon on August 11, 2006, in response to the question, "Under Qwest's "TRRO PCAT," can the UNE EELs and the non-UNE converted alternative arrangements reside on the same block of 28?," Qwest said: "Yes, when the same cable is being redesignated . . . . In this example, Qwest will allow UNE EELs and non-UNE converted alternative arrangements to reside **on the same cable being reclassified**" (emphasis added). In other words, collocation and UNEs are both addressed by this Secret TRRO PCAT. The entire block (including UNEs) will be frozen.

1 days.<sup>297</sup> This “freeze” is certainly not indicative of the seamless conversions  
2 required by the FCC.

3 Qwest’s procedure conflicts with the FCC’s view of conversions in other ways as  
4 well. Qwest’s notice indicates that there is a potential for Qwest to assess non-  
5 recurring charges on CLECs for these conversion activities. Qwest states that,  
6 CLECs “will not be charged a nonrecurring charge to perform this reclassification  
7 of terminations from UNE to Finished Service *when the activity is associated*  
8 *with TRRO.*” (emphasis added) And then Qwest indicates that  
9 “Tariffs/Catalogs/Price Lists” may apply. This ambiguity on Qwest’s part about  
10 applicable charges for conversion instills little confidence in Eschelon that Qwest  
11 intends to abide by the very clear FCC rule regarding conversion charges.<sup>298</sup>  
12 Further, Qwest’s reference to Tariffs/Catalogs/Price Lists for conversions of  
13 UNEs to alternative service arrangements conflicts with the Oregon PUC’s  
14 finding in the Wire Center docket that “non-recurring UNE-to-private-line service  
15 conversion charge shall be based on costs.”<sup>299</sup>

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<sup>297</sup> Qwest’s PCAT states: “To eliminate CFA mismatches on orders, it is recommended that all work in progress related to the cable being reclassified either be completed or cancelled by the CLEC prior to quote acceptance. Submission of new connect, change, and disconnect orders on the cable being reclassified will be restricted 15 calendar days prior to the Ready for Service (RFS) date of the reclassification order. The restriction of orders is necessary to enable Qwest to change the designated name of the cable and provide that revised APOT information to the CLEC prior to issuance of orders against that cable.”

<sup>298</sup> 47 CFR § 51.316(c). See also, *TRO*, ¶ 587. The FCC’s rules and orders on conversion charges are discussed in more detail below.

<sup>299</sup> See, Eschelon/40, Denney 20.

1 This conversion procedure announced in Qwest’s non-CMP PCAT flies in the  
2 face of the FCC’s determinations on conversions and Qwest never once raised this  
3 issue in CMP or in the Eschelon arbitration cases – despite Issues 9-43 and 9-44  
4 (conversions) being negotiated for quite some time.<sup>300</sup> Since Qwest’s notice was  
5 slim on details, Eschelon issued questions to Qwest on 8/3/06 inquiring about  
6 several aspects of Qwest’s notice – primarily, why the extensive work described  
7 in the non-CMP secret TRRO PCAT is necessary to simply convert a facility  
8 from UNE pricing to non-UNE pricing. In Qwest’s responses to Eschelon’s  
9 questions, Qwest indicated that “[t]his is a records change, no CLEC or Qwest  
10 physical modifications can be made to the facility as a part of the reclassification”  
11 – though this record change, according to Qwest’s PCAT, would take 45 days to  
12 execute for the first five applications per week per state, and an ICB interval  
13 would apply to any applications exceeding this amount.<sup>301</sup> Eschelon should be  
14 clear that it does not believe that this non-CMP notice applies to Eschelon  
15 because this language is not in Eschelon’s ICA with Qwest and Qwest has not  
16 proposed this language for negotiation/arbitration. However, Eschelon is  
17 concerned, based on Qwest’s past conduct and Qwest’s testimony in other  
18 arbitration proceedings, that if there are not clear terms and conditions in the

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<sup>300</sup> Qwest also never raised the APOT issue in any of the wire center proceedings, which discussed conversions.

<sup>301</sup> <http://www.qwest.com/wholesale/pcat/trroreclassuneterm.html> “Qwest will complete the reclassification request within 45 days of receipt of a valid application. The 45-day interval for Reclassification applies to the first five (5) Collocation Applications per CLEC per week per state. If six (6) or more Collocation Applications are submitted by CLEC in a one (1) week period in the state, intervals for the Collocation Applications in excess of the first five (5) shall be individually negotiated.”



1 companies' ICA that track the FCC's requirements on conversions, Eschelon will  
2 get through this arbitration and Qwest will attempt to apply the terms of this  
3 notice to Eschelon. Eschelon's proposals on Issues 9-43 and 9-44 will provide  
4 these clear terms and conditions and avoid future disputes.

5 **Q. HAS QWEST REFUSED TO NEGOTIATE THIS APOT ISSUE?**

6 A. Yes. On September 6, 2006, Qwest responded to Eschelon's questions about this  
7 notice indicating that Qwest is refusing to negotiate the APOT issue because  
8 according to Qwest, "the level of process Eschelon is seeking is best managed  
9 through CMP."<sup>302</sup> This response is ironic and highly objectionable given that the  
10 APOT notice was a *non*-CMP notice - meaning that Qwest itself refuses to use  
11 CMP for this issue.<sup>303</sup> Again, this is a prime example of Qwest using the CMP  
12 process as a sword or shield depending on what benefits Qwest. It refuses to  
13 negotiate the APOT issue in state commission arbitrations, and also refused to  
14 address this issue in CMP (though Qwest admits that it is "best served by CMP").  
15 Eschelon is gravely concerned that the ultimate outcome of Qwest's strategy is to  
16 attempt to omit language addressing conversions in Eschelon's ICA, implement  
17 its troublesome, potentially customer-affecting conversion procedure outside of  
18 CMP (avoiding the participation afforded CLECs in CMP), and then ultimately  
19 impose this procedure on Eschelon (arguing that the ICA does not address

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<sup>302</sup> Email from Kathleen Salverda (Qwest), dated 9/6/06. Eschelon/64. *See also*, Qwest Response, p. 27, lines 9-11 ("Eschelon's demand involves processes that affect all CLECs, not just Eschelon, and it therefore should be addressed through the CMP, not through an arbitration involving a single CLEC.")

<sup>303</sup> Qwest issued a follow-up non-CMP notice on August 31, 2006, effective September 7, 2006 entitled "TRRO Reclassification of Terminations V2.0"

1 conversions). Qwest will then argue that any proposed changes to this “existing”  
2 process – a process that Qwest established unilaterally outside of ICA  
3 negotiations/arbitrations and outside CMP and which does not comply with the  
4 FCC’s requirements – should be rejected because changes would impose costs on  
5 Qwest that would go unrecovered. This underscores the importance of the  
6 Commission rendering a decision on conversions in this arbitration and  
7 maintaining consistency with the FCC’s findings regarding seamless conversions.

8 **Q. WHAT ARE ESCHELON’S PROPOSALS FOR CONVERSIONS (ISSUES**  
9 **9-43 AND 9-44 AND (A)-(C))?**

10 A. Eschelon proposes the following language:

11 **Issue 9-43**

12 9.1.15.2.3 The circuit identification (“circuit ID”) will not change.  
13 After the conversion, the Qwest alternative service  
14 arrangement will have the same circuit ID as formerly  
15 assigned to the high capacity UNE.

16 **Issue 9-44**

17 9.1.15.3 If Qwest converts a facility to an analogous or alternative  
18 service arrangement pursuant to Section 9.1.15, the  
19 conversion will be in the manner of a price change on the  
20 existing records and not a physical conversion. Qwest  
21 will re-price the facility by application of a new rate.

22 **Issue 9-44(a)**

23 9.1.15.3.1 Qwest may perform the re-pricing through use of an  
24 “adder” or “surcharge” used for Billing the difference  
25 between the previous UNE rate and the new rate for the  
26 analogous or alternative service arrangement, much as  
27 Qwest currently does to take advantage of the annual  
28 price increases in its commercial Qwest Platform Plus  
29 product.

1 **Issue 9-44(b)**

2 9.1.15.3.1.1 Qwest may add a new Universal Service Ordering  
3 Code (“USOC”) for this purpose and assign the  
4 “adder” or “surcharge” rate to that USOC.

5 **Issue 9-44(c)**

6 9.1.15.3.1.2 For any facility converted to an analogous or  
7 alternative service arrangement pursuant to Section  
8 9.1.15.3, Qwest will either use the same USOC or the  
9 USOC will be deemed to be the same as the USOC  
10 for the analogous or alternative service arrangement  
11 for pricing purposes, such as for the purpose of  
12 calculating volumes and discounts for a regional  
13 commitment plan.

14 Taken together, Eschelon’s proposals for Issues 9-43 and 9-44 explain how the  
15 conversions from UNEs to alternative service arrangements will be conducted.  
16 For Issue 9-43, Eschelon proposes language that states that the circuit ID for the  
17 facility that is being converted will not change during the conversion. For Issue  
18 9-44, Eschelon proposes language that reflects the FCC’s language regarding the  
19 billing changes involved in conversions, and Eschelon’s language for Issues 9-  
20 44(a) and 9-44(b) sets out an efficient option for implementing the re-pricing of  
21 converted facilities – an adder or surcharge to the original rate – that Qwest  
22 already uses for re-pricing services. Eschelon’s language for Issue 9-44(c) states  
23 that the USOC associated with the converted circuit will remain the same for  
24 calculating volume discounts.

25 **Q. WHAT IS QWEST’S PROPOSAL FOR CONVERSIONS?**

26 A. Qwest proposes to omit all of the Eschelon language shown above, and provides  
27 no competing language. As it has with respect to a number of other issues, Qwest

1 claims that Eschelon's proposals for Issues 9-43 and 9-44 would circumvent the  
2 CMP and require costly, unique processes that affect all CLECs.<sup>304</sup> This is  
3 despite Qwest's refusal to address this issue in CMP.

4 **Q. WHAT TYPE OF CONVERSIONS ARE ADDRESSED IN ISSUES 9-43**  
5 **AND 9-44?**

6 A. These issues apply to conversions from a UNE facility to an analogous or  
7 alternative service arrangement (*see*, Section 9.1.15 of the ICA). These  
8 conversions would occur when there is agreement, or it is determined in dispute  
9 resolution, that the UNE is impacted by a finding of non-impairment. Analogous  
10 or alternative service arrangements include access products purchased from  
11 Qwest's access tariff. For instance, a UNE DS1 loop could be converted to a DS1  
12 special access circuit if it is determined that the applicable non-impairment  
13 thresholds are met for a particular wire center (*see* 47 CFR § 51.319(a)(4)).

14 **Q. IS THIS TRANSITION AWAY FROM UNES WITHIN THE SCOPE OF**  
15 **SECTIONS 251 AND 252 OF THE ACT?**

16 A. Yes. The FCC found that "as contemplated in the Act, individual carriers will  
17 have the opportunity to negotiate specific terms and conditions necessary to  
18 translate our rules into the commercial environment, and to resolve disputes over  
19 any new contract language arising from differing interpretations of our rules."<sup>305</sup>

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<sup>304</sup> Qwest Position Statement on Issue 9-43 in Disputed Issues Matrix, pp. 102-103. See also, Qwest Response, p. 27.

<sup>305</sup> TRO, ¶ 7.

1 Similarly, the Washington Utilities and Transportation Commission found that  
2 this transition away from UNEs is within the scope of 251/252 of the Act.<sup>306</sup>

3 **Q. SHOULD ANY CHANGES BE MADE BY QWEST DURING A**  
4 **CONVERSION THAT COULD RESULT IN SERVICE DISRUPTION FOR**  
5 **ESCHELON'S END USERS?**

6 A. No. When it has been determined that a UNE facility needs to be converted to an  
7 analogous or alternative service arrangement, Eschelon and its End User  
8 Customer should continue to use the same physical facility. Therefore, the  
9 change required to effectuate the FCC's regulatory requirements can be  
10 accomplished with a record-only change (*i.e.*, changing the price of the UNE  
11 facility being converted to a non-UNE).

12 **Q. PLEASE ELABORATE ON WHY CONVERSIONS SHOULD NOT**  
13 **ENTAIL WORK THAT WOULD PUT ESCHELON'S CUSTOMERS OUT**  
14 **OF SERVICE?**

15 A. The conversions at issue are conversions from UNE to non-Section 251  
16 alternative/analogous service (*e.g.*, access product). The "conversion" in this  
17 instance is really a conversion from cost-based UNE prices (*i.e.*, TELRIC based  
18 prices) to special access prices (*e.g.*, conversion from UNE rates for DS1 loop to  
19 access rates for DS1 special access circuit). However, since the physical facility  
20 otherwise remains unchanged – indeed, the end user should not even know that it  
21 has been "converted" – no other changes should be required for conversion.

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<sup>306</sup> Washington ALJ Report (Order No. 17 in Verizon/CLEC arbitration), ¶ 150.

1           Given that this re-pricing should not affect the operation of the facility itself,  
2           Qwest should not be allowed to change the facility currently being provided.

3   **Q.   DOES THE FCC AGREE THAT CONVERSIONS SHOULD INVOLVE**  
4   **RECORD CHANGES AND AVOID NETWORK-RELATED CHANGES**  
5   **THAT COULD PUT ESCHELON'S END USER CUSTOMERS OUT OF**  
6   **SERVICE?**

7   A.   Yes. The FCC addressed the issue of conversions in the *TRO*<sup>307</sup> and found that  
8        conversions should be seamless from the end user's perspective, and should  
9        involve only billing changes from Qwest's perspective. At paragraph 586 of the  
10       *TRO*, the FCC discussed the seamlessness of conversions:

11                    Converting between wholesale services and UNEs or UNE  
12                    combinations should be a seamless process that does not affect the  
13                    customer's perception of service quality.

14        The FCC codified the requirement that conversions should be seamless from the  
15        perspective of the CLEC's end user in 47 CFR §51.316(a) as follows:

16                    (b) An incumbent LEC shall perform any conversion from a  
17                    wholesale service or group of wholesale services to an unbundled  
18                    network element or combination of unbundled network elements  
19                    without adversely affecting the service quality perceived by the  
20                    requesting telecommunications carrier's end-user customer.

21        And at paragraph 588 of the *TRO*, the FCC addressed the notion that conversions  
22        are billing changes:

23                    588. We conclude that conversions should be performed in an  
24                    expeditious manner **in order to minimize the risk of incorrect**

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<sup>307</sup> The *TRO* addressed conversions from UNEs to wholesale services *and* from wholesale services to UNEs.

1           payments. We expect carriers to establish any necessary  
2 timeframes to perform conversions in their interconnection  
3 agreements or other contracts. We decline to adopt ALTS's  
4 suggestion to require the completion of all necessary billing  
5 changes within ten days of a request to perform a conversion  
6 because such time frames are better established through  
7 negotiations between incumbent LECs and requesting carriers. **We**  
8 **recognize, however, that converting between wholesale services**  
9 **and UNEs (or UNE combinations) is largely a billing function.**  
10 **We therefore expect carriers to establish appropriate**  
11 **mechanisms to remit the correct payment after the conversion**  
12 **request,** such as providing that any pricing changes start the next  
13 billing cycle following the conversion request.

14           It is clear from the language above that the FCC's concern was directed at  
15 ensuring proper payment for the facility, depending on whether it is a Section 251  
16 UNE or a wholesale service (*e.g.*, access product), and did not envision work or  
17 physical changes on the ILEC's part leading to the potential for customer  
18 disruption.<sup>308</sup>

19           *Issue No. 9-43: Conversions – Circuit ID, Section 9.1.15.2.3*

20   **Q.    WHAT IS A CIRCUIT ID AND WHAT IS ITS PURPOSE?**

21    A.    The term is somewhat self-explanatory. A circuit ID is just that, a number or  
22 code that identifies a specific circuit, generally by defining its two end points –  
23 referred to as the “A” and “Z” location. Both CLEC and Qwest use this circuit ID

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<sup>308</sup> The FCC did mention in paragraph 586 of the *TRO* that there may be an increase in the risk of customer disruption caused by CLECs grooming inter-exchange traffic in order to comply with the eligibility criteria. However, this potential for disruption stems from decisions made by the CLECs, not Qwest. The fact that the FCC mentioned the potential for End User Customer disruption caused by CLEC grooming, yet did not mention the possibility for disruption caused by Qwest (and indeed requires conversions to be seamless), indicates that the FCC never envisioned the potential for Qwest-caused customer disruption because from Qwest's perspective, the conversion involves simply changing the rate that applies to the facility.

1 throughout their operational support systems to identify that circuit for numerous  
2 activities including billing and repair matters.

3 **Q. SHOULD A CIRCUIT ID CHANGE DURING A CONVERSION?**

4 A. No. As described above, in the vast majority of circumstances in which Eschelon  
5 will be required to convert an existing circuit from a UNE to an alternative service  
6 arrangement, the physical facility need not (and should not) change. As such, the  
7 circuit ID need not (and should not) change either. This is important from  
8 Eschelon's perspective because Eschelon specifically tracks that particular facility  
9 and the customer it serves via the circuit ID. Numerous Eschelon systems rely on  
10 that circuit ID in providing ongoing billing and customer service to the customer.  
11 To the extent Qwest is allowed to (a) unnecessarily change the underlying facility  
12 simply to effectuate what should be accomplished by a billing change and then (b)  
13 assign a new circuit ID to the same arrangement, Eschelon's systems will be  
14 substantially, adversely, and unnecessarily affected. This will be accompanied by  
15 notable cost and inconvenience. Likewise, unnecessarily re-arranging facilities  
16 puts the customer at risk of losing service – a customer who never asked to be  
17 converted and should not even realize that it happened.

18 **Q. PLEASE EXPLAIN HOW CHANGING CIRCUIT IDS DURING**  
19 **CONVERSIONS COULD AFFECT ESCHELON'S END USER**  
20 **CUSTOMERS.**

21 A. Changing the circuit ID for a circuit that is already in place and working well for a  
22 customer in connection with "converting" the circuit from a UNE to an alternative



1 arrangement, significantly increases the risk of customer disruption. For instance,  
2 Qwest processes circuit ID changes using “disconnect” and “new” service orders.  
3 A simple typing error in an order could send the order to Qwest facilities  
4 assignment with a “disconnect” on the order, and the customer will be  
5 erroneously disconnected and put out of service. In addition, if records are not  
6 correctly and timely updated to show new circuit IDs in either Qwest or Eschelon  
7 systems, problems are likely to arise in the areas of maintenance and repair. For  
8 example, if six months after the conversion, the end user notifies Eschelon that its  
9 circuit is in need of repair, but the circuit ID is incorrectly stored in either the  
10 Eschelon or Qwest systems as a result of an unnecessary physical conversion, it is  
11 likely that Eschelon and Qwest will be unable to effectively open a trouble-ticket.  
12 As a result, the repair function will be delayed and is likely to require substantial  
13 additional resources to resolve, as compared to a normal repair ticket. All of this  
14 can be avoided by adopting Eschelon’s proposal and making sure that Qwest does  
15 not change circuit IDs for conversions.

16 **Q. HAS QWEST ALREADY PROCESSED CONVERSIONS WITHOUT**  
17 **CHANGING CIRCUIT IDS?**

18 A. Yes. When Qwest first converted special access circuits to UNEs, the original  
19 circuit IDs did not change. Issue 9-43 deals with the reverse situation – *i.e.*,  
20 conversion of UNEs to special access. To date Qwest has been unable to explain  
21 why the circuit ID must be changed in the current situation when no such change  
22 was required in previous conversions.

1 **Q. WILL CHANGING CIRCUIT IDS FOR CONVERSIONS IMPOSE COSTS**  
2 **ON ESCHELON?**

3 A. Yes. If Qwest changes circuit IDs for conversions, Eschelon will be forced to  
4 modify its systems and its records to account for the new circuit ID. Qwest  
5 complains about purported costs that it would incur to leave the circuit ID  
6 unchanged, but ignores the costs imposed on Eschelon by changing the circuit ID  
7 for the same facility.

8 **Q. SHOULD ESCHELON BEAR THE COSTS ASSOCIATED WITH**  
9 **CIRCUIT ID CHANGES?**

10 A. No. The physical circuit already exists and Eschelon paid substantial non-  
11 recurring charges to establish that circuit. There is no technical need to change  
12 that circuit just to convert it from one service-type (UNE) to another (special  
13 access). It is Qwest's decision to make a physical change (or change  
14 unnecessarily the ID for that circuit), and it is Qwest who should bear the costs.  
15 Otherwise, there will be no economic discipline associated with Qwest's decision.  
16 In a circumstance in which Qwest can foist additional costs on its competitors like  
17 Eschelon, while at the same time endangering the service provided by its  
18 competitors by requiring a physical conversion, all the while garnering additional  
19 fees for unnecessary non-recurring charges, why wouldn't Qwest require an  
20 unnecessary physical change in every circumstance? Unfortunately, all of these  
21 additional fees and expenses will have to ultimately be paid by Qwest's  
22 competitors and/or their End User Customers and, therefore, the Commission

1 should adopt the process which is most efficient and least likely to disrupt  
2 customer services. That approach is the one advocated by Eschelon.

3 **Q. YOU DESCRIBED THE RISK OF DISRUPTION FACING ESCHELON'S**  
4 **CUSTOMERS IF QWEST CHANGES THE CIRCUIT IDS FOR**  
5 **CONVERSIONS. WOULD QWEST'S RETAIL CUSTOMERS FACE**  
6 **THIS SAME RISK?**

7 A. No, and this is a very important point. Conversions only apply to the facilities  
8 used by CLECs, and not facilities used by Qwest, and therefore, Qwest's retail  
9 customers would face none of the risks that are inherent in Qwest's proposal to  
10 change circuit IDs during conversions. The FCC recognized this very point when  
11 addressing conversion charges in paragraph 587 of the TRO:

12 Because incumbent LECs are never required to perform a  
13 conversion in order to continue serving their own customers, we  
14 conclude that such charges are inconsistent with an incumbent  
15 LEC's duty to provide nondiscriminatory access to UNEs and  
16 UNE combinations on just, reasonable, and nondiscriminatory  
17 rates, terms, and conditions.

18 The FCC was speaking to conversion charges that ILECs may attempt to assess,  
19 but the same reasoning holds true with respect to circuit ID changes. Qwest is  
20 never required to perform a conversion in order to continue serving its own  
21 customers, and therefore, Qwest's proposal to change circuit IDs for conversions  
22 to CLEC circuits: increases the risk for CLEC customer (not Qwest customer)  
23 disruption; undermines the FCC's requirements for seamless conversions; and

1 fails to comply with Qwest's obligation to provide access to UNEs on just,  
2 reasonable, and nondiscriminatory rates, terms and conditions.

3 Issue No. 9-44 – Manner of Conversion – Section 9.1.15.3

4 **Q. IS ESCHELON'S PROPOSAL FOR ISSUE 9-44, WHICH RECOGNIZES**  
5 **THAT CONVERSIONS CAN BE ACCOMPLISHED THROUGH A**  
6 **BILLING CHANGE, SUPPORTED BY THE FCC'S FINDINGS ON**  
7 **CONVERSIONS?**

8 A. Yes. As explained above, the FCC has found in paragraph 588 of the *TRO* that  
9 conversions affect the billing of rates – not physical changes in the facilities.  
10 Eschelon's proposed Section 9.1.15.3 simply memorializes the FCC's findings.

11 **Q. WHY IS IT CRITICAL TO ENSURE SEAMLESS CONVERSIONS?**

12 A. For starters, seamless conversions are required by the FCC (see, *TRO*, ¶ 586). In  
13 addition, a conversion is a regulatory construct and not a change requested by  
14 Eschelon or its customer, and because only the price of a facility is changing,  
15 service to end users should not be put at risk. Eschelon's proposed Section  
16 9.1.15.3 prohibits Qwest from putting Eschelon's customers at risk by performing  
17 unnecessary physical rearrangements. Furthermore, since Qwest's customers will  
18 not face any of the same risks (because ILECs do not need to perform conversions  
19 to continue to serve their customers), Eschelon's End User Customers will face a  
20 higher likelihood of service outage problems than will Qwest's customers. These  
21 problems will be directly attributable to Qwest's insistence on making physical

1 facility changes when the FCC has already found that record-only changes are  
2 required.

3 **Q. ARE THERE OTHER REASONS WHY ESCHELON'S LANGUAGE IS**  
4 **NECESSARY?**

5 A. Yes. Agreed upon language in Section 9.1.15 states that, if a CLEC has not  
6 converted a UNE at the end of a transition period, Qwest "will convert" it to  
7 month-to-month service arrangements under its tariff. Without Eschelon's  
8 language in Section 9.1.15.3, the ICA does not describe what "convert" means or  
9 the terms and conditions under which this conversion will take place. As a result,  
10 absent Eschelon's proposed Section 9.1.15.3, Qwest could interpret the contract to  
11 be open-ended with respect to the changes Qwest can make during conversions  
12 that could harm Eschelon's customers' service quality.

13 **Q. HAS THE FCC ADDRESSED THE CHARGES THAT CAN AND**  
14 **CANNOT BE ASSESSED BY THE ILEC FOR CONVERSIONS?**

15 A. Yes. The FCC's rules and orders determine the charges that the ILEC can and  
16 cannot apply on a CLEC for a conversion. The FCC spoke to charges related to  
17 conversions at paragraph 587 of the *TRO* as follows:

18 587. ... We recognize, however, that once a competitive LEC  
19 starts serving a customer, there exists a risk of wasteful and  
20 unnecessary charges, such as termination charges, re-connect and  
21 disconnect fees, or non-recurring charges associated with  
22 establishing a service for the first time. We agree that such  
23 charges could deter legitimate conversions from wholesale services  
24 to UNEs or UNE combinations, or could unjustly enrich an  
25 incumbent LEC as a result of converting a UNE or UNE  
26 combination to a wholesale service. Because incumbent LECs are

1 never required to perform a conversion in order to continue serving  
2 their own customers, we conclude that such charges are  
3 inconsistent with an incumbent LEC's duty to provide  
4 nondiscriminatory access to UNEs and UNE combinations on just,  
5 reasonable, and nondiscriminatory rates, terms, and conditions.  
6 Moreover, we conclude that such charges are inconsistent with  
7 section 202 of the Act, which prohibits carriers from subjecting  
8 any person or class of persons (*e.g.*, competitive LECs purchasing  
9 UNEs or UNE combinations) to any undue or unreasonable  
10 prejudice or disadvantage.

11 The FCC promulgated a rule related to conversion charges in 47 CFR §51.316(c)  
12 as follows:

13 51.316 (c) Except as agreed to by the parties, an incumbent LEC  
14 shall not impose any untariffed termination charges, or any  
15 disconnect fees, re-connect fees, or charges associated with  
16 establishing a service for the first time, in connection with any  
17 conversion between a wholesale service or group of wholesale  
18 services and an unbundled network element or combination of  
19 unbundled network elements.

20 The FCC's rules and orders on conversion charges prohibit Qwest from assessing  
21 termination charges, re-connect fees, connect fees and other charges associated  
22 with establishing a circuit for the first time. That is because the circuit is already  
23 established and working properly, and the requesting carrier has already paid non-  
24 recurring charges to originally establish the circuit. Given that no physical work  
25 is needed to convert the circuit, no charges for physical work to establish the  
26 circuit are allowed for conversions. Furthermore, the FCC unambiguously  
27 rejected the notion of conversion charges: it found them to be not only  
28 "inconsistent with an incumbent LEC's duty to provide nondiscriminatory access  
29 to UNEs and UNE combinations on just, reasonable, and nondiscriminatory rates,

1 terms, and conditions,” but it also found them to be “inconsistent with section 202  
2 of the Act, which prohibits carriers from subjecting any person or class of persons  
3 [e.g., competitive LECs purchasing UNEs or UNE combinations] to any undue or  
4 unreasonable prejudice or disadvantage.” It is my understanding that the Oregon  
5 Commission in its Order No. 07-109 in UM 1251 allowed Qwest to submit cost  
6 studies for a TELRIC-based rate element for UNE-to-private-line conversions.  
7 Eschelon’s language for Issue 9-40 (addressed by Mr. Denney) agrees to abide by  
8 the TELRIC rate set by the Commission in the Wire Center Docket, but objects to  
9 Qwest’s open-ended language regarding charges for these conversions. Qwest’s  
10 proposal conflicts with the FCC’s pronouncements on conversion charges  
11 explained above. Therefore, any claim by Qwest that Eschelon’s proposal  
12 inappropriately limits Qwest’s ability to recover its costs for conversions, should  
13 be seen for what it is – Qwest ignoring Eschelon’s proposals in their entirety and  
14 a collateral attack on the FCC’s findings regarding conversion charges.

15 Issue No. 9-44(a): Manner of Conversion – Use of adder or surcharge – Section  
16 9.1.15.3.1

17 **Q. YOU HAVE EXPLAINED ABOVE THAT CONVERSIONS INVOLVE A**  
18 **BILLING CHANGE AND NOT A CHANGE IN PHYSICAL FACILITY. IS**  
19 **THERE A SIMPLE, TECHNICALLY FEASIBLE WAY IN WHICH**  
20 **QWEST COULD EFFECTUATE THIS BILLING CHANGE AND**  
21 **IMPLEMENT THE CONVERSION?**

1 A. Yes. Providing such an option to Qwest is the purpose of Eschelon's proposed  
2 language under Issue 9-44(a). Eschelon's proposal would allow Qwest to  
3 accomplish this conversion (or re-pricing) through the application of an adder or  
4 surcharge to bill the difference between the old rate and new rate (*i.e.*, pre and  
5 post conversion rates). For instance, if a DS1 UNE loop was converted to a DS1  
6 special access circuit, the adder or surcharge would reflect the difference between  
7 the UNE rate and the special access rate.

8 **Q. DOES QWEST ALREADY USE SUCH AN ADDER/SURCHARGE**  
9 **APPROACH TO REFLECT PRICE CHANGES?**

10 A. Yes. Qwest has already demonstrated this with its implementation of the Qwest  
11 Platform Plus ("QPP") agreements. Under those agreements, QPP circuits are  
12 subject to annual rate increases. Qwest does not physically convert the circuits to  
13 convert to the new rates. Instead, Qwest re-prices the circuits by using an "adder"  
14 or "surcharge" for billing the difference between the previous rate and the new  
15 rate. Eschelon's proposed language in Section 9.1.15.3.1 merely makes clear that  
16 Qwest may use this same approach for the conversions described in Section  
17 9.1.15.

18 **Q. IS THE USE OF ADDERS UNDER THE QPP AGREEMENTS STRONG**  
19 **EVIDENCE THAT SUCH A RE-PRICING METHODOLOGY COULD BE**  
20 **USED TO IMPLEMENT CONVERSIONS?**

21 A. Yes. The rate changes involved with QPP are significantly more complex than  
22 rate changes involved in converting UNE rates to analogous/alternative service



1 rates. That is, QPP rates differ depending on whether the End User Customer is a  
2 residential or a business customer, and depend upon whether the CLEC has met  
3 certain volume quotas. Implementing such a re-pricing methodology should be  
4 easier to implement for conversion adders, which would not vary based on these  
5 factors.

6 Issue No. 9-44(b): Manner of Conversion – Use of USOC – Section 9.1.15.3.1.1

7 **Q. IS THE DISAGREEMENT UNDER ISSUE 9-44(B) AN EXTENSION OF**  
8 **ISSUE 9-44(A) ABOVE?**

9 A. Yes. As explained above, Eschelon’s proposal under Issue 9-44(a) would permit  
10 Qwest to implement the re-pricing involved in a conversion through the use of an  
11 “adder” or “surcharge” reflecting the difference between the old and new rate, just  
12 as Qwest does when re-pricing under the QPP agreements. It is possible that  
13 Qwest may need to add new USOC codes to identify the conversion adders.  
14 Eschelon’s language for Section 9.1.15.3.1.1 is designed to allow Qwest to  
15 introduce new USOC(s) if needed to implement the same re-pricing methodology  
16 for conversions as Qwest uses for QPP.

17 Issue No. 9-44(c): Manner of Conversion – Same USOC – Section 9.1.15.3.1.1

18 **Q. WHAT CONCERN IS ESCHELON ATTEMPTING TO ADDRESS**  
19 **THROUGH ITS PROPOSED LANGUAGE FOR ISSUE 9-44(C)?**

20 A. Eschelon’s proposals under Issues 9-44(a) and 9-44(b) would permit Qwest to  
21 perform the re-pricing involved in a conversion by way of an adder, similar to the

1 way in which Qwest re-prices under its QPP Agreements. The USOCs that are  
2 used to represent rate elements are used for other pricing purposes, such as  
3 calculating volumes and discounts for a regional commitment plant. For example,  
4 a CLEC may have a volume commitment with Qwest to purchase a certain dollar  
5 value worth of services over a particular state or region in order to receive a  
6 percentage discount on the services it purchases from Qwest. The services that  
7 contribute to that volume commitment, and in turn, the associated discount may  
8 be identified by USOC. Eschelon is concerned that Qwest may change or add  
9 USOCs to accomplish a conversion and then remove the revenue associated with  
10 the facility from the calculated volume commitments, making it more difficult for  
11 Eschelon to meet its volume commitments and obtain a discount, which would in  
12 turn lead to more wholesale revenues for Qwest. Eschelon's language for this  
13 issue was designed to ensure that any USOC changes involved in a conversion do  
14 not change the way in which the USOCs are used for pricing purposes (*e.g.*,  
15 calculating volume commitments and discounts).

16 **Q. PLEASE ELABORATE ON WHY A USOC CHANGE USED TO**  
17 **ACCOMPLISH A CONVERSION SHOULD NOT AFFECT THE WAY IN**  
18 **WHICH THE USOC IS USED FOR PRICING PURPOSES.**

19 A. The facility is the exact same facility after the conversion as it was before the  
20 conversion, and this would hold true even if Qwest assigned a new USOC to the  
21 circuit to reflect the post-conversion pricing. Qwest should not be allowed to  
22 manipulate its USOCs in such a way as to allow Qwest to recover higher charges

1 from CLECs. This would be particularly unfair since the USOC methodology of  
2 implementing conversions makes the conversions efficient for Qwest, and in light  
3 of the FCC's strong emphasis on nondiscriminatory, just and reasonable treatment  
4 by Qwest for conversions (given that conversions apply only to CLECs and not  
5 Qwest).

6 **Q. PLEASE SUMMARIZE ISSUES 9-43 AND 9-44.**

7 A. Conversions should be seamless to the CLEC End User Customer. A conversion  
8 involves re-pricing a facility – a facility that is operational and serving an End  
9 User Customer – from UNE prices to the price of the alternative/analogous  
10 service, and it should not involve any work that would result in service disruption  
11 for the End User Customer. Qwest and its customers do not bear any risk of  
12 disruption or costs from conversions because Qwest does not convert its circuits.  
13 Eschelon's proposed language would ensure that conversions are implemented  
14 just as the FCC required them to be – seamlessly. Eschelon's proposal of  
15 implementing conversions through a billing change is specifically discussed by  
16 the FCC and the billing change option included in Eschelon's ICA language is  
17 already used by Qwest to re-price services. Qwest, on the other hand, attempts to  
18 remain silent on conversions in the ICA so that it can, after the conclusion of this  
19 arbitration, impose the potentially disruptive and costly conversion “procedure”  
20 that it unilaterally develops. Qwest's position and proposed “procedure” flies in  
21 the face of the FCC's rules and orders. For all of the reasons described in

1 Eschelon’s business need and in these responses, the Commission should adopt  
2 Eschelon’s language for Issues 9-43 and 9-44.

3 **X. SUBJECT MATTER NO. 19: INTERFERING BRIDGE TAP**

4 Issue No. 9-46: ICA Section 9.2.2.9.6

5 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF ISSUE 9-46.**

6 A. A fundamental underpinning of Qwest’s position on a number of issues in this  
7 arbitration is that there should be no overlap between a CLEC’s ICA and the  
8 PCAT. With respect to Issue 9-46, Qwest originally took a different approach,  
9 however.<sup>309</sup> After rejecting five different language options proposed by Eschelon  
10 to address every objection Qwest expressed about this subject, Qwest finally  
11 agreed to one of those options, with a one-word modification. Eschelon and  
12 Qwest therefore will have the contractual certainty of contract language that  
13 Qwest opposes on a number of other issues when it seeks to exclude language  
14 from the ICA. Eschelon and Qwest have agreed to the following language,  
15 subject to Commission approval, to close Issue 9-46:

16 “Interfering Bridged Tap is defined as any amount of Bridged Tap  
17 that would interfere with proper performance parameters as  
18 defined in this Section 9.2.2.9.6 and applicable industry  
19 standards.”

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<sup>309</sup> Compare Linse Minnesota Direct, p. 8, lines 20-21 (Qwest’s language should be adopted because it “is consistent with the PCAT”) with Linse Minnesota Direct, p. 9, lines 17-19 (Eschelon’s language should be rejected it “attempts to inappropriately incorporate information from Qwest’s product catalog (“PCAT”) into the party’s interconnection agreement”).

1 **XI. SUBJECT MATTER NO. 24: LOOP-TRANSPORT COMBINATIONS**

2 Issue No. 9-55: ICA Sections 9.23.4; 9.23.4.4; 9.23.4.4.1; 9.23.4.5; 9.23.4.6;  
3 9.23.4.5.4

4 **Q. WHAT IS ESCHELON’S BUSINESS ISSUE REGARDING LOOP-**  
5 **TRANSPORT COMBINATIONS?**

6 A. Eschelon is entitled to receive from Qwest UNEs that are combined, or  
7 “commingled,” with non-UNEs. Commingling does not mean that the UNE  
8 component is no longer a UNE and Qwest remains responsible for providing the  
9 UNE in a commingled arrangement, subject to the same requirements that apply  
10 to non-commingled UNEs.

11 When Qwest’s proposals are closely scrutinized, it becomes clear that Qwest is  
12 attempting to position one type of loop transport combination – a commingled  
13 EEL – so that the terms governing the non-UNE (or the “facilities or services that  
14 a requesting telecommunications carrier has obtained at wholesale from an  
15 incumbent LEC”) will dictate how the UNE portion of the combination is  
16 ordered, provisioned, and repaired. Qwest’s proposal is a thinly-veiled attempt to  
17 remove the terms regarding these UNEs from Commission purview by dictating  
18 the terms and conditions over the entire offering through its tariffs. At least one  
19 component of these offerings is a Section 251 UNE, and the Commission should,  
20 at a minimum, retain its jurisdiction over the UNE component of Loop-Transport  
21 Combinations, including the UNE in a Commingled EEL, and ensure that terms  
22 that affect the UNE are included in the filed and approved ICA. The

1 nondiscrimination requirements of Section 251 of the Act are not contained in  
2 Qwest’s tariffs and, therefore, tariffs should not be used to govern UNEs.

3 **Q. WHAT IS ESCHELON’S PROPOSAL ON ISSUE 9-55?**

4 A. Eschelon proposes the following language for Section 9.23.4:<sup>310</sup>

5 **9.23.4 Loop-Transport Combinations: Enhanced Extended Links**  
6 **(EELs), Commingled EELs, and High Capacity EELs**

7  
8 Loop-Transport Combination –For purposes of this Agreement,  
9 “Loop-Transport Combination” is a Loop in combination, or  
10 Commingled, with a Dedicated Transport facility or service (with  
11 or without multiplexing capabilities), together with any facilities,  
12 equipment, or functions necessary to combine those facilities. At  
13 least as of the Effective Date of this Agreement “Loop-Transport  
14 Combination” is not the name of a particular Qwest product.  
15 “Loop-Transport Combination” includes Enhanced Extended  
16 Links (“EELs”), Commingled EELs, and High Capacity EELs. If  
17 no component of the Loop-transport Combination is a UNE,  
18 however, the Loop-Transport Combination is not addressed in this  
19 Agreement. The UNE components of any Loop-Transport  
20 Combinations are governed by this Agreement and the other  
21 component(s) of any Loop-Transport Combinations are governed  
22 by the terms of an alternative service arrangement, as further  
23 described in Section 24.1.2.1.<sup>311</sup>

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<sup>310</sup> Eschelon also capitalizes the term “Loop-Transport” in its language to indicate that it is a defined term in the ICA.

<sup>311</sup> This language differs from that filed with the Petition for Arbitration. A sentence clearly explaining that a non-UNE is governed by the an alternative service arrangement – not the ICA. (“and the other component(s) of any Loop-Transport Combinations are governed by the terms of an alternative service arrangement, as further described in Section 24.1.2.1). This additional language including a reference to Section 24.1.2.1 was added to dispel Qwest’s notion that Eschelon’s language was attempting to govern non-UNEs by the ICA (though Eschelon believes that its original language – as filed with the Petition – is perfectly clear on this point). Section 24.1.2.1 provides (in closed language): “The UNE component(s) of any Commingled arrangement is governed by the applicable terms of this Agreement. The other component(s) of any Commingled arrangement is governed by the terms of the alternative service arrangement pursuant to which that component is offered (e.g., Qwest’s applicable Tariffs, price lists, catalogs, or commercial agreements). Performance measurements and/or remedies under this Agreement apply only to the UNE component(s) of any Commingled arrangement. Qwest is not relieved from those measurements and remedies by virtue of the fact that the UNE is part of a Commingled arrangement.”

1 Commingled EEL – If CLEC obtains at UNE pricing part (but not  
2 all) of a Loop-Transport Combination, the arrangement is a  
3 Commingled EEL. (Regarding Commingling, see Section 24.)  
4

5 High Capacity EEL – “High Capacity EEL” is a Loop-Transport  
6 Combination (either EEL or Commingled EEL) when the Loop or  
7 transport is of DS1 or DS3 capacity. High Capacity EELs may  
8 also be referred to as “DS1 EEL” or “DS3 EEL,” depending on  
9 capacity level.  
10

11 **9.23.4.4 Additional Terms for UNE Components of Loop Transport**  
12 **Combinations ~~EELs~~**

13 . . .  
14 9.23.4.4.1 EELs and Commingled EELs may consist of loops and  
15 interoffice transport of the same bandwidth (Point-to-Point).  
16 When multiplexing is requested, EELs and Commingled EELs  
17 may consist of loops and interoffice transport of different  
18 bandwidths (Multiplexed). CLEC may also order combinations of  
19 interoffice transport, concentration capability and DS0 loops.  
20

21 **9.23.4.5 Ordering Process for UNE Components of Loop Transport**  
22 **Combinations ~~EELs~~**

23 . . .  
24 9.23.4.5.4 . . . Qwest may require two (2) service requests when  
25 CLEC orders Multiplexed Loop Transport Combinations (which  
26 are not Point-to-Point) and EEL loops (as part of a multiplexed  
27 EEL). Regarding Commingling see Section 24.  
28

29 **9.23.4.6 Rate Elements for UNE Components of Loop Transport**  
30 **Combinations ~~EELs~~**

31  
32 Eschelon’s proposed language defines the term Loop-Transport Combination and  
33 includes language in the contract to make clear that the UNE component of a  
34 Loop-Transport combination is governed by the ICA. Eschelon’s language,  
35 however, does not attempt to dictate the terms of the non-UNE piece of a Loop-  
36 Transport combination.

1 Q. WHAT IS QWEST'S PROPOSAL ON ISSUE 9-55?

2 A. Qwest proposes the following language (with Qwest language underlined and  
3 Eschelon language in strikeout):

4 **9.23.4 ~~Loop-Transport Combinations:~~ Enhanced Extended**  
5 **Links (EELs), Commingled EELs, and High Capacity**  
6 **EELs**

7 ~~Loop Transport Combination~~ For purposes of this  
8 Agreement, ~~“Loop Transport Combination”~~ is a Loop in  
9 combination, or Commingled, with a Dedicated Transport  
10 facility or service (with or without multiplexing  
11 capabilities), together with any facilities, equipment, or  
12 functions necessary to combine those facilities. At least as  
13 of the Effective Date of this Agreement ~~“Loop Transport~~  
14 ~~Combination”~~ is not the name of a particular Qwest  
15 product. ~~“Loop Transport Combination”~~ includes  
16 ~~Enhanced Extended Links (“EELs”), Commingled EELs,~~  
17 ~~and High Capacity EELs.~~ If no component of the Loop-  
18 transport Combination is a UNE, however, the Loop-  
19 Transport Combination is not addressed in this Agreement.  
20 The UNE components of any Loop Transport  
21 Combinations are governed by this Agreement, as further  
22 described in Section 24.1.2.1.  
23

24 Commingled EEL – If CLEC obtains at UNE pricing part (but not all) of a  
25 ~~Loop-Transport Combination~~, the arrangement is a Commingled EEL.  
26 (Regarding Commingling, see Section 24.)  
27

28 High Capacity EEL – “High Capacity EEL” is a ~~Loop-Transport~~  
29 ~~Combination~~ (either EEL or Commingled EEL) when the Loop or  
30 transport is of DS1 or DS3 capacity. High Capacity EELs may  
31 also be referred to as “DS1 EEL” or “DS3 EEL,” depending on  
32 capacity level.  
33

34 **9.23.4.4 Additional Terms for EELs ~~UNE Components of Loop~~**  
35 **~~Transport Combinations~~**  
36

37 9.23.4.4.1 ~~EELs and Commingled EELs~~ may consist of loops and  
38 interoffice transport of the same bandwidth (Point-to-Point).  
39 When multiplexing is requested, ~~EELs and Commingled EELs~~  
40 may consist of loops and interoffice transport of different



1 bandwidths (Multiplexed). CLEC may also order combinations of  
2 interoffice transport, concentration capability and DS0 loops.

3  
4 **9.23.4.5 Ordering Process for EELs~~UNE Components of Loop-~~**  
5 **~~Transport Combinations~~**  
6

7 9.23.4.5.4 Qwest may require two (2) service requests when  
8 CLEC orders Multiplexed EELs ~~Loop-Transport Combinations~~  
9 (which are not Point-to-Point) and EEL loops (as part of a  
10 multiplexed EEL). Regarding Commingling see Section 24.

11  
12 **9.23.4.6 Rate Elements for EELs~~UNE Components of Loop-~~**  
13 **~~Transport Combinations~~**

14 Qwest disagrees that the term Loop-Transport should be defined in the ICA, and  
15 uses the term “EEL” instead. Qwest also proposes to omit the term “commingled  
16 EEL” from these sections of the ICA. Qwest, in support of its proposal, states  
17 that Loop Transport is not a separate Qwest product and complains that  
18 Eschelon’s use of the term Loop Transport is different than the way in which the  
19 FCC uses the term.<sup>312</sup>

20 **Q. WHAT IS THE PRIMARY DISAGREEMENT BETWEEN ESCHELON**  
21 **AND QWEST ON ISSUE 9-55?**

22 **A.** The crux of the issue is how Loop-Transport Combinations will be treated under  
23 the ICA, particularly if they involve commingling. The FCC defines  
24 Commingling in 47 CFR §51.5 as follows:

25 Commingling. Commingling means the connecting, attaching, or  
26 otherwise linking of an unbundled network element, or a  
27 combination of unbundled network elements, to one or more  
28 facilities or services that a requesting telecommunications carrier  
29 has obtained at wholesale from an incumbent LEC, or the

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<sup>312</sup> Qwest Response, p. 31.

1 combining of an unbundled network element, or a combination of  
2 unbundled network elements, with one or more such facilities or  
3 services. Commingle means the act of commingling.

4 **Q. DOES ESCHELON’S LANGUAGE USE THE TERM “LOOP**  
5 **TRANSPORT COMBINATION” IN THE SAME WAY AS THE FCC HAS**  
6 **USED THE TERM IN ITS ORDERS?**

7 A. Yes. Eschelon’s proposed definition of “Loop-Transport Combination” mirrors  
8 the way the FCC has used that term to define any combination of loop and  
9 transport. For example, when discussing EELs in paragraph 575 of the *TRO*, the  
10 FCC states as follows:

11 575. As noted above, our rules currently require incumbent LECs  
12 to make UNE combinations, including *loop-transport*  
13 *combinations*, available in all areas where the underlying UNEs  
14 are available and in all instances where the requesting carrier meets  
15 the eligibility requirements... (emphasis added)

16 Again, at paragraph 576 of the *TRO*, the FCC states: “We further agree that the  
17 availability of EELs and other UNE combinations promotes innovation because  
18 competitive LECs can provide advanced switching capabilities in conjunction  
19 with *loop-transport combinations*.” (emphasis added)

20 The FCC goes on in paragraph 584 of the *TRO* to state that “as we explain in  
21 detail below, we obviate the risk identified by the court by applying service  
22 eligibility criteria to *commingled loop-transport combinations*.” Indeed,  
23 paragraph 593 of the *TRO* specifically refers to a high capacity loop transport  
24 combinations as a commingled EEL [“...to obtain at UNE pricing part of a high-

1 capacity loop-transport combination (commingled EEL)"] and paragraph 594 of  
2 the *TRO* again refers to “commingled loop-transport combinations.”

3 **Q. HOW ARE THESE EXCERPTS FROM THE FCC’S ORDER**  
4 **CONSISTENT WITH ESCHELON’S DEFINITION OF LOOP**  
5 **TRANSPORT COMBINATION?**

6 A. Eschelon’s language defines the Loop-Transport combination to include: (1)  
7 Enhanced Extended Links (“EELs”), (2) Commingled EELs, and (3) High  
8 Capacity EELs. The excerpts from the FCC’s *TRO* above show that the FCC has  
9 referred to loop transport combinations as (1) EELs (*e.g.*, *TRO*, ¶¶ 575 and 576),  
10 (2) commingled EELs (*e.g.*, *TRO*, ¶¶ 584, 593 and 594), and (3) high capacity  
11 EELs (*e.g.*, *TRO*, ¶ 593) – just as Eschelon’s proposed section 9.23.4 does.

12 **Q. WHAT ARE THE ADVANTAGES OF DEFINING THE TERM LOOP-**  
13 **TRANSPORT COMBINATION IN THE ICA?**

14 A. The use of this defined term is efficient because it provides an umbrella that  
15 includes all three types of Loop-Transport Combinations that currently exists –  
16 EELs, Commingled EELs, and High Capacity EELs – thus avoiding having to  
17 repeat all three terms throughout the document.

18 In addition, Eschelon’s language ties the various sections of the ICA together  
19 better than Qwest’s language. Because at least one component of the loop  
20 transport combination is a UNE, the terms and conditions belong in Section 9,  
21 which is entitled “Unbundled Network Elements.” Although there is also a

1 section on Commingling (Section 24), that section contains general terms and not  
2 the type of terms and conditions that Eschelon and Qwest otherwise agree belong  
3 in Section 9.23, such as Service Eligibility Criteria for High Capacity EELs.  
4 Qwest's proposal to place only these terms (Service Eligibility Criteria) of  
5 Commingled EELs in Section 9 while placing others in Section 24 does not make  
6 sense from an organizational or ease-of-use perspective. Commingled EELs have  
7 a UNE component and that UNE component should be addressed in Section 9,  
8 and at the same time, Eschelon's proposed language in Section 9 expressly  
9 references and restates the terms of Section 24 on Commingling so that the user of  
10 the ICA will know even without having to reference Section 24 the Commingling  
11 terms and how non-UNEs will be treated under the ICA.

12 **Q. DOES ESCHELON'S LANGUAGE COVER NON-UNES NOT**  
13 **GOVERNED BY SECTION 251 OF THE ACT?**

14 A. No. Eschelon's proposed definition makes clear that only the UNE components  
15 of a Loop-Transport Combination are subject to the ICA, and that, if no  
16 component is a UNE, the combination is not governed by the ICA. Eschelon  
17 specifically added to its proposal (*see*, Section 9.23.4) a reference to Section  
18 24.1.2.1 which explains how non-UNE portions of a commingled arrangement are  
19 treated. This language should eliminate any suggestion on Qwest's part that the  
20 terminology is some kind of attempt to govern non-UNEs in the ICA. Eschelon  
21 further clarifies this point by capitalizing the term in the headings (*see*, Sections

1 9.23.4; 9.23.4.4; 9.23.4.5; 9.23.4.6) to indicate it is a defined term and referring to  
2 the UNE components of Loop-Transport Combinations.

3 **Q. PLEASE SUMMARIZE ISSUE 9-55.**

4 A. Eschelon is entitled to commingle UNEs with non-UNEs. The UNEs in these  
5 commingled arrangements are still UNEs and must be provided in a non-  
6 discriminatory manner pursuant to Section 251 of the Act and should be governed  
7 by Section 9 (UNEs) of the ICA. Eschelon's language makes these requirements  
8 clear and defines and uses the term "Loop-Transport Combinations" precisely as  
9 the FCC has used it. For all of the reasons described in Eschelon's business need  
10 and in these responses, the Commission should adopt Eschelon's language for  
11 Issue 9-55.

12 **XII. SUBJECT MATTER NO. 27: MULTIPLEXING (LOOP-MUX**  
13 **COMBINATIONS)**

14 Issue No. 9-61 and subparts: ICA Sections 9.23.9 and subparts; 24.4 and  
15 subparts; 9.23.2; 9.23.4.4.3; 9.23.6.2; 9.23.9.4.3; 9.23.4.4.3; 9.23.6.2; Exhibit C;  
16 24.4.4.3; Exhibit A; Section 9.23.6.6 and subparts

17 **Q. WHAT IS ESCHELON'S BUSINESS CONCERN REGARDING**  
18 **MULTIPLEXING (LOOP MUX COMBINATIONS) (ISSUES 9-61 AND**  
19 **SUBPARTS (A)-(C))?**

20 A. This issue concerns Eschelon's continued access to multiplexing when  
21 multiplexing is combined with an unbundled loop. Qwest currently provides  
22 unbundled access to multiplexing at TELRIC rates and has for some time. Qwest

1 has provided multiplexing in various forms, including as part of a UNE  
2 combination as well as on a stand alone basis, and the Commission has approved  
3 TELRIC rates for the LMC product. The FCC has made it very clear that  
4 multiplexing must be provided in conjunction with UNEs and UNE combinations.  
5 Despite all of this, Qwest has decided that it will stop providing multiplexing at  
6 TELRIC rates and relegate the terms, conditions and rates for multiplexing to its  
7 access tariff.

8 Eschelon is not asking for stand-alone multiplexing or unlimited access to  
9 multiplexing at TELRIC rates. Rather Eschelon's proposal is narrowly-tailored to  
10 treat multiplexing the same way that a reasonable reading of the FCC's order  
11 treats multiplexing – *i.e.*, that unbundled access to multiplexers must be provided  
12 when combined with UNEs. In these instances, multiplexing should be governed  
13 by the ICA and priced at TELRIC.<sup>313</sup>

14 **Q. WHAT IS ESCHELON'S PROPOSAL FOR ISSUES 9-61 AND SUBPARTS**  
15 **(A)-(C)?**

16 A. Eschelon proposes the following language in Section 9:  
17

18 **ISSUE 9-61**

19 **9.23.2 UNE Combinations Description and General Terms**

20  
21 UNE Combinations are available in, but not limited to, the  
22 following products: EELs (subject to the limitations set  
23 forth below) and Loop Mux Combinations. If CLEC

---

<sup>313</sup> Regardless of the status of multiplexing, the UNE loop is a component of a Loop Mux Combination and, therefore, LMC should be in Section 9 (UNEs) of the ICA.

1 desires access to a different UNE Combination, CLEC may  
2 request access through the Special Request Process set  
3 forth in this Agreement. . . .

4 **ISSUE 9-61(a)**

5 9.23.9.1.1 Loop-Mux combination (LMC) is an unbundled Loop as  
6 defined in Section 9.2 of this Agreement (referred to in  
7 this Section as an LMC Loop) combined ~~combined~~  
8 with a ~~private line (PLT), or with a special access (SA),~~  
9 ~~Tariffed~~ DS1 or DS3 multiplexed facility with no  
10 interoffice transport. The ~~PLT/SA~~ multiplexed facility  
11 is provided as ~~either~~ an Interconnection Tie Pair (ITP)  
12 or ~~Expanded Interconnection Termination (EICT)~~ from  
13 the high side of the multiplexer to CLEC's Collocation.  
14 The multiplexer and the Collocation must be located in  
15 the same Qwest Wire Center.

16  
17 9.23.9.1.2 LMC provides CLEC with the ability to access End  
18 User Customers and aggregate DS1 or DS0 unbundled  
19 Loops to a higher bandwidth via a ~~PLT/SA~~ DS1 or DS3  
20 multiplexer. There is no interoffice transport between  
21 the multiplexer and CLEC's Collocation.  
22

23 9.23.9.1.3 Qwest offers the LMC ~~Loop~~ as a Billing conversion or  
24 as new Provisioning.  
25

26 9.23.9.2.1 ~~A~~ UNE Extended Enhanced Loop (EEL) may be  
27 combined ~~combined~~ with the ~~PLT/SA~~ multiplexed  
28 facility.  
29

30 9.23.9.2.2 LMC ~~Loops~~ will be provisioned where existing facilities  
31 are available or pursuant to the provisions of Section  
32 9.1.2.1 of the Agreement.  
33

34 9.23.9.2.3 The ~~PLT/SA~~ DS1 or DS3 multiplexed facility must  
35 terminate in a Collocation.  
36

37 9.23.9.2.4 Intentionally Left Blank. ~~The multiplexed facility is~~  
38 ~~subject to all terms and conditions (ordering, provisioning, and~~  
39 ~~billing) of the appropriate tariff.~~  
40

1 9.23.9.2.6 Rearrangements may be requested for work to be  
2 performed by Qwest on an existing LMC-Loop, or on  
3 some private line/special access circuits, when coupled  
4 with a conversion-as-specified request to convert to  
5 LMC-Loop.  
6

7 9.23.9.3.2 LMC multiplexing is offered in DS3 to DS1 and DS1 to  
8 DS0 configurations. LMC multiplexing is ordered  
9 with LMC Loops. The recurring and nonrecurring rates  
10 in Exhibit A apply.  
11

12 9.23.9.3.2.1 3/1 multiplexing rates are contained in Exhibit A of  
13 this Agreement, and include the following:

14 a) Recurring Multiplexing Charge. The DS3 Central Office  
15 Multiplexer provides de-multiplexing of one DS3 44.736  
16 Mbps to 28 1.544 Mbps channels.

17 b) Non-recurring Multiplexing Charge. One-time charges  
18 apply for a specific work activity associated with  
19 installation of the multiplexing service.  
20

21 9.23.9.3.2.2 1/0 multiplexing rates are contained in Exhibit A of  
22 this Agreement, and include the following charges:

23 a) Recurring Multiplexing Charge. The DS0 Central Office  
24 multiplexer provides de-multiplexing of one DS1 1.544  
25 Mbps to 24 64 Kbps channels.

26 b) Non-recurring Multiplexing Charge. One-time charges  
27 apply for a specific work activity associated with  
28 installation of the multiplexing service, including low side  
29 channelization of all 24 channels.  
30

31 9.23.9.3.4 Nonrecurring charges for Billing conversions to LMC  
32 Loop are set forth in Exhibit A.  
33

34 9.23.9.3.5 A rearrangement nonrecurring charge as described in  
35 Exhibit A may be assessed on some requests for work to be  
36 performed by Qwest on an existing LMC-Loop, or on some  
37 private line/special access circuits, when coupled with a  
38 conversion-as-specified request to convert to LMC-Loop.  
39

40 9.23.9.4.1 Ordering processes for LMC-Loop(s) are contained  
41 below and in Section 12 of this Agreement. Qwest will



1 document its ordering processes in Qwest's Product  
2 Catalog (PCAT). The following is a high-level description  
3 of the ordering process:  
4

5 9.23.9.4.1.1 Step 1: Complete product questionnaire for LMC  
6 ~~Loop~~(s) with account team representative.  
7

8 9.23.9.4.1.4 Step 4: After account team notification, place LMC  
9 ~~Loop~~-orders via an LSR.  
10

11 9.23.9.4.3 For UNE Combinations with appropriate retail  
12 analogues, the Provisioning interval will be no longer than  
13 the interval for the equivalent retail service. CLEC and  
14 Qwest can separately agree to Due Dates other than the  
15 interval.  
16

17 9.23.9.4.4 Due date intervals are established when Qwest receives  
18 a complete and accurate LSR made through the IMA, EDI  
19 or Exact interfaces or through facsimile. For LMC-~~Loops~~,  
20 the date the LSR is received is considered the start of the  
21 service interval if the order is received on a business Day  
22 prior to 3:00 p.m. For LMC-~~Loops~~, the service interval will  
23 begin on the next business Day for service requests  
24 received on a non-business day or after 3:00 p.m. on a  
25 business day. Business Days exclude Saturdays, Sundays,  
26 New Year's Day, Memorial Day, Independence Day (4<sup>th</sup> of  
27 July), Labor Day, Thanksgiving Day and Christmas Day.  
28

29 9.23.9.4.5 Out of Hours Project Coordinated Installations: CLEC  
30 may request an out of hours Project Coordinated  
31 Installation. This permits CLEC to obtain a coordinated  
32 installation for LMC ~~Loops~~—with installation work  
33 performed by Qwest outside of Qwest's standard  
34 installation hours. For purposes of this Section, Qwest's  
35 standard installation hours are 8:00 a.m. to 5:00 p.m.  
36 (local time), Monday through Friday, except holidays.  
37 Installations commencing outside of these hours are  
38 considered to be out of hours Project Coordinated  
39 Installations.  
40

1 9.23.9.6.1 Qwest will maintain facilities and equipment for LMC  
2 ~~Loops~~ provided under this Agreement. ~~Qwest will~~  
3 ~~maintain the multiplexed facility pursuant to the Tariff.~~  
4 CLEC or its End User Customers may not rearrange, move,  
5 disconnect or attempt to repair Qwest facilities or  
6 equipment, other than by connection or disconnection to  
7 any interface between Qwest and the End User Customer,  
8 without the prior written consent of Qwest.  
9

10 **ISSUE 9-61(b)**

11 9.23.9.4.3 ~~Standard~~ Service intervals for LMC(s) ~~Loops~~ are set  
12 forth in Exhibit C in the ~~Service Interval Guide (SIG)~~  
13 ~~available at [www.qwest.com/wholesale](http://www.qwest.com/wholesale).~~ For UNE  
14 Combinations with appropriate retail analogues, the  
15 Provisioning interval will be no longer than the interval  
16 for the equivalent retail service. CLEC and Qwest can  
17 separately agree to Due Dates other than the interval.  
18

19 9.23.4.4.3 Installation intervals for UNE Combinations are set  
20 forth in Exhibit C but will be no longer than the  
21 respective Private Line Transport Service that Qwest  
22 will maintain on the following web-site address:  
23 <http://www.qwest.com/carrier/guides/sig/index.html>

24  
25 9.23.6.2 Service intervals for each UNE Combination ~~EEL~~ are set  
26 forth in Exhibit C. For UNE Combinations with  
27 appropriate retail analogues, the Provisioning interval  
28 will be no longer than the interval for the equivalent retail  
29 service. CLEC and Qwest can separately agree to Due  
30 Dates other than the interval.

31  
32 Exhibit C:  
33 Loop Mux Combo (LMC)

34  
35 **ISSUE 9-61(c)**

36 9.23.6.1 Interconnection Tie Pair

37  
38 9.23.6.1.1 DS1 \$6.05 E

1	9.23.6.1.1.1 Manual	\$5.45		F,13
2	9.23.6.1.1.2 Mechanized	\$5.45		F
3				
4	9.23.6.2.1 LMC 2-Wire Loop Installation			
5	9.23.6.2.1.1 First	\$118.21		
6	9.23.6.2.1.2 Each Addl	\$86.68		
7				
8	9.23.6.3.1 LMC 4-Wire Loop Installation			
9	9.23.6.3.1.1 First	\$118.12		
10	9.23.6.4.1.2 Each Addl	\$125.06		
11				
12	9.23.6.6 <u>LMC Multiplexing</u>			
13	9.23.6.6.1 DS1 to DS0	\$212.76 (Rec)	\$189.94 (NRC)	E,12,Z
14	9.23.6.6.2 DS3 to DS1	\$203.54 (Rec)	\$189.94 (NRC)	E,12,Z
15				
16	9.23.6.7 DS0 Channel Performance			
17	9.23.6.7.2 DS1/DS0 Low Side Channelization		\$7.09	
18				
19	9.23.6.8 LMC Rearrangement			
20	9.23.6.8.1 DS0	\$97.21		1
21	9.23.6.8.2 High Capacity	\$97.62		1
22				
23	9.23.7.7.1 DS0	\$97.21		1
24	9.23.7.7.2 High Capacity	\$97.62		1
25				

26 Eschelon’s proposal would put terms, conditions and rates for Loop Mux  
 27 Combinations in Section 9 (UNEs) of the ICA. Eschelon’s language for Issue 9-  
 28 61 includes the Loop Mux Combination in the description of UNE combinations  
 29 (along with EELs); its language for Issue 9-61(a) defines the Loop Mux  
 30 Combination; its language for Issue 9-61(b) ensures that service intervals for  
 31 UNE combinations, including Loop Mux Combinations, are included in Exhibit C  
 32 to the ICA; and its language for Issue 9-61(c) includes Commission-approved  
 33 rates for the LMC product.

34 **Q. WHAT IS QWEST’S PROPOSAL FOR ISSUES 9-61 AND (A)-(C)?**

35 A. Qwest’s proposals on these issues are as follows:

1

2

**ISSUE 9-61**

3

**9.23.2 UNE Combinations Description and General Terms**

4

5

UNE Combinations are available in, but not limited to, the following products: EELs (subject to the limitations set forth below) ~~and Loop Mux Combinations.~~ If CLEC desires access to a different UNE Combination, CLEC may request access through the Special Request Process set forth in this Agreement. . . .

6

7

8

9

10

11

12

**ISSUE 9-61(a)**: Section 24.4.1 contains Qwest's corresponding language:

13

14

[24.4.1.1] Loop-Mux combination (LMC) is an unbundled Loop as defined in Section 9.2 of this Agreement (referred to in this Section as an LMC Loop) ~~Commingled~~ ~~combined~~ with a private line (PLT), or with a special access (SA), Tariffed DS1 or DS3 multiplexed facility with no interoffice transport. The PLT/SA multiplexed facility is provided as either an Interconnection Tie Pair (ITP) or Expanded Interconnection Termination (EICT) from the high side of the multiplexer to CLEC's Collocation. The multiplexer and the Collocation must be located in the same Qwest Wire Center.

15

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24

25

26

[24.4.1.2] LMC provides CLEC with the ability to access End User Customers and aggregate DS1 or DS0 unbundled Loops to a higher bandwidth via a PLT/SA DS1 or DS3 multiplexer. There is no interoffice transport between the multiplexer and CLEC's Collocation.

27

28

29

30

31

32

[24.4.1.3] Qwest offers the LMC Loop as a Billing conversion or as new Provisioning.

33

34

35

[24.4.2.1] An ~~UNE~~-Extended Enhanced Loop (EEL) may be ~~combined~~ ~~commingled~~ with the PLT/SA multiplexed facility.

36

37

38

1 [24.4.2.2] LMC Loops will be provisioned where existing facilities  
2 are available or pursuant to the provisions of Section  
3 9.1.2.1 of the Agreement.  
4

5 [24.4.2.3] The PLT/SA DS1 or DS3 multiplexed facility must  
6 terminate in a Collocation.  
7

8 [24.4.2.4] The multiplexed facility is subject to all terms and  
9 conditions (ordering, provisioning, and billing) of the  
10 appropriate Tariff.  
11

12 [24.4.2.6] Rearrangements may be requested for work to be  
13 performed by Qwest on an existing LMC Loop, or on  
14 some private line/special access circuits, when coupled  
15 with a conversion-as-specified request to convert to LMC  
16 Loop.  
17

18 [24.4.3.4] Nonrecurring charges for Billing conversions to LMC  
19 Loop are set forth in Exhibit A.  
20

21 [24.4.3.5] A rearrangement nonrecurring charge as described in  
22 Exhibit A may be assessed on some requests for work to  
23 be performed by Qwest on an existing LMC Loop, or on  
24 some private line/special access circuits, when coupled  
25 with a conversion-as-specified request to convert to LMC  
26 Loop.  
27

28 [24.4.4.1] Ordering processes for LMC Loop (s) are contained  
29 below and in Section 12 of this Agreement. Qwest will  
30 document its ordering processes in Qwest's Product  
31 Catalog (PCAT). The following is a high-level  
32 description of the ordering process:  
33

34 [24.4.4.1] Step 1: Complete product questionnaire for LMC  
35 Loop(s) with account team representative.  
36

37 [24.4.4.1] Step 4: After account team notification, place LMC  
38 Loop orders via an LSR.  
39

40 [24.4.4.4] Due date intervals are established when Qwest receives  
41 a complete and accurate LSR made through the IMA,  
42 EDI or Exact interfaces or through facsimile. For LMC  
43 Loops, the date the LSR is received is considered the start  
44 of the service interval if the order is received on a

1 business Day prior to 3:00 p.m. For LMC Loops, the  
2 service interval will begin on the next business Day for  
3 service requests received on a non-business day or after  
4 3:00 p.m. on a business day. Business Days exclude  
5 Saturdays, Sundays, New Year's Day, Memorial Day,  
6 Independence Day (4<sup>th</sup> of July), Labor Day, Thanksgiving  
7 Day and Christmas Day.  
8

9 [24.4.4.5] Out of Hours Project Coordinated Installations: CLEC  
10 may request an out of hours Project Coordinated  
11 Installation. This permits CLEC to obtain a coordinated  
12 installation for LMC Loops with installation work  
13 performed by Qwest outside of Qwest's standard  
14 installation hours. For purposes of this Section, Qwest's  
15 standard installation hours are 8:00 a.m. to 5:00 p.m.  
16 (local time), Monday through Friday, except holidays.  
17 Installations commencing outside of these hours are  
18 considered to be out of hours Project Coordinated  
19 Installations.  
20

21 [24.4.6.1] Qwest will maintain facilities and equipment for LMC  
22 Loops provided under this Agreement. Qwest will  
23 maintain the multiplexed facility pursuant to the Tariff.  
24 CLEC or its End User Customers may not rearrange,  
25 move, disconnect or attempt to repair Qwest facilities  
26 or equipment, other than by connection or  
27 disconnection to any interface between Qwest and the  
28 End User Customer, without the prior written consent  
29 of Qwest.  
30

31 **ISSUE 9-61(b)**

32 24.4.4.3 Standard service intervals for LMC(s) Loops are set forth  
33 in Exhibit C in the Service Interval Guide (SIG)  
34 available at [www.qwest.com/wholesale](http://www.qwest.com/wholesale). ~~For UNE~~  
35 ~~Combinations with appropriate retail analogues, the~~  
36 ~~Provisioning interval will be no longer than the interval~~  
37 ~~for the equivalent retail service. CLEC and Qwest can~~  
38 ~~separately agree to Due Dates other than the interval.~~  
39

40 9.23.4.4.3 Installation intervals for EELs ~~UNE Combinations~~ are  
41 set forth in Exhibit C but will be no longer than the  
42 respective Private Line Transport Service that Qwest

1 will maintain on the following web-site address:  
2 <http://www.qwest.com/carrier/guides/sig/index.html>

3  
4 9.23.6.2 Service intervals for each ~~UNE Combination-EEL~~ are set  
5 forth in Exhibit C. For UNE Combinations with  
6 appropriate retail analogues, the Provisioning interval  
7 will be no longer than the interval for the equivalent retail  
8 service. CLEC and Qwest can separately agree to Due  
9 Dates other than the interval.

10  
11 Exhibit C:  
12 ~~Loop Mux Combo (LMC)~~  
13

14 **ISSUE 9-61(c)**

15 9.23.6.1 Intentionally Left Blank.

16 9.23.6.2 Loop Mux, 2-Wire Analog, DS0

17 9.23.6.2.1.1 First \$235.86 1,5

18 9.23.6.2.1.2 Each Additional \$153.93 1,5

19 ~~9.23.6.2.1.3 Disconnect \$5.98 1~~

20 9.23.6.3 Loop Mux, 4-Wire Analog, DS0

21 9.23.6.3.1.1 First 235.86 1,5

22 9.23.6.3.1.2 Each Additional \$153.93 1,5

23 ~~9.23.6.3.1.3 Disconnect \$5.98 1~~

24 9.23.6.4.1 LMC DS1 Loop Installation

25 9.23.6.4.1.1 First \$298.35

26 9.23.6.4.1.2 Each Additional \$218.44 1,5

27 ~~9.23.6.4.1.3 Disconnect \$6.56 1~~

28 9.23.6.6 Intentionally Left Blank

29 9.23.6.8 LMC Rearrangement

30 9.23.6.8.1 DS0 \$135.44 1

31 9.23.6.8.2 High Capacity \$153.74 1

32 Qwest proposes to locate language on Loop Mux Combinations in Section 24  
33 (Commingling) instead of Section 9 (UNEs). Qwest's language for Issue 9-61

1 excludes the Loop Mux Combination from UNE combinations; Qwest’s language  
2 for Issue 9-61(a) states that multiplexing will be provided pursuant to special  
3 access as opposed to TELRIC rates, and utilizes the term “LMC Loop” instead of  
4 Loop Mux Combinations; Qwest’s language for Issue 9-61(b) states that intervals  
5 for LMC Loops (or Loop Mux Combinations, as Eschelon calls them) will be  
6 determined in the non-contractual SIG instead of the ICA, and uses the term EELs  
7 instead of UNE combinations;<sup>314</sup> and Qwest’s proposal for Issue 9-61(c) is that  
8 tariff rates should apply to multiplexing. In support of its position, Qwest states  
9 that it is under no obligation to provide stand-alone multiplexing and that  
10 multiplexing is not a feature or functionality of a loop.<sup>315</sup>

11 Issue No. 9-61: Loop-Mux Combination (“LMC”) – Placement – Section 9 and  
12 Section 24

13 **Q. PLEASE DESCRIBE THE DISAGREEMENT UNDER ISSUE 9-61.**

14 A. There are actually two disagreements under Issue 9-61: (1) whether Loop-Mux  
15 Combinations language belongs in Section 9 (UNEs), as Eschelon proposes, or  
16 solely in Section 24 (Commingling) as Qwest proposes; and (2) whether Section  
17 9.23 should be limited only to discussing one UNE combination – the EEL – as  
18 Qwest proposes, or whether Section 9.32 should also discuss other UNE  
19 combinations, as Eschelon proposes.<sup>316</sup>

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<sup>314</sup> Qwest uses EELs instead of UNE combinations because it does not acknowledge a Loop Mux Combination as a UNE combination.

<sup>315</sup> Qwest Response, p. 37.

<sup>316</sup> Eschelon’s proposed language for Section 9.23.2 is as follows: “9.23.2 UNE Combinations



1 **Q. PLEASE EXPLAIN THE FIRST DISAGREEMENT – PLACEMENT.**

2 A. It is unquestionable that the UNE loop is a component of the Loop-Mux  
3 Combination, and therefore, Eschelon’s language belongs in Section 9 (UNEs).  
4 As explained above in Issue 9-55, Eschelon’s proposed contract language makes  
5 clear that Eschelon is not attempting to broaden Section 9 to cover non-UNEs.

6 **Q. AND THE SECOND DISAGREEMENT?**

7 A. Qwest’s proposed language would result in Section 9.23 discussing only one UNE  
8 combination – the EEL. However, a Loop-Mux Combination is also a UNE  
9 Combination and should therefore be identified in Section 9.23.2 along with  
10 EELs. The issue of whether a Loop-Mux Combination is a UNE Combination is  
11 addressed under Issue 9-61(a).

12 Issue No. 9-61(a): Loop-Mux Combination (LMC) – LMC Loop versus LMC,  
13 Sections 9.23.9 and subparts, 24.4 and subparts, and 9.23.2

14 **Q. IN YOUR IMMEDIATELY PRECEDING DISCUSSION, YOU**  
15 **MENTIONED THAT ESCHELON AND QWEST DISAGREE ON**  
16 **WHETHER A LOOP MUX COMBINATION IS A UNE COMBINATION.**  
17 **IS THAT DISAGREEMENT ADDRESSED UNDER ISSUE 9-61(A)?**

18 A. Yes. Eschelon contends that there are numerous indications that Qwest must  
19 provide access to multiplexing at TELRIC rates as a feature, function or

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Description and General Terms UNE Combinations are available in, but not limited to, the following products: EELs (subject to the limitations set forth below) and Loop Mux Combinations. If CLEC desires access to a different UNE Combination, CLEC may request access through the Special Request Process set forth in this Agreement. . . .”

1 capability of the UNE, while Qwest argues that there is no legal requirement for  
2 Qwest to provide access to multiplexing.

3 **Q. PLEASE ELABORATE ON THE FACTORS THAT SUPPORT**  
4 **ESCHELON'S POSITION REGARDING MULTIPLEXING.**

5 A. First, multiplexing is a “feature, function, or capability” associated with both  
6 unbundled loops and transport and, pursuant to the FCC’s unbundling rules,  
7 Eschelon is entitled to use that feature, function, or capability. 47 CFR §51.307  
8 states as follows (emphasis added):

9 (a) An incumbent LEC shall provide, to a requesting  
10 telecommunications carrier for the provision of a  
11 telecommunications service, *nondiscriminatory access to network*  
12 *elements on an unbundled basis* at any technically feasible point  
13 on terms and conditions that are just, reasonable, and  
14 nondiscriminatory in accordance with the terms and conditions of  
15 any agreement, the requirements of sections 251 and 252 of the  
16 Act, and the Commission's rules.

17 \*\*\*

18 (c) An incumbent LEC shall provide a requesting  
19 telecommunications carrier access to an unbundled network  
20 element, *along with all of the unbundled network element's*  
21 *features, functions, and capabilities*, in a manner that allows the  
22 requesting telecommunications carrier to provide any  
23 telecommunications service that can be offered by means of that  
24 network element.

25 Eschelon’s language would call for multiplexing to be provided at UNE rates  
26 when it is provided in connection with multiplexed EELs – a combination of loop  
27 and transport in which the loop and transport components have different  
28 bandwidths and multiplexing is necessary to connect the facilities – and as part of

1 a Loop-Mux Combination – when unbundled loops are connected to the  
2 multiplexer and the multiplexer is connected to Eschelon’s collocation, with no  
3 transport provided. In each of these instances, nondiscriminatory access to  
4 unbundled network elements requires access to multiplexing, and that  
5 multiplexing is a feature, function and capability of the UNE loop and/or UNE  
6 transport to which the UNE is connected.

7 **Q. HAS QWEST AGREED TO LANGUAGE IN ANY OTHER SECTIONS OF**  
8 **THE ICA THAT SUPPORTS ESCHELON’S POINT ON**  
9 **MULTIPLEXERS?**

10 A. Yes. Eschelon and Qwest have agreed to the definition of “routine network  
11 modifications” as “those activities of the type that Qwest regularly undertakes for  
12 its own End User Customers.” This definition also lists activities that are  
13 considered routine network modifications – or activities that Qwest routinely  
14 provides for its own retail customers – and those activities include “deploying a  
15 new multiplexer” and “reconfiguring an existing multiplexer.” If Qwest regularly  
16 deploys new multiplexers and reconfigures existing multiplexers for its own retail  
17 customers, it should not be allowed to argue here that it need not provide access to  
18 multiplexers to CLECs.

19 **Q. ARE THERE OTHER INDICATIONS FROM THE FCC THAT ACCESS**  
20 **TO MULTIPLEXERS SHOULD BE PROVIDED AT TELRIC RATES?**

21 A. Yes. When discussing UNE loops at paragraph 214 of the *TRO*, the FCC states:

1           214. At its most basic level, a local loop that serves the mass  
2 market consists of a transmission medium, which almost always  
3 includes copper wires of various gauges. ***The loop may include***  
4 ***additional components*** (e.g., load coils, bridge taps, repeaters,  
5 ***multiplexing equipment***) that are usually intended to facilitate the  
6 provision of narrowband voice service. (emphasis added)

7           The FCC further clarified this point at footnote 1921 of the *TRO*, in which it  
8 states: “Verizon cannot refuse to provision a particular loop by claiming that  
9 multiplexing equipment is absent from the facility. In that case, Verizon must  
10 provide the multiplexing equipment, because the requesting carrier is entitled to a  
11 fully functioning loop.” And at paragraph 571 of the *TRO*, the FCC makes clear  
12 that multiplexing is a component of a UNE combination (see also, paragraph  
13 575):

14           571. In the *Notice*, the Commission sought comment on issues  
15 related to the EEL, which is a UNE combination consisting of an  
16 unbundled loop and dedicated transport and may sometimes  
17 include additional electronics (e.g., multiplexing equipment).

18 **Q. IS THERE MORE SUPPORT FOR ESCHELON’S POSITION?**

19 A. Yes. Qwest has offered unbundled multiplexing in three ways: (1) as part of a  
20 multiplexed EEL, (2) as part of a Loop-Mux Combination, and (3) as a stand  
21 alone UNE. Furthermore, the Commission has set TELRIC rates the LMC  
22 product, and the UNE rates established for loops and transport include the cost of  
23 multiplexing where appropriate.

1 **Q. IS ESCHELON REQUESTING THAT QWEST PROVIDE UNLIMITED**  
2 **ACCESS TO UNBUNDLED MULTIPLEXING OR MULTIPLEXING AS A**  
3 **STAND ALONE UNE?**

4 A. No, and I believe this point deserves special emphasis. Eschelon's position in this  
5 arbitration only requires Qwest to provide multiplexing at UNE rates when the  
6 loops and/or transport to which the multiplexer is connected are UNEs. This  
7 would include providing multiplexing at UNE rates in connection with  
8 multiplexed EELs and as part of a Loop-Mux Combination.

9 Issue No. 9-61(b): LMC Multiplexing – Intervals - Sections 9.23.9.4.3, 9.23.4.4.3,  
10 9.23.6.2, Exhibit C, and 24.4.4.3

11 **Q. DOES ISSUE 9-61(B) CONSIST OF TWO DISAGREEMENTS THAT ARE**  
12 **LARGELY EXTENSIONS OF THE DISAGREEMENTS DESCRIBED**  
13 **ABOVE?**

14 A. Yes. As I explained under Issue 1-1, it is critical for the ICA to contain applicable  
15 intervals and require ICA amendment and Commission approval when intervals  
16 are modified. That is precisely what Eschelon's language for Section 9.23.9.4.3 is  
17 designed to achieve:

18 9.23.9.4.3 Service intervals for LMC(s) are set forth in Exhibit  
19 C. For UNE Combinations with appropriate retail  
20 analogues, the Provisioning interval will be no  
21 longer than the interval for the equivalent retail  
22 service. CLEC and Qwest can separately agree to  
23 Due Dates other than the interval.

1 Remaining true to its position under Issue 1-1, Qwest proposes language in  
2 Section 24.4.4.3 that would allow Qwest to have unilateral control over changes  
3 to intervals [“Standard service intervals for LMC Loops in the Service Interval  
4 Guide (SIG) available at [www.qwest.com/wholesale](http://www.qwest.com/wholesale)”] For the reasons explained  
5 under Issue 1-1, intervals should be contained in the agreement and should be  
6 modified by Commission-approved ICA amendment.

7 **Q. WHAT IS THE SECOND DISAGREEMENT UNDER ISSUE 9-61(B)?**

8 A. As described under Issue 9-61(a), Eschelon and Qwest disagree on whether Loop-  
9 Mux should be identified as a UNE combination along with an EEL. For the  
10 reasons explained above, it is Eschelon’s position that it should be. This  
11 disagreement serves as the difference between Eschelon’s Sections 9.23.4.4.3 and  
12 9.23.6, in which Eschelon proposes to use the term “UNE Combinations” and  
13 Qwest proposes to use the term “EEL.” Eschelon’s proposal for Sections  
14 9.23.4.4.3 and 9.23.6.2 address UNE combinations the same way the  
15 Commission-approved AT&T ICA addresses UNE combinations, and Qwest  
16 wants to limit that term to EELs for Eschelon.

17 Issue No. 9-61(c): LMC Multiplexing - Exhibit A Section 9.23.6.6 and subparts

18 **Q. ISSUE 9-61(C) ADDRESSES LMC MULTIPLEXING RATES. IS**  
19 **RESOLUTION OF THIS ISSUE RELATED TO THE ISSUES ABOVE?**

20 A. Yes. As explained above (primarily under Issue 9-61(a)), a primary disagreement  
21 between Eschelon and Qwest in Section 9.23.9 is whether the contract should

1 reference UNE combinations – both EELs and Loop-Mux Combinations – or  
2 whether it should exclude Loop-Mux Combinations and reference only EELs. If  
3 Eschelon prevails on this issue, then multiplexing rates should be contained in the  
4 agreement in Exhibit A Section 9.23.6.6 – just as they are today. Eschelon  
5 proposes charges for multiplexing that have been approved by the Commission.

6 **Q. PLEASE SUMMARIZE ISSUES 9-61 AND (A)-(C).**

7 A. Access to multiplexing should be provided at TELRIC rates when combined with  
8 a UNE loop. Qwest has provided access to multiplexing in this manner in the past  
9 and currently has Commission-approved TELRIC rates for multiplexing.  
10 Accordingly, terms, conditions and rates for Loop Mux Combinations should be  
11 included in the ICA. For all of the reasons described in Eschelon’s business need  
12 and in these responses, the Commission should adopt Eschelon’s language for  
13 Issues 9-61 and (a) – (c).

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 2**



## Michael Starkey

**President  
Founding Partner  
QSI Consulting, Inc.**

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### Biography

Mr. Starkey currently serves as the President and Founding Partner of QSI Consulting, Inc. QSI is a consulting firm concentrating primarily on regulated markets including the telecommunications industry. QSI assists its clients in the areas of regulatory policy, business strategy, financial and econometric analysis and inter-carrier issues involving rates and charges assessed by incumbent carriers. Prior to founding QSI Mr. Starkey served as the Senior Vice President of Telecommunications Services at Competitive Strategies Group, Ltd. in Chicago, Illinois.

Mr. Starkey's consulting career began in 1996 shortly before the passage of the Telecommunications Act of 1996. Since that time, Mr. Starkey has advised some of the world's largest companies (e.g., AT&T, MCI, Time Warner, Covad Communications, Comcast, Siemens Corporation, etc.) on a broad spectrum of issues including the most effective manner by which to interconnect competing networks. Mr. Starkey's experience spans the landscape of competitive telephony including interconnection agreement negotiations, mediation, arbitration, and strategies aimed at maximizing new technology. Mr. Starkey's experience is often called upon as an expert witness. Mr. Starkey has since 1991 provided testimony in greater than 150 proceedings before approximately 40 state commissions, the FCC and courts of varying jurisdiction.

Mr. Starkey's expertise with competitive communications issues is rooted not only in his consulting experience, but also in his previous employment. Mr. Starkey has worked for the Missouri, Illinois and Maryland public utility commissions, including his most recent position as Director of the Maryland Commission's Telecommunications Division (and as the Senior Policy Analyst for the Illinois Commission's Office of Policy and Planning and Senior Economist with the Missouri Public Service Commission).

### Educational Background

Bachelor of Science, Economics, International Marketing  
Missouri State University, Cum Laude Honor Graduate

Graduate Coursework, Finance  
Lincoln University

Numerous telecommunications industry training courses





## Michael Starkey

### Professional Experience

#### Competitive Strategies Group

1996 – 1999  
Senior Vice President  
Managing Director of Telecommunications  
Services

#### Maryland Public Service Commission

1994-1995  
Director  
Telecommunications Division

#### Illinois Commerce Commission

1993 – 1994  
Senior Policy Analyst  
Office of Policy and Planning

#### Missouri Public Service Commission

1991-1993  
Senior Economist  
Utility Operations Division –  
Telecommunications

### Professional Activities

#### Missouri Universal Service Fund

Serve as the Co-Administrator chosen by the Missouri Public Service Commission to administer its intra-state Universal Service Fund (“USF”). Interact with Missouri’s telecommunications carriers and the Missouri Universal Service Board (i.e., the Commission and Public Counsel) to collect payments, fund requested disbursements and establish the overarching collection percentage applied to all Missouri, intra-state telecommunications revenues.

Facilitator, *C<sup>3</sup> Coalition* (Competitive Carrier Coalition - Ameritech Region). Facilitate industry organization representing 10-15 competitive carriers seeking to share information and “best practices” with respect to obtaining effective interconnection, UNEs and resold services from SBC/Ameritech.

Former member of the Missouri Public Service Commission’s Task Force on FCC Docket Nos. 91-141 and 91-213 regarding expanded interconnection, collocation, and access transport restructure

Former member of the AT&T / Missouri Commission Staff, *Total Quality Management Forum* responsible for improving and streamlining the regulatory process for competitive carriers

Former member of the Missouri, Oklahoma, Kansas, Texas, and Arkansas five state Southwestern Bell Open Network Architecture (ONA) Oversight Conference

Former delegate to the Illinois, Michigan, Indiana, Ohio, and Wisconsin Ameritech Regional Regulatory Conference (ARRC) charged with the responsibility of analyzing Ameritech’s “Customers First” local exchange competitive framework for formulation of recommendations to the FCC and the U.S. Department of Justice

Former Co-Chairman of the Maryland Local Number Portability Industry Consortium responsible for developing and implementing a permanent database number portability solution



## Michael Starkey

Former member of the Illinois Local Number Portability Industry Consortium responsible for developing and implementing a permanent database number portability solution

### **Expert Testimony – Profile**

*The information below is Mr. Starkey's best effort to identify all proceedings wherein he has either provided pre-filed written testimony, an expert report or provided live testimony.*

#### **Before the Public Utilities Commission of the State of Colorado**

##### **Docket No. 06F-124T**

*McLeodUSA Telecommunications Services, Inc., v. Qwest Corporation*

On behalf of McLeodUSA Telecommunications Services, Inc.

#### **Before the Public Utilities Commission of the State of California**

##### **Case No. 06-03-023**

*Pacific Bell Telephone Company d/b/a AT&T California v. Cbeyond Communications, LLC (U 6446 C) and Covad Communications Company (U 5752 C)*

On behalf of Cbeyond Communications LLC, Covad Communications Company, Mpower Communications, XO Communications Services, Inc. and Telepacific Communications

#### **Before the Arizona Corporation Commission**

##### **Docket No. T-03267A-06-0105**

##### **Docket No. T-01051B-06-0105**

*In the Matter of McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation*

On behalf of McLeodUSA Telecommunications Services, Inc.

#### **Before the Washington Utilities and Transportation Commission**

##### **Docket No. UT-063013**

*McLeodUSA Telecommunications Services, Inc., v. Qwest Corporation*

On behalf of McLeodUSA Telecommunications Services, Inc.

#### **Before the Public Service Commission of Utah**

##### **Docket No. 06-2249-01**

*In the Matter of the Complaint of McLeodUSA Telecommunications Services, Inc., against Qwest Corporation for Enforcement of Commission-Approved Interconnection Agreement*

On behalf of McLeodUSA Telecommunications Services, Inc.

#### **Before the Iowa Utilities Board, Department of Commerce**

##### **Docket No. FCU-06-20**

*McLeodUSA Telecommunications Services, Inc. v. Qwest Communications*

On behalf of McLeodUSA Telecommunications Services, Inc.

#### **Before the Illinois Commerce Commission**

##### **Docket No. 05-0575**

*Illinois Bell Telephone Company Compliance with Requirements of 13.505.1 of the Public Utilities Act (Payphone Rates)*

On behalf of The Illinois Public Telecommunications Association

#### **Before the Public Utilities Commission of the State of California**

##### **Application 05-07-024**

*Application of Pacific Bell Telephone Company, d/b/a SBC California for Generic Proceeding to Implement Changes in Federal Unbundling Rules Under Sections 251 and 252 of the Telecommunications Act of 1996*



## **Michael Starkey**

On behalf of MCIMetro Access Transmission Services, LLC, Covad Communications Company and Arrival Communications, Inc.

### **Before the Public Service Commission of Wisconsin**

#### **Docket No. 6720-TI-108**

*Investigation of the Access Line Rates of Wisconsin Bell, Inc., d/b/a SBC Wisconsin, that Apply to Private Payphone Providers*

On behalf of The Wisconsin Pay Telephone Association

### **Before the Public Utilities Commission of the State of California**

#### **Docket No. A.05-05-027**

*Application by Pacific Bell Telephone Company d/b/a SBC California (U 1001 C) for Arbitration of an Interconnection Agreement with MCIMetro Access Transmission Services LLC (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996.*

On behalf of MCIMetro Access Transmission Services, LLC

### **Before the Michigan Public Service Commission**

#### **Case No. U-14447**

*In the matter, on the Commission's own motion to commence a collaborative proceeding to monitor and facilitate implementation of Accessible Letters issued by SBC Michigan and Verizon*

On behalf of Covad Communications Company.

### **Before the Public Utilities Commission of Ohio**

#### **Case No. 05-887-TP-UNC**

*In the matter of the Establishment of Terms and Conditions of an Interconnection Agreement Amendment Pursuant To The Federal Communications Commission's Triennial Review Order and Its Order on Remand.*

On behalf of MCIMetro Access Transmission Services, LLC

### **Before the Public Service Commission of Wisconsin**

#### **Docket No. 05-MA-138**

*Petition of MCIMetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. for Arbitration of Interconnection Terms and Conditions and Related Arrangements with Wisconsin Bell, Inc., d/b/a SBC Wisconsin Pursuant to Section 252(b) of the Telecommunications Act of 1996*

On behalf of MCIMetro Access Transmission Services, LLC and MCI Worldcom Communications, Inc.

### **Indiana Utility Regulatory Commission**

#### **Cause No. 42893-INT 01**

*Indiana Bell Telephone Company, Incorporated d/b/a SBC Indiana Petition for Arbitration of Interconnection Rates Terms and Conditions and Related Arrangements with MCIMetro Access Transmission Services LLC, Intermedia Communications LLC, and MCI Worldcom Communications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*

On behalf of MCIMetro Access Transmission Services, LLC, Intermedia Communications, LLC and MCI Worldcom Communications, Inc.

### **Before the Illinois Commerce Commission**

#### **Docket No. 05-0442**

*Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 with Illinois Bell Telephone Company to Amend Existing Interconnection Agreements to Incorporate the Triennial Review Order and the Triennial Review Remand Order*

On behalf of Access One, Inc.; Broadview Networks, Inc.; BullsEye Telecom, Inc.; Cbeyond Communications, LLC; USXchange of Illinois, LLC, d/b/a ChoiceOne Communications; CIMCO Communications, Inc.; First Communications, LLC; Forte Communications, Inc.; Globalcom, Inc.; ICG Telecom Group, Inc.; King City Telephone, LLC, d/b/a Southern Illinois Communications; KMC Telecom



## Michael Starkey

V, Inc.; McLeodUSA Telecommunications Services, Inc.; Mpower Communications Corporation, d/b/a Mpower Communications of Illinois; Neutral Tandem – Illinois, LLC; New Edge Network, Inc.; nii Communications, Ltd.; Novacon Holdings, LLC; Nuvox Communications of Illinois, Inc.; OnFiber Carrier Services, Inc.; Talk America, Inc.; TCG Chicago; TCG Illinois; TDS Metrocom, LLC; and Trinsic Communications, Inc.

### **Before The Hawaii Public Utilities Commission**

#### **Docket No. 04-0140**

*Application of Paradise MergerSub, Inc., GTE Corporation, Verizon Hawaii Inc., Bell Atlantic Communications, Inc., and Verizon Select Services Inc. For Approval of a Merger Transaction and Related Matters*

On behalf of the Hawaii Public Utilities Commission

### **Before the Illinois Commerce Commission**

#### **Docket No. 04-0469**

*Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company Pursuant to Section 252(b) of the Telecommunications Act of 1996*

On behalf of MCImetro Access Transmission Services, LLC, MCI Worldcom Communications, Inc. and Intermedia Communications LLC

### **Before the Public Utility Commission of Texas**

#### **Docket No. 28821**

*Arbitration of Non-Costing Issues for Successor Interconnection Agreements to The Texas 271 Agreement.*

On behalf of MCImetro Access Transmission Services, LLC

### **Before the Public Service Commission of Wisconsin**

#### **Docket No. 6720-TI-187**

*Petition of SBC Wisconsin to Determine Rates and Costs for Unbundled Network Elements*

On behalf of AT&T Communications of Wisconsin, LP, TCG Milwaukee and MCI, Inc.

### **Before the Illinois Commerce Commission**

#### **Docket No. 02-0864**

*Filing to increase Unbundled Loop and Nonrecurring Rates (Tariffs filed December 24, 2002)*

On behalf of *The CLEC Coalition* (AT&T, Worldcom, Inc., McLeodUSA, Covad, TDS Metrocom, Allegiance, RCN Telecom, Globalcom, Z-Tel, XO Illinois, Forte Communications, CIMCO Communications)

### **Before the Connecticut Department of Public Utility Control**

#### **Docket No. 03-09-01PH02**

*DPUC Implementation of the Federal Communications Commission's Triennial Review Order – Hot Cut/Batch*

On behalf of MCI

### **Before the Public Utilities Commission of the State of California**

#### **Rulemaking 95-04-043, Investigation 95-04-044**

*Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service.*

On behalf of MCImetro, MCI Worldcom

### **Before the Public Utility Commission of Texas**

#### **Docket No. 28607**

*Impairment Analysis of Local Circuit Switching for the Mass Market*

On behalf of MCImetro, MCI Worldcom, Brooks Fiber Communications of Texas



## **Michael Starkey**

### **Before the State Corporation Commission of the State of Kansas**

#### **Docket No. 03-GIMT-1063-GIT**

*In the Matter of a General Investigation to Implement the State Mandates of the Federal Communications Commission's Triennial Review Order*

On behalf of MCImetro, MCI Worldcom

### **Before the Public Utilities Commission of Ohio**

#### **Case No. 04-34-TP-COI**

*In the Matter of the Implementation of the Federal Communications Commission's Triennial Review Regarding Local Circuit Switching in SBC Ohio's Mass Market*

On behalf of MCImetro, MCI Worldcom

### **Before the Michigan Public Service Commission**

#### **Case No. U-13891**

*In the matter, on the Commission's own motion, to investigate and to implement, a batch cut migration process*

On behalf of MCImetro, MCI Worldcom

### **Before the Michigan Public Service Commission**

#### **Case No. U-13796**

*In the matter, on the Commission's own motion, to facilitate the implementation of the Federal Communication Commission's Triennial Review determinations in Michigan*

On behalf of MCImetro, MCI Worldcom

### **Before the Missouri Public Service Commission**

#### **Case No. TO-2004-0207**

*In the Matter of a Commission Inquiry into the Possibility of Impairment Without Unbundled Local Circuit Switching when Serving the Mass Market*

On behalf of Sage Telecom, Inc.

### **Before the State of New York Public Service Commission**

#### **Case No. 02-C-1425**

*Proceeding on Motion of the Commission to Examine the Process, and Related Costs of Performing Loop Migrations on a More Streamlined (e.g., Bulk) Basis*

On behalf of MCImetro, MCI Worlcom

### **Before the Indiana Utility Regulatory Commission**

#### **Cause No. 42393**

*In the Matter of the Commission Investigation and Generic Proceeding of Rates and Unbundled Network Elements and Collocation for Indiana Bell Telephone Company, Incorporated d/b/a SBC Indiana Pursuant to the Telecommunications Act of 1996 and Related Indiana Statutes*

On behalf of *The CLEC Coalition* (AT&T, TCG Indianapolis, Worldcom, Inc., McLeodUSA, Covad, Z-Tel).

### **Before the Michigan Public Service Commission**

#### **Case No. U-13531**

*In the matter, on the Commission's own motion, to review the costs of telecommunications services provided by SBC Michigan*

On behalf of AT&T, Worldcom, Inc., McLeodUSA and TDS Metrocom.

### **Before the Illinois Commerce Commission**

#### **Docket No. 03-0323**

*Petition to Determine Adjustments to UNE Loop Rates Pursuant to Section 13-408 of the Illinois Public Utilities Act*



## **Michael Starkey**

On behalf of *The CLEC Coalition* (AT&T, Worldcom, Inc., McLeodUSA, Covad, TDS Metrocom, Allegiance, RCN Telecom, Globalcom, Z-Tel, XO Illinois, Forte Communications, CIMCO Communications)

### **Before the Public Utility Commission of Ohio**

#### **Case No. 96-1310-TP-COI**

*In the Matter of the Commission's Investigation into the Implementation of Section 276 of the Telecommunications Act of 1996 Regarding Pay Telephone Services*

On behalf of the Payphone Association of Ohio

### **Before the Wisconsin Public Service Commission**

#### **Docket No. 6720-TI-177**

*Investigation Into Ameritech Wisconsin's Loop Conditioning Services and Practices*

On behalf of WorldCom, Inc., AT&T Communications of Wisconsin, L.P. and TCG Milwaukee, McLeodUSA Telecommunications Services, Inc., TDS Metrocom, LLC

### **Before the Michigan Public Service Commission**

#### **Case No. U-11756 - REMAND**

*Complaint Pursuant to Sections 203 and 318 of the Michigan Telecommunications Act to Compel Respondents to Comply with Section 276 of the Federal Telecommunications Act*

On behalf of the Michigan Pay Telephone Association

### **Before the New York Public Service Commission**

#### **Case No. 00-C-0127**

*Proceeding on the Motion of the Commission to Examine Issues Concerning Provision of Digital Subscriber Line Services*

On behalf of MCI Worldcom Network Services, Inc.

### **Before the Indiana Utility Regulatory Commission**

#### **Cause No. 42236**

*Complaint of Time Warner Telecom Against Ameritech Indiana Regarding Its Unlawful Market Practice of Issuing Equipment Vouchers in Violation of the Indiana Code and Opportunity Indiana II and Petition for Emergency Suspension of any and all Ameritech Indiana Equipment Voucher Marketing Practices Pending Commission Investigation*

On behalf of Time Warner Telecom of Indiana, LP

### **Before the Pennsylvania Public Utility Commission**

#### **Docket No. P-00930715F0002**

*Re: Verizon Pennsylvania Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30, 2000 Biennial Update to Network Modernization Plan*

On behalf of MCI Worldcom Network Services, Inc.

### **Before the Illinois Commerce Commission**

#### **Docket No. 01-0609**

*Investigation of the propriety of the rates, terms, and conditions related to the provision of the Basic COPTS Port and the COPTS-Coin Line Port*

On behalf of Payphone Services, Inc., DataNet Systems, LLC, Illinois Public Telecommunications Association

### **Before the Indiana Utility Regulatory Commission**

#### **Cause No. 40611-S1 (Phase II)**



## **Michael Starkey**

*In the Matter of: The Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection Service, Unbundled Elements, and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes*

On behalf of AT&T, Worldcom, Inc., and McLeodUSA Telecommunications Services, Inc.

### **Before the State of North Carolina Utility Commission**

**Docket No. P-7, Sub 980, P-10, Sub 622**

*Enforcement of Interconnection Agreement Between KMC Telecom III, Inc. and KMC Telecom V, Inc., against Carolina Telephone and Telegraph Company and Central Telephone Company*

On behalf of KMC Telecom, Inc.

### **Before the Illinois Commerce Commission**

**Docket Nos. 98-0252, 98-0335, 98-0764 (Reopening)**

*SBC/Ameritech Merger, Reopening to Discuss Settlement Agreement Regarding Merger Savings*

On behalf of AT&T, Worldcom, Inc., and McLeodUSA Telecommunications Services, Inc.

### **Before the Public Utility Commission of Ohio**

**Docket No. 01-1319-TP-ARB**

*In the Matter of MCImetro Access Transmission Services, LLC Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Ameritech Ohio*

On behalf of MCIWorldcom, Inc.

### **Before the Illinois Commerce Commission**

**Docket No. 00-0393 (Rehearing)**

*Illinois Bell Telephone Company, d/b/a Ameritech Illinois Proposed Implementation of High Frequency Portion of the Loop (HFPL)/Line Sharing Service*

On behalf of AT&T Communications of Illinois, Inc. and Worldcom, Inc.

### **Before the Wisconsin Public Service Commission**

**Case No. 6720-TI-167**

*Complaint Against Ameritech Wisconsin Filed by Wisconsin Builders Association, Inc.*

On behalf of Wisconsin Builders Association, Inc.

### **Before the Public Service Commission of South Carolina**

**Docket No. 2001-65-C**

*In the Matter of Generic Proceeding to Establish Prices For BellSouth's Interconnection Services, Unbundled Network Elements and Other Related Elements and Services*

On behalf of NuVox Communications, Broadslate Networks, KMC Telecom, New South Communications, ITC^Deltacom Communications

### **Before the Louisiana Public Service Commission**

Docket No. 27821

*In the Matter of Generic Proceeding to Establish Interim and Permanent Prices for Docket No. 27821 xDSL Loops and/or Related Elements and Services*

On behalf of Covad Communications

### **Before the Public Utility Commission of Ohio**

Case No. 00-942-TP-COI

*In the Matter of the Further Investigation into Ameritech Ohio's Entry into In-Region Interlata Service Under Section 271 of the Telecommunications Act of 1996*

On behalf of AT&T, WorldCom and XO Communications





## **Michael Starkey**

### **Before the Washington Utilities and Transportation Commission**

Docket No. UT 003013, Part B

*In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport and Termination*

On behalf of Focal Communications, XO Washington, Inc.

### **Before the Illinois Commerce Commission**

Docket No. 98-0195

*Investigation into certain payphone Issues as directed in Docket No. 97-0225*

On behalf of the Illinois Pay Telephone Association

### **Before the Alabama Public Service Commission**

Docket No. 27821

*Generic Proceeding to Establish Interim and Permanent Prices for xDSL Loops and/or Related Elements and Services*

On behalf of The Data Coalition (Covad Communications and Broadslate Networks of Alabama, Inc.)

### **Before the Wisconsin Public Service Commission**

Docket No. 6720-TI-160

Docket No. 6720-TI-161

*Investigation Into Ameritech Wisconsin's Unbundled Network Elements*

On behalf of AT&T, Worldcom, McLeodUSA, TDS Metrocom, KMC Telecom, Time Warner Telecom, Rhythms Links,

### **Before the Tennessee Regulatory Authority**

Docket No. 00-00544

*Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355, and Riser Cable and Terminating Wire as Ordered in Authority Docket No. 98-00123*

On behalf of Covad Communications, Inc., Mpower Communications and BroadSlate Networks of Tennessee, Inc.

### **Before the Public Utilities Commission of the State of Hawaii**

Docket No. 7702, Phase III

*Instituting a Proceeding on Communications, Including an Investigation of the Communications Infrastructure of the State of Hawaii*

On behalf of GST Telecom Hawaii, Inc.

### **Before the North Carolina Utilities Commission**

Docket P100 Sub 133d, Phase II

*General Proceeding to Determine Permanent Pricing for Unbundled Network elements*

On behalf of a consortium of 13 new entrant carriers

### **Before the Federal Communications Commission**

CCB/CPD No. 00-1

*In the Matter of Wisconsin Public Service Commission Order Directing Filings*

On behalf of the Wisconsin Pay Telephone Association

### **Before the North Carolina Utilities Commission**

Docket P100 Sub 133d, Phase I

*General Proceeding to Determine Permanent Pricing for Unbundled Network elements*

On behalf of a consortium of 13 new entrant carriers

### **Before the State of New York Public Service Commission**

Case No. 98-C-1357



## **Michael Starkey**

*Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements*  
On behalf of the CLEC Coalition

### **Before the Public Utilities Commission of the State of California**

Rulemaking 0-02-05

*Order Instituting Rulemaking on the Commission's Own Motion into reciprocal compensation for telephone traffic transmitted to Internet Service Providers modems*  
On behalf of ICG Telecom Group, Inc.

### **Before the Public Utilities Commission of the State of Colorado**

Docket No. 00B-103T

*In the Matter of Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with US West Communications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996.*  
On behalf of ICG Telecom Group, Inc.

### **Before the Delaware Public Service Commission**

PSC Docket No. 00-205

*For Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic – Delaware, Inc.*  
On behalf of Focal Communications Corporation of Pennsylvania

### **Before the Georgia Public Service Commission**

Case No. 11641-U

*Petition of BlueStar Networks, Inc. for Arbitration with BellSouth Docket No. 11641-U Telecommunications, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996*  
On behalf of BlueStar Networks, Inc.

### **Before the New Jersey Board of Public Utilities**

Docket No. TO00030163

*For Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic-New Jersey, Inc.*  
On behalf of Focal Communications Corporation

### **Before the Pennsylvania Public Utility Commission**

Docket No. A-310630F.0002

*For Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic-Pennsylvania*  
On behalf of Focal Communications Corporation

### **Before the Michigan Public Service Commission**

Case No. U-12287

*In the matter of the application, or in the alternative, complaint of AT&T COMMUNICATIONS OF MICHIGAN, INC. against Michigan Bell Telephone Company, D/B/A, Ameritech Michigan*  
On behalf of AT&T Communications of Michigan, Inc.

### **Before the Missouri Public Service Commission**

Case No. 99-483

*An Investigation for the Purpose of Clarifying and Determining Certain aspects Surrounding the Provisioning Of Metropolitan Calling Area Services After the Passage and Implementation Of the Telecommunications Act of 1996*  
On behalf of McLeodUSA Telecommunications Services, Inc.

### **Before the Illinois Commerce Commission**



## Michael Starkey

Docket No. 98-0396

*Investigation into the compliance of Illinois Bell Telephone Company with the order in Docket 96-0486/0569 Consolidated regarding the filing of tariffs and the accompanying cost studies for interconnection, unbundled network elements and local transport and termination and regarding end to end bundling issues.*

On behalf of AT&T Communications of Illinois, Inc. and McLeodUSA Telecommunications Services, Inc.

### **Before the Illinois Commerce Commission**

Docket No. 99-0593

*Investigation of Construction Charges*

On behalf of McLeodUSA Telecommunications Services, Inc., MCI WorldCom, Inc. and Allegiance Telecom, Inc.

### **Before the Public Service Commission of Wisconsin**

Case No. 05-TI-283

*Investigation of the Compensation Arrangements for the Exchange of Traffic Directed to Internet Service Providers*

On behalf of AT&T Communications of Wisconsin, AT&T Local Services, KMC Telecom, Inc., MCI WorldCom, Inc., McLeodUSA Telecommunications Services, Inc., TDS MetroComm, Time Warner Telecom

### **Before the Public Utility Commission of Texas**

Docket No. 21982

*Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*

On behalf of ICG Communications, Inc.

### **Before the Public Service Commission of the Commonwealth of Kentucky**

Case No. 99-498

*Petition of BlueStar Networks, Inc. for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252 of the Telecommunications Act of 1996.*

On behalf of BlueStar Networks, Inc.

### **Before the Illinois Commerce Commission**

Docket No. 00-0027

*Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois.*

On behalf of Focal Communications Corporation of Illinois

### **Before The Indiana Utility Regulatory Commission**

Cause No. 41570

*In the Matter of the Complaint of McLeodUSA Telecommunications Services, Inc. against Indiana Bell Telephone Company, Incorporated, d/b/a Ameritech Indiana, Pursuant to the Provisions of I.C. §§ 8-1-2-54, 8-1-2-68, 8-1-2-103 and 8-1-2-104 Concerning the Imposition of Special Construction Charges.*

On behalf of McLeodUSA Telecommunications Services, Inc.

### **Before the Florida Public Service Commission**

Docket No. 991838-TP

*Petition for Arbitration of BlueStar Networks, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*

On behalf of BlueStar Networks, Inc.

### **Before the Public Utility Commission of Ohio**

Case No. 99-1153-TP-ARB



## **Michael Starkey**

*In the Matter of ICG Telecom Group, Inc.'s Petition For Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Ameritech Ohio*

On behalf of ICG Telecom Group, Inc.

### **Before the Public Utility Commission of Oregon**

ARB 154

*Petition for Arbitration of GST Telecom Oregon, Inc. Against US West Communications, Inc. Under 47*

*U.S.C. §252(b)*

On behalf of GST Telecom Oregon, Inc.

### **Before the Michigan Public Service Commission**

Docket No. U-12072

*In the matter of the application and complaint of WORLDCOM TECHNOLOGIES INC. (f/k/a MFS INTELENET OF MICHIGAN, INC., an MCI WORLDCOM company) against MICHIGAN BELL TELEPHONE COMPANY d/b/a AMERITEHC MICHIGAN, AMERITECH SERVICES, INC., AMERITECH INFORMATION INDUSTRY SERVICES, AND AMERITECH LONG DISTANCT INDUSTRY SERVICES relating to unbundled interoffice transport.*

On behalf of WorldCom Technologies, Inc.

### **Before the Illinois Commerce Commission**

Docket No. 99-0525

*Ovation Communications, Inc. d/b/a McLeodUSA, Complaint Against Illinois Bell Telephone Company d/b/a Ameritech Illinois, Under Sections 13-514 and 13-515 of the Public Utilities Act Concerning the Imposition of Special Construction Charges and Seeking Emergency Relief Pursuant to Section 13-515(e)*

On behalf of McLeodUSA

### **Before the Public Service Commission of the Commonwealth of Kentucky**

Case No. 99-218

*Petition of ICG Telecom Group, Inc. for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252 of the Telecommunications Act of 1996.*

On behalf of ICG Telecom Group, Inc.

### **Before the Tennessee Regulatory Authority**

Docket No. 1999-259-C

*Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*

On behalf of ICG Communications, Inc.

### **Before the New Mexico Public Regulation Commission**

Case No. 3131

*In the Matter of GST Telecom New Mexico, Inc.'s Petition for Arbitration Against US West Communications, Inc., Under 47 U.S.C. § 252(b).*

On behalf of GST Telecom New Mexico, Inc.

### **Before the Georgia Public Service Commission**

Docket No. 10767-U

*Petition of ICG Telecom Group, Inc. for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252 of the Telecommunications Act of 1996.*

On behalf of ICG Telecom Group, Inc.

### **Before the Public Service Commission of New York**

Case No. 99-C-0529

*Proceeding on Motion of the Commission to Re-examine Reciprocal Compensation*

On behalf of Focal Communications, Inc.



## **Michael Starkey**

### **Before the Florida Public Service Commission**

Docket No. 990691-TP

*Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*

On behalf of ICG Telecom Group, Inc.

### **Before the Louisiana Public Service Commission**

Docket No. U-24206

*Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*

On behalf of ITC^DeltaCom, Inc.

### **Before the South Carolina Public Service Commission**

Docket No. 199-259-C

*Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*

On behalf of ITC^DeltaCom, Inc.

### **Before the Alabama Public Service Commission**

Docket No. 27069

*Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*

On behalf of ICG Telecom Group, Inc.

### **Before the State of North Carolina Utilities Commission**

Docket No. P-582, Sub 6

*Petition by ICG Telecom Group, Inc. for Arbitration of Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*

On behalf of ICG Telecom Group, Inc.

### **Before the Missouri Public Service Commission**

Case No. TO-99-370

*Petition of BroadSpan Communications, Inc. for Arbitration of Unresolved Interconnection Issues Regarding ADSL with Southwestern Bell Telephone Company*

On behalf of BroadSpan Communications, Inc.

### **Before the Michigan Public Service Commission**

Case No. U-11831

*In the Matter of the Commission's own motion, to consider the total service long run incremental costs for all access, toll, and local exchange services provided by Ameritech Michigan.*

On behalf of MCIWorldCom, Inc.

### **Before the Illinois Commerce Commission**

Docket Nos. 98-0770, 98-0771 cons.

*Proposed Modifications to Terms and Conditions Governing the Provision of Special Construction Arrangements and, Investigation into Tariff Governing the Provision of Special Constructions Arrangements*

On behalf of AT&T Communications of Illinois, Inc.

### **Before the Michigan Public Service Commission**

Case No. U-11735



## **Michael Starkey**

*In the matter of the complaint of BRE Communications, L.L.C., d/b/a PHONE MICHIGAN, against Michigan Bell Telephone Company, d/b/a AMERITECH MICHIGAN, for violations of the Michigan Telecommunications Act*

On behalf of BRE Communications, L.L.C.

### **Before the Indiana Utility Regulatory Commission**

Cause No. 40830

*In the Matter of the request of the Indiana Payphone Association for the Commission to Conduct an Investigation of Local Exchange Company Pay Telephone tariffs for Compliance with Federal Regulations, and to Hold Such Tariffs in Abeyance Pending Completion of Such Proceeding*

On behalf of the Indiana Payphone Association

### **Before the Michigan Public Service Commission**

Case No. U-11756

*Complaint Pursuant to Sections 203 and 318 of the Michigan Telecommunications Act to Compel Respondents to Comply with Section 276 of the Federal Telecommunications Act*

On behalf of the Michigan Pay Telephone Association

### **Before the Missouri Public Service Commission**

Case No. TO-98-278

*In the Matter of the Petition of Birch Telecom of Missouri, Inc., for Arbitration of the Rates, Terms, Conditions, and Related Arrangements for Interconnection with Southwestern Bell Telephone Company*

On behalf of Birch Telecom of Missouri, Inc.

### **Before the Public Service Commission of the Commonwealth of Kentucky**

Administrative Case No. 361

*Deregulation of Local Exchange Companies' Payphone Services*

On behalf of the Kentucky Payphone Association

### **Before the Public Utilities Commission of Ohio**

Case No. 96-899-TP-ALT

*The Application of Cincinnati Bell Telephone Company for Approval of a Retail Pricing Plan Which May Result in Future Rate Increases*

On behalf of the MCI Telecommunications Corporation

### **Before the Public Utilities Commission of the State of Hawaii**

Docket No. 7702

*Instituting a Proceeding on Communications, Including an Investigation of the Communications Infrastructure of the State of Hawaii*

On behalf of GST Telecom Hawaii, Inc.

### **Before the Michigan Public Service Commission**

Case No. U-11410

*In the Matter of the Petition of the Michigan Pay Telephone Association to initiate an investigation to determine whether Michigan Bell Telephone Company d/b/a Ameritech Michigan and GTE North Incorporated are in compliance with the Michigan Telecommunications Act and Section 276 of The Communications Act of 1934, as amended*

On behalf of the Michigan Pay Telephone Association

### **Before the Indiana Utility Regulatory Commission**

Cause No. 40849

*In the matter of Petition of Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana for the Commission to Decline to Exercise in Whole or in Part its Jurisdiction Over, and to Utilize Alternative*



## **Michael Starkey**

*Regulatory Procedures For, Ameritech Indiana's Provision of Retail and Carrier Access Services Pursuant to I.C. 8-1-2.6 Et Seq.*

On behalf of AT&T Communications of Indiana, Inc.

### **Before the Federal Communication Commission**

C.C. Docket No. 97-137

*In the Matter of Application by Ameritech Michigan for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Michigan.*

On behalf of the AT&T Corporation

### **Before the Indiana Utility Regulatory Commission**

Cause No. 40611

*In the Matter of the Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection, Service, Unbundled Elements and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes*

On behalf of the MCI Telecommunications Corporation

### **Before the Public Utility Commission of Ohio**

Case No. 97-152-TP-ARB

*In the matter of the petition of MCI Telecommunications Corporation for arbitration pursuant to section 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement with Cincinnati Bell Telephone Company*

On behalf of the MCI Telecommunications Corporation

### **Before the Michigan Public Service Commission**

Case No. U-11280

*In the matter, on the Commission's own motion to consider the total service long run incremental costs and to determine the prices of unbundled network elements, interconnection services, and basic local exchange services for AMERITECH MICHIGAN*

On behalf of the MCI Telecommunications Corporation

### **Before the Illinois Commerce Commission**

Docket No. 96-0486

*Investigation into forward looking cost studies and rates of Ameritech Illinois for interconnection, network elements, transport and termination of traffic*

On behalf of the MCI Telecommunications Corporation

### **Before the Public Utility Commission of Ohio**

Case No. 96-922-TP-UNC

*In the Matter of the Review of Ameritech Ohio's Economic Costs for Interconnection, Unbundled Network Elements, and Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic*

On behalf of the MCI Telecommunications Corporation

### **Before the New Jersey Board of Public Utilities**

Docket No. TX95120631

*In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services*

On behalf of the MCI Telecommunications Corporation

### **Before the Michigan Public Service Commission**

Case No. U-11104

*In the matter, on the Commission's Own Motion, to Consider Ameritech Michigan's Compliance With the Competitive Checklist in Section 271 of the Telecommunications Act of 1996*

On behalf of AT&T Communications of Indiana, Inc.



## **Michael Starkey**

### **Before the Public Utility Commission of Ohio**

Case Nos. 96-702-TP-COI, 96-922-TP-UNC, 96-973-TP-ATA, 96-974-TP-ATA, Case No. 96-1057-TP-UNC

*In the Matter of the Investigation Into Ameritech Ohio's Entry Into In-Region InterLATA Services Under Section 271 of the Telecommunications Act of 1996.*

On behalf of AT&T Communications of Ohio, Inc.

### **Before the Illinois Commerce Commission**

Docket No. 96-0404

*Investigation Concerning Illinois Bell Telephone Company's Compliance With Section 271(c) of the Telecommunications Act of 1996*

On behalf of AT&T Communications of Illinois, Inc.

### **Before the Commonwealth of Massachusetts Department of Public Utilities**

*In the Matter of: D.P.U. 96-73/74, D.P.U. 96-75, D.P.U. 96-80/81, D.P.U. 96-83, D.P.U. 96-94, NYNEX - Arbitrations*

On behalf of the MCI Telecommunications Corporation

### **Before the Pennsylvania Public Utility Commission**

Docket No. A-31023670002

*In the Matter of the Application of MCI Metro Access Transmission Services, Inc. For a Certificate of Public Convenience and Necessity to Provide and Resell Local Exchange Telecommunications Services in Pennsylvania*

On behalf of MCI Metro Access and Transmission Services, Inc.

### **Before the New Jersey Board of Public Utilities**

Docket No. TO96080621

*In the Matter of MCI Telecommunications Corporation for Arbitration with Bell Atlantic-New Jersey, Inc. Pursuant to Section 252 of the Telecommunications Act of 1996*

On behalf of the MCI Telecommunications Corporation

### **Before the Indiana Utility Regulatory Commission**

Cause No. 40571-INT-01

*Petition for Arbitration of Interconnection Rates, Terms and Conditions, and Related Arrangements with Wisconsin Bell Telephone Company d/b/a Ameritech Wisconsin*

On behalf of AT&T Communications of Wisconsin, Inc.

### **Before the Public Utility Commission of Ohio**

Case No. 96-752-TP-ARB

*Petition for Arbitration of Interconnection Rates, Terms and Conditions, and Related Arrangements with Ohio Bell Telephone Company d/b/a Ameritech Ohio*

On behalf of AT&T Communications of Ohio, Inc.

### **Before the Illinois Commerce Commission**

Docket No. 96-AB-003

Docket No. 96-AB-004 *Consol.*

*Petition for Arbitration of Interconnection Rates, Terms and Conditions, and Related Arrangements with Illinois Bell Telephone Company d/b/a Ameritech Illinois*

On behalf of AT&T Communications of Illinois, Inc.

### **Before the Michigan Public Service Commission**

Case No. U-11151





## **Michael Starkey**

*Petition for Arbitration of Interconnection Rates, Terms and Conditions, and Related Arrangements with Michigan Bell Telephone Company d/b/a Ameritech Michigan*  
On behalf of AT&T Communications of Michigan, Inc.

### **Before the Indiana Utility Regulatory Commission**

Cause No. 40571-INT-01

*In the Matter of the Petition of AT&T Communications of Indiana, Inc. Requesting Arbitration of Certain Terms and Conditions and Prices for Interconnection and Related Arrangements from Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana Pursuant to Section 252 (b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996.*  
On behalf of AT&T Communications of Indiana, Inc.

### **Before the Missouri Public Service Commission**

Case No. TT-96-268

*Application of Southwestern Bell Telephone Company, Inc. to Revise P.S.C. Mo.-No. 26, Long Distance Message Telecommunications Service Tariff to Introduce the Designated Number Optional Calling Plan*  
On behalf of the MCI Telecommunications Corporation

### **Before the Corporation Commission of the State of Oklahoma**

Cause No. PUD 950000411

*Application of Southwestern Bell Telephone Company for an Order Approving Proposed Revisions in Applicant's Long Distance Message Telecommunications Service Tariff*  
*Southwestern Bell Telephone Company's Introduction of 1+ Saver Direct<sup>sm</sup>*  
On behalf of the MCI Telecommunications Corporation

### **Before the Georgia Public Service Commission**

Docket No. 6415-U and 6537-U *cons.*

*Petition of MCImetro to Establish Nondiscriminatory Rates, Terms and Conditions for the Unbundling and Resale of Local Loops*  
On behalf of MCImetro Access Transmission Services

### **Before the Public Service Commission of the State of Mississippi**

Docket No. 95-UA-358

*Regarding a Docket to Consider Competition in the Provision of Local Telephone Service*  
On behalf of the Mississippi Cable Television Association

### **Before the Maryland Public Service Commission**

Docket No. 8705

*In the Matter of the Inquiry Into the Merits of Alternative Plans for New Telephone Area Codes in Maryland*  
On behalf of the Staff of the Maryland Public Service Commission

### **Before the Maryland Public Service Commission**

Docket No. 8584, Phase II

*In the Matter of the Application of MFS Intelenet of Maryland, Inc. for Authority to Provide and Resell Local Exchange and Inter-Exchange Telephone Service; and Requesting the Establishment of Policies and Requirements for the Interconnection of Competing Local Exchange Networks*

*In the Matter of the Investigation of the Commission on its Own Motion Into Policies Regarding Competitive Local Exchange Telephone Service*

On behalf of the Staff of the Maryland Public Service Commission

### **Before the Illinois Commerce Commission**

Docket No. 94-0400



## Michael Starkey

*Application of MCImetro Access and Transmission Services, Inc. For a Certificate of Exchange Service Authority Allowing it to Provide Facilities-Based Local Service in the Chicago LATA*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket No. 94-0315

*Petition of Ameritech-Illinois for 708 NPA Relief by Establishing 630 Area Code*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket No. 94-0422

*Complaints of MFS, TC Systems, and MCI against Ameritech-Illinois Regarding Failure to Interconnect*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket Nos. 94-0096, 94-0117, and 94-301

*Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois, et al.*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket No. 94-0049

*Rulemaking on Line-Side and Reciprocal Interconnection*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket No. 93-0409

*MFS-Intelenet of Illinois, Inc. Application for an Amendment to its Certificate of Service Authority to Permit it to Operate as a Competitive Local Exchange Carrier of Business Services in Those Portions of MSA-1 Served by Illinois Bell Telephone and Central Telephone Company of Illinois*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket No. 94-0042, 94-0043, 94-0045, and 94-0046

*Illinois Commerce Commission on its own motion. Investigation Regarding the Access Transport Rate Elements for Illinois Consolidated Telephone Company (ICTC), Ameritech-Illinois, GTE North, GTE South, and Central Telephone Company (Centel)*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Illinois Commerce Commission**

Docket No. 93-0301 and 94-0041

*GTE North Incorporated. Proposed Filing to Restructure and Consolidate the Local Exchange, Toll, and Access Tariffs with the Former Contel of Illinois, Inc.*  
On behalf of the Office of Policy and Planning, Illinois Commerce Commission

### **Before the Public Service Commission of the State of Missouri**

Case No. TC-93-224 and TO-93-192

*In the Matter of Proposals to Establish an Alternate Regulation Plan for Southwestern Bell Telephone Company*  
On behalf of the Telecommunications Department, Missouri Public Service Commission

### **Before the Public Service Commission of the State of Missouri**

Case No. TO-93-116

*In the Matter of Southwestern Bell Telephone Company's Application for Classification of Certain Services as Transitionally Competitive*



## Michael Starkey

On behalf of the Telecommunications Department, Missouri Public Service Commission

### **Selected Reports, Presentations and Publications**

#### *IP-Enabled Voice Services*

*Impact of Applying Switched Access Charges to IP-PSTN Voice Services*

FCC Wireline Competition Bureau Docket Nos. 04-36, 03-266

January 2005

#### *Final Report*

*Analysis and Recommendations Related to Docket No. 04-0140*

*Merger Application of Paradise Mergersub, Inc. (n/k/a Hawaiian Telecom Mergersub, Inc.),  
Verizon Hawaii, Inc. and Related Companies.*

On behalf of the Hawaii Public Utilities Commission

Submitted February 3, 2005

#### *Litigating Telecommunications Cost Cases*

*TELRIC Principles and Other Sources of Enlightenment*

Two Day Teaching Seminar for Public Utility Commissions and their Staff (Western States)

Denver, Colorado, February 5&6, 2002

#### *Interconnect Pricing*

*Critique of FCC Working Paper Nos. 33 & 34*

NARUC Winter Meeting 2001

Washington, D.C., February 25, 2001

#### *Telecommunications Costing and Pricing*

*Interconnection and Inter-Carrier Compensation*

Advanced Regulatory Studies Program

Michigan State University

Cincinnati, Ohio, October 13, 2000

#### *Telecommunications Pricing in Tomorrow's Competitive Local Market*

Professional Pricing Societies 9<sup>th</sup> Annual Fall Conference

Pricing From A to Z

Chicago, Illinois, October 30, 1998

#### *Recombining Unbundled Network Elements: An Alternative to Resale*

ICM Conferences' Strategic Pricing Forum

January 27, 1998, New Orleans, Louisiana

#### *MERGERS – Implications of Telecommunications Mergers for Local Subscribers*

National Association of State Utility Consumer Advocates Mid-Year Meeting,

Chicago, Illinois, June 24 1996

#### *Unbundling, Costing and Pricing Network Elements in a Co-Carrier World*

Telecommunications Reports' Rethinking Access Charges & Intercarrier Compensation

Washington, D.C., April 17, 1996



## Michael Starkey

*Key Local Competition Issues Part I (novice)*

*Key Local Competition Issues Part II (advanced)*

with Mark Long

National Cable Television Associations' 1995 State Telecommunications Conference

Washington, D.C., November 2, 1995

*Competition in the Local Loop*

New York State Telephone Association and Telephone Association of New England Issues

Forum

Springfield, Massachusetts, October 18, 1995

*Compensation in a Competitive Local Exchange*

National Association of Regulatory Utility Commissioner Subcommittee on Communications'

Summer Meetings

San Francisco, California, July 21, 1995

*Fundamentals of Local Competition and Potential Dangers for Interexchange Carriers*

COMPTEL 1995 Summer Business Conference

Seattle, Washington, June 12, 1995

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 3**

**ISSUES BY SUBJECT MATTER – OREGON [Annotated]<sup>1</sup>**  
**Prepared by Eschelon**  
**Updated May 3, 2007**

**I. OVERVIEW AND INTRODUCTION – Starkey Direct**

**II. CHRONOLOGIES AND ADDITIONAL FACTUAL SUPPORT – Johnson Direct**

**III. ISSUES GROUPED BY SUBJECT MATTER:**

**1. INTERVAL CHANGES AND PLACEMENT<sup>2</sup> – ISSUE 1-1 and (a)-(e) - Starkey Direct**

**Issue 1-1 (2 options- Two Eschelon Proposals and one Qwest Proposal for same issue): Changes to Intervals --** Section 1.7.2 and Exhibits N and O

**Issue 1-1 (a): Interconnection trunks --** Section 7.4.7

**Issue 1-1 (b): UDIT Rearrangements --** Exhibit C, Group 2.0

**Issue 1-1 (c): LIS Trunking --** Exhibit C, Group 9.0

**Issue 1-1 (d): ICB Provisioning Intervals --** Exhibit I, Section 3

**Issue 1-1 (e): Intervals for Loop-Mux Combination (LMC) --** Section 9.23.9.4.3 (Eschelon)/Section 24.4.4.3(Qwest), 1<sup>st</sup> provision/sentence only  
The section numbers differ, because Eschelon proposes placement in Section 9 (UNEs) and Qwest proposes placement in Section 24 (Commingling). [Regarding placement of LMC, and for the open issue in the remainder of this paragraph, *see* Issue 9-61.]

**2. RATE APPLICATION – ISSUE 2-3 – Denney Direct**

**Issue 2-3: Application of Rates in Exhibit A --** Section 2.2 (1 of 2 issues); *see also* Section 22 (1 of 2 Options)

**3. EFFECTIVE DATE OF LEGALLY BINDING CHANGES – ISSUE 2-4 – Denney Direct**

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<sup>1</sup> This Issues by Subject Matter List contains annotations to show where each issue is primarily addressed in Eschelon’s direct testimony. For example, “Starkey Direct” indicates that the issue is addressed in Eschelon witness Michael Starkey’s direct testimony. Other annotations include “Denney Direct” and “Johnson Direct,” indicating issues addressed in the direct testimonies of Eschelon witnesses Douglas Denney and Bonnie Johnson, respectively.

<sup>2</sup> *Excludes* Length of Intervals for Commingled Arrangements and Intervals for Loop-Mux combinations. *See* Issue 9-61.

**Issue 2-4: Effective Date of Legally Binding Changes** -- Section 2.2 (2 of 2 issues) (1 of 2 Options) and (2 of 2 options – Proposal #2 is for entire section 2.2, and has a related component in 22.4.1.2)

#### **4. DESIGN CHANGES – ISSUE 4-5 and (a)-(c) – Denney Direct**

**Issue 4-5: Design Changes for Loops** – Section 9.2.3.8

**Issue 4-5 (a): CFA Change** – Section 9.2.3.9

**Issue 4-5(b): Intentionally Left Blank**

**Issue 4-5(c): Design Change Charge** – Exhibit A, Section 9.20.11 and subparts

➤ *5-7 COLLECTIVELY: “PAYMENT AND DEPOSIT”*

#### **5. DISCONTINUATION OF ORDER PROCESSING AND DISCONNECTION – ISSUES 5-6 and 5-7 and subpart – Denney Direct**

**Issue 5-6 (2 options - Two Eschelon Proposals and one Qwest Proposal for same issue): Discontinuation of Order Processing for failure to make payment** - Section 5.4.2

**Issue 5-7: Commission approval prior to disconnection (cross reference)** – Section 5.4.3

**Issue 5-7(a): Commission approval prior to disconnection** – Section 5.1.13.1

#### **6. DEPOSITS – ISSUES 5-8, 5-9, 5-11 and 5-12 – Denney Direct**

**Issue 5-8: De Minimus Amount** – Section 5.4.5 (1 of 3 sub-issues in 5.4.5; same language for this issue appears in the first two of Eschelon’s proposals for 5.4.5)

**Issue 5-9 (2 options - Two Eschelon Proposals and one Qwest Proposal for same issue): Definition of Repeatedly Delinquent** – Section 5.4.5 (2 of 3 sub-issues in 5.4.5)

**Issue 5-11: Disputes Before Commission** – Section 5.4.5 (3 of 3 sub-issues in 5.4.5; same language in first two of Eschelon’s proposals)

**Issue 5-12 (Alternative Approach to Deposits): Commission Determines Right to Deposit based on Relevant Circumstances** –Section 5.4.5 (all)

Eschelon offers the language shown in Issue 5-12 (Eschelon’s Proposal #3) as an alternative to the other two Eschelon versions of 5.4.5. If this

provision (Proposal #3) were adopted, there would be no de minimus or repeatedly delinquent language. This entire paragraph, if adopted, would replace all other Eschelon proposals for all of Section 5.4.5. Qwest's counter is the same for all proposals.

**7. REVIEW OF CREDIT STANDING – ISSUE 5-13 – Denney Direct**

**Issue 5-13 (2 options - Two Eschelon Proposals and one Qwest Proposal for same issue): Review of Credit Standing – Section 5.4.7**

**8. COPY OF NON-DISCLOSURE AGREEMENT – ISSUE 5-16 – Denney Direct**

**Issue 5-16: Non-disclosure Agreement -- Section 5.16.9.1**

**9. TRANSIT RECORD CHARGE AND BILL VALIDATION – ISSUES 7-18 and 7-19 – Denney Direct**

**Issue 7-18: Application of Transit Record Charge -- Section 7.6.3.1**

**Issue 7-19: Transit Record Bill Validation Detail -- Section 7.6.4**

**10. INTENTIONALLY LEFT BLANK ( FORMERLY COLLOCATION AVAILABLE INVENTORY – ISSUES 8-20 and (a)) – Closed language shown in Denney Direct.**

**11. POWER – ISSUES 8-21 and (a) – (f), 8-22, 8-23 – Starkey Direct (Issues 8-21 and subparts); Closed language for Issue 8-22 shown in Denney Direct.**

**Issue 8-21: 48V Power Measurement - 8.2.1.29.2.1**

**Issue 8-21(a): 48V Power Measurement - 8.2.1.29.2.2**

**Issue 8-21(b): 48V Power Measurement – 8.3.1.6**

**Issue 8-21(c): 48V Power Measurement – 8.3.1.6.1**

**Issue 8-21(d): 48V Power Measurement – 8.3.1.6.2 and subparts a & b**

**Issue 8-21(e): 48V Power Measurement – Exhibit A, Section 8.1.4.1 and subparts**

**Issue 8-21(f): Intentionally Left Blank**

**Issue 8-22: QPF – 8.3.9.1.3, 8.3.9.2.3**

**Issue 8-23: Intentionally Left Blank**



**12. INTENTIONALLY LEFT BLANK ( FORMERLY NEBS STANDARDS – ISSUE 8-24) – Closed language shown in Starkey Direct.**

**13. INTENTIONALLY LEFT BLANK**

**14. NONDISCRIMINATORY ACCESS TO UNES – ISSUE 9-31 – Starkey Direct**

**Issue 9-31: Nondiscriminatory Access to UNEs – Section 9.1.2 (Two Eschelon proposals and one Qwest proposal for the same issue)**

**15. INTENTIONALLY LEFT BLANK ( FORMERLY DELAYED ORDERS WHEN FACILITIES ARE NOT AVAILABLE –ISSUE 9-32 and (a)–(c)) – Closed language shown in Starkey Direct.**

**16. NETWORK MAINTENANCE AND MODERNIZATION – ISSUES 9-33, 9-34 – Starkey Direct; Closed language for Issues 9-33(a), 9-34 and 9-35 shown in Starkey Direct.**

**Issue 9-33: Affect on End User Customers -- Section 9.1.9; Section 9.1.9.1**

**Issue 9-34: Location at Which Changes Occur -- Sections 9.1.9, 9.1.9.1**

**17. WIRE CENTER – ISSUES 9-37; 9-37(a); 9-37(b); 9-38; 9-39 (except CAPS); 9-40; 9-41 and 9-42 – Denney Direct**

**Issue 9-37: Wire center List – Section 9.1.13.3 & Section 4.0 Definitions of Commission-Approved Wire Center List and Wire Center Docket.**

**Issue 9-37(a): WIRE CENTER LIST – ADDITIONAL NON-IMPAIRED WIRE CENTERS – Sections 9.1.14.4 & 9.1.14.4.3 and subparts**

**Issue 9-37(b): WIRE CENTER LIST – CHANGE IN UNE STATUS – Section 9.1.13.4.1.2**

**Issue 9-38: PROCESSING OF HIGH CAPACITY LOOP AND TRANSPORT REQUESTS – Section 9.1.13.4 & 9.1.13.4.2**

**Issue 9-39 (except CAPS): WIRE CENTER LIST – REVIEW OF WIRE CENTER LIST – Sections 9.1.13.4.1.2.1 & 9.1.14.4.2**

**Issue 9-40: NRCs FOR CONVERSION – Sections 9.1.13.5.2, 9.1.14.6 & 9.1.15.2.1**

**Issue 9-41: LENGTH OF TIME PERIOD – Sections 9.1.14.4.1 & 9.1.14.4.2**

**Issue 9-42: RATE DURING TIME PERIOD** – Sections 9.1.14.4.1 & 9.1.14.4.2 (Qwest counter in one sentence in 9.1.14.4)

**18. CONVERSION – ISSUES 9-43 and 9-44 and (a)-(c) – Starkey Direct**

**Issue 9-43: Conversions - Circuit ID** -- Section 9.1.15.2.3

**Issue 9-44: Manner of Conversion** -- Section 9.1.15.3 and subparts

**Issue 9-44(a): Manner of Conversion – Use of Adder or Surcharge** -- Section 9.1.15.3.1

**Issue 9-44(b): Manner of Conversion – Use of USOC** -- Section 9.1.15.3.1.1

**Issue 9-44(c): Manner of Conversion – Same USOC** -- Section 9.1.15.3.1.2

**19. INTENTIONALLY LEFT BLANK**

➤ PHASE OUT OF PRODUCTS/SERVICES ( 22)

**20. INTENTIONALLY LEFT BLANK ( FORMERLY SUBLOOPS – QWEST CROSS CONNECT/WIRE WORK – ISSUE 9-50) – Closed language shown in Denney Direct.**

➤ *Issue 9-51 – see Subject Matter 22A below*

**21. INTENTIONALLY LEFT BLANK**

**22. UNBUNDLED CUSTOMER CONTROLLED REARRANGEMENT ELEMENT (UCCRE) – ISSUE 9-53 – Denney Direct**

**Issue 9-53: Unbundled Customer Controlled Rearrangement Element (UCCRE) – 9.9.1**

**22A.<sup>3</sup> APPLICATION OF UDF-IOF TERMINATION (FIXED) RATE ELEMENT – ISSUE 9-51 – Denney Direct**

**Issue 9-51: Application of UDF-IOF Termination (Fixed) Rate Element (Two Eschelon Proposals and one Qwest Proposal for same issue) – Section 9.7.5.2.1.a**

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<sup>3</sup> Issue 9-51 was not assigned a Subject Matter number in Minnesota. To carry the numbering from state-to-state, for ease of reference for witnesses for all parties testifying in multiple states, an “A” is used here, rather than renumbering the remaining Subject Matters listed. Issue 9-51 is also slightly out of order, since Issues 9-50 and 9-53 may sometimes be discussed together.

**23. INTENTIONALLY LEFT BLANK ( FORMERLY DIFFERENT UNE COMBINATIONS – ISSUES 9-54 and (a)) – Closed language shown in Denney Direct.**

**24. LOOP-TRANSPORT COMBINATIONS – ISSUE 9-55 – Starkey Direct**

**Issue 9-55: Combinations of Loops and Transport – Terminology** -- Sections 9.23.4, 9.23.4.4; 9.23.4.4.1; 9.23.4.5; 9.23.4.6; 9.23.4.5.4. *See* subparts to Issue 9-58 for related issues in 9.23.4.5.1

**25. SERVICE ELIGIBILITY CRITERIA – AUDITS - ISSUE 9-56 – Denney Direct**

**Issue 9-56: Audits - Concern** -- Sections 9.23.4.3.1.1

**Issue 9-56(a): Audits - Notice** – Section 9.23.43.1.1.1.1

**26. COMMINGLED EELS/ARRANGEMENTS – ISSUE 9-58 and (a)-(e) and ISSUE 59 – Denney Direct**

**Issue 9-58: ORDERING for Commingled Arrangements** –Sections 9.23.4.5.1, 9.23.4.5.1.1

**Issue 9-58 (a) and Issue 9-59 (Eschelon’s *Alternate Proposal for same issue*): CIRCUIT ID for Commingled Arrangements** –Section 9.23.4.5.4 or, in the alternative, Section 9.23.4.7

**Issue 9-58 (b) and 9-58(c) (Eschelon’s *Alternate Proposal for same issue*): BILLING for Commingled Arrangements** -- Section 9.23.4.6.6 (and subparts)

**Issue 9-58 (d): OTHER COMMINGLED ARRANGEMENTS - Ordering, Billing, and Circuit ID** – Section 9.1.1.1.1 & 9.1.1.1.2

**Issue 9-58(e): INTERVAL for Commingled Arrangements** -- Sections 9.23.4.4.3.1 & 24.3.2; 9.1.1.1.1 & 9.1.1.1.1

*Issue 9-59 (Eschelon alternate proposal): See 9-58(a) above, Section 9.23.4.7*

**27. MULTIPLEXING (LOOP-MUX COMBINATIONS) – ISSUE 9-61 and (a)-(c) – Starkey Direct**

**Issue 9-61: Loop-Mux Combination (LMC) – Placement [Section 9 (UNEs) or Section 24 (Commingling) of the ICA]** -- Sections 9.23.9 and sub-parts; 24.4 and sub-parts; 9.23.2 (2 of 2 issues; For 1<sup>st</sup> issue, see Section 9.23.2); 9.23.4.4.3; 9.23.6.2

**Issue 9-61 (a): Loop-Mux Combination (LMC) – LMC Loop versus LMC --**  
Sections 9.23.9 and sub-parts; 24.4 and sub-parts; 9.23.2 (2 of 2 issues; For 1<sup>st</sup>  
issue, see Section 9.23.2); 9.23.4.4.3; 9.23.6.2

**Issue 9-61(b): LMC Multiplexing –Intervals –** Section 9.23.9.4.3, 9.23.4.4.3,  
9.23.6.2, Exhibit C; 24.4.4.3

**Issue 9-61(c): LMC Multiplexing --** Exhibit A, Section 9.23.6.6 and subparts

**28. INTENTIONALLY LEFT BLANK ( FORMERLY MICRODUCT RATE -  
ISSUE 10-63) – Closed language shown in Denney Direct**

**29. ROOT CAUSE ANALYSIS AND ACKNOWLEDGEMENT OF MISTAKES –  
ISSUE 12-64 and (a)–(b) – Johnson Direct**

**Issue 12-64: Root Cause & Acknowledgement of Mistakes --** Section 12.1.4  
and subparts (all)(Two Eschelon proposals)

**Issue 12-64(a): Acknowledgement of Mistakes – Qwest identification --**  
Section 12.1.4.2.3

**Issue 12-64(b): Acknowledgement of Mistakes – Non-Confidentiality -**  
Section 12.1.4.2.5, 12.1.4.2.6

**30. INTENTIONALLY LEFT BLANK (FORMERLY COMMUNICATIONS  
WITH CUSTOMERS – ISSUES 12-65, 12-66 and 12-66(a)) – Closed language  
shown in Johnson Direct**

**Issue 12-65: Responsibilities Relating to End User Customers – Repair --**  
Section 12.1.5.4.7

**Issue 12-66: Responsibilities Relating to End User Customers – Winbacks –**  
Section & 12.1.5.5

**Issue 12-66(a): Responsibilities Relating to End User Customers – Repair –**  
Section 12.1.5.4.8 (Eschelon seeking clarification that this language is closed)

**31. EXPEDITED ORDERS – ISSUE 12-67 and (a)-(g) – Denney Direct**

Eschelon proposes addressing expediting the due date when ordering centrally in Section 12.2 (“Pre-Ordering, Ordering, and Provisioning”). Qwest proposes addressing this subject in Section 7 (“Interconnection”) and Section 9 (UNEs). Therefore, Eschelon’s language and Qwest’s counter language do not appear in the same sections of the ICA.

**Issue 12-67: Expedited Orders --** Section 12.2.1.2

**Issue 12-67(a): Expedited Orders – Emergencies --** Section 12.2.1.2.1

**Issue 12-67(b): Expedited Orders – Charges in Exhibit A -- Section 12.2.1.2.2 & Exhibit A**

**Issue 12-67(c): Expedited Orders – NRC -- Section 12.2.1.2.3**

**Issue 12-67 (d): Expedited Orders – UNEs -- Section 9.1.12.1 and subparts**

**Issue 12-67 (e): Expedited Orders – Combinations -- Section 9.23.4.5.6**

**Issue 12-67 (f): Expedited Orders – Trunk orders (2 Options) -- Section 7.3.5.2 and subparts**

**Issue 12-67(g): Expedite Charge -- Exhibit A, Section 9.20.14**

**31A. INTENTIONALLY LEFT BLANK (FORMERLY SUPPLEMENTAL ORDERS – ISSUE 12-68) – Closed language shown in Johnson Direct**

**32. INTENTIONALLY LEFT BLANK ( FORMERLY PENDING SERVICE ORDER NOTIFICATIONS (PSOs) - ISSUE 12-70) – Closed language shown in Johnson Direct**

**33. JEOPARDIES – ISSUES 12-71, 12-72, 12-73 – Johnson Direct**

**Issue 12-71 – Jeopardy -- Section 12.2.7.2.4.4**

**Issue 12-72: Jeopardy Classification -- Section 12.2.7.2.4.4.1**

**Issue 12-73: Jeopardy Correction -- Section 12.2.7.2.4.4.2**

**SUBJECT MATERS NO. 34 THROUGH NO. 42 ARE NOW INTENTIONALLY LEFT BLANK (FORMERLY 34. FATAL REJECTION NOTICES – ISSUE 12-74)(FORMERLY 35. TAG AT DEMARCATION POINT – ISSUE 12-75 and (a))(FORMERLY 36. LOSS AND COMPLETION REPORTS - ISSUE 12-76 and (a))FORMERLY 37. TESTING CHARGES WHEN CIRCUIT IS ON PAIR GAIN – ISSUE 12-77)( FORMERLY 38. DEFINITION OF TROUBLE REPORT – ISSUE 12-78)(FORMERLY 39. CHARGES FOR REPEATS – ISSUE 12-80 and (a)-(c))(FORMERLY 40. TEST PARAMETERS – ISSUE 12-81)(FORMERLY 41. INTENTIONALLY LEFT BLANK)(FORMERLY 42. TROUBLE REPORT CLOSURE – ISSUE 12-86) – Closed language shown in Johnson Direct**

**43. CONTROLLED PRODUCTION – ISSUE 12-87 – Johnson Direct**

**Issue 12-87: Controlled Production –(Two Eschelon Proposals – One Qwest Proposal for the same issue) - Section 12.6.9.4**

**44. RATES FOR SERVICES – ISSUE 22-88 and (a) and 22-89 – Denney Direct**

**Issue 22-88: Rates in Exhibit A -- Section 22.1.1**

**Issue 22-88(a): IntraLATA Toll Traffic -- Exhibit A Section 7.11**

**Issue 22-89: Request for Cost Proceeding – Section 22.4.1.3**

**45. UNAPPROVED RATES – ISSUE 22-90 and (a)-(ae) – Denney Direct**

**Issue 22-90: Unapproved Rates - Notice and Cost Support -- Sections 22.6.1 and 22.6.1.1**

**Issue 22-90(a) Unapproved Rates – Cross reference – Exhibit A - Section 22.4.1.1**

**Issue 22-90(b) Collocation – Planning and Engineering – Exhibit A - Section 8.1.1.2**

**Issue 22-90(c) Collocation Entrance Facility, per Fiber Pair - Exhibit A - Sections 8.1.2.2; 8.1.2.3; 8.1.2.4**

**Issue 22-90(d) AC Power Feed - Exhibit A – Section 8.1.5 and subparts**

**Issue 22-90(e) Collocation Terminations - Exhibit A – Section 8.1.8 and subparts**

**Issue 22-90(f) Security Charges – Card Access - Exhibit A – Section 8.1.9.2**

**Issue 22-90(g) Collocation Space Availability Report - Exhibit A – Section 8.1.12**

**Issue 22-90(h) Collocation Space option Administration Fee - Exhibit A – Section 8.1.14**

**Issue 22-90(i) 8.1.15 Collocation Space Option Fee – Exhibit A – Section 8.1.15 Footnote 1; Access Agreement Consideration Exhibit A -Section 10.7.13-Footnote 1**

**Issue 22-90(j) Joint Inventory Visit Fee - Exhibit A – Section 8.1.16**

**Issue 22-90(k) Vitrual Collocation Quote Preparation Fee - Exhibit A – Section 8.2.1.1**

**Issue 22-90(l) Collocation Quote Preparation Fee - Exhibit A – Section 8.3.1.1; 8.4.1.1; 8.15.4.1; 8.15.4.2**

**Issue 22-90(m) Collocation Available Inventory** - Exhibit A – Sections 8.4.2.4.1; 8.4.2.4.2; 8.4.2.4.2; 8.4.2.4.3; 8.4.2.4.4; 8.15.1.2.2

**Issue 22-90(n) Remote Collocation** - Exhibit A – Section 8.6.1.2; 8.6.1.3.1; 8.6.2.2.2; 8.6.2.2.3.1; 8.6.2.2.3.2

**Issue 22-90(o) CLEC-CLEC Cable Racking** - Exhibit A – Section 8.7.2.1; 8.7.2.2; 8.7.2.3

**Issue 22-90(p) Virtual Connections** - Exhibit A – Section 8.7.3.1; 8.7.3.2; 8.7.3.3; 8.7.4

**Issue 22-90(q) Cable Hole** - Exhibit A – Section 8.7.4

**Issue 22-90(r) ICDF Collocation** - Exhibit A – Section 8.8 and subparts

**Issue 22-90(s) Facility Connected (FC) Collocation** - Exhibit A – Section 8.12.2; 8.12.4

**Issue 22-90(t) DC Power Reduction/Power Restoration** - Exhibit A – Section 8.13 and subparts

**Issue 22-90(u) Special Sites** - Exhibit A – Section 8.15.2 and subparts

**Issue 22-90(v) Collocation Decommissioning** - Exhibit A – Section 8.16

**Issue 22-90(w) Joint Testing** - Exhibit A – Section 8.17.1; 8.17.2

**Issue 22-90(x) Cooperative Testing** - Exhibit A – Sections 9.2.5.5.1.2; 9.2.5.5.2.2; 9.2.6.5.1.2; 9.2.6.5.2.2

**Issue 22-90(y) Private Line/Special Access to Unbundled Loop Conversion** - Exhibit A – Section 9.2.8

**Issue 22-90(z) Subloop Dispatch/FCP** - Exhibit A – Section 9.3.3.1.1; 9.3.3.2; 9.3.3.3 and subparts; 9.3.3.4 and subparts and 9.3.7.2

**Issue 22-90(aa) UDITs & Conversions** - Exhibit A – Section 9.6.11 and subparts; 9.6.12; 9.23.6.5; 9.23.7.6

**Issue 22-90(ab) Unbundled Dark Fiber (UDF)** - Exhibit A – Section 9.7 and subparts

**Issue 22-90(ac) Miscellaneous Charges** - Exhibit A – Section 9.20 and subparts

**Issue 22-90(ad) EELs** – Exhibit A – Sections 9.23.7; 9.23.7.11.1; 9.23.7.11.2 and subparts

**Issue 22-90(ae) Innerduct/Microduct Occupancy Fee** - Exhibit A – Section 10.7.12; 10.7.12.1

**46. INTENTIONALLY LEFT BLANK (FORMERLY INTERCONNECTION ENTRANCE FACILITY<sup>4</sup> - ISSUE 24-92) – Closed language shown in Denney Direct**

➤ *Exhibit A – See Issue 22-90(a) through (ae) above*

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<sup>4</sup> Issue 24-91 (Section 24.1.1.2) is closed. The number is now Intentionally Left Blank.



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 4**



### Copper Retirement Impacted CLEC Circuits Form

Eschelon/4  
Starkey/  
1

Today's Date: 10/17/2006

Retirement Date: 10/27/06

CLEC Name: A07-ESCHELON

Qwest Service Manager: Mary Dobesh

City: Issaquah State: WA Job Number: 62W3584

Wire Center Name: Issaquah Wire Center 8 Character CLLI Code: ISQHWAEX

Distribution Area (DA) Number(s): 410601

Feeder Distribution Interface(s) Addresses (*FDI is a cross-connect or SAI*) X 1208 NW Gilman BV

Foreseeable Impacts to the CLEC Community:

Copper to Fiber (Hybrid)

Negative impact on Loop Make-up (Length or Gauge change)

Feeder/Distribution:

(F1) Feeder Facility

(F2) Distribution Facility

Distance (in KF) from the serving Wire Center or Remote Terminal:

3.88 KF

Circuit ID	Telephone Number	Cable	Pair	Impacted Address
4.hcfd.205621..pn		1208g	732	[customer address redacted]
4.hcfd.205261..pn		1208g	733	[customer address redacted]



**From:** Saldivar, Jodi [mailto:email redacted]  
**Sent:** Thursday, October 26, 2006 11:35 AM  
**To:** Isaacs, Kimberly D.  
**Cc:** Weidenbach, Georganne; Novak, Jean; Dobesh, Mary  
**Subject:** Copper Retirement Notification

Kim,

The Copper Retirement notice that was received concerning Issaquah, WA, job #62W3584, CLLI ISQHWAEX, was sent to Eschelon in error. This should have not been sent to Eschelon and has no impacts on any of Eschelon's circuits. There is a generic network disclosure concerning the copper retirement posted to the Qwest website.

Please ignore the notice you received in error.

Jodi Saldivar  
Regional Service Director  
Qwest Wholesale Operations  
801-239-4080

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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**EXHIBIT 5**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Phyllis A. Reha	Commissioner
Gregory Scott	Commissioner

In the Matter of a Request by Eschelon  
Telecom for an Investigation Regarding  
Customer Conversion by Qwest and Regulatory  
Procedures

ISSUE DATE: November 12, 2003

DOCKET NO. P-421/C-03-616

ORDER FINDING COMPLIANCE FILING  
INADEQUATE AND REQUIRING  
FURTHER FILINGS

**PROCEDURAL HISTORY**

**I. The Original Order**

On July 30, 2003 the Commission issued an Order in this case finding that Qwest had failed to provide adequate service at several key points in the process of transferring a customer to Eschelon Telecom, Inc. and that these service inadequacies reflected systemic failures that must be addressed. The Commission identified four key failures:

- (1) Qwest failed to adopt operational procedures to ensure the seamless transfer of customers to competitive carriers.
- (2) Qwest failed to adopt operational procedures to prevent its retail division from interfering with Eschelon's ability to serve its customer and to prevent its retail division from providing misleading characterizations of Eschelon's conduct.
- (3) Qwest failed to adopt operational procedures to prevent its retail service representatives from canceling or otherwise modifying wholesale orders.
- (4) Qwest failed to adopt operational procedures to promptly acknowledge and take responsibility for mistakes in processing wholesale orders.

The Order required Qwest to make a compliance filing detailing its proposal for remedying these service inadequacies. The proposal was to include at least the following items:

- (1) Procedures for ensuring that retail service representatives are properly separated from the Company's wholesale operations, including a report on the feasibility of installing computer software to alert retail service representatives when they are dealing with wholesale orders or accounts and computer software to disable retail service representatives' ability to make changes in wholesale orders or accounts.
- (2) Procedures for promptly acknowledging and taking responsibility for mistakes in processing wholesale orders.
- (3) Procedures for reducing errors in processing wholesale orders, including a report on the feasibility of maximizing reliance on electronic processing, with an explanation of the necessity for each manual operation required for wholesale order processing.

## II. The Compliance Filing; Parties' Comments

On August 29, 2003, Qwest made the compliance filing required under the July 30 Order.

On September 12, 2003, Eschelon filed comments claiming that Qwest's filing was not in full compliance with the Order, alleging the following deficiencies:

- (1) The procedures proposed for alerting retail service representatives that certain orders were wholesale orders that should not be changed or cancelled were limited to "porting" orders, excluding many if not most of the wholesale orders processed by Qwest.
- (2) The proposal to install computer software to block retail service representatives' ability to make changes in wholesale orders did not include all retail service representatives, did not clearly identify which retail service representatives were included and which were excluded, and did not explain Qwest's rationale for deciding which retail service representatives to include and which to exclude.
- (3) The proposals for reducing errors in processing wholesale orders did not address errors in orders that were manually processed.
- (4) The proposal for complying with the Order's directive to develop "procedures for promptly acknowledging and taking responsibility for mistakes in processing wholesale orders" was limited to addressing typographical errors.
- (5) The filing provided insufficient detail on how Qwest monitors contacts between its wholesale and retail employees, how often it detects improper contacts, and how it deals with those contacts.

On September 25 and October 9 Eschelon filed supplemental comments alleging another incident of inappropriate contact between Qwest's wholesale and retail divisions and questioning the propriety of a Qwest advertising campaign highlighting alleged disparities between Qwest's quality of service and that of its competitors.

On September 15, 2003, the Minnesota Department of Commerce (the Department) filed comments stating that Qwest's compliance filing was not in full compliance with the July 30 Order, alleging the following deficiencies:

- (1) The proposals for reducing errors in processing wholesale orders did not address errors in orders that were manually processed.
- (2) It was not clear that the procedures proposed for alerting retail service representatives that certain orders were wholesale orders that should not be changed or cancelled would apply to all wholesale orders.
- (3) It was not clear that Qwest's proposal to block selected retail service representatives' ability to make changes in wholesale orders would apply to all types of wholesale orders.

### III. Commission Proceedings

On October 30, 2003, the compliance filing came before the Commission. The following persons appeared: Qwest, Eschelon, the Department, and McLeod USA Telecommunications, Inc. and U S Link, Inc., appearing jointly in support of Eschelon.

### FINDINGS AND CONCLUSIONS

The Commission has examined the compliance filing and concurs with Eschelon and the Department that it does not fully comply with the terms of the July 30 Order.

The filing fails to propose procedures for reducing errors in processing wholesale orders that must be manually processed. It fails to propose procedures for acknowledging any mistakes in processing wholesale orders other than typographical errors. It fails to propose effective procedures to alert retail service representatives when they are dealing with wholesale orders, except for a subset of wholesale orders representing approximately 50% of the total. It fails to provide adequate detail about the scope, rationale, and timing of its plan to block selected retail service representatives' ability to make changes in wholesale orders. It fails to provide adequate detail about how the Company monitors contacts between its wholesale and retail divisions, how it handles inappropriate contacts, and how frequently it finds that inappropriate contacts have occurred.

The Commission will require additional filings to remedy these deficiencies.

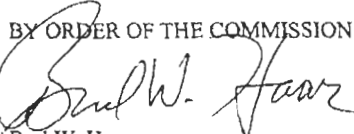
### ORDER

- I. Within 30 days of the date of this Order, Qwest shall make a compliance filing further detailing processes and procedures for remedying the service inadequacies identified in the Commission's July 30 Order. This filing shall include at least the following items:



- (a) Procedures for extending to all wholesale orders notice procedures alerting retail service representatives when they are dealing with wholesale orders, eliminating references to "porting" orders and "LNP [Local Number Portability] orders in the original compliance filing.
- (b) Modification of the content of the notice alerting retail service representatives when they are dealing with wholesale orders to advise them to refer the customer to the new carrier and take no further action.
- (c) A detailed explanation of which retail service representatives will be blocked from making changes in wholesale orders, which retail service representatives will not be blocked from making changes in wholesale orders, and the reasons for distinguishing between these two groups of retail service representatives.
- (d) A feasibility report justifying any decision that it is not feasible to block all retail service representatives from making changes in wholesale orders.
- (e) Procedures for ensuring that Qwest acknowledges mistakes in processing wholesale orders using the following language: "Qwest acknowledges its mistake in processing this wholesale order. The error was not made by the new service provider."
- (f) Procedures for extending the error acknowledgment procedures set forth in part (e) to all Qwest errors in processing wholesale orders.
- (g) Procedures for communicating to line staff that time is of the essence both for identifying errors in processing wholesale orders and for providing the acknowledgment set forth in part (e) and procedures for requiring the acknowledgment as soon as practicable after the cause of the error has been identified.
- (h) Procedures for ensuring that acknowledgments appear on Qwest letterhead or other indicia to show that it is Qwest making the acknowledgment.
- (i) Procedures for providing the acknowledgment to the competitive local exchange carrier, who in turn may provide it to the end use customer, to prevent improper contacts with the other carrier's customer.
- (j) Procedures for preventing use of a confidentiality designation in acknowledgments, to ensure that the competitive local exchange carrier can provide the acknowledgment to its end user customer.
- (k) Procedures for making the acknowledgment process readily accessible to competitive local exchange carriers, including procedures for identifying clearly the person(s) to whom requests for acknowledgments should be directed.

- (l) Procedures for ensuring that persons designated to provide acknowledgments have been appropriately trained and have the authority to provide acknowledgments.
  - (m) A proposal for including performance measures for Centrex 21 and linesharing services in performance measure PO-2 in the Long Term PID process, including submission of a proposal for such performance measures to the Long Term PID Administration Forum by the next filing deadline of November 6, 2003.
  - (n) A proposal for reducing errors in processing manual wholesale orders, such as additional proof reading.
2. The compliance filing required in paragraph 1 shall include time lines for implementing each item.
  3. Qwest shall file quarterly reports with the Department of Commerce on how many disciplinary actions and training sessions have occurred as a result of improper contacts or activities between the Company's wholesale and retail divisions.
  4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION  
  
Burl W. Haar  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Phyllis A. Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Request by Eschelon  
Telecom for an Investigation Regarding  
Customer Conversion by Qwest and Regulatory  
Procedures

ISSUE DATE: July 30, 2003

DOCKET NO. P-421/C-03-616

ORDER FINDING SERVICE INADEQUATE  
AND REQUIRING COMPLIANCE FILING

**PROCEDURAL HISTORY**

On April 21, 2003, Eschelon Telecom, Inc. filed a petition that did the following things:

- (a) asked the Commission to investigate the reasonableness and adequacy of Qwest Corporation's procedures for processing wholesale orders, stating that Eschelon had recently lost a major customer when Qwest's wholesale division erroneously disconnected the customer while processing the order that would have transferred the customer from Qwest to Eschelon;
- (b) asked the Commission to investigate the nature and appropriateness of the separation between Qwest's wholesale and retail divisions, stating that Qwest's retail division used the wholesale division's erroneous disconnection to win back the customer and used computer capabilities that should have been off-limits to retail personnel to cancel Eschelon's wholesale order;
- (c) asked the Commission to establish an informal intervention or mediation process by which telecommunications carriers could get regulatory assistance in resolving inter-carrier, time-critical issues affecting customers.

On April 25, 2003, the Commission issued a notice requesting comments on Eschelon's petition.

Covad Communications Company and MCI filed comments supporting the request to establish an informal regulatory intervention-mediation process. AT&T Communications of the Midwest, Inc. filed comments supporting the request for an investigation into the operational relationship between Qwest's retail and wholesale divisions.

The Department of Commerce filed comments recommending that the Commission order Qwest to reconfigure its wholesale service ordering system to give competitive local exchange carriers as much control over the processing of their wholesale orders as Qwest's retail service representatives have.

Qwest filed comments in which it (a) supported an informal regulatory intervention-mediation process; (b) expressed regret for the errors that led to Eschelon's loss of the customer; (c) contended that the incident was a one-time occurrence adequately addressed internally and requiring no regulatory response; and (d) argued that the issue of information-sharing between Qwest's retail and wholesale divisions was hotly contested and would be thoroughly addressed in the ongoing interconnection arbitration between Qwest and AT&T, making further examination here unnecessary and inefficient.<sup>1</sup>

On July 17, 2003, the matter came before the Commission.

## FINDINGS AND CONCLUSIONS

### **I. Factual Background**

The basic facts of this case are not disputed. One of Qwest's large business customers, a financial services firm with hundreds of telephone lines and combined local and long distance billings of approximately \$463,655 per year, decided to transfer its service from Qwest to Eschelon. Eschelon followed Qwest's procedures to complete the service transfer, electronically submitting a wholesale order form on March 27. That form listed April 9 as the date on which service should be transferred to Eschelon.

Qwest's procedures for processing wholesale orders are not totally automated, and the date of the service transfer had to be manually entered into Qwest's system in five separate work orders, since the service transfer involved multiple lines and specialized services. The Qwest employee who entered the data inadvertently entered that day's date, March 27, on two of these five work orders. That error resulted in Qwest taking approximately 80 of the customer's lines out of service that night, two weeks before Eschelon was prepared to serve them, with no notice to Eschelon or the customer.

When the customer found the lines disconnected the next morning, the customer called Qwest's retail division, which, instead of referring the call to Qwest's wholesale division or to Eschelon, tried to resolve the problem itself. Here the undisputed facts become sketchier, and the parties

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<sup>1</sup> *In the Matter of the Petition of AT&T Communications of the Midwest, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b)*, Docket No. P-442, 421/IC-03-759.

disagree on what the uncontested facts mean. Eschelon claims that Qwest used the disconnection as an opportunity to win back the customer, nurturing, if not creating, the impression that the disconnection was the result of Eschelon's negligence. Qwest claims that its retail service representative misread the situation, thought she was dealing with retail orders, and appropriately ended her contact with the customer once she knew she was dealing with a service transfer situation.

Interpretations aside, the following facts are not disputed. Service to the customer was not restored until the afternoon of March 28. By that time the customer had reversed its decision to transfer service to Eschelon, and Qwest retains the customer to this day.

When the customer told Eschelon it no longer wished to transfer its service to Eschelon, Eschelon tried to cancel the service transfer, submitting an electronic cancellation order in compliance with Qwest's procedures. Qwest rejected the cancellation order, however, because its system is programmed to reject such orders once any of the work orders effecting a service transfer have been implemented. Here, of course, two of the five work orders had been erroneously implemented. Eschelon was therefore unable to honor its customer's request and contacted Qwest's wholesale division for help in canceling the service transfer.

When Eschelon reached the appropriate wholesale service representative, however, Eschelon learned that the three remaining work orders had been canceled by the Qwest retail service representative working with the customer, at the customer's request. This was a serious breach of Qwest's company policies, which require strict separation between Qwest's retail and wholesale divisions. Supervisory staff informed the retail service representative that she was not supposed to "touch" wholesale orders and that the remaining work orders would be reinstated and implemented unless Eschelon canceled them.

The retail service representative then sent the following e-mail to the customer:

Hi [Customer Name Redacted],

Just to let you know, I was contacted by our wholesale group and they advised that due to the fact that they have an ASR that has not been cancelled by Eschelon that they have to reissue those Orders due on 4-09. Eschelon HAS to cancel the ASR with our wholesale group or these orders will process.

If you could get the information to [Customer Name Redacted] I'd really appreciate it because I know it's a big issue if the lines go down.

Thanks!  
[Qwest Name Redacted]

Eschelon argues that this e-mail unfairly damaged its relationship with its customer in the following ways:

- (a) It did nothing to correct and in fact reinforced the customer's impression that Eschelon was to blame for the service outage.
- (b) It implied that Eschelon was failing to comply with the customer's request to stop the service transfer, when in fact Eschelon was powerless to stop the transfer and was working with Qwest's wholesale division to get them to stop the transfer.
- (c) It alarmed the customer by suggesting that there was a serious possibility that Eschelon would fail to cooperate with Qwest in canceling the service transfer and that another disconnection would result.

Qwest argues that the e-mail merely informed the customer that the transaction at issue was a wholesale transaction, that the retail service representative's cancellation of the remaining service orders had been or would be rescinded, and that the customer must deal with Eschelon if it wished to reverse its earlier decision to transfer service to Eschelon.

Eschelon did work with Qwest's wholesale division to cancel the remaining service orders and ensure that the customer's lines did not go down again. The work orders remained canceled; the lines did not go down; and the customer continues to receive service from Qwest to this day.

Eschelon states that it had difficulty convincing the customer that Eschelon bore no responsibility for the service outage, that the customer requested a written statement from Qwest explaining the cause of the outage, and that Qwest delayed and obfuscated in response to this request. The record does show that Qwest's first explanation, a "root cause" analysis of the outage, was written in technical jargon and that a written explanation in lay terms was not provided until April 16, 2003, nearly three weeks after the outage.

## **II. The Legal Standard**

Eschelon is seeking an investigation to determine how Qwest's procedures for processing wholesale orders could be changed to prevent a recurrence of the kinds of events that led to the loss of this major customer. Eschelon emphasizes that it could have brought this case as a complaint under Minn. Stat. § 237.462, the competitive enforcement statute, but that it chose a less formal route in the hope of a speedier resolution.

Eschelon's filing obviously raises issues that could be developed and examined in a full-blown competitive enforcement proceeding. Eschelon has instead chosen a problem-solving approach, asking the Commission to undertake whatever investigation is necessary to improve Qwest's procedures for processing wholesale orders from competitive carriers. The Commission will therefore examine Eschelon's claims and request for relief under the statute giving it general investigatory and remedial powers, Minn. Stat. § 237.081, reserving judgment on whether Qwest's conduct was discriminatory or anti-competitive under the competitive enforcement statute.

The Commission's general authority to require telephone companies to provide adequate service on just reasonable and reasonable terms is codified at Minn. Stat. § 237.081. That statute authorizes the Commission to conduct an investigation whenever it believes, or whenever any provider of telephone service alleges, that any "practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of telephone service or any service in connection with telephone service is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained."

Subdivision 2 of that statute authorizes the Commission to conduct any necessary investigation, including contested case proceedings if the Commission finds that a significant factual issue has not been resolved to its satisfaction. Subdivision 4 authorizes relief at the end of the investigation:

At the end of its investigation if the Commission finds that "(1) a service that can be reasonably demanded cannot be obtained, (2) that any rate, toll, tariff, charge, or schedule, or any regulation, measurement, practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of telephone service or any service in connection with telephone service, is in any respect unreasonable, insufficient, or unjustly discriminatory, or (3) that any service is inadequate, the commission shall make an order respecting the tariff, regulation, act, omission, practice, or service that is just and reasonable and, if applicable, shall establish just and reasonable rates and prices.

The Commission finds that there are no significant factual issues that have not been resolved to its satisfaction for purposes of determining the adequacy of Qwest's procedures for processing wholesale orders.

### **III. Commission Action**

#### **A. Inadequate Service Found**

The Commission finds that the uncontested facts in this case demonstrate that Qwest failed to provide adequate service at several key points in the customer transfer process and that these inadequacies reflect systemic failures that must be addressed.

The key points at which Qwest provided inadequate service are set forth below.

##### **1. Qwest failed to adopt operational procedures to ensure the seamless transfer of customers to competitive carriers.**

Qwest made data entry errors when it processed Eschelon's properly submitted wholesale customer transfer order. These errors caused Eschelon's new customer to lose service to some 80 phone lines for much of a business day, which in turn caused the customer to reverse its decision to transfer its service to Eschelon.

The customer's decision was foreseeable. Telecommunications services are essential services, and customers are unlikely to transfer their service to competitive carriers if they perceive a significant risk that the transfer will disrupt their service. Seamless service transfers are therefore a critical part of providing adequate wholesale service.

Qwest failed to establish and maintain effective procedures to ensure the seamless transfer of customers between telecommunications carriers. The company did not have adequate proofreading procedures in place, nor did it have the electronic processing capability required to protect migrating customers from wrongful disconnection. This lack of effective procedures constitutes inadequate service, and the Commission will require the Company to file a plan to remedy the inadequacy.

The Company should examine with special care the possibility of relying more heavily on automated procedures, which would both reduce the opportunities for data entry errors and give competitive carriers greater access to and control over their wholesale orders.

**2. Qwest failed to adopt operational procedures to prevent its retail division from interfering with Eschelon's ability to serve its customer and to prevent its retail division from providing misleading characterizations of Eschelon's conduct.**

Qwest's retail division interfered with Eschelon's ability to serve its customer by failing to refer the customer to Eschelon when it called to report the service outage. Instead, Qwest's retail service representative dealt with the customer, who decided in the course of those dealings to reverse its decision to transfer its service to Eschelon.

The only reasonable inference from these facts is that the service outage, coupled with the customer's dealings with Qwest's retail service representative, convinced the customer that it would be in better hands with Qwest than with Eschelon. The customer would have been less likely to reach this conclusion if Qwest had referred the customer to Eschelon from the start.

If Eschelon had been allowed to handle the situation from the start, the customer probably would have understood much earlier that the service outage was entirely due to Qwest's error. Eschelon had every incentive to make this clear. Qwest, on the other hand, had every incentive to obfuscate and to divert the customer's attention from the cause of the outage to other issues. Similarly, if Eschelon had been allowed to handle the situation from the start, the customer would have witnessed Eschelon's efforts to restore service instead of Qwest's. This might have prevented the loss of confidence that led the customer to reverse its decision to transfer its service to Eschelon.

Finally, if Qwest had referred the customer to Eschelon from the start, the customer would not have received the misleading e-mail from Qwest's retail service representative discussed in section I. That e-mail, which warned the customer that it would lose service again unless Eschelon took specific action to cancel its service transfer order, was misleading in at least two ways. First,



Eschelon could not take the specific action mentioned in the e-mail because the configuration of Qwest's automated system made it impossible. Second, there was no reasonable basis for fear that the service would go down again due to Eschelon, since Eschelon was already doing everything within its power to cancel the service transfer order.

As a provider of monopoly and bottleneck wholesale services, as well as the best-known provider of retail services, Qwest has unparalleled opportunities to manipulate the wholesale service transfer process to its benefit. For this reason, ensuring that calls from other carriers' customers are immediately referred to them and preventing misleading characterizations of other carriers' conduct are critical to providing adequate wholesale service.

Qwest failed to establish and maintain effective operating procedures to prevent inappropriate contacts with Eschelon's customer and to prevent misleading communications in the course of those contacts. This failure constitutes inadequate service, and the Commission will require the Company to file a plan to remedy the inadequacy.

**3. Qwest failed to adopt operational procedures to prevent its retail service representatives from canceling or otherwise modifying wholesale orders.**

Qwest granted its retail service representative (and apparently grants all its retail service representatives) access to the computer software that implements wholesale service transfer orders. She used that access to deactivate the work orders that would have finished transferring the customer to Eschelon, without authorization from Eschelon.

This was a serious breach of Qwest's company policies, and the retail service representative was informed by supervisory staff that she was not supposed to "touch" wholesale orders. It was also a serious breach of industry standards for ensuring that wholesale service transfers are not derailed at the point of implementation by collusion or other improper contact between Qwest's wholesale and retail divisions. It was also inadequate wholesale service.

While Qwest recognized the seriousness of this conduct after the fact, it did not have effective operating procedures or structural safeguards in place to prevent it. The absence of such procedures and safeguards constitutes inadequate service. Both Eschelon and the Department of Commerce have recommended that Qwest reconfigure its computer system to deny retail personnel access to wholesale orders and to provide an unmistakable systems message, such as a "pop-up" message, telling retail personnel when they are dealing with a wholesale account.

The Commission will require the Company to file a plan to remedy this service inadequacy, giving special consideration of the possibility of using the "pop-up" message discussed above.

**4. Qwest failed to adopt operational procedures to promptly acknowledge and take responsibility for mistakes in processing wholesale orders.**

Eschelon reports that the disconnected customer asked Eschelon to document its claim that Qwest's errors had caused the service outage; the company also reports that Qwest was dilatory and uncooperative in helping to provide this documentation. Eschelon submitted into the record its April 3 e-mail to Qwest urgently seeking a written statement explaining that Qwest's errors had caused the service outage. Qwest did not provide a comprehensible statement taking responsibility until April 16, in an e-mail to Eschelon. This is inadequate service.

Providing adequate wholesale service includes taking responsibility when the wholesale provider's actions harm customers who could reasonably conclude that a competing carrier was at fault. Without this kind of accountability and transparency, retail competition cannot thrive. Telecommunications service is an essential service, and few customers will transfer their service to a competitive carrier whose service quality appears to be inferior to the incumbent's.

The Commission will require the Company to file a plan to remedy this service inadequacy and to promptly acknowledge and take responsibility for mistakes in processing wholesale orders.

**B. Compliance Filing Required**

At hearing Qwest did not concede service inadequacy, but it did express openness to seeking cost-effective ways to improve its wholesale order processing procedures. Qwest, too, is clearly concerned that there be no repetition of the kinds of events that led to this filing. It seems clear, then, that the most promising way to proceed is to require Qwest to develop and submit proposals for remedying the service inadequacies identified in this case and to permit the parties to comment on those proposals.

The Commission will so order.

**C. Intervention-Mediation Process Issue Not Reached**

In its comments the Department of Commerce stated that it is always available to respond to inquiries from competitive carriers or from Qwest and that it is willing to work with the parties to establish a more defined mediation process if necessary. The parties stated that this adequately addresses their concerns, and the Commission concurs that no formal action is necessary at this time.

ORDER

1. Within 30 days of the date of this Order, Qwest shall make a compliance filing detailing its proposal for remedying the service inadequacies identified in this Order. This proposal shall include
  - (a) procedures for ensuring that retail service representatives are properly separated from the Company's wholesale operations, including a report on the feasibility of installing computer software to alert retail service representatives when they are dealing with wholesale orders or accounts and computer software to disable retail service representatives' ability to make changes in wholesale orders or accounts;
  - (b) procedures for promptly acknowledging and taking responsibility for mistakes in processing wholesale orders;
  - (c) procedures for reducing errors in processing wholesale orders, including a report on the feasibility of maximizing reliance on electronic processing, with an explanation of the necessity for each manual operation required for wholesale order processing.
2. Comments on the compliance filing shall be filed with 15 days of the date the compliance filing is made.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )**

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**EXHIBIT 6**

1 EVIDENTIARY HEARING - VOLUME 1 - OCTOBER 16, 2006  
2 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
3 OF THE STATE OF MINNESOTA  
4  
5

6 In the Matter of the Petition of Eschelon Telecom, Inc.,  
7 for Arbitration of an Interconnection Agreement with  
8 Qwest Corporation Pursuant to 47 U.S.C. 252(b)

9 OAH DOCKET NO. 3-2500-17369-2  
10 PUC DOCKET NO. P5340,421/IC-06-768  
11  
12

13 Minnesota Public Utilities Commission  
14 350 Metro Square Building  
15 121 Seventh Place East  
16 St. Paul, Minnesota  
17

18 Met, pursuant to Notice, at 9:00 in the  
19 morning on October 16, 2006.  
20  
21

22  
23 BEFORE: Judge Kathleen Sheehy  
24 Judge Steve Mihalchick  
25 REPORTER: Janet Shaddix Elling, RPR

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1 APPEARANCES:  
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 5 at Law, 1801 California Street, 10th Floor, Denver,  
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 9 80202, and JOHN DEVANEY, Attorney at Law, Perkins,  
 10 Coie, 607 14th Street NW, Washington, D.C. 20005,  
 11 appeared for and on behalf of Qwest Corporation.  
 12 GREGORY MERZ, Attorney at Law,  
 13 Gray, Plant, Mooty, 500 IDS Center, 80 South Eighth  
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 15 and on behalf of Eschelon Telecom.  
 16 JULIA ANDERSON, Assistant Attorney  
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 19 behalf of the Department of Commerce.  
 20 ALSO PRESENT:  
 21 Kevin O'Grady, PUC Staff  
 22  
 23  
 24 WHEREUPON, the following proceedings were  
 25 duly had and entered of record, to wit:

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1 (Whereupon, Exhibits 1 through 4 were  
 2 marked for identification by the court  
 3 reporter.)  
 4 JUDGE SHEEHY: Okay. Good morning,  
 5 everyone.  
 6 We are here this morning to start the  
 7 hearing in the Matter of Eschelon's Petition for  
 8 Arbitration with Qwest Corporation of an  
 9 Interconnection Agreement Pursuant to 47 U.S.C.  
 10 Section 252(b) of the Telecommunications Act of  
 11 1996.  
 12 I'm Kathleen Sheehy, I'm one of the ALJs  
 13 who's been assigned to work on this matter, and with  
 14 me is Judge Steve Mihalchick, who will also be  
 15 working on it.  
 16 And we can start off by noting  
 17 appearances of the parties. Mr. Topp.  
 18 MR. TOPP: Jason Topp, from Qwest, and  
 19 with me is Melissa Thompson, also from Qwest.  
 20 JUDGE SHEEHY: Do you have the same  
 21 address, Ms. Thompson, or a different one?  
 22 MS. THOMPSON: Yes, I have a different  
 23 address. It's 1801 California Street, 10th Floor,  
 24 Denver, Colorado 80202.  
 25 JUDGE SHEEHY: Okay. Mr. Merz.

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1 its mistakes other than in the context of wholesale  
2 service order processing?  
3 A I'd have to see the order before I could answer.  
4 Q You don't know?  
5 A I don't know without looking at the order. My  
6 reading of the order was that our obligation was on  
7 wholesale order process.  
8 Q And do you recall that the Commission just didn't  
9 address other kinds of mistakes that Qwest might  
10 make?  
11 A Again, I'd have to look at the order. I don't think  
12 so, I'd have to look at the order.  
13 Q You don't think the Commission did address other  
14 types of mistakes?  
15 A I'm not sure.  
16 Q The process for requesting an acknowledgment of  
17 mistakes that Qwest has agreed to that should be  
18 included in the ICA, that's not something that Qwest  
19 has put through its CMP to be included in the PCAT;  
20 is that right?  
21 A Not in this form, no.  
22 Q And Qwest hasn't agreed to the closed language that  
23 we have at 12.1.4 and the subparts, Qwest hasn't  
24 agreed to that language in any other state other  
25 than Minnesota; is that right?

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1 A That's correct.  
2 Q Now, in your rebuttal, at page 40, line 10.  
3 A Yes. Under Qwest technical publications?  
4 Q Your rebuttal.  
5 A Oh, my rebuttal.  
6 Q Reply, rebuttal, it's the second round of testimony.  
7 You're discussing here on page 40 the Commission  
8 order that we've been talking about; is that right?  
9 A Yes.  
10 Q And at line 10 you say, The settlement was between  
11 Qwest and Eschelon; do you see that?  
12 A Yes.  
13 Q Now, it was not a settlement, it was actually a  
14 Commission order that required Qwest to acknowledge  
15 its mistakes; correct?  
16 A Yes.  
17 Q Now, the acknowledgment of mistakes process that  
18 Qwest is agreeable to having included in the ICA is  
19 one that would only be available to Eschelon and to  
20 CLECs that opted into the Eschelon contract; is that  
21 right?  
22 A Yes.  
23 Q And it's a process that would only be available in  
24 Minnesota; is that right?  
25 A Yes.

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1 Q Would you describe that as a one-off process, as  
2 you've used that phrase in your testimony?  
3 A In this case, yes, I would.  
4 Q And that's a one-off process that Qwest is agreeable  
5 to; correct?  
6 A We agree because of the results of the case, yes.  
7 Q Go to your surrebuttal at page 18. And I'm focusing  
8 on the testimony that begins at line 24 and then  
9 goes over to page 19 through line 7.  
10 A Okay. My surreply, page 18, starting where?  
11 Q Starting at line 24.  
12 A Okay.  
13 Q And then carrying onto the next page through line 7.  
14 So that question and answer there.  
15 A Okay.  
16 Q You are there responding to an example that was  
17 provided by Mr. Webber regarding what he described  
18 as an improper communication between Qwest and one  
19 of Eschelon's customers; is that right?  
20 A Yes.  
21 Q And you say there in your answer that begins  
22 on page -- I'm sorry, line 5 of page 19, Because  
23 Qwest provides services to this customer as well as  
24 Eschelon, Qwest has a right to communicate with its  
25 customer; do you see that?

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1 A Yes.  
2 Q Now, you understand that the concern that Mr. Webber  
3 was raising, that you were responding to, was not  
4 just a fact in communication, but what Qwest told  
5 Eschelon's customer. You understand that, don't  
6 you?  
7 A Yes, I do.  
8 Q Now, what Qwest told Eschelon's customer that was of  
9 concern was that the customer's service was being  
10 disconnected at Eschelon's request; correct?  
11 A I'd have to go back and look at the exhibit for the  
12 specifics.  
13 Q You would acknowledge that the letter that  
14 Mr. Webber refers to in his testimony was in fact a  
15 mistake on the part of Qwest; correct?  
16 A Without reviewing the exhibit I'd say I think so.  
17 I'd have to look at the exhibit.  
18 Q Why don't you go to, actually, Ms. Johnson's  
19 testimony, it's Exhibit BJJ-21.  
20 A All right.  
21 Q And I could tell you which -- and BJJ-21 is part of  
22 Ms. Johnson's rebuttal testimony?  
23 A Yes.  
24 Q That exhibit is the text of an e-mail from Jean  
25 Novak; correct?

Page 22	<p>1 Q Now, this was in your surreply, you were aware at</p> <p>2 the time you did your surreply that Eschelon had</p> <p>3 revised its language for 12.1.5.5; correct?</p> <p>4 A I'm not sure.</p> <p>5 Q If you could go to Mr. Webber's direct testimony.</p> <p>6 A Okay.</p> <p>7 Q And I'm looking at page 69.</p> <p>8 A Okay.</p> <p>9 Q And you see there at lines 16 through 23 of</p> <p>10 Mr. Webber's direct testimony at page 69 Eschelon's</p> <p>11 revised proposal for 12.1.5.5; correct?</p> <p>12 A Yes.</p> <p>13 Q And he has added to that provision, or otherwise to</p> <p>14 initiate discussions of its products and services</p> <p>15 with CLEC's end user customer; correct?</p> <p>16 A Yes.</p> <p>17 Q You say in your surrebuttal at page 21, lines 19</p> <p>18 through 21, if a customer asks a Qwest</p> <p>19 representative directly and on his or her own</p> <p>20 initiative about Qwest's products and services, the</p> <p>21 representative has a right to answer; correct?</p> <p>22 A Yes.</p> <p>23 Q And Eschelon's proposal, as reflected in</p> <p>24 Mr. Webber's direct testimony, would allow a Qwest</p> <p>25 employee to answer a communication initiated by the</p>	Page 24	<p>1 of Qwest's business; correct?</p> <p>2 A Yes.</p> <p>3 Q And Qwest's tariff includes expedite terms; is that</p> <p>4 right?</p> <p>5 A Yes.</p> <p>6 Q Now, in your surrebuttal at page 23, lines 10</p> <p>7 through 23, the discussion there involves a</p> <p>8 comparison of Qwest's retail expedite service to the</p> <p>9 expedite service that Qwest offers to CLECs; is that</p> <p>10 right?</p> <p>11 A Yes.</p> <p>12 Q And you conclude there that because retail customers</p> <p>13 would pay more than CLECs to receive service in the</p> <p>14 same time frame, that the service that Qwest</p> <p>15 provides to CLECs is superior; is that right?</p> <p>16 A Yes, that's one basis for superior service, yes.</p> <p>17 Q And because it's in your view superior service, you</p> <p>18 believe that expedite service is not an unbundled</p> <p>19 network element, or access to unbundled network</p> <p>20 elements; is that correct?</p> <p>21 A And both because we have examples of shorter</p> <p>22 intervals for CLECs versus retail customers, but</p> <p>23 also because what we are measured on for the</p> <p>24 provisioning of a UNE, giving a CLEC a meaningful</p> <p>25 opportunity to compete is based on our standard</p>
Page 23	<p>1 customer; correct?</p> <p>2 A Well, that's sort of the reverse of what the</p> <p>3 language says. The language says the Qwest</p> <p>4 technician can't initiate the discussion.</p> <p>5 Q And you don't understand that to mean, then, that if</p> <p>6 the customer does initiate a discussion, the Qwest</p> <p>7 customer -- the Qwest technician can have the</p> <p>8 communication?</p> <p>9 A That should be the result.</p> <p>10 Q Now to jump to a different issue. It's expedites,</p> <p>11 issue 12-67. The issue here concerns the terms</p> <p>12 under which Qwest will provide Eschelon with</p> <p>13 expedited service; is that right?</p> <p>14 A Yes.</p> <p>15 Q And expedited service concerns providing service</p> <p>16 more quickly than would ordinarily be the case under</p> <p>17 the regular interval; is that right?</p> <p>18 A Yes.</p> <p>19 Q Now, in your surrebuttal at page 23, and I'm looking</p> <p>20 in particular at lines 6 through 8, you characterize</p> <p>21 expedited service as a superior service; is that</p> <p>22 right?</p> <p>23 A Yes.</p> <p>24 Q Now, expedited service is a service that Qwest</p> <p>25 provides to its retail customers as a routine part</p>	Page 25	<p>1 intervals, that's what we're measured on, and</p> <p>2 expedite shortens the standard interval. That makes</p> <p>3 it superior to what we're measured on for giving a</p> <p>4 meaningful opportunity to compete.</p> <p>5 Q So if I understand, there are two reasons. The</p> <p>6 price difference; is that right?</p> <p>7 A The price difference resulting from the shorter</p> <p>8 interval in the first place, yes.</p> <p>9 Q Now, I want to focus now on that first thing, the</p> <p>10 price difference, just for a minute. You would</p> <p>11 agree that the tariffed rate for DS1 private line</p> <p>12 service, not expedited, is higher than the</p> <p>13 Commission-approved rate for a DS1 UNE loop; right?</p> <p>14 A I imagine it is, I don't know that for sure.</p> <p>15 Q You would not conclude, based on the fact that the</p> <p>16 price is higher for the private line than it is for</p> <p>17 the loop, that a private line -- a DS1 private line</p> <p>18 isn't -- I'm sorry, let me start again.</p> <p>19 You would not conclude based on that</p> <p>20 price difference that the DS1-capable loop isn't a</p> <p>21 UNE; would you?</p> <p>22 A It's not based on the price that we're claiming it's</p> <p>23 not a UNE, so that doesn't follow.</p> <p>24 Q And I understood you to say that there were two</p> <p>25 reasons, one was the price difference, and then the</p>



Page 26	<p>1 fact that you're measured on installation intervals?</p> <p>2 A We're measured on installation intervals for UNEs as</p> <p>3 a basis for whether the CLEC is given a meaningful</p> <p>4 opportunity to compete. On the price difference</p> <p>5 we're claiming that CLECs are actually getting this</p> <p>6 superior service, which we also offer to our retail</p> <p>7 customers, more cheaply than our retail customers</p> <p>8 because their intervals are shorter, yes.</p> <p>9 Q So the price difference is what makes it a superior</p> <p>10 service?</p> <p>11 A That's part of it, but it's not really because of</p> <p>12 the price difference, it's because of a shorter</p> <p>13 interval that results in a lower price.</p> <p>14 Q You would not claim that the fact that there's a</p> <p>15 difference in price means that the lower priced</p> <p>16 service is a superior service for purposes of</p> <p>17 whether that service is a UNE?</p> <p>18 A No. That's not what I'm saying.</p> <p>19 Q Okay. Now, Qwest modified its expedite service</p> <p>20 through CMP; is that correct?</p> <p>21 A Yes. Several times.</p> <p>22 Q And one way that it was modified was that the no</p> <p>23 additional fee expedite that was available under</p> <p>24 emergency circumstances was no longer available for</p> <p>25 expediting the loop order; is that right?</p>	Page 28	<p>1 Q Can you explain why?</p> <p>2 A Well, I would defer to Ms. Million to explain how</p> <p>3 these costs are done.</p> <p>4 Q Okay. So that's her issue, I should ask her about</p> <p>5 that?</p> <p>6 A Yes.</p> <p>7 Q Fair enough. I'm going to talk with you now about</p> <p>8 the PSON, that's the pending service order</p> <p>9 notification, and it's issue 12-70, ICA sections</p> <p>10 12.2.7.2.3.</p> <p>11 The PSON is a notice that Qwest provides</p> <p>12 to Eschelon that Eschelon can use to confirm that</p> <p>13 Qwest's internal order complies with the order that</p> <p>14 Eschelon has made; is that right?</p> <p>15 A To Eschelon and any other CLEC that has subscribed,</p> <p>16 yes.</p> <p>17 Q And the reason -- that kind of verification, the</p> <p>18 reason Eschelon does that kind of verification is</p> <p>19 because if there is an error in the Qwest internal</p> <p>20 order, Eschelon and Eschelon's customer won't get</p> <p>21 what they want; correct?</p> <p>22 A That may be one reason, yes.</p> <p>23 Q And in fact an error may even result in a customer</p> <p>24 losing service altogether; correct?</p> <p>25 A That's a possibility. It would depend on how the</p>
Page 27	<p>1 A For designed services a loop is one, yes.</p> <p>2 Q No CLEC supported that change; is that right?</p> <p>3 A I don't think I would agree with that.</p> <p>4 Q Was there any CLEC that said we want to pay a charge</p> <p>5 for something that we used to be getting for free?</p> <p>6 A No, I wouldn't put it that way, no.</p> <p>7 Q But Qwest did it anyway, even though no CLEC was</p> <p>8 asking for that?</p> <p>9 A No, but Qwest found that it had to do that so that</p> <p>10 all orders wouldn't be expedited because the system</p> <p>11 was being abused.</p> <p>12 Q And not only did no CLEC ask for that change, no</p> <p>13 CLEC was in favor of that change; correct?</p> <p>14 A I would say that if there was a CLEC in favor they</p> <p>15 didn't speak up.</p> <p>16 Q And the ones that did speak up objected to the</p> <p>17 change?</p> <p>18 A Yes, I would agree with that.</p> <p>19 Q You agree with me that a \$200 per day expedite rate</p> <p>20 is not a cost-based rate; correct?</p> <p>21 A It's not intended to be.</p> <p>22 Q You agree that it doesn't cost Qwest any more to</p> <p>23 expedite the service by four days than it does by</p> <p>24 two days; would you agree with that?</p> <p>25 A No, I wouldn't.</p>	Page 29	<p>1 order was written.</p> <p>2 Q Now, Eschelon's proposal relating to the PSON is</p> <p>3 that Qwest continue to provide at least the data in</p> <p>4 its service and equipment and listings sections; is</p> <p>5 that right? Continuing to provide the data it's</p> <p>6 providing now in those sections?</p> <p>7 A From those sections, yes.</p> <p>8 Q Eschelon's proposal doesn't require Qwest to provide</p> <p>9 anything more than it's providing now; correct?</p> <p>10 A The current proposal doesn't, that's correct.</p> <p>11 Q And Eschelon in fact revised its proposal to make</p> <p>12 that crystal clear; isn't that right?</p> <p>13 A Yes.</p> <p>14 Q Eschelon's proposal also doesn't permit Qwest from</p> <p>15 providing information in addition to the information</p> <p>16 that it provides now; correct?</p> <p>17 A Correct.</p> <p>18 Q And it doesn't require the PSON to be in any</p> <p>19 particular format; does it?</p> <p>20 A I'm not sure I would agree with that.</p> <p>21 Q Well, if you'd turn to section 12.2.7.2.3.</p> <p>22 A Yes.</p> <p>23 Q And if you could tell me what language there you</p> <p>24 believe requires the PSON to be provided in some</p> <p>25 particular format?</p>

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1 your testimony; correct?  
 2 A Yes, you're right.  
 3 Q Was that testimony just in error?  
 4 A Not well worded. It goes into detail on the  
 5 processing or handling of a fatal rejection notice.  
 6 Q It goes into detail about what will happen when  
 7 Qwest makes a mistake in issuing a fatal rejection  
 8 notice?  
 9 A Yes.  
 10 Q 12.2.7.2.6.1, that's the provision just above the  
 11 provision we've been talking about; do you see that?  
 12 A Yes.  
 13 Q The black line there is agreed upon closed language;  
 14 correct?  
 15 A Yes.  
 16 Q And that describes what happens if a CLEC receives a  
 17 fatal rejection notice?  
 18 A Yes.  
 19 Q It talks about what the CLEC has to do?  
 20 A Yes.  
 21 Q Would you agree with me that 12.2.7.2.6.2 is  
 22 effectively the counterpart of the preceding  
 23 provision that talks about what the CLEC has to do?  
 24 A Yes.  
 25 Q Now, Eschelon's proposal, 12.2.7.2.6.2, Qwest has

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1 reflect the reason why the due date might be missed;  
 2 is that right?  
 3 A Yes.  
 4 Q Now, a jeopardy might be the fault of Qwest or it  
 5 might be the fault of the CLEC or it might be the  
 6 fault of the CLEC customer; is that right?  
 7 A Or it might be because facilities aren't available.  
 8 There's a list of reasons.  
 9 Q A jeopardy that's caused by the CLEC or the CLEC's  
 10 customer is classified as a customer not ready  
 11 jeopardy; is that right?  
 12 A Generically, I would say, yes.  
 13 Q And those are sometimes referred to as CNR  
 14 jeopardies; is that right?  
 15 A Yes.  
 16 Q Now, one consequence of a CNR jeopardy is that  
 17 Eschelon has to supplement its order in order to  
 18 request a later due date; is that right?  
 19 A Yes.  
 20 Q Okay. And the minimum due date is three days from  
 21 the date the supplemental order is placed; is that  
 22 right?  
 23 A I think that's only under specific circumstances, I  
 24 don't believe that's always true. I think that's  
 25 for designed orders.

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1 not proposed any alternative language for that  
 2 provision; is that correct?  
 3 A That's correct. Although I would point out the  
 4 entire proposal was Eschelon's proposal, both  
 5 paragraphs.  
 6 Q And you were agreeable to the part that said what  
 7 CLECs had to do, but not agreeable to the part that  
 8 said what Qwest had to do?  
 9 A Well, we were trying to come to agreement on some of  
 10 these paragraphs, we didn't want this kind of  
 11 processing detail in the first place.  
 12 Q And so your proposal with respect to what Qwest will  
 13 do when it rejects an order in error is to send that  
 14 off to the PCAT; is that right?  
 15 A Yes. That's where the processing details are dealt  
 16 with.  
 17 Q I'm going to shift gears again now and talk about  
 18 jeopardy notices, and those are sections 12-71, 72,  
 19 and 73. I'm sorry, issues 12-71, 72, and 73, it's  
 20 section of the ICA 12.2.7.2.4.4 and its subparts.  
 21 Qwest gives a jeopardy notice when a due  
 22 date for an order is in danger of being missed; is  
 23 that right?  
 24 A Yes.  
 25 Q And there are various kinds of jeopardies that

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1 Q Loops would be a designed order?  
 2 A Loops, yes.  
 3 Q And FOC is a firm order confirmation; is that right?  
 4 A Yes.  
 5 Q And that is a notice to the CLEC of the due date for  
 6 an order; correct?  
 7 A Among other things, yes.  
 8 Q Looking at your surreply testimony at page 33, lines  
 9 8 through 13 -- 12, I guess.  
 10 A Yes.  
 11 Q You say there that Eschelon's proposal does not  
 12 reflect Qwest's current practice because it adds the  
 13 phrase at least a day to when Qwest will provide a  
 14 FOC following a Qwest jeopardy?  
 15 A At least a day before, yes.  
 16 Q Other than that phrase, at least a day before, is  
 17 Eschelon's proposal consistent with Qwest's  
 18 practice?  
 19 A Current practice, yes, except for that sentence.  
 20 Q So you agree with me that Qwest's current practice  
 21 is to provide the CLEC with an FOC after a Qwest  
 22 facilities jeopardy has been cleared; is that right?  
 23 A Yes.  
 24 Q And the reason for that is you want to let the CLEC  
 25 know that the CLEC should be expecting to receive

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1 the circuit; right?  
 2 A Yes.  
 3 Q And the CLEC needs to have personnel available and  
 4 it needs to also perhaps make arrangements with the  
 5 customer to have the premises available; right?  
 6 A Yes.  
 7 Q Now, you would agree with me that if Qwest doesn't  
 8 provide an FOC, it can't reasonably expect that  
 9 Eschelon would be ready to accept the circuit; is  
 10 that right?  
 11 A Unless Qwest is already in contact with the  
 12 technician on site.  
 13 Q Well, the FOC is the agreed upon process on which --  
 14 A Yes, it is.  
 15 Q You have to let me finish my question.  
 16 A Sure.  
 17 Q The FOC is the agreed upon process by which Qwest  
 18 informs Eschelon of the due date for a circuit?  
 19 A Yes.  
 20 Q Now, you are aware that Eschelon has complained  
 21 about Qwest's failure to follow its process and  
 22 provide an FOC prior to trying to deliver the  
 23 circuit; is that right?  
 24 A I'm aware that has happened in this testimony, yes.  
 25 Q You weren't aware of any complaints that Eschelon

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1 some additional narrative that you believe explains  
 2 the situation; is that right?  
 3 A It was additional narrative available on these  
 4 orders through our systems, yes.  
 5 Q Now, you would agree with me that of the 23  
 6 instances identified by Ms. Johnson in her  
 7 testimony, 15 of those instances involved Qwest  
 8 failing to provide any FOC at all; correct? And I  
 9 mean following the original jeopardy notice.  
 10 A I'm not sure. I'd have to count how many of those  
 11 that would apply to.  
 12 Q Well, you can go ahead and do that.  
 13 A Thank you. I would say that's definitely true for  
 14 eight, for five it's not clear.  
 15 JUDGE SHEEHY: Okay. Can I just note for  
 16 the record that to answer that question  
 17 Ms. Albersheim --  
 18 THE WITNESS: I did mark the exhibit.  
 19 JUDGE SHEEHY: -- looked at the exhibit  
 20 and made some checkmarks and doodles, so if any ink  
 21 marks are on the exhibit those are hers.  
 22 THE WITNESS: Sorry about that.  
 23 JUDGE SHEEHY: That's all right, just so  
 24 it's clear where it came from. So you're saying  
 25 eight?

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1 had raised in the past regarding that issue?  
 2 A If you mean a formal complaint to a commission, no.  
 3 Q And I didn't necessarily mean that. I meant  
 4 Eschelon has approached Qwest to say you're not  
 5 complying with your process regarding an FOC, you're  
 6 aware that those kinds of communications have taken  
 7 place?  
 8 A Yes.  
 9 Q Go to your Exhibit RA-30, which I think is probably  
 10 part of your reply testimony in the second round.  
 11 A Do you mean the trade secret version?  
 12 Q Yes, I do. And I don't think I'll be asking any  
 13 trade secret questions so I think we'll be fine.  
 14 A Okay.  
 15 Q You prepared this exhibit to respond to an exhibit  
 16 that was included in Ms. Johnson's testimony; is  
 17 that right?  
 18 A Yes.  
 19 Q And in Ms. Johnson's testimony she provided 23  
 20 examples of instances where an FOC either wasn't  
 21 provided at all or wasn't provided at least a day  
 22 before Qwest tried to deliver the circuit; is that  
 23 right?  
 24 A Right.  
 25 Q And what you're doing in RA-30 is you're providing

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1 THE WITNESS: Eight.  
 2 JUDGE SHEEHY: Eight of 23, no FOC  
 3 provided.  
 4 BY MR. MERZ:  
 5 Q And you say five aren't clear?  
 6 A Five aren't clear.  
 7 Q What about the other two?  
 8 A Well, this is my tally.  
 9 Q All right, fair enough.  
 10 A What I found were notes in these that indicated  
 11 whether or not an FOC was sent. To be definitive  
 12 about it we'd have to go back to our systems and  
 13 look for the FOC messages in our archives.  
 14 Q And so you're looking at your notes to figure out  
 15 whether or not an FOC was sent?  
 16 A Yes.  
 17 Q Now, when you went back and prepared this chart, you  
 18 didn't go back to whatever you had to look at to  
 19 figure out whether an FOC had been sent?  
 20 A We didn't go back to the FOC archives, we went to  
 21 the technician's notes about what happened in these  
 22 instances.  
 23 JUDGE SHEEHY: Okay. And that's  
 24 Exhibit 30?  
 25 MR. MERZ: RA-30.

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1 JUDGE SHEEHY: To your -- is it reply or  
2 rebuttal, what are we calling it?  
3 THE WITNESS: Reply.  
4 JUDGE SHEEHY: Reply? Okay.  
5 THE WITNESS: Yes.  
6 BY MR. MERZ:  
7 Q Now, one of the things that you say is that  
8 Eschelon's language regarding jeopardy notices is  
9 unnecessary because the issue is already  
10 sufficiently covered by the PIDs; is that right?  
11 A Well, that's part of it. It's also because these  
12 procedures are handled through our PCATs.  
13 Q One of the PIDs that you say addresses this issue is  
14 PID OP-4 regarding installation intervals; is that  
15 right? And if you want to refer to something, you  
16 identify it in your direct testimony at page 68.  
17 A Okay.  
18 Q If that helps.  
19 A Yes.  
20 Q Now, PID OP-4 -- you've actually attached the PIDs  
21 to your testimony as Exhibit RA-14; is that right?  
22 To your direct testimony?  
23 A Yes.  
24 Q PID OP-4 excludes from its coverage orders with  
25 customer requested due dates greater than a current

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1 standard interval; is that right? And I'm looking  
2 at Exhibit RA-14, page 39.  
3 A And what was your question?  
4 Q My question is whether PID OP-4 excludes orders with  
5 customer requested due dates greater than the  
6 current standard interval?  
7 A Yes.  
8 Q Now, in the case of the CNR jeopardy Eschelon has to  
9 supplement its order to request a new due date;  
10 isn't that right?  
11 A Yes.  
12 Q So any time there is a CNR jeopardy, the due date is  
13 always going to be longer than the standard  
14 interval; isn't that right?  
15 A I wouldn't say always. I'd say probably.  
16 Q Almost always?  
17 A Yeah.  
18 Q Unless the initial due date was expedited pretty  
19 significantly?  
20 A The initial -- I'm not sure I'd agree with that.  
21 Q Well, suffice it to say that OP-4 is going to  
22 exclude almost all of the instances where there's a  
23 CNR jeopardy; correct?  
24 A That's likely, yes.  
25 Q Okay. And then in your surrebuttal at page 34 you

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1 identify another PID, PO-5; is that right?  
2 A Yes, in a different context.  
3 Q Okay. And this one you're saying is a PID that  
4 provides Qwest with an incentive to provide firm  
5 order confirmation on time; is that right?  
6 A Yes.  
7 Q Now, PO-5 measures the time between the order and  
8 the FOC, not the time between the FOC and when --  
9 how far in advance of the delivery date that FOC is  
10 provided; is that right?  
11 A Right.  
12 Q Let me ask it again. My question was terrible.  
13 PID PO-5 measures the time between the  
14 order and the FOC; correct?  
15 A Yes.  
16 Q What Eschelon is concerned about with these jeopardy  
17 notice provisions is that it gets enough notice in  
18 advance of when Qwest attempts to deliver the due  
19 date -- deliver the service; correct?  
20 A Yes.  
21 Q PID PO-5 wouldn't address that issue at all; would  
22 it?  
23 A I wouldn't say at all. It is a measure of whether  
24 or not an FOC is delivered on time. It can include  
25 whether or not it's delivered on time for a jeopardy

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1 order.  
2 Q But it doesn't measure that, it doesn't measure --  
3 A Not specifically, no, it's part of -- it's a subset.  
4 Q And it doesn't measure whether the FOC provides the  
5 CLEC with notice in advance of when the circuit is  
6 delivered?  
7 A That's not its intent, its intent is to measure the  
8 delivery of the FOC.  
9 Q Now I want to talk with you about loss of completion  
10 reports, which is issue 12-76, and it's ICA sections  
11 12.3.7.1.1 and 12.3.7.1.2. And it might be helpful  
12 if you just turn to those sections, 12.3.7.1.1.  
13 A I'm there.  
14 Q Okay. Eschelon's proposal describes the minimum  
15 amount of information that must be contained in the  
16 loss of completion reports; is that right?  
17 A For Eschelon's request, yes.  
18 Q And it doesn't prevent Qwest from providing  
19 information in addition to the minimum amount of  
20 information that's described there; is that right?  
21 A That's correct.  
22 Q And Eschelon's proposal doesn't require the loss of  
23 completion report to be in any particular format;  
24 does it?  
25 A No, but it does require those reports with that

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1 A Yes.  
 2 Q The time that you're referring to is the time of the  
 3 one-word change; right?  
 4 A The timing is coincidental, yes. And as I said up  
 5 above, Mr. Hubbard explains that there were  
 6 differences -- first of all, in the word  
 7 conditioning and what that meant, but also other  
 8 events took place at the same time. And in fact  
 9 when he showed me that e-mail I believe that even  
 10 Qwest employees were a bit confused as to cause and  
 11 effect.  
 12 Q Did you talk with Ms. Dubuque about her e-mail?  
 13 A No. I'm not sure she's still employed at Qwest.  
 14 Q Did you talk to anybody that was involved in  
 15 investigating Eschelon's held orders in the mid-2003  
 16 time frame?  
 17 A Yes.  
 18 Q Who did you talk to?  
 19 A Well, several different people. There were a number  
 20 of meetings discussing this to find out exactly what  
 21 happened.  
 22 Q You refer in your testimony to construction being  
 23 outside of process; is that right?  
 24 A Yes. And I can't get more specific, it would have  
 25 to be Mr. Hubbard.

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1 Q So Qwest changed its PCAT in order to conform to its  
 2 process? Do you know whether that's the case?  
 3 A The CRUNEC PCAT?  
 4 Q Yeah.  
 5 A I don't think that's correct. I believe what Qwest  
 6 corrected was its process itself.  
 7 Q There was a one-word change made to the CRUNEC PCAT?  
 8 A Yes.  
 9 Q And the reason for the change was because Qwest was  
 10 constructing out of process; is that right?  
 11 A I believe it was intended to be a clarification.  
 12 The out of process was a different issue. That's  
 13 what I'm saying, several things were happening at  
 14 the same time.  
 15 Q When you say at the same time, what do you mean by  
 16 that? In the mid-2003?  
 17 A Yes.  
 18 Q In your reply testimony at page 24, lines 8 through  
 19 9, you say this whole issue was the result of the  
 20 fact that Qwest was receiving conflicting feedback  
 21 from its CLEC customers; correct?  
 22 A Yes.  
 23 Q And in support of that claim you cite a comment by  
 24 Eschelon that was made in CMP; is that right?  
 25 A Yes. But we've changed issues a little bit. This

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1 is a discussion about whether or not rates are dealt  
 2 with in ASCENT, not just about CRUNEC.  
 3 Q Well, in the preceding question and answer you're  
 4 talking about a percentage decline in Eschelon's  
 5 held orders in response to Mr. Starkey saying that  
 6 held orders went up; correct?  
 7 A Yes.  
 8 Q And then in the next question and answer you're  
 9 saying this whole issue was the result of the fact  
 10 that Qwest was receiving conflicting feedback?  
 11 A Yes, that answer is in response to my question, in  
 12 which Mr. Starkey states on page 56 of his testimony  
 13 that rates are outside the scope of CMP. So in this  
 14 discussion I'm speaking about rates.  
 15 Q The particular comment that you reference in your  
 16 testimony on page 24 is a comment that was made in  
 17 September of 2004; correct? And it's attached as  
 18 Exhibit RA-25, if you'd like to look at it.  
 19 A Yeah, let me look. Yes.  
 20 Q You would agree with me that a change that Qwest  
 21 noticed and Eschelon commented on in September of  
 22 2004 did not have the effect of causing Eschelon to  
 23 experience an increase in held orders in July of  
 24 2003?  
 25 A That's not what this -- this response in my question

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1 and response was about.  
 2 Q That just wasn't what you were intending?  
 3 A That's not what I was speaking about, no.  
 4 MR. MERZ: If I could have just a minute.  
 5 I don't have any further questions for the witness.  
 6 Thank you.  
 7 JUDGE SHEEHY: Ms. Anderson.  
 8 MS. ANDERSON: Thank you.  
 9 CROSS-EXAMINATION  
 10 BY MS. ANDERSON:  
 11 Q Good morning, Ms. Albersheim.  
 12 A Good morning.  
 13 Q Let me refer you to your direct testimony at page 3,  
 14 please. I'm looking specifically at lines 10  
 15 through 12. You state, do you not, that in this  
 16 testimony, meaning your direct testimony, you state,  
 17 quote, I will demonstrate that the underlying theme  
 18 of these issues is an attempt by Eschelon to freeze  
 19 Qwest's process and procedures in the parties'  
 20 contract, thus undermining the change management  
 21 process, or CMP. Did I read that correctly?  
 22 A Yes.  
 23 Q I have several questions just to explore your view  
 24 with respect to the effect of Eschelon's proposed  
 25 language on several issues. All right?

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1 compared to this language and would likely be  
 2 rejected if they conflict with the way we do it  
 3 today.  
 4 Q Ms. Anderson mentioned, or she asked you, you know,  
 5 do other CLECs want this same language, you know,  
 6 would they be willing to accept the same language  
 7 since it's Qwest current practice. Is that true for  
 8 all of these issues, including, for example, we did  
 9 touch on jeopardies, would that be true for  
 10 jeopardies, for example?  
 11 A Well, first of all, what Eschelon proposes for  
 12 jeopardies is not our current practice. And I am  
 13 not certain that CLECs would all agree to hold  
 14 the -- require that an FOC be sent at least a day  
 15 before the new due date because that could cause an  
 16 order to be delivered late.  
 17 Q With respect to the exhibit that Mr. Merz -- and I  
 18 think it was Mr. Merz referred to, that was  
 19 submitted by Bonnie Johnson, I think it was BJJ-23.  
 20 Maybe -- I think I'm off on the 23. This has to do  
 21 with the 23 examples in her exhibit with respect to  
 22 jeopardies and FOCs.  
 23 A Yes.  
 24 Q I think Mr. Merz had you look at that exhibit.  
 25 A Yes.

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1 issue; correct?  
 2 A Partly. We're also talking about a procedure for  
 3 delivering an FOC in response to a jeopardy.  
 4 Q Isn't it the case that under Eschelon's language the  
 5 issue is, if Qwest fails to provide the FOC at least  
 6 a day before delivery, it won't classify the  
 7 jeopardy as a CNR jeopardy if the CLEC isn't able to  
 8 take the circuit? Isn't that the issue that the  
 9 Eschelon language is designed to deal with?  
 10 A No, I disagree. Because the classification of the  
 11 jeopardy happens at the time that the jeopardy is  
 12 issued, and we're talking about when an FOC is  
 13 delivered in response to a jeopardy, so these are  
 14 two different things.  
 15 Q Just to make sure we understand the sequence of  
 16 events. Qwest gives an initial jeopardy notice  
 17 saying we don't have facilities, we don't believe  
 18 we're going to be able to deliver on the due date.  
 19 A Okay.  
 20 Q That's the first thing that happens. The second  
 21 thing that happens is Qwest then discovers it has  
 22 facilities, it is going to be able to deliver, and  
 23 the Qwest process at that point is to provide an  
 24 FOC; correct?  
 25 A I think we're missing some steps, but I would say

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1 Q So what would the ramification be, even with respect  
 2 to those examples, if the Commission adopted  
 3 Eschelon's proposed language?  
 4 A Well, depending on the date in which the service was  
 5 delivered, if it was delivered on time, in this case  
 6 on the due date, it would have been forced to be  
 7 late, it would be delivered a day after the due  
 8 date, and I can't imagine that all CLECs would want  
 9 that kind of delay built in because that then forces  
 10 them to be late with delivering service to their end  
 11 user customers. And the ultimate goal is to be on  
 12 time with delivery. And what seems to have been  
 13 missed in reviewing these examples is that there was  
 14 communication ongoing between Qwest and the CLEC  
 15 technicians and that helped get the service  
 16 delivered.  
 17 MS. THOMPSON: That's all I have. Thank  
 18 you.  
 19 JUDGE SHEEHY: Mr. Merz.  
 20 MR. MERZ: Thank you, Your Honor.  
 21 RECROSS-EXAMINATION  
 22 BY MR. MERZ:  
 23 Q We were just talking about the jeopardy issue.  
 24 Really we're not talking about a jeopardy issue,  
 25 we're talking about a classification of jeopardy

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1 yes. The process includes an FOC, yes.  
 2 Q And the reason the process includes an FOC is  
 3 because Qwest needs to tell the CLEC to be ready to  
 4 expect the circuit?  
 5 A Yes, that's the formal way of notification, yes.  
 6 Q And what Eschelon's language is doing, at least in  
 7 part, is saying if you don't give that FOC at least  
 8 a day before you're ready to deliver the circuit,  
 9 and then we're not able to take the circuit, you're  
 10 not going to call that a CNR; correct?  
 11 A No.  
 12 Q That's not correct?  
 13 A No, because that would require a change in the  
 14 jeopardy status later. The jeopardy is classified  
 15 when the jeopardy is issued.  
 16 Q There's not a separate jeopardy if Qwest then tries  
 17 to deliver the circuit, it doesn't treat that as a  
 18 CNR jeopardy?  
 19 A Oh, I see. If you're talking about a subsequent  
 20 jeopardy, yes, that would be a CNR jeopardy.  
 21 Q Well, and if Qwest clears the jeopardy and tries to  
 22 deliver the circuit and the CLEC is not ready, Qwest  
 23 is going to treat that as a CNR jeopardy; correct?  
 24 A Yes.  
 25 Q And what Eschelon is saying is, look, if you haven't

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1 told us the circuit is coming, you can't treat that  
 2 as a CNR jeopardy; right?  
 3 A Yes.  
 4 Q And Qwest disagrees with that; is that correct?  
 5 A We don't disagree with the notion that a CNR  
 6 jeopardy should be assigned appropriately.  
 7 Q And if the CLEC doesn't have adequate notice that  
 8 the circuit is being delivered, adequate notice  
 9 consisting of an FOC, then you would agree that a  
 10 CNR jeopardy is not appropriate; correct?  
 11 A Yes.  
 12 Q And you would also agree that not only do you need  
 13 the FOC, but you need the FOC in enough time to be  
 14 able to act on it; correct?  
 15 A I would agree with that. I would submit, though,  
 16 that in the examples provided we only found three  
 17 cases where we classified a subsequent jeopardy as a  
 18 CNR, in error, and that is mostly because the  
 19 service was delivered. And communication was  
 20 happening between Qwest and the CLEC technicians.  
 21 Q In all of the examples identified by Ms. Johnson,  
 22 the 23 examples that you reviewed, all of those were  
 23 instances that Qwest classified as CNR jeopardies;  
 24 correct?  
 25 A Are you talking about jeopardies in the first

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1 FOC nine minutes before attempting to deliver a  
 2 circuit that that wouldn't be adequate notice;  
 3 correct?  
 4 A I don't think we're looking at all the  
 5 circumstances, because in those situations in that  
 6 Exhibit --  
 7 Q Are you able to answer my question?  
 8 A It might be adequate notice if we're in  
 9 communication and on site with the technician, which  
 10 was the case in some of these circumstances.  
 11 Q Are you saying that the CLEC ought to be relying on  
 12 something other than the official notice, the FOC  
 13 that it receives from Qwest, as the indication of  
 14 when the circuit is going to be delivered?  
 15 A For a formal process, no. But it also doesn't make  
 16 sense if we're in communication with each other and  
 17 the circuit can be accepted not to install the  
 18 circuit and have it done on time.  
 19 Q You understand Eschelon is not saying you should  
 20 delay the circuit in order to give us an FOC, what  
 21 they're saying is if you don't give us an FOC don't  
 22 treat it as a CNR jeopardy?  
 23 A That's not spelled out in these terms.  
 24 Q So we disagree about that?  
 25 A Yes, we do disagree.

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1 instance or subsequent jeopardies?  
 2 Q At any point.  
 3 A I'm not certain on that. I'd have to go back and  
 4 look at the data. I understood that a little bit  
 5 differently.  
 6 Q Would you agree that if Qwest didn't provide an FOC  
 7 following an initial jeopardy, that it would be  
 8 improper to subsequently categorize the CLEC's  
 9 inability to take the circuit as a CNR jeopardy?  
 10 A If you're speaking of in a subsequent jeopardy, yes.  
 11 Q And if Qwest comes to deliver the circuit and the  
 12 CLEC can't take it, that's a subsequent jeopardy;  
 13 correct? That's the way Qwest treats it?  
 14 A Yes.  
 15 Q And if the CLEC doesn't have notice and isn't able  
 16 to take the circuit, Qwest treats that as a CNR  
 17 jeopardy under its current process; correct?  
 18 A The second jeopardy, yes.  
 19 Q And you would agree that that's not proper, if the  
 20 CLEC hasn't received an FOC in adequate time to be  
 21 able to act on it; correct?  
 22 A According to procedure, yes.  
 23 Q That's Qwest's procedure?  
 24 A Yes.  
 25 Q Now, you would agree with me that if you provided an

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1 Q That's not your reading. Why don't you refer to  
 2 section 12.2.7.2.4.4.1.  
 3 A You're going to have to say that again.  
 4 Q Yeah, I thought I would. 12.2.7.2.4.4.1.  
 5 A Okay.  
 6 Q That section describes two specific types of  
 7 jeopardies; correct?  
 8 A Yes.  
 9 Q And what this language is saying is that for these  
 10 two types of jeopardies Qwest will not characterize  
 11 a jeopardy as a CNR or send a CNR jeopardy to a CLEC  
 12 if a Qwest jeopardy exists, Qwest attempts to  
 13 deliver the circuit and Qwest does not send an FOC  
 14 to the CLEC after the Qwest jeopardy occurs but  
 15 before Qwest attempts to deliver the circuit; do you  
 16 see that?  
 17 A Yes.  
 18 Q And what that says is if you don't give us our FOC  
 19 you're not going to treat it as a CNR jeopardy?  
 20 A That's what that says.  
 21 Q And you understand that there's additional language  
 22 that has been proposed that says we need to have the  
 23 FOC at least a day before?  
 24 A Right. And that additional language is not our  
 25 current process. This language reflects our current

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1 process.  
 2 Q And then it goes on to say that if Qwest does try to  
 3 deliver the circuit, the CLEC will nonetheless use  
 4 its best efforts to accept the circuit; correct?  
 5 A And that's what happened in most of the examples  
 6 that you provided, yes.  
 7 Q And so those are instances where the circuit was  
 8 delivered on time, but Qwest treated it as a CNR  
 9 jeopardy; is that right?  
 10 A No. We only found three instances where we  
 11 inappropriately treated it as a CNR jeopardy.  
 12 Q When you say inappropriately, what --  
 13 A Not according to our current procedure. Part of the  
 14 problem with that exhibit is that it includes the at  
 15 least a day before provision as a part of its  
 16 assessment of whether or not things were  
 17 appropriately categorized, and in only three cases,  
 18 according to our current procedure, did we err.  
 19 Q Would you agree with me that if Qwest didn't provide  
 20 an FOC following a jeopardy prior to delivering the  
 21 circuit that that should not be treated as a CNR  
 22 jeopardy?  
 23 A A subsequent jeopardy should not be treated as a CNR  
 24 jeopardy. And in that exhibit we found three cases  
 25 where we did that.

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1 Q You had testified previously regarding the oversight  
 2 review process?  
 3 A Um-hum.  
 4 Q If you would refer to your Exhibit RA-1, page 115.  
 5 This describes the oversight review process?  
 6 A Um-hum.  
 7 Q Yes?  
 8 A Yes.  
 9 Q And under the bullet points it says the oversight  
 10 review process is optional; is that right?  
 11 A Yes.  
 12 Q And then it goes on to say it will not be used when  
 13 one or more processes documented in this CMP are  
 14 available to obtain the resolution the submitter  
 15 desires; do you see that?  
 16 A Yes.  
 17 Q And you understand that to be a limitation on how  
 18 the oversight review process works; is that right?  
 19 A Well, not really a limitation, it means that there  
 20 are alternatives available to meet the CLEC's needs.  
 21 Q Well, it is a limitation on the use of the oversight  
 22 review process; correct?  
 23 A Yes.  
 24 Q It says it won't be used for processes documented in  
 25 the CMP?

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1 A When they are available to obtain the resolution  
 2 desired. So if there's another way to get the same  
 3 result, the CLEC doesn't need to go to oversight.  
 4 But if that doesn't meet the CLEC's needs, then they  
 5 can come to oversight.  
 6 Q The oversight review -- was it called committee?  
 7 A Yes.  
 8 Q It makes a recommendation; is that right?  
 9 A Yes.  
 10 Q Who does it make the recommendation to?  
 11 A To Qwest.  
 12 Q And then Qwest is free to accept that  
 13 recommendation; correct?  
 14 A Yes.  
 15 Q Or it can reject the recommendation; correct?  
 16 A Yes, it can.  
 17 MR. MERZ: I don't have anything further.  
 18 Thank you.  
 19 JUDGE SHEEHY: Ms. Anderson?  
 20 MS. ANDERSON: Nothing, thank you.  
 21 JUDGE SHEEHY: Anything further,  
 22 Ms. Thompson?  
 23 MS. THOMPSON: No, thank you.  
 24 JUDGE SHEEHY: Any questions?  
 25 JUDGE MIHALCHICK: Yeah, I have a couple

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1 questions.  
 2 EXAMINATION  
 3 BY JUDGE MIHALCHICK:  
 4 Q This is Steve Mihalchick. What is your job title?  
 5 A Staff witnessing representative.  
 6 Q And that means you're a witness, I guess?  
 7 A Yes, it does.  
 8 Q And you're paid to be a witness by Qwest?  
 9 A Yes. I'm an employee of Qwest.  
 10 Q How do you gather the information you provide in  
 11 your testimony?  
 12 A In multiple ways. Research I do through the record.  
 13 For example, there's an extensive public record for  
 14 the CMP so I can get a lot of information there. I  
 15 also contact various employees at Qwest when I need  
 16 further information.  
 17 Q Okay. Regarding the CMP, then, you made several  
 18 statements in your prefiled testimony and here today  
 19 that the CMP was intended to do this or to do that  
 20 or the purpose of it was such and such or it was  
 21 created to do such and such. How did you determine  
 22 those sorts of general intention of the document?  
 23 A Well, first of all, I've dealt with the CMP for some  
 24 time and worked with the CMP team, but also I  
 25 reviewed legal rulings with regard to the CMP, the



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1 issues an order causing a change in law and that  
 2 order does not include a specific implementation  
 3 date, a party may provide notice to the other party  
 4 within 30 days of the effective date of that order  
 5 and any, and then the language picks up at line 3.  
 6 JUDGE SHEEHY: Is there a comma before  
 7 and?  
 8 THE WITNESS: No.  
 9 JUDGE SHEEHY: Okay.  
 10 MR. TOPP: Qwest would offer Exhibits 6,  
 11 7, 8 and 9.  
 12 JUDGE SHEEHY: Any objection?  
 13 MR. MERZ: No objection.  
 14 MS. ANDERSON: None.  
 15 JUDGE SHEEHY: Exhibits 6, 7 and 8 are  
 16 received.  
 17 MR. TOPP: There's also an Exhibit 9.  
 18 JUDGE SHEEHY: 6, 7, 8 and 9 are  
 19 received.  
 20 (Exhibits 6, 7, 8 and 9 offered and  
 21 received.)  
 22 MR. TOPP: Mr. Easton is available for  
 23 cross.  
 24 JUDGE SHEEHY: Mr. Merz.  
 25 MR. MERZ: Thank you, Your Honor.

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1 Qwest should be able to discontinue processing  
 2 Eschelon's order on 10 days' notice without approval  
 3 of the Commission; is that correct?  
 4 A That's correct. I would note that based on the  
 5 proposed language Qwest would be notifying the  
 6 Commission at the same time it notifies Eschelon.  
 7 Q But it wouldn't have to wait for any Commission  
 8 approval?  
 9 A That is correct.  
 10 Q And it could proceed to then begin discontinuing  
 11 accepting any new orders from Eschelon in 10 days  
 12 after that notice?  
 13 A That's correct. Again, this is the same language  
 14 that appears in the SGATs in all Qwest states, it's  
 15 been in place for many years.  
 16 Q And you agree with me that if this provision were in  
 17 place today in Eschelon's ICA, it would be Qwest's  
 18 position that it could today give its notice that it  
 19 was going to discontinue order processing; right?  
 20 A Yes.  
 21 Q Qwest believes today that Eschelon is more than 30  
 22 days past due on its payments; is that right?  
 23 A I'm not sure where we stand as of today. I do know  
 24 that in the past there have been a number of billing  
 25 issues between the parties, and Eschelon in fact had

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1 CROSS-EXAMINATION  
 2 BY MR. MERZ:  
 3 Q Good afternoon, Mr. Easton.  
 4 A Good afternoon.  
 5 Q I want to focus with you first on issue 5-6, which  
 6 concerns discontinuation of order processing, and  
 7 that relates to ICA section 5.4.2.  
 8 The issue here is a contract provision  
 9 that describes the circumstances under which Qwest  
 10 can discontinue processing Eschelon's orders; is  
 11 that right?  
 12 A That's correct.  
 13 Q And discontinuing order processing means that Qwest  
 14 will not accept any new orders for service from  
 15 Eschelon; is that right?  
 16 A That's correct.  
 17 Q And it won't accept any changes in any existing  
 18 services; is that right?  
 19 A That's correct as well.  
 20 Q And you would agree with me that if that were to  
 21 happen that would be a very significant consequence;  
 22 correct?  
 23 A Yes, it would.  
 24 Q Now, it's Qwest's position that if Eschelon fails to  
 25 pay an undisputed amount 30 days after the due date,

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1 considerably more than 30 days in outstanding  
 2 billing.  
 3 Q And you are aware as well that Eschelon disagrees  
 4 with that position of Qwest, it disagrees that it  
 5 has any outstanding amounts due more than 30 days  
 6 past due?  
 7 A I don't know that that's my understanding. In the  
 8 billing issue discussed in Mr. Denney's testimony  
 9 that I reply to in my rebuttal testimony, the issue  
 10 had to do with the amount that was at dispute. This  
 11 language specifically excludes disputed amounts.  
 12 Q Under Qwest's proposed language Qwest would take the  
 13 position that it is the one that gets to decide  
 14 whether there are any past due amounts; correct?  
 15 A I believe that is correct. However, the parties  
 16 would decide on the disputed amount. And I would  
 17 cite, for example, that \$3 million example we had  
 18 that occurred here earlier in the year, Qwest  
 19 demanded payment and they suggested to Eschelon, if  
 20 you disagree with the amounts you feel are at  
 21 dispute, you subtract those amounts out, but please  
 22 pay us the rest of it which you're not disputing.  
 23 Q Based on Qwest's determination, Qwest could, under  
 24 its proposed language, proceed to discontinue order  
 25 processing on 10 days' notice; correct?

Page 118	<p>1 A For nonpayment of undisputed amounts, that's 2 correct.</p> <p>3 Q And that would be true even if Eschelon disagreed 4 about whether there was some past due amount?</p> <p>5 A Well, I think certainly our past practice would 6 indicate that that would not happen.</p> <p>7 Q And I'm really focusing on what the language that 8 Qwest is proposing would permit, and what that 9 language would permit is even if Eschelon disagreed 10 about whether there are undisputed amounts due, 11 Qwest could still proceed to give notice and 12 discontinue order processing; correct?</p> <p>13 A Well, it says less any disputed amount, it doesn't 14 say who is disputing that amount.</p> <p>15 Q And my point would be, sir, that Qwest is the one 16 that reserves to itself the ability to decide 17 whether an amount is in dispute; correct?</p> <p>18 A That is correct. I would point out that there is in 19 fact a dispute process that was developed through 20 change management by Qwest and participating CLECs 21 that lays out how disputes are to be handled and 22 makes very clear the amounts that are at dispute.</p> <p>23 Q And I need you to try to focus a little more closely 24 I think on my question. And what I mean to be 25 asking you is it is possible that the parties might</p>	Page 120	<p>1 Q And you don't dispute that; do you, sir?</p> <p>2 A I don't dispute that. I would say the flip side of 3 that, certainly, is by Qwest not being able to have 4 a security deposit it would put a certain level of 5 risk or burden on Qwest.</p> <p>6 Q And you understand, don't you, that Eschelon has 7 proposed language for section 5.4.5 that would allow 8 Qwest to get a security deposit?</p> <p>9 A They have a number of different options, Eschelon 10 does, for this section. Some of those options do 11 allow that, yes.</p> <p>12 Q Don't they all allow for Qwest to get a security 13 deposit?</p> <p>14 A I don't believe you're correct. Some it would be, 15 rather than triggered by an action of the two 16 parties, it would be a decision of the Commission.</p> <p>17 Q But what we're really disagreeing about here is not 18 whether Qwest can get a security deposit, but what 19 circumstances should trigger that ability?</p> <p>20 A I would agree.</p> <p>21 Q And you would agree with me that one of the points 22 of dispute between the parties is how do you define 23 the phrase repeatedly delinquent; correct?</p> <p>24 A That's correct.</p> <p>25 Q And you would agree with me as well that the</p>
Page 119	<p>1 disagree about whether or not there is an undisputed 2 amount?</p> <p>3 A It is possible, yes.</p> <p>4 Q In fact that is something that has happened in the 5 past in the relationship between Eschelon and Qwest?</p> <p>6 A And that has happened in the past, and as I 7 mentioned, it's been Qwest's practice, certainly as 8 evidenced by this most recent case, that Qwest 9 accepted the disputed amount provided by Eschelon.</p> <p>10 Q And Qwest is here today seeking to have the contract 11 right to decide whether an amount is disputed and 12 then based on that determination proceed to 13 discontinue order processing?</p> <p>14 A That's correct.</p> <p>15 Q I want to focus with you now on the deposit 16 requirements, which are issues 5-8, 5-9, 5-11, 5-12, 17 and they all relate to the ICA section 5.4.5. 18 And the issue here is the circumstances 19 under which Qwest can require Eschelon to pay a 20 security deposit; is that right?</p> <p>21 A That's correct.</p> <p>22 Q And you would agree with me that having to pay a 23 security deposit could impose a significant burden 24 on Eschelon; is that right?</p> <p>25 A That is Mr. Denney's testimony.</p>	Page 121	<p>1 definition of repeatedly delinquent is one that 2 differs from ICA to ICA that Qwest has with various 3 CLECs and others; is that right?</p> <p>4 A There are some older ICAs that have a different 5 definition of repeatedly delinquent. As Mr. Denney 6 has pointed out in his testimony, all of the most 7 recent ICAs, all of the SGATs, all of the SGAT 8 language developed during the 271 workshops, 9 contains the definition of repeatedly delinquent 10 that Qwest is using here.</p> <p>11 Q The older ICAs, the ones that you've characterized 12 as older, those are contracts that remain in effect 13 today?</p> <p>14 A That's correct.</p> <p>15 Q And those are binding on Qwest today?</p> <p>16 A That's correct.</p> <p>17 Q I want to focus you now on the issue of credit 18 standing, which is issue 5-13, and that's in the ICA 19 section 5.4.7?</p> <p>20 A Yes.</p> <p>21 Q This issue involves language proposed by Qwest that 22 would allow it to increase a deposit amount based on 23 its review of Eschelon's credit standing; is that 24 right?</p> <p>25 A That's correct.</p>

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1 Q And it's Qwest's position that this provision would  
2 allow an increase from zero; is that right?  
3 A That is correct.  
4 Q So even if no deposit was otherwise required under  
5 the ICA, Qwest believes it could rely on this  
6 provision 5.4.7 to demand the full amount of deposit  
7 that the section 5.4.5 would allow; is that correct?  
8 A Yes. What section 5.4.7 is intended to do is to  
9 address situations where there's a change in  
10 circumstances. We've experienced a number of  
11 bankruptcies in the past where right up until the  
12 time the company went bankrupt, they may have been  
13 making their payments in a timely manner and were a  
14 good credit risk at one point, but circumstances  
15 change, and it's appropriate to have language in the  
16 interconnection agreement that allows deposit  
17 requirements to change as those circumstances  
18 change.  
19 Q Does Qwest's proposed language for 5.4.7 require  
20 that there be any change in circumstances before  
21 Qwest demands a deposit?  
22 A Well, it would be based upon a credit review that  
23 would indicate that a deposit would be necessary.  
24 Q I'm not certain you answered my question. Does  
25 Qwest's language proposed for 5.4.7 require as a

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1 A No, it's not spelled out any further than we have  
2 there.  
3 Q And it's not limited to any particular type of data  
4 regarding credit standing?  
5 A It would be based on financial data.  
6 Q Where does it say that?  
7 A It does not say that. But it talks about credit  
8 standing, when you're looking at a party's credit  
9 standing I would submit that you would be looking at  
10 financial data.  
11 Q Well, there's certainly nothing in this language  
12 that would limit that to financial data; correct?  
13 A Well, when you're talking about, again, reviewing  
14 the party's credit standing, I don't know what  
15 nonfinancial data you would be looking at to make  
16 that determination.  
17 Q The review that's referred to in Qwest's proposed  
18 5.4.7 doesn't have to be based on credible or  
19 verifiable evidence; does it?  
20 A The language says what it says.  
21 Q So review can be nothing more than a Qwest employee  
22 getting up in the morning and reading an article in  
23 the Star Tribune about Eschelon?  
24 A Well, that is not in fact the process that Qwest  
25 would follow.

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1 condition of demanding a deposit under that section  
2 that there be changed circumstances?  
3 A It was Qwest's understanding previously, or it was  
4 Qwest's view previously that no deposit was  
5 necessary, then based upon this review decided that  
6 a deposit was necessary. I would argue that, yes,  
7 there was a change in circumstances.  
8 Q So the changed circumstance that you're talking  
9 about is Qwest's belief about whether a deposit is  
10 necessary?  
11 A Yes, based on certain criteria Qwest would use to  
12 evaluate the creditworthiness of the other party.  
13 Q Now, section 5.4.7 as proposed by Qwest doesn't  
14 describe any criteria to be used in evaluating  
15 creditworthiness; does it?  
16 A No, it does not.  
17 Q And it talks generally about the billing party, and  
18 I assume that's referring generally to Qwest, may  
19 review the other party's credit standing; is that  
20 right?  
21 A That's correct.  
22 Q Now, review is not any further defined anywhere in  
23 the ICA; is it?  
24 A No, it is not.  
25 Q It doesn't require any particular kind of review?

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1 Q But that is the process that 5.4.7 would allow;  
2 correct?  
3 A Well, that is certainly not the intent of the  
4 language. I don't think it would be appropriate to  
5 spell out exactly the credit review process that  
6 would be followed. There are a number of factors  
7 that go into it, it's not, you know, necessarily a  
8 black and white decision, but there is a fair amount  
9 of quantitative analysis that would fall behind  
10 that.  
11 Q 5.4.5 does specify the credit review that's going to  
12 take place if the parties have been doing business,  
13 and that requires a determination of repeatedly  
14 delinquent in order to get a deposit; is that right?  
15 A That's correct.  
16 Q Qwest could claim a deposit in 5.4.7 if a party had  
17 never been repeatedly delinquent; correct?  
18 A That is correct. As I mentioned, there are  
19 circumstances where parties, right up until the day  
20 they went bankrupt, were not repeatedly delinquent.  
21 Q I'm going to ask you now about nondisclosure  
22 agreements in section -- I'm sorry, issue 5-16,  
23 that's ICA 5.16.9.1. The issue here is that Qwest  
24 employees who have access to Eschelon's forecasting  
25 information are required to sign a nondisclosure

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1 agreement; is that right?  
 2 A That's correct.  
 3 Q And that's something the parties have agreed on;  
 4 correct?  
 5 A Yes.  
 6 Q The information that we're talking about,  
 7 forecasting data, is a highly competitive -- is a  
 8 highly competitively sensitive nature; is that  
 9 right?  
 10 A That is correct.  
 11 Q The issue here is that Eschelon, after the  
 12 nondisclosure agreement has been signed by the Qwest  
 13 employee, wants to be provided with a copy and Qwest  
 14 doesn't want to provide a copy; is that it in a  
 15 nutshell?  
 16 A That's it in a nutshell.  
 17 Q At any one time how many Qwest employees have access  
 18 to Eschelon's forecasting information?  
 19 A That I can't tell you.  
 20 Q Do you know if there are more than five?  
 21 A I would believe there are more than five.  
 22 Q Do you know if there are more than 10?  
 23 A I would believe there are more than 10.  
 24 Q Do you know how frequently those employees turn  
 25 over?

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1 A That I can't tell you either. There is turnover in  
 2 those groups.  
 3 Q You don't know how frequent?  
 4 A No. I'm sure it varies from time to time.  
 5 Q Is there some person who is responsible for getting  
 6 the nondisclosure agreement signed?  
 7 A I'm sure there is.  
 8 Q Are they maintained in a file?  
 9 A I'm sure they are.  
 10 Q Now, you talk in your direct testimony about the  
 11 unnecessary administrative burden that would be  
 12 imposed by Eschelon's proposed language; do you  
 13 recall that?  
 14 A Yes, I do.  
 15 Q Now, the unnecessary administrative burden that  
 16 you're talking about consists of having the person  
 17 that gets the nondisclosure agreement signed put it  
 18 in the mail to Eschelon; is that the burden that  
 19 we're dealing with here?  
 20 A That would be the case, because people, there was  
 21 churn in the jobs, the other concern would be of  
 22 course anybody who opted into this contract, should  
 23 the Eschelon language be approved, Qwest would be in  
 24 a position of mailing these things out on an ongoing  
 25 basis, and I just don't know that the administrative

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1 burden is worth it.  
 2 Q It may not be worth it to Qwest, are you -- are you  
 3 testifying regarding whether it might be worth it to  
 4 Eschelon?  
 5 A Well, I think Eschelon is provided sufficient  
 6 protection with the language in 5.16.9.1 that has  
 7 very strict requirements on how this information is  
 8 to be handled.  
 9 In addition, there's an audit provision  
 10 under section 18, I believe it's 18.3.1, that allows  
 11 Eschelon to come in and audit the handling of this  
 12 confidential forecast information. And I would  
 13 submit that between those two sections that provides  
 14 adequate protection to Eschelon.  
 15 In fact that's the protection that's been  
 16 provided to all CLECs in operating under the SGAT,  
 17 that is language that was specifically addressed  
 18 during the 271 workshops. I'm not aware of that  
 19 having imposed any problems for the other parties.  
 20 MR. MERZ: No further questions. Thank  
 21 you, sir.  
 22 JUDGE SHEEHY: Ms. Anderson.  
 23 MS. ANDERSON: Thank you.  
 24 CROSS-EXAMINATION  
 25 BY MS. ANDERSON:

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1 Q Good afternoon, Mr. Easton. I'm Julia Anderson, on  
 2 behalf of the Minnesota Department of Commerce. I  
 3 just have a few questions for you.  
 4 Following up on this last topic by  
 5 Mr. Merz, do you recall the last series of questions  
 6 with respect to Eschelon's proposal to be provided a  
 7 signed copy of each nondisclosure agreement?  
 8 A Yes.  
 9 Q How lengthy are these agreements, in your view?  
 10 A You know, they are one to two pages.  
 11 Q How many such agreements did Qwest sign say in the  
 12 past year?  
 13 A That I can't tell you.  
 14 Q Do you have any kind of range that you can give or  
 15 you have no idea?  
 16 A I have no idea whatsoever. There are a number of  
 17 individuals who would have access to this  
 18 information and sign the agreement at the time they  
 19 have access. As they would move to new jobs and new  
 20 people would come in those new people would be  
 21 required to sign those agreements as well. So  
 22 depending on the total number of people who have  
 23 access and how those jobs change, that number could  
 24 vary.  
 25 Q So when you state that Qwest would have some sort of

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1 Q Is it your opinion that the function of the deposit  
2 is to provide an incentive for timely payment or is  
3 the function of the deposit to protect Qwest in the  
4 event of nonpayment?  
5 A It's a little bit of both, but it's probably more  
6 the latter, it's to provide protection for  
7 nonpayment.  
8 Q And you would agree with me that there is agreed to  
9 language regarding late payment fees; is that right?  
10 A That's correct.  
11 Q And the purpose of that agreed to language is to  
12 provide an incentive for timely payment; correct?  
13 A Yes.  
14 MR. MERZ: I don't have anything further.  
15 MS. ANDERSON: Nothing. Thank you.  
16 JUDGE SHEEHY: Mr. Topp?  
17 REDIRECT EXAMINATION  
18 BY MR. TOPP:  
19 Q Do late payment fees adequately -- or do those  
20 address the situation where Eschelon is potentially  
21 unable to pay?  
22 A No, they do not address that situation.  
23 MR. TOPP: No further questions.  
24 JUDGE SHEEHY: Mr. Merz? Ms. Anderson,  
25 anything further?

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1 15 is the trade secret rebuttal.  
2 MR. MERZ: Thank you.  
3 JUDGE SHEEHY: Any objection,  
4 Ms. Anderson?  
5 MS. ANDERSON: None, thank you.  
6 JUDGE SHEEHY: Okay. 14 and 15 are  
7 received.  
8 (Exhibits 14 and 15 offered and received.)  
9 MR. ROSELLI: Thank you. And before  
10 beginning questioning of the witness and for the  
11 benefit of the record and for those I have not  
12 introduced myself to, my name is Philip Roselli, I  
13 am at attorney with the Kamlet, Shepherd law firm in  
14 Denver, Colorado, and I represent Qwest on selected  
15 matters in this hearing.  
16 DIRECT EXAMINATION  
17 BY MR. ROSELLI:  
18 Q Mr. Linse, could you please state for the record  
19 your full name?  
20 A My name is Philip Linse.  
21 Q And who is your employer, please?  
22 A My employer is Qwest.  
23 Q And have you filed testimony in this case?  
24 A Yes, I have.  
25 Q And is that testimony in front of you?

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1 MS. ANDERSON: No, thank you.  
2 JUDGE SHEEHY: Okay. Thank you,  
3 Mr. Easton.  
4 THE WITNESS: Thank you.  
5 (Witness excused.)  
6 JUDGE SHEEHY: Let's take a break for 10  
7 to 15 minutes.  
8 (Break taken from 2:03 to 2:19.)  
9 (Whereupon, Exhibits 10 through 15 were  
10 marked for identification by the court  
11 reporter.)  
12 PHILIP LINSE,  
13 after having been first duly sworn, was  
14 examined and testified on his oath as follows:  
15 MR. TOPP: Your Honor, before we have  
16 Mr. Linse testify, there has been a stipulation.  
17 We've had marked as Exhibits 14 and 15 the trade  
18 secret and public versions of Robert Brigham's  
19 testimony, the parties have stipulated that they  
20 have no need to cross Mr. Brigham and have agreed to  
21 admission of that testimony, and so I would offer  
22 Exhibits 14 and 15.  
23 MR. MERZ: I don't have any objection,  
24 but which one is 14 and which one is 15?  
25 JUDGE SHEEHY: 14 is the public rebuttal,

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1 A Yes, it is. I believe it is.  
2 Q I hope it is.  
3 A There's a lot of it.  
4 Q Can you identify that testimony, please, for the  
5 record?  
6 A Qwest Corporation, Direct Testimony of Philip  
7 Linse --  
8 JUDGE SHEEHY: Is 10.  
9 THE WITNESS: Is 10.  
10 JUDGE SHEEHY: How about I read it and  
11 you tell me if it's right. The reply testimony is  
12 11?  
13 THE WITNESS: Correct.  
14 JUDGE SHEEHY: The public surreply is 12?  
15 THE WITNESS: That is correct.  
16 JUDGE SHEEHY: And the highly sensitive  
17 trade secret surreply is 13?  
18 THE WITNESS: That is correct.  
19 MR. ROSELLI: Thank you.  
20 BY MR. ROSELLI:  
21 Q Mr. Linse, did you also file any errata with your  
22 testimony?  
23 A Yes, I filed an errata for my direct and rebuttal.  
24 Q And is it your understanding that that errata is  
25 incorporated in those respective exhibits?

1 EVIDENTIARY HEARING - VOLUME 2 - OCTOBER 17, 2006  
2 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
3 OF THE STATE OF MINNESOTA  
4  
5

6 In the Matter of the Petition of Eschelon Telecom, Inc.  
7 for Arbitration of an Interconnection Agreement with  
8 Qwest Corporation Pursuant to 47 U.S.C. 252(b)

9 OAH DOCKET NO. 3-2500-17369-2  
10 PUC DOCKET NO. P5340,421/IC-06-768  
11  
12

13 Minnesota Public Utilities Commission  
14 350 Metro Square Building  
15 121 Seventh Place East  
16 St. Paul, Minnesota  
17

18 Met, pursuant to Notice, at 9:00 in the  
19 morning on October 17, 2006.  
20  
21

22 BEFORE: Judge Kathleen Sheehy  
23 Judge Steve Mihalchick  
24 REPORTER: Angie D. Threlkeld, RPR CRR  
25

Page 2

1 APPEARANCES:  
 2 JASON TOPP, Attorney at Law, 200 South  
 3 Fifth Street, Room 2200, Minneapolis, Minnesota  
 4 55402, and MELISSA K. THOMPSON, Attorney at Law,  
 5 1801 California Street, 10th Floor, Denver, Colorado  
 6 80202, and PHILIP J. ROSELLI, Attorney at Law,  
 7 Kamlet, Shepherd & Reichert, LLP, 1515 Arapahoe  
 8 Street, Tower 1, Suite 1600, Denver, Colorado 80202,  
 9 and JOHN DEVANEY, Attorney at Law, Perkins Coi,  
 10 607 14th Street NW, Washington, D.C. 20005, appeared  
 11 for and on behalf of Qwest Corporation.  
 12 GREGORY MERZ, Attorney at Law, Gray,  
 13 Plant, Mooty, 500 IDS Center, 80 South Eighth  
 14 Street, Minneapolis, Minnesota 55402, appeared for  
 15 and on behalf of Eschelon Telecom.  
 16 JULIA ANDERSON, Assistant Attorney  
 17 General, 1400 Bremer Tower, 445 Minnesota Street,  
 18 St. Paul, Minnesota 55101, appeared for and on  
 19 behalf of the Department of Commerce.  
 20 ALSO PRESENT:  
 21 Kevin O'Grady, PUC Staff.  
 22  
 23  
 24 WHEREUPON, the following proceedings were  
 25 duly had and entered of record, to wit:

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1 INDEX - VOLUME 2 (CONT'D.)  
 2 23 - Million Rebuttal 66 67 67  
 3 24 - Agreement to close issues  
 4 12-77, 12-78, 12-80,  
 5 12-80A, 12-80B, and 12-81 127 128 128  
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1 INDEX - VOLUME 2  
 2 WITNESS PAGE  
 3 ROBERT HUBBARD  
 4 Direct Examination by Mr. Roselli 5  
 5 Cross-Examination by Mr. Merz 7  
 6 Cross-Examination by Ms. Anderson 31  
 7 Redirect Examination by Mr. Roselli 47  
 8 Recross-Examination by Mr. Merz 52  
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 12 Further Redirect Examination by Mr. Roselli 63  
 13 TERESA MILLION  
 14 Direct Examination by Mr. Topp 68  
 15 Cross-Examination by Mr. Merz 68  
 16 Cross-Examination by Ms. Anderson 100  
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 19 Recross-Examination by Ms. Anderson 119  
 20 Examination by Judge Sheehy 123  
 21 KAREN STEWART  
 22 Direct Examination by Mr. Devaney 132  
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 24  
 25 EXHIBITS: MRK'D OFR'D REC'D  
 16 - Hubbard Direct 5 7 7  
 17 - Hubbard Rebuttal 5 7 7  
 18 - Hubbard Surrebuttal 5 7 7  
 19 - Stewart Direct 66 133 133  
 20 - Stewart Public Rebuttal 66 133 133  
 21 - Stewart Trade Secret  
 22 Rebuttal 66 133 133  
 23 - Stewart Surrebuttal 66 133 133  
 24  
 25

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1 (Whereupon, Exhibits 16, 17, and  
 2 18 were marked for identification by the  
 3 court reporter.)  
 4 JUDGE SHEEHY: All right. Everyone, good  
 5 morning. It's my understanding that Mr. Linse has  
 6 some negotiation responsibilities this morning, and  
 7 so Qwest is going to interrupt his testimony to  
 8 offer the testimony of Mr. Hubbard. I assume  
 9 everyone was aware of that.  
 10 All right. So anything else we need to  
 11 talk about before we get going?  
 12 MR. MERZ: I don't believe so.  
 13 JUDGE SHEEHY: All right. Please  
 14 proceed.  
 15 MR. ROSELLI: With that we'd call  
 16 Mr. Hubbard to the stand.  
 17 ROBERT J. HUBBARD,  
 18 After having been first duly sworn, was  
 19 examined and testified on his oath as follows:  
 20 JUDGE SHEEHY: Mr. Hubbard's direct  
 21 testimony has been marked as Exhibit 16, his  
 22 rebuttal as 17, and his surrebuttal as 18.  
 23 MR. ROSELLI: Thank you.  
 24 DIRECT EXAMINATION  
 25 BY MR. ROSELLI:

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1 Q Could you please state your full name for the  
2 record?  
3 A My name is Robert J. Hubbard.  
4 Q And who is your employer, please?  
5 A Qwest.  
6 Q And your business address?  
7 A 700 West Mineral Avenue, Littleton, Colorado 8013 --  
8 80120.  
9 Q Thank you, Mr. Hubbard.  
10 A I tried to get my home. I'm sorry.  
11 Q And did you prepare prefiled testimony in this  
12 matter?  
13 A Yes, I did.  
14 Q And is that testimony marked in front of you?  
15 A Yes, it is.  
16 Q Can you please identify what's been placed in front  
17 of you?  
18 A Absolutely. My direct testimony that I filed is  
19 Exhibit 16. I also filed rebuttal testimony, which  
20 is Exhibit 17. And I filed surrebuttal testimony,  
21 which is Exhibit 18.  
22 Q And is that testimony true and accurate to the best  
23 of your knowledge?  
24 A Yes, it is.  
25 Q And if I were to ask you the same questions here

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1 A Okay.  
2 Q -- which is issue 8-20, and it concerns ICA Section  
3 8.1.1.10.1.1. And just to lay some of the  
4 groundwork here, collocation available inventory are  
5 used collocation sites that have been returned to  
6 Qwest; is that correct?  
7 A That is correct.  
8 Q And the issue here is that when Qwest prepares a  
9 quote for a collocation site and that collocation  
10 site has been returned to Qwest, the parties have a  
11 dispute about whether Qwest's quote for the initial  
12 collocation site should be posted along with the  
13 inventory list of what's in that site; correct?  
14 A That's what is at issue here, yes.  
15 Q And Eschelon believes that the quote should be  
16 posted, and Qwest believes that it shouldn't; is  
17 that correct?  
18 A That's -- That's fair, yeah.  
19 Q Qwest's reason for opposing the requirement that the  
20 price be posted is that the information regarding  
21 the -- regarding the initial quote would not be  
22 relevant to a CLEC that might be considering  
23 purchasing that site; is that correct?  
24 A Yes, that's correct.  
25 Q And the reason for that is it's rare that a CLEC

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1 today live that we've addressed in the testimony,  
2 would you give me the same responses?  
3 A Yes.  
4 MR. ROSELLI: Okay. With that I would  
5 move the admission of Exhibits 16, 17, and 18.  
6 MR. MERZ: No objection.  
7 MS. ANDERSON: No objection.  
8 JUDGE SHEEHY: 16, 17, and 18 are  
9 received.  
10 (Whereupon, Exhibits 16, 17, and 18  
11 were offered and received.)  
12 BY MR. ROSELLI:  
13 Q And just to be sure, no other corrections to your  
14 testimony?  
15 A That is correct.  
16 MR. ROSELLI: With that I would make  
17 Mr. Hubbard available for cross-examination.  
18 JUDGE SHEEHY: All right. Mr. Merz.  
19 MR. MERZ: Thank you, Your Honor.  
20 CROSS-EXAMINATION  
21 BY MR. MERZ:  
22 Q Good morning, Mr. Hubbard.  
23 A Good morning.  
24 Q I'd like to talk with you first about collocation  
25 available inventory --

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1 orders a collocation available site as is; is that  
2 accurate?  
3 A I think that's pretty accurate, yes.  
4 Q It's rare, but it's something that has, in fact,  
5 happened; is that right?  
6 A Well, I believe it has happened. But then you have  
7 to consider that prices do change, circumstances do  
8 change. So a posted price may not be actually the  
9 current price.  
10 Q If you'd turn to -- The white binder there in front  
11 of you is the ICA, the proposed ICA. If you'd turn  
12 to 8.1.1.10.1.1.  
13 A 8.1.1.10.1?  
14 Q .1.  
15 A Oh, I left off -- Okay. Got it.  
16 Q Actually, there are even three 1s on the disputed  
17 provision; correct? It's 8.1.1.10.1.1.1?  
18 A Yes. That's the proposed, yes.  
19 Q And you see there that Eschelon's proposal includes  
20 at the very end of that section the qualifier,  
21 Unless Qwest establishes a change in circumstances  
22 affecting the quoted price. You see that; correct?  
23 A Of that paragraph, 8.1.1.10.1.1.1, you're saying the  
24 end of it, unless -- okay, the last part of that  
25 sentence, Unless Qwest establishes a change in



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1 A There is, you know, planning and administration fees  
2 that do go on with that. So there is work that is  
3 done; and I believe that we're, you know, allowed to  
4 recover those costs.  
5 Q But your testimony is if the CLEC -- the second CLEC  
6 orders a collocation available site exactly as it  
7 is, there's a need for Qwest to prepare a new quote  
8 for that site?  
9 A We would prepare a new quote, yes.  
10 Q The question is not whether you would do it, but  
11 whether it's necessary for you to do it?  
12 A You know, I do believe that it would be necessary  
13 under our current procedures and --  
14 Q And I understand that you're saying under your  
15 current procedures it would be necessary. The  
16 question is whether you would need a new quote if  
17 the second CLEC was ordering a collocation available  
18 site exactly as is?  
19 A It may not be entirely necessary. But we don't have  
20 the information from the previous quote, so we would  
21 prepare a new one, yes.  
22 Q Wait a second. You don't have the information from  
23 the previous quote. What does that mean?  
24 A I mean it's not -- The prices aren't posted and  
25 stuff. So we relook at it.

Page 16

1 Q But the question of whether Qwest will post a quote  
2 isn't part of the cost docket, is it?  
3 A No, that would not be part.  
4 Q In your surrebuttal at page 3, lines 19 through 20,  
5 you say there, Reviewing a different CLEC's quote  
6 would not give Eschelon any information not already  
7 available to it. Do you see that there?  
8 A Yes, I do.  
9 Q Okay. What Eschelon does not have available to it  
10 with respect to a collocation available inventory  
11 site is what the price is that Qwest previously  
12 quoted for that site; right?  
13 A No. I think you have that information that could be  
14 obtained through your own engineering, if you will.  
15 You have what you want. You have all the equipment  
16 that's there. You have the prices in your Exhibit  
17 A, I believe. And you would be able to figure up  
18 for yourself what that's going to be, and you know  
19 the appropriate discounts that are being applied.  
20 So you could figure up the price that you'd be  
21 paying yourself.  
22 Q You would agree with me that Eschelon, if it's going  
23 to order a collocation available inventory site,  
24 does not have the price previously quoted for that  
25 site; is that true?

Page 15

1 Q Qwest has its previous quotes?  
2 A True.  
3 Q That's something that it retains?  
4 A True.  
5 Q And so if it has that -- Let me just do an example.  
6 I mean, today a collocation available site is  
7 returned. Qwest has the quote for that site.  
8 Tomorrow Eschelon wants to purchase that site.  
9 Qwest would, under its existing process, turn around  
10 and do a new quote even though it already has one on  
11 hand; is that your testimony?  
12 A That's my testimony.  
13 Q And wouldn't that be -- In your testimony you use  
14 the phrase make work. Wouldn't that just be make  
15 work on the part of Qwest?  
16 A It would be work involved. I believe, you know,  
17 that you're getting into some section here that's  
18 probably closely related to the cost docket. And I  
19 believe this issue is teed up in the cost docket for  
20 just this situation.  
21 Q The issue of whether Qwest is going to post a quote  
22 for collocation available inventory is in the cost  
23 docket; is that your testimony?  
24 A I believe the costs associated with that are in the  
25 cost docket.

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1 A You don't have the price previously quoted.  
2 Q Now, when Qwest provides a quote, that is the price  
3 at which Qwest is willing to sell; correct?  
4 A That's correct.  
5 Q It's not an estimate; isn't that right?  
6 A That's correct.  
7 Q The quote is the price?  
8 A When we give you the quote, that is the price.  
9 Q And Qwest requires that the CLEC get the quote;  
10 correct?  
11 A Correct.  
12 Q The CLEC can't just say we figured out what the  
13 price ought to be and here's the check; it has to  
14 rely on Qwest to tell it what the price is?  
15 A Yeah. But you should be able to figure out what the  
16 cost is going to be yourself.  
17 Q And the CLEC has to pay Qwest for the quote; isn't  
18 that right?  
19 A That's correct.  
20 Q Now, it's the case, is it not, that the information  
21 that the CLEC has available to it is enough for the  
22 CLEC to estimate the price?  
23 A Is enough for the CLEC to estimate the price?  
24 Q Yes.  
25 A I believe that, yes.

Page 18

1 Q But whatever the CLEC can do, that is an estimate;  
2 correct?  
3 A I -- It should be the -- It should be the price of  
4 the collocation, yes.  
5 Q Well, if you go to your direct testimony at page 11,  
6 and I'm looking in particular at line 13 where it  
7 says, Accordingly, CLEC B is in the best position,  
8 really the only position, to estimate the  
9 nonrecurring charge it would pay based upon its  
10 desired circuit termination; correct?  
11 A Correct.  
12 Q So the number that the CLEC can come up with is an  
13 estimate; correct?  
14 A I suppose that is correct. It's going to be -- I  
15 mean, the prices are the same -- that you're looking  
16 at that we're looking at, it should be the same  
17 quote.  
18 Q You describe it in your direct testimony as an  
19 estimate; correct?  
20 A It -- The word says estimate.  
21 Q Okay. And in your rebuttal testimony at page 6...  
22 A Okay. I'm on it.  
23 Q And I'm looking at line 4 where you say, Further, as  
24 I explained in my direct testimony, Eschelon will  
25 have every data point it needs to estimate what it

Page 20

1 A That's what we're talking about here, yeah. And  
2 what section again that you're looking at? Just  
3 from --  
4 Q The special site description is at 8.2.10.4.1.  
5 A Got it. Okay.  
6 Q And that just describes what a special site is;  
7 correct?  
8 A Correct.  
9 Q And 8.3.11.3 describes the rate elements that relate  
10 to a special site; is that right?  
11 A 8.3.11...  
12 Q 3.  
13 A Oh. Let me read it.  
14 Q Sure.  
15 A Without reading it all the way through, yes, that  
16 describes this section, the rates.  
17 Q And 8.3.11.3.2 describes the special site planning  
18 and engineering fee; is that right?  
19 A Yes, that's correct.  
20 Q And then finally if you'd turn to 8.2.10.4.3.  
21 JUDGE SHEEHY: You know, I don't have  
22 what's marked as page 113 of the contract, just if  
23 anyone wants to give me a copy of it at some point.  
24 MR. MERZ: That's the next page I'm going  
25 to ask about. So...

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1 will be required to pay. Do you see that?  
2 A I see that.  
3 Q And there you use the word estimate again, that  
4 Eschelon can come up with an estimate; correct?  
5 A That's the word I used.  
6 Q I want to talk with you now about special site  
7 assessment fees --  
8 A Okay.  
9 Q -- which is issue 20 -- I'm sorry, 8-20A, and it's  
10 ICA Section 8.2.10.4.3. And, again, just to orient  
11 ourselves on some of the language here, a special  
12 site is a collocation site that has been returned to  
13 Qwest as a result of a CLEC bankruptcy or a CLEC  
14 abandoning the site; isn't that right?  
15 A That's correct. It still has power and circuits in  
16 it. It's still kind of hot. We'd call it a hot  
17 cage.  
18 Q A hot cake?  
19 A Hot cage.  
20 Q Hot cage.  
21 A Still fired up and working.  
22 Q All right. And the issue here is the fee that  
23 Eschelon must pay for a quote when it purchases a  
24 special site and requests changes to that site;  
25 correct?

Page 21

1 JUDGE SHEEHY: I know, and I don't have  
2 it.  
3 JUDGE MIHALCHICK: Nor do I.  
4 JUDGE SHEEHY: It goes from 112 to 114.  
5 BY MR. MERZ:  
6 Q Do you have page 113 in your --  
7 A Yes, I do.  
8 MR. MERZ: We'll see if we can round one  
9 up for you.  
10 JUDGE SHEEHY: It's a hot page. It's  
11 stuck to the copying machine. I mean, we can look  
12 at the matrix for the language if that's --  
13 MR. MERZ: Okay. And that's really what  
14 I'm going to --  
15 JUDGE SHEEHY: Yeah.  
16 MR. MERZ: -- get to. So we'll make sure  
17 and get that page for you.  
18 JUDGE SHEEHY: Yeah.  
19 BY MR. MERZ:  
20 Q All right. So here we are at 8.2.10.4.3. And you  
21 see the disputed language there about two-thirds of  
22 the way down in that section; correct?  
23 A In red, yes.  
24 Q Yeah. And that is Qwest's proposal. If CLEC  
25 requests an augment application, then CLEC will be

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1 charged a planning and engineering fee instead of  
 2 the special site assessment fee; is that right?  
 3 A That's correct.  
 4 Q Now, Exhibit A is the section of the ICA that sets  
 5 out the prices for different elements; is that  
 6 right?  
 7 A That's correct.  
 8 Q And Exhibit A doesn't have on it anything called a  
 9 special site assessment fee; is that right?  
 10 A I'm not sure about that.  
 11 Q Well, if you go to -- You have in front of you there  
 12 I think the exhibits to the ICA, and I think Exhibit  
 13 A will probably be the very first one.  
 14 A These loose ones here?  
 15 Q I believe that's right. Oh, I'm sorry, it's in the  
 16 binder, sir.  
 17 A Oh, I'm sorry.  
 18 Q No, I --  
 19 A The black binder?  
 20 Q -- wasn't clear. Yes.  
 21 A They are, it looks like, exhibits to the  
 22 interconnection agreement. That's what this --  
 23 Q Okay. If you go --  
 24 A -- tab here --  
 25 Q -- to Exhibit A, and it's the line number 8.15.2.1.

Page 23

1 A Did you say 8.2?  
 2 Q 8.15.2.1.  
 3 A That's what I thought. I hadn't got there.  
 4 8.15.2...  
 5 Q 1.  
 6 A Yes.  
 7 Q And that is the special site planning and  
 8 engineering fee; is that correct?  
 9 A That's what it says here on Exhibit A, yes.  
 10 Q Okay. And it's Eschelon's position that that is the  
 11 fee that should apply when Eschelon purchases  
 12 special site whether or not there's an augment to  
 13 that site; correct?  
 14 A I think that's what's in contention, but with an  
 15 augment that requires work from an engineering  
 16 requirement to be done by Qwest.  
 17 Q I understand. And really what I just want to make  
 18 sure we have on the table is what the parties'  
 19 competing positions are. It's Eschelon's position  
 20 that the special site planning and engineering fee  
 21 is the fee that should apply; correct?  
 22 A I believe so, yes.  
 23 Q And it's Qwest's position that what should apply is  
 24 the standard site planning and engineering fee if  
 25 there's an augment?

Page 24

1 A If there's an augment, yes.  
 2 Q All right. And for a caged physical collocation you  
 3 can find that rate at 8.4.1; is that right?  
 4 A Caged physical collocation planning and engineering  
 5 fee, yes, 8.4.1.  
 6 Q And so if Eschelon -- If a special site were a caged  
 7 physical collocation and Eschelon requested an  
 8 augment, the rate at 8.4.1 is the one that Qwest  
 9 believes would apply?  
 10 A Yes.  
 11 Q Now go to your surrebuttal testimony at page 7.  
 12 A I'm there.  
 13 Q And I'm looking at lines -- beginning at line 6  
 14 where you say, Nowhere does the description of the  
 15 special site assessment fee indicate that this fee  
 16 applies when modifications are requested. Do you  
 17 see that?  
 18 A I see that.  
 19 Q Okay. Now I want to make sure I understand the  
 20 sequence of events when a CLEC orders a special  
 21 site. And so the first thing that would happen is  
 22 the CLEC would request the special site; is that  
 23 right?  
 24 A That would be correct.  
 25 Q Okay. And then the next thing that would happen is

Page 25

1 Qwest would do a feasibility study to see if the  
 2 site is still available; is that right?  
 3 A That's correct.  
 4 Q And then Qwest would prepare a quote based on the  
 5 site inventory and any requested modifications; is  
 6 that right?  
 7 A That sounds correct, yes.  
 8 Q And that -- You actually find that in 8.2.10.4.3; is  
 9 that right? I'm looking at I think it's the fourth  
 10 sentence of that section.  
 11 A Correct.  
 12 Q And requested modifications as used in that sentence  
 13 is referring to modifications requested by the CLEC  
 14 requesting the site; correct?  
 15 A By the CLEC, yes, that they request.  
 16 Q And then -- I apologize -- later on in Section  
 17 8.2.10.4.3 it goes on to say, The CLEC will be  
 18 charged a special site assessment fee for work  
 19 performed up to the point of the expiration or  
 20 nonacceptance of the quote. Do you see that?  
 21 A I see that.  
 22 Q And the work that's referred to in that sentence is  
 23 the work of preparing the quote; is that correct?  
 24 A Correct.  
 25 Q I want to talk with you now about NEBS compliance,

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1 the engineer factors is not only the power  
2 requirements of Qwest's equipment, but also  
3 collocators, CLECs, within that central office. And  
4 you go through an example of the factors that you  
5 look at.  
6 My question to you is how does Qwest  
7 assess its own power requirements? What's the  
8 basic -- What are the basic steps to assess the  
9 power requirements of Qwest's equipment?  
10 A We utilize the -- basically the power usage on an  
11 existing central office plus our forecasted list one  
12 drain and then we also throw -- you know, not throw  
13 in, but then we calculate in a collocator's request.  
14 Q When you say that you have some forecasted figures,  
15 what kind of forecast period do you use? What are  
16 your basic parameters when you're saying you factor  
17 in a forecast of your power needs?  
18 A We have -- Equipment draws -- You know, different  
19 equipment draws different power. What we forecast  
20 in is through our planning department forecasted  
21 usage; how we think the area's going to grow that  
22 it's feeding; you know, forecast of lines coming in  
23 there, which equates back to how we're going to card  
24 up the equipment. How long that forecast period I  
25 believe is a little dependent on the engineer

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1 pretty quick, we may be monitoring that more closely  
2 than an area that's not growing as quickly.  
3 Q How does Qwest forecast future -- likely future CLEC  
4 power needs in an area?  
5 A We -- We don't know a CLEC's business plan or their  
6 marketing plan. So we basically don't forecast for  
7 a CLEC.  
8 Q Now, on page 13 of your rebuttal, line 7, you state,  
9 the second sentence, Since Eschelon cannot forecast  
10 its own usage. And I'll stop there. Why do you  
11 believe Eschelon cannot forecast its own usage?  
12 A What the CLEC gives us is we assume their total  
13 demand. If they didn't -- And we have to build to  
14 that because we don't know when they're going to  
15 have that demand hit us. So my opinion there is  
16 that if they knew, you know, what their usage was  
17 going to be, then they would not need to order the  
18 power that they do.  
19 Q Well, let me go back. I understand your testimony  
20 when you said that Qwest can't forecast the CLEC's  
21 power needs. Did I understand that testimony  
22 correctly?  
23 A Yes, that's correct.  
24 Q Now my question is how do you know that CLECs can't  
25 forecast their own power usage requirements?

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1 knowing the area. It takes quite awhile to build  
2 additional power plant. So the forecast period  
3 would be, you know, longer, of course, than what it  
4 would take to augment a power plant.  
5 Q So you want to build in some room to grow; is  
6 that --  
7 A Absolutely.  
8 Q How often then does Qwest reassess its power needs  
9 or power studies once a power plant is built?  
10 A The -- I believe and I -- I believe that the  
11 engineers, they can -- I don't know how often they  
12 do this. Fairly often I would assume that they  
13 monitor the usage in the power plant for the whole  
14 total office.  
15 Q When you're using forecasted figures to design a  
16 power plant, it appears from your testimony, again  
17 page 12 of your rebuttal, that Qwest looks on a  
18 central-office-by-central-office basis; am I  
19 correct?  
20 A Correct.  
21 Q So that with respect to some central offices, Qwest  
22 may be assessing power needs and forecasting  
23 accuracy on a more regular basis than other central  
24 offices?  
25 A If you've got a high-growth area that's growing

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1 A Well, looking at their collocation orders,  
2 they design everything, not only power but their DS0  
3 connections, DS1 connections, to an ultimate size  
4 that they're -- that they want. They're not -- I  
5 mean, if they were forecasting five, ten years out,  
6 they would not be paying for all this connection in  
7 the first go-round. They would be adding them as  
8 they grow. So...  
9 Q So are you saying then it's not so much a matter  
10 that CLECs aren't forecasting their power usage  
11 requirements but that they are not doing so on a  
12 long-term horizon; is that more accurate?  
13 A I think that's accurate.  
14 Q Does Qwest ever ask CLECs for a forecast of their  
15 power needs for a central office?  
16 A We ask CLECs, I believe, for their -- a forecast of  
17 their, you know, lines they're going to hook up and  
18 stuff, which then drives, of course, the power.  
19 Q But when you say that you ask what kinds and types  
20 of lines they're going to hook up, are you then  
21 looking at the total capacity of those lines and the  
22 power that would need to be provided to power those  
23 lines at maximum capacity; is that what you're --  
24 A Yes.  
25 Q So it's not on a -- You're not building your power

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1 docket.  
 2 Q There was some discussion before about this NEBS  
 3 list. Do you know the name Mary Ann Wyborg?  
 4 A I saw your exhibit, if you will, and did look at the  
 5 name, and I did look it up. I don't know her.  
 6 Q I think the name in the exhibit wasn't Mary Ann  
 7 Wyborg. Do you know that name Mary Ann Wyborg?  
 8 A Like I said, I looked up her name, I believe. I  
 9 don't know her.  
 10 Q Okay. That's fair. You don't know the name  
 11 Mary Ann Wyborg or who that person is?  
 12 A No.  
 13 Q Okay. 8-23. You talked about 8-23 at page 14 of  
 14 your surrebuttal. And the issue in 8-23 is the  
 15 price for power restoration with reservation; is  
 16 that correct?  
 17 A I believe that's -- I believe that's the issue, yes.  
 18 Q And Qwest had formerly proposed an ICB nonrecurring  
 19 price but has now agreed with Eschelon on a  
 20 specified price; is that right?  
 21 A That issue is closed.  
 22 Q Okay. And Qwest is still proposing to charge a  
 23 quote preparation fee in connection with a request  
 24 for power restoration with reservation; is that  
 25 right?

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1 this week. Okay? So it's down the road.  
 2 Q In all events, that resolution won't tell us what  
 3 fee would apply to Eschelon's purchase of a special  
 4 site in the meantime, before the cost docket reaches  
 5 a resolution?  
 6 A You have existing rates that are posted.  
 7 Q My question is whether the cost docket resolution  
 8 will determine the issue in this case before that  
 9 resolution actually happens? We've got a period --  
 10 We have a period of time before the cost docket  
 11 resolves; correct?  
 12 A Correct.  
 13 Q And whatever happens in the cost docket will not  
 14 resolve in the meantime what fees should be  
 15 changed -- should be charged for a special site; is  
 16 that correct?  
 17 A I -- Yeah, that's correct.  
 18 MR. MERZ: I don't have anything further.  
 19 JUDGE SHEEHY: Ms. Anderson.  
 20 MS. ANDERSON: Briefly.  
 21 RECROSS-EXAMINATION  
 22 BY MS. ANDERSON:  
 23 Q Mr. Hubbard, you testified essentially that Qwest  
 24 does not ask the CLEC to provide its -- the CLEC's  
 25 power forecast; is that right?

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1 A We're going to charge a fee, yes. I believe that's  
 2 still -- That one's in the cost docket also.  
 3 Q The fee is the quote --  
 4 A Quote.  
 5 Q -- preparation fee?  
 6 A Yes.  
 7 Q Now, with respect to the cost docket, you had said  
 8 that the issue of the site assessment fee was one  
 9 that was being considered in the cost docket. Do  
 10 you recall that?  
 11 A Yes.  
 12 Q Are you aware that Qwest brought a motion to have  
 13 that issue stayed pending the resolution of the  
 14 issues in the cost docket?  
 15 A You know, I don't know if I'm aware of that.  
 16 Q Would you agree with me that whatever decision is  
 17 made in the cost docket, that won't resolve the  
 18 immediate issue; it won't tell us now what fee ought  
 19 to apply when a special site is purchased by  
 20 Eschelon?  
 21 A I -- And I apologize. I had trouble following that  
 22 a little bit.  
 23 Q The resolution of the cost docket is down the road  
 24 somewhere?  
 25 A I don't know when it's scheduled for, but it's not

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1 A That's correct.  
 2 Q Why doesn't Qwest do that? I mean, Qwest -- Qwest  
 3 forecasts its own power needs. Why doesn't Qwest  
 4 ask a CLEC to provide Qwest's -- the CLEC's  
 5 forecasted power needs?  
 6 A Because the CLEC is the one that -- they know -- I  
 7 mean, they've got a marketing plan. We don't know  
 8 their marketing plan. We -- We don't know when  
 9 they're going to have, you know, an ultimate demand  
 10 for that power. If you start asking for forecasts,  
 11 you get -- kind of gets back into the early days of  
 12 collocation where we ask for forecasts and  
 13 everything. Then you've got to get, you know,  
 14 penalties and other language on this; if you don't  
 15 build, if you don't build to your forecast, or if  
 16 you overbuild your forecast. I think that that  
 17 complicates all this issue way too much.  
 18 MS. ANDERSON: Thank you.  
 19 JUDGE SHEEHY: Okay. Mr. Roselli, any  
 20 further redirect?  
 21 MR. ROSELLI: No. Thank you.  
 22 JUDGE SHEEHY: Okay.  
 23 JUDGE MIHALCHICK: I have a couple.  
 24 JUDGE SHEEHY: Okay.  
 25 JUDGE MIHALCHICK: Sorry.

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1 EXAMINATION  
 2 BY JUDGE MIHALCHICK:  
 3 Q Ms. Anderson asked one of the questions I had, but  
 4 so -- regarding the power forecasting by the CLEC.  
 5 So at this point they couldn't give it to you if  
 6 they wanted to; is that right? You don't have the  
 7 space on your form for it?  
 8 A No, there's not a space on the form.  
 9 Q And you said that in the early days of collocation  
 10 you had power forecasting, but it was too much of a  
 11 hassle. So I take it from that it's no longer an  
 12 option that Qwest accepts power forecasts?  
 13 A Well, it was -- And it wasn't really power  
 14 forecasting. It was forecasting of how many lines  
 15 they were going to hook up, which would, you know,  
 16 drive how many cards they were going to card in  
 17 their equipment and what time that, you know, the  
 18 power usage would increase to serve that equipment.  
 19 Q So what started out as CLECs can't forecast became  
 20 CLECs don't give us a forecast, and now they  
 21 really -- we won't let them give us a forecast; is  
 22 that what the situation is?  
 23 A I don't -- I don't say won't let them. I don't  
 24 think we require them.  
 25 Q On the NEBS compliance how does a CLEC engineer or

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1 A Like I said, we will -- Okay. I said earlier that,  
 2 you know, we don't -- we wouldn't necessarily, you  
 3 know, look in their cage unless we saw something was  
 4 wrong, like a piece of equipment smoking or  
 5 something. And then we might get with the CLEC and,  
 6 you know, try to determine if it was NEBS compliant  
 7 or why this piece of equipment was causing concern  
 8 and then determine if it had been NEBS compliant.  
 9 Q Okay. Assuming that in a normal course it would  
 10 have been a NEBS-compliant piece of equipment that  
 11 somehow malfunctioned and started smoking or giving  
 12 off gases or whatever it is that affected the  
 13 safety. But to me that doesn't sound like it's no  
 14 longer NEBS compliant; it sounds like it's  
 15 malfunctioning.  
 16 A In that situation if it's, you know, NEBS compliant  
 17 and it's malfunctioning, I would think that the CLEC  
 18 would go back to their manufacturer and say, hey,  
 19 you've got a faulty piece of equipment.  
 20 Q Would that trigger the right of Qwest to call it not  
 21 compliant with NEBS and close it?  
 22 A No, I don't think it would require us to say it's  
 23 not NEBS compliant. We're saying that, you know,  
 24 we've got a problem here. And I think the CLEC  
 25 would want to, you know, get back with the

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1 whoever is designing the collocation space and  
 2 equipment determine if equipment or installation is  
 3 NEBS compliant?  
 4 A They would be working with their manufacturer. The  
 5 manufacturer is the one that basically has to  
 6 give -- make sure the equipment is NEBS compliant.  
 7 Q So they can ask their manufacturer or specify when  
 8 they're buying the equipment that it be NEBS  
 9 compliant?  
 10 A Yes.  
 11 Q And that's the normal thing to do?  
 12 A I don't know what -- You know, I don't know what  
 13 Eschelon does or a CLEC does, but I would think that  
 14 would be normal for them to do when they purchase  
 15 equipment is to have the manufacturer they're  
 16 purchasing it from certify to them that it's NEBS  
 17 compliant.  
 18 Q And how would Qwest determine that something is not  
 19 compliant?  
 20 A The -- Like I just said, the equipment that we  
 21 purchase, we have the manufacturer either provide  
 22 the NEBS --  
 23 Q I'm sorry. My question was how would Qwest  
 24 determine that a CLEC's equipment was not NEBS  
 25 compliant?

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1 manufacturer and get a good piece of equipment.  
 2 Safety is all of our concerns in the central office,  
 3 CLECs and Qwest.  
 4 Q I had a quest -- or question on the quote  
 5 preparation fee for available collocation spaces.  
 6 Is the fee charged by Qwest for a subsequent quote  
 7 preparation the same fee? Is there only one quote  
 8 preparation fee?  
 9 A I believe there's one quote preparation fee.  
 10 Q And that's a fixed fee in Exhibit A rather than some  
 11 sort of time and material fee?  
 12 A Yes, I think it's a fixed fee, yes.  
 13 Q So that even though it would be a whole lot easier I  
 14 take it to fix that -- or to prepare that subsequent  
 15 quote, because you only have to update some  
 16 information I take it, it would be the same fee as  
 17 the first time around?  
 18 A It would be the fee that's posted right now. Like I  
 19 said, we're -- you know, we've got that teed up in  
 20 the cost docket. If there's concerns, I'm sure that  
 21 they'll be addressed at that time. We have -- You  
 22 know, in the cost model you have all the engineering  
 23 assumptions and everything that goes into developing  
 24 that cost.  
 25 JUDGE MIHALCHICK: That's all I have.

<p style="text-align: right;">Page 70</p> <p>1 Eschelon's proposed language; correct?                  2 A Yes.                  3 Q And there's no counter language that is reflected as                  4 Qwest's proposal for that section, is there?                  5 A No, that's correct.                  6 Q And then if you look at Section 9.1.15.3 and the                  7 subparts that follow, that as well is Eschelon's                  8 proposed language; correct?                  9 A Yes, that's correct.                  10 Q And Qwest has not proposed any counter language                  11 responding to those sections, has it?                  12 A No, it has not.                  13 Q Now, the circuits that we're talking about needing                  14 to be converted are circuits that are presently                  15 being used by Eschelon to serve end user customers;                  16 is that right?                  17 A That's correct. Those are UNE circuits today. And                  18 once the TRRO issues are settled, they will be                  19 private line circuits going forward.                  20 Q Now, there's no reason why the same physical                  21 facilities can't be used before and after the                  22 conversion; is that right?                  23 A That's absolutely true. It's the same physical                  24 facilities. However, it's two different products.                  25 One is an unbundled network element, and the other</p>	<p style="text-align: right;">Page 72</p> <p>1 that are involved in converting a circuit; is that                  2 right?                  3 A That's correct.                  4 Q And then carrying on at line 27 and then over to the                  5 next page, page 7, line 2, you say that the work                  6 done in these three functional areas is to assure                  7 that the data for a converted circuit is accurately                  8 recorded in the appropriate systems. Do you see                  9 that?                  10 A Yes, that's correct. That's because private lines                  11 are served out of one set of call centers and repair                  12 centers and maintenance centers and unbundled loops                  13 are provisioned and cared for out of other centers.                  14 And in order to make sure that you're provisioning                  15 the right service out of the right center, you have                  16 the data accurately recorded in the system.                  17 Q And, again, if you're able to just focus a little                  18 more closely on my question. I know that your                  19 attorney will have a chance to ask some questions                  20 when I'm done.                  21 The tasks performed in these three                  22 functional areas that we've been talking about do                  23 not involve making physical changes to the circuit;                  24 is that right?                  25 A That's correct.</p>
<p style="text-align: right;">Page 71</p> <p>1 is a -- what's effectively a retail analog, the                  2 special access or private line circuits. And those                  3 two products are provisioned and maintained and                  4 repaired out of different centers for -- in Qwest's                  5 network; and, therefore, the circuit ID is the                  6 identifier that shows whether one is an unbundled                  7 loop or whether it's a private line circuit.                  8 Q And I will be getting to those issues. But maybe if                  9 I could get you to focus a little more specifically                  10 on my question. From a functional perspective, a                  11 UNE and a private line do the same thing; correct?                  12 A That's my understanding, yes.                  13 Q They are two names essentially for the same thing;                  14 isn't that fair?                  15 A Well, I don't think they're two names for the same                  16 thing necessarily. They are -- One is a retail                  17 product, and one is a wholesale or unbundled network                  18 element product.                  19 Q The retail product, the private line, is more                  20 expensive than the UNE product; is that right?                  21 A Yes, that's correct.                  22 Q Now, in your rebuttal testimony -- and I'm looking                  23 at page 6, lines 22 through 26.                  24 A Yes, I have that.                  25 Q There you identify three different functional areas</p>	<p style="text-align: right;">Page 73</p> <p>1 Q And as I look at the language that you use to                  2 describe what these three areas do and I look at the                  3 verbs, I see a lot of reviewing and assuring and                  4 confirming and validating and verifying various                  5 pieces of data. Is that generally reflective of                  6 what these three functional areas do?                  7 A Well, I don't know that that's what these three                  8 areas do. That is part of the work tasks or                  9 functions that they're performing in the conversion                  10 process, certainly.                  11 Q That's what those three areas do in the context of                  12 converting a UNE to a private line; they do things                  13 like review data, they assure the data is accurate,                  14 they confirm the accuracy of data, they validate,                  15 they verify; correct?                  16 A And they make sure that the circuit identifiers are                  17 appropriately recorded in the appropriate systems,                  18 and they follow the flow of the order to ensure that                  19 there's no disruption to the CLEC's end user                  20 customer.                  21 Q Now, the reason why all this reviewing and                  22 confirming and validating is necessary is because                  23 Qwest has designed its systems such that a different                  24 circuit ID is assigned to a private line after the                  25 circuit's converted; correct?</p>

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1 A The end user service will not be disrupted in any  
2 way, that's true.  
3 Q And if I'm an end user and I'm on a phone line  
4 that's being converted from a UNE to a nonUNE, at  
5 the moment of the conversion I won't know it;  
6 correct?  
7 A No, because you are the CLEC's customer. You're not  
8 Qwest's customer. The CLEC is Qwest's customer, and  
9 the CLEC is changing product from an unbundled  
10 element to a private line circuit.  
11 Q If you go to page 7 of your testimony, lines 16  
12 through 18, you talk about the designer --  
13 A Yes.  
14 Q -- you see there? And you say that the designer  
15 reviews and validates the circuit design and it  
16 assures that the design records for the converted  
17 circuit match the current UNE circuit as well as  
18 that no visual changes to the circuit are needed.  
19 Do you see that?  
20 A That's correct.  
21 Q You don't say there that the designer actually  
22 designs anything. Is there anything that gets  
23 designed in connection with converting a UNE to a  
24 nonUNE?  
25 A No. What happens though is that the unbundled

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1 all of that work would not be necessary if the  
2 circuit ID didn't change; am I right about that?  
3 A If the circuit ID didn't change, you wouldn't be  
4 able to identify whether you had an unbundled loop  
5 or a private line circuit.  
6 Q Are you able to answer my question? Do you recall  
7 my question? My question --  
8 A Would you restate it?  
9 Q -- is all of that work that you've been describing,  
10 none of it would be necessary if the circuit ID  
11 didn't change; isn't that true?  
12 A It's true. That's a supposition that can't happen  
13 though in -- and properly identify the products.  
14 Q Another thing that you don't say that the designer  
15 does is you don't say that the designer engineers  
16 anything. In connection with a conversion from a  
17 UNE to a nonUNE, there's no engineering that goes  
18 on; isn't that right?  
19 A That's true, there's no engineering.  
20 Q And that's because there's already a functioning  
21 circuit, so there's no need for any designing or  
22 engineering or physical changes of any kind; isn't  
23 that right?  
24 A That's correct.  
25 Q So when the designer reviews and validates the

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1 element comes through as a disconnect. And because  
2 of all of the mechanization that's -- that happens  
3 in our systems, some mechanization that's been there  
4 for a very long time, some of it that we've been  
5 working on for the last 10 years to get in place, an  
6 order for a disconnect flows through certain  
7 systems, and then we've got essentially -- it's  
8 called an add-over disconnect. It's an add that's  
9 also happening at the same time for the private line  
10 circuit to establish that service for the CLEC.  
11 Well, what happens in those mechanized systems is  
12 that things flow along; and if you don't check and  
13 take care to make sure that the disconnect doesn't  
14 actually happen, then you could theoretically  
15 disrupt the end user customer's service. We don't  
16 want to have that happen. And so what we do is we  
17 have steps along the way that our people take to  
18 check that flow and make sure that the order is  
19 processing so that -- so that those mechanized steps  
20 don't happen. The automated steps that we've put in  
21 place to try to speed up provisioning of disconnects  
22 and installs and so forth have to be monitored so  
23 that some of those things don't happen so that the  
24 end user customer is not disconnected.  
25 Q All of those steps that you've just been describing,

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1 circuit design and assures the design records for  
2 the converted circuit match the UNE circuit, the  
3 only reason it wouldn't match is if the records were  
4 not correct in the first place; isn't that right?  
5 A No, that's not correct. The reason that they might  
6 not match is that when the disconnect is put into  
7 the system for the UNE circuit, the process, the way  
8 that it works now, allows that to flow through; and  
9 theoretically you could actually disconnect that  
10 circuit. The designer is there to make sure that  
11 that hasn't happened, that the information has  
12 remained the same, and that when the circuit ID  
13 converts to the private line that all of that is  
14 still in place. It's -- It's a matter of checking  
15 that it hasn't changed as a result of the disconnect  
16 order that has to happen to disable the unbundled  
17 network product in the systems.  
18 Q At page 8 of your rebuttal, lines 7 through 8, you  
19 talk about the service delivery implementer having  
20 overall control for the order provisioning. Do you  
21 see that?  
22 A Yes, that's correct.  
23 Q And the service delivery implementer verifies the  
24 record in and record out orders; is that correct?  
25 A Yes.



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1 Q And then in the footnote you describe what that  
2 means, the record in and record out orders; and you  
3 say that those are in and out service orders that  
4 establish the, quote, new, closed quote, private  
5 line service for the CLEC and disconnect the  
6 existing UNE by moving the circuit data from one  
7 billing system to another; correct?  
8 A That's correct.  
9 Q Now, I see that you've got the word new in quotes;  
10 is that right?  
11 A Yes.  
12 Q And the reason you've got quotation marks around the  
13 word new is because this is a service that's new in  
14 name only; isn't that correct?  
15 A It's a new product for the CLEC. It certainly does  
16 not change the existing circuit for the end user --  
17 CLEC's end user customer.  
18 Q Nor is the service actually disconnected; is that  
19 right?  
20 A That's correct. And that's why all these people do  
21 all of this work is to make sure that that doesn't  
22 happen.  
23 Q Now, the reason that all of this work has to be done  
24 is because of the policies that Qwest has adopted  
25 and set out in its nonCMP TRRO PCATs; isn't that

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1 Q You just don't know anything about any TRRO PCATs?  
2 A I don't.  
3 Q Okay. And the various policies that Qwest has in  
4 place regarding how circuits are going to be  
5 converted from UNE to nonUNE, you don't know where  
6 those policies are written down or how they got  
7 there?  
8 A No, I do not.  
9 Q Now, you say in your rebuttal at page 11, lines 19  
10 through 22, that for a limited period of time Qwest  
11 permitted CLECs to convert from private line  
12 circuits to UNEs without changing the circuit ID; is  
13 that right?  
14 A Yes.  
15 Q And here we're talking about really the mirror image  
16 of the conversion from UNE to nonUNE; is that right?  
17 A Yes, that's correct.  
18 Q And this is something that would have taken place  
19 back when UNEs came into being and it was necessary  
20 for those circuits to now be treated differently  
21 from a pricing perspective; is that correct?  
22 A That's correct.  
23 Q Now, when Qwest implemented the policy related to  
24 converting from private line circuits to UNEs, was  
25 there any separate conversion charge associated with

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1 right?  
2 JUDGE SHEEHY: NonTRRO --  
3 MR. MERZ: I'm sorry --  
4 JUDGE SHEEHY: -- PCATs?  
5 MR. MERZ: NonCMP TRRO PCATs.  
6 THE WITNESS: I would disagree with that.  
7 BY MR. MERZ:  
8 Q Well, let me ask you this: Has Qwest agreed to  
9 negotiate with any CLECs in connection with ICA  
10 arbitrations about the process by which UNEs would  
11 be converted to nonUNEs?  
12 A I don't know.  
13 Q Do you know whether Qwest has in connection with CMP  
14 adopted any processes relating to the conversion of  
15 UNEs to nonUNEs?  
16 A I don't know.  
17 Q Do you know whether Qwest has addressed the issue of  
18 conversion from UNEs to nonUNEs in any commission  
19 proceeding?  
20 A We're talking about the conversion in the TRRO  
21 proceedings that are going on, yes.  
22 Q You're aware that Qwest has implemented TRRO PCATs;  
23 correct?  
24 A I'm -- That's not my part of the business, so I'm  
25 not familiar with the PCATs.

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1 that conversion?  
2 A I'm not aware.  
3 Q You don't know either way?  
4 A I believe that -- Let me think about that. There is  
5 a TELRIC charge that has been established in most of  
6 our states. I don't know that it's been through a  
7 cost docket in all of the states. But there is a  
8 TELRIC charge for conversions of private lines to  
9 UNEs that was established I -- I would say starting  
10 around the 2001, 2002 time frame.  
11 Q And do you know whether a TELRIC charge for  
12 conversion of a private line to a UNE has been  
13 approved in Minnesota?  
14 A I believe that there is a charge, yes.  
15 Q The various functions that you described of the  
16 service delivery coordinator, the designer, the  
17 service delivery implementer, were those functions  
18 performed in connection with converting from a  
19 private line to a UNE circuit?  
20 A No, they were not.  
21 Q How -- When a private line was converted to a UNE  
22 circuit, how was the price difference reflected?  
23 A When we establish the cost for the private line to  
24 UNE conversion, at that point in time we thought we  
25 could do it without doing a circuit ID change. And

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1 so the process that was established or the work  
 2 tasks that went into the cost for that didn't  
 3 anticipate doing that circuit ID change. Actually  
 4 the private line to UNE conversion cost that I have  
 5 proposed now for the Minnesota cost docket does  
 6 anticipate that and does include those steps.  
 7 The reason that we didn't anticipate  
 8 those steps initially is because we thought we could  
 9 make the conversions without changing the circuit  
 10 IDs. When we did that, we found that -- and I  
 11 believe that I've addressed that in response to some  
 12 interrogatories that were submitted, and I've also  
 13 included some explanation of that in this testimony  
 14 I think -- that what happened was we were having  
 15 tremendous difficulty tracking those services as  
 16 UNEs and private lines if we didn't identify those  
 17 circuits in our systems. And so it created a  
 18 tremendous amount of manual effort and work for us  
 19 to do that. We were having to individually track  
 20 all of those circuits manually outside of the  
 21 systems that we established for doing that. And as  
 22 a result of that, in April of 2005 we cut off the  
 23 ability for CLECs to convert from private lines to  
 24 UNEs without going through a circuit ID change  
 25 process. And so our new cost study for that, the

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1 elements for loops and DS1s and DS3s, yes.  
 2 Q And a USOC is a what, uniform service...  
 3 A Universal service order code.  
 4 Q And it's a little piece of computer code that tells  
 5 the system what price is to be charged for a  
 6 particular element; is that right?  
 7 A It's a code that we receive from Telcordia for a  
 8 particular product. Private lines have USOCs  
 9 associated with them and so do unbundled -- some of  
 10 the unbundled network elements.  
 11 Q Now, you mentioned the fact that Qwest cut off the  
 12 ability to convert from a nonUNE to UNE and keep the  
 13 same circuit ID, Qwest cut that off in April 2005;  
 14 is that right?  
 15 A That's correct.  
 16 Q And that was about the time that Qwest was also  
 17 looking at how to implement the TRRO; is that right?  
 18 A I don't know when Qwest started to look at that.  
 19 Q I want to talk with you now about the power  
 20 reduction quote preparation fee. And it's  
 21 section -- I'm sorry, issue 8-22 and ICA Sections  
 22 8.3.9.1.3 and 8.3.9.2.3. And the issue here is  
 23 whether Eschelon should have to pay a quote  
 24 preparation fee when it requests either a reduction  
 25 or a restoration of power with reservation; is that

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1 one that we've submitted in Minnesota, reflects the  
 2 process and is essentially the same process in  
 3 reverse that we're using for the conversions of UNEs  
 4 back to private lines.  
 5 Q If your -- If your question -- If your answer  
 6 answered my question somewhere, I lost it. So I'm  
 7 just going to ask it again. When Qwest did the  
 8 conversion from private line to UNEs and didn't  
 9 change the circuit ID, how did Qwest go about  
 10 reflecting the price difference? Because UNEs are  
 11 cheaper than private line. How did you do that?  
 12 A How did we reflect the price difference?  
 13 Q How was the price difference accounted for? Was it  
 14 an adder on the bill? Was it a new USOC? How as a  
 15 matter of process did you implement the difference  
 16 in price when you did a conversion?  
 17 A And that's what I was trying to explain. It was a  
 18 very heavily manual process. It was changing the --  
 19 certainly the USOC, but it was also not changing the  
 20 circuit ID initially. And that's what caused all of  
 21 the manual processing.  
 22 Q If I understand what you're saying is you  
 23 implemented a new USOC to reflect the price change;  
 24 is that accurate?  
 25 A There was a USOC in existence for unbundled network

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1 correct?  
 2 A Yes.  
 3 Q QPF is a quote preparation fee; is that right?  
 4 A QPF is a quote preparation fee, yes.  
 5 Q And, I mean, just like what it sounds like, a quote  
 6 preparation fee is a charge that Qwest assesses for  
 7 preparing a quote; is that right?  
 8 A It's a charge that Qwest assesses for doing the work  
 9 associated with establishing an order and -- and  
 10 determining what the rate will be or determining  
 11 what work will be involved.  
 12 Q If you would go to the ICA, Section 8.3.9.1.3. Do  
 13 you have it there?  
 14 A Could you read me that section again, please?  
 15 Q Sure. 8.3.9.1.3.  
 16 A I have that.  
 17 Q That's language that Qwest has proposed that defines  
 18 what the power reduction QPF is?  
 19 A Yes.  
 20 Q And Qwest's language proposes that the QPF include  
 21 the cost of performing a feasibility study and  
 22 producing the quote for fulfilling the DC power  
 23 reduction request; is that right?  
 24 A That's correct.  
 25 Q And then 8.3.9.2.3 is Qwest's proposed language

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1 established; correct?  
 2 A That's correct.  
 3 Q I'm going to move now to expedites, issue 12-67. In  
 4 your rebuttal testimony at page 18 you discuss why  
 5 you believe TELRIC pricing is not appropriate for  
 6 expedites; is that right?  
 7 A That's correct.  
 8 Q And you believe that TELRIC pricing is not  
 9 appropriate for expedites because expedites are a  
 10 superior service; is that correct?  
 11 A That's correct.  
 12 Q Would you agree with me that if expedites are not a  
 13 superior service, then TELRIC pricing is  
 14 appropriate?  
 15 MR. TOPP: I'll object that that's  
 16 calling for a legal conclusion.  
 17 JUDGE SHEEHY: I'd say overruled. I  
 18 mean, you answered the first question, but you're  
 19 objecting to the second one?  
 20 Okay. You can answer it.  
 21 THE WITNESS: Could you repeat the  
 22 question?  
 23 BY MR. MERZ:  
 24 Q Sure. Will you agree with me that if expedites are  
 25 not a superior service that TELRIC pricing is

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1 A Well, I believe that the Minnesota commission has  
 2 established a retail expedite charge or has allowed  
 3 a retail expedite charge to go into place, and this  
 4 TSLRIC study would have supported that charge.  
 5 Q That study shows that an expedite rate of \$200 per  
 6 day is above cost, as computed by the TSLRIC study;  
 7 is that right?  
 8 A Yes, that's correct.  
 9 Q What did that study show Qwest's TSLRIC costs were  
 10 for expedites?  
 11 A I don't have that off the top of my head.  
 12 Q Do you have like a ball park?  
 13 A I don't know.  
 14 Q Was it a per-day number?  
 15 A Yes, it was a per-day number.  
 16 Q If you would go to your rebuttal at page 22, lines  
 17 17 through 18. You say there -- and I'm  
 18 paraphrasing -- but the price for expedites was set  
 19 at a level that Qwest believes reflects the value of  
 20 a premium service; is that right?  
 21 A Well, that's a paraphrase; but, yes, that's --  
 22 Q In setting the price at \$200 a day, how did Qwest go  
 23 about determining that that was a number that  
 24 reflected the value of the service?  
 25 A Well, I think that that's something that's

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1 appropriate?  
 2 A I would agree.  
 3 Q Now, at page 21 of your rebuttal you talk about a  
 4 TSLRIC study, T-S-L-R-I-C study; is that right?  
 5 A Yes, that's correct.  
 6 Q Now, that study has not been produced in this case,  
 7 has it?  
 8 A I'm not aware of whether it's been produced or not.  
 9 Q You don't know?  
 10 A No.  
 11 Q And it's a TSLRIC study that relates to the cost of  
 12 providing expedited service; is that right?  
 13 A Well, what I'm explaining here is that a TSLRIC is  
 14 what you would use to establish a price floor for a  
 15 service like an expedite.  
 16 Q And the specific study that you are talking about is  
 17 one that was done in connection with expedited  
 18 service; is that right?  
 19 A I do have an expedite study that's a TSLRIC study,  
 20 yes.  
 21 Q Do you know whether that study, the one that you're  
 22 just referring to, has been reviewed by the  
 23 Minnesota commission?  
 24 A Reviewed in what context?  
 25 Q In any context.

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1 accomplished by the product organization, when  
 2 they're looking at a service that they have a  
 3 particular cost for and they analyze what that --  
 4 what the value of that service is. It's not  
 5 something that's performed by me or by my  
 6 organization. It's performed in the product  
 7 organization to assess what that value is.  
 8 Q Is the answer to my question I don't know?  
 9 A I guess in particular how they came up with \$200,  
 10 yes, I would have to say I don't know.  
 11 Q Okay. Do you know what activities Qwest performs  
 12 when it expedites delivery of a loop that it doesn't  
 13 perform when it delivers that loop on the regular  
 14 interval?  
 15 A The activities that it performs is that it moves the  
 16 requesting party to the head of the line.  
 17 Q And I'm thinking about the act -- the provisioning  
 18 activities. Are there activities that Qwest does  
 19 when it expedites that it doesn't do when it  
 20 delivers a loop on the normal regular interval?  
 21 A There are not activities that are different, but the  
 22 activities are performed on different days than they  
 23 would normally be done.  
 24 Q You do the same thing; you just do it faster?  
 25 A That's correct.

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1 Qwest, the black -- the boldfaced and underlined  
2 language; is that right?  
3 A That is correct.  
4 Q And Qwest is proposing striking out the phrase  
5 access to; is that correct?  
6 A Correct.  
7 Q Now, your reason for striking the words access to is  
8 that typically you say when you discuss access to a  
9 UNE it is in the context of a CLEC paying a  
10 nonrecurring rate to be able to use the UNE; is that  
11 correct?  
12 A I hope and believe I say a recurring rate, that  
13 access to usually means use.  
14 Q Ah.  
15 A In common understanding of when you say someone's  
16 going to access a UNE, what you're really saying is  
17 they're going to use a UNE. And so what we were  
18 trying to indicate is that when you use a UNE, you  
19 pay the recurring rate to access it. That does not  
20 necessarily mean all of the other items that you  
21 have discussed here would be available as part of  
22 that recurring use rate. They would probably result  
23 in a different -- or additional charges.  
24 Q You understand that Qwest is required under Section  
25 251 of the telecom act to provide access to UNEs at

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1 cost-based rates; is that right?  
2 A Yes.  
3 Q And you understood that Eschelon's reason for  
4 including the phrase access to unbundled network  
5 elements in this section was to confirm that moving,  
6 adding to, repairing, and changing UNEs would be  
7 included within the scope of 251; is that right?  
8 A My understanding was that your request was that it  
9 would be part of access to UNEs. And that was --  
10 Again, the concern that we had, since access  
11 typically means use, we did not agree that the use  
12 of a UNE includes these activities. If you wanted  
13 to acknowledge within the interconnection agreement  
14 that you would have these additional activities  
15 available to you, we were fine with that.  
16 Q You understood though that Eschelon's reason for  
17 using the phrase access to UNEs in connection with  
18 these activities was to confirm that they fell  
19 within the scope of 251?  
20 A I'm going to defer to your understanding. Once  
21 again, we were trying to clarify that access to in  
22 the context of use, these would not be included.  
23 Q Well, let me ask you this: You understood, did you  
24 not, that by striking the words access to you were  
25 really defeating the purpose for which Eschelon had

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1 proposed this language in the first place?  
2 A No, I did not think that. My understanding was  
3 Eschelon wanted some assurances that the kind of  
4 activities here would be available for unbundled  
5 network elements, and we were agreeing those  
6 activities would be available to you. We were just  
7 disagreeing that they were available as part of you  
8 paying to access the UNE.  
9 Q At line 8 of page 5 you say that those activities  
10 will be available, quote, at the applicable rate.  
11 Do you see that?  
12 A Yes, I do.  
13 Q Now, by the applicable rate did you mean to be  
14 referring to a cost-based rate for those activities  
15 that are identified there?  
16 A I meant simply whatever proceeding would establish  
17 those rates, that's the applicable rate. And I was  
18 not predetermining what proceeding that would be.  
19 Q And is it your understanding that the fundamental  
20 dispute relating to this provision is, in fact, at  
21 what rate these activities will be provided?  
22 A I know that there is a rate dispute, and we  
23 understand that and believe that rate disputes need  
24 to obviously be resolved between the parties. But  
25 we didn't feel that a rate dispute could be resolved

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1 with this generic term of access to.  
2 Q And the specific rate dispute we're talking about is  
3 a dispute about whether those activities are  
4 required to be performed at cost-based rates or not;  
5 correct?  
6 A That is one of the disputes, yes.  
7 Q I'm going to talk with you now about network  
8 modernization and maintenance, which is issues 9-33,  
9 34, 35, and 36. And it concerns Section 9.1.9 and  
10 9.1.9.1 of the ICA.  
11 Issue 9-33 concerns Eschelon's addition  
12 of the phrase adversely affect to Section 9.1.9; is  
13 that right?  
14 A Correct. Well, that's my understanding from memory.  
15 If you want to -- If you're referring to part of my  
16 testimony, that would be helpful.  
17 Q And the ICA is in front of you there I think in a  
18 white binder.  
19 A Thank you.  
20 Q And if you want to refer to 9.1.9, please feel free  
21 to do that.  
22 A Yes.  
23 Q Now, agreed-upon language in Section 9.1.9 provides  
24 that modifications to maintain and modernize Qwest's  
25 network may result in minor changes to transmission

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1 parameters; is that right?  
 2 A Yes.  
 3 Q And Eschelon has proposed language that provides  
 4 that such changes will not adversely affect service  
 5 to end users; is that correct?  
 6 A Yes.  
 7 Q And you would agree with me, would you not, that a  
 8 change that results in a circuit not working should  
 9 not be considered a minor change?  
 10 A In a vacuum not in context, it would appear to me  
 11 that something that isn't working would not have  
 12 been minor.  
 13 Q I mean --  
 14 A That's out of context, the discussion.  
 15 Q If a circuit worked before Qwest undertook a network  
 16 maintenance or modernization activity and then after  
 17 that activity was completed the circuit didn't work,  
 18 you wouldn't regard the change resulting from that  
 19 activity as a minor change, would you?  
 20 A Assuming the circuit was being used appropriately  
 21 within ANSI standards for that circuit, yes.  
 22 Q And would you also agree with me that a change that  
 23 reduces the quality of a customer's service such  
 24 that it's something the customer notices, that that  
 25 kind of change would not be a minor change?

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1 A There are changes in transmission parameters that --  
 2 Or what I really should say is up above there are  
 3 added needed changes that people can arguably  
 4 disagree whether or not they are an adverse affect.  
 5 So, for example, Qwest believes that when it's  
 6 required to do an area code split and introduce a  
 7 new area code, that would be a necessary change that  
 8 would be appropriately noticed. However, some end  
 9 user may think that's an adverse affect. So, yes,  
 10 changes can be perceived differently, depending on  
 11 where you're at in the continuum.  
 12 Q And you provided an example of a change that -- like  
 13 an area code change that would result in an -- a  
 14 customer might perceive as being an adverse affect.  
 15 Do you have any other examples in mind?  
 16 A Going from 7 to 10-digit dialing, there are some  
 17 customers who believe that's an adverse affect.  
 18 It's a little dated, but in the past there used to  
 19 be services available with our step-by-step central  
 20 offices that were not available when we went to  
 21 electronic or digital central offices. And so a  
 22 customer might have thought that was an adverse  
 23 affect. So if what happens changes how you're  
 24 currently doing your service, you think it's adverse  
 25 to you, even if to the rest of the world it seems

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1 like a necessary change.  
 2 Q Let's focus now on the quality of the transmission  
 3 of the service. Would you agree with me that a  
 4 change that Qwest makes as part of its network and  
 5 modernization activities that results in a  
 6 degradation of the transmission quality of  
 7 customer's service such that the customer notices  
 8 it, for example, static on the line, too faint, any  
 9 other kind of change that you might think of, would  
 10 you agree that that kind of change that the customer  
 11 notices would be not a minor change?  
 12 A Once again, it's hard to talk in general terms and  
 13 make specific statements. What Qwest believes is  
 14 when it does maintenance and modernization  
 15 activities, it typically undertakes those to  
 16 increase or improve the service for all customers.  
 17 And if that improvement or change the service is  
 18 still being delivered within ANSI standards, that  
 19 would be a minor modification. Whether an  
 20 individual customer, again as we already discussed,  
 21 thinks that change has an adverse affect or not is a  
 22 subjective issue.  
 23 Q And my question I think is different than the one  
 24 you answered. My question is if the customer  
 25 notices a degradation in the transmission quality,

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1 the way the voice sounds in the receiver, would you  
 2 agree with me that when the customer notices  
 3 something like that, the change that causes that  
 4 degradation would not be a minor change?  
 5 A If the customer notices from that customer's  
 6 perception, yes, it would probably be an adverse  
 7 affect from that customer's perception.  
 8 Q And it wouldn't be a minor change; correct?  
 9 A Once again, we're talking theoretically in the  
 10 abstract. And I'm assuming if a customer from their  
 11 perspective thinks it's adverse, then they might  
 12 think it's not minor. But it's all within the  
 13 perception of the customer, which is why with the  
 14 Qwest language we believe that the appropriate  
 15 standard is ANSI standards.  
 16 Q Would you agree with me that it could be the case  
 17 that a service might be within ANSI standards but  
 18 still result in a circuit that doesn't work?  
 19 A Typically it would be because the service that's  
 20 being provided over that facility is not being  
 21 provided commensurate with those ANSI standards. If  
 22 the service worked within the same range -- Because,  
 23 once again, one is an underlying network element or  
 24 facility; the second one is the service that you're  
 25 providing. Different services are provided over

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1 A Correct.

2 Q Is Qwest saying that the notice requirements of this

3 Section 9.1.9 also apply to copper loops?

4 A There may be situations where notice requirements

5 would apply, but you would not have a copper loop

6 retirement. That is correct. So, for example, on

7 our -- If I could provide an example. On our

8 website let's suppose we have some copper facilities

9 and they are -- real life one -- it was trying to go

10 under a lake, and they kept getting wet. So now

11 we're going to take out the part from under the lake

12 and run them around the lake. That meant that the

13 loop would be longer then for customers; and,

14 therefore, there may have been some affect. So we

15 would notice onto our copper retirement notice

16 website that we've got some copper loops that used

17 to be 5,000 feet in length, and now they're going to

18 be 9,000 feet in length. So we notice other than

19 copper retirements changes to copper that could

20 affect the customer.

21 And the two things that we notice most

22 commonly is the loop would become longer for some

23 reason, because that could affect a service to an

24 end user customer; and secondly would be if we

25 change the gauge of the copper. So, for example, if

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1 we have some copper and the gauge is 24 but we're

2 going to put in new copper and it's 26, then we

3 would notice that change in gauge because there are

4 services that are affected by changes in gauge of

5 copper. So that's why we didn't want to defer all

6 copper notices to the section in your language,

7 because we felt like it didn't cover those

8 scenarios, and you would still want notice in those

9 scenarios.

10 Q I think I understand. But I just want to clarify.

11 Section 9.2.1.2.3 contains the notice provisions

12 relating to copper loops; is --

13 A For retirement.

14 Q -- that right? For retirement of copper loops?

15 A Correct.

16 Q And Section 9.1.9 contains notice provisions other

17 than those relating to retirement of copper loops?

18 A Correct. There are still other loop notices that

19 would be required.

20 Q And you understand that Eschelon's proposal with

21 respect to 9.1.9 is that the provisions of 9.1.9

22 would not apply to retirement of copper loops?

23 A My understanding was you were trying to clarify that

24 you were not disputing retirement of copper loops,

25 and that was your language to attempt to say that

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1 you understand that copper loops are discovered in

2 this other section. But, once again, by making that

3 reference, it implied that that was the only

4 provisions that would apply to copper loops, and we

5 didn't feel that was appropriate.

6 Q You understand that Eschelon's proposal is that

7 retirement of copper loops is dealt with in

8 9.2.1.2.3?

9 A Correct.

10 Q And Qwest agrees with that?

11 A Yes.

12 Q All right. There we go. I think that's it.

13 A But there's other notices that may apply.

14 Q You say there are other notices that may apply?

15 A Correct, other than copper retirements. And I just

16 indicated two notices that could easily happen to a

17 copper facility, lengthening the copper or changing

18 the gauge in the copper, and it particularly affects

19 DSL-related services.

20 Q And those notices that are not related to retirement

21 of copper loops are to be dealt with in 9.1.9?

22 A Correct.

23 Q And that's what Eschelon proposes; correct?

24 A Well, I think -- Now I understand that that's what

25 you're attempting to propose also; that we would

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1 continue to do appropriate notices regarding copper

2 other than just the retirement ones.

3 JUDGE SHEEHY: Can I just ask you, the

4 Eschelon language refers specifically to retirement

5 of copper loops being addressed in 9.2.1.2.3.

6 THE WITNESS: Correct.

7 JUDGE SHEEHY: Whereas your language is

8 more general. And it says, Details regarding copper

9 loops may be found at 9.2.1.2.3, which seems to be a

10 little more vague as to -- What section governs the

11 notices you were just talking about involving copper

12 loops that are not retirements?

13 THE WITNESS: If --

14 JUDGE SHEEHY: Do you understand what I'm

15 saying?

16 THE WITNESS: Yes, I think I do.

17 JUDGE SHEEHY: So is it -- I mean, do you

18 think your language is better or is there something

19 different that you're trying to address?

20 THE WITNESS: We were trying to be more

21 broad in our language that the total requirements

22 for copper loop retirement are not in that section.

23 Part of the issue is is that that section is very

24 much detailed under I believe fiber to the home. So

25 you are sort of setting up a scenario where you have

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1 any discussion of caps.  
 2 BY MR. MERZ:  
 3 Q Is it Qwest's intent to deny an Eschelon order based  
 4 on Qwest's belief that the order exceeds the caps in  
 5 a situation where Eschelon has provided  
 6 self-certification that the order is consistent with  
 7 the TRRO requirements?  
 8 A Again, at the risk of not repeating that, Qwest  
 9 believes that if the CLEC self-certifies that it  
 10 meets all the service eligibility criteria, then  
 11 Qwest would not reject that order. However,  
 12 Qwest -- or at least I do not believe that the TRRO  
 13 states that if you exceed caps, we still cannot  
 14 reject the order. So our plan would be if we knew  
 15 for a fact that an order would exceed the caps, we  
 16 would reject the order and give you the rationale of  
 17 why we believe it exceeded the caps.  
 18 Q And that would be true even if Eschelon certifies  
 19 that the order doesn't exceed the caps, that it is  
 20 consistent with the TRRO requirement?  
 21 A Yes.  
 22 Q Yes. All right. I'm going to ask you now a few  
 23 questions about cross-connects, which is issue 9-50.  
 24 A Yes.  
 25 Q And it's ICA Section 9.3.3.8.3. And the issue here

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1 Qwest's obligations to provide cross-connects; Qwest  
 2 is claiming that it just -- there's no demand for  
 3 that element; is that correct?  
 4 A That is correct.  
 5 Q Now, UCCRE, U-C-C-R-E, which is a similar issue,  
 6 issue 9-53, ICA Sections 9.1 and 9.1 -- I'm sorry,  
 7 9.9 and 9.9.1. And here the issue is Qwest's  
 8 obligations to provide the UCCRE element; is that  
 9 right?  
 10 A Yes.  
 11 Q And similar to the last one, Qwest's position here  
 12 is that there's no demand for that element?  
 13 A They are different factual situations. We  
 14 acknowledge that there is not an explicit removal of  
 15 cross-connects in the issue to do with the  
 16 cross-connect subloops. That is a service we were  
 17 voluntarily providing. We are not required to  
 18 provided it, and there's no demand, And we would  
 19 like to remove it.  
 20 With UCCRE we believe indeed that with  
 21 the TRO that there is no longer a requirement that  
 22 we provide UCCRE. So it is a fact -- There's  
 23 factual differences between the two scenarios.  
 24 Q Do you know whether AT&T has UCCRE in its contract?  
 25 A No, I do not.

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1 is Qwest's obligation to provide subloop  
 2 cross-connects; is that right?  
 3 A Yes.  
 4 Q Qwest's position on this issue is that there's no  
 5 CLEC demand for this product and that it desires to  
 6 phase the product out; is that right?  
 7 A Yes.  
 8 Q Now, you would agree with me that both AT&T and  
 9 Covad have cross-connects available in their ICAs?  
 10 A You know, I'm -- I have to apologize. I don't have  
 11 that memorized.  
 12 Q You just don't know?  
 13 A I don't know as I sit here.  
 14 Q Assuming that AT&T does have cross-connects in its  
 15 ICA, would you agree with me that if AT&T ordered  
 16 subloop cross-connects Qwest would be obligated to  
 17 provide those cross-connects pursuant to the ICA?  
 18 A If they were in the ICA and they ordered it, yes, we  
 19 would provide them pursuant to the ICA.  
 20 Q Would you also agree with me that if Eschelon orders  
 21 subloop cross-connects and Eschelon doesn't have  
 22 that in its ICA, Qwest would not provide those to  
 23 Eschelon?  
 24 A Yes, correct.  
 25 Q And Qwest is not claiming here that the TRO removed

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1 Q Do you know whether UCCRE is something that Qwest  
 2 makes available under its Minnesota SGAT?  
 3 A My understanding is it is in the Minnesota SGAT.  
 4 Q Assuming that AT&T ordered UCCRE today, if it does  
 5 in fact have it in its contract, Qwest would be  
 6 obligated to provide it; correct?  
 7 A Yes, except for there could be the pos -- with the  
 8 caveat that if the interconnection agreement that  
 9 they're operating on that has it is not completely  
 10 appropriate with TRO and TRRO, then there may be an  
 11 amendment situation there to bring that  
 12 interconnection agreement current because, as we all  
 13 know, there's different various ages of  
 14 interconnection agreements.  
 15 Q Well, in all events, so long as it's in the  
 16 agreement, AT&T would be entitled to it; correct?  
 17 A Subject to it being removed from the interconnection  
 18 agreement, yes.  
 19 Q Do you know whether Qwest has put out a TRO template  
 20 agreement?  
 21 A Yes.  
 22 Q And that template agreement is something that it  
 23 uses as the basis for negotiating amendments to make  
 24 ICAs consistent with the TRO; is that right?  
 25 A Yes.

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1 this issue. I would need to confirm it with the  
2 powers that be with inside Qwest. But, yes, it is  
3 a -- combined with the cost recovery language would  
4 be a significant movement.  
5 Q And if we took the BFR out of that provision, can  
6 you think of any other issues that you would have  
7 with that section?  
8 A There are some outlines in the special request  
9 process that do talk about if there are UNE costs  
10 that they would be identified. But the special  
11 request process starts with a premise that the UNEs  
12 are available and that the UNEs are in the ICA. So  
13 if the UNE wasn't in the ICA -- It's either in there  
14 or you would easily amend to add it. So it is a  
15 different scenario than the bona fide request.  
16 Q So if we took out the BFR, at least as you sit here  
17 now you can't think of any issues that you would  
18 have with Mr. Denney's -- proposal that's set forth  
19 in Mr. Denney's surrebuttal at lines -- page 78,  
20 lines 15, through page 79, line 1?  
21 A I do not. But, as I indicated, I'm not the final  
22 Qwest decision maker on that issue.  
23 Q Commingling. We're going to talk a little bit about  
24 commingling now, which is issue 9-58 and its  
25 subparts. The issue here concerns terms relating to

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1 A There are definitely private line scenarios that  
2 include loop and transport, yes.  
3 Q And that kind of circuit is also order -- a single  
4 ordering as of a single circuit ID; is that right?  
5 A It depends on the service that's being ordered. If  
6 it is a multiplex facility, there's, once again, a  
7 multiplexer in the combination. Then, no, they are  
8 not ordered on the same order. It's -- Private line  
9 has lots of variations, and you'd have to be private  
10 line specific to answer the question.  
11 Q A commingled EEL is an EEL where either the loop or  
12 the transport is not a UNE; is that right?  
13 A Yes.  
14 Q Would you agree with me that a UNE EEL and a  
15 commingled EEL are functionally the same thing, they  
16 do the same thing?  
17 A They could be doing the same thing, yes.  
18 Q And would you also agree with me that there are EELs  
19 that were before the TRRO UNE EELs, but since the  
20 TRO -- TRRO are now commingled EELs?  
21 A The ability to commingle a UNE and a nonUNE was put  
22 in place with the TRO/TRRO.  
23 Q And my question is there are things out there that  
24 before the TRRO both the loop and transport were  
25 UNEs, and so they were UNE EELs?

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1 the provisioning of commingled arrangements; is that  
2 right?  
3 A Yes.  
4 Q Commingling means the combination of a UNE with a  
5 nonUNE; is that right?  
6 A Yes.  
7 Q An EEL -- I'm just going to go through some language  
8 here. An EEL is a combination of loop and  
9 transport; correct?  
10 A Correct. There are different types of EELs, but  
11 they are generically.  
12 Q A UNE EEL is a combination of loop and transport  
13 where both the loop and the transport are UNEs;  
14 correct?  
15 A Yes.  
16 Q A UNE EEL is ordered on a single order and as a  
17 single circuit ID; is that correct?  
18 A A UNE EEL that's a single bandwidth UNE EEL is  
19 ordered on a single LSR. If it's a multiplexed EEL,  
20 so that there is a multiplexer in the UNE  
21 combination, then, no, they are not ordered on a  
22 single LSR.  
23 Q There is -- Well, is there a special access  
24 counterpart of a UNE EEL where both the loop and  
25 transport is special access?

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1 A Yes.  
2 Q And some of those things out there that were  
3 formerly UNE EELs are now commingled EELs because  
4 either the loop or the transport portion has been  
5 reclassified as a nonUNE?  
6 A Yes. But it's not the reclassification that created  
7 commingled EELs. Commingled EELs were created  
8 because the FCC specifically removed a prohibition  
9 on commingling. So your example with the  
10 paired/nonpaired wire centers lead to CLECs maybe  
11 needing more commingled EELs. But the fact that you  
12 could commingle a UNE and a nonUNE was a separate --  
13 specific issue separate and apart from the wire  
14 center proceeding -- or section.  
15 Q I want you to think of a hypothetical circuit that  
16 before the TRRO was a UNE EEL and after the TRRO is  
17 a commingled EEL.  
18 A Yes.  
19 Q The difference between those two things is the  
20 price; is that correct?  
21 A Typically, yes.  
22 Q Now, you in your testimony describe various changes  
23 to Qwest's process regarding commingling; is that  
24 right?  
25 A Yes.



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1 Q Now, those changes were not negotiated as part of  
2 any ICA negotiation, were they?  
3 A No.  
4 Q And you're aware that Eschelon and other CLECs, in  
5 fact, requested to have an opportunity to negotiate  
6 regarding those processes as part of their ICA  
7 negotiation?  
8 A That's my understanding of what you've requested  
9 here, yes.  
10 Q And the changes relating to Qwest's process for  
11 commingling, those changes were not addressed in  
12 CMP, were they?  
13 A Qwest had a CR put out to discuss those in CMP; and  
14 at the time it was discussed, it was mutually agreed  
15 by the individuals on -- I wasn't one of them, but  
16 the individuals who were on the CMP call regarding  
17 that CR that they would be held in abeyance until  
18 the TRRO-related dockets were completed at the state  
19 level.  
20 Q When you say it was agreed, who agreed to that?  
21 A It was whatever CLECs were on the call when that  
22 issue was discussed.  
23 Q Are you able to identify even one CLEC that agreed  
24 that the TRRO issue should not be dealt with in CMP?  
25 A I've not looked at a list of the CLECs. So, no, I

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1 cannot confirm one.  
2 Q Qwest's changes to its process relating to  
3 commingling have not been approved by any state  
4 commission, have they?  
5 A No.  
6 Q The policies that Qwest now has in place relating to  
7 commingling have been implemented by Qwest without  
8 any input from CLECs; isn't that right?  
9 A I don't know that I could go as far as to say that  
10 there's been no input. But back to your original  
11 question, no, they have not gone through CMP because  
12 it was agreed that the CMP would be put in abeyance  
13 until such time as the state proceedings had been  
14 completed.  
15 Q Was another aspect of that abeyance that the changes  
16 wouldn't be addressed until the SGATs had been  
17 revised to reflect the TRRO?  
18 A I believe at one time that statement was made, that  
19 the changing of the SGAT would be the trigger to do  
20 the changes in CMP.  
21 Q And Qwest has now apparently decided it's not going  
22 to be changing SGATs anymore; is that correct?  
23 A Qwest has determined that, given the changes that  
24 have happened in the marketplace since the 2003 time  
25 frame, that it's not an effective use of our time or

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1 resources or the time and resources of the  
2 commissions or other CLECs to update the SGAT since  
3 CLECs have elected to have more tailored agreements  
4 and there is no longer CLECs who are truly adopting  
5 something in its entirety such as the SGAT.  
6 Q Now, I've been asking you specifically about Qwest's  
7 policies relating to commingling, but I could ask  
8 the same questions regarding conversions. I mean,  
9 the policies that Qwest has put in place regarding  
10 converting UNEs to nonUNEs also have not gone  
11 through the CMP process?  
12 A I'm not the witness on conversion. That was Terri  
13 Million. So I don't feel comfortable speaking to  
14 conversions.  
15 Q Just don't know?  
16 A Don't know.  
17 Q All right. I want to talk with you now about  
18 loop-MUX combinations, which is issue 9-61.  
19 A Yes.  
20 Q And the issue here is whether Qwest must provide  
21 multiplexing at UNE rates when multiplexing is  
22 combined with a UNE loop; is that right?  
23 A Yes.  
24 Q Now, looking at your testimony, page 39, lines 1  
25 through 3, you say that Qwest will provide --

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1 MR. DEVANEY: Is this direct, Mr. Merz?  
2 BY MR. MERZ:  
3 Q I'm sorry, your surrebuttal testimony.  
4 A Surrebuttal.  
5 Q Page 39, lines 1 through 3. I'll just wait till you  
6 get there.  
7 A Yes.  
8 Q You say that Qwest will provide multiplexing  
9 pursuant to UNE rates, terms, and conditions when  
10 it's used for combination of UNE transport with a  
11 UNE loop or when it's used with transport alone; is  
12 that right?  
13 A Yes.  
14 Q Now, when multiplexing is provided with UNE  
15 transport alone, the multiplexing connects the  
16 transport to the CLEC's collocation; is that right?  
17 A Not nec -- Well, it would depend on the  
18 configuration. What I was attempting to say there  
19 is that if you ordered unbundled dedicated  
20 interoffice transport, or UDIT as it's called  
21 typically in the ICA, when you order UDIT, one of  
22 the feature functionalities of UDIT is multiplexing.  
23 So, yes, you could put that order in with  
24 multiplexing, and they would both be UNE rates.  
25 Q And then what would the multiplexing connect the

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1 transport to?

2 A The multiplexing could either connect to UNE loops

3 that were brought to it; and that would be the

4 combination we talked about before, UNE transport

5 with a UNE loop. They could connect to private line

6 facilities. There may be a CLEC who currently has

7 an interconnection agreement -- excuse me, has an

8 agreement with Qwest with volume discounts and

9 et cetera, so they don't want to disconnect maybe a

10 private line channel termination that they have; but

11 they now need to combine it with services and send

12 it over this transport. Then they could potentially

13 make that type of combination.

14 Q Now, I had understood your testimony to be saying

15 that multiplexing couldn't be used to do

16 commingling; is that -- Did I miss something there?

17 A What -- Hopefully what my testimony was talking

18 about is that multiplexing goes with the transport.

19 So if it's private line transport, then the

20 multiplexer would be at private line rates. The

21 multiplexing is ordered and put in place with the

22 higher bandwidth facility. So whenever you order

23 transport, if you order UNE transport, you can get

24 UNE multiplexing. If you order private line or

25 special access -- private line or special access

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1 transport to the collocation cage, it's your view

2 that would be a commingled arrangement?

3 A I think the part that's confusing is putting the

4 transport in there. Because it's that clear; if you

5 have transport, the multiplexing follows the

6 transport. So if you used UNE transport to connect

7 to a distant collocation cage, you would get UNE

8 multiplexer. If you were using private line or some

9 other termination to connect to collo other than UNE

10 transport, we don't have to provide stand-alone

11 unbundled UNE multiplexing. It's not a separate

12 element, its own UNE. So, therefore, you would have

13 to purchase stand-alone multiplexing from private

14 line or special access.

15 MR. MERZ: Could I have just one second

16 here?

17 (Off-the-record discussion.)

18 BY MR. MERZ:

19 Q Do you believe that the way that you've described

20 how multiplexing can be used is covered by the Qwest

21 proposals in the ICA?

22 A Qwest has proposals for multiplexing in its ICA.

23 One is with UNE transport. If you order UNE

24 transport, then you can get UNE multiplexing, yes, I

25 believe -- as I indicated, that is contemplated in

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1 transport and you want multiplexing, the

2 multiplexing is put in with that facility. And

3 that's how it's contemplated and identified by the

4 FCC, as we've talked about in my testimony.

5 Q Now, is one possible use of multiplexing and

6 transport that the multiplexing could connect the

7 UDIT transport to the CLEC's collocation cage?

8 A Yes. You could use multiplexing to go into a

9 collocation cage, use a connection into a

10 collocation cage, yes.

11 Q And in that instance it would not be a commingled

12 arrangement; is that correct?

13 A Well, it would be a commingled arrangement from the

14 perspective that you had to have something put in

15 the transport, because transport is not available as

16 a stand-alone UNE. So, therefore, you couldn't have

17 installed the transport as a stand-alone UNE. Qwest

18 is not required to provide transport as a

19 stand-alone UNE. So the only way you would get

20 transport -- commingling is through a private line

21 or access arrangement if you were not purchasing

22 transport. So it does become a commingled

23 arrangement at that point in the scenario that

24 you've just listed.

25 Q So if the CLEC were to use multiplexing to connect

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1 the ICA. If you are doing a commingled arrangement

2 with private line transport and you need

3 multiplexing, you would purchase the multiplexing

4 from that private line or access tariff, and I

5 believe that is contemplated in the ICA. If you

6 were purchasing stand-alone multiplexing, that would

7 have to be ordered from a private line or access

8 tariff because Qwest does not have to provide

9 stand-alone multiplexing as a UNE; and, therefore,

10 to use that, because it would be private line, it

11 would be a commingled arrangement. And in 9 --

12 excuse me, in Section 24 of --

13 JUDGE SHEEHY: To use it --

14 THE WITNESS: -- the ICA to have --

15 JUDGE SHEEHY: To use it with what?

16 THE WITNESS: -- it commingled. To use

17 it with what you would be using it with other than

18 transport. So, for example, such as a loop, if you

19 wanted a UNE loop and private line multiplexing,

20 that would be a commingled arrangement; and that

21 would be in Section 24 of the ICA.

22 BY MR. MERZ:

23 Q If you -- If Eschelon were to buy UDIT transport and

24 multiplexing and go to the collocation cage and then

25 connect to a private line, that would be an

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1 arrangement that would be permissible under Qwest's  
 2 view; correct?  
 3 A You could have UNE tran -- UNE -- let me think  
 4 through that. UNE transport, UNE multiplexing, but  
 5 then you had a private line hooked to it, then  
 6 you're correct, and I actually -- If I said that,  
 7 I'm going to -- I'm going to have to retrack if I  
 8 misspoke earlier.  
 9 How it works is if you have a UNE -- a  
 10 UNE can ride a private line facility, but a private  
 11 line cannot ride a UNE facility. So if you take and  
 12 put a private line onto a UNE facility, you no  
 13 longer have the UNE rate; you would have the private  
 14 line rate.  
 15 Q Yeah, I'll ask to see if I'm understanding. What I  
 16 understood you to be telling me before is if you had  
 17 an unbundled transport, UNE transport --  
 18 A Correct.  
 19 Q -- you could get multiplexing as a UNE?  
 20 A Correct.  
 21 Q And then that multiplexing could go to Eschelon's  
 22 collocation cage?  
 23 A Correct.  
 24 Q And Eschelon could connect to a private line?  
 25 A Correct --

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1 STATE OF MINNESOTA)  
 ) ss.  
 2 COUNTY OF SCOTT )  
 3  
 4  
 5 REPORTER'S CERTIFICATE  
 6  
 7  
 8 I, Angie D. Threlkeld, do hereby  
 9 certify that the above and foregoing transcript,  
 10 consisting of the preceding 191 pages is a  
 11 correct transcript of my stenographic notes, and is  
 12 a full, true and complete transcript of the  
 13 proceedings to the best of my ability.  
 14 Dated October 30, 2006.  
 15  
 16  
 17  
 18  
 19 ANGIE D. THRELKELD  
 Registered Professional Reporter  
 Certified Realtime Reporter  
 20  
 21  
 22  
 23  
 24  
 25

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1 Q And under those --  
 2 A -- in their collocation cage.  
 3 Q In their collocation cage.  
 4 A Yes.  
 5 Q Under those circumstances, multiplexing would be  
 6 provided by Qwest at TELRIC rates?  
 7 A Because there was UNE transport hooked to the  
 8 multiplexing, and then the multiplexing went into  
 9 the collocation cage, yes.  
 10 MR. MERZ: Could we have just a short  
 11 break to figure out --  
 12 JUDGE SHEEHY: Yes. In fact, why don't  
 13 we just break for the day.  
 14 MR. MERZ: That would be fine.  
 15 JUDGE SHEEHY: And then you can figure  
 16 everything out.-  
 17 MR. MERZ: Well, I don't know about  
 18 everything. Let's not be too crazy here. We'll  
 19 just take what we can get.  
 20 (Proceedings concluded for the day at  
 21 4:24 p.m.)  
 22  
 23  
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1 EVIDENTIARY HEARING - VOLUME 3 - OCTOBER 18, 2006  
2 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
3 OF THE STATE OF MINNESOTA  
4  
5

6 In the Matter of the Petition of Eschelon Telecom, Inc.,  
7 for Arbitration of an Interconnection Agreement with  
8 Qwest Corporation Pursuant to 47 U.S.C. 252(b)

9 OAH DOCKET NO. 3-2500-17369-2  
10 PUC DOCKET NO. P5340,421/IC-06-768  
11

12  
13 Minnesota Public Utilities Commission  
14 350 Metro Square Building  
15 121 Seventh Place East  
16 St. Paul, Minnesota  
17

18 Met, pursuant to Notice, at 9:00 in the  
19 morning on October 18, 2006.  
20

21  
22  
23 BEFORE: Judge Kathleen Sheehy  
24 Judge Steve Mihalchick  
25 REPORTER: Janet Shaddix Elling, RPR

Page 2

1 APPEARANCES:  
 2 JASON TOPP, Attorney at Law,  
 3 200 South Fifth Street, Room 2200, Minneapolis,  
 4 Minnesota 55402, and MELISSA K. THOMPSON, Attorney  
 5 at Law, 1801 California Street, 10th Floor, Denver,  
 6 Colorado 80202, and PHILIP J. ROSELLI, Attorney at  
 7 Law, Kamlet, Shepherd & Reichert, LLP, 1515 Arapahoe  
 8 Street, Tower 1, Suite 1600, Denver, Colorado  
 9 80202, and JOHN DEVANEY, Attorney at Law, Perkins,  
 10 Coie, 607 14th Street NW, Washington, D.C. 20005,  
 11 appeared for and on behalf of Qwest Corporation.  
 12 GREGORY MERZ, Attorney at Law,  
 13 Gray, Plant, Mooty, 500 IDS Center, 80 South Eighth  
 14 Street, Minneapolis, Minnesota 55402, appeared for  
 15 and on behalf of Eschelon Telecom.  
 16 JULIA ANDERSON, Assistant Attorney  
 17 General, 1400 Bremer Tower, 445 Minnesota Street,  
 18 St. Paul, Minnesota 55101, appeared for and on  
 19 behalf of the Department of Commerce.  
 20 ALSO PRESENT:  
 21 Kevin O'Grady, PUC Staff  
 22  
 23  
 24 WHEREUPON, the following proceedings were  
 25 duly had and entered of record, to wit:

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1 JUDGE SHEEHY: All right. Good morning,  
 2 everyone. Any further news?  
 3 MR. DEVANEY: Good morning, Your Honor.  
 4 Yes, we do have some further news.  
 5 With respect to issue 9-54(A) --  
 6 JUDGE SHEEHY: Recurring rates for  
 7 different UNE combinations?  
 8 MR. DEVANEY: That's correct. And the  
 9 parties have agreed to resolve that issue for  
 10 Minnesota only, and do so -- and I'm now referring  
 11 to page 29 of the revised Issues matrix. I'll wait  
 12 until you get there.  
 13 Under the Eschelon-proposed language  
 14 column, the parties have agreed to resolve this  
 15 issue for Minnesota by removing the reference to BFR  
 16 in that first sentence, and with that change the  
 17 issue is resolved and closed for purposes of  
 18 Minnesota.  
 19 JUDGE SHEEHY: Okay. And that's your  
 20 understanding as well, Mr. Merz?  
 21 MR. MERZ: Yes, it is, Your Honor.  
 22 JUDGE SHEEHY: Okay. All right. Then  
 23 anything else?  
 24 MR. MERZ: I did have just a couple  
 25 questions left of my cross.

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1 proposed by Eschelon is such changes may result in  
 2 minor changes to transmission parameters, but will  
 3 not adversely affect service to any end user  
 4 customers, parens, in the event of emergency,  
 5 however, see section 9.1.9.1 and, parens, for  
 6 retirement of copper loops see section 9.2.1.2.3; do  
 7 you see that?  
 8 A Yes, I do.  
 9 Q And the parenthetical for retirement of copper  
 10 loops, see section 9.2.1.2.3, that's agreed upon  
 11 language; correct?  
 12 A The version I'm looking at, yes.  
 13 Q And so you would agree with me that to the extent  
 14 that the retirement of a copper loop might result in  
 15 a change to transmission parameters that affect an  
 16 end user customer, the provisions relating to such a  
 17 retirement are set forth exclusively in 9.2.1.2.3?  
 18 A I'm struggling with exclusively again because, as we  
 19 indicated below, the discussion of possible planned  
 20 dispatches and how we're committing there would be  
 21 no charge and that you would also have advance  
 22 three-day notice. So to send everything at that  
 23 point to that section I'm not sure would give you  
 24 all of the additional commitments that we've made in  
 25 this section.

Page 16

1 A Yes.  
 2 Q And that is the language that would apply to any  
 3 network maintenance and modernization activities  
 4 that concern or involve retirement of copper loops?  
 5 A Yes, except for, as I have indicated, in 9.1.9, we  
 6 make a commitment that if we have a planned dispatch  
 7 to your end user premise we'll give you notice of  
 8 three days in advance. Because typically you know  
 9 when we're going out to the customer premise because  
 10 you've either ordered service or you've called for  
 11 repair so you know we're going to contact them.  
 12 We're just making a commitment in 9.1.9  
 13 that if we have a planned modernization, we know  
 14 we're going to be out there, you don't know about  
 15 it, we're going to give you the three-day notice.  
 16 So I guess I'm failing to understand why that would  
 17 not be a good thing in the context of a copper  
 18 retirement.  
 19 Q Well, I want to make sure that we understand what  
 20 provisions Qwest believes will apply when it retires  
 21 copper loops. And my question concerns how 9.2.1.2  
 22 relates to 9.1.9, and Eschelon -- the parties have  
 23 agreed that retirement of copper loops would be  
 24 covered by 9.2.1.2.3. Is that not your  
 25 understanding?

Page 15

1 Q When Qwest retires a copper loop it's required to  
 2 work jointly with Eschelon; isn't that right?  
 3 A Typically we do when we have a retirement of copper  
 4 loop.  
 5 Q And that's agreed upon language in the ICA; correct?  
 6 MR. DEVANEY: Is there a particular  
 7 section, Mr. Merz?  
 8 THE WITNESS: Yeah.  
 9 BY MR. MERZ:  
 10 Q 9.2.1.2.3.1.  
 11 A Yes. It does speak of working jointly.  
 12 Q And it says, the last sentence of that section says,  
 13 should retired copper facilities be replaced by like  
 14 copper facilities, Qwest and CLEC will jointly  
 15 coordinate the transition of current working copper  
 16 and subloops; like copper facilities so that  
 17 service interruption is held to a minimum; correct?  
 18 A Yes.  
 19 Q And that's agreed upon language?  
 20 A Yes.  
 21 Q And then 9.2.1.2.3.2 also requires that Qwest and  
 22 CLEC will jointly coordinate transition when copper  
 23 loops are being retired; correct?  
 24 A Yes.  
 25 Q And that's closed language?

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1 A It is my understanding, and to explain it more  
 2 fully, is 9.1.9 is general provisions that apply to  
 3 all maintenance and modernization activities.  
 4 Inside those maintenance and modernization  
 5 activities copper retirement is one of the more --  
 6 one of the more important activities between a CLEC  
 7 and Qwest, and it deserves and has some special  
 8 notification requirements to have more spelled-out  
 9 detail. So we've referred to that section so that  
 10 you can get the more spelled-out detail. But in  
 11 referring to that section for more detail, we were  
 12 not attempting to say that we wouldn't have to live  
 13 by any general requirements here in 9.1.9. We're  
 14 trying to be inclusive.  
 15 Q You would agree with me that the retirement of a  
 16 copper loop would result in something more than a  
 17 minor change in transmission parameters; correct?  
 18 A Yes.  
 19 Q And 9.1.9 concerns network modernization and  
 20 maintenance work that may result in minor changes to  
 21 transmission parameters; correct?  
 22 A Yes.  
 23 Q And that's closed language as well?  
 24 A Yes.  
 25 Q Okay. Then we had some discussion yesterday toward

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1 A Yes, I do.  
2 Q I think you said you didn't know. But do you know  
3 if AT&T or Covad ever ordered either service?  
4 A No, they have not.  
5 Q Turning to the issue of commingling, which is issue  
6 9-58. Mr. Merz asked you during his cross yesterday  
7 whether Qwest can use a single LSR, local service  
8 request, for a single band billing account number,  
9 and a single circuit I.D. for UNE EELs; do you  
10 recall that line of questioning?  
11 A Yes, I do.  
12 Q And I think the inference from his question was, if  
13 Qwest can use single LSRs and single circuit I.D.s  
14 for UNE EELs, for example, shouldn't it be able to  
15 use single LSRs and single circuit I.D.s for  
16 commingled EELs. Is that a fair inference?  
17 A No, it is not. Because a commingled arrangement is  
18 a UNE circuit that would then be part of an  
19 arrangement with a non-UNE circuit, typically that  
20 would be private line, and today our UNEs are  
21 ordered via an LSR in our CRIS system, and private  
22 line are ordered via an ASR in our IAB system.  
23 So to have a single circuit with a single  
24 bill, first of all, commingling is two individual  
25 things that are put together, and the two individual

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1 things have different terms and conditions,  
2 different billing, different procedures and  
3 processes. So to attempt to treat it as if it was  
4 one circuit when it's really not, it's two different  
5 circuits that's being interconnected together, we  
6 would need to move one or the other to the same  
7 billing system.  
8 We would either need to move all of our  
9 ordering, USOCs, procedures, flow through, pricing  
10 of private line into UNE, or we would need to move  
11 UNE into IABs, and in either case it would be  
12 extensive system work between the two systems.  
13 Q Can you elaborate on what you mean by extensive  
14 systems work?  
15 A Well, you'd have to redesign the whole ordering and  
16 billing system for one of the services to put it  
17 into the alternate system. I believe in the Covad  
18 information, that I believe they had wanted to move  
19 private line from IABs into using an LSR, so that  
20 was the service I think that would have to be moved  
21 to effectuate that. And, again, it would be similar  
22 to the work that Qwest would be required to do if  
23 Qwest was ever required to do ratcheting.  
24 And as I said in my testimony, when Qwest  
25 even began to look at what kind of work that would

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1 take, it was just thousands of hours of programming  
2 time, and the complexity is such that it would take  
3 a long time just to even figure out, and cost a lot  
4 of money, to figure out how you would do it. So  
5 even to be able to size the job within our ordering  
6 systems would be significant.  
7 Q Can you provide some sense of the magnitude of  
8 dollars that would be involved in figuring out how  
9 to do it and then actually implementing that merging  
10 of the billing systems? I'm not asking for a  
11 specific. Are we talking hundreds of thousands of  
12 dollars or millions of dollars?  
13 A In a ratcheting case in, I believe, 2002, in New  
14 Mexico, where we were potentially going to be  
15 ordered to ratchet, even though that's prohibited  
16 per the FCC rules, in that proceeding it was about  
17 \$5 million, they thought, to be able to move one to  
18 the other in the systems. But, again, they had not  
19 done extensive -- it would be an extensive amount of  
20 work just to get the software, you know, to build  
21 the parameters of what you would need to do. But in  
22 that case that was an estimate that was given to the  
23 New Mexico Commission, \$5 million.  
24 Q Are you aware of whether Eschelon is proposing or  
25 has agreed to compensate Qwest for costs that would

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1 be incurred to merge the billing systems as you have  
2 described?  
3 A No, I'm not aware that Eschelon has made any offer  
4 to pay for any additional costs.  
5 Q Mr. Merz asked you during his cross yesterday  
6 whether CLECs have been consulted with respect to  
7 Qwest's provisioning processes relating to  
8 commingled EELs and arrangements; do you recall  
9 that?  
10 A Yes, I do.  
11 Q And do you have an update on where that stands?  
12 A As I indicated in my testimony, what we would  
13 typically call the PCATs, the product guide  
14 catalogs, had not gone through CMP, Qwest believed  
15 that at the time that CR was introduced a mutual  
16 agreement had been made to delay reviewing the PCATs  
17 until all of the TRRO-related dockets had been  
18 completed within the states. However, Qwest has  
19 relooked at that as we continue to relook at lots of  
20 items as this case has gone on, and Qwest is willing  
21 and would be agreeable to bringing those PCATs  
22 forward for review in CMP as soon as possible.  
23 We've missed the window, there are some  
24 very specific notice requirements, and so we would  
25 estimate it would take about 60 days, given all the

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1 normal notice requirements, to get that properly  
2 teed up, and then we would be at that point taking  
3 the -- all of the TRRO-related ordering and  
4 provisioning systems for a review through CMP.  
5 Q Thank you, Ms. Stewart.  
6 MR. DEVANEY: Your Honor, I'm done with  
7 my redirect with the exception of the loop MUX issue  
8 we discussed earlier.  
9 JUDGE SHEEHY: Mr. Merz, anything  
10 further?  
11 MR. MERZ: Yes, Your Honor, just a few  
12 things here.  
13 RE-CROSS-EXAMINATION  
14 BY MR. MERZ:  
15 Q You had some discussion with Mr. Devaney regarding  
16 noticing customers of an area code split?  
17 A Yes.  
18 Q Would you regard an area code split as a change that  
19 is end user specific?  
20 A Yes.  
21 Q Would not an area code split affect all end users  
22 the same?  
23 A Yes. I mean, all end users, of course, that are  
24 impacted by the area code split.  
25 Q So how would you consider an area code split to be

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1 an end user specific change?  
2 A Because that specific end user would now have to  
3 dial a different area code. They would have to give  
4 a different telephone number to people. So that  
5 while it would affect multiple end users, definitely  
6 each individual end user would think they were  
7 affected.  
8 Q So in your view any change in Qwest's network is an  
9 end user specific change; is that correct?  
10 A No. There could be changes within our network where  
11 it would be seamless to the end user customer so  
12 that the end user customer would not perceive that  
13 they were being impacted. The area code wouldn't be  
14 one of them, but --  
15 Q But you're talking about two different things,  
16 you're talking about whether a customer perceives it  
17 as opposed to whether the change is end user  
18 specific. Even if the change is not perceptible to  
19 the customer, wouldn't it be your view that the  
20 change is end user specific?  
21 A It could be. An example of we put a new tandem in  
22 the network and currently their network is being  
23 routed in a certain manner, and the end user  
24 customer, they don't know and they're indifferent,  
25 but a CLEC who is providing service to that customer

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1 would need to know what's going on with the routing  
2 and the fact that the tandem is changing. So we  
3 would notify CLECs via our website that, oh, by the  
4 way, there's going to be a tandem change, so you may  
5 have to change some links between your network and  
6 our network at that tandem.  
7 So it would ultimately be end user  
8 affecting, but you're right, the end user would  
9 never know because the routing is going to be  
10 happening. To them, they're not going to perceive a  
11 change, because that's a behind-the-scenes routing  
12 where that would be a change to the CLEC.  
13 Q And just to get back, then, to my original question,  
14 would it be your view that any change that Qwest  
15 makes to its network is an end user specific change?  
16 A I don't know that I would say that any change that  
17 Qwest would make to their network is end user  
18 specific.  
19 Q What would be one that wouldn't?  
20 A Let's see. If you were changing SS7 links between  
21 two systems where nothing has changed for the  
22 customer, I guess if I want to be real specific, if  
23 you had redundant links and you only changed one of  
24 them and not the other. I guess I'm struggling to  
25 understand the difference that you're trying to --

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1 Q Well, and the reason I asked is Eschelon's proposed  
2 language for 9.1.9 that would limit certain notice  
3 obligations to changes that are end user customer  
4 specific, and what I'm understanding you to be  
5 saying is you don't regard that as any limitation.  
6 Is that Qwest's interpretation of Eschelon's  
7 proposed language?  
8 A That is one of our concerns, definitely, about your  
9 language.  
10 Q And what I'm understanding you to be saying is if an  
11 area code split is end user specific, it seems like  
12 any kind of change that Qwest might possibly make is  
13 going to, by definition, affect some end user or  
14 group of end users and are therefore end user  
15 specific?  
16 A That is definitely one of our concerns with the  
17 language.  
18 Q Ms. Anderson had asked you some questions about  
19 emergency notification and you referred to the  
20 problem of identifying Eschelon's end users; do you  
21 recall that?  
22 A Yes, I do.  
23 Q Now, the term end user is actually a defined term in  
24 the ICA; isn't that right?  
25 A Yes.



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1 idea.

2 Q What would happen if Qwest filled the order and it

3 turned out that it exceeded the cap by two, is that

4 those two loops would be moved to special access and

5 Qwest would be fully compensated; isn't that right?

6 A Well, that was your decision. I guess what you're

7 saying is is that part of your proposal is is that

8 any costs that occur because of this order going

9 through that you would pay and make Qwest whole,

10 even if it was a total cancellation and you never

11 put facilities in. See, I don't know that it's a

12 given if a UNE wasn't available, that that's the way

13 you would do something.

14 You may choose, oh, I exceeded the cap at

15 10 DS1s, I'm just going to order one DS3, so you

16 would order a totally different type of facility.

17 Because that's why there is a cap, because if there

18 wasn't a cap on DS1s then you could exceed the

19 capacity of a DS3.

20 That's what I would do, if I had 12 DS1s

21 and I knew the cap was 10 but I could order a DS3

22 loop, I would cancel those orders in their entirety

23 and order a new facility of a DS3, the higher

24 bandwidth, because obviously I need it. So I would

25 have wanted those orders rejected because that's not

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1 ultimately what I'm going to install.

2 Q The parties have agreed on the terms of how Qwest

3 will be compensated in 9.1.13.5, if you'd look at

4 that, please?

5 A Yes, I will. 9.1 -- I'm sorry.

6 Q 9.1.13.5.

7 A Can I take a minute to read it?

8 Q Yes.

9 A I've read it.

10 Q And what I understand this to be saying is if it is

11 determined following dispute resolution that a

12 particular UNE is not a UNE, that Qwest will be

13 compensated; is that right?

14 A Yes. It does talk in terms of alternative service

15 arrangements.

16 Q And it provides for back billing for the difference

17 between UNE rates and the rates for Qwest

18 alternative services; is that right?

19 A Yes, it does.

20 Q And that's agreed upon language?

21 A Yes, it is.

22 Q We were talking about commingling and Qwest's

23 proposal to now bring its PCATs forward through CMP;

24 do you recall that?

25 A Yes, I do.

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1 Q Now, that's a proposal that Eschelon was advised of

2 on Monday; is that your understanding?

3 A It's very recent, Monday, yes.

4 Q Do you have any prediction of how long that CMP

5 process is likely to take?

6 A No, I do not.

7 Q Could it take more than a couple months?

8 A I don't know. I'm not -- I mean, I believe the

9 level of the notice would be such that it would at

10 minimum be a month or two, but I do not know about

11 beyond that.

12 Q You don't know if it might take as many as 18

13 months?

14 A I do not know that. I believe there are windows to

15 try and resolve issues.

16 MR. MERZ: I don't have anything further.

17 Thank you.

18 THE WITNESS: Thank you.

19 JUDGE SHEEHY: Ms. Anderson.

20 RECROSS-EXAMINATION

21 BY MS. ANDERSON:

22 Q Ms. Stewart, just following up briefly on Mr. Merz's

23 last question to you concerning taking certain

24 issues, including the commingling issue, to CMP.

25 And the commingling issue is 9-58; is that right?

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1 A Yes, it is.

2 Q What other issues is Qwest proposing to take to CMP

3 in addition to 9-58?

4 A Well, when you took the -- I would need to check and

5 confirm what the total list of the PCATs or products

6 that would be impacted, but it would be all the

7 products and services, so I believe that would

8 include loop-MUX combo also would be going to CMP,

9 as far as disputed issues here between the parties.

10 Q You made a reference earlier to taking the

11 commingling issue to CMP, including TRO-related

12 provisioning and ordering issues. So would that

13 include the conversion issues? For instance, the

14 9-43, 9-44, 9-44 a through c?

15 A I'm not representing conversion, but that would make

16 sense to me, because that would be part of

17 TRRO-related. In fact, even caps and policies and

18 rules around caps, so you're right, I haven't

19 thought through this as you're indicating it, but

20 once you free up every PCAT or process or procedure,

21 all of them would be then going through CMP.

22 MS. ANDERSON: Thank you very much.

23 JUDGE SHEEHY: Are you through,

24 Ms. Anderson?

25 MS. ANDERSON: I am. Thank you.

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1 Q Resale?  
 2 A I know it's in their agreement. Frankly, I haven't  
 3 asked them whether they use them or not because I  
 4 don't think any of the issues in this case deal with  
 5 that.  
 6 Q I want to ask you questions on issue 9-31, which is  
 7 access to UNEs.  
 8 A Okay.  
 9 Q And I'm going to focus on the disputed language with  
 10 respect to that issue, which I find easy reference  
 11 at page 125 of your direct testimony.  
 12 A Okay.  
 13 Q And I hope our pagination is the same.  
 14 A It must be, that's where my contract language is  
 15 found as well.  
 16 Q Okay. Would you agree with me that the primary  
 17 dispute with respect to this issue is Eschelon's  
 18 proposed language that says access to unbundled  
 19 network elements includes moving, adding to,  
 20 repairing, and changing the UNE, and then there's a  
 21 continuation with some language in parentheses; is  
 22 that where the crux of the dispute is?  
 23 A Well, that's our proposed language, and my  
 24 understanding is that Qwest doesn't want that  
 25 language in the agreement.

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1 Q Right. And let me ask you, the terms moving,  
 2 adding, and changing as used in Eschelon's proposed  
 3 language, they are not defined terms in the  
 4 interconnection agreement; is that correct?  
 5 A Not that I'm aware of, and they're not capitalized  
 6 here so I would think they are not.  
 7 Q Okay. And then for further clarification, in  
 8 parentheses you'll see that it says through e.g.,  
 9 meaning for example, design changes, maintenance of  
 10 service including trouble isolation, additional  
 11 dispatches, and cancellation of orders. Is it a  
 12 fair reading of that language that that is a  
 13 nonexclusive list, but rather just a list of  
 14 examples?  
 15 A That's fair.  
 16 Q Okay. With respect to the terms moving, adding to,  
 17 or changing, do you know, is that language intended,  
 18 for example, to require that Qwest would install new  
 19 wires and cables?  
 20 A And what I'm looking for in the agreement as I  
 21 answer that question is the routine network  
 22 modification language that is agreed upon language  
 23 in the contract. I'll try to answer your question  
 24 directly.  
 25 Maybe, maybe not. I mean, in the routine

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1 network modifications section of the contract that  
 2 is agreed upon language, the overarching principle  
 3 is that Qwest will undertake activities to provision  
 4 UNEs to the same extent it undertakes those  
 5 activities for its own customers. So there's a  
 6 parity standard, if you will.  
 7 So, and all of that emanates from the  
 8 Triennial Review Order and its discussion of routine  
 9 network modifications. So to the extent that Qwest  
 10 will, in a certain circumstance, undertake to place  
 11 cable for its own retail customers, under that same  
 12 circumstance it would be required to do so for  
 13 Eschelon. Now, that's the exception to the rule.  
 14 The FCC, when it described routine  
 15 network modifications, suggested that placing cable  
 16 was one of those exceptions that did not fall  
 17 underneath that rubric, per se.  
 18 Q Okay. So the intent of this language, though, that  
 19 we're disputing, is that in certain circumstances  
 20 Qwest could be required to install new cables, dig  
 21 trenches; is that correct?  
 22 A I think it's unlikely.  
 23 Q Well, I'm just trying to find out what the language  
 24 that Eschelon is proposing means. And the  
 25 fundamental question is is that type of activity

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1 encompassed by these terms, moving and adding to or  
 2 changing?  
 3 A And the only thing I can say is it's unlikely.  
 4 Because this section of the agreement, as all  
 5 sections of the agreement, have to be read with the  
 6 agreement as a whole. And if you look at the  
 7 section that deals with routine network  
 8 modifications, it deals with that parity standard.  
 9 What this particular section in 9.1.2 is  
 10 meant to do is simply notice that access to an  
 11 unbundled network element doesn't just mean we hand  
 12 you the element and you're on your own. It means  
 13 that it must be supported in the same manner you  
 14 would support the same facility for your retail  
 15 customers.  
 16 Q And wouldn't it be clearer to simply say that rather  
 17 than using the terms moving, adding to, or changing?  
 18 A No, it wouldn't be clearer, because I think the  
 19 examples are provided because primarily there are  
 20 specific problems that have existed with Eschelon in  
 21 the past where it's attempted to get Qwest to  
 22 undertake these activities for unbundled network  
 23 elements and Qwest has suggested that it does not  
 24 fall within the realm of their responsibilities to  
 25 provide UNEs.

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1 JUDGE SHEEHY: So how would you propose  
2 to correct your testimony?  
3 THE WITNESS: There would be two  
4 corrections. One would be on page 94 of my rebuttal  
5 testimony. And it says, I'll start the sentence, In  
6 addition, Eschelon will have unbundled access to  
7 multiplexing when ordering unbundled dedicated  
8 interoffice transport, paren, UDIT, close paren, and  
9 then we have, whether alone or in a UNE combination.  
10 I would strike whether alone or, because as I just  
11 said, when we went back to find out how that process  
12 would work, I discovered indeed the company does not  
13 currently have a product of transport with a  
14 dangling MUX. And this would imply, I'm afraid,  
15 that we are saying we did. So I wanted to correct  
16 it and correct it in such a manner to be available  
17 to answer questions.  
18 MR. MERZ: Could I voir dire on that? My  
19 question, I guess, is when she learned of this?  
20 Because this seems like not only a pretty big change  
21 from her written testimony, but a pretty big change  
22 from what she was saying yesterday, when I recall  
23 Ms. Stewart telling us that MUXing was available  
24 with a UDIT combination or with a UDIT alone. I  
25 mean, I thought she used those exact words

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1 yesterday, and so I'm wondering how this comes up  
2 this afternoon.  
3 JUDGE SHEEHY: Well, I think this is  
4 actually more accurately described as a change to  
5 her testimony as opposed to a mistake in assembling  
6 it at the get-go. And I don't mean that in any  
7 pejorative way. I mean, in terms of how you want to  
8 reflect the correction, I think we should leave your  
9 originally filed testimony the way it is and you  
10 should clarify on the record now how it should be  
11 accurate. I mean, you have. If anyone else wants  
12 to --  
13 JUDGE MIHALCHICK: Where is the other  
14 location?  
15 THE WITNESS: The other location is in  
16 the surrebuttal testimony, at page 39, a similar  
17 sentence. Qwest will provide -- I'm kind of  
18 starting at the part where we had scratched off.  
19 Qwest will provide multiplexing pursuant to UNE  
20 rates, terms, and conditions when it is used for a  
21 combination of UNE transport with a UNE loop or with  
22 UNE transport alone, so you would scratch, or UNE  
23 transport alone.  
24 JUDGE MIHALCHICK: What line?  
25 THE WITNESS: Page 39 in my pagination.

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1 JUDGE MIHALCHICK: Line 3?  
2 THE WITNESS: Line 3, I'm sorry. Yes,  
3 line 3, page 39.  
4 MR. DEVANEY: Your Honor, may I proceed?  
5 JUDGE SHEEHY: You may. I'm sorry.  
6 BY MR. DEVANEY:  
7 Q Ms. Stewart, with that clarification, can you  
8 explain different scenarios that are shown in  
9 Exhibit 32?  
10 A Yes, I can. What the various scenarios are trying  
11 to show is commingled arrangements of where you  
12 would have loop and transport and trying to  
13 demonstrate kind of how they would be put in. And I  
14 don't know if we wanted to go diagram by diagram or  
15 just look at a few of them.  
16 For example, the first diagram on the  
17 first page has a EEL loop commingled with a private  
18 line transport circuit, and I would clarify that  
19 this is same bandwidth so there is no multiplexor in  
20 this arrangement. And in this commingled  
21 arrangement, the example that is shown is that a  
22 private line circuit would go from a collo in one  
23 Qwest central office, terminate in another Qwest  
24 central office, then it would be cross-connected via  
25 a COCC and go out to another -- be cross-connected

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1 with an EEL loop that had been ordered on an LSR.  
2 And in this case a same bandwidth  
3 commingled arrangement would be put into place. And  
4 the actual -- the two individual circuits would  
5 actually be cross-connected in the one central  
6 office with a COCC. And same bandwidth means  
7 there's no multiplexing. So if it started off as a  
8 DS1 from the end user, it would be a DS1 all the way  
9 to the remote collocation.  
10 Q Would you like to describe one other scenario just  
11 for illustrative purposes?  
12 A Maybe the last diagram on the second page. This is  
13 a multiplexing example.  
14 The first one, the lower one shows a  
15 Qwest collo location and it shows that there would  
16 be a DS1 or a DS0 UDIT, which would be UNE unbundled  
17 transport. It goes into the Qwest wire center,  
18 terminates in the Qwest wire center on a Qwest  
19 private line MUX, onto the same MUX could be  
20 terminated a tariff service or private line service  
21 that went out to the end user customer at that point  
22 from the MUX. So for illustrative, if these were  
23 both DS1 facilities, they would be basically  
24 combined within the MUX and then transported over  
25 the private line facilities to the distant CLEC

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1 discussing, you have a DS1 or a DS0 UDIT, that would  
2 be unbundled UNE transport, coming into a MUX, you  
3 also have a tariffed private line service coming  
4 into the MUX, and I think they're trying to say it  
5 could be several different items there, so that  
6 could be private line transport.  
7 The way this is listed and it shows it  
8 going to like an end user, that would be potentially  
9 the DS1 channel term that we just discussed, you  
10 come onto the MUX, they're MUXed up, and then they  
11 go from the MUX to the second location, and this  
12 gives a couple examples, one of which is collo.  
13 So the first part, the DS0, UDIT, UNE,  
14 that would stay at UNE rates, the private line would  
15 stay at private line, but in this scenario the MUX,  
16 because it has a mix of private line and UNE, would  
17 go up to the private line rate, and then you would  
18 have private line transport at that point.  
19 Q All right. Well, let's take that bottom example but  
20 ignore the private line transport multiplex facility  
21 and the box to the left of that. And so we're just  
22 talking about a DS1, DS0, UDIT.  
23 A Okay. We're talking just the UDIT.  
24 Q Just the UDIT. And the connection between the MUX  
25 and the end user is a private line, a tariffed

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1 service?  
2 A Correct.  
3 Q What is the rate that applies to the MUX? Is it a  
4 private line rate or is it a TELRIC rate?  
5 A Let me make sure I've got the scenario. We have one  
6 part as a UNE, one part as a private line, then the  
7 MUX would become a private line MUX.  
8 Q Why?  
9 A Because you are putting the private line -- the  
10 private line service would be commingled or put into  
11 the MUX so the two would be working together, and at  
12 that point you go up to the highest rate because we  
13 don't have to commingle or -- excuse me, correct  
14 that, we do have to commingle, we don't have to  
15 ratchet or try to say part of this MUX is being used  
16 by a UNE, so part of the MUX is at a UNE rate, part  
17 of the MUX is being used by a private line, and so  
18 part of the MUX is at private line rates. We don't  
19 have to and cannot do some type of blended rate or  
20 some type of proportional rate within the MUX.  
21 Q But what you can do is charge the TELRIC rate for  
22 the MUX, that's not prohibited by the TRRO or  
23 anything else; is it?  
24 A I don't believe it's prohibited, but it is  
25 contemplated by the TRRO, I believe, that talks

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1 about in commingling it's not an intent to have  
2 CLECs having to avoid paying the appropriate access  
3 charges, and that we don't have to do any type of  
4 ratcheting. And once again, part of the UDIT is  
5 using the MUX and part of the private line is using  
6 the MUX. Because we don't have to ratchet we don't  
7 have to take that multiplexer and somehow figure out  
8 that 50 percent of it is being used as a UDIT and 50  
9 percent is being used as private line and have a  
10 blended rate, you go up to the highest rate, which  
11 would be the private line rate.  
12 Q In the example where there is no private line  
13 transport involved, so we just have a DS1 UDIT and  
14 the MUX and the private line to the end user, would  
15 the DS1 UDIT still be an unbundled network element  
16 available at TELRIC rates?  
17 A And so what you're saying is that the UDIT has come  
18 into the MUX, the tariffed private line service is  
19 coming to the MUX, but there's no transport. I'm  
20 not quite sure how that would work. But the MUX  
21 would still be in private line. I got a little  
22 confused there, we have two low sides and no high  
23 side on the channel.  
24 Q We're talking about a transport of DS1.  
25 A Right. Got that.

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1 Q And that's the UDIT, that's the one that if you're  
2 looking at your box it goes down into the lower  
3 right-hand corner?  
4 A Correct.  
5 Q And then you've got your MUX?  
6 A Correct.  
7 Q And then you've got your tariffed service to the end  
8 user?  
9 A Correct.  
10 Q In that scenario, as I understand what you're saying  
11 is, well, we don't have to do ratcheting, so the MUX  
12 has to go up to private line?  
13 A Oh, okay.  
14 Q Is that correct?  
15 A Correct.  
16 Q Why wouldn't you then say the same thing and take  
17 another step back and say, well, if that's the case,  
18 the DS1 has to be a private line too, because we  
19 don't have to ratchet for that either?  
20 A You are correct. I misunderstood your scenario here  
21 that we were doing so I'm glad you clarified for me.  
22 Because what you would be doing in that scenario is  
23 the transport, the way it's laid out here, both the  
24 transport and the UNE transport and the private line  
25 tariffed facility are coming in on the low side of

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1 the MUX, not the high side of the MUX where they're  
 2 being combined. So that's where it sounds like  
 3 you're changing the scenario where now the UDIT  
 4 would be the high frequency bandwidth, I mean, it  
 5 wouldn't be going low to low, so I'm trying to  
 6 figure out when you redo the diagram.  
 7 Q Assuming it's a DS3.  
 8 A The UDIT is a DS3, it's coming into the high side of  
 9 the MUX?  
 10 Q Yes.  
 11 A Okay. So it's almost coming in visually to where  
 12 the other one is. And then you bring various  
 13 private lines on the low side into that? Then, yes,  
 14 that would turn that MUX into a private line MUX  
 15 because it would now be blending the two and turn  
 16 the UDIT into a private line, because you would be  
 17 blending the --  
 18 JUDGE SHEEHY: So the UDIT is not a UDIT?  
 19 THE WITNESS: Would not be a UDIT because  
 20 you basically change the scenario of what we've got  
 21 in this diagram.  
 22 BY MR. MERZ:  
 23 Q Isn't that what commingling is, is the ability to  
 24 use a UDIT with a non-UDIT?  
 25 A Commingling is being able to attach two different

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1 but once you use a multiplexer and you multiplex up  
 2 multiple things onto a single circuit, the  
 3 multiplexer would go to private line rates.  
 4 Q Then what I understand you to be saying is if  
 5 multiplexing is involved you can't do --  
 6 A No, because you could have UNE loops or UNE  
 7 transport on the private line MUX, that is  
 8 commingling.  
 9 JUDGE SHEEHY: What?  
 10 THE WITNESS: If we did not change the  
 11 diagram --  
 12 JUDGE SHEEHY: Wait, wait. I don't  
 13 understand why his example changes the diagram.  
 14 THE WITNESS: Because he changed the UDIT  
 15 from being low side one of the channels coming into  
 16 the MUX to being the high side interoffice facility  
 17 of the arrangement.  
 18 JUDGE SHEEHY: Why does it matter which  
 19 is the low side and which is the high side?  
 20 THE WITNESS: Because when you --  
 21 JUDGE SHEEHY: You can do either one with  
 22 multiplexing --  
 23 THE WITNESS: The original document, if  
 24 you look at the original picture, it shows that the  
 25 UNE is -- the bottom one is the UNE UDIT, and it's

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1 services or facilities, but if you are going to  
 2 blend the two facilities onto a single facility,  
 3 that's where you don't have to do ratcheting. Can I  
 4 direct you maybe to the first two diagrams on the  
 5 document?  
 6 Q Well, actually, I want to make sure I understand  
 7 this last one. Because this one is of concern, if  
 8 I'm understanding correctly.  
 9 Would you agree with me, and I think we  
 10 talked about this yesterday, that commingling is the  
 11 combination of a UNE with a non-UNE?  
 12 A Correct.  
 13 Q And if we talk about the scenario that I just  
 14 described, where you have a DS3 UDIT, and MUXing,  
 15 and a private line to the end user, that is  
 16 commingling; correct?  
 17 A It's commingling, but you're commingling two types  
 18 of services onto the same facility. If we could,  
 19 please, go to the first diagram on the first page.  
 20 This I think is more what you are talking about.  
 21 This is a single bandwidth, so there's no  
 22 multiplexing. Half of the route, or the loop you  
 23 can get as a UNE, and half you can get as private  
 24 line. So you would totally install the one, then  
 25 totally install the second and then combine them,

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1 terminating on a private line MUX. That is  
 2 commingling, that's letting a UNE terminate on a  
 3 MUX. And then you take the private line and it is  
 4 separately working and terminates on the MUX, so you  
 5 have both the private line and a UNE terminated on  
 6 that MUX, that is commingling. They then both are  
 7 combined together and go over the higher bandwidth  
 8 facility, which in this case is a private line, as  
 9 is identified. So they were first independent and  
 10 separate, so now we take the two separate  
 11 independent things, we terminate them on the MUX,  
 12 now we're mixing them up, as it were, and they're  
 13 both going across that facility. And since we do  
 14 not have to ratchet, that facility would have to be  
 15 at private line rates, since there is a private  
 16 line, at this point traffic, being commingled or  
 17 combined onto the higher bandwidth.  
 18 BY MR. MERZ:  
 19 Q And so in the example that I referred to, if you had  
 20 a DS3 UDIT and MUXing and a private line, that's the  
 21 combination that in your view couldn't happen?  
 22 A Correct. That it would become a -- a ratcheting  
 23 scenario, I guess, would be, for lack of better  
 24 words, and it is a price difference. Not that it  
 25 would technically operate differently.

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1 Q And can you tell me why, if you have a DS3 UDIT and  
2 multiplexing in a private line, why that isn't just  
3 commingling?  
4 A Because commingling is combining or attaching two  
5 separate things that are separate. Now you've got a  
6 situation where you're taking the two separate  
7 things and you're putting them together to make a  
8 new third thing, as it were.  
9 Q What two separate things are you talking about?  
10 A You've got the UDIT, that's the separate, and then  
11 you've got the private line, that's separate, now  
12 you're combining the two onto a single facility.  
13 So --  
14 JUDGE MIHALCHICK: Which one? Which  
15 single facility?  
16 JUDGE SHEEHY: The MUX?  
17 THE WITNESS: Well, I'm down on this  
18 diagram, which I can tell is not a very popular  
19 diagram. The UDIT is coming into the MUX, the  
20 private line --  
21 JUDGE MIHALCHICK: From where? You've  
22 got three things there. The UDIT's coming from  
23 where to where?  
24 THE WITNESS: The UDIT is coming from, in  
25 this example, a collo from a Qwest wire center, a

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1 remote Qwest wire center. You now have UDIT, or UNE  
2 transport, to a distant Qwest wire center. At that  
3 point it is terminating on a Qwest private line MUX.  
4 That MUX also is bringing traffic that's coming in  
5 on a private line or a tariffed service, and because  
6 it's a triangle --  
7 JUDGE MIHALCHICK: And which line --  
8 okay, and you're talking about the triangle now?  
9 THE WITNESS: Right, the triangle.  
10 Triangle implies end user customer, which implies it  
11 would probably be a private line chan term, or CT,  
12 as the document calls it. And as we just discussed,  
13 the private line chan term is the equivalent of  
14 unbundled loop, unbundled loop at private line  
15 rates, so the private line now comes into the MUX  
16 that's in that Qwest wire center in the center, at  
17 that point the tariff service traffic and the UNE  
18 traffic are going to be combined within the MUX and  
19 then they're all going to be transported across that  
20 single facility, the private line facility.  
21 JUDGE MIHALCHICK: To the left?  
22 THE WITNESS: To the left.  
23 JUDGE MIHALCHICK: Not down to the one  
24 down in the bottom right-hand corner?  
25 THE WITNESS: Correct. And then at that

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1 point, when you get to that private line facility  
2 and that MUX where they're being commingled or  
3 combined, or combined traffic, because the  
4 commingling was actually the UDIT with the private  
5 line, now what we've got is they're both together  
6 into that private line circuit, and we do not have  
7 to ratchet or have that circuit be at multiple  
8 rates, some of it at UNE and some at private line,  
9 so that sends the whole facility to private line  
10 rates.  
11 JUDGE SHEEHY: Including what's on here  
12 as UDIT?  
13 THE WITNESS: No. In that scenario the  
14 UDIT would stay a UDIT. The UDIT is still going to  
15 stay a UDIT in this scenario. The private line is  
16 still going to stay a private line in this scenario.  
17 But the MUX, because it's being shared with both a  
18 UNE and a private line would go to private line  
19 rates, and then the transport between that and the  
20 next location would go to private line rates.  
21 BY MR. MERZ:  
22 Q Does the TRRO reflect all of these examples that you  
23 have here?  
24 A I do not believe that the TRRO reflects every single  
25 individual example, I think it broadly discusses

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1 combinations of loop and transport and then  
2 discusses that there is no need to ratcheting, and  
3 that commingling is not intended to avoid  
4 appropriate private line rates.  
5 Q Does the TRRO talk about MUXing?  
6 A In the context of commingling?  
7 Q In any context at all.  
8 MR. DEVANEY: Your Honor, I'm going to  
9 object. The TRRO is a several hundred page  
10 document, I don't think it's a fair question to ask.  
11 JUDGE SHEEHY: Yeah. I mean, you can  
12 give your understanding, it won't be a dispositive  
13 legal argument. But you've been testifying for, you  
14 know, 45 minutes on what the TRRO calls for, and  
15 this is Qwest's version of it.  
16 MR. DEVANEY: And just for the record,  
17 commingling is addressed in the TRO, it's not the  
18 TRRO.  
19 THE WITNESS: Thank you for the  
20 clarification. I have no memory on that. Because  
21 it's both.  
22 BY MR. MERZ:  
23 Q This is the TRRO PCAT; correct?  
24 A I believe it's reflective of both the TRRO and TRO.  
25 Q It doesn't say that.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 7**

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Eschelon / Qwest Arbitration

3/19/2007

T-03406A-06-0572, etc.

Vol. I

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1 language regarding Qwest's obligation to tag the  
2 demarcation point between the Qwest network and the  
3 customer's network; is that right?  
4 A. Yes. Now, I really testified on that in a very  
5 limited basis. The details of tagging at the demarc were  
6 handled by a network witness.  
7 Q. And the testimony, the limited testimony that you  
8 made concerning that issue was that Eschelon's language  
9 would set certain processes in stone?  
10 A. Yes. It would require us to get an amendment  
11 from Eschelon before any change to that process could be  
12 made through the CMP.  
13 Q. In fact, I think you use the phrase in your  
14 testimony, "set in stone." Do you recall that?  
15 A. On that topic, I don't know if I did. It  
16 wouldn't surprise me if I did.  
17 Q. And you also said that Eschelon's proposal,  
18 because it would require Qwest to handle requests for  
19 tagging in a certain way, would create a one-off process.  
20 Do you recall that?  
21 A. I'm not so sure. It depends on if the proposal  
22 was different from our current process, and I don't recall  
23 if that one was.  
24 Q. Was it not part of your objection that Eschelon  
25 was trying to get some kind of special deal with respect

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1 to tagging at the demarc?  
2 A. I don't recall the details of that issue. Since  
3 it was closed, I'm not really prepared to discuss that.  
4 Q. You are aware that since you filed your testimony  
5 in Minnesota that issue has closed?  
6 A. Right.  
7 Q. And it has closed with the procedures and  
8 processes that Eschelon had proposed regarding tagging at  
9 the demarc; is that right?  
10 A. I believe that's correct, yes.  
11 Q. Now, do you believe that that resolution sets  
12 processes in stone?  
13 A. I do. I believe that if a change is proposed in  
14 the CMP counter to what was agreed to in that language, we  
15 will not be able to make that change in the CMP without  
16 first obtaining an amendment to the interconnection  
17 agreement. So yes, that's true.  
18 Q. That was something that was acceptable to Qwest  
19 with respect to that issue; correct?  
20 A. The management at Qwest decided that it was  
21 reasonable to settle that issue.  
22 Q. And was it your view that that process that was  
23 agreed to created a one-off process for Eschelon?  
24 A. Again, I don't believe that's the case, unless  
25 what Eschelon asked for is different than what we do

Page 20

1 today, and I don't recall that being the case with that  
2 particular issue. But, again, since it's settled, I did  
3 not go back and review that.  
4 Q. Well, let's talk about service order  
5 notifications. You're familiar with those? Pending  
6 service order notifications?  
7 A. Yes.  
8 Q. Sometimes referred to as PSONs?  
9 A. Yes.  
10 Q. That was an issue that you did address in your  
11 direct testimony; is that correct?  
12 A. Yes.  
13 Q. That's issue 12-70. Do you recall that?  
14 A. I assume that's the correct number.  
15 Q. Your testimony with respect to PSONs -- well, let  
16 me take a step back. Eschelon proposed that contract  
17 language be included in the interconnection agreement that  
18 would describe certain information that had to be  
19 contained in the PSON. Do you recall that?  
20 A. Right.  
21 Q. And your objection to Eschelon's proposal was  
22 that that language would set in stone what had to be  
23 contained in the PSON; is that right?  
24 A. That's correct.  
25 Q. And that is another issue that has since settled;

Page 21

1 is that right?  
2 A. That's correct.  
3 Q. And it is settled with Qwest agreeing to the  
4 language proposed by Eschelon; is that correct?  
5 A. I believe the language was modified some from its  
6 original proposal which went beyond what was contained in  
7 the PSON. Eschelon made a modification to the language,  
8 and ultimately we decided that we would agree to put that  
9 language in the contract. But, again, if a change comes  
10 into the CMP that is contrary to that language, we will  
11 not be able to make a change to the PSON now without  
12 Eschelon first amending its agreement.  
13 Q. So you still have the set in stone concern?  
14 A. Oh, yes.  
15 Q. But that was a concern that Qwest was apparently  
16 willing to put in the background in order to resolve that  
17 issue; correct?  
18 A. I don't know if I would phrase it that way, but  
19 it was settled, yes.  
20 Q. And it was settled with an agreement that certain  
21 language would be included in the contract that would  
22 require information to be contained in the PSON?  
23 A. Yes.  
24 Q. Now, fatal rejection notices is another systems  
25 notice that was at issue in this case; is that correct?

Page 22

1 A. Yes, it was.  
 2 Q. You filed direct testimony on that issue; is that  
 3 right?  
 4 A. Yes, I did.  
 5 Q. And it was your direct testimony that the  
 6 language that Eschelon was proposing was objectionable  
 7 because it would set in stone what had to be contained in  
 8 the fatal rejection notices; is that right?  
 9 A. I believe this was more about the procedures for  
 10 fatal rejection notices rather than the contents of the  
 11 notices, but yes. That was one of the issues, yes.  
 12 Q. You recall that Eschelon proposed language  
 13 relating to fatal rejection notices that described what  
 14 had to be contained in those notices?  
 15 A. I recall that the language was about procedures  
 16 for fatal rejection notices.  
 17 Q. In all events, the issue has settled?  
 18 A. Yes, it has.  
 19 Q. Now, did that settlement set in stone those  
 20 processes and procedures?  
 21 A. Yes, it does.  
 22 Q. And that was something that was acceptable to  
 23 Qwest?  
 24 A. For settlement purposes it was. But we are still  
 25 now going to have to pass any CMP changes through, compare

Page 23

1 to Eschelon's language, and if it is not consistent with  
 2 Eschelon's contract, we would have to seek an amendment  
 3 for that before that change could go through the CMP.  
 4 Q. I'm going to ask you now about loss and  
 5 completion reports. Do you recall that issue?  
 6 A. Yes, I do.  
 7 Q. And your direct testimony regarding loss and  
 8 completion reports was that Eschelon's language was  
 9 unacceptable because it would set in stone certain  
 10 processes relating to those reports; is that right?  
 11 A. In that case it set the fields to be contained in  
 12 the loss and completion reports, yes.  
 13 Q. And that issue has since been settled; correct?  
 14 A. Yes, it has.  
 15 Q. It's been settled with Qwest agreeing to  
 16 Eschelon's language?  
 17 A. Yes, it has.  
 18 Q. Closing trouble reports is another issue that you  
 19 discussed in your direct testimony; is that right?  
 20 A. Yes.  
 21 Q. And Qwest's proposal with respect to closing  
 22 trouble reports was that there should just be in the  
 23 contract a reference to Qwest's product catalog its PCAT;  
 24 is that right?  
 25 A. Yes.

Page 24

1 Q. And Eschelon actually had substantive language  
 2 that it had proposed for that provision?  
 3 A. Again, the detailed procedures for closing  
 4 trouble reports.  
 5 Q. And your concern as it was expressed in your  
 6 direct testimony was that the Eschelon language would set  
 7 in stone the processes that were described in Eschelon's  
 8 language?  
 9 A. Yes. And again, now, because that language has  
 10 been settled, if a change comes to the change management  
 11 process asking to change those processes and procedures,  
 12 we will not be able to without first going to Eschelon for  
 13 an amendment.  
 14 Q. Qwest agreed to Eschelon's language to resolve  
 15 that issue, closing trouble reports?  
 16 A. Yes, we did.  
 17 Q. If you turn to your surrebuttal.  
 18 A. Okay.  
 19 Q. At Page 12.  
 20 A. Now I need a copy.  
 21 That would be No. 4. I have it.  
 22 Q. Okay. I'm looking at Page 12, Lines 8 through  
 23 12. Actually, just 8 through 10.  
 24 A. Okay.  
 25 Q. You talk there about Eschelon talking about a few

Page 25

1 isolated examples and holding them out as the rule in the  
 2 CMP rather than the exception; is that right?  
 3 A. Yes. In Mr. Starkey's testimony, yes.  
 4 Q. Those are the examples you're talking about, the  
 5 ones in Mr. Starkey's testimony?  
 6 A. Yes.  
 7 Q. Now, you are familiar with the Minnesota ALJs'  
 8 report in the arbitration; correct?  
 9 A. Yes.  
 10 Q. And that report is something that you rely on  
 11 throughout your testimony in places where you believe that  
 12 report supports Qwest's position; correct?  
 13 A. Yes. I have quotes from that, yes.  
 14 MR. MERZ: And, Your Honor, this is already part  
 15 of Mr. Starkey's testimony, but I did have a couple of  
 16 questions I wanted to ask Ms. Albersheim, and I just have  
 17 a copy of the report if I could give that to her.  
 18 ARBITRATOR RODDA: Okay.  
 19 Q. (BY MR. MERZ) Ms. Albersheim, would you go to  
 20 Paragraph 22 of the arbitrator's report, please.  
 21 A. Okay.  
 22 Q. Paragraph 22. Are you there?  
 23 A. Yes.  
 24 Q. The conclusion of the Minnesota ALJs in  
 25 Paragraph 22 was that Eschelon has provided convincing

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1 evidence that the CMP process does not always provide  
 2 CLECs with adequate protection from Qwest making important  
 3 unilateral changes in the terms and conditions of  
 4 interconnection. Do you see that?  
 5 A. Yes.  
 6 Q. And that conclusion was one that was based on the  
 7 same, what you have characterized as isolated examples  
 8 described by Mr. Starkey; is that right?  
 9 A. Presumably, yes.  
 10 Q. Now, Qwest did not file any exceptions in the  
 11 Minnesota case to that conclusion of the Minnesota ALJs;  
 12 is that right?  
 13 A. We did file exceptions. I don't know that our  
 14 attorneys made an exception to this paragraph, but we did  
 15 file exceptions to this report.  
 16 Q. You don't know if those exceptions addressed this  
 17 particular conclusion of the Minnesota ALJs?  
 18 A. I don't know, but I would not agree with this  
 19 conclusion.  
 20 Q. I want to talk with you now about intervals,  
 21 which is Issue 1-1 and its subparts. That's an issue that  
 22 you talk about in your testimony; right?  
 23 A. Yes.  
 24 Q. An issue here is whether changes in provisioning  
 25 intervals should be reflected in an amendment to the ICA

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1 as Eschelon has proposed, or whether Qwest should be able  
 2 to change intervals through CMP without making any changes  
 3 in the contract.  
 4 A. Which is our current process.  
 5 Q. And I have generally described the issue  
 6 correctly?  
 7 A. Yes.  
 8 Q. Now, intervals are how long it takes for a CLEC  
 9 to get a particular product and service; is that right?  
 10 A. Generally, yes.  
 11 Q. And you would agree with me that an interval is  
 12 something that is particularly important to a CLEC in  
 13 terms of its ability to provide prompt service to its  
 14 customers?  
 15 A. Well, I would agree that it's important for CLECs  
 16 to know how much time it will take to provision a product,  
 17 yes.  
 18 Q. And you would agree with me that if an interval  
 19 is lengthened, that means that the CLEC's customer would  
 20 end up waiting longer for service; is that right?  
 21 A. That's correct. And we have the process through  
 22 the CMP which has been used once to lengthen an interval,  
 23 and that was done with no objection from any CLECs.  
 24 Q. I would like you to go to your surrebuttal at  
 25 Page 15. And then going over to Page 16, Page 15 begins

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1 at Line 23 through Page 16, Line 2. Just tell me when  
 2 you're there.  
 3 A. I'm there.  
 4 Q. And you say in your testimony there, "When  
 5 evaluating this issue..." And there you're referring to  
 6 the intervals issue; correct?  
 7 A. Yes.  
 8 Q. When evaluating this issue, the Commission should  
 9 weigh the relative benefits of locking intervals in place  
 10 as part of a proceeding involving Qwest and Eschelon  
 11 versus the value of having service intervals resolved  
 12 through the CMP. Do you see that?  
 13 A. Yes.  
 14 Q. Okay. Now, this is another issue where you're  
 15 making the set in stone and one-off arguments, as I  
 16 understand it; is that right?  
 17 A. Yes.  
 18 Q. Now, Eschelon has made two different proposals  
 19 relating to intervals. You're aware of that?  
 20 A. Yes.  
 21 Q. Now, one of Eschelon's proposals would allow  
 22 Qwest to shorten intervals through the CMP process;  
 23 correct?  
 24 A. Right. Without allowing Qwest to lengthen them,  
 25 so it's certainly to Eschelon's advantage.

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1 Q. Qwest has, since getting 271 approval, changed  
 2 intervals 40 times; is that right?  
 3 A. I think that's right, yes.  
 4 Q. And 39 times --  
 5 A. It shortened the interval.  
 6 Q. -- it shortened the interval; correct?  
 7 A. Yes. Through the industry forum, that is the  
 8 CMP, yes.  
 9 Q. And Eschelon's proposed language, the first  
 10 proposal that Eschelon has made with respect to intervals  
 11 would not have interfered with Qwest to shorten any of  
 12 those 39 intervals; is that right?  
 13 A. Not really. Because the way Eschelon proposes to  
 14 do this, we would have to have Eschelon's agreement first  
 15 essentially through this amendment that Eschelon proposes  
 16 to use.  
 17 Q. To shorten intervals?  
 18 A. To shorten intervals. That is in part of the  
 19 process today through the CMP.  
 20 MR. MERZ: And, Your Honor, I just had actually a  
 21 question of Ms. Albersheim about that issue, and if I  
 22 could just hand her the contract here.  
 23 Q. (BY MR. MERZ) And if you could refer, ma'am, to  
 24 Section 1.7.2.  
 25 A. Yeah, I'm there. Oh, you're speaking of the

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1 proposal where Eschelon would not have to do its advice  
2 adoption letter if it was a shortened interval.  
3 Q. Let's look at what is labeled as Eschelon  
4 Proposal No. 1. Do you see that?  
5 A. Yes.  
6 Q. And do you see and we're looking at the Arizona  
7 language? Do you have that there?  
8 A. Yeah. Arizona, Colorado, Utah, Oregon,  
9 Washington, okay.  
10 Q. And then if you look at Section 1.7.2.1. Do you  
11 have that?  
12 A. Yes.  
13 Q. And it says there, notwithstanding any other  
14 provision in this agreement, the intervals in Exhibit C  
15 those are the intervals we're talking about; right?  
16 A. Right.  
17 Q. The intervals in Exhibit C may be shortened  
18 pursuant to the change management process, paren, CMP,  
19 without requiring the execution or filing of any amendment  
20 to the agreement. Do you see that?  
21 A. That's right. Right, yes, I see that.  
22 Q. And that's your understanding of Eschelon's  
23 proposal; right?  
24 A. Yes. So we still have to use the advice adoption  
25 letters to increase an interval, yes.

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1 Q. But off of the 39 or 40 interval changes that  
2 Eschelon has or that Qwest has implemented since getting  
3 271 approval, if the Commission adopted this language at  
4 1.7.2.1, all of those changes could have gone through just  
5 as they did?  
6 A. Yes. Which makes the language from Eschelon in  
7 their contract unnecessary, because the change management  
8 process is working effectively.  
9 Q. Without that language, there's no -- well,  
10 actually let me talk about lengthening intervals.  
11 A. Yes.  
12 Q. You have talked about this advice adoption  
13 process.  
14 A. Eschelon's Exhibits N and O.  
15 Q. Yes. Now, one of the things that you say in your  
16 testimony, and I'm looking at your rebuttal, Page 35, Line  
17 6 through 9.  
18 A. The public or confidential?  
19 Q. You know, I don't know that it matters. Why  
20 don't you look at the confidential.  
21 A. Oh, okay. I need a copy of No. 2 or No. 3.  
22 Which page?  
23 Q. I'm looking at Page 35 of your rebuttal beginning  
24 at Line 6. The sentence that begins there.  
25 A. Okay.

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1 Q. You say there: But in addition to requiring the  
2 party to execute time and resource consuming amendments,  
3 Eschelon wants to require Qwest to use specific forms  
4 attached as Exhibit N and O to the ICA to implement  
5 service interval changes. Do you see that?  
6 A. Yes.  
7 Q. You understand, do you not, that those Exhibits N  
8 and O are to be used in lieu of a formal amendment, not in  
9 addition; correct?  
10 A. Yes.  
11 Q. So when you say that in addition, to require the  
12 parties to execute time and resource consuming amendments,  
13 Eschelon wants to also use these other exhibits?  
14 A. This presumes that Eschelon is going to agree to  
15 the interval change.  
16 Q. And if Eschelon doesn't agree, would it be  
17 Qwest's position that it ought to be able to just go to  
18 CMP and increase the interval without -- over Eschelon's  
19 objection?  
20 A. Eschelon should object through the standard  
21 process we've established in the CMP to allow input on  
22 interval changes. This intervenes in that process.  
23 Q. The Exhibits N and O are modeled on another  
24 couple of exhibits that are actually agreed upon as part  
25 of the contract; is that right?

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1 A. That is Eschelon's position.  
2 Q. You disagree with that?  
3 A. I agree they're modelled on them. I don't  
4 believe they function in the same way.  
5 Q. I mean, the language is almost identical between  
6 Exhibits L and N and M and O; isn't that right?  
7 A. And L and M are for allowing Eschelon to take  
8 advantage of new products offered by Qwest that were not  
9 available when the original contract was agreed to. And I  
10 believe that's a different function than whether or not a  
11 service interval should change.  
12 Q. Exhibits L and M are something called advice  
13 adoption letters; is that right?  
14 A. That sounds right, yes.  
15 Q. And that's a process that Qwest uses regularly to  
16 allow CLECs to obtain new products without formally  
17 amending their contract; is that right?  
18 A. That's correct.  
19 Q. Those are documents that Qwest came up with;  
20 isn't that right?  
21 A. I don't know their origin. I don't know if they  
22 were negotiated or completely established by Qwest.  
23 Q. Would you agree with me that the mechanisms that  
24 use those advice adoption letters were developed for the  
25 purpose of streamlining the process by which CLECs could

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1 obtain new products?  
 2 A. Yes. I agree.  
 3 Q. And?  
 4 A. But I don't agree that the same can be said if  
 5 you interject an additional process into the CMP for the  
 6 management for changing intervals.  
 7 Q. What additional process are you talking about?  
 8 A. This adoption letter which we would have to have  
 9 from Eschelon in order to proceed in the CMP with an  
 10 interval change. And the presumption is we would have  
 11 to -- you would have to presume that Eschelon would agree,  
 12 and if they do not, we have a contract issue impeding the  
 13 process of the CMP to make interval changes.  
 14 MR. TOPP: Your Honor, I have Exhibits N and O to  
 15 the contract. I wonder if I could just have them marked  
 16 as an exhibit, please.  
 17 ARBITRATOR RODDA: Okay. Did you have any  
 18 premarked so -- I don't know where we were.  
 19 MR. MERZ: This would be Eschelon 1.  
 20 ARBITRATOR RODDA: Okay.  
 21 Q. (BY MR. MERZ) Ms. Albersheim, you have there  
 22 what's been marked as Eschelon Exhibit 1; correct?  
 23 A. Yes.  
 24 Q. And what Eschelon Exhibit 1 is Exhibits N and  
 25 O to the proposed interconnection agreement; correct?

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1 A. Yes.  
 2 Q. And these are the things that Qwest is objecting  
 3 to as creating an unreasonable burden; is that right?  
 4 A. It creates interference with the normal operation  
 5 of the CMP. Without this signed letter from Eschelon, the  
 6 CMP cannot proceed, because then Qwest has the issue of  
 7 dealing with being in violation of Eschelon's contract.  
 8 Q. You mentioned there were 39 times when Qwest  
 9 shortened intervals?  
 10 A. Yes.  
 11 Q. There was one time when Qwest lengthened  
 12 intervals; correct?  
 13 A. Yes.  
 14 Q. And in that one time where Qwest lengthened  
 15 intervals, no CLEC apparently objected to that; is that  
 16 right?  
 17 A. That's correct.  
 18 Q. Would you agree about with me that if Eschelon  
 19 didn't object to lengthening an interval, it would sign  
 20 Exhibit N and it would adopt that lengthened interval?  
 21 A. If Eschelon did not object. But if Eschelon  
 22 objects, then we have an additional impediment to the  
 23 normal process of the CMP.  
 24 Q. But in the case of the one interval that was  
 25 lengthened Eschelon didn't object?

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1 A. No. Nobody objected.  
 2 Q. Okay. And presumably Eschelon would have signed  
 3 Exhibit N, and that would have been the end of the story;  
 4 right?  
 5 A. Possibly. I don't know for sure that that would  
 6 have happened, but we would have had to have that step  
 7 first.  
 8 Q. And the one time, there was one time when Qwest  
 9 proposed lengthening an interval that CLECs did object to;  
 10 correct?  
 11 A. Right. And the interval was not lengthened.  
 12 Q. Would you agree with me that it is generally in  
 13 the CLECs' interest to have shorter intervals rather than  
 14 longer ones?  
 15 A. That's probably true.  
 16 Q. Are you aware of any time when any CLEC has  
 17 requested a longer interval?  
 18 A. No, I'm not.  
 19 Q. Then go back to the ALJs' report, the Minnesota  
 20 report, paragraph 22 again.  
 21 A. I'm there.  
 22 Q. And looking at the middle of that paragraph, the  
 23 Minnesota ALJs concluded that Qwest has identified no  
 24 compelling reason why inclusion of the current intervals  
 25 in the ICA would harm the effectiveness of the CMP process

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1 or impair Qwest's ability to respond to industry changes.  
 2 Do you see that?  
 3 A. Yes, I see that.  
 4 Q. And do you know whether Qwest took an exception  
 5 to that conclusion by the Minnesota ALJs?  
 6 A. I don't recall if that was in our exceptions or  
 7 not.  
 8 Q. Do you know what the Minnesota Commission did  
 9 with this issue?  
 10 A. I haven't seen the Commission written order.  
 11 I've only heard there were oral arguments, so I don't know  
 12 the final conclusion on this.  
 13 Q. I want to talk with you now about the issue of  
 14 acknowledgement of mistakes and root cause analysis.  
 15 A. Okay.  
 16 Q. Those are Issues 12-64 and its subparts. Do you  
 17 recall that?  
 18 A. Yes.  
 19 Q. Now, the issue here is contract language  
 20 regarding Qwest's obligations to investigate and  
 21 acknowledge mistakes; is that right?  
 22 A. Yes.  
 23 Q. Now, this is another issue that the Minnesota  
 24 ALJs addressed; is that right?  
 25 A. I believe so.

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<p>1 Q. And in your surrebuttal testimony at Page 20, 2 Line 1 -- 3 A. Okay. 4 Q. -- you criticized Mr. Starkey for inaccurately 5 reflecting the conclusion of the ALJs; is that right? 6 A. Yes. 7 Q. And so you have there in your testimony a quote 8 from the ALJs' conclusions; is that right? 9 A. Yes. I do. 10 Q. And that quote begins at Line 6 of Page 20 and 11 goes through Line 11; is that right? 12 A. Yes. 13 Q. And that is a quote, a partial quote from 14 Paragraph 208 of the order; is that right? 15 A. Yes. 16 Q. Would you turn to Paragraph 208. 17 A. Yes. 18 Q. Now, you begin your quote with the second 19 sentence of Paragraph 208; is that right? 20 A. Yes, I do. 21 Q. Your quote begins, "Eschelon's language," and 22 then you've got three ellipses. And then you go on to say 23 "does expand the scope from mistakes in processing 24 wholesale orders to mistakes relating to the products and 25 services provided under this agreement." Is that right?</p>	<p>1 Q. Now, focusing on the words that those three 2 ellipses stand for, is it your view that your partial 3 quote of the ALJs' report at Paragraph 208 accurately 4 reflects the sense of what the ALJs held? 5 A. I was responding to Mr. Starkey's testimony which 6 claimed that the result was completely consistent, and I 7 was pointing out that even the ALJ felt that Eschelon's 8 language expanded the original intent of the order. 9 Q. You characterize Mr. Starkey as inaccurately 10 reflecting the ALJs' decision; is that right? 11 A. I believe so on that account, too, because 12 Mr. Starkey went to the ALJs' first language, that is 13 Eschelon's language, and not his recommended language 14 which limited the scope to wholesale orders. 15 Q. Would you agree with me that one might also 16 criticize your testimony here at Line 6 through 11, 17 Page 20 of your surrebuttal as inaccurately characterizing 18 the ALJs' report? 19 A. I wasn't trying to accurately characterize the 20 entire ALJ report. I was pointing out that Mr. Starkey 21 did not acknowledge that the ALJ saw that Eschelon's 22 language went beyond the original order. That was my 23 whole intent. 24 Q. And you believe that your quotation then 25 accurately reflects the average's holding at Paragraph</p>
Page 39	Page 41
<p>1 A. Yes. 2 Q. I want to talk now about what is not in this 3 quote, what those ellipses stand for. 4 A. Uh-huh. 5 Q. The full quote says: Eschelon's language is not 6 vague or burdensome, parentheses, to acknowledge a mistake 7 Qwest has to determine that one was made and why, close 8 parentheses, and it is more consistent with the 9 Commission's order. 10 A. Yes. 11 Q. But it does expand the scope, and then it goes 12 on. 13 A. Yes. 14 Q. So the language I just read was the language that 15 you left out of your quote; is that right? 16 A. Yes. 17 Q. And the ALJs also conclude that either the 18 alternative proposed by Eschelon or one that focused 19 specifically on wholesale orders, either of those would be 20 consistent with the record in the public interest; is that 21 right? 22 A. Yes. 23 Q. And you leave that out of your quote as well; is 24 that right? 25 A. I believe I discuss that later, but --</p>	<p>1 208; is that right? 2 A. It accurately reflects that even the ALJ 3 acknowledged that Eschelon's language went beyond 4 wholesale orders. 5 Q. Okay. Now, one of your criticisms of Eschelon's 6 language is that it's based on a decision by the Minnesota 7 Public Utilities Commission in a complaint case brought by 8 Eschelon. Do you recall that? 9 A. Well, that's a bit generalizing my position a 10 bit. 11 Q. Well, maybe we'll get to it. That case I'll just 12 refer to as the 616 case. Is that the way you refer to 13 it? 14 A. I can. 15 Q. Okay. Now, one of your criticisms is that 16 Eschelon's language goes beyond what the Commission 17 intended in the 616 case; isn't that right? 18 A. Yes. 19 Q. And what you believe is that it goes beyond what 20 the Commission intended, because it goes beyond mistakes 21 that are made when relating to orders; is that right? 22 A. There's part of it yes. 23 Q. And you say at your rebuttal testimony Page 37 -- 24 A. My rebuttal? 25 Q. Yes. I think the public version will be just</p>

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1 fine. Will you look at Page 37?  
 2 A. Page 37. Okay. I'm there.  
 3 Q. And I'm looking at Lines 11 through 14.  
 4 A. Okay.  
 5 Q. You say there that Eschelon's proposed language  
 6 expands the scope of the Minnesota Commission's orders to  
 7 include mistakes in all circumstances, not just the  
 8 processing of wholesale orders and to require root cause  
 9 analyses in all circumstances; is that right?  
 10 A. Yes, that's what it says.  
 11 Q. You are aware, are you not, that the Minnesota  
 12 Commission documented Eschelon's position with respect to  
 13 these issues?  
 14 A. Well, again, we don't have a written order, so it  
 15 is not clear to me whether our acceptance of the ALJs'  
 16 alternative language was considered or not. I don't know.  
 17 Q. And I think that you answered my question, but I  
 18 just want to make sure. Are you aware of that the  
 19 Minnesota Commission has adopted Eschelon's proposed  
 20 language on this issue?  
 21 A. I'm not clear on that because we don't have a  
 22 written order.  
 23 Q. Do you know whether the Minnesota Commission has  
 24 defined the phrase "processing wholesale orders" to  
 25 include preorder, ordering, provisioning, maintenance or

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1 repair, and billing?  
 2 A. That I don't know.  
 3 Q. Now, you refer in your testimony in a number of  
 4 places to the 616 case as a settlement. Do you recall  
 5 that?  
 6 A. Well, ultimately it was essentially settled based  
 7 on compliance filings.  
 8 Q. So you refer to it as a settlement; is that  
 9 right?  
 10 A. Yes.  
 11 Q. You understand that -- well, let me ask you this:  
 12 The compliance filings were filings that Qwest made to  
 13 comply with the Commission's order that Qwest change  
 14 certain processes and procedures relating to root cause  
 15 analysis and acknowledgement of mistakes?  
 16 A. Right. Which Qwest did do.  
 17 Q. And it actually made three separate compliance  
 18 filings; isn't that right?  
 19 A. I think it's right, yes.  
 20 Q. The reason it did that is the first two were  
 21 rejected by the Minnesota Commission as inadequate;  
 22 correct?  
 23 A. Yes.  
 24 ARBITRATOR RODDA: I'm sorry, can you remind me  
 25 what the 616 case is?

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1 MR. MERZ: That was a complaint case actually  
 2 brought by Eschelon relating to a mistake that Qwest had  
 3 made in the handling of an order.  
 4 ARBITRATOR RODDA: Thank you.  
 5 Q. (BY MR. MERZ) now, you say in your surrebuttal  
 6 testimony well let me ask you this. You talk about the  
 7 616 case as a case involving a settlement; right?  
 8 A. Yes. The Commission accepted the compliance  
 9 filing as a settlement of the case. It closed the case.  
 10 Q. Well, are you saying that it was a settlement  
 11 because Qwest agreed to comply with what the Commission  
 12 ordered? Is that what made it a settlement?  
 13 A. Well, I think we're using a term of art that  
 14 could be interpreted in a different way. The point was  
 15 that the case was closed because of the Commission's  
 16 acceptance of Qwest's third compliance filing.  
 17 Q. Well, you're a lawyer; correct, ma'am?  
 18 A. Yes, I am a lawyer.  
 19 Q. And you know what a settlement is; correct?  
 20 A. Yes.  
 21 Q. Okay. In what sense did the Commission's orders  
 22 in the Minnesota 616 case reflect a settlement? How, in  
 23 what way was that a settlement?  
 24 A. The Commission was satisfied based on the  
 25 compliance filing that the situation was resolved and

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1 there were not going to be further issues of this kind.  
 2 Now, this wouldn't be like a settlement between  
 3 the parties, which is normally how you would use this  
 4 term, say, between Qwest and Eschelon. It was Qwest  
 5 settling with the Commission.  
 6 Q. Well, you know, that's a good point. Go to your  
 7 rebuttal testimony at Page 37, Lines 15 through 17.  
 8 A. Rebuttal, Page 37.  
 9 Line?  
 10 Q. 15 through 17. Yes.  
 11 The question there is: Are there other ways in  
 12 which Eschelon attempts to expand the settlement terms  
 13 beyond what was agreed to by the parties in the Minnesota  
 14 case?  
 15 A. Yes.  
 16 Q. And what I understood you to just tell me was  
 17 that this was not a settlement between the parties;  
 18 correct?  
 19 A. Well, actually, it was, if you think about it,  
 20 because not only did the Commission accept the compliance  
 21 filing, but Eschelon did not object. It agreed to the  
 22 compliance filing as resolving the case. This did not  
 23 continue. So it really was.  
 24 Q. If you go to Page 18 of your surrebuttal.  
 25 A. Page 18, surrebuttal. Okay.

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1 Q. You say there, Page 18, Lines 20 through 21. You  
2 say: This process is not one that requires Qwest to alter  
3 its procedures overall, nor does it apply to all CLECs.  
4 Do you see that?  
5 A. Yes.  
6 Q. Now, this process is the process that Qwest was  
7 ordered to implement by the Minnesota Commission in the  
8 616 case. That's the process that you're talked about  
9 there; correct?  
10 A. I'm talking about the requirement of a letter to  
11 Eschelon's customer if Qwest makes a mistake, yes.  
12 Q. And I think you answered a question that's  
13 different than the one I asked. When you talk about this  
14 process, you are referring, are you not, to the process  
15 that the Minnesota Commission ordered Qwest to put in  
16 place as a result of the 616 case?  
17 A. Well, actually there were several different  
18 things that were done as a result of the Commission order.  
19 Several processes and procedures that were undertaken by  
20 Qwest. Here I'm speaking of Eschelon's defining of the  
21 process for preparing a letter for its customers, so that  
22 it's a little bit different.  
23 Q. So you're talking about the process by which  
24 Qwest would prepare a later that acknowledged its  
25 mistakes?

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1 A. And this is defined in Eschelon's proposed  
2 language for the contract. So I'm not talking about all  
3 of the processes and procedures that Qwest undertook in  
4 response to the Commission order. Those were different.  
5 Q. But the process for acknowledging Qwest's  
6 mistakes is the one that you're referring to in the  
7 language that we just looked at; correct?  
8 A. I'm referring to Eschelon's proposed language.  
9 Q. Well, you say this process is not one that  
10 requires Qwest to alter its procedures overall, nor does  
11 it apply to all CLECs. Do you see that?  
12 A. Right.  
13 Q. I'm just trying to understand what do you mean by  
14 the phrase, this process?  
15 A. The requirement that we must provide a letter to  
16 Eschelon's customer if we make a mistake and acknowledge  
17 that we made the mistake.  
18 Q. All right.  
19 A. That.  
20 Q. So that's the process that you're talking about?  
21 A. Yes.  
22 Q. What is the basis, then, for the statement that  
23 we just read? This process is not one that requires Qwest  
24 to alter its procedures overall, nor does it apply to all  
25 CLECs?

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1 A. Because this order was specific to Eschelon and  
2 it impacts Eschelon's service manager, as I said in my  
3 testimony above. It's what you would call a one-off, but  
4 it was not required of us for all CLECs. It was only  
5 required in Eschelon.  
6 Q. Did it you look at Qwest's compliance filing  
7 either before or after you made that statement that we've  
8 been talking about in your testimony?  
9 A. Which compliance filing?  
10 Q. The compliance filing that Qwest made in order to  
11 comply with the Commission's order in the Minnesota 616  
12 case.  
13 A. I haven't looked at it in awhile, no. I have  
14 looked at it before.  
15 MR. MERZ: Your Honor, I would I want the mark  
16 the compliance filing as an exhibit. So this would be  
17 Eschelon 2.  
18 Before I get to Eschelon 2, I think I forgot to  
19 offer Eschelon 1, so I will do that at this time.  
20 MR. TOPP: No objection.  
21 ARBITRATOR RODDA: Then Eschelon-1 is admitted.  
22 (Exhibit No. Eschelon-1 was admitted into  
23 evidence.)  
24 Q. (BY MR. MERZ) You have now what has been marked  
25 as Eschelon Exhibit 2; correct?

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1 A. Yes.  
2 Q. And you recognize Eschelon Exhibit No. 2 as at  
3 least one of Qwest's compliance filings in the Minnesota  
4 616 case; correct?  
5 A. Yes.  
6 MR. MERZ: Your Honor, Eschelon offers Eschelon  
7 Exhibit No. 2.  
8 ARBITRATOR RODDA: Any objection to Eschelon 2?  
9 MR. TOPP: No objection.  
10 ARBITRATOR RODDA: All right. Then Eschelon 2 is  
11 admitted.  
12 Q. (BY MR. MERZ) I would like you to refer now to  
13 Page 3 of the compliance filing, Eschelon Exhibit No. 2.  
14 A. Yes.  
15 Q. Page 3, and I'm looking at the heading:  
16 Procedures for extending the error acknowledgement  
17 procedures set forth in Part E to all Qwest errors in  
18 processing wholesale orders.  
19 Do you see that?  
20 A. Yes.  
21 Q. And underneath there Qwest describes the error  
22 acknowledgement process that it's going to implement in  
23 order to comply with the Minnesota Commission's order;  
24 correct?  
25 A. Right.



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1 Q. And this process that's described here is the  
2 process by which Qwest is going to prepare a letter to  
3 acknowledge its mistakes.  
4 A. And actually, I believe Qwest has documented that  
5 process in the service manager's PCAT.  
6 Q. The process that's described in the Minnesota  
7 compliance filing that you have here is not a process  
8 that's limited to Eschelon?  
9 A. No. You're correct. And as I said, that is  
10 documented in the service manager's PCAT.  
11 Q. And it's not a process -- it is a process that  
12 requires Qwest to alter its procedures overall?  
13 A. That's already been done.  
14 Q. It has been done?  
15 A. That's already been done.  
16 Q. And this is what did it?  
17 A. Right.  
18 Q. This compliance filing is what altered Qwest's  
19 procedures overall relating to the acknowledgement of  
20 mistakes?  
21 A. Yes. And as I said, that was all done as a part  
22 of the compliance with the Minnesota order, yes. We  
23 changed quite a number of procedures.  
24 Q. Just to focus, though, the discussion that we're  
25 talking about on Page 3 under the heading F that we read,

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1 is the process by which Qwest is going to provide  
2 acknowledgement of error letters?  
3 A. And I think our confusion here that's -- yes.  
4 And I think our confusion here is that we're talking, I  
5 talked in my testimony about language in Eschelon's  
6 contract which Eschelon is requiring in its contract for  
7 itself.  
8 Q. Well, and I understood when we were talking about  
9 Page 18, Lines 20 through 21 of your surrebuttal testimony  
10 that the process that you were referring to is the process  
11 by which Qwest acknowledges its errors. Isn't that what  
12 you just told me?  
13 A. This is -- again, I was referring to the language  
14 proposed by Eschelon for inclusion in its contract.  
15 Q. And so your criticism is that Eschelon's language  
16 for its contract relates only to Eschelon? Is that what  
17 you're saying here in your testimony?  
18 A. Well, that is part of it. Again, what we're --  
19 what Eschelon is asking us to do is set in stone, if you  
20 will, in its contract, procedures we already have in our  
21 service manager PCATs, in our maintenance and repair  
22 PCATS, for dealing with mistakes, but asks for more than  
23 we already do, which we established in response to the  
24 Minnesota 616 case.  
25 Q. And I guess what I'm struggling with is, again,

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1 the sentence: This process is not one that requires Qwest  
2 to alter its procedures overall, nor does it apply to all  
3 CLECs.  
4 In what sense is that sentence accurate?  
5 A. It doesn't apply to all CLECs, because what  
6 Eschelon is proposing applies to Eschelon in its contract  
7 and then anybody who opts in, but not all other CLECs.  
8 Q. Well, aren't you talking about the Minnesota 616  
9 order when you're talking about this process?  
10 A. No. I'm talking about Eschelon's proposed  
11 language.  
12 Q. Well, I'm looking at two sentences before that  
13 beginning at Line 16. You say the settlement was between  
14 Qwest and Eschelon. So we're talking about the Minnesota  
15 616 case; right?  
16 A. Uh-huh.  
17 Q. Right?  
18 A. Yes. And it concerned one error in one order in  
19 one state.  
20 Q. And then you say -- and so all of that discussion  
21 is about the Minnesota 616 case?  
22 A. Uh-huh.  
23 Q. Yes?  
24 A. Yes.  
25 Q. And what Qwest had to do in order to comply with

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1 the Commission's order in the Minnesota 616 case?  
2 A. In terms of the settlement, yes.  
3 Q. Okay. And then the sentence that starts, "This  
4 process," you're no longer talking about the Minnesota 616  
5 case. You're talking about Eschelon's contract proposal.  
6 Is that your testimony?  
7 A. You're actually skipping a sentence here.  
8 Eschelon is the only CLEC to request this process, and it  
9 should have been expanded via contract language. And the  
10 account manager at Eschelon is charged with responding to  
11 a request from Eschelon to acknowledge a mistake. So  
12 Eschelon is taking the process we established, putting its  
13 language in its contract. That's my point. It could have  
14 been better phrased, certainly.  
15 Q. I mean, it seems to me that the way to better  
16 phrase it is to say this process is one that requires  
17 Qwest to alter its procedures overall and does apply to  
18 all CLECs. Would that be a better phrasing?  
19 A. No. I would not agree with that, because we  
20 already did. In response to the 616 case, we already did.  
21 Q. I'm going to talk with you now about expedites.  
22 So we'll change gears here.  
23 This is issue 12-67 and its subparts; is that  
24 right?  
25 A. That sounds right.

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1 Q. Expedites are when Qwest provides Eschelon with  
2 service more quickly than would otherwise be the case; is  
3 that right?  
4 A. Not just Eschelon, but any provider.  
5 Q. Okay. Now, one of the issues relating to --  
6 there are a lot of issues related to expedites; right?  
7 A. Yes.  
8 Q. One of the issues is whether Qwest is required to  
9 provide expedites at cost-based rates as Eschelon  
10 proposes, or a tariffed rate which is what Qwest has  
11 proposed; is that right?  
12 A. That's one of the issues.  
13 Q. And the reason why Qwest believes that it's not  
14 required to provide expedites at TELRIC rates is because  
15 Qwest believes that expedites are a superior service; is  
16 that right?  
17 A. Yes.  
18 Q. Now, in your rebuttal at Page 49, Lines 10  
19 through 12 --  
20 ARBITRATOR RODDA: I'm sorry. I missed the page  
21 number.  
22 MR. MERZ: It's rebuttal Page 49, Lines 10  
23 through 12.  
24 THE WITNESS: I'm there.  
25 Q. (BY MR. MERZ) You say there that providing a

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1 service in a shorter time frame than that set forth in a  
2 standard interval is a premium service. Do you see that?  
3 A. Yes.  
4 Q. Are you using premium there as synonymous with  
5 superior?  
6 A. Yes.  
7 Q. And so as I understand it, that's the basis for  
8 your claim that this is a superior service, that Eschelon  
9 is asking to be provided with service more quickly than  
10 the standard interval?  
11 A. That's part of it. There are two reasons we  
12 believe that this is a superior service. First of all,  
13 Qwest is measured on its performance based on standard  
14 intervals, and the standard intervals are whether or not  
15 Qwest provides service that allows a CLEC a meaningful  
16 opportunity to compete. And so when we're asked to  
17 provide the service faster than the standard interval,  
18 that is superior.  
19 Also, in some of our situations our standard  
20 intervals for retail customers are actually longer than  
21 the standard intervals for our wholesale customers. And I  
22 believe there it was an example that was in my testimony.  
23 Q. Okay. And that arises because a state commission  
24 has ordered that that interval be established in the way  
25 it is; correct?

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1 A. Either it was ordered or agreed to.  
2 ARBITRATOR RODDA: And when you say that, you  
3 meant the retail?  
4 THE WITNESS: Not wholesale.  
5 MR. MERZ: There's a discrepancy between the  
6 retail interval and the wholesale interval.  
7 ARBITRATOR RODDA: Right. I understood that  
8 part. And then you said and that interval, or I can't  
9 remember the words she used, and I didn't know which one  
10 you were referring to.  
11 MR. MERZ: The wholesale interval.  
12 Q. (BY MR. MERZ) Some commission has said to Qwest  
13 the wholesale interval needs to be shorter in order to  
14 give Eschelon a meaningful opportunity to compete. Is  
15 that your understanding?  
16 A. I don't know if all of them were ordered or if  
17 some of them were agreed to.  
18 Q. You would agree with me that whether a service is  
19 a superior is determined based on whether the ILEC  
20 provides that service to itself; is that right?  
21 A. I'm not sure I would phrase it quite that way.  
22 One of the measures is whether Qwest provides service to  
23 its CLEC customers in the manner, equivalent manner that  
24 it provides service to itself. Is that what you're  
25 saying?

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1 Q. Well, I'm not sure. The Eighth Circuit talked  
2 about superior service; is that right?  
3 A. I believe they did, yes.  
4 Q. And you talk about the Eighth Circuit's order, in  
5 fact, in your testimony?  
6 A. Yes.  
7 Q. And what the Eighth Circuit said is ILECs are not  
8 required to provide superior service.  
9 A. Correct.  
10 Q. What the Eighth Circuit said is ILECs are not  
11 required to provide service that is superior to the  
12 service they provide themselves?  
13 A. Yes.  
14 Q. And so the way you decide whether or not a  
15 service is superior is you have to figure out is that a  
16 service that the ILEC provides to itself. Fair enough?  
17 A. That is part of it, yes.  
18 Q. Well, that's the Eighth Circuit's definition of  
19 superior. Is that your understanding?  
20 A. Yeah, but I don't believe they were talking about  
21 intervals completely there. I think that that was whether  
22 or not we were required to provide services beyond  
23 services we already provide to ourselves. And part of my  
24 argument is that if we're being asked to provide service  
25 at an interval shorter than we even provide to our retail

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1 customers, that is superior.  
 2 Q. Go to your surrebuttal testimony, Page 20.  
 3 A. 20.  
 4 Q. And I'm looking at Line 19 right at the end of  
 5 that line where you say expedites are not UNEs. Do you  
 6 see that?  
 7 A. Line -- we're on Page 20?  
 8 Q. Page 20, Line 19 of your surrebuttal testimony.  
 9 A. Oh, yes, I see that.  
 10 Q. Expedites are not UNEs. Then you go on to say:  
 11 The United States Court of Appeals for the Eighth Circuit  
 12 made it clear that the Telecommunications Act does not  
 13 require ILECs to provide services superior in quality to  
 14 that which it provides itself?  
 15 A. Correct.  
 16 Q. Then you have a footnote and you cite the Iowa  
 17 Utilities Board decision of the Eighth Circuit; right?  
 18 A. Yes.  
 19 Q. Now, you would agree with me that Qwest provides  
 20 itself with expedites; correct?  
 21 A. Yes.  
 22 Q. It provides them to its customers; correct?  
 23 A. Yes.  
 24 Q. And it does that as a regular part of its  
 25 business; correct?

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1 A. When it is feasible, yes.  
 2 Q. You also testified in Eschelon's Arizona  
 3 expedites complaint case; correct?  
 4 A. Yes.  
 5 Q. And one of the issues in that case that the  
 6 Arizona Staff addressed was whether or not expedites are  
 7 required to be provided on a cost-based rates; correct?  
 8 A. That's one of the issues in the case.  
 9 Q. And you recall that this was the conclusion of  
 10 the Arizona Staff, that yes, in fact, Qwest is required to  
 11 provide expedites at cost-based rates?  
 12 A. There's one of their conclusions yes. The case  
 13 is still pending.  
 14 Q. Shifting gears now to jeopardies, and jeopardies  
 15 is Issues 12-71, 12-72 and 12-73; is that right?  
 16 A. Yes.  
 17 ARBITRATOR RODDA: This might be a good time for  
 18 a break.  
 19 MR. MERZ: Sure.  
 20 ARBITRATOR RODDA: Let's take 10 minutes.  
 21 (A recess was taken from 11:25 a.m. to  
 22 11:35 a.m.)  
 23 ARBITRATOR RODDA: Okay. Let's go back on the  
 24 record. And I forget what topic you were on.  
 25 MR. MERZ: We were going to start with

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1 jeopardies, which is Issues 12-71, 72 and 73.  
 2 Q. (BY MR. MERZ) And just to kind of get on the  
 3 same page with some terminology, Qwest gives a jeopardy  
 4 notice when a due date for an order is in danger of being  
 5 missed; is that right?  
 6 A. That's correct.  
 7 Q. The due date is the date that the CLEC is  
 8 supposed to expect delivery of the circuit; correct?  
 9 A. Correct.  
 10 Q. A jeopardy that is caused by Qwest is a Qwest  
 11 jeopardy; right?  
 12 A. Yes.  
 13 Q. And one kind of Qwest jeopardy might be a Qwest  
 14 facilities jeopardy; correct?  
 15 A. Yes.  
 16 Q. A Qwest facilities jeopardy is when there aren't  
 17 facilities sufficient there to provide the service that  
 18 the CLEC has ordered on the date that it's to be  
 19 delivered; is that correct?  
 20 A. Correct. There may not be -- the jeopardy isn't  
 21 a certainty from a miss. It is a warning that a miss is  
 22 possible.  
 23 Q. A jeopardy that is caused by a CLEC or the CLEC's  
 24 customers is classified as a customer-not-ready jeopardy;  
 25 is that right?

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1 A. Yes. On the due date for the order, if the CLEC  
 2 is not able to receive the circuit, that is considered a  
 3 customer-not-ready jeopardy.  
 4 Q. And a customer-not-ready jeopardy is sometimes  
 5 referred to as a CNR jeopardy; is that right?  
 6 A. Yes.  
 7 Q. Now, if the jeopardy is a CNR jeopardy, the CLEC  
 8 has to implement its order and request a new due date?  
 9 A. That's the normal procedure.  
 10 Q. And for a loop order, the earliest new due date  
 11 that the CLEC can get is three days from the date that the  
 12 supplemental order is placed; is that right?  
 13 A. As a result of the supplement, yes.  
 14 Q. And what that all means is that the CLEC is going  
 15 to be delayed in its ability to provide service to the  
 16 customer; is that right?  
 17 A. That is the potential. But Qwest still attempts  
 18 to deliver the service on the original due date, even in  
 19 the case of an order put in jeopardy.  
 20 Q. And with respect to the jeopardies issue, you  
 21 again are making your set-in-stone argument; correct?  
 22 A. That is part of it, but also we are objecting to  
 23 Eschelon's language because it does not reflect our  
 24 current jeopardy process.  
 25 Q. You're also making the one-off argument then;

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1 correct?

2 A. That is the potential. We either have to -- if

3 the language is adopted, we either have to handle

4 jeopardies for Eschelon differently, or potentially change

5 our jeopardy process for everybody.

6 Q. Qwest's proposal for these provisions that are

7 covered by issues 12-71, 72 and 73 is just to refer to

8 Qwest's website; is that right?

9 A. To our PCAT where the procedures are laid out,

10 yes.

11 Q. But Qwest's view is that the contract itself

12 shouldn't contain any substantive provisions; is that

13 right?

14 A. It should not contain the jeopardy procedures,

15 no.

16 Q. Now, look at your direct testimony, Page 73.

17 A. I'm going to need a copy of my direct. That

18 would be No. 1. Which page?

19 Q. Page 73.

20 A. I'm there.

21 Q. At Page 73 you set out there the language that

22 Eschelon has proposed for this provision with one

23 adjustment; is that right?

24 A. With one adjustment being that -- what do you

25 mean with one adjustment?

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1 Q. Well, what I was going to say is with respect to

2 12.2.7.2.4.4.1, where it says for these two types of

3 jeopardies, Qwest will not characterize a jeopardy as a

4 CNR or send -- I've got to get closer -- for these two

5 types of jeopardies. Qwest will not characterize the

6 jeopardies as CNR or send a CNR jeopardy to CLEC if a

7 Qwest jeopardy exists, Qwest attempts to deliver the

8 service, and Qwest has not sent an FOC to the CLEC at

9 least a day -- oh, here, I'm -- I have got to start over.

10 I apologize.

11 Let's pick up where it says Qwest will not

12 characterize a jeopardy as a CNR or send a CNR jeopardy to

13 CLEC if a Qwest jeopardy exists, Qwest attempts to deliver

14 the service, Qwest has not sent an FOC notice to CLEC

15 after the jeopardy occurs, but at least a day before Qwest

16 attempts to deliver the service.

17 A. Yes. And that should be in there now. I know

18 that there were some exchanges of language at this time

19 that the testimony was being prepared, and I did not have

20 the "at least the day before" language at that time.

21 Q. And I'm not necessarily faulting you for not

22 having that in your testimony. The point I just wanted to

23 make is you understand that "at least a day" is Eschelon's

24 proposal?

25 A. That's right. And that is not our current

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1 process.

2 Q. Let's look at the section that comes right before

3 that 12.2.7.2.4.4; is that right?

4 A. Yes.

5 Q. Eschelon's proposal there is a jeopardy caused by

6 Qwest will be classified as a Qwest jeopardy, and a

7 jeopardy caused by CLEC will be classified as customer not

8 ready, paren, CNR, close parens. Is that right?

9 A. Yes.

10 Q. That's Qwest's process; correct?

11 A. I believe that is.

12 Q. And can you imagine any circumstances under which

13 a CLEC might want something different than that?

14 A. No.

15 Q. Then go to -- let's skip the middle section

16 because we'll talk about that separately. But section

17 12.2.7.2.4.4.2. Do you have that?

18 A. Yes.

19 Q. Eschelon's proposal there is if CLEC establishes

20 to Qwest that a jeopardy was not caused by CLEC, Qwest

21 will correct the erroneous CNR classification and treat

22 the jeopardy as a Qwest jeopardy. Do you see that?

23 A. Yes.

24 Q. That's Qwest's process as well; correct?

25 A. Yes.

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1 Q. And can you imagine a circumstance under which a

2 CLEC might not want to have that?

3 A. No. And that is defined in our PCAT where our

4 jeopardy procedures are outlined.

5 Q. Let's go to your surrebuttal now at Page 28.

6 Okay?

7 A. Okay.

8 Q. There you set out a hypothetical series of facts;

9 correct?

10 A. A sequence of events.

11 Q. First, second, third, fourth, fifth, sixth;

12 correct?

13 A. Yes.

14 Q. Now I'm going to -- actually, before I get to

15 that, let's talk about the Section 12.2.7.2.4.4.1. As I

16 understand it, the triggering circumstances for the

17 language that Eschelon's proposed for that section are

18 there's a Qwest jeopardy, Qwest attempts to deliver

19 service, Qwest hasn't sent an FOC after the jeopardy

20 occurs, but at least a day before Qwest attempts to

21 deliver service. Those are the triggering events for

22 Eschelon's proposed language; correct?

23 A. I believe that's correct.

24 Q. Okay. Now, with that in mind, what I want to do

25 is change your hypothetical series of events just a little

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1 bit. So imagine a series of events where first Qwest --  
 2 first, Eschelon places an order for service; second, Qwest  
 3 sent an FOC indicating the due date for the order; third,  
 4 Qwest sends a jeopardy notice indicating a Qwest jeopardy  
 5 lack of facilities; fourth, Qwest clears the jeopardy and  
 6 tries to deliver the circuit but doesn't send an FOC;  
 7 fifth, Eschelon's not ready and can't accept delivery of  
 8 the circuit.  
 9 Would you agree that under those circumstances  
 10 that should not be treated as a CNR jeopardy?  
 11 A. Okay. I'm going to -- I'm presuming I have  
 12 remembered all of your steps here. I don't believe that  
 13 is completely true. The FOC is the formal system notice  
 14 that you get with a new due date after a jeopardy. The  
 15 original due date is still what everyone shoots for, and  
 16 Qwest technicians are in contact with Eschelon's  
 17 technicians at this time.  
 18 So if it is possible to deliver the service on  
 19 the original due date, which is what all of the parties  
 20 want, that is what should be accomplished whether or not  
 21 the FOC has been sent.  
 22 Q. Isn't it true that there are certain kinds of --  
 23 let me ask it this way. There are a number of different  
 24 types of jeopardies; correct?  
 25 A. Yes.

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1 Q. And those types are different causes for the  
 2 jeopardy; right?  
 3 A. Yes.  
 4 Q. And there are certain kinds of jeopardies that  
 5 Qwest has told CLECs if you get this kind of jeopardy  
 6 notice, don't expect us to be there on the due date  
 7 because we're not likely to do it?  
 8 A. Our jeopardies never say that you cannot expect  
 9 the service. They say that the due date is in jeopardy,  
 10 but they don't say absolutely that the service will not be  
 11 delivered the original due date.  
 12 Q. All right. And I'm asking a different question.  
 13 A. Okay.  
 14 Q. Isn't it the case that Qwest has told Eschelon  
 15 and other CLECs if you get certain kind of jeopardies, you  
 16 shouldn't expect that the circuit will be delivered on the  
 17 due date?  
 18 A. I don't believe that's how we have explained the  
 19 jeopardies, that you shouldn't expect. We always attempt  
 20 to deliver on the original due date whenever possible.  
 21 Sometimes jeopardies will prevent that.  
 22 Q. So if Eschelon gets a Qwest facilities jeopardy,  
 23 isn't it the case that what that jeopardy is telling  
 24 Eschelon is that don't expect us to be there for the due  
 25 date, don't schedule, don't plan to accept the circuit

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1 because we're likely miss that due date?  
 2 A. I wouldn't phrase it that way. I would say that  
 3 there is a potential for us to miss the due date. That's  
 4 what the purpose of jeopardies is. It isn't absolutely  
 5 we're not going to be there, no.  
 6 Q. So is the case that if Eschelon receives a Qwest  
 7 facilities jeopardy, it should expect Qwest to deliver the  
 8 circuit on that due date?  
 9 A. It should expect Qwest to try, yes.  
 10 Q. And so Eschelon --  
 11 A. But it has to understand that the potential is  
 12 there that the due date will be missed. That's the point  
 13 of jeopardies.  
 14 Q. But Eschelon should have personnel standing by  
 15 and available. It should complete everything it needs to  
 16 complete in order to accept the circuit, even though it  
 17 has received a Qwest facilities jeopardy?  
 18 A. I believe it should complete everything it needs  
 19 to complete by the due date. I don't know that its  
 20 personnel has to be standing by. That would depend on  
 21 what's been communicated from Qwest technicians. I do  
 22 believe that they should be ready to accept the circuit on  
 23 the original due date in case Qwest is able to provide the  
 24 circuit on the original due date.  
 25 Q. Well, you should assume that what's been

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1 communicated by the Qwest technicians is a Qwest facility  
 2 jeopardy.  
 3 A. And the Qwest technicians are trying to resolve  
 4 that jeopardy as quickly as possible. Yes.  
 5 Q. And so if Eschelon receives a Qwest facilities  
 6 jeopardy, does it need to have personnel standing by to  
 7 accept the circuit on the due date?  
 8 A. By personnel standing by, if you mean there at  
 9 the circuit, not necessarily. But the potential is still  
 10 there that Eschelon could receive the circuit on the  
 11 original due date, because that is what Qwest's goal is  
 12 all along. We have not said we won't provide it. We've  
 13 said it may not be provided.  
 14 Q. Well, I guess I'm trying to quantify, if it's  
 15 possible, what the level of likelihood is that a circuit  
 16 is going to be provided on the due date when a Qwest  
 17 facilities jeopardy has been provided.  
 18 A. Well, all right. Let's look at the data that was  
 19 in your exhibit BJJ-23. That was 100 orders with Qwest  
 20 facility jeopardies. 76 percent of those orders were  
 21 delivered on the original due date and accepted by  
 22 Eschelon on the original due date.  
 23 Q. And then on your hypothetical series of events,  
 24 just to make sure that I understand what you're talking  
 25 about here, you have a number of steps. And the fifth

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1 step is Qwest is supposed to send an FOC with a new due  
2 date?  
3 A. Yes.  
4 Q. Does that assume this Qwest has sent the FOC with  
5 a new due date or that it hasn't?  
6 A. Qwest is supposed to.  
7 Q. And let's assume that it doesn't.  
8 A. The formality is that Qwest is supposed to, but  
9 the technicians are in touch with each other. If it's  
10 possible to get the circuit in place on the service date,  
11 that is what should happen. It should not be dependent on  
12 whether or not that system notice has been sent.  
13 Q. The contract requires the FOC; correct?  
14 A. The PCAT requires the FOC. Your contract  
15 proposal requires the FOC.  
16 Q. And Qwest's current process is to provide the  
17 FOC?  
18 A. That is the process.  
19 Q. And that FOC is to be provided in advance of the  
20 due date; correct?  
21 A. In advance of delivery of the circuit.  
22 Q. Not in advance of the due date?  
23 A. Not in advance of the due date.  
24 Q. Is there any amount of time in advance of  
25 delivery of the circuit that you think is reasonable for

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1 Eschelon to expect?  
2 A. We have not set a specific time. I don't want to  
3 speculate on what that time should be.  
4 Q. The purpose of the FOC is to give the CLEC  
5 advanced notice; correct?  
6 A. The purpose of the FOC is a formal system notice.  
7 The CLEC also gets notice via communication with the Qwest  
8 technician who's installing the circuit.  
9 Q. The formal notice that Eschelon is supposed to  
10 rely on is the FOC; correct?  
11 A. It is the formal notice. I don't think it should  
12 be the only thing that Eschelon relies on, because there  
13 is communication between the technicians going on at the  
14 same time.  
15 Q. Do you know who within Eschelon receives the FOC?  
16 A. No, I don't.  
17 Q. You say that Eschelon's proposed language would  
18 prevent Qwest from -- I'm sorry -- that Eschelon's  
19 proposed language forces extra time into the process; is  
20 that right?  
21 A. If we adhere to the provision requiring an FOC at  
22 least a day before it can do that, yes.  
23 Q. Now, isn't it the case that Eschelon's language  
24 would provide that even when Qwest hasn't provided an FOC  
25 at least a day before delivery, that it will still use its

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1 best effort to accept the service when Qwest attempts to  
2 deliver?  
3 A. That's what the language says.  
4 Q. And you would agree with me that that language  
5 does not force additional time into the process; correct?  
6 A. That part of the language, no.  
7 Q. And you would agree with me that Eschelon's  
8 language doesn't say that if Qwest doesn't provide the  
9 FOC, what it should do is delay delivery in order to  
10 provide the FOC before delivery. That's not what Eschelon  
11 has proposed, is it?  
12 A. No. What it does do, though, is eliminate the  
13 categorization of a subsequent jeopardy on the basis of a  
14 customer not ready.  
15 Q. And Eschelon's language also provides that if  
16 necessary the parties will attempt to set a new  
17 appointment time on the same day; correct?  
18 A. Eschelon -- I think it says that. Yes, it does  
19 say that.  
20 Q. Again, that language would not force additional  
21 time into the process?  
22 A. No. That's not what your language does. That  
23 language simply says they will still try and meet the due  
24 date.  
25 Q. So what you're saying is Qwest always tries to

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1 make the due date if it can?  
2 A. It does.  
3 Q. And Eschelon's language is saying the parties  
4 should try to make the due date if they can; correct?  
5 A. It does.  
6 Q. And it also describes what will happen if that  
7 doesn't happen, notwithstanding the parties' best efforts,  
8 and Eschelon hasn't received the advanced notice that's  
9 provided by an FOC?  
10 A. And that's where we have a problem with the  
11 language. Because it is basing the requirement on an FOC,  
12 which isn't the only means of communications between the  
13 parties. And so it takes away one of the options for  
14 clarification of jeopardies as a result, when really FOCs  
15 and classification of jeopardies are not related topics.  
16 Q. Why have the FOCs if you can just rely on the  
17 technicians to be talking to one another and work this all  
18 out among themselves?  
19 A. I believe it's a recordkeeping device.  
20 Q. It doesn't serve any notice function?  
21 A. Well, that depends on how it's used.  
22 Q. Are you saying it shouldn't serve a notice  
23 function?  
24 A. I don't believe it should be the sole notice  
25 function, because it isn't. The technicians are calling

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1 each other.  
 2 Q. Let's talk a little bit about control  
 3 production --  
 4 A. Okay.  
 5 Q. -- which is issue 12-87. What control production  
 6 is is the testing of electronic interfaces that Eschelon  
 7 uses to order products and services from Qwest by placing  
 8 actual orders; is that right?  
 9 A. In parallel with Qwest's monitoring of those  
 10 orders, yes.  
 11 Q. You would agree with me that Eschelon has a  
 12 strong interest in having the electronic interfaces that  
 13 it uses to place orders work correctly?  
 14 A. Yes. As does Qwest.  
 15 Q. You would agree with me that Eschelon's proposed  
 16 language provides that control production is not required  
 17 for recertification unless the parties agree otherwise;  
 18 correct?  
 19 A. Correct.  
 20 Q. Recertification involves updating existing  
 21 systems; is that right?  
 22 A. Recertification involves a circumstance in  
 23 testing where the CLEC has already certified given product  
 24 and activity types, and they're moving to a new release  
 25 where Qwest has determined that control production testing

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1 is not required?  
 2 Q. Eschelon's proposed language defines  
 3 recertification as not including new implementations such  
 4 as new products and/or activity types; correct?  
 5 A. That's right.  
 6 Q. Now, Eschelon is not saying that it shouldn't  
 7 participate in recertification testing, is it?  
 8 A. No.  
 9 Q. There's a separate section of the contract that  
 10 specifically governs recertification testing; right?  
 11 A. Well, recertification is -- I think we're mixing  
 12 pieces of this language. Because recertification is a  
 13 type of testing, whereas control production is a phase of  
 14 testing. So it's confusing.  
 15 Q. Fair enough. Recertification is a type of  
 16 testing?  
 17 A. Yes.  
 18 Q. And the parties have agreed on language regarding  
 19 Eschelon's participation in recertification testing;  
 20 correct?  
 21 A. Yes.  
 22 Q. And what that language provides is that new  
 23 releases of the EDI interface may require recertification;  
 24 correct?  
 25 A. Yes.

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1 MR. MERZ: I don't have anything further.  
 2 ARBITRATOR RODDA: Okay. Let's go back to the  
 3 topic right before this which was -- I don't know.  
 4 THE WITNESS: Jeopardies.  
 5 ARBITRATOR RODDA: Jeopardies.  
 6  
 7 EXAMINATION  
 8  
 9 Q. (BY ARBITRATOR RODDA) So just so I'm clear, the  
 10 problem -- what is the problem that you have with  
 11 Eschelon's proposal? It had something to do with it takes  
 12 away the technician communications or it relies too much  
 13 on the FOC or --  
 14 A. Yes. They put in a stipulation on when the FOC  
 15 should be provided in a jeopardy situation that is not  
 16 consistent with our current process today in that it  
 17 requires the FOC be provided at least a day before. And  
 18 if it is not provided at least a day before, then we're  
 19 not able to perform a subsequent jeopardy if the customer  
 20 is not ready. That is their -- the consequence that they  
 21 establish there.  
 22 Q. Okay. And so going back to the change management  
 23 and the interval issue, can Qwest -- under the change  
 24 management process can Qwest increase intervals over CLEC  
 25 objections?

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1 A. A CLEC can object to an interval increase. Qwest  
 2 might decide to go forward, but the CMP process allows a  
 3 lot of mechanisms for objection. And with the one  
 4 increase where CLECs did object, Qwest did not go forward.  
 5 It would not be incumbent upon Qwest to ignore CLEC  
 6 objections to an interval increase.  
 7 Q. With the multitude of interconnection agreements  
 8 you must have existing in this world, are there different  
 9 intervals for different CLECs, or does it all sort of come  
 10 down to the smallest common denominator because that's  
 11 easier for Qwest?  
 12 A. I don't believe there are different intervals for  
 13 different CLECs because we established the service  
 14 interval guide as the common document, and it is an  
 15 exhibit to the interconnection agreements. And so it is  
 16 managed -- changes to that are managed through the CMP, so  
 17 I don't believe that we have different intervals for  
 18 different CLECs anymore. It probably did exist in the  
 19 past, but we have attempted standardize that process.  
 20 Q. So in an interconnection agreement could a CLEC  
 21 negotiate a specific interval or --  
 22 A. I believe we would object to that as inconsistent  
 23 with our service interval guide.  
 24 ARBITRATOR RODDA: Okay. All right. Did you  
 25 have any redirect?

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1                   RECCROSS-EXAMINATION

2

3       Q. (BY MR. MERZ) We were talking about tagging at

4 the demarc. My recollection is that was an issue that was

5 settled during the hearing itself. Is that not your

6 recollection?

7       A. Honestly, I can't recall.

8       Q. And it was issue 12-75, and 12-75 isn't in the

9 ALJs' --

10      A. Several issues were settled during the course of

11 the hearing, yes.

12      Q. And if that issue was settled during the course

13 of the hearing, you would agree with me, obviously, that

14 Qwest didn't make its decision about whether to set in

15 stone that process as a result of the ALJs' order?

16      A. In that case, if it was settled during the

17 hearing, Qwest came to that determination independently of

18 the arbitrator's report.

19      Q. Now, you have described Qwest's desire to have

20 uniform processes from state to state; is that right?

21      A. Yes.

22      Q. And as I understand it, however, Qwest does

23 not -- is not willing to implement the root cause analysis

24 requirement that's in place in Minnesota in Arizona, or in

25 any of the other states outside of the Minnesota; isn't

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1 that right?

2      A. That's correct. Because we believe we have

3 processes in place that cover these situations.

4      Q. And Qwest is also not willing to implement the

5 process in place in Minnesota for acknowledging errors in

6 any other state; correct?

7      A. Correct. We don't want that language in the

8 contract. Again, we already have processes in place

9 through our PCATs for dealing with errors.

10     Q. You had some questions from Mr. Topp regarding

11 intervals and what Qwest could or could not do. And as I

12 understand what you said is as the CMP document exists,

13 Qwest could implement an interval change over objections

14 from Qwest or, I'm sorry, from Eschelon and other CLECs;

15 correct?

16     A. What I said was we could. It would not be

17 incumbent on us to do so.

18     Q. The CMP document in all events would allow for

19 that to happen?

20     A. Ultimately. But there is recourse if we do that

21 for the CLECs.

22     Q. And as I understand it, one avenue of recourse is

23 Eschelon could bring a complaint to the Arizona

24 Commission?

25     A. Yes.

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1       Q. And in that complaint, Eschelon would be asking

2 the Commission to undo a longer interval than Qwest has

3 already implemented; correct?

4       A. That would presume that they bring the complaint

5 after the change has been implemented, but yes.

6       Q. If Qwest wanted to implement the change, there

7 would be nothing stopping it unless it got an order from

8 the Arizona Commission; correct?

9       A. I don't believe Qwest would behave in that manner

10 if there was sufficient objection to the increase in

11 interval. So Qwest would be making that decision

12 unwisely, I think, given, presumably, that the CLECs have

13 objected to the interval increase.

14      Q. And what I'm really focusing on is what Qwest

15 could do under the CMP process as it exists. Qwest could

16 implement that change, and then it would be Eschelon's

17 problem to go to the Commission to get that change undone;

18 correct?

19      A. That is the potential.

20      Q. We've talked about jeopardies, and I think you

21 have told us that the process as described by Eschelon's

22 proposed language is the same as Qwest's existing process

23 but with one exception, and that is it is, as I understand

24 your testimony, not Qwest's process to provide the FOC at

25 least a day before delivery?

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1       A. That's correct.

2      Q. Now, Qwest's existing process, then, doesn't rely

3 on these informal communications between technicians;

4 correct?

5      A. No. I would say it does.

6      Q. Well, if Qwest has a process that requires

7 providing the FOC, then that's a process that doesn't rely

8 on informal communications between technicians; correct?

9      A. The provisioning of the FOC is not dependent on

10 the communication between the technicians, but really

11 they're not related.

12      Q. You had answered some questions about your

13 Exhibit RAR-6. And if you just look at the first example,

14 the due date was January 11, 2005, and the circuit was

15 installed January 17, 2005; correct?

16      A. No. It was installed on January 12th.

17      Q. Oh, I'm sorry. I see it, yes.

18         Then, if you go to the next example, the due date

19 was February 9th, and Qwest installed on the 14th.

20      A. Correct.

21      Q. And we could look -- I'm not going to go through

22 each one, but we could look at each of these and figure

23 out when the circuit should have been installed according

24 to the original due date and when was it actually

25 installed?



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1 drain of the CLECs are. And even if we did know it,  
2 that's not how the rate is set up, and that's not how it's  
3 been ordered to be charged. And the usage that  
4 Mr. Starkey claims Eschelon wants to be charged on is not  
5 even a List 1 drain, which he claims is how we should  
6 build our power plant.  
7 And I think that sort of sums it up.  
8 MR. TOPP: Thank you. With that, we would make  
9 Mr. Ashton available for cross-examination.  
10 ARBITRATOR RODDA: Okay, Mr. Merz.  
11 MR. MERZ: Thank you, Your Honor.  
12  
13 CROSS-EXAMINATION  
14  
15 Q. (BY MR. MERZ) Good afternoon, Mr. Ashton.  
16 A. Good afternoon.  
17 Q. You have talked about this difference between  
18 power usage and power plant. It's your understanding that  
19 the parties have agreed upon language that would allow  
20 Eschelon to elect to be charged for power usage based on  
21 the measurement of its actual usage of power; correct?  
22 A. For orders of power larger than 60 amps, that's  
23 correct.  
24 Q. And under that option what happens is Qwest  
25 measures the power usage a maximum of four times a year

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1 and charges based on those measurements; is that right?  
2 A. Charges for electric usage, yes.  
3 Q. And so it's not like my electric meter at home  
4 which is always spinning. You're just measuring snapshots  
5 in time four times a year?  
6 A. That's correct. So from the point that we take  
7 the measurement until the next measurement, that's the  
8 amount that is used as the basis for the charges.  
9 Q. Okay. Now, the issue that we're grappling with  
10 here, which is issue 8-1 and its subparts, is whether  
11 there should be a similar measured charge option for the  
12 power plant charge; correct?  
13 A. That's the issue.  
14 Q. Now, you mention in your summary some  
15 terminology, List 1 drain, List 2 drain. I want to talk  
16 with you a little bit about that.  
17 List 1 drain is the amount of power drawn by the  
18 equipment during the busiest hour of the busiest day of  
19 the year; is that right?  
20 A. List 1 drain is specific to individual shelves of  
21 equipment that are fully carded during the busiest hour of  
22 the busiest day of the year at normal operating voltages.  
23 Q. Okay. And so that's sometimes referred to as the  
24 peak drain?  
25 A. Mr. Starkey referred to it as the peak drain. I

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1 would never refer to it as the peak drain, because the  
2 peak drain is the List 2 drain.  
3 Q. Okay. Fair enough.  
4 Usage under normal operating conditions  
5 fluctuates, and some days it's going to be higher and some  
6 days it's going to be lower.  
7 A. That's correct.  
8 Q. And that fluctuation may vary depending on the  
9 carrier; correct?  
10 A. That's correct.  
11 Q. And I think one of the things that you mention in  
12 your testimony is that Eschelon serves businesses, and so  
13 it may not have the same usage pattern as a company like  
14 Qwest that serves residential customers. Fair enough?  
15 A. That's fair.  
16 Q. Now, List 2 drain is the amount of power drawn by  
17 the equipment under worst case operating conditions; is  
18 that right?  
19 A. That's correct.  
20 Q. And List 2 drain is significantly higher than  
21 List 1 drain; isn't that right?  
22 A. Generally.  
23 Q. And because of manufacturers' requirements,  
24 cables that carry power to the collocated equipment are  
25 engineered to List 2 drain; is that right?

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1 A. At the minimum, yes.  
2 Q. Now, I want you to refer to your rebuttal  
3 testimony at Page 9.  
4 A. Okay.  
5 Q. And I'm looking at Line 17 through 21.  
6 A. Is that the one that starts with the question?  
7 Q. I'm looking at your -- let's see here, your  
8 rebuttal, Page 9, List 17, or Line 17, there's the  
9 sentence: Qwest designs and engineers power plant  
10 capacity.  
11 A. Maybe our page numbers don't match up.  
12 Q. I have a question. How does Qwest determine when  
13 to augment power plant at a central office? I have that  
14 question on Page 9 at Line 14.  
15 A. Okay. That's on my Page 10.  
16 Q. Okay.  
17 A. I'm with you.  
18 Q. Do you see the sentence then that says: Qwest  
19 designs and engineers power plant capacity sufficient to  
20 meet the total busy hour load of all equipment present in  
21 the central office, plus all CLEC ordered amounts of  
22 power, plus the anticipated busy hour drain of expected  
23 future Qwest equipment additions.  
24 Do you see that testimony?  
25 A. Yes, I do.

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1 Q. Now, when you're talking about the busy hour load  
2 of all of the equipment present in the central office,  
3 you're talking about both CLEC equipment and Qwest  
4 equipment; is that right?  
5 A. That's correct.  
6 Q. And is that the List 1 drain that we've been  
7 talking about?  
8 A. It's not. It's actually going to be somewhat  
9 less than the List 1 drain, because the List 1 drain is  
10 measured on an individual equipment shelf basis. Assuming  
11 the shelf is fully carded, which a lot of shelves in a  
12 building are not, or even in a CLEC cage.  
13 So it serves as a reasonable underestimate proxy  
14 of the List 1 drain, but it's not the List 1 drain.  
15 Because it would be nearly impossible to find out the  
16 List 1 drain for every shelf that's been put in over the  
17 last 100 years, it serves as a proxy.  
18 Q. You're talking about the busy hour load for the  
19 office in the aggregate?  
20 A. Yes.  
21 Q. And so for any particular office, there is an  
22 hour on a particular day when that busy load is expected;  
23 correct?  
24 A. I wouldn't say expected, because we don't  
25 necessarily know when to expect it. It might happen to be

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1 Mother's Day, depending on the usage profile of the  
2 office, it might not.  
3 Q. On that busy hour for that office, not all of the  
4 CLECs will be at their highest drain for that year. Do  
5 you understand what I mean?  
6 A. That's correct.  
7 Q. So if the busy hour for a particular office is  
8 10:00 a.m. on Mother's Day, for example, but that isn't  
9 the busy hour for Eschelon, then Eschelon's List 1 drain  
10 isn't really part of this calculation, is it?  
11 A. Eschelon's List 1 drain is never a part of the  
12 calculation for power plant capacity.  
13 Q. Let me ask it a different way. If the busy hour  
14 for a particular office is 10:00 a.m. on Mother's Day, and  
15 that isn't the busy hour for Eschelon, then Eschelon's  
16 peak drain, the highest drain they would experience during  
17 that year, wouldn't be part of that calculation?  
18 A. A portion of it would because they're still  
19 drawing power, but the overall peak that they would draw  
20 would not, no. However, what is part of the calculation  
21 is the amount that they've ordered so that we make sure  
22 that we have enough power.  
23 Q. I'm going to come to that in a second. What is  
24 used for purposes of engineering the size of the power  
25 plant -- I'm sorry. Let me ask this a different way.

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1 What is used for purposes of determining the size  
2 of the power plant is the draw by Eschelon's equipment on  
3 the busy hour for that office; right?  
4 A. No.  
5 Q. No. Why not?  
6 A. Because for a CLEC we have no idea what their  
7 List 1 drain is. We have no idea what their anticipated  
8 usage is. And because we want to be able to provide them  
9 with the power that they've ordered, we use the power that  
10 they've ordered that -- the ordered amount as the amount  
11 of capacity in the power plant that we provision.  
12 Q. But isn't it the case that you know how much your  
13 central office -- each of your central offices is drawing  
14 on that office's busy hour? I mean, that's something that  
15 you're able to measure; correct?  
16 A. Yes, but then I have to -- because I can't grow  
17 power plant as quickly as load can grow. Load can grow  
18 minute to minute as cards are added. I can't grow a power  
19 plant that quickly. I have to add rectifiers and  
20 batteries, which takes months and months, and engines and  
21 so forth. So I have to be ahead of the curve.  
22 Q. And that's why you add in the CLEC ordered  
23 amounts of power; is that correct?  
24 A. Correct.  
25 Q. And when you're talking about the CLEC ordered

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1 amounts of power, what you're really referring to is the  
2 size of the power cables that the CLEC orders. Is that  
3 how the amount of power is determined?  
4 A. No. It's the number that they put on their order  
5 form is the amount of power they want.  
6 Q. And what blank are they filling in when they put  
7 that down on their order form? What is the question  
8 they're answering?  
9 A. I don't have the order form in front of me, but I  
10 believe it's how much power do you want or what size  
11 feeders do you want. I don't know the exact wording.  
12 Q. Well, is it what size feeders or how much power,  
13 or do you not know?  
14 A. I don't know without the order form.  
15 Q. If the question were what size feeders do you  
16 want, what would that mean to you? The size of the power  
17 cables; correct?  
18 A. Yeah. But I doubt that we ask the question that  
19 way because we size the cables. So without looking at the  
20 order form, I couldn't say exactly how we ask the  
21 question.  
22 Q. And that's not something that you have attached  
23 to your testimony, the order form?  
24 A. I don't believe I have attached it to my  
25 testimony, no.

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1 Q. Now, if you're counting the busy hour load, which  
2 would include the drain of all of the CLECs, and you're  
3 also counting the List 2 drain of the CLEC equipment,  
4 aren't you counting that CLEC's drain twice?  
5 A. We're counting a small portion of the CLEC's  
6 drain twice. It's not all of the CLEC's drain twice.  
7 Q. Okay. And what do you mean by a small portion?  
8 A. Well, I mean, whatever the CLEC is drawing at the  
9 minute we take the busy hour reading, that portion, that  
10 is added, obviously, along as part of the aggregate along  
11 with their order.  
12 Q. And it could happen that the CLEC's busy hour  
13 drain happens at the same time as the central office's  
14 busy hour drain.  
15 A. That's theoretically possible.  
16 Q. And if that were the case, you would be counting  
17 all of the CLEC's busy hour drain twice, because the busy  
18 hour drain plus the List 2 drain is actually more than  
19 twice the busy hour drain; correct?  
20 A. Probably, depending on how the CLEC uses it.  
21 There are CLECs who actually use more power than what  
22 they've ordered.  
23 Q. Explain to me how that happens.  
24 A. Okay. There's -- in any order there's an -- and  
25 it states so right on the order form that if you order the

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1 quantify of one feeder set, you're going to get an A  
2 feeder set and a B feeder set. So if a CLEC orders 100  
3 amps, Qwest is going to use its sizing rules and the same  
4 rules that are you used in the National Electric Code to  
5 size the feed at least 125 percent of the order. That's  
6 the A feed. The B feed then becomes the redundant backup  
7 feed, so to speak, even though they normally share power.  
8 So in reality on a 100 amp order, the CLEC has the  
9 capability to draw at least 250 amps before they blow  
10 their fuses.  
11 Q. So the CLEC, at least in theory, can draw on both  
12 the A feed and the B feed simultaneously?  
13 A. Correct.  
14 Q. Up to the maximum of the size of the cable?  
15 A. Of the fuse.  
16 Q. Of the fuse.  
17 A. The cable is usually going to be much larger in  
18 terms of ampacity than the fuse size.  
19 Q. List 2 drain for Qwest equipment is not part of  
20 the calculation for sizing the power plant of a central  
21 office; is that right?  
22 A. Not for the power plant, no.  
23 Q. Why not?  
24 A. Because Qwest knows its List 1 drain for each  
25 piece of equipment that we're going to add to the office.

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1 Q. Does Qwest as part of its power ordering  
2 requirements ask CLECs to state what their List 1 drain  
3 is?  
4 A. No, we don't. Because even if we did, we would  
5 have no way of knowing how correct it is.  
6 Q. Well -- I'm sorry. I don't mean to cut you off.  
7 A. Even with our own equipment, we don't just take a  
8 manufacturer's word as to what the List 1 drain is. We  
9 have lab experience and field experience with it that  
10 shows us here is what the List 1 drain is, here is what it  
11 normally draws.  
12 Q. Well, do you assume that CLECs are not as able as  
13 Qwest to determine what their List 1 drain is?  
14 A. In my experience, most CLECs, yes, they're not as  
15 able.  
16 Q. Why do you say that?  
17 A. Because most CLECs don't have the power  
18 engineering expertise that Qwest does.  
19 Q. Going to your rebuttal at Page 3.  
20 A. Under which question is it? So I make I'm on the  
21 right page.  
22 Q. Sure. Good question. Let's see here. Page 3.  
23 How does Qwest design a power plant?  
24 A. Okay.  
25 Q. I'm looking at -- let's see here. For example,

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1 when a CLEC provides.  
2 A. Yes.  
3 Q. For example, when a CLEC provides Qwest with an  
4 order for power feed, paren, sometimes referred to as  
5 power distribution or power cables, Qwest provisions the  
6 feed at the requested amount and insures the power plant  
7 has sufficient spare capacity to provide that ordered  
8 amount of power.  
9 Do you see that?  
10 A. Yes.  
11 Q. And I had interpreted that to mean that what the  
12 CLEC is ordering is power cables, the size of the power  
13 cables. That's not what you intended, I take it?  
14 A. It's not really the size of the power cables,  
15 because the size of the power cables is not only amperage  
16 dependent, it's distance dependent. And so that's due to  
17 the low voltages at which telecommunications equipment  
18 operates.  
19 Q. Under what circumstances would CLEC equipment be  
20 expected to draw List 2 drain?  
21 A. Assuming that they actually sized based on List 1  
22 and List 2 drain, the List 2 event is going to occur after  
23 batteries have been fully discharged to the lowest  
24 possible voltage, operating voltage of each piece of  
25 equipment. As the equipment restarts, as power is brought

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1 back, as the equipment restarts, fans are going to start  
2 up, capacitors are going to draw extra power. So not only  
3 will the equipment be drawing its normal power, it will be  
4 drawing its normal power at a low voltage, which means  
5 higher current. And it will also be having start-up  
6 currents for capacitors and fans and things like that.  
7 Q. Under what circumstances are batteries fully  
8 discharged?  
9 A. Typically there's two different circumstances.  
10 And I've been involved with many, many outages. Although  
11 it doesn't happen that often, it happens.  
12 The two major circumstances in which it happens  
13 are, let's say, for example, a major natural disaster  
14 where I can't get fuel to a generator. AC power is out  
15 for days, my generator runs out of fuel, and the batteries  
16 eventually run out of voltage, so to speak.  
17 Q. And just to interrupt you a second, that's a  
18 circumstance that you're aware of having happened?  
19 A. Oh, yeah. Yes.  
20 Q. All right.  
21 A. The other circumstance that happens is there are  
22 times when accidents happen. Let's say, for example, that  
23 an electrician is putting some new lights and they have a  
24 run of conduit, metallic aluminum conduit, and they happen  
25 to get it across ground and a hot bus. The entire office

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1 at that point is going to go to zero volts, and it's going  
2 to take down most of the equipment, if not all. And as  
3 that equipment -- I still have power to the office, but  
4 because I had a temporary short, the equipment stopped  
5 working. The equipment is going to come back up with a  
6 List 2 drain.  
7 Q. How frequently does a List 2 drain happen? I  
8 mean, it's an unlikely event, is that fair to say?  
9 A. It is. I would say on average across, you know,  
10 a couple of thousand central offices, maybe five times a  
11 year.  
12 Q. Would you agree with me that it would be  
13 impossible for a CLEC's equipment to simultaneously draw  
14 List 1 drain and List 2 drain?  
15 A. Yes. They're mutually exclusive of each other.  
16 List 2 drain is -- List 1 drain is part of the List 2  
17 drain. The List 2 drain is just more.  
18 Q. Now, your rebuttal, Page 13 maybe. I'm looking  
19 at the question that says: Why can't Qwest just measure  
20 Eschelon's peak usage and bill for power plant on that  
21 basis?  
22 A. Okay.  
23 Q. And what I understand you to be saying is you  
24 can't charge for power plant based on measurement, because  
25 measurement at random times is unlikely to capture the

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1 peak usage; is that correct?  
2 A. It's unlikely to capture the busy hour usage.  
3 Q. That's because the measurement is just a snapshot  
4 in time?  
5 A. Correct.  
6 Q. Now, is the concern that the measurement might  
7 result in Qwest being undercompensated?  
8 A. I would say the primary concern is that we would  
9 not have enough power available to serve the CLEC as well  
10 as ourselves. Because the power plant, as Mr. Starkey  
11 pointed out, is a shared resource. So if I run out of  
12 capacity, everybody goes down. Not just the CLEC, but  
13 Qwest as well.  
14 Q. I'm not sure if you answered my question. I'm  
15 going to try it again.  
16 A. Okay.  
17 Q. When you talk about not measuring based on a  
18 snapshot in time, what I would assume is at least part of  
19 the issue was that if the measurement turns out to be less  
20 than average use during the period that that measurement  
21 is going to apply, Qwest ends up not being fully  
22 compensated. I thought you were going to say that was  
23 part of the issue. Is it not part of the issue?  
24 A. That's not really part of the issue, because if I  
25 take random measurements in time over time, randomly,

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1 they're going to average out. So yes, I may be  
2 undercompensated for a three-month or six-month period,  
3 but I may be slightly overcompensated for the next three-  
4 or six-month period.  
5 Q. The measured usage charge options available for  
6 power usage is one that happens based on a snapshot in  
7 time?  
8 A. That's correct.  
9 Q. And what I understand you to be saying is the  
10 concern is different, because here you're concerned with  
11 whether -- when you're talking about power plant, you're  
12 concerned whether the power plant is going to be  
13 adequately sized?  
14 A. Well, I was speaking -- in my previous answer I  
15 was speaking specifically of usage in terms of recovering  
16 costs for electricity. The power plant, we want to make  
17 sure that there's enough power plant there so if the CLEC  
18 ever draws the amount of power that they ordered, it would  
19 be available to them 24 hours a day, seven days a week.  
20 MR. MERZ: I don't have anything further.  
21 ARBITRATOR RODDA: Okay. I don't have any  
22 questions.  
23 MR. ROSELLI: Just very briefly.  
24  
25

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1 the cost docket, those steps were all laid out and  
 2 averages were given for all of those steps without regard  
 3 to which of the types of design changes were occurring.  
 4 And so I guess to answer your question, when we  
 5 proposed the rate for that, as I said before, it was  
 6 intended to address all of the different circumstances.  
 7 It's an average time for a task, receiving an order,  
 8 processing an order for a design change, or reinitializing  
 9 the information for the order that's already in process if  
 10 the design change happens during the days of provisioning,  
 11 and the average times for those tasks regardless of what  
 12 kind of design change comes through.  
 13 Q. The cost study that you are referring to has not  
 14 been filed in this case; is that right?  
 15 A. It hasn't been filed in this case. It's based on  
 16 an approved rate from the cost docket, the 0194 docket. I  
 17 can only remember the last four numbers, but it was the  
 18 generic cost case in this state.  
 19 MR. MERZ: Your Honor, I have an exhibit actually  
 20 for Mr. Denney's testimony that I wanted to ask  
 21 Ms. Million about. I don't need to number it separate  
 22 since it's already part of his testimony, but if it's all  
 23 right with you I'll just hand a copy to her.  
 24 ARBITRATOR RODDA: That's okay.  
 25 Q. (BY MR. MERZ) Ms. Million, I have handed you

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1 there Exhibit DD-23 to the surrebuttal testimony of  
 2 Douglas Denney. Do you recognize that document?  
 3 A. Well, I can identify it as steps out of an,  
 4 evidently, Washington study that was conducted. It looks  
 5 to me as though it was a compliance study that was done in  
 6 Part D of the Washington case. This is one of hundreds  
 7 and hundreds of pages, so I don't -- I can't say that -- I  
 8 mean, I recognize what it is. I can't say that I  
 9 recognize --  
 10 Q. These two pages --  
 11 A. -- the document.  
 12 Q. -- concern cost studies for design changes; is  
 13 that right?  
 14 A. This is a piece of a study, yes. It's not the  
 15 entire thing, because it only identifies the direct costs.  
 16 It doesn't provide for any of the loaded -- loadings on  
 17 that. So you can't look at this and see what the final  
 18 cost or -- excuse me. Well, yeah, the final cost or rate  
 19 is for this element. You can only see what the direct  
 20 costs are in this instance based on this compliance  
 21 filing.  
 22 Q. Now, when you say there are hundreds of pages,  
 23 are you saying that there are hundreds of pages relating  
 24 to design changes or --  
 25 A. No. I'm saying that a nonrecurring cost study

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1 can have many hundreds of elements in it, and each element  
 2 has several pages associated with it, and so a  
 3 nonrecurring cost study can be size of this binder here.  
 4 And what we've got is two pages that don't represent the  
 5 entire cost for either one of these identified services.  
 6 It's just a part of the cost.  
 7 Q. The first page says design change mechanized;  
 8 correct?  
 9 A. Yes, it does.  
 10 Q. Let me ask you this. Are these two pages similar  
 11 to part of what would have been the cost study that was  
 12 submitted in Arizona? Do you know?  
 13 A. The assumptions in this would be different,  
 14 because this is a compliance filing based on what we were  
 15 ordered to do by the State of Washington, the commission  
 16 in the State of Washington. So it includes assumptions  
 17 that they have imposed on us as a result of their order.  
 18 Q. The assumption that they have imposed is found in  
 19 Probability No. 4; is that right?  
 20 A. Yes. It's the .7 probability reflects a  
 21 30 percent reduction to work time estimates.  
 22 Q. And so what the Washington Commission was saying  
 23 is we're going to reduce the amount of time that you have  
 24 estimated by 30 percent, and the way you get to that is  
 25 this .7 adjustment; is that right?

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1 A. Yes, that's correct.  
 2 Q. The second page of the document is design change  
 3 manual; is that right?  
 4 A. Yes, it is.  
 5 Q. What do those two things mean, design change  
 6 manual and design change mechanized?  
 7 A. In Washington they make a distinction between  
 8 orders that will processed mechanically via some sort of  
 9 computer interface versus orders that they presume are  
 10 processed manually. In other words, they come to Qwest in  
 11 a fax format or something of that nature.  
 12 And they've made -- in that state they've made a  
 13 distinction between those to things. In the beginning  
 14 when we -- and you have to remember this is -- I think the  
 15 date on this study is 2001.  
 16 In the beginning when we first started receiving  
 17 orders from CLECs, we had a tremendous number of CLECs  
 18 that were still sending fax orders to us, and we were  
 19 calculating an average time. And in Washington they said  
 20 we would like to split this out between those you receive  
 21 manually and those you receive in a mechanized fashion.  
 22 That is true in Washington, New Mexico. I don't know that  
 23 there's any other state that's made that distinction, and  
 24 it certainly was not a part of the distinction that  
 25 determined the rate for design changes here in Arizona.

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1 on processing these for the CLECs as in the UNE world.  
 2 Q. And just to now finally bring this back to this  
 3 case. Was the same template used for the Washington study  
 4 and the study that was filed with the Arizona Commission?  
 5 A. It could well have been, yes. I would have to  
 6 look at that study to know for sure, but I would presume  
 7 that it probably was. Because I think the Arizona study  
 8 was developed at about the same time and would have been  
 9 based on that same assumption that we were going to use  
 10 the existing template for a design change and simply put  
 11 in the correct times for UNEs.  
 12 Q. When you say existing template, what do you mean  
 13 by that exactly?  
 14 A. Well, as I explained, these are a couple of pages  
 15 out of a normal nonrecurring study that can be as thick as  
 16 this binder or that binder, so many, many pages.  
 17 And this was a template of -- in other words, for  
 18 every single element that we do a nonrecurring study for,  
 19 the same process is gone through. You determine which of  
 20 the centers are going to be involved, you lay out times,  
 21 you lay out probabilities, and the costs, the labor rate  
 22 for that, and you determine a cost. And then there's  
 23 another part that's missing from here that gets you to a  
 24 final cost or a final rate that also includes the loadings  
 25 on that.

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1 And we already had this set of steps and  
 2 processes laid out for an existing design change charge  
 3 that we had on the private line side, and so that's what I  
 4 mean by template. It was simply already laid out in  
 5 another nonrecurring study someplace, and we pulled it  
 6 over to make use of it in the nonrecurring for the UNEs.  
 7 Q. Under service delivery coordinator, you have got  
 8 a bunch of lines: Validate exact, validate TIRKS, assign  
 9 new TSC, TGMR. Do you see those?  
 10 A. Uh-huh.  
 11 Q. Yes?  
 12 A. Excuse me. Yes.  
 13 Q. Those are the tasks, I take it, that the service  
 14 delivery coordinator performs when he or she does a design  
 15 change?  
 16 A. Yes. That's correct.  
 17 Q. Who identified these tasks?  
 18 A. The service delivery coordinator subject matter  
 19 expert, who is an employee in Qwest who works in this area  
 20 and has responsibility for the interconnect service center  
 21 or the service delivery coordinators, and who is someone  
 22 who's got a great deal of experience in the area.  
 23 Q. What was the question that person was asked?  
 24 A. Estimate the times for -- first of all, lay out  
 25 the tasks for us. When they were originally asked this,

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1 lay out the tasks for us that are involved in processing a  
 2 design change, and estimate the times for us that those  
 3 tasks take when any of those tasks have to be processed  
 4 manually, and estimate for us the probability that those  
 5 tasks are going to happen on a manual basis.  
 6 Q. And was that person at the time this study was  
 7 done asked to estimate design changes for what? Design  
 8 changes for what? I'll just leave it at that.  
 9 A. For UNEs. Design changes for any UNEs that were  
 10 going to require design changes, and under the various  
 11 circumstances of a design change.  
 12 I think if you read in the nonrecurring cost  
 13 study -- and I believe that I have information about that  
 14 perhaps in my rebuttal testimony -- what the executive  
 15 summary of the nonrecurring study says is design changes  
 16 of service that happens in these, and these, and these  
 17 circumstances. And it lists out several different things,  
 18 and it talks about the end user premises, and it talks  
 19 about channel terminations which are related to CFA  
 20 change, and it talks about transport circumstances.  
 21 And it lays out all of the different types of  
 22 design changes that were contemplated when these time  
 23 estimates were put together. And that was a part of the  
 24 record in the cost case where the rate for design changes  
 25 was ordered by the Commission.

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1 Q. How do we know that?  
 2 A. Well, because I tell you that in my testimony,  
 3 and I promise I'm not lying. And number two, you can go  
 4 to the cost docket and the record in the cost docket, and  
 5 you can see it it's all on file as part of the cost case  
 6 in this state.  
 7 Q. Is there anything on this piece of paper, either  
 8 of these pieces of paper that we have in front of us that  
 9 we can look at to conclude that this sort of averaging  
 10 that you have discussed actually happened?  
 11 A. There isn't anything that indicates that on the  
 12 paper itself, but that's why I have pointed out that I  
 13 believe that if there's concern about rates, that they  
 14 need to be discussed in a cost proceeding where you can go  
 15 through the studies and see the detail and discuss what  
 16 goes into them and understand all of that. And I have  
 17 certainly suggested that with respect to the unapproved  
 18 rates.  
 19 But this rate went through all of that process  
 20 and the rate for design change in Arizona has already been  
 21 through that process in a contested case where all of  
 22 those questions got asked and answered.  
 23 Q. These tasks that are under service delivery  
 24 coordinator all look to me like administrative kinds of  
 25 functions. Would that be a fair characterization?

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1 made for this, and that's the way the study was presented  
 2 and that's the way it was approved. And I'm presuming  
 3 that the person that made that average estimate was asked  
 4 to take into effect all of the different circumstances  
 5 under which a design change might occur, and these are the  
 6 numbers that they came up with.  
 7 Q. Now, you have talked about this study that I  
 8 assume was quite a lot of work to put together. Would  
 9 that be fair?  
 10 A. Yes.  
 11 Q. And at least in Arizona, the rate that was  
 12 developed for design changes took effect on June 12th of  
 13 2002. That's your rebuttal testimony; correct?  
 14 A. That's correct.  
 15 Q. And Qwest began charging the design change rate  
 16 for unbundled transport as soon as it was approved in June  
 17 of 2002; correct?  
 18 A. I don't know when they began charging for it.  
 19 Q. Well, you would expect that Qwest, as soon as it  
 20 got a rate approved, would then go about implementing that  
 21 rate so it could charge CLECs; correct?  
 22 A. You would presume that, but that does not always  
 23 happen. Sometimes Qwest has rates approved and they  
 24 don't, for whatever reason, get implemented right away.  
 25 Q. And, in fact, in this particular case, Qwest

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1 didn't begin charging for design changes for loops until  
 2 more than three years later, October 1, 2005; is that  
 3 right?  
 4 A. I believe that's what I have seen in the  
 5 testimony, yes.  
 6 Q. And so it's your testimony that even though Qwest  
 7 went to all of the trouble to do a cost study calculating  
 8 an average, getting a rate, getting the rate approved, it  
 9 just decided not to apply that rate to loops for, let's  
 10 see, three years?  
 11 A. It doesn't just decide not to charge a rate, but  
 12 there are circumstances under which because of our own  
 13 internal difficulties with billing processes and that sort  
 14 of thing, we don't always implement rates right away.  
 15 And I can give you an example that I'm intimately  
 16 familiar with, because I fought for this for several years  
 17 internally to get the OSS rates implemented. We had  
 18 approved rates dating back to 2001 and before in both  
 19 Washington and New Mexico, New Mexico's on an interim  
 20 basis. And it took several years to get the funds  
 21 internally.  
 22 You know, we can't -- we're like anybody else.  
 23 We have budgets and we have constraints. We can't do  
 24 everything that we want to do every single time it comes  
 25 across the desk for OSS kinds of updates, and billing

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1 updates are included in that. And for the OSS, it took us  
 2 four or five years of Ms. Albersheim and myself fighting  
 3 tooth and nail with the people internally to get them to  
 4 actually implement that rate, even though we had an  
 5 approved rate.  
 6 So I guess what I'm telling you is that there are  
 7 a number of different circumstances, including some like  
 8 that, where rates are approved and we don't begin charging  
 9 them because either we can't or because we've made a  
 10 determination internally not to charge for something.  
 11 And so I don't know what the circumstances are,  
 12 but I do know that we did not charge for the loops in the  
 13 CFA changes initially.  
 14 Q. And all of those things that you have described  
 15 relating to OSS and relating to fighting tooth and nail  
 16 and all of those things that you just talked about, you  
 17 don't know that any of those things have anything at all  
 18 to do with design changes; correct?  
 19 A. I do not. I just am giving you an example of why  
 20 sometimes a rate is approved and we don't implement it  
 21 right away.  
 22 Q. And you don't know why Qwest didn't begin  
 23 charging for design changes for loops?  
 24 A. I believe I just said I don't have any idea why  
 25 we didn't charge the design change for loop in CFA, but we

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1 did have an approved rate for those.  
 2 Q. Now, you have also testified that you believe  
 3 it's not necessary to develop separate charges for various  
 4 types of design changes; correct?  
 5 A. That's correct.  
 6 Q. And so what you're saying is it's okay to have an  
 7 average for loop transport and CFAs?  
 8 A. That's my belief. If we tried to have separate  
 9 rate elements for every single different nuance of every  
 10 single different thing that we provide the CLECs in terms  
 11 of provisioning, that hundreds of rates would expand to  
 12 probably more than a thousand rates.  
 13 So there are -- I'm sorry. There are averages  
 14 that are necessarily, then, a part of our provisioning  
 15 charges.  
 16 Q. Qwest has five different loop installation  
 17 options; correct?  
 18 A. That's correct.  
 19 Q. Each of those options has a separate rate?  
 20 A. Yes. That's correct.  
 21 Q. You don't have an average rate for all of your  
 22 installation options?  
 23 A. That's true.  
 24 Q. Qwest has still another installation rate for  
 25 UDIT; correct?

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1 A. Yes. That's correct.  
 2 ARBITRATOR RODDA: I'm sorry, what was that?  
 3 MR. MERZ: UDIT. Unbundled dedicated interoffice  
 4 transport.  
 5 ARBITRATOR RODDA: Thank you.  
 6 THE WITNESS: I've said there are several hundred  
 7 nonrecurring rates that we provide.  
 8 Q. (BY MR. MERZ) In your surrebuttal at Page 20,  
 9 Lines 1 through 4 -- actually, that's not the right place.  
 10 I'm sorry. I'm looking at your rebuttal, not your  
 11 surrebuttal. Page 20.  
 12 A. Give me just a moment to find that.  
 13 Q. Sure.  
 14 A. I have that.  
 15 Q. You say there beginning at Line 1: Nor would it  
 16 be appropriate to micromanage Qwest's product offerings by  
 17 requiring it to provide costs and processes to address  
 18 every possible "flavor" of provisioning activity in an  
 19 increasingly competitive environment.  
 20 Do you see that?  
 21 A. That's correct.  
 22 Q. Now, for unbundled loops and unbundled transport,  
 23 there is not competition; correct?  
 24 A. I wouldn't agree with you. We have the TRRO  
 25 proceedings that are determining right now that for some

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1 unbundled loops and some unbundled transport there's a  
 2 great deal of competition.  
 3 Q. For loops and transports for which Qwest is  
 4 required to provide those elements on an unbundled basis,  
 5 the FCC has made a determination that there's not  
 6 competition; correct?  
 7 A. That's correct.  
 8 Q. And that's the reason why Qwest is required to  
 9 provide unbundled loops and transport at cost-based rates;  
 10 correct?  
 11 A. That's correct.  
 12 Q. I want to talk with you now about collocation  
 13 availability inventory, which is issues 8-20 and 8-20(a).  
 14 A. Okay.  
 15 Q. And the issue here is whether Qwest should have  
 16 to pay a quote preparation -- I'm sorry. Whether Eschelon  
 17 should have to pay a quote preparation fee when it  
 18 requests a collocation available inventory site. Are you  
 19 familiar with that issue?  
 20 A. Yes.  
 21 Q. And just to get the terminology straight, a  
 22 collocation available inventory site is a site that's been  
 23 returned by a CLEC to Qwest, and it is then posted on  
 24 Qwest's website and is available for another CLEC to  
 25 purchase; correct?

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1 A. Yes. That's correct.  
 2 Q. Now, in those instances when Qwest gets back a  
 3 collocation site, a quote preparation fee has already been  
 4 paid in connection with the site at the time it was quoted  
 5 to the first CLEC; is that right?  
 6 A. For the collocation effort that that CLEC would  
 7 like to have Qwest undertake, yes.  
 8 Q. And it's Eschelon's position that Qwest has  
 9 already been paid, and so Qwest shouldn't be allowed to  
 10 recover another fee; is that right?  
 11 A. Well, that's Eschelon's position. Qwest's  
 12 position is that now a new CLEC is coming in, and it may  
 13 or may not have the same needs or different needs. And so  
 14 Qwest needs to manage the new collocation project and find  
 15 out what that CLEC needs and do the engineering and the  
 16 processing that are entailed in getting that CLEC into  
 17 that collocation space.  
 18 Q. At Page 19 of your surrebuttal, Lines 15 through  
 19 20, you describe a number of activities associated with  
 20 the QPF.  
 21 A. Could you tell me what lines you're talking about  
 22 again?  
 23 Q. I can. It's Page 19 of your surrebuttal,  
 24 beginning at Line 15 and following through the end of  
 25 Line 20.

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1 A. Yes. I have that.  
 2 Q. Okay. And my question is, those activities there  
 3 are activities that you say are associated with the QPF  
 4 for available inventory; correct?  
 5 A. Yes. That's correct. In this instance, you have  
 6 a new order coming in from the CLEC that's going to take  
 7 over the available inventory. And there is project  
 8 management and verification and inventory of the reusable  
 9 elements and so forth, a new design that may need to take  
 10 place as a part of provisioning that collocation site for  
 11 the new CLEC.  
 12 Q. The purpose of all of the activities that are  
 13 described there in your testimony is to verify space and  
 14 to develop a quote; isn't that right?  
 15 A. Well, there are a number of steps that I have  
 16 laid out here that are a part of that process.  
 17 Q. Those are the steps, but the purpose overall is  
 18 to verify space and to develop a quote; isn't that right?  
 19 A. Well, it's -- no. It also includes the project  
 20 management of bringing the new collocator into the space,  
 21 and all of that goes along with processing the order. And  
 22 I mean, it's the same -- it's not just developing a quote  
 23 and checking on the site. It's also the order processing  
 24 and everything that goes along with bringing a new  
 25 collocator into that space.



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1 charge, it's Qwest's position that that is an approved  
2 rate from the Commission?  
3 A. Oh, absolutely.  
4 Q. And in your testimony on Page 19, you give the  
5 specific cost study that supports Qwest's position?  
6 A. Yes, I do.  
7 Q. And in your testimony you describe some aspects  
8 of that cost study and the resulting rate that would lead  
9 one to conclude that that rate encompasses the issue we're  
10 dealing with here?  
11 A. Yes.  
12 Q. And you filed this testimony on February 9th of  
13 2007?  
14 A. Yes, I did.  
15 Q. Were you ever asked to provide this study to  
16 Eschelon between February 9th and now?  
17 A. No.  
18 Q. Were you ever advised -- well, no further  
19 questions on that.  
20 Changing to the collocation available issue,  
21 which is 8-20 and 8-20(a), you were asked a few questions  
22 about, you know, the relationship between a quote  
23 preparation fee for a new site as well as a quote  
24 preparation fee for an already existing site.  
25 Are there examples where there could be more work

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1 in a used site versus a new site?  
2 A. Well, as I explained to Mr. Merz, I'm certainly  
3 not an engineer and so I'm not involved in those, but I  
4 would certainly imagine that there are circumstances where  
5 there's more work involved. I know that there are changes  
6 that are made to the site: Old equipment that's taken  
7 out, new equipment that's needed, power that's different.  
8 But I don't know the specifics of any of that. But I  
9 would certainly think that there are circumstances where  
10 it could actually be more work to identify in an available  
11 inventory than in a new.  
12 MR. TOPP: Okay. No further questions.  
13 ARBITRATOR RODDA: Okay. Did you have anything  
14 further, Mr. Merz?  
15 MR. MERZ: Maybe just a couple.  
16  
17 **RE-CROSS-EXAMINATION**  
18  
19 Q. (BY MR. MERZ) You were aware, Ms. Million, when  
20 you filed your testimony in this case that there was an  
21 issue regarding design changes for loops and CFA changes;  
22 right?  
23 A. Yes. I was aware of that.  
24 Q. And you were aware that it was Eschelon's  
25 position that the rate that the Arizona Commission had

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1 approved did not cover loops and design changes?  
2 A. Yes. And that's why I filed the testimony that I  
3 did explaining that it was clearly laid out in what we  
4 filed in the cost docket, that it was, in fact,  
5 anticipated.  
6 Q. And because I misspoke, I actually have to ask  
7 the question again.  
8 You were aware that it was Eschelon's position  
9 that loops and CFA changes were not covered by the design  
10 change rate that had been previously approved by the  
11 Arizona Commission?  
12 A. Yes, that was Eschelon's position. And my  
13 position is that it is covered, and that's what my  
14 testimony says.  
15 MR. MERZ: Okay. Nothing further.  
16 ARBITRATOR RODDA: Okay. That's --  
17 MR. TOPP: Nothing further.  
18 ARBITRATOR RODDA: Okay. Just so you get the  
19 last shot at it, so you can beat that horse. All right.  
20 Thank you, Ms. Million.  
21 MR. TOPP: Your Honor, our next witness would be  
22 Karen Stewart. But as we talked at the beginning of the  
23 day, if we could start with her tomorrow morning, that  
24 would be ideal.  
25 ARBITRATOR RODDA: Okay. And that's your last

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1 witness; right?  
2 MR. TOPP: Yes.  
3 ARBITRATOR RODDA: So Mr. Merz, do you want  
4 to -- it's 4:00. I mean, we could stop for the day.  
5 MR. MERZ: I think that makes more sense.  
6 Mr. Starkey is our first witness, and he'll be here  
7 tomorrow to begin whenever we're done with Ms. Stewart. I  
8 mean, I think that we're going to be fine on time, so I  
9 don't think that would be a problem.  
10 ARBITRATOR RODDA: I am impressed with the time.  
11 I have to say, I was worried coming in, but you all have  
12 surprised me.  
13 All right. So we'll break for the day and pick  
14 up tomorrow with Ms. Stewart; right?  
15 MR. MERZ: This doesn't necessarily have to be on  
16 the record, or it could be, but I only shipped two copies  
17 of our witness testimony from Minnesota. They end up  
18 being two pretty big boxes. So I had one for the witness  
19 and one for me. I didn't necessarily anticipate that you  
20 would need another one.  
21 ARBITRATOR RODDA: I don't need one. So the  
22 witness one can be the one that we mark for the court  
23 reporter.  
24 MR. MERZ: Yeah. That's what I had in mind. I  
25 just wanted to make sure that you got what you needed.

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Eschelon / Qwest Arbitration

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T-03406A-06-0572, etc.

Vol. II

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1 have some type of copper T1 where a single loop is  
 2 channelized up to 24 channels. Again, we would need to  
 3 MUX down and turn off a single channel to an end user  
 4 customer.  
 5 Once again, now, to the extent that the OC3 are  
 6 no longer unbundled loops, when they were and multiplexing  
 7 was required, you have got that -- you have got the remote  
 8 terminal here, and so the end user customer isn't using  
 9 this full capacity. The end user customer is just using  
 10 one single loop. So at the RT we're basically deMUXing  
 11 down to give them one loop. It's then going across high  
 12 frequency bandwidth to a multiplexer which then is  
 13 demultiplexing down to provide an unbundled loop or  
 14 equivalent. Eventually, then, we would provide that  
 15 unbundled loop into the CLEC's collocation.  
 16 So this, again, is just describing that  
 17 multiplexing function that when we MUX up to go high  
 18 capacity in the loop, we need to MUX back down and hand  
 19 off to the CLEC exactly what they ordered. And they can  
 20 order a variety of loops, DS1, DSO, two-wire, four-wire,  
 21 whatever. We need to take all of the steps necessary on  
 22 this side to hand that loop off to them.  
 23 The multiplexing that's involved with the  
 24 loop-MUX combination is multiplexing that is beyond the  
 25 MDF. And this is a multiplexing that would typically be

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1 seen as a transport multiplexer. So in this case, all of  
 2 the unbundled loops have totally been completed,  
 3 delivered, and handed off as a complete channelized loop.  
 4 The loops are then connected to the MUX, which then at  
 5 that point connect the MUX into the CLEC collocation.  
 6 So in this example, transport is not part of the  
 7 service offering or what we think of as traditional  
 8 transport. It's just the multiplexer. However, the  
 9 multiplexer as recognized in the Virginia arbitration, and  
 10 is not on any list as an unbundled network element with  
 11 the FCC, is that we are not required to provide a  
 12 stand-alone multiplexer as a UNE. So we have no  
 13 obligation to do this stand-alone multiplexer as a UNE.  
 14 And I think that's pretty clear that this is not an  
 15 unbundled network element when it's stand-alone with no  
 16 transport.  
 17 Because this is not a UNE, just because a UNE  
 18 loop is terminating into it, it does not make a UNE  
 19 combination. To have a UNE combination you have to put  
 20 two UNEs together, and in this case there's only one UNE.  
 21 So we believe it's very clear that an order for  
 22 stand-alone multiplexing would have to come out of Qwest's  
 23 access or private line tariff.  
 24 Therefore, the multiplexer is out of the access  
 25 private line tariff, and this is a UNE. When you put

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1 those two types of facilities together, that's a  
 2 commingled arrangement, and, therefore, it does not belong  
 3 in the UNE section of the ICA, Section 9. It belongs in  
 4 Section 24, the commingled section, that in negotiations  
 5 with Eschelon we agreed to include in the ICA.  
 6 Q. (BY MR. DEVANEY) Does that conclude your  
 7 summary, Ms. Stewart?  
 8 A. Yes, it does.  
 9 MR. DEVANEY: Your Honor, Ms. Stewart is  
 10 available for cross.  
 11 ARBITRATOR RODDA: Mr. Merz.  
 12 MR. MERZ: Thank you, Your Honor.  
 13  
 14 **CROSS-EXAMINATION**  
 15  
 16 Q. (BY MR. MERZ) Good morning, Ms. Stewart.  
 17 A. Good morning.  
 18 Q. I'm going to start this morning talking with you  
 19 a little bit about design changes, which is issue 4-5.  
 20 And I would refer you to your surrebuttal testimony  
 21 beginning at Page 4, Lines 21 through 22.  
 22 Do you have it there?  
 23 A. Yes, I do.  
 24 Q. You say there Eschelon should not be permitted to  
 25 obtain the benefits of design changes without paying for

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1 them, which is what Mr. Denney is effectively seeking  
 2 through his testimony. Do you see that?  
 3 A. Yes, I do.  
 4 Q. Now, you understand that Eschelon has proposed in  
 5 this case interim rates for design changes for loops and  
 6 for CFA changes; correct?  
 7 A. Yes. They have offered rates that are  
 8 substantially lower than the rates that have already been  
 9 approved in the Arizona cost docket.  
 10 Q. And Qwest believes that the rates that Eschelon  
 11 has proposed for design changes for loops and CFA changes  
 12 is too low?  
 13 A. Would not cover Qwest's costs. Correct.  
 14 Q. It's not the case, then, that Eschelon is asking  
 15 for design changes without paying for them, is it?  
 16 A. Qwest believes that the proposed rates that  
 17 Eschelon has put out -- and, again, we have existing  
 18 approved rates as Ms. Million has discussed in her  
 19 testimony -- that it would be inappropriate and Qwest  
 20 would not be recovering its costs for design changes.  
 21 Q. And my question is a different one. My question  
 22 is you understand that Eschelon is not proposing in this  
 23 case that Qwest provide it with design changes for loops  
 24 and CFA changes without charge. That's not Eschelon's  
 25 proposal in this case, is it?

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1 A. It is Eschelon's proposal that they would have  
2 the below cost rate of \$5 and \$30.  
3 Q. Now, you say -- again looking at your surrebuttal  
4 testimony at Page 6, Lines 3 through 4. Do you have that  
5 there?  
6 A. Yes, I do.  
7 Q. You say that any denial of cost recovery even for  
8 a limited period is unlawful and improper; correct?  
9 A. Yes.  
10 Q. And that is your view?  
11 A. Yes.  
12 Q. Would you also agree that to require Eschelon to  
13 pay a rate that exceeds Qwest's TELRIC costs even for a  
14 limited period of time is unlawful and improper?  
15 A. Qwest is not asking that Eschelon pay costs that  
16 exceed the TELRIC rate. A TELRIC rate for design changes  
17 has been established in an Arizona cost docket, as  
18 Ms. Million has testified. Therefore, that would not be  
19 the situation in design changes.  
20 Q. And Ms. Stewart, I really need you to focus on my  
21 questions. And I know that Mr. Devaney will have an  
22 opportunity to ask you questions.  
23 My question is would you agree with me that to  
24 require Eschelon to pay a rate that exceeds Qwest's TELRIC  
25 costs even for a limited period of time would be unlawful

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1 and improper? Would you agree with that statement?  
2 A. I do not believe so in Arizona where my  
3 understanding is that when there is -- if there was a rate  
4 dispute, which, arguably, we don't agree that there is one  
5 here -- that in Arizona that if there is a rate that  
6 there's some question or concern or an interim rate, that  
7 the rate is to be the Qwest rate and not to exceed the  
8 Qwest rate, and then that rate is interim subject to  
9 refund.  
10 So in Arizona, potentially it would be  
11 appropriate to have a rate that subsequently a lower rate  
12 would be established and a refund would be given back to  
13 the CLEC. So I do not believe it would be improper.  
14 Q. Okay. So as I understand your testimony, it  
15 would be improper for Qwest to be paid less than its costs  
16 for even a limited period of time, but it would be proper  
17 for Qwest to be paid for more than its costs?  
18 A. Well, you're putting a big assumption in there  
19 that the rate exceeds the TELRIC cost of doing the work.  
20 Q. And that's my assumption. My question is just  
21 would you agree with me that it's not proper for Qwest to  
22 be paid more than its TELRIC costs for doing the work?  
23 A. I think it's appropriate in Arizona, as I just  
24 discussed, that the Qwest rates be used to establish a  
25 rate subject to refund.

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1 Q. And you would agree with me as well that an  
2 interim rate might possibly remain in effect for an  
3 indefinite period of time?  
4 A. There's always that potential, yes.  
5 Q. And, in fact, that's a potential that you  
6 describe in your own testimony; isn't that right?  
7 A. Yes.  
8 Q. But you believe that even for an unlimited period  
9 of time it would be appropriate for Eschelon to pay a rate  
10 that exceeds TELRIC costs for design changes?  
11 A. I do not believe that the rate that Qwest is  
12 proposing for design changes exceeds the TELRIC cost.  
13 Q. But if it does, it would not be appropriate for  
14 Eschelon to have to pay that rate for an unlimited period  
15 of time?  
16 A. At this point in time, there is an approved rate  
17 for design changes of, I believe, approximately \$72.79.  
18 It is appropriate for Eschelon to pay that rate.  
19 Q. And that's true even if that rate exceeds Qwest's  
20 costs in your opinion?  
21 MR. DEVANEY: Your Honor, I think it's been asked  
22 and answered.  
23 ARBITRATOR RODDA: You can answer it. Did you  
24 answer it? I didn't hear it.  
25 THE WITNESS: I answered that I do not believe

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1 that the rate that Qwest is charging for design changes  
2 for unbundled loops and CFA changes exceeds our TELRIC  
3 costs because it's already been established in a cost  
4 docket.  
5 ARBITRATOR RODDA: I understood that. But then  
6 he asked -- I can't even remember what the question was.  
7 It wasn't quite that question.  
8 Q. (BY MR. MERZ) No. My question is it's  
9 Eschelon's position that that rate is not a cost-based  
10 rate for design changes for loops and CFA changes. You're  
11 aware of that?  
12 A. Yes.  
13 Q. Assuming that Eschelon is right and that that \$72  
14 rate is not a cost-based rate but is, in fact, well in  
15 excess of Qwest's cost for loop design changes and CFA  
16 changes, would you agree with me that it's not proper for  
17 Eschelon to have to pay that rate that is above Qwest's  
18 cost?  
19 A. When the Commission has established an order rate  
20 of the \$72.79, even if subsequent cost work should  
21 determine that the rate should be something different,  
22 it's appropriate for you to pay the rate that's been  
23 approved in a cost docket in this state.  
24 Q. Go to your rebuttal testimony. And I'm going to  
25 shift gears a little bit, and we're going to talk about

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1 connecting facility assignment changes, CFA changes. So  
 2 if you go to your rebuttal testimony at Page 4, and I'm  
 3 looking at the sentence that begins on Line 15 and ends on  
 4 Line 19.  
 5 A. Yes.  
 6 Q. And it says there in some cases the ICDF  
 7 locations that Eschelon gives Qwest are incorrect, which  
 8 require a Qwest technician to remove the loop from one  
 9 location on the ICDF and reconnect the loop to another  
 10 location on the ICDF or to another frame in the central  
 11 office; correct?  
 12 A. Yes.  
 13 Q. And you're describing there what a CFA change is;  
 14 correct?  
 15 A. It's one part of the work involved with the CFA  
 16 change. Correct.  
 17 Q. And the ICDF is the place where the loop is  
 18 connected. The connecting facility assignment is on the  
 19 ICDF; is that right?  
 20 A. That's my understanding, yes.  
 21 Q. Now, you understand that the CFA change charge  
 22 that Eschelon has proposed would only apply when there's a  
 23 coordinated cutover; correct?  
 24 A. Yes.  
 25 Q. And Eschelon pays a rate, a particular rate for a

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1 coordinated cutover; correct?  
 2 A. Yes.  
 3 Q. What Eschelon is paying for when it pays that  
 4 rate for a coordinated cutover is it's paying to have  
 5 Qwest working in a coordinated fashion with Eschelon  
 6 personnel, either physically present or on the phone at  
 7 the time of the loop installation; isn't that right?  
 8 A. Yes.  
 9 Q. So Eschelon is present, and the idea is that  
 10 working together the parties can fix any problems that  
 11 arise rather than, you know, the installation is done and  
 12 then it turns out that there's some problem that has to be  
 13 fixed later; is that right?  
 14 A. My understanding is that the goal of a  
 15 coordinated cut would be both parties would be there, you  
 16 would be able to test, and then right at that point in  
 17 time it would be known whether the circuit was working or  
 18 not, yes.  
 19 Q. And what might happen if you didn't have a  
 20 coordinated cutover is that in the case of a basic  
 21 installation, for example, the cutover might happen and  
 22 then it turns out that there's no dial tone, and that's  
 23 not discovered until some later point and it has to be  
 24 addressed then; correct?  
 25 A. In a noncoordinated cut, then there's a due date.

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1 And typically my understanding is then the due date would  
 2 be any time within that business day. For example, if  
 3 Qwest could cut it over at 8:00 in the morning, or Qwest  
 4 could turn it over or turn it up at 5:00 p.m. So in a  
 5 noncoordinated cut it's a large window of time in which  
 6 the cutover may occur.  
 7 MR. MERZ: Could you mark this as Eschelon  
 8 Exhibit 3.  
 9 Q. (BY MR. MERZ) Ms. Stewart, you have in front of  
 10 you there what has been marked as Eschelon Exhibit 3; is  
 11 that right?  
 12 ARBITRATOR RODDA: Do you have an extra copy?  
 13 MR. MERZ: I do. I'm sorry. I have all of these  
 14 copies and I forgot to hand you one.  
 15 ARBITRATOR RODDA: I know. It's so hard to get  
 16 over here, too.  
 17 Q. (BY MR. MERZ) You have Eschelon Exhibit 3 there?  
 18 A. Yes, I do.  
 19 Q. And you recognize Eschelon Exhibit 3 as Exhibit A  
 20 to the proposed ICA; correct?  
 21 A. Yes.  
 22 MR. MERZ: Eschelon offers Eschelon Exhibit 3.  
 23 ARBITRATOR RODDA: Any objection?  
 24 MR. DEVANEY: No objection.  
 25 ARBITRATOR RODDA: Then Eschelon-3 is admitted.

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1 (Exhibit No. Eschelon-3 was received into  
 2 evidence.)  
 3 Q. (BY MR. MERZ) Now, Exhibit A to the ICA sets out  
 4 the various rates; correct?  
 5 A. Yes.  
 6 Q. If you would look at the part of Exhibit A that  
 7 starts at 9.2.4.  
 8 A. Yes.  
 9 Q. And 9.2.4, 9.2.5, and 9.2.6 all involve different  
 10 installation options for different types of loops;  
 11 correct?  
 12 A. Yes.  
 13 Q. Now I would like you to look at 9.2.4.4.1. That  
 14 is the coordinated installation rate for an analog loop;  
 15 correct?  
 16 A. I'm sorry. 9.2.4.1?  
 17 Q. 9.2.4.4.1.  
 18 A. Excuse me. I see it.  
 19 Q. Okay. And so if you had one analog loop being  
 20 installed with the coordinated installation option, the  
 21 rate would be \$58.18; correct?  
 22 A. Yes.  
 23 Q. And additional loops installed as part of the  
 24 same installation would be then \$50.73 per loop; correct?  
 25 A. Yes.

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1 Q. Now, the design change rate that Qwest believes  
2 it ought to be able to charge for a CFA change is \$72.79;  
3 is that correct?  
4 A. Yes.  
5 Q. And so it's your testimony that the additional  
6 work to perform a CFA change charge costs Qwest more than  
7 it costs to perform the coordinated installation of a  
8 basic loop; is that right?  
9 A. The charge for design change covers several  
10 products, both UDIT and different --  
11 Q. Are you able to answer my question, ma'am?  
12 A. Yes. I am able to answer your question.  
13 Q. Do you have my question in mind?  
14 A. Yes. I have your question in mind.  
15 Q. All right.  
16 A. Your question was does the rate exceed the  
17 installation rate for loops. I was just pointing out that  
18 there are a variety of loops that have different  
19 installation intervals, and the design change covers  
20 those, plus UDIT and other products and services. And,  
21 again, Ms. Million is the expert on the cost aspect.  
22 Q. And my question wasn't whether the rate for  
23 design changes is higher than the rate for coordinated  
24 installation. My question is, is it your testimony that  
25 the additional work to perform a CFA change costs Qwest

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1 more than it costs Qwest to perform the coordinated  
2 installation of an analog loop?  
3 A. Once again, Ms. Million is the cost expert. And  
4 yes, when it was looked at as an entirety of all of the  
5 services that are covered with design changes, the rate  
6 was \$72.79, I believe.  
7 Q. So it's your testimony that it does cost more to  
8 do a CFA change than a coordinated installation of a basic  
9 -- a coordinated installation of an analog loop?  
10 A. That \$72.79 was what was determined in the cost  
11 docket, yes.  
12 Q. Now I want to ask you about your rebuttal,  
13 Page 7. I'm looking at Lines 8 through 10. And you say  
14 there there's no factual basis for Mr. Denney's assertion  
15 that the presence of a Qwest technician during a  
16 coordinated cutover reduces the costs of CFA changes.  
17 Do you see that?  
18 A. Yes, I do.  
19 Q. Now, what I understood a part of the work to  
20 perform a CFA change is taking the loop off of one CFA and  
21 putting it on another.  
22 A. I'm going to be stepping a little bit out here on  
23 a limb because, once again, Ms. Million is our cost  
24 expert. But my understanding is design change does not  
25 include the installation work of a technician actually

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1 doing the install piece.  
2 The work of a design change is the call that  
3 needs to be made back to the system design center to say  
4 there's going to be a change. If we go to this different  
5 location for the CFA, is that going to change the design  
6 of the circuit? Is it going to work? Oh, by the way, we  
7 need to update our downstream systems for purposes of  
8 repair and billing that there is a different tie-down  
9 location.  
10 So design change is really covering all of those  
11 work and activities, not the actual technician time of  
12 doing the install.  
13 Q. When we first started talking this morning, I had  
14 asked you whether the work of doing a design change  
15 involved a technician removing the loop from one location  
16 on the ICDF and reconnecting it to another location. And  
17 I understood you to be saying, yes, indeed, that was part  
18 of the work, at least, involved in a CFA change.  
19 Did I get that wrong?  
20 A. I may have misunderstood your question, and if I  
21 do I apologize. I was thinking you were asking whether  
22 doing a CFA change, which is the activity piece of it, is  
23 moving or putting it on a different termination, is that  
24 part of design changes? So I do apologize if I  
25 misunderstood your question.

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1 Q. And so I guess my point is that any time there's  
2 a CFA change there has to be a technician physically  
3 located at the ICDF; right?  
4 A. Yes. If you're going to do a change on an  
5 install, there would be a technician there.  
6 Q. So when you say there's no factual basis for  
7 Mr. Denney's assertion that the presence of a Qwest  
8 technician during a coordinated cutover reduces the cost  
9 of a CFA change, there's always a Qwest technician there  
10 if a CFA change is being done; isn't that right?  
11 A. Yes. But even if the technician is there, the  
12 technician still needs to go through all of the steps that  
13 I just described about going back to the design center,  
14 making sure that it's okay, it doesn't change the design,  
15 or something doesn't need to be done within the circuit,  
16 and then changing all the downstream systems.  
17 So whether the technician is there and an  
18 Eschelon technician is there or not, it doesn't change how  
19 much work is involved for the Qwest technician in  
20 confirming whether there needs to be any change to the  
21 design and, again, updating our downstream systems.  
22 Q. The charge that Eschelon is proposing for CFA  
23 changes is a charge that would be paid in addition to the  
24 coordinated installation charge; correct?  
25 A. Yes.

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<p>1 Q. The coordinated installation charge pays for the</p> <p>2 Qwest technician to be there; correct?</p> <p>3 A. It pays for the Qwest technician to be there and</p> <p>4 to install the service as ordered.</p> <p>5 Q. And it also pays for the Qwest technician to</p> <p>6 interface with Eschelon either, you know, physically</p> <p>7 present or on the phone; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And the Qwest technician, I assume the</p> <p>10 interfacing with the downstream systems that you have</p> <p>11 talked about, that's something that the technician would</p> <p>12 do by way of a phone call; is that right?</p> <p>13 A. Typically, my understanding is that it begins</p> <p>14 with a phone call if it occurs at the time of the cutover.</p> <p>15 Q. Now, would you agree with me that the tasks to</p> <p>16 complete a CFA change are different from the tasks</p> <p>17 necessary to perform a loop design change?</p> <p>18 A. There are different tasks involved, but perhaps a</p> <p>19 CFA change could lead to a complete redesign of the loop.</p> <p>20 And I'm thinking more on the higher bandwidth facilities</p> <p>21 such as a DS1 or DS3. Maybe a change means a redesign or</p> <p>22 sending the equipment to a different multiplexer or</p> <p>23 distribution fiber panel within the office.</p> <p>24 Q. Your understanding -- you understand, don't you,</p> <p>25 that Eschelon's proposal with respect to CFA change</p>	<p>1 A. Yes.</p> <p>2 Q. And you see there Eschelon's proposal for Section</p> <p>3 9.2.3.9?</p> <p>4 A. Yes, I do.</p> <p>5 Q. And you see that that talks specifically about</p> <p>6 CFA changes for coordinated installation options for</p> <p>7 two-wire and four-wire analog loops; correct?</p> <p>8 A. Yes, it does.</p> <p>9 Q. CFA changes are something that Qwest has been</p> <p>10 providing to CLECs for as long as Qwest has been providing</p> <p>11 unbundled loops; isn't that right?</p> <p>12 A. I believe so.</p> <p>13 Q. Qwest didn't begin charging for CFA changes until</p> <p>14 October of 2004; correct? I'm sorry. October of 2005.</p> <p>15 A. That is my understanding, yes.</p> <p>16 Q. And so up until October of 2005, there was no</p> <p>17 separate charge for a CFA change; correct?</p> <p>18 A. I believe there was a separate charge, but the</p> <p>19 processes were not in place to charge the charge.</p> <p>20 Q. Qwest didn't charge a separate charge for CFA</p> <p>21 changes before October of 2005?</p> <p>22 A. There was a design change in place in Exhibit A,</p> <p>23 but the processes were not in place to charge it for that</p> <p>24 activity.</p> <p>25 Q. I want to talk with you now about access to UNEs.</p>
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<p>1 charges only is for two- and four-wire loops?</p> <p>2 A. I did not -- was not aware of that. I thought it</p> <p>3 was listed in Exhibit A as a CFA change for all loops.</p> <p>4 Q. And, I mean, if that's the case -- well, assume</p> <p>5 that that's the case. Would you then agree with me that a</p> <p>6 CFA change would be different -- relating to a two- or</p> <p>7 four-wire loop would be different than the tasks necessary</p> <p>8 to do a loop design change?</p> <p>9 A. There are various tasks depending on the</p> <p>10 products. Once again, the design change is covering a</p> <p>11 variety of products, including high capacity loops and</p> <p>12 two-wire and four-wire loops. Yes, the work is different</p> <p>13 depending on exactly what service, but again, as</p> <p>14 Ms. Million discussed, the design change covers all of</p> <p>15 these various products and work.</p> <p>16 Q. I think you have the ICA in front of you there?</p> <p>17 A. Yes, I do.</p> <p>18 Q. If you would go to Section 9.2.3.9.</p> <p>19 A. I'm sorry.</p> <p>20 ARBITRATOR RODDA: Again, do you have a page</p> <p>21 number?</p> <p>22 MR. MERZ: I do. It's Page 234, Section 9.2.3.9.</p> <p>23 Q. (BY MR. MERZ) And I'm looking at the state</p> <p>24 specific language for Arizona, Colorado, Oregon, Utah, and</p> <p>25 Washington.</p>	<p>1 And I'm looking at your surrebuttal testimony beginning at</p> <p>2 Page 16, Lines 18 through 23.</p> <p>3 A. I know 23 was the last line. What was the first?</p> <p>4 Q. You know, I think it's actually your rebuttal</p> <p>5 testimony. I better -- yeah. I'm sorry. I misspoke.</p> <p>6 I'm talking about your rebuttal testimony at Page 16,</p> <p>7 Lines 1 through 23.</p> <p>8 A. Yes.</p> <p>9 Q. Do you have that there?</p> <p>10 A. Yes, I do.</p> <p>11 Q. What you have set out here are Eschelon's</p> <p>12 proposal and Qwest's proposal with respect to Section</p> <p>13 9.1.2, which concerns access to UNEs, issue 9-31; is that</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And just to make sure we understand what you have</p> <p>17 written here, it's Qwest's proposal that this section</p> <p>18 should read, "Additional activities available for</p> <p>19 unbundled network elements includes moving, adding to,</p> <p>20 repairing and changing the UNE," and then through the end;</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. And then it also includes the phrase at the very</p> <p>24 end there, "at the applicable rate." Correct?</p> <p>25 A. Yes.</p>

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1 Q. Eschelon's proposal is that rather than  
2 additional activities available for unbundled network  
3 elements that the section should read, "access to  
4 unbundled network elements." Correct?  
5 A. Yes.  
6 Q. And then Eschelon doesn't add the last phrase "at  
7 the applicable rate" in its proposal; correct?  
8 A. Yes.  
9 Q. Now, you have in your testimony here underlined  
10 the phrase "moving, adding to, repairing and." Correct?  
11 A. Yes.  
12 Q. That language actually is not in dispute between  
13 the parties; correct?  
14 A. No. It is not.  
15 Q. Now, in your rebuttal at Page 15, Lines 7 through  
16 9, you say that Eschelon's language implies that access to  
17 or use of UNEs entitles it to moves, adds, and changes at  
18 no additional charge; is that right?  
19 A. Yes.  
20 Q. And then you also say that result would violate  
21 Qwest's right of cost recovery; correct?  
22 A. Correct.  
23 Q. Now, the right of cost recovery you're referring  
24 to there is the right that is provided under  
25 Section 252(d) of the Telecommunications Act; is that

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1 right?  
2 A. Yes.  
3 Q. So that the right of cost recovery you're  
4 referring to is the right for Qwest to recover its TELRIC  
5 costs for these activities, moving, adding to, repairing  
6 and changing the UNE; correct?  
7 A. It's whatever the appropriate rate is to recover  
8 the cost depending on the actual activity that is  
9 requested.  
10 Q. And if that's an activity that's governed by  
11 Section 252(d,) that would be a TELRIC rate; correct?  
12 A. If that activity is covered by that. But if the  
13 activity is covered by a different requirement, then  
14 whatever costs are appropriate in that scenario is the  
15 cost that would be recovered.  
16 Q. And I understood you to be saying that the right  
17 of cost recovery that you're referring to is the right  
18 that arises under Section 252(d) of the Act. Is that not  
19 correct?  
20 MR. DEVANEY: Your Honor, I think that  
21 misconstrues the testimony. She said that 252 can apply  
22 depending on the activity, but there's another -- but  
23 there's a different activity that might be outside of 252.  
24 So I object to the characterization of the testimony.  
25 ARBITRATOR RODDA: Okay. Could you either

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1 restate your question or have it read back?  
2 MR. MERZ: Sure.  
3 Q. (BY MR. MERZ) What I understood you to be  
4 telling me when we first started this line of questioning,  
5 that the right of cost recovery that you're referring to  
6 in your rebuttal testimony at Page 15, Line 9 is a right  
7 that arises under Section 252(d) of the Telecommunications  
8 Act.  
9 A. That is one of the areas. So, for example, in  
10 your scenario here, you have adding to a UNE. If you were  
11 saying that you wanted to add an additional identical UNE  
12 and put in a second UNE install, then yes, that's what  
13 would be covered.  
14 However, one of our concerns is this was so  
15 open-ended, and particularly the e.g., meaning that this  
16 is an example, not the definitive list, that what if what  
17 you asked for is we add to the UNE a private line? In  
18 that commingled arrangement, the private line rates would  
19 apply. Therefore, the applicable rate would be a private  
20 line rate.  
21 Q. The e.g. here that we have is also agreed upon  
22 language; correct?  
23 A. It is agreed upon language with the addition of  
24 "at applicable rates" as Qwest has proposed.  
25 Q. I mean, is it what -- is Qwest's goal here with

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1 this language, additional activities available for UNEs,  
2 to hold open the option to charge tariffed rates for  
3 moving, adding to, repairing and changing UNEs?  
4 A. In the example I just gave, it was a tariff rate,  
5 yes.  
6 Q. In your surrebuttal Page 14, and I'm looking at  
7 Lines 11 through 14 where you say "nor does he," and  
8 you're referring there to Mr. Denney; is that correct?  
9 I'm sorry. Mr. Starkey; is that correct?  
10 A. It appears to be Mr. Starkey, yes.  
11 Q. Nor does he show Eschelon's language would permit  
12 Qwest to charge TELRIC rates for these activities separate  
13 and apart from the monthly recurring rate for UNEs;  
14 correct?  
15 A. Yes.  
16 Q. Now, you agree with me that in order for Qwest to  
17 charge a separate rate, Qwest has to prove that the cost  
18 to perform that activity is not already recovered in  
19 another rate; correct?  
20 A. Generally, I think that's a true statement.  
21 Q. I want to shift gears now and talk about network  
22 modernization and maintenance, which is issues 9-33, 9-33a  
23 and 9-34. And I want to focus first on issue 9-33, and  
24 you understand that that issue involves modernizations  
25 that Qwest makes to its network that may result in minor



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1 changes to transmission parameters; correct?  
 2 A. Yes.  
 3 Q. And Eschelon has proposed language that would  
 4 apply if a modification has an adverse impact on service  
 5 to one of Eschelon's customers; correct?  
 6 A. Yes.  
 7 Q. And it's Qwest's position that so long as the  
 8 transmission parameters of the UNE fall within industry  
 9 standards, then the impact of the service on the customer  
 10 is irrelevant; is that right?  
 11 A. That's part of the Qwest position, yes.  
 12 Q. In your rebuttal, Page 22, Lines 5 through 10,  
 13 you have there language based on language that was ordered  
 14 in Minnesota by the Administrative Law Judges that says:  
 15 If such changes result in the CLEC's end user customer  
 16 experiencing unacceptable changes in the transmission of  
 17 voice or data, Qwest will assist the CLEC in determining  
 18 the source and will take the necessary corrective action  
 19 to restore the transmission quality to an acceptable level  
 20 if it was caused by the network changes.  
 21 Do you see that language?  
 22 A. Yes, I do.  
 23 Q. You understand that that is language that  
 24 Eschelon is proposing in this case?  
 25 A. Yes. That's my understanding.

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1 Q. That's language that was initially suggested by  
 2 the Minnesota Department of Commerce?  
 3 A. Yes.  
 4 Q. And recommended to be adopted by the Minnesota  
 5 ALJs?  
 6 A. Yes.  
 7 Q. Now, that language provides a consequence if a  
 8 change causes unacceptable changes in transmission  
 9 parameters; right?  
 10 A. Yes.  
 11 Q. That consequence is that Qwest will determine the  
 12 source and take necessary corrective action to restore the  
 13 transmission quality to its previous -- to an acceptable  
 14 level; correct?  
 15 A. Yes.  
 16 Q. Now, this proposal that we've been talking about  
 17 doesn't prohibit Qwest from making changes, does it?  
 18 A. No. It does not.  
 19 Q. And what it does is it establishes a remedy if  
 20 customers are adversely impacted; correct?  
 21 A. It does establish a remedy, but it's a situation  
 22 where Qwest may be put into a box where it's unable to  
 23 remedy it for the end user customer. And that is an issue  
 24 we'll have to deal with if this is actually ordered in the  
 25 state of Minnesota, because there can be network changes

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1 that are made.  
 2 Part of it is that it talks about the service  
 3 Eschelon is giving to its end user. Qwest doesn't know  
 4 exactly or typically what service Eschelon is providing to  
 5 the end user. Qwest is providing a service to the CLEC,  
 6 and Qwest believes the proper standard is between Qwest  
 7 and the CLEC. That Qwest should not have some  
 8 responsibility for whatever promises that Eschelon is  
 9 providing to its end user.  
 10 So, for example, and I think this example is in  
 11 the testimony, if the CLEC uses an analog to wire copper  
 12 facility to provide a digital service to the customer, it  
 13 will probably work. However, they're ordering an analog  
 14 loop. When Qwest modernizes its network, Qwest can put in  
 15 some type of hybrid loop, which is a combination of  
 16 electronics and copper.  
 17 And in that hybrid loop scenario, an analog loop  
 18 is still going to work and it's going to work within the  
 19 parameters, but because the CLEC -- not necessarily  
 20 Eschelon -- this hypothetical CLEC is giving the end user  
 21 a data service over it, the data service is not going to  
 22 work. And Qwest is really not in a position that it is  
 23 somehow going to remove all of the electronics which  
 24 typically have been put in for growth. When you have an  
 25 area and there's a higher demand for loops than was

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1 anticipated when the plant was put in maybe up to, you  
 2 know, 75, 100 years ago, and we've got to provide growth,  
 3 we're going to put those electronics in.  
 4 If the CLEC -- if the relationship on what  
 5 happened was between Qwest and the CLEC, then we would be  
 6 able to say, yes, you have ordered X service. Yes, it  
 7 still works.  
 8 Because we don't know that they inappropriately  
 9 used the wrong loop to deliver service to the end user  
 10 customer, it's going to put Qwest in a box, and I'm not  
 11 sure what the result of that would be. Once again, it  
 12 would become situational specific, and that's what Qwest  
 13 is trying to avoid by its language.  
 14 ARBITRATOR RODDA: Can I just ask under that  
 15 example you just gave, they were providing services --  
 16 they must have been providing services that worked over  
 17 that analog loop, and then when you modernized in the  
 18 hypothetical --  
 19 THE WITNESS: Correct. DSL would be the example.  
 20 They had a customer loop. It was all copper for whatever  
 21 reason, analog perhaps, and they knew it was going to work  
 22 because they're able to see the loop makeup tool, then  
 23 they would provide this digital service over the analog  
 24 loop.  
 25 But at the time Qwest goes to modernize its

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1 Q. Now, if there are adverse affects to the  
2 transmission parameters of the facility, that means that  
3 something unexpected has happened; correct?  
4 A. Either unexpected happened in the cut, or for  
5 whatever reason the prem equipment was not capable of  
6 working within the parameter, the true parameters of the  
7 technical publications.  
8 Q. I'm going to actually switch gears now to ask you  
9 some questions about subloop cross-connects, which is  
10 issue 9-50. The issue here is whether Qwest should be  
11 required by the ICA to perform subloop cross-connects for  
12 Eschelon; correct?  
13 A. Yes.  
14 Q. And as I understand it, it's Qwest's position  
15 that it never had any obligation to provide this service;  
16 correct?  
17 A. Yes.  
18 Q. That is a service that Qwest currently offers  
19 under its ICAs with certain other CLECs; correct?  
20 A. There are older ICAs that have that option in  
21 them, yes.  
22 Q. And it's also a service that Qwest offers under  
23 its SGAT; correct?  
24 A. I believe it is in the Arizona SGAT, yes.  
25 Q. But it's Qwest's position that it doesn't want to

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1 include subloop cross-connects in Eschelon's ICA because  
2 you're in the process of phasing that service out; is that  
3 right?  
4 A. Yes. And it's not just for Eschelon. At a  
5 certain point in time when Qwest made the decision to  
6 phase out the offering because there was no legal  
7 requirement, plus there was no demand, ever since it's  
8 been there no one has ever ordered the service, it isn't  
9 prudent to try to continue to maintain processes and  
10 procedures and billing arrangements for a service that no  
11 one has ordered that Qwest is phasing it out for all CLECs  
12 after a certain point in time.  
13 MR. MERZ: Could you mark this as Eschelon-4,  
14 please.  
15 Q. (BY MR. MERZ) You recognize Eschelon Exhibit  
16 No. 4 as Exhibit A to Qwest's Arizona SGAT; correct?  
17 A. Yes.  
18 Q. Now, would you look at 9.3, which is on Page 7.  
19 A. Yes.  
20 Q. 9.3 is titled subloops; is that right?  
21 A. Yes.  
22 Q. And 9.3.3 is intrabuilding cable loop per pair;  
23 is that right?  
24 A. Yes.  
25 Q. There are two no-dispatch options and two

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1 dispatch options; is that right?  
2 A. Yes.  
3 Q. And this intrabuilding cable loop, that's what  
4 we're talking about when we talk about the subloops that  
5 are part of the 9-50 dispute; right?  
6 A. Yes.  
7 Q. The dispatch option is the option under which  
8 Qwest goes out to do the cross-connect on the CLEC's  
9 behalf; is that right?  
10 A. Yes.  
11 Q. That's the service that Qwest wants to  
12 discontinue because it says there's no CLEC demand for  
13 that service?  
14 A. Yes.  
15 Q. Now, I see there's a note under NRC-5. And if  
16 you look at the next to the last page of the document,  
17 Footnote 5 indicates that rates are being proposed in the  
18 Arizona cost docket Phase III.  
19 Do you see that?  
20 A. Yes, I do.  
21 Q. Has Qwest proposed rates for this element as part  
22 of the Phase III cost docket?  
23 A. I do not know.  
24 Q. Do you know whether Qwest intends to?  
25 A. I do not know. I would guess not since we're

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1 phasing out the product, but I don't know. I don't know  
2 the timing on that cost docket.  
3 MR. MERZ: Mark this as Eschelon-5, please.  
4 Q. (BY MR. MERZ) You have in front of you there  
5 Eschelon Exhibit No. 5; is that right?  
6 A. Yes.  
7 Q. Is this a document that you have seen before?  
8 A. I don't know. I am aware of the Cox Arizona  
9 issue, but, you know, I don't know that I have seen this  
10 document or not.  
11 Q. Go to Paragraph 2. There's a reference there to  
12 on premises wire subloops, which is the issue that we're  
13 talking about here, the 9-50 issue; is that right?  
14 A. Yes.  
15 Q. A reference as well to dispatch and no dispatch  
16 circumstances; correct?  
17 A. Yes.  
18 Q. The dispatch circumstances would be when the CLEC  
19 is asking Qwest to go out and do the cross-connects for  
20 it?  
21 MR. DEVANEY: Your Honor, I'm going to object at  
22 this point. This is a brief filed by Cox Telecom.  
23 Ms. Stewart is not sure she's seen it before, and counsel  
24 is asking her substantive questions about the meaning of  
25 statements in Cox's brief. I don't think it's a fair

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1 question and there's no foundation for it.  
 2 ARBITRATOR RODDA: You know, I didn't hear your  
 3 question. Could you read it back or --  
 4 MR. MERZ: Sure. My question is whether  
 5 Paragraph 2 references the dispatch option, which is the  
 6 option to have Qwest go do the cross-connects for Cox.  
 7 ARBITRATOR RODDA: Okay. I'm going to allow her  
 8 to answer that question.  
 9 THE WITNESS: I can just read what is here. So  
 10 it is what it is.  
 11 Q. (BY MR. MERZ) And what it is is a request for  
 12 Cox to have the Arizona Commission establish a rate to  
 13 have Qwest provide cross-connects for subloops; right?  
 14 MR. DEVANEY: Same objection.  
 15 ARBITRATOR RODDA: Okay. But if you can  
 16 understand --  
 17 THE WITNESS: I understand the question. What I  
 18 don't know is, because I have not read all of the details,  
 19 is I just wouldn't want to get crossways and would  
 20 probably need to go back and reread the subloop section as  
 21 it related to intrabuilding connections, whether this is  
 22 the same component that we're attempting to not offer  
 23 anymore.  
 24 And the reason I have sort of a note of caution  
 25 here on that is that there are subloop connections that

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1 Qwest would need to make for intrabuilding cable, and then  
 2 there are connections which have never been ordered, and  
 3 we believe it's because CLECs always do it themselves,  
 4 and, therefore, there's no need to have a process.  
 5 Because these rates don't match the other rates,  
 6 I'm concerned they may be talking about a different  
 7 cross-connect portion. So I don't want to -- because with  
 8 an intrabuilding cable, I could draw a diagram if there  
 9 would be any interest in a diagram, but there are a couple  
 10 of different cross-connect scenarios with intrabuilding  
 11 cable, and it just -- I just wouldn't want to get  
 12 crossways when particularly the prices are so different.  
 13 Q. (BY MR. MERZ) Well, let me ask you this.  
 14 Exhibit A, the Arizona SGAT, if you look at 9.3.3 where it  
 15 says intrabuilding cable loop per pair.  
 16 A. Yes.  
 17 Q. It says there there's a recurring rate of  
 18 0.299 -- I'm sorry -- 2955; correct?  
 19 A. Right.  
 20 Q. And that's the same as the recurring rate that's  
 21 referenced in Paragraph 2 of the Cox petition; correct?  
 22 A. Correct.  
 23 Q. And wouldn't you conclude from that that the Cox  
 24 petition is talking about the same intrabuilding cable  
 25 loop that is referenced at 9.3.3 of Exhibit A to the

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1 Arizona SGAT?  
 2 A. But it says it did not address nonrecurring for  
 3 the on premise, and these other rates are nonrecurring  
 4 rates.  
 5 Q. That are not rates that the Commission has  
 6 established but rather are being proposed in Phase III of  
 7 the cost case; isn't that right?  
 8 A. That could be an explanation. I'm just saying  
 9 that I saw a mismatch between this saying that there were  
 10 no nonrecurring rates and then this document having  
 11 numerous nonrecurring rates.  
 12 ARBITRATOR RODDA: You're probably finished that  
 13 line of questioning.  
 14 MR. MERZ: Yeah, I have.  
 15 Q. (BY MR. MERZ) I'm going to go to a different  
 16 area of loop-MUX combo, which is issue 9-61.  
 17 ARBITRATOR RODDA: When you say MUX, is that the  
 18 same as -- did you say MUX?  
 19 MR. MERZ: Loop-MUX. Maybe I'm just not saying  
 20 it very well. It's a combination of both things.  
 21 ARBITRATOR RODDA: Okay. Is this going to be --  
 22 I think this might be a good time for a break.  
 23 MR. MERZ: That would be fine.  
 24 ARBITRATOR RODDA: Let's take 10.  
 25 (A recess was taken from 10:20 a.m. to 10:36 a.m.)

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1 ARBITRATOR RODDA: Okay. Since everyone is here,  
 2 let's go back on the record.  
 3 Mr. Merz.  
 4 MR. MERZ: Thank you, Your Honor. I was reminded  
 5 that I have not offered Eschelon Exhibit 3, which is  
 6 Exhibit A to the proposed ICA; Eschelon Exhibit 4, which  
 7 is Exhibit A to the Arizona SGAT; and Eschelon Exhibit 5,  
 8 which is the Cox petition. I would offer those three  
 9 exhibits at this time.  
 10 ARBITRATOR RODDA: Thank you. My records do show  
 11 that we admitted E-3, but any objection to E-4 and 5?  
 12 MR. DEVANEY: I do object to the Cox petition. I  
 13 don't think there's a foundation for putting in another  
 14 party's brief that's not even a party to this proceeding.  
 15 ARBITRATOR RODDA: Okay. Well, it speaks to the  
 16 issue of whether there's going to be a -- it says what it  
 17 says, and it talks about the potential Phase III, but --  
 18 so I'll admit it for what it's worth. So we'll admit E-4  
 19 and E-5.  
 20 (Exhibit Nos. Eschelon-4 and Eschelon-5 were  
 21 received into evidence.)  
 22 MR. MERZ: Thank you. When we broke, we were  
 23 starting loop-MUX combinations, and I actually think I can  
 24 be pretty brief about this.  
 25 Q. (BY MR. MERZ) You're aware that the Minnesota

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1 in its central office and it has access to measure. To  
 2 the extent that it wants to do an analysis of not only  
 3 Eschelon but, let's say, CLECs in general -- because I  
 4 can't imagine, frankly, that Eschelon's List 1 drain time  
 5 frame, its peak usage is going to be significantly  
 6 different than other sort of business-related CLECs, or  
 7 for that matter Qwest's own business-related equipment  
 8 that serves like customers.

9 Q. Okay. But the contract language you just looked  
 10 at and reviewed doesn't specify anything like what you're  
 11 describing, an ongoing monitoring or sampling of  
 12 Eschelon's power usage, does it?

13 A. It gives Qwest full discretion to choose how it  
 14 wants to measure the power.

15 Q. Well, now it says four times a year; right?

16 A. It says -- nothing as I understand from this  
 17 contract language limits the amount of time or effort that  
 18 Qwest can go to to measure power in its own central  
 19 office. For purposes of billing Eschelon with respect to  
 20 measurement, it limits it to four times a year such that  
 21 Eschelon doesn't get a different measurement every week,  
 22 or that it does not have to pay a different amount every  
 23 week based on a weekly measurement, for example.

24 Q. So what you're proposing is that Qwest could  
 25 measure every day, but only choose to share with Eschelon

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1 the measurements that most work to Qwest's favor when  
 2 Qwest hit a particularly high spike on Eschelon's usage?  
 3 Are you proposing Qwest could then say, here is your bill  
 4 for the next three months, Eschelon? Is that what you're  
 5 proposing?

6 A. If by spike you mean List 1 drain, because I  
 7 don't know what you mean by spike.

8 Q. A high moment of usage compared to -- you know,  
 9 let me ask you this question. Usage is not static. It  
 10 fluctuates; right?

11 A. That's true.

12 Q. So there's going to be peaks and valleys; right?

13 A. Yes.

14 Q. You're not proposing that -- let me back up and  
 15 strike that.

16 The language that you just read from the contract  
 17 sets forth -- and this is agreed language in the contract  
 18 -- that power measurement will happen no more than four  
 19 times a year; right?

20 A. You have to read the language again specific to  
 21 my summary. When you read the language, when it talks  
 22 about the maximum of four times per year, it says: Based  
 23 on these readings, if the CLEC is utilizing less than the  
 24 ordered amount of power, Qwest will reduce the monthly  
 25 power usage rate to the CLEC's actual usage. If CLEC is

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1 utilizing more, then Qwest -- then it will bill the actual  
 2 power usage request on a going-forward basis.

3 The point of the four measurements is how is  
 4 Qwest going to bill Eschelon for power consumption. It  
 5 has nothing to do with limiting Qwest's ability to manage  
 6 its power infrastructure and measure whatever it wants to  
 7 measure.

8 Q. But the language you just read from says that  
 9 Qwest can take a maximum -- that was your word -- of four  
 10 readings per year; right?

11 A. Well, it's in the contract. It's not my word.

12 Q. Fair enough. It's in the contract.

13 A. Right. And then it goes on to suggest that for  
 14 those four readings, it will dictate how it bills to  
 15 Eschelon.

16 If you're suggesting that something in here  
 17 limits Qwest's ability to manage its power plant and  
 18 measure its power in some other way for some other purpose  
 19 than billing to Eschelon, I would suggest that that's not  
 20 the intention.

21 Q. Okay. But I'm not suggesting that at all, and  
 22 I'm trying to get at what you're suggesting, or maybe not.  
 23 So let me try to clarify.

24 You aren't suggesting here today that it would be  
 25 appropriate under the contract for Qwest to measure

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1 Eschelon's usage every single day, perhaps multiple times  
 2 every single day, wait until it sees a particular peak of  
 3 usage, and take that moment in time and then go to  
 4 Eschelon and say, well, we took a measurement. Here is  
 5 what it was. This is how you're going to be billed under  
 6 the power measurement language for the next three months.

7 Are you suggesting that Qwest can do that or  
 8 should do that?

9 A. And, again, you say spike. I'm going to refer to  
 10 it as List 1 drain because I think that's really what it  
 11 is. If Qwest wants -- and I have said this in my  
 12 testimony. To the extent Qwest can take a reading at the  
 13 point of List 1 drain and charge us those rates, I don't  
 14 have a problem with that.

15 Q. But, again, Qwest can't know when that moment in  
 16 time, that snapshot in time to going to come unless it  
 17 monitors on an ongoing basis Eschelon's power usage;  
 18 correct?

19 A. I wouldn't disagree with on an ongoing basis. I  
 20 would disagree with sort of the instantaneous and 24/7  
 21 suggestion that you threw out earlier. I think there is a  
 22 process and analysis that could be done and a process that  
 23 could be put in place to try to discern what the List 1  
 24 drain for Eschelon is.

25 Q. And let me come at it this way. Because you and

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1 answer to the first question is yes. Qwest should have to  
 2 do it because it did it for its own retail customer, and  
 3 nondiscriminatory access requires that it likewise do it  
 4 for Eschelon.  
 5 Now, Eschelon, unlike the customer, has rights  
 6 under Section 251 and 252 of the Act which require that  
 7 when it pays for these unbundled network elements, it do  
 8 it at cost-based rates. And that's what we're suggesting  
 9 in this language.  
 10 Q. Well, then, here is my question. When we look at  
 11 those words moving, adding to, repairing, changing, what  
 12 specific activities -- I know you have given your  
 13 nondiscrimination spiel, and I agree with your statement  
 14 in law absolutely, but let's focus on activities.  
 15 What activities are covered by these terms? When  
 16 you say moving or adding, are we talking about digging a  
 17 ditch? What are we talking about?  
 18 A. Well, you raise digging a ditch, I think, for a  
 19 specific reason. When we look at Paragraph 634 --  
 20 Q. No, I don't. Actually, all I want to know is  
 21 what activities are covered by these terms?  
 22 A. Let's say we're digging a ditch, though. The FCC  
 23 described when it talked about routine network  
 24 modifications in the TRO, it refused, based on Verizon's  
 25 suggestion, that the Commission list every activity that

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1 might fall under a routine network modification. The FCC  
 2 said we're not going to do that, because what we're  
 3 setting is a standard. It's nondiscriminatory access, and  
 4 if you do it for your customers, do it for the person that  
 5 buys unbundled network elements.  
 6 So there isn't -- I mean, in fact, the FCC has  
 7 suggested the right way to do this is not to list every  
 8 particular activity that might accrue. The standard is  
 9 what is important, which is if you do it for yourself, you  
 10 do it for the UNE customer.  
 11 Q. Okay. But that's with respect to routine network  
 12 modifications that the FCC didn't list all of the specific  
 13 activities. Here we're talking about specific contract  
 14 language that is going to be imposed upon the parties, and  
 15 it includes an obligation for Qwest to move, add, repair,  
 16 change UNEs.  
 17 And my question for you as Eschelon's  
 18 representative on this issue is what activities are  
 19 encompassed by those terms? Can you name the activities  
 20 that are encompassed by them? That's my only question.  
 21 A. Are you asking me can I name them all?  
 22 Q. Just give me some idea of what your company has  
 23 in mind with respect to what is covered by these  
 24 activities. That's all I want to know.  
 25 A. And I assume by that you mean other than design

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1 changes, maintenance of service.  
 2 Q. I've already said we can exclude what is in the  
 3 parens, but tell me what else is covered. That's all I  
 4 want to know.  
 5 A. Well, I'm hesitant to do that because the FCC  
 6 said we shouldn't list them all. But I can probably think  
 7 off the top of my head to give you a couple of examples if  
 8 you give me a second.  
 9 Let me give you an example. Additional  
 10 dispatches is one of the specific activities that we list  
 11 under the for example.  
 12 Q. Right.  
 13 A. When you go to provisional loop, and let's say  
 14 we're talking about copper, from the 2001 to -- or,  
 15 actually, sort of the 1999 time frame to about 2004, all  
 16 across the country we had cases dealing with special  
 17 construction charges. I'm sure that's a term you've heard  
 18 before. And it was the Commission's -- the FCC's decision  
 19 in the TRO for routine network modifications that finally  
 20 decided that issue on a national basis so we didn't have  
 21 to fight it state by state.  
 22 The position of most of the RBOCs -- and I would  
 23 admit that I wasn't in the Qwest proceedings but I was  
 24 participating in the Verizon and the Ameritech and the SBC  
 25 proceedings -- was that there was a very refined and very

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1 sort of limited obligation that -- let's use SBC as an  
 2 example -- that SBC was undertaking for itself to  
 3 provision a loop.  
 4 If the loop was connected all the way through,  
 5 let's say, and by that they meant you had circuit  
 6 continuity all the way from the central office to the  
 7 customer premise, if you had circuit continuity, they  
 8 would provision the loop. But if they had to send a  
 9 person out -- dispatch a person to move a jumper at the  
 10 remote term from one peg to another so as to generate that  
 11 circuit continuity, special construction charges, tariffed  
 12 rates. All right?  
 13 What the FCC said, following on the heels of many  
 14 state commission decisions to the same extent, is if you  
 15 would send that -- if you would dispatch that person to  
 16 connect that jumper at the FTI for your retail customers,  
 17 and you do, then you must also prepare and do that same  
 18 activity for your unbundled network elements customers.  
 19 It's part and parcel of the nondiscriminatory access.  
 20 So there are a myriad of those types of issues  
 21 that come into play when you're provisioning service out  
 22 in the field. The FCC recognized that this isn't a  
 23 onesie, twosie. It might encompass three or four things.  
 24 It's a number of things.  
 25 Q. So what I hear you saying is that it's not really

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1 possible to list all of the activities that might be  
 2 covered by these terms; is that right?  
 3 A. Oh, I don't know what's possible or not. I would  
 4 say it's not practical and, in fact, that it flies in the  
 5 face of the way the FCC said we should handle things.  
 6 Q. But whatever activities are encompassed by these  
 7 terms, and we don't know exactly what they are, it's  
 8 Eschelon's position that they all have to be paid for at  
 9 TELRIC rates; correct?  
 10 A. Cost-based rates.  
 11 Q. Right. Even though we don't know what all of the  
 12 activities are?  
 13 A. Well, we know that they fit within the realm of  
 14 what Qwest would do for its retail customers in providing  
 15 these same network elements. So they're certainly limited  
 16 to that extent.  
 17 Q. But if Qwest is providing that to its retail  
 18 customers at tariffed rates, and it's not service within  
 19 251 or 252, isn't it possible that tariff rate could apply  
 20 to Eschelon?  
 21 A. My understanding is that Section 9 in total  
 22 applies to Qwest's obligations under Section 251 for  
 23 unbundled network elements. If you're suggesting that  
 24 this was some service or feature that fell outside of 251,  
 25 then I think you would have a good argument to say it

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1 doesn't apply here.  
 2 Q. Now, the activities that Eschelon believes are  
 3 encompassed by buying access to a UNE, whatever moving,  
 4 adding, and changing might include, do you have a position  
 5 on whether those activities are already included in the  
 6 recurring rates that Eschelon is paying for UNEs here in  
 7 Arizona?  
 8 A. Your question is do I have an opinion?  
 9 Q. Well, what is your position? Are these  
 10 activities that you have listed in your language already  
 11 included in the recurring rates that CLECs pay in Arizona  
 12 for UNE loops, UNE transport, other UNEs?  
 13 A. I'm going to answer that question two ways.  
 14 First I'm going to say moves, adds, and changes is a  
 15 vernacular in the telecom industry that doesn't bring  
 16 surprise to a technician's face. When you say we've got  
 17 moves, adds, and changes to deal with, they know what  
 18 you're talking about. That's a fairly established term in  
 19 the telecommunications business. It's not defined here in  
 20 the agreement. But if you ask any technician, they're  
 21 going to know what you're talking about.  
 22 With respect to whether those moves, adds, and  
 23 changes and these other types of -- or these sort of more  
 24 defined activities in the example are included in the  
 25 rates in Arizona, Mr. Denney is going to be better suited

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1 to talk to you about that. I have read his testimony and  
 2 heard his testimony other places and I can recount it, but  
 3 I think he's probably better to discuss that.  
 4 Q. So you don't know?  
 5 A. He's going to be a better witness to talk to you  
 6 about that.  
 7 Q. Do you have in front of you Eschelon Exhibit 3,  
 8 which is Exhibit A to the interconnection agreement, the  
 9 pricing exhibit?  
 10 A. I did not bring that to the stand with me.  
 11 Q. Could you take a look, please, at Section 9.6.11,  
 12 which is found on Page 16.  
 13 A. Yes.  
 14 Q. Do you see UDIT rearrangement?  
 15 A. I do.  
 16 Q. UDIT refers to transport; is that correct?  
 17 A. Yes. I think it stands for unbundled dedicated  
 18 interoffice transport.  
 19 Q. And you'll see that the Arizona Commission has  
 20 set a nonrecurring rate for various types of UDIT  
 21 rearrangements as reflected by this exhibit. Would you  
 22 agree with that?  
 23 A. Yes.  
 24 Q. Do you have an understanding of what a UDIT  
 25 rearrangement is?

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1 A. Generally, yes, but I don't think it's part of my  
 2 testimony.  
 3 Q. Well, here is my question for you. A UDIT  
 4 rearrangement is something that might fall within  
 5 Eschelon's proposed language of moving, adding, or  
 6 changing. Would you agree with that?  
 7 A. I would say, yes, generally a rearrangement would  
 8 fall within that category.  
 9 Q. And would you agree with me that pursuant to the  
 10 Arizona Commission's rate order from the past cost docket  
 11 that UDIT rearrangement would not be covered by the  
 12 monthly recurring rate, but instead Eschelon or another  
 13 CLEC would have to pay a separate nonrecurring charge for  
 14 that?  
 15 A. Now we're certainly in Mr. Denney's territory far  
 16 more than my own. I just don't know.  
 17 Q. Doesn't Exhibit A sort of reflect that because it  
 18 has a separate rate for UDIT rearrangements?  
 19 A. The cost study underlying this particular rate is  
 20 going to tell you the activities that are accounted for in  
 21 undertaking this arrangement. We're talking about  
 22 arrangements more generally, so I don't know whether the  
 23 arrangements we're talking about would be specific to what  
 24 is covered by that cost study or not. I just don't know.  
 25 Mr. Denney probably does.

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1 I think it's Section 9.1.9, which is that language  
2 adversely affect or unacceptable changes. I guess that's  
3 in connection with network modifications or upgrades.  
4 A. Yeah.  
5 Q. Just so I am clear or can understand, what is  
6 Eschelon intending to encompass by this adversely affect?  
7 Is there a measurement? A little bit or a lot, or does it  
8 matter, or --  
9 A. I think it's generally -- I mean, if you think  
10 about it from a practical, real-world perspective, it is  
11 that Qwest goes out to the field and it does this network  
12 modernization and maintenance; right? Prior to that time,  
13 Eschelon had a customer who was up and running and  
14 everything was good.  
15 After this network maintenance and modernization,  
16 Eschelon gets a call from its customer, and it either says  
17 my service is down or my service is so degraded that I'm  
18 not comfortable. I don't feel like I'm being provided  
19 what I ordered or asked for. So that's the level of  
20 unacceptable is when the customer no longer is accepted of  
21 what the service quality is.  
22 Q. So it's unacceptable from the end user's point of  
23 view?  
24 A. I think it's unacceptable from Eschelon's  
25 perspective, and I think that's the way I would read this

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1 language. Because obviously, either one of those  
2 circumstances, either the customer calling and saying my  
3 service is down or the customer calling and saying my  
4 service no longer works the way it should is unacceptable.  
5 It's an unacceptable change in the quality of the UNE that  
6 Eschelon is receiving from Qwest.  
7 Q. And so is it the same between adversely affect  
8 and unacceptable changes? There's two proposal, I guess.  
9 One uses adversely affect, and one uses the words  
10 unacceptable changes.  
11 A. And I think this is the way I'm going to answer  
12 this, and I hate to do this. I think I'm going to have to  
13 kick this maybe to Ms. Johnson who is probably going to  
14 describe what Eschelon really meant between those two  
15 particular differences. That's something that I should  
16 probably know, but I just don't.  
17 Q. But she's also going to be testifying on this  
18 section or --  
19 A. I'm not sure she will, but she may be able to  
20 answer questions about it. The only thing is, I just  
21 don't want to say Eschelon was trying for a particular  
22 thing here that I haven't talked with them about if,  
23 indeed, that's not what they mean.  
24 Q. I'm just trying to decide -- I'm just trying to  
25 understand what Eschelon wants to encompass by adversely

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1 affect. Because that could -- just from me reading it,  
2 that could just be a range of things. But you're talking  
3 about interrupted service or they can't -- I mean, but --  
4 A. Keep in mind there are other parts of the  
5 contract on agreed upon language where it talks about  
6 certain parameters within which -- there is a range here  
7 within which -- if they are in that range. I mean, we're  
8 not talking about something that is so minute that it  
9 falls outside of the range -- or it's so large that it  
10 falls outside of the range of these parameters of an  
11 acceptable UNE by the technical documents. We're talking  
12 about a customer is in service, something happens to where  
13 that customer is no longer being provided the service it  
14 was provided, and that service it was provided was within  
15 the parameters of the UNEs that the parties have agreed  
16 upon.  
17 Q. So did you just tell me -- so it talks about  
18 changes to transmission parameters in that same section.  
19 A. Yes.  
20 Q. That those transmission parameters are somewhere  
21 else defined in the agreement?  
22 A. There is closed language, and I would have to  
23 take a minute to find it, that talks about the provision  
24 of UNEs. It's probably back toward the beginning. Let me  
25 find it here real quick.

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1 I can't find it off the top of my head right now,  
2 but there certainly are agreed upon parameters with  
3 respect to how the unbundled network elements will be  
4 offered. And I guess I would point you back to an example  
5 that I included. I guess actually it was in Mr. Webber's  
6 testimony that I have now adopted, which is the dB loss  
7 example. I don't know if you're familiar with that or  
8 not. What happened was -- let me just use it as a  
9 hypothetical.  
10 The hypothetical was that Qwest has a parameter  
11 DS1 circuit. It has electronic signals going back and  
12 forth from the central office to the customer. Okay.  
13 Obviously the two pieces of electronics are talking.  
14 There's a range of settings by which they can still talk,  
15 and you adjust those. You can set those and tune them, if  
16 you will, so that they talk the best. There's a range of  
17 acceptable parameters that both of them are willing to  
18 accept.  
19 Qwest used to -- in the example, Qwest made a  
20 conscious effort to go in and tune those facilities, all  
21 facilities in its network, to a given setting. I believe  
22 it was 7.5 decibels. Okay. But the range is, let's say,  
23 0 to 16. So anywhere within that range is acceptable with  
24 respect to the parameter, but they set it at 7.5.  
25 Well, the 7.5 didn't work for some of Eschelon's

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1 customers. All right? So the service couldn't be  
2 provided. Qwest came back and said we're within our  
3 range. All right? We made a change and, yes, your  
4 customer now can't get service, but we're within a range  
5 that's acceptable, so too bad. I'm sure they didn't say  
6 too bad. There's a long chronology that's in  
7 Ms. Johnson's testimony, but when I read it that's what I  
8 read is they were saying too bad.

9 So what this language is specifically getting at  
10 is it might still be within the range, but the customer's  
11 service going down because it was set at 7.5 instead of  
12 retuning it to where it would work is unacceptable.

13 That's the example from which this language  
14 really springs that they're trying to avoid. Yes, it  
15 might still be in these parameters, but they changed  
16 something such that our service went down. They should be  
17 required to fix that within the parameters.

18 ARBITRATOR RODDA: I don't have any other  
19 questions.

20 Are you going to have significant redirect?  
21 MR. MERZ: I'll have -- I mean, a few. I don't  
22 know how to -- we should take a break.

23 ARBITRATOR RODDA: Let's take a break and go to  
24 lunch. It always helps Mr. Merz.

25 MR. ROSELLI: If I might, a quick matter. I

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1 marked but neglected to have admitted Qwest Exhibit 20.  
2 And if I could do that now just to take care of it, I  
3 would move the admission of Qwest-20.

4 ARBITRATOR RODDA: And that was the excerpt from  
5 the McLeod transcript?

6 MR. ROSELLI: Correct.

7 ARBITRATOR RODDA: Any objection?  
8 MR. MERZ: No objection.

9 ARBITRATOR RODDA: So Qwest-20 is admitted.  
10 (Exhibit No. Qwest-20 was admitted into evidence.)

11 ARBITRATOR RODDA: And we're going to take a  
12 break until 1:35. No. I'll give you until 1:45.

13 (A recess was taken from 12:25 p.m. to 1:45 p.m.)

14 ARBITRATOR RODDA: Back on the record. And I  
15 think we were going to start with redirect.

16 MR. MERZ: Yes. Thank you, Your Honor.

17

18 REDIRECT EXAMINATION

19

20 Q. (BY MR. MERZ) Mr. Starkey, first I want to ask  
21 you a couple of questions about loop-transport  
22 combinations, and I want to start by referring you to  
23 Section 9.23.4 of the contract.

24 A. Okay.

25 Q. You recall this morning that Mr. Devaney asked

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1 you about the three types of loop-transport combinations  
2 that are described here?

3 A. Yes. I recall that.

4 Q. Does Eschelon's language on this issue recognize  
5 that there are, in fact, three types of loop-transport  
6 combinations?

7 A. Yes, it does. It not only recognizes that there  
8 are three distinct types of loop-transport combinations,  
9 but it also recognizes that there are differences between  
10 how they may be impacted, depending on whether they are  
11 combinations of UNEs or whether they also include a  
12 combination of UNEs and other special arrangements.

13 Q. Then I want to ask you a question -- switching  
14 gears now -- about loop-MUX combo.

15 A. Okay.

16 Q. You had mentioned this morning that you had in  
17 mind an example of a situation where something might be a  
18 feature or function of the loop, but it exists on the CO  
19 side of the frame. Do you recall that?

20 A. I do.

21 Q. Would you describe the example that you had in  
22 mind?

23 A. I will. I was going to use the picture that  
24 Ms. Stewart used earlier today. I promise not to write on  
25 it if I can point to it.

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1 ARBITRATOR RODDA: It's attached to her --  
2 THE WITNESS: It's also included in her  
3 testimony.

4 MR. MERZ: And I can give you that.

5 THE WITNESS: And I think I may have that. It's  
6 in her testimony as Exhibit KAS-R1.

7 ARBITRATOR RODDA: I can't remember. Was that  
8 her direct?

9 MR. MERZ: It's her rebuttal.

10 THE WITNESS: And when I was describing the issue  
11 with Mr. Devaney, I believe Mr. Devaney was trying to  
12 discern the extent to which, because the FCC defines an  
13 unbundled loop as a transmission facility between the main  
14 distribution frame and the central office and the  
15 demarcation point at the customer's premise, if  
16 multiplexing doesn't somehow fit between those two pieces,  
17 can it be considered a functionality of the loop?

18 And I suggested that I thought it could because  
19 it's a part of the transmission facility itself that makes  
20 the whole loop work. And one specific and very common  
21 example of that is a T1 circuit. T1 is actually the  
22 analog -- there are two types of sort of DS1 or T1  
23 circuits. T1 is generally considered to be the analog  
24 copper loop driven sort of platform on which you provide a  
25 1.544 megabit per second channel. DS1 is sort of the



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1 digital service component of that, generally considered to  
2 be a fiber-based sort of product.  
3 There's still a lot of copper based T1 in the  
4 network. And when you provide a copper-based T1, the way  
5 it works -- and maybe using Ms. Stewart's example is the  
6 best way to do this. It's not depicted on here, but if  
7 you look at Page 1 where you see it's sort of the  
8 second -- where you sort of see a stop sign on the right  
9 side, and it says DS1 from the stop sign in through the  
10 main distribution frame, and then down to the CLEC collo.  
11 In the middle there you'll see a DSX-1.  
12 Well, she's left something off of her diagram,  
13 because the DSX-1 really is nothing more than sort of  
14 accepting the DS1 circuit for purposes of distributing it  
15 to the rest of the central office. There's actually a  
16 piece of equipment that's required to make the T1 work in  
17 that circumstance. And I would say -- actually, let's --  
18 if I changed her designation of a DS1 to T1 in that  
19 circumstance, I would then add on the central office side  
20 of the frame --  
21 ARBITRATOR RODDA: But there's a T1 right below  
22 it; right?  
23 THE WITNESS: But if you see the RT designation  
24 out there on that piece of equipment on the right side,  
25 that basically means that -- she's done it on copper. It

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1 doesn't necessary have to have an RT out at that point in  
2 the network. It could be straight home-run copper, which  
3 is sort of the example she's made on the one above it.  
4 But she's called it DS1. Let's call it T1. If  
5 we did that, we would have to add a box on the central  
6 office side of the frame on the CLEC collo side of the  
7 frame, and in there we would put something like a D4  
8 channel bank.  
9 A D4 channel bank is actually the multiplexer  
10 that makes that T1 work between the central office and the  
11 customer's premise. And what it does is it takes that  
12 copper facility and it channelizes it to 24 DS0. DS0 is a  
13 voice grade channel, 64 kilobits. A T1 is 1.544. So  
14 that multiplexer not only takes those DS0 circuits and  
15 makes them a T1, but it also completes the circuit such  
16 that it can carry transmission at all. That's just  
17 another way of saying it's a fundamental part of the loop  
18 itself, because without it it wouldn't work. That is  
19 multiplexing, and it does exist on the CO side of the  
20 frame, and it's a very common way to provide T1 service.  
21 So if Mr. Devaney were right that the FCC somehow  
22 meant to limit any features or functionalities to only  
23 those two points between the frame and the NID, then T1  
24 circuits provided over old T1 carrier, D4 channel bank  
25 carrier would not fall under the definition of a loop, and

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1 we know they do.  
2 So I don't agree at all with Mr. Devaney's  
3 suggestion that if it isn't between the frame and the NID  
4 or the frame and the demarc it can't be multiplexing as  
5 defined by the FCC.  
6 Q. (BY MR. MERZ) So when you talk about  
7 multiplexing being on the CO side of the frame, you mean  
8 to the left of the long rectangle that's marked MDF as we  
9 look at this picture?  
10 A. I do. And there's a specific reason for that.  
11 The frame actually provides all of the electrical  
12 protection. You've got a big copper wire out there in the  
13 ground or on a telephone pole or somewhere else. There's  
14 the potential for a lot of electrical transmission from  
15 outside sources, from third party sources, on that loop.  
16 The frame is your primary grounding. There are other  
17 grounding sources out in the network, but your frame is  
18 the primary grounding and protection source for that loop  
19 to protect the equipment in the central office from surges  
20 from electricity from lightning or something else.  
21 So the copper loop absolutely terminates to the  
22 frame and then is jumpered to the D4 channel bank for  
23 purposes of providing the T1. It has to be, in fact, on  
24 the CO side of the frame in order to function properly.  
25 Q. I want to again switch gears and ask you some

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1 questions about network modernization and maintenance, and  
2 I would have you turn in the contract to Section 9.1.9.  
3 A. Okay.  
4 Q. Mr. Devaney asked you a number of questions about  
5 Eschelon's first proposal. Eschelon actually has two  
6 proposals on this issue; correct?  
7 A. That's correct.  
8 Q. And I recall Devaney asking you a lot of  
9 questions about the first proposal and maybe one question  
10 about the second proposal.  
11 My first question about the second proposal would  
12 be do you know where this second proposal comes from?  
13 What is its origin?  
14 A. This was a proposal proffered by the Department  
15 of Commerce in Minnesota when this case was before the  
16 Minnesota Commission as sort of an alternative to the two  
17 parties' proposals related to this topic. So this is  
18 language actually proposed by the Department of Commerce,  
19 which Eschelon has accepted as one of its potential  
20 proposals.  
21 Q. Does the second proposal address concerns that  
22 Qwest has raised with respect to Eschelon's first  
23 proposal?  
24 A. It does, and that was the intention.  
25 Q. How does it do that?

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1 A. For example, one of the things Mr. Devaney asked  
2 about was what happens if this unacceptable -- this  
3 unacceptable disruption occurs? You know, what is the  
4 resolution of that?  
5 I think if you look at the language in the second  
6 proposal, it specifically says, -- and I'll just read you  
7 the language that's at issue. It says: If such changes  
8 result in the CLEC's end user customer -- and, again,  
9 that's another issue. Maybe we should stop right there.  
10 It says CLEC's end user customer.  
11 One of the things Mr. Devaney talked about was  
12 end user customer is defined in the agreement as being  
13 either Qwest's customer or the CLEC's customer or  
14 third-party customers.  
15 The second proposed language makes clear that  
16 what we're talking about here is the CLEC's customer. So  
17 it says: If such changes result in the CLEC's end user  
18 customer experiencing unacceptable changes in the  
19 transmission of voice or data, Qwest will assist the CLEC  
20 in determining the source and will take the necessary  
21 corrective action to restore the transmission quality to  
22 an acceptable level if it was caused by the network  
23 changes.  
24 So it provides what will then happen if this  
25 unacceptable level of disruption occurs. Qwest will help

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1 Eschelon identify it, and they'll help restore the  
2 service.  
3 One other thing that I might point out about this  
4 language is that if you read the next sentence, the next  
5 sentence that is agreed upon language, it reads as  
6 follows: Network maintenance and modernization activities  
7 will result in UNE transmission parameters that are within  
8 transmission limits of the UNE ordered by the CLEC.  
9 So I guess to another point that Mr. Devaney was  
10 talking about, which is how broad could this unacceptable  
11 transmission description be? I mean, could it just  
12 encompass nearly anything? In fact, we heard Ms. Stewart  
13 describe this morning the example of DSL, and I think her  
14 point was let's say Eschelon bought a straight copper,  
15 two-wire loop and used it for DSL service. Okay. What  
16 they should have done is bought a digital capable loop  
17 which is meant to support DSL service, but under  
18 Ms. Stewart's example we bought the wrong loop and then  
19 tried to make DSL work on it. And she was concerned this  
20 language would require them to restore the DSL capable  
21 nature of the loop even though that's not what we ordered.  
22 I think that particular example and many others  
23 are dispelled by the next sentence, which says: They're  
24 only meant to restore it to the transmission parameters of  
25 what we ordered, which in that case would be a straight

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1 copper loop not with DSL capabilities.  
2 Q. The first proposal uses the phrase there won't  
3 be -- changes won't adversely affect transmission  
4 parameters; correct?  
5 A. Yes.  
6 Q. And then the second proposal talks about  
7 unacceptable changes in transmission of voice or data.  
8 What is your understanding of the relationship between  
9 those two concepts, adversely affect or unacceptable  
10 changes?  
11 A. Well, I think -- I think they're certainly  
12 related. I think in the first proposal Eschelon was  
13 trying to get at what I described earlier, which is the  
14 adverse effect if their customer calls them and says  
15 something is wrong.  
16 When we look at the second proposal and we look  
17 at the unacceptable changes, I think what the Department  
18 of Commerce was after here was a little more discretion to  
19 say, okay, something changed, but isn't it an acceptable  
20 change? Is the customer -- or is Eschelon not able to  
21 provide the service it was previously providing?  
22 Either one of those terms, or, frankly, for that  
23 matter, any word you put in here is going to be subject to  
24 some amount of discretion. I think the point with this  
25 proposal is that it places the obligation on Qwest to --

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1 if there is a change that impacts Eschelon and its  
2 customers, that it will help them research the problem and  
3 restore it.  
4 And as I said earlier, if the parties -- if  
5 Eschelon -- in the real world, this is how it would  
6 work -- I'm almost certain -- is Eschelon would come back  
7 and say you did a network modernization. It impacted us;  
8 it impacted our customers; it's unacceptable. The two  
9 will talk about it. Right? Was it unacceptable or not?  
10 And if they can't come to agreement, just like every other  
11 term in the contract, then they'll follow the processes we  
12 described earlier, escalation and dispute resolution.  
13 The issue here is that the purpose is to provide  
14 the obligation. And in the real world, sure, you're going  
15 to have to put more meat around that by the two parties  
16 talking, but that's true of nearly any term in this  
17 contract that it isn't specifically defined. That's just  
18 the way contracts work.  
19 Q. And then, finally, I want to talk with you just  
20 briefly about power. Are you aware of any instance where  
21 an ILEC and a CLEC have agreed to some sort of usage-based  
22 charge for power plant?  
23 A. Yes, I am. I mean, I think that's what sort of  
24 stands out about this issue in my mind in the Qwest  
25 region, both in this case and then also in the McLeod

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1 cases, is that ILECs other than Qwest across the country  
2 have sort of gotten to the bottom of this issue and  
3 settled it.  
4 In fact, probably the most important in that  
5 regard is SBC Texas where they've sat down with CLECs,  
6 they've developed an amendment to the contract that  
7 actually allows the CLECs to self-certify how much they're  
8 using for power, and then SBC Texas charges the CLECs for  
9 that amount of usage. And that includes both the power  
10 usage and the power plant that we're talking about here.  
11 The same is -- that amendment is available in  
12 Texas. Something similar exists in Illinois. I mean,  
13 this problem -- this is a problem. Charging the CLECs for  
14 the amount of power plant consistent with the cable order  
15 is a problem, and it's been recognized by commissions  
16 across the country. Other ILECs are solving it with  
17 amendments like this, and we're not getting it solved in  
18 the Qwest region.  
19 MR. MERZ: I don't have anything further. Thank  
20 you, Mr. Starkey.  
21 ARBITRATOR RODDA: Either one of you?  
22 MR. ROSELLI: Nothing from me.  
23 MR. DEVANEY: Two quick ones. Thank you.  
24  
25

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1 RE-CROSS-EXAMINATION  
2  
3 Q. (BY MR. DEVANEY) Mr. Starkey, in the  
4 conversation you had with Mr. Merz, I think you said that  
5 there is a D4 channel bank that would be on the CO side of  
6 the MDF; is that right?  
7 A. Yes.  
8 Q. The FCC rule that we looked at earlier speaks of  
9 the loop running from the customer premise to either a  
10 distribution frame, or its equivalent is the words that  
11 the FCC uses. Is the DS4 channel bank the equivalent of a  
12 distribution frame in your view as used by the FCC?  
13 A. No, it's not. I mean, in the circumstance that I  
14 just described, it uses the frame and it uses the D4. If  
15 you took the D4 out, the loop wouldn't work. It's just  
16 that essential to the T1 circuit.  
17 Q. What do you think the FCC had in mind with the  
18 use of the word equivalent? Do you know?  
19 A. I do. Well, I obviously don't know what they  
20 meant, but I think I know what they mean and it's  
21 generally accepted is that if you take Ms. Stewart's  
22 example again and you go to -- well, what she has done in  
23 this example is because she's put the CLEC collo and then  
24 she has everything going to the CLEC collo, she's inserted  
25 the frame, the main frame, in situations where it wouldn't

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1 be inserted if that loop were then going somewhere to a  
2 Qwest location like to a multiplexer for transport.  
3 So when fiber comes in -- the only thing that  
4 terminates on the main distribution frame is copper. So  
5 when fiber comes in, it comes in generally to a terminal  
6 that takes the fiber, interprets the signaling, and then  
7 puts a circuit out the back end to wherever it has to go.  
8 Generally, because it's coming in fiber, it never goes to  
9 copper, so it never hits the main distribution frame.  
10 Instead, it comes out probably either coax or fiber out  
11 the back into a MUX or a DAX, or even directly into the  
12 switch in some circumstances.  
13 But in that circumstance you're not going to have  
14 a main frame. What you're going to have is a fiber  
15 distribution panel and a central office terminal. That's  
16 the situation I think the FCC is talking about when it  
17 says or its equivalent, because it's talking about fiber  
18 optic facilities.  
19 Q. Okay. My other question for you is you testified  
20 earlier that Qwest performance of network maintenance or  
21 modernization activity set someone's service at 7.5 dBs  
22 and it didn't work. Do you recall that?  
23 A. I do.  
24 Q. Are you sure that that happened as a network and  
25 maintenance activity on Qwest's part?

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1 A. Well, I understand there's some dispute about  
2 that issue as you look at the testimony.  
3 Q. All I want to know is on that particular point,  
4 was it a network maintenance activity or was it an  
5 installation? Do you know?  
6 A. Well, I don't think the two are mutually  
7 exclusive. I don't think I can answer the question with a  
8 yes or no as you would like me to. The issue, as I  
9 understand it, is as follows.  
10 Q. I don't want you to give a speech about this.  
11 What I want to know is was the service already working, up  
12 and working when the 7.5 dB change was made, or was the  
13 service not yet installed and working? Do you know?  
14 A. That's a different question. My understanding is  
15 that the service was not up and working at that particular  
16 point.  
17 MR. ROSELLI: That's all I wanted to know. Thank  
18 you.  
19 ARBITRATOR RODDA: Mr. Merz, anything further?  
20 MR. MERZ: Nothing further.  
21 ARBITRATOR RODDA: All right. Well. Thank you  
22 Mr. Starkey.  
23 THE WITNESS: Thank you.  
24  
25



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1 correct?  
 2 A. Correct.  
 3 Q. And it's no adverse effect resulting from network  
 4 maintenance or modernization activities; correct?  
 5 A. Correct.  
 6 Q. And isn't it correct that the 7.5 dB episode that  
 7 you describe in your exhibit involved an installation? It  
 8 did not involve a modernization or a maintenance activity?  
 9 MR. MERZ: Mr. Devaney, if you could just tell us  
 10 which exhibit you're referring to, that might be helpful.  
 11 MR. DEVANEY: I don't have the exhibit number.  
 12 THE WITNESS: If you look at my Exhibit BJJ-21.  
 13 Q. (BY MR. DEVANEY) And that's attached to which?  
 14 A. That's attached to my direct testimony --  
 15 Q. Okay.  
 16 A. -- Mr. Devaney, and Page 1 in that exhibit.  
 17 And the answer to your question is the issue  
 18 itself came up in relation to installation. However, if  
 19 you look at BJJ-21, the first page, the third paragraph  
 20 down about halfway through, Joan Peterson of Qwest, who is  
 21 a senior attorney, said: In addition, techs were  
 22 instructed to reset the dB at a neg 7.5 whenever they did  
 23 a repair.  
 24 So while the issue itself came up related to  
 25 installation and circuits that we couldn't turn up, the

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1 concern is that Qwest had confirmed that they were doing  
 2 modernization by resetting the dB to a 7.5 during repairs.  
 3 And it would stand to reason that if it wouldn't work at  
 4 7.5 at the time of installation, if they change it from  
 5 what it currently is back to 7.5, it's going to impact the  
 6 service.  
 7 Q. Okay. My understanding is that this particular  
 8 incident was resolved by a Qwest engineer going out to the  
 9 site, asking, okay, what dB level would you like it set  
 10 at? Eschelon told Qwest it was set at that level and  
 11 those circuits have been up and working since; isn't that  
 12 right?  
 13 A. Eventually, yes.  
 14 Q. And further, Qwest implemented a process with  
 15 Eschelon to avoid further problems like this at that point  
 16 in time; isn't that correct?  
 17 A. There is an existing process now, yes --  
 18 Q. Okay.  
 19 A. -- in maintenance and repair.  
 20 Q. Okay. Changing the subject. With respect to  
 21 issue 9.33, there are two proposals that Eschelon has put  
 22 forth. One is the no adverse affect proposal. Actually,  
 23 I guess we're still on the same issue. And then the  
 24 second proposal was no unacceptable changes.  
 25 I think Mr. Starkey said that you would be able

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1 to address the difference between those two terms. Are  
 2 you prepared to do that?  
 3 A. The two terms, the intent is the same. The  
 4 second proposal is what the Minnesota Department  
 5 recommended.  
 6 Q. What is your understanding of the meaning of no  
 7 adverse affect as proposed by Eschelon?  
 8 A. Well, if the customer's service was working, and  
 9 then the customer is impacted and isn't able to use the  
 10 service, that is adversely affecting the service.  
 11 Q. Would it be more accurate, then, to change the  
 12 language to say that?  
 13 A. I would have to refer to Mr. Starkey on that. Or  
 14 I guess my response to that would be that I'm certain that  
 15 if Qwest wanted to propose some type of language that  
 16 Eschelon would look at it.  
 17 Q. But your understanding is --  
 18 A. And consider it.  
 19 Q. -- Eschelon's proposal of no adverse affect means  
 20 you have a service that's working, Qwest performs a  
 21 network maintenance or modernization activity, and the  
 22 service stops working. That is a no adverse affect; is  
 23 that correct?  
 24 A. Right. The service stops -- either stops working  
 25 all together or it's impacted to a point where it can't be

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1 used anymore where it's degraded or --  
 2 Q. Okay. And is there any measurement that Eschelon  
 3 is proposing to determine where the unacceptable degrading  
 4 begins?  
 5 A. Once again, I'm going to have to defer that to  
 6 Mr. Starkey.  
 7 MR. DEVANEY: Thank you. That's all I have.  
 8 MR. TOPP: He warned me that would be quick.  
 9  
 10 CROSS-EXAMINATION  
 11  
 12 Q. (BY MR. TOPP) Ms. Johnson, I would like to speak  
 13 with you a little bit about the jeopardies issues which  
 14 are 12-71 to 12-73. And I would like to start by looking  
 15 at the exhibit you referenced in your summary, Exhibit  
 16 BJJ-5 to your direct testimony.  
 17 Do you have that in front of you?  
 18 A. I do.  
 19 Q. If you would go inside the cover to Page 1 of  
 20 that document. There's an event summary that is set forth  
 21 on that first page.  
 22 A. Uh-huh.  
 23 Q. And that's an event summary that you prepared; is  
 24 that correct?  
 25 A. That is correct.

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1 If you go to Page 37 of BJJ-5 under Action Item  
2 No. 1, when Qwest confirmed that it was their process to  
3 send the FOC the day before. And we took that as face  
4 value that that was Qwest's existing process.  
5 Q. Okay.  
6 A. So the compliance that I'm talking about here  
7 had -- there are several key points of the jeopardy  
8 process, one being whether or not Qwest provides an FOC  
9 after a Qwest jeopardy.  
10 Q. So one of the key points from your perspective is  
11 that Qwest would provide a jeopardy the day before it  
12 actually delivered the circuit. Is that what you're  
13 testimony is?  
14 A. My testimony is that Qwest told us that that was  
15 Qwest's process. And that when we pointed out examples  
16 where that didn't happen, they told us it was a Qwest  
17 compliance process.  
18 Q. Now, when this CR -- the notes on April 21st  
19 indicate that this -- proposed that this was going to  
20 close with the documentation changes that were sent out at  
21 that time; is that correct?  
22 MR. MERZ: What page are you referring to?  
23 MR. TOPP: I'm referring to Page 20 of BJJ-5.  
24 THE WITNESS: Well, the process -- let me try and  
25 explain. The process isn't -- you know, the documentation

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1 is just one of the things that may happen as a result of a  
2 change request. So in April, Qwest sent out updates to  
3 the product catalog, and it doesn't necessarily mean that  
4 there wouldn't have potentially been additional updates.  
5 So at the point in time in April of 2004, there was, as a  
6 result of this CR, really what equated to a complete  
7 overhaul of the jeopardy process.  
8 There were, you know, several changes that were  
9 made. Eschelon had submitted two separate CRs, and in  
10 reviewing those CRs there were -- you know, one of them  
11 was titled, you know, you can't, you know, put a customer  
12 not ready jep before 5:00 p.m. The other one was, you  
13 know, titled you have to send us an FOC. And there were  
14 multiple changes, both process and systems changes that  
15 were made to the process in its entirety.  
16 Q. (BY MR. TOPP) Yes, there were many changes to  
17 the jeopardy system made as a part of this process.  
18 That's the point that you're trying to make; correct?  
19 A. Right. But, you know, the -- at issue, my  
20 exhibit is directed at and limited to, you know, the  
21 changes in regards to getting an FOC after a Qwest  
22 jeopardy.  
23 Q. Okay. Let's take a -- could you take a look at  
24 what has been marked as Exhibit Qwest-22 and Exhibit  
25 Qwest-23. And the Qwest-22 is -- and I notice the dates

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1 don't precisely match up, but it sure looks like if you  
2 look at the CR number, that matches up with the CR number  
3 that you're discussing in BJJ-5. And within the text of  
4 this document, it discusses updates to the product  
5 catalog, including new revised documentation for  
6 provisioning and installation overview V42.0.  
7 Would it be fair to characterize this document as  
8 announcing the language changes that were being  
9 implemented as a result of this particular change request  
10 or proposing them?  
11 A. Can I just review it real quickly?  
12 Q. Sure.  
13 A. Thank you.  
14 And Mr. Topp, your question was that these  
15 changes are from this notice and a part of this CR?  
16 Q. Correct.  
17 A. And that is correct. This is a portion or subset  
18 of some of the changes that were made as a result of this  
19 CR. When we first started looking at the jeopardy  
20 process, Eschelon had expressed concern that in general  
21 Qwest was not sending FOCs after a jeopardy.  
22 And as Qwest was reviewing that process, they  
23 looked at all of the Qwest jeopardy types. You know, and  
24 if you look at the Qwest jeopardy codes, there are  
25 multiple types of Qwest jeopardies, which include Qwest

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1 facility jeopardies. And Qwest had told us that in review  
2 of all of those Qwest jeopardy types, that for everything  
3 except for a small portion, which included the Qwest  
4 facility jeopardy, Qwest was always meeting the due date  
5 on the jeopardies that started with B's, which were  
6 workforce.  
7 They had identified differences between what  
8 Qwest called its critical date jeopardies versus  
9 jeopardies that really impacted the due date. So the  
10 first step of trying to resolve the issue of not providing  
11 an FOC was for Qwest to identify which of those jeopardies  
12 we should ignore. And so they had identified in their  
13 jeopardy code, they had identified the types of jeopardies  
14 that they were always meeting the due date on.  
15 So they said for these particular jeopardies, and  
16 actually it is in my BJJ-5, the redline that they provided  
17 us regarding those types of jeopardies starts on Page 41  
18 of BJJ-5 as we were going through this process.  
19 And so what they told us -- and if you look at  
20 the changes that they made in Version 42, what they told  
21 us is for these certain jeopardies, expect us to come,  
22 we're coming anyway, even if you get one of these  
23 jeopardies. They later did some systems changes to  
24 prevent them from sending it to us, but first there was a  
25 process change where they just communicated to us, don't

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1 pay attention to these. These are internal goals for  
 2 Qwest. When we don't meet them, we've done analysis and  
 3 99.9 or 100 percent of the time we deliver the circuit on  
 4 the due date, so we want you to ignore these. And this  
 5 particular documentation in Exhibit BJJ-42 is documenting  
 6 that piece of it.  
 7 So if you go to Qwest-23, and it doesn't appear  
 8 that there are page numbers, but at the bottom of the page  
 9 there are actually page numbers from the PCAT. If you go  
 10 to Page 8 of 20, this is where the redlined language that  
 11 Qwest is adding in, and this is where they're telling us  
 12 that Qwest differentiates between due date jeopardies and  
 13 critical date jeopardies and we want you to ignore these  
 14 particular type of jeopardies.  
 15 And then this was the point in time, too, that we  
 16 had also expressed concern because the Qwest facility  
 17 jeopardy was rather just kind of a generic no facilities  
 18 available. And we had expressed concern saying we need to  
 19 determine if we need to, you know, work on alternate  
 20 solutions for our customers, so we need to have more  
 21 information. Do you have to clear an F2 pair, or do you  
 22 have to get a permit to dig up the street? Because it  
 23 makes a difference.  
 24 So this is also where Qwest committed that within  
 25 72 hours of the time they send the jeopardy that they

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1 would send us either an FOC or additional information on  
 2 what -- you know, more information on the jeopardy.  
 3 MR. TOPP: Yeah. And that's within 72 -- well,  
 4 first of all, could I offer Exhibits 22 and 23.  
 5 ARBITRATOR RODDA: First of all, let's  
 6 identify -- I think that you were trying to identify that.  
 7 MR. TOPP: Yeah. That's where I started.  
 8 ARBITRATOR RODDA: But I still don't understand.  
 9 I think we got a lot more information there than what this  
 10 document is. Can someone tell me concisely what 22 is?  
 11 Don't tell me what it does, just tell me what it is so I  
 12 can identify Qwest-22.  
 13 THE WITNESS: Oh, Qwest-22 is a Qwest  
 14 announcement -- do you want me to do that, Mr. Topp?  
 15 MR. TOPP: Yes.  
 16 THE WITNESS: It's a Qwest announcement saying,  
 17 you know, that they sent out on April 12th with proposed  
 18 changes to their provisioning and installation overview  
 19 PCAT. That their proposed effective date was May 27th.  
 20 And the body of the announcement itself identifies, you  
 21 know, the changes that Qwest is making, that it's related  
 22 to this CR. Because they did synergies, they kind of  
 23 combined the two CRs and did some other work in this.  
 24 And this is the document that they changed.  
 25 ARBITRATOR RODDA: Okay.

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1 THE WITNESS: 23 is the actually changes.  
 2 ARBITRATOR RODDA: Okay.  
 3 MR. TOPP: And I would offer Qwest-22 and 23.  
 4 MR. MERZ: No objection, Your Honor.  
 5 ARBITRATOR RODDA: Okay. Then Qwest-22 and  
 6 Qwest-23 are admitted.  
 7 (Exhibit Nos. Qwest-22 and Qwest-23 were admitted  
 8 into evidence.)  
 9 Q. (BY MR. TOPP) All right. Now, referring -- so  
 10 Qwest-23 reflects changes to the PCAT. And this other  
 11 stuff that you have mentioned such as the 72-hour update,  
 12 that is in the documentation at Page 8 of 20, is it not?  
 13 As well, is it not?  
 14 A. Page 8 of 20?  
 15 Q. Yeah. Referring to Exhibit 23.  
 16 A. Yes. Yes. That's part of the changes to it.  
 17 Also, if you go back to Page 20 of BJJ-5, it's also a  
 18 commitment that, you know, Qwest made in the March 17th  
 19 CMP meeting.  
 20 Q. And I'll ask you to focus on provisions I'm  
 21 asking you about.  
 22 A. Okay.  
 23 Q. Hopefully we can move through this a little bit  
 24 more quickly.  
 25 Now, and also there is information in here about

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1 the difference between a due date jeopardy and a critical  
 2 date jeopardy. That appears on the same page, does it  
 3 not?  
 4 A. On Page 8, yes.  
 5 Q. Yes. Now, in BJJ-5, you indicate that one of the  
 6 resolutions -- well, before we get to that, did Eschelon  
 7 file any objections to these language changes that appear  
 8 in Qwest Exhibit 22 or 23?  
 9 A. I don't recall if we filed any objections or not.  
 10 I'm not certain that we filed any comments. Most of this  
 11 was a collaborative effort so --  
 12 Q. And, in fact, on Page 20 of your exhibit BJJ-5,  
 13 it indicates that no comments came in for this CR.  
 14 A. Oh.  
 15 Q. And you don't have any basis to quarrel with that  
 16 sitting here today?  
 17 A. No, I don't.  
 18 Q. Okay. And in this CR, I can find no language  
 19 whatsoever that addresses whether, in fact -- let me look  
 20 at how you describe this.  
 21 That indicates that CLECs would receive an FOC  
 22 before. In other words, 24 hours before delivering the  
 23 facility. Does that exist in these process documents  
 24 anywhere?  
 25 A. I don't -- I'm not certain whether or not it

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1 exists in the process documents. I'll direct you once  
 2 again back to Page 37 of BJJ-5 where when we provided  
 3 examples, Phyllis -- it was actually Phyllis Susins at  
 4 Qwest said that their process was to provide an FOC the  
 5 day before after a Qwest facility jeopardy so that we knew  
 6 Qwest was going to deliver the service.  
 7 And also, if you go to Page 21 of BJJ-5, in a  
 8 meeting that took place -- the ad hoc meeting on  
 9 March 4th, if you look halfway down the page, it says:  
 10 Bonnie confirmed that the CLECs should always receive the  
 11 FOC before the due date. Phyllis agreed and confirmed  
 12 that Qwest cannot expect the CLEC to be ready for the  
 13 service if we haven't notified you. And then I asked  
 14 about when Qwest sends us a customer not ready, then Qwest  
 15 sends us a customer not ready jeopardy.  
 16 So Qwest confirmed at that particular meeting  
 17 that our understanding that Qwest would give us an FOC the  
 18 day before, Qwest confirmed that.  
 19 Q. Now, there were a number of issues that were  
 20 raised as a part of this CMP process. In fact, Eschelon's  
 21 original proposal was to receive notice in advance, an FOC  
 22 in advance of provisioning without any -- without this  
 23 24-hour time frame that you're claiming now; isn't that  
 24 correct?  
 25 A. Could you ask me that question again? I'm not

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1 sure just exactly -- in what forum are you talking about?  
 2 In CMP or --  
 3 Q. Yes, in CMP. Your initial request in this did  
 4 not include the day before language, did it?  
 5 A. It did not. And after -- if you, you know, look  
 6 at the title of this CR that starts on Page 17 -- give me  
 7 just a moment here.  
 8 I think we said it was 17, didn't we?  
 9 ARBITRATOR RODDA: I think something starts on 17.  
 10 THE WITNESS: It said -- and I had actually  
 11 specifically when we decided that there were synergies and  
 12 we would do more work related to jeopardies than just our  
 13 request, I had asked Qwest to keep the title, the old  
 14 title, so that we could, you know, make certain that we  
 15 captured that. And it says: Delayed order process  
 16 modified to allow the CLEC a designated time frame to  
 17 respond to a released delayed order after Qwest sends the  
 18 updated FOC.  
 19 And so that request with that title was  
 20 completed, and throughout the process as we talked in CMP  
 21 and at ad hoc meetings and provided examples, then Qwest  
 22 confirmed that actually we should be sending you an FOC  
 23 the day before.  
 24 Q. (BY MR. TOPP) But you were willing to close this  
 25 without any language in the product catalog obligating the

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1 FOC to be sent the day before?  
 2 A. You know, regardless of whether or not the  
 3 language is in the product catalog, Qwest had confirmed it  
 4 on several calls and said that that was their process.  
 5 Q. Now, is it your view that if Qwest resolves a  
 6 Qwest jeopardy on the due date that Qwest should still  
 7 send an FOC a day before it attempts to deliver the  
 8 service?  
 9 A. Our language that we are proposing in the  
 10 interconnection agreement allows Qwest to attempt to  
 11 deliver the service regardless of whether or not Qwest  
 12 sends any FOC at all, or a timely FOC. We want to get  
 13 service to our customer as much as Qwest wants to deliver  
 14 it.  
 15 Q. And, in fact, you attached to your testimony over  
 16 100 examples of situations in which Eschelon filled orders  
 17 without receiving an FOC beforehand; is that not correct?  
 18 A. That is correct. That is an attachment to --  
 19 it's an exhibit to my testimony which proves our language  
 20 says we are committed to attempt to accept the circuit  
 21 even if Qwest doesn't notify us.  
 22 Q. And if there's an obligation to provide an FOC a  
 23 day in advance, that's not going to make any difference  
 24 with respect to getting orders provisioned in a timely --  
 25 I mean, the FOC -- sorry. Let me clear that up.

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1 In those situations where Eschelon has gone ahead  
 2 and provisioned absent an FOC, how has Eschelon known that  
 3 it needs to do something?  
 4 A. Well, I think that every situation is different.  
 5 You know, perhaps on those particular days we -- you know,  
 6 the staff scrambled to be able to do that. You know, if  
 7 we don't know Qwest is going to deliver the circuit, then  
 8 we don't prepare internally for that to happen. But if we  
 9 are able to do that, we do, you know, make every effort  
 10 and every attempt to do that.  
 11 Q. Uh-huh.  
 12 A. And I think in response, you know, I believe --  
 13 and if you want to ask it again, you said that -- I think  
 14 you asked me how Qwest can deliver it on the due date if  
 15 they have to send an FOC the day before. And our language  
 16 doesn't require Qwest to send an FOC before they attempt  
 17 to deliver. It only says if Qwest hasn't, that we haven't  
 18 had an opportunity.  
 19 Qwest made it very clear through this CMP process  
 20 as this CR was going on that a Qwest facility jeopardy in  
 21 particular, the due date was in jeopardy. And we actually  
 22 talked a lot in CMP about the train. Should we stop the  
 23 train or do we keep the train going? And that's when they  
 24 looked at all of those Qwest jeopardy codes and determined  
 25 that I want you to ignore these, but the Qwest facility



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1 jeopardies you have to pay attention to and you have to  
 2 assume that the due date could be missed.  
 3 So Ms. Albersheim yesterday indicated that we  
 4 should still be ready, and that's not what they told us in  
 5 Qwest's CMP.  
 6 Q. Okay. When you -- but you would agree with me,  
 7 wouldn't you, that there are circumstances where Eschelon  
 8 can be ready to accept a circuit even when it has not  
 9 received an FOC?  
 10 A. I think that in the best interest of getting the  
 11 service provisioned, we have scrambled to accept these  
 12 circuits even when it wasn't on the workload, or there may  
 13 have been additional tasks that we needed to complete to  
 14 accept the circuit. My exhibit with the examples of those  
 15 where we didn't get an FOC but we accepted the circuit  
 16 anyway when Qwest contacted us to deliver it is proof  
 17 that, yeah.  
 18 Q. And that's, in fact, what you would want Qwest to  
 19 do is to try and deliver on time if they possibly can?  
 20 A. Yes.  
 21 MR. TOPP: I have no other questions.  
 22 ARBITRATOR RODDA: Okay. I don't have any  
 23 questions. Thank you very much.  
 24 MR. MERZ: Could I just -- maybe one or two  
 25 follow-up.

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REDIRECT EXAMINATION

1  
 2  
 3 Q. (BY MR. MERZ) If you go to BJJ-5, and I'm  
 4 looking particularly at Page 36. What is -- that's the  
 5 first page of a multipage document; correct?  
 6 A. Yes. It's an ad hoc call that occurred on  
 7 March 4, 2004, regarding jeopardies and this change  
 8 request.  
 9 Q. And the document itself is dated February 25th of  
 10 2004; is that right?  
 11 A. That is correct.  
 12 Q. And who prepared these materials that begin at  
 13 BJJ-5 Page 36?  
 14 A. Qwest prepared these materials, and they provided  
 15 it to CLECs in advance on February 25th, in advance of the  
 16 call that happened on March 4th, as a reference point.  
 17 Q. What was the purpose of the ad hoc call on  
 18 March 4th?  
 19 A. The purpose of the ad hoc call -- one of the  
 20 purposes was to review the examples that Eschelon had  
 21 provided to Qwest where we had a question regarding what  
 22 we believed to be noncompliance of the jeopardy process.  
 23 Q. And are you referring, then, to the examples that  
 24 you find on Page 37 and following?  
 25 A. That is correct.

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1 Q. And Qwest prepared Page 37 as well?  
 2 A. Yes.  
 3 Q. And Page 38, these are all part of the same  
 4 Qwest-prepared document?  
 5 A. Yes.  
 6 Q. Okay.  
 7 A. And 39, 40, and then also 41, actually, through  
 8 the end because we also -- you know, the red line that  
 9 starts on 41 that I referred to before, it was also a part  
 10 of the discussion that day when we talked about the  
 11 jeopardy codes. So that was a part of it also.  
 12 MR. MERZ: I don't have any further questions.  
 13 Thank you, Ms. Johnson.  
 14 ARBITRATOR RODDA: Thank you.  
 15 Okay. Anything else from Qwest?  
 16 MR. TOPP: No.  
 17 ARBITRATOR RODDA: I suggest we take a short  
 18 break between witnesses, and so 10 minutes or so.  
 19 (A recess was taken from 2:55 p.m. to 3:12 p.m.)  
 20  
 21 DOUGLAS DENNEY,  
 22 called as a witness on behalf of Eschelon, having been  
 23 first duly sworn by the Certified Reporter to speak the  
 24 truth and nothing but the truth, was examined and  
 25 testified as follows:

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DIRECT EXAMINATION

1  
 2  
 3 Q. (BY MR. MERZ) Good afternoon, Mr. Denney.  
 4 A. Good afternoon.  
 5 Q. Please state your name for the record.  
 6 A. Douglas Denney.  
 7 Q. By whom are you employed?  
 8 A. I'm employed by Eschelon Telecom, Inc.  
 9 Q. Have you prepared testimony that has been filed  
 10 in this case?  
 11 A. Yes, I have.  
 12 Q. And you have direct, rebuttal, and surrebuttal  
 13 testimony; is that right?  
 14 A. Yes.  
 15 Q. Your direct testimony has been marked as Eschelon  
 16 Exhibit 13; is that correct?  
 17 A. Yes.  
 18 Q. And the confidential exhibits to your direct  
 19 testimony have been marked as Eschelon Exhibit 14; is that  
 20 correct?  
 21 A. Yes.  
 22 Q. Your rebuttal testimony has been marked as  
 23 Eschelon Exhibit 15; is that correct?  
 24 A. Yes.  
 25 Q. Your surrebuttal testimony has been marked as

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1 Change in circumstances?  
 2 A. That would be a change. They're both a change of  
 3 one.  
 4 Q. And what if there were an intervening cost docket  
 5 such that some of the rate elements in the first quote had  
 6 changed. Change in circumstance?  
 7 A. Yes.  
 8 MR. ROSELLI: I have nothing further.  
 9 ARBITRATOR RODDA: But someone does; right?  
 10 MR. ROSELLI: Someone does, right. I'm sorry.  
 11 MR. DEVANEY: I do.  
 12  
 13 CROSS-EXAMINATION  
 14  
 15 Q. (BY MR. DEVANEY) Good afternoon, Mr. Denney.  
 16 A. Good afternoon.  
 17 Q. I have a few areas to touch upon with you. And  
 18 one is an area that you and I have spent a lot of time  
 19 together on, and it's rates.  
 20 You testified in your summary that one of your  
 21 areas that you were addressing is -- I think you said how  
 22 do you establish cost-based rates. Do you recall saying  
 23 something like that at the start of your testimony?  
 24 A. I don't know if I -- I think when I started my  
 25 testimony I said that a big theme of mine is having

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1 cost-based rates apply to the things that Eschelon is  
 2 purchasing out of this contract.  
 3 Q. Okay.  
 4 A. And there are provisions on establishing --  
 5 there's things about establishing rates for products that  
 6 Qwest doesn't, you know, currently offer, or how interim  
 7 rates apply. There's some provisions in my proposals  
 8 about that as well.  
 9 Q. Okay. Let me just ask you in general. Just sort  
 10 of pull back to the big picture.  
 11 With respect to nonrecurring rates and the method  
 12 for establishing them, tell me if you agree in general  
 13 that one should look at the time needed to perform -- or  
 14 first of all, I guess the activities that go into a  
 15 nonrecurring activity, the time needed to perform the  
 16 activity, the labor costs, the systems costs, are those  
 17 all factors that should be considered in establishing a  
 18 nonrecurring rate?  
 19 A. I mean, I would agree with that with the caveat  
 20 that there's, you know, the assumption that we're looking  
 21 in a -- what we call economic costs or forward-looking  
 22 economic costs. So there's often a dispute within that  
 23 about do we just look at the times that we have right now,  
 24 or should we be looking at what are the efficient times,  
 25 or is it the system -- the embedded systems that we have

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1 now, or should we be looking at how the efficient systems  
 2 would work.  
 3 Q. Right.  
 4 A. So I agree that you would look at these  
 5 activities, but you need to -- I mean, there is some  
 6 dispute on exactly how those get interpreted within the  
 7 concept of forward-looking economic costs.  
 8 Q. Okay. And I acknowledge that. So you get into  
 9 debates about what technologies to use, what times to use,  
 10 but in general would you agree that the factors that I  
 11 identified are sort of the framework for establishing  
 12 nonrecurring rates?  
 13 A. Well, I mean, I would add, I guess, one more  
 14 thing to that is that -- I mean, rates are either  
 15 explicitly identified or they're implicit, covered in  
 16 other rates. So when we establish nonrecurring rates,  
 17 usually the first thing we look for is are these costs  
 18 that we're trying to recover here already being recovered  
 19 somewhere else, maybe through cost factors or maybe  
 20 through, you know, installation pieces that would go into  
 21 a loop cost.  
 22 Q. But setting aside --  
 23 A. Right. So recognizing that, I mean, I agree the  
 24 things you're talking about for nonrecurring charges are  
 25 areas that you would look at, but not in a vacuum,

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1 obviously.  
 2 Q. Understood. And for a rate to comply with TELRIC  
 3 and to be cost-based, that is for a nonrecurring rate,  
 4 would you agree that you have to look at those factors  
 5 that you and I just discussed?  
 6 A. Right. The times, the activities that occur, the  
 7 probabilities that would occur around them, labor rates,  
 8 systems, yes.  
 9 Q. In this particular case, there's been discussion  
 10 of the design change rate of \$72 and change which was  
 11 established in the last cost proceeding that you and I  
 12 both participated in.  
 13 Did you analyze that study in that proceeding?  
 14 A. No. I did not.  
 15 Q. Have you ever analyzed that study?  
 16 A. I mean, I have looked at Qwest's design change  
 17 cost studies across some states where I can find them.  
 18 They're similar with minor differences across states. So  
 19 I have looked at that. I have not -- I do not have in my  
 20 possession the Arizona study. I know that we've asked  
 21 Qwest for that and it hasn't been provided.  
 22 Q. But in the cost proceeding you did not -- that  
 23 you participated in in which this study was presented, you  
 24 did not analyze it; correct?  
 25 A. Yeah. I mean, I'm hesitating because at the end

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1 of these -- I worked for AT&T at the time, and at the end  
 2 of these proceedings there were compliance filings, and I  
 3 probably had my hands in every compliance filing that  
 4 occurred in that docket. So I probably have seen that  
 5 study, but I didn't do an analysis of that study at the  
 6 time.  
 7 Q. Okay.  
 8 A. I didn't testify on that study in that case. I  
 9 testified on the HAI model in that case.  
 10 Q. I remember that. Okay. Now, in your testimony  
 11 related to CFA changes, I'm going to paraphrase a couple  
 12 of criticisms that you level at Qwest with respect to CFA  
 13 changes. And if you disagree with my paraphrasing, go  
 14 ahead and correct me, but I'm just trying to move things  
 15 along.  
 16 A. Okay.  
 17 Q. I think you criticized Qwest for assuming that  
 18 there's more time than -- we assume too much time for the  
 19 lift and lay of the CFA. That is, removing the circuit  
 20 from one connecting facility assignment and then moving it  
 21 to another one. You analogize that to unplugging and  
 22 plugging in a lamp, and you think that we go way beyond  
 23 that; right?  
 24 A. I mean, the design change study includes over an  
 25 hour of time for something that we know -- there's a

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1 30-minute installation window in these cases. We know  
 2 that Qwest has done these CFA changes multiple times in  
 3 that 30-minute window.  
 4 Q. What design change study are you referring to?  
 5 A. Well, that time there's a design -- there's a  
 6 study in Washington and there's a study in Oregon. And  
 7 both of those studies have over an hour of time involved  
 8 for looking at doing this design change.  
 9 Q. Right. But you haven't seen the study in  
 10 Arizona, or if you have you don't remember what's in it?  
 11 A. Right. Qwest has not provided me with a study in  
 12 Arizona, but their study is the same -- it's essentially  
 13 the same with a few tweaks in minutes across the states.  
 14 And the rate in Arizona is, I mean, it's similar to the  
 15 rate that's been established in other states.  
 16 Q. Are you aware that the design cost study in  
 17 Arizona does not include any technician time?  
 18 A. The design change studies that I have seen, they  
 19 have -- and I have to look at a copy of the study on  
 20 there, but there are these blocks of time for -- they're  
 21 nondescript of what is in that time, but there's a block  
 22 of time for this design change that's like a 35-minute  
 23 period for doing some engineering review, or something  
 24 like that. I don't know what is in that. I don't think  
 25 there's a separate broke out tech time, technician time

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1 listed in those studies. They're very nondescript, I  
 2 would say.  
 3 Q. Were you here yesterday when Ms. Million  
 4 testified about Qwest design studies?  
 5 A. Yes, I was.  
 6 Q. Did you hear her say that no technician time is  
 7 included in that study?  
 8 A. I heard her say that, but I don't think you can  
 9 tell that from the study. Their testimony in that case is  
 10 not clear. There isn't a separate line item for  
 11 technician time. There I agree with that, but there's a  
 12 block of time, over an hour of time in these studies for  
 13 processing this design change. And it's fairly -- for the  
 14 bulk of that time, it's fairly nondescript as to what is  
 15 happening during that time.  
 16 Q. Are you disagreeing with Ms. Million's sworn  
 17 testimony that there's no technician time included in  
 18 Qwest's cost study?  
 19 A. I'm saying you can't tell from looking at that  
 20 study. There's no descriptions in the case. You know,  
 21 there's no descriptions of what is exactly in there in  
 22 that study.  
 23 Q. And when you say that study, what study are you  
 24 referring to?  
 25 A. The design change study that Qwest has filed in

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1 multiple states across the region.  
 2 Q. When did they file that study?  
 3 A. Let's see. In Arizona it was filed as part of  
 4 the compliance -- I mean, the Washington study was filed  
 5 as part of the compliance filing, and that docket was  
 6 probably around the 2003, 2004 time frame.  
 7 Q. Okay.  
 8 A. There was a study in Oregon that Qwest had  
 9 provided maybe around 2002.  
 10 Q. Okay. And the Arizona docket in which the study  
 11 was filed was 2000; correct?  
 12 A. Right. Well, the Washington was the compliance,  
 13 so it probably started around that same time.  
 14 Q. With respect to issues 9-50 and 9-53, subloop and  
 15 UCCRE, U-C-C-R-E, all caps, am I correct that Eschelon has  
 16 never ordered either of those services from Qwest?  
 17 A. Right. That's correct. Eschelon has not ordered  
 18 those. These are things that are in the Qwest SGAT as  
 19 offerings, and Eschelon is opposed to them being just  
 20 removed on a wholesale basis from Eschelon.  
 21 Q. And am I correct to understand that Eschelon has  
 22 no current expectation of needing that in the near term,  
 23 either service?  
 24 A. That I can't answer. I mean, the use for these  
 25 change -- you know, can change every day. So I don't know

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1 of plans to order that, but I can't say. I'm not in that  
 2 group of people who does that.  
 3 Q. Are you aware of any CLEC who has ever ordered  
 4 either the subloop service of UCCRE service?  
 5 A. No. I'm not aware. What I am aware is that Cox  
 6 made a filing here recently in Arizona that asked for the  
 7 subloop cross-connect rates to be established for all of  
 8 those rates, including the ones that Qwest -- they are  
 9 interim rates right now -- asked for permanent rates to be  
 10 set in Phase III.  
 11 Q. Are you familiar with what led to that filing and  
 12 whether Cox has any intention of actually using that  
 13 service?  
 14 A. No. I do know that Cox asked for those rates to  
 15 be established. I have the filing. I haven't talked to  
 16 people at Cox, but I do know that they asked for rates for  
 17 these particular elements we're talking about for which  
 18 Qwest had testified that there's no evidence that there  
 19 will be any demand in the future. Cox asked for these  
 20 rates to be established.  
 21 Q. Are you aware of any past dispute between Cox and  
 22 Qwest that's being litigated now that might affect Cox's  
 23 request that was set forth in that brief?  
 24 A. No, I'm not.  
 25 Q. Could you please take a look at the proposed

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1 language of Eschelon's for both 9-50 and 9-53, in  
 2 particular Section 1.73.  
 3 ARBITRATOR RODDA: Are you looking at the joint  
 4 matrix?  
 5 MR. DEVANEY: Yes.  
 6 ARBITRATOR RODDA: Do you have a page number?  
 7 MR. DEVANEY: I do. Page 58.  
 8 ARBITRATOR RODDA: Thank you.  
 9 Q. (BY MR. DEVANEY) And under Eschelon's proposed  
 10 Section 9.3.3.8.3.1, it says: If Qwest performs or offers  
 11 to perform the cross-connect for any other CLEC during the  
 12 term of this agreement, Qwest will notify CLEC and offer  
 13 CLEC an amendment to this agreement that allows CLEC, at  
 14 its option, to request that Qwest run the jumper for  
 15 intrabuilding cable in MTEs on nondiscriminatory terms and  
 16 conditions.  
 17 Do I read this correctly that if Qwest performs  
 18 even just one cross-connect for another CLEC, that would  
 19 trigger a right for Eschelon to enter into an amendment to  
 20 the interconnection agreement?  
 21 A. I'm sorry. Because I'm going to -- I turned to  
 22 the Exhibit A at 1.7.3, and I know you read from 9. --  
 23 which is proposal No. 1 related to this issue. So I  
 24 wasn't in the right place when you were reading. So let  
 25 me -- I think I have that in the testimony, so let me find

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1 that issue.  
 2 Now what was your question?  
 3 Q. My question is let's assume hypothetically that a  
 4 CLEC comes to Qwest in an emergency and says, well, I need  
 5 you to form a cross-connect, just one cross-connect for  
 6 us. Can you do it? Qwest does it.  
 7 Is that going to trigger under your proposal,  
 8 that single incident, Qwest having to offer an amendment  
 9 to the interconnection agreement to Eschelon?  
 10 A. Well, to -- I mean, the language --  
 11 Q. If you can answer that, and then give whatever  
 12 explanation you have.  
 13 A. Yes, I think it would, but I think the language  
 14 says if Qwest performs or offers to perform. And right  
 15 now -- I mean, in my view Qwest is offering to perform  
 16 because they -- this is in their SGAT. It's out there in  
 17 other companies' contracts. So I believe that Qwest  
 18 should offer an amendment to Eschelon.  
 19 This was Eschelon's first proposal on this issue  
 20 because we said we didn't have an immediate plan to buy  
 21 this, so we won't put it in the contract right now. But  
 22 as long as you're offering to perform this for other  
 23 CLECs, then we should have the right, if we decide to use  
 24 it, to add an amendment to our contract in order to  
 25 utilize that product. So that's the intent here of this

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1 language.  
 2 Q. If Qwest has no demand for a product, no legal  
 3 obligation to provide it, no one is ordering it, do you  
 4 think Qwest ought to have the right to stop offering the  
 5 product?  
 6 A. Not necessarily. I think there's been  
 7 products -- there's been products in the past where demand  
 8 didn't exist immediately for that product. I think  
 9 there's an analysis that needs to be undertaken. I think  
 10 it's possible with this issue that if there is no interest  
 11 in this, no CLECs would object and Qwest could ask the  
 12 Commission and say, look, we've asked you to have rates  
 13 for this in the past. We would ask you not to have rates  
 14 for that in the future. And that's kind of our alternate  
 15 proposals here for this section.  
 16 So it would set up a process by which Qwest could  
 17 reasonably remove this from other CLECs. If no one was  
 18 interested, no one would object to having this removed  
 19 from the contracts. But if there's an interest and the  
 20 Commission has either proposed rates or indicated it  
 21 planned on proposing rates, and Qwest has put forth TELRIC  
 22 rate offers for this product, then I think Qwest should  
 23 offer that product until such time that the Commission has  
 24 made another determination.  
 25 Q. Do you know how many years Qwest has been

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1 apply that rate to multiple terminations within a central  
2 office; correct?  
3 A. I mean, if the rate is developed appropriately,  
4 then that's correct, and the rate is developed and  
5 approved. It's the application that you're changing here.  
6 Q. I understand. That's helpful. Thank you.  
7 Now I want to ask you some questions about issue  
8 9-58, commingled arrangements.  
9 A. Okay.  
10 Q. And one of Eschelon's requests with respect to  
11 commingled arrangements is that the same circuit ID, a  
12 single circuit ID be used for the UNE component of a  
13 commingled EEL and the tariff component of a commingled  
14 EEL; is that correct?  
15 A. That is one of the proposals. That's correct.  
16 Q. Okay.  
17 A. There are some alternatives that we've offered up  
18 to Qwest where that wouldn't have to be the case, but that  
19 is -- one of the proposals, the main proposal, is that the  
20 circuit ID should be the same as it is for an all-UNE EEL.  
21 Q. Okay. Is it your understanding that circuit IDs  
22 contain product specific information in them that are  
23 recognized by the systems, the provisioning and billing  
24 systems of ILECs like Qwest?  
25 A. I believe there's maybe a letter code that may --

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1 I'm not -- product specific information such as -- there  
2 is some of that information in there. I'm not sure  
3 exactly what your --  
4 Q. Well, here's what I'm getting at. Is it your  
5 understanding that Qwest and other ILECs provision UNEs  
6 out of one provisioning inventory database and bill UNEs  
7 out of one database, and by contrast provision and bill  
8 tariffed services out of other databases?  
9 A. Not entirely, because I believe the facilities  
10 and things are all in -- all in TIRKS, I believe, for both  
11 UNEs and special access facilities. And so we're talking  
12 about the same physical facilities. You may have a  
13 different -- it may go somewhere after that point, but the  
14 facility is the same for both of these. We're not talking  
15 about a set of special access inventory and a set of UNE  
16 inventory.  
17 Q. But for provisioning purposes, Qwest and other  
18 ILECs have different provisioning and billing systems for  
19 UNEs on the one hand and tariffed services on the other;  
20 isn't that correct?  
21 A. To some degree I think there's some crossover on,  
22 you know, some of these systems. For example, like, I  
23 think, UDITs are, you know, unbundled transports ordered  
24 via ASRs, you know, even though they're local service  
25 things. So I'm not sure there's a hard and fast rule in

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1 that regard.  
2 Q. But as a general rule, isn't it true that  
3 tariffed services are provisioned and billed out of  
4 databases separate from UNE provisioning and billing  
5 databases?  
6 A. I think that's been Qwest's practice. And I have  
7 pointed out there's been disputes going back in the first  
8 arbitration whether Qwest should even create these  
9 separate billings systems for these.  
10 Q. And part of the function of the circuit ID is  
11 when Qwest gets an order, it sees the circuit ID and it  
12 knows which system to send it to; correct? So it can be  
13 provisioned and billed.  
14 A. I mean, I don't know if I agree with that  
15 entirely. I mean, for billing the rates are what they  
16 are.  
17 Q. Well, the bills have to be generated  
18 electronically, don't they?  
19 A. Right.  
20 Q. And they have to be sent to a billing system, and  
21 to be sent to the correct system you have to have the  
22 right circuit ID; correct? To generate the right bill?  
23 A. I think you have to have the right rates  
24 associated with the circuit that's being purchased in  
25 order to bill the right bill. And how -- the system that

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1 you choose to bill that on is Qwest's -- in my view,  
2 that's Qwest's choice of how they choose to bill that.  
3 But the fact is that you just have to have the underlying  
4 rates right for the right facilities.  
5 Q. Okay. Well, have you looked into what it would  
6 cost -- first of all, have you looked into whether it's  
7 technically feasible for Qwest to begin using the same  
8 circuit ID for the UNE piece and the tariff piece as  
9 opposed to the UNE and UNE? Have you looked into whether  
10 that's technically feasible?  
11 A. I mean, I have looked into it to the extent that  
12 Qwest does it today for UNE to UNE. They do it for  
13 special access to special access. They have done changes  
14 in the past where things have moved from special access to  
15 UNE without changing circuit IDs, and they managed to do  
16 those, so I believe it's technically feasible. I haven't  
17 done anything beyond that.  
18 Q. Okay. Have you analyzed -- if you think it is  
19 technically feasible, have you done any analysis of what  
20 the cost would be to begin using the single circuit IDs  
21 for UNE services on the one hand and tariffed services on  
22 the other?  
23 A. I don't think the cost would be anything, because  
24 Qwest has single circuit IDs for these end-to-end circuits  
25 today. They do UNE loop and UNE transport on a single

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1 circuit ID.  
2 Q. But you're failing to discern my distinction.  
3 That's UNE to UNE. But we're talking about two different  
4 provisioning systems, UNE on the one hand and tariffed on  
5 the other.  
6 In that circumstance, have you analyzed what it  
7 would cost to use the same circuit ID to process orders  
8 and to provision orders?  
9 A. And I have already said that it's my opinion that  
10 there should not be a technical problem to doing that, so  
11 I don't see where there would be any cost, because you  
12 already are able to do that -- they are already able to do  
13 that today.  
14 Q. Have you studied that? Have you done any cost  
15 analysis at all?  
16 A. No, not other from what I have described to know  
17 that Qwest is able to do that today with the circuits.  
18 Q. If there is a cost, is that something that  
19 Eschelon is willing to compensate Qwest for?  
20 A. I mean, there's a process if there's a cost for  
21 Qwest to go to --  
22 Q. If Qwest has to engage some outside firm to, you  
23 know, spend millions of dollars perhaps to begin using  
24 single circuit ID for these orders, if that's technically  
25 feasible, is Eschelon willing to compensate Qwest for

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1 whatever that cost is?  
2 A. I mean, Eschelon is not going to write a blank  
3 check to Qwest. In my experience, whenever Qwest doesn't  
4 want to do something, it's very expensive for them to do.  
5 So I'm not going to say Eschelon is going to write Qwest a  
6 blank check. There are processes set up for Qwest to  
7 collect rates when they believe --  
8 Q. We don't have to agree on the amount. But in  
9 principle you have made this demand on us to have a single  
10 circuit ID. Are you willing to pay for it? That's my  
11 question.  
12 A. I mean, Eschelon's -- Eschelon is willing to pay  
13 cost-based rates that are ordered by a commission's  
14 forward-looking economic costs. So to the extent that  
15 Qwest, you know, develops cost-based rates, if there are  
16 any additional costs for having to do this and there are  
17 cost-based rates associated with that, then Eschelon would  
18 abide by Commission orders and pay those rates.  
19 Q. Okay. Part of your proposal here with commingled  
20 arrangements is not just the single circuit ID, but also  
21 that Qwest change its processes and systems to have a  
22 single billing account number, a single circuit ID, to use  
23 just one form of service order form, the LSR you want  
24 used, not just the --  
25 A. Any form. We're not stuck to the LSR. A single

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1 order.  
2 Q. Okay. So let's -- you obviously won't agree with  
3 me on this, but let's assume that it costs a lot of money  
4 to make all of those systems and provisioning changes.  
5 Would you be willing to insert language into this  
6 contract that says Eschelon is making these requests, and  
7 Eschelon will be willing to pay a reasonable, forward-  
8 looking cost for whatever changes -- whatever costs are  
9 incurred with these changes? Is that something that you  
10 would be willing to do?  
11 A. Is that a Qwest language proposal offer that I  
12 should be taking back to our negotiations team?  
13 Q. I'm asking you today. Are you willing to agree  
14 to pay the costs of those systems changes?  
15 A. I'm not willing to agree to that today. But if  
16 Qwest has specific language that it is proposing in the  
17 contract, then that would go back to our negotiations team  
18 to look at. But I wouldn't agree to that today, because  
19 that's like writing a blank check by saying we're just  
20 going to agree to pay Qwest with something that you're  
21 going to -- I don't --  
22 Q. I'm not talking about amounts but in principle.  
23 Is Eschelon willing to pay for the costs of the changes  
24 that it's demanding Qwest make to its systems?  
25 A. No, because I don't think you need -- we don't

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1 believe you need to make the changes you're making. We've  
2 had a lot of discussion on this in negotiation, and we  
3 don't believe Qwest has provided, you know, reasonable  
4 evidence that it needs to make all of these changes.  
5 We don't understand why this isn't just a billing  
6 change or taking something that was a UNE, that wasn't a  
7 UNE, that is no longer a UNE, why it's not just a rate  
8 change.  
9 Q. So the answer is, no, you're not willing to pay?  
10 A. That's right.  
11 MR. DEVANEY: Thank you.  
12 Your Honor, would it be possible to take just a  
13 three or four-minute break? There's an exhibit that was  
14 introduced yesterday that I don't have with me that I  
15 would like to get from the court reporter and ask a few  
16 questions about.  
17 ARBITRATOR RODDA: Certainly.  
18 (A recess was taken from 4:04 p.m. to 4:14 p.m.)  
19 ARBITRATOR RODDA: Let's go back on the record  
20 then. I think we found the exhibit.  
21 MR. DEVANEY: We did. Thank you for that break.  
22 Q. (BY MR. DEVANEY) Mr. Denney, could you please  
23 look, and maybe you have it, DD-23?  
24 A. Right. And I thought you said the Cox exhibit,  
25 not the cost exhibit. That's why I didn't think I had it

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 8**

**DC Power Measuring Amendment  
to the Interconnection Agreement between  
Qwest Corporation and**

**for the State of \_\_\_\_\_**

This is an Amendment ("Amendment") for DC Power Measuring to the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and \_\_\_\_\_ ("CLEC"). CLEC and Qwest shall be known jointly as the "Parties".

**RECITALS**

WHEREAS, CLEC and Qwest entered into an Interconnection Agreement ("Agreement") for service in the state of \_\_\_\_\_ which was approved by the \_\_\_\_\_ Commission ("Commission"); and

WHEREAS, the Parties wish to amend the Agreement further under the terms and conditions contained herein.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Amendment Terms**

The Agreement is hereby amended by adding terms, conditions and rates for DC Power Measuring as set forth in Attachment 1 and Exhibit A to this Amendment, attached hereto and incorporated herein by this reference.

Rates in Exhibit A will reflect legally binding decisions of the Commission and shall be applied on a prospective basis from the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission.

**Effective Date**

This Amendment shall be deemed effective upon approval by the Commission; however, the Parties may agree to implement the provisions of this Amendment upon execution. To accommodate this need, CLEC must generate, if necessary, an updated Customer Questionnaire. In addition to the Questionnaire, all system updates will need to be completed by Qwest. CLEC will be notified when all system changes have been made. Actual order processing may begin once these requirements have been met.

**Further Amendments**

Amendments; Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Agreement may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of



warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**Entire Agreement.**

This Agreement (including the documents referred to herein) constitutes the full and entire understanding and agreement between the parties with regard to the subjects of this Agreement and supersedes any prior understandings, agreements, or representations by or between the parties, written or oral, to the extent they relate in any way to the subjects of this Agreement.

\_\_\_\_\_

Qwest Corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **ATTACHMENT 1**

### **1. Monitoring**

**1.1** CLEC orders DC power in increments of twenty (20) amps whenever possible. If CLEC orders an increment larger than sixty (60) amps, engineering practice normally terminates such feed on a power board. IF CLEC orders an increment smaller than or equal to sixty (60) amps, the terminations will normally appear on a Battery Distribution Fuse Board (BDFB).

**1.2** If CLEC orders sixty (60) amps or less, it will normally be placed on a BDFB where no monitoring will occur since the power usage rate reflects a discount from the rates for those feeds greater than sixty (60) amps. If CLEC orders more than sixty (60) amps of power, it normally will be placed on the power board. Qwest will monitor usage at the power board on a semi-annual basis. However, Qwest also agrees to take a reading within thirty (30) Days of a written CLEC request, after CLEC's installation of new equipment. Qwest will perform a maximum of four (4) readings per year on a particular collocation site. Based on these readings, if CLEC is utilizing less than the ordered amount of power, Qwest will reduce the monthly usage rate to CLEC's actual use. If CLEC is utilizing more than the ordered amount, Qwest will increase the monthly usage rate to the CLEC's actual use. Until such time that CLEC places equipment and a request is received from CLEC to monitor, Qwest will bill CLEC based on the amount of power ordered. Once Qwest receives a CLEC monitoring request, it will bill the actual power usage rate from the date of the CLEC's monitoring request until the next reading. The next reading date may be generated as a result of the CLEC request or a Qwest routine reading and Billing will be adjusted on whichever date comes first.

### **2.0 Rate Elements - All Collocation**

**2.1** -48 Volt DC Power Usage and AC Usage Charges. Provide -48 volt DC power to CLEC collocated equipment and is fused at one hundred twenty-five percent (125%) of request. The DC Power Usage Charge is for the capacity of the power plant available for CLEC's use. The AC Usage Charge is for the power used by CLEC. Both the DC Power Usage Charge and the AC Usage Charge are applied on a per ampere basis.

**2.2** The -48 Volt DC Power Usage Charge is specified in Exhibit A and applies to the quantity of -48 Volt Capacity specified by the CLEC in its order.

**2.2.1** -48Volt DC Power Usage Charge – Applies on a per amp basis to all orders of greater than sixty (60) amps. Qwest will initially apply the -48 Volt DC Power Usage Charge from Exhibit A to the quantity of power ordered by CLEC. Qwest will determine the actual usage at the power board as described in Section 1.2 There is a one (1) amp minimum charge for -48 Volt DC Power Usage.

**2.3** CLEC rates for Collocation must be included in the CLEC existing Interconnection Agreement with Qwest prior to amending with DC Power Monitoring Amendment.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**DIRECT TESTIMONY**  
**OF**  
**DOUGLAS DENNEY**  
**ON BEHALF OF**  
**ESCHELON TELECOM, INC.**

May 11, 2007

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Douglas Denney. I work at 730 2<sup>nd</sup> Avenue South, Suite 900, in  
4 Minneapolis, Minnesota.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by Eschelon Telecom, Inc., as Director of Costs and Policy. My  
7 responsibilities include negotiating interconnection agreements, monitoring,  
8 reviewing and analyzing the wholesale costs Eschelon pays to carriers such as  
9 Qwest, and representing Eschelon on regulatory issues.

10 **Q. PLEASE DESCRIBE ESCHELON'S HISTORY AND BUSINESS.**

11 A. Eschelon Telecom, Inc. was founded in 1996 and owes its existence to the 1996  
12 Telecommunications Act. The Act allowed companies to enter the local exchange  
13 service market and compete with the incumbent monopoly.

14 Originally named Advanced Telecommunications, Inc., Eschelon is headquartered  
15 in Minneapolis and serves small and medium business customers in Arizona,  
16 California, Colorado, Minnesota, Oregon, Nevada, Utah and Washington.  
17 Eschelon provides telecommunications services, internet access, and business  
18 telephone systems to over 66,000 customers region wide using over 600,000  
19 access lines. In Oregon, Eschelon serves over 18,000 customers with over  
20 140,000 access lines. Eschelon provides its services and products individually or



1 in customized packages to serve customers with a fully-outsourced voice and data  
2 network solution.

3 Eschelon's voice and data traffic is switched through its six Nortel DMS 500  
4 voice switches, six Lucent 5ESS voice switches, six Cisco BPX data switches and  
5 seven Nortel Passport ATM switches. Eschelon's investment in facilities also  
6 includes building collocations in over 180 ILEC central offices, 39 of which are in  
7 Oregon. Eschelon accesses its end user customers via "last mile" facilities or  
8 UNE loops purchased from Qwest, AT&T, or Verizon.

9 Eschelon's growth has been achieved through a combination of its own direct  
10 sales force of over 200 employees and through acquisitions of other companies  
11 also focused on serving small and medium business customers. In April, 2006  
12 Eschelon acquired Oregon Telecom, Inc. Most recently on October 2, 2006  
13 Eschelon completed the acquisition of OneEighty Communications, a CLEC  
14 based in Billings, Montana,<sup>1</sup> and on November 1, 2006 Eschelon completed its  
15 acquisition of Mountain Communications, Inc., a CLEC based in Tempe,  
16 Arizona.<sup>2</sup>

17 In 2005, Eschelon was the first CLEC in the five years since the telecom bust of  
18 2000 to complete an Initial Public Offering of its common stock. Eschelon's  
19 bonds are also publicly traded.

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<sup>1</sup> See, [http://www.eschelon.com/about\\_us/section\\_detail.aspx?itemID=8118&catID=3085](http://www.eschelon.com/about_us/section_detail.aspx?itemID=8118&catID=3085).

<sup>2</sup> See, [http://www.eschelon.com/about\\_us/section\\_detail.aspx?itemID=8200&catID=3085](http://www.eschelon.com/about_us/section_detail.aspx?itemID=8200&catID=3085).

1 On March 20, 2007 Eschelon signed a definitive agreement to be acquired by  
2 Portland, Oregon-based Integra Telecom, Inc.<sup>3</sup> The transaction is subject  
3 regulatory approvals and the approval of Eschelon's shareholders.

4 **Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL**  
5 **BACKGROUND.**

6 A. I received a B.S. degree in Business Management from Phillips University in  
7 1988. I spent three years doing graduate work at the University of Arizona in  
8 Economics, and then I transferred to Oregon State University where I have  
9 completed all the requirements for a Ph.D. except my dissertation. My field of  
10 study was Industrial Organization, and I focused on cost models and the  
11 measurement of market power. I taught a variety of economics courses at the  
12 University of Arizona and Oregon State University. I was hired by AT&T in  
13 December 1996 and spent most of my time with AT&T analyzing cost models. In  
14 December 2004, I was hired by Eschelon Telecom, Inc., where I am presently  
15 employed.

16 I have participated in over 30 proceedings in the 14-state Qwest region. Much of  
17 my prior testimony involved cost models — including the HAI Model, BCPM,  
18 GTE's ICM, U S WEST's UNE cost models, and the FCC's Synthesis Model. I  
19 have also testified about issues relating to the wholesale cost of local service —  
20 including universal service funding, unbundled network element pricing,

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<sup>3</sup> See

[http://investors.eschelon.com/phoenix.zhtml?c=121503&p=irol-newsArticle&ID=975597&highlight=.](http://investors.eschelon.com/phoenix.zhtml?c=121503&p=irol-newsArticle&ID=975597&highlight=)

1 geographic de-averaging, and competitive local exchange carrier access rates. In  
2 addition to the Eschelon / Qwest arbitrations,<sup>4</sup> most recently I have filed  
3 testimony regarding Qwest's "non-impaired" wire center lists and related issues in  
4 dockets in Utah, Oregon, Colorado, Minnesota and Arizona.

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN OREGON?**

6 A. Yes, I have participated in numerous dockets in Oregon. When with AT&T, I  
7 testified in multiple phases of docket UM 731 regarding universal service, UT  
8 148 regarding Qwest's unbundled loop rate, and UT 138/139 regarding the  
9 mapping of building blocks to Unbundled Network Elements. I also participated  
10 in numerous workshops regarding Qwest's unbundled network element rates as  
11 part of UM 1025 and filed testimony in UM 1100, the original Triennial Review  
12 Order ("TRO") docket, which was stopped after the D.C. Circuit Court remanded  
13 parts of the TRO to the FCC. While with Eschelon I have participated in two  
14 Oregon dockets, besides this docket – (1) UX 29 regarding Qwest's petition for  
15 deregulation of business services and, (2) UM 1251 regarding Commission  
16 approval of Qwest's non-impaired wire center list.

17 **Q. PLEASE DESCRIBE HOW YOUR TESTIMONY IS ORGANIZED.**

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<sup>4</sup> The docket numbers for the Qwest-Eschelon ICA arbitrations are, for Arizona, T-03406A-06-0572; T-01051B-06-0572 ("Arizona arbitration"); for Colorado, 06B-497T ("Colorado arbitration"); for Minnesota, P-5340, 421/IC-06-768 ("Minnesota arbitration"); for Oregon, ARB 775 ("Oregon arbitration"); for Utah, 07-2263-03; petition filed but no testimony yet ("Utah arbitration"); and for Washington, UT-063061 ("Washington arbitration"). Transcript ("Tr.") pages from the arbitration hearings in Minnesota are included as Eschelon/6 and in Arizona as Eschelon/7 to the testimony of Mr. Starkey.

1 A. My testimony is organized by subject matter number.<sup>5</sup> Each subject matter  
2 heading may contain one or more disputed issues from the interconnection  
3 agreement. For each subject matter, I explain Eschelon's business need relating  
4 to this issue. In addition, I contrast Eschelon's proposed language with Qwest's  
5 language and explain why Eschelon's language is more reasonable and  
6 appropriate. I also explain the flaws in Qwest's proposal. For issues that have  
7 closed since Eschelon filed its Petition for Arbitration in this case, I provide the  
8 closed language.

9 **Q. ARE THERE ANY EXHIBITS TO YOUR TESTIMONY?**

10 A. Yes. Eschelon/10 through Eschelon/42 are exhibits associated with my  
11 testimony. These exhibits are described below:

12 **Eschelon/10:** Qwest's September 1, 2005 notice to Eschelon indicating  
13 that Qwest would begin to apply Design Change charges to unbundled  
14 loops. This exhibit is related to Subject Matter No. 4.

15 **Escehlon/11:** Eschelon's escalation of Qwest's proposal to  
16 inappropriately apply the Design Change charge to unbundled loops  
17 ("PROS.09.01.05F.03204.Design\_Chgs\_Unbundld\_Loop"). This exhibit  
18 is related to Subject Matter No. 4.

19 **Eschelon/12:** (Confidential) Chronology of Qwest's threat to disconnect  
20 Eschelon's UNE circuits and stop processing Eschelon orders. This  
21 exhibit is related to Payment and Deposit provisions contained in Subject  
22 Matter Nos. 5, 6 and 7 and helps demonstrate why Qwest should not have  
23 unilateral authority to require deposits, disconnect Eschelon's circuits, or  
24 to stop processing Eschelon's orders.

25 **Eschelon/13:** (Confidential) A exchange of emails between Eschelon and  
26 Qwest showing that Qwest's past due records are not always accurate.

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<sup>5</sup> The subject matter numbers correspond to those in the Issues by Subject Matter List that is attached to the testimony of Mr. Starkey as Eschelon/3.

1           **Eschelon/14:** Email exchange showing that Qwest threatens to disconnect  
2           Eschelon’s circuits and stop processing Eschelon’s orders even when  
3           Eschelon has already paid the bill Qwest claims is delinquent.

4           **Eschelon/15:** (Confidential) An exchange of emails between Eschelon and  
5           Qwest demonstrating that Qwest incorrectly classified amounts as past  
6           due.

7           **Eschelon/16:** (Confidential) An email from Qwest showing that  
8           sometimes Eschelon’s payment disputes fall into the “black hole.”

9           **Eschelon/17:** (Confidential) An email exchange showing that Qwest  
10          sometimes applies payments to incorrect accounts causing accounts to  
11          appear past due when they are not.

12          **Eschelon/18:** (Confidential) Eschelon email to Qwest demonstrating that  
13          Qwest does not always follow its own process and does not properly send  
14          notification to appropriate Eschelon personnel, creating unnecessary  
15          disputes regarding balances.

16          **Eschelon/19:** A copy of the Qwest bill dispute resolution PCAT.

17          **Eschelon/20:** An email from Eschelon to Qwest making clear to Qwest  
18          that Eschelon does not agree to the bill dispute resolution process  
19          developed over Eschelon’s objections in CMP and that, consistent with the  
20          CMP document, Eschelon’s contract will govern billing disputes.

21          **Eschelon/21:** (Confidential) A calculation of the discrepancies between  
22          Qwest and Eschelon in the amount of disputed payments.

23          **Eschelon/22:** “Three Consecutive Months” standard. This exhibit is  
24          related to Payment and Deposit provisions contained in Subject Matter  
25          Nos. 5, 6 and 7. It contains pages of various carriers’ ICAs/service  
26          agreements with Qwest showing that Qwest has agreed to the three  
27          consecutive month standard with numerous CLECs, CMRS providers and  
28          paging companies.

29          **Eschelon/23:** Excerpts from Commission Order 98-444 and Commission  
30          Order 03-085 regarding non-recurring costs in docket UT 138/UT 139.

31          **Eschelon/24:** Section 9.3.3.8.3 from the 11/28/05 Multistate ICA draft.

32          **Eschelon/25:** A description of support for Eschelon’s UNE rate proposals  
33          for UNE rates that have not been approved by the Commission.

1           **Eschelon/26:** Intentionally Left Blank<sup>6</sup>

2           **Eschelon/27:** A chronology of Qwest’s recent attempts to limit the  
3           number of Connecting Facility Assignment (“CFA”) changes to one on the  
4           installation due date, with related documentation.

5           **Eschelon/28:** August 31, 2006 Process Notice from Qwest Regarding  
6           Changes to Qwest’s Negotiations Template, and Excerpts from Oregon  
7           Negotiations Template Exhibit A.

8           **Eschelon/29:** A copy of the Arbitrators’ Report in the interconnection  
9           agreement (“ICA”) arbitration between Qwest and Eschelon in Minnesota.  
10          As it is cited in testimony, a copy is provided for the Commission’s  
11          convenience. The Minnesota Commission order adopting the MN  
12          Arbitrators’ Report, in part, and modifying it in part, is provided as  
13          Eschelon/30.

14          **Eschelon/30:** “Order Resolving Arbitration Issues, Requiring Filed  
15          Interconnection Agreement, Opening Investigations and Referring Issue to  
16          Contested Case Proceeding” dated March 30, 2007 in the Qwest-Eschelon  
17          interconnection agreement (ICA) arbitration in Minnesota.

18          **Eschelon/31:** Intentionally Left Blank

19          **Eschelon/32:** A chart regarding expedite capability for unbundled loops.

20          **Eschelon/33:** Executive Summary from the Direct Testimony of Pamela  
21          Genung (in which Arizona Staff concludes regarding expedites that  
22          “Qwest did not adhere to the terms and conditions of the current Qwest-  
23          Eschelon Interconnection Agreement”), *In re. Complaint of Eschelon*  
24          *Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-  
25          01051B-06-0257, T-03406A-06-0257 (Jan. 30, 2007) [“Arizona  
26          Complaint Docket”].

27          **Eschelon/34:** Documentation regarding Qwest’s refusal to provide  
28          requested cost support.

29          **Eschelon/35:** Excerpts from the Direct Testimony of Robert F. Kennedy,  
30          Qwest Corporation in Docket No. UT-003013, Part D, November 7, 2001  
31          in Washington and Docket No. T0000A-00-0194, Phase II, March 15,  
32          2001 in Arizona on expedites as UNEs.

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<sup>6</sup> Certain issues have closed since the beginning of the preparation of this testimony. In order to preserve Exhibit numbering, these exhibits have been removed and replaced with “Intentionally Left Blank.”

1           **Eschelon/36:** contains the current and historical tariff pages from Qwest’s  
2           tariff FCC #1 regarding expedites (FCC tariff documents includes Qwest’s  
3           transmittal to the FCC explaining its change in the expedite rate) and  
4           Qwest’s Oregon state access tariff.

5           **Eschelon/37:** Commission-Approved Qwest-Eschelon “Bridge Agreement  
6           Until New Interconnection Agreements Are Approved.”

7           **Eschelon/38:** Washington Commission Order 06 in docket UT-053025  
8           regarding Qwest’s designation of wire centers as non-impaired, or  
9           ineligible for access to high-capacity loops and transport by competitors.  
10          Documents related to this order, including the order are available at:  
11          [http://www.wutc.wa.gov/rms2.nsf/vw2005OpenDocket/E015F404192DD](http://www.wutc.wa.gov/rms2.nsf/vw2005OpenDocket/E015F404192DD32388257245007F4CEC)  
12          [32388257245007F4CEC](http://www.wutc.wa.gov/rms2.nsf/vw2005OpenDocket/E015F404192DD32388257245007F4CEC)

13          **Eschelon/39:** Utah Commission Orders dated November 3, 2006 and  
14          September 11, 2006 in docket 06-049-40, *In the Matter of the*  
15          *Investigation into Qwest Wire Center Data* addressing Qwest’s wire center  
16          designations and a process for future additions to the wire center list.  
17          Documents related to this order, including the order are available at:  
18          <http://www.psc.state.ut.us/telecom/Indexes/0604940Indx.htm>

19          **Eschelon/40:** Oregon Commission Order dated March 20, 2007 in docket  
20          UM 1251, *In the Matter of COVAD COMMUNICATIONS COMPANY;*  
21          *ESCHELON TELECOM OF OREGON, INC.; INTEGRA TELECOM OF*  
22          *OREGON, INC.; MCLEODUSA TELECOMMUNICATIONS SERVICES,*  
23          *INC.; and XO COMMUNICATIONS SERVICES, INC. Request for*  
24          *Commission Approval of Non-Impairment Wire Center List*, addressing  
25          Qwest’s wire center designations and a process for future additions to the  
26          wire center list. Documents related to this order, including the order are  
27          available at:  
28          <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=13173>

29          **Eschelon/41:** Eschelon dispute resolution letters regarding expedited  
30          orders.

31          **Eschelon/42:** Oregon Expedite Amendment.

1 **II. CHANGE IN LAW (SUBJECT MATTER NOS. 2 AND 3)**

2 **SUBJECT MATTER NO. 2. RATE APPLICATION & SUBJECT MATTER NO. 3.**  
3 **EFFECTIVE DATE OF LEGALLY BINDING CHANGES**

4 **Issue Nos. 2-3 and 2-4: ICA Section 2.2 (two issues in Section 2.2) & 22.4.1.2**

5 **Q. PLEASE DESCRIBE THE BUSINESS NEED REGARDING RATE**  
6 **APPLICATION IN ISSUE NO. 2-3 AND EFFECTIVE DATE OF**  
7 **LEGALLY BINDING CHANGES IN ISSUE NO. 2-4 (COLLECTIVELY**  
8 **“CHANGE IN LAW”).**

9 A. Section 2.2 of the ICA addresses changes in law. When a change in law takes  
10 effect is a question that can have very significant financial and other  
11 consequences. Qwest proposes two additions to Section 2.2 that relate to when  
12 certain changes of law will take effect. Qwest’s additions are not contained in the  
13 SGAT and rather than add clarity to this section of the contract, Qwest’s language  
14 provides an opportunity for a company to delay the effect of a change in law and  
15 supersede the authority of the relevant regulatory body.

16 Issue No. 2-3 (Rate Application), which is the first of the two disputed issues  
17 arising from Section 2.2, is more specific to rates and concerns language  
18 regarding when rate changes resulting from a Commission order will take effect.  
19 Issue No. 2-4 (Effective Date of Legally Binding Changes), which is the second  
20 of two disputed issues in Section 2.2, concerns when legally binding changes in  
21 the law will take effect.



1           Because of the potential for future disputes, it is important that the ICA language  
2           on this issue: 1) provide the companies with clear guidance on when a change of  
3           law will take effect, so that they can plan accordingly; 2) not provide an  
4           opportunity for any company to delay the effect of a change in the law; 3)  
5           preserve the authority of the relevant regulatory body – e.g., the Commission, the  
6           FCC, or Congress – to determine when changes in the law will be given effect.

7           **Q.    WHAT ARE ESCHELON’S PROPOSALS FOR ISSUES 2-3 AND 2-4?**

8           A.    Eschelon has two proposals that encompass Issues 2-3 and 2-4. Eschelon offers  
9           either proposal for adoption by the Commission. For both proposals, the entire  
10          provision in this section of the ICA (Section 2.2) is shown, with underlining and  
11          strikeouts to show the differences in the companies’ positions. Eschelon’s  
12          proposal #2 also has a component in ICA Section 22.4 (“Interim Pricing”), shown  
13          below.<sup>7</sup>

14          Proposal #1 (Issue Nos. 2-3 and 2-4)

15          2.2    The provisions in this Agreement are intended to be in compliance  
16               with and based on the existing state of the law, rules, regulations  
17               and interpretations thereof, including but not limited to state rules,  
18               regulations, and laws, as of March 11, 2005 (the Existing Rules).  
19               Nothing in this Agreement shall be deemed an admission by Qwest  
20               or CLEC concerning the interpretation or effect of the Existing  
21               Rules or an admission by Qwest or CLEC that the Existing Rules  
22               should not be changed, vacated, dismissed, stayed or modified.  
23               Nothing in this Agreement shall preclude or stop Qwest or CLEC  
24               from taking any position in any forum concerning the proper  
25               interpretation or effect of the Existing Rules or concerning whether

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<sup>7</sup> Because of the potential confusion between Section “2.2” and Section “22” as a result of the similar numbering, I will refer to the separate, later Section of the ICA as Section “22.0” for clarity. Section 22.4, which deals specifically with interim rates, is a sub-section of Section 22.0

1 the Existing Rules should be changed, vacated, dismissed, stayed  
2 or modified. To the extent that the Existing Rules are vacated,  
3 dismissed, stayed or materially changed or modified, then this  
4 Agreement shall be amended to reflect such legally binding  
5 modification or change of the Existing Rules. Where the Parties  
6 fail to agree upon such an amendment within sixty (60) Days after  
7 notification from a Party seeking amendment due to a modification  
8 or change of the Existing Rules or if any time during such sixty  
9 (60) Day period the Parties shall have ceased to negotiate such new  
10 terms for a continuous period of fifteen (15) Days, it shall be  
11 resolved in accordance with the Dispute resolution provision of  
12 this Agreement. It is expressly understood that this Agreement  
13 will be amended as set forth in this Section 2.2, to reflect the  
14 outcome of generic proceedings by the Commission for pricing,  
15 service standards, or other matters covered by this Agreement,  
16 except where CLEC notifies Qwest in writing that an amendment  
17 is not required. The rates in Exhibit A and when they apply are  
18 addressed in Section 22.<sup>8</sup> ~~Rates in Exhibit A include legally~~  
19 ~~binding decisions of the Commission and shall be applied on a~~  
20 ~~prospective basis from the effective date of the legally binding~~  
21 ~~Commission decision, unless otherwise ordered by the~~  
22 ~~Commission. When a regulatory body or court issues an order~~  
23 ~~causing a change in law and that order does not include a specific~~  
24 ~~implementation date, a Party may provide notice to the other Party~~  
25 ~~within thirty (30) Days of the effective date of that order and any~~  
26 ~~resulting~~ Any amendment shall be deemed effective on the  
27 effective date of the legally binding change or modification of the  
28 Existing Rules for rates, and to the extent practicable for other  
29 terms and conditions, unless otherwise ordered. ~~In the event~~  
30 ~~neither Party provides notice within thirty (30) Days, the effective~~  
31 ~~date of the legally binding change shall be the effective date of the~~  
32 ~~amendment unless the Parties agree to a different date.~~ While any  
33 negotiation or Dispute resolution is pending for an amendment  
34 pursuant to this Section 2.2 the Parties shall continue to perform  
35 their obligations in accordance with the terms and conditions of  
36 this Agreement. For purposes of this Section, "legally binding"  
37 means that the legal ruling has not been stayed, no request for a  
38 stay is pending, and any deadline for requesting a stay designated  
39 by statute or regulation, has passed.

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<sup>8</sup> As indicated in Eschelon's position statement for Issue 2-3, "Eschelon proposes to either remain silent on this issue in Section 2.2 (by deleting Qwest's proposed insertion) or, as an option, to include Eschelon's proposed sentence that simply refers the reader to Section 22.0, where the issue is dealt with more completely." See Exhibit 3 to Petition (Joint Disputed Issues Matrix), Eschelon position statement, p. 12.

1           Proposal #2 (Issue Nos. 2-3 and 2-4)

2           2.2       The provisions in this Agreement are intended to be in  
3           compliance with and based on the existing state of the law, rules,  
4           regulations and interpretations thereof, including but not limited to  
5           state rules, regulations, and laws, as of March 11, 2005 (the  
6           Existing Rules). Nothing in this Agreement shall be deemed an  
7           admission by Qwest or CLEC concerning the interpretation or  
8           effect of the Existing Rules or an admission by Qwest or CLEC that  
9           the Existing Rules should not be changed, vacated, dismissed,  
10          stayed or modified. Nothing in this Agreement shall preclude or  
11          estop Qwest or CLEC from taking any position in any forum  
12          concerning the proper interpretation or effect of the Existing Rules  
13          or concerning whether the Existing Rules should be changed,  
14          vacated, dismissed, stayed or modified. To the extent that the  
15          Existing Rules are vacated, dismissed, stayed or materially changed  
16          or modified, then this Agreement shall be amended to reflect such  
17          legally binding modification or change of the Existing Rules. Each  
18          Party has an obligation to ensure that the Agreement is amended  
19          accordingly. Where the Parties fail to agree upon such an  
20          amendment within sixty (60) Days after notification from a Party  
21          seeking amendment due to a modification or change of the Existing  
22          Rules or if any time during such sixty (60) Day period the Parties  
23          shall have ceased to negotiate such new terms for a continuous  
24          period of fifteen (15) Days, it shall be resolved in accordance with  
25          the Dispute resolution provision of this Agreement. It is expressly  
26          understood that this Agreement will be amended as set forth in this  
27          Section 2.2, to reflect the outcome of generic proceedings by the  
28          Commission for pricing, service standards, or other matters covered  
29          by this Agreement, except where CLEC notifies Qwest in writing  
30          that an amendment is not required. The rates in Exhibit A and  
31          when they apply are further addressed in Section 22. Generally,  
32          with respect to rates, this Section 2.2 addresses changes to rates that  
33          have been previously approved by the Commission, and Section 22  
34          (Pricing) also addresses rates that have not been previously  
35          approved by the Commission (Unapproved Rates). Rates in Exhibit  
36          A will reflect ~~include~~ legally binding decisions of the Commission.  
37          Each Party reserves its rights with respect to the effective date of a  
38          legally binding modification or change of the Existing Rules and, if  
39          different, other dates for implementation or application of an order,  
40          if any. If a Party desires a particular deadline or time period for  
41          application or implementation of any aspect of a proposed order, the  
42          Party may request under the Commission's regularly established  
43          rules that the Commission establish a specific implementation date,

1 stay the order, or provide other such relief as applicable. If,  
2 however, the Commission enters an order that is silent on the issue,  
3 the order shall be implemented and applied on a prospective basis  
4 from the date that the order is effective either by operation of law or  
5 as otherwise stated in the order (such as “effective immediately” or  
6 a specific date), unless subsequently otherwise ordered by the  
7 Commission or, if allowed by the order, agreed upon by the Parties.  
8 ~~When a regulatory body or court issues an order causing a change~~  
9 ~~in law and that order does not include a specific implementation~~  
10 ~~date, a Party may provide notice to the other Party within thirty (30)~~  
11 ~~Days of the effective date of that order and any resulting~~  
12 ~~amendment shall be deemed effective on the effective date of the~~  
13 ~~legally binding change or modification of the Existing Rules for~~  
14 ~~rates, and to the extent practicable for other terms and conditions,~~  
15 ~~unless otherwise ordered.<sup>9</sup>—While any negotiation or Dispute~~  
16 ~~resolution is pending for an amendment pursuant to this Section 2.2~~  
17 ~~the Parties shall continue to perform their obligations in accordance~~  
18 ~~with the terms and conditions of this Agreement. For purposes of~~  
19 ~~this Section, “legally binding” means that the legal ruling has not~~  
20 ~~been stayed, no request for a stay is pending, and any deadline for~~  
21 ~~requesting a stay designated by statute or regulation, has passed.~~

22 Following is the component of Eschelon’s proposal #2 in Section 22.4:

23 22.4.1.2 If the Interim Rates are reviewed and changed by the  
24 Commission, the Parties shall incorporate the rates established by  
25 the Commission into this Agreement pursuant to Section 2.2 of this  
26 Agreement. Such Commission-approved rates shall be effective as  
27 of the date required by a legally binding order of the Commission.  
28 Each Party reserves its rights with respect to whether Interim Rates  
29 are subject to true-up. If, however, the Commission issues an order  
30 with respect to rates that is silent on the issue of a true-up, the rates  
31 shall be implemented and applied on a prospective basis from the  
32 effective date of the legally binding Commission decision as  
33 described in Section 2.2.

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<sup>9</sup> As discussed under Proposal #1, the following sentence is from the SGAT: “Any amendment shall be deemed effective on the effective date of the legally binding change or modification of the Existing Rules for rates, and to the extent practicable for other terms and conditions, unless otherwise ordered.” Eschelon offers Proposal #2 either with or without this sentence. As it ends with “unless otherwise ordered,” it allows for a different date to be set.

1 **Q. PLEASE BRIEFLY DESCRIBE ESCHELON'S TWO PROPOSALS**  
2 **REGARDING CHANGE IN LAW (ISSUES 2-3 AND 2-4**  
3 **COLLECTIVELY).**

4 A. Eschelon's first proposal for ICA Section 2.2 is to leave the closed portion of the  
5 language of Section 2.2 unchanged by deleting Qwest's two proposed insertions.<sup>10</sup>  
6 Eschelon's first proposal would leave in place as closed language the following  
7 SGAT sentence<sup>11</sup> in Section 2.2 and the following approved Qwest-AT&T ICA  
8 language<sup>12</sup> in Section 22.4:

9 2.2 . . . Any amendment shall be deemed effective on the effective  
10 date of the legally binding change or modification of the Existing  
11 Rules for rates, and to the extent practicable for other terms and  
12 conditions, unless otherwise ordered. . . .<sup>13</sup>

13 22.4.1.2 If the Interim Rates are reviewed and changed by the  
14 Commission, the Parties shall incorporate the rates established by  
15 the Commission into this Agreement pursuant to Section 2.2 of this  
16 Agreement. Such Commission-approved rates shall be effective as  
17 of the date required by a legally binding order of the Commission.

18 The SGAT provision will assure that the ICA properly reflects any changes in the  
19 law, including any direction given in any applicable order regarding when the

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<sup>10</sup> Eschelon has also offered, as an option, to add one sentence cross referencing Section 22 ("Pricing"), where the issue of rates is dealt with more completely, if desired for clarity. As shown above, the optional proposed cross reference in Section 2.2 states: "The rates in Exhibit A and when they apply are further addressed in Section 22."

<sup>11</sup> In addition to being in the SGAT, this sentence is also the same sentence as in the October 14, 2004 Qwest-AT&T ICA that was approved by the Oregon Commission. See Oregon Docket No. ARB 527B.

<sup>12</sup> The Qwest-AT&T ICA was approved by the Oregon Commission on October 14, 2004 ("Qwest-AT&T ICA"). See Oregon Docket No. ARB 527B. This Qwest-AT&T ICA was used by the companies in part as a basis for negotiations. See, e.g., Eschelon/43, Johnson/14-15; see also Eschelon/46, Johnson/1.

<sup>13</sup> This portion of the sentence is closed, except the first word ("Any"), which Qwest proposes to change to "any resulting" after its inserted clause. Eschelon recommends deletion of Qwest's proposed insertion.

1 ordered change shall be given effect. The agreed upon sentence from the  
2 approved Qwest-AT&T ICA will assure that the Commission will dictate when  
3 Commission-approved rates become effective. These provisions, using agreed  
4 upon language from the SGAT and the Qwest-AT&T ICA, are neutral as to the  
5 effective date to be adopted ultimately by the appropriate regulatory body.

6 As discussed, except for Eschelon's optional proposal to add one sentence (with a  
7 cross-reference to Section 22.0), Eschelon's first proposal is the Qwest-AT&T  
8 ICA language that was approved by the Oregon Commission on October 14,  
9 2004,<sup>14</sup> with certain agreed upon modifications.<sup>15</sup> The Qwest-AT&T ICA  
10 language with the mutually agreed upon modifications was closed in the Qwest-  
11 Eschelon proposed ICA in negotiations for some time. When Qwest re-opened  
12 the language by proposing two new insertions to Section 2.2, Eschelon countered  
13 with its second proposal. As a general matter, Eschelon's second proposal  
14 (Proposal #2, shown above) is different from that modified Qwest-AT&T  
15 language in three ways. First, this option affirms the companies' obligations to  
16 keep their ICA up to date in an additional sentence. Second, this option provides  
17 additional clarification regarding when rates changes will take effect. Third, this  
18 option provides additional clarification regarding the effective date of ICA  
19 amendments to the ICA that are entered into to reflect legally binding changes in  
20 the law. These differences will be explained below.

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<sup>14</sup> See Oregon Docket No. ARB 527B.

<sup>15</sup> For example, the companies agreed to change the identified date for Existing Rules from August 15, 2003 in the Qwest-AT&T ICA to March 11, 2005 in the proposed Qwest-Eschelon ICA.

1 **Q. WHAT IS QWEST'S PROPOSAL REGARDING CHANGE IN LAW**  
2 **(ISSUES 2-3 AND 2-4 COLLECTIVELY)?**

3 A. Qwest has one proposal for change in law (Issues 2-3 and 2-4). It consists of two  
4 language insertions in Section 2.2 and one language insertion in Section 22.4.  
5 Regarding application of rates (Issue 2-3), Qwest proposes deletion of Eschelon's  
6 proposed optional sentence in Section 2.2 and insertion of the following  
7 underlined language:

8 The rates in Exhibit A and when they apply are addressed  
9 in Section 22. Rates in Exhibit A include legally binding  
10 decisions of the Commission and shall be applied on a  
11 prospective basis from the effective date of the legally  
12 binding Commission decision, unless otherwise ordered by  
13 the Commission.

14 Qwest's proposed sentence does not appear in the SGAT or the approved Qwest-  
15 AT&T ICA language used in negotiations.<sup>16</sup>

16 Regarding effective date of legally binding changes (Issue 2-4), Qwest proposes  
17 to add the following two underlined sentences to Section 2.2 (which do not appear  
18 in the SGAT or the Qwest-AT&T ICA):

19 When a regulatory body or court issues an order causing a change  
20 in law and that order does not include a specific implementation  
21 date, a Party may provide notice to the other Party within thirty  
22 (30) Days of the effective date of that order and any resulting...  
23 Any amendment shall be deemed effective on the effective date of  
24 the legally binding change or modification of the Existing Rules  
25 for rates, and to the extent practicable for other terms and  
26 conditions, unless otherwise ordered. In the event neither Party  
27 provides notice within thirty (30) Days, the effective date of the

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<sup>16</sup> Eschelon's suggested insertion of the cross reference to Section 22.0 is also not in either document. As discussed, addition of this sentence is optional, if desired for clarity.

1                   legally binding change shall be the effective date of the  
2                   amendment unless the Parties agree to a different date.

3                   Qwest proposes that when an order that changes the law “does not include a  
4                   specific implementation date,” the effective date of such a change will depend on  
5                   whether one party gives the other notice of the order. When one party gives  
6                   notice of the order within thirty days of the effective date of the order, Qwest  
7                   proposes that the amendment of the ICA reflecting the change in the law will be  
8                   “deemed effective on the date of that order.” When one party does not give notice  
9                   of the order within thirty days, Qwest proposes that the legal change will take  
10                  effect on the effective date of the ICA amendment that reflects that change, unless  
11                  the parties agree otherwise. Regarding Section 22.4.1.2, Qwest’s proposal is to  
12                  repeat its proposed sentence from Section 2.2 (regarding a prospective basis) in  
13                  Section 22.0:

14                   22.4.1.2 If the Interim Rates are reviewed and changed by the  
15                   Commission, the Parties shall incorporate the rates established by  
16                   the Commission into this Agreement pursuant to Section 2.2 of this  
17                   Agreement. Such Commission-approved rates shall be effective as  
18                   of the date required by a legally binding order of the Commission.  
19                   Rates in Exhibit A include legally binding decisions of the  
20                   Commission and shall be applied on a prospective basis from the  
21                   effective date of the legally binding Commission decision, unless  
22                   otherwise ordered by the Commission.

23  
24                  Eschelon disagrees with this proposal for the same reasons that it disagrees with  
25                  this language in Section 2.2 (regardless of whether the language is placed in  
26                  Section 2.2, 22.0, or both).



1 **Q. WHY IS ESCHELON'S FIRST PROPOSAL (PROPOSAL #1) FOR ISSUES**  
2 **2-3 AND 2-4 APPROPRIATE?**

3 A. Change in law provisions generally, and Section 2.2 specifically, are designed to  
4 apply when the law changes *at a later time*. Eschelon's proposal does not pre-  
5 judge (by, at this time, establishing a presumption one way or the other) the issue  
6 of when rates approved by the Commission or other orders will take effect at a  
7 later time. It defers to the authority of the relevant regulatory body if and when a  
8 change in law occurs. This is appropriate not only because the appropriate  
9 regulatory body has that authority but also because more will be known at that  
10 time about the nature of the change in law and when it should take effect.

11 Regarding the application of rates, Section 22.0 ("Pricing") already deals with the  
12 application of rates in Exhibit A and does so more thoroughly and clearly than  
13 Qwest's proposed single sentence in Section 2.2.<sup>17</sup> Most of Section 22.0 is agreed  
14 upon and closed. The issues that remain open will be decided in this arbitration  
15 with respect to Section 22.0 and need not also be litigated with respect to Section  
16 2.2. With respect to when rate changes will take effect, Section 22.4.1, which the  
17 companies have agreed upon in large part, states:

18 22.4.1 The Parties acknowledge that only some of the  
19 prices contained in Exhibit A have been approved by the  
20 Commission in a cost case. Prices that have not been approved by  
21 the Commission shall be considered interim and subject to the  
22 following provisions.

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<sup>17</sup> Therefore, if additional language is desired, it makes sense to add Eschelon's optional proposed sentence to Section 2.2: "The rates in Exhibit A and when they apply are further addressed in Section 22."

1                   22.4.1.2       If the Interim Rates are reviewed and  
2                   changed by the Commission, the Parties shall incorporate  
3                   the rates established by the Commission into this  
4                   Agreement pursuant to Section 2.2 of this Agreement.  
5                   Such Commission-approved rates shall be effective as of  
6                   the date required by a legally binding order of the  
7                   Commission.<sup>18</sup>

8                   As shown, Section 22.4.1.2 specifically states: “Such Commission-approved  
9                   rates shall be effective as of the date required by a legally binding order of the  
10                  Commission.” Therefore, Section 22.4.1.2 leaves the issue of whether rates will  
11                  be applied on a prospective basis to the discretion of the Commission to decide at  
12                  the appropriate time. Because this closed language in Section 22.4.1.2 applies to  
13                  any date required by an order of the Commission – including either an earlier  
14                  effective date (*e.g.*, a true-up) or a prospective date (*e.g.*, no true-up), whichever is  
15                  ordered by the Commission – Qwest is incorrect when it claims that “Section 22  
16                  is silent as to what is to occur when a Commission order does not specify a true-  
17                  up of past billing.”<sup>19</sup> This closed language in Section 22 expressly states that the  
18                  effective date required by the order will apply.

19                  The Commission has, in some cases, determined that the circumstances warranted  
20                  the establishment of an interim rate that would be subject to true up when the final  
21                  rate was determined and some, as reflected in the closed language of Section  
22                  22.4.1.2, that would not be subject to true up. The agreed upon language of

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<sup>18</sup> Note, as discussed above, both companies have proposed additional language in 22.4.1.2, which is disputed.

<sup>19</sup> See Arizona arbitration, Easton Rebuttal, p. 2, lines 17-18. In any event, Eschelon’s Proposal #2 even more explicitly addresses what is to occur when a Commission order does not specify a true-up of past billing, as discussed below.

1 Section 22.4.1 and 22.4.1.2 is consistent with the range of the Commission’s past  
2 practice, because it reflects the Commission’s cost docket rulings and, for other  
3 issues, leaves it to the Commission to decide when a rate change will take effect.  
4 Qwest’s new proposal in Section 2.2, in contrast, attempts to create an  
5 unnecessary default that rate changes will be applied prospectively. The  
6 ambiguity created by Qwest’s proposal is likely to lead to additional litigation.

7 **Q. HOW DOES ESCHELON’S SECOND PROPOSAL (PROPOSAL #2) FOR**  
8 **ISSUES 2-3 AND 2-4 ADDRESS QWEST’S STATED CONCERNS ABOUT**  
9 **THE LANGUAGE IN SECTION 2.2?**

10 A. Eschelon’s second, alternative proposal for Issues 2-3 and 2-4 is to add three  
11 provisions to Section 2.2 to clean up the distinction that Qwest appears to desire  
12 between an “implementation” date and an “effective” date, as well as to add  
13 language to Section 22.4.1.2. The first provision of Eschelon’s alternate proposal  
14 confirms that each company has an obligation to ensure the agreement is  
15 amended. As I explain below, Eschelon is concerned that Qwest’s proposal  
16 provides a means that would allow a company to delay the effect of an adverse  
17 change in the law by not giving the other company notice of the order giving rise  
18 to the change. The existing agreed upon language already provides that the  
19 Agreement “shall” be amended to reflect a legally binding modification or change  
20 of the Existing Rules.<sup>20</sup> The additional sentence that Eschelon proposes

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<sup>20</sup> The SGAT, Qwest-AT&T ICA, and closed language in the proposed Qwest-Eschelon ICA all state:  
“To the extent that the Existing Rules are vacated, dismissed, stayed or materially changed or

1 (immediately after that closed sentence) confirms that there will be no delay in  
2 doing so, by stating that “Each Party has an obligation to ensure that the  
3 Agreement is amended accordingly.” Eschelon added this sentence to attempt to  
4 address Qwest’s stated concern that the SGAT and Qwest-AT&T language  
5 required amendment without addressing who had the obligation to ensure that it  
6 was amended.

7 **Q. PLEASE EXPLAIN ESCHELON’S SECOND CHANGE TO THE**  
8 **LANGUAGE REFLECTED IN ESCHELON’S SECOND PROPOSAL FOR**  
9 **SECTION 2.2, WHICH CONCERNS WHEN RATE CHANGES WILL BE**  
10 **GIVEN EFFECT.**

11 A. Testimony on behalf of the Minnesota Department of Commerce in the Minnesota  
12 arbitration revealed the utility of distinguishing between changes to prices that  
13 had been previously approved by the Commission and changes to prices not  
14 previously approved. To address this issue, Eschelon’s alternative proposal  
15 includes language specifying that Section 2.2 is intended to govern changes to  
16 existing rates that have been previously approved and that Section 22.0 also  
17 addresses rates that have not been previously approved.

18 **Q. PLEASE EXPLAIN ESCHELON’S THIRD CHANGE TO THE**  
19 **LANGUAGE REFLECTED IN ESCHELON’S SECOND PROPOSAL FOR**

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modified, then this Agreement shall be amended to reflect such legally binding modification or change of the Existing Rules.”

1           **SECTION 2.2, WHICH CONCERNS THE EFFECTIVE DATE OF ICA**  
2           **AMENDMENTS THAT REFLECT CHANGES OF LAW.**

3    A.    Eschelon’s proposed alternative permits a company to seek a particular time  
4           period for application or implementation of an order that results in a legally  
5           binding change in the law, including changes to previously-approved rates. It  
6           clarifies that, if the order is silent on the issue of its implementation date, the  
7           order will be implemented prospectively from the date the order becomes  
8           effective according to the order’s term or by operation of law. Thus, this  
9           language expressly confirms that the “implementation date” of an order that is  
10          “effective immediately” is the date of the order.

11          Qwest’s new proposal in Section 2.2, in contrast, attempts to create an  
12          unnecessary default that rate changes will be applied prospectively. The  
13          ambiguity created by Qwest’s proposal is likely to lead to additional litigation.

14    **Q.    WHAT CHANGES DOES ESCHELON PROPOSE TO SECTION 22.0 IN**  
15          **ITS SECOND, ALTERNATIVE PROPOSAL RELATED TO THESE**  
16          **ISSUES?**

17    A.    Eschelon’s second, alternative proposal for Issues 2-3 and 2-4 also includes  
18          addition of two sentences to Section 22.4.1.2. Section 22.4 is entitled “Interim  
19          Rates.” Although agreed upon language in Section 22.4.1.2 already provides that  
20          interim rates “shall be effective as of the date required by a legally binding order

1 of the Commission,”<sup>21</sup> Eschelon has proposed two sentences in response to  
2 Qwest’s proposal which expressly state the companies reserve their rights with  
3 respect to a true-up. If an order is silent as to a true-up, Qwest gets the default  
4 provision it seeks (except for new products, which are addressed in Section  
5 1.7.1.1), indicating rates will be applied and implemented on a prospective basis.  
6 However, Eschelon’s language also clarifies that “Each Party reserves its rights  
7 with respect to whether Interim Rates are subject to true-up.”

8 **Q. YOU EXPLAINED ABOVE THAT QWEST’S PROPOSED**  
9 **“PROSPECTIVE” RATE APPLICATION DEFAULT IN 2.2 IS**  
10 **UNNECESSARY AND AMBIGUOUS. WHAT PROBLEMS DOES**  
11 **QWEST’S PROPOSAL PRESENT FOR ESCHELON?**

12 A. Eschelon has three general concerns. First, the language is ambiguous, which is  
13 likely to lead to disputes in the future. Second, the language creates an  
14 opportunity for Qwest to delay the effect of a legal change that is not in its favor.  
15 Third, the language intrudes on the province of the relevant regulatory authority  
16 to determine when the legal change will take effect.

17 **Q. HOW IS QWEST’S PROPOSAL AMBIGUOUS?**

18 A. The proposal would govern what happens when an order “does not include a  
19 specific implementation date.” Qwest’s language also provides, however, that  
20 when a party gives notice of an order within thirty days, the legal change resulting

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<sup>21</sup> As discussed, because this closed language could refer to establishing either an earlier effective date (*i.e.*, a true-up) or a prospective date (*i.e.*, no true-up), it is applicable in either case.

1 from that order will take effect on “the effective date of that order.” What this  
2 tells me is that Qwest believes a “specific implementation date” of an order is  
3 something different from an order’s effective date (consistent with the Arizona  
4 example described below). Under Qwest’s proposal, it appears that an order that  
5 the Commission states is to be “effective immediately” would not be one that has  
6 a “specific implementation date” and would, therefore, be one that Eschelon  
7 would have to give Qwest notice of within thirty days for the order to actually  
8 have immediate effect.

9 In addition, what constitutes “notice” is also unclear. For example, Qwest’s  
10 language would appear to require Eschelon to give Qwest “notice” even when  
11 Qwest is an active party to the proceeding that results in the change of law.

12 **Q. HOW DOES QWEST’S PROPOSAL CREATE AN OPPORTUNITY FOR**  
13 **DELAY?**

14 A. By proposing that the effective date of a change in the law will depend on  
15 whether one party gives the other notice of the order giving rise to the change,  
16 Qwest creates an opportunity for itself to delay implementation of adverse rulings.  
17 If, for example, Qwest is a party to a proceeding and Eschelon (or another CLEC  
18 that has opted into the ICA) is not, and Qwest receives an adverse result, Qwest’s  
19 language would allow Qwest to delay the effect of that adverse ruling by simply  
20 not notifying CLECs of the order. Because CLECs have much more limited  
21 resources than Qwest to participate in regulatory proceedings and Qwest is likely  
22 to have more complete knowledge regarding the proceedings and any changes in

1 the law that result, Qwest’s proposed “notice” requirement heavily favors Qwest  
2 to the disadvantage of CLECs.

3 **Q. HOW DOES QWEST’S PROPOSAL INTRUDE ON THE AUTHORITY**  
4 **OF REGULATORY BODIES TO DETERMINE WHEN LEGAL**  
5 **CHANGES WILL TAKE EFFECT?**

6 A. Qwest is proposing to change the effective date to either the date of an ICA  
7 amendment or a date agreed upon by the parties, even in cases when the  
8 Commission has ordered a different effective date. For example, if the  
9 Commission issues an order in a generic proceeding that has been properly  
10 noticed and the order states that it is effective immediately, Qwest’s language  
11 would allow Qwest to implement that ruling at a later date if neither party gave  
12 the other notice of the ruling (even if one or both parties were party to the  
13 proceeding). Qwest should not be allowed to unilaterally alter a Commission-  
14 ordered effective date in this manner. Eschelon’s proposed language is consistent  
15 with the notion that the effective date of an ICA amendment incorporating a  
16 change in law should be determined by the Commission in light of sound public  
17 policy, not by the procedural maneuverings of the parties.

18 **Q. HAS QWEST’S PREVIOUS CONDUCT RAISED A CONCERN THAT,**  
19 **UNDER QWEST’S PROPOSAL, AN ORDER THAT IS “EFFECTIVE**  
20 **IMMEDIATELY” COULD BE CONSIDERED TO LACK A “SPECIFIC**  
21 **IMPLEMENTATION DATE”?**

22 A. Yes. Qwest’s conduct in an Arizona cost case suggested that Qwest considered



1 the effective date of an order to be different from a specific implementation date  
2 even though the order identified no separate date. In that case, the Commission  
3 staff brought a complaint regarding Qwest's failure to implement rate changes.<sup>22</sup>  
4 Although the rate changes had been ordered by the Commission to be "effective  
5 immediately" (*i.e.*, on June 12, 2002), and although Qwest had not sought a stay  
6 of the order despite a specific inquiry from the Commission as to whether a stay  
7 would be sought, Qwest still had not implemented the rates months later.<sup>23</sup> The  
8 Arizona Staff investigated<sup>24</sup> and the matter came before the Arizona Commission  
9 on an order to show cause. At the open meeting, the Commission indicated that it  
10 believed it was reasonable to conclude that an order indicating that it was  
11 effective "immediately" means "fairly soon"<sup>25</sup> and that, in any event, "any  
12 definition of immediately is not five months later."<sup>26</sup> The Commission then asked  
13 Qwest to define immediately, and Qwest responded:

14 I think *Qwest's definition of immediately is consistent with the*  
15 *approach that has been taken in the implementation of orders*  
16 *previously* by this Commission with respect to the 1986 record,  
17 which was the last major order with wholesale rates. It took Qwest --

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<sup>22</sup> *Arizona Corporation Commission v. Qwest Corporation*, Docket No. T-01051B-02-0871, Decision 65456, Complaint and Order to Show Cause ["AZ Show Cause Case"].

<sup>23</sup> Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 9, lines 4-11 & p. 10, lines 2-3.

<sup>24</sup> Staff said it believed that "Qwest intentionally delayed implementation" of the cost case order "until Qwest could complete rate changes in nine other states for which it had 271 applications pending at the federal level." See Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 5, lines 19-23.

<sup>25</sup> See Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 9, lines 12-15.

<sup>26</sup> See Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 10, lines 6-7.

1 and we have discussed this with Staff -- it took Qwest *about a year*  
2 to implement those rates.<sup>27</sup>

3 Eschelon's proposed language would prevent a re-occurrence of such a situation,  
4 by requiring a company that needs additional time to implement an order to raise  
5 that issue with the Commission and obtain an implementation schedule, rather  
6 than Qwest's engaging in self-help after the fact and taking additional time, with  
7 no stay in place, to implement the order on Qwest's own schedule.

8 **Q. PLEASE SUMMARIZE ISSUES 2-3 AND 2-4 REGARDING CHANGES IN  
9 LAW.**

10 A. Either of Eschelon's proposals regarding changes in law (Issues 2-3 and 2-4) are  
11 better than Qwest's proposal for determining when changes to application of rates  
12 and changes in law should take effect. Qwest's language is ambiguous, creates  
13 the opportunity for delay, and intrudes upon the Commission's authority.  
14 Eschelon's Proposal #1 or Proposal #2 should be adopted for these issues.

15 **III. DESIGN CHANGES (SUBJECT MATTER NO. 4)**

16 **SUBJECT MATTER NO. 4. DESIGN CHANGES**

17 **Issue Nos. 4-5, 4-5(a), 4-5(b) and 4-5(c): ICA Sections 9.2.3.8, 9.2.3.9 and**  
18 **Section 9.20.13 of Exhibit A**

19 **Q. PLEASE IDENTIFY THE BUSINESS NEED UNDERLYING**  
20 **ESCHELON'S PROPOSALS FOR DESIGN CHANGES (ISSUE NOS. 4-5**

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<sup>27</sup> See Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 10, line 25 – p. 11, line 8 (emphasis added).

1           **AND SUBPARTS) AND SUMMARIZE THE ISSUES.**

2       A.     A design change allows a CLEC to change a service previously requested without  
3           the unnecessary delay and cost involved in canceling and re-submitting the  
4           request. Qwest provides Eschelon design changes today, and has since 2000  
5           under its Commission-approved ICA. Eschelon needs a ruling that provides  
6           certainty that Qwest will continue to provide design changes at TELRIC rates.  
7           The Agreement must contain language that makes Qwest's obligation clear in this  
8           regard so that Qwest does not refuse to provide design changes for loops at  
9           TRILIC rates (or even quit providing design changes for loops altogether),  
10          severely restrict access to design changes.

11          There are three open issues for resolution: (1) whether Qwest may charge a  
12          separate charge for design changes for unbundled loops even though Qwest has  
13          not done so in the past (ICA Section 9.2.3.8; Issue 4-5); (2) if so, whether Qwest  
14          may charge the same rate that it charges to perform design changes for UDITs for  
15          design changes for loops and certain Connecting Facility Assignment ("CFA")  
16          changes that are relatively common, require very little time, and can be performed  
17          on the day of cut during the loop installation process when Eschelon is already  
18          paying for coordination (ICA Section 9.2.3.9; Issue 4-5(a)); and (3) what is the  
19          appropriate rate (Exhibit A Section 9.20.13; Issue 4-5(c)). Specifically with  
20          respect to the rate, if Qwest may charge separately for design changes for  
21          unbundled loops: (a) what rate Qwest may charge for design changes for loops  
22          (Exhibit A Section 9.20.11.2); (b) what rate Qwest may charge for certain CFA

1 changes (Exhibit A Section 9.20.11.3); and (c) the appropriate footnote to assign  
2 to the interim for rates.<sup>28</sup>

3 Issue 4-5 and its subparts also relate to both Issue 9-31 (Nondiscriminatory  
4 Access to UNEs)<sup>29</sup> and Issue 22-90 (Unapproved Rates). Design changes is one  
5 of the examples provided in the closed portion of the language in Section 9.1.2  
6 (Issue 9-31) which Eschelon's proposal describes as examples of "Access to"  
7 UNEs and Qwest's proposal describes as examples of "Activities Available for"  
8 UNEs. The difference between the companies' proposals for Issue 9-31 revolves  
9 largely around whether the rate for UNE-related activities will be priced at  
10 TELRIC rates. If the rate is to be TELRIC, as proposed by Eschelon, the timing  
11 of when Qwest may charge the rate in situations for which it has not previously  
12 separately charged for the same activity is a subject of Section 22.6 (Issue 22-90).  
13 As discussed below, until recently, Qwest did not charge CLECs separately for  
14 design changes for unbundled loops (including CFA changes). Of the six Qwest  
15 states in which Eschelon historically does business, the only state in which Qwest  
16 did not unilaterally start charging Eschelon for design changes for loops was  
17 Minnesota. Eschelon's proposal for Section 22.6 reflects the Minnesota process  
18 (under which Qwest must obtain Commission approval before charging for  
19 activities Qwest previously performed without charge). If Eschelon's proposal  
20 for Issue 22-90 had been in place, Qwest would have needed to obtain

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<sup>28</sup> The issue of the footnote will be resolved by the Commission's decision with respect to the appropriate interim rate for Design Changes for Loops and CFA changes.

<sup>29</sup> Issue 9-31 is addressed in the testimony of Mr. Starkey.

1 Commission approval before charging for design changes for loops in Oregon as  
2 well, instead of simply sending a letter to Eschelon. Particularly given that one  
3 day Qwest just started charging for design change charges for loops with no  
4 approval or change in the ICA in Oregon – even though it has admitted there is no  
5 design change charge for loop in the current Commission-approved Qwest-  
6 Eschelon ICA (or the SGAT)<sup>30</sup> – the Commission needs to require Qwest to  
7 obtain Commission approval before imposing such charges. Eschelon’s proposals  
8 for Issue 4-5 and subparts allow Qwest, upon Commission approval of the ICA, to  
9 assess interim rates. Nothing in Eschelon’s proposals for Issues 4-5, 9-31, or 22-  
10 90 would prevent Qwest from coming to the Commission to propose different  
11 rates for design changes and substantiate its costs.

12 **Q. WHAT IS ESCHELON’S PROPOSAL FOR ISSUE NO. 4-5 RELATING**  
13 **TO DESIGN CHANGES FOR LOOPS?**

14 A. Eschelon offers a contingent proposal under which, if an interim rate is negotiated  
15 by the companies or set by the Commission for design changes for loops,  
16 Eschelon will agree to Qwest’s proposed language for Section 9.2.3.8. Section  
17 9.2.3 (Unbundled Loop Rate Elements) states: “The following rates for  
18 Unbundled Loops are set forth in Exhibit A of this Agreement.” This sentence is  
19 followed by a list of rate elements. Qwest’s proposal is to add the following  
20 language to the list:

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<sup>30</sup> In the Minnesota arbitration proceeding, Qwest witness Karen Stewart testified that "Mr. Denney is correct in stating that neither Qwest's SGAT nor the parties' current ICA includes a design change charge for loops." Stewart MN Rebuttal, p. 6, lines 27-28 (9/22/06).

1                   **Issue 4-5**

2                   Section 9.2.3.8 Design Change rates for Unbundled Loops (unless  
3                   the need for such change is caused by Qwest, in which case this  
4                   rate does not apply).

5                   If an interim rate is negotiated by the companies or set by the Commission for  
6                   design changes for loops, then this provision will be accurate, because Exhibit A  
7                   will contain such a rate for unbundled loops. Therefore, with such a rate in place,  
8                   Eschelon would withdraw its objection to this language.

9                   As provided by Eschelon’s proposals for Issues 9-31 and 22-90, Qwest should  
10                  have to continue to provide design changes for loops without an additional charge  
11                  (as it did, until recently, for years under the existing ICA) until Qwest  
12                  substantiates its costs and obtains Commission approval for a charge. If  
13                  Eschelon’s proposals for Issues 9-31 and 22-90 are adopted (even if an interim  
14                  rate is not set, as in Minnesota), then Eschelon will also agree to Qwest’s  
15                  proposed language for Section 9.2.3.8, because those proposals will prevent  
16                  Qwest from unilaterally charging an unapproved non-negotiated rate. In  
17                  Minnesota, for example, Eschelon and Qwest have agreed to the above language  
18                  for Section 9.2.3.8 with no rate in Exhibit A for design changes, because the  
19                  Minnesota cost order requires Qwest to “obtain Commission approval before  
20                  charging for a UNE or process that it has previously offered without a charge.”<sup>31</sup>

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<sup>31</sup> October 2, 2002 Order in MN PUC Docket CI-01-1375 (“MN 271 Cost Order”). The language for Section 22.6 is somewhat different in Minnesota, but to the extent Qwest argues it has a different meaning than the language proposed by Eschelon for Section 22.6 in this case, the Minnesota requirements are laid out in the MN 271 Cost Order, which explains why Eschelon could agree to the language in Minnesota but not here until those same requirements apply in Colorado. As I

1 If there is no interim rate and Eschelon's language is not adopted for Issue 22-90,  
2 then Qwest's proposed language for Section 9.2.3.8 should be deleted, just as in  
3 the SGAT and the current Qwest-Eschelon ICA there is no rate for design  
4 changes for unbundled loops<sup>32</sup> and no associated language allowing Qwest to  
5 charge for design changes for unbundled loops.<sup>33</sup> The absence of language should  
6 not be interpreted to mean, however, that Qwest does not have to provide design  
7 changes for unbundled loops as discussed with respect to Issue 9-31.<sup>34</sup>

8 **Q. WHAT LANGUAGE DO THE COMPANIES PROPOSE FOR ISSUE NO.**  
9 **4-5(A) RELATING TO DESIGN CHANGES FOR CONNECTING**  
10 **FACILITY ASSIGNMENT ("CFA") CHANGES?**

11 A. The companies' proposals for design changes for CFA changes are as follows:

12 **Eschelon's Proposal for Issue 4-5(a)**

13 9.2.3.9 CFA Change – 2/4 Wire Loop Cutovers. Connecting  
14 Facility Assignment (CFA) changes for Coordinated Installation  
15 Options for 2-Wire and 4-Wire analog (voice grade) Loops  
16 (excluding the Batch Hot Cut Process) on the day of the cut, during  
17 test and turn up. When this charge applies, the Design Change rate  
18 for Unbundled Loops does not apply.

19 **Qwest's Proposal for Issue 4-5(a)**  
20

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discuss below, Eschelon has consistently said that its proposal for Section 22.6 (Issue 22-90) is to use the Minnesota approach in the other states and only recently had to modify its language when it became clear that Qwest was going to attempt to construe the language in other states more narrowly.

<sup>32</sup> See Stewart MN Rebuttal, p. 6, lines 27-28 (9/22/06).

<sup>33</sup> The SGAT authorizes Qwest to charge Design Change charges for dedicated transport but not loops. (*Compare* SGAT Section 9.6.4.1.4(c) *with* SGAT Section 9.2.4.)

<sup>34</sup> See Mr. Starkey's testimony for discussion of Issue 9-31.

1                   9.2.3.9 Rates for CFA changes are set forth in Exhibit A (unless  
2                   the need for such change is caused by Qwest, in which case this  
3                   rate does not apply).

4                   As I discuss below, design changes associated with CFA changes during the  
5                   installation of a loop should have a separate rate, as this activity is relatively  
6                   common, requires very little time and can be performed day of cut during the loop  
7                   installation process. As with Eschelon’s proposal for Section 9.2.3.8 (Issue 4-5),  
8                   for Issue 4-5(a), Eschelon offers a contingent proposal under which, if an interim  
9                   rate is negotiated by the companies or set by the Commission for design changes  
10                  for loops, Eschelon will agree to Qwest’s proposed language for Section 9.2.3.9.  
11                  If Eschelon’s proposals for Issues 9-31 and 22-90 are adopted (even if an interim  
12                  rate is not set, as in Minnesota), then Eschelon will also agree to Qwest’s  
13                  proposed language for Section 9.2.3.9, because those proposals will prevent  
14                  Qwest from unilaterally charging an unapproved non-negotiated rate, for the  
15                  reasons discussed.

16   **Q.    WHAT LANGUAGE DO THE COMPANIES PROPOSE FOR ISSUE NO.**  
17   **4-5(c) RELATING TO CHARGES FOR DESIGN CHANGES?**

18   A.    The companies’ proposals for charges for design changes for CFA changes are as  
19   follows:

20                   **Eschelon’s Proposal for Issue No. 4-5(c) (Sections in Exhibit A):**

21                   9.20.11 Design Change	\$103.10	<del>A</del>
22 <u>9.20.11.1 Design Change (Transport)</u>	<u>\$58.27</u>	<u>1</u> <sup>35</sup>
23 <u>9.20.11.2 (Loop)</u>	<u>\$30.00</u>	<u>1</u>

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<sup>35</sup> Note “1” to Exhibit A provides in agreed upon language: “Rates not approved in cost docket.”



1                    9.20.11.3 CFA – 2/4 Wire Loop cutovers    \$5.00            1

2

3                    **Qwest’s Proposal for Issue No. 4-5(c) (Sections in Exhibit A):**

4                    9.20.11 Design Change                    \$103.10            12<sup>36</sup>

5                    9.20.11.1 Design Change (Transport)            \$58.27            1

6                    9.20.11.2 (Loop)                                    \$30.00            1

7                    9.20.11.3 CFA – 2/4 Wire Loop cutovers    \$5.00            1

8                    **Q.    WHAT IS THE EFFECT OF ESCHELON’S PROPOSED LANGUAGE?**

9                    A.    Eschelon’s language makes two things clear: (1) Qwest must continue to provide  
10                    design changes to Eschelon pursuant to the ICA and (2) Qwest can assess a cost-  
11                    based rate for design changes. Eschelon’s language actually benefits Qwest by  
12                    providing the opportunity for Qwest to charge Commission-approved cost-based  
13                    rates for design changes for loops and CFAs (and interim rates until Commission-  
14                    approved rates are established) – something that Qwest has never been able to do  
15                    under the existing Qwest/Eschelon ICA, while at the same time maintaining the  
16                    status quo with regard to UDIT design changes.

17                    Under Eschelon’s proposal, there is no need for the Commission to set permanent  
18                    rates at this time. For UDIT, loops and CFA changes, Eschelon’s proposal allows  
19                    Qwest to assess an interim rate that Qwest could charge unless and until the  
20                    Commission approved a different rate for these design changes (*see* Issue 4-5(c)).

21                    Nothing in Eschelon’s proposal would prevent Qwest from coming to the

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<sup>36</sup> Note “12” to Exhibit A provides in agreed upon language: “Rates proposed in UM 1025. Rates not approved in cost docket.”

1 Commission to propose different rates for Design Changes and substantiate its  
2 costs.

3 **Q. WHAT IS THE EFFECT OF QWEST'S PROPOSED LANGUAGE?**

4 A. The effective result would allow Qwest to assess the very same design change  
5 charge for all three types of design changes discussed under Issue No. 4-5 (*i.e.*,  
6 loops, CFAs and UDIT). Further, as indicated by Qwest during negotiations and  
7 evidenced by Qwest's 8/31/06 non-CMP notice (which is discussed below),  
8 Qwest's ultimate objective is to apply tariff rates for design changes. Despite the  
9 interim rates that Qwest would be allowed to charge for design changes under  
10 Eschelon's proposal for Issue 4-5(c), Qwest argues that Eschelon's proposal  
11 would improperly limit Qwest's ability to assess charges for design changes and  
12 would prevent Qwest from recovering the costs.<sup>37</sup>

13 **Q. CAN YOU PROVIDE EXAMPLES THAT SUBSTANTIATE**  
14 **ESCHELON'S CONCERNS AS REAL BUSINESS CONCERNS?**

15 A. Yes. During negotiations on design changes, Qwest submitted a proposal that  
16 would have applied tariff rates to design changes. Qwest later changed its  
17 position in negotiations, but indicated in meetings between the two companies  
18 that Qwest's change in position for negotiations should not be construed as  
19 Qwest's giving up on its tariff rate proposal for design changes, and that Qwest  
20 fully intended to pursue this proposal outside of negotiations. Qwest confirmed  
21 its previously stated strategy of pursuing tariff rates for design changes in its

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<sup>37</sup> Qwest Response, p. 12.

1 August 31, 2006 non-CMP notice (Process Notification  
2 PROS.08.31.06.F.04159.Amendments.ComlAgree.SGAT),<sup>38</sup> effective on one  
3 day's notice, which announced that Qwest was posting a new "template"  
4 interconnection agreement on its website on September 1, 2006.<sup>39</sup> This new  
5 negotiations template added a tariff reference for the following rate elements:  
6 Additional Dispatch, Trouble Isolation Charge, Design Charge, Expedite Charge,  
7 Cancellation Charge, and Maintenance of Service Charge. Qwest's position is  
8 that design changes are "not UNEs" and therefore do not need to adhere to the  
9 federal TELRIC pricing rules. This new revelation was made by Qwest despite  
10 all of the work that was done in the 271 proceedings relating to nondiscriminatory  
11 access to UNEs and regardless of whether or not a state commission already has a  
12 cost-based rate for that activity in place.

13 What is concerning to Eschelon about this recent non-CMP notice is that Qwest  
14 has already indicated to Eschelon that Qwest's ultimate objective is to apply tariff  
15 rates to Eschelon (*i.e.*, the same changes that Qwest announced in its 8/31/06 non-  
16 CMP notice), even though Qwest is not currently pursuing that proposal in  
17 negotiations/arbitrations with Eschelon (or CMP, for that matter). This means  
18 that Qwest could refuse to negotiate its tariff proposal (by pursuing a different

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<sup>38</sup> Qwest's 8/31/06 non-CMP notice is Eschelon/28 to my direct testimony.

<sup>39</sup> Mr. Starkey explains that Qwest's position stands in stark contrast to the FCC's rules and orders that require Qwest to provide nondiscriminatory access not only to UNEs themselves, but also nondiscriminatory *access* to those UNEs that provide a CLEC with a meaningful opportunity to compete. *See* Issue 9-31.

1 proposal in arbitrations), yet ultimately apply that tariff proposal to Eschelon once  
2 the arbitrations are finished.

3 **Q. WHAT SHOULD BE TAKEN FROM THIS EXAMPLE?**

4 A. Both of Qwest's positions on design change charges (*i.e.*, that all design change  
5 charges should be priced at the same unapproved rate for UDIT and that tariff  
6 rates should apply to design changes) stand in stark contrast to the stance Qwest  
7 took between 1999 and late 2005, during which time Qwest provided design  
8 change charges in Oregon for loops (including CFA changes) without additional  
9 charge. Qwest announced both of these misguided proposals with no  
10 corresponding change in the ICA or other Commission approval. This highlights  
11 the need for certainty and Commission oversight related to design changes for  
12 UNEs so that Eschelon is not subjected to Qwest's continual efforts to charge  
13 non-cost based rates for design changes. This arbitration is the appropriate forum  
14 for addressing the ICA language and ensuring that the Commission maintains  
15 jurisdiction over UNE-based rates; adopting Eschelon's language will establish  
16 equitable contract language and avoid future disputes.

17 **Q. ARE THERE OTHER EXAMPLES DEMONSTRATING THAT**  
18 **ESCHELON'S CONCERNS ARE REAL?**

1 A. Yes. On September 11, 2006, Qwest issued a Level 3 CMP notice<sup>40</sup> that revised  
2 its Provisioning and Installation Overview to change the verbal supplement for  
3 CFA slot change on the due date. Qwest added the following language:

4 NOTE: For CFA or slot changes, it is the CLEC's responsibility to  
5 provide Qwest with a new CFA that will work. Qwest will only  
6 accept one verbal CFA change on the due date. If that CFA fails to  
7 work, Qwest will place the order in jeopardy (customer jeopardy).  
8 No further action will be taken on Qwest's part until Qwest  
9 receives a valid supplemental request to change the due date and  
10 the CFA (if applicable). Additional charges may apply.

11 This language clearly restricts the availability of CFA changes (CFA changes are  
12 discussed in more detail below), unnecessarily complicates the provisioning  
13 process and leaves the door open for Qwest to assess "additional charges" –  
14 which, coupled with Qwest's 8/31/06 non-CMP notice, means that Qwest will  
15 apply tariff rates. While Qwest later retracted this CMP notice,<sup>41</sup> Mr. Starkey  
16 explains in his direct testimony that Qwest subsequently issued a MCC notice that  
17 again limited CFA changes to one on the day of the cut and now Qwest claims  
18 (erroneously) that it has always been Qwest's intent to limit these CFA changes to  
19 one.<sup>42</sup> Qwest's recent CMP notice and Qwest's subsequent MCC notice only  
20 confirms the concern I expressed above that, without the specific language  
21 Eschelon is proposing for Issue 4-5 and subparts, Qwest may attempt to quit

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<sup>40</sup> PROS.09.11.06.F.04161.P\_&I\_Overview\_v91.

<sup>41</sup> Qwest filed a notice on 10/20/06 (PROS.10.20.06.F.04281.Retract\_CFA\_P&I\_OvrvwV91) to retract PROS.09.11.06.F.04161.P\_&I\_Overview\_v91.

<sup>42</sup> I have attached a chronology of Qwest's attempts to limit the number of CFA changes to one on the installation due date as Eschelon/27. This exhibit includes a chronology, Qwest's notices, Eschelon's escalations, and excerpts from the minutes of the 10/18/06 and 11/15/06 CMP meetings.

1 providing design changes altogether (or severely restrict access to design  
2 changes).

3 **Q. HAVE SOME ISSUES RELATING TO DESIGN CHANGES CLOSED?**

4 A. Yes. The companies have agreed upon a definition for design changes in Section  
5 4.0,<sup>43</sup> and it is reflected in the proposed ICA that Eschelon filed with its Petition.  
6 In addition, the parties agreed to delete language that had been placed in Sections  
7 9.2.4 and 9.6.4 (Ordering Processes)<sup>44</sup> and deal with the rate element issues more  
8 logically in Section 9.2.3 and 9.6.3 (Rate Elements). This resulted in the deletion  
9 of Section 9.2.4.4.2 (formerly a part of Issue 4-5) in its entirety and closure of  
10 Section 9.6.4.1.4 with the following language:

11 9.6.4.1.4 Subsequent changes to the quantity of services on an  
12 existing order will require a revised order.

13 In addition, as there is an interim rate for design changes *for UDITs* in Exhibit A,  
14 Section 9.6.3.6 (formerly Issue 4-5(b)) closed with the following language:

15 9.6.3.6 Design Change rates for UDITs are contained in Exhibit A  
16 of this Agreement. This rate does not apply when the need for  
17 such change is caused by Qwest.

18 **Q. YOU'VE SAID THAT THE PARTIES HAVE REACHED AGREEMENT**  
19 **ON THE DEFINITION OF "DESIGN CHANGES." WHAT IS THE**  
20 **AGREED UPON DEFINITION?**

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<sup>43</sup> See Eschelon/45 to Ms. Johnson's direct testimony.

<sup>44</sup> For some reason, the SGAT has language authorizing Qwest to charge Design Change charges for dedicated transport in the ordering rather than rate element section. (See SGAT Section 9.6.4.1.4(c).)

1 A. The term “Design Change” is defined in Section 4 of the Agreement as follows:

2 “Design Change” is a change in circuit design after Engineering  
3 Review required by a CLEC supplemental request to change a  
4 service previously requested by CLEC. An Engineering Review is  
5 a review by Qwest personnel of the service ordered and the  
6 requested changes to determine what change in the design, if any,  
7 is necessary to meet the changes requested by CLEC. Design  
8 Changes may include a change in the type of Network Channel  
9 Interface (NCI code) on pending orders and changes in End User  
10 Customer address within the same Serving Wire Center requiring  
11 changes to facilities or terminations. Design Change does not  
12 include modifications to records without physical changes to  
13 facilities or services, such as changes in the circuit reference  
14 (CKR) (i.e., the circuit number assigned by CLEC) or Service  
15 Name (SN) (i.e., the name of the End User Customer at a circuit  
16 location).

17 **Q. IS THE DESIGN CHANGE ISSUE AN EXAMPLE OF QWEST USING**  
18 **THE CMP PROCESS TO ITS OWN ADVANTAGE – AND THE**  
19 **DISADVANTAGE OF CLECS?**

20 A. Yes. Qwest provided design changes from 1999 – 2005 without any additional  
21 charges to Eschelon. On September 1, 2005, Qwest sent an unexpected letter to  
22 CLECs stating that “Qwest will commence billing CLECs non-recurring charges  
23 for design changes to Unbundled Loop circuits” beginning on Oct. 1, 2005.<sup>45</sup> In  
24 that letter, Qwest also included a definition of “design change.”<sup>46</sup> Qwest notified  
25 CLECs of these changes and new charges for design changes without using the  
26 CMP and without obtaining Commission approval for the charges. When

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<sup>45</sup> Eschelon/10, September 1, 2005 letter from Qwest with the subject line “Billing for design changes on Unbundled Loop.” Document No. PROS.09.01.05.F.03204.Design\_Chgs\_Unbundld\_Loop.

<sup>46</sup> In its September 1, 2005 letter, Qwest stated that design changes include the following activities: Connecting Facility Assignments (CFA) change, Circuit Reference (CKR) change, CKL 2 end user address change on a pending LSR, Service Name (SN) change, and NC/NCI Code change on a pending LSR.

1 Eschelon inquired about this change,<sup>47</sup> Qwest CMP personnel responded that “this  
2 item is outside the scope of CMP.”<sup>48</sup> Qwest will likely argue that addressing the  
3 change regarding rates for design changes outside CMP was correct because CMP  
4 does not deal with rates or rate application, but Qwest chose not to address the  
5 definition of design changes (a non-rate or rate application issue) in the CMP, and  
6 also chose not to seek Commission approval for its rates.

7 However, Qwest changed its tune when it developed its position on design  
8 changes for its arbitrations with Eschelon. In its position statement for the Issues  
9 Matrix in Minnesota (the first state in which the arbitration was filed), Qwest  
10 provided the following position on the definition of Design Change (an issue that  
11 has since been closed in these arbitrations):

12 Qwest agrees that there needs to be a common understanding of  
13 this definition, but this definition concerns a process that affects all  
14 CLECs, not just Eschelon. The entire purpose of CMP was to  
15 ensure that the industry (not just Qwest or one CLEC) is involved  
16 in creating and approving processes so that processes are uniform  
17 among all CLECs. Processes that affect all CLECs should be  
18 addressed through CMP, not through an arbitration involving a  
19 single CLEC. Further, implementing a unique process for Eschelon  
20 that Qwest does not follow for other CLECs would require Qwest  
21 to modify its systems or processes and would cause Qwest to incur  
22 costs it is entitled to recover under the Act.

23 Qwest had every opportunity to address the definition of design change in the  
24 CMP, but instead introduced a definitional change that affected all CLECs in a

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<sup>47</sup> Eschelon escalated this item on September 26, 2005 (escalation no. 092605-1E35). I have provided as Eschelon/11 an email exchange between Eschelon and Qwest detailing Eschelon’s escalation, Qwest’s confirmation and Qwest’s response.

<sup>48</sup> See, Eschelon/11, page 3.



1 non-CMP announcement. But when Eschelon raised the issue in arbitration,  
2 Qwest stated that the definition of design change is properly addressed in CMP  
3 because it affects all CLECs.

4 Furthermore, the definition of design change was closed, with Qwest agreeing to a  
5 definition of “design change” that differs from the definition that it introduced in  
6 its September 2005 letter to all CLECs.<sup>49</sup> Qwest made the determination to close  
7 on the definition of design change, agreeing to Eschelon’s proposed definition,  
8 outside the CMP, although its original position was that the ICA should not  
9 include Eschelon’s definition because it was an issue that affected all CLECs and  
10 should be addressed in CMP.<sup>50</sup> Qwest’s continued inconsistency on this issue  
11 underscores the need for the Commission to deal with the issue of design changes  
12 now in this ICA arbitration, which is the proper forum for resolution of these  
13 issues between Qwest and Eschelon, in order to provide Eschelon with the  
14 certainty that it needs to run its business and serve its customers.

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<sup>49</sup> The closed definition of Design Changes states that, “Design change *does not include* modifications to records without physical changes to facilities or services, such as changes in the circuit reference (CKR)... or Service Name (NM)...” (emphasis added) Yet, Qwest’s September 1, 2005 letter states as follows: “Among the charges for the design change that will be billed, the following activities will generate a non-recurring design change charge per occurrence:...”Circuit Reference (CKR) change”...”Service Name (SN) change...” Despite Qwest’s agreement to language in the Eschelon ICA that excludes CKR and SN changes from design change charges, Qwest is still charging design change charges for these activities. And Qwest is applying a design change charge designed for dedicated transport, though the agreed to language identifies these activities as modifications without physical changes to facilities or services.

<sup>50</sup> There are numerous other examples of Qwest cherry picking issues to address in CMP because they allegedly affect all CLECs, and then agreeing to issues in bilateral negotiations that affect all CLECs when Qwest likes the terms. See the testimony of Michael Starkey and Bonnie Johnson.

1 **Q. DOES THE SGAT OR THE COMPANIES' CURRENT ICA HAVE ANY**  
2 **LANGUAGE AUTHORIZING CHARGES FOR DESIGN CHANGES FOR**  
3 **LOOPS OR CFA CHANGES?**

4 A. No, there is no basis in the SGAT or current ICA for a design change charge for  
5 loops or CFA changes. The only mention of design change charges anywhere is  
6 Section 9.6 of the SGAT entitled "Unbundled Dedicated Interoffice Transport,"  
7 which states (Section 9.6.4.1.4) that: "additional charges apply for the following  
8 modifications to existing orders unless the need for such change is caused by  
9 Qwest...c) Design change..." However, no similar language is included under  
10 the UNE loops section (Section 9.2), and indeed, the words "design change" do  
11 not appear anywhere else in the ICA.

12 **Q. HAS QWEST AGREED THAT DESIGN CHANGE CHARGES FOR UNE**  
13 **LOOPS AND CFAS ARE NOT IN QWEST'S SGAT OR THE CURRENT**  
14 **ICA?**

15 A. Yes. As I mentioned, on September 1, 2005, Qwest sent an unexpected letter to  
16 CLECs stating that "Qwest will commence billing CLECs non-recurring charges  
17 for design changes to Unbundled Loop circuits" beginning on Oct. 1, 2005. In  
18 that notice, Qwest stated no basis for the charges, but indicated that it would bill  
19 CLECs, including Eschelon, "at the rate found in the miscellaneous elements of  
20 Exhibit A or the specific rate sheet in your Interconnection agreement." Qwest's  
21 reference to the ICA in the letter suggested, therefore, that Qwest was claiming it  
22 had some contractual right to bill these rates. In the Minnesota arbitration

1 proceeding, however, Qwest witness Karen Stewart testified that "neither Qwest's  
2 SGAT nor the parties' current ICA includes a design change charge for loops."<sup>51</sup>  
3 Based on this admission, Qwest should credit CLECs, including Eschelon, for the  
4 rates it has billed to date and not bill additional charges for design charges for  
5 loops (including CFA changes) unless and until it obtains an ICA that allows it to  
6 charge for design changes.

7 **ISSUE 4-5 AND 4-5(a)**

8 **Q. HAS ESCHELON UNCONDITIONALLY AGREED TO PAY QWEST**  
9 **FOR DESIGN CHANGES?**

10 A. No. Between 1999 and 2005, Qwest performed design changes for loops without  
11 separate explicit charges, and the only support for any separate design change  
12 charge found anywhere is in the UDIT section of the SGAT. Qwest unilaterally  
13 changed this policy when it issued its September 2005 letter indicating that Qwest  
14 would begin assessing design charges for UNE loops. To make sure that Qwest  
15 does not refuse to provide design changes to Eschelon altogether, Eschelon  
16 conditionally agreed as a concession in these negotiations to add language in the  
17 Loops section dealing with design change charges and agreed to pay interim rates.  
18 One aspect of Eschelon's conditional concession was that Qwest would  
19 substantiate design change charges at the Commission (with the rate being located  
20 in the Agreement) and Eschelon could argue for a \$0.00 rate if Qwest was already  
21 recovering design change charges in other rates. A reasonable rate for design

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<sup>51</sup> Stewart MN Rebuttal, p. 6, lines 27-28 (9/22/06).

1 changes would also require them to be TELRIC rates. Eschelon conditionally  
2 agreed to compensate Qwest based on these conditions because they provide the  
3 certainty Eschelon needs to be able to reasonably compete in the market (*i.e.*,  
4 ensures that Qwest does not have unilateral control over establishing and  
5 changing the rates for design changes) and ensure that Qwest is not double-  
6 recovering costs.

7 **Q. PLEASE DESCRIBE HOW QWEST'S PROPOSALS REGARDING**  
8 **DESIGN CHANGES WILL INCREASE ESCHELON'S COSTS.**

9 A. One of the sub-issues under Issue No. 4-5 – CFA change – brings to life the  
10 impact the lack of certainty and Commission oversight could have on Eschelon's  
11 business. Qwest applies the same expensive charge it developed for design  
12 changes for unbundled dedicated transport (UDIT) – a charge that is higher than  
13 the original installation charge in many Qwest states including Oregon – to all  
14 design changes, including CFA changes. However, the CFA change involves a  
15 simple “lift and lay” activity by the Qwest central office technician who is already  
16 at the frame and in contact with the CLEC representative and the Qwest personnel  
17 coordinating the process. As a result, this activity takes only a few seconds or  
18 perhaps minutes, yet Qwest assesses a design change charge that exceeds the  
19 original installation charge for the entire loop. Given that the CFA change is  
20 comprised of one of a number of activities involved in installation (*i.e.*, lift and  
21 lay), a rate for a CFA change that exceeds (or even comes close) to the installation  
22 rate for a loop is much too high. Since the CFA change described in Eschelon's

1 language is the most frequent design change to occur and the least expensive to  
2 perform, Eschelon needs the certainty of Commission oversight over any attempt  
3 by Qwest to impose expensive, non-cost based charges for CFA (or other) design  
4 changes that greatly increases Eschelon's costs (whether that be Qwest's proposal  
5 to apply the UDIT design change charge to all design changes or Qwest's  
6 proposal to apply tariff rates to design changes). Eschelon would otherwise be  
7 unable to adequately budget and plan its business with this type of uncertainty  
8 looming over its cost of doing business.

9 **Q. CAN YOU QUANTIFY, IN DOLLAR TERMS, HOW ESCHELON'S**  
10 **BUSINESS IS AFFECTED BY QWEST'S DESIGN CHANGE CHARGE**  
11 **PROPOSALS?**

12 A. Yes. I have provided below a number of examples in which the CFA change  
13 described above – an activity that takes a matter of seconds or minutes – has  
14 significantly increased Eschelon's costs:

- 15 1. In Oregon, on Qwest Order Number N47554579, PON OR648868JAS, with a  
16 completion date of 3/14/06, Qwest billed non-recurring charges of \$634.00. The  
17 one time charge for installation (coordinated installation without cooperative  
18 testing) was \$15.40 but because the CFA changed 6 times, at the rate of \$103.10  
19 per Design Change charge, the final installation cost \$634.00.
- 20 2. In Oregon, on Qwest Order Number N55606983, PON OR690001JXY, with a  
21 completion date of 6/19/06, Qwest billed non-recurring charges of \$427.80. The  
22 one time charge for installation (coordinated installation without cooperative  
23 testing) was \$15.40 but because the CFA changed 4 times, at the rate of \$103.10  
24 per Design Change charge, the final installation cost \$427.80.
- 25 3. In Oregon, on Qwest Order Number N56303135, PON OR702166LSR, with a  
26 completion date of 6/20/06, Qwest billed non-recurring charges of \$216.95. The  
27 one time charge for installation (coordinated installation without cooperative

1 testing) was \$10.75 but because the CFA changed twice, at the rate of \$103.10 per  
2 Design Change charge, the final installation cost \$216.95.

3 4. In Washington, on Qwest Order Number N55909589, with a completion date of  
4 7/3/06, Qwest billed non-recurring charges of \$160.71. The one time charge for  
5 installation (coordinated installation without cooperative testing) was \$59.81 but  
6 because the CFA changed twice, at the rate of \$50.45 per Design Change charge,  
7 the final installation cost \$160.71.

8 5. In Arizona, on Qwest Order Number N53397956, PON AZ684385JKY, with a  
9 completion date of 5/11/06, Qwest billed non-recurring charges of \$191.50. The  
10 one time charge for installation (coordinated installation without cooperative  
11 testing) was \$45.92 but because the CFA changed twice, at the rate of \$72.79 per  
12 Design Change charge, the final installation cost \$191.50.

13 **Q. WHY SHOULD DESIGN CHANGE CHARGES BE PRICED AT TELRIC?**

14 A. The design change charges discussed in my testimony pertain to design changes  
15 for UNEs (*e.g.*, UNE loop and UDIT). UNEs are required to be priced according  
16 to the federal TELRIC pricing rules, and the design changes are part and parcel of  
17 Qwest's obligation under Section 251(c)(3) of the Telecommunications Act to  
18 provide "nondiscriminatory access to network elements on an unbundled  
19 basis...on rates, terms, and conditions that are just, reasonable, and  
20 nondiscriminatory..." The Telecommunications Act requires Qwest to provide  
21 UNEs as well as functions necessary to ready those UNEs for CLECs' use in a  
22 nondiscriminatory manner and at cost-based rates. This TELRIC-based pricing  
23 requirement ensures that Eschelon does not pay more than Qwest "pays" for using  
24 the same facilities.

25 **Q. ARE QWEST'S DESIGN CHANGE CHARGES AS THEY RELATE TO**  
26 **UNE LOOPS AND CFA CHANGES IN LINE WITH THEIR**

1           **UNDERLYING COSTS?**

2    A.    No. A comparison of Qwest's design change charges to its installation charges  
3           across the Qwest region shows that Qwest assesses a design change charge that  
4           exceeds the charge for Coordinated Installation Without Cooperative Testing for  
5           Analog loops in Arizona, Colorado, Iowa, Idaho, Montana, Nebraska, North  
6           Dakota, Oregon, South Dakota, Utah, and Wyoming.<sup>52</sup> Qwest's proposed interim  
7           design change rate in Oregon (\$103.10)<sup>53</sup> exceeds the installation charge for a 2/4  
8           wire analog loop (\$10.75)<sup>54</sup> by 859% and also exceeds the rate for Coordinated  
9           Installation Without Cooperative Testing (\$15.40)<sup>55</sup> by 569%. This defies logic,  
10          as design change charges, especially as applied to CFA changes, should be less  
11          than the installation charge for initially establishing the circuit. The fact that  
12          Qwest is charging more for CFA changes than for installation and the effect this  
13          has on Eschelon's cost to acquire customers (particularly with regard to loop and  
14          CFA design changes) demonstrates the need for Commission oversight for design  
15          changes.

16    **Q.    WHY WOULD CFA CHANGE CHARGES BE LESS THAN LOOP**  
17    **INSTALLATION CHARGES?**

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<sup>52</sup> Qwest's SGAT Exhibit As, containing the rates mentioned, can be downloaded from the following website: <http://www.qwest.com/wholesale/clecs/sgatswireline.html>. As explained by Mr. Starkey, Qwest no longer makes SGATs available for opt in and has provided SGATs in its website for reference purposes only. See Eschelon/65, Eschelon/66, and Eschelon/67.

<sup>53</sup> Exhibit A, 9.20.11.1.

<sup>54</sup> Exhibit A, 9.2.4.1.1.1 (Mechanized).

<sup>55</sup> Exhibit A, 9.2.4.4.1.1 (Mechanized).

1 A. Because connecting to the CFA is one component (or a subset of components) of  
2 installation, the work (and cost) involved in performing a CFA change will be less  
3 than the work (and cost) of performing the installation.

4 CFA (“Connecting Facility Assignment”) is part of the physical provisioning  
5 process that allows Eschelon to transfer a customer’s loop from the Qwest’s  
6 switch to Eschelon’s switch. As part of the transfer process, Eschelon  
7 electronically assigns the customer’s loop (i) to specific facilities in Eschelon’s  
8 switch, (ii) to equipment located in Eschelon-owned collocation space, (iii) and to  
9 a Connecting Facility Assignment (“CFA”) on the ICDF Frame that will be used  
10 by the Qwest technician to connect the customer’s loop to Eschelon’s collocated  
11 equipment. On the day of cut (*i.e.*, installation) Qwest removes the old cross  
12 connection jumper that connected the customer’s loop to the Qwest’s switch and  
13 terminates the pre-wired cross connection from Eschelon’s CFA to the customer’s  
14 loop. Occasionally, the CFA assigned to the customer is bad, and Eschelon and  
15 Qwest can not complete the cutover.<sup>56</sup> In this instance, Eschelon assigns a new  
16 CFA to the customer and the Qwest central office technician reconnects the cross  
17 connect to the newly assigned CFA on the ICDF Frame. A CFA design change is  
18 needed to reassign the customer from the CFA to which the customer was  
19 originally assigned (which was bad) to the new CFA. This is also referred to as a

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<sup>56</sup> The need for a CFA change in these instances can be Eschelon-caused and Qwest-caused.



1 “same day pair change” because the customer’s pair is changed from one CFA to  
2 another on the day of the cut.<sup>57</sup>

3 In this scenario, Qwest and Eschelon are already in contact and coordinating the  
4 cutover, and the Qwest central office technician is already standing at the frame.  
5 Once it is determined that a CFA change is necessary, the Qwest central office  
6 technician simply removes the jumper from the bad CFA and reattaches to the  
7 new CFA. Depending on where the new CFA resides on the frame in relation to  
8 the old, Qwest’s technician may have to move a few steps (or may not have to  
9 move at all) to attach to the new CFA. In these situations, the Qwest CO  
10 technician is already available and working on the cutover, and it requires little, if  
11 any, additional time to switch CFAs. This activity is a simple “lift and lay”  
12 activity that can be performed in matter of seconds or minutes. By comparison,  
13 this would be akin to plugging a lamp into an outlet, realizing that the outlet does  
14 not work, and plugging the lamp into a different outlet somewhere in the room  
15 (the new outlet may be the one directly above or below the bad outlet or you may  
16 use an outlet across the room that requires you to walk a few steps). And all the  
17 while, Eschelon is paying for coordination, or for Qwest’s central office  
18 technician to remain in contact with personnel in Qwest’s test center so that the  
19 technician has real time access to information during the cutover. Therefore, if it

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<sup>57</sup> The type of CFA change addressed in my testimony (same day pair change) is the CFA change addressed in Eschelon’s proposal for Issue 4-5(a), which is a very limited type: *i.e.*, a CFA change to a 2/4 wire analog loop, on the day of a coordinated cut, during test and turn up, excluding batch hot cuts.

1 is discovered that a CFA change is needed, the central office technician can  
2 immediately perform another “lift and lay” to another CFA.<sup>58</sup>

3 Obviously, the work and costs involved in this design change, to the extent they  
4 are not already recovered in other rates, would be very minimal, reflecting, at  
5 most a few minutes of the central office technician’s time. It is these types of  
6 design changes, however, that can drive up Eschelon’s cost of installation by  
7 hundreds of dollars per install.

8 Qwest’s current practice of billing multiple times more for CFA changes than the  
9 Commission-approved installation rate (*i.e.*, for a new install and not just a later  
10 change in design) shows that Commission oversight is needed with regard to CFA  
11 change charges.<sup>59</sup> There is no evidence to suggest that the cost of CFA changes  
12 associated with loops exceeds the initial cost of installing a loop, and indeed,  
13 everything points to the contrary. Design changes associated with CFA changes  
14 during the installation of a loop should have a separate rate, as this activity is  
15 relatively common, requires very little time and can be performed day of cut  
16 during the loop installation process. That is why Eschelon has proposed separate

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<sup>58</sup> During a coordinated cut, the Qwest central office technician is in constant contact with personnel in Qwest’s CLEC Coordination Center (QCCC), who is, in turn, in contact with Eschelon personnel responsible for test and turn up. If after the central office technician performs the “lift and lay” and Eschelon’s testing determines there is a problem and a CFA change is needed, the central office technician will have real time access to this information through the QCCC and will be able to immediately perform another “lift and lay.” Eschelon pays for the coordination of this cut (or the involvement of QCCC) separately.

<sup>59</sup> For example in the following states Qwest charges a design change charge that exceeds the SGAT rates for Coordinated Installation Without Cooperative Testing for Analog loops: Arizona, Colorado, Iowa, Idaho, Montana, Nebraska, North Dakota, Oregon, South Dakota, Utah, and Wyoming.

1 ICA language addressing design changes for loops and CFAs and separate rates  
2 for those activities in Exhibit A.

3 **Q. ARE THE COSTS INVOLVED IN A DESIGN CHANGE FOR UDIT SO**  
4 **SIMILAR TO THAT OF LOOPS THAT THE UDIT RATE COULD**  
5 **REASONABLY BE USED AS A PROXY FOR THE LOOP DESIGN**  
6 **CHANGE RATE OR EVEN A LOOP CFA CHANGE RATE?**

7 A. No. Loop and transport are separate and distinct services and involve different  
8 processes and work – with transport typically being more complex (and higher  
9 cost) than loops. I explained above why the UDIT Design Change charge should  
10 not apply to a CFA change. Likewise, this is the case with regard to the UDIT  
11 design change rate Qwest is applying to loop design changes. As a result,  
12 applying a rate designed for UDIT to loops will result in Qwest over-recovering  
13 its costs related to design changes for loops.

14 **Q. HOW DO YOU KNOW THE MANNER IN WHICH QWEST**  
15 **STRUCTURES IT'S DESIGN CHANGE CHARGES FOR UDIT?**

16 A. Qwest filed a non-proprietary non-recurring cost study for a design change charge  
17 for unbundled dedicated interoffice transport in the Oregon UNE case 1025. This  
18 cost study shows that Qwest's design change costs for transport are based on cost  
19 assumptions associated with Access Service Requests (ASRs) for dedicated  
20 transport and not Local Service Requests (LSRs) (which are used for loops). I  
21 have provided an excerpt from the Oregon cost study for design changes below  
22 from the "Design" tab:

Line Num	Line Type	Line Description	Time Estimate	Prob #1	Prob #2	Prob #3	Prob #4	Labor Code
	HEADER	<b>DESIGN CHANGE</b>						
1001	ADD							
1200	GROUP	<b>SERVICE DELIVERY COORDINATOR</b>						
1200	COMMENT	.90 PROBABILITY IS MECHANICAL HANDLING						
1200	COMMENT	.10 PROBABILITY IS MANUAL HANDLING						
1200	COMMENT	.65 PROBABILITY MANUAL HANDLING						
1200	COMMENT	.50 PROBABILITY MANUAL HANDLING						
1200	COMMENT	.03 PROBABILITY ASR's MANUALLY HANDLED						
1	WORKITEM	RECEIVE ASR MECHANICALLY	1	0.9	0	0	0	02
2	WORKITEM	RECEIVE ASR VIA FAX	10	0.1	0	0	0	02
3	WORKITEM	VALIDATE ASR IN EXACT	10	1	0	0	0	02
4	WORKITEM	VALIDATE CONTRACT RATES	3	1	0	0	0	02
5	WORKITEM	INTRA COMPANY CALLS	13	1	0	0	0	02
6	WORKITEM	EXACT/TUF/IABS	1	1	0	0	0	02
7	WORKITEM	VALIDATE IABS SERVICE ORDER	2	1	0	0	0	02
8	WORKITEM	MANUALLY CALCULATE CHARGES IF THE SERVICE IS INTERLCA FACILITY OR OTHER MANUALLY BILLED PRODUCTS (TANDEM Exhaust, etc.)	5	0.03	0	0	0	02
9	WORKITEM	DISTRIBUTE ORDER IN IABS	1	1	0	0	0	02
10	WORKITEM	VALIDATE 3 SUCCESSES IN SOAC TIRKS INTERFACE	1	1	0	0	0	02
11	WORKITEM	EXACT/TUF/IABS	1	1	0	0	0	02
12	WORKITEM	VALIDATE IABS SERVICE ORDER	2	1	0	0	0	02
13	WORKITEM	DISTRIBUTE ORDER IN IABS	1	1	0	0	0	02
14	WORKITEM	PC LIST ASR	1	1	0	0	0	02
15	WORKITEM	FOC MANUAL	3	0.1	0	0	0	02
16	WORKITEM	FOC ELECTRONICALLY	1	0.9	0	0	0	02
17	WORKITEM	CHECK WFA	3	1	0	0	0	02
18	WORKITEM	CHECK IABS SERVICE ORDER	5	1	0	0	0	02
19	WORKITEM	COMPLETE IABS SERVICE ORDER	1	1	0	0	0	02
20	WORKITEM	COMPLETE EXACT	1	1	0	0	0	02
21	WORKITEM	NOTE EXACT	2	1	0	0	0	02
2300	GROUP	<b>DESIGN</b>						
2100	COMMENT	Work is 100% manual.						
1	WORKITEM	NAME AND LOG FACILITY	35	1	0	0	0	05
2	WORKITEM	BUILD DRI AND WA	6	1	0	0	0	05
3	WORKITEM	BUILD CIRCUIT DESIGN	10	1	0	0	0	05
4	WORKITEM	CXRH & DISTRIBUTE DOC	4	1	0	0	0	05

2 Lines 1 through 3 indicate that the design change charge is based on ASRs that  
3 are used for dedicated transport, not LSRs which are used for UNE loops.

4 **Q. DOES THIS MEAN THAT QWEST INAPPROPRIATELY INFLATES**  
5 **THE COSTS OF LOOP DESIGN CHANGES WHEN IT APPLIES A RATE**  
6 **DESIGNED FOR UDOT TO UNE LOOPS?**

7 **A.** Yes, because processes associated with Access Service Requests (ASRs) are more  
8 manually-intensive than are Local Service Requests (LSRs), ASR will result in

1 higher costs than will LSR. And the cost study above assumes the use of order  
2 processing systems and billing systems for transport services<sup>60</sup> (see line numbers  
3 3, 6, 7, 9, 11, 12, 13, 18-21 above), rather than the order processing system and  
4 billing system that are used for UNE loops.<sup>61</sup> Since the systems for loops  
5 generally have a higher flow-through rate than do systems for dedicated transport,  
6 these are further indicia that the design change costs developed for UDIT are too  
7 high for loops.

8 **Q. HAS QWEST ACKNOWLEDGED THAT ASRS ASSOCIATED WITH**  
9 **TRANSPORT ARE MORE MANUALLY-INTENSIVE THAN LSRS**  
10 **ASSOCIATED WITH LOOPS?**

11 A. Yes, on numerous occasions. For instance, in the meeting minutes from the  
12 Change Management Process meeting that occurred on November 12, 2004,  
13 Qwest<sup>62</sup> stated that “the ASR is not as mechanized as the LSR process.” Qwest  
14 provided a specific jeopardy (jep) notice example that showed that the “LSR jep  
15 is generated by a system” and “the ASR jep would be generated manually and  
16 sent via email” and that “the process becomes much more manual as the systems  
17 are not mechanized [and] more time consuming...”<sup>63</sup> Qwest also confirmed this  
18 point in data request responses from Utah Docket No. 06-049-40. In that docket,  
19 a group of CLECs asked Qwest to confirm that an LSR has a higher electronic

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<sup>60</sup> EXACT order processing system and IABS billing system.

<sup>61</sup> IMA order processing systems and CRIS billing systems.

<sup>62</sup> Qwest employee Phyllis Sunins made this statement.

<sup>63</sup> Change Management Process meeting minutes for the following Change Request (CR) PC070804-1 ASR Jeopardy Process Ad Hoc Meeting November 12, 2004.

1 flow through than an ASR. Qwest responded in the affirmative and explained the  
2 differences between ASRs and LSRs. Qwest's response follows:

3 While it may be true that *LSRs have a higher level of electronic*  
4 *flow-through than ASRs*, it is irrelevant to the inquiry of the  
5 appropriate vehicle for processing a conversion order. As  
6 discussed in response to data request 01-009, ASRs are designed  
7 for use with the billing and downstream systems that support  
8 Access Services products, such as Private Line services, and LSRs  
9 are designed to be used with the systems that support Local  
10 Service products.<sup>64</sup> (emphasis added)

11 Higher levels of electronic flow-through result in lower levels of manual work  
12 and lower costs.

13 **Q. DOES ESCHELON'S LANGUAGE IN SECTION 9.2.3.9 APPLY TO ALL**  
14 **CFA CHANGES?**

15 A. No, Eschelon's language is very limited in scope and is designed to address a very  
16 narrow circumstance. Eschelon's language is limited by the following qualifiers:  
17 (1) applies only to 2/4 wire analog voice grade loops cutovers, (2) applies only to  
18 coordinated cutovers (3) excludes batch hot cuts, (4) must be on the day of the  
19 cut, and (5) must be during test and turn-up. In other words, Eschelon's language  
20 only applies in a situation in which both Eschelon and Qwest personnel are  
21 already working the cutover for a 2 wire/4wire analog loop and there is a need for  
22 a design change to resolve a bad CFA. Applying the expensive charges<sup>65</sup> that are  
23 designed for UDIT (or worse yet, applying tariff rates) in these instances results in

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<sup>64</sup> Qwest's cost expert Ms. Terri Million is identified as the respondent.

<sup>65</sup> The design change charges in other states ranges from \$35.89 (Utah) to \$105.34 (South Dakota).

1 charges for this activity that significantly exceed its underlying costs and a  
2 windfall for Qwest.

3 **ISSUE 4-5(c)**

4 **Q. PLEASE EXPLAIN ESCHELON'S RATE PROPOSAL UNDER ISSUE 4-**  
5 **5(C).**

6 A. Eschelon proposes separate interim rates for design changes for UDIT, CFA and  
7 CFAs and has proposed language to the title of 9.20.11.1 to clarify this  
8 application. Qwest proposes a single interim rate that would apply to all three  
9 rate elements. Other state commissions have approved a design change charge for  
10 UDIT (not loops or CFAs) in the past, though there is no Commission approved  
11 rate for design changes in Oregon for any UNEs. Because Qwest's proposal for  
12 UDIT design changes is significantly higher than the rates approved by other state  
13 Commissions, Eschelon proposes as an interim rate for UDIT design changes the  
14 average of approved rates for design change charges for UDIT from the other five  
15 large states in Qwest's territory where Eschelon is currently arbitrating its  
16 interconnection agreement.<sup>66</sup> There is no reason why the rate for UDIT design  
17 changes should be higher in Oregon than it is in other states in Qwest's region.  
18 Regarding design change charges for loops, Eschelon agrees to pay a  
19 Commission-approved cost based rate if one is established in the future. In the  
20 interim, Eschelon has proposed a rate of \$30.00, which is appropriately less than

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<sup>66</sup> The rates for the UDIT Design Change charge in the other five states are: Arizona \$72.79, Colorado \$73.93, Minnesota \$0.00, Utah \$35.89, Washington \$50.45. In calculating the average I did not include the zero rate in Minnesota.

1 Eschelon's proposed rate for UDIT of \$58.27 because of the cost differences  
2 between UDIT and loops. Given that the Commission-approved rate for basic  
3 installation is \$10.75, an interim rate of \$30.00 for loop design change is very  
4 reasonable. Likewise, Eschelon agrees to pay a cost-based Commission-approved  
5 rate for CFA design change, and has, in the interim, proposed a rate of \$5.00.  
6 This interim rate is reasonable in light of the minimal work that is required in  
7 these instances.<sup>67</sup>

8 **Q. IS AN AVERAGE OF COMMISSION APPROVED RATES IN THE FIVE**  
9 **LARGEST QWEST STATES AN APPROPRIATE METHOD FOR**  
10 **ESTABLISHING AN INTERIM RATE FOR DESIGN CHANGE**  
11 **CHARGES FOR UDITS IN OREGON?**

12 A. Yes. First, it is important to recognize that both companies have proposed interim  
13 rates for design change charges for UDITs, and the Commission will establish  
14 appropriate interim rates in this proceeding. Permanent rates will be established  
15 by the Commission in a generic cost docket.

16 Second, Qwest has acknowledged the reasonableness of the five large state  
17 averaging approach by agreeing to this approach for the rate 9.20.2.1 and 9.20.2.2

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<sup>67</sup> As described above, if an interim rate is established, Eschelon's proposal is to allow Qwest to assess interim rates for design changes for UDIT, loops and same day pair changes until a different rate is approved by the Commission. This proposal does not prevent or otherwise limit Qwest from recovering its costs for design changes. Furthermore, it is not Eschelon's responsibility to submit and defend a cost study for an interim charge that Qwest will ultimately assess on CLECs (see Qwest Response, p. 12, line 14, stating that Eschelon's proposed interim rates are not supported by cost studies). First, that burden lies with Qwest, and Qwest has submitted no cost support for any design change in this proceeding (or in negotiations, although Eschelon requested cost studies for Qwest's rates in negotiations). Second, Eschelon's proposed interim rates are just that – i.e., interim – and therefore such cost support information is unnecessary.



1 -- Additional Labor Installation, per Half Hour or fraction thereof, overtime and  
 2 premium in the Minnesota Exhibit A as part of the Eschelon / Qwest arbitration in  
 3 Minnesota. The table below is an excerpt from the Exhibit A in the Minnesota  
 4 Eschelon / Qwest arbitration.

		Recurring	Nonrecurring	REC	NRC
<b>9.20</b>	<b>Miscellaneous Charges</b>				
9.20.1	Intentionally Left Blank				
9.20.2	Additional Labor Installation, Per Half Hour or fraction thereof				
9.20.2.1	Additional Labor installation - Overtime		\$8.79		++
9.20.2.2	Additional Labor installation - Premium		\$17.57		++
<b>Notes:</b>					
++	Negotiated rate until Commission approves a rate.				

5  
 6 The negotiated rates in this table were the average of Commission approved rates  
 7 in Arizona, Colorado, Utah and Washington. Oregon was not used because there  
 8 are no Commission approved rates for this rate element. The table below shows  
 9 the rates in the four states mentioned above.

		AZ	CO	UT	WA	AVG
<b>9.20</b>	<b>Miscellaneous Charges</b>					
9.20.2	Additional Labor Installation, per Half Hour or fraction thereof					
9.20.2.1	Additional Labor Installation - Overtime	\$8.89	\$9.03	\$8.28	\$8.94	<b>\$8.79</b>
9.20.2.2	Additional Labor Installation - Premium	\$17.78	\$18.06	\$16.55	\$17.89	<b>\$17.57</b>

10  
 11 The six large states in Qwest's region are similar in that these states are most  
 12 likely to have closely scrutinized contested cost cases involving the largest  
 13 CLECs in Qwest's region.

1 Third, Qwest's cost support is based on its filings in UM 1025.<sup>68</sup> That docket was  
2 closed by the Commission on March 16, 2007.<sup>69</sup> Qwest's cost study represents its  
3 advocacy regarding appropriate rates and does not incorporate prior Commission  
4 decisions regarding labor times, flow through, separation of mechanical and  
5 manual ordering, and overhead factors.<sup>70</sup> Interim rates should incorporate prior  
6 Commission decisions until such time that permanent rates are established by the  
7 Commission. The Commission found in its 98-444 order in docket UT 138 / UT  
8 139, that "work times and probabilities shall remain in effect until such time as  
9 USWC and GTE file revised analyses that are approved by the Commission."<sup>71</sup>  
10 This conclusion makes sense; otherwise Qwest would have no incentive ever to  
11 establish permanent rates, since it could charge its "wish" rate indefinitely.  
12 Making three simple adjustments<sup>72</sup> to Qwest's UDIT design change cost study to  
13 be consistent with prior Commission rulings would result in a UDIT design  
14 change rate of \$57.87 which demonstrates that Eschelon's proposed interim rate  
15 of \$58.27 is reasonable. The three adjustments do not represent all of the  
16 adjustments ordered by the Commission in their UT 138 / UT 139 orders. For

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<sup>68</sup> Qwest filed cost studies in UM 1025 in September 2002, March 2003 and September 2003.

<sup>69</sup> See <http://apps.puc.state.or.us/orders/2007ords/07-101.pdf>.

<sup>70</sup> The Commission's orders in UT 138/UT 139 established a set of inputs that should apply to Qwest's non-recurring cost studies. This includes separation of manual and mechanical ordering costs (Order No. 98-444, p. 71) a flow through rate of 98% in the ordering process (Order No. 03-085, page 3 and Order No. 98-444, p. 71), a reduction to labor times and probabilities (Order No. 03-085, page 11 and Order No. 98-444, p. 82), and updates to Qwest's overhead factors (Order No. 98-444, p. 101). (See Eschelon/23.)

<sup>71</sup> Order No. 98-444, p. 82. (See Eschelon/23.)

<sup>72</sup> The adjustments are as follows: (1) Calculate the study for mechanized orders instead of a blend of mechanized and manual orders; (2) use the Commission ordered flow through rate of 98% for the ordering process; and (3) incorporate the overhead factors used in the compliance filings in UT 138 / UT 139.

1 example, Eschelon does not have the information available to it in order to  
2 implement the adjustments to labor times and probabilities. If the Commission  
3 finds that Eschelon's proposed interim rate for the design change for UDIT of  
4 \$58.27 is not reasonable, the Commission should order that the interim rate utilize  
5 the Commission's findings in docket UT 138 / UT 139 until such time that  
6 permanent rates are established.

7 **Q. DOES ESCHELON'S LANGUAGE PROHIBIT QWEST FROM**  
8 **REQUESTING COMMISSION APPROVAL OF DIFFERENT RATES?**

9 A. No. To the extent that Qwest believes that the interim rates Eschelon has  
10 proposed for loop and CFA design changes do not allow Qwest to recover its  
11 costs, Eschelon's proposal provides the opportunity for Qwest to propose a cost  
12 based rate for these design changes and substantiate its charges before the  
13 Commission. If Qwest truly believes that all design changes should be the same  
14 charge, all it has to do is make a filing to get the issue before the Commission.

15 **Q. PLEASE SUMMARIZE ISSUE NOS. 4-5, 4-5(A), AND 4-5(C)**  
16 **REGARDING DESIGN CHANGES.**

17 A. Eschelon's language requires Qwest to provide design changes to Eschelon,  
18 something that is an obligation of Qwest's and that has been provided for years.  
19 Eschelon's proposal provides Qwest with the opportunity to recover its costs by  
20 allowing Qwest to apply interim rates until the Commission approves rates for  
21 design changes. This is all despite the facts that (i) there is no language in the  
22 Eschelon/Qwest ICA or Qwest's SGAT that would permit Qwest to assess

1 charges for design changes for loops or CFAs, (ii) Qwest has consistently  
2 provided design changes for loops in Oregon without additional charges in the  
3 past, and (iii) Qwest's failure to seek separate cost recovery for design changes  
4 for loops suggests that they may be recovered in other rates. For all of the reasons  
5 described in Eschelon's business need and in these responses, the Commission  
6 should adopt Eschelon's language for Issues 4-5 and subpart (a). The  
7 Commission should also adopt Eschelon's three distinct rate proposals in subpart  
8 (c) for UDIT design changes, Loop design changes, and CFA changes specific to  
9 changes on the day of the cut for 2/4 wire loop coordinated cuts.

10 **IV. PAYMENT AND DEPOSITS (SUBJECT MATTER NOS. 5, 6 AND 7)**

11 **Q. ARE YOU ADDRESSING A NUMBER OF ISSUES FROM SECTION 5.4**  
12 **OF THE ICA?**

13 A. Yes. I am addressing Issue Nos. 5-6, 5-7, 5-8, 5-9, 5-11, 5-12 and 5-13, all of  
14 which pertain to Section 5.4 of the ICA "Payment and Deposit."<sup>73</sup> Issue Nos. 5-6,  
15 5-7 and 5-7(a) are addressed under Subject Matter No. 5 (Discontinuation of  
16 Order Processing and Disconnection); Issue Nos. 5-8, 5-9, 5-11, and 5-12 are  
17 addressed under Subject Matter No. 6 (Deposits); and Issue No. 5-13 is addressed  
18 under Subject Matter No. 7 (Review of Credit Standing).

19 **Q. PLEASE DESCRIBE ESCHELON'S BUSINESS REASONS FOR ITS**  
20 **PROPOSALS REGARDING THE "PAYMENT AND DEPOSIT" ISSUES**

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<sup>73</sup> I also address Issue 5-7(a), which addresses Section 5.1.13.1.

1           **(ISSUE NOS. 5-6, 5-7, 5-7(A), 5-8, 5-9, 5-11, 5-12 AND 5-13).**

2    A.    The Payment and Deposits issues pertain to the ability of Qwest to disconnect  
3           Eschelon's circuits, discontinue processing Eschelon's orders, and demand a  
4           deposit (or increased deposit amount) from Eschelon, due to an alleged concern  
5           about Qwest's ability to get paid, when Eschelon disagrees with the basis for  
6           Qwest's actions.<sup>74</sup> To fully appreciate the importance of these issues from a  
7           business perspective, it is important to understand the breadth of the provisions in  
8           question. The ability to disconnect circuits or discontinue processing orders –  
9           remedies in the Payment and Deposit provisions – are very serious steps that  
10          would be very disruptive for Eschelon's customers and should only be used as a  
11          last resort. The effects are not limited to particular orders or customers, but could  
12          lead to disruption for large groups of customers. Unjustified disconnection or  
13          disruption of service order processing would be devastating to Eschelon's  
14          operations and might leave current and potential Oregon customers who currently  
15          have working service, or were initiating or changing service, without  
16          telecommunications service on the planned date of service. For instance,  
17          Eschelon's End User Customers could pick up the telephone one day to discover  
18          that they do not have dial tone because Qwest has decided to disconnect  
19          Eschelon's circuits. This would not only be service-affecting but would also be  
20          potentially dangerous for Eschelon's customers as they would unexpectedly be

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<sup>74</sup> The party that would be disconnecting circuits, discontinuing orders or demanding deposits or deposit increases would be Qwest and the party facing these actions would be Eschelon in a vast majority, if not all, instances because Eschelon, in most instances, is the purchaser of services under the ICA.

1 left without access to emergency services, not to mention the potential lost  
2 revenue and expended resources that Eschelon's customers would incur as  
3 Eschelon and its customers scramble to get them up and running again. With  
4 regard to order processing discontinuation, Eschelon may have an order pending  
5 for a business customer who is planning a big grand opening at a new location  
6 and needs phone service, but Eschelon is unable to serve the customer in time for  
7 the opening because Qwest has decided to stop processing Eschelon's orders.  
8 This would lead to significant financial losses for the customer and harm to  
9 Eschelon's reputation. Another example is a new medical facility that is opening  
10 and has chosen Eschelon as its service provider. This facility could be left  
11 without the vital emergency services they need if Qwest stops processing  
12 Eschelon's orders.

13 Eschelon does not object to the inclusion of the Payment and Deposit provisions  
14 and remedies in the ICA because it agrees that Qwest (and Eschelon) should have  
15 the ability to protect its financial interests when there is a legitimate concern  
16 about future payment. After all, the intent of the payment and deposit provisions  
17 is to address situations when legitimate concerns exist in this regard. However, if  
18 Qwest is able to disconnect Eschelon's circuits or stop processing Eschelon's  
19 orders in cases where no legitimate concern about ability to pay exists, it would  
20 cause significant harm to Eschelon and to customers. Given the seriousness of  
21 these steps, and the effects they would have on Eschelon and its End User

1 Customers (not Qwest or Qwest's customers), Commission oversight should be  
2 available before these steps are taken.

3 Similarly, if Qwest decided to demand a deposit (or deposit increase) from  
4 Eschelon when no legitimate concern about ability to pay exists, Qwest could  
5 affect the financial resources available to Eschelon for other uses such as facilities  
6 needed to compete with Qwest. Eschelon is a relatively small facilities-based  
7 carrier that does not have the resources that Qwest has,<sup>75</sup> and cannot have its  
8 financial resources tied up in frivolous deposits. The deposit amounts required of  
9 Eschelon, under the ICA, could be an amount equal to two months' worth of  
10 Qwest charges on Eschelon, which across Qwest's region could be around \$10  
11 million. This amount of money may be a drop in the bucket to Qwest (this  
12 represents 0.07% of Qwest's annual operating revenues),<sup>76</sup> but this is real money  
13 to Eschelon (this represents 3.6% of Eschelon's annual total revenue or almost  
14 half of our cash holdings that could be tied up in a deposit to Qwest).<sup>77</sup> And  
15 again, Qwest would not be faced with paying any deposit to Eschelon.

16 Commission oversight on these matters is particularly important so that there is an  
17 independent arbiter of the facts and to ensure that the information relied upon to

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<sup>75</sup> Eschelon's annual revenue is less than 2% of Qwest's annual revenue. Stated differently, Qwest earns more revenues by the first week of January than Eschelon earns all year. Qwest has around 40,000 employees compared to Eschelon's approximate 1,300 employees.

<sup>76</sup> Qwest's YE2006 total operating revenue was \$13,923 million.  
[http://ww3.ics.adp.com/streetlink\\_data/dirQ0000/annual/HTML1/default.htm](http://ww3.ics.adp.com/streetlink_data/dirQ0000/annual/HTML1/default.htm).

<sup>77</sup> Eschelon's YE2006 total revenue was \$274.5 million. Eschelon's YE2006 cash and cash equivalents were \$21.1 million.  
<http://library.corporate-ir.net/library/12/121/121503/items/242984/ESCH2006AR.pdf>.

1 make these decisions is accurate. Eschelon and Qwest have had serious  
2 disagreements about billing information (discussed below), which means that  
3 Qwest could invoke these remedies based on information with which Eschelon  
4 disagrees – even when Eschelon believes that it is current in its payment of  
5 undisputed amounts to Qwest. If Eschelon challenges an action by Qwest, and  
6 the Commission finds Qwest to be correct, then Qwest is not harmed. However,  
7 if Qwest can override Eschelon’s challenge and make these decisions without  
8 Commission approval, Eschelon would be faced with these serious business-  
9 affecting and customer-affecting problems even if the basis for Qwest’s decision  
10 is flawed. At the same time, if Eschelon has no basis to disagree with Qwest’s  
11 claim, then it certainly would not waste the time and money pursuing such a  
12 dispute, and would simply pay the outstanding charges and/or the deposit Qwest  
13 demanded.

14 Eschelon is only asking that Commission authority be reserved if there is a  
15 disagreement about these issues so that Qwest cannot cut off Eschelon’s  
16 customers or cripple Eschelon’s ability to provide service to its customers based  
17 upon faulty premises.

18 **Q. CAN YOU PROVIDE AN EXAMPLE THAT ILLUSTRATES THE NEED**  
19 **FOR COMMISSION INVOLVEMENT WHEN ESCHELON DISAGREES**  
20 **WITH QWEST’S DECISION TO DISCONNECT ESCHELON’S**  
21 **CIRCUITS, STOP PROCESSING ESCHELON’S ORDERS OR DEMAND**  
22 **A DEPOSIT?**



1 A. Yes. Eschelon and Qwest have had many disagreements about the accuracy of  
2 Qwest's bills, the timeliness of Qwest's recognition of payments and the handling  
3 of disputed billings. And Eschelon oftentimes disagrees with Qwest about the  
4 amount past due and the amount disputed by Eschelon. Case in point: in the  
5 Spring of 2006, Qwest threatened to disconnect Eschelon's service or stop  
6 processing Eschelon's orders, or both, due to an alleged overdue balance due from  
7 Eschelon to Qwest under ICAs from several states in which Eschelon purchases  
8 services from Qwest. Included as Eschelon/12 is a chronology that explains the  
9 details of this issue along with the supporting documentation.

10 On April 20, 2006, Eschelon received a letter from Qwest indicating that  
11 Eschelon had a total past due balance across all states of over \$4 million, and  
12 further indicating that if Qwest did not receive payment in full by May 4, 2006,  
13 Qwest would suspend Eschelon's service order activity and disconnect Eschelon's  
14 services on May 5, 2006. However, Eschelon/12 shows that the amount Qwest  
15 was demanding from Eschelon did not reflect the payments that Eschelon had  
16 already made to Qwest, and that Eschelon and Qwest were disagreeing on the  
17 amount of the outstanding charges from the beginning and are still disagreeing  
18 (*see* Eschelon/12, 3/29/06 email, 4/5/06 email and reply email, 4/25/06 email,  
19 5/22/06 email, 5/24/06 conference call, 5/25/06 letter, 6/5/06 letter, 7/5/06 letter  
20 and 7/12/06 letter). In addition, Qwest never identified a specific amount that was  
21 due under any particular ICA (or in any state) and did not follow the ICA process  
22 in raising the issue (*see* Eschelon/12, Qwest's 3/14/06 letter). However, after a

1 lengthy debate and additional threats of service disruption, in order to avoid any  
2 possibility of disruption of services to its customers, Eschelon paid all amounts  
3 alleged by Qwest making payment of almost \$9 million.<sup>78</sup> After going through all  
4 of this, Qwest notified Eschelon that it remained in default and that Qwest  
5 unilaterally decided to apply credits due and owing to past due balances, even if  
6 those balances were in dispute, leaving Eschelon under a cloud of possible  
7 disruption of service despite Eschelon's payment of all undisputed bills.<sup>79</sup> As  
8 indicated in Eschelon's July 12, 2006 letter (*See* Eschelon/12), Eschelon  
9 continues to dispute the outstanding charges that Qwest alleges is owed to it by  
10 Eschelon. And as indicated in Qwest's August 11, 2006 letter, it still has not  
11 identified an amount that is allegedly past due in Oregon, or any other state. Yet,  
12 Qwest continues to insist that Eschelon is in default under the ICA.

13 **Q. HOW DOES THIS EXAMPLE SUPPORT ESCHELON'S PROPOSALS**  
14 **ON PAYMENT AND DEPOSITS?**

15 A. It shows that, because of the potential for billing disagreements, Commission  
16 oversight is necessary to prevent Qwest from inappropriately using its ability to  
17 disconnect circuits, stop processing orders, or extracting deposits. In this  
18 example, Qwest provided a lump sum amount that it demanded was due for six

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<sup>78</sup> The following is an excerpt from Eschelon's 6/5/06 letter to Qwest: "In Qwest's May 25th letter, Qwest threatened Eschelon with 'suspending service order activity.' That means Qwest would disrupt our customer orders, and Qwest said it would do *so this month!* The consequences of Qwest carrying out that threat would be so disruptive and potentially devastating that, to avoid that possibility, Eschelon has no choice but to bring our account current even though Qwest did not provide the amount allegedly due by state and despite Eschelon's valid disputes."

<sup>79</sup> Qwest stated in its 7/5/06 letter: "Qwest will, for the time being, refrain from taking further collection action against Eschelon."

1 states, without providing any detail regarding what was due in each state or what  
2 portion of the total amount was disputed or undisputed charges. Surely it would  
3 not be appropriate for Oregon customers to get cut off because Qwest claims  
4 Eschelon did not pay a charge rendered in Utah, but that could be the effect of  
5 Qwest's proposals for the Payment and Deposits issues. If Qwest's proposals are  
6 adopted, Qwest could disconnect circuits or stop processing Eschelon's orders  
7 without providing any detail or verification of the charges it claims are  
8 outstanding. And if Eschelon believes that it is now current with Qwest (and  
9 Qwest has indicated in its letter that it could take action without further notice),  
10 Qwest could still potentially put Eschelon's customers out of service  
11 unexpectedly since Section 5.4.2 of the ICA provides that, if Qwest determines  
12 that Eschelon is still in non-compliance after initial notice, Qwest can refuse to  
13 accept additional orders from Eschelon without further notice.

14 Therefore, Commission oversight is needed when disagreements like these arise  
15 to make sure that the Payment and Deposit remedies are invoked properly and  
16 based on accurate information.

17 **SUBJECT MATTER NO. 5. DISCONTINUATION OF ORDER PROCESSING**  
18 **AND DISCONNECTION**

19 *Issue Nos. 5-6, 5-7, and 5-7(a): ICA Sections 5.4.2, 5.4.3, 5.13.1*

20 **Q. PLEASE BRIEFLY DESCRIBE ISSUE NOS. 5-6 AND 5-7 AND SUBPART.**

1 A. These issues address the remedies available to Qwest when Eschelon does not pay  
2 in full the undisputed charges it owes – the ability to disconnect Eschelon’s  
3 services and stop processing Eschelon’s orders. The proposals under Issue Nos.  
4 5-6, 5-7 and 5-7(a) indicate the conditions that exist before these remedies can be  
5 invoked.

6 **Q. WHAT ARE ESCHELON’S PROPOSALS FOR ISSUES 5-6, 5-7, AND 5-  
7 7(A)?**

8 A. Eschelon provides two options for Issue No. 5-6, and offers either one for the  
9 Commission’s adoption.

10 **Issue No. 5-6 – (1 of 2 options)**

11 5.4.2 With the Commission’s approval, One Party may  
12 discontinue processing orders for relevant services for the failure  
13 of the other Party to make full payment, less any disputed amount  
14 as provided for in Section 21.8 of this Agreement, for the relevant  
15 services provided under this Agreement within thirty (30) Days  
16 following the Payment Due Date...

17 **Issue No. 5-6 – (2 of 2 options)**

18 5.4.2. ...One Party may discontinue processing orders for  
19 relevant services for the failure of the other Party to make full  
20 payment, less any disputed amount as provided for in Section 21.8  
21 of this Agreement...If the billed Party asks the Commission to  
22 prevent discontinuance of order processing and/or rejection of  
23 orders (e.g., because delay in submitting dispute or making  
24 payment was reasonably justified due to inaccurate or incomplete  
25 Billing), the Billing Party will continue order processing while the  
26 proceedings are pending, unless the Commission orders otherwise.

27 **Issue No. 5-7**

28 5.4.3 With the Commission’s approval pursuant to Section  
29 5.13.1, tThe the Billing Party may disconnect any and all relevant  
30 services for failure by the billed Party to make full payment, less  
31 any disputed amount as provided for in Section 21.8 of this

1 Agreement, for the relevant services provided under this  
2 Agreement within sixty (60) Days following the Payment Due  
3 Date...If the Billing Party does not disconnect the billed Party's  
4 service(s) on the date specified in the ten (10) business days notice,  
5 and the billed Party's noncompliance continues, nothing contained  
6 herein shall preclude the Billing Party's right to disconnect any or  
7 all relevant services of the non-complying Party without further  
8 notice, if disconnection has been approved by the Commission...

9 **Issue 5-7(a)**

10 5.13.1 If either Party defaults in the payment of any amount due  
11 hereunder, or if either Party violates any other material provision  
12 of this Agreement, and such default or violation shall continue for  
13 thirty (30) Days after written notice thereof, the other Party must  
14 notify the Commission in writing and may seek relief in  
15 accordance with the Dispute resolution provision of this  
16 Agreement. The failure of either Party to enforce any of the  
17 provisions of this Agreement or the waiver thereof in any instance  
18 shall not be construed as a general waiver or relinquishment on its  
19 part of any such provision, but the same shall, nevertheless, be and  
20 remain in full force and effect. Neither Party shall disconnect  
21 service to the other Party without first obtaining Commission  
22 approval. To the extent that either Party disputes, pursuant to  
23 Section 21.8, any amount due hereunder, the Party's withholding  
24 of such disputed amounts pursuant to Section 21.8 shall not  
25 constitute a default under this Section 5.13 during the pendency of  
26 such dispute.

27 Both of Eschelon's proposals under Issue No. 5-6 are intended to provide for  
28 Commission oversight in the instance that Qwest wants to discontinue processing  
29 Eschelon's orders. Eschelon's first option for Issue 5-6 requires Commission  
30 approval before Qwest may discontinue processing Eschelon's orders for the  
31 alleged failure of Eschelon to make full payment of undisputed charges. This  
32 would ensure that order processing does not stop (and no action is taken that will  
33 disrupt service to end users) until the Commission has at least had a chance to  
34 verify whether there is a legitimate disagreement. The ICA already provides that

1 Qwest give the Commission notice of the alleged late payment and of Qwest's  
2 proposal to discontinue services (Section 5.4.2), and Eschelon's proposal would  
3 simply provide that Qwest would include a request for approval of that action  
4 with its notice. If the Commission does not want to require Commission approval  
5 in every instance in which Qwest intends to stop processing Eschelon's orders,  
6 the Commission should ensure that it will have an opportunity to act on the  
7 public's behalf before the services of End User Customers are disrupted when  
8 Eschelon disagrees with Qwest's proposed action. To that end, Eschelon's  
9 alternative option provides that if Eschelon disputes Qwest's determination and  
10 seeks Commission review, Eschelon's orders will continue to be processed while  
11 its dispute is pending or until a date specified by the Commission. This would  
12 ensure that Commission authority is preserved when there is a disagreement, and  
13 would prevent Qwest from being able to take such a serious step as stopping order  
14 processing unilaterally or based on information with which Eschelon disagrees.

15 For Issue 5-7, Eschelon proposes language to ensure that before Qwest takes the  
16 very serious step of disconnecting Eschelon's services, that it first obtains  
17 Commission approval. This will allow the Commission to evaluate the basis for  
18 the proposed disconnection and ensure that any actions taken in this regard are  
19 justified and in the public interest. Regarding Issue 5-7(a), Eschelon proposes  
20 language that would assure that the Commission is kept informed of alleged  
21 defaults under the ICA that will allow the Commission to monitor disputes, and

1 become involved to the extent necessary and appropriate for the protection of the  
2 public interest.

3 **Q. WHAT ARE QWEST'S PROPOSALS FOR ISSUES 5-6, 5-7 AND 5-7(A)?**

4 A. Qwest's proposals are shown below:

5 **Issue 5-6**

6 5.4.2 ~~With the Commission's approval,~~ One Party may  
7 discontinue processing orders for relevant services for the failure  
8 of the other Party to make full payment, less any disputed amount  
9 as provided for in Section 21.8 of this Agreement, for the relevant  
10 services provided under this Agreement within thirty (30) Days  
11 following the Payment Due Date.

12 **Issue 5-7**

13 5.4.3 ~~With the Commission's approval pursuant to Section~~  
14 ~~5.13.1,~~ The Billing Party may disconnect any and all relevant  
15 services for failure by the billed Party to make full payment, less  
16 any disputed amount as provided for in Section 21.8 of this  
17 Agreement, for the relevant services provided under this Agreement  
18 within sixty (60) Days following the Payment Due Date...If the  
19 Billing Party does not disconnect the billed Party's service(s) on the  
20 date specified in the ten (10) business days notice, and the billed  
21 Party's noncompliance continues, nothing contained herein shall  
22 preclude the Billing Party's right to disconnect any or all relevant  
23 services of the non-complying Party without further notice,~~if~~  
24 ~~disconnection has been approved by the Commission...~~

25 **Issue 5-7(a)**

26 5.13.1 If either Party defaults in the payment of any amount due  
27 hereunder, or if either Party violates any other material provision  
28 of this Agreement, and such default or violation shall continue for  
29 thirty (30) Days after written notice thereof, the other Party ~~must~~  
30 ~~notify the Commission in writing and~~ may seek relief in  
31 accordance with the Dispute resolution provision of this  
32 Agreement. The failure of either Party to enforce any of the  
33 provisions of this Agreement or the waiver thereof in any instance  
34 shall not be construed as a general waiver or relinquishment on its  
35 part of any such provision, but the same shall, nevertheless, be and

1 remain in full force and effect. ~~Neither Party shall disconnect~~  
2 ~~service to the other Party without first obtaining Commission~~  
3 ~~approval.~~ To the extent that either Party disputes, pursuant to  
4 Section 21.8, any amount due hereunder, the Party's withholding  
5 of such disputed amounts pursuant to Section 21.8 shall not  
6 constitute a default under this Section 5.13 during the pendency of  
7 such dispute.

8 The difference in Qwest's language is that Commission approval would not be  
9 necessary for Qwest to stop processing Eschelon's orders or disconnect  
10 Eschelon's circuits. In fact, Qwest's language would allow it to invoke these very  
11 serious remedies even if Eschelon has a legitimate disagreement pertaining to the  
12 charges Qwest alleges it owes (as in the example provided above). In support of  
13 its position, Qwest argues that it is Eschelon's obligation to pay its bills in a  
14 timely fashion and that Eschelon can invoke dispute resolution or dispute the  
15 charges if it disagrees.<sup>80</sup>

16 **Q. WHY SHOULD THE COMMISSION ADOPT ESCHELON'S PROPOSAL**  
17 **FOR ISSUE NOS. 5-6, 5-7 AND 5-7(A)?**

18 A. Eschelon's proposals maintain Commission authority in these instances so that  
19 Qwest can not unilaterally discontinue processing Eschelon's orders or  
20 unilaterally disconnect Eschelon's services. I explained above the devastating  
21 effect on Eschelon that would result from Qwest unjustifiably taking these  
22 actions. I also explained that the information that would be used by Qwest to  
23 determine whether to reject Eschelon's orders and shut off Eschelon's services is  
24 not always accurate or current, and is extremely vague. The Commission should

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<sup>80</sup> Qwest Response, p. 15.



1 be involved on behalf of the public interest to ensure that these remedies are being  
2 invoked properly and after a careful examination of the facts (particularly of the  
3 data Qwest is using to allege non-payment) to ensure that these serious steps are  
4 justified.

5 **Q. PLEASE ELABORATE ON THE IMPORTANCE OF ISSUE 5-7 AND**  
6 **SUBPART.**

7 A. The need for Commission oversight related to the ability to disconnect services is  
8 even greater than in the circumstance in which orders are rejected. Disconnecting  
9 services would leave existing End User Customers without dial tone and without  
10 access to critical 9-1-1 emergency services. Not only would such a drastic  
11 measure likely harm Eschelon's business very seriously, if not fatally, it would be  
12 extremely disruptive for Eschelon's customers who would lose their telephone  
13 service as a result. Before Qwest takes such a step, it should have the obligation  
14 to first seek permission from the Commission in order to make sure that the  
15 interests of the public are adequately protected.

16 **Q. WOULD THE PROVISIONS SET OUT IN ESCHELON'S PROPOSAL BE**  
17 **UNIQUE TO OREGON?**

18 A. No. In Minnesota, the Commission requires approval for disconnection, and  
19 Qwest agreed to this language and issue 5-7 was not arbitrated in Minnesota.  
20 Therefore, Qwest will have a process for providing notice to the Commission  
21 before disconnection that it could use in Oregon.

1 **Q. COULDN'T ESCHELON JUST PAY ALL OF THE UNDISPUTED**  
2 **AMOUNTS IT OWES QWEST AND AVOID QWEST DISCONNECTING**  
3 **CIRCUITS OR DISRUPTING ORDER PROCESSING?**

4 A. Though Qwest will likely argue that this problem is solely within Eschelon's  
5 control because Eschelon only need to pay all undisputed amounts to avoid these  
6 remedies,<sup>81</sup> Qwest is wrong. There are a number of reasons that Eschelon and  
7 Qwest may have very different views about amounts that are disputed and  
8 undisputed – which is the case in the example explained above. And since  
9 Qwest's data on Eschelon's disputed and undisputed amounts is a determining  
10 factor as to whether Qwest can invoke the payment and deposits remedies, it is  
11 critical that Qwest's data be shown to be correct before Qwest takes the serious  
12 step of disconnecting Eschelon's customers based on that data. Otherwise, Qwest  
13 will attempt to impose its view of Eschelon's payment status to invoke these  
14 remedies, despite the fact that Eschelon believes that its payments of all  
15 undisputed amounts to Qwest are current. That is why Commission involvement  
16 should be preserved.

17 **Q. HOW CAN THESE DISCREPANCIES OCCUR?**

18 A. There are several reasons that Eschelon and Qwest could disagree on the amount  
19 of undisputed charges. I will briefly describe some of these reasons below:

- 20 • Qwest takes it upon itself to simply declare disputes to be “resolved” even when  
21 no agreement has been reached and Qwest has taken no action to bring the matter  
22 to dispute resolution. This has led to Qwest understating what Eschelon has put

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<sup>81</sup> Qwest states in its position statements on these issues that “If a bill is undisputed, Eschelon should pay it.” See, Issues 5-7, 5-7(a), 5-8, 5-9, 5-11 and 5-12.

1 in dispute. Qwest's approach to "resolving" billing disputes is discussed in more  
2 detail below.

3 • Qwest's notices of past due status do not always include detail by Billing Account  
4 Number (BAN) or by state for that matter, of what Qwest considers past due.  
5 Qwest historically has only identified a lump sum amount without providing any  
6 detail. *See*, Confidential Eschelon/12.

7 • Even when Qwest does provide detail on what it claims to be past due, that detail  
8 sometimes does not match up with the amount Qwest is claiming as past due.  
9 Case in point: Qwest provided detail on August 29, 2006 about a letter it sent on  
10 August 11<sup>th</sup> concerning an amount Qwest claimed was overdue on August 1<sup>st</sup>.  
11 The detail provided on August 29<sup>th</sup> did not match up with the amount Qwest  
12 claimed in its August 11<sup>th</sup> correspondence. I have provided an email string  
13 between Eschelon and Qwest describing this problem and supporting  
14 documentation as Eschelon/13.

15 • Qwest does not always post Eschelon's payment in a timely manner, and counts  
16 payments that Qwest has already received as past due. I have attached  
17 Eschelon/14, an email exchange between Qwest and Eschelon, that typifies this  
18 problem. This exhibit shows that Qwest sent a letter to Eschelon on 10/24/06  
19 claiming that Eschelon had outstanding undisputed amounts due Qwest in  
20 Oregon, and threatening to stop processing orders or disconnect Eschelon's  
21 circuits if this payment was not made in full by 10/27/06 (three days later).  
22 However, Eschelon/14 shows that Eschelon had already paid the amount Qwest  
23 was claiming was overdue on 10/16/06 – one week before it was due and over a  
24 week before Qwest's letter was sent threatening disconnection. Despite  
25 Eschelon's request for Qwest to "review your internal process to determine why  
26 payments are not applied in a timely manner," Qwest simply informed Eschelon  
27 that its payment had been posted and the account was current (with no  
28 explanation of why Qwest threatened such drastic measures when Eschelon was  
29 actually current with Qwest).

30 • Qwest also includes in its past due amounts payments that are not even due yet.  
31 Eschelon/15 is an instance of Qwest claiming that an account was past due in  
32 September when in fact payment was not due until October 10th.

33 • Instead of providing billing refunds owed to carriers, Qwest, by its own admission  
34 in a July 5, 2006 letter (see Confidential Eschelon/12), applies these refunds to  
35 any amounts that Qwest determines are past due (which may include amounts that  
36 Eschelon disputes). This causes Qwest's aging to be inaccurate and a discrepancy  
37 between what Eschelon shows as disputed and what Qwest shows as disputed.

- 1 • Disputes that are submitted by Eschelon are sometimes not responded to by  
2 Qwest, and sometimes Qwest loses them. Qwest recently referred to this as the  
3 “black hole.” *See* Eschelon/16.
  
- 4 • Qwest routinely denies Eschelon’s disputes for multiple months until such time  
5 when Qwest later recognizes the disputes and either records them or ignores them.  
6 For example, in December 2005, Eschelon disputed DSL rates that Qwest had  
7 applied to the November 2005 invoice. Qwest denied the dispute, but corrected  
8 the rates on the February 2006 invoice. However, Qwest did not go back to  
9 correct this mistake on the November 2005 invoice (or any invoices in between),  
10 when the mistake was first identified and disputed.
  
- 11 • Qwest incorrectly applies Eschelon’s payments. Eschelon provides a check stub  
12 and the invoice remittance with each payment that contains the amounts and  
13 BANs to which the check should be applied. At times, Qwest posts some  
14 payments to the wrong account or posts the wrong amount to the proper account.  
15 Qwest apparently applies payments to disputes that have been “resolved” from  
16 Qwest’s perspective, but not Eschelon’s. It is Eschelon’s position that Qwest  
17 should apply payments to the invoice being paid, not simply to any open balance.  
18 I have provided as Eschelon/17 an email exchange between Eschelon and Qwest  
19 that discusses these misapplied payments.
  
- 20 • Qwest’s payment processing center doesn’t effectively communicate with the  
21 billing representatives with whom Eschelon interacts regarding billing disputes.  
22 Or, in other words, Qwest’s “left hand” does not always know what its “right  
23 hand” is doing. As a result, Qwest has asked that Eschelon send its remittance  
24 information to two separate groups. *See*, Confidential Eschelon/12, Qwest’s July  
25 5, 2006 letter (page 2) from Mary Dobesh (Qwest) to Bill Markert (Eschelon).
  
- 26 • Qwest’s employee turnover in the department that processes Eschelon’s billing  
27 disputes can cause disputes to get lost or not addressed by the new employees.  
28 This also means that Eschelon may work with Qwest personnel to resolve a  
29 billing dispute for quite some time, only to be forced to start all over when new  
30 Qwest personnel are assigned that are unfamiliar with the dispute’s history. *See*,  
31 Eschelon/16.
  
- 32 • Qwest’s billing department may not update its information about where to send  
33 Eschelon invoices/correspondences (information that is updated by Eschelon in  
34 the CLEC Questionnaire), which can lead to invoices being paid late, or balances  
35 being addressed later because the proper Eschelon employees have not been

1 notified in a timely manner. I have attached an email sent from Eschelon to  
2 Qwest on this issue as Eschelon/18.<sup>82</sup>

3 **Q. IN YOUR ANSWER ABOVE EXPLAINING WHY ESCHELON AND**  
4 **QWEST OFTEN DISAGREE ABOUT DISPUTED AMOUNTS, YOU**  
5 **MENTION THAT QWEST DETERMINES THAT DISPUTES ARE**  
6 **“RESOLVED” EVEN WHEN NO AGREEMENT HAS BEEN REACHED.**  
7 **PLEASE ELABORATE.**

8 A. First, Qwest’s use of the word “resolved” in connection with payment disputes is  
9 a misnomer because, in fact, no agreement has necessarily been reached between  
10 Qwest and Eschelon. What “resolved” means to Qwest is that Qwest believes that  
11 the dispute should be resolved in Qwest’s favor and the disputed charges be paid  
12 by Eschelon. Then, when Qwest labels the dispute “resolved,” even if Eschelon  
13 still disputes the charges, Qwest does not recognize the dispute any longer and  
14 removes this amount from their systems that track disputed charges and adds it to  
15 the overdue category. I have provided as Eschelon/19 a flow diagram of the  
16 Qwest billing Dispute Resolution process it developed in CMP. This flow  
17 diagram shows that once Qwest has received a billing dispute and confirms that it  
18 has received the information Qwest requires, Qwest will “resolve” (or possibly

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<sup>82</sup> A recent example of this problem occurred on April 2, 2007. Qwest sent a notice to Eschelon demanding a deposit and threatening to stop order processing and disconnect circuits effective April 16, 2007 for billing that Qwest *sent to the wrong address*. Eschelon followed Qwest’s process and updated the Qwest questionnaire with the correct billing information in November of 2006, but after inquiries from Eschelon about the bills, Qwest only corrected the information in March. Though Eschelon had been in communication with Qwest about this issue, and even though Eschelon paid undisputed amounts once it tracked down the bills, Qwest sent this notice of disconnection and disruption of order processing to Eschelon. This example demonstrates the need for Eschelon’s proposed language in these sections.

1 “status”) the dispute within 28 calendar days. As I mention above, “resolve”  
2 means that Qwest can reject the dispute and re-label the amount as past due.  
3 Once Qwest has “resolved” the dispute, the flow diagram shows that if the CLEC  
4 does not agree, the *CLEC* must invoke the escalation process to pursue the dispute  
5 further.

6 **Q. DOES THIS CMP BILLING PROCESS OF “RESOLVING” BILLING**  
7 **DISPUTES APPLY TO ESCHELON AND DID ESCHELON ASSIST**  
8 **QWEST IN ITS DEVELOPMENT?**

9 A. No. I have attached Eschelon/20 which is an email exchange between Eschelon  
10 and Qwest on this CMP billing dispute process, as well as Eschelon’s Comments  
11 to the Qwest Change Request (“CR”) that introduced the new billing dispute  
12 process. Eschelon’s 4/6/05 email to Qwest states in part: “Although Qwest has  
13 developed its own processes for billing through CMP, CMP is both not a part of  
14 these ICAs and, even were it to apply, the CMP document specifically provides  
15 that the ICA controls. There is no requirement in our ICAs to use the process you  
16 describe.” This excerpt, as well as Eschelon’s comments on Qwest’s CR, show  
17 very clearly that Eschelon did not develop this process with Qwest, nor does the  
18 process even apply to Eschelon. Therefore, Qwest should not even be applying  
19 this CMP billing dispute process to Eschelon, but Qwest does anyway – and it is  
20 this process that can cause disagreements between Qwest and Eschelon as to  
21 Eschelon’s payment status.

1 **Q. IS THIS PROCESS OF “RESOLVING” BILLING DISPUTES THAT**  
2 **QWEST IMPOSES ON ESCHELON CONTAINED IN THE CURRENT**  
3 **ESCHELON/QWEST ICA?**

4 A. No. Attachment 7, Section 14.1 of the parties’ ICA addresses billing disputes,  
5 and allows Qwest to pursue bill disputes under the current ICA. Attachment 7,  
6 Section 14.1.4 of the current ICA provides that if a bill dispute is not resolved in  
7 150 days Qwest can take it to dispute resolution. Importantly, Section 14.1 of the  
8 existing ICA states that “closure of a specific billing period will occur by joint  
9 agreement of the Parties whereby the Parties agree that such billing period is  
10 closed to any further analysis and financial transactions...” However, instead of  
11 following these procedures from the ICA, Qwest instead follows the procedure it  
12 established in CMP. By using the CMP billing dispute process instead of the  
13 process in the ICA, Qwest supplants the “joint agreement” needed to close a  
14 billing dispute in the ICA with its unilateral judgment to “resolve” the issue.  
15 Also, Qwest attempts to make the collections process self-executing by  
16 “resolving” the issue and forcing the CLEC to invoke escalation if it disagrees  
17 with Qwest’s decision – instead of Qwest escalating the dispute if it disagrees  
18 with the CLEC (as would be allowed under the ICA). Thus, Qwest’s approach is  
19 the opposite of the typical billing and collections process and the opposite of the  
20 process provided for under the ICA: Qwest pushes onto Eschelon, as the party  
21 disputing the bill, the burden of proving that the money isn’t owed. Qwest wants  
22 Eschelon to prove that it does not owe money to Qwest, when in fact, once  
23 Eschelon disputes an amount, it should be Qwest’s responsibility to escalate the

1 dispute. Since Qwest takes it upon itself to decide what is in dispute, Qwest's  
2 proposed ICA language would enable it to declare what amount it considers  
3 disputed and require Eschelon to pay the remaining amount (even if Eschelon  
4 disagrees) or face dire consequences.

5 **Q. HAS QWEST'S APPROACH TO "RESOLVING" BILLING DISPUTES**  
6 **CAUSED THE PARTIES TO DISAGREE ABOUT DISPUTED**  
7 **AMOUNTS?**

8 A. Yes. I have provided as Eschelon/16, an email exchange between Eschelon and  
9 Qwest showing that Qwest's determination of an issue as "resolved" results in  
10 Qwest changing the status from disputed to overdue over the disagreement of  
11 Eschelon. As Eschelon explained in its 9/13/06 email to Qwest on this issue:

12 You spoke about requiring Eschelon to escalate disputes if they are  
13 not resolved. As you can see with this one, I did request escalation  
14 back in 2003, but nothing ever was done by Qwest after my  
15 request.

16 We provided proof that our position was correct, provided the  
17 Department of Revenue's response to our inquiry, which was in our  
18 favor. Yet, nothing was ever done by Qwest other than to continue  
19 to deny our dispute and not reflect it as a valid dispute in your  
20 aging/systems.

21 Qwest does not show any of this amount disputed and continues to show the  
22 amounts associated with this dispute past due and owed by Eschelon.  
23 Eschelon/21 is a spreadsheet that shows the significant discrepancy between  
24 Eschelon's calculations of disputed amounts and what Qwest believes is disputed.



1           These discrepancies are caused by the reasons listed above, including Qwest's  
2           approach to "resolving" billing disputes.

3   **Q.   PLEASE ELABORATE ON QWEST'S ARBITRARY CONTROL IN THIS**  
4   **REGARD.**

5   A.   The correspondence provided as Confidential Eschelon/12 is an example of the  
6       arbitrary control Qwest would have over these remedies if its proposals were  
7       adopted. With arbitrations soon to be commenced, Qwest decided that it was time  
8       to send its letter and pursue these remedies, presumably to paint Eschelon as a  
9       "bad actor." This shows that Qwest could pursue these remedies when it is  
10      convenient for Qwest, and that other factors could similarly motivate Qwest  
11      during the term of the ICA to take these actions – that is, unless Commission  
12      oversight is preserved. Qwest – Eschelon's largest competitor – should not be  
13      permitted to exercise this type of arbitrary control.

14 **Q.   IF QWEST STOPPED PROCESSING ESCHELON'S ORDERS OR**  
15 **DISCONNECTED ESCHELON'S SERVICES AND ESCHELON**  
16 **DISAGREED, COULD ESCHELON SEEK COMMISSION RECOURSE**  
17 **THROUGH DISPUTE RESOLUTION?**

18 A.   Eschelon could seek dispute resolution before the Commission if Eschelon  
19       disagreed with Qwest's view of late payment and/or overdue amount, but it likely  
20       could not do so in time to keep Qwest from refusing to process Eschelon's orders  
21       or disconnecting Eschelon's customers – so the damage to Eschelon and its End  
22       User Customers would have already been done. Under the ICA language, Qwest

1 need only give 10 days notice of its intention to cease processing orders and  
2 disconnect services. It would be very difficult, if not impossible, for Eschelon to  
3 file a complaint, get it on the Commission's schedule, conduct a Commission  
4 hearing and have a decision within 10 business days. In addition, this will cause  
5 Eschelon to come to the Commission in crisis mode, which significantly  
6 compresses timeframes for fact-checking and deliberations and adds additional  
7 burden on the Commission, Eschelon and Qwest.

8 **Q. ARE THERE OTHER MEANS BY WHICH QWEST CAN COLLECT**  
9 **UNPAID UNDISPUTED BILLS BESIDES REJECTING ORDERS OR**  
10 **DISCONNECTING CUSTOMERS?**

11 A. Yes. Other remedies are available, like late payment fees and dispute resolution.  
12 *See, e.g.,* Sections 5.4.8 and 5.18. These other means of redress available to  
13 Qwest support the notion that Commission approval should be required before  
14 taking the much more serious step of order rejection or disconnection.

15 **SUBJECT MATTER NO. 6. DEPOSITS**

16 **Issue Nos. 5-8, 5-9, 5-11 and 5-12: ICA Section 5.4.5**

17 **Q. YOU HAVE EXPLAINED THE BUSINESS REASON UNDERLYING**  
18 **ESCHELON'S PROPOSALS ON PAYMENTS AND DEPOSITS ABOVE.**  
19 **WHAT SERVES AS THE DISAGREEMENT BETWEEN ESCHELON**  
20 **AND QWEST FOR ISSUE NOS. 5-8, 5-9, 5-11 AND 5-12?**

1 A. Eschelon and Qwest disagree on (1) whether the deposit requirement should be  
2 triggered when Eschelon fails to pay a “de minimus” undisputed amount (with the  
3 word de minimus serving as the disagreement) [Issue No. 5-8]; (2) how  
4 “Repeatedly Delinquent” should be defined in terms of failure to pay undisputed  
5 amounts [Issue No. 5-9]; (3) whether Eschelon should be required to pay a deposit  
6 to Qwest within 30 days if Eschelon has challenged the merits of the deposit  
7 requirement at the Commission [Issue No. 5-11]; and (4) whether a separate  
8 option is appropriate in which the deposit requirement does not hinge on the  
9 definition of Repeatedly Delinquent, but instead provides an avenue for the  
10 Commission to review a party’s payment history and determine whether “all  
11 relevant circumstances warrant a deposit.” [Issue No. 5-12]

12 **Q. WHAT ARE ESCHELON’S PROPOSALS FOR THESE ISSUES?**

13 A. On these issues, Eschelon proposes the following language modifications (with  
14 Eschelon’s proposed language underlined):

15 **Issue No. 5-8**

16 5.4.5 “Repeatedly Delinquent” means payment of any undisputed  
17 non-de minimus amount received more than thirty (30) Days after  
18 the Payment Due Date...<sup>83</sup>

19 **Issue No. 5-9 (1<sup>st</sup> of 2 options)**

20 5.4.5 . . . “Repeatedly Delinquent” means payment of any  
21 undisputed . . . amount received more than thirty (30) Days after  
22 the Payment Due Date, for three (3) consecutive months ~~or more~~  
23 ~~times during a twelve (12) month period~~ on the same Billing  
24 account number. . . .

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<sup>83</sup> As explained below, Eschelon also offers to use the word “material” in place of “non-de minimus.” The word “material” is used in closed language numerous times throughout the ICA and, therefore, has a commonly-understood meaning.

1           **Issue No. 5-9(2<sup>nd</sup> of 2 options)**

2                     5.4.5 . . . “Repeatedly Delinquent” means payment of any  
3                     undisputed . . . amount received more than thirty (30) Days after  
4                     the Payment Due Date, three (3) or more times during a six (6)  
5                     ~~twelve (12)~~ month period on the same Billing account number.

6           **Issue No. 5-11**

7                     5.4.5 .....Required deposits are due and payable within thirty (30)  
8                     Days after demand and conditions being met, unless the billed  
9                     Party challenges the amount of the deposit or deposit requirement  
10                    (e.g., because delay in submitting disputes or making payment was  
11                    reasonably justified due to inaccurate or incomplete Billing)  
12                    pursuant to Section 5.18. If such a Dispute is brought before the  
13                    Commission, deposits are due and payable as of the date ordered  
14                    by the Commission.

15           **Issue No. 5-12**

16                    ~~5.4.5 Each Party will determine the other Party's credit status~~  
17                    ~~based on previous payment history as described below, or if, If the~~  
18                    ~~Parties are doing business with each other for the first time, each~~  
19                    ~~Party will determine the other Party's credit status based on credit~~  
20                    ~~reports such as Dun and Bradstreet. If a Party that is doing~~  
21                    ~~business with the other Party for the first time has not established~~  
22                    ~~satisfactory credit with the other Party according to the previous~~  
23                    ~~sentence or the Party is Repeatedly Delinquent in making its~~  
24                    ~~payments, or the Party is being reconnected after a disconnection~~  
25                    ~~of service or discontinuance of the processing of orders by the~~  
26                    ~~Billing Party due to a previous non-payment situation, the Billing~~  
27                    ~~Party may require a deposit to be held as security for the payment~~  
28                    ~~of charges before the orders from the billed Party will be~~  
29                    ~~provisioned and completed or before reconnection of service. The~~  
30                    ~~Billing Party may also require a deposit for the failure of the other~~  
31                    ~~Party to make full payment, less any disputed amount as provided~~  
32                    ~~for in Section 21 of this Agreement, for the relevant services~~  
33                    ~~provided under this Agreement within ninety (90) Days following~~  
34                    ~~the Payment Due Date, if the Commission determines that all~~  
35                    ~~relevant circumstances warrant a deposit. “Repeatedly delinquent”~~  
36                    ~~means any payment received thirty (30) Days or more after the~~  
37                    ~~Payment Due Date, three (3) or more times during a twelve (12)~~  
38                    ~~month period on the same Billing account number. Accounts with~~  
39                    ~~amounts disputed under the dispute provisions of this agreement~~  
40                    ~~shall not be included as Repeatedly Delinquent based on amounts~~  
41                    ~~in dispute alone. The deposit may not exceed the estimated total~~  
42                    ~~monthly charges for an average two (2) month period within the 1<sup>st</sup>~~

1 three (3) months from the date of the triggering event which would  
2 be either the date of the request for reconnection of services or  
3 resumption of order processing ~~and/or the date CLEC is repeatedly~~  
4 ~~delinquent as described above~~ for all services. The deposit may be  
5 a surety bond if allowed by the applicable Commission regulations,  
6 a letter of credit with terms and conditions acceptable to the Billing  
7 party, an interest bearing escrow account, or some other form of  
8 mutually acceptable security such as a cash deposit. Required  
9 deposits are due and payable within thirty (30) Days after demand  
10 and conditions being met.

11 Issues 5-8 and 5-9 address the definition of “Repeatedly Delinquent,” which is the  
12 operative term in determining whether Qwest can demand a deposit. In other  
13 words, if payment by Eschelon is “Repeatedly Delinquent,” as that term will be  
14 defined by this arbitration, Qwest can invoke remedies set forth in the Payment  
15 and Deposit language of the contract. Eschelon’s proposal under Issue No. 5-8 is  
16 designed so that the deposit requirement (a deposit that can amount to 2 months  
17 worth of charges, or about \$10 million for Eschelon) under Section 5.4.5 is  
18 triggered only when there is a failure to pay a non-de minimus, undisputed  
19 amount. The deposit requirement is designed to protect Qwest when there is a  
20 legitimate concern regarding future payment, and a de minimus outstanding  
21 amount does not rise to this level.

22 For Issue 5-9, Eschelon provides two options, one that defines “Repeatedly  
23 Delinquent” in terms of three late payments in three consecutive months, and one  
24 that defines the term as late payments in three months out of a six month period –  
25 either of which is acceptable to Eschelon. Again, Eschelon’s language is  
26 designed to trigger a deposit when there is a legitimate concern about its ability to

1 pay. Regarding Issue 5-11, Eschelon’s language simply recognizes that deposits  
2 are payable in 30 days except when challenged at the Commission pursuant to  
3 dispute resolution.<sup>84</sup> In these instances the Commission would determine the  
4 payment due date of the deposit.

5 As a separate alternative, Eschelon proposes language in Issue 5-12 that would  
6 not hinge on the definition of “Repeatedly Delinquent,” but rather would allow  
7 the Commission to determine whether a deposit is warranted based on the  
8 Commission’s review of a party’s payment history and “all relevant  
9 circumstances.” Adopting Eschelon’s language on Issue 5-12 would avoid the  
10 need to rule on Issues 5-8, 5-9 and 5-11.

11 **Q. WHAT ARE QWEST’S PROPOSALS ON THESE ISSUES?**

12 A. Qwest proposes the following language on these issues (Qwest language opposed  
13 by Eschelon is underlined and Eschelon proposed language opposed by Qwest in  
14 ~~strikeout~~):

15 **Issue No. 5-8**

16 5.4.5 “Repeatedly Delinquent” means payment of any undisputed  
17 ~~non-de minimus~~ amount received more than thirty (30) Days after  
18 the Payment Due Date . . .

19 **Issue No. 5-9**

20 5.4.5 . . . “Repeatedly Delinquent” means payment of any  
21 undisputed . . . amount received more than thirty (30) Days after  
22 the Payment Due Date, ~~for three (3) consecutive months~~ or more  
23 times during a twelve (12) month period on the same Billing  
24 account number.. .

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<sup>84</sup> Section 5.18 is the dispute resolution provision of the ICA.

1           **Issue No. 5-11**

2                     5.4.5 .....Required deposits are due and payable within thirty (30)  
3                     Days after demand and conditions being met, ~~unless the billed~~  
4                     ~~Party challenges the amount of the deposit or deposit requirement~~  
5                     ~~(e.g., because delay in submitting disputes or making payment was~~  
6                     ~~reasonably justified due to inaccurate or incomplete Billing)~~  
7                     ~~pursuant to Section 5.18. If such a Dispute is brought before the~~  
8                     ~~Commission, deposits are due and payable as of the date ordered~~  
9                     ~~by the Commission.~~

10           **Issue No. 5-12**

11                     Qwest does not offer an alternative proposal under Issue 5-12 as  
12                     Eschelon does.

13                     For Issue 5-8, Qwest proposes to omit the term “non de minimus,” which means  
14                     that any undisputed amount, even a few dollars, that is received after 30 days after  
15                     the due date could be counted by Qwest as “Repeatedly Delinquent” and used to  
16                     invoke the deposit requirement. Qwest states that the term non de minimus is  
17                     vague and would lead to further disagreements requiring Commission  
18                     resolution.<sup>85</sup> For Issue 5-9, Qwest proposes to define Repeatedly Delinquent as  
19                     late payments in three months within a twelve month period. Qwest notes that its  
20                     proposed timeframe is consistent with the timeframe adopted in the past.<sup>86</sup> Under  
21                     Issue 5-11, Qwest proposes to demand payment of deposits within 30 days with  
22                     no exceptions. Qwest complains that the exception in Eschelon’s language  
23                     (allowing a deposit demand to be challenged at the Commission and the  
24                     Commission to set the deposit due date) would cause delay in the payment of the

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<sup>85</sup> Qwest Response, p. 16, line 18.

<sup>86</sup> Qwest Response, p. 17.

1 deposit and would require the Commission to “micro manage” the companies’  
2 relationship.<sup>87</sup> Qwest does not provide a separate proposal under Issue 5-12.

3 **Q. PLEASE DESCRIBE THE DISAGREEMENT UNDER ISSUE 5-8 “DE**  
4 **MINIMUS AMOUNT” (FIRST OF FOUR ISSUES).**

5 A. There is a provision in the contract under Section 5.4.5 that allows a Billing Party  
6 to demand a deposit from the Billed Party if the Billed Party is “Repeatedly  
7 Delinquent” in making payments. The operative, agreed to language of Section  
8 5.4.5 states that:

9 If a Party that is doing business with the other Party for the first  
10 time has not established satisfactory credit with the other Party  
11 according to the previous sentence or the Party is *Repeatedly*  
12 *Delinquent* in making its payments, or the Party is being  
13 reconnected after a disconnection of service or discontinuance of  
14 the processing of orders by the Billing Party due to a previous non-  
15 payment situation, the Billing Party may require a deposit to be  
16 held as security for the payment of charges before the orders from  
17 the billed Party will be provisioned and completed or before  
18 reconnection of service. (emphasis added)

19 The key to Issues 5-8 and 5-9 is the appropriate definition of “Repeatedly  
20 Delinquent.” Eschelon proposes to include the term “non de minimus” in the  
21 definition of Repeatedly Delinquent so that a few dollars of undisputed late  
22 payments do not trigger a significant deposit requirement.

23 **Q. WHY SHOULD DE MINIMUS AMOUNTS NOT TRIGGER THE**  
24 **DEPOSIT REQUIREMENT?**

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<sup>87</sup> Qwest Response, p. 18.



1 A. The purpose of this deposit provision is to allow Qwest to obtain a deposit when  
2 there is a legitimate concern about Eschelon’s ability to pay future charges. A *de*  
3 *minimus* amount of undisputed late charges does not rise to the level of a  
4 legitimate concern in this regard, and should therefore not trigger the requirement  
5 of Section 5.4.5 to pay a substantial deposit.

6 **Q. WHAT CONSTITUTES A DE MINIMUS AMOUNT?**

7 A. “De Minimus” is defined as “of trifling consequence of importance; too  
8 insignificant to be worthy of concern.”<sup>88</sup> According to *Webster’s*, the term *de*  
9 *minimus* is derived from the Latin phrase *de minimus non curat lex*, which:

10 ...refers to the principle of law that even if a technical violation of  
11 a law appears to exist according to the letter of the law, if the effect  
12 is too small to be of consequence, the violation of the law will not  
13 be considered as a sufficient cause of action...

14 So, under Eschelon’s proposal, for Qwest to be able to demand a deposit under  
15 the “Repeatedly Delinquent” provision, the amount received more than 30 days  
16 after the payment due date would need to be “worthy of concern” and not of  
17 “trifling consequence.” Amounts that are “too small to be of consequence” do not  
18 rise to the level of a legitimate concern about Eschelon’s ability to pay. The term  
19 “non de minimus” should be included to acknowledge this.

20 **Q. IS THIS TERM TOO VAGUE TO BE USEFUL?**

21 A. Though Qwest may complain that the term is vague,<sup>89</sup> the dictionary definition

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<sup>88</sup> Webster’s dictionary online: <http://www.webster-dictionary.net/definition/Minimus>

<sup>89</sup> Qwest Response, p. 16, line 18.

1 quoted above shows that the term is commonly understood. Other terms in the  
2 ICA that also have a commonly understood meaning are likewise not defined.  
3 For example, the term “material” and the concept of “materiality” are used  
4 throughout the agreement in closed language without being defined in those  
5 provisions. See ICA Sections 2.1, 2.2, 5.1.3.1, 5.4.6, 5.6.2, 5.8.4, 5.13.1,  
6 7.2.2.9.6, 8.2.1.29, 10.6.2.5.1, 10.8.2.14, 10.8.2.18 & 11.3. In a way, “material”  
7 is the flip side of “de minimus,” because a de minimus amount would not be  
8 material. In fact, another way to resolve this issue would be to adopt the  
9 following language for this sentence in Issue 5-8:

10 “Repeatedly Delinquent” means payment of any undisputed  
11 material amount received more than thirty (30) Days after the  
12 Payment Due Date.

13 Eschelon also offers this language as a means to resolve this issue. The term  
14 “material” has the advantage (unlike the term “non de minimus”) of being used  
15 elsewhere in the interconnection agreement. And the parties must be able to  
16 determine its meaning, given the frequency of its use in other provisions of the  
17 agreement. In fact, it is already used within the Payment and Deposit provisions  
18 of Section 5.4. In Section 5.4.6, agreed-to language states:

19 Upon a material change in financial standing (including Qwest  
20 transfer of relevant exchanges to any unaffiliated party as  
21 described in Section 5.12.2), the billed Party may request and the  
22 Billing Party will consider a recalculation of the deposit.

1 If a change in financial standing can be determined “material” or not, then an  
2 undisputed amount can likewise be determined “material” or not. Eschelon does  
3 not object to use of either “non de minimus” or “material” to resolve this issue.

4 **Q. PLEASE DESCRIBE THE DISAGREEMENT UNDER ISSUE 5-9**  
5 **“DEFINITION OF REPEATEDLY DELINQUENT” (SECOND OF FOUR**  
6 **ISSUES).**

7 A. Eschelon proposes to define Repeatedly Delinquent to mean undisputed amounts  
8 received more than 30 days after the Payment Due Date for three consecutive  
9 months for the same billing account number (“BAN”). Qwest, on the other hand,  
10 proposes that Repeatedly Delinquent should mean late payment three or more  
11 times in a twelve month period (*i.e.*, the three months do not need to be  
12 consecutive).

13 **Q. WHY IS ESCHELON’S PROPOSAL SUPERIOR TO QWEST’S?**

14 A. Similar to Issue 5-8, Eschelon’s proposal would trigger a deposit requirement  
15 when there is actually a legitimate concern about a party’s ability to pay, while  
16 Qwest’s proposal would trigger a deposit requirement when there is no legitimate  
17 concern.

18 Under Qwest’s proposed language, if Eschelon were to pay Qwest a portion of the  
19 amount due late in months one and two (even a de minimus amount), make timely  
20 payments in full for the next nine months, and then pay a portion of the amount  
21 due late in month twelve, Qwest could demand a large security deposit. This

1 scenario does not provide evidence of the financial stress that gives rise to a  
2 legitimate need for payment “security.”

3 **Q. HAS QWEST AGREED TO THE “3 CONSECUTIVE MONTH”**  
4 **STANDARD ESCHELON IS PROPOSING HERE IN ICAS WITH OTHER**  
5 **CLECS?**

6 A. Yes. For example, in a recent filing in Utah, McLeodUSA quoted the definition  
7 of “Repeatedly Delinquent” in § 26.4.4 of its ICA with Qwest as “being thirty  
8 (30) days or more delinquent for three (3) consecutive months.”<sup>90</sup> In addition,  
9 ATI, which was recently acquired by Eschelon, has the three consecutive month  
10 standard in Section 26.4.4 of its current ICA with Qwest in Washington. In  
11 addition to these CLECs for whom Qwest utilizes the 3 consecutive month  
12 standard for defining Repeatedly Delinquent, Qwest uses it for the following  
13 additional companies (this list is not meant to be exhaustive): AT&T Wireless  
14 Services; Pathnet, Inc.; Autotel; Arch Paging, Inc.; Airtouch Paging, Inc.;  
15 MetroArea User; and Alamosa PCS LLC. The fact that Qwest has agreed to  
16 include “3 consecutive month” language in interconnection/service agreements  
17 with other companies shows that Qwest recognizes that this standard adequately  
18 protects its interests. Holding Eschelon to a higher standard is unnecessary and  
19 discriminatory. Qwest attempts to support its position by pointing out that its

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<sup>90</sup> The pertinent portion of McLeodUSA’s brief is provided as Eschelon/22. I have provided as Eschelon/22 the pertinent pages of various carriers’ interconnection/service agreements with Qwest which shows that Qwest has agreed to the three consecutive month standard with numerous CLECs, CMRS providers and paging companies.

1 proposal has been adopted in the past, but as shown in Eschelon/22, Eschelon's  
2 proposal has also been adopted in the past, and Qwest/US WEST has agreed to it.

3 **Q. WHY IS ESCHELON'S ALTERNATIVE PROPOSAL – "3 MONTHS IN A**  
4 **SIX MONTH PERIOD" - SUPERIOR TO QWEST'S PROPOSAL?**

5 A. Again, Eschelon's language addresses a situation in which a legitimate concern  
6 exists about a party's ability to pay. For instance, under Eschelon's alternative  
7 proposal, if the billed party had nine consecutive months of timely payment in  
8 full, it would not be Repeatedly Delinquent (unlike under Qwest's proposal).  
9 Eschelon offers either proposal #1 or #2 for the Commission's adoption.

10 **Q. PLEASE DESCRIBE THE DISAGREEMENT UNDER ISSUE 5-11**  
11 **"DISPUTES BEFORE COMMISSION" (THIRD OF FOUR ISSUES).**

12 A. This disagreement addresses whether Eschelon can dispute the amount of a  
13 deposit or deposit requirement at the Commission before it is implemented.  
14 Qwest's proposal is that "deposits are due and payable within thirty (30) days  
15 after demand and conditions are met." Eschelon's proposal contains this same  
16 language, but also provides an exception if the billed party challenges the amount  
17 of the deposit or deposit requirement to the Commission, in which case the  
18 deposit due date would be established by the Commission. Eschelon's language  
19 identifies an example in which this scenario may occur, that is, delay in  
20 submitting disputes or making payment was reasonably justified due to inaccurate  
21 or incomplete billing – much like the examples I discuss above.

1 **Q. IS THE DISPUTE RESOLUTION PROVISION CAPABLE OF**  
2 **ADDRESSING ESCHELON'S CONCERNS ABOUT QWEST LEVYING**  
3 **DESPOSITS?**

4 A. No. If Eschelon is forced to rely solely on the dispute resolution provision in this  
5 instance, it is likely that Eschelon would be required to pay a deposit that Qwest  
6 demanded before recourse could be sought and obtained at the Commission.

7 **Q. COULD THE COMMISSION REQUIRE ANY DEPOSIT PAYMENT DUE**  
8 **DATE IT WISHES UNDER ESCHELON'S LANGUAGE?**

9 A. Yes. Eschelon's language simply states that if it brings a dispute to the  
10 Commission, the due date for payment of any deposit would be as of the date  
11 ordered by the Commission. In this instance, the Commission could require  
12 Eschelon to provide interim relief to Qwest while the dispute is being litigated, or  
13 the Commission could require payment of a deposit at the conclusion of the  
14 dispute, or the Commission could find the deposit unwarranted and require no  
15 deposit to be paid. Eschelon's language, therefore, would allow the Commission  
16 to make the call on when a deposit is paid when a disagreement regarding that  
17 deposit arises.

18 **Q. WOULD ESCHELON'S LANGUAGE REQUIRE THE COMMISSION TO**  
19 **MAKE A DETERMINATION IN EVERY INSTANCE?**

20 A. No. Eschelon's language only applies if Eschelon challenges the deposit amount  
21 or requirement at the Commission. If Eschelon does not challenge the deposit, it  
22 would pay within 30 days as set forth in Section 5.4.5. Eschelon would not waste

1 the resources of the Commission, Qwest, or itself by raising a baseless challenge  
2 that would result in Eschelon ultimately paying the deposit anyway.

3 **Q. ESCHELON'S LANGUAGE FOR ISSUE 5-12 HAS AN ALTERNATIVE**  
4 **STANDARD OF WHEN THE COMMISSION "DETERMINES THAT ALL**  
5 **RELEVANT CIRCUMSTANCES WARRANT A DEPOSIT" (FOURTH OF**  
6 **FOUR ISSUES). PLEASE EXPLAIN.**

7 A. Eschelon has proposed alternative language in Issue 5-12 that would not hinge on  
8 the definition of "Repeatedly Delinquent." Instead, it would allow the  
9 Commission to determine whether a deposit is warranted based on the  
10 Commission's review of a Billed Party's payment history and "all relevant  
11 circumstances." Since this option does not rely on the definition of "Repeatedly  
12 Delinquent" and defers to Commission authority, it avoids the need to rule on  
13 Issues 5-8, 5-9 and 5-11. Eschelon's alternative language is shown above.

14 **Q. WHAT ARE SOME OF THE ADVANTAGES OF THIS ALTERNATIVE?**

15 A. This option provides the Commission the ability to determine contested deposit  
16 requirements on a case-by-case basis if and when they arise. This option would  
17 provide the greatest degree of flexibility to the Commission in addressing  
18 potential disagreements. If Eschelon does not have a legitimate disagreement  
19 with Qwest, Commission approval would be straightforward. However, if there  
20 was a disagreement, this alternative would allow the Commission to weigh all  
21 relevant facts. The key here is that Commission oversight is preserved and Qwest  
22 is not allowed to unilaterally demand deposits.

1 **SUBJECT MATTER NO. 7. REVIEW OF CREDIT STANDING**

2 **Issue No. 5-13: ICA Section 5.4.7**

3 **Q. WHAT IS THE SOURCE OF DISAGREEMENT UNDER ISSUE 5-13 (THE**  
4 **FINAL “PAYMENT AND DEPOSITS” ISSUE)?**

5 A Qwest proposes to include language that would allow Qwest to increase a deposit  
6 amount or require a new deposit for Eschelon based on Qwest’s unilateral review  
7 of Eschelon’s credit standing.

8 **Q. WHAT IS ESCHELON’S PROPOSAL FOR ISSUE 5-13?**

9 A. Eschelon offers two options for Issue 5-13.

10 **Issue No. 5-13 (1<sup>st</sup> of 2 options)**

11 5.4.7 Intentionally Left Blank

12 **Issue No. 5-13 (2<sup>nd</sup> of 2 options)**

13 5.4.7 If a Party has received a deposit pursuant to Section 5.4.5  
14 but the amount of the deposit is less than the maximum deposit  
15 amount permitted by Section 5.4.5, the Billing Party may review  
16 the other Party's credit standing and increase the amount of deposit  
17 required, if approved by the Commission, but in no event will the  
18 maximum amount exceed the amount stated in Section 5.4.5.  
19 Section 5.4 is not intended to change the scope of any regulatory  
20 agency’s or bankruptcy court’s authority with regard to Qwest or  
21 CLECs.

22 Eschelon’s first option is to leave this section intentionally blank. Eschelon  
23 contends that Qwest’s proposed Section 5.4.7 is undefined and unnecessary.  
24 Eschelon provides option #2 in case the Commission is inclined to agree with the  
25 concept of allowing Qwest to increase deposit amounts based on its review of  
26 Eschelon’s credit standing, in which case Commission approval should be



1 required and the language should recognize that 5.4.7 applies to increasing a  
2 deposit amount and not establishing a new deposit.<sup>91</sup>

3 **Q. WHAT IS QWEST'S PROPOSAL FOR ISSUE 5-13?**

4 A. Qwest has proposed language that would allow it to review Eschelon's credit  
5 standing and unilaterally increase the amount of the deposit. Qwest proposes the  
6 following language under Section 5.4.7:

7 5.4.7 The Billing Party may review the other Party's credit  
8 standing and increase the amount of deposit required but in no  
9 event will the maximum amount exceed the amount stated in  
10 Section 5.4.5.

11 **Q. WHY DOES ESCHELON DISAGREE WITH QWEST'S LANGUAGE IN**  
12 **5.4.7?**

13 A. There are several reasons. First, Qwest's proposed language would grant it  
14 unilateral authority to increase Eschelon's deposit without any recourse by  
15 Eschelon. In fact, Eschelon's credit standing would not even need to change for  
16 Qwest to invoke Section 5.4.7 and demand a deposit or deposit increase. Again,  
17 Eschelon could seek dispute resolution, but as explained above, Commission  
18 relief would likely come after Eschelon has already been required to pay Qwest's  
19 unilaterally-determined deposit amount.

20 Second, Qwest's proposed provision contains no criteria or standards defining  
21 when this provision may be invoked. Qwest's language does not describe the

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<sup>91</sup> Qwest contends that its proposed Section 5.4.7 could allow Qwest to not only increase existing deposits but also to demand a new deposit. Qwest has stated that an increase takes into consideration zero as a starting point.

1 “credit history” that would be subject to review, the conditions that might justify a  
2 review, or the circumstances that would warrant an increase. Indeed Qwest has  
3 indicated during negotiations that it could simply read something in the  
4 newspaper regarding Eschelon and use that information to invoke Section 5.4.7  
5 and increase Eschelon’s deposit (or require a new deposit).

6 Third, this language would effectively nullify the limitations on deposit  
7 requirements under Section 5.4.5. Section 5.4.5 would allow a party to demand a  
8 deposit when a party (i) has not established satisfactory credit with the other  
9 Party, (ii) is Repeatedly Delinquent in making its payments, or (iii) the Party is  
10 being reconnected after a disconnection of service or discontinuance of the  
11 processing of orders due to a previous non-payment situation. Qwest’s proposed  
12 language in 5.4.7 is not limited in any of these respects. In fact, Qwest’s  
13 proposed language would grant Qwest the authority to increase a deposit  
14 requirement even when Eschelon is current in its payments to Qwest. A  
15 legitimate concern about Eschelon’s ability to pay certainly does not exist when  
16 Eschelon is current with Qwest, but Qwest’s 5.4.7 would allow it to demand a  
17 deposit anyway.

18 **Q. DOES ESCHELON DISAGREE WITH QWEST’S 5.4.7 FOR ANY OTHER**  
19 **REASONS?**

20 A. Yes. The provision in Qwest’s proposed Section 5.4.7 that allows Qwest to  
21 increase deposit amounts is unnecessary because Sections 5.4.5 and 5.4.6 already  
22 address how deposits should be recalculated based on financial standing. There is

1 no reason to duplicate less clear provisions in Section 5.4.7. In addition, Qwest is  
2 interpreting Section 5.4.7 to allow Qwest to require a new deposit and not just an  
3 increase in an existing deposit (*i.e.*, an increase from \$0), and this, too, is  
4 unnecessary given that Section 5.4.5 already addresses new deposit requirements.  
5 The ICA already provides Qwest with a means to establish and increase a deposit  
6 for Eschelon, and it is unnecessary and unfair for Qwest to have a second  
7 opportunity to do through Section 5.4.7.

8 Furthermore, Qwest's proposed Section 5.4.7 states that the amount of the  
9 deposit, when increased, may not exceed the maximum amount under Section  
10 5.4.5. Section 5.4.5, however, provides no method for calculation of a maximum  
11 for Qwest's proposed Section 5.4.7. Specifically, Section 5.4.5 states that "[t]he  
12 deposit may not exceed the estimated total monthly charges for an average two  
13 (2) month period within the first three (3) months, *from the date of the triggering*  
14 *event*, which would be either the date of the request for reconnection of services  
15 or resumption of order processing and/or the date CLEC is Repeatedly Delinquent  
16 as described above for all services." (*emphasis added*) However, under Qwest's  
17 Section 5.4.7 there would be no "triggering event" that could be used to select  
18 three months for purposes of computing an average. In other words, Section 5.4.7  
19 does not involve reconnection, resumption of order processing, or Eschelon being  
20 Repeatedly Delinquent, so the deposit cap in 5.4.5 makes no sense within the  
21 context of Qwest's proposed Section 5.4.7.

22 **Q. IS THERE REASON FOR CONCERN ABOUT MISUSE OF THIS**

1           **SECTION?**

2    A.    Yes. Eschelon has requested examples from Qwest in which Section 5.4.7 would  
3           apply that are not already covered by Sections 5.4.5 and 5.4.6. Qwest failed to  
4           provide any examples and responded that Qwest has the right to secure its  
5           accounts if it determines there may be a financial risk. “Financial risk” is a broad  
6           term and suggests that Qwest could take the liberty to read Section 5.4.7 very  
7           broadly. The closed language in 5.4.5 reads: “each Party will determine the other  
8           Party’s credit status based on previous payment history as described below or, if  
9           the Parties are doing business with each other for the first time, based on credit  
10          reports such as Dun and Bradstreet.” Given that Eschelon and Qwest already  
11         agreed to language in Section 5.4.5 that explains how credit status will be  
12         determined and does not grant the unilateral authority carved out in Qwest’s  
13         proposed Section 5.4.7, there is reason for concern.

14   **Q.    WHY IS ESCHELON’S ALTERNATIVE LANGUAGE PROPOSAL**  
15   **SUPERIOR TO QWEST’S PROPOSAL FOR SECTION 5.4.7?**

16    A.    Eschelon’s alternative would alleviate the concern regarding the unilateral  
17           authority granted to Qwest under its proposed Section 5.4.7 by requiring  
18           Commission approval of an increase in the deposit amount. This would also  
19           allow the Commission to review whatever criteria and/or standards are used by  
20           Qwest to increase (or establish) the deposit amount, and also allow the  
21           Commission to address any issues related to the deposit cap under Section 5.4.7.  
22           Eschelon’s alternative for Section 5.4.7 also recognizes that Section 5.4.7 applies

1 to increasing existing deposit amounts and not establishing new deposit  
2 requirements.

3 **Q. PLEASE SUMMARIZE THE PAYMENT AND DEPOSIT ISSUES (ISSUES**  
4 **5-6, 5-7, 5-7(A), 5-8, 5-9, 5-11, 5-12 AND 5-13).**

5 A. Eschelon does not object to the inclusion of the Payment and Deposit provisions  
6 and remedies in the ICA because it agrees that Qwest (and Eschelon) should have  
7 the ability to protect its financial interests when there is a legitimate concern  
8 about future payment. After all, the intent of the payment and deposit provisions  
9 is to address situations when legitimate concerns exist in this regard. However, if  
10 Qwest is able to invoke these provisions in cases where no legitimate concern  
11 about ability to pay exists, it could cause significant harm to Eschelon and to  
12 customers. Given the seriousness of these steps, and the effects they would have  
13 on Eschelon and its customers, Commission oversight should be available to  
14 protect the public interest before these steps are taken.

15 **V. NON DISCLOSURE AGREEMENTS, BILL VALIDATION,**  
16 **COLLOCATION RATE APPLICATION, AND DATA RELATED TO**  
17 **TRRO CAPS (SUBJECT MATTER NOS. 8 – 10, 11 PARTIAL, AND 17)**

18 **SUBJECT MATTER NO. 8. COPY OF NON-DISCLOSURE AGREEMENT**

19 **Issue No. 5-16: ICA Section 5.16.9.1**

20 **Q. PLEASE DESCRIBE THE BUSINESS NEED REGARDING COPY OF**  
21 **NON-DISCLOSURE AGREEMENT IN ISSUE NO. 5-16.**

1 A. Eschelon provides forecasting information to Qwest. This information is highly  
2 competitive and sensitive and this information should not be disclosed to Qwest  
3 employees who are in a position to use it to Eschelon's competitive disadvantage.  
4 Qwest has agreed that Qwest employees to whom Eschelon's forecasts and  
5 forecasting information are disclosed will be required to execute a nondisclosure  
6 agreement covering the information. However, Qwest disagrees as to whether  
7 Qwest must agree to provide Eschelon with a signed copy of each non-disclosure  
8 agreement within ten days of execution. Eschelon should be able to know who at  
9 Qwest is reviewing Eschelon's highly confidential information.

10 **Q. WHAT IS ESCHELON'S PROPOSAL TO ADDRESS THIS ISSUE?**

11 A. Eschelon proposes the following (underlined) language for ICA Section 5.16.9.1:

12 5.16.9.1 The Parties may disclose, on a need to know basis only,  
13 CLEC individual forecasts and forecasting information disclosed  
14 by Qwest, to legal personnel, if a legal issue arises about that  
15 forecast, as well as to CLEC's wholesale account managers,  
16 wholesale LIS and Collocation product managers, network and  
17 growth planning personnel responsible for preparing or responding  
18 to such forecasts or forecasting information. In no case shall retail  
19 marketing, sales or strategic planning have access to this  
20 forecasting information. The Parties will inform all of the  
21 aforementioned personnel, with access to such Confidential  
22 Information, of its confidential nature and will require personnel to  
23 execute a non-disclosure agreement which states that, upon threat  
24 of termination, the aforementioned personnel may not reveal or  
25 discuss such information with those not authorized to receive it  
26 except as specifically authorized by law. Qwest shall provide  
27 CLEC with a signed copy of each non-disclosure agreement  
28 executed by Qwest personnel within ten (10) Days of execution.  
29 Violations of these requirements shall subject the personnel to  
30 disciplinary action up to and including termination of employment.

31 **Q. WHAT IS QWEST'S PROPOSAL ON THIS ISSUE?**

1 A. Qwest proposes to delete Eschelon's proposed language.

2 **Q. WHAT TYPE OF FORECAST INFORMATION IS PROVIDED**  
3 **PURSUANT TO THE ICA?**

4 A. Forecasts provided under the ICA include competitively sensitive information  
5 related to Interconnection Trunks in ICA Section 7.2.2.8; future Central Office  
6 space Collocation requirements in ICA Section 8.4.1.4; and forecasted demand by  
7 DS0, DS1 and DS3 capacities that will be terminated on the Interconnection  
8 Distribution Frame (ICDF) by Qwest on behalf of CLEC in ICA Section 8.4.4.1.

9 **Q. WHY IS ESCHELON'S PROPOSAL NECESSARY AND REASONABLE?**

10 A. If Qwest does not provide Eschelon with copies of executed nondisclosure  
11 agreements, Eschelon will have insufficient information to object if sensitive  
12 information is provided to a Qwest employee not authorized by the ICA to receive  
13 it. Eschelon thus will have no way to confirm that its confidential information is  
14 being adequately protected. Qwest has already agreed that employees will sign  
15 the agreement. Eschelon's proposal to require Qwest to provide a copy of that  
16 existing executed agreement imposes no additional burden on Qwest. Qwest's  
17 unwillingness to provide copies of executed nondisclosure agreements renders the  
18 agreed upon requirement to actually execute these agreements difficult to enforce.

19 Eschelon's proposal to receive copies of executed non-disclosure agreements  
20 reflects the common practice in other contexts under which the parties exchange  
21 signature pages of confidentiality protective agreements so that a party will be

1 aware of who is receiving its confidential information and will be in a position to  
2 raise objections if necessary.

3 Because providing executed protective agreements is common practice and  
4 facilitates Eschelon's ability to enforce these agreements, Qwest should be  
5 required to provide signed copies of these agreements to Eschelon.

6 **Q. IS IT BURDENSOME TO PROVIDE SIGNED COPIES OF PROTECTIVE**  
7 **AGREEMENTS?**

8 A. No. Providing copies of signed protective agreements is common practice and  
9 can not reasonably be considered a burden.

10 **Q. IS ESCHELON PROTECTED UNDER SECTION 18 OF THE ICA?**

11 A. No. Though section 18.3.1 allows Eschelon to audit Qwest's compliance with  
12 this interconnection agreement, the most obvious potential cause of non-  
13 compliance with the Agreement regarding the handling of Eschelon's forecast  
14 would be the signatories of the protective agreement. This is precisely the type of  
15 information that should be made available to Eschelon to ensure the proper  
16 handling of forecasted data. Section 18.3.1 reads in its entirety [emphasis added]:

17 18.3.1 Either Party may request an Audit of the other Party's  
18 compliance with this Agreement's measures and requirements  
19 applicable to limitations on the distribution, maintenance, and use  
20 of proprietary or other protected information that the requesting  
21 Party has provided to the other. Those *Audits shall not take place*  
22 *more frequently than once in every three (3) years unless cause is*  
23 *shown* to support a specifically requested audit that would  
24 otherwise violate this frequency restriction. *Examinations will not*  
25 *be permitted in connection with investigating or testing such*  
26 *compliance.* Other provisions of this Section that are not



1 inconsistent herewith shall apply, except that in the case of audits,  
2 the Party to be audited may also request the use of an independent  
3 auditor.

4 **Q. PLEASE SUMMARIZE THIS ISSUE.**

5 A. Qwest has agreed that Qwest employees to whom Eschelon's forecasts and  
6 forecasting information are disclosed will be required to execute a nondisclosure  
7 agreement covering the information. Eschelon's proposed language would  
8 require Qwest to provide Eschelon with a signed copy of each non-disclosure  
9 agreement within ten days of execution. Eschelon's language is reasonable and  
10 should be adopted.

11 **SUBJECT MATTER NO. 9. TRANSIT RECORD CHARGE AND BILL**  
12 **VALIDATION**

13 **Issues Nos. 7-18 and 7-19: ICA Sections 7.6.3.1 and 7.6.4**

14 **Q. PLEASE DESCRIBE THE BUSINESS NEED RELATED TO TRANSIT**  
15 **RECORD CHARGE AND BILL VALIDATION IN ISSUE NOS. 7-18 AND**  
16 **7-19.**

17 A. "Transit Traffic" is defined as any traffic that originates from one  
18 Telecommunications Carrier's network, transits another Telecommunications  
19 Carrier's network, and terminates to yet another Telecommunications Carrier's  
20 network<sup>92</sup> Qwest is a transit provider and bills Eschelon for transit for certain  
21 Eschelon originated calls. The bills that Qwest provides to Eschelon for Eschelon

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<sup>92</sup> See ICA, Section 4 - Definitions.

1 originated calls do not contain call record detail, but instead simply contain the  
2 number of transit minutes and the transit traffic rate. In order to validate the bills  
3 that Qwest provides, Eschelon requests, on a limited basis, call records that would  
4 allow for bill verification. It is unclear whether Qwest will even provide the  
5 transit records necessary for bill verification, and if so, whether Qwest would  
6 attempt to charge for the information necessary to validate Qwest's bills.

7 **Q. WHAT IS ESCHELON'S PROPOSAL TO ADDRESS THIS ISSUE?**

8 A. Eschelon proposes the following (underlined) language:

9 **Issue No. 7-18:**

10 7.6.3.1 In order to verify Qwest's bills to CLEC for Transit Traffic  
11 the billed party may request sample 11-01-XX records for  
12 specified offices. These records will be provided by the transit  
13 provider in EMI mechanized format to the billed party at no  
14 charge, because the records will not be used to bill a Carrier. The  
15 billed party will limit requests for sample 11-01-XX data to a  
16 maximum of once every six months, provided that Billing is  
17 accurate.

18 **Issue No. 7-19:**

19 7.6.4 Qwest will provide the non-transit provider, upon request,  
20 bill validation detail including but not limited to: originating and  
21 terminating CLLI code, originating and terminating Operating  
22 Company Number, originating and terminating state jurisdiction,  
23 number of minutes being billed, rate elements being billed, and  
24 rates applied to each minute.

25 **Q. WHAT IS QWEST'S PROPOSAL ON THIS ISSUE?**

26 A. Qwest proposes that Eschelon's language be deleted.

27 **Q. WHY IS ESCHELON'S LANGUAGE NECESSARY?**

28 A. Qwest has already agreed to provide reasonably requested documentation that will

1 expedite the resolution of disputes between Eschelon and Qwest.<sup>93</sup> Section 7.6.3  
2 of this ICA contains agreed upon language describing the circumstances under  
3 which Qwest can charge CLEC for transit records.

4 7.6.3 If the non-transit provider requests records pursuant to ICA  
5 Sections 7.6.1 or 7.6.2, the Parties will charge the same rate for  
6 Category 11-01-XX records sent in an EMI mechanized format.  
7 ***These records are used to provide information necessary for each***  
8 ***Party to bill the Originating Carrier.*** The charge listed in Exhibit  
9 A of this Agreement is applicable to each transit record that meets  
10 the definition of a billable record. (Emphasis added)

11 Because ICA Section 7.6.3 appears to be limited to records necessary to bill the  
12 Originating Carrier and the records sought by Eschelon are records of Eschelon  
13 originated calls, Eschelon proposes to add a provision that explicitly states that  
14 there is no charge for sample records used to verify Qwest's bills to CLEC.  
15 Qwest does not bill Eschelon transit charges for calls originated by a third party.  
16 Qwest does bill Eschelon transit charges for calls originated by Eschelon and it is  
17 these records Eschelon seeks to review for bill validation purposes.

18 It should also be noted that Eschelon's language limits the request for these  
19 records to once every six months, provided Qwest's billing is accurate. ICA  
20 Section 7.6.4 of Eschelon's proposal simply provides detail regarding the  
21 information Eschelon seeks when it requests transit records for the purpose of bill  
22 validation.

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<sup>93</sup> See ICA Section 21.8.4.3 of this Interconnection Agreement.

1 **Q. WHY CAN'T ESCHELON VERIFY THE INFORMATION ON QWEST'S**  
2 **TRANSIT BILLS?**

3 A. Qwest's transit bills provide information at the summary level. The bills tell you  
4 the number of minutes terminated to a particular office, but do not provide call  
5 detail information, such as the time and duration of each individual call. Because  
6 Eschelon originates these calls, Eschelon may be able to compare its own switch  
7 records with the bill summaries. However, in instances when Eschelon's data  
8 does not reconcile with Qwest's summary bills, Eschelon would require more  
9 detailed information to determine why differences exist.

10 **Q. DOES QWEST HAVE THE INFORMATION REQUESTED BY**  
11 **ESCHELON?**

12 A. Yes. Qwest must have call detail information available to it in order to generate  
13 the summary bills. Otherwise, how is Qwest able to bill Eschelon for these  
14 minutes? Eschelon is simply seeking information that it can use to validate the  
15 bills it receives from Qwest. Eschelon's proposal for Section 7.6.4 does not ask  
16 that the information be added to other records; it merely seeks to obtain  
17 information on a request basis when needed to validate bills.

18 **Q. PLEASE SUMMARIZE THIS ISSUE.**

19 A. In order to validate the bills that Qwest provides, Eschelon needs occasional  
20 access to a limited number of call records that would allow for bill verification.  
21 Eschelon's language allows for Eschelon to obtain these records from Qwest for  
22 the purpose of bill verification. Eschelon's language is reasonable and therefore

1 should be adopted.

2 **SUBJECT MATTER NO. 10. COLLOCATION AVAILABLE INVENTORY**

3 **Issue Nos. 8-20 and 8-20(a): ICA Sections 8.1.1.10.1.1.1 and 8.2.10.4.3**

4 **Q. ARE ISSUES 8-20 AND 8-20(A) CLOSED?**

5 A. Yes. The closed language for these issues is shown below:

6 8.1.1.10.1.1.1 Notwithstanding any other provision of this  
7 Agreement, if Qwest prepares a Quote Preparation Fee for a posted  
8 Collocation site and for any reason the posted Collocation site is  
9 returned to Qwest inventory, Qwest will post the Quote  
10 Preparation Fee quote (with the carrier's name redacted) on the  
11 inventory list for that site and, for future requests for that site, will  
12 waive the Quote Preparation Fee, as the quote has already been  
13 prepared, unless Qwest establishes a change in circumstance  
14 affecting the quoted price.  
15

16 8.2.10.4.3 CPMC will verify whether the requested site is still  
17 available for acquisition by conducting a feasibility study within  
18 ten (10) Days after receipt of the application. If the site is not  
19 available the CPMC will notify the CLEC in writing. If the site is  
20 available a site survey will be arranged with the CLEC and Qwest  
21 State Interconnect Manager (SICM). Upon completion of the  
22 survey Qwest will prepare a quote based on the site inventory and  
23 any requested modifications to the site. CLEC must pay in full one  
24 hundred percent (100%) of the quoted non-recurring charges to  
25 Qwest within thirty (30) Days of receipt of the quote. If Qwest  
26 does not receive the payment within such thirty (30) Day period,  
27 the quote will expire and the requested site will be returned to  
28 Qwest inventory. The CLEC will be charged a Special Site  
29 Assessment fee as specified in Section 8.1.15.2.1 of Exhibit A for  
30 work performed up to the point of expiration or non-acceptance of  
31 the quote. See Section 8.3.11.3.2. Each Party reserves its right to  
32 advocate for changes regarding the rates and application of the  
33 rates for the elements in this section in a Commission docket (e.g.,  
34 cost case). Upon receipt of the full payment for the quoted non-  
35 recurring charges, Qwest will begin the establishment of the site  
36 records and complete the job build-out. The interval shall be forty-

1 five (45) Days for completion of the site from receipt of payment.  
2 In the event that CLEC requires Qwest to install additional services  
3 to the existing site, the interval will revert to the intervals defined  
4 in the assuming CLEC's Interconnect Agreement.

5 **SUBJECT MATTER NO. 11. POWER – QPF<sup>94</sup>**

6 **Issue No. 8-22: ICA Sections 8.3.9.1.3 and 8.3.9.2.3**

7 **Q. HAS ISSUE 8-22 CLOSED SINCE ESCHELON'S PETITION FOR**  
8 **ARBITRATION WAS FILED?**

9 A. Yes. The closed language for Issue 8-22 in Oregon is as follows:

10 8.3.9.1.3 DC Power Reduction Without Reservation QPF: Includes the  
11 cost of performing a feasibility study and producing the quote for  
12 fulfilling the DC Power Reduction request. It covers the project, order  
13 and support management, engineering and planning associated with the  
14 administrative functions of processing the request.

15 8.3.9.2.3 DC Power Restoration Without Reservation QPF: Includes the  
16 cost of performing a feasibility study and producing the quote for  
17 fulfilling the DC Power Restoration Without Reservation request. It  
18 covers the project, order and support management, engineering and  
19 planning associated with the administrative functions of processing the  
20 request.

21 **SUBJECT MATTER NO. 17. CAPs – DATA RELATING TO CAPS**

22 **Issue Nos. 9-39: ICA Sections 9.1.13.4.1.2.2.1 and 9.1.13.4.1.2.2.2**

23 **Q. HAS THIS ISSUE CLOSED SINCE THE PETITION FOR ARBITRATION**  
24 **WAS FILED IN THIS CASE?**

25 A. Yes. This issue has closed, with respect to the caps provisions cited below,<sup>95</sup> with  
26 the following language:

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<sup>94</sup> Other Power issues (Issues 8-21 and subparts) are being address in the testimony of Mr. Starkey. As shown in the Disputed Issues Matrix, p. 68 (dated 10/10/06), Issue No. 8-23 is closed.

1 9.1.13.4.1.2.2 For Caps:

2 9.1.13.4.1.2.2.1 With respect to disputes regarding the caps  
3 described in Sections 9.2 and 9.6.2.3, data that allows CLEC to  
4 identify all CLEC circuits relating to the applicable Route or  
5 Building [including if available circuit identification (ID),  
6 installation purchase order number (PON), Local Service Request  
7 identification (LSR ID), Customer Name/Service Name,  
8 installation date, and service address including location (LOC)  
9 information (except any of the above, if it requires a significant  
10 manual search), or such other information to which the Parties  
11 agree]. In the event of such a dispute, CLEC will also provide  
12 Qwest the data upon which it relies for its position that CLEC may  
13 access the UNE.

14 9.1.13.4.1.2.2.2 Notwithstanding anything in this Section 9.1.13.4  
15 that may be to the contrary, to the extent that Qwest challenges  
16 access to any UNE(s) on the basis that CLEC's access to or use of  
17 UNEs exceeds the caps described in Sections 9.2 or 9.6.2.3  
18 because CLEC has ordered more than ten UNE DS1 Loops or  
19 more than the applicable number of DS3 Loop circuits or UDIT  
20 circuits in excess of the applicable cap on a single LSR (or a set of  
21 LSRs submitted at the same time for the same address for which  
22 CLEC populates the related PON field to indicate the LSRs are  
23 related), Eschelon does not object to Qwest rejecting that single  
24 LSR (or the set of LSRs that meets the preceding description) on  
25 that basis. The means by which Qwest will implement rejection of  
26 such orders is addressed in Section 9.1.13. Except as provided in  
27 this Section 9.1.13.4.1.2.2.2, in all other situations when Qwest  
28 challenges access to any UNE(s) on the basis that CLEC's access  
29 to or use of UNEs exceeds the caps described in Sections 9.2 or  
30 9.6.2.3, Qwest must immediately process the request and  
31 subsequently proceed with the challenge as described in Section  
32 9.1.13.4.1.

33 **Q. HAS ESCHELON'S POSITION CHANGED REGARDING WHETHER**  
34 **QWEST SHOULD BE ABLE TO REJECT ESCHELON'S ORDERS?**

---

<sup>95</sup> Parties have agreed that portions of 9-39 dealing with the non-impaired wire center case are not being dealt with in this round of testimony.

1 A. No. Eschelon agreed to this language in order to close this proposal. The  
2 situation described in 9.1.13.4.1.2.2.2 is an isolated situation that is unlikely to  
3 occur for a small company such as Eschelon.<sup>96</sup>

4 **VI. WIRE CENTER ISSUES (ISSUE NOS. 9-37, 9-37(A), 9-37(B), 9-38, 9-39**  
5 **(EXCEPT CAPS), 9-40, 9-41 AND 9-42)**

6 **Q. WHAT IS ESCHELON'S BUSINESS NEED RELATED TO THE WIRE**  
7 **CENTER ISSUES (ISSUES 9-37, 9-37(A), 9-37(B), 9-38, 9-39, 9-40, 9-41,**  
8 **AND 9-42)?**

9 A. On March 20, 2007 the Oregon Commission issued Order No. 07-109 in docket  
10 UM 1251 regarding Request for Commission Approval of Non-Impairment Wire  
11 Center List.<sup>97</sup> This order addresses the proper means to calculate business line  
12 counts and fiber-based collocations when determining whether a Qwest wire  
13 center can be classified as non-impaired;<sup>98</sup> the procedures for evaluation and  
14 implementation of future wire center classifications; how Qwest should process  
15 orders submitted by CLECs for non-impaired UNEs in or between impacted wire  
16 centers; whether Qwest can impose a charge, and if so how much, for converting

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<sup>96</sup> For additional discussion see my testimony on issue 9-38 -- Processing of High Capacity Loop and Transport Requests).

<sup>97</sup> This order ("Oregon Wire Center Order") is attached to my testimony as Eschelon/40.

<sup>98</sup> For convenience, I will use the term non-impaired wire center to reflect a wire center that is classified as Tier 1 or Tier 2 with respect to high capacity transport or classified as non-impaired for DS1 and/or DS3 Loops. Technically a wire center is not non-impaired with respect to transport, as transport is between two Qwest offices and transport non-impairment is determined by the status the wire centers on both ends of the transport route. For example, a DS1 or DS3 transport facility between a Tier 1 and Tier 3 office would not be considered non-impaired. In other words, CLECs would retain access to Unbundled DS1 and DS3 transport even though we refer to the Tier 1 as being on the Commission approved non-impairment list.



1 impacted UNEs to tariffed services.<sup>99</sup> The Commission’s decisions in this docket  
2 need to be put into practice through inclusion in the Interconnection Agreement.  
3 Eschelon has proposed language for these wire center issues that implements the  
4 Commission’s decision.<sup>100</sup> Specific contract language will help minimize future  
5 disputes, and inclusion in the ICA will allow other CLECs to opt in to those  
6 terms.

7 **Q. ARE THE WIRE CENTER ISSUES STAYED IN THIS ARBITRATION?**

8 A. No. Subsequent to the Commission’s order in Docket UM 1251 Eschelon  
9 updated its latest wire center ICA language so that it is consistent with the  
10 Commission’s order.<sup>101</sup> Qwest in its response petition argues, “For reasons of  
11 efficiency and to avoid inconsistent outcomes, the parties should not litigate these  
12 issues in this arbitration but, instead, should incorporate the results of the wire  
13 center proceeding into their interconnection agreement.”<sup>102</sup> Because this  
14 Commission has issued an order in the Wire Center Docket, however, there is no  
15 reason to delay implementation of the wire centers issues through contract  
16 language.

---

<sup>99</sup> See Oregon Wire Center Order, p. 4 (Eschelon/40, Denney/4).

<sup>100</sup> See, e.g., TRRO ¶233 (“We expect that incumbent LECs and competing carriers will implement the Commission’s findings as directed by section 252 of the Act . . . the incumbent LEC and competitive LEC must negotiate in good faith regarding any rates, terms, and conditions necessary to implement our rule changes.”).

<sup>101</sup> Eschelon provided updated ICA language to Qwest in January and again on April 20, 2007. Qwest has not updated its proposals to reflect the Oregon Commission’s Wire Center Order. Eschelon’s updated language is reflected in the discussion below.

<sup>102</sup> Qwest Response Petition, pp. 48-49.

1 As with any issue, if the companies are able to resolve the open contract language  
2 before the Oregon PUC rules on these issues in this arbitration, that agreed upon  
3 language may be incorporated into the ICA and these issues could, at that point,  
4 be closed in this arbitration. If, however, language issues remain, arbitration of  
5 those issues in this proceeding will be needed before the contract can be finalized  
6 for approval.<sup>103</sup>

7 **Q. PLEASE PROVIDE A BRIEF OVERVIEW OF THE “WIRE CENTER”**  
8 **ISSUES.**

9 A. There are eight wire center issues. I refer to these issues as wire center issues  
10 because they relate to the classification of wire centers for determining the  
11 availability of DS1 and DS3 UNE loop and dedicated transport UNEs and Dark  
12 Fiber UNEs. The FCC, in the TRRO, established criteria for determining  
13 impairment for DS1 and DS3 loop and dedicated transport UNEs and Dark Fiber  
14 based on the number of business lines and/or fiber based collocators in a  
15 particular wire center.<sup>104</sup> The Oregon PUC interpreted the FCC’s wire center  
16 related rules in UM 1251. The wire center issues in this arbitration relate to  
17 disagreements between the companies as to proper language in the ICA

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<sup>103</sup> The Commission has approved a Qwest-Eschelon “Bridge Agreement Until New Interconnection Agreements Are Approved” which provides: “the Parties elect to address the changes of law as part of their new ICAs for each state . . . and not as an amendment to the existing ICAs between Qwest and CLEC for each such state.” See Eschelon/37 (“Bridge Agreement” executed Dec. 8, 2005); Some terms of the Bridge Agreement are also reflected in closed language in the proposed ICA (see, e.g., Section 9.1.14.3). See Disposition: Amendment Approved, *In the Matter Eschelon Telecom of Oregon, Inc., and Qwest Corporation, Twenty-third Amendment to the Interconnection Agreement, Submitted for commission Approval Pursuant to Section 252(e) of the Telecommunications Act of 1996.*, Docket No. ARB 199(23), Order No. 06-078 (Feb. 21, 2006).

<sup>104</sup> See, 47 CFR § 51.319(a)(4) – (5) and (e)(2)(ii) – (iv) and (e)(3). See also, TRRO, ¶¶ 146, 155, 166, 174, 178, 182 and 195.

1 incorporating the FCC’s and Oregon PUC’s rulings. The wire center issues are as  
2 follows:

- 3 • Issue 9-37: Wire Center List – Section 9.1.13.3 & Definition of  
4 “Commission Approved Wire Center List” and “Wire Center  
5 Docket.”
- 6 • Issue 9-37(a): Wire Center List – Additional Non-Impaired Wire  
7 Centers – Section 9.1.14.4 (portion) & 9.1.14.4.3 and subparts
- 8 • Issue 9-37(b): Wire Center List – Change in UNE Status – Section  
9 9.1.13.4.1.2
- 10 • Issue 9-38: Processing of High Capacity Loop and Transport  
11 request – Section 9.1.13.4 and 9.1.13.4.2
- 12 • Issue 9-39 (except caps): Wire Center List – Review of Wire  
13 Center List – Section 9.1.13.4.1.2.1 and 9.1.14.4.2
- 14 • Issue 9-40: NRCs for Conversion – Sections 9.1.13.5.2, 9.1.14.6,  
15 9.1.15.2.1
- 16 • Issues 9-41 (Length of Time Period) and 9-42 (Rate During Time  
17 Period) – Sections 9.1.14.4 (portion), 9.1.14.4.1 and 9.1.14.4.2.

18 Eschelon’s proposed language for these issues reflects the rulings of the Oregon  
19 PUC and the FCC, while Qwest’s proposals either conflict with these decisions or

1 ignore them. Each company’s proposed language for these issues is shown  
2 below. Language that is state specific to Oregon is shaded in gray.

3 **ISSUE 9-37**

4 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUE 9-37?**

5 A. Eschelon proposes the following language for Issue 9-37. Issue 9-37 includes  
6 Eschelon’s proposed language for 9.1.13.3 as well as proposed definitions for  
7 “Commission Approved Wire Center List” and “Wire Center Docket” in Section  
8 4.

9 **Issue 9-37 – Section 9.1.13.3**

10  
11 9.1.13.3 Whether a High Capacity Loop or high capacity transport  
12 UNE is unavailable, and the date upon which it becomes  
13 unavailable, based on non-impairment wire center designations  
14 have been or will be determined by the Commission in a Wire  
15 Center Docket. The Parties will follow any procedures established  
16 by the Commission in the Wire Center Docket with respect to  
17 Confidential Information and requests for additions to the  
18 Commission-Approved Wire Center List. For non-impaired  
19 facilities identified using the initial Commission-Approved Wire  
20 Center List, CLEC will not order an unbundled DS1 or DS3 Loop  
21 or an unbundled DS1, DS3 or Dark Fiber transport circuit when the  
22 order would be restricted based on the Wire Center designations  
23 identified on the applicable Commission-Approved Wire Center  
24 List. Regarding ordering after any additions are made to the initial  
25 Commission-Approved Wire Center List, see Section 9.1.14.4.  
26 CLEC will transition such UNEs impacted by the Commission-  
27 Approved Wire Center List as described in Section 9.1.14.

28  
29 Section 4 Definitions

30  
31 “Commission-Approved Wire Center List” means a list approved  
32 by the Commission in a Wire Center Docket(s) that identifies DS1

1 and DS3 Unbundled Loop facilities that are non-impaired and,  
2 regarding DS1, DS3, and Dark Fiber unbundled transport facilities,  
3 identifies Wire Center Tier Designation(s).

4  
5 “Wire Center Docket” means Commission Docket No. UM 1251  
6 entitled “In the Matter of COVAD COMMUNICATIONS COM-  
7 PANY; ESCHELON TELECOM OF OREGON, INC.; INTEGRA  
8 TELECOM OF OREGON, INC.; MCLEODUSA  
9 TELECOMMUNICATIONS SERVICES, INC.; and XO  
10 COMMUNICATIONS SERVICES, INC. Request for  
11 Commission Approval of Non-Impairment Wire Center List,” and  
12 any successor or separate Commission docket in which Qwest files  
13 a request(s) to add additional non-impaired wire center(s) to the  
14 Commission-Approved Wire Center List, and the Commission  
15 approves addition of wire center(s) to the list.

16  
17 Eschelon’s language in Section 9.1.13.3 for Issue 9-37 states that the  
18 Commission’s – not Qwest’s – non-impairment designations will determine  
19 whether high capacity transport UNE or high capacity loop UNE are available  
20 and, if applicable, the date on which it becomes available due to non-impairment.  
21 This language also directs the companies to use the Commission-approved  
22 processes (in the “Wire Center Docket”) related to confidential information and  
23 requests for additions to the “Commission-Approved Wire Center List.”  
24 Timeframes established in the Wire Center Docket for objecting to a future Qwest  
25 request to add another wire center to the Commission-approved list would be an  
26 example of the procedures referenced in Section 9.1.13.3. This language also  
27 states that CLEC will not order a UNE that is restricted by the wire center  
28 designations on the Commission approved Wire Center list, and points to Sections  
29 9.1.14 for language on ordering after any additions are made to the Commission  
30 Approved Wire Center list and transitioning UNEs impacted by the Commission

1 Approved Wire Center List. Eschelon’s proposed definitions of the terms  
2 Commission-Approved Wire Center List and Wire Center Docket also contained  
3 Issue 9-37, which provide definitions for terms used in Section 9.1.13.3.

4 **Q. WHAT LANGUAGE DOES QWEST PROPOSE FOR ISSUES 9-37?**

5 A. Qwest proposes the following language for Issue 9-37:

6 9.1.13.3 As part of the reasonably diligent inquiry described in  
7 Section 9.1.13, CLEC shall ensure that a requested unbundled DS1  
8 or DS3 Loop is not in a Wire Center identified on the list provided  
9 by Qwest of Wire Centers that meet the applicable non-impairment  
10 thresholds specified in Sections 9.2.1.3, 9.2.1.3.2, 9.2.1.4 and  
11 9.2.1.4.2 that a requested unbundled DS1, DS3 or Dark Fiber  
12 transport circuit is not between Wire Centers identified on the list  
13 of Wire Centers that meet the applicable non-impairment threshold  
14 specified in Section 9.6.2.2.1, 9.6.2.2.2, 9.6.2.3.1, 9.6.2.3.2, and  
15 9.7.1.1.1.1.

16 Qwest’s proposed language for Section 9.1.13.3 would require that Eschelon use  
17 Qwest’s – not the Commission’s – wire center list when performing a “reasonably  
18 diligent inquiry” related to high capacity UNEs. This is inappropriate, as Qwest  
19 should not be allowed to establish the list of non-impaired wire centers. Rather,  
20 that determination should be made by the Commission based on a Commission  
21 Approved Wire Center List established in the Wire Center Docket – as those  
22 terms should be defined in Section 4. That is why Eschelon’s proposed language  
23 for this issue focuses on the Commission Approved Wire Center List – not  
24 Qwest’s list – as impacting whether and when a CLEC may order a high capacity  
25 loop or transport UNE.

1 **Q. WHY SHOULD THE COMMISSION ADOPT ESCHELON’S PROPOSAL**  
2 **FOR ISSUE 9-37?**

3 A. Eschelon’s proposed language reflects the OR PUC ruling on these issues in the  
4 Wire Center docket (UM 1251). For example, Eschelon’s proposal reflects the  
5 Oregon PUC’s notion that the Commission – not Qwest – should establish the list  
6 of non-impaired wire centers. The Oregon PUC’s Wire Center Docket Order  
7 (Order No. 07-109, UM 1251) discusses its expectations that Qwest will come to  
8 the Commission to seek Commission approval for adding wire centers to the  
9 Commission Approved Wire Center list. At page 13 of the Commission’s Order  
10 No. 07-109, the Commission states: “we shall require Qwest to include detailed  
11 wire center-specific information in its initial filing for Commission approval of a  
12 new wire center classification...”<sup>105</sup> The Commission also required “that the  
13 initial filing seeking non-impaired status for a wire center contain more granular  
14 detail than Qwest has proposed.”<sup>106</sup> Further, the Commission notes that the wire  
15 center proceedings arose “out of Qwest’s submission of its list of non-impaired  
16 wire centers in Oregon and the objections to that list...”<sup>107</sup> These statements  
17 show that the Commission fully expects to be deciding whether Qwest requests  
18 for future additions to the Commission Approved Wire Center list, if any, are  
19 appropriate, and does not expect Qwest to be making these determinations on its

---

<sup>105</sup> Eschelon/40, Denney/13.

<sup>106</sup> Eschelon/40, Denney/14.

<sup>107</sup> Eschelon/40, Denney 2.

1 own. Further, Qwest did not disagree with this approach in the wire center  
2 docket.

3 In addition, Eschelon's proposed defined terms in Section 4 should also be  
4 adopted so that the ICA will be clear on what important terms used in Section  
5 9.1.13.3 (and elsewhere, e.g., Section 9.1.14.4) mean.

6 **ISSUE 9-37(A)**

7 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUE 9-37(A)?**

8 A. Eschelon's proposal for Issue 9-37(a) includes language from Sections 9.1.14.4  
9 (additional non-impaired wire centers) and 9.1.14.4.3 and subparts  
10 (methodology).

11 9.1.14.4 Additional Non-Impaired Wire Centers. When Qwest  
12 files a request(s) with the Commission to add additional Wire  
13 Center(s) to the Commission-Approved Wire Center List, Qwest  
14 will follow the procedures for making such requests adopted by the  
15 Commission in the Wire Center Docket. When additional Qwest  
16 Wire Center(s) meet the relevant factual criteria discussed in  
17 Sections V and VI of the FCC's Triennial Review Remand Order  
18 as reflected in this Agreement and ~~Qwest~~ the Commission adds the  
19 Wire Center(s) to the Commission-Approved Wire Center ~~List,~~  
20 the terms of this Section will apply to facilities subject to the  
21 transition based on any addition(s) to the Commission-Approved  
22 Wire Center List. ~~Qwest shall provide notice to CLEC.~~ Thirty (30)  
23 Days after ~~notification from Qwest~~ Commission-approval of  
24 additions to that list, CLEC will no longer order impacted High  
25 Capacity Loops, high capacity transport UNEs, or Dark Fiber Loop  
26 and Dark Fiber Dedicated Transport UNEs in (for loops) or  
27 between (for transport) those additional Wire Centers.

28



1                   9.1.14.4.3 Methodology: The Parties agree to use the following  
2                   methodology for non-impairment or tier designations:

3  
4                   9.1.14.4.3.1 Business lines – Business lines shall be  
5                   counted as follows, excluding unused capacity:

6  
7                   9.1.14.4.3.1.1 Qwest retail business lines shall be  
8                   determined using the most recently filed unadjusted  
9                   ARMIS data reported to the FCC. For purposes of  
10                  future non-impairment designations, Qwest shall  
11                  follow FCC ARMIS instructions and will record  
12                  and count retail business lines in precisely the same  
13                  manner as business access line data is tracked and  
14                  recorded in the Wire Center level data Qwest uses  
15                  to develop its statewide ARMIS 43-08 reports filed  
16                  annually with the FCC, without making any inter-  
17                  Wire Center adjustments to this data and without  
18                  including the same lines in more than one of the  
19                  categories listed in Sections 9.1.14.4.3.1.2 –  
20                  9.1.14.4.3.1.4.

21  
22                  9.1.14.4.3.1.2 UNE Loops connected to a Wire  
23                  Center where High Capacity Loops and high  
24                  capacity EELs are provided to CLECs shall be  
25                  counted at the capacity used to serve customers  
26                  (i.e., DS1s will not be counted as 24 business lines  
27                  and DS3s will not be counted as 672 business lines  
28                  if a fewer number of lines are being used to serve  
29                  customers).

30  
31                  9.1.14.4.3.1.3 Only Business UNE-P lines will be  
32                  counted for the Commission-Approved Wire Center  
33                  List. Business UNE-P lines shall be derived by  
34                  subtracting the count of listings associated with  
35                  residential UNE-P from the total number of UNE-P  
36                  lines.

37  
38                  9.1.14.4.3.1.4 Qwest Platform Plus (“QPP”), Qwest  
39                  Local Services Platform (“QLSP”), and other  
40                  similar platform product offerings shall be  
41                  calculated using actual business line counts for  
42                  these services.

43  
44                  9.1.14.4.3.2 Collocation –

1  
2 9.1.14.4.3.2.1 The terms Fiber-Based Collocator  
3 and Collocation shall have the meanings set forth in  
4 Section 4 of this Agreement.  
5

6 9.1.14.4.3.2.2 Before classifying a carrier as a  
7 Fiber-Based Collocator in a Qwest request pursuant  
8 to Section 9.1.14.4 for Commission approval of a  
9 non-impaired designation, Qwest will:  
10

11 9.1.14.4.3.2.2.1 Confirm that the carrier  
12 meets the criteria contained in the definition  
13 of Fiber-Based Collocator in Section 4.0 of  
14 this Agreement;  
15

16 9.1.14.4.3.2.2.2 Conduct a field visit to  
17 verify and document the above criteria in  
18 Section 9.1.14.4.3.2.2.1; and  
19

20 9.1.14.4.3.2.2.3 Validate the criteria against  
21 the most recent order and/or billing data.

22 Eschelon’s proposed language from Sections 9.1.14.4 (additional non-impaired  
23 wire centers) states that Qwest will follow the procedures adopted by the  
24 Commission in the Wire Center Docket for adding wire centers to the  
25 Commission Approved Wire Center list,<sup>108</sup> and like Issue 9-37, recognizes that  
26 the Commission will approve the non-impaired wire center list – it will not be  
27 dictated by Qwest. This language further recognizes that upon Commission  
28 approval of additions to the wire center list, Eschelon will require a reasonable  
29 period of time, 30 days, to properly train and inform its employees to stop  
30 ordering impacted UNEs in those wire centers.

---

<sup>108</sup> See Wire Center Order, Eschelon/40, Denney/11 – Denney/14 regarding the Commission’s decision on advanced notice.

1 Eschelon's proposed language under 9.1.14.4.3 relates to the methodology to be  
2 followed in determining the critical criteria for non-impairment or tier  
3 designations (i.e., business line counts and fiber based collocator counts).<sup>109</sup>  
4 Eschelon's language requires that Business Lines be counted excluding unused  
5 capacity, excluding residential UNE-P lines, and requires that the most recent  
6 ARMIS data be used.<sup>110</sup> Eschelon's proposed language also requires Qwest to  
7 verify and validate that the fiber based collocators it counts meet the applicable  
8 criteria.

9 **Q. WHAT LANGUAGE DOES QWEST PROPOSE FOR ISSUE 9-37(A)?**

10 A. Qwest has no proposed language for 9.1.14.4.3 and subparts regarding the  
11 methodology for counting switched business lines and fiber-based collocators.  
12 Qwest's proposal for 9.1.14.4 is as follows:

13 9.1.14.4 Additional Non-Impaired Wire Centers. ~~When Qwest~~  
14 ~~files a request(s) with the Commission to add additional Wire~~  
15 ~~Center(s) to the Commission Approved Wire Center List, Qwest~~  
16 ~~will follow the procedures for making such requests adopted by the~~  
17 ~~Commission in the Wire Center Docket.~~ When additional Qwest  
18 Wire Center(s) meet the relevant factual criteria discussed in  
19 Sections V and VI of the FCC's Triennial Review Remand Order  
20 as reflected in this Agreement and Qwest ~~the Commission~~ adds the  
21 Wire Center(s) to the ~~Commission Approved Wire Center List,~~  
22 ~~the terms of this Section will apply to facilities subject to the~~  
23 ~~transition based on any addition(s) to the Commission Approved~~  
24 ~~Wire Center List. Qwest shall provide notice to CLEC. Thirty (30)~~  
25 ~~Days after notification from Qwest Commission approval of~~  
26 ~~additions to that list, CLEC will no longer order impacted High~~

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<sup>109</sup> See Wire Center Order, Eschelon/40, Denney/8 – Denney/11 regarding the methodology for counting switched business lines and fiber-based collocations.

<sup>110</sup> See wire Center Order, Eschelon/40, Denney/9.

1 Capacity Loops, high capacity transport UNEs, or Dark Fiber Loop  
2 and Dark Fiber Dedicated Transport UNEs in (for loops) or  
3 between (for transport) those additional Wire Centers.

4 **Q. WHY SHOULD THE COMMISSION ADOPT ESCHELON'S LANGUAGE**  
5 **FOR ISSUE 9-37(A)?**

6 A. Eschelon's language reflects the Commission's decision on wire center issues. As  
7 discussed above under Issue 9-37, a Qwest request to add wire centers to the  
8 Commission Approved Wire Center List should be reviewed and approved by the  
9 Commission before the Commission Approved Wire Center List should be  
10 amended. Eschelon's language in 9.1.14.4 makes this clear. Qwest's language,  
11 on the other hand, would allow Qwest to add to the list and send notice to CLECs,  
12 which would supplant the Commission's judgment with Qwest's.

13 Qwest apparently desires to omit the terms surrounding 9.1.14.4.3 from the ICA  
14 and leave open the potential of Qwest unilaterally interpreting the Wire Center  
15 Docket order in the future. Including language in the ICA now will facilitate  
16 understanding of that ruling and allow resolution of any disputes in an orderly  
17 manner and not under time pressures that may arise when future requests for  
18 additions to the wire center list are pending. Also, individuals using the ICA,  
19 including personnel at any CLECs opting in to the ICA, may not have been  
20 involved in the Wire Center Docket to date and will look to the ICA for  
21 implementation of these provisions. Adding clear language to the contract today  
22 will avoid future disputes and facilitate the process of adding wire centers to the  
23 Commission approved non-impaired wire center list.

1 **ISSUE 9-37(B)**

2 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUE 9-37(B)?**

3 A. Eschelon's language for Issue 9-37(b) states as follows:

4 9.1.13.4.1.2 If Qwest seeks to challenge any such UNEs, it will  
5 also provide CLEC with data to support its claim.

6 Eschelon's language for 9-37(b) simply states that when Qwest challenges  
7 Eschelon's access to a UNE in dispute resolution, that Qwest will provide  
8 Eschelon with the data to support its claim.

9 **Q. DOES QWEST HAVE A LANGUAGE PROPOSAL FOR ISSUE 9-37(b)?**

10 A. No. Qwest proposes to leave this section intentionally blank.

11 **Q. WHY SHOULD THE COMMISSION ADOPT ESCHELON'S LANGUAGE**  
12 **FOR ISSUE 9-37(B)?**

13 A. Closed language in 9.1.13.4.1 and 9.1.13.4.1.1 describe the steps Qwest must take  
14 if it seeks to challenge access to UNEs. This language is repeated below:

15 9.1.13.4.1 To the extent that Qwest seeks to challenge access to any  
16 such UNE(s), it subsequently can raise that issue through the Dispute  
17 resolution procedures in Section 5.18 of this Agreement. Regarding  
18 Service Eligibility Criteria for High Capacity EELs, see Sections  
19 9.23.4.2.1.3 and 9.23.4.3.

20  
21 9.1.13.4.1.1 If Qwest seeks to challenge any such UNEs, it will  
22 provide written notice to CLEC of its request for Dispute  
23 resolution.

1 Eschelon’s proposed language in 9.1.13.4.1.2 simply states that if Qwest disputes  
2 Eschelon’s access to high capacity loop, high capacity transport or dark fiber  
3 UNEs then Qwest will provide Eschelon with information in support of its claim.  
4 In the case of a wire center that the Commission has determined is non-impaired  
5 the data may be as simple as pointing to the Commission approved non-impaired  
6 wire center list.<sup>111</sup> In the case of Caps the data may be more complex as outlined  
7 in closed language in 9.1.13.4.1.2.2 and subparts discussed previously as Subject  
8 Matter No. 17, Caps – Data Relating to Caps. If the dispute is not resolved,  
9 Qwest will need to compile information in any event to present its case, so there is  
10 no additional burden. Providing information early will facilitate dispute  
11 resolution.

12 Eschelon’s proposed language is consistent with the Commission’s order in the  
13 Wire Center Docket and will facilitate the resolution of any disputes. In the Wire  
14 Center Docket the Commission concluded:

15 “The Joint CLEC proposal seeks the development of a process  
16 wherein a CLEC request for a UNE in a non-impaired wire center,  
17 either made in error or in dispute, is dealt with by Qwest and the  
18 CLEC in such a way so that facilities are provided in a timely  
19 manner. This process should also ensure that the services are  
20 ultimately charged at the proper rate – UNE or tariffed service –  
21 and the CLEC back-billed for the difference, if the CLEC has  
22 erroneously placed a UNE order that Qwest was not required to  
23 provide. We find such an approach, which provides facilities to  
24 CLECs on a timely basis and keeps Qwest financially whole, to be  
25 a reasonable one and fully consistent with the *TRRO*. We therefore

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<sup>111</sup> Eschelon has language in section 9.1.13.3 (issue 9-37) indicating that Eschelon will not order UNE facilities that would be considered non-impaired as a result of a Commission approved wire center list.

1 direct Qwest and Joint CLECs to develop such procedures  
2 reasonably consistent with the intentions we have set forth  
3 here.”<sup>112</sup>

4 Eschelon’s proposal for this issue is consistent with this Commission. Eschelon’s  
5 proposed language for issue 9-38 further addresses this paragraph of the  
6 Commission’s order. Note that closed language in section 9.1.13.5 of the ICA  
7 address the Commission’s concerns about keeping Qwest financially whole in  
8 instances where the CLEC orders a non-impaired facility in error. The closed  
9 language of 9.1.13.5 reads:

10 If the Parties agree or it is determined through Dispute resolution  
11 that CLEC was not entitled to unbundled access to a particular  
12 UNE that is not subject to one of the transition periods described in  
13 Section 9.1.14, or the transition period has ended, CLEC will place  
14 an order within thirty (30) Days to either disconnect the UNE or  
15 convert such UNE to an alternative service arrangement. Back  
16 billing for the difference between the rates for UNEs and rates for  
17 the Qwest alternative service arrangements will apply no earlier  
18 than the later of: (1) the installation date; or (2) the effective date  
19 of the TRO or TRRO, whichever is applicable.

20 **ISSUE 9-38**

21 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUE 9-38?**

22 A. Eschelon has two alternative proposals for Issue 9-38. Eschelon’s first proposal is  
23 in section 9.1.13.4 and is as follows:

24 **Eschelon 1<sup>st</sup> Proposal for Issue 9-38**

25 9.1.13.4 Upon receiving a request for access to a High Capacity  
26 Loop or high capacity transport UNE pursuant to Section 9.1.13, Qwest

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<sup>112</sup> Oregon Wire Center Order, Eschelon/40, Denney/17.

1 must immediately process the request. Qwest shall not prevent order  
2 submission and/or order processing (such as via a system edit, or by  
3 requiring affirmation of the information in the self-certification letter  
4 through remarks in the service request, or through other means) for any  
5 such facility on non-impairment grounds, unless the Parties agree  
6 otherwise in an amendment to this Agreement.

7 Eschelon's second proposal is similar to its first proposal except that it describes  
8 an acceptable process, consistent with the Commission's finding on page 17 of  
9 the Oregon Wire Center Order, whereby Qwest could reject CLEC orders for high  
10 capacity loop or high capacity transport UNEs when the facilities are identified as  
11 non-impaired via a Commission-approved wire center list if Qwest found doing  
12 so more efficient than processing the orders and then disputing them.

13 **Eschelon Alternative Proposal for Issue 9-38**

14 9.1.13.4 Except as described in Section 9.1.13.4.2, upon receiving a  
15 request for access to a High Capacity Loop or high capacity  
16 transport UNE pursuant to Section 9.1.13, Qwest must  
17 immediately process the request. Other than as described in  
18 Section 9.1.13.4.2, Qwest shall not prevent order submission  
19 and/or order processing (such as via a system edit, or by requiring  
20 affirmation of the self-certification letter information through  
21 remarks in the service request, or through other means) for any  
22 such facility on non-impairment grounds.

23 9.1.13.4.2 Order Rejection of CLEC UNE Service  
24 Requests for Facilities that are Identified as Non-Impaired  
25 via a Commission-Approved Wire Center List. This  
26 Section applies to CLEC UNE orders for High Capacity  
27 Loop facilities that are identified as non-impaired on a  
28 Commission-Approved Wire Center List and CLEC UNE  
29 orders for high capacity transport UNEs when the orders  
30 for high capacity transport UNEs would be restricted based  
31 on Wire Center Tier Designation(s) identified on the  
32 applicable Commission-Approved Wire Center List. Qwest



1 will not reject CLEC UNE service requests on the grounds that  
2 the such requested facilities are non-impaired facilities  
3 except as follows:

4  
5 9.1.13.4.2.1 Qwest electronic system(s) will check CLEC  
6 service requests based on CLEC ID, state, Wire Center, and  
7 Wire Center Tier Designation(s) on the applicable  
8 Commission-Approved Wire Center List. This system  
9 check will be an electronic process and will only impact  
10 service requests for High Capacity Loop facilities and high  
11 capacity transport UNEs that are non-impaired based on the  
12 applicable Commission-Approved Wire Center List. This  
13 determination will not impact the flow through eligibility of  
14 any other CLEC service requests, including service  
15 requests for impaired high capacity UNE facilities (UNE  
16 facilities that are not identified as non-impaired based on  
17 the applicable Commission-Approved Wire Center List).

18  
19 9.1.13.4.2.2 Qwest will electronically place requests for  
20 high capacity UNEs that are identified as non-impaired via  
21 a Commission-Approved Wire Center List into a non-  
22 impairment queue.

23  
24 9.1.13.4.2.3 For CLEC service requests placed in the non-  
25 impairment queue, Qwest Service Delivery Coordinator(s)  
26 will send a fatal rejection notice to CLEC. Qwest will  
27 electronically provide a specific reject/error code for service  
28 requests for Non-Impaired Facilities and it will not be in the  
29 form of a manual remark (except for requests for Dark  
30 Fiber, which are addressed below in Section  
31 9.1.13.4.2.3.1). Qwest must provide the fatal rejection  
32 notice to CLEC within four (4) business hours after  
33 CLEC's service request was submitted to Qwest. If Qwest  
34 rejects a service request in error based on the applicable  
35 Commission-Approved Wire Center List and CLEC objects  
36 on the same business day (or, if the fatal rejection notice is  
37 received after 3:00 pm local time, objects before noon local  
38 time on the next business day) Qwest will process the  
39 service request with the due date requested by CLEC on the  
40 service request.<sup>113</sup>

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<sup>113</sup> This paragraph of Eschelon's proposal has been updated. The previous version included a reference to a specific reject/error code for service requests for Non-Impaired Facilities being "fully implemented as described in the Wire Center Docket." As such a code and implementation are not described in the Commission's order, the language needed to be updated to reflect that order. A

1  
2  
3 9.1.13.4.2.3.1 For CLEC service requests for Dark  
4 Fiber in the Non-Impairment Queue, the Qwest  
5 Service Delivery coordinator will send a fatal  
6 rejection notice to the CLEC. The rejection notice  
7 shall include a remark that the service request has  
8 been rejected “based on non-impairment.” Qwest  
9 must provide the rejection notice to the affected  
10 CLEC within four (4) business hours after the  
11 CLEC service request was submitted to Qwest. If  
12 Qwest’s fatal rejection notice was in error based on  
13 the applicable Commission-Approved Wire Center  
14 List and CLEC objects on the same business day the  
15 notice was received (or, if the fatal rejection notice  
16 is received by CLEC after 3:00pm local time,  
17 CLEC objects before noon local time the next  
18 business day), Qwest will process the service  
19 request with the due date requested by CLEC on the  
20 initial service request.

21 Eschelon’s first proposal in Section 9.1.13.4 under Issue 9-38 states that Qwest  
22 must immediately process a request for access to high capacity Loop or high  
23 capacity transport. Eschelon’s alternative proposal also states that Qwest must  
24 immediately process a request for access to high capacity Loop or high capacity  
25 transport but provides an exception described in 9.1.13.4.2.

26 Eschelon’s language for Section 9.1.13.4.2, as part of Eschelon’s alternative  
27 proposal, spells out the process that Qwest should follow if the CLEC submits a  
28 request for a high capacity UNE when that UNE would be restricted based on the  
29 wire center designations on the Commission Approved Wire Center List, which

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specific reject/error code is needed before Qwest could reject orders, or there would be no mechanized way of identifying and tracking order rejections for this reason, which would inappropriately shift the burden to Eschelon. Eschelon is offering an exception for Dark Fiber as a compromise.

1 includes an electronic systems check impacting only high capacity UNEs that are  
2 non impaired based on the Commission Approved Wire Center List, a queue for  
3 these orders, and fatal rejection notices to be sent to the CLEC.

4 **Q. WHAT LANGUAGE DOES QWEST PROPOSE FOR ISSUE 9-38?**

5 A. Qwest proposes the following language for Issue 9-38:

6 9.1.13.4 Upon receiving a request for access to a high capacity  
7 Dedicated Transport or High Capacity Loop UNE or High  
8 Capacity EEL that indicates that the UNE meets the relevant  
9 factual criteria discussed in sections V and VI of the Triennial  
10 Review Remand Order, Qwest must immediately process the  
11 request.

12 Qwest’s proposed language states that Qwest will immediately process the request  
13 for a high capacity UNE *if* the request indicates that the UNE meets the relevant  
14 criteria in the TRRO related to impairment.

15 **Q. WHY SHOULD THE COMMISSION ADOPT ESCHELON’S LANGUAGE**  
16 **FOR ISSUE 9-38?**

17 A. Agreed upon language in 9.1.13 describes the requirements for ordering high  
18 capacity loops and high capacity transport. Eschelon’s language for Section  
19 9.1.13.4 follows paragraph 234 of the *TRRO* and states that upon receiving a  
20 request for high capacity loop or transport under Section 9.1.13, Qwest will  
21 “immediately process the request.” While it may seem obvious that “immediate”  
22 processing of a request requires processing the order and not rejecting it, Qwest  
23 initiated a Change Request through the CMP to implement a systems change to

1 block CLEC orders, even when CLECs have self certified, if Qwest unilaterally  
2 determines that the wire center is non-impaired (Qwest CR #SCR083005-01).  
3 Also, Qwest should not be allowed to delay or forego processing the request by  
4 requiring the CLEC to affirm information the CLEC has already provided in the  
5 self certification letter. Therefore, Eschelon’s proposal is necessary to make clear  
6 that Qwest must truly process the request “immediately” as required by paragraph  
7 234 of the TRRO, and may not implement system edits or other blocks to reject  
8 the CLEC orders, or otherwise delay or prevent processing, as Qwest has  
9 attempted to do in the past.

10 Additionally, Eschelon’s alternative proposed language for Section 9.1.13.4.2  
11 follows the intent of the Commission’s order to develop a process to address a  
12 CLEC request for a UNE in a non-impaired wire center (made in error or is  
13 disputed) so that facilities are provided in a timely manner and Qwest is kept  
14 financially whole related to the rate it charges the CLEC for the facility.<sup>114</sup>

15 **ISSUE 9-39**

16 **Q. IS PART OF ISSUE 9-39 CLOSED?**

17 A. Yes. The portion of Issue 9-39 relating to caps closed and was discussed  
18 previously as Subject Matter 17, but the remainder of Issue 9-39 (Wire Center  
19 List – Review of Wire Center List) remains open for resolution in this arbitration.

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<sup>114</sup> Oregon Wire Center Order, Eschelon/40, Denney/17.

1 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUE 9-39?**

2 A. Eschelon proposes the following language for Issue 9-39 under Sections  
3 9.1.13.4.1.2.1 and 9.1.14.4.2:

4 9.1.13.4.1.2.1 Regarding data related to additions to the initial  
5 Commission-Approved Wire Center List, see Section 9.1.14.4.2.

6 9.1.14.4.2 Data. Qwest will file supporting data with the  
7 Commission when filing a request to obtain additional non-  
8 impaired designations added to the Commission-Approved  
9 Wire Center List. Qwest will also provide a copy of the  
10 supporting data pursuant to the terms of the applicable  
11 protective agreement/order to CLEC if CLEC has signed  
12 the applicable protective agreement/order (or is subject to  
13 any applicable standing protective order put in place by the  
14 Commission).

15  
16 9.1.14.4.2.1 If Qwest relies upon Fiber-Based  
17 Collocators for its proposed non-impairment  
18 designation, the supporting data provided to CLEC  
19 will include at least the following information:

20  
21 9.1.14.4.2.1.1 The name of each Fiber-  
22 Based collocator.

23  
24 9.1.14.4.2.1.2 The applicable Qwest Ready  
25 for Service date.

26  
27 9.1.14.4.2.1.3 The results of any field  
28 verification that Qwest undertook to verify  
29 the fiber-based collocation, including the  
30 field technicians' notes which includes: (1)  
31 the wire center and state; (2) collocator  
32 name; (3) collocation type; (4) fiber type;  
33 (5) validation of fiber termination at the  
34 fiber-based collocation; (6) validation that  
35 fiber exits a Wire Center; (7) visual power  
36 verification (confirming that working power  
37 is being provided to the collocation cage);  
38 (8) power verification at BDFB, if possible;  
39 (9) additional comments from field

1 personnel.

2  
3 9.1.14.4.2.1.4 A copy of the letter sent by  
4 Qwest to collocator(s) requesting validation  
5 of status as a fiber-based collocator and  
6 ownership/responsibility.

7  
8 9.1.14.4.2.1.5 Copies of any responses to  
9 the letter noted in Section 9.1.14.4.2.1.4,  
10 including an indication of whether the  
11 collocator has affirmatively identified (or  
12 disputed) itself as a Fiber-Based Collocator;  
13 and

14  
15 9.1.14.4.2.1.6 All written correspondence  
16 between Qwest and the collocator(s)  
17 regarding the validation of the Fiber-Based  
18 Collocation.

19  
20 9.1.14.4.2.2 If Qwest relies upon Switched Business  
21 Line Count data for its proposed Non-Impairment  
22 Designation, the supporting data provided to CLEC  
23 will include at least the following information:

24  
25 9.1.14.4.2.2.1 The latest available ARMIS  
26 43-08 line counts, using the methodology  
27 described in Section 2.0.F.4 of this  
28 Agreement and used to create official  
29 ARMIS data on file with the FCC.

30  
31 9.1.14.4.2.2.2 Total wholesale UNE loops  
32 shown at the aggregated level for the wire  
33 center(s) at issue, and by capacity (voice  
34 grade, DS1, DS3). This information will  
35 also be provided on a disaggregated basis  
36 for all CLECs with the CLEC names  
37 masked. A CLEC will be provided the  
38 necessary identifying information in order to  
39 verify CLEC's own line count data. Qwest  
40 calculations to derive 64-kbps equivalents  
41 for high capacity (e.g., DS1 and DS3) loops  
42 will also be provided.

43  
44 9.1.14.4.2.2.3 CLEC line counts based upon  
45 OPP or Qwest Local Services Platform (or

1                                    similar platform product) will be provided  
2                                    on a disaggregated basis for all CLECs with  
3                                    CLEC names masked. A CLEC will be  
4                                    provided the necessary identifying  
5                                    information in order to verify CLEC's own  
6                                    line count data.

7                    Closed language in Section 9.1.13.4.1 allows Qwest to challenge access to these  
8                    UNEs in Dispute Resolution under Section 5.18 of the Agreement. Eschelon's  
9                    proposed language for 9.1.13.4.1.2 (discussed under Issue 9-37(b)) states that  
10                   when Qwest challenges access to these UNEs, Qwest will provide CLEC with the  
11                   data support Qwest's claim. Section 9.1.13.4.1.2.1 (discussed as part of this Issue  
12                   9-39) is a subsection of 9.1.13.4.1.2 (discussed under this issue 9-37(b)) that was  
13                   added to make clear that data regarding Qwest's requested additions to the  
14                   Commission Approved Wire Center List are addressed under 9.1.14.4.2, while  
15                   data related to Qwest's challenge of Eschelon's access to UNEs in dispute  
16                   resolution is addressed under Section 9.1.13.4.1.2. Eschelon's language in  
17                   9.1.13.4.1.2.1 includes a cross reference to Section 9.1.14.4.2 dealing with data  
18                   related to additions to the initial Commission Approved Wire Center List.

19                   Eschelon's language for Section 9.1.14.4.2 relates to the cross reference  
20                   mentioned above regarding the data Qwest must provide when requesting to add  
21                   non-impaired wire centers to the Commission Approved Wire Center List. This  
22                   language provides that Qwest will provide at the time of the request data  
23                   supporting the request to the Commission and CLEC (to the extent CLEC has  
24                   signed the applicable protective agreement). This data includes, for fiber based

1 collocators, names of fiber based collocators, Ready for Service date, results of  
2 any field verification, and correspondence related to Qwest’s verification of those  
3 fiber based collocators. For business lines, this supporting data includes the most  
4 recent available ARMIS 43-08 line counts, UNE loop counts by CLEC (with  
5 CLEC names masked) with information allowing a CLEC to verify CLEC’s own  
6 line count data, and QPP or Qwest Local Services Platform line counts by CLEC  
7 (with CLEC names masked) with information allowing a CLEC to verify CLEC’s  
8 own line count data.

9 **Q. WHAT IS QWEST’S PROPOSAL FOR ISSUE 9-39?**

10 A. Qwest opposes all of Eschelon’s proposed language for Issue 9-39.

11 **Q. WHY SHOULD ESCHELON’S PROPOSED LANGUAGE FOR ISSUE 9-39**  
12 **BE ADOPTED?**

13 A. Eschelon’s proposal reflects the Oregon PUC’s findings in UM 1251. The  
14 requirement under 9.1.14.4. for Qwest to file supporting data with the  
15 Commission when filing a request for additions to the Commission Approved  
16 Wire Center List reflects the Oregon PUC’s finding that “we shall require Qwest  
17 to include detailed wire center-specific information in its initial filing for  
18 Commission approval of a new wire center classification equivalent in scope and  
19 particularly to that which was provided in this proceeding pursuant to CLEC data  
20 requests.”<sup>115</sup> The Commission noted in its order that “it is in Qwest’s own

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<sup>115</sup> Eschelon/40, Denney/13.



1 interests to be as thorough and forthcoming as possible with respect to the  
2 submission of supporting documentation.”<sup>116</sup> Eschelon’s proposed Section  
3 9.1.14.4.2.2.1 requires Qwest to provide the latest ARMIS line counts. Regarding  
4 the vintage of ARMIS data to be used for wire center classification purposes, the  
5 Oregon PUC found that it is “in the public interest to use the data that most  
6 closely reflects *current, real world* circumstances.”<sup>117</sup> The latest ARMIS line  
7 count data required by Eschelon’s language reflects that requirement. The  
8 granularity of the information required to be provided by Qwest under Eschelon’s  
9 proposal for Issue 9-39 is also supported by the Oregon PUC’s finding that, “We  
10 also require that the initial filing seeking non-impaired status for a wire center  
11 contain more granular detail than Qwest has proposed, including Qwest and  
12 CLEC-specific business line count and facilities data by wire center, calculating  
13 the number of lines served...Such data shall be identified as ‘highly confidential’  
14 and subject to the standing special protective order used in this proceeding.”<sup>118</sup>  
15 The information required by Eschelon’s proposed Section 9.1.14.4.2.2 is the same  
16 type of information the Commission required Qwest to provide in its initial filing  
17 to request that a wire center be added to the Commission Approved Wire Center  
18 list. Including Eschelon’s language in the ICA will facilitate resolution of  
19 disputes and allow opt in to these terms by other CLECs.

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<sup>116</sup> Oregon Wire Center Order, Eschelon/40, Denney/13.

<sup>117</sup> Eschelon/40, Denney/7.

<sup>118</sup> Eschelon/40, Denney/14.

1 **ISSUE 9-40**

2 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUE 9-40?**

3 A. Eschelon proposes the following language for Issue 9-40 (NRCs for Conversion)  
4 in sections 9.1.13.5.2, 9.1.14.6 and 9.1.15.2.1:

5 For each such facility converted from a UNE to an alternative  
6 service arrangement, Qwest may assess a non-recurring charge, if  
7 any, in the amount established by the Commission in the Wire  
8 Center Docket. No additional non-recurring charges apply, other  
9 than OSS non-recurring charges if applicable pursuant to Section  
10 12.7.

11 Eschelon’s language for Sections 9.1.13.5.2, 9.1.14.6 and 9.1.15.2.1 allows Qwest  
12 to assess a non-recurring charge, if any, approved by the Commission in the Wire  
13 Center Docket for each facility converted, but rules out other conversion NRCs  
14 (with the possible exception of OSS NRCs pursuant to Section 12.7).

15 **Q. WHAT LANGUAGE DOES QWEST PROPOSE FOR ISSUE 9-40?**

16 A. Qwest proposes the following language for Sections 9.1.13.5.2, 9.1.14.6, and  
17 9.1.15.2.1:

18 CLEC is also responsible for all applicable non-recurring charges  
19 associated with the appropriate alternative service arrangements.

20 Qwest’s proposed language that CLEC is responsible for “all applicable non-  
21 recurring charges associated with the appropriate alternative service  
22 arrangement.” Qwest’s language is unclear and overly broad.

1 **Q. WHY SHOULD THE COMMISSION ADOPT ESCHELON’S PROPOSED**  
2 **LANGUAGE FOR ISSUE 9-40?**

3 A. Like all other wire center issues, Eschelon’s proposal reflects the Commission’s  
4 findings on this issue, by following the Commission’s directive on a UNE to  
5 private line conversion charge in Order No. 07-109 in UM 1251. In contrast,  
6 Qwest’s proposed language is unclear and potentially conflicts with the Oregon  
7 PUC and FCC findings on conversion charges.<sup>119</sup> When addressing conversion  
8 charges for UNE to private line conversion, the Oregon Commission discussed a  
9 single UNE to private line conversion charge – not multiple charges, as Qwest’s  
10 proposal suggests. Further, the Commission stated that “the non-recurring UNE-  
11 to-private-line service conversion *charge* shall be based on costs.”<sup>120</sup> Similarly,  
12 the Commission stated that “We direct Qwest to propose a specific non-recurring  
13 *rate* for the UNE-to-private line conversions, and to submit a cost study in support  
14 of its proposed *charge*.”<sup>121</sup> The Commission’s conclusions on this issue reflecting  
15 the Commission’s expectation of a singular TELRIC-based charge for UNE to  
16 private line conversions flies in the face of Qwest’s proposed language that  
17 discusses “all applicable non-recurring charges associated with the applicable  
18 alternative service arrangements.” Eschelon’s language specifically identifies the  
19 conversion charge that will be set by the Commission in the wire center docket.

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<sup>119</sup> See also the Direct Testimony of Mr. Starkey, issues 9-43 and 9-44 regarding UNE to non-UNE conversions (Eschelon/1).

<sup>120</sup> Eschelon/40, Denney/20. (emphasis added)

<sup>121</sup> Eschelon/40, Denney/20.

1 Eschelon’s language also clearly identifies all other NRCs that could apply to the  
2 conversion process.

3 Eschelon’s language on Issue 9-40 is consistent with the Oregon PUC’s directive  
4 on this issue and should be adopted.

5 **ISSUES 9-41 & 9-42**

6 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR ISSUES 9-41**  
7 **AND 9-42?**

8 A. As part of Issue 9-41 Eschelon proposes to delete the following Qwest proposed  
9 sentence in 9.1.14.4 and replace Qwest’s proposed 9.1.14.4.1 in its entirety with  
10 Eschelon’s language.

11 ~~9.1.14.4...CLEC will have ninety (90) Days to transition existing~~  
12 ~~DS1 and DS3 UNEs to an alternative service. CLEC will have one~~  
13 ~~hundred eighty (180) Days to transition Dark Fiber transport to an~~  
14 ~~alternative service.~~

15 ~~9.1.14.4.1 CLEC is subject to back billing for the difference~~  
16 ~~between the UNE and Tariff recurring rates beginning on the~~  
17 ~~ninety first (91st) Day for the existing DS1 and DS3 UNEs, and on~~  
18 ~~Day one hundred eighty one (181) for the existing Dark Fiber~~  
19 ~~transport, as well as all applicable nonrecurring charges associated~~  
20 ~~with such conversions.~~

21 9.1.14.4.1 Transition Periods for additions to the Commission-  
22 Approved Wire Center List.

23 9.1.14.4.1.1 For a ninety (90) Day period beginning on the  
24 effective date on which the Commission approves an  
25 addition to the Commission-Approved Wire Center List,  
26 any DS1 Loop UNEs, DS3 Loop UNEs, DS1 Dedicated  
27 Transport UNEs, and DS3 Dedicated Transport UNEs that

1 CLEC leases from Qwest as of that date, but which Qwest  
2 is not obligated to unbundle, shall be available for lease  
3 from Qwest at a rate equal to 115% of the UNE rates  
4 applicable as of the effective date on which the  
5 Commission adds the Wire Center to the Commission-  
6 Approved Wire Center List.

7 9.1.14.4.1.2 For a one-hundred and eighty (180) Day period  
8 beginning on the effective date on which the Commission  
9 approves an addition to the Commission-Approved Wire  
10 Center List, any Dark Fiber Loop UNEs and Dark Fiber  
11 Dedicated Transport UNEs that CLEC leases from Qwest  
12 as of that date, but which Qwest is not obligated to  
13 unbundle, shall be available for lease from Qwest at a rate  
14 equal to 115% of the UNE rates applicable as of the  
15 effective date on which the Commission adds the Wire  
16 Center to the Commission-Approved Wire Center List.

17 Eschelon's language for Issue 9-42 in Section 9.1.14.4.1 relates to transition  
18 periods for additions to the Commission Approved Wire Center List. Eschelon's  
19 language provides that when an addition is made to the Commission Approved  
20 Wire Center list, Eschelon would be allowed to lease DS1 and DS3 UNEs  
21 impacted by this addition at 115% of the UNE rates applicable at the time of the  
22 addition for a period of 90 days. Eschelon's language would also provide the  
23 same arrangement for Dark Fiber impacted by an addition to the Commission  
24 Approved Wire Center list for a period of 180 days. Eschelon also proposes to  
25 strike Qwest's proposed language regarding back billing under Section 9.1.14.4.1  
26 and strike Qwest's proposed language regarding transition periods from Section  
27 9.1.14.4. Qwest's language in these sections is inconsistent with the Oregon Wire  
28 Center Order.

1 **Q. WHAT LANGUAGE DOES QWEST PROVIDE FOR ISSUES 9-41 AND 9-**  
2 **42?**

3 A. Qwest proposes the following sentence in 9.1.14.4 and language for 9.1.14.4.1:

4 9.1.14.4...CLEC will have ninety (90) Days to transition existing  
5 DS1 and DS3 UNEs to an alternative service. CLEC will have one  
6 hundred eighty (180) Days to transition Dark Fiber transport to an  
7 alternative service.

8 9.1.14.4.1 CLEC is subject to back billing for the difference  
9 between the UNE and Tariff recurring rates beginning on the  
10 ninety-first (91st) Day for the existing DS1 and DS3 UNEs, and on  
11 Day one-hundred-eighty-one (181) for the existing Dark Fiber  
12 transport, as well as all applicable nonrecurring charges associated  
13 with such conversions.

14 Qwest's proposed language for Section 9.1.14.4 would allow Qwest to add wire  
15 centers to the non-impaired wire centers list without Commission approval, and  
16 would prohibit Eschelon from ordering impacted UNEs 30 days after Qwest's  
17 notice of the addition (see Issue 9-37 (a)). The Qwest proposed language under  
18 these issues for 9.1.14.4 requires Eschelon to convert to an alternative service  
19 arrangement for DS1 and DS3 UNEs within 90 days of Qwest's notice and Dark  
20 Fiber transport within 180 days of Qwest's notice.

21 Qwest's proposed language for 9.1.14.4.1 focuses on the pricing after the  
22 transition period is over. Specifically, Qwest's language states that Eschelon is  
23 subject to back billing for the difference between the UNE rate and Tariff rate  
24 once the 90 day and 180 day transition periods are over, and like under Issue 9-  
25 40, includes an open ended provision related to conversion charges.

1 **Q. WHY IS ESCHELON’S LANGUAGE FOR ISSUES 9-41 AND 9-42**  
2 **SUPERIOR TO QWEST’S?**

3 A. Eschelon’s language for 9.1.14.4.1 reflects the Commission’s and the FCC’s  
4 findings on this issue that allows for an interim compensation plan. Specifically,  
5 the Oregon Commission stated that “The interim compensation plan – 115 percent  
6 of the current UNE rates for non-impaired UNE services and facilities – is also a  
7 reasonable [balance]; CLECs can plan for the future by knowing how to quantify  
8 their incremental costs to continue to use UNEs during the transition period...”<sup>122</sup>  
9 Eschelon’s proposed 9.1.14.4.1 reflects this Commission directive. This is also  
10 supported by the FCC’s TRRO at paragraphs 145 ad 198.

11 Qwest’s proposed language, on the other hand, ignores this Commission  
12 conclusion and instead focuses on the transition period starting with Qwest’s  
13 notice that it has added a wire center to the Commission Approved Wire Center  
14 List. As discussed under Issue 9-37, the Commission – not Qwest – should  
15 determine if and when a rate center is added to the Commission Approved Wire  
16 Center List. In addition, Qwest’s proposed language on backbilling under Section  
17 9.1.14.4.1 conflicts with the Commission’s findings on backbilling in UM 1251,  
18 in which the Commission found that “rather than allowing Qwest to automatically  
19 back-bill CLECs to the original effective date if it prevails on the designation  
20 generally, we shall only allow Qwest to back-bill to a date designated by the  
21 Commission in the event that we specifically find the CLECs’ objections to have

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<sup>122</sup> Eschelon/40, Denney/15.

1           been without merit or primarily for the purpose of delaying implementation. To  
2           do otherwise would have an undue chilling effect on the exercise of the CLECs'  
3           rights to scrutinize Qwest's proposed wire center designation."<sup>123</sup> Qwest's  
4           proposal conflicts with the Commission's conclusions and should be rejected.

5       **VII. UNE AVAILABILITY, CERTAIN RATE APPLICATIONS AND**  
6       **COMMINGLED EELS (SUBJECT MATTER NOS. 20, 22, 22A, 23, 25 AND**  
7       **26)**

8       **SUBJECT MATTER NO. 20, SUBLOOPS – QWEST CROSS CONNECT/WIRE**  
9       **WORK**

10       **Issue Nos. 9-50: ICA Section 9.3.3.8.3**

11       **Q. IS ISSUE 9-50 NOW CLOSED?**

12       A. Yes. The companies closed Issue 9-50 based on language in Section 9.3.3.8.3.  
13       The closed language for 9.3.3.8.3 is as follows:

14                   9.3.3.8.3       If CLEC elects to move its service to the new  
15                   minimum point of entry, CLEC may either perform its own cross-  
16                   connect or request that Qwest perform the cross-connect. If Qwest  
17                   performs the cross-connect appropriate time and material charges  
18                   are applicable.

19       **SUBJECT MATTER NO. 22, UNBUNDLED CUSTOMER CONTROLLED**  
20       **REARRANGEMENT ELEMENT (“UCCRE”)**

21       **Issue No. 9-53: ICA Sections 1.7.3, 9.9 and 9.9.1**

22       **Q. PLEASE DESCRIBE THE BUSINESS NEED AND SUMMARIZE THE**  
23       **ISSUE RELATED TO UNBUNDLED CUSTOMER CONTROLLED**

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<sup>123</sup> Eschelon/40, Denney/14.



1           **REARRANGEMENT.**

2    A.    Discrimination is harmful to Eschelon’s business, as it is at a disadvantage vis-à-  
3           vis its competitors if it is discriminated against. Eschelon offers four alternative  
4           proposals for Subject Matter 22 that are all designed to remedy the following  
5           situation:<sup>124</sup> Qwest refuses to offer a product to Eschelon on the grounds that  
6           Qwest plans to discontinue the product (such as for lack of demand), but Qwest  
7           does not discontinue it. The product remains in the SGAT and/or ICAs with other  
8           CLECs, and Qwest takes no action (such as amending those ICAs or seeking  
9           Commission approval) to remove the product, while Qwest will not provide the  
10          product on the same terms to Eschelon in its ICA. Eschelon is willing to accept  
11          the identical language and rates for these products in its ICA as are currently  
12          contained in the SGAT and/or the Qwest-AT&T ICA, but Qwest refuses to  
13          include those terms in Eschelon’s ICA.

14          Through Eschelon’s four language options as to how to remedy this problem,  
15          Eschelon offers to (1) require Qwest to notify Eschelon and offer it the same  
16          terms upon which it offers the product to another CLEC, if during the term of this  
17          Agreement Qwest performs or offers to perform the identified services to the  
18          other CLEC; (2) require Qwest to obtain Commission approval to phase out or  
19          otherwise cease offering a wholesale product or service to all CLECs; (3) require  
20          Qwest to obtain Commission approval to phase out or otherwise cease offering a  
21          wholesale product or service to all CLECs (with additional procedures included to

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<sup>124</sup> Eschelon has updated its proposals for Issue 9-53 since the Petition for Arbitration was filed in this case.

1 address Qwest's stated concerns about the second proposal); or (4) require Qwest  
2 to continue to offer products on nondiscriminatory terms until it amends all  
3 agreements to eliminate the product or asks the Commission for approval to phase  
4 out or otherwise cease offering a wholesale product or service to all CLECs (with  
5 no language about the procedures for doing so, as they will be determined later by  
6 the Commission, should Qwest request such a process). All of these proposals are  
7 compromises from Eschelon's initial position, which was simply to include the  
8 same language for these products that is currently included in the SGAT and/or  
9 the Qwest-AT&T ICA. Eschelon made the second, third, and fourth proposals  
10 (the "phase out" proposals) after the witness for the Minnesota Department of  
11 Commerce pointed out in testimony that a commission process for phasing out  
12 products may be needed if Qwest prefers not to individually amend each  
13 interconnection agreement.

14 Qwest proposes to delete Eschelon's language and provide only that it will  
15 provide this product if the Commission approves "a new negotiated ICA or  
16 negotiated amendment" during the term of the agreement. AT&T already has this  
17 product in its ICA. Under Qwest's proposal, Qwest could provide this product to  
18 AT&T pursuant to the existing approved Qwest-AT&T ICA on the date after the  
19 Qwest-Eschelon proposed ICA becomes effective, and Qwest would not have to  
20 offer the same product to Eschelon because AT&T's ICA is not a "new negotiated  
21 ICA." Qwest's proposed language does nothing to remedy the identified  
22 problem. If Qwest does not amend its ICAs with AT&T and other CLECs that

1 contain this product, Qwest should have to provide it to Eschelon on the same  
2 terms or approach the Commission to discontinue it generally to avoid  
3 discrimination and ensure an orderly phase out of the product.

4 The product that is at issue in Issue 9-53 is Unbundled Customer Controlled  
5 Rearrangement Element (“UCCRE”). Qwest claims that it is discontinuing this  
6 product due to lack of demand, but UCCRE is in both the Qwest-AT&T ICA, the  
7 Qwest-Qwest ICA,<sup>125</sup> and the SGAT. UCCRE enables Eschelon to control the  
8 configuration of UNEs or ancillary services on a Near Real Time basis through a  
9 digital cross connect device, when this device is available in a Qwest central  
10 office. Qwest previously had agreed in negotiations to provide UCCRE to  
11 Eschelon but now claims it plans to discontinue the product.

12 **Q. WHAT IS ESCHELON’S PROPOSAL TO ADDRESS THIS ISSUE?**

13 A. The language of Eschelon’s four alternative language proposals for these issues is  
14 as follows:

15 **Proposal #1 (Sections 9.9 & 9.9.1)**

16 **9.9 Unbundled Customer Controlled Rearrangement Element**  
17 **(UCCRE)**

18 **9.9.1 If Qwest provides or offers to provide UCCRE to any other**  
19 **CLEC during the term of this Agreement, Qwest will notify CLEC**  
20 **and offer CLEC an amendment to this Agreement that allows**  
21

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<sup>125</sup> Qwest Corporation (Qwest) has an interconnection agreement with its CLEC, Qwest Communications Corp. This agreement was approved by the Commission in Order 04-630 as part of Docket and UCCRE. Further, when this agreement was updated with a TRRO Amendment, UCCRE was not removed from the interconnection agreement. The TRRO amendment as part of the Qwest-Qwest contract was approved by the Commission on September 27, 2006 in Order 06-559.

1 CLEC, at its option, to request UCCRE on nondiscriminatory  
2 terms and conditions.

3  
4 **Proposal #2 (Sections 1.7.3, 9.9 & 9.9.1)**

5 1.7.3 If Qwest desires to phase out or otherwise cease offering on  
6 a wholesale basis to any Competitive Local Exchange Carriers an  
7 Interconnection service, access to Unbundled Network Elements  
8 (UNEs), additional Ancillary Services or Telecommunications  
9 Services available for resale which is contained in the Statement of  
10 Generally Available Terms (SGAT) or this Agreement, Qwest  
11 must request and obtain Commission approval, after CLEC and  
12 other potentially affected carriers are afforded reasonable notice  
13 and opportunity to be heard in a generic Commission proceeding.  
14 If the basis for Qwest's request is that Qwest is no longer required  
15 to provide the product or service pursuant to a legally binding  
16 modification or change of the Existing Rules, in the cases of  
17 conflict, the pertinent legal ruling and the terms of Section 2.2 of  
18 this Agreement govern notwithstanding anything in this Section  
19 1.7.3. This provision is not intended to change the scope of any  
20 regulatory agency's authority with regard to Qwest or CLECs.

21  
22 1.7.3.1 Before Qwest submits a request to cease offering a  
23 product or service pursuant to this Section 1.7.3, and while  
24 a request pursuant to this Section 1.7.3 is pending before  
25 the Commission, Qwest must continue to offer the product  
26 or service to CLEC, unless the Commission orders  
27 otherwise.

28  
29 1.7.3.1.1 If the Commission orders that Qwest need  
30 not offer the product or service while the  
31 proceeding is pending, the Commission may place  
32 such restrictions on that order as allowed by its  
33 rules and authority, including a condition that if  
34 Qwest later offers the product or service to any  
35 CLEC, it must then inform CLECs of the  
36 availability of the product or service and offer it to  
37 other CLECs on the same terms and conditions. If  
38 those terms and conditions are in this Agreement  
39 (but were not in effect due to the Commission order  
40 that Qwest need not offer the product or service  
41 while the proceeding is pending), once Qwest offers  
42 those terms to any other CLEC, Qwest must offer  
43 those terms to CLEC pursuant to those terms in this  
44 Agreement without amendment as well.

1  
2 1.7.3.2 If the Commission approves the phase out or other  
3 cessation of a product or service offering, the Agreement  
4 will be amended as set forth in Section 2.2 to reflect the  
5 outcome of the generic proceedings by the Commission,  
6 except where CLEC notifies Qwest in writing that an  
7 amendment is not required. Qwest will also amend its  
8 SGAT consistent with the Commission's ruling, unless the  
9 Commission orders otherwise.

10  
11  
12 **9.9 Unbundled Customer Controlled Rearrangement Element**  
13 **(UCCRE)**

14  
15 9.9.1 Qwest shall provide Unbundled Customer Controlled  
16 Rearrangement Element (UCCRE) to CLEC in a non-  
17 discriminatory manner according to the terms and  
18 conditions of Section 9.9 and subparts of the SGAT, unless  
19 Qwest obtains an order from the Commission that it need  
20 not offer UCCRE to CLECs, such as an order pursuant to  
21 Section 1.7.3 of this Agreement.

22  
23 **Proposal #3 (Sections 1.7.3, 9.9 & 9.9.1)**

24 1.7.3 If Qwest desires to phase out or otherwise cease offering on  
25 a wholesale basis (without first individually amending every  
26 interconnection agreement containing that term and updating the  
27 SGAT) an Interconnection service, access to Unbundled Network  
28 Elements (UNEs), Ancillary Services or Telecommunications  
29 Services available for resale, Qwest must request and obtain  
30 Commission approval, after CLEC and other potentially affected  
31 carriers are afforded reasonable notice and opportunity to be heard  
32 in a generic Commission proceeding. For example, if a product is  
33 generally available per the terms of the SGAT and is contained in  
34 the ICAs of other CLECs (but not CLEC), before refusing to make  
35 that product available to CLEC on the same terms on the basis that  
36 Qwest intends to cease offering the product (such as due to lack of  
37 demand), Qwest must either (1) amend the ICAs of those other  
38 CLECs and update the SGAT to remove the product; or (2) obtain  
39 Commission approval to cease offering the product on a wholesale  
40 basis. This provision is intended to help facilitate  
41 nondiscrimination by ensuring that Qwest cannot refuse to offer a  
42 product on the same terms to CLEC while that product is still  
43 contained in the ICAs of other CLECs or in the SGAT.  
44

1 1.7.3.1 If the basis for Qwest’s request is that Qwest is no  
2 longer required to provide the product or service pursuant  
3 to a legally binding modification or change of the Existing  
4 Rules, in the cases of conflict, the pertinent legal ruling and  
5 the terms of Section 2.2 of this Agreement govern  
6 notwithstanding anything in this Section 1.7.3.

7  
8 1.7.3.2 This Section 1.7.3 is not intended to change the  
9 scope of any regulatory agency's authority with regard to  
10 Qwest or CLECs.

11  
12 1.7.3.3 This Section 1.7.3 relates to the cessation of a  
13 product or service offering on a wholesale basis as  
14 described in Section 1.7.3 (referred to as a “phase out” or  
15 as “cease offering”). Nothing in this Section 1.7.3 prevents  
16 another CLEC and Qwest from mutually agreeing to  
17 remove a product from an individual ICA to which CLEC  
18 is not a party.

19  
20 1.7.3.4 Before Qwest submits a request to phase out or  
21 cease offering a product or service (as those terms are used  
22 in this Section 1.7.3) pursuant to this Section 1.7.3, and  
23 while a request pursuant to this Section 1.7.3 is pending  
24 before the Commission, Qwest must continue to offer the  
25 product or service, unless the Commission orders  
26 otherwise.

27  
28 1.7.3.4.1 If the Commission orders that Qwest need  
29 not offer the product or service while the  
30 proceeding is pending, the Commission may place  
31 such restrictions on that order as allowed by its  
32 rules and authority, including a condition that if  
33 Qwest later offers the product or service to any  
34 CLEC, it must then inform CLECs of the  
35 availability of the product or service and offer it to  
36 other CLECs on the same terms and conditions. If  
37 those terms and conditions are in this Agreement  
38 (but were not in effect due to the Commission order  
39 that Qwest need not offer the product or service  
40 while the proceeding is pending), once Qwest offers  
41 those terms to any other CLEC, Qwest must offer  
42 those terms to CLEC pursuant to those terms in this  
43 Agreement without amendment as well.  
44

1 1.7.3.5 If the Commission approves the phase out or other  
2 cessation of a product or service offering that is contained  
3 in this Agreement, the product or service will no longer be  
4 available per the terms of the Commission's order without  
5 the need for an amendment to this Agreement, unless the  
6 Commission orders otherwise or the Parties agree to amend  
7 this Agreement. Qwest will amend its SGAT consistent  
8 with the Commission's ruling, unless the Commission  
9 orders otherwise.

10  
11 **For 9.9 & 9.1.9: Same language as for Eschelon proposal #2 (language**  
12 **repeated below)**

13 **9.9 Unbundled Customer Controlled Rearrangement Element**  
14 **(UCCRE)**

15  
16 9.9.1 Qwest shall provide Unbundled Customer Controlled  
17 Rearrangement Element (UCCRE) to CLEC in a non-  
18 discriminatory manner according to the terms and conditions of  
19 Section 9.9 and subparts of the SGAT, unless Qwest obtains an  
20 order from the Commission that it need not offer UCCRE to  
21 CLECs, such as an order pursuant to Section 1.7.3 of this  
22 Agreement.

23  
24 **Proposal #4 (Sections 1.7.3, 9.9 & 9.9.1)**

25 1.7.3 If Qwest desires to phase out or otherwise cease offering a  
26 product, service, element, or functionality on a wholesale basis that  
27 it has previously made available pursuant to Section 251 of the  
28 Act, Qwest must first obtain an order from the Commission  
29 adopting a process for doing so. Once that process in place, Qwest  
30 may use that process as ordered by the Commission.

31  
32 1.7.3.1 Unless and until a process is approved by the  
33 Commission as described in Section 1.7.3, Qwest must  
34 continue to offer such products, services, elements, or  
35 functionalities on a nondiscriminatory basis, such that  
36 Qwest may not refuse to make an offering available to  
37 CLEC on the same terms as it is available to other CLECs  
38 through their ICAs or the SGAT on the grounds that Qwest  
39 , although it has not yet amended those agreements,  
40 indicates that it intends to cease offering that product (such  
41 as due to lack of demand). If the Commission does not  
42 adopt a process as described in Section 1.7.3 or Qwest  
43 chooses not to use that process, Qwest may cease a

1 wholesale offering by promptly amending all ICAs  
2 containing that offering to remove it.  
3  
4

5 **For 9.9 & subparts: As part of Proposal #4, Eschelon proposes that the**  
6 **language of the SGAT (copied below) for Section 9.9 and subparts be**  
7 **included in the Qwest-Eschelon ICA, subject to Qwest being able to remove**  
8 **it through the process described in Section 1.7.3.**  
9

10 **9.9 Unbundled Customer Controlled Rearrangement Element (UCCRE)**

11 Qwest shall provide Unbundled Customer Controlled Rearrangement Element  
12 (UCCRE) in a non-discriminatory manner according to the following terms and  
13 conditions.

14 **9.9.1 Description**

15 9.9.1.1 Unbundled Customer Controlled Rearrangement Element  
16 (UCCRE) provides the means by which CLEC controls the configuration  
17 of Unbundled Network Elements (UNEs) or ancillary services on a near  
18 real time basis through a digital cross connect device. UCCRE utilizes the  
19 Digital Cross-Connect System (DCS). UCCRE is available in Qwest Wire  
20 Centers that contain a DCS and such DCS is UCCRE compatible.

21 **9.9.2 Terms and Conditions**

22 9.9.2.1 DCS ports are DS1, DS3 and Virtual Ports (Virtual Ports are for  
23 connecting one End User to another). The DCS Port is connected to the  
24 Demarcation Point using tie cables via the appropriate DSX cross-connect  
25 panel. The DSX panel serves both as a “Design-To” point and a network  
26 interface at the DCS. CLEC is responsible for designing to the “Design-  
27 To” point. CLEC may connect the UCCRE ports to its elements or CLEC  
28 designated equipment. If CLEC desires DS0 Port functionality, CLEC  
29 will order a DS1 UCCRE Port and provide its own multiplexer (or DS1  
30 UDIT multiplexers) and connect them together. This combination will  
31 form the equivalent of 24 DS0-level ports.

32 9.9.2.2 The reconfiguration of the service is accomplished at the DS0  
33 signal level. Reconfiguration of these services can be accomplished  
34 through two methods: Dial Up or Attendant Access.

35 9.9.2.2.1 Dial Up Access. Qwest will provide access to mutually  
36 agreed upon UCCRE points in those offices where UCCRE is  
37 available. Qwest will provide and engineer this service in the same  
38 manner that it is currently provided to Qwest’s End Users.

39 9.9.2.2.2 Attendant Access. When CLEC requests Qwest to make  
40 changes on its behalf, an attendant access charge will apply per



1 transaction.

2 **9.9.3 Rate Elements**

3 9.9.3.1 Recurring rate elements include:

4 9.9.3.1.1 DS1 Port;

5 9.9.3.1.2 DS3 Port;

6 9.9.3.1.3 Dial Up Access; and

7 9.9.3.1.4 Attendant Access.

8 9.9.3.2 Nonrecurring rate elements include:

9 9.9.3.2.1 DS1 Port;

10 9.9.3.2.2 DS3 Port; and

11 9.9.3.2.3 Virtual Ports.

12 **9.9.4 Ordering Process**

13 9.9.4.1 Ordering processes and installation intervals are specified in  
14 Exhibit C of this Agreement and are the same as specified in the UNEs -  
15 UDIT Section. UCCRE is ordered via the ASR process.

16 9.9.4.2 UCCRE is ordered with the Basic Installation option. Qwest will  
17 begin the work activity on the negotiated Due Date and notify CLEC when  
18 the work activity is complete. Test results performed by Qwest are not  
19 provided to CLEC.

20 **Q. WHAT IS QWEST'S PROPOSAL ON THIS ISSUE?**

21 A. Qwest opposes all of Eschelon's language for Issue 9-53, and proposes to leave  
22 Section 9.9 intentionally blank.

23 **Q. QWEST PROPOSES THE DELETION OF ALL LANGUAGE PROPOSED**  
24 **BY ESCHELON, INCLUDING DELETION OF ALL THREE PHASE OUT**  
25 **PROPOSALS FOR SECTION 1.7.3. WHY IS ESCHELON'S LANGUAGE**  
26 **APPROPRIATE?**

1 A. This issue presents a straight-forward application of the prohibition against  
2 discrimination.<sup>126</sup> Qwest currently offers to other CLECs an option under which  
3 it will provide UCCRE and, when it does so, charges the Commission-approved  
4 rate for the services provided. Specifically, Qwest makes this option available to  
5 itself, AT&T and Covad pursuant to those carriers' ICAs that were approved by  
6 this Commission. When the FCC reversed the pick-and-choose rule, it made clear  
7 that "existing state and federal safeguards against discriminatory behavior" were  
8 still in effect and remained "in place" to provide needed protection against  
9 discrimination.<sup>127</sup> Therefore, Qwest cannot, consistent with its obligation to not  
10 discriminate, offer such a UNE term under its ICAs with other carriers but refuse  
11 to make that term available under its agreement with Eschelon.

12 Qwest has opposed Eschelon's proposed contract language regarding Qwest's  
13 obligation to provide UCCRE primarily on the ground that there is no CLEC  
14 demand for this product and that Qwest, therefore, is discontinuing offering it on  
15 a "going forward basis."<sup>128</sup> The Minnesota Department of Commerce witness Dr.  
16 Fagerlund recommended that the ICA include language that would enable Qwest  
17 to "phase out" elements that are either no longer required or not needed. In  
18 response to Dr. Fagerlund's recommendation, Eschelon has proposed new

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<sup>126</sup> See 47 U.S.C. § 251(c)(3) (duty of local exchange carrier to nondiscriminatory access to network elements on an unbundled basis).

<sup>127</sup> ["Second Report and Order"] Second Report and Order, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338 (July 8, 2004) ¶¶ 18, 20-23.

<sup>128</sup> See Issue No. 9-53, Qwest's position in the Issues Matrix.

1 language (Eschelon proposals #2-#4) that would allow Qwest to phase out  
2 elements, subject to Commission review.

3 Eschelon proposed placing the language in Section 1.7, because this section  
4 already deals with ICA amendments. As Section 1.7.1, in a sense, deals with the  
5 “phasing in” of new products, Section 1.7.3 seemed like a logical place to place  
6 language relating to the “phasing out” of products.

7 Eschelon’s Proposal #3 is offered to alleviate concerns asserted by Qwest during  
8 cross examination on this issue in the Minnesota arbitration. Eschelon’s Proposal  
9 #3 clarifies that its proposal is intended to govern the operation of this  
10 interconnection agreement and does not interfere with the negotiations of other  
11 CLECs. An example has been added to assist in identifying the situation being  
12 addressed.

13 Eschelon’s Proposal #4 is an alternative approach that allows Qwest to propose  
14 for Commission review and adoption a process for the phase out or withdrawal of  
15 a product or service. Unless and until the Commission approves such a process  
16 and it is followed by Qwest, Qwest must either amend all its ICAs individually to  
17 eliminate the offering or offer the products and services on a nondiscriminatory  
18 basis. This proposal is also responsive to suggestion by Qwest that the other  
19 phase out proposals had too much detail in them and perhaps the procedures for a  
20 phase out proposal should be worked out in a more generic proceeding. Under  
21 Proposal #4, Qwest has the opportunity to obtain a phase out process in such

1 circumstances and, until then, may withdraw products by amending the  
2 agreements containing them to eliminate those terms.

3 All three of Eschelon's phase out proposals attempt to remedy the current  
4 situation in which Qwest is holding out products and services as being generally  
5 available through its SGATs, and Qwest is obligated to provide them to other  
6 CLECs under their ICAs, but Qwest will not offer these products and services to  
7 Eschelon.

8 **Q. WHY IS QWEST'S PROPOSAL INSUFFICIENT?**

9 A. Qwest's proposal would allow Qwest to leave the other agreements in place and  
10 discriminate against Eschelon. For UCCRE, Qwest's language is silent, allowing  
11 Qwest to offer this to other CLECs while excluding its availability to Eschelon.

12 **Q. QWEST ARGUES THAT THERE IS NO DEMAND FOR UCCRE.  
13 SHOULD DEMAND BE TAKEN INTO ACCOUNT?**

14 A. No. If Qwest were permitted to unilaterally withdraw a product based on nothing  
15 more than its assertion that there is "no demand" for the product, Eschelon would,  
16 without Commission review, have little or no means for challenging such an  
17 assertion. "Lack of demand" may or may not be a factor that the Commission  
18 will wish to take into account, but Qwest should be required to make its case to  
19 the Commission, rather than engaging in self help and proceeding without  
20 Commission oversight.

1       There is nothing in the Act that limits access only to products and services with  
2       current demand. If Eschelon has a legitimate business reason to believe it may  
3       use a service during the term of the ICA (particularly in light of dwindling UNE  
4       access and the need to explore alternatives going forward), it should be able to get  
5       that service, particularly as long as that service is offered to other CLECs.  
6       Eschelon's phase out proposal would, nonetheless, provide Qwest a mechanism to  
7       withdraw offerings if it can make its case for withdrawal to the Commission.

8       For purposes of applying the prohibition under federal and state law against  
9       discrimination, the issue is not whether there is "demand" for a product or service,  
10      but rather, whether Qwest makes the product or service available to other CLECs.

11      Qwest's approach of attempting to remove this rate element on an ICA by ICA  
12      basis will result in some carriers having access to this service while others do not.  
13      If Qwest proposes changes in Commission-approved rates, including the  
14      availability of products for which this Commission has set rates, Qwest should go  
15      to the Commission, rather than to each CLEC. Unless and until it does so, Qwest  
16      has an obligation to offer the service to all carriers on the same terms and  
17      conditions.

18      Qwest makes this product available pursuant to its SGAT as well as pursuant to  
19      interconnection agreements that it has with other carriers such as AT&T and

1 Covad.<sup>129</sup> Because Qwest provides this product to other carriers, it must also  
2 provide it to Eschelon.<sup>130</sup> Eschelon's proposal, consistent with Qwest's  
3 obligations to not discriminate among carriers, only requires that Qwest provide  
4 Eschelon with this product on the same terms and conditions as it offers or  
5 provides the elements to another carrier.

6 Qwest's proposal, in contrast, allows Qwest to continue to provide access to these  
7 products to other CLECs under its existing SGATs and ICAs while denying such  
8 access to Eschelon. This is discriminatory and violates the Act.

9 **Q. CAN YOU PROVIDE ANY EXAMPLES WHERE THERE WAS**  
10 **SIGNIFICANT DEBATE OVER A UNE SERVICE, YET LITTLE**  
11 **ACTUAL DEMAND?**

12 A. Yes. In the past, there was considerable debate regarding access to dark fiber.<sup>131</sup>  
13 Few, if any CLECs, ordered dark fiber for a long time, but CLECs still had a legal  
14 right to it and eventually it has been used. What this example illustrates is that,  
15 because of rapid and frequent changes in both the law and technology in the  
16 telecommunications field, it is difficult to predict the future demand for a product  
17 or service for which the current demand may be minimal.

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<sup>129</sup> See SGAT, AT&T/Qwest ICA, Covad/Qwest ICA § 9.3.6 and § 9.9. In addition, Qwest is required to provide CLECs with nondiscriminatory access to unbundled network elements pursuant to 47 U.S.C. § 251(c)(3).

<sup>130</sup> *Second Report and Order* at ¶¶ 18, 20-23.

<sup>131</sup> Section 9.7.1.1 of the ICA defines Dark Fiber as follows: "Dark Fiber, unlike "lit" fiber, is unused fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services.

1 **Q. DID THE *TRRO* REMOVE QWEST'S OBLIGATION TO PROVIDE**  
2 **UCCRE?**

3 A. No. Qwest argues that, because the FCC omitted a reference to “digital cross-  
4 connect systems” when it re-wrote the unbundling rule, 47 C.F.R. § 51.319 (“Rule  
5 319”), this means that it is not obligated to provide UCCRE as a UNE.

6 Rule 319 sets forth the FCC’s unbundling rules. Prior to its revision pursuant to  
7 the *TRO*, 47 C.F.R. § 51.319(d)(2)(iv) provided that:

8 “The incumbent shall . . . permit, to the extent technically feasible,  
9 a requesting telecommunications carrier to obtain the functionality  
10 provided by the incumbent LEC’s digital cross-connect systems in  
11 the same manner that the incumbent LEC provides such  
12 functionality to interexchange carriers.”

13 This rule was substantially re-written in 2003 (and re-written again pursuant to the  
14 *TRRO*) to set forth a process by which state commissions would conduct an  
15 impairment analysis to determine what elements must be unbundled. As a result  
16 of the re-write, § 51.319(d)(2)(iv) was omitted from the rule. Qwest interprets  
17 this to mean that the FCC found that incumbents are not required to offer access  
18 to digital cross connect systems and, therefore, that Qwest is not required to offer  
19 UCCRE, which is accessed using a digital cross connect system.

20 However, after Rule 319 was re-written, 47 C.F.R. § 51.305(a)(2)(iv) continued to  
21 require incumbents to provide CLECs with interconnection at “central office  
22 cross-connect points.” The reasonable interpretation is that, in amending Rule  
23 319, the FCC was focused on establishing a process for conducting the necessary

1 impairment analysis, and not that the FCC had concluded that unbundled access  
2 to cross-connects would no longer be required. There is no discussion in the  
3 FCC's Order relieving incumbents from the obligation to offer access using cross-  
4 connects. When the FCC has eliminated such obligations in other cases, it has  
5 done so expressly.

6 In the absence of any amendment by the FCC to its unbundling rules, it remains  
7 obligatory that Qwest make this product available pursuant to its SGAT as well as  
8 pursuant to interconnection agreements that it has with other carriers.<sup>132</sup> Because  
9 Qwest provides this product to other carriers, it must also provide it to  
10 Eschelon.<sup>133</sup> Eschelon's proposal, consistent with Qwest's obligations to avoid  
11 discrimination among carriers, only requires that Qwest provide Eschelon with  
12 this product on the same terms and conditions as it offers or provides them to  
13 another carrier.

14 **Q. PLEASE SUMMARIZE THIS ISSUE.**

15 A. Eschelon's language states that the rates and services Qwest currently offers to  
16 other CLECs related to UCCRE be available to Eschelon so long as they are  
17 available to other CLECs. This proposal is reasonable and allows Eschelon to  
18 utilize this product, to the extent Qwest makes it available to other CLECs.  
19 Eschelon offers three alternative proposals that would all allow Qwest to

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<sup>132</sup> See SGAT §9.9., Qwest-AT&T ICA, Qwest-Covad ICA § 9.9. In addition, Qwest is required to provide CLECs with nondiscriminatory access to unbundled network elements pursuant to 47 U.S.C. § 251(c)(3).

<sup>133</sup> *Second Report and Order* at ¶¶ 18, 20-23.



1           discontinue products (such as for lack of demand) without individually amending  
2           every ICA containing those products, so any alleged burden of doing so has been  
3           adequately addressed by Eschelon’s proposals.

4           **SUBJECT MATTER NO. 22A. APPLICATION OF UDF-IOF TERMINATION**  
5           **(FIXED) RATE ELEMENT**

6           **Issue No. 9-51: ICA Section 9.7.5.2.1.a**

7           **Q. PLEASE DESCRIBE THE BUSINESS NEED RELATED TO UDF-IOF**  
8           **TERMINATIONS.**

9           A. Eschelon desires clear language relating to the application of rates in Exhibit A.  
10           Qwest proposes one rate application for Eschelon, while its language reflects an  
11           alternative rate application in its SGAT and agreements with other carriers.

12           **Q. WHAT IS ESCHELON’S PROPOSAL TO ADDRESS THIS ISSUE?**

13           A. Eschelon offers two alternative proposals for this issue:

14                           **Proposal #1**

15                           9.7.5.2.1.a) UDF-IOF Termination (Fixed) Rate Element. This  
16                           rate element is a recurring rate element and provides a termination  
17                           at the interoffice FDP within the Qwest Wire Center. Two UDF-  
18                           IOF terminations apply (one for each of the two end points in the  
19                           termination path) per pair ~~cross-connect provided on the facility.~~  
20                           Termination charges apply for each intermediate office terminating  
21                           at an FDP or like cross-connect point.

22                           **Proposal #2 (SGAT language)**

23                           9.7.5.2.1.a) UDF-IOF Termination (Fixed) Rate Element. This  
24                           rate element is a recurring rate element and provides a termination  
25                           at the interoffice FDP within the Qwest Wire Center. Two UDF-  
26                           IOF terminations apply per pair ~~cross-connect provided on the~~  
27                           facility. Termination charges apply for each intermediate office  
28                           terminating at an FDP or like cross-connect point.

1 **Q. WHAT IS QWEST’S PROPOSAL ON THIS ISSUE?**

2 A. Qwest has one proposal for this issue:

3 9.7.5.2.1.a) UDF-IOF Termination (Fixed) Rate Element. This  
4 rate element is a recurring rate element and provides a termination  
5 at the interoffice FDP within the Qwest Wire Center. Two UDF-  
6 IOF terminations apply ~~(one for each of the two end points in the~~  
7 ~~termination path) per pair cross connect provided on the facility.~~  
8 Termination charges apply for each intermediate office terminating  
9 at an FDP or like cross-connect point.

10 **Q. WHY IS ESCHELON’S LANGUAGE APPROPRIATE?**

11 A. The contract contains descriptions of rate elements along with the method in  
12 which they are applied. This section applies to the rate in 9.7.5.1.4 of Exhibit A.  
13 The rate from Exhibit A is the same for all carriers. Qwest has not provided any  
14 support, including cost studies,<sup>134</sup> for the change in the terms related to the rate  
15 application for this element. Further, there is no reason why Qwest should change  
16 the terms of the application of these rates for Eschelon, but not for other carriers.

17 Eschelon’s second proposal mirrors the language from Qwest’s SGAT and Qwest  
18 has provided no clear reason why its SGAT language is unacceptable. Qwest  
19 proposed adding the phrase, providing that the rate applies “per cross-connect  
20 provided on the facility.” Because the rate has not changed, it is unclear how  
21 Qwest’s proposed change impacts the rates, their application or the cost studies  
22 creating these rates.

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<sup>134</sup> During negotiations Eschelon requested to review Qwest’s cost studies to determine if the rate application language proposed by Qwest is consistent with the way in which the costs were developed. Qwest has refused to provide cost studies for this rate element.

1 **Q. WHY IS QWEST’S PROPOSED LANGUAGE INSUFFICIENT?**

2 A. Qwest’s language potentially alters the rate application of a Commission  
3 approved rate. In an attempt to close this issue and address Qwest’s “concern”  
4 with the language it uses for other carriers, Eschelon offered its first proposal  
5 clarifying that the termination charges described apply to each end of the transport  
6 path.

7 **Q. WILL ESCHELON’S PROPOSAL ALLOW QWEST TO RECOVER ITS**  
8 **COST?**

9 A. Yes. Qwest argues that Eschelon’s proposal prevents Qwest from recovering its  
10 cost because multiple terminations may be required.<sup>135</sup> However, Qwest provided  
11 no cost support to Eschelon to support this claim.

12 **Q. PLEASE SUMMARIZE THIS ISSUE.**

13 A. Qwest’s proposal is unsupported and contrary to language in its own SGAT.  
14 Qwest’s language would potentially create discriminatory rate application terms  
15 for Eschelon than exist for the rest of the carriers in the state of Oregon. Qwest’s  
16 language should be rejected and Eschelon’s proposal #2, which mirrors the  
17 SGAT, or proposal #1, which attempts to clarify the current rate application,  
18 should be adopted.

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<sup>135</sup> See Qwest’s position in the Issues Matrix (10/10/06), issue 9-51, p. 117.

1 **SUBJECT MATTER NO. 23. DIFFERENT UNE COMBINATIONS**

2 **Issue Nos. 9-54 and 9-54(a): ICA Sections 9.23.2 (1 of 2 issues) and 9.23.5.1.3**

3 **Q. DID ANY PART OF THE LANGUAGE IN ISSUE NO. 9-54 AND 9-54(a)**  
4 **CLOSE SINCE THE PETITION FOR ARBITRATION WAS FILED IN**  
5 **THIS CASE?**

6 A. Yes. The language below has closed, except the underlined phrase (“and Loop  
7 Mux Combinations”). The underlined language remains in dispute and is  
8 discussed in the testimony of Mr. Starkey (Eschelon/1) as part of Subject Matter  
9 No. 27 (Multiplexing (Loop-Mux Combinations)); Issue No. 9-61 and 9-61(a)-(c).

10 **Issue 9-54**

11 9.23.2 UNE Combinations are available in, but not limited to, the  
12 following products: EELs (subject to the limitations set forth  
13 below) and Loop Mux Combinations. If CLEC desires access to a  
14 different UNE Combination, CLEC may request access through  
15 the Special Request Process set forth in this Agreement. Qwest  
16 will provision UNE combinations pursuant to the terms of this  
17 Agreement without requiring an amendment to this Agreement,  
18 provided that all UNEs making up the UNE Combination are  
19 contained in this Agreement. If Qwest develops additional UNE  
20 Combination products, CLEC can order such products without  
21 using the Special Request Process, but CLEC may need to submit a  
22 questionnaire pursuant to Section 3.2.2.

23  
24 **Issue 9-54(a)**

25 9.23.5.1.3 If CLEC elects to use the SR process to obtain access to  
26 a different UNE Combination, the recurring rates for the UNE  
27 Combination will be no greater than the total of the recurring rates  
28 in Exhibit A in that combination, unless Qwest negotiates with  
29 CLEC that the particular SR request would require different  
30 recurring rates. Any disputes regarding different rates other than  
31 in Exhibit A would follow the dispute resolution process outlined  
32 in Section 5.18. While any such rate dispute is pending, Qwest  
33 shall make the different UNE Combination available at recurring  
34 rates for the UNE Combination that are no greater than the total of

1 the recurring rates in Exhibit A in that combination, and those  
2 recurring rates will be Interim Rates.

3 **SUBJECT MATTER NO. 25. SERVICE ELIGIBILITY CRITERIA**

4 **Issue Nos. 9-56 and 9-56(a): ICA Sections 9.23.4.3.1.1 and 9.23.4.3.1.1.1**

5 **Q. PLEASE DESCRIBE THE BUSINESS NEED RELATED TO SERVICE**  
6 **ELIGIBILITY CRITERIA.**

7 A. Qwest is required by the FCC to have cause before conducting an audit regarding  
8 CLEC compliance with service eligibility requirements. Eschelon's proposed  
9 language memorializes this requirement and requires Qwest to provide  
10 information to Eschelon that Qwest used to support its cause for review. Service  
11 eligibility audits impose a burden and cost upon Eschelon and because Qwest is  
12 required to have cause for such an audit, Qwest should also be required to provide  
13 the rationale supporting its request for an audit. Besides being consistent with the  
14 requirement that Qwest have cause before conducting on audit, providing this  
15 information is likely to facilitate resolution of any disputes.

16 **Q. WHAT IS ESCHELON'S PROPOSAL TO ADDRESS THIS ISSUE?**

17 A. Eschelon proposes the following language:

18 **Issue No. 9-56: Service Eligibility Audits**

19 9.23.4.3.1.1 After CLEC has obtained High Capacity EELs in  
20 accordance with ICA Section 9.23.4.1.2, Qwest may conduct a  
21 Service Eligibility Audit to ascertain whether those High Capacity  
22 EELs comply with the Service Eligibility Criteria set forth in ICA  
23 Section 9.23.4.1.2., when Qwest has a concern that CLEC has not  
24 met the Service Eligibility Criteria.

25 **Issue No. 9-56(a): Service Eligibility Audits**

1                   9.23.4.3.1.1.1.1 The written notice shall include the cause  
2                   upon which Qwest has a concern that CLEC has not met  
3                   the Service Eligibility Criteria. Upon request, Qwest shall  
4                   provide to CLEC a list of circuits that Qwest has identified  
5                   as of that date, if any, for which Qwest alleges non-  
6                   compliance or which otherwise supports Qwest’s concern.

7   **Q.     WHAT IS QWEST’S PROPOSAL ON THIS ISSUE?**

8   A.     Qwest proposes that Eschelon’s language be deleted for both 9.23.4.3.1.1 and  
9           9.23.4.3.1.1.1.1.

10   **Q.     WHY IS ESCHELON’S LANGUAGE NECESSARY?**

11   A.     Eschelon’s language is necessary in order to ensure that Qwest has a reasonable  
12           basis for requesting an audit and to potentially give Eschelon a chance to resolve  
13           any issues before an audit is conducted, avoiding the necessity of an audit.  
14           Consistent with the FCC requirement, Eschelon’s proposal would allow Qwest to  
15           perform an audit per the ICA terms when Qwest has a concern that Eschelon has  
16           not met the Service Eligibility Criteria. Eschelon’s proposal would require Qwest  
17           to disclose the reasons for its concern. Qwest has rejected this very modest  
18           provision, in effect insisting that it should be able to conduct an audit without  
19           cause. The FCC held, however, that:

20                   ...audits will not be routine practice, but will **only** be undertaken  
21                   when the incumbent LEC has a concern that a requesting carrier  
22                   has not met the criteria for providing a significant amount of local  
23                   exchange service.<sup>136</sup> (emphasis added)

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<sup>136</sup> TRO at ¶ 621, citing *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order Clarification (2000), at ¶¶ 28-33, *aff’d sub nom. CompTel v. FCC*, 309 F.3d 3 (D.C. Cir. 2002).

1 Before Eschelon is put to the work that an audit necessarily entails, Qwest should  
2 be required to have at least some reason to believe that there may be  
3 noncompliance that will be uncovered by an audit. Otherwise, the audit process  
4 becomes not a reasonable measure for assuring compliance, but rather, the very  
5 sort of “routine practice” that the FCC precluded.

6 **Q. DOES THE FCC REQUIRE QWEST TO PROVIDE ANY INFORMATION**  
7 **TO ESCHELON AS A CONDITION OF AN AUDIT?**

8 A. The FCC in the *TRO*, determined that the states are in a better position to address  
9 implementation of the audit provisions.<sup>137</sup> Eschelon’s proposal is precisely the  
10 sort of implementation issue that the FCC left to the states to determine.

11 Eschelon’s language would require Qwest to describe its concern regarding  
12 Eschelon’s compliance with the Service Eligibility Criteria, as discussed above,  
13 and to identify any non-complying circuits that it has identified. Eschelon’s  
14 proposal would require Qwest to provide information that may allow Eschelon to  
15 respond to Qwest’s articulated concerns and further early resolution, thereby  
16 avoiding the possibility of a costly audit, or a dispute ending up in front of the  
17 Commission.

18 Eschelon’s notice proposal is not burdensome. It does not require Qwest to  
19 provide information that it does not already have. Qwest knows the reason for its  
20 concern and must merely state it. In addition, the language states only that Qwest

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<sup>137</sup> *TRO* at ¶ 625.

1 will provide, upon request, a list of allegedly non-complying circuits “if any” only  
2 if Qwest has identified such circuits “as of that date.” If Qwest has a list of non-  
3 complying circuits, there is no reason for it to not provide that information to  
4 further root cause analysis and allow CLEC to respond fully. If Qwest does not  
5 have such a list, the language places no burden on Qwest to create one.

6 **Q. PLEASE SUMMARIZE THIS ISSUE.**

7 A. Qwest is required by the FCC to have cause before conducting an audit regarding  
8 CLEC compliance with service eligibility requirements. Eschelon’s proposed  
9 language memorializes this requirement and requires Qwest to provide  
10 information to Eschelon that Qwest used to support its cause for review. As a  
11 result, Eschelon’s language should be adopted.

12 **SUBJECT MATTER NO. 26. COMMINGLED EELS/ARRANGEMENTS**

13 *Issue Nos. 9-58, 9-58(a), 9-58(b), 9-58(d), 9-58(e) and 9-59: ICA Sections*  
14 *9.23.4.5.1, 9.23.4.5.1.1, 9.23.4.5.4, 9.23.4.6.6 (and subparts), 9.1.1.1.1,*  
15 *9.1.1.1.1.2, and 9.23.4.7*

16 **Q. WHAT IS A LOOP-TRANSPORT COMBINATION AND WHAT IS THE**  
17 **BUSINESS NEED RELATED TO LOOP-TRANSPORT COMBINATIONS**  
18 **AND COMMINGLED EELS/ARRANGEMENTS.**

19 A. A Loop-Transport Combination is a combination of a loop and dedicated  
20 transport.<sup>138</sup> The term “Loop-Transport Combination” is an umbrella term to  
21 cover both UNE EELs and Commingled EELs, since both are functionally the

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<sup>138</sup> TRO at ¶575 and ¶583.



1 same. Eschelon may purchase commingled EELs in situations where UNE EELs  
2 are not available.<sup>139</sup>

3 The intent of Eschelon's proposed language is to ensure that point-to-point<sup>140</sup>  
4 Commingled EELs are a useful offering and a meaningful alternative to the point-  
5 to-point UNE EEL product it is replacing. Because a Commingled EEL is  
6 functionally equivalent to a UNE EEL, a Commingled EEL should be put  
7 together (ordering, tracking, repair and billing) in a manner similar to a UNE  
8 EEL. Further, Qwest should not be able to alter the terms of the UNE portion of a  
9 commingled EEL simply because the UNE is commingled.

10 Qwest 's proposal would make Commingled EELs difficult to use by requiring  
11 separate orders, separate circuit IDs and separate bills for each component of the  
12 commingled arrangement. Qwest's proposals would extend the installation time  
13 for commingled EELs, lengthen the time and cost for installation and repair, and  
14 make bill verification more difficult than with point-to-point UNE EELs or end-  
15 to-end special access.

16 **Q. WHAT ARE ESCHELON'S PROPOSALS TO ADDRESS THESE ISSUES?**

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<sup>139</sup> A UNE EEL may not be available because one of the components of this EEL has been classified as "non-impaired." When a component of a UNE EEL is not available, Eschelon is able to order a Commingled EEL, which replaces the "non-impaired" UNE component of the UNE EEL with another Qwest wholesale product, such as private lines. For example, if DS1 UNE transport between two offices is no longer available due to a finding of "non-impairment," then Eschelon can replace the UNE transport with private line transport. The UNE Loop / Private Line Transport combination is an example of a Commingled EEL.

<sup>140</sup> Point-to-point refers to the case where the loop and transport component of the loop transport combination is of the same bandwidth. See ICA closed language section 9.23.4.4.

1 A. Eschelon’s proposals are simple, as these proposals align the ordering, tracking,  
2 repair and billing provisions of a point-to-point UNE EEL or point-to-point  
3 Special Access circuit with a point-to-point Commingled EEL. As is explained in  
4 more detail below, a lack of alignment diminishes the usefulness of a  
5 Commingled EEL compared to the UNE EEL, by extending the provisioning and  
6 repair timeframes and making tracking of the circuit difficult.

7 **Issue No. 9-58: Ordering for Commingled Arrangements**

8 9.23.4.5.1 CLEC will submit orders for Loop Transport EELs  
9 Combinations using the LSR process. Submission of LSRs is  
10 described in ICA Section 12.

11 9.23.4.5.1.1 If any component of the Loop-Transport  
12 Combination is not a UNE (i.e., not a component to which  
13 UNE pricing applies), CLEC will indicate on the LSR that  
14 the component is not a UNE (e.g., CLEC is ordering the  
15 component as an alternate service such as special access).  
16 CLEC will indicate this information in the Remarks section  
17 of the LSR, unless the Parties agree otherwise.

18 9.23.4.5.4 One (1) LSR is required when CLEC orders  
19 Point-to-Point EELs, and Point-to-Point Commingled  
20 EELs. . . .

21 This language makes it clear that only a single order is required for point-to-point  
22 Commingled EELS.

23 **Issue No. 9-58(a): Circuit ID for Commingled Arrangements**<sup>141</sup>

24 9.23.4.5.4 One (1) LSR is required when CLEC orders Point-to-  
25 Point EELs—,and Point-to-Point Commingled EELs. For such  
26 Point-to-Point Loop-Transport Combinations, Qwest will assign a  
27 single circuit identification (ID) number for such combination.

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<sup>141</sup> Note the first part of ICA Section 9.23.4.5.4 is part of issue 9-58.

1 Qwest may require two (2) service requests when CLEC orders  
2 Multiplexed ~~EELs~~ Loop-Transport Combinations (which are not  
3 Point-to-Point) and EEL loops (as part of a multiplexed EEL).  
4 Regarding Commingling see ICA Section 24. (Emphasis added).

5 This language makes it clear that a single circuit ID will be used for point-to-point  
6 Commingled EELs.<sup>142</sup> Eschelon also offers, in the alternative, if the remainder of  
7 this language is adopted, to replace “LSR” with “service request” in issues 9-58  
8 and 9-58(a).

9 **Issue No. 9-58(b): Billing for Commingled Arrangements**

10 9.23.4.6.6 For each Point-to-Point Loop-Transport Combination  
11 (see ICA Section 9.23.4.5.4), all chargeable rate elements for such  
12 combination will appear on the same Billing Account Number  
13 (BAN).

14 This language makes it clear that chargeable elements of a point-to-point  
15 Commingled EEL will appear on the same BAN.

16 In the event that the Commission accepts Qwest’s position on 9.23.4.6.6 in Issue  
17 No. 9-58(b) above, Eschelon proposes the following alternative language:

18 **Issue No. 9-58(c): Billing for Commingled Arrangements –**  
19 **Alternative Proposal**

20 9.23.4.6.6 For each Point-to-Point Commingled EEL (see Section  
21 9.23.4.5.4), so long as Qwest does not provide all chargeable rate  
22 elements for such EEL on the same Billing Account Number  
23 (BAN), Qwest will identify and relate the components of the  
24 Commingled EEL on the bills and the Customer Service Records.  
25 Unless the Parties agree in writing upon a different method(s),

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<sup>142</sup> For Eschelon’s alternative proposal (if single circuit ID is rejected), see Issue No. 9-59 for ICA Section 9.23.4.7 in subpart below.

1 Qwest will relate the components of the Commingled EEL by  
2 taking at least the following steps:

3 9.23.4.6.6.1 Qwest will provide, on each Connectivity Bill  
4 each month, the circuit identification (“circuit ID”) for the  
5 non-UNE component of the Commingled EEL in the sub-  
6 account for the related UNE component of that  
7 Commingled EEL;

8 9.23.4.6.6.2 Qwest will assign a separate account type to  
9 Commingled EELs so that Commingled EELs appear on an  
10 account separate from other services (such as special  
11 access/private line);

12 9.23.4.6.6.3 Each month, Qwest will provide the summary  
13 BAN and sub-account number for the UNE component of  
14 the Commingled EEL in a field (e.g., the Reference Billing  
15 Account Number, or RBAN, field) of the bill for the non-  
16 UNE component; and

17 9.23.4.6.6.4 For each Commingled EEL, Qwest will  
18 provide on all associated Customer Service Records the  
19 circuit ID for the UNE component; the RBAN for the non-  
20 UNE component; and the circuit ID for the non-UNE  
21 component.

22 The proposal above simple provides that if Qwest is not required to provide  
23 chargeable elements of a point-to-point Commingled EEL on a single BAN, then  
24 these elements should at least be related.

25 **Issue No. 9-58(d): Other Commingled Arrangements**

26 9.1.1.1.1 Commingled EELs are addressed in Section 9.23. For  
27 any other Commingled arrangement, the following terms apply, in  
28 addition to the general terms described in Section 24:

29 9.1.1.1.1.2 When a UNE or UNE Combination is  
30 connected or attached with a non-UNE wholesale service,  
31 unless it is not Technically Feasible or the Parties agree  
32 otherwise, CLEC may order the arrangement on a single  
33 service request; if a circuit ID is required, there will be a  
34 single circuit ID; and all chargeable rate elements for the

1                   Commingled service will appear on the same BAN. If  
2                   ordering on a single service request, using a single  
3                   identifier, and including all chargeable rate elements on the  
4                   same BAN is not Technically Feasible, Qwest will identify  
5                   and relate the elements of the arrangement on the bill and  
6                   include in the Customer Service Record for each  
7                   component a cross reference to the other component, with  
8                   its billing number, unless the Parties agree otherwise.

9                   The provisions above require the option of a single order, single Circuit ID and  
10                  single BAN treatment for commingled arrangements other than EELs.

11                  **Issue No. 9-58(e): Interval for Commingled Arrangements**

12                  9.23.4.4.3.1 When any component of the Loop-Transport  
13                  Combination is not a UNE, the service interval for the combination  
14                  will be the longer interval of the two facilities being Commingled.  
15                  See Section 24.1.2.1.

16                  24.3.2 See Section 9.23.4.4.3.1 regarding intervals for  
17                  Commingled EELs.

18                  ~~24.3.2 The service interval for Commingled EELs will be as~~  
19                  ~~follows. For the UNE component of the EEL see Exhibit C. For~~  
20                  ~~the tariffed component of the EEL see the applicable Tariff.~~

21                  9.1.1.1.1 Commingled EELs are addressed in Section 9.23. For  
22                  any other Commingled arrangement, the following terms apply, in  
23                  addition to the general terms described in Section 24:

24                  9.1.1.1.1.1 When a UNE and another service are  
25                  Commingled, the service interval for the Commingled  
26                  arrangement will be the longer interval of the two facilities  
27                  being Commingled.

28                  The provisions above logically require that when ordering a Commingled EEL the  
29                  total service interval will be no longer than the component with the longest  
30                  interval.

1 In the event that the Commission accepts Qwest’s position for 9-58(a), Eschelon  
2 proposes the following language:

3 **Issue No. 9-59: Circuit ID – Alternate Proposal**

4 9.23.4.7 Maintenance and Repair for UNE Component of Point-  
5 to-Point Commingled EELs

6 9.23.4.7.1 When CLEC reports a trouble through any of  
7 the means described in Section 12.4.2.2, so long as Qwest  
8 provides more than one circuit ID per Commingled EEL,  
9 CLEC may provide all circuit IDs associated with the  
10 Commingled EEL in a single trouble report (i.e., Qwest  
11 shall not require CLEC to submit separate and/or  
12 consecutive trouble reports for the different circuit IDs  
13 associated with the single Commingled EEL). If CLEC is  
14 using CEMR to submit the trouble report, for example,  
15 CLEC may report one circuit ID and include the other  
16 circuit ID in the remarks section (unless the Parties agree to  
17 a different method). Qwest will communicate a single  
18 trouble report tracking number (i.e., the “ticket” number)  
19 (described in Section 12.1.3.3.3.1.1) for the Commingled  
20 EEL to CLEC at the time the trouble is reported.

21 9.23.4.7.1.1 If any circuit ID is missing from any  
22 Customer Service Record associated with the  
23 Commingled EEL, Qwest will provide the circuit  
24 ID information to CLEC at the time CLEC submits  
25 the trouble report.

26 9.23.4.7.1.2 Qwest may charge a single Maintenance of  
27 Service or Trouble Isolation Charge (referred to as “No  
28 Trouble Found” charge in some cases) only if Qwest  
29 dispatches and no trouble is found on both circuits  
30 associated with the Commingled EEL. If CLEC may  
31 charge Qwest pursuant to Section 12.4.1.8, CLEC may also  
32 charge only a single charge for both circuits associated with  
33 the Commingled EEL.

34 This provision simply requires that Qwest treat a point-to-point Commingled EEL  
35 as a single circuit for the purpose of maintenance and repair.

1 Q. WHAT ARE QWEST'S PROPOSAL ON THESE ISSUES?

2 A. Qwest proposes the following language:

3 **Issue No. 9-58: Ordering for Commingled Arrangements**

4 9.23.4.5.1 CLEC will submit orders for ~~Loop Transport EELs~~  
5 ~~Combinations~~ using the LSR process. Submission of LSRs is  
6 described in Section 12.

7 ~~9.23.4.5.1.1 If any component of the Loop Transport~~  
8 ~~Combination is not a UNE (i.e., not a component to which UNE~~  
9 ~~pricing applies), CLEC will indicate on the LSR that the~~  
10 ~~component is not a UNE (e.g., CLEC is ordering the component as~~  
11 ~~an alternate service such as special access). CLEC will indicate~~  
12 ~~this information in the Remarks section of the LSR, unless the~~  
13 ~~Parties agree otherwise.~~

14 9.23.4.5.4 One (1) LSR is required when CLEC orders Point-to-  
15 Point EELs ~~and Point-to-Point Commingled EELs.~~

16 **Issue No. 9-58(a): Circuit ID for Commingled Arrangements**

17 9.23.4.5.4 One (1) LSR is required when CLEC orders Point-to-  
18 Point EELs. ~~and Point to Point Commingled EELs. For such~~  
19 ~~Point to Point Loop Transport Combinations, Qwest will assign a~~  
20 ~~single circuit identification (ID) number for such combination.~~  
21 Qwest may require two (2) service requests when CLEC orders  
22 Multiplexed ~~EELs Loop Transport Combinations~~ (which are not  
23 Point-to-Point) and EEL loops (as part of a multiplexed EEL).  
24 Regarding Commingling see ICA Section 24.

25 **Issue No. 9-58(b): Billing for Commingled Arrangements**

26 9.23.4.6.6 For Commingling see Section 24.

27 Qwest rejects Eschelon's alternative language to 9-58(b), contained in Issue No.

28 9-58(c).

29 **Issue No. 9-58(d): Other Commingled Arrangements**

30 Qwest proposes deletion of Eschelon's language.

1           **Issue No. 9-58(e): Interval for Commingled Arrangements**

2                           ~~9.23.4.4.3.1~~ When any component of the Loop Transport  
3                           Combination is not a UNE, the service interval for the combination  
4                           will be the longer interval of the two facilities being Commingled.  
5                           See Section 24.1.2.1.

6                           24.3.2 The service interval for Commingled EELs will be as  
7                           follows. For the UNE component of the EEL see Exhibit C. For  
8                           the tariffed component of the EEL see the applicable Tariff.

9                           ~~9.1.1.1.1~~ Commingled EELs are addressed in Section 9.23. For  
10                           any other Commingled arrangement, the following terms apply, in  
11                           addition to the general terms described in Section 24:

12   ~~9.1.1.1.1.1~~ When a UNE and another service are  
13   Commingled, the service interval for the Commingled  
14   arrangement will be the longer interval of the two facilities  
15   being Commingled.

16           **Issue No. 9-59: Circuit ID – Alternative Proposal**

17                           9.23.4.7 Maintenance and Repair for UNE Component of ~~Point to~~  
18                           Point Commingled EELs

19   9.23.4.7.1 When CLEC reports a trouble through any of  
20   the means described in Section 12.4.2.2, ~~so long as Qwest~~  
21   ~~provides more than one circuit ID per Commingled EEL,~~  
22   CLEC may provide ~~all~~ both circuit IDs associated with the  
23   Commingled EEL in a single trouble report. ~~(i.e., Qwest~~  
24   ~~shall not require CLEC to submit separate and/or~~  
25   ~~consecutive trouble reports for the different circuit IDs~~  
26   ~~associated with the single Commingled EEL).~~ If CLEC is  
27   using CEMR to submit the trouble report, for example, the  
28   CLEC ~~may~~ will first report one circuit ID (the circuit it  
29   believes has the trouble) and include the other circuit ID in  
30   the remarks section ~~(unless the Parties agree to a different~~  
31   ~~method).~~ ~~Qwest will communicate a single trouble report~~  
32   ~~tracking number (i.e., the “ticket” number) (described in~~  
33   ~~Section 12.1.3.3.3.1.1) for the Commingled EEL to CLEC~~  
34   ~~at the time the trouble is reported. Should a second repair~~  
35   ~~ticket be required for the circuit in the remarks section,~~  
36   Qwest will contact CLEC, and they will mutually agree  
37   who will open the second repair ticket.



1                   9.23.4.7.1.1 ~~Intentionally Left Blank. If any circuit~~  
2                   ~~ID is missing from any Customer Service Record~~  
3                   ~~associated with the Commingled EEL, Qwest will~~  
4                   ~~provide the circuit ID information to CLEC at the~~  
5                   ~~time CLEC submits the trouble report.~~

6                   9.23.4.7.1.2       Qwest may charge a single  
7                   Maintenance of Service or Trouble Isolation Charge  
8                   ~~(sometimes referred to as “No Trouble Found”~~  
9                   ~~charge) only if Qwest dispatches and no trouble is~~  
10                  found on either both circuits associated with the  
11                  Commingled EEL. ~~If CLEC may charge Qwest~~  
12                  ~~pursuant to Section 12.4.1.8, CLEC may also~~  
13                  ~~charge only a single charge for both circuits~~  
14                  ~~associated with the Commingled EEL.~~

15       **Q.     WHAT IS A UNE EEL AND HOW IS A COMMINGLED EEL**  
16       **DIFFERENT FROM A UNE EEL?**

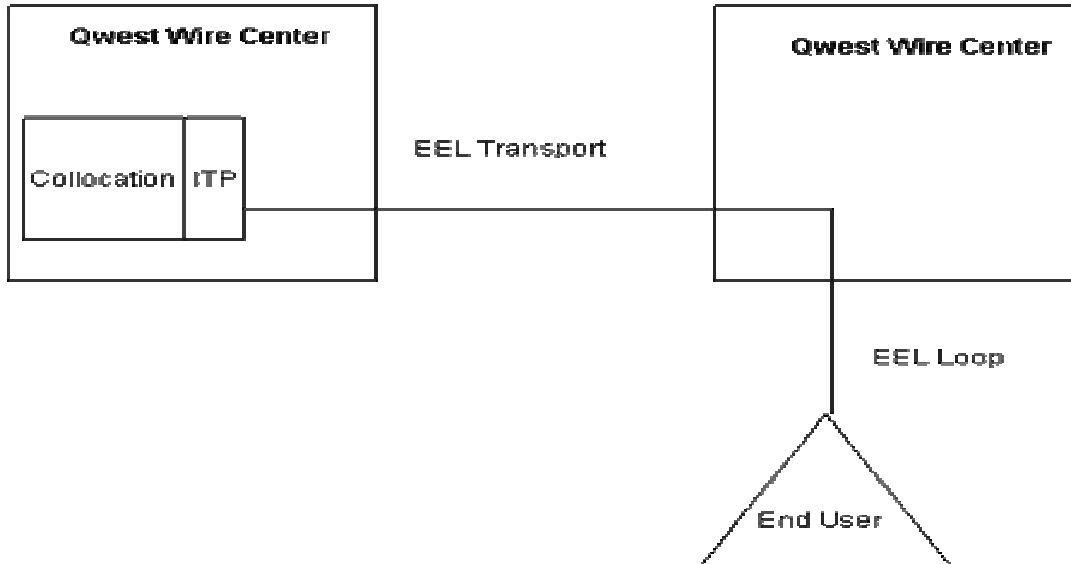
17       A.     An EEL is a type of Loop-Transport Combinations where both components of the  
18              Combination are unbundled network elements. A Commingled EEL is identical  
19              to the EEL in function, except one component of the Loop-Transport  
20              Combination is not a UNE.<sup>143</sup> Loop-Transport Combinations promote  
21              competition by giving CLECs access to end user customers in wire centers where  
22              the CLEC is not collocated.<sup>144</sup> In other words, the Loop-Transport Combination  
23              extends the loop from the end user’s location to a wire center where the CLEC is  
24              collocated. The diagram below shows a picture of a Point-To-Point EEL. Point-  
25              To-Point simply refers to the fact that the loop and transport are of the same  
26              bandwidth, in other words no multiplexing is involved.

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<sup>143</sup> As is explained below, it is the price that is different between a UNE EEL and a Commingled EEL.

<sup>144</sup> TRO at ¶576.

### Point-To-Point EEL with Collocation



1

2 Source: Qwest TRRO/OFO Enhanced Extended Loop (EEL) PCAT -  
3 <http://www.qwest.com/wholesale/pcat/trroeel.html>

4 The picture for a Point-To-Point Commingled EEL, would be identical to the  
5 picture above, except that the label, not the facilities, for “EEL Transport” or  
6 “EEL Loop” would be replaced with non-UNE label, such as “Private Line  
7 Transport” or “Channel Termination.”

8 **Q. WHY IS ESCHELON’S LANGUAGE NECESSARY?**

9 A. In several provisions of the ICA, Eschelon proposes the use of a single order,  
10 single circuit ID, and single bill for Point-To-Point Commingled EELs, just as  
11 Qwest provides for a single order, single circuit ID, and single bill for Point-To-  
12 Point UNE EELs today. A Commingled EEL is nothing more than a change in  
13 name and price to the UNE EEL it is replacing. As such, it is a network facility

1 that Qwest has already been provisioning, maintaining and repairing. Except for  
2 the price there is absolutely nothing new about a Commingled EEL from a  
3 technical, network, provisioning or maintenance standpoint. Therefore, the terms  
4 based upon well-established history proposed by Eschelon should be acceptable to  
5 Qwest.

6 A single order is required for a Point-To-Point EEL. Point-to-Point EEL requests  
7 are issued using a Common Language Circuit ID, which is identified on the  
8 customer service record (CSR) as CLS. With respect to repair, CLECs submit a  
9 single trouble report for a Point-To-Point EEL.<sup>145</sup> Qwest also provides trouble  
10 isolation and testing as a joint process for Point-To-Point EELs.<sup>146</sup> EELs are  
11 billed on a single Customer Records and Information System (CRIS) summary  
12 bill. Thus, Eschelon is able to place a single order, receive a single bill, track the  
13 EEL using a single Circuit ID, and issue a single repair ticket for EELs.

14 There is no functional difference between a UNE EEL and a Commingled EELs -  
15 the facilities are the same; the function is the same; and the end-user experience is  
16 the same for both a UNE EEL and a Commingled EEL. However, Qwest is  
17 attempting to create differences by treating the two pieces of a Commingled EEL  
18 separately, rather than together as Qwest treats an EEL. Qwest wants CLECs to  
19 order the two components of a Commingled EELs using two separate orders;

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<sup>145</sup> Qwest Wholesale Website, Maintenance and Repair Overview - V64.0,  
<http://www.qwest.com/wholesale/clecs/maintenance.html>

<sup>146</sup> Qwest Wholesale Website, Maintenance and Repair Overview - V64.0,  
<http://www.qwest.com/wholesale/clecs/maintenance.html>

1 Qwest wants to bill CLECs two separate bills; Qwest wants to assign two separate  
2 Circuit IDs to the Commingled circuit which adds to the complexity of tracking  
3 the Commingled EEL and would require CLECs to issue separate repair ticket for  
4 combined components of the Commingled EEL.

5 A CLEC would purchase a Commingled EEL in a situation where a UNE EEL is  
6 not available. UNE EELs availability can be limited due to limits placed upon the  
7 availability of high capacity unbundled loops and transport in and between certain  
8 wire centers. The CLEC could build a collocation eliminating the need for the  
9 loop-transport combination. However, collocations are capital intensive and time  
10 consuming. For example, the direct cost charged by Qwest to Eschelon for a new  
11 collocation (space, power, APOT) is approximately \$40,000. In addition to this  
12 cost, the CLEC must place equipment in the collocation space. Without Loop-  
13 Transport combinations, such as Commingled EELs, CLECs might have to  
14 abandon the particular market where UNE EELs are not available.

15 By complicating the ordering, maintenance, and billing processes for  
16 Commingled EELs, Qwest makes this commingled arrangement less useful and  
17 raises Eschelon's cost by either 1) imposing onerous and inefficient processes for  
18 the purchase and use of a Commingled EEL or 2) making the use of loop  
19 transport combination so difficult that the only alternative is to exit (cease to offer  
20 products using this combination) from the market or purchase the arrangement at  
21 a yet higher price, solely from Qwest's special access tariff. Qwest's proposed

1 language diminishes Eschelon's ability to compete effectively against Qwest,  
2 because the language prevents Eschelon from:

- 3 1) ordering a Commingled EEL on a single order;
- 4 2) receiving a Commingled EEL identified by a single circuit ID; and
- 5 3) being billed for a Commingled EEL on a single bill.

6 **Q. WHY DOESN'T ESCHELON SIMPLY PURCHASE END-TO-END**  
7 **SPECIAL ACCESS CIRCUITS FROM QWEST INSTEAD OF**  
8 **COMMINGLED EELS?**

9 A. The FCC has upheld a CLECs right to purchase UNE combinations, including  
10 Commingled EELs. Eschelon should not be forced to migrate to yet a higher  
11 priced alternative because Qwest prefers not to provide Commingled EELs on  
12 reasonable terms and conditions. UNE EELs, Commingled EELs and end-to-end  
13 Special Access circuits are all functionally identical. The difference between  
14 them is their price. The table below compares the wholesale cost of a DS1 UNE  
15 EEL, a DS1 Commingled EEL and a DS1 end-to-end special access arrangement.

Loop-Transport Combinations / Special Access Price Comparison Oregon (DS1)				
	UNE EEL	Commingled EEL		Special Access
	UNE Loop / UNE Xport	SA Loop / UNE Xport	UNE Loop / SA Xport	SA Loop / SA Xport
Loop (Zone 1) / Channel Term	\$ 87.37	\$ 165.00	\$ 87.37	\$ 165.00
ITP	\$ 6.05	\$ 6.05	\$ 6.05	\$ 10.00
Transport (10 miles)	\$ 46.44	\$ 46.44	\$ 252.00	\$ 252.00
<b>Total</b>	<b>\$ 139.86</b>	<b>\$ 217.49</b>	<b>\$ 345.42</b>	<b>\$ 427.00</b>
<b>Sources</b>				
UNE Rate Sources: Exhibit A - Loop 9.2.3.3, ITP 9.1.2, Xport 9.6.2.2				
SA Rate Sources: FCC Tariff #1 - Channel Termination (Loop) and Xport, 17.2.11, ITP 7.11.4.				

The first comparison is for a UNE EEL and shows the cost of a DS1 UNE Loop and DS1 UNE transport. The second and third cases show Commingled EELs. The second is a DS1 Channel Termination combined with a DS1 UNE Transport and the third is a DS1 loop combined with a DS1 special access transport circuit. The final case shows an end-to-end special access circuit using a DS1 channel termination and DS1 special access dedicated transport.

**Q. WILL ESCHELON’S PROPOSAL CAUSE QWEST TO INCUR SIGNIFICANT COSTS?**

A. No, Eschelon is not asking Qwest to modify systems and incur costs, but simply treat point-to-point commingled EELs as point-to-point UNE EELs and end-to-end special access circuits are treated today. Qwest is attempting to turn what is essentially a price change into something much more – an unusable alternative. With respect to ordering, Qwest claims that Eschelon’s proposal is “unique” and that Eschelon’s proposal would impose upon Qwest costly systems and

1 processing changes.<sup>147</sup> Eschelon's proposal is not unique because Eschelon is not  
2 proposing a change from Qwest's current process which uses a single order,  
3 single circuit ID, and single bill for Eschelon's Point-To-Point EELs. Eschelon is  
4 merely proposing to treat EELs in a similar manner, as they have been in the past.  
5 In fact, for Eschelon's embedded base of EELs, those circuits are billed on the  
6 same bill and have a single circuit ID, and were originally ordered on a single  
7 order.

8 **Issue No. 9-58: ICA Sections 9.23.4.5.1, 9.23.4.5.1.1; 9.23.4.5.4 - Ordering,**  
9 **Billing, and Circuit ID for Commingled Arrangements – ORDERING**

10 **Q. WHAT IS THE SPECIFIC BUSINESS NEED INVOLVED IN ISSUE NO. 9-**  
11 **58 – ORDERING, BILLING AND CIRCUIT ID FOR COMMINGLED**  
12 **ARRANGEMENTS?**

13 A. Under Qwest's proposed ordering process, Eschelon must submit separate orders  
14 for the UNE and non-UNE components of Commingled EELs. The problem with  
15 the separate ordering process is that once Eschelon receives the FOC for the UNE  
16 segment, only then may Eschelon submit an ASR for the non-UNE component.  
17 Using a DS1 UNE loop and PLT transport as an example, there are at least two  
18 problems with this process: (1) there is a time delay since Qwest can take up to  
19 72 hours to return a FOC for a DS1 UNE loop ; and (2) receipt of a FOC is no  
20 guarantee that the UNE facility will actually be delivered on the due date.

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<sup>147</sup> Qwest Response, p. 35.

1 Because the EEL circuit is incomplete without the loop facility, completion of the  
2 PLT transport order without the loop is of no use to Eschelon or its customer. In  
3 that case there is no complete functioning circuit, because the UNE and non-UNE  
4 segments are provisioned using a separate orders. If one segment goes held  
5 because of lack of facilities, Eschelon may end up paying recurring charges for a  
6 partial circuit, even though Eschelon's end-user is not yet receiving service and  
7 Eschelon is not able to commence billing to its end-user. The customer thus has  
8 no service, and there may be no specified time by which it will have service, and  
9 all the while Eschelon is paying for a partial circuit which is of no use to Eschelon  
10 or its customer.

11 **Q. HOW DOES ESCHELON'S PROPOSED LANGUAGE FOR ISSUE NO. 9-**  
12 **58, ICA SECTIONS 9.23.4.5.1; 9.23.4.5.1.1; AND 9.23.4.5.4 ADDRESS**  
13 **THESE ISSUES?**

14 A. Eschelon proposes language in ICA Section 9.23.4.5.1 and its subpart  
15 9.23.4.5.1.1, and ICA Section 9.23.4.5.4 that provides for ordering Commingled  
16 EELs on a single LSR. In ICA Section 9.23.4.5.1, Eschelon proposes use of the  
17 term "Loop Transport Combination" which would include Commingled EELs as  
18 being ordered through the LSR process. ICA Section 9.23.4.5.1.1 is a new  
19 subpart proposed by Eschelon that specifies how non-UNE components (e.g.,  
20 special access) would be specified on the LSR. Eschelon is proposing that for  
21 non-UNE components, Eschelon would use the Remarks section of the LSR to  
22 indicate that non-UNE components are included in the LSR. In ICA Section



1 9.23.4.5.4, Eschelon proposes adding the language “Point-to-Point Commingled  
2 EELs” to clarify that Commingled EELs are ordered using one (1) LSR. Eschelon  
3 proposes alternate language below in Issue No. 9-59 if Qwest’s position is  
4 adopted for ICA Section 9.23.4.5.4.

5 **Issue No. 9-58 (a): ICA Sections - 9.23.4.5.4 - Ordering, Billing, and Circuit ID**  
6 **for Commingled Arrangements – CIRCUIT ID [2 of 2 issues in ICA Section**  
7 **9.23.4.5.4; For 1st issue (terminology), see Issue No. 9-58 above]**

8 **Q. WHAT IS THE SPECIFIC BUSINESS NEED IN 9-58(A) RELATED TO**  
9 **SINGLE CIRCUIT ID?**

10 A. Qwest assigns a single circuit ID to a UNE EEL and provides it to the ordering  
11 CLEC for tracking purposes. For Commingled EELs, Qwest proposes to assign  
12 two circuit IDs (one to the UNE and another to the non-UNE). Qwest makes this  
13 proposal even in the case where a UNE EEL is being converted to a Commingled  
14 EEL – in other words, the arrangement started with a single circuit ID and Qwest  
15 is proposing to break them apart.

16 The linchpin of effective EEL facility management is the use of a single circuit ID  
17 to cover all segments of the facility. It is this single identifier that permits both  
18 Qwest and Eschelon to easily and accurately track facility inventories, order  
19 correctly, repair in the most efficient manner possible, and bill in a way that  
20 actually permits verification of bill and rate accuracy. The end result, of course,  
21 is that both companies manage what is a single facility from the end user

1 customer's perspective in the most efficient manner possible, which ensures the  
2 best possible delivery of service to a customer.

3 **Q. WHAT PROBLEMS RESULT FROM HAVING A COMMINGLED EEL**  
4 **ASSIGNED MORE THAN ONE CIRCUIT ID?**

5 A. Under Qwest's proposal, instead of installing one EEL, the parties must install  
6 two separate circuits at two different times. This leads to multiple problems,  
7 including mismatches between service delivery intervals for the separate circuits.  
8 For example, the gap in time between deliveries of the two circuits will cause a  
9 delay in Eschelon's ability to conduct full testing on the customer's entire circuit.  
10 The DS1 UNE loop interval is 9 days and the PLT transport interval is 9 days. If  
11 Qwest wants to meet the PID performance for the loop, it will deliver the loop  
12 within 9 days. Because the PLT transport piece will not be delivered until many  
13 days later, however, there is no point in Eschelon testing the loop segment  
14 because the circuit for the Commingled EEL is not complete until all segments  
15 are installed. Qwest, however, will start to bill CLEC for the loop. The loop and  
16 transport together serve the end user customer and whether that customer's  
17 service is working "end-to-end" cannot be determined until the two are connected.  
18 To make matters worse, Qwest's proposal related to intervals (as discussed in 9-  
19 58(e)) forces Eschelon to order sequentially rather than concurrently, which  
20 causes a delay. If Eschelon orders circuits concurrently, Eschelon must accept,  
21 test and turn up of the loop independently of the special access circuit. This  
22 testing process is futile because Eschelon is testing a loop not connected to the

1 customer. Thus, even if Eschelon tests and accepts the UNE loop, there is no  
2 guarantee that the entire circuit is going to work.

3 **Q. HOW DOES ESCHELON'S LANGUAGE PROPOSAL FOR ICA**  
4 **SECTIONS 9.23.4.5.1 AND SUBPARTS SOLVE THE ISSUES DESCRIBED**  
5 **ABOVE?**

6 A. Eschelon's language makes clear that a single circuit ID will be provided for  
7 Point-To-Point loop-transport combinations.

8 **Q. WILL QWEST HAVE TO MODIFY ITS INTERNAL SYSTEMS IN**  
9 **ORDER TO ASSIGN A SINGLE CIRCUIT ID TO A COMMINGLED**  
10 **EEL?**

11 A. Qwest currently provides combinations of loops and transport (EELs and special  
12 access) using a single circuit ID. The only difference that is taking place with a  
13 Commingled EEL is that the price of one of the components is changing. In most  
14 cases, the price change occurs for all loops in a wire center, or all transport  
15 facilities on a route as a result of a non-impairment finding in the wire center  
16 proceeding. The result is that in most situations, both UNEs and Special Access  
17 services will not be simultaneously available in a given wire center or along a  
18 given transport route, thus the change really is as simple as an increase in price.  
19 Qwest surely is competent at raising prices.

1 **Issue No. 9-58 (b): ICA Sections - 9.23.4.6.6 (and subparts), Ordering, Billing,**  
2 **and Circuit ID for Commingled Arrangements – BILLING**

3 **Q. WHAT IS THE SPECIFIC BUSINESS NEED RELATED TO BILLING?**

4 A. When billing Eschelon for a UNE EEL, Qwest bills the UNE EEL as a single  
5 facility on one billing account number (BAN). Bill review and reconciliation will  
6 be challenging at best, and unmanageable at worst, if Qwest implements its  
7 proposal to bill the two components of the Commingled EEL separately. In the  
8 absence of a single circuit ID or relating the segments of the Commingled EEL on  
9 the bills (as proposed by Eschelon in its alternative proposal), Eschelon will not  
10 know whether a particular UNE is a part of a Commingled EEL. Thus, Eschelon  
11 will have to review every line item on its UNE bill to attempt to determine  
12 whether that UNE is part of a Commingled EEL. Given the volume of Eschelon's  
13 UNE inventory, this kind of undertaking is simply not feasible. Similarly, while  
14 Eschelon can track loss and completion reports to ensure accurate billing for  
15 disconnected UNEs, no loss and completion reports are provided for tariffed  
16 services such as special access. Without some indication that the UNE and non-  
17 UNE segments of a Commingled EEL are related, a loop may be disconnected  
18 and Eschelon could conceivably continue to pay for the non-UNE segment for no  
19 reason at all. Thus, billing the UNE and non-UNE segments on a single bill will  
20 allow Eschelon to track these segments in tandem, which makes sense since they  
21 are combined together to make up the Commingled EEL.

22 **Q. IS PROVIDING A SINGLE BAN FOR COMMINGLED EELS COSTLY**

1           **FOR QWEST?**

2    A.    No, it should not be costly. First, Qwest currently provides a single bill for UNE  
3           EELs today. As mentioned above, the difference between a UNE EEL and a  
4           commingled EEL is the price of one of the components of the EEL. In most  
5           cases, the change in price is brought about by a change in the availability of a  
6           UNE component of the UNE EEL. This change in availability means that what  
7           was once available at a TELRIC rate is now available at an alternative, higher  
8           rate, such as special access. Qwest need only change the rate that it is charging to  
9           Eschelon. Qwest does not need to virtually separate the two components of the  
10          loop-transport combination, so that ordering, repair and billing for these  
11          components are contained in separate systems.

12           **Issue No. 9-58 (c): ICA Sections - 9.23.4.6.6 (and subparts) Ordering, Billing,**  
13           **and Circuit ID for Commingled Arrangements – BILLING - (Alternate**  
14           **proposal to 9.23.4.6.6)**

15    **Q.    IF THE COMMISSION DETERMINES THAT QWEST DOES NOT NEED**  
16           **TO PROVIDE A SINGLE BILL FOR COMMINGLED EELS, WHAT**  
17           **ALTERNATIVE DOES ESCHELON PROPOSE?**

18    A.    As discussed above in Issue No. 9-58(b), Eschelon supports a single bill for the  
19           components of a Commingled EEL. However, to the extent that the Commission  
20           adopts Qwest’s language for these provisions, the Commission should order that  
21           Eschelon’s alternative language for ICA Sections 9.23.4.6.6 (and subparts) and  
22           9.23.4.7 (and subparts) also is included in the ICA. Eschelon’s alternative

1 language only requires that Qwest relate the UNE and non-UNE segments of the  
2 Commingled EEL.

3 Eschelon's proposed language spells out the process for relating the UNE and  
4 non-UNE segments of the Commingled EEL in the billing system so Eschelon  
5 can track the individual components. A single circuit ID for the Commingled  
6 EEL facility, relating the loop and transport segments as laid out above, is the  
7 only way that Eschelon can manage the repair and billing for Commingled EELs  
8 to any customer's satisfaction. Absent an identified relationship between the  
9 UNE and non-UNE segments of the same EEL, no CLEC can feasibly use a  
10 Commingled EEL. This is not an acceptable implementation of the FCC's  
11 mandate to eliminate restrictions on commingling, and Qwest should not be  
12 permitted to so deliberately tilt the field to the advantage of its exorbitantly  
13 expensive retail products. For these reasons, Eschelon proposes this alternate  
14 language if Qwest's position on 9.23.4.6.6 is accepted in arbitration.

15 **Issue No. 9-58 (d): ICA Section 9.1.1.1.1 & 9.1.1.1.2 Ordering, Billing, and**  
16 **Circuit ID for Commingled Arrangements – OTHER ARRANGEMENTS**

17 **Q. WHAT IS THE SPECIFIC BUSINESS NEED RELATED TO ORDERING,**  
18 **BILLING, AND CIRCUIT ID FOR COMMINGLED ARRANGEMENTS –**  
19 **OTHER ARRANGEMENTS?**

20 A. The same types of problems that will occur with Commingled EELs if there is not  
21 a single LSR, single circuit ID, and single bill will arise with other Commingled  
22 arrangements as well. Therefore, these sections create a default to have a single

1 LSR, single circuit ID, and single bill, unless the Parties agree otherwise or doing  
2 so is not Technically Feasible. In the latter case, the components of the  
3 Commingled arrangement are to be related for these purposes, unless the Parties  
4 agree otherwise. Such language will help prevent Qwest from proceeding again  
5 in the unilateral manner in which Qwest approached implementing Commingled  
6 EELs and its initially password protected terms.

7 *Issue No. 9-58(e) - ICA Sections 9.23.4.4.3.1 & 24.3.2; 9.1.1.1.1 & 9.1.1.1.1.1*  
8 *INTERVAL for Commingled Arrangements*

9 **Q. WHAT IS THE SPECIFIC BUSINESS NEED RELATED TO INTERVALS**  
10 **FOR COMMINGLED ARRANGEMENTS?**

11 A. As discussed earlier, when Eschelon is forced to order the UNE and non-UNE  
12 components separately, separate service installation intervals apply.<sup>148</sup> Qwest's  
13 position is that the tariffed component and the UNE component must be installed  
14 separately from each other, and that "because each service order for each  
15 component must be complete before installation, the provisioning intervals for  
16 each component may have to be added together to determine the total time  
17 required for installation."<sup>149</sup> In other words, Qwest's position is that the intervals  
18 for the individual components must be provisioned consecutively, rather than  
19 concurrently, which has the effect of lengthening the overall interval for  
20 Commingled arrangements. This is unnecessary, as it does not work that way

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<sup>148</sup> See discussion for Issue No. 9-58(a).

<sup>149</sup> See Issue No. 9-58(e), Qwest's position in the Issues Matrix (10/10/06), p. 144.

1 today for EELs. As discussed below, Eschelon agrees to a lengthened interval by  
2 applying the longer of the ICA and Tariff interval to the Commingled product.

3 **Q. HOW IS QWEST'S PROPOSAL DIFFERENT FROM ESCHELON'S**  
4 **PROPOSAL ON THIS ISSUE?**

5 A. On its face, Qwest's proposal appears similar. Qwest states that the UNE interval  
6 will apply to the UNE and the tariffed interval will apply to the tariffed  
7 component. When Qwest's proposal is closely scrutinized and facts outside its  
8 proposed ICA language are known, however, the proposals are very different. A  
9 key difference is that Eschelon's proposal allows the Commission to retain full  
10 jurisdiction over the UNE, whereas Qwest's proposal allows factors outside the  
11 approved ICA to change the operation of the UNE terms, in contradiction to the  
12 ICA. Qwest is attempting to limit ICA terms as they apply to UNE components  
13 of commingled arrangements by imposing terms that are outside the ICA.

14 For example, Qwest's language in ICA Section 9.23.4.5.4 appears to allow a  
15 CLEC to order a UNE loop and tariffed transport on separate service requests on  
16 the same day and then, pursuant to ICA Section 24.3.2, calculate the interval. If  
17 that were true, the result would be the same as under Eschelon's proposed  
18 language and the longer interval would be the latest date for installation of the two  
19 services. That, in fact, is not how the calculation of the interval will work. The  
20 reason cannot be found in the ICA language that Qwest has presented to this  
21 Commission for approval. Rather, Qwest's proposed calculation of the interval is  
22 based on terms that were initially distributed by Qwest in a secret, password-



1 protected form, with the password available only to CLECs after they signed the  
2 Qwest TRO amendment.<sup>150</sup>

3 Qwest's secret PCAT states that consecutive ordering is required for each  
4 component of a commingled EEL. This lengthens the total time required to install  
5 the commingled EEL. Specifically, Qwest's TRRO EEL PCAT, which is not part  
6 of the ICA, states:

7 ...When commingling an EEL Loop with the same bandwidth PLT  
8 transport, an LSR and an ASR is required. **Your LSR for EEL**  
9 **Loop must be submitted first** and must include the following  
10 specific information:

11 PriLoc Section = End user Location

12 Sec Loc Section = Dangling Wire Center

13 Remark = "EEL, Install Dangling/Commingled Circuit."

14 **Once you have received the FOC with circuit ID for your**  
15 **commingled EEL Loop, you may submit your ASR** for PLT  
16 transport to be commingled with an EEL Loop of the same  
17 bandwidth... (Emphasis added).<sup>151</sup>

18 As a result, Qwest's PCAT process lengthens the interval of delivery of a working  
19 service to the end user customer because the CLEC cannot submit the second  
20 order until it receives an FOC on the first order. Thus, if the FOC commitment is  
21 72 hours for the loop, this pushes out the later due date by up to three days.  
22 Consequently, there is no way to calculate the installation interval from Qwest's  
23 proposed ICA language.

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<sup>150</sup> Qwest has since provided Eschelon the password in order to access the secret PCATs. (For a discussion of the non-CMP secret "TRRO" PCATs, see the testimony of Mr. Starkey.) Although the password is now available, these PCATs remain password protected. The term "secret" is used to distinguish them from the portions of the PCAT that are not password protected.

<sup>151</sup> See Qwest PCAT, <http://www.qwest.com/wholesale/pcat/trroeel.html>.

1 CLECs need certainty for planning purposes and to set customer expectations.  
2 CLECs who signed the TRO amendment before receiving the password to the  
3 secret PCAT may have been surprised to discover this. Eschelon was certainly  
4 surprised to discover it once the terms were posted on the website. The terms of  
5 the secret PCAT affect the UNE ordered under this ICA. As a result, under  
6 Qwest's proposal, the time period for service delivery applicable to the entire  
7 commingled EEL would be longer than ordering the same circuit as a special  
8 access facility, thus diminishing the usefulness of the commingled arrangement.

9 Further problems arise if either one of the orders goes held because of a lack of  
10 available facilities. Eschelon would end up paying for a partial circuit, while  
11 waiting for the held order to clear. In addition, the overall lengthened interval  
12 means that Eschelon is not able to serve its end-user customer in a timely manner.  
13 From a provisioning standpoint, this makes Commingled Arrangements inferior to  
14 Point-To-Point EELs or Special Access, because the combined provisioning  
15 interval is longer as a result of Qwest's requirement of consecutive ordering.  
16 Eschelon's proposal is reasonable because it applies the longer of the two  
17 intervals for the individual components to the Commingled Arrangement.

18 *Issue No. 9-59 (alternate): ICA Sections 9.23.4.7 and subparts Ordering,*  
19 *Billing, and Circuit ID for Commingled Arrangements- CIRCUIT ID -*  
20 *(Alternate proposal to 9.23.4.5.4)*

21 **Q. WHAT IS THE SPECIFIC BUSINESS NEED SURROUNDING**  
22 **ESCHELON'S ALTERNATE PROPOSAL FOR ORDERING, BILLING**

1           **AND CIRCUIT ID FOR COMMINGLED ARRANGEMENTS -- CIRCUIT**  
2           **ID?**

3       A.     Eschelon supports language for ICA Section 9.23.4.5.4 as specified in Issue No.  
4           9-58 and 9-58(a).  However, to the extent the Commission adopts Qwest's  
5           proposed language for ICA Section 9.23.4.5.4, Eschelon proposes alternate  
6           language in 9.23.4.7 relating to repair of a commingled EEL.  This language is  
7           necessary because Qwest's proposed language would delay the repair of a  
8           commingled EEL in some circumstances.

9           Currently, for UNE EELs, CLEC opens a trouble report and Qwest assigns a  
10          trouble ticket number.<sup>152</sup>  When CLEC opens the ticket, the clock starts running  
11          under the PIDs for mean time to repair.<sup>153</sup>  For Commingled EELs, however,  
12          Qwest is proposing that the CLEC first submit the trouble ticket on one  
13          component of the commingled EEL and then, if the problem is not resolved, a  
14          second trouble ticket would be opened on the other component of the commingled  
15          EEL.

16          Like the consecutive placement of orders discussed in connection with intervals in  
17          ICA Section 9.23.4.4.3.1 (Issue No. 9-58(d)), Qwest's repair process for  
18          Commingled EELs is also a consecutive process.  Only if Qwest does not find  
19          trouble on the first portion of the EEL will Qwest contact the CLEC and open a  
20          repair ticket on the other portion of the EEL.

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<sup>152</sup> See proposed ICA Section 12.1.3.3.3.1.1.

<sup>153</sup> See ICA Exhibit B (MR-5).

1 The customer is out of service the entire time and does not know or care whether  
2 the trouble is in one circuit or the other. The customer just wants it repaired. This  
3 process will certainly delay repair time for the customer's service when the  
4 trouble is in the portion of the commingled EEL which was not investigated first.

5 **Q. COULD ESCHELON OPEN TROUBLE TICKETS ON BOTH**  
6 **COMPONENTS OF THE COMMINGLED EEL SIMULTANEOUSLY?**

7 A. If Eschelon defies Qwest's requirement to open a trouble ticket on one portion of  
8 the EEL and instead opens trouble tickets on both circuits (UNE and non-UNE),  
9 Eschelon increases the likelihood of incurring additional charges to uncover  
10 problems that are in the Qwest network. Finding trouble on both circuits of a  
11 commingled EEL at the same time is likely rare. Much more likely is that the  
12 trouble is on one circuit or the other, but the parties do not know which one. If  
13 CLEC simultaneously opens a ticket on both circuits (assuming Qwest accepts  
14 them) to avoid delay, Qwest will code one ticket as no trouble found (NTF) in  
15 every case, because the trouble will likely be on only one of the two circuits.  
16 Qwest charges the CLEC maintenance of service charges on tickets that Qwest  
17 codes as NTF. The end result is that Eschelon would have to do more work to  
18 open and track more tickets, while paying Qwest more charges, for trouble that is  
19 found to be a Qwest's network.

20 **Q. HOW DOES ESCHELON'S PROPOSED LANGUAGE SOLVE THIS**  
21 **ISSUE?**

1 A. Eschelon’s proposed language makes clear that when Eschelon reports trouble on  
2 a commingled EEL, Eschelon can simultaneously submit multiple circuit IDs on a  
3 single trouble report; if necessary, Qwest will facilitate identifying the multiple  
4 circuit IDs for the commingled EEL; and Qwest will charge Eschelon a “no  
5 trouble found” charge, only in cases where the trouble is not on either component  
6 of the commingled arrangement.

7 **Q. WOULD THE TERMS AND CONDITIONS, SUCH AS ORDERING,**  
8 **MAINTENANCE AND BILLING, RELATED TO LOOP-TRANSPORT**  
9 **COMBINATIONS BE BETTER ADDRESSED IN CMP, RATHER THAN**  
10 **THIS ARBITRATION?**

11 A. No. For years, Qwest has stated that this issue was currently not appropriate for  
12 CMP,<sup>154</sup> while Qwest pursued unilaterally developing terms outside of CMP.<sup>155</sup>  
13 Qwest’s proposal to exclude key terms from the contract until some later date,  
14 while Qwest has developed and implemented its own terms, is unreasonable,  
15 especially since parties are already before the Commission and Qwest has stated  
16 that Eschelon’s proposals will be rejected in CMP. This issue is addressed in  
17 detail in the testimony of Mr. Starkey.<sup>156</sup>

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<sup>154</sup> See Communications attached to the Testimony of Ms. Johnson, *e.g.*, Eschelon/59 (which is discussed in the testimony of Mr. Starkey).

<sup>155</sup> See Testimony of Mr. Starkey (including his discussion of the non-CMP TRRO PCATs); *see also* Eschelon/59 and Eschelon 77 to the direct testimony of Ms. Johnson.

<sup>156</sup> See *Starkey Direct*. (Eschelon/1)

1 **Q. SHOULD THE COMMISSION CONSIDER WHETHER OR NOT OTHER**  
2 **CLECS ARE CURRENTLY PURCHASING COMMINGLED EELS**  
3 **UNDER QWEST'S ONEROUS TERMS IN DECIDING WHETHER TO**  
4 **ADDRESS THIS ISSUE IN ESCHELON'S CONTRACT?**

5 A. No. The fact that other CLECs may have signed Qwest's contract amendments or  
6 have begun purchasing commingled EELs under terms dictated by Qwest is not  
7 evidence or justification for imposing those terms, without question, on all  
8 CLECs. Other CLECs decisions not to litigate onerous terms should not waive  
9 Eschelon's rights to raise these issues in its contract negotiations and have the  
10 Commission decide these issues on the merits of the proposals.

11 **Q. PLEASE SUMMARIZE THESE ISSUES.**

12 A. Commingled EELs should be a useful and meaningful alternative to UNE EELs.  
13 Because a Commingled EEL is functionally equivalent to a UNE EEL, a  
14 Commingled EEL should be put together (ordering, tracking, repair and billing) in  
15 a manner similar to a UNE EEL. Eschelon's language accomplishes this task,  
16 while Qwest's language allows Qwest to diminish the usefulness of a commingled  
17 EEL by delaying provisioning and repair. In addition, Qwest's language allows  
18 Qwest to provide bills for the components of the commingled EEL that are not  
19 related in any way and thus extremely difficult to review and verify. Eschelon's  
20 language should be adopted for these issues.

1 **SUBJECT MATTER NO. 28. MICRODUCT RATE**

2 **Issue No. 10-63: ICA Section 10.8.2.29**

3 **Q. HAS THIS ISSUE CLOSED SINCE THE PETITION FOR ARBITRATION**  
4 **WAS FILED IN THIS CASE?**

5 A. Yes, this issue has closed with the following language:

6 10.8.2.29 In cities where Qwest has not deployed microduct and  
7 CLEC wishes to use this technology, CLEC must lease an  
8 innerduct at one-half (1/2) of the rate for innerduct in Exhibit A per  
9 microduct placed within the innerduct. In these locations CLEC  
10 will be required to furnish and place the microduct. At the  
11 conclusion of the lease, CLEC and Qwest will make a joint  
12 decision whether or not CLEC will be required to remove CLEC's  
13 microduct from the innerduct.

14 **VIII. EXPEDITED ORDERS**

15 **SUBJECT MATTER NO. 31. EXPEDITED ORDERS**

16 **Issues Nos. 12-67 and 12-67(a)-(g)**

17 **Q. SUBJECT MATTER 31 HAS EIGHT RELATED SUBPARTS. HOW IS**  
18 **YOUR DISCUSSION OF THIS SUBJECT ORGANIZED?**

19 A. It is organized as follows: (A) Summary and Background; (B) Description of  
20 Language and Proposals; and (C) Key Cost Issues, including (1) Wholesale  
21 Access at Cost-Based Rates and (2) Exceptions to Charging an Additional  
22 Expedite Fee.

23 **(A) SUMMARY AND BACKGROUND**

1 Q. PLEASE PROVIDE A BRIEF SUMMARY OF ISSUE 12-67 AND ITS  
2 SUBPARTS.<sup>157</sup>

3 A. An expedited order, or an “expedite,” is an order for which Qwest delivers service  
4 more quickly than it otherwise would under the normal service provisioning  
5 interval. It is undisputed that Qwest provides expedites to itself<sup>158</sup> and its retail  
6 customers.<sup>159</sup> It is also undisputed that Qwest does not charge its retail customers  
7 an additional expedite fee in all cases; rather, Qwest provides exceptions to  
8 charging an additional fee for expedites under certain conditions.<sup>160</sup> The two  
9 over-arching questions regarding expedited orders for resolution in this arbitration  
10 are:

11 (1) **Interim Wholesale Rate:** At what rate should expedites be  
12 provided to a Qwest wholesale customer (*i.e.* Eschelon), at least on  
13 an interim basis until a permanent rate is set? and

14 (2) **Exceptions to Charging Additional Fee for Expedites:**  
15 Should the circumstances when Qwest provides exception(s) to  
16 charging an additional fee for expedites be nondiscriminatory?

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<sup>157</sup> Regarding expedited orders, see also Eschelon/ 29, 32, 33, 41 and 93 through 109. In Arizona, Eschelon has a complaint pending against Qwest related to Qwest’s new expedite changes (*See In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257.) Eschelon will refer to it in its testimony as the “Arizona Complaint Docket.” *See* Eschelon/33.

<sup>158</sup> Eschelon/7, Arizona arbitration Transcript, Vol. I, p. 58, lines 19-21 (“Q. Now, you would agree with me that Qwest provides itself with expedites; correct? A. Yes.”) (Ms. Albersheim).

<sup>159</sup> *See, e.g.*, Colorado arbitration, Albersheim Colorado Direct, p. 49, (Qwest “provides expedites to its retail POTS customers and design services customers...”); Exhibit Eschelon/36 (Qwest tariff pages for Qwest retail customers, including those receiving services over a “designed” facility).

<sup>160</sup> Qwest (Ms. Martain) Direct (Aug. 28, 2006), Arizona Complaint Docket, p. 40, lines 4-10 (“The tariff then goes on to state that if the end user elects to move service to a temporary location (either within the same building, or a different building) that non-recurring charges would apply. This would include the non recurring charge to expedite a design service. However, when the customer moves its service, via a service order, back to the original premise location, if it meets the criteria as outlined in 3.2.2.d included below, the non-recurring charges would be *waived (including the expedite fee)*” (emphasis added)).



1           Regarding both of these issues, the ability to expedite UNE orders is integral to a  
2           company's ability to gain "access to a UNE" and therefore such access must be  
3           provided on nondiscriminatory terms and at cost-based rates.<sup>161</sup> Although  
4           deciding those two issues will resolve the bulk of the dispute regarding expedites,  
5           there are sub-issues relating to the ICA language as well. Eschelon asks the  
6           Commission to adopt its language for Issue 12-67 and all of its subparts.

7           Another question, whether expedite terms belong in the interconnection  
8           agreement ("ICA") or in Qwest's PCAT through CMP, is dealt with by Mr.  
9           Starkey in the first section of his direct testimony (Eschelon/1). He discusses, in  
10          particular, that the governing term of the CMP Document (Eschelon/53 at § 1.0)  
11          anticipates that terms in individual ICAs may vary and may conflict with CMP  
12          and provides, that when they do, the ICA controls.<sup>162</sup>

13          Recently the Minnesota Commission adopted Eschelon's proposed interim rate  
14          and ruled that expedites on CLEC UNE orders constitute access to UNEs and,  
15          therefore, their prices should be cost-based in the Minnesota Qwest-Eschelon ICA  
16          Arbitration.<sup>163</sup> In addition, Arizona Staff testimony in the pending Arizona  
17          Complaint Docket confirmed that expedites should be subject to cost-based

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<sup>161</sup> 47 U.S.C. §252(d); 47 C.F.R. §§51.311 & 51.313.

<sup>162</sup> See, e.g., Eschelon/1, Starkey/26-28.

<sup>163</sup> See Eschelon/29, Denney/55 (MN Arbitrators' Report, ¶¶ 221-222). This was affirmed in the Minnesota commission's March 30, 2007 Order Resolving Arbitration Issues. Eschelon/30, Denney/17-19; see also *id.* Denney/23, ¶5.

1 pricing. Specifically, Arizona Staff Conclusion Number Seven<sup>164</sup> states that the  
2 rate(s) for expedites be considered as part of the next cost docket.<sup>165</sup>

3 **Q. DOES QWEST PROVIDE ESCHELON WITH EXPEDITED SERVICE**  
4 **FOR UNEs PER THE ICA IN OREGON TODAY?**

5 A. No. Although per Qwest an ICB rate in a Qwest tariff in Oregon applies to CLEC  
6 expedite orders,<sup>166</sup> Qwest will not expedite an unbundled loop order in Oregon  
7 under the existing interconnection agreement<sup>167</sup> regardless of whether emergency  
8 conditions are met or not<sup>168</sup> even when a CLEC is willing to pay an ICB rate  
9 based on costs.<sup>169</sup> Explicit language is needed in the proposed ICA addressing  
10 when Qwest will process expedite orders.

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<sup>164</sup> Arizona Staff conclusions are summarized in the Direct Testimony of Pamela Genung, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (“Arizona Complaint Docket”) (Jan. 30, 2007) (“Arizona Staff Expedite Testimony”) at Executive Summary. This Executive Summary is attached to this testimony as Eschelon/33.

<sup>165</sup> Eschelon/33, Denney/2 (Arizona Staff Expedite Testimony, Executive Summary, Staff Conclusion No. 7).

<sup>166</sup> Qwest Response to Petition, p. 44.

<sup>167</sup> Qwest-Eschelon existing approved Oregon ICA, Attachment 5, Sections 2.9, 7.4.2 (quoted in footnote below).

<sup>168</sup> *See* Eschelon/104, Johnson 3 (Qwest Expedites & Escalations PCAT).

<sup>169</sup> *See, e.g.*, Eschelon/41 [showing Eschelon offered to pay cost-based approved rates, including on a case-by-case (i.e., ICB) basis, as stated on page 2 of Eschelon’s April 3, 2006 letter: “The charges Eschelon will pay includes the installation charge for the order requesting the expedite. Installation charges cover the costs of the work activities to process the order. (In an expedite situation, the same work activities take place; they simply occur earlier.) Although the installation charges generally also include the cost of a dispatch, if Qwest dispatches a technician to complete an expedite, Eschelon will also pay the dispatch charge. (When the dispatch cost is included in the installation charge, this is a double recovery by Qwest.) If Qwest spends additional time due to the expedite itself, Eschelon will also pay the half hourly labor rate (which in Arizona is the same rate whether billed as repair or additional labor, other) for that time. Payment of these charges is provided for under the current interconnection agreements, and no amendment is necessary.”]. Although the example in this quotation referred to Arizona, the dispute resolution letters covered several states, including Oregon, and citations from the Oregon ICA were included with the letters.

1 **Q. DID QWEST PROVIDE ESCHELON WITH EXPEDITED ORDERING**  
2 **FOR UNEs IN OREGON PREVIOUSLY UNDER THE SAME ICA?**

3 A. Yes. I provide a one-page summary of the change in Qwest’s conduct over time,  
4 while the existing approved ICA language did not change, in Eschelon/32.<sup>170</sup>  
5 From the very beginning of the interconnection relationship between Eschelon  
6 and Qwest, when Eschelon opted in to the AT&T interconnection agreement in  
7 2000 (before Qwest even created the expedites PCAT<sup>171</sup>), Qwest provided  
8 Eschelon with expedite capability at no additional charge for loops and other  
9 UNEs when certain specified emergency conditions were met (“emergency-based  
10 expedites”).<sup>172</sup> This continues to be the practice in Washington.<sup>173</sup> However, in

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*See* Exhibit Eschelon/41; *id.* at Denney/5-7 (attached list of ICA citations).

<sup>170</sup> In Eschelon/32, expedite language from Qwest-Eschelon ICAs that is the same in some other states (such as Arizona) is quoted. In Oregon as well, Qwest provided expedite capability for unbundled loop orders during the time period before January of 2006 under the current ICA language. *See, e.g.*, Qwest-Eschelon existing approved Oregon ICA, Attachment 5, Section 2.9 (“ . . . ILEC and CLEC shall in good faith develop a mutually agreeable escalation and expedite process by which service ordering and provisioning can be provided.”); Section 7.4.2 (“Expedite: This will apply when the provisioning activity is required to be completed in less time than stipulated by the minimum element intervals as defined in Section 9.1 of this Attachment 5. The Desired Due Date category will reflect the date the activity needs to be completed.”); 9.1 (“CLEC will specify on each order its Desired Due Date (DDD) for completion of that particular order. Standard intervals do not apply to orders under this Agreement. ILEC will not complete the order prior to DDD or later than DDD unless authorized by CLEC. If the DDD is less than the following element intervals, the order will be considered an expedited order.”).

<sup>171</sup> *See* Eschelon/96 (Sept. 22, 2001 product notification) (discussed in Eschelon/93 at Johnson/5).

<sup>172</sup> *See, e.g.*, Eschelon/107 (Examples of Expedite Requests Approved by Qwest for Unbundled Loop Orders); *see also* Arizona Complaint Docket, at Answer, May 12, 2006, p. 9, ¶ 14, lines 24-25 (“Qwest admits that it previously expedited orders for unbundled loops on an expedited basis for Eschelon. . .”); *See also* Qwest (Ms. Novak) Direct (July 13, 2006) (Arizona Complaint Docket), p. 5, lines 5-12 & lines 21-22 (Qwest “uniformly followed the process in existence at the time for expediting orders for unbundled loops”).

1 January of 2006, in Oregon and all other states but Washington,<sup>174</sup> Qwest  
2 implemented a Qwest-initiated change by CMP notification<sup>175</sup> over the objection  
3 of multiple CLECs<sup>176</sup> to deny CLECs the capability to expedite orders for loops  
4 and other UNEs using the emergency-based expedites process (or any process  
5 under the same ICA as Eschelon had been receiving expedites, without  
6 amendment).<sup>177</sup> Instead, irrespective of any expedite provisions in an existing  
7 approved ICA, Qwest unilaterally requires an amendment that specifies a “per  
8 day” rate before it will expedite UNE orders.<sup>178</sup> In the Eschelon complaint case  
9 against Qwest under the existing Arizona ICA, Staff in Arizona concluded that  
10 “CLECs should not be forced into signing” the Qwest expedite amendment.<sup>179</sup>  
11 The Staff added that “since CLEC interconnection agreements are voluntarily

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<sup>173</sup> See Eschelon/104, Johnson 3 (Qwest Expedites & Escalations PCAT, stating: “The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA)”). Qwest now refers to expedites in these emergency situations as “Expedites Requiring Approval.” Qwest has a UNE tariff in Washington that contains approved rates. Qwest has not received Commission approval for a UNE \$200 per day advanced rate in Washington. After input from Washington staff, Qwest withdrew proposed tariffs in Washington containing its non cost based \$200 per day rate. (Docket Nos. UT-041886; UT-041890; withdrawn Nov. 18, 2004, see <http://tabb.qwest.com/PPNB.NSF/JobNum?OpenView&Start=1&Count=50&Expand=19#19>)

<sup>174</sup> See Eschelon/104, Johnson/3 (Qwest Expedites & Escalations PCAT, stating: “The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge.”). Qwest now refers to expedites for an added fee (as opposed to those available on an emergency basis) as “Pre-Approved” expedites.

<sup>175</sup> See Eschelon/108 (Qwest notice annotated to highlight information showing it was a Qwest-initiated notice not associated with any change request).

<sup>176</sup> See Eschelon/93, Johnson/12-15 (summary in Chronology); Eschelon/94, Johnson/1-5 (Rows 2-14); Eschelon/102, Johnson/7-10; Eschelon/103, Johnson/13-18.

<sup>177</sup> See Eschelon/93 (Chronology) & Eschelon/97/Johnson 1 (Qwest notice effective January 3, 2006).

<sup>178</sup> See Eschelon/104, Johnson/1 (Qwest Expedites & Escalations PCAT, stating: “your ICA must contain language supporting expedited requests with a “per day” expedite rate”).

<sup>179</sup> Direct Testimony of Pamela Genung, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (Jan. 30, 2007) [“Arizona Complaint Docket”], p. 34, lines 10-11.

1 negotiated or arbitrated,” Qwest “rather than trying to force Eschelon into signing  
2 an amendment,” could have taken the issue to arbitration under the Qwest-  
3 Eschelon ICA.<sup>180</sup>

4 A chronology and list of documented facts regarding expedites in CMP is  
5 attached to Ms. Johnson’s testimony as Eschelon/93 and Eschelon/94. They  
6 provide a detailed account of these events, including CLECs’ objections to  
7 Qwest’s refusal to provide expedites using the emergency-based expedite process  
8 for unbundled loops and other UNEs. Ms. Johnson personally participated in  
9 CMP during these events. The events provide an example of Qwest’s changing  
10 the rules that govern the companies’ contractual relationship without Commission  
11 approval and underscore why it is essential to include expedite terms and  
12 conditions in the ICA, rather than, as Qwest has insisted, simply referring in the  
13 ICA to expedite requirements contained in Qwest’s PCAT.<sup>181</sup> Qwest wants  
14 contractual certainty for itself on pricing through its proposal to document a rate  
15 in Exhibit A to the ICA but asks the Commission to exclude the terms regarding  
16 when that rate would apply from the ICA – denying needed contractual certainty  
17 to Eschelon. Mr. Starkey discusses the need for contractual certainty in his direct  
18 testimony.

19 **(B) DESCRIPTION OF LANGUAGE AND PROPOSALS**

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<sup>180</sup> *Id.* p. 36, line 21 – p. 37, line 2.

<sup>181</sup> Qwest proposed language for Sections 9.1.12.1.2 and 7.3.5.5.2; Disputed Issues Matrix (10/10/06, pp. 171-172), Qwest’s position statement, Issue 12-67.

1 Q. WHAT IS ESCHELON'S PROPOSED LANGUAGE FOR ISSUE 12-67  
2 AND ITS SUBPARTS?

3 A. Eschelon proposes to include the following language in the contract:

4 **Issues 12-67 (Section 12):**

5 12.2.1.2 Expedites. CLEC may request a Due Date earlier than the  
6 applicable Due Date interval for that product or service. Requests for  
7 expedites can be made either prior to, or after, submitting CLEC's service  
8 request.

9  
10 **Issue 12-67(a) – first of two options**

11 12.2.1.2.1 Notwithstanding any other provision of this Agreement,  
12 for all products and services under this Agreement (except for  
13 Collocation pursuant to Section 8), Qwest will grant and process  
14 CLEC's expedite request, and expedite charges are not applicable,  
15 if one or more of the following conditions are met:

16  
17 a) Fire;

18  
19 b) Flood;

20  
21 c) Medical emergency;

22  
23 d) National emergency;

24  
25 e) Conditions when the End User Customer is  
26 completely out of service (primary line);

27  
28 f) Disconnect in error when one of the other  
29 conditions on this list is present or is caused by the  
30 disconnect in error;

31  
32 g) Requested service necessary for CLEC End User  
33 Customer's grand opening event delayed for facilities or  
34 equipment reasons with a future Ready For Service (RFS)  
35 date;

36  
37 h) Delayed orders with a future RFS date that meet  
38 any of the above described conditions;

39  
40 i) National Security;

1  
2 j) Business Classes of Service unable to dial 911 due  
3 to previous order activity; or  
4

5 k) Business Classes of Service where hunting, call  
6 forwarding or voice mail features are not working correctly  
7 due to previous order activity where the End User  
8 Customer's business is being critically affected.  
9

10 **Issue 12-67(a) – second of two options**

11 12.2.1.2.1 Notwithstanding any other provision of this Agreement, for  
12 all products and services under this Agreement (except for Collocation  
13 pursuant to Section 8), Qwest will grant and process CLEC's expedite  
14 request, and expedite charges are not applicable, if Qwest does not apply  
15 expedite charges to its retail Customers, such as when certain conditions  
16 (e.g., fire or flood) are met and the applicable condition is met with  
17 respect to CLEC's request for an expedited order.  
18

19 **Issue 12-67(b)**

20 12.2.1.2.2 If none of the conditions described in Section 12.2.1.2.1  
21 are met, Qwest will grant and process CLEC's expedite request,  
22 but the expedite charges in Exhibit A will apply, unless the need  
23 for the expedite is caused by Qwest.  
24

25 **Issue 12-67(c)**

26 12.2.1.2.3 Nothing in this Section 12.2.1.2 alters whether a non-  
27 recurring installation charge in Exhibit A applies to the CLEC  
28 order pursuant to the terms of the applicable section of this  
29 Agreement. The expedite charge, if applicable, is separate from  
30 the installation charge.  
31

32 **Issue 12-67(d), 12-67(e) (Section 9):**

33 9.1.12.1 For expedites, see Section 12.2.1.2.  
34

35 9.23.4.5.6 For expedited orders, see Section 12.2.1.2.  
36

37 **Issue 12-67(f) (Section 7) (1<sup>st</sup> of 2 options):**

38 7.3.5.2 For expedites, see Section 12.2.1.2.  
39

40 **Issue 12-67(f) (Section 7) (2<sup>nd</sup> of 2 options):**

1           7.3.5.2 Expedite requests for Interconnection LIS trunk orders are  
2 allowed. ~~Expedits are requests for intervals that are shorter than the~~  
3 ~~interval defined in Qwest's Service Interval Guide (SIG) or Individual~~  
4 ~~Case Basis (ICB) Due Dates. Expedite charges as identified in Exhibit A~~  
5 ~~apply per order for every day that the Due Date interval is shortened,~~  
6 ~~based on the standard interval in the SIG or based on ICB criteria for Due~~  
7 ~~Dates.~~

8           7.3.5.2.1 CLEC will request an expedite for Interconnection LIS  
9 trunks, ~~including an expedited Due Date,~~ on the Access Service  
10 Request (ASR).

11           7.3.5.2.2 The request for expedite will be allowed only when the  
12 request meets the criteria outlined in Section 12.2.1.2.2. ~~the Pre~~  
13 ~~Approved Expedite Process in Qwest's Product Catalog for~~  
14 ~~expedite charges at Qwest's wholesale website.~~

15

16           **Issue 12-67(g)(Exhibit A):**

17           9.20.12 Expedite Charge     \$100 (footnote 1)<sup>182</sup>

18           **Q.     WHAT IS QWEST'S PROPOSED LANGUAGE?**

19           A.     Qwest proposes the following language for Issue 12-67 and its subparts:

20           **Issues 12-67, 12-67(a), 12-67(b), 12-67(c) (Section 12):**

21           [Qwest proposes deletion, with no counter language.]

22           **Issue 12-67(d), 12-67(e) (Section 9):**

23           9.1.12.1 Expedite requests for designed Unbundled Network Elements are  
24 allowed. Expedites are requests for intervals that are shorter than the  
25 interval defined in Qwest's Service Interval Guide (SIG), Exhibit C or  
26 Individual Case Basis (ICB) Due Dates as applicable.

27           9.1.12.1.1 CLEC will request an expedite for designed Unbundled  
28 Network Elements, including an expedited Due Date, on the Local  
29 Service Request (LSR) or the Access Service Request (ASR), as  
30 appropriate.

31           9.1.12.1.2 The request for an expedite will be allowed only when  
32 the request meets the criteria outlined in the Pre-Approved

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<sup>182</sup> Footnote 1 to Exhibit A states: "Rates not approved in cost docket."



1 Expedite Process in Qwest's Product Catalog for expedites at  
2 Qwest's wholesale web site.

3 [For Section 9.23.4.5.6, Qwest proposes deletion, with no counter language.]

4 **Issue 12-67(f) (Section 7) (same for both options):**

5 7.3.5.2 Expedite requests for ~~Interconnection~~ LIS trunk orders are  
6 allowed. Expedites are requests for intervals that are shorter than the  
7 interval defined in Qwest's Service Interval Guide (SIG) or Individual  
8 Case Basis (ICB) Due Dates. Expedite charges as identified in Exhibit A  
9 apply per order for every day that the Due Date interval is shortened,  
10 based on the standard interval in the SIG or based on ICB criteria for Due  
11 Dates.

12 7.3.5.2.1 CLEC will request an expedite for ~~Interconnection~~ LIS  
13 trunks, including an expedited Due Date, on ~~an~~ the Access Service  
14 Request (ASR).

15 7.3.5.2.2 The request for expedite will be allowed only when the  
16 request meets the criteria outlined in ~~Section 12.2.1.2.2~~ the Pre-  
17 Approved Expedite Process in Qwest's Product Catalog for  
18 expedite charges at Qwest's wholesale web site.

19

20 **Issue 12-67(g)(Exhibit A):**

21 9.20.12 Expedite Charge ICB (footnote 3)<sup>183</sup> Qwest's proposal for  
22 expedites in Exhibit A in this case provides:<sup>184</sup>

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<sup>183</sup> Footnote 3 in Exhibit A states: "ICB, Individual Case Basis pricing"

<sup>184</sup> Qwest also cites an ICB rate in its Oregon SGAT Exhibit A, page 14 available at: [http://www.qwest.com/about/policy/sgats/SGATSdocs/oregon/OR\\_18th\\_Rev\\_Exh\\_A\\_11\\_24\\_04\\_C\\_lean.pdf](http://www.qwest.com/about/policy/sgats/SGATSdocs/oregon/OR_18th_Rev_Exh_A_11_24_04_C_lean.pdf); As indicated below, Qwest's negotiations template references Qwest's access tariffs and a rate of \$200 per day.

	Recurring	Non-Recurring	Notes		Description of Changes
			Rec	NRC	
<b>9.0 Unbundled Network Elements (UNEs)</b>					
<b>9.20 Miscellaneous Charges</b>					
9.20.12 Expedite Charge		ICB		3	Qwest proposes ICB rate.
		\$100		1	Eschelon proposes a rate of \$100.
<b>NOTES:</b>					
[1] Rates not approved in cost docket.					
[3] ICB, Individual Case Basis pricing.					

1

2

3 **Q. DO THE POSITION STATEMENTS OF THE PARTIES FILED IN**  
 4 **OCTOBER ACCURATELY REPRESENT THE CHARGE FOR**  
 5 **EXPEDITES PROPOSED BY ESCHELON AND QWEST?**

6 A. With respect to Issue 12-67(g) (Expedite Charge), Eschelon and Qwest both  
 7 accurately presented their proposals for the charge on page 181 of the Joint  
 8 Disputed Issues Matrix (Exhibit 3 to the Petition) but inaccurately described their  
 9 positions in other sections of the matrix (see, for example, page 176). Therefore, I  
 10 will clarify the positions of the companies here.

11 On page 181 of Exhibit 3 to the Petition, Eschelon accurately shows its proposal  
 12 of a \$100 charge with a reference to footnote 1 (indicating a rate has not been  
 13 approved) to show this is an interim rate and not a final approved rate.<sup>185</sup> On page  
 14 181, Qwest accurately shows its current proposal of an ICB rate with a reference

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<sup>185</sup> See proposed ICA Section 24.4.1.1, which states in the portion of this Section that is closed: “Rates reflected on Exhibit A that have not been approved by the Commission in a cost case and require Commission approval shall be considered as Interim rates (“Interim Rates”) by the Parties . . . .”

1 to footnote 3 (which refers to ICB pricing).<sup>186</sup> Qwest confirmed in its April 23,  
2 2007 Response to the Petition (on page 44) that Qwest’s proposal in Oregon is an  
3 ICB charge.

4 With respect to their position statements, however, both companies erred in  
5 presenting their positions. Eschelon withdraws any references to its proposal for  
6 the expedite charge as being on a “per day” basis. Such references were  
7 inadvertent and do not accurately represent Eschelon’s proposal, which is a \$100  
8 flat (*i.e.*, per order) proposed interim rate. Eschelon has provided its proposal to  
9 Qwest, including in other arbitration proceedings since October, so Qwest is  
10 aware of Eschelon’s proposal. On page 176, Qwest lists its proposal as consisting  
11 of a reference to “Qwest’s FCC Tariff No. 1.” Based on its proposal on page 181  
12 of an ICB charge, along with Qwest’s recent confirmation in its Response to the  
13 Petition that its proposal is an ICB charge, Eschelon believes this is an error as  
14 well. Although Qwest has proposed a \$200 per day advanced charge (from its  
15 retail tariff) at some points in time and in some states, Qwest specifically states in  
16 its Response in Oregon that its position is that “the tariff authorizes charges on an  
17 ICB (Individual Case Basis) basis” and that “Eschelon must be required to pay  
18 Qwest . . . consistent with the terms of the governing tariff.”<sup>187</sup>

19 **Q. WHAT ARE THE DISPUTED ISSUES ASSOCIATED WITH EXPEDITED**

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<sup>186</sup> On page 181, Qwest incorrectly refers to Section 9.20.14 of Exhibit A (which should be Section 9.20.12 in Oregon) and incorrectly includes a reference to footnote 5 (which relates to bill and keep in Oregon), but these appear to be carryovers from another state and not part of Qwest’s proposal in Oregon.

<sup>187</sup> Qwest Response to Petition, p. 44.

1           **ORDERS?**

2    A.    The two over-arching issues described above have ICA language and a rate  
3           associated with them that have been broken down for purposes of numbering the  
4           arbitration issues into eight sub-parts.   The eight numbered disputed issues  
5           associated with expedited orders are:

6	Issue 12-67:	General provisions
7	Issue 12-67(a)	Exceptions to Charging - Emergencies
8	Issue 12-67(b)	Application of Charges in Exhibit A
9	Issue 12-67(c)	Separate Non-Recurring Charge
10	Issue 12-67(d)	Placement - UNEs
11	Issue 12-67(e)	Placement - UNE Combinations
12	Issue 12-67(f)	Placement - Trunk Orders
13	Issue 12-67(g)	Expedite Charge

14           These issues are associated with Section 12.2.1.2 and its subparts, as well as  
15           7.3.5.2 and its subparts, 9.1.12.1 and its subparts, 9.23.4.5.6, and Exhibit A.

16    **Q.    PLEASE EXPLAIN THE KEY POINTS IN ESCHELON’S PROPOSED**  
17           **LANGUAGE FOR ISSUE 12-67.**

18    A.    Issue 12-67 (General provisions) deals with the expedite description (Eschelon  
19           12.2.1.2 v. Qwest 7.3.5.2 & 9.1.12.1) and when expedites can be ordered - only  
20           when submitting an order (Qwest 7.3.5.2.1 & 9.1.12.1.1) or also after order  
21           submission (Eschelon 12.2.1.2/second sentence).

22           First, Eschelon’s proposed language (in Section 12.2.1.2) describes expedites in  
23           terms of “Due Date” – a term that is defined in the agreed-upon “Definitions”

1 section of the contract.<sup>188</sup> In contrast, Qwest’s proposed language (in Sections  
2 9.1.12.1 and 7.3.5.2) refers to intervals, including in Qwest’s Service Interval  
3 Guide (SIG). Some intervals are already contained in Exhibit A to the proposed  
4 ICA and, if Eschelon’s proposal for Issue 1-1 is adopted, applicable intervals will  
5 be contained in the ICA, not the SIG.<sup>189</sup> Eschelon’s proposal describes expedites  
6 as requests for due dates earlier than the due dates that would otherwise apply  
7 under the ICA. Because the due dates are defined elsewhere in the contract,  
8 Eschelon’s proposed definition of expedites leaves no ambiguity.

9 Second, Eschelon’s proposed language for Section 12.2.1.2 explains that requests  
10 for expedites can be made either with Eschelon’s service order request, or after  
11 Eschelon submits the request.<sup>190</sup> It is important that expedites can be made after  
12 the initial Eschelon order is submitted because circumstances requiring an  
13 expedite may arise *after* the initial order. These circumstances may include  
14 emergency conditions that did not exist originally or a change of Eschelon’s End  
15 User Customer’s plans. In addition, if Eschelon were to cancel its original request  
16 so that it could submit a new request in order to ask for an expedite, and Qwest

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<sup>188</sup> This definition in Section 4.0 of the proposed ICA states as follows: “Due Date” means the specific date on which the requested service is to be available to the CLEC or to CLEC’s End User Customer, as applicable.

<sup>189</sup> See also Qwest-Eschelon existing approved Oregon ICA, Attachment 5, Section 9.1 (“CLEC will specify on each order its Desired Due Date (DDD) for completion of that particular order. Standard intervals do not apply to orders under this Agreement.”).

<sup>190</sup> Qwest’s PCAT relating to expedites provides: “For any of the above conditions, expedited request can be made *either prior to, or after, submitting* your service request.” See Eschelon/104, Johnson/2. In contrast, Qwest’s proposed language is more limiting. For example, Qwest’s proposed Section 9.1.12.1.1 provides that the expedite request must be made on “the” LSR or ASR (singular), which would preclude making an expedite request prior to or after submitting that LSR or ASR.

1           were then to deny Eschelon’s expedite request, Eschelon would have lost the due  
2           date interval to which it was entitled under its original request.

3   **Q.   PLEASE EXPLAIN ESCHELON’S PROPOSAL FOR ISSUE NO. 12-67(A)**  
4           **REGARDING EXCEPTIONS TO CHARGING AN ADDITIONAL**  
5           **EXPEDITE FEE.**

6   A.   Issue 12-67(a) (Exceptions to charging) addresses when emergency conditions are  
7           met (Eschelon proposal #1 for 12.2.1.2.1 with subparts; Qwest proposes deletion);  
8           on a nondiscriminatory basis (Eschelon proposal #2 for 12.2.1.2.1; Qwest  
9           proposes deletion), or not at all (Qwest 7.3.5.2.2, referring to the PCAT Pre-  
10          Approved process, which contains no such exceptions).

11          Eschelon offers two alternative proposals for Section 12.2.1.2.1 for Issue 12-67(a)  
12          (Exceptions to Charging). The first proposal contains an itemized list of  
13          conditions for which an exception to charging an additional fee will be made  
14          (using substantially the same list of conditions<sup>191</sup> that is available for UNE orders  
15          in Washington today and was available in Oregon and other states for UNE orders  
16          before Qwest took it away over CLEC objection in January of 2006, as I

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<sup>191</sup> The list of conditions is contained in Qwest’s PCAT. (Eschelon/104, Johnson/1-2.) A minor difference is condition (f). Qwest’s PCAT language lists under the item (f) condition “Disconnect in error by Qwest.” Eschelon’s proposal is to include “Disconnect in error when one of the other conditions on this list is present or is caused by the disconnect in error.” From the customer’s perspective, it does not matter why the service was disconnected or which company caused the disconnection; the customer needs its service restored without delay. Eschelon’s proposal that would provide for expedited service in on an emergency basis when a customer’s service is disconnected in error is consistent with Qwest’s past practice. (See Escheon/93, Johnson/9-10 at Section 5, “Qwest Attempted to Change the Expedites Process to Exclude CLEC-Caused Disconnects in Error, But Retracted its Proposal After Eschelon Objected”, citing Initial “Expedites & Escalation Overview – V29.0) Although Eschelon would not pay the added fee, Eschelon would pay the installation charge for the order to correct the disconnect in error.

1 described above). The second proposal articulates a nondiscrimination standard  
2 but does not contain an itemized list of conditions. The CMP background (and  
3 Qwest’s claim about its changes to the PCAT that are allegedly based on the  
4 differences between “designed” and “non-designed” facilities<sup>192</sup>) is less pertinent  
5 if the Commission adopts Eschelon’s proposal number two for Section 12.2.1.2.1,  
6 because much of that background deals with the list of emergency conditions that  
7 is enumerated in the subparts to Section 12.2.1.2.1 in Eschelon’s first proposal.  
8 Exceptions to charging is one of the two over-arching expedite issues that I  
9 discuss in greater detail below.

10 **Q. PLEASE DESCRIBE ESCHELON’S PROPOSAL WITH RESPECT TO**  
11 **ISSUE NO. 12-67(B) REGARDING SITUATIONS WHEN THE EXPEDITE**  
12 **CHARGE APPLIES.**

13 A. Issue 12-67(b) (Application of Charges in Exhibit A) addresses when the expedite  
14 charges in Exhibit A apply (Eschelon 12.2.1.2.2 v. Qwest 7.2.5.3, 7.3.5.2.2 &  
15 9.2.12.1.2); whether if charges apply Qwest must grant and process the request or  
16 only allow them (Eschelon 12.2.1.2.2 v. Qwest 7.2.5.3, 7.3.5.2.2 & 9.1.12.1,  
17 9.2.12.1.2); and whether there is an exception to charging when the need for an  
18 expedite is caused by Qwest (Eschelon 12.2.1.2.2; Qwest proposes deletion and  
19 relies on a reference to the PCAT).

20 First, regarding applying the charge in Exhibit A, the expedite charge is one of the  
21 two over-arching issues that I discuss in detail below.

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<sup>192</sup> See, e.g., Qwest’s Response to Petition, p. 44.

1 Second, in the Arizona Complaint Docket, Qwest denied<sup>193</sup> that the following  
2 sentence from the Arizona and Colorado Qwest-Eschelon ICA entitles Eschelon  
3 to receive expedites for UNE loops: Qwest “shall provide CO-PROVIDER the  
4 capability to expedite a service order.”<sup>194</sup> In Colorado, Qwest testified that, under  
5 that provision: “Qwest had complete discretion to decide whether or not to grant  
6 expedites.”<sup>195</sup> Qwest also suggested that alleged problems with the quoted  
7 Arizona and Colorado contract language will be avoided because expedite terms  
8 are “clearly delineated” in Qwest’s proposed contract language.<sup>196</sup> Qwest  
9 therefore argues that providing the capability to expedite a loop order does not  
10 require Qwest to actually expedite a loop order under the existing ICA terms in  
11 any case. Following the logic of Qwest’s testimony, Qwest’s language for the  
12 new ICA would also give Qwest “complete discretion to decide whether or not to  
13 grant expedites.”<sup>197</sup> It could even be viewed as less certain, because Qwest’s  
14 proposal uses permissive language (allowed) rather than mandatory language  
15 (shall). Nowhere in Qwest’s proposed language does it expressly say that Qwest  
16 will actually grant or process an expedite request. In contrast, Eschelon’s  
17 proposed language in Section 12.2.1.2.2 specifically provides: “Qwest will **grant**  
18 **and process** CLEC’s expedite request” when the terms are met (which includes

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<sup>193</sup> Qwest Answer in Arizona Complaint Docket.

<sup>194</sup> AZ Qwest-Eschelon ICA, Att. 5, §3.2.2.13 (Eschelon/41, Denney 5).

<sup>195</sup> Colorado arbitration, Albersheim Answer, p. 55, lines 15-16.

<sup>196</sup> Colorado arbitration, Albersheim Answer, p. 55, lines 12-17.

<sup>197</sup> Colorado arbitration, Albersheim Answer, p. 55, lines 15-16.



1 Eschelon’s payment of the rate in Exhibit A).<sup>198</sup> Eschelon agrees with Qwest that  
2 more clearly delineating contract terms is an advantage;<sup>199</sup> however, Eschelon’s  
3 position is that only Eschelon’s proposed language accomplishes this objective  
4 and minimizes future disputes. By providing more information and direction in  
5 the interconnection agreement in regarding the terms upon which Qwest must  
6 expedite loop<sup>200</sup> orders, Eschelon’s proposed language is aimed at avoiding such  
7 disputes going forward.

8 Third, Eschelon’s proposed language for Section 12.2.1.2.2 states that the  
9 expedite charges in Exhibit A apply, unless the need for the expedite is caused by  
10 Qwest. Qwest’s PCAT provides: “Any requests that are expedited due to a  
11 Qwest caused reason, do not incur an expedite charge. Additionally, if the due  
12 date of an expedited request is missed due to Qwest reasons, expedite charges do  
13 not apply.”<sup>201</sup> Qwest’s proposed ICA language, however, does not contain this  
14 exception. Instead, Qwest proposed to simply refer to its PCAT even though, as  
15 further described by Mr. Starkey, Qwest may change the PCAT over CLEC  
16 objection. Eschelon’s language provides contractual certainty on this point and is  
17 more likely to minimize future disputes.

18 **Q. PLEASE DESCRIBE ESCHELON’S PROPOSAL WITH RESPECT TO**

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<sup>198</sup> Eschelon’s Proposed ICA Section 12.2.1.2.2 (emphasis added).

<sup>199</sup> Colorado arbitration, Albersheim Answer, p. 55, lines 12-17.

<sup>200</sup> Eschelon’s proposed language states that the expedite provision applies to “all products and services under this Agreement (except for Collocation pursuant to Section 8)” (See Section 12.2.1.2.1) and therefore includes all types of unbundled loops.

<sup>201</sup> Eschelon/104, Johnson/4 (Qwest expedites PCAT).

1           **ISSUE NO. 12-67(C) RELATED TO NON-RECURRING INSTALLATION**  
2           **CHARGES FOR EXPEDITED ORDERS.**

3       A.     Issue 12-67(c) (Separate Non-Recurring Charge) addresses whether the contract  
4           should confirm the expedite fee is separate from the installation Non-Recurring  
5           Charge (“NRC”) (Eschelon 12.2.1.2.3; Qwest proposes deletion).

6           Eschelon is not trying to get something for nothing through its expedite proposal.  
7           Thus, Eschelon proposes language in Section 12.2.1.2.3 that spells out that  
8           applicable NRC charges apply in addition to any applicable expedite charges.  
9           Qwest does not propose an alternative language for Section 12.2.1.2.3.  
10          Eschelon’s language ensures that the provisions of Section 12.2.1.2 will not alter  
11          the application of installation charges under Exhibit A when they appropriately  
12          apply. Expedites are not free under Eschelon’s proposal. Eschelon clarifies that  
13          it will pay the installation charge (covering Qwest’s costs), in addition to expedite  
14          charges (for which Qwest has proven no cost basis) when applicable.

15          For example, the basic installation non-recurring charge for a DS1 capable loop is  
16          \$124.67 per circuit.<sup>202</sup> In response to stated concerns by Qwest about potential  
17          confusion between this installation NRC and expedite charges, Eschelon’s  
18          language in Section 12.2.1.2.3 confirms that Eschelon will pay the expedite  
19          charge, when applicable, in addition to this installation NRC. Eschelon’s  
20          proposal is particularly reasonable because, for retail customers, Qwest in some  
21          cases waives the installation NRC in addition to not charging an expedite

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<sup>202</sup> Section 9.2.5.1.1 of Exhibit A to the proposed ICA.

1 charge<sup>203</sup> and because Qwest performs the same work for the installation,  
2 regardless of whether it is expedited or not. The only material difference is that  
3 the work is performed earlier, as I discuss below.

4 **Q. WHAT IS ESCHELON’S PROPOSAL WITH RESPECT TO ISSUE NOS.**  
5 **12-67(D), 12-67(E), AND 12-67(F) RELATED TO PLACEMENT OF**  
6 **LANGUAGE REGARDING EXPEDITED ORDERS IN THE ICA?**

7 A. For expedites, Eschelon’s language and Qwest’s counter language do not appear  
8 in the same sections of the ICA. Issues 12-67(d), 12-67(e), and 12-67(f)<sup>204</sup> all  
9 relate to placement of expedited ordering terms in the ICA – in Section 12.2 “Pre-  
10 Ordering, Ordering and Provision” (Eschelon, with cross references in 7.3.5.2,  
11 9.1.12.1 & 9.23.4.5.6 to Section 12.2.1.2) or in Section 9 “UNEs” and Section 7  
12 “Interconnection” (Qwest 7.3.5.2 and subparts & 9.1.12.1 and subparts;<sup>205</sup> Qwest  
13 proposes deletion of all expedite language in Section 12).

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<sup>203</sup> Qwest (Ms. Martain) Direct (Aug. 28, 2006), Arizona Complaint Docket, p. 40, lines 4-10 (quoted above; describing situation when, for Qwest retail customers, “the non-recurring charges would be *waived (including the expedite fee)*” (emphasis added)).

<sup>204</sup> Regarding Issue 12-67(f) (Trunk orders), Qwest objects to use of the word “Interconnection” instead of “LIS” in the language for Section 7.3.5.2. The word “Interconnection” is used in the approved Qwest-AT&T ICA, which was used in part as the basis for negotiations. “LIS” is Qwest’s product name for interconnection service (which is the industry generic term, and as such, is more appropriate in the contract than a company product name). Examination of the agreed-upon language of the ICA shows that the ICA uses the terms “Interconnection” and “Local Interconnection Service” to denote the same set of services. This conclusion is evident from the introductory closed language of ICA Section 7.1.1 (“Interconnection”). In other words, Eschelon’s proposal to use the industry-wide term “Interconnection,” rather than Qwest’s product name “LIS,” correctly describes the scope of the provision in section 7.3.5.2.

<sup>205</sup> The substantive differences in these sections are discussed with respect to the corresponding language in Eschelon’s proposed language in Section 12.

1 As stated in Section 12.2.1.2.1, Eschelon’s proposal is to deal with expedites “for  
2 all products and services under this Agreement (except for Collocation pursuant  
3 to Section 8)” in Section 12. Eschelon does not believe that any other expedite  
4 language is needed in the ICA, other than possibly cross references to Section  
5 12.2.1.2 (and the rate in Exhibit A). Therefore, for all three issues, Eschelon  
6 proposes addressing expediting the due date when ordering centrally in Section  
7 12.2 (“Pre-Ordering, Ordering, and Provisioning”). Qwest proposes addressing  
8 this subject separately in Section 7 (“Interconnection”) and Section 9  
9 (“Unbundled Network Elements”).

10 Because expedites are requests associated with provisioning a CLEC order, it is  
11 logical to include provisions about expedites in the ordering and provision portion  
12 of Section 12. This is consistent with the manner in which expedites are placed in  
13 the current Qwest-Eschelon ICA, in which expedites are addressed in Attachment  
14 5, entitled “Provisioning and Ordering” (rather than the product specific  
15 attachments to the ICA).<sup>206</sup> The companies have agreed in the proposed ICA that  
16 Section 12 “describes Qwest’s OSS interfaces, as well as manual processes, that  
17 Qwest shall provide to CLEC to support Pre-Ordering, Ordering, Provisioning,

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<sup>206</sup> Qwest-Eschelon existing approved Oregon ICA, Attachment 5, Sections 2.9, 7.4.2, 9.1, 9.2, 9.3.

1 Maintenance and Repair and Billing.”<sup>207</sup> Section 12.2 specifically addresses “Pre-  
2 Ordering, Ordering, and Provisioning.” Therefore, Eschelon proposes that  
3 expedited ordering be addressed in Section 12.2.1.2 and subparts. This is also  
4 more efficient than repeating terms in different sections.

5 **Q. PLEASE DESCRIBE ESCHELON’S PROPOSAL WITH RESPECT TO**  
6 **ISSUE NO. 12-67(G) RELATED TO EXPEDITE CHARGE.**

7 A. Issue 12-67(g) (Expedite Charge) addresses the charge in Exhibit A - flat non-  
8 recurring interim fee of \$100 (Eschelon) versus an ICB rate for which Qwest may  
9 propose in every case to charge \$200 per day advanced (*e.g.*, \$1,000 if advanced  
10 by 5 days)<sup>208</sup> (Qwest).

11 Eschelon’s proposal represents a compromise by Eschelon. Eschelon proposes to  
12 set a specific rate for non-emergency-based (fee-based) expedites, despite the fact  
13 that no cost basis has been established for such rate, in order to avoid additional  
14 litigation in this case. However, Eschelon reserves its right to a cost-based rate if

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<sup>207</sup> Section 12.1.1 of proposed ICA (closed language). Although Qwest may attempt to define “OSS” more narrowly to include systems only, that is not how the term is defined in the contract. *See id.* In addition, in the Third Report and Order (at ¶ 425), the FCC said: “In the *Local Competition First Report and Order*, the Commission defined OSS as consisting of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an incumbent LEC’s databases and information. OSS includes the *manual*, computerized, and automated systems, *together with associated business processes* and the up-to-date data maintained in those systems” (emphasis added). *See* Third Report and Order, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 (Released Nov. 5, 1999), ¶425 (citing “*Local Competition First Report and Order*, 11 FCC Rcd at 15763-64, paras. 518, 523”).

<sup>208</sup> *See* Washington arbitration, Albersheim Washington Direct, p. 60, lines 2-4 (“It is Qwest's position that the appropriate ICB rate is \$200.00 per day consistent with Qwest's its practices in other states.”).

1 this rate is litigated in the cost case. Therefore, Eschelon proposes its expedite  
2 charge as an interim rate.

3 Qwest's "expedite amendment," which as I discussed above Qwest now requires  
4 CLECs to sign in order to obtain expedited ordering for UNEs,<sup>209</sup> contains a rate  
5 of \$200 *per day* expedited. The same rate is listed in Qwest's Exhibit A for  
6 Oregon to its current negotiation template (Qwest's generic price offer),<sup>210</sup> which  
7 references Qwest's FCC access service tariff as a source for this rate.<sup>211</sup> Qwest  
8 made similar rate proposals in Minnesota and other states where Qwest and  
9 Eschelon are engaged in ICA arbitration proceedings. By proposing a \$100  
10 interim flat fee to be charged by Qwest for expedites, Eschelon is offering a  
11 compromise.

12 Charging an additional fee for expedites is the first over-arching issue identified  
13 in my summary above, and I turn to that issue now.

14 **(C) KEY COST ISSUES**

15 **1. WHOLESALE ACCESS AT COST-BASED RATES**

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<sup>209</sup> See Eschelon/104, Johnson/1 (Qwest Expedites & Escalations PCAT, stating: "your ICA must contain language supporting expedited requests with a "per day" expedite rate").

<sup>210</sup> <http://www.qwest.com/wholesale/downloads/2007/070208/ORNegTempTRROExhibitA1-31-07.xls>

<sup>211</sup> Specifically, Qwest's Oregon Exhibit A to its negotiation template notes as follows: "Market-based prices, All charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs, or Price Lists." <http://www.qwest.com/wholesale/downloads/2007/070430/ORNT04-30-07.xls> rows 849 (expedite rate) and 1067 (explanation of footnote 9).

1 **Q. PLEASE EXPLAIN ESCHELON’S POSITION THAT THE EXPEDITE**  
2 **CHARGE SHOULD BE A COST-BASED RATE.**

3 A. Eschelon is a wholesale customer of Qwest’s and should pay a wholesale rate.  
4 Section 252(d) of the federal Act sets forth the applicable pricing standards for  
5 interconnection, network elements, and resale at wholesale rates of ILEC retail  
6 services. It states that rates shall be cost-based and nondiscriminatory.<sup>212</sup>  
7 Nonetheless, Qwest has argued that Eschelon should pay the “same” charge as the  
8 \$200 per day advanced fee (*e.g.*, \$1,000 per order if advanced by 5 days) that  
9 Qwest charges its private line retail customers.<sup>213</sup> Qwest erroneously equates  
10 providing a retail service *at the same price* with providing wholesale service on  
11 nondiscriminatory terms. The threshold question to be addressed is whether for  
12 itself Qwest provides the service to its retail customers, separate from the question  
13 of price. If so, the analysis moves to another question, which addresses what the  
14 wholesale price should be (whether TELRIC-based). Qwest inappropriately  
15 collapses these two questions into one.

16 As it is undisputed that Qwest provides expedites to itself<sup>214</sup> and its retail  
17 customers,<sup>215</sup> the threshold question is met and the inquiry moves to the price.

18 The wholesale price should be based on cost because Qwest faces its own costs in

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<sup>212</sup> 47 U.S.C. § 252(d)(1)(A)(i) & (ii).

<sup>213</sup> See, *e.g.*, Colorado arbitration, Albersheim Colorado Direct, p. 52.

<sup>214</sup> Eschelon/7, Arizona arbitration Transcript, Vol. I, p. 58, lines 19-21 (“Q. Now, you would agree with me that Qwest provides itself with expedites; correct? A. Yes.”) (Ms. Albersheim).

<sup>215</sup> See, *e.g.*, Colorado arbitration, Albersheim Colorado Direct, p. 49, (Qwest “provides expedites to its retail POTS customers and design services customers...”); Exhibit Eschelon/36 (Qwest tariff pages for Qwest retail customers, including those receiving services over a “designed” facility).

1 providing expedites of orders. Qwest does not explicitly or implicitly charge  
2 itself a non cost based, market rate in order to expedite orders for its retail  
3 customers. Rather, it only incurs the cost of expediting such orders. By  
4 proposing to charge Eschelon a non cost based price that is higher than Qwest's  
5 own expedite costs, Qwest proposes to violate its nondiscrimination obligation<sup>216</sup>  
6 because this price constitutes terms that are less favorable than terms faced by  
7 Qwest in expediting its own orders (*i.e.*, the term that Qwest offers "to itself").<sup>217</sup>

8 The need for this comparison stems from the fact that Qwest acts in a dual role of  
9 the CLEC's provider of bottleneck facilities and the CLEC's competitor in retail  
10 markets. This standard for comparison is captured in the following federal rule:

11 **§ 51.313 Just, reasonable and nondiscriminatory terms and**  
12 **conditions for the provision of unbundled network elements.**

13 (b) Where applicable, the terms and conditions pursuant to which  
14 an incumbent LEC offers to provide access to unbundled network  
15 elements, including but not limited to, the time within which the  
16 incumbent LEC provisions such access to unbundled network  
17 elements, shall, *at a minimum, be no less favorable to the*  
18 *requesting carrier than the terms and conditions under which the*  
19 *incumbent LEC provides such elements to itself.* (emphasis added).

20 Eschelon and Qwest compete in the retail market and this competition includes an  
21 ability to offer expedite service to retail customers "on competitive" terms. By

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<sup>216</sup> See §51.313 (quoted below). See also FCC First Report and Order ¶218 ("Therefore, we reject for purposes of section 251, our historical interpretation of "nondiscriminatory," which we interpreted to mean a comparison between what the incumbent LEC provided other parties in a regulated monopoly environment. We believe that the term "nondiscriminatory," as used throughout section 251, applies to the terms and conditions an incumbent LEC imposes on third parties *as well as on itself.*") (emphasis added).

<sup>217</sup> See §51.313(b) (nondiscriminatory terms for the provision of UNEs shall be no less favorable to CLEC than the terms that the ILEC provides "to itself").



1 charging Eschelon a wholesale expedite price that exceeds the cost of expedite,  
2 Qwest is gaining an unfair advantage because Qwest can “profit” on the  
3 difference between the retail price of an expedite and Qwest’s cost associated  
4 with expedites. This advantage is very similar to an advantage that Qwest would  
5 have if it charged above-cost rates for UNE loops and other UNE elements – a  
6 situation that the unbundling rules and TELRIC pricing are designed to avoid.  
7 For example, although Qwest takes the position that private line service is the  
8 retail analogue of an unbundled DS1 Capable Loop,<sup>218</sup> Qwest presumably would  
9 not claim it is appropriate to charge the same price for the unbundled loop as for  
10 the retail service. Certainly, that is not what the Commission has found with  
11 respect to loop rates. An expedite rate for UNE orders should be cost-based, and  
12 not set based on market-based pricing or retail tariff offerings.

13 **Q. QWEST HAS ARGUED THAT EXPEDITES SHOULD NOT BE COST-**  
14 **BASED BECAUSE “EXPEDITES ARE NOT UNE’S.”<sup>219</sup> IS THAT THE**  
15 **APPROPRIATE ANALYSIS?**

16 A. No. The proper analysis not whether a term (*e.g.*, “expedite”) is itemized on the  
17 minimum list of “UNEs”; the issue is nondiscriminatory *access to UNEs*.<sup>220</sup> In

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<sup>218</sup> Arizona arbitration, Albersheim Arizona Rebuttal, p. 51, lines 13-14; *see also* Qwest’s Response to Eschelon’s Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment, *In the Matter of the Complaint of Eschelon Telecom of Arizona Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (Aug. 18, 2006) [“Arizona Complaint Docket”], p. 17, lines 8-9 [“the only retail analogue is between high capacity loops (DS1 and DS3 Capable Loops) and high-capacity private lines.”].

<sup>219</sup> Colorado arbitration, Albersheim Colorado Direct, p. 52.

1 Paragraph 268 of its *First Report and Order*, the FCC found that the requirement  
2 to provide “access” to UNEs must be read broadly, concluding that the Act  
3 requires that UNEs be “provisioned in a way that would make them useful.”  
4 Expedites are needed to make UNEs useful.

5 When it argues that expedites are not UNEs, Qwest is asking the Commission to  
6 engage in the following rudimentary exercise: (1) take the list of seven or eight  
7 UNEs identified by the FCC (*e.g.*, “loop”);<sup>221</sup> (2) compare the words on that list to  
8 the term being requested (*e.g.*, “expedite”); and (3) find that Sections 251 and 252  
9 do not apply if the same word is not on both lists. If the exercise were that  
10 simple, there would hardly be several hundred pages of FCC orders discussing  
11 **access to** UNEs. Note that ICA Exhibit A (the rate sheet) contains approximately  
12 600 items with rates. If Qwest’s test were applied, Exhibit A would contain less

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<sup>220</sup> For those functions with a retail analogue (“the BOC provides to competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings”), the BOC “must provide access to competing carriers in “substantially the same time and manner” as it provides to itself. Thus, where a retail analogue exists, a BOC must provide access that is equal to (*i.e.*, substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness.” *In the Matter of the Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, FCC 99-404, CC Docket No. 99-295, rel. December 22, 1999, ¶ 45. For those functions that have no retail analogue, the BOC must demonstrate that the access it provides to competing carriers would offer an efficient carrier a “meaningful opportunity to compete.” *Id.* ¶ 44. The FCC made clear that the lack of a retail analogue did not mean that the BOC would be subject to a more lenient nondiscrimination obligation. The FCC stated that “we do not view the ‘meaningful opportunity to compete’ standard to be a weaker test than the ‘substantially the same time and manner’ standard.” The meaningful opportunity to compete standard is, rather, “intended to be a proxy for whether access is being provided in substantially the same time and manner and [is], thus, nondiscriminatory.” *Id.* at ¶ 45.

<sup>221</sup> See §51.319; see also FCC First Report and Order ¶ 27 [“The minimum set of network elements the Commission identifies are: local loops, local and tandem switches (including all vertical switching features provided by such switches), interoffice transmission facilities, network interface devices, signalling and call-related database facilities, operations support systems functions, and operator and directory assistance facilities.”]

1 than ten items with rates. Obviously, Qwest’s proposed approach is not the test  
2 the Commission has applied in determining cost-based rates pursuant to Sections  
3 251 and 252. Nondiscriminatory access to UNEs must be provided at cost-based  
4 rates.<sup>222</sup>

5 **Q. WAS IT ALWAYS QWEST'S POSITION THAT NON COST BASED**  
6 **RATES APPLY AND EXPEDITE CHARGES REQUIRE NO**  
7 **COMMISSION APPROVAL?**

8 A. No. Historically Qwest has treated expedites as a rate element subject to cost  
9 based pricing. As discussed above, expedites were provided for unbundled loop  
10 orders for six years as part of the Section 251 interconnection agreement between  
11 Eschelon and Qwest in Oregon and other states and are still provided in  
12 Washington under the existing agreement when the emergency conditions are  
13 met. Qwest confirmed that expedites were a part of accessing UNEs when Qwest  
14 previously asked state commissions to establish an Individual Case Basis (“ICB”)  
15 rate for expedites.<sup>223</sup> For example, in 2001 in Washington, Qwest introduced the  
16 expedite charge in the direct testimony of Qwest witness Robert F. Kennedy  
17 under section titled “Unbundled Network Elements (“UNEs”).<sup>224</sup>

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<sup>222</sup> 47 C.F.R. §51.307(a); 47 U.S. C. §252(d)(1)(A)(i).

<sup>223</sup> See Qwest Response to Petition, p. 44 (“The tariff authorizes charges on an ICB (Individual Case Basis) basis.”).

<sup>224</sup> See Eschelon/35 (pages from Kennedy WA Direct). See Before the Washington Utilities and Transportation Commission, In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport, Terminations and Resale, Docket No. UT-003013, Part D (“Part D UNE Cost Docket”), Direct Testimony of Robert F. Kennedy (“Kennedy Direct”), Qwest Corporation, November 7, 2001, pp. 13 and 26. Qwest made the same arguments in Arizona, which

1 Expedites is listed in Mr. Kennedy’s testimony as within the category of  
2 unbundled network elements, which means that Qwest understood they were  
3 subject to cost-based (*i.e.* TELRIC) pricing. Mr. Kennedy notes that, “Qwest  
4 proposes to charge for Expedites and Cancellations on an ICB.”<sup>225</sup>

5 As I discussed above regarding Oregon, the ICB rate also appears in the Qwest  
6 UNE tariff in Washington,<sup>226</sup> yet Qwest will not expedite an unbundled loop order  
7 in Washington under the existing interconnection agreement<sup>227</sup> when the  
8 emergency conditions are not met<sup>228</sup> even when a CLEC is willing to pay an ICB  
9 rate based on costs.<sup>229</sup> An ICB rate also appears in Exhibit A (Section 9.20.14) in  
10 the Colorado SGAT,<sup>230</sup> but Qwest will not provide expedites to Eschelon under  
11 the existing ICA at an ICB rate based on costs.<sup>231</sup> Specific language and an  
12 interim rate should be included in the proposed interconnection agreement to  
13 ensure expedited ordering will be provided for unbundled loops on  
14 nondiscriminatory terms and at cost-based rates.

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is also included as part of Eschelon/35.

<sup>225</sup> See Eschelon/35; See also Part D *UNE Cost Docket, Kennedy Direct*, p. 26.

<sup>226</sup> Section 3.1, Access to Unbundled Network Elements, WN U-42 Interconnection Services Washington, Section 3, Effective June 26, 2003, Original Sheet 14.13 (page 46 of PDF) at [http://tariffs.qwest.com:8000/idc/groups/public/documents/tariff/wa\\_i\\_t\\_s003p001.pdf#Page=1&PageMode=bookmarks](http://tariffs.qwest.com:8000/idc/groups/public/documents/tariff/wa_i_t_s003p001.pdf#Page=1&PageMode=bookmarks)

<sup>227</sup> See Qwest-Eschelon existing approved WA ICA, Att. 5, Section 3.2.2.13 (“Expedites: U S WEST shall provide CO-PROVIDER the capability to expedite a service order.”).

<sup>228</sup> Exhibit Eschelon/104 (Qwest expedite PCAT) (“The Pre-Approved expedite process is available in ***all states except Washington*** for the products below when your ICA contains language for expedites with an associated per day expedite charge.”) (emphasis added). Qwest refers to expedites for an additional fee as “Pre-Approved Expedites.”

<sup>229</sup> See, e.g., Exhibit Eschelon/41 (described in above footnote).

<sup>230</sup> See attachment A to Decision No. C02-409, Issued April 17, 2002, in Docket 99A-577T.

<sup>231</sup> See Exhibit Eschelon/41 (and previous footnote).

1 **Q. DID ANY OTHER COMMISSIONS MAKE ANY RULING WITH**  
2 **RESPECT TO QWEST EXPEDITE CHARGES?**

3 A. Yes. First, during 2001 Qwest made a filing similar to the Washington filing in  
4 the Arizona cost docket, introducing an expedite rate under “UNE” section of its  
5 testimony and proposing an ICB charge.<sup>232</sup> The Arizona Commission in its order  
6 in the UNE Cost Docket found that “Qwest is directed to develop cost studies for  
7 all services offered in this docket on an ICB price basis in Phase III. Qwest  
8 should make every effort to develop reasonable cost-based prices for such  
9 services even if it has little or no experience actually provisioning the services.”<sup>233</sup>  
10 Because Qwest “offered in this docket on an ICB price basis” the provision of  
11 expedites, expedite charges are subject to this order. Indeed, in its current  
12 Arizona SGAT (dated February 10, 2005), Qwest lists footnote five next to the  
13 Expedite rate element.<sup>234</sup> Footnote five reads: “Rates for this element will be  
14 proposed in Arizona Cost Docket Phase III and may not reflect what will be  
15 proposed in Phase III. There may be additional elements designated for Phase III  
16 beyond what are reflected here.”<sup>235</sup> Inclusion of this footnote indicates Qwest

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<sup>232</sup> See Exhibit DD-28. See also Before the Arizona Corporation Commission, In the Matter of Investigation into Qwest Corporation’s Compliance with Certain Wholesale Pricing Requirements for Unbundled Network Elements and Resale Discounts, Docket No. T-00000A-00-0194 Phase II (“Arizona Phase II UNE Cost Docket”), Direct Testimony of Robert F. Kennedy (“Kennedy Direct”), Qwest Corporation, March 15, 2001, p. 47.

<sup>233</sup> *Arizona Phase II UNE Cost Docket*, Phase II Opinion and Order, Decision No. 64922, June 12, 2002, p. 75.

<sup>234</sup> Qwest’s Arizona SGAT is available at its website. See page 12, section 9.20.14 for the Expedite rate element.  
[http://www.qwest.com/about/policy/sgats/SGATSDocs/arizona/AZ\\_14th\\_Rev\\_3rd\\_Amend\\_Exh\\_A\\_2\\_10\\_05\\_Clean.pdf](http://www.qwest.com/about/policy/sgats/SGATSDocs/arizona/AZ_14th_Rev_3rd_Amend_Exh_A_2_10_05_Clean.pdf)

<sup>235</sup> Qwest’s Arizona SGAT, page 16, note 5.

1 recognized that expedite charges are subject to the Arizona Commission order.  
2 Qwest has never sought permission from the Arizona Commission to remove  
3 expedites from the list of UNE rate elements, nor has the Arizona Commission  
4 issued an order removing expedites. Therefore, cost-based rates for Expedites are  
5 still required by the Arizona Commission's order (in addition to Section  
6 252(d)(1)(A)(i) of the federal Act). In addition, Arizona Staff testimony in the  
7 ongoing Arizona Complaint Docket further verifies that expedites should be  
8 subject to cost-based pricing.<sup>236</sup>

9 Second, recently, in the Minnesota Qwest- Eschelon ICA Arbitration, the  
10 Minnesota Commission ruled that expedites on CLEC UNE orders constitute  
11 access to UNEs and therefore, their prices should be cost-based.<sup>237</sup>

12 **Q. PLEASE DESCRIBE THE MINNESOTA DECISION.**

13 A. In a report upheld by the Minnesota commission, the ALJs agreed with Eschelon  
14 with respect to: (1) the role of the Qwest Change Management Process ("CMP");  
15 (2) expedites being an integral part of access to UNEs (i.e., *not* a superior  
16 service); and (3) cost-based rates.<sup>238</sup> The ALJs rejected Qwest's per day rate  
17 proposal and recommended adoption of Eschelon's positions regarding an interim

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<sup>236</sup> Eschelon/33, Denney/2 (Arizona Staff Expedite Testimony, Executive Summary, Staff Conclusion No. 7).

<sup>237</sup> Eschelon/29, Denney/6-7, 54-55 (Arbitrators' Report at ¶¶ 21-22 & 219-222), affirmed Eschelon/30, Denney/17-19 & 23 (Order Resolving Arbitration at pp. 17-19 & p. 23 ¶5).

<sup>238</sup> Eschelon/29, Denney/6-7, 54-55 (Arbitrators' Report at ¶¶ 21-22 & 219-222), affirmed Eschelon/30, Denney/17-19 & 23 (Order Resolving Arbitration at pp. 17-19 & p. 23 ¶5).

1 rate and TELRIC pricing.<sup>239</sup> The ALJs only disagreed with Eschelon on a single  
2 sub-point, which I discuss in the next section below on exceptions to charging and  
3 additional fee.

4 First, regarding Qwest's expedite-related activities in CMP, the ALJs found that  
5 the "CMP process by which Qwest reached its current position is not the  
6 controlling factor on whether emergency situations should create an exception to  
7 charging an additional fee for expedited ordering."<sup>240</sup> More generally regarding  
8 CMP, the ALJs made a separate finding regarding CMP that:

9 The CMP document itself provides that in cases of conflict  
10 between changes implemented through the CMP and any CLEC  
11 ICA, the rates, terms and conditions of the ICA shall prevail. In  
12 addition, if changes implemented through CMP do not necessarily  
13 present a direct conflict with an ICA but would abridge or expand  
14 the rights of a party, the rates, terms, and conditions of the ICA  
15 shall prevail.<sup>241</sup> Clearly, the CMP process would permit the  
16 provisions of an ICA and the CMP to coexist, conflict, or  
17 potentially overlap. The Administrative Law Judges agree with the  
18 Department's analysis that any negotiated issue that relates to a  
19 term and condition of interconnection may properly be included in  
20 an ICA, subject to a balancing of the parties' interests and a  
21 determination of what is reasonable, non-discriminatory, and in the  
22 public interest. ***Eschelon has provided convincing evidence that***  
23 ***the CMP process does not always provide CLECs with adequate***  
24 ***protection from Qwest making important unilateral changes in***  
25 ***the terms and conditions of interconnection.***<sup>242</sup>

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<sup>239</sup> Eschelon/29, MN Arbitrators' Report, at ¶¶ 221-222.

<sup>240</sup> Eschelon/29, MN Arbitrators' Report, at ¶ 219.

<sup>241</sup> [MN] Ex. 1 (Albersheim Direct) at RA-1, part 1.0, page 15.

<sup>242</sup> Eschelon/29, MN Arbitrators' Report, at ¶¶ 21-22 (footnote in original; emphasis added).

1 Second, regarding access to UNEs, the ALJs specifically found: “When Eschelon  
2 requests an expedite, it will be for accessing a UNE. Under 47 U.S.C. §§ 51.307  
3 and 51.313, it must be provided under Section 251 of the Act and, thus, at  
4 TELRIC rates.”<sup>243</sup>

5 Finally, regarding cost-based rates, the ALJs rejected Qwest’s per day rate  
6 proposal and said “as to pricing, Eschelon’s position should be adopted.”<sup>244</sup> The  
7 ALJs noted that historically in Minnesota TELRIC rates have been substantially  
8 less than Qwest’s tariffed rates for similar services, and they found that  
9 “Eschelon’s proposal for an interim rate of \$100 is appropriate.”<sup>245</sup> The ALJs  
10 agreed with Eschelon that a TELRIC study should be done.<sup>246</sup>

11 **Q. WHICH EXPEDITE CHARGE PROPOSAL IS MORE REASONABLE?**

12 A. Eschelon’s interim proposal for a flat per order charge is more reasonable.  
13 Because the only additional cost that Qwest may incur to expedite an order  
14 involves the cost of processing the expedite order, this cost will not vary based on  
15 the number of days by which service is sought to be expedited. Accordingly, a  
16 per day charge is inappropriate.

17 The reasonableness of Eschelon’s proposed \$100 interim per order charge is also  
18 shown by comparison of that charge with other rates that the Commission has

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<sup>243</sup> Eschelon/29, MN Arbitrators’ Report, at ¶221.

<sup>244</sup> Eschelon/29, MN Arbitrators’ Report, at ¶¶ 221-222.

<sup>245</sup> Eschelon/29, MN Arbitrators’ Report, at ¶ 222.

<sup>246</sup> Eschelon/29, MN Arbitrators’ Report, at ¶ 222.



1 established. Eschelon’s proposed interim expedite rate, for example, is similar to  
2 the rate – \$124.67 – for basic installation of a DS1 capable loop.<sup>247</sup> Qwest has  
3 acknowledged that expediting service does not require any additional  
4 provisioning activities; it merely involves performing the same provisioning  
5 activities more quickly than would otherwise be the case.<sup>248</sup> An additional  
6 expedite charge that approaches the amount of the charge for all of the activities  
7 for an entire installation of a facility should more than amply compensate Qwest  
8 for performing the installation activities more quickly.

9 Another point of comparison is the rate for “express service” – which essentially  
10 is an expedite service offered to residential customers in some states and defined  
11 as provisioning of access line dial tone prior to the standard installation service  
12 date. Under its express service offering, Qwest offers same-day installation for  
13 \$22 flat (per order) fee in Colorado.<sup>249</sup>

14 Another example of the reasonableness of Eschelon’s proposed \$100 per order  
15 charge is a comparison with the rate that Qwest charges for a Due Date change.  
16 For example, in Arizona, the approved rate for a Due Date change is \$10.38.<sup>250</sup>  
17 More recently, Qwest has proposed a higher rate for a Due Date change in the  
18 Minnesota UNE cost case. Expediting an order changes the date to an earlier

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<sup>247</sup> If Eschelon expedited a loop order by 5 days, Qwest proposes to charge Eschelon \$1,000 (\$200 X 5 days).

<sup>248</sup> See Eschelon/6 , MN ICA Arbitration Transcript, Vol. 2,p. 97, line 18-p, 98, line 22.

<sup>249</sup> See Qwest Colorado Services Catalog No. 1, Original Sheet 8 Effective 12-09-05.

<sup>250</sup> Arizona SGAT §9.20.12.

1 date. Qwest’s proposed Due Date Change in Minnesota appears to apply when  
2 the date is changed to a later date – “any time a customer requests a Due Date  
3 Change after Qwest has assigned/dispatched a technician on the original due  
4 date.”<sup>251</sup> For these types of date changes, Qwest is proposing a per order (*i.e.*, *not*  
5 per day) non-recurring charge of \$91.32, which is listed as the ***additional dispatch***  
6 ***charge***.<sup>252</sup> In other words, in Minnesota, Qwest is proposing a per order charge  
7 for due date changes that is ***lower*** than Eschelon’s proposed per order \$100  
8 interim charge for expediting the due date. Thus, in order to move the due date  
9 for a loop order up by five days, Qwest proposes that it be permitted to charge  
10 \$1000.00 (in addition to the regularly applicable installation charge), although to  
11 move the due date for a loop order out, Qwest proposes that it be permitted to  
12 charge an additional \$91.32, regardless of the number of days that the due date is  
13 being moved.

14 Qwest has provided no evidence at all that expediting an order would require an  
15 additional dispatch. To the contrary, Qwest has expressly admitted that  
16 expediting service does not require *any* additional provisioning activities.<sup>253</sup> Even  
17 assuming that expedites involve some non-provisioning “front office” type

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<sup>251</sup> *In the Matter of Qwest Corporation's Application for Commission Review of TELRIC Rates Pursuant to 47 U.S.C. § 251*, Minnesota PUC Docket No. P-421/AM-06-713, OAH Docket No. 3-2500-17511-2 [*“MN UNE Cost Case”*], Attachment 3 Summary of Costs and Attachment 4 Element Description, December 21, 2006, at §§9.20.12 (Qwest proposed element description for §9.20.11).

<sup>252</sup> *MN UNE Cost Case*, Attachment 3 Summary of Costs and Attachment 4 Element Description, December 21, 2006, at §§9.20.12 (Date Change – states “see 9.20.11”) & 9.20.11 (Additional Dispatch, per Order \$91.32).

<sup>253</sup> *See* Eschelon/6, MN ICA Arbitration Transcript (Qwest witness Terry Million), Vol. 2, p. 97, line 18-p, 98, line 22; *id.* p. 98, lines 16-17.

1 activities, there is no evidence to suggest that the cost of those activities exceed  
2 not only the rate for basic installation of a DS1 capable loop but also Qwest's own  
3 recently proposed Due Date charge in the amount of an Additional Dispatch,  
4 when no additional dispatch is required for expedites.

5 Eschelon's proposed charge is expressly an interim rate. It affords Qwest the  
6 opportunity to obtain a higher permanent rate, if Qwest can provide a TELRIC  
7 study to support that rate. If Qwest can present a cost study that supports a per-  
8 day charge, then it will be permitted to assess such a charge. To date, however,  
9 Qwest has provided no cost study and thus made no effort to prove that it incurs  
10 additional costs when providing expedites that are not recovered in the installation  
11 charge and the \$100 interim additional expedite fee.

12 **2. EXCEPTIONS TO CHARGING AN ADDITIONAL EXPEDITE**  
13 **FEE**

14 **Q. PLEASE EXPLAIN ESCHELON'S PROPOSAL THAT EXCEPTIONS TO**  
15 **CHARGING AN ADDITIONAL FEE FOR EXPEDITES SHOULD BE**  
16 **NONDISCRIMINATORY.**

17 **A.** Qwest does not charge an additional expedite fee in every case. Qwest makes  
18 certain exceptions -- providing expedites at no additional charge such as when  
19 emergency-conditions are met and resources are available. For CLECs at least for  
20 certain products, Qwest refers to the emergency-based expedite exceptions that  
21 were previously provided in Oregon for UNE orders as its "Expedites Requiring

1 Approval” process.<sup>254</sup> In its retail tariff, Qwest refers to exceptions to charging an  
2 additional non-recurring fee for expedites within “Reestablishment of Service  
3 Following Fire, Flood, or Other Occurrence” – “Nonrecurring Charges Do Not  
4 Apply.”<sup>255</sup> Although Qwest cannot deny that it makes exceptions to charging an  
5 expedite fee,<sup>256</sup> Qwest disputes when and for what products it makes an  
6 exception. Eschelon has offered its alternative ICA proposal #2 for Issue 12-  
7 67(a) (ICA Section 12.2.1.2.1), described above, to simplify this debate.

8 Eschelon’s second proposal states that if Qwest does provide exceptions to  
9 charging an additional fee for expedites for its retail customers (as Qwest  
10 currently does, for example, “if a customer needs to restore service at the original  
11 location when it is re-entering the original facility, after a fire, flood or Act of  
12 God disaster”),<sup>257</sup> it will likewise provide those exceptions for CLECs when the  
13 same conditions are met. The approach reflected in Eschelon’s first proposal is  
14 preferable in that it offers more certainty as to the conditions under which  
15 exceptions to charging a separate fee will be made. If the Commission finds that  
16 some of all of these conditions are inapplicable (or does not reach that issue),

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<sup>254</sup> Eschelon/104 (Qwest PCAT).

<sup>255</sup> See Eschelon/36.

<sup>256</sup> See Qwest (Ms. Martain) Direct (Aug. 28, 2006), Arizona Complaint Docket, p. 40, lines 4-10 (“The tariff then goes on to state that if the end user elects to move service to a temporary location (either within the same building, or a different building) that non-recurring charges would apply. This would include the non recurring charge to expedite a design service. However, when the customer moves its service, via a service order, back to the original premise location, if it meets the criteria as outlined in 3.2.2.d included below, the non-recurring charges would be *waived (including the expedite fee)*” (emphasis added)).

<sup>257</sup> See Qwest (Ms. Martain) Direct (Aug. 28, 2006), Arizona Complaint Docket, p. 39, lines 27-28; see *id.* p. 40, lines 4-10 (quoted in above footnote).

1           however, Eschelon’s second proposal at least articulates a nondiscrimination  
2           standard. It also limits future disputes at least to the extent that the companies  
3           agree Qwest does not apply expedite charges for its retail customers.<sup>258</sup>

4       **Q.    IS ESCHELON’S PROPOSAL TO ALLOW NONDISCRIMINATORY**  
5       **EXCEPTIONS TO CHARGING AN ADDITIONAL EXPEDITE FEE IN**  
6       **CERTAIN EMERGENCY SITUATIONS CONSISTENT WITH**  
7       **ESCHELON’S POSITION THAT RATES FOR EXPEDITES SHOULD BE**  
8       **COST-BASED?**

9       A.    Yes. As discussed, Eschelon continues to pay the installation NRC separate from  
10       the expedite fee,<sup>259</sup> unlike a Qwest retail customer which also receives a waiver of  
11       that installation charge.<sup>260</sup> In addition, Qwest provides expedites when the  
12       identified emergency conditions are met (“Expedites Requiring Approval”) only  
13       if resources are available. Regarding Expedites Requiring Approval (but not fee-  
14       added Pre-Approved Expedites),<sup>261</sup> Qwest’s PCAT states:

15                   Qwest will review your expedited request for resource availability.  
16                   In some cases, we may contact you to advise resources for expedite  
17                   are not available or offer an alternate date.<sup>262</sup>

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<sup>258</sup> *See id.*

<sup>259</sup> Eschelon proposed ICA Sections 12.2.1.2.2 & 12.2.1.2.3.

<sup>260</sup> *See* Qwest (Ms. Martain) Direct (Aug. 28, 2006), Arizona Complaint Docket, p. 39, lines 27-28; *see id.* p. 40, lines 4-10 (quoted in above footnote).

<sup>261</sup> Per Qwest’s PCAT, the emergency-based Expedites Requiring Approval (at no additional fee) are subject to resource availability; the fee-added Pre-Approved Expedites are not. *See* Eschelon/104 (Qwest Escalations and Expedites PCAT).

<sup>262</sup> *See* Eschelon/104 (current Qwest Escalations and Expedites PCAT, discussing emergency-based Expedites Requiring Approval).

1 Qwest incurs no cost to add resources for expediting an order when the  
2 emergency conditions are met. If resources are not available, Qwest simply  
3 denies the request.

4 **Q. BOTH THE MINNESOTA ALJS' AND THE ARIZONA STAFF DID NOT**  
5 **SUPPORT A FINDING OF DISCRIMINATION REGARDING THE**  
6 **CIRCUMSTANCES UNDER WHICH QWEST CURRENTLY OFFERS**  
7 **EXCEPTIONS TO CHARGING AN ADDITIONAL EXPEDITE FEE**  
8 **UNDER EMERGENCY CONDITIONS.<sup>263</sup> DO THESE CONCLUSIONS**  
9 **IMPACT WHETHER OR NOT EXPEDITES SHOULD BE PROVIDED AT**  
10 **COST-BASED RATES?**

11 A. No. Though Eschelon disagrees with the conclusion of the Minnesota ALJs' and  
12 the Arizona Staff with respect to the conditions under which discrimination  
13 occurs when applying an exception to charging a separate fee for expedites, both  
14 the Minnesota ALJs' and the Arizona Staff – despite those findings - support the  
15 conclusion that expedites should be provided at cost-based rates.<sup>264</sup> As for the  
16 issue of not having a separate charge in emergency situations, it is consistent with

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<sup>263</sup> See Eschelon, 29 (MN Arbitrators' Report, at ¶ 219) and Staff Testimony, Arizona Complaint Docket, p. 32, line 21. Staff concludes that there is no retail analogue for expedites of loop installations. *Id.* p. 32, lines 21-23. When there is no retail analogue, "no retail analogue" does not mean "no discrimination." An analysis must be made of whether the access the ILEC provides to CLECs offers a meaningful opportunity to compete. *See* Bell Atlantic NY 271 Order at ¶ 44. In any event, Qwest has now admitted that there *is* a retail analogue for DS1 and DS3 loops. *See, e.g.,* Albersheim AZ Rebuttal, AZ Docket Nos. T-03406A-06-0572, T-01051B-06-0572 (Feb. 9, 2007), p. 51, lines .13-14 ("a DSI private line (the retail analog)"); *see also* Albersheim Rebuttal in the Arizona Complaint Docket (Aug. 28, 2006), p. 12, lines 18-20 ("the Commission has already determined that DS1 Capable Loops and DS3 Capable Loops have a retail analogue; specifically, DS1 and DS3 private lines respectively").

<sup>264</sup> See Eschelon, 29 (MN Arbitrators' Report, at ¶ 221) and Eschelon/33 (AZ Staff Testimony, Executive Summary, Staff Conclusion No. 7).

1 cost-based rates because Eschelon continues to pay the installation NRC separate  
2 from the expedite fee,<sup>265</sup> and because Qwest provides emergency-based expedites  
3 *only if resources are available* (as indicated in the PCAT language quoted in my  
4 previous response).

5 Although the ALJs in Minnesota suggested that an expedite for a non-designed  
6 service may be more involved than an expedite for a designed service,<sup>266</sup> the  
7 evidence in this case shows that Qwest had been offering (and continues offering  
8 in Washington) emergency-based expedites for both designed and non-designed  
9 facilities for many years,<sup>267</sup> and the “complexity” of design facilities had not been  
10 an issue for all these years. Further, when discussing costs associated with an  
11 expedite, Ms. Million of Qwest named cost of working the order into an existing  
12 provisioning schedule, coordination of activities among the several Qwest’s  
13 departments and communication with the customer regarding the status of the  
14 order.<sup>268</sup> Ms. Million’s description of these costs does not suggest that expedites  
15 for design services would be more complex than expedites for non-design  
16 services. Finally, Qwest does not explain how these complexities can possibly  
17 justify a rate difference between \$0 and \$200 per day. As I discuss above, the

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<sup>265</sup> Eschelon proposed ICA Sections 12.2.1.2.2 & 12.2.1.2.3.

<sup>266</sup> Eschelon/29, MN Arbitrators’ Report, at ¶ 220.

<sup>267</sup> See Eschelon/107; see also *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 [“Arizona Complaint Docket”], Qwest (Ms. Novak) Direct (July 13, 2006), p. 5, lines 5-12 & lines 21-22 (Qwest “uniformly followed the process in existence at the time for expediting orders for unbundled loops”); see also Answer (May 12, 2006) (Arizona Complaint Docket), Page 9, ¶ 14, Lines 24-25 (“Qwest previously expedited orders for unbundled loops on an expedited basis for Eschelon”).

<sup>268</sup> Minnesota arbitration, Million Minnesota Rebuttal, p. 28.

1 ALJs agreed (as upheld by the Minnesota Commission) with Eschelon on the  
2 latter point and rejected Qwest's \$200 per day proposed rate.

3 Further, Eschelon's Proposal # 2 for issue 12-67(a) would require Qwest to offer  
4 the emergency conditions to Eschelon only to the extent that Qwest does not  
5 apply expedite charges to its own customers, providing protection against  
6 discrimination while addressing Qwest's stated concerns about its offering few if  
7 any exceptions to charging for expedites for its retail customers.

8 **IX. RATES FOR SERVICES, UNAPPROVED RATES AND**  
9 **INTERCONNECTION ENTRANCE FACILITIES (SUBJECT MATTER**  
10 **NOS. 44, 45 AND 46)**

11 **SUBJECT MATTER NO. 44. RATES FOR SERVICES**

12 **Issues 22-88, 22-88(a) and 22-89: ICA Sections 22.1.1 and 22.4.1.3, and Exhibit**  
13 **A, Section 7.11.**

14 **Q. PLEASE DESCRIBE ESCHELON'S BUSINESS NEED REGARDING**  
15 **RATES FOR SERVICES REFLECTED IN ISSUES NOS. 22-88, 22-88(A)**  
16 **AND 22-89.**

17 **A.** Eschelon needs the same certainty and clarity regarding the rates that Eschelon  
18 charges Qwest as Qwest desires regarding the rates Qwest charges Eschelon.  
19 Although the majority of rates in the ICA refer to Qwest's charges to Eschelon for  
20 services and facilities, some of the rates apply to Eschelon's charges to Qwest.  
21 Therefore, the ICA and its Exhibit A should not inaccurately confine rates to  
22 "Qwest rates" or misleadingly refer solely to "Qwest" tariffs, as proposed by



1 Qwest. Eschelon and Qwest have agreed that Eschelon will charge Qwest in  
2 certain instances; keeping the language in the ICA general as “rates,” rather than  
3 “Qwest’s rates” avoids contradictions and confusions.

4 Issue 22-88 deals with the general references to rates in Exhibit A, while Issue 22-  
5 88(a) deals with a specific line item in Exhibit A describing rates for IntraLATA  
6 toll traffic. Issue 22-89 concerns the right of each company to request a cost  
7 proceeding at the Commission to establish a rate to replace an interim rate.

8 **Q. WHAT IS ESCHELON’S PROPOSAL TO ADDRESS THESE ISSUES?**

9 A. Eschelon proposes language modifications to make clear that Eschelon has the  
10 same right to charge for certain rates and services under the terms of the ICA as  
11 Qwest does. Eschelon also proposes eliminating language in Exhibit A that  
12 contradicts the parties’ agreement that they will mutually exchange, and  
13 compensate for intraLATA toll traffic. In addition, Eschelon proposes to spell out  
14 in the contract that each company has a right to request a cost proceeding at the  
15 Commission to establish a permanent rate in replacement of an interim rate.  
16 Eschelon proposes the following language modifications for Issues 22-88, 22-  
17 88(a) and 22-89:

18 **Issue 22-88:**

19 22.1.1 The rates in Exhibit A apply to the services provided by  
20 ~~Qwest to CLEC~~ pursuant to this Agreement.

21 **Issue 22-88(a):**

22 Exhibit A, Section 7.11  
23 ~~Qwest’s Oregon Access Services Tariff~~

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**Issue 22-89:**

22.4.1.3 Nothing in this Agreement shall waive any right of either Party to request a cost proceeding at the Commission to establish a Commission-approved rate to replace an Interim Rate.

**Q. WHAT IS QWEST’S PROPOSAL ON THESE ISSUES?**

A. Qwest opposes Eschelon’s proposals for these Sections. Qwest recommends including the language in Section 22.1.1 that would confine the scope of the rates in Exhibit A specifically to those that apply to services provided *by Qwest to Eschelon* (thus in effect excluding agreed-upon Eschelon rates from Exhibit A). Similarly, Qwest’s proposal for Exhibit A, Section 7.11 is to confine the source of access charges for the agreed-upon mutual exchange of intraLATA toll traffic to Qwest’s, and not Eschelon’s, access tariff. In addition, Qwest opposes including in the contract the provision regarding each company’s right to request a cost proceeding to replace an interim rate. Qwest proposes the following language modifications:

**Issue 22-88:**

22.1.1 The rates in Exhibit A apply to the services provided by Qwest to CLEC pursuant to this Agreement.

**Issue 22-88(a):**

Exhibit A, Section 7.11  
Qwest’s Oregon Access Services Tariff

**Issue 22-89:**

~~22.4.1.3 Nothing in this Agreement shall waive any right of either Party to request a cost proceeding at the Commission to establish a Commission-approved rate to replace an Interim Rate~~ Intentionally Left Blank.

1 **Q. REGARDING ISSUE 22-88 (THE FIRST OF THE THREE ISSUES),**  
2 **PLEASE EXPLAIN ESCHELON’S POSITION.**

3 A. Eschelon proposes striking the phrase “by Qwest to CLEC” because it contradicts  
4 the fact that Exhibit A also includes rates for services provided by Eschelon to  
5 Qwest.<sup>269</sup> The contract language makes numerous references to rates charged by  
6 CLECs, or by such nonspecific terms as “the originating carrier,” which are meant  
7 to be equally applicable to Eschelon or Qwest. These contract references  
8 furthermore state that these rates may be contained in Exhibit A. For example,  
9 section 22.1.3 contains the following agreed-upon language:

10 22.1.3 Reciprocal Charges: See Section 7.3 regarding bill and  
11 keep for reciprocal compensation. *To the extent that CLEC*  
12 *provides services to Qwest, other than bill and keep for reciprocal*  
13 *compensation, or services provided pursuant to this Agreement at*  
14 *the rate in Exhibit A, CLEC may apply its tariffed rates as*  
15 *provided in Section 22.1.3.1.*<sup>270</sup>

16 Below is a partial list of citations from the agreed-upon portions of the contract  
17 that make references to charges that are assessed by Eschelon or by either  
18 Eschelon or Qwest, and are based on Exhibit A rates and assumptions (emphasis  
19 added):

20 **Interconnection**

21 **7.3.3 Trunk Non-recurring charges**  
22 ...

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<sup>269</sup> See, e.g., Sections 7.3.7.1 and 7.3.7.2 (charges for local, ISP-bound and intraLATA toll transit traffic); 9.2.5.2 and 9.2.5.2.1 (trouble isolation); and 10.2.5.5.4 and 10.2.5.5.5 (Qwest Requested LNP Managed Cuts).

<sup>270</sup> Emphasis added.

1 7.3.3.1 *Installation non-recurring charges may be assessed*  
2 *by the provider for each Interconnection trunk ordered at the rates*  
3 *specified in Exhibit A, or the CLEC's Tariff when the rates in the*  
4 *aggregate are not greater than the amount in Exhibit A.*

5  
6 7.3.3.2 *Non-recurring charges for rearrangement may be*  
7 *assessed by the provider for each Interconnection trunk*  
8 *rearrangement ordered, at one-half (1/2) the rates specified in*  
9 *Exhibit A.*

10  
11 **7.3.7 Transit Traffic**

12  
13 The following rates will apply:

14 7.3.7.1 Local Transit and ISP-bound Transit: *The*  
15 *applicable Interconnection tandem switching and tandem*  
16 *transmission rates at the assumed mileage contained in Exhibit A*  
17 *of this Agreement, apply to the originating Party. (See Section*  
18 *7.3.1.1.2) The assumed mileage will be modified to reflect actual*  
19 *mileage, where the mileage can be measured, based on*  
20 *negotiations between the Parties.*

21 7.3.7.2 IntraLATA Toll Transit: The applicable tariffed  
22 Switched Access Tandem switching and tandem transmission rates  
23 apply to the originating CLEC or LEC. *The assumed mileage*  
24 *contained in Exhibit A of this Agreement shall apply.*

25  
26 **7.6 Transit Records**

27 7.6.3 If the non-transit provider requests records pursuant  
28 to Section 7.6.1 or 7.6.2, *the Parties will charge the same rate for*  
29 *Category 11-01-XX records sent in an EMI mechanized format.*  
30 These records are used to provide information necessary for each  
31 Party to bill the Originating Carrier. *The charge listed in Exhibit A*  
32 *of this Agreement is applicable to each transit record that meets*  
33 *the definition of a billable record.*

34 **Labor Charges for Audits**

35 **8.2.3 General Terms--Caged and Cageless Physical Collocation**

36 8.2.3.10 All equipment placed will be subject to random safety  
37 audits conducted by Qwest. Qwest will not enter CLEC's caged

1 Collocation space or access CLEC's cageless Collocation  
2 equipment as part of a random safety audit. These audits will  
3 determine whether the equipment meets the NEBS Level 1 safety  
4 standards required by this Agreement. CLEC will be notified of  
5 the results of this audit. If, pursuant to the random audit, Qwest  
6 does not demonstrate non-compliance, *Qwest shall pay CLEC*  
7 *using the rates in Exhibit A for Additional Labor Other, for CLEC*  
8 *time spent, if any, as a result of Qwest's audit...*

9 **Trouble Isolation**

10 9.2.5.2 When CLEC requests that Qwest perform trouble isolation  
11 with CLEC, a Maintenance of Service Charge will apply when  
12 Qwest dispatches a technician and the trouble is found to be on the  
13 End User Customer's side of the Loop Demarcation Point. If the  
14 trouble is on the End User Customer's side of the Loop  
15 Demarcation Point, and CLEC authorizes Qwest to repair the  
16 trouble on CLEC's behalf, Qwest will charge CLEC the  
17 appropriate Additional Labor Charges and Maintenance of Service  
18 Charge, if any, as set forth in Exhibit A at 9.20. No charges shall  
19 apply if CLEC provides Qwest with test results indicating trouble  
20 in Qwest's network and Qwest confirms that such trouble is in  
21 Qwest's network. In the event that Qwest reports no trouble found  
22 in its network on a trouble ticket and it is subsequently determined  
23 that the reported trouble is in Qwest's network, then Qwest will  
24 waive or refund to CLEC any Maintenance of Service Charges  
25 assessed to CLEC for that same trouble ticket. If Qwest reported  
26 no trouble found in its network but, as a result of a repeat trouble,  
27 CLEC demonstrates that the trouble is in Qwest's network, *CLEC*  
28 *will charge Qwest a trouble isolation charge as described in*  
29 *Section 12.4.1.8.*<sup>271</sup>

30 **Local Number Portability Ordering**

31 10.2.5.5.3 Qwest will incur charges for the Qwest requested  
32 Managed Cut ....

33 10.2.5.5.4 *Charges for Qwest requested Managed Cuts* shall  
34 be based upon actual hours worked in one half (1/2) hour  
35 increments. If the time to perform the Managed Cut is extended  
36 due to CLEC error, CLEC will not charge Qwest for the additional  
37 time. *Exhibit A of this Agreement contains the rates for Managed*

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<sup>271</sup> The disputed portion of this paragraph shown as strike out and underline (Issue 12-80(c)) is quoted according to Eschelon's proposal.

1           *Cuts.* Qwest understands and agrees that in the event Qwest does  
2 not make payment for Qwest requested Managed Cuts, unless  
3 disputed as permitted under Sections 5.4 and 21 of the Agreement,  
4 CLEC may choose not to accept any new LSR requests for  
5 Managed Cuts.

6           **Exchange of Usage Data**

7                   **21.14.1.       Daily Usage Files**

8                   21.14.1.2       CLEC agrees to record call information in  
9 accordance with this Section. Unless Qwest notifies CLEC in  
10 writing that CLEC may discontinue doing so, CLEC shall provide  
11 to Qwest access records. The access records provide Qwest with  
12 usage by CLEC end office of originating switched access usage.  
13 These records are in industry standard Category 11 Exchange  
14 Message Interface (EMI) format. Category 1101 series records are  
15 used to exchange detail Meet Point Billed access minutes-of-use.  
16 Qwest will make accessible to CLEC through electronic means the  
17 transmission method/media types available for these mechanized  
18 records. *The CLEC may charge Qwest for these records in*  
19 *accordance with Exhibit A.*

20           As is evident from these citations, the agreed-upon language of the contract  
21 references Exhibit A as a basis of Eschelon-charged rates (or rates chargeable by  
22 Qwest or Eschelon, dependent on the circumstances) in connection with a number  
23 of topics, including reciprocal compensation, transit traffic, non-recurring charges  
24 for interconnection trunks, transit and usage records, labor and trouble isolation  
25 charges, and Local Number Portability managed cuts.

26   **Q.       DOES INCLUSION OF ESCHELON'S PROPOSED LANGUAGE IN**  
27   **SECTION 22.1.1 HELP FULFILL ESCHELON'S BUSINESS NEED FOR**  
28   **CLARITY IN RATES OUTLINED ABOVE?**

1 A. Yes. Eschelon, as well as Qwest, will depend upon the ICA for certainty and  
2 clarity in rates that will be charged for the term of the ICA. Elimination of the  
3 words “by Qwest to CLEC” (as proposed by Eschelon) allows the general  
4 sentence in Section 22.1.1 linking Exhibit A rates to the “services  
5 provided...pursuant to this agreement” to apply to Eschelon as well as to Qwest.  
6 For the terms and conditions under which the rates actually apply, each party  
7 looks equally to the text of the ICA, allowing clarity in rates for each.<sup>272</sup> Qwest’s  
8 proposed addition of the qualifier “by Qwest to CLEC” in Section 22.1.1, on the  
9 other hand, would destroy this framework, resulting at best in ambiguity and at  
10 worst in a false conclusion that Eschelon cannot charge for services pursuant to  
11 the ICA.

12 As I discussed above, various sections throughout the contract already contain the  
13 agreed-upon language that references Exhibit A as a basis for certain Eschelon  
14 rates. In light of these other agreed-upon provisions, Qwest’s proposal for  
15 Section 22.1.1 – which describes rates in Exhibit A as Qwest’s rates – is clearly  
16 inaccurate and misleading. In contrast, Eschelon’s proposal provides an accurate  
17 and unambiguous description of rates contained in Exhibit A.

18 **Q. REGARDING ISSUE 22-88(A) (THE SECOND OF THE THREE ISSUES),**  
19 **PLEASE EXPLAIN ESCHELON’S POSITION.**

20 A. Eschelon proposes that the language in Exhibit A, Section 7.11, refer simply to  
21 the Oregon Access Services Tariff rather than *Qwest’s* Oregon Access Services

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<sup>272</sup> Exhibit A itself simply provides rates – it does not make rates specific to Qwest, Eschelon, or either.

1 Tariff. Eschelon proposal is essential to bring clarity and certainty to the ICA’s  
2 treatment of charges for the exchange of intraLATA toll traffic. Elimination of  
3 Qwest’s proposed qualifying reference to *Qwest’s* tariff makes the language in  
4 Exhibit A consistent with the agreed-upon portions of the contract that discuss the  
5 mutual exchange of intraLATA toll traffic.

6 The topic Mutual Exchange of Traffic is found in Section 7.2 of the ICA.  
7 Specifically included in this section is “Exchange Access (IntraLATA Toll) traffic  
8 as defined in this Agreement.” (Section 7.2.1.2.2.) Qwest and Eschelon have  
9 agreed that intraLATA toll traffic will be mutually exchanged and mutually  
10 compensated for under the each provider’s respective tariff, as captured in the  
11 following provisions of the agreed-upon language of the contract:

12 7.3.7.2 IntraLATA Toll Transit: The applicable tariffed  
13 Switched Access Tandem switching and tandem transmission rates  
14 apply to the originating CLEC or LEC. The assumed mileage  
15 contained in Exhibit A of this Agreement shall apply.

16 7.3.10.1 Where either Party acts as an IntraLATA Toll  
17 provider, each Party shall bill the other the appropriate charges  
18 pursuant to its respective Tariff or Price Lists.

19 Given the agreed-upon language in the ICA regarding the assessment of mutual  
20 compensation for the exchange of intraLATA toll traffic, the language in Section  
21 7.11 of Exhibit A – which provides the Oregon Access Services Tariff as the  
22 source of the intraLATA toll traffic rates – must be general: This section must list  
23 the source of intraLATA toll traffic rates not only for Qwest, but also for  
24 Eschelon. Eschelon’s proposal that this section read simply “Oregon Access



1 Tariff,” in contrast to Qwest’s proposal to limit this language to “Qwest’s Oregon  
2 Access Tariff,” provides necessary clarity regarding the mutuality of these  
3 charges. Both Eschelon and Qwest will resort to their respective Oregon access  
4 tariffs for the application of intraLATA toll rates – thus, neither Eschelon’s nor  
5 Qwest’s access tariff can be excluded from reference in Exhibit A.

6 Finally, the agreed-upon language at Section 7.2.2.3.3.1 regarding Qwest’s  
7 payment of CLEC access charges could create confusion if read in combination  
8 with Qwest’s proposal for Exhibit A, Section 7.11. Eschelon’s proposed language  
9 (far from rendering Eschelon’s proposal unnecessary, as Qwest argues) provides  
10 necessary clarification that each party will depend on its own Oregon access tariff  
11 for the application of access charges, in light of the agreed-upon language as  
12 follows:

13 7.2.2.3.3.1 Notwithstanding any other provision of this  
14 Agreement, in the case of Exchange Access (IntraLATA Toll)  
15 traffic where Qwest is the designated IntraLATA Toll provider, or  
16 where Qwest has agreed to be a presubscribed IntraLATA Toll  
17 provider for other LEC end user toll Customers, Qwest will be  
18 responsible to CLEC for payment of CLEC Tariff access rates for  
19 traffic terminating to CLEC’s network. Qwest will also be  
20 responsible for traffic originating from CLEC’s network for a  
21 CLEC End User Customer utilizing an intraLATA Toll-free  
22 service where Qwest is the provider of the intraLATA Toll-free  
23 service.

24 This language states that when Qwest acts as a provider of the long-distance  
25 intraLATA toll service, it pays access charges to the CLEC whose local network  
26 it is using. Comparison of the contract language and Qwest’s proposed language  
27 for Exhibit A creates confusion and unnecessary ambiguity: On the one hand, the

1 contract spells out a situation in which *CLEC* charges *Qwest* for intraLATA toll.  
2 On the other hand, under *Qwest*'s proposal, Exhibit A would say that rates for  
3 intraLATA toll traffic are to be found only in *Qwest*'s Access Tariff. *Qwest*'s  
4 proposed language could lead to the mistaken conclusion that a CLEC must  
5 charge access rates out of *Qwest*'s, rather than the CLEC's own, access tariff.  
6 Eschelon's proposal to make a general reference to an "Oregon Access Tariff,"  
7 rather than "*Qwest*'s Oregon Access Tariff," will remove any ambiguity  
8 regarding each party's use of its own Oregon access tariff for its access charges,  
9 and thus will reduce the likelihood of future disputes.

10 **Q. REGARDING ISSUE 22-89 (THE THIRD OF THE THREE ISSUES),**  
11 **PLEASE EXPLAIN ESCHELON'S POSITION.**

12 A. Eschelon's proposed language preserves the right of either company to request a  
13 cost case with the Commission to establish permanent rates in place of interim  
14 rates. This issue is closely linked to the agreed-upon Section 22.4 (Interim Rates)  
15 and Eschelon's proposed language in section 22.6.1 (Eschelon's proposal for  
16 Issue 22-90).<sup>273</sup> In section 22.4.1.1, Eschelon and *Qwest* agreed that the  
17 Commission may review and change approved interim rates or interim rates. In  
18 section 22.6.1, Eschelon proposes the process under which an *interim* rate may be  
19 established for products for which the Commission has not established a rate.  
20 Eschelon's proposal for Issue 22-89 clarifies that each company may request a  
21 cost case to establish *permanent* rates. If for any reason *Qwest* files rates and cost

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<sup>273</sup> See the citation of section 22.6.1 under Issue 22-90 below.

1 support with the Commission but there is not a contested cost case and a full  
2 review by the Commission, Eschelon's proposal for Issue 22-89 ensures that  
3 interim rates do not remain indefinitely *if* one of the companies asks the  
4 Commission to review them. The opportunity to obtain permanent Commission-  
5 approved rates is necessary to ensure that rates are cost-based, just, reasonable  
6 and non-discriminatory.

7 **Q. WHAT ARGUMENTS DOES QWEST MAKE AGAINST ESCHELON'S**  
8 **PROPOSAL FOR ISSUE 22-89?**

9 A. Qwest's only argument against Eschelon's proposal is that it places unnecessary  
10 language in the interconnection agreement.<sup>274</sup> Note that Qwest does not deny that  
11 each party has the right to request a cost proceeding; it simply claims that such a  
12 provision is unnecessary in the ICA. Qwest's argument is flawed: First, this  
13 issue concerns a subsection in Section 22.4 – the section titled "Interim Rates."  
14 Closed language in Section 22.4 states that the interim rates may be reviewed and  
15 changed by the Commission (Section 22.4.1.1). Therefore, a clarification that  
16 Eschelon or Qwest may request a cost proceeding in which the Commission  
17 would review and change these rates (Eschelon's proposal for Section 22.4.1.3,  
18 which is Issue 22-89), is appropriate.

19 Second, Qwest has agreed to Eschelon's proposal on Issue 22-89 (Section  
20 22.4.1.3) in Minnesota. Because Qwest does not point to any state-specific reason

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<sup>274</sup> Qwest's position in the Disputed Issues Matrix (10/10/06, p. 241) for Issue 22-89 states that Eschelon's proposed provision is unnecessary.

1 that this provision is “unnecessary” in Oregon, but is “necessary” in Minnesota,  
2 Qwest’s objections to Eschelon’s proposal in Oregon are unsupported and  
3 unreasonable.

4 **Q. PLEASE SUMMARIZE ISSUES 22-88, 22-88(A) AND 22-89 RELATING**  
5 **TO RATES FOR SERVICES.**

6 A. Eschelon proposals for Issues 22-88 and 22-88(a) are consistent with the  
7 numerous agreed-upon provisions of the contract – provisions that refer to Exhibit  
8 A as a basis of CLEC-charged rates. Qwest’s proposal to treat Exhibit A as if  
9 containing only Qwest-charged rates is inaccurate and confusing, and could lead  
10 to needless dispute. Eschelon’s proposal for Issue 22-89 is a necessary  
11 complement to Section 22.6 (Issue 22-90). As I discuss below, it has become  
12 clear that Qwest is attempting to unreasonably narrow the agreed upon portion of  
13 Section 22.6, to limit that language to a paper “filing” requirement, rather than  
14 reading that language as reflecting the terms that already apply in Minnesota, as  
15 has been Eschelon’s consistent position. Eschelon agreed to language in Section  
16 22.6 regarding a set of circumstances (described in the next section) under which  
17 Eschelon would pay Qwest’s proposed rates even though they are unapproved.  
18 Section 22.6.1 specifically provides (in closed language) that Qwest’s proposed  
19 rate will only apply “until the Commission orders a rate.” In other words, the  
20 interim rate will not apply indefinitely and will be replaced by an approved  
21 permanent rate. If for any reason Qwest files rates and cost support with the  
22 Commission as required by Section 22.6 but there is not an associated contested

1 cost case, Qwest should not be able to avoid the provision of Section 22.6.1 that  
2 the Commission will order a rate but not initiating a cost case and then arguing  
3 that, by agreeing to Section 22.6, Eschelon has waived its right to initiate a cost  
4 case. The underpinning of Section 22.6 is that interim rates will be replaced with  
5 permanent rates, and Section 22.4.1.3 removes an opportunity for Qwest to delay  
6 that intended result.

7 **SUBJECT MATTER NO. 45. UNAPPROVED RATES**

8 *Issue No. 22-90 and Subparts (a)-(ae): ICA Sections 22.6, 22.6.1, 22.4.1.1 and*  
9 *Exhibit A Sections 8.1.1.2, 8.1.2.2, 8.1.2.3, 8.1.2.4, 8.1.5 and subparts, 8.1.8 and*  
10 *subparts, 8.1.9.2, 8.1.12, 8.1.14, 8.1.16, 8.2.1.1, 8.3.1.1, 8.4.1.1, 8.15.4.1,*  
11 *8.15.4.2, 8.4.2.4.1, 8.4.2.4.2, 8.4.2.4.3, 8.4.2.4.4, 8.15.1.2.2, 8.6.1.2, 8.6.1.3.1,*  
12 *8.6.2.2.2, 8.6.2.2.3.1, 8.6.2.2.3.2, 8.7.2.1, 8.7.2.2, 8.7.2.3, 8.7.3.1, 8.7.3.2, 8.7.3.3,*  
13 *8.7.4, 8.8 and subparts, 8.12 and subparts, 8.13 and subparts, 8.15.2 and*  
14 *subparts, 8.16 and subparts, 8.17.1, 8.17.2, 9.2.5.5.1.2, 9.2.5.5.2.2, 9.2.6.5.1.2,*  
15 *9.2.6.5.2.2, 9.2.8, 9.3.3.1.1, 9.3.3.2, 9.3.3.3 and subparts, 9.3.3.4 and subparts,*  
16 *9.6.11 and subparts, 9.6.12, 9.7 and subparts, 9.20 and subparts, 9.23.7,*  
17 *9.23.7.11.1, 9.23.7.11.2 and subparts, 10.7.12, and 10.7.12.1.*

18 **Q. PLEASE DESCRIBE ESCHELON'S BUSINESS NEED REGARDING**  
19 **UNAPPROVED RATES AS REFLECTED IN ISSUE 22-90 AND ITS**  
20 **SUBPARTS.**

21 A. Rates are key to decision making and planning with respect to products and  
22 services. If rates are unknown or change unexpectedly, a business cannot plan its  
23 expenses or budget appropriately. And, if rates are inflated and not cost based, a  
24 business cannot remain competitive. Therefore, it is important that rates are  
25 substantiated and approved in a timely manner. Eschelon's proposal addresses  
26 two scenarios involving unapproved rates in particular: (1) without seeking

1 Commission approval, Qwest starts charging an unapproved rate for a UNE or  
2 process that it previously provided under a Commission-approved agreement  
3 without an additional charge; and (2) Qwest implements and imposes upon  
4 Eschelon (under threat of not providing the service at all) Qwest's "going-in"  
5 positions or "wish-list"<sup>275</sup> unapproved rates and then leaves them in effect  
6 indefinitely with no action by Qwest to support the rates to the Commission or  
7 obtain Commission approval of those rates. An example of the first scenario, as I  
8 discussed with respect to Issue 4-5, is design changes for loops. For years, Qwest  
9 provided design changes for loops with no additional charge<sup>276</sup> under the existing  
10 Commission-approved Qwest-Eschelon interconnection agreement before it  
11 unilaterally announced in an unexpected letter to CLECs that it would commence  
12 billing a non-recurring charge ("NRC") for these same design changes.<sup>277</sup>  
13 Eschelon had no reason to anticipate or budget for these new NRCs for an activity  
14 Qwest had been performing regularly under the ICA without these NRCs. An  
15 example of the second scenario is when Qwest offers a new product and assigns it  
16 a rate, does not substantiate the rate or seek Commission approval for the rate for  
17 a substantial period of time, and yet will not process orders for the product unless  
18 CLECs sign an amendment containing that unapproved rate.

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<sup>275</sup> For rates that are contested in cost cases, the going in rate proposal of a party, for which it wishes to obtain Commission approval, is frequently not adopted without any modification at all. There is often some modification that results in Commission approval of a rate lower than that initially proposed. Therefore, I refer to this initial proposal as a "going in" position or "wish list" rate.

<sup>276</sup> Although there is no *additional* charge (*i.e.*, separate rate), that does not necessarily mean that Qwest is not recovering its costs. The costs may be recovered elsewhere, such as in the recurring loop rate.

<sup>277</sup> Eschelon/10, non-CMP September 1, 2005 letter from Qwest with the subject line "Billing for design changes on Unbundled Loop." See also my discussion of Issue 4-5.

1 In Section 22.6 and subparts, Eschelon’s proposal tracks terms from a  
2 commission decision in Minnesota,<sup>278</sup> where CLECs faced these same problem  
3 scenarios involving unapproved rates. A comparison of the results in Minnesota  
4 versus other states that do not have the Minnesota terms demonstrates the need for  
5 such terms in Oregon and other states as well. In the first scenario, there has been  
6 no ICA change allowing Qwest to charge a separate NRC for design changes for  
7 loops in any of the six states where Eschelon does business with Qwest.<sup>279</sup> Yet,  
8 Minnesota is the only one of these states in which Qwest is not charging CLECs a  
9 new NRC for design changes for loops. In all of the other states, including  
10 Oregon, Qwest has provided *no* related cost study, obtained *no* related ICA  
11 amendment, and sought *no* related Commission approval, but, instead, simply  
12 commenced billing for design changes for loops. This is unjust, particularly as  
13 Qwest bears the burden for substantiating its own rates. In the second scenario,  
14 Qwest has no incentive to obtain an approved rate, which will never be higher and  
15 may be lower than its proposed rate, if it can charge the unapproved rate  
16 indefinitely without having to substantiate and obtain approval of that rate. For

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<sup>278</sup> October 2, 2002 Order in MN PUC Docket CI-01-1375 (“MN 271 Cost” Docket). Specifically, “Summary of the Commission’s findings and conclusions” contains the following provisions on pp. A-6 and A-7: **“Price Under Development:** Qwest shall obtain Commission approval before charging for a UNE or process that it has previously offered without charge. Qwest may negotiate an interim price for a UNE and service not previously offered in Minnesota provided that Qwest file a permanent price, and related cost support, with the Commission within 60 days of offering the UNE or service. ALJ Report p. 64. ....**New UNE Price:** When offering a new UNE, Qwest shall file a cost-based price, together with an adequate description of the UNE’s application, for Commission review within 60 days of offering. Qwest may charge a negotiated rate immediately if part of an approved interconnection agreement (ICA), provided the ICA is filed for Commission review within 60 days.”

<sup>279</sup> The six states where Eschelon historically has done business with Qwest are: Colorado, Minnesota, Arizona, Oregon, Utah, and Washington.

1 example, Qwest initiated terms for its collocation transfer (or change) of  
2 responsibility amendment in 2001,<sup>280</sup> but its proposed rates for collocation  
3 transfer of responsibility remains unapproved.<sup>281</sup> Qwest will not process orders  
4 for collocation transfers of responsibility without an ICA amendment containing  
5 Qwest's unapproved rates.<sup>282</sup> The ICA needs to contain terms and conditions that  
6 provide an incentive for Qwest to substantiate its rates and obtain Commission  
7 approval of them in a more timely manner.

8 Qwest has agreed to a portion of Eschelon's proposed language, as shown below.  
9 Qwest will likely argue that Eschelon's business need and these concerns are met  
10 by that portion of the language. That is not the case, however. Qwest chooses to  
11 ignore the portion of the Minnesota order that requires Qwest to obtain  
12 Commission approval before charging for a UNE or process that it has previously  
13 offered without charge.<sup>283</sup> This provision is critical to preventing situations like  
14 the design change charge scenario, under which Qwest unexpectedly unilaterally

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<sup>280</sup> See [http://www.qwest.com/wholesale/cmp/archive/CR\\_5582318.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5582318.htm) ("07/27/01 - 90 day review process for Joint Planning process for Cancel, Decom and change of Responsibility Offering letter distributed.").

<sup>281</sup> See Section 8.14 of Oregon Exhibit A to Qwest Negotiations Template (with footnote "1" to Section 8.1.4 indicating "Rates not addressed in a Cost Docket"). See <http://www.qwest.com/wholesale/downloads/2007/070208/ORNegTempTRROExhibitA1-31-07.xls>

<sup>282</sup> See <http://www.qwest.com/wholesale/pcat/collotransferresponsibilityreq.html>

("Qwest has provided a template Facility Transfer of Responsibility Agreement found in the Wholesale Interconnection Agreements & Amendments Interconnection Agreement PCAT which must be accepted or negotiated, signed by the vacating and assuming CLECs and appended to their Interconnection Agreements.").

<sup>283</sup> October 2, 2002 Order in MN PUC Docket CI-01-1375 ("MN 271 Cost" Docket). Specifically, "Summary of the Commission's findings and conclusions" contains the following provisions on pp. A-6 and A-7: **"Price Under Development:** Qwest shall obtain Commission approval before charging for a UNE or process that it has previously offered without charge.



1 commences billing for work it previously performed at no additional charge. It  
2 has recently become clear, in discussions with Qwest regarding the operation of  
3 Section 22.6 in states outside of Minnesota, that Qwest is attempting to turn the  
4 Eschelon proposed terms into a rubberstamp “filing” process under which Qwest  
5 can charge any rate it proposes – even for work it has performed previously at  
6 Commission approved rates (such as the loop recurring rate) – so long as it makes  
7 a paper filing with the Commission. As Qwest knows, that has never been  
8 Eschelon’s intent with this proposal,<sup>284</sup> and it should not be this Commission’s  
9 ruling. Eschelon thus has added an even clearer provision (the first sentence)  
10 reflecting this portion of the Minnesota process to Section 22.6.1 to avoid a  
11 situation in which Qwest interprets language intended to capture that process in a  
12 different manner. There is no reason to believe that the Oregon commission  
13 intended for Qwest to unexpectedly unilaterally commence billing for work it  
14 previously performed at no additional charge or operate indefinitely with  
15 unapproved rates. Qwest’s conduct, however, demonstrates that language is  
16 needed in the interconnection agreement to avoid these results in Oregon.

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<sup>284</sup> Eschelon reiterated in a January 17, 2006, email to the Qwest negotiation team: “As discussed previously with respect to Section 22, Eschelon’s Section 22 proposal is to use the MN PUC’s process in all six states.” Qwest is very familiar with the Minnesota PUC’s process, including the provision quoted in the previous footnote, through having applied it over the years. The difference in how design changes for loops are handled in Minnesota shows that Qwest knows there is a tangible difference in results under the Minnesota process for UNEs and processes that Qwest previously offered without a charge.

1 Issues 22-90 and 22-90(a) concern the contract language regarding unapproved  
2 rates, and Issues 22-90(b) through 22-90(ae) contain specific rate proposals for  
3 products for which the Commission has not approved rates.

4 **Q. WHAT IS ESCHELON'S PROPOSAL FOR CONTRACT LANGUAGE, IN**  
5 **ISSUES 22-90 AND 22-90(a)?**

6 A. Eschelon proposes the following language for Section 22.6.1:

7 [Issue 22-90]

8 22.6.1 Qwest shall obtain Commission approval before charging  
9 for a UNE or process that it previously offered without charge. If  
10 Qwest offers a new Section 251 product or service or one that was  
11 previously offered with a charge for which a price/rate has not  
12 been approved by the Commission in a TELRIC Cost Docket  
13 ("Unapproved rate"), Qwest shall develop a TELRIC cost-based  
14 rate and submit that rate and related cost support to the  
15 Commission for review within sixty (60) Days of the later of (1)  
16 the Effective Date of this Agreement, or (2) Qwest offering the rate  
17 to CLEC, unless the Parties agree in writing upon a negotiated rate  
18 (in which case Qwest shall file the negotiated rate with the  
19 Commission within 60 Days). Except for negotiated rates, Qwest  
20 will provide a copy of the related cost support to CLEC (subject to  
21 an applicable protective agreement, if the information is  
22 confidential) upon request or as otherwise ordered by the  
23 Commission. If the Parties do not agree upon a negotiated rate and  
24 the Commission does not establish an Interim Rate for a new  
25 product or service or one that was previously offered under Section  
26 251 with an Unapproved Rate, CLEC may order, and Qwest shall  
27 provision, such product or service using such Qwest proposed rate  
28 until the Commission orders a rate. In such cases, the Qwest  
29 proposed rate (including during the aforementioned sixty (60) Day  
30 period) shall be an Interim Rate under this Agreement.

31 [Issue 22-90(a)]

32 22.6.1.1 For a UNE or process that Qwest previously  
33 offered without charge, the rates in Exhibit A do not apply  
34 until Qwest obtains Commission approval or the Parties  
35 agree to a negotiated rate. If the Parties do not agree on a

1 negotiated rate, the Commission does not establish an  
2 Interim rate, and Qwest does not submit a proposed rate  
3 and related cost support to the Commission within the time  
4 period described in Section 22.6.1 for a new product or  
5 service or one that was previously offered under Section  
6 251 with an Unapproved Rate, the Unapproved rate(s) in  
7 Exhibit A do not apply. Qwest must provision ~~the~~ such  
8 products and services pursuant to the terms of this  
9 Agreement, at no additional charge, until Qwest submits  
10 the rate and related cost support to the Commission for  
11 approval.

12 **Q. PLEASE EXPLAIN ESCHELON'S PROPOSAL.**

13 A. For Issue 22-90 (Sections 22.6.1 and 22.6.1.1), Eschelon proposes language that  
14 covers all three of the following situations involving unapproved rates: (1) Qwest  
15 desires to charge for a UNE or process that it previously offered without a charge  
16 but has not obtained an approved rate; and (2) Qwest offers a new product or  
17 service and the rate is not yet approved; and (3) Qwest continues to offer a  
18 product or service that it has previously offered but the rate remains unapproved.  
19 In all three situations, the companies may negotiate a rate so long as the  
20 negotiated rate is filed with the Commission (as, for example, part of a filed  
21 interconnection agreement). If the companies do not negotiate a rate, the proposal  
22 provides as follows. In the first situation, Qwest must obtain Commission  
23 approval before charging for a UNE or process that it previously offered without a  
24 charge. In the second and third situations, Qwest must develop a cost-based rate  
25 and submit that rate and related cost support to the Commission for review. Once  
26 that information is filed (and, under Eschelon's proposal, provided to

1 Eschelon),<sup>285</sup> Eschelon may order the product and service and will pay a  
2 Commission-approved interim rate if one is established, or the Qwest-proposed  
3 rate if no interim rate is set.

4 As part of Issue 22-90(a) (Section 22.6.1.1), Eschelon's language also addresses a  
5 situation not covered by Section 22.6.1 (Issue 22-90): If (1) Eschelon and Qwest  
6 have not agreed upon a negotiated rate, (2) the Commission has not established an  
7 interim rate, and (3) Qwest does not submit a proposed rate and cost support to  
8 the Commission within the specified time frame, the unapproved rates do not  
9 apply, and Qwest must provision the product in question at no additional  
10 charge.<sup>286</sup> Qwest and Eschelon agree that Qwest must provision the product at no  
11 additional charge under Section 22.6.1.1, but disagree (as with Issue 22-90) on the  
12 portion of the language dealing with a UNE or process that Qwest previously  
13 offered without a charge.

14 **Q. PLEASE EXPLAIN WHY ESCHELON'S PROPOSALS FOR ISSUES 22-90**  
15 **AND 22-90(a) ARE REASONABLE.**

16 A. The pricing standards of the federal rules require that rates, terms and conditions  
17 for network elements and methods of obtaining access to interconnection and

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<sup>285</sup> As part of Issue 22-90, Eschelon proposes language in Section 22.6.1 that states that, except for negotiated rates, Qwest will provide a copy of the related cost support to Eschelon (subject to an applicable protective agreement, if the information is confidential) upon request or as otherwise ordered by the Commission.

<sup>286</sup> Section 22.6.1.1 thus ensures that Qwest cannot extend a period by which it imposes unapproved rates by not filing cost support with the Commission and requesting approval of the rates.

1 network elements<sup>287</sup> be just, reasonable, non-discriminatory,<sup>288</sup> and be established  
2 by state commissions based on the forward-looking cost pricing standard.<sup>289</sup> The  
3 agreed-upon language in Section 22.4 of the ICA recognizes that some products  
4 offered under the ICA may not have a Commission-approved rate yet, in which  
5 case the rate constitutes an interim rate. Clearly, to ensure compliance with the  
6 federal pricing rules, an unapproved rate should not remain unexamined by the  
7 state commission indefinitely. Similarly, a Commission-approved rate (such as  
8 the recurring loop rate) should not be undermined by allowing Qwest to  
9 unexpectedly and unilaterally announce that it will commence billing for work for  
10 which it is already recovering its costs in the approved rate. Such conduct would  
11 defeat not only the requirement that rates be cost based but also the requirements  
12 to obtain a Commission-approved amendment *before* changing the terms of the  
13 existing agreement under which the parties are already operating.

14 As discussed, Eschelon’s proposed language on Issues 22-90 and 22-90(a)  
15 follows a commission’s decision in a Minnesota 271 case and should be adopted  
16 to avoid the disparity that exists today in which Qwest may commence billing for  
17 a UNE or process that it previously offered without a charge in Oregon, unlike in  
18 Minnesota.

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<sup>287</sup> 47 CFR § 51.501(b) specifies that Subpart F of the rules (47 CFR § 51.501 through 47 CFR § 51.515) that deals with the pricing standards for network elements uses the word “element” to include interconnection and methods of obtaining access to UNEs and interconnection.

<sup>288</sup> 47 CFR § 51.503(a).

<sup>289</sup> 47 CFR § 51.503(b). Although the rules allow state commissions to use proxies for forward-looking economic cost as an alternative to forward-looking costing method, 47 CFR § 51.513(a(1)) explains that the proxy ceilings are a temporary method used in the absence of sufficient cost information and until the state commission reviews the cost study.

1 In addition, Eschelon proposes in Issue 22-90 that Qwest make available to  
2 Eschelon its supporting cost study filed with the Commission. Eschelon's  
3 proposal is a narrow one requiring only that Qwest provide the information "upon  
4 request or as otherwise ordered by the Commission." Eschelon needs a  
5 mechanism that allows it to obtain in a timely manner the details of Qwest's  
6 filings that concern rates for UNEs offered under section 251. Eschelon needs to  
7 be able to review Qwest's supporting cost studies in order to make a decision on  
8 whether to intervene in the case regarding essential UNE products. Note that  
9 Eschelon would likely receive notice of a section 251 rate filing later officially –  
10 by intervening in the case. Without access to the rate information at the time of  
11 Qwest's filing, however, Eschelon is trapped in a Catch-22: It must intervene in  
12 the case in order to see the cost filing, but it needs the cost filing to decide  
13 whether or not to intervene. Eschelon may determine that it does not wish to  
14 intervene in the end, but in the meantime it has expended the money and  
15 resources required for intervention.

16 **Q. WHAT IS QWEST'S PROPOSAL REGARDING ISSUES 22-90 AND 22-**  
17 **90(A)?**

18 A. For Issues 22-90 and 22-90(a), Qwest disagrees with Eschelon's proposed  
19 language modifications and proposes exclusion from the ICA of Eschelon's  
20 proposed insertions.

21 Eschelon's proposal is more consistent with requirement of federal law that rates  
22 for UNEs and interconnection be just, reasonable, non-discriminatory and cost-

1 based.<sup>290</sup> And, only Eschelon’s proposal addresses the problems that arise when  
2 Qwest unexpectedly and unilaterally commences billing for work it previously  
3 performed at no additional charge under a Commission-approved ICA.

4 **Interim Rate Proposals – Issues 22-90(b) through 22-90(ae)**

5 **Q. PLEASE EXPLAIN ESCHELON’S PROPOSAL FOR ISSUES 22-90(b)**  
6 **THROUGH 22-90(ae).**

7 A. For Issues 22-90 (b) through (ae), both Qwest and Eschelon propose interim rates  
8 for specific Qwest products where rates have not been approved by the  
9 Commission.<sup>291</sup> Eschelon’s interim rate proposals are based on rates in the  
10 current Eschelon-Qwest interconnection agreement, Qwest’s own rate offers, and  
11 a review of approved rates in the other large Qwest states. Eschelon’s proposed  
12 interim rates are more reflective of prior Commission cost case decisions than the  
13 Qwest proposed interim rates. Qwest’s interim rate proposals completely ignore  
14 prior Commission decisions and in some cases have no cost support at all backing  
15 up these rates. In addition, Qwest’s rate proposals sometimes ignore Qwest’s rate  
16 offerings from its own negotiations template or SGAT, and in many cases  
17 Qwest’s proposed interim rates are higher than the rates Qwest offers itself in the  
18 Qwest-Qwest interconnection agreement.<sup>292</sup>

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<sup>290</sup> 47 C.F.R. § 51.303.

<sup>291</sup> See proposed ICA Section 24.4.1.1, which states in the portion of this Section that is closed: “Rates reflected on Exhibit A that have not been approved by the Commission in a cost case and require Commission approval shall be considered as Interim rates (“Interim Rates”) by the Parties . . . .”

<sup>292</sup> As discussed with Design Changes and UCCRE, Qwest Corporation (Qwest) has an interconnection agreement with its CLEC, Qwest Communications Corp. This agreement was approved by the

1 **Q. SHOULD INTERIM RATES BE ADDRESSED IN THIS PROCEEDING?**

2 A. Yes. Both companies have proposed interim rates for these issues. Yet, Qwest  
3 also takes the inconsistent position that rates should not be addressed in this  
4 proceeding, but rather, should be deferred to a later generic cost case. In other  
5 states Qwest has sought to dismiss the rate issues from the arbitrations.<sup>293</sup>

6 Qwest is incorrect in claiming that rate issues are inappropriate for arbitration.  
7 The appropriate scope of this proceeding is established by federal law. Section  
8 252(b)(4)(c) of the Federal Telecommunications Act (the “Act”) requires the  
9 Commission to resolve each issue set forth in the petition.<sup>294</sup> The Act expressly  
10 envisions that individual arbitration proceedings may involve rates issues. To that  
11 end, Section 252(c) requires that a state commission, “in resolving *by arbitration*”  
12 any open issues and imposing conditions upon the parties to the agreement, “*shall*  
13 *establish any rates* for interconnection, services or network elements according to  
14 subsection (d) of this section.”<sup>295</sup> The FCC’s rules also recognize that state  
15 commissions may set rates in arbitration proceedings and therefore impose a duty  
16 to produce in negotiations cost data relevant to setting rates in arbitration.<sup>296</sup>

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Commission in Order 04-630 as part of Docket ARB 616.

<sup>293</sup> In Arizona and Colorado, the ALJs allowed the interim rate issues to proceed at hearing, while taking the issue under advisement for consideration by the Commissions. Regarding the Washington order rejecting Qwest’s motion, see my discussion below.

<sup>294</sup> 47 U.S.C. § 252(b)(4)(c).

<sup>295</sup> 47 U.S.C. § 252(c) (emphasis added). Section 252(d) of the Act sets forth the applicable pricing standards for interconnection, network elements, and resale at wholesale rates of ILEC retail services. It states that rates shall be cost-based and nondiscriminatory. 47 U.S.C. § 252(d)(1)(A)(i) & (ii).

<sup>296</sup> 47 C.F.R. § 51.301(c)(8)(iii) (“If proven to the Commission, an appropriate state commission, or a court of competent jurisdiction, the following actions or practices, among others, violate the duty to



1       There would be no reason to require that this data be provided if rates were not  
2       proper subject for arbitration, and therefore the rule specifically refers to cost data  
3       relevant to setting rates “in arbitration.”<sup>297</sup> The ALJ in the Washington arbitration  
4       proceeding between Eschelon and Qwest relied on these provisions of the Act in  
5       denying Qwest’s motion to dismiss in that case, noting that the interim rates  
6       issues were raised in the petition for arbitration and the response and that “[T]he  
7       statute is mandatory and not only requires the Commission to establish rates but  
8       sets forth the standard by which those rates must be established.”<sup>298</sup>

9       Consideration of Eschelon’s interim rate proposals in this case is fully consistent  
10      with this Commission’s prior orders. In particular, in a previous cost docket, UT  
11      138 / 139, the Commission held that “work times and probabilities shall remain in  
12      effect until such time as USWC and GTE file revised analyses that are approved  
13      by the Commission.”<sup>299</sup> Thus, for the kind of rates that are at issue here –  
14      elements for which no Commission-approved rate has been set – the Commission

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negotiate in good faith: . . . (8) Refusing to provide information necessary to reach agreement. Such refusal includes, but is not limited to: . . . (ii) Refusal by an incumbent LEC to furnish *cost data* that would be relevant to *setting rates* if the parties were *in arbitration*.”) (emphasis added).

<sup>297</sup> *Id.*

<sup>298</sup> *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between Qwest Corporation and Eschelon Telecom, Inc. Pursuant to 47 U.S.C. § 252(b)*, Docket UT-063061, Order Denying Motion to Dismiss Issues, Order 10 (W.U.T.C. April 19, 2007). A copy of this order accompanies this brief as Attachment 7. See also *In the Matter of Petition of Buytel Communications, Inc. for Arbitration Pursuant to Section 252(b) to Resolve Open Issues for an Interconnection Agreement with Ameritech Indiana*, 2002 Ind. PUC LEXIS 277 at \*20 (I.P.U.C. 2002) (“The establishment of rates is precisely the type of issue that the Arbitration provisions of TA-96 were promulgated to address. While generic proceedings such as that established in Cause No. 40611 can promote the competition and policy goals of TA-96 by permitting the full development and exploration of forward-looking costs, nothing in TA-96 or in the FCC’s rules permits such a generic proceeding to limit a requesting carrier’s right to petition a state commission to arbitrate such an unresolved issue.”).

<sup>299</sup> Order No. 98-444, p. 82. (See Eschelon/23)

1 did not authorize Qwest to charge, even on an interim basis, any rate that it saw  
2 fit. Rather, the Commission anticipated that its previous cost case orders would  
3 be incorporated until such time that a new cost case established a different set of  
4 inputs and assumptions. CLECs must be given a fair opportunity to negotiate a  
5 rate or challenge Qwest's proposed rate outside the context of a cost case, such as  
6 in an arbitration proceeding like this one.

7 What should be made clear is that Qwest is also seeking to establish interim rates  
8 in this arbitration. The difference between Qwest and Eschelon on this point is  
9 that Qwest wants its rates to go into effect without any Commission scrutiny,  
10 while Eschelon seeks Commission review to assure that the rates that Qwest  
11 charges are not excessive.

12 The Commission's role here is to evaluate the evidence presented by the parties  
13 and determine which of the companies' proposed interim rates most closely  
14 approximates the TELRIC standard. The Washington Commission explained the  
15 relationship between generic cost proceedings and arbitration proceedings as  
16 follows:

17 The Commission stated that rates adopted in the pending  
18 arbitrations would be interim rates, pending the completion  
19 of the generic proceeding. Accordingly, the price proposals  
20 made in this arbitration have been reviewed with the goal  
21 of determining which offers a more reasonable interim rate,  
22 more closely based on what we believe to be accurately  
23 determined cost levels based on the evidence specifically

1 submitted in this docket, our recent prior actions regarding  
2 cost studies, and our expertise as regulators.<sup>300</sup>

3 **Q. WHAT RATES IS ESCHELON PROPOSING FOR ISSUES 22-90(B)**  
4 **THROUGH (AE)?**

5 A. The following table summarizes Eschelon's, as well as Qwest's, proposal for each  
6 disputed rate element:

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<sup>300</sup> *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between TCG Seattle and U S WEST Communications, Inc., Pursuant to 47 U.S.C. § 252*, 1997 Wash. UTC LEXIS 9 at \*5 (W.U.T.C. 1997); *see also In the Matter of the Petition of Ace Telephone Company*, 2006 Mich. PSC LEXIS 51 at \*12 (M.P.S.C. 2006) (adopting interim rates for reciprocal compensation, pending approval of new rates in a separate proceeding); *see also In the Matter of the Sprint Communications Company L.P.'s Petition for Arbitration of Interconnection Rates, Terms, Conditions, and Related Agreements with GTE of the North, Inc.*, 1997 Ind. PUC LEXIS 9 at \*21-22 (I.P.U.C. 1997) (establishing "interim proxy" rates in arbitration to be subject to true up upon the completion of a cost case).

Table. Eschelon's and Qwest's Proposals for Issues 22-90(b) through 22-90(ae)			RATE PROPOSAL			
Issue #	Exhibit A Section	Rate Element	Eschelon		Qwest	
			REC	NRC	REC	NRC
			22-90(b)	8.1.1.2	Cable Augment Quote Preparation Fee	
22-90(c)	8.1.2.2	Cageless & Caged Standard Shared, per Fiber	\$4.14		\$5.92	
22-90(c)	8.1.2.3	Cross Connect, per Fiber	\$3.66		\$6.09	
22-90(c)	8.1.2.4	Express, per Cable	\$21.49	\$20,279.08	\$96.38	\$9,415.02
22-90(d)	8.1.4.1.1	Power Plant, Less Than 60 Amps	\$9.20		\$11.95	
22-90(d)	8.1.4.1.2	Power Plant, Equal to or Greater Than 60 Amps	\$7.32		\$9.31	
22-90(d)	8.1.5.1.1	Backup AC Power Feed, 120V	\$17.13		\$19.98	
22-90(d)	8.1.5.1.2	208V, Single Phase	\$29.69		\$34.63	
22-90(d)	8.1.5.1.3	208V, Three Phase	\$51.37		\$59.92	
22-90(d)	8.1.5.1.4	240V, Single Phase	\$34.26		\$39.96	
22-90(d)	8.1.5.1.5	240V, Three Phase	\$59.27		\$69.13	
22-90(d)	8.1.5.1.6	480V, Three Phase	\$118.55		\$138.27	
22-90(e)	8.1.8.1.1.1	Collocation Termination - Shared Access DS0 - Cable Placement, per 100 Pair Block	\$0.32	\$127.42	\$0.37	\$230.24
22-90(e)	8.1.8.1.1.3	Collocation Termination - Shared Access DS0 - Cable, per 100 Pair Block	\$0.45	\$178.10	\$0.52	\$321.83
22-90(e)	8.1.8.1.1.5	Collocation Termination - Shared Access DS0 - Blocks, per 100 Pair Block	\$0.78	\$310.50	\$0.91	\$561.07
22-90(e)	8.1.8.1.1.7	Collocation Termination - Shared Access DS0 - Block Placement, per 100 Pair Block	\$0.33	\$134.10	\$0.39	\$242.31
22-90(e)	8.1.8.1.2.1	Collocation Termination - Shared Access DS1 - Cable Placement, per 28 DS1s	\$0.47	\$207.44	\$0.60	\$399.70
22-90(e)	8.1.8.1.2.3	Collocation Termination - Shared Access DS1 - Cable, per 28 DS1s	\$0.44	\$192.80	\$0.56	\$371.50
22-90(e)	8.1.8.1.2.5	Collocation Termination - Shared Access DS1 - Panel, per 28 DS1s	\$0.31	\$133.13	\$0.39	\$256.52
22-90(e)	8.1.8.1.2.7	Collocation Termination - Shared Access DS1 - Panel Placement, per 28 DS1s	\$0.09	\$42.72	\$0.12	\$82.31
22-90(e)	8.1.8.1.3.1	Collocation Termination - Shared Access DS3 - Cable Placement, per termination	\$0.17	\$73.22	\$0.22	\$147.89
22-90(e)	8.1.8.1.3.2	Collocation Termination - Shared Access DS3 - Cable, per termination	\$0.27	\$118.77	\$0.36	\$239.90
22-90(e)	8.1.8.1.3.3	Collocation Termination - Shared Access DS3 - Connector, per termination	\$0.28	\$121.51	\$0.37	\$245.44
22-90(e)	8.1.8.1.3.4	Collocation Termination - Shared Access DS3 - Connector Placement, per termination	\$0.02	\$9.84	\$0.03	\$19.88
22-90(e)	8.1.8.1.4.1	Fiber Terminations - Terminations, per 12 Fibers	\$12.39	\$1,601.47	\$15.01	\$1,670.87
22-90(e)	8.1.8.1.4.2	Fiber Terminations - Add'l Connector, if applicable	\$0.53	\$435.37	\$0.68	\$454.34
22-90(e)	8.1.8.1.4.3	Fiber Terminations - Cable Racking, Shared, per 12 Fibers	\$19.61		\$23.49	
22-90(e)	8.1.8.1.4.4	Fiber Terminations - Cable Racking, Dedicated	\$1.85	\$1,516.92	\$2.38	\$158.66
22-90(f)	8.1.9.2	Card Access, per Employee, per Central Office	\$6.20		\$8.40	
22-90(g)	8.1.12	Space Availability Report		\$234.38		\$383.94
22-90(h)	8.1.14	Collocation Space Option Administration Fee		\$1,029.40		\$1,308.22
22-90(j)	8.1.16	Joint Inventory Visit Fee, per Visit		\$1,610.12		\$1,869.49
22-90(k)	8.2.1.1	Quote Preparation Fee		\$2,317.79		\$4,951.46
22-90(l)	8.3.1.1	Quote Preparation Fee		\$2,317.79		\$4,956.18
22-90(l)	8.4.1.1	Quote Preparation Fee		\$2,317.79		\$5,403.92
22-90(l)	8.15.4.1	Cageless		\$2,317.79		\$4,956.18
22-90(l)	8.15.4.2	Caged		\$2,317.79		\$5,403.92
22-90(m)	8.4.2.4.1	Space Construction and Site Preparation - cage up to 100 Sq. Ft.	\$41.60	\$26,168.10	\$56.55	\$37,529.85
22-90(m)	8.4.2.4.2	Space Construction and Site Preparation - cage 101-200 Sq. Ft.	\$51.08	\$27,852.73	\$59.57	\$39,533.05
22-90(m)	8.4.2.4.3	Space Construction and Site Preparation - cage 201-300 Sq. Ft.	\$54.27	\$29,650.53	\$61.92	\$41,090.78
22-90(m)	8.4.2.4.4	Space Construction and Site Preparation - cage 301-400 Sq. Ft.	\$58.09	\$31,797.64	\$64.86	\$43,042.90
22-90(n)	8.6.1.2	FDI Terminations, per 25 Pair		\$506.92		\$728.37
22-90(n)	8.6.2.2.2	FDI Terminations, per 25 Pair		\$506.92		\$728.37
22-90(o)	8.7.2.1	Cable Racking - DS0	\$0.15		\$44.60	
22-90(o)	8.7.2.2	Cable Racking - DS1	\$0.16		\$185.34	
22-90(o)	8.7.2.3	Cable Racking - DS3	\$0.14		\$29.12	
22-90(p)	8.7.3.1	Virtual Connections - DS0, per 100 Connections		\$191.23		\$214.54
22-90(p)	8.7.3.2	Virtual Connections - DS1, per 28 Connections		\$89.56		\$101.03
22-90(p)	8.7.3.3	Virtual Connections - DS3, per Fiber Spliced		\$6.11		\$6.51
22-90(q)	8.7.4	Cable Hole, If applicable		\$434.08		\$485.15
22-90r	8.8.1	ICDF Collocation - Quote Preparation Fee		\$700.25		\$1,608.58
22-90r	8.8.3	ICDF Collocation - DS1 Circuit, per Two Legs		\$75.00		\$371.21
22-90r	8.8.4	ICDF Collocation - DS3 Circuit, per Two Legs		\$612.89		\$1,225.77
22-90(s)	8.12.2	FC Collocation Engineering Fee, per Job		\$700.25		\$1,608.58
22-90(s)	8.12.4	FC Collocation Fiber Entrance Facility Charge, per Cable, minimum 12 Strands	\$7.10	\$850.15	\$114.44	\$8,080.53
22-90(t)	8.13.1.1	Power Reduction, Quote Preparation Fee		\$411.00		\$811.18
22-90(t)	8.13.1.2.1	Power Reduction, Less Than 60 Amps		\$346.00		\$624.52
22-90(t)	8.13.1.2.2	Power Reduction, Equal to 60 Amps		\$346.00		\$898.00
22-90(t)	8.13.1.2.3	Power Reduction, Greater Than 60 Amps		\$587.00		\$1,140.52
22-90(t)	8.13.1.3	Power Off, per Feed Set		\$587.00	\$802.04	
22-90(t)	8.13.1.4	Power Maintenance Charge (Reservation Charge), per Fuse Set	\$37.00		\$57.32	
22-90(t)	8.13.2.1	Power Restoration, Quote Preparation Fee, per Office		\$411.00		\$811.18
22-90(t)	8.13.2.2.1.1	Power Restoration with Reservation, Less Than 60 Amps		\$346.00		\$624.52
22-90(t)	8.13.2.2.1.2	Power Restoration with Reservation, Equal to 60 Amps		\$346.00		\$898.00
22-90(t)	8.13.2.2.1.3	Power Restoration with Reservation, Greater Than 60 Amps		\$587.00		\$1,140.52
22-90(u)	8.15.2.1	Collocation Available Inventory, Special Site Assessment Fee		\$597.56		\$1,195.12
22-90(u)	8.15.2.2	Collocation Available Inventory, Network Systems Assessment Fee		\$909.63		\$1,819.26
22-90(u)	8.15.2.3	Collocation Available Inventory, Site Survey Fee		\$150.00		\$169.97
22-90(v)	8.16.1	Collocation Decommissioning - Add'l Labor Other Basic		\$26.60		\$30.68
22-90(v)	8.16.2	Collocation Decommissioning - Add'l Labor Other Overtime		\$35.50		\$40.64
22-90(v)	8.16.3	Collocation Decommissioning - Add'l Labor Other Premium		\$44.42		\$51.01
22-90(v)	8.16.4	Collocation Decommissioning - Add'l Dispatch		\$57.70		\$128.56

22-90(w)	8.17.1	Joint Testing - Set Up Fee (price contains a one hour set up fee)		\$40.96		\$65.20
22-90(w)	8.17.2	Joint Testing - Test Time Fee, per half hour		\$20.48		\$27.62
22-90(x)	9.2.5.5.1.2	DS1 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (first)		\$150.26		\$240.29
22-90(x)	9.2.5.5.2.2	DS1 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (each add'l)		\$121.94		\$218.77
22-90(x)	9.2.6.5.1.2	DS3 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (first)		\$150.26		\$239.67
22-90(x)	9.2.6.5.2.2	DS3 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (each add'l)		\$121.94		\$218.17
22-90(y)	9.2.8	Private Line / Special Access to Unbundled Loop Conversion		\$16.72		\$38.18
22-90(aa)	9.6.11.1	UDIT Rearrangement - DS0 Single Office		\$122.25		\$171.64
22-90(aa)	9.6.11.2	UDIT Rearrangement - DS0 Dual Office		\$127.98		\$215.90
22-90(aa)	9.6.11.3	UDIT Rearrangement - High Capacity Single Office		\$145.05		\$231.72
22-90(aa)	9.6.11.4	UDIT Rearrangement - High Capacity Dual Office		\$151.17		\$260.28
22-90(aa)	9.6.12	Private Line / Special Access to UDIT Conversion		\$66.70		\$123.96
22-90(aa)	9.23.6.5	Private Line / Special Access to LMC Conversion		\$16.72		\$38.18
22-90(aa)	9.23.7.6	Private Line / Special Access to EEL Conversion		\$16.72		\$38.18
22-90(ab)	9.7.1.1	UDF, Initial Records Inquiry, Simple		\$135.57		\$217.86
22-90(ab)	9.7.1.2	UDF, Initial Records Inquiry, Complex		\$169.70		\$258.56
22-90(ab)	9.7.4.1.1	UDF-IDF Single Strand Order Charge, per First Strand/Route/Order		\$373.22		\$513.92
22-90(ab)	9.7.4.1.2	UDF-IDF Single Strand Order Charge, per Add'l Strand/Route/Order		\$187.08		\$262.68
22-90(ab)	9.7.4.1.4	UDF-IDF Single Strand Termination, per Strand/Office	\$4.01		\$4.90	
22-90(ab)	9.7.4.1.5	UDF-IDF Single Strand Fiber Cross Connect, per Strand	\$1.84	\$11.65	\$2.63	\$19.93
22-90(ab)	9.7.5.1.1	UDF-IDF - per pair, Order Charge, per First pair/Route/Order		\$373.22		\$513.93
22-90(ab)	9.7.5.1.2	UDF-IDF - per pair, Order Charge, per Add'l pair/Route/Order		\$187.08		\$262.68
22-90(ab)	9.7.5.1.5	UDF-IDF - per pair, Fiber Cross Connect, per pair	\$3.55	\$11.65	\$5.26	\$19.93
22-90(ab)	9.7.6.	Dark Fiber Splice		\$565.67		\$668.61
22-90(ac)	9.20.1.1	Add'l Engineering, per half hour or fraction thereof - Basic		\$30.91		\$34.40
22-90(ac)	9.20.1.2	Add'l Engineering, per half hour or fraction thereof - Overtime		\$38.22		\$45.21
22-90(ac)	9.20.2.1	Add'l Labor Installation, per half hour or fraction thereof - Overtime		\$8.89		\$14.86
22-90(ac)	9.20.2.2	Add'l Labor Installation, per half hour or fraction thereof - Premium		\$17.57		\$19.81
22-90(ac)	9.20.3.1	Add'l Labor Other - (Optional testing) Basic		\$26.94		\$30.68
22-90(ac)	9.20.3.2	Add'l Labor Other - (Optional testing) Overtime		\$35.98		\$40.84
22-90(ac)	9.20.3.3	Add'l Labor Other - (Optional testing) Premium		\$45.03		\$51.01
22-90(ac)	9.20.4.1	Testing and Maintenance, per half hour or fraction thereof - Basic		\$28.62		\$30.29
22-90(ac)	9.20.4.2	Testing and Maintenance, per half hour or fraction thereof - Overtime		\$35.72		\$40.72
22-90(ac)	9.20.4.3	Testing and Maintenance, per half hour or fraction thereof - Premium		\$47.83		\$51.14
22-90(ac)	9.20.5.1	Maintenance of Service, per half hour or fraction thereof, Basic		\$26.94		\$30.68
22-90(ac)	9.20.5.2	Maintenance of Service, per half hour or fraction thereof, Overtime		\$35.98		\$40.84
22-90(ac)	9.20.5.3	Maintenance of Service, per half hour or fraction thereof, Premium		\$45.03		\$51.01
22-90(ac)	9.20.6.1	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Basic		\$28.62		\$30.29
22-90(ac)	9.20.6.2	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Overtime		\$35.72		\$40.72
22-90(ac)	9.20.6.3	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Premium		\$47.83		\$51.14
22-90(ac)	9.20.9	Additional Dispatch		\$63.63		\$128.56
22-90(ac)	9.20.10	Date Change		\$7.48		\$48.66
22-90(ad)	9.6.7.1	DS0 Low Side Channelization	\$10.89		\$14.50	
22-90(ad)	9.23.6.2.1.1	LMC 2-Wire Loop Installation, First		\$118.12		\$236.87
22-90(ad)	9.23.6.2.1.2	LMC 2-Wire Loop Installation, Add'l		\$86.68		\$153.92
22-90(ad)	9.23.6.3.1.1	LMC 4-Wire Loop Installation, First		\$118.12		\$236.87
22-90(ad)	9.23.6.3.1.2	LMC 4-Wire Loop Installation, Add'l		\$86.68		\$153.92
22-90(ad)	9.23.6.4.1.1	LMC DS1 Loop Installation, First		\$155.41		\$296.16
22-90(ad)	9.23.6.4.1.2	LMC DS1 Loop Installation, Add'l		\$125.06		\$214.82
22-90(ad)	9.23.6.7.2	DS1/DS0 Low Side Channelization	\$7.09		\$8.27	
22-90(ad)	9.23.6.8.1	LMC Rearrangement DS0		\$97.21		\$136.41
22-90(ad)	9.23.6.8.2	LMC Rearrangement High Capacity		\$97.62		\$154.83
22-90(ad)	9.23.7.7.1	EEL Rearrangement DS0		\$97.21		\$136.41
22-90(ad)	9.23.7.7.2	EEL Rearrangement High Capacity		\$97.62		\$154.83
22-90(ad)	9.23.7.1.1.1	EEL Loop, 2 Wire Loop Installation, First		\$117.98		\$256.99
22-90(ad)	9.23.7.1.1.2	EEL Loop, 2 Wire Loop Installation, Add'l		\$86.40		\$188.96
22-90(ad)	9.23.7.2.1.1	EEL 4 Wire Loop Installation, First		\$117.98		\$256.99
22-90(ad)	9.23.7.2.1.2	EEL 4 Wire Loop Installation, Add'l		\$86.40		\$188.96
22-90(ad)	9.23.7.3.1.1	EEL DS1 Loop Installation, First		\$140.02		\$312.13
22-90(ad)	9.23.7.3.1.2	EEL DS1 Loop Installation, Add'l		\$103.65		\$230.79
22-90(ad)	9.23.7.4.1.1	EEL DS3 Loop Installation, First		\$148.53		\$336.09
22-90(ad)	9.23.7.4.1.2	EEL DS3 Loop Installation, Add'l		\$112.75		\$254.75
22-90(ad)	9.23.7.11.1	DS0 Low Side Channelization	\$10.89		\$14.50	
22-90(ad)	9.23.7.11.2	DS1/DS0 Low Side Channelization	\$7.09		\$8.27	
22-90(ad)	17.1	Bona Fide Request Process - Processing Fee		\$1,666.60		\$1,933.34
22-90(ae)	10.7.12	Innerduct Occupancy Fee, per Linear Foot, per Year		\$0.31		\$0.41
22-90(ae)	10.7.12.1	Microduct Occupancy Fee, per Microduct, per Foot, per Year		\$0.26		\$0.47

1 **Q. PLEASE EXPLAIN THE BASIS FOR ESCHELON'S PROPOSED RATES.**

2 A. During negotiations Eschelon asked Qwest for cost studies in support of rates that  
3 had not been approved by the Commission.<sup>301</sup> Qwest provided cost studies for a  
4 number of rates, but did not produce cost support for all of the rates Qwest was  
5 proposing. Upon review of Qwest's cost studies and the Qwest proposed interim  
6 rates it became clear that: (1) Qwest ignored prior Commission orders regarding  
7 cost study inputs and instead was attempting to impose upon Eschelon's Qwest's  
8 "wish list" of rates; (2) In many cases Qwest's proposed interim rates are greater  
9 than the rates that Qwest and Eschelon have in their current interconnection  
10 agreement; (3) Qwest's proposed interim rates in Oregon were usually well in  
11 excess of TELRIC rates ordered by the Commissions in the other large Qwest  
12 states; (4) Qwest's proposed interim rates were sometimes higher than the rates  
13 Qwest was offering to carriers today in through Qwest's negotiations template;  
14 and (5) Qwest's proposed interim rates were sometimes higher than the rates  
15 contained in other carrier agreements including the rates that Qwest negotiated  
16 with itself in the Qwest-Qwest interconnection agreement.

17 To fix the problems with Qwest's proposed cost support or lack thereof and  
18 develop interim rates for these rate elements, Eschelon made the following  
19 modifications:

- 20
- Averaged rates approved by state Commissions in other large Qwest states

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<sup>301</sup> Note that Eschelon also asked to review cost studies in a number of other situations.

1 in which Eschelon operates.<sup>302</sup> See, Exhibit A Sections 8.1.1.2, 8.1.4.1.1,  
2 8.1.4.1.2, 8.1.5.1.1 through 8.1.5.1.6, 8.1.9.2, 8.1.12, 8.1.14, 8.4.2.4.1  
3 through 8.4.2.4.4, 8.6.1.2, 8.6.2.2.2, 8.6.1.3, 8.7.2.1 through 8.7.2.4,<sup>303</sup>  
4 8.7.4, 8.8.1, 8.12.2, 8.12.4, 8.16.1 through 8.16.4, 9.2.5.5.1.2, 9.2.5.5.2.2,  
5 9.2.6.5.1.2, 9.2.6.5.2.2, 9.2.8, 9.6.7.1, 9.6.11.1 through 9.6.11.4, 9.7.1.1,  
6 9.7.1.2, 9.7.4.1.1, 9.7.4.1.2, 9.7.4.1.4,<sup>304</sup> 9.7.4.1.5,<sup>305</sup> 9.7.5.1.1, 9.7.5.1.2,  
7 9.7.5.1.5, 9.7.6, 9.20.1.1, 9.20.1.2, 9.20.2.1, 9.20.2.2, 9.20.3.1, 9.20.3.2,  
8 9.20.3.3, 9.20.4.1, 9.20.4.2, 9.20.4.3, 9.20.5.1, 9.20.5.2, 9.20.5.3, 9.20.6.1,  
9 9.20.6.2, 9.20.6.3, 9.20.9, 9.20.10, 9.23.6.2.1.1, 9.23.6.2.1.2, 9.23.6.3.1.1,  
10 9.23.6.3.1.2, 9.23.6.4.1.1, 9.23.6.4.1.2, 9.23.6.5, 9.23.6.7.2, 9.23.7.1.1.1,  
11 9.23.7.1.1.2, 9.23.7.2.1.1, 9.23.7.2.1.2, 9.23.7.3.1.1, 9.23.7.3.1.2,  
12 9.23.7.4.1.1, 9.23.7.4.1.2, 9.23.7.6, 9.23.7.11.1, 9.23.7.11.2, 10.7.12, and  
13 17.1.

- 14 • Proposed rate in the Eschelon/Qwest historical ICA. See, Exhibit A  
15 Sections 8.1.2.2, 8.1.2.3, 8.1.2.4, 8.1.8.1.1.1, 8.1.8.1.1.3, 8.1.8.1.1.5,  
16 8.1.8.1.1.7, 8.1.8.1.2.1, 8.1.8.1.2.3, 8.1.8.1.2.5, 8.1.8.1.2.7, 8.1.8.1.3.1  
17 through 8.1.8.1.3.4, 8.2.1.1, 8.3.1.1, 8.4.1.1, 8.15.4.1, and 8.15.4.2.
- 18 • Proposed rate from Qwest SGAT, Qwest Negotiations Template, Qwest  
19 cost support for rates across states, or Qwest proposed rate in other states.

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<sup>302</sup> In some instances, Eschelon averaged approved rates from other states with Qwest proposed rates in other states.

<sup>303</sup> In every other state, Qwest proposes rates for these sections on a per foot basis. Eschelon's interim rate proposal is on a per foot basis, while Qwest's proposal is based on per request.

<sup>304</sup> For this rate element, Eschelon used both ordered rates and Qwest proposed rates in other states.

<sup>305</sup> For this rate element, Eschelon used both ordered rates and Qwest proposed rates in other states.

1 See, Exhibit A Sections 8.1.8.1.4.1 through 8.1.8.1.4.4, 8.1.16, 8.7.3.1  
2 through 8.7.3.3, 8.8.3, 8.13.1.1, 8.13.1.2.1 through 8.13.1.2.3, 8.13.1.3,  
3 8.13.1.4, 8.13.2.1, 8.13.2.2.1.1 through 8.13.2.2.1.3, 8.15.2.3, 8.17.1,  
4 8.17.2, and 10.7.12.1.

- 5 • Halved Qwest’s “wish list” rates. See, Exhibit A Sections 8.8.4, 8.15.2.1,  
6 and 8.15.2.2.
- 7 • Corrected Qwest’s cost studies to reflect Commission cost decisions. See,  
8 Exhibit A Sections 9.6.12, 9.23.6.8.1, 9.23.6.8.2, 9.23.7.7.1, and  
9 9.23.7.7.2.

10 **Q. HOW DO QWEST’S PROPOSED INTERIM RATES IGNORE PRIOR**  
11 **COMMISSION ORDERS?**

12 A. Much of Qwest’s cost support is based on its filings in UM 1025.<sup>306</sup> Qwest had  
13 indicated the rates based upon this cost support on Exhibit A with footnote 12.<sup>307</sup>  
14 UM 1025 was recently closed by the Commission on March 16, 2007.<sup>308</sup> Qwest’s  
15 cost study represents its advocacy regarding appropriate rates and does not  
16 incorporate prior Commission decisions regarding labor times, flow through,  
17 separation of mechanical and manual ordering, and overhead factors.<sup>309</sup> Interim

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<sup>306</sup> Qwest filed cost studies in UM 1025 in September 2002, March 2003 and September 2003.

<sup>307</sup> Footnote 12 reads, “Rates proposed in UM 1025.” Though not all of Qwest’s interim rate proposals are based upon its proposals in UM 1025, none of Qwest’s interim rate proposals incorporate prior Commission decisions and instead are Qwest’s advocacy rates.

<sup>308</sup> See <http://apps.puc.state.or.us/orders/2007ords/07-101.pdf>.

<sup>309</sup> The Commission’s orders in UT 138/UT 139 established a set of inputs that should apply to Qwest’s non-recurring cost studies. This includes separation of manual and mechanical ordering costs (Order No. 98-444, p. 71) a flow through rate of 98% in the ordering process (Order No. 03-085,



1 rates should incorporate prior Commission decisions until such time that  
2 permanent rates are established by the Commission. The Commission found it its  
3 98-444 order in docket UT 138 / UT 139, that “work times and probabilities shall  
4 remain in effect until such time as USWC and GTE file revised analyses that are  
5 approved by the Commission.”<sup>310</sup> This conclusion makes sense; otherwise Qwest  
6 would have no incentive ever to establish permanent rates, since it could charge  
7 its “wish” rate indefinitely.

8 Exhibit Eschelon/23 contains excerpts from Commission Order 98-444 regarding  
9 non-recurring costs and Commission Order 03-085 in Docket UT 138/UT 139.

10 **Q. WHY DIDN'T ESCHELON ADJUST ALL OF THE QWEST COST**  
11 **STUDIES TO MAKE THEM CONSISTENT WITH THE COMMISSION'S**  
12 **ORDERS IN UT 138/UT 139?**

13 A. Eschelon does not have the information available to it in order to implement the  
14 adjustments to labor times and probabilities. In Order No 03-085 the Commission  
15 found: “that Qwest’s nonrecurring cost studies shall include WTAP estimates  
16 calculated using the averaging process recommended by the Joint CLECs.”<sup>311</sup>  
17 Eschelon does not have this information available to it in order to make these  
18 adjustments to the current non-recurring cost studies. As part of this proceeding

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page 3 and Order No. 98-444, p. 71), a reduction to labor times and probabilities (Order No. 03-085, page 11 and Order No. 98-444, p. 82), and updates to Qwest’s overhead factors (Order No. 98-444, p. 101). (See Eschelon/23.)

<sup>310</sup> Order No. 98-444, p. 82. (See Eschelon/23.)

<sup>311</sup> Order No. 03-085, p. 11. (See Eschelon/23.)

1 the Commission could order that for the purpose of interim non-recurring rates,  
2 Qwest incorporate the Commission's findings in UT 138/UT 139.

3 **Q. IS AN AVERAGE OF COMMISSION APPROVED RATES IN THE FIVE**  
4 **LARGEST QWEST STATES AN APPROPRIATE METHOD FOR**  
5 **ESTABLISHING INTERIM RATES?**

6 A. Yes. As mentioned previously, it is important to recognize that both companies  
7 have proposed interim rates and therefore the Commission will establish interim  
8 rates in this proceeding. Permanent rates will be established by the Commission  
9 in a generic cost docket.

10 Second, as discussed with Design Changes [Issue No. 4-5(c)], Qwest has  
11 acknowledged the reasonableness of the five large state averaging approach by  
12 agreeing to this approach as part of the negotiations in Minnesota for the rates  
13 9.20.2.1 and 9.20.2.2 -- Additional Labor Installation, per Half Hour or fraction  
14 thereof, overtime and premium. The table below is an excerpt from the Exhibit A  
15 in the Minnesota Eschelon / Qwest arbitration.

		Recurring	Nonrecurring	REC	NRC
<b>9.20</b>	<b>Miscellaneous Charges</b>				
9.20.1	Intentionally Left Blank				
9.20.2	Additional Labor Installation, Per Half Hour or fraction thereof				
9.20.2.1	Additional Labor installation - Overtime		\$8.79		++
9.20.2.2	Additional Labor installation - Premium		\$17.57		++
Notes:					
++	Negotiated rate until Commission approves a rate.				

1

2 The negotiated rates in this table were the average of Commission approved rates  
3 in Arizona, Colorado, Utah and Washington. The table below shows the rates in  
4 the four states mentioned above.

		AZ	CO	UT	WA	AVG
<b>9.20</b>	<b>Miscellaneous Charges</b>					
9.20.2	Additional Labor Installation, per Half Hour or fraction thereof					
9.20.2.1	Additional Labor Installation - Overtime	\$8.89	\$9.03	\$8.28	\$8.94	<b>\$8.79</b>
9.20.2.2	Additional Labor Installation - Premium	\$17.78	\$18.06	\$16.55	\$17.89	<b>\$17.57</b>

5

6 The six large states in Qwest’s region are similar in that these states are most  
7 likely to have closely scrutinized contested cost cases involving the largest  
8 CLECs in Qwest’s region. Oregon was not used because there are no  
9 Commission approved rates for this rate element.

10 These rate elements in Oregon are part of Issue No. 22-90(ac). For this issue  
11 Eschelon is proposing the same rates that Qwest agreed to in Minnesota. In  
12 Oregon Qwest is proposing \$14.86 and \$19.81, clearly well above the rates  
13 approved by the Commissions in the other large states in the Qwest region.

1 **Q. WHAT IS THE SIGNIFICANCE OF THE RATES IN THE CURRENT**  
2 **ESCHELON-QWEST INTERCONNECTION AGREEMENT?**

3 A. The current Eschelon-Qwest interconnection agreement has a number of  
4 collocation rate elements that Qwest is proposing to replace with Qwest's  
5 advocacy rates for Collocation. Eschelon should not be forced to replace  
6 negotiated rates with unapproved Qwest proposed interim rates. In many cases  
7 Qwest's proposed interim rates are significantly in excess of the rates for these  
8 products that are in the historical Qwest-Eschelon ICA. Qwest's proposed rates  
9 would potentially increase Eschelon's recurring collocation cost for certain rate  
10 elements. Because Qwest has been generally unwilling to negotiate interim rates,  
11 and instead has offered a take it or leave it approach, Qwest should not be able to  
12 change the rates that exist between Eschelon and Qwest, without agreement from  
13 Eschelon, simply because Qwest desires different rates.

14 The table below shows a comparison of rates from Eschelon's current ICA with  
15 Qwest that Qwest is attempting to replace with its interim rate proposal. For  
16 many of the rate elements, Qwest's interim proposed non-recurring charges are  
17 almost double the non-recurring charges that Eschelon pays today.<sup>312</sup>

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<sup>312</sup> Note that the NRC in 8.1.2.4 may appear as an anomaly, but it is not. The recurring and non-recurring rate elements need to be considered in conjunction. Qwest's proposal would raise the recurring rate by four times, but reduce the non-recurring rate in half. If this proposal were adopted Eschelon would receive the worst of all worlds for any of this element Eschelon has historically purchased. This is because, Eschelon would have paid the high NRC and with Qwest's change would not have to pay the high recurring charge.

Table. Eschelon's Historical Collocation Rates Compared with Qwest's Interim Proposals						
Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(c)	8.1.2.2	Cageless & Caged Standard Shared, per Fiber	\$4.14		\$5.92	
22-90(c)	8.1.2.3	Cross Connect, per Fiber	\$3.66		\$6.09	
22-90(c)	8.1.2.4	Express, per Cable	\$21.49	\$20,279.08	\$96.38	\$9,415.02
22-90(e)	8.1.8.1.1.1	Collocation Termination - Shared Access DS0 - Cable Placement, per 100 Pair Block	\$0.32	\$127.42	\$0.37	\$230.24
22-90(e)	8.1.8.1.1.3	Collocation Termination - Shared Access DS0 - Cable, per 100 Pair Block	\$0.45	\$178.10	\$0.52	\$321.83
22-90(e)	8.1.8.1.1.5	Collocation Termination - Shared Access DS0 - Blocks, per 100 Pair Block	\$0.78	\$310.50	\$0.91	\$561.07
22-90(e)	8.1.8.1.1.7	Collocation Termination - Shared Access DS0 - Block Placement, per 100 Pair Block	\$0.33	\$134.10	\$0.39	\$242.31
22-90(e)	8.1.8.1.2.1	Collocation Termination - Shared Access DS1 - Cable Placement, per 28 DS1s	\$0.47	\$207.44	\$0.60	\$399.70
22-90(e)	8.1.8.1.2.3	Collocation Termination - Shared Access DS1 - Cable, per 28 DS1s	\$0.44	\$192.80	\$0.56	\$371.50
22-90(e)	8.1.8.1.2.5	Collocation Termination - Shared Access DS1 - Panel, per 28 DS1s	\$0.31	\$133.13	\$0.39	\$256.52
22-90(e)	8.1.8.1.2.7	Collocation Termination - Shared Access DS1 - Panel Placement, per 28 DS1s	\$0.09	\$42.72	\$0.12	\$82.31
22-90(e)	8.1.8.1.3.1	Collocation Termination - Shared Access DS3 - Cable Placement, per termination	\$0.17	\$73.22	\$0.22	\$147.89
22-90(e)	8.1.8.1.3.2	Collocation Termination - Shared Access DS3 - Cable, per termination	\$0.27	\$118.77	\$0.36	\$239.90
22-90(e)	8.1.8.1.3.3	Collocation Termination - Shared Access DS3 - Connector, per termination	\$0.28	\$121.51	\$0.37	\$245.44
22-90(e)	8.1.8.1.3.4	Collocation Termination - Shared Access DS3 - Connector Placement, per termination	\$0.02	\$9.84	\$0.03	\$19.88
22-90(k)	8.2.1.1	Quote Preparation Fee		\$2,317.79		\$4,951.46
22-90(l)	8.3.1.1	Quote Preparation Fee		\$2,317.79		\$4,956.18
22-90(l)	8.4.1.1	Quote Preparation Fee		\$2,317.79		\$5,403.92
22-90(l)	8.15.4.1	Cageless		\$2,317.79		\$4,956.18
22-90(l)	8.15.4.2	Caged		\$2,317.79		\$5,403.92

1

2 Eschelon proposes that unless agreement is otherwise reached, the historical rate  
3 continue to be used as an interim rate.

4 **Q. DOES QWEST OFFER THE SAME RATES TO ALL CLECS IN**  
5 **OREGON?**

6 A. No. Qwest offers different rates to different CLECs. One example is 22-90(t),  
7 Power Reduction / Power Restoration rates. Eschelon's proposal for these rates is  
8 based on Qwest's negotiation template dated February 28, 2006. These rates are  
9 contained in the Interconnection agreement of at least one other CLEC, AT&T.  
10 Qwest has updated this template in August 2006, changing its "offer" for rate  
11 elements in Issue 22-90(g). In other words, if one CLEC signed an ICA with  
12 Qwest in March 2006 by using the then-effective February 2006 negotiation  
13 template, and another CLEC signed an ICA with Qwest in October 2006 by using  
14 the currently-effective August 2006 negotiation template, these two CLECs would

1 have different rates for the same rate elements. Eschelon initially accepted the  
 2 rates proposed by Qwest, which are now Eschelon’s proposed rates, but Qwest  
 3 then increased its interim rate proposal. The table below shows that Qwest’s  
 4 current interim rate proposal for power reduction and power restoration are  
 5 significantly higher than what Qwest has offered to other CLECs.

Table. Power Restoration / Power Reduction						
Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(t)	8.13.1.1	Power Reduction, Quote Preparation Fee		\$411.00		\$811.18
22-90(t)	8.13.1.2.1	Power Reduction, Less Than 60 Amps		\$346.00		\$624.52
22-90(t)	8.13.1.2.2	Power Reduction, Equal to 60 Amps		\$346.00		\$898.00
22-90(t)	8.13.1.2.3	Power Reduction, Greater Than 60 Amps		\$587.00		\$1,140.52
22-90(t)	8.13.1.3	Power Off, per Feed Set		\$587.00	\$802.04	
22-90(t)	8.13.1.4	Power Maintenance Charge (Reservation Charge), per Fuse Set	\$37.00		\$57.32	
22-90(t)	8.13.2.1	Power Restoration, Quote Preparation Fee, per Office		\$411.00		\$811.18
22-90(t)	8.13.2.2.1.1	Power Restoration with Reservation, Less Than 60 Amps		\$346.00		\$624.52
22-90(t)	8.13.2.2.1.2	Power Restoration with Reservation, Equal to 60 Amps		\$346.00		\$898.00
22-90(t)	8.13.2.2.1.3	Power Restoration with Reservation, Greater Than 60 Amps		\$587.00		\$1,140.52

6  
 7 In some cases Qwest offers to its own CLEC rates that are lower than what Qwest  
 8 is proposing to charge Eschelon. The table below shows Eschelon’s proposal for  
 9 selected collocation rates, Qwest’s proposal, and the rates contained in the Qwest-  
 10 Qwest interconnection agreement.<sup>313</sup> In some cases the Eschelon proposal is  
 11 higher than what Qwest has in its own Qwest-Qwest interconnection agreement,  
 12 yet Qwest is insisting that Eschelon pay yet even higher rates.

<sup>313</sup> Eschelon/25 contains additional examples of where the rates in the Qwest-Qwest interconnection agreement are less than the interim rates proposed by Qwest for Eschelon.

Table. Qwest Proposals Compared with Qwest-Qwest ICA								
Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL					
			Eschelon		Qwest		Qwest-Qwest ICA	
			REC	NRC	REC	NRC	REC	NRC
22-90(d)	8.1.4.1.1	Power Plant, Less Than 60 Amps	\$9.20		\$11.95		\$ 7.52	
22-90(d)	8.1.4.1.2	Power Plant, Equal to or Greater Than 60 Amps	\$7.32		\$9.31		\$ 7.52	
22-90(k)	8.2.1.1	Quote Preparation Fee		\$2,317.79		\$4,951.46		\$ 1,500.00
22-90(l)	8.3.1.1	Quote Preparation Fee		\$2,317.79		\$4,956.18		\$ 1,500.00
22-90(l)	8.4.1.1	Quote Preparation Fee		\$2,317.79		\$5,403.92		\$ 1,500.00
22-90(l)	8.15.4.1	Cageless		\$2,317.79		\$4,956.18		\$ 1,500.00
22-90(l)	8.15.4.2	Caged		\$2,317.79		\$5,403.92		\$ 1,500.00
22-90(w)	8.17.1	Joint Testing - Set Up Fee (price contains a one hour set up fee)		\$40.96		\$65.20		\$ 40.96
22-90(w)	8.17.2	Joint Testing - Test Time Fee, per half hour		\$20.48		\$27.62		\$ 20.48

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**Q. DID QWEST PROVIDE COST SUPPORT FOR ALL OF ITS INTERIM RATE PROPOSALS?**

A. No. Eschelon asked Qwest to provide cost support for all interim rates. Qwest claimed that its interim rates were “estimated TELRIC” but failed to provide any cost support for a number of rates. For some of these unsupported rates, Eschelon was able to calculate an average from approved rates in other states,<sup>314</sup> or proposed a rate from another state as a proxy.<sup>315</sup> In other cases, Eschelon did not have any information, such as Qwest’s provided cost study or commission-approved rates in other states, to make a specific proposal for a rate element,<sup>316</sup> and in these instances, the absence of Qwest’s cost studies supporting rates that Qwest has claimed to be TELRIC would support a rate of zero until such time that Qwest provides cost support. In these instances, Eschelon used the two available boundaries – zero and Qwest’s “wish list” rate – to calculate an average “expected” rate (effectively dividing Qwest’s proposal by a factor of two).

<sup>314</sup> See, e.g., 8.8.1 (Issue 22-90(r)).  
<sup>315</sup> See, e.g., 8.8.3 (Issue 22-90(r)).  
<sup>316</sup> See e.g., 8.15.2.1 and 8.15.2.2 (Issue 22-90(u)).

1 Eschelon's proposal is conservative because, as mentioned above, the absence of  
2 Qwest's cost studies for these rates suggests that interim rates would be more  
3 appropriately set at zero.

4 **Q. PLEASE SUMMARIZE ESCHELON'S INTERIM RATE PROPOSALS.**

5 A. The following table provides a brief summary of Eschelon's basis for its proposed  
6 rates; a more detailed explanation is contained in Eschelon/25.



Table. Basis for Eschelon's Rate Proposals for Issues 22-90(b) through 22-90(ae)			RATE PROPOSAL		Basis for Eschelon's Proposal
Issue #	Exhibit A Section	Rate Element	Eschelon		
			REC	NRC	
22-90(b)	8.1.1.2	Cable Augment Quote Preparation Fee		\$700.00	Average of Approved Rates from other states.
22-90(c)	8.1.2.2	Cageless & Caged Standard Shared, per Fiber	\$4.14		Rate from Historical ICA
22-90(c)	8.1.2.3	Cross Connect, per Fiber	\$3.66		Rate from Historical ICA
22-90(c)	8.1.2.4	Express, per Cable	\$21.49	\$20,279.08	Rate from Historical ICA
22-90(d)	8.1.4.1.1	Power Plant, Less Than 60 Amps	\$9.20		Average of Approved Rates from other states.
22-90(d)	8.1.4.1.2	Power Plant, Equal to or Greater Than 60 Amps	\$7.32		Average of Approved Rates from other states.
22-90(d)	8.1.5.1.1	Backup AC Power Feed, 120V	\$17.13		Average of Approved Rates from other states.
22-90(d)	8.1.5.1.2	208V, Single Phase	\$29.69		Average of Approved Rates from other states.
22-90(d)	8.1.5.1.3	208V, Three Phase	\$51.37		Average of Approved Rates from other states.
22-90(d)	8.1.5.1.4	240V, Single Phase	\$34.26		Average of Approved Rates from other states.
22-90(d)	8.1.5.1.5	240V, Three Phase	\$59.27		Average of Approved Rates from other states.
22-90(d)	8.1.5.1.6	480V, Three Phase	\$118.55		Average of Approved Rates from other states.
22-90(e)	8.1.8.1.1.1	Collocation Termination - Shared Access DS0 - Cable Placement, per 100 Pair Block	\$0.32	\$127.42	Rate from Historical ICA
22-90(e)	8.1.8.1.1.3	Collocation Termination - Shared Access DS0 - Cable, per 100 Pair Block	\$0.45	\$178.10	Rate from Historical ICA
22-90(e)	8.1.8.1.1.5	Collocation Termination - Shared Access DS0 - Blocks, per 100 Pair Block	\$0.78	\$310.50	Rate from Historical ICA
22-90(e)	8.1.8.1.1.7	Collocation Termination - Shared Access DS0 - Block Placement, per 100 Pair Block	\$0.33	\$134.10	Rate from Historical ICA
22-90(e)	8.1.8.1.2.1	Collocation Termination - Shared Access DS1 - Cable Placement, per 28 DS1s	\$0.47	\$207.44	Rate from Historical ICA
22-90(e)	8.1.8.1.2.3	Collocation Termination - Shared Access DS1 - Cable, per 28 DS1s	\$0.44	\$192.80	Rate from Historical ICA
22-90(e)	8.1.8.1.2.5	Collocation Termination - Shared Access DS1 - Panel, per 28 DS1s	\$0.31	\$133.13	Rate from Historical ICA
22-90(e)	8.1.8.1.2.7	Collocation Termination - Shared Access DS1 - Panel Placement, per 28 DS1s	\$0.09	\$42.72	Rate from Historical ICA
22-90(e)	8.1.8.1.3.1	Collocation Termination - Shared Access DS3 - Cable Placement, per termination	\$0.17	\$73.22	Rate from Historical ICA
22-90(e)	8.1.8.1.3.2	Collocation Termination - Shared Access DS3 - Cable, per termination	\$0.27	\$118.77	Rate from Historical ICA
22-90(e)	8.1.8.1.3.3	Collocation Termination - Shared Access DS3 - Connector, per termination	\$0.28	\$121.51	Rate from Historical ICA
22-90(e)	8.1.8.1.3.4	Collocation Termination - Shared Access DS3 - Connector Placement, per termination	\$0.02	\$9.84	Rate from Historical ICA
22-90(e)	8.1.8.1.4.1	Fiber Terminations - Terminations, per 12 Fibers	\$12.39	\$1,601.47	Eschelon's proposal is based on cost support supplied by Qwest for rates across Qwest states. Qwest proposes higher rates in OR than it proposes in other states.
22-90(e)	8.1.8.1.4.2	Fiber Terminations - Add'l Connector, if applicable	\$0.53	\$435.37	
22-90(e)	8.1.8.1.4.3	Fiber Terminations - Cable Racking, Shared, per 12 Fibers	\$19.61		
22-90(e)	8.1.8.1.4.4	Fiber Terminations - Cable Racking, Dedicated	\$1.85	\$1,516.92	
22-90(f)	8.1.9.2	Card Access, per Employee, per Central Office	\$6.20		Average of Approved Rates from other states.
22-90(g)	8.1.12	Space Availability Report		\$234.38	Average of Approved Rates from other states.
22-90(h)	8.1.14	Collocation Space Option Administration Fee		\$1,029.40	Average of Approved Rates from other states.
22-90(i)	8.1.16	Joint Inventory Visit Fee, per Visit		\$1,610.12	Eschelon proposes the same rate that Qwest proposes in other states.
22-90(k)	8.2.1.1	Quote Preparation Fee		\$2,317.79	Rate from Historical ICA
22-90(l)	8.3.1.1	Quote Preparation Fee		\$2,317.79	Rate from Historical ICA
22-90(l)	8.4.1.1	Quote Preparation Fee		\$2,317.79	Rate from Historical ICA
22-90(l)	8.15.4.1	Cageless		\$2,317.79	Rate from Historical ICA
22-90(l)	8.15.4.2	Caged		\$2,317.79	Rate from Historical ICA
22-90(m)	8.4.2.4.1	Space Construction and Site Preparation - cage up to 100 Sq. Ft.	\$41.60	\$26,168.10	Average of Approved Rates from other states.
22-90(m)	8.4.2.4.2	Space Construction and Site Preparation - cage 101-200 Sq. Ft.	\$51.08	\$27,852.73	Average of Approved Rates from other states.
22-90(m)	8.4.2.4.3	Space Construction and Site Preparation - cage 201-300 Sq. Ft.	\$54.27	\$29,650.53	Average of Approved Rates from other states.
22-90(m)	8.4.2.4.4	Space Construction and Site Preparation - cage 301-400 Sq. Ft.	\$58.09	\$31,797.64	Average of Approved Rates from other states.
22-90(n)	8.6.1.2	FDI Terminations, per 25 Pair		\$506.92	Average of Approved Rates from other states.
22-90(n)	8.6.2.2.2	FDI Terminations, per 25 Pair		\$506.92	Average of Approved Rates from other states.
22-90(o)	8.7.2.1	Cable Racking - DS0	\$0.15		Average of Approved Rates from other states.
22-90(o)	8.7.2.2	Cable Racking - DS1	\$0.16		Average of Approved Rates from other states.
22-90(o)	8.7.2.3	Cable Racking - DS3	\$0.14		Average of Approved Rates from other states.
22-90(p)	8.7.3.1	Virtual Connections - DS0, per 100 Connections		\$191.23	Qwest SGAT contains lower rates than what Qwest proposes. Eschelon proposes the rates from the SGAT.
22-90(p)	8.7.3.2	Virtual Connections - DS1, per 28 Connections		\$89.56	
22-90(p)	8.7.3.3	Virtual Connections - DS3, per Fiber Spliced		\$6.11	
22-90(q)	8.7.4	Cable Hole, if applicable		\$434.08	Average of Approved Rates from other states.
22-90r	8.8.1	ICDF Collocation - Quote Preparation Fee		\$700.25	Average of Approved Rates from other states; Qwest provides no cost support.
22-90r	8.8.3	ICDF Collocation - DS1 Circuit, per Two Legs		\$75.00	Qwest provided no cost support. In a recent MN cost case, Qwest proposed \$74.93, below Qwest's proposed rate, based on this Eschelon proposes \$75.
22-90r	8.8.4	ICDF Collocation - DS3 Circuit, per Two Legs		\$612.89	Qwest provided no cost support. Eschelon divided Qwest's proposed interim rate in half.
22-90(s)	8.12.2	FC Collocation Engineering Fee, per Job		\$700.25	Average of Approved Rates from other states.
22-90(s)	8.12.4	FC Collocation Fiber Entrance Facility Charge, per Cable, minimum 12 Strands	\$7.10	\$850.15	Average of Approved Rates from other states.
22-90(t)	8.13.1.1	Power Reduction, Quote Preparation Fee		\$411.00	Eschelon's proposed rates are from a Qwest multistate rate proposal, contained in many Qwest negotiations template, that Qwest recently offered.
22-90(t)	8.13.1.2.1	Power Reduction, Less Than 60 Amps		\$346.00	
22-90(t)	8.13.1.2.2	Power Reduction, Equal to 60 Amps		\$346.00	
22-90(t)	8.13.1.2.3	Power Reduction, Greater Than 60 Amps		\$587.00	
22-90(t)	8.13.1.3	Power Off, per Feed Set		\$587.00	
22-90(t)	8.13.1.4	Power Maintenance Charge (Reservation Charge), per Fuse Set	\$37.00		
22-90(t)	8.13.2.1	Power Restoration, Quote Preparation Fee, per Office		\$411.00	
22-90(t)	8.13.2.2.1.1	Power Restoration with Reservation, Less Than 60 Amps		\$346.00	
22-90(t)	8.13.2.2.1.2	Power Restoration with Reservation, Equal to 60 Amps		\$346.00	
22-90(t)	8.13.2.2.1.3	Power Restoration with Reservation, Greater Than 60 Amps		\$587.00	

22-90(u)	8.15.2.1	Collocation Available Inventory, Special Site Assessment Fee		\$597.56	Qwest provided no cost support. Eschelon divided Qwest's proposed interim rate in half.
22-90(u)	8.15.2.2	Collocation Available Inventory, Network Systems Assessment Fee		\$909.63	Qwest provided no cost support. Eschelon divided Qwest's proposed interim rate in half.
22-90(u)	8.15.2.3	Collocation Available Inventory, Site Survey Fee		\$150.00	Qwest provided no cost support; Qwest proposed \$150 in multiple other Qwest states. Eschelon proposes \$150 as an interim rate.
22-90(v)	8.16.1	Collocation Decommissioning - Add'l Labor Other Basic		\$26.60	Average of Approved Rates from other states; Qwest provides no cost support.
22-90(v)	8.16.2	Collocation Decommissioning - Add'l Labor Other Overtime		\$35.50	Average of Approved Rates from other states; Qwest provides no cost support.
22-90(v)	8.16.3	Collocation Decommissioning - Add'l Labor Other Premium		\$44.42	Average of Approved Rates from other states; Qwest provides no cost support.
22-90(v)	8.16.4	Collocation Decommissioning - Add'l Dispatch		\$57.70	Average of Approved Rates from other states; Qwest provides no cost support.
22-90(w)	8.17.1	Joint Testing - Set Up Fee (price contains a one hour set up fee)		\$40.96	Qwest provided on cost support; Eschelon's proposed rates come from Qwest's negotiations template.
22-90(w)	8.17.2	Joint Testing - Test Time Fee, per half hour		\$20.48	Qwest provided on cost support; Eschelon's proposed rates come from Qwest's negotiations template.
22-90(x)	9.2.5.5.1.2	DS1 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (first)		\$150.26	Average of Approved Rates from other states.
22-90(x)	9.2.5.5.2.2	DS1 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (each add'l)		\$121.94	Average of Approved Rates from other states.
22-90(x)	9.2.6.5.1.2	DS3 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (first)		\$150.26	Average of Approved Rates from other states.
22-90(x)	9.2.6.5.2.2	DS3 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (each add'l)		\$121.94	Average of Approved Rates from other states.
22-90(y)	9.2.8	Private Line / Special Access to Unbundled Loop Conversion		\$16.72	Average of Approved Rates from other states.
22-90(aa)	9.6.11.1	UDIT Rearrangement - DS0 Single Office		\$122.25	Average of Approved Rates from other states.
22-90(aa)	9.6.11.2	UDIT Rearrangement - DS0 Dual Office		\$127.98	Average of Approved Rates from other states.
22-90(aa)	9.6.11.3	UDIT Rearrangement - High Capacity Single Office		\$145.05	Average of Approved Rates from other states.
22-90(aa)	9.6.11.4	UDIT Rearrangement - High Capacity Dual Office		\$151.17	Average of Approved Rates from other states.
22-90(aa)	9.6.12	Private Line / Special Access to UDIT Conversion		\$66.70	Eschelon adjusted Qwest's cost study to make it consistent with the Commission's decision in the UT 138/139 case. There are no Commission ordered rates for this element to be used as a comparison.
22-90(aa)	9.23.6.5	Private Line / Special Access to LMC Conversion		\$16.72	Average of Approved Rates from other states.
22-90(aa)	9.23.7.6	Private Line / Special Access to EEL Conversion		\$16.72	Average of Approved Rates from other states.
22-90(ab)	9.7.1.1	UDF, Initial Records Inquiry, Simple		\$135.57	Average of Approved Rates from other states.
22-90(ab)	9.7.1.2	UDF, Initial Records Inquiry, Complex		\$169.70	Average of Approved Rates from other states.
22-90(ab)	9.7.4.1.1	UDF-IDF Single Strand Order Charge, per First Strand/Route/Order		\$373.22	Average of Approved Rates from other states.
22-90(ab)	9.7.4.1.2	UDF-IDF Single Strand Order Charge, per Add'l Strand/Route/Order		\$187.08	Average of Approved Rates from other states.
22-90(ab)	9.7.4.1.4	UDF-IDF Single Strand Termination, per Strand/Office	\$4.01		Average of rates from other states, both approved and Qwest proposed. Qwest provided no cost support.
22-90(ab)	9.7.4.1.5	UDF-IDF Single Strand Fiber Cross Connect, per Strand	\$1.84	\$11.65	Average of rates from other states, both approved and Qwest proposed. Qwest provided no cost support.
22-90(ab)	9.7.5.1.1	UDF-IDF - per pair, Order Charge, per First pair/Route/Order		\$373.22	Average of Approved Rates from other states.
22-90(ab)	9.7.5.1.2	UDF-IDF - per pair, Order Charge, per Add'l pair/Route/Order		\$187.08	Average of Approved Rates from other states.
22-90(ab)	9.7.5.1.5	UDF-IDF - per pair, Fiber Cross Connect, per pair	\$3.55	\$11.65	Average of Approved Rates from other states.
22-90(ab)	9.7.6.	Dark Fiber Splice		\$565.67	Average of Approved Rates from other states.
22-90(ac)	9.20.1.1	Add'l Engineering, per half hour or fraction thereof - Basic		\$30.91	Average of Approved Rates from other states.
22-90(ac)	9.20.1.2	Add'l Engineering, per half hour or fraction thereof - Overtime		\$38.22	Average of Approved Rates from other states.
22-90(ac)	9.20.2.1	Add'l Labor Installation, per half hour or fraction thereof - Overtime		\$8.89	Average of Approved Rates from other states.
22-90(ac)	9.20.2.2	Add'l Labor Installation, per half hour or fraction thereof - Premium		\$17.57	Average of Approved Rates from other states.
22-90(ac)	9.20.3.1	Add'l Labor Other - (Optional testing) Basic		\$26.94	Average of Approved Rates from other states.
22-90(ac)	9.20.3.2	Add'l Labor Other - (Optional testing) Overtime		\$35.98	Average of Approved Rates from other states.
22-90(ac)	9.20.3.3	Add'l Labor Other - (Optional testing) Premium		\$45.03	Average of Approved Rates from other states.
22-90(ac)	9.20.4.1	Testing and Maintenance, per half hour or fraction thereof - Basic		\$28.62	Average of Approved Rates from other states.
22-90(ac)	9.20.4.2	Testing and Maintenance, per half hour or fraction thereof - Overtime		\$35.72	Average of Approved Rates from other states.
22-90(ac)	9.20.4.3	Testing and Maintenance, per half hour or fraction thereof - Premium		\$47.83	Average of Approved Rates from other states.
22-90(ac)	9.20.5.1	Maintenance of Service, per half hour or fraction thereof, Basic		\$26.94	Average of Approved Rates from other states.
22-90(ac)	9.20.5.2	Maintenance of Service, per half hour or fraction thereof, Overtime		\$35.98	Average of Approved Rates from other states.
22-90(ac)	9.20.5.3	Maintenance of Service, per half hour or fraction thereof, Premium		\$45.03	Average of Approved Rates from other states.
22-90(ac)	9.20.6.1	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Basic		\$28.62	Average of Approved Rates from other states.
22-90(ac)	9.20.6.2	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Overtime		\$35.72	Average of Approved Rates from other states.
22-90(ac)	9.20.6.3	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Premium		\$47.83	Average of Approved Rates from other states.
22-90(ac)	9.20.9	Additional Dispatch		\$63.63	Average of Approved Rates from other states.
22-90(ac)	9.20.10	Date Change		\$7.48	Average of Approved Rates from other states.
22-90(ad)	9.6.7.1	DS0 Low Side Channelization	\$10.89		Average of Approved Rates from other states.
22-90(ad)	9.23.6.2.1.1	LMC 2-Wire Loop Installation, First		\$118.12	Average of Approved Rates from other states.
22-90(ad)	9.23.6.2.1.2	LMC 2-Wire Loop Installation, Add'l		\$66.68	Average of Approved Rates from other states.
22-90(ad)	9.23.6.3.1.1	LMC 4-Wire Loop Installation, First		\$118.12	Average of Approved Rates from other states.
22-90(ad)	9.23.6.3.1.2	LMC 4-Wire Loop Installation, Add'l		\$66.68	Average of Approved Rates from other states.
22-90(ad)	9.23.6.4.1.1	LMC DS1 Loop Installation, First		\$155.41	Average of Approved Rates from other states.
22-90(ad)	9.23.6.4.1.2	LMC DS1 Loop Installation, Add'l		\$125.06	Average of Approved Rates from other states.
22-90(ad)	9.23.6.7.2	DS1/DS0 Low Side Channelization	\$7.09		Average of Approved Rates from other states.

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22-90(ad)	9.23.6.8.1	LMC Rearrangement DS0		\$97.21	Eschelon adjusted Qwest's cost study to make it consistent with the Commission's decision in the UT 138/139 case. There are no Commission ordered rates for this element to be used as a comparison.
22-90(ad)	9.23.6.8.2	LMC Rearrangement High Capacity		\$97.62	Eschelon adjusted Qwest's cost study to make it consistent with the Commission's decision in the UT 138/139 case. There are no Commission ordered rates for this element to be used as a comparison.
22-90(ad)	9.23.7.7.1	EEL Rearrangement DS0		\$97.21	Eschelon adjusted Qwest's cost study to make it consistent with the Commission's decision in the UT 138/139 case. There are no Commission ordered rates for this element to be used as a comparison.
22-90(ad)	9.23.7.7.2	EEL Rearrangement High Capacity		\$97.62	Eschelon adjusted Qwest's cost study to make it consistent with the Commission's decision in the UT 138/139 case. There are no Commission ordered rates for this element to be used as a comparison.
22-90(ad)	9.23.7.1.1.1	EEL Loop, 2 Wire Loop Installation, First		\$117.98	Average of Approved Rates from other states.
22-90(ad)	9.23.7.1.1.2	EEL Loop, 2 Wire Loop Installation, Add'l		\$86.40	Average of Approved Rates from other states.
22-90(ad)	9.23.7.2.1.1	EEL 4 Wire Loop Installation, First		\$117.98	Average of Approved Rates from other states.
22-90(ad)	9.23.7.2.1.2	EEL 4 Wire Loop Installation, Add'l		\$86.40	Average of Approved Rates from other states.
22-90(ad)	9.23.7.3.1.1	EEL DS1 Loop Installation, First		\$140.02	Average of Approved Rates from other states.
22-90(ad)	9.23.7.3.1.2	EEL DS1 Loop Installation, Add'l		\$103.65	Average of Approved Rates from other states.
22-90(ad)	9.23.7.4.1.1	EEL DS3 Loop Installation, First		\$148.53	Average of Approved Rates from other states.
22-90(ad)	9.23.7.4.1.2	EEL DS3 Loop Installation, Add'l		\$112.75	Average of Approved Rates from other states.
22-90(ad)	9.23.7.11.1	DS0 Low Side Channelization	\$10.89		Average of Approved Rates from other states.
22-90(ad)	9.23.7.11.2	DS1/DS0 Low Side Channelization	\$7.09		Average of Approved Rates from other states.
22-90 (ad)	17.1	Bona Fide Request Process - Processing Fee		\$1,666.60	Average of Approved Rates from other states.
22-90(ae)	10.7.12	Innerduct Occupancy Fee, per Linear Foot, per Year	\$0.31		Qwest did not support the cost support for its proposal, only the rate. Eschelon's interim rate is based on an average in 4 other states..
22-90(ae)	10.7.12.1	Microduct Occupancy Fee, per Microduct, per Foot, per Year	\$0.26		Qwest did not provide cost support in OR, but did in AZ that included OR data. Eschelon adjusted the AZ cost support to make it reflective of conditions in OR. An input to this rate element is the innerduct rate, and E used its proposed rate for innerduct.

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3 **Q. WHAT ARE QWEST'S ARGUMENTS AGAINST ESCHELON'S**  
4 **PROPOSAL FOR ISSUES 22-90(B) THROUGH 22-90(AE)?**

5 A. Even though Qwest has its own interim rate proposals in this docket,<sup>317</sup> Qwest  
6 argues that interim rates should be addressed in a cost docket, and not in the ICA  
7 negotiations.<sup>318</sup> Notably, Qwest does not propose a rate of zero in the meantime.  
8 It is clearly seeking adoption of its proposed interim rates in this docket. As  
9 discussed previously, in essence, Qwest is stating that Eschelon must submit to  
10 any rate that Qwest proposes in negotiations, and then wait for Qwest to file with

<sup>317</sup> See proposed ICA Section 24.4.1.1, which states in the portion of this Section that is closed: "Rates reflected on Exhibit A that have not been approved by the Commission in a cost case and require Commission approval shall be considered as Interim rates ("Interim Rates") by the Parties . . . ."

<sup>318</sup> See, e.g., Disputed Issued Matrix, Exhibit 3 to Eschelon's Petition for Arbitration, p. 245. See also, Qwest Response, p. 48.

1 the Commission for an interim rate. Clearly, this “dictatorial” position is  
2 unacceptable to Eschelon. Qwest argument that ITS PROPOSED rates should not  
3 be QUESTIONED in the ICA negotiations goes against the federal rules  
4 regarding the ILEC’s duty to negotiate (47 CFR §51.301). Specifically, 47 CFR  
5 §51.301 states that cost data should be provided as part of negotiations regarding  
6 rates. Clearly, the federal rules would not require that cost data be provided if  
7 they presumed that the CLEC should not question the ILEC’s rate proposal.  
8 Below I reproduce the relevant portions of 47 CFR §51.301:

9 (a) An incumbent LEC shall negotiate in good faith the terms and  
10 conditions of agreements to fulfill the duties established by  
11 sections 251 (b) and (c) of the Act.  
12 ....  
13 (c) If proven to the Commission, an appropriate state commission,  
14 or a court of competent jurisdiction, the following actions or  
15 practices, among others, violate the duty to negotiate in good faith:  
16 ...  
17 (8) Refusing to provide information necessary to reach  
18 agreement. Such refusal includes, but is not limited to:  
19 ....  
20 (ii) *Refusal by an incumbent LEC to furnish cost*  
21 *data that would be relevant to setting rates if the*  
22 *parties were in arbitration.*<sup>319</sup>

23  
24 By requiring that an ILEC negotiating in good faith should provide the cost data  
25 for its negotiated rates, the rules imply that the individual rates will be discussed  
26 during negotiations and arbitration.

27 **Q. PLEASE EXPLAIN WHY QWEST’S OTHER ARGUMENT – THAT**  
28 **ESCHELON SHOULD NOT RECEIVE UNIQUE TREATMENT BY**

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<sup>319</sup> 47 CFR §51.301 (emphasis added).

1           **NEGOTIATING RATES<sup>320</sup> – IS INVALID.**

2    A.     Qwest argues that Eschelon should accept Qwest’s proposed rates because Qwest  
3           offers its proposed rates to all CLECs, and Eschelon should not receive unique  
4           treatment.<sup>321</sup> First, as I explained above, by requiring that cost support be  
5           provided for the ILEC rates addressed in the ICA negotiations, the federal  
6           unbundling rules<sup>322</sup> assume that rates will be scrutinized and negotiated – rather  
7           than accepted at the level proposed by an ILEC – during the ICA negotiation and  
8           arbitration. Negotiation implies that the negotiated rates may be different from  
9           rates offered to other CLECs. Second, Eschelon should not be required to accept  
10          Qwest’s proposed unsupported, unapproved, unjust, unreasonable or  
11          discriminatory rates simply because some other CLEC accepted such rate  
12          proposal.

13          Third, Qwest’s argument is contrary to the facts. As explained above Qwest  
14          offers different rates to different CLECs.

15    **Q.     PLEASE SUMMARIZE ISSUE 22-90 AND ITS SUBPARTS.**

16    A.     The companies have agreed that “Rates reflected on Exhibit A that have not been  
17           approved by the Commission in a cost case and require Commission approval  
18           shall be considered as Interim rates (“Interim Rates”) by the Parties.”<sup>323</sup> The  
19           Commission needs to decide pursuant to Section 252(c) of the federal Act which

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<sup>320</sup> See, e.g., Qwest Response, p. 48, lines 14-16.

<sup>321</sup> See, e.g., Qwest Response, p. 48, lines 14-16.

<sup>322</sup> 47 CFR §51.301.

<sup>323</sup> See proposed ICA Section 24.4.1.1.

1 rates will be reflected in Exhibit A for these elements, as the companies have not  
2 agreed upon interim rates.

3 In addition, if Qwest files with the Commission cost studies in support for its rate  
4 proposal, these cost studies should be available to Eschelon, if requested or as  
5 otherwise ordered by the Commission. Because the rates in question concern  
6 essential products and services offered to CLECs, CLECs' participation in the  
7 Commission's review is important and contributes substantially to the process.

8 Eschelon proposes a number of interim rates for products and services for which  
9 Qwest's cost support was particularly inadequate. Eschelon's rate proposal is  
10 based (where available) on its corrections to Qwest's cost studies to include the  
11 Commission-approved cost inputs, and when Qwest's cost study was not  
12 available, Eschelon's proposed rates are based on an average of rates approved in  
13 other states or the rate for the product or service that is in Eschelon's historical  
14 ICA with Qwest. Eschelon's rate proposal, as well as Eschelon's acceptance of a  
15 large number of Qwest-proposed rates, do not mean that Eschelon considers these  
16 rates, which are interim rates, to be cost-based, just, reasonable and non-  
17 discriminatory. Eschelon reserves the right to modify its proposals when the  
18 Commission considers permanent rates.

19 Qwest should not be permitted, as a result of proposing interim rates, to simply  
20 ignore this Commission's previous cost decisions, particular when it seeks, at the  
21 same time, to defer Commission review of those proposed rates to some indefinite

1 time in the future. Further, to the extent Qwest may contend that the adjustments  
2 that I made do not accurately reflect the Commission's prior orders, one option  
3 available to the Commission is to order Qwest to make a compliance filing of its  
4 cost studies incorporating the Commission's previously ordered inputs.

5 **SUBJECT MATTER NO. 46. INTERCONNECTION ENTRANCE FACILITY**

6 **Issue No. 24-92: Section 24.1.2.2**

7 **Q. HAS THIS ISSUE CLOSED SINCE ESCHELON'S PETITION FOR**  
8 **ARBITRATION WAS FILED IN THIS CASE?**

9 A. Yes, this issue has closed and section 24.1.2.2 has been deleted.

10 **X. CONCLUSION**

11 **Q. WHAT ARE YOUR RECOMMENDATIONS TO THE OREGON**  
12 **COMMISSION?**

13 A. I recommend that the Commission adopt Eschelon's proposed Interconnection  
14 Agreement language as described in this testimony.

15 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

16 A. Yes.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 10**





September 1, 2005

Doug Denney  
Eschelon Telecom Inc.  
730 2nd Av S Suite 900  
Minneapolis, MN 55402  
dkdenney@eschelon.com

TO: Doug Denney

**Announcement Date:** September 1, 2005  
**Effective Date:** October 1, 2005  
**Document Number:** PROS.09.01.05.F.03204.Design\_Chgs\_Unbundld\_Loop  
**Notification Category:** Process Notification  
**Target Audience:** CLECs  
**Subject:** Billing for design changes on Unbundled Loop

**Summary of Change:**

Qwest will commence billing CLECs non-recurring charges for design changes to Unbundled Loop circuits. Among the charges for the design change that will be billed, the following activities will generate a non-recurring design change charge per occurrence:

- Connecting Facility Assignments (CFA) change
- Circuit Reference (CKR) change
- CKL 2 end user address change on a pending LSR
- Service Name (SN) change
- NC/NCI Code change on a pending LSR

Charges for the design change will be billed via Qwest's Customer Records Information System (CRIS) beginning October 1, 2005 and may appear as early as your October billing statement. These charges will be displayed as a separate line item with charges for other ancillary services that you are already being billed for by Qwest.

Design changes will be billed for non-recurring charges at the rate found in the miscellaneous elements of Exhibit A or the specific rate sheet in your Interconnection agreement.

If you have any questions or would like to discuss this notice please contact your Qwest Service Manager, Joshua Nielsen on (801) 239-5335. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Coleen Austin  
Joshua Nielsen

Qwest Communications 1600 7th Ave Room 1806 Seattle WA 98008

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 11**

[http://www.qwest.com/wholesale/downloads/2005/050926/Escalation\\_Eschelon\\_092605\\_1E35.doc](http://www.qwest.com/wholesale/downloads/2005/050926/Escalation_Eschelon_092605_1E35.doc)

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**From:** Johnson, Bonnie J.  
**Sent:** Monday, September 26, 2005 10:19 AM  
**To:** 'cmpesc[CONTACT INFORMATION REDACTED]  
**Cc:** Johnson, Bonnie J.  
**Subject:** Eschelon Escalation PROS.09.01.05.F.03204.Design\_Chgs\_Unbundld\_Loop

- **Description of item being escalated:** Qwest is attempting to implement new rates via a process change through CMP. Qwest cannot implement new charges to CLEC or change the application of rates through a process change notice.
- **History of item:** CMP Notice PROS.09.01.05.f.03204.Design\_Chgs\_Unbundled\_Loop identified:

*"Qwest will commence billing CLECs non-recurring charges for design changes to Unbundled Loop circuits. Among the charges for the design change that will be billed, the following activities will generate a non-recurring design change charge per occurrence:*

- *Connecting Facility Assignments (CFA) change*
- *Circuit Reference (CKR) change*
- *CKL 2 end user address change on a pending LSR*
- *Service Name (SN) change*
- *NC/NCI Code change on a pending LSR*

*Charges for the design change will be billed via Qwest's Customer Records Information System (CRIS) beginning October 1, 2005 and may appear as early as your October billing statement. These charges will be displayed as a separate line item with charges for other ancillary services that you are already being billed for by Qwest.*

*Design changes will be billed for non-recurring charges at the rate found in the miscellaneous elements of Exhibit A or the specific rate sheet in your Interconnection agreement."*

The design change charge was not designed for loops. Qwest's own language in its FCC tariff describes this charge as applicable to transport facilities. The cost studies, upon which the rates in Exhibit A are based, were also designed with unbundled transport facilities in mind. These cost studies refer to ASR's, EXACT and IAB's, which are systems used for transport facilities, not unbundled loops. Therefore, the cost Qwest wishes to apply for design changes on loops are based on a that was performed for a different product, process and systems. [See cost dockets: AZ: T-00000A-00-0194, Phase II; CO: 99A-577T; UT: 00-049-105; and WA: UT-003013, Part D; The rate in Exhibit A for OR comes from a cost study in docket UM 1025, which was also designed for transport facilities, but has not been approved by the Commission for either transport or unbundled loops.] It is inappropriate for Qwest to attempt to apply this charge for Loops, LSR's and CRIS billing. In addition, Qwest is attempting to apply this to activity which does not cause Qwest to reengineer or redesign the circuit. Qwest's application of the rate is more broad than for which the design change charge was intended.

- **Reason for Escalation:**

Qwest is attempting to implement new rates outside of a CLECs ICA, through a process change in CMP. Qwest is attempting to apply a rate designed for a specific product to products, processes, systems and activities the rate was not meant for.

- **Business need and impact:**

See above.

- **Desired CLEC resolution:**

Qwest should withdraw this notice. Qwest should obtain Commission approved rates for design change charges on Loops. When Qwest obtains Commission approved rates, CLEC's ICA's dictate the action Qwest can take to implement those Commission approved rates.

- **CLEC contact information including Name, Title, Phone Number, and e-mail**

**address:** Bonnie Johnson, Director of Carrier Relations [CONTACT INFORMATION REDACTED],  
[\[CONTACT INFORMATION REDACTED\]](#)

- **CLEC may request that impacted activities be stopped, continued or an interim solution be established:**

Eschelon requests Qwest stop the activities that will impact CLEC's billing.

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

[http://www.qwest.com/wholesale/downloads/2005/050926/092605\\_1E35\\_Escalation\\_acknowledgment\\_and\\_response.doc](http://www.qwest.com/wholesale/downloads/2005/050926/092605_1E35_Escalation_acknowledgment_and_response.doc)

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**From:** Harlan, Cynthia [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, September 26, 2005 5:58 PM  
**To:** Johnson, Bonnie J.  
**Cc:** Harlan, Cynthia; Cmp, Escalation; Huff, Loretta; Lorence, Susan; Martain, Jill  
**Subject:** Escalation Acknowledgment and Response: Eschelon Escalation 092605-1E35

Bonnie,

This is to acknowledge receipt of your escalation 092605-1E35 submitted Monday, September 26, 2005 received 9:19 a.m.

This acknowledgement is being sent at approximately 5:00 p.m. MT September 26, 2005.

In addition, Qwest has included our response to this escalation in this email.

Qwest's Response:

Qwest received an Escalation from Eschelon on September 26, 2005 at 9:19 a.m.

Qwest has reviewed the escalation and determined that this item is outside the scope of CMP. The notice that is in question (PROS.09.01.05.F.03204.Design\_Chgs\_Unbunbld\_Loop) is a non CMP notice as it relates to charges contained in your Interconnect Agreement. Please contact your Service Manager for additional information or follow the appropriate contract dispute procedures.

Thank you,  
Cindy Harlan

*Cindy Harlan*  
*Wholesale Change Management*  
*Qwest*  
*[CONTACT INFORMATION REDACTED]*



This exhibit is confidential per Protective Order No. 07-178 in  
Docket ARB 775.





This exhibit is confidential per Protective Order No. 07-178 in  
Docket ARB 775.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 14**

**From:** Mays, Tanya (Qwest) [email redacted]  
**Sent:** Thursday, October 26, 2006 9:53 AM  
**To:** Gilbert, Christopher J.; Dozier, Viktoria  
**Cc:** Markert, William D.; Johnson, Bonnie J.; Christenson, Valerie; Hernandez, Debra; Taylor, Kimberly  
**Subject:** Oregon Telecom Acct.# 64907989 Account Status

*Dear Chris,*

*Thank you for your payment information. Reviewing your account your check has posted and your account is current. Thank you for your assistance. Have a great day.*

*Respectfully,*

*Tanya Mays*

*Qwest Wholesale Accounts Receivable Analyst*

*Phone [redacted]*

*Fax [redacted]*

*Email: [redacted]*

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**From:** Gilbert, Christopher J. [email redacted]

**Sent:** Wednesday, October 25, 2006 6:23 AM

**To:** Mays, Tanya; Dozier, Viktoria

**Cc:** Markert, William D.; Johnson, Bonnie J.

**Subject:** RE: Oregon Telecom Acct.# 64907989 Undisputed Past Due Notice

Tonya,

The balance referenced below is from the 9/23/06 invoice. It was paid on check # 1000009947 on 10/16/06. One week before it was due. Please review your internal process to determine why payments are not applied in a timely manner. Timely payment application on the part of Qwest will prevent the unnecessary distribution of letters such as this one.

Thank you,

Chris Gilbert

Sr. Manager, Network Financial Management

Eschelon Telecommunications, Inc.

[phone redacted]

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**From:** Markert, William D.

**Sent:** Tuesday, October 24, 2006 5:42 PM

**To:** Gilbert, Christopher J.

**Subject:** FW: Oregon Telecom Acct.# 64907989 Undisputed Past Due Notice

**Importance:** High

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**From:** Mays, Tanya [email redacted]

**Sent:** Tuesday, October 24, 2006 12:36 PM

**To:** Markert, William D.; Johnson, Bonnie J.

**Cc:** Christenson, Valerie; Taylor, Kimberly; Hernandez, Debra; Ebell, Cindy; Dittman, Leann E; Harriger, Shelly; Hahn, Patty; Nielsen, Joshua; Dozier, Viktoria

**Subject:** Oregon Telecom Acct.# 64907989 Undisputed Past Due Notice

**Importance:** High

October 24, 2006

Oregon Telecom, Inc. / Eschelon

Bill Markert and Bonnie Johnson

444 East 2nd Avenue

Eugene, OR 97401

Phone: [redacted]

E-Mail: [email redacted] and [email redacted]

RE: Past Due Balance: \$ 28,041.83

Account No: 64907989

Delivery via E-Mail and UPS Overnight

Dear Mr. Bill Markert and Ms. Bonnie Johnson:

Thank you for your continued business. We value the relationship we have developed with Oregon Telecom, Inc. /Eschelon, and we recognize the importance of meeting our commitment to provide you with quality service in exchange for timely payment for such services.

It has come to our attention that there is an undisputed balance of \$ 28,041.83 associated with account number 64907989.

As you know, your contract allows Qwest to take the appropriate collections action to obtain payment for the services Qwest provides. Those actions may include charging late fees, refusing to accept additional orders, or interrupting service until we receive the appropriate past due amounts. We want to avoid such counterproductive activities. Therefore, we are requesting that you immediately remit the undisputed balance due. If we do not receive confirmation that a payment of \$ 28,041.83 has been received prior to 12:00 pm Mountain Time on October 27, 2006, we may be forced to exercise our rights under the contract. Please help us avoid taking such actions.

Please submit your payment via wire as follows:

FIRST TENNESSEE BANK

MEMPHIS, TN.

[routing number redacted]

Please place your account numbers in the notes

Please send confirmation of your wire transfer number to me at [email redacted] Your prompt attention to this matter is appreciated.

If payment has been sent, please disregard this notice. If you feel you have received this notice in error, please contact me immediately so we can work with you to correct any discrepancies in our records.

We look forward to working with you to resolve these issues so that we can continue to provide you with excellent customer service.

Thank you in advance,

*Tanya Mays on behalf of Viktoria Dozier*

*Qwest Wholesale Accounts Receivable Analyst*

*Phone [redacted]*

*Fax [redacted]*

*Email: [redacted]*

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 15**

**PUBLIC VERSION**

**This exhibit is confidential per Protective Order No. 07-178 in Docket ARB 775**



This exhibit is confidential per Protective Order No. 07-178 in  
Docket ARB 775.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

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**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 16**

**PUBLIC VERSION**

**This exhibit is confidential per Protective Order No. 07-178 in Docket ARB 775**

This exhibit is confidential per Protective Order No. 07-178 in  
Docket ARB 775.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 17**

**PUBLIC VERSION**

**This exhibit is confidential per Protective Order No. 07-178 in Docket ARB 775**

This exhibit is confidential per Protective Order No. 07-178 in  
Docket ARB 775.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 18**

From: Isaacs, Kimberly D.  
To: [Erasmus (Qwest) email redacted]  
From: Markert, William D. Gilbert, Christopher J. Johnson, Bonnie J.  
Re: 5/30/2006 Letter RE: Past Due Balances

Sue,

I am writing in response to your 5/30/2006 certified letter regarding Oregon Telecom Inc. past due balances addressed to David Gahlsdorf in Salem Oregon. The Oregon Telecom Inc. new customer questionnaire was updated with a new primary billing and payment contact on 4-6-06. For your convenience, I am attaching a copy the current Oregon Telecom Inc. questionnaire. In the future please contact Mr. Chris Gilbert regarding any billing or payment issues. Thank you.

Primary Billing Contact:  
Chris Gilbert  
730 2nd Av S  
Suite 900  
Minneapolis, MN 55402  
Phone: [redacted]  
Email: [redacted]

Kim Isaacs  
Eschelon Telecom, Inc.  
ILEC Relations Process Specialist  
Ph: [redacted]  
Fax: [redacted]  
Email: [redacted]

Attachments:

Oregon Telecom Master- 4-12-06 CLECCustQuestionnaireV33.doc  
(1048594 Bytes)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
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**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 19**





# Wholesale

CONTACT US

Products & Services

Local Business Procedures

Local Business Procedures

▶ View More Local Resale Non-Facility Based Business Procedures

▶ View More Local Interconnection Facility Based Business Procedures

## Billing Information - Dispute Process - V4.0

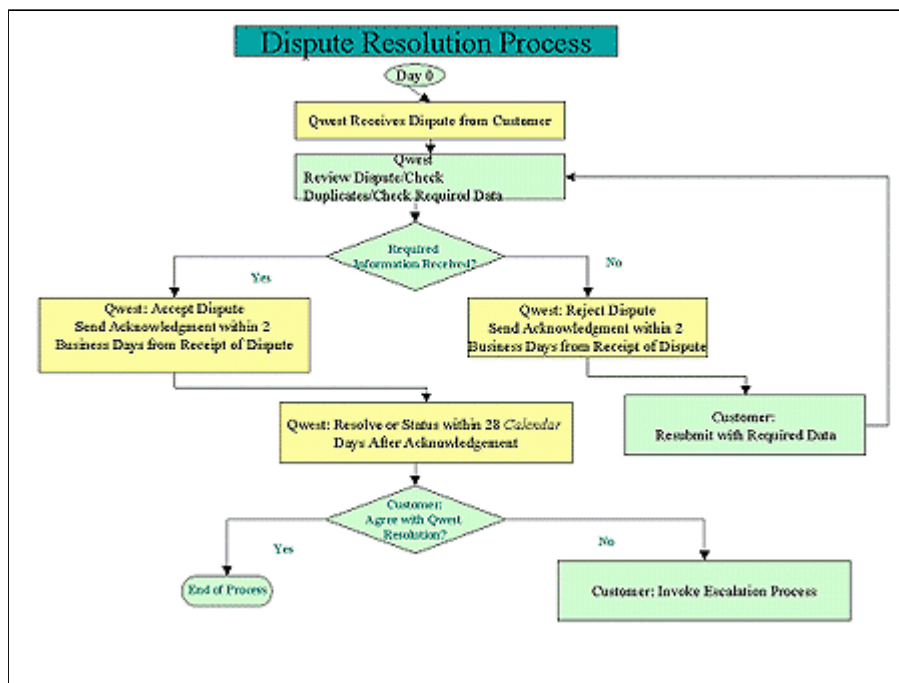
[History Log](#)

### Description

The purpose of this process is to document requirements for submitting billing disputes to the Wholesale Billing Service Delivery Coordinator (SDC).

Once billing has occurred, and if you have a general question about your bill or charge on your bill, you should contact the Qwest Billing SDC assigned to your account. If the Qwest Billing SDC cannot resolve the billing type question, you may submit a dispute for the disputed amount.

### Process Diagram



### Implementation

#### Submitting a Dispute

Check individual state tariffs and/or your Interconnection Agreement for time limits for submitting a dispute.

Qwest offers two options for submitting disputes.

Click here to fill out the [Dispute Notification Form](#) (in WORD format).

Click here to fill out the [Dispute Notification Form](#) (in EXCEL format).

The following rules apply when filling out the Dispute Notification Form:

- One product per dispute (i.e. Resale, Unbundled, Collocation)
- One bill period per dispute (i.e. 10th bill period)
- Multiple bill months are allowed for the same bill period (i.e. 1-10-05, 2-10-05 etc.)
- If multiple bill months are disputed on one dispute form, Qwest will use the oldest bill month when entering the dispute
- If you copy and paste information from BillMate, provide the BillMate file name. (i.e. MONSERV, SOACTVTY, Toll, etc).

#### Example Dispute Supporting Information Format:

The following are only examples. You can attach dispute summary and detail information to the dispute form or attach detail spreadsheet information to the dispute form.

Example #1:

Sub Account	Dispute type/Description	Dispute Reason	Qty	Service Order	Billed Rate	Should bill	Difference
0000000000000	MRC G5LTM- Qwest Choice DSL	Rates does not match contract section 1000.0	1	C1234567	\$10.00	\$1.00	\$9.00
1111111111111	MRCG5LAM - Qwest - DSL	"	1	C8910111	\$10.00	\$1.00	\$9.00
2222222222222	MRCG6LAN - Qwest - DSL	"	1	C1213145	\$10.00	\$1.00	\$9.00
Total					\$30.00	\$3.00	\$27.00

Example #2:

Tab 1: Dispute Form

Tab 2: Main Account Number with Summary Information

- Dispute Type/Description (e.g. 3-way calling, Intralata toll, Tax)
- Dispute Reason
- Disputed \$ Amount Total per Dispute Type

Example Summary Tab:

Dispute Type and Description	Dispute Reason	Amount in Dispute
MRC on Long Distance Charges	Not in ICA Section 1000	\$30.00

Tab 3: Main Account Number with detailed explanation

- Detail (e.g. Sub Accounts, Circuit number)
- Dispute Description
- Amount in Dispute
- Total dispute amount should equal field 12 on the dispute form

Example Detail Tab:

Intralata TOLL	Description	Disputed Amount
801239XXXXCUS	Long Distance Charges	\$10.00
801239X1X1CUS	Long Distance	\$10.00
801239X2X2CUS	Long Distance	\$10.00
Total		\$30.00

Once the dispute submittal form is completed, submit your dispute by email, fax or U. S. Mail (or other written format jointly agreed upon between Qwest and you) to the assigned Qwest Billing SDC. If submitted by email, : Customer ACNA or RSID or ZCID or TRAK, Customer dispute ID # (if applicable), State and disputed bill month(s) should be included in the subject line as space permits.

#### **EMAIL Out of Office Message**

If you receive an email "Out of Office" message, send the dispute to the Billing SDC backup in order for the dispute to be processed using the date you submitted the dispute. The Billing SDC out of office message will contain the following message:

"I will be out of the office from MM-DD-YYYY to MM-DD-YYYY. Any disputes received during that time will be acknowledged and reviewed upon my return. If your request is of an urgent nature, please contact my backup, (Billing SDC name) at (email address) and telephone number. Receipt of a dispute will be the date I am scheduled to return unless the dispute is sent to my backup."

If the dispute is sent to the SDC backup, the receipt of the dispute will be the date the dispute was sent to the SDC backup. If you do not receive an out of office message, the receipt of the dispute will be the day the dispute was sent to the SDC.

#### **Receipt of Dispute**

Billing days/hours for receipt of billing disputes are Monday through Friday, 8:00 AM to 5:00 PM (per Qwest Billing Office time zone), excluding Qwest Legal Holidays. Disputes for billing errors received outside these business hours shall be considered received at 8:00 AM on the first business day thereafter.

#### **Acknowledgment of a Dispute**

Qwest will provide acknowledgment of your written documented dispute within two business days of receipt of dispute by email, fax or U. S. Mail (or other written format jointly agreed upon between Qwest and you pursuant to a written agreement). The acknowledgment will include:

Email Subject Line: Customer name, customer dispute ID # (if applicable), Qwest ID #, State, and disputed bill month will be included in the subject line as space permits. The acknowledgment will include:

- Qwest ID #
- Your company name

- Your company code (ACNA or RSID or ZCID)
- Bill Date
- Your own dispute (claim) number, if provided
- Date dispute received by Qwest
- BAN (including CUS code)
- State
- Total disputed \$ amount
- If dispute rejected, the reason for rejection (i.e. missing dispute reason)

At the time of acknowledgment, the dispute is considered one dispute. The entire dispute is rejected if missing any required information. At the time of resolution, the dispute is counted by "dispute type" (also known as reason code).

Examples how Qwest treats a dispute:

How Qwest counts Acknowledgment (ACK) and Resolution (Reso)

Disputes:

Dispute Receive Date:	Bill PER	Disputed Bill Date	Billing Account Number	Dispute Type (s):	ACKCount:	ResoCount:
5-04-04	1st	01-01-04	303B040000000	1. NRC on a USOC	1	1
4/01/04	1st	3-10-04	6120000000000	1. TAX 2. LPC	1	2*

\*Each dispute type counts as a dispute.

### Rejected Dispute Examples

Rejected (or returned) means a Qwest Dispute ID number is assigned, but required information is missing. Qwest will send an acknowledgment response to you and identify why the dispute is rejected and communicate what information is missing. To resubmit the dispute, provide the original Qwest Dispute ID # and the missing information.

Rejection examples:

- If the dispute is missing required supporting information needed to process the dispute or dispute is not submitted following this Dispute Business Procedure.
- When Qwest receives your billing dispute prior to Qwest's Public Utilities Commission (PUC) ordered Cost Docket Implementation Date.
- Duplicate disputes of the same item more than once (i.e. disputing non recurring charges on the same order more than once)
- If double disputing (i.e. disputing the same time period more than once. .For example disputing March recurring charges and then send in another dispute for February, March and April recurring charges causing a double dispute for the March non recurring charges)
- When invoking escalation procedures on a dispute and you change the original disputed issue (i.e. the original resolved dispute was for non-recurring charges (NRC) dispute type and you added another dispute type and bill period on the escalation. This is considered a new dispute.)
- Disputing charges in advance of charges displaying on your bill

### Carrier Access Billing System Bill Output Specifications (CABS/BOS) Format

If your account is in Carrier Access Billing System Bill Output Specifications (CABS BOS) Bill Data Tape Records (CABS/BOS) format, check the [Differences List](#). The BOS Bill Data Tape (BDT) Differences List is provided to inform customers, who choose the BDT option, of any instance where Qwest differs from the standards detailed in the current version of Telcordia's CABS/BOS documentation. The differences may be in the record outlay, the use of data elements, the use of phrase codes, or identifying the company's local calling plans.

Sub Accounts are not provided in CABS/BOS format. If Qwest provides a list of the Working Telephone Numbers (WTN) for UNE-P accounts and a list of the Circuit IDs for Unbundled Loop accounts, then your dispute must provide this level of supporting documentation.

### Qwest's Dispute Resolution

Once the dispute is resolved, the Qwest Billing SDC will provide the results of the investigation in a dispute resolution notification letter. The dispute will be either resolved in customer favor or resolved in Qwest favor or partially resolved in Qwest and Customer favor.

If Qwest sends a resolution saying Qwest resolves in customer favor, Qwest will identify on the resolution letter the credit from and through dates. In this example, you are not required to continue to send in disputes each month saying the rate is wrong. The credit will automatically apply usually within two billing cycles for the time the adjustment was issued.

Example:

Dispute Receive Date:	Bill PER	Disputed Bill Period/Year submitted on dispute:	Dispute Type(s):	Resolution Letter Sent Date:	Effective Date:
5-04-04	1st	01-01-04 to 4-1-04	1. MRC on a USOC	5-30-04	01-01-04

In the example above, the charges are corrected from your January 1, 2004 bill and going forward. You received Qwest Resolution Letter on May 30, 2004 stating you should see a credit within the next two billing cycles. If today is June 2, 2004 and you see the exact rate is wrong on your June 1, 2004 bill, you would not need to submit another dispute.

Note: If a Commission final cost docket order has been issued, but not implemented by Qwest, Qwest will provide you with a final resolution letter describing whether Qwest is resolving in Qwest favor or Customer favor or partial Qwest and customer favor. Qwest will notify you when rates will be implemented and the true up adjustment effective dates per the Commission.

The following will be entered on the resolution:

Email Subject Line: Customer name, Qwest Dispute ID #, Customer dispute ID # (if applicable), State and disputed bill month will be included in the subject line as space permits.

- Your Contact Name:
- Your Address (unless dispute sent via email)
- City, State, Zip code (unless dispute sent via email)
- BAN
- Bill Date
- Customer Dispute #, if available
- Qwest ID #:

- Total \$ Amount disputed
- Dispute Type
- Status
- \$ Amount resolved Qwest favor, Customer Favor or Partial (Qwest favor and customer favor)
- If multiple dispute types are included on one dispute, you will also receive a status of unresolved items.

The following additional fields could appear on the Resolution Notification Letter if resolved in Qwest Favor:

- Final Commission Cost Docket number will be included, if available
- Service order will be included, if available
- Trouble Ticket number will be included, if available
- Interconnection Agreement (IA) or Tariff or SGAT section
- Reason why resolved in Qwest Favor

The following additional fields could appear on the Resolution Notification Letter if resolved in Customer Favor:

- Credit from and through dates: m/d/yyyy to m/d/yyyy
- Credit will appear within two billing cycles

Spreadsheet attachments or other documentation that details the resolution for each Dispute Type/Description, including how or why the conclusion was reached may also be included.

[Download Sample Resolved Customer Favor Dispute Resolution Letter](#) (

[Download Sample Resolved Customer/Qwest Favor Resolution Letter](#)

[Download Sample Resolved Qwest Favor Resolution Letter](#)

### **Qwest's Dispute Status**

If the Qwest Billing SDC is unable to resolve the dispute within 28 calendar days after acknowledgment of the dispute, a status update per dispute type/reason will be provided to you in writing on a Qwest status notification letter. The follow-up date will be no later than 28 calendar days from the receipt of the dispute or sooner if dispute is resolved.

### **Escalations**

If you do not agree with Qwest's Resolution Letter provide, in writing, the reason why you disagree and the original Qwest Dispute ID #. Submit via email, fax or U. S. Mail (or other written format jointly agreed upon between Qwest and you) to the assigned Qwest Billing SDC.

If the SDC is unable to resolve the problem or provide the requested information to your satisfaction, you may initiate an escalation for any issue, at any time, and at any escalation point. Resolution of the dispute is expected to occur at the first level of management resulting in a recommendation for resolution of the dispute.

### **Prerequisites**

If you are a new CLEC and are ready to do business with Qwest, view [Getting Started as a Facility-Based CLEC](#). If you are an existing CLEC wishing to amend your Interconnection Agreement or New Customer Questionnaire, additional information is located in the [Interconnection Agreement](#).

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## Billing

Customer Records and Information System (CRIS) billing is described in [Billing Information - Customer Records and Information System \(CRIS\)](#).

Integrated Access Billing System (IABS) billing is described in [Billing Information - Integrated Access Billing System \(IABS™\)](#).

Billing and Receivable Tracking (BART) billing is described in [Billing Information - Billing and Receivable Tracking \(BART\)](#).

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## Training

### Local Qwest 101 "Doing Business With Qwest"

- This introductory web-based training course is designed to teach the Local CLEC and Local Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. [Click here to learn more about this course and to register.](#)

View additional Qwest courses by clicking on [Course Catalog](#)

## Contacts

Qwest contact information is located in [Wholesale Customer Contacts](#).

## Frequently Asked Questions (FAQs)

This section is being compiled based on your feedback.

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**Last Update:** April 28, 2006

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 20**



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**From:** Johnson, Bonnie J.  
**Sent:** Friday, June 24, 2005 10:38 AM  
**To:** Bonnie Johnson; [email redacted@qwest.com]; Isaacs, Kimberly D.; Stichter, Kathleen L.  
**Subject:** Qwest Billing Dispute Process CR

In CMP last week, I committed to getting back to Qwest off line on whether Eschelon agrees to close the CR. Here is Eschelon's response. Please include our response in the CR status history.

Eschelon's position has not changed on this CR Qwest implemented. Qwest implemented this CR over Eschelon's objection and Qwest can close the CR over our objection. Eschelon's ICA controls and this process does not apply to Eschelon or any CLEC that has billing dispute provisions in its contract.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]

**From:** Clauson, Karen L.  
**Sent:** Wednesday, April 06, 2005 4:57 PM  
**To:** [Vonda.Hill (Qwest) email redacted]; 'Hsiao, Doug'; 'Christensen, Larry'  
**Cc:** Copley, Ellen M.; Markert, William D.; Effler, Gary L.; Stichter, Kathleen L.; Gilbert, Chris; Johnson, Bonnie J.; Oxley, J. Jeffery; 'Nielsen, Joshua'; 'Novak, Jean'  
**Subject:** Billing disputes

Vonda:

Your email below was forwarded to me for response. Communications on this issue should be directed to me. Eschelon's position is that any such rejection by Qwest will be a violation of each state's interconnection agreements between Qwest and Eschelon. Please ensure that all appropriate billing and other personnel at Qwest are aware of this. As this involves contract and legal issues, I am directing this note to Qwest attorney Doug Hsiao and its interconnection director, Larry Christensen.

Although Qwest has developed its own process for billing through CMP, CMP is both not a part of these ICAs and, even were it to apply, the CMP document specifically provides that the ICA controls.\* There is no requirement in our ICAs to use the process you describe. As long as we provide our billing disputes in writing per the ICAs, Qwest must process them per the ICA. Our current processes comply with the ICAs.

Eschelon has indicated that, if Qwest desires changes to the current process that has been in place for a long time under the existing ICAs, Eschelon is willing to work with Qwest on any such changes, if Qwest will do so MUTUALLY. Eschelon may also trial at least some aspects of Qwest's "new" billing dispute process, but only on an optional, voluntary basis. Use of that process is not required by the ICAs, and Eschelon reserves all rights to use the process it has been using.

If Qwest continues to assert that it may unilaterally impose Qwest's "new" billing process upon Eschelon over its objection, please provide the basis in each state's contract for Qwest's position. Then we can arrange a call to discuss the issue. In the meantime, Qwest needs to continue processing the bills per the existing process, as it has been doing for a period of years pursuant to those same ICAs. Qwest should NOT reject any disputes on this basis.

Karen L. Clauson  
Senior Director of Interconnection/Attorney  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 900  
Minneapolis, MN 55402  
Phone: [REDACTED]

Fax: [REDACTED]

\*Section 1.0 of Qwest's CMP Document provides: "In cases of conflict between the changes implemented through this CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through this CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement. " See [http://www.qwest.com/wholesale/downloads/2005/050328/QwestWholesaleChangeManagementDocument\\_03\\_28\\_05.doc](http://www.qwest.com/wholesale/downloads/2005/050328/QwestWholesaleChangeManagementDocument_03_28_05.doc)

-----Original Message-----

**From:** Hill, Vonda [email redacted]  
**Sent:** Wednesday, April 06, 2005 1:08 PM  
**To:** [Gary Effler (Eschelon) email redacted]; [Ellen Copley (Eschelon) email redacted]  
**Cc:** Chapman, Debra  
**Subject:** DISPUTES

**Gary and Ellen,**

**I wanted to make sure you knew of the new way disputes are to be submitted to Qwest.**

**The new process is located on our [www.qwest.com/wholesale/clecs/billdisputeprocess.html](http://www.qwest.com/wholesale/clecs/billdisputeprocess.html)**  
 <<file://www.qwest.com/wholesale/clecs/billdisputeprocess.html>>

**If the disputes are not submitted the new way they will be rejected. The short paid balances will be subject to Late Payment Charges. We will start the collection process on any unpaid balances.**

**Vonda Hill**  
**QWEST Wholesale Billing**  
**900 Keo Way 4S**  
**Des Moines, IA 50309**  
**Phone: [REDACTED]**  
**FAX: [REDACTED]**  
**E-mail: [redacted]**

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[http://www.qwest.com/wholesale/downloads/2005/050317/Qwest\\_Response\\_to\\_comments\\_on\\_PROS\\_02\\_18\\_05\\_F\\_02576\\_Dispute\\_Process\\_V1.doc](http://www.qwest.com/wholesale/downloads/2005/050317/Qwest_Response_to_comments_on_PROS_02_18_05_F_02576_Dispute_Process_V1.doc) (Eschelon comments and Qwest response to above.

**Qwest Response to Product/Process CMP - Billing Information – Dispute Process – V1.0**  
**Comments**

#	Page/ Section	CLEC Comment	Qwest Response
1		<i>Eschelon March 04, 2005 Comment: The list below is not exhaustive. Eschelon will also send a WORD document with this information</i>	Throughout this document, Eschelon makes many assertions, legal and otherwise, that are not relevant to this process document. Qwest reserves it's right to address these assertions in the

	<p><i>to the CMP mailbox as format is often changed using this process.</i></p> <p><i>Eschelon objects to Qwest's billing dispute process. Qwest's billing dispute process is beyond the scope of the commitment Qwest made to LTPA. Qwest is trying to change a CLECs legal rights by calling it process.</i></p> <p><i>In addition, Qwest expanded the new process to move even farther from LTPA's initial purpose which is Qwest's commitment to provide additional detail when Qwest denies a billing dispute initiated by the CLEC (at least if the CLEC so desires this information). Qwest and CLECs can agree to such a process for providing additional detail. The remainder can and should be dealt with in each CLEC's ICA.</i></p> <p><i>Much of the work involved in billing disputes, for example, would not be required at all if Qwest had met its contractual obligation to provide complete and accurate bills. The problems at issue arise because of Qwest's failure to provide accurate billing to CLECs. Qwest resources should be spent improving billing accuracy rather than Qwest's elaborate proposal. Qwest's proposal would significantly increase resources required by CLECs to dispute bills. For example, the number of dispute notifications required by Qwest's inefficient proposal would be approximately 5 times the number of dispute notifications Eschelon currently initiates each month, for the same number of disputes. CLECs already expend too many resources on billing disputes and Qwest's proposed process adds additional steps that create no additional benefit to CLECs.</i></p> <p><i>Eschelon does not object to providing additional information (such as even more contract/tariff information than currently provided) when needed within the current process, and has already done so. Eschelon's objection is to the</i></p>	<p>appropriate forum. In this document, Qwest limits it's responses to the process-related issues.</p> <p>For Qwest to be able to continue providing prompt, consistent and standard resolution of disputes for all CLECs, a consistent form and process is needed for all CLECs to submit their disputes. The proposed process will lead to greater efficiencies because it will ensure that information is provided in a uniform and appropriate manner. Qwest business procedures are documented on WWW.Qwest.Com rather than Individual Interconnection Agreements. Work processes, business rules, and organizational practices that do not address Section 251 obligations do not fall within the purview of interconnection agreements. Qwest, by providing notice of changes to these processes via CMP, is providing full rein to CLECs to exercise their legal rights..</p> <p>In order to process a dispute, Qwest needs to completely understand what the customer is disputing. Qwest has committed [Resolution Section] to provide specific details that will be included in the resolution letters and has provided examples of the format it will use. Qwest's response to the dispute is a function of the information it is provided by the disputing carrier. A uniform and comprehensive dispute submission process will facilitate a comprehensive response. Once again, Qwest must reiterate that this forum is not only the appropriate place in which to address these processes; it is also the required forum.</p> <p>Re: 5 times the number of dispute notifications..... Qwest will continue to provide Acknowledgment and Resolution Letters by Main Billing Account Number (i.e. BAN or Summary Billing Telephone Number) for all customers</p> <p>There can be no dispute that a uniform process will lead to greater efficiency.</p>
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	<p><i>unnecessary additional work and rigid structure that introduces inefficiencies where much simpler minor changes to the current process would be sufficient. The proposed process introduces even more uncertainty and delay to billing disputes because Qwest has inserted unnecessary steps that it can use to reject claims for no substantive reason.</i></p> <p><b>DESCRIPTION</b>  <i>The description fails to describe the optional nature of the process. Eschelon objects to Qwest's use of mandatory language, such as "requirement". Eschelon has been clear from the start that its interconnection agreement (ICA) controls, so Eschelon (and other CLECs with similar or other controlling ICAs) is not required to use the procedure</i></p> <p><i>A CLEC should not be forced to submit a dispute to get a "billing type question" answered. Billing questions and disputes are two different requests and should be treated as such.</i></p> <p><b>TERMS AND CONDITIONS</b>  <i>Eschelon asks Qwest to add a terms and conditions section and asks Qwest to add the following language to Terms and Conditions.</i>  <i>"In cases of conflict between this process and any CLEC interconnection agreement the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement." This language applies to the entire procedure and is not specific to intervals for submitting a claim. Eschelon asks Qwest to add this language to Terms and Conditions (see Submitting a dispute).</i></p> <p><b>IMPLEMENTATION</b>  <b>SUBMITTING A CLAIM</b>  <i>See Terms and Conditions about first paragraph</i></p>	<p>The work CLECs encounter in submitting a dispute is a mere fractional component of the work Qwest must undertake to resolve disputes for all CLECs. Individualized processes impede the ultimate goal that both CLECs and Qwest seek which is the prompt and comprehensive resolution of disputes.</p> <p><b>DESCRIPTION</b>  This Dispute Business Procedure Process is not optional for disputes submitted to the Wholesale Service Delivery Coordinator. Business Process Procedures are documented and located on www.Qwest.com rather than individual Interconnection Agreements.</p> <p>The dispute process addresses disputes that are submitted in writing. An inquiry is not considered a dispute unless it is submitted in writing. Use of the Dispute Form will help alleviate confusion.</p> <p><b>TERMS and CONDITIONS:</b>  It is not appropriate to include Terms and Conditions in this business process document.</p>
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	<p><i>Paragraph 5</i>  <i>Qwest's proposed process including the "rules" when filling out the dispute notification form, are not an improvement over the existing process Qwest and Eschelon jointly developed over a two-year period. It appears that, as Qwest downsizes its own operations, it is attempting to shift work to CLECs that appropriately belongs to Qwest. In fact, Qwest sent Eschelon a notice that effective 2/7/05, Qwest was downsizing the Qwest billing SDC's working on Eschelon's account from 3 to 2. Qwest replaced the two experienced Qwest billing SDC's familiar with Eschelon's account with ONE Qwest billing SDC that had never worked on Eschelon's account. It is inefficient to impose additional work on many CLECs that Qwest itself should be doing to process its own bills. Qwest's proposed process creates additional work, such as:</i></p> <ul style="list-style-type: none"> <li><i>- On additional claim forms, Qwest would require Eschelon to enter redundant data that is already on the summary tab of the spreadsheet Eschelon currently submits to Qwest. This additional manual entry increases the workload for Eschelon.</i></li> <li><i>- Navigating within dispute files becomes more complicated and time consuming due to the addition of claims and claim forms.</i></li> <li><i>- Dispute reasons for all Summary BANs must be revised under Qwest's process. This would affect both dispute memos submitted the first month of implementation and new disputes going forward.</i></li> <li><i>- Qwest requires additional contract/tariff information and/or locate and repeat ICA information and tariff citations that were already provided to Qwest in previous dispute memos.</i></li> <li><i>- Historical Claim Forms and an additional detail worksheet for dispute back-up must be created for all disputes over 60 days under Qwest process. This is an attempt by Qwest to circumvent the manner in which the</i></li> </ul>	<p>Streamlining of billing dispute processes is a natural evolution in the industry. Enabling SDCs to serve CLECs in a more efficient manner will lead to a reduced expenditure of time and resources for all concerned. While Eschelon would undoubtedly prefer to have Qwest dedicate vital personnel solely to its issues this does not benefit the other industry participants.</p> <p>Any transition to a new system requires some additional work by all concerned. The ultimate goal is not to minimize Eschelon's workload, but to create a more efficient system that will benefit the entire industry. The additional work Eschelon identifies seems to amount to the mere transfer of information to the relevant document location, and pales in comparison to the amount of work that individualized CLEC dispute processes places on Qwest.</p>
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	<p><i>PIDS operate. The PIDs are driven by the true date of the dispute. Qwest cannot alter the operation of the PID by creating a false date. In addition, Qwest is unclear how Qwest intends to count claims if they are not resubmitted each month.</i></p> <p><b>EXAMPLE DISPUTE SUPPORTING INFORMATION FORMAT:</b> <i>Last paragraph</i> <i>Qwest's process asks for different information on the subject line Eschelon sends than Qwest returns on responses to Eschelon. The addition of claims and claims forms is burdensome enough. Eschelon asked that Qwest respond using the same subject line that Qwest requires Eschelon to send Qwest. This would at least allow Eschelon to match the dispute with the response.</i></p> <p><b>EMAIL OUT OF OFFICE MESSAGE</b> <i>Qwest agreed to look into revising this section. CLECs voiced their concerns about this section because Qwest is putting additional burden on CLECs to manage Qwest's staffing. We understood that Qwest is looking into revising this section. Although Qwest has had ample time (several months) to do so, Qwest has still not revised this section. Eschelon reserves the right to comment on the new section. Please provide an update on the progress Qwest has made for the revision of this section.</i></p> <p><b>ACKNOWLEDGMENT OF A DISPUTE</b> <i>Eschelon finds Qwest's language "pursuant to a written agreement" highly objectionable. Qwest can negotiate changes to CLECs ICA's if Qwest wants a written agreement. This is not appropriate language for a business procedure and Qwest should remove this.</i></p> <p><i>Qwest needs to expand its description of the information provided in the response when a claim is rejected to</i></p>	<p>Re: Example Dispute Supporting Information Format: Qwest will provide a standard subject header line on all Acknowledgments and Resolution Letters for all customers.</p> <p><b>EMAIL OUT OF OFFICE MESSAGE</b> Qwest would like to offer, in the future, an automated dispute management tool so CLECs can submit disputes "on line." This process should provide online dispute status and improve the out of office process. Qwest is currently reviewing this option.</p> <p><b>ACKNOWLEDGMENT OF A DISPUTE</b> Re: Pursuant to a written agreement" The language is merely intended to provide a way to document the parties mutually agreed upon process, and does not implicate the parties Interconnection Agreement.</p> <p>This statement allows CLECs to work with the Billing SDC if, for some reason, they need to submit a dispute other than by email, fax or U. S. Mail.</p>
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	<p><i>ensure that the level of detail is no less than the level of detail required of CLECs. Currently, Qwest simply states that it will communicate what information is missing, without committing any detail. If the problem is something other than missing information, a detailed explanation is needed. Because Qwest would require a detailed claim form from CLECs, Qwest should likewise be required to complete a detailed acknowledgement response form with an equal level of detail. Qwest should draft one and distribute to CLECs for comments.</i></p> <p><b>REJECTED DISPUTE EXAMPLES</b> <i>Qwest's proposal places form over substance. Even if a CLEC provides Qwest with every piece of information Qwest needs to address a billing dispute completely, Qwest's proposed process would allow Qwest to reject a legitimate dispute based on alleged non-compliance with a rigid form.</i></p> <p><b>QWEST'S DISPUTE RESOLUTION</b> <i>Qwest made significant revisions from version 9 on this section. Under additional fields that could appear: Eschelon asked Qwest to change "could be included" to "will be included". Qwest made that change, however, Qwest removed "If it forms the basis for denial" and added "if available". How can Qwest form a basis for denial if that information is not available.</i></p> <p><i>See paragraph 2 under</i> <b>ACKNOWLEDGMENT OF A DISPUTE</b></p> <p><b>ESCALATIONS</b> <i>Last paragraph This paragraph is confusing and the first and second sentence conflict with each other. If Qwest's intention of the</i></p>	<p>Qwest will communicate what information is missing. If it is something other than missing information, Qwest will provide a detailed explanation.</p> <p><b>REJECTED Dispute Examples</b></p> <p>For Qwest to be able to continue providing prompt, consistent and standard resolution of disputes for all CLECs, a consistent process is needed. The proposed process will lead to more efficiency because it will ensure that information is provided in a uniform and appropriate manner.</p> <p>A dispute missing required information needed to process the dispute or not submitted using the form will be rejected.</p> <p><b>QWEST'S DISPUTE RESOLUTION</b></p> <p>The section merely references information that will be provided, if the information is available and relevant. If that information is available Qwest will provide it; however, other independent sources could form the basis for denial and this information will be provided if available.</p> <p><b>ESCALATIONS:</b> If a CLEC disagrees with Qwest's resolution, there are 2 options: 1. Refer to the Dispute Resolution Billing Dispute or Section of their contract and</p>
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	<i>second sentence is to mean "However, Qwest's expectation is resolution of a dispute will occur at the first level of Management", then say that. If that is Qwest's intent, Eschelon believes that is a performance issue internal to Qwest and should not be included in this process</i>	submit the dispute to the address in the "notice" section of their contract 2. Submit disagreement of Qwest resolution pursuant to the Escalations section in the Wholesale Billing SDC Dispute Business Procedure Process.
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<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E03%2E18%2E05%2EF%2E02712%2EFNL%5FDispute%5FProcess%5FV1%2Edoc> (Qwest notice it had respond to comments on version 1 Billing dispute PCAT)

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E02%2E18%2E05%2EF%2E02576%2EDispute%5FProcess%5FV1%2Edoc> (Qwest notice on 2/18/05 that Qwest was sending version one of the PCAT for comments)

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, December 16, 2004 1:21 PM  
**To:** [Donne Devine (Qwest) email redacted]; Bonnie Johnson; [cmpcr (Qwest) email redacted];  
**Cc:** Copley, Ellen M.; Johnson, Bonnie J.  
**Subject:** Billing Dispute Process

Qwest billing SDC's (see attached note from Deb Judge) are recommending Eschelon use Qwest proposed process. Eschelon's ICA controls how Eschelon sends billing disputes to Qwest. It is certainly questionable that Qwest billing SDC's would be suggesting that Eschelon follow the process that Eschelon has objected to prior to Qwest's implementation date. Sue Kriebel at Qwest said on the call that Qwest SDC's, for the most part, are not even aware of, or have been trained on the new dispute process. In some cases, Qwest billing SDC's are making statements on the phone such as "when the new process starts you can't do this." Perhaps the SDC's are aware that Eschelon objected to Qwest's proposed process.

"Also, in anticipation of the changes in the way disputes are suppose to be submitted starting sometime next year, I would like to suggest that all of the bill dates for Frame Relay bans be changed to the same bill date. Currently there are some bans that have the 10th bill date and some have the 16th bill date. Then they would meet the criteria to be submitted on the same spreadsheet as they are today. It would be a relatively simple "fix"."

Please advise the Qwest billing SDC's that Eschelon will use the process outlined in its ICA.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]



---

**From:** Johnson, Bonnie J.  
**Sent:** Friday, December 03, 2004 2:26 PM  
**To:** [Donna Devine (Qwest) email redacted]  
**Cc:** Johnson, Bonnie J.; Stichter, Kathleen L.; Copley, Ellen M.  
**Subject:** Eschelon comments - Qwest dispute billing claim business procedure version 9

Donna,  
Eschelon sent comments to Qwest on Version 8 of Qwest's proposed Wholesale Local Dispute Claim Process on 9/30/04. In those comments, Eschelon had significant concerns regarding Qwest's proposal. Though Qwest did make some changes as a result of Eschelon's concerns, too many unresolved issues remain on Qwest's proposal.

In response to your request, Eschelon again provides these additional comments on Qwest's proposed "Wholesale Local Dispute (Claim) Business Procedure." Again, the list below is not exhaustive, however, it gives you an idea of the issues that cause Eschelon to continue to object to this proposed procedure. Eschelon has been clear from the start that its interconnection agreement (ICA) controls, so Eschelon (and other CLECs with similar or other controlling ICAs) is not required to use the procedure. Nonetheless, Eschelon continues to attempt to work on the proposed procedure to assist Qwest in making it attractive to CLECs such as Eschelon so that they may choose to use it. Even still, that has not yet happened. The proposed procedure is not an improvement over the existing process, so Qwest has provided little incentive to use it. It appears that, as Qwest down-sizes its own operations, it is attempting to shift work to CLECs that appropriately belongs to Qwest. Much of the work involved in billing disputes, for example, would not be required at all if Qwest had met its contractual obligation to provide complete and accurate bills. It is inefficient to impose additional work on many CLECs that Qwest itself should be doing to process its own bills.

Qwest's proposed process creates additional work, such as:

- At least one new tab in the spreadsheet (a new claim form) must be created for all dispute memos under Qwest's process. This would be a total of up to 85 additional claim forms that would need to be created and maintained each month for all Summary BANs for Eschelon alone.
- On those additional claim forms, Qwest would require Eschelon to enter redundant data that is already on the summary tab. This additional manual entry greatly increases the work load for Eschelon.
- Navigating within dispute files becomes more complicated and time consuming due to the addition of these claim forms.
- All dispute reasons for all Summary BANs must be revised under Qwest's process. This would affect both dispute memos submitted the first month of implementation and new disputes going forward.
- Qwest requires additional contract/tariff information and/or locate and repeat ICA information and tariff citations that were already provided to Qwest in previous dispute memos. (On the claim form, for rates, Qwest requires both the page and section number for tariffs. This should either the page or the section number and not both).
- Historical Claim Forms and an additional detail worksheet for dispute back-up must be created for all disputes over 60 days under Qwest process. This is an attempt by Qwest

to circumvent the manner in which the PIDS operate. The PIDs are driven by the true date of the dispute. Qwest cannot alter the operation of the PID by creating a false date.

As discussed, Eschelon does not object to providing additional information (such as even more contract/tariff information than currently provided) when needed within the current process, and has already done so. Eschelon's objection is to the unnecessary additional work and rigid structure that introduces inefficiencies where much simpler minor changes to the current process would be sufficient. The proposed process introduces even more uncertainty and delay to billing disputes because Qwest has inserted unnecessary steps that it can use to reject claims for no substantive reason.

**Examples of specific issues with the document/proposed Process:**

**TITLE**

Qwest replaced the word process with business procedure - Please describe Qwest's intent of the name change from process to business procedure. Throughout the document Qwest still uses the term process and not procedure (for example the first sentence of description).

**DESCRIPTION**

The description fails to optional nature of the process. Eschelon objects to Qwest's use of mandatory language, such as "must" throughout the document.

Qwest states that the words bill date and bill period is interchangeable. Eschelon disagrees that these words are interchangeable. Eschelon believes a bill period is, for example, the 4<sup>th</sup>, 10<sup>th</sup>, 16<sup>th</sup>, etc. A bill date adds the month, so for example, it would be 9/04, 10/16, etc.

In general Eschelon never understood Qwest's clarification of the interchangeable words. If they mean the same thing, Qwest should use one or the other.

**TERMS AND CONDITIONS**

Consistent with the CMP document and CMP notices, this section should clearly state: "In cases of conflict between this process and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement." Qwest said that this language does not appear in Process PCATs and is specific to Product PCATs. However, Qwest itself uses this language in its own proposal under implementation. This language applies to the entire procedure and is not specific to intervals for submitting a claim. Eschelon asks Qwest to add this language to Terms and Conditions.

**IMPLEMENTATION**

**SUBMITTING A CLAIM**

See Terms and Conditions about first paragraph

**ADDITIONAL CLAIM SUBMITTING CRITERIA**

Second bullet. Eschelon recommends Qwest remove the i.e. and simply state "multiple months are allowed" for clarity.

Regarding the third bullet

For clarity once again, Eschelon recommends the sentence read "If CLEC is disputing multiple months, separate out the disputes.....etc.

If Qwest does not make Eschelon's recommended changes, Qwest should at least correct the typo Eschelon believe Qwest made. The date should read 01/10/04 in the i.e.

See also paragraph 6 under additional work

#### Example #2

Qwest agreed to allow Eschelon to put the claim form and summary information on the same tab. Version 9 of the business procedure does not state tab 1 and tab 2 can be combined. Qwest should add that option to the procedure.

#### EXAMPLE DETAIL TAB

Regarding the first paragraph after the table. Qwest should insert after SDC ", unless the ICA provides otherwise."

#### E-MAIL OUT OF OFFICE MESSAGE

CLECs have voiced their concerns about this section, and we understand that Qwest is looking into revising this section. Eschelon reserves the right to comment on the new section.

#### BILLING DISPUTE (CLAIM) NOTIFICATION FORM AND SUPPORTING INFORMATION

See comments above regarding additional work and specific sections.

In LTPA, Qwest agreed to provide certain detailed information to CLECs regarding dispute responses/resolution. Instead, in CMP, Qwest is attempting to shift that burden to CLECs (see column titled "Additional Customer Required Information").

#### FORM AND FIELD DICTIONARY

Eschelon recommends Qwest revise this paragraph to "If multiple months for same bill period are disputed....etc. At least correct i.e. to 01/10/04.

See also paragraph 6 under additional work

#### RECEIPT OF CLAIM

Eschelon finds Qwest's addition of "pursuant to a written agreement" highly objectionable. Qwest can negotiated changes to CLECs ICA's if Qwest wants a written agreement. This is not appropriate language for a business procedure and Qwest should remove this.

Subject line. The acknowledgement should include the same subject line as in the dispute if by E-mail.

#### Last bullet

Qwest needs to expand its description of the information provided in the response when a claim is rejected to ensure that the level of detail is no less than the level of detail required of CLECs. Currently, Qwest simply states that it will communicate what information is missing, without committing any detail. If the problem is something other than missing information, a detailed explanation is needed. Because Qwest would require a detailed claim form from CLECs, Qwest should likewise be required to complete a detailed acknowledgement response form with an equal level of detail. Qwest should draft one and distribute to CLECs for comments.

#### REJECTED CLAIM EXAMPLES

See comments above.

Regarding paragraph number two is particularly objectionable. Qwest should remove the last part of the sentence so the sentence reads "If the claim is missing required supporting information Qwest needs to process the claim." Language such as this suggests that Qwest is attempting to make the process more difficult and more likely to result in rejection.

Regarding paragraph number three. Qwest should clarify that the billing claim relates to a cost order and delete the word "final." Qwest has indicated on the adhoc calls, that it will abide by the effective date in Commission order.

Regarding paragraph number four. Eschelon understands Qwest's intent, however, the description remains unclear. Perhaps we could work on language on the call.

#### BILLS IN CABS/BOS FORMAT

See above regarding terms and conditions

#### QWEST RESOLUTION OF A CLAIM

See comments above.

Regarding the second paragraph of this section, it is unclear how Qwest intends to count claims if they are not resubmitted each month. The impact on invoice reconciliation is also unclear in situations in which CLEC does not pay a disputed portion of the bill. The following sentence of the same paragraph and example are also unclear.

Regarding Qwest "Definition of Qwest's Resolution" it is unclear what Qwest intends with this list. In addition, the note in the final bullet point is inaccurate. The Commission determines the implementation date.

The following will be entered on the resolution.

Qwest should state where this information will appear. Will it be in the body of the E-mail?

Subject line. Qwest should send the resolution attached to the original dispute for request. The additional correspondence will be difficult to manage. If Qwest never changes the subject line it will make it more manageable for the CLECs. Qwest can add the dispute ID to that subject line.

#### SAMPLE GRANTED DISPUTE RESOLUTION LETTER

Qwest did provide a sample letter, however, Eschelon recommends Qwest use a form and asks Qwest to provide a form field dictionary. Because Qwest would require a detailed claim form from CLECs, Qwest should likewise be required to complete a detailed Resolution Letter form with at least as much detail. Qwest should draft one and distribute to CLECs for comments.

#### SAMPLE PARTIAL (GRANT AND DENY) RESOLUTION LETTER

See above

Will Qwest be providing a form and field dictionary or sample letter for full denial?

#### QWEST STATUS OF A CLAIM

See above comments regarding level of detail, subject line and resubmission of claims. See also Terms and Conditions above.

#### ESCALATIONS

Regarding paragraph two. The second sentence is unclear. Depending on Qwest's intent, Eschelon will comment.

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]

**From:** Johnson, Bonnie J.

**Sent:** Thursday, September 30, 2004 12:38 PM

**To:** Doug Andreen (E-mail); [Donne Devine (Qwest) email redacted]

**Cc:** Clauson, Karen L.; Markert, William D.; Copley, Ellen M.; Stichter, Kathleen L.; Smith, Raymond L.; Johnson, Bonnie J.; Effler, Gary L.; Chad Warner (E-mail); Leilani Hines (E-mail); Michelle Sprauge (E-mail); Don Taylor (E-mail); Emily Baird (E-mail); Jennifer Arnold (E-mail); John Berard (E-mail); Liz Balvin (E-mail); Nancy Sanders (E-mail); Pj Koller (E-mail); Sarah Padula (E-mail); Donna NCAM Osborne-Miller (E-mail)

**Subject:** Wholesale Local Dispute Claim Process/Eschelon comments Revision 8

Donna,

In response to your request, Eschelon provides these additional comments on Qwest's proposed "Wholesale Local Dispute (Claim) Process." While the list below is not exhaustive, it gives you an idea of the issues that cause Eschelon to continue to object to this proposed process. Eschelon has been clear from the start that its interconnection agreement (ICA) controls, so Eschelon (and other CLECs with similar or other controlling ICAs) is not required to use the process.

Nonetheless, Eschelon has been willing to attempt to work on the proposed process to assist Qwest in making it attractive to CLECs such as Eschelon so that they may choose to use it. So far, that has not yet happened. The proposed process is not an improvement over the existing process, so Qwest has provided little incentive to use it. It appears that, as Qwest down-sizes its own operations, it is attempting to shift work to CLECs that appropriately belongs to Qwest. Much of the work involved in billing disputes, for example, would not be required at all if Qwest had met its contractual obligation to provide complete and accurate bills. It is inefficient to impose additional work on many CLECs that Qwest itself should be doing to process its own bills.

Qwest's proposed process creates additional work, such as:

- At least one new tab in the spreadsheet (a new claim form) must be created for all dispute memos under Qwest's process. This would be a total of at least 85 additional claim forms that would need to be created and maintained each month for all Summary BANs for Eschelon alone.
- On those additional claim forms, Qwest would require Eschelon to enter redundant data that is already on the summary tab. This additional manual entry greatly increases the work load for Eschelon.
- Navigating within dispute files becomes more complicated and time consuming due to the addition of these claim forms.
- All dispute reasons for all Summary BANs must be revised under Qwest's process. This would affect both dispute memos submitted the first month of implementation and new disputes going forward.
- Qwest requires additional contract/tariff information and/or locate and repeat ICA information and tariff citations that were already provided to Qwest in previous dispute memos. (On the claim form, for rates, Qwest requires both the page and section number for tariffs. This should either the page or the section number and not both).
- Historical Claim Forms and an additional detail worksheet for dispute back-up must be created for all disputes over 60 days under Qwest process. This is an attempt by Qwest to circumvent the manner in which the PIDS operate. The PIDs are driven by the true date of the dispute. Qwest cannot alter the operation of the PID by creating a false date.

As discussed, Eschelon does not object to providing additional information (such as even more contract/tariff information than currently provided) when needed within the current process. Eschelon's objection is to the unnecessary additional work and rigid structure that introduces inefficiencies where much simpler minor changes to the current process would be sufficient. The proposed process introduces even more uncertainty and delay to billing disputes because Qwest has inserted unnecessary steps that it can use to reject claims for no substantive reason.

**Examples of specific issues with the document/proposed Process:**

Qwest refused to conduct end to end testing of this process. Qwest limited the "trial" to form submission. The bulk of the process is untested.

**DESCRIPTION**

The description fails to describe the purpose of the proposed process. Unlike other descriptions in the PCAT or the SCAT this description begins to describe a piece of the process rather than its overall nature.

The description also fails to optional nature of the process. Eschelon objects to Qwest's use of mandatory language, such as "must" throughout the document.

The last sentence of the first paragraph of the description is inappropriate. This is an editorial comment and not a process or a description. It certainly does not describe the process from Eschelon's ICA (an opt in of the AT&T ICA). If Qwest insists on including such an editorial comment, Qwest should also include CLECs' position. For example, the description should say: "CLECs recommend you do not pay the total amount due until a claim for dispute is resolved, although the CLEC may pay late payment charges if not resolved in its favor.

The second paragraph

**DIAGRAM**

The diagram does not follow true flow chart format, so it is difficult to follow.

Because the diagram is an attempt to reflect the proposed process, Eschelon will not comment on it separately. To the extent the process is modified the diagram should be modified accordingly.

**TERMS AND CONDITIONS**

Consistent with the CMP document and CMP notices, this section should clearly state: "In cases of conflict between this process and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement."

Paragraph number one in this section should not be limited to time periods. As indicated above, all terms of the ICA prevail.

The second paragraph of this section is unclear. Qwest suggested that this language refers to a time period, but the language does not say that. Instead it refers to how claims will be analyzed. If Qwest is suggesting that the interval for claim resolution may depend upon applicable laws, Qwest should so state more clearly. Use of the passive voice ("will be analyzed") also adds ambiguity.

In addition the second paragraph refers to an ICA that is silent on this issue. Eschelon does not believe its ICAs are silent on this issue. If Qwest disagrees, Qwest needs to request an ICA amendment to be publicly filed. (Many existing ICAs do not have any CMP provision.) If Qwest believes a contract is silent on this issue and does not amend the contract, when the contract does not have exhibit G, but claims CLECs agreed to this process, query whether Qwest is operating under an unfiled agreement.

The third paragraph of this section is inaccurate and contrary to the ICAs. This statement is contrary to the process that has been in place between Eschelon and Qwest under their existing ICAs for a period of several years. Eschelon will continue to use the process it has been using. Any rejection by Qwest based on non use of this proposed process is inappropriate. As discussed

such a rejection will result in Eschelon using the formal notice process under the ICAs, and Larry Christiansen will likely be swamped with billing disputes. Once a resolution is reached, Larry and the unfiled agreements committee at Qwest will need to determine whether the resolution is an agreement that needs to be filed.

See also paragraph one of Additional Claim Submittal Criteria discussed below.

#### PRICING

This section is inapplicable and should be deleted. If Qwest nonetheless includes it, at a minimum it should indicate the prices are included in the ICAs.

#### IMPLEMENTATION SUBMITTING A CLAIM

Qwest should insert after SDC ", unless the ICA provides otherwise." The remainder of this paragraph is too narrow. It does not account for multiple numbers that do not readily fit in the subject line, for example. At a minimum, the word "must" should be changed to "may". Another possibility is to add "as space permits" at the end of this line. Rejecting a claim for failure to include such numbers in the subject line when Qwest receives the information as part of the email submission, would be inefficient, duplicative, and place form over substance. Examples such as this one suggest that Qwest is attempting to make the process more difficult and more likely to result in rejection.

The first two format options are unusable for the reasons previously discussed. Regarding the third format option, Qwest has agreed to delete the last sentence of its previous proposed language. Even with that deletion, the third option adds unnecessary work and undue complication, with no corresponding benefit. Eschelon already provides the needed information in spreadsheet form, and there is no point to complicating this by adding another form.

#### ADDITIONAL CLAIM SUBMITAL CRITERIA

Throughout this section, the term "Main Account Number" should be followed by the insertion of "Billing Telephone Number".

Paragraph one of this section assumes that Qwest has provided certain information to CLEC. It should be modified to indicate that CLEC needs to provide information only if Qwest provides it on the bill to CLECs. A general statement to this effect should be added to the terms and conditions section, because this concept applies to other provisions of the document. Qwest bills, at times, reflect inaccurate information or are missing information. Qwest cannot require CLECs to provide accurate information that Qwest did not provide and certainly cannot reject claims for this reason.

In paragraph 2-4 of this section, Qwest has inserted references to claim workbooks. Based on previous discussions, Eschelon believes Qwest did this in error (or is misusing the term workbook). As previously discussed Qwest has agreed to allow multiple claims on one spreadsheet/workbook. If, however, Qwest intended to make this change, Eschelon objects to this increased work. Eschelon currently provides very specific detailed information by BAN to Qwest for disputes. For the ease of both parties, Eschelon often places these disputes in one spreadsheet. Qwest's proposed process, would create additional work and complication by requiring multiple spreadsheets.

Regarding paragraph 5. See comments above regarding additional work. It is also unclear why the CLEC needs to provide the name of Qwest's own SDC to Qwest.

Regarding paragraph 6. This information is already provided.

Regarding paragraph 7. There is no need to duplicate the BTN on the detail tab because it is on the summary tab. The more relevant information is the detail which is already provided. Unlike the

current process which allows copying and pasting from Billmate, this provision would require additional manual typing of this information.

Regarding paragraph 8. See note above as to terms and conditions.

Regarding paragraph 9. See note about 60 days and the PIDs.

Paragraph number 10 is unclear. If Qwest intends to require separation of disputes even when Qwest combines the information on its own bills, this is particularly objectionable. In addition, if Qwest is attempting to alter the operation of the PID, this is an improper use of CMP. Qwest has clearly taken the position in the past that such changes must be made, if at all, through LTPA and approved by the Commission.

Regarding rejection of the claim for missing information, see above.

#### OUT OF OFFICE MESSAGE

CLECs have voiced their concerns about this section, and we understand that Qwest is looking into revising this section. Eschelon reserves the right to comment on the new section.

#### CUSTOMER BILLING DISPUTE (CLAIM) NOTIFICATION FORM AND FIELD DICTIONARY

See comments above regarding additional work and specific sections.

In LTPA, Qwest agreed to provide certain detailed information to CLECs regarding dispute responses/resolution. Instead, in CMP, Qwest is attempting to shift that burden to CLECs (see column titled "Additional Customer Required Information").

#### ACKNOWLEDGMENT OF CLAIM

The acknowledgement should include the same subject line as in the dispute if by E-mail.

#### EXAMPLES WHEN A CLAIM WILL BE REJECTED

See comments above.

This section is unclear. Use of the passive voice also adds ambiguity. For example, who decides if a request is "considered and inquiry only"? If a CLEC has committed the time and resources to completing the claim form per Qwest's process, Qwest should not be able to unilaterally deem it an inquiry only.

Qwest needs to expand its description of the information provided in the response when a claim is rejected to ensure that the level of detail is no less than the level of detail required of CLECs. Currently, Qwest simply states that it will communicate what information is missing, without committing any detail. If the problem is something other than missing information, a detailed explanation is needed. Because Qwest would require a detailed claim form from CLECs, Qwest should likewise be required to complete a detailed acknowledgement response form with an equal level of detail. Qwest should draft one and distribute to CLECs for comments.

Regarding paragraph number two, Qwest should clarify that the billing claim relates to a cost order and delete the word "final." Qwest has indicated on the adhoc calls, that it will abide by the effective date in Commission order.

Regarding paragraph number 3, CLECs should not have to resubmit the dispute or the form. This paragraph is also unclear.

Paragraph number 5 is particularly objectionable. If Qwest fails to correct billing errors before the next bill cycle, a new dispute may be appropriate. Problems with bill media are also appropriate disputes. Frequently, for example, Qwest provides Billmate files that are missing required field information or contain inaccurate information. For example, in May, most of the bills for AZ, CO



and UT were missing the service order classification and number and contained the wrong or missing WTN on the MONTSERV file. Qwest's error prevented Eschelon from validating the bills and the dispute was therefore required. As indicated above, Qwest should not be able to avoid its obligation regarding billing disputes by claiming the dispute is an "inquiry."

Regarding paragraph number 6. If this is an issue, Qwest needs to provide the specific limitations it is referring to.

#### BILLS IN CABS/BOS FORMAT

See above regarding terms and conditions

#### QWEST RESOLUTION OF A CLAIM

See comments above.

Regarding the second paragraph of this section, it is unclear how Qwest intends to count claims if they are not resubmitted each month. The impact on invoice reconciliation is also unclear in situations in which CLEC does not pay a disputed portion of the bill. The following sentence of the same paragraph and example are also unclear.

Regarding Qwest "Definition of Qwest's Resolution" it is unclear what Qwest intends with this list. In addition, the note in the final bullet point is inaccurate. The Commission determines the implementation date.

For the next two sections regarding the content of the Resolution Notification Letter, Eschelon disagrees with Qwest's conclusions about what is required and what may be optional. For example, the claim resolution, amount in dispute, and additional detail must be included. As discussed above with respect to the acknowledgement, Qwest needs to provide at least as much detail as it requires of CLECs and committed to in LTPA. Qwest should compare, for example, the detail list under "Additional Customer Required Supporting Information" in the section of the document describing the claim form with the minimal level of detail listed in this section. Because Qwest would require a detailed claim form from CLECs, Qwest should likewise be required to complete a detailed Resolution Letter form with at least as much detail. Qwest should draft one and distribute to CLECs for comments. For example, despite its agreement in LTPA, Qwest states that it will only provide a docket number for a cost case. Qwest needs to provide the specific citation to the applicable portion of the order. Qwest states that it "could" include certain information when it should say it "will."

#### QWEST STATUS OF A CLAIM

See above comments regarding level of detail and resubmission of claims. See also Terms and Conditions above.

#### PAYMENTS and PAYMENT HISTORY

The ICAs deal with payments and are not appropriately part of a billing claim procedural document/process. The information is also incorrect especially with respect to the last paragraph of the payment history.

#### REMAINING PROVISIONS OF THE DOCUMENT

Eschelon has not reviewed URL's in the remaining sections to see if they are accurate.

See above comments.

Eschelon has previously described issues with the document/process. If Qwest has questions we can discuss on the next adhoc call.

Thank you,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]

**From:** Johnson, Bonnie J.  
**Sent:** Friday, July 23, 2004 5:00 PM  
**To:** [Donne Devine (Qwest) email redacted]  
**Cc:** Doug Andreen (E-mail); Johnson, Bonnie J.; Markert, William D.; Smith, Raymond L;  
Clauson, Karen L.; Copley, Ellen M.; Stichter, Kathleen L.; Isaacs, Kimberly D.  
**Subject:** Eschelon response and example dispute

Attachments contain confidential CLEC information

Donna,

As discussed on the 7/15/04 Billing dispute process ad-hoc call, Eschelon is willing to move forward to work collaboratively with Qwest to develop an optional billing dispute process. The goal would be to make the process attractive enough for all CLECs to use. To reach that goal, Qwest and CLECs will need to work collaboratively to develop a process that meets the needs of all CLECs. As the Qwest CMP ad-hoc meetings progressed, and CLECs raised concerns and provided comments, it became apparent to Eschelon that each CLEC had developed a unique dispute process with their dedicated Qwest billing SDC team. Eschelon spent two years developing a mutual process with its dedicated Qwest billing SDCs. That process has met both Eschelon and Qwest's needs since it was developed and implemented. Qwest must have recognized each CLEC is unique and has different volume, pricing, products and internal processes and a "one size fits all" approach would not be an effective way to help their customers manage the billing disputes a CLEC sends Qwest when Qwest bills a CLEC incorrectly. As a result, Qwest and CLECs choose to include the terms of the billing dispute the CLECs ICA. For Qwest to now say Qwest prefers the process MCI currently uses may meet MCI's needs, however, that leaves other CLECs with significant changes and increased work load with no benefit to the CLEC.

Eschelon believes the appropriate approach would be to allow each CLEC to continue to use its current spreadsheet format and continue sending the same information the CLEC sends using the format under a CLECs current process. In one of the first ad-hoc meetings, Eschelon asked Qwest if Eschelon could continue to use the current spreadsheet and submit multiple forms to care for the different BANS and bill dates. Eschelon understood Qwest agreed to that process, however, in a later meeting when Eschelon asked the question again because Eschelon had concerns about a portion of the process Qwest was proposing, Qwest said it would not allow Eschelon to keep its current spreadsheet intact. Perhaps if Qwest had provided meeting minutes reflecting the conversation that took place in the first meeting, Qwest or Eschelon may have recognized the different understanding of the conversation sooner than later.

The following was Eschelon's understanding:

General

- Eschelon requested Qwest provide the "Customer Billing Dispute (Claim) Notification form" in an EXCEL format. That request did not get noted
- Eschelon would attach the above form as a tab in the spreadsheet

Example (1)

Western region (includes two BANS, one for WA and one for OR – both share the same bill date). This one spreadsheet would represent two separate claims. Eschelon would label the “form tab” and the “detail tab” in an agreed upon format so Qwest can easily recognize they go together.

The end result would be:

1. One E-mail
2. One spreadsheet
3. Two forms contained within the spreadsheet



Example-Disp  
Memo.xls (498 KB)..

Example (2)

Central region (includes Utah Resale, Utah UNE-P and Utah UNE-Star BANS –not all BANS have the same bill date)

This spreadsheet would represent three separate claims. Eschelon would label the “form tab” and the “detail tab” in an agreed upon format so Qwest can easily recognize they go together.

The end result would be:

1. One E-mail
2. One spreadsheet
3. Three forms contained within the spreadsheet



Example-UT Disp  
Memo.xls (1,01...

Thanks for your consideration,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]

-----Original Message-----

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, July 08, 2004 10:21 AM  
**To:** Doug Andreen (E-mail)  
**Cc:** Johnson, Bonnie J.  
**Subject:** Eschelon's Comments on Qwest's Version 4 Billing Dispute Process

Eschelon objects to Qwest's proposed CR. Qwest's proposed CR is beyond the scope of the commitment Qwest made to LTPA. Qwest is trying to change a CLECs legal rights by calling it process. Although Qwest claims that there is a correlation between its proposed “process” and the billing PIDs, that correlation does not exist for the vast majority of Qwest's proposal. Qwest's proposal applies to many invoices/products not even measured by the billing PIDs. In fact, Qwest has refused to add such items to those PIDs. (See, e.g., Issue 5, LTPA Issues Matrix at

[http://www.qwest.com/about/policy/ltpa/docs/June\\_2\\_Matrix.pdf](http://www.qwest.com/about/policy/ltpa/docs/June_2_Matrix.pdf).) In addition, Qwest continues to expand its proposal to move even farther from LTPA's initial purpose. For example, in Qwest's 4<sup>th</sup> revision of the Dispute Claim Process, Qwest added an entirely new 90 day provision (discussed below) that is unrelated to the amount of detail that accompanies dispute denials. The single issue that is relevant to the billing PIDs, however, is Qwest's commitment to provide additional detail when Qwest denies a billing dispute initiated by the CLEC (at least if the CLEC so desires this information). Qwest and CLECs can agree to such a process for providing additional detail. The remainder can and should be dealt with in each CLEC's ICA.

The problems at issue arise because of Qwest's failure to provide accurate billing to CLECs. Qwest resources should be spent improving billing accuracy rather than Qwest's elaborate proposal. Qwest's proposal would significantly increase resources required by CLECs to dispute bills. For example, the number of dispute notifications required by Qwest's inefficient proposal would be approximately 5 times the number of dispute notifications Eschelon currently initiates each month, for the same number of disputes. CLECs already expend too many resources on billing disputes and Qwest's proposed process adds additional steps that create no additional benefit to CLECs.

Qwest's proposal states that certain time deadlines or steps apply when an ICA does not contain that particular time deadline or step. Qwest is attempting to misuse CMP to unilaterally impose its own interpretation of ICA language. CLECs may interpret silence as to a time limit or step to mean that there is no time limit (or the time limit is elsewhere in the ICA or state law, such as a limitations period) or that no step is required. If Qwest disagrees with an ICA interpretation, the proper procedure is to invoke the ICA dispute process. Qwest's proposal is an attempt to displace the Commission's or Arbitrator's authority to decide such issues. At a minimum, Qwest's language misleads business personnel at CLECs about the meaning of the ICA and whether that meaning is decided. Qwest's statements about the ICA are too broad and out of context. Qwest cannot say that a deadline applies, for example, when it hasn't even checked a particular ICA to determine whether that is the case or whether there is other language in the ICA to the contrary.

Another problem with Qwest's proposed 90 day limit is the language "from when the charge first appeared on the bill" is that it does not account for billing errors that legitimately are not discovered until later. For example, Qwest recently asked Eschelon about the status of certain lines being billed. When Eschelon investigated, Eschelon found that Qwest was billing Eschelon for those lines even though Qwest sent loss reports to Eschelon for these lines in 2002 and 2003. Under the current process, Qwest has properly agreed to refund those payments back to 2002 and 2003. Qwest's proposal would lead to unfair results such that Qwest would benefit from its own billing errors and is a significant departure from Qwest's current practice. Pursuant to Qwest's current process, "Questions concerning the application of the CLEC/Qwest ICA are considered compliance issues" that are dealt with outside of CMP (See <http://www.qwest.com/wholesale/downloads/2002/020729/QwestServiceCenterManagerRolesRelationtoCMP06-06-02.doc>). The documentation containing this statement was developed in CMP redesign. Qwest cannot now unilaterally deal with contact application issues in CMP in violation of its own process and its commitment in CMP redesign. This issue is one of the application of contract/ICAs and not a CMP issue. It is beyond the scope of CMP.

With respect to Qwest's proposed form and related process (See page 13 of Qwest's 4<sup>th</sup> version of its proposed "process"), it is overly complicated, insufficiently flexible, and contrary to Qwest's current escalation process (which allows CLEC to go to any level at anytime and go to a higher level of Manager than identified in Qwest's proposal). Qwest's proposal places form over substance. Even if a CLEC provides Qwest with every piece of information Qwest needs to address a billing dispute completely, Qwest's proposed process would allow Qwest to reject a legitimate dispute based on alleged non compliance with a rigid form. Resubmission of the form is extra work and causes delay. Qwest's proposal introduces unnecessary resource burdens and delays.

Regarding the section on "returns of claims" (See page 11 of Qwest's 4<sup>th</sup> version of its proposed "process"), Qwest's terminology is a euphemism that causes unnecessary confusion. Instead of

using "returned," Qwest should simply say "rejected" because that is what Qwest means. Regarding number 5 in Qwest's list of examples of when a claim will be rejected, Qwest needs to delete this "example" from the list. If the parties disagree as to the need for an ICA amendment or the source or application of a rate, Qwest should accept the dispute and take the normal steps to obtain resolution of the dispute. Unlike some of the other examples, a claim rejected based on reason number 5 cannot be "corrected" and resubmitted. A decision is needed regarding the disagreement of the parties. Therefore, the dispute needs to be recognized and get resolved. As to the remaining examples, Eschelon understands Qwest plans to revise the examples. Eschelon reserves the right to comment on Qwest's proposed language, if Qwest continues to pursue its proposal.

Eschelon opposes Qwest's CR. Eschelon reiterates its request that Qwest instead initiate a notice on this issue. The notice should state that Qwest will provide CLECs with the detailed reason(s) for Qwest's denial of a dispute (which reasons have been agreed upon in the LTPA/CMP joint meeting) when Qwest denies a CLEC's billing dispute, if a CLEC makes a one-time request to receive such information on an ongoing basis. (Because the process would be optional, a level one notice is sufficient. However, because this issue has already been dealt with in CMP, Qwest could also modify its CR to deal with just this one issue and deal with it that way, if that is preferable to Qwest.) This notice would meet the commitment Qwest made in LTPA. If a CLEC requests this information for future dispute resolutions and Qwest fails to provide the required information, then Qwest's response should count as a miss in BI-5B. If a CLEC does not request the detail, Qwest may count the response as timely, assuming Qwest responds to the claim within 28 days of acknowledging the claim. (Alternatively, Qwest can provide the committed additional detail to all CLECs if it is easier for Qwest to do so.)

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]

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**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, May 12, 2004 1:21 PM  
**To:** [Donna Devine (Qwest) email redacted]  
**Cc:** Smith, Raymond L; Isaacs, Kimberly D.; Copley, Ellen M.; Markert, William D.; Johnson, Bonnie J.; Mike Zulevic (E-mail); Stephan Calhoun (E-mail); Liz Balvin (E-mail); Stichter, Kathleen L.  
**Subject:** Billing Dispute process/Eschelon response

Donna,  
I am attaching Eschelon's response that Qwest and the CLECs agreed was due by COB on 5/13/04. As a general note, Eschelon believes that Qwest's CR has significant changes to Eschelon's existing billing dispute process. Qwest committed in LTPA to providing more detail on its resolution responses. Qwest said it had to submit a CR to make those changes. The CR Qwest submitted is a complete redesign of the entire dispute process. Qwest said "Qwest's expectation was that CMP would address several aspects of the billing claim process". Qwest has always had the ability to address the billing claim process in CMP. If Qwest had submitted the request to CMP with only the change Qwest committed to making in LTPA and needed to go through CMP to make, (increasing the detail on the resolution response) the change could have been implemented quickly. This change does not impact CLECs process and could be considered "optional" because the CLEC could choose to review the additional data Qwest would

provide, or not. Instead, Qwest submitted a CR that had changes well outside the scope of the LTPA commitment Qwest made.

Comments on the revised draft document:

- 1.) Pages 4 and 5 of Qwest's revised document contains four examples of disputes submitted. Qwest states that the first two examples will be excluded from BI-5. However, Qwest has populated "1" in the BI-5A and BI-5B "count". How can a dispute be excluded from the PID and at the same time included in the PID?
- 2.) (New question based on MCI #22) On page 9 of the revised document, Qwest states that if "a claim is determined to be a legally disputed claim, the claim will be resolved and [sic] resolution letter sent." Will Qwest's resolution letter state "Status", "Resolution" or some other identification of the response type?

Please let me know if you have questions or concerns.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [REDACTED]  
Fax [REDACTED]  
Cell [REDACTED]  
[email redacted]

**Questions from Eschelon, MCI and Cbeyond related to Supporting Documents Associated with Dispute (Claim) Process CMP PC040604-1 – Revision 1 dated 4/20/2004**

#	CLEC Question	Qwest Response
1	<p><b>Eschelon</b> <b>Date receive: May 3, 2004</b> <b>Question:</b> Qwest asserts that this CR is in response to requests made by CLECs in Long Term PID Administration ("LTPA").<sup>1</sup> Explain how each change Qwest proposes to how CLECs submit claims is necessary to respond to the CLEC request for Qwest to provide additional detail in Qwest's responses when it denies a CLEC claim.</p>	<p>Qwest's expectation was that CMP would address several aspects of the billing claim process. Included in that was the additional details in Qwest's response when it denies a CLEC claim. The combination of the change request and ensuing CMP discussion go to the heart of that matter.</p> <p>Specifically, Qwest's intent is to expand on the level of detail currently provided on the resolution letters.</p> <p>If Qwest denies or grants a claim, our system will be able to generate consistent information back to you driven from the data submitted with the initial claim. This will assist in providing consistent data on your resolution letter.</p> <p>The following should be entered on the Resolution:</p> <ul style="list-style-type: none"> <li>• Today's Date</li> <li>• Your Contact Name:</li> </ul>

<sup>1</sup> Qwest April 26, 2004 Documentation at 3.

		<ul style="list-style-type: none"> <li>• Your Address</li> <li>• City, State, Zip code</li>   <li>• Identify if Status or Resolution</li>   <li>• Customer Claim #, if available</li> <li>• Qwest Dispute ID #</li> <li>• If it forms the basis of the denial, Cost docket, and Docket # will be included</li> <li>• If <u>it</u> forms the basis of the denial, the Service order will be included <u>(Eschelon does not track by service order number. Qwest should provide the PON that generated the service order/orders or in the case of M&amp;R charges the Qwest trouble ticket number.)</u></li> <li>• If it forms the basis of the denial, Interconnection Agreement (IA), SGAT or tariff, the section will be included <u>(Eschelon requests additional documentation on the level of detail Qwest will provide. For example, the section of the ICA should be down to the paragraphs that Qwest is referencing (2.4.4.2.3 not just section 2.0) and Qwest should tell the CLEC which tariff Qwest is referring to as well as the exact section of that tariff. Qwest should remove SGAT from this section. If a CLEC is operating under the SGAT, that is their ICA.)</u></li> </ul> <p>The following applies to Resolution only:</p> <ul style="list-style-type: none"> <li>• Claim Resolution (Deny, Grant or Partial Deny or Grant)</li> <li>• Amount in Dispute</li> <li>• Spreadsheet or other documentation that details the resolution for each Dispute Type, including how or why the conclusion was reached</li> <li>• Credit Invoice Period: mm/dd/yyyy to mm/dd/yyyy</li> <li>• Credit should appear on your mm/dd/yyyy bill</li> </ul>
2	<p><b>Eschelon</b> <b>Date received: May 3, 2004</b> <b>Question:</b> In LTPA, Qwest “agreed to advocate before the CMP, processes and procedures to provide greater detail when a claim is denied.”<sup>2</sup> Why has Qwest failed to document in this CR the detail Qwest will provide when Qwest denies claims such as, citing cost docket orders/compliance filings and/or sections of Interconnection Agreements?</p>	<p>The detail was not in the initial change request because it was a judgment call on the appropriate level of detail to include. Based on CLEC feedback, that detail has been added. It was always Qwest’s intent to discuss the level of resolution detail in the CMP process. Qwest’s intent remains to expand on the level of detail currently provided on the resolution letters. Qwest will cite a Cost Docket/compliance filing and or sections of Interconnection Agreements in resolution letters</p>

<sup>2</sup> See LTPA Final Issues Matrix, March 25, 2004 at 6.

		See #1
3	<p><b>Eschelon</b> <b>Date received: May 3, 2004</b> <b>Question:</b> If a CLEC disputes Qwest’s denial of a claim, Qwest states that the CLEC “will be required to explain why you disagree with the resolution.”<sup>3</sup> How can CLECs provide an explanation unless Qwest provides its reason for denying the claim?</p>	<p>As stated in the response to an earlier question, Qwest will provide the level of detail in the resolution for the customer to understand the reason for the denial. The expectation is that when challenging a denial of a claim, the specific details from the resolution that are in question be provided.</p>
4	<p><b>Eschelon</b> <b>Date received: May 3, 2004</b> <b>Question:</b> In this CR, Qwest is attempting to require CLECs to cite cost docket/tariff, including section or page number, or Qwest will reject the CLEC’s claim.<sup>4</sup> Please explain why Qwest is attempting to avoid its burden to charge appropriate rates. Qwest’s approach to its customers should not be, “prove to me Qwest can’t charge this.” Please also explain if it is Qwest’s intent to begin rejecting disputes that do not contain the proposed “Customer Required Supporting Information.”</p>	<p>Qwest’s intent is to expand on the level of detail currently provided on the resolution letters. Qwest is committed to providing accurate bills to you. Providing the cost docket/tariff and contract references in the claim will help Qwest to understand exactly what is being disputed. This should assist in providing a quality resolution letter to you. Yes, it is the intent for Qwest to return disputes that do not contain customer-required information. <u>(Eschelon comment – Qwest states above that Qwest’s intent is to expand the level of detail it provides on resolution letters. Instead, Qwest has designed the process so the CLEC has the onus to first provide to Qwest the very detail Qwest said it would provide. That being the case, Eschelon asks Qwest to include the detail required to justify charges on the bills it sends to the CLEC. For example, the bill should have per ICA section 2.4.3.4 or per next to a USOC, NRC, RC or M&amp;R charge, so the CLEC can verify whether Qwest is appropriately charging the CLEC.)</u></p>
5	<p><b>Eschelon</b> <b>Date Received: May 3, 2004</b> <b>Question:</b> Please define the terms “claim” and “dispute” as used by Qwest. Qwest’s glossary provides that the two words are interchangeable, but does not define what a claim is.</p>	<p>Dispute is to “call into question”. Claim is “this matter needs (claims) attention: <u>(Qwest has provided a “dictionary definition”. Eschelon will clarify the request. Please provide a definition that describes Qwest use of the term in this process. Eschelon asks Qwest to define all terms it uses the first time in this process in some manner.)</u></p>
6	<p><b>Eschelon</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Qwest currently reports BI-5 performance based on however the CLEC submits the dispute. For example, if the CLEC submits one claim for multiple invoices, Qwest acknowledges and responds to that one claim submission. Please explain precisely the intent of the proposed Dispute Detail Section Information Section #11. The description of</p>	<p>Qwest is asking that claims greater than 60 days from the bill period be submitted on one claim and less than 60 days from the bill period on another claim. Or, if multiple disputes are submitted, we will use the oldest bill date. <u>(Eschelon comments – Qwest stated in the response to #1 that “Qwest’s expectation was that CMP would address several aspects of the billing claim process.” In short, Qwest is making changes to the billing dispute process that would not be</u></p>

<sup>3</sup> Qwest April 26, 2004 Documentation at 7.

<sup>4</sup> Qwest April 26, 2004 Documentation at 5.



	<p>Section #11 is too vague. The intention of this section appears to greatly expand the number of disputes that CLECs must submit each month.</p>	<p><u>required to meet the commitment Qwest made to LTPA. The form Qwest has introduced has no bearing on and does not drive the PID. Qwest does not require the form now to report this PID. Qwest stated that information the CLEC would provide on this form is manually loaded into a tracking database. Is the information Eschelon currently sends manually entered into this database? It is Eschelon's understanding that database is the source of the data for the PID and not this form. The form and its required fields are a significant change to the existing process Eschelon and the Qwest billing team spent almost two years developing. Since Qwest currently reports this PID using the current process, Eschelon recommends that Qwest use this CR, which Qwest told LTPA it needed, to implement a process to provide more detail on the resolution letter. Qwest then can submit a separate CR if it wishes to make additional changes to the billing dispute process that are unrelated to the changes required to fulfil its commitment to LTPA.)</u></p>
<p>7</p>	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Please define the term "Dispute Reason Code" on page 6 of the Documentation. How is this term different from "Dispute Type"?</p>	<p>Dispute Reason Code and Dispute Type mean the same. The document will be changed to reflect this.</p>
<p>8</p>	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question</b> How will Qwest use Field 16 to link the current dispute to a prior dispute?</p>	<p>This provides a way for the customer to reference the dispute ID # they disagree with. If you disagree with Qwest's resolution, Qwest will need to know what claim number the customer disagrees with so the Service Delivery Coordinator (SDC) can refer to that claim.</p>
<p>9</p>	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> In this CR, Qwest states, "If you receive an 'Out of Office' message, you may send the claim to the SDC backup. If the claim is not sent to the SDC backup, the receipt of the claim will be the day the SDC is scheduled to return to the office." Please remove this limitation as it conflicts with Qwest's PID language. The BI-5 PID defines the date of receipt as follows: "Date of receipt is the date Qwest receives the claim."</p>	<p>The out of office issue was discussed and agreed upon at the February 20, 2004 LPTA Ad Hoc meeting (<u>Eschelon agrees this process was discussed at the February 20, LTPA Ad Hoc meeting, however, Eschelon does not agree that CLECs agreed to this process. Qwest has not yet provided the minutes of this meeting for review. John Kern (LTPA facilitator) reported for this meeting "2/20 - Qwest has withdrawn the "legally disputed claims" exclusion. Qwest will review the proposed PID to determine if changes are required as a result of open cost docket proceedings (e.g., no written order is available or rates are retroactive). Qwest rejected the proposal by Eschelon to extend the claims period from 60 days to 90 days but CLECs agreed to review the use of national OBF guidelines to see if it addresses this issue. CLECs agreed to develop a proposal to include "timely credits" and a new diagnostic disaggregation to count the % of resolved claims denied by Qwest that CLECs</u></p>

		<p>challenge within “x” number of days. Both proposals are due by Mar. 1 To assist in this effort, Qwest agreed to forward billing claim PIDs used by other ILECs. This issue will be discussed again on 2/27 at 1:30 MST/2:30 CST.” As you can see, John Kern makes no mention of this change that Qwest said CLECs agreed to. In addition, the updated March 11<sup>th</sup> draft Qwest sent to LTPA did not reflect this change. A change of this nature impacts CLECs business units and would need to be communicated. Qwest’s confusion on this issue supports the need for joint LTPA/CMP meetings when PID changes a CLECs business operations process.)</p>
10	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Please define the words “returned” and “closed” in Acknowledgment of a claim section on page 7 of the Qwest Documentation</p>	<p>Return means to send back to the customer. Closed means no further action by Qwest. (Eschelon comments - On page 8 of the revised document, Qwest states that if "required information is missing from the dispute, Qwest will send an acknowledgment response indicating why the dispute is being returned. The dispute will be considered returned (sent back to the customer) and closed (no further action by Qwest &amp; no internal Qwest Dispute ID number assigned)..."</p> <p>Eschelon understands the insertion of the parenthetical remarks in the document to be in response to Eschelon's question #10. This response did not address the issue intended by the question. So, Eschelon submits this follow up questions:</p> <p>On page 5 of Qwest's revised document, Qwest describes two examples of disputes submitted by CLECs that have multiple dispute types. Suppose that the CLEC's dispute was missing necessary information on only the "TAX" portion of each of these forms--i.e., the CLEC had provided all necessary information on the other dispute type(s). Would Qwest process (i.e., investigate fully and resolve) the portions of the dispute with all the necessary information? How would Qwest populate the last three columns of the table ("Exclude from PID (y/n)", "BI5A count", and "BI5B count") for these two scenarios?)</p>
11	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Please explain why a CLEC can only submit a disagreement with Qwest’s response “once”, per Qwest Dispute ID number.<sup>5</sup></p>	<p>When notified of a disagreement the first time, Qwest will work with the customer to a final disposition. Multiple communications regarding the disagreement are not necessary, and in fact, would take up valued time for both parties. (Eschelon recommends that Qwest state that</p>

<sup>5</sup> Qwest April 26, 2004 Documentation at 8.

		<u>CLECs should follow the dispute/escalation process to their ICA)</u>
12	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Please explain the mapping between the proposed Customer Billing Dispute Notification Form and the Field Dictionary. There are discrepancies between the two documents (see, for example, Field 14).</p>	Field 14 should read Total # of disputed items and will be corrected in the document
13	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> What is the purpose Field 14 ("Total # of Disputed Items") on the proposed Customer Billing Dispute Notification Form?</p>	<p>This identifies if you are disputing 10 items or 10000 items (i.e. sub-accounts). (This data is not required for Qwest to report this PID. BI-5a is based on receipt and BI-5b is based on dispute type, bill date, within 60 days, etc. The numbers of items is not a basis for the measure. See # 6 Eschelon response.)</p>
14	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> How will CLECs identify Status Notifications?</p>	<p>The word STATUS will be on the notification (Eschelon recommends Qwest add "status" or Resolution" to a <del>defined</del> spot in the response, such as the subject line. This will eliminate any confusion if the content of the information Qwest sends the CLEC includes, for example, the word "status" in a resolution response or visa versa.)</p>
15	<p><b>Eschelon:</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Please respond to the CLEC request for joint LTPA-CMP meetings under Section 2.6 of the CMP Document for this CR.</p>	<p>In the CMP meetings there are Qwest representatives from both CMP and LTPA. From our perspective, that meets the CLEC request. (Eschelon adds that Qwest submitted this CR but there was no communication to LTPA that the CR existed or what it requested.)</p>
16	<p><b>MCI</b> <b>Date received: May 3, 2004</b> <b>Question:</b> Submit claims using the following form. If you have an agreement with the Billing Center, you may also attach a spreadsheet with all required information. If required information is not provided, the claim will be returned and considered closed. <b>MCI Comment: Spreadsheet must be an option for all Parties.</b></p>	<p>Spreadsheet is an option. The phrase "if you have an agreement with the Billing Center you may" will be removed from the document.</p>
17	<p><b>MCI</b> <b>Date received: May 3, 2004</b> <b>Comment:</b> If multiple bill dates are disputed (i.e. 4<sup>th</sup>, 7<sup>th</sup>, 10<sup>th</sup>), dispute claims must be split out by bill date/year. Enter claims within 60 days of the bill date on one claim and those greater than 60 days on another claim. If the disputes greater than 60 days from the bill date are not separated from those within 60 days from the bill date, Qwest will group using the oldest bill date. <b>MCI Comment: MCI currently keeps disputes</b></p>	See #6

	<p>separated by billing account numbers. Is it Qwest's intent that a dispute for each invoice date for each ban must be filed? It would be cumbersome to file a "Claim Form" for the same issue month after month. One claim to identify the issue should be sufficient, using a spreadsheet to outline the activity on a monthly basis.</p> <p><i>list comment as verbatim from CLEC</i></p>	
18	<p><b>MCI</b> <b>Date received: May 3, 2004</b> If you receive an "Out of Office" message, you may send the claim to the SDC backup. If the claim is not sent to the SDC backup, the receipt of the claim will be the day the SDC is scheduled to return to the office. <b>MCI</b> Question: This is not feasible and places the burden on CLECs to track Qwest personnel schedules. In addition, CLECs disputes will be delayed based on Qwest personnel schedules. The BI-5 PID defines as "Date of receipt is the date Qwest receives the claim"</p>	See #9
19	<p><b>MCI</b> <b>Date received: May 3, 2004:</b> The Qwest Billing SDC will investigate and attempt to resolve the claim of dispute within 28 calendar days after acknowledgment of the claim. If the Qwest Billing SDC is unable to resolve the claim within 28 calendar days after acknowledgment of the claim, a status update will be provided in writing on a status notification. <b>MCI</b> Question: Distinction between final resolution and status notice is not clear. CLECs must be able to differentiate. Need to define what instances would constitute not meeting the 28 calendar day interval (the exceptions to the rule). In addition, status notification must identify follow-up resolution time frame.</p>	The letter will say either Status or Resolution. The follow-up date for status will be either the next 28-calendar day or the actual resolution.
20	<p><b>MCI</b> <b>Date received: May 3, 2004</b> MCI Question: Qwest must provide sufficient details when a claim is denied. In LTPA, Qwest agreed to advocate in CMP sufficient details surrounding when a claim is denied. Why has Qwest failed to document in the CR the detail Qwest will provide when Qwest denies claims such as, citing cost docket orders/compliance filings and/or section of the Interconnect Agreements?</p>	See #1 and #2
21	<p><b>MCI:</b> <b>Date received: May 3, 2004</b> MCI Comment: Bullet that includes follow-up resolution time frame</p>	<p>Bullet added: The letter will say either Status or Resolution. The follow-up date for status will be either the next 28-calendar day or the actual resolution.</p>

<p>22</p>	<p><b>MCI</b> <b>Date received: May 3, 2004</b> Definition of Legal Dispute:</p> <ul style="list-style-type: none"> <li>• Referrals to the Qwest attorney that contemplate a need for litigation, arbitration or other dispute resolution pursuant to an Interconnection Agreement, or where the customer's attorney has actively joined the resolution of the claim." If a claim is determined to be a legally disputed claim, the claim will be resolved and resolution letter sent. This includes bankruptcies.</li> </ul> <p>MCI Question: The escalation process must be clearly defined in this section, including but not limited to timeframes and dollar levels of authority.</p>	<p>Need more clarification on this question.</p>
<p>23</p>	<p><b>MCI</b> <b>Date received: May7, 2004</b> If you do not agree with the resolution letter, you may send in a new dispute within 90 business days from receipt of the resolution letter using the Customer Billing Dispute (Claim) Notification Form. You will not be required to submit the "type of dispute" again, but you will be required to explain why you disagree with the resolution. If the issue can not be resolved between you and the SDC, the SDC will escalate to the SDC supervisor. The supervisor will negotiate with you to reach a conclusion satisfactory to Qwest and you as per the terms of your Interconnection Agreement. You can only submit a disagreement claim once, per Qwest Dispute ID number.</p> <p>MCI Question: It is unacceptable that "a new dispute" form must be submitted for the identical claim that Qwest has denied. The ability to revisit any claim must be an option and not limited to once "per Qwest Dispute ID number." As stated above, an escalation process must be fully defined. As well, dispute resolution is always an option, thus language needs to be added to the affect.</p>	<p>See #33</p>
<p>24</p>	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> Question: Qwest specifies in detail how CLECs must submit claims to Qwest, but Qwest fails to specify how it will submit acknowledgements to CLECs. Cbeyond</p>	<p>Qwest can acknowledge via FAX, Email or USPS. We do have the same options. The document has been updated. For example, if Qwest receives the claim via FAX, the acknowledgement and resolution will be returned via FAX.</p>

	would like this to be included in the documentation. Cbeyond would also like to hold Qwest to the same options that Qwest gives CLECs.	
25	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> Question: Qwest specifies in detail the fields that CLECs are required to populate on its claim forms submitted to Qwest. Cbeyond would like to see the same level of detail applied to required fields in Qwest's acknowledgement back to CLECs. For example, if Qwest rejects a claim for lack of detail or missing information, what details will Qwest provide to the CLEC as to the reason for the load rejection?</p>	Qwest's current process is to provide the reason for the returned claim. Qwest will indicate what required information is missing.
26	<p><b>Cbeyone</b> <b>Date received: May 4, 2004</b> Question: If a claim is rejected based on the definition offered below, why does Qwest close out the dispute? Loading rejects should be handled differently than claim resolutions in Qwest's favor. For loading rejects, Cbeyond proposes that Qwest hold these disputes in the system in a "reject" status much like service orders are clarified on the provisioning side. This will then enable the CLEC to resubmit the claim once it has made the appropriate corrections to the claim form as outlined by Qwest. This will also enable the CLEC to maintain it's original claim number. Cbeyond has grave concerns about allowing Qwest to simply close out a dispute that it never reviewed for merit. Cbeyond will have already withheld the money and wants assurance that Qwest can appropriately track Cbeyond's dispute submission even if the submission file contained errors that caused Qwest to respond with a load reject. Just like with LSRs, Qwest can apply a window for the CLEC to resubmit a corrected file.</p>	You can reuse your claim number. If all required fields are populated on the claim when it is submitted then the claim will be accepted.
27	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> Question: It's unclear between today's call and this document which fields are required and which fields are optional. Could you please highlight this in the documentation?</p>	Yes – the document has been updated
28	<p><b>Cbeyond</b> <b>Date receive: May 4, 2004</b> <b>Question</b> Cbeyond doesn't agree with</p>	The out of office issue was discussed and agreed upon at the February 20, 2004 LPTA Ad Hoc meeting

	<p>Qwest's process for assignment of claim receipt date. If a Qwest SDC is out of the office, the onus should be on Qwest (not the CLEC) to forward it to the appropriate party. Qwest's internal personnel issues are of no concern to CLECs and should not become an additional burden on the CLEC to manage on Qwest's behalf – they are after all Qwest employees. An alternative proposal is to have Qwest automatically forward dispute emails to the SDC backup when the SDC is out of the office. Another option is to setup a dispute mailbox that acts as the system of record for claim receipts so as to separate claim receipt date from Qwest personnel issues.</p>	
<p>29</p>	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> <b>Question:</b> Can you clarify what is meant by the requirement to supply the list of subaccounts if the main billing account number provided is a CRIS summary billing account? Can you explain why Qwest has this requirement? If my dispute relates to a circuit or is the same issue for a group of circuits, why won't the circuit id or the list of circuit ids suffice?</p>	<p>Our SDC's access your account information by sub-account.</p>
<p>30</p>	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> <b>Question:</b> On Late Payment Charges, Qwest does not specify on its invoices (at least in CRIS generated bills) the date Qwest shows a check was received, nor does it delineate the number of days that LPCs are being assessed, nor does it specify the outstanding balance to which LPCs are applied. Why, then, must CLECs provide details that Qwest itself doesn't provide related to the charges it is billing?</p>	<p>In the event Qwest assesses late payment charges on a bill, the detailed information would be provided. If you are disputing the late payment charges, this information would be required.</p>
<p>31</p>	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> <b>Question:</b> Qwest requires a great deal of specific information to support claims such as ICA, docket, or tariff references. However, there are no guidelines specified that require Qwest to provide like details in its responses back to CLECs. Can you explain why such details are missing from this document? What is being done by Qwest to remedy this gap in the documentation?</p>	<p>See # 1</p>

32	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> <b>Question:</b> What if Qwest bills a CLEC for something which is not documented in an ICA, SGAT, PCAT, etc.? For example, applicable USOCs for DS1 EELS were not defined in a Qwest document until February 2004. That's at least 3 years after Qwest had been billing for these services. Is Qwest suggesting these items are not disputable? I would think to the contrary that these items are disputable until Qwest provides the appropriate documentation to support the charges.</p>	Yes, they are disputable.
33	<p><b>Cbeyond</b> <b>Date received: May 4, 2004</b> <b>Question:</b> The escalation process defined in the last section seems to contradict the process outlined in Cbeyond's interconnection agreement, specifically sections 5.4 Payment &amp; 5.18 Dispute Resolution, which specify vice presidential level negotiations. I can recall several disputes that have required director level escalations to get the correct resolution to a dispute with Qwest. Please explain why Qwest would establish a process that is in breach of its contractual obligations for dispute resolution? Cbeyond has had claims erroneously denied by Qwest due to training issues that went as high as the management level. How does Qwest justify setting a limit to disagreements to just one per claim especially given its history of erroneous resolutions? The proper treatment of this is to escalate one level of management for each instance of disagreement among the parties arises over the same claim.</p>	<p>Qwest still needs the disagreement in writing and will require the customer to submit on the form. The supervisor will negotiate with the customer to reach a conclusion satisfactory to both Qwest and the customer as per the terms of their Interconnection Agreement. The following was added to the document "Subject to any contrary procedures in applicable interconnection agreements, ..."</p>
34	<p><b>Covad</b> <b>Date received: May 6, 2004</b> If you receive an "Out of Office" message, you may send the claim to the SDC backup. If the claim is not sent to the SDC backup, the receipt of the claim will be the day the SDC is scheduled to return to the office. <b>Question:</b> Covad does not agree. The "receipt of claim" date should be the date CLEC initially submits the claim, not the date the SDC backup is contacted. Qwest needs to maintain appropriate coverage for this process. MZ</p>	See #9
35	<b>Covad</b>	Would it work for you if we add this under Service



	<p><b>Date received: May 6, 2004</b> Covad believes an additional "Dispute Type" needs to be identified to specifically address Facility "type" and "quantity" disputes. MZ</p>	Order issues on the Dispute Notification Form?
36	<p><b>Covad</b> <b>Date received: May 6, 2004</b> Covad believes the Definition of the Resolution must include all "facts" related to the resolution as well as any PUC order which Qwest relies upon for the Resolution. MZ</p>	See #1
37	<p><b>Covad</b> <b>Date received: May 6, 2004</b> Covad needs clarification that Qwest does not intend to preclude CLEC going to "dispute resolution" should CLEC not agree with the Qwest Resolution. MZ</p>	Does #33 answer this question?

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 21**

**PUBLIC VERSION**

**This exhibit is confidential per Protective Order No. 07-178 in Docket ARB 775**

This exhibit is confidential per Protective Order No. 07-178 in  
Docket ARB 775.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )**

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**EXHIBIT 22**

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

RECEIVED  
FILED

2005 MAR 30 PM 4: 26

IDAHO PUBLIC  
UTILITIES COMMISSION

IN RE:

PETITION OF MCLEODUSA  
TELECOMMUNICATIONS SERVICES,  
INC., FOR ENFORCEMENT OF  
INTERCONNECTION AGREEMENT  
WITH QWEST CORPORATION

Docket No. MTI-T-05-01

**PETITION OF MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.,  
FOR ENFORCEMENT OF INTERCONNECTION AGREEMENT  
WITH QWEST CORPORATION**

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), through its undersigned counsel, and pursuant to Idaho Code § 61-501, petitions the Idaho Public Utilities Commission ("Commission") for enforcement of its interconnection agreement with Qwest Corporation ("Qwest"). This Petition stems from a dispute between McLeodUSA and Qwest over Qwest's right under the interconnection agreement to demand security deposits from McLeodUSA for services provided under the agreement, and to discontinue services to McLeodUSA should McLeodUSA not comply with Qwest's demand. Qwest has recently demanded that McLeodUSA pay more than \$15.9 million to Qwest within 10 days—\$971,870.45 in Idaho alone—or Qwest will "suspend order activity" and "disconnect services" provided to McLeodUSA. Rather than follow the clear terms of the interconnection agreement regarding dispute resolution, Qwest has made extortionate demands rather than adopt the approach of established telecommunications carriers that respect their contractual obligations. McLeodUSA seeks an order from this Commission that Qwest may not demand a security deposit and that Qwest may not "suspend order activity" or "disconnect services" until all procedures for dispute resolution in the interconnection agreement have been satisfied. Because

A. Qwest Has No Right To Demand A Security Deposit Under The Interconnection Agreement.

21. Nothing in the Interconnection Agreement gives Qwest the right to demand a security deposit from McLeodUSA at this time. Section (A)3.4.3 of Part A of the General Terms provides Qwest's rights to a security deposit under certain conditions, but none of the conditions allowing Qwest to invoke those rights have been satisfied. First, Section (A)3.4.3 is a subsection of Section (A)3.4 titled "Payment." Section (A)3.4.1 defines the scope of Section (A)3.4: "Amounts payable under this Agreement are due and payable within thirty (30) calendar days after the date of invoice." (emphasis added) Thus, any rights to a security deposit under Section (A)3.4.3 are limited to security for payments made for services provided under the Interconnection Agreement. Therefore, Qwest is wrong to make the connection as it does in the Qwest Demand Letter that "outstanding balances under the Interconnection Agreement and other agreements, tariffs, or accounts," justify its demand that McLeodUSA provide Qwest with a security deposit. Section (A)3.4.3 does not grant rights to Qwest to demand a security deposit for payments under another agreement or under a Qwest tariff.

22. Section (A)3.4.3 provides as follows:

[Qwest] will determine McLeod's credit status based on previous payment history with [Qwest] or credit reports such as Dun and Bradstreet. If McLeod has not established satisfactory credit with [Qwest] or if McLeod is repeatedly delinquent in making its payments, [Qwest] may require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) calendar days or more delinquent for three (3) consecutive months.

23. Qwest fails to satisfy any of these conditions. Taking the second condition first, Qwest does not allege, and could certainly not prove, that McLeodUSA has been "repeatedly delinquent" on any payments under the Interconnection Agreement. As stated above,

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this day, March 30, 2005, I caused a true and correct copy of the foregoing **MCLEODUSA TELECOMMUNICATIONS SERVICES, INC., MOTION FOR EMERGENCY RELIEF and PETITION OF MCLEODUSA TELECOMMUNICATIONS SERVICES, INC., FOR ENDORCEMENT OF INTERCONNECTION AGREEMENT WITH QWEST CORPORATION** to be served by the method indicated below, and addressed to the following:

Jean Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise ID 83720-0074

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile
- Electronic Mail

Mary S.Hobson  
Stoel Rives  
101 S Capitol Blvd, Ste 1900  
Boise ID 83702

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile
- Electronic Mail

Signed:   
Nina M. Curtis

later than 60 days after the month in which service is provided. ATG shall not be responsible for paying untimely bills. Should ATG dispute any portion of the monthly billing under this Agreement, ATG will notify USWC in writing within thirty (30) days of the receipt of such billing, identifying the amount and details of such dispute. Both ATG and USWC agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. ATG shall notify USWC in the event that it does not receive a bill from USWC within 45 days of ordering the Service.

26.4.4 If ATG is repeatedly delinquent in making its payments, USWC may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to USWC in its sole discretion, or some other form of mutually acceptable security.

26.4.5 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to ATG's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by ATG. The fact that a deposit has been made does not relieve ATG from any requirements of this Agreement.

## 26.5 Taxes

Each Party purchasing services hereunder shall pay or otherwise be responsible for all applicable federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party.

## 26.6 Force Majeure

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military

ATI/WA ICA

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**PAGING CONNECTION  
AGREEMENT**

**BETWEEN**

**U S WEST COMMUNICATIONS, INC.**

**AND**

**AIRTOUCH PAGING**

**Colorado**

**CDS-990506-0069**

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effort to resolve and settle the dispute prior to initiating any other rights or remedies. Each party shall pay all billed amounts when due, provided, however, that a Party may withhold (i) up to four months worth of disputed charges (not to exceed \$100,000 in the aggregate for all disputes should multiple disputes exist) pending resolution of such dispute, and (ii) any disputed amounts pertaining to reciprocal compensation for internet-related traffic. Should the dispute be resolved in the non-disputing Party's favor, the disputing Party shall pay the withheld amounts to the non-disputing Party within thirty days. Should the dispute be resolved in the disputing Party's favor, the non-disputing party will credit any paid disputed amounts against the disputing Party's succeeding monthly bills; provided, however, that if a credit balance remains for more than 3 months on an account, the non-disputing Party shall pay the credit balance in cash to the disputing Party. No late payment factor or charges, interest or other penalties shall apply to payments or credits made pursuant to the settlement of disputed amounts provided the payment or credit is made within 30 days following the resolution of the dispute.

- 12.4 If either Party is repeatedly delinquent in making payments, the other Party may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent in the payment of non-disputed amounts for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to the requesting Party in its sole discretion, or some other form of mutually acceptable security.
- 12.5 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to the depositing Party's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by the depositing Party. The fact that a deposit has been made does not relieve the depositing Party from any requirements of this Agreement.

**13. MISCELLANEOUS TERMS**

**13.1. General Provisions**

13.1.1. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and Emergency Preparedness Plan.

13.1.2. Each Party is solely responsible for the services it provides to its End Users and to other telecommunications carriers.

13.1.3. The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

**13.2. Taxes**

**13.25. Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

**13.26. Regulatory Approval**

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC and shall, at times, be subject to review by the Commission or the FCC. The Parties shall cooperate in a good faith effort to secure, as soon as practicable, any required regulatory approvals of this Agreement.

**13.27. Compliance**

Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement.

**13.28 Further Assurances**

Each Party shall at any time, and from time to time, upon the written request of the other Party, execute and deliver such further documents, and do such further acts and things as the other Party may reasonably request to effect the purposes of this Agreement. The Parties shall act in good faith and consistent with the intent of the Act in the performance of their obligations under this Agreement. Where notice, approval or similar action by a Party is permitted or required by any provision of this Agreement (including, without limit, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

**13.29 Section 252(i) Election**

**Paging Provider shall have the right under 47 U.S.C. Sections 252(i) to elect terms and conditions from other approved agreements consistent with 47 C.F.R. Section 809.<sup>16</sup>**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**AIRTOUCH PAGING**

**U S WEST Communications, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date January 11, 2000

\_\_\_\_\_  
Date January 11, 2000

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

<sup>16</sup> AirTouch Order, Docket No. 99A-001T, Section I.B.8.

**TYPE 1 WIRELESS  
INTERCONNECTION AGREEMENT  
  
BETWEEN  
  
U S WEST COMMUNICATIONS, INC.  
  
AND  
  
ALAMOSA PCS, L.L.C.  
  
FOR  
  
COLORADO**

## **22.2. Term of Agreement**

This Agreement shall become effective upon Commission approval, pursuant to Sections 251 and 252 of the Act, shall terminate on October 31, 2002, and shall be finding upon the Parties during that term, notwithstanding Section 252 (i) of the Act. The Parties agree to commence negotiations on a new agreement no later than 135 calendar days prior to the termination date specified above; provided that Carrier, consistent with Section 252 (i) of the Act, may opt into a then-existing, valid interconnection agreement, in its entirety, at the conclusion of the said term of this Agreement. In the event that negotiations are not concluded as of the termination date specified above, the window of opportunity to file for arbitration to resolve outstanding contractual issues in accordance with the Act, will open upon the termination date specified above.

## **22.3. Payment**

22.3.1. Amounts payable under this Agreement are due and payable within thirty (30) days after the date of invoice. Billing and collection of usage charges by Carrier from its Customers shall have no bearing on the amount or timeliness of Carrier's payment obligation to USWC. USWC is solely responsible for making all Reciprocal Compensation Credits due to Carrier under this Agreement and the billing and collection of usage charged by USWC from its Customers shall have no bearing on the amount or timeliness of its credit obligations to Carrier.

22.3.2. Unless otherwise specified in this Agreement, any amount due and not paid by the due date stated above shall be subject to the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the Service is rendered.

22.3.3. Should Carrier dispute any portion of the monthly billing under this Agreement, including the Reciprocal Compensation Credit, Carrier will notify USWC in writing within thirty (30) days of the receipt of such billing, identifying the amount and details of such dispute. Carrier shall pay all amounts due. Both Carrier and USWC agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. Should the dispute be found in Carrier's favor, USWC will reimburse Carrier the resolved amount plus interest from the date of payment at the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the service is rendered.

22.3.4. If Carrier is repeatedly delinquent in making its payments, USWC may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to USWC in its sole discretion, or some other form of mutually acceptable security.

**PAGING CONNECTION**

**AGREEMENT**

**BETWEEN**

**U S WEST COMMUNICATIONS, INC.**

**AND**

**ARCH PAGING, INC. AND MOBILE COMMUNICATIONS  
CORPORATION OF AMERICA**

**Colorado**

**CDS-000616-0116**

effort to resolve and settle the dispute prior to initiating any other rights or remedies. Each party shall pay all billed amounts when due, provided, however, that a Party may withhold (i) up to four months worth of disputed charges (not to exceed \$100,000 in the aggregate for all disputes should multiple disputes exist) pending resolution of such dispute, and (ii) any disputed amounts pertaining to reciprocal compensation for internet-related traffic. Should the dispute be resolved in the non-disputing Party's favor, the disputing Party shall pay the withheld amounts to the non-disputing Party within thirty days. Should the dispute be resolved in the disputing Party's favor, the non-disputing party will credit any paid disputed amounts against the disputing Party's succeeding monthly bills; provided, however, that if a credit balance remains for more than 3 months on an account, the non-disputing Party shall pay the credit balance in cash to the disputing Party. No late payment factor or charges, interest or other penalties shall apply to payments or credits made pursuant to the settlement of disputed amounts provided the payment or credit is made within 30 days following the resolution of the dispute.

- 12.4 If either Party is repeatedly delinquent in making payments, the other Party may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent in the payment of non-disputed amounts for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to the requesting Party in its sole discretion, or some other form of mutually acceptable security.
- 12.5 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to the depositing Party's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by the depositing Party. The fact that a deposit has been made does not relieve the depositing Party from any requirements of this Agreement.

### **13. MISCELLANEOUS TERMS**

#### **13.1. General Provisions**

- 13.1.1. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and Emergency Preparedness Plan.
- 13.1.2. Each Party is solely responsible for the services it provides to its End Users and to other telecommunications carriers.
- 13.1.3. The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

#### **13.2. Taxes**

# **CMRS INTERCONNECTION AGREEMENT**

**(excluding paging services)**

**between**

**AT&T Wireless Services, Inc.**

**and**

**U S WEST Communications, Inc.**



that will be consistent with the call detail information available from AWS upon request.

AWS will provide to USWC a monthly bill that will summarize the number of completed calls and minutes generated by USWC exchanges (as identified in the LERG and by USWC OCN) based upon the state and point of interconnection between AWS and USWC. Minutes of use will be aggregated monthly based on Conversation Time and will not be rounded to the next full minute. AWS will provide to USWC its first bill based on this system for the first full month after the Effective Date of this Agreement.

For purposes of billing the proportionate share of the Connecting Facilities, AWS may request that USWC apply the agreed-to factor, as discussed in Section 11.A(2), to the total of the Connecting Facilities, thus crediting the amount due from AWS to USWC. If a proportionate share of a third party facility is applicable to USWC, AWS shall at that time manually bill those charges to USWC.

- C. Invoices for Charges. Not later than fifteen (15) days following the end of each monthly billing cycle, the Parties shall deliver to each other an invoice reflecting the charges due from the other Party for facilities and usage attributable to the month covered by such billing cycle. Facilities charges will be billed in advance for the following period. Usage charges will be billed in arrears for the preceding period. All invoices shall be due and payable within thirty (30) days following the invoice date.
- D. Late Charges. If any portion of a payment due from a Party is received by the other Party after the required payment date, the portion of the payment unpaid shall be subject to a late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the Service is rendered.

If Parties are repeatedly delinquent in making its payments, Parties may, in their sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to the Parties in their sole discretion, or some other form of mutually acceptable security.

Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or tariffs. Cash deposits and accrued interest will be credited to the account of the Party that made the deposit or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full. The fact that a deposit has been made does not relieve Parties from any requirements of this Agreement.

**WIRELESS INTERCONNECTION  
AGREEMENT - UTAH**

**BETWEEN**

**QWEST CORPORATION**

**AND**

**AUTOTEL**

payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the Service is rendered.

3. Should either Party dispute any portion of the monthly billing under this Agreement, that Party will notify the other Party in writing within thirty (30) days of the receipt of such billing, identifying the amount and details of such dispute. The Parties shall pay all undisputed amounts due. The Parties agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. Should the dispute be found in Carrier's favor, Qwest will reimburse Carrier the resolved amount plus interest from the date of payment at the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the service is rendered.
4. If Carrier is repeatedly delinquent in making its payments, Qwest may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to Qwest in its sole discretion, or some other form of mutually acceptable security.
5. Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or tariffs. Cash deposits and accrued interest will be credited to Carrier's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by Carrier. The fact that a deposit has been made does not relieve Carrier from any requirements of this Agreement.

#### **E. Taxes**

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax

**TYPE 1 PAGING  
AGREEMENT**

**BETWEEN**

**U S WEST Communications, Inc.**

**AND**

**Metro, Paging, MobilePhone, Communications Company  
d.b.a. Metro Area User**

**AGREEMENT NUMBER  
DEN-971121-1002**

17.2.2. This Agreement will terminate upon a revocation or other termination of either Party's governmental authority to provide the services contemplated by this Agreement. If the authority is temporarily suspended, delivery of traffic will cease only during the suspension if the suspended Party otherwise is and remains in full compliance under this Agreement.

**17.3. Payment**

17.3.1. Amounts payable under this Agreement are due and payable within thirty (30) days after the date of invoice. Billing and collection of usage charges by Paging Provider from its customers shall have no bearing on the amount or timeliness of Paging Provider's payment obligation to USWC.

17.3.2. Unless otherwise specified in this Agreement, any amount due and not paid by the due date stated above shall be subject to the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the Service is rendered.

17.3.3. Should Paging Provider dispute any portion of the monthly billing under this Agreement, Paging Provider will notify USWC in writing within thirty (30) days of the receipt of such billing, identifying the amount and details of such dispute. Paging Provider shall pay all amounts due, including amounts in dispute. Both Paging Provider and USWC agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. Should the dispute be found in Paging Provider's favor, USWC will reimburse Paging Provider the resolved amount plus interest from the date of payment at the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the service is rendered.

17.3.4. If Paging Provider is repeatedly delinquent in making its payments, USWC may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to USWC in its sole discretion, or some other form of mutually acceptable security.

17.3.5. Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or tariffs. Cash deposits and accrued interest will be credited to Paging Provider's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by Paging Provider. The fact that a deposit has been made does not relieve Paging Provider from any requirements of this Agreement.

in reasonably resolving issues which result from such implementation on a timely basis.

**17.33. Entire Agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**Metro, Paging, MobilePhone,  
Communications Company  
d.b.a. Metro Area User \***

**U S WEST Communications, Inc. \***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Name Printed/Typed

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Date

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Date

- **Signature does not waive any rights of either Party to seek administrative/judicial review of all or part of the Agreement, or to reform the agreement as the result of successful administrative/judicial review and/or future settlement agreements between the Parties to this Agreement.**

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**P** PATHNET TELECOMMUNICATION ...Jump to: -- Use Sections To Navigate Through The Document --  
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Exhibit 10.31

INTERIM

COLLOCATION AGREEMENT

AGREEMENT NUMBER

CDS-990616-0108

BETWEEN

U S WEST COMMUNICATIONS, INC.

AND

PATHNET, INC.

i

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COLLOCATION AGREEMENT

THIS COLLOCATION AGREEMENT ("Agreement") is made and effective as of August 12, 1999, by and between U S WEST Communications, Inc., a Colorado corporation ("USW"), and Pathnet, Inc., a Delaware corporation ("Pathnet").

WHEREAS, USW is an incumbent local exchange carrier having a statutory duty to provide for "Collocation" of equipment necessary for interconnection or access to unbundled network elements at its Premises, in accordance with the Telecommunications Act of 1996 (the "Act"); and

WHEREAS, Pathnet wishes to physically locate certain of its equipment within the Space (as defined herein) and connect with USW in accordance with the Act;

WHEREAS, Pathnet must have a state approved Interconnection agreement with USW in the states covered by this Agreement before Pathnet can order local interconnection trunks for the purpose of exchanging traffic between the Parties' networks.

NOW THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, USW and Pathnet (the "Parties") agree as follows:

SECTION 1. TERM



This Agreement is prepared in order for USW to process Pathnet's Collocation requests for the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Nebraska, New Mexico, North Dakota and Wyoming (other states can be requested through a general amendment to this contract) while the Parties finalize the Interconnection Agreement between USW and Pathnet ("Interconnection Agreement"). The Parties intend to submit the Interconnection Agreement to the state public utilities commissions having jurisdiction, for approval under the provisions of 47 U.S.C. Section 252. This Agreement will remain in effect until April 1, 2000, or until approval of that Interconnection Agreement, whichever occurs first. At such time of Commission approval of the Interconnection Agreement, this Agreement will terminate and the terms and conditions of the approved Interconnection Agreement will prevail. In the event the Interconnection Agreement is not approved by the Commission Pathnet shall vacate the Space and pay USW all of the expenses and costs that USW has incurred that have not been fully reimbursed to USW by the nonrecurring charges paid by Pathnet to USW. Pathnet shall have the option to convert cageless collocation to a virtual collocation in this event as defined under the FCC tariffs dealing with the USW Expanded Interconnection Services and shall pay charges for such conversion. USW shall not refund any sum paid to it by or on behalf of Pathnet.

## SECTION 2. COLLOCATION DESCRIPTION

2.1 Collocation allows for the placing of telecommunications equipment owned by Pathnet within USW's Central Office for the purpose of accessing Unbundled Network Elements (UNEs) and/or terminating EAS/Local and ancillary traffic.

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### 2.1.1 Virtual Collocation

With a Virtual Collocation arrangement, Pathnet is responsible for the procurement of its own telecommunications equipment which USW installs and maintains. Pathnet does not have physical access to its equipment in the USW Central Office but will be granted access to the appropriate cross-connect for making any cross connections it may require for access to USW UNEs.

### 2.1.2 Caged Physical Collocation

Caged Physical Collocation allows Pathnet to lease caged floor space approximately in 100 square foot increments, up to a maximum of 400 square feet, for placement of its telecommunications equipment within USW's

through Friday, 8:00am to 5:00pm (local time) and after business hours are after 5:00pm and before 8:00am (local time), Monday through Friday, all day Saturday, Sunday and holidays.

20.1.2 Installation and maintenance of Pathnet's virtually collocated equipment will be performed by USW or a USW authorized vendor.

20.1.3 Upon failure of Pathnet's virtually collocated equipment, Pathnet is responsible for transportation and delivery of maintenance spares to USW at the Wire Center housing the failed equipment. Pathnet is responsible for purchasing and maintaining a supply of spares.

#### 20.2 Caged Physical Collocation

Pathnet is solely responsible for the maintenance and repair of its equipment located within Pathnet's caged space. If two or more Co-Providers agree to a Shared Space Caged Physical Collocation arrangement, such collocators are solely responsible for any and all maintenance, security and repair arrangements necessitated by such sharing. USW assumes no liability for any damages of any kind relating to Shared Space Caged Physical Collocation or related personnel disputes among the parties to those arrangements.

#### 20.3 Cageless Physical Collocation

Pathnet is solely responsible for the maintenance and repair of its equipment located within Pathnet's cageless physical space.

#### 20.4 ICDF Collocation

Pathnet is responsible for block and jumper maintenance at the appropriate cross-connect device and using correct procedures to dress and terminate jumpers on the appropriate cross-connect device, including using fanning strips, retaining rings, and having jumper wire on hand, as needed. Additionally, Pathnet is required to provide its own tools for such operations.

### SECTION 21. PAYMENT

21.1 Amounts payable under this Agreement are due and payable within thirty (30) calendar days after the date of invoice.

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21.2 Should Pathnet dispute, in good faith, any portion of the monthly billing under this Agreement, Pathnet will notify USW in writing within thirty (30) calendar days of the receipt of such billing, identifying the amount, reason and rationale of such dispute. Pathnet shall pay all amounts due. Both Pathnet and USW agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. Should the dispute be resolved in Pathnet's favor and the resolved amount did not appear as a credit on Pathnet's next invoice from USW, USW will reimburse Pathnet the resolved amount plus interest from the date of payment. The amount of interest will be calculated using the late payment factor that would have applied to such amount had it not been paid on time. Similarly, in the event Pathnet withholds payment for a disputed charge, and upon resolution of the matter it is determined that such payments should have been made to USW, USW is entitled to collect interest on the withheld amount, subject to the above provisions.

21.3 USW will determine Pathnet's credit status based on previous payment history with USW or credit reports such as Dun and Bradstreet. If Pathnet has not established satisfactory credit with USW or if Pathnet is repeatedly delinquent in making its payments, USW may require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) calendar days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a surety bond, a letter of credit with terms and conditions acceptable to USW or some other form of mutually acceptable security such as a cash deposit. Required deposits are due and payable within ten (10) calendar days after demand in accordance with Commission requirements.

21.4 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to Pathnet's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or the establishment of satisfactory credit with USW, which will generally be

one full year of timely payments in full by Pathnet. The fact that a deposit has been made does not relieve Pathnet from any requirements of this Agreement.

21.5 USW may review Pathnet's credit standing and modify the amount of deposit required.

21.6 The late payment charge for amounts that are billed under this Agreement shall be in accordance with Commission requirements.

## SECTION 22. TAXES

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these

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amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Until such time as a resale tax exemption certificate is provided, no exemptions will be applied.

## SECTION 23. INSURANCE

Pathnet shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain the insurance coverage listed below with insurers having a "Best's" rating of B+XIII.

23.1 Workers' Compensation with statutory limits as required in the state of operation; and Employers' Liability insurance with limits of not less than \$100,000 each accident.

23.2 Commercial General Liability insurance covering claims for bodily injury, death, personal injury or property damage occurring or arising out of the use or occupancy of the premises, including coverage for independent contractor's protection (required if any work will be subcontracted), premises-operations, products and/or

SECTION 46. COMPLIANCE WITH THE COMMUNICATIONS ASSISTANCE LAW ENFORCEMENT ACT OF 1994 ("CALEA")

Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with CALEA. Each Party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

SECTION 47. COOPERATION

The Parties agree that this Agreement involves the provision of USW services in ways such services were not previously available and the introduction of new processes and procedures to provide and bill such services. Accordingly, the Parties agree to work jointly and cooperatively in testing and implementing processes for pre-ordering, ordering, maintenance, provisioning and billing and in reasonably resolving issues which result from such implementation on a timely basis.

SECTION 48. ENTIRE AGREEMENT

This Agreement and all exhibits, schedules, and amendments and supplements hereto and including, but not limited to any Adjacent Collocation Arrangements, constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

PATHNET, INC.

U S WEST COMMUNICATIONS, INC.

/s/ MICHAEL A. LUBIN

/s/ KATHY FLEMMING

Signature

Signature

Michael A. Lubin

Kathy Fleming

Name Printed/Typed

Name Printed/Typed

V.P. and General Counsel

V.P. Interconnect Implementation

Title

Title

8/16/99

8/18/99

Date

Date

30

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 23**

ORDER NO. 98-444

ENTERED NOV 13 1998

This is an electronic copy. It does NOT contain the Appendices and it does not contain the concurrence of Commissioner Smith.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UT 138

UT 139

In the Matter of the Investigation into )  
Compliance Tariffs filed by U S WEST )  
Communications, Inc., Advice Nos. 1661, )  
1683, 1685, and 1690. )

ORDER

In the Matter of the Investigation into )  
Compliance Tariffs filed by GTE Northwest )  
Incorporated, Advice Nos. 589, 599, and 611.)



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Because permutations are probable for each service type, the NRCM develops scenarios that incorporate varying activities and costs. Basically, the model develops costs for three functions -- migration, installation, and disconnection.<sup>146</sup>

Because the nonrecurring costs associated with the unbundled network elements produced by the NRCM do not correspond precisely with the nonrecurring costs for Oregon building blocks produced by the USWC cost model, AT&T and MCI have also remodeled USWC costs by incorporating assumptions included in the NRCM. Both the nonrecurring costs produced by the NRCM and the costs produced by the remodelling effort are substantially less than the nonrecurring costs proposed by USWC and GTE in this docket.

## VII. NONRECURRING COST STUDIES -- DISPUTED ISSUES

In the following sections, we analyze several disputed issues pertaining to the nonrecurring cost studies prepared by the parties. The decisions on these issues shall be incorporated into the revised nonrecurring costs and charges filed in accordance with this order.

### A. Service Order Processing Costs.

This issue involves the amount of human intervention necessary to process a CLEC order for unbundled elements. The USWC and GTE studies assume that all building block orders submitted by CLECs must be reviewed by ILEC representatives before the orders can be routed for further downstream processing. Staff and Joint Intervenors, on the other hand, assume that ILEC representatives will have to review CLEC orders a smaller percentage of the time. A greater amount of manual intervention increases the nonrecurring costs paid by competing carriers.

#### 1. Flow through and Fallout.

Operations support systems (OSS) are electronic, software-driven computer systems and data bases used by telephone companies to manage preordering, ordering, provisioning, maintenance, repair, and billing functions for their retail and wholesale operations. By linking different functions together, OSS provide more efficient and effective control of ongoing network operations.<sup>147</sup> OSS have been classified as a UNE by the FCC,<sup>148</sup> and as a building block by this Commission.<sup>149</sup>

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to serve the customer. Provisioning is the actual assignment of all of the building blocks requested by a carrier to serve its customer. AT&T/MCI Exhibit/2, Petti/5-6.

<sup>146</sup>"Migration" describes the situation where a CLEC requests building blocks for a customer that currently takes service from an ILEC. Installation is the establishment of any new or additional service for a CLEC customer. Disconnection refers to activities necessary to disconnect a CLEC customer. Id.

<sup>147</sup>See e.g., AT&T/MCI Exhibit/1, Zepp/19-24; Attachment TMZ-2 at 6-17.

<sup>148</sup>47 C.F.R. §51.319(f).

At one time, the functions necessary to process a service order were extremely labor intensive, requiring constant human intervention to complete each order and update inventories. In recent years, OSS have been reengineered to reduce the need for direct human intervention by automating the processing of service order transactions, including service connections, disconnections, moves, and service changes. As these automated systems developed, the goal has been to achieve “flow through”-- meaning that a service request can be processed through several computer systems without the need for human intervention.

The opposite of “flow through” is “fallout.” If an error occurs as data flows through computer systems, it may cause service orders to fall out of the system and manual activity may be required to correct or complete the order. Fallout is significant because it is a major cost driver underlying nonrecurring costs.<sup>150</sup>

## **2. AT&T/MCI**

The AT&T/MCI NRCM models the cost of processing a service order separately. It is designed to model the processes and procedures currently used by large ILECs and assumes fully automated OSS that allow maximum electronic flow through of CLEC local service order requests (LSRs) for building blocks. The NRCM assumes that CLEC LSRs will be processed with a fallout rate of two percent. In other words, it assumes that 98 percent of total CLEC orders will flow through the ordering process with no manual intervention by ILEC personnel.

AT&T/MCI witness Petti states that well managed and maintained OSS will have very little fallout. This is especially true in a competitive environment because fallout impacts delivery intervals, restoration/response times, and the overall cost of service. Companies thus have market incentives to continually improve customer service by minimizing fallout. Ms. Petti describes the service order process modeled by the NRCM as follows:

In the normal order scenario, the customer will directly contact the CLEC service representative. That same CLEC service representative will discuss the service desired by the customer and then determine what services are to be ordered. The CLEC service representative will obtain preordering information and access U S WEST’s OSS to obtain the customer service records, the availability of service, and other pertinent information. The CLEC representative will then input the request into the U S WEST Service Order Generator (“SOG”) through the electronic gateway. There is no need for the ILEC service representative to be involved in any of these activities. If the order is rejected for some reason,

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<sup>149</sup>Order No. 96-283 at 3.

<sup>150</sup>AT&T/MCI Exhibit/2, Petti/9; GTE Exhibit/7, Murphy/7.

then the order should return across the gateway to the CLEC for correction. The only instance in which the CLEC service representative would contact [the ILEC service representative] for assistance would be in the case of an order that requires investigation due to faulty records or other inconsistency. Such assistance would be minimal.<sup>151</sup>

Ms. Petti notes that Southwestern Bell Telephone Company (SWBT) has implemented a system known as the Easy Access Sales Environment (EASE) system, that allows 99 percent flow through of CLEC orders for resold services purchased from SWBT. In addition, SWBT indicated that it expected to develop an "EASE-like" system by mid-1998 that will be capable of processing orders for unbundled elements. According to SWBT, the new system will have a flow through rate similar to that experienced with the EASE system.<sup>152</sup>

USWC and GTE argue that the flow through/fallout assumptions embodied in the NRCM are unrealistic and assume a technology that is not currently available. GTE witness Francis Murphy argues that the NRCM does not properly model the processes and procedures used by GTE or reflect GTE's experience with fallout. Mr. Murphy points out that there are two types of fallout. The first is due to errors on faxed or electronically submitted LSRs received from CLECs. These must either be returned to the CLEC for correction or the ILEC must intervene to correct or explain the error. In either case, manual intervention is required. Mr. Murphy asserts that GTE currently experiences a 50-80 percent error rate on orders submitted by new CLECs.<sup>153</sup>

The second type of fallout occurs when LSRs are rejected by electronic systems. The rejected orders must either be corrected by the ILEC representative or returned to the CLEC for correction. Currently, GTE's electronic systems reject about 37 percent of the LSRs submitted by CLECs.

Mr. Murphy asserts that the high flow through rate in the NRCM fails to recognize that ILECs must keep processes and procedures in place to serve new and/or smaller carriers that do not order building blocks electronically because of the capital expenditures required. These carriers place orders manually (e.g., via fax) and require substantial time commitments from the ILECs. Mr. Murphy states that the NRCM is flawed because it does not account for the fact that GTE and USWC must accommodate building block requests from all CLECs, not merely those using electronic interfaces.

GTE witness Kevin Collins emphasizes that it is important to distinguish between receiving orders electronically and processing orders electronically. He estimates that

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<sup>151</sup> AT&T/MCI Exhibit/9, Petti/17.

<sup>152</sup> AT&T/MCI Exhibit/2, Petti/9-10; AT&T/MCI Exhibit/11, Transcript of Texas PSC proceeding at 128-130. See also Administrative Law Judge Ruling issued January 22, 1998.

<sup>153</sup> GTE Exhibit/7, Murphy/7-8.

electronic OSS will not be fully implemented for another 2-3 years. At that time, Mr. Collins expects that GTE will electronically receive and process only 64 percent of the building block orders submitted by CLECs.

USWC witnesses Brigham and Buhler also maintain that the 98 percent flow through rate included in the NRCM cannot be achieved in the foreseeable future. To ensure that costs are forward-looking, nonrecurring cost studies should assume that some mechanized processes are used to perform certain nonrecurring functions. In most cases, however, mechanized processes can be used only for a certain percentage of orders, since no computer system can respond to all questions or be completely reliable. Nonrecurring cost studies must include realistic estimates of whether manual intervention will be required for each activity.

In addition to fallout resulting from incorrectly submitted orders, Mr. Buhler states that LSRs will fallout because they are designed to be completed manually. He notes that many types of CLEC orders cannot be processed using automated flow through because of their inherent complexity and constraints relating to the systems involved. For example, turning a USWC customer loop into an NAC that can be purchased by a CLEC requires a “disconnect” order to terminate the USWC retail service and a separate “connect” order to convert the retail customer loop into an NAC. In order to reuse these same facilities, the orders must be coordinated by a person. This is accomplished by inserting a “Map F” field identifier code. Mr. Buhler states that the NRCM understates the work ILECs must perform to provision building blocks by assuming these functions will be performed automatically.<sup>154</sup>

Mr. Buhler also emphasizes that processes modeled by the NRCM do not correspond to the actual systems used by USWC to process service orders. As a result, the NRCM understates nonrecurring costs. For example, the NRCM assumes that systems used to process access service requests (ASRs) from IXC will also be used for CLEC LSRs. Mr. Buhler asserts that LSRs for unbundled elements must be supported by different OSS because they involve more complex customer data and facilities. In their current form, the software systems used for ASRs do not have the necessary online interfaces to support the data acquisition and functionality requirements of preordering, ordering, and provisioning necessary for LSRs.<sup>155</sup>

GTE and USWC contend that it is unreasonable to rely on the SWBT EASE system as evidence of the flow through rate that will be experienced for building block orders. They emphasize that the EASE system is only used for resale orders and that the

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<sup>154</sup>USWC Exhibit/14, Buhler/8.

<sup>155</sup>ASRs are processed through a system known as “EXACT.” Mr. Buhler states that LSRs will be processed through a system known as Interconnect Mediated Access or “IMA.” He further indicated that EXACT could not be modified to meet the January 1, 1997, deployment deadline for LSRs without undergoing a major software rewrite. Id. at 7.

new “EASE-like” system planned by SWBT is not ready for deployment today.<sup>156</sup> Contrary to Ms. Petti’s claim, the ILECs also assert that the new system will have a much lower flow through rate for unbundled elements than experienced under the EASE system.<sup>157</sup>

### 3. USWC and GTE.

The USWC and GTE nonrecurring cost studies assume that manual intervention will be necessary to process every CLEC building block order. In other words, the ILEC studies assume zero flow through of CLEC orders. According to Mr. Buhler, USWC representatives in the Interconnect Service Center must review all orders to ensure that the information on them is accurate and complete. The information must then be manually rekeyed into the USWC service order processor by the USWC service representative. As noted above, a CLEC order for unbundled loops will cause USWC to issue a disconnect order to unbundle the connection to USWC’s switch and the customer’s account, and a separate connect order to provide the loop to the CLEC’s collocated equipment. Both of these orders require manual intervention to coordinate the cut-over of circuits, even with the recent deployment of the Electronic Data Interchange (EDI) interface. According to Mr. Buhler:

The issue of EDI and the issue of flow through are independent of one another because EDI just allows you to communicate with an operational support system. It isn’t intended or built or designed in and of itself to do the conversion from the EDI messages into the proprietary -- the unique languages used by a company’s operational support system. So, in other words, EDI doesn’t in and of itself automatically convert the CLECs orders into USOCs [Universal Service Order Codes] and FIDs [Field Identifier Codes] and format the order for U S WEST’s downstream systems. We need another component with all of the business rules and all of the mappings that will accomplish that . . . . Until, then we still will have a manual step to input unbundled loop orders.<sup>158</sup>

In its initial filing, USWC estimated that it would take ISC service representatives 45 minutes to process an order to connect an unbundled loop and 30 minutes to process an order to disconnect a loop. At the hearing, Mr. Brigham revised these estimates downward to 35 minutes and 15 minutes, respectively, to account for utilization of

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<sup>156</sup>USWC and GTE also point out that AT&T has filed documents with the FCC criticizing the EASE system because, among other things, it requires “excessive manual intervention” and has “significant shortcomings” that will place CLECs at a competitive disadvantage. TR. 908-911; USWC Exhibit/32.

<sup>157</sup>In their post-hearing briefs, USWC and the Joint Intervenors propose to supplement the record with additional evidence regarding flow through/fallout issues. See, Joint Intervenor Opening Brief at 25; USWC Reply Brief at 4, Exhibit A. Because there was no opportunity for other parties to examine this evidence, it is excluded.

<sup>158</sup>TR. 513-514.



USWC's IMA interface. These labor time savings lowered USWC's proposed nonrecurring charge for the basic NAC from \$117.49 to \$97.55. The nonrecurring costs and prices of provisioning other building blocks were also reduced.

GTE's labor time estimates for NOMC personnel are designated as confidential. We observe, however, that GTE's cost study assumes that it will take NOMC representatives significantly more time to process a CLEC order to install an unbundled loop than estimated by USWC. On the other hand, GTE also allocates less time to disconnect activities than does USWC.

Mr. Buhler points out that USWC is in the process of modifying and updating its OSS to achieve some flow through of building block orders. The flow through rate that USWC will achieve is unknown, however, since the technology is still being developed. Moreover, predicting precise flow through levels is difficult because USWC and other ILECs have no previous experience processing building block orders.

Joint Intervenors challenge the assumptions underlying the USWC and GTE cost studies. In general, they maintain that the studies focus improperly on ILEC systems and facilities that have been deployed rather than more efficient technologies currently available. As a result, they claim that the USWC and GTE studies inflate CLEC service order costs because they assume that OSS functions require significantly more manual intervention than is necessary.

In particular, Joint Intervenors dispute USWC's claim that all CLEC service orders must be individually reviewed for accuracy by an ILEC service representative and then manually rekeyed into the USWC service order processor. As noted above, Joint Intervenors maintain that there is no need for ILEC personnel to engage in these activities. They contend that a more efficient solution is to develop a software translation table that converts CLEC orders into the appropriate format for USWC's downstream systems.

#### **4. Staff.**

Staff states that technology necessary to perform electronic processing of OSS functions is available now and will be fully implemented within the long run period contemplated by TSLRIC cost principles. Nonrecurring costs should therefore be based on the use of fully automated OSS.

Staff witness Jack Breen agrees that fully electronic interfaces make it possible to process CLEC service orders with minimal manual intervention. He points out, however, that not all carriers will order electronically and that some manual intervention will be required by ILEC personnel to process such orders. Mr. Breen recommends that service order costs be computed using a weighted average of electronic and manual processing

costs. His analysis assumes that 64 percent of orders will be handled electronically, and 36 percent manually.<sup>159</sup>

USWC and GTE maintain that the 64 percent electronic flow through assumption used by Staff does not accurately reflect the capabilities of currently available technology. They argue that Mr. Breen's analysis incorporates flow through rates that GTE may achieve in the future only if it modifies its OSS to include additional electronic interfaces.

Joint Intervenors argue that Staff's proposal will provide incorrect economic signals to CLECs. They maintain that a weighted average charge will force CLECs who have implemented electronic OSS to subsidize competitors who have not made such investments. In the alternative, Joint Intervenors recommend separate cost-based rates to encourage CLECs placing manual orders to deploy more efficient and economical OSS technology currently available.

### **5. Commission Decision -- Service Order Processing Costs.**

Based on the evidence presented, the Commission is persuaded that the technological capability exists to process CLEC service orders for unbundled elements on an automated basis using electronic OSS. Although USWC and GTE have not fully implemented such systems to date, we agree with Joint Intervenors and Staff that the technology is available to produce computer programs that can process unbundled element orders with a minimum amount of human intervention.

In particular, we see no reason why it is necessary for ILEC service representatives to review all CLEC orders for accuracy and manually reenter the translation codes necessary to permit downstream processing of the order. As Ms. Petti explains in her testimony, properly designed software programs obviate the need for ILEC personnel to perform these tasks. In USWC's case, for example, programs can be used which automatically convert the information entered by the CLEC into the FIDs and USOCs required by USWC's OSS. This process will enable CLEC representatives to input service order requests into the ILEC's OSS through the electronic gateway. If the order is rejected for some reason, the order should return across the gateway to the CLEC for correction. This process eliminates the "double ordering" procedure incorporated in the USWC and GTE cost studies. Although there will be instances where CLEC service representatives will need to contact ILEC representatives, we believe the frequency of manual intervention will be nowhere near the 100 percent level incorporated in the USWC and GTE nonrecurring cost studies.<sup>160</sup>

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<sup>159</sup>As noted above, GTE estimates that approximately 64 percent of CLEC LSRs will be handled electronically in the next 2-3 years after OSS is fully implemented. GTE Exhibit/6, Collins/5.

<sup>160</sup>The record indicates that the preordering and ordering processes proposed by the USWC and GTE for building block orders would entail a greater amount of manual intervention than is presently required to process orders for USWC and GTE retail customers. If that is indeed the case, the proposals violate the duty to provide nondiscriminatory access under the Act. The FCC has held that §251(c)(3) requires an ILEC to provide requesting carriers with access to OSS functions that the ILEC uses for its own internal

Evidence concerning the OSS systems developed by Southwest Bell Telephone Company substantiates our finding that the technology is available to process unbundled element orders on a fully automated basis. Statements by SWBT personnel indicate that company will deploy electronic OSS interfaces this year which will enable SWBT to process unbundled element orders at flow through levels approaching 98 percent. SWBT's plan to implement fully automated interfaces in the immediate future stands in stark contrast to the claims by USWC and GTE that all unbundled element orders must be reviewed manually. More importantly, it substantiates the position taken by Joint Intervenors and Staff that the technology to develop automated interfaces exists but simply has not been implemented by USWC and GTE.

In addition to concluding that the technology to produce fully automated interfaces is available, it is clear that such interfaces must be implemented if new entrants are to have a meaningful opportunity to compete in local exchange markets. The level of manual processing envisioned by the USWC and GTE studies not only increases the nonrecurring charges paid by competing carriers, it inhibits competitive entry by (a) increasing the time necessary to process CLEC service orders; (b) increasing the likelihood for error because information must be reentered by ILEC personnel; and (c) limiting the ability of CLEC's to process a high volume of orders.<sup>161</sup> To compete effectively in the local exchange market, new entrants must be able to perform services and interact with customers as quickly and efficiently as the incumbent LECs. Manual processing of unbundled element orders would significantly reduce the quality of service that new entrants can offer as well as the ability to market their services in a cost effective manner.

Because fully automated systems for processing unbundled element orders have not yet been deployed, we do not have information from other jurisdictions regarding actual flow through rates for such systems. We agree with Joint Intervenors, however, that efficient, well-managed, and fully automated operational support systems should result in very high flow through levels. As we have emphasized, such systems will enable CLEC representatives to query ILEC databases to obtain the information necessary to prepare properly documented service orders. Orders that are incorrectly submitted will be rejected by the system and returned to the CLEC for correction. ILEC

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purposes or offers to its own customers. Thus, if an ILEC provides electronic preordering, ordering, provisioning, maintenance, repair or billing to itself, it must provide at least equivalent electronic access to requesting carriers in the provision of unbundled network elements. In other words, USWC and GTE may not require competing carriers to take extra steps or engage in additional manual activities to process service orders if such steps or activities are not required for the ILEC's retail operations. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, Second Order on Reconsideration, 11 FCC Rcd 19738, ¶ 9 (1996) (Second Order on Reconsideration).

<sup>161</sup>The record in this case does not disclose the specific level of resources USWC and GTE will devote to the manual processing of building block orders. Even if substantial resources are dedicated to this effort, the amount of time proposed by USWC and GTE to review each order would severely limit the number of unbundled element orders that could be processed each day.

representatives should become involved in the ordering process only infrequently: for example, where there is incorrect customer data or other system inconsistencies. In our estimation, it is reasonable to assume that a well-managed and maintained OSS will allow unbundled element orders to flow through at the 98 percent rate recommended by Ms. Petti. Accordingly, we find that the revised nonrecurring cost studies developed in accordance with this order should incorporate this level of flow through for all electronically submitted orders.

Notwithstanding our finding that the ILEC cost studies must incorporate flow through rates associated with fully automated OSS interfaces, we recognize that some CLECs may choose not to submit electronic orders for unbundled elements, at least initially. As we understand it, non-electronic orders are typically faxed or transmitted to ILEC service representatives over the telephone. Since these types of orders necessitate manual intervention by ILEC personnel, it is appropriate to develop a separate nonrecurring charge to insure that USWC and GTE are properly compensated for the costs they incur to process such orders.

We have elected not to adopt the weighted average flow through rate suggested by Staff witness Breen because we do not know what percentage of carriers will opt to process orders manually as opposed to electronically. Separate nonrecurring charges for manual orders will ensure that ILECs are not under or overcompensated for order processing costs. In addition, we agree with Dr. Zepp that separate nonrecurring charges for electronic and manual orders will send carriers the correct economic signals regarding the costs associated with the method of ordering they select. Carriers who place manual orders will be encouraged to deploy more efficient and economical OSS. This approach is consistent with the Cost Principle #3 which specifies that costs should be paid by those who are responsible for causing the cost to be incurred.<sup>162</sup> Finally, separate charges will prevent CLECs that have deployed efficient OSS from subsidizing competitors who have not.

## **B. Provisioning Processes.**

The parties dispute the manner in which CLEC orders for unbundled elements must be provisioned. The ILECs argue that building block orders must be treated as complex products requiring special handling and manual attention. Joint Intervenors, on the other hand, assert that building block orders may be provisioned in the same manner as residential or business basic exchange service -- as standardized products requiring minimal handling and lower nonrecurring costs.

### **1. POTS vs. Design Services.**

The term "POTS" refers to "plain old telephone service." Generally, it relates to simpler products and services such as residential flat rate service or vertical features such as call waiting and speed dialing. According to USWC, POTS services are typically

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<sup>162</sup>Telecommunications Cost Report, Vol I., *supra* at 14-15.

identified with a telephone number, are preengineered, and have a standard design and components.<sup>163</sup> POTS service orders are supported by their own inventory OSS that configure the line based on the end-to-end service ordered by the customer.<sup>164</sup>

“Design services” describe more complex, customized products and services. Examples include private lines, primary rate ISDN, interoffice trunks and feature group D service. These services generally require customized designs or individual configuration reviews, have quality and performance expectations, unique test characteristics, and may be associated with a telephone number or a circuit ID. Design circuits do not have to be associated with an end-user and, as a result, can be provisioned through the specification of meet points.

Design service orders can accommodate products that do not have a telephone number and require manual or coordinated handling. This type of order allows scheduling of a series of dates needed to process the order, such as record issue date, a design record layout, design verification assignment, and plant test date. Orders for design services are routed to OSS that contain inventory information concerning such services.<sup>165</sup> Throughout the design service flow, orders are handled by employees specifically trained to provision and test design services.<sup>166</sup>

## 2. USWC.

USWC witnesses Brigham and Buhler testified that unbundled elements, such as loops, must be provisioned using the more expensive design services flow. Unbundled loops, like private lines, are not switched or associated with a telephone number. Service orders for unbundled loops must be routed to OSS that contain inventory information about loops and to employees with the training and experience to provision unbundled elements.<sup>167</sup> In addition, the design flow allows USWC to design specific services for

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<sup>163</sup>POTS services may be provisioned with or without dispatching a technician for field work, but in either case do not undergo an end-to-end service test. USWC Exhibit/5, Buhler/4.

<sup>164</sup>OSS unique to USWC’s POTS service are SOAC Assigner (controls the flow of POTS service orders), LMOS (supports POTS repair processes), and DELIVER (supports the creation of repair tickets). Id. at 5.

<sup>165</sup>OSS unique to USWC’s design services are SOAC-C (controls the flow of design services orders), WFA/DI and WFA/C (support design services repair processes), DELIVER-C (supports the creation of repair tickets), NSDB (keeps end-to-end circuit information), and TIRKS (contains circuit equipment and facility data). Other OSS are used by both POTS and design services. These are SOPS (processes service orders), SWITCH/COSMOS (keeps central office inventory and assignments), WFA-DO (dispatches technicians), MARCH (performs switch translations), and LFACS (contains loop assignments and inventory and, in the case of design services, passes this information to TIRKS). Id.

<sup>166</sup>According to Mr. Brigham, design services require the participation of ISC, plant line assignment, circuit provisioning and central office frame technicians to perform activities that are not required to provision POTS services. USWC Exhibit/4, Brigham/14.

<sup>167</sup>The unbundled loop inventory that connects the local loop to the meet point with a CLEC resides in TIRKS. POTS orders are routed to LFACS, not TIRKS. Also, unbundled loop orders must be handled by

CLECs. Unbundled loops can be configured in different ways depending on the method chosen by the CLEC to connect with USWC. Finally, only the design services flow accommodates coordinated cut-overs and the testing processes necessary to ensure connectivity between a CLEC's collocated equipment and the point of interface to USWC's loop.

Mr. Buhler emphasizes that manual intervention is required to accommodate CLEC building block requests, including processing disconnect and connect orders (described above) and coordinating circuit cut-overs. In addition, he observes that all software systems are subject to errors that require manual intervention on a periodic basis. The software necessary to improve reliability to the level now associated with modern switching equipment does not currently exist. Such a project would require total system replacements and drive up the cost of provisioning unbundled loops.

USWC is currently investigating whether the same loop facility can be used for both disconnect and new connect orders, thus eliminating some of the manual processing now required to provision unbundled loops. Improving the ability to associate related orders would ensure efficient loop engineering, but no implementation date for this process has been established. USWC is also working with Bellcore to determine whether the inventory for unbundled loops can be migrated to other OSS that support the POTS services flow. This would involve relocating loop inventory from TIRKS to SWITCH. However, coordinating the information that would remain in TIRKS with the unbundled loop information that would go to SWITCH is problematic and the advantages from a cost and technical standpoint are not apparent at this time. The ability to move inventory to SWITCH will not be available until the second half of 1998 at the earliest.

### **3. Joint Intervenors.**

Joint Intervenors contend that USWC's proposal to use the design services flow for unbundled element orders will disadvantage CLECs and their customers. According to Ms. Petti, CLEC customers who choose a CLEC as their local provider will experience longer waits for service and more technical problems than will ILEC retail customers. CLECs will also incur additional and excessive costs.

Whereas ILEC retail customer orders for simple business or residential service will flow through the POTS process, Ms. Petti emphasizes that all CLEC orders will require a separate set of OSS, special technicians, and procedures that are now required only for a minority of new telecommunications services provided by USWC.<sup>168</sup> Instead of flowing through to the central office technicians and field installation crews normally used for basic services, CLEC orders will be sent to TIRKS. At that point, a special document known as a Work Order Record Document (WORD) will be created and sent

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employees trained to provision orders through SOAC-C and TIRKS. Only design services orders are routed to them. USWC Exhibit/5, Buhler/6.

<sup>168</sup> AT&T/MCI Exhibit/9, Petti/6-7.

to multiple locations for special handling, tracking, testing, and completion. These locations include the ISC (discussed above), the Circuit Provisioning Center (CPC), and the Special Service Test Center (SSC).

Ms. Petti emphasizes that it typically takes several days for an order to flow through the design services process. In contrast, new USWC retail customers can expect to receive service on the same day, or within a couple of days, from the time they place an order for service. As a result, CLEC customers will have to wait much longer than USWC customers to obtain the same service. Using the design services flow also means that maintenance and trouble reports will be handled by a smaller workforce than is assigned to USWC's small business and residential users. This means that CLEC customers will have to wait longer for problems to be resolved. Finally, the CPC and SSC technicians responsible for design services flow are more highly paid than their counterparts in basic services because of their technical skills and knowledge. Because the higher labor rates for CPC and SSC technicians are factored into USWC's nonrecurring cost studies, the cost of providing unbundled loops is overstated.

Ms. Petti also contends that there is no technical justification for provisioning unbundled loops through the design services flow. She disagrees with USWC's claim that the POTS flow will not work because unbundled loops differ from ILEC loops. To the contrary, she maintains that a properly written and executed CLEC order should flow through without manual intervention as follows:

Using Uniform Service Order Codes (USOCs) and Feature Identification Codes (FIDs) unique to each CLEC to identify the unbundled loop, the Service Order Analysis and Control system (SOAC) could be triggered to query LFACS for the loop assignment as it does for services currently provided by USWC. By inventorying the CLEC tie cable appearance in the USWC SWITCH OSS as a pseudo OE/LEN/LU (originating equipment/line equipment number/line unit), the OSS would map the loop to the pseudo OE (EICT). SWITCH would then perform all of the inventory and assignments for the unbundled loop.<sup>169</sup>

Ms. Petti states that pseudo identifiers have been used for years and are commonly used for switch cut-overs and line and station transfers. She maintains that USWC's SWITCH OSS should be able to handle the inventory of pseudo OE. That process requires USWC's data base manager or line assignment clerk to build pseudo tables for each switch. USWC witnesses have testified that Bellcore, the SWITCH vendor, has confirmed that the tie cable inventory for unbundled loop orders and any necessary programming may be available in the second half of 1998.

Ms. Petti also states that the design services flow envisioned by USWC will disadvantage CLECs because of the limitations of the TIRKS OSS. TIRKS is the

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<sup>169</sup>Id. at 10-11.

primary OSS used by USWC to deliver high capacity business services. It is a costly, finite resource that may be compromised if large volumes of orders for unbundled loops must be processed. Ms. Petti contends that it is not feasible to use TIRKS to provide services to residential customers.

Ms. Petti agrees that CLECs will order a certain number of sophisticated and complex circuits. These types of circuits are usually ordered by large business customers and require the special handling associated with the design services process. Based on prior experience, however, Ms. Petti projects that the ratio of designed circuits to small business/residential orders will be only 10 percent of total orders.

#### **4. Commission Decision -- Provisioning Processes.**

The Commission agrees with Joint Intervenors that the nonrecurring charges paid by new entrants should not be based on the assumption that all orders for unbundled elements must be processed through the design services flow. The evidence demonstrates -- and USWC acknowledges -- that it takes longer and is more expensive to provision unbundled loops via the design services flow than it takes for USWC to provision basic retail services using the POTS services flow. This disparity means that CLECs will be unable to supply services in as efficient or as timely a manner as the services offered by the ILECs. As a result, new entrants are placed at a significant competitive disadvantage vis a vis the ILECs.

If competing carriers are to have a reasonable opportunity to compete with incumbent providers of local exchange service, they must be able to obtain unbundled elements in a manner that allows them to assemble services in approximately the same time it takes the ILEC to provision similar telecommunications services. Customers are likely to have little patience with competing carriers that take substantially more time than the incumbent to supply service, and only then at additional expense. USWC's assumption that all CLEC building block orders must flow through the design service process produces a lack of parity from an ordering/provisioning standpoint and impedes the emergence of effective local exchange competition.

We are also unconvinced by USWC's claim that it is necessary from a technical standpoint to provision all unbundled elements in the same manner as private lines and other complex telecommunications services. Ms. Petti testified persuasively that CLEC orders can flow through without manual intervention by using pseudo identifiers, an existing technology common to other telecommunications applications. USWC did not adequately refute this claim. In fact, Mr. Buhler acknowledged that USWC is currently working with Bellcore to determine if unbundled loop inventory can be migrated to OSS that support the POTS services flow. Although he indicated that problems could arise, he also confirmed that the ability to move loop inventory from TIRKS to SWITCH may be available in 1998.<sup>170</sup> The record also discloses that USWC's witnesses have testified

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<sup>170</sup>Mr. Buhler also testified that USWC is attempting to eliminate some manual activities by using the same loop inventory for disconnect and new connect orders. USWC Exhibit/5, Buhler/7. If we understand his testimony correctly, this process would be particularly beneficial in the case where a customer migrates



elsewhere that the SWITCH OSS may be modified this year to accommodate the process contemplated by Ms. Petti.

We are also concerned with the ability of USWC's TIRKS OSS to accommodate the demand for unbundled elements. As Ms. Petti explains, TIRKS was designed to handle orders for high capacity business services and may be compromised if large volumes of orders for unbundled loops must be processed through that system. USWC has only received a very limited number of orders for unbundled elements to date and has not demonstrated that TIRKS will be able to function adequately as the number of CLEC orders expands.

Although we reject the contention that all CLEC unbundled element orders must be provisioned as design services, we acknowledge that CLECs will order sophisticated and complex circuits that necessitate the specialized handling associated with the design services flow. According to Ms. Petti, design services currently provided to USWC customers include Digital Data Service, Foreign Exchange Service, Feature Group A and D, Voice Grade Analog Data, High Capacity Special Services and Interoffice Transport (Hi-Cap or DS1, DS3, STS-1, etc.), Frame Relay Service, and ISDN Primary Rate Interface Service.<sup>171</sup> Basic residential and simple business<sup>172</sup> services on the other hand, are not provisioned to USWC customers as design services. Based on her experience in a geographical area encompassing a very large urban center, and suburban and rural communities, Ms. Petti estimates that the ratio of design circuits to small business and residential orders will approximate 10 percent of total orders.

The Commission is persuaded by Ms. Petti's testimony regarding this issue. Accordingly, we find that the nonrecurring costs of provisioning the Basic NAC, ISDN NAC, NACC Switched Lineside, NACC ISDN, Switching Features, Premium Listing, and Private Listing building blocks shall be based on the POTS services flow.<sup>173</sup> While it is possible that these building blocks might be used occasionally for design services, they are used to provision POTS-type residential and business services the vast majority of the

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from an ILEC to a CLEC and the CLEC purchases all of the unbundled elements necessary to provide a finished service. In that instance, the ILEC technician could disconnect service by merely lifting a wire, and the CLEC could initiate new service by reconnecting the same wire. Alternatively, the parties could agree to a "glue charge" that would eliminate both activities.

<sup>171</sup>These services are provisioned through the Circuit Provisioning Center and the Special Services Center and are referred to as design private line/special services. AT&T/MCI Exhibit/9, Petti/8. USWC witness Buhler also identified several of these services as design services. USWC/5, Buhler/4.

<sup>172</sup>Ms. Petti points out that ISDN Basic Rate Interface (ISDN/BRI) is also not provisioned as a design circuit. Because ISDN/BRI rides over copper or IDLC to the central office switch, the provisioning and proactive maintenance monitoring is performed through OSS that connect to the switch. Id.

<sup>173</sup>For USWC, these building blocks are listed on Staff Exhibit 11, Breen/1-3, Lines 744-745, 747-749, 769, 776, 805-834, and 879-880. For GTE, the building blocks are listed on Staff Exhibit/11, Breen/4-6, Lines 576-577, 599, 606, 636-665, and 701-702.

time. The nonrecurring costs associated with provisioning the remaining building blocks shall be based on the design services flow.

While it is impossible to accurately match all of the building blocks with the types of services that may be provisioned, we believe the approach we have taken to calculate building block provisioning costs is indicative of the provisioning processes that should exist in a forward-looking environment. More importantly, we conclude that USWC and GTE can and should develop provisioning processes which reasonably approximate those used by USWC and GTE to provision similar facilities and services for their own customers. As we have emphasized, USWC and GTE have a duty under §251(c)(3) of the Act to provide nondiscriminatory access to unbundled elements. The ILECs cannot meet this obligation -- and competition cannot succeed -- if we assume that building blocks can only be provisioned to CLECs through more expensive, time-consuming, and inefficient processes.

### **C. Integrated Digital Loop Carrier (IDLC).**

This issue concerns the percentage of IDLC systems, as opposed to the percentage of copper loops, assumed to be present in ILEC networks for purposes of calculating nonrecurring costs. In general, a greater percentage of IDLC results in a lower cost for provisioning loops and thus, lower nonrecurring costs.

#### **1. Party Positions.**

The AT&T/MCI NRCM assumes that all loops over nine kilofeet are provisioned by TR-303 IDLC systems. Ms. Petti claims that the TR-303 IDLC systems represent least cost forward-looking technology and “are made up of intelligent, processor-controlled network elements that can communicate over standard interfaces to the OSS systems in such a manner that little or no manual intervention is required for provisioning maintenance activities.”<sup>174</sup>

USWC and GTE oppose the IDLC assumptions incorporated in the NRCM and emphasize that IDLC technology is deployed in only very small parts of their current networks. It is unclear, however, what assumptions USWC has included in its cost studies regarding placement of IDLC systems. Mr. Schmidt testified that USWC “advocates a least-cost forward-looking network architecture that places TR-303 IDLC systems in the network beyond 12,000 feet in the highest density areas and TR-008 IDLC systems in the lower density areas.”<sup>175</sup> On the other hand, USWC’s reply brief indicates that USWC did not include any IDLC technology in its nonrecurring cost studies.<sup>176</sup>

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<sup>174</sup>Ms. Petti distinguished TR-303 IDLC systems from TR-008 systems, noting that the former are connected directly to the switch and can be provisioned electronically, while the latter must be provisioned manually. TR. 989-993. See also the discussion of IDLC systems, *supra* at 31-32, 53-54.

<sup>175</sup>USWC Exhibit/15, Schmidt/7.

<sup>176</sup>USWC Reply Brief at 7.

According to GTE witness Murphy, the IDLC assumptions in the NRCM are inappropriate for the provision of voice grade circuits. The model assumes that voice grade service will be handed off to the CLEC with multiple loops embedded in a DS1 handoff. Where loops are provided over fiber, however, it is necessary to install demultiplexing equipment and a plug in card, or channel unit, before voice grade loops can be unbundled. It is also necessary for a technician to make cross-connections at the MDF. Mr. Murphy claims that the NRCM fails to include the equipment and labor costs necessary to allow the handoff of voice grade loops.

## **2. Commission Decision -- IDLC.**

As noted above, the cost studies approved in docket UM 773 were used to develop the recurring building block prices adopted in docket UM 844. The recurring cost studies incorporate specific assumptions regarding the percentage of digital carrier systems in USWC's network using the overall least cost technology to calculate TSLRIC.<sup>177</sup> The studies assume that 25 percent of the USWC network is supplied by IDLC systems and 75 percent is supplied by analog (copper or metallic) facilities.

For purposes of calculating nonrecurring charges, the Commission finds that the percentage of IDLC included in the nonrecurring cost studies should be consistent with the percentage of IDLC incorporated in the recurring studies. We realize that these percentages may change over time as cost studies are reevaluated and more efficient technologies become available. In the meantime, however, we believe it is important to maintain consistency between recurring and nonrecurring studies where the same issue is addressed.

The recurring cost studies do not specify the type of IDLC systems which should be assumed for purposes of cost calculation. The evidence indicates that the TR-303 systems are currently available and represent more recent technology than TR-008 systems. Accordingly, TR-303 systems should be assumed for purposes of calculating IDLC costs.

We are not persuaded by the ILEC argument that IDLC should be excluded for purposes of calculating nonrecurring costs because digital carrier technology comprises only a small percentage of USWC's and GTE's existing network. As emphasized above, this position is inconsistent with the TSLRIC cost principles adopted in docket UM 351. See discussion of Cost Principles #1 and #2, *supra*.

### **D. Labor Times and Probabilities.**

The nonrecurring cost studies identify the time required by ILEC personnel to complete each nonrecurring activity. The work time estimate is multiplied by the

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<sup>177</sup>The incremental costs developed for USWC also apply to GTE until such time as GTE-specific cost studies are approved. See e.g., Order No. 96-283 at 8-9.

probability of occurrence<sup>178</sup> and the appropriate labor rate to derive the cost for the activity. Labor times and rates are significant cost drivers for nonrecurring costs.

## 1. USWC.

USWC witness Brigham testified that the work time estimates and probabilities for each nonrecurring activity are based on special studies and analyses conducted by teams of service experts within USWC. The teams include product managers and experts from each functional area (e.g., Interconnect Service Center). The estimates and probabilities are usually updated each time a study is performed.

Joint Intervenors argue that USWC's proposed labor times and probabilities are based upon outdated and unreliable personnel surveys -- known as "Task Oriented Cost" (TOC) studies<sup>179</sup> -- conducted by USWC in the late 1980s and early 1990s. They further maintain that the TOC studies do not incorporate any of the efficiencies USWC has realized from reengineering its systems and from consolidating processes and functions. Joint Intervenors maintain that USWC has not supplied any documentation to show that a systematic review of the older TOC estimates has been performed. They also contend that USWC has not conducted any "time in motion" studies to substantiate the proposed labor times and probabilities.

USWC concedes that it relies on some TOC studies, but emphasizes that those studies are used merely as a starting point for developing time and probability estimates. USWC notes that the TOC studies are first reviewed by subject matter experts to determine if the studies reflect current practices. In some cases, the experts concluded that the TOC studies were outdated and could not be used. In other cases, the TOC studies were deemed current and continue to be used by USWC. In the NAC (loop) nonrecurring cost study, for example, USWC relied on the TOC studies only for work times relating to the loop and circuit provisioning centers. All other work times for the loop study are based on new analyses.

USWC contends that the activity times included in its nonrecurring cost studies represent the best available estimate of the work times that USWC is likely to experience on a forward-looking basis given currently available systems and methods of operation. USWC concedes that it has not conducted any time in motion studies to substantiate its work time and probability estimates, but emphasizes that AT&T/MCI NRCM is also deficient in that respect.

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<sup>178</sup>In some cases, an activity must always be performed and the probability is 100 percent. Other times, the activity may need to be performed occasionally. For example, we have determined that 98 percent of electronically-submitted service orders will not require the intervention of USWC's ISC personnel. Thus, there is a two percent probability that electronic orders will not flow through and will have to be handled manually by ISC representatives.

<sup>179</sup>The TOC studies are set forth in USWC Exhibits 27 and 28. In its opening brief, USWC incorrectly states that only a portion of USWC Exhibit/28 was admitted. In fact, the entire exhibit was entered in the record. TR. 340.

## **2. AT&T, MCI and GTE.**

The AT&T/MCI NRCM and the GTE nonrecurring cost studies also include work time and probability estimates. Ms. Petti and Mr. Collins testified that those estimates are based on the opinions of subject matter experts. AT&T/MCI and GTE did not submit workpapers or documentation indicating the information that the experts relied upon to develop their work time and probability estimates.

## **3. Staff.**

Staff witness Breen made a number of adjustments to the work time estimates included in the USWC and GTE cost studies. Staff's adjustments are discussed below.

## **4. Commission Decision -- Labor Times and Probabilities.**

The Commission has a number of concerns relating to the work time and probability estimates included in the USWC nonrecurring cost studies. We acknowledge USWC's efforts to update its old TOC studies with more recent estimates, but we do not believe that USWC has produced sufficient evidence to substantiate its proposed work times and probabilities. Our concerns include the following:

(a) For the most part, USWC did not identify the subject matter experts used to develop time and probability estimates. There are a number of memos included with the TOC studies that we understand were prepared by experts, but we cannot tell how many other persons were involved in the review process for each work activity. Moreover, no information has been provided regarding the knowledge or experience possessed by the experts responsible for those decisions.

(b) It is not clear from the evidence when the TOC study results were modified by subject matter experts and when they were not. Although the attached memoranda indicate some modifications were made, we have no idea whether they represent all of the changes proposed. Nor can we determine with certainty whether the changes recommended were adopted and incorporated in USWC's nonrecurring cost studies.

(c) In those cases where we have been able to discern that TOC studies were modified by a subject matter expert, we are often unable to determine why the changes were made.<sup>180</sup> Even where the subject matter expert has made a better effort to document

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<sup>180</sup>For example, in the case of the installation function associated with the "Special Service-Circuit Installation Time Study," there is a memorandum entitled "Validation of TOC STUDY time estimate." The memorandum states: "The time estimates [from the TOC Study] for the work functions below do not appear to be a reasonable estimate. I have reviewed the questions and based on my experience, knowledge of the work functions and further investigation, believe the Staff estimate will reflect the average time it takes to perform the function." This explanation provides no clue why the TOC studies are unreasonable. Nor can we tell what the "staff estimate" is, or how that estimate was prepared. USWC Exhibit/27 at 144.

the reasons for proposed work times and probabilities, the underlying rationale is not always explained in sufficient detail to enable us to conclude that the decisions are reasonable.<sup>181</sup>

(d) USWC does not specify the criteria used by the subject matter experts to evaluate work activities or estimate probabilities. Without such information, we cannot tell whether decisions to modify or verify the TOC studies are reasonable.<sup>182</sup>

(e) The TOC studies list various work activities necessary to perform a given function. In some cases, these activities appear to be fairly well detailed. In other cases, however, the activities are not clearly described and there is insufficient information regarding how the associated work time estimates were developed. A properly constructed study should (1) list all of the steps a service representative or technician must take to complete a particular task; (2) include an adequate description of each step; and (3) include documented measurements of the time necessary to complete each step.

(f) Mr. Brigham testified the work time estimates included in the TOC studies are based on a sampling of results from throughout USWC's service territory.<sup>183</sup> The studies disclose that there are wide variations in the work time necessary to perform certain activities from state to state. USWC does not explain the reason for such variations. We are left to speculate whether the differences might be because of the type of central offices sampled, the type of equipment employed in the central office, the number of technicians used, etc.

(g) Mr. Brigham explained that the final work times produced by the TOC study are based on a weighted average of information from the states served by USWC. There is no information showing what factors were considered in computing the weighted average.

(h) For many work activities, the TOC studies include a line where the "minimum," "maximum" and "most likely times" are supposed to be entered. In the vast

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<sup>181</sup>The subject expert memorandum relating to "Unbundled Switch Port Cost Studies" contains more detail and includes a brief discussion of the rationale underlying probabilities associated with work activities. However, the reasons for other assumptions are not explained. In addition, the associated work times for initial and additional activities are not explained. USWC Exhibit/28 at 31-40.

<sup>182</sup>For example, during the hearing Mr. Brigham indicated that ISC work times incorporated in the USWC nonrecurring cost studies should be reduced substantially to reflect time savings resulting from the recent implementation of USWC's Interconnect Mediated Access (IMA) electronic interface. A USWC subject matter expert recommended the initial work times estimates in 1996. TR. 316-318, 359-363. USWC did not explain how the IMA interface has altered the work processes of ISC personnel to achieve such significant time savings. Even though this change reduced USWC's proposed nonrecurring charges, it is nevertheless essential to know the reasons underlying the revised time estimates.

<sup>183</sup>TR. 350.

majority of cases, there is no entry for the minimum and maximum times.<sup>184</sup> In these instances, it is impossible to tell how the “most likely time” was derived.

(i) Since the TOC studies were conducted several years ago, it is safe to assume that they do not incorporate any efficiencies derived from USWC’s recent reengineering efforts or new technological developments that USWC may have employed to reduce work times. Although USWC indicated that the subject matter experts took such issues into account during the course of their review, we are unable to discern from the record all of the instances where increased efficiencies or new technologies were considered. Nor are we able to tell how such efficiencies and technologies were factored into the work times and probability estimates included in USWC’s nonrecurring cost studies.<sup>185</sup>

The work time estimates and probabilities included in the GTE cost study and the AT&T/MCI NRCM suffer from the same type of defects that afflict USWC’s cost studies. Both GTE witness Collins and AT&T/MCI witness Petti testified that the work times and probabilities are based on the judgment of subject matter experts. However, neither GTE nor AT&T/MCI supplied sufficient documentation to support the assumptions underlying the work time and probability estimates. Without a more detailed showing, the GTE and AT&T/MCI estimates are also unacceptable.

Because of the shortcomings in the proposals presented, it is extremely difficult to determine the appropriate work time and probability estimates for each nonrecurring activity. Although we could reasonably exclude such costs altogether because of a failure of proof, that approach would not acknowledge the fact that ILEC personnel must perform certain nonrecurring activities to provision building blocks for competing carriers.

In the following sections of this order, the Commission discusses certain nonrecurring activities and adopts interim work time and probability estimates for those activities. With respect to the remaining nonrecurring activities, we conclude that nonrecurring costs should be based on the minimum work time and probability estimates included in USWC’s TOC studies. These work times and probabilities shall remain in effect until such time as USWC and GTE file revised analyses that are approved by the Commission. Such analyses must be comprehensive and include full documentation. In order to avoid the problems associated with the studies presented in this case, we strongly encourage the ILECs to conduct time-in-motion studies. Such studies provide a more accurate indication of the work times and probabilities associated with the various nonrecurring functions necessary to provision building blocks.

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<sup>184</sup>See e.g., USWC Exhibit/27 at 44-47; 56-60; 63; 66-68; 75-76; 80-84; 89-91; 93-95; 99-106; 115-119; 126-127; 133-137; 139-140; 149-160; and 162-164.

<sup>185</sup>See e.g., *supra* note 182.

## **E. Jumper Activity Times.**

This issue involves the amount of work time necessary for an ILEC technician to install and connect or to disconnect and remove jumper wires at the ILEC's main distribution frame. The parties discussed this issue at length.

### **1. Party Positions.**

USWC witness Schmidt testified that the physical unbundling of loops involves several manual, labor-intensive processes. Upon receipt of an order for an unbundled loop, USWC must dispatch a technician to the central office to disconnect a two-wire jumper (short jumper) from the loop at the MDF. The technician must then connect the loop to the CLEC using another short jumper that runs between the loop connection on the MDF and the tie cable that runs to the SPOT frame and then on to the CLEC's collocated space.<sup>186</sup> USWC estimates that 14 minutes are required to perform the physical jumper activity -- seven minutes at the MDF and another seven minutes at the distribution frame located near the carrier's collocated space. The estimates are based on meetings held during 1997 by USWC personnel experienced in provisioning and maintenance activities. Mr. Schmidt indicated that USWC has investigated whether these manual processes can be mechanized, but there are no mechanized solutions available in the foreseeable future.

AT&T/MCI contends that USWC's estimated jumper activity times are "very leisurely." According to Ms. Petti, low-profile COSMIC frames commonly have jumpers that are much shorter than those required for conventional MDFs. As a result, less time is required to run, install, or remove jumpers. The AT&T/MCI NRCM estimates that only two minutes are necessary to perform these activities.

The jumper time estimates included in the GTE cost study are less than half of those estimated by USWC and somewhat greater than those estimated by AT&T/MCI. The precise times are designated as confidential by GTE.

Staff argues that jumper activity times should not be included in the loop nonrecurring cost where switching is supplied by the CLEC. Mr. Breen emphasizes that the Commission did not distinguish between "short jumpers" (i.e., jumper wires connecting the loop and the switch) and "long jumpers" (i.e., tie cables between the MDF and a CLEC's collocated space) when it developed the recurring cost for the "Jumper NAC" building block. He further maintains that the material and labor (or "EF&I") cost to place long jumpers was included in the recurring cost of the Jumper NAC building block approved in docket UM 351. As a result, Mr. Breen argues that it is inappropriate for USWC to charge the recurring Jumper NAC building block rate and also charge for

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<sup>186</sup> Note that this scenario contemplates the CLEC is collocated at USWC's central office. It does not assume that the CLEC will have direct access to the MDF to make its own connections. Collocation is not required where a CLEC purchases all of the building blocks necessary to provision a finished service and opts to make its own connections via the direct access procedure authorized in this order.



the short jumper placement through a nonrecurring charge. He suggests that the distinction between long and short jumpers should be considered in future analyses of recurring and nonrecurring costs.

On the other hand, Staff recommends an increase in the NACC (switch port) building block. Mr. Breen observes that a short jumper must be provisioned as part of the NACC when switching is provided by the ILEC.<sup>187</sup> Since the placement of short jumpers is typically expensed, it is appropriately treated as a nonrecurring cost. Mr. Breen recommends that the nonrecurring cost and price of the NACC should be adjusted accordingly. However, rather than use the seven-minute estimate suggested by USWC, Mr. Breen recommends that the Commission adopt the short jumper activity time included in USWC's retail cost study. The jumper activities modeled in the retail study are the same as those in the nonrecurring cost study, but the work time estimates are significantly lower.<sup>188</sup> Mr. Breen did not apply the lower retail jumper activity time to other USWC cost studies which include short jumper activities.

USWC does not object to increasing the NACC nonrecurring cost, but takes issue with Staff's proposal to eliminate jumper activity costs from the nonrecurring cost of the loop. USWC claims that Mr. Breen does not properly distinguish between short and long jumpers.<sup>189</sup> Mr. Brigham emphasizes that the short jumper must be installed each time a customer orders service and that short jumpers are neither capitalized nor included in recurring costs. By contrast, long jumpers (tie cables) are hardwired cables that run between the MDF and the CLEC's collocated space. Long jumpers are permanent investments and are therefore capitalized and included in recurring costs. Mr. Brigham maintains that the cost data relied on by Mr. Breen to support the removal of jumper activity times from the nonrecurring cost of the loop<sup>190</sup> pertain only to long jumper costs, not to the labor costs required to place the short jumper. He further argues that short jumper placement costs are not recovered in any other building block cost.

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<sup>187</sup>Mr. Breen assumes that the ILEC will supply the short jumper to connect the loop (NAC) to the switch port (NACC). Although Staff's position is consistent with our understanding of how unbundling would occur, USWC and GTE have stated that they will not combine most building blocks pursuant to the Iowa Utils. Bd. decision. In that case, the nonrecurring charges paid by requesting carriers should not include any costs to perform such combinations.

<sup>188</sup>The retail jumper activity times are confidential. See Confidential Staff Exhibit/12, Breen/12, line 698-699, Column G.

<sup>189</sup>USWC refers to "short" jumpers as "MDF jumpers" and "long" jumpers as "Jumper NACs." We have used Staff's terminology to avoid confusion with the "Jumper NAC" building block.

<sup>190</sup>USWC notes that Mr. Breen's adjustment affects the loop nonrecurring cost, since USWC has agreed to waive nonrecurring charges for the long jumper, cross-connection, and the distributing frame termination when the a CLEC orders these building blocks with a loop. However, USWC claims it would not recover its costs if these building blocks are ordered individually. USWC Exhibit/11, Brigham/22-23.

## 2. Commission Decision -- Jumper Activity Times.

### (a) How should short jumper-related costs be categorized?

Staff witness Breen correctly observes that the Commission did not distinguish between short jumpers and long jumpers when the Jumper NAC building block was established in docket UM 351. The recurring monthly price of the Jumper NAC building block is based on the investment and labor costs of installing tie cables within ILEC central offices.

Although short jumper-related costs were not considered in developing the recurring Jumper NAC rate, the evidence suggests that Jumper NAC rate would be more than sufficient to compensate the ILEC for the capital cost of the short jumper facility. Tie cables are permanently installed cables that include hundreds of wires. They are often more than several feet in length and may extend between different floors of an ILEC central office. Conversely, short jumpers are comprised of only one or two wire pairs and typically extend no more than a few feet between terminal connections on the MDF. Compared to tie cables, the capital cost of short jumpers is *de minimis*.

On the other hand, the record discloses that nearly all of the costs associated with short jumpers are labor-related expenses of connecting and disconnecting jumper wires. Moreover, short jumper wire is generally treated as a supply item. Since these costs are fundamentally expense items, it may be more appropriate to recover short jumper-related expenses through a nonrecurring charge, rather than create a separate short jumper building block. This approach allows the ILECs to assess a short jumper nonrecurring charge whenever a short jumper is required in conjunction with a building block. It also addresses our concern that a recurring monthly rate may not provide an adequate means of recovering the ILEC's labor costs unless the CLEC retains the jumper connection for an extended period of time. For example, if the short jumper were priced at the current Jumper NAC building block rate of 12 cents per month, it would take many months for the ILEC to recoup its short jumper-related costs. In addition, we have noted that customer "churn" in a competitive local exchange market is likely to approximate the 40-50 percent annual rate now experienced in the long distance market. A high rate of customer churn will cause short jumpers to be connected and disconnected more frequently, lessening the chance that the ILEC will be able to recover its labor costs.

For these reasons, the Commission finds that short jumper-related costs incurred by USWC and GTE should be recovered as a nonrecurring charge. We are not persuaded that it is necessary to establish a short jumper building block or that short-jumper related costs can be reasonably recovered through recurring rates.

### (b) Under what circumstances should a nonrecurring charge for short jumper-related activity be assessed?

The Commission concludes in this order that the mandatory collocation proposals proposed by USWC and GTE contravene the nondiscriminatory access requirement in

§251(c)(3) of the Act. We have also determined that, in light of the *Iowa Utilities Bd.* decision, nondiscriminatory access requires that requesting carriers must have direct access to the MDF and other ILEC facilities where building blocks may be combined. These decisions allow CLECs to self-provision short jumpers without any involvement by the ILEC. As a consequence, USWC and GTE may have limited occasion to connect and disconnect short jumpers and to assess nonrecurring charges for those activities.

Clearly, the nonrecurring charges assessed by USWC and GTE should not include short jumper-related costs except in circumstances where the ILEC performs short jumper activities and supplies the short jumper wire on behalf of the CLEC. Under the terms of this order, a CLEC may access the MDF to self-provision the short jumper between the loop termination location and the tie cable termination location on the MDF.<sup>191</sup> This is true regardless of whether the CLEC purchases ILEC switching or supplies its own switching.<sup>192</sup> Because the ILEC will not incur any labor costs to connect the short jumper in either instance, these costs may not be included in the nonrecurring charges paid by the CLEC.<sup>193</sup>

Likewise, there will be instances where the ILEC will not incur any cost to disconnect short jumpers. For example, where a customer served by one CLEC seeks to transfer service to another CLEC, the ILEC will not incur any cost to disconnect the short jumper if the serving CLEC disconnects the short jumper itself at the MDF.<sup>194</sup>

**(c) How should short jumper labor costs be calculated?**

The final issue relates to the work time estimate that should be used for purposes of calculating the nonrecurring charges in those cases where the ILEC performs short jumper activities. As emphasized above, the Commission encourages USWC and GTE to produce work time and probability studies that are more comprehensive and better documented than those presented in this case. In the interim, we agree with Staff that the short jumper activity time estimates incorporated in USWC's retail cost studies should also be used for purposes of calculating nonrecurring costs where USWC technicians are

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<sup>191</sup>It is presumed that the CLEC will supply its own wire, unless the ILEC elects to make wire available to the CLEC.

<sup>192</sup>The latter scenario assumes that a tie cable runs from the MDF to the carrier's collocation space and from there to the carrier's remotely collocated switch.

<sup>193</sup>Of course, the ILEC's nonrecurring costs will be higher if a CLEC opts to collocate, does not use the direct access option, and the parties agree that the ILEC should connect/disconnect the short jumper. In that case, the ILEC may assess a separate nonrecurring charge to recover the cost of the short jumper activities it performs. This assumes, of course, that collocation is optional rather than mandatory and the ILEC agrees to connect/disconnect the short jumper for all carriers on a nondiscriminatory basis.

<sup>194</sup>Also, the ILEC may incur short jumper-related cost but have already recouped that cost. For example, where an ILEC customer migrates to a CLEC and the CLEC purchases building blocks to serve that customer, the ILEC's cost of disconnecting the short jumper is included in the retail installation charge paid by the customer when ILEC service is established.

required to connect or disconnect the short jumper. There is no significant difference between the short jumper work USWC performs for its retail customers and the work USWC may perform for the CLECs. USWC did not explain the substantial difference between the retail short jumper activity times and the seven-minute jumper activity time included in its nonrecurring cost studies.

Moreover, as in the case of the work time estimates discussed above, there is not enough information in the record to determine how USWC's seven-minute jumper activity estimate was developed. For example, it is not clear whether the seven-minute estimate is based entirely upon expert opinion or whether measurements were taken of technicians performing jumper activities. Also, we do not know the time period over which the seven-minute estimate was developed, the location or size of the central offices under study, or the type of distribution frames used in the study. If we are to attach significant weight to such analyses, USWC must supply more complete and better organized data than that included in the nonrecurring cost studies presented in this case.

The Commission has similar problems with the two-minute short jumper activity estimate incorporated in the AT&T/MCI NRCM. Although, the NRCM purports to be based on subject matter expert opinion, AT&T/MCI did not provide sufficient documentation to substantiate the two-minute estimate.

GTE's short jumper activity time estimates do not differ substantially from the USWC retail jumper activity times recommended by Staff, and are considerably less than the seven-minute estimate proposed by USWC.<sup>195</sup> For those reasons, we are willing to use GTE's short jumper activity time estimates to calculate GTE's nonrecurring costs until the company develops better studies to document the labor time necessary to perform these activities.

## **F. COSMIC Frames.**

This issue addresses the type of main distribution frame assumed to be used in ILEC central offices for cost study purposes. As discussed above, there are two types of main distribution frames generally in use: conventional MDFs and low-profile, or COSMIC, frames. The type of distribution frame is important for purposes of calculating nonrecurring costs because it takes less time to connect jumpers on COSMIC frames.<sup>196</sup>

### **1. Party Positions.**

The AT&T/MCI NRCM assumes that COSMIC frames comprise 100 percent of the distribution frames installed in ILEC central offices. Ms. Petti states that COSMIC

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<sup>195</sup>The GTE jumper connect activity time is slightly greater than the USWC retail short jumper connection activity time. On the other hand, the GTE jumper disconnection activity time is slightly less than USWC's retail short jumper disconnection activity time. Compare Confidential Staff Exhibit/12, Breen/22, Lines 559-560, Column G with Confidential Staff Exhibit/12, Breen/12, Lines 598-599, Column G.

<sup>196</sup>TR. 1010-1012.

frames were included in the NRCM because they represent newer, forward-looking technology that is currently widely deployed in the industry. In Ms. Petti's experience as a regional manager for Pacific Bell, all new central offices were equipped with COSMIC frames.<sup>197</sup>

GTE objects to the COSMIC frame assumption included in the NRCM. It points out that neither Ms. Petti, nor the developers of the NRCM model know how many COSMIC frames are actually installed in Oregon.

## **2. Commission Decision -- COSMIC Frames.**

We agree with Joint Intervenors that COSMIC frames represent forward-looking, least cost methodology consistent with TSLRIC principles. The 100 percent COSMIC frame assumption in the NRCM is therefore reasonable. The percentage of COSMIC frames actually installed by GTE or USWC is irrelevant from a TSLRIC standpoint.<sup>198</sup>

Although the evidence indicates that COSMIC frames reduce the amount of time necessary for technicians to install and remove short jumper wires, there is not enough information in the record to determine the average number of minutes required to perform these functions on a COSMIC frame. The experts retained by AT&T/MCI have ascertained that two minutes is sufficient for these activities, but there is no additional support for this claim. For that reason, we find that the ILECs should perform studies to calculate the average work times to install and remove short jumpers on COSMIC frames. Once this information is produced, it should be incorporated into all applicable cost estimates. In the interim, all short jumper-related costs should be based on the short jumper work time estimates discussed above.

## **G. Disconnection Activities.**

This issue deals with whether the nonrecurring charges paid by requesting carriers should also include costs associated with disconnecting service.

### **1. Party Positions.**

GTE and USWC recommend that nonrecurring charges include both the cost of establishing service and the cost of disconnecting service in the future. In support of this position, USWC and GTE emphasize that it is often difficult to recover disconnection costs if charges are levied after the business relationship with a customer has ended. Mr. Brigham and Mr. Schmidt testified that customers whose accounts have been terminated are less likely to pay their telephone bills than are customers with active accounts. For that reason, it has become standard practice in the telecommunications

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<sup>197</sup>TR. 962-963.

<sup>198</sup>See discussion, *supra* at 60-61, 78.

industry and in other industries to recover disconnection costs as part of the up-front nonrecurring charge to establish service.

Staff agrees with USWC and GTE that any disconnection costs should be included in the initial nonrecurring charge paid by carriers purchasing building blocks. Staff observes that it would be an administrative burden for the ILECs to have to track these costs through to the time of actual disconnection.

Joint Intervenors argue that disconnection charges should be separated out and paid by CLECs only when and if the disconnection charges are actually incurred by an ILEC. They maintain that including disconnection costs in up-front nonrecurring charge will: (a) make it significantly more expensive for CLECs to enter the market, creating a barrier to entry; (b) violate the principle of Cost Causation, by allowing ILECs to charge for activities before they are incurred; and (c) force CLECs to pay disconnection costs for activities that never occur, as in the case where loop facilities are transferred from one CLEC to another.<sup>199</sup>

AT&T and MCI further argue that CLECs, unlike retail customers, do not pose a significant risk of defaulting on disconnection charges. They point out that the ILECs already require substantial deposits from carriers before supplying unbundled elements.

## **2. Commission Decision -- Disconnection Activities.**

We agree with the ILECs and Staff that disconnection costs should be included in the upfront nonrecurring charge. Levying a separate disconnection charge would be difficult to collect and burdensome to administer. Although the ILECs are unlikely to experience problems recovering disconnection costs from large carriers such as AT&T or MCI, there will undoubtedly be many smaller, less-established carriers providing local exchange service. The ILEC would be exposed to a significant risk of nonpayment if these carriers purchase large quantities of building blocks and subsequently experience financial difficulties. Moreover, as Staff points out, it would be difficult to separately track, bill, and collect disconnection charges. The additional administrative costs associated with separate disconnection charges would increase the total cost of provisioning building blocks.

In view of the decisions the Commission has made regarding the calculation of nonrecurring costs, we do not believe that collecting disconnection costs upfront will discourage competitive entry as Joint Intervenors allege.<sup>200</sup> Nor are we persuaded that

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<sup>199</sup>Joint Intervenors argue that the ILECs would not have to perform any disconnection activities in these instances. Presumably, this is because the disconnection and reconnection of the customer's loop would be handled by CLEC technicians. See discussion above.

<sup>200</sup>For example, we have determined that 98 percent of electronically submitted disconnection orders will flow through without manual intervention by USWC ISC representatives or GTE NOMC representatives. This should significantly reduce disconnection order processing costs. Other decisions in this order should have a similar effect.

our decision violates the cost causation principle adopted in docket UM 351. That principle addresses the assignment of costs to particular building blocks. It does not specify the precise mechanism by which those costs must be collected. Also, as USWC and GTE observe, it is standard practice in the utility industry to include disconnection costs in the nonrecurring charge of a given service.

We are not persuaded by Joint Intervenors' claim that including disconnection costs in the initial nonrecurring charge will cause CLECs to pay for activities that may never occur. We recognize that ILECs may not have to perform any short jumper work or other physical activity to disconnect building blocks in certain circumstances.<sup>201</sup> Also, because we have concluded that a high percentage of building blocks will be processed electronically, disconnection costs are likely to be minimal in many cases. Nevertheless, every building block transaction will require the ILEC to incur some cost at the time a building block is disconnected. At the very least, this will include the cost of processing the disconnection order to maintain a proper record of the transaction for billing and inventory purposes. Accordingly, we find that disconnection costs should be included in nonrecurring charges 100 percent of the time.

#### **H. Dedicated Inside Plant (DIP) and Dedicated Outside Plant (DOP).**

DIP refers to the connection between the loop termination location on the MDF and the ILEC's switch termination location on the MDF.<sup>202</sup> By leaving this connection in place when a customer discontinues service, the ILEC is able to reduce expenses for technician time and copper wire, and connect the next customer more quickly and easily. DOP is the practice of allowing outside cross-connections to remain in place, leaving the customer's loop in a "connect-through" state. Among other things, DOP reduces the need to dispatch outside field technicians for connect and disconnect orders.

When used together, DIP and DOP allow the ILEC to maintain a "warm dial tone" at premises that have been vacated by a customer. When a new customer moves in, that customer can simply pick up the telephone to order new service or to dial emergency numbers.

#### **1. Party Positions.**

Joint Intervenors emphasize that DIP and DOP significantly reduce the cost of provisioning, allow faster customer service, and eliminate errors that can arise from manual processes. According to Ms. Petti, these advantages have made DIP and DOP a common practice among ILECs. She notes that USWC's retail cost studies assume that

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<sup>201</sup>As noted above, any short jumper activity costs incurred by USWC and GTE should be recovered through a separate nonrecurring charge.

<sup>202</sup>The connection between the loop termination location and the ILEC switch port termination location is made by the short jumper.

DIP and DOP will be used a substantial percentage of the time.<sup>203</sup> The AT&T/MCI NRCM assumes that DIP and DOP will be available 100 percent of the time where customers migrate from ILEC service to CLEC service.

The ILECs argue that it is erroneous to assume DIP/DOP will be available 100 percent of the time. They point out that DIP/DOP cannot be used to activate a loop that is not connected to a switch. In other words, DIP/DOP assumes that the ILEC will combine the loop and switching building blocks for CLECs. USWC and GTE emphasize that this assumption is contrary to the Eighth Circuit's holding that ILECs cannot be compelled to combine elements under the Act.

In addition, GTE and USWC observe that their networks use DIP/DOP significantly less than 100 percent of the time. GTE witness Murphy points out that the 100 percent assumption ignores the massive network growth now underway and understates the nonrecurring costs associated with outside plant activities by ILEC technicians.

## **2. Commission Decision -- DIP/DOP.**

Under the Eighth Circuit's decision, ILECs are not required to provide CLECs with building block combinations. Thus, an ILEC may disconnect the loop from the switch even where the CLEC buys both building blocks. Once the ILEC technician disconnects the jumper wire that runs between the loop and the ILEC switch, the DIP connection is broken.<sup>204</sup> DIP is also broken in the instance where the ILEC technician disconnects the loop from the ILEC switch so that the loop can then be reconnected to a CLEC switch. For these reasons, the Commission agrees with USWC and GTE that it is unrealistic to assume DIP will be available when CLECs purchase unbundled elements.

On the other hand, we see no reason why an ILEC should disconnect existing outside cross-connections when an ILEC customer migrates to a CLEC or a CLEC customer migrates to another CLEC. Unlike the inside plant connections between the loop and switch, the outside plant connections do not involve a combination of separate building blocks and are not encompassed by the Eighth Circuit's decision.<sup>205</sup> In our opinion, it is reasonable to assume that DOP will remain in place the same percentage of the time that it is assumed to be available in USWC's retail cost studies. This will take into account the customer migration scenario (where DOP connections should generally

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<sup>203</sup>The percentage of DIP and DOP included in USWC's retail studies is designated confidential.

<sup>204</sup>Under the direct access approach approved in this order, the CLEC technician could then reconnect the NAC (loop) to the NACC (ILEC switch port) at the MDF. Where the CLEC supplies its own switching, the CLEC technician would connect the loop to the tie cable that runs to the CLEC's collocation space and, from there, to the CLEC's remotely situated switch.

<sup>205</sup>To date, the Commission has not disaggregated the loop by creating separate feeder and distribution building blocks.



not have to be disturbed) as well as those cases where ILEC technicians still have to perform outside plant rearrangement activities (e.g., to connect new loops).

## **I. Number of Work Activities per Visit.**

This issue involves the number of activities ILEC technicians perform during each visit to a nonstaffed central office or outside plant location. The more activities performed per visit, the lower the nonrecurring cost.

### **1. Party Positions.**

AT&T/MCI witness Petti asserts that cost studies should assume efficient management practices. She observes that ILEC technicians do not perform work on a per order basis, but rather are sent to do several jobs at a time. These include such things as general maintenance, routines, and provisioning activities. Also, when technicians are dispatched, they are equipped with mechanized field access systems that allow them to complete orders, obtain new work assignments, close trouble tickets, update data bases, remotely assess test systems, and complete their work in a mechanized fashion. The NRCM assumes that an ILEC technician will complete an average of four work activities per trip to all work locations, including customer sites, outside plant locations, and unattended central offices.<sup>206</sup>

USWC witness Schmidt argues that it is incorrect to assume that ILEC field technicians working on outside plant will perform multiple tasks at the same location. He emphasizes that the work required for outside plant technicians depends on the physical location of the customer requiring the work and the amount of time allotted to complete the work. USWC attempts to minimize travel time by allocating work within a geographic area, but technicians must often travel several miles between jobs.

GTE witness Murphy also maintains that the NRCM assumption is unreasonable. In order to provide service as quickly as possible, GTE technicians frequently complete only one work activity per trip. If technicians are required to wait until there were four activities per trip at a specific location, service could not be provided in a timely fashion. While it may be reasonable to assume multiple work activities at unattended central offices, Mr. Murphy contends that it is not reasonable to make the same assumptions for work activities at outside plant or customer locations.

### **2. Commission Decision -- Work Activities per Visit.**

Although there is sufficient evidence in the record to allow the Commission to conclude that ILEC technicians often conduct more than one work activity per trip, none of the parties have submitted documentation that would enable us to calculate the average number of activities performed at the various work locations visited by ILEC technicians. We are inclined to agree with Messrs. Schmidt and Murphy that technicians visiting

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<sup>206</sup>AT&T/MCI Exhibit/2, Petti/14; AT&T/MCI Exhibit/4, Petti/18.

customer locations are likely to perform fewer activities because of the need to respond quickly to customer requests. On the other hand, visits to unattended offices, and perhaps also to SAIs, are likely to be somewhat less time-constrained and allow technicians to schedule more activities.

Without more specific information, we cannot find that the four activity per visit average in the NRCM is reasonable. The record does, however, support the finding that ILEC technicians frequently complete more than one activity per visit. For purposes of calculating nonrecurring costs, therefore, we will assume that ILEC technicians will complete two activities per trip on average to all work locations. As with the other cost study assumptions adopted in this order, the Commission will reevaluate this decision in subsequent proceedings once more complete information is produced.

### **J. Loop Unloading Activities.**

USWC and GTE must place loading coils on copper loops over 18,000 feet long (18 kilofeet or 18kf) in order to supply adequate voice grade quality service. In such cases, resistance design standards require placement of three loading coils at distances of 3kf, 9kf, and 15kf from the central office.

Loop unloading is a type of circuit conditioning. If a customer with an 18kf loaded loop requests digital service, an ILEC technician must splice the line to remove loading coils<sup>207</sup> at each of the three points on the loop where the coils are attached.<sup>208</sup>

### **1. Party Positions.**

Staff witness Breen testified that the costs associated with unloading loops are included in the maintenance factors used to develop recurring building block rates. To prevent double recovery of these costs, Staff argues that loop unloading costs should not also be included in the nonrecurring charges paid by CLECs.<sup>209</sup> Mr. Breen contends that the costs associated with loop unloading and other outside plant activities are appropriately included in recurring costs and urges the Commission to refrain from establishing a policy of separately identifying and assessing nonrecurring charges for all of the outside plant rearrangement expenses that may be associated with the myriad of situations that arise. Mr. Breen suggests that the better approach is to continue the policy of recovering outside plant expenses and investments in recurring costs. The net effect of Staff's recommendation is to reduce USWC's and GTE's proposed nonrecurring loop unloading charge from \$597.61 to zero.

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<sup>207</sup>According to USWC, any associated bridge taps may also have to be removed. A bridge tap is an undetermined length of wire attached between the normal endpoints of a circuit that introduces unwanted impedance imbalances for data transmission. Newton's Telecom Dictionary, 8<sup>th</sup> Edition (1994).

<sup>208</sup>Underground loops are accessed through manholes at three different locations. Loops longer than 18kf may require additional coils and unloading activities.

<sup>209</sup>TR. 1079-1081; Staff Exhibit/15, Breen/7.

USWC concedes that the labor costs associated with unloading loops are currently included in the maintenance factor used to develop recurring costs. However, it claims that unloading costs are properly treated as nonrecurring costs because they are incurred each time a CLEC requests removal of coils and taps. USWC maintains that the appropriate solution is allow recovery of its proposed nonrecurring charges for loop unloading. It agrees to adjust its maintenance factor to avoid double recovery of these costs. USWC also notes that the Commission “ordered USWC to deload loops” by mandating loop conditioning charges in docket UM 351. GTE’s proposed nonrecurring charge for cable unloading mirrors USWC’s proposed charge.

Joint Intervenors agree with Staff that there should not be any nonrecurring charge for loop deloading. They claim that USWC’s proposal to adjust the recurring cost maintenance factor is improper because recurring costs are not at issue in this proceeding.

Joint Intervenors also argue that unloading costs should be deleted from both recurring and nonrecurring rates charged to CLECs because unloaded loops represent forward-looking technology. According to Ms. Petti, current outside plant design recognizes that customers, including those with loops greater than 18kf, require more sophisticated services. She states that the industry typically plans for unloaded cable in sufficient quantities to assure that the only effort required to serve a customer is to change to a spare loop that is not loaded. The method used most often is to place new cables as nonloaded and to change existing customers to the new cable. Another approach is to plan and incorporate the unloading of loops in routine cable maintenance. The unloaded loops would then be held as shelf stock, most efficiently in binder groups of twenty-five. Both of these methods contrast with USWC’s assumption that only one loop will be unloaded at a time.

USWC witness Schmidt contends that it is incorrect to assume that ILECs will maintain binder groups of “clean” or unloaded loops. He points out that telephone companies do not have the luxury of designing and engineering feeder plant to include binders of dedicated, unloaded loops. Moreover, he states that this type of excess capacity does not exist on USWC’s network.

## **2. Commission Decision -- Loop Unloading.**

The Commission agrees that loop unloading and other similar outside plant activities should continue to be recovered through recurring charges for the reasons stated by Mr. Breen. Consequently, we decline to adopt nonrecurring charges proposed by USWC and GTE for loop unloading. USWC and GTE are not harmed by this approach because the costs of unloading will continue to be recovered through recurring rates.

USWC’s claim that the Commission “ordered USWC to provide loop deloading” in docket UM 351 argument is not on point. The conditioning building blocks established in Order No. 96-283 do not relate to loop deloading, but rather to other conditioning processes used to enhance the performance of voice grade and digital loops.

Moreover, even if loop deloading was entailed in these processes, the costs associated with the conditioning building blocks are recovered through recurring charges, not through nonrecurring charges.

Joint Intervenors agree that the nonrecurring cost for unloading should be zero. We do not address their additional claim that unloading costs should be removed from the ILEC's recurring cost because unloaded loops represent least cost technology. As Joint Intervenors emphasize with respect to USWC's request to adjust the maintenance factor, recurring rates are not at issue in this case. If Joint Intervenors desire to pursue this issue, they must do so in another proceeding.

#### **K. GTE Outside Facilities Connection Charge.**

In Section 3.1.1(C) of its proposed tariff, GTE proposes an Outside Facility Connection charge that would apply each time a GTE service technician visits a customer's premises.<sup>210</sup> We decline to adopt this charge for the reasons discussed immediately above. That is, we are persuaded that outside plant activities should be recovered through recurring rather than nonrecurring charges.

#### **L. Testing Activities.**

This issue concerns whether nonrecurring charges should include costs associated with testing unbundled elements provided to requesting carriers.

##### **1. USWC and GTE Proposed Tariffs.**

USWC's proposed tariff states that CLEC "will have responsibility for testing the equipment, network facilities and the Unbundled Loop facility. If USWC tests the unbundled loop at the carrier's request and the fault is in USWC facilities, a charge shall apply."<sup>211</sup>

GTE Advice No. 589 stated that "GTE will perform routine testing at the time of installation and will be responsible for its own facilities." This language was subsequently modified in Advice No. 611 as follows:

GTE will provision the NAC (loop) with the functionality specified by the [telecommunications carrier] and as described in the Tariff, for the particular building block ordered or combination of building blocks when channel performance building blocks are also ordered.

GTE will provision the NACC (port) testing for dial tone and complete a test call to verify the assigned telephone number. Switch features ordered

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<sup>210</sup>The charge would be in addition to the GTE service activity charge. GTE Advice 611, Tariff P.U.C. Or No. 15, Revised Sheet 9.1, Section 3.1.1(C).

<sup>211</sup>USWC Exhibit/35, P.U.C. Oregon No. 26, Original Sheet 5, Section 6.2.A.6.g.

by the [telecommunications carrier] will also be tested to ensure proper operation.<sup>212</sup>

Currently automated loop testing of unbundled loops is not available. When such testing becomes available, it will be offered.

## **2. Staff.**

Staff recommended that USWC revise its tariff to mirror the testing provisions in GTE Advice No. 589. Staff did not address the tariff modifications proposed subsequently by GTE in Advice No. 611.

Staff witness Breen testified that testing occurs during provisioning and on an ongoing basis. In both cases, the ILEC and CLEC should be responsible for testing, maintaining, and repairing their own facilities. Mr. Breen contends that the entity providing the switching should conduct the periodic testing required. He further observes that recurring charges already include costs associated with ongoing testing activities. These include, for example, situations where the ILEC tests a facility in response to a repair call and reports to the customer that the trouble is not associated with the ILEC facility.

Mr. Breen states that testing costs should not be included in nonrecurring charges where the ILEC is not required to visit a customer's premises because those costs are already included in the recurring charge. On the other hand, a CLEC should be required to pay a trouble isolation charge where an ILEC technician travels to the customer's premises and the trouble is not in the ILEC's facilities. Mr. Breen proposes that USWC and GTE revise their building block tariffs so that CLECs pay trouble isolation charges in the same manner as USWC and GTE retail customers.

## **3. USWC.**

USWC disagrees with Staff's position regarding testing. Mr. Brigham states that the testing expenses included in USWC's recurring costs studies are part of ongoing repair costs included in the maintenance factor. However, the maintenance factor is based on historical costs and does not consider the incremental expenses associated with testing loops. Mr. Brigham emphasizes that every time a CLEC requests USWC to test an unbundled loop, USWC must dispatch a technician to the frame to test the cable pair connected to the loop. Frequently, technicians must be dispatched to nonstaffed central offices to perform the test. This manual process is not normally required in the retail environment because USWC can perform automated testing through its switch.

USWC's proposed tariff applies time and material charges when testing is requested by a CLEC. Mr. Brigham recommends that the "Testing Access" building block approved by the Commission in UM 351 should apply when the ILEC is required

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<sup>212</sup>GTE Advice 611, Tariff P.U.C. Or No. 15, 1<sup>st</sup> Revised Sheet 6.46, Section 2.7 (citations omitted).

to test unbundled loops in the central office.<sup>213</sup> He agrees with Mr. Breen that trouble isolation charges are appropriate where the CLEC requests USWC to visit an end user's premises to test for trouble, and the trouble is not caused by USWC's facilities.

#### **4. GTE.**

GTE witness Murphy states that the costs of testing associated with the initial establishment of all telephone services are properly categorized as nonrecurring costs. He emphasizes that the NRCM assumes minimal testing functions and an unreasonably low level of testing for unbundled elements. Mr. Murphy contends that new and smaller CLECs will not purchase testing equipment immediately, but will rely on GTE to do their testing for them. Larger CLECs may do some testing, but GTE will retain responsibility for network testing. Mr. Murphy claims that the NRCM does not account for these costs.<sup>214</sup>

GTE is willing to provide CLECs with the same facility testing that GTE provides to itself and its retail customers. GTE witness McLeod indicated that GTE can provide automated testing where it also provides switching to the CLEC. GTE cannot provide automated testing of unbundled loops, however.

#### **5. Joint Intervenors.**

Joint Intervenors agree with Staff that testing should be performed by the party providing the switching. According to Ms. Petti, AT&T and MCI will use their own MLT OSS, no-test trunks and digital switches to test loops for provisioning, service activation, and maintenance. Consequently, the nonrecurring charges for the basic NAC should not include any testing charges.

Ms. Petti states that it is unnecessary for the ILEC to test the basic NAC prior to migrating an existing customer to a new entrant. The NRCM assumes that USWC's local digital switches are equipped with Predictor/Automatic Line Insulation Test (ALIT) which conducts "automatic/non-intrusive proactive performance monitoring of the NAC to detect potential problems before the customer migration."<sup>215</sup> Thus, it is assumed that the basic NAC will meet performance objectives prior to migration. After the NAC has migrated to the CLEC, it will perform ALIT-type testing. The only time reactive testing occurs is if the customer reports trouble.

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<sup>213</sup>The cost and price for this building block have not yet been approved by the Commission.

<sup>214</sup>Mr. Murphy also claims that the NRCM underestimates the amount of testing required for 4-wire and DS1 unbundled loops. Interexchange carriers generally insist on joint testing of special access circuits. He asserts that there is no reason to believe that CLECs will not require joint testing of unbundled elements used to provide special services.

<sup>215</sup> AT&T/MCI Exhibit/9, Petti/19.

Ms. Petti points out that each provisioning scenario included in the NRCM assumes some level of testing. The model contemplates that the ILECs will proactively maintain their networks to ensure proper operation and reliable customer service. It also assumes that the cost of basic maintenance is a recurring cost. Because ILECs must be prepared to respond to customer service inquiries, some level of testing will continue to be performed.

## **6. Commission Decision -- Testing Activities.**

We agree with Staff that each ILEC and CLEC should bear the cost and responsibility for testing, maintaining, and repairing their own facilities. We also agree that the entity providing the switching facilities should bear the cost and responsibility for routine testing.

When building blocks are provided to CLECs, the ILEC must ensure that the building blocks meet the requisite technical parameters.<sup>216</sup> This presumes that building blocks will be tested beforehand by the ILECs. The record indicates that it is unnecessary for USWC or GTE to manually test every loop before it is delivered to a CLEC. As Ms. Petti observes, ILEC local digital switches can perform ALIT-type testing to automatically monitor NAC performance and detect potential problems before the NAC is delivered to the CLEC.

Once building blocks are provided to the CLEC and combined to form a service, they must be tested to ensure that the service works as planned. Ongoing testing must also be provided to ensure that service quality is maintained. The record indicates that these testing functions can be performed on an automated basis by the party providing the switching. Thus, where the ILEC provides the switching function, it can test the loop on an automated basis. The CLEC can do likewise where supplies its own switching.

As Mr. Breen points out, ongoing testing expenses are already included in the maintenance factor of recurring building block rates. Mr. Brigham argues that this allowance is insufficient because of incremental costs associated with testing unbundled loops. We find this argument unpersuasive for the reasons discussed above. Moreover, even if Mr. Brigham were correct, we are persuaded that testing expenses should continue to be recovered through recurring costs because of the ongoing nature of testing activities.

An additional testing charge should only be required where a CLEC requests that an ILEC technician visit an end user's premises to test for trouble, and trouble is not found in the ILEC facilities. We agree with Mr. Breen and Mr. Brigham that a trouble

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<sup>216</sup>USWC and GTE agree that every building block supplied to a requesting carrier will meet the requisite technical specifications for that building block. USWC Exhibit/39 at 7; GTE Reply Brief at 30; TR. 1255, 1377. This is consistent with 47 C.F.R. §51.309(c), which states that a telecommunications carrier's purchase of access to an unbundled network element does not relieve the incumbent LEC of the duty to maintain, repair, or replace the unbundled network element.

isolation charge should be assessed in that instance. We adopt Staff's proposal to impose the same type of trouble isolation charge paid by USWC and GTE retail customers in this situation.

USWC's proposal to impose the testing access building block charge when unbundled loops are tested within the central office is unnecessary for the reasons stated above. Furthermore, USWC's proposed treatment of the testing access is inconsistent with the definition of that building block.<sup>217</sup>

## **M. Staff Adjustments for Circuit Provisioning Functions.**

### **1. Party Positions.**

The nonrecurring charges recommended by Staff include several revisions to the USWC and GTE cost studies. Mr. Breen initially proposed excluding several circuit provisioning functions (e.g., ODAP/HCPC and IFCPC and CPC) and message trunk administration (e.g., CAC) activities from the nonrecurring building block studies on the assumption that those costs were included in recurring EF&I costs. Based on further examination, Mr. Breen revised his nonrecurring cost estimates to add back certain costs originally thought to be included in the recurring building block costs. Mr. Breen's revised estimates continue to exclude ODAP/HCPC and IFCPC costs associated with provisioning functions.

USWC witness Brigham asserts that ODAP/HCPC and IFCPC circuit provisioning work is required whenever a CLEC orders an NAC, NACC, multiplexing, or transport. He asserts that the costs associated with these network activities are not included in the recurring EF&I cost for these building blocks, because the activities do not occur when a building block (e.g., loop) is installed, but rather when the building block is ordered by a CLEC and an existing circuit must be provisioned. Mr. Brigham claims that Staff correctly included the costs in the basic NAC studies but incorrectly excluded those costs from the DS1 NAC, DS3 NAC, multiplexing, and transport studies.

Mr. Brigham also contends that Mr. Breen incorrectly excluded the CAC function from nonrecurring cost studies. CAC costs relate to message trunk administration (e.g., the assignment of trunk groups) and are not included in EF&I recurring costs. He asserts that transport building block nonrecurring costs must be adjusted upward to include this activity.

### **2. Commission Decision -- Circuit Provisioning Functions.**

We adopt the adjustments proposed by Staff. To begin with, the record shows the CAC costs, which USWC claims were incorrectly excluded, were actually added back to

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<sup>217</sup>The testing access building block compensates the ILEC for testing equipment supplied to a collocating carrier to enable that carrier to perform throughput testing of loops. It is not a separate charge for ILEC testing.



the nonrecurring cost estimates by Mr. Breen.<sup>218</sup> Second, the record shows that Mr. Breen included expenses associated with order handling, order screening, and order logging activities in the nonrecurring cost estimates for DS1 and DS3 NACs.<sup>219</sup> Staff properly excluded ODAP/HPCP and IFPCP provisioning costs from the nonrecurring cost estimates because these types of expenses are already included in the building block recurring costs. As discussed previously, this type of outside plant expense should continue to be included in recurring costs.

## **N. Nonrecurring Cost Markup.**

This issue deals with whether nonrecurring charges should be marked up over TSLRIC.

### **1. Party Positions.**

The nonrecurring charges proposed by Staff incorporate the markup over TSLRIC approved for recurring building block rates in docket UM 844. USWC proposes a markup greater than that used in UM 844, but is willing to accept the markup recommended by Staff.

Joint Intervenors claim that the markup proposed by USWC is excessive and inconsistent with markups USWC has proposed for nonrecurring charges in the past. According to Dr. Zepp, the nonrecurring costs proposed in USWC's retail cost studies are less than or equal to direct nonrecurring costs or a combination of direct and indirect nonrecurring costs.<sup>220</sup> He alleges that the nonrecurring charge proposed by USWC for residential service in its recent rate case is less than the company's estimate of TSLRIC. Similarly; USWC's proposed nonrecurring charges for business service approximate TSLRIC plus shared costs. In addition, Dr. Zepp maintains that USWC's current nonrecurring charges for both services are below USWC's nonrecurring cost estimates. He asserts that it is improper for USWC to markup nonrecurring costs for competitors when it does not propose similar markups for USWC retail customers.

Joint Intervenors also oppose the markup authorized in UM 844 for recurring building block costs. They state that the decision to exclude nonrecurring costs from the markup authorized in that proceeding acknowledges USWC's past practice of assessing nonrecurring charges which do not exceed the sum of direct and indirect nonrecurring costs.

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<sup>218</sup>Compare e.g., Staff Exhibit/7, Breen/6, Lines 348 and 385, Column K, with Staff Exhibit/12, Breen/7, Lines 349 and 388, Column K.

<sup>219</sup>Compare USWC Exhibit/18 at 10, 21-25, with Staff Exhibit/12, Breen/4.

<sup>220</sup>Dr. Zepp explains that direct plus indirect costs are comparable to TSLRIC plus shared costs. AT&T/MCI Exhibit/14, Zepp/16.

Joint Intervenors assert that the markup over nonrecurring cost should be no greater than the 10.4 percent markup included in the AT&T/MCI NRCM. They maintain that such a markup will allow the ILECs a reasonable opportunity to recover their costs without denying the CLECs the opportunity to compete for local exchange customers.

## **2. Commission Decision -- Nonrecurring Cost Markup.**

The Commission adopts Staff's recommendation to use the same markup for nonrecurring charges that was authorized for building block recurring charges in docket UM 844. In prior decisions, we have held that building block rates should include a mark up over TSLRIC. Logically, there is no reason why nonrecurring charges should not also include a markup; provided, of course, that the resulting charges are not so high they discourage competitive entry. The Commission will monitor the progress of competition and may revisit this issue if it appears that the amount of markup included in the nonrecurring charges for building blocks creates a barrier to entry.

AT&T and MCI maintain that competition will suffer if CLECs must pay nonrecurring charges that include a significant markup over TSLRIC while the nonrecurring charges paid by ILEC retail customers include little or no markup over cost. Under such circumstances, CLECs will either have to absorb the difference or try to pass along the nonrecurring charges to their customers in the form of higher retail prices. Since AT&T and MCI did not disclose how TSLRIC was calculated for the bundled retail services used in its comparison, we cannot confirm that the nonrecurring charges currently paid by USWC and GTE residential and business retail customers approximate TSLRIC.

Furthermore, the record in this case does not contain an extensive discussion of the relationship between building block and retail service nonrecurring charges. As a result, we do not have a sufficient basis to conclude that the markups included in building block nonrecurring charges should equal the markups in retail nonrecurring charges, or that a separate imputation test for nonrecurring charges should be established.<sup>221</sup>

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<sup>221</sup>A separate imputation test for nonrecurring charges would require the nonrecurring charge for an ILEC retail service to equal or exceed the sum of the nonrecurring charges for each building block necessary to provision that service. In other words, the ILEC would have to impute into each retail nonrecurring charge all of the nonrecurring charges applicable to the component building blocks. At present, the Commission only requires that the combination of ILEC recurring and nonrecurring retail service charges cover the sum of the recurring and nonrecurring charges for the component building blocks.

ORDER NO. 03-085

ENTERED FEB 05 2003

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UT 138/UT 139  
PHASE III

In the Matter of Ascertaining the Unbundled	)	
Network Elements that must be Provided by	)	
Incumbent Local Exchange Carriers to	)	ORDER
Requesting Telecommunications Carriers	)	
Pursuant to 47 C.F.R. § 51.319.	)	

DISPOSITION: COMPLIANCE FILINGS REVIEWED; REVISED  
FILINGS ORDERED

**INTRODUCTION AND PROCEDURAL HISTORY**

On April 24, 1997, the Public Utility Commission of Oregon (Commission) opened Dockets UT 138 and UT 139 to consider unbundled network element (UNE) nonrecurring charges (NRCs), special construction charges, and tariff terms and conditions proposed by Qwest Communications, Inc. (“Qwest”) (formerly U S WEST Communications, Inc.) and Verizon Northwest, Inc. (“Verizon”) (formerly GTE Northwest Incorporated). The Commission authorized the UNE NRCs to take effect subject to refund, including interest accrued at the authorized rate of return for the respective carriers.<sup>1</sup>

On November 13, 1998, the Commission entered Order No. 98-444, prescribing methods for calculating UNE nonrecurring costs and resulting NRCs. On June 19, 2000, the Commission entered Order No. 00-316 on reconsideration, modifying certain aspects of Order No. 98-444.<sup>2</sup> In addition, the Commission initiated Phase II of dockets UT 138/UT 139 (UT 138/139) for the purpose of “mapping” the Commission’s “building blocks” to the list of UNEs adopted by the Federal Communications Commission (FCC).<sup>3</sup>

On December 26, 2001, following a series of workshops, the Commission entered Order No. 01-1106 in Phase II, adopting a comprehensive list of UNEs to be made available by Qwest and Verizon in Oregon. The Commission also initiated Phase III of dockets

<sup>1</sup> Order No. 97-157 at 1; Order No. 97-153 at 1. For simplicity, this order refers to Qwest and Verizon, rather than their respective predecessors. Qwest and Verizon are also referred to herein as the incumbent local exchange carriers, or ILECs.

<sup>2</sup> Order No. 00-316 was reaffirmed in Order No. 00-643, entered October 13, 2000.

<sup>3</sup> Order No. 00-316 at 22.

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UT 138/139 for the purpose of investigating the UNE NRC filings made by Qwest and Verizon in compliance with Order Nos. 98-444 and 00-316.<sup>4</sup>

On January 16, 2002, the Commission convened the first prehearing conference in Phase III. At the conference, questions arose regarding the scope of the docket and related scheduling matters.

On February 19, 2002, the Administrative Law Judge (ALJ) issued a Ruling clarifying the scope of the Phase III proceeding (the ALJ Ruling). The ALJ concluded that Phase III is limited to determining whether the NRCs filed by Qwest and Verizon comply with the requirements set forth in Order Nos. 98-444 and 00-316. Accordingly, the ALJ rejected Verizon's proposal to introduce new cost studies and analyses at this stage of the proceeding.<sup>5</sup>

On March 15, 2002, Qwest made its NRC compliance filing. Verizon submitted its filing on April 16, 2002.<sup>6</sup> A series of workshops were then held to discuss each filing. As a result of those discussions, the parties developed separate issue lists for Qwest and Verizon.<sup>7</sup>

At the second prehearing conference on May 21, 2002, the ALJ approved the issue lists proposed by the parties. The parties also agreed on a procedural schedule requiring them to submit written comments regarding the issues. Comments were filed by Qwest, Verizon, the Joint Competitive Local Exchange Carriers (Joint CLECs) and the Staff of the Public Utility Commission of Oregon (Staff).<sup>8</sup>

On September 6, 2002, the parties filed statements listing disputed issues. On September 12, 2002, the ALJ convened a hearing to discuss the statements and ask clarifying questions regarding the comments filed by the parties. At the hearing, Verizon requested an evidentiary hearing to resolve what it believes to be disputed issues of fact. The remaining parties indicated that an evidentiary hearing was not required. Pursuant to the ALJ's instructions, Verizon filed written comments on September 22, 2002, in support of its request for an evidentiary hearing. All parties filed final comments on September 30, 2002.<sup>9</sup>

On December 5, 2002, the ALJ issued a ruling denying Verizon's request for an evidentiary hearing. The ALJ concluded that the issues presented for consideration could be resolved without taking additional evidence.

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<sup>4</sup> Order No. 01-1106 at 2.

<sup>5</sup> ALJ Ruling dated February 19, 2002 at 3-6.

<sup>6</sup> On May 30, 2002, Verizon filed a revised set of compliance cost studies.

<sup>7</sup> The Verizon issue list relates exclusively to the cost studies it filed in this docket. However, Verizon also concurs with several NRCs filed by Qwest. In those instances, the Qwest issue list also applies to Verizon.

<sup>8</sup> Second Prehearing Conference Report, Issued June 3, 2002. On August 26, 2002, the ALJ granted Verizon's motion to extend the deadline for filing comments.

<sup>9</sup> The Joint CLECs, Qwest and Staff were permitted to respond in their final comments to Verizon's request for evidentiary hearing.

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The parties have resolved the majority of the issues informally. Appendices A and B of this order are matrices listing the issues pertaining to Qwest and Verizon, respectively. This Order deals only with issues identified in the matrices as being unresolved.

**QWEST ISSUES****Issue Nos. 1a, 1b and 1c: Flow-Through.**

Section VII. A. of Order No. 98-444, entitled “Service Order Processing Costs,” addresses the amount of human intervention necessary to process CLEC orders for unbundled elements. The Commission concluded that the NRCs calculated by Qwest and Verizon should assume that 98 percent of the electronic service orders submitted by CLECs would “flow-through” the ordering process without need for intervention by incumbent local exchange carrier (ILEC) representatives. We affirmed that finding on reconsideration in Order No. 00-316, and again in Order No. 00-643.

Qwest, Verizon and Staff assert that the 98 percent flow-through rate applies only to service order processing functions. Those functions are performed in the Interconnection Service Center (ISC) and Interexchange Carrier Service Center (ICSC).

The Joint CLECs argue that the 98 percent flow-through rate should apply not only to service order processing activities in the ISC and ICSC, but also to “all downstream systems involved in ordering and provisioning service.”<sup>10</sup> In support of their position, the Joint CLECs cite portions of the discussion in Section VII. A of Order No. 98-444. They contend that the Commission “expressly agreed with the testimony of AT&T/WorldCom witness Petti,”<sup>11</sup> who recommended that the 98 percent flow-through rate should apply to ordering and provisioning activities in addition to those performed in the ISC and ICSC.

The Commission agrees with Qwest, Verizon and Staff on this issue. As the title of Section VII. A. indicates, the decision to adopt the 98 percent flow-through rate was limited to service order processing functions, and was not intended to encompass other downstream ordering and provisioning activities. If one reviews the discussion in its entirety rather than selected passages, it is clear that we are dealing only with the service order activities that take place before they are routed for further downstream processing.

Had the Commission intended to adopt Ms. Petti’s more expansive recommendation to apply the 98 percent flow-through rate to “downstream” nonrecurring activities, we would have so specified. Instead, the focus of the discussion in Section VII. A. concerns activities relating to the service order processing functions performed by Qwest’s ISC and Verizon’s National Open Market Center (NOMC), and culminates in our decision to require separate NRCs for electronically-submitted service orders

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<sup>10</sup> Joint CLEC Opening Comments at 4-9.

<sup>11</sup> *Id.* at 7.

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(incorporating the 98% flow through rate) and manually-submitted service orders (incorporating a 0% flow through rate).

The discussion elsewhere in Order No. 98-444 reinforces this conclusion. For example, we state:

In some cases, an activity must always be performed and the probability is 100 percent. Other times, the activity may need to be performed occasionally. For example, *we have determined that 98 percent of electronically-submitted service orders will not require the intervention of USWC's ISC personnel. Thus, there is a two percent probability that electronic orders will not flow-through and will have to be handled manually by ISC representatives.*" Order No. 98-444 at 79, footnote 178. (Emphasis added.)

\* \* \* \* \*

[W]e have determined that 98 percent of electronically submitted disconnection orders will flow-through without manual intervention *by USWC ISC representatives or GTE NOMC representatives.*" Order No. 98-444 at 89, fn. 200. (Emphasis added.)

These passages clearly reflect the Commission's intent to limit the scope of the 98 percent flow-through requirement to nonrecurring service order activities performed in the Qwest ISC<sup>12</sup> and Verizon NOMC centers. There is no basis in the order for applying the 98 percent requirement to other "downstream" nonrecurring activities.

**Issue 2a: Central Office Frames.**

In order to provision a loop, a CLEC may choose one of two possible configurations. First, the CLEC collocation space may be directly connected to the ILEC's Cosmic Frame/Main Distribution Frame (MDF). This configuration requires the placement of a single jumper at the MDF.<sup>13</sup> In the second configuration, the CLEC collocation space is connected to an Intermediate Distribution Frame (IDF) which is then connected to the MDF by an ILEC-provided tie cable. This configuration requires placement of two jumpers, one at the MDF, and a second at the IDF.<sup>14</sup> In Order No. 98-444, the Commission held that ILECs could not require CLECs to connect to an IDF.<sup>15</sup> Although CLECs may choose that type of configuration, they also have the option of connecting directly to the MDF.<sup>16</sup>

<sup>12</sup> In Phase III, the parties agreed that service order processing activities are also performed in Qwest's ICSC.

<sup>13</sup> See diagram at Staff/4, Reynolds/5.

<sup>14</sup> *Id.* at Reynolds/4.

<sup>15</sup> At the time Order No. 98-444 was entered, Qwest denominated its IDF as the "Single Point Of Termination, or "SPOT frame." Qwest states that it "no longer offers SPOT frames on a forward-looking

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Qwest's proposed Loop NRC includes the cost of connecting two jumpers, one at the MDF and another at the IDF. Qwest acknowledges that only one jumper is required if a CLEC chooses to connect a loop directly to the MDF. It maintains, however, that direct connection is inefficient because it requires using multiple tie cables to each module of the MDF. Qwest asserts the Loop NRC should include the cost of two jumpers since CLECs will use an IDF in most cases to avoid these costs.

The Joint CLECs propose removing all costs relating to the IDF and revising Qwest's Loop NRC to include the cost of only one jumper. They argue that, since Order No. 98-444 prohibits ILECs from requiring CLECs to use an IDF, the "default position" in Qwest's cost studies should be to include one jumper instead of two. Further, Qwest's cost studies do not even reflect the fact that CLECs can connect directly to the MDF and avoid paying for a second jumper. The Joint CLECs also emphasize that it is improper for Qwest to offer new evidence relating to the probable use of the IDF or to costs associated with that option.<sup>17</sup>

Staff also recommends revising Qwest's Loop NRC to include only the cost of one jumper at the MDF. It contends that the IDF and the tie cable connecting the IDF to the MDF are not part of the loop and therefore should not be included in the Loop NRC.<sup>18</sup> Staff emphasizes, however, that an ILEC should be permitted to charge for two jumpers in those cases where the CLEC opts to provision loops using an IDF. In Phase II, the Commission established the "Interconnection Tie Pair" (ITP) UNE which applies only when an IDF is used.<sup>19</sup> Staff recommends establishing a new NRC for jumper activity at the IDF whenever an ITP is provided at the request of a CLEC.

Qwest acknowledges that Staff's proposal is "theoretically correct," but states that it makes more sense to include two jumpers in the loop NRC because Qwest (a) is unaware of any CLEC requests for an unbundled loop with a direct connection to the MDF, and; (b) does not want to deal with the administrative expense of having two separate rates.<sup>20</sup>

The Commission adopts the Staff recommendation. Order No. 98-444 allows CLECs to provision loops by connecting directly to the MDF or by routing the connection through an IDF. Since each configuration requires placement of a different number of jumpers, it is logical to have a separate NRC for each. We are not persuaded

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basis." To avoid confusion on this point, we emphasize that Order No. 98-444 prohibits ILECs from requiring CLECs to connect to *any* IDF, not merely the SPOT frame. Order No. 98-444 at 40-43.

<sup>16</sup> *Id.* at 44-46.

<sup>17</sup> The Joint CLECs argue that, "if the Commission were to allow Qwest's belated explanation in favor of the IDF, it would be required to consider conflicting factual evidence offered by the CLECs." They contend that such arguments are more "properly considered in UM 1025," Qwest's pending cost study docket. Joint CLEC Reply comments, August 29, 2002, p. 12.

<sup>18</sup> The "loop" UNE includes "the cable side of the main distribution frame, the feeder facilities, the serving area interface, the distribution facilities, the drop, and the network area interface device. Order No. 97-145, Confidential Appendix A at 3.

<sup>19</sup> ITP configurations are illustrated in Exhibit Staff/4, Reynolds/4.

<sup>20</sup> Qwest Response to Intervenor CLECs' and Staff's Comments (Qwest Response), August 9, 2002, p.12.

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by Qwest's claim that separate NRCs will significantly increase administrative costs. To the extent such costs exist, they can be examined in docket UM 1025, Qwest's pending cost study docket.

**Issue 2b Integrated Digital Loop Carrier**

This issue concerns the percentage of Integrated Digital Loop Carrier (IDLC) systems, as opposed to the percentage of copper loops, assumed to be present in ILEC networks for purposes of calculating nonrecurring costs. In Order No. 98-444, the Commission held that the percentage of IDLC included in the ILECs' nonrecurring cost studies should be consistent with that included in their recurring cost studies, *i.e.*, 25 percent. We observed that "[i]n general, a greater percentage of IDLC results in lower cost for provisioned loops and thus, lower nonrecurring costs."<sup>21</sup>

During the Phase I hearings, AT&T/WorldCom witness Bonni Petti testified that TR-303 IDLC systems represented the least cost forward-looking technology, and "are made up of intelligent, processor-controlled network elements that can communicate over standard interfaces to the OSS systems in a manner that little or no manual intervention is required for provisioning maintenance activities."<sup>22</sup> Order No. 98-444 concludes that "TR-303 systems should be assumed for purposes of calculating IDLC costs."<sup>23</sup>

Notwithstanding the 25 percent IDLC requirement in Order No. 98-444, Qwest's compliance filing assumes that jumper activity is required 100 percent of the time. Qwest and Staff assert that the 25 percent IDLC requirement has no impact on Qwest's nonrecurring cost studies because the Commission did not explicitly adopt Ms. Petti's testimony or mandate the specific technology that should be used to provision service to CLECs, leaving Qwest to "define the appropriate forward-looking treatment"<sup>24</sup> for loops served by IDLCs. Qwest further claims that Ms. Petti's Phase I testimony "is, in fact, incorrect" and that "jumper work is required," whether or not loops are provided over IDLC.<sup>25</sup>

The Joint CLECs respond that Order No. 98-444 requires Qwest to adjust its compliance filing to reflect that jumper activity is necessary to provision loops only 75 percent of the time.

The Commission concurs with the Joint CLECs on this issue. During the Phase I hearings, there was substantial debate concerning how loops should be supplied to CLECs where existing ILEC customers are served by IDLC facilities.<sup>26</sup> In Order

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<sup>21</sup> Order No. 98-444 at 77.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Exhibit Staff/22, White/4 Reply.

<sup>25</sup> Qwest Response, August 9, 2002, p. 13.

<sup>26</sup> The discussion centered on how CLECs should combine UNEs in accordance with the Eighth Circuit Court of Appeals in *Iowa Utilities Board v. FCC*, 120 F.3d 753, 813 (8<sup>th</sup> Cir. 1997). The Eighth Circuit decision was subsequently overturned by the Supreme Court of the United States in *AT&T Corp. v. Iowa*



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No. 98-444, we rejected the ILECs' claim that IDLC should be excluded from forward-looking nonrecurring cost calculations because digital carrier technology comprised a very small percentage of their existing networks. Although we declined to dictate how ILECs should provision loops from a technological standpoint, we certainly did not allow the ILECs to "define the appropriate forward-looking technology" as Staff suggests. Rather, we agreed with Ms. Petti that TR-303 IDLC systems represented the most advanced IDLC technology currently available and were therefore appropriate for determining the costs associated with a forward-looking efficient network.

The conclusion that nonrecurring cost studies should assume 25 percent of loops are provisioned via TR-303 IDLC systems must be viewed in conjunction with our finding that "a greater percentage of IDLC *results in lower cost for provisioned loops and thus, lower nonrecurring costs.*" The latter finding is consistent with the testimony presented by Ms. Petti regarding the capabilities and reduced provisioning costs associated with using TR-303 systems.

We are not persuaded by Qwest's argument that jumper work is required to provision all loops whether or not IDLC is employed in the network. Not only is this an untimely attempt to reargue evidence from Phase I, it is irrelevant in this case because the determining factor for purposes of calculating TELRIC is not Qwest's current method of operation, but rather the costs associated with an efficient, forward-looking network.

**Issue 4a and 4b: Dispatch/Installation—Travel Time**

This issue deals with the number of work activities completed each time an ILEC technician is dispatched to perform a job outside the central office. The cost studies presented by Qwest in Phase I assumed that technicians perform only one work activity per visit. In contrast, the AT&T/WorldCom Nonrecurring Cost Model (NRCM) assumed that ILEC technicians perform an average of four work activities per visit. After reviewing the evidence, the Commission concluded in Order No. 98-444 that, "[f]or purposes of calculating nonrecurring costs, therefore, we will assume that ILEC technicians will complete two activities per trip on average to all work locations."<sup>27</sup>

Qwest's compliance filing does not apply the "two activity per trip" requirement to technician visits to customer premises.<sup>28</sup> It argues that: (a) the reference in Order No. 98-444 to the "number of work activities per visit" actually relates to inputs in the AT&T/WorldCom NRCM model, rather than to inputs in Qwest's NRC model,<sup>29</sup> and; (b) the Order incorrectly states that the NRCM includes technician visits to "all work locations, including customer sites, outside plant locations, and unattended central

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*Utilities Board*, 119 S. Ct. 721 (1999). We held that, regardless of how Qwest and Verizon provision service, all of the loops provided to CLECs must meet required technical specifications and be capable of providing the telecommunications services available to ILEC customers. *See* Order No. 98-444 at 54.

<sup>27</sup> Order No. 98-444 at 93.

<sup>28</sup> Qwest Response, August 12, 2002, p. 15.

<sup>29</sup> Qwest claims that "these inputs are used only in the development of costs in the NRCM for *travel time to the central office*," and that "in the NRCM there are no costs at all for travel to a customer premise." *Id.*

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offices,”<sup>30</sup> when in fact, the NRCM only deals with travel time to unmanned offices. As a result, Qwest maintains that the “two activity per trip” requirement should not apply to visits to outside plant locations, since the issue in Phase I related only to trips to unmanned offices within the context of the NRCM.

Staff and the Joint CLECs disagree with Qwest’s claim that Order No. 98-444 applies only to the NRCM and not to the ILEC cost studies. They emphasize that the Order specifically requires the ILECs to assume two work activities per trip “to all work locations” when calculating nonrecurring costs. In addition, Staff contends that Qwest has interpreted the NRCM incorrectly. The Joint CLECs add that Qwest’s attempt to challenge the findings in Order No. 98-444 is untimely.

The Commission agrees with Staff and the Joint CLECs regarding this issue. Order No. 98-444 clearly states that the ILECs must revise their cost studies to include the “two activity per trip” assumption “to all work locations.” The order is not limited to the NRCM as Qwest suggests.

Qwest’s claim regarding the findings in Order No. 98-444 is also untimely. The opportunity to challenge the evidentiary basis underlying Order No. 98-444 is long past. If Qwest wants to present new evidence regarding this issue, it may do so in docket UM 1025.

**Issue 6: Time Estimates**

Nonrecurring cost studies identify the work time required by ILEC personnel to complete a given activity. The work time estimate is multiplied by the probability that the activity will occur in order to produce a labor cost for the activity. In Order No. 98-444, we observed that work times and labor rates are significant drivers for nonrecurring costs.<sup>31</sup>

In Phase I, Qwest used “Task Oriented Cost” (TOC) studies as a starting point for developing its work time and probability (WTAP) estimates. Qwest’s practice was to have subject matter experts (SMEs) review each TOC study to determine if it reflected current company practices. In some cases, the TOC studies were deemed current and incorporated in Qwest’s nonrecurring cost studies. In other cases, the SMEs either modified the TOC studies or concluded that the studies were outdated and unusable. In still other cases, WTAP estimates were based on new analyses conducted by SMEs.<sup>32</sup>

In Order No. 98-444, the Commission rejected all of the WTAP estimates included in Qwest’s nonrecurring cost studies. After identifying numerous deficiencies in the TOC studies -- including SME work product -- we concluded that Qwest had not produced sufficient evidence to substantiate its proposed work times and probabilities.

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<sup>30</sup> Order No. 98-444 at 92.

<sup>31</sup> *Id.* at 79.

<sup>32</sup> *Id.*

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We also rejected the WTAP estimates included in the AT&T/WorldCom NRCM and the Verizon cost study. As in the case of Qwest's studies, we found that Verizon and AT&T/WorldCom did not include sufficient documentation to support the SME determinations upon which WTAP estimates were based.<sup>33</sup>

Because of the deficiencies in the Phase I studies, we concluded in Order No. 98-444 that "nonrecurring costs should be based on the minimum WTAP estimates included in [Qwest's] TOC studies."<sup>34</sup> During the Phase III workshops, however, Qwest indicated that it could not produce minimum time estimates for its TOC studies. Because of this, Qwest's Phase III compliance filing uses the same WTAP estimates included in its Phase I nonrecurring cost studies. Qwest takes the position that the Phase I estimates comply with the requirements set forth in Order No. 98-444 because the "weighted average" times calculated by the TOC studies incorporate the minimum time estimates.<sup>35</sup>

In its opening comments, Staff recommended using Qwest's Phase I estimates because (a) the minimum work times required by the Commission are unavailable, and (b) new WTAP studies could not be completed within the 60-day compliance filing deadline. The Joint CLECs, on the other hand, proposed a compromise that averages Qwest's Phase I work times with CLEC-supported times in order to approximate the reductions contemplated by Order No. 98-444.<sup>36</sup>

At the September 12, 2002 hearing, the ALJ observed that Order No. 98-444 contemplates reductions in Qwest's WTAP estimates. In view of Qwest's failure to produce the minimum time estimates specified by the Order, the ALJ recommended that the parties attempt to resolve the issue informally.

In its final comments, Qwest proposed a proxy for the minimum time requirement. It suggests that *when TOC studies are used to identify work times*, the times included in the nonrecurring cost studies should be calculated by averaging the work times from Qwest's Phase I TOC studies with the remodeled work times developed by AT&T/WorldCom witness Petti. Qwest states, however, that SME estimates should not be included in the averaging process because Order No. 98-444 specifically refers to Qwest's "TOC studies."<sup>37</sup> Staff concurs with Qwest's proposed compromise.<sup>38</sup>

The Joint CLECs disagree with Qwest's proposed compromise. They contend that the work times *for all nonrecurring activities* should be based on an average

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<sup>33</sup> *Id.* at 82.

<sup>34</sup> The study questionnaires underlying Qwest's TOC studies include a line where the "minimum," "maximum," and "most likely" times are supposed to be entered for each work activity. *Id.* at 81-82.

<sup>35</sup> This argument is addressed below.

<sup>36</sup> In Phase I, AT&T/WorldCom witness Petti presented a "remodeled" version of Qwest's cost studies, based on assumptions contained in the NRCM. *See*, Confidential Exhibit AT&T/WorldCom/7. The Joint CLECs propose to average Qwest's work times with the time estimates in Ms. Petti's exhibit. Joint CLEC Reply Comments, August 29, 2002, p. 17.

<sup>37</sup> Qwest observes that, unlike the TOC studies, SME estimates do not have a place where "minimum, maximum and most likely work times" can be entered. Qwest Final Comments, September 30, 2002, p. 2.

<sup>38</sup> Staff states, however, that "if Qwest and the Joint CLECs are able to reach a different, mutually agreeable solution, [Staff] would likely support that as well." Staff Exhibit/30, White/10.

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of Qwest-proposed times and AT&T/WorldCom-proposed times. In other words, the averaging process should apply not only to the WTAP estimates in unaltered TOC studies, but also to WTAP estimates developed with SME input.

The Commission agrees with the Joint CLECs on this issue. To begin with, there is no merit to Qwest's initial claim that its Phase I estimates satisfy Order No. 98-444 because the "weighted average" times in the TOC studies incorporate minimum time estimates. Order No. 98-444 clearly requires the ILECs to calculate their nonrecurring costs with the minimum time estimates used to develop the weighted average times proposed by Qwest in Phase I. If we had intended to approve the weighted average times as Qwest suggests, we would have simply adopted the Phase I estimates. Instead, we rejected Qwest's weighted average times because of the numerous deficiencies identified at pp. 80-82 of Order No. 98-444.

We also disagree with Qwest's proposal to use minimum work times and probabilities only for WTAP estimates produced without SME input. Implicit in this proposal is the assumption that the WTAP estimates offered by Qwest in Phase I can somehow be neatly divided between TOC estimates and SME estimates. That assumption is incorrect.

In Order No. 98-444, we observed that several WTAP estimates resulted from a SME modifying a TOC study. In many cases, however, we could not discern whether or to what extent the TOC study was modified by a SME.<sup>39</sup> The manner in which the WTAP estimates were presented--including the deficiencies in the underlying studies themselves--made it impossible for the Commission to differentiate estimates based solely upon TOC studies from those developed with SME input. As a consequence, the Commission was required to treat all of Qwest's proposed WTAP estimates the same. It is apparent from even a cursory reading of Section VII. D. of Order No. 98-444, that the reference to Qwest's "TOC studies" was intended to encompass all of Qwest's WTAP estimates.

Qwest's observation that estimates produced with SME input do not include a "minimum, maximum, and most likely" estimate is irrelevant to our decision. Regardless of whether the estimates are based upon a TOC study, a SME study or some combination thereof, all of the studies are intended to provide a reasonable assessment of the average time it takes to complete a given activity (or, in the case of probability, the number of times that activity will take place). Again, it is clear from Order No. 98-444 that we expected Qwest to (a) produce the documentation underlying its proposed "weighted average" times for all nonrecurring WTAP estimates, including estimates prepared with SME input, and (b) calculate its NRCs using the minimum WTAP estimates incorporated in the "weighted average" times proposed by Qwest in Phase I.

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<sup>39</sup> Even when the Commission was able to discern that a TOC study was modified by an SME, Qwest's failure to provide supporting documentation made it impossible to determine why the changes were made. Order No. 98-444 at 80.

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For the reasons set forth, the Commission finds that Qwest's nonrecurring cost studies shall include WTAP estimates calculated using the averaging process recommended by the Joint CLECs.

**VERIZON ISSUES****Issue No. 1: Service Order Flow-Through**

As noted above, Order Nos. 98-444 and 00-316 require Qwest and Verizon to file NRCs that incorporate a 98 percent flow-through rate for all service order processing functions. Verizon claims that the actual flow-through rate associated with the following four service order functions is less than 98 percent: Telephone Number Assignment, Summary Bill Master, Billing Inquiries, and Local Service Provider.<sup>40</sup> It further asserts that "some manual intervention is necessary [to perform these work functions] even if a fully automated OSS is assumed."<sup>41</sup> For this reason, Verizon proposes to use the same time and probabilities submitted in its original cost study filed in Phase I of this proceeding. It also requests an evidentiary hearing to establish that the 98 percent flow through requirement should not apply to these functions.

Staff and the Joint CLECs oppose Verizon's proposal to apply a lower flow-through rate to the four service order functions listed above. They emphasize that issues relating to service order processing costs were fully adjudicated in Order Nos. 98-444 and 00-316, and that Verizon is essentially requesting a rehearing. The Joint CLECs further emphasize that evidence regarding the manner in which Verizons's actual OSS operates today is irrelevant, since the appropriate inquiry, and indeed the Commission's mandate, is "based upon its findings regarding the forward looking costs associated with an efficient OSS."<sup>42</sup>

The Commission agrees with Staff and Joint CLECs. Order Nos. 98-444 and 00-316 require Verizon to develop nonrecurring costs using a 98 percent flow-through *for all nonrecurring activities* associated with processing electronically submitted service orders. The four functions identified by Verizon -- Telephone Number Assignment, Summary Bill Master, Billing Inquiries, and Local Service Provider-- are all service order activities performed within Verizon's NOMC and are therefore subject to the 98 percent flow-through requirement.<sup>43</sup> Thus, the NRCs proposed by Verizon are not in compliance and must be revised.

Verizon's request to reexamine the flow-through rate associated with the four functions in an evidentiary hearing is also untimely. The functions were part of the cost studies submitted by Verizon in Phase I, and were considered by the Commission in arriving at the decision in Order No. 98-444 to adopt the 98 percent flow-through rate for service order processing activities. That decision was reaffirmed on reconsideration in

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<sup>40</sup> The four functions are described in Verizon's Comments, August 15, 2002, at 6-7, 14-15.

<sup>41</sup> *Id.* at 6.

<sup>42</sup> Joint CLEC Final Comments, September 30, 2002, pp. 3-4

<sup>43</sup> *See, e.g.*, Order No. 98-444 at 89, footnote 200.

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Order Nos. 00-316 and 00-643. As emphasized elsewhere in this order, it is inappropriate for Verizon to attempt to relitigate this issue during the compliance filing phase of this docket.

**Issue 3: Service Order Labor Rates**

Verizon concurs with Staff and the Joint CLECs that the labor rates authorized in Order Nos. 98-444 and 00-316 should be used to calculate refunds in this proceeding. The parties dispute whether revised labor rates based on Verizon's current costs should be used to calculate nonrecurring costs *on a going-forward basis*. Verizon contends that the labor rates authorized in Order Nos. 98-444 and 00-316 are six to eight years old and cannot not be used to establish going-forward costs without offending the policy of using forward-looking costs.

The Joint CLECs and Staff oppose using Verizon's revised labor rates for NRCs assessed on a going-forward basis. They maintain that the revised rates violate both the Commission's orders which do not allow any change in labor rates, and the ALJ's Ruling prohibiting using new cost studies in Phase III. Staff further asserts that Verizon's revised labor rates constitute a new cost study because, at minimum, they require new work times, frequencies and elements because of changes in loading factors.<sup>44</sup>

The Commission finds that Verizon's current labor rates should not be used to calculate going-forward NRCs. We agree with Staff that inserting new labor rates at this point in the process effectively amounts to using new cost studies. As the ALJ emphasized, it is inappropriate to introduce new cost studies during the compliance filing process. Moreover, allowing Verizon to introduce new cost studies at this stage prejudices other parties by unreasonably delaying the implementation of NRCs and refunds due.<sup>45</sup>

Verizon is not prejudiced by this result. If it wants to implement more current labor rates on a going-forward basis, it may include that proposal in its ongoing cost study docket, UM 874. That docket was suspended over two years ago at Verizon's request, but may be reactivated by the company at any time.

**Issue 4: Installation (Loop and Port) – Work Times**

Staff claims that Verizon's NRC compliance filing improperly double-counts the work time required by the Customer Zone Technician (CZT) to install and disconnect jumpers. According to Staff, Verizon includes jumper connection and

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<sup>44</sup> Staff Exhibit/26, White/7.

<sup>45</sup> At a minimum, other parties would require additional time to analyze and rebut Verizon's labor cost studies. For example, Staff maintains that the 1997 times and frequencies taken from Verizon and Qwest studies are inappropriate when used with current labor rates because the times and frequencies do not incorporate productivity gains Verizon has made since 1997. Staff contends that these productivity gains and increased efficiencies in OSS more than offset annual labor increases that Verizon has incurred since 1997. In all likelihood, evidentiary hearings would be necessary to resolve these issues.

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disconnection times in two places – once in its installation order activity, and a second time in its disconnection order activity.<sup>46</sup>

Verizon denies that it double-counts jumper times for CZT functions. It states:

When Verizon receives an order to install a loop (or port), it must *disconnect* the existing service (jumper) it has in place (separating the loop from Verizon’s port), and *install* a new service (jumper) to the CLEC, connecting the loop to the CLEC’s cable. In the case of a disconnection order, the process is simply reversed – the old CLEC service (jumper) is disconnected and the loop is returned to “dial tone ready” status by reconnecting service (jumper) from the loop to Verizon’s port. In each case (installing the loop or disconnecting a loop), two functions are necessary, namely a “disconnection” of an exiting service (jumper) and reconnecting to the new service (jumper) status.<sup>47</sup> (Emphasis in original.)

Staff responds that Verizon misconstrues the amount of jumper activity that must take place when service is connected or disconnected. It states:

When a loop is placed into service for a CLEC, it is inappropriate to charge for disconnection from the previous service arrangement. The previous service arrangement may be Verizon retail [service], [service to] another CLEC, etc. Connection and disconnection costs for the previous service arrangement are recovered from that service, *e.g.*, from retail charges, UNE recurring and nonrecurring rates, etc. The error in Verizon’s proposal becomes more apparent in a case where a CLEC orders a new service to a newly constructed residence or building. There would be no disconnection cost [in that instance] because there is no previous service to disconnect. Similarly, it is not appropriate for the CLEC to absorb jumper connection charges for a future service arrangement that replaces the CLEC service. For example consider a customer who obtains service from a CLEC for a period of time, then discontinues the service and moves. A new customer then arrives and orders retail service from Verizon. Under Verizon’s proposal the CLEC would have paid for the new jumper connection charges. The new retail customer would have paid for

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<sup>46</sup> In other words, connection work time is counted once in the installation process and again in the disconnection process. Likewise, disconnection work time is counted once in the installation process and again in the disconnection process. This is illustrated in Exhibit Staff/18, Reynolds/3, lines 23-24, 27-28, and Reynolds/4, lines 23-24, 27-28. *See also*, diagram at Exhibit Staff/32.

<sup>47</sup> For purposes of the CZT functions, Verizon notes that it has adopted the work times used in Qwest’s nonrecurring cost studies. In addition, it assumes that only one distribution frame is used. Verizon Comments, August 15, 2002, pp. 8-9.

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connection costs, also, through recurring and nonrecurring charges.<sup>48</sup>

The Commission agrees with Staff on this issue. Specifically, we find that when Verizon receives an order from a CLEC to install a loop or port, it is improper for Verizon to charge the CLEC for jumper activity required to disconnect any existing service (*i.e.*, separating the loop from Verizon's port). As illustrated by Staff in Exhibit Staff/32, Step 2 – Disconnection,<sup>49</sup> these costs are already recovered in Verizon's retail charges. We noted this fact in Order No. 98-444:

Also, the ILEC may incur short jumper-related cost but have already recouped that cost. For example, where an ILEC customer migrates to a CLEC and the CLEC purchases building blocks to serve that customer, the ILECs cost of disconnecting that short jumper is included in the retail installation charge paid by the customer when ILEC service is established.<sup>50</sup>

It is also inappropriate to charge a CLEC to “return the loop to dial tone ready” status by reconnecting service (the jumper) from the loop to Verizon's port. This scenario is illustrated in Exhibit Staff/32, “Step 5—Connection to Verizon.” As in the situation described above, when a customer establishes service with Verizon, the costs of connection – including jumper costs – are already included in Verizon's retail charges.

### **Issue 6: Installation Flow Through**

For the reasons stated in our discussion of Qwest Issues 1a – 1c, the 98 percent flow through requirement applies only to nonrecurring service order processing activities performed by Qwest's ISC and ICSC and Verizon's NOMC.

### **Issue 7: Installation Labor Rates**

For the reasons stated in our discussion of Issue No. 3, we find that the labor rates authorized in Order Nos. 98-444 and 00-316 should be utilized, both for refunds and on a going-forward basis.

### **Issue 8: Loop Conditioning**

In Order No. 98-444, the Commission found that costs associated with loop conditioning<sup>51</sup> and other similar outside plant rearrangement activities are included

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<sup>48</sup> Exhibit Staff/23, Reynolds/22-23. Staff emphasizes that, unlike Verizon, Qwest uses connection and disconnection times only once where a single distribution frame used.

<sup>49</sup> Exhibit Staff/32 is attached to this Order as Appendix C and is incorporated herein by reference.

<sup>50</sup> Order No. 98-444 at 86, footnote 194.

<sup>51</sup> Loop conditioning, or loop unloading, involves removing loading coils, bridge taps and other similar devices from the loop. Such devices diminish the loop's capacity to deliver advanced services, and thus preclude competitive carriers from gaining full use of the loop's capabilities. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further



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in the maintenance factors used to develop monthly recurring UNE rates. Thus, to prevent double recovery of those costs, we declined to adopt the NRCs proposed by Qwest and Verizon. Our findings on this issue were based upon testimony and evidence presented by Staff witness Jack Breen. As a matter of general policy, we also concluded that it is more reasonable to recover costs of outside plant activities such as loop conditioning, in recurring costs than to attempt to separately identify and assess NRCs for the many types of activities that take place.<sup>52</sup>

The Commission revisited this issue on reconsideration in Order No. 00-316. The ILECs claimed that Order No. 98-444 was contrary to the FCC's UNE Remand Order, which contemplates that the cost of conditioning loops may be recovered through NRCs. Upon review, we found that the UNE Remand Order did not preclude State commissions from requiring recovery of loop conditioning costs through recurring charges, and we again rejected the NRC proposed by Qwest and Verizon for line conditioning. Specifically, we found that the recommended \$597.61 per loop up-front charge constituted a barrier to competitive entry.

At the same time, Order No. 00-316 acknowledges that FCC Rule 507(e) allows requesting carriers to pay nonrecurring loop conditioning costs via installment payments over a reasonable time determined by the Commission.<sup>53</sup> Before considering such a proposal, however, we emphasized that it would first be necessary for the ILECs to remove loop conditioning costs from the maintenance factor included in the monthly recurring cost of the loop. Once those costs were removed, the Commission could then determine the length of time over which the nonrecurring loop conditioning costs should be collected. We also emphasized that the loop conditioning costs calculated by Qwest and Verizon would be subject to review and challenge by other parties.

Verizon's Phase III compliance filing includes a NRC for loop conditioning.<sup>54</sup> In calculating that NRC, however, Verizon did not present any documentation showing that it removed loop conditioning costs from the monthly recurring loop rate as required by Order No. 00-316. On the contrary, Verizon contends that the Commission erred when it concluded that loop conditioning costs are included in the maintenance factor used to develop the monthly recurring loop rate. In support of this claim, Verizon relies on testimony presented during the Phase I hearings by Qwest witness Don Mason. In the alternative, Verizon asserts that any loop conditioning costs included in recurring rates are *de minimis*. According to Verizon, cost studies presented

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Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-328, (rel. Nov 5, 1999), ¶172. (hereafter, the "UNE Remand Order.")

<sup>52</sup> Order No. 98-444 at 93.

<sup>53</sup> For purposes of this discussion, it is important to note the difference between recurring costs recovered on a continuing basis through monthly charges and nonrecurring costs recovered over a time certain, *i.e.*, through installment-type payments. As noted, ILEC line conditioning costs are currently included in the monthly charges paid for UNEs. In Order No. 00-316, we held that, if line conditioning costs are instead to be recovered via installment-type payments, they must first be removed from the maintenance factor used to develop the recurring monthly loop cost.

<sup>54</sup> Qwest did not propose a loop conditioning NRC in Phase III.

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in docket UM 773 disclose that loop conditioning costs comprise “less than one percent of the total recurring loop cost.”<sup>55</sup>

The Joint CLECs and Staff oppose Verizon’s proposed loop conditioning NRC. They contend that Verizon has not complied with Order Nos. 98-444 and 00-316 and further, that Verizon’s challenge to the evidentiary basis underlying those orders is untimely.

The Commission rejects Verizon’s proposed nonrecurring charge for loop conditioning. Order Nos. 98-444 and 00-316 clearly require Verizon to “first remove” costs associated with loop conditioning from monthly recurring costs before calculating the nonrecurring costs of loop conditioning. Verizon did not follow this directive.

In addition, we agree that Verizon’s attempt to challenge the Commission’s findings regarding loop conditioning is untimely. As the Staff and Joint CLECs emphasize, the Commission reexamined loop conditioning on reconsideration in Order No. 00-316. Verizon did not appeal that decision, and the time for doing so has now past.

ORS 756.068 authorizes the Commission to “rescind, suspend, or amend any order” at any time upon notice and an opportunity to be heard. Verizon suggests that such action is warranted based on Mr. Mason’s Phase I testimony and the data Verizon has extrapolated from docket UM 773. We disagree. Although Mr. Mason testified that Qwest’s maintenance factor did not include loop conditioning costs, his claim was contradicted by the more detailed analysis of Staff witness Breen adopted in Order Nos. 98-444 and 00-316.<sup>56</sup> Furthermore, Qwest subsequently acknowledged in its Phase I post-hearing briefs that Mr. Breen “was correct” when he testified that loop conditioning costs are included in the maintenance factor.<sup>57</sup> As we have emphasized, the purpose of Phase III is *to review compliance filings made in accordance with the Commission’s directives in Order Nos. 98-444 and 00-316*. It is not a forum to relitigate issues that have already been decided.

Verizon’s alternative rationale--that the Commission should rely upon information extrapolated from docket UM 773 to conclude that recurring loop rates should only be reduced by one percent to account for line conditioning costs-- is totally without merit. The speculative nature of Verizon’s claim does not warrant reopening the record and holding additional evidentiary hearings.<sup>58</sup>

<sup>55</sup> Verizon Comments, August 15, 2002, p. 12.

<sup>56</sup> For example, Mr. Breen identified the specific account where line conditioning costs are included. *See* Staff Exhibit 15, Breen/7. *See also*, Order No. 98-444 at 93-95; Order No. 00-316 at 16, 18.

<sup>57</sup> Qwest Phase I Opening Brief, March 17, 1998, p. 14; Qwest Phase I Reply Brief, March 31, 1998, p. 7; *See also*, Order No. 98-444 at 94.

<sup>58</sup> Verizon’s proposal would require, among other things, a comprehensive review of the UM 773 record, which alone comprises several thousand pages. Other parties would then be entitled to dispute Verizon’s claims, necessitating the filing of testimony and evidentiary hearings. An undertaking of this magnitude would result in a lengthy delay in the disposition of this matter.

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Verizon states that it will be forced to pay “unlawful refunds” if it is not permitted to assess a NRC for loop conditioning. In fact, it is the CLECs who will be prejudiced if Verizon is allowed to relitigate this issue. Despite the fact that the Commission rejected the ILECs’ proposed loop conditioning NRCs in Order No. 98-444, those charges have remained in effect on a “subject to refund” basis for more than five years. It would be manifestly unfair to the CLECs to defer the refunds of those charges while the loop conditioning issue is litigated once again, especially in view of the dubious justification Verizon has offered in support of its claim. Verizon is not prejudiced by this decision since it may always request the Commission revisit line conditioning issues in docket UM 874.

**Issue 10: Loop Facility Testing Charge**

Verizon proposes to charge a Loop Facility Testing NRC that would apply to additional, specialized testing when requested by a CLEC as part of an order for a loop UNE.<sup>59</sup> Qwest imposes similar NRCs for conformance testing and for coordinated installation with cooperative testing.

Staff states that a Loop Facility Testing NRC would allow CLECs to request additional specialized testing at a standardized rate without resorting to a “time and materials” charge. It agrees with Verizon’s proposed charge provided (a) it applies only when ordered by a CLEC as part of a Loop UNE order; (b) Commission-authorized labor rates are used, and; (c) Staff’s proposed technician travel time estimates are used. Verizon agrees with condition (a) but disagrees with (b) and (c).

The Joint CLECs do not address Verizon’s Loop Facility Testing NRC in their final comments, but stated previously that they oppose any charge that is significantly different than Qwest’s. To avoid a delay in the distribution of refunds, they suggest that Verizon’s proposed testing charge be considered in docket UM 874.

The Commission adopts the Staff position. Staff and Verizon concur that the Loop Facility Testing charge should only apply when it is part of a CLEC’s loop order. As for the two remaining issues, we have concluded that NRCs should incorporate the labor rates authorized in Order Nos. 98-444 and 00-316, as well as Staff’s proposed technician travel time estimates. *See Verizon Issues 3 and 4, supra.*

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<sup>59</sup> Verizon previously proposed an Outside Facility Connection Charge (OFCC) that would apply whenever a technician was dispatched to an end user’s premises to provision a loop. The Commission rejected the OFCC in Order Nos. 98-444 and 00-316, concluding that the costs of these activities were already included in the Qwest loop recurring charges that had been adopted by Verizon. On June 24, 2002, Verizon filed a petition to modify Order No. 98-444 and the related ALJ Ruling dated February 19, 2001. After discussion, however, Verizon indicated that its proposed charge was actually intended to mirror the NRCs for conformance/cooperative testing assessed by Qwest. Verizon thereupon withdrew its petition, but sought consideration of the testing charge. On August 16, 2002, the ALJ ruled that Order No. 98-444 allowed Verizon’s proposed charge to be considered in Phase III. Verizon has since denominated its proposed testing charge the “Loop Facility Testing Charge.”

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The Joint CLECs are not harmed by this decision. Verizon's testing charge is designed to correspond with a similar charge already imposed by Qwest. We do not anticipate any delay in the issuance of refunds.

**Issues 13a and 13d: Refund Mechanics—Notice Timing; Deadline for CLECs to Dispute Refund Calculation**

Verizon and the Joint CLECs disagree over the amount of time Verizon should have to make refunds to CLECs after this order is entered. The Joint CLECs propose the same time frame agreed to with Qwest, *i.e.*, 90 business days. Verizon, on the other hand, proposes: (a) 90 calendar days for Verizon to provide the refund calculation, (b) no more than 90 calendar days for the CLEC to respond, and; (c) 45 calendar days for Verizon to provide the CLEC with a bill credit or check.

The Commission agrees with the Joint CLECs. Assuming that there are 22 business days each month, the Joint CLEC/Qwest agreement ensures that CLECs receive refunds in slightly more than four months, or approximately 120 days. Conversely, the refund process could take almost twice as long under Verizon's proposal. The Commission believes that four months is more than adequate time to calculate and distribute the refunds due in this proceeding.

**Issue 13h: Method of Refund Payments**

Verizon and the Joint CLECs disagree over the manner in which refunds should be provided where a CLEC has a current account.<sup>60</sup> Verizon proposes to provide a bill credit only. The Joint CLECs, on the other hand, argue that CLECs with a current account are also entitled to receive direct payment in the form of a check, wire transfer or other similar mechanism, regardless of the account balance, provided the account is not in arrears.

The Commission finds that CLECs with a current account should be allowed to receive refunds by bill credit or direct payment. Direct payment may be by check, wire transfer, or similar mechanism. At the same time, a CLEC should only be entitled to receive direct payment where the refund due exceeds the balance owing on the CLEC's account.<sup>61</sup> This approach is efficient and avoids potential errors that may result from having the parties engage in multiple transactions.

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<sup>60</sup> Verizon and the Joint CLECs agree that where the CLEC does not have a current account and a refund is due, a check will be issued. The parties also agree to follow the bankruptcy code where applicable.

<sup>61</sup> Thus, if the refund due is \$100 and the account balance is \$50, the amount of the direct payment would be \$50.

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**ORDER**

IT IS ORDERED that Qwest and Verizon shall submit revised nonrecurring costs and charges in compliance with the terms of this Order. The compliance filings shall be made no later than 30 days from the date this Order is entered.

Made, entered, and effective \_\_\_\_\_.

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
Commissioner

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**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the service date of this order and must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

# UT 138/139 Phase III Summary Matrix: Qwest Issues

Rev 9/27/02

Exhibit Staff/29

(See comments/testimony for complete text of the parties' positions.)

Reynolds/1

Issue	Qwest's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>1a. Flow-Through- 98% for ISC,ICSC? Addl Activities?</b>	<ul style="list-style-type: none"> <li>• Service order (ISC, ICSC) activities-yes</li> <li>• Other activities - no</li> </ul>	<ul style="list-style-type: none"> <li>• Service order (ISC, ICSC) activities-yes</li> <li>• Other activities - no</li> </ul>	<ul style="list-style-type: none"> <li>• Service order (ISC, ICSC) activities-yes</li> <li>• Other activities - yes</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Svc. Order activity (ISC, ICSC) – All (Resolved)</b></li> <li>• Other activities – Staff &amp; Qwest</li> </ul>
<b>1b. Flow through – Other activities</b>	<ul style="list-style-type: none"> <li>• Other activities -No</li> </ul>	<ul style="list-style-type: none"> <li>• Other activities-No</li> </ul>	<ul style="list-style-type: none"> <li>• Other activities- Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Other activities – Staff &amp; Qwest</li> </ul>
<b>1c. Flow through – Other activities</b>	<ul style="list-style-type: none"> <li>• Other activities-No</li> </ul>	<ul style="list-style-type: none"> <li>• Other activities-No</li> </ul>	<ul style="list-style-type: none"> <li>• Other activities- Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Other activities – Staff &amp; Qwest</li> </ul>
<b>2a. Central Office Frames -- Two jumpers or one jumper?</b>	<ul style="list-style-type: none"> <li>• Two jumpers per loop because all CLECs order ITPs</li> </ul>	<ul style="list-style-type: none"> <li>• One jumper per loop; one jumper per ITP when ordered</li> </ul>	<ul style="list-style-type: none"> <li>• One jumper per loop</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>2b.Adjustment to Studies to Reflect 25% IDLC</b>	<ul style="list-style-type: none"> <li>• No additional adjustment required</li> </ul>	<ul style="list-style-type: none"> <li>• No additional adjustment required</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminate 25% of jumper time.</li> </ul>	<ul style="list-style-type: none"> <li>• Staff &amp; Qwest</li> </ul>
<b>2c, Central Office Frames -- Jumper costs prohibited? Double counting?</b>	<ul style="list-style-type: none"> <li>• Jumper costs allowed; no double counting</li> </ul>	<ul style="list-style-type: none"> <li>• Jumper costs allowed; no double counting</li> </ul>	<ul style="list-style-type: none"> <li>• Jumper costs allowed; no double counting</li> </ul>	<ul style="list-style-type: none"> <li>• <b>All (Resolved)</b></li> </ul>
<b>3, POTS vs. Design Services -- Additional NAC 2 and 4-wire options</b>	<ul style="list-style-type: none"> <li>• Revise studies specified in order</li> </ul>	<ul style="list-style-type: none"> <li>• Revise studies specified in order</li> </ul>	<ul style="list-style-type: none"> <li>• Revise studies specified in order</li> </ul>	<ul style="list-style-type: none"> <li>• <b>All (Resolved)</b></li> </ul>

# UT 138/139 Phase III Summary Matrix: Qwest Issues

Rev 9/27/02

Exhibit Staff/29

(See comments/testimony for complete text of the parties' positions.)

Reynolds/2

Issue	Qwest's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>4a, Dispatch/Installation— Travel time – Customer Service/Network.</b>	<ul style="list-style-type: none"> <li>Requirement applies to ATT's NRCM, which includes travel to unmanned offices, not to customer locations.</li> </ul>	<ul style="list-style-type: none"> <li>Reduce 21 min travel time to 10.5 min</li> </ul>	<ul style="list-style-type: none"> <li>Reduce travel time by 50%</li> </ul>	<ul style="list-style-type: none"> <li>Staff &amp; Joint CLECs</li> </ul>
<b>4b, Dispatch/Installation – Travel time -- DSOC/Install</b>	<ul style="list-style-type: none"> <li>Requirement applies to ATT's NRCM, which includes travel to unmanned offices, not to customer locations.</li> </ul>	<ul style="list-style-type: none"> <li>Reduce 26 min travel time to 13 min</li> </ul>	<ul style="list-style-type: none"> <li>Reduce travel time by 50%</li> </ul>	<ul style="list-style-type: none"> <li>Staff &amp; Joint CLECs</li> </ul>
<b>6: Time Estimates</b>	<ul style="list-style-type: none"> <li>Average of Qwest times and AT&amp;T-MCI/10 times               <ul style="list-style-type: none"> <li>TOC Times: <u>YES</u></li> <li>Other SME Estimated Times: <u>NO (use as is)</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Average of Qwest Times and AT&amp;T-MCI/10 times               <ul style="list-style-type: none"> <li>TOC Times <u>YES</u></li> <li>Other SME Estimated Times: <u>NO (use as is)</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Average of Qwest Times and AT&amp;T-MCI/10 times               <ul style="list-style-type: none"> <li>Activities identified by Qwest as relying on TOC Times: <u>YES</u></li> <li>Other activities identified by Qwest as relying on SME Estimated Times: average of Qwest times and ATT-MCI/10 times.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Qwest &amp; Staff</li> </ul>
<b>7: DS0/DS1/DS3 Transport Trunks</b>	<ul style="list-style-type: none"> <li>Provide mechanized NRC</li> <li>98% flow through (ICSC)</li> </ul>	<ul style="list-style-type: none"> <li>Provide mechanized NRC</li> <li>98% flow through (ICSC)</li> </ul>	<ul style="list-style-type: none"> <li>Provide mechanized NRC</li> <li>98% flow through (ICSC)</li> </ul>	<ul style="list-style-type: none"> <li><b>All (Resolved)</b></li> </ul>
<b>8.Refund Mechanics</b>				
<b>8a. Notice Timing</b>	<ul style="list-style-type: none"> <li>90 business days</li> </ul>	<ul style="list-style-type: none"> <li>No objection</li> </ul>	<ul style="list-style-type: none"> <li>90 business days</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8b. Notice Detail</b>	<ul style="list-style-type: none"> <li>Detail content determined</li> </ul>	<ul style="list-style-type: none"> <li>No objection</li> </ul>	<ul style="list-style-type: none"> <li>Detail content determined</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8c. Interest Computation</b>	<ul style="list-style-type: none"> <li>8.77%</li> </ul>	<ul style="list-style-type: none"> <li>No objection</li> </ul>	<ul style="list-style-type: none"> <li>8.77%</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8d. Deadline for CLEC Dispute of Qwest Adjustment</b>	<ul style="list-style-type: none"> <li>90 business days</li> </ul>	<ul style="list-style-type: none"> <li>"Qwest &amp; CLECs Should agree"</li> </ul>	<ul style="list-style-type: none"> <li>90 business days</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>

UT 138/139 Phase III Summary Matrix: Qwest Issues Rev 9/27/02

Exhibit Staff/29

(See comments/testimony for complete text of the parties' positions.)

Reynolds/3

Issue	Qwest's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>8e. Nature of CLEC Support for Alternatives Refund Adjustment</b>	<ul style="list-style-type: none"> <li>Information agreed upon</li> </ul>	<ul style="list-style-type: none"> <li>"Qwest &amp; CLECs Should agree"</li> </ul>	<ul style="list-style-type: none"> <li>Information agreed upon</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8f. Dispute Resolution Escalation Procedures</b>	<ul style="list-style-type: none"> <li>Process agreed upon</li> </ul>	<ul style="list-style-type: none"> <li>"Qwest &amp; CLECs Should agree"</li> </ul>	<ul style="list-style-type: none"> <li>Process agreed upon</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8g. Commission Dispute Resolution Procedures</b>	<ul style="list-style-type: none"> <li>ORS 759.455(2)</li> </ul>	<ul style="list-style-type: none"> <li>No objection</li> </ul>	<ul style="list-style-type: none"> <li>ORS 759.455(2)</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8h. Method of Refund Payments</b>	<ul style="list-style-type: none"> <li>Bill Credit if CLEC has current account (check otherwise); CLEC with account can request check, wire transfer, etc. if not in arrears</li> </ul>	<ul style="list-style-type: none"> <li>"Qwest &amp; CLECs Should agree"</li> </ul>	<ul style="list-style-type: none"> <li>Bill Credit if CLEC has current account (check otherwise); CLEC with account can request check, wire transfer, etc. if not in arrears</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>8i. Missing Data</b>	<ul style="list-style-type: none"> <li>Qwest proposed method</li> <li>Churn factor - resolved</li> </ul>	<ul style="list-style-type: none"> <li>"Qwest &amp; CLECs Should agree"</li> </ul>	<ul style="list-style-type: none"> <li>Qwest proposed method</li> <li>Churn factor - resolved</li> </ul>	<ul style="list-style-type: none"> <li><b>Qwest proposed method - Resolved</b></li> <li>Churn factor - <b>Resolved<sup>1</sup></b></li> </ul>
<b>Additional Staff Issue: Use of Qwest factors developed in Feb. 1997</b>	<ul style="list-style-type: none"> <li>Use 1997 factors</li> </ul>	<ul style="list-style-type: none"> <li>Use 1997 factors</li> </ul>	<ul style="list-style-type: none"> <li>No comment</li> </ul>	<ul style="list-style-type: none"> <li><b>Staff &amp; Qwest (Resolved)</b></li> </ul>

<sup>1</sup>Conference call Qwest, Joint CLECs, Staff September 25, 2002.



**UT 138/139 Phase III Summary Matrix: Verizon Issues** Rev 9/27/02a Exhibit Staff/33  
(See comments/testimony for complete text of the parties' positions.) Reynolds/1

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>1. Service Order Flow Through</b>	<ul style="list-style-type: none"> <li>• Service Ordering functions assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Install Order</li> <li>○ Completion/Displ. Notification</li> <li>○ Disconn. Order</li> <li>○ Permanent Non-Treatment</li> <li>○ <u>ASSIGN 98%</u></li> </ul> </li> <li>• Service Ordering functions NOT assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Tel. No. Assignment</li> <li>○ Summary Bill Master</li> <li>○ Billing Inquiries</li> <li>○ Local Svc. Provider Verification</li> <li>○ <u>NOT ASSIGNED 98%</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Service Ordering functions assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Install Order</li> <li>○ Completion/Displ. Notification</li> <li>○ Disconn. Order</li> <li>○ Permanent Non-Treatment</li> <li>○ <u>AGREE</u></li> </ul> </li> <li>• Service Ordering functions NOT assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Tel. No. Assignment</li> <li>○ Summary Bill Master</li> <li>○ Billing Inquiries</li> <li>○ Local Svc. Provider Verification</li> <li>○ <u>DO NOT AGREE</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Service Ordering functions assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Install Order</li> <li>○ Completion/Displ. Notification</li> <li>○ Disconn. Order</li> <li>○ Permanent Non-Treatment</li> <li>○ <u>AGREE</u></li> </ul> </li> <li>• Service Ordering functions NOT assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Tel. No. Assignment</li> <li>○ Summary Bill Master</li> <li>○ Billing Inquiries</li> <li>○ Local Svc. Provider Verification</li> <li>○ <u>DO NOT AGREE</u></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Service Ordering functions assigned 98% by Verizon:</b> <ul style="list-style-type: none"> <li>○ <b>Install Order</b></li> <li>○ <b>Completion/Displ. Notification</b></li> <li>○ <b>Disconn. Order</b></li> <li>○ <b>Permanent Non-Treatment</b></li> <li>○ <b><u>All – (Resolved)</u></b></li> </ul> </li> <li>• Service Ordering functions NOT assigned 98% by Verizon:               <ul style="list-style-type: none"> <li>○ Tel. No. Assignment</li> <li>○ Summary Bill Master</li> <li>○ Billing Inquiries</li> <li>○ Local Svc. Provider Verification</li> <li>○ Staff &amp; CLECs</li> </ul> </li> </ul>
<b>2. Service Ordering – Loop &amp; Port – Work Times</b>	<ul style="list-style-type: none"> <li>• Work times on 5/30/02 filing are in compliance (Qwest work times)</li> </ul>	<ul style="list-style-type: none"> <li>• Work times on 5/30/02 filing are in compliance (Qwest work times)</li> </ul>	<ul style="list-style-type: none"> <li>• No recommended changes to these particular work activities</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Resolved</b></li> </ul>

UT 138/139 Phase III Summary Matrix: Verizon Issues Rev 9/27/02a Exhibit Staff/33

(See comments/testimony for complete text of the parties' positions.)

Reynolds/2

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>3. Service Order Labor Rates</b>	<ul style="list-style-type: none"> <li>• Going forward -- Use <u>2001-2002</u> labor rates</li> <li>• For refund -- Use 1997 labor rates</li> </ul>	<ul style="list-style-type: none"> <li>• Going forward -- Use <u>1997</u> labor rates</li> <li>• For refund -- Use 1997 labor rates</li> </ul>	<ul style="list-style-type: none"> <li>• Going forward -- Use <u>1997</u> labor rates</li> <li>• For refund -- Use 1997 labor rates</li> </ul>	<ul style="list-style-type: none"> <li>• Going forward -- Use <u>1997</u> labor rates -- Staff &amp; CLECs</li> <li>• <b>For refund -- Use 1997 labor rates -- All (Resolved)</b></li> </ul>
<b>4. Installation – Loop &amp; Port- Work Times</b>	<ul style="list-style-type: none"> <li>• Work times on 5/30/02 filing in compliance (Qwest work times) – <u>YES</u></li> <li>• Double counted FAC work activities – <u>NO</u></li> <li>• Double counted jumper activities – <u>NO</u></li> <li>• Outside facility connection charge – (See Issue 10)</li> </ul>	<ul style="list-style-type: none"> <li>• Work times on 5/30/02 filing in compliance (Qwest work times) – <u>NO</u></li> <li>• Double counted FAC work activities – <u><del>NO</del><sup>1</sup></u></li> <li>• Double counted jumper activities – <u>YES</u></li> <li>• Outside facility connection charge - (See Issue 10)</li> </ul>	<ul style="list-style-type: none"> <li>• Work times on 5/30/02 filing in compliance (Qwest work times) – <u>NO</u></li> <li>• Use alternative estimates (for Qwest work times)</li> <li>• Double counted FAC work activities – no comment</li> <li>• Double counted jumper activities – no comment</li> <li>• Outside facility connection charge - (See Issue 10)</li> </ul>	<ul style="list-style-type: none"> <li>• Work times on 5/30/02 filing in compliance (Qwest work times) – not in compliance -- Staff &amp; CLECs</li> <li>• Double counted FAC work activities – <u>not double counted- - All (Resolved)</u></li> <li>• Double counted jumper activities -- <u>NONE</u></li> </ul>

General Note: Changes in a party's position since the last filed comments are indicated by *strikethroughs* and *underlined text*. Both are in *boldface* type. A footnote provides further information on the source of the change.

<sup>1</sup> As directed by the ALJ at Clarifying hearing on Sept. 12, 2002, Staff and Verizon conducted a conference call on Sept. 17., 2002. ("Sept. 17 conference call.") Verizon explained to Staff's satisfaction that the Facility Assignment Center work activity for *disconnect order* was a component of Verizon's 1997 study. (Qwest did not show an equivalent entry.) Since Qwest showed no activity for *disconnection*, Verizon used the time for *connection* in its place, claiming that it was approximately the same.

**UT 138/139 Phase III Summary Matrix: Verizon Issues** Rev 9/27/02a Exhibit Staff/33  
(See comments/testimony for complete text of the parties' positions.) Reynolds/3

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>6. Installation Flow Through</b>	<ul style="list-style-type: none"> <li>No changes required</li> </ul>	<ul style="list-style-type: none"> <li>No changes required</li> </ul>	<ul style="list-style-type: none"> <li>Installation flow through requires changes-- 98% flow through</li> </ul>	<ul style="list-style-type: none"> <li>Verizon &amp; Staff</li> </ul>
<b>7. Installation Labor Rates</b>	<ul style="list-style-type: none"> <li>Going forward -- Use <u>2001-2002</u> labor rates</li> <li>For refund -- Use 1997 labor rates</li> </ul>	<ul style="list-style-type: none"> <li>Going forward -- Use <u>1997</u> labor rates</li> <li>For refund -- Use 1997 labor rates</li> </ul>	<ul style="list-style-type: none"> <li>Going forward -- Use <u>1997</u> labor rates</li> <li>For refund -- Use 1997 labor rates</li> </ul>	<ul style="list-style-type: none"> <li>Going forward -- Use <u>1997</u> labor rates -- Staff &amp; CLECs</li> <li><b>For refund -- Use 1997 labor rates -- All (Resolved)</b></li> </ul>

**UT 138/139 Phase III Summary Matrix: Verizon Issues** Rev 9/27/02a Exhibit Staff/33  
(See comments/testimony for complete text of the parties' positions.) Reynolds/4

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>8. Line Conditioning – Proposed NRCs</b>	<ul style="list-style-type: none"> <li>• Old NRC – replace with new NRC</li> <li>• New NRC – <u>YES</u></li> <li>• Modify recurring charge - <u>YES, IF NECESSARY</u></li> </ul>	<ul style="list-style-type: none"> <li>• Old NRC – <u>REJECT</u>, per orders</li> <li>• New NRC – <u>REJECT</u>, per orders</li> <li>• Modify recurring charge – <u>NO</u></li> <li>• Requires new studies in UM 874 (NRC &amp; recurring).</li> </ul>	<ul style="list-style-type: none"> <li>• Old NRC – <u>REJECT</u>, per orders</li> <li>• New NRC -- <u>REJECT</u>, per orders</li> <li>• Modify recurring charge – <u>NO</u></li> <li>• <u>Requires new studies in UM 874 (NRC &amp; recurring)</u></li> </ul>	<ul style="list-style-type: none"> <li>• Staff &amp; CLECs</li> </ul>
<b>9. List Of NRCs – Qwest NRCs</b>	<ul style="list-style-type: none"> <li>• Agree to restate "Mirror Qwest rates" as "Same as Qwest rates"<sup>2</sup></li> <li>• Verizon Svc. Order charge— <u>AGREE NOT TO ADD TO QWEST NRC FOR DS1/DS3 ORDERS</u></li> </ul>	<ul style="list-style-type: none"> <li>• Restate as: "Same as Qwest rates"</li> <li>• Verizon Svc. Order charge -- <u>DO NOT ADD TO QWEST NRC</u></li> </ul>	<ul style="list-style-type: none"> <li>• Restate as: "Same as Qwest rates"</li> <li>• Verizon Svc. Order charge -- <u>DO NOT ADD TO QWEST NRC</u></li> </ul>	<ul style="list-style-type: none"> <li>• Same as Qwest rates" – <b>ALL (Resolved)</b></li> <li>• Verizon Svc. Order – <b>ALL (Resolved)</b></li> </ul>

<sup>2</sup> [Note: Verizon's August 15 comments (page 19) indicate this position.]

**UT 138/139 Phase III Summary Matrix: Verizon Issues** Rev 9/27/02a Exhibit Staff/33  
(See comments/testimony for complete text of the parties' positions.) Reynolds/5

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<p><b>10. List Of NRCs – Verizon Studies</b></p>	<ul style="list-style-type: none"> <li>• Outside Facility Connection Charge / Loop Facility Charge – <b>DELETE</b><sup>3</sup></li> <li>• Loop/Port Conversion Charge [CLEC to CLEC] <b>DELETE</b><sup>4</sup></li> <li>• Loop Facility Testing Charge <b>ADD</b> subject to conditions Staff 23/ Reynolds/19 item c, and per Commission decision on items a, b<sup>5</sup></li> <li>• “Structure” total NRCs – Can't modify system --- <b>Verizon structure acceptable if Verizon produces "Application guide" for determining how charges are applied.</b> <sup>6</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Outside Facility Connection Charge / Loop Facility Charge – <b>DELETE</b></li> <li>• Loop/Port Conversion Charge [CLEC to CLEC] -- <b>DELETE</b><sup>4</sup></li> <li>• Loop Facility Testing Charge – <b>ADD</b> subject to conditions Staff 23/ Reynolds/19 item c, and per Commission decision on items a, b.<sup>7</sup></li> <li>• “Structure” total NRCs – List in OPUC order --- <b>Verizon structure acceptable if Verizon produces - "Application guide" for determining how charges are applied .</b> <sup>8</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Outside Facility Connection Charge / Loop Facility Charge – <b>DELETE</b></li> <li>• Loop/Port Conversion Charge [CLEC to CLEC] -- <b>DELETE</b></li> <li>• Loop Facility Testing Charge – <b>DELETE</b></li> <li>• “Structure” total NRCs – List in OPUC order -----<b>"Application guide" for determining how price is calculated. -- Verizon PROVIDE</b></li> </ul>	<ul style="list-style-type: none"> <li>• Outside Facility Connection Charge / Loop Facility Charge – <b>DELETE</b></li> <li>• <b>All (Resolved-Conditional)</b><sup>9</sup></li> <li>• Loop/Port Conversion Charge [CLEC to CLEC] -- <b>DELETE</b></li> <li>• Loop Facility Testing Charge <b>ADD</b> subject to conditions Staff 23/ Reynolds/19 item c, and per Commission decision on items a, b.<sup>10</sup> <b>Verizon &amp; Staff only</b></li> <li>• “Structure” total NRCs – List in OPUC order – Provide "Application guide" <b>All (Resolved)</b></li> </ul>

<sup>3</sup> September 17 conference call. Verizon agrees to delete this proposed charge without prejudice if the Loop Facility Testing Charge is allowed. Verizon reserves its right to pursue the Outside Facility Connection Charge in a later cost proceeding.

<sup>4</sup> Sept. 18 conference call. . Verizon reserves its right to pursue this charge in a later cost proceeding.

<sup>5</sup> Sept. 17 conference call. Staff's view is that, with the restriction recommended, this charge will allow Verizon to provide for additional, specialized, and specifically requested testing in the same manner as is available to Qwest in its loop options that include testing.

<sup>6</sup> Sept. 17 conference call.

UT 138/139 Phase III Summary Matrix: Verizon Issues Rev 9/27/02a Exhibit Staff/33

(See comments/testimony for complete text of the parties' positions.)

Reynolds/6

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<p><b>11. List Of NRCs – Staff Table 2</b></p>	<ul style="list-style-type: none"> <li>NID – defer to UM 874</li> <li>“Subject to Refund” -- <u>YES</u><sup>11</sup></li> </ul>	<ul style="list-style-type: none"> <li>NID – defer to UM 874</li> <li>“Subject to Refund” -- <u>YES</u></li> </ul>	<ul style="list-style-type: none"> <li>NID – defer to UM 874</li> <li>“Subject to Refund” -- <u>YES</u></li> </ul>	<ul style="list-style-type: none"> <li><b>All (Resolved)</b></li> </ul>
<p><b>12. Separate Manual And Mechanized Studies</b></p>	<ul style="list-style-type: none"> <li>Label studies "mechanized" &amp; "manual" – <u>NO, but provide "asterisk &amp; footnote" to explain "semi-mechanized" charges apply when orders are placed electronically =</u><sup>12</sup></li> <li>Svc Order Flow per Issue 1 – (See Issue 1)</li> <li>Provide mech. &amp; manual studies for loop &amp; port –(See Issue 6) <b>Agree that resolution of Issue 6 will also resolve this issue.</b><sup>13</sup></li> </ul>	<ul style="list-style-type: none"> <li>Label studies "mechanized" &amp; "manual" – <u>NO, but provide "asterisk &amp; footnote" to explain "semi-mechanized." charges apply when orders are placed electronically</u></li> <li>Svc Order Flow per Issue 1 –(See Issue 1)</li> <li>Provide mech. &amp; manual studies for loop &amp; port – (See Issue 6) <b>Agree that resolution of Issue 6 will also resolve this issue.</b></li> </ul>	<ul style="list-style-type: none"> <li>Label studies "mechanized" &amp; "manual" -- <u>NO POSITION</u></li> <li>Svc Order Flow per Issue 1 –(See Issue 1)</li> <li>Provide mech. &amp; manual studies for loop &amp; port –(See Issue 6) <b>Agree that resolution of Issue 6 will also resolve this issue.</b></li> </ul>	<ul style="list-style-type: none"> <li>Label studies "mechanized" &amp; "manual" –</li> <li><b>All (Resolved)</b></li> <li>Svc Order Flow per Issue 1 (See Issue 1)</li> <li>Provide mech. &amp; manual studies for loop &amp; port – (See Issue 6)</li> </ul>

<sup>7</sup> Sept. 17 conference call.

<sup>8</sup> Sept. 17 conference call.

<sup>9</sup> September 17 conference call. Verizon agrees to delete this proposed charge if the Loop Facility Testing Charge is allowed.

<sup>10</sup> Sept. 17 conference call.

<sup>11</sup> Sept. 18 discussion Verizon, Staff re: NID subject to refund and "mechanized" terminology.

<sup>12</sup> Sept. 18 discussion Verizon, Staff re: NID subject to refund and "mechanized" terminology.

<sup>13</sup> Conference call Verizon, Joint CLECs and Staff, Sept. 18, 2002. Verizon, Joint CLECs, and Staff agreed that if the resolution of Issue 6 (Installation Flow Through) results in separate installation charges for (semi-)mechanized and manual, then Verizon will adjust its study in a manner consistent with how it has presented (semi-)mechanized and manual service ordering charges.

**UT 138/139 Phase III Summary Matrix: Verizon Issues** Rev 9/27/02a Exhibit Staff/33  
(See comments/testimony for complete text of the parties' positions.) Reynolds/7

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>13. Refund Mechanics Issues</b>				
<b>13a. (8a)<sup>14</sup> Notice Timing</b>	<ul style="list-style-type: none"> <li>90 calendar day after order to provide refund calculation</li> <li>CLEC to review calculation</li> <li>45 calendar day after concurrence on refund amount to provide bill credit<sup>15</sup></li> <li></li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>90 business day for delivery of refund credits or checks (consistent with agreement between Qwest and the CLECs)</li> <li><u>PROCESS TOO LONG</u></li> </ul>	<ul style="list-style-type: none"> <li>none</li> </ul>
<b>13b. (8b) Notice Detail</b>	<ul style="list-style-type: none"> <li>"Summary Refund Statement"</li> <li>"Fall out" gets a manual charge – <u>NO</u><sup>16</sup></li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> <li>"Fall out" gets a manual charge -- <u>NO</u></li> </ul>	<ul style="list-style-type: none"> <li>Agreement on the information to be provided</li> <li>"Fall out" gets a manual charge -- <u>NO</u></li> </ul>	<ul style="list-style-type: none"> <li><b>Information to be provided – All (Resolved)</b></li> <li>Fall out – <b>All (Resolved)</b></li> </ul>
<b>13c. (8c) Interest Computation</b>	<ul style="list-style-type: none"> <li>9.69%</li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>9.69%</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>

<sup>14</sup> In comments, both Verizon and Joint CLECs have responded to the Refund Mechanics Issues using Qwest's Issue numbers.

<sup>15</sup> Conference call Verizon, Joint CLECs and Staff, Sept. 18, 2002.

<sup>16</sup> E-mail correspondence from Verizon counsel to Joint CLEC counsel Sept. 18, 2002. .

UT 138/139 Phase III Summary Matrix: Verizon Issues Rev 9/27/02a Exhibit Staff/33

(See comments/testimony for complete text of the parties' positions.)

Reynolds/8

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>13d. (8d) Deadline For CLEC Dispute Of Verizon Adjustment</b>	<ul style="list-style-type: none"> <li>90 calendar days from receipt of proposed refund</li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>90 business days from receipt of proposed refund (consistent with agreement between Qwest and the CLECs)</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>
<b>13e. (8e) Nature Of CLEC Support For Alternatives Refund Adjustment</b>	<ul style="list-style-type: none"> <li>Agree to list contained in Qwest Reply Comments dated Aug. 9, pg. 21.v</li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>Agree to list contained in Qwest Reply Comments dated Aug. 9, pg. 21.</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>13f. (8f) Dispute Resolution Escalation Procedures</b>	<ul style="list-style-type: none"> <li>agree to dispute resolution procedure proposed by CLECs, w/ acknowledgement that doing so doesn't constitute waiver of dispute resolution provisions in interconnection agreements.<sup>1718</sup></li> <li></li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>agree to dispute resolution procedure proposed by CLECs, w/ acknowledgement that doing so doesn't constitute waiver of dispute resolution provisions in interconnection agreements.</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>
<b>13g. (8g) Commission Dispute Resolution Procedures</b>	<ul style="list-style-type: none"> <li>If process agreed to for Issue 13(f) fails, follow ORS 759.455 only for this refund..<sup>19</sup></li> </ul>	<ul style="list-style-type: none"> <li>"...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>Expedited process based on ORS 759.455 only for this refund.</li> </ul>	<ul style="list-style-type: none"> <li><b>Resolved</b></li> </ul>

<sup>17</sup> Conference call Verizon, Joint CLECs, and Staff Sept. 18, 2002.

<sup>18</sup> Conference call Verizon, Joint CLECs, Qwest and Staff, Sept. 18, 2002. Verizon agrees to this process with the understanding that it is not waiving its rights to enforce dispute resolution provisions of its interconnection agreements in other circumstances.

<sup>19</sup> Conference call Verizon, Joint CLECs, Qwest and Staff, Sept. 18, 2002. Verizon agrees to this process with the understanding that it is not waiving its rights to enforce dispute resolution provisions of its interconnection agreements in other circumstances.



**UT 138/139 Phase III Summary Matrix: Verizon Issues** Rev 9/27/02a Exhibit Staff/33  
(See comments/testimony for complete text of the parties' positions.) Reynolds/9

Issue	Verizon's Position	Staff's Position	Joint CLECs' Position	Concurrence
<b>13h. (8h) Method Of Refund Payments</b>	<ul style="list-style-type: none"> <li>• Verizon give bill Credit if CLEC has current acct; check if NO current acct.;</li> <li>• Issue check upon CLEC request if credit greater than balance.<sup>20</sup></li> </ul>	<ul style="list-style-type: none"> <li>• "...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>• Verizon give Credit if CLEC has current acct or check if requested; check if no current acct.;</li> <li>• Issue check if credit greater than balance.<sup>21</sup></li> <li>• Refund by check, wire transfer, etc. when requested by CLEC with an existing account – <u>YES</u>.</li> <li>• Follow Bankruptcy Code if applicable</li> </ul>	<ul style="list-style-type: none"> <li>• Follow Bankruptcy Code if applicable ???</li> </ul>
<b>13i. (8i) Missing Data<sup>22</sup></b>	<ul style="list-style-type: none"> <li>• "...reasonable documentation..."</li> </ul>	<ul style="list-style-type: none"> <li>• "...Verizon and the CLECs must agree..."</li> </ul>	<ul style="list-style-type: none"> <li>• "...reasonable documentation..."</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Resolved</b></li> </ul>
<b>13j. Netting Of Previous Bill Credits</b>	<ul style="list-style-type: none"> <li>• . <b>Previous bill credits to CLECs for NRCs should be included in the calculation</b></li> </ul>	<ul style="list-style-type: none"> <li>• "...Verizon and the CLECs must agree..."</li> <li>• .</li> </ul>	<ul style="list-style-type: none"> <li>• Issue not addressed in comments. Delete Issue</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

<sup>20</sup> <sup>20</sup> Conference call Verizon, Joint CLECs and Staff, Sept. 18, 2002.

<sup>21</sup> <sup>21</sup> Conference call Verizon, Joint CLECs and Staff, Sept. 18, 2002.

<sup>22</sup> Verizon has not indicated that it has any significant issue with missing data.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 24**

## **DRAFT – 11-28-05**

**(This draft only reflects the “clean-up” changes made from the 11/22/05 and 11/23/05 calls. Started from Eschelon’s 11/4/05 version.)**

9.3.3.8.1 For those locations where CLEC is serving Customers, Qwest shall provide CLEC notice that an agreement has been reached with the building owner to move the Demarcation Point in the owner’s MTE to the minimum point of entry. The Qwest notice will provide the timeframe for when the Demarcation Point will be moved to the minimum point of entry. Qwest shall provide such notice within ten (10) business days after the agreement has been reached.

9.3.3.8.2 CLEC shall have the option of moving its service to the newly established Demarcation Point or negotiating with the building owner connecting to the wiring as previously provided. Qwest shall make the appropriate Billing adjustments as of the date a newly established Demarcation Point is active.

9.3.3.8.3 If CLEC elects to move its service to the new minimum point of entry, CLEC may either perform its own cross-connect or request that Qwest perform the cross-connect. If Qwest performs the cross-connect appropriate time and material charges are applicable.

**9.3.4 Detached Terminal Subloop Access General Terms**

9.3.4.1 With the exception of an MTE Terminal, Unbundled Subloop elements are accessed at an FCP through an accessible terminal. However, if power and/or heat dissipation are required, a Remote Collocation request should be submitted pursuant to Section 8 of this Agreement.

9.3.4.2 To the extent that the accessible terminal does not have adequate capacity to house the network interface associated with the FCP, Qwest will place the FCP in an adjacent terminal when Technically Feasible.

9.3.4.2.1 Reserved for Future Use.

**9.3.4.3 Field Connection Point**

9.3.4.3.1 Qwest is not required to build additional space for CLEC to access Subloop elements. When Technically Feasible, Qwest shall allow CLEC to construct its own structure adjacent to Qwest’s accessible terminal. CLEC shall obtain any necessary authorizations or rights of way required (which may include obtaining access to Qwest rights of way, pursuant to section 10.8 of this Agreement) and shall coordinate its facility placement with Qwest, when placing their facilities adjacent to Qwest facilities. Obstacles that CLEC may encounter from cities, counties, electric power companies, property owners and similar third parties, when it seeks to interconnect its equipment at Subloop access points, will be the responsibility of CLEC to resolve with the municipality, utility, property owner or other third party.

9.3.4.3.2 The optimum point and method to be determined during the FCP process. The obligation to interconnect in a manner that maintains reliability, and security.

9.3.4.3.3 CLEC must identify the size and location of the facility. It will be the responsibility of CLEC to resolve with the municipality, utility, property owner or other third party.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 25**

## Description of Eschelon Rate Proposals and Cost Model Changes Oregon

### Issues 22-90(b), 22-90(r) partial, and 22-90(s) partial

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(b)	8.1.1.2	Cable Augment Quote Preparation Fee		\$700.25		\$1,608.58
22-90(r) - partial	8.8.1	ICDF Collocation - Quote Preparation Fee		\$700.25		\$1,608.58
22-90(s) - partial	8.12.2	FC Collocation Engineering Fee, per Job		\$700.25		\$1,608.58

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.1.1.2	Cable Augment Quote Preparation Fee	NRC	\$ 345.00	\$ 1,055.50				\$ 700.25	\$ 1,608.58
8.8.1	Quote Preparation Fee	NRC	\$ 345.00	\$ 1,055.50				\$ 700.25	\$ 1,608.58

For 8.1.1.2 Eschelon's proposed rate in the issues matrix contained a typo and should read \$700.25 rather than \$700.00.

For 8.12.2 there are no Commission approved rates in other states. However, because Qwest's proposed interim rates are identical for these three rate elements, Eschelon's proposed interim rates are also the same for the three rate elements.

The Qwest-Qwest interconnection agreement<sup>1</sup> contains a rate of \$1,500 for quote preparation fees in general. The quote preparation / engineering fees for these three rate elements are typically less than the quote preparation fee for caged or cageless collocation. See issues 22-90(k) and 22-90(l).

### Issue 22-90(c)

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(c)	8.1.2.2	Cageless & Caged Standard Shared, per Fiber	\$4.14		\$5.92	
22-90(c)	8.1.2.3	Cross Connect, per Fiber	\$3.66		\$6.09	
22-90(c)	8.1.2.4	Express, per Cable	\$21.49	\$20,279.08	\$96.38	\$9,415.02

Qwest provided a cost study.

<sup>1</sup> Qwest Corporation (Qwest) has an interconnection agreement with its CLEC affiliate, Qwest Communications Corp. This agreement was approved by the Oregon Commission in Order 04-630 as part of Docket ARB 616, and is referred to in Eschelon's testimony and exhibits as the Qwest-Qwest Interconnection Agreement. The Commission approved a TRRO amendment to the Qwest-Qwest interconnection agreement on September 27, 2006 in Order 06-559.

Eschelon's proposed rates are from the current Eschelon-Qwest interconnection agreement.

For 8.1.2.4 Eschelon's proposed NRC is almost two times higher than the NRC proposed by Qwest, but the recurring charge is one quarter the size of the Qwest charge. For express fiber purchased under the current Eschelon-Qwest contract, Eschelon would have paid the higher NRC. It would be inappropriate for Qwest to now quadruple the recurring charge for this rate element as Eschelon did not have the benefit of the lower NRC.

### Issues 22-90(d) and 8-21(e)

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
8-21(e)	8.1.4.1.1	Power Plant, Less Than 60 Amps	\$9.20		\$11.95	
8-21(e)	8.1.4.1.2	Power Plant, Equal to or Greater Than 60 Amps	\$7.32		\$9.31	
22-90(d)	8.1.5.1.1	Backup AC Power Feed, 120V	\$17.13		\$19.98	
22-90(d)	8.1.5.1.2	208V, Single Phase	\$29.69		\$34.63	
22-90(d)	8.1.5.1.3	208V, Three Phase	\$51.37		\$59.92	
22-90(d)	8.1.5.1.4	240V, Single Phase	\$34.26		\$39.96	
22-90(d)	8.1.5.1.5	240V, Three Phase	\$59.27		\$69.13	
22-90(d)	8.1.5.1.6	480V, Three Phase	\$118.55		\$138.27	

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.1.4.1.1	Power Plant, Less Than 60 Amps	RC	\$ 10.75	\$ 9.22	\$ 4.93	\$ 11.78	\$9.34	\$ 9.20	\$11.95
8.1.4.1.2	Power Plant, Equal to 60 Amps	RC		\$7.22	\$ 4.93	\$ 7.79	\$9.34	\$ 7.32	\$9.31
8.1.4.1.2	Power Plant, Greater Than 60 Amps	RC		\$ 6.14	\$ 4.93	\$ 7.79	\$9.34	\$ 7.05	\$9.31
	Backup AC Power Feed, per Amp, per Month								
8.1.5.1.1	120 V	RC	\$15.48	\$18.72	\$16.13	\$17.39	\$17.94	\$ 17.13	\$19.98
8.1.5.1.2	208 V, Single Phase	RC	\$26.83	\$32.44	\$27.95	\$30.15	\$31.09	\$ 29.69	\$34.63
8.1.5.1.3	208 V, Three Phase	RC	\$46.42	\$56.13	\$48.36	\$52.16	\$53.79	\$ 51.37	\$59.92
8.1.5.1.4	240 V, Single Phase	RC	\$30.96	\$37.43	\$32.25	\$34.79	\$35.88	\$ 34.26	\$39.96
8.1.5.1.5	240 V, Three Phase	RC	\$53.57	\$64.76	\$55.80	\$60.18	\$62.06	\$ 59.27	\$69.13
8.1.5.1.6	480 V, Three Phase	RC	\$107.13	\$129.51	\$111.60	\$120.36	\$124.13	\$ 118.55	\$138.27

For 8.1.4.1.1 and 8.1.4.1.2 the Qwest-Qwest interconnection agreement contains a rate of \$7.52.

For 8.1.4.1.2 there is only one rate in Oregon for "Equal to or Greater than 60 Amps," though other states have these broken into two separate rate elements. Eschelon's proposal is based on the higher average, \$7.32 for "Equal to 60 Amps" rather than \$7.05 for "Greater than 60 Amps."

**Issue 22-90(e)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(e)	8.1.8.1.1.1	Collocation Termination - Shared Access DS0 - Cable Placement, per 100 Pair Block	\$0.32	\$127.42	\$0.37	\$230.24
22-90(e)	8.1.8.1.1.3	Collocation Termination - Shared Access DS0 - Cable, per 100 Pair Block	\$0.45	\$178.10	\$0.52	\$321.83
22-90(e)	8.1.8.1.1.5	Collocation Termination - Shared Access DS0 - Blocks, per 100 Pair Block	\$0.78	\$310.50	\$0.91	\$561.07
22-90(e)	8.1.8.1.1.7	Collocation Termination - Shared Access DS0 - Block Placement, per 100 Pair Block	\$0.33	\$134.10	\$0.39	\$242.31
22-90(e)	8.1.8.1.2.1	Collocation Termination - Shared Access DS1 - Cable Placement, per 28 DS1s	\$0.47	\$207.44	\$0.60	\$399.70
22-90(e)	8.1.8.1.2.3	Collocation Termination - Shared Access DS1 - Cable, per 28 DS1s	\$0.44	\$192.80	\$0.56	\$371.50
22-90(e)	8.1.8.1.2.5	Collocation Termination - Shared Access DS1 - Panel, per 28 DS1s	\$0.31	\$133.13	\$0.39	\$256.52
22-90(e)	8.1.8.1.2.7	Collocation Termination - Shared Access DS1 - Panel Placement, per 28 DS1s	\$0.09	\$42.72	\$0.12	\$82.31
22-90(e)	8.1.8.1.3.1	Collocation Termination - Shared Access DS3 - Cable Placement, per termination	\$0.17	\$73.22	\$0.22	\$147.89
22-90(e)	8.1.8.1.3.2	Collocation Termination - Shared Access DS3 - Cable, per termination	\$0.27	\$118.77	\$0.36	\$239.90
22-90(e)	8.1.8.1.3.3	Collocation Termination - Shared Access DS3 - Connector, per termination	\$0.28	\$121.51	\$0.37	\$245.44
22-90(e)	8.1.8.1.3.4	Collocation Termination - Shared Access DS3 - Connector Placement, per termination	\$0.02	\$9.84	\$0.03	\$19.88
22-90(e)	8.1.8.1.4.1	Fiber Terminations - Terminations, per 12 Fibers	\$12.39	\$1,601.47	\$15.01	\$1,670.87
22-90(e)	8.1.8.1.4.2	Fiber Terminations - Add'l Connector, if applicable	\$0.53	\$435.37	\$0.68	\$454.34
22-90(e)	8.1.8.1.4.3	Fiber Terminations - Cable Racking, Shared, per 12 Fibers	\$19.61		\$23.49	
22-90(e)	8.1.8.1.4.4	Fiber Terminations - Cable Racking, Dedicated	\$1.85	\$1,516.92	\$2.38	\$158.66

Qwest provided a cost study.

For Collocation Terminations for DS0, DS1 and DS3, Eschelon’s proposed rates are from the current Eschelon-Qwest interconnection agreement.

Also the Qwest-Qwest interconnection agreement contains rates for DS0, DS1 and DS3 collocation terminations. The rates in the Qwest-Qwest ICA are not broken out into the subcomponents as the rates listed above, but rather contain an aggregate rate for block termination for DS0 and DS1 terminations and an aggregate rate for DS3 terminations. The table below compares Eschelon’s proposed rates with Qwest’s proposed rates and the rates contained in the Qwest-Qwest ICA. As seen in the table, Eschelon’s proposals match the rates that Qwest offers to itself.

Issue #	Exhibit A Section	Rate Element	RATE COMPARISON					
			Eschelon		Qwest Proposed		Qwest-Qwest ICA	
			REC	NRC	REC	NRC	REC	NRC
22-90(e)	combination	Collocation Termination - Shared Access DS0, per 100 Pair Block	\$ 1.88	\$ 750.12	\$ 2.19	\$ 1,355.45	\$ 1.88	\$ 750.12
22-90(e)	combination	Collocation Termination - Shared Access DS1, per 28 DS1s	\$ 1.31	\$ 576.09	\$ 1.67	\$ 1,110.03	\$ 1.32	\$ 576.09
22-90(e)	combination	Collocation Termination - Shared Access DS3, per termination	\$0.74	\$323.34	\$0.98	\$653.11	\$0.7409	\$323.34

For Fiber Terminations, Eschelon’s proposal is based upon Qwest provided cost support. Qwest provided two sets of cost support for fiber terminations. Qwest is proposing the Fiber Termination rates that are proposed by Eschelon in other Qwest states, but proposes higher rates in Oregon.

**Issue 22-90(f)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(f)	8.1.9.2	Card Access, per Employee, per Central Office	\$6.20		\$8.40	

Qwest provided a cost study.



Eschelon’s proposed rates are from the current Eschelon-Qwest interconnection agreement.

The Qwest-Qwest interconnection agreement also has a rate of \$6.20, the rate proposed by Eschelon.

**Issue 22-90(g)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(g)	8.1.12	Space Availability Report		\$234.38		\$383.94

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.1.12	Space Availability Report	NRC	\$329.08	\$318.96	\$196.96	\$102.10	\$224.79	\$234.38	383.94

The rate in the Qwest-Qwest interconnection agreement is \$332.94, which is less than what Qwest proposes for its interim rate for Eschelon.

**Issue 22-90(h)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(h)	8.1.14	Collocation Space Option Administration Fee		\$1,029.40		\$1,308.22

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.1.14	Collocation Space Option Administration Fee	NRC		\$1,751.41	\$568.72		\$768.06	\$1,029.40	\$1,308.22

**Issue 22-90(j)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(j)	8.1.16	Joint Inventory Visit Fee, per Visit		\$1,610.12		\$1,869.49

Qwest provided a cost study.

Eschelon’s proposed rate is the same as Qwest’s proposed rate in all other states except Oregon. Qwest proposes a higher rate in Oregon than it is proposing in its other states.

**Issues 22-90(k) and 22-90(l)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(k)	8.2.1.1	Virtual Collocation - Quote Preparation Fee		\$2,317.79		\$4,951.46
22-90(l)	8.3.1.1	Cageless Physical Collocation - Quote Preparation Fee		\$2,317.79		\$4,956.18
22-90(l)	8.4.1.1	Caged Physical Collocation - Quote Preparation Fee		\$2,317.79		\$5,403.92
22-90(l)	8.15.4.1	Collocation Available Inventory - Cageless - Quote Preparation Fee		\$2,317.79		\$4,956.18
22-90(l)	8.15.4.2	Collocation Available Inventory - Caged - Quote Preparation Fee		\$2,317.79		\$5,403.92

Qwest provided a cost study.

Eschelon’s proposed rates are from the current Eschelon-Qwest interconnection agreement.

The Qwest-Qwest interconnection agreement contains a Quote Preparation Fee rate of \$1,500. Qwest proposes to charge Eschelon three times the amount that it offers to its own CLEC.

Though Eschelon did not rely upon the average of approved rates for this rate element the average is similar to the Eschelon proposed rate.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.2.1.1	Virtual Collocation - QPF	NRC	\$1,381.54	\$2,111.27	\$4,323.59	\$0.00	\$4,195.90	\$2,402.46	\$4,951.46
8.3.1.1	Cageless Collocation - QPF	NRC	\$1,381.54	\$2,111.27	\$4,323.59	\$0.00	\$4,561.19	\$2,475.52	\$4,956.18
8.4.1.1	Caged Physical Collocation - QPF	NRC	\$1,381.54	\$2,111.27	\$3,406.46	\$0.00	\$4,561.19	\$2,292.09	\$5,403.92

The Quote Preparation Fees for 8.15.4.1 and 8.15.4.2 are the same as the rates for caged and cageless collocation (8.3.1.1 and 8.4.1.1).

**Issue 22-90(m)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(m)	8.4.2.4.1	Space Construction and Site Preparation - cage up to 100 Sq. Ft.	\$41.60	\$26,168.10	\$56.55	\$37,529.85
22-90(m)	8.4.2.4.2	Space Construction and Site Preparation - cage 101-200 Sq. Ft.	\$51.08	\$27,852.73	\$59.57	\$39,533.05
22-90(m)	8.4.2.4.3	Space Construction and Site Preparation - cage 201-300 Sq. Ft.	\$54.27	\$29,650.53	\$61.92	\$41,090.78
22-90(m)	8.4.2.4.4	Space Construction and Site Preparation - cage 301-400 Sq. Ft.	\$58.09	\$31,797.64	\$64.86	\$43,042.90

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
	Space Construction								
8.4.2.4.1	Cage: Up to 100 Sq. Ft.	RC	\$33.98	\$84.43	\$16.06	\$19.06	\$54.46	\$41.60	\$56.55
8.4.2.4.1	Cage: Up to 100 Sq. Ft.	NRC	\$23,252.08	\$34,178.43		\$10,283.11	\$36,958.77	\$26,168.10	\$37,529.85
8.4.2.4.2	Cage: 101 to 200 Sq. Ft.	RC	\$35.86	\$88.95		\$22.37	\$57.16	\$51.08	\$59.57
8.4.2.4.2	Cage: 101 to 200 Sq. Ft.	NRC	\$24,536.05	\$36,005.13		\$12,072.59	\$38,796.34	\$27,852.53	\$39,533.05
8.4.2.4.3	Cage: 201 to 300 Sq. Ft.	RC	\$37.59	\$92.45		\$26.05	\$61.00	\$54.27	\$61.92
8.4.2.4.3	Cage: 201 to 300 Sq. Ft.	NRC	\$25,719.27	\$37,425.61		\$14,053.45	\$41,403.79	\$29,650.53	\$41,090.78
8.4.2.4.4	Cage: 301 to 400 Sq. Ft.	RC	\$39.78	\$96.85		\$30.25	\$65.48	\$58.09	\$64.86
8.4.2.4.4	Cage: 301 to 400 Sq. Ft.	NRC	\$27,223.81	\$39,205.74		\$16,323.26	\$44,437.73	\$31,797.64	\$43,042.90

**Issue 22-90(n)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(n)	8.6.1.2	FDI Terminations, per 25 Pair		\$506.92		\$728.37
22-90(n)	8.6.2.2.2	FDI Terminations, per 25 Pair		\$506.92		\$728.37

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.6.1.2	FDI Terminations, per 25 Pair	NRC	\$420.90	\$532.20	\$516.21		\$558.38	\$506.92	\$728.37

Qwest provided multiple cost studies for this rate element. One cost study contained a rate of \$555.83. This amount is also contained in the Qwest-Qwest interconnection agreement and is significantly less than the interim rate Qwest proposes for Eschelon.

**Issue 22-90(o)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(o)	8.7.2.1	Cable Racking - DS0		\$0.15		\$44.60
22-90(o)	8.7.2.2	Cable Racking - DS1		\$0.16		\$185.34
22-90(o)	8.7.2.3	Cable Racking - DS3		\$0.14		\$29.12

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
	Cable Racking, per Request								
8.7.2.1	DS0	RC	\$0.09662	\$0.21	\$0.12954	\$0.19177	\$0.11043	\$0.148	\$44.60
8.7.2.2	DS1	RC	\$0.10353	\$0.22	\$0.14018	\$0.20476	\$0.12018	\$0.158	\$185.34
8.7.2.3	DS3	RC	\$0.08753	\$0.20	\$0.11554	\$0.17467	\$0.09759	\$0.135	\$29.12

Eschelon’s proposed rates are on a per foot basis, as are the approved rates in the other large Qwest states. Qwest’s proposed rates are fixed and do not vary by foot. Qwest previously had per foot interim rates in Oregon of \$0.2096 for DS0, \$0.2223 for DS1 and \$0.19309 for DS3.

**Issue 22-90(p)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(p)	8.7.3.1	Virtual Connections - DS0, per 100 Connections		\$191.23		\$214.54
22-90(p)	8.7.3.2	Virtual Connections - DS1, per 28 Connections		\$89.56		\$101.03
22-90(p)	8.7.3.3	Virtual Connections - DS3, per Fiber Spliced		\$6.11		\$6.51

Qwest provided a cost study.

Eschelon’s proposed rates are from Qwest’s SGAT.

The Qwest-Qwest agreement also contains the rates from Qwest’s SGAT, the rates that Eschelon is proposing.

**Issue 22-90(q)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(q)	8.7.4	Cable Hole, If applicable		\$434.08		\$485.15

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.7.4	Cable Hole, if Applicable	NRC	\$355.71	\$447.70	\$441.82	\$469.75	\$455.44	\$434.08	\$485.15

The Qwest-Qwest interconnection agreement contains the same rates as Eschelon is proposing for this rate element. This rate is also in the Qwest SGAT.

**Issue 22-90(r) – partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(r) - partial	8.8.3	ICDF Collocation - DS1 Circuit, per Two Legs		\$75.00		\$371.21
22-90(r) - partial	8.8.4	ICDF Collocation - DS3 Circuit, per Two Legs		\$612.89		\$1,225.77

Qwest **did not** provide any cost studies supporting these rates.

The Eschelon proposed rate for 8.8.3 is similar to the rate Qwest has been proposing in other states. For example, in the on going Minnesota UNE cost case Qwest proposed \$74.93.

The Eschelon proposed rate for 8.8.4 is half of the Qwest proposed rate.

**Issue 22-90(s) - partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(s)	8.12.4	FC Collocation Fiber Entrance Facility Charge, per Cable, minimum 12 Strands	\$7.10	\$850.15	\$114.44	\$8,080.53

Qwest provided a cost study.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.12.4	FC Collocation Fiber Entrance Facility Charge	RC	\$8.42	4.49	12.63	3.4	6.54	\$7.10	\$114.44
8.12.4	FC Collocation Fiber Entrance Facility Charge	NRC	\$335.47	\$1,164.95	\$1,300.53	\$507.94	\$941.87	\$850.15	\$8,080.53

Though only the recurring rate element is on the issues matrix, both the recurring and non-recurring interim rates are in dispute.

**Issue 22-90(t)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(t)	8.13.1.1	Power Reduction, Quote Preparation Fee		\$411.00		\$811.18
22-90(t)	8.13.1.2.1	Power Reduction, Less Than 60 Amps		\$346.00		\$624.52
22-90(t)	8.13.1.2.2	Power Reduction, Equal to 60 Amps		\$346.00		\$898.00
22-90(t)	8.13.1.2.3	Power Reduction, Greater Than 60 Amps		\$587.00		\$1,140.52
22-90(t)	8.13.1.3	Power Off, per Feed Set		\$587.00	\$802.04	
22-90(t)	8.13.1.4	Power Maintenance Charge (Reservation Charge), per Fuse Set	\$37.00		\$57.32	
22-90(t)	8.13.2.1	Power Restoration, Quote Preparation Fee, per Office		\$411.00		\$811.18
22-90(t)	8.13.2.2.1.1	Power Restoration with Reservation, Less Than 60 Amps		\$346.00		\$624.52
22-90(t)	8.13.2.2.1.2	Power Restoration with Reservation, Equal to 60 Amps		\$346.00		\$898.00
22-90(t)	8.13.2.2.1.3	Power Restoration with Reservation, Greater Than 60 Amps		\$587.00		\$1,140.52

Qwest provided a cost study.

Eschelon’s proposed rates are from a prior Qwest multi-state proposal. These rates are contained in the interconnection agreement of at least one other CLEC (AT&T).

**Issue 22-90(u)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(u)	8.15.2.1	Collocation Available Inventory, Special Site Assessment Fee		\$597.56		\$1,195.12
22-90(u)	8.15.2.2	Collocation Available Inventory, Network Systems Assessment Fee		\$909.63		\$1,819.26
22-90(u)	8.15.2.3	Collocation Available Inventory, Site Survey Fee		\$150.00		\$169.97

Qwest **did not** provide any cost studies supporting these rates.

Eschelon’s proposed rate for 8.15.2.1 and 8.15.2.2 are half of the Qwest proposed rates.

Eschelon’s proposed rate for 8.15.2.3 is the same as Qwest’s proposed rate in multiple other states.

**Issue 22-90(v) and 22-90(ac) partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(v)	8.16.1	Collocation Decommissioning - Add'l Labor Other Basic		\$26.60		\$30.68
22-90(v)	8.16.2	Collocation Decommissioning - Add'l Labor Other Overtime		\$35.50		\$40.84
22-90(v)	8.16.3	Collocation Decommissioning - Add'l Labor Other Premium		\$44.42		\$51.01
22-90(v)	8.16.4	Collocation Decommissioning - Add'l Dispatch		\$57.70		\$128.56
22-90(ac)	9.20.3.1	Add'l Labor Other - (Optional testing) Basic		\$26.94		\$30.68
22-90(ac)	9.20.3.2	Add'l Labor Other - (Optional testing) Overtime		\$35.98		\$40.84
22-90(ac)	9.20.3.3	Add'l Labor Other - (Optional testing) Premium		\$45.03		\$51.01
22-90(ac)	9.20.9	Additional Dispatch		\$63.63		\$128.56

Qwest **did not** provide any cost studies supporting these rates.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
8.16.1	Additional Labor Other - Basic	NRC	\$27.26	\$27.69	\$25.24	\$25.37	\$27.42	\$26.60	\$30.68
8.16.2	Additional Labor Other - Overtime	NRC	\$36.41	\$36.98	\$33.59	\$33.89	\$36.62	\$35.50	\$40.84
8.16.3	Additional Labor Other - Premium	NRC	\$45.57	\$46.29	\$41.96	\$42.42	\$45.84	\$44.42	\$51.01
8.16.4	Additional Dispatch	NRC	\$83.10	\$84.40	\$33.97	\$43.63	\$43.39	\$57.70	\$128.56

The rates proposals for 9.20.3.1, 9.20.3.2 and 9.20.3.3 are the same as the rate proposals for 8.16.1, 8.16.2, 8.16.3.

The rate proposal for 9.20.9 is the same as the rate proposal for 8.16.4.

**Issue 22-90(w)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(w)	8.17.1	Joint Testing - Set Up Fee (price contains a one hour set up fee)		\$40.96		\$65.20
22-90(w)	8.17.2	Joint Testing - Test Time Fee, per half hour		\$20.48		\$27.62

Qwest **did not** provide any cost studies supporting these rates.

Eschelon’s proposed rates are from Qwest’s Oregon Negotiations Template.

Eschelon’s proposed rates are also in the Qwest-Qwest interconnection agreement.

**Issue 22-90(x)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(x)	9.2.5.5.1.2	DS1 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (first)		\$150.26		\$240.29
22-90(x)	9.2.5.5.2.2	DS1 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (each add'l)		\$121.94		\$218.77
22-90(x)	9.2.6.5.1.2	DS3 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (first)		\$150.26		\$239.67
22-90(x)	9.2.6.5.2.2	DS3 Loop Installation - Basic Installation with Cooperative Testing - Mechanized (each add'l)		\$121.94		\$218.17

Qwest provided a cost study. Qwest’s cost study did not incorporate the Commission’s order in UT 138/UT 139.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
	Basic Installation with Cooperative Testing (DS1)								
9.2.5.5.1.2	Mechanized (first)	NRC	\$169.69	\$176.82	\$72.65	\$128.08	\$204.07	\$150.26	\$240.29
9.2.5.5.2.2	Mechanized (each additional)	NRC	\$124.27	\$126.58	\$72.65	\$99.84	\$186.34	\$121.94	\$218.77
	Basic Installation with Cooperative Testing (DS3)								
9.2.5.5.1.2	Mechanized (first)	NRC	\$169.69	\$176.82	\$72.65	\$128.08	\$204.07	\$150.26	\$239.67
9.2.5.5.2.2	Mechanized (each additional)	NRC	\$124.27	\$126.58	\$72.65	\$99.84	\$186.34	\$121.94	\$218.17

**Issue 22-90(y) and 22-90(aa) partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(y)	9.2.8	Private Line / Special Access to Unbundled Loop Conversion		\$16.72		\$38.18
22-90(aa)	9.23.6.5	Private Line / Special Access to LMC Conversion		\$16.72		\$38.18
22-90(aa)	9.23.7.6	Private Line / Special Access to EEL Conversion		\$16.72		\$38.18

Qwest provided a cost study. Qwest's cost study did not incorporate the Commission's order in UT 138/UT 139.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
9.2.8	PL / SA to Unbundled Loop Conversion	NRC	\$40.32		1.35	\$8.48		\$16.72	\$38.18

The rates for 9.2.8, 9.23.6.5 and 9.23.7.6 are from the same cost study and thus the proposals are the same for these three rate elements.

**Issue 22-90(aa)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(aa)	9.6.11.1	UDIT Rearrangement - DSO Single Office		\$122.25		\$171.64
22-90(aa)	9.6.11.2	UDIT Rearrangement - DSO Dual Office		\$127.98		\$215.90
22-90(aa)	9.6.11.3	UDIT Rearrangement - High Capacity Single Office		\$145.05		\$231.72
22-90(aa)	9.6.11.4	UDIT Rearrangement - High Capacity Dual Office		\$151.17		\$260.28
22-90(aa)	9.6.12	Private Line / Special Access to UDIT Conversion		\$70.91		\$123.96

Qwest provided a cost study. Qwest's cost study did not incorporate the Commission's order in UT 138/UT 139.

For 9.6.11.1, 9.6.11.2, 9.6.11.3 and 9.6.11.4 Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
	UDIT Rearrangement								
9.6.11.1	DSO Single Office	NRC	\$215.19	\$135.07	\$45.54	\$72.57	\$142.88	\$122.25	\$171.64
9.6.11.2	DSO Dual Office	NRC	\$173.14	\$177.78	\$79.64	\$96.06	\$113.27	\$127.98	\$215.90
9.6.11.3	High Capacity, Single Office	NRC	\$261.31	\$135.83	\$46.10	\$106.66	\$175.35	\$145.05	\$231.72
9.6.11.4	High Capacity, Dual Office	NRC	\$234.17	\$163.40	\$80.20	\$121.82	\$156.24	\$151.17	\$260.28

For 9.6.12 there are no approved rates in other states. Eschelon made a few adjustments to Qwest's cost study in order to make it more consistent with UT 138/UT 139.

- Adjusted study to reflect mechanized order
- Adjusted study to reflect a 98% flow through
- Removed cost associated with the activity, "COORDINATE AS ICO, if co-provided with independent, ensure entries on asr and negotiate dates" as Eschelon is not an ICO

- Eschelon **did not** make changes to the labor time estimates and other probabilities as the information to make these changes is not in Eschelon’s possession

Note the Eschelon proposed rate has been corrected to show \$70.91.

**Issue 22-90(ab)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(ab)	9.7.1.1	UDF, Initial Records Inquiry, Simple		\$135.57		\$217.86
22-90(ab)	9.7.1.2	UDF, Initial Records Inquiry, Complex		\$169.70		\$258.56
22-90(ab)	9.7.4.1.1	UDF-IOF Single Strand Order Charge, per First Strand/Route/Order		\$373.22		\$513.92
22-90(ab)	9.7.4.1.2	UDF-IOF Single Strand Order Charge, per Add'l Strand/Route/Order		\$187.08		\$262.68
22-90(ab)	9.7.4.1.4	UDF-IOF Single Strand Termination, per Strand/Office	\$4.01		\$4.90	
22-90(ab)	9.7.4.1.5	UDF-IOF Single Strand Fiber Cross Connect, per Strand	\$1.84	\$11.65	\$2.63	\$19.93
22-90(ab)	9.7.5.1.1	UDF-IOF - per pair, Order Charge, per First pair/Route/Order		\$373.22		\$513.93
22-90(ab)	9.7.5.1.2	UDF-IOF - per pair, Order Charge, per Add'l pair/Route/Order		\$187.08		\$262.68
22-90(ab)	9.7.5.1.5	UDF-IOF - per pair, Fiber Cross Connect, per pair	\$3.55	\$11.65	\$5.26	\$19.93
22-90(ab)	9.7.6.	Dark Fiber Splice		\$565.67		\$668.61

Qwest provided a cost study, except for 9.7.4.1.4. Qwest’s cost study did not incorporate the Commission’s order in UT 138/UT 139.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
	Initial Records Inquiry								
9.7.1.1	Simple	NRC	\$156.67	\$159.13	\$115.22	\$87.50	\$159.32	\$135.57	\$217.86
9.7.1.2	Complex	NRC	\$199.77	\$202.90	\$131.12	\$111.56	\$203.15	\$169.70	\$258.56
	IOF - Single Strand								
9.7.4.1.1	Order Charge, per First Strand / Route / Office	NRC	\$553.66	\$432.07		\$167.83	\$339.31	\$373.22	\$513.92
9.7.4.1.2	Order Charge, Each Additional Strand / Route / Office	NRC	\$267.08	\$172.68		\$107.59	\$200.96	\$187.08	\$262.68
9.7.4.1.4	Termination, per Strand / Office	RC	\$5.23	\$4.66		\$3.06	\$3.08	\$4.01	\$4.90
9.7.4.1.5	Fiber Cross-Connect, per Strand	RC	\$2.17	\$1.94		\$1.53	\$1.71	\$1.84	\$2.63
9.7.4.1.5	Fiber Cross-Connect, per Strand	NRC	\$8.64	\$19.93		6.39	\$11.63	\$11.65	\$19.93
9.7.6	Dark Fiber Splice			\$658.93			\$472.20	\$565.57	\$668.61

For 9.7.4.1.4 and 9.7.4.1.5 Eschelon averaged both the Commission approved rates and the Qwest proposed rates.

The rates for 9.7.5.1.1, 9.7.5.1.2 and 9.7.5.1.5 are the same as the rates for 9.7.4.1.1, 9.7.4.1.2 and 9.7.4.1.5.



**Issue 22-90(ac) – partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(ac)	9.20.1.1	Add'l Engineering, per half hour or fraction thereof - Basic		\$30.91		\$34.40
22-90(ac)	9.20.1.2	Add'l Engineering, per half hour or fraction thereof - Overtime		\$38.22		\$45.21
22-90(ac)	9.20.2.1	Add'l Labor Installation, per half hour or fraction thereof - Overtime		\$8.89		\$14.86
22-90(ac)	9.20.2.2	Add'l Labor Installation, per half hour or fraction thereof - Premium		\$17.57		\$19.81
22-90(ac)	9.20.4.1	Testing and Maintenance, per half hour or fraction thereof - Basic		\$28.62		\$30.29
22-90(ac)	9.20.4.2	Testing and Maintenance, per half hour or fraction thereof - Overtime		\$35.72		\$40.72
22-90(ac)	9.20.4.3	Testing and Maintenance, per half hour or fraction thereof - Premium		\$47.83		\$51.14
22-90(ac)	9.20.5.1	Maintenance of Service, per half hour or fraction thereof, Basic		\$26.94		\$30.68
22-90(ac)	9.20.5.2	Maintenance of Service, per half hour or fraction thereof, Overtime		\$35.98		\$40.84
22-90(ac)	9.20.5.3	Maintenance of Service, per half hour or fraction thereof, Premium		\$45.03		\$51.01
22-90(ac)	9.20.6.1	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Basic		\$28.62		\$30.29
22-90(ac)	9.20.6.2	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Overtime		\$35.72		\$40.72
22-90(ac)	9.20.6.3	Add'l Cooperative Acceptance Testing, per half hour or fraction thereof, Premium		\$47.83		\$51.14
22-90(ac)	9.20.10	Date Change		\$7.48		\$48.66

Qwest provided a cost study. Qwest’s cost study did not incorporate the Commission’s order in UT 138/UT 139.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
	Additional Engineering, per Half Hour or fraction thereof								
9.20.1.1	Additional Engineering - Basic	NRC	\$31.28	\$31.77		\$29.11	\$31.46	\$30.91	\$34.40
9.20.1.2	Additional Engineering - Overtime	NRC	\$38.68	\$39.29		\$36.01	\$38.91	\$38.22	\$45.21
	Additional Labor Installation, per Half Hour or fraction thereof								
9.20.2.1	Additional Labor Installation - Overtime	NRC	\$8.89	\$9.03		\$8.28	\$8.94	\$8.79	\$14.86
9.20.2.2	Additional Labor Installation - Premium	NRC	\$17.78	\$18.06		\$16.55	\$17.89	\$17.57	\$19.81
	Testing and Maintenance, per Half Hour or fraction thereof								
9.20.4.1	Testing and Maintenance - Basic	NRC	\$28.96	\$29.42		\$26.96	\$29.13	\$28.62	\$30.29
9.20.4.2	Testing and Maintenance - Overtime	NRC	\$38.68	\$29.29		\$36.01	\$38.91	\$35.72	\$40.72
9.20.4.3	Testing and Maintenance - Premium	NRC	\$48.40	\$49.16		\$45.05	\$48.69	\$47.83	\$51.14
	Maintenance of Service, per Half Hour or fraction thereof								
9.20.5.1	Maintenance of Service - Basic	NRC	\$27.26	\$27.69		\$25.37	\$27.42	\$26.94	\$30.68
9.20.5.2	Maintenance of Service - Overtime	NRC	\$36.41	\$36.98		\$33.89	\$36.62	\$35.98	\$40.84
9.20.5.3	Maintenance of Service - Premium	NRC	\$45.57	\$46.29		\$42.42	\$45.84	\$45.03	\$51.01
	Additional Cooperative Acceptance Testing, per Half Hour or fraction thereof								
9.20.6.1	Additional Cooperative Acceptance Testin	NRC	\$28.96	\$29.42		\$26.96	\$29.13	\$28.62	\$30.29
9.20.6.2	Additional Cooperative Acceptance Testin	NRC	\$38.68	\$39.29		\$36.01	\$38.91	\$38.22	\$40.72
9.20.6.3	Additional Cooperative Acceptance Testin	NRC	\$48.40	\$49.16		\$45.05	\$48.69	\$47.83	\$51.14
9.20.10	Date Change	NRC	\$10.22	\$10.38		\$2.93	\$6.40	\$7.48	\$48.66

Note: 9.20.10 is missing from the issues matrix.

**Issue 22-90(ad) – partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(ad)	9.6.7.1	DS0 Low Side Channelization	\$10.89		\$14.50	
22-90(ad)	9.23.6.2.1.1	LMC 2-Wire Loop Installation, First		\$118.12		\$236.87
22-90(ad)	9.23.6.2.1.2	LMC 2-Wire Loop Installation, Add'l		\$86.68		\$153.92
22-90(ad)	9.23.6.3.1.1	LMC 4-Wire Loop Installation, First		\$118.12		\$236.87
22-90(ad)	9.23.6.3.1.2	LMC 4-Wire Loop Installation, Add'l		\$86.68		\$153.92
22-90(ad)	9.23.6.4.1.1	LMC DS1 Loop Installation, First		\$155.41		\$296.16
22-90(ad)	9.23.6.4.1.2	LMC DS1 Loop Installation, Add'l		\$125.06		\$214.82
22-90(ad)	9.23.6.7.2	DS1/DS0 Low Side Channelization	\$7.09		\$8.27	
22-90(ad)	9.23.7.1.1.1	EEL Loop, 2 Wire Loop Installation, First		\$117.98		\$256.99
22-90(ad)	9.23.7.1.1.2	EEL Loop, 2 Wire Loop Installation, Add'l		\$86.40		\$188.96
22-90(ad)	9.23.7.2.1.1	EEL 4 Wire Loop Installation, First		\$117.98		\$256.99
22-90(ad)	9.23.7.2.1.2	EEL 4 Wire Loop Installation, Add'l		\$86.40		\$188.96
22-90(ad)	9.23.7.3.1.1	EEL DS1 Loop Installation, First		\$140.02		\$312.13
22-90(ad)	9.23.7.3.1.2	EEL DS1 Loop Installation, Add'l		\$103.65		\$230.79
22-90(ad)	9.23.7.4.1.1	EEL DS3 Loop Installation, First		\$148.53		\$336.09
22-90(ad)	9.23.7.4.1.2	EEL DS3 Loop Installation, Add'l		\$112.75		\$254.75
22-90(ad)	9.23.7.11.1	DS0 Low Side Channelization	\$10.89		\$14.50	
22-90(ad)	9.23.7.11.2	DS1/DS0 Low Side Channelization	\$7.09		\$8.27	
22-90 (ad)	17.1	Bona Fide Request Process - Processing Fee		\$1,666.60		\$1,933.44

Qwest provided a cost study. Qwest’s cost study did not incorporate the Commission’s order in UT 138/UT 139.

Eschelon averaged the approved rates in the other large Qwest states.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
9.6.7.1	DS0 Low Side Channelization	RC	\$11.32	8.48	\$11.68	\$11.73	11.23	\$10.89	\$14.50
9.23.6.2.1.1	LMC 2-Wire Loop Installation								
9.23.6.2.1.1	First	NRC		\$175.66	\$70.77		\$107.93	\$118.12	\$236.87
9.23.6.2.1.2	Each Additional	NRC		\$114.64	\$58.69		\$86.70	\$86.68	\$153.92
9.23.6.2.1.2	LMC DS1 Loop Installation								
9.23.6.4.1.1	First	NRC		\$222.20	\$89.87		\$154.17	\$155.41	\$296.16
9.23.6.4.1.2	Each Additional	NRC		\$162.68	\$79.57		\$132.94	\$125.06	\$214.82
9.23.6.7.2	DS1 / DS0 Low Side Channelization	RC	7.22	\$8.48	6.66	6.69	\$6.41	\$7.09	\$8.27
9.23.7.1.1.1	EEL 2-Wire Loop Installation								
9.23.7.1.1.1	First	NRC	\$6.50	\$266.16	\$2.38	\$101.68	\$213.16	\$117.98	\$256.99
9.23.7.1.1.2	Each Additional	NRC	\$6.50	\$177.74	\$2.38	\$88.93	\$156.43	\$86.40	\$188.96
9.23.7.1.1.2	EEL DS1 Loop Installation								
9.23.7.3.1.1	First	NRC	\$6.79	\$265.98	\$25.22	\$135.69	\$266.42	\$140.02	\$312.13
9.23.7.3.1.2	Each Additional	NRC	\$6.79	\$162.67	\$25.22	\$118.85	\$204.74	\$103.65	\$230.79
9.23.7.3.1.2	EEL DS3 Loop Installation								
9.23.7.4.1.1	First		\$6.79	\$279.38	\$25.22	\$146.02	\$285.22	\$148.53	\$336.09
9.23.7.4.1.2	Each Additional		\$6.79	\$179.01	\$25.22	\$129.18	\$223.54	\$112.75	\$254.75
17.1	Bona Fide Request Process								
17.1	Processing Fee	NRC	\$2,367.93	\$1,055.50	\$1,919.97	\$1,322.42	\$1,667.18	\$1,666.60	\$1,933.44

The rates for 9.23.6.3.1.1 and 9.23.6.3.1.2 are the same as the rates for 9.23.6.2.1.1 and 9.23.6.3.1.2.

The rates for 9.23.7.2.1.1 and 9.23.7.2.1.2 are the same as the rates for 9.23.7.1.1.1 and 9.23.7.1.1.2.

The rate for 9.23.7.11.1 is the same as the rate for 9.6.7.1.

The rate for 9.23.7.11.2 is the same as the rate for 9.23.6.7.2.

**Issue 22-90(ad) – partial**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(ad)	9.23.6.8.1	LMC Rearrangement DS0		\$107.93		\$136.41
22-90(ad)	9.23.6.8.2	LMC Rearrangement High Capacity		\$154.25		\$154.83
22-90(ad)	9.23.7.7.1	EEL Rearrangement DS0		\$107.93		\$136.41
22-90(ad)	9.23.7.7.2	EEL Rearrangement High Capacity		\$154.25		\$154.83

Qwest provided a cost study. Qwest’s cost study did not incorporate the Commission’s order in UT 138/UT 139.

There are no approved rates in other states. Eschelon made a few adjustments to Qwest’s cost study in order to make it more consistent with UT 138/UT 139.

- Adjusted study to reflect a 98% flow through
- Eschelon **did not** make changes to the labor time estimates and other probabilities as the information to make these changes in not in Eschelon’s possession

Note the Eschelon proposed rates have been corrected to show \$107.93 and \$154.25.

The rates 9.23.7.7.1 and 9.23.7.7.2 are the same as the rates for 9.23.6.8.1 and 9.23.6.8.2.

**Issue 22-90(ae)**

Issue #	Exhibit A Section	Rate Element	RATE PROPOSAL			
			Eschelon		Qwest	
			REC	NRC	REC	NRC
22-90(ae)	10.7.12	Innerduct Occupancy Fee, per Linear Foot, per Year	\$0.31		\$0.41	
22-90(ae)	10.7.12.1	Microduct Occupancy Fee, per Microduct, per Foot, per Year	\$0.26		\$0.47	

Qwest **did not** provide cost studies in Oregon to support these rates. Qwest has provided cost studies in Arizona and Minnesota.

The rate for 10.7.12 is determined based on an FCC cost methodology. Qwest did not supply the cost support for its proposal, only the rate. Eschelon's proposed rate is based on the average of Qwest's proposed rate in four other states. In these four states, Eschelon is not challenging Qwest's proposed innerduct rate. Eschelon will agree to a rate based upon the FCC methodology, provided that rate is current and Eschelon is able to review the cost support.

Section	Rate Element	RC/NRC	AZ	CO	MN	UT	WA	Average	OR Qwest Proposed
10.7.12	Innerduct Occupancy Fee, per Linear Foot	RC		\$0.3390	\$0.1862	\$0.3455	\$0.3700	\$0.3102	\$0.4218

The rate for 10.7.12.1 depends upon the rate for 10.7.12. Eschelon took the cost study Qwest provided in Arizona as part of the arbitrations and updated its assumptions to be consistent with recent assumptions Qwest made in the Minnesota UNE case regarding the use of contract labor. Eschelon incorporated the rate form 10.7.12 to produce the rate for 10.7.12.1.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 27**

### CFA Change Chronology for Limit of One

- **9/11/06:** Qwest issues Level 3 CMP Notice (PROS.09.11.06.F.04161.P\_&\_I\_Overview\_V91) with an effective date of 10/26/06. This notice limited the CFA changes to one on the day of the cut.

Link to notice PROS.09.11.06.F.04161.P\_&\_I\_Overview\_V91 (also attached):  
[http://www.qwest.com/wholesale/cnla/uploads/PROS.09.11.06.F.04161.P\\_&\\_I\\_Overview\\_V91.doc](http://www.qwest.com/wholesale/cnla/uploads/PROS.09.11.06.F.04161.P_&_I_Overview_V91.doc)

- **10/18/2006** Change Disposition of P&I CFA Changes (PROS.09.11.06.F.0461.P\_&\_I\_Overview\_V91) was included as a Walk On Agenda Item for the October 18, 2006 Product and Process CMP Meeting. Eschelon's email objecting to the level of disposition of notice PROS.09.11.06.F.04161.P\_&\_I\_OverviewV91 as well as an excerpt from the 10/18/06 CMP Minutes discussing the request to change the level of the notice are attached.

Link to October Product Process CMP Meeting Minutes (Found in Attachment A) (also attached):  
[http://www.qwest.com/wholesale/calendar/attachments/NovemberProdProcDistributionPackage\\_34.pdf](http://www.qwest.com/wholesale/calendar/attachments/NovemberProdProcDistributionPackage_34.pdf)

- **10/20/06:** Qwest issues a Level 1 CMP notice (PROS.10.20.06.F.04281.Retract\_CFA\_P&I\_OvrwV91), effective immediately. This notice retracted the Level 3 notice issued on 9/11/06.

Link to Notice PROS.10.20.06.F.04281.Retract\_CFA\_P&I\_OvrwV91 (also attached):  
[http://www.qwest.com/wholesale/cnla/uploads/PROS.10.20.06.F.04281.Retract\\_CFA\\_P&I\\_OvrwV91.doc](http://www.qwest.com/wholesale/cnla/uploads/PROS.10.20.06.F.04281.Retract_CFA_P&I_OvrwV91.doc)

- **10/26/2006:** Qwest issues MCC Notice (PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA effective 11/1/2006), with an effective date of 11/1/06. This notice explained that Qwest is still intending to hold the CLEC to one CFA change on the due date, but directs Qwest's Testers to "remain flexible and use their best judgment to determine if it is reasonable to expect the next CFA change to resolve the issue" and if Qwest's personnel decide that this expectation is not reasonable, the "CFA change should be refused and the CLEC should be pointed to the supplemental process." Qwest's notice also states that "If Qwest receives frequent attempts from a CLEC to verbally request numerous changes on DD before a good CFA is found, the Tester should post a

Customer Jeopardy to the order and contact the CLEC's Service Manager to inform them of the situation.”

Link to Notice: PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA (also attached):

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E10%2E26%2E06%2EF%2E04290%2EMCC%5FVerbal%5FSUPP%5FCFA%2Edoc>

- **10/31/2006:** Eschelon sends email to Qwest asking Qwest to retract PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA (Email Attached). Eschelon explains that Qwest's 10/26/06 notice, which effectively limits CFA changes to one per circuit on the day of the cut, is a change in process and should be issued as a Level 4 CMP change request. Eschelon also explains that limiting CFA changes on the day of the cut to one per circuit was not Qwest's intent and that Qwest has been performing multiple CFA changes for four years. In Eschelon's response, Eschelon said:

“CR 5548229 was implemented and completed in August of 2002. Although Qwest is now claiming that Qwest had always intended to limit CFA changes to one per circuit, since the process was implemented *more than four years ago*, Qwest has been performing multiple CFA changes for CLECs. CR 5548229 and the Qwest PCAT do not limit verbal CFA changes on the due date to one per circuit. In fact, an example used for purposes of implementing the CR contains multiple changes to one CFA (See [http://www.qwest.com/wholesale/cmp/archive/CR\\_5548229.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5548229.htm) ). Therefore it is clear from the face of the CR's status history that the intent was not to limit this to one.”

Eschelon's 10/31/06 email requesting retraction of Qwest's MCC notice is attached.

- **11/15/2006** MCC Retraction Request (PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA) is included as a Walk On Agenda Item for the November 15, 2006 Product and Process CMP Meeting.

Link to November 15, 2006 Product and Process CMP Meeting Minutes (excerpt from CMP Minutes discussing Eschelon's retraction request of this notice is attached):

[http://www.qwest.com/wholesale/calendar/attachments/CMPMeetingMinutesSystem2006-11-15\\_34.pdf](http://www.qwest.com/wholesale/calendar/attachments/CMPMeetingMinutesSystem2006-11-15_34.pdf)



**Announcement Date:** September 11, 2006  
**Proposed Effective Date:** October 26, 2006  
**Document Number:** PROS.09.11.06.F.04161.P\_&\_I\_Overview\_V91  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Provisioning and Installation Overview - V91.0  
**Level of Change:** Level 3

**Summary of Change:**

On September 11, 2006, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Provisioning and Installation Overview. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>

Updates are associated with a change to verbal supplement for CFA slot changed on the due date. In the Provisioning Points of Interface section under Provider Initiated Activity (PIA), Qwest will be providing additional language which describes the Qwest and CLEC responsibilities for CFA or slot changes.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL:  
<http://www.qwest.com/wholesale/clecs/provisioning.html>

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available September 11, 2006
CLEC Comment Cycle on Documentation	Beginning September 12, 2006

Begins	
CLEC Comment Cycle Ends	5:00 PM, MT September 26, 2006
Qwest Response to CLEC Comments (if applicable)	Available October 11, 2006 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	October 26, 2006

If you have any questions on this subject, please submit comments through the following link: <http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>



**From:** Johnson, Bonnie J. [mailto:email redacted]  
**Sent:** Monday, September 25, 2006 8:07 AM  
**To:** Bonnie Johnson; [Qwest CMP email redacted]  
**Cc:** Isaacs, Kimberly D.; Johnson, Bonnie J.  
**Subject:** Request change to level/Change to CFA Change Process Process Notice:  
Interconnection: GN: CMP - Provisioning and Installation Overview V91: Effective 10-26-06  
**Importance:** High

Eschelon object to this notice. CFA issues have been part of ICA negotiations and are being arbitrated. Qwest is using CMP as a litigation tactic. If Qwest has a proposal, it should make it in negotiations.

If Qwest pursues this change and does so through CMP, please change the level designation to level 4. Qwest's proposed change, per 5.4.5 of the CMP document, is "Limiting the availability and applicability or functionality of an existing product or existing feature" and is a level 4 change. Qwest is limiting the use of a process which has a significant impact to CLECs.

Thanks,

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.  
[contact information redacted]

**From:** New Cr, Cmp [Qwest CMP email redacted]  
**Sent:** Monday, September 25, 2006 11:47 AM  
**To:** Johnson, Bonnie J.; [Qwest CMP email redacted]  
**Cc:** Isaacs, Kimberly D.  
**Subject:** RE: Request change to level/Change to CFA Change Process Process Notice:  
Interconnection: GN: CMP - Provisioning and Installation Overview V91: Effective 10-26-06

Hi Bonnie,

Qwest has received your request on Process Notice: Interconnection: GN CMP - Provisioning and Installation Overview V91. We will be meeting internally to determine next steps.

Thanks,

Lynn Stecklein  
Qwest Wholesale CRPM

**The following is an excerpt from the the 10/18/06 CMP Minutes that discusses Eschelon's request to change the level of Qwest notice PROS.09.11.06.F.04161.P\_&\_I\_Overview\_V91.**

**Walk On Items**

**Change Disposition for P&I CFA Changes**

**(PROS.09.11.06.F.04161.P\_&I\_OverviewV91)**

Susan Lorence-Qwest stated that there was a request to change the disposition on a September 11th Level 3 Notice for an update to the Provisioning & Installation PCAT. Susan stated that Eschelon requested that the Notice be changed to a Level 4. Susan then noted that Qwest issued a delayed response, in order to allow discussion to take place at this CMP Meeting.

Cindy Buckmaster-Qwest stated that there was confusion surrounding this notice and stated that the intent is for when a change to a CFA needed and the request is verbal; when making one CFA change, verbally, on the due date. Cindy stated that the notice was not intended to change the process; it is only to limit a verbal CFA change to one. Cindy then noted that there are times when a CLEC guesses at a CFA that could work. Cindy stated that Qwest is trying to free-up CLECs and the testers and to make sure that the CFAs are working CFAs.

Kim Isaacs-Eschelon stated that she understood the intent of the notice and stated that Qwest believes that the process was set-up as 1 verbal CFA. Kim stated that in reality, that is not the process that Qwest and the CLECs are following. Kim noted that in practice, multiple CFA changes are allowed. Kim stated that this notice is limiting the existing process and believes that it should be a Level 4 change. [Comment received from Eschelon: Kim Isaacs-Eschelon stated that she understood the intent of the notice and stated that Qwest may believe that the process was set-up as 1 verbal CFA.]

Cindy Buckmaster-Qwest stated that it is only to clarify the limitation of a verbal CFA change.

Kim Isaacs-Eschelon said that she understood but the Qwest testers do not believe it is just one. Kim said that if this is a change, this needs to be a Level 4, as we are limiting the availability of a process. Kim stated that this is reality, even if it is not the intent. [Comment received from Eschelon: Kim Isaacs-Eschelon said that she understood that was Qwest intent with the notice but the Qwest testers do not believe it is just one. Kim said that this is a change, this needs to be a Level 4, as we are limiting the availability of a process. Kim stated that this is reality, even if it was not Qwest's intent.]

Cindy Buckmaster-Qwest stated that she would hate to get to the point of doing a Level 4 when folks are not following the process. Cindy noted that the PCAT states "a CFA change". Cindy stated that the testers probably stepped out of the process in order to satisfy the customer. Cindy stated that she did not want to take that away. Cindy then stated that she would follow CMP and do whatever needed to be done. Cindy stated that if the testers had to follow hard and fast rules, her concern was what that really meant as far as satisfying the customer.

Susan Lorence-Qwest asked if there was consensus that this is a Level 4 change via a CR. Susan then stated that this could go to a formal vote, if there is a general concern.

Laurie Fredricksen-Integra stated that she is in support of Eschelon. Laurie stated that the function is out there and stated that the CLECs are not randomly selecting CFAs; they assume that the next one is correct.

Cindy Buckmaster-Qwest stated that it is important to point out that most CLECs follow the 1 or 2 CFA. There are a few circumstances where have 5, 6, or 7 CFA changes on the due date. Cindy stated that this ties up the testers and the CLECs. Cindy said that this is where we struggled. Cindy stated that when this was implemented, it was a Level 2 clarification. Cindy noted that she understood that there are personnel out of process and noted that she wants to be flexible enough to satisfy the CLECs. Cindy stated that if this is a Level 4, will have to pull back and stick to one verbal CFA change.

Kim Isaacs-Eschelon asked if the proposed language allows the testers to vary.

Cindy Buckmaster-Qwest stated that we would clarify with the tester that a verbal CFA change can be done once. Cindy stated that there are many opportunities to determine if the CFA is working prior to the due date. Cindy noted that there are some CLECs that wait until the due date to worry about the CFA, find out that the CFA is not good, and then guess at CFAs that might work. Cindy stated that we would go to the testers and tell them that the rule is 1 verbal CFA change, and if the CLEC is desperate for a line and can guarantee that the CFA would work, the tester would help the customer. Cindy stated that Qwest does not want to be hard and tell the testers that only 1 verbal CFA change is allowed. Cindy stated that if that is the direction for Qwest, it would be a process change.

Kim Isaacs-Eschelon suggested that Qwest could pull the language and retract, and deal with the bad players individually. Kim stated that it could be a Level 4 or a retraction of the change. Kim stated that if Qwest feels that a Level 4 would be worse, then retract, and leave the language as is. [Comment received from Eschelon: Kim stated that if Qwest feels that a Level 4 would be would lead to less flexibility between the Qwest and CLEC testers, then retract, and leave the language as is.] Kim then stated that Qwest could deal with the bad players.

Laurie Fredricksen-Integra stated that she wants the testers to have leeway and that the language prohibits that.

Cindy Buckmaster-Qwest stated that the intent was to clarify with the CLECs, and internally, that the intent is 1 verbal CFA change. Cindy stated that Qwest could move forward however the CLECs feel this issue should move. Cindy stated that if this is a Level 4 and should have further discussion, she is okay with that.

Laurie Fredricksen-Integra asked if Qwest would withdraw the change if all understood that the intent is 1 verbal CFA change.

Susan Lorence-Qwest stated that Qwest could send an MCC to remind personnel of the process, and if find that Qwest is not able to handle the problem, Qwest would submit a Level 4 change. Susan stated that Qwest would retract the Level 3, issue an MCC, document externally stating the intent, and remind people to follow the process. Susan

then stated that Qwest would submit a Level 4 if this does not get in control. Susan then asked if everyone was agreeable to the approach.

Kim Isaacs-Eschelon said that it sounded good but that the MCC needed to be internal and external. Kim then stated that she was concerned about the intent and the CLECs responsibility to provide 1 good CFA. Kim stated that she would like it to say that best judgment should be used. Kim then stated that she did not want it to be too restricting. [Comment received from

Eschelon: Kim Isaacs-Eschelon said that it sounded good but that the MCC needed to be internal and external. Kim then stated that she was concerned about Qwest's believe that the of the original change request was based on the CLECs responsibility to provide 1 good CFA. Kim stated that she would like it to say that best judgment should be used. Kim then stated that she did not want the MCC to be too restricting and requested that Qwest communicate that there is flexibility in the process.]

Cindy Buckmaster-Qwest stated that she agreed with Eschelon.

Susan Lorence-Qwest asked if there were any other concerns on the approach. There were no other concerns brought forward.



**Announcement Date:** October 20, 2006  
**Effective Date:** Immediately  
**Document Number:** PROS.10.20.06.F.04281.Retract\_CFA\_P&I\_OvrvwV91  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP – Retract Provisioning and Installation Overview - V91.0  
**Level of Change:** Level 1

On October 20, 2006, Qwest is providing this notification to retract the Level 3 Notice PROS.09.11.06.F.04161.P\_and I\_Overview\_V91 which was announced on September 11, 2006. This proposed documentation update was to the Provisioning and Installation Overview PCAT. Qwest received a CLEC request to change the disposition of this notification to a higher level. To allow time to work on this issue, Qwest issued a Delayed Response to Comments via Notice PROS.10.11.06.F.04254.DelayResp\_Prov\_InstallV91 on October 11, 2006. After discussing the issues in the monthly CMP meeting on October 18, 2006, an agreement was reached between Qwest and the CLEC community to retract this proposed change and to send an internal and external MCC to reinforce the “Verbal supplement for CFA slot change on the Due Date” process.

The proposed updates were associated with a change to verbal supplement for CFA slot changed on the due date. In the Provisioning Points of Interface section under Provider Initiated Activity (PIA), Qwest was going to provide additional language which describes the Qwest and CLEC responsibilities for CFA or slot changes.

The current version of the Provisioning and Installation Overview will remain operational and the document can be found on the Qwest Wholesale Web Site at this URL:

<http://www.qwest.com/wholesale/clecs/provisioning.html>

**Comment Cycle:**

No formal comment cycle applies. CLECs who feel the change(s) described in this Level 1 notification alter(s) CLEC operating procedures should immediately contact the Qwest CMP Manager, by e-mail, at [cmpcr@qwest.com](mailto:cmpcr@qwest.com).

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC

interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>



October 26, 2006

Bonnie Johnson  
Oregon Telecom Inc  
730 2nd Ave. South Suite 900  
Minneapolis, MN 55402  
bjjohnson@eschelon.com

TO:Bonnie Johnson

**Announcement Date:** October 26, 2006  
**Effective Date:** November 1, 2006  
**Document Number:** PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers,  
**Subject:** MCC - Verbal supplement for CFA slot change on the Due Date

**Summary of Change or Description of the Activity:**

On October 26, 2006, Qwest will send an MCC notice for Verbal supplement for CFA slot change on the Due Date. This MCC becomes effective on November 1, 2006.

Qwest recently proposed PCAT language to the Provisioning and Installation Overview which was intended to remind CLECs to check their CFAs before assigning them and to clarify that only one (1) verbal supplement for CFA slot change was to be accepted on Due Date (DD). However in discussion with the CLEC community at the Monthly CMP Meeting held on October 18, 2006, this language was not adopted. Instead it was agreed to retract and distribute a MCC both internally and externally to reiterate the current process. See PROS.10.20.06.F.04281.Retract\_CFA\_P&I\_OvrwV91 which was sent on October 20, 2006.

The "Verbal supplement for CFA process" is intended to allow one (1) verbal supplement on DD. However, as customer service is always Qwest priority, in order to maintain the best experience from a customer service perspective, Qwest Testers should remain flexible and use their best judgment to determine if it is reasonable to expect the next CFA change to resolve the issue. If not, the subsequent CFA change should be refused and the CLEC should be pointed to the supplemental process. If Qwest receives frequent attempts from a CLEC to verbally request numerous changes on DD before a good CFA is found, the Tester should post a Customer Jeopardy to the order and contact the CLEC's Service Manager to inform them of the situation.

Related information can be found on the Qwest Wholesale Web site at this URL:  
<http://www.qwest.com/wholesale/clecs/provisioning.html>

If you have any questions or would like to discuss this notice please contact your Qwest Service Manager, Mary Dobesh on (801) 239-5335. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of

Announcement Date:

such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Patty Hahn  
Mary Dobesh

Qwest Communications 1600 7th Ave Room 1806 Seattle WA 98008



From: Johnson, Bonnie J. [email redacted]

To: Johnson, Bonnie J. [Qwest CMP CR email redacted]

CC: Johnson, Bonnie J. Isaacs, Kimberly D.

Subject: FW: Process Notice: Interconnection: GN: CMP - MCC Verbal SUPP for CFA on DD: Effective 11-1-06

Sent: Tue 10/31/2006 3:53 PM

Eschelon asks Qwest to retract PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA Title: MCC - Verbal supplement for CFA slot change on the Due Date as an MCC type notice because this is a change in process. An MCC should not be used for changes in process. If Qwest desires a change in process, Qwest should submit a level 4 CR. Eschelon does not agree that the change should be made. Eschelon (Kim) said in the CMP meeting Eschelon would review. Eschelon has done so and this is Eschelon's response.

Qwest issued PROS.09.11.06.F.04161.P\_&I\_OverviewV91 (change to the provisioning and installation PCAT) limiting verbal CFA changes on the day of cut to one per circuit. Eschelon requested a change in disposition to a level four CR because Qwest was attempting to change an existing process. When Qwest and CLECs discussed Eschelon's request in the October CMP meeting, Qwest comments included "Cindy stated that the notice was not intended to change the process; it is only to limit a verbal CFA change to one." Limiting CFA changes to one per circuit on the due date is a change in a process, because Qwest has been providing multiple CFA changes.

CR 5548229 was implemented and completed in August of 2002. Although Qwest is now claiming that Qwest had always intended to limit CFA changes to one per circuit, since the process was implemented **more than four years ago**, Qwest has been performing multiple CFA changes for CLECs. CR 5548229 and the Qwest PCAT do not limit verbal CFA changes on the due date to one per circuit. In fact, an example used for purposes of implementing the CR contains multiple changes to one CFA. (See [http://www.qwest.com/wholesale/cmp/archive/CR\\_5548229.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5548229.htm)). Therefore, it is clear from the face of the CR's status history that the intent was not to limit this to one. As stated in the Qwest October 18<sup>th</sup> CMP meeting minutes: Eschelon (Kim) "stated that she understood the intent of the notice and stated that Qwest may believe that the process was set-up as 1 verbal CFA. Kim stated that in reality, that is not the process that Qwest and the CLECs are following. Kim noted that in practice, multiple CFA changes are allowed. Kim stated that this notice is limiting the existing process and believes that it should be a Level 4 change." While Eschelon was willing to acknowledge that Qwest CMP representatives may now believe that was the intent, Eschelon was clear in saying it was not. Four years of experience and the multiple changes example in the status history shows that the limit is not current process. If Qwest's intention had been to limit CFA changes on the due date to one, Qwest would have issued its "clarification" immediately after the CR was implemented in August of 2002. It did not do so, because that was not the intent. The current process used by Qwest and the CLECs has been in place for over four years. If Qwest wants to change it, Qwest needs to follow the CMP Document and issue a level 4 CR, to which Eschelon will object.

Thanks,

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.

[contact information redacted]

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**From:** [Qwest mailouts2 email redacted]

**Sent:** Thursday, October 26, 2006 3:16 AM

**To:** Johnson, Bonnie J.

**Subject:** Process Notice: Interconnection: GN: CMP - MCC Verbal SUPP for CFA on DD: Effective 11-1-06

**The following is an excerpt from the 11/15/06 CMP Minutes discussing Eschelon's retraction request for Qwest notice PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA:**

**MCC Retraction Request: PROS.10.26.06.F.04290.MCC\_Verbal\_SUPP\_CFA**

Mark Coyne-Qwest stated that Qwest and the CLECs reached an agreement during the October CMP Meeting to send out an internal and external MCC to reinforce the current process and to allow flexibility. He said that the MCC was issued and was effective on 11/1/06. Mark said that Eschelon then requested that the MCC be retracted and asked the CLEC Community what changed from the October CMP Meeting and now.

**(Comments to minutes received from Eschelon - Mark Coyne-Qwest stated that he was not at the October meeting but said Qwest and the CLECs reached an agreement during the October CMP Meeting to send out an internal and external MCC to reinforce the current process and to allow flexibility. He said that the MCC was issued and was effective on 11/1/06. Mark said that Eschelon then requested that the MCC be retracted and Mark asked the CLEC Community what changed from the October CMP Meeting and now.)**

Bonnie Johnson-Eschelon stated that she was not available during the October CMP Meeting. She said that Kim (Eschelon) agreed that she would review internally and that Eschelon does not agree that this change should be made. She said that they feel that limiting CFA changes to one per circuit on the due date is a change in process because Qwest has been providing multiple CFA changes for over 4 years. Bonnie said that if you look at the CR submitted in 2002 by Allegiance, it is clear that the intent was not to limit this to one CFA change and Qwest is now saying that what you have been doing is not appropriate and was not the intent of the CR. Bonnie said that there was never any discussion at CMP associated to the single CFA process and that leaving it up to the discretion of the tester is very concerning and not a good decision. She said that there isn't going to be parity. Bonnie said that this is a change in process and not just a clarification.

**(Comments to minutes received from Eschelon - Bonnie Johnson-Eschelon stated that she was not available during the October CMP Meeting. She said that Kim (Eschelon) said that Eschelon would review internally. Eschelon does not agree that this change should be made. Bonnie said that Eschelon feels that limiting CFA changes to one per circuit on the due date is a change in process because Qwest has been providing multiple CFA changes for over 4 years. Bonnie said that, if you look at the CR submitted in 2002 by Allegiance, there was an example of multiple CFA changes in one example and it is clear that the intent was not to limit this to one CFA change. Bonnie said Qwest is now saying that what you have been doing is not appropriate and was not the intent of the CR. Bonnie said that she was in CMP and there was never any discussion at CMP associated to the single CFA process. Bonnie said that leaving it up to the discretion of the tester is very concerning and not a good decision. She said that there isn't going to be parity because a tester may do it for one CLEC but not another. Bonnie said that this is a change in process and not just a clarification.)**

Mark Coyne-Qwest stated that during the October CMP Meeting there was good discussion in regard to this notification. Qwest had stated that the intent of the Level 2 notice was for clarification. He said that the possibility of a different type of notice was

also discussed but the CLECs agreed that the MCC was a better way to proceed and would provide more flexibility. Bonnie Johnson-Eschelon stated that a Level 3 would have allowed additional conversation on the matter.

**(Comments to minutes received from Eschelon - Bonnie Johnson-Eschelon stated that a Level 3 would at least have allowed additional conversation on the matter.)**

Vicki Dryden-Qwest stated that originally the SME team discussed submitting the notice as a Level 2 but did submit a Level 3 notice instead due to the fact that CLECs would likely see this as a change in process. She said that Eschelon requested a retraction stating that this process was “limiting availability” and requested a Level 4.

Bonnie Johnson-Eschelon stated that Eschelon is requesting a Level 4 because this is limiting availability. Mark Coyne-Qwest asked if the other CLECs who agreed with the recommendation in the October Meeting had any input. Laurie Fredricksen-Integra stated that she agreed with Eschelon’s recommendation leaving it up to the tester’s discretion was not a good idea.

**(Comments to minutes received from Eschelon - Mark Coyne – Qwest stated that the notes from the Oct CMP indicated that Qwest was willing to follow the recommendation of the CLECs.)**

Mark Coyne-Qwest said Qwest will meet internally to determine next steps.

Mark Coyne-Qwest asked if there were any additional walk-on items for discussion. There were none brought forward.

The November Product Process CMP Meeting was concluded.

Resources

**Change Management Process (CMP)**

**Open Product/Process CR PC013007-3 Detail**

**Title:** Verbal Supp for CFA Change on Due Date

CR Number	Current Status Date	Area Impacted	Products Impacted
PC013007-3	Submitted 1/30/2007	Prov & Installation PCAT	Unbundled Loop

**Originator:** Ocken, Kathy  
**Originator Company Name:** Qwest Corporation  
**Owner:** Buckmaster, Cindy  
**Director:** Coyne, Mark  
**CR PM:** Stecklein, Lynn

**Description Of Change**

Process Change to the Provisioning and Installation Overview PCAT language for the existing PIA value of 10 to add the following: Prior to placing a service request, it is the CLEC responsibility to ensure the CFA is working. If it is determined on Due Date that CFA does not work, Qwest will perform additional testing with the CLEC one time. If the CLEC requests the CFA be changed, it is the responsibility of the CLEC to make sure the new CFA works. Qwest will accept only one verbal CFA change on the Due Date. If the new CFA fails to work, Qwest will place the order in jeopardy status (customer jeopardy). No further action will be taken on Qwest's part until Qwest receives a valid supplemental request to change the Due Date and the CFA (if applicable). Additional charges may apply.

**Status History**

Date	Action	Description
1/30/2007	CR Submitted	
1/30/2007	CR Acknowledged	

**Project Meetings**

[<Back](#)

Information Current as of 2/23/2007

**From:** Esquibel-Reed, Peggy [email redacted]

**Sent:** Friday, February 23, 2007 2:01 PM

**To:** Stichter, Kathleen L.; Isaacs, Kimberly D.; Laurie Fredricksen (Integra Telecom) [email redacted]; Leilani Hines (Verizon Business)[email redacted]; Jackie Diebold (E-mail); Sherry Krewett (McLeodUSA)[email redacted]; Sue Wright (XO)[email redacted]; Lee, Kathy T, GBLAM; AT&T email [email redacted]; Stearns, Julie; Prull, Stephanie A.; Johnson, Bonnie J.; Sonnier, Jeff J [NTK]; Bilow, Joyce E.; Emmy Brown (Time Warner Telecom)[email redacted]; Tim Kagele (Comcast)[email redacted]; Davis, Colette; Pamela Trickel (Tdsmetro)[email redacted]; Jamie Nelson; Terrell, Mary C (Chris), INFOT

**Cc:** Stecklein, Lynn; Lorence, Susan

**Subject:** ACTION REQUIRED February Prod/Proc & Systems Meeting Minutes for Review & Feedback

Good Afternoon,

I have attached the minutes from the February Product/Process and Systems CMP Meetings. Please review the documents to ensure that your comments were captured accurately. Please provide your proposed changes no later than 5:00 p.m. MT, Tuesday, February 27, 2007. Please track your changes.

Thank you,  
Peggy Esquibel-Reed  
Qwest Wholesale CMP

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

**Qwest Wholesale Change Management Process (CMP) Meeting Minutes**

**DRAFT Change Management Process (CMP) Monthly Meeting  
Product - Process  
Wednesday, February 21, 2007**

**Introductions and Announcements**

Mark Coyne-Qwest began the meeting with introductions.

**Prior Monthly Meeting Minutes (Attachment A)**

Mark Coyne-Qwest asked if there were any questions or comments on the Prior Monthly Meeting Minutes. There were no comments or questions brought forward.

**Review Global Action Items (Attachment B)**

There were no Global Action Items for the February Product Process Meeting.

**Review Active CLEC Originated Change Requests (Attachment C)**

**PC010907-1 Changes To Scheduled Customer Due Dates**

Tim Kagele-Comcast presented the CR and stated that the Industry Process is that when a CLEC schedules a port, the interval is 4-days and noted that Comcast has issues when the customer cannot be home at the time of the appointment. Tim stated that Qwests current process is to leave the number in the switch up to 48-hours. Tim stated that Comcast would like the process revised for a next day assurance on a supp. Tim noted that he Comcast wants an FOC on a 1-day due date change, instead of waiting for the standard 4-day norm. Tim noted that a discussion with the CLECs has occurred.

Mark Coyne-Qwest asked if there were any questions regarding this request. There were none brought forward.

Mark Coyne-Qwest stated that Qwest will review and evaluate the request and would provide the response in March.

**Review Active Qwest Initiated Change Requests (Attachment D)**

**PC010307-1 Elimination of Future Delivery and Extended Prompts functions on Qwest Voice Messaging Platform**

Mark Coyne-Qwest stated that the targeted implementation date for this request is 4/10/07.

**PC013007-1 Grandparent CENTRAFLEX 2 in Oregon**

Peggy Esquibel Reed-Qwest stated that Qwest is grandparenting Centraflex System 2 in Oregon and noted that there are no customers utilizing this product. Peggy then noted that due to no customers, Qwest would like to implement this request with a Level 2 notice. Peggy then asked if there were any questions regarding this CR or if there were any objections to implementation via a Level 2 notice. There were no questions or objections brought forward.

This CR moves to Presented Status.

**PC013007-2 Automatic Call Distribution – Electronic Switching System Tariff Elimination**

Peggy Esquibel Reed-Qwest stated that Qwest is grandparenting Automatic Call Distribution-Electronic Switching System Tariff Elimination and noted that there are no customers utilizing this product. Peggy stated that Qwest would also like to implement this CR with a Level 2 notification and asked if there were any questions or objections to the Level 2.

**Qwest Wholesale Change Management Process (CMP) Meeting Minutes**

Bonnie Johnson-Eschelon stated that she had no objection to the Level 2 requests and noted that Eschelon may submit comments.

This CR moves to Presented Status.

**PC013007-3 Verbal Supp for CFA Change on Due Date**

Lynn Stecklein-Qwest stated in October of 2006, Qwest proposed language to the Provisioning and Installation Overview which was intended to remind CLECs to check their CFAs before assigning them and to clarify that only one verbal supplement for CFA slot change was to be accepted on the Due Date. She said that in discussion with the CLEC community at the October Monthly CMP Meeting, this language was not adopted. She said that instead it was agreed that a MCC would be distributed internally and externally to reiterate the current process. Lynn stated that Eschelon requested that Qwest retract the MCC because this was a change in process and that a Level 4 should be submitted. Lynn reviewed the description of change:

This CR is a process change to the Provisioning and Installation Overview PCAT language for the existing PIA value of 10 to add the following: Prior to placing a service request, it is the CLEC responsibility to ensure the CFA is working. If it is determined on the Due Date that the CFA does not work, Qwest will perform additional testing with the CLEC one time. If the CLEC requests the CFA be changed, it is the responsibility of the CLEC to make sure the new CFA works. Qwest will accept only one verbal CFA change on the Due Date. If the new CFA fails to work, Qwest will place the order in a customer jeopardy status. No further action will be taken on Qwest's part until Qwest receives a valid supplemental request to change the Due Date and the CFA (If applicable).

Bonnie Johnson-Eschelon asked for further definition around Qwest performing additional testing one time. She said that specifically her question is that the additional testing issue has been brought forward multiple times before. She said that in this instance it is not the CFA, but the problem is on the Qwest side. She asked if the additional testing means that it would not be a Qwest issue.

Lynn Stecklein-Qwest stated that she will contact the SME and provide the response to Bonnie and also include in the minutes.

**PC102704-1ES and PC102704-1ES2 New Revised title effective 1/11/05: Certain Unbundled Network Elements (UNE) Product Discontinuance (see Description of Change for previous title)**

Mark Coyne-Qwest stated that at the end of the last ad hoc call it was mentioned that Qwest would schedule additional calls in order to continue the discussions on this CR to categorize products on the TRRO Product matrix and try to move forward with a prioritization of products. The original Qwest plan to gain CLEC input on the priority of the various products has not been as successful as we planned or hoped. We heard all the comments on that call and considered all the feedback that another call would just be rehashing the same things again. We then took all that feedback and gave it some additional thought in order to determine what the most logical next step would be, to allow Qwest and the CLEC community to continue to move forward on this issue. What makes sense at this point, to Qwest, is that we issue individual CMP CRs for the products that need to be addressed in CMP and hold discussions for specific CRs or product groupings. That would allow those CLECs with impact on those specific products to have a CMP forum for input on the process related changes associated with these products. It should provide a more meaningful and valuable method for proceeding with this effort for Qwest and for those CLECs who are impacted by these changes. Some, if not all, of those CRs will be submitted for the March 21st CMP Meeting.

Bonnie Johnson-Eschelon stated that on the last call, Cindy Buckmaster (Qwest) committed to taking one of her products, due to Integra's concerns regarding the PCATs, and to re-do the PCAT and meet on those changes. Bonnie asked if Qwest is now not going to do that.

Mark Coyne-Qwest stated that we internally evaluated what would work best and determined that the next step should be to issue the CRs.

Bonnie Johnson-Eschelon stated that she had no comment at this time.



**Qwest Wholesale Change Management Process (CMP) Meeting Minutes  
PC121106-1 Grandfathering ADSL Compatible UBL**

Peggy Esquibel Reed-Qwest stated that the Level 4 re-notice had been sent on February 5<sup>th</sup> and that 2 comments had been received. Peggy noted that the Qwest Response to Comments would be available on March 2<sup>nd</sup> and that the proposed effective date is March 19<sup>th</sup>.

There were no questions or comments brought forward.

This CR is in Development Status.

**Discussion of CMP Operations and Proposed Modifications to CMP Framework**

**PC110906-1CM CMP Document Update – Remove WSD Tier 0 References**

Peggy Esquibel Reed-Qwest stated that this CR, requesting a CMP Document Update to Remove Tier 0 References, was presented in the November CMP Meeting and asked for changes to the CMP Document, to remove Wholesale Service Delivery (WSD) Tier 0 references, to synch-up with changes implemented via a process change early last year. Peggy stated that we also wanted to clarify some language surrounding call center DB tickets. A vote was conducted in December and a no vote was submitted due to concerns regarding proposed language for the call center database tickets. We then revised the language to remove the clarification to the “ticket” references and the revised proposed language is now to only remove Tier 0 from the CMP Document. Peggy asked if there were any questions. None were brought forward. Peggy then stated that the quorum for today’s vote is 5 and noted that that it had been achieved. Peggy then stated that a vote of ‘Yes’ would indicate a preference that updates be made to the CMP Document to remove Wholesale Service Delivery Tier 0 references to synch up with changes implemented via a process change in the 2<sup>nd</sup> quarter of 2006. A vote of ‘No’ would indicate a preference that updates not be made to the CMP Document to remove WSD Tier 0 references to synch up with changes implemented last year. Peggy then noted that unanimous agreement is required in order for the change to occur. Peggy asked if there were any questions regarding the vote. There were no questions. Peggy then stated that 5 emailed Yes votes had been received from Sprint Nextel, Covad, Qwest Corp., Eschelon, and Verizon Business. Peggy then asked if any other CLEC would like to submit a vote.

Integra voted Yes

XO voted Yes

McLeod voted Yes

Peggy Esquibel Reed-Qwest stated that this requested change has been granted by a vote of 8 Yes votes, 0 No votes, and 0 Abstain votes. Peggy then noted that the vote disposition would be sent and thanked the participants for their votes.

Peggy Esquibel Reed-Qwest then asked the call participants if there were any objections to this change being implemented with a Level 1 Notice. There were no objections to the Level 1 Notice request.

**PC110806-1CM CMP Document Update – Provide Meeting minutes associated with Special Ad Hoc meetings in conjunction with Section 5**

Mark Coyne-Qwest stated that we are currently reviewing on last iteration of the language and will send out for review. He said that we would try and conduct the vote in the March CMP Meeting.

**General CMP Comments:**

None.

**Walk On Items**

Mark Coyne-Qwest asked if there were any walk on items for the Product Process CMP Meeting. There were none brought forward.

The February Product Process CMP Meeting was concluded.

## **DRAFT Meeting Minutes**

**CMP Monthly Systems Meeting  
Wednesday, February 21, 2007  
Bridge Call open to all CLECs**

### **INTRODUCTIONS AND ANNOUNCEMENTS**

Mark Coyne-Qwest began the meeting by asking if there were any additional participants that had joined the call.

#### **PRIOR MONTHLY MEETING MINUTES (ATTACHMENT A)**

Mark Coyne-Qwest asked if there were any questions or comments on the Prior Monthly Meeting Minutes. There were no comments or questions brought forward.

#### **NEW CRs INITIATED BY CLECs (ATTACHMENT B)**

There were no New CLEC Change Requests for the February Systems CMP Meeting

#### **NEW CRs INITIATED BY QWEST (ATTACHMENT C)**

##### **SCR012407-01 Add new PIA Value - Verbal SUP To Add Cooperative Test On DD**

Denise Martinez-Qwest presented the CR and stated that a new PIA (Provider Initiated Activity) on FOCs would allow Qwest Network to accept a verbal SUP on the due date to change the installation/testing type from what was originally requested on Unbundled Loop and Loop with Number Portability LSRs. Denise noted that as with other PIA values, this would allow for immediate identification of the PIA by value entry and reduce lengthy remarks that would have to be read manually. Denise asked if there were any questions.

Bonnie Johnson-Eschelon stated that Steph (Prull-Eschelon) was not on the call and stated that if Steph had questions, she would send them or they could be discussed at the March CMP Meeting.

Denise Martinez-Qwest stated that everyone should benefit from this change and noted that all should be happy with it. Without this value, the new process cannot be implemented. Currently, a SUP is required including a due date change of 3 day or more interval.

Bonnie Johnson-Eschelon stated that it does appear that would be the case and that she would get with Steph.

Denise Martinez-Qwest stated that she looked forward to any questions that Steph may have.

There were no additional questions or comments.

This CR moves to Presented Status.

### **REGULATORY AND INDUSTRY GUIDELINE CHANGE REQUESTS (ATTACHMENT D)**

##### **SCR020207-01IG CABS BOS Version 47**

Peggy Esquibel Reed-Qwest stated that this CR is for the standard upgrade for bill and CSR output in IABS and noted that it is targeted for the November timeframe.

There were no questions or comments.

This CR moves to Presented Status.

## **CROSS OVER CRs (ATTACHMENT E)**

There were no Cross Over CRs for the February Systems CMP Meeting

## **WALK ON CHANGE REQUESTS (ATTACHMENT F)**

There were no Walk On Change Requests for the February Systems CMP Meeting

## **CRs TO CONSIDER FOR CLOSURE (ATTACHMENT G)**

### **SCR121305-01 Implement XML Interface for IMA EDI**

Mark Coyne-Qwest stated that this CR would remain in CLEC Test until the 1<sup>st</sup> CLEC goes into production.

Bonnie Johnson-Eschelon stated they are getting close.

Mark Coyne-Qwest stated that maybe we can close this action item next month.

## **REVIEW GLOBAL ACTION ITEMS (ATTACHMENT H)**

There are no Global Action Items for the February Systems CMP Meeting

## **REVIEW ACTION ITEMS ASSOCIATED WITH CRs (ATTACHMENT I)**

### **SCR010307-01 Provide Targeted Implementation Date of 4/1/07 on SCR010307-01 CEMR Voice Messaging Trouble Shooting Flows Update**

Mark Coyne-Qwest stated that the targeted implementation for this change is 4/01/07. He said that this CR is related to the Product Process CR mentioned earlier. Mark said that the Product Process CR is going in after this CR (4/10/07) so that additional testing can be done.

### **SCR082806-02 Provide Targeted Implementation Date of 4/1/07 on SCR082806-02 User Activity Report for CEMR**

Mark Coyne-Qwest stated that the implementation date of this Verizon Business CR is 4/01/07.

### **SCR122806-01 Provide Evaluation for SCR122606-01 Chng EUMI Field & EU Addrss Rqrmnts for Port Within Ordg Proc #1 to avoid LSR Submission Errors & Rejects in Error**

Venessa Heiland-Qwest stated that this CR is accepted and would be implemented.

Kim Isaacs-Eschelon stated that she was very happy to hear that.

Peggy Esquibel Reed-Qwest asked if this was being implemented as a Process change and not as a Systems change, and if the new address would be required on the EU Form.

Venessa Heiland-Qwest stated that the change would be done via an update to the PCAT. Venessa stated that the new address on the EU Form would be an option and not required.

Kim Isaacs-Eschelon stated that there could then be multiple processes and could be confusing.

Venessa Heiland-Qwest stated that the process would be to allow an EUMI of Y and to keep the current process of the new address being in Remarks. Venessa stated that the new address on the EU Form may be a later request.

Kim Isaacs-Eschelon stated that we would be half way there with the EUMI of Y and noted that the new address in Remarks would get errors. Kim asked if it was possible to do both pieces at once.

Venessa Heiland-Qwest asked if all CLECs would agree to that.

Bonnie Johnson-Eschelon stated that this change could be opposite of the process for a port within. Bonnie asked that all port processes be looked at for consistency.

Kim Isaacs-Eschelon noted that that would be the best way to go.

Bonnie Johnson-Eschelon asked if Qwest would consider their suggestion.

Mark Coyne-Qwest stated that we would look at it internally.

### **OUTSTANDING SYSTEMS CMP CHANGE REQUESTS (ATTACHMENT J)**

Mark Coyne-Qwest asked if there were any questions or comments on any of the open CRs. There were no questions or comments brought forward.

### **REVIEW DEPLOYING CHANGE REQUESTS (ATTACHMENT K)**

#### **SCR112806-01IG ASOG 34 Industry Release/QORA and ASR Gateway Enhancements**

Mark Coyne-Qwest stated that this CR will deploy on 3/12/07.

### **PRODUCTION SUPPORT TICKETS (ATTACHMENT L)**

Mark Coyne-Qwest stated that there are currently 12 tickets on the TBD report and noted that there were no updates for the tickets.

### **IMA AND SATE 21.0 COMMITMENTS (ATTACHMENT M)**

Mark Coyne-Qwest stated that this attachment contained the 5 candidates that are committed to the IMA & SATE 21.0 Release. Mark asked if there were any questions. There were none.

### **WALK ON ITEMS (ATTACHMENT N)**

Mark Coyne-Qwest stated that the March CMP Meeting is scheduled for Wednesday, March 21, 2007 at 9:00 a.m., via conference call, and that the CR cutoff date is March 7, 2007.

Mark Coyne-Qwest stated that the CR review for each companies top 2 pick, for the IMA 22.0 Prioritization, would also occur in the March CMP Meeting, with Prioritization to follow.

The February CMP Meeting adjourned at 9:40 a.m. MT.

**From:** Johnson, Bonnie J. [email redacted]

**Sent:** Friday, February 23, 2007 3:46 PM

**To:** Esquibel-Reed, Peggy; Stichter, Kathleen L.; Isaacs, Kimberly D.; Laurie Fredricksen (Integra Telecom)[email redacted]; Leilani Hines (Verizon Business)[email redacted]; Jackie Diebold (E-mail); Sherry Krewett (McLeodUSA)[email redacted]; Sue Wright (XO)[email redacted]; Lee, Kathy T, GBLAM; AT&T email [redacted]; Stearns, Julie; Prull, Stephanie A.; Sonnier, Jeff J [NTK]; Bilow, Joyce E.; Emmy Brown (Time Warner Telecom)[email redacted]; Tim Kagele (Comcast)[email redacted]; Davis, Colette; Pamela Trickel (TDS Metro)[email redacted]; Jamie Nelson; Terrell, Mary C (Chris), INFOT; Johnson, Bonnie J.

**Cc:** Stecklein, Lynn; Lorence, Susan

**Subject:** RE: ACTION REQUIRED February Prod/Proc & Systems Meeting Minutes for Review & Feedback

Here are my red line comments.

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.  
[contact information redacted]

**Qwest Wholesale Change Management Process (CMP) Meeting Minutes**

**DRAFT Change Management Process (CMP) Monthly Meeting  
Product - Process  
Wednesday, February 21, 2007**

**Introductions and Announcements**

Mark Coyne-Qwest began the meeting with introductions.

**Prior Monthly Meeting Minutes (Attachment A)**

Mark Coyne-Qwest asked if there were any questions or comments on the Prior Monthly Meeting Minutes. There were no comments or questions brought forward.

**Review Global Action Items (Attachment B)**

There were no Global Action Items for the February Product Process Meeting.

**Review Active CLEC Originated Change Requests (Attachment C)**

**PC010907-1 Changes To Scheduled Customer Due Dates**

Tim Kagele-Comcast presented the CR and stated that the Industry Process is that when a CLEC schedules a port, the interval is 4-days and noted that Comcast has issues when the customer cannot be home at the time of the appointment. Tim stated that Qwests current process is to leave the number in the switch up to 48-hours. Tim stated that Comcast would like the process revised for a next day assurance on a supp. Tim noted that he Comcast wants an FOC on a 1-day due date change, instead of waiting for the standard 4-day norm. Tim noted that a discussion with the CLECs has occurred.

Mark Coyne-Qwest asked if there were any questions regarding this request. There were none brought forward.

Mark Coyne-Qwest stated that Qwest will review and evaluate the request and would provide the response in March.

**Review Active Qwest Initiated Change Requests (Attachment D)**

**PC010307-1 Elimination of Future Delivery and Extended Prompts functions on Qwest Voice Messaging Platform**

Mark Coyne-Qwest stated that the targeted implementation date for this request is 4/10/07.

Bonnie Johnson-Eschelon stated that she had no objection to the Level 2 requests on all of the grandparenting CRs but noted that Eschelon may submit comments.

**PC013007-1 Grandparent CENTRAFLEX 2 in Oregon**

Peggy Esquibel Reed-Qwest stated that Qwest is grandparenting Centraflex System 2 in Oregon and noted that there are no customers utilizing this product. Peggy then noted that due to no customers, Qwest would like to implement this request with a Level 2 notice. Peggy then asked if there were any questions regarding this CR or if there were any objections to implementation via a Level 2 notice. There were no questions or objections brought forward.

This CR moves to Presented Status.

Bonnie Johnson-Eschelon stated that she had no objection to the Level 2 requests on all of the grandparenting CRs but noted that Eschelon may submit comments.

**Qwest Wholesale Change Management Process (CMP) Meeting Minutes  
PC013007-2 Automatic Call Distribution – Electronic Switching System Tariff Elimination**

Peggy Esquibel Reed-Qwest stated that Qwest is grandparenting Automatic Call Distribution-Electronic Switching System Tariff Elimination and noted that there are no customers utilizing this product. Peggy stated that Qwest would also like to implement this CR with a Level 2 notification and asked if there were any questions or objections to the Level 2.

Bonnie Johnson-Eschelon stated that she had no objection to the Level 2 requests on all of the grandparenting request but and noted that Eschelon may submit comments.

This CR moves to Presented Status.

**PC013007-3 Verbal Supp for CFA Change on Due Date**

Lynn Stecklein-Qwest stated in October of 2006, Qwest proposed language to the Provisioning and Installation Overview which was intended to remind CLECs to check their CFAs before assigning them and to clarify that only one verbal supplement for CFA slot change was to be accepted on the Due Date. She said that in discussion with the CLEC community at the October Monthly CMP Meeting, this language was not adopted. She said that instead it was agreed that a MCC would be distributed internally and externally to reiterate the current process. Lynn stated that Eschelon requested that Qwest retract the MCC because this was a change in process and that a Level 4 should be submitted. Lynn reviewed the description of change:

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Bonnie Johnson-Eschelon asked for further definition around Qwest performing additional testing one time. She said that specifically her question is that the additional testing issue has been brought forward multiple times before. She said that in this-those instances it is not the CFA, but the problem is on the Qwest side. She asked if the additional testing means that it would not be a Qwest issue.

Lynn Stecklein-Qwest stated that she will contact the SME and provide the response to Bonnie and also include in the minutes.

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Mark Coyne-Qwest stated that at the end of the last ad hoc call it was mentioned that Qwest would schedule additional calls in order to continue the discussions on this CR to categorize products on the TRRO Product matrix and try to move forward with a prioritization of products. The original Qwest plan to gain CLEC input on the priority of the various products has not been as successful as we planned or hoped. We heard all the comments on that call and considered all the feedback that another call would just be rehashing the same things again. We then took all that feedback and gave it some additional thought in order to determine what the most logical next step would be, to allow Qwest and the CLEC community to continue to move forward on this issue. What makes sense at this point, to Qwest, is that we issue individual CMP CRs for the products that need to be addressed in CMP and hold discussions for specific CRs or product groupings. That would allow those CLECs with impact on those specific products to have a CMP forum for input on the process related changes associated with these products. It should provide a more meaningful and valuable method for proceeding with this effort for Qwest and for those CLECs who are impacted by these changes. Some, if not all, of those CRs will be submitted for the March 21st CMP Meeting.

Bonnie Johnson-Eschelon stated that on the last call, Cindy Buckmaster (Qwest) committed to taking one of her products, due to Integra's concerns regarding Qwest cut an pasting information from the ICA into the PCATs, and to re-do the PCAT and meet on those changes. Bonnie asked if Qwest is now not going to do that follow through with that committment.

**Qwest Wholesale Change Management Process (CMP) Meeting Minutes**

Mark Coyne-Qwest stated that we internally evaluated what would work best and determined that the next step should be to issue the CRs.

Bonnie Johnson-Eschelon stated that she had no comment at this time.

**PC121106-1 Grandfathering ADSL Compatible UBL**

Peggy Esquibel Reed-Qwest stated that the Level 4 re-notice had been sent on February 5<sup>th</sup> and that 2 comments had been received. Peggy noted that the Qwest Response to Comments would be available on March 2<sup>nd</sup> and that the proposed effective date is March 19<sup>th</sup>.

There were no questions or comments brought forward.

This CR is in Development Status.

**Discussion of CMP Operations and Proposed Modifications to CMP Framework**

**PC110906-1CM CMP Document Update – Remove WSD Tier 0 References**

Peggy Esquibel Reed-Qwest stated that this CR, requesting a CMP Document Update to Remove Tier 0 References, was presented in the November CMP Meeting and asked for changes to the CMP Document, to remove Wholesale Service Delivery (WSD) Tier 0 references, to synch-up with changes implemented via a process change early last year. Peggy stated that we also wanted to clarify some language surrounding call center DB tickets. A vote was conducted in December and a no vote was submitted due to concerns regarding proposed language for the call center database tickets. We then revised the language to remove the clarification to the “ticket” references and the revised proposed language is now to only remove Tier 0 from the CMP Document. Peggy asked if there were any questions. None were brought forward. Peggy then stated that the quorum for today’s vote is 5 and noted that that it had been achieved. Peggy then stated that a vote of ‘Yes’ would indicate a preference that updates be made to the CMP Document to remove Wholesale Service Delivery Tier 0 references to synch up with changes implemented via a process change in the 2<sup>nd</sup> quarter of 2006. A vote of ‘No’ would indicate a preference that updates not be made to the CMP Document to remove WSD Tier 0 references to synch up with changes implemented last year. Peggy then noted that unanimous agreement is required in order for the change to occur. Peggy asked if there were any questions regarding the vote. There were no questions. Peggy then stated that 5 emailed Yes votes had been received from Sprint Nextel, Covad, Qwest Corp., Eschelon, and Verizon Business. Peggy then asked if any other CLEC would like to submit a vote.

Integra voted Yes

XO voted Yes

McLeod voted Yes

Peggy Esquibel Reed-Qwest stated that this requested change has been granted by a vote of 8 Yes votes, 0 No votes, and 0 Abstain votes. Peggy then noted that the vote disposition would be sent and thanked the participants for their votes.

Peggy Esquibel Reed-Qwest then asked the call participants if there were any objections to this change being implemented with a Level 1 Notice. There were no objections to the Level 1 Notice request.

**PC110806-1CM CMP Document Update – Provide Meeting minutes associated with Special Ad Hoc meetings in conjunction with Section 5**

Mark Coyne-Qwest stated that we are currently reviewing on last iteration of the language and will send out for review. He said that we would try and conduct the vote in the March CMP Meeting.

**General CMP Comments:**

None.



## Qwest Wholesale Change Management Process (CMP) Meeting Minutes

### Walk On Items

Mark Coyne-Qwest asked if there were any walk on items for the Product Process CMP Meeting. There were none brought forward.

The February Product Process CMP Meeting was concluded.

## **DRAFT Meeting Minutes**

**CMP Monthly Systems Meeting  
Wednesday, February 21, 2007  
Bridge Call open to all CLECs**

### **INTRODUCTIONS AND ANNOUNCEMENTS**

Mark Coyne-Qwest began the meeting by asking if there were any additional participants that had joined the call.

#### **PRIOR MONTHLY MEETING MINUTES (ATTACHMENT A)**

Mark Coyne-Qwest asked if there were any questions or comments on the Prior Monthly Meeting Minutes. There were no comments or questions brought forward.

#### **NEW CRs INITIATED BY CLECs (ATTACHMENT B)**

There were no New CLEC Change Requests for the February Systems CMP Meeting

#### **NEW CRs INITIATED BY QWEST (ATTACHMENT C)**

##### **SCR012407-01 Add new PIA Value - Verbal SUP To Add Cooperative Test On DD**

Denise Martinez-Qwest presented the CR and stated that a new PIA (Provider Initiated Activity) on FOCs would allow Qwest Network to accept a verbal SUP on the due date to change the installation/testing type from what was originally requested on Unbundled Loop and Loop with Number Portability LSRs. Denise noted that as with other PIA values, this would allow for immediate identification of the PIA by value entry and reduce lengthy remarks that would have to be read manually. Denise asked if there were any questions.

Bonnie Johnson-Eschelon stated that Steph (Prull-Eschelon) was not on the call and stated that if Steph had questions, she would send them or they could be discussed at the March CMP Meeting.

Denise Martinez-Qwest stated that everyone should benefit from this change and noted that all should be happy with it. Without this value, the new process cannot be implemented. Currently, a SUP is required including a due date change of 3 day or more interval.

Bonnie Johnson-Eschelon stated that it does appear on the surface at least, that would be the case and that she would get with Steph.

Denise Martinez-Qwest stated that she looked forward to any questions that Steph may have.

There were no additional questions or comments.

This CR moves to Presented Status.

### **REGULATORY AND INDUSTRY GUIDELINE CHANGE REQUESTS (ATTACHMENT D)**

##### **SCR020207-01IG CABS BOS Version 47**

Peggy Esquibel Reed-Qwest stated that this CR is for the standard upgrade for bill and CSR output in IABS and noted that it is targeted for the November timeframe.

There were no questions or comments.

This CR moves to Presented Status.

## **CROSS OVER CRs (ATTACHMENT E)**

There were no Cross Over CRs for the February Systems CMP Meeting

## **WALK ON CHANGE REQUESTS (ATTACHMENT F)**

There were no Walk On Change Requests for the February Systems CMP Meeting

## **CRs TO CONSIDER FOR CLOSURE (ATTACHMENT G)**

### **SCR121305-01 Implement XML Interface for IMA EDI**

Mark Coyne-Qwest stated that this CR would remain in CLEC Test until the 1<sup>st</sup> CLEC goes into production.

Bonnie Johnson-Eschelon stated they are getting close.

Mark Coyne-Qwest stated that maybe we can close this action item next month.

## **REVIEW GLOBAL ACTION ITEMS (ATTACHMENT H)**

There are no Global Action Items for the February Systems CMP Meeting

## **REVIEW ACTION ITEMS ASSOCIATED WITH CRs (ATTACHMENT I)**

### **SCR010307-01 Provide Targeted Implementation Date of 4/1/07 on SCR010307-01 CEMR Voice Messaging Trouble Shooting Flows Update**

Mark Coyne-Qwest stated that the targeted implementation for this change is 4/01/07. He said that this CR is related to the Product Process CR mentioned earlier. Mark said that the Product Process CR is going in after this CR (4/10/07) so that additional testing can be done.

### **SCR082806-02 Provide Targeted Implementation Date of 4/1/07 on SCR082806-02 User Activity Report for CEMR**

Mark Coyne-Qwest stated that the implementation date of this Verizon Business CR is 4/01/07.

### **SCR122806-01 Provide Evaluation for SCR122606-01 Chng EUMI Field & EU Addrss Rqrmnts for Port Within Ordg Proc #1 to avoid LSR Submission Errors & Rejects in Error**

Venessa Heiland-Qwest stated that this CR is accepted and would be implemented.

Kim Isaacs-Eschelon stated that she was very happy to hear that.

Peggy Esquibel Reed-Qwest asked if this was being implemented as a Process change and not as a Systems change, and if the new address would be required on the EU Form.

Venessa Heiland-Qwest stated that the change would be done via an update to the PCAT. Venessa stated that the new address on the EU Form instead of the remarks field would be an option and not required.

Kim Isaacs-Eschelon stated that there could then be multiple processes and could be confusing.

Venessa Heiland-Qwest stated that the process would be to allow an EUMI of Y and to keep the current process of the new address being in Remarks. Venessa stated that the new address on the EU Form may be a later request.

Kim Isaacs-Eschelon stated that we would be half way there with the EUMI of Y and noted that the new address in Remarks would get errors. Kim asked if it was possible to do both pieces at once.

Venessa Heiland-Qwest asked if all CLECs would agree to that.

Bonnie Johnson-Eschelon stated that this change could be opposite of the process for a port within. Bonnie asked that all port processes be looked at for consistency.

Kim Isaacs-Eschelon noted that that would be the best way to go.

Bonnie Johnson-Eschelon asked if Qwest would consider their suggestion.

[Vanessa Heiland – Qwest said yes.](#)

Mark Coyne-Qwest stated that we would look at it internally.

### **OUTSTANDING SYSTEMS CMP CHANGE REQUESTS (ATTACHMENT J)**

Mark Coyne-Qwest asked if there were any questions or comments on any of the open CRs. There were no questions or comments brought forward.

### **REVIEW DEPLOYING CHANGE REQUESTS (ATTACHMENT K)**

#### **SCR112806-01IG ASOG 34 Industry Release/QORA and ASR Gateway Enhancements**

Mark Coyne-Qwest stated that this CR will deploy on 3/12/07.

### **PRODUCTION SUPPORT TICKETS (ATTACHMENT L)**

Mark Coyne-Qwest stated that there are currently 12 tickets on the TBD report and noted that there were no updates for the tickets.

### **IMA AND SATE 21.0 COMMITMENTS (ATTACHMENT M)**

Mark Coyne-Qwest stated that this attachment contained the 5 candidates that are committed to the IMA & SATE 21.0 Release. Mark asked if there were any questions. There were none.

### **WALK ON ITEMS (ATTACHMENT N)**

Mark Coyne-Qwest stated that the March CMP Meeting is scheduled for Wednesday, March 21, 2007 at 9:00 a.m., via conference call, and that the CR cutoff date is March 7, 2007.

Mark Coyne-Qwest stated that the CR review for each companies top 2 pick, for the IMA 22.0 Prioritization, would also occur in the March CMP Meeting, with Prioritization to follow.

The February CMP Meeting adjourned at 9:40 a.m. MT.

**From:** Johnson, Bonnie J. [email redacted]  
**Sent:** Friday, February 23, 2007 4:25 PM  
**To:** Stecklein, Lynn  
**Cc:** New Cr, Cmp; Johnson, Bonnie J.  
**Subject:** RE: PC013007-3 Verbal Supp for CFA Change on the Due Date

Lynn,  
Eschelon disagrees. As I have said before, Eschelon should not have to pay additional installation costs so Qwest can find and fix their problems.

Please also include my response.

Thanks,

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.  
[contact information redacted]

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**From:** Stecklein, Lynn [email redacted]  
**Sent:** Friday, February 23, 2007 4:09 PM  
**To:** Johnson, Bonnie J.  
**Cc:** New Cr, Cmp  
**Subject:** PC013007-3 Verbal Supp for CFA Change on the Due Date

Hi Bonnie,

This is in response to your question on PC013007-3 -Verbal Supp for CFA Change on the Due Date (DD). The purpose of this CR is to identify that Qwest will not accept more than one verbal CFA change on the DD. Additional testing is always available to a CLEC as long as it is in their contract. Additional Testing will be available on an install if it is in their contract. That testing will occur each and every time it is requested. If it is determined during testing that the problem is on the Qwest side, additional testing would not apply.

I will include also include this response in the February Product/Process meeting minutes prior to posting.

Thanks,

Lynn Stecklein  
Qwest Wholesale CMP

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#### **February CMP Monthly Meeting Minutes on PC0103007-3 Verbal Supp for CFA Change on Due Date**

Lynn Stecklein-Qwest stated in October of 2006, Qwest proposed language to the Provisioning and Installation Overview which was intended to remind CLECs to check their CFAs before assigning them and to clarify that only one verbal supplement for CFA slot change was to be accepted on the Due Date. She said that in discussion with the CLEC community at the October Monthly CMP Meeting, this language was not adopted. She said that instead it was agreed that a MCC would be distributed internally and externally to reiterate the current process. Lynn stated

that Eschelon requested that Qwest retract the MCC because this was a change in process and that a Level 4 should be submitted. Lynn reviewed the description of change:

This CR is a process change to the Provisioning and Installation Overview PCAT language for the existing PIA value of 10 to add the following: Prior to placing a service request, it is the CLEC responsibility to ensure the CFA is working. If it is determined on the Due Date that the CFA does not work, Qwest will perform additional testing with the CLEC one time. If the CLEC requests the CFA be changed, it is the responsibility of the CLEC to make sure the new CFA works. Qwest will accept only one verbal CFA change on the Due Date. If the new CFA fails to work, Qwest will place the order in a customer jeopardy status. No further action will be taken on Qwest's part until Qwest receives a valid supplemental request to change the Due Date and the CFA (If applicable).

Bonnie Johnson-Eschelon asked for further definition around Qwest performing additional testing one time. She said that specifically her question is that the additional testing issue has been brought forward multiple times before. She said that in those instances it is not the CFA, but the problem is on the Qwest side. She asked if the additional testing means that it would not be a Qwest issue.

Lynn Stecklein-Qwest stated that she will contact the SME and provide the response to Bonnie and also include in the minutes.

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 28**



August 31, 2006

Doug Denney  
Eschelon Telecom Inc.  
730 2nd Av S Suite 900  
Minneapolis, MN 55402  
dkdenney@eschelon.com

TO: Doug Denney

<b>Announcement Date:</b>	<b>August 31, 2006</b>
<b>Effective Date:</b>	<b>September 1, 2006</b>
<b>Document Number:</b>	<b>PROS.08.31.06.F.04159.Amendments.ComlAgree.SGAT</b>
<b>Notification Category:</b>	<b>Process Notification</b>
<b>Target Audience:</b>	<b>CLECs, Resellers</b>
<b>Subject:</b>	<b>Amendments - Commercial Agreements - SGATs</b>

**Summary of Change:**

On September 1, 2006, Qwest will post updates to its Wholesale Product Catalog that include new/revised documentation for Amendments, Commercial Agreements and SGATs. This material becomes effective on September 1, 2006.

Amendments:

- Added new Available Inventory Amendment 4<sup>th</sup> Quarter Promotion

Commercial Agreements:

- Add one new QDF Master Services Agreements dated 8-18-06

SGATs:

- The Negotiations Template Agreement is being replaced for the following:
  - 5.4 Update language to reflect current practices
  - 6.2.2.3 Tap Certification added
  - 6.2.2.7 Updated MN Specific language that was agreed to in the 271 Minnesota proceedings, based on the Minnesota DOC's suggestions to the ALJ
  - Added Bill and Keep Language
  - 7.3.5 Misc Charges changes reflect Qwest's position that certain miscellaneous charges are not provided with Section 251 services at TELRIC but are provided at market-based rates, including rates provided in Qwest's tariffs, catalogs, price lists, or other similar document.
  - 7.3.6.2 Clarify CO state specific language
    - Section 8 changes to clarify to what, and when, the rate elements in Exhibit A apply



- 8.2.1.22.3 Modify the language associated with notification and removal of abandoned equipment.
- 8.2.1.32.1 QPF is paid with the first 50% of the quoted charges, language being removed from section 8.2.1.32.1 as it is covered correctly in section 8.3.1.19.
- 8.2.4.9.2 Update language to allow CLEC to perform both the Line of Sight and/or the Structural Analysis for the Microwave Entrance Facility.  
Splitting out the current element- "8.10.1.2 Analysis Performed by Qwest, per site" to a 8.10.1.2.1 Line of Site performed by QWEST and 8.10.1.2.2 Structural Analysis Performed by Qwest.
- 8.3.1.19 Update rate element language
- 8.4.1.8.7.3.7 Modify current timeframe of 72 hours to 7 calendar days for reply to a first right of refusal of contiguous optioned space.
- Section 9 Correcting and clarifying language and rate elements.
- 9.2.2.8.1 Correction to refer to the tech pub for DSL-capable product
- 10.8.3 Allow annual changes to PDR rates annually based on FCC formulae. In those states where the commission set rates, those rates will be used rather than rates based on the FCC formulae.
- 10.7.2.8 correct interval noted
- Section 12 rewrite to accommodate new interface
- Exhibit F has been replaced per Change of Law (TRRO)
- Exhibit As for all 14 states are being replaced for additions, revisions, and corrections as follows:

AZ		ADD	Correct/revise	Delete
AZ	08/31/06	<p><u>Note 11</u> "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."  <u>Note 13</u> "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC</p>	<p><u>8.1.1.2</u> "Cable" added to element name to make it consistent with template naming  <u>8.1.4.1.1-3</u> Revised element names to include how element is provisioned  <u>8.1.4.2.1-2</u> Element name revised to include how elements are provisioned  <u>8.1.5.1</u> "(Backup Power) deleted for naming consistency  <u>8.2.9</u> corrected numbering  <u>8.6.1.3</u> revised element names to add clarity  <u>8.6.1.3.1</u> corrected rate  <u>8.13</u> restructured product  <u>8.14</u> restructured product  <u>8.17</u> corrected rate</p>	<p><u>7.9.4</u> Category 11, deleted Note "5" because element no longer subject to TELRIC pricing.</p>

	methodology." 6.2 Customer Transfer Charge, added note "D" to show they are ordered rates.	reference 9.20.11-16 Revised element names to include reference to tariff, revised rates to reflect tariffed rates 12.2 Revised element name to better reflect application of element
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CO	ADD	Correct/revise	
CO	08/31/06	<p>Note 11 "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."</p> <p>Note 13 "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." 7.9 added Note "13" 8.1.4.2.3 "Equal To 60 Amps, per Amp Ordered" missing element added. Used rate from 8.4.2.1</p>	<p>8.1.1.2 "Cable" added to element name to make it consistent with template naming 8.1.4.1.1-3 Revised element names to include how element is provisioned 8.1.4.2.1-2 Element name revised to include how elements are provisioned 8.1.5.1 "(Backup Power) deleted for naming consistency 8.6.1.3 revised element names to add clarity 8.7 revised element name to make consistent with naming convention 8.13 restructured product 8.14 restructured product 8.17 corrected rate reference 9.20.11-16 Revised element names to include reference to tariff, revised rates to reflect tariffed rates 12.2 Revised element name to better reflect application of element</p>

ID	ADD	Correct/revise	Delete
ID	08/31/06	<p>Note 11 "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the</p>	<p>8.1.4.1.1-2 Revised element names to include how element is provisioned 8.1.4.2.1-2 Element name revised to</p> <p>Note 11 "Uses the Shared Loop rate" deleted, no longer needed</p>

		comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists." Note 13 "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." 7.9 added Note "13"	include how elements are provisioned 8.6.1.3 revised element names to add clarity 8.13 restructured product 8.14 restructured product 8.17 corrected rate reference 9.20.11-16 Revised element names to include reference to tariff, revised rates to reflect tariffed rates
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IA		ADD	Correct/revise	Delete
IA	08/31/06	Note 7 "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists." Note 13 "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." 7.9 added Note "13" 8.1.4.2.3 "Equal To 60 Amps, per Amp Ordered" missing element added. Used rate from 8.4.2.1	8.1.1.2 "Cable" added to element name to make it consistent with template naming 8.1.2 Revised element name to be consistent with naming convention 8.1.4.1.1-3 Revised element names to include how element is provisioned 8.1.4.2.1-2 Element name revised to include how elements are provisioned 8.1.5.1 "Backup" deleted for naming consistency 8.1.6 Revised element name to "Inspector Labor" to be consistent with naming convention 8.6.1.3 revised element names to add clarity 8.13 restructured product 8.14 restructured product 8.17 corrected rate reference	Note 6 "Uses the Shared Loop rate" deleted, no longer needed

MN		ADD	Correct/revise	Delete
MN	08/31/06	Note 11 "Market-based prices. All Charges and increments shall be the	9.20.11-16 Revised element names to include reference to	8.1.6 deleted "Security Escort" for element name to make it

		<p>same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."  <u>Note 13</u> "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology."  <u>7.9</u> added Note "13"</p>	<p>tariff, revised rates to reflect tariffed rates  <u>12.2</u> Revised element name to better reflect application of element</p>	<p>consistent with naming convention</p>
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MT		ADD	Correct/revise	Delete
MT	08/31/06	<p><u>Note 11</u> "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."  <u>Note 13</u> "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology."  <u>7.9</u> added Note "13"  <u>8.1.4.2.3</u> "Equal To 60 Amps, per Amp Ordered" missing element added. Used rate from 8.4.2.1</p>	<p><u>8.1.1.2</u> "Cable" added to element name to make it consistent with template naming  <u>8.1.2</u> Revised element name to be consistent with naming convention  <u>8.1.4.1.1</u> Revised element names to include how element is provisioned  <u>8.1.4.2.1-2</u> Element name revised to include how elements are provisioned  <u>8.1.6</u> Revised element name to "Inspector Labor" to be consistent with naming convention  <u>8.1.5.1</u> "Backup" deleted for naming consistency  <u>8.1.6</u> Revised element name to "Inspector Labor" to be consistent with naming convention  <u>8.6.1.3</u> revised element names to add clarity  <u>8.13</u> restructured product  <u>8.14</u> restructured product</p>	<p><u>Note 11</u> "Uses the Shared Loop rate" deleted, no longer needed</p>

| 9.4.3 revised Note |

NE	ADD	Correct/revise	
NE	08/31/06	<p>Note 12 "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."</p> <p>Note 13 "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology."</p> <p>7.9 added Note "13"</p>	<p>8.1.1.2 "Cable" added to element name to make it consistent with template naming</p> <p>8.1.4.1.1 Revised element names to include how element is provisioned</p> <p>8.1.4.2.1-2 Element name revised to include how elements are provisioned</p> <p>8.1.6 Revised element name to "Inspector Labor" to be consistent with naming convention</p> <p>8.6.1.3 revised element names to add clarity</p> <p>8.13 restructured product</p> <p>8.14 restructured product</p> <p>9.4.3 revised Note</p> <p>8.17 corrected rate reference</p> <p>9.20.11-16 Revised element names to include reference to tariff, revised rates to reflect tariffed rates</p> <p>12.2 Revised element name to better reflect application of element</p>

NM	ADD	Correct/revise	
NM	08/31/06	<p>Note 9 "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."</p> <p>Note 7 "The provision of transiting services is not required pursuant to</p>	<p>8.1.1.2 "Cable" added to element name to make it consistent with template naming</p> <p>8.1.4.1.1 Revised element names to include how element is provisioned</p> <p>8.1.4.2.1-2 Element name revised to include how elements are provisioned</p> <p>8.6.1.3 revised element names to</p>

	<p>Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." <u>7.9</u> added Note "7"</p>	<p>add clarity <u>8.13</u> restructured product <u>8.14</u> restructured product <u>8.17</u> revised rate references <u>8.17</u> corrected rate reference <u>9.4.3</u> revised note to reflect element has not been reviewed by PRC <u>9.20.11-16</u> Revised element names to include reference to tariff, revised rates to reflect tariffed rates</p>
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<p><b>ND</b> <b>ADD</b> <b>Correct/revise</b>  ND</p>	<p>08/31/06</p>	<p>Note Note "9" "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists." Note "7" "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." <u>7.9</u> added Note "7"</p>	<p><u>8.1.1.2</u> "Cable" added to element name to make it consistent with template naming <u>8.1.4.1.1</u> Revised element names to include how element is provisioned <u>8.1.4.2.1-2</u> Element name revised to include how elements are provisioned <u>8.1.5.1-2</u> "Backup" deleted for naming consistency <u>8.6.1.3</u> revised element names to add clarity <u>8.13</u> restructured product <u>8.14</u> restructured product <u>8.17</u> revised rate references <u>8.17</u> corrected rate reference <u>9.4.3</u> revised note to reflect</p>
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		<p>charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."</p> <p><u>Note 13</u> "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology."</p> <p><u>7.9</u> added Note "13"</p> <p><u>8.1.4.1</u> "Power Plant" added cost docket elements &amp; rates</p> <p><u>8.1.5.1</u> "AC Power Feed, per Amp, per Month" added cost docket elements &amp; rates</p>	<p>structure, to add clarity to Reduction &amp; Restoration</p> <p><u>8.14</u> Collo Transfer of Responsibility</p> <p><u>8.17</u> revised rate references</p> <p><u>9.20.11</u> Additional Dispatch, added tariff reference to name &amp; listed rate</p> <p><u>9.20.12</u> Trouble Isolation Charge, added tariff reference to name &amp; listed rate</p> <p><u>9.20.13</u> Design Charge, added tariff reference to name &amp; listed rate</p> <p><u>9.20.14</u> Expedite Charge, added tariff reference to name &amp; listed rate</p> <p><u>9.20.15</u> Cancellation, added tariff reference to name &amp; used "Prorated Job Costs" for rate</p> <p><u>9.20.16</u> Maintenance of Service, added tariff reference to name &amp; listed rates</p> <p><u>12.2</u> OSS "Ongoing Maintenance" changed name to "Ongoing Operations" to match ICA language</p>	<p>Quote Prep Fee, duplicative of 8.1.1.2</p>
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UT	ADD	Correct/revise	Delete	
UT	08/31/06	<p>Note "11" "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."</p> <p><u>Note "13"</u> "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to</p>	<p>8.1.2 "Collocation" deleted from element name to make it consistent with template naming</p> <p><u>8.1.4.1.1-3</u> Revised element names to include how element is provisioned</p> <p><u>8.1.4.2.1-2</u> Element name revised to include how elements are provisioned</p> <p><u>8.1.5.1</u> "(Backup Power) deleted for naming consistency</p> <p><u>8.6.1.3</u> revised element</p>	<p>Note 10 "Uses the Shared Loop rate" deleted, no longer needed</p>



offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." 7.9 added Note "13"  
8.1.4.2.3 "Equal To 60 Amps, per Amp Ordered" missing element added. Used rate from 8.4.2.1

names to add clarity  
8.13 restructured product  
8.14 restructured product  
8.17 corrected rate reference  
9.20.11-16 Revised element names to include reference to tariff, revised rates to reflect tariffed rates  
12.2 Revised element name to better reflect application of element

WA	ADD	Correct/revise	Delete	
WA	08/31/06	<p><u>Note 9</u> "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists." <u>Note 10</u> "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology." <u>7.9</u> added Note "10" <u>8.1.4.2.3</u> "Equal To 60 Amps, per Amp Ordered" missing element added. Used rate from 8.4.2.1 <u>8.10.6</u> Added Note "B" to elements with Note "3"</p>	<p><u>8.1.1</u> Revised element name to reflect template name <u>8.1.1.2</u> "Cable" added to element name to make it consistent with template naming <u>8.1.4.1</u> Revised element names to include how element is provisioned <u>8.1.4.2.1-2</u> Element name revised to include how elements are provisioned <u>8.6.1.3</u> revised element names to add clarity <u>8.13</u> restructured product <u>8.14</u> restructured product <u>8.17</u> corrected rate reference <u>9.4.3</u> Revised Note to "1" to reflect that commission has not reviewed rate <u>9.20.11-16</u> Revised element names to include reference to tariff, revised rates to reflect tariffed rates <u>12.1</u> revised element structure to make it consistent with template naming <u>12.2</u> revised element name to better reflect</p>	<p><u>Note 8</u> "Uses the Shared Loop rate" deleted, no longer needed</p>

WY	ADD	Correct/revise	Delete	
WY	08/31/06	<p>Note 11 "Market-based prices. All Charges and increments shall be the same as the comparable charges and increments shall be the same as the comparable charges and increments provided in Qwest FCC, Retail Tariffs, Catalogs or Price Lists."</p> <p>Note 13 "The provision of transiting services is not required pursuant to Section 251 of the Telecommunications Act. Qwest has chosen to offer this service as part of its interconnection agreement, but this service is not required to be priced according to TELRIC methodology."</p> <p>7.9 added Note "13"</p> <p>8.1.4.2.3 "Equal To 60 Amps, per Amp Ordered" missing element added. Used rate from 8.4.2.1</p> <p>8.10.6 Added Note "B" to elements with Note "3"</p>	<p>application of element &amp; structure to make it consistent with template naming</p> <p>8.1.1.2 "Cable" added to element name to make it consistent with template naming</p> <p>8.1.2 "Collocation" deleted from element name to make it consistent with template naming</p> <p>8.1.4.1 Revised element names to include how element is provisioned</p> <p>8.1.4.2.1-2 Element name revised to include how elements are provisioned</p> <p>8.1.5 "Backup" deleted for naming consistency</p> <p>8.6.1.3 revised element names to add clarity</p> <p>8.13 restructured product</p> <p>8.14 restructured product</p> <p>8.17 corrected rate reference</p> <p>9.4.3 Revised Note to "1" to reflect that commission has not reviewed rate</p> <p>9.20.11-16 Revised element names to include reference to tariff, revised rates to reflect tariffed rates</p> <p>12.2 OSS "Ongoing Maintenance" changed name to "Ongoing Operations" to match ICA language</p>	<p>Note 9 "Uses the Shared Loop rate" deleted, no longer needed</p>

Redline SGAT documents are found at URL: <http://www.qwest.com/about/policy/sgats/>

Actual updates are found on the Qwest Wholesale Web site at the following URLs:

<http://www.qwest.com/wholesale/clecs/sgatswireline.html>

<http://www.qwest.com/wholesale/clecs/commercialagreements.html>

<http://www.qwest.com/wholesale/clecs/sgatswireline.html>

If you have any questions or would like to discuss this notice please contact your Qwest Service Manager, Joshua Nielsen on (801) 239-5335. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Patty Hahn  
Joshua Nielsen

Negotiation's Template Exhibit A  
Oregon\*

		Recurring	Recurring, per Mile	Nonrecurring	Rec	NRC, per Mile	NRC
9.6.12	Private Line / Special Access to UDIT Conversion (as is)			\$123.96			1
<b>9.7</b>	<b>Unbundled Dark Fiber (UDF)</b>						
9.7.1	Initial Records Inquiry (IRI)						
9.7.1.1	Simple			\$217.86			12
9.7.1.2	Complex			\$258.56			12
9.7.2	Field Verification and Quote Preparation (FVQP)			\$947.24			12
9.7.3	Engineering Verification			\$310.12			12
9.7.4	UDF Single Strand						
9.7.4.1	UDF - Interoffice Facilities (UDF-IOF) - Single Strand						
9.7.4.1.1	Order Charge, per First Strand / Route / Order			\$513.92			12
9.7.4.1.2	Order Charge, Each Additional Strand / Route / Order			\$262.68			12
9.7.4.1.3	Fiber Transport, per Strand / Mile	\$52.58			1		
9.7.4.1.4	Termination, Fixed, per Strand / Office	\$4.90			12		
9.7.4.1.5	Fiber Cross-Connect (Minimum of 2 Cross-Connects applied), per Strand	\$2.63		\$19.93	12		12
9.7.5	UDF - per Pair						
9.7.5.1	UDF - Interoffice Facilities (UDF-IOF) - per Pair						
9.7.5.1.1	Order Charge, per First Pair / Route / Order			\$513.93			12
9.7.5.1.2	Order Charge, Each Additional Pair / Route / Order			\$262.68			12
9.7.5.1.3	Fiber Transport, per Pair / Mile	\$68.38			C		
9.7.5.1.4	Termination, Fixed, per Pair / Office	\$8.51			C		
9.7.5.1.5	Fiber Cross-Connect (Minimum of 2 Cross-Connects applied), per Pair	\$5.26		\$19.93	12		12
9.7.6	Dark Fiber Splice			\$668.61			12
9.7.7	UDF MTE Subloop	ICB		ICB	3		3
<b>9.8</b>	<b>Intentionally Left Blank</b>						
<b>9.9</b>	<b>Intentionally Left Blank</b>						
<b>9.10</b>	<b>Intentionally Left Blank</b>						
<b>9.11</b>	<b>Intentionally Left Blank</b>						
<b>9.12</b>	<b>Intentionally Left Blank</b>						
<b>9.13</b>	<b>Intentionally Left Blank</b>						
<b>9.14</b>	<b>Intentionally Left Blank</b>						
<b>9.15</b>	<b>Intentionally Left Blank</b>						
<b>9.16</b>	<b>Intentionally Left Blank</b>						
<b>9.17</b>	<b>Intentionally Left Blank</b>						
<b>9.18</b>	<b>Intentionally Left Blank</b>						
<b>9.19</b>	<b>Construction Charges</b>						
9.19.1	CLEC Requested UNE Construction (CRUNEC) - applies to Unbundled Dark Fiber, Unbundled Loop, Loop Mux Combo, EEL, UDIT & Subloop						
9.19.1.1	Records Quote Preparation Fee			\$362.28			1
9.19.1.2	Construction Quote Preparation Fee			\$900.24			1
9.19.2	Construction of Network Capacity Facilities or Space for Access to or use of UNEs	ICB		ICB	3		3
<b>9.20</b>	<b>Miscellaneous Charges</b>						
9.20.1	Additional Engineering, per Half Hour or fraction thereof						
9.20.1.1	Additional Engineering - Basic			\$34.40			12
9.20.1.2	Additional Engineering - Overtime			\$45.21			12
9.20.2	Additional Labor Installation, per Half Hour or fraction thereof						
9.20.2.1	Additional Labor Installation - Overtime			\$14.86			12
9.20.2.2	Additional Labor Installation - Premium			\$19.81			12
9.20.3	Additional Labor Other, per Half Hour or fraction thereof						
9.20.3.1	Additional Labor Other - (Optional Testing) Basic			\$30.68			12
9.20.3.2	Additional Labor Other - (Optional Testing) Overtime			\$40.84			12
9.20.3.3	Additional Labor Other - (Optional Testing) Premium			\$51.01			12

Negotiation's Template Exhibit A  
Oregon\*

		Recurring	Recurring, per Mile	Nonrecurring	Rec	NRC, per Mile	NRC
9.20.4	Testing and Maintenance, per Half Hour or fraction thereof						
9.20.4.1	Testing and Maintenance - Basic			\$30.29			12
9.20.4.2	Testing and Maintenance - Overtime			\$40.72			12
9.20.4.3	Testing and Maintenance - Premium			\$51.14			12
9.20.5	Intentionally Left Blank						
9.20.6	Additional Cooperative Acceptance Testing, per Half Hour or fraction thereof						
9.20.6.1	Additional Cooperative Acceptance Testing - Basic			\$30.29			12
9.20.6.2	Additional Cooperative Acceptance Testing - Overtime			\$40.72			12
9.20.6.3	Additional Cooperative Acceptance Testing - Premium			\$51.14			12
9.20.7	Intentionally Left Blank						
9.20.8	Intentionally Left Blank						
9.20.9	Intentionally Left Blank						
9.20.10	Intentionally Left Blank						
9.20.11	Additional Dispatch, per Order			\$128.56			12
9.20.12	Intentionally Left Blank						
9.20.13	Design Change, per Order			\$103.10			12
9.20.14	Expedite Charge, per Day Advanced (uses rates from Qwest's Tariff FCC No. 1 Section 5)			\$200.00			9
9.20.15	Cancellation Charge			ICB			3
9.20.16	Maintenance of Service, per Half Hour or fraction thereof						
9.20.16.1	Maintenance of Service - Basic			\$30.68			12
9.20.16.2	Maintenance of Service - Overtime			\$40.84			12
9.20.16.3	Maintenance of Service - Premium			\$51.01			12
9.20.17	Intentionally Left Blank						
<b>9.21</b>	<b>Intentionally Left Blank</b>						
<b>9.22</b>	<b>Intentionally Left Blank</b>						
<b>9.23</b>	<b>UNE Combinations</b>						
9.23.1	Intentionally Left Blank						
9.23.2	Intentionally Left Blank						
9.23.3	Intentionally Left Blank						
9.23.4	Intentionally Left Blank						
9.23.5	Intentionally Left Blank						
9.23.6	Loop Mux Combo (LMC)						
9.23.6.1	Intentionally Left Blank						
9.23.6.2	Loop Mux, 2-Wire Analog, DS0						
9.23.6.2.1	LMC 2-Wire Loop Installation						
9.23.6.2.1.1	First			\$236.87			12
9.23.6.2.1.2	Each Additional			\$153.92			12
9.23.6.2.2	2-Wire Analog Loop (uses rates from 9.2.1.1)						
9.23.6.2.2.1	Zone 1		\$13.95			C	
9.23.6.2.2.2	Zone 2		\$25.20			C	
9.23.6.2.2.3	Zone 3		\$56.21			C	
9.23.6.3	Loop Mux, 4-Wire Analog, DS0						
9.23.6.3.1	LMC 4-Wire Loop Installation						
9.23.6.3.1.1	First			\$236.87			12
9.23.6.3.1.2	Each Additional			\$153.92			12
9.23.6.3.2	4-Wire Analog Loop (uses rates from 9.2.1.3)						
9.23.6.3.2.1	Zone 1		\$27.90			C	
9.23.6.3.2.2	Zone 2		\$50.40			C	
9.23.6.3.2.3	Zone 3		\$112.42			C	
9.23.6.4	Loop Mux, DS1						

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 29**

OAH 3-2500-17369-2  
MPUC No. P-5340,421/IC-06-768

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Eschelon  
Telecom, Inc., for Arbitration of an  
Interconnection Agreement with Qwest  
Corporation Pursuant to  
47 U.S.C. § 252 (b) of the Federal  
Telecommunications Act of 1996

**ARBITRATORS' REPORT**

This matter was arbitrated by Administrative Law Judges Kathleen D. Sheehy and Steve M. Mihalchick on October 16-20, 2006, in the Small Hearing Room of the Public Utilities Commission in St. Paul, Minnesota. The record closed on November 17, 2006, upon receipt of post-hearing briefs.

Jason Topp, Esq., 200 South Fifth Street, Room 2200, Minneapolis, MN 55402; Melissa Thompson, Esq., 1801 California Street, 10<sup>th</sup> Floor, Denver, CO 80202; Philip J. Roselli, Esq., Kamlet, Shepherd & Reichert, LLP, 1515 Arapahoe Street, Tower 1, Suite 1600, Denver, CO 80202; and John Devaney, Esq., Perkins Coie, 607 14<sup>th</sup> Street NW, Washington, DC 20005, appeared for Qwest Corporation (Qwest).

Greg Merz, Esq., Gray, Plant, Mooty, 500 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402, appeared for Eschelon Telecom, Inc. (Eschelon).

Julia Anderson, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101, appeared for the Department of Commerce (Department).

Kevin O'Grady appeared for the staff of the Public Utilities Commission.

**Procedural History**

1. Eschelon and Qwest began negotiating this interconnection agreement some time ago. For purposes of this arbitration they have agreed that the window for requesting arbitration was between May 9, 2006, and June 5,

2006. Based on the timelines in 47 U.S.C. § 252(b) and Minn. R. 7811.1700, subps. 19 & 21, all outstanding issues must be resolved by February 9, 2007.<sup>1</sup>

2. The Department intervened as a party. Based on the Department's recommendation, the parties reached agreement to stay certain issues pending the completion of other dockets: Issues 12-68, 12-69, A-96, and A-97 are stayed pending completion of the *UNE Cost Case*;<sup>2</sup> and Issues 9-37, 9-37(a), 9-37(b), 9-38, 9-39 (except caps), 9-40, 9-41, and 9-42 are stayed pending completion of the *Wire Center Proceeding*.<sup>3</sup>

3. To implement the agreement to stay certain issues pending completion of the *Wire Center Proceeding*, the Administrative Law Judges recommend that the Commission decide the issues presented in this Report, but hold this docket open until the *Wire Center Proceeding* is complete. If further proceedings in this matter are necessary at that time, the Commission could return the matter to OAH for arbitration of any specific language issues that remain.

4. During and after the hearing, the parties successfully resolved a number of issues. The issues remaining for decision are those identified in the Disputed Issues List and List of Issues by Subject Matter filed October 31, 2006.

5. After the hearing, Time Warner Telecom, Inc., and Integra Telecom of Minnesota, Inc. (CLEC Participants), filed comments on eight issues as participants under Minn. R. 7812.1700, subp. 10. Although they are not parties, their comments are noted in the sections of this Report discussion those issues.

### **Arbitrators' Authority**

6. The Commission has jurisdiction over this proceeding under § 252(b) of the Telecommunications Act of 1996 (Act) and Minn. Stat. §§ 237.16 and 216A.05. Section 252(b) of the Act provides for state commission arbitration of unresolved issues related to negotiations for interconnection, resale and access to unbundled network elements. Specifically, it authorizes the Commission to "resolve each issue set forth in [an arbitration] petition and the response, if any, by imposing appropriate conditions . . . ." <sup>4</sup> In resolving the open issues and imposing appropriate conditions, the Commission must ensure that the resolution meets the requirements of section 251, including the regulations adopted pursuant to section 251; must establish any rates for

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<sup>1</sup> See Petition for Arbitration at 6. Eschelon indicated in an e-mail dated January 10, 2007, that it is willing to extend the Commission's deadline until a reasonable time after receipt of this Report.

<sup>2</sup> *In the Matter of Qwest's Application for Commission Review of TELRIC Rates Pursuant to 47 U.S.C. § 251*, Docket No. P421/AM-06-713.

<sup>3</sup> *In the Matter of CLECs' Request for Commission Approval of ILEC Wire Center Impairment Analysis*, Docket No. P-5692/M-06-211, and *In the Matter of a Commission Investigation Identifying Wire Centers in Which Qwest Must Offer High-Capacity Loop or Transport UNEs at Cost-Based Rates*, Docket No. P-999/CI-06-685.

<sup>4</sup> 47 U.S.C. § 252(b)(4)(C).



interconnection, services, or network elements according to subsection (d); and must provide a schedule for implementation of the terms and conditions by the parties to the agreement.

7. The Act specifically permits a state commission to establish or enforce other requirements of state law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements,<sup>5</sup> as long as state requirements are consistent with the Act and the FCC's implementing rules.<sup>6</sup> State law similarly requires that issues submitted for arbitration be resolved in a manner that is consistent with the public interest, to ensure compliance with the requirements of sections 251 and 252(d) of the Act, applicable FCC regulations, and applicable state law, including rules and orders of the Commission.<sup>7</sup>

8. Many of the disputed issues in this arbitration do not hinge on a specific provision of federal or state telecommunications law, but are either more generic or involve the day-to-day mechanics of using the interconnection agreement (ICA).<sup>8</sup> Unless more specific authority is otherwise noted, the Arbitrators will make recommendations on these disputed provisions that the Arbitrators believe are consistent with the public interest, the requirements of sections 251 and 252(d) of the Act, applicable FCC regulations, and applicable state law, including rules and orders of the Commission.

### **Burden of Proof**

9. The burden of proof in this interconnection arbitration proceeding is on Qwest to prove all issues of material fact by a preponderance of the evidence.<sup>9</sup> In addition, the arbitrators may shift the burden of production as appropriate, based on which party has control of the critical information regarding the issue in dispute. The arbitrators may also shift the burden of proof as necessary to comply with applicable FCC regulations regarding burden of proof, such as rules placing the burden on the incumbent to demonstrate the technical infeasibility of a CLEC's request for interconnection or unbundled access and rules requiring an incumbent to prove by clear and convincing evidence any

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<sup>5</sup> 47 U.S.C. § 252(e)(3).

<sup>6</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket Nos. 96-98, First Report and Order, 11 FCC Rcd 15499 ¶¶ 66, 54, & 58 (Aug. 8, 1996) (*Local Competition Order*); *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking in CC Docket Nos. 01-338, 96-98, and 98-147 at ¶¶ 193-96 (Sept. 17, 2003) (*TRO*).

<sup>7</sup> Minn. R. 7811.1700, 7812.1700; see also Minn. Stat. §§ 237.011, 237.16, subd. 1(a).

<sup>8</sup> The proposed ICA is in the record as Ex. 25A; the proposed exhibits to the ICA are Ex. 25B.

<sup>9</sup> Minn. R. 7812.1700, subp. 23.

claim that it cannot satisfy such a request because of adverse network reliability impacts.<sup>10</sup>

## **I. GENERAL TERMS/INTERVAL CHANGES.**

### **Issue 1-1: Interval Changes and Placement**

#### **Issue 1-1(a)-(e)**

##### **A. The Dispute**

10. The parties dispute whether the ICA should include provisions addressing any changes in the intervals in which Qwest will provide products ordered by Eschelon. Eschelon wants the ICA to include the current intervals posted on Qwest's product catalog (PCAT) or Standard Interval Guide (SIG) web postings, so that any proposal by Qwest to lengthen an interval would have to be achieved by amending the agreement. Its second option would provide for amendment of the ICA and Commission approval of all interval changes, not just changes in which intervals are lengthened. Qwest proposes to use its Change Management Process (CMP) to announce changes in intervals, outside of the ICA. Eschelon agrees that the CMP may be used to shorten, but not lengthen, intervals outside of the ICA.

##### **B. Position of the Parties**

11. Eschelon proposes the following language for Sections 1.7.2 and 1.7.2.1 of the ICA:

If the Commission orders, or Qwest chooses to offer and CLEC desires to accept, intervals longer than those set forth in this Agreement, including Exhibit C, the Parties shall amend this Agreement under one (1) of the two (2) options set forth in Section 1.7.1 (an interval Advice Adoption Letter or interval interim Advice Adoption Letter terminating with approval of negotiated Amendment) pertaining to the new interval (rather than new product) (or as otherwise ordered by the Commission). The forms of such letters are attached hereto as Exhibits N -O).

Notwithstanding any other provision in this Agreement, the intervals in Exhibit C may be shortened pursuant to the Change Management Process (CMP) without requiring the execution or filing of any amendment to this Agreement.<sup>11</sup>

12. Qwest proposes the following language for Section 1.7.2:

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<sup>10</sup> 47 C.F.R. §§ 51.5 & 51.321(d).

<sup>11</sup> Disputed Issues List at 1-2. The CLEC Participants support the use of Eschelon's language for this issue.

Notwithstanding any other provision in this agreement, the attached Exhibit C will be modified pursuant to the CMP process without requiring the execution of an amendment.<sup>12</sup>

13. Eschelon also proposes that intervals for the provision of interconnection trunks will be reflected in Section 7.4.7 and that any changes to those intervals will be made through the process described in Section 1.7.2 (Issue 1-1(a)). Qwest opposes including these intervals in the ICA and would add language permitting changes in the intervals to be made through the CMP.

14. In addition, Eschelon would include in Exhibit C to the agreement intervals for the provision of UDIT rearrangements (Issue 1-1(b)). Qwest disagrees that these intervals apply to UDIT rearrangements and would simply note in Exhibit C that the applicable intervals are available on its website.

15. Eschelon would also include in Section 9.0 of Exhibit C the intervals for LIS trunking (Issue 1-1(c)). Qwest would eliminate this section entirely.

16. Qwest currently has provisioning intervals for products that are provided on an individual case basis (ICB). Eschelon would incorporate those intervals into the ICA; Qwest instead proposes language providing that it shall make every attempt to provide a firm order confirmation (FOC) pursuant to the guidelines contained on its website (Issue 1-1(d)).

17. Finally, Eschelon would include service intervals for loop-mux combinations in Exhibit C; Qwest would simply reference the service interval guide available on its website (Issue 1-1(e)).

18. Eschelon argues that Qwest retains too much control over the CMP process to provide the business certainty regarding critical terms that CLECs need in order to compete meaningfully for customers. It contends that Qwest announces many unilateral changes through CMP that CLECs have had no chance to discuss or develop; that most product or process changes do not require Qwest to consider the comments of CLECs; that Qwest is free to implement noticed changes regardless of opposition by CLECs; and that Qwest has used the process as both a shield and a sword to suit its own purposes. Eschelon further argues that ICA amendments would not be necessary for the vast majority of interval changes because no intervals have been lengthened since 2002 and that Eschelon is only seeking to retain the intervals that Qwest provides today, without change.<sup>13</sup>

19. Qwest argues that its CMP process was developed with CLEC input and approved by the Commission, and the FCC, in connection with Qwest's

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<sup>12</sup> Disputed Issues List at 1.

<sup>13</sup> Ex. 27 (Starkey Direct) at 11-75 (specific problems with CMP); *id.* at 76-92 (intervals); Ex. 28 (Starkey Rebuttal) at 3-34 (CMP); *id.* at 34-42 (intervals); Ex. 29 (Starkey Surrebuttal) at 3-65 (CMP); *id.* at 66-72 (intervals).

§ 271 Application. It argues that requiring intervals to be included in the ICA and changed through ICA amendment gives Eschelon too much control over service interval management and that it needs the flexibility of using the CMP to respond to industry changes. It also argues that using such specific language in Eschelon's ICA will "lock in" processes and prohibit Qwest or other CLECs from requesting changes and that any limitation on Qwest's ability to respond to changes in the industry that hinges on obtaining permission from a single CLEC is unacceptable. In surreply testimony, Qwest contended that if any of Eschelon's "CMP-related proposals" are adopted, it would force Qwest either to seek an ICA amendment from Eschelon before adopting any change request proposed by other CLECs or Qwest, or, in the alternative, to establish entirely separate systems, processes, or procedures for Eschelon at significant cost.<sup>14</sup>

20. The Department's position generally is that the CMP is a mechanism for addressing changes in pre-ordering, ordering/provisioning, maintenance/repair, and billing functions and associated support issues for local services provided by CLECs, but that it is not an exclusive mechanism for addressing these issues and that no legal authority would prohibit the inclusion of what Qwest calls "CMP issues" in an ICA. If the issue has been negotiated by the parties and relates to a term or condition of interconnection, it could potentially be addressed in the ICA. The Department recommends that each issue be decided on its individual merits and that the Commission should consider and balance Eschelon's need for contractual certainty with Qwest's need for uniformity in its systems, processes, and procedures in determining what is just, reasonable, non-discriminatory, and in the public interest. The Department has made no specific recommendation on how to resolve Issue 1-1 or its subparts.<sup>15</sup>

### C. Decision

21. The CMP document itself provides that in cases of conflict between changes implemented through the CMP and any CLEC ICA, the rates, terms and conditions of the ICA shall prevail. In addition, if changes implemented through CMP do not necessarily present a direct conflict with an ICA but would abridge or expand the rights of a party, the rates, terms, and conditions of the ICA shall prevail.<sup>16</sup> Clearly, the CMP process would permit the provisions of an ICA and the CMP to coexist, conflict, or potentially overlap. The Administrative Law Judges agree with the Department's analysis that any

<sup>14</sup> Ex. 1 (Albersheim Direct) at 3-29 (CMP); *id.* at 29-38 (intervals); Ex. 2 (Albersheim Rebuttal) at 2-31 (CMP); *id.* at 31-36 (intervals); Ex. 4 (Albersheim Surrebuttal) at 3-13 (CMP); *id.* at 13-15 (intervals).

<sup>15</sup> Ex. 48 (Doherty Reply) at 2-14); Ex. 49 (Doherty Surreply) at 2-4. See also Ex. 52 (Rebholz Reply) at 5 (Minn. R. 7812.0700, subp. 2(b), requires ILECs and CLECs to include quality standards in their ICAs for resale, purchase of network elements, or interconnection that must, at minimum, ensure the CLEC receives service, network elements, and interconnection at least at parity with the services, network elements, and interconnection the ILEC provides to itself or its subsidiaries or affiliates).

<sup>16</sup> Ex. 1 (Albersheim Direct) at RA-1, part 1.0, page 15.

negotiated issue that relates to a term and condition of interconnection may properly be included in an ICA, subject to a balancing of the parties' interests and a determination of what is reasonable, non-discriminatory, and in the public interest.

22. Eschelon has provided convincing evidence that the CMP process does not always provide CLECs with adequate protection from Qwest making important unilateral changes in the terms and conditions of interconnection. Service intervals are critically important to CLECs, and Qwest has only shortened them in the last four years. Qwest has identified no compelling reason why inclusion of the current intervals in the ICA would harm the effectiveness of the CMP process or impair Qwest's ability to respond to industry changes. The Administrative Law Judges recommend that Eschelon's first proposal for Issue 1-1 be adopted and that its language for Issues 1-1(a)-(e) also be adopted.

## **II. INTERPRETATION AND CONSTRUCTION/CHANGE IN LAW.**

### **Issue 2-3: Effective Date of Rate Changes**

#### **A. The Dispute**

23. The parties agreed on language in Section 22.4.1.2 providing that "Commission-approved rates shall be effective as of the date required by a legally binding order of the Commission." They disagree on whether there should be language in the ICA that establishes a default effective date of a Commission order that changes unbundled network element (UNE) prices, in the event the Commission fails to specify an effective date. They also originally disagreed about which section of the ICA should contain the language.

#### **B. Position of the Parties**

24. Qwest wants the language to read that "Rates in Exhibit A include legally binding decisions of the Commission and shall be applied on a prospective basis from the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission."<sup>17</sup> Qwest originally wanted this language to appear in Section 2.2 of the ICA, but has agreed to include it in Section 22 instead.<sup>18</sup>

25. Eschelon objected to the presumption in this language that a change in rates, if no date were specified, would be applied prospectively.<sup>19</sup> Eschelon's first proposal for Section 2.2 would say simply "The rates in Exhibit A and when they apply are addressed in Section 22."<sup>20</sup> Eschelon's second

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<sup>17</sup> Disputed Issues List (Oct. 31, 2006) at 6; Ex. 6 (Easton Direct) at 3-4; Ex. 7 (Easton Rebuttal) at 2-3. All subsequent references herein to the Disputed Issues List are to the version dated October 31, 2006.

<sup>18</sup> Qwest Post-Hearing Brief at 2; Ex. 9 (Easton Surrebuttal) at 7.

<sup>19</sup> Ex. 43 (Denny Rebuttal) at 4.

<sup>20</sup> Disputed Issues List at 11; Ex. 42 (Denny Direct) at 7-8; Ex. 44 at 5-8.

proposal for Section 2.2 offers language providing that Section 2.2 “addresses changes to rates that have been previously approved by the Commission, and Section 22 (Pricing) also addresses rates that have not been previously approved by the Commission (Unapproved Rates).” Eschelon’s proposed language also includes a lengthy statement concerning each party reserving its rights with respect to effective dates and the ability of a party to request that the Commission establish a specific date or provide other relief. The language also includes a statement that if the Commission enters an order that is silent with respect to effective date, “the order shall be implemented and applied on a prospective basis from the date that the order is effective either by operation of law or as otherwise stated in the order (such as ‘effective immediately’ or a specific date), unless subsequently otherwise ordered by the Commission or, if allowed by the order, agreed upon by the parties.”<sup>21</sup> Eschelon would add similar language to Section 22.1.4.2.

26. The Department supports the following language in Section 2.2: “The rates in Exhibit A and when they apply are further addressed in Section 22.” In Section 22.1.4.2, the Department recommends that the following language be used instead of the disputed language proposed by either Eschelon or Qwest: “If the Commission issues an order with respect to rates that is silent on the issue of the effective dates for the rates, the rates shall be implemented and applied on a prospective basis from the effective date of the legally binding Commission decision.”<sup>22</sup>

### **C. Decision**

27. This issue concerns only the unlikely scenario that the Commission would issue an order changing a UNE price but would fail to address in that order the effective date of the price change. There appears to be general agreement among the parties that in this scenario, the default effective date for such an order would be the date of the decision, and the new rate would apply from that date forward. The Department’s proposed language should be adopted because it is easier to understand than Eschelon’s, and it clarifies, in a way that Qwest’s proposal does not, that the issue is limited to the scenario described above.

## **Issue 2-4: Effective Date of a Legally Binding Change**

### **A. The Dispute**

28. The parties disagree on when an amendment to the ICA concerning any type of legally binding change would be implemented, if the order pronouncing the change does not include a specific implementation date. This scenario is much more likely to occur than the previous scenario concerning an order changing rates by the Commission that fails to specify an effective date.

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<sup>21</sup> Disputed Issues List at 12-13.

<sup>22</sup> Department Post-Hearing Brief at 3-4.

## B. Position of the Parties

29. Qwest proposes language that any amendment to the ICA that incorporates a legally binding change would be effective on the date of the order pronouncing the change, but *only* if a party provides notice to the other party within 30 days of the effective date of that order. If neither party provides the notice within 30 days, the effective date would be the date of the amendment, unless the parties otherwise agree.<sup>23</sup>

30. Eschelon rejects the notice requirement and proposes language that any amendment to the ICA that incorporates a legally binding change would be deemed effective on the date of the order pronouncing the change.<sup>24</sup>

31. The Department supports the Qwest language, but would make the time for providing notice 90 days instead of 30 days.<sup>25</sup>

## C. Decision

32. Qwest characterizes its proposal as providing an incentive for parties to take action immediately if they want to ensure speedy implementation of a change in law. Qwest also argues that Eschelon's language would permit parties to take their time to develop intricate legal arguments interpreting changes in law, then present the other party with a huge bill dating back months or years to the date of the order (as in the recent *Level 3 Complaint Proceeding*). Eschelon characterizes Qwest's proposal as providing a party the opportunity to "game the system" by *not* giving notice of a decision that adversely affects the party, thereby possibly delaying when that decision will take effect.

33. What is important here is that the ICA contain a mechanism that will permit the parties to anticipate when and how amendments concerning a change in law without a specific effective date will affect their respective businesses. Qwest's proposal to use a notice provision is more likely to advance this goal than Eschelon's, which would permit a party to "sleep on" its rights indefinitely. "Gaming the system" is not a significant concern here, because both parties are similarly able to protect their rights. The Department's proposal to modify Qwest's language by extending the notice period to 90 days is reasonable and should be adopted.

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<sup>23</sup> Disputed Issues List at 10; Ex. 6 (Easton Direct) at 5-6; Ex. 9 (Easton Surrebuttal) at 4-7.

<sup>24</sup> Disputed Issues List at 10; Ex. 42 (Denny Direct) at 9-15; Ex. 43 (Denny Rebuttal) at 5-7; Ex. 44 (Denny Surrebuttal) at 5-10.

<sup>25</sup> Department Post-Hearing Brief at 4-6.

### III. TERMS AND CONDITIONS/COLLECTION.

#### Issue 5-6: Discontinuation of Order Processing

##### A. The Dispute

34. Commission approval is required before Qwest may disconnect a CLEC for nonpayment or any other reason.<sup>26</sup> The parties dispute whether Commission approval should also be required before one party can discontinue processing orders from the other party for failure to make full payment (less any disputed amounts) within 30 days of the payment due date.

##### B. Position of the Parties

35. Qwest's language would permit Qwest to discontinue processing orders for relevant services if Eschelon fails to make full payment, less sums disputed under section 21.8, within 30 days of the payment due date. Qwest then would have to notify Eschelon, and the Commission, at least ten business days prior to discontinuing the processing of orders. Qwest's ICAs with Covad and AT&T contain a similar provision.<sup>27</sup>

36. Qwest rejects the notion that Commission approval should be required before it discontinues processing orders from Eschelon. Qwest contends it needs the ability to limit its financial exposure if Eschelon continues to place new orders for service but fails to timely and fully pay its bills. Qwest contends that Eschelon is a systematically slow payer and that Qwest has had to threaten to discontinue processing orders in the past in order to obtain partial payment of past due balances from Eschelon.<sup>28</sup>

37. Eschelon maintains that the Commission should limit Qwest's unilateral ability to discontinue processing new orders for nonpayment because of the significant consequences to Eschelon if that were to happen. Eschelon contends that it has had significant disputes with Qwest concerning the accuracy of Qwest's bills, the timeliness of Eschelon's payments, and determining amounts in dispute.<sup>29</sup> In addition, Eschelon has presented evidence that Qwest has threatened to discontinue processing orders based on amounts allegedly overdue in states other than Minnesota.<sup>30</sup>

38. Qwest maintains that at the time of the dispute referenced above, Eschelon had significant past due balances in all six states in which it does business with Qwest. It seems fairly clear that Eschelon owed substantially more

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<sup>26</sup> See Minn. Stat. § 237.74, subd. 9 (2006).

<sup>27</sup> Disputed Issues List at 17-18; Ex. 6 (Easton Direct) at 8-11.

<sup>28</sup> Ex. 8 (Easton Rebuttal) at 5-6; Ex. 9 (Easton Surrebuttal) at 7-11.

<sup>29</sup> Ex. 45 (DD-3, Trade Secret Version).

<sup>30</sup> *Id.*



to Qwest than the amounts Eschelon maintained were in “disputed” status.<sup>31</sup> Qwest’s threat to discontinue processing orders was not without basis.

39. Eschelon has offered two proposals. First, it has proposed language that would require Commission approval before Qwest may discontinue order processing. Eschelon’s second proposal contains language that would allow Qwest to proceed with discontinuing order processing pursuant to the notice provisions in the contract, unless Eschelon seeks relief from the Commission.<sup>32</sup>

40. The Department has made no recommendation on this issue.

### **C. Decision**

41. The parties have demonstrated that they are unable to agree on when a late payment is properly classified as “disputed.”<sup>33</sup> There are, however, obvious problems with Eschelon’s proposal. What standard would the Commission use to determine whether Qwest could discontinue order processing? In what timeframe would the Commission have to make such a decision? Eschelon’s second proposal is even more ambiguous—if Eschelon seeks relief from the Commission, then what happens? It would appear that Qwest would have to wait for some sort of Commission decision, and in the meantime, keep accepting orders for service that could potentially increase its exposure to bad debt.

42. These parties have had protracted financial disputes. It is in the public interest to limit, in some reasonable way, Qwest’s ability to decide to discontinue processing orders, for the purpose of ensuring that customers are not adversely impacted while the parties’ financial disputes are resolved. Eschelon’s proposals requiring some type of Commission approval, however, are too ambiguous to implement. Qwest’s proposed language gives Eschelon 60 days to pay undisputed amounts (30 days to pay, plus 30 days from the payment due date) before Qwest can give notice of its intention to discontinue order processing; then ten business days (two calendar weeks) more would be required before Qwest could implement the decision.

43. If the decision were limited to the choices offered by the parties, the Administrative Law Judges would recommend that Qwest’s language be adopted. Although no party has proposed this, the Commission could require, based on the record, that Qwest shall only discontinue processing orders for service in Minnesota if Eschelon is more than 30 days past the payment due date for services provided in Minnesota. This may not be consistent with the way in which the parties process their bills and payments, but it would preclude Qwest

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<sup>31</sup> *Id.*

<sup>32</sup> Disputed Issues List (Oct. 31, 2006) at 17-19. The CLEC Participants recommend the use of Eschelon’s language.

<sup>33</sup> Ex. 45 (DD-3, Trade Secret Version); Ex. 9 (Easton Surrebuttal) at 9-11.

from refusing to process orders in Minnesota based on alleged overdue balances in other states. In addition, if the Commission believed that additional time should be provided, it would be reasonable to extend the notice period to 15 business days (three calendar weeks), which should not significantly increase Qwest's financial exposure.

## **Issue 5-8: Definition of Repeated Delinquency**

### **A. The Dispute**

44. This issue, like several more that follow, relates to the circumstances under which Qwest may demand a deposit to secure future payment. The parties have agreed to language providing that if Eschelon is repeatedly delinquent in making its payments, Qwest may require a deposit to be held as security for the payment before orders will be provisioned and completed. They disagree on the definition of "repeatedly delinquent."

### **B. Position of the Parties**

45. Qwest would define "repeatedly delinquent" to mean payment of any undisputed amount received more than 30 days after the payment due date, three or more times during a 12-month period on the same billing account number.<sup>34</sup> Qwest considers Eschelon, at present, to be repeatedly delinquent.<sup>35</sup>

46. Eschelon would first modify the definition of "repeatedly delinquent" to mean payment of any undisputed "non-de minimus" or "material" amount more than 30 days after the payment due date.<sup>36</sup> Eschelon argues that the term "material" is used frequently throughout the ICA and is not unclear in this context. At the same time, and for the same reasons articulated above regarding discontinuance of order processing, Eschelon argues that because it is difficult to reach agreement with Qwest about what amounts are in disputed status, any use of the term "undisputed amounts" is unclear and ambiguous.

47. Qwest contends the meaning of "non-de minimus" or "material" amounts, as proposed by Eschelon, is unclear and that such unclear language is unnecessary since there is no evidence that Qwest has ever invoked collections or deposit requirements based on insignificant amounts.<sup>37</sup> Eschelon agrees that a \$3 million overdue balance, which is what Qwest claimed Eschelon owed when it threatened to discontinue order processing, would be material.<sup>38</sup>

48. The Department has made no recommendation on this issue.

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<sup>34</sup> Disputed Issues List at 19-21; Ex. 6 (Easton Direct) at 12; Ex. 7 (Denney Rebuttal) at 12-14; Ex. 9 (Denney Surrebuttal) at 11-12.

<sup>35</sup> Tr. 1:116.

<sup>36</sup> Ex. 43 (Denney Rebuttal) at 43.

<sup>37</sup> Ex. 6 (Easton Direct) at 13; Ex. 7 (Easton Rebuttal) at 14; Ex. 9 (Easton Surrebuttal) at 11.

<sup>38</sup> Ex. 43 (Denney Rebuttal) at 25.

### **C. Decision**

49. The language proposed by both parties is subject the same criticism—that it is ambiguous either on its face or in its application. Qwest’s language will leave open the issue of whether it has properly determined “disputed” status; Eschelon’s language will leave room for argument about virtually any overdue sum under \$3 million, the only amount that Eschelon has agreed on the record would be material. When the remedy to be invoked for late payment—requiring a deposit to secure the debt—is so potentially significant, it would seem that both parties would benefit from a more clear definition of the triggering event.

50. Of the two proposals, Qwest’s language is less ambiguous; and although the parties’ recent financial dispute reflects the difficulty in agreeing on undisputed amounts, in the end Qwest did accept Eschelon’s calculation of this amount for the limited purpose of determining not to invoke further remedies for overdue payment. This is not a guarantee that Qwest will resolve future disputes in a similar manner; however, resolution of other related issues may provide additional security for Eschelon (see Issue 5-9). With regard to Issue 5-8, Qwest’s language should be used.

### **Issue 5-9: Definition of Repeated Delinquency**

#### **A. The Dispute**

51. This dispute concerning the same definition of “repeatedly delinquent,” concerns how often a party can be repeatedly delinquent before Qwest may require a deposit.

#### **B. Position of the Parties**

52. Qwest proposes language defining “repeatedly delinquent” as payment of undisputed amounts more than 30 days after the payment due date “three (3) or more times during a twelve (12) month period” on the same billing account number.<sup>39</sup> Qwest argues that Eschelon’s proposal fails to provide the proper incentive for timely payment and that its proposal is a reasonable business practice. In addition, Qwest’s language appears in the AT&T and Covad ICAs, and Eschelon’s language would therefore provide Eschelon with an unwarranted business advantage over other CLECs.

53. Eschelon proposes language defining “repeatedly delinquent” as payment of overdue amounts “for three consecutive months” on the same billing account number. In the alternative, Eschelon would define the term as payment of overdue amounts “three (3) or more times during a six (6) month period” on

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<sup>39</sup> Disputed Issues List at 22-23; Ex. 6 (Easton Direct) at 13; Ex. 7 (Easton Rebuttal) at 12; Ex. 9 (Easton Surrebuttal) at 11.

the same billing account number.<sup>40</sup> Eschelon points out that many newer ICAs between Qwest and other CLECs contain the “three consecutive month” language.

54. The Department has made no recommendation on this issue.

### **C. Decision**

55. If incentive for timely payment is the concern, there are other remedies in the agreement that address this issue (e.g., penalties for late payment). The term at issue is a demand to make a security deposit, which is a serious step that could jeopardize Eschelon’s cash flow, depending on the amount of the deposit required. A remedy this dramatic should be reserved for more serious financial issues than late payment three times over the course of one year. Eschelon’s proposal, to define the term as payment of overdue amounts for three consecutive months, would adequately protect both parties when there is a legitimate concern about future payment. Eschelon’s language should be adopted.

## **Issue 5-11: Disputing Deposit Requirement**

### **A. The Dispute**

56. This issue concerns when deposits would be due and payable and whether the deposit requirement should be brought before the Commission for approval.

### **B. Position of the Parties**

57. Qwest proposes language providing that required deposits are due and payable within 30 days after demand and conditions being met.<sup>41</sup> Qwest opposes Eschelon’s proposal, which would permit Eschelon to bring such a dispute to the Commission and permit the Commission to set the date on which a deposit is due and payable. Qwest maintains this language is unnecessary because of Eschelon’s right to dispute Qwest’s billings and is inequitable because it might impair Qwest’s right to protect itself from the risk of nonpayment. Qwest argues that although Eschelon is at risk of having to pay a deposit, Qwest is at risk of nonpayment. Qwest maintains that its language balances the needs of the billing and billed parties.<sup>42</sup>

58. Eschelon proposes language providing that required deposits are due and payable with 30 days after demand and conditions being met:

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<sup>40</sup> Disputed Issues List at 22-23; Ex. 42 (Denney Direct) at 57, 62-64; Ex. 43 (Denney Rebuttal) at 25-26; Ex. 44 (Denney Surrebuttal) at 52-53.

<sup>41</sup> Disputed Issues List at 23.

<sup>42</sup> Ex. 6 (Easton Direct) at 16; Ex. 7 (Easton Rebuttal) at 15-16; Ex. 9 (Easton Surrebuttal) at 13.

unless the billed Party challenges the amount of the deposit or deposit requirement (e.g., because delay in submitting disputes or making payment was reasonably justified due to inaccurate or incomplete billing) pursuant to Section 5.18. If such a Dispute is brought before the Commission, deposits are due and payable as of the date ordered by the Commission.<sup>43</sup>

59. If Eschelon's language is not included, Eschelon would be required to pay a deposit demanded by Qwest before it could seek recourse with the Commission. Eschelon maintains its language would allow the Commission to make the call on when a deposit is paid when there is a disagreement and that Eschelon would not expend or monopolize the resources of the Commission or Qwest by raising a baseless challenge.<sup>44</sup>

60. The Department has made no recommendation on this issue.

### **C. Decision**

61. Under Qwest's language, Eschelon would have the opportunity to challenge the deposit requirement by making the deposit and then potentially seeking relief from the Commission. Under Eschelon's language, Eschelon would have the opportunity to seek relief from the Commission before making the deposit. Commission oversight would be available in either case.

62. If the Commission feels it is necessary to become involved in sorting through the parties' billing and payment issues in the event Qwest demands a deposit, on what would probably be an expedited basis, then Eschelon's language would be appropriate. If the Commission believes these matters are better left to the parties to resolve and that Commission oversight would be sufficient protection to Eschelon after the deposit is made, then Qwest's language should be used. As there is no evidence in the record that Qwest has improperly demanded such a deposit in the past, or that "advance oversight" by the Commission has been necessary in the past, the Administrative Law Judges recommend that Qwest's language be used.

## **Issue 5-12: Alternative Approach to Deposits**

### **A. The Dispute**

63. This dispute concerns Eschelon's alternative language for all of Section 5.4.5, which would eliminate Qwest's ability to demand a deposit for payments that are "repeatedly delinquent" and would replace it with language that would permit Qwest to require a deposit for failure to make full payment of

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<sup>43</sup> Disputed Issues List at 23-24.

<sup>44</sup> Ex. 42 (Denney Direct) at 65; Ex. 43 (Denney Rebuttal) at 27; Ex. 44 (Denney Surrebuttal) at 53.

undisputed amounts 90 days following the payment due date, if the Commission determines that “all relevant circumstances” warrant a deposit.

## **B. Position of the Parties**

64. Eschelon’s alternative language for section 5.4.5, which would replace its proposals for Issues 5-8, 5-9, and 5-11, is shown below:

If the Parties are doing business with each other for the first time, each Party will determine the other Party's credit status based on credit reports such as Dun and Bradstreet. If a Party that is doing business with the other Party for the first time has not established satisfactory credit with the other Party according to the previous sentence, or the Party is being reconnected after a disconnection of service or discontinuance of the processing of orders by the Billing Party due to a previous non-payment situation, the Billing Party may require a deposit to be held as security for the payment of charges before the orders from the billed Party will be provisioned and completed or before reconnection of service. The Billing Party may also require a deposit for the failure of the other Party to make full payment, less any disputed amount as provided for in Section 21 of this Agreement, for the relevant services provided under this Agreement within ninety (90) Days following the Payment Due Date, if the Commission determines that all relevant circumstances warrant a deposit.<sup>45</sup>

65. In Eschelon’s view, this option provides the Commission the ability to determine contested deposit requirements on a case-by-case basis.<sup>46</sup>

66. In Qwest’s view, this language would unfairly delay Qwest’s ability to require security when faced with increasing debt and would require the Commission to micromanage Eschelon’s account.<sup>47</sup>

67. The Department has made no recommendation on this issue.

## **C. Decision**

68. As the billing party, Qwest should have the contractual right to require security for repeated delinquency of three successive months. Eschelon’s alternative proposal should not be used in lieu of the recommendations made above for Issues 5-8, 5-9, and 5-11.

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<sup>45</sup> Disputed Issues List at 24-25.

<sup>46</sup> Ex. 42 (Denney Direct) at 67-68; Ex. 43 (Denney Rebuttal) at 28-29; Ex. 44 (Denney Surrebuttal) at 53.

<sup>47</sup> Ex. 6 (Easton Direct) at 16-17; Ex. 7 (Easton Rebuttal) at 15-16; Ex. 9 (Easton Surrebuttal) at

## **Issue 5-13: Increase in Deposit Based Upon Review of Credit Standing**

### **A. The Dispute**

69. The parties dispute whether Qwest should be permitted to increase the amount of any deposit based upon its review of Eschelon's credit standing.

### **B. Position of the Parties**

70. Qwest proposes language that would permit it to review Eschelon's credit standing and increase the amount of deposit required, but in no event would the maximum amount exceed the amount stated in Section 5.4.5 (the estimated total monthly charges for an average two-month period from the date of the triggering event).<sup>48</sup> Qwest argues that in light of the frequency of telecommunications carriers declaring bankruptcy or simply shutting their doors, Qwest needs to be able to conduct credit reviews of its customers. Qwest maintains that this is a reasonable business practice accepted by every other CLEC doing business with Qwest.<sup>49</sup>

71. Eschelon's first proposal is to delete this language entirely. Its second proposal is to limit the use of this provision to circumstances in which Qwest has already demanded and received a deposit. Eschelon's proposal would also require Commission approval:

If a Party has received a deposit pursuant to Section 5.4.5 but the amount of the deposit is less than the maximum deposit amount permitted by Section 5.4.5, the Billing Party may review the other Party's credit standing and increase the amount of deposit required, if approved by the Commission, but in no event will the maximum amount exceed the amount stated in Section 5.4.5. Section 5.4 is not intended to change the scope of any regulatory agency's or bankruptcy court's authority with regard to Qwest or CLECs.<sup>50</sup>

72. Eschelon argues that Qwest's proposal contains no criteria or standards defining when this provision might be invoked or the circumstances that would warrant modification. It would also nullify the limitations on deposit requirements established in Section 5.4.5 (failure to establish satisfactory credit, repeated delinquency in making payments, or reconnection after disconnection of service or discontinuance of order processing due to previous nonpayment). Under this language, Qwest would have the ability to require a deposit even when Eschelon is current in its payments. Eschelon also argues that there is no defined "triggering event" when Qwest makes a determination to increase a

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<sup>48</sup> Disputed Issues List at 26.

<sup>49</sup> Ex. 6 (Easton Direct) at 18-19; Ex. 7 (Easton Rebuttal) at 16-18; Ex. 9 (Easton Surrebuttal) at 17.

<sup>50</sup> Disputed Issues List at 26-27. The CLEC Participants support the use of Eschelon's language.

deposit amount based on its review of credit standing, which makes the “maximum amount” language ambiguous.<sup>51</sup>

73. The Department has made no recommendation on this issue.

### **C. Decision**

74. Qwest’s language is essentially without a standard, and it would permit Qwest to demand a deposit at any time based on its own judgment about the significance of what is in a credit report. Eschelon’s language (in alternative 2) is reasonable in that it would permit Qwest to increase a deposit requirement if one is already in place pursuant to Section 5.4.5. Eschelon’s language would require Commission approval, however, which would arguably burden the Commission. The Administrative Law Judges recommend adoption of Eschelon’s language with deletion of the phrase “if approved by the Commission.”

## **Issue 5-16: Copy of Non-Disclosure Agreement**

### **A. The Dispute**

75. Under the ICA, Eschelon will provide forecasts related to interconnection trunks; future central office space collocation requirements; and demand for DS0, DS1, and DS3 capacities that will be terminated on the interconnection distribution frame (ICDF) by Qwest. The parties have agreed to language that would require certain Qwest personnel to execute a non-disclosure agreement with regard to confidential forecasting information. The non-disclosure agreement would preclude any person who receives the information from disclosing it to retail marketing, sales, or strategic planning personnel. The parties disagree about whether Qwest should be required to provide Eschelon with a signed copy of each non-disclosure agreement within ten days of execution.

### **B. Position of the Parties**

76. Eschelon proposes the following language: “Qwest shall provide CLEC with a signed copy of each non-disclosure agreement executed by Qwest personnel within ten (10) Days of execution.”<sup>52</sup> Eschelon contends this language is necessary because it will have insufficient information to object if sensitive information is provided to a Qwest employee not authorized to receive it, and it will have no way to confirm if its confidential information is being adequately protected. Eschelon argues that this requirement is similar to the requirements of protective orders routinely issued in contested case hearings.<sup>53</sup>

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<sup>51</sup> Ex. 42 (Denney Direct) at 70-72;

<sup>52</sup> Disputed Issues List at 28;

<sup>53</sup> Ex. 42 (Denney Direct) at 74-77; (Ex. 43 (Denney Rebuttal) at 32-34.



77. Qwest would eliminate Eschelon's language. It contends the language places an unnecessary administrative burden on Qwest and that Eschelon already has the contractual right to request an audit of its compliance with this requirement no more than every three years, unless cause is shown to do it more frequently. It also argues that the burden of complying with such a requirement on an on-going basis, where employees change jobs and new employees take their place, is very different from complying with the obligations of a protective order in a contested case.<sup>54</sup>

78. The Department makes no recommendation on this issue.

### **C. Decision**

79. The agreements are to be signed by people who are authorized to receive the sensitive information. In the agreements, these authorized people agree in writing not to disclose the information to those who are not authorized. Requiring Qwest to provide a copy of the signed agreement will not, in and of itself, provide Eschelon with any information about whether the authorized persons are in compliance, unless Qwest asks an expressly unauthorized person to sign a non-disclosure agreement, which seems unlikely. Although the administrative burden involved in providing Eschelon with a copy of the document would appear to be minimal, Eschelon's language does not achieve the purpose for which it is offered, and it might generate insignificant disputes concerning what might happen if the ten-day deadline were breached. If Eschelon has a well-founded belief that sensitive information has been given to unauthorized personnel, the audit provision would permit it to request a compliance audit at any time. The Administrative Law Judges recommend adoption of Qwest's language.

## **IV. INTERCONNECTION.**

### **Issue 7-18: Transit Record Charge**

### **Issue 7-19: Transit Record Bill Validation**

#### **A. The Dispute**

80. Transit traffic is traffic that originates on one telecommunications carrier's network, transits a second carrier's network, and terminates on a third carrier's network. In Section 7.6.3 of the Agreement, the parties agreed that they will provide the requested records to each other, when the records are used to provide information necessary for each party to bill the originating carrier. In Minnesota, the rate for category 11 records is currently set at zero.<sup>55</sup> The dispute here is whether, when Eschelon is the originating carrier as opposed to the terminating carrier, and when it has requested the transit records not for the

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<sup>54</sup> Ex. 6 (Easton Direct) at 20-22); Ex. 7 (Easton Rebuttal) at 18-19; Ex. 9 (Easton Rebuttal) at 17-18.

<sup>55</sup> Qwest has not proposed to change this rate in the *UNE Cost Case*.

purpose of billing another carrier but for the purpose of verifying Qwest's transit bills, Qwest should have to provide the records free of charge.

## **B. Position of the Parties**

81. Eschelon proposes the following language for Section 7.6.3.1:

In order to verify Qwest's bills to CLEC for Transit Traffic the billed party may request sample 11-01-XX records for specified offices. These records will be provided by the transit provider in EMI mechanized format to the billed party at no charge, because the records will not be used to bill a Carrier. The billed party will limit requests for sample 11-01-XX data to a maximum of once every six months, provided that Billing is accurate.<sup>56</sup>

82. Eschelon's proposal for Section 7.6.4 specifies the information Qwest would be obligated to provide for bill validation:

Qwest will provide the non-transit provider, upon request, bill validation detail including but not limited to: originating and terminating CLLI code, originating and terminating Operating Company Number, originating and terminating state jurisdiction, number of minutes being billed, rate elements being billed, and rates applied to each minute.<sup>57</sup>

83. Eschelon maintains this language is necessary because Qwest's bills do not contain call record detail, but simply contain the number of transit minutes and transit traffic rate. Although Eschelon can obtain information from its switch to identify the person called and the fact that the call is handed off to Qwest, it is not able to identify all the information needed to reconcile Qwest's bills. Eschelon argues that it needs occasional access to a limited number of call records so that it can verify the transit bills. In addition, for Eschelon customers served through Qwest Platform Plus (QPP, the UNE-P replacement product), Eschelon's switch would have no information because these calls go through Qwest's switch.<sup>58</sup>

84. Qwest opposes this language and would delete it from the ICA. Qwest argues that Eschelon's switch provides the best information about traffic it sends to Qwest and that Eschelon should be able to validate Qwest's bills by comparing Eschelon's own records with the bills from the terminating carrier. In addition, Qwest maintains that the Category 11 transit record product was designed to create records for terminating carriers, not originating carriers. To provide what Eschelon is requesting for originating carriers, Qwest would have to

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<sup>56</sup> Disputed Issues List at 29-30.

<sup>57</sup> Disputed Issues List at 30.

<sup>58</sup> Ex. 42 (Denney Direct) at 79-82; Ex. 43 (Denney Rebuttal) at 34-36; Ex. 44 (Denney Surrebuttal) at 57-58.

undertake a significant amount of programming. No other originating carriers have requested this type of record.<sup>59</sup>

### **C. Decision**

85. If Qwest provides 11-01-XX records free of charge to CLECs for the purpose of billing originating carriers, it is hard to see why Qwest should not be required to provide sample records free of charge to Eschelon, once every six months, for the purpose of verifying Qwest's bills. Eschelon's language for Section 7.6.3.1 should be adopted.

86. Eschelon has not directly responded to Qwest's assertion that it would have to make programming changes to provide the information Eschelon is requesting for originating carriers in Section 7.6.4, beyond saying it wants the same "type" of information Qwest currently provides. It is not clear whether the 11-01-XX records referenced in Section 7.6.3.1 contain the same information as that required by Eschelon's proposed language for Section 7.6.4. Qwest should provide to Eschelon whatever records are referenced in 7.3.6.1 for the purpose of verifying bills. If something different would be required by Section 7.6.4, it should not be adopted.

## **V. COLLOCATION.**

### **Issue 8-20: Available Inventory/Posting of Price Quotes**

#### **A. The Dispute**

87. "Available inventory" is an available collocation site that has been returned to inventory. Qwest posts these sites on its website, with a list of all reusable and reimbursable elements, and provides a discount on the non-recurring costs for circuit terminations. If Qwest prepares a quote for a CLEC interested in a posted site, it charges a Planning and Engineering Fee to the CLEC. At issue is whether Qwest should also be required to post on its website prior quotes it has prepared for an available collocation space. Also at issue is the extent to which Qwest should be able to charge another Planning and Engineering Fee for later quotes prepared for the same space.

#### **B. Position of the Parties**

88. Eschelon proposes the following language:

if Qwest prepares a Planning and Engineering Fee for a posted Collocation site and for any reason the posted Collocation site is returned to Qwest inventory, Qwest will post the Planning and Engineering Fee quote (with the carrier's name redacted) on the inventory list for that site and, for future requests for that site, will

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<sup>59</sup> Ex. 6 (Easton Direct) at 22-23; Ex. 7 (Easton Rebuttal) at 19-20;

waive the Planning and Engineering Fee, as the quote has already been prepared, unless Qwest establishes a change in circumstance affecting the quoted price.<sup>60</sup>

89. Eschelon's language would thus require that Qwest post any previously prepared quote and waive the Planning and Engineering Fee for a second quote, unless Qwest establishes a change in circumstance affecting the price. Eschelon argues that posting of prices that Qwest has already been paid to create will facilitate the review of used collocation space and aid Eschelon in making efficient decisions regarding the purchase of such space.<sup>61</sup>

90. Qwest's first proposal was to delete this section entirely, because Qwest maintains it is unlikely that a CLEC will ever order a collocation site exactly "as is." Qwest also argued that this is an issue that should be addressed in its Change Management Process (CMP). Since the time of the hearing Qwest has proposed alternative language, which provides as follows:

if Qwest prepares a quote for a posted Available Inventory collocation site and that quote is not accepted, and the site is returned to Qwest Available Inventory, if another CLEC places an order for that same site within one year of the date of that prior quote, Qwest will provide that prior quote to CLEC if requested by CLEC in that application. If CLEC does request that prior quote with their Available Inventory Application, Qwest shall be permitted to redact any information necessary to protect any confidential information of the carrier for whom the prior quote was prepared. If CLEC requests that the site be provisioned exactly as requested by the prior carrier, and if this results in the same quoted price, Qwest will waive the Planning and Engineering Fee related to preparation of CLEC's quote.<sup>62</sup>

91. Qwest's language would permit CLECs to request and receive prior quotes that are less than one year old, would permit Qwest to redact any information necessary to protect confidential information of the carrier for whom the prior quote was prepared, and would require Qwest to waive a subsequent Planning and Engineering fee only if the CLEC requests that the site be provisioned exactly as requested before and the same price is subsequently quoted.

92. The Department recommends adoption of Eschelon's proposed language. It maintains that, while in the past CLECs may not have ordered identical configurations, it is likely explained in part because Qwest has not

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<sup>60</sup> Disputed Issues List at 30-31.

<sup>61</sup> Ex. 42 (Denney Direct) at 82-83; Ex. 43 (Denney Rebuttal) at 37-39; Ex. 44 (Denney Surrebuttal) at 58-59.

<sup>62</sup> Disputed Issues List at 31-32. See *also* Ex. 16 (Hubbard Direct) at 4-15; Ex. 17 (Hubbard Rebuttal) at 3-6; Ex. 18 (Hubbard Surrebuttal) at 2-6.

posted the price quotes, and there was no incentive for CLECs to take advantage of the available price quotes by ordering the same configurations. The Department recommends that Qwest be required to post prior quotes; if Qwest maintains there is a cost associated with the posting requirement, Qwest should be permitted to submit a cost study in the *UNE Cost Case* to establish the cost likely to be incurred, along with a proposed price.<sup>63</sup>

### **C. Decision**

93. Prior price quotes may be useful to CLECs in making efficient decisions about collocation space. Eschelon's language is reasonable in that it would permit Qwest to charge another Planning and Engineering Fee if the circumstances have changed since the prior quote was prepared. Qwest's language would make it more difficult for CLECs to obtain the prior quotes, would allow Qwest to use its own judgment about what information should be redacted from the prior quotes, and would permit Qwest to charge another Planning and Engineering Fee unless the "same quoted price" is given for the subsequent quote. The Administrative Law Judges recommend that Eschelon's proposed language be used because the information would be easier to access and evaluate. If there is a cost associated with posting this information on Qwest's website, Qwest should be permitted to submit a cost study in the *UNE Cost Case*.

### **Issue 8-20(a): Available Inventory/Space Augments**

#### **A. The Dispute**

94. This dispute concerns charges applicable to "special sites," which are collocation sites returned to Qwest through Chapter 7 bankruptcy or abandonment. These sites are not decommissioned and are offered with equipment, racks, cages, DC power, grounding, and terminations in place. They are posted on Qwest's available inventory website. The parties dispute whether Qwest may charge a Planning and Engineering fee instead of a "special site assessment fee" if Eschelon proposes modifications to the space.

#### **B. Position of the Parties**

95. The parties have agreed upon the following language:

CPMC will verify whether the requested site is still available for acquisition by conducting a feasibility study within ten (10) Days after receipt of the application. If the site is not available the CPMC will notify the CLEC in writing. If the site is available a site survey will be arranged with the CLEC and Qwest State Interconnect Manager (SICM). Upon completion of the survey Qwest will

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<sup>63</sup> Department Post-Hearing Brief at 6-8; Ex. 52 (Rebholz Reply) at 2-4; Ex. 53 (Rebholz Surreply) at 1-3.

prepare a quote based on the site inventory and any requested modifications to the site. CLEC must pay in full one hundred percent (100%) of the quoted non-recurring charges to Qwest within thirty (30) Days of receipt of the quote. If Qwest does not receive the payment within such thirty (30) Day period, the quote will expire and the requested site will be returned to Qwest inventory. The CLEC will be charged a special site assessment fee for work performed up to the point of expiration or non-acceptance of the quote.<sup>64</sup>

96. Qwest would add the following sentence at the end of the above language: "If CLEC requests an augment application then CLEC will be charged a Planning and Engineering Fee instead of the special site assessment fee."<sup>65</sup> Qwest maintains that if a CLEC requests the collocation site "as is," Qwest will charge the "Special Site Assessment Fee." If a CLEC requests modifications, Qwest will charge the "higher" Planning and Engineering Fee.<sup>66</sup>

97. It is not clear from Qwest's prefiled testimony which Planning and Engineering Fee Qwest plans to charge, nor is it clear from the prefiled testimony what Qwest believes the "Special Site Assessment Fee" is. During the hearing, Qwest's position was clarified.<sup>67</sup> Exhibit A to the ICA contains several planning and engineering fees for collocation, including one for special sites (\$1,051.23) and one for caged collocations (\$3,406.46). Eschelon maintains, and Qwest agrees, that through its proposed language Qwest plans to charge the \$3,406.46 fee for standard caged collocations if modifications are requested for a special site.

98. Eschelon opposes the additional language, contending the agreed-upon language already specifies that the "special site assessment fee" covers all work performed, including any requested modifications, up to the point of expiration or non-acceptance of the quote. Eschelon asserts the "special site assessment fee" is the \$1,051.23 listed as a "planning and engineering fee" on Exhibit A.<sup>68</sup>

99. The Department has made no recommendation on this issue.

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<sup>64</sup> Disputed Issues List at 32-33.

<sup>65</sup> *Id.*

<sup>66</sup> Ex. 16 (Hubbard Direct) at 15-19; Ex. 17 (Hubbard Rebuttal) at 6-8; Ex. 18 (Hubbard Surrebuttal) at 6-7.

<sup>67</sup> See Tr. 2:20-23 (special site assessment fee is the special site planning and engineering fee listed in 8.15.2.1 in Ex. A to the ICA); *id.* at 24 (Qwest would apply the planning and engineering fee for standard caged collocations at § 8.4.1 if modifications were requested for a special site).

<sup>68</sup> Ex. 42 (Denney Direct) at 87-89; Ex. 43 (Denney Rebuttal) at 39-41; Ex. 44 (Denney Surrebuttal) at 58-60, DD-24.

### C. Decision

100. In Minnesota, Qwest is currently permitted to charge the following rates for special sites: planning and engineering fee, \$1,051.23; network assessment fee, \$1,652.38; and survey fee \$163.65.<sup>69</sup> For standard caged collocations, the planning and engineering fee is \$3,406.46.<sup>70</sup> Until September 29, 2006, Qwest charged the special site planning and engineering fee; on that date, it announced it would charge the higher fee.<sup>71</sup>

101. The Commission approved the collocation rates for special sites based upon the agreement of the parties in Docket No. P-421/AM-03-1754 (October 2003 Rate Element Filing). Qwest did not present evidence of the cost model used to produce these rates. As there is a planning and engineering fee specifically for special sites, there appears to be no reason to use the planning and engineering fee for caged collocations for any activities concerning special sites.

102. The agreed-upon language provides that the CLEC will be charged a “special site assessment fee” for work performed up to the point of expiration or non-acceptance of the quote. In Docket No. P-421/AM-03-1754, the special site planning and engineering fee was described as a “Transfer of Responsibility Assessment Fee.”<sup>72</sup>

103. The planning and engineering fee contained in Section 8.15.2.1 of Ex. A appears to include the planning and engineering involved in transferring the collocation from one CLEC to another. The Administrative Law Judges conclude that Eschelon’s interpretation of this language is correct and that the planning process includes planning any requested modifications. The Administrative Law Judges recommend that the last sentence of the agreed-upon language be changed as follows to clarify: “The CLEC will be charged a special site assessment fee as specified in Section 8.15.2.1 of Ex. A for work performed up to the point of expiration or non-acceptance of the quote.”

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<sup>69</sup> These charges were approved as interim rates not subject to true-up, based on the stipulation of the parties, in Docket No. P-421/AM-03-1754 (October 2003 Rate Element Filing).

<sup>70</sup> The caged collocation planning and engineering fee was approved in the *Generic Cost Docket*, Docket No. P-422, 5321, 3167, 466, 421/C-96-1540. See Ex. A to ICA, § 8.15.2, Available Inventory—Special Sites—Planning and Engineering Fee; § 8.4.1, Caged Physical Collocation—Planning and Engineering Fee).

<sup>71</sup> Ex. 44 at DD-24.

<sup>72</sup> *In the Matter of Qwest Corporation’s Request for Approval of SGAT Elements*, Docket No. P-421/AM-03-1754, Order Approving Stipulation (Aug. 20, 2004), Stipulation Ex. A.

## **Issue 8-21: DC Power/Usage Pricing**

### **Issue 8-21(b)**

### **Issue 8-21(c)**

### **Issue 8-21(d)**

#### **A. The Dispute**

104. Qwest currently provides -48 volt DC power to CLEC collocation equipment, and there are currently two separate rate elements: power plant, which is applied on a per-amp basis to the quantity of power ordered; and power usage, which is either applied to the quantity of power ordered, or through the DC power measurement option, to the quantity of power actually used, on feeds greater than 60 amps. The parties disagree about whether the power plant charge should be entirely based on power usage, rather than power requested. The current power pricing scheme is based on power requested, and Qwest advocates continued use of that method; Eschelon wants power to be priced based on the power used. The appropriate method of pricing DC Power is at issue in the *UNE Cost Case*.

#### **B. Position of the Parties**

105. Qwest's language in the sections at issue here provides for billing on a measured basis only for the DC power usage charge.<sup>73</sup> Qwest contends it engineers power plant in accordance with a CLEC's ordered amounts of power capacity, which is a fixed investment in the particular equipment needed to provide the ordered capacity. It contends that Eschelon can reduce its power plant charges through Qwest's "Power Reduction" product, which reduces the amps on a primary or secondary feed. Qwest's "Power Reduction with Reservation" product also reduces the amps but reserves the fuse position on the power board, which would permit "Power Restoration" in the future.<sup>74</sup>

106. Eschelon would delete the word "usage" from Qwest's language so that power measurement would apply to both power plant and power usage charges. Eschelon maintains that in designing power plant in a central office, Qwest engineers the plant to accommodate "peak drain," or "List 1 drain," which is the maximum drain required by the power plant at times of peak demand under normal operating conditions (including equipment of both Qwest and collocators). The power feeder cables ordered by CLECs are sized to accommodate "List 2 drain," which is the maximum current the equipment may draw when batteries providing DC power are approaching a condition of total failure. By assessing its power plant rate based upon the size of Eschelon's feeder cables, instead of

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<sup>73</sup> Disputed Issues List at 34-38.

<sup>74</sup> Ex. 16 (Hubbard Direct) at 19-27, 32-37; Ex. 17 (Hubbard Rebuttal) at 11-19; Ex. 18 (Hubbard Surrebuttal) at 7-13.



assessing plant rate based on measured usage, Eschelon maintains it is forced to pay for substantially more capacity than it actually uses.<sup>75</sup>

107. The Department recommends that Qwest's language be used at this time and that any decision to change the pricing method should be made in the *UNE Cost Case*. The Department recommends that the following language be added to Section 8.3.1.6.1: "Any change in the application of the DC Power Plant Charge that is ordered in Docket No. P421/AM-06-713 will apply to the DC Power Plant ordered by the CLEC."<sup>76</sup>

### **C. Decision**

108. Qwest's language should be adopted for this ICA. Although it is theoretically possible that the current pricing scheme results in a discriminatory rate or over-recovers capacity costs from CLECs, there is no evidentiary basis for drawing such a conclusion here. These are issues that should be examined in the *UNE Cost Case*. The Department's recommended language could be added, but the Administrative Law Judges do not believe it is necessary. Any number of prices could change as a result of the *UNE Cost Case*; adding the Department's recommended reference to this portion of the ICA will not add any needed clarification.

## **Issue 8-21(a): Initial Power Measurement**

### **A. The Dispute**

109. In addition to the dispute identified above concerning the term "usage," this issue concerns the process that should apply when the CLEC first orders measured power.

### **B. Position of the Parties**

110. Qwest's language provides that it will bill Eschelon for the requested level of power until Eschelon notifies Qwest that Eschelon wants a measurement, and then Eschelon is responsible for notifying Qwest when the collocation is operating.<sup>77</sup>

111. Eschelon's language states that Qwest cannot bill at all until a measurement is taken, but that Eschelon is responsible for notifying Qwest of when to measure only if Qwest's first measurement is zero.<sup>78</sup>

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<sup>75</sup> Ex. 27 (Starkey Direct) at 93-111; Ex. 28 (Starkey Rebuttal) at 42-54; Ex. 29 (Starkey Surrebuttal) at 72-91.

<sup>76</sup> Department Post-Hearing Brief at 9-10; Ex. 54 (Fagerlund Reply) at 11-13; Ex. 55 (Fagerlund Surreply) at 11. The CLEC Participants agree that this issue should be decided in the *UNE Cost Case*.

<sup>77</sup> Disputed Issues List at 34-35; Ex. 16 (Hubbard Direct) at 27-32.

<sup>78</sup> Disputed Issues List at 34-35; Ex. 27 (Starkey Direct) at 93; Ex. 28 (Starkey Rebuttal) at 52-53.

112. The Department agrees with Qwest that the CLEC should be required to notify Qwest when the equipment is in the space, so that Qwest does not waste resources measuring usage that does not yet exist. The Department disagrees, however, with the language in Qwest's proposal that would permit it to bill Eschelon based on requested power until Eschelon notifies it that the collocation is operating. The Department recommends that Qwest's language be adopted, with the following two sentences added to Section 8.2.1.29.2.2:

If the CLEC's order for DC Power to a collocation includes a request for measured usage, Qwest will only bill for DC Power Usage for this collocation on a measured basis. The CLEC is responsible for notifying Qwest immediately when DC Power begins to be used in the collocation.<sup>79</sup>

113. In the Department's view, this language will motivate Qwest and Eschelon to work out a process so that power is measured from the very first month that measured power is in place.<sup>80</sup>

### **C. Decision**

114. Qwest's language should be adopted, with the additional language recommended by the Department.

## **Issue 8-22: Quote Preparation Fee**

### **A. The Dispute**

115. The dispute here concerns the circumstances under which Qwest should be able to charge a Planning and Engineering fee (or Quote Preparation Fee) for reducing or restoring power. There are two methods of reducing power: with or without reservation. Power reduction with reservation requires the CLEC to reduce its ordered amperage to zero, while allowing it to reserve its existing fuse/breaker position on the BDFB or power board. Under this option, the CLEC power cables and fuses remain in place until the CLEC either asks for power again or discontinues the power arrangement. The CLEC pays a monthly rate of \$58.19 for reservation.<sup>81</sup> Power reduction without reservation permits a CLEC to reduce its ordered amps to a lower level. The same "with and without reservation" options are available for power restoration.

116. Qwest proposes to charge a quote preparation fee (QPF, or planning and engineering fee) of \$565.67 for these activities with or without a reservation of the fuse position on the power board; Eschelon will agree to pay it

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<sup>79</sup> Department's Post-Hearing Brief at 11-12; Ex. 54 (Fagerlund Reply) at 13-14; Ex. 55 (Fagerlund Surreply) at 11.

<sup>80</sup> Ex. 55 at 11.

<sup>81</sup> The reservation charge is the "Power Maintenance Charge" at § 8.13.4 of Ex. A to the ICA; the power reduction charges depend on amperage and are contained in § 8.13.

only for power restoration if there has been no reservation of the fuse position on the power board.<sup>82</sup>

## **B. Position of the Parties**

117. Qwest maintains that it is entitled to recover the cost of performing a feasibility study and producing a quote concerning a CLEC request to reduce or restore power. It has proposed the same QPF charges in the *UNE Cost Case* and contends that issues concerning those charges should be addressed in the *UNE Cost Case*.<sup>83</sup>

118. Eschelon proposes to leave the section concerning a QPF for power reduction blank. Eschelon maintains that the only circumstance in which a QPF would be legitimate in connection with reducing power is when there is no reservation and cabling work is required to move from the power board to the BDFB; in this circumstance, Eschelon would agree to pay an individual case basis (ICB) charge. Eschelon would modify the section concerning power restoration to clarify that the QPF would be payable only for power restoration without reservation. Its position is that CLECs pay QPFs when power is originally requested; they pay for the work involved in power reduction and restoration through non-recurring charges (NRCs), and they pay a recurring maintenance fee when power is reduced or restored with reservation. It maintains another QPF is unnecessary, particularly when a CLEC is paying for reservation, because the originally-engineered facilities are left in place.<sup>84</sup>

119. The Department was initially concerned that Qwest proposed to charge an ICB price for the restoration of power and a QPF to prepare the ICB price for reducing or restoring power. It supported making the outcome of this dispute contingent on the outcome of the *UNE Cost Case*.<sup>85</sup> In its post-hearing brief, the Department stated it supports the Eschelon language because “this is a reprice from an initial price of zero and not a new price.”<sup>86</sup>

## **C. Decision**

120. Section 8.13 of Ex. A to the ICA reflects both QPFs (planning and engineering fees) and separate fees for the work involved in reducing and maintaining power. These are interim rates that were approved by agreement in Docket No. P-421/AM-03-1754. The cost model that generated these prices is not in evidence, so there is no model to look at for determining how the charges for reducing power and maintaining power were meant to relate to each other or

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<sup>82</sup> Disputed Issues List at 39.

<sup>83</sup> Ex. 16 (Hubbard Direct) at 38-40; Ex. 17 (Hubbard Rebuttal) at 13; Ex. 18 (Hubbard Surrebuttal) at 9; Ex. 23 (Million Rebuttal) at 16-17.

<sup>84</sup> Ex. 42 (Denney Direct) at 91-99; Ex. 43 (Denney Rebuttal) at 42-43; Ex. 44 (Denney Surrebuttal) at 61-63.

<sup>85</sup> Ex. 54 at 14-15; Ex. 55 at 12.

<sup>86</sup> Department Post-Hearing Brief at 13.

when the QPF charge would appropriate. Qwest maintains that the QPF reflects the planning and engineering activities associated with determining the steps necessary to perform the work, whereas the separate charge is for the actual performance of the work. Qwest maintains the costs were split this way so that if the CLEC were to decide not to go through with the work, it could avoid the separate work charge, but Qwest would still be compensated for the planning.<sup>87</sup> This explanation is somewhat contradicted by Qwest's admission that no "quote" is ever generated or provided to a CLEC at the conclusion of this QPF process, so it is unclear how exactly a quote could affect a CLEC's decision not to proceed, or why a quote would ever be necessary when there is an approved fixed charge for performing the work.<sup>88</sup> In any event, Qwest would like to charge both the QPF and the work fee for every such change in power.

121. The proposed charges for power restoration do not appear at all on Ex. A to the ICA and have not yet been approved by the Commission. For these charges, the Department is correct that this is a "reprice" from an initial price of zero. Qwest has agreed that for power restoration, it will charge the NRC for power reduction as opposed to an ICB price. The parties still dispute when the QPF charge is appropriate.

122. The burden here is on Qwest to demonstrate that the QPF charge is appropriate, and it has failed to demonstrate that a QPF is necessary when CLECs wish to reduce or restore power and are paying or have paid for reservation of their facilities. Qwest may be able to show in the *UNE Cost Case* that a different result should follow, based on the cost studies filed in that case.

123. Eschelon has agreed that some work may be necessary to plan for power reduction without reservation, although it would prefer to pay an ICB price that includes the cost of planning. Eschelon has agreed to pay the QPF for power restoration without reservation. It would be inappropriate to recommend ICB pricing for power reduction without reservation, as urged by Eschelon, when a QPF and NRC were set by agreement of the parties in Docket No. P-421/AM-03-1754. Unless and until the Commission approves different charges in the *UNE Cost Case*, Qwest should be permitted to charge the QPF contained in Section 8.13 of Ex. 2 of the ICA for power reduction and restoration when there has been no reservation of facilities.

## **VI. UNBUNDLED NETWORK ELEMENTS (UNEs).**

### **Issue 9-31: Nondiscriminatory Access to UNEs**

#### **A. The Dispute**

124. The parties disagree about two phrases in Section 9.1.2 that concern whether certain activities related to UNEs will be provided at TELRIC-

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<sup>87</sup> Tr. 2:112.

<sup>88</sup> Tr. 2:118-22.

based rates. Eschelon proposes language that it believes would make clear that these activities are to be TELRIC-priced; Qwest opposes this language, advocating instead that the question whether a change to a UNE is to be priced at TELRIC or otherwise be deferred to the future.

## **B. Position of the Parties**

125. Eschelon proposes the following language for Section 9.1.2:

Qwest shall provide non-discriminatory access to Unbundled Network Elements on rates, terms and conditions that are non-discriminatory, just and reasonable. The quality of an Unbundled Network Element Qwest provides, as well as the access provided to that element, will be equal between all Carriers requesting access to that element. Access to Unbundled Network Elements includes moving, adding to, repairing and changing the UNE (through, e.g., design changes, maintenance of service including trouble isolation, additional dispatches, and cancellation of orders).<sup>89</sup>

126. Eschelon maintains that in the last sentence, “access to” UNEs is necessary to clarify that the referenced activities are to be provided at TELRIC rates. In Eschelon’s view, Qwest has attempted improperly to limit the use a CLEC may make of a UNE through unilateral changes announced through the CMP and has recently signaled its intent to charge non-TELRIC rates for additional dispatch, trouble isolation, design change expedites, cancellation, and maintenance of service charges.<sup>90</sup>

127. Qwest would change the last sentence to read:

*Activities available* for Unbundled Network Elements includes moving, adding to, repairing and changing the UNE (through, e.g., design changes, maintenance of service including trouble isolation, additional dispatches, and cancellation of orders) *at the applicable rates*.<sup>91</sup>

128. Qwest maintains that the Eschelon language is ambiguous because it lists only a few of the obligations that would be imposed by the language. It further argues that, under Eschelon’s language, Qwest could be required to build new facilities and to provide access to a yet unbuilt, superior network. Qwest also contends that Eschelon’s language could be interpreted to mean that the price of leasing a UNE includes changes, additions, and

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<sup>89</sup> Disputed Issues List at 44.

<sup>90</sup> Ex. 27 (Starkey Direct) at 122-31; Ex. 28 (Starkey Rebuttal) at 61-77; Ex. 29 (Starkey Surrebuttal) at 95-100.

<sup>91</sup> Disputed Issues List at 44-45 (emphasis added).

modifications without additional payment.<sup>92</sup> Although Qwest does not address directly whether it intends to charge tariff rates for these activities in the future, Qwest does admit, with regard to design changes specifically, that its position is that design changes are not a service required under Section 251 of the Act and are not governed by TELRIC pricing; Qwest maintains that it will raise that issue in a separate proceeding, at some future time, in a manner that would permit all interested parties to present their views.<sup>93</sup>

129. The Department supports Eschelon's proposed language. In the Department's view, Eschelon's language only commits Qwest to providing nondiscriminatory access to the types of routine modifications that are necessary to provide access to the functionality of the UNE.<sup>94</sup>

### C. Decision

130. It is difficult to understand Qwest's position that Eschelon's language might require Qwest to provide access to an "as yet unbuilt, superior network" or that it might mean Qwest would be unable to charge at all for making such changes. It is a real stretch to find this kind of ambiguity in Eschelon's language. Qwest has pointed to nothing in the language that would require it to perform an activity that is obviously outside of its existing § 251 obligations.

131. Qwest's proposed language is in fact more ambiguous than Eschelon's, because it would leave unanswered the question whether routine changes in the provision of a UNE would be priced at TELRIC or at some other "applicable rate."

132. Federal law requires that when a CLEC leases a UNE, the ILEC remains obligated to maintain, repair, or replace it.<sup>95</sup> Unless and until the Commission or other authority determines to the contrary, these types of routine changes to UNEs should be provided at TELRIC rates. Eschelon's language should be adopted for this section.

133. At the hearing, Eschelon and the Department expressed concern that, because Qwest has not submitted cost studies for these activities in the *UNE Cost Case*, Qwest intends to simply begin charging market or tariff prices at the conclusion of this case. On December 21, 2006, Qwest indicated in a filing in the *UNE Cost Case* that, upon further review, Qwest agreed that several of these elements should be included in the cost docket, and it provided proposed UNE prices and cost support for those prices.

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<sup>92</sup> Ex. 19 (Stewart Direct) at 11-14; Ex. 20 (Stewart Rebuttal) at 9-15; Ex. 22 (Stewart Surrebuttal) at 4-6.

<sup>93</sup> Ex. 20 (Stewart Rebuttal) at 6.

<sup>94</sup> Ex. 54 (Fagerlund Reply) at 17-18; Ex. 55 (Fagerlund Surreply) at 13; Department's Post-Hearing Brief at 14-15.

<sup>95</sup> 47 C.F.R. § 51.309(c); see also *TRO* ¶ 639 (requiring a LEC to modify an existing transmission facility, in the same manner it does for its own customers, provides competitors access only to a functionally equivalent network, rather than one of superior quality).

134. The Commission could clarify that, if Qwest has not done so already, it should submit cost studies to justify development of TELRIC prices for these activities in the *UNE Cost Case*, if it intends to charge for them, without prejudice to any argument Qwest might make in a different proceeding that such activities are outside the scope of Qwest's § 251 obligations. Qwest should not be permitted to charge non-TELRIC rates for these activities without the express approval of the Commission.

### **Issue 9-33: Network Maintenance and Modernization/Adverse Effect**

#### **A. The Dispute**

135. Although the parties agree that Qwest must perform normal maintenance and modernization of its network, they dispute language concerning potential effects on end-user customers.

#### **B. Position of the Parties**

136. Qwest proposes the following language in Section 9.1.9:

In order to maintain and modernize the network properly, Qwest may make necessary modifications and changes to the UNEs in its network on an as needed basis. Such changes may result in minor changes to transmission parameters.<sup>96</sup>

137. Eschelon proposes two alternatives, contending it needs assurance that these minor changes to transmission parameters will not interfere with service to end user customers. Eschelon cites to a situation in which Qwest asserted it was meeting industry standards for decibel loss, but the circuit was not operational and Eschelon was unable to provide the service requested. Eschelon would add to the last sentence either of the following phrases:

- but will not adversely affect service to any End User Customers. (In the event of emergency, however, see Section 9.1.9.1).
- but will not adversely affect service to any End User Customers (other than a reasonably anticipated temporary service interruption, if any, needed to perform the work). (In addition, in the event of emergency, see Section 9.1.9.1.).<sup>97</sup>

138. Qwest objects to the Eschelon language, contending it is undefined both as to the obligation imposed and the consequences for potential violation.

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<sup>96</sup> Disputed Issues List at 49; Ex. 19 (Stewart Direct) at 17-24; Ex. 20 (Stewart Rebuttal) at 18-21; Ex. 22 (Stewart Surrebuttal) at 8-9.

<sup>97</sup> Disputed Issues List at 49-50; Ex. 33 (Webber Direct) at 22-40; Ex. 34 (Webber Rebuttal) at 9-14; Ex. 35 (Webber Surrebuttal) at 5-15. The CLEC Participants recommend the use of Eschelon's language.

139. Eschelon further argues that its terminology is no different than the language of 47 C.F.R. § 51.316(b), which requires ILECs, when converting wholesale services to UNEs or to a combination of UNEs, to do so “without adversely affecting the service quality perceived by the requesting telecommunications carrier’s end-user customer.”

140. The Department agrees that the Eschelon language is vague and would create the potential for future litigation over whether a violation occurred, and if so, whether damages are warranted. The Department recommends the following language in lieu of Eschelon’s proposals:

If such changes result in the CLEC’s End User Customer experiencing unacceptable changes in the transmission of voice or data, Qwest will assist the CLEC in determining the source and will take the necessary corrective action to restore the transmission quality to an acceptable level if it was caused by the network changes.<sup>98</sup>

141. The Department contends that this language would not disadvantage either company and would assure Eschelon of being able to get its end user customer back in service, while focusing Qwest’s responsibilities on fixing any problems caused by necessary changes to its network.<sup>99</sup>

### **C. Decision**

142. The Department’s recommended language should be adopted. It appears to balance the reasonable needs of both parties in an even-handed manner. Contrary to Eschelon’s argument, the process of converting a service to a UNE is not necessarily the same as the process of modernizing or maintaining the network; accordingly, the “adversely affecting” language of 47 C.F.R. § 51.316(b) does not provide the guidance needed to make this section of the ICA free from ambiguity. The reference to correcting transmission quality to “an acceptable level” does not, as Qwest argues, make this language unacceptably vague. The language merely commits Qwest to taking action to restore transmission quality to that which existed before the network change.

## **Issue 9-33(a): Relationship Between Section 9.1.9 and Copper Retirement**

### **A. The Dispute**

143. The parties had previously agreed upon language in Section 9.1.9 that said “(for retirement of copper loops, see section 9.2.1.2.3).” Because of

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<sup>98</sup> Department’s Post-Hearing Brief at 17; Ex. 50 (Schneider Reply) at 3-6; Ex. 51 (Schneider Surreply) at 3.

<sup>99</sup> By letter dated December 19, 2006, Qwest objected to the Department’s proposal, arguing that its language is just as undefined as Eschelon’s and that the Department’s suggestions are untimely. The Department has agreed that Qwest’s letter of objection should be included in the record.



wording changes in connection with Issue 9-33, they have now proposed different language to make this reference to copper retirement.

## **B. Position of the Parties**

144. Eschelon proposes the following language in Section 9.1.9, which generally addresses network maintenance and modernization:

This Section 9.1.9 does not address retirement of copper Loops or Subloops (as that phrase is defined in Section 9.2.1.2.3). See Section 9.2.1.2.3.<sup>100</sup>

145. After the hearing, Qwest proposed this language:

Because the retirement or replacement of copper loops may involve more than just minor changes to transmission parameters, terms and conditions relating to such retirements or replacements are set forth in Section 9.2.<sup>101</sup>

146. The Department has made no recommendation on this issue because it was not identified as an issue until after the hearing.

## **C. Decision**

147. There is little discernable difference between the proposed alternatives. Section 9.2.1.2.3 contains notice provisions for retirement of copper loops and subloops that are different and more specific than the notice provisions of Section 9.1.9. Because the parties previously agreed to language that takes retirement of copper loops and subloops entirely out of Section 9.1.9, and because Qwest's proposed language might be read to take it out of Section 9.1.9 only if such retirements involve more than minor changes to transmission parameters, the Administrative Law Judges recommend use of Eschelon's language to eliminate any ambiguity.

### **Issue 9-34: Location at Which Changes Occur**

#### **A. The Dispute**

148. Qwest has agreed to provide advance notice of network changes containing all information required by 47 U.S.C. § 251(c)(5) and FCC rules, 47 C.F.R. Parts 51 and 52. One of the rules, 47 C.F.R. § 51.327, requires public notice of the "location" at which changes will occur. The dispute concerns whether the "location" information in the notice must include the circuit identification and end user customer address information if changes are "specific to an end user customer."

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<sup>100</sup> Disputed Issues List at 49

<sup>101</sup> Disputed Issues List at 49-50.

## B. Position of the Parties

149. Eschelon proposes modifying Qwest's language as follows:

Such notices will contain the location(s) at which the changes will occur *including, if the changes are specific to an End User Customer, the circuit identification and End User Customer address information*, and any other information required by applicable FCC rules.<sup>102</sup>

150. Eschelon maintains this information is necessary to enable it to determine if a network change will affect its end user customers. It argues that circuit ID is the generally accepted locator within the network, and the customer address is the locator within the CLEC's list of customers. If Eschelon has this information, it can cross-reference its own records to determine if its customers will be affected.<sup>103</sup>

151. Qwest objects, arguing that it is not clear what a change "specific to an end-user customer" would be and that this requirement "exceeds" the FCC's minimum requirement, is overly burdensome, and might require Qwest to conduct intensive manual searches of multiple databases. Qwest also argues that Eschelon can obtain the circuit ID of its customers from its own records based on the information provided by Qwest.<sup>104</sup>

152. The Department supports Eschelon's goal, but believes the record is lacking in terms of readily apparent solutions. The Department recommends modifying Eschelon's language as follows, in order to provide that when circuit identification is readily available to Qwest, then Qwest must provide it:

Such notices will contain the location(s) at which the changes will occur *including, if the changes are specific to an End User Customer, the circuit identification, if readily available*, and any other information required by applicable FCC rules.<sup>105</sup>

## C. Decision

153. It is difficult to determine from the record what exactly is available in Qwest's databases, what is available in Eschelon's databases, or whether in reality the requested information is available to both parties and the real issue is who has to do the work to identify the affected customers. The FCC rules do not set out "maximum" requirements that cannot be surpassed. If this information is

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<sup>102</sup> Disputed Issues List at 50-51. The CLEC Participants also support this language.

<sup>103</sup> Ex. 33 (Webber Direct) at 32-33; Ex. 34 (Webber Rebuttal) at 14-15; Ex. 35 (Webber Surrebuttal) at 15-16.

<sup>104</sup> Ex. 19 (Stewart Direct) at 24-26; Ex. 20 (Stewart Rebuttal) at 22-23; Ex. 22 (Stewart Surrebuttal) at 9-11.

<sup>105</sup> Department's Post-Hearing Brief at 19; Ex. 50 (Schneider Reply) at 6; Ex. 51 (Schneider Surreply) at 3-4.

readily available, Qwest should provide it. The Department's recommended language should be adopted.

**Issue 9-43: Conversion of a UNE to a non-UNE**

**Issue 9-44**

**Issue 9-44(a)-(c)**

**A. The Dispute**

154. When Eschelon requests that a UNE be converted to a non-UNE (because, for example, the FCC or Commission has made a determination that CLEC access to a particular product is not impaired) there is generally no change to the physical facilities. Qwest, however, uses different provisioning, billing and inventory systems for UNEs and non-UNE products. Consequently, Qwest requires CLECs to "disconnect" the UNE product and "install" the retail product through numerous record-keeping changes that could potentially cause delay or disruption of service.<sup>106</sup> Eschelon has proposed, in this arbitration proceeding, to require Qwest to change its systems to be more accommodating of CLEC concerns regarding the "seamlessness" of such conversions.

**B. Position of the Parties**

155. Eschelon proposes to establish a set of conditions that would control Qwest's conversion process: no change in circuit ID (Issue 9-43); conversion carried out as a price change (Issue 9-44); Qwest may re-price through use of an adder or surcharge (Issue 9-44(a)); Qwest may create a new Universal Service Ordering Code (USOC) for purposes of charging an adder or surcharge (Issue 9-44(b)); and use of the same USOC for the converted product, so that negotiated volume discounts based on USOCs are not impacted (Issue 9-44(c)). Eschelon also recommends that the Commission order Qwest to change its conversion processes to be more efficient and cost-effective and of higher quality.<sup>107</sup>

156. Eschelon maintains that Qwest has recently issued what Eschelon describes as a "password-protected, non-CMP secret PCAT notice" providing that CLECs need to submit a collocation application to initiate the conversion process (with a service interval of somewhere between 15 and 45 days); that Qwest may stop accepting connect, change, or disconnect orders unless CLECs use this cumbersome conversion process; and that Qwest may be improperly planning to charge for such conversions.<sup>108</sup> Eschelon is concerned that if there is

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<sup>106</sup> See, e.g., Tr. 2:72-82.

<sup>107</sup> Disputed Issues List at 58-59; Ex. 27 (Starkey Direct) at 132-55; Ex. 28 (Starkey Rebuttal) at 78-81; Ex. 29 (Starkey Surrebuttal) at 100-12.

<sup>108</sup> Pursuant to 47 C.F.R. § 51.316(c), except as agreed to by the parties, an ILEC shall not impose any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion between a wholesale service or group of wholesale services and a UNE or combination of UNEs.

no language in the ICA addressing this issue, Qwest will attempt to apply this notice to Eschelon, and Eschelon will be at risk of service disruption to its end user customers if any errors take place.

157. Qwest opposes any language addressing changes to or requirements for its conversion process. It maintains that it is entitled to assess an “appropriate” (tariffed) charge for the activities involved in conversion, and it argues that the costs associated with changing its billing and inventory systems would place an unfair burden on Qwest.<sup>109</sup>

158. In the 2001-02 timeframe, when Qwest was converting private lines to UNEs, the Commission approved a TELRIC charge for the conversion process that did not include all the functions Qwest maintains are now necessary to reverse the process, because Qwest did not require a change to the circuit ID number until April 2005.<sup>110</sup>

159. The Department contends that there is insufficient record evidence to permit evaluation of Qwest’s conversion processes in this docket; it recommends that such an evaluation take place in a broader docket involving other CLECs. It recommends that the Commission open an investigation docket to determine (1) whether the charge for converting a UNE to a non-UNE should be a TELRIC-based charge; and (2) once the Commission has determined by what method this conversion charge should be priced, Qwest should file an appropriate cost study to determine the price to be used. At the same time, the Commission could consider the process Qwest uses to bill for converted elements and could potentially require Qwest to follow a different process, using forward-looking design and technology; follow its existing process, but charge a fee based on forward-looking design and technology; or use its current process without change. In the meantime, the Department recommends leaving the disputed sections of the ICA intentionally blank, as advocated by Qwest.<sup>111</sup>

### **C. Decision**

160. The Department’s recommendation to explore these issues in a generic docket makes sense, and its recommendation to leave the disputed sections of the ICA blank should be adopted. Although there are a number of related dockets pending, this issue is not squarely presented in any of them. Qwest has not proposed any cost studies for conversions in the *UNE Cost Case*. In the *Wire Center Case*, Qwest is maintaining that the Commission should approve its right to assess a charge for conversions, but that Commission approval of the amount of the charge is not required. The Department disagrees

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<sup>109</sup> Disputed Issues List at 58-59; Ex. 23 (Million Rebuttal) at 5-16.

<sup>110</sup> Tr. 2:85-88.

<sup>111</sup> Department’s Post-Hearing Brief at 22-24; Ex. 54 (Fagerlund Reply) at 18-22; Ex. 55 (Fagerlund Surreply) at 14; Tr. 5:51-52.

with that position. The *Wholesale Rates Case*<sup>112</sup> includes proposed prices for the converted elements, but does not include the price of performing the conversion from a UNE to a non-UNE. If an investigation docket concerning the conversion process were opened, the Commission could address how such conversions should be priced (on an interim basis if necessary) pending completion of the docket.

**Issue 9-50: Cross Connect**

**Issue 9-53: UCCRE**

**A. Dispute**

161. At issue is how Qwest should go about phasing out the provision of a UNE that there is no demand for or that Qwest is no longer obligated to provide. Qwest wants to eliminate from this ICA its obligation to perform wiring changes when the demarcation point is moved in a multi-tenant building (Issue 9-50, Cross Connect) and the Unbundled Customer Controlled Rearrangement Element (Issue 9-53, UCCRE), a functionality that would allow Eschelon to control the configuration of UNEs or ancillary services through a digital cross connect device.

**B. Position of the Parties**

162. Qwest has never received a CLEC order for these products and wants to phase out these products over time by eliminating them from ICAs as the contracts expire and are replaced. With regard to Issue 9-50, it proposes language that would require Qwest to offer an amendment to Eschelon that would allow Eschelon to request that Qwest perform cross connect jumper work for intrabuilding cable, “[i]f during the term of this agreement a new negotiated ICA or negotiated amendment has been approved by the Commission” that contains this option. Qwest would leave the ICA section concerning Issue 9-53 intentionally blank.<sup>113</sup>

163. Eschelon objects to elimination of these products from its ICA if the products are still available in Qwest’s ICAs with other CLECs, contending it constitutes discrimination. Eschelon offers four alternative proposals. First, with regard to Issue 9-50, Eschelon proposes language providing that if Qwest performs cross connect for any other CLEC during the term of the ICA, Qwest will notify Eschelon and offer an amendment to permit Eschelon to request the service under the same terms and conditions. Second, Eschelon offers a detailed proposal for language in Section 1.7.3 outlining the process for obtaining a phase out order from the Commission. The third proposal is a revision of the

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<sup>112</sup> *In the Matter of a Potential Proceeding to Investigate the Wholesale Rates Charged by Qwest*, OAH Docket No. 12-2500-17246-2, MPUC Docket No. P-421, C-05-1996.

<sup>113</sup> Disputed Issues List at 61, 71; Ex. 19 (Stewart Direct) at 37-39, 42-44; Ex. 20 (Stewart Rebuttal) at 33-45; Ex. 22 (Stewart Surrebuttal) at 16-25. See also Tr. 3:53.

second intended to address concerns raised by Qwest during the hearing. The fourth proposal only relates to the removal of section 251 UNEs.<sup>114</sup>

164. The Department proposes that a phase-out process be included in the ICA that would require Qwest to obtain Commission approval before eliminating a service; Commission approval would not be required, however, if Qwest were able to obtain, in relatively short order, ICA amendments from all affected CLECs removing the service.<sup>115</sup>

165. The Department recommends that the following language be inserted as Section 1.7.3:

**1.7.3 Phase out process.** If Qwest desires to phase-out the provision of an element, service, or functionality included in this agreement, it must first obtain an Order from the Commission approving its process for withdrawing the element, service or functionality. Obtaining such an Order will not be necessary if Qwest (1) promptly phases-out an element, service or functionality from the agreements of all CLECs in Minnesota within a three-month time period when the FCC has ordered that the element, service, or functionality does not have to be ordered, or (2) follows a phase-out process ordered by the FCC.<sup>116</sup>

166. With regard to Issue 9-50, the Department recommends that the service be left out of the ICA since Qwest seems committed to phasing the service out, and that Qwest be given four months to obtain a phase-out order from the Commission. The Department recommends that the following sentence be added to the end of the agreed-upon language of Section 9.3.3.8.3 to effectuate this recommendation:

Qwest has previously performed this service, and will either obtain a phase-out order (pursuant to Section 1.7.3) from the Commission within four months of the effective date of this Agreement or perform this service if CLEC requests.<sup>117</sup>

167. With regard to Issue 9-53, the Department recommends that Qwest obtain an order from the Commission approving its phase-out process. It recommends that the following language be added to Section 9.9.1 of Eschelon's Proposal #2:

Qwest shall provide Unbundled Customer Controlled Rearrangement Element (UCCRE) to CLEC in a non-discriminatory

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<sup>114</sup> Disputed Issues List at 61-71; Ex. 42 (Denney Direct at 108-112, 116-21; Ex. 43 (Denney Rebuttal) at 52-54, 5-57; Ex. 44 (Denney Surrebuttal) at 67-77.

<sup>115</sup> Ex. 54 (Fagerlund Reply) at 24-29; Ex. 55 (Fagerlund Surreply) at 14-15; Tr. 5:40-45.

<sup>116</sup> Department's Post-Hearing Brief at 27.

<sup>117</sup> Department's Post-Hearing Brief at 28.

manner according to the terms and conditions of Section 9.9 and subparts of the Minnesota SGAT, *unless Qwest obtains a phase-out order (pursuant to Section 1.7.3) from the Commission within four months from the effective date of this Agreement.*<sup>118</sup>

### **C. Decision**

168. The Department's recommendations for Sections 1.7.3, 9.3.3.8.3, and 9.9.1 should be used in the ICA. These recommendations efficiently balance the concerns of both parties and would permit any interested CLEC to provide comment to the Commission if it had concerns about the elimination of a particular element, service, or functionality. The Department's language will be easier to implement than the lengthy procedures proposed by Eschelon.

169. Qwest expressed a lengthy objection to the Department's proposals on this issue, contending that the arbitration authority of state commissions is limited to the open or disputed issues that remain after 135 days of negotiations and that are set forth in the petition for arbitration and response. It contends that because neither Eschelon nor Qwest originally proposed the phase-out process recommended by the Department, the issue is not properly addressed in this arbitration.<sup>119</sup>

170. This argument is misplaced. Issues 9-50 and 9-53 are open and disputed issues that Qwest and Eschelon negotiated but were unable to resolve. Because they were unable to resolve these issues, and others, Eschelon petitioned for arbitration. The Department properly intervened as a party to this arbitration, and it is entitled to propose language that it believes is consistent with the law and will serve the public interest better than language offered by the other parties. Just because these specific words were not negotiated between Qwest and Eschelon does not mean that the Commission lacks authority to resolve the issues by incorporating the Department's proposed language into the disputed provisions of the ICA. Qwest and Eschelon have both had a meaningful opportunity to respond to the Department's proposals, and neither has been prejudiced in any way by the timing of the Department's suggestions.

### **Issue 9-55: "Loop-Transport Combinations"**

#### **A. The Dispute**

171. The parties disagree on language defining a commingled extended enhanced loop (EEL) as a "Loop-Transport Combination." Commingled EELs are partly a UNE and partly not.

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<sup>118</sup> Department's Post-Hearing Brief at 29.

<sup>119</sup> Ex. 22 (Stewart Surrebuttal) at 19.

## B. Position of the Parties

172. Qwest would title Section 9.23.4 “Enhanced Extended Links (EELs), Commingled EELs, and High Capacity EELs.” It has proposed language for that section as follows:

When a UNE circuit is commingled with a non-UNE circuit, the rates, terms and conditions of the ICA will apply to the UNE circuit (including the Commission jurisdiction) and the non-UNE circuit will be governed by the rates, terms and conditions of the appropriate Tariff.<sup>120</sup>

173. Qwest objects to defining EELs as a “Loop-Transport Combination,” as proposed by Eschelon, because not all loop-transport combinations are UNEs. Qwest maintains that different rates and provisioning processes are required for a “loop-transport combination” that is composed entirely of UNEs than for a commingled UNE circuit that is partly a private line.<sup>121</sup>

174. Eschelon would add to the title of Section 9.23.4 “Loop-Transport Combinations: Enhanced Extended Links (EELs), Commingled EELs, and High Capacity EELs.” It would make similar references to EELs as being “Loop-Transport Combinations” in the rest of its proposed language for sections 9.23.4 through 9.23.4.6. A portion of Eschelon’s proposed language provides: “If no component of the Loop-Transport Combination is a UNE, however, the Loop-Transport Combination is not addressed in this Agreement. The UNE components of any Loop-Transport Combinations are governed by this Agreement.”<sup>122</sup>

175. The Department recommends that the term “loop-transport combination” not be used because it is more general than is needed and may cause confusion. The Department recommends that Qwest’s language be used.<sup>123</sup>

## C. Decision

176. Eschelon’s language states that if no component of a combination is a UNE, the combination is not covered by the ICA. This language would permit the inference that if any part of a combination *is* a UNE, the entire combination would be covered by the ICA. Eschelon’s following sentence, stating that “the UNE components of any Loop-Transport Combinations are governed by this agreement,” do not reflect Qwest’s position that the non-UNE

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<sup>120</sup> Disputed Issues List at 74.

<sup>121</sup> Ex. 19 (Stewart Direct) at 49-53; Ex. 20 (Stewart Rebuttal) at 52-60; Ex. 22 (Stewart Surrebuttal) at 28-30.

<sup>122</sup> Disputed Issues List at 74-76; Ex. 27 (Starkey Direct) at 161-69; Ex. 28 (Starkey Rebuttal) at 83-86; Ex. 29 (Starkey Surrebuttal) at 112-19.

<sup>123</sup> Department’s Post-Hearing Brief at 29-30; Ex. 54 (Fagerlund Reply) at 29-31; Ex. 55 (Fagerlund Surrebuttal) at 17-18.



portions are *not* governed by this agreement. Qwest could agree to this, but it has not, and accordingly it is entitled to language making clear that the non-UNE portion of a commingled EEL is outside the scope of the ICA. Qwest's language should be used in the ICA.<sup>124</sup>

**Issue 9-56: Service Eligibility Criteria Audits**  
**Issue 9-56(a)**

**A. The Dispute**

177. Before accessing high-capacity EELs, the requesting carrier must certify to the service criteria set forth in the *TRO* to demonstrate it is a bona fide provider of a qualifying service. The parties dispute the language that would permit Qwest to conduct an audit of Eschelon's compliance with service eligibility criteria.

**B. Position of the Parties**

178. Qwest has proposed language providing as follows for Section 9.23.4.3.1.1:

After CLEC has obtained High Capacity EELs in accordance with Section 9.23.4.1.2, Qwest may conduct a Service Eligibility Audit to ascertain whether those High Capacity EELs comply with the Service Eligibility Criteria set forth in Section 9.23.4.1.2.<sup>125</sup>

179. Eschelon proposes adding the following phrase to the end of the above sentence: "when Qwest has a concern that CLEC has not met the Service Eligibility Criteria." Eschelon also proposes a written notice provision that would require Qwest to specify the cause "upon which Qwest has a concern that CLEC has not met the Service Eligibility criteria" and to provide, upon request, a list of circuits for which Qwest has compliance concerns Issue 9-56(a)).<sup>126</sup>

180. Qwest contends that the language it has proposed is consistent with the *TRO* and that the *TRO* does not limit its right to request an audit "for cause."<sup>127</sup>

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<sup>124</sup> Eschelon points out that the non-UNE portion of a commingled EEL could be covered by a negotiated commercial agreement or some other document that is not specifically a tariff. Qwest could clarify this by adding the phrase "or other agreement outside of this ICA" to the end of its proposed language.

<sup>125</sup> Disputed Issues List at 76-77.

<sup>126</sup> Disputed Issues List at 77.

<sup>127</sup> See Report and Order and Order on Remand, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 (2003) (*TRO*), *vacated in part and remanded*, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir.), *cert. denied*, 125 S.Ct. 313, 316, 345 (2004); Ex. 19 (Stewart Direct) at 54-58; Ex. 20 (Stewart Rebuttal) at 60-63; Ex. 22 (Stewart Surrebuttal) at 30-31.

181. Eschelon argues, largely in reliance on an FCC order that preceded the *TRO*, that Qwest's right to request such audits must be limited to avoid undue burden on CLECs.<sup>128</sup>

182. The Department has made no recommendation on this issue.

### **C. Decision**

183. The *TRO* established certification and auditing procedures based on the general principles that requesting carriers are entitled to unimpeded UNE access based on self-certification, subject to later verification based upon cause.<sup>129</sup>

184. More specifically, the *TRO* provides that ILECs may obtain and pay for an independent auditor to audit, on an annual basis, compliance with the qualifying service eligibility criteria. The FCC concluded that an annual audit right strikes the appropriate balance between the ILEC's need for usage information and the risk of illegitimate audits that impose costs on qualifying carriers. To the extent the independent auditor's report concludes that a CLEC has failed to comply with the criteria, the CLEC must true-up any difference in payments, convert all noncompliant circuits to the appropriate service, and make the correct payments on a going-forward basis. In addition, if the independent auditor concludes that a CLEC has failed to comply in all material respects with service eligibility criteria, the CLEC must reimburse the ILEC for the cost of the independent auditor. Similarly, if the independent auditor concludes that the CLEC complied in all material respects with the eligibility criteria, the ILEC must reimburse the audited carrier for its costs associated with the audit. In adopting these procedures, the FCC expected that the reimbursement mechanism would provide incentive for CLECs to comply with eligibility criteria and for ILECs to avoid abusive or unfounded audits.<sup>130</sup>

185. The *TRO* clearly permits Qwest to request an independent audit on an annual basis and does not limit audit requests to situations in which Qwest would have articulable concerns about specific circuits. Eschelon's language is inconsistent with the mechanism outlined in the *TRO*. The undisputed portions of Section 9.23.4.3 incorporate the reimbursement mechanism and the annual limitation contained in the *TRO*. The Administrative Law Judges recommend using Qwest's language for Issue 9-56; for Issue 9-56(a), the Administrative Law Judges recommend adopting Qwest's proposal to delete this section.

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<sup>128</sup> Eschelon's Post-Hearing Brief at 81-83; Ex. 42 (Denney Direct) at 128-33; Ex. 43 (Denney Rebuttal) at 60-62; Ex. 44 (Denney Surrebuttal) at 89-90.

<sup>129</sup> Report and Order and Order on Remand, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 Fcc Rcd 16978 at ¶ 622 (2003) (*TRO*), *vacated in part and remanded*, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir.), *cert. denied*, 125 S.Ct. 313, 316, 345 (2004).

<sup>130</sup> *TRO* ¶¶ 626-28.

**Issue 9-58: Arrangements for Commingled Elements**

**Issue 9-58(a)-(e)**

**Issue 9-59**

**A. The Dispute**

186. As with Issues 9-43 and 9-44 concerning the conversion process, Eschelon here proposes language that would require Qwest to change its ordering, tracking, repair, and billing systems for handling commingled EELs. Eschelon maintains its language would require Qwest to create more efficient processes that are less likely to cause problems for CLECs. Qwest objects to any suggestion that its systems be changed through provisions in the ICA.

**B. Position of the Parties**

187. Eschelon proposes changes that would require Qwest to allow the ordering of commingled EELs on a single LSR form (Issue 9-58); to assign a single circuit ID to a commingled EEL (Issue 9-58(a)); to permit CLECs to report trouble on a single trouble report and to process trouble reports using a single charge for both UNE and non-UNE circuits (Issue 9-59); to charge for all rate elements using a single billing account number (BAN) (Issue 9-58(b)); in the alternative, to identify on bills (among other things) the UNE element (by circuit ID) that is commingled with the non-UNE (Issues 9-58(c); to permit the option of a single LSR, circuit ID, and BAN for commingled arrangements other than EELs (Issue 9-58(d)); and to use the service interval of the longer of the two facilities being commingled (Issue 9-58(e)). Eschelon argues that Qwest's current practice, which requires separate ordering, tracking, repair, and billing systems for UNEs and non-UNEs, causes unreasonable delays, interferes with the usefulness of ordering a commingled product, and makes bill verification difficult.<sup>131</sup>

188. Qwest again maintains that its systems for UNEs and non-UNEs are different and that it is not obligated to change its procedures. It maintains that changing its procedures would be costly and that such issues should be raised in its CMP so that all CLECs have an opportunity to comment.<sup>132</sup>

189. The Department recommends that evaluation of Qwest's complex processes concerning the handling of commingled elements should take place in a broader docket. The Commission would then be able to evaluate the reasonableness of requiring Qwest to change its processes and the cost of making such changes. In addition, the Commission could evaluate the pricing issues associated with charges (recurring and nonrecurring) for commingling

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<sup>131</sup> Disputed Issues List at 78-86; Ex. 42 (Denney Direct) at 133-64; Ex. 43 (Denney Rebuttal) at 63-73; Ex. 44 (Denney Surrebuttal) at 90-98. The CLEC Participants support this language.

<sup>132</sup> Ex. 19 (Stewart Direct) at 58-74; Ex. 20 (Stewart Rebuttal) at 63-93; Ex. 22 (Stewart Surrebuttal) at 32-38.

UNEs with non-UNEs. In the meantime, the Department recommends that Qwest's language be used in the ICA.<sup>133</sup>

### **C. Decision**

190. The Administrative Law Judges agree with the Department's recommendation to open a separate docket to consider these issues. The record is insufficient to evaluate Qwest's ability to change its processes and the costs of making such changes. For now, Qwest's language proposals should be incorporated into the ICA.

#### **Issue 9-61: Loop-Mux Combinations**

##### **Issue 9-61(a)**

##### **Issue 9-61(b)**

##### **Issue 9-61(c)**

### **A. The Dispute**

191. Multiplexing (or muxing) equipment allows multiple circuits to be combined into a single larger circuit; it also permits the reverse process (sometimes called de-muxing). A "loop-mux combination" is an arrangement that includes a loop and multiplexing, but no interoffice transport. For example, numerous UNE loops serving end-users might be muxed into a larger circuit in the end office, and the larger circuit would then be delivered to a CLEC collocation in the same end office. At issue here is whether the multiplexing function for a loop-mux combination must be provided at TELRIC rates (as proposed by Eschelon) or at tariffed rates (as proposed by Qwest).

### **B. Position of the Parties**

192. Qwest asserts that FCC rules do not require it to provide multiplexing at TELRIC-based rates unless the multiplexing is provided in conjunction with UNE transport (not a UNE loop). Qwest would move all references to the loop-mux combination to the section of the ICA dealing with commingled elements. Qwest contends that multiplexing is not a "stand-alone UNE" and that it is not obligated to offer it at a UNE price. Qwest also would omit placing references to service intervals in the ICA, contending any changes to service intervals should be made through its CMP as opposed to amending the ICA. Although Qwest previously provided all loop-multiplexing at UNE rates, and the Commission previously approved these rates, Qwest now views multiplexing within a central office as merely a method of connecting a UNE loop with tariffed transport. Qwest will provide multiplexing as a UNE, however, when a UNE loop is combined with UNE transport.<sup>134</sup> Qwest relies on an FCC decision for the

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<sup>133</sup> Department's Post-Hearing Brief at 30-31; Ex. 54 (Fagerlund Reply) at 31-34; Ex. 55 (Fagerlund Surreply) at 18-19.

<sup>134</sup> Disputed Issues List at 88; Ex. 19 (Stewart Direct) at 75-81; Ex. 20 (Stewart Rebuttal) at 93-100; Ex. 22 (Stewart Surrebuttal) at 38-43. See also Ex. 32.

proposition that multiplexing is not a stand-alone network element.<sup>135</sup> It also relies on portions of the *TRO* concerning general principles of commingling.<sup>136</sup>

193. Eschelon relies on other language in the *TRO* in contending that multiplexing is also a function of a loop, not just transport, and that Qwest must make the loop-mux combination available at TELRIC rates when multiplexing is provided in connection with UNE loops or UNE transport. Its proposed language describes the loop-mux combination as a UNE combination (as opposed to a commingled arrangement of UNE and non-UNE) and states the appropriate rates are those TELRIC rates contained in Ex. A to the ICA. Other disputed provisions concern service intervals and rates for de-muxing. In addition, Eschelon argues that Qwest must make the loop-mux combination available at TELRIC rates because Qwest is obligated to do so in other ICAs with other CLECs, and Qwest cannot discriminate by refusing to do so for Eschelon.<sup>137</sup>

194. The Department argues that multiplexing in the central office should be provided at TELRIC rates because it is a function associated with the UNE loop and cross-connect elements. For the limited purpose of providing the loop-mux combination, the Department recommends that multiplexing should be provided at TELRIC rates because multiplexing between a UNE loop and a simple cross-connect to a CLEC collocation is appropriately provided at TELRIC rates. Because the Commission has approved UNE prices for multiplexing, and because multiplexing is contained in other ICAs as a UNE, the Department contends that if Qwest wants to “phase out” multiplexing as a UNE (unless, as Qwest concedes, it is provided in connection with UNE transport), Qwest should file a petition to obtain Commission approval for deleting these terms from other ICAs. In the meantime, it should be offered in this ICA at UNE terms and rates.<sup>138</sup> The Department recommends that Eschelon’s language be adopted, with three non-substantive corrections to sections 9.23.9.2, 9.23.9.2.1, and 9.23.9.3.2.2(b).<sup>139</sup>

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<sup>135</sup> *In the Matter of Petition of WorldCom, Inc., for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon-Virginia and for Arbitration*, 17 FCC Rcd. 27,039 at ¶ 491 (FCC Wireline Competition Bureau July 17, 2002) (*Verizon Virginia Arbitration Order*).

<sup>136</sup> *TRO* ¶ 583 (commingling allows a competitive LEC to connect or attach a UNE or UNE combination with an interstate access service, such as high-capacity multiplexing or transport services).

<sup>137</sup> Disputed Issues List at 88-96; Ex. 27 (Starkey Direct) at 169-84; Ex. 28 (Starkey Rebuttal) at 87-92; Ex. 29 (Starkey Surrebuttal) at 120-26. The CLEC Participants also agree with Eschelon’s language.

<sup>138</sup> Department’s Post-Hearing Brief at 32-34; Ex. 54 (Fagerlund Reply) at 35-36; Ex. 55 (Fagerlund Surreply) at 19-20. See also Department Recommendations for Issues 9-50 and 9-53.

<sup>139</sup> Department’s Post-Hearing Brief at 34.

### C. Decision

195. The FCC has not spoken definitively on this issue. The local loop is defined as “a transmission facility between a distribution frame (or its equivalent) and an incumbent LEC central office and the loop demarcation point at an end-user customer premise.”<sup>140</sup> In general, ILECs must provide access to UNEs, along with all of the “features, functions, and capabilities” of the UNE, in a manner that allows a requesting carrier to provide service.<sup>141</sup>

196. In the *Verizon Virginia Arbitration Order*, the FCC rejected the notion that multiplexing is a stand-alone UNE, but required Verizon to offer multiplexing as a feature of UNE dedicated transport.<sup>142</sup> The FCC declined to address the issue whether multiplexing can also be a feature, function, or capability of a UNE loop in the circumstances at issue here:

[T]he parties appear to disagree over Verizon’s obligation to provide multiplexing associated with cross-connects between local loops and collocated equipment. This debate over Verizon’s obligations under the contract in particular circumstances relates to implementation of the agreement. While the parties apparently disagree on this implementation point, the specific question is not addressed by contract language proposed by either party for this issue and thus is not squarely presented. We emphasize that our adoption of Verizon’s proposed contract language on this issue should not be interpreted as an endorsement of Verizon’s substantive positions expressed in this proceeding regarding its multiplexing obligations under applicable law.<sup>143</sup>

197. In the *TRO*, the FCC stated that a loop “may include additional components (e.g. load coils, bridge taps, repeaters, multiplexing equipment) that are usually intended to facilitate the provision of narrowband voice service.”<sup>144</sup> It also required ILECs to make routine network modifications such as adding multiplexers to high-capacity loops.<sup>145</sup> The same requirement holds true for adding multiplexers to unbundled transport.<sup>146</sup> In another paragraph, the FCC described an EEL as a UNE combination consisting of an unbundled loop and dedicated transport sometimes including additional electronics (e.g., multiplexing equipment).<sup>147</sup> In requiring ILECs to “commingle” UNEs and tariffed services, however, the FCC gave as an example the attachment of a UNE or UNE

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<sup>140</sup> 47 C.F.R. 51.319(a)(1).

<sup>141</sup> See 47 C.F.R. § 51.307(c).

<sup>142</sup> *Verizon Virginia Order* at ¶¶ 498-99.

<sup>143</sup> *Id.* at ¶ 490 (footnotes omitted).

<sup>144</sup> *TRO* at ¶214.

<sup>145</sup> *Id.* at ¶¶ 634-35, n. 1922; 47 C.F.R. § 51.319(a)(8)(ii).

<sup>146</sup> 47 C.F.R. § 51.319(e)(5).

<sup>147</sup> *TRO* at ¶ 571.

combination with an interstate access service “such as high-capacity multiplexing or transport services.”<sup>148</sup>

198. Although there may be some merit to Qwest’s contention that the multiplexing at issue here should not be considered a feature or function of a loop—because it would take place not between the customer premise and the distribution frame, but between the distribution frame or its equivalent and Eschelon’s collocation—neither the *Verizon Virginia Arbitration Order* nor the *TRO* expressly addresses the question whether multiplexing must be offered at UNE rates under this circumstance.

199. Qwest agrees that it must offer multiplexing at UNE rates when it connects two UNEs, or when it is a feature, function, or capability of UNE transport. Given that Qwest has previously provided multiplexing as a UNE when it is provided in conjunction with a UNE loop, as well as when it is provided in conjunction with UNE transport, the Administrative Law Judges agree with the Department’s recommendations that Eschelon’s language be adopted in the ICA. If Qwest wishes to withdraw or limit multiplexing in the manner it proposes here, it should file a petition with the Commission to obtain permission to modify all ICAs that currently provide for UNE pricing of the multiplexing of a UNE loop into non-UNE transport within a central office.<sup>149</sup>

## **VII. ACCESS TO OPERATIONAL SUPPORT SYSTEM (OSS).**

### **Issue 12-64: Acknowledgment of Mistakes**

#### **Issue 12-64(b)**

##### **A. The Dispute**

200. The parties disagree about whether and under what circumstances Qwest should be required to acknowledge or provide a root cause analysis of Qwest-caused errors to Eschelon (Issue 12-64) and to Eschelon’s end-user customers (Issue 12-64(b)). Eschelon bases its proposal on the Commission’s Order in the *Minnesota 616 Order*.<sup>150</sup> Eschelon and Qwest disagree on the scope of this decision, the level of detail that Qwest must provide in such an acknowledgment, and whether Qwest’s response may be disclosed to Eschelon end-user customers.

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<sup>148</sup> TRO at ¶ 583.

<sup>149</sup> For Issue 9-61(b), which concerns whether service intervals should be placed in the ICA or should be changed through the CMP, see discussion of Issues 12-XXX.

<sup>150</sup> *In the Matter of a Request by EschelonTelecom for an Investigation Regarding Customer Conversion by Qwest and Regulatory Procedures*, Docket No. P421/C-03-616, Order Finding Service Inadequate and Requiring Compliance Filing (July 30, 2003) (*MN 616 Order*).

## B. Position of the Parties

201. Eschelon seeks to include language that would permit it to ask Qwest for root cause analysis and/or acknowledgment of a mistake relating to any products or services provided under the ICA. Eschelon also proposes language that would make any such acknowledgment be provided on a non-confidential basis and not include a confidentiality statement.<sup>151</sup>

202. Qwest agrees to language that would permit Eschelon to ask for acknowledgment of a mistake (but not for root cause analysis) made in the processing of an LSR/ASR under the agreement. Qwest maintains the Commission's order was limited to mistakes in processing the LSR/ASR<sup>152</sup> and should not be broadened to include other activities; the requirement to do a "root cause analysis" would be burdensome; the requirement that it provide "sufficient pertinent information to identify the issue" to be vague; and Qwest objects to language requiring its response to be provided on a non-confidential basis.<sup>153</sup>

203. The Department asserts that the Commission's language was intended to encompass errors that may occur in pre-ordering, ordering, provisioning, maintenance, and billing; it rejects Qwest's argument that the Commission limited its decision to errors in the processing of an LSR/ASR. In any event, the Department argues that nothing in the Commission's decision would preclude the ICA from containing language that would require acknowledgment of mistakes in other areas. The Department recommends adoption of the Commission's express terminology or, in the alternative, adoption of Eschelon's proposed language for Issue 12-64. The Department makes no recommendation as to Issue 12-64(b), which concerns the confidentiality or non-confidentiality of the response.<sup>154</sup>

## C. Decision

204. The basic facts underlying the *MN 616 Order* were not disputed. One of Qwest's large business customers decided to transfer its service from Qwest to Eschelon. Eschelon followed Qwest's procedures to complete the service transfer, electronically submitting a wholesale order form on March 27. The form listed April 9 as the date on which service should be transferred to Eschelon. A Qwest employee inadvertently entered the incorrect date on two of the five work orders, causing 80 of the customer's lines to go out of service two weeks before Eschelon was prepared to serve it, with no notice to Eschelon or the customer. By the time its service was restored, and after the customer had

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<sup>151</sup> Disputed Issues List at 97-99; Ex. 33 (Webber Direct) at 40-66; Ex. 34 (Webber Rebuttal) at 22-30; Ex. 35 (Webber Surrebuttal) at 22-30.

<sup>152</sup> An LSR is a Local Service Request. An ASR is an Access Service Request.

<sup>153</sup> Disputed Issues List at 97-99; Ex. 1 (Albersheim Direct) at 39-46; Ex. 2 (Albersheim Reply) at 36-42; Ex. 4 (Albersheim Surrebuttal) at 16-19.

<sup>154</sup> Department's Post-Hearing Brief at 34-37; Ex. 48 (Doherty Reply) at 14-19 and KAD 001; Ex. (Doherty Surrebuttal) at 4.



contacted Qwest retail representatives, the customer had reversed its decision to transfer service to Eschelon. When the customer told Eschelon it no longer wished to transfer service, Eschelon submitted an electronic cancellation order, which Qwest's system rejected because two of the work orders had already been implemented. A Qwest retail representative communicated to the customer that Eschelon had to cancel the orders or the customer might lose service again. When Eschelon sought help from a Qwest wholesale service representative, it found that a Qwest retail employee had already canceled the three remaining work orders, in violation of Qwest policy. In addition, when Eschelon asked Qwest for a written statement to provide the customer to explain what had caused the outage, it took Qwest nearly three weeks to provide an explanation the customer could understand.

205. Based on these facts, the Commission found that Qwest had provided inadequate service in (1) failing to adopt operational procedures to ensure the seamless transfer of customers to competitive carriers; (2) failing to adopt operational procedures to prevent its retail division from interfering with Eschelon's ability to serve its customer and to prevent its retail division from providing misleading characterizations of Eschelon's conduct; and (3) failing to adopt operational procedures to prevent its retail service representatives from canceling or otherwise modifying wholesale orders.

206. On July 30, 2003, the Commission ordered Qwest to make a compliance filing detailing its proposals for remedying the service inadequacies identified in the Order, including (1) procedures for ensuring that retail service representatives are properly separated from wholesale operations; (2) procedures for promptly acknowledging and taking responsibility for mistakes in processing wholesale orders; and (3) procedures for reducing errors in processing wholesale orders.<sup>155</sup>

207. Qwest made three compliance filings, eventually agreeing, in response to increasingly specific direction from the Commission, to implement procedures for acknowledging mistakes in processing wholesale orders (not just typographical errors on the LSR/ASR); procedures for ensuring the acknowledgements appear on Qwest letterhead or other indicia to show Qwest is making the acknowledgement; and procedures for preventing the use of a confidentiality designation to ensure that the CLEC can provide the acknowledgement to its end user customer.<sup>156</sup>

208. Qwest's proposed language for the ICA is inconsistent with commitments it made in its compliance filings in the *MN 616* docket. Eschelon's language is not vague or burdensome (to acknowledge a mistake, Qwest has to determine that one was made and why) and it is more consistent with the Commission's order, but it does expand the scope from "mistakes in processing

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<sup>155</sup> Ex. 5; Ex. 48 at KAD 001.

<sup>156</sup> Ex. 48 at KAD 001.

wholesale orders” to “mistake[s] relating to products and services provided under this Agreement.” To make Eschelon’s language more consistent with the Commission’s order, the Commission could change this phrase in Section 12.1.4.1 to “mistake[s] in processing wholesale orders.” In the alternative, the Commission could adopt Eschelon’s proposed language for Issues 12-64 and 12-64(b) as it stands. Either of these alternatives would be consistent with the record and in the public interest.

## **Issue 12-66: Communications with CLEC Customers**

### **A. The Dispute**

209. This dispute concerns communications between Qwest and Eschelon’s customer that arise from service outages or other service or billing problems that result from a Qwest-caused error. The parties have agreed to language providing that Qwest will not use the situation as a winback opportunity, but they disagree about language concerning Qwest technicians initiating discussion of Qwest products or services.<sup>157</sup>

### **B. Position of the Parties**

210. The parties have agreed to the following language for Section 12.1.5.5:

Notwithstanding any other provisions of this Agreement, when a CLEC End User Customer experiences an outage or other service affecting condition or Billing problem due to a known Qwest error or action, Qwest shall not use the situation (including any misdirected call) as a winback opportunity.<sup>158</sup>

211. Eschelon would add to the end of the sentence this phrase: “or otherwise initiate discussion of its products and services with CLEC’s End User Customer.” Based on the facts involved in the *MN 616* Docket, Eschelon argues that this language is necessary to preclude Qwest from using its own errors or mistakes as an opportunity to win back end user customers.<sup>159</sup>

212. Qwest initially objected, maintaining that no language was necessary and that Section 12.1.5.5 should be left blank because it would prevent Qwest from responding to customer-initiated requests for information. Qwest eventually agreed to the language quoted above, without the phrase at

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<sup>157</sup> This issue may be closed. Eschelon has briefed it, and it still appears on the Disputed Issues List; Qwest’s brief, however, provides that Issue 12-66 is closed. See Qwest’s Post-Hearing Brief at 119. If it is closed, whatever language the parties have agreed to should be incorporated in the ICA.

<sup>158</sup> Disputed Issues List at 102.

<sup>159</sup> Ex. 33 (Webber Direct) at 66-79; Ex. 34 at 30–35; Ex. 35 at 30-35.

the end concerning Qwest initiation of discussion of its products and services. Qwest apparently believes this last phrase is unnecessary.<sup>160</sup>

213. The Department has made no recommendation on this issue.

### **C. Decision**

214. Qwest agreed to virtually identical language in Section 12.1.5.4.7, which addresses maintenance and repair and provides in relevant part that “the Qwest technician will not initiate any discussion regarding Qwest’s products and services with CLEC End User Customer and will not make disparaging remarks about CLEC.” It also provides “[n]otwithstanding the foregoing, if a CLEC End User Customer initiates a discussion with the Qwest technician about Qwest’s products or services and requests such information, nothing in this Agreement prohibits the Qwest technician from referring the CLEC End User Customer to the applicable Qwest retail office.” Eschelon’s proposed language merely extends the same treatment to contacts arising from Qwest-caused errors. Eschelon’s proposed language should be adopted.

## **Issue 12-67: Expedited Orders Issue 12-67 (a)-(g)**

### **A. The Dispute**

215. An expedited order or “expedite” is an order for which Qwest provides the requested service more quickly than it otherwise would under its normal service provisioning interval. Some arise in emergency situations, some do not. Expedites are necessary for Eschelon to respond to the unusual needs of customers and to compete effectively. The parties disagree as to whether the expedite charge charged in addition to the normal installation charges should be priced at a wholesale TELRIC rate or at “just and reasonable” retail rate. For expedites that arose in certain emergency situations, a practice developed where Qwest provided those “emergency expedites” to Eschelon and other CLECs without requiring the additional expedite charge. In 2006, Qwest completed a CMP and now limits no-charge emergency expedites to POTS-type services. Eschelon disagrees with that limitation.

### **B. Position of the Parties**

216. Eschelon proposes a provision restoring no-charge, emergency-based expedites for unexpected events such as natural disasters or critical deadlines such as grand openings, for all services. Eschelon disputes the reasons offered by Qwest for the CMP change. Eschelon alleges that Qwest provides free emergency expedites for its retail customers and selected CLECs and is therefore required to provide them to Eschelon. For non-emergency

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<sup>160</sup> Ex. 1 (Albersheim Direct) at 46-52; Ex. 2 (Albersheim Reply) at 42-45; Ex. 4 (Albersheim Surreply) at 19-22.

expedite situations, Eschelon proposes that the ICA contain an option of requesting a fee-based expedite and language clarifying that installation Non-Recurring Charges and similar charges are still applicable. Eschelon proposes that the expedite option be available to UNE combinations. Eschelon proposes that the expedite charge for the non-emergency expedite be set at a TELRIC rate to be determined and that it be set at \$100 per day on an interim basis.<sup>161</sup>

217. Qwest notes a distinction between design service (unbundled loops) and non-design services (POTS-type services). It agrees that under the expedite process that preceded the current one, CLECs could obtain expedites for both non-design and design services under certain emergency conditions for free. In Qwest's view, CLECs abused that process and gamed Qwest's system, which placed an undue burden on Qwest and drove it to reconsider the products that it included in the expedite process. Based upon a Change Request submitted by Covad, Qwest implemented the current expedite process of providing free emergency expedites only for non-design services, but charging a per-day expedite charge for design services without regard to emergencies. Qwest argues that the distinction is reasonable and not discriminatory. It also argues that the expedites service is a "superior" service, and not a UNE pursuant to Section 251 of the Telecommunications Act of 1996, and therefore not required to be priced by TELRIC pricing. Thus, Qwest proposes that the expedite charge be set by inserting in Exhibit A to the ICA a reference to its interstate access tariff. The tariff rate is \$200.

218. The Department made no recommendations on this issue.

### **C. Decision**

219. The CMP process by which Qwest reached its current position is not the controlling factor on whether emergency situations should create an exception to charging an additional fee for expedited ordering. The more important question is whether Qwest's process is discriminatory. It appears that it is not.

220. First, an expedite for a non-design service is likely to be less involved than one for a design service, so the charge difference has some justification. Second, in addition to the "design" versus "non-design" services distinction, Qwest services may be classified as wholesale versus retail. Qwest proposes to offer expedites under certain emergency conditions for non-design services for free. This applies to both retail non-design services (POTS) and wholesale non-design services (Resale POTS, QPP). Similarly on the other hand, Qwest would charge the expedite fee, even for emergencies, for both retail design services (Private Lines) and wholesale design services (Unbundled Loops). Thus, for an Eschelon end user POTS customer, Eschelon can obtain an emergency expedite at no charge. And both Eschelon and a Qwest retail

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<sup>161</sup> Ex. 34 (Webber Rebuttal) at 35-37.

customer will pay the expedite charge for any expedite request. There is no discrimination. On this point, Qwest's position and language should be adopted.

221. As to pricing, Eschelon's position should be adopted. When Eschelon requests an expedite, it will be for accessing a UNE. Under 47 C.F.R. §§ 51.307 and 51.313, it must be provided under Section 251 of the Act and, thus, at TELRIC rates.

222. A TELRIC study should be done. There would likely be some incremental cost to providing expedited service. It is presumably not just a matter of doing the provisioning sooner than the original due date. It would likely involve at least some scheduling changes and additional communications. In the case of natural disasters, there may be other complications that cause additional work just to do the provisioning earlier. The \$200 tariff rate seems unreasonable at first glance, particularly in light of the fact that historically in Minnesota TELRIC rates have been substantially less than Qwest's tariffed rates for similar services. Eschelon's proposal for an interim rate of \$100 is appropriate. Eschelon's proposal for TELRIC pricing for the expedite charge and an interim rate of \$100 should be adopted.

## **Issue 12-70: Pending Service Order Notification**

### **A. The Dispute**

223. When Qwest issues or changes service orders associated with a CLEC's LSR, Qwest notifies the CLEC by an electronic notice called pending service order notification (PSON). The parties disagree as to whether the ICA should specify a minimum level of detail that should be contained in the PSON.

### **B. Position of the Parties**

224. Qwest proposes the following language for Section 12.2.7.2.3:

Pending Service Order Notification. When Qwest issues or changes the Qwest service orders associated with the CLEC LSR, Qwest will issue a Pending Service Order Notification (PSON) to CLEC. Through the PSON, Qwest supplies CLEC with information that appears on the Qwest service order.<sup>162</sup>

225. Eschelon proposes adding either of the following two phrases to the end of the last sentence:

- providing at least the data in the service order's Service and Equipment (S&E) and listings sections.

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<sup>162</sup> Disputed Issues List at 108.

- providing at least the data in the service order's Service and Equipment (S&E) and listings sections that Qwest provided to requesting CLECs as of IMA Release 13.0.<sup>163</sup>

226. Eschelon maintains that it needs the additional language so that it can cross-check its service requests against Qwest's PSON to identify any Qwest errors in processing Eschelon's orders before the due date. Today, Qwest provides five types of information in the PSON (listings, bill, control, traffic, and S&E). Eschelon has requested that only two of these five sections be addressed in the ICA.<sup>164</sup>

227. Qwest objects to the additional language, contending the CMP is the more effective method of dealing with this type of system notice and that it is not appropriate to include such language in an ICA.<sup>165</sup>

228. The Department recommends use of Eschelon's second option (data provided as of IMA Release 13.0).<sup>166</sup>

### **C. Decision**

229. The Administrative Law Judges agree with the Department that Qwest's opposition to including this language is overstated. It appears to be unlikely that the inclusion of this language will "freeze" CMP processes, create an administrative burden for Qwest, or cause Qwest to maintain separate systems, processes, and procedures for Eschelon versus other CLECs. The CMP document itself envisions that CMP processes may well differ from those in negotiated ICAs. Qwest has failed to show that maintaining the current level of information in the PSON will harm the CMP process or other CLECs or create a burden for Qwest. This language would not prevent Qwest from adding to the information made available to other CLECs, through the CMP, nor would it prevent Qwest from changing the format of the information. It does not appear that any systems modification would be necessary to comply with this provision. Eschelon credibly contends that this minimal amount of information is reasonable and necessary for it to accurately coordinate the provision of service to new customers. Eschelon's proposed language should be adopted.

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<sup>163</sup> Disputed Issues List at 108-09.

<sup>164</sup> Ex. 33 (Webber Direct) at 109-20; Ex. 34 (Webber Rebuttal) at 42-46; Ex. 35 (Webber Surrebuttal) at 54-57.

<sup>165</sup> Ex. 1 (Albersheim Direct) at 61-66; Ex. 2 (Albersheim Rebuttal) at 47-50; Ex. 4 (Albersheim Surrebuttal) at 29-30.

<sup>166</sup> Department's Post-Hearing Brief at 37-39, 41-44.

**Issue 12-71: Jeopardies**

**Issue 12-72: Jeopardy Classification**

**Issue 12-73: Jeopardy Correction**

**A. The Dispute**

230. The parties dispute whether the ICA should contain any language regarding jeopardy notices or whether certain jeopardies should be classified as “Customer Not Ready” (CNR), which essentially assigns the fault for the jeopardy to Eschelon. Qwest opposes having any language on these issues other than a reference to its website.

**B. Position of the Parties**

231. The parties have agreed to language in another section of the ICA providing that when a CLEC places an order for an unbundled loop that is complete and accurate, Qwest will reply with a Firm Order Confirmation (FOC) within a specified time. The FOC will specify the date on which Qwest will provision the loop. Qwest will ensure the accuracy of the commitment date. If Qwest must make changes to the commitment date, Qwest will promptly issue a jeopardy notice that will clearly state the reason for the change. Qwest will also submit a new FOC that will clearly identify the new date.<sup>167</sup>

232. Qwest’s compliance with installation commitments and intervals is monitored through performance indicators (PIDs) developed in connection with Qwest’s § 271 application. The Commission has approved, for example, PIDs OP-3 (Installation Commitments Met), OP-4 (Installation Interval), and OP-5 (Firm Order Confirmations On Time), all of which distinguish between Qwest-caused delays and CLEC-caused delays. Qwest cannot change the PIDs without Commission approval. Failure to comply with PIDs can potentially subject Qwest to financial penalties.

233. Eschelon proposes a definition of Qwest-caused and CLEC-caused jeopardies (Issue 12-71), a provision that would preclude Qwest from defining a jeopardy as CLEC-caused unless it has sent a firm order confirmation (FOC) to Eschelon after a Qwest jeopardy occurs but at least a day (or the day) before Qwest attempts to deliver service (Issue 12-72); and a provision requiring Qwest to correct an erroneous jeopardy classification (Issue 12-73).

234. Eschelon argues that one important consequence of being assigned fault is the effect on the due date; if Eschelon is not ready, Qwest procedures require it to supplement its order to request a new due date, which must be at minimum three days from the date of the supplemental order. If Qwest is not ready, however, Qwest does not require a supplemental order. Eschelon maintains the following scenario has occurred and that Qwest has

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<sup>167</sup> Ex. 25A, § 9.2.4.4.1.

failed to comply with its own procedures designed to prevent it: a Qwest-caused jeopardy is issued; Qwest fails to notify Eschelon that the jeopardy has cleared through an FOC that provides sufficient notice to Eschelon; and when Qwest attempts to deliver service (despite the earlier jeopardy notice), Eschelon is not ready, resulting in a subsequent jeopardy that Qwest then classifies as CNR. The subsequent CNR jeopardy means that Eschelon must supplement its order to request a new due date. Eschelon argues that Qwest should not be able to classify the subsequent jeopardy as CNR unless Qwest has issued a new FOC with a new date that gives Eschelon approximately one day of notice before it attempts to deliver service.<sup>168</sup>

235. Qwest proposes language providing that specific procedures regarding jeopardies are available on Qwest's wholesale website. Qwest contends it is more appropriate to address procedural issues concerning jeopardies in the CMP process in which all CLECs can participate. In addition, it argues that the requirement to provide an FOC at least a day before it attempts to deliver service is inconsistent with Qwest's current process, might cause extra delay in accomplishing delivery of the service, and would create different system requirements for Eschelon than for all other CLECs. In addition, Qwest maintains it rarely errs in assigning CNR status to a jeopardy.<sup>169</sup>

236. The Department has made no recommendation on this issue.

### **C. Decision**

237. Qwest has already agreed in the ICA to provide a new FOC after the jeopardy notice, regardless of which party caused the jeopardy, which is what Eschelon says it needs in order to ensure it has the resources available to accept service after a jeopardy notice. If Qwest fails to comply with this provision, Eschelon has contractual remedies available.

238. Eschelon's main goal appears to be ensuring both the accuracy of PID results and that Qwest faces the resulting financial consequences for failing to meet PID requirements. Eschelon's proposed language calls only for changes in the jeopardy classification, not the procedures for ordering or provisioning loops. Any changes to or refinements in the way jeopardies are classified should be addressed through a process outside of an individual ICA. Qwest's language should be adopted for this issue.

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<sup>168</sup> Disputed Issues List at 109-111; Ex. 33 (Webber Direct) at 120-41; Ex. 34 (Webber Rebuttal) at 46-53; Ex. 35 (Webber Surrebuttal) at 57-63.

<sup>169</sup> Disputed Issues List at 109; Ex. 1 (Albersheim Direct) at 66-69; Ex. 2 (Albersheim Reply) at 52-54; Ex. 4 (Albersheim Surreply) at 32-34.



## Issue 12-74: Fatal Rejection Notices

### A. The Dispute

239. The parties dispute whether the ICA should include language requiring Qwest to continue processing a service request if it has erroneously rejected the request, instead of requiring the CLEC to resubmit the service order.

### B. Position of the Parties

240. The parties have agreed to the following language for Section 12.2.7.2.6.1:

If CLEC submits an LSR or ASR that contains a Fatal Error and receives a Fatal Reject notice, CLEC will need to resubmit the LSR or ASR to obtain processing of the service request.<sup>170</sup>

241. Eschelon would add the following phrase to the above sentence: "Except as provided in Section 12.2.7.2.6.2." In Section 12.2.7.2.6.2, Eschelon proposes the following language:

If Qwest rejects a service request in error, Qwest will resume processing the service request as soon as Qwest knows of the error. At CLEC's direction, Qwest will place the service request back into normal processing, without requiring a supplemental order from CLEC and will issue a subsequent FOC to CLEC.<sup>171</sup>

242. In lieu of the above language, Qwest would simply reference the specific procedures contained on its wholesale website.

243. Eschelon argues these provisions are necessary because Qwest sometimes does reject a service request in error, and the ICA should address that situation. It further contends that this language is virtually identical to Qwest's current process, as reflected in its PCAT, which provides that "[i]f Qwest rejects a service request in error, we will resume processing as soon as the error is brought to our attention. At your direction, Qwest will place the service request back into normal processing with or without a supplement and issue a subsequent FOC."<sup>172</sup>

244. Qwest contends its language is appropriate because the provision at issue concerns "process detail" that is more appropriately addressed in the

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<sup>170</sup> Disputed Issues List at 111.

<sup>171</sup> Disputed Issues List at 111.

<sup>172</sup> Ex. 33 (Webber Direct) at 141-46; Ex. 34 (Webber Rebuttal) at 53-56; Ex. 35 (Webber Surrebuttal) at 63-64.

CMP. It repeats its arguments that including this provision in an ICA will “lock in” the language and preclude any discussion of it by other CLECs in the CMP.<sup>173</sup>

245. The Department has made no recommendation on this issue.

### **C. Decision**

246. Eschelon’s language would not require any changes to Qwest’s current process or systems, and Qwest has failed to identify any credibly adverse effect on CLECs, itself, or the public interest if this language were incorporated into the ICA. The proposed language exactly reflects Qwest’s current practice. The Administrative Law Judges recommend that Eschelon’s language be adopted.

## **Issue 12-76: Loss and Completion Reports**

### **Issue 12-76(a)**

### **Issue 12-86: Trouble Report Closure**

#### **A. The Dispute**

247. Qwest provides daily loss and completion reports (notifying Eschelon when an end user customer changes to a different local service provider and when other changes in service occur on an end-user’s account. Qwest makes trouble report closure information available upon request, and it also permits CLECs to access certain information on maintenance and repairs through an electronic interface. The parties disagree as to whether the information that Qwest currently provides to Eschelon and other CLECs on these reports should be specified in the ICA.

#### **B. Position of the Parties**

248. Eschelon has proposed language for the ICA that would specify the current information Qwest provides in loss reports (Issue 12-76) and completion reports (Issue 12-76(a)). In addition, Eschelon proposes language that would require Qwest to make available to CLECs, in the same form it is available today, information concerning the closure of trouble reports. Eschelon argues that it has worked extensively through the CMP to ensure that this information is provided, Qwest has finally agreed to provide it, and Eschelon now seeks to capture those results by specifying them in the ICA.<sup>174</sup>

249. Qwest would delete all of the disputed language. In the section concerning trouble report closure, it would simply reference the procedures available on its wholesale website. Qwest maintains inclusion of this language in

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<sup>173</sup> Ex. 1 (Albersheim Direct) at 63-66; Ex. 2 (Albersheim Reply) at 50-51; Ex. 4 (Albersheim Surreply) at 30-32.

<sup>174</sup> Disputed Issues List at 113-14, 122-23; Ex. 33 (Webber Direct) at 153-60; *id.* at 192-99; Ex. 34 (Webber Rebuttal) at 68-75; *id.* at 119-22; Ex. 35 (Webber Surrebuttal) at 74-76; *id.* at 85-88.

Eschelon's ICA would "lock in" these processes, preclude future changes, and require Qwest to operate in one way for Eschelon and another way for all other CLECs.<sup>175</sup>

250. The Department recommends that Eschelon's language be adopted.<sup>176</sup>

### **C. Decision**

251. The disputed language exactly reflects Qwest's current practice. Inclusion of Eschelon's language in the ICA would not prohibit future changes, whether through the CMP or ICA amendment. Eschelon's language merely defines the minimum elements that make these resources useful to CLECs. Eschelon's language should be adopted for these issues.

## **Issue 12-87: Controlled Production Testing**

### **A. The Dispute**

252. There are several types of testing that take place when Qwest issues updated versions of its existing systems or implements new systems or processes in its Operations Support Systems (OSS). The parties have agreed to language in several sections of the ICA concerning the obligation to conduct mutual testing to ensure the interface systems are working properly. The dispute here is whether Eschelon should be able to choose not to perform "recertification" testing when Qwest upgrades its existing systems (as opposed to implementing new systems).

### **B. Position of the Parties**

253. Eschelon proposes two alternatives for Section 12.6.9.4 that would permit it to opt out of the testing process if it does not intend to use the new functionality on Qwest's system:

- Controlled production is not required for recertification, unless the Parties agree otherwise. Recertification does not include new implementations such as new products and/or activity types.
- Qwest and CLEC will perform controlled production *for new implementations, such as new products, and as otherwise mutually agreed by the Parties.*

254. Eschelon maintains its language captures Qwest's current practice and is based on language in Qwest's EDI Implementation Guidelines for

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<sup>175</sup> Ex. 1 (Albersheim Direct) at 72-77; *id.* at 90-92; Ex. 2 (Albersheim Reply) at 56-57; *id.* at 59; Ex. 4 (Albersheim Surreply) at 35-39; *id.* at 41.

<sup>176</sup> Department's Post-Hearing Brief at 39-45; Ex. 48 (Doherty Reply) at 20-23; Ex. 49 (Doherty Surreply) at 9-12.

Interconnect Mediated Access (IMA), Version 19.2, page 48. Eschelon seeks to continue this practice in order to eliminate unnecessary time spent testing functionalities that Eschelon does not desire to use.<sup>177</sup>

255. Qwest would delete Eschelon's language entirely. Qwest agrees that Eschelon's language accurately depicts its current practice, which does not require CLECs to recertify if they have successfully completed testing of a previous release; in addition, Qwest admits that Qwest can control whether a CLEC can access its OSS. Qwest opposes Eschelon's proposal because it wants the authority and flexibility to require Eschelon to perform full-blown testing in the future when Qwest believes it is necessary.<sup>178</sup>

256. The Department generally supports Eschelon's first proposal, because Qwest controls whether CLECs have access to a particular application, and a CLEC that waives controlled production testing of that application would not be able to access it. Regardless of the language in this section, Qwest will continue to control access to the application and is free to make any changes or upgrades that it believes are necessary. The Department therefore believes it is unreasonable for a CLEC to be required to participate in testing for a product that it has no plans to use. The Department recommends a slight change to Eschelon's first alternative:

Controlled production is not required for recertification for features or products that the CLEC does not plan on ordering.<sup>179</sup>

### **C. Decision**

257. The Administrative Law Judges agree that as long as Qwest controls access to particular applications, Eschelon should have the right to determine for itself whether to invest the resources in controlled production testing. Both of Eschelon's proposals draw a distinction between recertification and new implementations, which the Department's proposed language does not. The Department's language, however, would expressly limit Eschelon's option to decline recertification testing to situations in which Eschelon does not plan to use the product.

258. The Administrative Law Judges recommend adoption of Eschelon's first proposal. There is no evidence that Eschelon has or would opt out of recertification testing for any improper purpose. In the alternative, a better blend of Eschelon's first proposal and the Department's language would read as

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<sup>177</sup> Disputed Issues List at 124-25; Ex. 33 (Webber Direct) at 199-205; Ex. 34 (Webber Rebuttal) at 122-27; Ex. 35 (Webber Surrebuttal) at 88-89.

<sup>178</sup> Disputed Issues List at 124-25; Ex. 1 (Albersheim Direct) at 92-101; Ex. 2 (Albersheim Reply) at 59-62; Ex. 4 (Albersheim Surreply) at 42-47. See also Tr. 1:75 (Qwest systems control whether a CLEC is allowed to order a particular product).

<sup>179</sup> Department's Post-Hearing Brief at 45-48; Ex. 50 (Schneider Reply) at 14-15; Ex. 51 (Schneider Surreply) at 9.

follows: “Controlled production is not required for recertification for features or products that the CLEC does not plan to order. Recertification does not include new implementations such as new products and/or activity types.”

**Issue 12-88: Rates in Ex. A**

**Issue 12-88(a): IntraLATA Toll Traffic**

**A. The Dispute**

259. The parties dispute whether the ICA should include language stating that Ex. A controls rates for all services provided under the agreement (including those Eschelon provides to Qwest), or whether the ICA should state that Ex. A controls only rates for services Qwest provides to Eschelon. They have the same dispute with regard to Ex. A, Section 7.11, which references the Access Services Tariff.

**B. Position of the Parties**

260. Eschelon’s language for Section 22.1.1 provides:

The rates in Exhibit A apply to the services provided pursuant to this Agreement.<sup>180</sup>

261. Within Ex. A at Section 7.11, Eschelon would refer to the “Minnesota Access Service Tariff” as the source of rates for IntraLATA Toll Traffic.<sup>181</sup>

262. Qwest’s language for Section 22.1.1 provides:

The rates in Exhibit A apply to the services *by Qwest to CLEC* provided pursuant to this Agreement.<sup>182</sup>

263. Qwest would refer to “Qwest’s Minnesota Access Service Tariff” in Ex. A at Section 7.11 as the source of rates for IntraLATA Toll Traffic.

264. Eschelon points out that there are a number of sections of the ICA containing agreed-upon language that permits Eschelon to charge Qwest for certain products or services, and those sections reference Ex. A to the ICA as the source of the rate. For example, sections concerning trunk non-recurring charges (Section 7.3.3), transit traffic (Section 7.3.7), transit records (Section 7.6), labor charges for audits (Section 8.2.3), trouble isolation charges (Section 9.2.5.9), Qwest-requested managed cuts (Section 10.2.5.5.4), and daily usage files (Section 21.14.1) all reference rates that the CLEC may charge Qwest and most of these sections reference Ex. A as the source of the specific charge.

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<sup>180</sup> Disputed Issues List at 125-26.

<sup>181</sup> Ex. 25B (Ex. A to ICA at 4 of 29).

<sup>182</sup> Disputed Issues List at 125-26.

Specifically with regard to intraLATA toll traffic, the parties agreed that each party's tariffed switched access tandem switching and tandem transmission rates apply, and the assumed mileage in Ex. A shall apply (in Section 7.3.7.2); and that where either party acts as an intraLATA toll provider, each party shall bill the other the appropriate charges pursuant to its respective tariff or price list (Section 7.3.10.1). Eschelon argues that it would therefore be confusing, inaccurate, and misleading to use Qwest's language, which suggests that Ex. A only applies to services by Qwest to CLEC and that the only "access service tariff" at issue is Qwest's.<sup>183</sup>

265. Qwest contends that it is unnecessary to use Eschelon's language because the ICA specifically spells out when Eschelon may charge Qwest. Qwest apparently prefers, for reasons of consistency, to keep the language of these sections the same in all ICAs.<sup>184</sup>

266. The Department has made no recommendation on this issue.

### **C. Decision**

267. This is an issue of very little consequence. Qwest is correct that the ICA is clear as to when Eschelon may charge Qwest. Qwest, however, has pointed to no downside of using Eschelon's language, except to say that it is not necessary. Eschelon is correct that its language would make the contract internally more consistent. The Administrative Law Judges recommend adoption of Eschelon's proposed language.

## **Issue 22-90: Unapproved Rates**

### **A. The Dispute**

268. The parties have agreed to language that would require Qwest to develop a TELRIC cost-based rate for new products, the rates for which have not been approved by the Commission, and to file the rate and related cost support with the Commission for review. The parties disagree whether Qwest should be required to provide a notice to the CLEC each time Qwest makes such a filing with the Commission.

### **B. Position of the Parties**

269. Eschelon has proposed two alternatives for Section 22.6.1:

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<sup>183</sup> Ex. 42 (Denney Direct) at 168-79; Ex. 43 (Denney Rebuttal) at 73-76; Ex. 44 (Denney Surrebuttal) at 101-03.

<sup>184</sup> Ex. 6 (Easton Direct) at 24-25; Ex. 7 (Easton Rebuttal) at 21-22; Ex. 9 (Easton Surrebuttal) at 19-20.

- Qwest will provide notice to CLEC of such filing and the proposed rate and, upon request, will provide a copy of the related cost support to CLEC.

- [Qwest will file the rate and cost support] the later of (1) the Effective Date of this Agreement, or (2) Qwest offering the rate to CLEC, unless the Parties agree in writing upon a negotiated rate (*in which case Qwest shall file the negotiated rate with the Commission within 60 Days*). *Except for negotiated rates, Qwest will provide a copy of the related cost support to CLEC (subject to an applicable protective agreement, if the information is confidential) upon request or as otherwise ordered by the Commission.*<sup>185</sup>

270. Eschelon maintains this language is necessary so that it has adequate notice of any filing and time to consider whether to participate in a proceeding to challenge the rate.<sup>186</sup>

271. Qwest would delete the disputed language and argues that it is not necessary because Commission procedures ensure that all CLECs receive adequate notice of any proceeding concerning Qwest's rates.<sup>187</sup>

272. Although it initially recommended against adoption of Eschelon's language on the basis that it was not necessary, the Department now recommends adoption of Eschelon's second alternative, because it re-states the existing requirement that a negotiated rate must be filed within 60 days.<sup>188</sup> While the Department does not believe that the requirement that Qwest provide a copy of the filing and the cost support to Eschelon is strictly necessary in Minnesota because CLECs do not appear to have problems obtaining copies of cost studies filed with the Commission, it believes the language of Eschelon's second alternative is helpful.<sup>189</sup>

### **C. Decision**

273. Eschelon's first alternative would require Qwest to affirmatively provide notice to Eschelon of a filing with the Commission, and it would obligate Qwest to provide a copy of the cost support upon request. The notice of filing is unnecessary, because Eschelon can receive such a filing simply by being on a mailing list for Qwest filings in Minnesota.<sup>190</sup> Eschelon's second alternative

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<sup>185</sup> Disputed Issues List at 126-28.

<sup>186</sup> Ex. 42 (Denney Direct) at 179-83; Ex. 43 (Denney Rebuttal) at 76-78; Ex. 45 (Denney Surrebuttal) at 103-08.

<sup>187</sup> Ex. 6 (Easton Direct) at 26; Ex. 7 (Easton Rebuttal) at 22-24; Ex. 9 (Easton Surrebuttal) at 20;

<sup>188</sup> P421/CI-01-1375, Order Approving Rates (October 2, 2002).

<sup>189</sup> Department's Post-Hearing Brief at 48-49; Ex. 54 (Fagerlund Reply) at 6-7; Ex. 55 (Fagerlund Surreply) at 21.

<sup>190</sup> Eschelon may have withdrawn its first proposal, but it still appears on the Disputed Issues List. See Ex. 45 (Denney Surrebuttal) at 103.

would eliminate the affirmative obligation to provide a notice of filing but would require Qwest to provide the cost support to Eschelon “upon request or as otherwise ordered by the Commission.” Because it would not be burdensome to Qwest, and because Eschelon would be entitled to the information anyway, the Administrative Law Judges recommend adoption of Eschelon’s second proposal.

**Issue A-95: Private Line/Special Access to Unbundled Loop Conversion**  
**Issue A-95(a): Private Line/Special Access to UDIT Conversion**

**A. The Dispute**

274. The parties disagree on the non-recurring prices to be charged for conversion of a private line or special access circuit to a UNE loop or UNE transport (UDIT).

**B. Position of the Parties**

275. Eschelon proposes to place in the ICA the Commission-approved rate (\$1.35) for conversion of a private line to a loop-mux combination (LMC) or to an EEL as the price for conversion of a private line or special access circuit to a UNE loop or UDIT. It maintains that the function and cost of these conversions is similar and that this conclusion is supported by Qwest’s use, in the *UNE Cost Case*, of the same cost study and proposal of the same rate (\$86.12) for converting private line to LMC or EEL as for conversion to UNE loop. Eschelon argues that until the completion of the *UNE Cost Case*, the currently-approved rate for a similar function should be used. In Eschelon’s words, Qwest should not be able to charge more by creating a new name for an existing service.<sup>191</sup>

276. Qwest maintains that these are new rate elements not previously approved by the Commission. It proposes to use the following rates in the ICA: \$39.02 for conversion to unbundled loop, and \$122.30 for conversion to UDIT. Qwest states that these are the rates it is offering other CLECs pending the outcome of the cost docket.<sup>192</sup> In the *UNE Cost Case*, Qwest has proposed rates of \$86.12 for private line conversion to UNE loop and \$113.86 for conversion to UDIT.<sup>193</sup>

277. The Department recommends Eschelon’s position with regard to conversion to UNE loop (\$1.35) based on its conclusion that the functions are similar to conversion to LMC or EEL and that an approved price accordingly should be used until the Commission approves a different one. The Department recommends that Qwest be permitted to charge \$113.86 for conversion to UDIT,

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<sup>191</sup> Disputed Issues List at 130; Ex. 43 (Denney Direct) at 187-91; Ex. 44 (Denney Rebuttal) at 79-80; Ex. 45 (Denney Surrebuttal) at 109-111.

<sup>192</sup> Disputed Issues List at 130; Ex. 6 (Easton Direct) at 27-28; Ex. 7 (Easton Rebuttal) at 24-25.

<sup>193</sup> Ex. 42 (Denney Direct) at 189.



the price proposed in that case, because the cost studies in the *UNE Cost Case* show that conversion to UDIT is a different process with a higher cost.<sup>194</sup>

### C. Decision

278. The conversion to UNE loop is not a sufficiently “new” process to justify disregarding a previously approved rate. The previously approved rate, \$1.35, should be used in the ICA for conversion to UNE loop. The conversion to UDIT appears to involve something more, and Eschelon has not established that the functions are sufficiently similar to conversion to UNE loop. There is no legal authority to require use of the \$122.30 rate that Qwest has offered to other CLECs, as that rate has not been approved and is different from the rate proposed in the *UNE Cost Case* (\$113.86). The proposed rate for conversion to UDIT, \$113.86, should be used in the ICA.

Dated: January 16, 2006

s/Kathleen D. Sheehy

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KATHLEEN D. SHEEHY  
Administrative Law Judge

s/Steve M. Mihalchick

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STEVE M. MIHALCHICK  
Administrative Law Judge

Transcribed by Shaddix & Associates  
(Five volumes)

### NOTICE

Because of the compressed timeframe for a Commission decision in this case, the time period for filing exceptions is limited. Any party wishing to file exceptions to the Arbitrators’ Report should do so by January 26, 2007. No replies to exceptions will be permitted.

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<sup>194</sup> Department’s Post-Hearing Brief at 49-50; Ex. 54 (Fagerlund Reply) at 22-24; Ex. 55 (Fagerlund Surrebuttal) at 22.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 30**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer  
Ken Nickolai  
Marshall Johnson  
Phyllis Reha  
Thomas Pugh

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Qwest's Application for  
Commission Review of TELRIC Rates  
Pursuant to 47 U.S.C. § 251

ISSUE DATE: March 30, 2007

DOCKET NO. P-421/AM-06-713

In the Matter of the Petition of Eschelon  
Telecom, Inc. for Arbitration of an  
Interconnection Agreement with Qwest  
Corporation Pursuant to 47 U.S.C. § 252(b)

DOCKET NO. P-5340,421/IC-06-768

In the Matter of Qwest Corporation's  
Conversion of UNEs to Non-UNEs

DOCKET NO. P-421/CI-07-370

In the Matter of Qwest Corporation's  
Arrangements for Commingled Elements

DOCKET NO. P-421/CI-07-371

ORDER RESOLVING ARBITRATION  
ISSUES, REQUIRING FILED  
INTERCONNECTION AGREEMENT,  
OPENING INVESTIGATIONS AND  
REFERRING ISSUE TO CONTESTED CASE  
PROCEEDING

**PROCEDURAL HISTORY**

Since 1999, Cady Telemanagement, Inc., and its successor Eschelon Telecom, Inc. (Eschelon), have operated in Minnesota pursuant to an interconnection agreement (ICA) with US WEST Communications, Inc., and its successor Qwest Corporation (Qwest).<sup>1</sup> The parties have been discussing revisions to their agreement since then.

On May 26, 2006, after the parties failed to reach agreement on various terms of a new interconnection agreement, Eschelon petitioned the Commission to arbitrate the dispute pursuant to Sections 251 and 252 of the federal Telecommunications Act of 1996 (the Act).<sup>2</sup>

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<sup>1</sup> *In the Matter of a Request for Approval of the Interconnection Agreement and Amendment One to the Agreement Between US WEST Communications, Inc., and Cady Telemanagement, Inc.*, Docket No. P-5340, 421/M-99-1223.

<sup>2</sup> Pub.L.No. 104-104, 110 Stat. 56, codified in various sections of Title 47, United States Code.

On June 23, 2006, the Commission issued its ORDER REFERRING MATTER TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR ARBITRATION, ASSIGNING ARBITRATORS, AND GIVING NOTICE OF FIRST PREHEARING CONFERENCE.

On July 12, 2006, the Minnesota Department of Commerce (the Department) intervened in the case.<sup>3</sup> In addition, participants Time Warner Telecom, Inc. (Time Warner), and Integra Telecom of Minnesota, Inc. (Integra), filed comments in this case pursuant to Minnesota Rules part 7812.1700, subpart 10.

On October 16-20, 2006, Administrative Law Judges Kathleen D. Sheehy and Steve M. Mihalchick (the arbitrators) conducted arbitration hearings in St. Paul, Minnesota.

On January 9, 2007, the arbitrators issued their Arbitrators' Report recommending a basis for resolving the arbitrated issues.

On January 26, 2007, the Department, Eschelon and Qwest filed exceptions to the Arbitrators' Report.

The Commission met on March 6 to consider this matter.<sup>4</sup> The record of this case closed on that date.

## **FINDINGS AND CONCLUSIONS**

### **I. BACKGROUND**

#### **A. Procedure**

The federal Telecommunications Act of 1996 was designed to open telecommunications markets to competition, including the local exchange market.<sup>5</sup> To this end, the 1996 Act requires each incumbent local exchange carrier (incumbent LEC or ILEC) to enter into an interconnection agreement with any requesting competitive local exchange carrier (CLEC) establishing the terms under which they would connect their networks to permit each carrier's customers to call the other's. An ILEC must do the following:

- Permit CLECs to purchase its services at wholesale prices and resell them to retail customers ("end use customers").

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<sup>3</sup> The Department's intervention is granted as a matter of right. Minn. Stat. § 216A.07, subd. 3; Minn. Rules part 7812.1700, subp. 10.

<sup>4</sup> The Commission originally scheduled to hear this matter on March 1, 2007, but rescheduled the meeting due to inclement weather.

<sup>5</sup> See conference report accompanying S. 652.

- Permit CLECs to interconnect with its network on just, reasonable and nondiscriminatory terms.
- Offer unbundled network elements (UNEs) – that is, offer to rent certain elements of its network to CLECs without requiring the CLEC to also rent unwanted elements – on just, reasonable, and nondiscriminatory terms,<sup>6</sup> including cost-based rates.<sup>7</sup>

In addition, § 271 of the Act requires Bell operating companies (BOCs) such as Qwest to provide access to certain elements<sup>8</sup> even if they do not qualify as UNEs.<sup>9</sup> BOCs must provide access to these § 271 elements on just, reasonable and nondiscriminatory terms<sup>10</sup> – but unlike UNEs, the Act does not require BOCs to provide § 271 elements at cost-based rates.

In determining whether an element qualifies as a UNE, the Federal Communications Commission (FCC) considers, among other things, whether “the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.”<sup>11</sup> Because this determination is fact-specific and the telecommunications market is constantly evolving, an element’s status as a UNE may change over time.<sup>12</sup>

A CLEC desiring to provide local exchange service can seek agreements with an ILEC related to interconnection with the ILEC’s network, the purchase of finished services for resale, and the

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<sup>6</sup> 47 U.S.C. § 251(c).

<sup>7</sup> 47 U.S.C. § 252(d)(1)(A)(i); 47 C.F.R. § 51.501 *et seq.*

<sup>8</sup> 47 U.S.C. § 271(c)(2)(B).

<sup>9</sup> See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, ¶ 664 (2003), *corrected by Errata*, 18 FCC Rcd 19020 (2003) (collectively, *Triennial Review Order*), *vacated and remanded in part, affirmed in part, United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (*USTA II*) *cert. denied*, 125 S.Ct. 313, 316, 345 (2004).

<sup>10</sup> 47 U.S.C. §§ 201, 202.

<sup>11</sup> 47 U.S.C. § 251(d)(2)

<sup>12</sup> The FCC announced its most recent systematic analysis of UNEs in its *Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, 20 FCC Rcd 2533 (released February 4, 2005) (*Triennial Review Remand Order*, or TRRO).

purchase of the ILEC's UNEs and other elements.<sup>13</sup> If the ILEC and the CLEC cannot reach agreement, either party may ask the State commission to arbitrate unresolved issues and to order terms consistent with the 1996 Act.<sup>14</sup> In particular, parties may ask a state Commission to determine the total element long-run incremental cost (TELRIC) of UNEs, interconnection, and methods of obtaining access to UNEs.<sup>15</sup>

## **B. Decision Standard**

In resolving the issues in this arbitration and imposing conditions, the Commission must (1) ensure that the resolution meets the requirements of § 251 of the 1996 Act, including any legally enforceable regulations prescribed by the Federal Communications Commission (FCC) pursuant to § 251; (2) establish any rates for interconnection, services or network elements according to § 252(d) of the 1996 Act; and (3) provide a schedule for implementation by the parties.<sup>16</sup>

The Commission may also establish and enforce other requirements of state law when addressing issues related to intercompany agreements under § 252.<sup>17</sup> The Minnesota Legislature directs the Commission to encourage, among other things, economically efficient deployment of infrastructure for higher speed telecommunication services, fair and reasonable competition for local exchange telephone service, improved service quality, and customer choice.<sup>18</sup> In addition, the Commission must adopt policies "using any existing federal standards as minimum standards and incorporating any additional standards or requirements necessary to ensure the provision of high-quality telephone services throughout the state."<sup>19</sup> These policies must facilitate the kind of interconnection that "the commission considers necessary to promote fair and reasonable competition"<sup>20</sup> and, in particular, must "prescribe appropriate regulatory standards for new local telephone service providers that facilitate and support the development of competitive services...."<sup>21</sup>

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<sup>13</sup> 47 U.S.C. §§ 251(c), 252(a).

<sup>14</sup> 47 U.S.C. § 252(b).

<sup>15</sup> 47 C.F.R. §§ 51.501, 51.505.

<sup>16</sup> 47 U.S.C. § 252(c).

<sup>17</sup> 47 U.S.C. §§ 251(d)(3), 252(e)(3), 253(b), 261 and 601(c)(1); *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 13042 (1996) (*Local Competition First Report and Order*) at ¶¶ 233, 244.

<sup>18</sup> Minn. Stat. § 237.011.

<sup>19</sup> Minn. Stat. § 237.16, subd. 8(a).

<sup>20</sup> *Id.* at subd. 8(a)(2).

<sup>21</sup> *Id.* at subd. 8(a)(6).

To these ends, the Legislature authorizes the Commission to remedy unreasonable or insufficient services or omissions<sup>22</sup> by making any just and reasonable order necessary, up to and including revoking a carrier's authority to provide service.<sup>23</sup>

In short, the Commission must impose terms and conditions in this proceeding that are just, reasonable, nondiscriminatory and fair to both the new entrants and the incumbent, consistent with the requirements of federal and state law.

## II. FUTURE PROCEEDINGS

The 1996 Act requires parties to submit "any interconnection agreement adopted by negotiation or arbitration . . . for approval to the State commission."<sup>24</sup> The State commission must then approve or reject the agreement within 90 days as to a negotiated agreement and 30 days as to an arbitrated contract.<sup>25</sup> But the 1996 Act does not establish any deadline by which parties must submit a final interconnection agreement; the Act merely requires that arbitration decisions contain a schedule for implementation.<sup>26</sup>

In this case, the arbitrators recommend that the Commission refrain from establishing a specific date for parties to file their proposed interconnection agreements, and instead hold this docket open pending the outcome of a pending docket addressing the scope of Qwest's obligation to provide UNEs (the "*Wire Center Docket*").<sup>27</sup> The Department and Eschelon support this recommendation. But Qwest expresses concern that awaiting the resolution of other dockets will needlessly postpone the implementation of new interconnection terms.

The Commission appreciates the *Wire Center Docket's* relevance to the parties in this proceeding, and the parties' desire not to duplicate the work of implementing new interconnection terms. To this end, the Commission desires to provide all parties with enough time to analyze and incorporate changes arising from the *Wire Center Docket* into the interconnection agreement that is the focus of the current docket. At the same time, the Commission does not wish to needlessly delay the implementation of the most up-to-date interconnection terms.

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<sup>22</sup> Minn. Stat. § 237.081.

<sup>23</sup> Minn. Stat. § 237.16, subd. 5.

<sup>24</sup> 47 U.S.C. § 252(e)(1).

<sup>25</sup> 47 U.S.C. § 252(e)(4).

<sup>26</sup> 47 U.S.C. § 252(c).

<sup>27</sup> Arbitrators' Report at ¶ 3, citing *In the Matter of CLECs' Request for Commission Approval of ILEC Wire Center Impairment Analysis*, Docket No. P-5692/M-06-211; *In the Matter of a Commission Investigation Identifying Wire Centers in Which Qwest Must Offer High-Capacity Loop or Transport UNEs at Cost-Based Rates*, Docket No. P-999/CI-06-685.

Given these competing concerns, the Commission will direct parties in this arbitration to submit their final ICAs, containing all arbitrated and negotiated terms, within 120 days of this Order. This should provide sufficient time for pending dockets to reach resolution before the parties would file their final agreement. But if the *Wire Center Docket* is not resolved in the next 100 days, the parties may petition to extend the deadline. The Commission will authorize its Executive Secretary to act on such petitions.

The parties shall put their entire ICAs together and craft any additional language that the Commission has not specifically ordered in this arbitration. The approval proceeding will enable the Commission to (1) review provisions arrived at through negotiations; (2) make any necessary adjustments to the arbitrated terms; and (3) ensure that the final ICA language comports with the Commission's decisions in this arbitration. The Commission will review the entire agreement for compliance with the relevant law and consistency with the public interest as required by the 1996 Act.<sup>28</sup>

## **SPECIFIC FINDINGS AND CONCLUSIONS**

### **I. CONTESTED ISSUES**

Eschelon and Qwest submitted 143 pages of contested issues for the arbitrators consideration,<sup>29</sup> addressing the following topics:

1. Interval Changes and Placement
2. Effective Date of Rate Changes
3. Effective Date of a Legally Binding Change
4. Suspension of Order Processing
5. Definition of Repeated Delinquency – Magnitude In Dispute
6. Definition of Repeated Delinquency – Frequency of Delinquency
7. Disputing Deposit Requirement
8. Alternative Approach to Deposits
9. Increase in Deposits Based Upon Review of Credit Standing
10. Copy of Non-Disclosure Agreement
11. Transit Record: Charge and Bill Validation
12. Available Inventory/Posting of Price Quotes
13. Available Inventory/Space Augments
14. Direct Current (DC) Power/Usage Pricing
15. Initial Power Management
16. Quote Preparation Fee
17. Non-Discriminatory Access to UNEs
18. Network Maintenance and Modernization/Adverse Effect

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<sup>28</sup> See 47 U.S.C. § 252(e).

<sup>29</sup> Revised Minnesota Disputed Issues List (October 31, 2006).



19. Relationship Between Section 9.1.9 and Copper Retirement
20. Location at Which Changes Occur
21. Conversion of a UNE to a Non-UNE
22. Cross Connect/Unbundled Customer Controlled Rearrangement Element
23. Loop-Transport Combinations
24. Service Eligibility Criteria Audits
25. Arrangements for Commingled Elements
26. Loop-Multiplex Circuit Combinations
27. Acknowledgment of Mistakes
28. Communications with CLEC Customers
29. Expedited Orders
30. Pending Service Order Notification
31. Jeopardies, Classification, Correction
32. Fatal Rejection Notices
33. Loss, Completion and Trouble Reports
34. Controlled Production Testing
35. Rates and IntraLATA<sup>30</sup> (Local) Toll Traffic
36. Unapproved Rates
37. Private Line Special Access

The arbitrators addressed each of these topics in their report. Parties subsequently filed exceptions regarding collections issues (topics 4 through 9 above), transit records (topic 11), loop-transit combinations (topic 23), loop-multiplex circuit combinations (topic 26), acknowledgment of mistakes (topic 27), requests to expedite orders (topic 29), jeopardy notices (topic 31) and controlled production testing (topic 34).

## II. ARBITRATORS' REPORT

Having reviewed the full record of this proceeding and provided an opportunity for all parties to be heard, the Commission generally finds the recommendations of the Arbitrators' Report to be a thorough and reasonable analysis of the issues. The Commission generally concurs in the arbitrators' analyses, findings and recommendations, and will generally accept, adopt and incorporate them into this Order.

In particular, the Commission will adopt the arbitrators' recommendations regarding topics 5, 6, 7, 8, 9, 11, 26, 29 (with respect to the selection of ICA language) and 34. In addition, the Commission finds merit in the arbitrators' recommendations to open some new investigations involving Qwest and all interested CLECs:

- Regarding the terms under which Qwest converts from providing a network element that is deemed a UNE to providing the same element when it is no longer deemed a UNE (topic 21), the Commission will initiate an investigation *In the Matter of Qwest*

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<sup>30</sup> "LATA" refers to a "local access and transport area." 47 U.S.C. §§ 151(25), 271. "IntraLATA traffic" refers to calls between parties within the same LATA, often referred to as "local calls."

*Corporation's Conversion of UNEs to Non-UNEs*, Docket No. P-421/CI-07-730. This investigation will establish appropriate terms for Qwest to convert UNEs to non-UNEs, including a determination of whether the charge for providing this service must be limited to Qwest's total element long run incremental cost.

- Regarding Qwest's procedures for providing CLECs with commingled enhanced extended loops (topic 25), the Commission adopts the arbitrators' recommendation and hereby initiates an investigation *In the Matter of Qwest Corporation's Arrangements for Commingled Elements*, Docket No. P-421/CI-07-731, for the purpose of determining appropriate procedures.

With respect to a few topics, however, the Commission is persuaded that a superior alternative exists to the one recommended by the arbitrators. These topics are addressed below:

### III. ISSUES

#### **Topic 4: May Qwest discontinue processing orders from Eschelon if Eschelon fails to make prompt payments? (ICA Section 5.4.2)**

##### **A. The Issue**

To introduce competition into the local telecommunications market, the 1996 Act compels ILECs to cooperate with their competitors in the use of telecommunications plant. This produces a dynamic whereby a CLEC is an ILEC's customer in the wholesale market but is the ILEC's competitor in the retail market.

As a result of this relationship, each party has both the opportunity and the incentive to act in anticompetitive ways toward the other. Because the ILEC controls much of the plant, the ILEC has the opportunity to harm a CLEC's business through various technical means that degrade the quality of the service that the CLEC can provide to its customers. The CLEC, in turn, can harm the ILEC's business by withholding payment for the ILEC's services. Much of the language in ICAs is designed to limit the discretion an ILEC has over the quality of service delivered to a CLEC's customer, and to limit the CLEC's discretion regarding the amount and timing of payments to the ILEC.

This issue addresses both concerns. To the extent that Eschelon relies on Qwest's plant to serve a customer, Eschelon places orders for service with Qwest's wholesale operations. Eschelon might, for example, ask Qwest to install a new line to a customer's premises, or repair an existing line. If Qwest were to stop processing orders for Eschelon, Eschelon's customers might not be able to receive new lines or to get existing lines repaired. This fact might prompt the customer to stop doing business with Eschelon. Eschelon expresses concern that Qwest might exercise any discretion to stop processing orders inappropriately, causing irreparable harm in the form of lost customers and damaged reputation for service quality. On the other hand, Qwest claims that Eschelon has a history of late payments, that large unpaid balances deprive Qwest of the time value of money and increase the risk Qwest faces of a possible default, and that threatening to stop processing orders is an effective mechanism for securing those payments.

Qwest proposes language that would permit Qwest to discontinue processing Eschelon's orders for certain services if Eschelon fails to make full payment (except for sums in dispute) within 30 days of the payment due date. Qwest proposes to give Eschelon and the Commission at least ten business days' notice of its intention to discontinue processing orders, but Qwest does not propose to await Commission action on that notice. Qwest's interconnection agreements with some other CLECs contain similar provisions.

Eschelon's proposed language would require Qwest to secure Commission approval before discontinuing order processing or, alternatively, would require Qwest to resume order processing during the pendency of any Eschelon complaint on the issue. Integra and Time Warner support Eschelon's language.

### **B. The Arbitrators' Recommendation**

Finding that Qwest had articulated legitimate grounds for concern about late payments, the arbitrators recommend adopting Qwest's proposed language. In an effort to better reconcile Qwest's proposal with Eschelon's concerns, the arbitrators suggest possible means to further limit Qwest's discretion to suspend order processing. If the Commission were concerned that a 10-day notice would not provide sufficient time to respond, the Commission could extend the notice period. Or if the Commission were concerned that an unpaid bill for service provided to Eschelon's operations in another state might prompt Qwest to withhold service processing in Minnesota, the Commission could declare that Qwest's authority to suspend order processing in Minnesota would be limited to circumstances in which Eschelon failed to pay for services rendered in Minnesota.

Eschelon continues to support its proposed language. In lieu of that, Eschelon supports the additional safeguards proposed by the arbitrators. In addition, Eschelon proposes another constraint on Qwest's discretion to suspend order processing: If at the end of the 10-day notice period Qwest does not exercise its right to suspend order processing, Eschelon asks that Qwest be required to give a five-day notice before subsequently exercising its right to suspend.

Finally, Eschelon notes that Qwest's language would permit Qwest to withhold processing a variety of orders, including orders to stop providing certain services to a customer and to limit a customer's access to toll services. This is an anomalous result. First, if Qwest is motivated by concern over a CLEC's accruing debt, Qwest should not object to processing orders that will tend to reduce a CLEC's future debt. Second, customers are legally entitled to decline telephone services which they did not request, and to block certain toll services. The Department shares this concern, and proposes the following language to address it:

- 5.4.2 . . . . Qwest may only discontinue order processing (as defined below) to CLEC under the following conditions:
- 1) if payment for services rendered in Minnesota are more than 30 days past due; and
  - 2) if such payment does not include amounts disputed under section 21.8;
- and
- 3) if Qwest has given CLEC and the Commission ten (10) business days prior written notice.

The term “order processing” does not include orders or requests by CLEC to drop or remove a feature or service for a given end user or end user account, and also does not include orders or requests by CLEC to add any blocking capabilities to an end user account. Qwest may not discontinue processing the removal of features or services, or the addition of blocking capabilities, under any circumstances.

Nothing in this section precludes CLEC from using any dispute resolution procedures to contest Qwest’s discontinuation of order processing, if CLEC believes Qwest has not met all three conditions listed above, or for any other reason.

### **C. Applicable Law**

Notwithstanding the 1996 Act, states retain jurisdiction over an ILEC’s operations.<sup>31</sup> The Commission is authorized to prescribe the terms and conditions of service delivery for the purpose of bringing about fair and reasonable competition for local exchange telephone services.<sup>32</sup> The Commission should exercise its authority to, among other objectives, encourage fair and reasonable competition for local exchange telephone service in a competitively neutral manner, maintain or improve service quality, promote customer choice, and ensure consumer protections.<sup>33</sup>

While statute bars Qwest from disconnecting service to a CLEC without prior Commission approval,<sup>34</sup> no party identifies a statute addressing Qwest’s duty to continue processing orders specifically. However, statute requires local service providers 1) to refrain from charging any customer for services the customer did not request, and 2) to permit the customer to forbid the use of (“block”) the customer’s line for certain toll and information services.<sup>35</sup>

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<sup>31</sup> 47 U.S.C. § 251(d)(3); § 261(b), (c); 1996 Act § 601(c)(1). The Conference Committee Report for the 1996 Act expounds on the purpose of the uncodified language at § 601(c)(1) as follows: “The conference agreement adopts the House provision stating that the bill does not have any effect on any other ... State or local law unless the bill expressly so provides. This provision prevents affected parties from asserting that the bill impliedly preempts other laws.” H. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 201 (1996), reprinted in 1996 U.S.C.C.A.N. 215.

<sup>32</sup> Minn. Stat. § 237.16, subd. 1(a).

<sup>33</sup> Minn. Stat. § 237.011.

<sup>34</sup> See Minn. Stat. § 237.74, subd. 9 (2006).

<sup>35</sup> Minn. Stat. §§ 327.663, 327.665; Minn. Rules part 7811.0600, subp. 1(E) and 7812.0600, subp. 1(E).

#### **D. Commission Decision**

The Commission finds merit in the arbitrators' analysis, and will generally accept their recommendation to adopt Qwest's language. The Commission has approved language similar to Qwest's proposal in other Qwest interconnection agreements, and no party has alleged that Qwest has exploited these terms for anticompetitive purposes. Consequently the Commission finds insufficient reason to adopt additional safeguards to guard against Qwest abusing these terms.

Nevertheless, the Commission finds merit in Eschelon's and the Department's concerns about how Qwest's language might impinge upon retail customers' rights to remove services and block charges on their accounts. In defense of those rights, therefore, the Commission will modify Qwest's language to incorporate the Department's proposed language. With this addition, the Commission is persuaded that the new interconnection language will appropriately constrain each party for the benefit of the other, and for the benefit of Eschelon's customers.

#### **Topic 23: What terms should govern Qwest's duty to combine loops and transports at Eschelon's request? (ICA Section 9.23.4)**

##### **A. The Issue**

Providing UNEs to CLECs typically requires Qwest personnel to make adjustments to cables and computers within Qwest's central offices, often including the computer that the CLEC has installed (co-located) there. When a CLEC purchases the use of multiple elements, often Qwest personnel must combine them on behalf of the CLEC.<sup>36</sup> The parties disagree about the precise terms under which certain combinations will occur.

In particular, the parties disagreed about language concerning "enhanced extended loops." A loop refers to the circuit connecting a customer's premises to the ILEC's computers in its central office. CLECs competing with Qwest typically do not have computers in each of Qwest's central offices. In order to use Qwest's plant to serve a customer connected to a remote central office, therefore, a CLEC needs to use not only the loop but also a circuit connecting the customer's central office to the central office containing the CLEC's computer (or cable connecting to the CLEC's computer). This combination of a loop and a circuit dedicated to transporting a signal between central offices (dedicated interoffice transport) has come to be known as an enhanced extended loop (EEL).

EELs come in many varieties, including EELs incorporating standard voice circuits, EELs incorporating high-capacity circuits, and EELs incorporating elements that do not qualify as UNEs.

Eschelon proposed agreement language seeking to address all of these types of EELs collectively as "Loop-Transport Combinations." The Department and Qwest object to Eschelon's language in part because it obscures the difference between EELs that consist entirely of UNEs and "commingled EELs" – that is, EELs involving both UNE and non-UNE elements. Eschelon's

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<sup>36</sup> See, for example, 47 U.S.C. § 251(c)(3); 47 C.F.R. § 51.315.

language stated that it would not apply to combinations that contained no UNEs, it did not specify how to treat combinations that contained both UNE and non-UNE elements.

On the other hand, Eschelon objects that Qwest's proposed language provides too much specificity. That is, Qwest's language stated that the non-UNE portion of any loop-transport combination would be governed by tariff. Eschelon argues that the non-UNE portion of the combination might be governed by terms other than those in Qwest's tariffs; for example, they could be governed by a commercial agreement.

### **B. The Arbitrators' Recommendation**

Given the ambiguity created by Eschelon's proposed language, the arbitrators recommend adopting Qwest's proposed language. In its exceptions, Eschelon renewed its objections to that language.

At the Commission hearing, however, Eschelon and Qwest acknowledged that they had already agreed to language at proposed Section 24.1.2.1 that appeared to address all of their concerns. It reads as follows:

The UNE component(s) of any Commingled arrangement is governed by the applicable terms of this Agreement. The other component(s) of any Commingled arrangement is governed by the terms of the alternative service arrangement, pursuant to which the component is offered (e.g., Qwest's applicable Tariffs, price list, catalogs, or commercial agreements).

They jointly ask the Commission to adopt this language in lieu of their initial positions and the arbitrators' recommendation. The Department supports this resolution as well.

### **C. Applicable Law**

While the Commission has broad discretion to rule on arbitrated terms, the Commission is compelled to approve negotiated terms unless they discriminate against telecommunications carriers who are not party to the agreement, or unless they are inconsistent with the public interest, convenience and necessity.<sup>37</sup>

### **D. Commission Decision**

While there may be merit in the arbitrators' recommendation, the fact that Eschelon and Qwest have reached agreement about this issue reduces the scope of the Commission's analysis. No

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<sup>37</sup> 47 U.S.C. § 252(e)(2); see *In the Matter of the Petition of AT&T Communications of the Midwest, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b)*, Docket No. P-442, 421/IC-03-759, ORDER RESOLVING ARBITRATION ISSUES AND REQUIRING FILED INTERCONNECTION AGREEMENT (November 18, 2003) at 7.

party has alleged that the proposed language would discriminate against any other party, or that it conflicts with the public interest, convenience and necessity. Finding no such defects, the Commission will approve the language agreed to by the parties, and decline the arbitrators' recommendation on this topic.

**Topic 27: Under what circumstances should Qwest acknowledge to Eschelon's customer that a service quality problem resulted from Qwest's error? (ICA Section 12.1.4.1)**

**A. The Issue**

When Qwest's errors in processing a service request harmed an Eschelon customer, the Commission directed Qwest in the *MN 616 Case*<sup>38</sup> to acknowledge its responsibility in order to avoid anticompetitive effects to Eschelon. Now Eschelon and Qwest each propose language to articulate Qwest's duty to acknowledge mistakes, but the parties disagree about the extent of this duty.

In particular, Eschelon proposes that Qwest has a duty to acknowledge when it has made a mistake "relating to products and services provided under this Agreement." In contrast, Qwest proposes to acknowledge mistakes only if they arose from processing a local or access service request. Qwest's language would not require Qwest to acknowledge mistakes that harmed a customer's service after the initial request had been completed – for example, mistakes arising during a subsequent repair.

**B. The Arbitrators' Recommendation**

Finding various aspects of Qwest's proposed language to be inconsistent with the compliance filings Qwest made in the *MN 616 Case*, the arbitrators generally recommend adoption of Eschelon's language. However, the arbitrators share Qwest's view that Eschelon's language would expand the range of mistakes Qwest would be required to acknowledge beyond the scope of the *MN 616 Case* Orders. The arbitrators do not regard this expansion as contrary to the public interest, but merely wish to bring this fact to the Commission's attention in case the Commission would prefer to limit the scope of this provision to "mistake[s] in processing wholesale orders."

Qwest asks the Commission to adopt this more limited language in the interest of simplicity. Qwest questions the need for this ICA language at all. Given that Eschelon has never actually called upon Qwest to acknowledge any errors since the *MN 616 Case*, Qwest finds no basis for expanding its obligations to acknowledge errors.

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<sup>38</sup> *In the Matter of a Request by Eschelon Telecom for an Investigation Regarding Customer Conversion by Qwest and Regulatory Procedures*, Docket No. P421/C-03-616, ORDER FINDING SERVICE INADEQUATE AND REQUIRING COMPLIANCE FILING (July 30, 2003); ORDER FINDING COMPLIANCE FILING INADEQUATE AND REQUIRING FURTHER FILINGS (November 12, 2003); ORDER ACCEPTING COMPLIANCE FILING IN PART AND REQUIRING FURTHER FILINGS (April 1, 2004).

The Department and Eschelon dispute the suggestion that Qwest's duties to acknowledge errors were ever so limited as Qwest's language suggests. According to these parties, the Commission's purpose in issuing increasingly detailed Orders in the *MN 616 Case* was broadly remedial. Moreover, regardless of the scope of the Orders that arose within the specific context of the *MN 616 Case*, the Department and Eschelon can find no policy reason why the Commission would want to guard against anticompetitive consequences of certain mistakes but not others.

Nevertheless, neither the Department nor Eschelon would object to the arbitrators' "mistake[s] in processing wholesale orders" language provided Qwest would interpret this language as broadly as they do. To that end, Eschelon proposes adopting the arbitrators' language but adding some elaboration as to what this language entails, as follows:

12.1.4.1 CLEC may make a written request to its Qwest Service Manager for root cause analysis and/or acknowledgment of mistake(s) in processing wholesale orders, including pre-ordering, ordering, provisioning, maintenance and repair, and billing. The written request should include the following information, when applicable and available: Purchase Order Number (PON), Service Order Number, billing telephone number, a description of the End User Customer impact and the ticket number associated with the repair of the impacting condition. It is expected that CLEC has followed usual procedures to correct a service impacting condition before beginning the process of requesting Qwest acknowledgment of error.

(Emphasis added.)

### C. Applicable Law

The Legislature directs the Commission to exercise its authority in a manner to promote certain goals, including encouraging fair and reasonable competition for local exchange telephone service, and guarding against unfair competition and other practices harmful to promoting fair and reasonable competition.<sup>39</sup>

Before ever hearing the *MN 616 Case*, the Commission had discussed the possible anticompetitive consequences of lapses in the quality of Qwest's wholesale services:

[To compete, a CLEC] must persuade customers to change their service provider. One aspect of that persuasion is building a public reputation that inspires confidence among potential customers. At this early stage of competition, however, a CLEC's reputation is quite fragile. [M]ost customers have had little experience with CLECs in general, let alone any specific CLEC in particular. A

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<sup>39</sup> Minn. Stat. §§ 237.011; 237.16, subd. 8(7).



missed installation or a blocked line may create the critical first impression that a customer has of a new provider. According to the [CLECs], that often becomes the last impression as well.<sup>40</sup>

The *MN 616 Case* merely provided the Commission with another opportunity to emphasize the point.

Providing adequate wholesale service includes taking responsibility when the wholesale producer's actions harm [retail] customers who could reasonably conclude that a competing carrier was at fault. Without this kind of accountability and transparency, retail competition cannot thrive. Telecommunications service is an essential service, and few customers will transfer their service to a competitive carrier whose service quality appears to be inferior.<sup>41</sup>

#### **D. Commission Decision**

The Commission's concern for the anticompetitive consequences of service quality lapses has never been as narrow as Qwest's language would suggest. The Commission finds it reasonable for Qwest to acknowledge mistakes at any point in processing wholesale orders, including mistakes arising during pre-ordering, ordering, provisioning, maintenance and repair, and billing. In the interest of clarity, the Commission will adopt the arbitrators' language as modified by Eschelon.

**Topic 29: How much should Eschelon have to pay to expedite an order on behalf of its customer? (ICA Sections 7.3.5.2, 9.1.12.1)**

#### **A. The Issue**

The interconnection agreement sets forth cost-based prices for UNEs. Qwest has established a schedule for providing certain UNEs for both its own retail operations and for CLECs.<sup>42</sup> Qwest used to expedite its installations upon request but, Qwest alleges, CLECs abused this practice.

Even now, under certain circumstances Qwest will expedite the provision of traditional voice-grade local phone service ("plain old telephone service" or POTS) for both its own retail

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<sup>40</sup> *In the Matter of Qwest's Wholesale Service Quality Standards*, Docket No. P-421/AM-00-849, ORDER ADOPTING WHOLESALE SERVICE QUALITY STANDARDS (July 3, 2003) at 19, reversed in part on other grounds, 702 N.W. 2d 246 (Minn 2005).

<sup>41</sup> MN 616 Case, ORDER FINDING SERVICE INADEQUATE AND REQUIRING COMPLIANCE FILING at 8.

<sup>42</sup> See Qwest's Service Interval Guide (SIG), Exhibit C or Individual Case Basis (ICB) Due Dates as applicable.

operations and for CLECs at no additional cost. But Qwest now demands \$200 per day to expedite the provision of “design” services, whether for its own customers or for CLECs. Is this an appropriate price?

### **B. The Arbitrators' Recommendation**

The arbitrators conclude that Qwest is prohibited from discriminating in the provision of expedited services, and thus the price Qwest charges to expedite a service should reflect Qwest's costs. However, the record is inadequate to establish what the cost is. Consequently the arbitrators recommend initiating a new docket to establish the total element long-run incremental cost of expediting orders. In the meantime, the arbitrators recommend limiting the price of expediting an order to \$100.

Eschelon supports this proposal, as well as the \$100 interim rate. Eschelon notes that this rate would be paid in addition to the cost of the underlying UNE, and actually exceeds the cost of the typical UNE. The cost of a DS1 local loop, for example, is only \$88.57. Eschelon reasons that, whatever the cost of expediting an installation, it probably won't be twice the cost of a standard installation.

Qwest opposes the arbitrators' recommendation. Qwest cites decisions by other state commissions for the proposition that ILECs have no obligation to provide expedited service, other industries charge a premium to provide expedited services, a \$200 premium to expedite an order simply reflects the value of service, and the Commission lacks the authority to require Qwest to offer expedited services on a non-discriminatory basis at cost-based rates. According to Qwest, a request to expedite the installation of a UNE is a “superior service” which an ILEC need not offer, and need not offer at cost.

Without conceding its obligation to do so, Qwest argues that it refrains from discriminating in the provision of expedited services to CLECs. Qwest notes that it offers to expedite orders for CLECs on the same terms that it expedites orders for its own retail customers.

Finally, Qwest argues that if it were required to provide expedites at a minor charge, then CLECs would have an incentive to submit more – or all – of their orders with requests to expedite. Qwest anticipates that this would burden its resources, cause Qwest to incur penalties for missing standard provisioning intervals, and cause Qwest to violate its obligation to provide nondiscriminatory access to UNEs.

### **C. Applicable Law**

Federal and state law prohibit Qwest from engaging in unreasonable discrimination.<sup>43</sup> The 1996 Act's § 251(c)(3) requires an ILEC to offer CLECs “nondiscriminatory access to network

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<sup>43</sup> 47 U.S.C. §§ 160(a)(1); 202(a); 222(c)(3); 224; 251; 252; 254; 271(b); 272©; 276(a); 47 C.F.R. §§ 51.307, 51.311, 51.313; Minn. Stat. §§ 237.07, subd. 2; 237.081, subd. 4; 237.09, subd. 1; 237.121(a)(5); 237.14; 237.60, subd. 3.

elements on an unbundled basis ... on rates, terms, and conditions that are just, reasonable, and nondiscriminatory....” The FCC construes this language to mean that –

Where applicable, the terms and conditions pursuant to which an incumbent LEC offers to provide access to unbundled network elements, *including but not limited to, the time within which the incumbent LEC provisions such access to unbundled network elements*, shall, at a minimum, be no less favorable to the requesting carrier than the terms and conditions under which the incumbent LEC provides such elements to itself.<sup>44</sup>

(Emphasis added.) Similarly, Minnesota law states:

To the extent prohibited by the Federal Communications Commission or public utilities commission, a telephone company shall not give preference or discriminate in providing services, products, or facilities to an affiliate or to *its own* or an affiliate's *retail department* that sells to consumers.<sup>45</sup>

(Emphasis added).

But a LEC's obligation to provide UNEs for the benefit of CLECs is not open-ended. The 8<sup>th</sup> Circuit Court of Appeals has stated that “subsection 251(c)(3) implicitly requires unbundled access only to an incumbent LEC's *existing* network – not to a yet unbuilt superior one.”<sup>46</sup> On remand from that decision, the FCC stated that “we do not require incumbent LECs to construct new transport facilities to meet specific competitive LEC point-to-point demand requirements for facilities that the incumbent LEC has not deployed for its own use.”<sup>47</sup>

#### **D. Commission Decision**

Qwest raises both legal and practical challenges to implementing the arbitrators' recommendations.

Whatever the merits of the claim that ILECs have no obligation to provide expedited service, or that other industries charge a premium to provide expedited services, or that \$200 simply reflects the value of expediting an order, these claims are not at issue here. With respect to the claim that the Commission lacks authority to require Qwest to offer expedited services on a non-discriminatory basis at cost-based rates, the Commission is not convinced.

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<sup>44</sup> 47 C.F.R. § 51.311.

<sup>45</sup> Minn. Stat. § 237.09, subd. 2(a).

<sup>46</sup> *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 813 (8<sup>th</sup> Cir. 1997) (emphasis in original).

<sup>47</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, 15 FCC Rcd 3696 (November 5, 1999) at ¶ 324.

Whether Qwest has an obligation to offer expedited access to UNEs or merely chooses to offer it, it is undisputed that Qwest does offer expedited access to its own retail operations. And if Qwest offers expedited access to UNEs for its own retail operations, Qwest has a duty to provide such access on a nondiscriminatory basis to CLECs as well.

Qwest argues that it refrains from discriminating in the provision of expedited access to CLECs. In support of this argument, Qwest invites the Commission to compare the price Qwest charges CLECs at *wholesale* to the \$200 retail price it charges its own customers at *retail*. But the law bars Qwest from discriminating in the wholesale market specifically – that is, from imposing different terms and conditions for expedited service on different telecommunications carriers,<sup>48</sup> including itself.<sup>49</sup> Qwest must provide UNEs to CLECs on the same terms and conditions that it provides them to its own retail operations,<sup>50</sup> regardless of what it charges its retail customers. And the cost Qwest bears to provide expedited access to UNEs for its retail customers is simply the cost of expediting the service. This is also the cost that CLECs should bear to expedite access for their customers.

In arguing that expediting a UNE is a “superior service” which Qwest is not obligated to provide – and certainly is not obligated to provide at cost – Qwest misapplies a term of art. As noted above, the 8<sup>th</sup> Circuit and the FCC concluded that the 1996 Act does not provide a basis for the FCC to require ILECs to offer “superior” service – that is, to build facilities for CLECs if the ILEC would not build comparable facilities for itself. In contrast to those circumstances, Qwest not only provides expedited service for itself, Qwest offers the service to others on its tariff. The concerns articulated by the 8<sup>th</sup> Circuit and the FCC regarding “superior service” have no relevance to this issue.

Based on the arguments of the arbitrators and Eschelon, the Commission finds no legal prohibition on directing Qwest to provide expedited services at cost-based rates. To the contrary, the Commission finds that it is compelled to do so.

However, while the Commission is not persuaded by Qwest’s legal objections, the Commission acknowledges the practical challenges Qwest identifies. Qwest speculates about the burdens it would bear if the Commission were to establish “a minor charge” that resulted in a glut of requests to expedite. Admittedly, establishing costs can be challenging; the cost Qwest bears to expedite an order may vary depending on the number of expedite requests Qwest receives, and the number of requests Qwest receives may vary with the cost to expedite an order. Fortunately, the arbitrators’ and Eschelon’s recommendations are designed to address these very concerns: a cost docket will provide Qwest with the forum it needs to demonstrate the burdens that expedited orders impose on Qwest’s operations. With an adequate record, the Commission will be able to establish a charge that permits Qwest to recover its costs, whether they be major or minor.

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<sup>48</sup> See, for example, 47 C.F.R. §§ 51.311(a), 51.313(a) (requiring equal treatment among “telecommunications carriers”). Both Eschelon and Qwest are telecommunications carriers. 47 C.F.R. §§ 51.5.

<sup>49</sup> See, for example, 47 C.F.R. §§ 51.311(b), 51.313(b) (requiring each ILEC to provide CLECs with access to UNEs at least equal to the access it provides to “itself”).

<sup>50</sup> Minn. Stat. § 237.09, subd. 2(a).

That said, the Commission will decline the arbitrators' recommendation to initiate a new docket to establish the appropriate rate. Rather, in the interest of administrative efficiency the Commission will refer this matter to a proceeding already underway, Docket No. P-421/AM-06-713 *In the Matter of Qwest's Application for Commission Review of TELRIC Rates Pursuant to 47 U.S.C. § 251*. In the meantime, the Commission will adopt the interim rate recommended by the arbitrators and Eschelon.

**Topic 31: How should the parties allocate fault for a missed order for purposes of characterizing an order as "Customer Not Ready"? (ICA Section 12.2.7.2.4.4)**

**A. The Issue**

While Qwest confirms the dates upon which it plans to fulfill wholesale orders from each CLEC, occasionally an installation order cannot be completed on time. If Qwest accepts responsibility for having missed the deadline, Qwest may incur financial penalties for failure to meet performance indicator definitions (PIDs); PIDs are terms that are common to many ICAs.<sup>51</sup> On the other hand, if Qwest concludes that the responsibility for the failure lies with the CLEC or its customer ("Customer Not Ready"), Qwest avoids the risk of financial penalties. In addition, the order is re-scheduled with at least a three-day delay.<sup>52</sup>

This issue pertains to assigning fault when 1) Qwest issues a "jeopardy notice," informing Eschelon that it might not be able to perform the work as scheduled, 2) Qwest then provides Eschelon with less than a day's notice that Qwest will be able to perform the work as originally scheduled, and 3) the order cannot be completed because Eschelon or its customer are unprepared to work with Qwest.

Qwest acknowledges that it has a duty to give notice (called a firm order confirmation, or FOC) when scheduling an order due date, and when re-confirming an order that had previously been placed in jeopardy. Qwest acknowledges that the purpose of issuing a FOC on previously "jeopardized" orders is to enable a CLEC to make the appropriate arrangements to cooperate with Qwest in filling the order. And Qwest acknowledges that it has a duty to accurately differentiate between delays caused by Qwest and delays caused by a CLEC or its customers.

Eschelon objects to its customers enduring three-day delays due to circumstances beyond Eschelon's and the customer's control. Eschelon proposes language designed to characterize missed orders as Qwest's fault if Qwest fails to give a day's notice of its intention to complete a previously jeopardized order on time:

12.2.7.2.4.4 A jeopardy caused by Qwest will be classified as a Qwest jeopardy, and a jeopardy caused by CLEC will be classified as Customer Not Ready (CNR).

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<sup>51</sup> See Exhibit B; Exhibit K, Appendices A and B.

<sup>52</sup> Proposed ICA § 9.2.4.4.1.

12.2.7.2.4.4.1 There are several types of jeopardies. Two of these types are: (1) CLEC or CLEC End User Customer is not ready or service order is not accepted by the CLEC (when Qwest has tested the service to meet all testing requirements.); and (2) End User Customer access was not provided. For these two types of jeopardies, Qwest will not characterize a jeopardy as CNR or send a CNR jeopardy to CLEC if a Qwest jeopardy exists, Qwest attempts to deliver the service, and Qwest has not sent an FOC notice to CLEC after the Qwest jeopardy occurs but at least a day before Qwest attempts to deliver the service. CLEC will nonetheless use its best efforts to accept the service. If needed, the Parties will attempt to set a new appointment time on the same day and, if unable to do so, Qwest will issue a Qwest Jeopardy notice and a FOC with a new Due Date.

12.2.7.2.4.4.2 If CLEC establishes to Qwest that a jeopardy was not caused by CLEC, Qwest will correct the erroneous CNR classification and treat the jeopardy as a Qwest jeopardy.

Qwest offers many objections to Eschelon's language. According to Qwest, the problem triggering Eschelon's concerns is too rare to warrant the procedures Eschelon proposes. Also, Qwest argues that Eschelon's language could have the effect of delaying service to Eschelon's customers.

Instead of adopting Eschelon's language, Qwest recommends that the Commission leave this matter be governed by the procedures Qwest provides at its wholesale site on the World Wide Web. To the extent that changes are warranted in Qwest's procedures for fulfilling wholesale orders, Qwest recommends that the Commission direct Eschelon to use the change management process in the parties' agreement; this process would provide a mechanism for balancing Eschelon's interests with the interests of other CLECs as well.

## **B. The Arbitrators' Recommendation**

The arbitrators recommend declining Eschelon's proposed language, leaving this matter to be governed by the terms of Qwest's website. Noting that Qwest has already committed to providing Eschelon with FOC notices before attempting to complete previously jeopardized orders, the arbitrators conclude that no additional language is necessary to provide Eschelon with adequate notice, and that the main goal of Eschelon's language must be to influence how the PID language is interpreted. The arbitrators reason that this is a matter that should be addressed outside the context of a single CLEC's interconnection agreement. Qwest supports this position.

Eschelon argues that the arbitrators misapprehended the point of Eschelon's concerns, and therefore its proposed language.

According to Eschelon, Qwest acknowledges that it would be unreasonable to blame Eschelon if an installation date is missed because Qwest neglected to give timely notice of the new date. But Eschelon argues that this acknowledgment is meaningless unless the parties agree what "timely" notice entails. Eschelon states that its language is designed to resolve this question, and establish the consequences for the failure to give timely notice. With the exception of establishing the one-day-notice policy, Eschelon alleges that its language merely reflects practices that Qwest professes to use today.

Moreover, whatever the merits of Qwest's current practices and website language, Eschelon states that these practices and terms are subject to change without Commission approval unless they are embedded in a Commission-approved interconnection agreement.

Finally, Eschelon denies the arbitrators' assertion that the main goal of Eschelon's assertion was to somehow modify the PIDs. To clarify this point, Eschelon offers the following amendment to its proposed language:

Nothing in this Section 12.2.7.2.4.4 modifies the Performance Indicator Definitions (PIDs) set forth in Exhibit B and Appendices A and B to Exhibit K of this Agreement.

### **C. Applicable Law**

The 1996 Act's § 251(c)(3) requires each ILEC to offer CLECs "nondiscriminatory access to network elements on an unbundled basis ... on rates, terms, and conditions that are just, reasonable, and nondiscriminatory...."

### **D. Commission Decision**

The Commission finds merit in Eschelon's concerns, and consequently in the language Eschelon proposes to address those concerns. Simply put, Eschelon should not be held responsible when it relies on Qwest's statement that Qwest will not be able to meet a deadline.

The Commission realizes that circumstances change and not every deadline will be met; the Commission also realizes that circumstances change and some previously unmeetable deadlines can in fact be met. The Commission cannot know when these circumstances will reflect some fault on the part of Qwest and when they simply reflect the challenges of managing a complex telecommunications system; for this reason the PIDs do not prescribe penalties for every instance of missing a deadline, but merely for cumulative instances. But where Eschelon had no role in causing Qwest to issue an initial jeopardy notice, and had no role in delaying Qwest's issuance of a subsequent FOC until less than a day before the deadline, the Commission cannot find the merit in holding Eschelon responsible when the deadline is missed.

Nothing in Eschelon's language requires Qwest to delay filling an order. To the contrary, Eschelon's language calls upon each party to use their best efforts to meet deadlines with or without a timely FOC. Eschelon's language merely specifies the consequences for failing to offer a timely FOC – specifically, Eschelon would not be held responsible for any failure to meet the installation deadline, and the new deadline need not be delayed a minimum of three days.

Nor does the Commission read Eschelon's language to alter the PIDs. Given the apparent confusion on that point, however, the Commission will approve Eschelon's language together with Eschelon's statement clarifying that this new language does not modify the PIDs.

The Commission will so order.

## ORDER

1. The Commission decides the arbitrated issues as discussed in the body of this Order. Except as otherwise specified, the Commission adopts the findings, conclusions and recommendations of the Arbitrators' Report. In particular, the Commission adopts the following recommendations:
  - A. *Topic 21:* Regarding the terms under which Qwest converts from providing a network element that is deemed a UNE to providing the same element when it is no longer deemed a UNE, the Commission adopts the arbitrators' recommendation and hereby initiates an investigation *In the Matter of Qwest Corporation's Conversion of UNEs to Non-UNEs*, Docket No. P-999/CI-07-730. This investigation shall establish appropriate terms for Qwest to convert UNEs to non-UNEs, including a determination of whether the charge for providing this service must be limited to Qwest's total element long run incremental cost.
  - B. *Topic 25:* Regarding Qwest's procedures for providing CLECs with commingled EELs, the Commission adopts the arbitrators' recommendation and hereby initiates an investigation *In the Matter of Qwest Corporation's Arrangements for Commingled Elements*, Docket No. P-999/CI-07-731, for the purpose of determining appropriate procedures.

The Commission's decisions differ from the arbitrators' recommendations, however, with respect to the following topics.

2. *Topic 4:* Regarding Qwest's discretion to discontinue processing Eschelon's orders if Eschelon fails to make timely payments, the parties shall adopt Qwest's proposed language as amended to incorporate the following:

*5.4.2 . . . . Qwest may only discontinue order processing (as defined below) to CLEC under the following conditions:*

- 1) if payment for services rendered in Minnesota are more than 30 days past due; and*
- 2) if such payment does not include amounts disputed under section 21.8;*  
*and*
- 3) if Qwest has given CLEC and the Commission ten (10) business days prior written notice.*

*The term "order processing" does not include orders or requests by CLEC to drop or remove a feature or service for a given end user or end user account, and also does not include orders or requests by CLEC to add any blocking capabilities to an end user account. Qwest may not discontinue processing the removal of features or services, or the addition of blocking capabilities, under any circumstances.*

*Nothing in this section precludes CLEC from using any dispute resolution procedures to contest Qwest's discontinuation of order processing, if CLEC believes Qwest has not met all three conditions listed above, or for any other reason.*



3. *Topic 23: Regarding the terms under which Qwest combines loops and transport at Eschelon's request, the parties shall adopt the following language:*

*9.23.4 The UNE component(s) of any Commingled arrangement is governed by the applicable terms of this Agreement. The other component(s) of any Commingled arrangement is governed by the terms of the alternative service arrangement, pursuant to which the component is offered (e.g., Qwest's applicable Tariffs, price list, catalogs, or commercial agreements).*

4. *Topic 27: Regarding Qwest's duty to acknowledge to Eschelon's customer that a service quality problem resulted from Qwest's error, the parties shall adopt the following language:*

*12.1.4.1 CLEC may make a written request to its Qwest Service Manager for root cause analysis and/or acknowledgment of mistake(s) in processing wholesale orders, including pre-ordering, ordering, provisioning, maintenance and repair, and billing. The written request should include the following information, when applicable and available: Purchase Order Number (PON), Service Order Number, billing telephone number, a description of the End User Customer impact and the ticket number associated with the repair of the impacting condition. It is expected that CLEC has followed usual procedures to correct a service impacting condition before beginning the process of requesting Qwest acknowledgment of error.*

5. *Topic 29: The task of developing a record for determining Qwest's total element long-run incremental cost to expedite an order is referred to Docket No. P-421/AM-06-713 In the Matter of Qwest's Application for Commission Review of TELRIC Rates Pursuant to 47 U.S.C. § 251, now pending before the Office of Administrative Hearings. On an interim basis, Qwest may charge Eschelon up to \$100 to expedite an order on behalf of an Eschelon customer.*

6. *Topic 31: In identifying the party at fault when a retail customer's order is missed, the parties shall adopt the following language:*

*12.2.7.2.4.4 A jeopardy caused by Qwest will be classified as a Qwest jeopardy, and a jeopardy caused by CLEC will be classified as Customer Not Ready (CNR). Nothing in this Section 12.2.7.2.4.4 modifies the Performance Indicator Definitions (PIDs) set forth in Exhibit B and Appendices A and B to Exhibit K of this Agreement.*

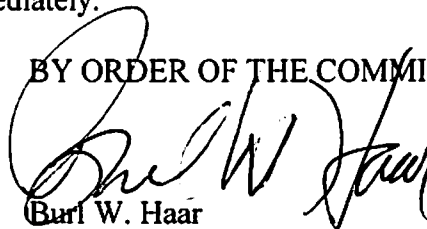
*12.2.7.2.4.4.1 There are several types of jeopardies. Two of these types are: (1) CLEC or CLEC End User Customer is not ready or service order is not accepted by the CLEC (when Qwest has tested the service to meet all testing requirements.); and (2) End User Customer access was not provided. For these two types of jeopardies, Qwest will not characterize a jeopardy as CNR or send a CNR jeopardy to CLEC if a Qwest jeopardy exists, Qwest attempts to deliver the service, and Qwest has not sent an FOC notice to CLEC after the Qwest jeopardy occurs*

*but at least a day before Qwest attempts to deliver the service. CLEC will nonetheless use its best efforts to accept the service. If needed, the Parties will attempt to set a new appointment time on the same day and, if unable to do so, Qwest will issue a Qwest Jeopardy notice and a FOC with a new Due Date.*

*12.2.7.2.4.4.2 If CLEC establishes to Qwest that a jeopardy was not caused by CLEC, Qwest will correct the erroneous CNR classification and treat the jeopardy as a Qwest jeopardy.*

7. The parties shall submit a final ICA containing all arbitrated and negotiated terms to the Commission for review pursuant to 47 U.S.C. § 252(e) within 120 days of this Order. If the Commission does not issue a final order in the *Wire Center Docket*<sup>53</sup> in the next 100 days, parties may petition to extend this deadline. The Commission delegates to its Executive Secretary the authority to grant such extensions.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary

(SEAL)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice) or 1-800-627-3529 (TTY relay service).

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<sup>53</sup> *In the Matter of CLECs' Request for Commission Approval of ILEC Wire Center Impairment Analysis*, Docket No. P-5692/M-06-211; *In the Matter of a Commission Investigation Identifying Wire Centers in Which Qwest Must Offer High-Capacity Loop or Transport UNEs at Cost-Based Rates*, Docket No. P-999/CI-06-685.

STATE OF MINNESOTA)  
                                  )SS  
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 30th day of March, 2007 she served the attached

ORDER RESOLVING ARBITRATION ISSUES, REQUIRING FILED  
INTERCONNECTION AGREEMENT, OPENING INVESTIGATIONS AND REFERRING  
ISSUE TO CONTESTED CASE PROCEEDING.

MNPUC Docket Number: P-421/AM-06-713; P-5340,421/IC-06-768; P-421/CI-07-370;  
and P-421/CI-07-371

XX By depositing in the United States Mail at the City of St.  
Paul, a true and correct copy thereof, properly enveloped  
with postage prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

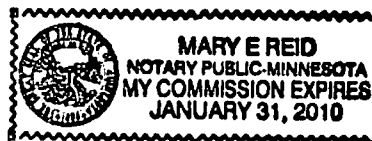
- Commissioners
- Carol Casebolt
- Peter Brown
- Eric Witte
- Marcia Johnson
- Kate Kahlert
- AG
- Kevin O'Grady
- Mark Oberlander
- Ganesh Krishnan
- John Lindell
- Mary Swoboda
- Jessie Schmoker
- Linda Chavez - DOC
- Julia Anderson - OAG
- Curt Nelson - OAG

Margie DeLaHunt

Subscribed and sworn to before me,

a notary public, this 30 day of

March, 2007  
Mary E. Reid  
Notary Public



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 32**

**EXPEDITE CAPABILITY FOR LOOPS – all Qwest states, except WA –  
IS EXPEDITE CAPABILITY PROVIDED FOR DSO, DSI, OR NEITHER?**

	<b>EARLIER</b>	<b>PCAT VERSION 11</b>	<b>PCAT VERSION 27</b>	<b>PCAT VERSION 30</b>
<b>Qwest-Eschelon ICA</b> Att. 5: Business Process Requirements: <i>all products</i>	“3.2.2.13 Expedites: [Qwest] shall provide [CLEC] the capability to expedite a service order.” – includes DS0 & DS1	<i>No change:</i> “3.2.2.13 Expedites: [Qwest] shall provide [CLEC] the capability to expedite a service order.” – includes DS0 & DS1	<i>No change:</i> “3.2.2.13 Expedites: [Qwest] shall provide [CLEC] the capability to expedite a service order.” – includes DS0 & DS1	<i>No change:</i> “3.2.2.13 Expedites: [Qwest] shall provide [CLEC] the capability to expedite a service order.” – includes DS0 & DS1
<b>CMP Document, §1.0</b> (Scope of CMP) <sup>1</sup>	If ICA & CMP/PCAT conflict, ICA controls	<i>No change:</i> If ICA & CMP/PCAT conflict, ICA controls	<i>No change:</i> If ICA & CMP/PCAT conflict, ICA controls	<i>No change:</i> If ICA & CMP/PCAT conflict, ICA controls
<b>Emergency-based</b> “Requiring Approval” (no addt’l fee) – <b>NO AMENDMENT</b>	DS0 DS1	DS0 DS1	DS0 DS1	NEITHER (v.30 <i>removed</i> loops from emergency-based expedite capability)
<b>Emergency-based</b> “Requiring Approval” (no addt’l fee) – <b>W/ AMENDMENT</b>	No amendment at that time	DS0	NEITHER (v.27 <i>added</i> DS0 to list of products eligible for fee-added expedite capability)	NEITHER
<b>Fee-added</b> “Pre-Approved” (\$200 per day advanced) <sup>2</sup> – <b>NO AMENDMENT</b>	NEITHER	NEITHER	NEITHER	NEITHER
<b>Fee-added</b> “Pre-Approved” (\$200 per day advanced) – <b>W/ AMENDMENT</b>	No amendment at that time	DS1	DS0 DS1	DS0 DS1

<sup>1</sup> “In cases of conflict between the changes implemented through this CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through this CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement.” Qwest CMP Document, §1.0 [Arbitration BJJ-1; AZ Complaint BJJ A-9 (000173)] available at [http://www.qwest.com/wholesale/downloads/2006/061030/QwestWholesaleChangeManagementDocument\\_10\\_30\\_06.doc](http://www.qwest.com/wholesale/downloads/2006/061030/QwestWholesaleChangeManagementDocument_10_30_06.doc)

<sup>2</sup> 5 day interval for loops: If advanced 5 days, \$200 X 5 = \$1,000

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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EXHIBIT 33

**EXECUTIVE SUMMARY**  
**ESCHELON TELECOM OF ARIZONA, INC. FORMAL COMPLAINT**  
**AGAINST QWEST CORPORATION**  
**DOCKET NOS. T-01051BA-06-0257 AND T-03406A-06-0257**

Eschelon Telecom of Arizona, Inc. ("Eschelon"), a Competitive Local Exchange Carrier ("CLEC") authorized to provide facilities-based local telecommunications service in Arizona, filed a Complaint against Qwest Corporation ("Qwest"), an Incumbent Local Exchange Carrier ("ILEC"), on April 14, 2006 with the Arizona Corporation Commission ("ACC" or "Commission"). The Complaint addresses the alleged refusal by Qwest to provide repairs for disconnects in error and Qwest's alleged refusal to expedite orders for unbundled loops without Eschelon signing an amendment to the Qwest – Eschelon Interconnection Agreement imposing a \$200 per day expedite fee. This particular Complaint involves a disconnect-in-error for a DS1 loop serving a rehabilitation center in Arizona.

Staff's analysis indicates that the Commission approved Eschelon's opt-in to the AT&T Interconnection Agreement on April 28, 2000. Expedite Procedures were already in place at the time. The Expedite Process is a procedure that is followed when a CLEC requests an earlier due date than the standard interval from Qwest for the installation of wholesale products and services to meet customer service needs. The Qwest – Eschelon interconnection Agreement indicates that Qwest shall provide Eschelon the capability to expedite a service order. The Agreement also allows Qwest the ability to charge a fee for the Expedite. The Change Management Process ("CMP") is a significant factor in Staff's analysis of the Complaint because the CMP provides a means to address changes to the processes and procedures contained in Qwest's Product Catalog ("PCAT"). The processes and procedures are necessary to enable CLECs to obtain pre-ordering, ordering, provisioning, billing, maintenance and repair services from Qwest. The CMP indicates that the rates, terms, and conditions set forth in any CLEC Interconnection Agreement between the CLEC and Qwest shall prevail when there is a conflict with the changes implemented through CMP and the provisions of the Interconnection Agreement.

Staff concludes that:

- (1) Qwest did not adhere to the terms and conditions of the current Qwest – Eschelon Interconnection Agreement, which allows Eschelon the capability to expedite orders, when Qwest denied this option without Eschelon signing an amendment to the Agreement. Qwest should continue to support the same Expedite Process that has been used in the past for all products and services (including unbundled loops) if the order meets any of the Emergency criteria or conditions or where the customer's safety may be an issue if the Expedite is not processed. No additional charge should be applied beyond the standard installation charge.
- (2) Qwest should continue with the enhancement to the Expedites & Escalations Overview Process, as originally requested by Covad, offering an option to CLECs to expedite orders when the situation does not meet the emergency criteria or conditions. This option should be offered to all

CLECs via an amendment to the CLEC's current Interconnection Agreement and may involve a charge when the option is utilized by the CLEC.

- (3) The Qwest – Eschelon Interconnection Agreement does allow Qwest the ability to impose a fee on Eschelon for expediting orders. Until recently, common practice has been that Qwest has chosen not to charge an additional expedite fee for all products/services that met certain emergency conditions/criteria. Qwest should reimburse the additional \$1800 plus interest (if applicable) that was charged to Eschelon in this particular Complaint.
- (4) Due to the nature of this particular Complaint which stemmed from an Eschelon caused error in disconnection of an incorrect number, Eschelon should implement a training or refresher training program for its representatives stressing the importance of accuracy when ordering changes to their customer's service in order to try to avoid or minimize unnecessary customer service outages.
- (5) Qwest should include a definition of designed and non-designed services in its Arizona tariffs.
- (6) Qwest and the CLECs should include expedites of the installation of Unbundled Loops in their Interconnection Agreement negotiations.
- (7) Staff recommends that a performance measurement for expedites of Unbundled Loops be developed through CMP and that the rate(s) for expedites be considered as part of the next cost docket.



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 34**

-----Original Message-----

From: Bastiampillai, Harisha [<mailto:Harisha.Bastiampillai@qwest.com>]

Sent: Tuesday, March 21, 2006 1:37 AM

To: Clauson, Karen L.; Hartl, Deborah; Denney, Douglas K.; Diamond, Paul; Goldberg, Tobe L.; Johnson, Bonnie J.; Kennedy, Robert.F; Markert, William D.; Olson, Joan M.; Salvorda, Kathleen; diane.wells@state.mn.us; Zeller, Ginny A.

Subject: RE: Eschelon request for cost data



EschcoststudyRespo  
nse.doc

**Re: Qwest Cost Studies**

This response addresses Eschelon's request for additional cost studies beyond those Qwest has already produced. Qwest has already provided specific information as to why particular studies are not being produced. Despite these responses, Eschelon continues to belabor the issue and contend that Qwest is acting in bad faith. Eschelon, however, has provided no legal support for its contentions. In regard to Qwest's "duty" to provide cost studies for rates that have already been reviewed, and approved, by a state commission, Eschelon's position actually runs counter to approaches taken by numerous state commissions. By way of example:

- In a California arbitration, AT&T contended that a rate approved by the CA PUC in a generic cost proceeding was no longer TELRIC-compliant and therefore should be reevaluated in the arbitration. The CA PUC disagreed noting that it had established a process to address updating of rates via a generic cost docket, and that AT&T's position attempts to circumvent this process by seeking to update the rates in the context of an arbitration. The CA PUC said it preferred to "address the need to update cost studies in our generic proceeding where all interested parties can be represented, and not in the context of an arbitration between only two parties." Application by AT&T Communications of California, Inc., et al, (U 5002 C) for Arbitration of an Interconnection Agreement with Pacific Bell Telephone Company (U 1001 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996, 2000 Cal. PUC LEXIS 564, 45-46 (Cal. PUC 2000)
- In Michigan, a CLEC attempted to re-litigate rates that the Commission established in a generic cost proceeding. The Arbitration Panel noted that an "a two-party arbitration is not an appropriate forum for setting rates that will affect all competitive local exchange carriers." The Panel found that the CLEC should abide by the rates set in the generic cost docket. In The Matter of Petition of Buytel Communications, Inc. For Arbitration Pursuant to Section 252(b) to Resolve Open Issues for an Interconnection Agreement with Ameritech Indiana, 2002 Ind. PUC LEXIS 277, 13-15 (Ind. PUC 2002)(citing Michigan proceeding).
- In another Michigan proceeding, an Arbitration Panel rejected Verizon Wireless' position that the underlying cost studies must be made a part of the record in the arbitration proceeding. The panel determined that the Commission may properly take official notice of cost studies that it has previously approved in a separate docket. In the matter of the petition of ACE TELEPHONE COMPANY, BARRY COUNTY TELEPHONE COMPANY, DEERFIELD FARMERS' TELEPHONE COMPANY, KALEVA TELEPHONE COMPANY, LENNON TELEPHONE COMPANY, OGDEN TELEPHONE COMPANY, PIGEON TELEPHONE COMPANY, the UPPER PENNINSULA TELEPHONE COMPANY, and WALDRON TELEPHONE COMPANY, for the arbitration of interconnection rates, terms, and conditions and related arrangements with VERIZON WIRELESS, pursuant to Section 252(b) of the federal Telecommunications Act of 1996; In the matter, on the Commission's own motion, to examine the total service long run incremental costs of the

MICHIGAN EXCHANGE CARRIERS ASSOCIATION COMPANIES, including ACE TELEPHONE COMPANY, BARRY COUNTY TELEPHONE COMPANY, DEERFIELD FARMERS' TELEPHONE COMPANY, KALEVA TELEPHONE COMPANY, LENNON TELEPHONE COMPANY, OGDEN TELEPHONE COMPANY, PIGEON TELEPHONE COMPANY, the UPPER PENNINSULA TELEPHONE COMPANY, and WALDRON TELEPHONE COMPANY, 2006 Mich. PSC LEXIS 51, 6-8 (Mich. PSC 2006)

- The Indiana Utilities and Regulatory Commission determined that rates “can and should” occur in a proceeding separate from the pending arbitration. The IURC made this determination even though there were no approved rates for the services in question, and that it would need to use interim proxies until rates were determined in the cost proceeding. In the Matter of Sprint Communications Company L.P.'s Petition for Arbitration of Interconnection Rates, Terms, Conditions and Related Arrangements with GTE of the North, Inc., 1997 Ind. PUC LEXIS 9, 21-22 (Ind. PUC 1997)
- In a Kansas arbitration, the KS PUC found Covad’s attempt to revisit certain approved rates an attempt to “pick and choose those rates from the UNE Generic Cost Docket that it finds acceptable and challenge those it deems excessive.” The KS PUC noted that its Orders made it abundantly clear that only if an ICA required “a special or unique arrangement” would a deviation from its approved rates be warranted. The PUC held that the “fact that an agreement is negotiated separately with each individual carrier does not make or qualify that agreement as “special or unique.” In the Matter of Complaint By Ionex Communications, Inc., Against Southwestern Bell Telephone Company For Charging Improper Rates for Unbundled Network Elements , 2000 Kan. PUC LEXIS 1133, 118-121 (Kan. PUC 2000)
- In Ohio, the PUCO found that “the best manner in which to fully examine Ameritech's TELRIC studies was to do so in a proceeding dedicated solely to those issues.” In the Matter of the Review of Ameritech Ohio's Economic Costs for Interconnection, Unbundled Network Elements, and Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic, 1998 Ohio PUC LEXIS 748 (Ohio PUC 1998)
- In Oregon, the Arbitrator noted that the “Commission has consistently chosen to base rates set in arbitrations on its own cost study docket (UM 773) and its pricing dockets (UM 351 and UM 844).” The Arbitrator also observed that the “Commission has spent years working out a methodology for costing and pricing, and the dockets named above are the result of that work.” The Arbitrator found the methodology to be established and reviewable and so he declined to revisit or reevaluate the methodology. In the Matter of the Petition of AT&T Wireless Services, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to the Telecommunications Act of 1996., 1997 Ore. PUC LEXIS 183, 35-36 (Ore. PUC 1997)
- In Washington, the WUTC adopted a cost methodology and established for each of the two ILECs, prices or price ranges based upon that methodology and the record in its case. It noted its “expectation that those prices or price ranges will be applied in future arbitrations, and that parties will reform their contracts to adopt the Commission-approved prices.” In the Matter of the Pricing

Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale; In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for U S WEST COMMUNICATIONS, INC.; In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for GTE NORTHWEST INCORPORATED, 1996 Wash. UTC LEXIS 41, 4-6 (Wash. UTC 1996)

- In Washington, the WUTC granted motions for a separate proceeding to review the cost study. It entered an order that noted, "[t]he cost studies that are being proposed are voluminous and complex and are not susceptible of thorough review in the time frames, or with the resources, available for arbitration." It granted the motion and agreed to institute a proceeding that transcends individual arbitrations, in which to review the USWC cost study. In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale; In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for U S WEST COMMUNICATIONS, INC.; In the Matter of the Pricing Proceeding for Interconnection, Unbundled Elements, Transport and Termination, and Resale for GTE NORTHWEST INCORPORATED, 1997 Wash. UTC LEXIS 9 (Wash. UTC 1997)

This long litany of cases reflects the state commissions' reluctance, if not outright refusal, to revisit rates they have already reviewed and approved, particularly in the context of a two party arbitration. Qwest has produced cost studies pertaining to rates that the state commission(s) has not approved. Cost studies for approved rates, however, presents a much different situation. Carriers, commission staffs, and the Commissioners themselves devoted much time and effort to review and approve these rates. As gleaned from the remarks above, state commissions are disinclined to reevaluate approved rates in a two party arbitration. Thus, there is simply no reason for Qwest to produce cost studies for already reviewed and approved rates in our negotiations. If Eschelon can demonstrate legal support for its contention that Qwest does have such a duty, Qwest would consider the issue further. Eschelon's failure, however, to provide such legal support, and then file a bad faith action, would render it the bad faith actor in this proceeding.

From: Clauson, Karen L.  
Sent: Tuesday, March 21, 2006 8:40 AM  
To: 'Bastiampillai, Harisha'; Hartl, Deborah; Denney, Douglas K.;  
Diamond, Paul; Goldberg, Tobe L.; Johnson, Bonnie J.; Kennedy,  
Robert.F; Markert, William D.; Olson, Joan M.; Salverda, Kathleen;  
diane.wells@state.mn.us; Zeller, Ginny A.  
Subject: RE: Eschelon request for cost data

Harisha:

Your statement that Eschelon did not provide support for its position is not accurate. The cases that you cite are not on point relative to the reasons stated by Eschelon for its need for the particular cost study requested with respect to Eschelon's proposed language for the first paragraph of Section 9.2.2.9.

Eschelon had hoped that, by obtaining at least one such cost study, this issue could have been resolved. Eschelon has taken a very reasonable position, asking for a cost study for only one approved rate, and has done so not to challenge that rate but to further discussion of Eschelon's proposed language. Eschelon even reduced its request to start with just one state, in response to Qwest's comments. We are disappointed that Qwest is taking such a contentious approach to a reasonable request that, if honored, may resolve or narrow this issue.

Eschelon reserves the right to argue in arbitration that the Commission should preclude Qwest from presenting evidence based on its cost studies that it refused to provide here and rule in Eschelon's favor based on Qwest's failure to provide the requested cost data.

**From:** Clauson, Karen L.  
**Sent:** Monday, December 05, 2005 4:27 PM  
**To:** 'Salverda, Kathleen'; Christensen, Larry; Bastiampillai, Harisha; Adams, Michael; Sullivan, Mary; Hartl, Deborah; Diamond, Paul; Houston, Neil; Kennedy, Robert.F  
**Cc:** Denney, Douglas K.; Olson, Joan M.; Goldberg, Tobe L.; Zeller, Ginny A.; Johnson, Bonnie J.; Markert, William D.; 'Diane Wells'  
**Subject:** Exhibit As for AZ, OR, UT & updated Exhibit matrix  
**Attachments:** Exhibit A (AZ, OR, UT).xls; Changes to Exhibit A (AZ, OR, UT).doc; ExhibitIssuesDec0505.doc

Qwest:

On November 14, 2005, Eschelon asked Qwest to provide Qwest's proposed Exhibit A for Arizona, Oregon, and Utah. We have not yet received those Exhibits As. Since the clock is ticking, we needed to proceed. Therefore, Eschelon went ahead and redlined Qwest's SGAT Exhibit As for Arizona, Oregon, and Utah to show Eschelon's proposals for Exhibit A for those states. Those redlines are enclosed (in an Excel document with tabs for the three states) and are OPEN for Qwest to review. To be sure we are working off the same page, please work from the enclosed Excel document when providing Qwest's reply.

Also enclosed is a Word document detailing the changes to Qwest's SGAT Exhibit A for AZ, OR, and UT. This is similar to the document that Eschelon sent to Qwest on November 15, 2005 for CO, MN, and WA.

For any rate with which Qwest disagrees in any of the states of AZ, CO, MN, OR, UT and/or WA, please provide Qwest's cost study(ies) for such rate(s).

The enclosed documents contain Eschelon's negotiation proposals based on Qwest's proposed or Commission approved rates. Eschelon reserves the right to propose different rates if the rates are litigated in arbitrations or cost cases.

In the document (entitled "ICA LANGUAGE -- CONSISTENCY WITH EXHIBIT A") that Eschelon provided to Qwest on November 8, 2005, Eschelon asked a number of questions, including requests for citations to Exhibit A. If the responses to those questions differ for AZ, OR, and/or UT, please respond as to the latter states as well, including citations to the AZ, OR, and/or UT Exhibit A provision(s).

Also enclosed is the Exhibit A matrix sent to Qwest on November 15, 2005, updated to include the information in this email.

Thanks,



Exhibit A (AZ, OR, UT).xls (73...



Changes to Exhibit A (AZ, OR, ...



ExhibitIssuesDec0505.doc (36 K...

Karen L. Clauson  
Senior Director of Interconnection/Sr. Attorney  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 900  
Minneapolis, MN 55402  
Phone: 612-436-6026  
Fax: 612-436-6816

**CONFIDENTIALITY AGREEMENT**  
**For**  
**MULTIPLE QWEST COST STUDIES**

This Confidentiality Agreement ("Agreement"), effective March 16, 2004, is made by and between Qwest Corporation ("Qwest"), a Colorado corporation, and its Affiliates, having its principal place of business at 1801 California Street, Suite 2410, Denver, Colorado, 80202, and Eschelon Telecom, Inc. ("Other Party"), a Delaware corporation, and its Affiliates, having its principal place of business at 730 2<sup>nd</sup> Avenue South, Minneapolis, Minnesota, 55402.

For purposes of this Agreement, "Affiliate" means any entity which, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with Qwest or Other Party.

1. Qwest and Other Party are negotiating new Interconnection Agreements, including offerings for Collocation Available Inventory and Transfer of Responsibility. There are no agreements between the Parties making confidential their negotiations. To date, Other Party asked Qwest to provide cost studies for the rates set forth in Qwest's Collocation Available Inventory and Transfer of Responsibility proposals, and may, during the course of negotiations, request additional cost studies pursuant to this Agreement. This Agreement is made in order for Other Party, in the course of those otherwise non-confidential negotiations, to receive from Qwest that certain costing and business information ("Confidential Information" as defined below) related to the development of costs for Qwest's offerings for Collocation Available Inventory and Transfer of Responsibility as required by the Telecommunications Act of 1996 ("Act") and applicable regulations under terms that will protect the confidential and proprietary nature of such Confidential Information. If Other Party asks Qwest to provide additional cost studies for other rates proposed by Qwest, this Agreement will govern the confidentiality of such additional cost studies, provided that Qwest designates the information as Confidential (as provided in paragraph 2 of this Agreement).

2. As used herein, "Confidential Information" shall mean any and all proprietary or non-public costing, technical or business information, relating to the cost studies identified in paragraph 1 of this Agreement, including third party information, that is designated in writing (at the time or within twenty-four (24) hours of disclosure) as confidential and is furnished or disclosed in whatever tangible form or medium, orally, or by any other means by Qwest to Other Party including, but not limited to, product/service specifications, prototypes, computer programs, models, drawings, marketing plans, financial data, costing information, and personnel statistics. When practical, each page of written Confidential information shall contain confidential notices or legends. If not practical, Qwest may designate confidentiality in a reasonable manner such as a description of the Confidential material in a cover letter or e-mail.

3. This Agreement shall expire five (5) years from the effective date stated above. Notwithstanding the termination of this Agreement, Other Party agrees to treat such Confidential Information as confidential for a period of five (5) years from the date of receipt of same unless the Parties agree otherwise in writing. In handling the Confidential Information, Other Party agrees: (a) not to copy such Confidential Information unless specifically authorized; (b) not to make disclosure of any such Confidential Information to any person, corporation or entity,



except employees and subcontractors of Other Party to whom disclosure is necessary for the purposes set forth above; and (c) to appropriately notify such employees and subcontractors that the disclosure is made in confidence and shall be kept in confidence according to the terms of this Agreement. Other Party shall exercise at least the same degree of care used to restrict disclosure of its own information of like importance, and at a minimum shall exercise at least reasonable care.

4. Other Party agrees that, in the event permission is granted by Qwest to copy Confidential Information, or that copying is otherwise permitted hereunder, each such copy shall contain and state the same confidential or proprietary notices or legends, if any, which appear on the original. Nothing herein shall be construed as granting to Other Party any right or license under any copyrights, trademarks, inventions, patents or other form of intellectual property now or hereafter owned, created or controlled by Qwest.

5. Upon termination of this Agreement for any reason or upon request of Qwest, all documented Confidential Information, together with any copies of same as may be authorized herein, shall be returned to Qwest or destroyed upon Qwest's request.

6. Regardless of any designation of Confidentiality pursuant to paragraph 2 of this Agreement, the obligations imposed by this Agreement shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed by Other Party; or (b) is or becomes publicly available through no fault of Other Party; or (c) is obtained by Other Party from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; or (d) is disclosed without restriction by Qwest; or (e) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of law. If Other Party receives any administrative or court request, subpoena or order commanding disclosure of Qwest's Confidential Information, Other Party shall immediately notify Qwest in writing, unless prohibited by law from doing so.

7. This Agreement shall not preclude either Party from exercising its rights to seek mediation or arbitration in accordance with Dispute Resolution provisions of the parties' Interconnection Agreement with respect to the subject matter of the Confidential Information provided hereunder; however, in the event of such mediations, arbitrations, or appeal from such proceedings, the Parties agree to request the tribunal to maintain the confidential and proprietary nature of Confidential Information as defined in this Agreement. Any claim, controversy or dispute between the Parties shall be resolved in accordance with Dispute Resolution provisions of the parties' Interconnection Agreement.

8. Except for the obligations of use and confidentiality imposed herein, no obligation of any kind is assumed or implied against either Party by virtue of Qwest's provision of the Confidential Information. Each Party further acknowledges that this Agreement and any meetings and communications of the Parties relating to the same subject matter, including the exchange of Confidential Information, shall not: (a) constitute an offer, request, or contract with the other to engage in any research, development or other work; (b) constitute an offer, request or contract involving a buyer-seller relationship, joint venture, teaming or partnership relationship between the Parties; or (c) impair or restrict either Party's right to make, procure or market any products or services, now or in the future, which may be similar to or competitive with those offered by the disclosing Party, or which are the subject matter of this Agreement, so long as that Party's obligations of confidentiality under this Agreement are not breached. The Parties shall pay their

own fees and expenses incurred in preparation for, or as a result of, this Agreement or the Parties' meetings and communications.

9. Neither Party shall assign, sublet, or transfer any interest in this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, that Qwest may assign and transfer this Agreement to any parent, subsidiary, successor, affiliated company or other business entity without the prior written consent of Other Party.

10. Other Party shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any Confidential Information, technical data, or products received from Qwest, or any direct product of such Confidential Information or technical data, to any person or company who is a legal resident of or is controlled by a legal resident of any proscribed country listed in Section 779.4(f) of the U.S. Export Administration Regulations (as the same may be amended from time to time), unless properly authorized by the U.S. Government. This requirement is not limited by the time period stated in this Agreement.

11. This Agreement, together with any and all incorporated exhibits, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement. No provision of this Agreement shall be deemed waived, amended or modified by either Party, unless such waiver, amendment or modification is made in writing and signed by both Parties. There are not any previous Agreements between the Parties relating to the subject matter of this Agreement.


12. This Agreement is the joint work product of the Parties, has been negotiated by the Parties and their respective counsel and shall be interpreted fairly in accordance with its terms. In the event of any ambiguities, no inferences shall be drawn against either Party.

13. Any notice to be given pursuant to this Agreement by either Party to the other shall be in writing and shall be deemed given when sent either by mail to the address listed below or by facsimile with a confirmation copy sent by mail.

14. Notwithstanding anything to the contrary, neither Qwest nor Other Party may make any disclosure to any other person or any public announcement or press release regarding this Agreement or any relation between Other Party and Qwest, without the prior written consent, for Qwest, of the Qwest Senior Vice-President of Corporate Communications or for Other Party, the General Counsel of Other Party. Either Qwest or Other Party shall have the right to terminate this Agreement between the Parties if the other Party violates this provision.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to sign this Agreement as of the date first stated above.

**Other Party**

  
\_\_\_\_\_  
Authorized Signature

J. Jeffery Oxley  
\_\_\_\_\_  
Printed Name

Executive Vice President/General Counsel  
\_\_\_\_\_  
Title

3/17/04  
\_\_\_\_\_  
Date

**Qwest Corporation**

  
\_\_\_\_\_  
Authorized Signature

Linda Miles  
\_\_\_\_\_  
Printed Name

Interconnect Negotiator  
\_\_\_\_\_  
Title

March 19, 2004  
\_\_\_\_\_  
Date

**Address for Notices:**

J. Jeffery Oxley  
Executive Vice President and General Counsel  
Eschelon Telecom, Inc.  
730 2nd Avenue South, Suite 1200  
Minneapolis, Minnesota 55402  
612-436-6692  
612-436-6792 (Fax)  
jjoxley@eschelon.com

Linda Miles  
Interconnect Negotiator  
Qwest Corporation  
1600 7<sup>th</sup> Avenue, Room 3007  
Seattle, Washington 98191  
206-447-3879  
206-345-0225 (Fax)  
linda.miles@qwest.com

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 35**

**BEFORE THE WASHINGTON AND UTILITIES TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE CONTINUED )  
COSTING AND PRICING OF UNBUNDLED )  
NETWORK ELEMENTS, TRANSPORT, )  
TERMINATIONS AND RESALE )  
\_\_\_\_\_ )**

**Docket No. UT-003013**

*Part D*

**DIRECT TESTIMONY**

**OF**

**ROBERT F. KENNEDY**

**QWEST CORPORATION**

**NOVEMBER 7, 2001**

1 equipment for up to 1 year, circuit switched equipment for up to 3 years, or power plants  
2 for up to 5 years.

3 **Q. WHAT RATE ELEMENTS ARE BEING INTRODUCED FOR COLLOCATION**  
4 **SPACE OPTION?**

5 A. Two rates are being introduced. The first is a recurring rate known as Space Option Fee.  
6 The Space Option Fee is based on the amount of space being optioned on per-month and  
7 per-square foot basis. The Space Option Fee is a charge that was agreed to in the 271  
8 workshops. As such, there is no cost study that supports that charge. The second charge is a  
9 nonrecurring charge known as Space Option Administration Fee. The Space Option  
10 Administration Fee is intended to recover the cost of processing the application, feasibility,  
11 common space engineering, records management, and administration of the right of first  
12 refusal process.

13 **V. UNBUNDLED NETWORK ELEMENTS ("UNES")**

14 **A. UNBUNDLED LOOPS**

15 **Q. WHAT NONRECURRING INSTALLATION CHARGES ASSOCIATED WITH**  
16 **UNBUNDLED LOOPS ARE ADDRESSED IN YOUR TESTIMONY?**

17 A. Qwest is addressing two new nonrecurring loop installation charges for loops. The first  
18 charge applies only to DS0 loops and is known as Coordinated Installation without

1 **Q. PLEASE SUMMARIZE THE UDF CHARGES THAT QWEST IS INTRODUCING**  
2 **IN THIS COST PROCEEDING.**

3 A. Qwest is introducing charges for Single Strand Increments for all unbundled dark fiber rate  
4 elements filed on a per-pair basis in Part B of this docket (i.e. fiber loop, transport, cross  
5 connect and termination). Qwest is also introducing nonrecurring charges for field  
6 verification-engineering and dark fiber splice.

7 **Q. PLEASE DESCRIBE FIELD VERIFICATION - ENGINEERING.**

8 A. Field Verification – Engineering is a step in the Field Verification/Quote Preparation  
9 (FV/QP) process that identifies additional engineering record searches for splice locations  
10 and splicing availability. This rate is charged upfront but deducted from the FV/QP when a  
11 single splice is available and the CLEC requests Qwest to move forward with the process.

12 **Q. PLEASE DESCRIBE DARK FIBER SPLICE.**

13 A. Qwest will accommodate a CLEC's request for access to a Qwest fiber UNE-loop or  
14 subloop. In doing so, Qwest will provide a fiber stub from an accessible splice point when  
15 unspliced fiber (non-ribbon) is available. If space permits, the CLEC may use this fiber  
16 stub for making its fiber splice. A nonrecurring charge applies for Dark Fiber Splice.

17 **J. MISCELLANEOUS NONRECURRING CHARGES**

18 **Q. GENERALLY DESCRIBE THE NATURE OF THE ACTIVITIES FOR WHICH**  
19 **MISCELLANEOUS NONRECURRING CHARGES WOULD APPLY.**

1 A. Miscellaneous nonrecurring charges are intended to cover additional engineering, labor and  
2 testing when incurred by Qwest. Miscellaneous charges may be assessed when at the  
3 direction of a CLEC, work activity is requested that is not part of the nonrecurring charges  
4 normally associated with a product.

5 **Q. PLEASE PROVIDE A LIST OF THE MISCELLANEOUS NONRECURRING**  
6 **CHARGES?**

- 7 A. Additional Engineering - Basic (per 1/2 Hour)  
8 Additional Engineering - Overtime (per 1/2 Hour)  
9 Additional Labor Installation -Overtime (per 1/2 Hour)  
10 Additional Labor Installation - Premium (per 1/2 Hour)  
11 Additional Labor Other - Basic (per 1/2 Hour)  
12 Additional Labor Other - Overtime (per 1/2 Hour)  
13 Additional Labor Other - Premium (per 1/2 Hour)  
14 Testing and Maintenance - Basic (per 1/2 Hour)  
15 Testing and Maintenance - Overtime (per 1/2 Hour)  
16 Testing and Maintenance - Premium (per 1/2 Hour)  
17 Maintenance of Service - Basic (per 1/2 Hour)  
18 Maintenance of Service - Overtime (per 1/2 Hour)  
19 Maintenance of Service - Premium (per 1/2 Hour)  
20 Additional Coop Acceptance Test - Basic (per 1/2 Hour)  
21 Additional Coop Acceptance Test - Overtime (per 1/2 Hour)  
22 Additional Coop Acceptance Test - Premium (per 1/2 Hour)



- 1 Nonscheduled Coop Test - Basic (per 1/2 Hour)
- 2 Nonscheduled Coop Test - Overtime (per 1/2 Hour)
- 3 Nonscheduled Coop Test - Premium (per 1/2 Hour)
- 4 Nonscheduled Manual Test - Basic (per 1/2 Hour)
- 5 Nonscheduled Manual Test - Overtime (per 1/2 Hour)
- 6 Nonscheduled Manual Test - Premium (per 1/2 Hour)
- 7 Cooperative Scheduled Test - LOSS (per Month)
- 8 Coop Scheduled Test-C - Message Noise (per Month)
- 9 Coop Scheduled Test-Balance (per Month)
- 10 Coop Scheduled Test - Gain Slope (per Month)
- 11 Coop Scheduled Test-C - Notched Noise (per Month)
- 12 Manual Scheduled Test – Loss
- 13 Manual Scheduled Test-C - Message Noise (per Month)
- 14 Manual Scheduled Test-Balance (per Month)
- 15 Manual Scheduled Test-Gain Slope (per Month)
- 16 Manual Scheduled Test-C - Notched Noise (per Month)

17 **Q. UNDER WHAT CIRCUMSTANCES WOULD QWEST CHARGE THE**  
18 **OVERTIME AND PREMIUM CHARGES DESCRIBED ABOVE?**

19 A. Generally, overtime charges will apply when the CLEC requests that work be performed by  
20 Qwest technicians before 8:00 a.m., after 5:00 p.m., or on a Saturday. Generally, premium  
21 charges will apply when the CLEC requests that work be performed by Qwest technicians  
22 on a Sunday or Holidays. The application of Overtime and Premium charges may vary  
23 somewhat depending upon the terms of the particular interconnection agreement. Premium

1 charges also apply to the 50<sup>th</sup> or greater hour worked by a technician in a given work  
2 week.

3 **Q. DOES QWEST PROPOSE OTHER MISCELLANEOUS ELEMENTS IN**  
4 **ADDITION TO THOSE ADDRESSED IN THIS PROCEEDING?**

5 A. Yes. Qwest proposes to introduce an additional dispatch charge, date change and design  
6 change elements in this cost proceeding

7 **Q. PLEASE DESCRIBE WHEN A NONRECURRING CHARGE WOULD APPLY**  
8 **FOR ADDITIONAL DISPATCH.**

9 A. A nonrecurring charge would apply when, at the request of the CLEC, a Qwest technician  
10 is dispatched an additional time to a CLEC designated location.

11 **Q. PLEASE DESCRIBE WHEN A NONRECURRING CHARGE WOULD APPLY**  
12 **FOR A DATE CHANGE.**

13 A. A date change nonrecurring charge would apply when the CLEC changes a previously  
14 established due date for service. Such a change necessitates the issuance of a new service  
15 order.

16 **Q. PLEASE DESCRIBE WHEN AN INDIVIDUAL NONRECURRING CHARGE**  
17 **WOULD APPLY FOR DESIGN CHANGE.**

18 A. A nonrecurring charge would apply when a design change occurs that requires an  
19 engineer's review. Such design changes may include a change of end user premises, the

1 addition or deletion of optional features or functions, or a change in the type of transport  
2 termination.

3 **Q. PLEASE DESCRIBE WHEN A MISCELLANEOUS NONRECURRING CHARGE**  
4 **WOULD APPLY FOR TROUBLE ISOLATION.**

5 A. Qwest will bill appropriate Maintenance of Service charges as set forth in Exhibit TKM-28  
6 for dispatched work done by Qwest where the trouble is found to be on the end user's side  
7 of the NID or the trouble is found to be in the CLEC's portion of the network.

8 Miscellaneous charges may also be assessed when the CLEC authorizes Qwest to repair the  
9 trouble on the CLEC's behalf. Qwest will charge the CLEC the appropriate Additional  
10 Labor Charges from this list of miscellaneous charges in addition to the Maintenance of  
11 Service charge.

12 **Q. HOW DOES QWEST PROPOSE TO CHARGE FOR EXPEDITES AND**  
13 **CANCELLATIONS?**

14 A. Qwest proposes to develop charges for expedite and cancellations on an ICB. The ICB  
15 pricing process will be based upon the critical dates, with terms and conditions consistent  
16 with the Washington Access Tariff, Section 5.2.3, and the applicable nonrecurring charges  
17 referenced in the CLEC's agreement.

**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

**RECEIVED**  
AT&T Corp. Legal - Denver

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**IN THE MATTER OF INVESTIGATION INTO  
Qwest CORPORATION'S COMPLIANCE  
WITH CERTAIN WHOLESale PRICING  
REQUIREMENTS FOR UNBUNDLED  
NETWORK ELEMENTS AND RESALE  
DISCOUNTS**

)  
)  
) **DOCKET NO. T-00000A-00-0194**  
) **Phase II**  
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**DIRECT TESTIMONY OF**

**ROBERT F. KENNEDY**

**QWEST CORPORATION**

**March 15, 2001**

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**Q. PLEASE DESCRIBE THE CHARGE THAT APPLIES WHEN A CLEC USES CLEC-TO-CLEC CROSS-CONNECTIONS TO CONNECT WITH ANOTHER CLEC'S COLLOCATION.**

A. A one-time CLEC-to-CLEC Cross-Connection charge is the only rate that applies when a CLECs' uses Connecting Facility Assignments (CFA) residing on an Interconnection Distribution Frame (ICDF). Both CLECs must terminate at the same service rate level (i.e. DS1, DS3). Termination cables must be in place to the ICDFs. The CLEC may obtain the termination cables through the standard collocation ordering process.

**VII. UNBUNDLED NETWORK ELEMENTS (UNES)**

**A. INTERCONNECTION TIE PAIRS (ITP)**

**Q. WHAT IS AN INTERCONNECTION TIE PAIR (ITP)?**

A. An interconnection tie pair (ITP) is a connection between UNES and a demarcation point at an ICDF.

**Q. WHAT RATE ELEMENTS ARE BEING PRESENTED FOR THE ITP?**

A. Recurring charges apply for DSO, DS1, and DS3 connections.

1 **Q. WHICH E-UDF RECURRING CHARGES DOES QWEST PROPOSE?**

2 A. Qwest proposes the following recurring charges for E-UDF:

3 (1) Termination at Wire Center, per pair

4 (2) Termination at Premises, per pair

5 (3) E-UDF-Loop Fiber, per pair

6 (4) Fiber Cross-Connect, per pair

7 **Q. WHICH E-UDF NONRECURRING CHARGES DOES QWEST PROPOSE?**

8 A. Qwest propose the following E-UDF nonrecurring charges:

9 (1) Order Charge, per pair, per route, per order

10

11

(2) Each Additional, per pair, same route

12

13

(3) Fiber Cross-Connect, per pair

14

15

16

**J. MISCELLANEOUS NONRECURRING CHARGES**

17 **Q. PLEASE GENERALLY DESCRIBE THE NATURE OF THE ACTIVITIES FOR**

18 **WHICH MISCELLANEOUS NONRECURRING CHARGES WOULD APPLY.**

19 A. Miscellaneous Nonrecurring Charges are intended to cover additional engineering,

20 labor and testing when incurred by Qwest. Miscellaneous charges may be

21 assessed when at the direction of a CLEC a work activity is requested that is not

22 part of the nonrecurring charges normally associated with a product. A CLEC may

1 also be charged a miscellaneous non recurring charge when a CLEC reports a  
2 trouble condition and through testing Qwest discovers the trouble in the network  
3 which the CLEC is responsible for.

4 **Q. PLEASE PROVIDE A LIST OF THE MISCELLANEOUS NONRECURRING**  
5 **CHARGES?**

- 6 A. Additional Engineering - Basic (Per 1/2 Hour)
- 7 Additional Engineering - Overtime (Per 1/2 Hour)
- 8 Additional Labor Installation-Overtime (Per 1/2 Hour)
- 9 Additional Labor Installation-Premium (Per 1/2 Hour)
- 10 Additional Labor Other-Basic (Per 1/2 Hour)
- 11 Additional Labor Other-Overtime (Per 1/2 Hour)
- 12 Additional Labor Other-Premium (Per 1/2 Hour)
- 13 Testing and Maintenance Basic (Per 1/2 Hour)
- 14 Testing and Maintenance Overtime (Per 1/2 Hour)
- 15 Testing and Maintenance Premium (Per 1/2 Hour)
- 16 Maintenance of Service-Basic (Per1/2 Hour)
- 17 Maintenance of Service-Overtime (Per1/2 Hour)
- 18 Maintenance of Service-Premium (Per1/2 Hour)
- 19 Additional Coop Acceptance Test-Basic (Per1/2 Hour)
- 20 Additional Coop Acceptance Test-Overtime (Per1/2 Hour)
- 21 Additional Coop Acceptance Test-Premium (Per1/2 Hour)
- 22 Nonscheduled Coop Test-Basic (Per 1/2 Hour)

- 1 Nonscheduled Coop Test-Overtime (Per 1/2 Hour)
- 2 Nonscheduled Coop Test-Premium (Per 1/2 Hour)
- 3 Nonscheduled Manual Test-Basic (Per 1/2 Hour)
- 4 Nonscheduled Manual Test-Overtime (Per 1/2 Hour)
- 5 Nonscheduled Manual Test-Premium (Per 1/2 Hour)
- 6 Cooperative Scheduled Test-LOSS (Per Month)
- 7 Coop Scheduled Test-C-Message Noise (Per Month)
- 8 Coop Scheduled Test-Balance (Per Month)
- 9 Coop Scheduled Test-Gain Slope (Per Month)
- 10 Coop Scheduled Test-C Notched Noise (Per Month)
- 11 Manual Scheduled Test – Loss
- 12 Manual Scheduled Test-C-Message Noise (Per Month)
- 13 Manual Scheduled Test-Balance (Per Month)
- 14 Manual Scheduled Test-Gain Slope (Per Month)
- 15 Manual Scheduled Test-C Notched Noise (Per Month)

16  
17 **Q. DOES QWEST PROPOSE OTHER MISCELLANEOUS ELEMENTS IN**  
18 **ADDITION TO THOSE ADDRESSED IN THIS PROCEEDING?**

19 **A.** Yes. Qwest proposes to introduce Additional Dispatch Charge, Date Change and  
20 Design Change elements in this cost proceeding.

21 **Q. PLEASE DESCRIBE WHEN A NONRECURRING CHARGE WOULD APPLY**  
22 **FOR ADDITIONAL DISPATCH.**



1 A. A nonrecurring charge would apply when, at the request of the CLEC, a Qwest  
2 technician is dispatched an additional time to a CLEC designated location.

3 **Q. PLEASE DESCRIBE WHEN A NONRECURRING CHARGE WOULD APPLY**  
4 **FOR DATE CHANGE.**

5 A. A Date Change nonrecurring charge would apply when the CLEC changes a  
6 previously established due date for service. Such a change necessitates the  
7 issuance of a new service order.

8 **Q. PLEASE DESCRIBE WHEN AN INDIVIDUAL NONRECURRING CHARGE**  
9 **WOULD APPLY FOR DESIGN CHANGE.**

10 A. A nonrecurring charge would apply when a design change occurs that requires an  
11 engineer's review. Such design changes may include a change of end user  
12 premises, the addition or deletion of optional features or functions, or a change in  
13 the type of transport termination.

14 **Q. HOW DOES QWEST PROPOSE TO CHARGE FOR EXPEDITES AND**  
15 **CANCELLATIONS?**

16 A. Qwest proposes to charge for Expedites and Cancellations on an ICB basis.

17



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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**DOCKETED**

**JUN 12 2002**

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**WILLIAM A. MUNDELL**  
CHAIRMAN  
**JIM IRVIN**  
COMMISSIONER  
**MARC SPITZER**  
COMMISSIONER

DOCKETED BY 

IN THE MATTER OF THE WESTIGATION  
INTO QWEST CORPORATION'S COMPLIANCE  
WITH CERTAIN WHOLESALE PRICING  
REQUIREMENTS FOR UNBUNDLED  
NETWORK ELEMENTS AND RESALE  
DISCOUNTS.

DOCKET NO. T-00000A-00-0194

DECISION NO. 64922

**PHASE II**  
**OPINION AND ORDER**

DATES OF HEARING: July 16, 17, 18, 19, 20, 27, and 31, 2001

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGES: Lyn Farmer and Dwight Nodes

IN ATTENDANCE: William A. Mundell, Chairman  
Marc Spitzer, Commissioner

APPEARANCES:

Mr. Timothy Berg, FENNEMORE CRAIG, and Mr. John M. Devaney and Mr. Norton Cutler, PERKINS, COIE, LLP, on behalf of Qwest Corporation;

Ms. Mary Steele, DAVIS, WRIGHT, TREMAINE, LLP, on behalf of AT&T Communications of the Mountain States, Inc. and XO Arizona, Inc.;

Mr. Thomas H. Campbell, LEWIS AND ROCA, LLP, and Mr. Thomas Dixon, Jr., on behalf of WorldCom, Inc.;

Mr. Michael W. Patten, ROSHKA, HEYMAN & DeWULF, PLC, on behalf of Cox Arizona Telecom, Inc., Z-Tel Communications and McLeodUSA Telecommunications Services, Inc.;

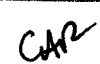
Mr. Eric Heath on behalf of Sprint Communications co., LP.;

Mr. Thomas H. Campbell, LEWIS & ROCA, LLP, on behalf of Time Warner Telecom of Arizona, LLC; and

Mr. Christopher C. Kempley, Chief Counsel and Ms. Maureen A. Scott, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

Arizona Corporation Commission  
**DOCKETED**

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1 proportion of Qwest's power plant, and for their proportionate share of Qwest's land and building  
2 investment, through the space rental charge assessed to collocators (*Id.*). WorldCom claims that  
3 allowing Qwest to recover these general factors from collocators would result in double recovery of  
4 Qwest's costs.

5 We agree with Qwest that WorldCom's arguments are misplaced. As Qwest explained, the  
6 space within a CLEC collocation area is not assessed power and land and building factors under  
7 Qwest's cost study. However, outside the CLECs' collocation cages, where CLEC equipment runs  
8 through Qwest's central office space, it is appropriate for Qwest to assess these factors. We therefore  
9 reject WorldCom's position on this issue.

10 **M. HVAC and Electrical Costs**

11 WorldCom also alleges that Qwest double counts HVAC and electrical costs. According to  
12 Mr. Lathrop, this double counting results because Qwest adds HVAC and electrical costs as  
13 components of its "standard space construction" cost, while retaining HVAC and electrical costs in  
14 its per square foot floor space rental cost (*Id.* at 51-52).

15 Qwest contends that it specifically backed out \$23.51 per foot for mechanical and electrical  
16 delivery in its cost study. Qwest claims that Staff witness Dunkel verified that such costs were  
17 backed out of Qwest's study (See, Staff Ex. 30, at 23).

18 The record supports Qwest's contention that costs were backed out of Qwest's cost study in  
19 order to avoid the double recovery of HVAC and electrical costs for collocators (Qwest Ex. 8, at 73).  
20 In addition, we have adopted WorldCom's recommendation to reduce Qwest's proposed floor space  
21 rental charge by 10 percent, to no more than \$3.56 per square foot because it is not clear that all  
22 duplicative costs for HVAC, electrical, architectural fees, land costs, site work, landscaping, and  
23 Qwest project management were removed from Qwest's proposed charge. Based on the record  
24 evidence, we do not believe that any additional adjustments are appropriate.

25 **N. Individual Case Basis ("ICB") Pricing**

26 WorldCom opposes Qwest's proposal to price certain services on an ICB basis, such as for  
27 Construction, Adjacent Collocation, and Field Connection Point Construction (WorldCom Ex. 13, at  
28

1 32)<sup>35</sup>. WorldCom claims that such ICB charges are problematic because they can only be quantified  
2 after a request is made for the service by a CLEC. WorldCom contends that ICB pricing also puts  
3 CLECs at a competitive disadvantage because of delays in getting a confirmed price, as well as  
4 Qwest's superior negotiating position if a CLEC has a need for a specific collocation space.  
5 WorldCom also states that ICB pricing of services gives Qwest little incentive to pursue efficiencies  
6 and improve the collocation implementation process (*Id.* at 34).

7 Qwest contends that ICB pricing is sometimes necessary because, for certain services, the  
8 Company has no experience or history that allows it to develop a cost study (Tr. 302). As an  
9 example, Qwest witness Hubbard stated that the Company has no experience in pricing a service such  
10 as adjacent collocation (collocation space placed just outside a central office due to space limitations)  
11 because no CLEC has previously requested the service (Tr. 306).

12 Although ICB pricing is, for many reasons, less desirable than UNE prices supported by a  
13 cost study, for the few remaining services offered on an ICB basis there is currently no alternative. If  
14 CLECs wish to order services such as Adjacent Collocation it is better to have the service available,  
15 even at a negotiated price, than to not have the service available at all. However, Qwest is directed to  
16 develop cost studies for all services offered in this docket on an ICB price basis in Phase III. Qwest  
17 should make every effort to develop reasonable cost-based prices for such services even if it has little  
18 or no experience actually provisioning the services.

19 **O. Market Pricing for Information Services and Databases**

20 WorldCom claims that Qwest has proposed unsubstantiated market-based pricing for  
21 numerous information services and database elements. WorldCom contends that there is not  
22 sufficient evidence in the record to determine if these market-based prices are reasonable.  
23 WorldCom argues that Qwest's witnesses were unable to explain the basis for these prices, other than  
24 to observe that there is a "profit" factor built into the rates (Tr. 565, 572-573). WorldCom cites to  
25 Decision No. 63487 (March 30, 2001) wherein the Commission approved a settlement agreement in  
26 Qwest's retail rate case that provided, among other things, that "Basket 2 services (including  
27

28 <sup>35</sup> Qwest submitted a cost study for Remote Collocation in the Phase II A proceeding, thereby removing that ICB issue from  
proceeding.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 36**

**Qwest Corporation**

**P.U.C. OREGON NO. 31**  
**PRIVATE LINE**  
**TRANSPORT SERVICES**  
Replaces U S WEST 2nd Revised Sheet 8

**SECTION 4**  
Original Sheet 8

**4. ORDER MODIFICATIONS AND MISCELLANEOUS CHARGES**

**4.1 GENERAL (CONT'D)**

**4.1.4 EXPEDITE**

- A. If a customer desires that service be provided on an earlier date than that which has been established for the order, the customer may request that service be provided on an expedited basis. If the Company agrees to provide the service on an expedited basis, an Expedite Charge will apply. The customer will be notified of the Expedite Charge prior to the order being issued.
- B. If the Company is subsequently unable to meet an agreed upon expedited service date, no Expedite Charge will apply unless the missed service date was caused by the customer.
- C. The Expedited Order Charge will be applied when the customer requests a service date that is prior to the standard interval service date as set for in the Qwest Corporation Service Interval Guide (SIG) on an order or when a customer requests an earlier service date on a pending standard or negotiated interval order.

The Expedited Order Charge, as set forth below, will apply on a per order basis for each day the service date is advanced.

	<b>USOC</b>	<b>NONRECURRING CHARGE</b>
• Per day advanced	EODDB	\$200.00

The Expedited Order Charges will be billed in addition to other applicable nonrecurring charges.

- D. If costs other than additional labor are to be incurred when an order is expedited, the Company will develop, determine and bill the customer such costs in accordance with the Special Construction terms and conditions as set forth in 4.1.6, following.

## Qwest Corporation

**P.U.C. OREGON No. 32**  
**ACCESS SERVICE**

**SECTION 5**  
**Original Sheet 13**

Replaces U S WEST 6th Revised Sheet 10

### **5. ORDERING OPTIONS FOR SWITCHED SERVICES**

#### **5.2 ACCESS ORDER**

##### **5.2.2 ACCESS ORDER MODIFICATIONS (CONT'D)**

###### **A. Service Date Change**

Access Order Service Dates for the installation of new services or rearrangements of existing services may be changed, but the new Service Date may not exceed the original Service Date by more than 30 business days. When, for any reason, the customer wishes to change the Service Date, the customer should notify the Company before the original Service Date to request a different service date. If the customer requested Service Date is more than 30 business days after the original Service Date, the order will be canceled by the Company and reissued with the appropriate cancellation charges applied, unless the customer indicates that billing for the service is to commence as set forth in 5.2.3, following.

A new Service Date may be established that is prior to the original Standard or Negotiated Interval service date if the Company determines it can accommodate the customer's request without delaying service dates for orders of other customers.

If the Service Date is changed to an earlier date, the customer will be notified by the Company that Expedited Order Charges as set forth in the Private Line Services Tariff, will apply.

###### **B. Partial Cancellation Charge**

Any decrease in the number of ordered Switched Access Service facilities, lines, trunks or EICTs will be treated as a partial cancellation and the charges as set forth in 5.2.3, following will apply.

## Qwest Corporation

**P.U.C. OREGON No. 32**  
**ACCESS SERVICE**

**SECTION 5**  
**Original Sheet 15**

Replaces U S WEST 4th Revised Sheet 12

### **5. ORDERING OPTIONS FOR SWITCHED SERVICES**

#### **5.2 ACCESS ORDER**

##### **5.2.2 ACCESS ORDER MODIFICATIONS (CONT'D)**

#### **D. Expedited Order Charge**

Expedited Order Charges for Access Orders are set forth in the Private Line Transport Services Tariff.

If costs other than additional labor are to be incurred when an Access Order is expedited, the Company will develop, determine and bill the customer such costs in accordance with the special construction terms and conditions as set forth in 5.1.3, preceding.



Effective: February 15, 2007

**3. ORDER AND SERVICE MODIFICATIONS AND MISCELLANEOUS CHARGES**

**3.1 ORDER MODIFICATION**

The customer may request a modification of an order at any time prior to notification by the Company that service is available for the customer's use. The Company will make every effort to accommodate a requested modification when it is able to do so with the normal work force assigned to complete such an order within the normal business hours of 8 a.m. to 5 p.m.

If the modification cannot be made with the normal work force during normal business hours, the Company will notify the customer. If the customer still desires the order modification, the Company will schedule a new service date. All charges for order modifications will apply on a per-occurrence basis.

The types of order modifications available are delineated in the following paragraphs. These order modifications apply to services that require network provisioning design.

**3.1.1 SERVICE DATE CHANGE**

Service dates for the installation of new services or rearrangements of existing services may be changed as follows:

If a customer's new requested service date is more than thirty business days after the original service date, the order will be cancelled by the Company and reissued with any appropriate cancellation charges applied, unless the customer indicates that billing for the service is to commence prior to installation. In such instances, the date billing is to commence shall be the thirty-first business day beyond the original service date of the order.

If a customer desires that service be provided on an earlier date than that which has been established for the order, the customer may request that service be provided on an expedited basis. If the Company agrees to provide the service on an expedited basis, an Expedite Charge will apply as set forth in the Private Line Transport Services Tariff. The customer will be notified of the Expedite Charge prior to the order being issued.

There may be occasions where due to limitations facilities are not available. In such cases where it is necessary to construct facilities then Special Construction will apply, as set forth as set forth in 3.6, following.

(T)  
(D)  
(N)

(N)

## Qwest Corporation

**P.U.C. OREGON NO. 30**  
**ADVANCED COMMUNICATIONS SERVICES**

**SECTION 3**  
**Original Sheet 1**

Replaces U S WEST 2nd Revised Sheet 1

### **3. ORDER AND SERVICE MODIFICATIONS AND MISCELLANEOUS CHARGES**

#### **3.1 ORDER MODIFICATION**

The customer may request a modification of an order at any time prior to notification by the Company that service is available for the customer's use. The Company will make every effort to accommodate a requested modification when it is able to do so with the normal work force assigned to complete such an order within the normal business hours of 8 a.m. to 5 p.m.

If the modification cannot be made with the normal work force during normal business hours, the Company will notify the customer. If the customer still desires the order modification, the Company will schedule a new service date. All charges for order modifications will apply on a per-occurrence basis.

The types of order modifications available are delineated in the following paragraphs. These order modifications apply to services that require network provisioning design.

##### **3.1.1 SERVICE DATE CHANGE**

Service dates for the installation of new services or rearrangements of existing services may be changed as follows:

If a customer's new requested service date is more than thirty business days after the original service date, the order will be cancelled by the Company and reissued with any appropriate cancellation charges applied, unless the customer indicates that billing for the service is to commence prior to installation. In such instances, the date billing is to commence shall be the thirty-first business day beyond the original service date of the order.

If a customer desires that service be provided on an earlier date than that which has been established for the order, the customer may request that service be provided on an expedited basis. If the Company agrees to provide the service on an expedited basis, an Expedite Charge will apply as set forth in the Private Line Transport Services Tariff. The customer will be notified of the Expedite Charge prior to the order being issued.

There may be occasions where due to limitations facilities are not available. In such cases where it is necessary to construct facilities then Special Construction will apply, as set forth as set forth in 3.6, following.

## Qwest Corporation

**P.U.C. OREGON No. 31**  
**PRIVATE LINE**  
**TRANSPORT SERVICES**  
Replaces U S WEST 1st Revised Sheet 73

**SECTION 5**  
Original Sheet 62

### 5. SERVICES

#### 5.2 SERVICE DESCRIPTIONS

##### 5.2.7 DS1 SERVICE

###### G. Rate Conditions

###### 2. Nonrecurring Charges (Cont'd)

###### f. Reestablishment of Service Following Fire, Flood or Other Occurrence

###### (1) Nonrecurring Charges do not Apply

Charges do not apply for the reestablishment of service following a fire, flood or other occurrence attributed to an Act of God provided that:

- The service is of the same type as was provided prior to the fire, flood or other occurrence,
- The service is for the same customer,
- The service is at the same location on the same premises,
- The reestablishment of service begins within 60 days after Company service is available. (The 60 day period may be extended a reasonable period if the renovation of the original location on the premises affected is not practical within the allotted time period.)

###### (2) Nonrecurring Charges Apply

Nonrecurring Charges apply for establishing service at a different location on the same premises or at a different premises pending reestablishment of service at the original location.

###### 3. Mileage Measurement

The mileage to be used to determine the monthly charge for the Transport Mileage is calculated using the airline distance between Serving Wire Centers. The Serving Wire Center associated with a customer designated premises is the Serving Wire Center from which the customer designated premises would normally obtain dial tone.

Transport Mileage is shown in terms of mileage bands. To determine the rate to be billed, first compute the mileage using the V&H coordinates method, as set forth in the National Exchange Carrier Association Tariff F.C.C. No. 4, then find the band into which the computed mileage falls and apply the rates shown for that band. When the calculation results in a fraction of a mile, always round up to the next whole mile before determining the mileage band and applying the rates.

## Qwest Corporation

P.U.C. OREGON No. 32  
ACCESS SERVICE

SECTION 2  
Original Sheet 47

Replaces U S WEST Original Sheet 37

### 2. GENERAL REGULATIONS

#### 2.4 PAYMENT ARRANGEMENTS AND CREDIT ALLOWANCES (CONT'D)

##### 2.4.5 REESTABLISHMENT OF SERVICE FOLLOWING FIRE, FLOOD OR OTHER OCCURRENCE

###### A. Nonrecurring Charges Do Not Apply

Charges do not apply for reestablishment of service following a fire, flood or other occurrences attributed to an Act of God provided that:

1. The service is of the same type as was provided prior to the fire, flood or other occurrence.
2. The service is for the same customer.
3. The service is at the location on the same premises.
4. The reestablishment of service begins within 60 days after Company service is available. (The 60 day period may be extended a reasonable period if the renovation of the original location on the premises affected is not practical within the allotted time period.)

###### B. Nonrecurring Charges Apply

Nonrecurring Charges apply for establishing service at a different customer Point of Termination (POT) on the same premises or at a different premises pending reestablishment of service at the original location.

##### 2.4.6 TITLE OR OWNERSHIP RIGHTS

The payment of rates and charges by customers for the services offered under the provisions of this Tariff does not assign, confer or transfer title or ownership rights to proposals or facilities developed or utilized, respectively, by the Company in the provision of such services.

Effective: February 15, 2007

**3. ORDER AND SERVICE MODIFICATIONS AND MISCELLANEOUS CHARGES**

**3.5 REESTABLISHMENT OF SERVICE FOLLOWING FIRE, FLOOD OR OTHER OCCURRENCE (N)**

**A. When Nonrecurring Charges Do Not Apply**

Charges do not apply for the reestablishment of service following a fire, flood or other occurrence attributed to an Act of God provided that:

- The service is of the same type as was provided prior to the fire, flood, or other occurrence.
- The service is for the same customer.
- The service is at the same location on the same premises.
- The reestablishment of service begins within sixty days after Company service is available. (The sixty day period may be extended a reasonable period if the renovation of the original location on the premises affected is not practical within the allotted time period).

**B. When Charges Apply**

Associated nonrecurring charges and monthly rates apply when service is established at a different location on the same premises, or at a different premises pending, reestablishment of service at the original location.

**3.6 SPECIAL CONSTRUCTION**

**A. General**

1. The terms and conditions, rates and charges for Special Construction are determined in accordance with Company practices.
2. All rates and charges quoted in other sections of this Catalog provide for the furnishing of service when suitable facilities are available or where the design or construction of the necessary facilities does not involve unusual costs.
3. Construction Charges will apply as set forth in the Exchange and Network Services Tariff, Section 4, Construction of Outside Plant Facilities.

NOTICE  
THE INFORMATION CONTAINED IN THIS DOCUMENT IS SUBJECT TO CHANGE.

## Qwest Corporation

**P.U.C. OREGON NO. 30**  
**ADVANCED COMMUNICATIONS SERVICES**

**SECTION 3**  
Original Sheet 13

Replaces U S WEST Original Sheet 10

### **3. ORDER AND SERVICE MODIFICATIONS AND MISCELLANEOUS CHARGES**

#### **3.5 REESTABLISHMENT OF SERVICE FOLLOWING FIRE, FLOOD OR OTHER OCCURRENCE**

##### **A. When Nonrecurring Charges Do Not Apply**

Charges do not apply for the reestablishment of service following a fire, flood or other occurrence attributed to an Act of God provided that:

- The service is of the same type as was provided prior to the fire, flood, or other occurrence.
- The service is for the same customer.
- The service is at the same location on the same premises.
- The reestablishment of service begins within sixty days after Company service is available. (The sixty day period may be extended a reasonable period if the renovation of the original location on the premises affected is not practical within the allotted time period).

##### **B. When Charges Apply**

Associated nonrecurring charges and monthly rates apply when service is established at a different location on the same premises, or at a different premises pending, reestablishment of service at the original location.

#### **3.6 SPECIAL CONSTRUCTION**

##### **A. General**

1. The terms and conditions, rates and charges for Special Construction are determined in accordance with Company practices.
2. All rates and charges quoted in other sections of this Tariff provide for the furnishing of service when suitable facilities are available or where the design or construction of the necessary facilities does not involve unusual costs.
3. Construction Charges will apply as set forth in the Exchange and Network Services Tariff, Section 4, Construction of Outside Plant Facilities.

**Qwest Corporation**  
**ACCESS SERVICE**

**TARIFF F.C.C. NO. 1**  
**2ND REVISED PAGE 5-24**  
**CANCELS 1ST REVISED PAGE 5-24**

**5. ORDERING OPTIONS FOR ACCESS SERVICES**

**5.2 ACCESS ORDER**

**5.2.2 ACCESS ORDER MODIFICATIONS (CONT'D)**

**D. Expedited Order Charge**

When placing an Access order for service(s) for which standard intervals exist, a customer may request a service date that is prior to the standard interval service date. A customer may also request an earlier service date on a pending standard or negotiated interval Access Order. If the Company agrees to provide the service on an expedited basis, an Expedited Order Charge will apply.

A customer may request a change of end user premises within the same serving wire center. When this occurs, the service date is changed to reflect the standard interval. If the customer requests an earlier service date, an Expedited Order Charge will apply.

Expedited Order Charges will not apply if the revised interval to a pending order is equal to or longer than the standard interval for that service.

Expedited Order Charges will not apply to part-time audio or part-time video. (C)

When an expedited service date is missed, the Expedited Order Charge will apply unless the missed service date is caused by the Company.

(Filed under Transmittal No. 264.)

Issued: January 13, 2006

Effective: January 28, 2006

1801 California Street, Denver, Colorado 80202

**Qwest Corporation**  
**ACCESS SERVICE**

**TARIFF F.C.C. NO. 1**  
**1ST REVISED PAGE 5-25**  
**CANCELS ORIGINAL PAGE 5-25**

**5. ORDERING OPTIONS FOR ACCESS SERVICES**

**5.2 ACCESS ORDER**

**5.2.2 ACCESS ORDER MODIFICATIONS**

**D. Expedited Order Charge (Cont'd)**

The Expedited Order Charge will apply to all products and services found in this tariff unless otherwise specified. This charge will be applied when the customer requests a service date that is prior to the standard interval service date on an Access Order or when a customer requests an earlier service date on a pending standard or negotiated interval Access Order.

(C)  
—  
(C)

The Company will provide the customer with an estimate of the Expedited Order Charge before expediting an order.

The Expedited Order Charge, as set forth below, will apply on a per order basis for each day the service date is advanced.

(N)  
—  
(N)

	<b>USOC</b>	<b>NONRECURRING CHARGE</b>
• Per day advanced	EODDB	\$200.00
• Per day advanced[1] for Pricing Flexibility	EODDA	200.00

The Expedited Order Charges will be billed in addition to other applicable nonrecurring charges.

[1] This rate applies to Expedited Orders located in Phase I and Phase II MSAs, as defined in Section 23, following.

(C)  
(C)

(Filed under Transmittal No. 202.)

Issued: July 16, 2004

Effective: July 31, 2004



**Qwest Corporation**  
**ACCESS SERVICE**

**TARIFF F.C.C. NO. 1**  
**ORIGINAL PAGE 5-26**

**5. ORDERING OPTIONS FOR ACCESS SERVICES**

**5.2 ACCESS ORDER**

**5.2.2 ACCESS ORDER MODIFICATIONS**

**D. Expedited Order Charge (Cont'd)**

If costs other than additional labor are to be incurred when an Access Order is expedited, the Company will develop, determine and bill the customer such costs in accordance with the special construction terms and conditions as set forth in Tariff F.C.C. No. 2. Authorization to incur the cost and to bill the customer will be in accordance with the terms and conditions of Tariff F.C.C. No. 2.

(Filed under Transmittal No. 2.

Issued: August 7, 2000

Effective: August 8, 2000

1801 California Street, Denver, Colorado 80202

**Qwest Corporation**  
**ACCESS SERVICE**

**TARIFF F.C.C. No. 1**  
**ORIGINAL PAGE 5-24**

**5. ORDERING OPTIONS FOR ACCESS SERVICES**

**5.2 ACCESS ORDER**

**5.2.2 ACCESS ORDER MODIFICATIONS (Cont'd)**

**D. Expedited Order Charge**

When placing an Access order for service(s) for which standard intervals exist, a customer may request a service date that is prior to the standard interval service date. A customer may also request an earlier service date on a pending standard or negotiated interval Access Order. If the Company agrees to provide the service on an expedited basis, an Expedited Order Charge will apply.

A customer may request a change of end user premises within the same serving wire center. When this occurs, the service date is changed to reflect the standard interval. If the customer requests an earlier service date, an Expedited Order Charge will apply.

Expedited Order Charges will not apply if the revised interval to a pending order is equal to or longer than the standard interval for that service.

Expedited Order Charges will not apply to part-time audio and part-time video services.

When an expedited service date is missed, the Expedited Order Charge will apply unless the missed service date is caused by the Company.

(Filed under Transmittal No. 2.)

Issued: August 7, 2000

Effective: August 8, 2000

1801 California Street, Denver, Colorado 80202

**Qwest Corporation**  
**ACCESS SERVICE**

**TARIFF F.C.C. No. 1**  
**ORIGINAL PAGE 5-25**

## **5. ORDERING OPTIONS FOR ACCESS SERVICES**

### **5.2 ACCESS ORDER**

#### **5.2.2 ACCESS ORDER MODIFICATIONS**

##### **D. Expedited Order Charge (Cont'd)**

The Expedited Order Charge is based on the extent to which the Access Order has been processed at the time the Company agrees to the expedited Service Date. A table of these Service Date Intervals is found in the Qwest Corporation Service Interval Guide. The Expedited Order Charge is calculated as follows:

- Based on the Critical Dates associated with the Access Order, as defined in 5.2.3.C., following, the Company will determine the next Critical Date scheduled to be completed on the order.
- Using the table of 5.2.3.E., following, and the Critical Date as determined above, the Company will determine the percent of the provisioning interval not yet completed.
- The Company will apply this percentage to the sum of all the nonrecurring charges associated with the order<sup>[1]</sup> and divide this sum by the number of days remaining in the original service interval.
- The per day charges so developed will then be applied on a per-day-of-improvement basis, per order, but in no event shall the charge exceed fifty percent (50%) of the total nonrecurring charges associated with the Access Order.
- The Company will provide the customer with an estimate of the Expedited Order Charge before expediting an order.

[1] Nonrecurring charges associated with the order are used to calculate the Expedited Order Charge even if the nonrecurring charges are waived.

(Filed under Transmittal No. 2.)

Issued: August 7, 2000

Effective: August 8, 2000

**Qwest Corporation**  
**ACCESS SERVICE**

**TARIFF F.C.C. No. 1**  
**ORIGINAL PAGE 5-26**

**5. ORDERING OPTIONS FOR ACCESS SERVICES**

**5.2 ACCESS ORDER**

**5.2.2 ACCESS ORDER MODIFICATIONS**

**D. Expedited Order Charge (Cont'd)**

If costs other than additional labor are to be incurred when an Access Order is expedited, the Company will develop, determine and bill the customer such costs in accordance with the special construction terms and conditions as set forth in Tariff F.C.C. No. 2. Authorization to incur the cost and to bill the customer will be in accordance with the terms and conditions of Tariff F.C.C. No. 2.

(Filed under Transmittal No. 2.)

Issued: August 7, 2000

Effective: August 8, 2000

1801 California Street, Denver, Colorado 80202

TRANSMITTAL NO. 202  
QWEST CORPORATION  
TARIFF F.C.C. No. 1  
ACCESS SERVICE  
DESCRIPTION AND JUSTIFICATION  
QWEST EXPEDITE ORDER CHARGE

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1. Introduction And Description

This filing is being made by Qwest Corporation (Qwest) in its Tariff F.C.C. No. 1, Access Services, Section 5, Ordering Options for Access Services, to revise the Expedited Order Charge application to a per day charge structure. This charge will be applied when the customer requests a service date that is prior to the standard interval service date or when a customer requests an earlier service date on a pending standard or negotiated interval Access Order. The Expedited Order Charge will apply on a per order basis for each day the service date is advanced.

This change is being made at the request of customers who want a simpler and easier to method to expedite their orders and calculate the cost of that expedite.

The Expedite Order Charges are as follows:

	Nonrecurring Charge
Per day advance	\$200.00
Per day advance	\$200.00

for Pricing Flexibility

This tariff will impact the Expedite Order Charge for Non price Cap, Price Cap and Price Flex Services.

## 2. Rate Development

The Expedite Order Charge was developed utilizing a market based pricing process including proper price positioning with other Qwest and competitors services.

## 3. Non Price Cap Demand And Revenue Impacts

### 3.1 Demand Impacts

Qwest projects that Non Price Cap services will experience 178 days that will be charged the Expedite Order Charge. The demand is for a 12 month period from the effective date of this filing.

There are no cross-elastic or complementary demand impacts expected as a result of this filing.

### 3.2 Revenue Impacts

As a result of this filing, Qwest expects a total interstate revenue increase to Non Price Cap Services of approximately \$35,600. There are no cross-elastic or complementary revenue impacts expected as a result of this filing.



## 4. Unit Costs

### 4.1 Overview

This section describes how Qwest developed regional unit costs in support of the Expedite Order Charge. This unit cost section describes the process used to develop the Nonrecurring unit costs and provides a description of the cost Workpaper.

The unit costs developed in this study reflect 2004 cost levels for the Expedite Order Charge. They were developed using an incremental or "bottoms-up" cost methodology. Under this methodology, costs are determined by adding together all of the necessary equipment and/or labor expenses associated with providing the service on a forward looking basis. These costs depict the economic unit cost of offering the service.

### 4.2 Development of Nonrecurring Unit Costs

When a customer requests the service a one-time cost to provision the service is incurred. The nonrecurring provisioning rate element recovers this cost.

The first step taken in developing the nonrecurring one time labor cost was to identify the various work groups and tasks required to install the service. Next, Qwest estimates were used to develop average labor times per task. Once identified, the average labor times were multiplied by the appropriate labor rates to produce the cost per work group. The sum of all the work group costs produces the total cost.

The labor rates used in this study were developed by applying additional factors to cover administrative expense and business fees that are incurred with the new offering. Administrative expenses include the costs associated with the line and staff operations, which support the new service. Business fees include state level franchise taxes, municipal license fees and occupation taxes.

The work groups involved in providing Expedite Service are listed below along with their associated work functions: (1) Order Processing Wholesale Service Delivery Coordinator – This group serves as the primary order provisioning contact for CLEC's, Interexchange Carriers and Wireless customers who purchase complex wholesale and retail products and services; (2) Order Processing Retail Service Delivery Coordinator – This center interfaces with the customer gathering and processing customer specific information for establishing or terminating products and services. They are responsible for initiating the service order process and negotiating service installation or service termination dates; (3) Loop Provisioning Center (LPC) – LPC ensures customer service order activity is provisioned with outside plant and central office facilities. A request for Manual Assistance is generated when all conditions for customer service cannot be met; (4) Design – Design has overall responsibility for the Record Issue Date completion and assigns interoffice facilities and equipment at the circuit level; (5) Central Office Resource Administration Center (CORAC) - CORAC utilizes "Work Force Administration/Dispatch In" to build installation daily service order logs. Monitors and logs service order progress and completion; (6) Central Office (CO) – CO is

responsible for service connection in the central office and associated testing and administration functions; (7) Load Resource Administration Center (LRAC) – LRAC utilizes “Work Force Administration/Dispatch Out” to build installation daily service order logs. Monitors and logs service order progress and completion; (8) Installation – Performs necessary field work on new orders and changes to existing service; (9) Implementer – The Implementer has overall control responsibility for provisioning, maintaining, coordinating and testing of design services; (10) Manager and Supervisor time is for the additional work and coordination between different organizations that is required to expedite an order.

#### 4.3 Description Of Nonrecurring Workpaper

The nonrecurring charge was developed at a regional level. Workpaper 1 provides a detailed summary of the work groups, work times in minutes, hourly labor rates for each work group and the calculated costs.

#### 5. Price Cap Analysis

Services subject to price cap regulation will also be impacted by this revision in the Expedite Order Charge. Section 61.46(c) of the Commission’s price cap rules requires that a filing proposing a rate restructure demonstrate the effect of converting existing rates to rates that will apply after the restructure takes effect. In order to meet the Commission’s requirements, the first step is to recast base period demand into the new rate structure. This step is discussed in Section 5.1. Next the recast base period demand is multiplied by proposed rates to derive the revenues

under the rate restructure. This step is discussed in Section 5.2. Section 5.2 also discusses rate adjustments that were made in order to bring the restructure within applicable price cap limits.

#### 5.1 Demand Analysis

The proposed rate will be charged on a per order basis for each day the service is advanced. Demand was determined by reviewing the orders that were expedited during the 2003 Price Cap filing period and totaling the number of days each order was advanced.

#### 5.2 Revenue Impact

The tariff revisions proposed in this filing will result in an increase in expedite revenues. In order to stay within the allowable price cap limits, selected Special Access service rates were reduced. These rate adjustments are displayed in Appendix A and Workpaper SP-1. Overall Special Access increased by \$208,026. However, exogenous increases allowed in the 2004 Annual Access Tariff Filing (Transmittal 198) in the amount of \$221,000 were allowed and Qwest chose not to increase rates at that time. Qwest is now using a portion of that amount in this filing.

#### 6. Price Flex

The revision of the Expedite Order Charges will also impact services associated with Pricing Flexibility. However, Section 69.727 eliminates the need to file supporting information discussed under price cap regulation.

7. Description of Workpapers

Workpaper 1 is the Nonrecurring Cost Study for the new Expedite Charge. Appendix A provides a summary of all price cap rate changes. With respect to price cap price changes, Workpapers (SP-1 provides Special Access Detail, and SP-2 provides the Special Access Consolidated Weightings) and the price Cap Tariff Review Plan demonstrate that the Commission's rules with regard to price cap indices have been satisfied.

7.1 Workpapers

Workpaper 1	Nonrecurring Charge Cost Study
Appendix A	Price Cap Rate Changes
Workpaper SP-1	Special Access Detail
Workpaper SP-2	Special Access Consolidated Weightings
Tariff Review Plan	

State: Qwest

Workpaper 1

Labor Group	Time In Minutes	Labor Rate Per Hour	Costs
-------------	--------------------	------------------------	-------

EXPEDITE CHARGE per circuit order per day

*Inward Costs*

ORDER PROCESSING WHOLESALE SERVICE DELIVERY COORDINATOR	8.88	\$50.50	\$7.47
ORDER PROCESSING RETAIL SERVICE DELIVERY COORDINATOR	3.28	\$50.50	\$2.76
LOOP PROVISIONING CENTER (LPC)	2.00	\$49.62	\$1.65
DESIGN	7.50	\$52.78	\$6.60
CENTRAL OFFICE RESOURCE ADMINISTRATION CENTER/CORAC CO	2.50	\$49.62	\$2.07
LOAD RESOURCE	5.00	\$55.49	\$4.62
ADMINISTRATION CENTER/LRAC INSTALL	2.50	\$49.62	\$2.07
IMPLEMENTOR	5.00	\$57.04	\$4.75
MANAGER PROCESS MANAGEMENT - WHOLESALE, RETAIL	7.50	\$55.49	\$6.94
MANAGER PROCESS MANAGEMENT - DESIGN SERVICES	15.00	\$107.95	\$26.99
SUPERVISOR NETWORK OPERATIONS - CENTRAL OFFICE	15.00	\$107.95	\$26.99
SUPERVISOR NETWORK OPERATIONS - FIELD	15.00	\$70.17	\$17.54
ADDITIONAL SHIPPING EXPENSE	15.00	\$70.17	\$17.54
	0.00	0.00	\$5.59

<b>Subtotal - Inward</b>	<b>104.15</b>		<b>\$133.57</b>
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*Outward Costs*

<b>Subtotal - Outward</b>	<b>0.00</b>		<b>\$0.00</b>
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<b>Total Inward &amp; Outward</b>	<b>104.15</b>		<b>\$133.57</b>
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QWEST CORPORATION  
RESTRUCTURE OF EXPEDITE CHARGES  
TRANSMITTAL NO. 202

APPENDIX A  
PAGE 1 OF 1

PRIVATE LINE TRANSPORT SERVICES

RATE	RATE ELEMENT DESCRIPTION	CURRENT PROPOSED	
		RATE	RATE
<b>SECTION 5 NONRECURRING</b>			
M024N	EXPEDITE CHARGE	\$106.16	\$200.00
<b>SECTION 7 DS1 &amp; DS1 NETPLAN SERVICE -CHANNEL TERMINATIONS</b>			
<b>NONRECURRING RATES</b>			
NONPLAN - MONTHLY/36 MOS/ 60 MOS			
8000N	DS1 CT NRC MONTHLY NON PLAN	\$313.25	\$305.00
8000N36	DS1 CT NRC 36 MONTHS NON PLAN	\$313.25	\$305.00
8000N60	DS1 CT NRC 60 MONTHS NON PLAN	\$313.25	\$305.00
ZONE 1 - MONTHLY/36 MOS/60 MOS			
8000F	DS1 CT NRC MONTHLY ZONE 1	\$313.25	\$305.00
8000F36	DS1 CT NRC 36 MONTHS ZONE 1	\$313.25	\$305.00
8000F60	DS1 CT NRC 60 MONTHS ZONE 1	\$313.25	\$305.00
ZONE 2 - MONTHLY/36 MOS/60 MOS			
8000G	DS1 CT NRC MONTHLY ZONE 2	\$313.25	\$305.00
8000G36	DS1 CT NRC 36 MONTHS ZONE 2	\$313.25	\$305.00
8000G60	DS1 CT NRC 60 MONTHS ZONE 2	\$313.25	\$305.00
ZONE 3 - MONTHLY/36 MOS/60 MOS			
8000H	DS1 CT NRC MONTHLY ZONE 3	\$313.25	\$305.00
8000H36	DS1 CT NRC 36 MONTHS ZONE 3	\$313.25	\$305.00
8000H60	DS1 CT NRC 60 MONTHS ZONE 3	\$313.25	\$305.00

QWEST CORPORATION  
RESTRUCTURE OF EXPEDITE CHARGES  
TRANSMITTAL NO. 202

WORKPAPER SP-1  
PAGE 1 OF 1

		QWEST SPECIAL ACCESS BASKET DETAIL						
		(A)	(B)	(C)	(D)	(E)	(F)	(G)
		BASE PERIOD QUANTITY	BASE PERIOD FINAL PRICE	CURRENT RATES	PROPOSED RATES	BASE PERIOD REVENUES	ANNUAL REVENUE CURRENT RATES	ANNUAL REVENUE PROPOSED RATES
RATE ELEMENT	DESCRIPTION	2003 ACTUAL YRLY DEMAND				COLS (A) * (B)	COLS (A) * (C)	COLS (A) * (D)
8000N	DS1 CT 1.544 MBPS NEW	4,809	\$313.25	\$313.25	\$305.00	\$1,506,419	\$1,506,419	\$1,466,745
	<b>TOTAL DS1 (S/A) NON-PLAN</b>					\$70,299,347	\$70,299,347	\$70,259,673
8000F	DS1 CT 1.544 MBPS NEW	4,263	\$313.25	\$313.25	\$305.00	\$1,335,385	\$1,335,385	\$1,300,215
	<b>TOTAL COMB DS1 (S/A) DENSITY ZONE 1</b>					\$23,953,791	\$23,953,791	\$23,918,621
8000G	DS1 CT 1.544 MBPS NEW	10,366	\$313.25	\$313.25	\$305.00	\$3,247,150	\$3,247,150	\$3,161,630
	<b>TOTAL COMB-DS1 (S/A) DZ-2</b>					\$52,894,023	\$52,894,023	\$52,808,504
8000H	DS1 CT 1.544 MBPS NEW	19,216	\$313.25	\$313.25	\$305.00	\$6,019,412	\$6,019,412	\$5,860,880
	<b>TOTAL COMB DS1 (S/A) DZ-3</b>					\$186,981,224	\$186,981,224	\$186,822,692
	<b>TOTAL DS1 S/A</b>					\$287,570,564	\$287,570,564	\$287,251,668
M024N	EXPEDITE CHARGE	2,874	\$106.16	\$106.16	\$200.00	\$47,878	\$47,878	\$574,800
	<b>TOTAL HI-CAP OTHER</b>					\$313,661	\$313,661	\$840,583
	<b>TOTAL SPECIAL ACCESS</b>	32,871,292				\$462,745,302	\$462,745,302	\$462,953,328





**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 37**

## **Bridge Agreement Until New Interconnection Agreements Are Approved**

This Bridge Agreement is entered into between Qwest Corporation ("Qwest") and Eschelon Telecom, Inc., on behalf of itself and its affiliates ("CLEC"). Qwest and CLEC are referred to separately as a "Party" or collectively as the "Parties."

### **RECITALS**

WHEREAS, the Federal Communications Commission ("FCC") issued its Report and Order *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, (effective October 2, 2003) ("TRO"); and

WHEREAS, on February 4, 2005, the FCC released the *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand (Triennial Review Remand Order)*(FCC 04-290) ("TRRO"), effective March 11, 2005; and

WHEREAS, the Parties have been in negotiations for replacement interconnection agreements ("ICAs") since before the TRRO was issued; and

WHEREAS, the Parties elect to address the changes of law as part of their new ICAs for each state (Arizona, Colorado, Minnesota, Oregon, Utah, and Washington) ("new ICAs") and not as an amendment to the existing ICAs between Qwest and CLEC for each such state ("existing ICAs"); and

WHEREAS, the Parties have mutually agreed to extensions of time for negotiations and any arbitration of their new ICAs that extend beyond certain dates identified in the TRRO, such that the Parties desire an agreement to bridge the time period between such dates in those orders and approval of their new ICAs; and

WHEREAS, the Parties have agreed in negotiations to incorporate the terms of the Bill and Keep and LIS Trunking amendments into the new ICAs to allow the terms of those amendments to continue beyond December 31, 2005.

### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

#### **1. Expeditious Implementation**

The Parties will work together upon Commission approvals of the new ICAs to expeditiously implement the provisions of the new ICAs, including provisions relating to transition periods described below in Sections 2.1.1 and 2.1.2 and conversion to alternative services.

## 2. Billing

2.1 Transitional periods for conversion of certain Unbundled Network Elements ("UNEs") and the rates applicable during those transitional periods will be set forth in the new ICAs and will be consistent with this Bridge Agreement and the TRRO. After commission approval of the new ICAs, Qwest shall back bill, and Eschelon shall pay, the rate increases set forth in the TRRO and described below retroactive to March 11, 2005 (or a later date, if a UNE became unavailable after that date), for existing non-impaired DS1 loop and transport, and DS3 loop and transport, including dark fiber, as described below and pursuant to the new ICAs. Such back billing shall not be subject to billing measurements and penalties (as may be identified in the new ICAs) on the grounds that such back billing was not implemented earlier than approval of the new ICAs. In the event of a conflict between the time period for back billing between the new ICAs and this Bridge Agreement, the time periods in Sections 2.1 and 2.2 apply. Specifically, the Parties agree to the following provisions:

2.1.1 For a 12-month period beginning on March 11, 2005, any DS1 loop UNEs, DS3 loop UNEs, DS1 dedicated transport UNEs, and DS3 dedicated transport UNEs that CLEC leases from Qwest as of that date, but which Qwest is not obligated to unbundle, shall be available for lease from Qwest at a rate equal to the higher of (1) 115% of the rate CLEC paid for the element on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that element.

2.1.2 For an 18-month period beginning on March 11, 2005, any dark fiber loop UNEs and dark fiber dedicated transport UNEs that CLEC leases from Qwest as of that date shall be available for lease from Qwest at a rate equal to the higher of (1) 115% of the rate CLEC paid for the element on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that element.

2.2 After commission approval of the new ICAs, Qwest shall back bill retroactive to March 11, 2006 (or a later date, if a UNE became unavailable after that date) and Eschelon agrees to pay Qwest pursuant to the new ICAs the difference between the UNE rate(s) and the applicable alternate service rate(s) (such as Special Access service rate(s)) on all loop and transport UNEs that were no longer required to be offered by Qwest as UNEs beginning March 11, 2006 (not including any period after CLEC has disconnected them, if disconnected). In the event of a conflict between the time period for back billing between the new ICAs and this Bridge Agreement, the time periods in Sections 2.1 and 2.2 apply.

**3. Bill and Keep and LIS Trunking**

3.1 The Parties entered into Bill and Keep and LIS Trunking amendments to their existing ICAs in 2001, and those amendments were filed with and approved by the applicable state commissions. The Bill and Keep and LIS Trunking amendments provided that such amendments were in effect from the effective date of the amendments until December 31, 2005. The Parties have agreed in negotiations to continue the terms of the Bill and Keep and LIS Trunking amendments through the new ICAs, so the terms of those amendments will continue beyond December 31, 2005. The Bill and Keep and LIS Trunking amendments, therefore, will not expire on December 31, 2005 but will remain effective until the new ICAs are approved and become effective.

**4. Effective Date**

This Bridge Agreement shall be deemed effective upon filing and approval by the appropriate state commissions

**5. Further Amendments**

Except as specified herein, the provisions of the existing ICAs shall remain in full force and effect (until such time as the new ICAs become effective). Except as provided in the existing ICAs, this Bridge Agreement may not be further amended or altered, and no waiver of any provision thereof shall be effective, except by written instrument executed by an authorized representative of both Parties.

**6. Entire Agreement**

Other than this Bridge Agreement, Qwest and Eschelon have no agreement or understanding, written or oral, relating to the subject matter of this Bridge Agreement. The Parties intending to be legally bound have executed this Bridge Agreement as of the dates set forth below.

**Eschelon Telecom, Inc.**

J. Oxley  
Signature

J. Jeffrey Oxley  
Name Printed/Typed

VP, General Counsel & Secretary  
Title

12-7-05  
Date

**Qwest Corporation**

L. T. Christensen  
Signature

L. T. Christensen  
Name Printed/Typed

Director - Interconnection Agreements  
Title

12/8/05  
Date

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 38**

[Service Date December 15, 2006]

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation	)	DOCKET UT-053025
Concerning the Status of Competition	)	
and Impact of the FCC's Triennial	)	ORDER 06
Review Remand Order on the	)	
Competitive Telecommunications	)	ORDER GRANTING IN PART JOINT
Environment in Washington State	)	CLECS' PETITION FOR
	)	RECONSIDERATION OF ORDER 04;
	)	GRANTING QWEST'S PETITION FOR
	)	RECONSIDERATION OF ORDER 04;
	)	MODIFYING INTERPRETIVE
	)	STATEMENT
.....	)	

1 **SYNOPSIS.** *In this Order, we reconsider our decision concerning the appropriate age of data to use in determining whether competing telecommunications companies have access to high-capacity loop and transport elements under the criteria in the FCC's Triennial Review Remand Order. We clarify that state commissions must resolve disputes about prospective wire center designations based on the most recent data available at the time an ILEC designates a wire center as non-impaired. We reverse our decision to use 2005 data and reinstate the finding in the initial order that 2003 ARMIS 43-08 data is the appropriate data to use in evaluating those wire centers Qwest and Verizon initially designated as non-impaired after the FCC released its Triennial Review Remand Order on February 4, 2005.*

2 *In addition to reconsidering and clarifying our decision on the age of data, we correct our discussion in Order 04 concerning the wire centers the Joint CLECs dispute. We correct the order to reflect that the Joint CLECs contest the designation of Qwest's Seattle Main/Mutual wire center as Tier 1 for high-capacity loops, and Qwest's Kent O'Brien as Tier 1, Qwest's Seattle Cherry as Tier 2 and Verizon's Bothell wire center as Tier 2 for high-capacity transport. After reviewing 2003 ARMIS 43-08 data for these wire centers, we find the designations appropriate.*

3 *We find that the effective date for the transition period and rates for three wire centers that Qwest later designated as non-impaired is July 8, 2005, the date of*



*Qwest's designation. Finally, we find that Qwest did not improperly modify its ARMIS 43-08 data in its filings with this Commission. We modify the Interpretive Statement in this docket to reflect our interpretation of the Triennial Review Remand Order and resolution of disputes over Qwest's and Verizon's non-impairment designations.*

### SUMMARY

- 4 **PROCEEDING.** In Docket UT-053025, the Washington Utilities and Transportation Commission (Commission) considers whether to issue an interpretive statement or policy statement addressing issues of competition in the telecommunications industry and challenges facing telecommunications carriers following the Federal Communication Commission's (FCC) Triennial Review Remand Order (TRRO).<sup>1</sup> We focus our inquiry on Qwest Corporation's (Qwest) and Verizon Northwest Inc.'s (Verizon) designation of wire centers as non-impaired, or ineligible for access to high-capacity loops and transport by competitors.
- 5 **INTERESTED PARTIES.** Lisa A. Anderl, Associate General Counsel, and Adam L. Sherr, Corporate Counsel, Seattle, Washington, represent Qwest. Timothy J. O'Connell and John H. Ridge, Stoel Rives LLP, Seattle, Washington, represent Verizon. Gregory J. Kopta and Sarah Wallace, Davis Wright Tremaine LLP, Seattle, Washington, represent Covad Communications Company (Covad), Eschelon Telecom of Washington, Inc. (Eschelon), Integra Telecom of Washington, Inc. (Integra), McLeodUSA Telecommunications Services, Inc., and XO Communications Services, Inc. (collectively Joint CLECs). Gregory Diamond, Denver, Colorado, represents Covad. Dennis Robins, Vancouver, Washington, represents Electric Lightwave, Inc. Karen Clausen, Minneapolis, Minnesota, represents Eschelon. Karen Johnson, Beaverton, Oregon, represents Integra. David Mittle, Santa Fe, New Mexico, represents Tel West Communications, LLC. Peter Healy, Olympia, Washington, represents TSS Digital Services, Inc. (TDS). Arthur A. Butler, Ater Wynne LLP, Seattle, Washington, represents the Washington Electronic Business and Telecommunications Coalition (WebTEC). Simon J. ffitch and Judith Krebs,

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<sup>1</sup> *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, FCC 04-290 (rel. Feb. 4, 2005) [Hereinafter "*Triennial Review Remand Order*" or "*TRRO*"].

Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel).

6 **BACKGROUND AND PROCEDURAL HISTORY.** The Commission opened this docket as a staff investigation in April 2005. After receiving comments from Qwest, Verizon and the Joint CLECs, the Commission held a workshop in this proceeding on February 1, 2006, concerning competition in the telecommunications industry and challenges facing competitive telecommunications carriers after the FCC adopted the TRRO. One of the primary issues identified in the workshop was the proper designation of wire centers in Washington meeting the FCC's non-impairment standards for unbundled network element (UNE) loops, high-capacity circuits and transport.<sup>2</sup> In particular, competitive local exchange carriers (CLECs) attending the workshop questioned whether Qwest and Verizon had correctly designated certain wire centers as non-impaired for purposes of unbundled access to high-capacity loops and transport.<sup>3</sup>

7 In the TRRO, the FCC determined that if a wire center met certain criteria, competing carriers would not be "impaired" in providing service without access to unbundled high-capacity loops and transport elements.<sup>4</sup> The FCC explained that these criteria are intended to "capture both actual and potential competition," but "are not, nor are they required to be, error proof."<sup>5</sup> The FCC classified ILEC wire centers into three "tiers," for purposes of determining CLEC unbundled access to high-capacity transport elements serving the wire center.<sup>6</sup>

8 The criteria for Tier 1, 2 and 3 wire center designation for high-capacity transport elements are based on the number of fiber-based collocators in a wire center or the number of business lines entering and leaving a wire center. A wire center must meet the criteria for both fiber-based collocators and business lines to be non-impaired for

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<sup>2</sup> A glossary of terms used in this Order is attached as Appendix I to the order.

<sup>3</sup> The initial order, Order 03, summarizes the history and explanation of the FCC's TRRO as well as much of the procedural history in this docket. We do not repeat that history here.

<sup>4</sup> See Section 252(d)(2): "In determining what network elements should be made available for purposes of [Section 251(c)(3)], the Commission shall consider, at a minimum. Whether – (A) access to such network elements as are proprietary in nature is necessary; and (B) *the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.*" (Emphasis added).

<sup>5</sup> TRRO, ¶ 88.

<sup>6</sup> TRRO, ¶ 111.

high-capacity loops, while a wire center may meet either criteria for non-impairment for high-capacity transport.<sup>7</sup> Tiers 1 and 2 indicate actual or potential competition such that the FCC determined that competitors are not impaired without unbundled access to high-capacity transport at that wire center at TELRIC<sup>8</sup> prices.<sup>9</sup> Wire centers meeting the FCC's criteria are referred to as "non-impaired" wire centers. Once a wire center meets the non-impairment criteria, the wire center cannot later be reclassified to a lower tier or found to be impaired.<sup>10</sup>

- 9 In Order 02, the Commission redefined the nature of the proceeding, stating that it would consider whether to issue an interpretive statement or policy statement in this proceeding to advise telecommunications carriers in Washington State of the Commission's interpretation of the wire center designation provisions of the TRRO and other matters. *See Order 02*, ¶ 6.
- 10 On April 20, 2006, Administrative Law Judge Ann E. Rendahl entered Order 03 resolving disputes over the appropriate data Qwest and Verizon must provide, and interpreting the TRRO and FCC rules.
- 11 On April 28 and May 5, Qwest and Verizon provided to the Commission and certain CLECs the additional data required by Order 03.
- 12 The Joint CLECs filed comments on the additional data on May 5, and continue to dispute the designation of four Qwest wire centers and one Verizon wire center. Verizon filed a response to the Joint CLECs' comments.

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<sup>7</sup> Wire centers designated as Tier 1 for transport UNEs have four or more fiber-based collocations, or 38,000 or more business lines, (*Id.*, ¶¶ 111-12) whereas wire centers designated as Tier 2 for transport UNEs have three or more fiber-based collocations or 24,000 or more business lines. *Id.*, ¶ 118. *See also Id.*, ¶¶ 174, 178, in which the FCC classifies wire centers for purposes of access to DS3-capacity loops as having at least 38,000 business lines *and* four or more fiber-based collocators, and for DS1-capacity loops as having at least 60,000 business lines *and* four or more fiber-based collocators.

<sup>8</sup> TELRIC refers to Total Element Long Run Incremental Cost, a methodology based on forward-looking long run economic cost, which the FCC adopted for pricing unbundled network elements provided under Section 251. *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carrier and Commercial Mobil Radio Service Providers*, First Report and Order, CC Docket Nos. 96-98, 95-185, FCC 96-325, ¶ 672 (August. 8, 1996).

<sup>9</sup> *TRRO*, ¶¶ 111, 118, 174, 178.

<sup>10</sup> *See* 47 C.F.R. §§ 51.319 (a) (4) and (5), (e) (3) (i) and (ii).

- 13 After considering petitions for review of the initial order filed by the Joint CLECs and Qwest, the Commission entered Order 04 on October 4, 2006, reversing the decision in the initial order concerning the appropriate age of data to use in determining non-impairment designations, and addressing other issues.
- 14 On October 16, 2006, the Joint CLECs filed a petition for reconsideration, clarification and rehearing. Qwest also filed a petition for reconsideration of Order 04. By notice issued October 27, 2006, the Commission allowed parties to file answers to the petitions, indicating it would enter an order on the petitions by December 15.
- 15 The Joint CLECs, Qwest and Verizon filed responses to the petitions for reconsideration.

#### MEMORANDUM

- 16 In this Order, we resolve petitions for reconsideration and clarification of decisions in Order 04, our final order concerning the non-impairment designations of certain Qwest and Verizon wire centers. First, the Joint CLECs seek clarification of the discussion in Order 04 of Qwest and Verizon wire centers for which they dispute a non-impairment designation. Second, the Joint CLECs and Qwest request that we reconsider our decision in Order 04 to evaluate non-impairment designations for contested wire centers using 2005 data. Third, the Joint CLECs request clarification or reconsideration of the effective date of three wire centers Qwest designated as non-impaired on July 8, 2005. Finally, the Joint CLECs argue that Qwest improperly modified the data provided in response to Orders 03 and 04.
- 17 In addition to resolving these disputes, we modify the interpretive statement issued in this docket. We issue the interpretive statement as a separate document, Appendix 2 to this Order, to reflect our interpretation of the TRRO consistent with this Order, and to update the list of Qwest and Verizon wire centers that meet the FCC's non-impairment criteria. We issue the modified interpretive statement separately under RCW 34.05.230 and WAC 480-07-920 to comply with the requirement in the Administrative Procedure Act to publish such statements in the Washington State Register.

**A. Joint CLEC Position on Wire Center Designations**

- 18 Order 04 finds that the Joint CLECs agreed to certain wire center designations using 2003 data although they continued to argue for the use of 2004 data.<sup>11</sup> The Order also finds that the Joint CLECs “dispute only Qwest’s non-impairment designations of the Kent O’Brien, Olympia Whitehall and Seattle Cherry wire centers.”<sup>12</sup> Based on these findings, we accepted Qwest’s and Verizon’s wire center designations for all other wire centers, but required Qwest to file 2005 data for the remaining three wire centers.
- 19 The Joint CLECs assert that the Order does not correctly describe their position and that they did not concede the designation of all but three Qwest wire centers. The Joint CLECs assert their pleadings challenge Qwest’s designation of four wire centers based on the age of business line data: Seattle Main/Mutual wire center as Tier 1 for high capacity loops, Kent O’Brien as Tier 1, Seattle Cherry as Tier 2 and Verizon’s Bothell wire center as Tier 2 for transport.<sup>13</sup> The Joint CLECs also claim they dispute Qwest’s designation of the Olympia Whitehall wire center as Tier 1 for transport based on the number of fiber-based collocators, not business line data.<sup>14</sup> The Joint CLECs request the Commission clarify or reconsider its order to properly reflect the Joint CLECs’ position.<sup>15</sup>
- 20 Neither Qwest nor Verizon address this issue.
- 21 We grant the Joint CLECs’ request for reconsideration or clarification on this issue to clarify the facts in this proceeding. After reviewing the Joint CLECs’ pleadings, we agree that the Joint CLECs continue to dispute the use of 2003 data for initial wire center designations, but, that if 2003 data were used, they would dispute the non-impairment designation of four wire centers based on the age of business line data:

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<sup>11</sup> Order 04, ¶ 22.

<sup>12</sup> *Id.*

<sup>13</sup> Joint CLEC Petition, ¶¶ 5-8.

<sup>14</sup> After further discussion, Joint CLECs and Qwest now agree that the Olympia Whitehall wire center is properly classified as Tier 1 for transport UNEs based on the number of fiber-based collocators in the wire center. See November 3, 2006, letter to Carole J. Washburn, Docket UT-053025, from Lisa A. Anderl; see also November 14, 2006, letter to Carole J. Washburn, Docket UT-053025, from Gregory J. Kopta. We therefore include the Olympia Whitehall wire center as Tier 1 for transport in the list of non-impaired wire centers attached to the modified interpretive statement.

<sup>15</sup> Joint CLEC Petition, ¶ 8.

Qwest's Seattle Main/Mutual wire center as Tier 1 for high-capacity loops, and Qwest's Kent O'Brien wire center as Tier 1, Qwest's Seattle Cherry wire center as Tier 2 and Verizon's Bothell wire center as Tier 2 for high-capacity transport.

- 22 The FCC's non-impairment criteria for high-capacity transport and loop elements differ. A wire center meets the non-impairment criteria for high-capacity loops based on the number of fiber-based collocators *and* the number of business lines serving the wire center. A wire center meets the non-impairment criteria for high-capacity transport elements based on the number of fiber-based collocators *or* the number of business lines. Order 04 does not clearly distinguish these different criteria, leading to confusion about the basis for the Joint CLEC's position.
- 23 The only wire center that Qwest has identified as non-impaired for high capacity loops is the Seattle Main/Mutual wire center. The remaining wire centers that Qwest and Verizon identify as non-impaired are for high-capacity transport elements. Qwest and Verizon identify these wire centers as Tier 1 or Tier 2 for high capacity transport elements based on the number of fiber-based collocators or business line counts, while Qwest designates the Seattle Main/Mutual wire center as non-impaired based on both sets of data.<sup>16</sup>
- 24 We modify paragraph 22 of Order 04 to correctly reflect the Joint CLECs' position, by adding to the list of disputed wire centers Qwest's Seattle Main/Mutual wire center and Verizon's Bothell wire center. While we modify Order 04 to reflect that the Joint CLECs once disputed the designation of Qwest's Olympia Whitehall wire center based on the number of fiber-based collocators, we note that the Joint CLECs now concur in the designation of the wire center.<sup>17</sup>

#### **B. Age of the Data**

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<sup>16</sup> Qwest March 1, 2006, Response to Bench Request No. 1; Verizon's April 28, 2006, Supplemental Response to Bench Request No. 1.

<sup>17</sup> See November 3, 2006, letter to Carole J. Washburn, Docket UT-053025, from Lisa A Anderl; see also November 14, 2006, letter to Carole J. Washburn, Docket UT-053025, from Gregory J. Kopta.

- 25 The primary dispute in this proceeding concerns the age or timing of the data, in particular the business line data, used to calculate whether a wire center meets the FCC's non-impairment criteria. As we explained in Order 04, the FCC chose business line counts as one of the wire center criteria, as they "are an objective set of data that incumbent [local exchange carriers] LECs [ILECs] already have created for other regulatory purposes," specifically identifying ARMIS 43-08 data as the source of business line data.<sup>18</sup> Each year on April 1, ILECs file annual network, financial and service quality data with the FCC's Automated Reporting Management Information System (ARMIS). The number of access lines in service is one type of data ILECs provide annually for FCC Report 43-08 in the ARMIS Operating Data Report, which is referred to as ARMIS 43-08 data.
- 26 The FCC released the TRRO on February 4, 2005, with an effective date of March 11, 2005. The TRRO was released after ILECs had collected 2004 business line data, but before the April 1 filing deadline. After the FCC issued the TRRO, the FCC's Wireline Competition Bureau requested that ILECs submit to the FCC lists of wire centers meeting the non-impairment criteria. Qwest and Verizon did so, satisfying the TRRO's non-impairment criteria using ARMIS 43-08 data for the calendar year ending December, 2003.<sup>19</sup>
- 27 In response to the Commission's Order 02 in this proceeding, Qwest and Verizon submitted ARMIS 43-08 data showing the number of access lines in wire centers as of December 2003. From their first comments on this data, the Joint CLECs have argued that using December 2004 ARMIS data would provide a more accurate picture of competition at the time the FCC released the TRRO. Qwest and Verizon have insisted that 2003 data is appropriate, as the FCC based its decision on non-impairment of wire centers using 2003 ARMIS data.
- 28 The initial order, Order 03, determined that it was appropriate to evaluate the ILECs' wire center designations based on 2003 ARMIS data. After the Joint CLECs and Qwest filed petitions for review, we reversed the decision in the initial order. In Order 04, we required the use of the most recent data, i.e., 2005 ARMIS data, in resolving the remaining disputed wire centers and future wire center disputes:

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<sup>18</sup> TRRO, ¶ 105.

<sup>19</sup> Qwest March 14, 2006, Responses to Joint CLEC Exceptions, ¶¶ 4-5.

We find nothing in the TRRO or FCC rules that precludes this Commission from deciding this issue in the interest of promoting competition in the local telecommunications market, pursuant to state law. [Footnote omitted] This Commission has authority under state law [footnote omitted] to take actions “permitted or contemplated for a state commission under the federal telecommunications act of 1996” (the Act) [footnote omitted] and authority (which the FCC expressly recognizes) to resolve disputes over whether certain wire centers meet the factual criteria for non-impairment. [TRRO, ¶¶ 100, 234] Given this authority, we may use data more recent than December 2003 data to inform our decision. We find the most recent data more persuasive than the stale information now in the record.

Because these designations are permanent [footnote omitted] and materially affect the development of competition in Washington, we determine that our designation decisions should be based on the most recent data available. In this instance, by applying the FCC’s criteria to the most recent data, we ensure that our decisions are based on the best information available reflecting the most recent state of competition between competitive and incumbent carriers at the wire center level. For the same reasons, we shall require the use of the most recent data at the time we resolve future disputes over wire center designations.<sup>20</sup>

- 29 Both Qwest and the Joint CLECs ask us to reconsider this decision. The Joint CLECs assert the Commission should modify the order to require Qwest and Verizon to provide 2004 business line data for *all* wire centers, not just a few wire centers. The Joint CLECs assert that ILECs should rely on data that is current as of the date they designate a wire center as non-impaired.<sup>21</sup> Specifically, the Joint CLECs assert that the ILECs should “provide business line counts consistent with ARMIS requirements as of March 11, 2005, or as close to that date as possible,” i.e., ARMIS data the ILECs have collected but not yet filed with the FCC.<sup>22</sup> The Joint CLECs assert the ILECs likely have the information on a monthly basis during a calendar year even though the information is not yet filed with the FCC.<sup>23</sup>

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<sup>20</sup> Order 04, ¶¶ 20-21.

<sup>21</sup> Joint CLEC Petition, ¶ 4.

<sup>22</sup> Joint CLEC March 7, 2006, Exceptions, ¶ 5.

<sup>23</sup> *Id.*



30 Qwest and Verizon argue that the decision in the initial order to use December 2003 ARMIS data was correct. Qwest and Verizon assert the non-impairment designation should be based on the most recent data *available at the FCC* on the date the ILEC designates the wire center as non-impaired.<sup>24</sup> Qwest asserts that the Commission errs in applying data from a time period different than the date that Qwest designated the wire centers as non-impaired in its filing with the FCC. Qwest and Verizon assert the use of different data sets would run afoul of the FCC's decision that an impairment decision may not be changed.<sup>25</sup>

31 After reviewing the petitions and the TRRO, we find it necessary to clarify our understanding of the role of state commissions in implementing the FCC's rules on non-impaired wire centers. First, we find the FCC established a self-implementing process for determining which wire centers meet the non-impairment criteria. The TRRO does not identify who, or which entity, will designate a wire center as non-impaired.<sup>26</sup> In practice, the ILECs have "designated" certain wire centers as non-impaired by submitting lists to the FCC identifying which wire centers the ILECs believe meet the non-impairment criteria in the TRRO.<sup>27</sup> Both Qwest and the Joint CLECs agree that ILECs designate whether a wire center is non-impaired, not CLECs or state commissions.<sup>28</sup> We concur.

32 Second, the TRRO requires carriers to work out between themselves which wire centers are non-impaired, but if they cannot agree, the state commissions may resolve disputes among parties about whether a wire center is properly classified or designated as non-impaired.<sup>29</sup> The role of state commissions in implementing the FCC's wire center non-impairment criteria, thus, is to resolve disputes between the ILECs and their competitors, providing a check on the ILECs' designation.

33 Third, state commissions must determine whether the ILECs relied upon the correct set of data and properly classified or designated the wire center as non-impaired. In

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<sup>24</sup> Qwest Petition, ¶ 1; Verizon Answer at 2, 3.

<sup>25</sup> Qwest Petition, ¶¶ 2-9; Verizon Answer at 1; *see also* 47 C.F.R. §§ 51.319 (a) (4) and (5), (e) (3) (i) and (ii).

<sup>26</sup> It is interesting to note that the word "designate" is used only twice in the TRRO, and not in the context of a wire center being designated as non-impaired.

<sup>27</sup> Qwest March 14, 2006, Responses to Joint CLEC Exceptions, ¶¶ 4-5.

<sup>28</sup> Qwest Petition, ¶ 1; Joint CLEC Petition, ¶ 4.

<sup>29</sup> TRRO, ¶ 234.

particular, this requires state commissions to interpret the TRRO to determine whether ILECs used the appropriate ARMIS data to calculate the number of business lines serving a wire center. The FCC identified in the TRRO only the type of data carriers should use in determining whether wire centers meet the non-impairment criteria. We continue to find that the FCC did not mandate or require the use of data from a particular year when applying the criteria to particular wire centers.

- 34 We are persuaded, however, that our decision to use 2005 data may run afoul of the FCC's requirement that wire center designations are permanent. If a wire center meets the FCC's criteria at the time an ILEC designates the wire center, but does not meet the criteria when applying data from a later period of time, the wire center designation would change, contrary to the FCC's rules. Thus, we find that state commissions must evaluate the most current data available when the ILECs designated the wire center as non-impaired. Specifically, state commissions must consider the number of fiber-based collocators in the particular wire center on the date the ILEC designates the wire center as non-impaired, and the annual ARMIS 43-08 business line data available on the designation date.
- 35 Given this clarification, we strike paragraphs 20-21 of Order 04. While we continue to believe those paragraphs describe the preferable public policy, we are constrained by the FCC's decision.<sup>30</sup>
- 36 We further clarify that we accept 2003 data as appropriate in evaluating the ILECs' initial wire center lists. After releasing the TRRO on February 4, 2005, the FCC asked Qwest and other ILECs to submit lists of wire centers meeting the FCC's criteria. The ILECs used the readily available 2003 ARMIS data in making their initial wire center list. While we recognize that the ILECs had presumably collected 2004 ARMIS data and were preparing the data for filing with the FCC by April 1, we find the ILECs reasonably relied on 2003 data given the circumstances at the time.
- 37 Going forward, however, we recognize that after December 31<sup>st</sup> of a given year, ILECs have annual ARMIS 43-08 available for that year. Therefore, to ensure that ILECs use the most recent available data when designating a wire center, we will

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<sup>30</sup> Order 04, ¶¶ 20-21; *See supra*. ¶ 29.

evaluate wire centers designated as non-impaired between January 1 and April 1 using the ARMIS data to be filed on April 1. Applying such a standard will promote decisions based on the best information available, reflecting the most recent state of competition between competitive and incumbent carriers at the wire center level. Table 1, below, illustrates our decision:

**Table 1: Applicable ARMIS Data for Wire Center Designations**

<b>Date of Wire Center Designation</b>	<b>Applicable ARMIS 43-08 Data</b>
January 1, 2007 to April 1, 2007	ARMIS data to be filed on April 1, 2007, reflecting data collected through December 31, 2006.
April 1 to December 31, 2006	ARMIS data filed on April 1, 2006, reflecting data collected through December 31, 2005.

38 For the reasons discussed above, we grant both Qwest's and the Joint CLECs' petitions for reconsideration and reverse, in part, our decision in Order 04 on this issue. In addition, after reviewing the 2003 ARMIS data Qwest and Verizon filed in response to Order 02 and 03, we find Qwest's designation of the Seattle Main/Mutual wire center as Tier 1 for high-capacity loops, Kent O'Brien wire center as Tier 1 for high-capacity transport, and Seattle Cherry wire center as Tier 2 for high-capacity transport, and Verizon's designation of the Bothell wire center as Tier 2 for high-capacity transport to be correct. Accordingly, we modify the Interpretive Statement in this docket to reflect our understanding of the TRRO and these wire center designations.

**C. Effective Date**

39 The FCC established a one-year transition period in the TRRO for competitive carriers to transition from using UNEs to alternative facilities, beginning with March 11, 2005, the effective date of the TRRO.<sup>31</sup> The FCC also provided that ILECs could begin charging higher rates for UNEs during the transition period.<sup>32</sup> Where an ILEC designated wire centers as non-impaired in the future the FCC noted that ILECs and competing carriers would need to "negotiate appropriate transition mechanisms" through negotiation or arbitration under Section 252 of the Act.<sup>33</sup>

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<sup>31</sup> *TRRO*, ¶¶ 141, 195.

<sup>32</sup> *Id.*, ¶¶ 145, 198.

- 40 The Joint CLECs assert that on July 8, 2005, Qwest designated three wire centers as non-impaired for high-capacity transport elements – Seattle Atwater (Tier 1), Seattle Campus (Tier 1) and Seattle Duwamish (Tier 2). The Joint CLECs concede that the three wire centers meet the non-impairment criteria as of March 11, 2005, and do not contest the non-impairment designation of these wire centers.<sup>34</sup> However, the Joint CLECs ask us to clarify that the effective date for the three wire centers is July 8, 2005, not March 11, 2005. Specifically, the Joint CLECs assert that the transition period and higher transition rates for high-capacity transport UNEs serving these three wire centers should not begin until July 8, 2005.<sup>35</sup> The Joint CLECs rely on a finding in a recent order by the Utah Commission that is consistent with their request in this proceeding.<sup>36</sup> The Joint CLECs assert they first made this request in comments filed on March 21, 2006, but the Commission has not yet addressed the issue.<sup>37</sup>
- 41 Qwest concedes that it designated the three wire centers as non-impaired on July 8, 2005.<sup>38</sup> Qwest argues, however, that the effective date for designating for these three wire centers should be March 11, 2005. Qwest asserts that “the facts supporting the wire center designations existed as of March 11, 2005, and the designations are appropriate as of that date.”<sup>39</sup> Qwest argues that delaying the effective date will penalize Qwest for taking the time to carefully evaluate whether its wire centers met the non-impairment criteria.<sup>40</sup>
- 42 We grant the Joint CLECs’ request for clarification on this issue. The issue is ripe for consideration in a petition seeking clarification under WAC 480-07-835. The Joint CLECs do not wish to change the outcome of the order, but obtain resolution of the issue. The Joint CLECs properly addressed the issue in their initial comments, yet we have not addressed the issue in our orders.
- 43 We find Qwest’s position inconsistent on this issue. Qwest argues that the data used to evaluate a wire center designation should be the most current as of the date the

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<sup>33</sup> *Id.*, ¶ 142, n.199, ¶ 196, n.519.

<sup>34</sup> Joint CLEC Petition, ¶ 9.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*, ¶ 10, citing *In re Investigation into Qwest Wire Center Data*, Utah PSC, Docket No. 06-049-40, Report and Order at 22-23 (Sept. 11, 2006).

<sup>37</sup> *Id.*, ¶ 9.

<sup>38</sup> Qwest Answer, ¶ 9.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*, ¶ 10.

ILEC designates the wire center, but now seeks to establish an effective date prior to the designation date. We are persuaded that the effective date for these wire centers for transition under the TRRO should be July 8, 2005. Qwest designated these wire centers as non-impaired five months after the FCC released the TRRO. It is appropriate, therefore, to apply the FCC's treatment for wire centers designated in the future. We recognize that this proceeding is not an arbitration proceeding under Section 252, but note that in a recent arbitration proceeding, the Commission found a one-year transition period to be appropriate for future wire center designations.<sup>41</sup> We see no valid reason why the transition period for these three wire centers should begin prior to the date Qwest designated them as non-impaired.

**D. Qwest Data**

- 44 In response to Order 04, Qwest submitted 2005 business line data for three wire centers: Kent O'Brien, Seattle Cherry and Olympia Whitehall. The Joint CLECs object to this data, asserting Qwest did not provide ARMIS 43-08 data as required by the FCC and the Commission's orders, but instead provided modified data.<sup>42</sup> The Joint CLECs assert they recently discovered in a similar proceeding in Utah that Qwest modified ARMIS 43-08 data by providing ratios, based on proprietary statewide average data, of dedicated lines that originate in one wire center and provide service to another wire center.<sup>43</sup>
- 45 Qwest admits that it has modified the ARMIS 43-08 data, but asserts it used the same method in providing data to the Commission when providing data in April in response to Order 03 and in October in response to Order 04.<sup>44</sup> Qwest argues the modifications

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<sup>41</sup> *In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc. With Competitive Local Exchange Carriers And Commercial Mobile Radio Service Providers In Washington Pursuant to 47 U.S.C. Section 252(b) and the Triennial Review Order*, Docket No. UT-043013, Arbitrator's Report and Decision, Order 17 (July 8, 2005) ¶¶ 108, 115, *affirmed* in Commission's Final Order Granting, In Part, And Denying, In Part, Verizon's Petition For Review; Denying AT&T's Petition For Review; Affirming, In Part, And Modifying, In Part, Arbitrator's Report And Decision, Order 18 (Sept. 22, 2005) ¶ 10.

<sup>42</sup> Joint CLEC's October 30, 2006, Objections to Qwest Response to Order 04, ¶¶ 3-4. The Joint CLECs also assert that Qwest did not demonstrate that there were four fiber-based collocators in the Olympia Whitehall wire center. *Id.*, ¶¶ 5-7. As we discuss above, this issue has now been resolved.

<sup>43</sup> *Id.*, ¶ 3.

<sup>44</sup> Qwest November 1, 2006, Answer to Joint CLEC Objections, ¶¶ 1, 5, 6.

are necessary to correlate the “raw” ARMIS 43-08 data to specific wire centers.<sup>45</sup> Qwest also asserts that it explained its methods and calculations in these same filings.<sup>46</sup>

- 46 In response to Order 03 and Order 04, Qwest provided ARMIS 43-08 data for certain wire centers by calculating a utilization or “fill-factor” to demonstrate actual usage of circuits or channels serving a wire center. Qwest provided the statewide average fill factors in its response to Bench Request No. 02.<sup>47</sup> In that response, Qwest explained:

[P]ursuant to FCC requirements for providing data for the ARMIS 43-08 report, Business Switched Access Line data is reported on a statewide level. Actual active channels on underlying DS1 facilities supporting products such as ISDN-PRI, Digital Switched Service (DSS) and UAS, which is a similar product to DSS, are known and reported by state.

When disaggregating the ARMIS 43-08 Business Switched Access Line data to the wire center level as required by the TRRO, average fill factors must be applied to the DS1 Facilities underlying ISDN-PRI, DSS and UAS services. As a result, to obtain active channel information at a wire center level, the statewide ARMIS quantities for those products are apportioned across the wire centers based on the underlying DS1s used to provide the ISDN-PRI, DSS and UAS services in each wire center. Once apportioned, Qwest applies a statewide average fill factor to those counts to derive the number of active channels by wire center.<sup>48</sup>

- 47 The FCC provided that business lines should be counted as actual circuits in use.<sup>49</sup> In deriving the business line counts in the three exchanges, Qwest calculated a ratio based on statewide data of DSO and DS1 circuits to figure out the equivalent number of DSO channels actually used in each wire center.<sup>50</sup> For each circuit that does not

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<sup>45</sup> *Id.*, ¶ 4.

<sup>46</sup> *Id.*, ¶ 6.

<sup>47</sup> Qwest April 28, 2006 Response to Bench Request No. 02, Confidential Attachment A.

<sup>48</sup> *Id.*, Response to Bench Request No. 02.

<sup>49</sup> Qwest November 1, 2006, Answer to Joint CLEC Objections, ¶ 6.; *see also* 47 C.F.R. § 51.5.

<sup>50</sup> Qwest’s November 1, 2006, Answer to Joint CLEC Objections, ¶ 6. A DSO channel is the equivalent of one copper-pair line providing voice grade service for one telephone call. A DS1 circuit provides the equivalent of 24 DSOs, or 24 channels for 24 separate calls.

originate and terminate in the same exchange, Qwest applied the ratio to existing DS1 circuits to get the exact number of DSO channels that originate from these wire centers. Qwest's assumptions appear reasonable, as applying 24 channels to each DS1 would miscalculate the actual number of DSO channels in use. Qwest applies a fill-factor, or ratio of facilities actually in use that is less than the 24 channels in a DS1.<sup>51</sup> This method benefits, rather than harms the Joint CLECs by not overestimating the actual use of a circuit.

48 We deny the Joint CLECs' objection to Qwest's use of ARMIS data. We find it appropriate and not inconsistent with the TRRO for an ILEC to modify raw ARMIS data to provide information for a particular wire center. The Joint CLECs are correct that the FCC relies on ARMIS data because they are "an objective set of data that incumbent LECs already have created for other regulatory purposes."<sup>52</sup> However, ARMIS data is provided on a statewide basis, not by wire center. Given that, Qwest must manipulate or modify the raw ARMIS data to provide meaningful information concerning specific wire centers. This may require the use of ratios or fill-factors to extrapolate data referring to the specific wire centers and to reflect the circuits actually in use. Contrary to the Joint CLECs' suggestion, we do not find Qwest's modification of the data a reason to reject Qwest's designation of wire centers, or to reverse prior findings about non-impairment of wire centers in this proceeding.

#### **E. Interpretive Statement**

49 As we discussed in Order 04, the Commission may issue interpretive statements "to advise the public of its current opinions." RCW 34.05.320; *see also* RCW 34.05.010(8); WAC 480-07-920. The Commission is authorized under RCW 80.36.610 to take all actions, conduct proceedings and enter orders contemplated for a state commission under the Act. Under Section 251(d)(3) of the Act, state commissions may enforce regulations, orders or policies in implementing Section 251 if doing so:

- (A) establishes access and interconnection obligations of local exchange carriers;
- (B) is consistent with the requirements of this section; and

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<sup>51</sup> Qwest's April 28, 2006 Response to Bench Request No. 02, Confidential Attachment A.

<sup>52</sup> TRRO, ¶ 105.

(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

50 Issuing a statement interpreting the FCC's orders and rules governing wire center designations in a manner consistent with state policy is consistent with state commission authority under Section 251(d)(3). Our decisions in this Order further interpret the requirements for access and interconnection obligations for high-capacity loops and transport for local exchange carriers, are consistent with FCC orders and rules, and do not substantially prevent implementation of Section 251 or its purposes.

51 By this order, we modify the interpretive statement we issued on October 5, 2006, to reflect the interpretations in this Order of the FCC's decisions in the TRRO and FCC rules concerning non-impairment criteria for wire centers. We issue a modified interpretive statement incorporating the interpretations in orders of the TRRO and FCC rules concerning non-impairment criteria for wire centers, and modify the list of Qwest and Verizon wire centers that meet our interpretation of these criteria. The modified interpretive statement is attached to this Order as Appendix 2.

#### **FINDINGS OF FACT**

52 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary findings of fact, incorporating by reference pertinent portions of the preceding detailed findings:

53 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates and conditions of service of telecommunications companies within the state, and to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the Telecommunications Act of 1996.

54 (2) Verizon Northwest Inc. and Qwest Corporation are incumbent Local Exchange Companies, or ILECs, providing local exchange telecommunications service to the public for compensation within the state of Washington.



- 55 (3) Covad Communications Company, Electric Lightwave, Inc., Eschelon Telecom of Washington, Inc., Integra Telecom of Washington, Inc., McLeodUSA Telecommunications Services, Inc., Tel West Communications, LLC, TSS Digital Services, Inc., and XO Communications Services, Inc., are local exchange carriers within the definition of 47 U.S.C. § 153(26), providing local exchange telecommunications service to the public for compensation within the state of Washington, or are classified as competitive telecommunications companies under RCW 80.36.310 - .330.
- 56 (4) The FCC released its Triennial Review Remand Order on February 4, 2005, with an effective date of March 11, 2005.
- 57 (5) In response to the FCC's order, Qwest and Verizon, as well as other ILECs across the nation, filed with the FCC in February 2005 lists of wire centers meeting the FCC's non-impairment criteria using 2003 ARMIS 43-08 data.
- 58 (6) Qwest identified three additional wire centers – Seattle Atwater, Seattle Campus and Seattle Duwamish—as meeting the FCC's non-impairment criteria on July 8, 2005.
- 59 (7) In response to Order 02 in this proceeding, Qwest and Verizon submitted to the Commission data based on 2003 ARMIS 43-08 data reported to the FCC.
- 60 (8) The Joint CLECs dispute the non-impairment designation of four wire centers based on 2003 ARMIS data: Qwest's Seattle Main/Mutual wire center as Tier 1 for high-capacity loops based on 2003 ARMIS data and fiber-based collocator data, and Qwest's Kent O'Brien wire center as Tier 1, Qwest's Seattle Cherry wire center as Tier 2 and Verizon's Bothell wire center as Tier 2 for high-capacity transport based on 2003 ARMIS data.
- 61 (9) The Joint CLECs concur in Qwest's designation of the Olympia Whitehall wire center as Tier 1 for transport elements based on the number of fiber-based collocators present in the wire center.
- 62 (10) In response to Orders 03 and 04, Qwest submitted ARMIS 43-08 data which Qwest modified by providing ratios or fill factors, based on proprietary

statewide average data, of dedicated lines that originate in one wire center and provide service to another wire center.

**CONCLUSIONS OF LAW**

- 63 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions:
- 64 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 65 (2) The FCC's Triennial Review Remand Order, or TRRO, finds competitive local exchange carriers are not impaired under Section 251 of the Act without access to high-capacity loops and transport, if the wire centers serving the loops and transport meet certain criteria.
- 66 (3) The FCC established in the TRRO the number of "fiber-based collocators" in a wire center and the number of "business lines" serving a wire center as the criteria for determining whether a wire center is non-impaired for purposes of CLEC access to high-capacity loops and transport. A wire center must meet the criteria for both fiber-based collocators and business lines to be non-impaired for high-capacity loops, while a wire center may meet either criteria for non-impairment for high-capacity transport.
- 67 (4) The FCC identified in the TRRO only the type of data carriers should use in determining whether wire centers meet the non-impairment criteria. The FCC did not mandate or require the use of data from a particular year when applying the criteria to particular wire centers.
- 68 (5) The FCC established a one-year transition period, beginning March 11, 2005, the effective date of the TRRO, during which competitive carriers would transition from using UNEs to alternative facilities and ILECs could begin charging higher rates for UNEs. Where an ILEC designates wire centers as non-impaired in the future, ILECs and competing carriers must negotiate or arbitrate appropriate transition plans under Section 252 of the Act.

- 69 (6) In paragraphs 100 and 234 of the TRRO, the FCC recognized state commission authority to resolve disputes over whether certain wire centers meet the factual criteria for non-impairment.
- 70 (7) The TRRO does not identify who, or which entity, will designate a wire center as non-impaired. In practice, the ILECs designate certain wire centers as non-impaired by submitting lists to the FCC identifying which wire centers the ILECs believe meet the non-impairment criteria in the TRRO.
- 71 (8) The role of state commissions in implementing the FCC's wire center non-impairment criteria is to resolve disputes between the ILECs and their competitors, providing a check on the ILECs' designation of non-impaired wire centers.
- 72 (9) State commissions must evaluate the most current data available at the time an ILEC designates a wire center as non-impaired.
- 73 (10) Evaluating a wire center designation using data from a period of time after the ILEC designated the wire center may change the non-impairment status of the wire center, contrary to the FCC's rules.
- 74 (11) It is appropriate to use 2003 ARMIS data in evaluating the ILECs' initial wire center designations. The ILECs reasonably relied on the readily available 2003 ARMIS data in making their initial wire center lists. While 2004 ARMIS data had been collected and was soon to be filed with the FCC, 2003 ARMIS data was publicly available from the FCC.
- 75 (12) For wire center designations an ILEC makes after February 2005, the appropriate data to use is that most recently filed with the FCC. However, for wire center designations made between January 1 and April 1, the appropriate data is ARMIS data the ILEC will file on April 1. Using this data will ensure that ILECs use the most recent available data when designating a wire center, and that the designation reflects the most recent state of competition between competitive and incumbent carriers at the wire center level.

- 76 (13) Where Qwest designated wire centers as non-impaired on July 8, 2005, five months after the FCC released the TRRO, it is appropriate to apply the FCC's treatment for wire centers designated in the future.
- 77 (14) A one year transition period from July 8, 2005, for Qwest's Seattle Atwater, Seattle Campus and Seattle Duwamish wire centers is consistent with this Commission's recent decision in an arbitration proceeding in Docket UT-043013.
- 78 (15) Where the FCC requires that business lines be counted as actual circuits in use, and ARMIS 43-08 data is provided on a statewide basis, not by wire center, it is reasonable for an ILEC to modify ARMIS data to provide meaningful information about specific wire centers. It is appropriate and reasonable for an ILEC to modify raw ARMIS data by using ratios or fill-factors to extrapolate data referring to specific wire centers and to reflect the actual circuits in use.
- 79 (16) The Commission may issue interpretive statements "to advise the public of its current opinions." *RCW 34.05.320*.
- 80 (17) Issuing a statement interpreting the FCC's Triennial Review Remand Order and accompanying FCC rules concerning non-impairment criteria for wire centers is appropriate and authorized by state and federal law.

**ORDER**

**THE COMMISSION ORDERS:**

- 81 (1) The Joint CLECs' Petition for Reconsideration of Order 04 is granted, in part, consistent with this Order.
- 82 (2) Qwest Corporation's Petition for Reconsideration of Order 04 is granted, consistent with this Order.
- 83 (3) Paragraph 22 of Order 04 is modified to reflect that the Joint CLECs dispute the non-impairment designations of Qwest's Seattle Main/Mutual wire center as Tier 1 for high-capacity loops based on 2003 ARMIS data and the number

of fiber-based collocators, and Verizon's Bothell wire center as Tier 2 for high capacity transport elements based on 2003 ARMIS data.

- 84 (4) Paragraphs 20-21 of Order 04 are stricken.
- 85 (5) The Commission issues a modified interpretive statement concerning non-impairment criteria for wire centers under the Federal Communications Commission's Triennial Review Remand Order. The modified interpretive statement is attached as Appendix 2 to this Order and by this reference included herein.
- 86 (6) The Commission retains jurisdiction to effectuate the terms of this order.

DATED at Olympia, Washington, and effective December 15, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

[Service Date December 15, 2006]

# Appendix 1

APPENDIX 2

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation	)	
Concerning the Status of Competition	)	DOCKET UT-053025
and Impact of the FCC's Triennial	)	MODIFIED INTERPRETIVE
Review Remand Order on the	)	STATEMENT REGARDING
Competitive Telecommunications	)	DESIGNATION OF NON-IMPAIRED
Environment in Washington State	)	WIRE CENTERS
.....	)	

I. INTRODUCTION

1 This is an interpretive statement of the Washington Utilities and Transportation Commission (Commission) pursuant to RCW 34.05.010 (8), RCW 34.05.230, and WAC 480-07-920. The purpose of this statement is to advise the public of the Commission's interpretation of provisions of the Federal Communications Commission's (FCC) Triennial Review Remand Order, or TRRO<sup>1</sup> and accompanying FCC rules<sup>2</sup> governing access by competitive local exchange carriers (CLECs) to high capacity loops and transport in wire centers owned or controlled by incumbent local exchange carriers (ILECs). After interpreting the FCC's order and rules, this statement modifies the list of wire centers designated by Qwest Corporation (Qwest) and Verizon Northwest Inc. (Verizon) as non-impaired, or ineligible for unbundled access by competing local exchange carriers (CLECs).

II. BACKGROUND

2 On February 4, 2005, the FCC released its Order on Remand, also known as the Triennial Review Remand Order, or TRRO. In the TRRO, the FCC reexamined whether competitors were impaired without unbundled access to certain network elements, pursuant to Section 251(c)(3) of the federal Telecommunications Act of

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<sup>1</sup> In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, FCC 04-290 (rel. Feb. 4, 2005) [Hereinafter "Triennial Review Remand Order" or "TRRO"].

<sup>2</sup> 47 C.F.R. §§ 51.5, 319 (a) (4), (5) and (6).

1996 (the Act).<sup>3</sup> In determining whether competitors are impaired without unbundled access to high-capacity loops, the FCC looked to the number of fiber-based collocators<sup>4</sup> in a wire center and the number of business lines<sup>5</sup> terminating and leaving a wire center as indicia of competition. To find non-impairment, both criteria must be met. When determining whether a wire center is considered non-impaired for access by competitors to high-capacity interoffice transport, the FCC requires the wire center to meet either criteria.<sup>6</sup> The FCC classified ILEC wire centers into three tiers for determining non-impairment for transport UNEs “based on indicia of the potential revenues and suitability for competitive transport deployment.”<sup>7</sup>

- 3 Wire centers designated as Tier 1 for transport are considered the most competitive, requiring that there be four or more fiber-based collocations at the wire center, or serve 38,000 or more business lines.<sup>8</sup> Wire centers are designated as non-impaired for DS3-capacity loops if the wire center serves at least 38,000 business lines *and* four fiber-based collocators.<sup>9</sup> The FCC classifies wire centers as non-impaired for purposes of access to DS1-capacity loops if the wire center serves at least 60,000

<sup>3</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>4</sup> The FCC defines fiber-based collocators as: [A]ny carrier, unaffiliated with the incumbent [local exchange carrier] LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph. ... Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. 47 C.F.R. § 51.5; *see also* TRRO, ¶ 102.

<sup>5</sup> The FCC defines a business line as: [A]n incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all [unbundled network element] UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kpbs-equivalent as one line. For example, a DS1 line corresponds to 24 kpbs-equivalents, and therefore to 24 “business lines.” 47 C.F.R. § 51.5.

<sup>6</sup> TRRO, ¶¶ 111-12, 118.

<sup>7</sup> *Id.*, ¶ 111.

<sup>8</sup> *Id.*, ¶¶ 111-12.

<sup>9</sup> *Id.*, ¶ 174.



business lines *and* four or more fiber-based collocators.<sup>10</sup> Tier 2 wire centers must have three or more fiber-based collocations or serve 24,000 or more business lines.<sup>11</sup> Tier 3 wire centers are those that are not Tier 1 or 2 wire centers.<sup>12</sup> Tier 1 and Tier 2 wire centers are considered “non-impaired,” such that competitive carriers do not have unbundled access to high-capacity loops and transport in these wire centers.<sup>13</sup> Competitors continue to have unbundled access to these network elements in Tier 3 wire centers.<sup>14</sup>

- 4 After the FCC issued the TRRO, the FCC’s Wireline Competition Bureau requested that ILECs, such as Verizon and Qwest, submit lists of wire centers satisfying the TRRO’s non-impairment criteria. Qwest and Verizon submitted lists in February 2005 using the most recent data filed with the FCC, reflecting data collected through December 2003.
- 5 The Commission opened this docket as a staff investigation in April 2005. After receiving comments from Qwest, Verizon and the Joint CLECs,<sup>15</sup> the Commission held a workshop in this proceeding on February 1, 2006, concerning competition in the telecommunications industry and challenges facing telecommunications carriers after the TRRO. One of the primary issues identified in the workshop was the proper designation of wire centers in Washington meeting the FCC’s non-impairment standards for UNE loops, high-capacity circuits and transport. In particular, competitive local exchange carriers (CLECs) attending the workshop questioned whether Qwest and Verizon had correctly designated certain wire centers as non-impaired for purposes of unbundled access to unbundled network element (UNE) loops, high-capacity circuits and transport.
- 6 Following the workshop, the Commission chose to change the nature of the proceeding to consider whether to issue an interpretive or policy statement. The

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<sup>10</sup> *Id.*, ¶ 178.

<sup>11</sup> *Id.*, ¶ 118.

<sup>12</sup> *Id.*, ¶ 123.

<sup>13</sup> *Id.*, ¶¶ 111, 118.

<sup>14</sup> *Id.*, ¶ 123.

<sup>15</sup> Covad Communications Company (Covad), Eschelon Telecom of Washington, Inc. (Eschelon), Integra Telecom of Washington, Inc. (Integra), McLeodUSA Telecommunications Services, Inc., and XO Communications Services, Inc. submitted comments jointly, and are referred through this statement collectively as the “Joint CLECs.”

Commission held a conference on February 6, 2006, and established a schedule for obtaining information from Qwest and Verizon about the wire centers in question. The schedule provided an opportunity for interested parties to file exceptions to Qwest's and Verizon's data, for Qwest and Verizon to respond, and for interested parties to file final exceptions or state agreement with Qwest's and Verizon's designation of wire-centers.

- 7 At the request of the participating CLECs, Qwest and Verizon, the Commission entered Order 01 in this proceeding, a protective order, to allow interested persons who have filed appropriate exhibits to the protective order access to confidential and highly confidential information provided by Qwest and Verizon.
- 8 On February 21, the Commission entered Order 02, Order Requiring Disclosure of Information, requiring Qwest and Verizon to provide certain information to the Commission and interested persons.
- 9 After reviewing interested parties' comments about and exceptions to the data, Administrative Law Judge Ann E. Rendahl entered an initial order, Order 03, in this proceeding on April 20, 2006. The initial order resolved disputes about how to interpret and apply the FCC's order and rules. The order directed Qwest and Verizon to submit additional data concerning fiber-based collocators in the disputed wire centers. The order also required Verizon to submit, as confidential, data concerning fiber-based collocators and business lines, as required by the Commission's Order 02.
- 10 The Commission evaluated the additional data Qwest and Verizon provided to the Commission and reviewed comments and exceptions to this data, as well as certain CLECs' and Qwest's petitions for administrative review of the initial order.
- 11 On October 4, 2006, the Commission entered Order 04, resolving the remaining disputes about interpreting the FCC's TRRO and accompanying rules governing wire center designation, and adopting this interpretive statement. The Commission also directed Qwest to submit additional data to allow the Commission to evaluate the proper designation of the wire centers that remained in dispute.

- 12 After the Joint CLECs and Qwest sought reconsideration of Order 04, the Commission entered Order 06 on December 15, 2006, modifying in part and reversing in part Order 04.

### III. STATEMENT OF INTERPRETATION

- 13 This statement reflects the Commission's interpretation of the FCC's Triennial Review Remand Order and accompanying rules governing wire center designation, 47 C.F.R. §§ 51.5, 319 (a) (4), (5) and (6). A more detailed discussion of the Commission's interpretation is set forth in the initial order, Order 03, Order 04 and Order 06 in this docket. The Commission will use this statement when resolving disputes about competitive carriers' access to high capacity loops and transport in Qwest and Verizon wire centers in Washington.
- 14 As discussed above, the FCC looks to the number of fiber-based collocators and business lines serving a wire center to determine whether competitors are impaired without unbundled access to high-capacity loops and interoffice transport in a wire center.
- 15 The Commission has resolved disputes between certain CLECs, Qwest and Verizon concerning the type of data Qwest and Verizon must submit to demonstrate a wire center meets the FCC's criteria. The Commission interpreted the TRRO and FCC rules in resolving these disputes in Orders 03, 04, and 06 in this docket. The interpretations address the process of designating a wire center as non-impaired, the role of state commissions under the TRRO, the appropriate age or year of data to use in evaluating a wire center designation, the data necessary to verify the number of fiber-based collocators, the method for calculating business lines serving a wire center, and the effective date of wire center designations for determining a transition period. These interpretations are stated below to advise the public and interested parties of our current opinions concerning wire center designations.
- 16 **Process for designating a wire center.** The FCC established in the TRRO a self-implementing process for determining which wire centers meet the non-impairment criteria. The TRRO does not identify who, or which entity, will designate a wire

center as non-impaired.<sup>16</sup> In practice, the ILECs designate wire centers as non-impaired by submitting lists to the FCC identifying which wire centers the ILECs believe meet the non-impairment criteria in the TRRO.<sup>17</sup>

- 17 **Role of state commissions.** The role of state commissions in implementing the FCC's non-impairment criteria is to resolve disputes between the ILECs and their competitors, providing a check on the ILECs' designation. The FCC requires carriers to work out between themselves which wire centers are non-impaired, but if they cannot agree, the state commissions may resolve disputes among parties about whether a wire center is properly classified or designated as non-impaired.<sup>18</sup> In resolving the dispute, state commissions must evaluate the most current data available when the ILECs designated the wire center as non-impaired.
- 18 **Age of data.** ILECs must provide the most current data filed with the FCC or available to the ILEC identifying the number of fiber-based collocators and business lines serving a wire center when seeking to designate the wire center as non-impaired. The FCC identified in the TRRO only the type of data carriers should use in determining whether wire centers meet the non-impairment criteria. The FCC did not mandate or require the use of data from a particular year when applying the criteria to particular wire centers.
- 19 It is appropriate to use 2003 ARMIS 43-08 data in evaluating the ILECs' initial wire center designations.<sup>19</sup> The ILECs reasonably relied on the readily available 2003 ARMIS data in making their initial wire center lists. While 2004 ARMIS data had been collected and was soon to be filed with the FCC, 2003 ARMIS data was publicly available from the FCC.
- 20 For wire center designations an ILEC makes after February 2005, the appropriate data to use is that most recently filed with the FCC. However, for wire center designations

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<sup>16</sup> The word "designate" is used only twice in the TRRO, and not in the context of a wire center being designated as non-impaired.

<sup>17</sup> Qwest March 14, 2006, Responses to Joint CLEC Exceptions, ¶¶ 4-5.

<sup>18</sup> TRRO, ¶ 234.

<sup>19</sup> Each year on April 1, ILECs file annual network, financial and service quality data with the FCC's Automated Reporting Management Information System (ARMIS). The number of access lines in service is one type of data ILECs provide annually for FCC Report 43-08 in the ARMIS Operating Data Report. This data is referred to as ARMIS 43-08 data.

made between January 1 and April 1, the appropriate data is ARMIS data the ILEC will file on April 1. Using this data will ensure that ILECs use the most recent available data when designating a wire center, and that the designation reflects the most recent state of competition between competitive and incumbent carriers at the wire center level. Table 1, below, illustrates our interpretation:

**Table 1: Applicable ARMIS Data for Wire Center Designations**

Date of Wire Center Designation	Applicable ARMIS 43-08 Data
January 1, 2007 to April 1, 2007	ARMIS data to be filed on April 1, 2007, reflecting data collected through December 31, 2006.
April 1 to December 31, 2006	ARMIS data filed on April 1, 2006, reflecting data collected through December 31, 2005.

- 21 **Verification of fiber-based collocators.** When seeking to designate a wire center as non-impaired, an ILEC must provide sufficient documents and explanation to allow the Commission and interested parties to verify the number of fiber-based collocators terminating a collocation arrangement in that wire center. The ILEC must demonstrate that the collocator “maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC.”<sup>20</sup>
- 22 **Calculation of business lines.** When seeking to designate a wire center as non-impaired, ILECs must calculate the number of business lines serving the wire center by including the actual circuits in use when calculating ILEC-owned business lines, and the total capacity of circuits, not actual circuits in use, when calculating business UNE-P lines and UNE loops.
- 23 The first two requirements for tallying business lines listed in the FCC’s definition of “business lines” (i.e., that the access lines connect only actual customers and the

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<sup>20</sup> 47 C.F.R. § 51.5.

- number not include non-switched special access lines) are already applied in the switched access lines ILECs report to the FCC in ARMIS 43-08 data. The third requirement, that digital access lines be counted by voice-grade equivalents, should apply when ILECs count the number of business UNE-P lines and UNE loops served by a wire center. Like the number of business lines served “entirely over competitive loop facilities in particular wire centers,” the number of UNE-P lines and UNE loops in service “is extremely difficult to obtain and verify,” as only CLECs can identify which lines serve business or residential customers.
- 24 Where the FCC requires that business lines be counted as actual circuits in use,<sup>21</sup> and ARMIS 43-08 data is provided on a statewide basis, not by wire center, it is reasonable for an ILEC to modify ARMIS data to provide meaningful information about specific wire centers. It is appropriate and reasonable for an ILEC to modify raw ARMIS data by using ratios or fill-factors to extrapolate data referring to specific wire centers and to reflect the actual circuits in use.
- 25 ILECs must provide a clear explanation of how business and residential UNE-P lines are separately identified in its ARMIS 43-08 data.
- 26 ILECs must include all UNE loops when calculating the number of business lines. The clear language of the TRRO and the FCC’s definition of “business line” demonstrate the FCC’s intent to include all UNE loops in the business line calculation. The FCC did not qualify UNE loops as business UNE loops or non-switched UNE loops, but *all* UNE loops.<sup>22</sup> The FCC’s definition of business line provides: “The number of business lines in a wire center shall equal the sum of all incumbent LEC *business* switched access lines, plus the sum of *all UNE loops* connected to that wire center, including UNE loops provisioned in combination with other unbundled elements.”<sup>23</sup>
- 27 **Effective date of wire center designations.** The FCC established a one-year transition period in the TRRO for competitive carriers to transition from using UNEs to alternative facilities, beginning with March 11, 2005, the effective date of the

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<sup>21</sup> See 47 C.F.R. § 51.5.

<sup>22</sup> TRRO, ¶ 105 (emphasis added).

<sup>23</sup> 47 C.F.R. § 51.5 (emphasis added).

TRRO.<sup>24</sup> The FCC also provided that ILECs could begin charging higher rates for UNEs during the transition period.<sup>25</sup> Where an ILEC designates wire centers as non-impaired in the future the FCC noted that ILECs and competing carriers would need to “negotiate appropriate transition mechanisms” through negotiation or arbitration under Section 252 of the Act.<sup>26</sup>

28 Where an ILEC designates a wire center as non-impaired a period of time after the FCC released the TRRO, it is appropriate to apply the FCC’s treatment for wire centers designated in the future. A one year transition period from the date the wire center is designated as non-impaired is consistent with this Commission’s recent decision in an arbitration proceeding in Docket UT-043013.<sup>27</sup>

29 **Additional designations of non-impaired wire centers.** If Qwest and Verizon seek to designate additional wire centers as non-impaired wire centers, the companies must notify the Commission of the proposed designation and submit data consistent with the interpretations in this statement. The Commission will open a docket to consider the data, and will notify interested parties of the opportunity to participate in the docket.

#### IV. NON-IMPAIRED WIRE CENTERS IN WASHINGTON

30 Table 2, attached to this statement, identifies the Qwest and Verizon wire centers in Washington that meet the FCC’s criteria for non-impairment, as interpreted in this statement, and their designation as Tier 1 or Tier 2 wire centers for high-capacity transport UNEs.

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<sup>24</sup> TRRO, ¶¶ 141, 195.

<sup>25</sup> *Id.*, ¶¶ 145, 198.

<sup>26</sup> *Id.*, ¶ 142, n.199, ¶ 196, n.519.

<sup>27</sup> *In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc. With Competitive Local Exchange Carriers And Commercial Mobile Radio Service Providers In Washington Pursuant to 47 U.S.C. Section 252(b) and the Triennial Review Order*, Docket No. UT-043013, Arbitrator’s Report and Decision, Order 17 (July 8, 2005) ¶¶ 108, 115, *affirmed* in Commission’s Final Order Granting, In Part, And Denying, In Part, Verizon’s Petition For Review; Denying AT&T’s Petition For Review; Affirming, In Part, And Modifying, In Part, Arbitrator’s Report And Decision, Order 18 (Sept. 22, 2005) ¶ 10.

- 31 The Commission will update the information in Table 1 after considering additional requests by Qwest or Verizon for a non-impairment designation.

Dated at Olympia, Washington, and effective December 15, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner



TABLE 2

CARRIER	LOCATION	CLLI CODE	TIER DESIGNATION
Qwest	Bellevue Glencourt	BLLVWAGL	Tier 2, Transport
Qwest	Bellevue Sherwood	BLLVWASH	Tier 1, Transport
Qwest	Kent O'Brien	KENTWAOB	Tier 1, Transport
Qwest	Olympia Whitehall	OLYMWA02	Tier 1, Transport
Qwest	Tacoma Fawcett	TACMWAFa	Tier 2, Transport
Qwest	Seattle Atwater	STTLWA05	Tier 1, Transport
Qwest	Seattle Cherry	STTLWACH	Tier 2, Transport
Qwest	Seattle Campus	STTLWACA	Tier 1, Transport
Qwest	Seattle Duwamish	STTLWADU	Tier 2, Transport
Qwest	Seattle East	STTLWA03	Tier 1, Transport
Qwest	Seattle Elliott	STTLWAEL	Tier 1, Transport
Qwest	Seattle Main/Mutual	STTLWA06	DS1 Loops, Tier 1 Transport
Qwest	Spokane Riverside	SPKNWA01	Tier 1, Transport
Verizon	Bothell	BOTHWAXB	Tier 2, Transport
Verizon	Redmond	RDMDWAXA	Tier 1, Transport

**GLOSSARY OF TELECOMMUNICATIONS TERMS**  
**Docket UT-053025**

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Denney/  
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TERM	DESCRIPTION
<b>Access</b>	A local carrier must allow customers access to their preferred long-distance carrier. Customers pay an access charge to their local carrier for access to their long distance carrier and long distance carriers pay access charges to the local carrier to connect to the local carrier's network. <i>(From Newton's Telecom Dictionary, at pages 26-27.)</i>
<b>Access line</b>	A telephone line from a central office to the local premises. <i>See also local loop. (From Newton's Telecom Dictionary, at page 27.)</i>
<b>ARMIS</b>	Automated Reporting Management Information System. The FCC's database of telecommunication carriers' network, financial and service quality data. Carriers update the information annually on April 1.
<b>Business line</b>	A loop or line used for business purposes, i.e., not a residential line.
<b>Central Office</b>	A building where the local loops are connected to switches to allow connection to other customers; also referred to as a wire center where there are several switches functioning as a switch exchange. <i>(From Newton's Telecom Dictionary, at page 157.)</i>
<b>Circuit</b>	"The physical connection (or) path of channels, conductors and equipment between two given points through which an electric current may be established." <i>(From Newton's Telecom Dictionary, at page 167.)</i>
<b>CLEC</b>	Competitive local exchange company. A company competing with an incumbent local exchange company (ILEC) for local service customers; generally subject to limited regulation.
<b>Collocation/ Collocator</b>	<b>Collocation</b> occurs when a competing local carrier locates its switches within another local exchange carrier's central office. A <b>collocator</b> is a carrier that collocates its switches in another carrier's central office. <i>(From Newton's Telecom Dictionary, at page 182.)</i>
<b>Dedicated transport</b>	Facilities dedicated to a particular competitive carrier that the carrier uses for transmission between or among ILEC central offices and tandem switching offices, and to connect its local network to the ILEC's network. <i>(TRRO, ¶ 67)</i>
<b>DS0 / Voicegrade</b>	The digital representation of the capacity of an analog voice channel, i.e., the traditional copper pair loop, transmitting information at 64 kilobytes per second (kbps). <i>(TRO, n. 634)</i>

TERM	DESCRIPTION
<b>DS1</b>	The initial level of multiplexing in the time division hierarchy of the telephone network; a 1.544 megabytes per second (Mbps) signal that provides the equivalent of <b>24 64 kbps DSO channels</b> . The same as a T1 facility. <i>(TRO, n. 634)</i>
<b>DS3</b>	A digital local loop having a total digital signal speed of 44.736 Mbps provided over various transmission media, including, but not limited to fiber optics, coaxial cable, or radio. DS3 loops can be channelized into <b>28 DS1 channels</b> , or unchannelized to provide a continuous bit stream for data. <i>(TRO, n. 634)</i>
<b>High-capacity</b>	High-capacity refers to the ability of the facility to handle a large amount of traffic or information at a single time, e.g., DS1, DS3, OCn capacity.
<b>ILEC</b>	Incumbent local exchange company. A local exchange company in operation at the time the Act was enacted (August 1996).
<b>Interconnection</b>	Connection between facilities or equipment of a telecommunications carrier with a local exchange carrier's network under Section 251(c)(2).
<b>Interconnection Agreement</b>	An agreement between an ILEC and requesting telecommunications carrier (which may be a CLEC) addressing terms, conditions and prices for interconnection, services or network elements pursuant to Section 251.
<b>Local exchange</b>	A geographic area consisting of one or more central offices. <i>(From Newton's Telecom Dictionary, at page 301.)</i>
<b>Loop</b>	The local loop. The copper wire, fiber, or cable serving a particular customer, generally running from a central office to a residence or building.
<b>Network element</b>	A facility or equipment used in providing telecommunications services.
<b>Non-impaired</b>	A term relating to whether a competing carrier has access to unbundled network elements. Under Section 251(d)(2), an ILEC must provide unbundled access to an element if failure to provide the element would impair the carrier's ability to provide service. Under the TRRO, the FCC determined that competing carriers are not impaired under Section 251(d)(2) without unbundled access to high-capacity elements at a wire center if the wire center meets certain criteria. If a wire center meets the criteria, it is designated <b>non-impaired</b> , meaning competitors are not allowed unbundled access to high-capacity loops and transport in the wire center.

TERM	DESCRIPTION
<b>OCn</b>	OCn is an optical interface designed to work with a Synchronous Optical Network (SONET). OCn transmission facilities are deployed as SONET channels having a bandwidth of typically 155.52 Mbps (megabytes per second)(OC3) or higher. ( <i>TRO, n. 631</i> ).
<b>Residential line</b>	A loop or line connecting a residence; used generally for residential, rather than business, purposes.
<b>Section 251(c)(3)</b>	The section of the Act that requires ILECs to provide competing carriers with access to network elements on an unbundled or individual basis. The unbundled elements provided under this section are known as UNEs.
<b>Switched access</b>	The connection between a customer's phone and a long distance carrier's switch when making a local or long distance call over standard telephone lines. ( <i>From Newton's Telecom Dictionary, at page 756.</i> )
<b>TELRIC</b>	Total Element Long Run Incremental Cost. A method of determining the cost, and prices for network elements using a forward-looking process, rather than the existing network of a carrier. Generally, the pricing methodology for UNEs.
<b>TRO</b>	The FCC's Triennial Review Order. August 2003 order addressing UNEs and the impairment standard for UNEs, vacated in part and remanded in part by the D.C. Circuit Court of Appeals in <i>USTA II v. FCC</i> .
<b>TRRO</b>	The FCC's Triennial Review Remand Order. March 2005 order entered in response to D.C. Circuit's <i>USTA II</i> decision: Eliminates local switching as a UNE as of March 11, 2006, and limits unbundling of high-capacity transport and loops.
<b>Transport</b>	Lines or connections used to transmit voice or data through a carrier's network. Transport media include copper wire, fiber optics, microwave, or satellite. ( <i>From Newton's Telecom Dictionary, at page 815.</i> ) See dedicated transport.
<b>Trunk, Also trunked transport</b>	A communication line between two switching systems. A single trunk, capable of carrying a single conversation, is referred to DS0.
<b>Unbundled</b>	A network element that is provided by itself, not in connection with or "bundled" with another network element. A means for a carrier to request particular services from an ILEC to customize the service the carrier provides, without having to accept a package of elements and services that the carrier must take as an all or nothing option.

TERM	DESCRIPTION
UNE	Unbundled network element. Generally a network element an ILEC must make available under Section 251(c)(3) of the Act.
UNE-P, also UNE-P line	Unbundled Network Element Platform, or a combination of local loops, switching and transport offered by the ILEC.
UNE-loop, or UNE-L	Unbundled network element loop, or a stand-alone loop provided without the combination of switching and transport provided via UNE-P.
Wire center	The location where a telephone company terminates and switches local lines, or loops. A wire center may have one or more class 5 central offices or exchanges. <i>(From Newton's Telecom Dictionary, at page 884.)</i>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 39**

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Investigation into	)	
Qwest Wire Center Data	)	<u>DOCKET NO. 06-049-40</u>
	)	
	)	<u>REPORT AND ORDER</u>
	)	

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ISSUED: September 11, 2006

SYNOPSIS

The Commission determines Qwest Corporation's ("Qwest") use of data from its 2004 ARMIS 43-08 report to develop its initial list of non-impaired wire centers in February 2005 was appropriate. Because Qwest's Salt Lake City South and West wire centers first appeared on Qwest's July 8, 2005, update to its initial wire center list, the Commission concludes the effective date of non-impairment for these wire centers is July 8, 2005. Furthermore, the Commission concludes it is reasonable for Qwest to charge a non-recurring charge to competitive local exchange carriers when those carriers choose to convert their unbundled network element ("UNE") services and facilities to alternative Qwest facilities at non-impaired wire centers. However, the Commission seeks further information from the parties regarding the reasonableness of the respective charges proposed by the parties. Finally, the Commission adopts a process to guide future updates to the Qwest non-impaired wire center list.

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By The Commission:

**I. PROCEDURAL HISTORY**

On February 16, 2006, Covad Communications Company; Eschelon Telecom of Utah, Inc.; Integra Telecom of Utah, Inc.; McLeodUSA Telecommunications Services, Inc.; and XO Communications Services, Inc. (hereinafter jointly referred to as “Joint CLECs”) filed a memorandum seeking Commission order: (1) requiring Qwest Corporation (“Qwest”) to provide the underlying data for its non-impaired wire center list submitted to the Federal Communications Commission (“FCC”) pursuant to the FCC’s Triennial Review Remand Order<sup>1</sup> (“TRRO”), (2) approving an initial list of non-impaired wire centers, and (3) implementing a process for updating and approving future lists.

On March 1, 2006, Qwest filed a Motion for an Order Compelling the Production of CLEC-Specific Wire Center Data (“Qwest Motion”) seeking Commission order directing Qwest to provide certain business line count and fiber collocator data essential to this proceeding in a disaggregated form that would permit parties to match specific data with specific competitive local exchange carriers (“CLECs”). Also on March 1, 2006, Qwest filed a Petition to Open a Commission Investigation and Adjudicatory Proceeding to Verify Qwest Wire Center Data and Resolve Related Issues (“Qwest Petition”) seeking not only a resolution of issues related to Qwest’s wire center data but also Commission confirmation of Qwest’s right to assess a nonrecurring charge at applicable tariffed rates when Qwest converts unbundled network

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<sup>1</sup>*In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket NO. 01-338, WC Docket No. 04-313, 20 FCC Rcd 2533 (rel. Feb. 4, 2005) (“TRRO”).

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element (“UNE”) transport or high-capacity loops to alternative facilities or arrangements. Qwest also requested the Commission issue an appropriate protective order to govern the handling of confidential information in this docket. Attached to this filing were two lists, Qwest’s Wire Center Classification for Dedicated Transport list and a Wire Centers That Satisfy the Nonimpairment Standards for DS1 and DS3 Loops list, identifying, respectively, six Qwest Utah wire centers as Tier 1 facilities for dedicated transport and Qwest’s Salt Lake City Main wire center as unimpaired for DS1 and DS3 loops, as defined in the *TRRO*.

On March 9, 2006, at a duly noticed Procedural Conference, the parties agreed to a procedural schedule for this docket, culminating in hearing convening on June 13, 2006. On March 14, 2006, the Commission issued a Protective Order to facilitate disclosure of, and provide adequate protection for, Confidential and Highly Confidential information in this docket.

On April 19, 2006, the Joint CLECs filed a memorandum requesting extension of the Commission-ordered deadlines for the filing of rebuttal, response, and surrebuttal testimony. On April 20, 2006, the Commission issued an Order Modifying Schedule approving said extensions.

On May 3, 2006, the Joint CLECs filed a Motion to Compel Qwest to Respond to Data Requests (“Motion to Compel Discovery”) seeking Commission order compelling Qwest to respond to data requests for wire center data as of the end of 2004. On May 12, 2006, Qwest filed its Response to the Joint CLECs’ Motion to Compel Qwest to Respond to Data Requests arguing the data requests to which Qwest objected did not seek data that is relevant to the issues in this case or that is reasonably calculated to lead to the discovery of admissible evidence and

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asking the Commission to deny the Joint CLECs' Motion. On May 19, 2006, the Administrative Law Judge issued an Order Granting Motion to Compel Discovery requiring Qwest to respond to the subject Joint CLEC data requests.

On June 8, 2006, the Joint CLECs filed a Motion to Strike Portions of Qwest Surrebuttal Testimony and Exhibits ("Motion to Strike") seeking Commission order striking lines 158 through 177 of the June 5, 2006, Surrebuttal Testimony of David L. Teitzel filed by Qwest, as well as Highly Confidential Exhibit DLT-2 accompanying said testimony. On June 9, 2006, Qwest filed its Response to the Joint CLECs' Motion arguing the Motion to Strike is without merit and should be denied. On June 9, 2006, the Administrative Law Judge issued an Order Denying Motion to Strike.

Also on June 9, 2006, the Division of Public Utilities ("Division") filed an Issues List for Docket No. 06-049-40 listing the parties' respective positions on four issues, including eighteen sub-issues, for Commission resolution in this docket.

Hearing convened as scheduled on June 13-14, 2006, before the Administrative Law Judge. The Joint CLECs were represented by Gregory J. Kopta of Davis, Wright, Tremaine, LLP and William A. Haas, McLeod Vice President and Deputy General Counsel. Tami Spocogee, McLeod's Director of Network Cost and Access Billing; Sidney L. Morrison, Senior Consultant and Chief Engineer for QSI Consulting, Inc. ("QSI"); and Michael Starkey, President of QSI testified on behalf of McLeod. Qwest was represented by Gregory B. Monson of Stoel Rives; and Alex M. Duarte, in-house counsel for Qwest. William R. Easton, Qwest's Director-Wholesale Advocacy; Robert J. Hubbard, a Director of Technical Support in Qwest's

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Network Public Policy Organization; and Curtis Ashton, Senior Staff Technical Support Power Maintenance Engineer in Qwest's Technical Support Group, Local Network Organization, testified on behalf of Qwest.<sup>2</sup>

At the conclusion of the hearing, the Administrative Law Judge ordered Qwest to provide additional information to the Joint CLECs that Qwest claimed to have used in evaluating the Provo and Ogden wire centers but had not been previously provided or offered into evidence. The Administrative Law Judge instructed parties that said information would be marked as Joint Hearing Exhibit 2 and, subject to objection, entered into evidence for consideration by the Commission. On June 16, 2006, Qwest provided this information and filed it with the Commission as Highly Confidential Joint Exhibit 2. No party having objected to this exhibit, the Commission hereby admits the same into evidence.

In addition, in response to additional rebuttal testimony provided by Qwest witness Rachel Torrence at hearing, as well as the post-hearing evidence to be provided by Qwest, the Joint CLECs requested their witness Douglas Denney have the opportunity to provide post-hearing supplemental surrebuttal testimony. The Administrative Law Judge granted this request, stating said testimony would be marked and admitted into evidence, subject to objection. On June 26, 2006, the Joint CLECs filed said testimony styled the Supplemental Surrebuttal Testimony of Douglas Denney. No objection having been raised, said testimony is hereby

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<sup>2</sup>Portions of the hearing discussing Confidential and Highly Confidential information were closed to members of the public who had not previously signed the appropriate Protective Order exhibits. Portions of the transcript relating to closed hearing sessions have been sealed and stored separately. This Order may generally refer to Confidential and Highly Confidential information contained in witness testimony and exhibits, but does not disclose such information. The Commission has issued no separate Confidential or Highly Confidential order in this matter.

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admitted into evidence as Exhibit Eschelon 1SSR for consideration by the Commission.

On July 14, 2006, the parties filed post-hearing briefs. Qwest and the Joint CLECs filed reply briefs on July 28, 2006.

## **II. BACKGROUND, DISCUSSION, FINDINGS, AND CONCLUSIONS**

### **A. The *TRRO* and Applicable Regulatory Provisions**

The FCC undertook the process leading to release of the *TRRO* in response to the decision of the D.C. Circuit Court of Appeals in *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (2004) (“*USTA II*”), vacating and remanding the FCC’s findings of nationwide impairment for mass market switching and dedicated transport in the Triennial Review Order (“*TRO*”).<sup>3</sup> The *TRRO* clarifies the obligations of incumbent local exchange carriers (“ILECs”) to provide unbundled access to dedicated interoffice transport and high-capacity loops, as well as clarifying the FCC’s “impairment” standard.

The *TRRO* establishes route-by-route unbundling requirements for dedicated interoffice transport depending on the number of “business lines” and “fiber-based collocators” in particular wire centers. The relevant *TRRO* language regarding business lines is as follows:

[B]usiness line counts are an objective set of data that incumbent LECs already have created for other regulatory purposes. The [Bell Operating Company or “BOC”] wire center data that we analyze in this Order is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops. We adopt this definition of business lines because it fairly represents the business opportunities in a wire

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<sup>3</sup>*Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions for the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16978, 17145 (2003).

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center, including business opportunities already being captured by competing carriers through the use of UNEs. Although it may provide a more complete picture to measure the number of business lines served by competing carriers entirely over competitive loop facilities in particular wire centers, such information is extremely difficult to obtain and verify. Conversely, by basing our definition in an ARMIS filing required of incumbent LECs, and adding UNE figures, which must also be reported, we can be confident in the accuracy of the thresholds, and a simplified ability to obtain the necessary information.<sup>4</sup>

At *TRRO* paragraph 108, the FCC addresses the strengths and efficacy of this approach as follows:

we adopt a proxy approach that, unlike the *Triennial Review Order* triggers, relies on objective criteria to which the incumbent LECs have full access, is readily confirmable by competitors, and makes appropriate inferences regarding potential deployment. This approach will significantly reduce the burdens of implementing the standard in comparison with the extensive and litigious proceedings that followed the issuance of the *Triennial Review Order*.

The FCC's *TRRO* implementation rule, 47 C.F.R. § 51.5 ("Rule 51.5"), further defines a business line as

an incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies:

- (1) shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services,
- (2) shall not include non-switched special access lines,

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<sup>4</sup>*TRRO*, ¶ 105.

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(3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 “business lines.”

The FCC defines fiber-based collocation in the *TRRO* as “a competitive carrier collocation arrangement, with active power supply, that has a non-incumbent LEC fiber-optic cable that both terminates at the collocation facility and leaves the wire center.”<sup>5</sup>

The *TRRO* creates a three-tiered classification system for all ILEC wire centers “based on indicia of the potential revenues and suitability for competitive transport deployment.”<sup>6</sup> Tier 1 wire centers are those with the highest likelihood for actual and potential competitive deployment, including wholesale opportunities. To qualify for Tier 1 status, a wire center must contain four or more fiber-based collocations or 38,000 or more business lines.<sup>7</sup> Tier 2 wire centers, those with three or more fiber-based collocations or with 24,000 or more business lines, also show a very significant but lesser likelihood of actual and potential competitive

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<sup>5</sup>*TRRO*, ¶ 102. Rule 51.5 provides the following definition:

A fiber-based collocator is any carrier unaffiliated with the incumbent LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph.

<sup>6</sup>*TRRO*, ¶ 111.

<sup>7</sup>*Id.*, ¶ 112.

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deployment.<sup>8</sup> Finally, Tier 3 wire centers are those that do not qualify for Tier 1 or Tier 2 status<sup>9</sup> and generally exhibit a low likelihood of supporting actual or potential competitive transport deployment.<sup>10</sup>

The FCC determined competing carriers are impaired without access to DS1-capacity transport on all routes except those connecting two Tier 1 wire centers. Thus, ILECs are obligated to provide unbundled DS1 transport that originates or terminates in any Tier 2 or Tier 3 wire center, but are not obligated to provide unbundled DS1 transport on routes connecting two Tier 1 wire centers.<sup>11</sup> With respect to DS3 interoffice transport, the FCC concluded requesting carriers are not impaired without access to unbundled DS3 transport on routes connecting wire centers where both of the wire centers are either Tier 1 or Tier 2 wire centers. Thus, ILECs are obligated to provide unbundled DS3 transport that originates or terminates in any Tier 3 wire center, but are not obligated to provide unbundled DS3 transport on routes connecting any combination of Tier 1 and Tier 2 wire centers.<sup>12</sup> The FCC's impairment determinations regarding dark fiber mirror those for DS3 transport.<sup>13</sup>

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<sup>8</sup>*Id.*, ¶ 118.

<sup>9</sup>*Id.*, ¶ 123.

<sup>10</sup>*Id.*

<sup>11</sup>*Id.*, ¶ 126.

<sup>12</sup>*Id.*, ¶ 129.

<sup>13</sup>*Id.*, ¶ 133. "Dark fiber" is fiber optic cable that has been deployed by a carrier but has not yet been activated through connections to optronics that "light" it, and thereby render it capable of carrying communications. *Id.* (citations omitted).



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Turning to high-capacity loops, the FCC determined there is no impairment in any location within the service area of a wire center that contains 60,000 or more business lines and four or more fiber-based collocators. Therefore, ILECs are not required to provide unbundled DS1 loops in these wire centers. Similarly, ILECs are not obligated to provide unbundled DS3 loops in wire centers containing 38,000 or more business lines and four or more fiber-based collocators. Finally, the FCC determined there is no impairment for dark fiber loops so ILECs are no longer obligated to provide unbundled dark fiber loops.<sup>14</sup>

Recognizing that the *TRRO* removed from ILECs significant dedicated transport and high-capacity loop unbundling obligations, the FCC established a 12-month deadline, from the effective date of the *TRRO*, for CLECs to transition to alternate DS1 and DS3 dedicated transport and high-capacity loops. The FCC set an 18-month transition for dark fiber transport and loops.<sup>15</sup> The FCC ordered that during the transition period any unbundled dedicated transport and high-capacity loops that a CLEC leases as of the effective date of the *TRRO*, but for which the FCC determines that no Section 251(c) unbundling requirement exists, shall be available for lease from the ILEC at a rate equal to the higher of 115% of the rate the CLEC paid for the UNE on June 15, 2004, or 115% of the rate the state commission has established, or establishes, if any, between June 16, 2004, and the effective date of the *TRRO*, for that UNE.<sup>16</sup>

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<sup>14</sup>*Id.*, ¶ 146. *See also* 47 C.F.R. § 51.391(a).

<sup>15</sup>*Id.*, ¶¶ 142, 195.

<sup>16</sup>*Id.*, ¶¶ 145, 198.

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Regarding implementation procedures and future CLEC orders for UNEs, the

FCC stated the following:

We recognize that our rules governing access to dedicated transport and high-capacity loops evaluate impairment based upon objective and readily obtainable facts, such as the number of business lines or the number of facilities-based competitors in a particular market. We therefore hold that to submit an order to obtain a high-capacity loop or transport UNE, a requesting carrier must undertake a reasonably diligent inquiry and, based on that inquiry, self-certify that, to the best of its knowledge, its request is consistent with the requirements [of the *TRRO*] and that it is therefore entitled to unbundled access to the particular network elements sought pursuant to section 251(c)(3). Upon receiving a request for access to a dedicated transport or high-capacity loop UNE that indicates that the UNE meets the relevant factual criteria discussed in [the *TRRO*], the incumbent LEC must immediately process the request. To the extent that an incumbent LEC seeks to challenge any such UNEs, it subsequently can raise that issue through the dispute resolution procedures provided for in its interconnection agreements. In other words, the incumbent LEC must provision the UNE and subsequently bring any dispute regarding access to that UNE before a state commission or other appropriate authority.<sup>17</sup>

Concurrent with release of the *TRRO*, the FCC's Wireline Competition Bureau requested Qwest use the unbundling standards and impairment standards outlined above to produce and file a list of "non-impaired" wire centers, listing by Common Language Location Identifier ("CLLI") those Qwest wire centers that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport, as well as those that satisfy the non-impairment thresholds for DS1 and DS3 loops.

In February 2005, Qwest filed its initial list of wire centers developed using the December 2003 ARMIS 43-08 data then on file with the FCC. On July 8, 2005, having

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<sup>17</sup>*Id.*, ¶ 234 (citations omitted).

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conducted a more thorough count of fiber-based collocators than that originally conducted in February 2005, Qwest revised this list, resulting in a change of tier designation for the Salt Lake City South wire center from Tier 3 to Tier 1, the Salt Lake City West wire center from Tier 2 to Tier 1, and the Midvale wire center from Tier 2 to Tier 3. Qwest therefore claims six Utah wire centers (Murray, Ogden Main, Provo, Salt Lake City Main, Salt Lake City South, and Salt Lake City West) satisfy the FCC's Tier 1 criteria while its Salt Lake City Main center is non-impaired with respect to Qwest's obligation to provide unbundled DS1 and DS3 loops.

All parties agree it is important to get non-impairment classifications right because the FCC's rules mandate that even if the number of business lines in a particular non-impaired wire center declines below the non-impairment thresholds for DS1 or DS3 loops, the non-impairment designation for that wire center remains unchanged.<sup>18</sup> In other words, once a wire center is approved for the non-impairment list, it will not thereafter be removed from that list due to a reduction in its business line or fiber-based collocator count.

**B. Issues Remaining for Commission Resolution**

The Joint CLECs, having reviewed Qwest's data and testimony filed in this matter, now agree with Qwest's Tier 1 designation for each of the six listed wire centers. The only remaining dispute regarding Tier 1 designation concerns the effective date for the Salt Lake City West and Salt Lake City South reclassifications. Qwest believes Tier 1 designations for all

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<sup>18</sup>The parties apparently base this view on 47 C.F.R. § 51.319(e)(3)(i) which states "Once a wire center is determined to be a Tier 1 wire center, that wire center is not subject to later reclassification as a Tier 2 or Tier 3 wire center." Subsection (ii) of this rule likewise indicates that once a wire center is classified as Tier 2 it is not subject to later reclassification to Tier 3. While acknowledging the parties' agreement as to the effect of these provisions on non-impairment classifications, the Commission does not herein enter any conclusions regarding these provisions.

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six wire centers are effective as of March 11, 2005, while the Joint CLECs, and the Division, assert Salt Lake City West and Salt Lake City South should be treated as Tier 2 and Tier 3 wire centers, respectively, from March 11 through July 7, 2005, and Tier 1 effective July 8, 2005, based on the date Qwest filed its revised non-impaired list with the FCC.

In addition, the Joint CLECs dispute Qwest's use of 2004 ARMIS 43-08 report data to develop its initial wire center list in February 2005. The Joint CLECs and the Division also challenge Qwest's classification of the Salt Lake City Main wire center as non-impaired with respect to DS1 loops.

In all, the parties agree six issues remain for Commission resolution: (1) the proper vintage of ARMIS data used to develop Qwest's initial non-impairment list; (2) the appropriate method of counting business lines; (3) the effective date of the Tier 1 designation for the Salt Lake City West and Salt Lake City South wire centers; (4) the process for future Qwest updates to its non-impairment list; (5) non-recurring charges to convert UNEs; and (6) rejection of UNE orders. Development of a process to govern future updates itself raises several sub-issues, each of which we address below.

**1. The Appropriate Vintage of Data Used**

In developing wire center-specific counts of Qwest retail switched business lines in service in February 2005, Qwest used December 2003 ARMIS 43-08 data that was the most current ARMIS data then on file with the FCC. Qwest argues this is the appropriate data to be used in business line count calculations because the FCC intended Regional Bell Operating Companies ("RBOCs") like Qwest to utilize access line data that was finalized and readily

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available as of February 4, 2005, when the FCC directed the RBOCs to submit their lists of non-impaired wire centers. Qwest files its access line data with the FCC in April of each year so its calendar year 2004 ARMIS 43-08 report was not filed with the FCC until nearly two months after the FCC directed RBOCs to file their lists of non-impaired wire centers. Qwest argues the fact that time has intervened between Qwest's initial wire center non-impairment filing in February 2005 and proceedings in the current docket does not mean the December 2003 data is not the appropriate basis for Qwest's initial list.

Qwest also notes the FCC rules do not require that fiber-based collocation data and business line data be of the same vintage in determining wire center non-impairment.<sup>19</sup> In addition, Qwest points out only two of at least nine state commissions that have dealt with this issue have ordered the use of business line data other than December 2003 data. Furthermore, in Washington, the only state in the Qwest region which has addressed this issue to date, the Administrative Law Judge issued an order finding Qwest's use of the December 2003 data to be in full compliance with the *TRRO*.

The Joint CLECs counter that the *TRRO* became effective March 11, 2005, and determinations made pursuant to the *TRRO* should be based on data most close in time to its effective date. Since the RBOCs make their ARMIS filings on April 1 for the preceding calendar year, Qwest should be required to use the December 31, 2004, data it filed with the FCC in April 2005, a mere three weeks after the effective date of the *TRRO*, rather than the December 31, 2003, data that was already more than a year old when Qwest prepared its initial

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<sup>19</sup>The Joint CLECs do not dispute this point.

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list. According to the Joint CLECs, the FCC plainly intended wire center designations be based on the most current data available, noting the *TRRO* expressly contemplates future non-impairment designations but that such designations would be meaningless if only 2003 data could be considered.

The Joint CLECs also point out Qwest used fiber-based collocater data from March 2005 in developing its initial non-impairment list even though such data was created almost a month after the Wireline Competition Bureau's letter requesting the filing of a non-impairment list. In support of their position, the Joint CLECs cite the decision of the Michigan Public Service Commission requiring an RBOC to use data that is as close as possible to the time at which the RBOC listed the wire center as non-impaired, even if that data had not yet been filed with the FCC. The Michigan commission based its decision on its conclusion that the FCC requires RBOCs to use the data gathered for ARMIS reporting, but does not require them to use the actual figures provided in the ARMIS report.

The Division does not take a firm position on this issue, believing the particular vintage of the data used does not have a significant impact on the classification of the wire centers at issue.

Having considered the parties' arguments, we conclude it is appropriate for Qwest to have used the December 2003 data contained in its 2004 ARMIS 43-08 report to compile its initial wire center non-impairment list. The Wireline Competition Bureau requested this list in early February 2005 and Qwest provided the list to the FCC in March 2005. Qwest's 2005 ARMIS 43-08 report was not filed with the FCC until April 2005. We note the FCC decided to

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require ILECs to base their business line counts on ARMIS information because that information has “already [been] created for other regulatory purposes”<sup>20</sup> and is “readily confirmable by competitors.”<sup>21</sup> Based on this guidance, it is reasonable that Qwest used its 2004 ARMIS 43-08 data to create its initial non-impairment list, and we see no reason to require Qwest to change that list simply because newer data has become available over the past eighteen months. We therefore deny the Joint CLECs’ request that we require Qwest to use data from its 2005 ARMIS 43-08 report as the basis for its initial wire center non-impairment list.<sup>22</sup>

**2. The Appropriate Method of Counting Business Lines**<sup>23</sup>

As provided above, the FCC intended that business line counts be “based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops.” Qwest therefore used its December 2003 ARMIS 43-08 data as a starting point in calculating the number of business lines at each wire center. However, pointing to the apparent mandate of Rule 51.5(3), Qwest multiplied its high-capacity digital business line count by the appropriate voice-grade equivalent (“VGE”) factor for each line to arrive at a total business line count for non-impairment

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<sup>20</sup>*TRRO*, ¶ 105.

<sup>21</sup>*Id.*, ¶ 108.

<sup>22</sup>As noted by the Division, it appears, especially in light of our decision below regarding the appropriate method of counting business lines, the particular vintage of the data used to produce Qwest’s initial non-impairment list has little or no impact on the substance of that list. Finally, we note parties are in agreement that future updates to Qwest’s non-impairment list will be based on the most current data available; indeed, updates based on new business line counts will be filed, if at all, only after the filing of Qwest’s annual ARMIS 43-08 report, ensuring only the most current available business line count information will be used as a basis for such updates.

<sup>23</sup>The parties agree that, under Qwest’s proposed counting method, the Salt Lake City Main wire center exceeds the FCC’s 60,000 business line threshold for DS1 non-impairment, but, calculated using the Joint CLECs’ and Division’s proposals, the number of business lines at this wire center falls short of this threshold such that the Salt Lake Main wire center would be classified as non-impaired for DS3 loops but not for DS1 loops.

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purposes.<sup>24</sup> Qwest argues the FCC's intended use of ARMIS data implicitly includes some adjustment of that data since ARMIS data must be disaggregated from the state-wide level in which it is reported to the wire center level necessary to produce a wire center non-impairment list. In making this adjustment to both retail and wholesale loops, Qwest notes the FCC's rule does not say that only those 64 kbps-equivalents that are actually "in use" or "in service" should be counted, or that adding the full capacity of these digital lines is limited to only wholesale UNE loops.<sup>25</sup>

Because Qwest's wholesale UNE-P tracking systems could not distinguish between the residential and business UNE-P lines included in the December 2003 data, Qwest determined the number of business UNE-P lines at each wire center by subtracting the number of directory listings associated with residential UNE-P access lines listed in its white pages directory from the total number of UNE-P lines in service in the relevant wire center. Qwest notes it previously used a similar procedure in the Commission's Section 271 process and so it believes this procedure provides a reasonable proxy for the actual number of UNE-P lines. Finally, Qwest used the same approach for high-capacity UNE-P circuits as it used for high-capacity retail and UNE loop circuits, that is, multiplying the quantity of UNE-P circuits by a "VGE-equivalence" factor of 24 to reflect the number of 64kpbs channels associated with its UNE-P DS1 lines.

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<sup>24</sup>For example, because there are 24 VGE channels in each DS1 circuit, Qwest multiplied the number of DS1 unbundled loops in Qwest's December 2003 wholesale database by 24.

<sup>25</sup>Qwest notes commissions in Washington, California, Texas, Florida, Georgia, and South Carolina have permitted ILECs to count the full capacity of CLEC (i.e., wholesale) high-capacity lines while three of these commissions have also permitted adjustments for the full capacity of ILEC (i.e., retail) digital facilities.



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To its VGE-adjusted ARMIS data and business UNE-P count, Qwest added the number of all UNE loops in a wire center to calculate its final business line count for that wire center. Qwest did not attempt to remove from this count UNE loops that may be used to serve residential customers or to provide “non-switched” services. Qwest argues the clear language of the *TRRO* and associated rules mandating the counting of all UNE loops does not distinguish between business and residential UNE loops.

In contrast, the Joint CLECs argue business line calculations should only include the business lines that Qwest actually has in service, noting paragraph 105 of the *TRRO* speaks to business line counts including the ILEC’s “ARMIS 43-08 business lines” without any reference to increasing those numbers to account for spare capacity. The Joint CLECs believe Qwest’s reliance on the VGE adjustment outlined in Rule 51.5(3) is misplaced, pointing out the first line of this rule defines a business line as a line “used to serve a business customer.” According to the Joint CLECs, this definition excludes the spare capacity on a digital circuit that Qwest has deployed to provide service to a business customer since that capacity is not being used to serve that customer. Furthermore, this rule includes in the number of business lines “all incumbent LEC business switched access lines”, a number reported to the FCC in Qwest’s ARMIS 43-08 report without any adjustment to account for spare capacity. The Joint CLECs do not dispute that Qwest must disaggregate its state-wide ARMIS data to the individual wire center level, but they do not agree this basic activity opens the door to Qwest otherwise manipulating the ARMIS data using non-ARMIS records. The Joint CLECs also note the North Carolina commission recently reached the same conclusion, as did the ALJ in Washington. In

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addition, the Joint CLECs point out that AT&T (formerly SBC) and Verizon do not make any adjustment to their ARMIS 43-08 business line counts in calculating the number of business lines at a particular wire center..

Should the Commission agree with the Joint CLECs and disallow Qwest's proposed VGE adjustments, Qwest proposes an alternative modification to its ARMIS 43-08 business line counts whereby it would increase those line counts to account for lines that are served out of the Salt Lake City Main wire center but are terminated in the service area of a different wire center. The Joint CLECs argue such an adjustment continues to miss the point that the FCC did not intend Qwest to make any adjustments to its ARMIS 43-08 business line counts for any reason. The Joint CLECs also point out that Qwest offered no evidence to support this alternate counting method.

While repeating their position that no adjustment to ARMIS 43-08 data should be permitted, the Joint CLECs offer their own alternative adjustments to be used if the Commission agrees with Qwest's augmentation of its ARMIS 43-08 business lines. Noting that Rule 51-5 defines business lines in terms of "switched" access lines serving "business" customers, the Joint CLECs testified Qwest's UNE loop count currently includes residential and non-switched lines and argue Qwest should be required to remove these lines in order to comply with the explicit terms of the rule. Qwest disagrees, arguing *TRRO* paragraph 105 prohibits any adjustment to UNE loop counts and notes the majority of state commissions that have dealt with this issue have disallowed such adjustments. The Joint CLECs conclude by testifying that under either of their

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proposed counting methods, the Salt Lake City Main wire center does not serve 60,000 or more business lines and therefore is not properly classified as non-impaired for DS1 loops.

The Division begins its analysis by pointing out that *Utah Code Ann.* § 54-8b-1.1 encourages the development of competition as a means of providing wider customer choice, allows flexible and reduced regulation as competition develops, and encourages competition by facilitating the sale of essential telecommunications facilities and services on a reasonably unbundled basis. The Division believes the method adopted by the vast majority of states that have addressed this issue to date is the position most consistent with the *TRRO* and the Utah policy objectives noted above. Therefore, the Division argues Qwest's ARMIS data should not be adjusted to reflect the full capacity of Qwest's DS1 and DS3 circuits, but should instead reflect the actual circuits in use. However, CLECs' DS1 and DS3 line counts should be adjusted to represent those circuits' full capacity. The Division draws this distinction between wholesale and retail lines because Qwest knows precisely the number of retail 64 kbps channels in use at one of its wire centers while it does not know the number of channels actually being used by the CLECs.<sup>26</sup> In addition, all UNE loops, whether residential or business, switched or non-switched, should be added to the ARMIS business line data.

The Division believes this method is consistent with the FCC's desire that the non-impairment analysis be easily understood and based on readily available information. In the Division's view, neither Qwest's nor the Joint CLECs' proposed method satisfies these

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<sup>26</sup>Qwest does not agree with this approach, arguing the Rule 51.5 definition of a "business line" explicitly applies to both wholesale and retail services. Qwest also points out the Division testified the FCC's rule does not state that it applies only to wholesale lines.

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objectives. Qwest's proposal to count the full capacity of its retail DS1 and DS3 circuits rather than the known number of retail lines actually in use moves its process farther away from that envisioned by the FCC and opens the counting process to the potential for manipulation. However, accounting for the full capacity of the CLECs' DS1 and DS3 lines provides a transparent and reasonable measure of the competitive capacity available in a wire center since Qwest has no ability to readily determine the extent to which these lines are actually being used. Conducting this VGE adjustment for wholesale lines also satisfies the mandate of Rule 51.5(3) insofar as the actual number of wholesale lines in use can not be determined. Likewise, since Qwest has no way of determining whether a UNE is being used for residential or business purposes, it is reasonable that Qwest use the total number of UNE loops in its business line calculations.

In deciding this matter, we look first to the *TRRO* and then attempt to read the FCC's rules consistently with the FCC's guidance in the *TRRO*. All parties agree the basic intent of paragraph 105 of the *TRRO* is to provide an easily understood process for calculating business lines based on readily available information. We concur and conclude the Division's proposed method of determining the number of business lines at a given wire center best satisfies the FCC's intent by providing an easily calculated, reasonable representation of competition within that wire center. Using ARMIS 43-08 data, including Qwest's known retail DS1 and DS3 line counts, as a starting point for business line calculations provides "an objective set of data that incumbent LECs already have created." Likewise, adjusting wholesale DS1 and DS3 numbers to account for their total VGE capacity and counting all UNE loops accords with the

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FCC's view that the number of business lines fairly represents the business opportunities available in a given wire center.

We therefore adopt the Division's business line counting method as set forth above and, based upon this method and the evidence of record, find Qwest's Salt Lake City Main wire center does not meet the *TRRO*'s 60,000 business line threshold and does not qualify for non-impairment status with respect to DS1 loops.<sup>27</sup> Given the evidence before us and the stated agreement of the parties, we further find and conclude that the Salt Lake City Main wire center is non-impaired with respect to DS3 loops and that the six Qwest wire centers listed above are properly classified as Tier 1 facilities meeting the FCC's non-impairment criteria for interoffice transport.

**3. Effective Date of Salt Lake City West and South Tier 1 Designation**

While the parties agree concerning the Tier 1 status of these wire centers, they do not agree on the effective date of Tier 1 status for the Salt Lake City West and Salt Lake City South wire centers. Qwest believes the effective date for all such designations on its initial list to the FCC should be March 11, 2005, the *TRRO* effective date. The Joint CLECs, on the other hand, argue that because Qwest first listed these two wire centers as Tier 1 facilities in its July 8, 2005, update to the FCC, the effective date of non-impairment for these two wire centers should be July 8, 2005, rather than March 11, 2005.

Qwest argues the Joint CLECs' position ignores the fact that the fiber-based collocations for these two wire centers were all operational as of the March 11, 2005, *TRRO*

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<sup>27</sup>We note this decision does not preclude Qwest's reclassification of the Salt Lake City Main wire center as non-impaired in future lists prepared in accordance with the update process set forth below.

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effective date, and that the FCC did not require that ILECs provide notice to CLECs or production of the non-impaired wire center list by this date. Qwest argues, given the short time period involved, it is reasonable that the notice of such non-impairment could follow at a later date, especially since RBOCs like Qwest were conducting thorough but cautious investigations to identify fiber-based collocators in their wire centers.

The Joint CLECs note that regardless of whether these two wire centers satisfied the Tier 1 criteria on March 11, 2005, Qwest did not notify CLECs, the FCC, or the Commission of this fact until almost four months later. The Joint CLECs point out that nowhere in the *TRRO* does the FCC establish any “grace period” for ILECs to update their initial non-impairment classifications after the *TRRO* effective date. According to the Joint CLECs, Qwest seeks to deprive CLECs of the full 12- and 18-month transition periods established by the FCC and to impose higher rates for DS1 and DS3 transport UNEs for the four months during which the CLECs had no notice of any rate increase. The Joint CLECs argue that, taken to its logical conclusion, Qwest’s position would enable it to decide today that, based on data that existed on March 11, 2005, one of its wire centers should be reclassified effective March 11, 2005, such that CLECs would be obligated to pay higher rates for affected UNEs in that wire center for the past seventeen months.

The Division supports the Joint CLECs’ position on this issue. We concur and conclude the effective date of non-impairment for the Salt Lake City West and Salt Lake City South wire centers is July 8, 2005. Qwest’s updated non-impairment list changing the status of these two wire centers from Tier 2 to Tier 1 was not filed until July 8, 2005. This is the date on

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which CLECs were effectively given notice that Qwest believed these two wire centers qualified for Tier 1 status. It makes no difference that Qwest now claims these wire centers actually qualified for Tier 1 status on March 11, 2005. The simple fact is on March 11, 2005, Qwest listed these wire centers as Tier 2 facilities, a designation that Qwest did not change until July 8, 2005. Our decision announced herein properly ensures that Qwest's charges for DS1 and DS3 transport and loops will be based on Qwest's non-impairment list as filed, not on Qwest's view of how that list might have been filed.

**4. The Wire Center Non-Impairment List Update Process**

Qwest and the Joint CLECs agree there should be a single, unified process going forward that includes Commission review and approval when CLECs contest Qwest's non-impairment designation of a wire center.<sup>28</sup> The Joint CLECs and Qwest also agree that a 30-day review period will provide the Joint CLECs sufficient time to review and object to, if appropriate, future updates to the Qwest non-impairment list.<sup>29</sup> However, the Joint CLECs and the Division seek to impose certain other filing requirements that Qwest challenges as unreasonable. The parties also disagree concerning the effective date of any reclassification of wire centers.

**a. Additional Threshold Reporting by Qwest**

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<sup>28</sup>Qwest has testified that, when appropriate, Qwest intends to update the list of non-impaired wire centers using the same counting methods Qwest has used in this proceeding, or whatever alternate method is approved by the Commission in this proceeding.

<sup>29</sup>The Joint CLECs note that to make this 30-day review period workable Qwest must include with its initial filing for Commission approval of a new wire center classification "full" documentation similar to that produced via discovery and pre-filed testimony in this proceeding. Qwest has generally committed to providing such information with future filings of non-impairment list updates.

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The Joint CLECs and the Division propose that Qwest be required to notify the Commission and interested parties when a particular wire center is within 5,000 lines of satisfying the business line counts specified in the *TRRO* or when the number of fiber-based collocators is within one fiber-based collocator of meeting a particular FCC threshold.<sup>30</sup> The Joint CLECs note that such notice will enable CLECs to better prepare to find alternatives to UNEs in order to continue to serve existing customers and obtain new customers

Qwest opposes such notice, arguing the Commission should not impose an additional reporting threshold not required by the *TRRO* that would simply add to Qwest's administrative burden. Qwest notes it does not have a process in place to provide such notice. Qwest also testified the "advance notice" thresholds proposed by the Joint CLECs are not meaningful because a wire center's coming within 5,000 business lines or one fiber-based collocator of the FCC's thresholds does not mean that a change in the impairment classification of that wire center is imminent. Qwest notes that it can only propose updates to its non-impairment list based on ARMIS business line counts once per year since it files its ARMIS 43-08 report only once per year. Therefore, if the number of business lines in a wire center increases to within 5,000 of a non-impairment threshold in, for example, June, but subsequently declines by December to a number below the 5,000 threshold, advance notice like that proposed by the Joint CLECs could actually cause CLECs to take costly action to prepare for a wire center non-impairment reclassification that will not occur. Qwest also testified that such advance

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<sup>30</sup>For example, a wire is eligible for Tier 2 status if it serves 24,000 or more business lines or contains three or more fiber-based collocators. As proposed by the Joint CLECs, Qwest would be required to notify the Commission when a wire center reaches 19,000 business lines or two fiber-based collocators.



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notification could allow CLECs to “game” the system by changing their business plans so that the wire center would be unlikely to meet the FCC threshold. Finally, Qwest points out that no state commission has imposed such an advance threshold reporting requirement.

In response, the Joint CLECs argue the *TRRO* does not preclude the Commission from establishing an additional reporting requirement. The Joint CLECs also dismiss Qwest’s assertion that such a requirement might enable CLECs to adjust their UNE ordering to keep a wire center from reaching the threshold. To do so, the CLECs argue, they would either have to deny service to new customers, order special access circuits from Qwest at a much higher rate, or build their own facilities or obtain them from another carrier. The Joint CLECs find no merit in Qwest’s argument that additional reporting would be an administrative burden. Likewise, when Qwest reviews the number of fiber-based collocators in its wire centers to determine for its own purposes whether the impairment status has changed, there would be no significant additional burden created by requiring Qwest to inform the Commission if any of those wire centers is approaching a relevant threshold.

The Division notes listing a wire center as non-impaired can have significant business impacts on CLECs. The Division believes all efforts should be made to assist CLECs in the transition from UNEs in order to maintain competition at a wire center once it has been determined to be non-impaired. For these reasons, the Division supports the 5,000 line threshold reporting proposed by the Joint CLECs. The Division notes no other state commission has yet addressed this issue and that the Commission should not be reluctant to add to the FCC’s process when it sees a need and is not otherwise prohibited from doing so.

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On this issue we agree with Qwest. The *TRRO* provides for no additional threshold reporting or notification and the Joint CLECs have failed to provide sufficient evidence to convince us that such a process is reasonable, necessary, or would enhance competition. The wire center non-impairment list updating process announced herein provides sufficient notice and transition protection to CLECs. We therefore decline to order the additional threshold notification requested by the Joint CLECs.

**b. Prior Notice of Future Wire Center Classifications**

The Joint CLECs propose Qwest provide notice to affected CLECs five days prior to making an initial filing with the Commission for approval of an updated wire center non-impairment list. Such notice would alert CLECs that Qwest will be providing confidential data on the number of UNEs those CLECs have in a given wire center so that they have the opportunity to object to disclosure of such data. The Joint CLECs testified such notice would be fully consistent with Qwest's prior practice regarding requests for CLEC-specific data, as well as its obligations under interconnection agreements to provide notice prior to disclosure of CLEC confidential information.

Qwest argues the Joint CLECs' concern about disclosure of confidential information is misplaced, rendering unnecessary the five days notice they seek. Qwest testified it intends to protect any confidential information just as it has in this proceeding via a standing non-disclosure agreement or protective order to protect sensitive CLEC-specific data. Qwest believes the Joint CLECs have not adequately explained why they need the additional time they

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seek and points out the Joint CLECs have not cited any “prior notice” requirement in the *TRRO* or any other state commission order.

However, the Joint CLECs argue Qwest misses the point, noting the Commission has issued no such standing order and, even if it did, a CLEC may nonetheless have an objection to disclosure for purposes other than administration of its interconnection agreement with Qwest. Accordingly, Qwest should be required to give CLECs on whose proprietary network information Qwest intends to rely the opportunity to object to disclosure before disclosure occurs.

The Division supports the Joint CLECs’ proposal.

We agree some form of advance notice would facilitate parties’ handling of confidential information and should expedite the wire center non-impairment list approval process. It would also expedite proceedings seeking approval of the proposed non-impairment list. At hearings, parties generally agreed that future proceedings would require a protective order. Likewise, Qwest has promised to adequately protect confidential information in future proceedings, perhaps on the basis of a standing protective order issued by the Commission. While we decline to issue such a standing order, we conclude an advance filing by Qwest requesting issuance of a protective order in anticipation of filing an updated wire center non-impairment list with supporting data will facilitate expedited processing of the updated list.<sup>31</sup> In order to provide all interested parties adequate notice of the scope of the requested protective

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<sup>31</sup>We note this procedure is largely identical to that followed in the instant docket wherein Qwest sought Commission approval of its non-impairment list and issuance of a protective order prior to Qwest’s production of the CLEC-specific data used as the basis of its non-impairment list.

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order, as well as the anticipated wire center update proceedings, the request for protective order should specify those wire centers to be proposed for re-classification. The five-day period proposed by the Joint CLECs and supported by the Division would provide the Commission sufficient time to issue said protective order prior to Qwest's filing of the updated list and would also provide CLECs and the Division ample notice that the 30-day review clock for a proposed wire center re-classification is about to begin ticking. Therefore, we will require Qwest to file a request for protective order at least five days prior to its filing for approval of an updated wire center non-impairment list. Said request shall identify those wire centers that Qwest seeks to reclassify as non-impaired.

**c. Effective Date of Future Qwest Updates**

Qwest proposes the designation of new non-impaired wire centers be effective thirty days following the initial notification to CLECs that the impairment status for that wire center has changed. Qwest would file the updated non-impairment list with the Commission and notify all CLECs via its Change Management Process notification system. Qwest would provide to CLECs the same kind of supporting data that it used to support its initial list of non-impaired wire centers.<sup>32</sup> CLECs would then have 30 days to raise objections to the Commission. If no objections were raised, the wire center list would be deemed approved through operation of law. In the event a CLEC disputes Qwest's revised wire center designation, Qwest should have the

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<sup>32</sup>It is not clear from the testimony presented whether Qwest intends to provide only the data that it provided initially for the list of non-impaired wire centers at issue in this docket, or whether Qwest intends to provide data akin to all of the supporting documentation it has provided throughout this proceeding, such as data request responses.

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right to back bill the CLEC to the above-specified effective date if the Commission subsequently approves the change in wire center status.

In support of this position, Qwest points to the true-up mechanism established by the FCC for applicable transition rates following amendment of interconnection agreements.<sup>33</sup> Qwest promises it would not block orders absent a final designation of non-impairment and notes that updates to the non-impaired list based on changed business line counts would only occur once a year in conjunction with the preparation of ARMIS data, but that updates to the list based on fiber-based collocators could occur throughout the year as the number of collocators changes since these numbers are not derived from the ARMIS process.

The Joint CLECs, on the other hand, propose the Commission, on a case-by-case basis, establish the date on which Qwest's reclassification of a wire center will be effective. According to the Joint CLECs, knowing the Commission can set the effective date will give Qwest an incentive to provide all information needed to review the classification as early in the process as possible so that interested parties can promptly confirm or raise issues with Qwest's reclassification. If Qwest fails to provide the necessary information, the Commission can delay the effective date of non-impairment accordingly. Likewise, if the Commission determines that CLECs have raised issues solely for the purposes of delay, the Commission could order an earlier effective date, such as thirty days after notice as proposed by Qwest. The Joint CLECs argue adoption of Qwest's proposed thirty-day effective period would provide Qwest no incentive to ensure its initial filing is sufficiently comprehensive. The Joint CLECs point to the

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<sup>33</sup>Citing *TRRO*, fns. 408, 524, and 630.

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current proceedings as an example of the delay that can result from deficient disclosure of supporting information.

Qwest counters that it is the CLECs, not Qwest, that have an incentive in delaying the effective date of future reclassifications since, once effective, the CLECs are no longer entitled to UNE pricing at the reclassified wire centers. Qwest, on the other hand, is motivated to provide all necessary information to support its classification decisions since without such information approval of the reclassifications could be delayed, depriving Qwest of the opportunity to take advantage of a new competitive environment.

The Division did not directly address this issue in its pre-filed testimony or at hearing.

Having considered the parties' positions, we conclude Qwest's proposed thirty-day waiting period reasonably balances a desire to expedite the process with the necessity of ensuring CLECs adequate time to object. However, while updated non-impairment lists may, without objection, become effective thirty days after filing, we reserve the Commission's authority to establish an appropriate effective date for all such filings based on the facts and actions of the parties specific to that filing. Upon CLEC objection, or upon its own motion, the Commission may schedule proceedings and will ultimately set an effective date based on all circumstances surrounding those proceedings. Said effective date may be determined to be thirty days from the filing date, or any date thereafter, as determined by the Commission. If CLEC's objections are found to be without merit, Qwest will be entitled to back bill to the effective date for CLEC's use of facilities. We intend this process to provide parties a reasonable level of

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certainty regarding the effective date while ensuring against manipulation of the proceedings in an effort to influence that date.

**d. Length of Transition Period**

The Joint CLECs propose the Commission adopt the same 12- and 18-month transition periods and transition rates adopted by the FCC in the *TRRO* for wire centers reclassified as non-impaired. The Joint CLECs point out the FCC adopted these transition periods because it found they provide “adequate time for both competitive LECs and incumbent LECs to perform the tasks necessary to an orderly transition, including decisions concerning where to deploy, purchase, and or lease facilities.”<sup>34</sup>

Qwest, on the other hand, proposes a 90-day period for CLECs to transition existing DS1 and DS3 UNEs to an alternative service and has memorialized this time frame in its *TRO/TRRO* Amendment to its interconnection agreements. Qwest argues the *TRRO*'s 12- and 18-month transition periods applied only to the initial wire center list, starting with the March 11, 2005, effective date of the *TRRO*. Qwest proposes a shorter transition period for future updates because there will be fewer newly classified wire centers to deal with in future updates than there were on the initial non-impairment list.

The Joint CLECs point out Qwest's proposed transition period would not apply to the rates Qwest charges for its facilities but only to the network operations required to physically change circuit identifications. In contrast to the transition process laid out in the *TRRO*, Qwest would back bill CLECs the tariffed rate as of the effective date of the new wire center

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<sup>34</sup>Citing *TRRO* at ¶¶ 143, 196.

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classification, even if a CLEC transitions to its own facilities or those of another carrier during the transition period. In reality, therefore, a CLEC would only have 30 days from the date that Qwest notifies the Commission of a wire center reclassification to obtain facilities from a source other than Qwest in order to avoid paying tariff rates for affected UNEs in that wire center. The Joint CLECs also point out that Qwest's own witness testified that from the network perspective the amount of time required to transition would depend on case-by-case factors.

Qwest counters that permitting CLECs to continue paying UNE rates during any transition period would improperly incentivize the CLECs to delay the transition of services until the end of the transition period while denying Qwest the benefits of reclassification intended by the FCC. Qwest claims the Joint CLECs have provided no support for their contention that the transition period for wire center list updates should be the same length as that for the initial list.

The Division did not take a position on this issue.

In establishing its 115% transition period rate cap, the FCC noted its conclusion such a rate would help to moderate the potential rate shock of an immediate elimination of TELRIC pricing while protecting the interests of ILECs where unbundling is no longer required.<sup>35</sup> The FCC also noted carriers remain free to negotiate alternative arrangements superseding its transition period and rates.<sup>36</sup> We concur and adopt these findings and conclusions as our own in deciding it is reasonable to impose the same rate for the transition period we announce herein for wire centers re-classified as non-impaired in the future.

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<sup>35</sup> *TRRO*, ¶¶ 145, 198.

<sup>36</sup> *Id.*



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However, we agree with Qwest that the transition periods ordered by the FCC are rooted in the FCC's recognition that the initial list of non-impaired wire centers could be so large and constitute such a major change in the way CLECs procure necessary services and facilities that a lengthy transition was appropriate. Because future updates should impact fewer wire centers, we conclude the 90-day transition period proposed by Qwest will provide CLECs adequate opportunity to make business decisions regarding alternative facilities and services. Therefore, future updates to Qwest's non-impaired wire center list shall trigger a 90-day transition period commencing on the effective date of the updated list during which Qwest may charge effected CLECs 115% of the UNE rate for non-impaired UNE services and facilities.

**5. Nonrecurring Charges to Convert UNEs**

Qwest argues it is entitled to assess nonrecurring charges ("NRCs") when converting UNEs to alternative Qwest circuits, such as a private line or special access circuit, following classification of a particular wire center as non-impaired. Qwest notes the conversion process actually changes the fundamental nature of the CLEC-requested product from a wholesale UNE purchased only by CLECs in accordance with an interconnection agreement to a tariffed service purchased by CLECs, other interconnecting companies, and Qwest's retail customers through commercial contracts. These two different products are billed, inventoried, and maintained differently in Qwest's systems such that Qwest must process them as "order-out" and "order-in" requests and change circuit identifiers to move the service or facility from one product category to the other. Qwest notes conversion of a UNE circuit to a special private line circuit involves three different functional areas within its ordering and provisioning

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organizations and requires a variety of steps that it must undertake to ensure that the data for the converted circuit is accurately recorded in the appropriate systems within each of these functional areas. Qwest points out its current process was developed at a cost of hundreds of millions of dollars to avoid placing end-user customers' service at risk and it should not be required to spend millions more to further modify its systems to track facilities in another way.

Qwest believes that since CLECs are not required to request conversion (i.e., because they have other business alternatives), such a request is a voluntary business decision for which Qwest should be able to recover its tariffed Design Change charge as an NRC for the work it performs to effectuate the conversion. Qwest proposes to use the Design Change charge rather than a unique charge for the UNE-to-private line conversion since the Design Change charge involves functional areas and tasks similar to those associated with the conversion of a UNE to a private line service. Qwest notes the Design Change charge would provide a conservative proxy for the costs Qwest actually incurs in such conversions which are typically more costly to process than the typical design change, but that its use would avoid the complexity of adding a new charge to Qwest's billing systems. Qwest argues that but for a CLEC's conversion request, Qwest would not incur the costs of performing conversion-related tasks. Requiring Qwest to bear this expense would therefore disadvantage Qwest in a market the FCC has determined to be competitive.

The Joint CLECs argue any conversion charge would be inappropriate since it is Qwest who is seeking to change its own records when no such change is necessary. As the cost-causer, Qwest should bear financial responsibility for the administrative costs it incurs in what

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would amount to little more than checking to make sure that it did not make any mistakes when changing its own records. The Joint CLECs note Qwest does not charge its own retail customers a conversion charge and that imposing such a charge on CLECs would be discriminatory.<sup>37</sup> Furthermore, the Joint CLECs argue that, if the Commission determines some charge is appropriate to reimburse Qwest for the conversion costs it incurs, the Design Change charge is not the appropriate charge since Qwest's FCC Interstate Tariff #1 describes the design change for which the Design Change charge is billed as any change that requires engineering review. Since the UNE conversions at issue here require no physical change to the circuit, no engineering review is required and no Design Change charge should be imposed.

If the Commission wishes to permit a conversion charge, the Joint CLECs believe the appropriate charge would be the Total Element Long Run Incremental Cost ("TELRIC") UNE rate reflecting the record keeping nature of the conversion process. The Joint CLECs note the Commission-approved charge for converting Private Lines to UNEs is \$8.48 and argue the Commission could reasonably decide this rate should apply to conversions from UNEs to Private Lines.

Qwest disputes this alternative charge, arguing that requiring a TELRIC rate for an NRC for a tariffed interstate private line service would constitute an inappropriate application of TELRIC rates and fall outside the scope of the Commission's jurisdiction since nonrecurring TELRIC charges should only apply to UNEs, not to tariffed private line services.

The Division took no position on this issue.

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<sup>37</sup>Citing, *TRO* at ¶ 587.

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Having reviewed the evidence and arguments presented, we conclude Qwest may levy a non-recurring charge to recoup its costs when a CLEC requests conversion of a UNE to a private service. However, we are not convinced by the available evidence that the amount of the charge proposed by either party reasonably reflects the costs incurred by Qwest to perform the requested conversion. Therefore, we invite parties to file additional evidence and argument regarding the costs incurred when converting a UNE to a private service. Qwest shall have thirty days from the date of issuance of this Order to file whatever cost information it deems appropriate to this issue. The Joint CLECs and the Division shall then have fifteen days from the date of filing of said information to file rebuttal testimony. It is likely that persons already sworn in this docket would be competent to provide said testimony for each party. Therefore, the Commission requests said testimony and rebuttal be filed under the signature of such persons so that, subject to objection, it may be entered into evidence and considered by the Commission in resolving this matter. The Commission may, on its own motion or that of either party, order additional evidentiary hearing on this issue as necessary.

**6. Rejection of UNE Orders**

The Joint CLECs note the parties agree CLECs are not entitled to order UNEs in wire centers that have been classified as non-impaired with respect to those UNEs. However, they disagree with Qwest regarding how Qwest may process UNE orders in the future. The Joint CLECs propose Qwest and CLECs work together to develop an ordering process that will ensure CLECs are able to obtain the facilities they need from Qwest at the proper rates, terms, and conditions. Pending development of such a process, the Joint CLECs believe the default process

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should be that outlined by the FCC in the *TRRO*; namely, that a CLEC may place a UNE order in any wire center as long as the CLEC self-certifies that it is entitled to order that UNE, and Qwest must provision the UNE, subject to later conversion to a tariffed service if the CLEC was not in fact entitled to order the subject facility as a UNE in that wire center.

In contrast, Qwest argues that once the Commission approves Qwest's certification of a wire center as non-impaired Qwest should be permitted to reject orders for any affected UNEs in that wire center. Qwest has committed to not block or reject orders unless and until the Commission has approved a wire center as non-impaired. Beyond that, Qwest argues it should not be the "guarantor" of any mistakes CLECs make in ordering services from a particular wire center.

The Joint CLECs argue Qwest's proposal to reject orders for prohibited UNEs would make the customers the ultimate loser since their ability to obtain desired services could be delayed while Qwest and the CLEC sort out the problem with the CLEC's order. However, under the Joint CLECs' proposal, the erroneous UNE order would be filled, the customer would be served, and Qwest would be made whole with a true-up to tariffed charges once the error has been corrected.

The Division did not take a firm position on this issue.

Having reviewed the parties' arguments and relevant portions of the *TRRO*, we conclude the process set forth by the FCC in paragraph 234 of the *TRRO* remains applicable to CLEC requests for UNEs and order Qwest and CLECs to follow that process in the procurement of UNEs in the future. Specifically, a CLEC must undertake a reasonable inquiry and self-

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certify, based on that inquiry, that, to the best of its knowledge, it is entitled to unbundled access to particular network elements at a given wire center. Qwest must then immediately process the CLEC's request for those elements and may subsequently challenge the CLEC's claim of entitlement to those elements through the dispute resolution procedures provided in its interconnection agreements.

In summary, the process for future wire center non-impairment list updates that we order herein shall follow the same basic pattern, though hopefully in a considerably expedited manner, as have proceedings in this docket. At least five days prior to its anticipated filing for approval of an updated wire center non-impairment list, Qwest shall file a request for a protective order to govern the handling of confidential information during the anticipated proceedings. This request shall also specify those wire centers for which Qwest intends to seek re-classification. Qwest's updated wire center filing shall substantially include all information provided by Qwest in discovery and testimony in the current proceeding and, with respect to wire center reclassifications based upon a change in business line counts, shall be based on actually filed ARMIS 43-08 data. Failure to provide the necessary supporting data may delay Commission action and the ultimate effective date of any Commission approval. In addition to its filing with the Commission, Qwest shall notify CLECs of the filing via its Change Management Process notification system. Absent CLEC objection or Commission action on its own motion, Qwest's updated wire center list shall become effective 30 days from the date of filing with the Commission. A 90-day transition period shall commence with the effective date of the approved wire center list, during which time CLECs may continue to lease those UNE

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dedicated transport and high-capacity loop facilities previously obtained at wire centers newly re-classified as non-impaired at a rate not to exceed 115% of the TELRIC rate paid for those elements prior to Commission approval of the updated wire center list. At the end of the transition period, Qwest will be no longer required to provide those elements at non-impaired wire centers, except as agreed between Qwest and individual CLECs. If a CLEC elects to obtain said elements from Qwest as tariffed facilities, Qwest may charge a non-recurring charge as noted above to complete the conversion of that facility. Once a wire center has been listed and approved as non-impaired, CLECs may not order affected UNEs at that wire center. However, so long as a CLEC abides by the self-certification process specified in the *TRRO*, Qwest must provide the requested UNEs. If Qwest subsequently desires to challenge these UNEs, it may do so as provided in the *TRRO*.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed:

**III. ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The wire center business line counting method proposed herein by the Division of Public Utilities shall be, and is, adopted as the appropriate method for counting business lines to determine the impairment status of Qwest Corporation wire centers in Utah.
- The Qwest Corporation Wire Center Classification for Dedicated Transport list filed March 1, 2006, is approved.

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- The effective date of Tier 1 designation for Qwest Corporation's Salt Lake City West and Salt Lake City South wire centers is July 8, 2005.
- The Qwest Corporation Wire Centers That Satisfy the Nonimpairment Standards for DS1 and DS3 Loops list filed March 1, 2006, is approved only insofar as pertains to the classification of Qwest's Salt Lake City Main wire center as non-impaired for DS3 loops.
- The wire center non-impairment list update process specified above shall govern all future update filings initiated by Qwest Corporation in Utah.
- Qwest Corporation shall file within thirty days from the date of issuance of this Order, in the form of sworn written testimony and argument, additional information relating to the actual costs Qwest Corporation incurs, or will incur, when converting UNEs to private line services. Not later than fifteen days after said filing, the Joint CLECs and the Division of Public Utilities shall, if desired, file sworn rebuttal testimony and argument on this issue.
- This Order constitutes a final order of the Commission with respect to those issued decided herein. Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply



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with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

Dated at Salt Lake City, Utah, this 11<sup>th</sup> day of September, 2006.

/s/ Steven F. Goodwill  
Administrative Law Judge

Approved and Confirmed this 11<sup>th</sup> day of September, 2006, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G# 50366

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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	)	
	)	<u>DOCKET NO. 06-049-40</u>
In the Matter of the Investigation into	)	
Qwest Wire Center Data	)	<u>ORDER DENYING MOTIONS FOR</u>
	)	<u>REVIEW, REHEARING, OR</u>
	)	<u>RECONSIDERATION AND ORDER ON</u>
	)	<u>MOTION FOR CLARIFICATION</u>
	)	

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ISSUED: November 3, 2006

SYNOPSIS

The Commission denies motions for reconsideration filed by Qwest Corporation (“Qwest”) and Covad Communications Company; Eschelon Telecom of Utah, Inc.; Integra Telecom of Utah, Inc.; McLeodUSA Telecommunications Services, Inc.; and XO Communications Services, Inc. The Commission clarifies that its Report and Order of September 11, 2006, intended that Qwest may not reject unbundled network element (“UNE”) orders made by a competitive local exchange carrier (“CLEC”) for any wire center, including those previously approved as non-impaired for certain UNEs, so long as that CLEC has self-certified, based on reasonable inquiry, that, to the best of its knowledge, it is entitled to unbundled access to the requested network elements at the wire center in question.

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By The Commission:

On September 11, 2006, the Commission issued its Report and Order in this docket resolving various issues related to the designation of incumbent local exchange carrier (“ILEC”) wire centers as non-impaired for certain unbundled network elements (“UNEs”) in accordance with the Federal Communications Commission’s (“FCC”) Triennial Review Remand Order<sup>1</sup>.

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<sup>1</sup>*In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket NO. 01-338, WC Docket No. 04-313, 20 FCC Rcd 2533 (rel. Feb. 4, 2005) (“TRRO”).

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On October 11, 2006, Covad Communications Company; Eschelon Telecom of Utah, Inc.; Integra Telecom of Utah, Inc.; McLeodUSA Telecommunications Services, Inc.; and XO Communications Services, Inc. (hereinafter jointly referred to as “Joint CLECs”) filed a Petition for Review, Reconsideration, or Rehearing of Report and Order (“Joint CLEC Motion for Reconsideration”) seeking Commission reconsideration of its decision regarding the following issues: (1) the vintage of the ARMIS data used; (2) the length of the transition period for newly designated wire centers; and (3) whether Qwest Corporation (“Qwest”) should be authorized to charge for converting affected high capacity UNEs in the designated wire centers to Qwest special access services.

Also on October 11, 2006, Qwest filed its Motion for Review, Rehearing and/or Reconsideration and for Clarification, of Certain Portions of the Commission’s September 11, 2006, Report and Order (“Qwest Motion for Reconsideration” and “Qwest Motion for Clarification”, respectively). Qwest’s Motion for Reconsideration seeks reconsideration of the following issues: (1) the Commission’s decision regarding the appropriate method of counting business lines, and (2) if the Commission does not reconsider its decision regarding the first issue above, its decision not to count actual Qwest retail digital business lines based on the wire center from which they originate rather than on the ARMIS report filed by Qwest. Qwest’s Motion for Clarification seeks clarification of the Commission’s decision requiring the parties to follow the process laid out at paragraph 234 of the *TRRO* regarding future UNE requests and ILEC responses to such requests. Qwest’s interprets this decision as applying only to wire centers that have not yet been approved by the Commission as non-impaired for the requested UNEs.

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On October 26, 2006, the Joint CLECs filed their Response to Qwest Motion for Review, Rehearing and/or Reconsideration arguing the Commission had rightly decided those issues challenged by Qwest and should therefore deny Qwest's Motion for Reconsideration. In addition, the Joint CLECs challenged Qwest's interpretation of the Commission's Report and Order relating to rejection of CLEC requests for UNEs.

Also on October 26, 2006, Qwest filed its Response to the Joint CLEC's Motion for Review, Reconsideration, Rehearing of Report and Order arguing the Commission had rightly decided those issues challenged by the Joint CLECs and should therefore deny the Joint CLECs' Motion for Reconsideration.

Having reviewed the parties' filings, we are satisfied that our decisions regarding the issues submitted for reconsideration are reasonably based upon the evidence of record in accordance with applicable law and regulations. We therefore deny the Joint CLECs Motion for Reconsideration and the Qwest Motion for Reconsideration.

With respect to Qwest's Motion for Clarification, we clarify that, contrary to Qwest's interpretation, our Report and Order requires that the process set forth by the FCC in paragraph 234 of the *TRRO* be applied equally for UNE requests at all wire centers, including those that have previously been approved as non-impaired. In reaching our decision in the Report and Order, we found the FCC's approach to be reasonable and adopted it as our own. The *TRRO* does not limit the process specified in paragraph 234 to requests for UNEs at impaired wire centers, and we see no reason to add such a limitation in these proceedings.

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The FCC's ruling implicitly recognizes that good-faith mistakes may be made in requesting or provisioning certain UNEs. In order to minimize mistakes by CLECs, the FCC requires CLECs to undertake a reasonable inquiry to determine whether they are entitled to the UNEs they intend to request and then to self-certify their entitlement when requesting those UNEs. In requiring ILECs to immediately process such self-certified requests, the FCC recognized that the best way to deal with any CLEC self-certification errors was to first provision the UNE and then permit the ILEC to challenge the requirement for said provision after the fact.

Our Report and Order also implicitly recognized that adopting Qwest's position on this issue, or adopting Qwest's interpretation of our Report and Order, would open the UNE request process to the possibility that Qwest may mistakenly refuse to provision requested UNEs, thereby causing harm to the requesting CLEC and its customers pending resolution of the parties' dispute. By requiring Qwest to first provide the UNE upon self-certified request and then challenge said request, we ensure that customers are served pending resolution of the dispute.

Wherefore, based upon the foregoing information, and for good cause appearing, we enter this Order dismissing Qwest's Motion for Reconsideration and the Joint CLECs' Motion for Reconsideration and clarifying the applicability of the process we require parties to follow in requesting and provisioning UNEs.

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Dated at Salt Lake City, Utah, this 3<sup>rd</sup> day of November, 2006.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#51167

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )**

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**EXHIBIT 40**

ORDER NO. 07-109

ENTERED 03/20/07

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1251

In the Matter of	)	
	)	
COVAD COMMUNICATIONS COM-	)	
PANY; ESCHELON TELECOM OF	)	
OREGON, INC.; INTEGRA TELECOM	)	
OF OREGON, INC.; MCLEODUSA	)	ORDER
TELECOMMUNICATIONS SERVICES,	)	
INC.; and XO COMMUNICATIONS	)	
SERVICES, INC.	)	
	)	
Request for Commission Approval of Non-	)	
Impairment Wire Center List.	)	

**DISPOSITION: GRANTED IN PART AND DENIED IN PART  
CONSISTENT WITH ORDER**

**Introduction.** This case involves matters relating to future availability of certain Unbundled Network Elements (UNEs) in the provision of telecommunications services to the public and the interplay of federal and state regulation of telecommunications. For a number of years subsequent to the passage of the federal Telecommunications Act of 1996 (the Act), Incumbent Local Exchange Carriers (ILECs) were required to provide Competitive Local Exchange Carriers (CLECs) with access to certain of the ILECs' telecommunications facilities and services on an unbundled basis. The FCC deemed this necessary because alternative facilities from other providers were not sufficiently available within the service areas of wire centers where the CLECs operated to permit adequate competition to flourish. The FCC's expectation was that CLECs could use these UNEs in various combinations either in conjunction with their own facilities or on a resale basis, to offer telecommunications services to the public.

The common expression used to characterize these wire centers was that they constituted markets that were competitively "impaired." The following question then was raised: "when will there be a sufficient number of alternative providers of telecommunications facilities within the serving area of particular wire centers so that CLECs are not impaired in their ability to compete without access to those ILEC facilities as UNEs and thus, the ILECs' offering of ILEC facilities on an unbundled basis will no longer be mandated?"



On February 4, 2005, the Federal Communications Commission (FCC) released its Triennial Review Remand Order (*TRRO*),<sup>1</sup> which answered that question, at least in part. In that Order, the FCC established a default date of March 11, 2006, terminating ILECs' obligations to offer unbundled high-capacity (DS1/DS3/dark fiber) loops and unbundled high-capacity (DS1/DS3/dark fiber) interoffice transport in those wire centers certified by the ILECs to satisfy the *TRRO* impairment analysis criteria. The criteria were the number of business lines and the number of fiber-based collocators in each wire center.<sup>2</sup>

At the same time, CLECs were given the opportunity to challenge the designation of the wire centers. In so doing, a CLEC was required to "undertake a reasonably diligent inquiry into whether the wire centers in question meet the criteria and then self-certify to the ILEC that the CLEC was entitled to access to the aforementioned UNEs." Upon making that showing, the *TRRO* required that the ILEC must "immediately process" the UNE order and then may subsequently bring a dispute before a state commission or other authority if it contests the CLEC's access to the UNE. If the ILEC prevails, the CLEC may be back-billed for the time period when it should have paid the higher rate.<sup>3</sup>

This proceeding arises out of Qwest's submission of its list of non-impaired wire centers in Oregon and the objections to that list and to the procedures Qwest proposes to follow under the *TRRO*.

On February 15, 2006, Covad Communications Company; Eschelon Telecom of Oregon, Inc.; Integra Telecom of Oregon, Inc.; McLEODUSA Telecommunications Services, Inc.; and XO Communications Services, Inc. (Joint CLECs), filed a letter requesting that the Commission act to investigate the data being provided by ILECs Qwest Corporation (Qwest) and Verizon Corporation (Verizon) to the Commission in developing the Commission-approved list of non-impaired wire centers and to implement a process for reviewing and updating the lists. Verizon was subsequently dismissed from the case. The Commission issued Protective Orders 06-110 and 06-141. On April 7, 2006, Qwest submitted an issues list matrix prepared jointly by Qwest and the Joint CLECs.

On June 9, 2006, Joint CLECs filed a Motion to Compel Qwest to Respond to Data Requests (Motion). Joint CLECs asserted that the data sought "is reasonably calculated to lead to the discovery of admissible evidence."<sup>4</sup> The data in question was the subject matter of data request Nos. 33 and 34 of 49, seeking wire center data from Qwest's December 2004 ARMIS Report submitted to the FCC in April 2005.

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<sup>1</sup> *In re Unbundled Access to Network Elements*, WC Docket No. 04-313, CC Docket No. 01-338, FCC No. 04-290, Order on Remand.

<sup>2</sup> *Id.*, ¶¶ 146, 155, 166, 174, 178, 182 and 195.

<sup>3</sup> *Id.*, ¶ 234.

<sup>4</sup> Motion, p. 1.

According to the Joint CLECs, on April 28, 2006, Joint CLECs propounded 49 data requests to Qwest, including Request Nos. 33 and 34. Request 33 sought information previously provided by Qwest in Highly Confidential Attachment C and Confidential Attachment D, except updated through March, 2005, or if that data was not available, updated through December 31, 2004. Highly Confidential Attachment C provided UNE-L/EEL loop counts for each CLEC, and Confidential Attachment D provided UNE-P loops by wire center. Request 34 sought information previously provided by Qwest in Confidential Attachments B, C and D, except updated through March 2005, or if that data was not available, updated through December 31, 2004. Confidential Attachment B contained all business line counts in non-impaired wire centers; Attachment C provided UNE-L loop counts for each CLEC and Attachment D provided the number of DS1 and DS3 circuits.<sup>5</sup>

Qwest declined to provide the data, citing paragraph 105 of the *TRRO* for the principle of using only data from the December 2003 ARMIS Report. Qwest also objected to Request 34 as “vague, ambiguous and unclear.”<sup>6</sup>

On June 26, 2006, Qwest Corporation filed its Response to the Joint CLEC’s Motion to Compel Qwest to Respond to Data Requests (Response). Qwest asserted that the requests sought data that was not relevant to the case because the data that the FCC intended to be utilized in this proceeding is the December 2003 ARMIS 43-08 data “that Qwest submitted to the FCC in February 2005 in support of its initial wire center list and is consistent with the data upon which the FCC relied in making its wire center non-impairment criteria determinations in its *TRRO* order.”<sup>7</sup>

The ALJ issued a Ruling on July 26, 2006, granting the Joint CLECs’ Motion, stating, in part: “While the Commission has yet to determine which (2003 or 2004 ARMIS) data shall be used as the basis for its findings and conclusions, by making the information available, the Commission will be better able to evaluate its impact and relevance to the proceedings.”<sup>8</sup>

By letter of June 30, 2006, Qwest Corporation, on behalf of all of the parties to the proceeding, filed a Joint Motion for Adoption of Proposed Procedural Schedule. The letter affirmed that the parties waived their right to a hearing and that they had agreed to dates for brief supplemental testimony in lieu of the evidentiary hearing. Supplemental testimony was filed on August 30, 2006.

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<sup>5</sup> *Id.*, p. 2.

<sup>6</sup> *Id.*, p 3.

<sup>7</sup> Response, p. 1.

<sup>8</sup> Ruling, p. 3.

Opening briefs were filed on September 21, 2006, and Reply Briefs were filed on October 17, 2006. On December 19, 2006, Qwest filed a Request for Official Notice and Submission of Supplemental Authority requesting that official notice be taken of the Washington Utilities and Transportation Commission's December 15, 2006, *TRRO* Order, Docket UT-053025, Order 06 and the accompanying Modified Interpretative Statement.

By the time the record was closed in the proceeding, the parties had reduced or consolidated the issues in the Joint Issues List and needed to brief the following six issues:

1. What time period is the proper data vintage for determining wire center non-impairment for the initial list of Oregon wire centers?
2. What is the proper means to calculate business line counts as proxies for the existence of competition when creating the initial list of non-impaired wire centers, and consequently do Qwest's business line counts in designated wire centers meet the *TRRO* non-impairment thresholds?
3. What is the proper means to calculate the number of fiber-based collocators as proxies for the existence of competition when creating the initial list of non-impaired wire centers, and consequently does Qwest's fiber-based collocator evidence in designated wire centers meet the *TRRO* non-impairment thresholds?
4. What procedures should be adopted for evaluation and implementation of future wire center classifications?
5. How should Qwest process orders submitted by CLECs for UNEs in non-impaired wire centers?
6. Should the Commission authorize Qwest to impose a charge for converting UNEs to tariffed services, and what should the appropriate charge be for conversions of tariffed services to UNEs?

**Issue 1: What time period is the proper data vintage for determining wire center non-impairment for the initial list of Oregon wire centers?**

**Background.** As noted in the ALJ's Ruling cited above, the FCC adopted fiber-based collocation and business line counts as the triggers for determining whether impairment exists in a particular wire center. In paragraph 105 of the *TRRO*, the FCC defines business lines as ILEC "ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops." The Commission must decide in the absence of an unambiguously categorical FCC statement what may reasonably be interpreted as the FCC's intentions with respect to which ARMIS data is to be utilized in state proceedings such as these; *i.e.*, should the Commission base its decision on the December 2003 ARMIS data or the more current ARMIS data available to Qwest at the time the wire center designations were

made, consistent with public interest in the promotion of full and fair competition for telecommunications services in Oregon? The *TRRO* became effective March 11, 2005.

**Positions of the Parties.** The Joint CLECs contend that determinations made pursuant to that order should therefore be based on data that is contemporaneous with that date.<sup>9</sup> Joint CLECs also cite a Michigan PSC case in which the ILEC, SBC, was found to be non-compliant with the 47 C.F.R. 51.319(a)(4) standards test because the data was not recent enough.

The age of the data must be close enough in time to reflect conditions at the time that SBC claims that the wire center is no longer impaired. In this case, the Commission finds that SBC should have used the 2004 ARMIS data, which was available, even if not fully edited and incorporated in a report to the FCC. The analysis requires using data gathered for ARMIS calculations, not the calculations themselves.<sup>10</sup>

Joint Parties also note that BellSouth has interpreted the FCC requirements the same way and relies on 2004 ARMIS data for the line count information.<sup>11</sup>

Qwest argues that the use of December 2003 data is consistent with the FCC's language and contends that the reference to ARMIS 43-08 data in paragraph 105 meant the data on file at the effective date of the order.<sup>12</sup>

Qwest asserts that the CLECs' arguments are without merit: the FCC would not have intended that the RBOCs use incomplete and unofficial data on which to make their non-impairment studies. The intervention of time does not mean that the earlier data was inappropriate for the preparation of the list. Furthermore, only two of at least nine state commissions have used data other than the December 2003 ARMIS data.<sup>13</sup>

In reply, the Joint CLECs note that case law is moving toward Joint CLECs' view and that the Washington Utilities and Transportation Commission (WUTC) reversed its Administrative Law Judge and ordered the use of the most recent data available. "Because these designations are permanent and materially affect the development of competition in Washington, we determine that our designation decision should be based on the most recent data available."<sup>14</sup>

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<sup>9</sup> Joint CLEC Opening Brief, p. 8.

<sup>10</sup> *Id.*, p. 8, citing *In the matter, on the Commission's own motion, to commence a collaborative proceeding to monitor and facilitate implementation of Accessible Letters issued by SBC MICHIGAN and VERIZON*, Case No. U-14447, p. 5, Order issued September 20, 2005.

<sup>11</sup> *Id.*, citation omitted.

<sup>12</sup> Qwest Opening Brief, pp. 14-15.

<sup>13</sup> *Id.*, p. 15, fn. 19, and cases cited therein.

<sup>14</sup> Joint CLEC Reply Brief, pp. 4-5, and cases cited therein.

Qwest notes that the 2003 data set was called by the FCC “an objective set of data that incumbent LECs have already created for other regulatory purposes.” Therefore, the FCC intended that the parties use data that had already been collected.<sup>15</sup> In its Request to Consider Supplemental Authority (Request), filed December 19, 2006, Qwest notes that the WUTC had recently reversed its decision to use 2005 data and reverted to 2003 data because it felt that it was constrained to do so by the FCC’s decision.<sup>16</sup>

**Discussion.** In determining which data should be used, the Commission must look not only to what a reasonable interpretation of the FCC’s intent would be, but also one that is most consistent with the public interest in the promotion of robust competition in the marketplace for telecommunications services. In this instance, the FCC did not make unequivocally clear its intentions by specifying that the 2003 data were to be used; neither has it seen fit to issue a subsequent order clarifying the ambiguity surrounding the interpretation of its order. Rulings by state commissions around the country that venture an opinion as to the FCC’s intent have reached no clear consensus.

The WUTC Order upon which Qwest relies contains the following statements relevant to our analysis:

We continue to find that the FCC did not mandate or require the use of data from a particular year when applying the criteria to particular wire centers.

We are persuaded, however, that our decision to use 2005 data may run afoul of the FCC’s requirement that wire center designations are permanent. If a wire center meets the FCC’s criteria at the time an ILEC designates the wire center, but does not meet the criteria when applying data from a later period of time, the wire center designation would change, contrary to the FCC’s rules. Thus, we find that state commissions must evaluate the most current data available when the ILECs designated the wire center as non-impaired . . . .

Given this clarification, we strike paragraphs 20-21 of Order 04. While we continue to believe those paragraphs describe the preferable public policy, we are constrained by the FCC’s decision.

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<sup>15</sup> Qwest Reply Brief, p. 12, citing *TRRO* ¶ 105.

<sup>16</sup> Request, p. 2, citing Docket UT-053025, Order 06, December 15, 2006, ¶¶ 33-34.

While we recognize that the ILECs had presumably collected 2004 ARMIS data and were preparing the data for filing with the FCC by April 1, we find the ILECs reasonably relied on 2003 data given the circumstances at the time.<sup>17</sup>

Unlike the Washington Commission, we are not facing the choice of 2003 versus 2005 data. We note that Qwest had the 2004 data readily available and could have used it in its wire center designations (as BellSouth had), but chose not to. WUTC notes that the FCC did not mandate the use of 2003 data and that using more recent data was “the preferable public policy.” Although the use of 2005 ARMIS data might run afoul of the *TRRO*, as WUTC suggests, we find that the use of 2004 data does not.

The availability to CLECs of alternative sources for telecommunications facilities has a real world impact on the state of competition in Oregon. We have had a consistent policy to encourage competition in the telecommunications marketplace, and it is therefore in the public interest to use the data that most closely reflects *current, real world* circumstances. The fact that Qwest’s choice of 2003 rather than 2004 ARMIS data might be considered one of two reasonable choices does not trump these important public policy concerns. The 2004 ARMIS data shall be used in this proceeding.

**Issue 2: What is the proper means to calculate business line counts as proxies for the existence of competition when creating the initial list of non-impaired wire centers, and consequently do Qwest’s business line counts in designated wire centers meet the *TRRO* non-impairment thresholds?**

The *TRRO* defines Tier 1 wire centers as those with four or more fiber-based collocations or with 38,000 or more business lines.<sup>18</sup> Tier 2 wire centers are defined as those with three or more fiber-based collocations or with 24,000 or greater business lines.<sup>19</sup> Tier 3 wire centers are all those that are not Tier 1 or Tier 2 wire centers.<sup>20</sup> For the purposes of the *TRRO*, “business lines” include (1) UNE-loop counts (including EELs), (2) business UNE-P counts and (3) Qwest business line counts.<sup>21</sup>

The FCC found that for Tier 2 and Tier 3 wire centers CLECs are impaired with respect to DS1 transport and, as a consequence, incumbent LECs are obligated to provide unbundled DS1 transport that originates or terminates in any Tier 2 or Tier 3 wire center.<sup>22</sup> The FCC concluded that CLECs were not impaired without access to unbundled DS3 transport on routes connecting wire centers where both are classified as either Tier 1 or Tier 2.<sup>23</sup> Similarly, CLEC access to unbundled dark fiber

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<sup>17</sup> WUTC Order, ¶¶ 33-36.

<sup>18</sup> *TRRO*, ¶ 112.

<sup>19</sup> *Id.*, ¶ 118.

<sup>20</sup> *Id.*, ¶ 123.

<sup>21</sup> *Id.*, ¶ 105.

<sup>22</sup> *Id.*, ¶ 126.

<sup>23</sup> *Id.*, ¶ 129.

was found not to be impaired in Tier 1 and Tier 2 wire centers.<sup>24</sup> Thus, access to unbundled DS3 and dark fiber must be available to CLECs only in Tier 3 wire centers.

CLECs dispute Qwest's classification of three wire centers that Qwest has classified as non-impaired. Qwest designated Bend and Portland Alpine as Tier 2, based on the number of business lines.<sup>25</sup> Qwest designated Medford as Tier 1, based on the number of fiber-based collocators.<sup>26</sup> Joint CLECs dispute the methodology that Qwest has used to calculate both elements.

**Data Review.** Qwest provided confidential and highly confidential data in conjunction with Bench Requests BCH 01-002 and 01-003. BCH 01-002, Exhibits B and C, provided highly confidential information regarding the UNE-Ls and EELs of each CLEC by wire center, as well as the number of collocators in each wire center and the asserted tier classification of that wire center. BCH 01-002, Exhibit D, provided confidential information on the number of UNE-P Voice Grade Equivalent lines in each wire center. BCH 01-003, Exhibits C, D and E, provided a summary of 12/2003 TRRO Total Business Switched Access Lines by wire center, 12/2003 TRRO Business Switched Access Lines vs. ARMIS 43-08, Table III, and 12/2003 TRRO Quantities Summary-Total Switched Access Lines, including and excluding voice channels on DS1 pipes. BCH 01-003 highly confidential Exhibits A and B contained correspondence regarding the status of several fiber collocators in various wire centers.

**Positions of the Parties.** With respect to the calculation of line counts, Joint CLECs object to Qwest's inclusion of line equivalents for the spare capacity on digital circuits. "The FCC has never authorized such an adjustment, which is inconsistent with both the letter and the spirit of the TRRO." Joint CLECs contend the language of the TRRO demonstrates that the count should include only those lines actually "used to serve" the customer, rather than spare capacity. Joint CLECs contend that the only other Commissions in Qwest's territory to address the issue, Washington and Utah, reached that same conclusion. The North Carolina Commission stated specifically that "the FCC did not intend for the ILECs' ARMIS business line count to be altered in any way. Therefore . . . BellSouth has inappropriately adjusted the high capacity business lines represented in the ARMIS report to reflect the maximum potential use." Joint CLECs also argue that Qwest's proposed adjustment of its ARMIS 43-08 business line counts to account for lines that are served out of one wire center but terminated in another is an unauthorized adjustment and is followed by neither AT&T nor Verizon.<sup>27</sup>

Qwest notes the FCC TRRO definition of business lines and the rules embodied in 47 C.F.R. §51.5, stating "The FCC's directives are very clear: *all* ILEC lines that are used to serve business customers . . . should be included in the business line count."

<sup>24</sup> *Id.*, ¶ 133.

<sup>25</sup> Qwest Response to Bench Request BCH 01-002, Attachment A. Joint CLECs assert they are Tier 3. *See* Surrebuttal Testimony of Douglas Denney dated July 12, 2006, Joint CLECs/13, Denney/2.

<sup>26</sup> Qwest designated the Medford wire center as Tier 1. *See* BCH 01-002, Attachment A. Joint CLECs contend that the Medford wire center is Tier 3. Joint CLECs/13, Denney/2.

<sup>27</sup> Joint CLEC Opening Brief, pp. 3-6, and cases cited therein.

(Emphasis in text.)<sup>28</sup> Qwest contends that the FCC intended that the full capacity of high capacity digital business lines should be used in the calculation because the TRRO requires that an ILEC should count “each 64-kbps equivalent as one line.” Qwest also asserts that the Joint CLECs undercount lines because Qwest does not track lines by originating wire center. Similar principles apply with respect to Business UNE-P line counts, DS1 and DS3 loop counts.<sup>29</sup> The counting of full capacity for all digital channels satisfies the plain language of 47 C.F.R. §51.5. Qwest argues that Joint CLECs have parsed the language to mean that individual channels have to be in use in order to serve a business customer. “Indeed, the mere fact the FCC mandated this full 24-VGE channel requirement (for a DS1 line) can only lead to the conclusion that it did not ‘intend’ to count only actual channels ‘in use.’”<sup>30</sup> Qwest notes that the ARMIS Report includes only channels “in use,” but if the FCC intended only those lines to be counted, Subsection 3 of Rule 51.5 would have been unnecessary; the FCC intended that each 64-kbps channel equivalent “shall be counted as *one line*.”<sup>31</sup> Qwest also notes that a number of jurisdictions have accepted its interpretation of the FCC language and permitted counting of unused capacity equivalents.<sup>32</sup>

**Discussion.** With respect to whether lines “used to serve” should include spare capacity, including DS1 equivalents for the purpose of calculating line counts and consequent wire center eligibility, the Commission is again asked to divine the FCC’s intentions. The relevant language could reasonably be interpreted as either Qwest or the Joint CLECs propose. Although there is a lack of general consensus among the various state commissions, we agree with the comments of the North Carolina commission that a simple reading of the phrase “used to serve” precludes counting spare—i.e., unused—capacity either in individual lines or equivalents. This interpretation is not only reasonable; it most closely reflects current, real world circumstances and is most consistent with our policy of promoting robust competition in the offering of telecommunications services to the public.

Joint CLECs also have asked that, if Qwest is authorized to modify its ARMIS 43-08 line counts (i.e., include unused capacity as described by Qwest above), the Commission make certain additional adjustments, including using the most contemporaneous data for UNE-P and UNE-loops.<sup>33</sup> In light of our findings above, Joint CLECs’ request is moot.

We direct the parties to jointly submit new business line data for the Bend and Portland Alpine wire centers. The submission shall utilize business line counts, as defined in paragraph 105 of the TRRO, taken from the 2004 ARMIS 43-08 report. The line counts for each wire center shall include only lines actually used to serve customers and shall exclude spare capacity, as measured in voice grade equivalents.

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<sup>28</sup> Qwest Opening Brief, p. 13.

<sup>29</sup> *Id.*, p. 20.

<sup>30</sup> Qwest Reply Brief, pp. 5-6.

<sup>31</sup> *Id.*, p. 6, emphasis in text.

<sup>32</sup> *Id.*, pp. 7-8.

<sup>33</sup> Joint CLEC Opening Brief, pp. 7-8.



**Issue 3: What is the proper means to calculate the number of fiber-based collocators as proxies for the existence of competition when creating the initial list of non-impaired wire centers, and consequently does Qwest's fiber-based collocator evidence in designated wire centers meet the *TRRO* non-impairment thresholds?**

The Joint Issues List submitted by the parties originally identified the question as follows: Has Qwest justified that Portland Capitol and Medford wire centers have at least four fiber-based collocators as defined by the FCC in the *TRRO* and should thus be classified as Tier 1 by the Commission?<sup>34</sup>

**Positions of the Parties.** Only the Tier 1 classification of the Medford wire center, as determined by the number of fiber-based collocators, remains at issue. Joint CLECs contend that Qwest incorrectly counted one company (Company A) despite having been informed that Company A did not own or operate fiber in the Medford wire center. Joint CLECs assert Qwest misinterprets the *TRRO* by relying on the fact that Company A obtains transport from both Qwest and non-Qwest affiliated carriers.<sup>35</sup> Joint CLECs assert that merely obtaining transport does not mean that a company operates or has the right to use the fiber itself and does not meet the "indefeasible right of use" standard for the purpose of the *TRRO* analysis.<sup>36</sup> Joint CLECs also claim that a second company (Company B) should not have been counted because Company B: (1) had declared bankruptcy and was in the process of going out of business on the effective date of the *TRRO*, (2) served only a handful of customers and (3) was completely out of business six months later. Such a company would not demonstrate that, as the *TRRO* would have it, "significant revenue opportunities exist for competitive LECs."<sup>37</sup>

Qwest asserts that Medford is one of five wire centers that meet the FCC's threshold for Tier 1 non-impairment status for interoffice transport.<sup>38</sup> After describing its information gathering and analysis methods,<sup>39</sup> Qwest states that it properly designated Company A as a fiber-based collocator, because of its admitted use of both Qwest and non-affiliated CLEC fiber.<sup>40</sup> Although Company B may be out of business, Qwest claims that it, too, is rightly included in the determination calculation because it was operational on March 11, 2005, even though Qwest confirmed that the collocation was decommissioned in November 2005.<sup>41</sup>

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<sup>34</sup> Qwest claimed four fiber-based collocators in Portland Capitol and Medford.

<sup>35</sup> Joint CLEC Opening Brief, p. 10, citing exhibit ref. in fn. 13.

<sup>36</sup> *Id.*, p. 11.

<sup>37</sup> *Id.*, pp. 11-13.

<sup>38</sup> Qwest Opening Brief, pp. 20-21.

<sup>39</sup> *Id.*, pp. 21-23.

<sup>40</sup> *Id.*, p. 24.

<sup>41</sup> *Id.*, p. 25.

**Discussion.** Here again we find it to be in the public interest to use data that most closely reflects current, real world circumstances. Wire center non-impaired status classification is a permanent, i.e., irreversible, act and should therefore be firmly based in fact. Company A was not shown to have either ownership or an indefeasible right of use of facilities from another carrier, the standard enunciated in paragraph 102, Note 292, of the *TRRO*.<sup>42</sup> Thus, Company A's leasing of fiber circuits without any ownership or operation of a fiber optic network does not fulfill the language of the *TRRO* for "fiber-based collocators." Company B is no longer a factor in the marketplace, and including it in this permanent calculation fails to reflect the true state of competition in the Medford wire center for the purposes of a non-impairment determination. However, we are constrained by the fact that, as of the effective date of the *TRRO*, Company B was providing service to customers, and Qwest's claim for its inclusion in the list of fiber-based collocators is supported by the record. We therefore conclude that, based on the number of fiber-based collocators, the Medford wire center should be classified as Tier 2.

**Issue 4. What procedures should be adopted for evaluation and implementation of future wire center classifications?**

The parties disagree with respect to four distinct areas: (1) whether Qwest should be required to provide advance warning that a wire center is approaching classification in a higher tier; (2) the amount of information Qwest should file and whether Qwest should provide prior notice of filing for Commission approval of a new wire center classification; (3) the effective date of a new classification; and (4) the length of the transition period for the affected UNEs.

**(1) Should Qwest be required to provide advance warning that a wire center is approaching classification in a higher tier?**

**Positions of the Parties.** Joint CLECs ask the Commission to require Qwest to notify affected CLECs when the number of business lines in a wire center is within 5,000 lines of meeting the *TRRO* threshold or the number of fiber-based collocators is within one fiber-based collocator of meeting the *TRRO* threshold. Such notification would enable CLECs to better prepare to find alternatives to UNEs and any impact or burden on Qwest would, in Joint CLECs' view, be minimal.<sup>43</sup>

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<sup>42</sup> "We find that when a company has collocation facilities connected to fiber transmission facilities obtained on an indefeasible right of use (IRU) basis from another carrier, including the incumbent LEC, these facilities shall be counted for purposes of this analysis and shall be treated as non-incumbent LEC fiber facilities."

<sup>43</sup> Joint CLEC Opening Brief, pp. 14-15.

Qwest strongly objects to the Joint CLEC proposal, asserting that it would be an additional administrative burden for which Qwest has no administrative process in place. Furthermore, neither the *TRRO* nor any state Commission has imposed such a requirement.<sup>44</sup> Qwest also claims that 5,000 lines or one fiber collocator “does not mean that a change in the impairment classification for that wire center is imminent,” and that fluctuations in line counts “could actually cause CLECs to take costly action to prepare for a wire center non-impairment reclassification that would not occur.” Qwest also voices a concern that advance notice might encourage CLECs to “game the system.”<sup>45</sup> Finally, Qwest notes that no such requirements exist in the *TRRO* and that no state commission anywhere has imposed such requirements; the Utah Commission also rejected the proposal.<sup>46</sup>

**Discussion.** While we appreciate the uncertainty that the *TRRO* imposes upon CLECs, despite Joint CLECs’ contention that the more information they have, the better able they will be to make sound decisions,<sup>47</sup> we are not convinced that the proposed notification program will assist the CLECs in any meaningful way. Furthermore, we acknowledge the uniform rejection of the CLECs’ proposal throughout the Qwest region as an indication of other Commissions’ concurrence in our view.

Qwest has testified that the proposed notification mechanisms would be burdensome and could provide false signals, and Joint CLECs have not provided evidence to the contrary. We therefore accept that putting notification procedures in place (and raising the possibility of sanctions for their violation) may well be a significant burden, especially in light of the fact that such systems would be unique to Oregon. However, we find Qwest’s conjectures regarding CLECs’ “gaming the system” too remote and speculative to be worthy of consideration.

By adopting the Qwest position on this issue, we also ensure uniformity of treatment of CLECs throughout the Qwest region. Qwest shall not be required to provide notification of approaching wire center non-impairment threshold levels.

**(2) What information should Qwest file, including prior notice of filing for Commission approval of a new wire center?**

**Positions of the Parties.** Joint CLECs propose that Qwest be required to include all of its supporting documentation with its initial filing for Commission approval of a new wire center classification as a means of facilitating a 30-day review process. Joint CLECs also propose that Qwest provide five days’ advance notice to alert CLECs that Qwest will be providing confidential data on the number of UNEs those CLECs

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<sup>44</sup> Qwest Opening Brief, pp. 26-27, citing, e.g., *In the Matter of the Investigation into Qwest Wire Center Data*, Public Service Commission of Utah, Docket No. 06-049-40, issued September 11, 2006 (Utah Order), pp. 24-26.

<sup>45</sup> *Id.*, p. 27, and Qwest Reply Brief, pp. 23-24.

<sup>46</sup> Qwest Reply Brief, pp. 24-25.

<sup>47</sup> Joint CLEC Reply Brief, pp. 6-7.

have in the wire center. This would give CLECs time to object to the disclosure of confidential information.<sup>48</sup>

Qwest responds by saying that Joint CLECs' concerns regarding disclosure of confidential information are overstated. Mechanisms for confidential treatment of CLEC data are readily available via standing non-disclosure agreements or protective orders such as those in this docket.<sup>49</sup> Furthermore, Qwest argues, neither the TRRO nor any other state commission has imposed such a requirement.<sup>50</sup> With respect to supporting documentation, Qwest contends that it is already committed to provide "substantive supporting documentation under a protective order similar to the data that Qwest has provided in this docket . . . . Qwest is certainly well aware that without support for such a filing, reclassification of a wire center could be delayed and that Qwest cannot take advantage of the new competitive environment until reclassification is effective."<sup>51</sup>

CLECs contend that the data Qwest proposes to provide "simply is not sufficient . . . . CLECs need the type of data that they requested in discovery in this case, including Qwest's supplemental [wire center-specific] responses to that discovery."<sup>52</sup>

**Discussion.** The Commission Staff has gone to great lengths in this and other dockets<sup>53</sup> to protect competitively sensitive CLEC information and has readily adapted protective orders to particular circumstances. Furthermore, it is in Qwest's own interests to be as thorough and forthcoming as possible with respect to the submission of supporting documentation. We are not persuaded that adopting the five-day advance notice which Joint CLECs propose will in any way improve upon the procedures already in place. However, we shall require Qwest to include detailed wire center-specific information in its initial filing for Commission approval of a new wire center classification equivalent in scope and particularity to that which was provided in this proceeding pursuant to CLEC data requests.

**(3) How should the effective date of a new classification be determined?**

**Positions of the Parties.** Joint CLECs propose that the Commission should have flexibility in setting the effective date of a new wire center classification. In Joint CLECs' view, this would provide Qwest with the incentive to submit data as quickly as possible so that parties can confirm or raise issues with Qwest's conclusions. This flexibility would also discourage CLECs from using procedural mechanisms to delay the effective dates because the Commission could move up the effective date if it concludes that a CLEC may have raised issues solely for the purposes of delay. The Utah

<sup>48</sup> Joint CLEC Opening Brief, pp. 15-16.

<sup>49</sup> Qwest Reply Brief, p. 25.

<sup>50</sup> *Id.*, p. 26.

<sup>51</sup> Qwest Reply Brief, pp. 26-27.

<sup>52</sup> Joint CLEC Reply Brief, pp. 7-8.

<sup>53</sup> See, e.g., Docket UX 29, Commission Request for Production of Information, March 16, 2005.

Commission reserved itself the authority to delay proceedings in the event of a CLEC objection.<sup>54</sup>

Qwest contends that the 30-day period should be adopted. CLECs would be provided with the same type of data that they received for the initial list of non-impaired wire centers at the time of the Qwest filing. If no objections were raised, the changes would go into effect by operation of law. In the event of CLEC objections, Qwest contends that if it ultimately prevailed on the merits, Qwest should be entitled to back-bill CLECs to the original effective date. The *TRRO*, Qwest notes, has provided for such a true-up procedure.<sup>55</sup> According to Qwest, it is the CLECs, not Qwest who are motivated to delay the process and prevent Qwest from taking advantage of the benefits of the *TRRO*.<sup>56</sup>

**Discussion.** The Utah Commission concluded that a 30-day period between the filing and the effective date struck a reasonable balance: it gave CLECs sufficient time to object while reserving Commission authority to change the effective date for all non-impairment filings if such a change was warranted by the facts and actions of the parties specific to that filing. The Utah Commission also concluded that if the CLECs' claims were without merit, Qwest would be entitled to back-bill to the effective date for the CLECs' use of Qwest's facilities.<sup>57</sup>

We believe that this is a reasonable compromise. We reject the CLEC five-day advance notice as unnecessary and adopt a 30-day effective date in the event that no CLEC interposes any objection to the Qwest filing. In the event that the designation is opposed, we reserve our authority to set another effective date either on our own or upon CLEC motion.

We also require that the initial filing seeking non-impaired status for a wire center contain more granular detail than Qwest has proposed, including Qwest and CLEC-specific business line count and facilities data by wire center, calculating the number of lines served as provided in the discussion of Issues 2 and 3, above. Such data shall be identified as "highly confidential" and subject to the standing special protective order used in this proceeding.

Finally, rather than allowing Qwest to automatically back-bill CLECs to the original effective date if it prevails on the designation generally, we shall only allow Qwest to back-bill to a date designated by the Commission in the event that we specifically find the CLECs' objections to have been without merit or primarily for the purpose of delaying implementation. To do otherwise would have an undue chilling effect on the exercise of the CLECs' rights to scrutinize Qwest's proposed wire center designation.

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<sup>54</sup> Joint CLEC Opening Brief, pp. 17-18, citing Utah Order at 30.

<sup>55</sup> Qwest Opening Brief, pp. 28-29, citing *TRRO* fms. 408, 524 and 630.

<sup>56</sup> *Id.*, p. 29.

<sup>57</sup> Utah Order, pp. 30-31.

**(4) What is the appropriate transition period for the affected UNEs?**

**Positions of the Parties.** Joint CLECs note that the FCC provided for a one-year transition period for unbundled DS1 and DS3 transport and loops in affected wire centers and 18 months to transition off dark fiber. Joint CLECs believe these time frames should be applied to newly classified wire centers as well.<sup>58</sup> In Joint CLECs' view, the 90-day transition period proposed by Qwest is inadequate because it does not apply to the rates charged for use of its facilities but is limited to network operations required to change the circuit identifications. CLECs would be billed from the effective date, even if they changed facilities during the transition period. CLECs therefore have only 30 days from the date of notification to act to avoid the new charges for UNEs.<sup>59</sup>

Qwest notes that the 12- and 18-month transition periods in the *TRRO* applied only to the initial lists, and there will be fewer newly classified wire centers than the initial list. The Joint CLEC proposal provides incentives to delay implementation of the transition of services "thereby denying Qwest the benefits of wire center reclassification that the FCC intended."<sup>60</sup> Citing the Utah Order at page 33, Qwest proposes that it should be allowed to charge CLECs 115 percent of the UNE rate for non-impaired UNE services and facilities during the transition.<sup>61</sup> If CLECs receive the UNE rate during the transition period, they will have an incentive to delay their transition of services until the end of the transition period.<sup>62</sup>

Joint CLECs may have accepted Qwest's Opening Brief proposal to adopt the Utah Order formula; their Reply Brief does not mention the issue in its discussion captioned Filing for Future Wire Center Classification at page 7, *et seq.*

**Discussion.** The 12- and 18-month transition periods reflected the need to address the large number of wire centers that would be part of the original non-impairment filings. Additions to the non-impaired wire center lists would arrive at far larger intervals and require smaller scale CLEC responses. The 90-day transition period in the Utah Order provides a reasonable balance. The interim compensation plan—115 percent of the current UNE rates for non-impaired UNE services and facilities—is also a reasonable one; CLECs can plan for the future by knowing how to quantify their incremental costs to continue to use UNEs during the transition period, and Qwest will obtain at least some of the benefit the *TRRO* conferred. We adopt the directives set forth on page 33 of the Utah Order.

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<sup>58</sup> Joint CLEC Opening Brief, p. 18.

<sup>59</sup> *Id.*, pp. 18-19.

<sup>60</sup> Qwest Opening Brief, p. 30.

<sup>61</sup> *Id.*, p. 31.

<sup>62</sup> Qwest Reply Brief, p. 20.

**Issue 5. How should Qwest process orders submitted by CLECs for UNEs in non-impaired wire centers?**

**Positions of the Parties.** Joint CLECs acknowledge that CLECs are not entitled to order UNEs that have been classified as non-impaired in a particular wire center, but request that the Commission establish a policy regarding “how Qwest handles UNE orders in a new environment in which certain UNEs are unavailable in certain wire centers.”<sup>63</sup> Joint CLECs assert that the parties should:

be required to work together to develop an order process that will ensure that CLECs are able to obtain the facilities they need from Qwest at the applicable rates, terms, and conditions. Pending development of such a process, the default should be the process outlined in the TRRO—a CLEC may place a UNE order in any wire center as long as the CLEC self-certifies that it is entitled to order that UNE, and Qwest must provision that UNE, subject to a later conversion to a tariffed service if the CLEC was not entitled to order the facility as a UNE in that wire center.<sup>64</sup>

In reply, Qwest asserts that it has already committed not to reject or block orders “unless and until the Commission has approved a wire center as non-impaired . . . . [T]he Joint CLECs apparently want to be able to force Qwest to accept orders at wire centers that have *already been declared*, by *this Commission*, to be *non-impaired*, and thus for Qwest and the Joint CLECs to ‘work together to develop a process.’”<sup>65</sup> In Qwest’s view, the proposal would have Qwest be a guarantor for CLECs mistakes in placing orders in non-impaired wire centers, and neither the *TRRO* nor any state commission has required such a process.<sup>66</sup>

Joint CLECs contend that “Qwest’s disagreement is with the FCC, not the Joint CLECs. . . . The Utah Public Service Commission agreed with the Joint CLECs and concluded that Qwest is required to comply with the FCC process.”<sup>67</sup> Contrary to Qwest’s assertions in its Opening Brief, Joint CLECs claim that they do not seek separate proceedings before the Commission when a CLEC wishes to place a UNE order in a particular wire center that Qwest believes is non-impaired. They wish to establish procedures in lieu of unilaterally implemented order processing adjustments subsequent to a wire center reclassification because of a concern that Qwest may erroneously reject legitimate orders. Any error by a CLEC would give rise to back-billing for the difference between the UNE charges and the applicable tariff charges, and Qwest would be kept

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<sup>63</sup> Joint CLEC Opening Brief, p. 20.

<sup>64</sup> *Id.*, citing the concurrence of the Utah Commission at p. 39 of the Utah Order.

<sup>65</sup> Qwest Reply Brief, p. 29, emphasis in text.

<sup>66</sup> *Id.*, pp. 29-30. Qwest also contends that the Utah Order is ambiguous and has filed a Motion for Clarification; it intends to seek reconsideration if it is dissatisfied with the outcome of its Motion, *fn.* 24.

<sup>67</sup> Joint CLEC Reply Brief, p. 9, citing *TRRO* ¶ 234 and Utah Order, pp. 37-38.

economically whole. The process would ensure timely provisioning of UNEs to enable CLECs to serve their customers.<sup>68</sup>

**Discussion.** Paragraph 234 of the *TRRO* reads as follows:

Upon receiving a request for access to a dedicated transport or high-capacity loop UNE that indicates that the UNE meets the relevant factual criteria discussed in sections V and VI above, the incumbent LEC must immediately process the request. To the extent that an incumbent LEC seeks to challenge any such UNEs, it subsequently can raise that issue through the dispute resolution procedures provided for in its interconnection agreements. In other words, the incumbent LEC must provision the UNE and subsequently bring any dispute regarding access to that UNE before a state commission or other appropriate authority.

The Utah Commission concluded that the process described in the above paragraph “remains applicable to CLEC requests for UNEs and order Qwest and CLECs to follow that process in the procurement of UNEs in the future.”<sup>69</sup> Although Qwest claims that “Joint CLECs cannot point to any *TRRO* requirement, or state commission order, requiring such a process,”<sup>70</sup> Qwest does not address the *TRRO* language directly and asserts that the Utah Commission may have meant for procedures to apply only in wire centers that had not yet been designated as non-impaired.

The Joint CLEC proposal seeks the development of a process wherein a CLEC request for a UNE in a non-impaired wire center, either made in error or in dispute, is dealt with by Qwest and the CLEC in such a way so that facilities are provided in a timely manner. This process should also ensure that the services are ultimately charged at the proper rate—UNE or tariffed service—and the CLEC back-billed for the difference, if the CLEC has erroneously placed a UNE order that Qwest was not required to provide. We find such an approach, which provides facilities to CLECs on a timely basis and keeps Qwest financially whole, to be a reasonable one and fully consistent with the *TRRO*. We therefore direct Qwest and Joint CLECs to develop such procedures reasonably consistent with the intentions we have set forth here.

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<sup>68</sup> *Id.*, pp. 9-10.

<sup>69</sup> Utah Order, pp. 37-38.

<sup>70</sup> Qwest Reply Brief, p. 30.



**Issue 6. Should the Commission authorize Qwest to impose a charge for converting UNEs to tariffed services, and what should the appropriate charge be for conversions of tariffed services to UNEs?**

**Conversion of UNEs to Tariffed Services.** Qwest proposes a \$50 "Design Change Charge" on each UNE that it converts to a special access circuit after a wire center has been properly classified as non-impaired with respect to that particular UNE.

**Positions of the Parties.** Joint CLECs argue that the cost is inappropriate: Qwest was the party that sought the wire center designation change and the attendant administrative costs. Furthermore, Qwest benefits by being able to charge rates that are more than double the existing UNE rates for the same facilities. Joint CLECs also note Qwest does not charge its own retail customers under comparable circumstances. Joint CLECs reference an opinion of the California commission that concluded Qwest should not be authorized to impose such charges on CLECs.<sup>71</sup> Other state commissions have established much lower non-recurring charges for conversions of UNEs to special access and vice versa. If the Commission believes such charges are appropriate, they should be similarly cost-based.<sup>72</sup>

Qwest argues that a CLEC who chooses to convert a UNE to an alternative Qwest circuit does so voluntarily and in the face of other business alternatives; Qwest performs work activities in converting UNEs to private line circuits and is entitled to recover the Design Change Charge as a non-recurring cost. The cost is incurred at a CLEC's request, and it is therefore unfair to shift the cost to Qwest and its customers.<sup>73</sup> The conversion work involves three functional areas and a number of necessary tasks and must, at the same time, avoid interruptions of service to the CLEC's customers. Qwest has already gone to great expense to provide UNEs and should not be required to spend millions more to further modify its systems.<sup>74</sup>

In reply, Joint CLECs claim they do not benefit from what is essentially a billing record change "in conjunction with Qwest doubling or tripling the rate Qwest charges the CLEC for providing a particular circuit. Once the conversion takes place, moreover, the CLEC becomes one of Qwest's customers that pays retail rates and thus is already bearing the burden of whatever costs Qwest incurs to undertake this activity for its own benefit."<sup>75</sup> Joint CLECs also note that the staffs of the Arizona and Colorado Commissions share Joint CLECs' view that either no charge or a nominal charge (one dollar) would be appropriate.<sup>76</sup>

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<sup>71</sup> Joint CLEC Opening Brief, p. 21.

<sup>72</sup> *Id.*, p. 22.

<sup>73</sup> Qwest Opening Brief, pp. 31-32, and fn. 35.

<sup>74</sup> *Id.*, pp. 32-33.

<sup>75</sup> Joint CLEC Reply Brief, p. 11.

<sup>76</sup> *Id.*, pp. 12-13.

Qwest responds that the conversion of a UNE circuit to a special access or private line circuit is a very involved and detailed process. Although transparent to the CLEC's end-user customer, it avoids placing the customer's service at risk and thus benefits the CLEC. Qwest contends that, because it has already had to spend millions of dollars to modify its systems to provide UNEs, it would not be fair to again require Qwest to bear the cost for further system modifications.<sup>77</sup> But for the conversion, Qwest would not have to bear the costs of performing the tasks; Qwest is thus disadvantaged in a market the FCC has determined to be competitive. Furthermore, the Utah Commission has agreed that Qwest may levy a non-recurring charge, if it is supported by appropriate cost information.<sup>78</sup>

In this case, Qwest argues that the use of Qwest's existing tariffed Design Change Charge is more appropriate than a cost study-developed unique charge for UNE-to-private line conversions or a charge to convert a special access circuit to a UNE. First, requiring a TELRIC rate for an NRC for a tariffed interstate private line service would be an inappropriate application of TELRIC beyond the Commission's jurisdiction; TELRIC should only apply to UNEs, not to tariffed private line services. Secondly, Qwest argues, the Design Change Charge involves functional areas and tasks similar to those associated with the conversion of a UNE to a private line service or facility. The proposed \$50 charge is a conservative estimate of the costs, because TELRIC-priced conversion rates from private line to UNE run between \$22 and \$42, and the added complexity for a billing system change of a UNE to private line should make the cost much higher.<sup>79</sup>

**Discussion.** The *TRRO* requires the Commission to make findings and take action with respect to certain wire center classification benchmarks. It is not appropriate for the Commission to look at the initiating cause of those classifications, i.e., the filing of a petition by an ILEC, to determine whether or not the costs associated with the outcome of those findings should be assessed. Simply put, once a wire center has been declared to be non-impaired, a CLEC utilizing UNEs is faced with a business decision as to whether to find another source for transport and loops or to purchase private line services from the ILEC. If it chooses to convert existing UNEs to private line services and notifies the ILEC of its intentions, the ILEC is required to perform at least *some* functions or actions that will cause it to incur costs on a one-time basis. Regardless of the benefit to be derived by the ILEC from the recurring charges that will follow, it has been our consistent policy to permit charges to recover these non-recurring costs.

We reject Qwest's assertion that we lack jurisdiction to apply TELRIC pricing to non-recurring charges for UNE to private line conversion. Qwest cites no jurisdiction that has mandated the Qwest-tariffed Design Change Charge for UNE conversions or denied that it has authority to examine the costs and set prices for the non-recurring charges associated with UNE conversions to private line.

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<sup>77</sup> Qwest Reply Brief, p. 30.

<sup>78</sup> *Id.*, p. 31.

<sup>79</sup> *Id.*, pp. 32-33.

Furthermore, we are not convinced that Qwest's Design Change Charge is a reasonable proxy for the actual non-recurring costs involved in the conversion of UNEs to private line services; the differences between the two processes is too great. Like other state commissions, we will utilize cost-based evidence to set the rates charged for these non-recurring costs.

We therefore require that the non-recurring UNE-to-private-line service conversion charge shall be based on costs. We direct Qwest to propose a specific non-recurring rate for the UNE-to-private line conversions, and to submit a cost study in support of its proposed charge. Qwest's cost study must include calculations of TELRIC costs and justification for any variation of its proposed non-recurring rate from TELRIC costs.

### ORDER

IT IS ORDERED that:

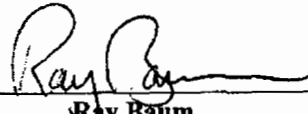
1. The request for an investigation contained in the February 15, 2006, letter filed by Covad Communications Company; Eschelon Telecom of Oregon, Inc.; Integra Telecom of Oregon, Inc.; McLEODUSA Telecommunications Services, Inc.; and XO Communications Services, Inc., regarding the data filed by Qwest Corporation to the Commission in developing the Commission-approved list of non-impaired wire centers and to implement a process for reviewing and updating the lists is **GRANTED IN PART AND DENIED IN PART**, consistent with this Order.
2. Within 30 (thirty) days of the effective date of this Order, Qwest shall submit a revised list of wire centers, indicating their classification and the bases therefor, supported by appropriate data, consistent with the findings and conclusions of this Order.
3. Within 30 (thirty) days of the effective date of this Order, Qwest shall submit a document setting forth the procedures for the evaluation and implementation of future wire center classifications consistent with the findings and conclusions of this Order.
4. Within 60 (sixty) days of the effective date of this Order, Qwest shall submit a cost study consistent with this Order to establish a non-recurring charge for the conversion of Unbundled Network Elements to tariffed special access services.

ORDER NO. 07-109

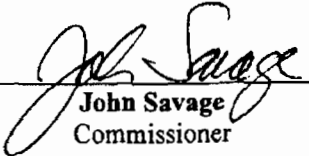
5. This docket shall remain open to review and assess compliance with this Order and to resolve any matters arising therefrom.

Made, entered and effective MAR 20 2007

  
\_\_\_\_\_  
Lee Beyer  
Chairman

  
\_\_\_\_\_  
Ray Baum  
Commissioner



  
\_\_\_\_\_  
John Savage  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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EXHIBIT 41

March 21, 2006  
*By Overnight Express delivery*

Kenneth Beck  
Regional Vice President  
Qwest Communications, Inc.  
1801 California St, Floor 24  
Denver, CO 80202

Qwest Communications, Inc.  
Director—Interconnection Compliance  
1801 California Street, Room 2410  
Denver, CO 80202

Qwest Communications, Inc.  
General Counsel, Law Department  
1801 California Street, 49<sup>th</sup> Floor  
Denver, CO 80202

Re: Escalation and Request for Dispute Resolution pursuant to the  
Interconnection Agreements; LSR #17114755 (#D49232945); LSR #17192206  
(#N49828418; PON #AZ657718T1FAC); ASR #0607700072 (#C50456587;  
PON # AZ657718T1FAC)

Dear Mr. Beck, Director of Interconnection, and General Counsel:

Eschelon asks Qwest to work with Eschelon to resolve the dispute described below both for this particular occurrence and on a going forward basis for the term of the interconnection agreements (“ICAs”) between the parties. This issue needs to be addressed promptly, before another such situation arises. Enclosed is a document, which is incorporated by reference, quoting Arizona ICA provisions relating to this dispute and citing similar provisions in Colorado, Minnesota, Oregon, Utah and Washington. If Eschelon and Qwest are unable to agree on a resolution, Eschelon reserves its right to ask the Arizona Commission to arbitrate the dispute pursuant to Section 27.2 of Part A of the Arizona ICA, as well as submit the dispute to the other state commissions pursuant to the dispute resolution provisions of the ICAs in our other states.

Last week, in violation of the ICA, Qwest refused Eschelon’s requests for both a repair and an expedite to restore service to an Arizona Eschelon End User Customer who was unexpectedly out of service, without dial tone. As a result of Qwest’s violation of the ICA, the End User Customer was out of service for a delayed period of time -- from Thursday of last week until Monday of this week. (The outage would have continued

even longer pursuant to Qwest's approach, if Eschelon had not ordered special access, instead of the unbundled product to which it was entitled, to ensure this customer received service.) The Eschelon End User Customer in this case is a private not-for-profit corporation that provides therapeutic, rehabilitation, and social services to children and adults with developmental, therapeutic, physical, and mental disabilities. Such an organization, in particular, needs telephone service, including the ability to dial 911 from each room, to serve its clientele. The center is open 24X7, 365 Days a year. Eschelon provided Qwest's escalations group with a letter from the End User Customer documenting that the customer provides critical health care services to individuals with high level and urgent care needs. Eschelon also informed Qwest's Regional Director of Service Management, Jean Novak (who is assigned at Qwest to handle Eschelon's service issues), of the letter and that Eschelon had provided it to that group. Qwest knew the importance of restoring dial tone. Nonetheless, Qwest both rejected the trouble report (refusing to open a ticket) and refused to expedite an order to restore service.

Eschelon's End User Customer contacted Eschelon repair to report a trouble when the End User Customer lost dial tone. Eschelon reported trouble to Qwest (both through CEMR and by phone). It was determined that the outage resulted from an Eschelon disconnect in error (i.e., due to a typo in the circuit ID number, a disconnect intended for a different line was completed instead for the facility serving the individual rooms). Eschelon accepted responsibility for that error and informed the customer that it was an Eschelon error. Regardless of who caused the error, a customer's service should be restored when an error occurs and a customer with medical and emergency needs loses dial tone. When Qwest retail disconnects its own End User Customer in error, Qwest restores service. In such a situation, the Qwest End User Customer calls Qwest retail repair. It is unlikely that Qwest retail requires its retail End User Customer to then call the Qwest retail business office to order new service and wait for the entire new service interval for service restoration. Even assuming a new order were required, the order would not be delayed for days while the Qwest retail End User Customer had no dial tone. Regardless of the service provider, the End User Customer's service should be promptly restored. (*See, e.g.*, 31.1 of Part A – "carrier-neutral" and "nondiscriminatory.")

Qwest's only stated basis for refusing to promptly restore dial tone to this organization for persons with disabilities is that Qwest requires an ICA amendment to do so. Qwest and Eschelon have discussed on previous occasions that Qwest needs to know and review the provisions of the existing ICA between the parties to ensure that the existing terms are not sufficient before indicating that an amendment is required and, in the meantime, Qwest should not withhold service. In this case, the existing amendment clearly required Qwest to restore service. (*See, e.g.*, Sections 3.3.4.4 & 6.2.1.1 of Attachment 5.) Although Qwest claimed it had no basis to obtain payment (even after Eschelon clearly stated it would pay), the ICA clearly provides that "expedite charges may apply" and authorizes Qwest to charge Eschelon. (*See, e.g.*, Sections 3.1 & 3.3.4.4 of Attachment 5 & Section 1.2 of Attachment 1.) In addition, there are Commission approved rates in Arizona, such as for installation. Therefore, no amendment was

required, and Qwest had no basis to refuse to promptly restore service under the existing ICA. These ICA provisions have been in place for a long time. Qwest has recently changed when it claims that CLEC expedite requests require approval (i.e., are “chargeable”) and did so over CLECs’ objections. No corresponding change in the ICA has occurred, and Qwest has no basis for unilaterally imposing such changes on Eschelon.<sup>1</sup>

Qwest provided no business, operational, or technical feasibility reason for refusing to help to promptly restore dial tone to this facility for persons with disabilities. ***To the contrary, Qwest confirmed that the same unbundled facilities (i.e., the facilities from the disconnect order) remained available.*** Although the facilities were available and the End User Customer had no dial tone, Qwest said it would not promptly restore service because of its unnecessary amendment issue. Qwest knew at the time, however, that Eschelon’s existing long-standing ICA allows Qwest to charge for expedite charges, without an amendment. Also, Eschelon (Rhonda Knudson) clearly told Qwest (Jean Novak) that Eschelon would pay expedite charges if that is what it took to get the customer in service. Qwest still refused to help restore service. Qwest said that it required Eschelon to sign an ICA amendment before Qwest would proceed with restoring service (e.g., expediting the order). Qwest said that, without an amendment, Qwest would not provide facilities until at least Thursday of this week (a full week after the End User Customer lost dial tone). Eschelon finally had to order a Qwest tariffed product to ensure its End User Customer’s service was restored earlier.<sup>2</sup>

Eschelon’s approach is consistent with the ICA’s provisions requiring the parties to process orders and repairs and leave billing disputes, if any, for later. Qwest’s approach was inconsistent with those provisions. Qwest held restoration of the End User Customer’s service hostage pending Eschelon’s meeting Qwest’s demand for an unnecessary amendment. The ICA, however, clearly provides that Qwest is to first perform the requested service (including expedites) and then, if there is a rate issue, address that issue through the billing and dispute resolution provisions of the ICA. (*See, e.g.,* Section 1.2 of Attachment 1; Section 4.1.18 of Attachment 5.) Qwest refused to proceed instead of pursuing any rate issue under the billing and dispute resolution provisions of the ICA. Qwest has not even established that there is a rate issue. The ICA allows Qwest to charge for installation and expedites, and Eschelon told Qwest at the time that it would pay to expedite the order.

---

<sup>1</sup> If Qwest desires a voluntary amendment, please negotiate with us and begin by providing cost studies supporting Qwest’s proposed rate for each state to Eschelon pursuant to Section 252(d) of the Act, 47 CRF § 51.301, and paragraph 155 of the FCC’s First Report and Order. Eschelon has signed a confidentiality agreement and requested cost studies for all unapproved rates in the new ICA negotiations, but Qwest has not yet provided a cost study for its proposed expedite rate. While Eschelon is reviewing those cost studies, however, Qwest needs to process expedites pursuant to the existing ICAs.

<sup>2</sup> The Qwest tariffed product has the same per day expedite NRCs as Qwest’s proposed expedite amendment. Qwest charged Eschelon approximately \$1,800 because the NRC of \$200 per day applies to the tariffed product’s 9-day interval. The unbundled interval is 5 days. Even assuming the \$200 per day rate applied, this NRC would have been approximately \$800 less if Qwest had proceeded with the unbundled product.

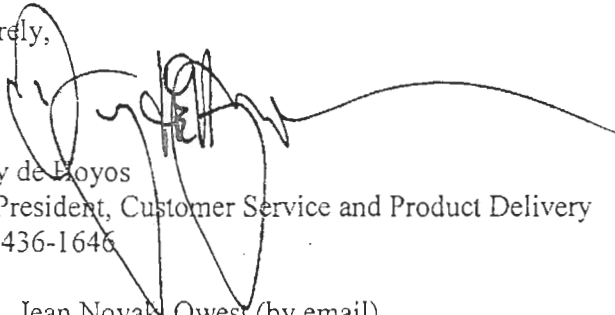


Qwest's Regional Director of Service Management is or should be familiar with the existing ICA provisions (particularly because Eschelon has asked her and Qwest on past occasions to review the ICA provisions before requesting an amendment), knew of the medical nature of the facility and its need for dial tone, and knew from her previous conversation with Ms. Knudson that Eschelon was willing to pay for the expedite. She nonetheless incorrectly indicated to the Qwest Senior Manager of the Minneapolis center that Eschelon was not willing to pay charges, and she told the Senior Manager of the Minneapolis center that it was ok to stop working toward restoring dial tone. The Qwest Regional Director of Service Management is supposed to be the advocate for this account at Qwest.

Qwest needs to remedy both the immediate situation and the issue on a going forward basis. With respect to the rehabilitation center in Arizona, Qwest needs to provide the facility on an unbundled basis (which may require a record work change) and credit Eschelon any difference in cost. With respect to future issues under the existing ICAs (until new ICAs are in place),<sup>3</sup> Qwest needs to confirm in writing that it will restore service in such situations (pursuant to the applicable repair and/or expedite provisions of the existing ICAs in each state) without requiring an amendment.

I suggest we have a conference call next week to negotiate these issues and attempt to resolve them pursuant to the dispute resolution provisions of our ICAs. Eschelon will have legal counsel for the negotiations and anticipates that Qwest will as well. Please let me know what dates and times next week work for Qwest.

Sincerely,



Danny de Hoyos  
Vice President, Customer Service and Product Delivery  
(612) 436-1646

cc: Jean Novak, Qwest (by email)  
Harisha Bastiampillai, Qwest (by email)  
Christine Siewert, Qwest (by email)  
Doug Denney, Eschelon (by email)  
Bonnie Johnson, Eschelon (by email)  
Karen L. Clauson, Eschelon (by email)  
Jeff Oxley, Eschelon (by email)

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<sup>3</sup> Negotiation of new ICAs is well underway and, if any issues need to be addressed in those negotiations, Eschelon will also work with Qwest in that context for events that will occur after the Effective Date of the new ICAs.

**ICA PROVISIONS - ARIZONA**  
**(See footnotes for CO/MN/OR/UT/WA)**

EXCERPTS FROM ATTACHMENT 5 (BUSINESS PROCESS REQUIREMENTS)

**3.2.2 Service Migrations and New Customer Additions<sup>1</sup>**

3.2.2.12 Expedite Process: U S WEST and CO-PROVIDER shall mutually develop expedite procedures to be followed when CO-PROVIDER determines an expedite is required to meet subscriber service needs.

3.2.2.13 Expedites: U S WEST shall provide CO-PROVIDER the capability to expedite a service order. Within two (2) business hours after a request from CO-PROVIDER for an expedited order, U S WEST shall notify COPROVIDER of U S WEST's confirmation to complete, or not complete, the order within the expedited interval.

**3.2.4 Due Date<sup>2</sup>**

3.2.4.2 For those services and circumstances that U S WEST and COPROVIDER agree shall be handled by the standard interval process, U S WEST shall supply CO-PROVIDER with standard due date intervals on a nondiscriminatory basis to be used by CO-PROVIDER personnel to determine service installation dates. Under those circumstances U S WEST shall complete the provisioning within the standard interval.

3.2.4.2.1 If CO-PROVIDER requests a due date earlier than the standard due date interval, then expedite charges may apply.

3.2.4.3 For those services and circumstances that U S WEST and COPROVIDER agree shall be handled by the requested/committed due date process, CO-PROVIDER may request a due date on each order. U S WEST will provide an offered due date on a nondiscriminatory basis. If CO-PROVIDER accepts the offered due date then such date shall become the committed due date. U S WEST will complete the order on the committed due date unless otherwise authorized by CO-PROVIDER.

3.2.4.3.1 If CO-PROVIDER requires a due date earlier than the U S WEST offered due date and U S WEST agrees to meet the COPROVIDER required due date, then that required due date becomes the committed due date and expedite charges may apply.

3.2.4.4 Subsequent to an initial order submission, CO-PROVIDER may request a new/revised due date that is earlier than the committed due date. If U S WEST agrees to meet that new/revised due date, then that new/revised due date becomes the committed due date and expedite charges may apply.

SEE ALSO –

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<sup>1</sup> See Colorado ICA Attachment 8 Business Processes Sections: 2.1.17, 2.2.13, Minnesota ICA Attachment -5 Section 7.4.2 and Section 9.2, Oregon ICA Attachment 5 Section 7.4.2 and Section 9.2, Utah ICA Attachment 5 Sections 3.2.2.12 and 3.2.2.13, Washington ICA Attachment 5 Sections 3.2.2.12 and 3.2.2.13

<sup>2</sup> See Colorado ICA Attachment 8 Business Processes Section: 2.2.2.1.6, Minnesota ICA Attachment 5 Section 9.1 and Section 9.3, Oregon ICA Attachment 5 Section 9.1 and Section 9.3, Utah ICA Attachment -5 Section 3.2.4, Washington ICA Attachment 5 Section 3.2.4

## 2.1 General Business Requirements<sup>3</sup>

2.1.4.7 U S WEST shall provide provisioning support outside of scheduled work hours on a nondiscriminatory exception basis as requested by COPROVIDER. Such support may be subject to a minimum labor charge.

## 4. Connectivity Billing and Recording<sup>4</sup>

This Section 4 describes the requirements for U S WEST to bill and record all charges CO-PROVIDER incurs for purchasing services under this Agreement.

4.1.2 U S WEST shall record and bill in accordance with this Agreement those charges COPROVIDER incurs as a result of CO-PROVIDER purchasing from U S WEST services, as set forth in this Agreement (hereinafter "Connectivity Charges").

### 4.1.18 Bill Reconciliation<sup>5</sup>

4.1.18.4 If the dispute is not resolved within the allotted time frame, the following resolution procedure shall begin:

4.1.18.4.1 If the dispute is not resolved within sixty (60) days of the Notice of Discrepancy, the dispute shall be escalated to the second level of management for resolution.

4.1.18.4.2 If the dispute is not resolved within ninety (90) days of Notice of Discrepancy, the dispute shall be escalated to the third level of management for resolution.

4.1.18.4.3 If the dispute is not resolved within one hundred and twenty (120) days of the Notice of Discrepancy, upon the written request of either Party within such one hundred and twenty (120) day period, the dispute may be resolved pursuant to the dispute resolution provision set forth in Part A of this Agreement.

## 6.2 General Requirements<sup>6</sup>

6.2.1 U S WEST shall provide repair, maintenance, testing, and surveillance for all Telecommunications Services and unbundled Network Elements and Combinations in accordance with the terms and conditions of this Agreement.

6.2.1.1 U S WEST shall provide CO-PROVIDER with the same level of maintenance support as U S WEST provides itself in accordance with standards and performance measurements that U S WEST uses and/or which are required by law, regulatory agency, or by U S WEST's own internal procedures, whichever are the most rigorous. These

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<sup>3</sup> See Colorado ICA Attachment 8 Business Processes Section: 2.1.2.4, Minnesota ICA Attachment 5 Section 2.4, Oregon ICA Attachment 5 Section 2.4, Utah ICA Attachment 5 Section 2.1.4.7, Washington ICA Attachment 5 Section 2.1.4.7

<sup>4</sup> See Colorado ICA Attachment 8 Business Processes Section 3.1.2, Minnesota ICA Attachment 7 Section 2.1, Oregon ICA Attachment 7 Section 2.1, Utah ICA Attachment 5 Section 4.1.2, Washington ICA Attachment 5 Section 4.1.2

<sup>5</sup> See Colorado ICA Attachment 8 Business Processes Section 3.1.18.4, Minnesota ICA Attachment 7 Section 14, Oregon ICA Attachment 7 Section 14, Utah ICA Attachment 5 Section 4.1.18.4, Washington ICA Section 4.1.18.4

<sup>6</sup> See Colorado ICA Attachment 8 Business Processes Section 5.1.2, See Minnesota ICA Attachment 6 Section 1, Oregon ICA Attachment 6 Section 4, Utah ICA Attachment 5 Section 6.2.1, Washington ICA Attachment 5 Section 6.2.1

standards shall apply to the quality of the technology, equipment, facilities, processes, and techniques (including, but not limited to, such new architecture, equipment, facilities, and interfaces as U S WEST may deploy) that U S WEST provides to CO-PROVIDER under this Agreement.

#### EXCERPTS FROM PART A (TERMS AND CONDITIONS)

### **3. Payment<sup>7</sup>**

3.1 In consideration of the services provided by U S WEST under this Agreement, COPROVIDER shall pay the charges set forth in Attachment 1 to this Agreement. The billing procedures for charges incurred by CO-PROVIDER hereunder are set forth in Attachment 5 to this Agreement.

3.2 Amounts payable under this Agreement, unless reasonably disputed, are due and payable within thirty (30) days after the date of U S WEST's invoice or within twenty (20) days after receipt of the invoice, whichever is later. If the payment due date is not a Business Day, the payment shall be made the next Business Day.

### **27. Dispute Resolution<sup>8</sup>**

27.2<sup>14</sup> In the event CO-PROVIDER and U S WEST are unable to agree on certain issues during the term of this Agreement, the Parties may identify such issues for arbitration before the Commission. Only those points identified by the Parties for arbitration will be submitted.

### **31. Warranties<sup>9</sup>**

31.1 U S WEST shall conduct all activities and interfaces which are provided for under this Agreement with CO-PROVIDER Customers in a carrier-neutral, nondiscriminatory manner.

#### EXCERPT FROM ATTACHMENT 1 (RATES AND CHARGES)

### **1. General Principles<sup>10</sup>**

1.2 Except as otherwise specified in this Agreement, as approved or ordered by the Commission, or as agreed to by the Parties through good faith negotiations, nothing in this Agreement shall prevent a Party through the dispute resolution process described in this Agreement from seeking to recover the costs and expenses, if any, it may incur in (a) complying with and implementing its obligations under this Agreement, the Act, and the rules, regulations and orders of the FCC and the Commission, and (b) the development, modification, technical installation and maintenance of any systems or other infrastructure which it requires to comply with and to continue complying with its responsibilities and obligations under this Agreement.

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<sup>7</sup> See Colorado ICA Part A Section 5.1, Minnesota ICA Part A Section: 2.1, Oregon ICA Part A Section 2.1, Utah ICA Part A Section 3.1 and Section 3.2, Washington ICA Part A Section 3.1 and Section 3.2

<sup>8</sup> See Colorado ICA Part A Section 24.1, Minnesota ICA Part A Section 11, Oregon ICA Part A Section 11, Utah ICA Part A Section 27.2, Washington ICA Part A Section 27.2

<sup>9</sup> See Colorado ICA Part A Section 14.1, Minnesota ICA Part A Section 9.2, Oregon ICA Part A Section 9.2, Utah ICA Part A Section 31.1, Washington ICA Part A Section 31.1

<sup>10</sup> Utah ICA Attachment 1 Section 1.2, Washington ICA Attachment 1 Section 1.2



April 3, 2006  
*By Overnight Express delivery*

Kenneth Beck  
Regional Vice President  
Qwest Communications, Inc.  
1801 California St, Floor 24  
Denver, CO 80202

Qwest Communications, Inc.  
Director—Interconnection Compliance  
1801 California Street, Room 2410  
Denver, CO 80202

Qwest Communications, Inc.  
General Counsel, Law Department  
1801 California Street, 49<sup>th</sup> Floor  
Denver, CO 80202

Re: Escalation and Request for Dispute Resolution pursuant to the Interconnection Agreements; LSR #17114755 (#D49232945); LSR #17192206 (#N49828418; PON #AZ657718T1FAC); ASR #0607700072 (#C50456587; PON # AZ657718T1FAC); Joint McLeod-Eschelon Escalation #39 Re. PROS.09.12.05.F.03242.Expedites\_Escalations\_V27 – Denied by Qwest 11/4/05; Eschelon 11/3/05 objections to PROS.10.19.05.F.03380.ExpeditesEscalationsV30

Dear Mr. Beck, Director of Interconnection, and General Counsel:

Attempts to resolve this issue have been unsuccessful. On the call on Friday, Qwest repeated its intent to continue to refuse to comply with the repair and expedite provisions of the current interconnection agreements between the parties for unbundled loops in these types of situations. (For further description of the facts, see my letter to Qwest dated March 21, 2006.)

Qwest also indicated that it had not received assurances that Eschelon is willing to pay charges to Qwest when this type of situation occurs. That is incorrect. Eschelon has previously made those assurances and makes them again in this letter. As we discussed on the call, from the end user customer's perspective, an out of service condition caused by a disconnect in error is a repair, as the end user customer did not request any change in service and yet is out of service. Eschelon said it was willing to pay maintenance and repair charges pursuant to the interconnection agreements (including those approved by the state commissions, which Qwest already routinely charges Eschelon for other types of repairs) to re-establish service. Qwest indicated that it disagrees that repair terms apply

and said that Eschelon must submit and expedite an order and pay associated charges to re-establish service.

Therefore, as indicated on Friday's call, whenever Eschelon requests an expedite for an unbundled loop order and Qwest grants the request, Eschelon will pay the charges pursuant to the current interconnection agreements associated with installation, dispatch, and expedites. Qwest will not deny the expedite requests for any product based on an alleged need for a contract amendment or other arbitrary or discriminatory reason. The charges Eschelon will pay includes the installation charge for the order requesting the expedite. Installation charges cover the costs of the work activities to process the order. (In an expedite situation, the same work activities take place; they simply occur earlier.) Although the installation charges generally also include the cost of a dispatch, if Qwest dispatches a technician to complete an expedite, Eschelon will also pay the dispatch charge. (When the dispatch cost is included in the installation charge, this is a double recovery by Qwest.) If Qwest spends additional time due to the expedite itself, Eschelon will also pay the half hourly labor rate (which in Arizona is the same rate whether billed as repair or additional labor, other) for that time. Payment of these charges is provided for under the current interconnection agreements, and no amendment is necessary.

Eschelon understands that Qwest reserves its rights to argue different terms should apply under the new interconnection agreements. (For example, by charging such terms under the current interconnection agreements, Qwest said it is not conceding that such charges are 251/252 charges, and Qwest may take a different position in arbitration of the new interconnection agreements.) Eschelon also reserves all of its rights with respect to negotiation and arbitration of the new interconnection agreements. Eschelon asks Qwest to proceed as described in this letter to allow all of the parties to focus on completing those new agreements, which will resolve this issue going forward under the new agreements.

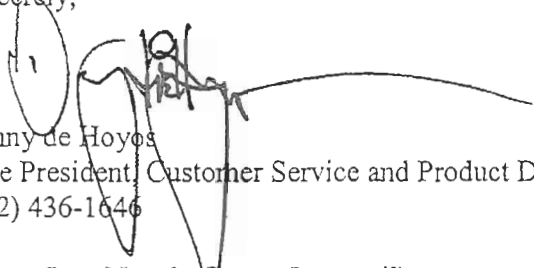
If, however, Qwest continues to refuse to provide expedites under the current interconnection agreements without amendment, Eschelon reserves its right to ask the commissions to find that it pay no charge pursuant to the nondiscrimination provisions of the interconnection agreements in those situations in which Qwest does not charge itself and its end user customers, including disconnects in error and conditions that Qwest has identified in its Expedites Requiring Approval process. This applies to unbundled loops as well as other products.

Eschelon is represented by counsel in this matter. Please direct all further communications regarding this matter to Jeff Oxley and Karen Clauson. They may also identify outside counsel.

Mr. Beck, Director of Interconnection, General Counsel  
April 3, 2006  
Page 3 of 3

Eschelon/41  
Denney/  
10

Sincerely,



Danny de Hoyos  
Vice President, Customer Service and Product Delivery  
(612) 436-1646

cc: Jean Novak, Qwest (by email)  
Harisha Bastiampillai, Qwest attorney (by email)  
Christine Siewert, Qwest (by email)  
Larry Christensen, Qwest (by email)  
Mike Henderson (by email)  
Ronda Knudson (by email)  
Bill Markert (by email)  
Doug Denney, Eschelon (by email)  
Bonnie Johnson, Eschelon (by email)  
Karen L. Clauson, Eschelon (by email)  
J. Jeffery Oxley, Eschelon (by email)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 42**



### CARRIER-TO-CARRIER AGREEMENT CHECKLIST

**INSTRUCTIONS:** Please complete all applicable parts of this form and submit it with related materials when filing a carrier-to-carrier agreement pursuant to 47 U.S.C. 252 and OAR 860-016-0000 et al. The Commission will utilize the information contained in this form to determine how to process the filing. **Unless you request otherwise in writing, the Commission will serve all documents related to the review of this agreement electronically to the e-mail addresses listed below.**

**1. PARTIES**      *Requesting Carrier*      *Affected Carrier*

Name of Party: MCImetro Access Transmission Services, LLC      Qwest Corporation

Contact for Processing Questions:

Name:      T.D. Huynh      Carla Butler

Telephone:      (925) 824-2057      (503) 242-5420

E-mail:      t.d.huynh@mci.com      carla.butler@qwest.com

Contact for Legal Questions (if different):

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Other Persons wanting E-mail service of documents (if any):

Name: \_\_\_\_\_ Don Mason      /      Steve Dea

E-mail: \_\_\_\_\_ don.mason@qwest.com      /      intagree@qwest.com

**2. TYPE OF FILING**      NOTE: Parties making multiple requests (such as seeking to adopt a previously approved agreement and Commission approval of new negotiated amendments to that agreement) should submit a separate checklist for each requested action.

**Adoption:** Adopts existing carrier-to-carrier agreement filed with Commission.

- Docket ARB
- Parties to prior agreement \_\_\_\_\_ & \_\_\_\_\_
- Check one:
  - Adopts base agreement only; or
  - Adopts base agreement and subsequent amendments approved in Order No(s).

**New Agreement:** Seeks approval of new negotiated agreement.

- Does filing replace an existing agreement between the parties?      • If filing involves Qwest Communications, does it utilize the terms of an SGAT?
- NO      •  NO
- YES, Docket ARB      •  YES, Revision

**Amendment:** Amends an existing carrier-to-carrier agreement.

Docket ARB 6

**Other:** Please explain.

**Expedites for Design Services Amendment  
to the Interconnection Agreement between  
Qwest Corporation and  
MCImetro Access Transmission Services, LLC  
for the State of Oregon**

This is an Amendment ("Amendment") to the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and MCImetro Access Transmission Services, LLC ("CLEC"). CLEC and Qwest shall be known jointly as the "Parties".

**RECITALS**

WHEREAS, CLEC and Qwest entered into an Interconnection Agreement ("Agreement") for service in the state of Oregon which was approved by the Commission; and

WHEREAS, the Parties wish to amend the Agreement further under the terms and conditions contained herein.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Amendment Terms**

The Agreement is hereby amended by adding terms, conditions and rates for Expedites for Design Services as set forth in Attachment 1 and Exhibit A, to this Amendment, attached hereto and incorporated herein by this reference.

Rates in Exhibit A that are "Under Development" shall be updated upon establishment of a rate. Rates in Exhibit A shall otherwise be updated to reflect legally binding decisions of the Commission and shall be applied on a prospective basis from the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission.

**Effective Date**

This Amendment shall be deemed effective upon approval by the Commission; however, the Parties may agree to implement the provisions of this Amendment upon execution. To accommodate this need, CLEC must generate, if necessary, an updated Customer Questionnaire. In addition to the Questionnaire, all system updates will need to be completed by Qwest. CLEC will be notified when all system changes have been made. Actual order processing may begin once these requirements have been met. Additionally, Qwest shall implement any necessary billing changes within two (2) billing cycles after the latest execution date of this Amendment, with a true-up back to the latest execution date of this Amendment by the end of the second billing cycle. The Parties agree that so long as Qwest implements the billing changes and the true-up as set forth above, the CLEC's bills shall be deemed accurate and adjusted without error.

**Further Amendments**

MCI-m-OR  
Amendment to SEA-970918-0601/dhd  
Expedite Amendment

Except as modified herein, the provisions of the Agreement shall remain in full force and effect. The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**Entire Agreement**

The Agreement as amended (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of the Agreement as amended and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of the Agreement as amended.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

**MC/metro Access Transmission  
Services, LLC**

  
Signature

**MICHAEL BEACH**  
Name Printed/Typed

**VP - CARRIER MANAGEMENT**  
Title

**1/27/05**  
Date

**Qwest Corporation**

  
Signature

**L. T. Christensen**  
Name Printed/Typed

**Director - Interconnection Agreements**  
Title

**2/3/05**  
Date

## ATTACHMENT 1

### 1.0 Expedites for Design Services

#### 1.1 Description

1.1.1 Expedites are requests for an improved standard interval that is shorter than the interval defined in Qwest's Service Interval Guide (SIG) or CLEC's Interconnection Agreement (ICA), Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date.

#### 1.2 Terms and Conditions

1.2.1 When Qwest receives an ASR or LSR with the EXP populated and the DDD is less than the standard interval, Qwest will determine if the request is eligible for an expedite without a call from you. If the request meets the criteria for the Pre-Approved Expedite process, Qwest will process the request and return a FOC acknowledging the expedited due date. The appropriate expedite charge will be added to your service order.

1.2.2 If the request does not meet the criteria for the Pre-Approved Expedite process, the ASR or LSR will be processed under the guidelines for Expedites Requiring Approval as described in the PCAT.

1.2.3 The Pre-Approved expedite process is available in all states except WA for the products listed in the PCAT. It is not necessary to call Qwest to have the expedite approved.

#### 1.3 Rate Elements

1.3.1 The expedite charge Identified in Exhibit A applies per order for every day that the due date interval is shortened, based on the standard interval in the SIG, ICA, or ICB criteria.

#### 1.4 Ordering Process

1.4.1 CLEC will request an expedite on a Local Service Request (LSR) or Access Service Request (ASR).

1.4.2 All requests must include an expedited Due Date, and Qwest will return an FOC acknowledging the expedited Due Date.

**Exhibit A**

**Exhibit A**

						Recurring	Non-Recurring
1.0		Expedite for Design Services	Per order, per day event				\$200.00

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

---

**DIRECT TESTIMONY**  
**OF**  
**BONNIE JOHNSON**  
**ON BEHALF OF**  
**ESCHELON TELECOM, INC.**

May 11, 2007

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Bonnie Johnson and my business address is 730 2<sup>nd</sup> Avenue South,  
4 Suite 900, Minneapolis, Minnesota 55402.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by Eschelon Telecom, Inc., where I currently serve as Director -  
7 Carrier Relations. In that capacity, my responsibilities include managing relations  
8 between Eschelon and other telecommunications carriers, including Qwest and  
9 other Incumbent Local Exchange Carriers (“ILECs”) and Competitive Local  
10 Exchange Carriers (“CLECs”). For example, I have a scheduled weekly call with  
11 Qwest service management to discuss operational issues, including provisioning,  
12 network, and billing issues, between the companies. I also participate in  
13 scheduled monthly network and scheduled monthly service delivery meetings  
14 with Qwest service management. I am also involved in escalation of service  
15 delivery issues as needed and regularly communicate with Qwest service  
16 management on day-to-day issues. I regularly participate in Qwest’s Change  
17 Management Process meetings as Eschelon’s representative. For example, I was  
18 personally involved in the lengthy CMP development of the Qwest jeopardy  
19 process. I also participate in interconnection agreement (“ICA”) negotiations  
20 with Qwest for six states. I have served in this position since September 2003.



1 Since joining Eschelon, I have held four separate positions (including my current  
2 position), each with increasing responsibility. From July 2000 to November  
3 2001, I held the position of Manager - Network Provisioning where I was  
4 responsible for the direction of a Service Delivery team provisioning services to  
5 end user customers and handling customer escalations. I held the position of  
6 Senior Manager - Customer Operations Process from November 2001 to March  
7 2002, where I was responsible for developing and implementing ordering and  
8 provisioning processes. And from March 2002 until September 2003, I held the  
9 title of Senior Manager - ILEC Relations, where I was responsible for managing  
10 relations between Eschelon and other telecommunications carriers. I participated  
11 in CMP activities throughout these positions.

12 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE BEFORE JOINING**  
13 **ESCHELON TELECOM, INC.**

14 A. I have more than 15 years of experience in the telecommunications industry.  
15 Prior to joining Eschelon Telecom, Inc., I was employed by US West/Qwest  
16 (“Qwest”) in a number of different capacities. For a brief time until I joined  
17 Eschelon in July of 2000, I worked in Qwest’s Wholesale Markets division as a  
18 Service Manager, responsible for organizing and facilitating CLEC collocation  
19 build-outs and Unbundled Network Element (“UNE”) facilities network  
20 implementation. From October 1998 until May 2000, I held the position of  
21 Process Analyst - Performance Measures, where I analyzed Qwest’s service  
22 delivery performance and performed root cause analyses.

1 I served as a Qwest Service Delivery Coordinator in Qwest wholesale service  
2 vendor services from August 1996 until October 1998, where I was responsible  
3 for implementing and delivering services ordered by vendors on behalf of Qwest  
4 retail end user customers and ordered by CLEC Centrex resellers. During that  
5 time, Qwest selected me for President's Club honors based on my performance.  
6 From January 1994 to May 1996, I was in the Qwest retail Home and Personal  
7 Services ("H&PS") organization, where I assisted H&PS residential customers  
8 with their service requests, including responding to ordering, billing, and other  
9 Qwest retail customer issues. Before that, I worked as a directory assistance  
10 operator in the Qwest Operator Services organization.

11 Prior to joining Qwest, I was employed for a number of years by Mountain Bell,  
12 where I held various positions including positions addressing retail customer  
13 service issues. While employed by Qwest, I participated in at least 20 separate  
14 seminars and other training sessions, many of which pertained to network  
15 facilities, operational processes and service delivery methods and procedures for  
16 both wholesale and retail customers.

17 **Q. WHEN DESCRIBING YOUR BACKGROUND, YOU INDICATED THAT**  
18 **YOU RAISE ISSUES WITH QWEST SERVICE MANAGEMENT IN**  
19 **SCHEDULED WEEKLY AND MONTHLY CALLS AND THAT YOU**  
20 **PARTICIPATE IN THE ICA NEGOTIATIONS WITH QWEST. IS**  
21 **ESCHELON RAISING ALL OF THE UNRESOLVED ISSUES FROM**  
22 **THOSE COMMUNICATIONS IN THIS ARBITRATION?**

1 A. No, not even close. I communicate regularly with Qwest service management on  
2 day-to-day issues and will continue to do so. Eschelon did not raise all of these  
3 types of issues in ICA negotiations, and we withdrew even some of the ones we  
4 did raise to limit the number of issues.

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**  
6 **AGENCY?**

7 A. The only Regulatory Proceedings I have testified in are the Qwest-Eschelon  
8 interconnection agreement arbitrations and one expedite-related complaint case. I  
9 provided verbal and written testimony in the arbitration proceedings.<sup>1</sup> I also  
10 provided written testimony before the Arizona Corporation Commission in  
11 Eschelon's pending complaint against Qwest regarding expedited orders, ACC  
12 Docket Nos. T-03406A-06-0257 and T-01051B-06-0257. I continue to maintain  
13 my full responsibilities at Eschelon, as described above, during the course of these  
14 proceedings.

15 **Q. ON WHOSE BEHALF WAS THIS TESTIMONY PREPARED?**

16 A. This testimony was prepared on behalf of Eschelon Telecom, Inc. ("Eschelon").

17 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

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<sup>1</sup> The docket numbers for the Qwest-Eschelon ICA arbitrations are, for Arizona, T-03406A-06-0572; T-01051B-06-0572 ("Arizona arbitration"); for Colorado, 06B-497T ("Colorado arbitration"); for Minnesota, P-5340, 421/IC-06-768 ("Minnesota arbitration"); for Oregon, ARB 775 ("Oregon arbitration"); for Utah, 07-2263-03; petition filed but no testimony yet ("Utah arbitration"); and for Washington, UT-063061 ("Washington arbitration"). Transcript ("Tr.") pages from the arbitration hearings in Minnesota are included as Eschelon/6 and in Arizona as Eschelon/7 to the testimony of Mr. Starkey. Copies of the rulings of the Administrative Law Judges (ALJs) and the commission in Minnesota are included as Eschelon/29 and Eschelon/30 to the testimony of Mr. Denney.

1 A. First, I identify and describe the exhibits to my testimony. Second, I address the  
2 open language in Section 12 of the proposed ICA by subject matter number,<sup>2</sup>  
3 except for Issue 12-67 (Expedited Orders) which Mr. Denney addresses in his  
4 testimony. Section 12 is entitled “Access to Operational Support Systems  
5 (OSS).” It “describes Qwest’s OSS interfaces, as well as manual processes, that  
6 Qwest shall provide to CLEC to support Pre-Ordering, Ordering, Provisioning,  
7 Maintenance and Repair and Billing.”<sup>3</sup> Finally, I provide the agreed upon  
8 language for issues that have closed in Section 12 since filing of the Petition.

9 **II. EXHIBITS**

10 **Q. YOU SAID THAT YOU HAVE TESTIFIED IN QWEST-ESCHELON**  
11 **ARBITRATION PROCEEDINGS IN OTHER STATES. ARE THE**  
12 **EXHIBITS THAT YOU SUBMIT WITH THIS DIRECT TESTIMONY**  
13 **THE SAME DOCUMENTS AS USED IN EXHIBITS SUBMITTED IN**  
14 **THOSE PROCEEDINGS?**

15 A. With only a few exceptions, yes. With the exception of three exhibits containing  
16 additional documents (Eschelon/105, Eschelon/118, and Eschelon/122) (all of  
17 which contain Qwest-prepared documents or emails), all of the documents that are  
18 included in my Oregon direct testimony as exhibits were submitted in other states,  
19 with direct, rebuttal, or surrebuttal testimony or were introduced at a hearing. To

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<sup>2</sup> The subject matter numbers correspond to those in the Issues by Subject Matter List that is attached to the testimony of Mr. Starkey as Eschelon/3.

<sup>3</sup> Section 12.1.1 of proposed ICA (closed language).

1 allow for additional grouping of documents by primary subject matter and  
2 consecutive numbering, I have included more exhibits in direct testimony (as  
3 opposed to rebuttal or surrebuttal) in Oregon. This also allows Qwest even more  
4 opportunity to respond to the information in these exhibits (with which Qwest is  
5 familiar such as because the exhibits have been used in other states and/or  
6 because they are Qwest-prepared documents).

7 **Q. PLEASE IDENTIFY THE EXHIBITS TO YOUR TESTIMONY.**

8 A. As part of my testimony, I have included the following exhibits:

- 9 • Eschelon/44: CMP/ICA: Different ICA Provisions - Terms Relating to  
10 Collocation Space Option Reservation
- 11 • Eschelon/45: CMP/ICA: Closed Language and Associated CMP Activity, if  
12 Any, Matrix
- 13 • Eschelon/46: CMP/ICA: Draft Eschelon Section 12 (March 18, 2004),  
14 Annotated
- 15 • Eschelon/47: CMP/ICA: Different ICA Provisions - Pages from Covad-Qwest  
16 ICA on Testing and Collocation
- 17 • Eschelon/48: CMP/ICA: Oversight Committee Meeting Minutes - List of  
18 Minutes Posted On Qwest's Wholesale Website
- 19 • Eschelon/49: CMP/ICA: Summary and excerpts from supporting documentation  
20 showing that contract language was discussed in prior CLEC Forum meetings &  
21 list of Forums from Qwest wholesale calendar
- 22 • Eschelon/50: CMP/ICA: Withdrawn Qwest Product and Process Change  
23 Requests
- 24 • Eschelon/51: CMP/ICA: Qwest Negotiations Template Input – Qwest/Eschelon  
25 Exchange
- 26 • Eschelon/52: CMP/ICA: Multiple CLEC Negotiations – Qwest/Eschelon  
27 Exchange
- 28 • Eschelon/53: CMP/ICA: CMP Document
- 29 • Eschelon/54: CMP/ICA/Scope: Excerpt from CMP Redesign Meeting Minutes  
30 (Jan 02 & Apr 02)
- 31 • Eschelon/55: CMP/ICA: Excerpt from CMP Redesign Meeting Minutes (Oct 01)

- 1 • Eschelon/56: CMP/CRUNEC: DS1 CRUNEC Chronology
- 2 • Eschelon/57: CMP/CRUNEC: CRUNEC Level 3 Notice
- 3 • Eschelon/58: CMP/CRUNEC: CRUNEC Qwest-Eschelon Email exchange
- 4 • Eschelon/59: CMP/TRRO: Secret TRRO PCAT Chronology
- 5 • Eschelon/60: CMP/TRRO: Covad Escalation of Qwest CR PC102704-1ES
- 6 • Eschelon/61: CMP/TRRO: Qwest Response to escalation of Qwest CR  
7 PC102704-1ES
- 8 • Eschelon/62: CMP/TRRO: Redline of CR Detail for PC10270401ES
- 9 • Eschelon/63: CMP/TRRO: Non-CMP TRRO Notices, Qwest/Eschelon  
10 Exchange
- 11 • Eschelon/64: CMP/TRRO: Non-CMP TRRO PCAT Reclassification of  
12 Terminations (APOT), Qwest/Eschelon Exchanges
- 13 • Eschelon/65: CMP/TRRO: SGAT Unavailability: Excerpt from Qwest  
14 Minnesota Testimony
- 15 • Eschelon/66: CMP/TRRO: SGAT Unavailability: Qwest Notices
- 16 • Eschelon/67: CMP/TRRO: SGAT Unavailability: Screen Shots of Qwest's  
17 Website
- 18 • Eschelon/68: CMP/TRRO: CR SCR102704-1RG
- 19 • Eschelon/69: CMP/TRRO: CR SCR083005-01
- 20 • Eschelon/70: CMP/TRRO: January 4th, 2005 Oversight meeting minutes
- 21 • Eschelon/71: CMP/TRRO: January 10th, 2005 oversight meeting minutes.
- 22 • Eschelon/72: CMP/TRRO: Qwest CR PC102704-1ES
- 23 • Eschelon/73: CMP/TRRO: Qwest CR PC102704-1ES2
- 24 • Eschelon/74: CMP/TRRO: Eschelon 2/5/07 Email on Qwest's "buckets" matrix
- 25 • Eschelon/75: CMP/TRRO: Eschelon response to Qwest's question as to which  
26 items on Qwest's chart are subject to litigation/arbitration February 5, 2007  
27 (enclosed in 2/5/07 Email to Qwest)
- 28 • Eschelon/76: CMP/TRRO: Qwest matrix (letters and numbers added for ease of  
29 reference)
- 30 • Eschelon/77: CMP/TRRO: Updated version TRRO PCAT URLs reflecting  
31 recent versions
- 32 • Eschelon/78: CMP/TRRO: Qwest letter regarding "policy" decision
- 33 • Eschelon/79: CMP/EXAMPLE: No Build Held Order (Delayed Order)  
34 Chronology

- 1 • Eschelon/80: CMP/EXAMPLE: Optional Testing - Qwest CR PC100101-5ES
- 2 • Eschelon/81: CMP/EXAMPLE: Optional Testing - CLECs' escalation
- 3 • Eschelon/82: CMP/EXAMPLE: Optional Testing - Qwest response to escalation
- 4 • Eschelon/83: CMP/EXAMPLE: Optional Testing - CLEC response to Qwest
- 5 *Note Qwest did not respond*
- 6 • Eschelon/84: CMP/EXAMPLE: Oversight Committee Meeting Request:
- 7 Meeting Minutes Example
- 8 • Eschelon/85: CMP/EXAMPLE: Maintenance and Repair and Dispatch PCAT
- 9 changes: CMP Ad Hoc Meeting Minutes (Oct. 10, 2006); Level 3 Notification
- 10 (Dec. 1, 2006); Eschelon's Comments (Dec. 15, 2006); Level 3 Notification (Dec.
- 11 19, 2006); Eschelon-Qwest Email Exchange (Jan. 2007); Excerpt from Monthly
- 12 CMP Meeting Minutes (Feb. 21, 2007); Wholesale Calendar Entry (showing ad
- 13 hoc meeting on Feb. 19, 2007)
- 14 • Eschelon/86: NETWORK MAINTENANCE AND MODERNIZATION:
- 15 Qwest/Eschelon exchanges on dB loss
- 16 • Eschelon/87: ACKNOWLEDGEMENT/ROOT CAUSE: Summary Of
- 17 Examples For Issues 12-64, 12-65 and 12-66
- 18 • Eschelon/88: ACKNOWLEDGEMENT/ROOT CAUSE: Qwest Retail Letter to
- 19 Eschelon End User Customer
- 20 • Eschelon/89: ACKNOWLEDGEMENT/ROOT CAUSE: Qwest-Eschelon Email
- 21 exchange
- 22 • Eschelon/90: ACKNOWLEDGEMENT/ROOT CAUSE: Qwest Retail letter
- 23 chronology
- 24 • Eschelon/91: ACKNOWLEDGEMENT/ROOT CAUSE: Qwest Service
- 25 Management 8-31-06 E-mail Regarding Qwest Retail Letter
- 26 • Eschelon/92: ACKNOWLEDGEMENT/ROOT CAUSE: Qwest Service Center
- 27 and Manager Roles in Relation to CMP
- 28 • Eschelon/93: EXPEDITES: Chronology of Qwest CMP Changes Relating to
- 29 Expedites
- 30 • Eschelon/94: EXPEDITES: Documented Facts Matrix Relating to Expedites
- 31 • Eschelon/95: EXPEDITES: Excerpt from Qwest Resale Product Database
- 32 ("RPD")
- 33 • Eschelon/96: EXPEDITES: September 2001 product notification/documenting
- 34 existing process
- 35 • Eschelon/97: EXPEDITES: October 19, 2005 Version 30 announcement

- 1 • Eschelon/98: EXPEDITES: November 18, 2005 CLEC comments to version 30  
2 change and Qwest's response to comments
- 3 • Eschelon/99: EXPEDITES: InfoBuddy and Resale Product Database (“RPD”):  
4 Qwest 6/27/01 Email Re. InfoBuddy
- 5 • Eschelon/100: EXPEDITES: InfoBuddy and Resale Product Database (“RPD”):  
6 3/29/06 CMP Notice of RPD Retirement; Eschelon objection and Qwest response
- 7 • Eschelon/101: EXPEDITES: Documentation relating to Qwest PCAT Expedites  
8 & Escalations Overview: Version 6
- 9 • Eschelon/102: EXPEDITES: Documentation relating to Qwest PCAT Expedites  
10 & Escalations Overview: Version 27
- 11 • Eschelon/103: EXPEDITES: Documentation relating to Qwest PCAT Expedites  
12 & Escalations Overview: Version 30
- 13 • Eschelon/104: EXPEDITES: Documentation relating to Qwest PCAT Expedites  
14 & Escalations Overview: Version 44
- 15 • Eschelon/105: EXPEDITES: Documentation relating to Qwest PCAT Expedites  
16 & Escalations Overview: Proposed Version 45 (Eschelon comments included)
- 17 • Eschelon/106: EXPEDITES: Documentation relating to Qwest PCAT Expedites  
18 & Escalations Overview: CMP status history/detail for Covad's Change Request  
19 entitled “Enhancement to the existing Expedite Process for Provisioning.”
- 20 • Eschelon/107: EXPEDITES: Expedites: Examples of Expedite Requests  
21 Approved by Qwest for Unbundled Loop Orders
- 22 • Eschelon/108: EXPEDITES: Annotated pages from Qwest Process Notifications  
23 for Versions 11, 22, 27 and 30 of the Qwest Expedites and Escalations Overview  
24 PCAT (showing that Qwest indicated Versions 11 and 22 were associated with  
25 the Covad change request and Versions 27 and 30 were not associated with the  
26 Covad or any change request)
- 27 • Eschelon/109: EXPEDITES: Arizona 6/6/06 Procedural Order – Expedites  
28 Interim Relief
- 29 • Eschelon/110: JEOPARDY: Jeopardy Classification and Firm Order  
30 Confirmation Chronology
- 31 • Eschelon/111: JEOPARDY: CR Detail for PC081403-1
- 32 • Eschelon/112: JEOPARDY: CR Detail for PC072303-1
- 33 • Eschelon/113: JEOPARDY: 2/26/04 CMP meeting notice & Meeting materials  
34 dated 2/25/04
- 35 • Eschelon/114: JEOPARDY: Examples: No FOC After Qwest Facility Jeopardy  
36 yet Eschelon Accepts Circuit



- 1 • Eschelon/115: JEOPARDY: Jeopardies Classification and Firm Order  
2 Confirmation: Examples of Qwest's Failure to Provide an FOC or a Timely FOC  
3 (including Eschelon's review of Qwest Colorado Exhibit RA-25)
- 4 • Eschelon/116: JEOPARDY: Jeopardy Change Requests Information from  
5 Qwest's Archive
- 6 • Eschelon/117: JEOPARDY: Jeopardies/FOCs/Delayed Order Compliance: Qwest  
7 Recent Refusal to Review and Root Cause Data, Qwest/Eschelon Exchanges
- 8 • Eschelon/118: JEOPARDY: Examples of Qwest position that it will not provide  
9 requested documentation (Example #3 added in OR)
- 10 • Eschelon/119: CONTROLLED PRODUCTION: Implementation Guidelines -  
11 CMP Redesign Action Item Log for #143
- 12 • Eschelon/120: CONTROLLED PRODUCTION: Gap Analysis for #142  
13 Regarding EDI Implementation Guidelines and Scope of CMP
- 14 • Eschelon/121: CONTROLLED PRODUCTION: Non-CMP Notification of  
15 Revisions to the EDI Implementation Guidelines (9/15/06)
- 16 • Eschelon/122: CONTROLLED PRODUCTION: Implementation Guidelines –  
17 Excerpts from Release 21.0, Release 20.0 and Release 19.2 Guidelines

18 **Q. DID YOU PREPARE THESE EXHIBITS OR HAVE THEM PREPARED**  
19 **UNDER YOUR DIRECTION?**

20 A. Yes, with respect to the chronologies and summaries in Eschelon/45,  
21 Eschelon/46, Eschelon/49, Eschelon/50, Eschelon/56, Eschelon/77 Eschelon/79,  
22 Eschelon/87, Eschelon/90, Eschelon/93, Eschelon/94, Eschelon/107,  
23 Eschelon/110, Eschelon/114, Eschelon/115 and Eschelon/116 I have personal  
24 knowledge of these facts. With respect to Eschelon/51, Eschelon/52,  
25 Eschelon/58, Eschelon/63, Eschelon/64, Eschelon/74, Eschelon/75, Eschelon/84  
26 (portions), Eschelon/85 (portions), Eschelon/86, Eschelon/89, Eschelon/91,  
27 Eschelon/99, Eschelon/105 (portions), Eschelon/117 and Eschelon/118 (email  
28 exchanges), as well as the email exchanges described or included in the  
29 chronologies, I was personally involved and in many cases copied on these

1 emails. The facts set forth in these Exhibits to my testimony are true to the best  
2 of my knowledge. The documents contained in Eschelon/48, Eschelon/53,  
3 Eschelon/54, Eschelon/55, Eschelon/57, Eschelon/60, Eschelon/61, Eschelon/62,  
4 Eschelon/66 through Eschelon/73, Eschelon/76, Eschelon/80, Eschelon/81,  
5 through Eschelon/83, Eschelon/84 (portions), Eschelon/85 (portions),  
6 Eschelon/88, Eschelon/92, Eschelon/95<sup>4</sup> through Eschelon/98, Eschelon/100  
7 through Eschelon/104, Eschelon/105 (portions), Eschelon/106, Eschelon/108<sup>5</sup>,  
8 Eschelon/111 through Eschelon/113 and Eschelon/119 through Eschelon/122  
9 were prepared by Qwest and all or part are posted on Qwest's web site.  
10 Eschelon/44 is a summary prepared under the direction of Mr. Denney. I  
11 participated in the preparation of this exhibit. Eschelon/47 contains pages from a  
12 publicly available interconnection agreement ("ICA"). These are true and correct  
13 copies. Eschelon/65 is an excerpt from the Rebuttal Testimony of Qwest witness  
14 Karen Stewart in the Minnesota Qwest-Eschelon arbitration (MN PUC Docket  
15 No. P-5340, 421/IC-06-768), p. 3. It is a true and correct copy. Eschelon/109 is a  
16 true and correct copy of an order issued by the Arizona Corporation commission.  
17 Eschelon/78 includes an exchange of letters between Qwest and Eschelon  
18 (Qwest's 10/16/06 letter and Eschelon's 10/17/06 response letter). These are true  
19 and correct copies.

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<sup>4</sup> Qwest retired the RPD database in April of 2006. As a result, these excerpts may no longer be available on Qwest's web site.

<sup>5</sup> With respect to Eschelon/108, these CMP notifications (without the annotations) were prepared by Qwest and are posted on the Qwest web site. Eschelon annotated the notices by circling pertinent information related to whether the notice is associated with a change request ("CR") (*i.e.*, a Level 4 change).

1 **Q. MR. STARKEY REFERS IN HIS TESTIMONY TO YOUR TESTIMONY**  
2 **INCLUDING ITS EXHIBITS. HAVE YOU REVIEWED THAT**  
3 **TESTIMONY, AND IF SO, DID MR. STARKEY TAKE ANY**  
4 **STATEMENT OR EVENT OUT OF CONTEXT?**

5 A. I have reviewed that testimony and, no, Mr. Starkey did not take any statement or  
6 event out of context.

7 **Q. MR. DENNEY REFERS IN HIS TESTIMONY TO YOUR TESTIMONY**  
8 **INCLUDING ITS EXHIBITS. HAVE YOU REVIEWED THAT**  
9 **TESTIMONY, AND IF SO, DID MR. DENNEY TAKE ANY STATEMENT**  
10 **OR EVENT OUT OF CONTEXT?**

11 A. I have reviewed that testimony and, no, Mr. Denney did not take any statement or  
12 event out of context.

13 **Q. PLEASE DESCRIBE ESCHELON/44 RELATED TO COLLOCATION**  
14 **SPACE OPTION RESERVATION.**

15 A. My direct testimony is Eschelon/43, so Eschelon/44 is the first exhibit to my  
16 direct testimony. Eschelon/44 contains terms and conditions associated with  
17 collocation space reservations contained in different documents including Qwest's  
18 SGATs, Qwest's negotiation templates and Qwest's ICAs with various CLECs.  
19 This exhibit provides an example of contract provisions on the same subject with  
20 different terms that did not go through CMP but are part of interconnection  
21 agreements. Mr. Starkey refers to this Exhibit in his discussion of the ICA and  
22 the need for contractual certainty.

1 **Q. PLEASE DESCRIBE ESCHELON/45 RELATING TO CLOSED**  
2 **LANGUAGE AND CMP ACTIVITY, IF ANY.**

3 A. Eschelon/45 contains a matrix of some of the ICA language that has closed since  
4 the Qwest-Eschelon arbitrations began (with the filing of the Minnesota  
5 arbitration in May of 2006) for issues for which Qwest has argued at some point  
6 that the language is inappropriate for inclusion in an ICA and should be dealt with  
7 in CMP or elsewhere. The matrix contains the following columns: (1) Issue  
8 Number & Closed Language, (2) Qwest Argument; (3) PCAT language, if any?  
9 (4) Is the closed language substantively different from PCAT? and (5) Was there  
10 CMP activity near in time or after the closure? Mr. Starkey refers to Eschelon/45  
11 in his discussion of the ICA and need for contractual certainty (the first topic of  
12 his direct testimony).

13 **Q. PLEASE DESCRIBE ESCHELON/46 RELATING TO ESCHELON'S**  
14 **DRAFT OF SECTION 12 OF THE ICA AND ESCHELON/49**  
15 **REGARDING CLEC FORUMS.**

16 A. Eschelon/46 contains an annotated version of Eschelon's March 18, 2004 draft  
17 proposal for Section 12. The first page is a key to the annotations that Eschelon  
18 added to the March 18, 2004 proposal when preparing Eschelon/46; the key  
19 describes the various types of text that are used to show the source of the  
20 language. For example, if the source is the Qwest template, the language is in  
21 black text, and if the source is Qwest's wholesale web site, the language is in bold  
22 text. The black text indicates, for example, that Qwest template language was

1 used in Eschelon's negotiation proposal. For language derived from Qwest's  
2 wholesale web site, footnotes have also been added to the draft to indicate the  
3 location on the web site of the associated language. The document, without the  
4 described annotations, is the Section 12 proposal that Eschelon sent to Qwest on  
5 March 18, 2004. The second page of Eschelon/46 is the cover email that was sent  
6 with the draft on March 18, 2004.

7 In each Qwest-Eschelon arbitration to date, Qwest witness Ms. Albersheim, in  
8 Qwest's "Introduction to Section 12 Issues," has testified that "Qwest's standard  
9 negotiations template" was not used for the negotiation of Section 12 of the  
10 interconnection agreement.<sup>6</sup> She has attached a Qwest exhibit that she describes  
11 as "Eschelon's rewrite"<sup>7</sup> of Qwest's template language. As reflected in the  
12 different font styles in Eschelon/49, various sources were used in the negotiations.  
13 With respect to Qwest's template proposals, Qwest previously held collaborative  
14 sessions and CMP CLEC Forums during which some contract language changes  
15 were discussed with CLECs.<sup>8</sup> Eschelon/49 contains excerpts from meeting  
16 minutes documenting that contract language was discussed in these sessions.  
17 These minutes were prepared by Qwest and are posted on Qwest's own web site  
18 (*see* URLs provided in Eschelon/49). Qwest has not held any CLEC Forum since

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<sup>6</sup> Albersheim Direct (Arizona arbitration, p. 45, lines 2-4), (Colorado arbitration, p. 36, lines 16-19), (Minnesota arbitration, p. 39, lines 7-10), and (Washington arbitration, p. 39, lines 18-21).

<sup>7</sup> Albersheim Direct (Arizona arbitration, p. 45, line 7), (Colorado arbitration, p. 36, line 22), (Minnesota arbitration, p. 39, line 13), and (Washington arbitration, p. 39, line 24).

<sup>8</sup> See, *e.g.*, Eschelon/49 (excerpts from CLEC Forum meeting minutes showing discussion of contract language changes).

1 June of 2003.<sup>9</sup> Eschelon/49 also contains a list of forums offered by Qwest, taken  
2 from the wholesale calendar on Qwest's website, that shows the last "CLEC  
3 Forum" as having been held in June of 2003. (*See*, Eschelon/49, pages 22-23).

4 Although the Qwest template was not the single base document for Qwest-  
5 Eschelon negotiations, language from the Qwest template (including some  
6 template language that is the same as SGAT), was used in negotiations proposals  
7 (and some appears now in closed ICA language). Although Eschelon had  
8 proposed using the existing Qwest-Eschelon ICA as a starting point,<sup>10</sup> Qwest did  
9 not agree to that approach. Mr. Starkey refers to Eschelon/46 and Eschelon/49 in  
10 his discussion of CMP and the need for contractual certainty (the first topic in his  
11 direct testimony).

12 **Q. PLEASE DESCRIBE ESCHELON/47 RELATED TO MR. STARKEY'S**

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<sup>9</sup> *See* June 16, 2003 Forum

(<http://www.qwest.com/wholesale/calendar/eventDetails/1,1456,86,00.html>); *see also* Dec. 2003 CMP meeting minutes in which Eschelon asked when the next CLEC Forum would be (<http://www.qwest.com/wholesale/downloads/2004/040116/CMPDistPkg01-21-04.pdf>); Jan. 2003 CMP meeting minutes in which Qwest closed this action item without scheduling another CLEC Forum

(<http://www.qwest.com/wholesale/downloads/2004/040119/JanuaryCMPSysDistributionPackage.pdf>). Qwest held two identical telephone conference calls (whereas the CLEC Forums were in person) in the Summer of 2005 called "Qwest Wholesale Provisioning Forum." However, these sessions were "how to" training sessions designed to "convey information" from Qwest to CLECs. The 47-page Powerpoint tutorial entitled "CLEC Conference Call Series: Focusing on Calls to Qwest" included the following stated purpose (on page 1): "These calls are designed to convey information and insights related to the local service request provisioning process and the calls into the Qwest Call Handling Centers. They are intended for those who perform the work to assist them in their day-to-day work activities. Our hope is to share information that can be beneficial to your company." They were not the back and forth discussions of broader issues that were supposed to be collaborative in the CLEC Forums. Consistent with this, Qwest did not label the Provisioning training session as a "CLEC Forum" on its website. *See* Eschelon/49 (page 22). The only other more recent forums listed on the Qwest web page are inapplicable "wireless" forums. *See id.*

1           **DISCUSSION OF DIFFERENCES BETWEEN THE ICA PROVISIONS OF**  
2           **DIFFERENT CLECS.**

3       A.    Eschelon/47 contains pages from the Covad-Qwest ICA relating to charges for  
4           repeat troubles (12.3.4.4). I have compared these provisions to the Qwest-  
5           Eschelon proposed ICA, and there are differences in the language, but there are  
6           relatively few of them. I am familiar with these provisions through the ICA  
7           negotiations. There was no CMP activity associated with the Covad-Qwest  
8           agreement to that language. Eschelon's proposed modifications to the Covad-  
9           Qwest language for Issue 12-80 (now closed) reflected Eschelon's own product  
10          set and Eschelon's ability and desire to use remote testing in some cases when  
11          trouble can be isolated with such testing. Eschelon/47 also contains pages from  
12          the Covad-Qwest ICA relating to CLEC-to-CLEC connections (8.2.1.23 and  
13          subparts). I have compared these provisions to the Qwest-Eschelon proposed  
14          ICA, and there are differences in the language. I am also familiar with this  
15          language through the ICA negotiations. In the case of the CLEC-to-CLEC  
16          connections language, Qwest and Eschelon agreed upon modified language. This  
17          exhibit is referenced in Mr. Starkey's testimony regarding CMP/ICA.

18          The Covad provisions in Eschelon/47 are an example of ICA provisions that  
19          differ for different CLECs. Qwest provides notices of various amendment or  
20          agreement terms that it offers to CLECs and sometimes updates that language  
21          over time. They are available for some CLECs to sign or not (such as the

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<sup>10</sup> See, e.g., Eschelon/51, p. 1 (Feb. 4, 2003 email) ["Early on, Eschelon had asked Qwest to use

1 expedite amendment that Qwest says other CLECs have signed, but Eschelon has  
2 not). Examples of different agreement or amendment terms that Qwest has  
3 offered to CLECs include collocation available inventory, collocation transfer of  
4 responsibility, CLEC Requested UNE Construction (“CRUNEC”) and  
5 TRO/TRRO terms.<sup>11</sup> A CLEC with the signed amendment would have different  
6 ICA terms from a CLEC without the signed amendment.

7 In addition, the Qwest amendment or agreement language may change over time,  
8 and different CLECs could then sign different versions of the language depending  
9 on when they signed them. Eschelon has received announcements of changes to  
10 Qwest’s TRO and TRRO language over time, for example. Qwest’s  
11 announcements suggest that some CLECs, unlike Eschelon, have signed the  
12 TRRO Amendment, and therefore have different terms from Eschelon.<sup>12</sup> There is  
13 closed language in Eschelon’s ICA different from the Qwest template  
14 TRO/TRRO agreement/amendment. Eschelon is also unaware of any other  
15 CLEC having the Bridge Agreement (Eschelon/37) that has been approved for  
16 Qwest-Eschelon.

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Eschelon’s existing contract (the early AT&T contract) as a base for negotiations. . .”].

<sup>11</sup> These Qwest “products” are not identified in the SGAT, though they are in Qwest’s 14 state negotiations template. Qwest has its own ICA proposed language for these products. Not all CLECs sign Qwest’s proposed amendments for these products. Qwest representatives, therefore, must keep straight to which CLECs the terms apply or not.

<sup>12</sup> The recent APOT notice discussed by Mr. Starkey with respect to Issues 9-43 and 9-44, for example, states: “This document is provided for customers who *have signed* the Triennial Review Remand Order (TRRO) compliant agreement/amendment.” PROS.08.31.06.F.04152.TRRO\_Reclass\_UNE\_Conv\_V2; “TRRO Reclassification of Terminations; V2.0.” (emphasis added); <http://www.qwest.com/wholesale/cnla/uploads/PROS%2E08%2E31%2E06%2EF%2E04152%2ETRO%5FReclass%5FUNE%5FConv%5FV2%2Edoc>.



1 McLeodUSA commented in CMP that a change to Qwest PCAT language on the  
2 DC Power Application is different from the language in McLeodUSA's signed  
3 interconnection agreement with Qwest.<sup>13</sup> Qwest responded that:

4 The definition for DC Power Capacity has been documented in the  
5 PCATs since sometime in 2003. Your ICA is valid and will not be  
6 changed. If you have further questions, please contact your  
7 Collocation Service Manager.<sup>14</sup>

8 **Q. PLEASE DESCRIBE ESCHELON/48 AND ESCHELON/84 RELATING**  
9 **TO THE CMP OVERSIGHT REVIEW PROCESS.**

10 A. Section 18.0 of the CMP Document (Eschelon/53) describes the CMP Oversight  
11 Review Process.<sup>15</sup> Eschelon/48 contains a list of CMP Oversight Committee  
12 Meeting Minutes posted on Qwest's wholesale website along with URLs that can

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<sup>13</sup> McLeodUSA's August 29, 2006 CMP Comment said: "Power Capacity and Usage Charges" changed from my ICA that was signed. The document we signed stated "DC Power Usage and AC Usage Charges" The Definition for "DC Power Usage" as now been replaced with "Capacity". This completely changes the interpretation of this section and the charge that are applied. Please explain when this section changed or if this section changed on this iteration. This change is not acceptable to McLeod."

[http://www.qwest.com/wholesale/downloads/2006/060920/1857\\_Qwest\\_Resp\\_to\\_Comment\\_PROS\\_09\\_20\\_06\\_F\\_04181\\_FNL\\_DC\\_Power\\_New\\_Applicat\\_.doc](http://www.qwest.com/wholesale/downloads/2006/060920/1857_Qwest_Resp_to_Comment_PROS_09_20_06_F_04181_FNL_DC_Power_New_Applicat_.doc).

<sup>14</sup> *See id.* (same URL).

<sup>15</sup> Section 18.0 of Eschelon/53, Johnson/111 provides: "Qwest or a CLEC may identify issues with this CMP using the Oversight Review Process. Issues submitted through this process may include:

- Improper notification under CMP
- No notification under CMP
- Issues regarding scope of CMP
- Failures to adhere to CMP
- Interpretations of CMP
- Gaps in CMP

This Oversight Review Process is optional. It will not be used when one or more processes documented in this CMP are available to obtain the resolution the submitter desires. The submitter is expected to use such available processes."

1 be used to access the meeting minutes. Eschelon/48 shows that several matters  
2 have been handled through Section 18.0 (“Oversight Review Process”) of the  
3 CMP Document.

4 Eschelon/84 includes excerpts from Qwest-prepared CMP Redesign Meeting  
5 Minutes, as well as excerpts from the CMP Document (Eschelon/53). It also  
6 includes URLs to the complete documents from which the excerpts were taken.  
7 Following the excerpts, there is an Eschelon-Qwest email exchange in which,  
8 despite Qwest’s documented July 2001 commitment in CMP Redesign “to  
9 provide minutes from each CICMP meeting and ad hoc meetings/calls,”<sup>16</sup> Qwest  
10 said in its later email “Qwest believes that minutes for ad hoc meetings associated  
11 with a change to disposition request are not required under the current CMP  
12 Document.”<sup>17</sup> The Eschelon-Qwest email exchange also includes Eschelon’s  
13 request for Oversight Committee review. Additional communications have taken  
14 place between Eschelon and Qwest since that email exchange, but the issue of  
15 Qwest providing minutes and allowing for review of minutes per the terms  
16 established in CMP Redesign (as reflected in the CMP Document and the CMP  
17 Redesign minutes) are not resolved. Therefore, Eschelon is continuing to pursue  
18 Oversight Committee review to obtain minutes and review of minutes consistent  
19 with the CMP Document’s requirements.

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<sup>16</sup> Eschelon/84, Johnson/1.

<sup>17</sup> Eschelon/84, Johnson/6.

1 **Q. PLEASE DESCRIBE ESCHELON/50 RELATING TO WITHDRAWN**  
2 **QWEST PRODUCT AND PROCESS CHANGE REQUESTS.**

3 A. Eschelon/50 contains a description of the product and process change requests  
4 withdrawn by Qwest since at least 2001 (*i.e.*, all those posted in Qwest's CMP  
5 product and process archive on its web site).

6 **Q. PLEASE DESCRIBE ESCHELON/51 AND ESCHELON/52 RELATING**  
7 **TO ESCHELON'S REQUEST AND QWEST'S RESPONSE REGARDING**  
8 **AN OPPORTUNITY FOR INPUT FROM MULTIPLE CLECS.**

9 A. Eschelon/51 contains a 2003 email exchange between Qwest and Eschelon in  
10 which Eschelon asked Qwest to allow CLECs to have input into the development  
11 of Qwest's 14-state ICA negotiations template and for Qwest to provide status  
12 information to CLECs about Qwest's new template in CMP. Eschelon/51 shows  
13 that Qwest declined Eschelon's request. Likewise, Eschelon/52 contains a 2003  
14 letter exchange between Qwest and Eschelon in which Eschelon asked Qwest to  
15 involve other CLECs in the negotiations and implementation of *TRO* provisions,  
16 but Qwest declined to facilitate communications among multiple CLECs.

17 **Q. ESCHELON/53 IS THE CMP DOCUMENT. ARE YOU FAMILIAR WITH**  
18 **QWEST'S CMP, AND WHAT IS THE CMP DOCUMENT?**

19 A. Yes, I am familiar with CMP. Mr. Starkey describes CMP accurately in his  
20 testimony. As described with respect to my background above, I have  
21 participated in Qwest's CMP on behalf of Eschelon since at least 2001.  
22 Currently, I am the lead participant for Eschelon.

1 The “CMP Document” (Eschelon/53) outlines the rules and procedures governing  
2 conduct of Qwest’s CMP. It is available on Qwest’s website. It is also Exhibit G  
3 to the proposed ICA and to the SGAT (both of which provide that they include  
4 the most recent version of the CMP Document).<sup>18</sup> I have consulted the CMP  
5 Document in the course of my participation in CMP.

6 Qwest has described the CMP Document and the CMP development team (the  
7 CMP “Redesign” team) as follows:

8 Q. HOW WAS THE CMP CREATED?

9 A. The current CMP was designed by a joint group that included Qwest  
10 and a number of CLECs. Eschelon was an active participant in this  
11 process. Extensive negotiations took place in meetings from the fall of  
12 2001 to the fall of 2002. The end result was the Wholesale Change  
13 Management Process Document that governs the CMP today.<sup>19</sup>

14 **Q. PLEASE DESCRIBE ESCHELON/54 AND ESCHELON/55 RELATING**  
15 **TO CMP REDESIGN MEETING MINUTES.**

16 A. Eschelon/54 and Eschelon/55 contain excerpts from the meeting minutes of three  
17 CMP Redesign meetings held on January 22-24, 2002; April 2-4, 2002; and  
18 October 2-3, 2001, respectively. These Qwest-prepared minutes are posted on  
19 Qwest’s web site.

20 Eschelon/54 is an excerpt from the April 2002 CMP Redesign meetings. It states  
21 that the ICA information (Attachment 12) could be inserted into the Scope section  
22 of the CMP Document, and that Gap Analysis #150 and action item #227 were

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<sup>18</sup> See Section 12.1.6.1.3 of the proposed ICA (closed language).

1 closed. Eschelon/54 includes an excerpt from the CMP Redesign “Gap Analysis  
2 Matrix” with respect to Gap Analysis #150. In this posted CMP Redesign  
3 document, Eschelon said, for example, that “Qwest needs to establish and  
4 document a process to account for individual interconnection agreements  
5 (“ICAs”) when implementing changes and using the Change Management  
6 Process (“CMP”).” Mr. Starkey discusses the scope of CMP in his testimony.

7 Eschelon/55 is an excerpt from the October 2001 CMP Redesign meeting minutes  
8 and lists (a) CMP Redesign Action Item #72 (stating that a CLEC is to use the  
9 escalation and dispute process if a CLEC does not agree with Qwest’s response or  
10 rejection of a CLEC-initiated Change Request); (b) Action Item # 83 (stating that  
11 an issue does not have to go through the CMP escalation process before it goes to  
12 dispute resolution); and (c) Action Item #86 (stating that Qwest “will probably  
13 never use” the CMP dispute resolution process). Mr. Starkey discusses the  
14 dispute resolution process in his testimony.

15 **Q. PLEASE DESCRIBE ESCHELON/56, ESCHELON/57 AND**  
16 **ESCHELON/58 RELATING TO CRUNEC.**

17 A. Eschelon/56 to my testimony is the DS1 CRUNEC Chronology. Eschelon/57 is  
18 the CRUNEC Level 3 notice. Eschelon/58 is a CRUNEC Qwest-Eschelon email  
19 exchange. Mr. Starkey summarizes these events in his testimony in his discussion

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<sup>19</sup> Minnesota arbitration, Albersheim Direct, p. 5, lines 5-10; Washington arbitration Albersheim Direct, p. 4, lines 15-20 (same).

1 of the ICA and the need for contractual certainty. This is the first of the four  
2 examples he provides on that topic.

3 **Q. PLEASE DESCRIBE ESCHELON/59 THROUGH ESCHELON/78 ALL**  
4 **RELATING TO SECRET TRRO PCATS.**

5 A. Mr. Starkey summarized events relating to the Secret TRRO PCATs in his  
6 discussion of the ICA and the need for contractual certainty. This is the fourth of  
7 the four examples he provides on that topic.

8 Eschelon/59 to my testimony is the Secret PCAT TRRO Chronology and  
9 Exhibits.

10 Eschelon/60 and Eschelon/61 are Covad's escalation of Qwest Change Request  
11 PC102704-1ES and Qwest's response to Covad's escalation.

12 Eschelon/62 is a Redline of Change Request Detail for PC10270401ES.

13 . Eschelon/63 contains three examples of Qwest responses to Eschelon objections  
14 to non-CMP "TRRO" notices. The first example relates to a recent Enhanced  
15 Extended Link ("EEL") loop-multiplexing combination DS1 capable loop non-  
16 CMP "TRRO" notice, and Qwest's CMP response indicating that the issue would  
17 not be handled in CMP at this time. The second example relates to a non-CMP  
18 "TRRO" notice about a Qwest organizational change, and Qwest service  
19 management response indicating that the issue would not be handled in CMP at  
20 this time. The third example relates to Qwest's first password protected non-  
21 CMP "TRRO" PCATs (including for Commingled EELs), and Qwest's CMP

1 response that because this was a “non CMP notice,” Eschelon should contact  
2 Qwest service management with any questions.

3 Eschelon/64 contains two Qwest-Eschelon exchanges regarding Qwest’s non-  
4 CMP notices: one notice which was sent on 7/21/06<sup>20</sup> entitled “TRRO –  
5 Reclassification of Terminations for Unbundled Network Element (UNE)  
6 Conversions – V1.0,” with an effective date of 7/28/2006, and the other notice  
7 which was sent on August 31, 2006 with an effective date of September 7, 2006.<sup>21</sup>  
8 The first Qwest-Eschelon exchange is between Eschelon and Qwest ICA  
9 negotiations team, Qwest’s CMP manager (Mr. Coyne), and Qwest service  
10 management (Ms. Novak and Mr. Nielsen). The second Qwest-Eschelon  
11 exchange (the last page of Eschelon/64) is between Eschelon and CMP.

12 Eschelon/65 is an excerpt from Qwest’s Minnesota testimony (Ms. Karen  
13 Stewart) stating that Qwest stopped updating SGATs in 2003 and therefore  
14 considers SGATs as outdated documents.

15 Eschelon/66 are notices distributed by Qwest indicating SGATs are unavailable  
16 for opt in.

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<sup>20</sup> Document No. PROS.07.21.06.F.04074.TRRO\_Reclass\_Termin\_V1 (Qwest Wholesale Notification – not CMP notice);

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E07%2E21%2E06%2EF%2E04074%2ETRRO%5FReclass%5FTermin%5FV1%2Edoc>

<sup>21</sup> PROS.08.31.06.F.04152.TRRO\_Reclass\_UNE\_Conv\_V2; “TRRO Reclassification of Terminations; V2.0.”

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E08%2E31%2E06%2EF%2E04152%2ETRRO%5FReclass%5FUNE%5FConv%5FV2%2Edoc>

1 Eschelon/67 are screen shots taken from Qwest's website showing that Qwest has  
2 changed the link on its website to the SGATs so it takes the user to Qwest's  
3 Negotiation Template Agreements, where there is a separate link to the SGATs  
4 (in PDF), which Qwest indicates are for reference purposes only.<sup>22</sup>

5 Eschelon/68 is a Qwest-initiated change request SCR102704-1RG, in which  
6 Qwest provided a list of products that would no longer be available to CLECs.

7 Eschelon/69 is Qwest-initiated change request SCR83005-01, in which Qwest  
8 sought to implement an edit in IMA to block orders for central offices that Qwest  
9 unilaterally declared non impaired.

10 Eschelon/70 are Oversight Committee meeting minutes from January 4, 2005  
11 regarding a Covad request described in the minutes as "Qwest inappropriate use  
12 of CMP to drive legal interpretation of the Law, and the desired resolution; the  
13 proposed changes (PC102704-1ES) be withdrawn until Qwest can properly  
14 follow the CMP governing document."

15 Eschelon/71 includes the Oversight Committee meeting minutes from January 10,  
16 2005 regarding revisions to Change Request PC102704-1ES.

17 Eschelon/72 is the Change Request detail for PC102704-1ES.

18 Eschelon/73 is Qwest's additional change request (CR PC10274-1ES2). Although  
19 this should be part of the same change request (Eschelon/72), per Qwest, Qwest

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<sup>22</sup> Compare to Eschelon/59 (containing excerpts from 6/30/05, 3/29/06, and 4/6/06 Qwest



1 created the new Change Request PC10274-1ES2 as a continuation of PC10274-  
2 1ES because the original Change Request reached its character limitation.

3 Eschelon/74, Eschelon/75 and Eschelon/76 contain documentation exchanged  
4 regarding issues identified by Qwest in CMP and whether those issues were  
5 subject to litigation.

6 Eschelon/77 is a list of Qwest Non-CMP "TRRO" PCATs and reflects the  
7 versions of the PCATs as of April 13, 2007.<sup>23</sup>

8 Eschelon/78 contains an exchange of correspondence between Qwest and  
9 Eschelon regarding what Qwest described as its policy decision to review issues  
10 in CMP that Qwest had previously handled through non-CMP TRRO PCATs.

11 **Q. PLEASE DESCRIBE ESCHELON/79 RELATING TO HELD ORDERS.**

12 A. Eschelon/79 to my testimony is the No Build Held Order (Delayed Order)  
13 Chronology. Mr. Starkey refers to this example in his testimony in his discussion  
14 of CMP and the need for contractual certainty.

15 **Q. PLEASE DESCRIBE ESCHELON/80 THROUGH ESCHELON/83**  
16 **RELATING TO CMP DOCUMENTATION REGARDING OPTIONAL**  
17 **TESTING CHARGES.**

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communications in which Qwest committed to update and then file the updated SGATs).

<sup>23</sup> In this list, for each Qwest non-CMP TRRO PCAT, the first URL refers to the PCAT. The other URL is the link to the history log for the PCAT (which shows the number of versions/changes to the PCAT made by non-CMP notifications). As seen from this list, there are 12 Qwest non-CMP TRRO PCATs, and 99 versions of the PCATs (counting the number of versions issued per PCAT) made by non-CMP notifications.

1 A. Eschelon/80 through Eschelon/83 contains four documents that are posted on the  
2 Qwest CMP web site related to Qwest-initiated Change Request number  
3 PC100101-5 entitled "Clarification of Additional Testing Process." Eschelon/80  
4 is the Qwest Change Request "Detail," including Status History. Eschelon/81 is  
5 the joint escalation of Eschelon, Covad Communications, and Allegiance  
6 Telecom. Eschelon/82 is Qwest's Response to the joint CLEC CMP escalation  
7 and, Eschelon/83 is the joint CLEC reply to Qwest's response. Qwest did not  
8 respond. Mr. Starkey references this Exhibit in his testimony in his discussion of  
9 the ICA and the need for contractual certainty.

10 **Q. PLEASE DESCRIBE ESCHELON/85 RELATING TO QWEST**  
11 **MAINTENANCE AND REPAIR AND DISPATCH PCATS.**

12 A. Eschelon/85 contains the following documents:

13 CMP Ad Hoc Meeting Minutes (Oct. 10, 2006) (pages 1-7)  
14 Level 3 Notification (Dec. 1, 2006) (pages 8-10)  
15 Eschelon's Comments (Dec. 15, 2006) (pages 11-12)  
16 Level 3 Notification (Dec. 19, 2006) (pages 13-14)  
17 Eschelon-Qwest Email Exchange (Jan. 2007) (pages 15-16)  
18 Excerpt from Monthly CMP Meeting Minutes (Feb. 21, 2007) (pages 17-  
19 18)  
20 Wholesale Calendar Entry (showing ad hoc meeting on Feb. 19, 2007)  
21 (page 19)

22 **Q. PLEASE DESCRIBE ESCHELON/86 RELATED TO THE DB LOSS**  
23 **EXAMPLE DISCUSSED IN CONNECTION WITH ISSUES 9-33 AND 9-34**

1           **(NETWORK MAINTENANCE AND MODERNIZATION).**

2    A.    Eschelon/86 contains an email exchange between Eschelon and Qwest regarding a  
3           dB loss issue.  Though the particular problems Eschelon brought to Qwest's  
4           attention at that time concerned DS1s not working at the time of install, in the  
5           course of investigating the cause of this problem, Qwest revealed its maintenance  
6           and modernization plan to proactively reset dB levels at -7.5 during repairs in a  
7           September 29, 2004 letter from Qwest's VP Wholesale Markets to Eschelon about  
8           the dB loss issue, which is also part of Eschelon/86.  Mr. Starkey references  
9           Eschelon/86 in his testimony regarding Issues 9-33 and 9-34 (network  
10          maintenance and modernization).

11   **Q.    PLEASE DESCRIBE ESCHELON/87 THROUGH ESCHELON/92.**

12    A.    Eschelon/87 through Eschelon/92 relate to Subject Matter 29 (Root Cause and  
13          Acknowledgement of Mistakes).  I will discuss these exhibits in more detail  
14          below regarding Subject Matter 29 (Issues 12-64 through 12-66).

15   **Q.    PLEASE DESCRIBE ESCHELON/93 THROUGH ESCHELON/109 ALL**  
16          **RELATING TO EXPEDITED ORDERS.**

17    A.    Eschelon/93 through Eschelon/109 relate to Subject Matter 31 (Expedited  
18          Orders).  Mr. Denney discusses Subject Matter 31 and references these exhibits in  
19          his testimony.

20          Eschelon/93 to my testimony is the Chronology of Qwest CMP Changes.

1 Eschelon/94 is the Documented Facts Matrix. In Eschelon/94, facts outlined in  
2 the chronology in Eschelon/93 are listed in the “Fact” column and, in the  
3 corresponding “Documentation” column, documentation supporting that fact or  
4 event is identified. As an example, in Eschelon/93 (chronology), under the  
5 heading “7. CLEC Objections, Qwest Denials, and Dispute Resolution,” Eschelon  
6 states:

7 Although the CMP Document is not part of Eschelon’s ICA with  
8 Qwest, Eschelon voluntarily followed the CMP objection,  
9 escalation, and dispute resolution processes to attempt to resolve  
10 this matter. Eschelon also complied with the ICA’s dispute  
11 resolution provisions before bringing this matter to the  
12 Commission.”

13 Documents supporting this statement in Eschelon/93 are listed in rows 2-14 of  
14 Eschelon/94. For example, in support of the statement that Eschelon followed the  
15 “escalation” and “objection” CMP processes, the content of the escalation (by  
16 McLeodUSA) is quoted in row 2 of Eschelon/94, and an email from Qwest’s then  
17 CMP Process Manager indicating that Eschelon joined that McLeodUSA  
18 escalation is quoted in row 3 of Eschelon/94. Row 9 of Eschelon/94 contains a  
19 quotation from Eschelon’s objection in CMP stating that the “change Qwest is  
20 proposing is discriminatory to CLECs and their customers.” Eschelon provides  
21 the URL to Eschelon’s CMP comments in row 9, so the entire comments  
22 (including those of other CLECs) can be found as well.

23 Eschelon/95 includes excerpts from the Qwest Resale Product Database – or  
24 RPD.

1 Eschelon/96 is a 9/21/01 Qwest Product Notification.

2 Eschelon/97 is Qwest's Version 30 Announcement relating to changes to  
3 expedites.

4 Eschelon/98 is Qwest's 11/18/05 Response to CLEC Comments of the Version 30  
5 Announcement.

6 Together, Eschelon/93 through Eschelon/98 are intended to readily identify  
7 documents supporting facts in the chronology of events. For many of the facts,  
8 the supporting documentation is posted on Qwest's website and a URL is  
9 provided.

10 Eschelon/99 consists of a Qwest email dated June 27, 2001 regarding InfoBuddy.

11 Eschelon/100 is Qwest's March 29, 2006 Notice regarding RPD retirement,  
12 Eschelon's objection to the retirement of RPD and Qwest's response.

13 Eschelon/101 through Eschelon/104 are comprised of documentation relating to  
14 Qwest PCAT Expedites & Escalations Overview, Versions 6, 27, 30, and 44.

15 Eschelon/101, regarding Version 6 (effective May 27, 2003), contains the Qwest  
16 Level 2 CMP announcement in which Qwest states that Version 6 is  
17 "Documentation concerning existing process not previously documented: add  
18 Expedite reason – medical emergency." It also includes a page from the  
19 accompanying Qwest redline showing this change (adding the phrase "Medical  
20 emergency" to the documented list of "valid expedite" conditions). It also

1 includes the CLEC comments and Qwest's Response regarding Version 6. AT&T  
2 states: "We have had several meetings with Qwest to outline the specifics of the  
3 medical expedite process, and none of that information is contained in this PCAT,  
4 not the disclosure document for EDI, not other PCATs for ordering and  
5 provisioning. It has taken AT&T approximately 5 and a half months to get the  
6 information we have been requesting, and still it is not documented." Qwest's  
7 Version 6 Response confirms that, at this time, expedites were provided at no  
8 additional charge for medical emergencies, and Qwest was only documenting this  
9 fact:

10 The current process for Expedites will not change. "Medical  
11 emergency" is a valid Expedite reason that was not previously  
12 documented. The PCAT updates were clarifying updates only in  
13 order to provide an additional valid reason to request an expedite"  
14 and "Based on the comments received, the PCAT updates were  
15 clarifying updates only in order to provide additional information.  
16 The current process for Expedites will not change. "Medical  
17 emergency" is a valid Expedite reason that was not previously  
18 documented. The PCAT is being updated to clarify the actions for  
19 Expedite situations along with a link to the field entry requirements  
20 in the Local Service Ordering Guide (LSOG). Qwest accepts this  
21 comment.

22 Eschelon/102 is Version 27 of Qwest's Expedites & Escalations Overview PCAT  
23 (effective October 27, 2005), Eschelon/102 includes (1) the Qwest September 12,  
24 2005 Level 3 notification; (2) the pages of the accompanying redlines that refer to  
25 expedites (showing that Qwest deleted the phrase "all except 2w/4w analog" and  
26 inserted the phrase "Port In/Port Within associated with any of the applicable  
27 designed products listed above" in the list of products to which Qwest indicates

1 the fee-added Pre-Approved Expedite process applies);<sup>24</sup> (3) the October 12, 2005  
2 CLEC Comment and Qwest Response; (4) McLeodUSA's Escalation; (5)  
3 Qwest's November 4, 2005 Response to McLeodUSA's escalation; and (6) a  
4 March 28, 2006 Qwest-Eschelon email exchange in which Qwest confirms that  
5 "we do show that Eschelon did join the escalation."<sup>25</sup>

6 Eschelon/103 is Version 30 of Qwest's Expedites & Escalations Overview PCAT  
7 (effective January 3, 2006), Eschelon/103 includes (1) Qwest's October 19, 2005  
8 Level 3 notification; (2) the accompanying redline showing that Qwest made the  
9 following changes from the previous version to Version 30 of its PCAT to deny  
10 the capability to a CLEC with expedite "language in [its] Interconnection  
11 Agreement (ICA)" to expedite any product (including all loops) on Qwest's  
12 expanded Pre-Approved Expedite product list, even when the Original Conditions  
13 are met, and to instead require that the ICA "must contain" a "per day" expedite  
14 rate.<sup>26</sup>

15 Requesting an expedite follows one of two processes, depending  
16 on the product being requested. If the request being expedited is  
17 for a product contained in the "Pre-Approved Expedites" section  
18 below your ICA must contain language supporting expedited  
19 requests with a "per day" expedite rate. If the request being  
20 expedited is for a product that is not on the defined list, then the  
21 expedited request follows the process defined in the "Expedites  
22 Requiring Approval" section below.

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<sup>24</sup> See, e.g., Eschelon/93, pp. 8 and 9.

<sup>25</sup> See, e.g., Eschelon/93, pp. 12 and 13.

<sup>26</sup> See, e.g., Eschelon/93, pp. 10-12 & 13-16.

1 and (3) Qwest November 18, 2005 Final Notice and accompanying Qwest  
2 Response to CLEC Comment (with CLEC comments and Qwest Response).

3 Eschelon/104 is Version 44 of Qwest's Expedites & Escalations Overview PCAT.

4 Eschelon/105 is documentation relating to Version 45 of Qwest's Expedites &  
5 Escalations Overview PCAT.

6 Eschelon/106 includes a copy of the CMP status history/detail for Covad's Level  
7 4 CLEC-initiated Change Request entitled "Enhancement to the existing Expedite  
8 Process for Provisioning." This is discussed in connection with Version 11 of  
9 Qwest's Expedites & Escalations Overview PCAT (effective July 31, 2004).<sup>27</sup>

10 Eschelon/107 contains a list of examples of expedite orders that were approved by  
11 Qwest for unbundled loop orders using the *emergency-based* expedite process and  
12 provided at no additional charge, including during the time period after Qwest  
13 implemented the additional, optional fee-added expedite process. None of these  
14 examples are expedites under the fee-added expedite process. These examples  
15 show that Qwest continued to approve expedites for unbundled loop orders using  
16 the emergency-based expedite process under the existing interconnection  
17 agreement without amendment after the date on which it implemented the fee-  
18 added Pre-approved Expedites process.

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<sup>27</sup> See, e.g., Eschelon/93, Johnson/6-8.



1 Eschelon/108 contains annotated pages from Qwest Process Notifications for  
2 Versions 11, 22, 27 and 30 of the Qwest Expedites and Escalations Overview  
3 PCAT. Eschelon annotated the notices to circle pertinent information related to  
4 whether the notice is associated with a change request (“CR”) (*i.e.*, a Level 4  
5 change). There is a space on Qwest’s form where Qwest indicates whether a  
6 noticed change is “associated with” a change request or not. Eschelon/108 shows  
7 that Qwest indicated Versions 11 and 22 were associated with the Covad change  
8 request and Versions 27 and 30 were not associated with the Covad or any other  
9 change request.

10 Eschelon/109 consists of an Arizona Corporation Commission order dated June 6,  
11 2006 in Docket No. T-03406A-06-0257/T-04051B-06-0257, which adopted  
12 Eschelon’s proposed interim process that allows Eschelon to continue to have  
13 access to expedited orders for unbundled loops. The Order said on page two that  
14 Eschelon’s proposal for the interim process is a “good compromise, preserving  
15 Eschelon’s ability to obtain no-cost emergency expedites but providing for  
16 payment to Qwest for non-emergency expedites.”

17 **Q. PLEASE DESCRIBE ESCHELON/115 – ESCHELON/118 RELATING TO**  
18 **JEOPARDIES.**

19 A. Eschelon/115 through Eschelon/118 relate to Subject Matter 33 (Jeopardies). I  
20 will discuss these exhibits in more detail below regarding Subject Matter 33  
21 (Issues 12-71 through 12-73). One of these exhibits in particular (Eschelon/115)  
22 requires additional explanation because it includes several components requiring

1 explanation, so I will also describe Eschelon/115 further here.

2 Eschelon/115 to my testimony includes twenty-two examples of situations when  
3 Eschelon was unable to accept delivery of the circuit when Qwest tried to deliver  
4 the circuit because Qwest sent no FOC or an untimely FOC and yet Qwest  
5 erroneously classified this situation as “Customer Not Ready. Eschelon/115 has  
6 five components: (1) Data provided by Eschelon to Qwest to identify examples  
7 when no FOC or an untimely FOC was sent after a Qwest facility jeopardy;<sup>28</sup> (2)  
8 Qwest’s review (performed during the Minnesota Qwest-Eschelon ICA  
9 arbitration) of that data, in which Qwest provides its technicians’ notes associated  
10 with each example,<sup>29</sup> (3) Eschelon’s reply to Qwest’s review;<sup>30</sup> (4) Qwest’s  
11 Response to Eschelon’s review conducted in the Colorado arbitration  
12 proceeding;<sup>31</sup> and (5) Eschelon’s review of Qwest’s Colorado Exhibit RA-25.<sup>32</sup>

13 **Q. PLEASE ELABORATE ON THE KEY AND SUMMARY INFORMATION**  
14 **PROVIDED AT THE BEGINNING OF ESCHELON/115 REGARDING**  
15 **JEOPARDIES.**

16 A. The information in the key (pages i – ii of Eschelon/115) summarizes the  
17 examples by categories (“A” – “C”), with total numbers for each category, and it  
18 helps identify areas of agreement and disagreement between the companies. If

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<sup>28</sup> See Eschelon/ 115 (first four columns – “Eschelon Data”).

<sup>29</sup> See Eschelon/115 (fifth and sixth columns – “Qwest Review”).

<sup>30</sup> See Eschelon/115 (column 7 – “Eschelon Review”).

<sup>31</sup> Eschelon/115 (columns 8 and 9 – “From RA-25”).

1 the disagreements are set aside, there is one fact on which the companies clearly  
2 agree: The companies agree that Qwest sent *no FOC* at all after the Qwest  
3 facility jeopardy was cleared but before delivery or attempted delivery of the  
4 circuit for twelve (12) of the examples. (These twelve examples are identified in  
5 the key and the pertinent rows as part of category “A.”)

6 When no FOC is sent (as in category “A”), the most recent information available  
7 to Eschelon from the jeopardy and FOC status notices is that Eschelon should not  
8 expect circuit delivery, because Qwest has a facility problem to resolve before it  
9 can deliver the circuit.<sup>33</sup>

10 **Q. PLEASE DESCRIBE CATEGORY “B” IN EXHIBIT ESCHELON/115.**

11 A. Category “B” identifies examples for which the companies agree that Qwest sent  
12 an FOC, but they disagree as to whether the FOC was sent sufficiently in advance  
13 of the due date to allow Eschelon to prepare to accept delivery of the circuit (such  
14 as by scheduling personnel and/or arranging premise access with the customer).  
15 For example, one of the examples in category “B” is the situation in which Qwest  
16 provided an FOC *nine minutes before* attempting to deliver the circuit.<sup>34</sup>  
17 Eschelon’s proposed ICA language states that Qwest will provide an FOC “at

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<sup>32</sup> Eschelon/115 (final column – “Eschelon review of RA-25”).

<sup>33</sup> See footnote 5 to Eschelon/115. See my discussion below regarding Issue 1-72 and Qwest’s recent inaccurate claim that, despite this documented process, CLECs should prepare for delivery of the circuit even if no FOC is provided after the jeopardy notice but before attempted delivery of the circuit.

<sup>34</sup> Eschelon/115, Johnson/14, Row No. 11.

1 least the day before” Qwest attempts to deliver the circuit.<sup>35</sup> In Eschelon/115  
2 Eschelon identifies examples for which Qwest, after a facility jeopardy cleared,  
3 provided an FOC less than the day before delivery of the circuit as “invalid” CNR  
4 jeopardies. These are the Category “B” examples.

5 Qwest includes eight examples in Category “B,” while Eschelon agrees with only  
6 five of these. For the other two examples (Row Numbers 9 and 13), a pertinent  
7 FOC was not sent, as described above and in end note (i) to Eschelon/115 at  
8 Johnson/2, so Eschelon believes these two examples should be excluded from  
9 Category “B” (which is supposed to be examples when a pertinent FOC *was* sent).

10 Qwest now denies that its process is to provide the FOC at least the day before the  
11 due date.<sup>36</sup> Therefore, these examples are placed in a separate category (“B”)  
12 from the examples in which Qwest agrees that it is part of its process to send the  
13 FOC but Qwest failed to do so (“A”).

14 **Q. PLEASE DESCRIBE CATEGORY “C” IN EXHIBIT ESCHELON/115.**

15 A. Category “C” is the only one of the three categories for which Qwest agrees with  
16 the original purpose of the exhibit: to show examples of when Qwest incorrectly  
17 classified a jeopardy as Eschelon-caused (CNR). There are only three examples  
18 in Category C. For these three examples, the companies agree both that no FOC

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<sup>35</sup> Eschelon proposal for ICA Section 12.2.7.2.4.4.1.

<sup>36</sup> Minnesota arbitration Transcript, Vol. 1, p. 37, lines 16-23 (testimony of Renee Albersheim) (discussed below regarding Issue 12-72). Qwest claims that Eschelon’s proposed phrase “at least the day before” is not part of Qwest’s current process. *See id.* p. 37, lines 11-19. Other than that phrase, however, Qwest admits that the remainder of Eschelon’s proposed language reflects Qwest’s current process. *See id.* p. 37, lines 16-23.

1 was sent and that Qwest's assignment of a jeopardy as Eschelon-caused (CNR)  
2 was inappropriate. Unlike Qwest, Eschelon considers the absence of the FOC  
3 sufficient reason to not assign CNR. It appears from the information provided by  
4 Qwest that Qwest has singled out these three examples because there was an  
5 additional Qwest facility jeopardy. So, Qwest should have sent another Qwest  
6 facility jeopardy notice instead of a CNR jeopardy. (In other words, there was an  
7 additional reason, besides Qwest's failure to send an FOC, upon which Qwest  
8 relies for agreeing that its classification was incorrect.) This could happen, for  
9 example, if Qwest clears a first Qwest jeopardy based on pairs that then turn out  
10 to be bad. Qwest's process is to send another Qwest facility jeopardy (for the bad  
11 pairs).

12 **Q. PLEASE DESCRIBE ESCHELON/119 THROUGH ESCHELON/122.**

13 A. Eschelon/119 through Eschelon/122 relate to Subject Matter 43 (Controlled  
14 Production). I will discuss these exhibits in more detail below regarding Subject  
15 Matter 43 (Issue 12-87).

16 **III. OPEN SECTION 12 ISSUES: SUBJECT MATTERS 29, 31, 33, AND 43**

17 **A. SUBJECT MATTER NO 29. ROOT CAUSE ANALYSIS AND**  
18 **ACKNOWLEDGEMENT OF MISTAKES**

19 *Issues Nos. 12-64, 12-64(a) and 12-64(b): ICA Section 12.1.4 and subparts*

20 **Q. PLEASE DESCRIBE ESCHELON'S BUSINESS NEED REGARDING**

1           **ROOT CAUSE AND ACKNOWLEDGEMENT OF MISTAKES**  
2           **REFLECTED IN ISSUE NUMBERS 12-64, 12-64(a) AND 12-64(b).**

3       A.     In its role as a wholesale provider to Eschelon, Qwest performs activities, such as  
4           installing and repairing unbundled loops on Eschelon’s behalf. Qwest’s role is  
5           unique in this respect, as Eschelon does not perform installation and repair  
6           activities on a wholesale basis on behalf of Qwest. If Qwest makes an error in the  
7           course of these activities that impacts Eschelon’s Customer, that Customer may  
8           attribute fault to Eschelon, rather than Qwest. Indeed, this may occur because the  
9           Customer does not fully understand the wholesale relationship between its  
10          provider (Eschelon) and Qwest. Or, Qwest may even tell the End User Customer  
11          that the error was caused by Eschelon despite the fact that Qwest caused the  
12          service impacting error.<sup>37</sup> In either situation, it is important that Qwest  
13          acknowledge its mistake in a form that allows Eschelon to pass this  
14          acknowledgement to the End User Customer, if necessary, so that Eschelon does  
15          not lose its Customers and suffer harm to its reputation in the marketplace.

16          Root-cause analyses are necessary to the correct attribution of mistakes and to  
17          developing procedures to attempt to avoid similar mistakes in the future. A  
18          requirement to perform a root cause analysis, when necessary to establish which  
19          carrier caused an error, is implicit in a requirement that Qwest acknowledge its  
20          mistakes. In other words, “to acknowledge a mistake, Qwest has to determine

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<sup>37</sup> This happened in the Minnesota 616 case discussed below (and also discussed by Mr. Starkey in his testimony with respect to CMP). See Eschelon/5, Starkey 8 & 11.

1 that one was made and why.”<sup>38</sup> In many instances, a root cause analysis is  
2 essential to getting to the heart of the error, and hopefully preventing further  
3 similar mistakes.

4 **Q. HAS ANY STATE COMMISSION RECOGNIZED THESE NEEDS AND**  
5 **ORDERED INCLUSION OF LANGUAGE IN A QWEST ICA TO**  
6 **ADDRESS THESE NEEDS?**

7 A. Yes. In a case discussed further by Mr. Starkey (in the “Minnesota 616” example  
8 in his CMP discussion), the Minnesota Commission recognized this need and  
9 ordered Qwest to create procedures for acknowledging mistakes related to  
10 Qwest’s errors that affect CLEC’s End User Customers.<sup>39</sup> Since then, in the  
11 Minnesota Qwest-Eschelon arbitration, the Minnesota commission adopted  
12 Eschelon’s proposed language for Issue 12-64 and subparts (including alternative  
13 #2 for Section 12.1.4.1) regarding root cause and acknowledgement of mistakes.<sup>40</sup>

14 **Q. BRIEFLY DESCRIBE THE FACTS WHICH LED TO THE MINNESOTA**  
15 **616 ORDER REQUIRING QWEST’S ACKNOWLEDGEMENT OF**  
16 **MISTAKES.**

17 A. A large business End User Customer selected Eschelon as its carrier of choice,  
18 and Eschelon initiated the conversion process. Almost two weeks before the

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<sup>38</sup> Eschelon/29, Denney/51 (Minnesota Arbitrators’ Report ¶208).

<sup>39</sup> Order Finding Service Inadequate and Requiring Compliance Filing, In the Matter of a Request by Eschelon Telecom for an Investigation Regarding Customer Conversion by Qwest and Regulatory Procedures, MN PUC Docket No. P-421/C-03-616. July 30, 2003, p. 9 [“MN 616 Order”], see Eschelon/5, Starkey/14.

<sup>40</sup> Eschelon/30, Denney/23 [MN PUC Arbitration Order, p. 23, ¶4 (Topic 27)].

1 requested due date (the date Eschelon requested that Qwest convert the service),  
2 many of the Customer's telephone numbers went out of service. Eschelon later  
3 learned that a Qwest employee made an error by typing an incorrect due date  
4 within its internal service order associated with this conversion – and the Qwest  
5 error brought down the Customer's service two weeks earlier than the conversion  
6 date. Naturally, the End User Customer was upset. Moreover, Qwest worsened  
7 the situation by actually telling Eschelon's Customer that the outage was  
8 Eschelon's fault. The End User Customer was so upset about the outage that the  
9 Customer asked Eschelon to cancel the order and stop the Customer's conversion  
10 to Eschelon. Qwest was successful, therefore, in preventing a Customer from  
11 switching to Eschelon.

12 The situation was further aggravated by the fact that, when Eschelon submitted its  
13 request to cancel the wholesale orders associated with Customer's conversion as  
14 the Customer had requested, Qwest rejected Eschelon's request to cancel the  
15 order.<sup>41</sup> After Eschelon's escalation, the order was eventually cancelled. Further,  
16 Eschelon learned that Qwest's *Wholesale* group alerted Qwest's *Retail* group of  
17 the situation with this End User Customer (an outage caused by Qwest's  
18 Wholesale group) so that Qwest's Retail group could turn its own company's

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<sup>41</sup> The rejection was due to the way Qwest's systems treat an order for which some of Qwest's internal service orders have already been completed.



1 error into an opportunity to win back the unhappy Customer, even though  
2 Qwest's error made that Customer unhappy.<sup>42</sup>

3 Eschelon also learned that Qwest Retail's group e-mail to the End User Customer  
4 told the Customer in a "misleading" manner that it would lose service again  
5 unless Eschelon took specific action to cancel the service transfer order.<sup>43</sup> As  
6 may happen in such a "he said, she said" situation, *the End User Customer*  
7 *demanded that Eschelon provide a written statement from Qwest stating clearly*  
8 *that Qwest made the error causing the outage, and that Eschelon had complied*  
9 *with the Customer's wishes.* Because Qwest had created doubt about Eschelon's  
10 explanation of the problem, the Customer wanted confirmation from Qwest itself.  
11 Eschelon requested such a statement from Qwest. Qwest told Eschelon that  
12 Qwest's policy is that Qwest will not provide a written statement to be provided  
13 to the Customer, even when the purpose of the statement is to correct Qwest  
14 misinformation. Eschelon then turned to the Minnesota Commission for relief,  
15 and the Commission issued the Order cited above. The Minnesota 616 case is  
16 also summarized in the Minnesota Arbitrators' Report ¶¶204-208 (Eschelon/29,  
17 Denney 50-52).

18 **Q. HOW DOES ESCHELON'S PROPOSAL ADDRESS THESE ISSUES?**

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<sup>42</sup> This conduct was captured in an e-mail that Qwest's *Retail* sent directly to Eschelon's Customer. In the e-mail, the Qwest Retail representative specifically said: "*I was contacted by our wholesale group. . . .*" See Eschelon/5, Starkey 8.

<sup>43</sup> Eschelon/5, Starkey/11. The Minnesota Commission specifically found that Qwest Retail's email to Eschelon's Customer "was misleading in at least two ways." See *id.*

1 A. Eschelon proposes that the ICA contain terms regarding root cause analyses and  
2 promptly acknowledging and taking responsibility for mistakes made in Qwest's  
3 role as a wholesale provider for Eschelon (when Qwest makes a mistake while  
4 acting on Eschelon's behalf). Eschelon proposes the following language:

5 **Issue 12-64:**

6 12.1.4 Root Cause Analysis and Acknowledgement of Mistakes

7 **Proposal #1 for 12.1.4.1:**

8 12.1.4.1 CLEC may make a written request to its Qwest Service  
9 Manager for root cause analysis and/or acknowledgement of a  
10 mistake relating to products and services under this Agreement.  
11 The written request should include the following information,  
12 when applicable and available: Purchase Order Number (PON),  
13 Service Order Number, billing telephone number, a description of  
14 the End User Customer impact and the ticket number associated  
15 with the repair of the impacting condition. It is expected that  
16 CLEC has followed usual procedures to correct a service  
17 impacting condition before beginning the process of requesting  
18 Qwest acknowledgement of error.

19  
20 **Proposal #2 for 12.1.4.1:**

21 12.1.4.1 CLEC may make a written request to its Qwest Service  
22 Manager for root cause analysis and/or acknowledgement of  
23 mistake(s) in processing wholesale orders, including pre-order,  
24 ordering, provisioning, maintenance and repair, and billing. The  
25 written request should include the following information, when  
26 applicable and available: Purchase Order Number (PON), Service  
27 Order Number, billing telephone number, a description of the End  
28 User Customer impact and the ticket number associated with the  
29 repair of the impacting condition. It is expected that CLEC has  
30 followed usual procedures to correct a service impacting condition  
31 before beginning the process of requesting Qwest  
32 acknowledgement of error.

33  
34 12.1.4.2 When the Qwest Service Manager receives a request for  
35 root cause analysis and/or acknowledgement from CLEC, an  
36 investigation process will begin. When this investigation results in  
37 agreement that Qwest erred, the Qwest Service Manager will  
38 provide written correspondence to CLEC.

1 12.1.4.2.1 The letter will include a recap of sufficient pertinent  
2 information to identify the issue, (e.g., PON, Service Order  
3 Number, order Due Date and billing telephone number, as  
4 provided in the CLEC request) and the following statement,  
5 “Qwest acknowledges its mistake. The error was not made by the  
6 other service provider.”

7 12.1.4.2.2 Qwest understands that time is of the essence in  
8 processing such a request and that a response should be provided  
9 as quickly as is possible given the particular issue raised by CLEC.

10 **Issue 12-64(a):**

11 12.1.4.2.3 Written responses acknowledging Qwest error will be  
12 provided with Qwest identification, such as Qwest letterhead, logo,  
13 or other indicia.

14 12.1.4.2.4 The Qwest Service Manager will provide the  
15 acknowledgement to CLEC.

16 **Issue 12-64(b):**

17 12.1.4.2.5 The acknowledgment response described in Section  
18 12.1.4.2.3 and provided by the Qwest Service Manager to CLEC  
19 will be provided on a non-confidential basis and will not include a  
20 confidentiality statement.

21 12.1.4.2.6 Qwest external documentation available to CLEC will  
22 instruct CLEC to make requests for acknowledgements directly to  
23 its Qwest Service Manager. Such external documentation will also  
24 include instruction for accessing the Qwest Customer Contact  
25 Information Tool to identify the assigned Qwest Service Manager  
26 if CLEC does not know to whom its request can be sent.

27 Although in Oregon Qwest *opposes* all of Eschelon’s proposed language for Issue  
28 12-64 and subparts, Qwest disputed only portions in Minnesota and eventually  
29 *agreed* in Minnesota to all of Eschelon’s proposed language (which is the same in  
30 both states), except the one phrase shaded in gray above for Section 12.1.4.1  
31 (Eschelon proposals #1 and #2). In Minnesota, the ALJs found that Eschelon’s  
32 proposal #1 for Section 12.1.4.1 was “consistent with the record and in the public

1 interest.”<sup>44</sup> The ALJs also observed that this single phrase could be modified  
2 further, and also be consistent with the public interest.<sup>45</sup> In response, Eschelon  
3 offered proposal #2 for Section 12.1.4.1 for all six states.<sup>46</sup> Eschelon’s Proposal  
4 #2 for Section 12.1.4.1 uses the following phrase: “mistake(s) in processing  
5 wholesale orders, including pre-order, ordering, provisioning, maintenance and  
6 repair, and billing.” When adopting Eschelon’s alternate proposal (Proposal #2),  
7 the Minnesota Commission said: “The Commission’s concern for the  
8 anticompetitive consequences of service quality lapses has never been as narrow  
9 as Qwest’s language would suggest. The Commission finds it reasonable for  
10 Qwest to acknowledge mistakes at any point in processing wholesale orders,  
11 including mistakes arising during pre-ordering, ordering, provisioning,  
12 maintenance and repair, and billing. In the interest of clarity, the Commission  
13 will adopt the arbitrator’s language as modified by Eschelon.”<sup>47</sup>

14 **Q. WHAT IS QWEST’S PROPOSAL ON THESE ISSUES?**

15 A. Qwest does not agree with any of Eschelon’s proposed language, and instead  
16 proposes that Section 12.1.4 and subparts be deleted and left intentionally blank.  
17 Qwest argues that this language is inappropriate for an ICA.<sup>48</sup> Inconsistencies in

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<sup>44</sup> Eschelon/29, Denney 52 (¶208).

<sup>45</sup> See *id.*

<sup>46</sup> Proposal #2 is not shown in the Joint Disputed Issues Matrix filed with the Petition for Arbitration (Exhibit 3) but has been provided as an Eschelon proposal to Qwest since then.

<sup>47</sup> Eschelon/30, Denney 15; *see also* Eschelon/30, Denney 23 [MN PUC Arbitration Order, p. 15; *see also id.* p. 23, ¶4 (Topic 27)].

<sup>48</sup> See Qwest’s position statement on Issue 12-64 and subparts in the Joint Disputed Issues Matrix, Exhibit 3 to Petition (10/10/06), pp. 162-167.

1 Qwest's position are discussed in the testimony of Mr. Starkey, relating to CMP  
2 issues (and specifically his discussion of the "Minnesota 616" example).

3 **Q. GIVEN THAT QWEST PROPOSES TO EXCLUDE THE LANGUAGE**  
4 **FROM THE ICA, HAVE YOU PROVIDED ANY EXAMPLE THAT**  
5 **ILLUSTRATES ESCHELON'S BUSINESS NEED FOR AN ICA**  
6 **PROVISION THAT REQUIRES QWEST TO ACKNOWLEDGE ITS**  
7 **ERRORS (ISSUE 12-64 —THE FIRST OF THREE ISSUES RELATED TO**  
8 **SUBJECT MATTER 29)?**

9 A. Yes. I provide examples of errors committed by Qwest in connection with repair  
10 and installation situations that impacted Eschelon's End User Customers in  
11 Eschelon/87. In a particular situation involving a restaurant,<sup>49</sup> Eschelon's End  
12 User Customer, experienced trouble with its voice line. During the repair of this  
13 line, Qwest's technician erroneously disconnected the Customer's credit card line.  
14 The next day, Qwest's technician was again at the Eschelon End User Customer's  
15 location with Eschelon's technician.<sup>50</sup> The Customer told them that the restaurant  
16 had effectively given away "free food" worth \$110, because of the credit card line  
17 outage. Qwest's technician responded to the Eschelon End User Customer with  
18 profanity. Following the mistake resulting in the credit card line outage, this  
19 obviously upset the Customer even further. After Eschelon reported this incident

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<sup>49</sup> Eschelon/87, Johnson/1 (first example).

<sup>50</sup> This is called a joint meet.

1 to Qwest, Qwest recognized that this was inappropriate and said it took  
2 disciplinary action against its technician.

3 In addition, with respect to this specific restaurant example, Eschelon later  
4 learned that Qwest management also visited Eschelon's End User Customer and  
5 communicated directly with the Customer, without Eschelon's knowledge or  
6 presence, about the incident. The current Qwest-Eschelon ICA, like the pending  
7 ICA, provides that Eschelon is the single point of contact with Eschelon's End  
8 User Customer.<sup>51</sup> Per this provision, Qwest should not have communicated with  
9 the Eschelon Customer instead of Eschelon.<sup>52</sup> This suggests that the ICA  
10 language needs to be more explicit on this point. If Eschelon's proposed language  
11 were adopted for Issues 12-64 and subparts, in conjunction with closed issues 12-  
12 65, and 12-66,<sup>53</sup> the ICA would be more clear in requiring that Qwest take the  
13 appropriate steps to provide a written acknowledgement of its error in causing the  
14 credit card line outage to Eschelon, allowing Eschelon to communicate with its  
15 own Customer and pass along Qwest's written acknowledgement to its Customer,  
16 if necessary.

17 **Q. ESCHELON'S PROPOSED LANGUAGE REFERS TO ROOT CAUSE**  
18 **ANALYSIS. PLEASE EXPLAIN.**

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<sup>51</sup> Attachment 8, section 1.1.1.1 of the current Qwest-Eschelon ICA. This provision states "At all times, CO-PROVIDER shall be the primary (single and sole) contact and account control for all interactions with its subscribers, except as specified by CO-PROVIDER."

<sup>52</sup> Afterwards, Qwest claimed the purpose of its return visit was to apologize to Eschelon's customer. Any apology should have been provided to Eschelon, per the ICA language. *See id.*

1 A. As I indicated above, a root cause analysis can be essential to getting to the heart  
2 of errors, and hopefully preventing further similar mistakes made when Qwest in  
3 its role as a vendor is performing work for Eschelon. Eschelon expends resources  
4 researching examples (which Qwest asks Eschelon to provide when problems  
5 occur).<sup>54</sup> Qwest benefits from root cause of these examples because Qwest gains  
6 efficiencies when information learned from these mistakes is used to avoid  
7 mistakes going forward. In Qwest's PCAT, Qwest acknowledges that CLECs  
8 may submit requests for root cause analysis:

9 Your Qwest Service Team is prepared to assist you with:  
10 ...  
11 Handling maintenance and repair post mortems (root cause  
12 analysis) when you submit a specific request for a post mortem on  
13 an unusual repair event, e.g., event over eight hours. Your Qwest  
14 Service Manager will review the logged notes regarding the event  
15 and discuss the circumstances surrounding the event with the  
16 Qwest Repair Center to determine the cause, the process used to  
17 repair/restore service, and the process(es) implemented to prevent  
18 a reoccurrence of the event. Working with Qwest's Repair  
19 Center/Network Reliability Operations Center, as appropriate, your  
20 Qwest Service Manager will conduct the Root Cause Analysis  
21 (RCA) and provide you the complete analysis in writing.  
22 Investigation and preparation of a typical postmortem takes from  
23 2-10 business days depending on the complexity of the event.<sup>55</sup>

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<sup>53</sup> Issues 12-65 and 12-66 deal with Qwest's communications with Eschelon's End User Customers, and are closed. The closed language is shown below.

<sup>54</sup> Eschelon/92, Johnson/2 (last paragraph) ("In all above instances the reporting CLEC should be prepared to discuss the specific details and examples of the issue and all informative documentation researched.").

<sup>55</sup> Qwest's PCAT, *Account Team / Sales Executives and Service Managers - V9.0* available at <http://www.qwest.com/wholesale/clecs/accountmanagers.html>.

1 Qwest provides Eschelon with root cause analysis.<sup>56</sup> Eschelon/87 includes a  
2 number of examples in which Qwest provided root cause analysis. The second,  
3 third, fourth, fifth, eighth, and ninth examples in that Exhibit describe situations  
4 for which Qwest provided root cause analysis to Eschelon. Qwest has the  
5 capability to conduct these root cause analyses and provide them to Eschelon. In  
6 fact, providing root cause analysis is a defined part of the Qwest's Service  
7 Manager's Role. Qwest's own documentation provides that, for "Requests for  
8 Information," "System Problems," "Service Order Problems," "Billing  
9 Problems," "Compliance Issues," "Network Repair Problems," "Product  
10 Information," "Chronic Performance Problems," and "Isolated Personnel  
11 Performance Issues," the CLEC ( in "*all*" of these instances) should be prepared  
12 to discuss examples and "*Qwest will conduct a root cause analysis* of the  
13 examples of the problem, and provide its analysis to the reporting CLEC in a  
14 timely manner."<sup>57</sup>

15 As the Qwest language discussed above shows, the process for obtaining a root  
16 cause analysis is to provide examples and request root cause from the Qwest  
17 Service Manager. As Qwest already assigns a Service Manager to Eschelon, and  
18 the Service Manager knows how to obtain root cause analyses (as shown by these

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<sup>56</sup> Regarding Qwest's recent refusal to provide root cause analyses regarding problems with jeopardies and firm order confirmations that result in customer affecting delays, however, see my discussion below regarding Issues 12-71 through 12-73 and Eschelon/117.

<sup>57</sup> Eschelon/92, Johnson/2 (last paragraph). This is Qwest documentation posted on its website which, as discussed previously, Qwest may change unilaterally and, as discussed in Eschelon/117 (with respect to Qwest's refusal to provide root cause for jeopardy examples) Qwest is disregarding currently. These facts show that the commitment to perform root cause analysis needs to be in the interconnection agreement.



1 two quotations), no new procedures or costly changes are needed to provide the  
2 requested root cause analyses.

3 Repeat or systemic problems in Qwest's provisioning of wholesale services to  
4 Eschelon adversely affect Eschelon when they occur. Therefore, Eschelon should  
5 have a contract right to request root cause analyses for the purpose of helping to  
6 prevent similar mistakes in the future. By proposing to exclude the term from the  
7 contract, Qwest is attempting to reserve the right to stop providing root cause  
8 analyses during the contract term without amending the agreement. This would  
9 harm Eschelon's ability to protect itself from ongoing Qwest mistakes of the  
10 nature that harm Eschelon's end user customers. Including this term in the  
11 contract, in contrast, will help avoid disputes that would otherwise occur if  
12 troubles are not identified through root cause analyses and continue to re-occur.

13 **Q. ISSUE 12-64 INCLUDES SUBPARTS, EVEN THOUGH QWEST**  
14 **OPPOSES ALL OF ESCHELON'S LANGUAGE IN OREGON. PLEASE**  
15 **EXPLAIN.**

16 A. As indicated, Qwest ultimately agreed to all of Eschelon's proposed language for  
17 Issue 12-64 and subparts, except the single phrase in Section 12.1.4.1 described  
18 above, in Minnesota. Before that, Qwest also opposed the language dealt with in  
19 Issues 12-64(a) and 12-64(b). As Qwest has made particular claims with respect  
20 to Issues 12-64(a) and 12-64(b) (aside from its general argument that all of the

1 language is inappropriate for an ICA<sup>58</sup>), Eschelon separately addresses those  
2 claims with respect to Issues 12-64(a) and 12-64(b).

3 **Q. REGARDING ISSUE 12-64(a) (THE SECOND OF THE THREE ISSUES**  
4 **RELATING TO ACKNOWLEDGEMENT OF MISTAKES), PLEASE**  
5 **EXPLAIN ESCHELON'S POSITION REGARDING CARRIER**  
6 **IDENTIFICATION.**

7 A. Issue 12-64(a) deals with the proper identification of Qwest as the company  
8 issuing the letter of acknowledgment (in Section 12.1.4.2.3) and Eschelon as the  
9 company receiving the acknowledgment (in Section 12.1.4.2.4). Eschelon's  
10 proposal for the first paragraph (Section 12.1.4.2.3) requires that the written  
11 acknowledgement will be provided with Qwest identification "such as Qwest  
12 letterhead, logo, or other indicia."<sup>59</sup> Eschelon's proposal is driven by the  
13 business need to obtain these acknowledgements and share them with its end user  
14 customers to avoid losing customers in situations when Qwest's mistakes might  
15 be incorrectly attributed to Eschelon. Eschelon's language is a logical means of  
16 demonstrating to the end user customer that the acknowledgement of error was  
17 generated by Qwest. Similarly, Eschelon's proposal for 12.1.4.2.4 is a logical

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<sup>58</sup> See Qwest's position statement on Issue 12-64 and subparts in the Joint Disputed Issues Matrix, Exhibit 3 to Petition (10/10/06), pp. 162-167. Cf. Mr. Starkey's discussion of the "Minnesota 616" example.

<sup>59</sup> In the November 12, 2003 Order in Minnesota Docket No. P-421/C-03-616, the commission required that Qwest provided the acknowledgement of mistakes on Qwest's letterhead or similar indicia. The Order stated that Qwest's compliance filing addressing the inadequacies found by the Commission's original July 2003 Order should include the following: "(h) Procedures for ensuring that acknowledgements appear on Qwest letterhead or other indicia to show that it is Qwest making the acknowledgement." Eschelon/5, Starkey 4.

1 means of clarifying that Eschelon is the carrier requesting and receiving the  
2 acknowledgement.

3 **Q. REGARDING ISSUE 12-64(b) (THE THIRD OF THE THREE ISSUES**  
4 **RELATING TO SUBJECT MATTER 29), PLEASE EXPLAIN**  
5 **ESCHELON'S POSITION REGARDING THE NON-CONFIDENTIAL**  
6 **STATUS OF THE ACKNOWLEDGEMENT.**

7 A. Issue 12-64(b) deals with whether a Qwest acknowledgment will be provided on a  
8 non-confidential basis to allow Eschelon to provide it to the end user customer.  
9 Eschelon's proposal requires that acknowledgements will be provided on a non-  
10 confidential basis *and* will not include a confidentiality statement. The choice of  
11 words in Eschelon's proposal is a safeguard against a situation in which the  
12 acknowledgement letter does not include a confidentiality statement, but is still  
13 provided on a confidential basis. For example, Qwest may provide the  
14 acknowledgement as an enclosure to a cover e-mail containing a confidentiality  
15 message.

16 **Q. DOES QWEST PROVIDE COVER E-MAILS CONTAINING**  
17 **CONFIDENTIALITY PROVISIONS?**

18 A. Yes. In fact, Qwest has begun to insert a confidentiality message on its e-mails as  
19 follow: "This communication is the property of Qwest and may contain  
20 confidential or privileged information. Unauthorized use of this communication is  
21 strictly prohibited and may be unlawful. If you have received this communication  
22 in error, please immediately notify the sender by reply e-mail and destroy all

1 copies of the communication and any attachments.” When Eschelon inquired  
2 about this message, Qwest’s service management personnel said that this message  
3 “is generated on all out going e-mails from Qwest. I do not control it.”<sup>60</sup> While  
4 somewhat non-committal (as it uses the term “may”), this message is likely to  
5 cause confusion about the non-confidential status of the requested information. It  
6 may deter using the information for its intended purposes – to explain the  
7 situation to the end user customer and to attempt to avoid similar problems in the  
8 future. Qwest’s apparently auto-generated confidentiality message will present  
9 practical obstacles to sharing with the End User Customer the acknowledgement  
10 of mistakes and root cause analysis (which is, of course, the primary purpose of  
11 requiring that Qwest acknowledge its mistakes), if this issue is not addressed in  
12 the interconnection agreement language. With such language in the  
13 interconnection agreement, if Qwest desires to continue to use such auto-  
14 generated messages, Qwest would need to clearly indicate that the  
15 acknowledgement is not confidential to counter the confusion caused by this  
16 message.

17 **Q. PLEASE SUMMARIZE ISSUES 12-64, 12-64(a) AND 12-64(b) RELATING**  
18 **TO ACKNOWLEDGEMENT OF MISTAKES.**

19 A. When Eschelon’s end user customer incorrectly attributes Qwest-caused errors to  
20 Eschelon, the business relationship between Eschelon and its customer is affected,  
21 which can be to Qwest’s advantage. Eschelon proposes to include, in its Oregon

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<sup>60</sup> Qwest (Ms. Jean Novak) e-mail to Eschelon (Ms. Bonnie Johnson), May 15, 2006 (subject:

1 ICA with Qwest, provisions that address this business need. Eschelon proposal is  
2 not limited to a narrow set of issues regarding ordering wholesale activities (*i.e.*,  
3 LSR and ASR orders) because Qwest errors that harm Eschelon's customers can  
4 occur when Qwest is performing other wholesale activities in its role as a vendor  
5 to Eschelon as well. As root cause analyses can be essential to getting to the heart  
6 of these errors, Qwest should be required to provide these analyses to help prevent  
7 additional customer-affecting mistakes. Qwest's acknowledgement statement  
8 should clearly identify Qwest as the carrier generating the statement and Eschelon  
9 as the carrier receiving the statement to avoid customer confusion. The  
10 interconnection agreement should prevent Qwest from using a confidentiality  
11 designation in acknowledgements to ensure that Eschelon can provide the  
12 acknowledgement to its end user customer.

13 **B. SUBJECT MATTER NO. 31. EXPEDITED ORDERS**

14 *Issues Nos. 12-67 and 12-67(a)-(g)*

15 **Q. WHERE IS SUBJECT MATTER 31 DISCUSSED IN ESCHELON'S**  
16 **DIRECT TESTIMONY?**

17 **A.** Mr. Denney addresses Issue 12-67 and subparts in his direct testimony. As  
18 discussed above, expedited orders are also addressed in Eschelon/93 –  
19 Eschelon/109 to my testimony.

1 **C. SUBJECT MATTER NO. 33. JEOPARDIES**

2 Issues Nos. 12-71, 12-72, and 12-73: ICA Section 12.2.7.2.4.4 and subparts

3 **Q. WHAT IS A JEOPARDY AND A JEOPARDY NOTICE?**

4 A. When circumstances exist to suggest that a due date of service delivery will likely  
5 be missed, the due date is in *jeopardy* of being missed. A jeopardy condition  
6 affecting a due date may be caused by either company. A Qwest-caused jeopardy  
7 may result, for example, from a lack of facilities to fill the order. A CLEC-caused  
8 jeopardy may result, for example, if either the CLEC or the CLEC's customer  
9 should be but is not ready to accept delivery of the circuit/service on the due date.  
10 The term "Qwest jeopardy" refers to a jeopardy attributable to Qwest.<sup>61</sup> The term  
11 "Qwest *facility* jeopardy" refers generally to a problem attributable to Qwest  
12 relating to facilities in the Qwest network (such as lack of facilities, bad pairs,  
13 etc.).<sup>62</sup> A jeopardy that is attributable to the CLEC or the CLEC's customer is  
14 referred to as a "Customer Not Ready" or "CNR" jeopardy.

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<sup>61</sup> See Qwest's Provisioning and Installation Overview PCAT, stating: "Qwest is responsible for resolving all Designed jeopardy codes starting with the letters "A" through "V", with the exception of all "C" jeopardy codes, K10, and K11. We are also responsible for resolution of Non-Designed jeopardy codes CF, CL, CO, and CS. Examples include:

V25 -Qwest Equipment Center has a Plug-in Inventory Control System (PICS) problem. We will escalate to obtain the PICS equipment for installation in the Central Office in time to meet the DD.

CF - Unavailability or lack of outside plant or buried service wire."

<http://www.qwest.com/wholesale/clecs/provisioning.html>

<sup>62</sup> See footnotes 5 and 6 to Eschelon/115, Johnson 3-4 regarding the different types of jeopardies and discussion of "K" jeopardies (Qwest-caused jeopardies).

1 A jeopardy *notice* is a notice that Qwest sends to inform a CLEC that a due date is  
2 in jeopardy of being missed.<sup>63</sup> Qwest, in its Product Catalog (“PCAT”),  
3 “differentiates” categories of jeopardies and provides different direction to  
4 CLECs as to whether to prepare to accept the circuit/service depending on the  
5 nature of the jeopardy notice received.<sup>64</sup> For one category of jeopardies that is not  
6 the subject of Eschelon’s language, Qwest tells CLECs to “disregard” the  
7 jeopardy notice (meaning to keep working and plan to prepare to accept delivery  
8 as though CLEC had not received a jeopardy notice).<sup>65</sup> For the category of  
9 jeopardies covered by Eschelon’s language,<sup>66</sup> however, Qwest’s PCAT does *not*  
10 indicate that the jeopardy notice should be disregarded and instead provides  
11 Qwest “will advise” CLEC of the new due date “when the jeopardy condition has  
12 been resolved.”<sup>67</sup> Qwest’s witness has testified the Firm Order Confirmation

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<sup>63</sup> See Proposed ICA Sections 12.2.7.2.4.1 & 12.2.7.2.4.2 (closed language).

<sup>64</sup> Qwest’s Provisioning and Installation Overview PCAT (Qwest Minnesota arbitration Hrg. Ex. 1 (Albersheim Dir.), RA-10, p. 11), stating: “Qwest differentiates between DD jeopardies and Critical Date jeopardies. DD jeopardies indicate that your due date is in jeopardy; however, Critical Date jeopardies indicate that a critical date prior to the DD is in jeopardy. ***Critical Date jeopardies can be ignored by you.*** Critical Date jeopardies are identified in the Jeopardy Data document (see download in the following paragraph) in the column labeled “Is Due Date in Jeopardy?” ***If the DD is not in jeopardy, this column will contain “No” and you can disregard the jeopardy notice*** sent for this condition and continue your provisioning process with the scheduled DD. ***If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, we will advise you of the new DD when the jeopardy condition has been resolved.*** This is usually within 72 hours.” (emphasis added). See <http://www.qwest.com/wholesale/clecs/provisioning.html>

<sup>65</sup> See id.

<sup>66</sup> The two types of potential customer (CNR) jeopardies described in Section 12.2.7.2.4.4.1 are coded in by Qwest as CO1 and CO2, and Eschelon’s ICA language mirrors Qwest’s PCAT “User Friendly Jeopardy Description” of these two jeopardies. See Qwest’s Provisioning and Installation Overview PCAT at “Jeopardy Data” download, available at [http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy\\_Data\\_Provisioning\\_August2005.doc](http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy_Data_Provisioning_August2005.doc)

<sup>67</sup> Qwest’s Provisioning and Installation Overview PCAT (quoted in above footnote).

1 (“FOC”) is “the agreed upon process by which Qwest” will advise Eschelon “of  
2 the due date for a circuit.”<sup>68</sup>

3 Qwest’s witness has also testified that the reason Qwest is supposed to send an  
4 FOC after a Qwest facility jeopardy is cleared is “to let the CLEC know that the  
5 CLEC should be expecting to receive the circuit” so the CLEC may have  
6 personnel available and may make arrangements with the customer if access to  
7 the customer premises is needed.<sup>69</sup> If Qwest provides an FOC but does so only a  
8 few minutes before attempting to deliver a loop, for example, Qwest cannot  
9 reasonably expect Eschelon to have resources available to accept that loop. Even  
10 if resources happen to be available, Eschelon may not be able to accept service,  
11 for example, if its End User Customer already closed its business for the day and  
12 Eschelon had no reason to make other arrangements with the Customer to access  
13 the Customer’s premise that day, because Qwest failed to provide an FOC  
14 identifying that day as the due date.

15 **Q. CAN JEOPARDY CLASSIFICATION AFFECT WHETHER SERVICE TO**  
16 **ESCHELON’S END USER CUSTOMER IS DELAYED?**

17 **A.** Yes. Perhaps the most important consequence of attributing a jeopardy to a  
18 carrier is the effect on the due date for providing service. Timely delivery of  
19 service on the requested due date is critical to meeting customer expectations and  
20 remaining competitive. Whether Qwest classifies a jeopardy as Qwest-caused (a

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<sup>68</sup> Minnesota arbitration Tr., Vol. 1, p. 38, lines 17-19(Ms. Albersheim of Qwest). *See also* ICA/SGAT Section 9.2.4.4.1.



1 “Qwest jeopardy”) or Eschelon-caused (“Customer Not Ready” or “CNR”) may  
2 affect whether service to Eschelon’s customer is delayed. Jeopardy classification  
3 determines which company must take action to resolve the jeopardy.

4 In the case of an Eschelon (CNR) jeopardy, when Eschelon is not ready on the  
5 due date, or Qwest cannot gain access to deliver the circuit, Qwest requires  
6 Eschelon to supplement its order to request a later due date.<sup>70</sup> When a jeopardy is  
7 classified as a CLEC-caused (CNR) jeopardy for “designed” facilities including  
8 unbundled loop orders, the CLEC is required to supplement its order by  
9 requesting a new due date that is at least *three days after* the date of the  
10 supplemental order.<sup>71</sup> Eschelon then needs to inform its End User Customer that  
11 expected service based on the due date will be delayed at least three days.  
12 Therefore, if Eschelon is not ready when it should be, Eschelon suffers the  
13 consequences of its actions by having to supplement the order and request a three-  
14 day delay. In its proposed language (Section 12.2.7.2.4.4), Eschelon accepts this

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<sup>69</sup> Minnesota arbitration Tr. Vol. I p. 37, line 16 – p. 38, line 6 (Ms. Albersheim).

<sup>70</sup> Minnesota arbitration Tr. (Ms. Albersheim, Vol. 1, p. 36, line 20 – p. 37, line 2 (Ms. Albersheim). *See also* Qwest Request for Reconsideration, Minnesota Arbitration (Apr. 9, 2007), p. 3 (“Eschelon accurately indicated to the Commission that, when Qwest classifies an order as customer not ready, Eschelon is required to supplement its order to reflect a new due date that at least three days out.”).

<sup>71</sup> *See id.*; Minnesota arbitration Tr. Vol. 1, p. 36, line 20 – p. 37, line 2 (Ms. Albersheim). While Qwest admits that the interval it requires CLECs to request is three days, Ms. Albersheim has quibbled with the description of this as a requirement and states that Qwest may attempt to deliver the circuit earlier than three days. *See* MN Hearing Exhibit Q-2 (Albersheim Reb.), p. 62, lines 5-9. There is no guarantee, however, that the timeframe will be shorter. Because three days is Qwest’s required interval, Qwest may apply it in each case; certainly Eschelon must anticipate that likely possibility. No supplemental order would be required, however, if Qwest sent an FOC after the facility jeopardy cleared and Eschelon accepted the circuit.

1 consequence when it is at fault and therefore the jeopardy is accurately classified  
2 as an Eschelon (CNR) jeopardy.

3 In the case of a Qwest-caused jeopardy, Qwest must take action to attempt to  
4 meet the due date or, if it cannot be met, continue to process the order (including  
5 sending Eschelon a jeopardy notice and issuing an FOC with a new date)<sup>72</sup> with  
6 no supplemental order from Eschelon.<sup>73</sup> A Qwest jeopardy properly classified as  
7 caused by Qwest *does not require Eschelon to supplement the due date and*  
8 *therefore does not build in the three day delay.* In contrast, an erroneous  
9 classification of a missed due date as caused by Eschelon, when in fact the delay  
10 was due to Qwest's failure to provide an FOC or a timely FOC, will build in this  
11 required request for a three-day delay and associated delay in delivery of the  
12 Customer's service. Eschelon should not have to delay service to its Customer  
13 because Qwest failed to properly notify Eschelon in sufficient time to schedule  
14 resources, make arrangements with the End User Customer for access to its  
15 premises, or take other steps necessary to prepare to accept delivery of service.

16 **Q. WHAT IS ESCHELON'S PROPOSAL FOR ISSUES 12-71 THROUGH 12-**  
17 **73 REGARDING JEOPARDIES?**

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<sup>72</sup> Qwest's Provisioning and Installation Overview PCAT, stating: "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, we will advise you of the new DD when the jeopardy condition has been resolved. This is usually within 72 hours." (emphasis added). See <http://www.qwest.com/wholesale/clecs/provisioning.html>

<sup>73</sup> See *id.*; see also Qwest's Installation and Overview PCAT available at [http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy\\_Data\\_Provisioning\\_August2005.doc](http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy_Data_Provisioning_August2005.doc). According to this Qwest matrix, in case of Qwest-caused jeopardy "Qwest will work to solve the problem." See *id.*

1 A. Eschelon proposes the following three contract provisions:

2 **Issue 12-71 (Proposal #1):**

3 12.2.7.2.4.4 A jeopardy caused by Qwest will be classified as a  
4 Qwest jeopardy, and a jeopardy caused by CLEC will be classified  
5 as Customer Not Ready (CNR).

6 **Issue 12-71 (Proposal #2) (with difference from proposal #1 shaded in gray):**

7 12.2.7.2.4.4 A jeopardy caused by Qwest will be classified as a  
8 Qwest jeopardy, and a jeopardy caused by CLEC will be classified  
9 as Customer Not Ready (CNR). Nothing in this Section  
10 12.2.7.2.4.4 modifies the Performance Indicator Definitions (PIDs)  
11 set forth in Exhibit B and Appendices A and B to Exhibit K of this  
12 Agreement.

13  
14 **Issue 12-72:**

15 12.2.7.2.4.4.1 There are several types of jeopardies. Two of these  
16 types are: (1) CLEC or CLEC End User Customer is not ready or  
17 service order is not accepted by the CLEC (when Qwest has tested  
18 the service to meet all testing requirements.); and (2) End User  
19 Customer access was not provided. For these two types of  
20 jeopardies, Qwest will not characterize a jeopardy as CNR or send  
21 a CNR jeopardy to CLEC if a Qwest jeopardy exists, Qwest  
22 attempts to deliver the service, and Qwest has not sent an FOC  
23 notice to CLEC after the Qwest jeopardy occurs but at least the day  
24 before<sup>74</sup> Qwest attempts to deliver the service. CLEC will  
25 nonetheless use its best efforts to accept the service. If needed, the  
26 Parties will attempt to set a new appointment time on the same day  
27 and, if unable to do so, Qwest will issue a Qwest Jeopardy notice  
28 and a FOC with a new Due Date.

29 **Issue 12-73:**

30 12.2.7.2.4.4.2 If CLEC establishes to Qwest that a jeopardy was  
31 not caused by CLEC, Qwest will correct the erroneous CNR  
32 classification and treat the jeopardy as a Qwest jeopardy.

33 **Q. WHAT IS QWEST'S PROPOSAL FOR ISSUES 12-71 THROUGH 12-73?**

34 A. Qwest proposes to delete all of Eschelon's ICA language in Section 12.2.7.2.4.4

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<sup>74</sup> Eschelon will accept either "at least a day before" or at least the day before."

1 and subparts and replace it with the following reference to its web site:

2 12.2.7.2.4.4 Specific procedures are contained in Qwest's  
3 documentation, available on Qwest's wholesale web site.

4 In support of this language, Qwest cites a generic argument that the issue belongs  
5 in CMP.<sup>75</sup> As I discuss further below, jeopardies has already been through CMP,  
6 and a decision is particularly needed in this arbitration as a result of Qwest's  
7 inconsistent and non-compliant conduct.

8 **Q. PLEASE EXPLAIN ESCHELON'S PROPOSAL.**

9 A. To help ensure timely service to Customers, Eschelon's proposed language  
10 regarding jeopardies requires Eschelon to use its best efforts to *accept delivery* of  
11 the circuit/service, even when Qwest fails to meet its obligation to send an FOC  
12 or a timely FOC. If, however, despite using best efforts Eschelon *cannot accept*  
13 the circuit/service when Qwest attempts delivery after Qwest fails to send an FOC  
14 or a timely FOC, Eschelon's proposed language provides that Qwest should not  
15 be able to attribute the fault to Eschelon (by coding it as Customer Not Ready  
16 (CNR)) and thus require Eschelon to submit a supplemental request for a new due  
17 date at least three days later. Below, I refer to these two situations covered by  
18 Eschelon's language (when Eschelon *can* accept delivery and when it *cannot*) as  
19 real life scenarios, as I provide examples of when both situations have occurred  
20 previously.<sup>76</sup> If the due date is missed despite best efforts to meet it and the

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<sup>75</sup> Exhibit 2 to the Petition for Arbitration, Joint Disputed Issues Matrix, pp. 196-197, 199-200, 202-203 (Qwest position statements for Issues 12-71, 12-72 and 12-73).

<sup>76</sup> See Eschelon/114 and Eschelon/115.

1 jeopardy appropriately remains classified as a Qwest jeopardy (due to Qwest's  
2 failure to send an FOC or a timely FOC), Eschelon's proposed language provides  
3 that the companies may attempt delivery again as soon as later the same day,  
4 without Qwest imposing the three-day interval associated with a CNR jeopardy.

5 Specifically, Eschelon's proposal (Section 12.2.7.2.4.4) reasonably states that  
6 Qwest will classify a jeopardy caused by Qwest as a Qwest jeopardy and a  
7 jeopardy caused by CLEC as a CLEC jeopardy (Customer Not Ready or "CNR")  
8 (Issue 12-71). Similarly, Section 12.2.7.2.4.4.2 requires Qwest to reclassify  
9 jeopardies that it has incorrectly classified as CNR (Issue 12-73). Eschelon's  
10 proposal is very reasonable in providing that Eschelon must "establish" that  
11 Eschelon did not cause the jeopardy to obtain a correction of Qwest's erroneous  
12 classification. A correction is only fair, since Qwest should not have assigned a  
13 CNR jeopardy after the Qwest jeopardy in the first place. Qwest has testified:  
14 "We don't disagree with the notion that a CNR jeopardy should be assigned  
15 appropriately."<sup>77</sup> Eschelon's language capturing that "notion" should be adopted.

16 Eschelon has two alternative proposals for Issue 12-71. In Minnesota, a statement  
17 by the Administrative Law Judges (ALJs) that changes or refinements in the way  
18 jeopardies are classified under the Performance Indicator Definitions ("PIDs")  
19 may be addressed "through a process outside of an individual ICAs"<sup>78</sup> seemed to

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<sup>77</sup> Minnesota arbitration Tr., Vol., 1, p. 94, lines 5-6 (Ms. Albersheim).

<sup>78</sup> Eschelon/29, Denney/58 [MN Arbitrators Report, ¶238]. The Minnesota ALJs recommendations on Issues 12-71 through 12-73 were overturned by the Minnesota Commission, who ruled to adopt

1 suggest a misimpression that the PIDs need to be changed.<sup>79</sup> That is not the case.  
2 Eschelon offered proposal number two for Issue 12-71 to demonstrate that  
3 Eschelon is not attempting to modify the PIDs through its proposed language  
4 relating to jeopardies. In Minnesota, the commission concluded that this modified  
5 language adequately addressed the concerns expressed by the ALJs and ordered  
6 use of Eschelon's language in the ICA for Issues 12-71 (alternative #2), 12-72,  
7 and 12-73.<sup>80</sup>

8 Eschelon's proposal for Issue 12-72 (Section 12.2.7.2.4.4.1) reflects Eschelon's  
9 experience with one particular recurring fact pattern, when Qwest may incorrectly  
10 classify Qwest-caused jeopardies as CNR jeopardies. Qwest providing an FOC at  
11 all (or a timely FOC) after a Qwest jeopardy is at the heart of this scenario. For  
12 this issue, Eschelon's proposal clarifies that if (a) a Qwest facility jeopardy  
13 already exists, (b) Qwest attempts to deliver service without timely notification  
14 via FOC of the due date, and (c) Eschelon is unable to accept service because of  
15 the absence of the timely notification via FOC, Qwest will not classify the  
16 jeopardy as caused by Eschelon (CNR). Eschelon's proposal for Issue 12-72 is  
17 narrowly limited to two types of CNR jeopardies. Of the many types of CNR  
18 jeopardies identified by Qwest, Eschelon's proposed language for Issue 12-72

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Eschelon's proposed language on all three issues, including Eschelon's proposal #1 on Issue 12-71. Eschelon/30, Denney/23-24 [MN Order Resolving Arbitration, pp. 23-24, ¶6 (Topic 31)].

<sup>79</sup> Qwest testified that the PIDs currently require Qwest "to differentiate between Qwest caused and CLEC/customer caused delays." Minnesota arbitration Hrg. Ex. 1 (Albersheim Dir.), p. 69, lines 4-5. See Qwest Request for Reconsideration, Minnesota arbitration (April 9, 2007), p. 5 (regarding Qwest's Performance Assurance Plan (PAP): if "the Qwest technician classifies the order as customer not ready, it is excluded from the calculation entirely").

1 applies to only the following two: (1) CLEC or CLEC End User Customer is not  
2 ready or service order is not accepted by the CLEC (when Qwest has tested the  
3 service to meet all testing requirements.); and (2) End User Customer access was  
4 not provided.<sup>81</sup> For these two types of CNR jeopardies, if the FOC is timely,  
5 Eschelon has proper notice of the need to schedule resources and of when to  
6 arrange access to the End User Customer's premise to meet the due date.  
7 Eschelon's proposal is reasonable and does not attempt to address CNR jeopardy  
8 types for which the absence of a timely FOC is less likely to be a factor in the  
9 potential delay of service (even though Qwest is required to provide the FOC<sup>82</sup> in  
10 each case). For example, one specific CNR jeopardy (called "C24") refers to  
11 situations in which conduit needs to be installed. Eschelon's proposed language  
12 in Issue 12-72 does not address this type of CNR jeopardy, because even if Qwest  
13 failed to deliver a timely FOC, the conduit is unlikely to be installed in a day.

14 **Q. IS ESCHELON'S PROPOSED LANGUAGE FOR ISSUE 12-72**  
15 **CONSISTENT WITH ESCHELON'S GOAL OF PROVIDING TIMELY**  
16 **DELIVERY OF SERVICE TO CUSTOMERS?**

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<sup>80</sup> Eschelon/30, Denney/23-24 [MN Order Resolving Arbitration, pp. 23-24, ¶6 (Topic 31)].

<sup>81</sup> The two types of potential customer (CNR) jeopardies described in Section 12.2.7.2.4.4.1 are coded in by Qwest as CO1 and CO2, and Eschelon's ICA language mirrors Qwest's PCAT "User Friendly Jeopardy Description" of these two jeopardies. See Qwest's Provisioning and Installation Overview PCAT at "Jeopardy Data" download, available at [http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy\\_Data\\_Provisioning\\_August2005.doc](http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy_Data_Provisioning_August2005.doc)

<sup>82</sup> See ICA Sections 12.2.7.2.1 & 9.2.4.4.1 (quoted in above footnote); see also ICA Sections 9.2.2.9.3 (quoted in above footnote), 9.2.2.9.4, 9.2.2.9.5.3.

1 A. Yes. The interconnection agreement needs to explicitly address the particular  
2 scenario described in Section 12.2.7.2.4.4.1 to avoid delays in providing service  
3 to the Customer. Eschelon's proposed language for Issue 12-72 covers both real  
4 life possibilities: (1) when, using best efforts, Eschelon is able to accept delivery  
5 of the circuit despite receiving no FOC or an untimely FOC after the Qwest  
6 facility problem is cleared; and (2) when, despite best efforts, Eschelon is unable  
7 to accept delivery of the circuit due to receiving no FOC or an untimely FOC after  
8 the Qwest facility problem is cleared. I provide examples of both of these real life  
9 scenarios with my testimony (examples of the first scenario in Eschelon/114 and  
10 the second scenario in Eschelon/115). Regarding the first scenario, Eschelon/114  
11 contains more than one hundred examples of orders for which Qwest did not send  
12 any FOC at all after a Qwest facility jeopardy to indicate the problem had cleared  
13 and Qwest would be delivering the circuit, and for which Eschelon nevertheless  
14 attempted to accept the circuit and succeeded in doing so. Consistent with these  
15 examples, Eschelon's proposed language for Issue 12-72 provides that -- even  
16 when Qwest does not send an FOC or a timely FOC after a Qwest facility  
17 jeopardy -- "CLEC will *nonetheless use its best efforts to accept* the service."<sup>83</sup>  
18 Eschelon has included this real life scenario in its language proposal and  
19 committed to using best efforts, even when it should receive an FOC but does not,  
20 because of the importance of providing timely service to the customer. In the  
21 examples in Eschelon/115, Eschelon *was* nonetheless able to accept the service  
22 *despite* Qwest's failure to provide an FOC.

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<sup>83</sup> Proposed ICA Section 12.2.7.2.4.4.1 (emphasis added).



1 In contrast, in the second scenario, despite best efforts, Eschelon can *not* accept  
2 service due to Qwest’s failure to provide an FOC or a timely FOC. For example,  
3 if access to the customer premise is needed and Qwest does not provide notice via  
4 an FOC in sufficient time<sup>84</sup> to gain access to the customer premise, Eschelon  
5 cannot accept service due to Qwest’s failure to provide proper notice. Regarding  
6 this scenario, Eschelon/115 provides 22 examples of when Eschelon could not  
7 accept service due to Qwest’s failure to provide an FOC or a timely FOC,<sup>85</sup> and  
8 yet Qwest classified the jeopardy as Eschelon-caused (CNR).<sup>86</sup> In such situations,  
9 Eschelon’s proposed language for Issue 12-72 provides: “*If needed*, the Parties  
10 will attempt to set a new appointment time *on the same day* and, *if unable to do*  
11 *so*, Qwest will not issue a CNR jeopardy and will provide a FOC with a new Due  
12 Date.”<sup>87</sup> This proposed language also reflects Eschelon’s concern for the

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<sup>84</sup> See, e.g., Eschelon/115, Johnson 14, Row No. 11 (FOC nine minutes before).

<sup>85</sup> Eschelon gathered these examples as these events were occurring and, at that time, Eschelon confirmed in Qwest’s own systems whether and when an FOC was sent.

<sup>86</sup> As further described in Eschelon/110 and Eschelon/117, these 22 examples are just a sub-set of the many examples that Eschelon has provided to Qwest over time (involving both examples of insufficient notice and examples of no FOC at all). Although Qwest has attempted to explain its refusal to continue to review and root cause these examples (see Eschelon/117) by indicating that it disagrees as to the examples involving insufficient notice (an FOC is provided but not the day before). Eschelon advised Qwest Service Management in October of 2005, that because Qwest did not agree the day before was non compliance to Qwest’s process, and Qwest said it would not review that part of the data, Eschelon would stop including that those in data Eschelon sent Qwest to review. Eschelon stopped including the no FOC the day before examples in September, 2005, so that argument does not explain why Qwest refuses to review and root cause the examples involving other jeopardy non compliance examples, including no FOC, which Eschelon continues to provide and which Qwest continues to refuse to review.

<sup>87</sup> Proposed ICA Section 12.2.7.2.4.4.1 (emphasis added).

1 customer because it provides that a new appointment time will be set the same  
2 day or as soon as possible afterward.<sup>88</sup>

3 Timely delivery of service to the customer is of the utmost importance to  
4 Eschelon. For Eschelon, failure to deliver working service on the due date can  
5 have major ramifications to a business Customer. It may actually harm a CLEC's  
6 relationship with its would-be Customer before it has begun. Therefore,  
7 Eschelon's proposals for Issues 12-71 – 12-73 require proper handling of  
8 jeopardies to help ensure timely delivery of service.

9 **Q. DOES QWEST RECOGNIZE THE IMPORTANCE OF NOTICE AND**  
10 **THE NEED FOR PREPARATION TIME *FOR ITSELF*?**

11 A. Yes. When discussing the three-day interval required by Qwest to reschedule the  
12 due date after Qwest has unexpectedly attempted to deliver a circuit but despite  
13 best efforts cannot do so, Ms. Albersheim has testified that the interval gives  
14 Qwest the notice that it needs to be prepared. Ms. Albersheim indicates that the  
15 three-day standard interval “is necessary to ensure that Qwest *technicians can be*  
16 *made* available to provision a designed circuit to the CLEC. Qwest must have  
17 *flexibility to manage the technicians work assignments* in order to ensure that  
18 other CLECs and other Qwest *customers are not negatively impacted* by the need  
19 to send a technician back to the CLEC a second time because the CLEC was not

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<sup>88</sup> As indicated above, if instead Qwest assigns a CNR jeopardy, Qwest requires a supplemental order with a *three-day* interval for the due date. *A jeopardy properly classified as a Qwest jeopardy does not require the CLEC to supplement the due date and does not build in this Qwest-requirement to request a three day delay.*

1 ready to receive the circuit on the original due date.”<sup>89</sup> Ms. Albersheim does not  
2 explain why it is appropriate for Qwest to require a three-day interval so Qwest  
3 may be prepared but it is unreasonable for Eschelon to ask for notice the day  
4 before so that Eschelon may likewise prepare. After all, Eschelon also has to  
5 make technicians available, manage technicians work assignments, and coordinate  
6 with customers (including obtaining customer premise access).<sup>90</sup>

7 While Qwest allows itself preparation time by requiring CLECs to request a three-  
8 day interval, Qwest’s position is that Eschelon should inefficiently dedicate  
9 resources every single day (and presumably alert the customer each day when  
10 customer premise access is needed) after notice of a held order until the circuit is  
11 actually delivered.<sup>91</sup> Specifically, Ms. Albersheim testified that Eschelon should  
12 “always complete the work it needs to do in order to receive service on the  
13 original requested due date,”<sup>92</sup> even though Qwest has an unresolved facility  
14 problem and an obligation to first notify CLECs via an FOC that its problem is  
15 resolved before attempting to deliver the circuit. Qwest does not always clear the

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<sup>89</sup> Colorado arbitration Albersheim Rebuttal, p. 62, lines 16-21 (emphasis added). She said Qwest needs “to ensure that other CLECs and other Qwest customers are not negatively impacted by the need to send a technician back to the CLEC a second time.” *Id.* Ms. Albersheim refers to sending a technician back a second time without recognizing that most likely (and perhaps only) reason that a Qwest technician would have to go back a second time is because the technician had no customer premise access. Again, the purpose of the FOC is provide notice to Eschelon so that Eschelon may, for example, *arrange customer premise access*. If, by not providing an FOC or providing one on very short notice, Qwest causes a situation that prevents Eschelon from having time to arrange customer premise access, Qwest seeks to give itself the time to prepare that it denied Eschelon (which caused the problem).

<sup>90</sup> See Minnesota arbitration Tr., Vol. 1, p. 37, line 24 – p. 38, line 6 (Ms. Albersheim); *see also* Eschelon/111, Johnson 5 (showing that on March 4, 2004, in CMP, Qwest confirmed that “Qwest cannot expect the CLEC to be ready for the service if we haven’t notified you.”).

<sup>91</sup> Colorado arbitration Albersheim Rebuttal, p. 58, line 16 – p. 59, line 5.

1 jeopardy on the CLECs desired due date. For example, Eschelon requested a due  
2 date of 1/23/07 for PON CO825795T1FAC. Qwest delivered the circuit on  
3 3/19/07. Under Qwest's new approach it proposes in arbitration, Eschelon would  
4 have staffed personnel for *forty business days* to accept a circuit that Qwest did  
5 not deliver. Ms. Albersheim's suggestion that Eschelon should as a matter of  
6 course dedicate resources to standing ready to accept delivery of the circuit under  
7 these circumstances (for forty business days in that example) would deny  
8 Eschelon the opportunity Qwest gives itself to more efficiently plan and use its  
9 resources.

10 **Q. DOES ESCHELON'S JEOPARDIES PROPOSAL REFLECT QWEST'S**  
11 **CURRENT PROCESS?**

12 A. Yes. I participated in development of the process, and Eschelon's language  
13 reflects Qwest's process. (As I explain below, Eschelon's language reflects how  
14 Qwest's current process should work, if Qwest were consistently complying with  
15 it.) Qwest's witness has testified that, with the exception of the single phrase "the  
16 day before" (which is otherwise documented by Qwest in its own CMP  
17 materials<sup>93</sup>), Eschelon's jeopardies language reflects Qwest's current process.<sup>94</sup>

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<sup>92</sup> Colorado arbitration Albersheim Rebuttal, p. 59, lines 4-5.

<sup>93</sup> Eschelon/111, Johnson/5 (Qwest CMP minutes state: "Bonnie [Eschelon] confirmed that the CLEC should *always* receive the FOC *before the due date*. Phyllis [Qwest] agreed . . .") (emphasis added); *see also* Eschelon/113, Johnson 3 (February 26, 2004 CMP materials prepared and distributed by Qwest).

<sup>94</sup> Minnesota arbitration Hrg. Ex. 1 (Albersheim Dir.), p. 67, line 21 (referring to all of Eschelon's proposal, without the phrase "the day before," as Qwest's "current PCAT process"); Minnesota Tr., Vol. 1, p. 37, lines 16-23 (Ms. Albersheim). ("Q Other than that phrase, at least a day before, is

1 **Q. YOU INDICATE THAT THE PHRASE “THE DAY BEFORE” IS A PART**  
 2 **OF QWEST’S CURRENT PROCESS, EVEN THOUGH QWEST’S**  
 3 **WITNESS HAS DENIED IT. PLEASE EXPLAIN.**

4 A. Qwest confirmed its existing documented process in CMP and documented its  
 5 commitment and the process on its web site:

6 Action #1: As you can see receiving the FOC releasing the order  
 7 on the day the order is due does not provide sufficient time for  
 8 Eschelon to accept the circuit. Is this a compliance issue,  
 9 *shouldn't we have received the releasing FOC the day before the*  
 10 *order is due?* In this example, should we have received the  
 11 releasing FOC on 1-27-04?

12 Response #1 *This example is non-compliance to a documented*  
 13 *process. Yes an FOC should have been sent prior to the Due*  
 14 *Date.”<sup>95</sup>*

15 “Bonnie confirmed that the *CLEC should always receive the FOC*  
 16 *before the due date. Phyllis agreed,* and confirmed that Qwest  
 17 cannot expect the CLEC to be ready for the service if we haven't  
 18 notified you.”<sup>96</sup>

19 The first quotation reflects an example provided by Eschelon to confirm its  
 20 understanding of the jeopardies process, along with Qwest's response. As  
 21 Qwest's response shows, Eschelon correctly understands that Qwest's  
 22 documented process is that an FOC should be sent *prior to* the due date. This is

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Eschelon's proposal consistent with Qwest's practice? A Current practice, yes, except for that sentence.”).

<sup>95</sup> Eschelon/113, Johnson/3 (February 26, 2004 CMP materials prepared and distributed by Qwest) (emphasis added).

<sup>96</sup> Eschelon 111/Johnson/5, March 4, 2004 CMP ad hoc call minutes prepared by Qwest (emphasis added). The Qwest-prepared minutes include a list of those “in attendance.” *See id.* The minutes confirm that I was in attendance and Ms. Albersheim was not. *See id.* Ms. Albersheim's name does not appear in the Qwest status history for either of the jeopardy Change Requests discussed by Ms. Albersheim in other states (see Eschelon/111 & Eschelon/112), nor do I recall her participating in jeopardy CMP discussions.

1 logical and consistent with our business need, because Eschelon needs sufficient  
2 time in advance of the due date to prepare for delivery of the circuit/service (to  
3 schedule resources and any needed access to the Customer premises). The quoted  
4 documentation shows that the failure to provide an FOC prior to the due date  
5 demonstrates Qwest non-compliance with its process. Qwest provided this  
6 written response to Eschelon's example in meeting materials prepared by Qwest  
7 and distributed to CLECs before a CMP call to discuss this issue. On the call to  
8 discuss these materials, Qwest confirmed more generally that its process is that  
9 "CLEC should *always* receive the FOC before the due date."<sup>97</sup>

10 Despite this clear Qwest documentation of the commitment that Qwest made to  
11 me and other CLECs to provide an FOC the day before the due date, Qwest's  
12 witness has testified that "Qwest never made such a commitment."<sup>98</sup> Qwest has  
13 not explained how it can make this statement when Qwest's commitment was  
14 documented by Qwest, as indicated in the above quoted language from Qwest's  
15 own documentation. Qwest's denial of a process that has been confirmed with  
16 Qwest's participation and documented on Qwest's web site supports the need for  
17 inclusion of Eschelon's proposed language in the ICA to provide terms that we  
18 can rely upon when conducting business with Qwest.

19 **Q. OTHER THAN QWEST'S ARBITRATION POSITION THAT THE**  
20 **PHRASE "THE DAY BEFORE" IS NOT PART OF QWEST'S CURRENT**

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<sup>97</sup> Eschelon 111/Johnson/5, March 4, 2004 CMP ad hoc call minutes (emphasis added).

1           **PROCESS, ARE THE KEY FACTS RELATED TO ESCHELON'S**  
 2           **PROPOSAL UNDISPUTED?**

3    A.    Yes. To re-cap, the companies agree on at least the following points:

- 4           ▪    The FOC is the agreed upon process by which Qwest informs Eschelon of the  
 5           due date for a circuit;<sup>99</sup>
- 6           ▪    Qwest is required to send an FOC with the new due date after clearing a  
 7           Qwest facility jeopardy;<sup>100</sup>
- 8           ▪    The reason Qwest is required to send an FOC after a Qwest facility jeopardy  
 9           has been cleared is to let the CLEC know that it should be expecting to  
 10          receive the circuit so that the CLEC will have sufficient notice to make  
 11          personnel available and perhaps make arrangements with the customer to have  
 12          access to the premises available;<sup>101</sup>
- 13          ▪    A “CNR jeopardy should be assigned appropriately”;<sup>102</sup>
- 14          ▪    If the CLEC does not have adequate notice that the circuit is being delivered  
 15          (with the agreed upon process for adequate notice consisting of an FOC), then  
 16          it is “*not appropriate*” for Qwest to assign a CLEC-caused (CNR)  
 17          jeopardy;<sup>103</sup>

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<sup>98</sup> Minnesota arbitration Albersheim MN Reply, p. 16, lines 2-3. *See also* Arizona arbitration, Albersheim Rebuttal, p. 21, lines 9-15; *id.* p. 26, line 20.

<sup>99</sup> Minnesota arbitration Tr., Vol. 1, p. 38, lines 17-19 (Ms. Albersheim) (“Q The FOC is the agreed upon process by which Qwest informs Eschelon of the due date for a circuit? A Yes.”).

<sup>100</sup> Minnesota arbitration Tr., Vol. 1, p. 37, lines 20-23 (Ms. Albersheim) (“Q So you agree with me that Qwest's current practice is to provide the CLEC with an FOC after a Qwest facilities jeopardy has been cleared; is that right? A Yes.”); *see also* ICA Section 9.2.4.4.1.

<sup>101</sup> Minnesota arbitration Tr. Vol. I p. 37, line 16 – p. 38, line 6 (Ms. Albersheim) (“Q And *the reason for that* is you want to let the CLEC know that the CLEC should be expecting to receive the circuit; right? A Yes. Q And the CLEC needs to have personnel available and it needs to also perhaps make arrangements with the customer to have the premises available; right? A Yes.”) (emphasis added). *See also* Eschelon/111, Johnson 5 (showing that on March 4, 2004, in CMP, Qwest confirmed that “Qwest cannot expect the CLEC to be ready for the service if we haven’t notified you.”).

<sup>102</sup> Minnesota arbitration Tr. Vol. I p. 94, lines 7-11 (Ms. Albersheim) (“Q And if the CLEC doesn't have adequate notice that the circuit is being delivered, adequate notice consisting of an FOC, then you would agree that a CNR jeopardy is not appropriate; correct? A Yes.”).

<sup>103</sup> Minnesota arbitration Tr., Vol. 1, p. 94, lines 4-11 (Ms. Albersheim) (emphasis added). *See also* Minnesota arbitration Tr., Vol. 1, p. 95, lines 19-24 (Ms. Albersheim) (“Q And you would agree that

1           ▪ When a jeopardy is classified as a CLEC-caused (CNR) jeopardy, the CLEC  
2           is required to supplement its order by requesting a new due date that is at least  
3           *three days after* the date of the supplemental order.<sup>104</sup>

4   **Q.    GIVEN THAT ALL OF THESE KEY FACTS ARE UNDISPUTED, WHAT**  
5           **BASIS HAS QWEST PROVIDED FOR OPPOSING ESCHELON’S**  
6           **LANGUAGE?**

7   A.    Eschelon demonstrates through its examples in Eschelon/115 that Qwest has  
8           classified jeopardies as CLEC-caused (CNR) even though Qwest has failed to  
9           send an FOC or a timely FOC per the agreed upon process meant to give  
10          Eschelon an opportunity to prepare to accept the circuit/service.<sup>105</sup> Qwest has  
11          made five claims, however, to attempt to defend this conduct: (1) Eschelon’s  
12          proposal “force[s] extra time”<sup>106</sup> in to the process and causes delay;<sup>107</sup> (2) process

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that’s not proper, if the CLEC hasn’t received an FOC in adequate time to be able to act on it; correct? A According to procedure, yes. Q That’s Qwest’s procedure? A Yes.”).

<sup>104</sup> Minnesota arbitration Tr. Vol. 1, p. 36, line 20 – p. 37, line 2 (Ms. Albersheim). *See also* Qwest Request for Reconsideration, Minnesota Arbitration (Apr. 9, 2007), p. 3 (“Eschelon accurately indicated to the Commission that, when Qwest classifies an order as customer not ready, Eschelon is required to supplement its order to reflect a new due date that at least three days out.”).

<sup>105</sup> Arizona arbitration Hearing Exhibit Q-2 (Albersheim Reb.), p. 60, lines 8-16 (Qwest said that its classification of 12 jeopardies as Eschelon-caused (CNR) was appropriate, even though Qwest admitted that for all 12 of these examples, Qwest sent no FOC at all); Minnesota arbitration Tr. Vol. I p. 40, line 23 – p. 41, line 3 (Ms. Albersheim) (8 examples of no FOC); *see also* Eschelon/115 (Category A and Category B). When Qwest reviewed (see Eschelon/115, columns 5 & 6: “Qwest Review”) Eschelon’s data, Qwest did not confirm in its systems’ “FOC archives” whether and when an FOC was sent (Eschelon/6, MN Tr. Vol. I, p. 41, lines 10-22 (Ms. Albersheim)), even though those facts are key to this analysis. Qwest relied instead upon its technicians’ notes. (*Id.* Vol. I, p. 41, lines 10-22.) Based on those notes, Qwest admitted in Minnesota that it sent no FOC at all after the pertinent facility jeopardy in at least 8 (*Id.* Vol. I, p. 40, lines 5-14) of the examples. Yet, Qwest testified: “Qwest has determined that only 3 of the 23 orders demonstrate a situation in which Qwest incorrectly used the Customer Not Ready (“CNR”) status when placing the order in jeopardy.” *See* Albersheim MN Rebuttal, p. 55, lines 19-22. By the Arizona arbitration, Qwest admitted it sent no FOC at all in 12 of the examples. Arizona arbitration Hearing Exhibit Q-2 (Albersheim Reb.), p. 60, lines 8-16.

<sup>106</sup> Washington arbitration (Albersheim Responsive), p. 58, line 23.



1 details do not belong in an ICA so the issue should be returned to CMP;<sup>108</sup> (3) the  
2 phrase “at least the day before” is not documented in the PCAT, in addition to  
3 being documented in the CMP materials, so it may be disregarded<sup>109</sup>; (4)  
4 regardless of the type of jeopardy, CLECs should disregard the jeopardy notice  
5 and always take all steps to prepare to accept a circuit even when Qwest has told  
6 the CLEC (through a Qwest facility jeopardy) that Qwest has a facility problem in  
7 its network that needs to be resolved before the circuit can be delivered to CLEC  
8 and Qwest sends no FOC to indicate the facility problem has been cleared;<sup>110</sup> and  
9 (5) the FOC status notices required by the contract, SGAT and Qwest’s own  
10 procedures are a “formality” that Qwest can disregard<sup>111</sup> because in “some”  
11 examples informal “communication was happening between Qwest and the CLEC  
12 technicians.”<sup>112</sup>

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<sup>107</sup> Arizona arbitration Hearing Exhibit Q-2 (Albersheim Reb.), p. 58, line 16 - p. 59, line 8. Qwest refers to “‘at least a day’ or 24 hours notice in advance of a new due date.” See *id.* p. 22, line 1.

<sup>108</sup> Arizona arbitration Hearing Exhibit Q-1 (Albersheim Dir.), p. 74, lines 3-4. See also Exhibit 2 to the Oregon Petition for Arbitration, Joint Disputed Issues Matrix, pp. 196-197, 199-200, 202-203 (Qwest position statements for Issues 12-71, 12-72 and 12-73).

<sup>109</sup> Arizona arbitration Tr., Vol. 2, Q-22 & Q-23 & pp. 340-341; see *id.* p. 340 lines 18-19 (Mr. Topp: “no language whatsoever” referring to at least the day before in the PCAT) & see *id.* p. 34, lines 1-18 (my response that Qwest confirmed in CMP that Qwest would give CLECs an FOC the day before and my references on the stand to pages 37 and 21 of Exhibit BJJ-5 to my Arizona direct testimony).

<sup>110</sup> Arizona arbitration Tr., AZ Vol. 1, pp. 67-69 (Ms. Albersheim); Colorado arbitration Albersheim Rebuttal, p. 59, lines 4-5.

<sup>111</sup> Arizona arbitration Tr., Vol. I, p. 70, lines 4-9 (Ms. Albersheim) (“Q. Does that assume this Qwest has sent the FOC with a new due date or that it hasn’t? A. Qwest is supposed to. Q. And let’s assume that it doesn’t. A. The formality is that Qwest is supposed to, but the technicians are in touch with each other.”).

<sup>112</sup> Minnesota arbitration Tr. Vol. I, p. 94, lines 19-20 & p. 96, lines 8-10.

1 **Q. WHAT IS ESCHELON’S RESPONSE TO QWEST’S FIRST CLAIM**  
2 **REGARDING DELAY AND FORCING EXTRA TIME<sup>113</sup> INTO THE**  
3 **PROCESS?<sup>114</sup>**

4 A. There is no request for, or requirement of, a time delay in Eschelon’s proposed  
5 language. Eschelon’s proposed language does not require Qwest to send an FOC  
6 before it attempts to deliver the circuit, so it does not force extra time into the  
7 process. Eschelon’s proposed language provides for *advance* notice before the  
8 due date to help ensure *timely* delivery of the circuit on the due date. Eschelon’s  
9 language in Section 12.2.7.2.4.4.1 provides that, even when Qwest provides no  
10 FOC, Eschelon “will nonetheless use its best efforts to accept the service” when  
11 delivered. It specifically states that, if needed, the companies will attempt to set a  
12 new appointment time “*on the same day.*”<sup>115</sup> This language (like the examples in  
13 Eschelon/114) shows Eschelon will use its best efforts to accept the service and  
14 will scramble and try to staff the unexpected delivery and coordinate Customer  
15 access if possible to avoid delay.

16 **Q. WHAT IS ESCHELON’S RESPONSE TO QWEST’S SECOND CLAIM**  
17 **REGARDING PROCESS DETAILS AND CMP<sup>116</sup>?**

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<sup>113</sup> Washington arbitration (Albersheim Responsive), p. 58, line 23.

<sup>114</sup> Arizona arbitration Hearing Exhibit Q-2 (Albersheim Reb.), p. 58, line 16 - p. 59, line 8. Qwest refers to “at least a day’ or 24 hours notice in advance of a new due date.” See id. p. 22, line 1.

<sup>115</sup> Proposed ICA Section 12.2.7.2.4.4.1 (emphasis added).

<sup>116</sup> Arizona arbitration Hearing Exhibit Q-1 (Albersheim Dir.), p. 74, lines 3-4. See also Exhibit 2 to the Oregon Petition for Arbitration, Joint Disputed Issues Matrix, pp. 196-197, 199-200, 202-203 (Qwest position statements for Issues 12-71, 12-72 and 12-73).

1 A. There is nothing left to do in CMP with respect to every provision of Eschelon's  
2 proposal for which Qwest has testified Eschelon's language reflects Qwest's  
3 current process. No change is needed. Qwest has admitted with respect to key  
4 aspects of Eschelon's proposal that it cannot "imagine any circumstances under  
5 which a CLEC might want something different."<sup>117</sup>

6 With respect to the single phrase Qwest disputes ("the day before"), earlier I  
7 quoted the CMP documentation that supports this phrase and shows it is part of  
8 Qwest's process, despite Qwest's denials in these arbitrations. Jeopardies have a  
9 long history in CMP, and this history and later events (which are summarized  
10 primarily in Eschelon/110 and Eschelon/117) provide ample evidence that  
11 sending this issue back to CMP will not resolve the problem. Specifically:

12 (1) In CMP, Qwest agreed to provide an FOC the day before the due date  
13 as part of a Change Request in which Eschelon requested a designated  
14 time frame for receiving the FOC after a jeopardy cleared.<sup>118</sup> Consistent  
15 with this resolution in CMP, Qwest provided FOCs the day before the due  
16 date and treated instances when it did not as non-compliance with its  
17 process;<sup>119</sup>

18 (2) Qwest then changed its policy and began to deny that providing FOCs  
19 the day before the due date was part of its process; Qwest took no action  
20 in CMP, however, to change the designated time frame or otherwise

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<sup>117</sup> Arizona arbitration Tr., Vol. 1, p. 64, lines 5-14 (Ms. Albershiem); see also Arizona arbitration Tr. at Vol. 1, p. 64, line 19 – p. 65, line 3 (Ms. Albersheim).

<sup>118</sup> Eschelon/111, Johnson/2 (Change Request PC081403-1 – title, description of change and expected deliverable in CMP quoted below with respect to Qwest's third claim); *see also* Eschelon/111, Johnson/5 (Qwest CMP minutes state: "Bonnie [Eschelon] confirmed that the CLEC should *always* receive the FOC *before the due date*. Phyllis [Qwest] agreed . . .") (emphasis added); *see also* Eschelon/113, Johnson 3 (February 26, 2004 CMP materials prepared and distributed by Qwest).

<sup>119</sup> *See, e.g.*, Eschelon/110, Johnson/5-6 (Chronology entries for 2/18/04 and 3/4/04).

1 change the process developed in CMP to reflect Qwest's unilateral change  
2 in policy;<sup>120</sup>

3 (3) Qwest's CMP Manager even denied that providing the FOC at all was  
4 a requirement or part of Qwest's process and instead characterized it as a  
5 "goal";<sup>121</sup>

6 (4) Qwest then admitted in arbitration that providing an FOC after a Qwest  
7 facility jeopardy has cleared is part of Qwest's process, to let Eschelon  
8 know to have personnel available and make any arrangements with the  
9 customer so as to be prepared to accept the circuit;<sup>122</sup>

10 (5) Qwest then said that when there is *no FOC at all* in violation of  
11 Qwest's process, even though Qwest agrees that Eschelon needs advance  
12 notice and an FOC is the agreed upon process to provide that notice,<sup>123</sup> it  
13 is appropriate to classify the jeopardy when Eschelon cannot be ready due  
14 to lack of the required notice as "CNR" (Eschelon-caused);<sup>124</sup> and

15 (6) Despite its own classification of several jeopardies with no FOC at all  
16 as CNR (Eschelon-caused) in its own Review,<sup>125</sup> Qwest testified that it is  
17 improper, under Qwest's current process, to categorize the CLEC's  
18 inability to take the circuit as a CNR jeopardy when Qwest did not provide  
19 an FOC after the jeopardy cleared.<sup>126</sup>

20 Qwest's statements contradict each other, and its conduct contradicts its  
21 statements. And, the jeopardies history does not end there. Eschelon continues to  
22 provide jeopardies data (including examples of no FOC after a Qwest jeopardy is  
23 cleared) to Qwest as it committed in CMP to do when Eschelon agreed to close its

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<sup>120</sup> See, e.g., Eschelon/110, Johnson/12.

<sup>121</sup> Eschelon/110, Johnson/16 & 18.

<sup>122</sup> Minnesota arbitration Tr., Vol. 1, p. 37, line 20 – p. 38, line 6.

<sup>123</sup> Minnesota arbitration Tr., Vol. 1, p. 38, lines 17-19 (Ms. Albersheim); *see also id.* p. 37, line 20 – p. 38, line 6.

<sup>124</sup> Minnesota arbitration Tr., Vol. 1, p. 40, lines 5-14 (Ms. Albersheim) (8 examples clearly had no FOC). *Compare id.* p. 98, lines 23-25.

<sup>125</sup> *See* Eschelon/115 (column labeled "Qwest Review").

<sup>126</sup> Minnesota arbitration Tr., Vol. 1, p. 95, lines 6-24.

1 Change Request. But, Qwest has recently refused to review and root cause  
2 Eschelon's examples. Since August of 2004, Eschelon has provided data relating  
3 to DS1 capable loop jeopardies to Qwest's service management team on an  
4 approximately weekly basis as part of Eschelon's tracking and obtaining root  
5 cause of this important issue. Eschelon and Qwest then discussed the data after  
6 Qwest had an opportunity to review it. In some cases, Qwest disputed Eschelon's  
7 data and in others it acknowledged its errors and, in the latter cases, described  
8 steps it had taken (such as training of Qwest's employees) to attempt to gain  
9 compliance with its delayed order process and avoid Qwest-caused delays for  
10 Eschelon customers. This data exchange, therefore, has led to needed remedial  
11 action to try to address this problem.

12 Recently, however, Qwest has changed its position regarding jeopardy examples.  
13 After Eschelon sent its regular weekly data to Qwest, Qwest responded after the  
14 Minnesota arbitration hearing (on November 7, 2006) that "Qwest has determined  
15 that due to resources Qwest will not be reviewing this report any longer. Qwest  
16 through self reporting internally will manage the process and compliance of the  
17 delayed order process."<sup>127</sup> It is difficult to accept Qwest's claim that this Qwest  
18 decision is "due to resources" because obtaining compliance saves both  
19 companies resources that would otherwise be expended when the process breaks  
20 down and both companies have to scramble to correct the problem and re-do the

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<sup>127</sup> See Eschelon/117. Since then, Eschelon has continued to send the data (including examples of no FOC after a Qwest facility jeopardy clears) with a request for Qwest to review it, but Qwest continues to decline to review and root cause Eschelon's data.

1 work on another day when delivery has to be rescheduled. In addition, Eschelon  
2 expends its own resources on researching the data for Qwest to point Qwest to the  
3 problem areas, and this saves Qwest time that it would have to expend on finding  
4 these issues for itself. If Qwest were able to identify all of these problems by  
5 itself based on “self reporting internally,” presumably Qwest would have  
6 corrected the problems and they would not re-occur.<sup>128</sup> The fact that they  
7 continue to occur until Eschelon raises them through its examples shows that the  
8 examples have an added benefit beyond any internal Qwest efforts.

9 Particularly in light of the most recent development – Qwest’s refusal to review  
10 and root cause Eschelon’s data<sup>129</sup> – these facts show that contractual certainty is  
11 needed. Qwest’s ICA proposal, stating only that “procedures are contained in  
12 Qwest’s documentation,” will ensure that Eschelon’s business need remains  
13 unresolved for its Customers.

14 **Q. WHAT IS ESCHELON’S RESPONSE TO QWEST’S THIRD CLAIM**  
15 **THAT ITS PROCESS TO PROVIDE AND FOC AT LEAST THE DAY**

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<sup>128</sup> As I discussed above, when Qwest reviewed Eschelon’s data for purposes of arbitration, Qwest relied upon its technicians’ notes and did not confirm in its systems’ FOC archives whether and when an FOC was sent. This is at least some evidence that Qwest’s internal review is inadequate, because whether and when an FOC was sent is key to this analysis.

<sup>129</sup> Qwest’s refusal is contrary to the documented role of the Qwest CMP Service Manager’s Role, which includes providing root cause analysis when CLEC provides examples. *See* Eschelon/92, Johnson 2 (last paragraph).

1           **BEFORE THE DUE DATE MUST ALSO BE DOCUMENTED IN THE**  
2           **PCAT?**<sup>130</sup>

3       A.     Qwest cannot deny that the above-quoted language is part of the CMP  
4           documentation posted on its website, now that Eschelon has provided it in the  
5           record.<sup>131</sup> Instead, Qwest has recently suggested that Qwest’s statements reflected  
6           in the CMP minutes are for some reason not applicable because Qwest has not  
7           *also* documented them in its PCAT. In other words, Qwest is pointing to the  
8           absence of similar language in its PCAT as alleged support for its position.  
9           Qwest has provided no basis for suddenly favoring the PCAT over CMP minutes  
10          as documentation of its CMP commitments and its procedures. Qwest routinely  
11          relies upon processes documented in CMP materials, internally, or not at all,  
12          regardless of whether they are also in the PCAT.<sup>132</sup> With respect to jeopardies  
13          specifically, as indicated above, Qwest for a time recognized its documented  
14          commitment in CMP to provide the FOC the day before<sup>133</sup> and treated its own

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<sup>130</sup> Arizona arbitration Tr., Vol. 2, Q-22 & Q-23 & pp. 340-341; *see id.* p. 340 lines 18-19 (Mr. Topp: “no language whatsoever” referring to at least the day before in the PCAT) & *see id.* p. 34, lines 1-18 (my response that Qwest confirmed in CMP that Qwest would give CLECs an FOC the day before and my references on the stand to pages 37 and 21 of Exhibit BJJ-5 to my Arizona direct testimony).

<sup>131</sup> Eschelon/113, Johnson 3 (February 26, 2004 CMP materials) & Eschelon 111/Johnson 5, March 4, 2004 CMP ad hoc call minutes (both quoted above regarding the phrase “the day before”).

<sup>132</sup> *See, e.g.*, Arizona arbitration Hearing Exhibit Q-2 (Albersheim Reb.), p. 21, lines 15-17 (“In order to present a more complete record of the activities that took place regarding the Change Requests in question, I have attached the actual Change Requests, which include the minutes from the Project meeting.”); *see id.* pp. 22 & 24 (relying upon CMP meeting minutes). *See also, e.g.*, Eschelon/100, Johnson/1 (showing Qwest took away CLEC access to Qwest internal documentation and said it would make “efforts” to provide external documentation -- not of all process information -- but only that which Qwest found “critical”; and defining external documentation beyond the PCAT to include “business procedures” and other information).

<sup>133</sup> Eschelon/113, Johnson/3 (February 26, 2004 CMP materials prepared and distributed by Qwest) (emphasis added); Eschelon/11, Johnson 5, March 4, 2004 CMP ad hoc call minutes (emphasis added).

1 failure to do so as non-compliance with its process, before changing its position  
2 without going back to CMP.<sup>134</sup>

3 In the particular PCAT version referenced by Qwest in support of its position,<sup>135</sup>  
4 Qwest documented in its PCAT some *changes* that were developed in CMP to its  
5 jeopardies process.<sup>136</sup> Qwest took the position in CMP, however, that providing  
6 an FOC at least the day before the due date was already part of its *current*  
7 internally documented process. In other words, as an *existing* process, it did not  
8 need to be documented through a PCAT *change*. Specifically, Qwest said at the  
9 time: “This example is non-compliance to a *documented process*. Yes an FOC  
10 should have been sent prior to the Due Date.”<sup>137</sup> Qwest was referring to an  
11 internally documented process, as it is not documented in the PCAT. Additional  
12 documentation is not needed to demonstrate Qwest’s commitment in this case,  
13 because Qwest documented its commitment in written and posted CMP materials.

14 The absence of additional documentation in the PCAT is not evidence that  
15 Eschelon gave up its Change Request regarding jeopardies or associated expected  
16 deliverables in CMP, despite any suggestions by Qwest to the contrary. In fact,  
17 Qwest *expanded* the deliverable of Eschelon’s Change Request in CMP to

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<sup>134</sup> See, e.g., Eschelon/110, Johnson/1 &4-6.

<sup>135</sup> Eschelon/7, Starkey 47 (AZ Transcript, in which Mr. Topp of Qwest references the announcement and associated redlined PCAT for Version 42 of the Provisioning and Installation Overview PCAT). It appears that Qwest is suggesting that, because this particular PCAT update does not include a redlined change inserting a designated time frame of the day before, there was no change in CMP to that effect. *See id.*

<sup>136</sup> Eschelon/7, Arizona arbitration Tr., Vol. 2, Q-22 & Q-23.

<sup>137</sup> Eschelon/113, Johnson 3 (February 26, 2004 CMP materials prepared and distributed by Qwest)



1 include more issues. This is shown by the new title of the Change Request, which  
2 is more general in scope and thus broader and more inclusive than the original  
3 title, while still including Eschelon's original request:

4 "Title: Jeopardy Notification Process Changes (new title). Delayed  
5 order process modified to allow the CLEC a designated time frame  
6 to respond to a released delayed order after Qwest sends an  
7 updated FOC (old title)."<sup>138</sup>

8 The description of change (the first paragraph in the Change Request) makes it  
9 clear that Qwest updated the Change Request with Qwest's new, *additional*  
10 description of change and expected deliverable. The description of this change  
11 states:

12 "Changed the description of this CR as a result of synergies with  
13 PC072303-1. During the October 15 CMP meeting we discussed  
14 whether we should close/leave open/ or update CR PC081403-1  
15 'Delayed order process modified to allow the CLEC a designated  
16 time frame to respond to a released delayed order'. The reason we  
17 wanted to close/leave open or update PC081403-1 is because  
18 PC072303-1 is meeting many of the needs. Bonnie Johnson agreed  
19 to change this CR, *as long as we retained the original CR*  
20 *description.*"<sup>139</sup>

21 I asked that Eschelon's description of change remain as a part of the Change  
22 Request so it would be clear that Eschelon's request would be included and to  
23 avoid any confusion. There are two expected deliverables in this Change  
24 Request. Qwest added the later expected deliverable and asked more generally to  
25 "change the jeopardy notification process to reduce unnecessary jeopardy notices  
26 being sent to the CLEC when the Due Date is not in jeopardy *and* to improve the

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<sup>138</sup> Eschelon/111, Johnson/1.

1 *overall* jeopardy notification process.”<sup>140</sup> This description is very broad,  
2 referring generally to improving the overall process (including Eschelon’s  
3 request). Eschelon’s initial description of change and expected deliverable, which  
4 remained a part of the Charge Request, stated:

5 “Qwest will contact the CLEC to test and accept only after the  
6 updated FOC has been sent and *a designated time frame* has  
7 passed. *Qwest will not put the order in a CNR (customer not*  
8 *ready) jeopardy status* until this time frame has passed and the  
9 CLEC is not ready. When Qwest puts a CLECs request in delayed  
10 for facilities jeopardy status, Qwest should be *required to send the*  
11 *CLEC an updated FOC when the delayed order is released* and  
12 *allow the CLEC a reasonable time frame to prepare* to accept the  
13 circuit. Qwest releases orders form a held status (in some cases the  
14 CLEC has not even received an updated FOC) and immediately  
15 contacts the CLEC to accept the circuit. Because Qwest does not  
16 allow the CLEC a reasonable amount of time to prepare for the  
17 release of the delayed order, the CLEC may not be ready when  
18 Qwest calls to test with the CLEC. Qwest then places the request  
19 in a CNR jeopardy status. Qwest should modify the Delayed order  
20 process, to require *Qwest to send an updated FOC and then allow*  
21 *a reasonable amount of time for the CLEC to react and prepare*  
22 *to accept the circuit before contacting the CLEC for testing.*

23 Expected Deliverable:  
24 *Qwest will modify, document and train a process, that requires*  
25 *Qwest to send an updated FOC and allow a CLEC a reasonable*  
26 *amount of time (from the time the updated FOC is sent) to*  
27 *prepare for testing before Qwest contacts the CLEC to test and*  
28 *accept the circuit.*<sup>141</sup>

29 This shows that Eschelon clearly made these requests as part of this Change  
30 Request, which was completed in CMP on July 21, 2004.<sup>142</sup> The description of

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<sup>139</sup> Eschelon/111, Johnson/1.

<sup>140</sup> Eschelon/111, Johnson/2.

<sup>141</sup> Eschelon/111, Johnson/2(emphasis added).

<sup>142</sup> Eschelon/111, Johnson/1.

1 change quoted above shows I took steps to ensure that, when Qwest expanded the  
2 scope of the Change Request, Eschelon's request (including this expected  
3 deliverable) remained a part of the Change Request.<sup>143</sup> Eschelon specifically  
4 requested a documented<sup>144</sup> "designated time frame" to "allow CLEC a reasonable  
5 amount of time (from the time the updated FOC is sent)" and, as the Qwest CMP  
6 documentation shows, Qwest committed in writing in posted minutes (*i.e.*,  
7 documented) that it had an internally documented process to provide the FOC the  
8 day before delivering the circuit.<sup>145</sup> The "day before" is the designated time  
9 frame documented at Qwest and which Qwest verified in CMP, and Qwest  
10 initiated no change request to alter that time frame. When Qwest does not  
11 provide the FOC the day before (such as in the example when Qwest provided the  
12 FOC nine minutes before delivering the circuit<sup>146</sup>) Qwest's conduct remains "non-  
13 compliance to a *documented process*."<sup>147</sup> That the internal Qwest documentation  
14 is confirmed in CMP minutes and not the PCAT is inconsequential. Qwest's  
15 denial of this documented fact, after all of Eschelon's efforts in CMP,  
16 demonstrates the need for language in the interconnection agreement establishing

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<sup>143</sup> Eschelon/111, Johnson/1 ("as long as we retained the original CR description").

<sup>144</sup> Note, the above-quoted reference is for a "documented" process, which did not specify and was not limited to documentation in the PCAT, as Qwest also provides documentation in other ways, such as CMP minutes.

<sup>145</sup> "This example is non-compliance to a *documented process*. Yes an FOC should have been sent prior to the Due Date." Eschelon/113, Johnson 3 (February 26, 2004 CMP materials prepared and distributed by Qwest) (emphasis added).

<sup>146</sup> Eschelon/115, Johnson/14 (Row 11).

<sup>147</sup> Eschelon/113, Johnson/3 (February 26, 2004 CMP materials prepared and distributed by Qwest)

1 the designated time frame. Any proposal to refer to the PCAT, which Qwest  
2 admits contains no time frame at all,<sup>148</sup> should be rejected.

3 Ironically, despite Qwest's current claims about the PCAT, Qwest's proposed  
4 language (consistent with Eschelon's position that relevant Qwest documentation  
5 is broader than the PCAT) does not refer specifically to the PCAT but rather  
6 provides: "12.2.7.2.4.4 Specific procedures are contained in Qwest's  
7 documentation, available on Qwest's wholesale web site." Qwest's  
8 documentation on its wholesale web site (*i.e.*, CMP materials) provides the  
9 "CLEC should *always* receive the FOC *before the due date*."<sup>149</sup> Because Qwest  
10 denies this documented commitment, however, its proposed language does  
11 nothing to resolve the dispute.

12 **Q. WHAT IS ESCHELON'S RESPONSE TO QWEST'S FOURTH CLAIM**  
13 **THAT ESCHELON MUST ALWAYS PREPARE TO ACCEPT SERVICE**  
14 **REGARDLESS OF THE TYPE OF JEOPARDY?**<sup>150</sup>

15 A. This very recent claim, which Qwest made at the Arizona hearing, is not the  
16 process reflected in Qwest's own documentation. The documented process in  
17 Qwest's Provisioning and Installation Overview PCAT states (with emphasis  
18 added) with respect to Qwest facility jeopardies: "*we will advise you of the new*

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<sup>148</sup> Arizona arbitration Tr., Vol. 2, Q-22 & Q-23 & pp. 340-341; *see id.* p. 340 lines 18-19 (Mr. Topp: "no language whatsoever" referring to at least the day before *in the PCAT*).

<sup>149</sup> Eschelon 111/Johnson/5, March 4, 2004 CMP ad hoc call minutes prepared by Qwest (emphasis added).

<sup>150</sup> Eschelon/7, Arizona arbitration Tr., AZ Vol. 1, pp. 67-69 (Ms. Albersheim); *see also* Colorado arbitration Albersheim Rebuttal, p. 59, lines 4-5.

1        ***DD when the jeopardy condition has been resolved.***<sup>151</sup> In other words, for this  
2 type of jeopardy (when Qwest has insufficient facilities or a problem with the  
3 facilities), the CLEC is told to do nothing to prepare unless Qwest sends a notice  
4 advising the condition has been resolved. To ignore or disregard a jeopardy  
5 notice means to plan to prepare to accept delivery as though you had not received  
6 a notice. Qwest's PCAT states:

7                "Qwest differentiates between DD jeopardies and Critical Date  
8 jeopardies. DD jeopardies indicate that your due date is in  
9 jeopardy; however, Critical Date jeopardies indicate that a critical  
10 date prior to the DD is in jeopardy. ***Critical Date jeopardies can be  
11 ignored by you.*** Critical Date jeopardies are identified in the  
12 Jeopardy Data document (see download in the following  
13 paragraph) in the column labeled "Is Due Date in Jeopardy?" ***If the  
14 DD is not in jeopardy, this column will contain "No" and you  
15 can disregard the jeopardy notice*** sent for this condition and  
16 continue your provisioning process with the scheduled DD. ***If the  
17 column contains "Yes" and Qwest has the responsibility to  
18 resolve the jeopardy condition, we will advise you of the new DD  
19 when the jeopardy condition has been resolved.*** This is usually  
20 within 72 hours."<sup>152</sup>

21        As Qwest's own PCAT language shows, Qwest differentiates by type of jeopardy  
22 notice and tells CLECs to plan to prepare to accept the circuit (*i.e.*, disregard the  
23 jeopardy notice) even if the CLEC is not advised of a new due date for one type  
24 (Critical Date jeopardies) and not to prepare to accept the circuit (*i.e.*, do not  
25 disregard the jeopardy notice) unless Qwest advises CLEC of a new due date for  
26 the other type (DD jeopardies). The Qwest facility jeopardies that are the subject

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<sup>151</sup> Qwest's Provisioning and Installation Overview PCAT (quoted above).

<sup>152</sup> See Qwest Provisioning and Installation Overview PCAT.

1 of Issue 12-72 (Proposed ICA Section 12.2.7.2.4.4.1)<sup>153</sup> fall within the “DD  
2 jeopardy” category.<sup>154</sup>

3 As discussed above regarding the time Qwest allows itself to prepare, it would not  
4 be reasonable to require CLECs for every single day of the held order period to  
5 schedule personnel to handle additional circuit deliveries – and bother the  
6 customer to request access to the customer’s premises – on the chance that Qwest  
7 may deliver the circuit when Qwest has a known problem in its network with its  
8 facilities.

9 **Q. WHAT IS ESCHELON’S RESPONSE TO QWEST’S FIFTH CLAIM**  
10 **THAT THE FOC IS A MERE FORMALITY THAT QWEST MAY**  
11 **REPLACE WITH POTENTIAL INFORMAL COMMUNICATIONS?**<sup>155</sup>

12 A. Providing an FOC after a Qwest facility jeopardy has cleared is not a mere  
13 formality; it is a contractual requirement (see closed language in Section  
14 9.2.4.4.1). The contractual requirement is also part of the SGAT that the  
15 Commission and companies spent a significant amount of time reviewing in 271

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<sup>153</sup> The two types of potential customer (CNR) jeopardies described in Section 12.2.7.2.4.4.1 are coded in Eschelon/113, Johnson 7 and 8 as CO1 and CO2, and Eschelon’s ICA language mirrors Qwest’s PCAT “User Friendly Jeopardy Description” of these two jeopardies.

<sup>154</sup> See Qwest Provisioning and Installation Overview PCAT (“If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, we will advise you of the new DD when the jeopardy condition has been resolved.”).

<sup>155</sup> Arizona arbitration Tr., Vol. I, p. 70, lines 4-9 (Ms. Albersheim) (“Q. Does that assume this Qwest has sent the FOC with a new due date or that it hasn’t? A. Qwest is supposed to. Q. And let’s assume that it doesn’t. A. The formality is that Qwest is supposed to, but the technicians are in touch with each other.”); see also Minnesota arbitration Tr. Vol. I, p. 94, lines 19-20 & p. 96, lines 8-10.

1 workshops, as well as in Qwest's own proposed template interconnection  
2 agreement.<sup>156</sup> Regarding FOCs and jeopardy notices, the FCC said:

3 [W]e address the OSS ordering issues that the Commission  
4 previously has found *relevant and probative for analyzing a*  
5 *BOC's ability to provide access to its ordering functions in a*  
6 *nondiscriminatory manner*: a BOC's ability to return *timely status*  
7 *notices* such as *firm order confirmation*, reject, *jeopardy*, and  
8 service order completion notices, to process manually handled  
9 orders accurately, and to scale its system.<sup>157</sup>

10 Despite recognition by the FCC and in the contract of the importance of the FOC,  
11 Qwest claims that the FOC can be disregarded because informal "communication  
12 was happening between Qwest and the CLEC technicians" in the examples  
13 provided by Eschelon in Eschelon/115.<sup>158</sup>

14 Qwest admitted that communication with the technician(s), "was the case" in only  
15 "some" of these examples.<sup>159</sup> In addition, Qwest has provided no evidence that  
16 the CLEC technicians (rather than, for example, CLEC service delivery  
17 personnel) are the appropriate contacts with respect to FOCs and scheduling. At  
18 both Qwest and Eschelon, a service delivery type organization sends/receives the  
19 jeopardy and FOC notices,<sup>160</sup> and that organization is different in both companies

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<sup>156</sup> Eschelon/115 note 4.

<sup>157</sup> Memorandum Opinion and Order, In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming, WC Docket No. 02-314, Decision No. 02-332 (Dec. 23, 2002), ¶85 (emphasis added).

<sup>158</sup> Minnesota arbitration Tr. Vol. I, pp. 94-96. This particular sentence regarding communication is found *id.*, p. 94, lines 19-20.

<sup>159</sup> Minnesota arbitration, Tr. Vol. I p. 96, lines 8-10 (Ms. Albersheim).

<sup>160</sup> See Qwest's Provisioning and Installation Overview PCAT, stating "If a LSR goes into a jeopardy condition and it is detected: . . . On the DD/ Once the Qwest CSIE is advised of the condition (if the

1 from the network type of organization in which the technicians work. Eschelon  
2 cannot rely upon informal communications that are outside the agreed upon  
3 process to plan its business and ensure timely delivery of service necessary to  
4 meet its end user customers' expectations.

5 The Qwest technician notes provided in the "Qwest Review" column of  
6 Eschelon/115 show that, when communication was "happening between Qwest  
7 and the CLEC technicians,"<sup>161</sup> it was associated with attempted delivery of the  
8 circuit and was not for the purpose of advance notice (to allow Eschelon time to  
9 schedule resources and arrange any customer premise access in advance of  
10 delivery). This is clear on the face of the technician notes provided by Qwest.  
11 For example, Qwest technicians' notes expressly state that the purpose of the  
12 noted communications was to "test" or to "turn up" the circuit/service.<sup>162</sup> If  
13 Qwest is calling about test and turn up, it is part of attempted service delivery.<sup>163</sup>

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RFS Date is known)/ Qwest sends a jeopardy notice. A FOC is subsequently sent advising you of the new DD that Qwest can meet." The Qwest "CSIE" is its Customer Service Inquiry and Education center, which may also be referred to as the Interconnect Service Center (ISC), as in Section 12.1.3.3.2.1 of the proposed ICA. (See, e.g., reference to "ISC/CSIE" in Qwest CMP documentation at [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC101001-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC101001-1.htm).)

<sup>161</sup> Minnesota arbitration, Tr. Vol. I, p. 94, lines 19-20 (Ms. Albersheim).

<sup>162</sup> See, e.g., Eschelon/115 (Qwest technician notes in column entitled "Qwest Review From MN RA-30") at Johnson/6 ("Contacted Eschelon to attempt to turn up the circuit"); Johnson/8-9 ("Contacted [ER] at Eschelon at 16:58 he said he would test and call back. [ER] called back at 17:23 can't see signal. Problem originally thought to be on CLEC side. 4/15 found trbl to be in Qwest wiring"); Johnson/16 ("referred order to CLEC to test"); Johnson/21 ("called [ER] at Eschelon, talked to [ER] advised ready to test and accept").

<sup>163</sup> Qwest's Provisioning and Installation Overview PCAT discusses communications that occur at the time of delivery (under the heading of "Delivering UNE, Resale, and Interconnection Services"). That technicians may need to communicate at the time of delivery does not obviate the need for notice in advance through the proper channels/departments to schedule resources, including the availability of those very technicians who may be needed for the test and turn up communications and activities that are part of delivering the service.



1 Obviously, communications during attempted delivery of the circuit/service are  
2 not advance notice of when Qwest is going to attempt delivery. The attempt is  
3 already in progress, so under Qwest's approach Eschelon is left to scramble and  
4 staff the unexpected delivery rather than have an opportunity to efficiently  
5 prepare in advance. Eschelon's ICA language provides that Eschelon will attempt  
6 to overcome these obstacles because delivery of service to its end user customer is  
7 so important to Eschelon.<sup>164</sup> Thus, any further disruption or delay in service is  
8 clearly a direct product of Qwest's jeopardy and failure to send an FOC after the  
9 jeopardy cleared, not of any unwillingness on Eschelon's part to lessen the  
10 consequences of Qwest's issue. Qwest created the situation that lead to the  
11 inability to complete delivery. If the obstacles are too great because of Qwest's  
12 failure to provide proper timely notice to Eschelon of service delivery, and  
13 Eschelon cannot accept delivery at the time, Qwest should not classify this as a  
14 CLEC (CNR) jeopardy

15 To help ensure timely service to Customers, the Commission should adopt  
16 Eschelon's proposed language for Issues 12-71, 12-72, and 12-73.

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<sup>164</sup> ICA Section 12.2.7.2.4.4.1.

1 **D. SUBJECT MATTER NO. ISSUE 43. CONTROLLED PRODUCTION**

2 *Issue No. 12-87: ICA Section 12.6.9.4*<sup>165</sup>

3 **Q. PLEASE DESCRIBE CONTROLLED PRODUCTION, NEW**  
 4 **IMPLEMENTATION, AND RECERTIFICATION.**

5 A. Section 12.6 of the proposed interconnection agreement is entitled “On-Going  
 6 Support for OSS” (Operations Support Systems). It addresses several types of  
 7 systems testing including, in Section 12.6.9.4, controlled production testing.  
 8 *Controlled production* testing consists of controlled submission of CLEC real  
 9 product orders to the production environment.<sup>166</sup> The submission is “controlled”  
 10 (as opposed to ordinary submission of orders) in the sense that the number of  
 11 orders is limited and both Qwest and Eschelon are monitoring the limited orders  
 12 for testing purposes. Qwest and CLECs “use Controlled Production results to  
 13 determine operational readiness for full Production<sup>167</sup> turn-up.”<sup>168</sup> This test

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<sup>165</sup> Throughout discussion of Issue 12-87 there are references to the Implementation Guidelines. Excerpts are included with my testimony as Eschelon/122. The full Implementation Guidelines are posted on the Qwest web site. For Version 21, the URL is

[http://www.qwest.com/wholesale/downloads/2007/070406/IMAXMLImplementationGuidelines21\\_040607.doc](http://www.qwest.com/wholesale/downloads/2007/070406/IMAXMLImplementationGuidelines21_040607.doc) ; For Version 20, the URL is [http://www.qwest.com/wholesale/downloads/2006/061030/IMA\\_XML\\_Implementation\\_Guidelines\\_20\\_0\\_10\\_30\\_06.pdf](http://www.qwest.com/wholesale/downloads/2006/061030/IMA_XML_Implementation_Guidelines_20_0_10_30_06.pdf); For Version 19.2, the URL is [http://www.qwest.com/wholesale/downloads/2006/060425/IMA\\_EDI\\_Implementation\\_Guidelines\\_19\\_2\\_042406.pdf](http://www.qwest.com/wholesale/downloads/2006/060425/IMA_EDI_Implementation_Guidelines_19_2_042406.pdf)

<sup>166</sup> Eschelon/122, Johnson/3 (Version 21, p. 13 ¶(6); *id.* Johnson/9 (Version 20, p. 13 ¶(6); *id.* Johnson/17 (Version 19.2, p. 9, ¶(6)).

<sup>167</sup> “Production” is defined as “The CLEC is certified and able to submit full volumes of production LSRs and pre-order transactions to Qwest.” Eschelon/122, Johnson/3 (Version 21, p. 13 ¶(7); *id.* Johnson/9 (Version 20, p. 13 ¶(7); *id.* Johnson/17 (Version 19.2, p. 9, ¶(7)).

<sup>168</sup> Eschelon/122, Johnson/3 (Version 21, p. 13 ¶(6); *id.* Johnson/9 (Version 20, p. 13 ¶(6); *id.* Johnson/17 (Version 19.2, p. 9, ¶(6) (footnote added)).

1 verifies that the data exchange between Qwest and CLEC is done according to the  
2 industry standard.<sup>169</sup>

3 *A new implementation* effort involves transactions that CLEC does not yet have in  
4 production using a current Interconnect Mediated Access (“IMA”) version.

5 About “new implementation,” the Implementation Guidelines state: “At the time  
6 a CLEC migrates to a new release, any transaction(s) that the CLEC does not yet  
7 have in production using a current IMA version is considered to be a new  
8 implementation effort.”<sup>170</sup>

9 *Re-certification* is defined in agreed-upon language of the proposed contract as  
10 “the process by which CLECs demonstrate the ability to generate correct  
11 functional transactions for enhancements not previously certified.”<sup>171</sup> Similarly,  
12 the Implementation Guidelines state: “Recertification is the process by which

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<sup>169</sup> The industry standard is currently called X12. It is an ANSI standard for syntax that governs electronic data transfers. Some CLECs are on IMA Release 19. Eschelon has recently started to use to IMA Release 20, for which the applicable standard is XML. Eschelon currently uses both Release 19 and 20, with retirement of its EDI gateway scheduled for June of 2007. Qwest has multiple releases available at any given time, and the CMP Document allows different carriers to be on different releases. See Exhibit Eschelon/53 §§ 6.0-9.0. For example, the Implementation Guidelines state that: “Qwest supports a multi-release strategy” for its interface. See Eschelon/122, Johnson/4 (Version 21, p. 40); *id.* Johnson/10 (Version 20, p. 40); *id.* Johnson/18 (Version 19.2, p. 47). IMA Release 19 is available until October 27, 2007. IMA Release 21 became available on May 14, 2007. Therefore, a CLEC could move from Release 19 to Release 21 without ever being on Release 20. See Qwest OSS Calendar at [http://www.qwest.com/wholesale/downloads/2006/061011/OSS\\_Calendar\\_Version\\_84.pdf](http://www.qwest.com/wholesale/downloads/2006/061011/OSS_Calendar_Version_84.pdf)

<sup>170</sup> See Eschelon/122, Johnson/5 (Version 21, p. 41); *id.* Johnson/11 (Version 20, p. 41); *id.* Johnson/19 (Version 19.2, p. 48) (The sentence is the same in the different versions of the Guidelines, except that the acronym “EDI” is inserted before “IMA” for Version 19.2.).

<sup>171</sup> Section 12.6.4 of the proposed ICA (closed language).

1 CLECs demonstrate the ability to correctly generate and accept transactions that  
2 were updated for the new release.”<sup>172</sup>

3 **Q. PLEASE DESCRIBE ESCHELON’S BUSINESS NEEDS REGARDING**  
4 **CONTROLLED PRODUCTION.**

5 A. Eschelon needs certainty in the contract language that *controlled production*  
6 *testing*, consistent with current practice, will continue to be necessary for a *new*  
7 *implementation* effort and unnecessary for *re-certification*. Eschelon’s business  
8 need is to avoid costly and/or time consuming controlled production testing that is  
9 unnecessary because, for recertifications, the transaction has previously been in  
10 production and is simply being enhanced. Under Eschelon’s proposal, testing will  
11 be conducted for both new implementations and recertifications. Eschelon  
12 supports necessary testing. In fact, Eschelon volunteered to be one of the first  
13 CLECs to move from EDI to XML (a new implementation that required  
14 controlled production testing) and acted as one of the beta testers with Qwest for  
15 XML, even though this is a significant commitment of time and resources.  
16 Nothing about Eschelon’s proposal is inconsistent with the use of controlled  
17 production when applicable or the importance of testing, or Eschelon would not  
18 be proposing it. Eschelon’s proposal simply reflects the status today, and Qwest  
19 would not say that its testing today is inadequate. Under Eschelon’s proposal, the  
20 testing -- like that done today -- will be appropriate for the type of change being

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<sup>172</sup> See Eschelon/122, Johnson/5 (Version 21, p. 41); *id.* Johnson/11 (Version 20, p. 41); *id.* Johnson/19 (Version 19.2, p. 48).

1 made (with a re-certification logically requiring less testing than an initial  
2 certification).

3 **Q. WHAT IS ESCHELON'S PROPOSAL FOR ISSUE 12-87?**

4 A. Eschelon proposes controlled production testing, consistent with current practice,  
5 will continue to be necessary for a new implementation effort and unnecessary for  
6 re-certification (unless the companies agree otherwise). Eschelon proposes  
7 adoption of one of the two following proposals for Section 12.6.9.4 (Issue 12-87):

8 **Proposal 1**

9 12.6.9.4 Controlled Production – Qwest and CLEC will perform  
10 controlled production. The controlled production process is  
11 designed to validate the ability of CLEC to transmit EDI data that  
12 completely meets X12 (or mutually agreed upon substitute)  
13 standards definitions and complies with all Qwest business rules.  
14 Controlled production consists of the controlled submission of  
15 actual CLEC production requests to the Qwest production  
16 environment. Qwest treats these pre-order queries and orders as  
17 production pre-order and order transactions. Qwest and CLEC use  
18 controlled production results to determine operational readiness.  
19 Controlled production requires the use of valid account and order  
20 data. All certification orders are considered to be live orders and  
21 will be provisioned. Controlled production is not required for  
22 recertification, unless the Parties agree otherwise. ~~for features or~~  
23 ~~products that the CLEC does not plan on ordering~~ Recertification  
24 does not include new implementations such as new products and/or  
25 activity types.

26 **Proposal 2**<sup>173</sup>

27 12.6.9.4 Controlled Production – Qwest and CLEC will perform  
28 controlled production for new implementations, such as new  
29 products, and as otherwise mutually agreed by the Parties. The  
30 controlled production process is designed to validate the ability of  
31 CLEC to transmit EDI data that completely meets X12 (or  
32 mutually agreed upon substitute) standards definitions and

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<sup>173</sup> The ICA and the Joint Disputed Issues Matrix filed as Exhibits 3 and 5 to Eschelon's Petition do not include the second proposal as it was offered to Qwest in negotiations after the Petition date.

1           complies with all Qwest business rules. Controlled production  
2           consists of the controlled submission of actual CLEC production  
3           requests to the Qwest production environment. Qwest treats these  
4           pre-order queries and orders as production pre-order and order  
5           transactions. Qwest and CLEC use controlled production results to  
6           determine operational readiness. Controlled production requires  
7           the use of valid account and order data. All certification orders are  
8           considered to be live orders and will be provisioned.

9   **Q.    WHAT IS QWEST’S PROPOSAL ON ISSUE 12-87?**

10  A.    Qwest originally proposed to omit both of Eschelon’s language modifications. In  
11       other words, Qwest’s original proposal was to delete Eschelon’s proposal (the  
12       underlined sentences in the above cited language of section 12.6.9.4). Qwest has  
13       since modified its proposal as follows:

14               All certification orders are considered to be live orders and will be  
15               provisioned. Controlled production is not required for  
16               ~~recertification, unless the Parties agree otherwise.~~ for features or  
17               products that the CLEC does not plan on ordering. Recertification  
18               does not include new implementations such as new products and/or  
19               activity types.

20       Qwest asserts that Eschelon should not be able to make unilateral decisions such  
21       as refusing controlled production testing “when it may be necessary to protect the  
22       industry at large.”<sup>174</sup> Qwest argues that controlled testing protects not only  
23       against system down time, but also potential negative impact on other CLECs.<sup>175</sup>  
24       I address these claims below.

25  **Q.    DOES ESCHELON’S PROPOSAL REFLECT QWEST’S CURRENT**  
26  **DOCUMENTED PRACTICE?**

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<sup>174</sup> Qwest Response, p. 47, line 15.

1 A. Yes. Eschelon’s proposal reflects Qwest’s current practice of not requiring  
2 controlled production for enhancements to the existing system releases (as  
3 opposed to new implementations), so no change is required. Qwest’s current  
4 terms allow a CLEC to forego controlled production for recertification, including  
5 as an example, if the CLEC does not plan to use the new functionality of the  
6 updated existing system. This principle accurately reflects that, if Eschelon does  
7 not plan to use the new functionality, it should not have to expend resources on  
8 unnecessary controlled production. Eschelon proposes that this be captured in the  
9 ICA language. More broadly, if Eschelon has been certified (so this is not a “new  
10 implementation”), Qwest does not require controlled production for  
11 recertification.<sup>176</sup> This fact is documented in Qwest’s Implementation Guidelines,  
12 which state consistently across releases:

13 **IMA Release 21 and IMA Release 20 (same language in both):**

14 Migration Activities. CLECs will be reminded in writing of their need to  
15 migrate to a new release prior to the next release being implemented. For  
16 migration, the CLEC will follow the same process as an initial  
17 implementation *except that Controlled Production is not required on any*  
18 *XML transaction that successfully completed Controlled Production*  
19 *testing in a prior release.* Any product not successfully tested in

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<sup>175</sup> Qwest Response, p. 47, lines 11-12. See also Joint Disputed Issues Matrix, Exhibit 3 to Petition (10/10/06), Qwest’s position, p. 238.

<sup>176</sup> For example, Eschelon was already certified and in production for Facility Based Directory Listings (“FBDL”) when Release 19.0 was issued and included two additional fields for the existing FBDL product, so Eschelon did not have to do controlled production testing when Eschelon re-certified its functionality for FBDL for Release 19.0. The fact that controlled production was not required does *not* mean the two additional fields were not tested. The two fields were tested using progression testing in the Stand Alone Test Environment (SATE) (*see* closed language in proposed ICA Section 12.6.9.2). Eschelon’s proposed language for Issue 12-87 is, on its face, specific to one type of testing (controlled production) and does not affect the other testing to which Eschelon has agreed. Although this example occurred with Release 19.0, Qwest’s own documentation for Release 20.0 provides that the same terms apply. *See* Eschelon/122, Johnson/6 (Version 21, p. 42); *id.* Johnson/12 (Version 20, p. 42) [quoted below].

1 Controlled Production in a prior release will not be migrated under this  
2 exemption.<sup>177</sup>

3 **IMA Release 19.2:**

4 Migration Activities. CLECs will be reminded in writing of their  
5 need to migrate to a new release prior to the next release being  
6 implemented. For migration, the CLEC will follow the same  
7 process as an initial implementation *except that Controlled*  
8 *Production is not required on any EDI transaction that*  
9 *successfully completed Controlled Production testing in a prior*  
10 *release.* Any product not successfully tested in Controlled  
11 Production in a prior release will not be migrated under this  
12 exemption.<sup>178</sup>

13 **Q. WHAT IS QWEST'S ARBITRATION POSITION REGARDING**  
14 **WHETHER ESCHELON'S PROPOSED LANGUAGE REFLECTS**  
15 **QWEST'S CURRENT PRACTICE?**<sup>179</sup>

16 A. Qwest has provided conflicting testimony as to whether Eschelon's proposed  
17 language reflects Qwest's current practice. In the Arizona Qwest-Eschelon  
18 arbitration proceeding, in her direct testimony on November 8, 2006, Ms.  
19 Albersheim of Qwest testified as follows:

20 Q. ADDRESSING THE SECOND ISSUE, IS ESCHELON'S  
21 LANGUAGE ACCURATE WITH REGARD TO  
22 RECERTIFICATION?

23 A. Yes.

24 Q. IF ESCHELON'S LANGUAGE IS ACCURATE, WHY DOES  
25 QWEST OBJECT TO THE ADDITION OF THIS LANGUAGE IN  
26 THE CONTRACT?

27 A. While the language may be accurate today, it may not be accurate  
28 tomorrow.<sup>180</sup>

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<sup>177</sup> Eschelon/122, Johnson/6 (Version 21, p. 42); *id.* Johnson/12 (Version 20, p. 42) (emphasis added).

<sup>178</sup> Eschelon/122, Johnson/20 (Version 19.2, p. 50) (emphasis added).

<sup>179</sup> Albersheim Rebuttal, p. 65, lines 10-13.



1 Ms. Albersheim provided almost identical testimony in the Minnesota  
2 arbitration.<sup>181</sup> In Minnesota, in their January 16, 2007 report, the ALJs found:  
3 “Qwest agrees that Eschelon’s language accurately depicts its current practice,  
4 which does not require CLECs to recertify if they have successfully completed  
5 testing of a previous release; in addition, Qwest admits that Qwest can control  
6 whether a CLEC can access its OSS.”<sup>182</sup> The ALJs recommended adoption of  
7 Eschelon’s first proposal for Issue 12-87.<sup>183</sup>

8 In Qwest’s February 9, 2007 rebuttal testimony in Arizona, Ms. Albersheim of  
9 Qwest provided the following testimony:

10 Q. MR. WEBBER ALLEGES ON PAGE 169 OF HIS DIRECT  
11 TESTIMONY THAT ESCHELON’S PROPOSED LANGUAGE FOR  
12 ISSUE 12-87 REFLECTS QWEST’S CURRENT PRACTICE. IS THAT  
13 TRUE?

14 A. No.<sup>184</sup>

15 Ms. Albersheim indicated that Eschelon had cited documentation for Release  
16 19.2,<sup>185</sup> without mentioning that the more recent documentation contains the same  
17 language (as shown in the above quotations).<sup>186</sup> Ms. Albersheim said: “The issue

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<sup>180</sup> Arizona arbitration, Albersheim Direct, p. 99, line 24 – p. 100, line 4.

<sup>181</sup> Minnesota Arbitration, Albersheim MN Direct, p. 99, line 24 – p. 100, line 4.

<sup>182</sup> Eschelon/29, Denney/62 (MN Arbitrators’ Report, ¶255).

<sup>183</sup> *Id.* ¶258.

<sup>184</sup> Arizona arbitration, Albersheim Rebuttal, p. 65, lines 10-13.

<sup>185</sup> Arizona arbitration, Albersheim Rebuttal, p. 66, lines 1-2.

<sup>186</sup> To the extent that, by referring to Release 19.2, Ms. Albersheim was attempting to suggest that some change occurred from Version 19.2 to Version 20.0 (or Version 21), the Implementation Guidelines show that this is not the case. Each one contains a change log (entitled “Document

1 here is with new releases, such as IMA Release 20.0, that require controlled  
2 production testing.”<sup>187</sup> Under either of Eschelon’s language proposals, controlled  
3 production testing is required for IMA Release 20.0, as shown above.<sup>188</sup> Ms.  
4 Albersheim did not mention in her testimony that, by the date of her testimony  
5 (February 9, 2007), Eschelon had already indicated -- consistent with Eschelon’s  
6 proposed language -- it would participate in controlled production testing for  
7 IMA Release 20.0.<sup>189</sup> The issue is whether, for a transaction that has already been  
8 through controlled production testing (*e.g.*, in a prior release) and thus is certified,  
9 controlled production testing must be conducted again for recertification. Despite  
10 Ms. Albersheim’s more recent testimony to the contrary,<sup>190</sup> Qwest’s current,  
11 documented practice is that controlled production testing is not required for  
12 recertification.<sup>191</sup>

13 **Q. IF ESCHELON’S PROPOSAL REFLECTS QWEST’S CURRENT**  
14 **PRACTICE, WHY IS IT NECESSARY TO INCLUDE IT IN THE**  
15 **CONTRACT?**

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History”) identifying the changes made in that Version, and none lists such a change. *See* Eschelon/122, Johnson/2 (Version 21, p. 2); *id.* Johnson/8 (Version 20, p. 2); *id.* Johnson/14-16 (Version 19.2, pp. 2-4).

<sup>187</sup> Arizona arbitration, Albersheim Rebuttal, p. 66, lines 5-6.

<sup>188</sup> *See, e.g.*, Eschelon Proposal #1, which creates an exception to performing controlled production testing for recertification but specifically states: “Recertification does not include new implementations.”

<sup>189</sup> Eschelon was previously scheduled to move to IMA Release 20.0 in approximately February of 2007, though that date was later pushed out. Because of the anticipated February 2007 date, discussions with Qwest regarding controlled production testing for IMA Release 20.0 had taken place before February of 2007.

<sup>190</sup> Arizona arbitration, Albersheim Rebuttal, p. 65, lines 10-13 (quoted above).

1 A. Qwest's inconsistency on this point (which I discussed in my previous answer)  
2 supports the need to include Eschelon's proposed language in the interconnection  
3 agreement to provide contractual certainty to allow Eschelon to plan its business.  
4 It is also necessary to include Eschelon's proposed language modification in the  
5 ICA because, without it, the broader language in the remainder of the paragraph  
6 (Section 12.6.9.4) may suggest that controlled production is required for re-  
7 certification, when it is not. The first sentence, for example, broadly states:  
8 "Qwest and CLEC will perform controlled production." That is not always the  
9 case under current practice, and the ICA should be clear on this point when  
10 outlining the terms of controlled production. Eschelon made its second proposal  
11 as an alternative way of dealing with the broad statement in this sentence.

12 Further, Qwest is violating its previously agreed upon policy of bringing its IMA  
13 implementation guidelines through CMP, which is another reason for Eschelon to  
14 seek contractual certainty and include its proposed language (reflecting status  
15 quo) into the ICA. Qwest's *Change Management Process Document*  
16 (Eschelon/53) describes the scope of CMP as including OSS implementations. It  
17 states:

18 Qwest will track changes to OSS Interfaces, products and  
19 processes. This CMP includes the identification of changes and  
20 encompasses, as applicable, Design, Development, Notification,  
21 Testing, **Implementation**, Disposition of changes, etc. (See Change

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<sup>191</sup> Eschelon/122, Johnson/6 (Version 21, p. 42); *id.* Johnson/12 (Version 20, p. 42) (quoted above).

1 Request Status Codes, Section 5.8). *Qwest will process any such*  
2 *changes in accordance with this CMP.*<sup>192</sup>

3 This language was specifically added to the Scope section of the CMP Document  
4 to ensure that the Implementation Guidelines would be within the scope of  
5 CMP.<sup>193</sup> The CMP Document was created by a Redesign team. The Redesign  
6 team maintained a list of action items and then noted when they were closed. The  
7 minutes of the CMP Redesign meetings are posted on the Qwest web site. The  
8 action item log was attached to the minutes as an attachment. Attachment 5 (the  
9 action item log) to the March 5 through March 7, 2002 CMP Redesign meeting  
10 minutes shows that Action Item Number 143 (“Is the EDI Implementation  
11 Guideline under the scope of CMP?”; “Does Scope include documentation?”) was  
12 closed in the affirmative in “Master Redline Section 1.0.”<sup>194</sup> Specifically, the  
13 team closed with the resolution: “The EDI Implementation Guideline will follow  
14 the CMP guidelines and timeframes.”<sup>195</sup> Therefore, as shown in the above-quoted  
15 language, the Implementation Guideline is supposed to be within the scope of  
16 CMP. Qwest obtained 271 approvals after completing these action items and  
17 providing assurances such as this one about CMP to CLECs, including Eschelon  
18 (which was a member of the CMP Redesign Core Team).

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<sup>192</sup> Exhibit Eschelon/53, Johnson/15, Section 1.0 (emphasis added).

<sup>193</sup> See Eschelon/119 to my testimony containing Excerpts from Final Meeting Minutes of CLEC-Qwest Change Management Process Re-design meeting dated March 5-March 7, 2002 (Att. 5, Action Item 143).

<sup>194</sup> *Id.*

<sup>195</sup> *Id.* (final column for Action Item 143).

1 Despite Qwest's assurances to the CMP Redesign team and the language of the  
2 governing CMP Document, Qwest does not submit changes to the EDI  
3 Implementation Guidelines through CMP. An example is the way Qwest treated  
4 its IMA Release 20.0 Implementation Guidelines, which was announced via a  
5 non-CMP notice and was effective immediately.<sup>196</sup> In the Minnesota Arbitration  
6 regarding the same contract language, Qwest testified that the IMA  
7 Implementation Guideline documents are not and should not be under the CMP  
8 control<sup>197</sup> -- without citing any documentation in Qwest's posted CMP Redesign  
9 materials to support this statement, which is contrary to the closure of Action Item  
10 143 and the language of Section 1.0 of the CMP Document (both quoted above).

11 The fact that Qwest is violating its previously agreed upon policy of bringing its  
12 IMA implementation guidelines through CMP is another reason for Eschelon to  
13 seek contractual certainty and include its proposed language (reflecting status  
14 quo) into the ICA. If Qwest's proposal is adopted, Qwest could just as easily –  
15 with same day notice and no CMP activity, much less any amendment to the ICA  
16 – impose the costs of unnecessary controlled production testing upon Eschelon.  
17 This is an important issue that Eschelon has properly raised under Section 252,  
18 and Qwest should not be able to impose such costs on Eschelon without  
19 Eschelon's agreement.

20 **Q. DOES ESCHELON'S PROPOSAL REPRESENT A "THREAT TO**

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<sup>196</sup> This notice is contained in exhibit Eschelon/121.

1           **INDUSTRY AT LARGE,” AS CLAIMED BY QWEST?<sup>198</sup>**

2    A.    No. As I explained above, Qwest’s current practice allows CLECs to forego  
3           controlled production testing during recertification. (It is worth noting again that  
4           under Eschelon’s proposal recertification does not include new implementations,  
5           such as Release 20.) As stated in Qwest’s own implementation guidelines quoted  
6           above, controlled production testing is not required for any transaction that  
7           successfully completed controlled production testing in a prior release.  
8           Obviously, Qwest does not consider the fact that some CLECs will forego the test  
9           in this situation as being a threat to the “industry at large.” Eschelon’s language  
10          modification does not prohibit CLECs from undergoing controlled production  
11          testing. It only states that such testing is optional in this particular scenario –  
12          which is in full accord with Qwest’s current practice. This clarification is  
13          necessary because the remainder of the language of section 12.6.9.4 without  
14          modification may suggest that controlled production is required under all  
15          circumstances when it is not. Eschelon’s proposed language does not state that  
16          Eschelon would never participate in controlled production for recertification, as  
17          the companies may agree to it if it is needed. Qwest and Eschelon may discuss  
18          what Qwest perceives as potential harm in any particular case. Eschelon has an  
19          incentive to avoid harm as well. In Minnesota, the ALJs specifically found that:

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<sup>197</sup> Minnesota arbitration, MN PUC Docket No. P-5340, 421/IC-06-768, Surrebuttal Testimony of Renee Albersheim, p. 44 lines 4-10.

<sup>198</sup> Qwest Response, p. 47, line 15.

1 “There is no evidence that Eschelon has or would opt out of recertification testing  
2 for any improper purpose.”<sup>199</sup>

3 **Q. YOU STATE ABOVE THAT QWEST MODIFIED ITS PROPOSAL ON**  
4 **ISSUE 12-87. PLEASE RESPOND TO QWEST’S PROPOSAL.**

5 A. In Minnesota, as in Oregon, Eschelon offered two proposals on the issue of  
6 Controlled Production (see quoted language above). The ALJs in the Minnesota  
7 said that they “recommend adoption of Eschelon’s first proposal.”<sup>200</sup> The  
8 Minnesota commission affirmed the ALJs’ recommendation.<sup>201</sup>

9 In the alternative, the Minnesota ALJs had also indicated that the Commission  
10 could adopt the phrase “for features or products that the CLEC does not plan on  
11 ordering,” which Qwest later offered as a counter proposal for other states (as  
12 shown above in Qwest’s proposed language). The alternative, however, covers  
13 only a subset of the recertifications for which Qwest currently does not require  
14 controlled production. Controlled production is not required currently for  
15 recertification (regardless of whether the CLEC intends or does not intend to  
16 order the products/features). There is no need to adopt this lesser alternative,  
17 which does not fully capture Qwest’s current process. Despite the ALJs having  
18 mentioned this alternative, the Minnesota commission did not adopt it. As

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<sup>199</sup> Eschelon/29, Denney/62 (MN Arbitrators’ Report, ¶258).

<sup>200</sup> Eschelon/29, Denney/62 (MN Arbitrators’ Report, ¶258).

<sup>201</sup> Eschelon/30, Denney/22 (MN Order Resolving Arbitration Issues ¶1).

1 pointed out by the ALJs in Minnesota, in a ruling that has now been affirmed by  
2 the Minnesota commission:

3 Qwest agrees that Eschelon's language accurately depicts its  
4 current practice, which does not require CLEC's to recertify if they  
5 have successfully completed testing of a previous release.<sup>202</sup>

6 Qwest wants to maintain the flexibility to unilaterally change its practices,  
7 claiming that it should not be locked in to the current practices.<sup>203</sup> When Qwest  
8 made a similar argument with respect to Issue 12-74, the ALJs in Minnesota  
9 rejected it, saying: "Eschelon's language would not require any changes to  
10 Qwest's current process or systems, and Qwest has failed to identify any credibly  
11 adverse effect on CLECs, itself, or the public interest if this language were  
12 incorporated into the ICA. The proposed language exactly reflects Qwest's  
13 current practice."<sup>204</sup> The same is true for controlled production.

14 **Q. PLEASE SUMMARIZE ISSUE 12-87.**

15 A. A requirement that CLECs go through testing that uses actual order data  
16 (Controlled Production) for enhancements to transactions that have already been  
17 in production (recertifications) would cause unnecessary waste of resources and  
18 could potentially cause delay. Qwest's current practices allow a CLEC to forego  
19 Controlled Production in the same manner as Eschelon's proposed language. This  
20 does not mean that recertifications will be untested. Although controlled

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<sup>202</sup> Eschelon/29, Denney/62 (MN Arbitrators' Report ¶255).

<sup>203</sup> See, e.g., Colorado arbitration, Albersheim Colorado Direct Testimony, p. 75, lines 4-14; see also Minnesota arbitration Hearing Ex. 1 (Albersheim Dir.) at p. 9, line 4.

<sup>204</sup> Eschelon/29, Denney/60 (MN Arbitrators' Report, ¶246).



1 production testing is not required for recertifications currently, other testing<sup>205</sup>  
2 occurs for recertifications and Eschelon proposes to maintain the status quo.

3 Consistent with the status quo, Eschelon's proposed language requires additional  
4 testing for new implementations that have not been in production. An example of  
5 a new implementation effort was the change from EDI to XML. Because Release  
6 20.0 is a new implementation,<sup>206</sup> no CLEC had used it in production. Therefore,  
7 no CLEC was certified to use it before testing. Under both the current practice  
8 today and Eschelon's proposed language, CLECs will need to go through  
9 controlled production testing and become certified for Release 20.0, just as  
10 Eschelon has recently done. No CLEC will go through *re*-certification, because  
11 they were not initially certified. Eschelon's proposed language in Section  
12 12.6.9.4 is very clear that controlled production testing is required for such new  
13 implementations. Therefore, it addresses any concerns expressed by Qwest that  
14 relate to new implementations.

15 **IV. CLOSED SECTION 12 ISSUES: SUBJECT MATTERS 30, 31A, 32, 34, 35,**  
16 **36, 37, 38, 39, 40, AND 42 (ISSUES 12-65, 12-66, 12-68, 12-70, 12-74, 12-75**  
17 **AND SUBPART, 12-76 AND SUBPART, 12-77, 12-78, 12-80 AND**  
18 **SUBPARTS, 12-81, AND 12-86)**

19 **Q. HAVE ANY OF THE SECTION 12 ISSUES CLOSED SINCE ESCHELON**

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<sup>205</sup> See the remaining paragraphs of Section 12.6 (closed language regarding other forms of testing).

<sup>206</sup> Ms. Albersheim has admitted that Release 20.0 is a "new implementation" (*i.e.*, the term used in Eschelon's proposed language). *See* Minnesota arbitration, Albersheim MN Surrebuttal, p. 43, lines

1           **FILED ITS PETITION FOR ARBITRATION IN THIS CASE?**

2    A.    Yes. Eleven subject matters identified as “Section 12 issues” have been closed  
3           since the filing of Eschelon’s Petition. Below is the closed language for each  
4           closed Section 12 issue:

5           **SUBJECT MATTER NO. 30. COMMUNICATIONS WITH CUSTOMERS**

6           *Issue No. 12-65 (ICA Section 12.1.5.4.7) & 12-66 (ICA Section 12.1.5.5)*

7           **Issue 12-65 (Closed)**

8                   12.1.5.4.7 The Qwest technician will limit any communication  
9                   with CLEC End User Customer to that necessary to gain access to  
10                  premises and perform the work. Specifically, the Qwest technician  
11                  will not initiate any discussion regarding Qwest’s products and  
12                  services with CLEC End User Customer and will not make  
13                  disparaging remarks about CLEC and will refer any CLEC End  
14                  User Customer questions other than those related to the Qwest  
15                  technician's gaining access to the premises and performing the  
16                  work to CLEC. If the Qwest Technician has questions or concerns  
17                  other than those necessary to gain access to premises and perform  
18                  the work, the Qwest technician will discuss with CLEC and not  
19                  CLEC End User Customer. Notwithstanding the foregoing, if a  
20                  CLEC End User Customer initiates a discussion with the Qwest  
21                  technician about Qwest’s products or services and requests such  
22                  information, nothing in this Agreement prohibits the Qwest  
23                  technician from referring the CLEC End User Customer to the  
24                  applicable Qwest retail office and providing the telephone number  
25                  and/or web site address for that office to the CLEC End User  
26                  Customer.

27           **Issue 12-66 (Closed)**

28                   12.1.5.5 Notwithstanding any other provision of this Agreement,  
29                   when a CLEC End User Customer experiences an outage or other  
30                   service affecting condition or Billing problem due to a known  
31                   Qwest error or action, Qwest shall not use the situation (including  
32                   any misdirected call) as a win back opportunity or otherwise to

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13-15 (“The underlying architecture of IMA Release 20.0 is changing from EDI to XML. This is such a significant change that Qwest is treating this as a new implementation”).

1 initiate discussion of its products and services with CLEC's End  
2 User Customer.

3 **SUBJECT MATTER NO. 31A. SUPPLEMENTAL ORDERS**

4 Issue No. 12-68 (ICA Section 12.2.3.2 and associated Section 12.7.1)

5 12.2.3.2 There is no charge for CLEC submitting a supplement or  
6 cancelling or re-submitting a service request. Nothing in this  
7 provision is intended to prohibit Qwest from billing OSS-related  
8 costs pursuant to Section 12.7 of this Agreement or non-recurring  
9 or recurring charges for products or services applicable pursuant to  
10 other provisions of this Agreement.

11  
12 12.7 OSS Rate Elements

13 **STATE SPECIFIC – COLORADO**

14  
15  
16 12.7.1 OSS charges, as applicable, will be billed at rates set forth  
17 in Exhibit A. Any such rates will be consistent with Existing  
18 Rules. Qwest shall not impose any recurring or nonrecurring OSS  
19 charges unless and until the Commission approves such rates or  
20 until such rates go into effect by operation of law.

21  
22 **STATE SPECIFIC – ARIZONA, OREGON, UTAH,**  
23 **WASHINGTON**

24  
25 12.7.1 OSS charges, as applicable, will be billed at rates set forth  
26 in Exhibit A. Any such rates will be consistent with Existing  
27 Rules. Qwest shall not impose any recurring or nonrecurring OSS  
28 charges unless and until the Commission authorizes Qwest to  
29 impose such charges and/or approves applicable rates at the  
30 completion of appropriate cost docket proceedings.

31  
32 **STATE SPECIFIC – MINNESOTA**

33  
34 12.7.1 OSS charges, as applicable, will be billed at rates  
35 set forth in Exhibit A. Any such rates will be consistent with  
36 Existing Rules. Qwest shall not impose any recurring or  
37 nonrecurring OSS charges unless and until the Commission  
38 authorizes Qwest to impose such charges and/or approves  
39 applicable rates at the completion of appropriate cost docket

1 proceedings.

2 **SUBJECT MATTER NO. 32. PENDING SERVICE ORDER NOTIFICATIONS**  
3 **(“PSONS”)**

4 *Issue No. 12-70: ICA Section 12.2.7.2.3*

5 12.2.7.2.3 Pending Service Order Notification. When Qwest  
6 issues or changes the Qwest service orders associated with the  
7 CLEC LSR, Qwest will issue a Pending Service Order Notification  
8 (PSON) to CLEC. Through the PSON, Qwest supplies CLEC with  
9 information that appears on the Qwest service order, providing at  
10 least the data in the service order’s Service and Equipment (S&E)  
11 and listings sections that Qwest provided to requesting CLECs as  
12 of IMA Release 13.0.

13 **SUBJECT MATTER NO. 34. FATAL REJECTION NOTICES**

14 *Issue No. 12-74: ICA Sections 12.2.7.2.6.1 and 12.2.7.2.6.2*

15 12.2.7.2.6 Fatal Rejection Notices

16 12.2.7.2.6.1 If CLEC submits an LSR or ASR that  
17 contains a Fatal Error and receives a Fatal Reject notice,  
18 CLEC will need to resubmit the LSR or ASR to obtain  
19 processing of the service request, except as provided in  
20 Section 12.2.7.2.6.2.

21 12.2.7.2.6.2 If Qwest rejects a service request in error,  
22 Qwest will resume processing the service request as soon  
23 as Qwest knows of the error. At CLEC’s direction, Qwest  
24 will place the service request back into normal processing,  
25 without requiring a supplemental order from CLEC and  
26 will issue a subsequent FOC to CLEC.

1 **SUBJECT MATTER NO. 35. TAG AT DEMARCATION POINT**

2 *Issues Nos. 12-75 and 12-75(a): ICA Sections 12.3.1 and subpart; 12.4.3.6.3*

3 **Issue 12-75**

4 12.3.1 Demarcation Point.

5 12.3.1.1 If CLEC requires information identifying the Demarcation Point  
6 to complete installation, Qwest will provide to CLEC information  
7 identifying the location of the Demarcation Point (e.g., accurate binding  
8 post or Building terminal binding post information). If Qwest is unable to  
9 provide such information, the Demarcation Point is not tagged, and CLEC  
10 has dispatched personnel to find the Demarcation Point and is unable to  
11 locate it, Qwest will dispatch a technician and tag the line or circuit at the  
12 Demarcation Point at no charge to CLEC, if CLEC informs Qwest within  
13 30 Days of service order completion.  
14

15 **Issue 12-75(a)**

16 12.4.3.6.3 Whenever a Qwest technician is dispatched to an End User  
17 Customer premises other than for the sole purpose of tagging at the  
18 Demarcation Point, CLEC may request Qwest to place a tag accurately  
19 identifying the line or circuit, including the telephone number or Qwest  
20 Circuit ID, at the Demarcation Point if such a tag is not present. Qwest  
21 will perform such tagging at no charge to CLEC. If CLEC is requesting  
22 the dispatch solely for purposes of having Qwest tag the Demarcation  
23 Point, see Section 12.3.1.1.

24 **SUBJECT MATTER NO. 36. LOSS AND COMPLETION REPORTS**

25 *Issues Nos. 12-76 and 12-76(a): ICA Sections 12.3.7.1.1, 12.3.7.1.2*

26 12.3.7.1.1 The daily loss report will contain a list of accounts  
27 that have had lines disconnected because of a change in the End  
28 User Customer's local service provider. Qwest will issue a loss  
29 report when a service order Due Dated for the previous business  
30 day, is completed or canceled in Qwest's service order processor  
31 (SOP). The losses on the report will be for the previous day's  
32 activity. This report will include detailed information consistent  
33 with OBF guidelines, but no less than the BTN, service order  
34 number, PON, service name and address, the WTN the activity took  
35 place on and date the service order completed (the date the change

1 was completed). Individual reports will be provided for at least the  
2 following list of products:

- 3 a) Resale; and  
4 b) Unbundled Loop.

5 12.3.7.1.2 Completion Report provides CLEC with a daily report.  
6 This report is used to advise CLEC that the order(s) for the previous day's  
7 activity for the service(s) requested is complete. This includes service  
8 orders Qwest generates without an LSR (for example, records correction  
9 work, PIC or Maintenance and Repair charges). This report will include  
10 detailed information consistent with OBF guidelines, but no less than the  
11 BTN, service order number, PON, service name and address, the WTN the  
12 activity took place on and date the service order completed (the date the  
13 change was completed). Individual reports will be provided for Resale  
14 and Unbundled Loop.

15 **SUBJECT MATTER NO. 37. TESTING CHARGES WHEN CIRCUIT IS ON**  
16 **PAIR GAIN**

17 *Issue No. 12-77: ICA Section 12.4.1.5*

18 12.4.1.5.1 If the circuit is on Pair Gain, or like equipment that  
19 CLEC or Qwest cannot test through, and CLEC advises Qwest of  
20 this, Qwest will not assess testing charges. Whether other charges  
21 (including charges that may have a testing component), such as  
22 dispatch charges, Maintenance of Service charges or Trouble  
23 Isolation Charges, apply will be governed by the provisions of this  
24 Agreement associated with such charges. See, e.g., Sections 6.6.4  
25 & 9.2.5.2.

26 **SUBJECT MATTER NO. 38. DEFINITION OF TROUBLE REPORT**

27 *Issue No. 12-78: ICA Section 12.4.1.7*

28 12.4.1.7 For the purposes of Section 12.4.1.8, "Trouble Report" means  
29 trouble reports received via MEDIACC, CEMR, or successor systems, if  
30 any, or reported to one of Qwest's call or repair centers, and managed and  
31 tracked within Qwest's call center databases and Qwest's WFA (Work

1 Force Administration) and MTAS (Maintenance Tracking Administration  
2 System), and successor systems, if any.

3 **SUBJECT MATTER NO. 39. CHARGES FOR REPEATS**

4 Issues Nos. 12-80, 12-80(a), 12-80(b) and 12-80(c): ICA Sections 12.4.1.8,  
5 12.4.1.8.1, 6.6.4, and 9.2.5.2

6 **Issues 12-80 and 12-80(a)<sup>207</sup>**

7 12.4.1.8 Where Qwest has billed CLEC for Maintenance of  
8 Services or Trouble Isolation (“TIC”) charges for a CLEC trouble  
9 report, Qwest will remove such Maintenance of Services or TIC  
10 charge from CLEC’s account and CLEC may bill Qwest for its  
11 dispatch(es) on Repeat Troubles(s) to recover a Maintenance of  
12 Services or TIC charge or CLEC’s actual costs, whichever is less,  
13 if all of the following conditions are met:

14 ....  
15 e) CLEC’s demonstration of its technician dispatch on the Repeat  
16 Trouble; provided that such demonstration is sufficient when  
17 documented by CLEC’s records that are generated and maintained  
18 in the ordinary course of CLEC’s business.

19  
20 (i) If, however, CLEC does not use remote testing capability, a  
21 technician dispatch is required for both the prior and Repeat  
22 Trouble. Where CLEC uses remote testing capability and  
23 provides the test results described in subsection (d) of Section  
24 12.4.1.8, CLEC must demonstrate the technician dispatch  
25 pursuant to subsection (e) of Section 12.4.1.8 only for the  
26 Repeat Trouble.

27 **Issue 12-80(b)**

28 6.6.4 When CLEC requests that Qwest perform trouble isolation  
29 with CLEC, a trouble isolation charge (TIC) charge will apply  
30 when Qwest dispatches a technician and the trouble is found to be  
31 on the End User Customer’s side of the Demarcation Point. If the  
32 trouble is on the End User Customer’s side of the Demarcation  
33 Point, and CLEC authorizes Qwest to repair the trouble on CLEC’s  
34 behalf, Qwest will charge CLEC the appropriate Additional Labor

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<sup>207</sup> Issue 12-80(a) concerned language is Section 12.4.1.8.1. Section 12.4.1.8.1 was deleted as a separate section, and the content was moved to paragraph (i).

1 Charges set forth in Exhibit A in addition to the TIC charge. No  
2 charges shall apply if CLEC indicates trouble in Qwest's network  
3 and Qwest confirms that such trouble is in Qwest's network. In  
4 the event that Qwest reports no trouble found in its network on a  
5 trouble ticket and it is subsequently determined that the reported  
6 trouble is in Qwest's network, then Qwest will waive or refund to  
7 CLEC any TIC charges assessed to CLEC for that same trouble  
8 ticket. If Qwest reported no trouble found in its network but, as a  
9 result of a repeat trouble, CLEC demonstrates that the trouble is in  
10 Qwest's network, CLEC will charge Qwest a trouble isolation  
11 charge as described in Section 12.4.1.8.

12 **Issue 12-80(c)**

13 9.2.5.2 When CLEC requests that Qwest perform trouble isolation  
14 with CLEC, a Maintenance of Service Charge will apply when  
15 Qwest dispatches a technician and the trouble is found to be on the  
16 End User Customer's side of the Loop Demarcation Point. If the  
17 trouble is on the End User Customer's side of the Loop  
18 Demarcation Point, and CLEC authorizes Qwest to repair the  
19 trouble on CLEC's behalf, Qwest will charge CLEC the  
20 appropriate Additional Labor Charges and Maintenance of Service  
21 Charge, if any, as set forth in Exhibit A at 9.20. No charges shall  
22 apply if CLEC provides Qwest with test results indicating trouble  
23 in Qwest's network and Qwest confirms that such trouble is in  
24 Qwest's network. In the event that Qwest reports no trouble found  
25 in its network on a trouble ticket and it is subsequently determined  
26 that the reported trouble is in Qwest's network, then Qwest will  
27 waive or refund to CLEC any Maintenance of Service Charges  
28 assessed to CLEC for that same trouble ticket. If Qwest reported  
29 no trouble found in its network but, as a result of a repeat trouble,  
30 CLEC demonstrates that the trouble is in Qwest's network, CLEC  
31 will charge Qwest a trouble isolation charge as described in  
32 Section 12.4.1.8.

33 **SUBJECT MATTER NO. 40. TEST PARAMETERS**

34 *Issue No. 12-81: ICA Section 12.4.3.5*

35 12.4.3.5 Qwest Maintenance and Repair and routine test parameters and  
36 levels will be in compliance with Qwest's Technical Publications, which  
37 will be consistent with Telecordia's General Requirement Standards for



1 Network Elements, Operations, Administration, Maintenance and  
2 Reliability and/or the applicable ANSI standard.

3 **SUBJECT MATTER NO. 42. TROUBLE REPORT CLOSURE**

4 Issue No. 12-86: ICA Sections 12.4.4.1; 12.4.4.2; 12.4.4.3

5 12.4.4 Trouble Report Closure

6 12.4.4.1 When Qwest closes a trouble report, Qwest will  
7 assign a code accurately identifying the reason or cause for service  
8 problems and the action taken (i.e., a “disposition code”).

9 12.4.4.2 Qwest will notify CLEC of the disposition code  
10 upon request. For Maintenance and Repair trouble reports, the  
11 disposition code and any remarks will also be available through  
12 electronic interface (e.g., Customer Electronic Maintenance and  
13 Repair (CEMR)). CLEC closed trouble reports will be available to  
14 CLEC via the history function in the electronic interface (e.g.,  
15 CEMR).

16 12.4.4.3 Qwest will provide a web based tool (currently  
17 known as Maintenance and Repair Invoice Tool) that allows CLEC  
18 to access electronic copies of Qwest repair invoice information.  
19 The repair invoice information will include the time and material  
20 information that Qwest provides to its retail End User Customers  
21 on their time and material invoices. Qwest, through this tool, will  
22 provide access to at least the telephone number or circuit  
23 identification, CLEC ticket number, Qwest ticket number, End  
24 User Customer Address, End User Customer Name, USOC,  
25 Quantity, Start Date, End Date, Disposition Code, and any related  
26 remarks (comments by repair technician). Such invoice  
27 information will be available to CLEC within two (2) business  
28 days of ticket closure for POTS services and sixteen (16) business  
29 days for non-POTS services. Invoice information will be retained  
30 and available to CLEC via this tool for at least twelve (12) months.

31 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

32 A. Yes.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 44**

**Collocation Space Option Reservation**

Source	Date of Source Document	Language: Section 8.4.1.8.7.3 Where contiguous space has been optioned, Qwest will make its best effort to notify CLEC if Qwest, its Affiliates or other CLECs require the use of CLEC's contiguous space. Upon notification, CLEC will have XXXXX to indicate its intent to submit a Collocation Application or Collocation Reservation.	Language: Section 8.2.6.1.2 If CLEC terminates its Adjacent Collocation space, Qwest shall have the right of first refusal to such structure under terms to be mutually agreed upon by the Parties. Qwest will exercise its rights within XXXX of receiving notice of termination.	Did Language go through the Qwest CMP Process?	Link:
Qwest Minnesota SGAT Revision 3	3/17/03	seventy-two (72) hours	mutually agreed upon by the parties.	No	<a href="http://www.qwest.com/wholesale/downloads/2003/030328/MN-SGAT-3-17-03.doc">http://www.qwest.com/wholesale/downloads/2003/030328/MN-SGAT-3-17-03.doc</a>
AT&T Minnesota	May 2003	seventy-two (72) hours	seventy-two (72) hours	No	
Qwest/Eschelon Multi State Draft 1/7/2004	1/7/04	Qwest Proposed: seventy-two (72) hours Eschelon Proposed: ten (10) Days	Qwest Proposed: mutually agreed upon by the parties. Eschelon Proposed: seventy-two (72) hours Note: WILL AGREE TO CHANGE TO 7 OR 10 DAYS IF Qwest agrees to same for 8.4.1.8.7.3]	No	
Qwest/Eschelon Multi State Draft 1/30/2004	1/30/04	Qwest Proposed: seventy-two (72) hours Eschelon Proposed: ten (10) Days	CLOSED LANGUAGE: seventy-two (72) hours		
ARBITRATED AGREEMENT QWEST CORPORATION FOR DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS COMPANY IN THE STATE OF UTAH	6/7/05	ten (10) calendar days	mutually agreed upon by the Parties	No	<a href="http://www.psc.utah.gov/telecom/04docs/04227702/Arbitrated%20Intercon%20Agreement%208-05.doc">http://www.psc.utah.gov/telecom/04docs/04227702/Arbitrated%20Intercon%20Agreement%208-05.doc</a>
Qwest Fourteen State Template Version 2.2	4/17/06	seventy-two (72) hours	mutually agreed upon by the Parties.	No	<a href="http://www.qwest.com/wholesale/downloads/2006/060426/NegotiationsTemplate04-17-06.doc">http://www.qwest.com/wholesale/downloads/2006/060426/NegotiationsTemplate04-17-06.doc</a>
Qwest/Eschelon Multi State Draft 5/2/06	5/2/06	Qwest Proposed: seventy-two (72) hours Eschelon Proposed seven (7) Days	CLOSED Language: seventy-two (72) hours	No	

	<b>Date of Source Document</b>	<b>Language: Section 8.4.1.8.7.3</b> Where contiguous space has been optioned, Qwest will make its best effort to notify CLEC if Qwest, its Affiliates or other CLECs require the use of CLEC's contiguous space. Upon notification, CLEC will have XXXXX to indicate its intent to submit a Collocation Application or Collocation Reservation.	<b>Language: Section 8.2.6.1.2</b> If CLEC terminates its Adjacent Collocation space, Qwest shall have the right of first refusal to such structure under terms to be mutually agreed upon by the Parties. Qwest will exercise its rights within XXXX of receiving notice of termination.	<b>Did Language go through the Qwest CMP Process?</b>	<b>Link:</b>
Qwest/Eschelon Multi State Draft 7/6/06	7/6/06	CLOSED Language Seven (7) Days	CLOSED Language: Seven (7) Days	No	
Qwest/Eschelon Multi State Draft 7/14/06	7/14/06	Pending Potential Closure Qwest Proposed: seventy-two (72) hours Eschelon Proposed seven (7) Days	CLOSED Language: seventy-two (72) hours	No	
Qwest/Eschelon Multi State Draft 7/26/06	7/26/06	Pending Potential Closure Eschelon agrees to give Qwest 7 days at 8.2.6.1.2 when this closes Qwest Proposed: seventy-two (72) hours Eschelon Proposed seven (7) Days	CLOSED Language: seventy-two (72) hours	No	
Qwest/Eschelon Minnesota Draft 8/4/06	8/4/06	Qwest Proposed: seventy-two (72) hours Eschelon Proposed seven (7) Days	CLOSED Language: Seven (7) days	No	
Qwest PCAT Collocation - Space Reservation and Space Optioning Overview - V1.0	8/15/06	7 days	Not address in Qwest PCAT Space Reservation and Space Optioning Overview V1.0	Yes	<a href="http://www.qwest.com/wholesale/cnla/uploads/PROS%2E08%2E15%2E06%2EF%2E04117%2ECollo%5FSpace%5FReservationV1%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/PROS%2E08%2E15%2E06%2EF%2E04117%2ECollo%5FSpace%5FReservationV1%2Edoc</a>
Qwest/Eschelon Multi State Draft 8/17/06	8/17/06	Qwest Proposed: seventy-two (72) hours Eschelon Proposed seven (7) Days	CLOSED Language: seventy-two (72) hours	No	

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 45**

**Matrix of Closed Language and CMP Activity in Related Time Period, if Any**

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p><b>Issue 4-5</b> – Definition of Design Change</p> <p>Closed Language:</p> <p>“Design Change” is a change in circuit design after Engineering Review required by a CLEC supplemental request to change a service previously requested by CLEC. An Engineering Review is a review by Qwest personnel of the service ordered and the requested changes to determine what change in the design, if any, is necessary to meet the changes requested by CLEC. Design Changes may include a change in the type of Network Channel Interface (NCI</p>	<p><i>MN Joint Disputed Issues Matrix Filed 5/26/06 with Petition – Qwest’s Position Statement</i></p> <p>“Qwest agrees that there needs to be a common understanding of this definition, but this definition concerns a process that affects all CLECs, not just Eschelon. The entire purpose of CMP was to ensure that the industry (not just Qwest or one CLEC) is involved in creating and approving processes so that processes are uniform among all CLECs. Processes that affect all CLECs should be addressed through CMP, not through an arbitration involving a</p>	<p><i>Excerpt from: Provisioning and Installation Overview - V98.0</i></p> <p>“A design change is any change, which requires engineering review. Design changes include such things as a change of end user premises within the same serving wire center, the addition or deletion of optional features, functions or a change in the type of channel interface, type of Interface Group, or technical specification package.</p> <p>To further clarify the list includes, but is not limited to the following:</p> <p>Change of End User address in the same wire center</p> <p>Change of NC or NCI or NC1 codes</p> <p>Change of CFA which does not involve a change in the serving wire center or the MUXLOC</p> <p>Change slot of CCEA/SCCEA</p>	<p>Yes</p> <p><i>See also Excerpt from Qwest’s September 1, 2005 notice to Eschelon indicating that Qwest would begin to apply Design Change charges to unbundled loops (an Exhibit to the Testimony of Douglas Denney):</i></p> <p>“Qwest will commence billing CLECs non-recurring charges for design changes to Unbundled Loop circuits. Among the charges for the design change that will be billed, the following activities will generate a non-recurring design change charge per occurrence:</p> <p>Connecting Facility</p>	<p>No</p>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
code) on pending orders and changes in End User Customer address within the same Serving Wire Center requiring changes to facilities or terminations. Design Change does not include modifications to records without physical changes to facilities or services, such as changes in the circuit reference (CKR) (i.e., the circuit number assigned by CLEC) or Service Name (SN) (i.e., the name of the End User Customer at a circuit location).	single CLEC. Further, implementing a unique process for Eschelon that Qwest does not follow for other CLECs would require Qwest to modify its systems or processes and would cause Qwest to incur costs it is entitled to recover under the Act.”	Change of Channel Termination or Entrance Facility/Trunk where USOC remains the same Change of Trunk Signaling Change of Trunk Traffic Type Change of Trunk Point Code Change of Trunk Numbering”  <a href="http://www.qwest.com/wholesale/clecs/provisioning.html">http://www.qwest.com/wholesale/clecs/provisioning.html</a>	Assignments (CFA) change Circuit Reference (CKR) change CKL 2 end user address change on a pending LSR Service Name (SN) change NC/NCI Code change on a pending LSR”  PROS.09.01.05.F.03204. Design_Chgs_Unbundld _Loop	
<b>Issue 8-24:</b> Section 8.2.3.9 – NEBS Standards  Closed Language:  8.2.3.9 Qwest will determine and notify CLEC, in the manner described below, within ten (10) Days	<i>Hubbard WA Direct, at p. 45, lines 15-18</i>  “Finally, Eschelon's proposed language would introduce a change to existing Qwest processes, and as I have testified above,	<i>Excerpt From: Collocation - General Information - V68.0</i>  “If during Physical Collocation installation, Qwest determines your activities or equipment do not comply with the NEBS Level 1 safety standards, Qwest's Technical Publications or are in violation of	Yes	No

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>of CLEC submitting its Collocation application if Qwest believes CLEC's listed equipment does not comply with NEBS Level 1 safety standards or is in violation of any Applicable Laws or regulations, all equally applicable to Qwest. If CLEC disagrees, CLEC may respond with the basis for its position within ten (10) Days of receipt of such notice from Qwest. If, during installation, Qwest determines CLEC activities or equipment other than those listed in the Collocation application.....</p>	<p>CMP is the appropriate forum to consider changes that will impact all CLECs. . . .”</p>	<p>any applicable laws or regulations, all equally applied to Qwest installations, Qwest has the right to stop installation until the situation is remedied.</p> <p>Qwest will provide you written notice of the noncompliance, as soon as the situation is identified. The notice will include:</p> <p>Identification of the specific equipment and/or installation not in compliance.</p> <p>The NEBS Level 1 safety standard or Qwest Technical Publication requirement that is not met by the equipment and/or installation.</p> <p>The basis for concluding that your equipment and/or installation do not meet the safety requirement.</p> <p>A list of equipment that Qwest locates at the premises in question and an affidavit attesting that Qwest equipment meets or exceeds the safety standard that Qwest contends your equipment has failed.”</p>		



Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
		<a href="http://www.qwest.com/wholesale/pcat/collocation.html">http://www.qwest.com/wholesale/pcat/collocation.html</a>		
<p><b>Issue 8-29:</b> Sections 8.4.1.8.7.3 &amp; 8.2.6.1.2<sup>1</sup> Optioned Contiguous Space</p> <p>Closed Language: 8.4.1.8.7.3 Where contiguous space has been Optioned, Qwest will make its best effort to notify CLEC if Qwest, its Affiliates or CLECs require the use of CLEC’s contiguous space. Upon notification, CLEC will have seven (7) Days to indicate its intent to submit a Collocation application or Collocation Reservation. CLEC may choose to terminate the contiguous space Option or continue</p>	<p><i>Hubbard WA Direct, at p. 46, lines 26-15 (Section 8.4.1.8.7.3)</i></p> <p>“Qwest is willing [sic] change its current language and process to allow for a 7-day response period, but only if that change is effectuated in the appropriate fashion in the appropriate forum – CMP. As I have testified, changes to Qwest process that affect all CLECs should be considered in CMP, not in arbitration with a single CLEC. Qwest has, in fact, submitted a</p>	<p><i>Re. Section 8.4.1.8.7.3</i></p> <p><i>Excerpt From: Collocation - Space Reservation and Space Optioning Overview - VI.0</i></p> <p>“Where contiguous space has been optioned, Qwest will make its best effort to notify CLEC if Qwest, its Affiliates or other CLECs require the use of CLEC’s contiguous space. Upon notification, CLEC will have 7 days to indicate its intent to submit a Collocation Application or Collocation Reservation. CLEC may choose to terminate the contiguous space option or continue without the contiguous provision.”</p> <p><a href="http://www.qwest.com/wholesale/c">http://www.qwest.com/wholesale/c</a></p>	<p><i>Section 8.4.1.8.7.3 – The timeframe for CLECs to respond was not in the PCAT at all. Qwest then issued a Level 3 notice that Qwest said introduced a new PCAT that described the current space optioning process and changed the process to include the language in the previous column.<sup>2</sup></i></p> <p><i>Section 8.2.6.1.2 - Yes (ICA is 7 Days; PCAT does not include timeframe by which Qwest must respond)</i></p>	<p><i>Section 8.4.1.8.7.3 - Yes<sup>3</sup> (Qwest issued a CMP notice to add 7 Day timeframe applicable to CLECs to PCAT before Qwest would agree to add 7 Day timeframe to ICA)</i></p> <p><i>Section 8.2.6.1.2 – No (Qwest agreed to add 7 Day timeframe applicable to Qwest to ICA without issuing a</i></p>

<sup>1</sup> See Exhibit 1 to Qwest Petition (Joint Disputed Issues Matrix), Eschelon’s position statement for Issue 8-29, p. 62 (“Eschelon also offers to provide Qwest the same amount of time (7 days) when Qwest has a right of first refusal (in Section 8.2.6.1.2).”).

<sup>2</sup> Collocation - Space Reservation & Space Optioning Overview History Log, [http://www.qwest.com/wholesale/downloads/2006/060929/HL\\_CollocationSpaceReservationSpaceOptioningOverviewV1.doc](http://www.qwest.com/wholesale/downloads/2006/060929/HL_CollocationSpaceReservationSpaceOptioningOverviewV1.doc)

<sup>3</sup> Link to Notice: PROS.08.15.06.F.04177.Colloc\_Space\_ReservationV1:

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E08%2E15%2E06%2EF%2E04117%2ECollo%5FSpace%5FReservationV1%2Edoc>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p>without the contiguous provision.</p> <p>8.2.6.1.2 CLEC shall own such structure, subject to a reasonable ground space lease. If CLEC terminates its Adjacent Collocation space, Qwest shall have the right of first refusal to such structure under terms to be mutually agreed upon by the Parties. Qwest will exercise its rights within seven (7) Days of receiving notice of termination. In the event Qwest declines to take the structure or terms cannot be agreed upon, CLEC may transfer such structure to another CLEC for use for Interconnection and or access to UNEs. Transfer to another CLEC shall be subject to Qwest’s approval, which approval shall not be</p>	<p>CMP notice to change this response period from 72 hours to 7 days. Assuming that other CLECs agree that this longer period is appropriate, Qwest anticipates that this change request will become effective, per the notice, on September 29, 2006.”</p>	<p><a href="http://lecs/collospaceresopt.html">lecs/collospaceresopt.html</a></p> <p><i>Re. Section 8.2.6.1.2</i></p> <p><i>Excerpt From Remote Collocation – V29.0</i></p> <p>“If you vacate/terminate the adjacent remote structure, Qwest will have the right of first refusal before you propose any transfer to another CLEC.”</p> <p><a href="http://www.qwest.com/wholesale/p-cat/remotecollocation.html">http://www.qwest.com/wholesale/p-cat/remotecollocation.html</a></p>		<p>CMP notice to add it to PCAT)</p> <p><i>See also</i> <i>Chronology of terms relating to Collocation Space Option Reservation (Exhibit to Testimony of Douglas Denney) – examples of ICA language with no PCAT language or corresponding CMP activity</i></p>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
unreasonably withheld. If no transfer of ownership occurs, CLEC is responsible for removal of the structure and returning the property to its original condition.				
<p><b>Issue 9-32</b> – Sections 9.1.2.1.3.2.1; 9.2.2.3.2; 9.2.2.16 (all with 90 days but not the phrase “in the ground”)</p> <p>Closed Language (in 5 states, not including WA):</p> <p>See, e.g.: 9.2.2.3.2 If CLEC orders a</p>	<p><i>Stewart MN Direct at p. 14, line 22+</i></p> <p>“This issue began as a large dispute between the parties regarding how long CLEC orders for UNEs should be held in the Qwest systems prior to cancellation.</p>	<p><i>Note:</i> 30 Days (Qwest’s proposal) was in PCAT until Qwest’s recent notice to change it to 90 Days.</p> <p><i>Excerpt From: Unbundled Local Loop - General Information - V73.0</i></p> <p>“If you submit a service request for a 2-Wire or 4-Wire Analog (Voice Grade) Unbundled Local Loop, and the loop is considered secondary</p>	<p>90 Days: Yes, before recent notice; No, after recent notice (PCAT changed to 90 Days)</p> <p>Qwest later proposal to insert “in the ground”: Yes (But, Qwest has since retracted use of “in the ground”) – <i>See</i> Testimony of Michael Starkey</p>	<p>Yes as to 90 Days but initially no as to “in the ground”</p> <p>– <i>See</i> Testimony of Michael Starkey (delayed order example) &amp; Bonnie Johnson exhibit</p>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p>2/4 wire non loaded or ADSL compatible Unbundled Loop for an End User Customer served by a Digital Loop Carrier System Qwest will conduct an assignment process which considers the potential for a LST or alternative copper facility. If a LST is not available, Qwest may also seek alternatives such as Integrated Network Access (INA), hair pinning, or placement of a Central Office terminal, to permit CLEC to obtain an Unbundled Loop. If no such facilities are available, Qwest will make every feasible effort to unbundle the IDLC in order to provide the Unbundled Loop for CLEC. Qwest will hold the order for ninety (90) Days. If, after ninety</p>	<p>Eschelon made four different proposals. Qwest accepted one of Eschelon's proposals -- that CLEC orders would be held for 90 days prior to cancellation. Qwest has already notified CLECs via the CMP and this change in policy (as advocated by Eschelon) has been in effect for all CLECs in Minnesota as of July 14, 2006.”</p>	<p>service the normal assignment process described above will be followed in its entirety. If facilities can not be located and there is No Planned Engineering Job, your service request will be held for 90 business days. Availability of facilities is on first come, first served basis. If spare facilities become available, a Firm Order Confirmation (FOC) is generated and sent to you in response to your original service request. If at the conclusion of the 90-business day hold, facilities are still unavailable, your service request will be rejected.”</p> <p><a href="http://www.qwest.com/wholesale/pcat/unloop.html">http://www.qwest.com/wholesale/pcat/unloop.html</a></p> <p><i>Excerpt From: Provisioning and Installation Overview - V98.0</i></p>	<p>(delayed order example) &amp; Bonnie Johnson exhibit (delayed order chronology)</p>	<p>(delayed order chronology)<sup>4</sup></p>

<sup>4</sup> After Eschelon pointed out in arbitration testimony that Qwest had not used CMP for its proposal to add the phrase “in the ground” to the ICA language, Qwest issued a CMP notice with that language, which Qwest later retracted. Eschelon opposed the phrase “in the ground,” which had not been in the ICA or PCAT, and it is not in the ICA or PCAT now.

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>(90) Days, no copper facility capable of supporting the requested service is available, then Qwest will reject the order.</p>		<p>Secondary service requests will be held for 90 business days for 2-Wire or 4-Wire Analog (Voice Grade) Unbundled Local Loop, EEL, LMC and Sub-Loop (except Shared Distribution Loop), where facilities cannot be located and there is no planned engineering job. Requests for other Unbundled Local Loop products, UDF and UDIT where facilities cannot be located and there is no planned engineering job will be held for 90 business days. If facilities become available, a FOC is generated and sent to you in response to your original request. If at the conclusion of the 90 business day hold facilities are still unavailable your request will be rejected or cancelled. Exceptions may apply where Commission Orders or state requirements exist. Exceptions may occur with Qwest/U S West merger Stipulations/Agreements in the states of Minnesota and Washington.</p>		

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
		<a href="http://www.qwest.com/wholesale/lecs/provisioning.html">http://www.qwest.com/wholesale/lecs/provisioning.html</a>		
<p><b>Issue 9-33(a)</b> – Section 9.1.9.1 Network Maintenance and Modernization</p> <p>Closed Language:</p> <p>9.1.9.1 . . . In such emergencies, once Qwest personnel involved in the maintenance or modernization activities are aware of an emergency affecting multiple End User Customers, Qwest shall ensure its repair center personnel are informed of the network maintenance and modernization activities issue and their status so that CLEC may obtain information from Qwest so that CLEC may, for example, communicate with its End User Customer(s). CLEC may also contact its Service Manager to request additional information so</p>	<p><i>Stewart WA Direct, pp. 2-5</i></p> <p>Q. DOES YOUR DISCUSSION OF THE SECTION 9 AND 24 PROVISIONS OF THE ICA REVEAL ANY COMMON THEMES ABOUT ESCHELON'S ICA DEMANDS AND PROPOSALS?</p> <p>A. Yes. In general, my testimony highlights three themes common to many of Eschelon's demands and proposals for Sections 9 and 24 of the ICA. . . .</p> <p>Second, . . . While the processes that have resulted from the Section 271 workshops and other proceedings are by no means forever fixed in place, there is</p>	<p>Not in PCAT</p>	<p>NA</p>	<p>No</p>

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>that CLEC may, for example, communicate with its End User Customer(s). In no event, however, shall Qwest be required to provide status on emergency maintenance or modernization activity greater than that provided to itself, its End User Customers, its Affiliates or any other party. To the extent that the activities described in Sections 9.1.9 and 9.1.9.1 include dispatches, no charges apply.”</p>	<p>an established mechanism for modifying them. It is known as the Change Management Process ("CMP") and has been endorsed by state commissions as a part of Qwest’s 271 applications and approved by the FCC as an appropriate vehicle for updating Qwest’s processes for handling wholesale orders under the Act.3 Eschelon repeatedly ignores the CMP, choosing instead to attempt to implement process changes in this single arbitration between two carriers instead of in a forum that provides the opportunity for input from all interested carriers who would be affected by the changes.</p>			

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p><b>Issue 9-39 and 9-39(a)</b> Section 9.1.13.4.2.2.1; 9.1.13.4.2.2.2 CAPs</p> <p>Closed Language: 9.1.13.4.1.2.2 For Caps:</p> <p>9.1.13.4.1.2.2.1 With respect to disputes regarding the caps described in Sections 9.2 and 9.6.2.3, data that allows CLEC to identify all CLEC circuits relating to the applicable Route or Building [including if available circuit identification (ID), installation purchase order number (PON), Local Service Request identification (LSR ID), Customer Name/Service Name, installation date, and service address including location (LOC)]</p>	<p><i>Stewart WA Direct at p. 45, line 19+</i></p> <p>Q. IS ESCHELON'S PROPOSAL PROPERLY ADDRESSED IN THIS ARBITRATION? A. No. In addition to being flawed on the merits, Eschelon's proposal should have been presented in the Commission's ongoing <i>TRRO</i> wire center proceeding. The proposal potentially affects all CLECs, not just Eschelon, and therefore should have been presented in the generic wire center proceeding. Eschelon is a party to that proceeding and had every opportunity to raise the issue there, but it chose not to do</p>	<p>Not in PCAT (meaning the NON-secret TRRO PCATs). Language similar to Qwest's proposals for caps may be contained in Qwest's Secret TRRO PCATs, which did not go through CMP. For example:</p> <p>Qwest's Non-CMP Secret PCAT provides a link to a certification form required by Qwest for CLECs signing the amendment. The Certification form states: ". . .In the event that Qwest determines that Requesting Carrier exceeds one or more of these caps, Requesting Carrier agrees to remove or convert the excess unbundled loops or unbundled transport circuits within 30 days of notification from Qwest or to provide information that both parties agree indicates Requesting Carrier has not exceeded the applicable volume cap. . ." <a href="http://www.qwest.com/wholesale/downloads/2005/051003/DNLD_Certification-Remand-Order-Criteria.doc">http://www.qwest.com/wholesale/downloads/2005/051003/DNLD_Certification-Remand-Order-Criteria.doc</a></p> <p>Qwest's TRO/TRRO Amendment</p>	<p>NA</p>	<p>No</p> <p>(In August of 2005, Qwest-initiated change request SCR83005-01, in which Qwest sought to implement an edit in IMA to block orders for central offices that Qwest unilaterally declared non impaired. Qwest later withdrew this change request.)</p>



Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p>information (except any of the above, if it requires a significant manual search), or such other information to which the Parties agree]. In the event of such a dispute, CLEC will also provide Qwest the data upon which it relies for its position that CLEC may access the UNE.</p> <p>9.1.13.4.1.2.2.2 Notwithstanding anything in this Section 9.1.13.4 that may be to the contrary, to the extent that Qwest challenges access to any UNE(s) on the basis that CLEC’s access to or use of UNEs exceeds the caps described in Sections 9.2 or 9.6.2.3 because CLEC has ordered more than ten UNE DS1 Loops or more than the applicable number of DS3 Loop circuits or UDIT</p>	<p>so.</p>	<p>states (with emphasis added):</p> <p>“2.8.1 Upon receiving a request for access to a dedicated transport or high-capacity loop UNE that indicates that the UNE meets the relevant factual criteria discussed in sections V and VI of the Triennial Review Remand Order, Qwest must immediately process the request, <i>if the UNE is in a location that does not meet the applicable non-impairment thresholds referred to in Section 2.8.</i> To the extent that Qwest seeks to challenge any <i>other</i> such UNEs, it subsequently can raise that issue through the dispute resolution procedures provided for in CLEC’s Interconnection Agreement.”</p> <p><a href="http://www.qwest.com/wholesale/downloads/2006/060629/TRO-TRRO-Amendment-6-22-06.doc">http://www.qwest.com/wholesale/downloads/2006/060629/TRO-TRRO-Amendment-6-22-06.doc</a></p>		

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>circuits in excess of the applicable cap on a single LSR (or a set of LSRs submitted at the same time for the same address for which CLEC populates the related PON field to indicate the LSRs are related), Eschelon does not object to Qwest rejecting that single LSR (or the set of LSRs that meets the preceding description) on that basis. The means by which Qwest will implement rejection of such orders is addressed in Section 9.1.13. Except as provided in this Section 9.1.13.4.1.2.2.2, in all other situations when Qwest challenges access to any UNE(s) on the basis that CLEC's access to or use of UNEs exceeds the caps described in Sections 9.2 or 9.6.2.3, Qwest must immediately process the</p>				

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
request and subsequently proceed with the challenge as described in Section 9.1.13.4.1.				
<p><b>Issue 9-46</b> Section 9.2.2.9.6 Bridged Taps</p> <p>Closed Language:</p> <p>Interfering Bridged Tap is defined as any amount of Bridged Tap that would interfere with proper performance parameters as defined in this Section 9.2.2.9.6 and applicable industry standards.</p>	<p><i>Linse, MN Direct at p. 8, lines 20-22</i></p> <p>“Qwest's definition is consistent with the PCAT, which incorporates ANSI and Telcordia standards recommendations.”</p> <p><i>Note:</i> Qwest did not argue for use of CMP and instead countered with its own ICA language</p>	<p><i>Excerpt From: Unbundled Local Loop - General Information - V73.0</i></p> <p>“(Interfering Bridged Tap is defined as any amount of Bridged Tap that would cause loss at the end-user location to exceed the amount of loss allowable by the ANSI Standards.)”</p> <p><a href="http://www.qwest.com/wholesale/pcat/unloop.html">http://www.qwest.com/wholesale/pcat/unloop.html</a></p>	Yes	No
<p><b>Issue 12-75</b> – Section 12.3.1 and 12.4.3.6.3 Tag at the Demarc</p> <p>Closed Language:</p>	<p><i>Albersheim, WA Direct at p. 72, line16 (Section 12.3.1)</i></p> <p>Eschelon is attempting to take procedures that</p>	<p><i>Excerpt From: Maintenance and Repair Overview - V67.0</i></p> <p>“The Qwest technician that provisioned your end-user's new service was responsible for tagging the</p>	12.3.1.1 – No 12.4.3.6.3 – Yes (To close the issue, Qwest added an ICA requirement that CLEC must <i>request</i> the tag. In contrast, the PCAT says	Qwest did not indicate closure was contingent on CMP activity (as it did with Issues 8-29 and

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p>12.3.1 Demarcation Point.</p> <p>12.3.1.1 If CLEC requires information identifying the Demarcation Point to complete installation, Qwest will provide to CLEC information identifying the location of the Demarcation Point (e.g., accurate binding post or Building terminal binding post information). If Qwest is unable to provide such information, the Demarcation Point is not tagged, and CLEC has dispatched personnel to find the Demarcation Point and is unable to locate it, Qwest will dispatch a technician and tag the line or circuit at the Demarcation Point at no charge to CLEC, if CLEC informs Qwest within 30 Days of service order</p>	<p>are detailed in Qwest's PCAT, which is managed through the CMP, and set these procedures in stone in its contract.</p> <p><i>Linse WA Direct at p. 4, lines 16-19 (Section 12.4.3.6.3)</i></p> <p>Qwest opposes Eschelon's proposed language because its attempts to inappropriately incorporate information from Qwest's product catalog ("PCAT" ) into the party's interconnection agreement.</p>	<p>demarcation point of the communication lines for your specific service. However, this information can change, be destroyed/lost, or a premise visit may not have been required to turn up the specific service/product. If you cannot identify your end-user's demarcation point, you may request that Qwest tag and identify the demarcation point of the lines that serve your end-users." . . .</p> <p>"If the circuit is for new service 30 calendar days or less of order completion, you should call the Wholesale Repair Center, or RCHC, or request a trouble ticket via the Electronic Gateway. Indicate that this is new service (within 30 calendar days), and state that you cannot locate the tag. We will dispatch a repair technician. If we find that the circuit is tagged, we will bill you a TIC. If the circuit is not tagged, we will tag it and you will not be charged."</p> <p><i>Excerpts From: Maintenance and</i></p>	<p>that Qwest will tag whenever a Qwest technician is dispatched to a premise, if a tag is not present.)</p>	<p>9-32) and the PCAT has not changed.</p> <p>Qwest did send a PCAT notice before closure based on its claim that the "PCAT language does not correctly describe Qwest's process, and Qwest is in the process of correcting this error with its PCAT." See Linse WA Direct, p. 6, lines 14-16.<sup>5</sup> Eschelon did not agree and objected. Qwest</p>

<sup>5</sup> Link to Qwest Retraction PROS.09.27.06.F.04222.Dispatch\_M&R\_Retraction  
<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E27%2E06%2EF%2E04222%2EDispatch%5FM%26R%5FRetraction%2Edoc>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p>completion.</p> <p>12.4.3.6.3 Whenever a Qwest technician is dispatched to an End User Customer premise other than for the sole purpose of tagging of the Demarcation Point, CLEC may request Qwest to place a tag accurately identifying the line or circuit, including the telephone number or Qwest Circuit ID, at the Demarcation Point if such a tag is not present. Qwest will perform such tagging at no charge to CLEC. If CLEC is requesting the dispatch solely for purposes of having Qwest tag the Demarcation Point, see</p>		<p><i>Repair Overview - V67.0</i></p> <p>Design Services:</p> <p>“If the circuit is for service that is beyond 30 calendar days of service order completion and an out of service condition exists, we will dispatch to the end-user premises to isolate and/or fix the trouble. If the end-user indicates that they want the circuit tagged, we will direct them to contact you. If you authorize tagging the circuit, we will tag it and apply the MSC identified as Additional Labor.”</p> <p>Non- Design Service:</p> <p>“If the circuit is for service that is beyond 30 calendar days of service order completion and an out service condition exists, we will dispatch to the end-user premises to isolate and/or fix the trouble. We will also tag the circuit at that time as part of the Repair Process.”</p> <p><a href="http://www.qwest.com/wholesale/clecs/maintenance.html">http://www.qwest.com/wholesale/clecs/maintenance.html</a></p>		<p>retracted that notice.<sup>6</sup></p> <p>After closure, Qwest distributed proposed changes to only one PCAT; CLECs asked to receive all of Qwest’s proposed related changes before addressing whether and how to change PCAT. No change to PCAT as of 11/29/06.</p>

<sup>6</sup> Link to Qwest Notice: PROS.09.27.06.F04212.Dispatch and M & R Overview:  
<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E27%2E06%2EF%2E04212%2EDispatch%5Fand%5FM%26R%5FOverview%2Edoc>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
Section 12.3.1.1.		<p><i>Excerpt From: Dispatch – V 3.0</i></p> <p>“Whenever a Qwest technician is dispatched to a premise, the Qwest demarcation point will be tagged if a tag is not present.”</p> <p><a href="http://www.qwest.com/wholesale/lecs/dispatch.html">http://www.qwest.com/wholesale/lecs/dispatch.html</a></p>		
<p><b>Issue 12-77</b> Section 12.4.1.5.1 Testing charges when circuit is on pair gain</p> <p>Closed Language:</p> <p>12.4.1.5.1 If the circuit is on Pair Gain, or like equipment that CLEC or Qwest cannot test through, and CLEC advises Qwest of this, Qwest will not assess testing charges. Whether other charges, (including charges with a testing component) such as dispatch charges, Maintenance of Service charges, Trouble Isolation</p>	<p><i>Albersheim WA Direct at pp. 79-80</i></p> <p>Eschelon is attempting to make changes to procedures for testing and pair gain that are detailed in Qwest’s PCAT, which is managed through the CMP, and set these procedures in stone in its contract. By including this language in its contract, Eschelon locks these procedures in place, and prohibits any changes, including by the CMP participants, without</p>	<p><i>Excerpt From: Unbundled Local Loop - General Information - V73.0</i></p> <p>“...However, if the circuit is on Pair Gain or like equipment which you or Qwest cannot test through, and you advise Qwest of this, Qwest will not assess optional testing charges.”</p> <p><a href="http://www.qwest.com/wholesale/pcat/unloop.html">http://www.qwest.com/wholesale/pcat/unloop.html</a></p>	<p>Not clear (depends on whether Qwest would assert testing charges other than optional testing charges apply under PCAT)</p>	<p>No</p>

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>Charges, apply will be governed by the provisions of this Agreement associated with such charges (e.g., 6.6.4 and 9.2.5.2).</p>	<p>first agreeing to an amendment to its Interconnection Agreement. It is not economically, and sometimes not technically, feasible or fair for Qwest to operate in one way for one CLEC and another way for all the rest. The effect of the language proposed by Eschelon is to subvert the CMP process, and prohibit all other CLECs from making changes to this process without Eschelon's express permission. No CLEC should have the ability to prevent other CLECs from requesting changes to Qwest's processes.</p>			
<p><b>Issue 12-78</b> Section</p>	<p><i>Albersheim WA Direct,</i></p>	<p>Not in PCAT.</p>	<p>NA</p>	<p>No</p>

Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p>12.4.1.7 Definition of Trouble Report</p> <p>Closed Language:</p> <p>12.4.1.7 For the purposes of Section 12.4.1.8, Trouble Reports means trouble reports received via MEDIACC or CEMR (or successor system, if any) or reported to one of Qwest's call or repair centers and managed or tracked within Qwest's call center databases and Qwest's WFA (Work Force Administration and MTAS (Maintenance Tracking Administration System) and successor systems, if any.</p>	<p><i>p. 86, lines 11-13</i></p> <p>Qwest's language for Issues 12-78, 12-80 and their subparts is more reasonable and is based on the appropriate CMP management of the processes and procedures for handling trouble reports.</p>	<p>The Maintenance and Repair Overview PCAT (Version 67) has a list of definitions,<sup>7</sup> but it does not include the term Trouble Report.</p>		

<sup>7</sup> <http://www.qwest.com/wholesale/clecs/maintenance.html>



Issue & Closed Language	Qwest Argument: Inappropriate for ICA; Use CMP	PCAT language, if any	Is the closed language substantively different from PCAT?	Was there CMP activity near in time or after the closure?
<p><b>Issue 12-80 (a)-(c)</b> Section 12.4.1.8 Charges for Repeats</p> <p>Closed Language:</p> <p>12.4.1.8 Where Qwest has billed CLEC for Maintenance of Services or Trouble Isolation (“TIC”) charges for a CLEC Trouble Report, Qwest will remove such Maintenance of Services or TIC charge from CLEC’s account and CLEC may bill Qwest for its repeat dispatch(es) to recover a Maintenance of Services or TIC charge or CLEC’s actual costs, whichever is less, if all of the following conditions are met:</p> <p>(a) the repeat Trouble Report(s) is the same trouble as the Trouble Report (“Repeat Trouble”),</p>	<p><i>Albersheim WA Direct at pp. 85-86</i></p> <p>Q. WHY DOES QWEST OBJECT TO ESCHELON’S PROPOSED LANGUAGE FOR THE SECTIONS LISTED ABOVE<sup>8</sup>? Eschelon is attempting to make changes to procedures for trouble reports that are detailed in Qwest’s PCAT, which is managed through the CMP, and set these procedures in stone in its contract. By including this language in its contract, Eschelon locks these procedures in place, and prohibits any changes, including by the CMP participants,</p>	<p>Not in PCAT – Despite Qwest’s testimony that these are “procedures” and that they “are detailed in Qwest’s PCAT” (<i>see</i> previous column), Qwest does not include these procedures (including the circumstances under which Qwest will remove charges and a CLEC may charge Qwest) in its PCAT (although its PCAT often deals with when charges apply, at least as long as Qwest is charging).</p> <p>Qwest has had similar language (indicating the circumstances under which Qwest will remove charges and CLEC may charge Qwest) in its ICAs with Covad for some time,<sup>9</sup> but Qwest has not added the information to its PCAT.</p>	<p>NA</p>	<p>No</p>

<sup>8</sup> The “sections listed above” include all the sections for Issues 12-78 and 12-80.

<sup>9</sup> *See, e.g.*, Section 9.4.6.3.5, Qwest-Covad Washington Interconnection Agreement (Feb. 21, 2005).

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>as is demonstrated by CLEC’s test results isolated between consecutive CLEC access test points; and</p> <p>(b) the Repeat Trouble is reported within (3) business days of the prior trouble ticket closure; and</p> <p>(c) the Repeat Trouble has been found to be in the facilities owned or maintained by Qwest or Qwest facilities leased by CLEC; and</p> <p>(d) CLEC has provided the circuit specific test results for the tests required by Section 12.4.1.1, on the prior and Repeat Trouble that indicates there is trouble in Qwest’s network, consistent with the CLEC efficient use of space available for the purposes of providing test results on the Qwest standard trouble ticket form. (If CLEC does</p>	<p>without first agreeing to an amendment to its Interconnection Agreement. It is not economically, and sometimes not technically, feasible or fair for Qwest to operate in one way for one CLEC and another way for all the rest. The effect of Eschelon's proposed language is to subvert the CMP process, and prohibit all other CLECs from making changes to this process without Eschelon’s express permission. No CLEC should have the ability to prevent other CLECs from requesting changes to Qwest’s processes.</p>			

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>not provide test results, Qwest will bill and CLEC will pay for optional testing where applicable pursuant to Section 12.4.1.6 ); and</p> <p>(e) CLEC’s demonstration of its technician dispatch on the prior and Repeat Trouble; provided that such demonstration is sufficient when documented by CLEC’s records that are generated and maintained in the ordinary course of CLEC’s business.</p> <p>(i) If, however, CLEC does not use remote testing capability, a technician dispatch is required for both the prior and Repeat Trouble. Where CLEC uses remote testing capability and provides the test results describe in subsection (d) of Section 12.4.1.8, CLEC must demonstrate the technician dispatch pursuant to subsection (e) of Section</p>				

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>12.4.1.8 only for the Repeat Trouble.</p> <p>12.4.1.8.1 Where CLEC does not have remote testing capability, subsection (e) of Section 12.4.1.8 requires a technician dispatch for both the prior and Repeat Trouble. Where CLEC has remote testing capability and provides the test results described in subsection (d) of Section 12.4.1.8, CLEC must demonstrate the technician dispatch pursuant to subsection (e) of Section 12.4.1.8 only for the Repeat Trouble.</p>				
<p><b>Issue 12-81</b> – Section 12.4.3.5 Test Parameters</p> <p>Closed Language:</p> <p>12.4.3.5 Qwest Maintenance and Repair</p>	<p><i>Albersheim WA Direct at p. 87, lines 10-18</i></p> <p>Q. IS IT APPROPRIATE FOR ESCHELON TO SEEK CHANGES TO QWEST'S</p>	<p><i>Excerpt From: Maintenance and Repair Overview - V67.0</i></p> <p>“All Qwest maintenance and routine test parameters and levels are in compliance with Telcordia's General Requirement Standards for Network Elements, Operations,</p>	<p>May depend upon interpretation</p>	<p>No</p>

<b>Issue &amp; Closed Language</b>	<b>Qwest Argument: Inappropriate for ICA; Use CMP</b>	<b>PCAT language, if any</b>	<b>Is the closed language substantively different from PCAT?</b>	<b>Was there CMP activity near in time or after the closure?</b>
<p>and routine test parameters and levels will be in compliance with Qwest's Technical Publications, which will be consistent with Telcordia's General Requirement Standards for Network Elements, Operations, Administration, Maintenance and Reliability and/or the applicable ANSI standard.</p>	<p>TECHNICAL PUBLICATIONS VIA CONTRACT LANGUAGE? A. No. Eschelon is attempting to force Qwest to change its technical publications in favor of ANSI standards. . . . Eschelon is also attempting to make changes to procedures for the use of technical publications that are detailed in Qwest's PCAT, which is managed through the CMP, and set these procedures in stone in its contract.</p>	<p>Administration, Maintenance and Reliability. Product and service specific maintenance and test requirements can be found in Qwest's <a href="http://www.qwest.com/wholesale/lecs/maintenance.html">Technical Publications</a>.” <a href="http://www.qwest.com/wholesale/lecs/maintenance.html">http://www.qwest.com/wholesale/lecs/maintenance.html</a></p>		



## Section 12 Eschelon Proposed Language March 18, 2004

The attached Section 12 March 18, 2004 is as it was presented by Eschelon to Qwest on March 18, 2004 with the following changes:

- Regular Text indicates the language is the same or substantially similar to the Qwest's Template Interconnection Agreement V1.10 2/02/04 language
- ***Bold Italics Text*** indicates language is the same or substantially similar to the Qwest/AT&T Interconnection Agreement language and the language was not contained in Qwest's Template Interconnection Agreement V1.10 2/02/04
- **Bold Text** indicates the language is the same or substantially similar to the Qwest Wholesale Website documentation.
- Underlined Text indicates Eschelon's proposed language
- Footnotes have been added to site sources documentation for language that is the same or substantially similar to the Qwest Wholesale Website documentation. Note: To the extent that the language was from the Qwest Wholesale Website documentation, it was based on the documentation posted on the Qwest Wholesale Website at the time the section was present to Qwest. (2004). Therefore the version number (if applicable) of the Qwest document has been provided.
- **Gray Text** indicates those items Eschelon conceded during the negotiations process.

**From:** Clauson, Karen L.  
**Sent:** Thursday, March 18, 2004 6:35 PM  
**To:** 'Miles, Linda'  
**Cc:** Sullivan, Mary; Houston, Neil; Cameron, Kelly-WDC; Kennedy, Robert.F; Olson, Joan M.; Markert, William D.; Johnson, Bonnie J.; Goldberg, Tobe L.  
**Subject:** Business Processes - Section 12 - Eschelon Proposal

Linda:

Enclosed is Eschelon's proposed language for Section 12, Business Processes. Also enclosed are Eschelon's proposed Exhibits M and N, which are referenced in Section 12. Exhibit M is the Qwest's Manual Steps Required for Copper Facility Assignment Process, and Exhibit N is Qwest's Fiber Facility Assignment Process for DS1 and above (both taken from Qwest's web site and moved to Word documents).

Eschelon's proposed language in Section 12 and the Exhibits is the same for all of our states (except language in Section 12 recognizing different time zones, as noted in the document).

If language in Eschelon's proposal is either the same or similar to language in the Qwest-AT&T ICA, Eschelon has generally indicated the paragraph number from the Qwest-AT&T ICA in yellow shading as a "former" paragraph number. There are also some Eschelon notes at the end of the document with respect to definitions and other sections of the ICA, etc. Eschelon's proposals generally reflect current Qwest processes, consistent with Qwest's own documentation of those processes.

As indicated in Issues 44 and 46 in Eschelon's 11/26/03 Matrix, and as we have mentioned since then, Eschelon has reviewed the various process requirements in the ICA together. Rather than either not dealing with some process requirements or doing so sporadically throughout the ICA, Eschelon has tried for the most part to bring together processes used by Eschelon in one "Business Processes" section. To our business folks, this is a more user-friendly approach and more in line with how they will use the ICAs. Eschelon's proposed approach is similar to the approach taken in the existing ICAs between the Parties (generally based on the former AT&T ICAs). Attachment 5 in WA and Attachment 8 in CO of our existing ICAs, for example, are also entitled "Business Processes" and deal with such processes. In MN, Attachments 5 and 6 of our existing ICA deal with Provisioning and Ordering and Maintenance. Eschelon's approach is also similar to, or an extension of, the approach taken in the new Qwest-AT&T ICAs in which Qwest and AT&T centralized and expanded much of the billing and recording processes into Section 21. Just as it makes sense to do so for billing in Section 21, it makes sense to do so for the other processes (pre-ordering, ordering, provisioning, maintenance and repair) in Section 12.

Please review the enclosed proposed language and provide us with Qwest's responses. If Qwest continues to decline participation in formulating an issues matrix at this time, perhaps Qwest could provide Eschelon with its responses to Section 12 language in a format similar to Qwest's Dec. 22, 2003 "Section 8 Responses" document, before we arrange calls to discuss Section 12.

#### **Proposed Section 12:**

#### **Proposed Exhibits M and N:**

Karen L. Clauson  
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Eschelon Telecom, Inc.  
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Minneapolis, MN 55402  
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**NOTE:** Regarding additional/modified defined terms and other issues affecting other Sections of the ICA, or notes generally, see “NOTES” section at the end of this document. If language in Eschelon's proposal is either the same or similar to language in the Qwest-AT&T ICA, Eschelon has generally indicated the paragraph number from the Qwest-AT&T ICA in yellow shading as a "former" paragraph number.

## Section 12.0 – BUSINESS PROCESSES

### 12.1 General Terms (former 12.1)

**12.1.1 (former 12.1.1)** Qwest has developed and shall continue to provide Operational Support System (OSS) interfaces using electronic gateways and manual processes. (Qwest and CLEC responsibilities for on-going support of OSS are set forth in Section 12.1.1.1 below.) These gateways act as a mediation or control point between CLEC's and Qwest's OSS. These gateways provide security for the interfaces, protecting the integrity of the Qwest OSS and databases. This Section describes Qwest's OSS interfaces, as well as manual processes, that Qwest shall provide to CLEC to support Pre-ordering, Ordering, Provisioning, Maintenance and Repair and Billing. (For additional Billing information, see Section 21.)

12.1.1.1 (former 12.1.1) Qwest will continue to make improvements to the electronic OSS interfaces as technology evolves, Qwest's legacy systems improve, or CLEC needs require. Qwest shall submit change requests<sup>1</sup> and provide notification to CLEC consistent with the provisions of the Change Management Process (CMP) set forth in Section 12.1.6.

12.1.1.2 (former 6.4.3) The Pre-ordering, Ordering, Provisioning, installation, Maintenance and Repair processes for CLEC's service requests are applicable whether CLEC's service requests are submitted via OSS or by manual process (e.g., facsimile).

12.1.1.3 Qwest will provide output information to CLEC in the form of bills, files, and reports, as set forth below in Section 12.1.3.2.3, Section 12.1.3.2.3.1, and Section 21 (Billing) and will also provide access to information through databases and documentation on Qwest's web site, as set forth below in Section 12.1.3.2.

### 12.1.2 Nondiscrimination

12.1.2.1 (former 12.1.2) Through its electronic gateways and manual processes, Qwest shall provide CLEC non-discriminatory access to Qwest's OSS for Pre-ordering, Ordering and Provisioning, Maintenance and Repair, and Billing functions. For those functions with a retail analogue, such as Pre-ordering, Ordering and Provisioning of resold services, Qwest shall provide CLEC access to its OSS in substantially the same time and manner as it provides to itself, its End User Customers, its Affiliates or any other Party. For those functions with no retail analogue, such as Pre-ordering and Ordering and Provisioning of

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<sup>1</sup> Qwest Wholesale Website: Qwest CMP Document 12/11/2003

Unbundled Elements, Qwest shall provide CLEC access to Qwest's OSS sufficient to allow an efficient competitor a meaningful opportunity to compete. Qwest will comply with the standards for access to OSS set forth in Section 20, Exhibit B and Exhibit K. Qwest shall deploy the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions. Qwest shall provide OSS designed to accommodate both current demand and reasonably foreseeable demand. Services that Qwest shall provide in substantially the same time and manner (e.g., substantially the same in timeliness and quality) to that which Qwest provides to itself, its End User Customers, its Affiliates or any other Party, include (former 12.3.1.1 and former 12.3.6.4):

12.1.2.1.1 Business process support, including escalations (former 12.3.12.1);

12.1.2.1.2 CLEC's access to Due Dates, including on-time Firm Order Confirmations (FOCs), so that CLEC does not appear to be less efficient and responsive to its potential End User Customer's than Qwest.

12.1.2.1.3 (former 12.3.24.9) Service order processing capabilities and best efforts to minimize CLEC service order impacts during Switch hardware additions and modifications;

12.1.2.1.4 (former 12.3.23.2) Notification of any and all Maintenance and Repair activities that may impact CLEC Ordering practices such as embargoes, moratoriums, and quiet periods.

12.1.2.1.5 (former 12.2.1.9.1) Provisioning services during at least the same business hours, including out-of-hours services.

12.1.2.1.6 (former 6.4.8) Intervals provided to CLEC. (Intervals are those set forth in Exhibit C or those provided by Qwest to itself, its End User Customers, its Affiliates or any other Party, whichever is shorter, unless CLEC requests otherwise.)

12.1.2.1.7 (former 12.3.15.1) Trouble report processing, status information (including repair completion), and commitment intervals for similar trouble conditions;

12.1.2.1.8 (former 12.3.1.3) Response time priority for trouble reports from CLEC;

12.1.2.1.9 (former 12.3.24.7.8) Restoration of service to End User Customers, including restoration of service in the event that CLEC End User Customer service is disconnected in error during switch and frame conversion activity;

12.1.2.1.10 (former 12.3.20.1) Answer time and quality for manually-reported Maintenance and Repair calls by CLEC to Qwest;

- 12.1.2.1.11 (former 12.3.6.1) Testing and access to testing results, including that Qwest will conduct testing, to the extent testing capabilities are available to Qwest, to diagnose and isolate a trouble where CLEC does not have the ability to diagnose and isolate trouble on a Qwest line, circuit, or service provided in this Agreement that CLEC is utilizing to serve an End User Customer;
- 12.1.2.1.12 (former 12.3.16.1) Notice that a trouble report commitment (appointment or interval) has been or is likely to be missed;
- 12.1.2.1.13 (former 12.3.13.1) Maintenance and Repair dispatch personnel availability;
- 12.1.2.1.14 (former 12.3.9.1) Notice of Major Network Outages;
- 12.1.2.1.15 (former 12.3.10.1) Scheduled Maintenance and Repair;
- 12.1.2.1.16 (former 12.3.10.2) Notice of potentially CLEC End User Customer impacting Maintenance and Repair activity, to the extent Qwest can determine such impact; and negotiation of mutually agreeable dates with CLEC;
- 12.1.2.1.17 (former 12.3.24.5) Identification and notification of the particular dates and locations for frame conversion embargo periods prior to instituting an embargo period;
- 12.1.2.1.18 (former 12.3.24.6) Identification and notification of the particular dates and locations for Switch conversion embargo periods prior to instituting an embargo period;
- 12.1.2.1.19 (former 12.3.24.7.1) Use of best efforts to avoid loss of End User Customer service associated with LSRs of any kind issued during Switch or frame conversion quiet periods;
- 12.1.2.1.20 (former 12.3.24.8) Implementation of service order embargoes and/or quiet periods during Switch upgrades; and
- 12.1.2.1.21 (former 12.3.22.4) Information contained in, and updates to, the ICONN database, which is described in Section 12.1.3.2.5 below, and any other databases with a retail analogue.
- 12.1.2.2 (former 12.3.19.2) All Qwest employees who perform services pursuant to this Agreement or who have any interaction with CLEC and CLEC End User Customers will be trained in non-discriminatory behavior. When discriminatory behavior is identified, Qwest shall take appropriate disciplinary action. Nothing in this Section shall limit or alter CLEC's ability to seek additional relief for discriminatory behavior. See also Section 12.1.5 below (Responsibilities Relating to End User Customers)

### 12.1.3 Documentation, Questions, Escalations, and Disputes

12.1.3.1 (former 12.2.10.1) Qwest shall provide complete and accurate documentation and assistance for CLEC to understand how to implement and use all of the available OSS functions and Qwest's manual processes. As described in this Section 12.1.3, this assistance will include documentation, training, a Qwest account team for CLEC, and help desk support.

#### 12.1.3.2 Documented Processes and Information

12.1.3.2.1 (former 12.1.2 and former 12.2.1.10.1) Qwest shall provide assistance for CLEC to understand how to implement and use all of the available OSS functions. Qwest shall provide CLEC sufficient electronic and manual interfaces to allow CLEC equivalent access to all of the necessary OSS functions. Through its website, training, disclosure documentation and development assistance, Qwest shall disclose to CLEC any internal business rules, specifications, test cases, mapping examples and other formatting information necessary to ensure that CLEC's requests and orders are processed efficiently and to enable CLEC to design its own systems. Qwest will provide information to CLEC in writing. (former 12.2.1.9.1) Qwest will post such information, including business rules regarding out-of-hours Provisioning, on Qwest's web site. If Qwest fails to provide such information or provides inaccurate information, Qwest will remedy the situation and such remedy shall not include requiring CLEC to perform coding changes outside of major releases. Qwest shall provide training to enable CLEC to devise its own course work for its own employees. Through its documentation available to CLEC, Qwest will identify how its interface differs from national guidelines or standards.

12.1.3.2.2 (former 12.1.1) Additional technical information and details about Qwest's OSS shall be provided by Qwest to CLEC in training sessions and documentation and support, such as Qwest's "Interconnect Mediated Access User's Guide." Qwest shall maintain its Interconnect Mediated Access User's Guide on Qwest's wholesale web site. (former 6.2.1) Qwest shall offer introductory training on procedures that CLEC must use to access Qwest's OSS at no cost to CLEC. If CLEC asks Qwest personnel to travel to CLEC's location to deliver training, CLEC will pay Qwest's reasonable travel related expenses unless the Parties agree otherwise.

12.1.3.2.3 Qwest provides output information to CLEC in the form of bills, files, and reports (former 12.2.5), including:

12.1.3.2.3.1 (former 12.2.5.2.8) The Qwest Street Address Guide (SAG) provides Address and Serving Central Office Information. Qwest will make this file available via a download process. CLEC may retrieve it by File Transfer Protocol (FTP), Network Data Mover (NDM) connectivity, or a Web browser.

12.1.3.2.3.2 (former 12.2.5.2.8) The Qwest Features Availability Matrix (FAM) provides USOCs and descriptions by state, and USOC availability by NPA-NXX with the exception of Centrex and provides InterLATA/IntraLATA Carriers by NPA-NXX. Qwest will make this file available via a download process. CLEC may retrieve it by File Transfer Protocol (FTP), Network Data Mover (NDM) connectivity, or a Web browser.

12.1.3.2.3.3 Bills and Daily Usage Files (DUF), which are described in Section 21.

12.1.3.2.3.4 Loss and completion reports, which are described below in Section 12.3.7.

12.1.3.2.4 (former 9.2.4.1 and 12.2.10.3) Qwest will provide and maintain detailed Pre-ordering, Ordering, Provisioning and installation, Maintenance and Repair and Billing processes on the Qwest wholesale web sites. These web sites will also include electronic interface training information and user documentation.

12.1.3.2.5 (former 12.3.22.1-4) Qwest will maintain and update an information database, available to CLEC for the purpose of allowing CLEC to obtain information about Qwest's NPAs, LATAs, Access Tandems and Central Offices. This data base will also include CPNI information, **NXX activity reports, switch features, switch conversions and upgrades, switch replacements, switch generic changes, embargo dates, loop data, usage data, Digital Loop Carrier (DLC) Remote Terminal (RT) equipment cabinets by Distribution Area (DA), outside plant and interoffice facility jobs (at least those greater than \$100,000), Universal Digital Carrier (UDC) information., and DA maps<sup>2</sup>.** This database is known as the ICONN database, available to CLEC via Qwest's Web site.

12.1.3.2.6 Qwest will maintain and update information databases, available to CLEC via Qwest's Web site, for the purpose of allowing CLEC to obtain information about the following:

12.1.3.2.6.1 **Resale voice messaging (known as the BVMS database);<sup>3</sup>**

12.1.3.2.6.2 **Current status on ASRs for at least 56k, 64k, 9.6k, DSO, DS1, DS3, Feature Group, LIS and wireless services that have been delayed due to facility shortages,**

<sup>2</sup> Qwest Wholesale Website: ICONN Database

<sup>3</sup> Qwest Wholesale Website: Network Database Tools

**equipment shortages or other issues (known as Held, Escalated, Expedite (HEET) tool);<sup>4</sup>**

**12.1.3.2.6.3 Qwest will maintain and update additional information databases, available to CLEC via Qwest's Web site, for the purpose of allowing CLEC to obtain accurate information about Resale voice messaging (known as the BVMS database)<sup>5</sup>, allowing CLEC to obtain current status on service orders that have been delayed due to facility shortages, equipment shortages or other issues (known as the Held, Escalated & Expedited Tool (HEET)),<sup>6</sup> allowing CLEC to obtain information about Resale Products (known as the Resale Product Database (RPD))<sup>7</sup>, allowing CLEC to obtain detailed information on USOCs and FIDs (known as the USOC and FID finder)<sup>8</sup>, allowing CLEC to access information for all Network Disclosures, allowing CLEC to obtain information regarding Qwest feature availability (known as the Feature Availability Matrix (FAM)), allowing CLEC access to Qwest's Street Address Guide Area (SAGA), allowing CLEC to obtain technical information and publications, allowing CLEC to obtain information about trouble reporting codes and trouble disposition codes,<sup>9</sup> allowing CLEC to obtain information about training courses and training, and allowing CLEC to obtain information on forums and meetings.<sup>10</sup>**

**12.1.3.2.7 When information about an existing Qwest process is missing or requires clarification in Qwest documentation available to CLEC, Qwest will develop new or clarify existing documentation about that process and post it to Qwest's web site. Pursuant to Qwest's External Documentation Request Process, CLEC may also request that Qwest so document or clarify language about an existing process. To do so, CLEC will submit an External Documentation Request Form (available on Qwest's web site) to Qwest.<sup>11</sup>**

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<sup>4</sup> Qwest Wholesale Website: Held, Escalated & Expedited Tool (HEET) Job Aid

<sup>5</sup> Qwest Wholesale Website: Network Database Tools

<sup>6</sup> Qwest Wholesale Website: Held, Escalated & Expedited Tool (HEET) Job Aid

<sup>7</sup> Qwest Wholesale Website: Resale Product Database (RPD)

<sup>8</sup> Qwest Wholesale Website: USOC and FID Finder

<sup>9</sup> Qwest Wholesale Website: Network General Information.

<sup>10</sup> Qwest Wholesale Website: Training

<sup>11</sup> Qwest Wholesale Website: External Documentation Requests Process & CLEC External Process Clarification Request

**12.1.3.2.7.1** Within two (2) business days from receipt of the request, Qwest will notify CLEC if the request is incomplete and identify the additional information needed or, if an initial determination has been made, notify CLEC that the request is out of the scope for such a documentation request. If the request is complete and appears to be within the scope, Qwest will send an acknowledgement of receipt to CLEC. This establishes the Acknowledgement Date. *Id.*

**12.1.3.2.7.2** Within ten (10) business days after the Acknowledgement Date, Qwest will determine if it believes the request is in scope. If so, Qwest will determine a Target Completion Date. If not, Qwest and CLEC will attempt to resolve the issue. If no resolution is reached, either Party may escalate. *Id.*

**12.1.3.2.7.3** Within fourteen (14) business days, Qwest will notify CLEC if the request has been accepted or denied. If denied, CLEC may escalate. If accepted, Qwest will complete the request and publish notice to CLECs within ten (10) business days. Qwest will provide documentation, including at least a Level 2 notice, pursuant to CMP guidelines in Exhibit G, unless the parties to CMP agree to a different level of notice or request. Qwest will notify CLEC when the request is complete and will close the request ten (10) Days after the effective date. *Id.*

**12.1.3.2.8** All applications and forms that are referred to in this Agreement or are used to implement any of its provisions shall comply with the terms and conditions set forth in this Agreement. Such applications and forms are for administrative purposes only and, notwithstanding any language in an application or form to the contrary, nothing in the applications or forms alters or amends the terms of this Agreement.

**12.1.3.2.9** (former 12.1.8.1) Qwest will establish interface contingency plans and disaster recovery plans for the interfaces described in this Section 12. Qwest will document such plans and post the documentation on Qwest's website. For requests that are not CLEC-specific, Qwest will work cooperatively with CLECs through the Change Management Process (CMP) to consider any suggestions made by CLECs to improve or modify such plans. CLEC specific requests for modifications to such plans will be negotiated and mutually agreed upon between Qwest and CLEC.

### 12.1.3.3 Points of Contact for Assistance and Hours of Availability

**12.1.3.3.1** Contact Lists: (former 6.4.6) CLEC shall provide Qwest, and Qwest shall provide CLEC, with written points of contact information (including names, titles, telephone numbers, email addresses, and other

pertinent information, such as pager numbers, if applicable) for inquiries and problem resolution arising when conducting business under this Agreement, including Pre-ordering, Ordering, Provisioning, Maintenance and Repair, and Billing issues. The Parties are both responsible for reviewing and providing updates to such information to ensure it is current and accurate.

**12.1.3.3.2 Account Team: A Qwest Account Team will assist CLEC in conducting business with Qwest. The Qwest Account Team will consist of a Sales Team and a Service Team or, if both Parties agree, all members of the Account Team may be devoted to service issues. The Sales Team responds to inquiries relating to products and generates sales proposals. The Service Team responds to inquiries relating to Pre-ordering, Ordering, Provisioning, Maintenance and Repair, and Billing issues. The Qwest Service Manager is one of the points of escalation<sup>12</sup> in the escalation process described below.**

**12.1.3.3.2.1 A detailed description of the roles and responsibilities of the Sales Team and Service Team will be maintained on the Qwest wholesale web site. Such roles and responsibilities will include at least the following: *Id.***

**12.1.3.3.2.1.1 The Qwest Service Team will respond to CLEC inquiries in various ways, including pager, voicemail, written correspondence (including email), conference calls, and face-to-face meetings. When the Qwest Service Manager is in the office during normal business hours, CLEC may expect a telephone call in response to a page within 15-30 minutes. When the Qwest Service Manager is out of the office, the Qwest Service Manager will assign a Qwest representative to respond to such calls. For voicemail, when the Qwest Service Manager is in the office during normal business hours, CLEC may expect a response within four (4) hours. When the Qwest Service Manager is out of the office, the Qwest Service Manager's voicemail greeting will advise CLEC of the Service Manager's availability and contact information for an alternate representative who is in the office. *Id.***

**12.1.3.3.2.1.2 When issues arise, the Qwest Service Team will handle post mortems (root cause analysis) when CLEC submits a request for a post mortem. A Qwest Service Manager will review the logged notes, if any, regarding the event and determine the cause, the process used to repair/restore service, if applicable, and the process(es) implemented to prevent a**

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<sup>12</sup> Qwest Wholesale Website: Account Team / Sales Executives and Service Managers V7.0.



reoccurrence of the event. Working with Qwest's support centers and Network Reliability Operations Center, as applicable, a Qwest Service Manager will conduct the Root Cause Analysis (RCA) and provide CLEC the complete analysis in writing as soon as it is available. Investigation and preparation of a typical post mortem takes from 2-10 business days depending on the complexity of the event. *Id.*

12.1.3.3.2.1.3 Qwest will provide project coordination for projects. Depending upon CLEC's request, the Sales Team or the Service Team will assist with Project Management/Coordination. Qwest's Sales Team will assist in obtaining project management for the installation of services such as new Optical Carrier (OC) systems, e.g., OC48, OC 12, etc. Qwest's Service Team will assist with project management for existing services, such as a grooming request, e.g., moving existing trunks to CLEC's new switch or grooming existing Digital Signal Level 1 (DS1) to new Digital Signal Level 3 (DS3) hubs. CLEC may request project coordination from the Sales Team or Service Team and Qwest will determine which team will handle the project coordination. *Id.*

12.1.3.3.2.2 In the event that a different Qwest Sales Executive or Service Manager is assigned to CLEC, the former Qwest Sales Executive or Service Manager will be responsible for familiarizing the new Qwest Sales Executive or Service Manager with CLEC's corporate profile and all contact information, CLEC's sales and/or service objectives, CLEC's network, this Agreement and any pending amendments to this Agreement, and CLEC's meeting schedules. The former Qwest Sales Executive or Service Manager will also: (a) transition all current open issues/sales proposals to the new Qwest Sales Executive and/or Service Manager along with all background information, parties involved, commitments and timelines; (b) establish a conference call or meeting with CLEC to introduce CLEC to the new Qwest Sales Executive or Service Manager; and (c) provide CLEC's files to the new Qwest Sales Executive and/or Service Manager including emails and any pertinent documentation. *Id.*

12.1.3.3.3 Support Centers/Help Desks: Qwest shall also provide support centers (sometimes referred to as “help desks”) for CLEC to gain assistance with inquiries and to submit trouble reports.

12.1.3.3.3.1 (former 12.3.7.1) Qwest and CLEC shall work cooperatively to develop positive, close working relationships among corresponding work centers and representatives involved in the trouble resolution processes.

12.1.3.3.3.1.1 The first time a trouble is reported, Qwest will assign a trouble report tracking number. (Depending on the circumstances, such trouble report tickets are sometimes referred to by various names, such as “Trouble Ticket,” “Escalation Ticket” or “Chronic Ticket.”) Qwest will communicate the trouble report tracking number (i.e., the “ticket” number) to CLEC at the time the trouble is reported. Closing of trouble reports is addressed in Section 12.4.4 below.

12.1.3.3.3.2 Qwest shall provide at least five types of support center assistance:

12.1.3.3.3.2.1 Interconnect Service Center Help Desk: (former 12.2.10.3) Qwest will provide Interconnect Service Center (ISC) Help Desks which will provide a point of entry for CLEC to gain assistance in areas involving order submission and manual processes and to report troubles. The ISC provides assistance regarding Interconnect Resale Services, Asynchronous Transfer Mode (ATM) Services, Resale Frame Relay, Complex Resale, Centrex, Local Number Portability (LNP), Interim Number Portability (INP), Unbundled Network Elements. If additional assistance is required, Qwest will transfer CLEC to the Qwest Customer Service Inquiry and Education (CSIE) Center. The CSIE will research such issues and contact CLEC regarding resolution of the issues.<sup>13</sup>

12.1.3.3.3.2.1.1 CLEC may report troubles at any time to the ISC, and the ISC will open a trouble report ticket. Although CLEC generally may report network troubles to the Maintenance and Repair support centers, Qwest’s systems do not allow CLEC to do so before the service order completes in Qwest’s systems. Often CLEC does not know when the service order completes. CLEC may contact the ISC to report network trouble if the

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<sup>13</sup> Qwest Wholesale Website: Wholesale Customer Contact V20.0 PCAT.

**service request was completed within the past 72 business hours.** <sup>14</sup> If the service order completes before a trouble report ticket is opened and the issue is typically handled by the Maintenance and Repair support centers, the ISC may inform CLEC that the service order has completed and offer the option to CLEC of being transferred to the applicable Maintenance and Repair center to open a ticket. If the ISC/CSIE opens a trouble report ticket, the ISC/CSIE will complete the work on that trouble report until it is resolved and the ticket closed and will not refer or transfer CLEC to another support center, unless CLEC requests otherwise.

**12.1.3.3.3.2.1.2 For LNP issues, CLEC may call the ISC if the issue arises either 48 hours before or after the due date. More than 48 hours before the due date, CLEC may call the Maintenance and Repair support center. More than 48 hours after the due date, CLEC may call the AMSC. During LNP activities, CLEC may contact the Qwest ISC to request a manual concurrence for failed LNP subscription activity or if CLEC experiences problems during CLEC port activity that require restoration to Qwest facilities.**<sup>15</sup>

**12.1.3.3.3.2.1.2.1 Failed Subscription Activity. Occasionally, during the port process, the New Service Provider (NSP) may experience a problem with the Number Portability Administration Center (NPAC) subscription that will require a manual concurrence from the Old Service Provider (OSP). The NSP should verify that there is no pending subscription activity at the NPAC before contacting the ISC for assistance. If a pending subscription from the OSP is found at the NPAC, then CLEC may submit the matching subscription activity and complete the port activation on the Due Date (DD). If after verifying that there is not a pending port out subscription at the NPAC and CLEC is**

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<sup>14</sup> Qwest Wholesale Website: Wholesale Customer Contact V20.0 PCAT.

<sup>15</sup> Qwest Wholesale Website. LNP PCAT V25.0

less than 48 hours from the DD/Frame Due Time (FDT), CLEC may contact the ISC to request a manual concurrence. At any time on the DD, if CLEC experiences a problem and requires manual concurrence, CLEC may contact the ISC for assistance. *Id.*

**12.1.3.3.3.2.1.2.2 Failed Port Activities.** If CLEC experiences problems during CLEC port activity and determines that the End User Customer service needs to be restored on Qwest facilities, CLEC may contact the Qwest ISC and open a trouble report ticket. The NSP controls the port activation. Once the broadcast has been sent from the NPAC to all service providers and the subscription is “active,” the TN has been ported to the NSP. At this point, Qwest, as the OSP, does not have control of the ported TN and cannot change any part of the subscription in the NPAC. If CLEC is experiencing problems with the broadcast, Qwest will work cooperatively to assure the routing information is correct. *Id.*

**12.1.3.3.3.2.1.2.3 CO:** The ISC Help desk will be available at least Monday through Friday 6:00 AM - 10:00 PM Mountain time and Saturday 7:00 AM - 6:00 PM Mountain time. The ISC CSR hotline for LSRs will be available at least Monday through Friday from 6:00 AM to 6:00 PM Mountain Time. The Qwest support centers providing assistance regarding ASRs will be available at least Monday through Friday from 6:00 AM to 6:00 PM Mountain Time. If CLEC’s service request was completed within the past 72 hours, see Section 12.1.3.3.3.2.1.1. <sup>16</sup>

**12.1.3.3.3.2.1.2.3 MN:** The ISC Help desk will be available at least Monday through Friday 7:00 AM - 11:00 PM Central time and Saturday 8:00 AM - 7:00 PM Central time. The ISC CSR hotline for LSRs will be available at least

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<sup>16</sup> Qwest Wholesale Website, Wholesale Customer Contacts V20.0

**Monday through Friday from 7:00 AM to 7:00 PM Central Time. The Qwest support centers providing assistance regarding ASRs will be available at least Monday through Friday from 7:00 AM to 7:00 PM Central Time. If CLEC's service request was completed within the past 72 hours, see Section 12.1.3.3.3.2.1.1. *Id.***

**12.1.3.3.3.2.1.2.3 WA: The ISC Help desk will be available at least Monday through Friday 5:00 AM - 9:00 PM Pacific time and Saturday 6:00 AM - 5:00 PM Pacific time. The ISC CSR hotline for LSRs will be available at least Monday through Friday from 5:00 AM to 5:00 PM Pacific Time. The Qwest support centers providing assistance regarding ASRs will be available at least Monday through Friday from 5:00 AM to 5:00 PM Pacific Time. If CLEC's service request was completed within the past 72 hours, see Section 12.1.3.3.3.2.1.1. *Id.***

12.1.3.3.3.2.2 Systems Help Desk: (former 12.2.10.2.1 The CLEC Systems Help Desk (also known as the IT Help Desk) will provide a point of entry for CLEC to gain assistance with systems issues. System issues include those involving connectivity, system availability, and file outputs:

12.1.3.3.3.2.2.1 Connectivity covers trouble with CLEC's access to the Qwest system for hardware configuration requirements with relevance to EDI and GUI interfaces; software configuration requirements with relevance to EDI and GUI interfaces; modem configuration requirements, T1 configuration and dial-in string requirements, firewall access configuration, SecurID configuration, Profile Setup, dedicated web site access, and password verification.

12.1.3.3.3.2.2.2 System Availability covers system errors generated during an attempt by CLEC to place orders or open trouble reports through EDI and GUI interfaces. These system errors include Resale/POTS; UNE POTS; non-POTS services and Maintenance and Repair.

**12.1.3.3.3.2.2.3** File Outputs covers CLEC's output files and reports produced from its usage and order activity. File outputs system errors

include any output files that Qwest provides to CLEC via File Transfer Protocol (FTP), Network Data Mover (NDM) connectivity, or web browser, such as Daily Usage File; Loss/ Completion File, IABS Bill, CRIS Summary Bill, Category 11 Report and SAG/FAM Reports.

**12.1.3.3.3.2.2.4 CO: The Systems Help Desk will be available at least Monday through Friday 6:00 AM - 8:00 PM Mountain Time and Saturday 7:00 AM - 3:00 PM Mountain Time.<sup>17</sup>**

**12.1.3.3.3.2.2.4 MN: The Systems Help Desk will be available at least Monday through Friday 7:00 AM - 9:00 PM Central Time and Saturday 8:00 AM - 4:00 PM Central Time. *Id.***

**12.1.3.3.3.2.2.4 WA: The Systems Help Desk will be available at least Monday through Friday 5:00 AM - 7:00 PM Pacific Time and Saturday 6:00 AM - 2:00 PM Pacific Time. *Id.***

12.1.3.3.3.2.2.5 Additional information regarding the Systems/IT Help Desk is set forth in Section 12.0 of Exhibit G to this Agreement.

**12.1.3.3.3.2.3 Maintenance and Repair Support Centers: Qwest Maintenance and Repair support center services include at least ensuring trouble isolation procedures are immediately initiated for reported trouble; provide CLEC with a trouble report tracking number for reference; coordinate among Qwest departments to resolve wholesale product and service related troubles; monitor open trouble reports; communicate status to CLEC; accept CLEC requests for escalation and cooperatively manage them within Qwest when CLEC deems necessary; provide CLEC with support when an electronic interface (e.g., CEMR) is unavailable, and answer questions regarding trouble reports or processes.<sup>18</sup>**

**12.1.3.3.3.2.3.1 The Repair Call Handling Center (RCHC) will provide a point of entry for CLEC to gain assistance for Maintenance and Repair**

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<sup>17</sup> Qwest Wholesale Website Wholesale Customer Contacts V20.0

<sup>18</sup> Qwest Wholesale Website Maintenance and Repair Overview V26.0

**calls involving Plain Old Telephone Service (POTS), and Non-Complex Products and Services. CLEC may initiate a trouble report through electronic interface (e.g., CEMR) or by calling either RCHC for POTS and Non-Complex services or the Account Maintenance Support Center (AMSC) for Unbundled Network Elements (UNEs).<sup>19</sup>**

**12.1.3.3.3.2.3.2 The Account Maintenance Support Center (AMSC) will provide a point of entry for CLEC to gain assistance for Maintenance and Repair calls involving Unbundled Network Elements (UNEs) and Complex services. *Id.***

**12.1.3.3.3.2.3.3 The Enhanced Services Center (ESC) will provide a point of entry for CLEC to gain assistance with Voice Messaging or Advanced Intelligent Network (AIN) call features, security code (password) resets. *Id.***

12.1.3.3.3.2.3.4 The RCHC, AMSC and ESC will be available at least seven (7) Days a week, twenty-four (24) hours a day (“7X24”). Not all functions or locations are covered with scheduled employees on a 7X24 basis. Where such 7X24 coverage is not available, Qwest’s RCHC and AMSC (always available 7X24) can call-out technicians or other personnel required for the identified situation (**former 12.3.11.1**).

**The Qwest technicians who provisioned the circuit will provide their name, direct call back number, and normal work schedule. CLEC may call the technician directly within 30 Days of installation completion to report trouble and open a trouble report ticket. During this 30-Day timeframe, CLEC may also elect to report trouble via electronic interface (e.g., CEMR) or to the applicable support center (e.g., AMSC) as described above.<sup>20</sup>**

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<sup>19</sup> Qwest Wholesale Website Wholesale Customer Contact V20.0

<sup>20</sup> Qwest Wholesale Website Maintenance and Repair Overview V26.0

The Maintenance and Repair window for major Switch Maintenance and Repair activities off hours is set forth below in Section 12.4.3.13.1.

**12.1.3.3.3.2.4 Qwest CLEC Coordination Center: The Qwest CLEC Coordination Center (QCCC) will provide a point of entry for CLEC to gain assistance with all coordinated Unbundled Loop product installations. The QCCC Coordinators are responsible for ensuring the successful completion of the coordinated installation. The QCCC also provides a warranty service where Qwest technicians will work to resolve any Maintenance and Repair issues for 30 days after installation.<sup>21</sup>**

**12.1.3.3.3.2.4.1 CO: The QCCC will be available at least Monday through Friday 6:00 AM to 8:00 PM Mountain Time. The QCCC's warranty service will be available seven (7) Days a week, twenty-four (24) hours a day. *Id.***

**12.1.3.3.3.2.4.1 MN: The QCCC will be available at least Monday through Friday 7:00 AM to 9:00 PM Central Time. The QCCC's warranty service will be available seven (7) Days a week, twenty-four (24) hours a day. *Id.***

**12.1.3.3.3.2.4.1 WA: The QCCC will be available at least Monday through Friday 5:00 AM to 7:00 PM Pacific Time. The QCCC's warranty service will be available seven (7) Days a week, twenty-four (24) hours a day. *Id.***

**12.1.3.3.3.2.4.2 For UNEs, CLEC may call the QCCC for its warranty service within 30 Days of service order completion to report trouble. The QCCC will follow the trouble reporting procedures set forth in Section 12.1.3.3.3.1.1. During this 30-Day timeframe, CLEC may also elect to report trouble via electronic interface (e.g., CEMR) or to the applicable support center (e.g., AMSC) as described above.<sup>22</sup>**

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<sup>21</sup> Qwest Wholesale Website: Wholesale Customer Contacts V20.0

<sup>22</sup> Qwest Wholesale Website: Maintenance and Repair Overview V26.0



#### **12.1.3.3.3.2.5 Listings Operations Customer Service Center**

**12.1.3.3.3.2.5.1 Listings Operations Customer Service (LOCS) center will provide a point of entry for CLEC to gain assistance for listing and confirmation services, including Directory Service Confirmation and Error Detail (DSRED) report Firm Order Confirmation (FOC), verification proofs and Directory Listing Inquiry System (DLIS).<sup>23</sup>**

#### **12.1.3.3.4 OSS Interfaces: Qwest will make OSS interfaces available at least as follows:**

12.1.3.3.4.1 (former 12.2.1.1) Qwest shall provide electronic interface gateways for submission of LSRs, ASRs, and trouble reports, including both an Electronic Data Interchange (EDI) interface and a Graphical User Interface (GUI).

12.1.3.3.4.2 (former 12.2.1.7) Qwest shall provide Facility Based EDI and GUI Listing interfaces to enable CLEC listing data to be translated and passed into the Qwest listing database. These interfaces are based upon OBF LSOG and ANSI ASC X12 standards. Qwest shall supply exceptions to these guidelines/standards in writing in sufficient time for CLEC to adjust system requirements.

12.1.3.3.4.3 (former 12.2.3.1) Qwest shall make its OSS interfaces available to CLECs during the hours listed in the Gateway Availability PIDs in Section 20, Exhibit B and/or Exhibit K.

12.1.3.3.4.4 (former 12.2.3.2) Qwest shall notify CLECs in a timely manner regarding system downtime through mass email distribution and pop-up windows as applicable. Information regarding planned outages and production support is contained in 12.0 of Exhibit G.

#### **12.1.3.3.5 Escalations: CLEC may initiate an escalation for any issue, at any time, and at any escalation point.<sup>24</sup>**

12.1.3.3.5.1 CLEC may initiate an escalation by calling the applicable support center or, for maintenance and repair issues, submitting a trouble report electronically (GUI). If a Qwest representative is unable to resolve a problem or provide the

<sup>23</sup> Qwest Wholesale Website: Wholesale Customer Contacts V20.0

<sup>24</sup> Qwest Wholesale Website: Expedites and Escalations Overview V7.0

requested information to the CLEC's satisfaction, CLEC may escalate through each level of the applicable Qwest organization (e.g, for Maintenance and Repair: testers, duty supervisor, manager, director, vice president) (former 12.3.12.2). Qwest will supply CLEC with a written escalation level contact list (former 12.2.1.10.1). CLEC may escalate to any level desired in its sole discretion. CLEC is not required to wait any length of time to escalate to the next tier and may move to any tier when using the escalation process.

**12.1.3.3.5.2 CLEC may obtain escalation status from Qwest by telephone. For Maintenance and Repair, CLEC may obtain escalation status from Qwest by telephone and electronic interface. Qwest's Account Team may also provide status information by email.**<sup>25</sup>

12.1.3.3.5.3 If a trouble report tracking number has been assigned, the same number will be used throughout the process until closure pursuant to Section 12.4.4 (e.g., the ticket will not be closed, and a new ticket with a new number opened, when escalating to other tiers or departments).

12.1.3.3.6 Disputes: If the Parties are unable to resolve issues, the dispute will be resolved in accordance with the procedures set forth in Section 5.18 of this Agreement.

12.1.3.3.7 Billing: For questions, escalations and disputes regarding Connectivity Billing, Recording, and Exchange of Information, see Section 21.

#### **12.1.4 Acknowledgement of Mistakes**

12.1.4.1 For reported troubles, Major Network Outages, and alleged behavior that is discriminatory or otherwise violates policy, Qwest will, upon request, provide to CLEC written information that will contain a root cause analysis of the issue.<sup>26</sup>

12.1.4.2 When a Qwest error or policy non-compliance occurs, Qwest will provide to CLEC a written acknowledgement of such mistakes and non-compliance with policy. Upon CLEC request, Qwest shall: *Id.*

12.1.4.2.1 Provide to CLEC a non-confidential written acknowledgment and explanation which CLEC may, if it desires, share with the affected End User Customer. If the error occurred during processing of an order, Qwest's written acknowledgement will use the following language, in

<sup>25</sup> Qwest Wholesale Website: Maintenance and Repair Overview V26.0

<sup>26</sup> Minnesota Docket P-421/C-03-616 "Order Finding Service Inadequate and Requiring Compliance Filing.

addition to any explanation, in the acknowledgement: “Qwest acknowledges its mistake in processing this wholesale order. The error was not made by the new service provider.” *Id.*

12.1.4.2.2 Apply the procedures in Section 12.1.4.2.1 to all errors in processing wholesale orders made by Qwest (not limited to service order typing errors).

12.1.4.2.3 Communicate to line staff that time is of the essence for both identifying the error and providing the acknowledgement in Section 12.1.4.2.1; and, require such acknowledgment as soon as practicable after the cause of the error is identified. *Id.*

12.1.4.2.4 Use Qwest letterhead or other indicia to show that Qwest is making the acknowledgement. *Id.*

12.1.4.2.5 Provide the acknowledgement to CLEC, who in turn may provide it to the End User Customer (so Qwest does not deal directly with CLEC’s End User Customer). *Id.*

12.1.4.2.6 Prevent use of a confidentiality designation (to ensure CLEC may provide the acknowledgement to its End User Customer). *Id.*

12.1.4.2.7 Identify clearly for CLEC to whom requests for acknowledgements should be directed at Qwest and ensure the Qwest individual(s) receiving such requests have authority to provide the acknowledgment without delay and are trained on the process. *Id.*

## **12.1.5 Responsibilities Relating to End User Customers**

12.1.5.1 (former 6.4.1) CLEC, or CLEC’s agent, shall act as the single point of contact for its End User Customers’ service needs, including without limitation, sales, service design, order taking, Provisioning, change orders, training, trouble reports, Maintenance and Repair, post-sale servicing, Billing, collection and inquiry. (former 12.3.19.1) CLEC will be responsible for all interactions with its End User Customers including service call handling and notifying its End User Customers of trouble status and resolution.

12.1.5.2 (former 12.3.19.3) Qwest will recognize CLEC as the Customer of Record for all services ordered by CLEC and will send all notices, invoices and pertinent information directly to CLEC. Except as otherwise specifically provided in this Agreement, Customer of Record shall be Qwest’s single and sole point of contact for all CLEC End User Customers.

12.1.5.3 (former 6.4.1) CLEC’s End User Customers contacting Qwest in error will be instructed to contact CLEC; and Qwest’s End User Customers

contacting CLEC in error will be instructed to contact Qwest. In responding to calls, neither Party shall make disparaging remarks about each other. To the extent the correct provider can be determined, misdirected calls received by either Party will be referred to the proper provider of local Exchange Service. Neither Party shall initiate discussion of its products and services with the other Party's End User Customer during a misdirected call.

12.1.5.4 Specifically with respect to Maintenance and Repair, CLEC and Qwest will employ the following procedures with respect to the other Party's End User Customers:

12.1.5.4.1 (former 12.3.8.1.1) CLEC and Qwest will provide their respective End User Customers with the correct telephone numbers to call for access to their respective Maintenance and Repair bureaus.

12.1.5.4.2 (former 12.3.8.1.2) End User Customers of CLEC shall be instructed to report all cases of trouble to CLEC. End User Customers of Qwest shall be instructed to report all cases of trouble to Qwest.

12.1.5.4.3 (former 12.3.8.1.3) CLEC and Qwest will provide their respective Maintenance and Repair contact numbers to one another on a reciprocal basis and will provide End User Customers with their service provider's name, if available.

12.1.5.4.4 (former 12.3.2.1) Qwest shall use unbranded Maintenance and Repair forms while interfacing with CLEC End User Customers. Upon request, Qwest shall use CLEC provided and branded Maintenance and Repair forms. Qwest may not unreasonably interfere with branding by CLEC.

12.1.5.4.5 (former 12.3.2.3) This Section shall confer on Qwest no rights to the service marks, trademarks and trade names owned by or used in connection with services offered by CLEC or its Affiliates, except as expressly permitted by CLEC.

12.1.5.4.6 (former 12.3.2.2) Except as specifically permitted by CLEC, in no event shall Qwest provide information to CLEC subscribers about CLEC or CLEC product or services.

12.1.5.4.7 The Qwest technician will limit any communication with CLEC End User Customer to that necessary to gain access to premises and perform the work. Specifically, the Qwest technician will not discuss Qwest's products and services with CLEC End User Customer<sup>27</sup> and will not make disparaging remarks about CLEC and will refer any CLEC End User Customer questions to CLEC. If the Qwest Technician has questions or concerns, the Qwest technician will discuss with CLEC and not CLEC End User Customer.

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<sup>27</sup> Qwest Wholesale Website: Maintenance and Repair Overview V26.0

## 12.1.6 Change Management (former 12.2.6)

12.1.6.1 Qwest agrees to maintain a change management process, known as the Change Management Process (CMP), that is consistent with or exceeds industry guidelines, standards and practices to address Qwest's OSS, products and processes. The CMP shall include the following: (i) provide a forum for CLEC and Qwest to discuss CLEC and Qwest change requests (CR), CMP notifications, systems release life cycles, and communications; (ii) provide a forum for CLECs and Qwest to discuss and prioritize CRs, where applicable pursuant to Exhibit G; (iii) develop a mechanism to track and monitor CRs and CMP notifications; (iv) establish intervals where appropriate in the process; (v) processes by which CLEC impacts that result from changes to Qwest's OSS, products or processes can be promptly and effectively resolved; (vi) processes that are effective in maintaining the shortest timeline practicable for the receipt, development and implementation of all CRs; (vii) sufficient dedicated Qwest processes to address and resolve in a timely manner CRs and other issues that come before the CMP body; (viii) processes for OSS Interface testing; (ix) information that is clearly organized and readily accessible to CLECs, including the availability of web-based tools; (x) documentation provided by Qwest that is effective in enabling CLECs to build an electronic gateway; and (xi) a process for changing CMP that calls for collaboration among CLECs and Qwest and requires agreement by the CMP participants. Pursuant to the scope and procedures set forth in Exhibit G, Qwest will submit to CLECs through the CMP, among other things, modifications to existing products and product and technical documentation available to CLECs, introduction of new products available to CLECs, discontinuance of products available to CLECs, modifications to Pre-ordering, Ordering/Provisioning, Maintenance and Repair or Billing processes, introduction of Pre-ordering, Ordering, Provisioning, Maintenance and Repair or Billing processes, discontinuance of Pre-ordering, Ordering/Provisioning, Maintenance and Repair or Billing processes, modifications to existing OSS interfaces, introduction of new OSS interfaces, and retirement of existing OSS interfaces. Qwest will maintain as part of CMP an escalation process so that CMP issues can be escalated to a Qwest representative authorized to make a final decision and a process for the timely resolution of disputes. The governing document for CMP is attached as Exhibit G (the "CMP Document").

12.1.6.1 In the course of establishing operational ready system interfaces between Qwest and CLEC to support local service delivery, CLEC and Qwest may need to define and implement system interface specifications that are supplemental to existing standards. CLEC and Qwest will submit such specifications to the appropriate industry standards committee and will work towards their acceptance as standards.

12.1.6.2 Release updates will be implemented pursuant to the CMP set forth in Exhibit G.

12.1.6.3 Qwest will maintain the most current version of the CMP Document on its wholesale website. In CMP, incorporating a change into

the CMP Document requires unanimous agreement using the Voting Process currently set forth in Section 17.0 of Exhibit G. Modifications to the CMP Document will be incorporated as part of this Agreement, and will not require the execution or filing of any Amendment to this Agreement, only if the vote to change the CMP Document is unanimous and CLEC both participates in the vote and votes "Yes" to all aspects of the modification(s).

12.1.6.4 **In cases of conflict between changes implemented through CMP and this Agreement, the rates, terms and conditions of this Agreement shall prevail as between Qwest and CLEC.**<sup>28</sup> In addition, if changes implemented through CMP do not necessarily present a direct conflict with this Agreement, but would abridge or expand the rights of a Party to this Agreement, the rates, terms and conditions of this Agreement shall prevail as between Qwest and CLEC. Nothing in Exhibit G alters this Section 12.

## 12.2 Pre-Ordering, Ordering, and Provisioning

12.2.1 **(former 12.2.1.9)** Qwest will provide access to **Pre-Ordering**<sup>29</sup>, Ordering and **post-ordering functions**<sup>30</sup>, **including order status**<sup>31</sup>. CLEC will populate the service request (e.g., Local Service Request or Access Service Request) to identify what features, services, or elements it wishes Qwest to provision in accordance with this Agreement and, to the extent not inconsistent with this Agreement, Qwest's published business rules.

12.2.2 **Service Requests: Qwest offers various ordering methods to submit service requests for products and services under this Agreement. Before submitting such requests, the Parties will follow the procedures set forth in Section 3. Electronic access can be accomplished using Dial-up capability using CLEC's local computer, direct connection via a dedicated circuit (EDI or EXACT), or web access (GUI). Products and services may be ordered using Local Service Requests (LSRs), Access Service Requests (ASRs), or other forms, as described below.**<sup>32</sup>

12.2.2.1 Local Service Requests **(former 12.2.1.1 – 12.2.1.3)**: CLEC may choose to submit Local Service Requests (LSRs) manually or electronically, via Qwest's Electronic Data Interchange (EDI) tool or Qwest's web based Graphical User Interface (GUI).

12.2.2.1.1 **(former 12.2.1.2)** The interface guidelines for EDI are based upon the Order & Billing Forum (OBF) Local Service Order

<sup>28</sup> Qwest Wholesale Website: Qwest CMP Document 12/11/2003

<sup>29</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

<sup>30</sup> Qwest Wholesale Website: Provisioning and Installation Overview V32.0

<sup>31</sup> Qwest Wholesale Website: Ordering Overview V44.0

<sup>32</sup> Qwest Wholesale Website: Qwest Interconnect OSS Electronic Access

Guidelines (LSOG), the Telecommunication Industry Forum (TCIF) Customer Service Guidelines; and the American National Standards Institute/Accredited Standards Committee (ANSI ASC) X12 protocols. Exceptions to the above guidelines/standards shall be specified in the disclosure documentation.

12.2.2.1.2 (former 12.2.1.3) The GUI shall provide a single interface for Pre-Order, Order and **Post-Order**<sup>33</sup> transactions from CLEC to Qwest and is browser based. The GUI interface shall be based on the LSOG and utilizes a WEB standard technology, Hyper Text Markup Language (HTML), JAVA and the Transmission Control Protocol/Internet Protocol (TCP/IP) to transmit messages. Exceptions to the above guidelines/standards shall be specified in the disclosure documentation.

**12.2.2.1.3 Relating Service Requests and Managed Projects: Related service requests and/or projects include any request for service by a single CLEC resulting in the issuance of multiple service requests that must be worked simultaneously for the request to be completed. If the related service requests constitute a project, each service request must have an assigned Project ID on the LSR form, and a Qwest Project Manager/Coordinator will monitor the project. A Qwest Service Manager will work with CLEC to negotiate projects on an individual case basis. If the related service requests do not constitute a project, the Qwest support center (e.g., ISC) will coordinate processing of the requests. Related requests may be assigned a Related Purchase Order Number (RPON) or Related Order (RORD) number.**<sup>34</sup>

**12.2.2.1.4 Consolidation, Deconsolidation, and Rearrangement of LSRs *Id.***

**12.2.2.1.4.1 CLEC may convert or consolidate multiple existing accounts residing on separate Qwest Customer Service Records (CSRs) on a single LSR if all accounts will be converted to, or added to, the same account for the same End User Customer at the same address. Qwest will accept one LSR with up to 20 account numbers that may currently reside on separate CSRs. The process to consolidate or convert multiple accounts onto a single account using one LSR will be available at least when consolidating or converting from Qwest Retail, Resale, Unbundled Network Elements-Platform (UNE-P) POTS, or UNE-P Centrex 21 to Resale POTS, UNE-P POTS, Resale Centrex 21, or UNE-P Centrex 21. CLEC may request both the Qwest Voice and Qwest Data services at the same time on one LSR. This**

<sup>33</sup> Qwest Wholesale Website: IMA User Guide.

<sup>34</sup> Qwest Wholesale Website: Ordering Overview V44.0

**request will be provided to the CLEC at no additional charge.**  
*Id.*

**12.2.2.1.4.2 The process to deconsolidate a single account into multiple accounts using one LSR will be available at least if the end result involves like products and services and the End User Customer's address is not changing. If deconsolidation of an account involves splitting an existing account into more than one account with different product types, CLEC must issue a separate LSR for each additional new account established. In such cases, the LSRs may be related via a RPON. *Id.***

12.2.2.1.5 Additional terms regarding LSRs are set forth below and, for Unbundled Network Elements (UNEs), in Section 9.

12.2.2.2 **Access Service Requests: Wholesale Interconnection products and services, such as Local Interconnect Services (LIS)<sup>35</sup>, Unbundled Dark Fiber (UDF)<sup>36</sup>, Unbundled Dedicated Interoffice Transport (UDIT)<sup>37</sup>, and private line transport service are ordered using Access Service Request (ASR) forms.**

12.2.2.2.1 **CLEC may choose to submit ASRs manually or electronically.**<sup>38</sup>

12.2.2.2.2 **(former 12.2.1.6.1) Qwest shall provide a GUI and computer-to-computer batch file interface for submission of Access Service Request (ASRs) based upon the OBF Access Service Order Guidelines (ASOG). Qwest shall supply exceptions to these guidelines in writing in sufficient time for CLEC to adjust system requirements. The GUI shall provide a single interface for Pre-Order and Order transactions from CLEC to Qwest and is browser based.**<sup>39</sup>

12.2.2.2.2.1 **Qwest's Telecommunications Information Access Ordering Systems (TELEcommunication Information System (TELIS) - UNIX) will allow CLEC to electronically submit ASRs at least to request trunking and facilities between CLEC and Qwest for LIS.**<sup>40</sup>

12.2.2.2.2.2 **Qwest's Online Request Application (QORA)**

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<sup>35</sup> Qwest Wholesale Website: Local Interconnection Service (LIS) V13.0

<sup>36</sup> Qwest Wholesale Website: Unbundled Dark Fiber (UDF) V17.0

<sup>37</sup> Qwest Wholesale Website: Unbundled Dedicated Interoffice Transport (UDIT).

<sup>38</sup> Qwest Wholesale Website: Ordering Overview V44.0

<sup>39</sup> Qwest Wholesale Website: QORA User Guide 1.01

<sup>40</sup> Qwest Wholesale Website: Qwest Interconnect OSS Electronic Access V19.0



**will allow CLEC to use a Graphical User Interface (GUI) to electronically submit ASRs at least to request trunking and facilities between CLEC and Qwest for LIS. *Id.***

12.2.2.2.3 Additional terms regarding ASRs are set forth below and, for Interconnection, in Section 7.4 and, for UNEs, in Section 9.

#### 12.2.2.3 Other Requests

12.2.2.3.1 Collocation and Poles, Ducts and Right of Way are not ordered using LSRs or ASRs. Ordering of these products and services is described in Sections 8 and 10, respectively.

### 12.2.3 Supplements and Canceled Service Requests <sup>41</sup>

12.2.3.1 CLEC may submit a supplement to a LSR or ASR (known as a “supplement” or “supplemental order”) that serves as a request to cancel or to add or change an already existing, previously submitted LSR or ASR. *Id.*

12.2.3.2 Qwest will not charge CLEC for submitting a supplement or canceling or resubmitting a service request. *Id.*

12.2.3.3 Qwest will accept a verbal supplement change request to LSRs for one of the following reasons: Connecting Facility Assignment (CFA) or slot change on the due date; due date change on the due date (except for LNP); system outages for CLEC or Qwest when the supplement could not be electronically submitted; when any of the service orders related to an LSR are completed; and cancel on a due date or cancellations pertaining to the work back process. For Unbundled Loop, verbal CFA or slot changes may be made up to three days prior to the due date. *Id.*

12.2.3.3.1 When a Due Date (DD) supplement or cancel cannot be submitted due to a system outage, Qwest will accept verbal requests submitted to the applicable support center. After restoration of the system, CLEC will submit an LSR supplement for the DD change or cancel that was processed verbally. *Id.*

#### 12.2.4 Pre-Ordering Real Time Functions (former 12.2.1.4)

12.2.4.1 (former 12.2.1.4) Qwest will provide real time, electronic access to pre-order functions to support CLEC’s Ordering via the electronic interfaces described herein. Qwest will make at least the following real time pre-order functions available to CLEC:

12.2.4.1.1 (former 12.2.1.4.1) For LSRs, features, services and Primary Interexchange Carrier (PIC) options for IntraLATA toll and InterLATA toll available at a valid service address;

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<sup>41</sup> Qwest Wholesale Website: Ordering Overview V44.0

12.2.4.1.1.1 **Service availability functionality will allow CLEC to confirm the products, services, and/or long distance carriers offered in a specific Qwest Central Office (CO).**<sup>42</sup> If Qwest or CLEC identifies an error in the verification of CLEC's information, Qwest will correct the CLEC's service availability information within 48 hours.

12.2.4.1.2 (former 12.2.1.4.2) For LSRs, access to Customer Service Records (CSRs) for End User Customers on Qwest's network (e.g., resale, UNE-P, or Qwest retail customers). The information will include Billing name, service address, Billing address, service and feature subscription, Directory Listing information, and long distance Carrier identity;

12.2.4.1.2.1 **Qwest will update a CSR and make it available to CLEC within three (3) to five (5) business days of date service order activity completed in Qwest's systems.**<sup>43</sup> To ensure Qwest meets this interval, Qwest will complete error resolution activities on the first day that the error occurs.

12.2.4.1.2.2 **If CLEC identifies incorrect information on the Qwest CSR, Qwest will correct the information in the CSR at CLEC's request.**<sup>44</sup>

12.2.4.1.2.3 **For Qwest CSRs that contain multiple telephone lines, the Qwest CSR will identify which line each Universal Service Order Code (USOC) is associated with by listing the TN as Field Identifier (FID) detail following the individual USOC. CSRs that contain only one line generally do not contain the TN FID detail following the individual USOC. All USOCs in the single line account are associated with the TN contained in the account number.**<sup>45</sup>

12.2.4.1.2.4 **CLEC may choose to request a CSR from the ISC. If so, Qwest will provide the requested CSR within 3 business days of CLEC's request to Qwest.** *Id.*

12.2.4.1.3 (former 12.2.1.4.3) For LSRs, Telephone Number (TN) request and selection;

<sup>42</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

<sup>43</sup> Qwest Wholesale Website: Billing Information – Customer Records and Information System (CRIS) V23.0

<sup>44</sup> Qwest Wholesale Website: Ordering Overview V45.0

<sup>45</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

**12.2.4.1.3.1 CLEC may request TNs real time for at least the following: new service; a new line on existing service; change of a telephone number; and custom (also known as vanity) telephone numbers. Qwest will provide TNs that are available to CLEC. *Id.***

**12.2.4.1.3.2 TNs the CLEC accepts, including custom numbers, must be submitted to Qwest on an LSR within 30 calendar days from acceptance or the TNs will be returned to the TN database. *Id.***

12.2.4.1.4 (former 12.2.1.4.4) For LSRs, information regarding whether dispatch is required for service installation and available installation appointments;

**12.2.4.1.4.1 A dispatch appointment is required when the real-time facility availability response indicates a technician dispatch is needed for a new line installation or other physical work at the wire center or the End User Customer's premises.<sup>46</sup>**

12.2.4.1.5 (former 12.2.1.4.5) For LSRs, reservation of appointments for service installations requiring the dispatch of a Qwest technician on a non-discriminatory basis;

**12.2.4.1.5.1 CLEC can select the date and time of the first available appointment or the appointment the CLEC would like to have (if available) when Qwest requires a Qwest technician be dispatched for premises or non-premises work.<sup>47</sup>**

**12.2.4.1.5.2 CLEC can override an appointment for a coordinated hot cut in the Qwest appointment scheduling tool when the date and time desired for the coordinated hot cut is not available and the requested date and time is within the interval in Exhibit C and not outside Qwest's business hours.<sup>48</sup>**

**12.2.4.1.5.3 Appointments reserved via the Qwest appointment scheduling tool will remain in effect for 24 business hours.<sup>49</sup>**

12.2.4.1.6 (former 12.2.1.4.6) For LSRs and ASRs, service

<sup>46</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

<sup>47</sup> Qwest Wholesale Website: Interconnect Mediated Access V15.0 User Guide

<sup>48</sup> Qwest Wholesale Website: Local Service Request (LSR) LSOG 6 Preparation Guide V42.0

<sup>49</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

address verification;

**12.2.4.1.6.1 Validating the End User Customer's address confirms that the service address is serviced by Qwest and is valid in Qwest's databases. Service address information includes street number prefix; street number; street number suffix; street directional prefix (e.g., North, South, etc.); street name; street thoroughfare designation (e.g., St., Ave., Hwy, etc.); street directional suffix (e.g., North, South, etc.); descriptive or unnumbered addresses such as route numbers, Unit or Apartment number, Room, Floor, or Building; city (e.g., village, township, etc.); state; and ZIP/Postal Code.**<sup>50</sup>

**12.2.4.1.6.2 If, while performing an address validation, CLEC identifies that the End User Customer's address is invalid, CLEC will notify Qwest and Qwest will correct or add the address information within its system(s). Qwest will request the service address information to process an address correction and, if applicable, will provide at least the following information to CLEC: Numbering Plan Area/Numeric Numbering Plan (NPA/NXX) of the serving wire center; correct spelling of the street address; service availability (e.g., call waiting); Primary Interexchange Carrier (PIC) availability.**<sup>51</sup>

**12.2.4.1.7 (former 12.2.1.4.7) For LSRs, facility availability; Loop qualification to verify if the facility can handle the type and volume of the line requested, including resale-DSL, Integrated Service Digital Network-Basic Rate Interface (ISDN-BRI); and and Unbundled ADSL Compatible Loop; and Loop make-up information, including Loop length, presence of Bridged Taps, repeaters, and loading coils.**

**12.2.4.1.7.1 Facility availability functionality is available when the service request involves new line(s), loop(s) or circuit(s) for at least the following services:**<sup>52</sup>

**12.2.4.1.7.1.1 Non-POTS services (e.g., Centrex services, Private Lines, etc.) and High Capacity Signal (HICAP): Display the number of circuits and lines, class of service, assignable USOCs, appropriate service code, and location of any Multiplexers (MUXs).**  
*Id.*

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<sup>50</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

<sup>51</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

<sup>52</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

**12.2.4.1.7.1.2 Converting POTS to Unbundled Loop: List loop characteristics for Unbundled Loop service when migrating from one Local Exchange Carrier to another. *Id.***

**12.2.4.1.7.1.3 Plain Old Telephone Service (POTS) Facility Availability: Show the number and status of working lines at a location. *Id.***

**12.2.4.1.7.1.4 Raw Loop Data: Retrieve Raw Loop Data by segments and sub-segments. *Id.***

**12.2.4.1.7.1.5 Integrated Digital Services Network (ISDN). *Id.***

12.2.4.1.7.2 Terms relating to Qwest's Loop qualification tools are set forth in Section 9.2.2.8.

12.2.4.1.8 (former 12.2.1.4.8) For LSRs and ASRs, a list of valid available Connecting Facility Assignments (CFAs), including both available and assigned connecting facilities.<sup>53</sup>

12.2.4.1.9 (former 12.2.1.4.9) For LSRs, a list of one to five (1-5) individual Meet Points or a range of Meet Points for shared Loops; and

12.2.4.1.10 (former 12.2.1.4.10) Feature availability information.

## **12.2.5 Migration/Conversion Ordering Activity on New or Existing Accounts**

**12.2.5.1 Migrations and conversions are terms used interchangeably when an End User Customer moves from one Local Service Provider (LSP) to another. The term LSP describes the company that provides local services to the End User Customer. CLEC or Qwest may be an End User Customer's LSP in a migration or conversion scenario. Full Migration occurs when all services/lines contained on the Customer Service Record (CSR) and billed to the Old LSP (OLSP) under a primary telephone number or account telephone number are migrating to the New LSP (NLSP) and no services/lines remain on the OLSP account under that account telephone number. Partial Migration occurs when a portion of the End User Customer's services/lines billed to the OLSP under a single account telephone number are being migrated and one or more services/lines remain with the OLSP under that account telephone number.**<sup>54</sup>

<sup>53</sup> Qwest Wholesale Website: Pre-Ordering Overview V27.0

<sup>54</sup> Qwest Wholesale Website: Migrations and Conversion Overview V14.0

**12.2.5.2 CLEC may order, and Qwest will process, at least the following types of migrations:**

**12.2.5.2.1 Bundled to bundled conversions, including Qwest Retail to Resale or UNE Combination; Resale to Resale; Resale to UNE-P; UNE-P to Resale; and UNE Combination to UNE Combination.**<sup>55</sup>

**12.2.5.2.2 Bundled to Unbundled conversions, including: Qwest Retail, Resale, or UNE-P to Unbundled Local Loop (with or without LNP). This involves reusing the loop facility and retaining the End User Customer's telephone number via LNP, if applicable.** *Id.*

**12.2.5.2.3 Unbundled to Bundled, including Unbundled Local Loop to Resale or UNE-P (with or without LNP); and Unbundled Local Loop to Qwest Retail (with LNP). This involves reusing the loop facilities and retaining the End User Customer's telephone number via LNP, if applicable.** *Id.*

**12.2.5.2.4 Unbundled to Unbundled, including Unbundled Local Loop to Unbundled Local Loop. Unbundled Local Loop to Unbundled Local Loop migration refers to the change of responsibility or coordination of loop reuse for unbundled local Loops from the OLSP to a NLSP.** *Id.*

**12.2.5.2.5 Port In, including same location/End User Customer not moving, new location/End User Customer moving, End User Customer moving to new location served by existing provider, and End User Customer moving to new location served by existing provider with new facilities.** *Id.*

**12.2.5.2.5.1 A wholesale "Port In" is when a Resale, UNE-P or Public Access Line (PAL) provider requests that its End User Customer's Telephone Numbers (TNs) be ported from any CLEC switch into a Resale, UNE-P or PAL provider service to be served by a Qwest switch. The Resale or UNE-P provider can request re-use of facilities on Port In activity.**<sup>56</sup>

**12.2.5.2.6 Port With In, including transfer of service within a Rate Center (i.e. To & From (T&F)); moving Telephone Numbers TN(s) from one switch to another, within the same Central Office (This is often done when moving DID TN(s) from one trunk group to another when established on different switches.); conversion to Resale/UNE-P and a move request via a single Local Service Request (LSR); changing from RSID to ZCID with Port Within to a new address outside the existing switch but within the same Rate Center. This**

<sup>55</sup> Qwest Wholesale Website: Migrations and Conversion Overview V14.0

<sup>56</sup> Qwest Wholesale Website: Port In V3.0

also includes conversion or transfer of service (change, new activity or T&F) on existing accounts with previously ported TNs and Port FIDs, including conversion (change or new activity) requests from Retail to Resale or UNE-P, Resale to UNE-P, UNE-P to Resale and Resale or UNE-P conversions to different products if out/in activity is created on the previously ported TN and results in a change to another existing account or creates a new separate CSR.<sup>57</sup>

12.2.5.2.6.1 There are two types of Port Within services: (a) Port Within (Service Type Portability), which is the ability to retain the same telephone number(s) when changing from one local service to another, such as from Plain Old Telephone Numbers (POTS) to Integrated Services Digital Network (ISDN) (The service address is not changing and is within the same Rate Center.); and (b) Port Within (Location Portability), which is the ability to retain the same telephone number(s) when moving from one service location to another. *Id.*

12.2.5.3 Qwest allows End User Customers to migrate their service from one LSP to another, regardless of their credit status with the current LSP. This means that Qwest does not prevent an End User Customer with an unpaid bill or credit problem with one provider (including Qwest) from migrating their service to another provider. The previous provider is responsible for collecting any balance due them.<sup>58</sup>

12.2.5.4 A Courtesy Disconnect is a request by a CLEC to disconnect an account that does not belong to it, as part of a migration scenario. Typically, the CLEC has already provisioned new service for the End User Customer and is now requesting a disconnect for the End User Customer's old service with another provider. The account may be Retail, Resale, or UNE-P. The LSP for the service to be disconnected may be another CLEC or Qwest. Qwest will accept Courtesy Disconnects for the following telephone number based products: (a) Plain Old Telephone Service (POTS); (b) Centrex; and (c) Integrated Services Digital Network (ISDN). Qwest will also accept Courtesy Disconnects on a T1 (Digital Signal level 1 (DS1)) for Digital Switched Services (DSS), Primary Rate Service (PRS), Uniform Access Solution (UAS) Service, and integrated T1 products when a Related Purchase Order Number (RPON) is submitted to disconnect all associated trunks and Direct Inward Dialing (DID) station numbers. *Id.*

12.2.5.5 When possible, Qwest will re-use facilities for an Unbundled Local Loop associated with migration/conversion activity. *Id.* See Section 12.3.5.)

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<sup>57</sup> Qwest Wholesale Website Port Within V3.0

<sup>58</sup> Qwest Wholesale Website: Migrations and Conversions Overview V14.0

**12.2.5.6 Qwest will provide a Port In and Port Within pre-completion call process. This process will provide advanced notice to CLEC when Qwest dispatches a technician on such an order. Qwest will place the call notification to CLEC, at a telephone number provided by CLEC, upon dispatch to the premise.<sup>59</sup>**

## **12.2.6 Application Date<sup>60</sup>**

**12.2.6.1 The date on which a Party receives a complete and accurate service request from the other Party is known as the Application Date. *Id.***

**12.2.6.2 CO: For applicable products, if a complete and accurate request is received before 3:00 p.m. Mountain Time (MT), the Application Date is the same day as the request is received. Anything received after 3:00 p.m. MT utilizes an APP of the next business day. *Id.***

**12.2.6.3 CO: For applicable products, if a complete and accurate request is received before 7:00 p.m. Mountain Time (MT), the APP Date is the same day as the request is received. Anything received after 7:00 p.m. MT utilizes an APP of the next business day. *Id.***

**12.2.6.4 CO: Certain requests may be eligible for a same-day due date. To be eligible for a same day due date a complete and accurate request must be received before 12p.m. Mountain Time. *Id.***

**12.2.6.2 MN: For applicable products, if a complete and accurate request is received before 4:00 p.m. Central Time (CT), the Application Date is the same day as the request is received. Anything received after 4:00 p.m. CT utilizes an APP of the next business day. *Id.***

**12.2.6.3 MN: For applicable products, if a complete and accurate request is received before 8:00 p.m. Central (CT), the APP Date is the same day as the request is received. Anything received after 8:00 p.m. CT utilizes an APP of the next business day. *Id.***

**12.2.6.4 MN: Certain requests may be eligible for a same-day due date. To be eligible for a same day due date a complete and accurate request must be received before 1p.m. Central Time. *Id.***

**12.2.6.2 WA: For applicable products, if a complete and accurate request is received before 2:00 p.m. Pacific Time (PT), the Application Date is the same day as the request is received. Anything received after 2:00 p.m. PT utilizes an APP of the next business day. *Id.***

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<sup>59</sup> Qwest Wholesale Website: Port In V3.0 and Port Within V3.0

<sup>60</sup> Qwest Wholesale Website: Qwest Service Interval Guide (SIG) V31.0



**12.2.6.3 WA: For applicable products , if a complete and accurate request is received before 6:00 p.m. Pacific Time (PT), the APP Date is the same day as the request is received. Anything received after 6:00 p.m. PT utilizes an APP of the next business day. *Id.***

**12.2.6.4 WA: Certain requests may be eligible for a same-day due date. To be eligible for a same day due date a complete and accurate request must be received before 11a.m. Pacific Time. *Id.***

## 12.2.7 Order Status Notices

**12.2.7.1 Qwest will provide order status notices to CLEC. Qwest will send CLEC such notices via the same method CLEC used to submit the service request. If CLEC used a mechanized tool, CLEC may refer to that tool to receive, access, or view jeopardy notices, FOCs, PSONs, rejects, LSR status and status updates.**<sup>61</sup>

**12.2.7.2 Qwest will provide at least the following order status notices on a non-discriminatory basis:**

**12.2.7.2.1 Firm Order Confirmations.** When CLEC places an electronic order (LSR, ASR, or supplemental order), Qwest will provide CLEC with an electronic Firm Order Confirmation (FOC) notice. The FOC will follow industry-standard formats and contain the Qwest Due Date for order completion. Intervals for FOCs are set forth in Exhibit C.

**12.2.7.2.2 Provider Initiated Activity Notice.** Qwest will send CLEC a Provider Initiated Activity (PIA) notice (the predecessor of which was known as the Change Flag (CFLAG)), to communicate agreed upon changes in limited circumstances when Qwest makes changes on the service order that are different from what CLEC requested on the original service request or supplement.<sup>62</sup>

**12.2.7.2.2.1 When the PIA/CFLAG field is marked on the confirmation notice, Qwest will populate the Remarks section of that notice with text indicating any deviations from the original CLEC request. *Id.***

**12.2.7.2.3 Pending Service Order Notification.** At the time that Qwest issues or changes the service orders associated with the CLEC LSR, Qwest will issue a Pending Service Order Notification (PSON) to CLEC. The PSON will provide CLEC with information that appears on the Qwest service order, including the USOCs and FIDs in the service order's Service and Equipment (S&E) and listings sections. If any of that service order information is omitted from the PSON, Qwest will return a message on the PSON indicating service order

<sup>61</sup> Qwest Wholesale Website: Interconnect Mediated Access V15.0 User Guide

<sup>62</sup> Qwest Wholesale Website: Provisioning and Installation Overview V34.0

information is not available via PSON. CLEC may call the Qwest support center to obtain that information. The PSON will be available via GUI (Graphical User Interface) and EDI (Electronic Data Interchange). *Id.*

**12.2.7.2.4 Jeopardy Notices. A jeopardy, caused by either CLEC or Qwest, endangers completing provisioning and/or installation processes and impacts meeting the scheduled due date of CLEC service request. The purpose of the jeopardy notification process is to identify jeopardy conditions to CLEC that impact meeting the scheduled due date of CLEC service requests. The sequence of sending a jeopardy notification and/or a FOC may change depending on when a jeopardy condition is identified. *Id.***

12.2.7.2.4.1 (former 12.2.1.9.4) When CLEC places an electronic order, Qwest shall provide notification electronically of any instances when Qwest's Committed Due Dates are in jeopardy of not being met by Qwest on any service. The standards for returning such notices are set forth in Section 20, Exhibit B and/or Exhibit K.

12.2.7.2.4.2 (former 12.2.1.9.5) When CLEC places a manual order, Qwest shall provide notification of any instances when Qwest's Committed Due Dates are in jeopardy of not being met by Qwest on any service. The standards for returning such notices are set forth in Section 20, Exhibit B and/or Exhibit K.

12.2.7.2.4.3 (former 12.3.16.1) CLEC may telephone Qwest Maintenance and Repair support centers or use the electronic interfaces to obtain jeopardy status.

**12.2.7.2.4.4 A jeopardy caused by Qwest will be classified as a Qwest jeopardy, and a jeopardy caused by CLEC will be classified as Customer Not Ready (CNR).<sup>63</sup>**

12.2.7.2.4.4.1 Qwest will not characterize a jeopardy as CNR or send a CNR jeopardy to CLEC if a Qwest jeopardy exists and Qwest has not sent an FOC notice to CLEC after the Qwest jeopardy occurs but before the CNR situation arises (i.e., a subsequent FOC). If Qwest does jeopardize the service request with a CNR jeopardy in error before sending CLEC a subsequent FOC, Qwest will remove the CNR jeopardy from the service request, work with CLEC to complete the order, and re-classify the jeopardy as a Qwest (not CNR) jeopardy.

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<sup>63</sup> Qwest Wholesale Website: Provisioning and Installation Overview V34.0

12.2.7.2.4.4.2 If CLEC establishes to Qwest that a jeopardy was not caused by CLEC, Qwest will correct the erroneous CNR classification and treat the jeopardy as a Qwest jeopardy.

**12.2.7.2.5 Non-Fatal Error Notices. Non-Fatal Errors are error conditions identified on a LSR form that the Qwest ISC Agent may be able to correct, with CLEC approval, to allow the order to proceed without rejection. When a Non-Fatal Error is identified, Qwest will send CLEC an error notice (unless CLEC indicates otherwise) advising CLEC that action is required to correct the condition. Examples of Non-Fatal Errors include near match of Centrex information (e.g., Common Block), missing fields (except those which result in a rejection without a call), initiator telephone or fax number missing.<sup>64</sup>**

**12.2.7.2.5.1 To resolve the error condition, CLEC must submit a supplemental order correcting the missing or incorrect information within 4-business hours of receipt of the Non-Fatal Error notice or Qwest will reject the LSR. *Id.***

**12.2.7.2.5.2 If Qwest's systems do not allow CLEC to supplement order within the 4-business hour period, Qwest will accept a verbal supplement. *Id.***

**12.2.7.2.6 Fatal Rejection Notices. Qwest will send CLEC notices of Fatal Rejections, also known as Fatal Errors, when Qwest does not have enough data, or the correct data, to accurately process the CLEC service request. In some cases, Qwest's systems will not allow CLEC to submit a service request if data is missing (such as through use of up-front edits). If Qwest's systems allow CLEC to submit the service request without sufficient or correct data necessary to accurately process the CLEC service request, however, Qwest will send CLEC a Fatal Reject notice. The Fatal Reject notice will include the action CLEC was requesting, the problem(s) encountered, and a description of the next steps that CLEC may take to address those problems.<sup>65</sup> If a problem is not apparent at the time Qwest sends the Fatal Reject notice, Qwest will send an additional Fatal Reject notice regarding that problem.**

**12.2.7.2.6.1 If CLEC submits an LSR or ASR that contains a Fatal Error and receives a Fatal Reject notice, CLEC will need to resubmit the LSR or ASR to obtain processing of the service request.<sup>66</sup>**

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<sup>64</sup> Qwest Wholesale Website: Ordering Overview V45.0

<sup>65</sup> Qwest Wholesale Website: Ordering Overview V45.0

<sup>66</sup> Qwest Wholesale Website: Ordering Overview V45.0

**12.2.7.2.6.2 If Qwest rejects a service request in error, Qwest will resume processing the service request as soon as Qwest knows of the error. At CLEC's discretion, Qwest will place the service request back into normal processing, without requiring a supplemental order from CLEC and will issue a subsequent FOC to CLEC. The due date will be the original desired due date requested by CLEC on the LSR. *Id***

**12.2.7.2.7 Qwest Rejection Notices Due to Central Office Embargo**

**12.2.7.2.7.1 Qwest may declare a Central Office embargo on certain ordering activity when Qwest must perform switch work that will preclude the processing of service requests while the work is conducted as set forth in Section 12.4.3.12.4. The embargo period will be no longer than necessary to perform such work. For Maintenance and Repair hours for scheduled switch work of this type, see Section 12.4.3.12.8 below.**

**12.2.7.2.7.2 Qwest will notify CLECs, using its event notification process, at least thirty (30) Days in advance of such an embargo. The notice will provide at least the reason for the embargo, the affected Central Office/Switch, and the date(s) of the embargo. If an unplanned equipment failure causes an unanticipated embargo, Qwest will provide notice when it learns of the need for an embargo.**

**12.2.7.2.7.3 Qwest will validate by NPA-NXX or CLLI code that the desired due date (DDD) of service requests does not fall within an embargo period for the specified Central Office/Switch. If DDD falls within an embargo period, Qwest will send a Fatal Reject notice to CLEC. The notice will state that the CLEC DDD is during an embargo period for the Central Office, provide the date on which the embargo ends, and indicate that CLEC may select a due date on or after that date.<sup>67</sup>**

**12.2.7.2.7.3.1 The following products will be excluded from such a rejection: Unbundled Loop, Unbundled Feeder Loop, Unbundled Distributed Loop, Loop/Number Portability, Unbundled Distributed Loop with Number Portability, LNP, and INP. *Id.***

**12.2.7.2.7.3.2 There will be no Fatal Rejects for Central Office Embargoes for the following types of activities: Disconnects, Line Activity, Outside Moves, Change Order to Remove Record Activity Order, and Change Order to Deny or Restore Service. *Id.***

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<sup>67</sup> Qwest Wholesale Website Ordering Overview V45.0

#### 12.2.7.2.8 Completion Notices

12.2.7.2.8.1 (former 12.2.1.9.3) Upon completion of the order, Qwest will provide CLEC with a Completion Notice (CN), also referred to as "Completion Response," that follows industry-standard formats and which states when the order was completed. Qwest will provide CLEC with two (2) separate completion notices: 1) service order completion (SOC), which notifies CLEC that the service order record has been completed, and 2) Billing completion, which notifies CLEC that the service order has posted to the Billing system.

12.2.7.2.8.2 **A completion notice is meant to indicate that Qwest has completed the work requested by CLEC.**<sup>68</sup>

12.2.7.2.8.3 If an error occurs and a completion notice has been sent and work has not been completed, the Party discovering the error will notify the other Party and work cooperatively to correct the error.

#### 12.2.8 Additional Status Information

12.2.8.1 **In addition to the order status notices identified above which are sent to CLEC, CLEC may view those notices electronically via GUI, if CLEC submitted the LSR electronically.**<sup>69</sup>

12.2.8.2 **During processing of a service request submitted electronically, Qwest will maintain and make available to CLEC a status indicator stating the status of the service request. The status indicators for LSRs include at least the statuses, when applicable, of submitted, in review (for manually processed orders), errored, partial, issued, rejected, completed, canceled, jeopardy, and posted to be billed.**<sup>70</sup> **The status indicators for ASRs include at least the statuses, when applicable, of submitted, accepted, confirmed, rejected, acknowledged, and canceled.**<sup>71</sup>

12.2.8.3 **Qwest will also provide to CLEC, for LSRs submitted electronically, status update functionality that displays status messages for LSRs and related service orders. The status messages are provided in**

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<sup>68</sup> Qwest Wholesale Website: Completion Notice (CN) LSOG 6 Preparation Guide V9.0

<sup>69</sup> Qwest Wholesale Website: Interconnect Mediated Access V15.0 User Guide

<sup>70</sup> Qwest Wholesale Website: Interconnect Mediated Access V15.0 User Guide

<sup>71</sup> Qwest Wholesale Website: ASR QORA User Guide V1.01

**addition to LSR notices. The display will represent a snapshot of statuses at a particular moment and may change rapidly.**<sup>72</sup>

### 12.2.9 Design Layout Record

12.2.9.1 **(former 9.13.4.2)** Qwest will provide Design Layout Reports (DLR) in a non-discriminatory manner.

12.2.9.2 **(former 12.2.1.4.10)** Design Layout Record (DLR) provides the layout for the local portion of a circuit at a particular location where applicable. **Qwest shall provide real time, electronic access to DLR query functions to CLEC. Qwest provides this access at least via EDI, GUI, CEMR, and the Qwest Design Service Order Status (DSOS) web-based application for LSRs and CEMR and DSOS for ASRs. CLEC will be able to view, retrieve and print DLRs at CLEC desktop.**<sup>73</sup>

12.2.9.3 **The DLR will provide the technical details of the circuit's facilities and termination provided by Qwest. CLEC can use this technical information describing the facilities, such as cable make-up, carrier channel bank type and system mileage, and signaling termination compatibility (along with CLEC's own termination details), to design and connect CLECs End User Customer's service.** *Id.*

### 12.3 Ordering, Provisioning and Installation

12.3.1 **Qwest will provision UNEs, UNE Combinations, Resale, and Interconnection products and services in compliance with industry standard Performance and Acceptance Testing and in accordance with industry specifications, interfaces and parameters.**<sup>74</sup>

12.3.2 Qwest will install CLEC's services up to the Demarcation Point.

12.3.2.1 If Qwest fails to tag the line or circuit at the Demarcation Point (see Section 12.4.3.6.3), **Qwest will provide information indicating the location of the line or circuit to CLEC, in sufficient detail that CLEC may reasonably locate the line or circuit at the Demarcation Point (e.g., accurate binding post information). If Qwest is unable to provide such information or Qwest provides it and CLEC is unable to locate the line or circuit at the Demarcation Point and CLEC notifies Qwest of this fact within 30 Days of service order completion, Qwest will dispatch a technician and tag circuit or line at no charge to CLEC.**<sup>75</sup>

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<sup>72</sup> Qwest Wholesale Website: Interconnect Mediated Access V15.0 User Guide

<sup>73</sup> Qwest Wholesale Website: Provisioning and Installation Overview V32.0

<sup>74</sup> Qwest Wholesale Website: Provisioning and Installation Overview V32.0

<sup>75</sup> Qwest Wholesale Website: Maintenance and Repair Overview V26.0

12.3.2.2 **If Qwest fails to tag the Demarcation Point, is unable to provide such information to CLEC, and a condition affecting the End User Customer's service exists, Qwest will tag the line or circuit at the Demarcation Point *Id.* within 24 hours of CLEC request for Non-POTS services and within 4 hours of CLEC request for POTS services.**

**12.3.3 Unbundled Loop Elements. (Provisioning options for Unbundled Loop elements are set forth in Section 9.2.2.9.)**

12.3.3.1 **For Coordinated Installation requests on a 2-Wire or 4-Wire Analog (Voice Grade) Loop, Qwest will verify dial tone at CLEC Connecting Facility Assignment (CFA) 48 hours after the Application Date. If Qwest finds No Dial Tone (NDT), Qwest will retest 48 hours prior to Due Date. If dial tone is still not present, Qwest will email the NDT results to CLEC through Qwest's Provider Test Access (PTA) email system. Qwest will include the CLEC CFA information with the No Dial Tone (NDT) email notification.<sup>76</sup>**

12.3.3.2 **If Qwest fails to email the NDT notification to CLEC 24 hours before the due date, Qwest will not require a supplement to the service request with a new Due Date. Qwest will reschedule at a mutually agreed upon time for the same day with CLEC. If rescheduling for the same day is not possible, this will result in a Qwest Jeopardy. *Id.***

12.3.3.3 **CLEC may change the CLEC CFA on the Due Date during a Coordinated Installation when Qwest and CLEC have determined there is an issue with the CLEC CFA (known as "same day pair changes"). CLEC will assign a new CFA and communicate the new CFA to the Qwest tester. Qwest will confirm the CFA is valid and indicate the new CFA on the Qwest service order. Qwest will send CLEC an updated FOC with the new CFA.<sup>77</sup>**

12.3.3.4 **When CLEC requests a Coordinated Installation and the CLEC End User Customer has Qwest Retail, Resale, UNE-P or Volume Provider DSL, Qwest will not disconnect the End User Customer's DSL service until the Frame Due Time requested by CLEC on the LSR.<sup>78</sup>**

**12.3.4 Qwest Resale and UNE-P Digital Subscriber Line**

12.3.4.1 **Qwest will perform line moves, Universal Digital Carrier (UDC) removal and line conditioning for Qwest Resale DSL services. If a line move or UDC removal is required, no authorization is required by CLEC, and Qwest will perform the line move or UDC removal within the interval in Exhibit C. Qwest will use line move or UDC removal before using line conditioning as an option to provide Qwest DSL to CLEC.<sup>79</sup>**

<sup>76</sup> Qwest Wholesale Website: Unbundled Local Loop – 2 Wire or 4 Wire Analog (Voice Grade) Loop V19.0

<sup>77</sup> Qwest Wholesale Website: Ordering Overview V45.0

<sup>78</sup> Qwest Wholesale Website: Resale Qwest Digital Subscriber Line (Qwest DSL) V21.0

<sup>79</sup> Qwest Wholesale Website: Resale Qwest Digital Subscriber Line (Qwest DSL) V21.0

**12.3.4.2 If line conditioning is required for Qwest Resale or UNE-P DSL services, CLEC may authorize Qwest to perform such line conditioning on the LSR. If conditioning is necessary, and CLEC authorizes Qwest to perform the conditioning, Qwest will perform the line conditioning required to provide the Loop and may send CLEC an FOC with up to a fifteen (15) business day interval. Qwest will provide loop conditioning for Qwest Resale and UNE-P DSL services at no additional charge. *Id.***

### **12.3.5 Reuse of Facilities/Loop Reclamation**

**12.3.5.1 Except as provided in Section 9.2.2.15 with respect to Loop facilities, Qwest will re-use facilities for migration/conversion activity, including migrations to and from Qwest Retail, Resale, or UNE-P.**<sup>80</sup>

### **12.3.6 Held/Delayed Orders Due to Lack of Facilities**

**12.3.6.1 A service request will be delayed when Qwest cannot process a service request by the Due Date due to lack of facilities**<sup>81</sup> as defined in Section X.

**12.3.6.2 If CLEC submits a service request and no facilities are available, as defined in this Agreement, Qwest will send CLEC a jeopardy notice for LSRs and notify CLEC of the jeopardy condition for ASRs. If CLEC submits the ASR electronically and jeopardy notices are available, Qwest will also send a jeopardy notice to CLEC. Qwest will provide detailed information outlining the reason for the jeopardy at the time that Qwest becomes aware of the facilities issue. If Qwest is unable to provide such detailed information in the initial notice to CLEC, Qwest will provide to CLEC, within 72 hours of the initial notice to CLEC, either (1) an FOC with a Due Date, or (2) a subsequent jeopardy notification that contains such detailed information.**<sup>82</sup> The jeopardy is a Qwest jeopardy, and Qwest will indicate on its new service order the Application Date and Due Date from the original CLEC service request for tracking purposes, as well as identify the new Due Date when available. Qwest will track all delayed service requests, communicate all statuses to CLEC, and facilitate closure of delayed orders.<sup>83</sup> Jeopardy and status notices generally are described above in Section 12.2.7. When Qwest sends CLEC a jeopardy notice due to lack of facilities, the following will apply, depending on when the jeopardy notice is sent:

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<sup>80</sup> Qwest Wholesale Website: Migrations and Conversions Overview V14.0

<sup>81</sup> Qwest Wholesale Website: Ordering Overview V45.0

<sup>82</sup> Qwest Wholesale Website: Qwest CMP Change Request PC081403-1 Detail

<sup>83</sup> Qwest Wholesale Website: Ordering Overview V45.0



**12.3.6.2.1 If Qwest sends the jeopardy notice before the Due Date, Qwest will send CLEC an FOC. If Qwest knows the Ready for Service (RFS) date, the FOC will advise CLEC of the Due Date.<sup>84</sup>**

**12.3.6.2.2 If Qwest sends the jeopardy notice on the Due Date, Qwest will call CLEC on the Due Date to notify CLEC of the jeopardy and send CLEC an FOC. If Qwest knows the Ready for Service (RFS) date, the FOC will advise CLEC of the Due Date. *Id.***

**12.3.6.3 Before Qwest sends a jeopardy notice to CLEC due to lack of facilities, Qwest will take steps to investigate potential solution(s) and or option(s) to assign facilities. Qwest will use a mechanized assignment process whenever available.**

**12.3.6.3.1 When facilities cannot be assigned via a mechanized process for copper facilities, Qwest will perform at least the manual steps for assignment of copper facilities set forth in Exhibit M.**

**12.3.6.3.2 For requests that are provisioned over fiber, Qwest will perform at least the steps for assignment of fiber facilities (for DS1 and above) set forth in Exhibit N.**

**12.3.6.4 Multiple Line Service Requests for Which Facilities are Available for Only a Portion of the Lines<sup>85</sup>**

**12.3.6.4.1 If CLEC submits a service request for multiple lines or Loops and, Qwest cannot provision a portion of the lines or Loops due to lack of facilities, as defined in this Agreement, by the Due Date, Qwest will send CLEC a Jeopardy notice as set forth above. *Id.***

**12.3.6.4.1.1 For non-POTS services and Unbundled Local Loop, if CLEC does not respond to the jeopardy notice, all the lines or Loops associated with the service order will be delayed, even though facilities were available for some of them. If CLEC submits a supplemental service request, Qwest will install the lines or Loops that can be provisioned (i.e., for which there are facilities) and the remaining lines or Loops (i.e., for which there are no facilities) will be delayed. *Id.***

**12.3.6.4.1.2 For Analog Switched Services, Qwest will install the lines that can be provisioned (i.e., for which there no facilities) will be delayed. Qwest will also create a new service order for the lines for which there are no facilities.**

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<sup>84</sup> Qwest Wholesale Website Provisioning and Installation Overview V32.0

<sup>85</sup> Qwest Wholesale Website: Provisioning and Installation Overview V32.0

**Qwest will send CLEC a new FOC, PSON Notice, and Jeopardy Notice reflecting the new Qwest service order. *Id.***

12.3.6.5 Qwest will maintain delayed service requests as pending and notify CLEC when facilities become available, as set forth in Section X.

### 12.3.7 Loss and Completion Reports

12.3.7.1 **Loss and Completion Reports provide notice to CLEC when work-order activity impacting CLEC or CLEC End User Customer accounts are completed.**<sup>86</sup>

12.3.7.2 **Qwest will generate Loss and Completion Reports and will send them to CLEC via the CLEC's selected transport medium on a daily basis (e.g., NDM (Direct or Dial-In), Electronic Fax, or by WEB).**<sup>87</sup>

12.3.7.3 Qwest will notify CLEC by Operational Support System interface or by other agreed-upon processes when an End User Customer moves from one CLEC to a different local service provider. As part of such processes, Qwest will provide CLEC each day with accurate and complete Loss and Completion reports showing the previous days loss and completion activity. Qwest will not provide CLEC with the name of the other local service provider selected by the End User Customer. (former 6.4.5).

12.3.7.3.1 (former 12.2.5.2.4) The daily loss report will contain a list of accounts that have had lines and/or services disconnected because of a change in the End User Customers local service provider. **Qwest will issue a loss report when a service order due dated for the previous business day, is completed or canceled in Qwest's service order processor (SOP).**<sup>88</sup> This report will detail the **BTN**, service order number, **PON**, service name and address, the **WTN the activity took place** on and date the service order completed (the date the change was completed). Individual reports will be provided for at least the following list of products:

- a) Resale;
- b) Unbundled Loop;
- c) Unbundled Line-side Switch Port; and
- d) UNE-P (former 12.2.5.2.4)

12.3.7.3.2 (former 12.2.5.2.5) The daily completion report will notify CLEC that the order(s) for the service(s) requested is complete.

<sup>86</sup> Qwest Wholesale Website: Provisioning and Installation Overview V32.0

<sup>87</sup> Qwest Wholesale Website: Loss/Completion Sample Reports Job Aid V4.0

<sup>88</sup> Qwest Wholesale Website: Loss/Completion Sample Reports Job Aid V4.0

**Qwest will issue a completion report when any service order placed on CLEC's account, dated for the previous business day, is completed or canceled in Qwest's service order processor (SOP).<sup>89</sup>**

This includes service orders Qwest generates without an LSR (for example records correction work, TIC or M&R charges). It will detail the **BTN**, service order number, **PON**, service name and address, **the WTN the activity took place on** and date the service order completed (the date the change was completed). Individual reports will be provided for at least the following list of products:

- a) Resale;
- b) Unbundled Loop;
- c) Unbundled Line-side Switch; and
- d) UNE-P (former 12.2.5.2.5)

**12.4 Maintenance and Repair.** Maintenance and Repair processes include trouble screening, isolation, and testing; trouble reporting and trouble status; activities to resolve troubles or perform maintenance work; and trouble closure.

#### **12.4.1 Trouble Screening, Isolation and Testing**

12.4.1.1 (former 12.3.3.5) Before either Party reports a trouble condition, it shall use its best efforts to isolate the trouble to the other Party's facilities. The Parties shall cooperate in isolating trouble conditions.

12.4.1.2 (former 12.3.17.2) Qwest will cooperate with CLEC to show CLEC how Qwest screens trouble conditions in its own centers, so that CLEC may choose to employ similar techniques in its centers.

12.4.1.3 (former 12.3.4.1) CLEC is responsible for its own End User Customer base and will have the responsibility for resolution of any service trouble report(s) from its End User Customers. CLEC will perform trouble isolation on services it provides to its End User Customers to the extent the capability to perform such trouble isolation is available to CLEC, prior to reporting trouble to Qwest. For services and facilities where the capability to test all or portions of the Qwest network service or facility rest with Qwest, Qwest will make such capability available to CLEC to perform appropriate trouble isolation and screening. (former 12.3.1.7) CLEC shall have access for testing purposes at the Demarcation Point, NID, or Point of Interface. Qwest will work cooperatively with CLEC to resolve trouble reports when the trouble condition has been isolated and found to be within a portion of Qwest's network. Qwest and CLEC will report test results to the other. Each Party shall be responsible for the costs of performing trouble isolation on its facilities, subject to Sections 12.4.1.5 and 12.4.1.6.

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<sup>89</sup> Qwest Wholesale Website: Loss/Completion Sample Reports Job Aid V4.0

**12.4.1.3.1 If CLEC so requests when reporting trouble, Qwest will call CLEC with the test results upon completion of the test.<sup>90</sup>**

12.4.1.4 (former 12.3.6.1) Notwithstanding any other provision of this Section 12.4.1, when CLEC does not have the ability to diagnose and isolate trouble on a Qwest line, circuit, or service provided in this Agreement that CLEC is utilizing to serve an End User Customer, Qwest will conduct testing, to the extent testing capabilities are available to Qwest, to diagnose and isolate a trouble. See Section 12.1.2 (nondiscrimination).

12.4.1.5 (former 12.3.4.2) When a Party requests that the other Party perform trouble isolation, the Party may charge the other Party a Maintenance of Service Charge if the trouble is found to be on the other Party's side of the Demarcation Point. If the trouble is on the other Party's side of the Demarcation Point, and the other Party authorizes the Party to repair trouble on the other Party's behalf, the Party may charge the other Party the appropriate Additional Labor Charge set forth in Exhibit A in addition to the Maintenance of Service Charge.

12.4.1.6 (former 12.3.4.3) When CLEC elects not to perform trouble isolation and Qwest performs tests at CLEC request, a Maintenance of Service Charge shall apply if the trouble is not in Qwest's facilities, including Qwest's facilities leased by CLEC. Maintenance of Service Charges are set forth in Exhibit A. When trouble is found on Qwest's side of the Demarcation Point, or Point of Interface during the investigation of the initial or repeat trouble report for the same line or circuit within thirty (30) Days, Maintenance of Service Charges shall not apply.

**12.4.1.6.1 If CLEC elects not to perform trouble isolation and Qwest performs tests at CLEC request, Qwest will conduct the test and assess the results. Qwest will provide the results to CLEC and indicate whether the trouble is in CLEC network or in the Qwest network. If the trouble is in CLEC network and CLEC authorizes a dispatch, a charge will apply for both the optional testing and the dispatch. However, if the circuit is on Pair Gain, Qwest will not assess optional testing charges. If the trouble is in the Qwest network, Qwest will dispatch a technician to conduct the Maintenance and Repair work to resolve the trouble and then close the ticket with CLEC. No Maintenance of Service charges will apply for repair of the trouble on Qwest's side of the network; however, a charge will be assessed for the optional testing requested by CLEC.<sup>91</sup>**

12.4.1.6.2 (former 12.3.6.2) Prior to Qwest conducting a test on a line, circuit, or service provided in this Agreement that CLEC is using to

<sup>90</sup> Qwest Wholesale Website: Unbundled Local Loop General Information V40.0

<sup>91</sup> Qwest Wholesale Website: Maintenance & Repair Overview V24.0

serve an End User Customer, Qwest must receive a trouble report from CLEC.

## 12.4.2 Trouble Reports and Trouble Status

12.4.2.1 The first time a trouble is reported, Qwest will assign a trouble report tracking number, as described in Section 12.1.3.3.1.1.

12.4.2.2 (former 12.3.14.1) CLEC may report trouble to Qwest through the Electronic Bonding or GUI interfaces provided by Qwest or manually through the support centers described above in Section 12.1.3.3.3.

12.4.2.2.1 (former 12.2.2.1) Qwest shall provide electronic interface gateways, including an Electronic Bonding interface and a GUI interface, for reviewing a End User Customer's trouble history at a specific location, conducting testing of a End User Customer's service where applicable, reporting trouble to facilitate the exchange of updated information and progress reports between Qwest and CLEC while the trouble report is open and a Qwest technician is working on the resolution.

**12.4.2.2.1.1 Qwest's graphical user interface (known as Customer Electronic Maintenance and Repair (CEMR)) will enable a real-time exchange of information between CLEC and Qwest for performing trouble administration activities, such as creating and editing trouble reports; monitoring status and reviewing transaction, circuit, and trouble report history; verifying features, viewing line records, and performing MLT request for POTS services; and pre-validation of service requests, such as searching and verifying cross-connect assignment data, viewing access service information, and performing service address validation.<sup>92</sup>**

**12.4.2.2.1.2 Qwest's electronic bonding interface (known as Mediated Access Electronic Bonding Trouble Administration (MEDIACC-EBTA)) will enable CLEC and Qwest to mechanically process telephone circuit repair activities with Qwest's Work Force Administration/Control (WFA/C) and Loop Maintenance Operating System (LMOS). MEDIACC-EBTA will enable a real-time exchange of information between CLEC and Qwest for performing trouble administration activities, such as creating and editing trouble reports; monitoring status and reviewing transaction, circuit, and trouble report history; verifying features, viewing line records, and performing MLT request for POTS services; and**

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<sup>92</sup> Qwest Wholesale Website: Customer Electronic Maintenance and Repair (CEMR) & Repair Expert (RCE)

**pre-validation of service requests, such as searching and verifying cross-connect assignment data, viewing access service information, and performing service address validation.**<sup>93</sup>

12.4.2.2.2 (former 12.3.14.2) CLEC may access the status of manually reported trouble through the electronic interfaces described in Section 12.4.2.2.1.

12.4.2.3 **CLEC may review the status of trouble reports and messages posted by Qwest technicians through the Electronic Bonding or GUI interfaces provided by Qwest or manually by contacting the support centers**<sup>94</sup> described above in Section 12.1.3.3.3.

12.4.2.3.1 (former 12.3.18.2) On electronically reported trouble reports the electronic system will automatically update status information, including trouble report ticket closure with CLEC concurrence, across the joint electronic gateway as the status changes.

12.4.2.4 (former 12.3.16.1) Qwest will notify CLEC that a trouble report commitment (appointment or interval) has been or is likely to be missed. At CLEC option, notification may be sent by email or through the electronic interface.

#### **12.4.3 Activities to Resolve Troubles or Perform Maintenance Work**

12.4.3.1 **A CLEC trouble report is prioritized based on service without regard to the service provider, including Qwest.**<sup>95</sup>

12.4.3.2 Qwest will efficiently resolve CLEC reported trouble. Qwest will cooperate with CLEC to meet the Maintenance and Repair standards outlined in this Agreement. (former 12.3.18.1)

**12.4.3.3 When CLEC initiates a trouble report, Qwest technicians will manage the issue through resolution. Responsibilities of Qwest Maintenance and Repair technicians include:**<sup>96</sup>

12.4.3.3.1 **Assigning a Qwest technician responsible for initial testing on circuits identified in CLEC trouble report and isolating trouble** *Id.* (as described in Section X above)

<sup>93</sup> Qwest Wholesale Website: Mediated Access Electronic Bonding Trouble Administration (MEDIACC-EBTA)

<sup>94</sup> Qwest Wholesale Website: Maintenance and Repair Overview V24.0

<sup>95</sup> Qwest Wholesale Website: Maintenance and Repair Overview V24.0

<sup>96</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

**12.4.3.3.2 Routing CLEC reports for dispatch to Qwest Central Office, Qwest Translations, and/or Qwest Field Technicians as applicable**<sup>97</sup>

**12.4.3.3.3 Escalating CLEC reports internally until a resource is assigned or progress made** *Id.*

**12.4.3.3.4 Performing tests in cooperation with CLEC to verify service restoration** *Id.*

**12.4.3.3.5 Coordinating cooperative testing** *Id.*

**12.4.3.3.6 Facilitating test result handoff activity and restoration concurrence; and** *Id.*

**12.4.3.3.7 Assigning accurate resolution or disposition codes when closing CLEC report.** *Id.*

12.4.3.4 (former 12.3.6.5) Qwest shall test to ensure electrical continuity of all UNEs, including Central Office Demarcation Point, and services it provides to CLEC prior to closing a trouble report.

**12.4.3.5 Qwest Maintenance and Repair and routine test parameters and levels will be in compliance with Telcordia's General Requirement Standards for Network Elements, Operations, Administration, Maintenance and Reliability and, to the extent not inconsistent with the foregoing, Qwest's Technical Publications.**<sup>98</sup>

12.4.3.6 Dispatch

12.4.3.6.1 (former 12.3.13.2) Upon the receipt of a trouble report from CLEC, Qwest will follow documented processes and industry standards to resolve the repair condition. Qwest will dispatch Maintenance and Repair personnel when needed to repair the condition. Initially, it will be Qwest's decision whether or not to send a technician out on a dispatch. Qwest will make this dispatch decision based on the best information available to it in the trouble resolution process. It is not always necessary to dispatch to resolve trouble. Should CLEC request a dispatch when Qwest believes the dispatch is not necessary, appropriate charges will be billed by Qwest to CLEC for those dispatch-related costs in accordance with Exhibit A if Qwest can demonstrate that the dispatch was in fact unnecessary to the clearance of trouble or the trouble is identified to be caused by CLEC facilities or equipment. Such dispatch-related charges will not apply if, although the dispatch was in fact unnecessary to the clearance of trouble, Qwest failed to perform the non-dispatch activities that would have cleared the trouble without a dispatch.

<sup>97</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

<sup>98</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

12.4.3.6.1.1 (former 12.3.13.2.1) The need for access to the customer premises when such access is unavailable shall not be the basis for deciding not to dispatch, unless Qwest has tested to the last point in its network before the customer premises (e.g., fiber hut, cross-box) and the testing indicates the trouble is at the customer premises.

12.4.3.6.2 (former 12.3.13.3) For lines and service circuits, Qwest is responsible for all Maintenance and Repair of the line or circuit and will make the determination to dispatch to locations other than the CLEC End User Customer Premises without prior CLEC authorization. For dispatch to the CLEC End User Customer Premises, Qwest shall obtain prior CLEC authorization with the exception of Major Network Outage restoration, cable rearrangements, and MTE terminal Maintenance and Repair or replacement.

12.4.3.6.2.1 For POTS services, the Qwest technician will call CLEC before the technician leaves CLEC's End User Customer's premises, upon request. CLEC may request such a courtesy pre-dispatch call by calling the RCHC or AMSC or via electronic interface (e.g., CEMR or MEDIACC-EBTA).<sup>99</sup>

12.4.3.6.3 Whenever a Qwest technician is dispatched to an End User Customer premise, Qwest will place a tag accurately identifying the line or circuit, including the Qwest Circuit ID, at the Demarcation Point if such a tag is not present.<sup>100</sup> See also Section 12.3.2.

12.4.3.6.3.1 If Qwest finds that the installation is not correct per the service order and the service is not working appropriately at the expected location, Qwest will make any changes necessary to make the installation correct per the original order and will notify CLEC of such activity.<sup>101</sup>

12.4.3.6.3.2 To correct an incorrect address on the original service request or request that a correctly installed Demarcation Point be moved, CLEC may submit a service request. *Id.* See Section 12.2.2.

#### 12.4.3.7 Chronic Service Problems

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<sup>99</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

<sup>100</sup> Qwest Wholesale Website Dispatch V1.0

<sup>101</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0



**12.4.3.7.1 Qwest will designate services having repeated, unresolved service issues as a chronic service problem if the following conditions occur:**<sup>102</sup>

**12.4.3.7.1.1 The circuit has had at least three trouble reports in a rolling 30 days *Id.***

**12.4.3.7.1.2 The circuit has similar, repeated test results on two or more trouble reports *Id.***

**12.4.3.7.1.3 Trouble on the circuit often clears during testing *Id.***

**12.4.3.7.1.4 CLEC reports trouble on the circuit as chronic when submitting a trouble report. *Id.***

**12.4.3.7.2 For troubles that often clear during testing (e.g., No Trouble Found), when the same trouble occurs on the same circuit two or more times within 30 Days, Qwest will perform a Class A inspection as defined by industry standards to isolate and resolve the trouble. Before doing so, Qwest will coordinate activities and scheduling with CLEC. Unless the Parties agree otherwise, the Class A inspection will occur during the Maintenance and Repair window described in Section 12.4.3.13.**

**12.4.3.7.3 Qwest's Maintenance and Repair technicians will focus on resolving chronic service problems by analyzing chronic reports for trends, determining root causes, taking ownership of the trouble report until service is restored, and assisting or calling upon internal and/or external experts. When trends or root causes are identified, Qwest will inform CLEC of the result of Qwest's analysis.**<sup>103</sup>

**12.4.3.7.4 If a trouble is chronic and has been unresolved for at least 30 Days, Qwest will redesign the circuit and replace the facility as needed to resolve the chronic trouble. Once Qwest's Maintenance and Repair technicians complete the repair and clear the chronic trouble, Qwest will maintain the trouble report ticket (also referred to as Chronic Ticket) in pending close status until CLEC accepts the trouble as resolved.**

#### **12.4.3.8 Connecting Facility Assignment Changes**

**12.4.3.8.1 The Connecting Facility Assignment (CFA) is a facility from a Qwest Central Office that terminates at a CLEC location (e.g., central office). If CLEC reports trouble on a CFA and it has been isolated to the Qwest portion of the CFA, the system or individual**

<sup>102</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

<sup>103</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

channel (time slot) will be repaired or temporarily re-routed to a different channel bank/facility until the original facility can be repaired. CLEC will not need to submit a service request to repair the CFA.<sup>104</sup>

12.4.3.8.2 If CLEC requests a permanent CFA move when CLEC reports trouble, Qwest will make the permanent move and then CLEC will need to submit a service request. Qwest Maintenance and Repair will work the redesign (i.e., permanent move) as they do other circuit redesigns. *Id.*

12.4.3.8.3 If CLEC is able to obtain an order number or Purchase Order Number (PON) during the permanent move, CLEC will provide it to Qwest. If CLEC is unable to obtain an order number or PON at that time, Qwest will proceed with making the permanent move and hold the trouble report ticket as No Access (NA) until CLEC can obtain an order number or PON. If CLEC cannot obtain an order number or PON until the next working day and CLEC wants the new CFA cut prior to obtaining an order number or PON, Qwest will make the cut and place the trouble report ticket in NA status for 24 hours. Qwest will track the trouble report ticket and follow up on a daily basis to ensure that an order has been issued. *Id.*

#### 12.4.3.9 Emergency and Courtesy Call Forwarding

12.4.3.9.1 When submitting a trouble report for POTS service, CLEC may request Emergency Call Forwarding (ECF) if CLEC has an out of service condition regardless of whether or not Call Forwarding is on the account. Emergency Call Forwarding allows the End User Customer to forward its telephone number to a working number while Qwest works to clear the problem. If the account has Call Forwarding, CLEC may also call the RCHC to have call forwarding (Courtesy Call Forwarding) activated with or without a Maintenance and Repair condition. *Id.*

#### 12.4.3.10 Major Outages/Restoral/Notification

12.4.3.10.1 Major Network Outages are Qwest-caused service affecting events with a common cause that disrupts service to 25 or more lines (or 64kbps line equivalents) (e.g., DS3 or multiple DS1 failure), impacts the functionality of 25 or more customers (e.g., Voicemail MDSI link) and/or has broad scale network impact (e.g. Tandem switch or trunking failures). *Id.*

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<sup>104</sup> Qwest Wholesale Website Maintenance and Repair Overview V24.0

12.4.3.10.2 (former 12.3.9.1) Qwest will notify CLEC of Major Network Outages via e-mail to CLEC's identified contact. With the minor exception of certain Proprietary Information such as End User Customer information, Qwest will utilize the same thresholds and processes for external notification as it does for internal purposes. Information will be sent via e-mail on the same schedule as is provided internally within Qwest. The email notification schedule shall consist of initial report of abnormal condition and estimated restoration time/date, abnormal condition updates, and final disposition. Service restoration will be non-discriminatory, and will be accomplished as quickly as possible according to Qwest and/or industry standards.

**12.4.3.10.2.1 Qwest will send Major Network Outage notifications simultaneously with Qwest internal event notification, usually within 30 minutes after Qwest determines a Major Network Outage has occurred, even if the service problem is already resolved.**<sup>105</sup>

12.4.3.10.2.2 Qwest will provide CLEC with root cause analysis of Major Network Outages. Qwest will provide such information on a non-confidential basis. CLEC may choose to share such information with End User Customers to explain the cause of Major Network Outages they experienced.

12.4.3.10.3 (former 12.3.9.2) Qwest will meet with associated personnel from CLEC to share contact information and review Qwest's outage restoral processes and notification processes.

12.4.3.10.4 (former 12.3.9.3) Qwest's emergency restoration process operates on a 7X24 basis.

12.4.3.10.5 (former 12.3.9.4) ***Qwest may have an obligation to report network outages or other network troubles to the Commission in accordance with Applicable Law. In the event CLEC provides services to one or more End User Customers though the use of Resale or Unbundled Network Elements and there is a network outage or service trouble that Qwest must report to the Commission, Qwest shall make such reports on behalf of itself and CLEC.***

#### 12.4.3.11 Protective Maintenance and Repair

12.4.3.11.1 (former 12.3.10.2) Qwest shall provide notice to CLEC of potentially CLEC End User Customer impacting Maintenance and Repair activity, to the extent Qwest can determine such impact, and negotiate mutually agreeable dates and times with CLEC for performing such activity. Qwest will work cooperatively with CLEC to develop

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<sup>105</sup> Qwest Wholesale Website Maintenance and Repair V24.0

industry-wide processes to provide CLEC with as much notice as possible of scheduled Maintenance and Repair activity.

12.4.3.11.2 (former 12.3.10.3) Qwest shall advise CLEC of non-scheduled Maintenance and Repair, testing, monitoring, and surveillance activity to be performed by Qwest on any Services, including, to the extent Qwest can determine, any hardware, equipment, software, or system providing service functionality which may potentially impact CLEC and/or CLEC End User Customers. Qwest shall provide the maximum advance notice of such non-scheduled Maintenance and Repair and testing activity possible, under the circumstances; provided, however, that Qwest shall provide emergency Maintenance and Repair as promptly as possible to maintain or restore service and shall advise CLEC promptly of any such actions it takes.

#### 12.4.3.12 Switch and Frame Conversion Service Order Practices

12.4.3.12.1 (former 12.3.24.1) Switch Conversions. Switch conversion activity generally consists of the removal of one Switch and its replacement with another. Generic Switch software or hardware upgrades, the addition of Switch line and trunk connection hardware and the addition of capacity to a Switch do not constitute Switch conversions.

12.4.3.12.2 (former 12.3.24.2) Frame Conversions. Frame conversions are generally the removal and replacement of one or more frames, upon which the Switch Ports terminate.

12.4.3.12.3 (former 12.3.24.3) Conversion Date. The "Conversion Date" is a Switch or frame conversion planned day of cut-over to the replacement frame(s) or Switch. The actual conversion time typically is set for midnight of the Conversion Date. This may cause the actual Conversion Date to migrate into the early hours of the day after the planned Conversion Date.

12.4.3.12.4 (former 12.3.24.4) Conversion Embargoes. A Switch or frame conversion embargo is the time period that the Switch or frame Trunk Side facility connections are frozen to facilitate conversion from one Switch or frame to another with minimal disruption to the End User Customer or CLEC services. During the embargo period, Qwest will reject orders for Trunk Side facilities (see Section 12.4.3.12.9) other than conversion orders described in Section 12.4.3.12.10. Notwithstanding the foregoing and to the extent Qwest provisions trunk or trunk facility related service orders for itself, its End User Customers, its Affiliates, or any other party during embargoes, Qwest shall provide CLEC the same capabilities.

12.4.3.12.5 (former 12.3.24.4.1) ASRs for Switch or frame Trunk Side facility augments to capacity or changes to Switch or frame Trunk Side facilities must be issued by CLEC with a Due Date prior to or after the

appropriate embargo interval as identified in the ICONN database. Qwest shall reject Switch or frame Trunk Side ASRs to augment capacity or change facilities issued by CLEC or Qwest, its End User Customers, its Affiliates or any other party during the embargo period, regardless of the order's Due Date except for conversion ASRs described in Section 12.4.3.12.

12.4.3.12.6 (former 12.3.24.4.2) For Switch and Trunk Side frame conversions, Qwest shall provide CLEC with conversion trunk group service requests (TGSR) no less than ninety (90) Days before the Conversion Date.

12.4.3.12.7 (former 12.3.24.4.3) For Switch and Trunk Side frame conversions, CLEC shall issue facility conversion ASRs to Qwest no later than thirty (30) Days before the Conversion Date for like-for-like, where CLEC mirrors their existing circuit design from the old Switch or frame to the new Switch or frame, and sixty (60) Days before the Conversion Date for addition of trunk capacity or modification of circuit characteristics (i.e., change of AMI to B8ZS).

12.4.3.12.8 (former 12.3.24.5) Frame Embargo Period. During frame conversions, service orders and ASRs shall be subject to an embargo period for services and facilities connected to the affected frame. For conversion of trunks where CLEC mirrors their existing circuit design from the old frame to the new frame on a like-for-like basis, such embargo period shall extend from thirty (30) Days prior to the Conversion Date until 5 Days after the Conversion Date. If CLEC requests the addition of trunk capacity or modification of circuit characteristics (i.e., change of AMI to B8ZS) to the new frame, new facility ASRs shall be placed, and the embargo period shall extend from 60 Days prior to the Conversion Date until 5 Days after the Conversion Date. Prior to instituting an embargo period, Qwest shall identify the particular dates and locations for frame conversion embargo periods on its web site in the ICONN database described in Section 12.1.3.2.5 above.

12.4.3.12.9 (former 12.3.24.6) Switch Embargo Period. During Switch conversions, service orders and ASRs shall be subject to an embargo period for services and facilities associated with the Trunk Side of the Switch. For conversion of trunks where CLEC mirrors their existing circuit design from the old Switch to the new Switch on a like-for-like basis, such embargo period shall extend from thirty (30) Days prior to the Conversion Date until five (5) Days after the Conversion Date. If CLEC requests the addition of trunk capacity or modification of circuit characteristics to the new Switch, new facility ASRs shall be placed, and the embargo period shall extend from sixty (60) Days prior to the Conversion Date until five (5) Days after the Conversion Date. Prior to instituting an embargo period, Qwest shall identify the particular dates and locations for Switch conversion embargo periods on its web site in the ICONN database described in Section X above.

12.4.3.12.10 (former 12.3.24.7) Switch and Frame Conversion Quiet Periods for LSRs. Switch and frame conversion quiet periods are the time period within which LSRs may not contain Due Dates, with the exception of LSRs that result in disconnect orders, including those related to LNP orders, record orders, Billing change orders for non-switched products, and emergency orders.

12.4.3.12.10.1 (former 12.3.24.7.1) LSRs of any kind issued during Switch or frame conversion quiet periods create the potential for loss of End User Customer service due to manual operational processes caused by the Switch or frame conversion. LSRs of any kind issued during the Switch or frame conversion quiet periods will be handled as set forth below, with the understanding that Qwest shall use its best efforts to avoid the loss of End User Customer service. In the event that CLEC End User Customer service is disconnected in error, Qwest will restore CLEC End User Customer service through the process described in Sections 12.1.3.3.

12.4.3.12.10.2 (former 12.3.24.7.2) The quiet period for Switch conversions, where no LSRs except those requesting order activity described in Section 12.4.2.12.10 are processed for the affected location, extends from five (5) Days prior to conversion until two (2) Days after the conversion and is identified in the ICONN database.

12.4.3.12.10.3 (former 12.3.24.7.3) The quiet period for frame conversions, where no LSRs except those requesting order activity described in Section 12.4.2.12.10 are processed or the affected location, extends from five (5) Days prior to conversion until two (2) Days after the conversion.

12.4.3.12.10.4 (former 12.3.24.7.4) LSRs, except those requesting order activity described in Section 12.4.2.12.10, (i) must be issued with a Due Date prior to or after the conversion quiet period and (ii) may not be issued during the quiet period. LSRs that do not meet these requirements will be rejected by Qwest.

12.4.3.12.10.5 (former 12.3.24.7.5) LSRs requesting disconnect activity issued during the quiet period, regardless of requested Due Date, will be processed after the quiet period expires.

12.4.3.12.10.6 CO-- (former 12.3.24.7.6) CLEC may request a Due Date change to a LNP related disconnect scheduled during quiet periods up to 12:00 noon Mountain Time the day prior to the scheduled LSR Due Date. Such changes shall be requested by issuing a supplemental LSR requesting a Due Date change. Such

changes shall be handled as emergency orders by Qwest.

12.4.3.12.10.6 **MN** – (former 12.3.24.7.6) CLEC may request a Due Date change to a LNP related disconnect scheduled during quiet periods up to 1:00 P.M. Central Time the day prior to the scheduled LSR Due Date. Such changes shall be requested by issuing a supplemental LSR requesting a Due Date change. Such changes shall be handled as emergency orders by Qwest.

12.4.3.12.10.6 **WA** – (former 12.3.24.7.6) CLEC may request a Due Date change to a LNP related disconnect scheduled during quiet periods up to 11:00 A.M. Pacific Time the day prior to the scheduled LSR Due Date. Such changes shall be requested by issuing a supplemental LSR requesting a Due Date change. Such changes shall be handled as emergency orders by Qwest.

12.4.3.12.10.7 **CO** -- (former 12.3.24.7.7) CLEC may request a Due Date change to a LNP related disconnect order scheduled during quiet periods after 12:00 noon Mountain Time the day prior to the scheduled LSR Due Date until 12 noon Mountain Time the day after the scheduled LSR Due Date. Such changes shall be requested by issuing a supplemental LSR requesting a Due Date change and contacting the Interconnect Service Center. Such changes shall be handled as emergency orders by Qwest.

12.4.3.12.10.7 **MN**: (former 12.3.24.7.7) CLEC may request a Due Date change to a LNP related disconnect order scheduled during quiet periods after 1:00 P.M. Central Time the day prior to the scheduled LSR Due Date until 1:00 P.M. Central Time the day after the scheduled LSR Due Date. Such changes shall be requested by issuing a supplemental LSR requesting a Due Date change and contacting the Interconnect Service Center. Such changes shall be handled as emergency orders by Qwest.

12.4.3.12.10.7 **WA**: (former 12.3.24.7.7) CLEC may request a Due Date change to a LNP related disconnect order scheduled during quiet periods after 11:00 A.M. Pacific Time the day prior to the scheduled LSR Due Date until 11:00 A.M. Pacific Time the day after the scheduled LSR Due Date. Such changes shall be requested by issuing a supplemental LSR requesting a Due Date change and contacting the Interconnect Service Center. Such changes shall be handled as emergency orders by Qwest.

12.4.3.12.11 (former 12.3.24.8) Switch Upgrades. Generic Switch software and hardware upgrades are not subject to the Switch conversion embargoes or quiet periods described above. If such generic Switch or software upgrades require significant activity related to translations, an abbreviated embargo and/or quiet period may be required.

12.4.3.12.12 (former 12.3.24.9) Switch Line and Trunk Hardware Additions. Qwest shall use its best efforts to minimize CLEC service

order impacts due to hardware additions and modifications to Qwest's existing Switches.

#### 12.4.3.13 Major Switch Maintenance and Repair Hours and Notices

12.4.3.13.1 (former 12.3.23.1) Generally, Qwest performs major Switch Maintenance and Repair activities off-hours, during certain "Maintenance and Repair windows." Major Switch Maintenance and Repair activities include Switch conversions, Switch generic upgrades and Switch equipment additions.

12.4.3.13.2 CO Language: (former 12.3.23.2) Generally, the Maintenance and Repair window is between 10:00 p.m. through 6:00 a.m. Monday through Friday, and Saturday 10:00 p.m. through Monday 6:00 a.m., Mountain Time. Although Qwest normally does major Switch Maintenance and Repair during the above Maintenance and Repair window, there will be occasions where this will not be possible. Qwest will provide notification of any and all Maintenance and Repair activities that may impact CLEC Ordering practices such as embargoes, moratoriums, and quiet periods.

12.4.3.13.2 MN Language: (former 12.3.23.2) Generally, the Maintenance and Repair window is between 11:00 p.m. through 7:00 a.m. Monday through Friday, and Saturday 11:00 p.m. through Monday 7:00 a.m., Central Time. Although Qwest normally does major Switch Maintenance and Repair during the above Maintenance and Repair window, there will be occasions where this will not be possible. Qwest will provide notification of any and all Maintenance and Repair activities that may impact CLEC Ordering practices such as embargoes, moratoriums, and quiet periods.

12.4.3.13.2 WA Language: (former 12.3.23.2) Generally, the Maintenance and Repair window is between 9:00 p.m. through 5:00 a.m. Monday through Friday, and Saturday 9:00 p.m. through Monday 5:00 a.m., Pacific Time. Although Qwest normally does major Switch Maintenance and Repair during the above Maintenance and Repair window, there will be occasions where this will not be possible. Qwest will provide notification of any and all Maintenance and Repair activities that may impact CLEC Ordering practices such as embargoes, moratoriums, and quiet periods.

12.4.3.13.3 (former 12.3.23.4) Planned generic upgrades to Qwest Switches will be available to CLEC via Qwest's Web site in the ICONN database, which is described in Section 12.1.3.2.5 above.

#### 12.4.3.14 Impairment of Service

12.4.3.14.1 (former 12.3.3.1) The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected



with the services, facilities or equipment of the other Party pursuant to this Agreement shall not: 1) interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring Carriers involved in its services; 2) cause damage to the plant of the other Party, its affiliated companies, or its connecting concurring Carriers involved in its services; 3) violate any Applicable Law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or 4) create hazards to the employees of either Party or to the public. Each of these requirements is referred to as an "Impairment of Service."

12.4.3.14.2 (former 12.3.3.2) If it is confirmed that either Party is causing an Impairment of Service, as set forth in this Section, the Party whose network or service is being impaired (the Impaired Party) shall promptly notify the Party causing the Impairment of Service (the Impairing Party) of the nature and location of the problem. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service.

#### 12.4.4 Trouble Report Closure

12.4.4.1 After a trouble report ticket has been opened, as described in Section 12.1.3.3.3.1.1, CLEC and Qwest will attempt to reach agreement on resolution of the problem and closing of the ticket. If no agreement is reached, any Party may use the applicable escalation and dispute resolution process described in Section 12.1.3.3.3 above. When the Parties agree, or a determination has been made pursuant to that process, that the trouble report ticket may be closed, Qwest will assign a code accurately describing the disposition of the trouble report (i.e., a "disposition code") and close the ticket. Qwest will not close a trouble report ticket without CLEC concurrence.<sup>106</sup>

12.4.4.2 **Qwest will notify CLEC of the disposition code upon request. For Maintenance and Repair trouble reports, the disposition code and any remarks will also be available through electronic interface (e.g., Customer Electronic Maintenance and Repair (CEMR)). CLEC closed trouble reports will be available to CLEC via the history function in the electronic interface (e.g., CEMR). *Id.***

12.4.4.3 **Qwest will provide a web based tool (known as Maintenance and Repair Invoice Tool) to CLEC that allows CLEC to access electronic copies of Qwest repair invoice information. The repair invoice information will include the time and material information that Qwest provides to its retail End User Customers on their time and material invoices. Qwest, through this tool, will provide access to at least Telephone Number or Circuit identification, CLEC ticket number, Qwest ticket number, End User Customer Address, End User Customer Name, USOC, Quantity, Start Date,**

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<sup>106</sup> Qwest Wholesale Website Maintenance and Repair Overview v26.

**End Date, Disposition Code, and Remarks (comments by repair technician). Such invoice information will be available to CLEC<sup>107</sup>. within two (2) business days of ticket closure for POTS services and ten (10) business days for non-POTS services. Invoice information will be retained and available to CLEC via this tool for at least twelve (12) months.**

## 12.5 Billing

12.5.1 For Connectivity Billing, Recording, and Exchange of Information, see Section 21.

## 12.6 On-Going Support for OSS

12.6.1 (former 12.2.8) Qwest will support previous EDI releases for six (6) months after the next subsequent EDI release has been deployed. **Exceptions to these guidelines, if any, will be considered in accordance with the CMP procedures.**<sup>108</sup> Qwest will use all reasonable efforts to provide sufficient support to ensure that issues that arise in migrating to the new release are handled in a timely manner.

12.6.2 (former 12.2.8.1) Qwest will provide written notice to CLEC of the need to migrate to a new release no later than five (5) months prior to sunset of CLEC's current EDI version.

12.6.3 (former 12.2.8.2) Qwest will provide an EDI Implementation Coordinator to work with CLEC for business scenario re-certification, migration and data conversion strategy definition.

12.6.4 (former 12.2.8.3) Re-certification is the process by which CLECs demonstrate the ability to generate correct functional transactions for enhancements to a previously certified system. Qwest will provide the suite of tests for re-certification to CLEC with the issuance of the disclosure document.

12.6.5 (former 12.2.8.4) Qwest shall provide training mechanisms for CLEC to pursue in educating its internal personnel. Qwest shall provide training necessary for CLEC to use Qwest's OSS interfaces and to understand Qwest's documentation, including Qwest's business rules.

12.6.6 (former 12.2.1.5) When CLEC requests from Qwest more than fifty (50) SecurIDs for use by CLEC Customer service representatives at a single CLEC location, CLEC shall use a T1 line instead of dial-up access at that location. If CLEC is obtaining the line from Qwest, then CLEC shall be able to use SecurIDs until such time as Qwest provisions the T1 line and the line permits pre-order and order information to be exchanged between Qwest and CLEC.

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<sup>107</sup> Qwest Wholesale Website: Qwest Maintenance and Repair Invoice Tool User Guide.

<sup>108</sup> Qwest Wholesale Website: CMP Document

12.6.7 (former 12.2.9.1) If using the GUI interface, CLEC will take reasonable efforts to train CLEC personnel on the GUI functions that CLEC will be using. Qwest shall provide training mechanisms for CLEC to pursue in educating its internal personnel. Qwest shall provide training necessary for CLEC to use Qwest's OSS interfaces and to understand Qwest's documentation, including Qwest's business rules. See Section 12.1.3.2 above.

12.6.8 (former 12.2.9.2) An exchange protocol will be used to transport EDI formatted content. CLEC must perform certification testing of exchange protocol prior to using the EDI interface.

12.6.9 (former 12.2.9.3) Qwest will provide CLEC with access to a stable testing environment that mirrors production to certify that its OSS will be capable of interacting smoothly and efficiently with Qwest's OSS. Qwest has established the following test processes to assure the implementation of a solid interface between Qwest and CLEC:

12.6.9.1 (former 12.2.9.3.1) Connectivity Testing – CLEC and Qwest will conduct connectivity testing. This test will establish the ability of the trading partners to send and receive EDI messages effectively. This test verifies the communications between the trading partners. Connectivity is established during each phase of the implementation cycle. This test is also conducted prior to Controlled Production and before going live in the production environment if CLEC or Qwest has implemented environment changes when moving into production.

12.6.9.2 (former 12.2.9.3.2) Stand-Alone Testing Environment ("SATE") – Qwest shall provide a stable, Stand-alone Testing Environment that, during a CLEC's development and implementation of EDI, will take pre-order and order requests, pass them to the stand-alone database, and return responses to CLEC that mirror the responses that would be obtained in the production environment. The SATE provides CLEC the opportunity to validate its technical development efforts built via Qwest documentation without the need to schedule test times. This testing verifies CLEC's ability to send correctly formatted EDI transactions through the EDI system edits successfully for both new and existing releases. Qwest will provide documentation for use with SATE that provides the CLEC information required to successfully use SATE and be certified to move into controlled production. SATE uses test account data supplied by Qwest. Qwest will provide a stable SATE no less than thirty (30) Days prior to Qwest's introduction of new OSS electronic interface capabilities to the production environment, unless otherwise agreed to pursuant to Section 16.0 of the CMP Document, including support of new test accounts, new test beds, new products and services, new interface features, and functionalities. All SATE pre-order queries and orders are subjected to the same edits as production pre-order and order transactions. This testing phase is optional when CLEC has performed Interoperability testing successfully.

12.6.9.2.1 (former 12.2.9.3.2.1) As of the Effective Date, the SATE does not include all of the Qwest products and services

CLEC may order in Qwest's production environment. In this context products and services are those items that may be ordered via EDI from Qwest on an LSR. Qwest shall incorporate each such product or service into SATE once the aggregate number of transactions for all CLECs in the production environment for such product or service reaches 100 or more during a twelve-month period. Once these conditions are met, Qwest shall incorporate such product or service into the upcoming major SATE release, if feasible. If not feasible for that release, Qwest shall incorporate such product or service into the SATE by no later than the next major SATE release. A Party may submit a request through CMP to add products to SATE that do not meet the above criteria.

12.6.9.3 (former 12.2.9.3.3) Interoperability Testing – CLEC has the option of participating with Qwest in Interoperability testing to provide CLEC with the opportunity to validate technical development efforts and to quantify processing results. Interoperability testing verifies CLEC's ability to send correct EDI transactions through the EDI system edits successfully. Interoperability testing requires the use of account information valid in Qwest production systems. All Interoperability pre-order queries and order transactions are subjected to the same edits as production orders. This testing phase is optional when CLEC has conducted Stand-Alone Testing successfully. Qwest shall process pre-order transactions in Qwest's production OSS and order transactions through the business processing layer of the EDI interfaces.

12.6.9.4 (former 12.2.9.3.4) Controlled Production – Qwest and CLEC will perform controlled production for new implementations. The controlled production process is designed to validate the ability of CLEC to transmit EDI data that completely meets X12 standards definitions and complies with all Qwest business rules. Controlled production consists of the controlled submission of actual CLEC production requests to the Qwest production environment. Qwest treats these pre-order queries and orders as production pre-order and order transactions. Qwest and CLEC use controlled production results to determine operational readiness. Controlled production requires the use of valid account and order data. All certification orders are considered to be live orders and will be provisioned.

12.6.9.5 (former 12.2.9.3.5) If CLEC is using EDI, Qwest and CLEC shall negotiate an amount of time to complete certification of CLEC's business scenarios. Qwest will allow CLEC a reasonably sufficient amount of time negotiated by Qwest and CLEC during the day and a reasonably sufficient number of days during the week to complete certification of its business scenarios consistent with the CLEC's business plan. It is the sole responsibility of CLEC to schedule an appointment with Qwest for certification of its business scenarios. Qwest and CLEC must make every effort to comply with the agreed upon dates and times scheduled for the certification of CLEC's business scenarios. If the certification of business scenarios is delayed due to CLEC, it is the sole

responsibility of CLEC to schedule new appointments for certification of its business scenarios. Qwest will make reasonable efforts to accommodate CLEC schedule. Conflicts in the schedule could result in certification being delayed. If a delay is due to Qwest, Qwest will honor CLEC's schedule through the use of alternative hours.

12.6.9.6 (former 12.2.9.3.6) Comprehensive Production Testing — Comprehensive Production Testing permits a comprehensive test of the totality of Qwest's operational interfaces and processes in conjunction with the actual Pre-ordering, Ordering, provisioning, billing and Maintenance and Repair of Network Elements, Ancillary Services, and UNE Combinations, including, without limitation, UNE-P, prior to or contemporaneously with the offering by CLEC of any CLEC product or service incorporating Qwest's Network Elements, UNE Combinations or Ancillary Services. Such Comprehensive Production Testing shall be designed to permit an individual CLEC to test its own operational interfaces and processes in conjunction with Qwest's and shall be in addition to any testing processes offered or required for interface development, version changes and/or certification (.e.g. Interoperability testing). The testing described in this Section is not conditional on CLEC's commitment to enter a market with any services but is conditional on any certification on operational interfaces or processes required under this Agreement.

12.6.9.6.1 (former 12.2.9.3.6.1) Qwest shall participate in Comprehensive Production Testing upon CLEC's request. CLEC shall notify Qwest in writing of CLEC's intent to participate in Comprehensive Production Testing. Such notice shall include a statement describing the scope of the test. CLEC and Qwest shall commence and complete Comprehensive Production Testing promptly.

12.6.9.6.2 (former 12.2.9.3.6.2) Within ten (10) business days after CLEC's written notice to Qwest of CLEC's intent to conduct Comprehensive Production Testing, CLEC and Qwest shall meet and continue meeting no less frequently than once per week, unless otherwise agreed by Qwest and CLEC, to agree upon a process to resolve technical issues relating to Comprehensive Production Testing. Unless otherwise agreed, within ten (10) business days after CLEC's first meeting with Qwest, CLEC shall provide Qwest with a firm definition of the scope of the comprehensive testing. Within a mutually agreed period of time, which shall not exceed forty-five (45) business days after CLEC defines the scope of the comprehensive testing, Qwest and CLEC will reach agreement on the terms, guidelines and processes for executing the comprehensive testing and meeting CLEC's objectives. The agreed upon process shall include procedures for escalating disputes and unresolved issues up through higher levels of each company's management. If (a) CLEC and Qwest do not reach agreement on such a process

within forty-five (45) business days after CLEC provides Qwest with the firm scope, or (b) Qwest or CLEC has failed to meet or continue meeting regarding, or Qwest or CLEC has otherwise indicated its intention not to conduct, Comprehensive Production Testing, or (c) Qwest and CLEC cannot agree upon whether or how much of the cost of such testing is to be allocated to CLEC or (d) during any Comprehensive Production Testing either Party fails to satisfy any of the requirements set forth in this Section 12.2.9.3.6, any issues that have not been resolved by the Parties with respect to such process or either Party's failure to satisfy any of the requirements of this Section 12.2.9.3.6 shall be submitted, at the sole discretion of either Party, to either (i) the Dispute Resolution procedures set forth in Section 5.18 of this Agreement or (ii) any dispute resolution or complaint process available or permitted by or before the Commission. In any expedited dispute resolution or complaint process, the Parties shall jointly request that the decision-maker render a decision within ninety (90) Days after submission of the dispute or complaint.

12.6.9.6.2.1 The intervals for comprehensive testing apply to one comprehensive test. One comprehensive test may include overlapping testing by CLEC in more than one state within a single comprehensive testing request. If Qwest has multiple requests for comprehensive testing then the intervals for each request will be separately negotiated. Multiple requests are CLEC requests for comprehensive production testing received within the same 45 business day interval referenced above. If the CLEC is not in agreement with the given intervals and the disagreement is not resolved within ten (10) business days, the requesting CLEC may submit the matter to the dispute resolution process.

12.6.9.6.3 (former 12.2.9.3.6.3) For the purposes of Comprehensive Production Testing, Qwest shall temporarily provision selected local Switching features for testing pursuant to the terms and conditions of this Agreement. CLEC will bear the cost of such provisioning as called for by this Agreement.

12.6.9.6.4 (former 12.2.9.3.6.4) For the purposes of Comprehensive Production Testing, Qwest shall provision pursuant to the terms and conditions of this Agreement or pursuant to a Qwest retail Tariff, whether singly or as part of a UNE Combination, any kind of Unbundled Loop, Resale or retail services designated by CLEC in such quantities and to any location or locations reasonably requested by CLEC. For example, Qwest shall provision, either singly or as part of a UNE Combination, a residential Loop or retail service to a commercial facility, such as an office building. In such cases, if a Commission waiver is not required, Qwest shall not assert that Tariff limitations restrict such Provisioning, or if a Commission waiver is required, the Parties will expeditiously seek such a

waiver.

12.6.9.6.5 (former 12.2.9.3.6.5) The Parties shall provide technical staff to meet to provide required support for Comprehensive Production Testing. Qwest and CLEC shall exchange contact information, including name, title, and email address, for such technical staff during the initial phase of that process.

12.6.9.6.6 (former 12.2.9.3.6.6) During Comprehensive Production Testing, the Parties shall provide a single point of contact that is available during business hours Monday through Friday for trouble status, sectionalization, resolution, escalation and closure of comprehensive testing issues. Comprehensive testing issues are those test issues which are outside the scope of routine Pre-ordering, Ordering, provisioning, billing, Maintenance and Repair of the services being tested. Such staff shall be adequately skilled to facilitate expeditious problem resolution.

12.6.9.6.7 (former 12.2.9.3.6.7) Either Party may supply information about the Comprehensive Production Testing conducted pursuant to this section to regulatory agencies including the Federal Communications Commission and the Commission so long as any confidential obligation is protected pursuant to the terms of Section 5.16.

12.6.9.6.8 (former 12.2.9.3.6.8) The costs of testing shall be assigned to the CLEC requesting the test procedures, but only to the extent that such costs exceed the costs Qwest would otherwise incur administering CLEC's pre-order, order, Billing, Maintenance and Repair activities in the production (non-test) environment or the costs Qwest would otherwise incur in provisioning retail lines for test purposes. Prior to execution of Comprehensive Production Testing, Qwest shall provide to CLEC an itemized quotation of all costs Qwest believes it is entitled to recover from CLEC pursuant to this Section 12.2.9.3.6.8, including a detailed description of each activity including the Qwest underlying assumptions for which Qwest seeks recovery. CLEC shall be permitted to challenge the necessity of Qwest's activities that cause extraordinary costs to be incurred. Challenges made by CLEC that cannot be resolved by the Parties shall be resolved through the dispute resolution process outlined in this agreement at Section 5.18. At the point that the expenses of the testing reach eighty percent (80%) of the quoted amount, Qwest will notify CLEC and provide a modified quotation, at which point, CLEC can choose whether or not to continue testing. CLEC shall have 30 business days to notify Qwest if CLEC wishes to continue the comprehensive testing. If CLEC elects to discontinue the comprehensive testing, then testing will cease at the end of the thirty (30) business days, provided it does not exceed the initial agreed upon costs. CLEC shall pay the amount due. If CLEC wishes to continue the testing it will accept the modifications to the quotation, or inform Qwest that CLEC disputes the modifications to the quotation but still wants the test to proceed, in writing within 30 business days and billing will continue as agreed. Qwest shall

provide to CLEC with such modified quote a detailed explanation of each change in cost and why Qwest believes CLEC is responsible for such changes in cost. This section is in addition to CLEC's responsibility to pay normal recurring and non-recurring charges (retail and wholesale) for the facilities and services identified in this Agreement and reflected in Exhibit A or a Qwest retail Tariff, if applicable, ordered during the testing. If construction is requested for the purpose of comprehensive testing, the Parties will adhere to the applicable terms and conditions relating to construction contained in this Agreement or the Qwest retail Tariff, depending on the services CLEC ordered. The parties will agree to reasonable timeframes for construction performed for comprehensive testing. If at any time the Parties are in dispute over the allocation of cost associated with testing, CLEC may request in writing that the testing proceed while the Parties work to resolve such a dispute. If CLEC agrees to pay 50% of the actual charges Qwest incurs in accordance with the agreed terms as if no dispute existed, then Qwest will proceed with the testing. If, after the dispute is resolved, CLEC has paid to Qwest any amount that exceeds the amount it owes pursuant to the resolution, Qwest agrees to credit CLEC for that excess amount. However, if the CLEC owes monies to Qwest, CLEC agrees to pay the remaining balance pursuant to the resolution.

12.6.9.7 (former 12.2.9.4) If CLEC is using the EDI interface, CLEC must work with Qwest to certify the business scenarios that CLEC will be using in order to ensure successful transaction processing. Qwest and CLEC shall mutually agree to the business scenarios for which CLEC requires certification. Certification will be granted for the specified release of the EDI interface. If a CLEC is certifying multiple products or services, CLEC has the option of certifying those products or services serially or in parallel where Technically Feasible.

12.6.9.7.1 (former 12.2.9.4.1) For a new software release or upgrade, Qwest will provide CLEC a stable testing environment that mirrors the production environment in order for CLEC to test the new release. For software releases and upgrades, Qwest has implemented the testing processes set forth in Section 12.2.9.3.2, 12.2.9.3.3 and 12.2.9.3.4.

12.6.9.8 (former 12.2.9.5) New releases of the EDI interface may require re-certification of some or all business scenarios. A determination as to the need for re-certification will be made by the Qwest coordinator in conjunction with the release manager of each EDI release. Qwest will provide notice of the need for re-certification to CLEC at least 15 Days prior to release of the disclosure document for the release being implemented. The suite of re-certification test scenarios will be provided to CLEC with the disclosure document. If a CLEC is certifying multiple products or services, CLEC has the option of certifying those products or services serially or in parallel, where Technically Feasible.

12.6.9.9 (former 12.2.9.6) CLEC will contact the Qwest EDI



Implementation Coordinator to initiate the migration process. CLEC may not need to certify to every new EDI release, however, CLEC must complete the re-certification and migration to a new EDI release within six (6) months of the deployment of the new release and prior to the sunset date for CLEC's current version. CLEC will use reasonable efforts to provide sufficient support and personnel to ensure that issues that arise in migrating to the new release are handled in a timely manner.

12.6.9.9.1 (former 12.2.9.6.1) The following rules apply to initial development and certification of EDI interface versions and migration to subsequent EDI interface versions:

12.6.9.9.1.1 (former 12.2.9.6.1.1) Stand Alone and/or Interoperability testing must begin on the prior release before the next release is implemented. Otherwise, CLEC will be required to move their implementation plan to the next release.

12.6.9.9.1.2 (former 12.2.9.6.1.2) New EDI users must be certified and in production with at least one product and one order activity type on a prior release two months after the implementation of the next release. Otherwise, CLEC will be required to move their implementation plan to the next release.

12.6.9.9.1.3 (former 12.2.9.6.1.3) Any EDI user that has been placed into production on a release not later than two months after the newest release implementation may continue certifying additional products and activities until two months prior to the retirement of the current release that CLEC is using. To be placed into production, the products/order activities must have been tested in the SATE or Interoperability environment at least four months prior to the retirement of the prior release.

12.6.9.10 (former 12.2.9.7) CLEC will be expected to execute the re-certification test cases in the stand alone and/or Interoperability test environments. CLEC will provide Purchase Order Numbers (PONs) of the successful test cases to Qwest.

## 12.7 Rate Elements

12.7.1 (former 12.2.11) Recurring and non-recurring OSS startup charges, as applicable, will be billed at rates set forth in Exhibit A. Qwest shall not impose any recurring or nonrecurring OSS startup charges unless and until the Commission approves such rates or until such rates go into effect by operation of law.

12.7.2 When Qwest OSS are not available and CLEC manually submits service requests to Qwest, Qwest will bill rates, if any, for mechanized functions, even though CLEC submitted the requests manually.

**NOTES:**

Eschelon proposes adding and modifying definitions that are in, or should be included in, Qwest's proposed Section 4, such as:

**Add to Definitions (Section 4):** "Include" or "including" means to have as part of a whole. The terms "include" and "including" mean "includes but is not limited to," regardless of whether the latter phrase is used.

**Add to Definitions (Section 4):** "Pre-ordering" includes gathering and verifying the necessary information to formulate an accurate order for an End User Customer and includes the following types of information: Customer Service Record (CSR), address validation, telephone number, due date, and services and features.

**Add to Definitions (Section 4):** Parties to discuss whether to add a Definition of Ordering, as other such terms (e.g., Pre-Ordering) will be defined.

**Modify Definition in Definitions (Section 4):**

"Provisioning" involves the exchange of information between Telecommunications Carriers where one executes a request for a set of products and services or Unbundled Network Elements or UNE Combinations from the other with attendant acknowledgments and status reports and the other provides the requested products or services. Provisioning includes implementing the requested service or feature, which may involve functions such as assigning facilities, updating translations in a switch, dispatching technicians and installation.

**Maintenance and Repair definition should be similarly modified.**

**Major Network Outages:** The information in the first paragraph of Section 12.4.3.10.1 could possibly be moved to Definitions. The Parties to discuss.

Eschelon proposes deleting Section 6.4 of the Resale Section of the Qwest-AT&T ICA and substituting a cross reference to Section 12. Information previously contained in Section 6.4 is covered by the provisions of this Section 12.

Eschelon proposes deleting Sections 9.2.2.15 and 9.2.4.10 of the Qwest-AT&T ICA and substituting a cross reference to Section 12. Information previously contained in that Section is covered by the provisions of this Section 12.

Eschelon proposes a review of the document before finalization for conforming changes to determine whether additional information in other Sections of the Agreement can be deleted, modified, or replaced with cross references to Section 12 to further consolidate the business processes into Section 12.

The UNE-E Amendment language will need to be added to the ICA. The Parties need to discuss whether the term “UNE-P” as used in the ICA is to include “UNE-E,” and where the term(s) are/will be defined. If “UNE-P” is not defined in the ICA to include “UNE-E,” then references to UNE-E will need to be added to Section 12 where applicable (such as 12.2.4.1.2).

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                            )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 47**

**AGREEMENT FOR  
TERMS AND CONDITIONS FOR INTERCONNECTION, UNBUNDLED NETWORK  
ELEMENTS, ANCILLARY SERVICES, AND RESALE OF TELECOMMUNICATIONS  
SERVICES PROVIDED BY**

**QWEST CORPORATION**

**FOR**

**COVAD COMMUNICATIONS COMPANY**

**IN THE STATE OF OREGON**

## Responsibility Application.

8.2.1.22.3.14.6 Once Collocation site transfer is complete the vacating CLEC, assuming CLEC, and Qwest are all required to sign the Qwest Services Transfer Agreement.

8.2.1.23 Qwest shall design and engineer the most efficient route and cable racking for the connection between CLEC's equipment in its collocated spaces to the collocated equipment of another CLEC located in the same Qwest Premises; or to CLEC's own contiguous and non-contiguous Collocation space. The most efficient route generally will be over existing cable racking, to the extent Technically Feasible, but to determine the most efficient route and cable racking, Qwest shall consider all information provided by CLEC in the Application form, including but not limited to, distance limitations of the facilities CLEC intends to use for the connection. CLEC shall have access to the designated route and construct such connection, using copper, coax, optical fiber facilities, or any other Technically Feasible method utilizing a vendor of CLEC's own choosing. CLEC may place its own fiber, coax, copper cable, or any other Technically Feasible connecting facilities outside of the actual Physical Collocation space, subject only to reasonable NEBS Level 1 safety limitations using the route specified by Qwest. CLEC may perform such Interconnections at the ICDF, if desired. CLEC may interconnect its network as described herein to any other collocating Carrier, to any collocated Affiliate of CLEC, to any end users premises, and may interconnect CLEC's own collocated space and/or equipment (e.g., CLEC's Physical Collocation and CLEC's Virtual Collocation on the same Premises). CLEC-to-CLEC Connections shall be ordered either as part of an Application for Collocation under Section 8.4, or separately from a Collocation Application in accordance with Section 8.4.7. CLEC-to-CLEC Cross Connections at an ICDF are available, as follows:

### 8.2.1.23.1 CLEC-to-CLEC Cross Connections at the ICDF:

8.2.1.23.1.1 CLEC-to-CLEC Cross Connection (COCC-X) is defined as CLEC's capability to order a Cross Connection from its Collocation in a Qwest Premises to its non-adjacent Collocation space or to another CLEC's Collocation within the same Qwest Premises at the ICDF.

8.2.1.23.1.2 Qwest will provide the capability to combine these separate Collocations through an Interconnection Distribution Frame (ICDF). This is accomplished by the use of CLECs' Connecting Facility Assignment (CFA) terminations residing at an ICDF. Also, ICDF Cross Connections must terminate on the same ICDF at the same service rate level.

8.2.1.23.1.3 If CLEC has its own Dedicated ICDF, CLEC is responsible for ordering tie cables to the common ICDF frame/bay where the other CLEC resides. These tie cables would be ordered through the existing Collocation Application form.

**8.2.1.23.1.4 CLEC is responsible for the end-to-end service design that uses ICDF Cross Connection to ensure that the resulting service meets its Customer's needs. This is accomplished by CLEC**

**using the Design Layout Record (DLR) for the service connection.<sup>7</sup>**

8.2.1.23.1.5 If two (2) CLECs are involved, one CLEC acts as the "ordering" CLEC. The ordering CLEC identifies both connection CFA's on the ASR. CLEC requests service order activity by using the standard ASR forms. These forms are agreed upon nationally at the OBF (Ordering and Billing Forum). Refer to the DMP (Document Management Platform)/Carrier/Carrier Centers/"A"/"ASOG" for copies of all forms including definitions of the fields. CLEC is responsible for obtaining these forms. Qwest must not reproduce copies for its Customers, as this is a copyright violation. The standard industry forms for CLEC-to-CLEC Cross Connections (COCC-X) are: Access Service Request (ASR), Special Access (SPE) and Additional Circuit Information (ACI).

8.2.1.24 Qwest will provide CLEC the same connection to the network as Qwest uses for provision of services to Qwest end users. The direct connection to Qwest's network is provided to CLEC through direct use of Qwest's existing Cross Connection network. CLEC and Qwest will share the same distributing frames for similar types and speeds of equipment, where Technically Feasible and space permitting.

8.2.1.25 CLEC terminations will be placed on the appropriate Qwest Cross Connection frames using standard engineering principles. CLEC terminations will share frame space with Qwest terminations on Qwest frames without a requirement for an intermediate device.

8.2.1.26 If CLEC disagrees with the selection of the Qwest Cross Connection frame, CLEC may request a tour of the Qwest Premises to determine if Cross Connection frame alternatives exist, and may request use of an alternative frame or an alternative arrangement, such as direct connections from CLEC's Collocation space to the MDF or COSMIC™ frame.

8.2.1.27 Conversions of the various Collocation arrangements (e.g., Virtual to Physical) will be considered on an Individual Case Basis. However, conversions from Virtual Collocation to Cageless Physical Collocation, where the conversion only involves an administrative and Billing change, and the virtually collocated equipment is located in a space where Cageless Physical Collocation is available, shall be completed in thirty (30) calendar Days. CLEC must pay all associated conversion charges.

8.2.1.27.1 Qwest will maintain and repair the POTS splitter shelf assembly. If CLEC has Physical Caged or Cageless collocation, CLEC will have the option to perform maintenance and repair of the POTS splitter cards. Election of this option requires CLEC to perform all maintenance associated with the splitter cards including troubleshooting, repair and replacement of cards. CLEC will also be responsible to supply and inventory spare cards including adding new cards to provision un-carded splitter shelf slots. Election of splitter cards maintenance requires CLEC to maintain the splitter cards in all of its common area splitter collocation sites in Qwest's 14 state operating territory. If Qwest maintains the splitter cards, CLEC will not be permitted to remove or replace splitter cards and

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<sup>7</sup> Arbitrator's Decision in ARB 584, Issued Aug. 11, 2005, at page 19.

"Impairing Party) of the nature and location of the problem. The Impaired Party shall advise the Impairing Party that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, the Impaired Party may temporarily discontinue use of the affected circuit, facility or equipment.

12.3.3.2 If it is confirmed that either Party is causing an Impairment of Service, as set forth in this Section, the Party whose network or service is being impaired (the Impaired Party) shall promptly notify the Party causing the Impairment of Service (the Impairing Party) of the nature and location of the problem. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service.

12.3.3.3 To facilitate trouble reporting and to coordinate the repair of the service provided by each Party to the other under this Agreement, each Party shall designate a repair center for such service.

12.3.3.4 Each Party shall furnish a trouble reporting telephone number for the designated repair center. This number shall give access to the location where records are normally located and where current status reports on any trouble reports are readily available. If necessary, alternative out-of-hours procedures shall be established to ensure access to a location that is staffed and has the authority to initiate corrective action.

12.3.3.5 Before either Party reports a trouble condition, it shall use its best efforts to isolate the trouble to the other's facilities.

12.3.3.5.1 In cases where a trouble condition affects a significant portion of the other's service, the Parties shall assign the same priority provided to CLEC as itself, its End User Customers, its Affiliates, or any other party.

12.3.3.5.2 The Parties shall cooperate in isolating trouble conditions.

#### **12.3.4 Trouble Isolation**

12.3.4.1 CLEC is responsible for its own End User Customer base and will have the responsibility for resolution of any service trouble report(s) from its End User Customers. CLEC will perform trouble isolation on services it provides to its End User Customers to the extent the capability to perform such trouble isolation is available to CLEC, prior to reporting trouble to Qwest. CLEC shall have access for testing purposes at the Demarcation Point, NID, Point of Interface or such other test points as are identified in this Agreement or applicable Qwest publications. Qwest will work cooperatively with CLEC to resolve trouble reports when the trouble condition has been isolated and found to be within a portion of Qwest's network. Qwest and CLEC will report trouble isolation test results to the other. Each Party shall be responsible for the costs of performing trouble isolation on its facilities, subject to Sections 12.3.4.2 and 12.3.4.3.

12.3.4.2 When CLEC requests that Qwest perform trouble isolation with CLEC, a



Maintenance of Service charge will apply if the trouble is found to be on the End User Customer's side of the Demarcation Point. If the trouble is found to be on Qwest's side of the Demarcation Point, Qwest will credit CLEC a Maintenance of Service charge or CLEC's actual costs, whichever is less, pursuant to Section 12.3.4.4. If the trouble is on the End User Customer's side of the Demarcation Point, and the CLEC authorizes Qwest to repair trouble on CLEC's behalf, Qwest will charge CLEC the appropriate Additional Labor Charge set forth in Exhibit A in addition to the Maintenance of Service charge.

12.3.4.3 When CLEC elects not to perform trouble isolation and Qwest performs tests at CLEC's request, a Maintenance of Service Charge shall apply if the trouble is not in Qwest's facilities, including Qwest's facilities leased by CLEC. Maintenance of Service charges are set forth in Exhibit A. When trouble is found on Qwest's side of the Demarcation Point, or Point of Interface during the investigation of the repeat Trouble Report submitted within the time frame as set forth in Section 12.3.4.4 for the same line or circuit, Maintenance of Service charges shall not apply.

12.3.4.4 Where Qwest has billed CLEC for Maintenance of Service charges for a CLEC Trouble Report, Qwest will remove such Maintenance of Service charge from CLEC's account and CLEC may bill Qwest for its repeat dispatch(es) to recover a Maintenance of Service charge or CLEC's actual costs, whichever is less, if all of the following conditions are met:

- the repeat Trouble Report(s) is the same trouble as the prior Trouble Report (Repeat Trouble) as is demonstrated by CLEC's test results isolated between consecutive CLEC access test points; and
- the Repeat Trouble is reported within three (3) business days of the prior trouble ticket closure; and
- the Repeat Trouble has been found to be in facilities owned or maintained by Qwest or Qwest facilities leased by CLEC; and
- CLEC has provided the circuit specific test results on the prior and Repeat Trouble that indicates there is trouble in Qwest's network, consistent with the CLEC efficient use of space available for the purposes of providing test results on the Qwest standard trouble ticket form (If CLEC does not provide test results, Qwest will bill and CLEC will pay for optional testing where applicable); and
- CLEC's demonstration of its technician dispatch on the prior and Repeat Trouble; provided that such demonstration is sufficient when documented by CLEC's records that are generated and maintained in the ordinary course of CLEC's business.

### 12.3.5 Inside Wire Maintenance

Except where specifically required by state or federal regulatory mandates, Qwest will not perform any maintenance of inside wire (premises wiring beyond the End User Customer's Demarcation Point) for CLEC or its End User Customers.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 48**

## CMP Oversight Committee Meeting Minutes Posted on the Qwest Wholesale Website

- **November 13, 2002**  
Qwest CopperMax deployment  
<http://www.qwest.com/wholesale/downloads/2003/030318/DraftMeetingMinutesNov13OversightCommittee.doc>
- **October 31, 2002**  
Qwest CopperMax deployment  
<http://www.qwest.com/wholesale/downloads/2003/030318/DraftMeetingMinutesOct31OversightCommitteewithcomments.doc>
- **March 4, 2003**  
Loop Qualification Information Audit Business Procedure and Access Line Count process associated with E911  
<http://www.qwest.com/wholesale/downloads/2003/030318/OversightCommitteeMeetingMinutes3-6-03FINAL.doc>
- **June 18, 2003**  
14 examples that are identified on PC032803-1  
<http://www.qwest.com/wholesale/downloads/2003/030707/PC032803-1OversightMeetingMinutes-revised.doc>
- **July 16, 2003**  
status on the action items from the Oversight Review Meeting held on June 18, 2003.  
<http://www.qwest.com/wholesale/downloads/2003/030723/7-16OversightIssueReviewMeetingMinutes.doc>
- **August 25, 2003**  
status on the action items from the Oversight Review Meeting held on June 18 and July 6, 2003.  
<http://www.qwest.com/wholesale/downloads/2003/030825/CMPOversightReviewissueMeetingMinutes082503.doc>
- **October 20, 2003**  
address fields that Qwest systems documentation showed as optional fields  
<http://www.qwest.com/wholesale/downloads/2003/031029/CMPOversightCommitteeMeetingMinutes102003MCIComments.doc>
- **October 27, 2003**  
address fields that Qwest systems documentation showed as optional fields  
<http://www.qwest.com/wholesale/downloads/2003/031110/CMPOversightCommitteeMeetingMinutes102703.doc>
- **November 11, 2003**  
delayed order information  
<http://www.qwest.com/wholesale/downloads/2003/031209/CMPOversightCommitteeMeetingMinutes110503.doc>
- **September 27, 2004**  
changes to legacy back office billing systems  
[http://www.qwest.com/wholesale/downloads/2004/041013/FinalCMPOversightCommittee9-27-04MeetingMinutes\\_Cov.pdf](http://www.qwest.com/wholesale/downloads/2004/041013/FinalCMPOversightCommittee9-27-04MeetingMinutes_Cov.pdf)
- **October 14, 2004**  
changes to legacy back office billing systems  
[http://www.qwest.com/wholesale/downloads/2004/041105/CMP\\_Oversight\\_Committee\\_Meeting\\_Minutes\\_10\\_14\\_04\\_Eschelon.pdf](http://www.qwest.com/wholesale/downloads/2004/041105/CMP_Oversight_Committee_Meeting_Minutes_10_14_04_Eschelon.pdf)
- **November 2, 2004**  
changes to legacy back office billing systems  
[http://www.qwest.com/wholesale/downloads/2004/041119/CMP\\_Oversight\\_Committee\\_Meeting\\_Minutes\\_11\\_2\\_04\\_Covad\\_Es\\_.pdf](http://www.qwest.com/wholesale/downloads/2004/041119/CMP_Oversight_Committee_Meeting_Minutes_11_2_04_Covad_Es_.pdf)

- **January 4, 2005**

Qwest proposed changes (PC102704-1ES)

[http://www.qwest.com/wholesale/downloads/2005/050114/CMP\\_Oversight\\_Committee\\_Mtg\\_Min\\_1\\_4\\_05.pdf](http://www.qwest.com/wholesale/downloads/2005/050114/CMP_Oversight_Committee_Mtg_Min_1_4_05.pdf)

- **January 10, 2005**

Qwest proposed changes (PC102704-1ES)

[http://www.qwest.com/wholesale/downloads/2005/050202/CMP\\_Oversight\\_Committee\\_Meeting\\_Minutes\\_1\\_10\\_05\\_CLEC\\_updat\\_.pdf](http://www.qwest.com/wholesale/downloads/2005/050202/CMP_Oversight_Committee_Meeting_Minutes_1_10_05_CLEC_updat_.pdf)

- **April 13, 2006**

“VCI submitted two change requests that were denied, which Qwest would like to review.”

[http://www.qwest.com/wholesale/downloads/2006/060417/Oversight\\_Review\\_Committee\\_Meeting\\_4\\_13\\_06V3.doc](http://www.qwest.com/wholesale/downloads/2006/060417/Oversight_Review_Committee_Meeting_4_13_06V3.doc)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 49**

## CONTRACT LANGUAGE DISCUSSED IN COLLABORATIVES / CLEC FORUMS

*COMPARE:*

Albersheim Minnesota Surrebuttal Testimony, p. 9, lines 6-12:

**“Q. ARE THERE ANY FACTUAL ERRORS IN ESCHELON'S DISCUSSION OF NEGOTIATION LANGUAGE?”**

A. Yes. While the errors are not relevant to the issues at hand, it is important that the factual record be correct. First, Ms. Johnson claims that CLEC forums used to be held in which Qwest discussed contract language changes.<sup>1</sup> I have confirmed with Qwest participants in those forums, including the manager of contract negotiations, that contract language was not discussed at CLEC forums. . . “

*WITH:*

**1. CMP Redesign Final Meeting Minutes at which contract language was discussed, Nov. 27-29, 2001 (excerpt)**

[http://www.qwest.com/wholesale/downloads/2002/020110/CMP\\_Redesign\\_Meeting\\_Nov\\_27-29\\_Final\\_Minutes-01-08-02.doc](http://www.qwest.com/wholesale/downloads/2002/020110/CMP_Redesign_Meeting_Nov_27-29_Final_Minutes-01-08-02.doc), p. 14 (emphasis added).<sup>2</sup>

“After a short break the meeting resumed with Schultz-Qwest requested the CLECs to explain why the interim process was for only changes which result from the workshops or OSS testing. She continued that if this were the case, all other issues would be handled under the existing CMP, and why, if that were the case did the “CLEC altering” list contain TN changes, for example, which clearly were not workshop related. Menezes-AT&T stated that he was not satisfied with the way the current CMP forced CLECs to dispute resolution if their CRs were denied. ***Zulevic-Covad asked why the additional testing CR wasn't managed through the same collaborative process as the collocation decommissioning CR was. He explained that the collocation CR had been submitted by AT&T in response to a Qwest notification. Steve Nelson-Qwest had met with the CLECs to discuss the CR, and asked them for ideas to handle the decommissioning. A collaborative proposal was developed and managed through CMP as a CR. He further explained that if any CLEC was not satisfied with the agreement, they were allowed to negotiate a separate agreement to their contract.*** Clauson-Eschelon stated that this is not a good model because it began with Qwest issuing a notice, when Qwest should have issued a CR. Clauson-Eschelon stated that Qwest should bring each product change it wishes to make to the CLECs as a CR for

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<sup>1</sup> Qwest provides no cite. In Ms. Johnson's Rebuttal testimony, p. 6, lines 13-15, Ms. Johnson said: “With respect to Qwest's template proposals, Qwest previously held collaborative sessions and CMP CLEC Forums to discuss some contract language changes with CLECs.”

<sup>2</sup> BJJ-26 (27<sup>th</sup> page in PDF):

Reply of Allegiance, Covad, and Eschelon to Qwest's response to their escalation of cr # pc100101-5 regarding Additional testing and related issues, 12/21/01: “Allegiance, Covad, and Eschelon have made a reasonable request to Qwest to consider a collaborative effort, modeled after successful aspects of the one ultimately used to address collocation decommissioning, to address all of the issues raised in this escalation.” <http://www.qwest.com/wholesale/downloads/2001/011221/122101email.pdf>

their comment. She stated that Qwest should have to request a change, rather than making an announcement. She stated that CLECs should have the option of denying Qwest CRs. Quintana-PUC asked how this was different from the current CR process. Clauson-Eschelon stated that under the current process CLECs couldn't veto Qwest CRs. Schultz-Qwest stated that the difference is that systems CRs are prioritized and product/process CRs are not. She explained that Qwest has never committed to stop doing business or allow CLECs to reject or deny Qwest CRs. Clauson-Eschelon stated that once Qwest agreed to submit CRs for product/process changes it was a fair assumption that Qwest would allow CLECs to accept or deny them. Quintana-PUC asked what the difference was between a notice and a CR. Schultz-Qwest stated that a CR gives CLECs 45 days advance notice of a pending change and solicited their comments. Clauson-Eschelon stated that CLECs believed they would have denial privileges. Wicks-Allegiance stated that the CLECs also want dialogue to modify the elements of a Qwest CR. Menezes-AT&T stated that he felt Qwest and CLEC CRs were handled differently, because Qwest can deny CLEC CRs in both the product/process and systems arenas and CLECs cannot deny a Qwest CR. Schultz-Qwest stated that she wanted to see some definition around what was not CLEC altering. Clauson-Eschelon suggested that all Qwest changes become CRs.. Schultz-Qwest asked the Team to come up with a list of those changes that would require notification only. Quintana-PUC stated that she thought the Team could close the process and list today. Schultz-Qwest stated that Qwest had issues with CLEC denial of product/process CRs and suggested that the Team work to get more clarity around the notification list. Clauson-Eschelon stated that she wanted to see the redlining expanded. She asked if she could get a commitment from Qwest to the current interim process. Schultz-Qwest stated that the Team had identified gaps in their collective understanding. She stated it would take some time to clarify within Qwest what would get redlined. McNa-Qwest stated that anything that Qwest is adding is going on the notification form. She stated it would be confusing with multiple versions of a document in the holding tank. Clauson-Eschelon stated that she wanted the process to be easy for CLECs to use and asked that a definition of the specific changes be included in the notice. Schultz-Qwest explained the versioning process and the time intervals involved. She stated that Qwest was looking to CLECs for a list of changes Qwest could just send a notice on without redlining. Clauson-Eschelon asked if all substantive changes would be redlined in the future. Schultz-Qwest stated that she would discuss the issue with Sue McNa over lunch and bring an answer back. The meeting broke for lunch."

## **2. AT&T CR 5582318 (Decommission Process) (excerpt)**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_5582318.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5582318.htm)

### "Status History:

07/27/01 - 90 day review process for Joint Planning process for Cancel ,Decom and change of Responsibility Offering letter distributed.

08/09/01 - Proposed meetings for a collaborative re-design of the Collocation Cancellation, Decommission, and Change of Responsibility product offerings began. Meeting notice sent on July 27th with a reminder sent August 6th.

09/12/01 - Joint planning meeting held, chaired by Steve Nelson. . .

10/10/01 - Template agreement to be finalized with AT&T, chaired by Steve Nelson."

Project Meetings: (p. 4)

"Interconnection Agreements. Please join Qwest in participating in the following calendar of meetings. These meetings will be chaired by Steve Nelson, Group Product Manager Collocation. He can be reached on 303-896-6357. Interested CLECs are encouraged to participate."

### **3. Qwest/CLEC Forum on Procedures for Cancellation, Decommission, Change of Responsibility for Collocation Sites (excerpt)**

<http://www.qwest.com/wholesale/tradeShow/collodecommission.html>

#### **"Next Meeting**

Wednesday, February 6, 2002

1:00 - 3:30 PM MST

Purpose: A series of interactive sessions with Qwest's CLEC customers to shape procedures for collocation activity.

#### **Location**

1801 California, 23rd Floor, Conference Room 23-1

Denver, CO

For conference call participants, dial 1-877-561-8688, and enter a pass code of 2924070# when prompted.

#### **Minutes From Previous Meetings**

[January 23, 2002 Meeting](#)

[December 12, 2001 Meeting](#)

[November 14, 2001 Meeting](#)

[October 17, 2001 Meeting](#)

[August 29, 2001 Meeting - Revised Minutes](#)

[August 29, 2001 Meeting](#)

[August 15, 2001 Meeting](#)

[August 9, 2001 Meeting](#)

**Last Update:** February 4, 2002"

### **4. CLEC Forum Meeting Minutes, Nov. 14, 2001 Qwest/CLEC Forum on Procedures for Cancellation, Decommission, Change of Responsibility for Collocation Sites (excerpt)**

p.2:

#### **"1. Housekeeping -**

- ✓ The revised procedures for Collocation Cancellation and Decommission will be launched on 12/21/01. Amendments for both Cancellation and Decommission will be available 11/21/01. Customers will be required to sign and date by 12/21 in order for Qwest to accept an application for Collocation Cancellation and Decommission after December 21<sup>st</sup>."



**5. CLEC Forum Meeting Minutes of October 17, 2001 Meeting**  
**Collocation – Decommission and Cancellation, Change of Responsibility (excerpts)**

[http://www.qwest.com/wholesale/downloads/2001/011113/October\\_17\\_2001\\_Meeting.doc](http://www.qwest.com/wholesale/downloads/2001/011113/October_17_2001_Meeting.doc)

p.1:

**“Where:** Qwest, 1801 California, 23rd Floor

**When:** October 17, 2001

**Purpose:** The agenda included the following:

- ✓ Roll call.
- ✓ Review the minutes from the 10/10 meeting.
  - ✓ Review updated draft version of the Cancellation procedure document.
  - ✓ Review updated draft version of the Decommission procedure document.
  - ✓ Review Decommission Reimbursable Element calculation.
  - ✓ Review of the Cancellation and Decommission Amendments
  - ✓ Other minutes”

pp. 1-2:

**“1. Housekeeping -**

- ✓ Jane, Qwest, updated everyone on the process regarding the Amendments:
  - ✓ Once the product is announced there will be a 30 day grace period in which to sign and return the Cancellation and Decommission Amendments to Qwest.
  - ✓ If a CLEC would like to negotiate specific terms related to the Cancellation and Decommission Amendments they will need to Amend the 1.7 SGAT language to their contract. This will give them the ability to continue to place Cancel and Decommission Request while negotiating the specific Terms and Conditions.
- ✓ Based on group consensus on the Cancellation and Decommission Procedure documents the following is a tentative schedule:
  - ✓ Recommended changes discussed in the 10/17 meeting will be completed by Jane on 10/17 and forward to Legal for final review.
  - ✓ Once Legal has approved the documents will be put into the Amendment format week of 10/29.
  - ✓ CMP Notification will occur on 11/15.
- ✓ CLEC Review period between 11/16-12/01.
- ✓ Final Cancellation and Decommission procedures for review available on 12/15/01.
- ✓ Effective date for the final Cancellation and Decommission procedures to be posted on the Collocation PCAT on 1/1/02. “

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**Announcement Date: November 21, 2001**

**Effective Date: December 21, 2001**

**Document Number: PROD.11.21.01.00603.Collocation\_Decommission**

**Notification Category: Product Notification**

**Target Audience: CLECS, Resellers**

**Subject: Collocation Decommissioning Update: Action Required by December 21, 2001**

Beginning December 21, 2001, Qwest will issue updates to its Wholesale Product Catalog that include new/revised documentation on Collocation.

Procedures regarding Collocation Cancellation and Decommission have been modified. You will be required to sign, date and return the Collocation Cancellation and/or the Collocation Decommission Amendments by **December 21, 2001** in order to submit a Collocation Cancellation or Decommission request.

[http://www.qwest.com/wholesale/downloads/2001/011113/October\\_17\\_2001\\_Meeting.doc](http://www.qwest.com/wholesale/downloads/2001/011113/October_17_2001_Meeting.doc)

**Minutes of October 17, 2001 Meeting  
Collocation – Decommission and Cancellation, Change of Responsibility**

**Where:** Qwest, 1801 California, 23rd Floor

**When:** October 17, 2001

**Purpose:** The agenda included the following:

- ✓ Roll call.
- ✓ Review the minutes from the 10/10 meeting.
  - ✓ Review updated draft version of the Cancellation procedure document.
  - ✓ Review updated draft version of the Decommission procedure document.
  - ✓ Review Decommission Reimbursable Element calculation.
  - ✓ Review of the Cancellation and Decommission Amendments
  - ✓ Other minutes

**Chair:** Steve Nelson

**Minutes provided by:** Jane Lacy

**Next Meeting: Wednesday, November 14<sup>th</sup>, Qwest, 1:00-4:30 MT, 1801 California, 23<sup>rd</sup> Floor, Call in phone number: 1-877-542-1778, pass code: 6904985#.**

**Attendees:**

**[attendee list and contact information omitted]**

**Notes from the Meeting:**

**1. Housekeeping -**

- ✓ Jane, Qwest, updated everyone on the process regarding the Amendments:
  - ✓ Once the product is announced there will be a 30 day grace period in which to sign and return the Cancellation and Decommission Amendments to Qwest.
  - ✓ If a CLEC would like to negotiate specific terms related to the Cancellation and Decommission Amendments they will need to Amend the 1.7 SGAT language to their contract. This will give them the ability to continue to place Cancel and Decommission Request while negotiating the specific Terms and Conditions.
- ✓ Based on group consensus on the Cancellation and Decommission Procedure documents the following is a tentative schedule:
  - ✓ Recommended changes discussed in the 10/17 meeting will be completed by Jane on 10/17 and forward to Legal for final review.
  - ✓ Once Legal has approved the documents will be put into the Amendment format week of 10/29.
  - ✓ CMP Notification will occur on 11/15.
- ✓ CLEC Review period between 11/16-12/01.
- ✓ Final Cancellation and Decommission procedures for review available on 12/15/01.
- ✓ Effective date for the final Cancellation and Decommission procedures to be posted on the Collocation PCAT on 1/1/02.

**2. Steve, Qwest, reviewed the meeting minutes from the 10/10 meeting and agenda for the 10/17 meeting.**

**3. Reviewed the Procedures document for Collocation Cancellation –**

- ✓ Jane, Qwest, reviewed the document.

- ✓ Only requested correction was 4.1.3 “Order Validation” should not be capitalize.
- ✓ **CLECs and Qwest were in agreement that the Cancellation Procedures document is approved once the above mentioned change was made to the document.**

#### **4. Review the Procedures Document for Collocation Decommission –**

- ✓ Jane, Qwest, reviewed the document.
- ✓ Recommended removing the second sentence in section 1.1.
- ✓ Bob, MCI Worldcom recommended that in section 2.5 “CLEC-to-CLEC Cross Connects” needs to be removed.
- ✓ Talia, Sprint, also asked that the following sentence be added to section 2.5: “services should be disconnected via ASR/LSR process”.
- ✓ It was agreed that item 2.9 (Splitter Collocation) should be removed.
- ✓ Mike, Covad, requested that in item 5.2 mention that the appropriate documentation is covered in 2.0 and 5.0.
- ✓ Requested in item 6.2 that the credit could possibly be in the form of a check.
- ✓ Talia, Sprint, asked the time frame to process ASRs/LSRs? Peggy said that intervals could be found in the Service Guide.
- ✓ Talia asked why the ASR/LSR could not be done with the Decommission Application? Peggy said that they must be done in order to process the Decommission request.
- ✓ Sharon, AT&T asked what the time frame for a MOP? Kay said that the MOP would need to be in place prior to taking out the equipment.

#### **5. Next Steps –**

On November 14<sup>th</sup> will be the next Qwest/CLEC meeting to review the Change of Responsibility procedure document. The meeting will be from 1:00 – 4:30. Jane will distribute the draft document prior to the meeting.

## **Qwest/CLEC Forum on Procedures for Cancellation, Decommission, Change of Responsibility for Collocation Sites**

**Where:** Qwest, 1801 California, 23rd Floor

**When:** November 14, 2001

**Purpose:** The agenda included the following:

- ✓ Roll call.
- ✓ Review status for launching the revised procedures for Collocation Cancellation and Collocation Decommission.
- ✓ Review 1<sup>st</sup> draft version of the Change of Responsibility procedure document.
- ✓ Review updated draft version of the Decommission procedure document.

**Chair:** Steve Nelson

**Minutes provided by:** Jane Lacy

**Next Meeting:** Wednesday, December 14<sup>th</sup>, Qwest, 1:00-3:30 MT, 1801 California, 23<sup>rd</sup> Floor, Call in phone number: 1-877-561-8688, pass code: 2924070# (NOTE NEW CONFERENCE BRIDGE PHONE NUMBER AND PASS CODE).

### **Attendees:**

[attendee list and contact information omitted]

### **Notes from the Meeting:**

#### **1. Housekeeping -**

- ✓ The revised procedures for Collocation Cancellation and Decommission will be launched on 12/21/01. Amendments for both Cancellation and Decommission will be available 11/21/01. Customers will be required to sign and date by 12/21 in order for Qwest to accept an application for Collocation Cancellation and Decommission after December 21<sup>st</sup>.
- ✓ Next meeting to discuss Change of Responsibility will be on 12/14 from 1:00 – 3:30.

#### **2. Reviewed the Procedures document for Collocation Change of Responsibility –**

- ✓ Jane, Qwest, reviewed the document.
- ✓ Due to new participants on the call and the unfamiliarity of who was speaking, I may not identify the person that asked a question in the meeting minutes.
- ✓ **Description section:**
  - ✓ Item 1.5:
    - ✓ It was suggested that the “R” in request be changed to lower case.
    - ✓ It was requested that I include “or Qwest” after “CLECs”.

- ✓ It was asked that Qwest get clarity from Legal as to what conditions would Qwest check the queue, i.e. buyout of a company, bankruptcy, etc. Also if it mattered if the request was for working circuits or non-working circuits. **ACTION ITEM:** Jane to verify with legal and public commission.
- ✓ Jennifer, Fairpoint, asked if CLECs could check themselves to determine if anyone is in the queue. Mike, Qwest, said that we post on the web a space denial list, which contains the office and number of CLECs in the queue.
- ✓ Sharon, AT&T, asked for the web site address. **ACTION ITEM:** Jane to provide the Qwest web site address for the Space Denial report. **ANSWER:** the web site for the Space Denial and Space Exhaust report is – <http://www.qwest.com/wholesale/notices/collo/spaceAvail.html>.
- ✓ Item 1.6, Bob, Worldcom, asked why we have to have different CLLI codes. Reason was due to system limitations, but Qwest to revisit and determine if the initial CLLI code can remain. **ACTION ITEM:** Jane to research and report back at our next meeting.
- ✓ Item 1.7, requested that we re-word this item so that the Change of Responsibility request would be irrevocable upon 100% payment of the NRC on the quote.
- ✓ **Terms and Conditions section:**
  - ✓ Item 2.2, requested that “pertaining” be switched to “referenced in”.
  - ✓ Item 2.3, Sharon, AT&T, asked if we could reconsider since the vacating maybe in trouble and the assuming is willing to accept financial responsibility for the vacating. **ACTION ITEM:** Jane to check with Legal.
  - ✓ Item 2.6, CLECs asked why Qwest needs to know that they have notified their customers of the transfer. Someone also mentioned that they may have a waiver from the FCC. Sharon asked if in ICA would Qwest not be liable? **ACTION ITEM:** Jane to check with Legal and also find out if the notification needs to be done at a certain point in time in the process.
  - ✓ Item 2.8.1, Kay, Qwest, asked if I could add “all” before “BAN”.
  - ✓ Item 2.8.3, much discussion regarding the need of CLECs to submit ASRs/LSRs if the COR request is with working circuits. **ACTION ITEM:** Jane to verify if ASRs/LSRs will be required.
  - ✓ Item 2.10, requested that I add “or Qwest” after “CLECs”.
  - ✓ Item 2.11, requested that the second sentence be re-worded to say “Qwest will manage the database and records transfer”.
  - ✓ Item 2.12, need to re-word to say that Qwest is not responsible for the physical condition of the CLECs equipment.
  - ✓ Item 2.14, need to re-word.
  - ✓ Item 2.15, change out “altering” with “augmenting” and add “to Qwest” at the end of the sentence.
  - ✓ Item 2.17 re-word to vacating existing site.
- ✓ **Rate Elements section:**
  - ✓ Item 3.2.1, requested that I break out what the charges are.
  - ✓ Item 3.2.2, requested that I add “for ASR/LSR activity”.
- ✓ **Ordering section:**

- ✓ Item 4.1.2 change the “R” in request to lower case.
- ✓ **Procedures section:**
  - ✓ Item 5.2 add “or Qwest”.
  - ✓ Item 5.3 requested that I add “recommended time frames”.
  - ✓ Item 5.4.4 correct “CLLI”.
  - ✓ Item 5.8 modified to say “...ASR/LSR orders have been submitted and scheduled completion date”.
  - ✓ Item 5.9 need to re-word.
  - ✓ Add an item 5.10 to say “Walkthrough acceptance of the site with assuming CLEC will occur 100% of the NRC have been paid or notified for the schedule walkthrough after the RFS date”.
- ✓ **Billing section:**
  - ✓ Item 6.1 change the “R” in request to lower case.

-----Original Message-----

**From:** mailouts@qwest.com [SMTP:email redacted]  
**Sent:** Wednesday, November 21, 2001 1:13 PM  
**To:** qwest.all.notices@eschelon.com  
**Subject:** Product: Collo: RN: Action Req- Collo Decommissioning Amendment, Effective November 21, 2001, Final

[I <http://www.geocities.com/lchuck78/logo.gif>](http://www.geocities.com/lchuck78/logo.gif)

November 21, 2001

Qwest All Notices  
Eschelon Telecom Inc.  
730 Second Ave S #1200  
Minneapolis, MN 55402  
qwest.all.notices@eschelon.com

To: Qwest All Notices

**Announcement Date: November 21, 2001**  
**Effective Date: December 21, 2001**  
**Document Number: PROD.11.21.01.00603.Collocation\_Decommission**  
**Notification Category: Product Notification**  
**Target Audience: CLECS, Resellers**  
**Subject: Collocation Decommissioning Update: Action Required by December 21, 2001**

Beginning December 21, 2001, Qwest will issue updates to its Wholesale Product Catalog that include new/revised documentation on Collocation.

Procedures regarding Collocation Cancellation and Decommission have been modified. You will be required to sign, date and return the Collocation Cancellation and/or the Collocation Decommission Amendments by **December 21, 2001** in order to submit a Collocation Cancellation or Decommission request.

The amendments can be viewed at the following web site:

<<http://www.qwest.com/wholesale/clecs/negotiations.html>>. Please call your Qwest Sales Executive to request the formal Collocation Cancellation Amendment and the Collocation Decommission Amendment.

Information on collocation can be found on the Qwest Wholesale Web site at URL:

<<http://www.qwest.com/wholesale/pcat/collocation.html>>

You are encouraged to provide feedback to this notice through our web site. We provide an easy to use feedback form at <<http://www.qwest.com/wholesale/feedback.html>>. A Qwest representative will contact you shortly to discuss your suggestion.

If you have any questions or would like to discuss this notice please contact your Qwest Service Manager, Pat Levene on 6126636265. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,  
Qwest

Note: While these updates reflect current practice, it is important to note that there are additional changes that will be forthcoming as a result of ongoing regulatory activities e.g., collaborative workshops, and state commission orders. As these changes are defined and implementation dates are determined, notice of additional updates will be provided accordingly.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process.

Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

cc: Judy Rixe

Pat Levene



[http://www.qwest.com/wholesale/cmp/archive/CR\\_5582318.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5582318.htm)

Resources Change Management Process (CMP)

Open Product/Process CR 5582318 Detail

Title: Decommission process

CR Number Current Status

Date Area Impacted Products Impacted

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5582318 Completed

11/14/2001 Pre-Ordering Collocation

Originator: Osborne-Miller, Donna

Originator Company Name: AT&T

Owner: Nelson, Steve

Director: Campbell, William

CR PM: Wirth, Pete

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#### Description Of Change

Qwest has recently changed their Collocation Decommission Policy. AT&T objects to the fact that Qwest made this process change unilaterally – without the input of AT&T. Objections that AT&T has regarding the new policy are:

·1: A certified letter - stating that either no customers were ever installed in the collo or if customers were installed, AT&T has notified them their service will be disconnected or moved - and a copy of the decommission application must to be sent to the Account Team Representative. Prior to this process change, AT&T was not required to do this. We have processed approximately 10 decommission applications so far this year and have not sent a certified letter for any of them.

Resolution: AT&T wants to send the application via email only as before.

2. The decommission process reads "The completion of a decommission request and 100% payment of any outstanding financial obligation, will terminate the billing of recurring charges for the site." What this means to AT&T is that we should be current on any bills for the collocation we are decommissioning. What this means to Qwest is that if there is any outstanding bills - either non recurring or recurring - due for any collocation in Qwest territory, they will NOT process the decommission application until all bills for all sites are paid. AT&T may incur additional monthly charges for the collocation being decommissioned since the application is on hold.

Resolution: It is AT&T's request that only the non recurring and recurring bills for the collocation being decommissioned be subject to scrutiny.

3. Since Qwest charges AT&T a flat fee to decommission a site, AT&T has inquired about the possibility of conducting a site visit to ensure that Qwest has completed the decommissioning of the site. Qwest has denied AT&T this final site visit. Although Qwest may disconnect power cables, conduct a site visit and complete database work, they do not actually tear down the actual site. Qwest is hoping to lease the space to another CLEC and will not have to rebuild the space. Qwest assures AT&T that if the space is leased within a year of the decommissioning, AT&T will be reimbursed some monies for the collocation space.

Resolution: AT&T would like proof that the work has been completed.

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#### Status History

06/06/01 - CR received by Donna Osborne Miller of AT&T

06/07/01 - Status changed to New – to be evaluated

06/25/01 - Status changed to Reviewed – Under consideration

06/25/01 - Revised CR submitted by AT&T

07/09/01 - Completed Draft Response

07/12/01 - Drafted Response sent to CICMP team via email (MR)

07/27/01 - 90 day review process for Joint Planning process for Cancel, Decom and change of Responsibility Offering letter distributed.

08/09/01 - Proposed meetings for a collaborative re-design of the Collocation Cancellation, Decommission, and Change of Responsibility product offerings began. Meeting notice sent on July 27th with a reminder sent August 6th.

09/12/01 - Joint planning meeting held, chaired by Steve Nelson

09/14/01 - AT&T verbal notice received from Sharon Van Meter to not close this CR as the Decommission process is still being worked on.

09/19/01 - CMP Meeting - Qwest provided status of CLEC meetings to develop the process.

10/10/01 - Template agreement to be finalized with AT&T, chaired by Steve Nelson.

10/17/01 - CMP Meeting: Steve Nelson to finalize decommission policies and procedures with CLEC community. No status change.

10/31/01 - Qwest response submitted to database CLEC Community.

11/14/01 - CMP Meeting - AT&T moved to "Close" CR.

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**Project Meetings**

**New Interim Procedures to Terminate or Decommission An Existing Collocation Site**

As a result of your feedback concerning Qwest's recently issued Decommission procedures for existing Collocation sites, Qwest is adopting an interim plan for 90 days. During this interim 90-day period, Qwest will hold a series of meetings and conference calls with the industry to develop mutually acceptable procedures to follow concerning this issue. Please review the interim changes and the calendar of meetings below. We sincerely hope that you will participate.

**Interim Changes Effective August 9, 2001** • Qwest will no longer issue a Quote of \$3455 for each decommission before monthly recurring billing stops.

Qwest is waiving the Decommission Quote charges effective immediately with issuance of this announcement. Future pricing will be reviewed as part of the "Future Procedures Modifications Process" as described below.

- Qwest will credit past decommission quotes paid and any monthly charges paid past the date of acceptance of the valid application. CLECs can contact their Wholesale Project Manager regarding past decommissions processed or currently being processed.
- The vacating CLEC submitting the "Collocation Application for Cancel, Decommission, or Change of Responsibility" will no longer be required to be current on all billing for all collocation sites, including both monthly and non-recurring quotes before Qwest will process a decommission request.
- The interim requirement will state that a CLEC must be current on "all billing for the specific site for which the decommission application is submitted" for Qwest to decommission a site.

- Qwest will no longer require receipt of the quote charges to stop billing. Monthly billing will stop effective with the valid receipt of a decommission application.
- Applications will no longer need to be sent via certified mail for processing. "Electronic submission of requests to decommission a site can be sent to colo@qwest.com"

Future Procedures Modifications Process Qwest intends to issue future procedures that are acceptable to those parties concerned. For Qwest to implement satisfactory procedures, CLEC feedback is needed and valued. At the completion of this joint 90-day effort, the revised product procedures will be priced, and if appropriate, a template offered by Qwest for an amendment to the CLEC/Qwest

Interconnection Agreements. Please join Qwest in participating in the following calendar of meetings. These meetings will be chaired by Steve Nelson, Group Product Manager Collocation. He can be reached on 303-896-6357. Interested CLECs are encouraged to participate.

#### Kick-off meeting

August 9th, from 9am to 3pm, 1801 California, Executive Conference room, 23rd floor. Conference bridge: 877-542-1778, pass code 6904985.

1. Review existing product offerings and proposed changes, gather information on additional proposed changes, understand all concerns. Here is a brief outline of the discussion:
2. Agree to as many items as possible initially, table for future review those items requiring detailed response, and respond to disputed items by next meeting for resolution.
3. Capture voting record of participants on each issue, and dissenting opinion as agreed to by the team.
4. Prioritization of changes and timelines.
5. Review costing of current products. Items included in the costing model.
6. Discuss how other ILECs handle cancellation, decommission, change of responsibility or network transfer.

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#### QWEST Response

"The below response does not include the attachments referenced in the response. Please see the CMP Web Site for complete response to include Cancellation and Decommissioning Procedures"

October 31, 2001 Sharon Van Meter Manager, AT&T 1875 Lawrence St., 10th floor  
Denver, Colorado 80202

CC: William Campbell Steve Nelson Jane Lacy

This letter is in response to CLEC Change Request Form #5582318, dated June 25, 2001. This Change Request pertains to several issues regarding the Decommission product

offering. On July 9th Qwest committed to partnering with the CLEC industry to resolve the issues identified in the Change Request Form specifically referring to decommission procedures. In addition, Qwest expanded this effort to review the product offerings for Cancellation, and Change of Responsibility. Throughout the month of August, September and October representatives from Qwest and the CLEC industry met to review the procedures for administering a Cancellation and Decommission request. The Qwest/CLEC Forum meetings will continue as we work together to revamp the Change of Responsibility product offering procedures. Successful resolution was achieved for those items addressed in the Decommission Change Request Form. Your efforts were instrumental in this partnership effort.

The following is a summary of the issues identified in the Decommission Change Request Form and the resolution for each: AT&T objected to process changes unilaterally without input from AT&T. Qwest committed to participate in a joint effort to review the Cancel, Decommission, and Change of Responsibility product offerings with CLEC industry and met that commitment. AT&T objected to the requirement to submit a certified letter stating that AT&T customers were notified of the disconnect or move. Qwest agreed to modify the process and allow both the application and confirmation notice to be sent electronically to the rfsmet@qwest.com mailbox. AT&T objected to the requirement that 100% payment of any outstanding financial obligation must be met in order to terminate billing of recurring charges. Qwest modified the procedures to state that financial obligations must be met with respect to the collocation site that is being decommissioned only. We further defined the financial obligations to include all non-recurring and monthly recurring charges must not be greater than thirty (30) days past due. AT&T objected to when the monthly recurring charges would cease. Qwest agreed that the billing end date will coincide with the date of a valid Decommission Application submit date. AT&T felt that they should be entitled to some monies for reimbursable elements at the Decommission site. Qwest agreed that a CLEC would be eligible for reimbursement on the re-usable elements for up to one (1) year from the Decommission Application submit date.

The following is the implementation schedule for the revised Cancellation and Decommission procedures: 11/15/01 - CMP Notification 12/01/01 - CLEC Review Period 12/15/01 - Revised Cancellation and Decommission procedures posted on the Collocation PCAT 01/01/02 - Effective date for the revised Cancellation and Decommission procedures

In summary, Qwest believes that we have satisfied your concerns regarding the Decommission and Cancellation procedures and therefore are considering this Change Request closed.

Sincerely,

Steve Nelson Group Collocation Product Manager

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Information Current as of 10/9/2006

[http://www.qwest.com/wholesale/downloads/2002/020110/CMP\\_Redesign\\_Meeting\\_Nov\\_27-29\\_Final\\_Minutes-01-08-02.doc](http://www.qwest.com/wholesale/downloads/2002/020110/CMP_Redesign_Meeting_Nov_27-29_Final_Minutes-01-08-02.doc)

## **FINAL MEETING MINUTES**

**CLEC – Qwest Change Management Process Re-design  
Tuesday, November 27 thru Thursday November 29, 2001 Working Session**  
1801 California Street, 23<sup>rd</sup> Floor, Executive Conference Room, Denver, CO  
Conference Bridge: 1-877-847-0304, passcode 7101617#

**NOTE:** These are FINAL meeting minutes Qwest developed following the three day working session. Draft minutes were circulated to the CMP Re-design Core Team Members on Dec. 7, 2001. As of January 8, 2002, no comments were received from the meeting attendees.

### **INTRODUCTION**

The Core Team (Team) and other participants met November 27th through November 29th to continue with the Re-design effort of the Change Management Process. Following is the write up of the discussions, action items, and decisions in the working session. The attachments to these meeting minutes are as follow;

### **ATTACHMENTS**

Attachment 1: CMP Re-Design November 27 – 29, 2001 Attendance Record  
Attachment 2: CMP Re-Design Meeting November 27 – 29, 2001 Notice and Agenda – 11-20-01  
Attachment 3: CMP Redesign Meeting November 28 – 29, 2001 Revised Agenda – 11-27-01  
Attachment 4: CMP Re-Design Meeting November 29, 2001 Revised Agenda – 11-28-01  
Attachment 5: CMP Re-Design Issues and Action Log – Revised 11-19-01  
Attachment 6: Qwest Proposed Interface Testing Language - Revised 11-27-01  
Attachment 7: Qwest Proposed Production Support - Revised 11-27-01  
Attachment 8: IT Wholesale Systems Help Desk Severity levels 11-27-01  
Attachment 9: 10.0 Regulatory with PID References 11-15-01  
Attachment 10: Schedule of CMP Re-design Working Sessions - Revised 11-29-01  
Attachment 11: Qwest Initiated Product Process CR Initiation Process - Revised 10-3-01  
Attachment 12: NOT CLEC Impacting 11-26-01  
Attachment 13: Change Management Process Improvements 11-26-01  
Attachment 14: Master Redlined CLEC-Qwest CMP Re-design Framework - Revised 11-29-01  
Attachment 15: IT CR Flow Diagram - Qwest 11-28-01

stated that the CLECs couldn't comment on the changes if they cannot see them. There was further discussion of the OSS testing procedures and the way that McNa affected the changes to the documentation.

Menezes-AT&T stated that he was confused about why Qwest couldn't understand what had been written in the interim process. He stated that the CLECs wanted everything redlined or highlighted and included in a historical log. He asked why this wasn't currently being done. Schultz-Qwest stated that this was not currently being done because the subcommittee defined changes that were not part of the workshops. Clauson-Eschelon stated that she had stated in the first subcommittee meeting that all language agreed to in a subcommittee had to be brought back through a formal CMP Redesign meeting. She stated that the subcommittee meeting only formed tentative language. She stated that she was unhappy that Qwest had implemented a tentative process that the CMP Redesign team had not approved.

The discussion then turned to Eschelon's concern that the interim process was broken because Qwest had introduced the additional testing CR. Schultz-Qwest stated that the CR was submitted to CLECs in good faith since Qwest felt it may be CLEC impacting, but was not expressly included in the list of four items. Clauson-Eschelon repeated her concerns with the additional testing CR and stated that Qwest was out of process. Schultz-Qwest stated that under the current process Qwest had the option of noticing CLECs of the change and implementing it. Menezes-AT&T stated that Qwest was breaking contractual obligations and restructuring contractual agreements without negotiations. Clauson-Eschelon asked how the team could keep a situation like the additional testing CR from happening again. Zulevic-Covad stated that any CR which Qwest submitted which had contractual impacts should state that its implementation did not override contractual obligations. Bahner-AT&T stated that she wanted to discontinue all subcommittees and bring all issues to the CMP Redesign team. Clauson-Eschelon stated that nothing should be implemented based on subcommittee action.

After a short break the meeting resumed with Schultz-Qwest requested the CLECs to explain why the interim process was for only changes which result from the workshops or OSS testing. She continued that if this were the case, all other issues would be handled under the existing CMP, and why, if that were the case did the "CLEC altering" list contain TN changes, for example, which clearly were not workshop related. Menezes-AT&T stated that he was not satisfied with the way the current CMP forced CLECs to dispute resolution if their CRs were denied. Zulevic-Covad asked why the additional testing CR wasn't managed through the same collaborative process as the collocation decommissioning CR was. He explained that the collocation CR had been submitted by AT&T in response to a Qwest notification. Steve Nelson-Qwest had met with the CLECs to discuss the CR, and asked them for ideas to handle the decommissioning. A collaborative proposal was developed and managed through CMP as a CR. He further explained that if any CLEC was not satisfied with the agreement, they were allowed to negotiate a separate agreement to their contract. Clauson-Eschelon stated that this is not a good model because it began with Qwest issuing a notice, when Qwest should have issued a CR. Clauson-Eschelon stated that Qwest should bring each product change it wishes to make to the CLECs as a CR for their comment. She stated that Qwest should have to request a change, rather than making an announcement. She stated that CLECs should have the option of denying Qwest CRs. Quintana-PUC asked how this was different from the current CR process. Clauson-Eschelon stated that under the current process CLECs couldn't veto Qwest CRs. Schultz-Qwest stated that the difference is that systems CRs are prioritized and product/process CRs are not. She explained that Qwest has never committed to stop doing business or allow CLECs to reject or deny Qwest CRs. Clauson-Eschelon stated that once Qwest agreed to submit CRs for product/process changes it was a fair assumption that Qwest would allow CLECs to accept or deny them. Quintana-PUC asked what the difference was between a notice and a CR. Schultz-Qwest stated that a CR gives CLECs 45 days advance notice of a pending change and solicited their comments. Clauson-Eschelon stated that CLECs believed they would have denial privileges. Wicks-Allegiance stated that the CLECs also want dialogue to modify the elements of a Qwest CR. Menezes-AT&T stated that he felt Qwest and CLEC CRs were handled differently,



because Qwest can deny CLEC CRs in both the product/process and systems arenas and CLECs cannot deny a Qwest CR. Schultz-Qwest stated that she wanted to see some definition around what was not CLEC altering. Clauson-Eschelon suggested that all Qwest changes become CRs.. Schultz-Qwest asked the Team to come up with a list of those changes that would require notification only. Quintana-PUC stated that she thought the Team could close the process and list today. Schultz-Qwest stated that Qwest had issues with CLEC denial of product/process CRs and suggested that the Team work to get more clarity around the notification list. Clauson-Eschelon stated that she wanted to see the redlining expanded. She asked if she could get a commitment from Qwest to the current interim process. Schultz-Qwest stated that the Team had identified gaps in their collective understanding. She stated it would take some time to clarify within Qwest what would get redlined. McNa-Qwest stated that anything that Qwest is adding is going on the notification form. She stated it would be confusing with multiple versions of a document in the holding tank. Clauson-Eschelon stated that she wanted the process to be easy for CLECs to use and asked that a definition of the specific changes be included in the notice. Schultz-Qwest explained the versioning process and the time intervals involved. She stated that Qwest was looking to CLECs for a list of changes Qwest could just send a notice on without redlining. Clauson-Eschelon asked if all substantive changes would be redlined in the future. Schultz-Qwest stated that she would discuss the issue with Sue McNa over lunch and bring an answer back. The meeting broke for lunch.

After lunch the Team agreed to discuss the documentation history log. Schultz-Qwest stated that during lunch she had communicated with Sue McNa. She explained the CLECs' underlying need was to have a clear delineation of what has changed. Schultz proposed that all changes would be tracked in the Historical Tracking Log. She stated small changes(in terms of size, not substance) could be redlined within the notification letter, and only large changes would be redlined in the holding tank. Wicks-Allegiance stated that Schultz's proposal sounded good as long as the Team agreed that any change could alter CLEC operating procedures and the timing would need to be scheduled accordingly. Clauson-Eschelon stated that the key was the format of the notification. She stated that the notice must be more detailed and clearly define what the changes were. Wicks-Allegiance stated that three to four page notices would be acceptable. Wicks-Allegiance stated that a history log entry would suffice for typo corrections and that all changes should be captured in the history log. Schultz-Qwest suggested that for changes that did not alter the meaning that Qwest include an entry in the history log but not notice the CLECs or redline the document. She suggested that changes that did not alter the meaning would include misspellings, punctuation mark errors, repeated word errors, renumbering to correct a typo, and correction of incorrect capitalization.

The Team next discussed the Qwest document versioning process and the impacts of changes on multiple versions in the holding tank.

The Team then discussed the format of the history log. The team agreed that the history log would be placed at the beginning of the document.

Clauson-Qwest stated that she was concerned that Qwest was making changes due to OSS tester questions and not noticing the CLECs. She asked if there were any situations where some changes became effective immediately. Schultz-Qwest stated that she could not adequately respond to this question now. She stated that Qwest would not intentionally implement a change that would affect the CLECs without notifying the CLECs. She stated that if Qwest felt a need to make a change like this Qwest would invoke the exception process. Clauson-Eschelon stated that if Qwest was not sure if a change was CLEC altering it should submit a CR. Schultz-Qwest stated that there was no documented process to capture what Clauson just stated. She explained that this was why she had been pushing to get clarity around what is CLEC altering. Clauson-Eschelon stated that Qwest must do its best to determine what is CLEC altering. She stated that Qwest should submit a CR for everything Qwest determines, using its best judgement, alters CLEC operating procedures. Clauson-Eschelon stated that she wanted the list of four CLEC altering items removed from implementation immediately and for Qwest to use common

**NO CLEC FORUMS HELD SINCE 2003**

*COMPARE:*

**Albersheim Minnesota Surrebuttal Testimony, p. 9, lines 13-17:**

**“Q. ARE THERE ANY FACTUAL ERRORS IN ESCHELON'S  
DISCUSSION OF NEGOTIATION LANGUAGE?**

A. ...Ms. Johnson's claim that Qwest has not held a CLEC Forum since June 2003 is also not correct. The last forum held in June of 2005, and was repeated in July of 2005. Admittedly the forum venue has changed. Qwest can no longer afford to host CLEC representatives at a hotel, such as the site of the forum in 2003. Instead, the last forum was conducted via conference call.”

*WITH:*

Qwest's own Wholesale Calendar (attached as the following page), which shows that, according to Qwest's records, the last CLEC Forum was held in June 2003.



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July 27, 2006 8:00 AM MT	<a href="#">Qwest Wholesale Wireless Forum</a>
July 26, 2006 6:30 PM MT	<a href="#">Qwest Wholesale Wireless Forum</a>
July 28, 2006 8:00 AM MT	<a href="#">Qwest Wholesale Wireless Forum</a>
June 29, 2005 8:30 AM MT	<a href="#">Qwest Whsl Provisioning Forum</a>
July 12, 2005 11:30 AM MT	<a href="#">Qwest Whsl Provisioning Forum</a>
January 06, 2004 9:00 AM MT	<a href="#">Batch Hot Cut Forum</a>
January 07, 2004 8:00 AM MT	<a href="#">Batch Hot Cut Forum</a>
January 08, 2004 8:00 AM MT	<a href="#">Batch Hot Cut Forum</a>
May 13, 2004 9:00 AM MT	<a href="#">Loop Qual CLEC Tech Forum</a>
June 16, 2003 12:00 AM MT	<a href="#">Qwest CLEC Forum</a>
June 17, 2003 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
June 18, 2003 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
June 19, 2003 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
September 16, 2002 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
September 17, 2002 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
May 13, 2002 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>

May 14, 2002 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
January 14, 2002 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
January 15, 2002 8:00 AM MT	<a href="#">Qwest CLEC Forum</a>
April 30, 2002 8:00 AM MT	<a href="#">Wholesale Repair Mini-Forum</a>
May 01, 2002 8:00 AM MT	<a href="#">Wholesale Repair Mini-Forum</a>
May 02, 2002 8:00 AM MT	<a href="#">Wholesale Repair Mini-Forum</a>
December 14, 2001 8:00 AM MT	<a href="#">Qwest Interim Repair Forum</a>
February 06, 2002 8:00 AM MT	<a href="#">Collocation Procedure Forum</a>
May 08, 2001 8:00 AM MT	<a href="#">Unbundled Loop Forum</a>

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 50**

Total Qwest Product and Process Change Requests Submitted (2001 to 9/19/2006) = 114								
Total Qwest Product and Process Change Requests Withdrawn by Qwest (2001 to 9/19/2006) = 14 or 12%								
Year Submitted	CR Number	CR Title	Date CR Submitted	CR Submitted By	CR Status	Did Qwest withdraw the CR due to CLEC objection?	CR information on reason for withdrawal	CR URL
2001	PC112901-1	Standardize Process of Receiving Jeopardy Notices	11/29/2001	Qwest	Withdrawn	NO	No notes in the CR to explain why Qwest withdrew this CR. Qwest submitted the CR on 11/29/01 and withdrew it on 12/12/01. No discussion or CLEC objection is noted in the CR.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC112901-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC112901-1.htm</a>
2001	PC112701-2	Grandparent SwitchNet 56	12/12/2001	Qwest	Withdrawn	NO	No notes in the CR to explain why Qwest withdrew this CR. Qwest submitted the CR on 11/27/01 and withdrew it on 12/12/01. No discussion or CLEC objection is noted in the CR. Notes say Qwest was filing with Commissions.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC112701-2.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC112701-2.htm</a>
2002	PC043002-1	Fiber Provider Point of Entry	4/30/2002	Qwest	Withdrawn	NO	No notes in the CR to explain why Qwest withdrew this CR. Qwest submitted the CR on 4/30/02 and withdrew it on 5/9/02. No discussion or CLEC objection took place or is noted in the CR detail. Notes say withdrawn by originator. This was a new product.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC043002-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC043002-1.htm</a>
2003	PC021103-1	Conditioning for DSL level Data Services in all Products at no charge to the CLEC/DLEC	2/11/2003	Qwest	Withdrawn	NO	Qwest withdrew this CR and issued multiple CRs in its place not because CLECs objected. CR notes state: "Qwest wishes to withdraw CMP CR PC021103-1 CR because the changes it requests are more fully presented and detailed in CMP CRs PC022403-2, PC022403-3, PC022403-4, PC022403-5, PC022403-6, PC022403-7, and PC022403-8. Qwest presented these CRs at the Ad Hoc CMP Meeting on March 3, 2003."	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC021103-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC021103-1.htm</a>
2003	PC040103-1	Grandfather of Integrated T-1 in Denver and Seattle.	4/1/2003	Qwest	Withdrawn	NO	The CR detail does not contain the reason Qwest withdrew the CR. Notes indicated there was some discussion and questions about the CR, however, CLECs did not object. Qwest submitted the CR on 4/1/03 and Qwest presented its withdrawal on 5/21/03.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC040103-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC040103-1.htm</a>
2003	PC072103-1	DLR Option Change	7/21/2003	Qwest	Withdrawn	NO	The CR detail states "08/20/03 August CMP Meeting Kathy McBride with Qwest said that Qwest would like to withdraw the CR because, when implemented, will be a level 3 notification." There was some discussion, however, there was no CLEC objection.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC072103-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC072103-1.htm</a>
2003	PC081903-1	Change in Resale, UNE and Interconnection Services Service Interval Guide (SIG)	8/19/2003	Qwest	Withdrawn	NO	The CR detail states: "09/17/03 - September CMP Meeting Sandy Stulen with Qwest gave an update on this CR. Qwest would like to withdraw this CR and doesn't plan to change the SIG." There was some discussion, however, there was no CLEC objection.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC081903-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC081903-1.htm</a>
2003	PC110303-2	New Collocation Product Development Louvered Pedestal Collocation	11/3/2003	Qwest	Withdrawn	NO	The CR detail states: "11/19/03 Nov. CMP Meeting Ben Campbell Qwest asked that this CR be withdrawn because it is a modification to an existing product. He said that Louvered Pedestal Collocation had been discussed and a Network Notification had been issued in August. This is a follow up making modifications to the existing product. The intent is to make this a Level 3 change with continued CLEC joint planning."	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC110303-2.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC110303-2.htm</a>

2004	PC010604-1	Grandparent DSL Pro USOCs.	1/6/2004	Qwest	Withdrawn	NO	The CR detail states: "03/17/04 March CMP Meeting Janean Van Dusen with Qwest gave an update that Qwest would like to withdraw this CR. This CR will move to Withdrawn Status." Minimal discussion took place, however, there was no CLEC objection.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC010604-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC010604-1.htm</a>
2004	PC021204-1	Port In and Add New Non Ported Tn(s) on same LSR	2/12/2004	Qwest	Withdrawn	NO	The CR detail states: "03/17/04 March CMP Meeting Susie Wells with Qwest said she would like to withdraw this CR because it is not a level 4 change and actually is a level 3 change to an existing process. Updates will be made in the Port In PCAT."	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC021204-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC021204-1.htm</a>
2004	PC062904-1	Grandparent LADS in CO, UT and OR effective 9/7/04	6/29/2004	Qwest	Withdrawn	NO	No notes in the CR to explain why Qwest withdrew this CR. Qwest submitted the CR on 6/29/04 and withdrew it on 7/21/04. No discussion or CLEC objection took place or is noted in the CR detail.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC062904-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC062904-1.htm</a>
2004	PC072204-1	Clarification of wording for CLEC to CLEC Connections	7/22/2004	Qwest	Withdrawn	JOINT	The CR detail states: "9/16/04 CMP Meeting Minutes Mark Nickell reported that an ad-hoc call was held and it was mutually agreed to suspend CMP meetings until the current dispute resolution activities conclude in Colorado." Qwest submitted this as a CR because Qwest was changing a download on the collocation site to a PCAT. CLECs did object to Qwest Changes that added the word "common" to ICDF (Qwest said this was a clarification) for two reasons. The CR was in conflict with Eschelon CR PC120301-4 which Qwest completed in April of 2002 and, Covad was arbitrating this issue in CO and both parties agreed to defer the CR until the issue was decided. CR detail notes also state: "2/15/06 Product Process CMP Meeting Jill Martain-Qwest stated that this CR had been in Deferred status for awhile and stated that Qwest would like to withdraw the CR. This CR moves to Withdrawal status."	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC072204-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC072204-1.htm</a>
2004	PC092104-1	Grandparent Scan Alert in OR and WA	9/21/2004	Qwest	Withdrawn	NO	The CR detail states: "December CMP Meeting Minutes Janean Van Dusen – Qwest advised this CR was cancelled by Retail as there were some issues in Washington. This CR will move to Withdrawn Status."	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC092104-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC092104-1.htm</a>
2006	PC030606-1	Qwest contacting CLECs Customers to confirm access	3/6/2006	Qwest	Withdrawn	JOINT	The CR detail states: "4/19/06 Product/Process CMP Meeting Jill Martain-Qwest stated that this CR was discussed at the March CMP Meeting and stated that Qwest would like to withdraw the request. Georganne Weidenbach-Qwest stated that based on CLEC comments and further Qwest analysis, Qwest made a decision that the CLEC volume, of no access misses was very small and that Qwest would like to withdraw the CR. Georganne noted that Qwest may pursue this later if the volumes rose. There were no objections to the withdrawal request. This CR moves to Withdrawn Status." Eschelon did tell Qwest at the meeting that this request ("Laura Baird-Qwest stated that Qwest would like permission to contact the end user to confirm access arrangements when required for repair and service orders prior to the field technician going out to the premises. Laura provided an example of a situation of when we would contact the end user.) was in conflict with Qwest's own SGAT.	<a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC030606-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC030606-1.htm</a>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 51**



-----Original Message-----

From: Novak, Jean email redacted |  
Sent: Tuesday, February 04, 2003 2:26 PM  
To: Clauson, Karen L.  
Cc: Hanser, Paul H.; Miles, Linda; Kelly Cameron; Schultz, Judy  
Subject: RE: input into template proposed interconnection agreement process

Karen, this is not a CMP issue, I will take this. thanks, jean

**From:** Clauson, Karen L.  
**Sent:** Tuesday, February 04, 2003 2:24 PM  
**To:** 'Novak, Jean'; 'Judith Schultz'  
**Cc:** Hanser, Paul H.; 'Linda Miles'; 'Kelly Cameron'  
**Subject:** input into template proposed interconnection agreement process

I'm not sure to whom at Qwest to direct this request, so I am starting with you, Jean and Judy. (I have already asked Linda Miles, and she wasn't the one.) Please provide this to the appropriate personnel at Qwest (including those working on the template) who can respond to this request, if not you.

This email relates to a template interconnection agreement that Qwest is preparing. (Contract negotiator Linda Miles of Qwest has described that template process to us and may describe it to you as well, if you are unfamiliar with it.) Eschelon understands that generally Qwest may make whatever proposal it chooses in negotiations and, if the parties disagree, they will arbitrate. Not as a legal but as a practical matter, though, if Qwest could voluntarily incorporate input from CLECs into the form of the template, the process should be more efficient for everyone. If Qwest wants to obtain a new generation of interconnection agreements with CLECs, it seems to be in Qwest's interest to help simplify the process. The more information Qwest provides with the template, the simpler the process.

As background, in response to inquiries by Eschelon, Linda Miles had initially said that she thought Qwest was working on a comparison document that would show the differences, by state, in the various SGATs. This would have been helpful to Eschelon, which was not an active participant in the development of those SGATs. Other CLECs in the same position would also benefit from such a comparison. During Eschelon's last conversation with Linda, she said that she had learned that Qwest was NOT creating a comparison. Instead, Qwest is creating a template proposed agreement based on at least one SGAT(s). Linda said that the template may highlight some state-specific differences in the SGATs, but it wasn't clear to us whether it would highlight them all. Eschelon does not know the differences, because it wasn't able to participate in the proceedings. Linda said that she had anticipated that the template would be available by the end of 1st quarter but now thought it would be later.

**Eschelon requests that Qwest provide source information (through footnotes or redlining, etc.) in the template agreement that Qwest is in the process of preparing for interconnection agreement negotiations.** If Qwest indicates which SGAT sections are pulled from, for example, every CLEC will not need to independently search for a piece of information that is already known to Qwest. Early on, Eschelon had asked Qwest to use Eschelon's existing contract (the AT&T contract) as a base for negotiations. Qwest insisted on using the SGAT instead. If Qwest is only willing to negotiate from that document, with which it has the most familiarity, it seems fair that Qwest provide its template in a user-friendly format that helps address the difference in knowledge level about the content. Identifying where the sections come from (whether negotiated as part of a 271 workshop in an identified state or ordered in a specified commission order) will help eliminate questions.

In the past, Eschelon found that, if one state ruled in the CLECs favor on an issue, Qwest did not necessarily bring that into the interconnection agreement discussions. Generally, in the

previous Qwest language, from Eschelon's perspective, Qwest took more of a lowest common denominator approach (including only what was ordered by every state, or ordered in some states to Qwest's advantage, but NOT including things favorable to CLECs but only ordered in certain states). **Eschelon requests that the latter category of language also be included in the template, at least for the state(s) in which Qwest has been ordered to offer it.** For example, Washington apparently made a ruling relating to the build issue that is reflected in the WA SGAT but not other SGATs. (For purposes of this example, we're assuming the language was favorable to CLECs and not desired by Qwest.) Will the template include the WA build language (identifying it as state-specific for WA), or will each CLEC have to review every SGAT to find such differences? If Qwest is willing to offer it in only certain states, the template can say so.

**Eschelon also asks that Qwest update CLECs as to the status of the template and when available (through CMP meetings or otherwise).** More information about the template would be beneficial to CLECs as they decide how to approach obtaining the next generation of interconnection issues. This will also be beneficial to Qwest to help it avoid the same requests about the template from multiple CLECs when the template becomes available.

Negotiations should proceed more quickly if the Parties understand Qwest's proposal and where the language comes from. Please let us know if Qwest will incorporate this feedback into its template development. If CLECs could receive more information about the template, they may have other helpful suggestions to make the negotiation process more efficient for all. I'll share this request with other CLECs in case they have anything to add to it. Thanks,

Karen L. Clauson  
Sr. Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 1200  
Minneapolis, MN 55402

contact information  
redacted

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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**EXHIBIT 52**



Larry Christensen  
Director – Interconnection Agreements  
1801 California, Room 2430  
Denver, CO 80202  
303-896-4686

email redacted

October 17, 2003

*By email & Certified Mail*

Karen Clauson  
Sr. Director of Interconnection  
730 Second Ave South Suite 1200  
Minneapolis, MN 55402

Dear Ms. Clauson:

I am in receipt of your October 9, 2003 letter concerning the implementation of changes in law related to the Triennial Review Order ("TRO") and other issues relating to the negotiation of interconnection agreements.

I understand from your letter that Eschelon wishes further clarification of our waiver proposal of the 30-day negotiation period under section 7.3 of the Colorado interconnection agreement between the parties. Toward that end, I hope this letter provides you with the information you need.

The purpose for which Qwest is seeking the waiver of the 30-day negotiation period is in order to have enough time to interpret, design and develop contract language and processes that will implement the TRO in an efficient manner and yet have time to negotiate the Amendment to comply with the changes of law. As my previous letter indicated, Qwest is working diligently toward having a contract amendment proposal relating to TRO changes available in the very near future. Given the scope of the changes to the law and to Qwest's internal processes, it was not possible to commit to providing and negotiating a comprehensive proposal to CLECs in the 30-day negotiation period for changes of law that some Interconnection Agreements dictate. Qwest sent the waiver request with the hope that it would prevent having to address piecemeal proposals or to make proposals that were not fully formed and thought through. Under the process contemplated by Qwest, Qwest will provide proposed contract language in the next few weeks to all CLECs. Negotiations of the Amendment would take place between Qwest and Eschelon's designated contract negotiators. The negotiations would not extend beyond the negotiation time limits set forth in section 252(b) of the Telecommunication Act, i.e., 135-160 days from the effective date of the TRO (October 2) unless jointly agreed to by both parties. After 135 days of negotiation, either party may request resolution pursuant to the individual interconnection agreement provisions. Qwest believes that this is consistent with the FCC's instructions in the TRO itself to use section 252(b) of the Act as a default negotiation timetable (see TRO paragraph 703-704) and with the section 251 obligation to negotiate in good faith. In the case of a party not agreeing to a waiver of the 30-day or other applicable deadline in its interconnection agreement, Qwest will abide by the deadlines imposed by such agreement. As a practical matter, however, Qwest does not believe that this would materially affect how fast the interconnection agreement changes would be finalized and, indeed, could result in the matter being tied up in non-productive dispute resolution proceedings. I hope this adequately explains Qwest's contemplated process of TRO Amendment implementation.

Eschelon also addressed a number of issues in your letter to the interconnection agreement negotiations generally. I have tried to address each one below:

First, regarding Eschelon's question about whether Qwest was proposing to roll together the Colorado negotiations and the TRO change negotiations and extend the negotiations window to March 10, 2004, that was not part of Qwest's proposal; and Qwest does not agree to do so. Because of the timeframe of negotiations in Colorado, Qwest believes it would be most appropriate to amend the agreement with TRO language upon its execution. As you know, many of Eschelon's interconnection agreements have long ago expired and have been on a month-to-month basis ever since; it is Qwest's priority to renegotiate these old agreements so that we can bring a good framework to our business relationship. We should be able to include TRO language in the Washington and Minnesota agreements because of the timing of those negotiating windows. The October 2 letter was not intended to change any agreement negotiations timeframe.

Second, Eschelon has asked Qwest to reveal names of other CLEC parties that are re-negotiating or renewing their interconnection agreements. Qwest considers this information to be confidential. If Eschelon wishes to coordinate its positions with other CLECs that is Eschelon's prerogative, as long as it does not violate any non-disclosure agreement. For its part, Qwest will not facilitate those communications.

Finally, your letter raised several issues concerning the coordination of the negotiation process and initiating contact with Linda Miles. Qwest provided its multi-state template proposal to Eschelon just prior to the commencement of the negotiation window in Colorado. It was only natural that we would wait to hear from Eschelon concerning its interest in that proposal or to continue negotiating from the SGATs. I understand that you have since been in contact with Linda on the scheduling of the negotiations and are reviewing Qwest's contract template for negotiation, so I hope these issues are now settled. In any event, the negotiation process is governed by the duties and timelines set forth in sections 251 and 252 of the Act, and it is each party's obligation to follow them. Qwest is happy to entertain proposals concerning a multi-state negotiation, but barring a written understanding, we will continue to treat each state negotiation on a separate track and timeline based on the written communications initiating those negotiations.

I hope this information has been useful.

L T Christensen

cc: Linda Miles  
Jean Novak  
Blair Rosenthal

gkl

Eschelon/52  
Johnson/  
3



October 9, 2003

*By email & U.S. mail*  
Larry Christensen  
Director – Interconnection Agreements  
1801 California, Room 2430  
Denver, CO 80202

Re: Triennial Review Order and Interconnection Agreement Negotiations;  
Commencement of Negotiations in Minnesota

Dear Mr. Christensen:

Eschelon received your letters dated October 2, 2003 and October 7, 2003, and will respond to both in this letter.

**Triennial Review Order & Qwest Waiver Request**

In your October 2, 2003 letter, Qwest requests a waiver of the 30-day time period in Part A, Section 7.3 of the Qwest-Eschelon Colorado Interconnection Agreement (“ICA”). Before Eschelon will be in a position to respond, Eschelon needs two items from Qwest: (1) a copy of Qwest’s proposed “Triennial Review Order Amendment” mentioned in the second to last paragraph of your letter; and (2) clarification of Qwest’s position as to the ICA negotiations and the affect of the waiver. With respect to the first item, we have requested a copy from our Qwest Service Manager. The second item is discussed in the next paragraph. For both items, we need a prompt response, given the short time frame involved.

With respect to the second item, Qwest’s letters of October 2, 2003 and October 7, 2003 appear contradictory. In your October 2<sup>nd</sup> letter, Qwest does not recognize that any ICA negotiations have commenced. Qwest states that it will contact Eschelon “after Qwest develops a proposed amendment covering *all* the new requirements of the Order” to “initiate” negotiations. *See* 10/2/03 Letter (emphasis added). In contrast, in your October 7<sup>th</sup> letter, Qwest claims that it commenced negotiations in Colorado on August 4, 2003 and wants to commence negotiations effective October 7, 2003 in Washington. Qwest also states that Qwest is working on Triennial Review proposals “on those *parts* of the Triennial Review Order that can be implemented as part of the negotiations.” *See* 10/7/03 Letter (emphasis added). Please clarify Qwest’s proposal.

In your October 2<sup>nd</sup> letter, Qwest also states: “Under this waiver, Qwest anticipates the Parties will meet their change of law obligations prior to March 10, 2004.” It appears that Qwest may be indicating that, if Eschelon agrees to waive the 30-day time

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period in Part A, Section 7.3 of the Qwest-Eschelon Colorado ICA, Qwest will agree to extend its proposed negotiation time frame for Colorado from an end date of December 17, 2003 (per Qwest's August 4, 2003 letter) to March 10, 2004 (per Qwest's October 2, 2003 letter). If the Parties can agree on issues before then, they may implement them earlier, but if not, they may negotiate up to March 10, 2004. Is this Qwest's proposal? If so, Eschelon may be able to agree to this. Naturally, we want to understand the proposal before committing to it.

With respect to your October 2, 2003 letter, as well as any future communications from Qwest, please note that Eschelon does not provide consent by silence. If you want an agreement with Eschelon, you need to reach the appropriate personnel at Eschelon and receive an affirmative response. The following sentence in your letter has no legal effect: "If you do not notify me to reject this waiver or otherwise initiate a negotiations request by October 13, it will be Qwest's understanding and expectation that you have agreed to waive the start date of the negotiation period." Qwest has no legal authority to act unilaterally based on silence, and Eschelon does not agree to your doing so (regardless of whether Qwest sets an arbitrary and meaningless deadline for receiving a response) in this or any other matter. The understanding stated in your letter is incorrect. We are willing to discuss a waiver, but we need additional information, as described in this letter, before agreeing on that approach.

#### ICA Negotiations Generally

Qwest makes a number of additional points in your October 7, 2003 letter. Although it purports to be a response to my September 23, 2003 letter, Qwest does not respond to the single question that Eschelon posed at that time. Eschelon asked Qwest to "reserve a block of time in late October" for negotiations and to "let me know what dates work for you." Your letter is silent on this issue, and Qwest has not otherwise responded to this request. Eschelon would appreciate a response to its express request for dates from Qwest for ICA negotiations.

In the first paragraph of Qwest's October 7, 2003 letter, it appears that Qwest missed the point Eschelon made in its letter. Qwest notified Eschelon that it was "commencing" negotiations but did nothing to facilitate negotiations or suggest how they should proceed. Instead, Qwest placed the burden on Eschelon to initiate contact with Qwest. Telling a party that you are commencing negotiations by asking them to commence the discussions provides no guidance on how you would like to proceed. In the absence of such guidance, Eschelon has put a lot of time and effort in to the approach that it has deemed best. Eschelon's point, therefore, is that Qwest should show some flexibility in adopting Eschelon's approach, given that Qwest left the task to Eschelon.

In the second paragraph of Qwest's October 7, 2003 letter, Qwest states that it "has initiated negotiations under Section 252 with other CLECs." Eschelon suggested coordinating with other parties on common issues. For example, as you may know,

AT&T and MCI negotiated many issues jointly in the first round of negotiations/arbitrations with Qwest. To do so, we would need to know with which CLECs Qwest is currently negotiating. We do not believe this information is confidential. If Qwest disagrees, however, please ask the CLECs if they have any objection to your disclosing this information and let us know. Or, please ask them to contact me directly.

The third paragraph of Qwest's October 7, 2003 letter is discussed above. Additionally, Qwest refers to its "multi-state template." As indicated in my October 6, 2003 email to Linda Miles: "We reviewed the template in several ways, including doing comparisons with the SGAT and inserting the state-specific language to identify the state differences. In the end, we found it pretty confusing, because we weren't sure what all changed, and we didn't know why things did change. So, as I indicated in my earlier note, we are using a combination of sources, including primarily the CO SGAT, the CO AT&T-Qwest ICA, and the Eschelon-Qwest negotiated language to date." Please be sure to provide your proposed language in a manner that allows for easy identification of the issues. We are not working from the multi-state template, and Qwest should not impose the burden on CLECs to identify where Qwest is proposing changes.

In the fourth paragraph of Qwest's October 7, 2003 letter, Qwest again asks us to contact Linda Miles to set up a negotiations meeting as though the burden belongs solely to Eschelon. Eschelon's email of September 22, 2003 (which was also sent to you by letter dated September 23, 2003) was also addressed to Linda Miles. As discussed, Eschelon asked Qwest to "reserve a block of time in late October" for negotiations and to "let me know what dates work for you." The ball for setting up negotiations is in Qwest's court. You indicated in your letter that Qwest will require some time to review Eschelon's redline before responding. Eschelon asks Qwest to remember that this works both ways. Although Qwest was intimately familiar with its own SGATs (unlike Eschelon, which could not participate in the SGAT proceedings), Qwest took approximately six months to develop its multi-state template based on the SGATs. In contrast, Eschelon has had a very short time to review that template, determine that it does not meet our needs, and begin to respond with our own proposals. Both Parties will need to allow the other party the time needed to address the issues.

In the final paragraph of Qwest's October 7, 2003 letter, Qwest sets forth its proposal for negotiations in other states. Eschelon will have input into that issue as well, particularly as Eschelon believes that it is the CLEC (not the ILEC) which may initiate negotiations under Section 252 of the Act. *With this letter and pursuant to Section 252, Eschelon notifies Qwest that Eschelon is initiating negotiations in the state of Minnesota effective October 9, 2003.* To the extent that Qwest now desires to negotiate multiple states at once, Qwest should propose a schedule which reasonably reflects that desire. Obviously, the Parties cannot address all of our states, for example, by mid-December. Eschelon is open to discussing this issue at the first negotiations session. Qwest needs to respond to Eschelon's September 22, 2003 request for proposed dates for



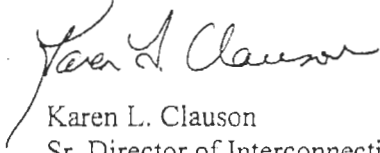
Mr. Larry Christensen  
October 9, 2003  
Page 4 of 4

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Johnson/  
6

negotiation sessions. As discussed in the previous paragraph, Eschelon anticipates that the actual dates of the negotiation and arbitration time periods will depend on the time needed by the Parties to address the issues and the progress being made in negotiations.

Please call me if you have questions.

Sincerely,



Karen L. Clauson  
Sr. Director of Interconnection

cc: Linda Miles, Qwest (by email)  
Jean Novak, Qwest (by email)  
J. Jeffery Oxley, Eschelon  
Dennis Ahlers, Eschelon  
Bonnie Johnson, Eschelon

September 23, 2003

**By email and U.S. Mail**

Mr. Larry Christensen  
Director -- Interconnection Agreements  
Qwest  
1801 California, Room 2430  
Denver, CO 80202

Re: Interconnection Negotiations

Dear Mr. Christensen:

Eschelon received your letter initiating the negotiations time frame for Colorado and indicating that Qwest asks to commence negotiations. Since then, Qwest has not commenced anything. Therefore, Eschelon is proceeding with putting together its proposed language and an initial issues list. Eschelon is including, for example, the language from Sections 7 and 8 that the parties have negotiated to date and identifying open issues. We are also reviewing the ICA, CO SGAT, AT&T negotiations language, amendments, etc., for proposed language. Eschelon does not know what Qwest meant when it said in its letter that it plans to include language regarding the Triennial Review Order, given that the proceedings will still be pending. The AT&T ICA includes paragraph 2.2.1. Eschelon is willing to agree to the language of 2.2.1 as well.

Eschelon did not know that Qwest had intended to start the time frame. The last discussions we had with Linda Miles were that Qwest was working on a 14-state template and that discussions would resume after that date. Qwest did not initiate the time clock previously, and the discussions took place over many months. Please let us know if Qwest has initiated the time frame for other CLECs as well. Perhaps there can be some resource savings in coordinating with others on common issues. In any event, we will do the best we can in working this in with the other commitments that exist for the same time period and will get a draft to you when we can.

Please reserve a block of time in late October. Depending on when you get the draft and how much time you need, we may even be able to start earlier. But, we should at least

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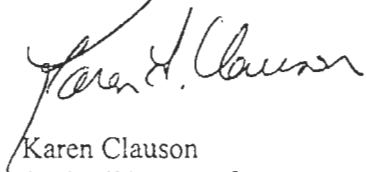
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Mr. Larry Christensen  
September 23, 2003  
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Johnson/  
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get some time set aside in the end of October for talks. Let me know what dates work for you. Once we've talked, we can then schedule more time in November and December as needed. Thanks,

Sincerely,



Karen Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
phone number redacted

cc: Linda Miles (by email)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 53**

### History Log

Line #	Version - Filename	Effective Date	Change			Update Activity
			Section #	Section Name	Subsection Name	
1	Master Redlined CLEC-Qwest CMP Re-design Framework - Revised 02-07-02 – CLEAN – Version 1.0	02-07-02	All			Accepted changes to Master Redlined CLEC-Qwest CMP Redesign Framework
2	Master Redlined CLEC-Qwest CMP Re-design Framework - Revised 02-20-02 – CLEAN – Version 2.0	02-20-02	2.1	Types of Change	Regulatory Change	Added changes to Regulatory Changes section as agreed to at Feb 19 Redesign Meeting.
3	MasterRedlineCLEAN030702	03-11-02	3.1	Change Request Initiation Process	CLEC-Qwest OSS Interface Change Request Initiation Process	Added language agreed to at March 7 Redesign Meeting.
4			9.0	Prioritization	N/A	Added language agreed to at March 7 Redesign Meeting.
5			9.3	Prioritization	SCRP	Added language agreed to at March 7 Redesign Meeting.
6			5.1.6	Change to Existing Interfaces	Final Interface Technical Specifications	Added language agreed to at March 7 Redesign Meeting.
7	MasterRedlineCLEAN032702	03-27-02	3.1	Change Request Initiation Process	CLEC-Qwest OSS Interface Change Request Initiation Process	Added Reasons for Denial Language
8			3.3	Change Request Initiation Process	CLEC-Qwest OSS Interface Change Request Initiation Process	Added Reasons for Denial Language
9	MasterRedlineCLEAN040802	04-08-02	1.0	Introduction and Scope		Added language agreed to at April 4 Redesign Meeting.
10			2.0	Managing The CMP		Added language agreed to at April 4 Redesign Meeting. Moved Section to 2.0 from 7.0
11			3.0	Meetings		Moved section to 3.0 from 8.0.
12			6.0	OSS Interface Release Calendar		Added language agreed to at April 4 Redesign Meeting.
13			10.0	Prioritization		Moved Appendices to end of document
14			10.2.4	Prioritization	Late Adder	Added language agreed to at April 4 Redesign Meeting.
15	MasterRedlineCLEAN041602b	04-16-02	5.4	Change Request Initiation Process	Qwest Originated Product/Process	Added language agreed to at April 16 Redesign Meeting.

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**Qwest Wholesale Change Management Process Document –10-30-06**

Line #	Version - Filename	Effective Date	Change			
			Section #	Section Name	Subsection Name	Update Activity
					Changes	
16	MasterRedlineCLEAN050202	05-02-02	5.1	Change Request Process	CLEC-Qwest OSS Interface Change Request Initiation Process	Added revised language agreed to at May 2. 2002 Redesign Meeting.
17			5.5	Change Request Process	Crossover Change Requests	Added revised language agreed to at May 2. 2002 Redesign Meeting.
18			10.2.5	Prioritization	Withdrawal of Prioritized CRs	Added language agreed to at May 2. 2002 Redesign Meeting.
19			10.3	Prioritization	SCRP	Added revised language agreed to at May 2. 2002 Redesign Meeting.
20			13.0	Training	N/A	Added language agreed to at May 2. 2002 Redesign Meeting.
21	MasterRedlineCLEAN052202a	05-22-02	5.6	Change Request Process	Change Request Status Codes	Added language agreed to at May 21-22. 2002 Redesign Meeting.
22			5.7	Change Request Process	Change Request Suffixes	Added language agreed to at May 21-22. 2002 Redesign Meeting.
23	MasterRedlineCLEAN060602	06-06-02	2.5	Managing the Change Management Process	Method of Communication	Added language agreed to at June 5-6, 2002 Redesign Meeting.
24			5.1	Change Request Process	CR Initiation Process	Added language agreed to at June 5-6, 2002 Redesign Meeting.
25			5.3	Change Request Process	CLEC Product/Process Change Request Initiation Process	Added language agreed to at June 5-6, 2002 Redesign Meeting.
26			5.3	Change Request Process	CLEC Product/Process Change Request Initiation Process	Added IMA Software Development Timeline agreed to at June 5-6, 2002 Redesign Meeting.
27			5.5	Change Request Process	Postponement and Arbitration of a Product/Process Change	Added language agreed to at June 5-6, 2002 Redesign Meeting.
28			5.6, 5.7, and 5.8	Change Request Process	Multiple	Renumbered based on addition of new Section 5.5
29			16.0	Exception Process		Added language agreed to at June 5-6, 2002 Redesign Meeting.
30			Definition of Terms	Definition of Terms		Added language agreed to at June 5-6, 2002 Redesign Meeting.
31			All	All	All	Cosmetic and clarifying changes agreed to at June 5-6, 2002 Redesign Meeting.
32	MasterRedlineCLEAN061802	06-18-02	2.1	Managing the	Managing the Change	Added language agreed to at June 17-18, 2002

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**Qwest Wholesale Change Management Process Document –10-30-06**

Line #	Version - Filename	Effective Date	Change			
			Section #	Section Name	Subsection Name	Update Activity
				Change Management Process	Management Process Document	Redesign Meeting.
33			12.4	Production Support	Reporting Trouble to IT	Added language agreed to at June 17-18, 2002 Redesign Meeting.
34			12.5	Production Support	Severity Levels	Made changes at June 17-18, 2002 Redesign Meeting.
35			12.8	Production Support	Process Production Support	Added language agreed to at June 17-18, 2002 Redesign Meeting.
37	MasterRedlinedCLEAN071002	07-10-02	2.2	Managing the Change Management Process	Change Management Point of Contact (POC)	Added language agreed to at July 10, 2002 Redesign Meeting.
38			2.3	Managing the Change Management Process	Change Management Point of Contact (POC) List	Added language agreed to at July 10, 2002 Redesign Meeting.
39			17.0	Voting	n/a	Added language agreed to at July 10, 2002 Redesign Meeting.
40			All	All	All	Cosmetic and clarifying changes agreed to at July 10, 2002 Redesign Meeting.
41	MasterRedlinedCLEAN072302	07-23-02	10.0	Prioritization		Revised language agreed to at July 23, 2002 Redesign Meeting.
42			10.1	Prioritization	Test Environment Releases	Added language agreed to at July 23, 2002 Redesign Meeting.
43			All	All	All	Cosmetic and clarifying changes agreed to at July 23, 2002 Redesign Meeting.
44	MasterRedlinedCLEAN072602	07-26-02	1.0	Introduction and Scope		Revised language agreed to at July 26, 2002 Redesign Meeting.
45			2.4.4	Managing the Change Management Process	Implementation Obligations	Added language agreed to at July 26, 2002 Redesign Meeting.
46			5.6	Change Request Process	Comparability of Change Request Treatment	Added language agreed to at July 26, 2002 Redesign Meeting.
47			10.1	Prioritization	Test Environment Releases	Revised language agreed to at July 26, 2002 Redesign Meeting.
48	QwestWhslChgMgtDoc091302	09-13-02	All			Accepted all agreed to CLEAN-UP changes and additions from multiple Redesign Meetings.
49			2.1	Managing the Change	Managing the Change Management Process	Added language agreed to at multiple CLEAN-UP Redesign Meetings.

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**Qwest Wholesale Change Management Process Document –10-30-06**

Line #	Version - Filename	Effective Date	Change			
			Section #	Section Name	Subsection Name	Update Activity
				Management Process	Document	
50			2.4.4	Managing the Change Management Process	Implementation Obligations	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
51			2.4.5	Managing the Change Management Process	Adherence to this CMP	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
52			2.5	Managing the Change Management Process	Method of Communication	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
53			3.0	Meetings		Added language agreed to at multiple CLEAN-UP Redesign Meetings.
54			5.1.2	Change Request Process	Implementation of Industry Guideline CRs	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
55			5.6	Managing the Change Management Process	Comparability of Change Request Treatment	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
56			16.2	Exception Process	Emergency Call/Meeting Notice to Discuss Exception Request	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
57			16.3	Exception Process	Notice of Exception Request Discussion and Vote at Upcoming CMP Meeting	Added language agreed to at multiple CLEAN-UP Redesign Meetings.
58			18.0	Oversight Review Process		Added language agreed to at multiple CLEAN-UP Redesign Meetings.
59	QwestWhslChgMgtDoc100902	10-09-02	All			Added language and accepted CLEAN-UP changes and additions from 10-08-02 and 10-09-02 Redesign Meetings.
60	QwestWhslChgMgtDoc101502	10-15-02	17.0			Added language proposed by AT&T and accepted by Qwest and WorldCom on 10-15-02.
61	QwestWhslChgMgtDoc010603	01-06-03	12.0	Production Support	Request for a Production Support Change	Modified language as approved by unanimous CMP vote at December 18, 2002, Monthly CMP Product/Process Meeting
62			5.0	Change Request Process	Level 1 Process/Deliverables	Modified language as approved by unanimous CMP vote at December 18, 2002, Monthly CMP

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**Qwest Wholesale Change Management Process Document –10-30-06**

Line #	Version - Filename	Effective Date	Change			
			Section #	Section Name	Subsection Name	Update Activity
						Product/Process Meeting
63			5.0	Change Request Process	Level 2 Process/Deliverables	Modified language as approved by unanimous CMP vote at December 18, 2002, Monthly CMP Product/Process Meeting
64			5.0	Change Request Process	Level 3 Process/Deliverables	Modified language as approved by unanimous CMP vote at December 18, 2002, Monthly CMP Product/Process Meeting
65			5.0	Change Request Process	Level 4 Process/Deliverables	Modified language as approved by unanimous CMP vote at December 18, 2002, Monthly CMP Product/Process Meeting
66	QwestWhslChgMgtDoc053003	05-30-03	8.0	Change to an Existing OSS Interface		Modified language as approved by unanimous CMP vote at May 27, 2003, Ad Hoc CMP Product/Process Meeting
67	QwestWhslChgMgtDoc061803	06-18-03	5.0	Change Request Process	Systems Change Request Origination Process	Modified language as approved by unanimous CMP vote at the June 18, 2003, CMP Product/Process Meeting
68	QwestWhslChgMgtDoc121103	12-11-03	5.1.4, 10.3.1, 10.4	Change Request Process, Prioritization	Systems Change Request Origination Process, Prioritization Review, Special Change Request Process	Modified language as approved by unanimous CMP vote at September 17, 2003, CMP Product/Process Meeting
69	QwestWhslChgMgtDoc041904	04-19-04	3.0	Change Management Process Meetings		Added language agreed to at the January 2004 CMP Product/Process Meeting
			12.4 12.5	Production Support	Reporting Trouble to IT Severity Levels	Added language agreed to at the January 2004 CMP Product/Process Meeting
			12.7	Production Support	Notification Intervals	Added language agreed to at the January 2004 CMP Product/Process Meeting
			12.3	Production Support	Request for a Production Support Change	Added language around making a software patch or event notification or initiate a meeting to discuss the patch
70	QwestWhslChgMgtDoc022105	02-21-05	5.1.4	Change Request Process	Systems Change Request Origination Process	Added language agreed to at the December 2004 CMP Product/Process Meeting
			5.2.5	Change Request Process	Code & Test	Added language agreed to at the December 2004 CMP Product/Process Meeting
			8.0	Change to an Existing OSS Interface		Added language agreed to at the December 2004 CMP Product/Process Meeting
			8.1.1	Change to an Existing OSS	Draft Interface Technical Specifications	Added language agreed to at the December 2004 CMP Product/Process Meeting

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**Qwest Wholesale Change Management Process Document –10-30-06**

Line #	Version - Filename	Effective Date	Change			
			Section #	Section Name	Subsection Name	Update Activity
				Interface		
			8.1.2	Change to an Existing OSS Interface	Walk Through of Draft Interface Technical Specifications	Added language agreed to at the December 2004 CMP Product/Process Meeting
			8.1.3	Change to an Existing OSS Interface	<b>CLEC Comments on Draft Interface Technical Specifications</b>	Added language agreed to at the December 2004 CMP Product/Process Meeting
			8.1.4	Change to an Existing OSS Interface	Qwest Response to CLEC Comments	Added language agreed to at the December 2004 CMP Product/Process Meeting
			8.1.5	Change to an Existing OSS Interface	Final Interface Technical Specifications	Added language agreed to at the December 2004 CMP Product/Process Meeting
			10.1	Prioritization	Test Environment Releases	Added language agreed to at the December 2004 CMP Product/Process Meeting
71	QwestWhslChgMgtDoc030305	03-03-05	Table of Contents			Modified Appendix D entry to relay most current effective date on Sample CR Form
			Appendix D	Sample Change Request Form – As Of 03/03/05		Updated Appendix D – Sample Change Request Form with most current approved document as agreed to in January 2005 CMP Product/Process Meeting
72	QwestWhslChgMgtDoc032805	03-28-05	3.0	Change Management Process Meetings		Added language agreed to at the March 2005 CMP Product/Process Meeting
73	QwestWhslChgMgtDoc091305	09-13-05	11.0	Application-to-Application Interface Testing		Remove reference to interoperability testing environment.
			Definition of Terms	Definition of Terms	Design, Development, Notification, Testing, Implementation and Disposition	Remove reference to interoperability testing environment in both the Term and Definition portion.
74	QwestWhslChgMgtDoc110805	11-08-05	5.8	Change Request Process	Change Request Status Codes	Modified wording on when a CR is moved to CLEC test (See CR 072705-1CM)
75	QwestWhslChgMgtDoc013006	01-30-06	14.2	Escalation Process	Cycle	Added language to change the Escalation Process when a meeting is held to discuss the escalation. Qwest will also respond to the originating CLEC and copy the participating CLECs with the binding position via email.

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**Qwest Wholesale Change Management Process Document –10-30-06**

Line #	Version - Filename	Effective Date	Change			
			Section #	Section Name	Subsection Name	Update Activity
76	QwestWhslChgMgtDoc091906	091906	12.9	Production Support	Communications	Modified language to eliminate duplicate work associated to Event Notification.
77	QwestWhslChgMgtDoc103006	103006	3.0	Change Management Process Meetings	Qwest Wholesale CMP Web Site	Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)
78			4.0	Types of Change	Industry Guideline Change	Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)
79			8.0	Change to an Existing OSS Interface		Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)
80			8.0	Change to an Existing OSS Interface	Release Documentation Addenda	Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)
81			Appendix B	Sample – IMA11.00 Initial Prioritization Form		Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)
82			Appendix D	Sample Change Request Form		Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)
83			Definition of Terms			Modified language agreed to at the October 2006 CMP Product/Process Meeting (IMA XML Related updates)

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# Qwest Wholesale Change Management Process Document -

## CHANGE MANAGEMENT PROCESS (CMP) FOR LOCAL SERVICES

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## CHANGE MANAGEMENT PROCESS (CMP)

### 1.0 INTRODUCTION AND SCOPE

This document defines the processes for change management of Operations Support Systems (OSS) Interfaces, products and processes (including manual) as described below. CMP provides a means to address changes that support or affect pre-ordering, ordering/provisioning, maintenance/repair and billing capabilities and associated documentation and production support issues for local services (local exchange services) provided by Competitive Local Exchange Carriers (CLECs) to their end users. This CMP is applicable to Qwest's 14 state-in-region serving territory.

This CMP is managed by CLEC and Qwest Points of Contact (POCs) each having distinct roles and responsibilities. The CLECs and Qwest will hold regular meetings to exchange information about the status of existing changes, the need for new changes, what changes Qwest is proposing, how the process is working, etc. The process also allows for escalation to resolve disputes, if necessary.

Qwest will track changes to OSS Interfaces, products and processes. This CMP includes the identification of changes and encompasses, as applicable, Design, Development, Notification, Testing, Implementation, Disposition of changes, etc. (See Change Request Status Codes, Section 5.8). Qwest will process any such changes in accordance with this CMP.

In cases of conflict between the changes implemented through this CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through this CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement.

This CMP is dynamic in nature and, as such, is managed through the regularly scheduled meetings. The parties agree to act in Good Faith in exercising their rights and performing their obligations pursuant to this CMP. This document may be revised through the procedures described in Section 2.0.

Any opinions expressed at the CMP meetings by representatives of government agencies such as state Public Utilities Commissions (PUC), Federal Communications Commission (FCC), and the Department of Justice (DOJ) do not bind such government agencies.

Throughout this CMP document, terms such as "agreement" or "consensus" are used to identify instances when participants attempt to informally arrive at a unanimous decision by the CMP

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group at a noticed CMP Meeting. At any time, when the parties cannot informally reach a decision, the parties may continue to work together to reach resolution or conduct a vote in accordance with Section 17.0.

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## 2.0 MANAGING THE CHANGE MANAGEMENT PROCESS

### 2.1 Managing the Change Management Process Document

Proposed modifications to this CMP framework shall be originated by a change request submitted by CLEC or Qwest in accordance with Section 5.0. Acceptance of such changes will be discussed at a regularly scheduled Monthly CMP Product/Process Meeting.

The originator of the change will send proposed redlined language and the reasons for the request with the change request at least fourteen (14) days in advance of the Monthly CMP Product/Process Meeting. The request originator will present the proposal to the CMP participants. The parties will develop a process for input into the proposed change including when the vote will be taken. Incorporating a change into this CMP requires unanimous agreement using the Voting Process, as described in Section 17.0. Each CMP change request will be assigned a CR number that contains a suffix of “CM” and will be included in the Monthly CMP Product/Process Meeting distribution package. The CMP change request and redlined language will be included in the Monthly CMP Product/Process Meeting distribution package and the CMP change request will be identified as a proposed change to the CMP framework on the agenda. The requested change will be reviewed at a Monthly CMP Product/Process Meeting and voted on no earlier than the following CMP Product/Process meeting. The agenda for the Monthly CMP Product/Process Meeting, at which the vote will be taken, will indicate that a vote will be taken.

There will be a standing agenda item for each monthly CMP Meeting for discussion about issues relating to the operation and effectiveness of CMP. This discussion is intended to be open and receptive to all input with the goal of constantly evaluating and improving this CMP.

### 2.2 Change Management Point-of-Contact (POC)

Qwest and each CLEC will designate primary, secondary, and, if desired, tertiary change management POC(s), who will serve as the official designees for matters regarding this CMP. CLECs and Qwest will exchange primary, secondary and tertiary POC information including items such as:

- Name
- Title
- Company
- Telephone number
- E-mail address
- Fax number
- Cell phone/Pager number
- POC designation (e.g., primary, secondary, or tertiary)

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## 2.3 Change Management POC List

Primary, secondary and tertiary CLEC and Qwest POCs will be included in the Qwest maintained POC list. It is the CLEC POC's responsibility to notify Qwest of any POC changes at <http://www.qwest.com/wholesale/cmp/ppform.html>. If Qwest makes a Primary POC change it will follow the process as described in Section 5.4.3. The list will be posted on the Qwest CMP Web site and may include other contacts.

## 2.4 Qwest CMP Responsibilities

### 2.4.1 CMP Manager

The Qwest CMP Manager is the Qwest Product/Process POC and is responsible for properly processing submitted CRs, conducting the Monthly CMP Product/Process Meeting, assembling and distributing the meeting distribution package, and ensuring minutes are written and distributed in accordance with the agreed-upon timeline.

The Qwest CMP Manager is the Qwest Systems POC and is responsible for properly processing submitted CRs, conducting the Monthly CMP Systems Meeting, assembling and distributing the meeting distribution package, and ensuring minutes are written and distributed in accordance with the agreed-upon timeline. The CMP Manager also distributes the list of CRs eligible for prioritization to Qwest and the CLECs for ranking, tabulates the rankings, and forwards the resulting prioritization of the CRs to Qwest and the CLECs. In addition, the CMP Manager is responsible for coordinating the publication of the Qwest OSS Interface Release Calendar, as described in Section 6.0.

### 2.4.2 Change Request Project Manager (CRPM)

The Qwest CRPM manages CRs throughout the CMP CR lifecycle. The CRPM is responsible for obtaining a clear understanding of exactly what deliverables the CR originator requires to close the CR, arranging the CR clarification meetings and coordinating necessary Subject Matter Experts (SMEs) from within Qwest to respond to the CR, and coordinating the participation of the necessary SMEs in the discussions with the CLECs.

### 2.4.3 Escalation/Dispute Resolution Manager

The Escalation/Dispute Resolution Manager is responsible for managing escalations, disputes and postponements in accordance with the CMP Escalation, Dispute Resolution and Postponement Processes. (See Sections 14.0, 15.0 and 5.5)

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#### 2.4.4 Implementation Obligations

When Qwest commits to make a change pursuant to CMP, Qwest will review and revise internal and external documentation, as needed, to ensure that the change is appropriately reflected. Qwest will conduct training to communicate the changes to all appropriate Qwest personnel so that they are made aware of relevant changes. If Sections 5.0, 7.0, 8.0 or 9.0 require notification of the change, such notification will be provided in accordance with that section and will include references to external Qwest documentation that will be modified to reflect the change, if applicable. All of the forgoing activities will take place by the implementation date of the change.

#### 2.4.5 Adherence to this CMP

As a general rule, if a CLEC indicates that Qwest is not following this CMP, and Qwest agrees, Qwest will correct the situation by following the process. If Qwest has failed to follow this CMP for a particular change, and is not able to withdraw the change and follow the applicable process, then Qwest and CLECs must unanimously agree on a different manner to correct the situation. If Qwest and the CLECs attempt to, but do not agree that a process was not followed or cannot agree on a manner to correct the situation, any CLEC may pursue any appropriate process available in this CMP (e.g., production support, escalation, dispute resolution, oversight committee).

### 2.5 Method of Communication

The method of communication is e-mail with supporting information posted to the Web site when applicable (see Section 3.3 Qwest Wholesale CMP Web Site). Communications sent by e-mail resulting from CMP will include in the subject line "CMP". E-mail communications regarding document changes will include direct Web site links to the related documentation. All Notifications are sent as "mailouts" and are distributed to all those who subscribe to such notifications at <http://www.qwest.com/wholesale/notices/cnla/maillist.html>.

Redlined PCATs and Technical Publications associated with product, process, and systems changes will be posted to the Qwest CMP Document Review Web site, <http://www.qwest.com/wholesale/cmp/review.html>. For the duration of the agreed upon comment period as specified in this CMP, CLECs may submit comments on the proposed documentation change. At the Qwest CMP Document Review Web site, CLECs may submit their comments on a specific document by selecting the "Submit Comments" link associated with the document. The "Submit Comments" link will take CLECs to an HTML comment template. If for any reason the "Submit" button on the site does not function properly, CLECs may submit comments to [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com). After the conclusion of the applicable CLEC comment period, Qwest will aggregate all CLEC comments with Qwest responses and distribute to all CLECs via Notification e-mail within the applicable period.

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In some instances, a CLEC or Qwest may wish to include proprietary information in a CR. To do this the CLEC or Qwest must identify the proprietary information with bracketed text, in all capitals, preceded and followed by the words "PROPRIETARY BEGIN" and "PROPRIETARY END," respectively. Qwest will blackout properly formatted proprietary information when the CR is posted to the CR Database and distributed in the CMP Monthly Meeting distribution packet.

If a CLEC or Qwest wishes to ask a question, submit a comment, or provide information that is of a proprietary nature, the CLEC or Qwest must communicate directly with the CMP Manager via e-mail, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). Such e-mails must have a subject line beginning with PROPRIETARY.

This CMP contains references to required notifications. Such references typically identify specific information that must be included in such notifications. Such information is not an exclusive list. Qwest will use reasonable efforts to include such other information in its possession that may be useful in aiding CLECs to understand the scope and purpose of the notification.

## **2.6 CMP Relationship with Management of Performance Indicator Definitions (PIDs)**

Qwest Performance Indicator Definitions (PIDs) have been established through collaboration among Qwest, CLECs and state public utilities commissions in a forum known as the Regional Oversight Committee Technical Advisory Group (ROC TAG). This activity was performed in order to test Qwest's performance in connection with Qwest's application to obtain approval under Section 271 of the Telecommunications Act of 1996. The parties anticipate that the ROC TAG (or similar industry group separate from the CMP body) will continue in some form after approval of Qwest's Section 271 application. The parties expect that this industry group will be responsible for change management of the Qwest PIDs (the "PID Administration Group").

The parties acknowledge that the operation of PIDs may be impacted by changes to Qwest OSS Interfaces, products or processes that are within the scope of CMP. Conversely, Qwest OSS Interfaces, products or processes may be impacted by changes to, or the operation of, PIDs that are within the scope of the PID Administration Group. As a result, efficient operation of this CMP requires communication and coordination, including the establishment of processes, between the PID Administration Group and the CMP body.

The parties recognize that if an issue results from CMP that relates to the PIDs (e.g., Qwest denies a CR with reference to PIDs, discussion of PID administration is needed in order to implement a CR, etc.), any party to this CMP may take the issue to the PID Administration Group for discussion and resolution as appropriate under the procedures for that Group. At the time any party brings such an issue to the PID Administration Group, such party shall notify Qwest and Qwest will distribute an e-mail notification to the CMP body. Qwest shall also distribute to the CMP body all correspondence with the PID Administration Group relating to the

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issue at the time such correspondence is exchanged with the PID Administration Group (if Qwest is not copied on such correspondence, the involved CLEC will forward such correspondence to Qwest for distribution to the CMP body). Qwest or an interested CLEC will bring any resolution or recommendation from the PID Administration Group relating to such issues to the CMP body for consideration in resolving related CMP issues.

It is possible that the PID Administration Group will identify issues that relate to CMP. In that case, the CMP body would expect the PID Administration Group (or a party from that group) to bring such issues to the CMP body for resolution or a recommendation. Such issues may be raised in the form of a CR, but may be raised in a different manner if appropriate. Qwest or an interested CLEC will return to the PID Administration Group any resolution or recommendation from the CMP body on such issues. Qwest and CLECs participating in the PID Administration Group agree that they will propose, develop, and adopt processes for the PID Administration Group that will enable the coordination called for in this Section. One such process may include joint meetings, on an as needed basis, of the PID Administration Group and the CMP body to address issues that affect both groups.

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### 3.0 CHANGE MANAGEMENT PROCESS MEETINGS

Change Management Process meetings will be conducted on a regularly scheduled basis. The CMP Product/Process and Systems Meetings will be conducted on the same day of each month or on at least two (2) consecutive days on a monthly basis, unless other arrangements are agreed upon by the CLECs and Qwest. Meeting participants can choose to attend meetings in person or participate by conference call.

Meetings are held to review, manage the implementation of Product/Process and System changes, and address Change Requests. Qwest will review the status of all applicable Change Requests. The meeting may also include discussions of Qwest's OSS Interface Release Calendar.

CLEC's request for additional agenda items and associated materials must be submitted to Qwest at least five (5) business days by noon (MT) in advance of the meeting. Qwest is responsible for distributing the agenda and associated meeting materials and will be responsible for preparing, maintaining, and distributing meeting minutes. Attendees with any walk-on items should bring hard copy materials of the walk-on items to the meeting and should, at least two (2) hours prior to the meeting, provide copies of such materials electronically (soft copy) to the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), for distribution to all parties.

All attendees, whether in person or by phone, must identify themselves and the company they represent.

Additional meetings may be held at the request of Qwest or any CLEC. Meeting notification must contain an agenda plus any supporting meeting materials. Notification for these meetings will be distributed at least five (5) business days prior to their occurrence. Qwest will record and distribute meeting minutes, unless otherwise noted in this CMP.

#### 3.1 Meeting Materials (Distribution Package) for Monthly Change Management Process Meetings

Meeting materials will include the following information:

- Meeting Logistics
- Minutes from previous meeting
- Agenda
- Change Requests and responses, as applicable
  - New/Active
  - Updated
- Issues, Action Items Log and associated statuses
- Release Summary, as applicable
- OSS Interface Release Calendar, as described in Section 6.0

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- Date TBD Trouble Tickets, as described in Section 12.3
- Any other material to be discussed

Qwest will provide Meeting Materials (distribution package) electronically, by noon (MT), three (3) business days prior to the Monthly CMP Meeting. In addition, Qwest will provide hard copies of the distribution package at the Monthly CMP Meeting.

### 3.2 Meeting Minutes for Change Management Process Meetings

Qwest will take minutes. Qwest will summarize discussions in meeting minutes and include any revised documents such as issues, action items and statuses.

Minutes will be distributed to meeting participants for comments or revisions no later than five (5) business days by noon (MT) after the meeting. CLEC comments will be provided by noon (MT) two (2) business days after receiving draft minutes to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). Revised minutes, if CLEC comments are received, will be posted to the CMP Web site within nine (9) business days by noon (MT) after the meeting.

### 3.3 Qwest Wholesale CMP Web Site

To facilitate access to CMP documentation, Qwest will maintain CMP information on its Web site. The Web site should be easy to use and will be updated in a timely manner. The Web site will be a well organized central repository for CLEC notifications and CMP documentation. Active documentation, including meeting materials (distribution package), will be maintained on the Web site. Change Requests and notifications will be identified in accordance with the agreed upon naming conventions to facilitate ease of identification. Qwest will maintain closed and old versions of documents on the Web site's Archive page for 18 months before storing off line. Information that has been removed from the Web site can be obtained by contacting the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). At a minimum, the CMP Web site will include:

- Current version of the Qwest Wholesale Change Management Process Document
- OSS Interface Release Calendar
- OSS Interface hours of availability
- Links to related Web sites, such as IMA, CEMR, Document Review and Notifications
- Change Request Form and instructions to complete form
- Submitted and open Change Requests and the status of each, including written responses to CLEC inquiries
- Meeting (formal and informal) information for Monthly CMP Meetings and interim meetings or conference calls, including descriptions of meetings and participants, agendas, minutes, sign-up forms, and schedules, if applicable
- Interactive CR Report
- Meeting materials (distribution package)
- CLEC Notifications and associated requirements

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- Directory to CLEC Notifications for the month
- Business rules, SATE test case scenarios Technical Specifications, and user guides will be provided via links on the CMP Web site
- Contact information for the CMP POC list, including CLEC, Qwest and other participants (with participant consent to publish contact information on Web page)
- Redlined PCAT and Technical Publications - see Section 2.5
- Instructions for receiving CMP communications – see Section 2.5

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## 4.0 TYPES OF CHANGE

A Change Request must be within the scope of CMP and will fall into one of the following classifications. Types of Changes apply to Systems and Product/Process.

### 4.1 Regulatory Change

A Regulatory Change is mandated by regulatory or legal entities, such as the Federal Communications Commission (FCC), a state commission/authority, or state and federal courts. Regulatory changes are not voluntary but are requisite to comply with newly passed legislation, regulatory requirements, or court rulings. Either the CLEC or Qwest may originate the Change Request.

### 4.2 Industry Guideline Change

An Industry Guideline Change implements Industry Guidelines. Either Qwest or the CLEC may originate the Change Request and these changes are subject to the same processes under this CMP as Qwest and CLEC Originated Changes. These industry guidelines are defined by:

- Alliance for Telecommunications Industry Solutions (ATIS) sponsored
- Ordering and Billing Forum (OBF)
- Local Service Ordering and Provisioning Committee (LSOP)
- Telecommunications Industry Forum (TCIF)
- Electronic Commerce Inter-exchange Committee (ECIC)
- Electronic Data Interchange Committee (EDI)
- Extensible Markup Language (XML)
- American National Standards Institute (ANSI)

### 4.3 Qwest Originated Change

A Qwest Originated Change is originated by Qwest and does not fall within the changes listed above.

### 4.4 CLEC Originated Change

A CLEC Originated Change is originated by the CLEC and does not fall within the changes listed above.

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## 5.0 CHANGE REQUEST PROCESS

### 5.1 CLEC-Qwest OSS Interface Change Request Process

A CLEC or Qwest seeking to change an existing OSS Interface, to establish a new OSS Interface, or to retire an existing OSS Interface must submit a Change Request (CR). A Change Request originator will complete and e-mail a completed Change Request (CR) Form to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), in accordance with the instructions set forth in the Qwest Wholesale CMP Web site located at the following URL: <http://www.qwest.com/wholesale/cmp/index.html>.

The CR Process supports Regulatory, Industry Guideline, CLEC originated and Qwest originated changes. The process for Regulatory changes will be managed as described in Section 5.1.1, Section 5.1.2 and Section 5.1.3.

#### 5.1.1 Regulatory Change Request

Qwest or any CLEC may submit Regulatory CRs. The party submitting a Regulatory CR must also include sufficient information to justify the CR being treated as a Regulatory CR in the Description of Change section of the CR Form. Such information must include specific references to regulatory or court orders or legislation as well as dates, docket or case numbers, page or paragraph numbers and the mandatory or recommended implementation dates, if any. All Regulatory CRs initially must be submitted as systems CRs, including when the Regulatory CR clearly is for a product/process change, and will be introduced at the Monthly CMP Systems Meeting. If the Regulatory CR originator seeks to establish that the CR should be implemented by a manual process, the originator must so indicate on the CR Form and include as much information supporting the application of the exception as practicable.

Qwest will send CLECs a notification when it posts Regulatory CRs to the Web site and identify when comments are due and when a vote is to be taken, as described below. Regulatory CRs will also be identified in the Monthly CMP Systems Meeting distribution package.

Not later than eight (8) business days prior to the Monthly CMP Systems Meeting, any party objecting to the classification of such CR as Regulatory must submit a statement to the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), documenting reasons why the objecting party does not agree that the CR should be classified as a Regulatory change. Regulatory CRs may not be presented as walk-on items.

If Qwest or any CLEC has objected to the classification of a CR as Regulatory, that CR will be discussed at the next Monthly CMP Systems Meeting. At that meeting, Qwest and the CLECs will conduct a vote under Section 17.0 to determine whether there is unanimous agreement that the CR is a Regulatory change. If Qwest or any CLEC does not agree that the CR is Regulatory, the CR will be treated as a non-Regulatory CR and prioritized, if applicable, with the CLEC originated and Qwest originated CRs, unless and until the CR is declared to be Regulatory through the Dispute Resolution Process. (See Section 15.0) Final determination of CR type will

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be made by the CLEC and Qwest POCs at that Monthly CMP Systems Meeting, and documented in the meeting minutes.

### 5.1.2 Implementation of Regulatory CRs

As a general rule, a Regulatory Change will be implemented by mechanization unless all parties agree otherwise, as described below.

For each Regulatory CR, Qwest will provide a cost analysis for both a manual and a mechanized solution. The cost analyses will include a description of the work to be performed and any underlying estimates that Qwest has performed associated with those costs. Qwest will also provide an estimated Level of Effort expressed in terms of person hours required for the mechanized solution. The cost analyses will be based on factors considered by Qwest, which may include volume, number of CLECs, technical feasibility, parity with retail, or effectiveness/feasibility of a manual process.

The Regulatory CR will be implemented by a manual solution if there is a Majority vote, as described in Section 17.0, at the Monthly CMP Systems Meeting in favor of one of the following exceptions.

A. The mechanized solution is not technically feasible.

or

B. There is a significant difference in the costs for the manual and mechanized solutions. Cost estimates will allow for direct comparisons between solutions using comparable methodologies and time periods.

Any party that desires to present information to establish an exception may do so at the Monthly Systems CMP Meeting when the implementation plan is presented.

Once a Regulatory CR has been agreed upon to be implemented by a manual solution, the CR will be, from that point forward, tracked as a product/process CR through the Monthly CMP Product/Process Meetings. (See Section 5.7)

If Qwest is unable to fully implement a mechanized solution in the first Release that occurs after the CMP participants agree that a change is a Regulatory CR, Qwest's implementation plan for the mechanized solution may include the short-term implementation of a manual work-around until the mechanized solution can be implemented. In that situation, a single systems Regulatory CR will be used for the implementation of both the manual and mechanized changes. Qwest will continue to work that Regulatory CR until the mechanized solution is implemented.

If a Regulatory CR is implemented by a manual process and later it is determined that a change in circumstance warrants a mechanized solution, Qwest or any CLEC may submit a new systems CR which must include evidence of the change in circumstance, such as an estimated

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volume increase or changes in technical feasibility, and the number of the CR that was implemented using a manual process. The CR originator may request that the new CR be treated as a Regulatory CR. If Qwest or any CLEC does not agree to treat the new CR as a Regulatory CR, it will be treated as a Qwest or CLEC originated change.

Any party that disagrees with the majority decision regarding Exceptions A and B may initiate the Dispute Resolution Process. (See Section 15.0)

### 5.1.3 Industry Guideline Change Request

Industry Guideline CRs will be submitted as Systems CRs, but if it is determined they should be implemented as a Product/Process change, the CR will follow the Crossover process as documented in Section 5.7. The party submitting the Industry Guideline CR must identify on the CR Form that the CR should be designated an Industry Guideline CR and identify the industry forum that recommended that change. The party submitting an Industry Guideline CR must also include sufficient information to justify the CR being treated as an Industry Guideline CR in the Description of Change section of the CR Form. Such information must include specific references to the industry forum issue or recommendation and the recommended implementation date, if any.

### 5.1.4 Systems Change Request Origination Process

If a CLEC or Qwest wants Qwest to change, introduce or retire an OSS Interface, the originator will e-mail a Change Request (CR) Form to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). No later than two (2) business days after Qwest receives the CR, the Qwest CMP Manager reviews the CR for completeness, and requests additional information from the CR originator, if necessary.

Once the CR is complete:

- The Qwest CMP Manager will assign a CR Number, and log the CR into the CMP database
- The Qwest CMP Manager sends acknowledgement of receipt to the CR originator and updates the CMP database.

Within two (2) days after acknowledgement:

- The CMP Manager assigns a Change Request Project Manager (CRPM) and identifies the appropriate Director responsible for the CR.
- The Qwest CMP Manager posts the valid CR to the CMP Web site via Qwest's interactive report. The report will contain the CR details, originator identity, assigned CRPM, assigned CR Number and, when practicable, the designated Qwest SME and associated Director.
- The CRPM obtains from the Director the names of the assigned Subject Matter Expert(s) (SME)
- The CRPM will provide a copy of the detailed CR report to the CR originator which includes the following information:
  - Description of CR
  - Originating CLEC

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- Assigned CRPM contact information
- Assigned CR number
- Designated Qwest SMEs and associated director(s)
- Status of the CR (e.g., Submitted)

Within eight (8) business days after receipt of a complete CR, the CRPM coordinates and holds a clarification meeting with the CR originator and Qwest's SME(s). If the originator is not available within the above specified time frame, then the clarification meeting will be held at a mutually agreed upon time. Qwest may not provide a response to a CR until a clarification meeting has been held. The CR originator may invite representatives from other companies to participate on the clarification call. Such participation is not intended to replace the presentation of the CR at the Monthly CMP Meeting.

At the clarification meeting, Qwest and the originator will review the submitted CR, validate the intent of the originator's CR, clarify all aspects, identify all questions to be answered, and determine deliverables Qwest must produce in order to close the CR. The originator should provide, in the CR, as much detail as possible. After the clarification meeting has been held, the CRPM will document and issue meeting minutes within five (5) business days.

CRs received fourteen (14) calendar days prior to the next scheduled Monthly CMP Systems Meeting will be presented at that Monthly CMP Systems Meeting for clarification from all CLECs participating in the Monthly CMP Systems Meeting.

At the Monthly CMP Systems Meeting, the originator will present the CR and provide any business reasons for the CR. Items or issues identified during the previously held clarification meeting will be relayed. CLECs participating in the Monthly CMP Systems Meeting will be given the opportunity to comment on the CR and provide additional clarifications. If appropriate, Qwest's SME(s) will identify options and potential solutions to the CR. Clarifications and/or modifications related to the CR will be incorporated into the evaluation of the CR.

CRs that are not submitted fourteen (14) calendar days prior to the Monthly CMP Systems Meeting may be introduced at that Monthly CMP Systems Meeting as walk-on items. The Originating CLEC will present the CR and participating CLECs will be allowed to provide comments to the CR. Qwest will provide a status of the CR.

Qwest will develop a draft response based on the CR discussion at the Monthly CMP Systems Meeting. Prior to the next scheduled Monthly CMP Systems Meeting the CRPM will post responses to systems CRs to the CMP database. The response will be made available via the interactive reports and the distribution package for the Monthly CMP Systems Meeting. Qwest will conduct a walk through of the response and participating CLECs will be provided the opportunity to discuss, clarify and comment on Qwest's Response. Qwest's Responses will be either:

- "Accepted" (Qwest will implement the request) with position stated, or

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- “Denied” (Qwest will not implement the request) with basis for the denial and a detailed explanation, including reference to substantiating material. OSS Interface Change Request may be denied for one or more of the following reasons:
  - Technologically not feasible—a technical solution is not available
  - Regulatory ruling/Legal implications—regulatory or legal reasons prohibit the change as requested, or if the request benefits some CLECs and negatively impact others (parity among CLECs) (Contrary to ICA provisions)
  - Outside the Scope of the Change Management Process—the request is not within the scope of the Change Management Process (as defined in this CMP), seeks adherence to existing procedures, or requests for information
  - Economically not feasible—low demand, cost prohibitive to implement the request, or both
  - The requested change does not result in a reasonably demonstrable business benefit (to Qwest or the requesting CLEC) or customer service improvement

Qwest will not deny a CR solely on the basis that the CR involves a change to back-end systems. Qwest will apply these same concepts to CRs that Qwest originates. The Special Change Request Process (SCRP) (Section 10.4) may be invoked if a CR was denied as economically not feasible.

Based on the comments received from the Monthly CMP Systems Meeting, Qwest may revise its response and issue a revised draft response at the next Monthly CMP Systems Meeting.

If any CLEC does not accept Qwest’s response, any CLEC may elect to escalate or dispute the CR in accordance with the agreed upon CMP Escalation Process or Dispute Resolution Process. (Sections 14.0 and 15.0) If the Originator does not agree with the determination to escalate or pursue dispute resolution, it may withdraw its participation from the CR and any other CLEC may become responsible for pursuing the CR Escalation upon providing written notification to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). The CR will be assigned an escalation suffix and remain an active CR. Qwest will note in the status history of the interactive reports that the CR has been escalated. However, the CR status will reflect the stage of the CR as it progresses through the CR lifecycle.

If any CLEC does not accept Qwest’s response and does not intend to escalate or dispute at the present time, it may request Qwest to status the CR as ‘Deferred.’ The CR will remain as Deferred and any CLEC may re-activate the CR at a later date.

NOTE: For system CRs associated with Billing, CRs will likely be prioritized for a specific set of Qwest billing system implementation dates (referred in this document as a “Release” or “release”) versus one specific release with a single implementation date which is the case for IMA and CEMR/MEDIACC. In the context of Billing prioritization and/or packaging, when “release” is referred to, the reference is to a specific set of billing system implementation dates.

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At the last Monthly CMP Systems Meeting before Prioritization, Qwest will facilitate the presentation of all CRs eligible for Prioritization. In order for a CR to be eligible for prioritization in the upcoming release, it must be presented at least one (1) month prior to the Prioritization Review meeting in accordance with Section 10.3.1. At this meeting Qwest will provide a high level estimate of the Level of Effort of each CR and the estimated total capacity of the Release. This estimate will be an estimate of the number of person hours required to incorporate the CR into the Release. Ranking will proceed, as described in Section 10.0, Prioritization. The results of the ranking will produce an Initial Prioritization List.

Pursuant to this CMP, Qwest may develop a temporary manual solution to a mechanized change identified in an active systems CR. In these situations, Qwest will open a second systems CR with the same number as the original CR and a “MN” suffix. Qwest will process this “MN” CR as a systems CR through its entire life cycle. During this time the original systems CR will remain open and follow the appropriate systems CR process. The temporary manual solution will remain available at least until closure of the associated systems CR. If possible, all or part of the temporary manual solution can be reintroduced in Production Support if a manual workaround is required. A new CR is not required to revert to the temporary manual solution.

## **5.2 CLEC-Qwest OSS Interface Change Request Lifecycle**

A CLEC or Qwest may elect to withdraw a CR that has been prioritized for an OSS Interface Release, in accordance with Section 10.3.5. Based on the Initial Prioritization List, Qwest will begin its development cycle that includes the milestones listed below.

### **5.2.1 Business and Systems Requirements**

Qwest engineers define the business and functional specifications during this phase. The specifications are completed on a per candidate basis in priority order. During business and system requirements, any candidates which have affinities and may be more efficiently implemented together will be discussed. Candidates with affinities are defined as candidates with similarities in functions or software components. Qwest will present, at the Monthly CMP Systems Meeting, any complexities, changes in candidate size, or other concerns that may arise during business or system requirements, which would impact the implementation of the candidate.

During the business and systems requirement efforts, CRs may be modified or new CRs may be generated (by CLECs or Qwest), with a request that the new or modified CRs be considered for addition to the Initial Prioritization List (late added CRs). If there is a unanimous votes (see Section 17.0) to consider the late added CRs for addition to the Initial Prioritization List, Qwest will size the CR’s requirements work effort. If the requirements work effort for the late added CRs can be completed by the end of system requirements, the candidate list and the new CRs will be prioritized by CLECs in accordance with the agreed upon Ranking of Later Added CR process (see Section 10.3.4). If the requirements work effort for the late added CRs cannot be completed by the end of system requirements, the CR will not be eligible for the Release and will be returned to the pool of CRs that are available for prioritization in the next OSS Interface

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Release. If packaging has already been presented as described in 5.2.2, any party seeking to submit a late-added CR must follow the Exception process.

### 5.2.2 Packaging

At the conclusion of system requirements, Qwest will present packaging option(s) for implementing the release candidates, including a package of only the prioritized candidates in order. Packaging options are defined as different combinations of candidates proposed for continuing through the next stage of development. Packaging options may not exist for the Release; *i.e.*, there may only be one straightforward set of candidates to continue working through the next stage of development. Options may be identified due to:

- affinities in candidates
- resource constraints which prevent some candidates from being implemented but allow others to be completed

Qwest will provide an updated estimate of the Level of Effort for each CR and the estimated total capacity of the Release. If more than one option is presented, a vote will be held within two (2) days after the meeting on the options. The packaging option with the largest number of votes will continue through the design phase of the development cycle.

### 5.2.3 Design

Qwest engineers define the architectural and code changes required to complete the work associated with each candidate. The design work is completed on the candidates, which have been packaged.

### 5.2.4 Commitment

After design, Qwest will present a commitment list of CRs that can be implemented. Qwest will provide an updated Level of Effort for each CR and the estimated total capacity of the Release. These candidates become the committed candidates for the Release.

### 5.2.5 Code & Test

Qwest engineers will perform the coding and testing required by Qwest to complete the work associated with the committed candidates. The code is developed and baselined before being delivered to system test. A system test plan (system test cases, costs, schedule, test environment, test data, etc.) is completed. The system is tested for meeting business and system requirements, certification is completed on the system readiness for production, and pre-final documentation is reviewed and baselined. If, in the course of the code and test effort, Qwest determines that it cannot complete the work required to include a candidate in the planned Release, Qwest will discuss options with the CLECs in the next Monthly CMP Systems Meeting. Options can include either the removal of that candidate from the list or a postponement in the implementation date to incorporate that candidate. If the candidate is removed from the list, Qwest will also advise the CLECs whether or not the candidate could become a candidate for the next Point Release, with appropriate disclosure as part of the

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current Major Release of the OSS Interface. Alternatively, the candidate will be returned to the pool of CRs that are available for prioritization in the next OSS Interface Release.

### **5.2.6 Deployment**

During the deployment phase, Qwest representatives from the business and operations review and agree the system is ready for full deployment. Qwest deploys the Release and initiates and conducts production support .

When Qwest has completed development of the OSS Interface change, Qwest will release the OSS Interface functionality into production for use by the CLECs.

Upon implementation of the OSS Interface Release, the CRs will be updated to CLEC test and presented for closure at the next Monthly CMP Systems Meeting.

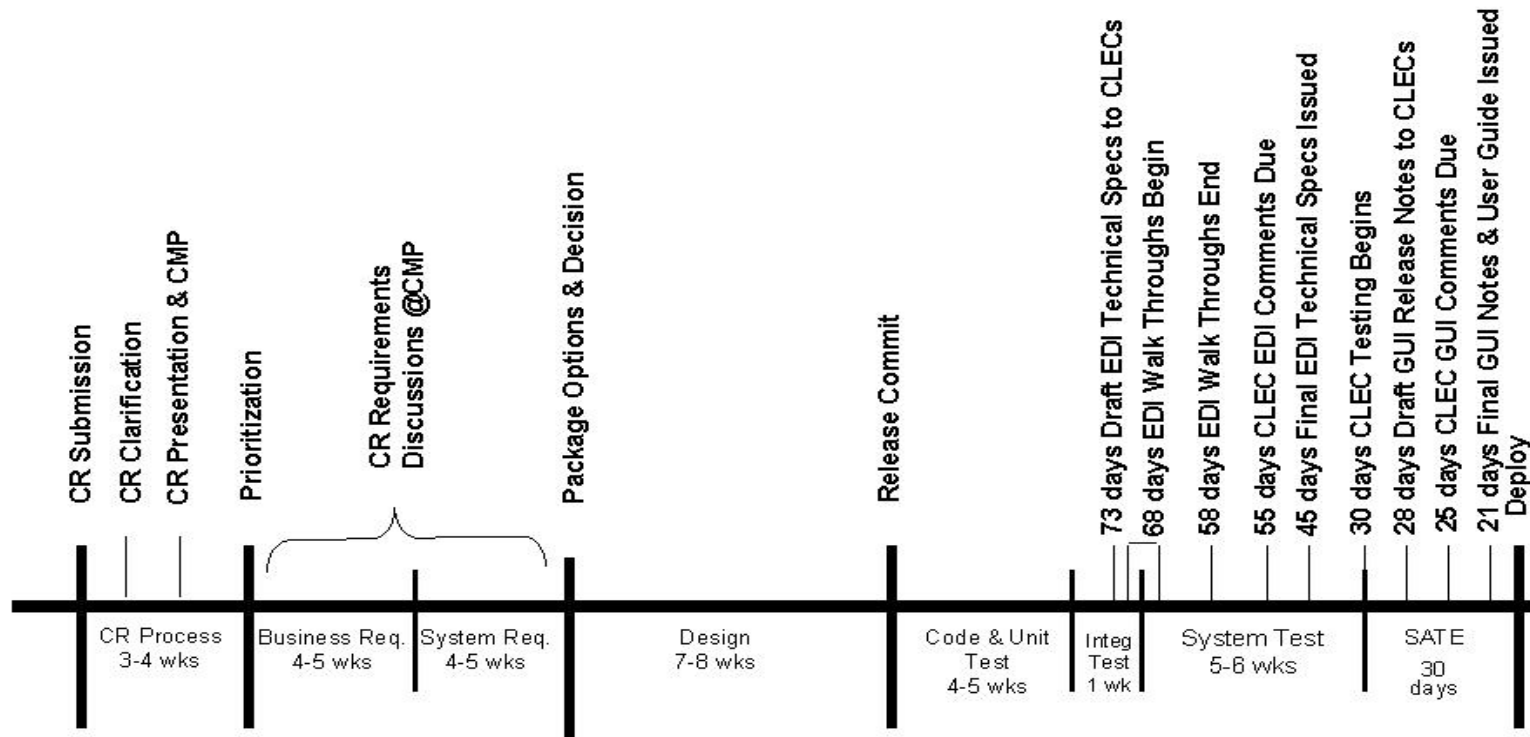
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Figure 1: IMA Software Development Timeline

## IMA Software Development Timeline

*Time for each phase is approximate and based on current release timelines. Time per phase can change per business needs.*



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### 5.3 CLEC Originated Product/Process Change Request Process

If a CLEC wants Qwest to change a product/process, the CLEC e-mails a Change Request (CR) Form to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). No later than two (2) business days after Qwest receives the CR:

- The Qwest CMP Manager reviews the CR for completeness, and requests additional information from the CR originator, if necessary
- The Qwest CMP Manager assigns a CR Number and logs the CR into the CMP database
- The Qwest CMP Manager sends acknowledgment of receipt to the CR originator and updates the CMP Database

Within two (2) business days after acknowledgement:

- The Qwest CMP Manager posts the detailed CR report to the CMP Web site
- The CMP Manager assigns a Change Request Project Manager (CRPM) and identifies the appropriate Director responsible for the CR
- The CRPM obtains from the Director the names of the assigned Subject Matter Expert(s) (SME)
- The CRPM will provide a copy of the detailed CR report to the CR originator which includes the following information:
  - Description of CR
  - Originator (*i.e.*, CLEC name)
  - Assigned CRPM contact information
  - Assigned CR number
  - Designated Qwest SMEs and associated director(s)
  - Status of the CR (e.g, Submitted)

Within eight (8) business days after receipt of a complete CR, the CRPM coordinates and holds a clarification meeting with the Originating CLEC and Qwest's SMEs. If the originating CLEC is not available within the above specified time frame, then the clarification meeting will be held at a mutually agreed upon time. Qwest will not provide a response to a CR until a clarification meeting has been held. The CR originator may invite representatives from other companies to participate on the clarification call. Such participation is not intended to replace the presentation of the CR at the Monthly CMP Meeting.

At the clarification meeting, Qwest and the Originating CLEC will review the submitted CR, validate the intent of the Originating CLEC's CR, clarify all aspects, identify all questions to be answered, and determine deliverables to be produced. After the clarification meeting has been held, the CRPM will document and issue meeting minutes within five (5) business days. Qwest's SME will internally identify options and potential solutions to the CR.

CRs received fourteen (14) calendar days prior to the next scheduled Monthly CMP Product/Process Meeting will be presented at that Monthly CMP Product/Process Meeting. CRs that are not submitted by the above specified cut-off date may be presented at that Monthly CMP Product/Process Meeting as a walk-on item with current status. The Originating CLEC will

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present the CR and provide any business reasons for the CR. Items or issues identified during the previously held clarification meeting will be relayed. Participating CLECs will be given the opportunity to comment on the CR and subsequent clarifications. If appropriate, Qwest's SME(s) will identify options and potential solutions to the CR. Clarifications and/or modifications related to the CR will be incorporated into the evaluation of the CR. Subsequently, Qwest will develop a draft response based on the discussion from the Monthly CMP Product/Process Meeting. Qwest's response will be:

- "Accepted" (Qwest will implement the CLEC request) with position stated, or
- "Denied" (Qwest will not implement the CLEC request) with basis for the denial and a detailed explanation, including reference to substantiating material. CLEC originated Product/Process Change Request may be denied for one or more of the following reasons:
  - Technologically not feasible—a technical solution is not available
  - Regulatory ruling/Legal implications—regulatory or legal reasons prohibit the change as requested, or if the request benefits some CLECs and negatively impact others (parity among CLECs) (Contrary to ICA provisions)
  - Outside the Scope of the Change Management Process—the request is not within the scope of the Change Management Process (as defined in this CMP), seeks adherence to existing procedures, or requests for information
  - Economically not feasible—low demand, cost prohibitive to implement the request, or both
  - The requested change does not result in a reasonably demonstrable business benefit (to Qwest or the requesting CLEC) or customer service improvement

Qwest will not deny a CR solely on the basis that the CR involves a change to the back-end systems. Qwest will apply these same concepts to CRs that Qwest originates. SCRIP may be invoked if a CR was denied due to Economically not feasible.

At least one (1) week prior to the next scheduled Monthly CMP Product/Process Meeting, the CRPM will have the response posted to the Web, added to the CMP Database, and will notify all CLECs via e-mail.

All Qwest Responses will be presented at the next scheduled Monthly CMP Product/Process Meeting. Qwest will conduct a walk through of its Response. Participating CLECs will be provided the opportunity to discuss, clarify and comment on Qwest's Response.

Based on the comments received from the Monthly CMP Product/Process Meeting, Qwest may revise its Response and issue a modified Response at the next Monthly CMP Product/Process Meeting. Within ten (10) business days after the Monthly CMP Product/Process Meeting, Qwest will notify the CLECs of Qwest's intent to modify its Response.

If the CLECs do not accept Qwest's Response, any CLEC can elect to escalate or dispute the CR in accordance with the agreed upon CMP Escalation Process or Dispute Resolution Process. (See Sections 14.0 and 15.0) If the originating CLEC does not agree with the determination to escalate or pursue dispute resolution, it may withdraw its participation from the CR and any other CLEC may become responsible for pursuing the CR upon providing written

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notification to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). Qwest will note in the status history of the interactive reports that the CR has been escalated. However, the CR status will reflect the stage of the CR as it progresses through the CR lifecycle.

If the CLECs do not accept Qwest's Response and do not intend to escalate or dispute at the present time, they may request Qwest to status the CR as Deferred. The CR will remain as Deferred and CLECs may reactivate the CR at a later date.

The CLECs' acceptance of Qwest's Response may result in:

- The Response answered the CR and no further action is required
- The Response provided an implementation plan for a product/process to be developed
- Qwest Denied the CLEC CR and no further action is required by CLEC

### 5.3.1 Implementation Notification

If the CLECs have accepted Qwest's response, Qwest will provide notice of planned implementation as follows.

Prior to implementing a CLEC originated product/process CR Qwest must notify the CLECs of the pending change. Qwest will issue such notifications at the time it intends to implement a CLEC originated change (in whole or in part). It is possible that more than one such notification will be issued in order to fully address the CLEC requested change. Such notifications may be issued during CLEC Test and may continue to be issued until the CLEC initiated CR is closed. These notifications will adhere to the notification standards for Level 1, Level 2, and Level 3 detailed in Section 5.4 (Qwest Originated Product/Process Changes). If the change is not specifically captured in the existing Level categories, or if the change is captured in the Level 4 categories, Qwest will follow the Level 3 notification schedule.

Finally, the CR will be closed when CLECs determine that no further action is required for that CR.

## 5.4 Qwest Originated Product/Process Changes

The following defines five levels of Qwest originated product/process changes and the process by which Qwest will originate and implement these changes. None of the following shall be construed to supersede timelines or provisions mandated by federal or state regulatory authorities, certain CLEC facing Web sites (e.g., ICONN and Network Disclosures) or individual interconnection agreements. Each notification will state that it does not supercede individual interconnection agreements. The lists of change categories under each level provided below are exhaustive/finite but may be modified by the process set forth in Section 2.1. Qwest will utilize these lists when determining the disposition level to which new changes will be categorized. The changes that go through these processes are not changes to OSS Interfaces. Level 1-4 changes under this process will be tracked and differentiated by level in the History Log for the affected documents.

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### 5.4.1 Level 0 Changes

Level 0 changes are defined as changes that do not change the meaning of documentation and do not alter CLEC operating procedures. Level 0 changes are effective immediately without notification.

Level 0 Change Categories are:

- Font and typeface changes (e.g., bold to un-bold or bold to italics)
- Capitalization
- Spelling corrections and typographical errors other than numbers that appear as part of an interval or timeframe
- Hyphenation
- Acronym vs. non-acronym (e.g., inserting words to spell out an acronym)
- Symbols (e.g., changing bullets from circles to squares for consistency in document)
- Word changes from singular to plural (or vice versa) to correct grammar
- Punctuation
- Changing of a number to words (or vice versa)
- Changing a word to a synonym
- Contact personnel title changes where contact information does not change
- Alphabetizing information
- Indenting (left/right/center justifying for consistency)
- Grammatical corrections (making a complete sentence out of a phrase)
- Corrections to apply consistency to product names (i.e., "PBX - Resale" changed to "Resale - PBX")
- Moving paragraphs/sentences within the same section of a document to improve readability
- Hyperlink corrections within documentation
- Removing unnecessary repetitive words in the same paragraph or short section.

For any change that Qwest considers a Level 0 change that does not specifically fit into one of the categories listed above, Qwest shall issue a Level 3 notification.

#### 5.4.1.1 Level 0 Process/Deliverables

For Level 0 changes, Qwest will not provide a notification, Web change form, or History Log to CLECs. Changes to the documentation will be updated and posted immediately.

### 5.4.2 Level 1 Changes

Level 1 changes are defined as changes that do not alter CLEC operating procedures or changes that are time critical corrections to a Qwest product/process. Time critical corrections may alter CLEC operating procedures, but only if such Qwest product/process has first been implemented through the appropriate level under CMP. Level 1 changes are effective immediately upon notification.

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**Level 1 Change Categories are:**

- Time critical corrections to information that adversely impacts CLECs' ability to conduct business with Qwest
- Corrections/clarifications/additional information that do not change the product/process
- Corrections to synch up related PCAT documentation with the primary PCAT documentation that was modified through a higher level change (notification needs to include reference to primary PCAT documentation)
- Document corrections to synch up with existing OSS Interfaces documentation (notification needs to include reference to OSS Interfaces documentation)
- Process options with no mandatory deadline, that do not supercede the existing processes and that do not impose charges, regardless of whether the CLEC exercises the option
- Modifications to Frequently Asked Questions that do not change the existing product/process
- Re-notifications issued within one hundred and eighty (180) calendar days after initial notification (notification will include reference to date of initial notification or, if not available, reference to existing PCAT)
- Regulatory Orders that mandate a product/process change to be effective in less than twenty-one (21) days
- Training information (note: if a class is cancelled, notification is provided two (2) weeks in advance)
- URL changes with redirect link

For any change that Qwest considers a Level 1 change that does not specifically fit into one of the categories listed above, Qwest shall issue a Level 3 notification.

**5.4.2.1 Level 1 Process/Deliverables**

For Level 1 changes, Qwest will provide a notification to CLECs. Level 1 notifications will state the disposition level 1, description of change, that changes are effective immediately, that there is no comment cycle and will advise CLECs to contact the CMP Manager by e-mail at [cmpcr@qwest.com](mailto:cmpcr@qwest.com) immediately if the change alters the CLECs' operating procedures and requires Qwest's assistance to resolve. Qwest will respond to the CLEC, within one (1) business day, and work to resolve the issue. Possible resolutions may include withdrawal of the change, re-notification under a different level or creation of a new category of change under a different level. In addition, Qwest will provide the following for PCAT and Non-FCC Technical Publication ("Tech Pub") changes:

- The complete red-lined PCAT or Non-FCC Tech Pub will be available for review in the Product/Process Document Review Archive section of the CMP Web site, [http://www.uswest.com/wholesale/cmp/review\\_archive.html](http://www.uswest.com/wholesale/cmp/review_archive.html),
- A History Log that tracks the changes

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### 5.4.3 Level 2 Changes

Level 2 changes are defined as changes that have minimal effect on CLEC operating procedures. Qwest will provide notification of Level 2 changes at least twenty-one (21) calendar days prior to implementation.

Level 2 Change Categories are:

- Contact Information updates excluding time critical corrections (Expedites and Escalations Overview (<http://www.qwest.com/wholesale/clecs/exesclover.html>), Wholesale Customer Contacts (<http://www.qwest.com/wholesale/clecs/escalations.html>), Technical Escalations Contact List (<http://www.qwest.com/wholesale/systems/productionsupport.html>), CMP Points of Contact (POCs, Qwest POC changes only) (<http://www.qwest.com/wholesale/cmp/poc.html>))
- Changes to a form that do not introduce changes to the underlying process
- Changes to eliminate/replace existing Web functionality will be available for twenty-one (21) days until comments are addressed. (Either a demo or screen shot presentation will be available at the time of the notification for evaluation during the twenty-one (21) day cycle.)
- Removal of data stored under an archive URL
- Elimination of a URL re-direct
- Addition of new Web functionality (e.g., CNLA)
- Re-notifications issued one hundred and eighty (180) calendar days or more after the initial notification (notification will include reference to date of initial notification or, if not available, reference to existing PCAT)
- Documentation concerning existing processes/products not previously documented
- Changes to manually generated notifications normally transmitted to CLECs through their OSS Interfaces that are made to standardize or clarify, but do not change the reasons for, such notifications
- LSOG/PCAT documentation changes associated with new OSS Interface Release documentation resulting from an OSS Interface CR
- Reduction to an interval in Qwest's SIG

For any change that Qwest considers a Level 2 change that does not specifically fit into one of the categories listed above, Qwest shall issue a Level 3 notification.

#### 5.4.3.1 Level 2 Process/Deliverables

For Level 2 changes, Qwest will provide a notification to CLECs. Level 2 notifications will state the disposition level 2, description of change, proposed implementation date, and CLEC/Qwest comment cycle timeframes. In addition to the notification, any documentation changes required to PCATs and Non-FCC Tech Pubs will be red-lined and available for review in the Document Review section of the CMP Web site, <http://www.qwest.com/wholesale/cmp/review.html>, commonly known as the Document Review site. In the Document Review site, a comment button will be available next to the document to allow CLECs to provide comments. For Level 2 changes that do not impact PCATs or Non-FCC Tech Pubs, a comments link will be provided within the notification for comments.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

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Qwest must provide initial notification of Level 2 changes at least twenty-one (21) calendar days prior to implementation and adhere to the following comment cycle:

- CLECs have seven (7) calendar days following initial notification of the change to provide written comments on the notification.
- Qwest will reply to CLEC comments no later than seven (7) calendar days following the CLEC cut-off for comments. The Qwest reply will also include confirmation of the implementation date. In the event there are extenuating circumstances, (e.g., requested change requires significant research, information is required from national standards body or industry (e.g., Telcordia)), Qwest's response will indicate the course of action Qwest is taking and Qwest will provide additional information when available. Once the information is available, Qwest will provide a notification and any available updated documentation (e.g., Tech Pubs, PCATs) at least seven (7) calendar days prior to implementation. If Qwest extends the comment response period, Qwest will present an update on the response at each Monthly CMP Product/Process Meeting until final notification is distributed.
- Qwest will implement no sooner than twenty-one (21) calendar days from the initial notification.

CLECs may provide General comments regarding the change (e.g., clarification, request for modification, request to change the disposition level of a noticed change). Comments must be provided during the comments cycle as outlined for level 2 changes.

If a CLEC requests to change the disposition level of a noticed change, CLECs and Qwest will discuss such requests at the next Monthly CMP Product/Process Meeting. In the event that timing doesn't allow for discussion at the upcoming Monthly CMP Product/Process Meeting, Qwest will call a special ad hoc meeting to address the request. If the parties are not able to reach agreement on any such request, CLECs and Qwest will take a vote in accordance with Section 17.0. The result will be determined by the Majority. If the disposition level of a change is modified, from the date of the modification forward, such change will proceed under the modified level with notifications and timelines agreed to by the participants.

For general comments, Qwest will respond to comments and provide a final notification of the change. Additionally, Qwest will provide documentation of proposed changes to Qwest PCATs and Non-FCC Tech Pubs to CLECs and implement the change(s) according to the timeframes put forth above. If there are no CLEC comments, a final notification will not be provided and the changes will be effective according to the date provided in the original notification.

If the CLECs do not accept Qwest's response, any CLEC may elect to escalate or pursue dispute resolution in accordance with the agreed upon CMP Escalation Process or Dispute Resolution Process. (See Sections 14.0 and 15.0)

#### **5.4.4 Level 3 Changes**

Level 3 changes are defined as changes that have moderate effect on CLEC operating procedures and require more lead-time before implementation than Level 2 changes. Qwest will provide initial notification of Level 3 changes at least thirty-one (31) calendar days prior to implementation.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

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Level 3 Change Categories are:

- NC/NCI code changes
- Adding of new features to existing products (excluding resale)
- Customer-facing Center hours and holiday schedule changes
- Modify/change existing manual process
- Expanding the availability and applicability or functionality of an existing product or existing feature (excluding resale)
- Regulatory Orders that mandate a product/process change to be effective in twenty-one (21) days or more

For any change that Qwest considers a Level 3 change that does not specifically fit into one of the categories listed above, Qwest shall issue a Level 3 notification.

#### 5.4.4.1 Level 3 Process/Deliverables

For Level 3 changes, Qwest will provide a notification to CLECs. Level 3 notifications will state the disposition level 3, description of change, proposed implementation date, and CLEC/Qwest comment cycle timeframes. Level 3 notifications will only include Level 3 changes and any dependent Level 1 and Level 2 changes. Level 3 notifications of Tech Pub changes may include notification of any Level 1, Level 2 and Level 3 change.

For a Level 3 notification that Qwest believes should fall under a different Level, Qwest will propose the Level under which it believes that change should be processed. CLECs and Qwest will discuss the proposal in the next Monthly CMP Product/Process Meeting. In addition to the notification, any documentation changes required to PCATs and Non-FCC Tech Pubs will be red-lined and available for review in the Document Review section of the CMP Web site, <http://www.qwest.com/wholesale/cmp/review.html>, commonly known as the Document Review site. In the Document Review site, a comment button will be available next to the document to allow CLECs to provide written comments. For Level 3 changes that do not impact PCATs or Non-FCC Tech pubs, a link will be provided within the notification for comments.

Qwest will provide initial notification of Level 3 changes at least thirty-one (31) calendar days prior to implementation and adhere to the following comment cycle:

- CLECs have fifteen (15) calendar days following initial notification of the change to provide written comments on the notification
- Qwest will reply to CLEC comments no later than fifteen (15) calendar days following the CLEC cut-off for comments. The Qwest reply will also include confirmation of the implementation date. In the event there are extenuating circumstances, (e.g., requested change requires significant research, information is required from national standards body or industry (e.g., Telcordia)), Qwest's response will indicate the course of action Qwest is taking and Qwest will provide additional information when available. Once the information is available, Qwest will provide a notification and any available updated documentation (e.g., Tech Pubs, PCATs) at least fifteen (15) calendar days prior to implementation. If Qwest extends the comment response period, Qwest will present an update on the response at each Monthly CMP Product/Process Meeting until final notification is distributed.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

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- Qwest will implement no sooner than fifteen (15) calendar days after providing the response to CLEC comments. For example, if there are no CLEC comments, Qwest may send out a final notification on the first day following the CLEC cut-off for comments (day 16 after the initial notification). Thus, implementation would be thirty-one (31) days from the initial notification. However, if Qwest does not respond to the CLEC comments until the 15th day after the CLEC cut-off for comments, the earliest possible implementation date would be forty-five (45) calendar days from the initial notification.

CLEC comments must be provided during the comment cycle as outlined for Level 3 changes. Comments may be one of the following:

- General comments regarding the change (e.g., clarification, request for modification)
- Request to change disposition level of a noticed change
  - If the request is for a change to Level 4, the request must include substantive information to warrant a change in disposition (e.g., business need, financial impact).
  - A request to change disposition level to a Level 0, Level 1 or Level 2 is not required to include substantive information to warrant a change.
- Request for postponement of implementation date, or effective date

For general comments, Qwest will respond to comments and provide a final notification of the change. Additionally, Qwest will provide documentation of proposed changes to Qwest PCATs and Non-FCC Tech Pubs available to CLECs and implement the change(s) according to the timeframes put forth above.

CLECs and Qwest will discuss requests to change the disposition level of notified changes at the next Monthly CMP Product/Process Meeting. In the event that timing doesn't allow for discussion at the upcoming Monthly CMP Product/Process Meeting, Qwest will call a special ad hoc meeting to address the request. If the parties are not able to reach agreement on any such request, CLECs and Qwest will take a vote in accordance with Section 17.0. The result will be determined by the Majority. If the disposition level of a change is modified, from the date of the modification forward, such change will proceed under the modified level with notifications and timelines agreed to by the participants. Except that, within five (5) business days after the disposition level is changed to a Level 1, Qwest will provide a Level 1 notification.

For a request for postponement of a Level 3 change, Qwest will follow the procedures as outlined in Section 5.5 of this document.

If the CLECs do not accept Qwest's response, any CLEC may elect to escalate or pursue dispute resolution in accordance with the agreed upon CMP Escalation or Dispute Resolution procedures. (See Sections 14.0 and 15.0)

#### **5.4.5 Level 4 Changes**

Level 4 changes are defined as changes that have a major effect on existing CLEC operating procedures or that require the development of new procedures. Level 4 changes will be originated using the CMP CR process and provide CLECs an opportunity to have input into the development of the change prior to implementation.

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Level 4 Change Categories are:

- New products, features, services (excluding resale)
- Increase to an interval in Qwest's Service Interval Guide (SIG)
- Changes to CMP
- New PCAT/Tech Pub for new processes
- New manual process
- Limiting the availability and applicability or functionality of an existing product or existing feature
- Addition of a required field on a form excluding mechanized forms that are changed through an OSS Interface CR (See Section 5.1)

For any noticed change that Qwest considers a Level 4 change that does not specifically fit into one of the categories listed above, Qwest shall issue a Level 3 notification with an indication in the notification that Qwest believes the change should be a Level 4 change.

#### 5.4.5.1 Level 4 Process/Deliverables

Qwest will submit a completed Change Request no later than fourteen (14) calendar days prior to the Monthly CMP Product/Process Meeting. At a minimum, each Change Request will include the following information:

- A description of the proposed change
- A proposed implementation date (if known)
- Indication of the reason for change (e.g., regulatory mandate)
- Basis for disposition of Level 4

Within two (2) business days from receipt of the CR:

- The Qwest CMP Manager assigns a CR Number and logs the CR into the CMP Database
- The Qwest CMP Manager sends acknowledgment of receipt to the CR originator and updates the CMP Database

Within two (2) business days after acknowledgement:

- The Qwest CMP Manager posts the detailed CR report to the CMP Web site
- The CMP Manager assigns a Change Request Project Manager (CRPM) and identifies the appropriate Director responsible for the CR
- The CRPM identifies the CR Subject Matter Expert (SME) and the SME's Director.
- The CRPM will provide a copy of the detailed CR report to the CR originator which includes the following information:
  - Description of CR
  - Assigned CRPM
  - Assigned CR number
  - Designated Qwest SME(s) and associated director(s)
  - Status of the CR (e.g., Submitted)

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Qwest will present the Change Request at the Monthly CMP Product/Process Meeting. The purpose of the presentation will be to:

- Clarify the proposal with the CLECs
- Confirm the disposition level of the Change (see below).
- Propose suggested input approach (e.g., a 2 hour meeting, 4 meetings over a two week period, etc.), and obtain agreement for input approach
- Confirm deadline, if change is mandated
- Provide proposed implementation date, if applicable

At the Monthly CMP Product/Process Meeting, the parties will discuss whether to treat the Change Request as a Level 4 change. If the parties agree, the Change Request will be reclassified as a Level 0, 1, 2 or 3 change, and the change will follow the process set forth above for Level 0, 1, 2, or 3 changes, as applicable. If the parties do not agree to reclassify the Change Request as a Level 0, 1, 2 or 3 change, the following process will apply:

- The parties will develop a process for Qwest to obtain CLEC input into the proposed change. Examples of processes for input include, but are not limited to, one-day conferences, multi-day conferences, or written comment cycles.
- After completion of the input cycle, as defined during the Monthly CMP Product/Process Meeting, Qwest will modify the CR, if necessary, and design the solution considering all CLEC input.
- For Level 4 changes, when the solution is designed and all documentation is available for review, a notification of the planned change is provided to the CLECs. Level 4 notifications will only include Level 4 changes and any dependent Level 1, Level 2 changes, and Level 3 changes. Level 4 notifications of Tech Pub changes may include notification of any Level 1, Level 2, Level 3, and Level 4 change. This notification will be provided at least thirty one (31) calendar days prior to implementation. The notification will contain reference to the original CR, proposed implementation date, and the CLEC/Qwest comment cycle. In addition, any documentation changes required to PCATs and Non-FCC Tech Pubs will be red-lined and available for review in the Document Review site with a Comment button available to provide written comments. For Level 4 changes that do not impact PCATs or Non-FCC Tech Pubs, a comments link will be provided within the notification.
- CLECs have fifteen (15) calendar days following notification of the planned change to provide written comments on the notification
- Qwest will reply to CLEC comments no later than fifteen (15) calendar days following the CLEC cut-off for comments. The Qwest reply will also include confirmation of the implementation date. In the event there are extenuating circumstances, (e.g., requested change requires significant research, information is required from national standards body or industry (e.g., Telcordia)), Qwest's response will indicate the course of action Qwest is taking and Qwest will provide additional information when available. Once the information is available Qwest will provide a notification and any available updated documentation (e.g., Tech Pubs, PCATs) at least fifteen (15) calendar days prior to implementation. If Qwest extends the comment response period, Qwest will present an update on the response at each Monthly CMP Product/Process Meeting until final notification is distributed.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

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- Qwest will implement no sooner than fifteen (15) calendar days after providing the response to CLEC comments. For example, if there are no CLEC comments, Qwest may send out a final notification on the first day following the CLEC cut-off for comments (day 16 after the initial notification). Thus, implementation would be thirty one (31) days from the initial notification. However, if Qwest does not respond to the CLEC comments until the 15th day after the CLEC cut-off for comments, the earliest possible implementation date would be forty five (45) calendar days from the initial notification.

CLEC comments must be provided during the comment cycle as outlined for Level 4. CLEC comments may be one of the following:

- General comments regarding the change (e.g., clarification, request for modification)
- Request for postponement of implementation, or effective date for which comments are being provided.

For general comments, Qwest will respond to comments and provide a final notification of the change. Additionally, Qwest will provide documentation of proposed changes to Qwest PCATs and Non-FCC Tech Pubs available to CLECs and implement the change(s) according to the timeframes put forth above.

For a request for postponement of a Level 4 change, Qwest will follow the procedures as outlined in Section 5.5 of this document.

If the CLECs do not accept Qwest's response, any CLEC may elect to escalate the CR or pursue the Dispute Resolution Process in accordance with Section 15.0.

## **5.5 Postponement and Arbitration of a Product/Process Change**

A CLEC may request that Qwest postpone the implementation of a Qwest-originated or CLEC-originated product/process change in accordance with this section.

### **5.5.1 Timeframe for Request for Postponement**

A CLEC invokes the Postponement Process in accordance with the conditions and timeframes specified below:

#### **5.5.1.1 Qwest-Originated Product /Process Changes**

For Qwest-originated Level 3 or Level 4 product/process changes, if a CLEC intends to invoke the postponement process, it must do so during the final CLEC comment period.

If, however, in its response to CLEC comments Qwest revises the proposed change and that revision materially impacts a CLEC, a CLEC may invoke the postponement process within five (5) business days after the issuance of Qwest's final notification of the change.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

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### 5.5.1.2 CLEC-Originated Product/Process Changes

For CLEC-originated product/process changes, if a CLEC intends to invoke the postponement process, it must do so during the CLEC comment period applicable to the notification called for in Section 5.3.1.

If, however, in its response to CLEC comments Qwest revises the proposed change and that revision materially impacts a CLEC, a CLEC may invoke the postponement process within five (5) business days after the issuance of Qwest's final notification of the change.

### 5.5.1.3 A CLEC may Join or Oppose a Postponement Request

A CLEC may only join or oppose a postponement request if it submits a request to join or oppose the postponement request within two (2) business days after the issuance date of Qwest's notification to the CLECs that a postponement request has been received by Qwest.

## 5.5.2 Process for Initiating a Postponement Request

### 5.5.2.1 CLEC Initiates Postponement Request by E-mail

A request for postponement, a request to join a postponement request or opposition to a postponement request must be sent to the Qwest CMP Postponement e-mail address ([cmpesc@qwest.com](mailto:cmpesc@qwest.com)).

The subject line of the request must include:

- CLEC Company Name
- POSTPONEMENT
- Change Request (CR) number or Notification Subject Line and Notification Date as appropriate

#### 5.5.2.1.1 Required Content for Request for Postponement

A CLEC may request that Qwest postpone implementation of all or part of the proposed change until the issue is resolved in CMP or until the dispute is resolved pursuant to the Dispute Resolution Process (Section 15.0). In its request for postponement, whether initiating or joining a postponement request, a CLEC shall provide the following information, if relevant:

- The basis for the request for a postponement;
- The extent of the postponement requested, including the portions of the proposed change to be postponed and length of requested postponement;
- The harm that the CLEC will suffer if the proposed change is not postponed, including the business impact on the CLEC if the proposed change is not postponed; and
- Whether and how the CLEC alleges that the proposed change violates its interconnection agreement(s) or any applicable commission rules or any applicable law.

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### 5.5.2.1.2 Additional Requirement for Request for Postponement Arising from Revision

If a CLEC requests a postponement because Qwest's response to CLEC comments includes a revision of the proposed change and that revision materially impacts a CLEC, such a request must contain a description of why Qwest's response affects the CLEC in a new or different way than the proposed change initially affected the CLEC, along with the information that would have been required if the CLEC submitted a request for postponement in its comments.

### 5.5.2.1.3 Opposition to a Postponement Request

If a CLEC wishes to oppose a postponement request, it must submit its opposition to a postponement request within the same time period that CLECs have to join a postponement request. Any opposition to a postponement request must include information responsive to the assertions made by the CLEC seeking postponement as called for in Section 5.5.2.1.1. For example, under Section 5.5.2.1.1, CLEC(s) seeking postponement must describe the harm it will suffer if the change is not postponed. In response to this assertion, a CLEC opposing a postponement request will state the harm it would suffer if Qwest does postpone the change.

### 5.5.2.2 Qwest will Work to Resolve CLEC Concerns

Following the receipt of a postponement request, Qwest will proactively work with the objecting CLEC(s) to resolve the concerns of the CLEC(s).

### 5.5.2.3 Qwest Acknowledges Receipt of Request and Notifies CLECs

Within two (2) business days after receipt of the postponement request, Qwest will acknowledge receipt of the postponement request or the request to join the postponement with an acknowledgment e-mail to the originator of the request. If the request does not contain the relevant information, as specified in Section 5.5.2.1.1, Qwest will notify the CLEC by the close of business on the following day, identifying and requesting information that was not originally included. When the postponement e-mail is complete, the acknowledgment e-mail will include:

- Date and time of receipt of postponement request
- Date and time of acknowledgment e-mail
- Qwest will give notification and post the postponement request and any associated responses on the CMP Web site within three (3) business days after receipt of the complete request or response.

### 5.5.3 Qwest's Determination of Postponement Request

The standard set forth in this section applies only to Qwest's postponement determination under this section and the arbitrator's determination under Section 5.5.4.5 and has no bearing on the standard applicable to any other review or determination.

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### 5.5.3.1 Standard for Determining whether to Postpone.

Qwest will postpone the implementation of the proposed change whenever Qwest reasonably determines that postponing the proposed change will prevent more harm or cost to the requesting and any joining CLECs than postponing the proposed change imposes harm or cost upon Qwest or any CLECs who oppose the postponement. Qwest will postpone the implementation of the proposed change if it is inconsistent with a requesting or joining CLEC's interconnection agreement, applicable commission rule or law.

Qwest will not postpone the implementation of the proposed change whenever Qwest reasonably determines that postponing the proposed change will impose more harm or cost upon Qwest or any CLECs who oppose the postponement than postponing the proposed change will prevent harm or cost to the CLECs supporting the postponement. Qwest will provide in its response notification that the proposed change will not be postponed.

### 5.5.3.2 Qwest's Response to Request for Postponement

If Qwest decides to postpone the proposed change, it will provide the following information in its response:

- The time period (not less than thirty (30) calendar days) for which the proposed change will be postponed;
- The CLECs for which the proposed change will be postponed; and
- Any other details of the postponement, including the portions of the proposed change to be postponed and the length of the postponement.

If Qwest decides not to postpone the proposed change, it will provide in its response:

- The reason the requested postponement is not being implemented;
- An explanation of the harm and cost evaluation; and
- How Qwest alleges that the proposed change is consistent with interconnection agreement(s) or any applicable commission rules or any applicable law.

### 5.5.3.3 30-day Postponement if Request is Denied

If Qwest does not grant the requested postponement, Qwest will not implement the objected-to proposed change for at least thirty (30) calendar days following notification to CLECs that Qwest will not postpone the proposed change.

## 5.5.4 Optional Arbitration Process for Interim Postponement of Disputed Changes while Dispute Resolution Proceeds

If Qwest does not postpone a proposed change and a CLEC has initiated Dispute Resolution proceedings (Section 15.0) with regard to the proposed change, the CLEC has the option to request a neutral arbitrator to determine whether Qwest must postpone implementation of that proposed change. This optional arbitration provides interim relief only and is limited to the question of whether Qwest must postpone implementation of the proposed change until the

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dispute or the postponement request is resolved under the Dispute Resolution process. The arbitrator's decision will have application in all of the states where the CLEC initiates Dispute Resolution proceedings on the issue. As decisions on the dispute or the postponement request are made in each state, such decisions will supersede the determination of the arbitrator for that state.

All references in Section 5.5.4 (including all subsections) to “CLEC” and “CLECs” include all CLECs who have submitted or joined requests for postponement of a proposed change, initiated Dispute Resolution proceedings and seek arbitration for the interim postponement of the same proposed change. There may be multiple CLECs seeking postponement of the same proposed change in any given state. Such CLECs will, to the greatest extent possible, cooperate with one another to select a single arbitrator to address the issue of interim postponement for a given state. In the event that one or more CLECs have initiated Dispute Resolution proceedings on the issue of interim postponement of the same proposed change in multiple states, such CLECs may agree to the use of a single arbitrator to address such issue for all such states.

References in Section 5.5.4 (including all subsections) to “parties” will include Qwest and all CLECs who have submitted or joined requests for postponement of the same proposed change, initiated Dispute Resolution proceedings and seek arbitration for the interim postponement of that proposed change. However, the reference to “all parties” in Section 5.5.4.1.1 means Qwest and all CLECs in CMP who have received proper notification, in accordance with Section 3.0, about selection of individuals for the Agreed Arbitrators List and participated in the selection discussions.

This optional arbitration process set forth below does not apply to any proceeding before a regulatory or other authority.

#### **5.5.4.1 Selection of Arbitrator**

If a CLEC chooses arbitration under this section, the parties shall select a neutral arbitrator by agreeing to an individual or by following the processes set forth below to select an arbitrator from an alternative dispute resolution organization.

##### **5.5.4.1.1 Agreed Arbitrators List**

Qwest and the CLECs may, by mutual agreement, develop a list of individual arbitrators to which all parties agree as an additional source for selection of a neutral arbitrator (Agreed Arbitrators List). Names of arbitrators may be added to the list at any time upon agreement of all parties. Qwest or any CLEC may strike an individual arbitrator from the Agreed Arbitrators List at any time, except that Qwest or any CLEC may not strike an arbitrator from the list while an arbitration initiated under this provision is pending before that arbitrator. If a CLEC chooses a name from the Agreed Arbitrators List, that individual will be the arbitrator.

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#### 5.5.4.1.2 Alternative Dispute Resolution Organization

If a CLEC does not choose an individual arbitrator from the Agreed Arbitrators List, or if Qwest and CLECs do not otherwise agree on an individual arbitrator, then Qwest and the CLEC shall select a neutral arbitrator from any of the following pursuant to the process set forth below: Judicial Arbitrator Group (JAG), American Arbitration Association (AAA), JAMS, or any other mutually agreeable alternative dispute resolution organization. Within two (2) business days after receipt of Qwest's acknowledgment e-mail, the CLEC shall advise the alternative dispute resolution organization and Qwest of the identity of the parties and the nature of the dispute and the CLEC shall acquire from JAG, AAA, JAMS, or other alternative dispute resolution organization as to which agreement is reached, a list of 5 potential arbitrators who have no apparent conflict of interest or any circumstances likely to affect their impartiality or independence and who have experience in handling general commercial disputes, along with a brief summary of each potential arbitrator's relevant background and experience. The CLEC shall forward the list to the specified Qwest contact as soon as practicable after it receives the list, along with the identity of the two of the five potential arbitrators the CLEC wishes to strike from the list. Within one business day after receipt of the list and indication of the potential arbitrators the CLEC has stricken, Qwest will respond to the CLEC contact with the two additional names Qwest wishes to strike from the list.

#### 5.5.4.2 Initiating Postponement Arbitration

A CLEC initiates arbitration for interim postponement of Qwest's implementation of a proposed change under this provision by sending an e-mail to Qwest at [cmpecsc@qwest.com](mailto:cmpecsc@qwest.com). The e-mail must include, at a minimum, the following:

- Subject line that includes "Postponement" and the CR [insert number] or Notification Subject Line
- The CLEC's contact person for matters relating to the postponement arbitration and method of communication (e.g., e-mail address or facsimile number)
- A statement that the CLEC desires to have a neutral arbitrator decide whether Qwest must postpone implementation of the change until the request for postponement is decided by the regulatory or other authority
- A copy of the documents that the CLEC filed with the Regulatory or other authority to initiate the dispute resolution
- The identity of the alternative dispute resolution organization or individual arbitrator the CLEC proposes to use

Within two (2) business days after receipt of the Request for Postponement Arbitration, Qwest shall respond with an e-mail acknowledging receipt of the Request for Postponement Arbitration. The e-mail must include, at a minimum, the following:

- A subject line that includes "Acknowledgment of Request for Postponement" and the CR [insert number] or Notification Subject Line
- Qwest's contact person for matters relating to the postponement arbitration and method of communication (e.g., e-mail address or facsimile number)

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- If the Request for Postponement Arbitration identifies an alternative dispute resolution organization other than those listed in Section 5.5.4.1.2 or individual other than those on the Agreed Arbitrators List, Qwest's acknowledgment will state whether it agrees to the use of that alternative dispute resolution organization or individual arbitrator and, if it does not agree, Qwest will identify an organization or individual arbitrator that appears on the Agreed Arbitrator List that it agrees to use.

Qwest and the CLEC shall communicate with one another regarding matters relating to the postponement arbitration through the contact person and by the method of communication designated in accordance with the process set forth above.

#### **5.5.4.3 No Unilateral Communication with Arbitrator or Potential Arbitrator**

Neither Qwest nor the CLEC, and no person acting on behalf of either Qwest or the CLEC, shall communicate unilaterally concerning the arbitration with the arbitrator or any potential arbitrator.

#### **5.5.4.4 Scope of Authority of the Arbitrator**

The arbitrator shall decide only the issue of whether Qwest must postpone implementation of the change. The arbitrator shall not have authority to award any damages or make any other determination outside this scope.

If the CLEC has initiated dispute resolution with regard to the same change in more than one state, a single arbitrator can decide the postponement issue for all states in which the CLEC has initiated dispute resolution proceedings regarding the same issue.

This arbitration option is not an exclusive remedy and does not preclude any CLEC from using appropriate state commission procedures, expedited or otherwise, to raise issues or seek a postponement.

#### **5.5.4.5 Arbitrator's Decision**

The arbitrator shall decide the issue upon written submissions. The CLEC and Qwest both shall submit their position statements to the arbitrator and to each other by e-mail or facsimile within one business day from the date on which agreement regarding the identity of the arbitrator is reached.

In determining whether Qwest must postpone implementation of a proposed change, the arbitrator must apply the standards set forth in Section 5.5.3.1.

The arbitrator must provide his/her decision to Qwest and the CLECs within five (5) business days after receipt of the parties' position statements. The arbitrator's decision must be in writing, signed by the arbitrator, and must include a brief summary of the basis for the decision.

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#### 5.5.4.6 Effect of Arbitrator's Decision

The parties agree to abide by the arbitrator's decision regarding a postponement of implementation in the state in which the decision applies until the decision expires. If the arbitrator's decision applies to more than one state, the decision will expire on a state by state basis. Unless the parties agree otherwise, the arbitrator's decision expires in a state when the first of any of the following occurs in that state:

- The regulatory or other authority from whom the CLEC has requested a postponement rules on the postponement request; or
- The dispute resolution proceeding initiated by the CLEC regarding the proposed change is dismissed, withdrawn, or otherwise concluded without a ruling on the CLEC's request for a postponement; or
- Any regulatory or other authority orders otherwise at the request of Qwest or the CLEC.

The arbitrator's decision regarding postponement of implementation is not binding precedent and shall have no precedential or persuasive value. The parties shall not cite or present the content of any arbitrator's decision as having precedential or persuasive value.

#### 5.5.4.7 Arbitration Costs

Each party shall bear the costs it incurs in preparing and presenting its own case. The party against whom the issue is decided shall pay the costs for the arbitrator.

### 5.6 Comparability of Change Request Treatment

When a CLEC or Qwest submits a Product/Process CR in CMP, Sections 5.3 and 5.4, respectively, are applicable. While the processes contained in these sections are not identical, Qwest and the CLECs intend that the events and timeframes associated with Qwest and CLEC Product/Process CRs will be the same in all material respects for CRs that are comparable. Comparability of CRs is determined based on relative complexity, time for implementation and other relevant factors. The parties agree to periodically assess the time required to complete comparable CRs. To facilitate this assessment, Qwest will document the amount of time it takes to evaluate a Qwest originated Product/Process CR prior to CR submission to compare to the documented time it takes to evaluate a CLEC Product/Process CR. Evaluation time for Qwest Product/Process CRs shall include only activities similar to those Qwest performs for a CLEC originated Product/Process CR after CR submission until Qwest issues its final response.

### 5.7 Crossover Change Requests

During the operation of this CMP, there may be situations when systems CRs have requirements for product/process discussions or solutions, or when product/process CRs require System solutions. These crossover CR situations exist in three basic categories:

Category A. If a CR submitted to the product/process CMP is discovered to require a mechanized solution the following will occur:

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- Qwest will open a new systems CR, on behalf of the original CR originator, with a reference to the product/process CR number
- Qwest will close the product/process CR with a reference to the new systems CR number
- The new systems CR will comply with the CMP OSS Interface CR process(See Section 5.1)

Category B. If a CR submitted to the Systems CMP is discovered to require a manual solution the following will occur:

- Qwest will open a product/process CR, on behalf of the original CR originator, with a reference to the systems CR number;
- Qwest will close the systems CR with a reference to the new product/process CR number.
- This CR will comply with the CMP product/process CR process.

Category C. If a CR submitted to the Systems CMP is discovered to require an interim manual solution, the CR will be tracked as a systems CR for the length of the CR lifecycle including the development and implementation of both the interim manual and final mechanized solutions. In these situations, Qwest will open a second systems CR with the same number as the original CR and a “MN” suffix.

The determination to close and open CRs as described above will be made by the CMP body at a Monthly CMP Product/Process Meeting.

If a CR becomes a crossover CR, Qwest may request an ad hoc clarification meeting with the CR originator or request that a portion of the appropriate Monthly CMP Meeting be devoted to discussing the CR. If a CR is closed in one CMP arena and opened in the other, the new CR will retain the status, where feasible, and the date submitted of the old, “closed” CR. Under no circumstances will the CR be restarted.

All crossover CRs will be distinctly labeled in the Monthly CMP Meeting distribution packages and addressed as a separate item on the Monthly CMP Meeting agenda. All crossover CRs (including those closed in Categories A and B) will include the “X” designation identified in Section 5.9. All Regulatory and Industry Guideline CRs will be submitted as systems CRs and maintained in the Systems database until closure, or until they are deemed to require a manual process solution, at which point they will become product/process CRs.

## 5.8 Change Request Status Codes

The following status codes will be applied to Change Requests of all types (i.e., Regulatory, Industry Guideline, Qwest Originated, CLEC Originated). The status of the CR will be included in the interactive reports. CR status codes will not necessarily be assigned in the order set forth below, and not every status code will apply to every CR.

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- Submitted - A CR is updated to Submitted status when Qwest's CMP Manager has formally acknowledged the CR. The CR remains in Submitted status until Qwest has conducted a clarification meeting with the originator.
- Clarification – A CR is updated to Clarification status once the clarification meeting has been held with the originator.
- Evaluation – A CR is updated to Evaluation status if the CR requires further investigation by Qwest.
- Presented – A CR is updated to Presented status after the originator has presented it at the Monthly CMP Meeting.
- Pending Prioritization – The Pending Prioritization status is only applicable to CRs for which the impacted OSS Interface requires prioritization (e.g. IMA). A CR is updated to Pending Prioritization status after it has been presented and is waiting for Prioritization.
- Prioritized - The Prioritized status is only applicable to CRs for which the impacted interface is an OSS Interface that requires prioritization (e.g., IMA). A CR is updated to Prioritized status once it has been presented for prioritization and the Prioritization Process (Section 10.2) has been completed.
- Packaged -- A CR is updated to Packaged status from Prioritized status if it is included in the packaging option chosen for the release. Design work is continued on change requests that have been packaged. CRs not updated to Packaged status (from Prioritized status) will revert to Pending Prioritization status.
- Development – A product/process CR is updated to a Development status when Qwest's response requires development of a new or revised process. A systems CR is updated to Development status when development begins for the next OSS Interface Release.
- CLEC Test – A CR is updated to the CLEC Test status upon the effective date of the change. CLECs have the ability to evaluate the effectiveness of Qwest's change and its implementation, provide feedback, and indicate whether further action is required. Through interaction between Qwest and the interested CLECs, a product/process Change as initially implemented may undergo modification. Depending on the magnitude of such modifications, it may be appropriate to return the CR to Development status. Problems found with newly deployed Systems changes will be handled in accordance with Production Support process as described in Section 12.0. Certain processes in Section 12.0 are also applicable to product/process changes. If no further action is required for a consecutive 60 day period, the status is updated to Completed, unless the parties agree otherwise.
- Completed – A CR is updated to Completed status when the CLECs and Qwest agree that no further action is required to fulfill the requirements of the CR.
- Denied – A CR is updated to Denied status when Qwest denies the CR.
- Deferred - A CR is updated to Deferred status if the originator does not intend to escalate or dispute the CR at the present time, but wants the ability to activate or close the CR at a later date.
- Pending Withdrawal – A CR is updated to a status of Pending Withdrawal when the originator requests that a CR be withdrawn from the CMP process. Change Requests with a status of Pending Withdrawal are reviewed at the appropriate Monthly CMP Meeting to determine if another party wishes to sponsor the CR.
- Withdrawn - The CR receives a Withdrawn status when the CR originator requests that the CR be withdrawn from the CMP and the CR is not sponsored by another party.

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## 5.9 Change Request Designations

In certain circumstances CR numbers will require special suffix designations to identify certain characteristics. Suffixes include:

- “CM” - Changes to the CMP framework
- “DR” - Dispute Resolution Process invoked on a CR
- “ES” - Escalation Process invoked on a CR
- “EX” - Change being implemented utilizing the Exception process
- “IG” - Industry Guideline CR
- “MN” – CR for a manual workaround related to an OSS Interface Change Request
- “RG” - Regulatory CR
- “SC” - Change being implemented as an SCRIP request
- “X” - Crossover CR

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## 6.0 OSS INTERFACE RELEASE CALENDAR

Qwest will provide a rolling 12 month OSS Interface Release calendar in the distribution package of the first scheduled Monthly CMP Systems Meeting of each quarter. The calendar will show Release schedules, for all OSS Interfaces within the scope of CMP starting in that quarter and for a total of 12 months in the future. The following schedule entries will be made available, when applicable:

- Name of OSS Interface
- Date for CMP CR Submission Cutoff (for prioritized OSS Interfaces)
- Date for issuing Draft Release Notes
- Date when Initial Notification for new OSS Interfaces will be issued
- Date when Initial Notification for OSS Interface retirements will be issued
- Date when comparable functionality for OSS Interface retirements will be available
- Date for issuing Initial or Draft Technical Specifications
- Comment cycle timeline
- Prioritization, packaging and commitment timeline (for prioritized OSS Interfaces)
- Date for issuing Final Technical Specifications
- Testing period
- Date for issuing Final Release Notes
- Planned Release Production Date
- Release sunset dates (as applicable)

The OSS Interface Release calendar will be posted on the CMP Web site as a stand-alone document.

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## 7.0 INTRODUCTION OF A NEW OSS INTERFACE

The process for introducing a new OSS Interface will be part of this CMP. Introduction of a new OSS Interface may include an application-to-application or a Graphical User Interface (GUI).

It is recognized that the planning cycle for a new OSS Interface, of any type, may be greater than the time originally allotted. In that case, discussions between CLECs and Qwest will be held prior to the announcement of the new OSS Interface.

With a new OSS Interface, CLECs and Qwest may define the scope of functionality introduced as part of the OSS Interface.

### 7.1 Introduction of a New Application-to-Application Interface

At least two hundred and seventy (270) calendar days in advance of the planned Release Production date of a new application-to-application interface, Qwest will issue a Release Notification, post the Preliminary Interface Implementation Plan on Qwest's Web site, and host a design and development meeting.

#### 7.1.1 Initial Release Notification

The Initial Release Notification will include:

- Where practicable, the Release Announcement and Preliminary Interface Implementation Plan will include: Proposed functionality of the OSS Interface including whether the OSS Interface will replace an existing OSS Interface
- Proposed implementation timeline (e.g., milestone dates, CLEC/Qwest comment cycle)
- Proposed meeting date to review the Preliminary Interface Implementation Plan
- Exceptions to industry guidelines/standards, if applicable
- Planned Release Production Date

#### 7.1.2 CLEC Comments to Initial Release Notification

CLECs have fourteen (14) calendar days from the Initial Release Notification to provide written comments/questions on the documentation. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html>.

#### 7.1.3 Qwest Response to CLEC Comments

Qwest will respond with written answers to all CLEC issues within twenty-one (21) calendar days after the Initial Release Notification.

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#### 7.1.4 Preliminary Implementation Plan Review Meeting

Qwest will review CLEC comments and the implementation schedule at the Preliminary Implementation Plan Review Meeting no later than two hundred and forty-two (242) calendar days prior to the Release Production Date.

#### 7.1.5 Draft Interface Technical Specifications

Qwest will issue a notification associated with draft interface Technical Specifications no later than one hundred twenty (120) calendar days prior to implementing the Release. In addition, Qwest will confirm the schedule for the walk through of Technical Specifications, CLEC comments, and Qwest response cycle.

The Draft Interface Technical Specification notification will include:

- Purpose
- Logistical information (including a conference line) for walk through
- Reference to draft Technical Specifications, or Web site
- Additional pertinent material
- CLEC Comment/Qwest Response cycle
- Draft connectivity and firewall rules
- Draft Test Plan

#### 7.1.6 Walk Through of Draft Interface Technical Specifications

Qwest will sponsor a walk through, including the appropriate internal Subject Matter Experts (SMEs), between one-hundred and ten (110) calendar days prior to Release Production and one hundred and six (106) calendar days prior to the Release Production Date. A walk through will afford CLEC SMEs the opportunity to ask questions and discuss specific requirements with Qwest's technical team and will take as much of this period as is necessary to address CLECs' questions. CLECs are encouraged to invite their technical experts, systems architects, and designers, to attend the walk through.

Qwest will lead the review of Draft Interface Technical Specifications. Qwest technical experts will answer the CLEC SMEs' questions. Qwest will capture action items such as requests for further clarification. Qwest will follow-up on all action items.

#### 7.1.7 CLEC Comments on Draft Interface Technical Specifications

If the CLEC identifies issues or requires clarification, the CLEC must send written comments/concerns to Qwest no later than one-hundred and four (104) calendar days prior to the Release Production Date. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html>.

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### 7.1.8 Qwest Response to CLEC Comments

Qwest will review and respond with written answers to all CLEC issues, comments/concerns and action items captured at the walk through, no later than one hundred (100) calendar days prior to the Release Production Date. The answers will be shared with all CLECs, unless the CLECs question(s) are marked proprietary. Any changes that may occur as a result of the responses will be distributed to all CLECs in the Final Interface Technical Specifications notification. The Final Interface Technical Specifications notification will include the description of any change(s) made as a result of CLEC comments. The change(s) will be reflected in the final Technical Specifications.

### 7.1.9 Final Interface Technical Specifications

Generally, no later than one hundred (100) calendar days prior to the Release Production Date of the new OSS Interface, Qwest will issue the Final Technical Specifications to CLECs via Web site posting and a CLEC notification.

The Final Interface Technical Specifications notification will include:

- Summary of changes from Qwest response to CLEC comments on Draft Technical Specifications
- If applicable, Indication of type of change (e.g., documentation change, business rule change, clarification change)
- Purpose
- Reference to Final Technical Specifications, or Web site
- Additional pertinent material
- Final Connectivity and Firewall Rules
- Final Test Plan (including Joint Testing Period)
- Final Release Production Date
- Qwest response to CLEC comments

The implementation timeline for the Release will not begin until Final Interface Technical Specifications are provided. Production Support type changes within the thirty (30) calendar day test window can occur without advance notification but will be posted within twenty four (24) hours of the change.

## 7.2 Introduction of a New GUI

### 7.2.1 Initial Release Notification

Qwest will issue an Initial Release Notification no later than forty-five (45) calendar days in advance of the Release Production Date. This will include:

**Note:** Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

**Note:** Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”



- Proposed functionality of the OSS Interface including whether the new OSS Interface will replace an existing OSS Interface.
- Implementation timeline (e.g., milestone dates, CLEC/Qwest comment cycle, GUI overview meeting date)
- Release Production Date
- Logistics for GUI Overview Meeting

### 7.2.2 Draft Release Notes

Qwest will issue a Draft Release Notes notification no later than twenty-eight (28) calendar days in advance of the planned Release Production Date of a new GUI. At a minimum, the notification will include:

- Draft User Guide
- How and When Training will be administered

### 7.2.3 GUI Overview Meeting

The GUI Overview meeting will be held no later than twenty-seven (27) calendar days prior to the Release Production Date. At the meeting, Qwest will present an overview of the new OSS Interface.

### 7.2.4 CLEC Comments

At least twenty-five (25) calendar days prior to the Release Production Date. CLECs must forward their written comments and concerns to Qwest. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html>.

### 7.2.5 Qwest Response to CLEC Comments

Qwest will consider CLEC comments and respond with written answers as part of the Final Notification.

### 7.2.6 Final Release Notes

Qwest will issue Final Release Notes notification no later than twenty-one (21) calendar days prior to the Release Production date. The notification will include:

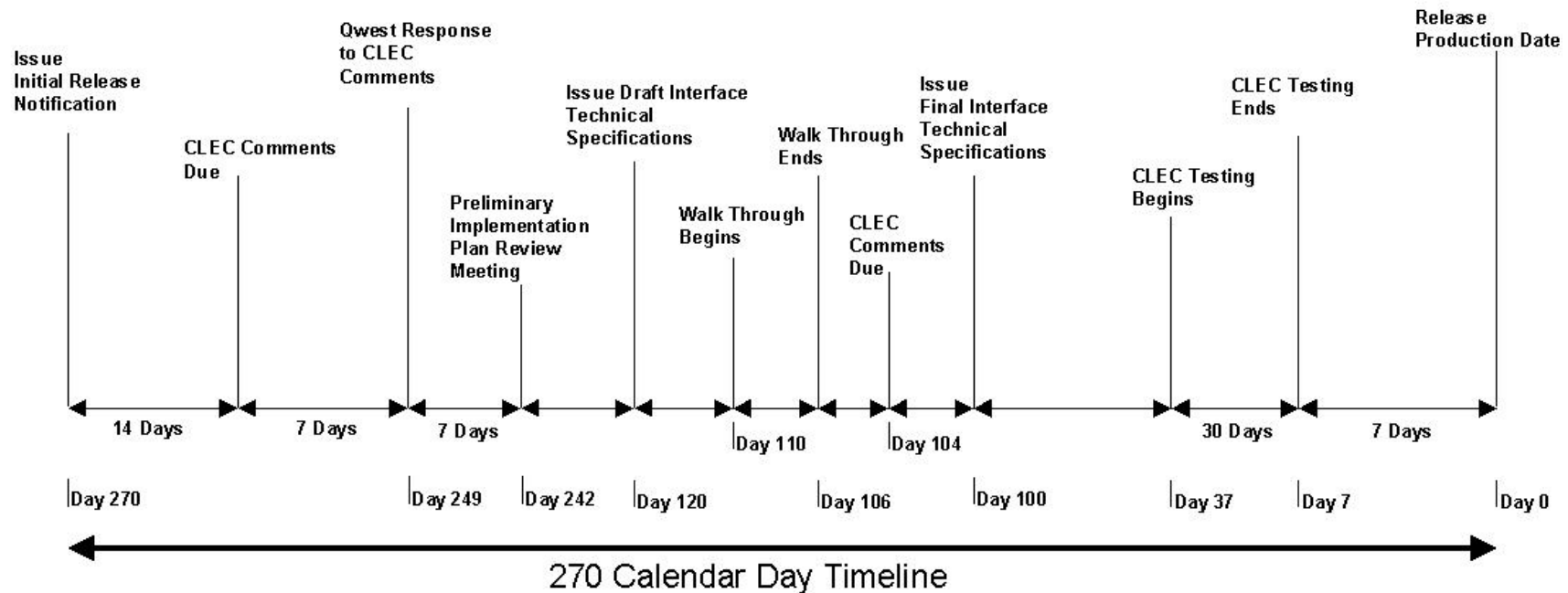
- A summary of changes from the Draft Release Notes notification, including type of changes (e.g., documentation change, clarification, business rule change).
- Final User Guide
- Final Training information
- Final Release Production Date.
- Qwest response to CLEC comments

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

Figure 2: Introduction of a New Application-to-Application OSS Interface Timeline

## Qwest-CLEC Change Management Process Introduction of A New Application-to-Application OSS Interface Timeline



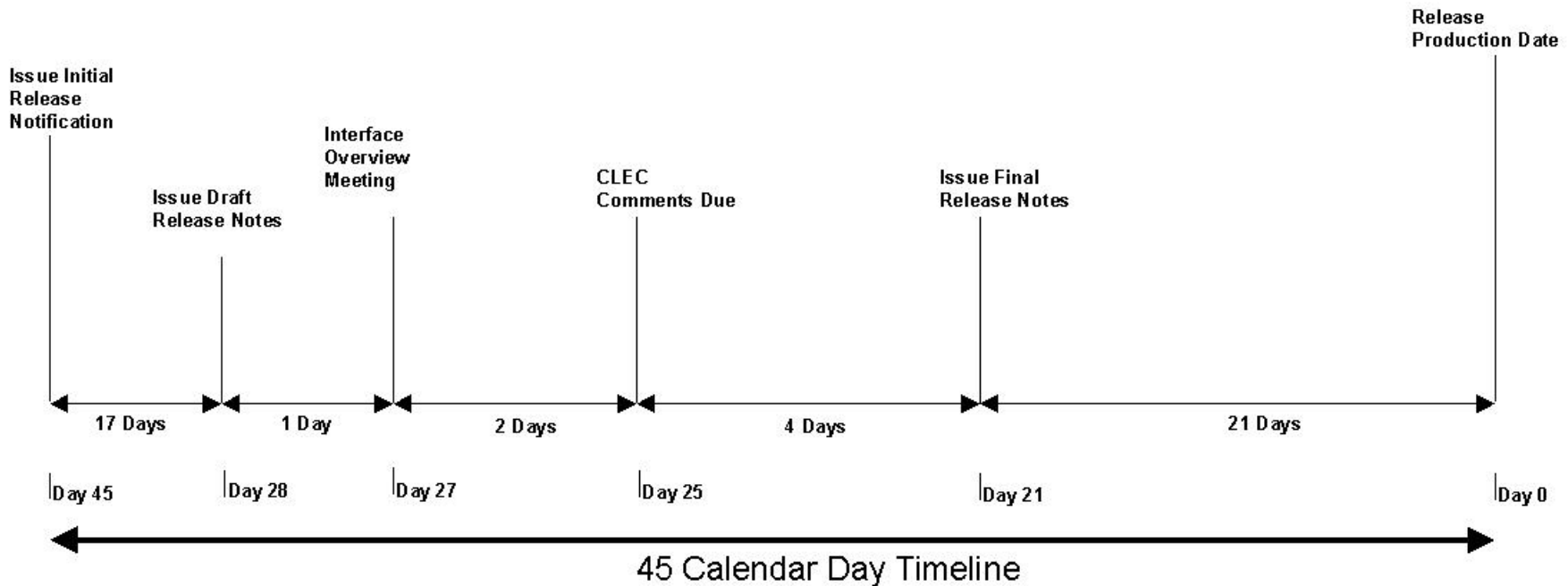
The events listed above are intended to occur on business days. If the date on which any event is scheduled to occur falls on a weekend or holiday, then Qwest and the CLECs may negotiate a revised timeline.

**Note:** Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

**Note:** Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

Figure 3: Introduction of a New Graphical User Interface (GUI) Timeline

## Qwest-CLEC Change Management Process Introduction of A New Graphical User Interface (GUI) Timeline



The events listed above are intended to occur on business days. If the date on which any event is scheduled to occur falls on a weekend or holiday, then Qwest and the CLECs may negotiate a revised timeline.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

## 8.0 CHANGE TO AN EXISTING OSS INTERFACE

The process for changing an existing OSS Interface will be part of this CMP. Changes to an existing OSS Interface may include an application-to-application or a Graphical User Interface (GUI). NOTE: An Application-to-Application interface is an electronic interface, e.g., Extensible Markup Language (XML) or Electronic Data Interchange (EDI), that supports billing or ordering processes.

It is recognized that the planning cycle for a change to an OSS Interface, of any type, may be greater than the time originally allotted and that discussions between CLECs and Qwest may be held prior to the announcement of the change to the OSS Interface.

With a change to an OSS Interface, CLECs and Qwest may define the scope of functionality introduced as part of the OSS Interface.

Qwest standard operating practice is to implement three Major Releases and three Point Releases (for IMA only) within a calendar year. Unless mandated as a Regulatory Change, Qwest will implement no more than four (4) Releases per IMA OSS Interface requiring coding changes to the CLEC interfaces within a calendar year. Unless mandated as a Regulatory Change, the Major Release changes will occur no less than seventy-five (75) calendar days apart.

At a Monthly CMP Systems Meeting in the fourth quarter of each year, Qwest will communicate to the CLECs the Major Release schedule and hourly capacity of each release for the next calendar year. Qwest will subsequently issue a notification containing the same information. Qwest will attempt to provide this information prior to any prioritization scheduled during the fourth quarter.

### Application-to-Application OSS Interface

Qwest will support the previous Major Release of an Interconnect Mediated Access (IMA) Application-to-Application interface for one hundred eighty (180) calendar days after the subsequent Major Release of IMA has been implemented. In the event that IMA major releases are implemented more than six (6) months apart, any CLEC desiring to delay retirement of the previous release should submit a CR requesting the delay. Qwest will review and grant the retirement delay up until sixty (60) days after the Release Production Date of the next Major Release; however, Qwest will maintain no more than three (3) Major Releases of an IMA Application-to-Application interface in production at any time. Qwest may retire the extended release before the extension expires when all CLECs have migrated off the extended release, but no earlier than five (5) business days after the last scheduled CLEC migration from the extended release. CLECs who do not successfully migrate from the retiring release, must contact their Qwest Implementation Team immediately to schedule a new migration. Any such new migration shall not be rescheduled beyond the sixty (60) day retirement delay. (A timeline

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Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

illustrating the operation of this provision is provided at the end of Section 8.) Past Releases of an IMA Application-to-Application interface will only be modified as a result of production support changes. When such production support changes are made, Qwest will also modify the related documentation. All other changes become candidates for future IMA Application-to-Application interface Releases.

Qwest makes one Release of the Electronic Bonding-Trouble Administration (EBTA) and billing interfaces available at any given time, and will not support any previous Releases.

### **Graphical User Interface (GUI)**

Qwest makes one Release of a GUI available at any given time and will not support any previous Releases.

IMA GUI changes for pre-order or ordering will be implemented at the same time as the related IMA Application-to-Application interface Release.

## **8.1 Application-to-Application Interface**

This section describes the timelines that Qwest, and any CLEC choosing to implement on the Qwest Release Production Date, will adhere to in changing existing application-to-application interfaces.<sup>1</sup> For any CLEC not choosing to implement on the Qwest Release Production Date, Qwest and the CLEC will negotiate a mutually agreed to CLEC implementation timeline, including testing.

### **8.1.1 Draft Interface Technical Specifications**

Prior to Qwest implementing a change to an existing application-to-application interface, Qwest will notify CLECs of the draft Technical Specifications. Qwest will issue draft Technical Specifications no later than seventy-three (73) calendar days prior to the implementation date unless an exception has been granted. Technical Specifications are documents that provide information the CLECs need to code the application-to-application interface. The Draft Technical Specifications notification letter will include:

- Written summary of change(s)
- Planned time frame for Release Production
- Purpose
- Logistical information (including a conference line) for walk through
- Reference to draft Technical Specifications, or reference to a Web site with draft specifications

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<sup>1</sup> For a CLEC converting from a prior release, the CLEC implementation date can be no earlier than the weekend after the Qwest Release Production Date, if production LSR conversion is required.

**Note:** Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

**Note:** Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

- Additional pertinent material
- Draft Technical Specifications documentation, or instructions on how to access the draft Technical Specifications documentation on the Web site.

### **8.1.2 Walk Through of Draft Interface Technical Specifications**

Qwest will sponsor a walk through, including the appropriate internal Subject Matter Experts (SMEs), between sixty-eight (68) calendar days prior to the planned implementation date and fifty-eight (58) calendar days prior to the planned implementation date. A walk through will afford CLEC SMEs the opportunity to ask questions and discuss specific requirements with Qwest's technical team and will take as much of this period as is necessary to address CLECs' questions. CLECs are encouraged to invite their technical experts, systems architects, and designers, to attend the walk through.

Qwest will lead the review of the Draft Technical Specifications. Qwest technical experts will answer the CLEC SMEs' questions. Qwest will capture action items such as requests for further clarification. Qwest will follow-up on all action items and notify CLECs of responses forty five (45) calendar days prior to the planned implementation date.

### **8.1.3 CLEC Comments on Draft Interface Technical Specifications**

If the CLEC identifies issues or requires clarification, the CLEC must send written comments to Qwest no later than fifty-five (55) calendar days prior to the planned implementation date. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html>.

### **8.1.4 Qwest Response to CLEC Comments**

Qwest will review and respond with written answers to all CLEC issues, comments/concerns no later than forty-five (45) calendar days prior to final implementation date. The answers will be shared with all CLECs, unless the CLECs question(s) are marked proprietary. Any changes that may occur as a result of the responses will be distributed to all CLECs in the same notification letter. The notification will include the description of any change(s) made as a result of CLEC comments. The change(s) will be reflected in the Final Technical Specifications.

### **8.1.5 Final Interface Technical Specifications**

The Final Interface Technical Specifications will include the following:

- Reference to Final Technical Specifications, or Web site
- Qwest response to CLEC comments
- Summary of changes from the prior implementation, including any changes made as a result of CLEC comments on Draft Technical Specifications

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

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- Indication of type of change (e.g., documentation change, business rule change, clarification change)
- Final Joint Test Plan including transactions which have changed
- The suite of re-certification test scenarios
- Joint Testing Period
- Final implementation date

Qwest will issue Final Interface Technical Specifications no later than forty-five (45) calendar days before the final implementation date, unless the exception process has been invoked. The implementation timeline for the Release will not begin until Final Technical Specifications are provided. Production Support type of changes that occur within the thirty (30) calendar day test window can occur without advance notification but will be posted within 24 hours of the change.

### **8.1.6 Joint Testing Period**

Qwest will provide a thirty (30) day test window for any CLEC who desires to jointly test with Qwest prior to the Release Production Date.

### **8.1.7 Release Documentation Addenda**

After the Final Technical Specifications are published, there may be other changes made to documentation or the coding that is documented in the form of addenda.

- 1<sup>st</sup> Addendum – 2 weeks after the Release the 1<sup>st</sup> addendum is sent to the CLECs, if needed.
- Subsequent Addendum's – Subsequent addendum's are sent to the CLECs after the Release Production Date as needed. There is no current process and timeline.
- Application-to-Application interface CLECs – one hundred eighty (180) calendar days after the Release those CLECs using the Application-to-Application interface are required to cut over to the new Release. CLECs are not required to support all new Releases.

## **8.2 Graphical User Interface (GUI)**

### **8.2.1 Draft GUI Release Notes**

Prior to implementation of a change to an existing GUI, Qwest will notify CLECs of the Draft GUI Release Notes and the planned Release Production Date.

Notification will occur no later than twenty-eight (28) calendar days prior to the planned Release Production Date unless an exception has been granted. This notification will include draft user guide information if necessary.

The notification will contain:

- Written summary of change(s)

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms "include(s)" and "including" mean "including, but not limited to."

- Planned time frame for Release Production
- Any cross-reference to draft documentation such as the user guide or revised user guide pages.

### 8.2.2 CLEC Comments on Draft Interface Release Notification

CLECs must provide comments/questions on the Draft GUI Release Notes no less than twenty-five (25) calendar days prior to the planned Release Production Date. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html> or via an e-mail to [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

### 8.2.3 Qwest Response to Comments

Qwest will consider CLEC comments and will address them in the Final GUI Release Notification no later than twenty one (21) calendar days before the Release Production Date.

### 8.2.4 Content of Final Interface Release Notification

The Final Interface Release Notification, will include:

- Final notification letter
- Summary of changes from draft GUI Release notification
- Final user guide (or revised pages)
- Final Release Production Date
- Qwest Response to CLEC comments

Qwest will issue the Final Interface Release Notification no later than twenty-one (21) calendar days before the final Release Production Date. Qwest will post this information on the CMP Web site. Production support type changes that occur without advance notification will be posted within 24 hours of the change. The implementation timeline for the Release will not begin until all related documentation is provided.

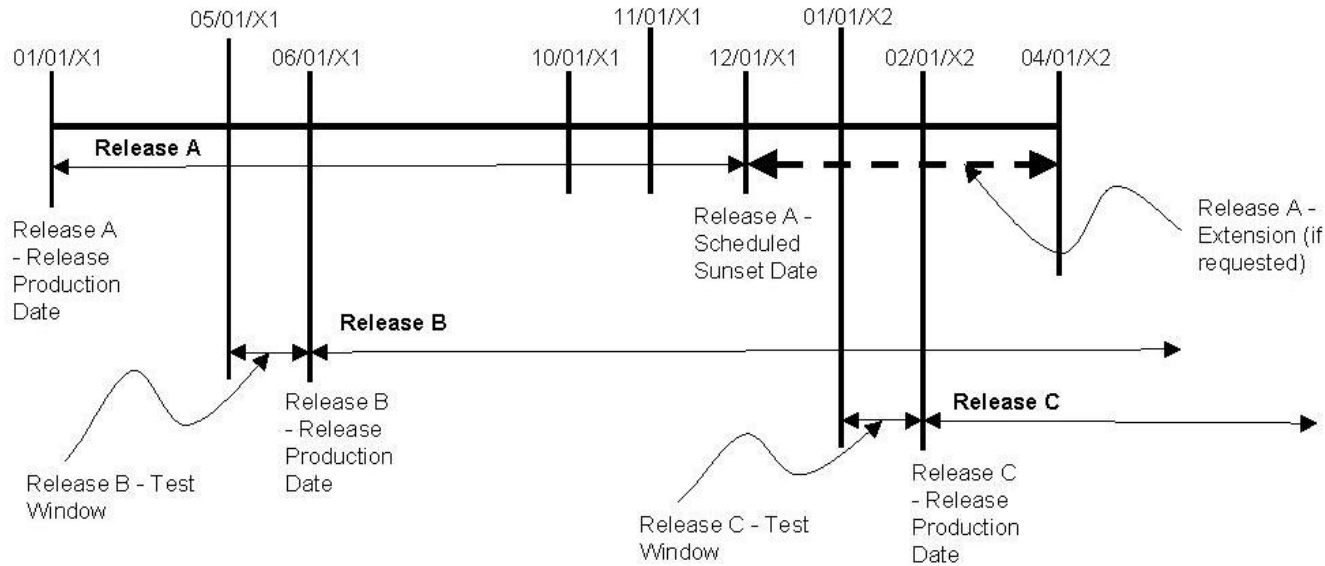
Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”



Figure 4: Release Extension Illustrative Timeline

### Qwest-CLEC Change Management Process Change to an Existing OSS Interface Release Extension Illustrative Timeline

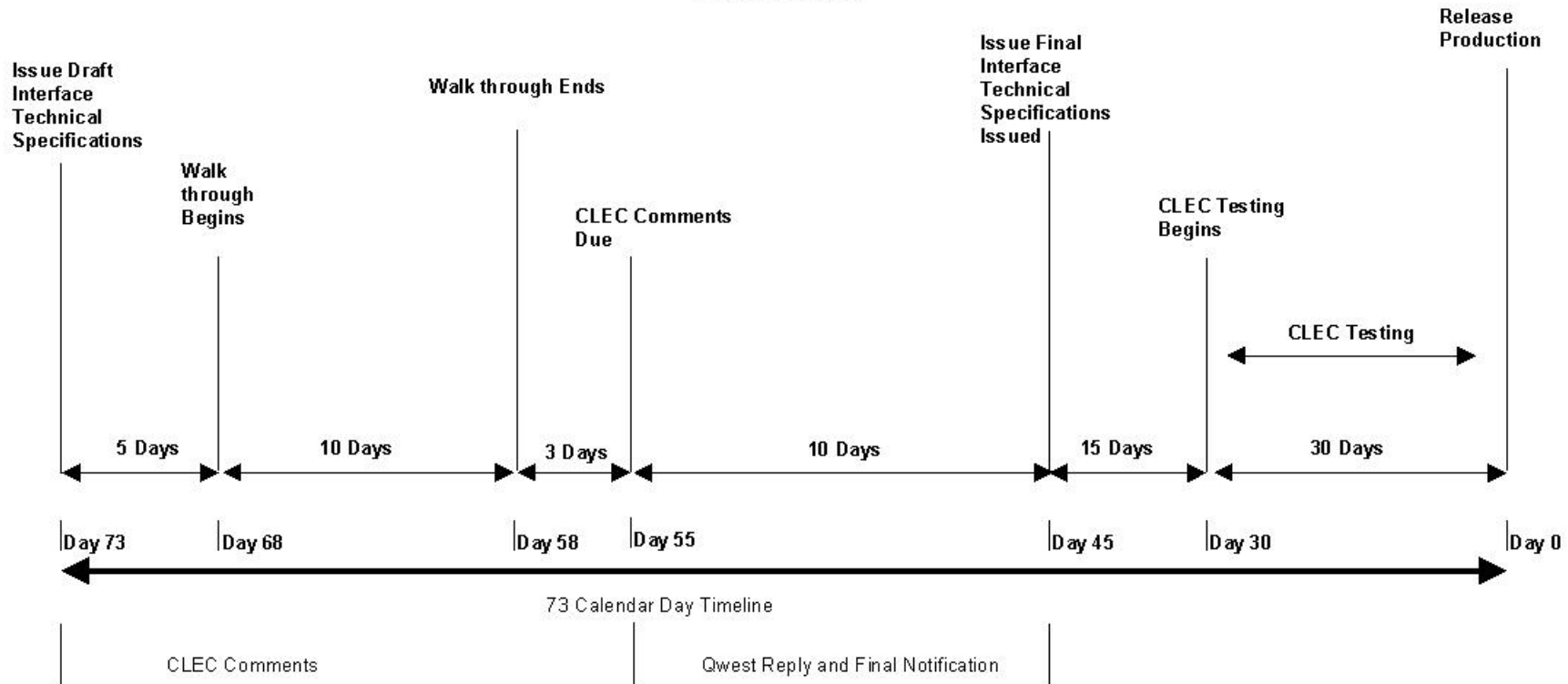


Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

Figure 5: Changes to an Existing Application-to-Application OSS Interface Timeline

## Qwest-CLEC Change Management Process Changes to An Existing Application-to-Application OSS Interface Timeline



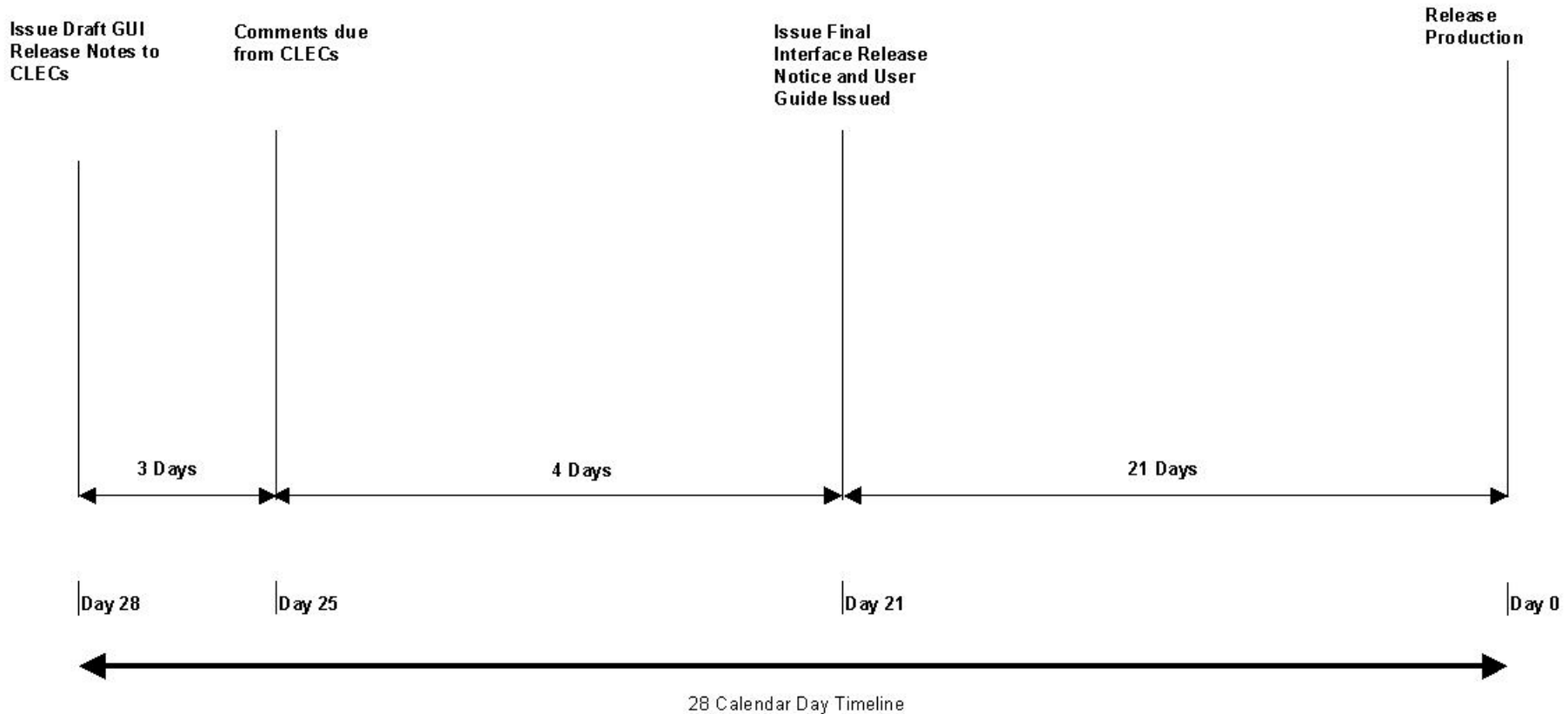
The events listed above are intended to occur on business days. If the date on which any event is scheduled to occur falls on a weekend or holiday, then Qwest and the CLECs may negotiate a revised timeline.

**Note:** Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

**Note:** Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

Figure 6: Changes to An Existing Graphical User Interface (GUI) Timeline

## Qwest-CLEC Change Management Process Changes to An Existing Graphic User Interface (GUI) Timeline



The events listed above are intended to occur on business days. If the date on which any event is scheduled to occur falls on a weekend or holiday, then Qwest and the CLECs may negotiate a revised timeline.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

## 9.0 RETIREMENT OF AN EXISTING OSS INTERFACE

The retirement of an existing OSS Interface occurs when Qwest ceases to accept transactions using a specific OSS Interface. This may include the removal of a GUI or a protocol transmission of information (Application-to-Application) interface.

### 9.1 Application-to-Application OSS Interface

#### 9.1.1 Initial Retirement Notification

At least two hundred seventy (270) calendar days before the retirement date of application-to-application interfaces, Qwest will share the retirement plans via Web site posting and CLEC notification. The scheduled new application-to-application interface is to be in a CLEC certified production Release prior to the retirement date of the older interface.

Alternatively, Qwest may choose to retire an interface if there is no CLEC usage of that interface for the most recent ninety (90) consecutive calendar days. Qwest will provide thirty (30) calendar day notification of the retirement via Web posting and CLEC notification.

Qwest will issue the initial Retirement Notification no later than two hundred seventy (270) calendar days before retirement. The Initial Retirement Notification will include:

- The rationale for retiring the OSS Interface
- Available alternative interface options for existing functionality
- The proposed detailed retirement timeline (e.g., milestone dates, CLEC-Qwest comment and response cycle)
- Planned retirement date

#### 9.1.2 CLEC Comments to Initial Retirement Notification

CLEC comments on the Initial Retirement Notification are due to Qwest no later than fifteen (15) calendar days following the Initial Retirement Notification. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html>.

#### 9.1.3 Qwest Response to Comments

Qwest will consider CLEC comments and respond in the Final Retirement Notification.

#### 9.1.4 Final Retirement Notification

The Final Retirement Notification will be provided to CLECs no later than two-hundred and twenty-eight (228) calendar days prior to the retirement date of the application-to-application interface. The Final Retirement Notification will contain:

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**Note:** Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

- The rationale for retiring the OSS Interface (e.g., no usage or replacement)
- If applicable, where the replacement functionality will reside in a new interface and when the new interface has been certified by a CLEC
- Qwest’s responses to CLECs’ comments/concerns
- Actual retirement date

### 9.1.5 Comparable Functionality

Unless otherwise agreed to by Qwest and a CLEC user, when Qwest issues the Initial Retirement Notification the retirement of an interface for which a comparable interface does or will exist, a CLEC user will not be permitted to commence building to the retiring interface. CLEC users of the retiring interface will be grandfathered until the retirement of the interface. Qwest will ensure that an interface with comparable functionality is available no later than one hundred and eighty (180) calendar days prior to retirement of an Application-to-Application interface.

## 9.2 Graphical User Interface (GUI)

### 9.2.1 Initial Retirement Notification

At least sixty (60) calendar days in advance of the retirement date of a GUI, Qwest will share the retirement plans via Web site posting and CLEC notification. The scheduled new interface is to be in a CLEC certified production Release prior to the retirement of the older interface.

Alternatively, Qwest may choose to retire a GUI if there is no CLEC usage of that interface for the most recent ninety (90) consecutive calendar days. Qwest will provide thirty (30) calendar day notification of the retirement via Web posting and CLEC notification.

Initial Retirement Notification will include:

- The rationale for retiring the OSS Interface
- Available alternative interface options for existing functionality
- The proposed detailed retirement timeline (e.g., milestone dates, CLEC-Qwest comment and response cycle)
- Planned retirement date

### 9.2.2 CLEC Comments to Initial Retirement Notification

CLEC comments to the Initial Retirement Notification are due to Qwest no later than fifteen (15) calendar days following the Initial Retirement Notification. CLECs may submit comments via the Qwest CMP comment Web site at <http://www.qwest.com/wholesale/cmp/comment.html>.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

### 9.2.3 Qwest Response to Comments

Qwest will consider CLEC comments and respond in the Final Release Notification.

### 9.2.4 Comparable Functionality

Qwest will ensure comparable functionality no later than thirty-one (31) days before retirement of a GUI.

### 9.2.5 Final Retirement Notification

The Final Retirement Notification, for GUI retirements, will be provided to CLECs no later than twenty-one (21) calendar days before the retirement date. The Final Retirement Notification will contain:

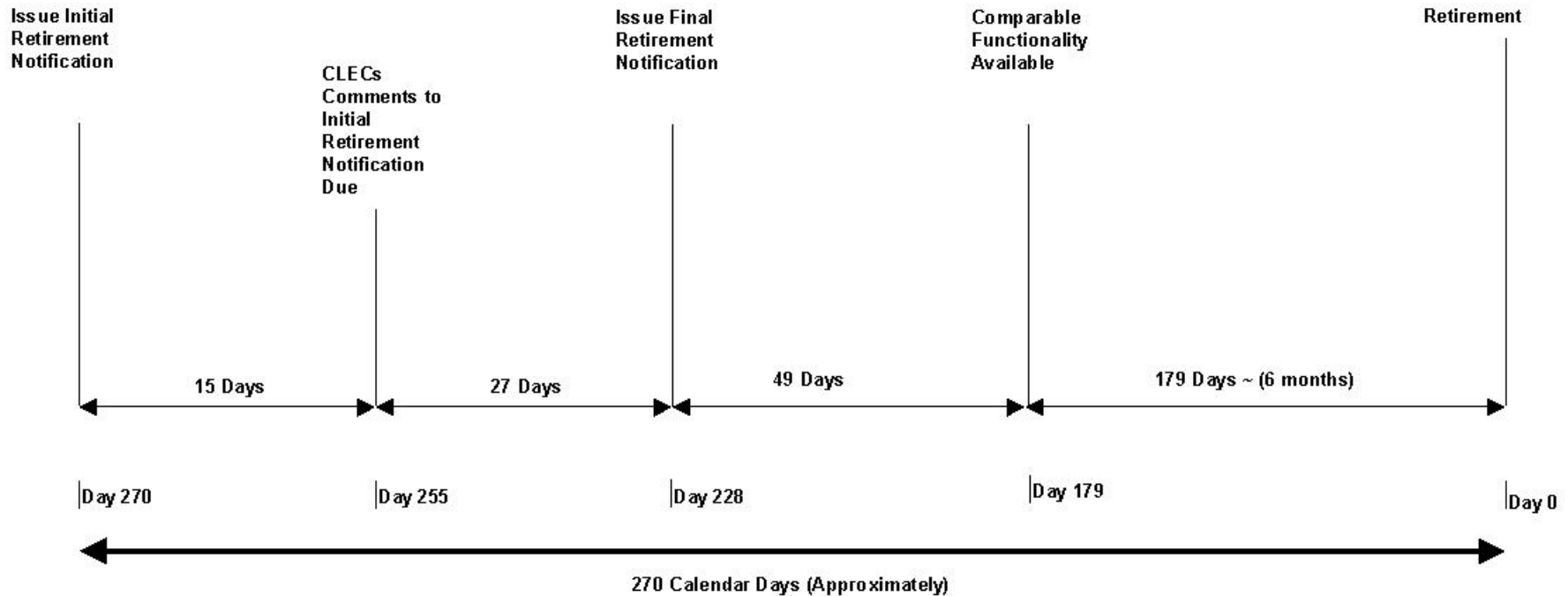
- The rationale for retiring the OSS Interface (e.g., no usage or replacement)
- If applicable, where the replacement functionality will reside in a new interface and when the new interface has been certified by a CLEC
- Qwest's responses to CLECs' comments/concerns
- Actual retirement date

**Note:** Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

**Note:** Throughout this document, the terms "include(s)" and "including" mean "including, but not limited to."

Figure 7: Retirement of an Existing Application-to-Application OSS Interface Timeline

## Qwest-CLEC Change Management Process Retirement of An Existing Application-to-Application OSS Interface Timeline



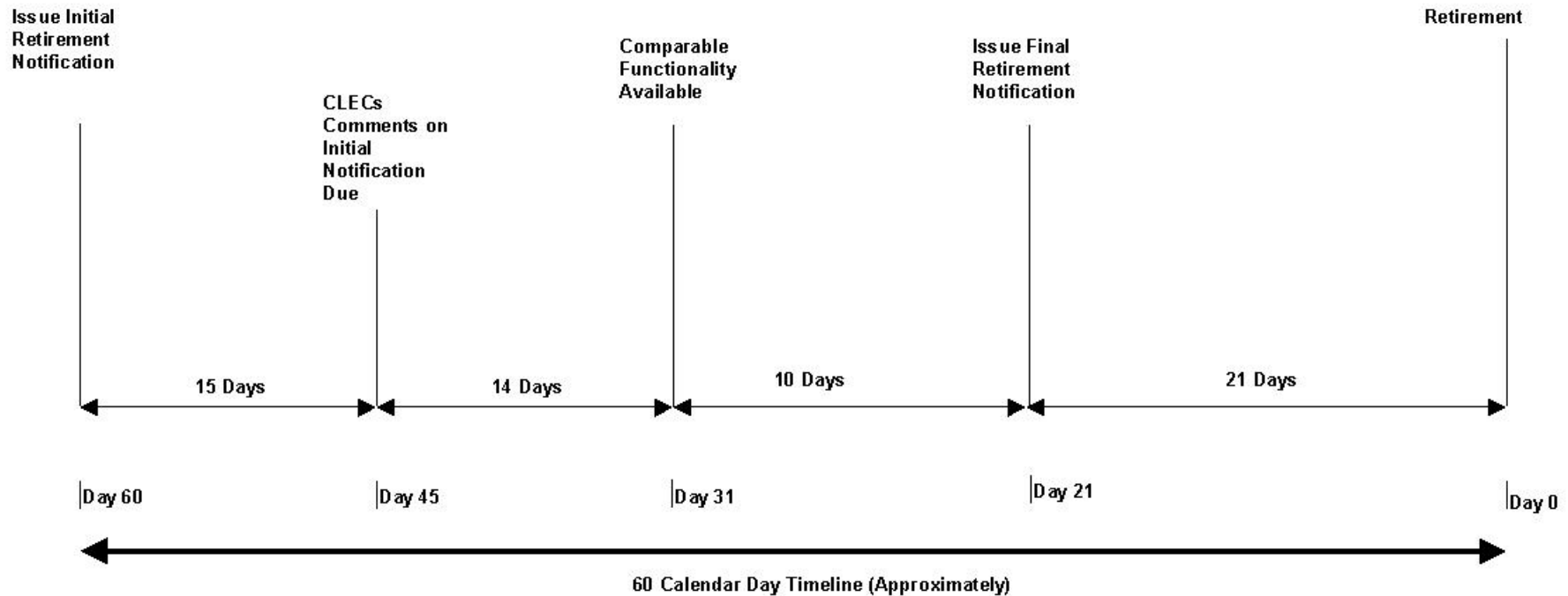
The events listed above are intended to occur on business days. If the date on which any event is scheduled to occur falls on a weekend or holiday, then Qwest and the CLECs may negotiate a revised timeline.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

Figure 8: Retirement of an Existing Graphic User Interface Timeline

## Qwest-CLEC Change Management Process Retirement of An Existing Graphic User Interface Timeline



The events listed above are intended to occur on business days. If the date on which any event is scheduled to occur falls on a weekend or holiday, then Qwest and the CLECs may negotiate a revised timeline.

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”



## 10.0 PRIORITIZATION

Each OSS Interface Release is prioritized separately. If the Systems CMP Change Requests for any interface do not exceed Release capacity, no prioritization for that Release is required. The prioritization process provides an opportunity for CLECs and Qwest to prioritize OSS Interface Change Requests (CRs). CRs for introduction of a new interface or retirement of an existing interface are not subject to prioritization and will follow the introduction or retirement processes outlined in Sections 7.0 and 9.0, respectively.

### 10.1 Test Environment Releases

When an OSS Interface release is prioritized, some of the prioritized OSS Interface CRs will cause a change in that OSS Interface's corresponding test environment. These changes will be included in the test environment release that is made available thirty (30) days prior to the OSS Interface implementation date, and will not be subject to prioritization. The business and systems requirements for these test environment changes will be developed in the same order as the prioritized OSS Interface CRs. Qwest will ensure that the resources allocated to the test environment are sufficient to complete the corresponding OSS Interface Release changes described above.

Any remaining test environment capacity will be allocated to CRs that are specific to the test environment. CRs that are specific to the test environment will be prioritized in accordance with Section 10.0.

Qwest's OSS Interface production environment and test environment development efforts will not compete for resources.

### 10.2 Regulatory Change Requests

Regulatory changes, are defined in Section 4.0. Separate procedures are required for prioritization of CRs requesting Regulatory changes to ensure that Qwest can comply with the recommended or required implementation date, if any. The process for determining whether a CR is a Regulatory Change is set forth in Section 5.1.

Qwest will send CLECs a notification when it posts Regulatory CRs to the Web and identify when comments are due, as described in Section 5.1. Regulatory CRs will also be identified in the Monthly CMP Systems Meeting distribution package.

#### 10.2.1 Regulatory Changes

For Regulatory Changes, Qwest will implement changes no later than the time specified in the legislation, regulatory requirement, or court ruling. If no time is specified, Qwest will implement the change as soon as practicable.

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Regulatory CRs will be ranked with all other CRs. If the implementation date for a Regulatory CR requires all or a part of the change to be included in the upcoming Major Release, the CR will not be subject to ranking and will be automatically included in that Major Release.

### 10.2.2 Industry Guideline Changes

Industry Guideline CRs will be identified in the Monthly CMP Systems Meeting distribution package. Industry Guideline CRs will be ranked with all other systems CRs during prioritization as described in Section 10.0. If an Industry Guideline CR is prioritized high enough to be included in the business and systems requirements phase and is dependant on a “foundation” CR, the “foundation” CR will automatically be worked in conjunction with the Industry Guideline CR.

### 10.2.3 Regulatory Change Implementation

When more than one Major Release is scheduled before the mandated or recommended implementation date for a Regulatory CR, Qwest will present information to CLECs regarding any technical, practical, or development cycle considerations that may affect Qwest's ability to implement the CR in any particular Major Release as part of the CR review and continue to provide information up to the packaging options. At the Monthly CMP Systems Meeting where the Regulatory CR is presented, Qwest will advise CLECs of the possible scheduled Releases in which Qwest could implement the CR and the CLECs and Qwest will determine how to allocate those CRs among the available Major Releases, taking into account the information provided by Qwest regarding technical, practical, and/or development considerations. If the Regulatory CR is not included in a prior Release, it will be implemented in the latest Release specified by Qwest.

## 10.3 Prioritization Process

### 10.3.1 Prioritization Review

At the last Monthly CMP Systems Meeting before Prioritization, Qwest will facilitate a Prioritization Review including a discussion of all CRs eligible for prioritization in a Major Release. If there are any Industry Guideline CRs eligible for prioritization, Qwest will identify all Industry Guideline CRs that would need to be implemented prior to or in conjunction with such CRs. Qwest will distribute all materials five (5) calendar days prior to the Prioritization Review. The materials will include:

- Agenda
- Summary document of all CRs eligible for prioritization including identification of dependencies (see Appendix A - Sample – IMA 11.0 Rank Eligible CRs)

Both CLECs and Qwest will have appropriate Subject Matter Experts in attendance at the Prioritization Review. The review and discussion meetings are open to all CLECs.

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The Prioritization Review objectives are to:

- Allow CLECs and Qwest to discuss eligible OSS Interface or test environment Change Requests by providing specific input as to the relative importance that CLECs, as a group, and Qwest assign to each such Change Request.

### 10.3.2 Ranking Process

Within three (3) business days following the Monthly CMP Systems Meeting that includes the Prioritization Review, Qwest will distribute the Prioritization Form for ranking. Ranking will be conducted according to the following guidelines:

- Each CLEC and Qwest may submit one completed Prioritization Form. The ranking must be submitted by a Point of Contact. The ranking will be submitted to the Qwest CMP Manager in accordance with the process described in Section 10.3.3 below. Refer to Appendix B: Sample – IMA 11.0 Initial Prioritization Form
- Qwest and each CLEC ranks each Change Request on the Prioritization Form by providing a point value from 1 through n, where n is the total quantity of CRs. The highest point value will be assigned to the CR that Qwest and CLECs wish to be implemented first. The total points will be calculated by the Qwest CMP Manager and the results will be distributed to the CLECs in accordance with the process described in Section 10.3.3 below. Refer to Appendix C : Sample – IMA 11.0 Prioritization List.

### 10.3.3 Ranking Tabulation Process

CLECs and Qwest who choose to vote must submit their completed Prioritization Form via e-mail, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), within three (3) business days following Qwest's distribution of the Prioritization Form. Within two (2) business days following the deadline for submission of ranking, Qwest will tabulate all rankings and e-mail the resulting Initial Prioritization List to the CLECs. The results will be announced at the next scheduled Monthly CMP Systems Meeting. Prioritization is based on the results of the votes received by the deadline. Based on the outcome of the final ranking of the CR candidates, an Initial Prioritization List is produced.

### 10.3.4 Ranking of Late Added CRs

For those late added CRs that are eligible for inclusion, as a candidate, in the most recently prioritized Release, the prioritization process will be as follows.

- Within three (3) business days following the Monthly CMP Systems Meeting that resulted in the decision to include the late added CR as a candidate in the recently prioritized Release, Qwest will distribute the late added CR for ranking, along with the initial prioritization.
- Each CLEC and Qwest may submit a suggested rank for the late added CR. The suggested rank will be the number corresponding to the position on the Initial Prioritization List that the CLEC or Qwest believes the late added CR should be inserted.

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- CLECs and Qwest who choose to vote must return their suggested rank for the late added CR via e-mail within three (3) business days following Qwest's distribution of the late added CR for ranking.

Within two (2) business days following the deadline for the return of the suggested rank, Qwest will tabulate the results by averaging the returned suggested ranks for the late added CR. Qwest will insert the late added CR into the Initial Prioritization List at the resulting point on the list and will renumber the remaining candidates on the list based on this insertion. Qwest will e-mail an updated Prioritization List to the CLECs. The results will be announced at the next scheduled Monthly CMP Systems Meeting.

### 10.3.5 Withdrawal of Prioritized CRs

A CLEC or Qwest may elect to withdraw a CR that has been prioritized for an OSS Interface Release. This process may be invoked at any time between the prioritization process and the commitment for the Release. Qwest will determine its ability to work additional CRs for the Release based upon the timing of the withdrawal request. After commitment, a CLEC or Qwest could request the CR be withdrawn, however, the withdrawal of the CR may not be feasible based upon the development status at the time of the withdrawal request. The process will be as follows:

- The originating CLEC or Qwest will submit an e-mail request to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), indicating that they wish to withdraw the CR. This e-mail must be sent no later than twenty one (21) calendar days prior to the Monthly CMP Systems Meeting at which the request will be discussed. The written request must contain:
  - the CR number
  - the CR title
  - an explanation of why the originator wishes to withdraw the CR
- Within two (2) business days after receipt of the request to withdraw the CR the CMP Manager will notify, in writing, all of the CLECs that submitted a prioritization ranking. The subject line will note "INTENT TO WITHDRAW PRIORITIZED CR [number]." The notification will include:
  - the CR number
  - the CR title,
  - the ranking that it received from the prioritization,
  - the explanation of why the originator wishes to withdraw the CR
- If a CLEC or Qwest disagrees with the withdrawal of the CR from the Release, they have the option to assume sponsorship of that CR. They may do so by notifying the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), in writing of their intent to assume sponsorship of the CR within five (5) business days after the CMP Manager has sent the intent to withdraw e-mail. If the CMP Manager receives no response within five (5) business days, then the CR will be withdrawn. The new status will be reviewed in the next Monthly CMP Systems Meeting.

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## 10.4 Special Change Request Process (SCRP)

In the event that a systems CR is not ranked high enough in prioritization for inclusion in the next Release, or as otherwise provided in this CMP, the CR originator may elect to invoke the CMP Special Change Request Process (SCRP) as described in this section. In the event that a carrier submits a CR after prioritization and wishes to invoke the SCRCP, the originator may elect not to follow the Late Added CR process as defined in Section 10.3.4.

The SCRCP does not supercede the process defined in Section 5.0 (Change Request Origination Process).

The foregoing process applies to Qwest and CLEC originated CRs. In the event a CR is submitted through the SCRCP, Qwest agrees that it will not divert IT resources available to work on the CMP systems CRs, to support the SCRCP request. Qwest will have to apply additional resources to, and track, the additional work required for the CR it seeks to implement through the SCRCP.

All time intervals within which a response is required from one Party to another under this section are maximum time intervals. Each Party agrees that it will provide all responses in writing to the other Party as soon as the Party has the information and analysis required to respond, even if the time interval stated herein for a response is not over.

### 10.4.1 SCRCP Request Form

To invoke the SCRCP, the CR originator must send an e-mail to the Qwest CMP SCRCP mailbox (cmnesc@qwest.com). The subject line of the e-mail message must include:

- “SCRCP FORM”
- CR number and title
- CR originator’s company name

The text of the e-mail message must include:

- Description of the CR
- A completed SCRCP Form (See Appendix E)
- A single point of contact for the SCRCP request including:
  - Primary requestor’s name and company
  - Phone number
  - E-mail address
- Circumstances which have necessitated the invocation of the SCRCP
- Desired implementation date
- If more than one company is making the SCRCP request, the names and point of contact information for the other requesting companies.

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#### 10.4.2 Qwest Acknowledges SCRP Request Receipt with a Confirmation E-mail

Within two (2) business days following receipt of the SCRP request e-mail, Qwest will acknowledge receipt of the complete SCRP request e-mail with a confirmation e-mail and advise the SCRP Requestor of any missing information needed for Qwest to process and analyze the request. When the SCRP request e-mail is complete, the SCRP confirmation e-mail will include:

- Date and time of receipt of complete SCRP request e-mail
- Date and time of SCRP confirmation e-mail
- SCRP title and number
- The name, telephone number and e-mail address of the assigned Qwest manager
- Amount of the non-refundable Processing Fee as specified in Section 10.4.8.

#### 10.4.3 Process Fee Invoice

Within one (1) business day of sending the SCRP confirmation e-mail Qwest will bill the SCRP Requestor a non-refundable Processing Fee as specified in Section 10.4.8 below.

#### 10.4.4 SCRP Review Meeting

Within ten (10) business days after the SCRP confirmation e-mail, Qwest will schedule and hold a review meeting with the SCRP Requestor to review Qwest's analysis of the request.

#### 10.4.5 Preliminary SCRP Quote and Review Meeting

During business and systems requirements analysis, Qwest will review the SCRP request to determine if it has any affinities with CRs packaged for the planned OSS Interface Release. As soon as feasible, but in any case within thirty (30) business days, after receipt of a completed SCRP request form, Qwest will schedule and hold a meeting with the SCRP Requestor to provide and review:

- An estimated Preliminary SCRP quote. The SCRP quote will, at a minimum, include the following information:
  - A description of the work to be performed
  - Estimated Development costs with a cap on cost
  - Targeted Release
  - An estimate of the terms and conditions surrounding the firm SCRP quote. (If the estimate increases before Qwest issues the Firm SCRP Quote, Qwest will communicate the cost increases to the SCRP Requestor.) The SCRP Requestor must comply with payment terms as outlined in Section 10.4.7 before Qwest proceeds with the request.
- An invoice covering the business and systems requirements analysis
  - Payment for this invoice is due no later than thirty (30) calendar days following Qwest's written issuance of the Preliminary SCRP Quote. Qwest will not proceed with further

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development in support of the SCRP Request until the business and systems analysis and processing invoices are paid.

#### **10.4.5.1 SCRP Requestor Accepts the Preliminary Quote and Decision for Qwest to Proceed**

The SCRP Requestor has ten (10) business days, upon receipt of the SCRP quote, to either agree to purchase under the quoted price or cancel the SCRP request.

If the SCRP Requestor accepts the SCRP Preliminary Quote, the SCRP Requestor must send an e-mail to the assigned Qwest manager with the following information:

The subject line of the e-mail message must include:

- “SCRP PRELIMINARY QUOTE ACCEPTED”
- CR number and title
- CR originator’s company name

The text of the e-mail message must include:

- Statement accepting SCRP Preliminary Quote, planned OSS Interface Release date, and terms and conditions
- CR originator’s name, phone number, and e-mail address

#### **10.4.5.2 SCRP Requestor Asks to Change the SCRP Request**

If the SCRP Requestor decides to modify the SCRP request after Qwest provides the preliminary SCRP Quote, the SCRP requestor must submit a written request for change to the assigned Qwest manager. If changes are acceptable to Qwest, Qwest will notify the SCRP Requestor by e-mail within five (5) business days after receipt of such request for a change with a revised preliminary SCRP Quote, if applicable. The SCRP Requestor must inform Qwest, in writing, within five (5) business days, if the modified SCRP quote is acceptable, further changes are required, or the SCRP request is cancelled.

#### **10.4.5.3 SCRP Requestor Cancels the SCRP Request**

The last point at which a SCRP Request may be cancelled is at the Monthly CMP Meeting at which Qwest presents the CRs that Qwest has committed to in the Release. Otherwise, the SCRP request will be implemented with the Release and the SCRP Requestor is obligated to pay the full amount of the firm SCRP quote consistent with the payment schedule described below in Section 10.4.7.

#### **10.4.6 Firm SCRP Quote and Review**

Qwest will provide the SCRP Requestor a Firm SCRP Quote when Qwest commits CRs to the specific OSS Interface Release.

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Qwest will send an e-mail to the SCRП Requestor with the following information:

- The subject line of the e-mail message must include:
  - “FIRM SCRП QUOTE”
  - CR number and title
  - CR originator’s company name
- The text of the e-mail message must include:
  - Final SCRП quote and terms and conditions
  - Committed implementation date, or OSS Interface Release
  - Qwest contact name, phone number, and e-mail address

Qwest will schedule and hold a meeting to review the quote no less than ten (10) days following issuance of the Firm SCRП Quote. At this meeting Qwest will review the elements of the Firm Quote and the firm Release Date of the targeted Release.

#### **10.4.7 Payment Schedule**

The SCRП Requestor must pay 50% of the Firm SCRП Quote no more than ten (10) calendar days following the scheduled Release date and the remaining 50% of the Firm SCRП Quote within thirty (30) calendar days after the scheduled Release date.

#### **10.4.8 Applicable SCRП Charges**

This section describes the different costs for a SCRП request.

- Processing Fee – a one-time flat fee that must be paid within thirty (30) calendar days after the Qwest-SCRП Review meeting to review the SCRП form. This fee is non-refundable and is treated separately from those charges for development and implementation as described under “Charges for the SCRП Request” below.
- Charges for Business and Systems Requirements - These charges include the costs of developing business and systems requirements.
- Charges for the Development of the SCRП Request – These charges, included in the Preliminary and Firm SCRП Quotes, including labor charges, time and capital costs incurred as a result of developing code and performing testing.

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## 11.0 APPLICATION-TO-APPLICATION INTERFACE TESTING

If a CLEC is using an application-to-application interface, the CLEC must work with Qwest to certify the business scenarios that CLEC will be using in order to ensure successful transaction processing in production. If multiple CLECs are using a service bureau provider, the service bureau provider need only be certified for the first participating CLEC; subsequent CLECs using the service bureau provider need not be re-certified. Qwest and CLEC shall mutually agree to the business scenarios for which CLEC requires certification. Certification will be granted for the specified Release of the application-to-application interface. If CLEC is certifying multiple products or services, CLEC has the option of certifying those products or services serially or in parallel if technically feasible.

New Releases of the application-to-application interface may require re-certification of some or all business scenarios. A determination as to the need for re-certification will be made by the Qwest coordinator in conjunction with the Release Manager of each Release. Notification of the need for re-certification will be provided to CLEC as the new Release is implemented. The suite of re-certification test scenarios will be provided to CLECs with the Final Technical Specifications. If CLEC is certifying multiple products or services, CLEC has the option of certifying those products or services serially or in parallel, if technically feasible. If multiple CLECs are using a service bureau provider, the service bureau provider need only be re-certified for the first participating CLEC; subsequent CLECs using the service bureau provider need not be re-certified.

Qwest provides a separate Customer Test Environment (CTE) for the testing of transaction based application-to-application interfaces for pre-order, order, and maintenance/repair. The CTE will be developed for each Major Release and updated for each Point Release that has changes that were disclosed but not implemented as part of the Major Release. Qwest will provide test files for batch/file interfaces (e.g., billing).

The CTE for Pre-order and Order currently includes:

- Stand Alone Test Environment (SATE)

The CTE for Maintenance and Repair currently includes:

- CMIP Interface Test Environment (MEDIACC)

Qwest provides Initial Implementation Testing, and Migration Testing (from one Release to the next) for all types of OSS Interface Change Requests. Such testing provides the opportunity to test the code associated with those OSS Interface exchange requests. The CTE will also provide the opportunity for regression testing of OSS Interface functionality.

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## 11.1 Testing Process

Qwest will send an industry notification, including testing schedules (see Section 8.0 – Changes to Existing OSS Interfaces), to CLECs so they may determine their intent to participate in the test. CLECs wishing to test with Qwest must participate in at least one joint planning session and determine:

- Connectivity (required)
- Progression Testing (required)
- Controlled Production Testing (required)
- Production Turn-up (required)
- A test schedule (required) that reflects agreed upon dates for phases

A joint CLEC-Qwest test plan may also include some or all of the following based on type of testing requested:

- Requirements Review
- Test Data Development

Qwest will communicate any agreed upon changes to the test schedule. CLECs are responsible for establishing and maintaining connectivity to the CTE.

The CLEC should, in general, experience response times similar to production provided a CLEC uses the same software components and similar connectivity configuration in its test environment that it does in production. This environment is not intended for volume testing. The CTE contains the appropriate applications for pre-ordering and Local Service Request (LSR) ordering, including the service order processor. Production code problems identified in the test environment will be resolved by using the Production Support process as outlined in Section 12.0.

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## 12.0 PRODUCTION SUPPORT

### 12.1 Notification of Planned Outages

Planned Outages are reserved times for scheduled maintenance to OSS Interfaces. Qwest sends associated notifications to all CLECs. Planned Outage Notifications must include:

- Identification of the subject OSS Interface
- Description of the scheduled OSS Interface maintenance activity
- Impact to the CLECs (e.g., geographic area, products affected, system implications, and business implications)
- Scheduled date and scheduled start and stop times
- Work around, if applicable
- Qwest contact for more information on the scheduled OSS Interface maintenance activity

Planned Outage Notifications will be sent to CLECs and appropriate Qwest personnel no later than two (2) calendar days after the scheduling of the OSS Interface maintenance activity.

### 12.2 Newly Deployed OSS Interface Release

Following the Release Production Date of an OSS Interface change, Qwest will use production support procedures for maintenance of software as outlined below. Problems encountered by the user will be reported, if at all, to the IT Wholesale Systems Help Desk (IT Help Desk). Qwest will monitor, track, and address troubles reported by CLECs or identified by Qwest. Problems reported will be known as IT Trouble Tickets.

A week after the deployment of an IMA Release into production, Qwest will host a conference call with the CLECs to review any identified problems and answer any questions pertaining to the newly deployed software. Qwest will follow this CMP for documenting the meeting as described in Section 3.2. Issues will be addressed with specific CLECs and results/status will be reviewed at the next Monthly CMP Systems Meeting.

### 12.3 Request for a Production Support Change

The IT Help Desk supports CLECs who have questions regarding connectivity, outputs, and system outages. The IT Help Desk serves as the first point of contact for reporting trouble. If the IT Help Desk is unable to assist the CLEC, it will refer information to the proper Subject Matter Expert, also known as Tier 2 or Tier 3 support, who may call the CLEC directly. Often, however, an IT Help Desk representative will contact the CLEC to provide information or to confirm resolution of the trouble ticket.

Qwest will assign each CLEC generated and Qwest generated IT Trouble ticket a Severity Level 1 to 4, as defined in Section 12.5. Severity 1 and Severity 2 IT trouble tickets will be

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implemented immediately by means of an emergency Release of process, software or documentation (known as a Patch). If Qwest and CLEC deem implementation is not timely, and a work around exists or can be developed, Qwest will implement the work around in the interim. Severity 3 and Severity 4 IT trouble tickets may be implemented when appropriate taking into consideration upcoming Patches, Major Releases and Point Releases and any synergies that exist with work being done in the upcoming Patches, Major Releases and Point Releases.

Qwest will attempt to make a software patch when the system is not working as defined in the technical specifications and/or the GUI systems documentation (excluding PCAT documentation), and issue an event notification clearly defining the change.

If Qwest determines that a software patch is not feasible, and/or Qwest or any CLEC identifies a Patch Release of software or related systems documentation changes that may impact CLEC production coding, Qwest will issue an event notification, initiate a Technical Escalation, and request a joint meeting between Qwest and the CLECs in order to discuss the particular Patch Release. Qwest will notify CLECs of the joint meeting in which Qwest will review the Patch Release, the proposed solution, and the variables which affect the resolution. In all instances, these joint meetings are exempt from the five (5) business day advance notification requirement described in Section 3.0.

At this joint meeting, Qwest and the impacted CLECs will discuss how the pending Patch Release will affect their code. Qwest and the impacted CLECs will discuss any potential resolution options and implementation timeframes. In the event that agreement cannot be reached between Qwest and the impacted CLECs regarding the type of Patch Release to be implemented, the parties will attempt to negotiate an appropriate workaround.

The first time a trouble is reported by Qwest or CLEC, the Qwest IT Help Desk will assign an IT Trouble Ticket tracking number, which will be communicated to the CLEC at the time the CLEC reports the trouble. The affected CLEC(s) and Qwest will attempt to reach agreement on resolution of the problem and closing of the IT Trouble Ticket. If no agreement is reached, any party may use the Technical Escalation Process, <http://www.qwest.com/wholesale/systems/productionsupport.html>. When the IT Trouble Ticket has been closed, Qwest will notify CLECs with one of the following disposition codes:

- No Trouble Found – to be used when Qwest investigation indicates that no trouble exists in Qwest systems.
- Trouble to be Resolved in Patch – to be used when the IT Trouble Ticket will be resolved in a Patch. Qwest will provide a date for implementation of the Patch. This is typically applied to Severity 1 and Severity 2 troubles, although Severity 3 and Severity 4 troubles may be resolved in a Patch where synergies exist.
- CLEC Should Submit CMP CR – to be used when Qwest's investigation indicates that the System is working pursuant to the Technical Specifications (unless the Technical

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Specifications are incorrect), and that the IT Trouble Ticket is requesting a systems change that should be submitted as a CMP CR.

- Resolved – to be used when the IT Trouble Ticket investigation has resolved the trouble.

If Qwest has identified the source of a problem for a Severity 3 or Severity 4 IT Trouble Ticket but has not scheduled the problem resolution, Qwest may place the trouble ticket into a “Date TBD” status, but will not close the trouble ticket. Once a trouble ticket is placed in “Date TBD” status, Qwest will no longer issue status notifications for the trouble ticket. Instead, Qwest will track “Date TBD” trouble tickets and report status of these trouble tickets on the CMP Web site and in the Monthly CMP Systems Meeting. When a “Date TBD” trouble ticket is scheduled to be resolved in a Patch, Release or otherwise, Qwest will issue a notification announcing that the trouble ticket will be resolved and remove the trouble ticket from the list reported on the CMP Web site and in the Monthly CMP Systems Meeting.

For “Date TBD” trouble tickets, either Qwest or a CLEC may originate a Change Request to correct the problem. (See Section 5.0 for CR Origination.) If the initiating party knows that the CR relates to a trouble ticket, it will identify the trouble ticket number on the CR.

Instances where Qwest or CLECs misinterpret Technical Specifications and/or business rules must be addressed on a case-by-case basis. All parties will take all reasonable steps to ensure that any disagreements regarding the interpretation of a new or modified OSS Interface are identified and resolved during the change management review of the Change Request.

#### **12.4 Reporting Trouble to IT**

Qwest will open a trouble ticket at the time the trouble is first reported by CLEC or detected by Qwest. The ITWSHD Tier 1 will communicate the ticket number to the CLEC at the time the trouble is reported. Once a trouble ticket is opened at the ITWSHD, a CLEC or Qwest may request that the Event Notification process begin on the ticket as described in section 12.6.

If a ticket has been opened, and subsequent to the ticket creation, CLECs call in on the same problem, and the ITWSHD recognizes that it is the same problem, a new ticket is not created. The ITWSHD documents each subsequent call in the primary IT trouble ticket.

If one or more CLECs call in on the same problem, but it is not recognized as the same problem, one or more tickets may be created. When the problem is recognized as the same, one of the tickets becomes the primary ticket, and the other tickets are linked to the primary ticket. The ITWSHD provides the primary ticket number to other reporting CLECs. A CLEC can request its ticket be linked to an already existing open IT ticket belonging to another CLEC. When the problem is closed, the primary and all related tickets will be closed.

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### 12.4.1 Systems Problem Requiring a Workaround

If a CLEC is experiencing problems with Qwest because of a system “issue”, the CLEC will report the trouble to the ITWSHD. The ITWSHD will create a trouble ticket as outlined above.

The ITWSHD Tier 1 will refer the ticket to the IT Tier 2 or 3 resolution process. If, during the resolution process, the Tier 2 or 3 resolution team determines that a workaround is required ITWSHD (with IT Tier 2 or 3 on the line, as appropriate) will contact the CLEC to develop an understanding of how the problem is impacting the CLEC. If requested and available, the CLEC will provide information regarding details of the problem, e.g., reject notices, LSRs, TNs or circuit numbers. Upon understanding the problem, the IT Tier 1 agent, with the CLEC on the line, will contact the ISC Help Desk and open a Call Center Database Ticket. The IT Tier 2 or 3 resolution team along with the WSD Tier 2 team, and other appropriate SMEs, (Resolution Team) will develop a proposed work around. The WSD Tier 2 team will work collaboratively with the CLEC(s) reporting the issue to finalize the work around. The ITWSHD will provide the CLEC and the WSD Tier 2 team with the IT Trouble Ticket number in order to cross-reference it with the Call Center Database Ticket. The ITWSHD will also record the Call Center Database Ticket number on the IT Trouble Ticket. The CLEC will provide both teams with primary contact information. If the CLEC and Qwest cannot agree upon the work around solution, the CLEC can use either the Technical Escalation process or escalate to the WSD Tiers, as appropriate. Qwest will use its best efforts to retain the CLEC’s requested due dates, regardless of whether a work around is required.

### 12.5 Severity Levels

Severity level is a means of assessing and documenting the impact of the loss of functionality to CLEC(s) and impact to the CLEC’s business. The severity level gives restoration or repair priority to problems causing the greatest impact to CLEC(s) or its business.

Guidelines for determining severity levels are listed below. Severity level may be determined by one or more of the listed bullet items under each Severity Level (the list is not exhaustive). Examples of some trouble ticket situations follow. Please keep in mind these are guidelines, and each situation is unique. The IT Help Desk representative, based on discussion with the CLEC, will make the determination of the severity level and will communicate the severity level to the CLEC at the time the CLEC reports the trouble. If the CLEC disagrees with the severity level assigned by the IT Help Desk personnel, either on the initial call or at any time while the ticket is open, a CLEC may request the ITWSHD to change the severity level, identifying the reason for the change in severity. If Qwest questions the validity of the change in severity, Qwest will contact the CLEC Severity Escalation Contact who raised the severity for clarification.

#### Severity 1: Critical Impact

- Critical.

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- High visibility.
- A large number of orders or CLECs are affected.
- A single CLEC cannot submit its business transactions.
- Affects online commitment.
- Production or cycle stopped – priority batch commitment missed.
- Major impact on revenue.
- Major component not available for use.
- Many and/or major files lost.
- Major loss of functionality.
- Problem can not be bypassed.
- No viable or productive work around available.

**Examples:**

- Major network backbone outage without redundancy.
- Environmental problems causing multiple system failures.
- Large number of service or other work order commitments missed.
- A Software Defect in an edit which prevents any orders from being submitted.

**Severity 2: Serious Impact**

- Serious
- Moderate visibility
- Moderate to large number of CLECs, or orders affected
- Potentially affects online commitment
- Serious slow response times
- Serious loss of functionality
- Potentially affects production – potential miss of priority batch commitment
- Moderate impact on revenue
- Limited use of product or component
- Component continues to fail. Intermittently down for short periods, but repetitive
- Few or small files lost
- Problems may have a possible bypass; the bypass must be acceptable to CLECs
- Major access down, but a partial backup exists

**Examples:**

- A single company, large number of orders impacted
- Frequent intermittent logoffs
- Service and/or other work order commitments delayed or missed

**Severity 3: Moderate Impact**

- Low to medium visibility
- Low CLEC, or low order impact

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- Low impact on revenue
- Limited use of product or component
- Single CLEC device affected
- Minimal loss of functionality
- Problem may be bypassed; redundancy in place. Bypass must be acceptable to CLECs
- Automated workaround in place and known. Workaround must be acceptable to CLECs

**Example:**

- Hardware errors, no impact yet

**Severity 4: Minimal Impact**

- Low or no visibility
- No direct impact on CLEC
- Few functions impaired
- Problem can be bypassed; bypass must be acceptable to CLECs
- System resource low; no impact yet
- Preventative maintenance request

**Examples:**

- Misleading, unclear system messages causing confusion for users
- Device or software regularly has to be reset, but continues to work

**12.6 Status Notification for IT Trouble Tickets**

There are two types of status notifications for IT Trouble Tickets:

- Target Notifications: for tickets that relate to only one reporting CLEC – Target Notifications may be communicated by direct phone calls
- Event Notifications: for tickets that relate to more than one CLEC or for reported troubles that Qwest believes will impact more than one CLEC
- Event Notifications are sent by Qwest to all CLECs who subscribe to the IT Help Desk. Event Notifications will include ticket status (e.g., open, no change, resolved) and as much of the following information as is known to Qwest at the time the notification is sent:
  - Description of the problem
  - Impact to the CLECs (e.g., geographic area, products affected, business implications, other pertinent information available)
  - Estimated resolution date and time if known
  - Resolution if known
  - Severity level
  - Trouble ticket number(s), date and time
  - Work around if defined, including the Call Center Database Reference Ticket number
  - Qwest contact for more information on the problem

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- System affected
- Escalation information as available

Both types of notifications will be sent to the CLECs and appropriate Qwest personnel within the time frame set forth in the table below and will include all related system trouble ticket number(s).

**12.7 Notification Intervals**

Qwest will distribute notifications during the IT Help Desk normal hours of operation (Monday-Friday 6:00 a.m. - 8:00 p.m. (MT) and Saturday 7:00 a.m. - 3:00 p.m. MT). Qwest will continue to work severity 1 problems outside of Help Desk hours of operation, and will communicate with the CLEC(s) as needed. A severity 2 problem may be worked outside the IT Help Desk normal hours of operation on a case-by-case basis.

Notification Intervals are based on the severity level of the ticket, the ticket’s Disposition code (e.g., Initial, Update, Closure, etc.), and status changes.

The chart below indicates the response intervals a CLEC can expect to receive after reporting a trouble ticket to the IT Help Desk. Beginning with the issue’s immediate acceptance as multi-CLEC impacting issue, Qwest will create and distribute the Initial notification.

Severity Level of Ticket	Response Interval for Status Changes	Response Interval for No Status Changes		Notification Interval upon Resolution
1	Within 1 hour	1 hour		Within 1 hour
2	Within 1 hour	1 hour		Within 1 hour
3	Within 4 hours	Workaround Provided	None. Only status <b>changes</b> will be communicated when a workaround is provided.	Within 4 hours
		No Workaround Provided	4 hours	
4	Within 24 hours	Workaround Provided	None. Only status <b>changes</b> will be communicated when a workaround is provided.	Within 4 hours
		No Workaround Provided	Every 48 hours.	

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“Notification Interval for Any Change in Status” means that a notification will be sent out within the time specified from the time a change in status occurs. Qwest will provide updates to those notifications that do not have a workaround until a workaround is established to inform the CLEC that the issue is still under investigation. Qwest will not issue Updates when Qwest has provided a Workaround, but no change in status has occurred. “Notification Interval upon Resolution” means that a notification will be sent out within the time specified from the resolution of the problem.

## 12.8 Process Production Support

Process troubles encountered by CLECs will be reported, if at all, to the ISC Help Desk (Tier 0). In some cases the Qwest Service Manager (Tier 3) may report the CLEC trouble to the ISC Help Desk. Tier 0 will open a Call Center Database Ticket for all reported troubles.

### 12.8.1 Reporting Trouble to the ISC

The ISC Help Desk (Tier 0) serves as the first point of contact for reporting troubles that appear process related. Qwest has seven Tiers in Wholesale Service Delivery (WSD) for process Production Support. References to escalation of process Production Support issues means escalation to one of these seven tiers. Contact information is available through the Service Manager (Tier 3). The Tiers in WSD are as follows:

- Tier 0 – ISC Help Desk
- Tier 1 – Customer Service Inquiry and Education (CSIE) Service Delivery Coordinator (SDC)
- Tier 2 – CSIE Center Coaches and Team Leaders, Duty Pager, Process Specialist
- Tier 3 - Service Manager
- Tier 4 – Senior Service Manager
- Tier 5 – Service Center Director
- Tier 6 – Service Center Senior Director

A CLEC may, at any point, escalate to any of the seven Tiers.

If a CLEC is experiencing troubles with Qwest because of a process issue, the CLEC will report the trouble to Tier 0. Tier 0 will attempt to resolve the trouble including determining whether the trouble is a process or systems issue. To facilitate this determination, upon request, the CLEC will provide, by facsimile or e-mail, documentation regarding details of the trouble, e.g., reject notices, LSRs, TNs or circuit numbers if available. Tier 0 will create a Call Center Database Ticket with a two (2) hour response commitment (“out in 2 hour” status), and provide the ticket number to the CLEC. If Tier 0 determines that the trouble is a systems issue, they will follow the process described in Section 12.8.4. With respect to whether the trouble is a systems or process issue, a CLEC may escalate to Tier 1 before the Tier 0 follows the process outlined in Section 12.8.4.

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If Tier 0 does not determine that the trouble is a systems issue or is not able to resolve the trouble, Tier 0 will offer the CLEC the option of either a warm transfer to Tier 1 (with the CLEC on the line), or have Qwest place the Call Center Database Ticket into the Tier 1 work queue. Tier 1 will then analyze the ticket and attempt to resolve the trouble or determine if the trouble is a systems or a process issue. If the trouble is a process issue, Tier 1 will notify the Tier 2 process specialist. Tier 2 process specialist will notify all call handling centers (Tier 0, Tier 1 and Tier 2 at each center) of the reported trouble and current status. If Tier 1 determines that the trouble is a systems issue, they will follow the process described in Section 12.8.4.

The reporting CLEC(s) and Qwest will attempt to reach agreement on resolution of the trouble. This resolution includes identification of processes to handle affected orders reported by the CLEC and orders affected but not reported. If Qwest and the CLEC determine that the trouble can be resolved in a timely manner, Qwest will status the CLEC every 2 hours by telephone, unless otherwise agreed, until the trouble is resolved to the CLEC's satisfaction. If, at any point, the parties conclude that they are unable to resolve the trouble in a timely manner, the CLEC and Qwest will proceed to develop a work around, as described below. At any point, the reporting CLEC may elect to escalate the issue to a higher Tier.

Except in a work around situation, see Section 12.8.3, once the trouble is resolved and all affected orders have been identified and processed, Qwest will seek CLEC agreement to close the ticket(s). If agreement is not reached, CLEC may escalate through the remaining Tiers.

After ticket closure, if the CLEC indicates that the issue is not resolved, the CLEC contacts Tier 2 and refers to the applicable ticket number. Tier 2 reviews the closed ticket, opens a new ticket, and cross-references the closed ticket.

Qwest will use its best efforts to retain the CLEC's requested due dates.

### **12.8.2 Multiple Tickets**

If one or more CLECs call in multiple tickets, but neither the CLECs nor Qwest recognize that the tickets stem from the same trouble, one or more tickets may be created.

Qwest will attempt to determine if multiple tickets are the result of the same process trouble. Also, after reporting a trouble to Tier 0, a CLEC may determine that the same problem exists for multiple orders and report the association to Tier 0. In either case, when the association is identified, Tier 0 will designate one ticket per CLEC as a primary ticket, cross-reference that CLEC's other tickets to its primary ticket and provide the primary ticket number to that CLEC. Tier 2 process specialist will advise the call handling centers (Tier 0, Tier 1 and Tier 2 at each center) and Service Managers (Tier 3) of the issue.

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Once a primary ticket is designated for a CLEC, the CLEC need not open additional trouble tickets for the same type of trouble. Any additional trouble of the same type encountered by the CLEC may be reported directly to Tier 2 with reference to the primary ticket number.

Qwest will also analyze the issue to determine if other CLECs are impacted by the trouble. If other CLECs are impacted by the trouble, within 3 business hours after this determination, the Tier 2 process specialist will advise the call handling centers (Tier 0, Tier 1 and Tier 2 at each center) and the Service Managers (Tier 3) of the issue and the seven digit ticket number for the initial trouble ticket (Reference Ticket). At the same time, Qwest will also communicate information about the trouble, including the Reference Ticket number, to the impacted CLECs through the Event Notification process, as described in Section 12.6. If other CLECs experience a trouble that appears related to the Reference Ticket, the CLECs will open a trouble ticket with Tier 0 and provide the Reference Ticket number to assist in resolving the trouble.

### **12.8.3 Work Arounds**

The reporting CLEC(s) and Qwest will attempt to reach agreement on whether a workaround is required and, if so, the nature of the work around. For example, a work around will provide a means to process affected orders reported by the CLEC, orders affected but not reported, and any new orders that will be impacted by the trouble. If no agreement is reached, the CLEC may escalate through the remaining Tiers.

If a work around is developed, Tier 1 will advise the CLEC(s) and the Tier 2 process specialist will advise the call handling centers (Tier 0, Tier 1 and Tier 2 at each center) and the Service Manager (Tier 3) of the work around and the Reference Ticket number. Tier 1 will communicate with the CLEC(s) during this affected order processing period in the manner and according to the notification timelines established in Section 12.8.1. After the work around has been implemented, Tier 1 will contact the CLECs who have open tickets to notify them that the work around has been implemented and seek concurrence with the CLECs that the Call Center Database tickets can be closed. The closed Reference Ticket will describe the work around process. The work around will remain in place until the trouble is resolved and all affected orders have been identified and processed.

Once the work around has been implemented, the associated tickets are closed. After ticket closure, CLEC may continue to use the work around. If issues arise, CLEC may contact Tier 2 directly, identifying the Reference Ticket number. If a different CLEC experiences a trouble that appears to require the same work around, that CLEC will open a Call Center Data base ticket with Tier 0 and provide the Reference Ticket number for the work around.

### **12.8.4 Transfer Issue from WSD to ITWSHD**

CLECs may report issues to the ISC Help Desk (Tier 0) that are later determined to be systems issues. Once the ISC Help Desk or higher WSD Tier determines that the issue is the result of a

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system error, that Tier will contact the CLEC and ask if the CLEC would like that Tier to contact the ITWSHD to report the system trouble. If the CLEC so requests, the Tier agent will contact the ITWSHD, report the trouble and communicate the Call Center Database Ticket to the ITWSHD agent with the CLEC on the line. The ITWSHD agent will provide the CLEC and the WSD agent with the IT Trouble Ticket number. The IT Trouble Ticket will be processed in accordance with the Systems Production Support provisions of Section 12.0.

## 12.9 Communications

When IT Trouble Tickets are open regarding same trouble, the IT and WSD organizations will communicate as follows. The WSD Tier 2 Process Specialists will be informed of the status of IT Trouble Tickets through ITWSHD system Event Notifications. Additionally, WSD Tier 2 has direct contact with the ITWSHD as a participant on the Resolution Team, as necessary. System trouble and information pertinent to ongoing resolution of the trouble will be made available via the external Event notification website found at URL: <http://www.qwest.com/wholesale/systems/eventnotifications/>.

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## 13.0 TRAINING

Qwest will incorporate all substantive changes to existing Graphical User Interfaces (GUI), including the introduction of new GUI, into CLEC training programs. Qwest will execute CLEC training for pre-order, ordering, billing, and maintenance and repair GUIs.

### 13.1 Introduction of a New GUI

Qwest will include a CLEC training schedule with the Initial Release Notification for the introduction of a new GUI issued in accordance with the interval specified in Section 7.0. Qwest will make available CLEC training beginning no less than twenty-one (21) calendar days prior to the Release Production Date. Web based training will remain available for the life of the Release.

### 13.2 Changes to an Existing GUI

Qwest will include a CLEC training schedule with the Draft Release Notes issued for a change to an existing GUI in accordance with the interval specified in Section 8.0. Qwest will make available CLEC training beginning no less than twenty-one (21) calendar days prior to the Release Production date. Web based training will remain available for the life of the Release.

CEMR training will not be available before the Release Production Date but will be conducted for ninety (90) days in the live environment after the Release Production date.

### 13.3 Product and Process Introductions and Changes

Qwest may offer CLEC training for product and process introductions and changes based on the complexity of the introduction or change. This training is offered in many forms, but is most commonly offered in the following delivery methods: Web-based, instructor-led, job aids, or conference calls.

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## 14.0 ESCALATION PROCESS

### 14.1 Guidelines

- The Escalation Process will include items that are defined as within the CMP scope.
- The decision to escalate is left to the discretion of the CLEC, based on the severity of the missed or unaccepted response/resolution.
- Escalations may also involve issues related to CMP itself, including the administration of this CMP.
- The expectation is that escalation should occur only after Change Management procedures have occurred per this CMP.

### 14.2 Cycle

Item must be formally escalated through the CMP Web site, [http://www.qwest.com/wholesale/cmp/escalations\\_dispute.html](http://www.qwest.com/wholesale/cmp/escalations_dispute.html). Alternatively, the issue may be escalated by sending an e-mail to the Qwest CMP escalation e-mail address [cmpesc@qwest.com](mailto:cmpesc@qwest.com).

- Subject line of the escalation e-mail must include:
  - CLEC Company name
  - “ESCALATION”
  - Change Request (CR) number and status, if applicable
- Content of e-mail must enclose appropriate supporting documentation, if applicable, and to the extent that the supporting documentation does not include the following information, the following must be provided:
  - Description of item being escalated
  - History of item
  - Reason for Escalation
  - Business need and impact
  - Desired CLEC resolution
  - CLEC contact information including Name, Title, Phone Number, and e-mail address
  - CLEC may request that impacted activities be stopped, continued or an interim solution be established.
- Qwest will acknowledge receipt of the complete escalation e-mail with an acknowledgement of the e-mail no later than the close of business of the following business day. If the escalation e-mail does not contain the preceding specified information Qwest will notify the CLEC by the close of business on the following business day, identifying and requesting information that was not originally included.
- When the escalation e-mail is complete, the acknowledgement e-mail will include:
  - Date and time of escalation receipt
  - Date and time of acknowledgement e-mail
  - Name, phone number and e-mail address of the Qwest Director, or above, assigned to the escalation.
- Qwest will post escalated issue and any associated responses on the CMP Web site within one (1) business day of receipt of the complete escalation or response.

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- Qwest will give notification that an escalation has been requested via the Industry Mail Out process
- Any other CLEC wishing to participate in the escalation may do so by selecting the participate button adjacent to the escalation on the CMP Escalation Web site, <http://www.qwest.com/wholesale/cmp/escalations.html>, within one (1) business day of the mail out. Alternately, a CLEC may participate by sending an e-mail to [cmpesc@qwest.com](mailto:cmpesc@qwest.com) within one business day of the Qwest notification. The subject line of the e-mail must include the title of the escalated issue followed by “ESCALATION PARTICIPATION.”
- If Qwest determines a CLEC meeting is needed to further discuss the escalation, and upon agreement by the originating CLEC, Qwest will also invite the CLECs that chose to participate in the escalation. The meeting will not require 5 day advance notification due to the escalation time constraints.
- Qwest will respond to the originating CLEC and copy the participating CLECs, with a binding position e-mail including supporting rationale as soon as practicable, but no later than:
  - For escalated CRs, seven (7) calendar days after sending the acknowledgment e-mail,
  - For all other escalations, fourteen (14) calendar days after sending the acknowledgment e-mail.
- The escalating CLEC will respond to Qwest within seven (7) calendar days with a binding position e-mail.
- When the escalation is closed, the resolution will be subject to this CMP

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## 15.0 DISPUTE RESOLUTION PROCESS

CLECs and Qwest will work together in good faith to resolve any issue brought before this CMP. In the event that an impasse issue develops, a party may pursue the dispute resolution processes set forth below:

- Item must be formally identified through the CMP Web site, [http://www.qwest.com/wholesale/cmp/escalations\\_dispute.html](http://www.qwest.com/wholesale/cmp/escalations_dispute.html). Alternately, a party may send an e-mail to the Qwest CMP Dispute Resolution e-mail address, [cmpdisp@qwest.com](mailto:cmpdisp@qwest.com). Subject line of the e-mail must include:
  - CLEC Company name
  - “Dispute Resolution”
  - Change Request (CR) number and status, if applicable
- Content of e-mail must include appropriate supporting documentation, if applicable, and to the extent that the supporting documentation does not include the following information, the following:
  - Description of item
  - History of item
  - Reason for Escalation
  - Business need and impact
  - Desired CLEC resolution
  - CLEC contact information including Name, Title, Phone Number, and e-mail address
  - Qwest will acknowledge receipt of the complete Dispute Resolution e-mail within one (1) business day
- Qwest or any CLEC may suggest that the issue be resolved through an Alternative Dispute Resolution (ADR) process, such as arbitration or mediation using the American Arbitration Association (AAA) or other rules. If the parties agree to use an ADR process and agree upon the process and rules to be used, including whether the results of the ADR process are binding, the dispute will be resolved through the agreed-upon ADR process.
- Without the necessity for a prior ADR Process, Qwest or any CLEC may submit the issue, following the commission’s established procedures, with the appropriate regulatory agency requesting resolution of the dispute. This provision is not intended to change the scope of any regulatory agency’s authority with regard to Qwest or the CLECs.

This process does not limit any party’s right to seek remedies in a regulatory or legal arena at any time.

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## 16.0 EXCEPTION PROCESS

Qwest and CLECs recognize the need to allow occasional exceptions to this CMP described herein. Extenuating circumstances affecting Qwest or the CLECs may warrant deviation from this CMP. An exception request will be addressed on a case-by-case basis where Qwest and CLECs may decide to handle the exception request outside of the established CMP. An exception request must be presented to the CMP community for acceptance in accordance with this section to determine if the request shall be treated as an exception.

### 16.1 Exception Initiation and Acknowledgement

If Qwest or a CLEC wishes that any request within the scope of CMP be handled on an exception basis, the party who makes such a request will issue an exception request (“Exception Request”). Exception Requests will be submitted in one of two ways:

- If the request pertains to a single, previously submitted, open CR, the Exception Requestor must follow the process described in Section 16.1.1.
- If the Exception Request is not currently addressed in a single, previously submitted, open CR or if the request involves two or more previously submitted, open CRs, the Exception Requestor must complete a CR form and e-mail it to the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). The Exception Requestor must complete the following sections of the CR form: date submitted, company, originator, proprietary (if applicable), optional available dates/times for meetings, area of request, description of exception requested. The description of the exception must contain the information listed in Section 16.1.1.

#### 16.1.1 Requestor Submits an Exception Request

If the Exception Request pertains to a previously submitted CR, the Exception Requestor must send an e-mail to the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), with “EXCEPTION” in the subject line. The text of the request must contain the following information:

- Change Request number(s) of an existing Change Request(s) or a completed Change Request form (See Section 5.0)
- Description of the request with good cause for seeking an exception
- A clear statement outlining the course of action the Exception Requestor wishes parties to follow and the desired outcome, if the Exception Request is granted (e.g., timeframe or targeted release)
- Supporting documentation
- Primary contact information
- Whether the Requestor wishes to have the request considered at the next Monthly CMP Meeting, or requests an Exception Call/Meeting pursuant to Section 16.2 prior to the next Monthly CMP Meeting
- If a CLEC requests an Exception Call/Meeting, the CLEC should indicate whether it desires a pre-meeting with Qwest, including the CLEC’s desire to have certain Qwest subject matter experts attend the pre-meeting and/or Exception Call/Meeting.

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### 16.1.2 Tracking of an Exception Request

Exception Requests will be identified by adding the suffix “EX” to the CR number. If an Exception Request references existing CRs, and the Exception Request is granted, the CR numbers of the referenced CRs will then be modified to include the “EX” suffix.

Within one (1) business day after receipt of an Exception Request, Qwest’s CMP Manager will acknowledge receipt of the Exception Request by e-mail to the Requestor. The CMP Manager will include in the acknowledgement an indication of whether an Exception Call/Meeting will be scheduled. If an Exception Call/Meeting is not requested, the Exception change request will be presented to the CMP community as described in Section 16.3 below. The acknowledgement will also include the CR or tracking number.

### 16.2 Exception Notification

Within three (3) business days after receipt of the request, if an Exception Call/Meeting is requested, the CMP Manager will issue a notification to the CMP community for an Exception Call/Meeting (the “Exception Notification”). The Exception Call/Meeting shall be held on a date agreed to by the Requestor, provided that it shall not be held less than seven (7) business days after issuance of the Exception Notification.

The subject line of the Exception Notification must include:

- “EXCEPTION NOTIFICATION”

The content of the Exception Notification will include:

- Requestor
- Logistics for Exception Call/Meeting
- Agenda
- Change Request number on which the exception is sought
- Description of the request with good cause for seeking an exception
- Desired outcome (e.g., timeframe or targeted release)
- Supporting documentation
- Primary contact information
- A clear statement that a decision is required to accept, or decline this request as an Exception during this Exception Call/Meeting.
- Logistics for a pre-meeting, in accordance with Section 16.2.1
- An initial assessment from Qwest regarding the impact if the Exception Request is granted, if available.

#### 16.2.1 Pre-Meeting

The pre-meeting shall be held on a date agreed to by the Requestor, provided that it shall not be held less than two (2) business days after issuance of the Exception Notification. Qwest shall conduct the pre-meeting with the Exception Requestor, any CLECs that wish to participate, Qwest SMEs, and specially requested Qwest personnel, or their equivalents. In all instances, the pre-

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meeting is exempt from the five (5) business day advance notification requirement described in Section 3.0. The purpose of the pre-meeting is to enable Qwest and CLECs to discuss options for the vote, determine the additional SMEs to invite to the Exception Call/Meeting, and develop a clear statement delineating what “Yes” and “No” votes will mean.

No later than three (3) business days following the pre-meeting, Qwest will distribute an Exception Voting Notification. The subject line of the notification will contain:

- “PRE-MEETING RESULTS – VOTING INSTRUCTIONS”

The body of the notification will contain:

- A clear statement outlining the course of action parties will follow if the Exception Request is granted
- A description of any modifications to the Exception Request made during the pre-meeting
- A clear statement delineating what “Yes” and “No” votes will mean
- Logistics for the Exception Meeting or the Monthly CMP Meeting, at which the vote will be held
- Logistics for additional pre-meetings, if applicable

### **16.2.2 Conduct Exception Call/Meeting**

Qwest will conduct the Exception call/meeting to allow the Requestor to clarify the Exception Request. The Exception Requestor shall present the request and provide good cause as to why such a request should be treated as an exception. Qwest and CLECs present will be given the opportunity to comment on the request. Discussion may also include substantive issues and potential solutions, and schedules for subsequent activities (e.g., meeting, deliverables, milestones, and implementation dates). After the discussion, Qwest will conduct a vote as described in Section 16.4.

Qwest will write, distribute and post minutes as part of the Exception Request Disposition Notification no later than five (5) business days after the Exception Call/Meeting. The minutes will include the disposition and schedule of the implementation of the Exception Request.

### **16.3 Notification of Exception Request Discussion and Vote at Upcoming Monthly CMP Meeting**

If an Exception Requestor desires that the vote be taken at the next Monthly CMP Meeting, the Exception Request must be submitted no later than thirteen (13) business days prior to that Monthly CMP Meeting. If an Exception Call/Meeting is not requested by the Exception Requestor, within three (3) business days after receipt of the request Qwest will notify the CLECs by e-mail that an Exception Request has been received by the CMP Manager.

The subject line of the notification must include:

- “EXCEPTION NOTIFICATION”

The notification content shall include:

- Requestor

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- Change Request number on which the exception is sought
- Description of the request with good cause for seeking an exception
- Desired outcome (e.g., timeframe or targeted release)
- Supporting documentation
- A clear statement that this request will be discussed and a decision is required to accept, or decline this request as an Exception, at the upcoming Monthly CMP Meeting
- Logistics for a pre-meeting, in accordance with Section 16.2.1
- An initial assessment from Qwest regarding the impact if the Exception Request is granted, if available

### **16.3.1 Discussion and Vote Taken at the Monthly CMP Meeting**

If an Exception Call/Meeting is not requested, Qwest will note on the agenda of the next Monthly CMP Meeting that an Exception Request has been submitted, and that a decision is required to accept or decline this request as an Exception. Qwest will include the Exception Request and supporting documentation as part of the Monthly CMP Meeting distribution package.

The Exception Requestor shall present the request and provide good cause as to why such a request should be treated as an exception. Qwest and CLECs present will be given the opportunity to comment on the request. Discussion may also include substantive issues and potential solutions, and schedules for subsequent activities (e.g., meeting, deliverables, milestones, and implementation dates). After the discussion, Qwest will conduct a vote as described in Section 16.4.

### **16.4 Vote on Exception Request**

A vote on whether an Exception Request will be handled on an exception basis will take place at the Exception Call/Meeting, if one is held (See Section 16.2.2). If an Exception Call/Meeting is not held, the vote will be taken at the Monthly CMP Meeting (See Section 16.3.1). The standards for determining whether a request will be handled on an exception basis are as follows:

- If the Exception Request is for a general change to the established CMP timelines for Product/Process changes, a two-thirds majority vote will be required unless Qwest or a CLEC demonstrates, with substantiating information, that one of the criteria for denial set forth in Section 5.3 is applicable. If one of the criteria for denial is applicable, the request will not be treated as an exception.
- If the Exception Request is for a Systems change or seeks to alter any part of this CMP (other than a particular instance of a Product/Process timeline change), a unanimous vote will be required.

Voting will be conducted pursuant to Section 17.0.

Any party that disagrees with results of a vote may initiate dispute resolution pursuant to the CMP Dispute Resolution provisions.

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## 16.5 Exception Request Disposition Notification

Qwest will issue a disposition notification, including meeting minutes, within five (5) business days after the close of the Exception Call/Meeting, or the Monthly CMP Meeting, at which the vote was taken. The disposition notification will be posted on the Web site.

## 16.6 Processing of the Exception Disposition

If the outcome of the vote is to grant the Exception Request, then Qwest may proceed with the agreed to disposition. If the outcome of the vote is not to treat the proposed change as an Exception, the originator may withdraw the Exception designation and continue to pursue its change under the established CMP. The originator of the change may also withdraw the change and discontinue pursuit of the requested change.

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## 17.0 VOTING

When a vote is called, Qwest and CLECs will follow the procedures described below, unless otherwise specified in this CMP.

The Qwest CMP Manager will schedule and hold a discussion call/meeting (if not pursuant to a Monthly CMP Meeting), issue an agenda with any supporting material, and conduct the vote as described below on the open issue. The agenda will be distributed and posted on the web site in advance of the call/meeting as also described below.

The results of the vote will be published, using the voting tally form (refer to Appendix F).

A total of 51% or more of the votes in favor of (or against) a proposal shall constitute a Majority in this CMP.

The standard for the determination of all issues put to a vote under this CMP is the decision of the Majority, except where a different voting standard is expressly stated in this CMP for a particular issue.

### 17.1 Voter

A Voter is any of the POCs designated under Section 2.2. Additionally, any CLEC POC may designate another member of its company or a third party as an interim POC to vote, for a specific vote, in the absence of the primary, secondary, and tertiary POCs. A third party vote must be accompanied by one of the following two valid forms of documentation (e-mail authorization or Letter of Authorization (LOA)). The e-mail must be sent to the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), no later than two (2) hours before the meeting at which the vote will take place. The interim POC may provide an LOA to Qwest at the meeting, prior to the vote.

If an e-mail or LOA is provided to designate a third party interim POC, it must contain the following information in the subject line of the e-mail:

- “Voting Proxy”

The body of the e-mail or LOA must contain the following information:

- CLEC Name
- Third Party Company Name
- Brief description of the issue on which the vote is being taken
- Date vote call/meeting is scheduled to be held
- Signature of authorizing Carrier (LOA only)

If a meeting is scheduled for a vote but a vote is not taken, e-mailed designations or LOAs will be discarded.

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## 17.2 Participation in the Vote

Any Carrier that is authorized to provide local services in any one of Qwest's 14-state region may qualify as a Voter.

A Voter may participate in the vote in person, over the phone, or via e-mail ballot, as described in Section 17.4.3.

### 17.2.1 A Carrier is Entitled To a Single Vote

Each Carrier (Qwest or CLEC) is entitled to a single vote regardless of any affiliates. For example, at the time of this writing, WorldCom has several entities offering local services throughout the Qwest region (e.g., MFS, Brooks Fiber, MCI Metro, etc.). WorldCom would be entitled to one vote for all of these affiliates.

## 17.3 Notification of Vote

Qwest will notify CLECs by email within one (1) business day after determining when a vote on a specific issue must occur. This notification will in no event be less than five (5) business days before the call. The subject line of notification will be identified as "VOTE REQUIRED/Title of Issue." Within one (1) business day after issuing the notification, the notification and any supporting material will be posted on the web site.

### 17.3.1 Notification Content

When a notification is issued, the notification will be issued as a CMP notification and will consist of:

- a description of the issue and reason for calling a vote
- date and time of the voting call/meeting
- bridge number for the voting call, or logistics for the meeting
- supporting material, if any
- the deadline date and time for submitting e-mail votes

## 17.4 Voting Procedures

### 17.4.1 Quorum

At any CMP call/meeting where a vote is to be taken, a quorum of Carriers, as described in Section 17.2.1, (Qwest and CLEC) must be present. A quorum will be established as follows:

- Qwest and CLECs will determine the average number of Carriers (including Qwest) at the last six days of Monthly CMP Meetings, excluding the highest and lowest attendance numbers (e.g. add the number of Carriers at the remaining four meetings and divide by four) ("Average Number of Carriers").
- If 62.5% or more of the Average Number of Carriers is present, a quorum has been established. For purposes of establishing a quorum, a Carrier not participating in the meeting is

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considered present if it submitted an e-mail vote by the time designated in the notification of vote.

- When calculating the average number of Carriers and establishing quorum, Qwest will round to the nearest whole number; *i.e.*, Qwest will round a number ending in 0.5 and above to the higher whole number, and round a number ending below 0.5 to the lower whole number.

If a quorum is not present at a call/meeting when a vote is scheduled to be taken, the vote shall be postponed until such time as a quorum is established.

In the case of an Exception request, if a quorum is not established at the Exception Call/Meeting, the vote shall be postponed for three (3) business days for a second Exception Call/Meeting. At the second Exception Call/Meeting, a vote will be taken regardless of whether a quorum is established. Prior to the second Exception Call/Meeting, Qwest will distribute a notification stating that at this meeting a vote will take place regardless of whether a quorum is established, and that votes will be accepted in accordance with Sections 17.1 and 17.4.1.

#### 17.4.2 Casting Votes

Once a quorum is established, Qwest will ask for all Voters to place their vote by writing their vote and their company name on a piece of paper. The vote will be either a “Yes,” “No” or “Abstain.” When all companies have completed their votes, Qwest will collect the ballots. Voters attending by telephone will e-mail their vote to [cmpcr@qwest.com](mailto:cmpcr@qwest.com), in accordance with Section 17.4.3. After collection of ballots Qwest will read aloud all votes received and collected. If a POC on the phone wishes to vote, but does not have access to a computer, Qwest will arrange with that POC a method to receive its vote. Only votes of “Yes” and “No” will count toward calculating a majority or unanimous decision.

#### 17.4.3 E-mail Ballots

CLECs wishing to e-mail their vote to Qwest may do so by sending an e-mail to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). E-mail votes will only be accepted, and included in the tally of the votes, if received prior to the official close of voting during the voting call/meeting.

The subject line of the e-mail must include the following:

- “CLEC BALLOT”
- CLEC Name
- Representative Name

The body of the e-mail must include the following:

- CLEC Name
- Representative Name
- Brief description of the issue on which the vote is being taken
- Date vote call/meeting is scheduled to be held
- CLEC vote

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If a meeting is scheduled for a vote but a vote is not taken, e-mailed votes will be discarded. In addition, CLECs who submitted votes by e-mail will be notified that no vote was taken, their votes were discarded, and that the vote may be taken again at a later date.

In the event a CLEC is present to vote, after submitting an e-mail ballot, such CLEC may cast its vote at the call/meeting regardless of the e-mail ballot.

#### 17.4.4 Voting Tally Form

The Voting Tally Form serves as a collective record of the individual company vote. The results of the tally will be included in the meeting minutes as an attached document.

The form will include the following information:

- *Name of Call/Meeting:* The name of the call/meeting
- *Date of Vote:* The date of occurrence
- *Subject:* The topic or issue that is causing the vote
- *Voting Carrier:* The Carrier's company name
- *Voting Participant:* Write the name of the Voter that participates in a 'vote' and how the vote was cast: in person, by phone or by email
- *Yes:* Place an 'X' in box if agreed with proposed plan
- *No:* Place an "X" in box if party disagrees with proposed plan
- *Abstain:* Any participant may abstain to place a vote by placing an "X" in the box
- *Result:* Qwest shall record the results of the vote in this box

Qwest will announce the results of the vote, by an e-mail notification, no later than five (5) business days following the call/meeting. The result will be included in meeting minutes and posted on the web site.

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## 18.0 OVERSIGHT REVIEW PROCESS

Qwest or a CLEC may identify issues with this CMP using the Oversight Review Process. Issues submitted through this process may include:

- Improper notification under CMP
- No notification under CMP
- Issues regarding scope of CMP
- Failures to adhere to CMP
- Interpretations of CMP
- Gaps in CMP

This Oversight Review Process is optional. It will not be used when one or more processes documented in this CMP are available to obtain the resolution the submitter desires. The submitter is expected to use such available processes. If a submitter chooses to use this process, the following applies.

### 18.1 Guidelines

- A submitter must submit a issue for Oversight Review, as outlined in Section 18.2 or 18.4.4
- A submitter must raise issues within a reasonable period of time after the submitter becomes aware of an issue
- A response to an Oversight Review Issue may be that the resolution requested should be pursued under a different process in this CMP
- If the parties do not agree whether this process applies, the issue will be brought before the CMP Oversight Committee to determine whether the resolution sought by the submitter is available through this process or another documented process in this CMP

### 18.2 Issue Submission

An issue may be presented to the CMP body at a monthly CMP Meeting as part of the standing agenda item relating to the operation and effectiveness of CMP (See Section 2.1) or may be formally submitted by an e-mail to [cmpesc@qwest.com](mailto:cmpesc@qwest.com) and the CMP POC of the carrier that is the subject of the issue. If the issue is presented at a Monthly CMP Meeting and is not resolved, the submitter must follow the e-mail submission process.

In the event a party chooses to submit an e-mail as described above, the subject line of the issue submission e-mail must include:

- Company name
- "CMP OVERSIGHT REVIEW ISSUE SUBMISSION"

The submission e-mail must include appropriate supporting documentation, if applicable, and, to the extent that the supporting documentation does not include the following information, the following must be provided:

- Description of issue
- Basis for considering the matter an Oversight Review Issue

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- Citation from the Qwest Wholesale Change Management Document that addresses specific guidelines, if applicable
- Desired resolution
- Contact information including Name, Title, Phone Number, and e-mail address

Qwest must acknowledge receipt of the complete issue submission with an acknowledgement within one (1) business day. If the issue submission does not contain the above-specified information, Qwest must notify the submitter within one (1) business day, identifying and requesting information that was not originally included. When the issue submission is complete, the acknowledgement email will include:

- Date and time of issue submission receipt
- Date and time of acknowledgement email

Qwest must issue a notification announcing that an Oversight Review Issue has been submitted within two (2) business days after receipt of the complete issue e-mail submission. The subject of the notification will include “CMP OVERSIGHT REVIEW ISSUE SUBMISSION.”

### **18.3 Issue Resolution**

#### **18.3.1 Response**

The carrier cited in the original submission must respond by e-mail to [cmpesc@qwest.com](mailto:cmpesc@qwest.com). Subject line of the Oversight Review issue response e-mail must include:

- Company name
- “CMP Oversight Review ISSUE RESPONSE”

The response e-mail must include appropriate supporting documentation, if applicable, and, to the extent that the supporting documentation does not include the following information, the following must be provided:

- Agreement/disagreement with the issue
- Reason for agreement/disagreement
- Citation from the Qwest Wholesale Change Management Process Document that addresses responding company position, if applicable
- Response to desired resolution, and alternative proposed resolution, if applicable
- Respondent contact information including Name, Title, Phone Number, and e-mail address

Qwest must distribute a notification with the contents of the response e-mail within two (2) business days of receipt. The subject of the notification must include “RESPONSE TO CMP OVERSIGHT REVIEW ISSUE.”

#### **18.3.2 Issue Meeting**

If the submitter of the Oversight Review Issue is not satisfied with the response provided under Section 18.3.1, the submitter may request a meeting of Qwest and interested CLECs to discuss the issue. Such meeting will be held no later than five (5) business days after the submitter’s meeting request. One of the matters to be addressed at this meeting is whether additional

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meetings should be held to address the issue. Such meetings will be open to all CLECs and Qwest shall provide advanced notification of such meetings pursuant to this CMP. Qwest will provide notification of the outcome of these discussions within two (2) business days after such discussions are concluded. The subject of the notification must include “OUTCOME OF CMP OVERSIGHT REVIEW ISSUE.”

### **18.3.3 Election to Pursue Issue with CMP Oversight Committee**

At any point in the process under Sections 18.2 or 18.3, a participant in the discussions of an Oversight Review issue may elect to pursue the issue with the CMP Oversight Committee by sending an email to [cmpesc@qwest.com](mailto:cmpesc@qwest.com).

### **18.3.4 Escalation or Dispute Resolution**

If any party is not satisfied with the outcome of this Section 18.3, it may follow the Escalation or Dispute Resolution Processes.

## **18.4 CMP Oversight Committee**

### **18.4.1 Membership**

The CMP Oversight Committee will be comprised of one representative from Qwest, one representative from each of up to six (6) CLECs, and one representative from each public utilities commission that wishes to participate. Members of the CMP Oversight Committee must have a comprehensive understanding of this CMP. Names of the members of the CMP Oversight Committee will be listed on the Qwest Wholesale CMP website at the following URL: <http://www.qwest.com/wholesale/cmp/coc.html>. The membership of the committee has been established through the end of 2003. For 2004 and each year thereafter, the CLEC membership will be established on an annual basis through self nomination. If more than six (6) CLECs are nominated for membership, the CLECs will rank the nominees. The six (6) highest ranked nominees will be the CLEC members of the committee for the following year.

### **18.4.2 Role of the CMP Oversight Committee**

The CMP Oversight Committee will act as a subject matter expert regarding the provisions of this CMP. The CMP Oversight Committee will deliberate on CMP Oversight Review Issues and make recommendations to the CMP body on matters such as interpretation of this CMP and proposed changes to this CMP. A recommendation of the CMP Oversight Committee may result in a CR to change this CMP as contemplated by Section 2.1.

### **18.4.3 Meetings of the CMP Oversight Committee**

Meetings of the CMP Oversight Committee will be called on an ad hoc basis, as needed to address CMP Oversight Review Issues as described in Section 18.4.4, and will be called in the same manner, and applying the same time periods, as set forth in Section 3.0, Change Management Process Meetings. A CMP Oversight Committee meeting may be held at the end of a scheduled

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monthly CMP Meeting. In addition to the CMP Oversight Committee members, other persons may participate in the CMP Oversight Committee meetings to assist the committee in understanding the issues; however, final recommendations to the CMP body may only be made by the CMP Oversight Committee members. In order to conduct a meeting of the CMP Oversight Committee, a majority of its members must be present in person or by teleconference.

#### **18.4.4 Submission of Oversight Review issues to the CMP Oversight Committee**

Oversight Review issues may be submitted to the CMP Oversight Committee in a number of ways:

- When parties disagree on the application of the Oversight Review Issue Submission Process to an issue that is raised (See Section 18.1)
- A party submitting a CMP Oversight Review Issue under Section 18.2, may direct that the issue be brought to the CMP Oversight Committee;
- During the process under Section 18.3, or once that process is completed, a CMP participant may raise the Oversight Review Issue to the CMP Oversight Committee;
- A CMP Oversight Review Issue may be referred to the CMP Oversight Committee during a Monthly CMP Meeting

#### **18.4.5 CMP Oversight Review**

Qwest must issue a notification announcing that a CMP Oversight Review Issue has been referred to the CMP Oversight Committee within two (2) business days after such referral is made. This notification will provide the information for the meeting of the CMP Oversight Committee. The subject of the notification will include "POTENTIAL CMP OVERSIGHT REVIEW ISSUE REFERRED TO THE CMP OVERSIGHT COMMITTEE." The notification will solicit from committee members and submitting carrier, dates during the next ten (10) calendar days on which they are available to meet to address the issue. Qwest will establish a meeting date will be established based on the members' and submitting carrier's availability.

#### **18.4.6 Status and Recommendations of the CMP Oversight Committee**

Status of outstanding Oversight Review issues will be provided at the monthly CMP meetings and will be posted on Qwest's Wholesale CMP website at the following URL: [www.qwest.com/wholesale/coc.html](http://www.qwest.com/wholesale/coc.html). Recommendations of the CMP Oversight Committee will be distributed to the CMP by e-mail notification with a heading that includes "RECOMMENDATION OF THE CMP OVERSIGHT COMMITTEE." Such notifications will state the issue and briefly describe the recommendation and include a link to more detailed information about the issue. Recommendations of the CMP Oversight Committee will be included on the agenda for the next monthly CMP meeting for discussion by the CMP body. If there is not agreement on a single recommendation by the CMP Oversight Committee, the notification will include the competing recommendations discussed by the CMP Oversight Committee.

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**APPENDIX A: SAMPLE - IMA 11.0 RANK ELIGIBLE CRS**

#	CR Number	Interface	Submit Date	Company	Status	Title	Shirt Size	Est LOE Min	Est LOE Max	CR Presenter	Ranking Note
<b>Category A: Not Rank Eligible</b>											
1	14886	IMA Common	9/28/01	Qwest	Pending Withdrawal	Pre-order Transaction: Due Date availability & standard Intervals	Extra Large	5501	8000	Winston, Connie	Category A: Not Rank Eligible
2	23943	IMA Common	9/28/01	Qwest	Pending Withdrawal	Shared Distribution Loop- Long Term	Large	3001	5500	Winston, Connie	Category A: Not Rank Eligible
3	25505	IMA Common	9/28/01	Qwest	Pending Withdrawal	Line Splitting for UNE-P accounts	Large	3001	5500	Winston, Connie	Category A: Not Rank Eligible
4	25591	IMA Common	9/26/01	Qwest	Pending Withdrawal	Flowthrough validate LPIC LSR Entries	Medium	751	3000	Winston, Connie	Category A: Not Rank Eligible
5	25800	IMA Common	9/28/01	Qwest	Pending Withdrawal	Add New Auto Push Statuses	Medium	751	3000	Winston, Connie	Category A: Not Rank Eligible
6	27751	IMA Common	9/28/01	Qwest	Pending Withdrawal	Intrabuilding Cable.	Large	3001	5500	Winston, Connie	Category A: Not Rank Eligible
7	27756	IMA Common	9/26/01	Qwest	Pending Withdrawal	Cancellation Remarks	Small	201	750	Winston, Connie	Category A: Not Rank Eligible
<b>Category B: Above the Line</b>											
1	SCR013002-6	IMA Common	1/30/02	Qwest	Clarification	PID Impact - PO-2B: Unbundled Loop and Local Number Portability Edits	Large	3001	5500	Martain, Jill	Category B: Above the Line
2	SCR013002-7	IMA Common	1/30/02	Qwest	Clarification	PID Impact - PO-2B: Resale POTS Edits	Large	3001	5500	Martain, Jill	Category B: Above the Line
<b>Category C: Rank Eligible</b>											
1	24652	IMA Common	9/28/01	Qwest	Presented	Unbundled DID/PBX Trunk Port Facility move from LS to PS	Medium	751	3000	Winston, Connie	Category C: Rank Eligible
2	25091	IMA Common	9/26/01	Qwest	Presented	DSL Flowthrough - Re-Branding	Large	3001	5500	Winston, Connie	Category C: Rank Eligible
3	26636	IMA Common	9/28/01	Qwest	Presented	Shared Loop Enhancements	Medium	751	3000	Winston, Connie	Category C: Rank Eligible
4	30212	IMA Common	9/28/01	Qwest	Presented	Add New UNE-P PAL to IMA	Large	3001	5500	Winston, Connie	Category C: Rank Eligible
5	30215	IMA Common	10/23/01	Qwest	Presented	Wholesale Local Exchange Freeze	Large	3001	5500	Winston, Connie	Category C: Rank Eligible
6	31766	IMA Common	9/28/01	Qwest	Presented	Reject Duplicate LSRs	Medium	751	3000	Martain, Jill	Category C: Rank Eligible
7	5043011	IMA GUI	8/31/00	Eschelon	Presented	Add an online glossary of the field title abbreviations to help menu of IMA GUI	Medium	751	3000	Eschelon	Category C: Rank Eligible

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

**APPENDIX B: SAMPLE - IMA 11.0 INITIAL PRIORITIZATION FORM**

Assigned Point Value (see instructions)	#	CR Number	Title	Company	Interface	Products Impacted	Shirt Size	Est LOE Min	Est LOE Max
	1	24652	Unbundled DID/PBX Trunk Port Facility move from LS to PS	Qwest	IMA Common	Unbundled PID/PBX Trunk Port	Medium	751	3000
	2	25091	DSL Flowthrough - Re-Branding	Qwest	IMA Common	DSL	Large	3001	5500
	3	26636	Shared Loop Enhancements	Qwest	IMA Common	Shared Loop	Medium	751	3000
	4	30212	Add New UNE-P PAL to IMA	Qwest	IMA Common	UNE-P PAL	Large	3001	5500
	5	30215	Wholesale Local Exchange Freeze Based on CSRs	Qwest	IMA Common	All	Large	3001	5500
	6	31766	Reject Duplicate LSRs	Qwest	IMA Common	All Products	Medium	751	3000
	7	5043011	Add an online glossary of the field title abbreviations to help menu of IMA GUI	Eschelon	IMA GUI	All Products	Medium	751	3000
	8	5043076	Create a separate field for line numbers in Application-to-Application interface responses	Eschelon	IMA Application-to-Application		Large	3001	5500
	9	5206704	Add OCn capable loop LSR to IMA	ELI	IMA Common	DS1, DS3 & OCn Loop Orders	Large	3001	5500
	10	5405937	CLECs require availability to view completed LSR information in IMA GUI	Verizon	IMA GUI	Resale	Large	3001	5500
	11	5498578	Ability to send dual CFA information on an LSR for HDSL orders	WorldCom	IMA Common	HDSL	Small	201	750
	12	SCR010902-1	Limited IMA GUI Access for Pre-Order Transactions Only	McLeodUSA	IMA GUI	All	Medium	751	3000
	13	SCR012202-1	Incorrect Consolidation of DR5 USOC in IMA	Qwest	IMA Common	ISDN PRI	Medium	751	3000
	14	SCR013002-3	IMA Pre-Order - Use CCNA to retrieve a Design Layout Report (DLR)	Qwest	IMA Common		Medium	751	3000
	15	SCR013002-4	Revision of TOS field in IMA	Qwest	IMA GUI	UNE-P, Resale	Medium	751	3000
	16	SCR013002-5	PIC Freeze Documentation	Qwest	IMA Common	Resale, UNE	Medium	751	3000

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”



**APPENDIX C: SAMPLE - IMA 11.0 INITIAL PRIORITIZATION LIST**

RANK	TOTAL POINT VALUE	CR Number	Title	Company	Interface	Products Impacted	Shirt Size	Est LOE Min	Est LOE Max	Original List #
1	251	SCR013102-15	LSOG 6 - Upgrade Field Numbering and Naming to Existing Qwest Forms & Application-to-Application interface Maps <b>(FOUNDATION CANDIDATE) (NOTE: Per February CMP Meeting Discussion, this CR should be ranked higher than all other LSOG 6 Change Requests)</b>	Qwest	IMA Common	All Products	Extra Large	5501	8000	32
2	231	SCR013002-8	Flowthrough on Sup 2 Category Due Date	Qwest	IMA Common	All Products except Designed Products	Large	3001	5500	17
3	227	SCR101901-1	Allow customers to move and change local service providers at the same time. <b>(NOTE: Per February CMP Meeting Discussion, this CR should be ranked higher than #26)</b>	Eschelon	IMA Common	Centrex Resale, UNE-P	Extra Large	5500	8000	35
4	214	31766	Reject Duplicate LSRs	Qwest	IMA Common	All Products	Medium	751	3000	6
5	211	SCR013002-3	IMA Pre-Order - Use CCNA to retrieve a Design Layout Report (DLR)	Qwest	IMA Common		Medium	751	3000	14

Note: Throughout this document, OSS Interfaces are defined as existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services (local exchange services) provided by CLECs to their end users

Note: Throughout this document, the terms “include(s)” and “including” mean “including, but not limited to.”

**APPENDIX D: SAMPLE CHANGE REQUEST FORM – AS OF 10/30/06**

**CHANGE REQUEST FORM**

CR # \_\_\_\_\_ Status: \_\_\_\_\_  
 Originated By: \_\_\_\_\_ Date Submitted: \_\_\_\_\_  
 Company: \_\_\_\_\_ Internal Ref# \_\_\_\_\_  
 Originator: \_\_\_\_\_  
 Name, Title, and email/phone# \_\_\_\_\_

**Area of Change Request:** Please click appropriate box(es) and fill out the section(s) below.

- Product/Process                       System

**Exception Process Requested:** Please click appropriate boxes

- Yes                       No

(Exception Process Requests will be considered at the next monthly CMP meeting unless Exception call/meeting requested)

- Exception call/meeting requested  
 Qwest SME(s) requested at Pre-Meeting (list if required) \_\_\_\_\_

Available Dates/Time for Clarification/Exception Pre-Meeting
1.
2.
3.
4.
5.

**Regulatory or Industry Guideline CR:** Please click appropriate box if you would like the CR to be considered as a Regulatory or Industry Guideline change.

- Regulatory                       Industry Guideline; Indicate industry forum: \_\_\_\_\_

**Title of Change:**

\_\_\_\_\_

**Description of Change/Exception:**

\_\_\_\_\_

**Expected Deliverables/Proposed Implementation Date (if applicable):**

\_\_\_\_\_

**OPTIONAL – COMPLETE THE SECTIONS BELOW WHERE APPLICABLE**

**Products Impacted:** Please Click all appropriate boxes & also list specific products within product group, if applicable.

- |   |       |   |       |
|---|-------|---|-------|
| <input type="checkbox"/> Ancillary              | _____ | <input type="checkbox"/> LNP                        | _____ |
| <input type="checkbox"/> LIDB                   | _____ | <input type="checkbox"/> Private Line               | _____ |
| <input type="checkbox"/> 8XX                    | _____ | <input type="checkbox"/> Resale                     | _____ |
| <input type="checkbox"/> 911                    | _____ | <input type="checkbox"/> Switched Service           | _____ |
| <input type="checkbox"/> Calling Name           | _____ | <input type="checkbox"/> UDIT                       | _____ |
| <input type="checkbox"/> SS7                    | _____ | <input type="checkbox"/> Unbundled Loop             | _____ |
| <input type="checkbox"/> AIN                    | _____ | <input type="checkbox"/> UNE                        | _____ |
| <input type="checkbox"/> DA                     | _____ | <input type="checkbox"/> Switching                  | _____ |
| <input type="checkbox"/> Operation Services     | _____ | <input type="checkbox"/> Transport ( Include EUDIT) | _____ |
| <input type="checkbox"/> INP                    | _____ | <input type="checkbox"/> Loop                       | _____ |
| <input type="checkbox"/> Centrex                | _____ | <input type="checkbox"/> UNE-P                      | _____ |
| <input type="checkbox"/> Collocation            | _____ | <input type="checkbox"/> EEL (UNE-C)                | _____ |
| <input type="checkbox"/> Physical               | _____ | <input type="checkbox"/> Other                      | _____ |
| <input type="checkbox"/> Virtual                | _____ | <input type="checkbox"/> Wireless                   | _____ |
| <input type="checkbox"/> Adjacent               | _____ | <input type="checkbox"/> LIS / Interconnect         | _____ |
| <input type="checkbox"/> ICDF Collocation       | _____ | <input type="checkbox"/> EICT                       | _____ |
| <input type="checkbox"/> Other                  | _____ | <input type="checkbox"/> Tandem Trans. / TST        | _____ |
| <input type="checkbox"/> Enterprise Data Source | _____ | <input type="checkbox"/> DTT / Dedicated Transport  | _____ |
| <input type="checkbox"/> Other                  | _____ | <input type="checkbox"/> Tandem Switching           | _____ |

Local Switching \_\_\_\_\_

**Area Impacted:** Please click appropriate box.

- Pre-Ordering             Provisioning
- Ordering
- Billing
- Maintenance / Repair     Other \_\_\_\_\_

**Form/Transaction/Process Impacted (IMA only):** Please click all appropriate boxes.

**Order**

- LSR                             End User (EU)             Resale (RS)             Resale Split (RSS)
- Centrex (CRS)             Resale Pvt. Line (RPL)     Hunt Group (HGI)       Loop Service (LS)
- Centrex Split (CRSS)     Port Service (PS)         Number Port (NP)       Loop Service w/NP (LSNP)
- Frame Relay (RFR)       DID Resale (DRS)     Directory Listings (DL)
- Other \_\_\_\_\_

**LSR Activity**

- N - New                     C - Change             D - Disconnect             T - Outside Move
- M - Inside Move         Y - Deny                 L - Seasonal Suspend     W - Conversion As Is
- B - Restore               R - Record               Z - Conv as Spec/No DL     V - Conversion As Spec
- Other \_\_\_\_\_

**Pre-Order**

- Address Validation     CSR                             TN Reservation             Loop Qual
- Facility Avail.         Service Avail.             CFA Validation             Appointment Scheduler
- Raw Loop Data         DLR                             Meet Point                 Listing Reconciliation
- Cancel                     Other \_\_\_\_\_

**Post-Order**

- Local Response         Completion                 PSON                             Billing Completion
- Status Updates.       Status Inquiry             LSR Notice Inquiry       LSR Status Inquiry
- DSRED                     Batch Hot Cut               Provider Notification     Other \_\_\_\_\_

**OSS Interfaces Impacted:** Please click all appropriate boxes.

- CEMR                     IMA                             MEDIACC                     QORA
- Application-to-Application interface
- EXACT                     IMA GUI                     Product Database         Wholesale Billing Interface
- Directory Listing       HEET                             SATE                             Other \_\_\_\_\_

## Change Request Form Instructions

The Change Request (CR) Form is the written documentation for submitting a CR for a Product, Process or OSS interface (Systems) change. The CR should be reviewed and submitted by the individual, which was selected to act as a single point of contact for the management of CRs to Qwest. Electronic version of the CR Form can be downloaded from the Qwest Wholesale WEB Page at <http://www.qwest.com/wholesale/cmp/changerequest.html>.

Product/Process and System CRs may be submitted to Qwest via e-mail at: [cmpr@qwest.com](mailto:cmpr@qwest.com)

To input data to the form, use the Tab Key to navigate between each field. The following fields on the CR Form must be completed as a minimum, unless noted otherwise:

### Submitted By

- Enter the date the CR is being submitted to the Qwest CMP Manager.
- Enter Company's name and Submitter's name, title, and email/Phone #.
- Optional – identify potential available dates Submitter is available for a Clarification Meeting.
- Optional – enter a Company Internal Reference No. to be identified.

### Area of Change Request

- Select the type of CR that is being submitted (Product, Process, or Systems).

### Exception Process Requested

- Originator should indicate if they wish to have the request handled on an exception basis.
- Exception requests will be considered at the next monthly CMP meeting, unless the Originator requests an emergency call/meeting.
- Optional - Select Emergency call/meeting requested, if an emergency call/meeting is required.
- Optional - Originator may request a pre-meeting with Qwest by selecting the Pre-meeting with Qwest requested box.
- Optional - Originator may identify certain Qwest SME(s) to attend the Pre-meeting by selecting the Qwest SME(s) requested at Pre-Meeting box and listing the SME(s).

### Regulatory or Industry Guideline CR

- Select either Regulatory or Industry Guideline if you would like the CR to be considered as a Regulatory or Industry Guideline change

### Title of Change

- Enter a title for this CR. This should concisely describe the CR.

### Description of Change/Exception

- Describe the Functional needs of the change being requested. To the extent practical, please provide examples to support the functional need and the names of Qwest personnel with whom the originator has been working to resolve the request. Also include the business benefit of this request.
- If Exception Process requested, provide reason for seeking an exception.

### Expected Deliverables/Proposed Implementation Date (if applicable)

- Enter the desired outcome required (e.g. revised process, clarification, improved communication, etc.) and the desired date for completion. The specific deliverables Qwest must produce in order to close the CR. The originator should provide as much detail as possible.

### Products Impacted – Optional

- To the extent known, check the applicable products that are impacted by the CR.

### Area Impacted – Optional

- To the extent known, check the applicable process areas that are impacted by the CR.

### OSS Interfaces Impacted – Optional

- To the extent known, check the applicable systems that are impacted by the CR.

Qwest's CMP Manager will complete the remainder of the Form.

**APPENDIX E: SPECIAL CHANGE REQUEST PROCESS (SCRP) REQUEST FORM**

**SAMPLE**

**Qwest Wholesale Change Management Process (CMP)**

**Special Change Request Process (SCRP) Form**

In the event that a systems CMP CR is not ranked high enough in prioritization for inclusion in the next Release, or as otherwise provided in the Qwest Wholesale CMP, the CR originator may elect to invoke the CMP Special Change Request Process (SCRP) as described Section 10.3 of the Qwest Wholesale Change Management Document.

The SCRCP may be requested up to five (5) calendar days after prioritization results are posted. However, the SCRCP does not supercede the process defined in Section 5.0 of the Qwest Wholesale Change Management Process Document.

The information requested on this form is essential for Qwest to evaluate your invocation of the Special Change Request Process (SCRCP). Specific timeframes for evaluating your request are identified in the Special Change Request section of the Qwest Wholesale Change Management Process Document.

Complete the application form in full, using additional pages as necessary, and then submit the form to [cmpesc@qwest.com](mailto:cmpesc@qwest.com). All applicable sections must be completed before Qwest can begin processing your request.

**Requested By Name:** \_\_\_\_\_ **Email Address:** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Primary Technical Contact**

**Name:** \_\_\_\_\_ **Email Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Fax Number:** \_\_\_\_\_

**Primary Billing Contact**

**Name:** \_\_\_\_\_ **Email Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Fax Number:** \_\_\_\_\_

**Date of Request:** \_\_\_\_\_

**Date Received:** \_\_\_\_\_ *(Completed by Qwest CMP Manager)*

1. Provide Qwest Wholesale CMP CR number for which you are requesting the SCRCP:

---

2. Provide reason for invoking the SCRCP.

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3. Provide proposed release to include CR in or proposed implementation date.

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4. Provide any additional information that you feel would assist Qwest in preparing the SCRCP quote.

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5. List contact information for any other companies joining in the SCRCP.

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

6. List additional contacts, such as technical personnel, who may help us during the evaluation of this request.

Contact Name: \_\_\_\_\_ Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

**Please submit this form to Qwest in the following manner:**

Send an e-mail to the Qwest CMP SCRCP mailbox ([cmpesc@qwest.com](mailto:cmpesc@qwest.com)). The subject line of the e-mail message must include:

- "SCRCP FORM"

- CR number and title
- CR originator's company name

The text of the e-mail message must include:

- Description of the CR
- A completed SCRP Form
- A single point of contact for the SCRP request including:
  - Primary requestor's name and company
  - Phone number
  - E-mail address
- Circumstances which have necessitated the invocation of the SCRP
- Desired implementation date
- If more than one company is making the SCRP request, the names and point of contact information for the other requesting companies.



**APPENDIX F: CLEC-QWEST VOTING TALLY FORM**

<b>Name of Call/Meeting:</b>	
<b>Date of Vote:</b>	

<b>Subject:</b>	
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Voting Carrier	Voting Participant (in person, by phone, or by email)	Vote		
		YES	NO	Abstain

<b>Result:</b>	
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**DEFINITION OF TERMS**

Term	Definition
Application-to-Application interface	An electronic interface that supports billing or ordering processes (e.g., Extensible Markup Language (XML) or Electronic Data Interchange (EDI)).
CLEC	A telecommunications provider that has authority to provide local exchange telecommunications service on or after February 8, 1996, unless such provider has been declared an Incumbent Local Exchange Carrier under the Federal Telecommunications Act of 1996.
Design, Development, Notification, Testing, Implementation and Disposition	<p>Design: To plan out in a systematic way. Design at Qwest includes the Business Requirements Document and the Systems Requirements Document. These two documents are created to define the requirements of a Change Request (CR) in greater detail such that programmers can write system software to implement the CR.</p> <p>Development: The process of writing code to create changes to a computer system or sub system software that have been documented in the Business Requirements and Systems Requirements.</p> <p>Notification: The act or an instance of providing information. Various specific notifications are documented throughout this CMP. Notifications apply to both Systems and Product &amp; Process changes</p> <p>Testing: The process of verifying that the capabilities of a new software Release were developed in accordance with the Technical Specifications and performs as expected. Testing would apply to both Qwest internal testing and joint Qwest/CLEC testing.</p> <p>Implementation: The execution of the steps and processes necessary in order to make a new Release of a computer system available in a particular environment. These environments are usually testing environments or production environments.</p> <p>Disposition: A final settlement as to the treatment of a particular Change Request.</p>
Good Faith	"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
History Log	A History Log documents the changes to a specific document. The log will contain the document name and, for each change, the document version number, change effective date, description of change, affected section name and number, reason for change,

Term	Definition
	and any related CR or notification number.
Level of Effort	Estimated range of hours required to implement a Change Request
OSS Interface	Existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services provided by CLECs to their end users.
<p>OSS Interface Application to Application Testing</p> <ul style="list-style-type: none"> <li>• Controlled Production Testing</li> <li>• Initial Implementation Testing</li> <li>• Migration Testing</li> <li>• Regression Testing</li> </ul>	<p>Controlled Production Testing: Controlled Production process is designed to validate CLEC ability to transmit transactions that meet industry standards and comply with Qwest business rules. Controlled Production consists of submitting requests to the Qwest production environment for provisioning as production orders with limited volumes. Qwest and CLEC use Controlled Production results to determine operational readiness for full production turn-up.</p> <p>Initial Implementation Testing: This type of application-to-application testing allows a CLEC to validate its technical development of an OSS Interface before turn-up in production of new transactions or significantly changed capabilities.</p> <p>Migration Testing: Process to test in the Customer Testing Environment a subsequent application-to-application Release from a previous Release. This type of testing allows a CLEC to move from one Release to a subsequent Release of a specific OSS Interface.</p> <p>Regression Testing: Process to test, in the Customer Test Environment, OSS Interfaces, business process or other related interactions. Regression Testing is primarily for use with 'no intent' toward meeting any Qwest entry or exit criteria within an implementation process. Regression Testing includes testing transactions previously tested, or certified.</p>
<p>Release</p> <ul style="list-style-type: none"> <li>• Major Release</li> <li>• Point Release</li> <li>• Patch Release</li> </ul>	<p>A Release is an implementation of changes resulting from a CR or production support issue for a particular OSS Interface There are three types of Releases for IMA.:</p> <ul style="list-style-type: none"> <li>• Major Release may be CLEC impacting (to systems code and CLEC operating procedures) via Application-to-Application interface changes, GUI changes, technical changes, or all. Major Releases are the primary vehicle for implementing systems Change Requests of all types (Regulatory, Industry Guideline, CLEC originated and Qwest originated).</li> <li>• Point Release may not be CLEC code impacting, but may affect CLEC operating procedures. The Point Release is used</li> </ul>

Term	Definition
	<p>to fix bugs introduced in previous Releases, apply technical changes, make changes to the GUI, and/or deliver enhancements to IMA disclosed in a Major Release that could not be delivered in the timeframe of the Major Release.</p> <ul style="list-style-type: none"> <li>• Patch Release is a specially scheduled system change for the purpose of installing the software required to resolve an issue associated with a trouble ticket.</li> </ul>
Release Notification	<p>A notification distributed by Qwest through the Mailout tool to provide the information required by the following sections of this CMP: 7.0 - Introduction of a New OSS Interface, 8.0 - Change to Existing OSS Interfaces and 9.0 - Retirement of Existing OSS Interfaces.</p>
Release Production Date	<p>The Release Production Date is the date that a software Release is first available to the CLECs for issuance of production transactions.</p>
Software Defects	<p>A problem with system software that is not working according to the Technical Specifications and is causing detrimental impacts to the users.</p>
Stand-alone Testing Environment (SATE)	<p>A Stand-Alone Testing Environment is a test environment that can be used by CLECs for Initial Implementation Testing, Migration Testing and Regression Testing. SATE takes CLEC pre-order and order transaction requests, passes the requests to the stand-alone database, and returns responses to the CLEC user. SATE uses pre-defined test account data and requests that are subject to the same BPL IMA/Application-to-Application interface edits as those used in production. The SATE is intended to mirror the production environment (including simulation of all legacy systems). SATE is part of the Customer Test Environment.</p>
Sub-systems	<p>A collection of tightly coupled software modules that is responsible for performing one or more specific functions in an OSS Interface.</p>
Subject Matter Expert (SME)	<p>An individual responsible for products, processes or systems identified or potentially affected by the CLEC or Qwest request. When attending a CMP meeting, a SME will either answer specific questions about the request or take action items to answer promptly specific questions.</p>
Technical Specifications	<p>Detailed documentation that contains all of the information that a CLEC will need in order to build a particular Release of an application-to-application OSS Interface. Technical Specifications include:</p> <ul style="list-style-type: none"> <li>• A chapter for each transaction or product which includes a business (OBF forms to use) description, a business model (electronic transactions needed to complete a business</li> </ul>

Term	Definition
	<p>function), trading partner access information, mapping examples, data dictionary</p> <p>Technical Specification Appendices for IMA include:</p> <ul style="list-style-type: none"> <li>• Developer Worksheets</li> <li>• IMA Additional Edits (edits from backend OSS Interfaces)</li> <li>• Developer Worksheets Change Summary (field by field, Release by Release changes)</li> <li>• Application-to-Application interface Mapping and Code Conversion Changes (Release by Release changes)</li> <li>• Facility Based Directory Listings</li> <li>• Generic Order Flow Business Model</li> </ul> <p>The above list may vary for non-IMA application to application interfaces</p>
Version	A version is the same as an OSS Interface Release (Major or Point Release)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 54**

## **FINAL MEETING MINUTES**

**CLEC – Qwest Change Management Process Redesign**  
**Tuesday, January 22 through Thursday, January 24, 2002 Working Session**  
1801 California Street, 23<sup>rd</sup> Floor, Executive Conference Room, Denver, CO  
Conference Bridge: 877.550.8686, passcode 2213337#

**NOTE:** These are FINAL meeting minutes Qwest developed following the two day working session. Draft minutes were circulated to the CMP Redesign Core Team Members on Dec. 21, 2001. As of January 21, 2002, no comments were received from the meeting attendees.

### **INTRODUCTION**

The Core Team (Team) and other participants met January 22 - 24 to continue with the Redesign effort of the Change Management Process. Following is the write up of the discussions, action items, and decisions in the working session. The attachments to these meeting minutes are as follow:

### **ATTACHMENTS**

- Attachment 1: CMP Re-Design January 22 - 24, 2002 Attendance Record
- Attachment 2: CMP Redesign Meeting January 22 - 24 Notice and Agenda - 01-10-01
- Attachment 3: CMP Redesign Meeting January 23 - 24 Notice and Agenda - Revised 01-22-02
- Attachment 4: CMP Redesign Meeting January 24 Notice and Agenda - Revised 01-23-02
- Attachment 5: Changes That DO NOT Alter CLEC Operating Procedures - 01-15-02
- Attachment 6: Excerpt from SBC CLEC User Forum
- Attachment 7: Change Management Process (CMP) Improvements - 11-26-01
- Attachment 8: Changes That DO NOT Alter CLEC Operating Procedures - Revised 1-22-02
- Attachment 9: Combined CMP Redesign Gap Analysis – 01-17-02
- Attachment 10: Qwest Proposed Process for Qwest Initiated Product and Process Changes - 01-24-02
- Attachment 11: CMP Redesign CMP Redesign Team Issues Action Items Log - 01-24-02
- Attachment 12: Schedule of CMP Re-design Working Sessions - Revised 01-25-02

## Gap Analysis

#	Element/ Topic	Submitter(s)	Gap/Issues/Comments
			<p>documentation relating to Qwest's or CLEC's rights or obligations under this abridges or expands its rights or obligations under this Agreement and that change has not gone through CMP, the Parties will resolve the matter under the Dispute Resolution process. Any amendment to this Agreement that may result from such Dispute Resolution process shall be deemed effective on the Effective Date of the change for rates, and to the extent practicable for other terms and conditions, unless otherwise ordered.</p> <p>The highlighted language above implies that there is no right of recourse for a change that does go through CMP and the result is in a conflict with the agreement. That would not be appropriate. Everything we have heard from Qwest in the redesign is that if a change comes through CMP and is in conflict with a CLEC's interconnection agreement, the interconnection agreement is controlling. This kind of language in the SGAT guts the contract, particularly when CMP essentially allows Qwest to run through any change it wants to.</p> <p>Reference to #15: Qwest has the ability to reject/deny CLEC CRs. CLECs do not have the ability to reject/deny Qwest CRs. We need to discuss and find a way to balance the process. As it stands, Qwest CRs go through to completion over CLEC objections, however, CLEC CRs do not go through over Qwest's objection. CLECs have to use the escalation or dispute resolution process either to advance their CRs (when Qwest rejects/denies) or oppose Qwest CRs (when Qwest ignores CLEC objections). Qwest is never put in this position. This applies to product/process and may apply to systems as well (the group should discuss).</p>
148		AT&T	SGAT Section 12.2.6 remains open.
149		Eschelon	<p>How CMP is addressed in SGAT.</p> <p>Qwest has made some changes to Section 12.2.6 at the request of CLECs, but the parties have not agreed upon the language in the entire paragraph.</p>
150	Interconnecti on Agreements	Eschelon	Qwest needs to establish and document a process to account for individual interconnection agreements ("ICAs") when implementing changes and using the Change Management Process ("CMP"). Qwest needs to ensure that ICAs are not unilaterally modified.



CLEC-Qwest CMP Redesign ATTACHMENT 9  
**Gap Analysis**

#	Element/Topic	Submitter(s)	Gap/Issues/Comments
151			<p>In Colorado, Qwest said:                      First of all, it has been addressed in these workshops by inserting language into the SGAT that indicated that the contract language controls over anything that could come out of the Change Management Process -- a contract is a contract, and I believe that's the same for any other ICA, as well.<sup>3</sup></p> <p>Qwest needs documented processes and checks and balances in place to ensure that Qwest can implement this concept and account for differences in ICAs (including ICAs not based on SGATs). The experience to date shows that Qwest's structure anticipates making global changes and steps need to be developed to account for individual differences before implementation.</p>
		Covad	If a Qwest initiated CR adds or alters terms and conditions to an existing IA, how will implementation be delayed pending resolution. What dispute resolution process controls?
152	Review of CICMP Documentation listed	AT&T	Qwest's Original proposal (June 2001) states "ongoing review of the CICMP occur at each CICMP meeting to enable co-providers the opportunity to express concerns or suggest changes." Other than the references above, this does not appear to be addressed in the Master Redline.
153	Issue/Action Log	AT&T	All of the items on the existing Issues/Action Items Log and the Running Log.
154	Table of Contents-Numbering	AT&T	The table of contents for the Master Redline should be updated to reflect all of the provisions contained in the Master Redline (for example, numbering in the table of contents does not match numbering in the Master Redline, headings in the table of contents don't always track with sequence or title of headings in the Master Redline, separate references in the table of contents to timelines contained in the redline would be useful).
155	Business	AT&T	AT&T believes that business rules are part of CMP? We need to be clear this is the case in the

<sup>3</sup> Transcript of CMP Workshop Number 6, Colorado Public Utilities Commission Docket Number 97I-198T (Aug. 22, 2001), p. 292, lines 8-13 (Andrew Crain of Qwest).

## FINAL MEETING MINUTES

### **CLEC – Qwest Change Management Process Redesign Tuesday, April 2 through April 4, 2002 Working Session 1801 California Street, Room 2, 13<sup>th</sup> floor, Denver, CO Conference Bridge: 877.550.8686, passcode 2213337#**

**NOTE:** These are FINAL meeting minutes Qwest developed following the working session. Draft minutes were circulated to the CMP Redesign Core Team Members on April 23, 2002. As of July 11, 2002, no comments were received from the meeting attendees.

## INTRODUCTION

The Core Team (Team) and other participants met April 2-4 to continue with the Redesign effort of the Change Management Process. Following is the write up of the discussions, action items, and decisions in the working session. The attachments to these meeting minutes are as follow:

## ATTACHMENTS

- Attachment 1: CMP Redesign April 2-4 Attendance Record
- Attachment 2: CMP Redesign Meeting April 2-4 Notice and Agenda – Revised 04-01-02
- Attachment 3: Qwest\_Proposed\_Qwest-Initiated\_Product-Process\_Changes\_Language 04-02-02
- Attachment 4: Master Redlined CLEC-Qwest CMP Redesign Framework - Revised 04-04-02
- Attachment 5: Ranking of ATT Priority List Items Identified as 0's - Revised 04-04-02
- Attachment 6: CMP Redesign Core Team Issues Action Items Log - Revised 04-04-02
- Attachment 7: Qwest Service Center and Manager Roles in Relation to CMP - 04-03-02
- Attachment 8: Qwest Proposed Managing the CMP Language - 04-03-02
- Attachment 9: Interim\_EXCEPTION\_process - Revised 04-03-02
- Attachment 10: Qwest Proposed TERMS Language - 04-04-02
- Attachment 11: Change\_Management\_Process\_Improvements\_11-26-01Rev04-04-02
- Attachment 12: Action Item 227 - ATT Proposed ICA vs CMP Language - 04-04-02
- Attachment 13: Late Adder CR Language - 04-04-02
- Attachment 14: Qwest Proposed OSS Release Calendar Language - Revised 04-04-02
- Attachment 15: Qwest Proposed Production Support - Help Desk Language - Revised 04-04-02

## MEETING MINUTES

The meeting began with introductions of the meeting attendees. (Refer to Attachment 1 for attendance record) Judy Lee, the meeting facilitator, reviewed the three-day agenda (Attachment 2).

### **Qwest-initiated Product/Process Change Request Initiation Process**

#### **Level 0**

Schultz-Qwest began by stating that several members of the core team reviewed Product/Process notifications issued from 2/1-3/15 at a sub-team conference call meeting on March 28th. She then reviewed the sub-team meeting and discussed that Level 0, Level 1 and Level 2 change categories had been discussed in that meeting. She stated that the team touched on Level 3 and Level 4 change categories, and that the team agreed to work on those levels during the first day of Redesign on April 2. She stated that the team developed a Level 0 list, and that Qwest had additional items to add to the category. Schultz stated that the document had been updated to reflect the changes from the sub-team meeting (Attachment 3). Maher-Qwest stated that Level 0 list of categories was developed from a list sent by Clauson-Eschelon. Travis-WorldCom asked what Level typos in numbers would fall into. Schultz-Qwest stated that typos were Level 0, and that Level 0 changes do not include interval changes. Menezes-AT&T

for any change that went into the pipeline after April 1. Clauson-Eschelon stated that she wanted to stop getting Level 0 type changes as soon as possible.

Lee asked if CMP Improvements could be closed in concept. Dixon-WorldCom stated that it couldn't because of the open issue on PID/PAP. Lee stated that action item #231 could be closed, and that the team did not agree in concept. Menezes-AT&T stated that the matrix would be ongoing.

The team then adjourned for lunch and the Local Service Freeze Clarification Call. When the call ended and the team returned from lunch the Special Meeting on Retail Parity started. (See CMP Redesign Special Retail Parity Meeting Minutes April 4 2002- DRAFT 04-11-02)

After the meeting Lee asked if Covad Issue #3 could be closed. Menezes-AT&T asked about the Wholesale Retail Checklist. Schultz-Qwest stated that it had been updated. Lee stated that because Covad was not available, the issue would stay open for more discussion.

#### **V.f SGAT- Gap Analysis #148, 149, 155, Action Item #227**

Lee asked if the reason for review was to insert the language in the Master Redline. Crain-Qwest stated no, the issue raised was about the language in the SGAT referencing CMP. The team wanted to review again after the CMP was more developed. Crain and Menezes crafted language. Lee asked the team if the issue could be closed in concept. Team agreed. Action item #115 closed.

#### **ICA vs. CMP: AT&T e-mail, action item #227**

Lee stated that the ICA information could be inserted into the Scope section (Attachment 12). Lee asked if action item 227 and Gap 148, 150 and 155 could be closed. Team agreed.

Dixon-WorldCom stated that there were no impasse issues in Colorado, and that there may be a PID/PAP issues in other states. Crain-Qwest stated that Qwest would operate under the Colorado ruling for all other states. Dixon-Qwest stated that it needed to be summarized that the team had agreed in concept on all the issues and that there are no impasse issues. He continued that the team had built one of the better CMP processes in the country. Menezes-AT&T stated that he agreed to everything in concept. Dixon-WorldCom stated that the team had completed what he had hoped to accomplish. He continued that the team had walked through the issues and resolved them in concept and that there are no impasse issues. Lee summarized that all "1" items were agreed to in concept. The following "0" items were also agreed to: I.A.10 agreed in concept and pending modifications to language, I.A.4 closed—language baselined, I.A5 closed—language baselined with new action item #272, V.b terms closed—language baselined, V.e closed—language baselined, V.f agreed on concept—pending modifications to language, Covad #1 closed—language baselined, Covad #2 agreed on concept—pending language, Covad #3 open—CLECs to review documentation, and WorldCom—CMP improvements document will be revised on an ongoing basis as needed. Clauson-Eschelon stated that she would review the CMP improvements and provide feedback. Dixon-WorldCom stated that Qwest and the CLECs agreed on PID/PAD.

#### **I.A.9 Late Adder**

Lee moved the team to Late Adder language (Attachment 13). Language was crafted on the screen. Lee asked if the language could be added into the Master Redlined Document. Team agreed. Action item #254 and I.A.9 were closed.

#### **OSS Release Calendar Language**

Menezes-AT&T asked if this was for all Qwest OSS interfaces (Attachment 14). Thompson-Qwest stated that it applied to all interfaces under the scope of CMP. Menezes-AT&T asked if that was using the defined term in the document. Thompson-Qwest stated it was. Lee asked if the definition was also true for retirement of interfaces. Thompson-Qwest stated yes, it was included in the language. Menezes-AT&T asked what would happen if the CLECs wanted to

**Attachment 6: CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

Eschelon/54  
Johnson/  
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**04-04-02**

#	Issue/ Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
							Escalation Process at the 2/21 CMP Systems Meeting for review, discussion and acceptance.
211	Action	Dec 11 Meeting	Production Support	Production support CMP recommendations with a written list of changes from current process. Provide Severity 1 – 4 trouble tickets that are logged in the IT help desk system, and remain unresolved. Examples will be provided reflecting the format of the proposed implementation.	Qwest— Teresa Jacobs	CLOSED Feb 6	Provided in the January Systems CMP distribution package and presented and discussed at the January meeting. CLECs approved an interim test phase.  COMPLETED: Open trouble ticket report were sent respective CLEC.
213	Action	Dec 11 Meeting	CR Initiation/ Type of Change	Need a process to debate whether a change fits as a regulatory or industry guideline change. With the information in 3a, CLECs will be informed to have this debate (ATT Issues List).	Core Team	CLOSED Mar 6	COMPLETED: See CR Process language  GAP ANALYSIS #25
220	Action	Dec 11 Meeting	CMP Redesign Improvements	Review the CMP redesign improvements matrix from Judy Schultz, to insure that it addressed the WorldCom issue # 4.	Wcom— Liz Balvin	CLOSED Jan 22	COMPLETED: 01/22/02: Discussion held with additional input to Judy Schultz to revise matrix with more detailed information.
221	Action	Dec 11 Meeting	PID and PAP Changes Post-271	Send Qwest proposal for PID and PAP changes post 271 approval (9 state filing).	Qwest— Andy Crain	CLOSED Mar 6	DECISION: The ROC process addresses this issue.
223	Action	Dec 11 Meeting	CR Timelines	Develop timelines to illustrate CR process and present Qwest's compliance with these at the CMP Meeting.	Qwest— Judy Schultz	CLOSED Mar 6	Qwest is prepared to discuss and close this Action Item.  COMPLETED Shared with Redesign Team
227	Action	Jan 22	SGAT Language	Clarify SGAT language on CMP in sections 2.3.1 and 12.2.6, in addition,	Qwest—	CLOSED	01/29: Activities in CMP shall not

**Attachment 6: CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

Eschelon/54  
Johnson/  
7

**04-04-02**

#	Issue/ Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
		Meeting		add language that states that CMP will not supersede an ICA.  3/6: Check SGAT section 2.3 for language	Andy Crain	Apr 4	be construed to override or amend the interconnection agreement between Qwest and any CLEC.  3/6/02 Mitch will provide the SGAT language that is in section 2.3  3/26/02: Mitch/ATT provided proposed language to Redesign Team for review.
228	Action	Jan 22 Meeting	Example of Non-FCC Tech Pubs	Provide examples of FCC Tech Pubs vs Non-FCC Tech Pubs.	Qwest— Judy Schultz (Kessler)	CLOSED Feb 5	COMPLETED: Posted on the Redesign website titled “FCC/Non-FCC Tech Pub List – 01-30-02”
232	Action	Jan 23 Meeting	Prioritization— Industry Guidelines	Develop language to address the industry guideline prioritization (above the line and below the line)	Qwest— Judy Schultz/ Teresa Jacobs	CLOSED Mar 6	01/28: This Action Item is addressed in the document which captures Qwest’s understanding of the CLEC prioritization proposal.  COMPLETED: See Prioritization language
233	Action	Jan 24 Meeting	Impasse Issue— Prioritization	Identify the concept of the Prioritization Process. Upon agreement, Qwest to provide draft language of the Prioritization Process to the CLECs for comments	Qwest— Beth Woodcock	CLOSED Mar 5	1/30: Shared with Redesign Core Team 2/6-7: Proposed language reviewed and discussed at Redesign session.  2/8: Impasse issue included in the CO Report on CMP Issue and the AZ Brief on CMP.

4/2/02: Redesign Team agreed on language and to insert into Master Redline under Scope

Following is Section 2.3 from the Qwest SGAT:

2.3 Unless otherwise specifically determined by the Commission, in cases of conflict between the SGAT and Qwest's Tariffs, PCAT, methods and procedures, technical publications, policies, product notifications or other Qwest documentation relating to Qwest's or CLEC's rights or obligations under this SGAT, then the rates, terms and conditions of this SGAT shall prevail. To the extent another document abridges or expands the rights or obligations of either Party under this Agreement, the rates, terms and conditions of this Agreement shall prevail.

As it is not appropriate to insert the foregoing verbatim into the CMP master redline document, AT&T proposes the following language for discussion by the Core Team:

In cases of conflict between the changes implemented through the CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through the CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement.

Deleted: and the abridgement or expansion will not be permitted.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 55**

## FINAL MEETING MINUTES

### **CLEC-Qwest Change Management Process Re-design Tuesday, October 2 and Wednesday, October 3, 2001 Working Session**

200 South 5<sup>th</sup> Street, 1<sup>st</sup> Floor, Multi-purpose Room, Minneapolis, MN  
1801 California Street, 23<sup>rd</sup> Floor, Executive Conference Room, Denver, CO  
Conference Bridge: 1-877-847-0304, pass code 7101617#

NOTE: These FINAL meeting minutes were circulated to the CMP Re-design Core Team Members in attendance for their review and comments. Comments are included as attachments to the minutes.

#### INTRODUCTION

The Core Team (Team) and other participants met October 2 and 3 to continue with the Re-design effort of the Change Management Process. Following is the write-up of the discussions, action items, and decisions made in the working session. The attachments to these meeting minutes are as follows-

#### ATTACHMENTS

- Attachment 1: CMP Redesign Oct 2-3 Attendance Record
- Attachment 2: October 2 & 3 CMP Re-Design Meeting Notice and Agenda - Revised 09-28-01
- Attachment 3: Schedule of CMP Re-design Working Sessions-Revised 10-03-01
- Attachment 4: CMP Re-design Issues and Actions Log - Revised 10-5-01
- Attachment 5: Written Summary Regarding Qwest's Proposed Process for Qwest Changes to Product, Process, and Technical Documentation - 09-25-01
- Attachment 6: Web Release & Notice Schedule 10-02-01
- Attachment 7: INTERIM QWEST PRODUCT-PROCESS CMP - Revised 10-3-01
- Attachment 8: Qwest Documentation Assessment Matrix - 10-03-01
- Attachment 9: Interim\_EXCEPTION\_Process - Revised 10-3-01
- Attachment 10: Interim CMP CLEC Originated CR Work Flow Product Process-Revised 10-3-01
- Attachment 11: CLEC Redesign votes - 10-3-01
- Attachment 12: Master Redlined CLEC-Qwest CMP Re-design Framework - Revised 10-03-01
- Attachment 13: ATT Comments CMP Re-design 10-10-01
- Attachment 14: Oct 2-3 Meeting Minutes Eschelon Comments 10-29-01

#### MEETING MINUTES

The meeting began with introductions of the meeting attendees. Judy Lee reviewed the two day agenda and asked if there were any revisions from the attendees. It was agreed that there were several team members that had not made travel arrangements for the Re-design meeting in Minneapolis on October 30, 31, and Nov 1. Karen Clauson-Eschelon requested that a vote be taken to determine whether the Re-design meeting location be changed from Minneapolis to Denver for Oct 30,31, and Nov 1. A vote was taken and it was a tie vote of 4 to 4 to change the location. Sandy Evans-Sprint asked if there were other options that could be explored for managing the meeting at remote locations since it was difficult to hear what was said on the conference bridge. There was discussion regarding the use of video conferencing, but Judy Schultz-Qwest stated that the Qwest videoconferencing facilities were small and wouldn't be able to accommodate a group the size of the Re-design team. The team agreed to review the meeting



**CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

Revised—October 5, 2001

#	Issue/Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
				pertaining to this information?			
72	Issue	Sep 6 Meeting	CR Process	What is the process if the CLEC-originator does not agree with Qwest's reply or the CR is rejected?	Core Team	CLOSED Oct 3	Addressed on Sep 18, 20 during Escalation Process and the Dispute Resolution Process with further discussion during Oct 2-3 session. COMPLETED Escalation and Dispute Resolution Process
73	Issue	Sep 5 Meeting	Account Management	Clarify roles and responsibility of Service Managers and Sales Managers.  What is the internal notification process (e.g., advanced notice before CLEC) for Service Managers on CLEC notices?	Qwest – Judy Schultz	CLOSED Oct 3 (Address at Oct 17 CMP meeting)	Subsequent to the Sep 5-6 session, Qwest requests to address this item at the Oct 3 meeting to allow the Service Management Director to participate in-person in Minneapolis.  DECISION: Will address at the Oct 17 Product/Process CMP meeting
74	Issue	Sep 5 Meeting	CR Process Dispute	<del>What is the process if the CLEC-originator does not agree with reply or rejected CR</del>	Core Team	Oct 2	Duplicative of #72
75	Action	Sep 18	Redlined	Review the Red-	Bahner,	CLOSED	COMPLETED:

**CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

Revised—October 5, 2001

#	Issue/ Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
		Meeting	Framework	lined working document for successive working sessions	Clauson, Maher, Wicks	Sep 18	Jim Maher restructured the MASTER REDLINED CMP Re-design Framework based on input from Core Team members.
80	Action	Sep 18 Meeting	Escalation	Draft proposed language regarding time frames for Qwest to provide binding position on an escalated issue (e.g., 7 or 14 calendar days). Also include binding authority language.	Qwest – Judy Schultz	CLOSED Oct 3	COMPLETED: CLEC and Qwest agreed to a 7-day interval for escalated CRs and 14 days for other non-CR issues. Language reflected in the Master Redline framework.
81	Issue	Sep 18 Meeting	Escalation	During “14-day” response cycle, will Qwest continue efforts (e.g., CR) or will activity stop?	Qwest – Judy Schultz	CLOSED Oct 3	DECISION: Requestor may ask that activity stop or continue. Language reflected in the Master Redline framework
82	Issue	Sep 18 Meeting	Escalation	How are CLECs notified that an issue has been escalated between monthly CMP meetings?	Core Team	CLOSED Sep 20	DECISION: CLECs will be notified via formal notice to access web site for information.
83	Issue	Sep 18	Dispute	Does an issue have	Core	CLOSED	DECISION:

**CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

Revised—October 5, 2001

#	Issue/Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
		Meeting	Resolution	to go through the escalation process before it is goes through the dispute resolution process?	Team	Oct 3	No
84	Action	Sep 18 Meeting	Dispute Resolution	Propose language around dispute resolution ADR process. Do we want to sight specific organizations??	Andy Crain and CLEC Attorneys	CLOSED Oct 3	COMPLETED: Language reflected in Master Redline framework
85	Issue	Sep 18 Meeting	Dispute Resolution	What is the process for CLEC-CLEC consensus and the Dispute Resolution Process?	Core Team	CLOSED Oct 3	COMPLETED: Language reflected in Master Redline framework
86	Issue	Sep 18 Meeting	Dispute Resolution	<del>When can</del> Why would Qwest invoke the Dispute Resolution Process?	Qwest—Andy Crain	CLOSED Oct 3	Andy can't think of anything – we should leave in anyway. Tom Dixon: Close, but keep in mind that Qwest will probably never use it
87	Action	Sep 18 Meeting	Re-design Impasse Resolution	Propose language around the CMP re-design impasse resolution process/dispute resolution process.	Qwest—Andy Crain	CLOSED Oct 3	COMPLETED: Refer to CMP Redesign Procedures on Voting and Impasse Resolution Process document on the CMP Redesign web site.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 56**

### DS1 CRUNEC Chronology

- 4/30/2003** Qwest sent notice PROS.04.30.03.F.01071.CRUNEC as a Level 3 CMP change with an effective date of 6/16/2003. Qwest made a **one word change** to the CLEC Requested Unbundled Network Elements Construction policy (CRUNEC) PCAT. The change removed the word “conditioning” from the list of incremental facility work examples. ([http://www.qwest.com/wholesale/downloads/2003/030430/PCAT\\_CRUNEC\\_V4\\_1.doc](http://www.qwest.com/wholesale/downloads/2003/030430/PCAT_CRUNEC_V4_1.doc)) (See Exhibit BJJ-10)
- 5/13/2003** Covad submitted comments and expressed “concern with the removal of the word 'conditioning' from the CRUNEC document” ([http://www.qwest.com/wholesale/downloads/2003/030521/CNL3\\_response\\_CRUNEC\\_V4.doc](http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc))
- 5/21/2003** Qwest responded. Qwest said it “respectfully declines this comment.” Qwest said: “Removal of the word ‘conditioning’ from the PCAT language allows the CLEC to use CRUNEC for the build process of products where before they could not. Current products that have conditioning at no charge will not be affected.” ([http://www.qwest.com/wholesale/downloads/2003/030521/CNL3\\_response\\_CRUNEC\\_V4.doc](http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc))
- JUNE 2003** Echelon started to experience a significant increase in the number of no-build delayed orders. (See 7/18/03 AZ comments below.)
- 7/11/2003** Qwest sent CMP Level 3 notification (PROD.07.11.03.F.03468. UNECRUNEC\_V5.0) with an effective date of 8/25/2003. Qwest described a special fee for quote preparation of a “**simple facility rearrangement**” to provide an Unbundled Loop facility. In the PCAT changes, Qwest said: “A simple facility rearrangement consists of a combination of one or more of the following: Redirecting pairs to the requested address that can be used to provide the requested facility. Placement of an additional apparatus case for services needing repeaters will not be included as a simple facility rearrangement; Removing fewer than four load coils; Removing bridged tap as required for requested facility; Placing a repeater card in existing apparatus case; Changing slots for an existing repeater card in an existing apparatus case.” (See [http://www.qwest.com/wholesale/downloads/2003/030711/PCAT\\_CRUNEC\\_V5\\_1.doc](http://www.qwest.com/wholesale/downloads/2003/030711/PCAT_CRUNEC_V5_1.doc))
- 7/3/2003 – 7/18/2003** Eschelon escalated DS1 loop orders held order issue with Qwest. In its response, Qwest said: “Qwest has in the past not fully enforced our contractual right to collect on the charges incurred when completing DS1

level unbundled services. Charging is the specific change that has occurred." (See Exhibit BJJ-11)

- 7/18/2003** Eschelon submitted comments to the Arizona Corporation Commission. Eschelon said in its comments that it received "more than *four times* the number of these held order notices in 25 days than it had received in the previous 170 days." (See Eschelon's Comments Regarding Staff Second Report, ACC Docket No. T-00000A-97-0238 (July 18, 2003), p. 5) (emphasis added)
- 7/25/2003** Qwest responded to Eschelon's 7/18/03 comments stating: "Eschelon raises several issues relating to Qwest's construction charges. Qwest agrees with Eschelon that these issues should be addressed and believes that the Phase III cost docket is the appropriate forum. However, Qwest does not agree that its policy should be suspended in the interim. Contrary to Eschelon's suggestion, Qwest will agree to refund fees pursuant to a true-up, if necessary, based on the resolution of the issue. Therefore, no suspension of Qwest's construction policy is warranted." (See Qwest Corporation's Reply Comment Regarding Staff's Report and Recommendations, Docket No. T-00000A-97-0238 (July 25, 2003), p. 2)
- 7/25/2003** Eschelon's submitted reply comments asking the Arizona Commission to "require Qwest to undo the changes it has made (and suspend those it is making pursuant to the twice revised CRUNEC policy) to its processes -- thereby decreasing the number of jeopardy notices for service inquiry/no build -- until Qwest brings those changes and associated rates to the Commission and obtains approval" (See Eschelon's Reply Comments Regarding Staff Second Report, Docket No. T-00000A-97-0238 (July 25, 2003), p. 14)
- 7/25/2003** Covad submitted reply comments to the Arizona Commission stating: "Qwest deliberately obfuscated its actions and intent in converting conditioning activity into much more costly and time consuming new construction activity. The Commission should not permit Qwest to undermine competitors' ability to compete with verbal sleights of hand and a deliberate masking of the true impact of its conduct." (Docket. No. T-00000A-97-0238 Covad's Reply Comments Regarding Staff Second Report)
- 7/25/2003** Mountain Telecommunications Inc. submitted reply comments to the Arizona Commission stating: "Unless and until Qwest abandons its policy of imposing "construction" and price quotation charges for line conditioning, it cannot be found to have fulfilled the requirement codified at Section 271(c)(2)(B)(iv) – point 4 of the checklist." (Docket. No. T-00000A-97-0238 Mountain Telecommunications Inc.'s Reply Comments Regarding Staff Second Report)

- 7/25/2003** Allegiance submitted comments via the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.  
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 7/25/2003** CBeyond submitted comments the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.  
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 7/25/2003** Eschelon submitted comments the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.  
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 7/26/2003** Covad submitted comments the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.  
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 8/6/2003** Qwest sent CMP notification (PROD.08.06.03.F.03494.DelayedResponse CRUNEC). In its notice, Qwest said it was delaying its response to CLEC comments on CRUNEC V5.0 Qwest sent on 7/11/03 (above). Qwest's notice provided the CLEC comments. Qwest also provided notice of its intent to hold an ad hoc call to discuss the comments on 8/15/2003. (See <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>)
- 8/8/2003** Qwest sent CMP notification (PROD.08.08.03.F.03496.DelayedResponse CRUNECUpdate). Qwest said: "Qwest proposes and is prepared to discuss in the August 15<sup>th</sup> CMP ad hoc meeting its intent to suspend the current processes associated with the build of DS1 Capable Unbundled Loops under the CLEC requested UNE Construction (CRUNEC) process. This suspension would be effective beginning on August 20, 2003. The suspension will allow all parties an opportunity to contribute to clarification of processes for CLEC requests to build DS1 Capable Unbundled Loops when no compatible facilities are available." (See <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E08%2E03%2EF%2E03496%2EDelayedResponseCRUNECUpdate%2Edoc>)
- 8/15/2003** Twelve CLECs (Allegiance, AT&T, Cbeyond, Contact Communications, Covad, Eschelon, MCI, McLeod USA, MTI, Tel-West, Time Warner Telecom, and U S Link) submitted a joint proposal to Qwest CMP for discussion on the ad hoc call. In the proposal, CLECs requested:
- "1. Qwest to promptly revert to its pre-June 2003 work activities, provisioning and assignment processes, and rates/charges for UNEs with respect to this issue.

2. Qwest to withdraw CMP notices PROS.04.30.03.F.01071.CRUNEC\_V4.0, PROS.05.21.03.F.01089.FNL\_CRUNEC, PROD.07.11.03.F.03468.UNECCRUNEC\_V5.0, and PROD.08.06.03.F.03494.DelayedResponseCRUNEC, PROD.08.08.03.F.03494DelayedResponseCRUNEC and any associated changes made or pending pursuant to those notices.
3. Qwest to provide sufficient level of detail in the held/jeopardy notices so that the CLEC knows why Qwest is stating the local facility is not available (such as at least the level of detail provided before January 2003, in the manual reports/spreadsheets, as to the reasons for these notices).
4. Qwest to also re-instate the use of "service inquiry" (as previously used) in the Comments section of the jeopardy notification message (instead of the very recently implemented comment stating "Contact your service manager for options, which include the CRUNEC process").
5. For the period of time from when Qwest implemented these changes (approx. June 15, 2003) until Qwest ceases them and restores its previous practices, Qwest to refund to affected CLECs the difference between the higher special access/private line rates and the DS1 capable loop rate (back to each install date), as well as to convert these lines to DS1 capable loops (with no additional charges), for those customers for which Qwest did provide special access/private lines. This includes orders in process until Qwest has fully implemented its rescission of the changes it made.
6. Qwest to agree that it will not use the CMP process to attempt to make this type of change (e.g., introduce a new rate element, redefine a rate element, change a CLEC's ICA or SGAT term, or unilaterally expand/change a process in a manner that allows Qwest to charge rates for activities not previously subject to a charge (or previously subject to a lower charge). Qwest must either negotiate such terms with CLECs or obtain commission approval before making such changes.
7. Qwest to agree to complete, upon CLEC request, any DS1 capable loop orders that were jeopardized/rejected for reasons (e.g., "conditioning") caused by changes made by Qwest in conjunction with its CRUNEC process (including those made pursuant to its version 4 CRUNEC notice) since June 15, 2003, and waive the NRCs. Although CLECs may have lost some of these customers due to this issue, if the customers are willing to proceed, Qwest should process the orders that it would have processed but for the changes to which CLECs are objecting."

- 8/15/2003** Qwest and CLECs held ad hoc CMP call 12-CLEC Proposal (above).
- 8/20/2003** Qwest sent a non CMP notice (GENL.08.20.03.F.01537.DS1 CapableLoop\_CRUNEC) effective immediately. In its notice, Qwest included "the interim process Qwest will follow until the CLECs and Qwest develop a long term process as discussed in the August 15 conference call." (*See* <http://www.qwest.com/wholesale/cnla/uploads/QwestInterimProcess%2DUNBUNDLED%2DLOCALLOOP%2DDDS1CAPABLELOOPANDCRUNEC8%2D20%2D2003%2DFINAL%2Edoc>)
- 9/16/2003** The Arizona Commission ruled: "Staff agrees with Eschelon with respect to the recently imposed construction charges on CLECs for line conditioning. Staff is extremely concerned that Qwest would implement such a significant change through its CMP process without prior Commission approval. As noted by AT&T, during the Section 271



proceeding, the issue of conditioning charges was a contested issue. Language was painstakingly worked out in the Qwest SGAT dealing with the issue of line conditioning which Qwest's new policy is at odds with. Staff recommends that Qwest be ordered to immediately suspend its policy of assessing construction charges on CLECs for line conditioning and reconditioning and immediately provide refunds to any CLECs relating to these unauthorized charges. Qwest should reinstitute its prior policy on these issues as reflected in its current SGAT. If Qwest desires to implement this change, then it should notify the Commission in Phase III of the Cost Docket, but must obtain Commission approval of such a change prior to its implementation. To the extent Qwest does not agree to these conditions, Staff recommends that Qwest's compliance with Checklist Items 2 and 4 be reopened. We agree with Staff.” (See 271 Docket No. T-00000A-97-0238 (Decision No. 66242), (September 16, 2003), ¶ 109.)

**9/18/2003**

Qwest sent CMP notification (PROS.09.18.03.01198.DS1 CapableLoopProc) as a Level 1 CMP notice, effective immediately. Qwest revised the process to perform “Incremental Facility Work” and “Other Network Functions” without requiring use of CRUNEC. See <http://www.qwest.com/wholesale/downloads/2003/030918/QwestDS1CapableLoopProvisioningProcess-FINALREV5Redline.doc>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 57**



**Announcement Date:** April 30, 2003  
**Proposed Effective Date:** June 16, 2003

**Document Number:** PROS.04.30.03.F.01071.CRUNEC  
**Notification Category:** Process Notification  
**Target Audience:** CLEC, Resellers

**Subject:** CMP - Competitive Local Exchange Carrier (CLEC) Requested Unbundled Network Elements (UNE) Construction (CRUNEC) V4.0

**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** Not Applicable

**Summary of Change:**

On April 30, 2003, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Competitive Local Exchange Carrier (CLEC) Requested Unbundled Network Elements (UNE) Construction (CRUNEC) V4.0. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is modifying/changing the existing manual process by removing conditioning as a limiting factor of the CRUNEC process as it relates to DS1 Capable Loops when facilities are not available.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/crunec.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available April 30, 2003
CLEC Comment Cycle on Documentation Begins	Beginning May 1, 2003
CLEC Comment Cycle Ends	5:00 PM, MT May 15, 2003
Qwest Response to CLEC Comments (if applicable)	Available May 30, 2003 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	June 16, 2003

Note: In cases of conflict between the changes implemented through this notification and any CLEC Interconnection Agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such Interconnection Agreement shall prevail as between Qwest and the CLEC party to such Interconnection Agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.



If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely,

Qwest

Note: In cases of conflict between the changes implemented through this notification and any CLEC Interconnection Agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such Interconnection Agreement shall prevail as between Qwest and the CLEC party to such Interconnection Agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 58**

-----Original Message-----

**From:** Smith, Richard A.  
**Sent:** Thursday, July 03, 2003 11:14 AM  
**To:** 'Taylor, Teresa'  
**Subject:** RE: DS1 Facility Response

Ms. Taylor/Teresa:

Thank you - will distribute to the Eschelon Team.

Will let you know if the charges are not complying with Tariffs/Agreements and if there continues to be compliance issues.

Rick Smith

-----Original Message-----

**From:** Taylor, Teresa [\[SMTP:Teresa.Taylor\[CONTACT INFORMATION REDACTED\]\]](#)  
**Sent:** Thursday, July 03, 2003 10:15 AM  
**To:** 'rasmith[CONTACT INFORMATION REDACTED]'  
**Subject:** DS1 Facility Response

Per our phone conversation;

for DS1 or above facilities we have the obligation to unbundle existing facilities; this would include the electronics and intermediate repeaters as required. If the span line does not exist, you have the option to request and pay for what you need. Qwest has in the past not fully enforced our contractual right to collect on the charges incurred when completing DS1 level unbundled services. Charging is the specific change that has occurred

When facilities are not available, you may contact your service managers for options including the CRUNEC process .

In order to make sure that all Qwest employees are consistent; this guidance is included in a revised MCC released to the service center yesterday July 2. In addition, the Network Engineering organization will be releasing a revised notice to clarify this issue with the appropriate engineering forces.

thanks for bringing this to my attention Rick - I believe moving forward you will hear a consistent message from our employees

have a wonderful 4th of July

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Monday, July 07, 2003 10:38 AM  
**To:** 'Jnovak[CONTACT INFORMATION REDACTED]'; 'jtietz[CONTACT INFORMATION REDACTED]'; 'Scott Martin'; 'Richardson, Anne'; 'Austin, Coleen'  
**Cc:** Korthour, Mary J.; Markert, William D.; Copley, Ellen M.; Johnson, Bonnie J.; Larson, Laurie A.  
**Subject:** RE: DS1 capable loop held orders

It would also be useful if Qwest could provide the text of the MCCs sent to its employees on this issue (mentioned by Teresa Taylor in her note below), so that we know what information has been provided to the people we will be dealing with. (Sorry for the second email. Hit send before I added this.)

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Monday, July 07, 2003 10:32 AM  
**To:** 'Jnovak[CONTACT INFORMATION REDACTED]'; 'jtietz[CONTACT INFORMATION REDACTED]'; 'Scott Martin'; Richardson, Anne; Austin, Coleen  
**Cc:** Korthour, Mary J.; Markert, William D.; Copley, Ellen M.; Johnson, Bonnie J.; Larson, Laurie A.  
**Subject:** FW: DS1 capable loop held orders

Below is a note from Teresa Taylor to Rick Smith regarding the DS1 capable loop issue. We understand that this note confirms the conversation between Rick and Teresa. Teresa indicated that there had been a miscommunication at Qwest, and orders would go back to being processed (including incremental facility work) rather than being placed in held order status (service inquiry). The only change would be a rate change, such that Qwest will begin charging rates -- when approved by a Commission -- in some situations in which it was not previously charging those rates.

We would appreciate it if you could identify for us more specifically (1) which rates Qwest will begin to charge (2) in which states (3) under what circumstances and (4) effective upon what date (per state). If a notice has been sent about this, please direct me to the appropriate notice. Thank you.

In addition, this leaves open the status of the orders for which Qwest sent jeps in the last weeks that should not have received jeps if the Qwest miscommunication had not occurred. We could not afford more delay and have been forced by Qwest's error to place orders for private lines for those orders. (We will need to do this until the problem has been corrected. Teresa told Rick that there could be a short delay while she gets the message out to the appropriate people.) Because these orders should not have been jep'd and placed in held status: (1) the lower DS1 capable loop rate should apply to these lines, (2) Qwest should promptly convert these lines to DS1 capable loops, and (3) there should be no charge for the conversion (which would not be needed, if Qwest had processed the DS1 capable loop orders instead of erroneously jep'ing them). Mary Korthour will provide Qwest with a list of the lines to date for which we had to order private lines when we should have been able to order DS1 capable loops as a result of this issue. Please let us know if Qwest does not agree/wil not adjust the bills and perform the conversion accordingly.

Please let me know who will provide the rate information and when. Thank you.

Karen L. Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 1200  
Minneapolis, MN 55402  
Phone: [CONTACT INFORMATION REDACTED]  
Fax: [CONTACT INFORMATION REDACTED]

-----Original Message-----

**From:** Joan Masztaler [SMTP:[CONTACT INFORMATION REDACTED]]  
**Sent:** Tuesday, July 08, 2003 7:47 PM  
**To:** klclauson[CONTACT INFORMATION REDACTED]  
**Cc:** Teresa.Taylor[CONTACT INFORMATION REDACTED] Jean Novak; Toni Dubuque; Anne Richardson; bjjohnson[CONTACT INFORMATION REDACTED]  
**Subject:** FW: DS1 capable loop held orders

Karen,

I believe that you misunderstood Teresa Taylor's email on the provisioning of DS1-capable loops. Let me provide this information as clarification

1. As Teresa reiterated, Qwest's unbundling obligations extend only to existing DS1 facilities. Therefore, CLECs may have unbundled access to Qwest's DS1-capable loops if Qwest has existing facilities (meaning, a DS1-capable loop already in place that goes from a DSX panel to the field and is currently capable of meeting the service specifications associated with a DS1). Qwest will do incremental facility work (e.g., cross-connects etc.) to provision an existing DS1 facility for a CLEC. (As these are DS1-capable loops, there is no need for conditioning to remove load coils and bridged tap.)
2. When an existing DS1 facility is not available, the CLEC can still pursue the end user, but Qwest will have to construct the facility. The order will go into held status and the CLEC is notified via a jeopardy notice. At this point the CLEC is advised that they can contact their service manager for additional options including CRUNEC. Teresa did not intend for her message to be construed as a change in this process. CRUNEC is not part of the normal provisioning process; and it was not an "error" that Eschelon's DS1-capable loop orders were held. Qwest cannot resume processing the orders. Eschelon may contact the service manager for additional options.
3. When there is no existing DS1-capable loop facility available for unbundling, one of the options for the CLEC is to request and pay for construction charges under CRUNEC. It is the CRUNEC charges that Teresa is referring to when she states a charge will apply.

I hope this has provided clarification to the provisioning of DS1 capable loops. Please discuss this matter with Mr. Smith, and if you still believe that there is confusion over this process, please contact me and I will see if we cannot get it cleared up.

Joan Masztaler  
Qwest  
Director-Customer Service Operations  
[CONTACT INFORMATION REDACTED]



-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Wednesday, July 09, 2003 10:18 AM  
**To:** 'Joan Masztaler'  
**Cc:** Teresa.Taylor[CONTACT INFORMATION REDACTED] Jean Novak; Toni Dubuque; Anne Richardson; 'Judith Schultz'; Johnson, Bonnie J.  
**Subject:** RE: DS1 capable loop held orders

The statement in Teresa's email is very specific. It states: "Qwest has in the past not fully enforced our contractual right to collect on the charges incurred when completing DS1 level unbundled services. Charging is the specific change that has occurred." Teresa very clearly states that (1) a change has occurred; and (2) the change specifically is to start "charging" rates that were not previously charged because Qwest states that it has "not fully enforced our contractual right to collect on the charges." Eschelon's questions relate to these charges, and Qwest needs to answer them so that we can plan for these charges. Teresa Taylor recognized in her conversation with Rick that Eschelon may even object to these charges. We can't review whether to object, however, unless we know what they are and when they apply. Therefore, we asked:

We would appreciate it if you could identify for us more specifically (1) which rates Qwest will begin to charge (2) in which states (3) under what circumstances and (4) effective upon what date (per state). If a notice has been sent about this, please direct me to the appropriate notice.

These questions relate directly to Teresa's statement that "Charging is the specific change that has occurred." Qwest has made a change, so Qwest must know what the change is. We simply want you to share that information with us, as we are affected by the change.

The rest of our questions are equally on point. Teresa recognized that jeps were being sent when they should not be (because the change that "has occurred" relates to charges and not whether an order will be processed). Qwest jep'd orders that should not have been jep'd, and Qwest needs to remedy this situation. So, Qwest needs to address these questions from my previous email:

this leaves open the status of the orders for which Qwest sent jeps in the last weeks that should not have received jeps if the Qwest miscommunication had not occurred. We could not afford more delay and have been forced by Qwest's error to place orders for private lines for those orders. (We will need to do this until the problem has been corrected. Teresa told Rick that there could be a short delay while she gets the message out to the appropriate people.) Because these orders should not have been jep'd and placed in held status: (1) the lower DS1 capable loop rate should apply to these lines, (2) Qwest should promptly convert these lines to DS1 capable loops, and (3) there should be no charge for the conversion (which would not be needed, if Qwest had processed the DS1 capable loop orders instead of erroneously jep'ing them). Mary Korthour will provide Qwest with a list of the lines to date for which we had to order private lines when we should have been able to order DS1 capable loops as a result of this issue. Please let us know if Qwest does not agree/wil not adjust the bills and perform the conversion accordingly. [Mary has since provided that information.]

We would like a prompt response to these questions, which stem directly from the information that Teresa Taylor provided to Eschelon. Your restatement of the issue does not change the information provided to us directly by Teresa Taylor. Her information raised follow up questions, and we would appreciate responses.

-----Original Message-----

**From:** Joan Masztaler [SMTP:[CONTACT INFORMATION REDACTED]]  
**Sent:** Thursday, July 10, 2003 12:14 PM  
**To:** klclauson[CONTACT INFORMATION REDACTED]  
**Cc:** Teresa.Taylor[CONTACT INFORMATION REDACTED] Jean Novak; Toni Dubuque; Anne Richardson; 'Judith Schultz'; Johnson, Bonnie J.  
**Subject:** RE: DS1 capable loop held orders

Karen,

Jeopardy notices are not being sent out by mistake. If a DS1 facility is not available Qwest will issue a jeopardy notice to the CLEC. I believe I answered this question in my previous email. When the CLEC receives the jeopardy notice they have several choices: they may contact the service manager to discuss the CRUNEC process, elect to provision a private line DS1, cancel the order, leave the order in held status for 30 days, elect at a future time to resubmit the order to determine if facilities are available. The cost will depend upon the choice the CLEC makes. If a private line DS1 is requested the appropriate tariff rate would apply. If the CLEC is interested in the CRUNEC process, they must have language in their ICA that is in the SGAT under 9.19 and the associated rates that are in Exhibit A by state. The change that Teresa is referring to is a recent change in the CRUNEC process that removed the word "conditioning" to eliminate confusion on unbundled DS1-capable loops. In addition Teresa indicated that our internal processes have been reviewed and reinforced to meet compliance with our existing PCAT and SGAT provisioning of DS1 capable loops.

Joan Masztaler  
Qwest  
Director-Customer Service  
[CONTACT INFORMATION REDACTED]

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Thursday, July 10, 2003 1:10 PM  
**To:** 'Joan Masztaler'  
**Cc:** Teresa.Taylor[CONTACT INFORMATION REDACTED]; Jean Novak; Toni Dubuque; Anne Richardson; 'Judith Schultz'; Johnson, Bonnie J.  
**Subject:** RE: DS1 capable loop held orders

Teresa:

This is different from Eschelon's understanding of your conversations with Rick Smith, particularly with respect to (1) whether order processing over the last few weeks was affected by the miscommunication at Qwest and (2) the change at Qwest that will result in charges when Qwest did not previously charge. Rick recalls you saying that we may disagree on the charges, but at least we will get the orders flowing while we debate that issue. Do you recall something like that? Can you explain how it fits with what Joan says below?

Is there anything that you could add to what Joan has said to help clear up what appears to be quite different information? We would like you to have an opportunity to address this personally if you would like, as we decide on next steps.

Karen L. Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 1200  
Minneapolis, MN 55402  
Phone:[CONTACT INFORMATION REDACTED]

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Thursday, July 10, 2003 1:43 PM  
**To:** 'adubuqu[CONTACT INFORMATION REDACTED]'  
**Subject:** FW: SERVICE INQUIRIES - facilities for DS1 capable loops

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Tuesday, July 01, 2003 11:57 AM  
**To:** 'jlnovak[CONTACT INFORMATION REDACTED]'  
**Cc:** Larson, Laurie A.; Miller, Todd R.; Johnson, Bonnie J.  
**Subject:** RE: SERVICE INQUIRIES - facilities for DS1 capable loops

To be sure the issue you are reviewing and responding to is clear, I'll point out that "line conditioning" itself is only part of the issue. We are talking about the various ways (only one of which is called "line conditioning") that Qwest may provide facilities. In paragraph 164 of the FCC's 9-state Qwest 271 Order (12/20/02), the FCC said: "The record shows that Qwest attempts to locate compatible facilities for competing LECs" and "performs incremental facility work to make UNEs available." In footnote 617, the FCC quotes section 9.1.2.1.2 of Qwest's SGAT, which states:

9.1.2.1.2 If cable capacity is available, Qwest will complete incremental facility work (i.e., conditioning, place a drop, add a network interface device, card existing subscriber Loop carrier systems at the Central Office and Remote Terminal, add Central Office tie pairs, add field cross jumpers) in order to complete facilities to the Customer premises

Qwest has represented to the FCC that it is Qwest's existing policy and practice to make attempts to locate compatible facilities and to perform incremental facility work to make UNEs available. DS1 capable loops are UNEs. We are asking Qwest to ensure that it is enforcing this policy and practice and completing the necessary incremental facility work to provide facilities.

The fact that the number of jeopardy notices for service inquiry/held orders has jumped suggests that Qwest is not doing so or has made some other change leading to this increase.

--Please explain the basis for the increase in these notices.

--Please let us know what Qwest is doing to remedy this situation and decrease the number of such notices.

--Please treat this as a high priority request. If you need to escalate or involve your attorneys, please do so. We need relief from the jep notice problem ASAP.

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Thursday, July 10, 2003 4:44 PM  
**To:** 'adubuqu[CONTACT INFORMATION REDACTED]  
**Subject:** FW: construction charges/DS1 capable loops

I am back at my desk and found this SGAT provision (that I mentioned on the phone). You have probably found this one too by now, but here it is just in case. Appreciate your looking into these issues and look forward to hearing from you.

#### **9.19 Construction Charges** (emphasis added)

Qwest will assess whether to build for CLEC in the same manner that it assesses whether to build for itself. Qwest will conduct an individual financial assessment of any request that requires construction of network capacity, facilities, or space for access to or use of UNEs. When Qwest constructs to fulfill CLEC's request for UNEs, Qwest will bid this construction on a case-by-case basis. Qwest will charge for the construction through nonrecurring charges and a term agreement for the remaining recurring charge, as described in the Construction Charges Section. **When CLEC orders the same or substantially similar service available to Qwest End User Customers, nothing in this Section shall be interpreted to authorize Qwest to charge CLEC for special construction where such charges are not provided for in a Tariff or where such charges would not be applied to a Qwest End User Customer.** If Qwest agrees to construct a network element that satisfies the description of a UNE contained in this agreement, that network element shall be deemed a UNE.

-----Original Message-----

**From:** Dubuque, Toni [SMTP:Toni.Dubuque[CONTACT INFORMATION REDACTED]]  
**Sent:** Friday, July 11, 2003 12:29 PM  
**To:** 'klclauson[CONTACT INFORMATION REDACTED]'  
**Cc:** Masztaler, Joan; Taylor, Teresa  
**Subject:** DS1 Capable loop discussion

Karen,

Here is some additional information to help clarify our discussion yesterday on DS1 capable loops.....

First of all, you asked what are the steps taken in the field when an order is received for a DS1 capable loop...the assignment process or 11 step process (as referenced by you in our call) is used for these loops. You can reference this documented process by looking in the PCAT under <<http://www.qwest.com/wholesale/clecs/provisioning.html>> . There is a word doc for copper facilities listing out the entire 11 step process. I know you are familiar with that process and it does apply to this product. So, that really spells out the steps we take when an order comes through. If we determine there are no facilities after going through these steps, then the last sentence in the SGAT 9.1.2.1 applies and we would offer CRUNEC process as one alternative.

*9.1.2.1 If facilities are not available, Qwest will build facilities dedicated to an End User Customer if Qwest would be legally obligated to build such facilities to meet its Provider of Last Resort (POLR) obligation to provide basic Local Exchange Service or its Eligible Telecommunications Carrier (ETC) obligation to provide primary basic Local Exchange Service. CLEC will be responsible for any construction charges for which an End User Customer would be responsible. In other situations, Qwest does not agree that it is obligated to build UNEs, but it will consider requests to build UNEs pursuant to Section 9.19 of this Agreement.*

#### *9.19 Construction Charges*

*Qwest will assess whether to build for CLEC in the same manner that it assesses whether to build for itself. Qwest will conduct an individual financial assessment of any request that requires construction of network capacity, facilities, or space for access to or use of UNEs. When Qwest constructs to fulfill CLEC's request for UNEs, Qwest will bid this construction on a case-by-case basis. Qwest will charge for the construction through nonrecurring charges and a term agreement for the remaining recurring charge, as described in the Construction Charges Section. When CLEC orders the same or substantially similar service available to Qwest End User Customers, nothing in this Section shall be interpreted to authorize Qwest to charge CLEC for special construction where such charges are not provided for in a Tariff or where such charges would not be applied to a Qwest End User Customer. If Qwest agrees to construct a network element that satisfies the description of a UNE contained in this agreement, that network element shall be deemed a UNE.*

If you go to Appendix A in the SGAT under CRUNEC, you will see that in CO the quote charge is ICB as it is in many states. A quote of actual charges will then be provided including all of the time and materials that the job will require. Charging of course will depend on the magnitude of the job involved. I know that you wanted a definitive cost but since each situation is so different that is not possible and it is the reason why Qwest has set it up as a quote process.

The other question that came up in our discussion is one on incremental facilities as stated below in 9.1.2.1.2. If the facility (DS1 capable loop) is available, we would do the incremental facility work per the SGAT at no additional cost.

9.1.2.1.2 *If cable capacity is available, Qwest will complete incremental facility work (i.e., conditioning, place a drop, add a network interface device, card existing subscriber Loop carrier systems at the Central Office and Remote Terminal, add Central Office tie pairs, add field cross jumpers) in order to complete facilities to the Customer premises.*

I believe this information is consistent with what Joan has already given you and I did add the reference to the 11 step process which is applicable for DS1 capable loops. I hope that this helps give you a better picture. I told Teresa that we were working on this and she has been in the loop on all our correspondence so far. She believes this is consistent with what she discussed with Rick. Let me know if you need anything else. I am on vacation this afternoon so let's talk Monday if necessary.

**Toni Dubuque**

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Friday, July 11, 2003 2:58 PM  
**To:** 'Dubuque, Toni'  
**Cc:** Masztaler, Joan; Taylor, Teresa  
**Subject:** RE: DS1 Capable loop discussion

Thank you for the information, Toni. I appreciate your assistance. Your statement on incremental facility work is more clear, and we appreciate the clarification.

I still need to review with others internally, but a couple of things that I would like to discuss with you on Monday:

The first piece that does not seem to be addressed yet are Joan's statements that "it was not an error that Eschelon's DS-1 capable loop orders were held" and that "jeopardy notices are not being sent out by mistake." We do believe that the spike in jeps did reflect an error that led to erroneous jeps, and we have confirmed again with Rick that he had understood Teresa to say that she agreed and needed a short time to get that problem fixed. We still want Qwest to re-look at those jep orders and see whether, if cost was the only issue and the process followed, the orders would have been jep'd. (You mentioned on the call that perhaps we had not authorized charges. As Jean and Bonnie have been discussing for a long time, the Qwest system does not allow the CLEC to authorize charges in this situation. Also, Teresa referred to a change in "charging." We couldn't address new charges before we even knew that such a change had occurred.

The other piece that still seems outstanding is what was the "change" referred to in Teresa's email. Teresa said: "Qwest has in the past not fully enforced our contractual right to collect on the charges incurred when completing DS1 level unbundled services. Charging is the specific change that has occurred"

I appreciate your reference to ICB language, so I know that it what Qwest views as the rate. Equally important, however, is when Qwest will apply that rate/ICB process (and how that has changed). What steps is Qwest charging for now that Qwest did not charge for when "not fully" enforcing its rights? If I missed this in your email, I apologize. It seems to be a statement of the Qwest SGAT/policy but not a discussion of the change. To start looking for these charges resulting from a "fully enforced" policy so we can analyze whether we agree with them, we need to understand what they are and how we will recognize them. (If the answer is that we need to "authorize" them as a result of increased jeps, see note above regarding authorization.) We just really need to understand what the change was. We have asked for a copy of the text of the MCCs sent out at Qwest and still hope to receive that information. Perhaps it will help in this regard.

We'll review it internally, and then we can talk on Monday.

Thanks,  
Karen

Karen L. Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 1200  
Minneapolis, MN 55402  
Phone: [CONTACT INFORMATION REDACTED]  
Fax: [CONTACT INFORMATION REDACTED]



-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Monday, July 14, 2003 11:42 AM  
**To:** 'Dubuque, Toni'  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: DS1 Capable loop discussion (with enclosure)

I suppose it would help if I include the enclosure. . . Here it is.



FW: Product  
pdate: UNE: GN: C.

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Monday, July 14, 2003 11:41 AM  
**To:** 'Dubuque, Toni'  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: DS1 Capable loop discussion

Toni, we would like to know how the enclosed document relates to the discussions below, if at all. In particular, how is "rearrangement of facilities" defined, and how is this different from "incremental facility work"? We don't see the difference. Also, where in the tariff does Qwest change Retail end users for these costs? (If you need to forward this email to someone else at Qwest for a response, please do so, and let me know whom I should be dealing with. We just need to be able to fit it into the discussions we have had so far, so we know if/how it relates.)

I didn't realize that I have a seminar out of the office today, so I won't be able to call you today. If you can either email me with info on these questions (and those below), or call me when you want to discuss this week, that would be great. Thanks.

-----Original Message-----

**From:** Dubuque, Toni [SMTP:[CONTACT INFORMATION REDACTED]]  
**Sent:** Wednesday, July 16, 2003 10:45 AM  
**To:** 'klclauson[CONTACT INFORMATION REDACTED]]  
**Subject:** DS1

Karen,

I am doing an Operations review in Duluth today so here is what I have to share. We can set up time on Friday to visit but hopefully, this is about all I have on this subject.

I'm not sure what additional clarification I can provide on the jeopardy notice process. When a facility is not available Qwest will issue a jeopardy notice to inform the CLEC of the status. It is that process that Joan was explaining in her emails.

In terms of the discussion between Rick and Teresa, I was not at that meeting but believe the emails you have received from Joan and I fully explain what has taken place; the modification of the CRUNEC, and the associated costs for CRUNEC. The charges that apply to a DS1 when facilities are not available are the charges under CRUNEC if a CLEC elects this option.

Rearrangement of facilities is typically a section throw, cable throw, or a pair change. It is not incremental work and therefore is defined differently. Incremental work applies when a DS1 capable loop exists and there is no redirection of the network.

Qwest's Wholesale policies are in parity with our Retail business. The tariffs are public information and are available to you. In looking at your delayed orders, I do not see any significant change. From January to June your delayed orders for DS1 capable loops including EEL range from the mid 70's to mid 80's with a low of 59 in May. June appears to fit in the range of other months. In looking at the specific LSRs you provided each of these were delayed due to no existing DS1 capable facility.

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Wednesday, July 16, 2003 6:45 PM  
**To:** 'Dubuque, Toni'  
**Cc:** Johnson, Bonnie J.; Masztaler, Joan  
**Subject:** DS1

Toni:

You may get this message twice. I hit send before quite finishing it and recalled it to complete it. Here is the complete note (with the last couple of sentences added).

I am free on Friday if you would like to discuss. I have a meeting at 10am but otherwise look pretty free. Let me know what works for you, if you think a discussion would be helpful.

We do not believe that our questions have been answered. You and Joan have summarized current policy, but you have not addressed our questions about the "the specific change that has occurred" (past tense) described by Teresa. Teresa's email was sent on July 3rd and referred to a change that had already occurred. Eschelon (as well as CBeyond and others) felt the impact of that change with the increase in jep notices. We brought the issue to Qwest, because it was clear something had changed. The CRUNEC change that you are referring to wasn't even noticed until after COB this Friday (7/11), and the comment period hasn't even expired yet. Are you saying that Qwest had already implemented that change?

Regarding the CRUNEC process proposed in the 7/11 notice, the notice provides insufficient detail for us to understand why orders are jep'd and for which activities Qwest will charge. We asked for a definition of "facilities reassignment" and you provided a few examples. Is there documentation of the facilities reassignment activities for which you plan to charge? If not, will you provide a list of activities (like the level of detail in the description of activities in the 11-step process, only this would be the activities that you consider to be facilities reassignment steps for which Qwest plans to charge).

We do not agree with your statement that Qwest can charge for a pair change, for example, because this is somehow a "build." Qwest does not charge its retail customers when it changes pairs to free facilities; so it cannot charge us. See, e.g., AZ ICA, Att. 1, paragraph 3.1. When we asked you to show us that you do charge retail customers, you responded that we should read the tariff. We don't find any evidence in the tariff that you charge retail customers these charges.

We still want Qwest to take another look at the list of orders we provided to you. For each, please state the facilities problem that lead to the jep notice, such as whether in that particular case it was a pair change, etc., that was needed. (Some notices say but others do not.) Please state what steps would have been taken by Qwest in the past with respect to facilities (in the situations that you said in our conversation that Qwest's employees were acting out of process) and whether those steps, if taken now, would have resulted in the processing of the orders (and whether they would result in a charge). This exercise would be helpful in understanding the change Qwest has made.

We have also asked Qwest to provide the text of the MCCs sent to its employees on this issue. If you have responded to that request, I missed it.

You state that you have looked at our "delayed orders." Qwest sends jep notices on a very wide variety of issues. As you know, we are talking here specifically about the service inquiry notices. Within this category, the number jumped.

We have comments due in AZ 271 on Friday, and we'll raise this issue there. The PUC may deal with it in that case or the next phase of the cost case. We will have to get the information in discovery if Qwest does not want to provide it informally. We hope that there is more we can do informally, however. Let me know if you believe there is and would like to discuss.

-----Original Message-----

**From:** Dubuque, Toni [SMTP:[CONTACT INFORMATION REDACTED]]  
**Sent:** Friday, July 18, 2003 10:47 AM  
**To:** 'klclauson[CONTACT INFORMATION REDACTED]  
**Cc:** Masztaler, Joan  
**Subject:** Reply

Karen,

I am sorry to reply to this so late but I just converted to Outlook and lost some email messages. Yours was one of those. I am not sure that a meeting will be of any benefit to us as I believe we have answered to the best of our ability all of the questions that you have asked. Let me clarify a couple of points that you addressed in your last email.

The CRUNEC change that I referenced is the one that went into eff on 6-16-03.

### **PROS.04.30.03.F.01071.CRUNEC**

Local Exchange Carrier (CLEC) Requested Unbundled Network Elements (UNE) Construction (CRUNEC) provides a method where you may request Qwest to construct new facilities for utilizing Qwest's Unbundled Network Element (UNE) facilities. CRUNEC is not required for requests that can be resolved through facility work or assignments, such as:

- **Line and Station Transfers (LSTs):** Moving a end-user's line to a spare facility and reusing the pair made spare to provision a service request. An LST is not used in a "reverse cut" fashion; Qwest does not swap two working end-user lines to provision a service request.
- **Cable Throws (also known as Section Throws or Plant Rearrangements):** Moving existing end-users from their existing facilities to another set of facilities in order to free up the original facility for use in the provision of a Company Initiated Activity (CIA) (e.g., to place Digital Loop Carriers or modernize a terminal).
- **Incremental Facility Work:** Completing facilities to an end-user's premises (e.g., ~~Conditioning,~~ ~~place~~ Place a drop, add a Network Interface Device (NID), Central Office (CO) tie pairs, field cross connect jumpers, or card in existing Subscriber Loop Carrier systems at the CO and Remote Terminal).
- **Outside Plant construction jobs in progress or Engineering Work Orders in progress.**

There is another change in progress and that is different than this one.

As you know, our policy is not to share internal documentation with customers. The MCC would have included the information denoted above.

We believe the current list of orders that are in held status are the ones that would need further action by Eschelon to process. Again, it would be up to you to determine which option you would want to select, ie, cancel, order Private Line, use CRUNEC process.

I believe we have made every communication attempt to clarify this subject and have dealt with this informally.

**Toni Dubuque**  
**[CONTACT INFORMATION REDACTED]**

-----Original Message-----

**From:** Clauson, Karen L.  
**Sent:** Friday, July 18, 2003 10:55 AM  
**To:** 'Dubuque, Toni'  
**Cc:** Masztaler, Joan  
**Subject:** RE: Reply

Thanks for the message. As you know, we disagree. Appreciate the response.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 59**

**Secret TRRO PCAT**

Event Summary (see Chronology below for additional information):

- 3/17/03 Minnesota Statement of Generally Available Terms (SGAT) text last updated
- 3/2/04 USTA II decision
- 10/27/04 In CMP, Qwest submitted Change Request PC102704-1ES CR that cited the TRO and USTA II Decision in the title
- 11/8/04 In CMP, Covad escalated and said "it is absolutely inappropriate for Qwest to implement its interpretation of its legal rights and obligations through change management rather than in the appropriate legal venue."
- 11/16/04 In CMP, Qwest responded that "the CR is not superseding the language in the CLEC ICA."
- 11/17/04 In CMP, CLECs said TRRO issues should be negotiated and arbitrated.
- 1/10/05 In CMP (oversight), Qwest confirmed that SGATs do not reflect the products Qwest offers; Covad said that Qwest's process is backwards because Qwest should work with negotiations teams before CMP as ICAs control; Eschelon said product availability is based on the ICA; five CLECs, including Eschelon, recommended the CR (*i.e.*, any change based on the TRRO) be deferred "***until permanent rules are issued***" (emphasis added). Qwest decided to move forward with the CR instead of defer it.
- 2/16/05 In CMP, Qwest said that, once it determined what the final rulings are, Qwest "would notify via this same CR."
- 3/11/05 USTA II ***permanent rules are issued/effective.***
- 6/23/05 In ICA negotiations, Eschelon proposed TRRO terms
- 6/30/05 In CMP, Qwest said it would negotiate ICAs with CLECs and that "no TRO/TRRO changes to products and processes will be made across the board until such language is final." Qwest added that PCATs and business procedures will be "in alignment" with ICA language. Covad summarized that "PCATs won't be updated until the final language is approved." Qwest said that "there are more changes coming and ***the CR is the means to share those changes***" and that "***PCAT changes will be brought through CMP***" (emphasis added).
- 9/12/05 **QWEST ISSUES PASSWORD PROTECTED (SECRET) TRRO PCAT, without CR and without bringing the PCAT changes through CMP; updates PCAT "effective" three weeks from notice date.**

## Chronology

**3/17/03** – Date Minnesota Statement of Generally Available Terms (SGAT) text (not including exhibits to the SGAT) last updated  
<http://www.qwest.com/wholesale/downloads/2003/030328/MN-SGAT-3-17-03.doc>

**3/2/04** – USTA II decision

**9/13/04** – USTA II Interim rules effective

**10/27/04** – Qwest submitted CR SCR102704-1RG<sup>1</sup> entitled "FCC Triennial Review Order CC 01-338 (TRO), U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance: Certain Unbundled Network Elements (UNE) Product Discontinuance." Although Qwest submitted it as a systems regulatory CR, the Qwest description of change states: "This CR will be implemented as a product/process CR as there are no CLEC facing system changes." Under Product Availability, Qwest said: "This CR details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the FCC Report, Order on Remand, and Further Notice of Proposed Rulemaking, referred to as the "Triennial Review Order" (TRO) CC Docket 01-338, the subsequent U.S. Court of Appeals for the DC Circuit decision 00-1012 ('USTA II') which vacated some of the FCC's unbundling rules, and the FCC's Interim Rules, which preserved some of the unbundling rules vacated in USTA II. In accordance with these orders and findings, the following UNE products are no longer available to CLECs unless the most current, effective version of CLEC's Interconnection Agreement (ICA) or Amendment includes terms, conditions, and pricing for the products before 6/15/04: [list of products]." Under Product Transition, Qwest said: "Not Applicable." Under PCAT Updates, Qwest said: "All impacted UNE PCATs will be updated in the future to reflect this change in availability. These changes will be announced via the CMP notification process." Under Expected Deliverables/Proposed Implementation Date, Qwest said: "Retroactive to 6/15/04 pursuant to FCC Interim Rules, subject to CMP Guidelines."

(See [http://www.qwest.com/wholesale/cmp/archive/CR\\_SCR102704-1RG.htm](http://www.qwest.com/wholesale/cmp/archive/CR_SCR102704-1RG.htm))

**10/27/04** – Qwest submitted CR PC102704-1ES<sup>2</sup> with the same title, to replace CR SCR102704-1RG. The body of the CR and description of change remained the same. However, this CR was now a product and process CR, instead of a systems CR.<sup>3</sup> (See [http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm))

**11/4/04** – Qwest CR Status History indicates it revised its CR to remove the regulatory classification. (See [http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm))

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<sup>1</sup> The change request designation of "RG" in the CR number indicates it is submitted as a "Regulatory CR." See CMP Document § 5.9. (The CMP Document is posted on Qwest's web site at [http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument\\_0130\\_06\\_1\\_.doc](http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument_0130_06_1_.doc)).

<sup>2</sup> The designation of ES in the CR number is defined as "Escalation process invoked on a CR." See CMP Document § 5.9.

<sup>3</sup> A CR number that begins with "SCR" is submitted as a systems CR, and a CR number that begins with "PC" is a product and process CR. See CMP Document § 5.9.



11/8/04 – Covad submitted escalation PC102704-1E32 asking Qwest to withdraw its CR. In its escalation, Covad's attachment included the following (emphasis changed):

***"There are a number of pending legal proceedings at the state and federal regulatory level that are addressing the legal issues surrounding access (whether under Section 251, Section 271 or state law) to most, if not all, of the elements listed on Qwest's change request. At best, therefore, it is premature for Qwest to eliminate access rights unless and until there is a final, non-appealable order out of a regulatory or judicial body that clearly specifies the rights and obligations of Qwest and CLECs. At worst, it is absolutely inappropriate for Qwest to implement its interpretation of its legal rights and obligations through change management rather than in the appropriate legal venue.***

Qwest's interpretation (which benefits itself at the expense of CLECs and consumers) is not a substitute for, or anywhere near the same as, a final, binding order of a federal or judicial body. ***Qwest's attempt to implement its interpretation is nothing more than a shameless backdoor attempt to evade its legal obligations***, particularly when the purpose of change management is to provide the "means to address changes that support or affect pre-ordering, ordering/provisioning, maintenance/repair and billing capabilities and associated documentation and production support issues for local services (local exchange services) provided by Competitive Local Exchange Carriers (CLECs) to their end users" and not to debate legal issues.

***Further, it is clear within the CMP document itself that any and all legal issues surrounding access, as expressed in interconnection agreements, should be addressed within those agreements and not within CMP.***

Despite recognizing that many, if not all, of the elements may continue to be available to CLECs under their current interconnection agreements, Qwest seeks to wholly eliminate access via CMP. In effect, therefore, while paying lip service to access requirements that are clearly in place, Qwest nonetheless is trying to deprive all CLECs of access to all of the listed elements (regardless of whether such elements are in their current IAs). At the very least, Qwest's desire to implement systems changes presumably designed to eliminate all together the ability to order the elements listed will ensure the ordering and provisioning of elements available to a CLEC under its current IA are fraught with problems and delay, which is anti-competitive and inappropriate. ***Qwest's action of eliminating all access while admitting that at least some CLECs continue to have access is tantamount to swatting a fly with a sledgehammer.***

The CMP clearly specifies that "regulatory changes" are changes that are affirmatively required by the applicable regulatory or judicial body. ***Contrary to Qwest's assumptions, there is nothing in the TRO, USTA II or the Interim Rules that requires the elimination of access to all of the elements Qwest has listed in its CR.*** To the contrary, for example, the Interim Rules actually requires access to at least three of the elements on Qwest's list of elements for which it wants to eliminate access. Absent such an affirmative requirement that access not be provided, Qwest has failed to demonstrate that its desired changes are actually mandated changes as defined and understood in the governing CMP document.

Qwest has failed to comply with the procedural requirements surrounding submission of a regulatory CR. The governing CMP document requires specific page and paragraph references. Qwest's CR lacks this specification and thus is faulty and must be withdrawn per the agreed-upon CMP requirements for regulatory CRs and CRs generally.

(See

[http://www.qwest.com/wholesale/downloads/2004/041109/PC102704\\_1\\_E32\\_Covad\\_Escalation.doc](http://www.qwest.com/wholesale/downloads/2004/041109/PC102704_1_E32_Covad_Escalation.doc))

**Nov. 2004** – Eschelon joined Covad's escalation. At that time, Qwest's web site documentation did not indicate which CLECs joined an escalation.

**11/16/04** – Qwest provided its binding response to Covad. Qwest's response includes the following (emphasis added):

“In response to Covad's objections which are provided in detail in Escalation #32, Qwest emphasizes that the CR is not superceding the language in the CLEC ICA. If the language in the current ICA allows the CLEC to order the products, the CLEC will be permitted to continue to order at this time. This change request is instead advising CLECs who don't have this language in their ICA or who don't currently have an ICA that they cannot seek an amendment or ICA with language for these products on a prospective basis. Further, there are no related system changes to impact a CLEC ordering what is available to them in their ICA. ***As this is a change to limit the availability of certain products only, Qwest believes this is a Level 4 change and belongs in CMP.***” (See [http://www.qwest.com/wholesale/downloads/2004/041116/Qwest\\_Response\\_Escalation\\_PC102704\\_1E32\\_11\\_16\\_04.pdf](http://www.qwest.com/wholesale/downloads/2004/041116/Qwest_Response_Escalation_PC102704_1E32_11_16_04.pdf))

(Note: Qwest's entire 11/16/04 response to Covad's escalation is attached to this chronology and is available at the above URL).

**11/17/04** – CMP November monthly meeting minutes included (emphasis added):

Covad “stated that this is more than a product being discontinued. In addition, Qwest can not cite the law and then not call it a Regulatory CR. There are legal means ***to negotiate agreements.***”

Covad “advised the reason they objected to the Regulatory classification is that Qwest didn't cite the page and paragraph. Qwest is still citing the law, (insert comment from Covad/Eschelon)<sup>4</sup> not calling it a regulated changed and that is still out of scope for CMP.”

Covad said “Qwest is trying to manipulate the CMP process to fit their needs.”

TelWest “said it is not important to me what Qwest's interpretation is. ***It should be arbitrated and not unilaterally implemented by Qwest.***”

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<sup>4</sup> Qwest prepares the CMP meeting minutes. Material in brackets generally indicates that a carrier commented and Qwest reflected the comment in the posted Qwest minutes.

Eschelon "said whether or not we agree on the language, this should not be discussed in CMP. We do not discuss legal interpretation in CMP. *This should be done in a different forum.*"

Covad "stated that *this is an ICA negotiation discussion.*"

(See [http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm))

12/15/04 – Qwest recommended a CMP oversight committee meeting.

1/4/05 – CLECs and Qwest held a CMP oversight committee meeting. Comments from the meeting included (emphasis added):

*"Liz Balvin felt that Qwest has called into question the law and has jerry rigged the CMP process to meet Qwest's needs* because there are system edits in place to restrict ordering the products. [Comment received from Covad: products and that the notifications, even level 4 notices carry the clause that IA supercede PCAT documents.]"

"[Comment received from Eschelon: Bonnie Johnson and Becky Quintana discussed Qwest exercising their rights to limit product availability, basis for product limitation as it relates to PCAT comments, *Bonnie said Qwest is limiting products prematurely and Becky agreed. Becky and Bonnie discussed the appropriateness of legal discussion on Product / Process changes.*]"

"Cindy Buckmaster responded that Qwest has the right to not have to offer products based on the law."

"Bonnie Johnson asked that the meeting minutes reflect all of the conversation that has taken place. [Comment Received from Eschelon: Bonnie said Qwest often reflects their views but not CLECs.]"

"Kim Isaacs and Bill Campbell discussed SGAT changes, PCAT changes and the ICA negotiations. [Comment received from Eschelon: *Bill said that the current negotiation template reflects the correct information but the SGATs have not been updated.* Bonnie asked if there was a particular CLEC that was challenging Qwest on this issue and if that is why Qwest needed to update PCATs.]"

"Cindy Buckmaster, Bonnie Johnson and Liz Balvin continued discussion related to processing the CR, Bonnie Johnson, Bill Campbell and Liz Balvin discussed how CLECs should be notified of the product change and the PCAT reflecting the SGAT, *notification through change of law, how contracts override the PCATs, and product availability is negotiated through the ICA agreements.* [Comment received from Eschelon: *Bonnie said if Qwest will limit product availability in its existing ICA, Qwest would need to notify Eschelon through the change in law provision of its contract and not through a PCAT CMP notice. Bill agreed.*]"

([http://www.qwest.com/wholesale/downloads/2005/050114/CMP\\_Oversight\\_Committee\\_Mtg\\_Min\\_1\\_4\\_05.pdf](http://www.qwest.com/wholesale/downloads/2005/050114/CMP_Oversight_Committee_Mtg_Min_1_4_05.pdf))

1/7/05 – Qwest distributed a red line version of Qwest's CR PC102704-1ES to the CMP oversight committee members. In its email, Qwest said: "As a follow up to our discussion on Tuesday, Qwest has met internally and our preference is to revise the existing change request PC102704-1ES instead of withdrawing and issuing a new CR. We believe that by changing the title and removing references citing the law we would be keeping the historical information and maintaining the documentation trail."

1/10/05 – CMP oversight committee meeting. Comments included (emphasis added):

***"Bill Campbell of Qwest explained that the PCATs are based on the approved SGATs and the SGATs can be different from the ICA. We try to time the CMP update changes with the SGAT changes and Qwest did put together SGAT changes. However, the SGAT's have been pulled back with concurrence of the states due to the unsettled regulatory situation post USTA II, post interim order and pre final FCC order. Qwest has changed the ICA language template (insert comment) but **the current SGAT's do not accurately reflect the products Qwest offers** and Qwest (end comment) feels it is important to notify CLECs on the changes to the products."***

***"Liz Balvin felt that the process was backward because if a CLEC wants these products they would work with the negotiation team and would not go through CMP (insert comment) because CMP specifically call out ICA's override (end comment)."***

***"Bonnie Johnson said that product availability is based on the ICA and even though Qwest notices about product availability, CLEC's can't get the products without an agreement including the product."***

***"Becky Quintana of the Colorado PUC asked if Qwest was considering filing the SGAT prior to the final rules or waiting and Bill Campbell stated that Qwest is waiting, although we did file prior to the USTA decision, but withdrew the filings when it was clear that the states did not believe the timing was right to make the proposed changes knowing full well any state proceedings would have to be revisited. **Becky Quintana voiced concerned that the SGAT on file and the Wholesale tariff are not the current Qwest offering.**"***

***"Liz Balvin stated that the CR should identify the interim rules as the basis for notifying the CLECs of 6/15 product changes and that Qwest is not going to file the SGAT until the permanent rules are available."***

***"Bill Campbell agreed that the CR is based on the USTA II rules and that Qwest has restricted the products and changes will have to be made to comply with the final rules."***

***"Liz Balvin stated the basis is USTA II and Bill Campbell said he agreed that the basis is USTA II, and under the FCC guidance, are no longer required to provide unbundled elements."***

"Bonnie Johnson and Becky Quintana discussed the merit of language changes to the CMP process. *Liz Balvin and Bonnie Johnson stated that the CR should not have defaulted to CMP as it was not the appropriate approach and the importance of keeping the CMP guidelines in tact.*"

"Sharon Van Meter stated that *AT&T* does not think this is a regulatory CR and would like the CR to include the history of what has been discussed. *Deferring the CR would be better* and revising is acceptable if the history is included. *Liz Balvin* agreed *deferring would be better and revising the CR sets a precedent that the CR is regulatory but not identifying in that way.* There was recommendation from *Covad, Eschelon, AT&T, TDS/MetroCom and MCI that the CR be deferred until permanent rules are issued.* Becky Quintana stated that without making any statement on the merits of the CR, she believed that Qwest *should go ahead with the CR because she agreed with Bill Campbell's estimated timeline for permanent rules.* Qwest would like to move forward by revising the CR. The Oversight Recommendation will include the different recommendations from the Oversight members."

[http://www.qwest.com/wholesale/downloads/2005/050202/CMP Oversight Committee Meeting Minutes 1 10 05 CLEC updat .pdf](http://www.qwest.com/wholesale/downloads/2005/050202/CMP_Oversight_Committee_Meeting_Minutes_1_10_05_CLEC_updat_.pdf)

**2/4/05** – FCC release date for TRRO

**2/16/05** - CMP February monthly meeting minutes included (emphasis added):

"Jill Martain-Qwest stated that when the final rulings came out, we received feedback. Jill stated that Qwest would withdraw the PCATs that were affected by the final rules and that Qwest would proceed with UNE-P. Jill stated that Qwest would reissue the PCATs that are being removed from the CR, once it is determined what those changes are *and would notify via this same CR.*"

(See [http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm))

**3/11/05** – USTA II permanent rules are issued/effective.

**3/16/05** - CMP March monthly meeting minutes included (emphasis added):

"Cindy Buckmaster-Qwest stated that this CR will be effective on March 18th and that she would like to move the CR to CLEC Test on the 18th. *Jill Martain-Qwest stated that she was okay moving this CR to CLEC Test on the 18th, but then would like it moved back to Development status for the rest of the piece.*"

(See [http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm))

**6/23/05** – Qwest/Eschelon ICA negotiations – Eschelon provided Qwest with proposed language for Section 9.23, including terms and conditions reflecting the TRRO for service eligibility criteria, self certification, audits, conversions and loop transport combination ordering, billing and repair process (such as a single LSR for loop-transport arrangements in Sections 9.23.4.5.2 & 9.23.4.5.5). (Qwest included Eschelon's proposed language in Qwest's next ICA draft which it sent to Eschelon on 7/6/06.)

**6/30/05** – Qwest CMP adhoc meeting minutes state (emphasis added):

"Cindy Buckmaster-Qwest said that Qwest suggested this Ad-Hoc meeting to help communicate our implementation plans for the TRO/TRRO. She said that many of the CLECs are interested in the implementation of the rules laid out in the orders and may have questions. Cindy said the CLECs likely agree that these orders cover numerous products and processes, not to mention availability and even eligibility. Cindy said that Qwest is developing template language that encompasses our obligations under the TRO/TRRO and that we will be filing that template language with the states in the months to come. She said that the normal filing process will be followed likely allowing a comment period from interested parties. Cindy said that in the meantime, our negotiations team *will negotiate* the amendment or full template with interested CLECs. ***Cindy said that negotiation combined with State approval of our template language that is necessary to finalize applicable language and/or processes. Cindy said that in order to most effectively and efficiently work through that process, we believe that it is best to further delay announcements of process or product changes related to these orders via CMP until such time as the language is finalized and will impact all CLECs. She said that no TRO/TRRO changes to products or processes will be made across the board until such language is final.*** Cindy said, as mentioned earlier, we will implement product and process changes only as you sign the amendment or template language, through the change of law provisions that are outlined in your individual contracts. She said that the CLECs, at that time, will be provided with individual Product Catalogs (PCATs) and Business Procedures ***that are in alignment with their current language*** so that they can determine any changes to the way you do business with Qwest. Tom Hyde-Cbeyond stated that this plan sounds logical and asked when Qwest could share a draft or final version of the language to review ***before negotiating***. Cindy Buckmaster-Qwest said that Candice Mowers (Qwest) is closer to the filings and this Qwest effort. Candice Mowers-Qwest stated that ***with the SGAT, there are no filings scheduled yet and with the number of changes, getting language is quite a task***. Candice said that there is a negotiations template and a TRO Remand Compliance template on the Qwest Wholesale Website at [www.Qwest.com/wholesale/clecs/amendments.html](http://www.Qwest.com/wholesale/clecs/amendments.html). ***Candice said that when the CLECs want to begin negotiations, they can contact the Qwest negotiations team.*** Tom Hyde-Cbeyond said that they would like to review and schedule negotiations. Candice Mowers-Qwest said that this was a good idea and to wait until the last minute will be a push. Tom Hyde-Cbeyond stated that he would download and review the information. The following question was raised in the meeting: What does this have to do with QPP? Cindy Buckmaster-Qwest said that this has nothing to do with QPP. She said that the QPP Commercial Agreements are on the same website and will remain there. ***Liz Balvin-Covad summarized that the purpose of this meeting was to relay information on the TRO negotiations, the templates are out there for review and that the PCATs won't be updated until the final language is approved. Cindy Buckmaster-Qwest stated that we did not want to make process changes that will impact a lot of you and that we will honor your contracts. She said we will share documents as process changes are made.*** The following question was asked in the meeting: Does this have anything to do with PC102704-1ES. Cindy Buckmaster-Qwest said that this CR was opened as a way to communicate changes in the TRO/TRRO. She said that there are more changes coming and ***the CR is the means to share those changes***. Cindy said that the CR was initially issued when the TRO came out and had changes. She said that we had to pull back some of the PCATs but will keep the CR open until we can finish CR. Tom

Hyde-Cbeyond said that he understood the format and information can be used on the website. Cindy Buckmaster-Qwest stated that *the next steps depend on where each Company is*. She said that they can go to the web, study and *start negotiations*. Cindy said that if you don't want involvement, they could do nothing. *She said that as SGAT language changes, we will have a comment period* and that the States will engage you when decisions are made. *Cindy also said that PCAT changes will be brought through CMP.* There were no additional questions or comments." (See [http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm))

**9/12/05 – NON-CMP SECRET PCAT NOTICE** - Qwest distributes a Product notice document number PROS.09.12.05.F.03236.TRRO\_Login\_Product\_Page through its QWEST WHOLESALE NOTIFICATION PROCESS (*i.e.*, not CMP).<sup>5</sup> The subject line of the announcement states: "Triennial Review Remand Order (TRRO) Products & Services." The effective date is listed as October 3, 2005 – three weeks from the date of the announcement. The non-CMP notice contains no comment period. The announcement states (emphasis added):

"On September 12, 2005, Qwest will post updates to its Wholesale Product Catalog that include new/revised documentation for Triennial Review Remand Order (TRRO) Products & Services. This material becomes effective on October 3, 2005.

Updates are associated with documentation not previously documented. Qwest has established a website which will include Product Catalogs (PCATs) and other documentation specific to certain Qwest interconnection products and services as are provided for in the Report, Order on Remand, and Further Notice of Proposed Rulemaking (FCC 03-36), referred to as the "Triennial Review Order" (TRO) effective October 2, 2003 and the Remand Order (CC 01-338) referred to as the "Triennial Review Remand Order" (TRRO) effective March 11, 2005.

These TRO/TRRO-related documents are available and applicable to you only if and/or when you have completed and signed an Interconnection Agreement or Amendment incorporating provisions that reflect the requirements and changes called for in the TRO/TRRO documents.

Pursuant to the TRO/TRRO Decision, certain Unbundled Network Elements are available to you on a limited basis.

The documents on this website are in place to assist CLECs who *have signed* the TRRO Amendment and are ordering services where they are deemed available as UNEs. *When the CLEC receives a copy of their signed amendment Qwest will also include a letter that advises them how to access the web site using an assigned USERID and Password to access the PCATs.* For those CLECs who have already signed an amendment you will be receiving a letter with the USERID and Password by October 3, 2005.

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<sup>5</sup> The **SUBJECT** field of a Qwest announcement starts with "CMP" when it is a CMP notice. Not all Qwest customer "notices" and PCAT changes are generated as a result of CMP. Carriers may choose among a variety of notices, such as billing, contract, and network notices, that are not CMP notices. See <http://www.qwest.com/wholesale/notices/cnla/maillist.html>. In addition, if it is a CMP notice, the listed contact person is a CMP representative. If it is not a CMP notice, the contact person is the Qwest Service Manager or other contact. CMP notices with comment periods identify the timeframe for comment.

On October 3, 2005 the updates will be found on the Qwest Wholesale Web site at the following URLs:

<http://www.qwest.com/cgi-bin/wholesale/trrologin.cgi>

If you have any questions or would like to discuss this notice *please contact your Qwest Service Manager*. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement."

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E12%2E05%2EF%2E03236%2ETRRO%5FLogin%5FProduct%5FPage%2Edoc>

**9/12/05** - Eschelon requested a copy of Qwest's secret PCAT from the Qwest ICA negotiations team, in an email copied to Bonnie Johnson, Doug Denney, and the participating Minnesota DOC representative (emphasis added):

"Eschelon requests a copy of Qwest's proposed "TRO/TRRO" PCAT language, which Qwest describes in the enclosed notice.

Does Qwest intend to try to take a similar approach, in which Qwest does not include terms in the ICA but then attempts to impose them through a PCAT (one that has not even been through CMP), after Eschelon has signed an agreement? As you know, Eschelon is negotiating terms through these ICA negotiations and opposes such an approach. Qwest has indicated in numerous Section 12 sessions that the PCAT goes through CMP, but the language described in the enclosed notice did not go through CMP. (The notice refers to CLEC's "ordering services." Does this PCAT language deal with ordering?) Qwest's notice does not even allow for a comment period. (We don't recall ever seeing a notice before in which alleged product/process information is not publicly available, is limited to certain CLECs, and must be accessed with a password.) This notice/conduct appears to be yet another reason to limit any reference to the PCAT in the ICA and deal with any terms that need to be negotiated in the ICA. The ICA controls; not the PCAT. Although the notice states that the PCAT terms are applicable to CLECs after they have "completed and signed an Interconnection Agreement or Amendment," the terms will not be applicable at all, even after we have signed our Agreement, because the ICA controls. *If you want such terms with Eschelon, you need to propose them in negotiations and negotiate with us.*"

**9/23/05** – Qwest's ICA negotiations team sent Eschelon its response to Eschelon's Section 9.23 TRRO proposal (which Eschelon provided to Qwest on 6/23/05 but to which Qwest had not yet responded). (Qwest included its updated language in the next ICA draft on 11/2/05, which was accompanied by an email copied to Bonnie Johnson, Doug Denney, and the participating Minnesota DOC representative from Qwest that stated: "In reply to your message below, attached is the latest draft of the Agreement (Draft 11-2-05). Since the last



release of the "full" Agreement on 8-25-05, this version incorporates the changes made to Sections 9.1 through 9.7, 9.23 and 12. Sections 9.7 and 9.23 incorporated in this version are the exact Sections that Linda provided in her 9-13-05 and 9-23-05 e-mail messages. Qwest is still working on Sections 9.7 and 9.23, and will have updates for these Sections by end of next week..")

**9/29/05** - Qwest distributes announcement that it is providing the password to the Secret<sup>6</sup> PCATs as a result of customer feedback. It states: "***As a result of customer feedback***, this products and services documentation will be made available to the full customer community. However, to differentiate it from existing Wholesale product documentation, access to these TRRO products and services ***will continue to be provided via a common public USERID and Password.***"

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E29%2E05%2EF%2E03322%2ETRO%5FUSERID%5FPassword%2Edoc>

**1/18/06** - CMP January monthly meeting minutes stated (emphasis added):

"January 18, 2006 Monthly Product Process CMP Meeting Discussion: Jill Martain-Qwest stated that this is the CR for the TRO work and because there has been no change in the status, for several months, she would like to put the CR in a Deferred Status. Jill stated that ***when it is time for the PCAT updates, this CR would move out of Deferred.*** There was no dissent to moving this CR to Deferred. ***Kim Isaacs-Eschelon stated that there was a notice out today for TRRO and asked if that was separate from this effort. Jill Martain-Qwest stated that it was separate and that it was a non-CMP Notice. (1/27/05 - Comments to Minutes Received from Eschelon: Jill Martain-Qwest stated that the TRRO notices sent today was for CLECs that had signed the TRRO Amendment.***"

[http://www.qwest.com/wholesale/cmp/cr/CR\\_PC102704-1ES.htm](http://www.qwest.com/wholesale/cmp/cr/CR_PC102704-1ES.htm)

**3/29/06** – In response to an email objection from Eschelon to the Qwest Service Management regarding Qwest non-CMP announcement entitled "Product Notice: TRRO: GN: TRRO PCAT with CSIE Updates: Effective 5-1-06," Qwest Service Management states (emphasis added):

"This notice is associated to the overall organizational change that was distributed on March 27, 2006. Please review PROS.03.27.06.F.03801.CSIE\_Contact\_Information and PROD.03.27.06.F.03803.PROD\_PCAT\_CSIE\_Update.

***As agreed to at CMP, the PCATs/Business Procedures associated specifically to TRRO are handled outside the scope of CMP until such time that there is an approved SGAT, which is why the change was noticed as a non-CMP document.***

As we researched your concern, we determined that we should have included the reference in the notice that was sent through the non-CMP process so the overlying notices were related and we will add that reference as applicable to the TRRO notices in the future."

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<sup>6</sup> Password-protected PCATs are referred to as "Secret" PCATs to distinguish them from generally available PCATs accessible without a password distributed through Qwest notice process.

**4/6/06** - Qwest 4/6/06 New and Amended Responses to Eschelon 3/31/06 Qwest Take Backs/Action Items list in ICA negotiations -- Qwest responded to Eschelon's request with the following (with emphasis changed –yellow shading and bold are in original and indicate Qwest's response):

"9.1.13.4 & 9.1.15.2.3 (see also 9.1.15.3, 9.23.4.5.4, 9.23.4.6.6, 9.23.4.7.1 - order processing, single order, single bill, single circuit ID – billing and repair) (2/7/06, 3/8/06, & 3/21/06 calls) **Jill response**

Qwest (Kathy) sent Eschelon's language (re. single order, single bill, and single circuit ID to Jill Martain of Qwest (CMP). Qwest (Kathy) will ask which issues, if any, Qwest will deal with in CMP. Qwest (Kathy) will also ask Jill which issues, if any, Qwest will deal with in CMP of the issues in Qwest's "TRRO" PCATs.

This is related to Qwest (Harisha's) separate take back from the 2/7/06 call to respond to questions regarding issues and what forum – CMP or other – Qwest would discuss/negotiate them with us/CLECs."

**9.1.13.4 no system edit to challenge orders**

**9.1.15.2.3 circuit IDs will not change**

**9.23.4.5.4 point-to-point EELs, commingled EELs , Loop Mux Transport**

**9.23.4.6.6 same BAN, Loop Transport**

**9.23.4.7.1 single trouble report process**

**In response to the two questions raised by Eschelon, Qwest and the CLECs discussed the TRRO and related TRRO PCATs in CMP with Change Request PC102704-1ES. From those discussions it was agreed that until such time that a SGAT is filed and the TRRO related issues were finalized that all of the TRRO processes and issues would be deferred from a CMP perspective. Since those discussions in CMP, formal proceedings have been initiated with specific state commissions to further discuss the TRRO ruling. Based on those proceedings, Qwest believes that it is premature to initiate TRRO discussions at this time. At the point in time when the state commission proceedings have concluded and an SGAT is approved, Qwest will bring PC102704-1ES back to an active status in CMP and will initiate the appropriate process and PCAT updates at that time."**

**5/26/06** – Eschelon files its petition for arbitration in the state of Minnesota. Issue Nos. 9-43, 9-44, 9-58, 9-59 at impasse.

Qwest continues to distribute non-CMP Secret TRRO PCATs with dates upon which Qwest indicates they will be effective. Example:

**7/21/06** - Qwest distributes a non-CMP Product notice document number PROS.07.21.06.F.04074.TRRO\_Reclass\_Termin\_V1 through its QWEST WHOLESALE NOTIFICATION PROCESS (*i.e.*, not CMP). The subject line of the announcement states: **"TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions - V1.0."** The effective date is listed as July 28<sup>th</sup>, 2006 – one week from the date of the announcement. The non-CMP notice contains no comment period.

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E07%2E21%2E06%2EF%2E04074%2ETRRO%5FReclass%5FTermin%5FV1%2Edoc>

The notice included a URL link to a Version 1 (new) non-CMP PCAT, entitled "TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions - V1.0." The Version 1.0 PCAT is password protected. It includes:

The Description states: "This document is provided for customers who have signed the Triennial Review Remand Order (TRRO) compliant agreement/amendment. TRRO - Reclassification of Terminations for UNE Conversions is a procedure that is needed when you are converting UNE Services to Finished Services in Non-Impaired Central Offices as required by the TRRO."

The Terms and Conditions state: "CLECs are responsible for submitting a Collocation Application to have Qwest reclassify your UNE Collocation terminations to a Finished Service Interconnection Tie Pair (ITP) with the DEMARC outside the collocation as required by the TRRO. This process will reclassify your UNE terminations. To reclassify terminations, an application must be submitted for each Central Office. The terminations will be reclassified "AS IS" and no ITP to Expanded Interconnection Channel Termination (EICT) physical modifications will be performed as part of the reclassification. The Digital Signal Level 1 (DS1) terminations will be reclassified in blocks of 28 DS1s as part of the reclassification request and must reside in the same cable sheath. Digital Signal Level 3 (DS3) terminations may be reclassified on an individual termination basis. When the reclassification is complete, Qwest will send you a revised Alternate Point of Termination (APOT). You are responsible for updating your database to reflect the new cable naming found on the revised APOT."

The Rate Structure section states: "Recurring charges for the UNE-terminations will continue to be billed until a valid application is submitted for the reclassification. You will not be charged a nonrecurring charge to perform this reclassification of terminations from UNE to Finished Service when the activity is associated with TRRO."

The Tariffs, Regulations and Policies section states: "Tariffs, regulations and policies are located in the state specific Tariffs/Catalogs/Price Lists."

The Implementation section states, under "Ordering": "The TRRO - Reclassification of Terminations for UNE Conversions order process is completed by using the TRRO Reclassification of UNES form."

The Provisioning and Installation section states regarding access to *Section 251/252 Collocation* (emphasis added): "***Submission of new connect, change, and disconnect orders on the cable being reclassified<sup>7</sup> will be restricted until the***

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<sup>7</sup> In a document Qwest provided to Eschelon on August 11, 2006, in response to the question, "Under Qwest's "TRRO PCAT," can the UNE EELs and the non-UNE converted alternative arrangements reside on the same block of 28?," Qwest said: "Yes, when the same cable is being redesignated . . . . In this example, Qwest will allow UNE EELs and non-UNE converted alternative arrangements to reside **on the same cable being reclassified**" (emphasis added). In other words, collocation and UNES are both addressed by this Secret TRRO PCAT. The entire block (including UNES) will be frozen. Qwest indicated in the same document that it has

***reclassification order is complete.*** The restriction of orders will begin once the application for reclassification is validated through the Ready for Service (RFS) date of the Reclassification Request. All work in progress related to the cable being reclassified must either be completed or cancelled by you prior to quote acceptance. Qwest will complete the reclassification request within 45 days of receipt of a valid application. ***The 45-day interval for Reclassification*** applies to the first five (5) Collocation Applications per CLEC per week per state. If six (6) or more Collocation Applications are submitted by CLEC in a one (1) week period in the state, intervals for the Collocation Applications in excess of the first five (5) shall be individually negotiated.”

<http://www.qwest.com/wholesale/pcat/trroreclassuneterm.html>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 60**

PC102704-1E32 COVAD ESCALATION November 8, 2004

11/8/04 2:54 PM

Sent by: ebalvin@covad.com

Subject: Covad Escalation PC102704-1

Escalation  
Company: Covad  
CR#: PC102704-1  
Status Code: Submitted

=====

Description:

Qwest inappropriate initiation of PC102704-1. The governing CMP document states:

**14.0 ESCALATION PROCESS Guidelines**

Escalations may also involve issues related to CMP itself, including the administration of this CMP. Covad notes Qwest administration of these changes are inappropriate.

History of Item:

Qwest initially initiated a "Regulatory" Systems change request SCR102704-1RG. When numerous CLECs objected, Qwest withdrew the systems change request and re-issued the exact change request via the Product and Process CMP. Please see Covad's comments attached that continue to apply to PC102704-1.

Reason for Escalation / Dispute:

Qwest inappropriate initiation of PC102704-1.

The governing CMP document states:

**5.4.5 Level 4 Changes**

Level 4 changes are defined as changes that have a major effect on existing CLEC operating procedures or that require the development of new procedures. Level 4 changes will be originated using the CMP CR process and provide CLECs an opportunity to have input into the development of the change prior to implementation.

Level 4 Change Categories are:

- New products, features, services (excluding resale)
- Increase to an interval in Qwest's Service Interval Guide (SIG)
- Changes to CMP
- New PCAT/Tech Pub for new processes
- New manual process
- Limiting the availability and applicability or functionality of an existing product or existing feature
- Addition of a required field on a form excluding mechanized forms that are changed through an OSS Interface CR (See Section 5.1)

For any noticed change that Qwest considers a Level 4 change that does not specifically fit into one of the categories listed above, Qwest shall issue a Level 3 notification with an indication in the notification that Qwest believes the change should be a Level 4 change.

**5.4.5.1 Level 4 Process/Deliverables**

Qwest will submit a completed Change Request no later than fourteen (14) calendar days prior to the Monthly CMP Product/Process Meeting. At a minimum, each Change Request will include the following information:

- A description of the proposed change

- A proposed implementation date (if known)
  - Indication of the reason for change (e.g., regulatory mandate)
  - Basis for disposition of Level 4
- Qwest will present the Change Request at the Monthly CMP Product/Process Meeting. The purpose of the presentation will be to:
- Clarify the proposal with the CLECs
  - Confirm the disposition level of the Change (see below).
  - Propose suggested input approach (e.g., a 2 hour meeting, 4 meetings over a two week period, etc.), and obtain agreement for input approach
  - Confirm deadline, if change is mandated
  - Provide proposed implementation date, if applicable

### 5.9 Change Request Designations

In certain circumstances CR numbers will require special suffix designations to identify certain characteristics. Suffixes include:

- “CM” - Changes to the CMP framework
- “DR” - Dispute Resolution Process invoked on a CR
- “ES” - Escalation Process invoked on a CR
- “EX” - Change being implemented utilizing the Exception process
- “IG” - Industry Guideline CR
- “MN” – CR for a manual workaround related to an OSS Interface Change Request
- “RG” - Regulatory CR
- “SC” - Change being implemented as an SCRCP request
- “X” - Crossover CR

While Qwest asserts the change request is due a mandate (“**FCC Triennial Review Order CC 01-338 (TRO), U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules**”) there is no such designation provided. Covad continues to object in that Qwest is attempting to implement such changes based on its legal interpretation of the orders cited without basis (see attached).

### Attachment

Covad’s objections to SCR102704-1RG

1. There are a number of pending legal proceedings at the state and federal regulatory level that are addressing the legal issues surrounding access (whether under Section 251, Section 271 or state law) to most, if not all, of the elements listed on Qwest’s change request. At best, therefore, it is premature for Qwest to eliminate access rights unless and until there is a final, non-appealable order out of a regulatory or judicial body that clearly specifies the rights and obligations of Qwest and CLECs. At worst, it is absolutely inappropriate for Qwest to implement its **interpretation** of its legal rights and obligations through change management rather than in the appropriate legal venue.

Qwest’s interpretation (which benefits itself at the expense of CLECs and consumers) is not a substitute for, or anywhere near the same as, a final, binding order of a federal or judicial body. Qwest’s attempt to implements its **interpretation** is nothing more than a shameless backdoor attempt to evade its legal obligations, particularly when the purpose of change management is to provide the “means to address changes that support or affect pre-ordering, ordering/provisioning, maintenance/repair and billing capabilities and associated documentation and production support issues for local services (local exchange services) provided by Competitive Local Exchange Carriers (CLECs) to their end users” and not to debate legal issues.

Further, it is clear within the CMP document itself that any and all legal issues surrounding access, as expressed in interconnection agreements, should be addressed within those agreements and not within CMP. As the scope of the CMP makes clear,

[i]n cases of conflict between the changes implemented through this CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), **the rates, terms and conditions of such interconnection**

**agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through this CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement.**

2. Despite recognizing that many, if not all, of the elements may continue to be available to CLECs under their current interconnection agreements, Qwest seeks to wholly eliminate access via CMP. In effect, therefore, while paying lip service to access requirements that are clearly in place, Qwest nonetheless is trying to deprive all CLECs of access to all of the listed elements (regardless of whether such elements are in their current IAs). At the very least, Qwest's desire to implement systems changes presumably designed to eliminate all together the ability to order the elements listed will ensure the ordering and provisioning of elements available to a CLEC under its current IA are fraught with problems and delay, which is anti-competitive and inappropriate. Qwest's action of eliminating all access while admitting that at least some CLECs continue to have access is tantamount to swatting a fly with a sledgehammer.
3. The CMP clearly specifies that "regulatory changes" are changes that are affirmatively required by the applicable regulatory or judicial body. Contrary to Qwest's assumptions, there is nothing in the TRO, USTA II or the Interim Rules that requires the elimination of access to all of the elements Qwest has listed in its CR. To the contrary, for example, the Interim Rules actually requires access to at least three of the elements on Qwest's list of elements for which it wants to eliminate access. Absent such an affirmative requirement that access not be provided, Qwest has failed to demonstrate that its desired changes are actually mandated changes as defined and understood in the governing CMP document.
4. Qwest has failed to comply with the procedural requirements surrounding submission of a regulatory CR. The governing CMP document requires specific page and paragraph references. Qwest's CR lacks this specification and thus is faulty and must be withdrawn per the agreed-upon CMP requirements for regulatory CRs and CRs generally.

**Business Need and Impact:**

That Qwest withdraw the proposed change request until a specific mandate is issued.

**Desired CLEC Resolution:**

Qwest resolve legal interpretation issues outside of CMP. Covad requests change request be withdrawn.

=====

**Lead Submitter:**

Name: Liz Balvin

Title: Director - External Affairs

Phone Number: 720-67-2423

E-mail Address: ebalvin@covad.com



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 61**



**ESCALATION #PC102704-1E32**

November 16, 2004

Liz Balvin  
Covad Communications

Dear Ms. Balvin,

This letter is in response to your November 8, 2004 escalation regarding Qwest's submitted CR PC102704-1 and Covad's request that Qwest withdraw the change request.

Qwest would like to note the scope of the change request was revised on November 10, 2004 to incorporate only those products specifically addressed by the USTA II Decision and the FCC Interim rules. These changes were communicated via notification CMPR.11.10.04.F.02294.Revision\_CR\_PC102704-1ES.

In response to Covad's objections which are provided in detail in Escalation #32, Qwest emphasizes that the CR is not superceding the language in the CLEC ICA. If the language in the current ICA allows the CLEC to order the products, the CLEC will be permitted to continue to order at this time. This change request is instead advising CLECs who don't have this language in their ICA or who don't currently have an ICA that they cannot seek an amendment or ICA with language for these products on a prospective basis. Further, there are no related system changes to impact a CLEC ordering what is available to them in their ICA. As this is a change to limit the availability of certain products only, Qwest believes this is a Level 4 change and belongs in CMP.

As stated in notification CMPR11.04.04.F.02273.Regulatory\_CR\_FCC\_Interim, and cited by Covad in their escalation, Qwest maintains and does not waive its position that the regulatory classification of the CR is appropriate. Qwest revised the CR to remove the regulatory classification. Further, TRO and Non-USTA II items were included in the original CR prematurely. As USTA II is law Qwest intends to exercise the rights afforded to it by the USTA II decision regarding the elimination of the items impacted by that decision.

Qwest believes that because the classification of the CR is no longer regulatory, the issues associated with specific page and paragraph reference required for a Regulatory CR no longer apply.

Hopefully these clarifications will resolve all of Covad's issues. If not, Qwest is committed to continue to work with Covad to resolve these issues.

Sincerely,

Bill Campbell  
Director – Product Management



# Open Product/Process CR Detail

Report Line Number 1

CR #	Title	Date Current Status	Organization	Area Impacted	Products Impacted
PC102704-1ES	U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance: Certain Unbundled Network Elements (UNE) Product Discontinuance	Development 12/15/04	Wholesale ProdProc	Provisioning, Ordering	See Description of Change

**Director:** Campbell, Bill  
**Originator:** Whitt, Michael      **Originator Company Name:** Qwest Communications  
**Owner:** Buckmaster, Cindy  
**CR PM:** Macy, Cindy

## Description Of Change

Description of Change:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

Description of Change:

This CR details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the U.S. Court of Appeals for the DC Circuit decision 00-1012 (USTA II) which vacated some of the FCC's unbundling rules, and the subsequent FCC Interim Rules which preserved some of the unbundling rules vacated in USTA II.

In accordance with these orders and findings, the following UNE products are no longer available to CLECs unless the most current, effective version of the CLEC's Interconnection Agreement (ICA) or Amendment includes terms, conditions, and pricing for the products before 6/15/04:

- All Enterprise and Mass Market Unbundled Network Elements Switching (UBS) products, detailed in the following Product Catalog (PCAT): <http://www.qwest.com/wholesale/pcat/unswitch.html>
- All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unep.html>
- DS1 Unbundled Loop detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unloopds1caploop.html>
- DS3 Unbundled Loop detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unloopds3caploop.html>
- Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/darkfiber.html>
- DS1 and DS3 Unbundled Dedicated Interoffice Transport (UDIT), including E-UDIT and M-UDIT, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/udit.html>
- DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>
- Unbundled Customer Controlled Rearrangement Element (UCCRE) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/uccre.html>
- DS1 and DS3 Loop Mux Combo detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/lmc.html>

As always, any future changes of law may impact this notification and will be supported by the applicable notification.

Expected Deliverables/Proposed Implementation Date (if applicable):  
Retroactive to 6/15/04 pursuant to FCC Interim Rules, subject to CMP Guidelines.  
Implement PCAT changes retroactive to 6-15-04 subject to CMP Guidelines

## Status History

- 10/27/04: CR Received
- 10/29/04: CR Acknowledged
- 10/29/04: Customer contacted / clarification held
- 10/29/04 - CMPR.10.29.04.F.02250.Regulatory\_CR\_FCC\_Interim
- 11/02/04 - CMPR.11.02.04.F.02261.Regulatory\_CR\_FCC\_Interim
- 11/04/04 - Revised the CR to remove regulatory classification
- 11/04/04 - CMPR.11.04.04.F.02273.Regulatory\_CR\_FCC\_Interim
- 11/09/04 - CMPR.11.09.04.F.02287.Escalation Notification
- 11/10/04 - Revised the CR title, description, scope in the database
- 11/17/04 - November CMP Meeting minutes will be posted to the database
- 12/15/04 - December CMP Meeting minutes will be posted to the database

CR # PC102704-1ES

Information Current as of: **Wednesday, January 05, 2005**

Page 1 of 2

## *Project Meetings*

### December CMP Meeting Minutes

Cindy Buckmaster – Qwest advised that we have suggested an Oversight Committee meeting be held. Qwest has scheduled the meeting for December 20 at 1:00 p.m. MT. Liz Balvin – Covad advised that Qwest continues to site law without issuing the CR as Regulatory. Covad believes system edits are in place to not allow CLECs to order products not available. If Qwest sites legal interpretation of law the page and paragraph must be included. Covad is not saying that CMP is or isn't the right forum, but Qwest is trying to make a unilateral decision and we do not know what law Qwest is citing. Qwest doesn't believe the CLECs need to know what page and paragraph are referenced, as the CMP document states. It was agreed more discussion would take place at the Oversight meeting. This CR will move to Development Status.

---

### 11/17/04 November meeting minutes

Cindy Buckmaster – Qwest stated that this CR has drawn quite a bit of attention. Qwest would like to clarify the intent of the CR. Cindy advised that we are having an ad hoc meeting on Friday, November 19 to review the documentation and take issues. Qwest apologizes for the confusion as we issued the CR two times. The CR was modified to clarify the scope to include USTA II and FCC Interim Rules. Cindy Buckmaster advised that CLECs who have language in their ICA can continue to order these products and CLEC who do not have language in their ICA can not order the products nor amend their ICA to include such language. Cindy listed the products affected. Josh Theriot – TelWest asked what if a CLEC opts into an existing contract? Cindy Buckmaster – Qwest advised that you are permitted with the exception of the elements cited. David Mittle – TelWest questioned without signing a TRO USTA II agreement a CLEC can opt into a contract?

David advised that Qwest Regulatory has said CLECs can not do this. Cindy Buckmaster – Qwest said that the contract would be modified as it has to be TRO and USTA II compliant. Liz Balvin – Covad advised that we continue to object that Qwest bring (insert comment from Covad / Eschelon) to CMP its legal interpretation. Liz advised that Qwest is using ad hoc meetings to gain insight into the CLECs view of the law and it is inappropriate (end comment). Cindy Buckmaster – Qwest advised this has nothing to do with Qwest telling our interpretation of the law. This is in CMP to advise about a product that is being limited. Liz Balvin – Covad stated that this is more than a product being discontinued. In addition, Qwest can not cite the law and then not call it a Regulatory CR. There are legal means to negotiate agreements. Cindy Buckmaster advised this CR was initially a Regulatory CR and it was opposed. That is why we changed it to a Product Process CR. We are only telling you that you can't have the product if you don't have it in your contract. Liz Balvin – Covad advised the reason they objected to the Regulatory classification is that Qwest didn't cite the page and paragraph. Qwest is still citing the law, (insert comment from Covad/Eschelon) not calling it a regulated changed and that is still out of scope for CMP. Liz advised that Qwest should have followed CMP governing document and not simply converted the systems CR to product and process, that the objections should have been addressed and if agreed to by the community, the CR would have 'crossed over' to product and process. Qwest is trying to manipulate the CMP process to fit their needs. Liz advised that it is inappropriate for Qwest to host an ad hoc meeting. Without following the CMP governing documentation, Qwest is asserting its legal interpretation, and that is the problem (end comment) This should be handled through arbitration of contracts. Cindy Buckmaster restated that if you do not have the products in your contract you can not order them. Qwest does not have an obligation to offer this. David Mittle – TelWest said it is not important to me what Qwest's interpretation is. It should be arbitrated and not unilaterally implemented by Qwest. Cindy Buckmaster – summarized and clarified the discussion - if Qwest sites the page and paragraph, and why it is the law, and if we come to agreement on the language in the CR, than we can move it forward in CMP. Bonnie Johnson – Eschelon said whether or not we agree on the language, this should not be discussed in CMP. We do not discuss legal interpretation in CMP. This should be done in a different forum. Liz Balvin –Covad stated that this is an ICA negotiation discussion. David Mittle – TelWest stated that he still has a concern with how we are treating CLECs without an existing ICA and that they can not opt into existing ICAs. I think the interpretation is wrong and CLECs should be able to do this. Qwest agreed to cancel the November 19 ad hoc meeting and review the CR and provide additional information at a later date.

**CR #** PC102704-1ES

**Information Current as of:** *Wednesday, January 05, 2005*

*Page 2 of 2*

**Report Name:** rptOpenDetailed CR INDIVIDUAL REPORT prodproc

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 63**

**From:** New Cr, Cmp [cmpr2@qwest.com]  
**Sent:** Thursday, September 07, 2006 5:47 PM  
**To:** Isaacs, Kimberly D.; Novak, Jean; Nielsen, Joshua  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Product Notice: TRRO: GN: TRRO EEL LMC UBL-DS1: Effective 9-1-06  
Kim,

Qwest and the CLECs discussed the TRRO and related TRRO PCATs in CMP with Change Request PC102704-1ES. From those discussions it was agreed that until such time that the TRRO related issues were finalized that all of the TRRO processes and issues would be deferred from a CMP perspective. At the point in time when the state commission proceedings have concluded, Qwest will bring PC102704-1ES back to an active status in CMP and will initiate the appropriate process and PCAT updates associated with the existing CMP related documentation at that time.

---

**From:** New Cr, Cmp [mailto:cmpr2@qwest.com]  
**Sent:** Friday, September 01, 2006 2:20 PM  
**To:** Isaacs, Kimberly D.; Novak, Jean; Nielsen, Joshua; cmpr@qwest.com  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Product Notice: TRRO: GN: TRRO EEL LMC UBL-DS1: Effective 9-1-06

Kim,

Qwest is looking into this and someone will be getting back to you.

Peggy Esquibel-Reed  
Qwest Wholesale CMP

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**From:** Isaacs, Kimberly D. [CONTACT INFORMATION REDACTED]  
**Sent:** Friday, September 01, 2006 11:09 AM  
**To:** Novak, Jean; Nielsen, Joshua; cmpr@qwest.com  
**Cc:** Johnson, Bonnie J.  
**Subject:** FW: Product Notice: TRRO: GN: TRRO EEL LMC UBL-DS1: Effective 9-1-06  
Eschelon objects to this non-CMP notice. These are section 252 issues and should be treated as such.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph: [CONTACT INFORMATION REDACTED]*  
*Fax: [CONTACT INFORMATION REDACTED]*  
*Email: [CONTACT INFORMATION REDACTED]*

**From:** Novak, Jean [mailto:Jean.Novak@[CONTACT INFORMATION REDACTED]]  
**Sent:** Wednesday, March 29, 2006 1:12 PM  
**To:** Isaacs, Kimberly D.  
**Cc:** Novak, Jean; Nielsen, Joshua  
**Subject:** Product Notice: TRRO: GN: TRRO PCAT with CSIE Updates: Effective 5-1-06

Kim,

This notice is associated to the overall organizational change that was distributed on March 27, 2006. Please review PROS.03.27.06.F.03801.CSIE\_Contact\_Information and PROD.03.27.06.F.03803.PROD\_PCAT\_CSIE\_Update.

As agreed to at CMP, the PCATs/Business Procedures associated specifically to TRRO are handled outside the scope of CMP until such time that there is an approved SGAT, which is why the change was noticed as a non-CMP document. As we researched your concern, we determined that we should have included the reference in the notice that was sent through the non-CMP process so the overlying notices were related and we will add that reference as applicable to the TRRO notices in the future.

Jean

-----Original Message-----

**From:** Isaacs, Kimberly D. [mailto: CONTACT INFORMATION REDACTED]  
**Sent:** Monday, March 27, 2006 8:03 AM  
**To:** Novak, Jean  
**Subject:** FW: Product Notice: TRRO: GN: TRRO PCAT with CSIE Updates: Effective 5-1-06

Eschelon objects to this non-CMP notice. These are clearly section 252 issues and should be treated as such.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
[CONTACT INFORMATION REDACTED]

**From:** mailouts2@qwest.com [mailto:mailouts2@qwest.com]  
**Sent:** Monday, March 27, 2006 3:23 AM  
**To:** Isaacs, Kimberly D.  
**Subject:** Product Notice: TRRO: GN: TRRO PCAT with CSIE Updates: Effective 5-1-06



**From:** New Cr, Cmp [mailto:cmpcr2@qwest.com]  
**Sent:** Wednesday, November 16, 2005 5:15 PM  
**To:** Johnson, Bonnie J.; cmpcr@qwest.com  
**Cc:** Isaacs, Kimberly D.; Harlan, Cynthia; Novak, Jean; Nielsen, Joshua  
**Subject:** RE: Eschelon Objects to Process Notice: General: GN: Triennial Review Remand Order (TRRO) Products & Services Login: Effective 10-3-05 (CH)

Hello Bonnie,

I wanted to clarify that Qwest did send an additional notice on this subject as a result of customer feedback. The notice provided information that the documentation will be made available to the full customer community. Please see the following notice for additional information.  
PROS.09.29.05.F.03322.TRRO\_USRID\_Password.

Because this is a non CMP notice, if you have additional questions please contact your Service Manager.

Thank you,  
Cindy Harlan  
*Cindy Harlan*  
*Wholesale Change Management*  
Qwest  
[CONTACT INFORMATION REDACTED]

-----Original Message-----

**From:** Johnson, Bonnie J. [mailto:[CONTACT INFORMATION REDACTED]]  
**Sent:** Tuesday, November 15, 2005 2:24 PM  
**To:** Bonnie Johnson; cmpcr@qwest.com  
**Cc:** Isaacs, Kimberly D.; Johnson, Bonnie J.  
**Subject:** Eschelon Objects to Process Notice: General: GN: Triennial Review Remand Order (TRRO) Products & Services Login: Effective 10-3-05 (CH)

Eschelon objects to these documents which Qwest calls PCATs. Eschelon objects to Qwest sending the documents as confidential and requiring a password. Eschelon made objections through ICA negotiations, however, Eschelon also wants to make this clear through CMP.

If Qwest desires any such terms in its dealings with Eschelon, Qwest needs to propose them in ICA negotiations.

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

-----Original Message-----

**From:** [mailouts2@qwest.com](mailto:mailouts2@qwest.com) [mailto:[mailouts2@qwest.com](mailto:mailouts2@qwest.com)]  
**Sent:** Monday, September 12, 2005 3:23 AM  
**To:** Isaacs, Kimberly D.  
**Subject:** Process Notice: General: GN: Triennial Review Remand Order (TRRO) Products & Services Login: Effective 10-3-05

<<ContactMailAttach.htm>>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 64**

**From:** Salverda, Kathleen [Contact Information Redacted]  
**Sent:** Wednesday, September 06, 2006 11:13 AM  
**To:** New Cr, Cmp; Clauson, Karen L.; Topp, Jason; Hartl, Deborah; Albersheim, Renee; Bastiampillai, Harisha; Denney, Douglas K.; Diamond, Paul; Goldberg, Tobe L.; Johnson, Bonnie J.; Kennedy, Robert.F; Markert, William D.; Olson, Joan M.; diane.wells [Contact Information Redacted]; Zeller, Ginny A.; Anderson, Julia; katherine.doherty[Contact Information Redacted]; Maureen Scott; Anderl, Lisa; Reynolds, Mark (Legal); Novak, Jean; Nielsen, Joshua; Coyne, Mark; cmpcr@qwest.com; Isaacs, Kimberly D.  
**Cc:** Nielsen, Joshua; Esquibel-Reed, Peggy  
**Subject:** RE: "TRRO" PCAT Reclassification of Terminations - Continuing Request for Section 251/252 negotiations and Questions to Qwest/CMP

Qwest did respond to your email: I have copied below my original response to your email re: the initial Qwest notice re: collocation reclassifications.

Again, there is no reason to schedule a meeting to negotiate process issues. Qwest has continually maintained its position that the level of process Eschelon is seeking is best managed through CMP. Until such time as the wire center hearings are completed there is not a scheduled date for CMP TRO/TRRO process. For CLECs that are TRO/TRRO compliant it is necessary to have a means that will allow CLECs and Qwest to be complinat. As you are aware, at this time, these processes are being handled outside of CMP. Upon conclusion of the wire center hearings Qwest will pursue CMP activities to establish CMP processes for TRO/TRRO.

This second notice on reclassification changes the 45 days to 15 days. It was an item I addressed based on Eschelon's stated concerns in its email.

Jean, Joshua, or Jason are not likely to have any further comment than what I have provided.

For your convenience my previous response:

Karen: My response to your August 14<sup>th</sup> email re: a proposed meeting to negotiate TRRO processes.

Qwest remains consistent in its position that process issues are best served by CMP.

Qwest made a good faith effort to respond to Eschelon's questions on the Qwest PCAT notice.

As shared with you in my previous response, The PCAT notice regarding collocation terminations was recently released based on experience with live conversions by TRO/TRRO compliant CLECs.

The negotiations team did do its research during our discussions end of year 2005 and during early 2006. The SMEs had no awareness of this process issue at the time of these discussions. Eschelon is mistaken, if the SMEs had been present during our discussions, the Qwest answers would have been the same at that particular time.

Qwest has no better explanation than what has been provided.

Inverse Augment is the Qwest term for reverse process. Eschelon has previously agreed it is familiar with special access to UNE conversions; the inverse augment process (the reverse) UNEs to special access is the opposite. As I shared in my original response, until recently, based on live conversion activity, there was no anticipated change to the process. Based on live experience with CLECs who are currently TRO/TRRO compliant it became apparent that a process change was needed to cease monthly billing on the UNE collocation terminations.

Eschelon was notified in the same manner as all other CLECs. Eschelon brought the notice to my attention and I responded appropriately.

Qwest has reopened the issues as requested by Eschelon 9-43 and 9-44. Qwest's response remains the same as previously provided in negotiations and as shown in the most recent matrix.

If the intent of the call is to negotiate process issues, Qwest sees no reason to have a call. Process issues are to be addressed via CMP as it impacts all CLECs. This is a TRO/TRRO process. Qwest encourages Eschelon to submit its concerns and future questions specific to this topic to its wholesale service manager as directed in the notice or to CMP.

---

**From:** New Cr, Cmp

**Sent:** Friday, September 01, 2006 3:14 PM

**To:** 'Clauson, Karen L.'; Topp, Jason; Hartl, Deborah; Albersheim, Renee; Bastiampillai, Harisha; Denney, Douglas K.; Diamond, Paul; Goldberg, Tobe L.; Johnson, Bonnie J.; Kennedy, Robert.F; Markert, William D.; Olson, Joan M.; Salverda, Kathleen; diane.wells[Contact Information Redacted]; Zeller, Ginny A.; Anderson, Julia; katherine.doherty[Contact Information Redacted]; Maureen Scott; Anderl, Lisa; Reynolds, Mark (Legal); Novak, Jean; Nielsen, Joshua; Coyne, Mark; cmpcr@qwest.com; Isaacs, Kimberly D.

**Subject:** RE: "TRRO" PCAT Reclassification of Terminations - Continuing Request for Section 251/252 negotiations and Questions to Qwest/CMP

Karen,

Qwest is looking into this and someone will be getting back to you.

Peggy Esquibel-Reed  
Qwest Wholesale CMP

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**From:** Clauson, Karen L. [Contact Information Redacted]

**Sent:** Friday, September 01, 2006 10:24 AM

**To:** Topp, Jason; Hartl, Deborah; Albersheim, Renee; Bastiampillai, Harisha; Denney, Douglas K.; Diamond, Paul; Goldberg, Tobe L.; Johnson, Bonnie J.; Kennedy, Robert.F; Markert, William D.; Olson, Joan M.; Salverda, Kathleen; diane.wells [Contact Information Redacted]; Zeller, Ginny A.; Anderson, Julia; katherine.doherty [Contact Information Redacted]; Maureen Scott; Anderl, Lisa; Reynolds, Mark (Legal); Novak, Jean; Nielsen, Joshua; Coyne, Mark; cmpcr@qwest.com; Isaacs, Kimberly D.

**Subject:** RE: "TRRO" PCAT Reclassification of Terminations - Continuing Request for Section 251/252 negotiations and Questions to Qwest/CMP (MC)

Kathy/Josh/Jean/Mark/Jason/Qwest:

Qwest has not responded to our email below. What is Qwest's response?

Though Qwest has not responded to Eschelon's email, Qwest has in the meantime issued another NON-CMP notice relating to this issue ("TRRO Reclassification of Terminations V2.0: Effective September 7, 2006; announcement date August 31, 2006). Eschelon also objects to this notice. The notice is ambiguous and raises more questions than it answers. Given that Qwest has once again elected to send its notification outside of CMP, is this Qwest's indirect way of saying no to our questions to CMP/Qwest below ("Specifically, will Qwest address these issues now in CMP? If so, will Qwest resubmit its non-CMP notice through CMP as a Level 4 CR and ensure that, per CMP process, it does not take effect before going through CMP?"). We would appreciate a direct response. Please let us know.

As indicated, our request for Section 251/252 negotiations on this issue is continuing.

Thanks,  
Karen

**PROS.08.31.06.F.04152.TRRO\_Reclass\_UNE\_Conv\_V2** M:\Documents and Settings\karenc\Local Settings\Temporary Internet Files\OLK1>ContactMailAttach.htm

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**From:** Clauson, Karen L.

**Sent:** Friday, August 18, 2006 2:43 PM

**To:** 'Topp, Jason'; 'Hartl, Deborah'; 'Albersheim, Renee'; 'Bastiampillai, Harisha'; Denney, Douglas K.; 'Diamond, Paul'; Goldberg, Tobe L.; Johnson, Bonnie J.; 'Kennedy, Robert.F'; Markert, William D.; Olson, Joan M.; 'Salverda, Kathleen'; 'diane.wells[Contact Information Redacted]'; Zeller, Ginny A.; 'Anderson, Julia'; 'katherine.doherty [Contact Information Redacted]'; 'Anderl, Lisa'; 'Reynolds, Mark (Legal)'; 'Novak, Jean'; 'Nielsen, Joshua'; 'Mark.Coyne@qwest.com'; 'cmpcr@qwest.com'

**Subject:** RE: "TRRO" PCAT Reclassification of Terminations V1.0: Effective 7-28-06 - Request for Section 251/252 negotiations

Kathy/Josh/Jean/Mark/Qwest:

With respect to the paragraph below (copied from your enclosed document received today), it appears that Qwest is refusing to negotiate these issues in Section 251/252 negotiations. If you will not negotiate them, we have insufficient information to craft language. The information you provided in your short written response is sketchy, and we have specifically requested Subject Matter Experts in negotiations to provide us with needed information. If that is not the case, please let us know your availability for a call, if the date we suggested is not convenient.

In response to the last sentence of the paragraph below, I have also addressed this email request to our Qwest service manager, as well as the Qwest CMP manager, on this email so they can respond. Specifically, will Qwest address these issues now in CMP? If so, will Qwest resubmit its non-CMP notice through CMP as a Level 4 CR and ensure that, per CMP process, it does not take effect before going through CMP? Obviously, the fact that Qwest has issued its notice, with an effective date of July 28, 2006, outside of CMP indicates that Qwest is not willing to address this issue in CMP. If it really believed the issue belonged in CMP, it would have initially sent its notice through CMP.

It remains Eschelon's position that these issues are subject to 251/252 ICA negotiations and our request to negotiate them is ongoing. It is also our understanding that Qwest will not address these issues in CMP, as reflected by the fact that Qwest has already implemented its non-CMP "TRRO PCAT" outside of CMP. If it does not revoke that non-CMP notice (enclosed) and issue a CR, then its own position that these issues belong in CMP is belied by Qwest's implementation without using CMP.

From Qwest's 8/18/06 response (enclosed):

"If the intent of the call is to negotiate process issues, Qwest sees no reason to have a call. Process issues are to be addressed via CMP as it impacts all CLECs. This is a TRO/TRRO process. Qwest encourages Eschelon to submit its concerns and future questions specific to this topic to its wholesale service manager as directed in the notice or to CMP. "

Thanks ,  
Karen

-----Original Message-----

From: Hartl, Deborah [Contact Information Redacted]

Sent: Friday, August 18, 2006 10:32 AM

To: Albersheim, Renee; Bastiampillai, Harisha; Clauson, Karen L.; Denney, Douglas K.; Diamond, Paul; Goldberg, Tobe L.; Hartl, Deborah; Johnson, Bonnie J.; Kennedy, Robert.F; Markert, William D.; Olson, Joan M.; Salverda, Kathleen; Topp, Jason; diane.wells [Contact Information Redacted]; Zeller, Ginny A.

Subject: FW: collo reclass

Sending on behalf of Kathy Salverda.  
Deborah Hartl  
Manager - Contract Administration  
Qwest Legal Department/CD&S

[Contact Information Redacted]

\*\*\* CONFIDENTIAL: Only the named recipient(s) should read this e-mail.

It may contain legally privileged or confidential information. If you are not a named recipient or you received this e-mail by mistake, please notify me immediately by reply e-mail and delete the message. \*\*\*

Internal Customers: Please consult  
[http://legalweb.ad.qintra.com/modules/teamHomepage.aspx?legal\\_team\\_id=27](http://legalweb.ad.qintra.com/modules/teamHomepage.aspx?legal_team_id=27)  
for the latest information on contracts and contract-related issues.

-----Original Message-----

From: Salverda, Kathleen  
Sent: Friday, August 18, 2006 9:22 AM  
To: Hartl, Deborah  
Subject: collo reclass

Deb, please distribute to both teams.

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

---

**From:** Clauson, Karen L.

**Sent:** Monday, August 14, 2006 4:27 PM

**To:** 'Topp, Jason'; 'Hartl, Deborah'; 'Albersheim, Renee'; 'Bastiampillai, Harisha'; Denney, Douglas K.; 'Diamond, Paul'; Goldberg, Tobe L.; Johnson, Bonnie J.; 'Kennedy, Robert.F'; Markert, William D.; Olson, Joan M.; 'Salverda, Kathleen'; 'diane.wells [Contact Information Redacted]'; Zeller, Ginny A.; 'Anderson, Julia'; 'katherine.doherty [Contact Information Redacted]'; Anderl, Lisa; Reynolds, Mark (Legal); 'Novak, Jean'; 'Nielsen, Joshua'

**Subject:** FW: "TRRO" PCAT Reclassification of Terminations V1.0: Effective 7-28-06 - Request for Section 251/252 negotiations

**Importance:** High

Kathy/Qwest:

Eschelon will review the information you have provided. In your enclosed response, you said you understand that Eschelon has requested a call to discuss the enclosed Qwest notification relating to reclassification of terminations. While that notice will be discussed, Eschelon has asked Qwest to negotiate contract language in good faith pursuant to Sections 251 and 252, and not just to discuss the Qwest notice. In its 8/3/06 email (below), Eschelon said: "Eschelon asks Qwest to negotiate with Eschelon regarding the terms of conversions, including the terms that Qwest describes in the enclosed notice and "TRRO PCAT.""

During previous negotiations relating to conversions, including those requested by Eschelon in January of this year, Eschelon asked to negotiate the very types of issues that Qwest now claims it has only recently become aware of. If Qwest had provided the Subject Matter Experts (SMEs) requested by Eschelon and negotiated with us then, it is unlikely that we would be learning of this very different information only now. Qwest told us affirmatively in negotiations that the ONLY difference between conversions from special access to UNEs and the reverse would be that the circuit ID would change. We believe that Qwest had a duty to research that answer before providing it. We believe Qwest owes us a better explanation of why the answer has changed, and why Qwest did not come back to us in negotiations and correct the information it previously provided in negotiations, particularly in a timely manner that would have allowed us to address this for the arbitration petition and issues matrix.

With respect to the timing of the negotiations, in its 8/3/06 email (below), Eschelon proposed negotiations on August 8th or 9th. Qwest has responded with August 16th. Unfortunately, that date does not work for Eschelon. Eschelon proposes August 30 or 31 for negotiations. 10am to 11:30am central time would work on either day. Please have subject matter experts on the call, including those involved in conversions where this has arisen. Your document does not describe "Inverse Augment process," for example, nor does it explain why the "question regarding discontinuation of billing never arose" or why it would have to arise in the future if it didn't then. Qwest was able to terminate billing for special access when special access went to UNEs, and Qwest said in negotiations that the process would be the same going the other way. Why wasn't the information Qwest provided accurate? The enclosed Qwest responses need clarification, and we request that Qwest SMEs be available to answer them on the call. Given the timing, this will address more issues in less time than Qwest listing take backs and getting back to us later. The lateness of this notice will prevent full discussion in the direct testimony but we will have to include updates in the reply testimony after negotiations.

Please let us know which date (30th or 31st) works for Qwest's schedule for these negotiations. Thanks,

Karen

-----Original Message-----

From: Hartl, Deborah [Contact Information Redacted]

Sent: Friday, August 11, 2006 12:19 PM

To: Albersheim, Renee; Bastiampillai, Harisha; Clauson, Karen L.; Denney, Douglas K.; Diamond, Paul; Goldberg, Tobe L.; Hartl, Deborah; Johnson, Bonnie J.; Kennedy, Robert.F; Markert, William D.; Olson, Joan M.; Salverda, Kathleen; Topp, Jason; diane.wells [Contact Information Redacted]; Zeller, Ginny A.

Subject: FW: PCAT Notice

Please see the attached.

Deborah Hartl  
Manager - Contract Administration  
Qwest Legal Department/CD&S

[Contact Information Redacted]

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[http://legalweb.ad.qintra.com/modules/teamHomepage.aspx?legal\\_team\\_id=27](http://legalweb.ad.qintra.com/modules/teamHomepage.aspx?legal_team_id=27)  
for the latest information on contracts and contract-related issues.

-----Original Message-----

From: Salverda, Kathleen  
Sent: Friday, August 11, 2006 11:04 AM  
To: Hartl, Deborah  
Subject: PCAT Notice

Deb: Please forward to both teams. Thank You.

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**From:** Clauson, Karen L.

**Sent:** Thursday, August 03, 2006 4:30 PM

**To:** 'Topp, Jason'; 'Hartl, Deborah'; 'Albersheim, Renee'; 'Bastiampillai, Harisha'; Denney, Douglas K.; 'Diamond, Paul'; Goldberg, Tobe L.; Johnson, Bonnie J.; 'Kennedy, Robert.F'; Markert, William D.; Olson, Joan M.; 'Salverda, Kathleen'; 'diane.wells [Contact Information Redacted]'; Zeller, Ginny A.; 'Anderson, Julia'; 'katherine.doherty [Contact Information Redacted]'; 'Novak, Jean'; Nielsen, Joshua

**Subject:** FW: TRRO PCAT FW: Process Notice: TRRO: GN: TRRO - Reclassification of Terminations V1.0: Effective 7-28-06

**Importance:** High

Qwest:

It has come to my attention that Qwest has sent a letter to CLECs with new "TRRO PCAT" effective 7/28/06 (see enclosures). The letter and "TRRO PCAT" provide insufficient information to determine what Qwest intends. The terms do, however, appear to be quite bad and potentially end user customer impacting. They relate to issues that we have discussed in the negotiations relating to collocation, APOTs, conversions, etc. For the lengthy time during which Eschelon and Qwest have negotiated such terms and the TRO and TRRO issues, Qwest never disclosed these new terms to Eschelon. Qwest didn't even raise these issues in the wire center proceedings, where conversions are being discussed. In those proceedings, Qwest disclosed the intent to change circuit IDs but not the intent to change APOTs. Importantly, Eschelon did not know of these terms when indicating that it would close issues 9-43 and 9-44 and subparts. At least until these issues can be discussed and negotiated and perhaps other terms agreed upon, issues 9-43 and 9-44 and subparts are open in all 6 states. (See enclosed document with language. Both parties' position statements for these issues are in the the filed MN issues matrix, except for one additional one, and that is enclosed.) Please update the ICA document and WA matrix accordingly. Though the parties' language and position may change, the deadline for finalizing these documents requires that we use these materials for now for purposes of finalizing the documents.

Eschelon asks Qwest to negotiate with Eschelon regarding the terms of conversions, including the terms that Qwest describes in the enclosed notice and "TRRO PCAT." To facilitate discussions and help develop appropriate language, we would like to discuss, for example, the issues set forth in the enclosed list of questions. To the extent that Qwest, including its negotiations team and/or service management team, can provide any answers in writing before negotiations, that will help us prepare. We are available to discuss on Tuesday or Wednesday of next week (e.g., at the previous negotiations times). Please let us know if those times work for you or when Qwest is available for negotiations on this issue.

Karen L. Clauson  
Sr. Director of Interconnection  
Associate General Counsel  
Eschelon Telecom, Inc.  
[Contact Information Redacted]

---

Qwest TRRO PCAT states: "TRRO - Reclassification of Terminations for UNE Conversions is a procedure that is needed when you are converting UNE Services to Finished Services in Non-Impaired Central Offices as required by the TRRO" It says:

On July 21, 2006, Qwest is providing notification of planned updates to the Wholesale Product Catalog that include new/revised documentation for TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions. You will find a copy of the new PCAT on the Customer Notification Letter Archive at <http://www.qwest.com/wholesale/notices/cnla/>. This material becomes effective on July 28, 2006.

A new PCAT is being introduced which provides documentation not previously documented for TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions to assist CLECs who have signed the TRRO Amendment.

---

**From:** mailouts2@qwest.com [mailto:mailouts2@qwest.com]

**Sent:** Friday, July 21, 2006 3:05 AM

**To:** Isaacs, Kimberly D.

**Subject:** Process Notice: TRRO: GN: TRRO - Reclassification of Terminations V1.0: Effective 7-28-06

**From:** New Cr, Cmp [mailto:cmpcr2@qwest.com]  
**Sent:** Friday, September 01, 2006 3:16 PM  
**To:** Isaacs, Kimberly D.; Novak, Jean; Nielsen, Joshua; cmpcr@qwest.com  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Process Notice: Re-Send: TRRO: GN: TRRO Reclass UNE Conv V2: Effective 9-7-06

Kim,

Qwest is looking into this and someone will be getting back to you.

Peggy Esquibel-Reed  
Qwest Wholesale CMP

---

**From:** Isaacs, Kimberly D. [Contact Information Redacted]  
**Sent:** Friday, September 01, 2006 10:50 AM  
**To:** Novak, Jean; Nielsen, Joshua; cmpcr@qwest.com  
**Cc:** Johnson, Bonnie J.  
**Subject:** FW: Process Notice: Re-Send: TRRO: GN: TRRO Reclass UNE Conv V2: Effective 9-7-06

Eschelon objects to this non-CMP notice. These section 252 issues and should be treated as such.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
[Contact Information Redacted]

---

**From:** mailouts2@qwest.com [mailto:mailouts2@qwest.com]  
**Sent:** Thursday, August 31, 2006 10:53 AM  
**To:** Isaacs, Kimberly D.  
**Subject:** Process Notice: Re-Send: TRRO: GN: TRRO Reclass UNE Conv V2: Effective 9-7-06

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

---

**EXHIBIT 65**

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
SUITE 1700  
100 WASHINGTON SQUARE  
MINNEAPOLIS, MN 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
SUITE 350  
121 SEVENTH PLACE EAST  
ST. PAUL, MN 55101-2147

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

IN THE MATTER OF THE PETITION OF	)	
ESCHELON TELECOM, INC. FOR	)	PUC Docket No. P-5340, 421/IC-06-768
ARBITRATION WITH QWEST	)	OAH Docket No. 3-2500-17369-2
CORPORATION, PURSUANT TO 47 U.S.C.	)	
SECTION 252 OF THE FEDERAL	)	
TELECOMMUNICATIONS ACT OF 1996	)	

### QWEST CORPORATION

### REBUTTAL TESTIMONY OF KAREN STEWART

(Disputed Issue Nos. 4-5 (a,b,c), 9-31, 9-32, 9-33, 9-34, 9-35, 9-36, 9-39, 9-50, 9-52, 9-53, 9-54, 9-54a, 9-55, 9-56, 9-56a, 9-58, 9-58 (a,b,c,d,e), 9-59, 9-61,(a,b,c), 24-92.)

SEPTEMBER 22, 2006

PUBLIC DOCUMENT

TRADE SECRET DATA  
HAS BEEN EXCISED

1 *Review Remand Order.* There are, therefore, network elements and services in  
2 the SGAT that Qwest has no obligation to provide under Section 251.  
3 Conversely, there are new requirements that benefit CLECs -- such as allowing  
4 commingled arrangements -- that are not included in the SGAT.

5 **Q. DO QWEST AND CLECS STILL USE QWEST'S SGATS AS A**  
6 **FOUNDATION FOR THEIR NEGOTIATIONS?**

7 A. Typically not. CLECs now have multiple other options available to them. These  
8 options include other carriers' ICAs that CLECs are able to opt into and also  
9 Qwest's multi-state "Template Agreement." The Template Agreement is based on  
10 the individual states' SGATs. It includes state-specific language and has been  
11 modified to reflect and incorporate changes in law. The Template Agreement is  
12 the underlying agreement that Qwest and CLECs typically use as the base  
13 document for their negotiations. Because of the effectiveness and utility of the  
14 Template Agreement, Qwest stopped updating its SGATs. Indeed, the SGATs  
15 have not been updated to incorporate changes in law since 2003 and are therefore  
16 outdated documents. The regulatory process for modifying and updating SGATs  
17 is very time consuming and resource-intensive. With the other options available  
18 to CLECs, there has not been a need to go through this process and to expend the  
19 significant resources that would be required. Moreover, due to the FCC's  
20 elimination of the "pick-and-choose" rule and its move to the "all-or-nothing"  
21 rule, as discussed below, CLECs are much less likely to opt into a standard SGAT  
22 when ICAs have become increasingly more tailored to CLECs. This tailoring has  
23 increased as CLECs have shaped their businesses to have a specialized focus,  
24 which is often necessary to survive in today's highly competitive  
25 telecommunications markets.

26 **Q. EVEN IF QWEST HAD BEEN UPDATING ITS SGAT, WOULD IT BE**  
27 **APPROPRIATE FOR ESCHELON TO REQUEST THAT INDIVIDUAL**

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 66**



**Announcement Date:** November 15, 2006  
**Effective Date:** November 16, 2006  
**Document Number:** PROS.11.15.06.F.04322.MultLangChangeforSGATs  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP – Getting Started as a CLEC V21  
Getting Started as a Reseller V12  
Interconnection Agreements V74  
Interconnection Negotiations Process V12  
Provisions Available for Opt In V12  
New Customer Questionnaires V32

**Level of Change:** Level 1

**Summary of Change:**

On November 16, 2006, Qwest will post updates to its Wholesale Product Catalog that include corrections, clarifications and additional information for Getting Started as a CLEC V21, Getting Started as a Reseller V12, Interconnection Agreements V74, Interconnection Negotiations Process V12, Provisions Available for Opt In V12, and New Customer Questionnaires V32 . You will find a redlined version of the changes on the Product/Process Document Review Archive at [http://www.qwest.com/wholesale/cmp/review\\_archive.html](http://www.qwest.com/wholesale/cmp/review_archive.html).

Qwest is updating the mentioned documents to provide additional information and clarification that does not change the process. The references to the SGATs and Exhibits and applicable language changes are being made. The SGATs are no longer available to opt into and have been replaced with the Negotiations Template Agreement (NTA).

Actual updates to the operational documents are found on the Qwest Wholesale Web Site at these URLs:

[http://www.qwest.com/wholesale/clecs/clec\\_index.html](http://www.qwest.com/wholesale/clecs/clec_index.html)  
[http://www.qwest.com/wholesale/clecs/reseller\\_index.html](http://www.qwest.com/wholesale/clecs/reseller_index.html)  
<http://www.qwest.com/wholesale/clecs/negotiations.html>  
<http://www.qwest.com/wholesale/clecs/negotiationsprocess.html>  
<http://www.qwest.com/wholesale/clecs/provisionoptin.html>  
<http://www.qwest.com/wholesale/clecs/newcustquestionnaire.html>

**Comment Cycle:**

No formal comment cycle applies. CLECs who feel the change(s) described in this Level 1 notification alter(s) CLEC operating procedures should immediately contact the Qwest CMP Manager, by e-mail, at [cmpcr@qwest.com](mailto:cmpcr@qwest.com).

Sincerely



## Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>



**November 15, 2006**

**Announcement Date:**  
**Effective Date:** November 16, 2006  
**Document Number:** PROS.11.15.06.F.04302.Amendments\_SGATs  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers,  
**Subject:** Amendments SGATs

**Summary of Change:**

On November 16, 2006 Qwest will post updates to its Wholesale Product Catalog that include new/revised documentation for Amendments and SGATs. This material becomes effective on November 16, 2006.

Qwest is updating the following documents to remove the SGATs, Exhibits and language that pertains to the SGATs. The title of the web page will now become Negotiation Template Agreement. SGATs continue to be available as reference documents through the Quick Links located on the right side of the Wholesale web page.

**Amendments:**

- New Products and Services section – removed SGAT language
- New Products and Services Not in the Files SGATs title of section changed to Amendments for New Products and Services

**SGATs:**

- Title of document changed from SGATs (Wireline) to Negotiations Template Agreement (NTA)
- Interconnection Business section removed including the Dropdown and documents for the 14 state SGAT and Exhibits.
- Negotiations Template Agreement section – removed SGAT language
- Exhibit B by state and Exhibit K by state sections are added to include these Exhibits. These have not changed and remain as last published on the SGAT Interconnection Business section of this same document. Only the location within the document has changed.
- Resale Agreements and Exhibits - removed SGAT language and changed to NTA

Redline SGAT documents are found at URL: <http://www.qwest.com/about/policy/sgats/>

Actual updates are found on the Qwest Wholesale Web site at the following URLs:

<http://www.qwest.com/wholesale/clecs/amendments.html>  
<http://www.qwest.com/wholesale/clecs/sgatswireline.html>

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 67**



- PRODUCTS & SERVICES
- CUSTOMER SERVICE
- RESOURCES

Cable (MSOs) | ILECs/ICOs | IXCs| International | ISPs/ESPs | Local Interconnection & Resale | National Service Resellers | Wireless

## Wholesale: Local Interconnection – Facility Based Solutions

Local Interconnection and Local Resale Quick Links

- ▶ 271 Qwest Performance Results
- ▶ Agreements & Amendments
- ▶ Change Management (CMP)
- ▶ CEMR
- ▶ Customer Notice Archive (CNLA)
- ▶ IMA
- ▶ Local Services Ordering Guide (LSOG)
- ▶ QORA
- ▶ Service Interval Guides
- ▶ SGATs
- ▶ Tariffs
- ▶ Technical Publications
- ▶ USOC/FID Finder

### Local Interconnection - Facility Based Competitive Local Exchange Carriers (CLECs) V 5.0

[History Log](#)

If you are a Qwest Interconnection – Facility Based Competitive Local Exchange Carrier (CLEC) customer, use the menus below to find Product, Service and Business Procedure information.

#### Product and Service Solutions

#### Business Procedures

#### Forms

#### Network Information

- [ICONN Database](#)
- [Network Disclosures](#)
- [Technical Publications](#)

#### New Customers

If you are new to the interconnection business, and considering interconnecting with Qwest as a CLEC within our [14-state local service territory](#), you have two choices as to how we conduct business based on the following criteria:

..... Interconnection - Facility Based CLECs provide local telecommunication products and services via their own switches and network facilities to their business and residential end-users. I want to do

[View More Solutions](#)

business as an Interconnection - Facility Based CLEC - [Let's Get Started!](#)

Resale – Non Facility Based CLECs purchase Qwest's products and services, at a resale rate either through a separate negotiated agreement with Qwest or a tariff, and resell these products and services to their end-users. I want to do business as a Resale – Non Facility Based CLEC - [Let's Get Started!](#)

Eschelon/67  
Johnson/  
2

### **External Documentation Requests Process & CLEC External Process Clarification Request**

Would you like Qwest to clarify language about an existing process? Is there an existing process that you need to see documented? Or, do you need to notify Qwest about an unintentional change to an undocumented or documented existing process?

[Click Here to View the Qwest External Documentation Requests Process & CLEC External Process Clarification Request Forms and User Guides.](#)

**Last Update:** October 16, 2006

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- PRODUCTS & SERVICES
- CUSTOMER SERVICE
- RESOURCES

Cable (MSOs) | ILECs/ICOs | IXCs | International | ISPs/ESPs | Local Interconnection & Resale | National Service Resellers | Wireless

## WHOLESALE

CONTACT US

### Products & Services

### Local Business Procedures

#### Local Business Procedures

▶ **View More Local Resale Non-Facility Based Business Procedures**

▶ **View More Local Interconnection Facility Based Business Procedures**

## Negotiations Template Agreement (NTA)

[History Log](#)

### Multi-state Negotiation Interconnection Agreement

Qwest Multi-state Negotiations Interconnection Agreement template is offered by Qwest as a baseline Agreement for negotiations between Qwest and CLECs entering into Agreements in multiple states. The Template is Qwest's offer to provide more consistent language across multiple states.

Select Negotiations Template Agreement

Where there is state specific language required, Qwest is indicating that ordered language from that state will be substituted in Agreements negotiated for that state. In many cases, state Commissions require that state specific language to be part of the Agreement. If you are not entering into an Agreement for those states, the statement does not apply.

### Exhibit A - by State

Select an Exhibit A

### Exhibit B - by State

Select an Exhibit B

### Quick Links

#### Agreements

- ▶ Commercial
- ▶ Interconnection
- ▶ Resale
- ▶ Wireless
- ▶ Non Impaired Wire Center
- ▶ Opt-In Provisions
- ▶ Negotiations Template

#### Amendments

- ▶ Amendments

#### SGATs

- ▶ Reference Documents

**Exhibit D - by State**

Select an Exhibit D

**Exhibit K - by State**

Select an Exhibit K

The following Exhibits are applicable to Qwest's 14 state local service territory

Select an Exhibit

**Resale Business****Qwest Resale Agreements and Exhibits**

- [Resale Agreement 3-30-06](#)
- Exhibit A-See appropriate state NTA Exhibit A
- Exhibit B-See appropriate state NTA Exhibit B
- Exhibit G-See appropriate state NTA Exhibit G
- Exhibit K-See appropriate state NTA Exhibit K

**Qwest Non Impaired Wire Centers**

-


**Qwest Non-Impaired Wired Center Lists for Loops and Dedicated Transport**

The FCC's Triennial Review Remand Order (TRRO), FCC 04-290 (WC Docket No. 04-313 and CC Docket No. 01-338) released February 4, 2005, modified the rules under which Qwest is required to offer DS1, DS3, and dark fiber loops and transport as Unbundled Network Elements (UNEs) pursuant to section 251(c)(3) of the Communications Act of 1934, as amended. The FCC found that CLECs are not impaired without DS1 and DS3 loops in wire centers that meet certain criteria, and they are not impaired without DS1, DS3, and dark fiber between wire centers that meet other criteria. See 47 U.S.C. §§ 51.319(a)(4) (DS1 loops), 51.319(a)(5) (DS3 loops), 51.319(e)(2)(ii) (dedicated DS1 transport), 51.319(e)(2)(iii) (dedicated DS3 transport), 51.319(e)(2)(iv) (dark fiber transport). CLECs are not impaired without dark fiber loops in any location. See 47 U.S.C. § 51.319(a)(6).

The attached lists identify those Qwest wire centers that meet the non-impairment criteria



established in the TRRO for DS1 and DS3 loops and DS1, DS3, and dark fiber transport.

Select an Attachment 

**Last Update:** November 22, 2006

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LOCAL PHONE SERVICE

INTERNET

WIRELESS

LONG DISTANCE

DIGITAL TV

**Manage MyAccount**

CUSTOMER SERVICE

SEARCH

*My Products & Services*

HOME

RESIDENTIAL

SMALL BUSINESS

LARGE BUSINESS

PARTNERS

WHOLESALE

## About Qwest

COMPANY INFORMATION

NEWS ROOM

INVESTOR INFORMATION

REGULATORY DOCUMENTS

CONSUMER PROTECTION

### Regulatory Documents

#### SGATs - Reference Only

This page is for reference purposes only and contains past versions and redlined versions of the SGATs filed with state Public Utility Commissions. If you wish to amend an existing interconnection agreement or wish to establish a new interconnection agreement, please [click here](#) to access the Qwest Wholesale Website.

Available as downloadable Adobe Acrobat PDF files (requires free Adobe [Acrobat Reader](#)).

- [Arizona](#)
- [Colorado](#)
- [Idaho](#)
- [Iowa](#)
- [Minnesota](#)
- [Montana](#)
- [Nebraska](#)
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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 68**

**Archived System CR SCR102704-1RG Detail**

**Title: FCC Triennial Review Order CC 01-338 (TRO), U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance: Certain Unbundled Network Elements (UNE) Product Discontinuance**

CR Number	Current Status Date	Level of Effort	Interface/ Release No.	Area Impacted	Products Impacted
SCR102704-1RG	Closed 10/27/2004	-	/		See Description of Change for listing of products impacted

**Originator:** Whitt, Michael

**Originator Company Name:** Qwest Corporation

**Owner:** Whitt, Michael

**Director:** Campbell, Bill

**CR PM:** Harlan, Cindy

**Description Of Change**

Description of Change:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

**Product Availability**

This CR details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the FCC Report, Order on Remand, and Further Notice of Proposed Rulemaking, referred to as the "Triennial Review Order" (TRO) CC Docket 01-338, the subsequent U.S. Court of Appeals for the DC Circuit decision 00-1012 ('USTA II') which vacated some of the FCC's unbundling rules, and the FCC's Interim Rules, which preserved some of the unbundling rules vacated in USTA II.

In accordance with these orders and findings, the following UNE products are no longer available to CLECs unless the most current, effective version of CLEC's Interconnection Agreement (ICA) or Amendment includes terms, conditions, and pricing for the products before 6/15/04:

? All Enterprise and Mass Market Unbundled Network Elements Switching (UBS) products, detailed in the following Product Catalog (PCAT):  
<http://www.qwest.com/wholesale/pcat/unswitch.html>

? All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unep.html>

? Line Sharing detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/linesharing.html>

? DS1 Unbundled Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unloopds1caploop.html>

? DS3 Unbundled Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unloopds3caploop.html>

? OCN Unbundled Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unloopocn.html>

? Unbundled Packet Switching detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/ups.html>

? Shared Distribution Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/shareddistloop.html>

? Unbundled Feeder Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/subloop.html>

? Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF,  
 detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/darkfiber.html>

? DS1, DS3, and OCN Unbundled Dedicated Interoffice Transport (UDIT),  
 including E-UDIT and M-UDIT, detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/udit.html>

? DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following  
 PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>

? Unbundled Customer Controlled Rearrangement Element (UCCRE)  
 detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/uccre.html>

? DS1 and DS3 Loop Mux Combo detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/lmc.html>

Product Transition, if applicable:

Not Applicable

PCAT Updates

All impacted UNE PCATs will be updated in the future to reflect this change  
 in availability. These changes will be announced via the CMP notification  
 process.

Expected Deliverables/Proposed Implementation Date (if applicable):  
 Retroactive to 6/15/04 pursuant to FCC Interim Rules, subject to CMP  
 Guidelines.

**Status History**

Date	Action	Description
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**Project Meetings**

**QWEST Response**

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Information Current as of 10/2/2006

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 69**

**Archived System CR SCR083005-01 Detail****Title: Implement Edits Related to TRRO (FCC 04-290)**

CR Number	Current Status Date	Level of Effort	Interface/ Release No.	Area Impacted	Products Impacted
SCR083005-01	Withdrawn 3/15/2006	1500 - 2000	IMA Common/	Ordering	UBL, EEL, LMC, DS1 & DS3 Loop and/or Transport

**Originator:** Hooper, Sami**Originator Company Name:** Qwest Corporation**Owner:** Hooper, Sami**Director:** Bliss, Susan**CR PM:** Esquibel-Reed, Peggy**Description Of Change**

This is a Regulatory Change Request.

The FCC's Triennial Review Remand Order (TRRO), FCC 04-290 (WC Docket No. 04-313 and CC Docket No. 01-338) released February 4, 2005, modified the rules under which Qwest is required to offer DS1 and DS3, loops and transport as Unbundled Network Elements (UNEs) pursuant to section 251(c)(3) of the Telecommunications Act of 1934, as amended. The FCC ordered impairment criteria impacts DS1 and DS3 loops and transport. Due to the volume of customers that have opted into the TRRO Amendment, Qwest needs to implement edits in those states, for those customer's, where a TRRO has been filed, in their states.

No new or conversion activity is allowed in non-impaired offices on Unbundled Loop, EEL, and Loop Mux Combination (LMC). DS1 and DS3 loops and/or transport will be identified by wire center where the requirements of full competition are met.

This CR will install an edit in IMA to reject requests for service in non-impaired offices on UBL, EEL, LMC, DS1 and DS3 loop and/or transport.

Additionally, on EEL and LMC the SPEC field on the LSR will be utilized to identify the request as EEL Loop, EEL Multiplexer, LMC Loop, or LMC Multiplexer. The product name in IMA for these products will be updated from EEL/UNE Combination to EEL/LMC to match the names in the product catalogs.

Expected Deliverable:

Requested Implementation is the IMA 19.0 Release, April 2006, due to the volume of customers that have opted into the TRRO Amendment, Qwest needs to implement edits in those states, for those customer's, where a TRRO has been filed, in their states.

**Status History**

Date	Action	Description

3/15/2006	Discussed at Monthly CMP Meeting	Discussed at the March Systems CMP Monthly Meeting; please see the March Systems CMP Distribution Package, Attachment G	Eschelon/69 Johnson/ 2
8/30/2005	CR Submitted		
8/30/2005	CR Acknowledged		
8/31/2005	Communicator Issued	CMR.08.31.05.F.03232.RegulatoryCRSubmitted	
9/6/2005	Clarification Meeting Held		
9/21/2005	Discussed at Monthly CMP Meeting	Discussed at the September Systems CMP Monthly Meeting; please see the September Systems CMP Distribution Package, Attachment D	

## Project Meetings

March 15, 2006 Systems CMP Meeting Discussion: Jill Martain-Qwest stated that this CR had been out for awhile, is currently in deferred status, and stated that Qwest would now like to withdraw this CR. Jill stated that if Qwest determines, at a later date, that a system enhancement is needed, Qwest would issue another CR. This CR is in withdrawn status.

September 21, 2005 Systems CMP Meeting Discussion: Jill Martain/Qwest stated that based on other issues that are in progress, in and outside of CMP, Qwest will defer this CR and will remove the Regulatory (RG) classification. Jill stated that once the issues are resolved, the CR will be taken out of deferred status and we would have further discussions regarding this Change Request. Jill noted that there is no need for a vote to take place during the September Monthly CMP Meeting. There were no questions or comments. This CR is in Deferred Status.

-- September 8, 2005 Email Received from Covad: Covad objects to the "regulatory" classification of SCR083005-01. To preface, the CMP document clearly spells out the scope of regulatory CRs and the process for a regulatory designation and this change request does not meet those qualifications. In addition, Covad believes a regulatory designation is inappropriate due to the following:

(a) Currently, Qwest is obligated to provision all orders for services out of arguably unimpaired COs so edits attempting to prevent ordering out of COs Qwest has unilaterally designates as unimpaired is impermissible;

(b) the good faith, self-certification requirement imposed by the TRRO for ordering should accommodate any concerns Qwest may have regarding orders placed out of arguably unimpaired COs; and (c) since Qwest, to date, has made it impossible for any CLEC or state commission to validate whether a CO is unimpaired further reinforces that the only legitimate way to accommodate arguable changes of law resulting from the TRRO is the self-certification process.

Since Covad has not yet executed the TRRO amendment, and since Qwest has not articulated any legitimate reason for using system edits versus the self-certification process, Covad believes that Qwest may not permissibly use any system edits for orders placed by Covad. Thanks, Liz Balvin Covad Communications

September 6, 2005 Email Received from Eschelon: Eschelon objects to the classification of this CR as a Regulatory CR. Qwest's CR is response to freely negotiated amendments. These were negotiated without arbitration. Qwest was not ordered to limit its product availability and could do more. The FCC sets out a minimum. In addition, this change is contrary to the FCC's self certification process. Under that process, Qwest cannot reject an order when the CLEC self certifies. If Qwest and other CLEC's have agreed



to a different process that is voluntary and does not support a Regulatory CR. Eschelon understands that the changes apply only to certain customers that signed the TRO amendment., therefore, the edits/changes, in any event, will not apply to Eschelon or ATI. Bonnie J. Johnson Director Carrier Relations Eschelon Telecom, Inc.

Eschelon/69  
Johnson/  
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September 1, 2005 Email Received from AT&T: AT&T objects to the treatment of the Qwest-originated change request SCR083005-01RG as a Regulatory Change pursuant to the Change Management Process. Section 4.1 defines a regulatory change: 4.1 Regulatory Change A Regulatory Change is mandated by regulatory or legal entities, such as the Federal Communications Commission (FCC), a state commission/authority, or state and federal courts. Regulatory changes are not voluntary but are requisite to comply with newly passed legislation, regulatory requirements, or court rulings. Either the CLEC or Qwest may originate the Change Request. The definition states that the "Regulatory changes are not voluntary but are requisite to comply with newly passed legislation, regulatory requirements, or court rulings." The FCC's Triennial Review Remand Order Qwest referenced in Qwest's CR simply relieved Qwest of certain obligations under federal law. That ruling did not mandate that Qwest no longer provide the products and services relating to those obligations. Qwest has voluntarily chosen to cease providing these services. As such, this Qwest CR does not qualify as a Regulatory Change under the CMP. If Qwest wishes to pursue these changes, Qwest's CR must be treated as any other systems CR. Sharon Van Meter AT&T Western Region GAM 303-699-6483 303-540-1637 (pager)

September 1, 2005 Clarification: Introduction of Attendees: Sami Hooper-Qwest, Jill Martain-Qwest, Peggy Esquibel Reed-Qwest

Review Requested (Description of) Change: Peggy Esquibel Reed-Qwest reviewed the CR and asked if there was additional information. Sami Hooper-Qwest stated that there is no additional information.

Confirmed Impacted Area(s): Peggy Esquibel Reed-Qwest confirmed that this request is for Ordering.

Confirmed Impacted Interfaces: Peggy Esquibel Reed-Qwest confirmed that this is an impact to IMA Common.

Confirmed Impacted Products: Peggy Esquibel Reed-Qwest confirmed the impacted products UBL, EEL, LMC, DS1 & DS3 Loop and/or Transport.

Establish Action Plan & Resolution Time Frame: Peggy Esquibel Reed-Qwest stated that Sami will present this CR at the September 21, 2005 Systems CMP Meeting. Peggy then noted that the Regulatory Notice was sent on 8/31 and that the deadline for objections, for the Regulatory classification, is 5:00 p.m. MT, September 8th.

- August 31, 2005 Regulatory Notification Sent:  
CMPR.08.31.05.F.03232.RegulatoryCRSubmitted

## **QWEST Response**

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 70**

**CMP Oversight Committee Meeting Minutes**  
**January 4, 2005**  
**1-877-572-8687, Conference ID 3393947#**  
**2:00 p.m. – 3:00 p.m. Mountain Time**

**PURPOSE**

This was a meeting of the CMP Oversight Committee to review an issue submitted to the committee on 11/30/04 by Liz Balvin of Covad. The following is the write-up of the discussion.

**List of Attendees:**

Jen Arnold – TDS Metrocom/U S Link  
Liz Balvin – Covad  
Becky Quintana – Colorado PUC  
Bonnie Johnson – Eschelon  
Kim Isaacs - Eschelon  
Sharon Van Meter – AT&T  
Kathy Stichter – Eschelon  
Doug Denny – Eschelon  
Amanda Silva – VCI  
Jeff Sonnier – Sprint  
Susie Bliss - Qwest  
Susan Lorence – Qwest  
Cindy Buckmaster – Qwest  
Bill Campbell – Qwest  
Cindy Macy – Qwest  
Jill Martain – Qwest  
Linda Sanchez-Steinke – Qwest

**MEETING MINUTES**

The meeting began with Qwest making introductions.

Linda Sanchez-Steinke of Qwest reviewed the issue Covad submitted to Oversight on 11/30/04. Linda read from the Description of the Issue; Qwest inappropriate use of CMP to drive legal interpretation of the Law, and the desired resolution; the proposed changes (PC102704-1ES) be withdrawn until Qwest can properly follow the CMP governing document. Qwest responded on 12/10/04 requesting that Oversight meet to discuss how to move forward with the Change Request.

Liz Balvin reviewed the history of the issue and stated Covad's position that the biggest issue is Qwest is out of scope of CMP. She stated that the first problem is that the Systems CR SCR102704-1RG was identified as Regulatory and did not follow the process of referencing the page and paragraph and called into question the law or mandate. The second problem is that six CLECs objected to the regulatory classification of the CR and the objections should have been addressed. The CR was then converted to Product / Process, the regulatory classification removed, and Qwest did not follow the crossover guidelines. Qwest's binding response to the Covad escalation continued to assert that Product / Process is not the correct category and it is a regulatory CR. Qwest has been out of scope of CMP for this CR. [Comment received from Covad: Qwest's binding response to the Covad escalation continued to base decision on USTA II and FCC interim rules but not call regulatory. Qwest has been out of scope of CMP for this CR.]

Susie Bliss of Qwest stated Qwest's position was when objections to the regulatory classification were received, the regulatory definition in CMP did not fit. There was not unanimous agreement that the CR was regulatory. Section 5.1.1 states that if there is not unanimous agreement then the CR will be treated as non-regulatory. PCAT changes

need to be made and when PCAT changes are made, Qwest is obligated to notify the CLECs by following 5.4.5 limiting the product availability. Qwest proceeded as a Product / Process Level 4 change.

Liz Balvin and Susie Bliss discussed the concern that CLECs were not given a chance to discuss the CR and whether Qwest was limiting or restricting availability of products. [Comment received from Covad: Liz Balvin stated that CLECs were not given the opportunity to iron out whether the CR should have been categorized as regulatory. Susie Bliss indicated that Qwest has the right to limit the availability of products based on the CMP document. Liz Balvin stated that Qwest is not limiting, but restricting products that other carriers continue to be able to purchase.]

Bonnie Johnson of Eschelon stated that Qwest can not make a decision as a company and not allow the customer to order the product any longer. It is required to provide the basis under which the product is removed.

Bill Campbell of Qwest, Liz Balvin, Bonnie Johnson and Susie Bliss discussed resolving the issue by providing the USTA II document and identifying for each product the page and paragraph reference.

Liz Balvin and Bonnie Johnson were concerned that CMP process has not been followed, and stated the CR is lacking the steps required. Susie Bliss asked if citing the paragraph would resolve. Liz recalled that the CMP document was written to address regulatory CRs and that Qwest tried to remove the regulatory classification and page and paragraph of law should be provided to move forward with the change.

Cindy Buckmaster of Qwest restated Liz's position; Covad does not want the Regulatory classification removed, but instead would like Qwest to add the page and paragraph. [Comment received from Covad: Cindy Buckmaster of Qwest asked to restate Liz's (Covad's) position; does Covad want the Regulatory classification removed or Qwest to cite add the page and paragraph. Liz's stated that Qwest continues to call into question the law but not want to cite page and paragraph, there is a difference.] Further discussion ensued between Liz Balvin and Cindy Buckmaster whether appropriate to revise the CR or leave the CR as is currently. Susan Lorence of Qwest added that when grandparenting products, the CRs remove the product availability.

Liz Balvin felt that Qwest has called into question the law and has jerry rigged the CMP process to meet Qwest's needs because there are system edits in place to restrict ordering the products. [Comment received from Covad: products and that the notifications, even level 4 notices carry the clause that IA supercede PCAT documents.]

Becky Quintana of the Colorado PUC asked if Liz's issue was there is not a way the CR can be categorized as a regulatory CR. Liz Balvin responded that Qwest has called into question the law and should follow the CMP guidelines and provide page and paragraph. Becky Quintana stated that if Qwest withdraws the CR and then re-submits the CR as regulatory it is not clear how the CLECs could object.

Sharon Van Meter of AT&T stated AT&T had objected to the regulatory classification and read the AT&T attorney position. Cindy Buckmaster interjected that this is the very objection that resulted in Qwest removing Regulatory classification from the CR. A number of CLECs objected on this basis and that is where Qwest took its action from. Liz indicated that may have been some CLEC prematurely showing part of their hand but she didn't see these remarks nor a response from Qwest on these remarks and therefore didn't know Qwest had this information.

Bonnie Johnson, Bill Campbell and Cindy Buckmaster discussed that a regulatory classification means Qwest can not (by law) provide the product and a non-regulatory classification means that Qwest does not have an obligation to and chooses not to provide the product. It was agreed this CR is non-regulatory. Becky Quintana added that it is now clear why this is not a regulatory CR.

Liz Balvin stated that Covad had objected to the Systems CR and then escalated the Product / Process CR. If Qwest had followed the process, the CLECs would have discussed the objections and Qwest's responses to the objections. Qwest is aware of all the other CLEC's positions. [Comment received from Covad: Liz Balvin stated it is easy for Qwest, now that it has all the information in hand, to take this new position. If Qwest had followed the process, the CLECs would have discussed the objections and Qwest's responses to the objections. Qwest is aware of all the other CLEC's positions and by not following the CMP guidelines has eliminated CLECs insight to all that Qwest has.]

Cindy Buckmaster requested input on how the CR could be moved forward. Liz Balvin requested that Qwest respond to the objections. There was discussion between Linda Sanchez-Steinke, Liz Balvin and Susie Bliss concerning Section 5.1.1 related to any requirement that Qwest respond to objections.

There was further discussion between Liz Balvin, Susie Bliss, Cindy Macy and Susan Lorence regarding the CMP voting process, classification of the CR, following CMP guidelines for the CR and the precedent that has been set with change to disposition requests. Liz felt these were different situations. [Comment received from Covad: Liz stated these situations were different because no one has requested a change in disposition.]

Becky Quintana asked if the concern was that Qwest did not follow the process outlined in 5.1.1 or if the concern would be the same if 5.1.1 were followed.

Liz Balvin said she couldn't say for sure because Qwest has all the ammunition and we have none.

Bonnie Johnson and Becky Quintana discussed Qwest exercising their rights to limit product availability, basis for product limitation as it relates to PCAT comments, limiting of products prematurely, and appropriateness of legal discussion on Product / Process changes.

[Comment received from Eschelon: Bonnie Johnson and Becky Quintana discussed Qwest exercising their rights to limit product availability, basis for product limitation as it relates to PCAT comments, Bonnie said Qwest is limiting products prematurely and Becky agreed. Becky and Bonnie discussed the appropriateness of legal discussion on Product / Process changes.]

Susan Lorence and Liz Balvin discussed processing grandparenting change requests, the tariff reference being out of CMP scope and whether the products are currently ordered by CLECs. Liz felt this CR is different because Qwest is citing the law. [Comment received from Eschelon: and on grandparenting CRs no CLECs order the products.] [Comment received from Covad: Liz stated that whenever Qwest grandfather's a product, the first question from CLECs is whether anyone is ordering the products.]

Cindy Buckmaster responded that Qwest has the right to not have to offer products based on the law.

Kim Isaacs of Eschelon said that the title of the CR, USTA II, implies that the change is based on the law.

Cindy Buckmaster said that she was not involved when the CR was initiated or when it was decided it was a regulatory CR. The change is not a mandate and Qwest is obligated to notify CLECs of the change. There has been no effort to jerry rig CMP. Qwest is notifying CLECs the products will not be available on a going forward basis.

Liz Balvin and Becky Quintana discussed if notification should be through CMP and PCAT changes.

Bill Campbell said a note in the PCAT stating if the CLEC does not have these products in the current ICA then these products are not available. Bill Campbell, Liz Balvin and Cindy Buckmaster continued discussing options to process the CR, ability to vote down a regulatory CR and then move it to product / process. Re-issuing the CR and starting the clock over based on conversation and intent, changing the title and editing the CR, and posting of historical information to the CR.

Bonnie Johnson asked that the meeting minutes reflect all of the conversation that has taken place. [Comment received from Eschelon: Bonnie said Qwest often reflects their views but not CLECs.]

Liz Balvin, Sharon Van Meter, Susie Bliss and Becky Quintana presented options to process the CR; changing it to a regulatory CR because it is citing the law, submitting a new product / process non-regulatory CR stating intentions, changing the CR title, deferring, amending the current CR and maintaining the history. Susan Lorence suggested Oversight members take a poll on which would like to modify the existing CR, which would like a new CR.

Bill Campbell, Becky Quintana, Cindy Buckmaster, Bonnie Johnson and Liz Balvin discussed options related to the CR. The CR is currently accurate and may change soon. When the final rules are issued DS1 and DS3 loops may

not be accurate. [Comment received from Eschelon: When the final rules are issued this will change because DS1 and DS3 loops may not be accurate.] Bill Campbell asked if the CR is moved to deferred status if the CLEC community is willing to waive the notification requirement.

Kim Isaacs and Bill Campbell discussed SGAT changes, PCAT changes and the ICA negotiations. [Comment received from Eschelon: Bill said that the current negotiation template reflects the correct information but the SGATs have not been updated. Bonnie asked if there was a particular CLEC that was challenging Qwest on this issue and if that is why Qwest needed to update PCATs.]

Cindy Buckmaster, Bonnie Johnson and Liz Balvin continued discussion related to processing the CR, Bonnie Johnson, Bill Campbell and Liz Balvin discussed how CLECs should be notified of the product change and the PCAT reflecting the SGAT, notification through change of law, how contracts override the PCATs, and product availability is negotiated through the ICA agreements. [Comment received from Eschelon: Bonnie said if Qwest will limit product availability in its existing ICA, Qwest would need to notify Eschelon through the change in law provision of its contract and not through a PCAT CMP notice. Bill agreed.]

Becky Quintana suggested that Qwest discuss the CR options internally. The Oversight committee agreed to meet again on 1/10/04 at 3:00 p.m. Mountain time.

The meeting was concluded.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 71**

**CMP Oversight Committee Meeting Minutes**  
**January 10, 2005, 1-877-572-8687, Conference ID 3393947#**  
**3:00 p.m. – 4:00 p.m. Mountain Time**

**PURPOSE**

This was the second meeting of the CMP Oversight Committee to review an issue submitted to the committee on 11/30/04 by Liz Balvin of Covad. The following is the write-up of the discussion.

**List of Attendees:**

Jen Arnold – TDS Metrocom/U S Link  
Liz Balvin – Covad  
Becky Quintana – Colorado PUC  
Bonnie Johnson – Eschelon  
Sharon Van Meter – AT&T  
Amanda Silva – VCI  
Susie Bliss - Qwest  
Susan Lorence – Qwest  
Bill Campbell – Qwest  
Cindy Macy – Qwest  
Peggy Esquibel-Reed – Qwest  
Linda Sanchez-Steinke – Qwest

**MEETING MINUTES**

Linda Sanchez-Steinke of Qwest stated that on Friday Qwest sent an e-mail to Oversight members explaining that we would prefer to revise the CR PC102704-1ES. By revising the CR the historical information is preserved and the references to law would be removed and the title would be changed. Attached to the e-mail was a redlined CR with the proposed changes. The proposed deletions would become the revised title and the revised description of change keeping the original title and the original description of change within the CR. The Oversight members stated they had received and reviewed.

Liz Balvin of Covad stated she did not think this process would preserve the CR history and recalled from the last meeting the only recommendation was to defer the CR until the final rules were issued.

Susie Bliss of Qwest stated Qwest reviewed three options for the CR; defer until final rules, amend the CR or withdraw the CR and issue a new CR.

Liz Balvin asked if Qwest was going to consider deferring until the rules are permanent.

Susie Bliss said that the approach was considered and voiced concern that the products are currently not available and current contracts are expiring.

Bonnie Johnson of Eschelon stated there are products in the PCAT that cannot be ordered because they are not in the CLEC's contract. Bonnie said she was trying to understand why the CR is needed.

Bill Campbell of Qwest explained that the PCATs are based on the approved SGATs and the SGATs can be different from the ICA. We try to time the CMP update changes with the SGAT changes and Qwest did put together SGAT changes. However, the SGAT's have been pulled back with concurrence of the states due to the unsettled regulatory situation post USTA II, post interim order and pre final FCC order. Qwest has changed the ICA language template (insert comment) but the current SGAT's do not accurately reflect the products Qwest offers and Qwest (end comment) feels it is important to notify CLECs on the changes to the products.



Liz Balvin countered that if the legal implications were removed, the situation is in flux, the permanent rules will be issued later this month and the CLECs are restricted from ordering existing products that are not included in their ICA.

Bill Campbell responded after 6/15/04 CLECs without the ICA including the products do not have the option of ordering the products. Qwest is choosing to move forward with the CR because the final FCC rules although scheduled to be finalized in January and effective in March, it would most likely be June before changes to the order are made.

Liz Balvin felt that the process was backward because if a CLEC wants these products they would work with the negotiation team and would not go through CMP (insert comment) because CMP specifically call out ICA's override (end comment).

Bill Campbell discussed that Qwest has an obligation to notice the change in the PCAT when the SGAT has not changed.

Bonnie Johnson said that product availability is based on the ICA and even though Qwest notices about product availability, CLEC's can't get the products without an agreement including the product.

Bill Campbell explained that new CLECs may go to the Qwest website to find which products are available and then would be given a contract that does not list all the products that were available on the website. Normally the SGAT change would force the change in the PCAT.

Liz Balvin stated that Qwest restricting products to CLECs who don't have them in their ICA is different than limiting the product availability. The intent of the CR was drawn from legal rules and the permanent rules could change the offering.

Bill Campbell responded that the CR would have to be changed. Bonnie Johnson asked if traditionally a new CLEC would go to the SGAT or PCAT to see what is available and they are not in sync.

Bill Campbell explained that the PCAT and SGAT are in sync but they are not in sync with Qwest policy. The states are not accepting SGAT changes at this time and the SGAT and PCAT are in sync but the ICA template is different.

Becky Quintana of the Colorado PUC asked if Qwest was considering filing the SGAT prior to the final rules or waiting and Bill Campbell stated that Qwest is waiting, although we did file prior to the USTA decision, but withdrew the filings when it was clear that the states did not believe the timing was right to make the proposed changes knowing full well any state proceedings would have to be revisited. Becky Quintana voiced concerned that the SGAT on file and the Wholesale tariff are not the current Qwest offering.

Liz Balvin and Bill Campbell agreed that the CR was issued as a result of law. Liz was concerned that Qwest would be restricting CLECs from gaining the product going forward but it is available for CLECs with an ICA.

Liz Balvin stated that she continues to see the only option is deferring to keep the history of the CR and that not all the history is maintained about the Escalation and Oversight review.

Susie Bliss said at the last meeting the committee was polled on the options.

Liz Balvin and Bill Campbell discussed whether the CR is limiting products (as called for in the CMP governing document), restricting new CLECs from getting these products and if a CLECs contract expires then they would be restricted from the product availability.

Liz Balvin stated that the CR should identify the interim rules as the basis for notifying the CLECs of 6/15 product changes and that Qwest is not going to file the SGAT until the permanent rules are available.

Bill Campbell agreed that the CR is based on the USTA II rules and that Qwest has restricted the products and changes will have to be made to comply with the final rules.

Liz Balvin stated the basis is USTA II and Bill Campbell said he agreed that the basis is USTA II, and under the FCC guidance, are no longer required to provide unbundled elements.

Liz Balvin said Qwest's current position needs to be identified in the CR.

Bill Campbell said that AT&T and Eschelon have a different opinion.

Bonnie Johnson said AT&T and Eschelon agree this is not a Regulatory CR and restated Liz's concern if it was appropriate to issue the CR at all if the guidelines are not followed. We agreed the CR is not regulatory because Qwest was not ordered, Qwest made the choice not to offer the products.

Bill Campbell asked Liz if we include the language and make it a regulatory CR.

Liz Balvin said that the genesis of the change was the USTA II decision and now Qwest wants to remove that.

Bill Campbell stated that during the last meeting it was clear this was not a Regulatory CR. USTA II was a court opinion about what needed to be offered.

Bonnie Johnson said that is what takes it out of Regulatory CR classification.

Liz Balvin argued that the rules are "as is" until the permanent rules come out and since it is just an opinion and believes Qwest should follow the SGATs until the rules are permanent.

Bill Campbell stated that the DC court vacated the FCC rules and in a sense undermined them and took away the unbundled rules. The FCC said here is the interim rules and will freeze prior to 6/15 until we can put out the final rules. Qwest doesn't want to put the CR in deferred status.

Bonnie Johnson said Eschelon does not have an objection to Qwest updating the existing CR (insert comment) because Eschelon has updated CRs without the clock starting over.

Becky Quintana questioned whether the CLECs were arguing the merits of the CR rather than the process that Qwest used.

Liz Balvin said the CR could be updated and requested information relating to Oversight and Escalation be included. Linda Sanchez-Steinke stated that Qwest has not included Escalation response or Oversight minutes in other CRs as the Escalation and Oversight minutes are found in another location on the web site. There was agreement that the CR would provide the revised title, original title, revised description of change, original description of change and url links to the Escalation and Oversight web locations. CR PC120803-1 was provided as an example of a CR that has been revised.

Bonnie stated that the history is captured and that this CR is an anomaly because it had the regulatory issue and was not just a systems to process crossover, but does not agree with the CR and does understand what Qwest is trying to accomplish and Qwest feels the need to move forward.

Sharon Van Meter stated that AT&T does not think this is a regulatory CR and would like the CR to include the history of what has been discussed. Deferring the CR would be better and revising is acceptable if the history is included. Liz Balvin agreed deferring would be better and revising the CR sets a precedent that the CR is regulatory but not identifying in that way. There was recommendation from Covad, Eschelon, AT&T, TDS/MetroCom and MCI that the CR be deferred until permanent rules are issued. Becky Quintana stated that without making any statement on the merits of the CR, she believed that Qwest should go ahead with the CR because she agreed with Bill Campbell's estimated timeline for permanent rules. Qwest would like to move forward by revising the CR. The Oversight Recommendation will include the different recommendations from the Oversight members.

Bonnie Johnson and Becky Quintana discussed the merit of language changes to the CMP process. Liz Balvin and Bonnie Johnson stated that the CR should not have defaulted to CMP as it was not the appropriate approach and the importance of keeping the CMP guidelines in tact.

The meeting was concluded.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 72**

### Open Product/Process CR PC102704-1ES Detail

**Title:** CR 1: New Revised title effective 1/11/05: Certain Unbundled Network Elements (UNE) Product Discontinuance (see Description of Change for previous title) CR 2 = PC102704-1ES2

CR Number	Current Status Date	Area Impacted	Products Impacted
PC102704-1ES	Completed 3/23/2007	Provisioning, Ordering	See Description of Change

**Originator:** Whitt, Michael  
**Originator Company Name:** Qwest Corporation  
**Owner:** Buckmaster, Cindy  
**Director:** Hooks, Perry  
**CR PM:** Esquibel-Reed, Peggy

### Description Of Change

DOCUMENTATION FOR THIS CR IS CONTINUED ON PC102704-1ES2

Revised Description of Change effective 3/23/07:

The following products, from the original CR, are removed from this Change Request and were not completed with this CR. The effort for these products may occur via separate CRs.

- Unbundled Local Loop-General Information
- Unbundled Local Loop-Digital Signal Level 1 (DS1) Capable Loop
- Unbundled Local Loop-Digital Signal Level 3 (DS3) Capable Loop
- Enhanced Extended Loop (EEL)
- Loop MUX Combination (LMC)
- Unbundled Dark Fiber (UDF)
- Unbundled Dedicated Interoffice Transport (UDIT)
- Unbundled Customer Controlled Rearrangement Element (UCCRE)

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Revised Description of Change effective 3/1/05:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

This CR details changes to availability of certain Unbundled Network Elements (UNE) products.

The following UNE products are no longer available to CLECs unless the most current effective version of the CLEC's Interconnection

Agreement (ICA) of Amendment includes terms, conditions, and pricing for the products before 6/14/04.

Unbundled Network Element (UNE)- Switching (UBS)  
<http://www.qwest.com/wholesale/pcat/unswitch.html>

Unbundled Network Elements- Platform (UNE-P)-General Information  
<http://www.qwest.com/wholesale/pcat/unep.html>

Unbundled Network Elements - Platform (UNE-P) - Integrated Services Digital Network (ISDN) Basic Rate Interface (BRI)

<http://www.qwest.com/wholesale/pcat/unepisdnbri.html>

Unbundled Network Elements-Platform (UNE-P)-Centrex  
<http://www.qwest.com/wholesale/pcat/unepcentrex.html>

Unbundled Network Elements-Platform (UNE-P)-Public Access Lines (PAL)  
<http://www.qwest.com/wholesale/pcat/uneppal.html>

Unbundled Network Elements- Platform (UNE-P)- Private Branch Exchange (PBX) Trunks <http://www.qwest.com/wholesale/pcat/uneppbx.html>

Unbundled Network Elements - Platform (UNE-P)-Plain Old Telephone Service (POTS) <http://www.qwest.com/wholesale/pcat/uneppots.html>

Unbundled Network Elements - Platform (UNE-P) - Digital Switched Service (DSS) <http://www.qwest.com/wholesale/pcat/unepdss.html>

Unbundled Network Elements -Platform (UNE-P) - Integrated Services Digital Network (ISDN) Primary Rate Interface (PRI)

<http://www.qwest.com/wholesale/pcat/unepisdnpri.html>

The remaining products on this CR are being revised due to changes based on the FCC Order received 2/4/05. The following products will be revised and will be noticed on a future date associated with this change request.

Unbundled Local Loop-General Information

Unbundled Local Loop-Digital Signal Level 1 (DS1) Capable Loop

Unbundled Local Loop-Digital Signal Level 3 (DS3) Capable Loop

Enhanced Extended Loop (EEL)

Loop MUX Combination (LMC)

Unbundled Dark Fiber (UDF)

Unbundled Dedicated Interoffice Transport (UDIT)

Unbundled Customer Controlled Rearrangement Element (UCCRE)

As always, any future changes of law may impact this notification and will be supported by the applicable notification.

Expected Deliverables/Proposed Implementation Date (if applicable):

Implement PCAT changes retroactive to 6-15-04 subject to CMP Guidelines

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Revised Description of Change effective 1/11/05:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

This CR details changes to availability of certain Unbundled Network Elements (UNE) products.

The following UNE products are no longer available to CLECs unless the most current effective version of the CLEC's Interconnection Agreement (ICA) of Amendment includes terms, conditions, and pricing for the products before 6/14/04.

-All Enterprise and Mass Market Unbundled Network Elements Switching (UBS) products, detailed in the following Product Catalog

(PCAT): <http://www.qwest.com/wholesale/pcat/unswitch.html>

-All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/unep.html>

-DS1 Unbundled Loop detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/unloops1caploop.html>

-DS3 Unbundled Loop detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/unloops3caploop.html>

-Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF,

detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/darkfiber.html>

-DS1 and DS3 Unbundled Dedicated Interoffice Transport (UDIT), including E-UDIT and M-UDIT, detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/udit.html>

-DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>

-Unbundled Customer Controlled Rearrangement Element (UCCRE) detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/uccre.html>

-DS1 and DS3 Loop Mux Combo detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/lmc.html>

As always, any future changes of law may impact this notification and will be supported by the applicable notification.

Expected Deliverables/Proposed Implementation Date (if applicable):

Implement PCAT changes retroactive to 6-15-04 subject to CMP Guidelines

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Previous Title and CR Description of Change - see below for information prior to 1/10/05. This CR was Revised on 1/11/05

Previous Title:

U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance: Certain Unbundled Network Elements (UNE) Product Discontinuance

Previous Description of Change:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

This CR details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the U.S. Court of Appeals for the DC Circuit decision 00-1012 ('USTA II') which vacated some of the FCC's unbundling rules, and the subsequent FCC Interim Rules which preserved some of the unbundling rules vacated in USTA II.

In accordance with these orders and findings, the following UNE products are no longer available to CLECs unless the most current, effective version of the CLEC's Interconnection Agreement (ICA) or Amendment includes



terms, conditions, and pricing for the products before 6/15/04:

-All Enterprise and Mass Market Unbundled Network Elements Switching (UBS) products, detailed in the following Product Catalog (PCAT):  
<http://www.qwest.com/wholesale/pcat/unswitch.html>

-All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unep.html>

-DS1 Unbundled Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unloopds1caploop.html>

-DS3 Unbundled Loop detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/unloopds3caploop.html>

-Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF, detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/darkfiber.html>

-DS1 and DS3 Unbundled Dedicated Interoffice Transport (UDIT), including E-UDIT and M-UDIT, detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/udit.html>

-DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>

-Unbundled Customer Controlled Rearrangement Element (UCCRE) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/uccre.html>

-DS1 and DS3 Loop Mux Combo detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/lmc.html>

Expected Deliverables/Proposed Implementation Date (if applicable):

Retroactive to 6/15/04 pursuant to FCC Interim Rules, subject to CMP Guidelines.

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## Status History

Date	Action	Description
10/27/2004		CR Received
10/29/2004		CR Acknowledged
10/29/2004		Customer contacted / clarification held
10/29/2004		CMPR.10.29;04.F.02250.Regulatory_CR_FCC_Interim
11/2/2004		CMPR.11.02.04.F.02261.Regulatory_CR_FCC_Interim
11/4/2004		Revised the CR to remove regulatory classification
11/4/2004		CMPR.11.04.04.F.02273.Regulatory_CR_FCC_Interim

11/9/2004		CMPR.11.09.04.F.02287.Escalation Notification
11/9/2004		Escalation received/posted to web <a href="http://www.qwest.com/wholesale/cmp/escalations.html">http://www.qwest.com/wholesale/cmp/escalations.html</a>
11/10/2004		Revised the CR title, description, scope in the database
11/17/2004		November CMP Meeting minutes will be posted to the database
12/15/2004		December CMP Meeting minutes will be posted to the database
1/4/2005		Oversight Meeting held URL for Oversight: <a href="http://www.qwest.com/wholesale/cmp/coc.html">http://www.qwest.com/wholesale/cmp/coc.html</a>
1/10/2005		Oversight Meeting held URL for Oversight: <a href="http://www.qwest.com/wholesale/cmp/coc.html">http://www.qwest.com/wholesale/cmp/coc.html</a>
1/11/2005		Added url to Status History for Escalation and Oversight Meeting information and documentation. Please review the below url for additional project information. URL for Escalations: <a href="http://www.qwest.com/wholesale/cmp/escalations.html">http://www.qwest.com/wholesale/cmp/escalations.html</a> URL for Oversight: <a href="http://www.qwest.com/wholesale/cmp/coc.html">http://www.qwest.com/wholesale/cmp/coc.html</a>
1/18/2005		CMPR.01.18.05.F.02487.AdHocMeeting
1/19/2005		Discussed in the January Product Process Monthly CMP Meeting
1/25/2005		Ad Hoc Meeting Held
2/1/2005		PROD.02.01.05.F.02515.MultiplePCATs_CR Related
2/16/2005		Discussed in the February Product Process Monthly CMP Meeting
3/1/2005		Revision made to CR
3/3/2005		PROD.03.03.05.F.02628.FNL-MultiplePCATs_CR_Rel (Final Notice and Qwest Response to Comments)
3/16/2005		Discussed in the Monthly Product/Process CMP Meeting
3/21/2005		Status Changed to CLEC Test, as agreed at the March CMP Meeting, Due to the Implementation of Part 1.
4/20/2005		Discussed in the Monthly Product/Process CMP Meeting
5/18/2005		Discussed in the Monthly Product Process CMP Meeting
6/14/2005		CMPR.06.14.05.F.03015.TRO_TRRO_Ad_Hoc_Meeting
6/15/2005		Discussed in the Monthly Product Process CMP Meeting
6/20/2005		CMPR..6.20.05.F.03042.AdHocMeetingRescheduled
6/30/2005		Ad Hoc Meeting Held
7/20/2005		Discussed in the Monthly Product Process CMP Meeting
8/17/2005		Discussed in the Monthly Product Process CMP Meeting
9/21/2005		Discussed in the Monthly Product Process CMP Meeting
9/29/2005		PROS.09.29.05.F.03322.TRRO_USERID_Passwaord
10/19/2005		Discussed in the Monthly Product Process CMP Meeting

10/25/2005		PROD.10.25.05.F.03400.TRRO_EEL_V2
11/16/2005		Discussed in the Monthly Product Process CMP Meeting
12/14/2005		Discussed in the Monthly Product Process CMP Meeting
1/18/2006		Discussed in the Monthly Product Process CMP Meeting
11/9/2006		Status Changed from Deferred to CLEC Test, for Discussion in the November 15, 2006 CMP Meeting
11/15/2006		Discussed in the November Monthly Product Process CMP Meeting.
11/16/2006		CMPR.11.16.06.F.04340.Ad_Hoc_Meeting
11/27/2006		Ad Hoc Meeting Held
12/5/2006		Matrix Emailed to Call Participants
12/6/2006		Emailed Received from Eschelon: May not agree with the Matrix and are Reviewing Further.
12/7/2006		CMPR.12.07.06.F.04394.Ad_hoc_meeting: Included Matrix and Info for Next Call, on Jan. 3, 2007
12/14/2006		Discussed in the December Monthly Product Process CMP Meeting.
12/14/2006		CMPR.12.14.06.F.04405.Ad_hoc_meeting_RESCHEDULED
1/30/2007	Related Change Request	PC102704-1ES2
1/30/2007	Record Update	Documentation for this CR is continued on PC102704-1ES2
1/17/2007	Discussed at Monthly CMP Meeting	Discussed in the January Monthly Product Process CMP Meeting.
12/15/2006	Communicator Issued	CMPR.12.15.06.F.04413.AdHocMeeting_CORRECTION
3/23/2007	Record Update	CR Revised to remove Products from this CR
3/28/2007	Related Change Request	PC032707-1 and PC032807-1
3/5/2007	Related Change Request	PC013007-1
3/5/2007	Related Change Request	PC013007-2

## Project Meetings

DOCUMENTATION FOR THIS CR IS CONTINUED ON PC102704-1ES2

12-14-06 Prod Proc CMP Mtg: Mark C-Qwest stated that this CR is in Development status & that an ad hoc call was held a few weeks ago which resulted in the creation & distribution of a product matrix being provided to the CLECs. Mark stated that Qwest is awaiting feedback, on the matrix and then will regroup internally & evaluate. Mark then stated that the next ad hoc call is scheduled for January 11th. Mark asked for questions or

comments. Bonnie J-Eschelon asked if Qwest could outline what is going to happen with the items in each of the four buckets. Bonnie asked for Qwest's proposal for each of the buckets. Cindy B-Qwest stated that as previously mentioned, discussions would take place in the ad hoc mtgs & noted that Qwest has no set plan. [Comment from Eschelon: Cindy B-Qwest stated that as previously mentioned, discussions would take place in the ad hoc meetings & noted that Qwest has no strategic plan.] Cindy stated that Qwest is waiting for concurrence on the list & feedback on where each item belongs; we can then proceed. Cindy stated that this effort is casual & that Qwest does not want to dictate the flow of the ad hoc mtgs. [Comment from Eschelon: Cindy stated that Qwest is coming at this very casually & that Qwest does not want to dictate the flow of the ad hoc mtgs.] Cindy asked if that answered Eschelon's question. Bonnie J-Eschelon stated that in regard to Qwest's proposal, she is hearing that Qwest does not really have one. Cindy B-Qwest stated that was correct. Cindy suggested that we move forward with the discussions & noted that everyone was now aware of the classifications, including buckets 2&3. Cindy stated that some items, in buckets 2&3, could also end up in bucket 4. Cindy then stated that items that are in litigation are not open for discussion at this time. Cindy stated that buckets 2&3 will be the focus, unless they are in litigation. Bonnie J-Eschelon thanked Cindy for the information & stated that all, except Unbundled Dark Fiber, are currently in litigation. [Comment from Eschelon: Bonnie J-Eschelon thanked Cindy for the information & stated that Eschelon believes that products all, with possibly the exception of Unbundled Dark Fiber, are currently in litigation.] Cindy B-Qwest stated that we would discuss that in the ad hoc mtg. Lynn O-Covad asked when the matrix was sent. Cindy B-Qwest stated that it was sent a few weeks ago. Susan L-Qwest stated that it was provided via email to the call participants on 12/9 & was provided via a notification on 12/7 There were no additional questions or comments.

11-27-06 Ad Hoc Mtg: Kim Isaacs-Eschelon, Sherry Krewett-McLeod, Doug Denney-Eschelon, Laurie Fredricksen-Integra, Sheila Harris-Integra, Kathy Lee-ATT, Kelly Leveritch-Elec Light Wave, Bonnie Johnson-Eschelon, Peggy Esquibel Reed-Qwest, Cindy Buckmaster-Qwest, Mark Nickell-Qwest, Candace Mowers-Qwest, Vicki Dryden-Qwest, Susan Lorence-Qwest, Karen Ferguson-Qwest. Discussion: Peg ER-Qwest stated that this CR that was submitted, by Qwest, in 10-04 for the discontinuance of certain UNE Products. Peg then stated that some products on this CR were implemented & that some of the products were put on hold & the CR was placed in Deferred Status. Peg then noted that at the October Monthly CMP Meeting, Qwest stated that we wanted to take this CR out of deferred status & to start conversations around how to move forward. This CR was placed in CLEC Test. Peg stated that we then received an email in regard to the CR being in CLEC Test status & the thought that Presented might be more appropriate. Peg stated that the CR was changed from Deferred to CLEC Test due to the implementation of this change for 9 UNE Prods on 3-18-05. There are 8 remaining products on the current CR & noted that Qwest agrees that it is not yet appropriate to ask for closure & that additional discussions are needed & that is what today's meeting is for. Peg then stated that Presented was not an appropriate status, due to the partial implementation of this CR. Peg stated that Presented was for new CRs, after they have been presented in a Monthly CMP Meeting. Peg stated that if the CLECs are uncomfortable with the CLEC Test Status, that the status could be changed to Development. Bonnie J-Eschelon asked if the status could be changed to Evaluation. Peg ER-Qwest stated that CRs in similar situations have been placed in Development status. Bonnie J-Eschelon stated that she would check the CMP Document & would send an

email with her decision. Peg ER-Qwest advised Bonnie J-Eschelon to send her email to the cmpcr mailbox, & then turned the call over to Cindy B-Qwest. Cindy B-Qwest stated that she would tee-up the subject in order to introduce & discuss the items that were deferred in 2005. Cindy then stated that she has a suggested approach & noted that she has no structure, agenda, or intention. She wants to talk about subjects to discuss, the order, & grouping. Once the participants decide, we could set an agenda for future meetings. Cindy stated that if subjects are grouped, we would like to work CRs one at a time, from submission to completion. Cindy stated that it would help eliminate confusion & that discussions would be focused on the topic that is current at that time. Cindy then asked the call participants for feedback & suggestions. Bonnie J-Eschelon stated at the October CMP Meeting that there were some products that needed to be addressed & suggested that is where to start the discussion. Cindy B-Qwest stated that the discussions could start there because we need to talk about what is not currently under the ruling, arbitration, on the wire center list, or items that are not currently in the CMP process. Cindy gave examples of OCN, UBL, & Unbundled Packet Switching. Cindy stated that those are not available or that there is no volume. Cindy noted that there could be small elements at the TRRO level. Cindy stated that these discussions should be unstructured & stated that there is no list. Cindy then stated that she wanted to get the CLECs interests & would then go from there. Bonnie J-Eschelon asked which products were completed & which were not completed on the current CR & asked if they could get a list. Susan L stated that she would get the information from the Final Notification & would provide the information later on the call. Cindy B-Qwest stated that the CR is a tracking mechanism for what was implemented & what was not. Cindy stated that this discussion is related only to Local Service products therefore there are items that will not to be discussed on this call, such as 800 data base query. Cindy stated that other Product Managers may want to be addressing those items. Cindy provided examples of EEL, Comingling, LMC, DS1/DS3 Transport, Optical Carrier Level UDIT, UCCRE, Line Sharing, Unbundled Packet Switching, Fiber to the Curb, & others. Cindy asked if the CLECs were asking for a list of all impacted products that will be discussed on this call. CLECs responded yes. Cindy B stated that she could not discuss the products that she is not responsible for. Sheila H-Integra stated that she would like a list of what was implemented, what is left, what products would be discussed on these calls, & which products would not be discussed. Susan L-Qwest read the list from the current CR of what was implemented & what was not implemented with the current CR. Cindy B-Qwest stated that was a list of PCATs that need to be addressed & asked to clarify if the requested list would be by products or by PCATs. Bonnie J-Eschelon asked that the list be by products with their associated PCATs identified. Cindy B-Qwest stated that she would do her best to compile the list. Bonnie J-Eschelon stated that she noticed that quite a few, such as commingling & shared distribution, are not to be on the list that Susan L read. Cindy B-Qwest stated that is why she asked if the list being requested was to be by prod. Bonnie J-Eschelon stated that she sees 3 buckets: done with PCATs, left to do with PCATs, & those currently in some type of legal arena. Cindy B-Qwest stated she sees 4 lists: the original CR list of what has been implemented, what has not yet been implemented, then what was not addressed on the current CR, & those held for some legal forum. Bonnie J-Eschelon asked if those items that are held for some legal forum are items that could also reside on the list of what has not yet been implemented & on the list of what has not been addressed via the original CR. Cindy B-Qwest stated that they could & stated that she would leave that up to CLEC input. Cindy stated that is due to the fact that she is not involved in all that

is being challenged, as the CLECs are. Cindy noted that the CLECs would need to help identify those. Bonnie J-Eschelon stated that we needed to get our arms around that before we can proceed with the discussions. Bonnie stated that we need the grouping before we can proceed. Cindy B-Qwest stated that she was fine with that & that she would deliver the list in the next few days. Cindy then asked when we would then meet. Bonnie J-Eschelon suggested that we have our next call about 3 days after Qwest provides the list. Peggy ER-Qwest stated that the CMP Process does call for at least 5 business days advanced notice for a call & would base the next call on that as well. Susan L-Qwest stated that Qwest would get the list out & that CLECs could provide suggested groupings back to the cmpcr mailbox, Qwest would compile the list, then schedule the next meeting for further discussion. Cindy B. noted that she would be available after 12-6.

11-15-06 Prod Proc CMP Mtg: Mark C-Qwest stated that this CR had been in deferred status & is now in CLEC Test status. (Comment from Eschelon - Mark C-Qwest stated that this CR had been in deferred status & Qwest is now bringing this in CLEC Test status.) Cindy B-Qwest stated that the FCC issued & released The Report, Order on Remand, & Further Notice of Proposed Rulemaking (FCC 03-36), referred to as the Triennial Review Order (TRO) effective 10-2-2003 & the Remand Order (CC 01-338) referred to as the Triennial Review Remand Order (TRRO) effective 3-11-2005. Subsequently, Qwest issued CR PC102704-1ES. At that time, Qwest provided notification only on items that were clearly not challenged in the TRO order. CLECs have signed the TRO TRRO amendments to their ICAs & are operating under processes associated with that amendment. Qwest would now like to move forward & release the post TRRO documentation through CMP. TRRO issues that are being addressed by Qwest & CLECs in arbitration of their ICAs or items being challenged by law will not immediately be processed through CMP. Cindy stated that Qwest would like to re-open this CR & would also like to issue subsequent CRs for this effort. (Comments from Eschelon: Cindy B-Qwest stated that the FCC issued & released The Report, Order on Remand, & Further Notice of Proposed Rulemaking (FCC 03-36), referred to as the Triennial Review Order (TRO) effective 10-2-2003 & the Remand Order (CC 01-338) referred to as the Triennial Review Remand Order (TRRO) effective 3-11-2005. Subsequently, Qwest issued Change Request PC102704-1ES. Cindy said, at that time, Qwest provided notification only on items that were clearly not challenged in the TRO order. She said CLECs have signed the TRO TRRO amendments to their ICAs and are operating under processes associated with that amendment. She said Qwest would now like to move forward & release the post TRRO documentation through CMP. Cindy said Qwest is asking to release the undisputed items, those not in arbitration or items being challenged under law. Disputed items will not immediately be processed through CMP. Cindy stated that Qwest would like to re-open this CR & would also like to issue subsequent CRs for this effort.) Bonnie J-Eschelon asked to clarify that Qwest wants to add, in CMP, those not in arbitration or are not being challenged under law. Bonnie asked what Qwest was doing. (Comment from Eschelon: Bonnie J-Eschelon asked Qwest to explain & indicate what products Qwest wants to add in CMP. Cindy B-Qwest stated that Qwest would like to move the current CR, for UNE-P and UBL products, to CLEC Test. The other products would then be addressed via different CRs.) Cindy B-Qwest stated that Qwest would like to move the current CR, for UNE-P and UBL products, to CLEC Test. The other products would then be addressed via different CRs. Bonnie J-Eschelon stated that on the 6-30-2005 call, Qwest said that this would be deferred until Qwest filed SGATS, with CLEC input. Bonnie asked if that was still the plan. [Comment from Eschelon: Bonnie J-Eschelon stated that,

on the 6-30-2005 call, CLECs said they wanted to negotiate these terms in ICA negotiations, and Qwest said that, when it filed SGATs, CLECs would at least get an opportunity to have input. Bonnie asked if that was still the plan.) Cindy B-Qwest stated that Qwest is not planning to file SGATs in any state in the near future. Cindy noted that one & a half years ago, we were planning to & that was the intent at that time. Cindy then stated that Qwest is not planning to file SGATs in any state in the near future & would like to move forward based on the CMP process. (Comment from Eschelon: Cindy B-Qwest stated that Qwest is not planning to file SGATs in any state, and that is a change. Cindy noted that was a good point. She said, one & a half years ago, we were planning to & that was the intent at that time. Cindy then stated that Qwest is not planning to file SGATs and would like to move forward based on the CMP process.) Bonnie J-Eschelon stated that there were TRRO PCATs changed outside of CMP & asked how that would work when the TRRO PCATs would be changed without CLEC input. (Comment from Eschelon: Bonnie J-Eschelon stated that TRRO PCATs were changed outside of CMP without CLEC input & asked how that would work.) Cindy B-Qwest the intent was to cover all issues under this CR. Other products, not contested, such as OCN, UPS; those that can no longer be ordered, the PCATs were moved to a separate place on the web site for those who have signed amendments & for other CLECs to look at. Cindy then stated that Qwest wants to add the PCATs that are not currently under arbitration or under a legal status (i.e. wire center lists) or where states need to finish to resolution. Cindy stated that Qwest wants to propose how to add and post those PCATs, with CLEC input. Cindy then noted that Qwest would like to move forward & make discussions public in an open forum. Cindy proposed that questions & discussion on the structure take place on the first meeting that is currently scheduled for 11-27. (Comment from Eschelon: Cindy B-Qwest said the intent was to cover all issues under this CR. Other products, not contested, such as OCN, UPS; those that can no longer be ordered, the PCATs were moved to a separate place on the web site to cover those who have signed amendments & for other CLECs to look at if you want to see them before you sign an amendment. Cindy then stated that Qwest wants to readdress the PCATs that CLECs did not have input on & that are not currently under arbitration or under a legal status (i.e. wire center lists) or where states need to finish to resolution. Cindy stated that Qwest wants to propose how to add and post those PCATs, with CLEC input. Cindy said Qwest would like to address similarly situated products in chunks for all products with the same flavor. Cindy then noted that Qwest would like to move forward & make discussions public in an open forum. Cindy proposed that questions and discussion on the structure take place on the first meeting that is currently scheduled for 11-27) Bonnie J-Eschelon asked if the statement regarding legal proceedings for wire centers included the Qwest/Eschelon arbitration. (Comment from Eschelon: Bonnie J-Eschelon asked if the statement regarding legal challenges included the Qwest/Eschelon arbitration.) Cindy B-Qwest said yes. Bonnie J-Eschelon said okay. Cindy B-Qwest stated that she proposes that this current CR be moved to CLEC Test & to have the 11-27 ad hoc call in order to start discussions. There were no questions or comments. Mark C-Qwest asked to clarify that the current CR would not be changed or updated. Cindy B-Qwest said that was correct. Mark C-Qwest then asked if the new items would be addressed via new CRs. Cindy B-Qwest said yes. Mark C-Qwest asked if there were any questions or comments. Mark N-Qwest stated that at this time Qwest would like the current CR to reflect CLEC Test in order to maintain continuity going forward. Once the new CRs are discussed & there is more comfort around this effort, the closing of this current CR can be addressed. (Comment from Eschelon: Mark N-Qwest stated that at this time Qwest would like the

current CR to reflect CLEC Test in order to maintain continuity going forward. Once the new CRs are discussed & there is more comfort around this effort, Qwest will request closure of the existing CR.) Mark C-Qwest stated that this CR would reflect a CLEC Test status & that Qwest would move forward with the recommended call on 11-27. Bonnie J-Eschelon asked if Cindy B-Qwest had any idea as to what was not included in the legal proceedings at this time. Cindy B-Qwest stated that she is unable to provide a comprehensive list & provided examples of OCN, UBL, & Unbundled Packet Switching. Cindy also noted that Line Sharing may not yet be posted. Bonnie J-Eschelon thanked Cindy B-Qwest for the information. (Comment from Eschelon: Bonnie J-Eschelon thanked Cindy B-Qwest for that information.) There were no additional questions or comments. This CR is in CLEC Test status.

1-18-06 Prod Proc CMP Mtg: Jill M-Qwest stated that this is the CR for the TRRO work & because there has been no change in the status, for several months, she would like to put the CR in a Deferred Status. Jill stated that when it is time for the PCAT updates, this CR would move out of Deferred. There was no dissent to moving this CR to Deferred. Kim I-Eschelon stated that there was a notice out today for TRRO and asked if that was separate from this effort. Jill M-Qwest stated that it was separate & that it was a non-CMP Notice. (1/27/06 - Comment from Eschelon: Jill Martain-Qwest stated that the TRRO notices sent today was for CLECs that had signed the TRRO Amendment.

12-14-05 Prod Proc CMP Mtg: Jill M-Qwest stated that this is still unchanged & that Qwest is still waiting for the SGATs, as previously discussed. This CR remains in Dev Status.

11-16-05 Prod Proc CMP Mtg: Jill M-Qwest stated that there is no change from the previous month. This CR remains in dev.

10-19-05 Prod Proc CMP Mtg: Jill M-Qwest stated that there is no new status for this CR. Liz B-Covad noted that the CLECs do now have access to the secret PCATs.

9-21-05 Prod Proc CMP Mtg: Jill M-Qwest stated that there was no change on this CR & that we are still in a hold mode. Liz B-Covad stated that she had a question on a Process Notification on the TRRO Product and Service Log. On Jill M-Qwest said that she believed that notice was a Non CMP Notice. Liz B-Covad said that they feel the General Notice should have been a CMP Notice because it was the result of a CR. She said that it did not come out in a notice fashion with an effective date of 10/3. Liz said that she can't comprehend how Qwest can determine that you can only look at a PCAT when an amendment is signed. Liz said that she was confused because she thought it was a process change that Qwest was trying to implement. Liz said that the TRRO does not allow Qwest to restrict the ability to send in orders. Liz said that she would like to formally object to the process Qwest is trying to implement. Jill M-Qwest stated that she would like to take this discussion offline with Covad. Jill said that this stemmed from a Product/Process CR where we agreed in an adhoc meeting, held on 6-30-2005 (see PC102704-1ES for meeting minutes) that the TRRO PCATs would be provided separately. She also said that Qwest & the CLECs agreed Qwest would not update the CMP controlled PCAT documents until the SGATs were approved. Liz B-Covad said that restricting access gives the appearance of preferential treatment. Jill M-Qwest stated that she would like to get the appropriate people together &



discuss offline. Bonnie J-Eschelon said that they would like to be included in the discussions. Liz B-Covad stated that it is inappropriate to restrict access to PCATs and that they have a concern with the effective date. Sue W-XO Communications stated that they have a concern as well. She said that they are concerned that Qwest would be implementing differences in process based on the CLEC. Nancy S-Comcast said that they are concerned too. Julie P-TDS Metrocom is concerned. Liz B-Covad stated that the PCATs are not binding and that an adhoc meeting is needed to discuss these concerns. Jill M-Qwest stated that we have noted these concerns & will get back with the CLECs. Liz B-Covad asked if she should escalate via the CMP Process. Jill M-Qwest said no and that we have their concerns noted.

8-17-05 Prod Proc CMP Mtg: Jill M-Qwest stated that there is no change to the status and remains in Development.

7-20-05 Prod Proc CMP Mtg: Jill M-Qwest stated that an adhoc meeting was held to communicate the proposal on how we will move forward and that we will continue down that path. Jill said that this CR will remain in Development.

6-30-05 Ad Hoc Mtg: Rosalin Davis-MCI, Chad Warner-MCI, Chris Terrell-AT&T, Greg Diamond-Covad, Tom Hyde-Cbeyond, Jeff Sonnier-Sprint, Bonnie Johnson-Eschelon, Doug Henney-Eschelon, Liz Balvin-Covad, Kim Isaacs-Eschelon. DISCUSSION: Cindy B-Qwest said that Qwest suggested this Ad-Hoc mtg to help communicate our implementation plans for the TRO TRRO. She said that many of the CLECs are interested in the implementation of the rules laid out in the orders and may have questions. Cindy said the CLECs likely agree that these orders cover numerous products & processes, not to mention availability & even eligibility. Cindy said that Qwest is developing template language that encompasses our obligations under the TRO/TRRO & that we will be filing that template language with the states in the months to come. She said that the normal filing process will be followed likely allowing a comment period from interested parties. Cindy said that in the meantime, our negotiations team will negotiate the amendment or full template with interested CLECs. Cindy said that negotiation combined with State approval of our template language that is necessary to finalize applicable language &/or processes. Cindy said that in order to most effectively & efficiently work through that process, we believe that it is best to further delay announcements of process or product changes related to these orders via CMP until such time as the language is finalized & will impact all CLECs. She said that no TRO TRRO changes to products or processes will be made across the board until such language is final. Cindy said, as mentioned earlier, we will implement product & process changes only as you sign the amendment or template language, through the change of law provisions that are outlined in your individual contracts. She said that the CLECs, at that time, will be provided with individual PCATs & Business Procedures that are in alignment with their current language so that they can determine any changes to the way you do business with Qwest. Tom H-Cbeyond stated that this plan sounds logical and asked when Qwest could share a draft or final version of the language to review before negotiating. Cindy B-Qwest said that Candice M-Qwest is closer to the filings & this Qwest effort. Candice M-Qwest stated that with the SGAT, there are no filings scheduled yet & with the number of changes, getting language is quite a task. Candice said that there is a negotiations template & a TRO Remand Compliance template on the Qwest Wholesale Web at [www.Qwest.com/wholesale/clecs/amendments.html](http://www.Qwest.com/wholesale/clecs/amendments.html). Candice said that when the CLECs want to begin negotiations, they can

contact the Qwest negotiations team. Tom H-Cbeyond said that they would like to review & schedule negotiations. Candice Mowers-Qwest said that this was a good idea & to wait until the last minute will be a push. Tom H-Cbeyond stated that he would download & review the information. The following question was raised in the meeting: What does this have to do with QPP? Cindy B-Qwest said that this has nothing to do with QPP. She said that the QPP Commercial Agreements are on the same website & will remain there. Liz B-Covad summarized that the purpose of this meeting was to relay information on the TRO negotiations, the templates are out there for review & that the PCATs won't be updated until the final language is approved. Cindy B-Qwest stated that we did not want to make process changes that will impact a lot of you & that we will honor your contracts. She said we will share documents as process changes are made. The following question was asked in the meeting: Does this have anything to do with PC102704-1ES. Cindy B-Qwest said that this CR was opened as a way to communicate changes in the TRO/TRRO. She said that there are more changes coming & the CR is the means to share those changes. Cindy said that the CR was initially issued when the TRO came out and had changes. She said that we had to pull back some of the PCATs but will keep the CR open until we can finish CR. Tom H-Cbeyond said that he understood the format and information can be used on the website. Cindy B-Qwest stated that the next steps depend on where each Company is. She said that they can go to the web, study and start negotiations. Cindy said that if you don't want involvement, they could do nothing. She said that as SGAT language changes, we will have a comment period & that the States will engage you when decisions are made. Cindy also said that PCAT changes will be brought through CMP. There were no additional questions or comments.

6-15-05 Prod Proc CMP Mtg: Jill M-Qwest stated that an ad hoc meeting had been scheduled for 6-22 for discussion of Qwest's direction as a result of the order & to discuss how Qwest would like to move forward. Bonnie J-Eschelon stated that she needs to know who to invite to this meeting & asked for further explanation of the discussion intent. Bonnie then noted that this meeting conflicts with Eschelon's schedule. Bonnie then asked who the Qwest participants would be & asked if there was an agenda. Jill M-Qwest stated that the Qwest participants would be Product Managers & stated that the meeting is to discuss how Qwest CMP would like to move forward with the CMP CRs. Bonnie J-Eschelon asked whom the CLECs should invite to participate & asked if they should include systems people or regulatory people. Jill M-Qwest stated that the discussion should not need systems type people & stated that in regard to regulatory participants; she did not know. Qwest wants to discuss how Qwest would like to move forward from a CMP perspective. Bonnie J-Eschelon stated that it might be a good idea that those involved in TRO or with the change of law participate. Jill M-Qwest stated that the meeting was not regarding the interpretation of the rules; rather how Qwest would like to move forward with the implementation of the process as it related to CMP Liz B-Covad stated that she is also on vacation on 6-22 and could have a back-up at the meeting. Jill M-Qwest stated that the meeting could be rescheduled. Bonnie J-Eschelon stated that 6-27 would work for Eschelon & noted that Tuesday's & Wednesday's were not good for Eschelon. Jill M-Qwest asked if 6-30 would work. Bonnie J-Eschelon stated yes. Liz B-Covad also said yes. Jill M-Qwest stated that Qwest would see if the meeting could be rescheduled for 6-30 and stated that if it could not, Qwest would look at other meeting options. There were no additional comments or questions.

5-18-05 Prod Proc CMP Mtg: Peggy ER-Qwest stated that this was effective on March 18th for some products & was moved back to development for the implementation of the remaining products. Peggy stated that she was not aware of a date yet. Peggy then noted that the CR would remain in Development status. Liz B-Covad stated that the actual amendment notice is now available and so is the appendix A sheet. Jill M-Qwest stated that we would check with Cindy B-Qwest offline.

4-20-05 ProdProc CMP Mtg: Peggy ER-Qwest stated that this CR is in CLEC Test due to the effective date of 3-18 for the first set of products & stated that Qwest would like to move the CR back to Development status for the implementation of the remaining products. Liz B-Covad asked if there was a timeline for the changes in law provisions. Jill M-Qwest stated that there are no dates yet. There was no dissent to the CR moving back to Development status.

3-16-05 Prod Proc CMP Mtg: Cindy B-Qwest stated that this CR will be effective on March 18th and that she would like to move the CR to CLEC Test on the 18th. Jill M-Qwest stated that she was okay moving this CR to CLEC Test on the 18th, but then would like it moved back to Development status for the rest of the piece. Bonnie J-Eschelon stated that she was okay with this moving to CLEC Test on the 18th, for those that are effective on the 18th. [Comment from Eschelon: but does not think it is appropriate to do so before 3/18.] Cindy B-Qwest agreed. Jill M-Qwest stated that this CR would move to CLEC Test on 3-18, then when the other notices go out for the rest of the CR, the status would change to Development.

2-16-05 Prod Proc CMP Mtg: Jill M-Qwest stated that when the final rulings came out, we received feedback. Jill stated that Qwest would withdraw the PCATs that were affected by the final rules and that Qwest would proceed with UNE-P. Jill stated that Qwest would reissue the PCATs that are being removed from the CR, once it is determined what those changes are & would notify via this same CR. Liz B-Covad asked if Qwest would confirm that Qwest will follow the change of law provisions in their ICA. Comment received from Eschelon 2/24/05 and said she expected a response to her comments. Jill M-Qwest stated that Qwest had received Covads comment & that Qwest would be responding to the comment & all comments that were received. Jill M-Qwest stated that this CR remains in Development status.

1-25-05 Ad Hoc Mtg: Liz Balvin-Covad, Sue Lamb-One Eighty, Elaine Birkquest-Norstar, Sharon Van Meter-AT&T, Becky Quintana-CO PUC, Marty-Rantel, Noreen Carol-Birch Telcom, Chris Terrell-AT&T, Doug Denney-Eschelon, Bonnie Johnson-Eschelon, Tom Hyde-Cbeyond, Rosalin Davis-MCI, Chad Warner-MCI, Cindy Buckmaster-Qwest, Jill Martain-Qwest, Bob Mohr-Qwest, Robyn Libadia-Qwest, Pat Finley-Qwest, Vicki Dryden-Qwest, John Hansen-Qwest, Susan Lorence-Qwest, Jennifer Fischer-Qwest, Pete Budner-Qwest, Chris Quinn Struck-Qwest, Peggy Esquibel Reed-Qwest. DISCUSSION: Peggy ER-Qwest stated that the purpose of the call was for Qwest to review the updates that will be made to PCAT documentation, for this CR. Cindy B-Qwest stated that in the last CMP Meeting, the CR revisions were communicated & that the CR was re-introduced. Cindy stated that Qwest received a lot of opposition in regard to the Regulatory designation. Cindy noted that Qwest agreed to remove the regulatory designation & moved this CR to a non-regulatory category. Cindy also stated that references to the law & regulatory were removed. Cindy noted that law was the reason for the change, but Qwest would now

show this CR as non-regulatory. Cindy stated that the changes are based on Qwest not being obligated to provide products added to the CR. Cindy noted that future changes will affect product offerings & that they would be noticed. Cindy stated that the PCATs are identified & the products are included in the CR. Cindy then stated that there would be a simple change at the beginning of the PCATs that will state that this PCAT change details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the U.S. Court of Appeals for the DC Circuit decision 00-1012 ('USTA II') which vacated some of the FCC's unbundling rules, & the FCC's Interim Rules, which preserved some of the unbundling rules vacated in USTA II. In accordance with these orders & findings, the 'product specified' is/are no longer available to CLECs unless the most current, effective version of CLEC's Interconnection Agreement (ICA) or Amendment includes terms, conditions, & pricing for the products before 6/15/04. Bonnie J-Eschelon asked if they would be sent out for review. Cindy B said yes & stated that Qwest is not changing the availability to those who have via an ICA; & would make available for CLECs who do not have an ICA. Tom H-Cbeyond asked for the timing of giving DS1 wire center information. Cindy B-Qwest stated that there would be no wire center information & stated that Qwest is standing by for further instructions from the FCC. Cindy stated that the order is not yet posted & said that once it is posted, Qwest would then have it go into effect in 30-days. Cindy noted that the process would be followed & that notices would be sent to communicate the changes. Tom H-Cbeyond stated that he had a concern regarding timing, & noted that by 3-14, major changes would be involved & concerned as to how quickly Qwest would get the changes out. Tom stated that all need to make changes & need time to react. Cindy B-Qwest stated that Qwest would not make changes without the proper timeframes in place. Sharon VM-AT&T asked if this information was in the CR. Peggy ER-Qwest stated that this discussion would be in the meeting minutes of this call. Liz B-Covad stated that if Qwest did not want to receive comments, Qwest needs to state clearly in the notices. Jill M-Qwest stated that the revised & noted Description of Change would also help. Liz B-Covad stated that Qwest needs to provide the intent of the changes & who would be impacted. Jill M-Qwest stated that what Cindy B-Qwest is proposing will be clear in the notices. Liz B-Covad stated that what Cindy B-Qwest related would go a long way & asked to confirm that once the FCC rules are permanent, that Qwest would adhere to the timeframes and go thru the Regulatory process. Jill M-Qwest said that she agreed that if a particular change is a result of the TRO or is a regulatory change, Qwest would follow that process & would provide the appropriate information. Liz B-Covad asked what level of change the PCATs would be. Jill M-Qwest stated that they would be Level 4 Notices. Liz B-Covad stated that she recommends time be provided, due to Cbeyond's concern. Bonnie J-Eschelon said that she had a global comment that she has noticed that the notices do now have additional information included. Bonnie then thanked Qwest for providing that additional information. There were no additional questions or comments. The call was concluded.

1-21-05 Email to Cbeyond: Mr. Hyde, I received your email & will make note of your comments in the CR. As a result of the Oversight meeting that was held with this CR, Qwest is moving forward with the ad hoc call, & if the final rules warrant a change, we will address it at that time. Thank you, Peggy ER Qwest CMP CRPM

1-21-05 Email from Cbeyond: Once again, it is premature to hold any discussion until the permanent FCC rules are issued in the next few weeks. Among other things, the permanent rules allow DS1 loops & EELs in many-

if not most-Qwest locations. Any attempt to implement prior to reading the FCC's final order is an exercise in futility & a waste of precious resources.

1-10-05 CMP Ovrsght Mtg. PURPOSE: This was the second meeting of the CMP Oversight Committee to review an issue submitted to the committee on 11/30/04 by Liz Balvin of Covad. The following is the write-up of the discussion. Attendees: Jen Arnold-TDS Metrocom/U S Link, Liz Balvin-Covad, Becky Quintana-Colorado PUC, Bonnie Johnson-Eschelon, Sharon Van Meter-AT&T, Amanda Silva-VCI, Susie Bliss-Qwest, Susan Lorence-Qwest, Bill Campbell-Qwest, Cindy Macy-Qwest, Peggy Esquibel Reed-Qwest, Linda Sanchez-Steinke-Qwest. DISCUSSION: Linda SS-Qwest stated that on Friday Qwest sent an e-mail to Oversight members explaining that we would prefer to revise the CR PC102704-1ES. By revising the CR the historical information is preserved & the references to law would be removed & the title would be changed. Attached to the e-mail was a redlined CR with the proposed changes. The proposed deletions would become the revised title & the revised description of change keeping the original title & the original description of change within the CR. The Oversight members stated they had received & reviewed. Liz B-Covad stated she did not think this process would preserve the CR history & recalled from the last meeting the only recommendation was to defer the CR until the final rules were issued. Susie B-Qwest stated Qwest reviewed three options for the CR; defer until final rules, amend the CR or withdraw the CR & issue a new CR. Liz B. asked if Qwest was going to consider deferring until the rules are permanent. Susie B. said that the approach was considered & voiced concern that the products are currently not available & current contracts are expiring. Bonnie J-Eschelon stated there are products in the PCAT that cannot be ordered because they are not in the CLEC's contract. Bonnie said she was trying to understand why the CR is needed. Bill C-Qwest explained that the PCATs are based on the approved SGATs & the SGATs can be different from the ICA. We try to time the CMP update changes with the SGAT changes & Qwest did put together SGAT changes. However, the SGAT's have been pulled back with concurrence of the states due to the unsettled regulatory situation post USTA II, post interim order & pre final FCC order. Qwest has changed the ICA language template (insert comment) but the current SGAT's do not accurately reflect the prods Qwest offers & Qwest (end comment) feels it is important to notify CLECs on the changes to the prods. Liz B countered that if the legal implications were removed, the situation is in flux, the permanent rules will be issued later this month & the CLECs are restricted from ordering existing products that are not included in their ICA. Bill C. responded after 6/15/04 CLECs without the ICA including the products do not have the option of ordering the prods. Qwest is choosing to move forward with the CR because the final FCC rules although scheduled to be finalized in January and effective in March, it would most likely be June before changes to the order are made. Liz B. felt that the process was backward because if a CLEC wants these products they would work with the negotiation team and would not go through CMP (insert comment) because CMP specifically call out ICA's override (end comment). Bill C. discussed that Qwest has an obligation to notice the change in the PCAT when the SGAT has not changed. Bonnie J. said that product availability is based on the ICA and even though Qwest notices about product availability, CLEC's can't get the products without an agreement including the product. Bill C. explained that new CLECs may go to the Qwest website to find which products are available & then would be given a contract that does not list all the products that were available on the website. Normally the SGAT change would force the change in the PCAT. Liz Balvin stated that Qwest restricting products to CLECs who don't have them in their ICA

is different than limiting the product availability. The intent of the CR was drawn from legal rules & the permanent rules could change the offering. Bill C responded that the CR would have to be changed. Bonnie J asked if traditionally a new CLEC would go to the SGAT or PCAT to see what is available & they are not in sync. Bill C. explained that the PCAT & SGAT are in sync but they are not in sync with Qwest policy. The states are not accepting SGAT changes at this time & the SGAT & PCAT are in sync but the ICA template is different. Becky Q-COPUC asked if Qwest was considering filing the SGAT prior to the final rules or waiting & Bill C. stated that Qwest is waiting, although we did file prior to the USTA decision, but withdrew the filings when it was clear that the states did not believe the timing was right to make the proposed changes knowing full well any state proceedings would have to be revisited. Becky Q voiced concern that the SGAT on file & the Wholesale tariff are not the current Qwest offering. Liz B & Bill C agreed that the CR was issued as a result of law. Liz was concerned that Qwest would be restricting CLECs from gaining the product going forward but it is available for CLECs with an ICA. Liz B stated that she continues to see the only option is deferring to keep the history of the CR & that not all the history is maintained about the Escalation & Oversight review. Susie B said at the last meeting the committee was polled on the options. Liz B and Bill C discussed whether the CR is limiting products (as called for in the CMP document), restricting new CLECs from getting these products & if a CLECs contract expires then they would be restricted from the product availability. Liz B stated that the CR should identify the interim rules as the basis for notifying the CLECs of 6/15 product changes & that Qwest is not going to file the SGAT until the permanent rules are available. Bill C agreed that the CR is based on the USTA II rules & that Qwest has restricted the products & changes will have to be made to comply with the final rules. Liz B stated the basis is USTA II & Bill C said he agreed that the basis is USTA II, & under the FCC guidance, are no longer required to provide unbundled elements. Liz B said Qwest's current position needs to be identified in the CR. Bill C said that AT&T & Eschelon have a different opinion. Bonnie J said AT&T & Eschelon agree this is not a Regulatory CR & restated Liz's concern if it was appropriate to issue the CR at all if the guidelines are not followed. We agreed the CR is not regulatory because Qwest was not ordered, Qwest made the choice not to offer the products. Bill C asked Liz if we include the language & make it a regulatory CR. Liz B said that the genesis of the change was the USTA II decision & now Qwest wants to remove that. Bill C stated that during the last meeting it was clear this was not a Regulatory CR. USTA II was a court opinion about what needed to be offered. Bonnie J said that is what takes it out of Regulatory CR classification. Liz B argued that the rules are 'as is' until the permanent rules come out & since it is just an opinion & believes Qwest should follow the SGATs until the rules are permanent. Bill C stated that the DC court vacated the FCC rules & in a sense undermined them & took away the unbundled rules. The FCC said here is the interim rules & will freeze prior to 6/15 until we can put out the final rules. Qwest doesn't want to put the CR in deferred status. Bonnie J said Eschelon does not have an objection to Qwest updating the existing CR (insert comment) because Eschelon has updated CRs without the clock starting over. Becky Q questioned whether the CLECs were arguing the merits of the CR rather than the process that Qwest used. Liz B said the CR could be updated & requested information relating to Oversight & Escalation be included. Linda SS stated that Qwest has not included Escalation response or Oversight minutes in other CRs as the Escalation & Oversight minutes are found in another location on the web site. There was agreement that the CR would provide the revised title, original title, revised description of change, original description of change & url links to the Escalation & Oversight web locations. CR PC120803-1 was

provided as an example of a CR that has been revised. Bonnie stated that the history is captured & that this CR is an anomaly because it had the regulatory issue & was not just a systems to process crossover, but does not agree with the CR & does not understand what Qwest is trying to accomplish & Qwest feels the need to move forward. Sharon VM stated that AT&T does not think this is a regulatory CR & would like the CR to include the history of what has been discussed. Deferring the CR would be better & revising is acceptable if the history is included. Liz B agreed deferring would be better & revising the CR sets a precedent that the CR is regulatory but not identifying in that way. There was recommendation from Covad, Eschelon, AT&T, TDS/MetroCom & MCI that the CR be deferred until permanent rules are issued. Becky Q stated that without making any statement on the merits of the CR, she believed that Qwest should go ahead with the CR because she agreed with Bill Cs estimated timeline for permanent rules. Qwest would like to move forward by revising the CR. The Oversight Recommendation will include the different recommendations from the Oversight members. Bonnie J & Becky Q discussed the merit of language changes to the CMP process. Liz B & Bonnie J stated that the CR should not have defaulted to CMP as it was not the appropriate approach & the importance of keeping the CMP guidelines in tact. The meeting was concluded.

1-4-05 CMP Ovrsght Mtg. PURPOSE: This was a meeting of the CMP Oversight Committee to review an issue submitted to the committee on 11/30/04 by Liz B-of Covad. The following is the write-up of the discussion. Attendees: Jen Arnold-TDS Metrocom/U S Link, Liz Balvin-Covad, Becky Quintana-Colorado PUC, Bonnie Johnson-Eschelon, Kim Isaacs-Eschelon, Sharon Van Meter-AT&T, Kathy Stichter-Eschelon, Doug Denny-Eschelon, Amanda Silva-VCI, Jeff Sonnier-Sprint, Susie Bliss-Qwest, Susan Lorence-Qwest, Cindy Buckmaster-Qwest, Bill Campbell-Qwest, Cindy Macy-Qwest, Jill Martain-Qwest, Linda Sanchez Steinke-Qwest DISCUSSION: The meeting began with Qwest making introductions. Linda S-S-Qwest reviewed the issue Covad submitted to Oversight on 11/30/04. Linda read from the Description of the Issue; Qwest inappropriate use of CMP to drive legal interpretation of the Law, & the desired resolution; the proposed changes (PC102704-1ES) be withdrawn until Qwest can properly follow the CMP governing document. Qwest responded on 12/10/04 requesting that Oversight meet to discuss how to move forward with the CR. Liz B reviewed the history of the issue & stated Covad's position that the biggest issue is Qwest is out of scope of CMP. She stated that the first problem is that the Systems CR SCR102704-1RG was identified as Regulatory & did not follow the process of referencing the page & paragraph & called into question the law or mandate. The second problem is that six CLECs objected to the regulatory classification of the CR & the objections should have been addressed. The CR was then converted to Prod Proc, the regulatory classification removed, & Qwest did not follow the crossover guidelines. Qwest's binding response to the Covad escalation continued to assert that Prod Proc is not the correct category & it is a regulatory CR. Qwest has been out of scope of CMP for this CR. [Comment received from Covad: Qwest's binding response to the Covad escalation continued to base decision on USTA II & FCC interim rules but not call regulatory. Qwest has been out of scope of CMP for this CR.]Susie B-Qwest stated Qwest's position was when objections to the regulatory classification were received, the regulatory definition in CMP did not fit. There was not unanimous agreement that the CR was regulatory. Section5.1.1 states that if there is not unanimous agreement then the CR will be treated as non-regulatory. PCAT changes need to be made & when PCAT changes are made, Qwest is obligated to notify the CLECs by following 5.4.5 limiting the product

availability. Qwest proceeded as a Prod Proc Level 4 change. Liz B & Susie B discussed the concern that CLECs were not given a chance to discuss the CR & whether Qwest was limiting or restricting availability of products. [Comment received from Covad: Liz B stated that CLECs were not given the opportunity to iron out whether the CR should have been categorized as regulatory. Susie B indicated that Qwest has the right to limit the availability of products based on the CMP document. Liz Balvin stated that Qwest is not limiting, but restricting products that other carriers continue to be able to purchase.] Bonnie J-Eschelon stated that Qwest can not make a decision as a company & not allow the customer to order the product any longer. It is required to provide the basis under which the product is removed. Bill C-Qwest, Liz B, Bonnie J, & Susie B discussed resolving the issue by providing the USTA II document & identifying for each product the page & paragraph reference. Liz B & Bonnie J were concerned that CMP process has not been followed, & stated the CR is lacking the steps required. Susie B asked if citing the paragraph would resolve. Liz recalled that the CMP document was written to address regulatory CRs & that Qwest tried to remove the regulatory classification & page & paragraph of law should be provided to move forward with the change. Cindy B-Qwest restated Liz's position; Covad does not want the Regulatory classification removed, but instead would like Qwest to add the page & paragraph. [Comment received from Covad: Cindy B-Qwest asked to restate Liz's (Covad's) position; does Covad want the Regulatory classification removed or Qwest to cite add the page & paragraph. Liz's stated that Qwest continues to call into question the law but not want to cite page & paragraph, there is a difference.] Further discussion ensued between Liz B & Cindy B whether appropriate to revise the CR or leave the CR as is currently. Susan L-Qwest added that when grandparenting products, the CRs remove the product availability. Liz B felt that Qwest has called into question the law & has jerry rigged the CMP process to meet Qwest's needs because there are system edits in place to restrict ordering the products. [Comment received from Covad: products & that the notifications, even level 4 notices carry the clause that IA supercede PCAT documents.] Becky Q-COPUC asked if Liz's issue was there is not a way the CR can be categorized as a regulatory CR. Liz Balvin responded that Qwest has called into question the law & should follow the CMP guidelines & provide page & paragraph. Becky Q stated that if Qwest withdraws the CR & then re-submits the CR as regulatory it is not clear how the CLECs could object. Sharon VM-AT&T stated AT&T had objected to the regulatory classification & read the AT&T attorney position. Cindy B. interjected that this is the very objection that resulted in Qwest removing Regulatory classification from the CR. A number of CLECs objected on this basis & that is where Qwest took its action from. Liz indicated that may have been some CLEC prematurely showing part of their hand but she didn't see these remarks nor a response from Qwest on these remarks & therefore didn't know Qwest had this information. Bonnie J, Bill C. & Cindy B. discussed that a regulatory classification means Qwest cannot (by law) provide the product & a non-regulatory classification means that Qwest does not have an obligation to & chooses not to provide the product. It was agreed this CR is non-regulatory. Becky Q. added that it is now clear why this is not a regulatory CR. Liz B-Covad stated that had objected to the Systems CR & then escalated the Prod Proc CR. If Qwest had followed the process, the CLECs would have discussed the objections and Qwest's responses to the objections. Qwest is aware of all the other CLEC's positions. [Comment received from Covad: Liz Balvin stated it is easy for Qwest, now that it has all the information in hand, to take this new position. If Qwest had followed the process, the CLECs would have discussed the objections & Qwest's responses to the objections. Qwest is



aware of all the other CLEC's positions & by not following the CMP guidelines has eliminated CLECs insight to all that Qwest has.] Cindy B. requested input on how the CR could be moved forward. Liz B. requested that Qwest respond to the objections. There was discussion between Linda S-S, Liz B. & Susie B. concerning Section 5.1.1 related to any requirement that Qwest respond to objections. There was further discussion between Liz B, Susie B, Cindy M & Susan L regarding the CMP voting process, classification of the CR, following CMP guidelines for the CR & the precedent that has been set with change to disposition requests. Liz felt these were different situations. [Comment received from Covad: Liz stated these situations were different because no one has requested a change in disposition.] Becky Q. asked if the concern was that Qwest did not follow the process outlined in 5.1.1 or if the concern would be the same if 5.1.1 were followed. Liz B said she couldn't say for sure because Qwest has all the ammunition & we have none. Bonnie J & Becky Q discussed Qwest exercising their rights to limit product availability, basis for product limitation as it relates to PCAT comments, limiting of products prematurely, & appropriateness of legal discussion on Prod Proc changes. [Comment received from Eschelon: Bonnie J & Becky Q discussed Qwest exercising their rights to limit product availability, basis for product limitation as it relates to PCAT comments, Bonnie said Qwest is limiting products prematurely & Becky agreed. Becky & Bonnie discussed the appropriateness of legal discussion on Prod Proc changes.] Susan L. & Liz B. discussed processing grandparenting change requests, the tariff reference being out of CMP scope & whether the products are currently ordered by CLECs. Liz felt this CR is different because Qwest is citing the law. [Comment received from Eschelon: and on grandparenting CRs no CLECs order the products.] [Comment received from Covad: Liz stated that whenever Qwest grandfather's a product, the first question from CLECs is whether anyone is ordering the products.] Cindy B. responded that Qwest has the right to not have to offer products based on the law. Kim I- Eschelon said that the title of the CR, USTA II, implies that the change is based on the law. Cindy B. said that she was not involved when the CR was initiated or when it was decided it was a regulatory CR. The change is not a mandate & Qwest is obligated to notify CLECs of the change. There has been no effort to jerry rig CMP. Qwest is notifying CLECs the products will not be available on a going forward basis. Liz B & Becky Q discussed if notification should be through CMP & PCAT changes. Bill C said a note in the PCAT stating if the CLEC does not have these products in the current ICA then these products are not available. Bill C, Liz B & Cindy B continued discussing options to process the CR, ability to vote down a regulatory CR & then move it to prod proc. Re-issuing the CR & starting the clock over based on conversation & intent, changing the title & editing the CR, & posting of historical information to the CR. Bonnie J asked that the meeting minutes reflect all of the conversation that has taken place. [Comment received from Eschelon: Bonnie said Qwest often reflects their views but not CLECs.] Liz B, Sharon VM, Susie B & Becky Q presented options to process the CR; changing it to a regulatory CR because it is citing the law, submitting a new ProdProc non-regulatory CR stating intentions, changing the CR title, deferring, amending the current CR & maintaining the history. Susan L suggested Oversight members take a poll on which would like to modify the existing CR, which would like a new CR. Bill C, Becky Q, Cindy B, Bonnie J, & Liz B discussed options related to the CR. The CR is currently accurate & may change soon. When the final rules are issued DS1 & DS3 loops may not be accurate. [Comment received from Eschelon: When the final rules are issued this will change because DS1& DS3 loops may not be accurate.] Bill C asked if the CR is moved to deferred status if the CLEC community is willing to waive the notification requirement. Kim I

& Bill C discussed SGAT changes, PCAT changes & the ICA negotiations. [Comment received from Eschelon: Bill said that the current negotiation template reflects the correct information but the SGATs have not been updated. Bonnie asked if there was a particular CLEC that was challenging Qwest on this issue & if that is why Qwest needed to update PCATs.] Cindy B, Bonnie J & Liz B continued discussion related to processing the CR, Bonnie J, Bill C & Liz B discussed how CLECs should be notified of the product change & the PCAT reflecting the SGAT, notification through change of law, how contracts override the PCATs, & product availability is negotiated through the ICA agreements. [Comment received from Eschelon: Bonnie said if Qwest will limit product availability in its existing ICA, Qwest would need to notify Eschelon through the change in law provision of its contract and not through a PCAT CMP notice. Bill agreed.] Becky Q suggested that Qwest discuss the CR options internally. The Oversight committee agreed to meet again on 1/10/04 at 3:00 p.m. MT. The meeting was concluded.

1-19-05 Prod Proc CMP Mtg: Jill M-Qwest stated that a meeting was held & that the CR Title was revised. Cindy B-Qwest provided history of the CR & noted that the CR was issued as Regulatory & it limited the availability on certain products. The CR designation changed, in 11-2004, to a Prod Proc CR & that several elements remained on the request. Cindy noted that there was discussion in December & on a 1-5 ad-hoc meeting. Cindy stated that the CR was again revised & noted that there is no law forcing Qwest to make this decision. Cindy stated that this is an opportunity that Qwest is taking advantage of. Cindy noted that the CRs Title & Description were changed to remove references to USTA II. Cindy then reviewed the new Title and Description. Cindy stated that the CR Description states "any future changes of law may impact this notification & will be supported by the applicable notification". Cindy stated that the CR is in Development status & will notify the CLECs, on a going forward basis, the dates that the products cannot be ordered. Cindy then noted that there is an ad-hoc meeting scheduled for 1-25 to review the changes. Linda SS-Qwest stated that Qwest sent a notice on 1-17 and as there was no recommendation from Oversight, the notice included the competing recommendations. Jill M-Qwest asked if there were any questions or comments. Bonnie J-Eschelon stated that she has not yet reviewed the revisions & will reserve comments for the ad-hoc meeting. [1/28/05 Comment from Eschelon: and/or comment cycle.]

12-2005 CMP Mtg: Cindy B-Qwest advised that we have suggested an Oversight Committee meeting be held. Qwest has scheduled the meeting for 12-20 at 1:00 p.m. MT. Liz B-Covad advised that Qwest continues to site law without issuing the CR as Regulatory. Covad believes system edits are in place to not allow CLECs to order products not available. If Qwest sites legal interpretation of law the page & paragraph must be included. Covad is not saying that CMP is or isn't the right forum, but Qwest is trying to make a unilateral decision & we do not know what law Qwest is citing. Qwest doesn't believe the CLECs need to know what page & paragraph are referenced, as the CMP document states. It was agreed more discussion would take place at the Oversight meeting. This CR will move to Development Status.

11/17/04 CMP Mtg: Cindy B-Qwest stated that this CR has drawn quite a bit of attention. Qwest would like to clarify the intent of the CR. Cindy advised that we are having an ad hoc meeting on Friday, 11-19 to review the documentation & take issues. Qwest apologizes for the confusion as we

issued the CR two times. The CR was modified to clarify the scope to include USTA II & FCC Interim Rules. Cindy B. advised that CLECs who have language in their ICA can continue to order these products & CLEC who do not have language in their ICA can not order the products nor amend their ICA to include such language. Cindy listed the products affected. Josh T-TelWest asked what if a CLEC opts into an existing contract? Cindy B-Qwest advised that you are permitted with the exception of the elements cited. David M-TelWest questioned without signing a TRO USTA II agreement a CLEC can opt into a contract? David advised that Qwest Regulatory has said CLECs can not do this. Cindy B-Qwest said that the contract would be modified as it has to be TRO & USTA II compliant. Liz B-Covad advised that we continue to object that Qwest bring (insert comment from Covad/Eschelon) to CMP its legal interpretation. Liz advised that Qwest is using ad hoc meetings to gain insight into the CLECs view of the law and it is inappropriate (end comment). Cindy B-Qwest advised this has nothing to do with Qwest telling our interpretation of the law. This is in CMP to advise about a product that is being limited. Liz B-Covad stated that this is more than a product being discontinued. In addition, Qwest can not cite the law & then not call it a Regulatory CR. There are legal means to negotiate agreements. Cindy B. advised this CR was initially a Regulatory CR & it was opposed. That is why we changed it to a Prod Process CR. We are only telling you that you can't have the product if you don't have it in your contract. Liz B-Covad advised the reason they objected to the Regulatory classification is that Qwest didn't cite the page & paragraph. Qwest is still citing the law, [comment from Covad/Eschelon] not calling it a regulated changed and that is still out of scope for CMP. Liz advised that Qwest should have followed CMP governing document & not simply converted the systems CR to prod proc, that the objections should have been addressed & if agreed to by the community, the CR would have 'crossed over' to prod proc. Qwest is trying to manipulate the CMP process to fit their needs. Liz advised that it is inappropriate for Qwest to host an ad hoc meeting. Without following the CMP governing documentation, Qwest is asserting its legal interpretation, & that is the problem (end comment) This should be handled through arbitration of contracts. Cindy B. restated that if you do not have the products in your contract you can not order them. Qwest does not have an obligation to offer this. David M-TelWest said it is not important to me what Qwest's interpretation is. It should be arbitrated & not unilaterally implemented by Qwest. Cindy B. summarized & clarified the discussion-if Qwest sites the page & paragraph, and why it is the law, & if we come to agreement on the language in the CR, than we can move it forward in CMP. Bonnie J-Eschelon said whether or not we agree on the language, this should not be discussed in CMP. We do not discuss legal interpretation in CMP. This should be done in a different forum. Liz B-Covad stated that this is an ICA negotiation discussion. David M-TelWest stated that he still has a concern with how we are treating CLECs without an existing ICA & that they can not opt into existing ICAs. I think the interpretation is wrong & CLECs should be able to do this. Qwest agreed to cancel the 11-19 ad hoc meeting, review the CR, & provide additional information at a later date. This CR will move to Presented Status. (comment from Eschelon) Cindy B. said like in the words of Arnold Swartzager I'll be back (end comment).

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 73**

## Open Product/Process CR PC102704-1ES2 Detail

**Title:** CR 2: New Revised title effective 1/11/05: Certain Unbundled Network Elements (UNE) Product Discontinuance (see Description of Change for previous title) CR 1 = PC102704-1ES

CR Number	Current Status Date	Area Impacted	Products Impacted
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PC102704-1ES2	Completed 3/23/2007		See Description of Change
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**Originator:** Whitt, Michael

**Originator Company Name:** Qwest Corporation

**Owner:** Buckmaster, Cindy

**Director:** Campbell, Bill

**CR PM:** Esquibel-Reed, Peggy

### Description Of Change

THIS DOCUMENTATION IS CONTINUED FROM PC102704-1ES

Revised Description of Change effective 3/23/07:

The following products, from the original CR, are removed from this Change Request and were not completed with this CR. The effort for these products may occur via separate CRs.

Unbundled Local Loop-General Information

Unbundled Local Loop-Digital Signal Level 1 (DS1) Capable Loop

Unbundled Local Loop-Digital Signal Level 3 (DS3) Capable Loop

Enhanced Extended Loop (EEL)

Loop MUX Combination (LMC)

Unbundled Dark Fiber (UDF)

Unbundled Dedicated Interoffice Transport (UDIT)

Unbundled Customer Controlled Rearrangement Element (UCCRE)

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Revised Description of Change effective 3/1/05:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

This CR details changes to availability of certain Unbundled Network Elements (UNE) products.

The following UNE products are no longer available to CLECs unless the most current effective version of the CLEC's Interconnection

Agreement (ICA) of Amendment includes terms, conditions, and pricing for the products before 6/14/04.

Unbundled Network Element (UNE)- Switching (UBS)  
<http://www.qwest.com/wholesale/pcat/unswitch.html>

Unbundled Network Elements- Platform (UNE-P)-General Information  
<http://www.qwest.com/wholesale/pcat/unep.html>

Unbundled Network Elements - Platform (UNE-P) - Integrated Services Digital Network (ISDN) Basic Rate Interface (BRI)

<http://www.qwest.com/wholesale/pcat/unepisdnbri.html>

Unbundled Network Elements-Platform (UNE-P)-Centrex  
<http://www.qwest.com/wholesale/pcat/unepcentrex.html>

Unbundled Network Elements-Platform (UNE-P)-Public Access Lines (PAL) <http://www.qwest.com/wholesale/pcat/uneppal.html>

Unbundled Network Elements- Platform (UNE-P)- Private Branch Exchange (PBX) Trunks  
<http://www.qwest.com/wholesale/pcat/uneppbx.html>

Unbundled Network Elements - Platform (UNE-P)-Plain Old Telephone Service (POTS)  
<http://www.qwest.com/wholesale/pcat/unepopts.html>

Unbundled Network Elements - Platform (UNE-P) - Digital Switched Service (DSS) <http://www.qwest.com/wholesale/pcat/unepdss.html>

Unbundled Network Elements -Platform (UNE-P) - Integrated

Services Digital Network (ISDN) Primary Rate Interface (PRI)

<http://www.qwest.com/wholesale/pcat/unepisdnpri.html>

The remaining products on this CR are being revised due to changes based on the FCC Order received 2/4/05. The following products will be revised and will be noticed on a future date associated with this change request.

Unbundled Local Loop-General Information

Unbundled Local Loop-Digital Signal Level 1 (DS1) Capable Loop

Unbundled Local Loop-Digital Signal Level 3 (DS3) Capable Loop

Enhanced Extended Loop (EEL)

Loop MUX Combination (LMC)

Unbundled Dark Fiber (UDF)

Unbundled Dedicated Interoffice Transport (UDIT)

Unbundled Customer Controlled Rearrangement Element (UCCRE)

As always, any future changes of law may impact this notification and will be supported by the applicable notification.

Expected Deliverables/Proposed Implementation Date (if applicable):

Implement PCAT changes retroactive to 6-15-04 subject to CMP Guidelines

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Revised Description of Change effective 1/11/05:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

This CR details changes to availability of certain Unbundled Network Elements (UNE) products.

The following UNE products are no longer available to CLECs unless the most current effective version of the CLEC's Interconnection Agreement (ICA) of Amendment includes terms, conditions, and pricing for the products before 6/14/04.

-All Enterprise and Mass Market Unbundled Network Elements

Switching (UBS) products, detailed in the following Product Catalog

(PCAT): <http://www.qwest.com/wholesale/pcat/unswitch.html>

-All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/unep.html>

-DS1 Unbundled Loop detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/unloops1caploop.html>

-DS3 Unbundled Loop detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/unloops3caploop.html>

-Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF, detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/darkfiber.html>

-DS1 and DS3 Unbundled Dedicated Interoffice Transport (UDIT), including E-UDIT and M-UDIT, detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/udit.html>

-DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>

-Unbundled Customer Controlled Rearrangement Element (UCCRE) detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/uccre.html>

-DS1 and DS3 Loop Mux Combo detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/lmc.html>

As always, any future changes of law may impact this notification and will be supported by the applicable notification.

Expected Deliverables/Proposed Implementation Date (if applicable):

Implement PCAT changes retroactive to 6-15-04 subject to CMP Guidelines

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Previous Title and CR Description of Change - see below for information prior to 1/10/05. This CR was Revised on 1/11/05



Previous Title:

U.S. Court of Appeals for the DC Circuit decision (USTA II) Decision No. 00-1012, and FCC Interim Rules Compliance: Certain Unbundled Network Elements (UNE) Product Discontinuance

Previous Description of Change:

This CR will be implemented as a product/process CR as there are no CLEC facing system changes.

This CR details changes to availability of certain Unbundled Network Elements (UNE) products pursuant to the U.S. Court of Appeals for the DC Circuit decision 00-1012 ('USTA II') which vacated some of the FCC's unbundling rules, and the subsequent FCC Interim Rules which preserved some of the unbundling rules vacated in USTA II.

In accordance with these orders and findings, the following UNE products are no longer available to CLECs unless the most current, effective version of the CLEC's Interconnection Agreement (ICA) or Amendment includes terms, conditions, and pricing for the products before 6/15/04:

-All Enterprise and Mass Market Unbundled Network Elements Switching (UBS) products, detailed in the following Product Catalog (PCAT): <http://www.qwest.com/wholesale/pcat/unswitch.html>

-All Enterprise and Mass Market Unbundled Network Elements-Platform (UNE-P) products, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unep.html>

-DS1 Unbundled Loop detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unloopds1caploop.html>

-DS3 Unbundled Loop detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/unloopds3caploop.html>

-Unbundled Dark Fiber (UDF), including E-UDF and Meet-Point UDF, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/darkfiber.html>

-DS1 and DS3 Unbundled Dedicated Interoffice Transport (UDIT), including E-UDIT and M-UDIT, detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/udit.html>

-DS1 and DS3 Enhanced Extended Loop (EEL) detailed in the following PCAT: <http://www.qwest.com/wholesale/pcat/eel.html>

-Unbundled Customer Controlled Rearrangement Element (UCCRE) detailed in the following PCAT:

<http://www.qwest.com/wholesale/pcat/uccre.html>

-DS1 and DS3 Loop Mux Combo detailed in the following PCAT:  
<http://www.qwest.com/wholesale/pcat/lmc.html>

Expected Deliverables/Proposed Implementation Date (if applicable):

Retroactive to 6/15/04 pursuant to FCC Interim Rules, subject to  
CMP Guidelines.

### Status History

Date	Action	Description
1/30/2007	Related Change Request	PC102704-1ES
1/30/2007	Record Update	THIS STATUS HISTORY IS CONTINUED FROM PC102704-1ES
1/17/2007	Discussed at Monthly CMP Meeting	Discussed in the January Monthly Product Process CMP Meeting.
3/23/2007	Record Update	CR Revised to remove Products from this CR
3/28/2007	Related Change Request	PC032707-1 and PC032807-1
2/6/2007	General Meeting Held	Ad Hoc with CLEC Community Held
2/21/2007	Discussed at Monthly CMP Meeting	Discussed in the February Monthly Product Process CMP Meeting
3/5/2007	Related Change Request	PC013007-1
3/5/2007	Related Change Request	PC013007-2
3/21/2007	Discussed at Monthly CMP Meeting	Discussed in the March Monthly Product Process CMP Meeting

### Project Meetings

DOCUMENTATION FOR THIS CR IS CONTINUED FROM PC102704-1ES. PLEASE SEE PC102704-1ES FOR PRIOR PROJECT MEETINGS INFORMATION FOR THIS CHANGE REQUEST.

March 29, 2007 Email Sent to Eschelon: Bonnie, Qwest is not

treating all of the CR as completed. As stated in the email below, dated March 26th, The CR was revised in order to remove the products that were not completed. The Completed Status of the CR is valid due to the completion of the products that remain on that CR. Perhaps the confusion is because you have not seen the revised CR. I have attached a copy. Peggy Esquibel-Reed Qwest Wholesale CMP

March 28, 2007 Email Received from Eschelon: Eschelon continues to believe Qwest is not in compliance with CMP closing codes. Not all of the Change Request was completed, but Qwest appears to be treating it all as completed. More importantly, as Eschelon has said before, changes regarding TRRO are considered change in law and should be handled via negotiations and perhaps also in some type of forum, such as changes to the SGAT, where there is also Commission oversight. Bonnie Johnson Director Carrier Relations Eschelon Telecom Inc.

March 26, 2007 Email Sent to Eschelon: Bonnie, The CRs (PC102704-1ES and PC102704-1ES2 have been revised to indicate that some products were removed from the original CRs and that the effort for some of those products would occur via separate CRs. The products that were not removed from the CRs were the products that were completed, therefore the status of Completed would be appropriate. Withdrawal is not appropriate, as some of the products were completed and Defer would also not be appropriate as there is no more action for these specific Change Requests. The history continues to be retained on PC102704-1ES and PC102704-1ES2 and those CRs continue to be available via the Interactive Reports on the Qwest Wholesale web site. None of the documentation has been or will be lost. The email below has been added to PC102704-1ES2, as requested. Peggy Esquibel-Reed Qwest Wholesale CMP

March 23, 2007 Email Received from Eschelon: Eschelon's position has not changed regarding PC102704-1ES and 1ES-2. Changes regarding TRRO are considered change in law and should be handled via negotiations or in some type of forum, such as changes to the SGAT, where there is Commission oversight. In addition, the CR is not completed so a status of complete is not appropriate. Will Qwest be withdrawing or deferring this CR? Please add this comment to the CR before changing the status. Thanks, Bonnie Johnson Director Carrier Relations Eschelon Telecom Inc.

March 21, 2007 Product Process CMP Meeting: Mark Coyne-Qwest stated that these are the two TRRO CRs that were opened a few years ago. Mark then stated that based on the discussion at the February CMP Meeting, where Qwest acknowledged that the effort was moving forward with individual CRs, Qwest is moving to close these two CRs. Mark stated that all the history and notes will be retained and are available via the interactive reports on the web site. Mark stated that none of the information would be lost and

asked if there was any objection to the closure of PC102704-1ES and PC102704-1ES2. There were no objections to the closure of the two CRs. 3/27/07 - Comments to minutes received from Eschelon Mark Coyne-Qwest stated that these are the two TRRO CRs that were opened a few years ago. Mark then stated that based on a number of meetings and discussions, including a discussion at the February CMP Meeting, where Qwest acknowledged that the effort was moving forward with Qwest submitting individual CRs, Qwest is closing these two CRs. Mark stated that all the history and notes will be retained and are available via the interactive reports on the web site. Mark stated that none of the information would be lost

- February 21, 2007 Product Process CMP Meeting: Mark Coyne-Qwest stated that at the end of the last ad hoc call it was mentioned that Qwest would schedule additional calls in order to continue the discussions on this CR to categorize products on the TRRO Product matrix and try to move forward with a prioritization of products. The original Qwest plan to gain CLEC input on the priority of the various products has not been as successful as we planned or hoped. We heard all the comments on that call and considered all the feedback that another call would just be rehashing the same things again. We then took all that feedback and gave it some additional thought in order to determine what the most logical next step would be, to allow Qwest and the CLEC community to continue to move forward on this issue. What makes sense at this point, to Qwest, is that we issue individual CMP CRs for the products that need to be addressed in CMP and hold discussions for specific CRs or product groupings. That would allow those CLECs with impact on those specific products to have a CMP forum for input on the process related changes associated with these products. It should provide a more meaningful and valuable method for proceeding with this effort for Qwest and for those CLECs who are impacted by these changes. Some, if not all, of those CRs will be submitted for the March 21st CMP Meeting. Bonnie Johnson-Eschelon stated that on the last call, Cindy Buckmaster (Qwest) committed to taking one of her products, due to Integra's concerns regarding the PCATs, and to re-do the PCAT and meet on those changes. Bonnie asked if Qwest is now not going to do that. [Comment Received from Eschelon: Bonnie Johnson-Eschelon stated that on the last call, Cindy Buckmaster (Qwest) committed to taking one of her products, due to Integra's concerns regarding Qwest cut an pasting information from the ICA into the PCATs, and to re-do the PCAT and meet on those changes. Bonnie asked if Qwest is now not going follow through with that commitment.] Mark Coyne-Qwest stated that we internally evaluated what would work best and determined that the next step should be to issue the CRs. Bonnie Johnson-Eschelon stated that she had no comment at this time.

February 6, 2007 Qwest/CLEC Ad Hoc Meeting: ATTENDEES: Mary Roberts-Unicon, Sue Yoder-Iowa Telecom, Pam Trickel-TDS MetroCom, Julie Redmond Carter-McLeodUSA, Kathy Lee-AT&T,

Peter Huley-TDS MetroCom, Lynn Oliver-Covad, Ken Black-McLeodUSA, Sheila Harris-Integra, Steve Fisher-Integra, Jay Newsbom-Integra, Nancy Thompson-Wisor, Joyce Bilow-McLeodUSA, Karen Clausen-Eschelon, Doug Denney-Eschelon, Bonnie Johnson-Eschelon, Colette Davis-Covad, Rod Cox-TDS MetroCom, Cindy Buckmaster-Qwest, Susan Lorence-Qwest, Candace Mowers-Qwest, Vicki Dryden-Qwest, Lynn Stecklein-Qwest, Peggy Esquibel Reed-Qwest, Karen Chandler Ferguson-Qwest, Mark Coyne-Qwest DISCUSSION: Peggy Esquibel Reed-Qwest stated that the purpose of this meeting was to continue with the open dialogue for the TRO/TRRO CMP CR. The documents for this meeting can be accessed from the Wholesale calendar out on the CMP web site, by clicking on the entry for this call. Those documents are the PCAT Impacts Matrix and 2 other documents which are the CRs for this effort. PC102704-1ES which is the original CR and contains the history thru January 10th. It references PC102704-1ES2 for the continuation of the history for this effort. The creation of PC102704-1ES2 was necessary due to the character limitation being reached for the original CR, in our data base that houses the CR information. This means that that the PC102704-1ES record/CR could not house any more data or content. PC102704-1ES2 was then created in order to continue with the documentation of this effort. The 2 CRs (-1ES and -1ES2) have a complete accounting of all that has transpired, all the history, regarding the calls and communications that have been held and documented. There was a concern, received in an email, that 2 CRs creates the impression that there is no earlier status history. That should not be the case because the 2 CRs are VERY clearly marked and cross referenced in 6 different places: 1) The numbering of the CRs carries the same number with the 2 added to the end of the continuation CR. 2) The CR Titles are the same and make reference to the other CR 3) The first statement in the CR descriptions note that 'Documentation for this CR is continued on/from the other CR number' 4) There is a Status History Line that indicates that there is a Related CR and notes the CR that is continued to/from 5) There is a second Status History Line of a Record Update stating that documentation is continued to/from the other CR 6) The Project Meetings portion of the CRs each contains a statement AT THE TOP that documentation is continued to/from the other CR. Again, there has been no loss of any history for this CR, the history is complete. Both CRs are active and are available via the Interactive Reports out on the web site. The call today as well as future communications will be documented on the continuation CR PC102704-1ES2. There were no comments or questions. Peggy Esquibel Reed-Qwest then noted that the last call was held on January 11th and its purpose was to start the discussions regarding the PCAT Impacts Matrix and getting items in the appropriate buckets in order to proceed and move forward. There were some CLECs on that call who were not comfortable discussing the Matrix without obtaining input from their regulatory folks so that discussion had to be rescheduled and that is why we are meeting today. Details of that January 11 call are in the

meeting minutes of the CR, in case you have not yet had the opportunity to read them. Peggy then stated that this brings us all up to date and that today's discussion would be started by Cindy Buckmaster (Qwest). Doug Denney-Eschelon asked for the meaning of the terms going forward and proceeding. Peggy Esquibel Reed-Qwest stated that we would like to move forward with the open dialogue and the discussion on the moving of the bucketed items in the appropriate place on the PCAT Impacts Matrix. Cindy Buckmaster-Qwest stated that our intent is to identify all product documentation associated with TRO TRRO that are impacted by law. Cindy stated that a list was compiled and that it is separated into sections, the first section identified items that were already introduced, in 2005. Cindy stated that the 2nd list is the products with changes that were postponed and removed from the initial effort of PC102704-1ES. Cindy noted that those products were moved to Category 2. Cindy stated that the 3rd set is yet to be introduced and that no discussions have yet taken place for them. Cindy then stated that the last set is those products that are currently in litigation. Cindy noted that the 4th set is a subset of the 2nd bucket. In the last meeting there was a concern regarding litigation and a desire to have identified where changes have been made in the catalogues. Qwest's intent is not to usurp litigation and noted that these discussions are so all know what to expect if have signed TRRO agreement. Cindy then noted that at the last call, the CLECs said that they wanted to bring their regulatory/legal people on the call in order to help identify the items, in the buckets, that should be moved to bucket 4. Cindy stated that the intent is then to discuss items that are not in bucket 4, or are in bucket 4, with the CLECs that want to discuss them. Doug Denney-Eschelon stated that there are a lot of assumptions on how processes apply to each CLECs ICAs. Doug noted that the wire center litigation is one example. Cindy Buckmaster-Qwest stated that these discussions have been for the entire CLEC Community and Qwest is happy to let the CLECs structure the calls. Cindy stated that Qwest has no pre-conceived notion of what will or will not be discussed. Cindy stated that Qwest would discuss what the CLECs want to discuss. Cindy then stated that Qwest would take feedback as to what additional items need to be moved into Bucket 4, if the CLECs want to share that information. Karen Clausen-Eschelon stated that an assumption, in the Matrix, is that if you want to talk about it, the discussion starts with the non-TRRO PCATs. Karen stated that was her observation. Karen then noted that Eschelon had provided the list of items that are in litigation to Qwest and stated that Qwest needs to tell them what is in litigation. Cindy Buckmaster-Qwest stated that she is neither in legal nor in the regulatory group. Cindy then stated that she would not force discussions and would discuss what the CLECs want to discuss. Cindy stated that the starting place could be the PCATs Impact Matrix and the documents on the main web site, [www.qwest.com](http://www.qwest.com). Cindy stated that we could also discuss the changes that were made for the TRRO web site. Steve Fisher-Integra stated that every PCAT that is related to TRRO is far reaching. Steve then asked that if a PCAT is

related to TRRO and there are ICA negotiations occurring, why the PCATs had so much relationship to the ICAs. Cindy Buckmaster-Qwest stated that the PCATs contain a general description and the flow of a product. Cindy stated that this is how to do business to business. The contracts are not intended to carry the detail of business to business relationships. Steve Fisher-Integra stated that the new PCATs are far reaching into TRRO and are not product specific. Steve stated that we are blurring the distinction between the ICA and the PCAT and there needs to be discussion. Karen Clausen-Eschelon stated that she disagrees with what was just said and stated that it was asked that issues be brought into negotiations. Karen stated that Qwest is trying to draw a distinct line and that some issues do belong in contracts. Karen then stated that in the CMP Document, the scope will sometimes overlap with an ICA and states that the ICA will have control. Karen then stated that she agreed with Integra and that Qwest should negotiate that. Karen Clausen-Eschelon then noted that Cindy (Buckmaster-Qwest) was not regulatory and that Cindy had asked CLEC regulatory personnel to be present on this call. Karen then asked if there was Qwest legal representation on the call. Cindy Buckmaster-Qwest stated that she did not request that CLEC regulatory or legal personnel be on the call, the CLECs said that they wanted regulatory and/or legal folks on the call. Karen Clausen-Eschelon stated that they had already identified that all products are in litigation. Cindy Buckmaster-Qwest asked that for bucket 1, which includes UBS and UNE-P, if anybody believes that these products are in litigation. Cindy then stated that Qwest believes that these have been completed. Cindy asked if anyone disagreed that they have been completed. Doug Denney-Eschelon stated that Qwest has filed a tariff, in Colorado, to amend SGATs and noted that this is part of that filing and that investigation is suspended. Cindy Buckmaster-Qwest stated that if we were to take that approach then we could never have a CMP call due to changes to the tariff and/or SGAT. Cindy stated that could be pushing the envelope and that this call was for discussion of PC102704-1ES/-1ES2 ONLY. Karen Clausen-Eschelon stated that if Qwest had read what they submitted the day before, that PC102704-1ES/-1ES2 should be left in bucket A. Cindy Buckmaster-Qwest stated that the matrix is to identify all products that are impacted by TRRO. Cindy then noted that she saw, in the email, that Eschelon agrees that those items are closed. Cindy then stated that we have not heard from the other CLECs as to the completion on March 18, 2005, for the items in bucket A. Cindy asked if all on the call agree that all items in bucket a are closed. Steve Fisher-Integra stated that if you go into UBS PCAT, there are links that are in the PCATs that link to other documents that might not yet be closed. Steve stated that he would be hesitant to agree that bucket A is closed due to those links to the other documents. Cindy Buckmaster-Qwest stated that was a very good point and noted that the PCAT, as it specifically relates to UBS is closed. Cindy asked if all were in agreement that UBS is not offered by Qwest and asked if all agreed that UNE-P as identified on the matrix is not offered by Qwest. Karen Clausen-

Eschelon asked Cindy (Buckmaster-Qwest) if she was asking the CLECs to agree and comment. Cindy Buckmaster-Qwest said that she was only saying that the CR was closed in March 2005 and at that time CLECs had no issue with those items. Karen Clausen-Eschelon stated that Cindy was then asking two questions. Karen Clausen-Eschelon stated that yes, the CR was closed in March 2005 and agreed that all are not subject to TRRO. Karen stated that no items are open and noted that there is a fuzzy line. Karen stated that the question is if Qwest intend to make similar filings (tariffs in lieu of SGATs) in other states. She stated that she has asked that question a number of times, specifically asked it in a pre-meeting e-mail and expected it to be answered on this call. Cindy Buckmaster-Qwest stated that did not fall into her area of responsibility and noted that the question is not for this call. Cindy stated that this call is for the discussion of TRRO PCATs ONLY. Karen Clausen-Eschelon asked if Cindy (Buckmaster-Qwest) was going to find out who would answer her question. Cindy Buckmaster-Qwest said no and advised Karen (Clausen-Eschelon) that she would trust that Karen would obtain that information from one of the other avenues, within Qwest, that she has probably already asked. Karen Clausen-Eschelon stated that if Qwest's intent was to insult Eschelon that they had. Cindy Buckmaster-Qwest stated that it was not her intent to insult Eschelon and apologized. Cindy stated that she was not sure if there were filings in other states as that is not her decision or area of responsibility. Karen Clausen-Eschelon stated that she understood that Cindy (Buckmaster-Qwest) does not know the answer. Cindy Buckmaster-Qwest asked if there were any items in the third bucket, such as 800 data base query, that were involved in litigation. Karen Chandler Ferguson-Qwest stated that Qwest is not aware of any current arbitration or litigation that was occurring for items in that third bucket. Karen Clausen-Eschelon stated that Qwest had Eschelons written response and stated that she would not go thru the matrix again. Cindy Buckmaster-Qwest asked if there were any CLECs on the call that believed that items in that third bucket were in litigation or arbitration. Karen Clausen-Eschelon stated yes, for all items. Cindy Buckmaster-Qwest asked for input from other CLECs. McLeod agreed with Eschelon and stated that they were not in a position to discuss, due to negotiations. Integra stated that they echo McLeods comment. Karen Chandler Ferguson-Qwest stated that 800 data base is offered via the tariff and asked if it was in arbitration. McLeod said no and stated that they are moving from negotiations to arbitration. McLeod then stated that Qwest needs to give them the next steps. McLeod then stated that they have a confidentiality agreement. McLeod then stated that all products on the matrix fall under TRRO and that they need to protect McLeod. McLeod stated that they were not in a position to discuss this now. Cindy Buckmaster-Qwest stated that the discussion has made it clearer and thanked the CLECs for their input. Karen Clausen-Eschelon stated that Eschelon has taken time to respond and noted that they have been more clear than Qwest. Karen Chandler Ferguson-Qwest apologized and stated that



Eschelon did not want to respond further on this call and stated that McLeod's explanation did make it clearer. Karen Clausen-Eschelon stated that the law is taking something away and stated that all is subject to arbitration and litigation as to how and when this will be handled. Karen stated that all read an order that something has gone away and Qwest is now asking broad statements as to what is in arbitration and litigation. Cindy Buckmaster-Qwest asked if there was any CLEC on this call that is interested in discussing the changes for 800 database service. Karen Clausen-Eschelon asked what those changes were. Cindy Buckmaster-Qwest stated that she does not yet have the proposed changes and stated that what those changes will be is what needs to be discussed. Cindy stated that for bucket 2, the PCATs may be a starting place for the discussion and the same could be true for bucket 3. Karen Clausen-Eschelon stated that Eschelon will discuss in the ICA negotiations. Cindy Buckmaster-Qwest stated that she is hearing Eschelon saying that Eschelon does not want to discuss 800 data base. Karen Clause-Eschelon asked Cindy (Buckmaster-Qwest) to not recap what she said because she will disagree with Cindy's recap. Cindy Buckmaster-Qwest asked if there was any CLEC on the call that is interested in discussing 800 data base. Integra said no. Karen Clausen-Eschelon stated that it might be better to ask if any one was interested in discussing by bucket instead of by product. Cindy Buckmaster-Qwest asked if there was any CLEC that is interested in discussing bucket B. Karen Clausen-Eschelon asked if the discussion would be in the context of CMP. Cindy Buckmaster-Qwest said yes. Steve Fisher-Integra said no because TRRO is far reaching and he needs to know what the PCAT changes are. Steve stated that the PCATs needed to be slimmed down. Cindy Buckmaster-Qwest stated that the matrix identifies by product and has a link to the PCAT in column C. Cindy asked the CLECs to help her understand how they want the PCATs slimmed down. Steve Fisher-Integra stated that the product descriptions are too far reaching and stated that the content copied from the Contract should not be in a PCAT, it should be in the ICAs. Karen Chandler Ferguson-Qwest stated that everyone's PCAT could then be different and stated that the CLECs contracts do govern how Qwest does business with your business. Karen stated that the PCATs could be general and that each individual contract would govern. Steve Fischer-Integra stated that it would need to be negotiated between two parties and stated that the CLECs would not have to agree on them. Steve stated that the PCAT dictates how Qwest deals with a CLEC and stated that is what they are disagreeing with. Cindy Buckmaster-Qwest asked if that is different then how they deal with Verizon, BellSouth, or AT&T, for example. CLEC said yes and noted that if they do not agree, they file changes and/or disputes. McLeod stated that they did not like the idea of committing now and discussing generically. McLeod noted that they may not have any issues now but that they might have issues later and does not want to have to go through CMP later because of TRO/TRRO arbitration. Cindy Buckmaster-Qwest thanked McLeod for the input and then asked if there was any CLEC

under a TRRO amendment, not in litigation, that is interested in discussing in CMP, these items. No response. Cindy Buckmaster-Qwest asked if the silence meant no. Colette Davis-Covad stated that Covad has signed TRRO agreements with Qwest and stated that any changes that Qwest is proposing, with Covad, needs to be in CMP. Colette noted that she also handles BellSouth and Sprint in the same manner. Colette stated that if an ILEC wants to make changes to a process, it is evaluated. Colette stated that if something is in arbitration, it is then between that CLEC and Qwest. Colette stated that proceeding forward is also important. Colette stated that, from one side, she can see what everyone on the call is saying and on the other side, we need to move forward and see what Qwest recommends and challenge via CMP if need to. Colette stated that if there is a disagreement related to changes in requirements, CLECs can then file a complaint or go into mediation or arbitration for an issue. Colette stated that we need to collaboratively move forward and stated that the CLECs need to arbitrate independently of CMP and that mixing the two together is a problem and why we come to a crossroad. Colette stated that not all CLECs are arbitrating the same thing and noted that Covad's position is a collaborative position. TRRO or CMP will go through proper channels and if the CLECs need to challenge Qwest's position, they can go to the FCC or the PUC. Colette stated that she is trying to get a better sense of what the CLECs want out of this call. Karen Clausen-Eschelon stated that Qwest asked Regulatory and Legal reps to come to the call. Karen stated that the CMP document says that there could be overlap with CMP and the contracts and that the ICAs would have control. The problem is when things are in an ICA when discussing TRRO and Qwest is trying to move forward in CMP and negotiations for ICAs could be an issue. Karen stated that if Qwest's purpose is to remove products from the PCATs, it clearly belongs in an ICA and the ICA does control. Karen stated that they were asked what was in litigation and Qwest doesn't have their people on the call. Karen stated that they are being asked to agree and commit and she is asking agree to what. Colette Davis-Covad stated that with CMP, it gets down to a granular change and that is where it needs to be evaluated. Colette stated that if there is a process that needs to be changed, generally an ICA does not rule, where there is a contract change, the ICA does rule. Steve Fisher-Integra stated that the issue is that a process is in a PCAT. Cindy Buckmaster-Qwest stated that the intent of the PCAT is to contain general information about the product and further define the how-to (for process purposes). Steve Fisher-Integra stated that if he needs to find out if he can have Inter Office Transport, he would go to his ICA to see if he can have it and that the PCAT would tell him how. Cindy Buckmaster-Qwest said Yes! That is the intent of the PCAT. The PCAT structure is such that it begins with a general description of the product and then identifies more of the 'how to' about a product request. Cindy stated that Qwest wants the PCATs to be of value to the CLECs. Cindy noted that the ICAs do govern but that the PCATs should tell the CLECs how to submit an LSR. Steve Fisher-Integra asked Cindy

to show him a PCAT that is showing him that. Cindy Buckmaster-Qwest stated that she would but that is not the purpose of this particular call. Colette Davis-Covad stated that is the gap, CMP addresses processes and procedures. Product availability is generally controlled via an ICA. Colette stated that the PCAT is redundant with the ICA and asked why ICA language is in a PCAT. Colette stated that CMP should be focused on giving the CLECs ordering instructions. The FCC & PUC issue orders on what Qwest can and cannot provide to the CLECs. CMP should be focused on giving CLECs information on how to order products and services. The issue is that Qwest is putting ICA language in the PCATs and Qwest needs to stick to publishing how to order products. Jay Newsbom-Integra stated that they would not write the PCATs for Qwest and stated that Qwest is putting the cart before the horse in trying to write processes before the ICAs are done. Cindy Buckmaster-Qwest stated that she does not want to discuss processes with those CLECs who do not want to discuss. Cindy asked that in the next meeting, if we can get those who have already signed or who are about to sign, interested in discussing. Colette Davis-Covad stated that this should not impede the process on how to order out of a non-impaired wire center. Cindy Buckmaster-Qwest stated that Utah has already reviewed the wire center list and decided what is and what is not impaired. Cindy noted that they need that avenue to tell the CLECs how to order that product. Colette Davis-Covad stated that she does not see a problem. Karen Clausen-Eschelon stated that the PCATs on the matrix may be different than those telling me how to order. Karen stated that she believes that these conversations should occur in negotiations and stated that she will not be told to talk about it in CMP. Karen stated that the discussions need to be in negotiations. Karen stated that they were asked about legal issues that Qwest wants to remove from PCATs and that those are in arbitration and/or negotiations. Cindy Buckmaster-Qwest stated that there is no underlying intent, then asked if there were any CLECs who have signed or are about to sign, that want to discuss any item on the matrix, in CMP. Steve Fisher-Integra said not the way that they are currently structured. Cindy Buckmaster-Qwest stated that we can discuss and change the template, if this one is not of value, but proposed we get through the discussion of topics before PCAT format is discussed. Karen Clausen-Eschelon asked if Cindy (Buckmaster-Qwest) was offering to update the template in CMP. Cindy Buckmaster-Qwest said No, she is offering to update the matrix in CMP. She further stated that if any 'template' is to change via CMP it would be the PCAT template and not the Negotiations Template. Steve Fisher-Integra stated that he was not sure that it needed to be updated. Cindy Buckmaster-Qwest asked the CLECs to look at item #3 Line Sharing. Cindy stated that this was removed as a result of TRRO, is available in a Commercial Agreement, and proposed changes have been made in the PCAT that have not yet been shared. Karen Clausen-Eschelon stated that was Qwest's legal view and stated that Qwest could voluntarily offer it, under 251. Karen stated that Qwest needs to get their ducks in

order before the PCATs can be updated. Cindy Buckmaster-Qwest stated that if we are talking to those who have signed, the horse is where it belongs, before the cart. Colette Davis-Covad stated that the operational details are not yet in the contract. Karen Clausen-Eschelon asked if it is Qwest's position that the Commercial Agreement processes go through CMP. Cindy Buckmaster-Qwest stated that Line Sharing has not yet been addressed in any CMP CR and noted that changes that affect how to order it would be communicated via CMP (for example that you first have to have a Commercial Agreement). Steve Fisher-Integra stated that the Commercial Agreements are separate from this process. Karen Clausen-Eschelon asked if we had gone beyond the scope of this call. Cindy Buckmaster-Qwest said no, that the scope of this call is to determine if there is any CLEC interested in discussing items on a matrix. Cindy then noted that this call started with no structure in mind and stated that everything now seems to be in bucket 4. Cindy stated that process changes, the operational way we do work applies to all CLECs. The TRRO, and how it applies to CLECs, is what we want to discuss. Jay Newsbom-Integra asked why Qwest doesn't just send out the changes. Cindy Buckmaster-Qwest stated that the changes that have been made are already in bucket 2, such as EEL and LMC. Steve Fisher-Integra asked that everything that is in the ICA be taken out of the PCAT and for Qwest send the changes out to the CLECs. Cindy Buckmaster-Qwest asked that we discuss product related items. Colette Davis-Covad stated that this could interfere or compromise where Covad is, in their negotiations. Colette stated that process can be discussed; and legal positions are not to be discussed. Cindy Buckmaster-Qwest stated that process is what Qwest wants to discuss. Karen Clausen-Eschelon stated that the term 'process' is also in litigation. Karen then stated that she does not agree that process belongs in the PCAT, as opposed to a Commercial Agreement. Karen stated that she opposes using TRRO PCATs as a starting place, for discussions. Karen stated that Qwest is claiming that existing processes are to be discussed and that they need to edit PCATs before Qwest can send them out for review. Cindy Buckmaster-Qwest stated that Qwest is not attempting to force anything down anyone's throat. Cindy stated that she wants to talk to CLECs who want to discuss the items. Cindy asked if there would be value if we had another call. Steve Fisher-Integra stated that they want a call and don't want it to be structured. Cindy Buckmaster-Qwest stated that she was fine with that and asked the CLECs what the next call length should be. Karen Clausen-Eschelon stated that she only wanted to discuss the ICA negotiations. Susan Lorence-Qwest recommended that the next call be 2 hours because there are CLECs who do want to discuss. Susan then suggested that a PCAT be reviewed on that next call. Karen Clausen-Eschelon stated that Eschelon will not discuss issues that are in litigation. Cindy Buckmaster-Qwest stated that if a CLEC does want to discuss an item that is on the matrix, that is fine...they don't need to come to the call. She stated she wants to have that discussion with CLECs who do want to discuss. Karen Clausen-Eschelon stated that she wanted a document that

contains only the processes. Cindy Buckmaster-Qwest stated that she would not edit a PCAT without knowing what the CLECs want and what would be of value to them. Cindy noted that she did not want a separate copy, for Eschelon. Jay Newsbom-Integra stated that if Qwest does not provide a document, the next discussion will be the same as today's discussion. Cindy Buckmaster-Qwest stated that she does not know what the CLECs want in the PCATs or want to discuss. Jay Newsbom-Integra stated that Qwest heard their concerns; the ICA language in the PCATs, and he wants the PCATs edited down to processes and procedures. Cindy Buckmaster-Qwest stated that she would research the difference between other ILEC PCATs and Qwest's PCATs for one of her products if that would help the discussion move back to TRRO changes and doesn't plan to allow the discussion to be derailed by discussion about format of the PCAT. If that proves to be do-able before the next call, she will complete a re-write of that one PCAT. Jay Newsbom-Integra stated that they need to see how to do things. Cindy Buckmaster-Qwest stated that is how we will proceed. Cindy stated that proposed PCAT language would be provided at least 3 days prior to the next call. Cindy then noted that the next call would be scheduled for 2 hours. There were no additional comments or questions. The call was concluded. -- February 5, 2007 Email Received From Eschelon: Peggy, Thank you for the response. We have asked specific questions and will look forward to Qwest's responses on the call. Bonnie Johnson Director Carrier Relations Eschelon Telecom Inc. -- February 5, 2007 Email Sent to Cbeyond: Tom, Your email below was received. The Ad Hoc call scheduled for tomorrow will continue to take place in order for the open dialog to continue and for Qwest to address CLEC concerns. If Cbeyond cannot attend the call, the meeting minutes will be posted to the CMP CR, for your future reference. Peggy Esquibel-Reed Qwest Wholesale CMP -- February 5, 2007 Email Sent to Eschelon: Bonnie, Your email below was received. The Ad Hoc call scheduled for tomorrow will continue to take place in order for the open dialog to continue and for Qwest to address CLEC concerns. Peggy Esquibel-Reed Qwest Wholesale CMP -- Email Received From Tom Hyde, Cbeyond: Cbeyond objects to the Ad-Hoc Meeting scheduled for 2/6/2007 as premature. Qwest has not yet furnished sufficient information to make the call meaningful. If Qwest decides to continue requesting a call on this issue with CLEC legal and regulatory personnel, Qwest should provide the necessary information, as well as Qwest's proposal(s), sufficiently in advance of any call so that CLECs and their attorneys and regulatory personnel may review the information and proposal and be prepared to respond. A call, if it is to be held, should be rescheduled until Qwest provides this information. Cbeyond may not be able to participate on tomorrow's call. Cbeyond reserves all of its rights -- February 5, 2007 Email Received From Bonnie Johnson, Eschelon SUBJECT: Information for tentative call tomorrow - CMPR.01.30.07.F.04487.TRROAdHocMeeting Qwest asked CLEC regulatory/legal personnel to answer questions regarding the status of litigation for each item on Qwest's matrix of the "buckets" in which Qwest placed certain products. Enclosed is

Eschelon's response to Qwest's questions. Also enclosed is a copy of Qwest's matrix, with letters and row numbers added in the margin for ease of reference. (This numbering had to be added manually, as Qwest provided the document only in PDF format.) Please explain Qwest's reason and agenda for a call given that: (1) except for items that are completed (Bucket A), the items are in litigation (a fact known to Qwest, as Qwest is a party to each litigation), and Qwest's position is that "Disputed items will not immediately be processed through CMP," (2) Qwest has provided no proposal (see 12/14/06 minutes); and (3) Qwest needs to provide additional information (see Eschelon's Response to Bucket C) on the items that Qwest identifies as "Not Yet Covered in any CR." If Qwest continues to request a call on this issue and/or with CLEC legal/regulatory personnel, Qwest should provide the requested information, as well as Qwest's proposal, sufficiently in advance of any call so that CLECs and their attorneys/regulatory personnel may review the information and proposal and be prepared to respond. A call, if it is to be held, should be rescheduled until Qwest provides this information. Also, please indicate whether Qwest will initiate any proceeding/make any filing similar to its filing in Colorado Commission Docket No. 07S-028T (with respect to a tariff, SGAT, Qwest's template, etc.) in any other state. (Please either provide this information before any call or, if a call is held tomorrow and Qwest has not responded, please respond on the call.) If a call is held, Karen Clauson, an attorney and Sr. Director of Interconnection, will represent Eschelon on the call, per Qwest's request that CLECs bring legal representation to the call. In addition, Doug Denney, a witness familiar with issues in litigation, will participate as well. Eschelon reserves all of its rights.

ATTACHMENT included with this Email: ESCHELON RESPONSE TO QWEST'S QUESTION AS TO WHICH ITEMS ON QWEST'S CHART ARE SUBJECT TO LITIGATION/ARBITRATION February 5, 2007 If a call is held, please add these comments to the meeting minutes for the call. If not, please add these minutes to the status history for the CR. (Please note that Qwest has inappropriately separated out the CR into two numbers, with one being followed by '-2', which creates the impression that there is no earlier status history, when there is additional information that is part of the history of events. Qwest needs to put them back together, so the single status history is complete.) Qwest CMP Minutes of 1/11/07 Ad Hoc Call: "Cindy Buckmaster-Qwest confirmed that the CLECs will take this information back. She said that she would still like to go through the matrix line-by-line in the next adhoc meeting. Cindy states that we need to ask two questions: 1) Is this in litigation and why, and 2) Can we get consensus if something is in litigation where we can move it on the list." -- See Eschelon responses below to each of these questions for each Qwest Bucket on Qwest's matrix. Qwest CMP Minutes of 11/15/06 Monthly Call: "Cindy said Qwest is asking to release the undisputed items, those not in arbitration or items being challenged under law. Disputed items will not immediately be processed through CMP." Qwest CMP Minutes of 12/14/06 Monthly Call: "Bonnie J-Eschelon stated that in regard to Qwest's proposal,

she is hearing that Qwest does not really have one. Cindy B-Qwest stated that was correct." Minnesota Arbitrators' Report, Qwest-Eschelon ICA MN Arbitration, ¶¶21-22: "The CMP document itself provides that in cases of conflict between changes implemented through the CMP and any CLEC ICA, the rates, terms and conditions of the ICA shall prevail. In addition, if changes implemented through CMP do not necessarily present a direct conflict with an ICA but would abridge or expand the rights of a party, the rates, terms, and conditions of the ICA shall prevail. Clearly, the CMP process would permit the provisions of an ICA and the CMP to coexist, conflict, or potentially overlap. The Administrative Law Judges agree with the Department's analysis that any negotiated issue that relates to a term and condition of interconnection may properly be included in an ICA, subject to a balancing of the parties' interests and a determination of what is reasonable, non-discriminatory, and in the public interest. Eschelon has provided convincing evidence that the CMP process does not always provide CLECs with adequate protection from Qwest making important unilateral changes in the terms and conditions of interconnection." QWEST BUCKETS FROM QWEST'S CHART (enclosed) A = "Products/Processes Introduced on PC102704-1ES" B = "Products/Processes Postponed on PC102704-1ES" C = "Products/Processes Not Yet Covered on any CR" D = "Products Known to be in Arbitration/Litigation" NOTE: Eschelon disagrees with Qwest's characterizations, as further described in Eschelon's testimony in the Qwest-Eschelon ICA arbitrations. QWEST BUCKET A All nine of the items listed in Qwest Bucket A (A1-A9) deal with UNE-P. Qwest has indicated that items A1-A9 were completed in CMP. In addition, CLECs have signed amendments regarding elimination of UNE-P (at least some in conjunction with QPP), and the terms of those agreements control. Eschelon is not aware of pending litigation regarding UNE-P. As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held). RESPONSE TO QWEST #1: Not in litigation to Eschelon's knowledge. RESPONSE TO QWEST #2: Leave in Bucket A and note in final column ("Notes"): "Completed in CMP." There is no need to "release the undisputed items" because they are completed. QWEST BUCKET B All eleven of the items in Qwest Bucket B (B10 - B20) are subject to litigation. Qwest repeats B(10), B(15), B(17), and B(18) in Qwest's Bucket D (which identifies these items as known to be in litigation). Qwest does not explain why it does not also include the other items, which are also in litigation (often in the same cases). See Colorado Commission Docket No. 07S-028T, The Investigation and Suspension of Tariff Sheets Filed by Qwest Corporation with Advice Letter No. 3058. See also Wire Center Dockets: AZ 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; CO Docket No. 06M-080T; MN Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 and P-5692, 5340, 5643, 5323, 465, 6422/M-06-685; OR Docket No.

UM 1251; UT Docket No. 06-049-40. See also Qwest-Eschelon ICA arbitrations: AZ T-03406A-06-0572, T-01051B-06-0572 CO 06B-497T MN P5340, 421/IC-06-768 OR ARB 775 UT petition not yet filed WA UT-063061 As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any additional pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held). RESPONSE TO QWEST #1: In litigation. RESPONSE TO QWEST #2: Move to Bucket D. QWEST BUCKET C All thirteen of the items in Qwest Bucket C (C21-C33) have related terms that is subject to approval before becoming effective in the Qwest-Eschelon ICA arbitrations and/or Colorado Docket No. 07S-028T. In addition, C31 (Reclassification of Terminations for UNE Conversions, APOTs) relates to open disputed language in the Qwest-Eschelon ICA arbitrations. For all thirteen of the items in Qwest Bucket C (C21-C32), Qwest identifies them as "not yet covered." Depending on what these items entail, additional issues could be subject to litigation. See Colorado Commission Docket No. 07S-028T, The Investigation and Suspension of Tariff Sheets Filed by Qwest Corporation with Advice Letter No. 3058. See also Qwest-Eschelon ICA arbitrations: AZ T-03406A-06-0572, T-01051B-06-0572 CO 06B-497T MN P5340, 421/IC-06-768 OR ARB 775 UT petition not yet filed WA UT-063061 As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any additional pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held). FOR C(21)-C(30) & C(32)-C(33): RESPONSE TO QWEST #1: In litigation. RESPONSE TO QWEST #2: As "not yet covered" by Qwest, Qwest to provide (before a call, if any call is held) a written proposal identifying the changes it wants to make to the existing PCAT and indicating, for each change, whether all ICAs have been amended accordingly. FOR C(31): RESPONSE TO QWEST #1: In litigation. RESPONSE TO QWEST #2: Move to Bucket D. QWEST BUCKET D All four of the items in Qwest Bucket D (D34 – D37) are subject to litigation, per Qwest's own inclusion of them in the bucket for "Products Known to be in Arbitration/Litigation." (Qwest provided no docket numbers. Eschelon has provided docket numbers below.) Qwest's list is incomplete (see above). For example, Qwest omits Commingled EELs (B19), Reclassification of Terminations for UNE Conversions (APOTs) (B19), Loop Mux Combination (B11), UCCRE (B13), TRRO compliance and transition procedures (B20) from its Bucket D, even those issues are clearly subject to litigation in the Qwest-Eschelon ICA arbitrations and wire center proceedings and are subject to change of law provisions requiring ICA terms (see, e.g., TRRO ¶196). See Colorado Commission Docket No. 07S-028T, The Investigation and Suspension of Tariff Sheets Filed by Qwest Corporation with Advice Letter No. 3058. See also Wire Center Dockets: AZ 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; CO Docket No. 06M-080T; MN Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 and P-5692, 5340,



5643, 5323, 465, 6422/M-06-685; OR Docket No. UM 1251; UT Docket No. 06-049-40. See also Qwest-Eschelon ICA arbitrations: AZ T-03406A-06-0572, T-01051B-06-0572 CO 06B-497T MN P5340, 421/IC-06-768 OR ARB 775 UT petition not yet filed WA UT-063061 As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any additional pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held). RESPONSE TO QWEST #1: In litigation. RESPONSE TO QWEST #2: Remain in Bucket D (Bucket D should also be expanded to include the items identified above as in litigation and belonging in Bucket D). Bonnie Johnson Director Carrier Relations Eschelon Telecom Inc. -- January 17, 2007 Monthly CMP Meeting Discussion: Mark Coyne-Qwest stated that this CR is currently in Development Status. Cindy Buckmaster-Qwest stated that the meetings for this effort are being held outside of the monthly CMP Meeting and are ongoing. Jeff Sonnier-Sprint asked if the next meeting has been scheduled. Cindy Buckmaster-Qwest stated that it had not yet been scheduled. This CR remains in Development Status. -- January 11, 2007 Ad Hoc Meeting: Jeff Sonnier-Sprint Nextel, Paulette Davis-Covad, Lynn Hankins-Covad, Tom Hyde-Cbeyond, Bonnie Johnson-Eschelon, Kim Isaacs-Eschelon, Nancy Thompson-Wisor Telecom, Sue Wright-XO Communications, Ken Black-McLeod, Pam Trickel-TDS, Cindy Buckmaster-Qwest, Susan Lorence-Qwest, Candice Mowers-Qwest, Vicki Dryden-Qwest, Lynn Stecklein-Qwest Lynn Stecklein-Qwest stated that the matrix to be discussed in this meeting could be located on the Wholesale Resource Website (<http://www.qwest.com/wholesale/calendar/>) and by clicking on the calendar entry for today's meeting. Cindy Buckmaster-Qwest stated that this matrix was provided to the CLECs for their review from the last Ad Hoc meeting. She reviewed the 4 categories on the matrix – the 1st category introduced on CR PC102704-1ES 3/18/05, the 2nd category for Product/Processes postponed on PC102704-1ES, the 3rd category for Product/Processes not yet introduced, and the 4th category for Products known to be in arbitration or litigation. Bonnie Johnson-Eschelon stated that she mentioned in the last CMP Meeting that Eschelon does not agree that this is the case. She said that Eschelon believes that everything with the exception of Dark Fiber is in litigation or arbitration. Cindy Buckmaster-Qwest stated that Qwest would like to review the matrix line-by-line and come to an agreement where each Product/Process belongs. Bonnie Johnson-Eschelon stated that the CLECs on this call are operations people. She said that she is not in a position to discuss Products that may be a legal issue or in a legal arena and does not know what is being discussed in the Wire Center hearings. Cindy Buckmaster-Qwest said what she is hearing is that the CLECs on this call are not prepared to discuss legal issues. Tom Hyde-Cbeyond stated that they need their Regulatory people involved in these discussions. Jeff Sonnier-Sprint Nextel stated that he agreed with Eschelon and that their Regulatory people need to be involved. Cindy Buckmaster-Qwest

said that we could arrange a call with their Regulatory people or the CLECs could take this information to their Regulatory Teams for review and bring back to discuss in an adhoc meeting. Bonnie Johnson-Eschelon stated that Eschelon's position when Qwest introduced this CR and looking at the escalation from Covad that the introduction of TRO is considered a change of law and that some are done in Commission Oversight or in negotiations. She said that CMP is not the appropriate area to discuss because this is a change of law. Bonnie said that in June of 2005, Qwest said that they were updating SGATs and that the PCATs should be updated appropriately. Cindy Buckmaster-Qwest stated that we are in between two different circumstances. She said that the CR was introduced to make a process change to align with the law and that there is no other way to do this except in CMP. Bonnie Johnson-Eschelon said that the operations people don't take part in the Wire Center hearings and the discussion in those hearings are done at a high level with little detail. She said that they have been clear that they are trying to negotiate in the Interconnect Agreement. Bonnie reiterated that she is on the operations side and not an attorney. Cindy Buckmaster-Qwest stated that the Interconnect Agreement does not cover process and process was never part of the Commission Oversight. Bonnie Johnson-Eschelon stated that if you read their proposal, that we are back to square one and that we are talking about an interpretation of orders. Bonnie said that she does not believe that CMP is appropriate arena to discuss Cindy Buckmaster-Qwest stated that she was very clear when we talked in the Monthly CMP Meeting that this was our intent. She said that she would like to take a vote from the CLECs on the call to determine if everyone agrees that these items can be discussed today. Bonnie Johnson-Eschelon stated that Qwest did not want to talk about items in litigation. Cindy Buckmaster-Qwest said that we are not here to override the FCC or State level. She said that we want to communicate processes associated with TRO. Cindy said that 8 items were implemented on March 18, 2004 Bonnie Johnson-Eschelon said that those associated with UNE-P were completed with the Commission Oversight. Tom Hyde-Cbeyond stated that the effective dates are confusing on the matrix. Cindy Buckmaster-Qwest stated that the algorithm was adding a 1 to the date and that we will get that corrected. Bonnie Johnson-Eschelon stated that she thought they made it clear in the CMP meeting and in the minutes and that Qwest agreed that these items were in litigation and would not be discussed. Cindy Buckmaster-Qwest stated that we are not here to override any topics outside of litigation. She said that there is no hidden agenda and that she thought we made our intent very clear. Cindy stated that there are more CLECs that have signed up to do business with Qwest under the TRRO. She said that the reason we delayed was because TRO was in an appeal status. She said we want to provide the process for those CLECs doing business with us or for those who will be. She also said that she would challenge that there are items on the list that nobody cares about. She stated that all we want to do is put a note in the column for example that this item is in litigation. Bonnie Johnson-Eschelon

stated once again that the people on the phone don't know that answer. Cindy Buckmaster-Qwest asked if there was consensus that we can't discuss this topic. Sue Wright-XO Communications stated that they do not have the answers and can't discuss. Tom Hyde-Cbeyond stated that if something is in litigation they can't discuss the process on items not yet decided on. Bonnie Johnson-Eschelon stated that was her concern at CMP and should have made her concern clearer. Sue Wright-XO Communications stated that they might not be in litigation but someone else may be. Tom Hyde-Cbeyond stated that he is not tapped to testify. Lynn Hankins-Covad said that Covad is not prepared to discuss this either and that she reviewed the CR and is not completely sure of what Qwest is trying to do. Ken Black-McLeod stated that McLeod is not up to speed either. Cindy Buckmaster-Qwest stated that we have consensus and that the CLECs will take this item to their Regulatory Teams for discussion. She said that it may be easier to have their Regulatory people attend the meetings. Jeff Sonnier-Sprint Nextel stated that the Regulatory people should sort this out. Sue Wright-XO Communications agreed. Bonnie Johnson-Eschelon also agreed and that they need to get their Regulatory Teams engaged. She said that she is not in a position to make that decision. Sue Wright-XO Communications said that they might find that they don't want to discuss in CMP. Cindy Buckmaster-Qwest confirmed that the CLECs will take this information back. She said that she would still like to go through the matrix line-by-line in the next adhoc meeting. Cindy stated that we need to ask two questions – 1) Is this in litigation and why, and 2) Can we get consensus if something is in litigation where can we move it on the list. Bonnie Johnson-Eschelon said that she thought we were going to discuss processes and that the TRO PCATs exist and that without CLEC input and that Qwest just changed unilaterally. Cindy Buckmaster-Qwest asked what processes Eschelon was referring to and that we have been discussing this topic for over a month. Bonnie Johnson-Eschelon asked what was being done with the PCATs and that Qwest has not been clear on what they are trying to do. Cindy Buckmaster-Qwest stated that this is not any different than any other CLEC CMP change. She said that we need to look at the number of CLECs operating under the new process, look at recommendations. She said that we need to determine if there are any questions and go through step by step to make sure everyone understands. Cindy said that we need to set up a hierarchy of what to go through 1st Sue Wright-XO Communications asked if there was a Regulatory review prior to implementation. Cindy Buckmaster-Qwest stated that Regulatory always looks at the process changes if necessary. She said that regardless of the operating environment we try to implement with as little risk as possible. Tom Hyde-Cbeyond stated that he was looking at the PCATs on the website and does not see the proposed changes. Cindy Buckmaster-Qwest stated that is what we want to discuss. She said that EEL, for example, if you click on the link, you will see the TRRO version of the EEL PCAT. Tom Hyde-Cbeyond said that he missed the TRO PCAT on the website but he will review. Cindy

Buckmaster-Qwest stated that it could be a matter of interpretation but that we just want to get the process communicated. Cindy Buckmaster-Qwest stated that the CLECs will bring information from their Regulatory Teams to the next adhoc meeting and that we will prioritize the list and discuss with those CLECs who are interested. Lynn Stecklein-Qwest asked for input on when the next meeting should be scheduled. Sue Wright-XO Communications asked if 2 weeks was enough time for the CLECs to contact their Regulatory people. Ken Black-McLeod stated that his contacts are out of the office until February. Bonnie Johnson-Eschelon stated that the week of February 5th looked good with the exception of the afternoons of February 6th and 7th. Lynn Stecklein-Qwest stated that a meeting would be scheduled sometime during that week.

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**Information Current as of 4/16/2007**

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 74**

From: Johnson, Bonnie J.  
To: Johnson, Bonnie J.; [Qwest CMP email redacted]  
Cc: Isaacs, Kimberly D.; Johnson, Bonnie J.  
Subject: Information for tentative call tomorrow -  
CMPR.01.30.07.F.04487.TRRO\_Ad\_Hoc\_Meeting  
Sent: Mon 2/5/2007 2:23 PM  
Attachments:



Escheloncommentson  
QwestBuckets.doc



QwestBuckets.pdf

Qwest asked CLEC regulatory/legal personnel to answer questions regarding the status of litigation for each item on Qwest's matrix of the "buckets" in which Qwest placed certain products. Enclosed is Eschelon's response to Qwest's questions. Also enclosed is a copy of Qwest's matrix, with letters and row numbers added in the margin for ease of reference. (This numbering had to be added manually, as Qwest provided the document only in PDF format.)

Please explain Qwest's reason and agenda for a call given that: (1) except for items that are completed (Bucket A), the items are in litigation (a fact known to Qwest, as Qwest is a party to each litigation), and Qwest's position is that "Disputed items will not immediately be processed through CMP," (2) Qwest has provided no proposal (see 12/14/06 minutes); and (3) Qwest needs to provide additional information (see Eschelon's Response to Bucket C) on the items that Qwest identifies as "Not Yet Covered in any CR." If Qwest continues to request a call on this issue and/or with CLEC legal/regulatory personnel, Qwest should provide the requested information, as well as Qwest's proposal, sufficiently in advance of any call so that CLECs and their attorneys/regulatory personnel may review the information and proposal and be prepared to respond. A call, if it is to be held, should be rescheduled until Qwest provides this information.

Also, please indicate whether Qwest will initiate any proceeding/make any filing similar to its filing in Colorado Commission Docket No. 07S-028T (with respect to a tariff, SGAT, Qwest's template, etc.) in any other state. (Please either provide this information before any call or, if a call is held tomorrow and Qwest has not responded, please respond on the call.)

If a call is held, Karen Clauson, an attorney and Sr. Director of Interconnection, will represent Eschelon on the call, per Qwest's request that CLECs bring legal representation to the call. In addition, Doug Denney, a witness familiar with issues in litigation, will participate as well. Eschelon reserves all of its rights.

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.  
[Contact information redacted]

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 75**

**ESCHELON RESPONSE TO QWEST'S QUESTION AS TO WHICH ITEMS ON QWEST'S CHART ARE SUBJECT TO LITIGATION/ARBITRATION**

February 5, 2007

If a call is held, please add these comments to the meeting minutes for the call. If not, please add these minutes to the status history for the CR. (Please note that Qwest has inappropriately separated out the CR into two numbers, with one being followed by "-2," which creates the impression that there is no earlier status history, when there is additional information that is part of the history of events. Qwest needs to put them back together, so the single status history is complete.)

Qwest CMP Minutes of 1/11/07 Ad Hoc Call: "Cindy Buckmaster-Qwest confirmed that the CLECs will take this information back. She said that she would still like to go through the matrix line-by-line in the next adhoc meeting. Cindy states that we need to ask two questions: 1) Is this in litigation and why, and 2) Can we get consensus if something is in litigation where we can move it on the list."

-- See Eschelon responses below to each of these questions for each Qwest Bucket on Qwest's matrix.

Qwest CMP Minutes of 11/15/06 Monthly Call: "Cindy said Qwest is asking to release the undisputed items, those not in arbitration or items being challenged under law. Disputed items will not immediately be processed through CMP."

Qwest CMP Minutes of 12/14/06 Monthly Call: "Bonnie J-Eschelon stated that in regard to Qwest's proposal, she is hearing that Qwest does not really have one. Cindy B-Qwest stated that was correct."

Minnesota Arbitrators' Report, Qwest-Eschelon ICA MN Arbitration, ¶¶21-22: "The CMP document itself provides that in cases of conflict between changes implemented through the CMP and any CLEC ICA, the rates, terms and conditions of the ICA shall prevail. In addition, if changes implemented through CMP do not necessarily present a direct conflict with an ICA but would abridge or expand the rights of a party, the rates, terms, and conditions of the ICA shall prevail.<sup>1</sup> Clearly, the CMP process would permit the provisions of an ICA and the CMP to coexist, conflict, or potentially overlap. The Administrative Law Judges agree with the Department's analysis that any negotiated issue that relates to a term and condition of interconnection may properly be included in an ICA, subject to a balancing of the parties' interests and a determination of what is reasonable, non-discriminatory, and in the public interest. Eschelon has provided convincing evidence that the CMP process does not always provide CLECs with adequate protection from Qwest making important unilateral changes in the terms and conditions of interconnection."

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<sup>1</sup> Ex. 1 (Albersheim Direct) at RA-1, part 1.0, page 15.



**QWEST BUCKETS FROM QWEST’S CHART (enclosed)**

A = “Products/Processes Introduced on PC102704-1ES”

B = “Products/Processes Postponed on PC102704-1ES”

C = “Products/Processes Not Yet Covered on any CR”

D = “Products Known to be in Arbitration/Litigation”

NOTE: Eschelon disagrees with Qwest’s characterizations, as further described in Eschelon’s testimony in the Qwest-Eschelon ICA arbitrations.

**QWEST BUCKET A**

All nine of the items listed in Qwest Bucket A (A1 – A9) deal with UNE-P. Qwest has indicated that items A1-A9 were completed in CMP.<sup>2</sup> In addition, CLECs have signed amendments regarding elimination of UNE-P (at least some in conjunction with QPP), and the terms of those agreements control. Eschelon is not aware of pending litigation regarding UNE-P. As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held).

**RESPONSE TO QWEST #1:** Not in litigation to Eschelon’s knowledge.

**RESPONSE TO QWEST #2:** Leave in Bucket A and note in final column (“Notes”): “Completed in CMP.” There is no need to “release the undisputed items” because they are completed.

**QWEST BUCKET B**

All eleven of the items in Qwest Bucket B (B10 - B20) are subject to litigation. Qwest repeats B(10), B(15), B(17), and B(18) in Qwest’s Bucket D (which identifies these items as known to be in litigation). Qwest does not explain why it does not also include the other items, which are also in litigation (often in the same cases).

See Colorado Commission Docket No. 07S-028T, The Investigation and Suspension of Tariff Sheets Filed by Qwest Corporation with Advice Letter No. 3058.

See also Wire Center Dockets:

AZ 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; CO Docket No. 06M-080T; MN Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 and P-5692, 5340, 5643, 5323, 465, 6422/M-06-685; OR Docket No. UM 1251; UT Docket No. 06-049-40.

See also Qwest-Eschelon ICA arbitrations:

AZ T-03406A-06-0572, T-01051B-06-0572  
CO 06B-497T

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<sup>2</sup> Qwest provides a CMP effective date in the second to last column. In addition, the URLs provided in the third column do not use the term “TRRO,” as do the non-CMP TRRO PCAT URLs in other columns.

MN P5340, 421/IC-06-768  
OR ARB 775  
UT petition not yet filed  
WA UT-063061

As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any additional pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held).

**RESPONSE TO QWEST #1:** In litigation.

**RESPONSE TO QWEST #2:** Move to Bucket D.

### QWEST BUCKET C

All thirteen of the items in Qwest Bucket C (C21 – C33) have related terms that is subject to approval before becoming effective in the Qwest-Eschelon ICA arbitrations and/or Colorado Docket No. 07S-028T. In addition, C31 (Reclassification of Terminations for UNE Conversions, APOTs) relates to open disputed language in the Qwest-Eschelon ICA arbitrations. For all thirteen of the items in Qwest Bucket C (C21 – C32), Qwest identifies them as “not yet covered.” Depending on what these items entail, additional issues could be subject to litigation.

*See Colorado Commission Docket No. 07S-028T, The Investigation and Suspension of Tariff Sheets Filed by Qwest Corporation with Advice Letter No. 3058.*

*See also Qwest-Eschelon ICA arbitrations:*

AZ T-03406A-06-0572, T-01051B-06-0572  
CO 06B-497T  
MN P5340, 421/IC-06-768  
OR ARB 775  
UT petition not yet filed  
WA UT-063061

As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any additional pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held).

**FOR C(21)-C(30) & C(32)-C(33):**

**RESPONSE TO QWEST #1:** In litigation.

**RESPONSE TO QWEST #2:** As “not yet covered” by Qwest, Qwest to provide (before a call, if any call is held) a written proposal identifying the changes it wants to make to the existing PCAT and indicating, for each change, whether all ICAs have been amended accordingly.

**FOR C(31):**

**RESPONSE TO QWEST #1:** In litigation.

**RESPONSE TO QWEST #2:** Move to Bucket D.

**QWEST BUCKET D**

All four of the items in Qwest Bucket D (D34 – D37) are subject to litigation, per Qwest’s own inclusion of them in the bucket for “Products Known to be in Arbitration/Litigation.” (Qwest provided no docket numbers. Eschelon has provided docket numbers below.) Qwest’s list is incomplete (see above). For example, Qwest omits Commingled EELs (B19), Reclassification of Terminations for UNE Conversions (APOTs) (B19), Loop Mux Combination (B11), UCCRE (B13), TRRO compliance and transition procedures (B20) from its Bucket D, even those issues are clearly subject to litigation in the Qwest-Eschelon ICA arbitrations and wire center proceedings and are subject to change of law provisions requiring ICA terms (*see, e.g.*, TRRO ¶196).

*See* Colorado Commission Docket No. 07S-028T, The Investigation and Suspension of Tariff Sheets Filed by Qwest Corporation with Advice Letter No. 3058.

*See also* Wire Center Dockets:

AZ 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; CO Docket No. 06M-080T; MN Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 and P-5692, 5340, 5643, 5323, 465, 6422/M-06-685; OR Docket No. UM 1251; UT Docket No. 06-049-40.

*See also* Qwest-Eschelon ICA arbitrations:

AZ T-03406A-06-0572, T-01051B-06-0572  
CO 06B-497T  
MN P5340, 421/IC-06-768  
OR ARB 775  
UT petition not yet filed  
WA UT-063061

As Qwest has said it intends to discuss which products or terms relating to its identified items are subject to litigation, if Qwest is a party to, or aware of, any additional pending litigation, Qwest should provide this information to CLECs (before a call, if any call is held).

**RESPONSE TO QWEST #1:** In litigation.

**RESPONSE TO QWEST #2:** Remain in Bucket D (Bucket D should also be expanded to include the items identified above as in litigation and belonging in Bucket D).

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 76**

Product	PCAT(s)/Business Procedure(s)	PCAT/Business Procedure URL	Date Presented in CMP	Notes
<b>Products/Processes Introduced on PC102704-1ES</b>				
Unbundled Network Element (UNE)- Switching (UBS)	Unbundled Network Element (UNE) - Switching (UBS) - V36.0	<a href="http://www.qwest.com/wholesale/pcat/uns/switch.html">http://www.qwest.com/wholesale/pcat/uns/switch.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - General Information	Unbundled Network Elements - Platform (UNE-P) - General Information - V65.0	<a href="http://www.qwest.com/wholesale/pcat/une/np.html">http://www.qwest.com/wholesale/pcat/une/np.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Integrated Services Digital Network (ISDN) Basic Rate Interface (BRI)	Unbundled Network Elements - Platform (UNE-P) - Integrated Services Digital Network (ISDN) Basic Rate Interface (BRI) - V21.0	<a href="http://www.qwest.com/wholesale/pcat/une/ispdbrt.html">http://www.qwest.com/wholesale/pcat/une/ispdbrt.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Centrex	Unbundled Network Elements - Platform (UNE-P) - Centrex - V49.0	<a href="http://www.qwest.com/wholesale/pcat/une/pcenr.html">http://www.qwest.com/wholesale/pcat/une/pcenr.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Public Access Lines (PAL)	Unbundled Network Elements - Platform (UNE-P) - Public Access Lines (PAL) - V20.0	<a href="http://www.qwest.com/wholesale/pcat/une/pall.html">http://www.qwest.com/wholesale/pcat/une/pall.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Private Branch Exchange (PBX) Trunks	Unbundled Network Elements - Platform (UNE-P) - Private Branch Exchange (PBX) Trunks - V32.0	<a href="http://www.qwest.com/wholesale/pcat/une/pbx.html">http://www.qwest.com/wholesale/pcat/une/pbx.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Plain Old Telephone Service (POTS)	Unbundled Network Elements - Platform (UNE-P) - Plain Old Telephone Service (POTS) - V36.0	<a href="http://www.qwest.com/wholesale/pcat/une/pots.html">http://www.qwest.com/wholesale/pcat/une/pots.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Digital Switched Service (DSS)	Unbundled Network Elements - Platform (UNE-P) - Digital Switched Service (DSS) - V32.0	<a href="http://www.qwest.com/wholesale/pcat/une/dss.html">http://www.qwest.com/wholesale/pcat/une/dss.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
Unbundled Network Elements - Platform (UNE-P) - Integrated Services Digital Network (ISDN) Primary Rate Interface (PRI)	Unbundled Network Elements - Platform (UNE-P) - Integrated Services Digital Network (ISDN) Primary Rate Interface (PRI) - V36.0	<a href="http://www.qwest.com/wholesale/pcat/une/ispdprt.html">http://www.qwest.com/wholesale/pcat/une/ispdprt.html</a>	PC102704-1ES - Presented 11/17/04 - Effective 3/19/05	
<b>Products/Processes Postponed on PC102704-1ES</b>				
Enhanced Extended Loop (EEL)	TRRO/OFO - Enhanced Extended Loop (EEL) - V22.0	<a href="http://www.qwest.com/wholesale/pcat/trroest.html">http://www.qwest.com/wholesale/pcat/trroest.html</a>	PC102704-1ES - Presented 11/17/04 - Deferred	
Loop MUX Combination (LMC)	TRRO/OFO - Loop MUX Combination (LMC) - V18.0	<a href="http://www.qwest.com/wholesale/pcat/trro/mc.html">http://www.qwest.com/wholesale/pcat/trro/mc.html</a>	PC102704-1ES - Presented 11/17/04 - Deferred	
SubLoop - Feeder	TRRO/OFO - Sub - Loop - V4.0	<a href="http://www.qwest.com/wholesale/pcat/trros/loop.html">http://www.qwest.com/wholesale/pcat/trros/loop.html</a>	PC102704-1ES - Presented 11/17/04 - Deferred	
Unbundled Customer Controlled Rearrangement Element (UCCRE)	Unbundled Customer Controlled Rearrangement Element (UCCRE) - V4.0	<a href="http://www.qwest.com/wholesale/pcat/uccre.html">http://www.qwest.com/wholesale/pcat/uccre.html</a>	PC102704-1ES - Presented 11/17/04 - Deferred	
Unbundled Dark Fiber (UDF)	TRRO/OFO - Unbundled Dark Fiber (UDF) - V5.0	<a href="http://www.qwest.com/wholesale/pcat/trroudf.html">http://www.qwest.com/wholesale/pcat/trroudf.html</a>	PC102704-1ES - Presented 11/17/04 - Deferred	
Unbundled Dedicated Interoffice Transport (UDIT)	TRRO/OFO - Unbundled Dedicated Interoffice Transport (UDIT) - V8.0	<a href="http://www.qwest.com/wholesale/pcat/trroudit.html">http://www.qwest.com/wholesale/pcat/trroudit.html</a>	PC102704-1ES - Presented 11/17/04 - Deferred	

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Product	PCAT(s)/Business Procedure(s)	PCAT/Business Procedure URL	Date Presented in CMP	Notes
16 Unbundled Loop - General Information	TRRO/OFO - Unbundled Local Loop - General Information - V10.0	<a href="http://www.qwest.com/wholesale/pcat/rrounloop.html">http://www.qwest.com/wholesale/pcat/rrounloop.html</a>	PC102704-IES Presented 11/17/04 - Deferred	
17 Unbundled Loop - Digital Signal Level 1 (DS1) Capable Loop	TRRO/OFO - Unbundled Local Loop - Digital Signal Level 1 (DS1) Capable Loop - V9.0	<a href="http://www.qwest.com/wholesale/pcat/rrounloopds1.html">http://www.qwest.com/wholesale/pcat/rrounloopds1.html</a>	PC102704-IES Presented 11/17/04 - Deferred	
18 Unbundled Loop - Digital Signal Level 3 (DS3) Capable Loop	TRRO/OFO - Unbundled Local Loop - Digital Signal Level 1 (DS1) Capable Loop - V9.0	<a href="http://www.qwest.com/wholesale/pcat/rrounloopds1.html">http://www.qwest.com/wholesale/pcat/rrounloopds1.html</a>	PC102704-IES Presented 11/17/04 - Deferred	
19 TRRO - Commingling and Unbundled Network Elements - Combinations (UNE-C) V3.0 - Applies to All of the Above	TRRO - Commingling and Unbundled Network Elements - Combinations (UNE-C) V3.0 - Applies to All of the Above	<a href="http://www.qwest.com/wholesale/clsact/rrocommplanuncac.html">http://www.qwest.com/wholesale/clsact/rrocommplanuncac.html</a>	PROS.09.12.05.F.03236.TRR Non-CMP	
20 TRRO Compliance and Transition Procedures - V3.0 - Applies to All of the Above	TRRO Compliance and Transition Procedures - V3.0 - Applies to All of the Above	<a href="http://www.qwest.com/wholesale/clsact/rrocompliancectransition.html">http://www.qwest.com/wholesale/clsact/rrocompliancectransition.html</a>	PROS.01.18.06.F.03671.TRR Non-CMP	
<b>Products/Processes Not Yet Covered by any CR</b>				
21 8XX Database Query Service	8XX Database Query Service - V5.0	<a href="http://www.qwest.com/wholesale/pcat/8xx.html">http://www.qwest.com/wholesale/pcat/8xx.html</a>		
22 Advanced Intelligent Network (AIN)	Advanced Intelligent Network (AIN) - V4.0	<a href="http://www.qwest.com/wholesale/pcat/ain.html">http://www.qwest.com/wholesale/pcat/ain.html</a>		
23 CCSAC-SS7-Finished	Common Channel Signaling Access Capability (CCSAC)/Signaling System 7 (SS7) - Finished - V11.0	<a href="http://www.qwest.com/wholesale/pcat/ccsacs7.html">http://www.qwest.com/wholesale/pcat/ccsacs7.html</a>		
24 CCSAC-SS7-Unbundled	Common Channel Signaling Access Capability (CCSAC)/Signaling System 7 (SS7) - Unbundled - V14.0	<a href="http://www.qwest.com/wholesale/pcat/unccsacs7.html">http://www.qwest.com/wholesale/pcat/unccsacs7.html</a>		
25 Customized Routing	Customized Routing - V13.0	<a href="http://www.qwest.com/wholesale/pcat/customrouting.html">http://www.qwest.com/wholesale/pcat/customrouting.html</a>		
26 InterNetwork Calling Name (ICNAM)	InterNetwork Calling Name - V4.0	<a href="http://www.qwest.com/wholesale/pcat/icnam.html">http://www.qwest.com/wholesale/pcat/icnam.html</a>		
27 Line Information Database (LIDB)	Line Information Database (LIDB) - V5.0	<a href="http://www.qwest.com/wholesale/pcat/lidb.html">http://www.qwest.com/wholesale/pcat/lidb.html</a>		
28 Line Sharing	Line Sharing/Shared Loop - V28.0	<a href="http://www.qwest.com/wholesale/pcat/linesharing.html">http://www.qwest.com/wholesale/pcat/linesharing.html</a>		
29 Local Interconnection Service (LIS)	Local Interconnection Service (LIS) - V15.0	<a href="http://www.qwest.com/wholesale/pcat/lis.html">http://www.qwest.com/wholesale/pcat/lis.html</a>		
30 Shared Distribution Loop	Shared Distribution Loop - V16.0	<a href="http://www.qwest.com/wholesale/pcat/sharddistloop.html">http://www.qwest.com/wholesale/pcat/sharddistloop.html</a>		
31 TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions - V2.0	TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions - V2.0	<a href="http://www.qwest.com/wholesale/pcat/rroreclassunleterm.html">http://www.qwest.com/wholesale/pcat/rroreclassunleterm.html</a>	PROS.07.21.06.F.04074.TRR O_Reclass_TermIn_V1 - Non-CMP	
32 Unbundled Loop - OCN	Unbundled Local Loop - Optical Carrier Level n (OCN)	<a href="http://www.qwest.com/wholesale/pcat/unloopocn.html">http://www.qwest.com/wholesale/pcat/unloopocn.html</a>		
33 Unbundled Packet Switching	Unbundled Packet Switching (UPS) - V15.0	<a href="http://www.qwest.com/wholesale/pcat/ups.html">http://www.qwest.com/wholesale/pcat/ups.html</a>		
<b>Products Known to be in Arbitration/Litigation</b>				
34 Enhanced Extended Loop (EEL)	TRRO/OFO - Enhanced Extended Loop (EEL)	<a href="http://www.qwest.com/wholesale/pcat/rrceel.html">http://www.qwest.com/wholesale/pcat/rrceel.html</a>		

Page 2

Product	PCAT(s)/Business Procedure(s)	PCAT/Business Procedure URL	Date Presented in CMP	Notes
35 Unbundled Dedicated Interference Transport (UDIT)	TRRO/OFO - Unbundled Dedicated Interference Transport (UDIT) - V8.0	<a href="http://www.qwest.com/wholesale/pcat/trroudt.html">http://www.qwest.com/wholesale/pcat/trroudt.html</a>		
36 Unbundled Loop - Digital Signal Level 1 (DS1) Capable Loop	TRRO/OFO - Unbundled Local Loop - Digital Signal Level 1 (DS1) Capable Loop - V9.0	<a href="http://www.qwest.com/wholesale/pcat/lrounloopds1.html">http://www.qwest.com/wholesale/pcat/lrounloopds1.html</a>		
37 Unbundled Loop - Digital Signal Level 3 (DS3) Capable Loop	TRRO/OFO - Unbundled Local Loop - Digital Signal Level 1 (DS1) Capable Loop - V9.0	<a href="http://www.qwest.com/wholesale/pcat/lrounloopds1.html">http://www.qwest.com/wholesale/pcat/lrounloopds1.html</a>		

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 77**



**QWEST NON-CMP TRRO PCATS AS OF April 13, 2007**

1. **TRRO/OFO - Loop MUX Combination (LMC) - V19.0<sup>1</sup>**  
<http://www.qwest.com/wholesale/pcat/trrolmc.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2007/070320/HL\\_TRRO-LoopMuxCombinationLMC\\_V19.doc](http://www.qwest.com/wholesale/downloads/2007/070320/HL_TRRO-LoopMuxCombinationLMC_V19.doc)
2. **TRRO - Reclassification of Terminations for Unbundled Network Element (UNE) Conversions – V2.0**  
<http://www.qwest.com/wholesale/pcat/trroreclassuneterm.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/060907/HL\\_ReclassificationTerminationV2.doc](http://www.qwest.com/wholesale/downloads/2006/060907/HL_ReclassificationTerminationV2.doc)
3. **TRRO/OFO - Unbundled Local Loop - Digital Signal Level 1 (DS1) Capable Loop – V10.0**  
<http://www.qwest.com/wholesale/pcat/trrounloops1.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2007/070115/HL\\_TRRO-UBL-DS1-V10.doc](http://www.qwest.com/wholesale/downloads/2007/070115/HL_TRRO-UBL-DS1-V10.doc)
4. **TRRO/OFO - Unbundled Dedicated Interoffice Transport (UDIT) – V8.0**  
<http://www.qwest.com/wholesale/pcat/trroudit.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/061113/HL\\_TRRO-UDIT\\_V8.doc](http://www.qwest.com/wholesale/downloads/2006/061113/HL_TRRO-UDIT_V8.doc)
5. **TRRO - Field Connection Point (FCP)/Cross-Connect Collocation - V2.0**  
<http://www.qwest.com/wholesale/pcat/trrofpcrossconnect.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/060602/HL\\_TRRO\\_FCP-CrossConnect\\_V2.doc](http://www.qwest.com/wholesale/downloads/2006/060602/HL_TRRO_FCP-CrossConnect_V2.doc)
6. **TRRO/OFO - Sub - Loop – V6.0**  
<http://www.qwest.com/wholesale/pcat/trrosubloop.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2007/070319/HL\\_TRRO\\_Sub-Loop\\_V6.doc](http://www.qwest.com/wholesale/downloads/2007/070319/HL_TRRO_Sub-Loop_V6.doc)

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<sup>1</sup> “V” = “Version” number. Each time Qwest changes a TRRO PCAT via a non-CMP notification, the version number of the PCAT increases by one. Version 19 + Version 2 + Version 10 + Version 8 + Version 2 + Version 6 + Version 7 + Version 23 + Version 5 + Version 11 + Version 3 + Version 3 = 99 Versions (as of April 13, 2007).

7. **TRRO/OFO - Unbundled Local Loop – Digital Signal Level 3 (DS3) Capable Loop – V7.0**  
<http://www.qwest.com/wholesale/pcat/trrounloops3.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/061109/HL\\_TRRO-UBL-DS3-V7.doc](http://www.qwest.com/wholesale/downloads/2006/061109/HL_TRRO-UBL-DS3-V7.doc)
8. **TRRO/OFO - Enhanced Extended Loop (EEL) - V23.0**  
<http://www.qwest.com/wholesale/pcat/trroeel.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2007/070320/HL\\_TRRO\\_EnhancedExtendedLoop-EEL\\_V23.doc](http://www.qwest.com/wholesale/downloads/2007/070320/HL_TRRO_EnhancedExtendedLoop-EEL_V23.doc)
9. **TRRO/OFO - Unbundled Dark Fiber (UDF) – V5.0**  
<http://www.qwest.com/wholesale/pcat/trroudf.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/061013/HL\\_TRRO-Unbundled\\_Dark\\_FiberUDF\\_V5.doc](http://www.qwest.com/wholesale/downloads/2006/061013/HL_TRRO-Unbundled_Dark_FiberUDF_V5.doc)
10. **TRRO/OFO - Unbundled Local Loop - General Information – V11.0**  
<http://www.qwest.com/wholesale/pcat/trrounloop.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2007/070315/HL\\_TRRO-UBL-GeneralInformation-V11.doc](http://www.qwest.com/wholesale/downloads/2007/070315/HL_TRRO-UBL-GeneralInformation-V11.doc)
11. **TRRO – Commingling and Unbundled Network Elements - Combinations (UNE-C) V3.0**  
<http://www.qwest.com/wholesale/clecs/trrocommingunec.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/061002/HL\\_TRRO-Commingling-UNE-C-V3.doc](http://www.qwest.com/wholesale/downloads/2006/061002/HL_TRRO-Commingling-UNE-C-V3.doc)
12. **TRRO Compliance and Transition Procedures - V3.0**  
<http://www.qwest.com/wholesale/clecs/trrocompliancetransition.html>  
History Log:  
[http://www.qwest.com/wholesale/downloads/2006/060414/HL\\_TRRO\\_Compliance\\_and\\_Transition\\_Procedure\\_V3.doc](http://www.qwest.com/wholesale/downloads/2006/060414/HL_TRRO_Compliance_and_Transition_Procedure_V3.doc)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 78**



John M. Devaney  
PHONE: 202.434.1624  
FAX: 202.654.9124  
EMAIL: [REDACTED]

607 Fourteenth Street N.W.  
Washington, D.C. 20005-2011  
PHONE: 202.628.6600  
FAX: 202.434.1690  
www.perkinscoie.com

October 16, 2006

Karen L. Clauson  
Eschelon Telecom, Inc.  
730 Second Avenue South, Suite 900  
Minneapolis, MN 55402

**Re: Eschelon/Qwest Minnesota Arbitration, Issue 9-58**

Dear Ms. Clauson:

I am writing to advise you of a policy-related decision Qwest has reached that has a bearing on Issue 9-58, commingled arrangements, and the related sub-issues within Issue 9-58.

As you recall, Issue 9-58 and sub-issues involve Eschelon's requests that Qwest modify its existing provisioning processes and operating systems for commingled arrangements. As Qwest has explained in its response to Eschelon's petition for arbitration and in the pre-filed testimony of Ms. Karen Stewart, Qwest opposes these requests on several grounds, including on the ground that substantial changes to processes and systems that affect many CLECs should not be addressed in a single arbitration between Qwest and Eschelon.

Notwithstanding Qwest's substantive concerns and consistent with Qwest's view that changes of the type Eschelon is proposing should be reviewed in a forum open to all interested carriers, Qwest has decided to initiate review of these issues in the Change Management Process ("the CMP"). Qwest will submit these issues to CMP within the next two months. By proceeding in this manner, all Minnesota local exchange carriers that have an interest in these issues will be permitted to provide input.

[13141-0714/DA062880.001]

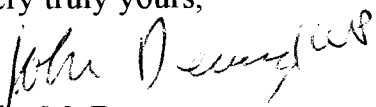
ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES  
MINNIE PARK · OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

October 16, 2006  
Page 2

Please contact me if you have any questions.

Very truly yours,



John M. Devaney

cc: Honorable Steve M. Mihalchick  
Honorable Kathleen D. Sheehy  
Gregory R. Merz  
Julia E. Anderson  
Kevin O'Grady

October 17, 2006

John M. Devaney (by email)  
Perkins Coie  
607 Fourteenth Street NW  
Washington, D.C. 20005-2011

Re: Eschelon/Qwest Minnesota Arbitration Issue 9-58 and subparts

Dear Mr. Devaney:

As you know, Eschelon disagrees with your position and the manner in which you have described it in your letter. You attempt to portray Qwest as being concerned about “all Minnesota carriers that have an interest in these issues,” despite Qwest’s history of steadfastly refusing to address this issue in any collaborative or other forum for a period of years. (*See, e.g.*, Starkey Direct, p. 67 line 5 – p. 68, line 4; Starkey Rebuttal, p. 30, line 6 – p. 31, line 6; Starkey Surreply, p. 31, line 4 – p. 35, line 15; Exhibit BJJ-7.)

You also portray Issue 9-58 as a proposal to change “existing” processes, even though Qwest implemented those processes outside of ICA negotiations (as requested by Eschelon and other CLECs),<sup>1</sup> CMP (as promised by Qwest),<sup>2</sup> and Commission proceedings (as also promised by Qwest).<sup>3</sup> (*See* Starkey Surrebuttal, p. 34.) Qwest has unilaterally implemented at least 77 non-CMP “TRRO” PCAT changes without going through CMP, negotiations, or Commission proceedings. (*See* Exhibit BJJ-44.) They are not existing processes; they are improper. If changes are now required, Qwest is the cost causer for those changes. (Starkey Surrebuttal, p. 35.)

Your letter omits any reference to updating the SGATs. At the January 5, 2005 CMP Oversight Committee Meeting (the minutes of which Qwest omitted from its allegedly complete Exhibits RA 26-28 but which Eschelon provided as part of Exhibit BJJ-36 and quoted in Exhibit BJJ-7), Becky Quintana of the Colorado commission staff objected to limiting products via CMP prematurely (*i.e.*, before Qwest updated its SGATs). (*See* Exhibit BJJ-36, p. 8.) Qwest committed to update the SGATs and has repeated that commitment since then. (*See* Starkey Surrebuttal, pp. 32-34.)

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<sup>1</sup> *See, e.g.*, Exhibit BJJ-7, p. 4 (11/17/04 CMP November monthly meeting minutes); *see* Qwest Exhibit RA-26, p. 7; *see also* Exhibit BJJ-30.

<sup>2</sup> *See, e.g.*, Exhibit BJJ-7, pp. 8-9 (6/30/05); Qwest Exhibit RA-26, pp. 4-5.

<sup>3</sup> Exhibit BJJ-7, pp. 8-9 (6/30/05).

John M. Devaney  
October 17, 2006  
Page 2 of 2

Qwest claims that CLEC opposition to addressing these issues in CMP rather than ICA negotiations can somehow be construed as CLEC consent for Qwest to unilaterally impose its TRRO view “outside the scope of CMP”<sup>4</sup> with no negotiation or arbitration. No reasonable interpretation of CLEC comments leads to this result. For example, TelWest specifically said in CMP that the issues “should be arbitrated and not unilaterally implemented by Qwest.”<sup>5</sup> (*See* Starkey Direct, pp. 67-68.) Eschelon properly raised these issues in negotiations, and they are properly before the Commission for arbitration.

Your letter “advising” Eschelon of Qwest’s “policy-related” decision to finally bring issues through CMP comes too late. Qwest denied request after request to deal with these issues earlier. Now, when Eschelon has expended the time and resources to arbitrate these issues, Qwest attempts to pull the decision away from the Commission and belatedly decide them for itself in CMP. If the result is unsatisfactory, Qwest would have Eschelon expend additional resources to litigate the issues and again travel to six states to decide later still what should be decided now. Even at this late date, Qwest limits its offer to Issue 9-58 and does not address Issues 9-43 and 9-44.

If Qwest is interested in negotiating a resolution along the lines of the language proposed by Eschelon so that Qwest agrees in advance to the parameters (*e.g.*, single order, single circuit ID, single bill, without APOT changes), Eschelon is certainly willing to discuss implementing the mechanics through CMP. Absent such a resolution, however, these issues are properly before the Commission for resolution in this arbitration.

Sincerely,

Karen L. Clauson

cc (by email):

Honorable Kathleen D. Sheehy  
Honorable Steve M. Mihalchick  
Gregory R. Merz  
Jason Topp  
Julia E. Anderson  
Kevin O’ Grady

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<sup>4</sup> *See* Exhibit BJJ-7 (3/29/06 – Qwest service management email to Eschelon)

<sup>5</sup> *See* Exhibit BJJ-7 (11/17/04 CMP November monthly meeting minutes)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 79**



## NO BUILD HELD ORDER CHRONOLOGY

- **12/01/00** - Eschelon submitted Change Request (“CR”) Number 5263637 entitled “Installation of adequate facilities and reduction in number of held orders” (*See* [http://www.qwest.com/wholesale/cmp/archive/CR\\_5263637.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5263637.htm)). In its CR, Eschelon included the following description of the change it was requesting:

“Modify Qwest’s processes to ensure installation of adequate facilities and reduction in the number of held orders. Through recurring rates, Qwest is being compensated for expanding its network to account for new growth. Qwest will build facilities for its own retail customers. (In Arizona arbitration’s, for example, Qwest reported that it installs 3 lines per customer to anticipate growth.) However, Qwest will not do so for CLECs in similar situations. Qwest has rejected orders from Eschelon for the stated reason that “no jobs planned in the near future for this area.” (Examples of such rejections were provided to Eschelon’s account team on August 30, 2000.) The orders are placed in held status indefinitely, with no date for completion. When asked about these rejections, Qwest indicated it believes it has no obligation to build. At the last CICMP meeting, Qwest again confirmed that it is Qwest’s policy not to build additional UNE’s when Qwest is out of capacity, but Qwest will build for a retail customer’s order. As indicated, however, Qwest is being compensated for such growth and would build for its own retail customer in the same situation. Please modify Qwest’s practices to build in these situations and to provide notice to CLECs as to when held orders will be completed. In the meantime, until such processes are in place, please institute a process to provide to CLECs (perhaps through a website) a list of those areas for which Qwest has jobs planned, a list of areas for which no jobs are planned, and a description of the nature of the jobs planned. Because Qwest has access to this information for its planning purposes, parity requires that CLECs also have access to the same information for their planning purposes.”

- **January – July 2001** – CR under review. The CR Status History includes descriptions such as “documentation currently being created by Qwest personnel”; “currently under review”; “Some additional work is necessary to determine if precedent has been set due to past actions or previous sideline agreements”; “due date changed due to corporate strategy involvement”; “document complete pending approval by Legal,” *etc.*
- **August 2001** – Qwest distributed a CR response, which was not accepted by Eschelon. In its 8/9/01 CR response, Qwest said:

...” When the CLEC submits a request for a Secondary DS0-Analog (voice grade) line, DSL, ISDN, DS1 or DS3 service, the normal assignment process will be followed in its entirety. If no facilities can be found, and there is No Planned Engineering Job, the LSR will be rejected

(the CLEC will receive a Reject Notice) and the Order will be cancelled. The CLEC now has the opportunity to request construction by filing the proper request through their Account Team.’

In this Statement, Qwest agrees to ensure adequate facilities to support Primary DS0-Analog (voice grade) requests only.

The second issue in this Change Request deals with Held Orders. In various sections of the Request, Eschelon requires Qwest to reduce the number of held orders, not leave held orders in held status indefinitely, with no date for completion and to provide notice to CLECs as to when held orders will be completed.

As Qwest believes the ILECs are not obligated to provide more than the existing network for the CLECs, it follows that the ILECs are not obligated to hold and review old CLEC requests on a regular basis. Therefore, Qwest’s implementation of the Network Build Position for the Unbundled Loop (UBL) Product ensured that all operational work groups were in alignment not to hold requests where facilities are not currently available. . . .”

- **October 18, 2001** – Qwest distributed an amended CR response, stating:

“As discussed earlier, currently Qwest has no plans to modify the existing policy or processes regarding Qwest’s obligation to build new facilities. The issues addressed in your CR have been discussed in workshops. Some of the issues have been resolved. Rulings have been received in 10 of the 12 workshops to date. In each ruling, the Commissions support the Qwest position that the ILEC is not required to build additional facilities to deliver to a CLEC. . . .

Finally, between the August 7th reply, the August 9th reply, and the attached, Qwest believes we have addressed the issues associated with this CR and we need to let the regulatory process determine the next steps.”
- **Nov./Dec. 2001** – Requests for clarification addressed
- **12/12/01** – CR placed in development status
- **March & April 2001** – Qwest provides ICA negotiations template to Eschelon as part of Qwest-Eschelon interconnection agreement negotiations; parties begin negotiations with Sections 8 (Collocation) and 7 (Interconnection). [Held order issue is in Section 9 (UNEs), which was not yet under discussion in negotiations.]
- **Jan./Feb. 2002** – Qwest developing its Special Construction process
- **2/01/02** – Qwest issued its Special Construction Process

- **2/20/02** – Qwest denied Eschelon’s CR, after attempting to close it as completed. The CR Status History states:

“CMP Meeting - Qwest reviewed the two additional questions raised at last month's CMP meeting that were incorporated into Qwest's Special Construction Process. Qwest advised that the Special Construction PCAT language would be issued April 5, 2002. Qwest requested that the CR be closed. Eschelon advised that they felt the CR should be denied because Qwest isn't reducing the number of held orders, but rather canceling them. It was agreed that the CR would be stasued as Denied. Meeting discussions will be set forth in the Product/Process Draft Meeting Minutes contained in the Product/Process CMP Meeting Distribution Package 03/20/02.”

- **3/20/02** – Qwest added closed to the denied status of Eschelon’s CR. The CR Status History states:

“CR Open/Closed Status changed to Closed per agreement at 03/20/02 Monthly CMP Meeting that CRs having Denied status should also reflect Closed Status”

- **11/02/02** – CMP Document adopted in CMP. The adopted CMP Document included the following language in Section 15.0: “A party may pursue the dispute resolution processes set forth below. . . . This process does not limit any party’s right to seek remedies in a regulatory or legal arena at any time.”
- **10/20/03** – ICA negotiations continuing, with Qwest and Eschelon discussing Sections 1-7 of the ICA. [The held order issue appears in Section 9 (UNEs), which was not yet under discussion in negotiations.]
- **5/22/04**: ICA negotiations move to additional sections of the ICA, including Section 9 (UNEs), which addresses held orders. Eschelon sent Qwest a markup of Sections 9.1 and 9.2 that included the following proposal (though Qwest did not update the draft till later to reflect this proposal):

9.2.2.3.2 If CLEC orders a 2/4 wire non loaded or ADSL compatible Unbundled Loop for an End User Customer served by a digital ~~l~~oop carrier system Qwest will conduct an assignment process which considers the potential for a LST or alternative copper facility. If a LST is not available, Qwest may also seek alternatives such as Integrated Network Access (INA), hair pinning, or placement of a Central Office terminal, to permit CLEC to obtain an Unbundled Loop. (See Section 12.) If no such facilities are available, Qwest will make every feasible effort to unbundle the IDLC in order to provide the Unbundled Loop for CLEC. If no copper facility capable of supporting the requested service is available, ~~then Qwest will reject the order~~the order will remain open, pending

availability of facilities at Parity with Qwest retail End User Customer orders, unless CLEC cancels the order.-

- **3/29/05** - On the Eschelon/Qwest ICA negotiations call, as a compromise Eschelon provided Qwest with 2 alternative proposals to its original proposal: (1) 90 days instead of 30 days; and (2) Eschelon would resubmit the order but Eschelon would maintain its place in queue
- **6/10/05** – Eschelon sent Qwest a revised version of Sections 9.1 through 9.7, which documented the two additional held order proposals that Eschelon made verbally on the 3/29/05 call.
- **3/21/06** – Eschelon provided Qwest with its fourth held order proposal (CLEC submits a supplemental order before the due date).
- **5/26/06** – Eschelon files Qwest-Eschelon ICA arbitration petition in Minnesota, including Issue 9-32 (“Delayed Orders When Facilities Are Not Available”), including the 4 Eschelon options/proposals for alternative language, one of which is changing only the time frame before the order is canceled (from 30 days to 90 days).

At this time (and during the preceding ICA negotiations), the Qwest CMP Document, §15.0, provides that a CLEC “may” pursue the outlined dispute resolution but that “process does not limit any party’s right to seek remedies in a regulatory or legal arena at any time.” There is no exclusion for the regulatory arenas for ICA negotiation and arbitration.

- **6/01/06**: Qwest negotiations team sent the Eschelon negotiations team an email with the following subject line: “Qwest initiated CMP actions relating to ICA negotiations.” The enclosed document listed this notice as a “Level 3” notice. Qwest’s memo described this notice as a “CMP notice” and said:

“Level 3 CMP notices initiated by Qwest today to propose a 90 day hold for facilities.

PROD.06.01.06.F.03973 Updates are associated with a modification/change to an existing manual process. To better accommodate completion of CLEC UNE orders, Qwest will change the 30 business days your service request is held when no facilities are available to 90 business days

PROD.06.01.06.F.03974

To better accommodate completion of CLEC UNE orders, Qwest will change the 30 business days your service request is held when no facilities are available to 90 business days.

PROD.06.01.06.F.03975 (no level listed)

To better accommodate completion of CLEC UNE orders, Qwest will change the 30 business days your service request is held when no facilities are available to 90 business days.”

- **6/01/06**: Qwest sent a Level 3 CMP product and process change notification, proposing a change to Qwest’s process to cancel a request in 90 days instead of

30 days (*see* Eschelon held order proposal #2). *See* <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E06%2E01%2E06%2E%2E03974%2EHeld%5FOrder%5F30%5Fto%5F90%5FDay%2Edoc>. The only redlined change was from 30 to 90 days. Qwest did *not* change “not available” to “in the ground” through CMP. The Qwest CMP redlined documents simply provided:

“When you submit your service request and facilities are not available, your request may be held for ~~30~~90 business days.”

Qwest proposed the same change from 30 to 90 days in multiple PCATs. The links to the red lined Qwest PCAT changes are:

[http://www.qwest.com/wholesale/downloads/2006/060531/PCAT\\_EnhancedExtendedLoop-EEL\\_V43.doc](http://www.qwest.com/wholesale/downloads/2006/060531/PCAT_EnhancedExtendedLoop-EEL_V43.doc)

[http://www.qwest.com/wholesale/downloads/2006/060531/PCAT\\_LoopMUXCombination-LMC\\_V37.doc](http://www.qwest.com/wholesale/downloads/2006/060531/PCAT_LoopMUXCombination-LMC_V37.doc)

[http://www.qwest.com/wholesale/downloads/2006/060531/PCAT\\_SubLoop\\_V25.doc](http://www.qwest.com/wholesale/downloads/2006/060531/PCAT_SubLoop_V25.doc)

[http://www.qwest.com/wholesale/downloads/2006/060531/PCAT\\_UnbundledDarkFiber-UDF\\_V26.doc](http://www.qwest.com/wholesale/downloads/2006/060531/PCAT_UnbundledDarkFiber-UDF_V26.doc)

[http://www.qwest.com/wholesale/downloads/2006/060531/PCAT\\_UnbundledDedicatedInterofficeTransport\\_UDIT\\_V28.doc](http://www.qwest.com/wholesale/downloads/2006/060531/PCAT_UnbundledDedicatedInterofficeTransport_UDIT_V28.doc)

[http://www.qwest.com/wholesale/downloads/2006/060531/PCAT\\_UBL-Gen\\_Info\\_V67.doc](http://www.qwest.com/wholesale/downloads/2006/060531/PCAT_UBL-Gen_Info_V67.doc)

- **6/07/06:** Eschelon provided the following comments through CMP (*See* [http://www.qwest.com/wholesale/downloads/2006/060629/Qwest\\_Resp\\_Comment\\_PROD\\_06\\_29\\_06\\_F\\_04050\\_REV\\_FNL\\_Held\\_Order\\_30\\_90.doc](http://www.qwest.com/wholesale/downloads/2006/060629/Qwest_Resp_Comment_PROD_06_29_06_F_04050_REV_FNL_Held_Order_30_90.doc)):

“In the email below Qwest indicates that this change may impact the arbitration of Eschelon’s Interconnection Agreement. If Qwest is serious about dealing with the issue of orders held for no local facilities in CMP, Eschelon believes that Qwest should provide the CLEC community the opportunity to have meaningful dialogue on this topic. Qwest said in the Minnesota arbitration that: “The entire purpose of CMP was to ensure that the industry (not just Qwest or one CLEC) is involved in creating and approving processes.” If so, Qwest should include in its proposal, at least, the following 4 options to facilitate a full discussion with the CLEC community.

Option 1: The current Washington held order process  
Option 2: Hold for 90 business days versus 30 business days  
Option 3: CLEC resubmits the request.

Option 4: CLEC supplements the request.

Details of each option:

Option 1: Qwest will send CLEC an indication that there is a lack of available facilities and the order will be delayed. The delayed order will remain open, pending availability of facilities at Parity with retail End User Customer orders. In the event that an engineering job is completed that would allow

delivery of the UNEs requested, or Qwest completes construction of facilities for delivery of UNEs for CLEC pursuant to a request to build the UNEs, and this occurs after Qwest sends the delayed order notification, CLEC will receive a new FOC identifying a new Due Date when the UNEs will be available for installation.

Option 2: For UNEs that meet the POLR/ETC requirements, CLEC will receive a jeopardy notice indicating that no facilities are available. Qwest will initiate an engineering job order for delivery of primary service to the End User Customer. Once the engineering job is initiated, the CLEC's order will be assigned to it. The CLEC's order will remain open from the time of initial submission until the engineering job is completed. When the engineering job is completed, CLEC will receive a FOC identifying a Due Date when the UNEs will be ready for installation. In response to such FOCs, CLEC can request a different Due Date by submitting a supplemental order to change the Due Date to a later date.

For UNEs that do not meet the POLR/ETC requirements, Qwest shall send CLEC a jeopardy notice indicating that facilities are not available, however, Qwest shall maintain the order as pending for a period of ninety (90) business days. Qwest shall send such jeopardy notice to CLEC as soon as possible, but in no event less than forty-eight (48) hours prior to the CLEC requested Due Date

(i) If facilities become available to fill the order within that ninety (90) business day period, Qwest shall notify the CLEC of such availability. CLEC and Qwest acknowledge that the availability of facilities hereunder is on a first come, first served basis. Any facility orders placed by any other provider, including Qwest, which predate CLEC's order shall have priority in any facilities made available under the terms of this Section.

(ii) If facilities do not become available to fill the order within that ninety (90) business day period, Qwest will send CLEC a rejection notice for the LSR or ASR and cancel the Service Order.

(iii) Upon receipt of the rejection notice, or at any time after receipt of the jeopardy notice, CLEC may:

- (a) submit a request to build UNEs or
- (b) while a UNE order is in Jeopardy Status, CLEC may cancel its UNE order at any time at no charge.

Option 3: If Qwest rejects the order after thirty (30) business days, CLEC may re-submit the order. If CLEC re-submits the order within three (3) business days of receipt of the rejection notice, CLEC maintains its position in queue for the facilities if they become available. CLEC's maintaining of its position in queue does not affect the application of the PIDs or PAP (as described in Exhibits B and K), but ensures that CLEC maintains its first come, first served status.

Option 4: CLEC can submit a supplement to its existing service request to identify a Due Date that is up to thirty (30) business days later than the previously requested Due Date. If CLEC submits such a supplemental request, the CLEC service order will remain open until the requested Due Date or until CLEC submits another supplemental request. Qwest will not reject CLEC's supplemental requests based on the Due Date change. If

facilities become available, Qwest will send CLEC another FOC with a new Due Date.”

- **6/29/06:** Qwest did not present the other three held order options/proposals in CMP as suggested by Eschelon. Instead, Qwest provided the following non-response to Eschelon (*See* [http://www.qwest.com/wholesale/downloads/2006/060629/Qwest\\_Resp\\_Comment\\_PROD\\_06\\_29\\_06\\_F\\_04050\\_REV\\_FNL\\_Held\\_Order\\_30\\_90.doc](http://www.qwest.com/wholesale/downloads/2006/060629/Qwest_Resp_Comment_PROD_06_29_06_F_04050_REV_FNL_Held_Order_30_90.doc)):

“Qwest initiated this CMP Level 3 “change in process” to move from 30 business days to 90 business days if there are no facilities available. With a Change Management Process level 3 change, Qwest is utilizing the formal comment process which is what is required.

Qwest acknowledges this comment.”

- **7/14/06:** Effective Date of Qwest’s Level 3 CMP notice (*See* <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E06%2E01%2E06%2E%2E03974%2EHeld%5FOrder%5F30%5Fto%5F90%5FDay%2Edoc>)
- **7/25/06:** Qwest for the first time in the ICA negotiations proposed new language to replace “available” with “in the ground.” Qwest provided no basis for the proposal other than to say: “For clarity if Qwest has copper in the ground, Qwest will hold the order for 90 Days. If there is no copper in the ground, Qwest will NOT hold the order, it will reject the order.” Qwest said:

“9.2.2.3.2 Qwest Proposed Modifications\_7-25-06 to Eschelon’s MN ICA Draft dated in error as 8-1-06. Please advise if Eschelon agrees or if the parties are at impasse. If at impasse we will need to add to the MN matrix. WA this is NOT an issue.

- If CLEC orders a 2/4 wire non loaded or ADSL compatible Unbundled Loop for an End User Customer served by a Digital Loop Carrier System Qwest will conduct an assignment process which considers the potential for a LST or alternative copper facility. If a LST is not available, Qwest may also seek alternatives such as Integrated Network Access (INA), hair pinning, or placement of a Central Office terminal, to permit CLEC to obtain an Unbundled Loop. If no such facilities are available, Qwest will make every feasible effort to unbundle the IDLC in order to provide the Unbundled Loop for CLEC. If copper facilities are in the ground than Qwest will hold the order for 90 Days. If no copper facility capable of supporting the requested service is available- in the ground, Qwest will reject the order. ~~Qwest will hold the order pending availability of facilities.”~~

- **Currently:** Qwest’s current PCAT provides for 90 rather than 30 days for held orders in no build situations. It continues to refer to whether facilities are “available” and *not* whether they are “in the ground.” *See, e.g.*, the updated PCAT for Unbundled Loops (Unbundled Local Loop - General Information - V68.0) at <http://www.qwest.com/wholesale/pcat/unloop.html>:

“If facilities can not be located and there is No Planned Engineering Job, your service request will be held for 90 business days. Availability of facilities is on first come, first served basis. If spare facilities become available, a Firm Order Confirmation (FOC) is generated and sent to you in response to your original service request. If at the conclusion of the 90-business day hold, facilities are still unavailable, your service request will be rejected.”

**Time to complete Eschelon CR #5263637 versus Qwest Level 3 Held Order Notice:**

	Date Submitted	Date CR Denied or Date CR Completed	Total Duration in Days
Eschelon Change Request : <b>5263637</b> <b>Installation of adequate facilities and reduction in number of held orders</b>	12/1/2000	Closed 3/20/2002	469 Days
Eschelon proposed language the order will remain open for 90 days instead of 30 days in Eschelon/Qwest ICA negotiations	3/29/2005	N/A	
Qwest Product and Process Notice: <b>PROD.06.01.06.F.03974.Held_Order_30_to_90_Day</b>	6/1/2006	Completed 7/14/2006	43 Days



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 80**

## 1. QWEST'S CR PC100101-5ES DETAIL

### Open Product/Process CR PC100101-5ES Detail

#### Title: Clarification of Additional Testing Process

CR Number	Current Status	
Date	Area Impacted	Products Impacted

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PC100101-5ES	Completed
7/12/2002	Repair EEL, UDIT, Unbundled Loop
<b>Originator:</b> Smith, Debra	
<b>Originator Company Name:</b> Qwest Corporation	
<b>Owner:</b> Augustson, Cathy	
<b>Director:</b> Aesquivel III, Frederick	
<b>CR PM:</b> Martin, Ric	

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#### Description Of Change

Currently, CLECs' are responsible for testing UNE's prior to submitting a trouble report to Qwest. CLECs' are to provide test diagnostics including specific evidence that the trouble is in the Qwest Network along with the associated Qwest circuit identification number. If the CLEC elects not to perform the necessary UNE testing, Qwest will offer to do such testing on CLECs' behalf. If such testing is requested by the CLEC, Qwest will perform the additional testing and bill the CLEC the appropriate charges that are in their Interconnection agreement.

If the CLEC does not provide test diagnostics and elects not to have Qwest perform additional testing on their behalf, Qwest will not accept a trouble report. Additional Charges may apply when the testing determines the trouble is beyond the Loop Demarcation Point

This additional testing option is available on the Unbundled Loop Product Suite, Unbundled Dedicated Transport (UDIT), Enhanced Extended Loop (EEL) and Loop Mux.

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#### Status History

10/01/01 - CMP receives CR from Deb Smith, Qwest (Subject Matter Expert (SME))

10/01/01 - CMP CR status changed to 'Submitted.'

10/01/01 - CMP forwards updated CR to Deb Smith, Qwest.

10/17/01 - CMP Meeting: Qwest introduced "Description of Change" and agreed to provide detailed package for CLEC review. Walk through meeting to be scheduled by Qwest in the late October/early November 2001 time frame.

10/26/01 - Notification forwarded to the CLEC community regarding presentation of CR in the 10/31/01 CMP Re-Design Meeting.

10/31/01 - CR presented to the participating CLECs at the CMP Re-Design Meeting. CLECs were requested to provide comments.

11/08/01 - Qwest Notification (Document No. PROD.11.08.R.00197.Mtce&Repair Language; Subject: Update to Product Information on Maintenance and Repair Language within EEL, UDIT, LMC and Unbundled Loop General) transmitted to CLEC community.

11/08/01 - PCAT Documents posted to the Qwest Wholesale CMP Document Review WEB page [<http://www.qwest.com/wholesale/cmp/review.html>]. Comments from CLEC community due in 15 calendar days (11/23/01), as stated in 'Interim External Change Management Process for Qwest Initiated Product/Process Changes, Version 6, 11/26/01.'

11/12/01 - Qwest and Eschelon personnel met to review the information shared in the 10/31/01 CMP Re-Design meeting and to answer additional questions.

11/13/01 - Notification prepared for transmittal to CLEC community regarding follow-up meeting scheduled for 11/26/01.

11/14/01 - CMP Meeting - Qwest advised CLEC community that PCAT documents currently are available for comment.

11/24/01 - No comments were received from the CLEC community regarding PCAT documents posted to the Qwest Wholesale CMP Document Review WEB page.

11/26/01 - Qwest conducted a follow-up meeting with the CLEC community to discuss any technical issues with the CR (primarily operational and testing issues). Responses to questions were prepared for posting on the Qwest Wholesale WEB page.

11/28/01 - "Questions & Answers for Additional Testing 11/26/01" document posted to Qwest Wholesale WEB page [<http://www.qwest.com/wholesale/cmp/changerequest.html>].

11/28/01 - "Additional Testing Process Document - 11/09/01" and "Additional Testing Process Presentation - 11/09/01" posted to Qwest Wholesale WEB page [<http://www.qwest.com/wholesale/cmp/changerequest.html>]. These documents were previously posted in the Qwest Wholesale CMP Re-Design WEB page [<http://www.qwest.com/wholesale/cmp/redesign.html>].

11/30/01 - Qwest IT Wholesale Communicator, November 30, 2001, Document No. SYST.11.30.01.F.02444\_CEMR\_UG\_Update, CEMR User's Guide Update prepared for transmittal to Qwest Wholesale Customers

12/05/01 - Formal Escalation received from Eschelon regarding implementation of CR.

12/06/01 - Qwest response sent acknowledging receipt of Formal Escalation from Eschelon (PC100101-5-E01).

12/07/01 - KMC Telecom notified Qwest to participate in the formal escalation initiated by Eschelon.

12/07/01 - Qwest publishes "QWEST - INTERNAL NOTIFICATION; Announcement Date: December 7, 2001; Effective Date: December 21, 2001; Document Number: I.PROD.12.07.01.F.00603.Pending-\_ULL\_EEL\_LMC\_UDIT; Notification Category: Product Notification; Target Audience: CLECs, Resellers; Subject: Pending Updates to Unbundled Local Loop General, EEL, LMC and UDIT Product Catalogs; Change Request Number: CR PC100101-5" for distribution to CLEC community. Notice indicates an effective date of subject updates as December 21, 2001. A fifteen-(15) day notice is provided to the CLEC community.

12/12/01 - CMP Meeting - Qwest advises CLEC community that a formal escalation has been received & that a formal escalation response is forthcoming.

12/13/01 - Qwest transmitted formal escalation response (via e-mail) to the originating CLECs (i.e., Eschelon Telcom, Inc., Covad Communications, and Allegiance Telecom Inc.) [response posted in Qwest Wholesale CMP WEB page; <http://qwest.com/wholesale/cmp/escalations.html> ].

12/21/01 - Eschelon reply received responding to the Qwest formal escalation response (dated 12/13/01) [reply posted in Qwest Wholesale CMP WEB page; <http://qwest.com/wholesale/cmp/escalations.html> ].

01/16/02 - CMP Meeting - Qwest provided status update indicating that CR is in "Escalated" status, and that Qwest is reviewing Eschelon reply (received 12/21/01).

02/20/02 - Qwest provided status update. CR remains in "Escalated" status. Meeting discussions will be set forth in the Product/Process Draft Meeting Minutes contained in the Product/Process CMP Meeting Distribution Package (03/20/02).

03/20/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status. Meeting discussions will be set forth in the Product/Process Meeting Minutes to be posted on the CMP Web site.

04/17/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status.

05/15/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status. CLECs next step would be to go to Dispute Resolution.

06/19/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status.

07/08/02 - Per the agreement reached with the CLECs in Junes Product and Process CMP meeting, regarding escalated status this CR will carry the appropriate status prior to the escalation

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### **Project Meetings**

10/31/01 - CR presented to the participating CLECs at the CMP Redesign Session. Meeting minutes to be incorporated when posted to Wholesale CMP Re-Design WEB page [ <http://www.qwest.com/wholesale/cmp/redesign.html> ].

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 81**



**Qwest received the following e-mail (containing information related to an escalation) via an e-mail to Judy Schultz:**

**From:** "Powers, F. Lynne" <flpowers@eschelon.com>  
**To:** "Judith Schultz" <jmschu4@qwest.com>  
**cc:** "Ford, Laura" <fordl@perkinscoie.com>, "Jim Maher" <jxmaher@qwest.com>, "mzulevic@covad.com" <mzulevic@covad.com>, "Terry Bahner" <tbahner@att.com>, "Liz Balvin" <Liz.Balvin@wcom.com>, "Tom Dixon" <Thomas.F.Dixon@wcom.com>, "Megan Doberneck" <mdoberne@covad.com>, "Evans, Sandy" <sandra.k.evans@mail.sprint.com>, "Gindlesberger, Larry" <lgindles@covad.com>, "Hines, LeiLani" <LeiLani.Jean.Hines@wcom.com>, "Lee, Judy" <soytofu@pacbell.net>, "Littler, Bill" <blittler@integratelecom.com>, "Lees, Marcia" <marcia.lees@sbc.com>, "Menezes, Mitch" <mmenezes@att.com>, "Osborne-Miller, Donna" <dosborne@att.com>, "Quintana, Becky" <becky.quintana@dora.state.co.us>, "Rossi, Matt" <mrossi@qwest.com>, "Stichter, Kathleen L." <klstichter@eschelon.com>, "Thiessen, Jim" <jthiessen@avistacom.net>, "Travis, Susan" <susan.a.travis@wcom.com>, "VanMeter, Sharon" <svanmeter@att.com>, "Wicks, Terry" <terry.wicks@algx.com>, "Woodcock, Beth" <woode@perkinscoie.com>, "Yeung, Shun (Sam)" <qwestosscm@kpmg.com>, "Mark Routh" <mrouth@qwest.com>, "Clauson, Karen L." <klclauson@eschelon.com>

**Subject:** Escalation regarding Qwest's additional testing CR, #PC100101-5

Eschelon, Covad, and Allegiance initiate an escalation with respect to Qwest's additional testing CR, #PC100101-5. The completed escalation form is enclosed in Word format. (The web-based format didn't work well for this joint escalation.)

Because this issue has been discussed in re-design, we are copying the re-design participants as well, for their information.

Lynne Powers  
Executive Vice President  
Eschelon Telecom, Inc.  
612-436-6642  
flpowers@eschelon.com

Terry Wicks  
LEC Account Manager  
Allegiance Telecom, Inc  
469-259-4438  
terry.wicks@algx.com

Michael Zulevic  
Director-Technical/Regulatory Support  
Covad Network Planning and Capacity Mgmt.  
520-575-2776  
mzulevic@Covad.COM

The information below was contained in the attachment sent to Judy Schultz in regard to an escalation:

**CMP Escalations and Dispute Submittal Form**  
Items marked by a red asterisk (\*) are required.

**\* CLEC Company Name:**

This escalation is submitted jointly by:

Eschelon Telecom, Inc.  
Covad Communications  
Allegiance Telecom Inc.

Referred to jointly as "CLECs."

**\* Action Type:**

- select an action type -

Escalation

**Entering a change request number is optional, but you are required to select a status (select "no change request number" if you choose not to enter a number).**

**Change Request Number:**

CR #PC100101-5

**Change Request Status:**

- select one - no change request number Submitted Clarification/Evaluation Presented Implementation CLEC Test Completed

CLECs believe that the appropriate status is "Denied" by CLECs. Qwest has listed the status as "Development."

NOTE: (Status choices on web need to be revised to include "denied" and "development.")

**\* Description:**

Qwest provided this description of the CR: "Currently, CLECs' are responsible for testing UNE's prior to submitting a trouble report to Qwest. CLECs' are to provide test diagnostics including specific evidence that the trouble is in the Qwest Network along with the associated Qwest circuit identification number. If the CLEC elects not to perform the necessary UNE testing, Qwest will offer to do such testing on CLECs' behalf. If such testing is requested by the CLEC, Qwest will perform the additional testing and bill the CLEC the appropriate charges that are in their Interconnection agreement.



If the CLEC does not provide test diagnostics and elects not to have Qwest perform additional testing on their behalf, Qwest will not accept a trouble report. Additional Charges may apply when the testing determines the trouble is beyond the Loop Demarcation Point This additional testing option is available on the Unbundled Loop Product Suite, Unbundled Dedicated Transport (UDIT), Enhanced Extended Loop (EEL) and Loop Mux."

**\* History of Item:**

Qwest provides the following status history in its Interactive Report (*see* [http://www.qwest.com/wholesale/downloads/2001/011203/CLEC\\_CMP\\_ProductProcess\\_Interactive\\_Report.PDF](http://www.qwest.com/wholesale/downloads/2001/011203/CLEC_CMP_ProductProcess_Interactive_Report.PDF)):

“10/01/01 - CR received by Deb Smith of Qwest  
10/01/01 - CR status changed to Submitted  
10/01/01 - Updated CR sent to Deb Smith  
10/17/01 - CMP Meeting: Qwest presented "Description of Change" and agreed to provide detailed package for CLEC review.  
Walk through meeting to be scheduled by Qwest in the late October/early November 2001 time frame.  
10/31/01 - CR presented to the participating CLECs at the Redesign Session. CLECs to provide comments.  
11/08/01 - Qwest Notification (Document No. PROD.11.08.R.00197.Mtce&Repair Language; Subject: Update to Product Information on Maintenance and Repair Language within EEL, UDIT, LMC and Unbundled Loop General) transmitted to CLEC”

**Eschelon provided Qwest with the following summary on 12/3/01:**

“ . . . . We have objected to this CR on several occasions. Other CLECs have objected as well. Terry Wicks of Allegiance has said that, at a minimum, there are too many unanswered questions at this time to implement it. There is no acceptance or consensus from CLECs. (Eschelon does not believe that rates can be established through a CR.) Yet, Qwest has said that it would implement the CR on December 1st. While we can continue to deal with the process issues raised by this approach in Re-Design, today is December 3rd, so we need to know ASAP that this particular CR has not been implemented (or, if implemented, in which states). Qwest does not have the authority to implement the rates in this CR in all states and circumstances described or to refuse trouble tickets, at least as to Eschelon (and others that have opted in to the same AT&T/WCOM contracts). Because it appears that Qwest plans to show the charges on the bill as "miscellaneous" charges, the charges will be difficult, if not impossible, to identify. We need to ensure that no unauthorized charges are placed on our bill. **Please let us know what activities were taken pursuant to this CR and what steps have been taken to ensure that unauthorized charges will not appear on our bill.**

As we discussed, Qwest did not provide citations to any interconnection agreements in its CR. Terry Wicks said at last week's re-design meeting that, when

Qwest presented its CR at the CMP meeting, he asked whether Qwest had reviewed all contracts to be sure that all interconnection agreements required the process and rates in the CR. Terry said that Qwest said it had done so. Eschelon asked Qwest to provide the citations to all of its contracts upon which Qwest relied for its CR. At a later meeting, Qwest agreed to do so. Qwest was later able to provide citations to interconnection agreements for only 3 of the 6 states in which Eschelon has switches (*see* email, copied at end of this email, from Dennis Pappas of Qwest). The rates cited are from the collocation sections of the rate attachments, and it is at least unclear that these rates were intended to apply to this situation. Moreover, the cited interconnection agreement language refers to a trouble isolation charge. It appears that Qwest plans to charge a testing charge, in addition to a trouble isolation charge, in some circumstances. For a fourth contract (Colorado), Qwest provided a citation to language but said "the rates were not noted in your ICA." (*See* email copied below.) Qwest provided no language or rates for MN or OR. Although the CR specifically states that Qwest will "bill the CLEC the appropriate charges that are in their Interconnection agreement," Qwest said on telephone and conference calls that it plans to charge CLECs retail or SGAT rates when a rate is not in the interconnection agreement. (Qwest's rates and basis for charging rates should be formally documented and not gathered from telephone conversations.) Qwest has provided no basis for charging Eschelon retail or SGAT rates, nor does Eschelon agree that those rates apply to Eschelon (which has not opted in to an SGAT). Moreover, Eschelon also provides testing in similar circumstances, and Qwest has not indicated that it intends to pay Eschelon for that testing. If Qwest can charge this rate, Eschelon should also be able to charge Qwest, particularly when Eschelon has to dispatch a technician to prove to Qwest that the trouble is in Qwest's network. Nonetheless, Dennis Pappas of Qwest has said that Qwest will not pay CLECs for providing the same services. Eschelon disagrees.

As Eschelon has previously indicated to Qwest, for the three interconnection agreements for which Qwest provided citation to language and rates (AZ, UT, WA), Eschelon does not agree that the language necessarily applies in the way that Qwest plans to implement it. For example, none of the contract language states that Qwest may refuse to accept a trouble ticket without test results, but Qwest's CR says that it will do so (and, in fact, Qwest has already started doing so, according to participants at the re-design meeting). The number of questions that CLECs have raised in meetings and conference calls is a reasonable indication that the documentation provided by Qwest to date is inadequate. Also, if Qwest is applying the testing process and charges consistently with interconnection agreements (and only when authorized by interconnection agreements, it is unclear why a CR was necessary. What is the "change" that Qwest is requesting?

At last week's re-design meeting, Michael Zulevic of Covad said that the CR is also not consistent with the SGAT language on this issue. I am not familiar with that issue, so I suggested to you on a break that you should follow up with him on that. Eschelon has not opted in to the SGAT.

As we have discussed with Qwest, Eschelon already performs testing. While it plans to continue doing so, its greatest objections to this CR are the rates, the manner in which Qwest plans to show the information on the bill (which is not specific enough for verification of charges), and the way this CR/process has been handled. Eschelon does not want it to set a precedent suggesting that this is acceptable going forward.

Many issues remain disputed, unanswered, or unclear. The interconnection agreement language cited by Qwest specifically requires the parties to work "cooperatively." As we discussed at the re-design meeting, the process used for collocation decommissioning has aspects that could be used as a model in the future for cooperatively reaching agreement. In the meantime, however, Eschelon's immediate concern is ensuring that this CR is not implemented inappropriately. Please let me know what Qwest has in place today and, if this CR has not been suspended, whether it will be.

**EMAIL FROM DENNIS PAPPAS OF QWEST:**

*[NOTE: Dennis called Garth Morrisette of Eschelon to indicate that the "critical sentence," referred to below, was that Qwest is relying upon tariffs for the rates not found in the contracts. On separate calls, Qwest has said that, if there is no rate in the interconnection agreement, Qwest will charge the SGAT rate. Eschelon has not opted in to the SGAT.*

*With respect to the citations to language below (except rates), the cites below are from Attachment 5 to the interconnection agreements."]*

-----Original Message-----

**From:** Dennis Pappas  
**Sent:** Wednesday, November 14, 2001 3:55 PM  
**To:** Morrisette, Garth M.  
**Subject:** Re: Optional Testing Response

Call me at your convenience, there is a critical sentence that I left out that I need to clarify. Thanks!

"Morrisette, Garth M." wrote:

Thanks Dennis - I'll review this and call you or our account team if I have questions.

Garth.

-----Original Message-----

**From:** Dennis Pappas  
**Sent:** Wednesday, November 14, 2001 2:19 PM  
**To:** gmmorrisette  
**Subject:** Optional Testing Response

Good afternoon Garth

Just a recap for you. The language mentioned during our meeting was in AZ, UT and WA. In all three agreements, 3.2.17 spoke to responsibility for trouble resolution and 6.2.20.1.1 speaks to the billing of charges depending on where the trouble was isolated.

In CO, the language is in sections 5.1.17, 5.1.25 and 5.2.20.

The rates associated with these sections in AZ is in schedule 1 - attachment 1 under Common elements. Maintenance 1/2 hour increments - Regular is \$22.20 for each 1/2 hour and Overtime is \$31.57 for each 1/2 hour.

Rates in the UT and WA agreement are noted as "Maintenance Labor" and are - Basic \$26.97 / Overtime \$35.87 in UT and Basic \$25.36 / Overtime \$33.73 in WA.

Language existed in CO but the rates were not noted in your ICA. In this instance, we referenced the Tariff to get rates for Basic, Overtime and Premium "Additional Labor other" of \$28.91, \$38.61 and \$48.33 respectively.

Call me with any questions or contact your Account Team representative for additional details. Thank You

Dennis Pappas - Product Manager”

**Allegiance provided the following information on 12/3/01:**

“Allegiance Telecom has strong concerns regarding Qwest's implementation of the Additional Testing CR and insists that Qwest suspend implementation of Additional Testing charges until Qwest demonstrates the needs for such charges and terms, rates, and conditions for Additional Testing are mutually agreed to by both parties. As Terry Wicks has been stating in the CMP meetings, Allegiance is concerned about numerous unanswered questions concerning the Additional Testing CR, including the rates that Qwest is proposing to charge and the manner in which those rates would be included on an invoice. Since Qwest has not adequately responded to Allegiance's and other CLEC's repeated requests for clarification of this process, Allegiance requests that this CR be immediately suspended and that Qwest clarify the terms, rates and conditions it is proposing for such testing.

It is Allegiance's position that rates must be contained in an effective tariff or an interconnection agreement. Thus, until such time as Qwest has clearly articulated the terms, rates and conditions for Additional Testing and our companies have concluded an amendment or Qwest has an effective tariff, Allegiance can not be held liable for any charges for Additional Testing.”

**Covad provided the following information to Qwest on 12/4/01:**

“I could not agree more strongly with Karen on the issue of additional testing. As I stated at last week's meetings, not only does Covad find the proposal made by Dennis Pappas and Bill Campbell unacceptable, but it is also inconsistent with the language negotiated during the SGAT 271 workshops. This is exactly the kind of unilateral action historically taken by Qwest that has led to the need to redesign the Change Management Process. It was my understanding that the proposal was being tabled

and re-thought and that Qwest would seek agreement with CLECs through the Change Management Process prior to implementation. I sincerely hope this is still Qwest's plan.”

**\* Reason for Escalation / Dispute:**

Qwest has denied the request of CLECs to suspend the CR at least while clarifying the unanswered questions and attempting to gain consensus when possible. Implementation of the CR violates interconnection agreements with CLECs. Many questions remain unanswered. Escalation is urgent, because Qwest has already implemented the CR over CLECs' objections. With so many unanswered questions, CLECs cannot even determine exactly what has been implemented and whether their individual interconnection agreements are being handled differently. Also, because of the manner in which Qwest is handling the billing of the charges per this CR, bill verification is difficult if not impossible.

CLECs believe that Qwest should be the party responsible for initiating an escalation in this case, because Qwest did not clarify the process and was unable to gain CLEC consensus or approval before implementing its CR. Because Qwest has not initiated the escalation, however, CLECs initiate this escalation.

**\* Business Need and Impact:**

For all of the reasons stated above and in meetings and conference calls on this issue, the business need/impact associated with this CR is substantial. This is particularly true because of the potential precedent set by this CR for the handling of future CRs and implementation of rates.

**\* Desired CLEC Resolution:**

Suspend implementation of Qwest-initiated CR #PC100101-5 (process and rates).

Review any steps that Qwest has taken to make system changes, train people, or otherwise implement this CR universally at Qwest to ensure compliance with particular interconnection agreements (*e.g.*, interconnection agreements with Eschelon, Covad, and Allegiance in each state). This includes re-training, etc., as to the differences among various interconnection agreements, as well as difference from the SGAT. (Eschelon, Covad, and Allegiance each has an interconnection agreement with Qwest, and none of these CLECs has opted into the SGAT.)

Provide documentation showing that Qwest has trained its personnel and taken other steps to ensure compliance with individual interconnection agreements, including differences in those agreements as compared with the SGAT.

Begin a collaborative effort (similar to that used for collocation decommissioning) to develop an improved process and, when possible, gain consensus before implementation. Ensure that part of the process is to provide accurate bills that reflect interconnection agreement rates and provide sufficient information for bill verification. If no consensus can be reached, Qwest should then be responsible for escalation before implementation.

Ensure reciprocity so that CLECs may recover their costs in the same circumstances in which Qwest is allowed to recover its costs for such testing.

### **CLEC Contact Information**

#### **Allegiance:**

Terry Wicks  
LEC Account Manager  
Allegiance Telecom, Inc  
469-259-4438  
terry.wicks@algx.com

#### **Covad:**

Michael Zulevic  
Director-Technical/Regulatory Support  
Covad Network Planning and Capacity Mgmt.  
520-575-2776  
mzulevic@Covad.COM

#### **Eschelon:**

Lynne Powers  
Executive Vice President  
Eschelon Telecom, Inc.  
612-436-6642  
[flpowers@eschelon.com](mailto:flpowers@eschelon.com)

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 82**

In this response, Qwest addresses the Escalations submitted jointly by Eschelon Telecom, Inc., Covad Communications, and Allegiance Telecom Inc. on December 6, 2001 regarding CR#PC100101-5 on Clarification of Additional Testing Process.<sup>1</sup>

### **BACKGROUND**

Qwest's clarification of the testing and test diagnostic requirements for the trouble ticket initiation process, including the option to have Qwest perform these test services, is driven by three primary business reasons: improved repair performance, which benefits both the CLECs and Qwest operationally; increased end user customer satisfaction; and consistent and streamlined communication between CLECs and Qwest.

Testing prior to initiating the trouble report will reduce the number of unnecessary trouble reports CLECs submit to Qwest. This will allow Qwest to allocate its resources into other maintenance and repair areas. The requirement that CLECs perform test isolation allows them to identify and repair cases of trouble that are not in the Qwest network. These trouble isolation steps are the most efficient manner of dealing with service issues.

Testing will also result in reduced repair time and lead to improved customer satisfaction. Circuit repair involves two steps: initial testing to isolate the trouble to a particular network and trouble repair. Accurate information provided by CLECs at the time a trouble report is submitted will focus Qwest's efforts on the network segment that needs to be repaired.

In addition, Qwest is entitled as a matter of law to reasonable cost recovery and when the CLEC authorizes Qwest to perform the testing, Qwest should be reasonably compensated for the costs it incurs to perform that function.

Several meetings were held with CLECs before deployment of the stated process ensued. At the October 17, 2001 CMP Meeting, this process was introduced. Qwest took questions from the audience and scheduled a follow-up meeting to address issues. On October 31, 2001 Qwest presented the Clarification of Additional Testing Process to the CLECs at a CMP meeting and answered questions related to the presentation. The presentation and subsequent questions and answers were issued and posted on the CMP web site following that session. In response to a request from Eschelon, Qwest and Eschelon personnel met on November 12, 2001 to review the information shared at the October 31, 2001 CMP Redesign meeting and to answer additional questions. Finally, on November 26, 2001 Qwest met again with the CLECs to finalize all Questions and Answers. Qwest stayed at this last meeting until there were no unanswered questions. The questions and final responses were posted to the web site as supporting documentation. Those Questions and Answers can be found in the attached Q&A document or at the CMP web site.

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<sup>1</sup> Although this response does not specifically address KMC's Escalation because it was received later, Qwest believes that it is equally applicable and serves as a response to that Escalation as well.



At each meeting, the deployment schedule was fully discussed. CLECs were allowed 15 days to try the process out without billing and full billing began on December 1, 2001. Although there was discussion about effective dates, at no time prior to implementation was it implied or suggested that the implementation date would be postponed or cancelled due to objection.

In its escalation, Eschelon and the other CLECs takes issue with the way this CR has been handled, the rates Qwest proposes to charge, and the way the charge appears on the bill. Each of these issues is addressed below.

**Qwest's handling of this CR.**

Qwest submitted CR #PC100101-5, Clarification of Additional Testing Process, in accordance with its good faith interpretation of the Interim Qwest Product/Process Change Management Process that was agreed to by the Change Management Redesign Core Team.<sup>2</sup> In addition, the CLECs requested that Qwest formally notify them through the change management processes when Qwest was tightening adherence to existing requirements. Because CLECs were not consistently complying with the requirement to provide test results prior to opening a trouble ticket, Qwest submitted a CR to put CLECs on notice that it would be enforcing that requirement for the reasons noted above. Qwest also outlined an elective testing option available upon CLEC authorization to complement the ticket initiation process for which charges will apply.

As stated above, Qwest implemented this change only after several weeks' notice and several meetings with the CLECS. In each meeting, Qwest offered to negotiate an amendment to a CLEC's interconnection agreement if it disagreed with the rates Qwest has proposed for Optional Testing.

As this CR is a clarification of an existing process, Qwest did provide to CLECs who asked specific cites from the CLEC contracts for the language requested. Additionally, Qwest specifically provided such cites to Eschelon.

It is standard in the industry for each party to test their own facilities and for the CLECs to provide these test results to the ILECs when reporting trouble. CLECs in Qwest's region, including these CLECs, have stated that they are generally in compliance with the standard industry practice. However, it has been Qwest's experience that many CLEC trouble tickets result in No Trouble Found or trouble isolated beyond the demarcation point to the CLEC network. If the testing and trouble isolation steps are not performed by the CLEC, Qwest will not have enough information to issue a trouble report for the CLEC end user. At

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<sup>2</sup> While there has subsequently been disagreement regarding the applicability of the interim process, at the time Qwest issued the CR, it believed in good faith that it applied to process changes that affect a CLEC's operating procedures.

this point, the CLEC can choose to either conduct these tests for their end user or request Qwest to conduct the tests on the CLEC's behalf.

**The Rates.**

Qwest will not conduct nor bill a CLEC for Optional Testing unless agreed to by the contact personnel at the CLEC business at the time the request is made. If the CLEC does not provide test diagnostics to Qwest, the Qwest representative asks if the CLEC desires for Qwest to perform the Optional Testing on its behalf and validates with the CLEC representative that a testing charge will apply. Thus, every time a CLEC authorizes Qwest to perform Optional Testing, it has also authorized Qwest to charge the CLEC. The CLEC will receive the benefit of this Optional Testing in that the test results will be provided to the CLEC either verbally or electronically.

Qwest is entitled to recover its costs. To this point, Qwest has, until now, borne the entire cost of testing and trouble isolation where the CLECs have not met their requirements to test. These efforts include dispatch into the central office to separate CLEC network troubles from Qwest network troubles or dispatched to the field to separate Qwest network troubles from end-user customer equipment troubles.

As the option for the CLEC to request Qwest to test on a CLEC's behalf is a new offering, if a CLEC should so choose, the CLEC will be billed for the labor expended to conduct the test. Once the test is complete, the test results will be related back to the CLEC. The CLEC can then choose to amend these test results to its initial request and submit a trouble ticket to Qwest or can then choose to resolve the trouble without Qwest's assistance. If Qwest receives a complete trouble ticket and begins trouble resolution, and subsequently determines that the trouble is in the CLEC portion of the network, then the CLEC will be billed the Additional Labor charge for the labor expended on trouble that is not in the Qwest network. This charge is in addition to the Optional Testing charge defined above. Additionally, if the CLEC asks the Qwest technician to perform work to repair trouble in the CLEC network, that CLEC will be billed the Maintenance of Service charge. Again, this charge is in addition to both of the charges identified above. The CLEC only pays for any work that Qwest performs on its behalf.

The Maintenance of Service charge and the Optional Testing charge are separate issues. Maintenance of Service is billed when CLEC authorizes work to be conducted on the CLEC side of the Network. Again, this work is not performed nor billed if not authorized by the CLEC. Additional Labor is requested by the customer and agreed to by the Company. This element is incurred to accommodate a specific customer request that involves only labor, including testing and maintenance. Therefore, this charge applies to a request to test to achieve Trouble Isolation as well as to trouble resolution on a circuit reported to Qwest subsequent to Trouble Isolation. Qwest implemented billing for the Trouble Resolution in June. Qwest believes that some of the concerns that Eschelon has raised about charges that have appeared on the Eschelon bill relate to this implementation, since the bill identified by Eschelon does not include Optional Testing charges. If a CLEC disputes any of the

aforementioned charges, they should continue to do so under the applicable provisions of their interconnection agreements.

Since all of these charges cover different forms of work, there is no double recovery.

Qwest does not bill Retail rates for these services. Qwest will bill only:

1. From the CLEC Contract if a rate is available
2. From the SGAT if a rate is not available. The SGATs contain generally available rates filed by Qwest.<sup>3</sup> This ensures non-discriminatory treatment of all CLECs.

### **Billing Issues.**

Concerns have been raised about Qwest's plan to show the charges on the bill as "miscellaneous" charges. Qwest agreed not to begin billing the Optional Testing charge until December 2001. Thus, the charges to which Eschelon refers are not Optional Testing charges. Once Qwest Systems are modified, a unique line item will be available on each bill for the CLEC. This modification is in direct response to the Eschelon concern for line item identification. In the interim the billing for optional testing will appear under additional labor basic. This new line item is planned to read "Additional Labor – Basic Optional Testing". A sample of how Qwest intends to present this information on the bill is set forth below.

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<sup>3</sup> The SGAT rates are interim in nature until finally approved and may be subject to true-up upon approval, if a commission determines that is necessary.

ESCHELON FORMERLY ATI	BILL DATE: XX/XX/XX PAGE: 1 ACCOUNT NO: X-### ##### ###X
ACCOUNT DETAIL	
MONTHLY SERVICE CHARGES	###.##
ACCOUNT ACTIVITY	###.##
TAXES	.##
QWEST RESALE/INTERCONNECT TOTAL	###.##
<hr/>	
MONTHLY SERVICE - NOV 25 THRU DEC 24	###.##
QWEST RESALE/INTERCONNECT SUBTOTAL MONTHLY SERVICE CHARGES	###.##
SERVICE ADDITIONS AND CHANGES	
1 SERVICE ORDER NO R##### ADDITIONAL LABOR OTHER-BASIC – OPTIONAL TESTING ON 10-16-01 PON ##### 1 BASIC TIME, PER TECHNICIAN, ALGXX EA 1/2 HR OR FRACTION THEREOF	###.##
A WHOLESALE DISCOUNT HAS BEEN APPLIED.	
QWEST RESALE/INTERCONNECT SUBTOTAL OF ACCOUNT ACTIVITY	###.##
TAX SUMMARY	
STATE TAX	.##
QWEST RESALE/INTERCONNECT SUBTOTAL OF TAXES	\$.##
QWEST RESALE/INTERCONNECT CURRENT CHARGES	###.##

**Proposed Method for Resolution**

As set forth above, Qwest believes that it has appropriately clarified the testing and test diagnostic requirements for the trouble ticket initiation process and the Optional Testing charge. However, in the spirit of collaboration, Qwest proposes that the CLECs work together with Qwest to resolve the CLECs' concerns regarding the appropriate rate for the Optional Testing. Qwest's proposal is as follows.

The parties will meet to discuss and, if possible, reach agreement on the following issues:

1. What are the appropriate rates for Optional Testing?
2. When will Optional Testing rates apply?

3. How do the parties appropriately implement the rate (i.e., use individual contract rates, the SGAT rate, amend agreements to reflect the rate)?
4. How are the charges for Optional Testing presented on the CLEC bills?

If the CLECs agree to this proposal, Qwest will suspend billing the Optional Testing charge until January 31, 2002 in order to allow the parties to discuss and reach agreement on these issues. The suspension of billing the Optional Testing will begin at a mutually agreed time and end on January 31, 2002. During that period, Qwest will continue to follow the Optional Testing process as it has been clarified, but will not bill the Optional Testing charge to the CLECs when the CLECs authorize Qwest to perform the Optional Testing. Billing will resume following the suspension. Issues not addressed or closed prior to January 31, 2002 will be considered through CMP.

Qwest requests that the CLECs advise Qwest by December 21, 2001 whether they agree to this collaborative approach.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 83**

122101email.txt

----- Original Message -----

Subject: Allegiance, Covad, and Eschelon Reply re. Additional Testing  
Date: Fri, 21 Dec 2001 12:25:13 -0600  
From: "Powers, F. Lynne" <flpowers@eschelon.com>  
To: "'William Campbell'" <wmcampb@qwest.com>,"'Judith  
Schultz'"<jmschu4@qwest.com>  
CC: "'Ford, Laura'" <fordl@perkinscoie.com>,"'Jim  
Maher'"<jxmaher@qwest.com>,"'Terry Bahner'" <tbahner@att.com>,"'Liz  
Balvin'"<Liz.Balvin@wcom.com>,"'Tom Dixon'"  
<Thomas.F.Dixon@wcom.com>,"'Megan Doberneck'"  
<mdoberne@Covad.COM>,"'Evans,  
Sandy'"<sandra.k.evans@mail.sprint.com>,"'Gindlesberger,  
Larry'"<lgindles@Covad.COM>,"'Hines, LeiLani'"  
<LeiLani.Jean.Hines@wcom.com>,"'Lee, Judy'"  
<soytofu@pacbell.net>,"'Littler,  
Bill'"<blittler@integratelecom.com>,"'Menezes, Mitch'"  
<mmenezes@att.com>,"'Osborne-Miller, Donna'"  
<dosborne@att.com>,"'Quintana,  
Becky'"<becky.quintana@dora.state.co.us>,"'Rossi, Matt'"  
<mrossi@qwest.com>,"Stichter, Kathleen L."  
<klstichter@eschelon.com>,"'Travis,  
Susan'"<susan.a.travis@wcom.com>,"'VanMeter, Sharon'"  
<svanmeter@att.com>,"'Wicks, Terry'" <terry.wicks@algx.com>,"'Woodcock,  
Beth'"<woode@perkinscoie.com>,"'Yeung, Shun (Sam)'"  
<qwestosscm@kpmg.com>,"'Mark Routh'" <mrouth@qwest.com>,"'Michael  
Zulevic'" <mzulevic@Covad.COM>,"Clauson, Karen L."  
<klclauson@eschelon.com>,"Stichter, Kathleen  
L."<klstichter@eschelon.com>,"Powers, F. Lynne" <flpowers@eschelon.com>

Attached is the Reply of Allegiance, Covad, and Eschelon to Qwest's  
Response to the Additional Testing Escalation.

Eschelon's Reply (December 21, 2001):

122101email.txt

<<escalatereplyDec21.doc>>

Attachment to Eschelon's Reply (MN Testimony):

<<Haar Ltr re Morrisette Testimony 12-19-01.doc>> <<Morrisette Sup  
Testimony 12\_19\_01 00-849.doc>>

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escalatereplyDec21.doc Content-Type: application/msword;  
name="escalatereplyDec21.doc"  
Content-Transfer-Encoding: base64  
Content-Disposition: inline;  
filename="escalatereplyDec21.doc"

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name="Haar Ltr re  
Morrisette  
Testimony  
12-19-01.doc"  
Content-Transfer-Encoding: base64  
Content-Disposition: inline;  
filename="Haar Ltr  
re Morrisette  
Testimony  
12-19-01.doc"

Morrisette Sup Testimony 12\_19\_01 00-849.doc Content-Type: application/msword;  
name="Morrisette Sup  
Testimony 12\_19\_01  
00-849.doc"  
Content-Transfer-Encoding: base64  
Content-Disposition: inline;



122101email.txt

filename="Morrisette  
Sup Testimony  
12\_19\_01 00-849.doc"

2ndemail.txt

----- Original Message -----

Subject: RE: Allegiance, Covad, and Eschelon Reply re. Additional Testing

Date: Fri, 21 Dec 2001 12:35:14 -0600

From: "Clauson, Karen L." <klclauson@eschelon.com>

To: "Powers, F. Lynne" <flpowers@eschelon.com>,"'William Campbell'" <wmcampb@qwest.com>,"'Judith Schultz'" <jmschu4@qwest.com>

CC: "'Ford, Laura'" <fordl@perkinscoie.com>,"'Jim Maher'" <jxmaher@qwest.com>,"'Terry Bahner'" <tbahner@att.com>,"'Liz Balvin'" <Liz.Balvin@wcom.com>,"'Tom Dixon'"

<Thomas.F.Dixon@wcom.com>,"'Megan Doberneck'" <mdoberne@Covad.COM>,"'Evans, Sandy'" <sandra.k.evans@mail.sprint.com>,"'Gindlesberger, Larry'" <lgindles@Covad.COM>,"'Hines, LeiLani'" <LeiLani.Jean.Hines@wcom.com>,"'Lee, Judy'" <soytofu@pacbell.net>,"'Littler, Bill'" <blittler@integratelecom.com>,"'Menezes, Mitch'" <mmenezes@att.com>,"'Osborne-Miller, Donna'" <dosborne@att.com>,"'Quintana, Becky'" <becky.quintana@dora.state.co.us>,"'Rossi, Matt'" <mrossi@qwest.com>,"Stichter, Kathleen L."

<klstichter@eschelon.com>,"'Travis, Susan'" <susan.a.travis@wcom.com>,"'VanMeter, Sharon'" <svanmeter@att.com>,"'Wicks, Terry'" <terry.wicks@algx.com>,"'Woodcock, Beth'" <woode@perkinscoie.com>,"'Yeung, Shun (Sam)'" <qwestosscm@kpmg.com>,"'Mark Routh'" <mrouth@qwest.com>,"'Michael Zulevic'" <mzulevic@Covad.COM>,"Stichter, Kathleen L."

<klstichter@eschelon.com>

Just a note to indicate that, where it says Eschelon's Reply below, it should say Reply of Allegiance, Covad, and Eschelon. Thanks.

**REPLY OF ALLEGIANCE, COVAD, AND ESCHELON TO  
QWEST'S RESPONSE TO THEIR ESCALATION OF  
CR # PC100101-5 REGARDING  
ADDITIONAL TESTING AND RELATED ISSUES**

December 21, 2001

Qwest's Response to the joint escalation by Allegiance, Covad, and Eschelon of Qwest-initiated Change Request ("CR") #PC100101-5 is unsatisfactory. Qwest has cited no authority for its processes or rates, and it is evident from Qwest's Response that it has none. Qwest's proposal for resolution does not address the bulk of the issues raised by Allegiance, Covad, and Eschelon, and the proposal erroneously suggests that Qwest may nonetheless impose rates without a contract in place after January 31, 2002. Allegiance, Covad, and Eschelon once again place Qwest on notice that their individual interconnection agreements ("ICAs") control and that Qwest's conduct is in breach of those agreements. Qwest's CR and this escalation do not change that.

Allegiance, Covad, and Eschelon have made a reasonable request to Qwest to consider a collaborative effort, modeled after successful aspects of the one ultimately used to address collocation decommissioning, to address all of the issues raised in this escalation. Allegiance, Covad, and Eschelon continue to support and request use of such a process and suspension of the current one (including rates) in the interim. As we have said throughout this process, we are not opposed in principle to the type of testing at issue and encourage use of reasonable practices along these lines. We already conduct testing before submitting trouble tickets. The process and rates that Qwest has imposed, and the manner in which Qwest has approached this issue, however, are unacceptable. Our proposal for resolution, unlike the Qwest proposal, is not limited to rates or to one month. CLEC CRs are rarely, if ever, processed in a month or even a few months. We are willing, however, to dedicate resources to expedite a collaborative process.

**A Legitimate Process for Imposing Terms and Rates, That Recognizes Individual ICA Differences (including ICAs not Based on the SGAT), is Needed.**

Qwest seems to agree that the ICAs control over Change Management Process ("CMP") activities. In Colorado, Qwest said:

First of all, it has been addressed in these workshops by inserting language into the SGAT that indicated that the contract language controls over anything that could come out of the Change Management Process -- a contract is a contract, and I believe that's the same for any other ICA, as well.<sup>1</sup>

If that were the case, a reasonable expectation would be that Qwest's Response would have simply included citations to each ICA indicating the basis for each term and rate to which we objected. Not only does Qwest's response fail to cite a single contract

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<sup>1</sup> Transcript of CMP Workshop Number 6, Colorado Public Utilities Commission Docket Number 97I-198T (Aug. 22, 2001), p. 292, lines 8-13 (Andrew Crain of Qwest).

provision, but also Qwest states that the ICAs do not address all of the issues. For example, Qwest said in its Response that rates are not available in at least some situations, and that Qwest bills from the Statement of Generally Available Terms (“SGAT”) in those situations. (Qwest Resp. p. 4.) No SGAT provision has been opted into by Allegiance, Covad, or Eschelon, however. Qwest has no legal or good faith basis for imposing SGAT rates on Competitive Local Exchange Carriers (“CLECs”) that are not subject to the SGAT.<sup>2</sup>

Qwest defends its unilateral imposition of rates by stating that it started imposing rates and terms “only after several weeks’ notice and several meetings with CLECs.” (Qwest Resp. p. 2.) Qwest can not cite to a statute or contract authorizing imposition of new rates and terms based on notice of several weeks and several meetings, because one does not exist. The federal Act requires Qwest to negotiate with CLECs and, if agreement is not reached, to arbitrate the issue. In addition, state commissions have rules governing establishment of rates, and ICAs contain provisions regarding rates, terms, and dispute resolution. Despite all of these requirements, Qwest extended none of these processes to the terms and rates that it imposed here. Qwest used the CMP merely as a notice tool, rather than as a means to build consensus and reach agreement. As a basis for doing so, Qwest asserts in its Response that it is entitled to recover its costs. This is an argument properly made in negotiations or dispute resolution proceedings, or to an arbitrator or state commission, *before* imposition of a term or rate. In such situations, CLECs would be allowed to respond that Qwest is permitted cost recovery only when the applicable ICAs permit such recovery and charges are cost-based and approved by a state commission. Then, if the parties do not agree, an arbitrator or commission, with all the facts and evidence relating to the charges before it, would decide the issue. Qwest didn’t follow any such process. Instead, Qwest has unilaterally implemented its claimed entitlement to cost recovery — at the expense of the entitlement of CLECs to the process due to them under the laws and ICAs.

Qwest’s CR and its Response have demonstrated that Qwest applies a “one-size-fits-all” approach, despite differences in individual ICAs. For the actions subject to this particular escalation, Qwest needs to suspend its conduct and follow proper procedures before implementing new terms and rates. Overall, Qwest needs to establish a process to account for individual ICAs when using the CMP and before implementing processes.<sup>3</sup>

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<sup>2</sup> In footnote 3 on page 4 of its Response, Qwest states: “The SGAT rates are interim in nature until finally approved and may be subject to true-up upon approval, if a commission determines that is necessary.” Qwest cites no authority for this statement, and it is certainly not the case everywhere. For example, in Minnesota, the SGAT rates have not been adopted on an interim or any other basis. If Qwest is referring to a term of the SGAT that provides that the rates are interim and subject to true-up, the argument is circular. Just as the rate doesn’t apply because we haven’t opted in to any SGAT, the true-up provision in an SGAT doesn’t apply either. The rates Qwest is seeking to charge have not been approved by the state commissions for application to Allegiance, Covad, and Eschelon, none of which have opted in to an SGAT.

<sup>3</sup> In the CMP Re-Design meetings, CLECs have questioned whether Qwest may use CRs to establish rates at all.

**Qwest is Recovering Costs, Without These Additional Charges.**

For the reasons discussed above, this is not the appropriate forum in which to argue cost recovery. Because Qwest has interjected that issue here, however, we will briefly point out that Qwest is currently recovering its costs, and perhaps double or triple recovering them in some instances.

**Cost Recovery Through Reciprocity.**

Much like cost recovery under a bill-and-keep compensation mechanism, Qwest has been compensated through charges that it has not had to pay CLECs to date. For example, when Qwest reports to a CLEC that there is No Trouble Found (“NTF”), the CLEC often dispatches its own technician to test and isolates the trouble to the Qwest network. Once Qwest admits that the trouble was, in fact, in Qwest’s network, Qwest must repair it, because the trouble is in Qwest’s network. Under both the ICAs and the SGATs, Qwest should not be able to charge CLEC in this situation, because the trouble was in Qwest’s network.<sup>4</sup> But, although the trouble was in Qwest’s network all along, the CLEC incurred the costs associated with the dispatch and trouble isolation/testing. Allegiance, Covad, and Eschelon do not currently recover these costs from Qwest. This is the reciprocity issue raised in the CR calls and in the Escalation. If Qwest is allowed to impose charges in these situations, CLECs will begin to charge Qwest as well. This would increase costs for all in recording and billing these charges among the parties. As long as CLECs are not charging Qwest in these situations, Qwest is recovering costs through these savings to Qwest. If Qwest is dissatisfied with the current arrangement, Qwest needs to commence negotiations, dispute resolution, or arbitrations. It cannot shift this burden to CLECs by simply ignoring the law governing proper procedures and begin unilaterally imposing processes and rates.

**Cost Recovery Through Recurring Rate/Maintenance Expense.**

Qwest is also recovering costs through the recurring wholesale rates. Qwest is paid a recurring rate to deliver a working product that meets the specifications for that product. CLECs do not pay the full rate to buy a sub-standard or non-working product. If the product is not working properly or does not meet specifications, Qwest is over-recovering costs when receiving the full recurring rate. If Qwest had brought this issue to an appropriate forum for discussion of rates, cost studies would be available to show the components of the recurring rate. Not only do the recurring rates assume a working product, but also the loop cost includes an expense factor that is applied to the loop for

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<sup>4</sup> See, e.g., AZ Eschelon-Qwest ICA, Att. 5, ¶ 3.2.17.7 (providing that a charge “may” apply if Qwest dispatches to perform tests on an unbundled loop “and the fault is not in Qwest’s facilities”) (emphasis added); AZ SGAT 9.4.5.3.4 (“If this additional testing uncovers electrical fault trouble . . . in the portion of the network for which Qwest is responsible, CLEC will not be charged by Qwest for the testing.”). Although Qwest suggests in its Response that charges only apply when the trouble is not in Qwest’s network, the discussions about the CR have suggested otherwise. Moreover, in the escalation, Eschelon provided a specific example (with ticket number) of a situation in which the trouble was in Qwest’s network and yet Qwest charged Eschelon (at the SGAT rate) \$84.60 for “Maintenance Dispatch – No Trouble Found.” Qwest did not respond to this example.

maintenance. Because this cost recovery mechanism is already in the wholesale price, any additional charge for the same activity is a double recovery. By not providing any cost support for Qwest's charges and taking the discussion out of any context in which such data would be available, Qwest has prevented analysis of whether any of the costs it is claiming in these charges are already being recovered elsewhere.

### **Double or Triple Cost Recovery.**

In addition to double recovering costs already accounted for in the recurring rates, Qwest will double or triple recover rates if it charges for any of the same activities through what has now developed into at least three charges: (1) testing; (2) trouble isolation charge ("TIC"); and (3) maintenance and repair. As indicated in the Escalation of this issue, it was unclear when and how these charges would apply and whether there is more than one charge. Eschelon identified charges that have already appeared on Eschelon's bill (at SGAT rates) that Eschelon believed, based on Qwest's discussion of this CR to date, were associated with the additional testing issue. In its Response, Qwest said that those charges were not for testing but were for other charges that Qwest instituted in June. There was no ICA activity of any kind in June that would have resulted in new charges being applied to Eschelon's bill. Qwest unilaterally began charging Eschelon SGAT rates, even though Eschelon has not opted in to any SGAT. Eschelon has been left to attempt to identify and verify these charges to dispute them.

Because Qwest has provided no data whatsoever to support the new charges, CLECs are not in a position to determine whether any of the components of each charge overlap and constitute double or triple recovery. Qwest created this problem by attempting to impose rates without following the proper procedures, as discussed above. Applying the proper procedures would help resolve the mysteries created by Qwest's Response and explanations of this CR. When Qwest submitted its Additional Testing CR, Eschelon asked Qwest to provide a basis in its ICAs for the Additional Testing rates. Qwest could not provide citations to provisions of all of Eschelon's ICAs. For those for which Qwest claimed language did support the rates, Qwest pointed to a provision of Eschelon's ICA in AZ that allows a charge for *trouble isolation* when the fault is not in Qwest's network as the basis for the *testing* charge. (See AZ ICA, Att. 5, 3.2.17.7, cited in Qwest email by Dennis Pappas, copied in Escalation.) Therefore, in the Escalation, Eschelon challenged some of those charges. In its Response, Qwest said that Eschelon was mistaken, and those charges are something different. They relate to "Trouble Resolution" billing that Qwest implemented in June. (Qwest Resp. p. 3.) Qwest said that the Additional Testing charge is different from the "Maintenance of Service" charge. The latter charge "involves only labor, *including testing* and maintenance." (Qwest Resp. p. 3, emphasis added). This explanation certainly raises the possibility that the testing charge and the labor charge will both have some of the same components, resulting in double recovery. Similarly, Qwest refers to a "*test* to achieve Trouble Isolation." (Qwest Resp. p. 3, emphasis added). Now, there is some fancy footwork. How is trouble typically isolated, if not through testing? Yet, Qwest has at least two separate charges that it plans to apply: (1) testing; and (2) trouble isolation. Attempting to find the components of each charge begins to feel like a shell game. At a minimum,

the confusion allows for mistakes in application that result in double or triple recovery. Rates and processes should not be imposed in this manner.

**If a Compliance Problem Exists, Qwest Needs to Address the Compliance Issue with the Non-Complying CLECs.**

Qwest claims that it submitted its Additional Testing CR “because CLECs were not consistently complying with the requirement to provide test results prior to opening a trouble ticket.” (Qwest Resp. p. 2.) Aside from whether there is such a requirement in every ICA of Allegiance, Covad, and Eschelon,<sup>5</sup> Qwest’s statement raises two additional issues: (1) Qwest has not shown that there is a compliance problem; and (2) Qwest has not explained why Qwest did not deal directly with the non-complying CLECs.

**Qwest has Provided No Evidence of a Compliance Problem.**

When CLECs submit CRs to CMP, Qwest consistently requires CLECs to provide data and extensive examples to prove that a problem exists before Qwest will provide a solution. Qwest does not simply take the CLEC, a customer, at its word. Yet, in submitting and clarifying its CR, Qwest has provided no data to support its assertion of a compliance problem. CLECs are supposed to take Qwest at its word. In its Response, Qwest does not even attempt to quantify the magnitude of the alleged problem. Qwest’s approach in addressing this problem with a CR applicable to all CLECs is akin to using a sledgehammer to kill a fly.

Although the data did not come to us through CMP, we are aware of related claims that Qwest has made in the wholesale service quality docket in Minnesota (docket number P-421/AM-00-849). In that proceeding, Qwest submitted an exhibit (number 38) that purports to show the percentage of CLEC trouble tickets that Qwest coded with a trouble resolution code of “No Trouble Found.” Presumably, the claim is related to Qwest’s position in this Escalation that there is a compliance problem. Attached is a copy of Eschelon’s testimony that refutes the accuracy of Qwest’s information. As indicated in the attached testimony, a sampling of the Qwest data showed that 54% of Qwest’s results (where Qwest claims NTF) did not match the resolution code Eschelon used in closing the ticket. Specifically, Eschelon’s records show that 28.8% of those tickets were closed with trouble found; 10.9% were closed with a resolution code of “came clear with testing (CCWT),” which means that Qwest saw trouble on the line initially, but the trouble cleared while testing; 6.5% were closed without a call back from Qwest with a trouble resolution code to Eschelon; and 8.7% of the reports do not match trouble tickets in Eschelon’s records. The remaining 45.7% of those tickets were closed

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<sup>5</sup> Qwest claims that it submitted its Additional Testing CR to “notify” CLECs that it was “tightening adherence to existing requirements.” (Qwest Resp. p. 2.) As indicated, Qwest has not shown that there were such existing requirements in each ICA of Allegiance, Covad, and Eschelon. When Eschelon asked for Qwest’s authority for its position that the CR merely “clarified” existing requirements, Qwest could produce no ICA requirement in three states and no rates in several states. The language Qwest did provide does not support all of Qwest’s conduct and rates, and the parties disagree about its application. Whether there is a requirement to provide test results prior to opening a trouble ticket (for these CLECs, which have not opted into an SGAT) is discussed below.

by Qwest with trouble resolution code of “test OK, no trouble found (TOK/NTF).” Of the remaining 45.7% of the tickets, there is also reason to doubt the accuracy of their trouble resolution code. As discussed in the attached testimony, the reason relates to errors in orders written by Qwest order writers that result in closure of the trouble ticket and issuance of a new service order. Because Qwest does not count service order errors in its trouble report data, Qwest’s trouble report data will tend to overestimate the percentage of trouble tickets coded as TOK/NTF.

Qwest has not established that a compliance problem exists, particularly with respect to Allegiance, Covad, and Eschelon. An alleged compliance problem that may not even relate to these CLECs is not a sound basis for imposing new terms and rates on Allegiance, Covad, and Eschelon.

**Qwest Should Deal Directly With the Non-Complying CLECs, if Any.**

If a compliance problem does exist, Qwest’s Response did not address whether Qwest has attempted to deal directly with the non-complying CLECs to gain compliance. CLECs generally have enforcement and dispute resolution provisions in their ICAs. If these really are existing ICA requirements, Qwest has ample basis to approach a CLEC on a non-compliance issue. Qwest did not even claim in its Response that it had tried to do so and was unsuccessful. If Qwest did so, Qwest did not say what happened and why a CR is a better solution. If Qwest did make this attempt and has reasons why a CR is a better approach, such data should have been part of the presentation and clarification of the CR. Without such supporting data, using a CR to address a compliance issue appears to be further evidence of Qwest’s “one-size-fits-all” approach and the problems it creates.

**The CR and Related Terms and Charges are New Requirements and Not Simply Clarifications of Existing Requirements.**

In reality, although Qwest has tried to present its CR as a “clarification” of “existing” requirements, Qwest is imposing *new* terms and rates through this CR and related charges that have been discussed as part of this Escalation.<sup>6</sup> Qwest cites no authority in the ICAs for its claim. None of our ICAs contain all of the Additional Testing, Trouble Isolation, and Maintenance terms at the rates and in the manner in which Qwest is implementing them. Some of our ICAs have some of the requirements to which Qwest refers, and some have none at all. For example, the Minnesota AT&T/WCOM ICA, into which both Allegiance and Eschelon have opted, has *no* provision requiring the

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<sup>6</sup> A similar language issue involves Qwest’s change from “additional testing” (the term used in the initial CR) to “optional testing” (the term used in Qwest’s Response). Qwest appears to be emphasizing the allegedly optional nature of the testing to counter objections about the rates. Given that Qwest will reject a trouble ticket without testing or acceptance of a unilateral, unapproved rate, this is not a truly “optional” situation. Moreover, CLECs cannot conduct testing in certain situations involving pair gain, but the documentation makes no exception for such circumstances. Although Bill Campbell seemed to suggest on a call that an exception would be acceptable to Qwest, this has not been confirmed or documented. Such issues could be dealt with in the CLEC-proposed collaborative process. Even assuming the testing is truly optional, however, an optional rate is also subject to the requirements that rates be based on cost and approved by the commissions.



CLEC to provide test results to Qwest (before opening a trouble ticket or otherwise). Qwest cannot “clarify” a term that is not in the ICA. Even when the CLEC is required to provide test results, the rates imposed by Qwest are not supported by the ICAs. Qwest is imposing new terms, without first following processes required by the ICAs and the law.

Instead of citing any basis in the ICAs for the testing “requirement,” Qwest argues that CLEC testing is important and efficient. (Qwest Resp. p. 1.) Qwest also argues that testing is an industry standard.<sup>7</sup> (Qwest Resp. p. 1.) As with Qwest’s cost recovery argument, these are arguments properly made in negotiations or dispute resolution proceedings, or to an arbitrator or state commission, *before* imposition of a term or rate. For example, Qwest negotiated language for inclusion in the SGAT that states that “CLEC will perform trouble isolation on the Unbundled Loop and any associated ancillary services prior to reporting trouble to Qwest.” *See, e.g., AZ SGAT 9.2.5.1.* Allegiance, Covad, and Eschelon have not opted in to the SGAT. Before imposing this requirement on them, Qwest needs to negotiate a similar requirement with them in each of their states. All three have said that they in principle agree with this concept, but they want input into how the concept is applied in practice. Instead of coming to the table to negotiate such terms, Qwest is unilaterally imposing its own requirement by rejecting trouble tickets that do not have test results.

In its Response, Qwest states that “In each meeting, Qwest offered to negotiate an amendment to a CLEC’s interconnection agreement if it disagrees with the rates Qwest has proposed for Optional Testing.” (Qwest Resp. p. 2.) This is not the case. Allegiance, Covad, and Eschelon had representatives at the meetings, and this offer was not made at each meeting. To the contrary, Qwest presented the CR as a “clarification” of “existing” requirements, making an amendment unnecessary. At the monthly process CMP meeting in November, Terry Wicks of Allegiance asked Bill Campbell of Qwest whether Qwest had checked everyone’s ICAs to be sure the CR was consistent with those ICAs. Bill Campbell said yes. This response certainly suggested that no amendment was necessary. In fact, an agreement with CLECs is necessary, but Qwest failed to obtain one.

**Qwest Has No Authority to Proceed on a “Notice-And-Go” Basis, As it Has Done Here.**

Although Qwest entitled the document at issue a “CR,”<sup>8</sup> it is actually a simple a notice of intent. Qwest essentially acknowledges this in its Response, in which Qwest

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<sup>7</sup> Qwest provides no documentation or citations to standards to support this statement.

<sup>8</sup> On page 2 of its Response, Qwest states that it submitted its CR based on its “good faith interpretation” of the interim process. In footnote 2 on the same page, Qwest states that “disagreement” has since arisen in CMP Re-Design about the applicability of the interim process to this type of CR. Both Qwest and CLECs agreed that Qwest would submit Qwest-initiated changes as CRs in Product/Process CMP. This mutual understanding is shown by the fact that Qwest submitted this CR. The fact that Qwest has since withdrawn other Qwest-initiated CRs from the Product/Process CMP and seems to indicate in the Response that it would like to do the same with this one, demonstrates a *reversal in position* by Qwest, not a disagreement. Although there is now substantial disagreement about the interim process, that does not change that fact that Qwest has changed course on this issue.

states that the purpose of its CR was to “formally notify” CLECs of the change.<sup>9</sup> (Qwest Resp. p. 2.) Qwest’s CR stated Qwest’s policy,<sup>10</sup> and Qwest announced a date for implementation. Qwest did not seek consensus or approval at the time, nor did it suspend its plans upon CLEC objection. Although Qwest states in its Response that it answered all questions about the CR (Qwest Resp. pp. 1-2), Qwest omits that several CLECs objected repeatedly to the process and rates and that Qwest answered many questions and objections in the negative. Covad believed that the process had been ceased after a call held during a Re-Design meeting, because of the universal and extensive nature of the objections. But, it turns out that Qwest announced only a slight delay in implementation of the billing, and it proceeded with implementation of the processes over objection. At this time, Qwest is rejecting trouble tickets without testing in states where our ICAs do not require us to test prior to submitting a trouble ticket. Qwest has also said that it will impose SGAT rates when there is no rate in the ICA. As indicated in the Escalation, Qwest is already billing Eschelon SGAT rates, even though Eschelon has not opted in to the SGAT, though Qwest now claims those bills are not for testing. They are for yet another charge or charges.

Qwest’s handling of this CR is very similar to its initial handling of its collocation Release Notifications (“RNs”), in which Qwest announced process changes to collocation that were different from ICA provisions governing collocation. Covad objected to Qwest’s practice of unilaterally changing terms without regard to Covad’s ICAs. Covad (as well as other CLECs, such as AT&T, XO, and ELI) testified as to the inappropriateness of the RNs during section 271 proceedings in Arizona, Colorado, and Washington. The RNs were introduced into evidence as well. As a result, Qwest had to suspend that process<sup>11</sup> and recognize that it cannot unilaterally announce a change that amounts to a modification to an ICA. Qwest needs to have the same realization here and pursue a different course in this case. Overall, Qwest needs to recognize that it has no authority for a “notice-and-go” approach to changes that affect CLECs. Blanket notifications that do not account for differences in individual ICAs, whether in the form of a CR or RN, are unauthorized and unenforceable.<sup>12</sup>

Qwest’s handling of this CR has highlighted many issues for resolution in CMP Re-Design. Not only does the Core Team need to re-address the process for Qwest-initiated CRs in Product/Process CMP, but also the Core Team needs to re-address the systems issues with respect to such CRs. For example, Qwest has indicated that it will

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<sup>9</sup> Qwest represents that CLECs requested notice. *See id.* CLECs have consistently requested that Qwest submit CRs to **build consensus and gain approval**, not simply to notify CLECs of unilateral changes. Whether, when, and to what extent agreement or approval is needed, and the process for obtaining it when needed, are all issues that remain for discussion in the CMP Re-Design sessions. In the meantime, the ICAs require agreement.

<sup>10</sup> The one-paragraph CR is quoted in its entirety in the Escalation.

<sup>11</sup> Instead, Qwest and CLECs entered into a collaborative process that, despite the unfortunate circumstances leading to its development, ultimately proved successful and satisfactory to CLECs and Qwest. As discussed below, Allegiance, Covad, and Eschelon have suggested using the successful aspects of the collocation decommissioning process as model for resolution here.

<sup>12</sup> Qwest has claimed, in the Re-Design sessions, that under its existing CMP (formerly CICMP) procedures for Product/Process, Qwest may make such changes through RNs only. Qwest’s experience with the collocation decommissioning RNs shows that the contrary is true.

modify its systems to make billing changes. (Qwest Resp. p. 4.) Although Qwest has apparently been planning this change for some time, and Eschelon raised its concerns about the billing aspects of this CR immediately, Qwest has not submitted a systems CR to accomplish such changes. Until such issues can be addressed, in particular, Qwest needs to review and respect each CLEC's ICAs.

**Billing Process and Verification Issues Remain Unclear and Unsatisfactory.**

In its Response, Qwest states that “a unique line item will be available on each bill for the CLEC.” (Qwest Resp. p. 4.) Qwest indicates that it is making this change “in direct response to the Eschelon concern for line item identification.” (Qwest Resp. p. 4.) Eschelon does need line item identification and sufficient information to identify the basis for each charge. We believe the best method for doing this should be discussed among those affected. Qwest is not making line item identification available immediately. In its Response, Qwest states that it will be providing a paper bill in the interim until a systems modification can be made. Qwest has an obligation to provide an electronic bill (an obligation which has existed since 1996). Nonetheless, Qwest has planned this change without coordinating timing of a systems change. Paper bills place CLECs at a significant disadvantage. Bill validation is virtually impossible using paper bills. Eschelon's paper bills, for example, are hundreds and sometimes more than a thousand pages long. At a minimum, if Qwest intends to use paper bills for these charges, Qwest must use a separate Billing Account Number (“BAN”) for these charges, so that we can try to find these charges in all of that paper.

More information on the bill is only a part of the request made by Allegiance, Covad, and Eschelon in their joint Escalation. With respect to billing, we also asked Qwest to “Ensure that CLECs receive notification, at the time of the activity, if a charge will be applied, because CLECs should not have to wait until the bill arrives to discover that Qwest charged for an activity.” (Joint Suppl. Escalation, p. 9.) As Eschelon said at the most recent CMP meeting, the CLEC needs to know at the time of the event that a charge will apply. Immediately after the work is completed, Qwest needs to send CLEC a statement of services performed, testing results, and applicable charges (by telephone number) that will appear on CLEC's next invoice. If Qwest is claiming that a charge was authorized, a process should also be in place to provide timely documentation as to who authorized the charge. If CLECs must wait until the bill is received, it will be a huge task to go back and analyze what happened in each situation and whether a charge should have been applied. All of these kinds of issues should be discussed and reviewed jointly before implementation.

**The CLEC-Proposed Collaborative Process Should be Used to Resolve the Issues.**

In the Joint Escalation, we stated as the “Desired CLEC Resolution:”

“Suspend implementation of Qwest-initiated CR #PC100101-5 (process and rates).

Review any steps that Qwest has taken to make system changes, train people, or otherwise implement this CR universally at Qwest to ensure compliance with particular interconnection agreements (*e.g.*, interconnection agreements with Eschelon, Covad, and Allegiance in each state). This includes re-training, etc., as to the differences among various interconnection agreements, as well as difference from the SGAT. (Eschelon, Covad, and Allegiance each has an interconnection agreement with Qwest, and none of these CLECs has opted into the SGAT.)

Provide documentation showing that Qwest has trained its personnel and taken other steps to ensure compliance with individual interconnection agreements, including differences in those agreements as compared with the SGAT.

Begin a collaborative effort (similar to that used for collocation decommissioning) to develop an improved process and, when possible, gain consensus before implementation. Ensure that part of the process is to provide accurate bills that reflect interconnection agreement rates and provide sufficient information for bill verification. Ensure that CLECs receive notification, at the time of the activity, if a charge will be applied, because CLECs should not have to wait until the bill arrives to discover that Qwest charged for an activity. If no consensus can be reached, Qwest should then be responsible for escalation before implementation.

Ensure reciprocity so that CLECs may recover their costs in the same circumstances in which Qwest is allowed to recover its costs for such testing.

Explain the rates being charged before December 1, 2001 for loop maintenance and testing and explain how these rates and their application differ, if at all, from the procedures after December 1, 2001.”

These items continue to be the CLEC desired resolution.<sup>13</sup> At the December Product/Process CMP meeting, Allegiance, Covad, and Eschelon made a reasonable request to Qwest to consider a collaborative effort, modeled after successful aspects of the one ultimately used to address collocation decommissioning, to address all of the issues raised in this escalation. That process involved, for example:

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<sup>13</sup> In addition, on December 7, 2001, Eschelon sent an email to Qwest (Judy Schultz) stating: The mailout below relates to "Optional Testing" and states that "there were no comments returned to Qwest regarding this change." The change relates to Qwest-initiated CR# PC100101-5. Given the number of communications, written and oral, about this issue, as well as the pending joint escalation, Eschelon does not understand how the notice can indicate that no comments were returned to Qwest.

Eschelon asks Qwest to consider, as part of the "Desired CLEC Resolution" section of the Escalation of CR# PC100101-5, a request to suspend these PCAT changes.

In addition, for purposes of Re-Design, Eschelon asks Judy Lee to add an action item to discuss a process for ensuring that the administrator of these mailouts is notified of comments made through CMP, account teams, etc.

- CLEC opportunity to express desires with respect to the new "product offering."
- Qwest review of CLEC input; proposed "product offering" at the next meeting.
- Meetings (approx. 2 months)
- Presentation to CMP; Posting for 30 days on the WEB for CLEC comment
- Contract amendments to the participating CLECs (option to agree to amend per the new product, negotiate specific changes based upon individual needs, or not do anything until need for the offering).

Although not all aspects of the collocation product were agreed upon, much progress was made in approximately two months of meetings. In addition to this example, the parties have gained experience and learning from Qwest's handling of the appointment scheduler issue. That experience showed that the process works more smoothly if information is provided in advance of action. Qwest's initial announcement of its plan to implement an appointment scheduler in a point release received a substantial adverse reaction. Because Qwest provided so little information about its plans and did not work together with CLECs to confirm what would really meet CLEC needs, Qwest encountered strong opposition. After Qwest incorporated CLEC feedback and provided more information, Qwest met with substantially less resistance. CLECs have asked that, in the future, Qwest take the consensus building approach first, before "announcing" a change. If Qwest comes in with a proposal (a true request for a change, as opposed to notice of one), the parties can work together to develop a workable process/product and minimize disputes.

Allegiance, Covad, and Eschelon continue to support and request use of a thorough collaborative process and suspension of the current process (including rates) in the interim. As we have said throughout this process, we are not opposed in principle to the type of testing at issue and encourage use of reasonable practices along these lines. We already conduct testing before submitting trouble tickets. The process and rates that Qwest has imposed, and the manner in which Qwest has approached this issue, however, are unacceptable. Our proposal for resolution, unlike the Qwest proposal, is not limited to rates or to one month. The collaborative process needs to deal with the processes associated with the trouble isolation and maintenance charges as well, to be clear when each applies. We are willing to dedicate resources to expedite a collaborative process, and we ask Qwest to re-consider this request.

If Qwest agrees, the following representatives will be the points of contact for each of our companies in the collaborative process:

Terry Wicks  
LEC Account Manager  
Allegiance Telecom, Inc.  
469-259-4438

Michael Zulevic  
Covad  
Director-Technical/Regulatory Support  
520-575-2776

Loren Walberg  
Director of Repair  
Eschelon Telecom, Inc.  
612-436-6453

December 19, 2001

Burl Harr, Ph.D.  
Minnesota Public Utilities Commission  
350 Metro Square Building  
121 Seventh Place East  
St. Paul, MN 55101-2147

RE: In the Matter of Qwest Wholesale Service Quality Standards  
Docket No. P-421/AM-00-849

Dear Dr. Haar:

Enclosed is an original and fifteen (15) copies of Supplemental Testimony by Garth Morrisette. The purpose of Mr. Morrisette's testimony is to respond to inaccurate trouble report data presented by Qwest in Exhibit 38. Since Qwest Exhibit 38 was presented by Qwest late in the afternoon on the last day of the evidentiary hearing, Eschelon is responding with this testimony at this time.

Sincerely,

Dennis Ahlers  
Senior Attorney  
Eschelon Telecom, Inc.  
(612) 436-6249

DDA:tlg  
Enclosure  
cc: Service List

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott  
Edward A. Garvey  
Marshall Johnson  
LeRoy Koppendrayner  
Phyllis Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Qwest Wholesale Service  
Quality Standards

DOCKET NO. P-421/AM-00-849

**SUPPLEMENTAL TESTIMONY OF  
GARTH MORRISETTE FOR ESCHELON TELECOM, INC.**

**December 19, 2001**



1 **Q. PLEASE STATE YOUR NAME, EMPLOYER, AND TITLE.**

2 A. My name is Garth Morrisette and I am the Director of Regulatory Affairs for  
3 Eschelon Telecom, Inc. (Eschelon). My business address is 730 Second Avenue  
4 South, Suite 1200, Minneapolis, MN 55402.

5 **Q. HAVE YOU BEEN PREVIOUSLY SWORN IN AS A WITNESS IN THIS**  
6 **PROCEEDING?**

7 A. Yes.

8 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?**

9 A. The purpose of my supplemental testimony is to correct the record with respect to  
10 Eschelon specific data contained in Qwest Exhibit 38.

11 **Q. PLEASE DESCRIBE QWEST EXHIBIT 38.**

12 A. Qwest Exhibit 38 purports to show the percentage of CLEC trouble tickets that  
13 Qwest coded with a trouble resolution code of "no trouble found." Qwest Exhibit  
14 38 contains confidential and trade secret information regarding trouble report  
15 rates on 73 CLECs, including Eschelon, in Qwest's 14 state service territory. The  
16 exhibit is titled "Percent Trouble Tickets for Which No Trouble Was Found -  
17 Qwest Region - September 2001." Qwest refers to the exhibit in its Reply Brief  
18 in criticizing the Coalition's proposal for MN-6 (Trouble Rate). Qwest implies  
19 that the Coalition's proposed standard for MN-6 of no more than 2.5 trouble  
20 reports per 100 access lines is not attainable for Qwest because the trouble report  
21 rate for CLECs is biased upward as a result of CLECs submitting trouble reports  
22 when no trouble is found. Qwest's brief states: "The record shows the percentage  
23 of CLEC trouble reports result in no trouble being found." Qwest Reply Brief at

1 p. 31. Qwest supports that statement by referring to Exhibit 38, which was  
2 introduced by Qwest late in the afternoon on the last day of the evidentiary  
3 hearings. Because the exhibit was introduced so late in the hearing, Eschelon did  
4 not have a chance at hearing to refute or rebut the accuracy of the data. Qwest  
5 Witness Mr Inouye stated that the data used for Exhibit 38 came from Qwest's  
6 Network Department and that he was not sure whether the data had been audited  
7 by Liberty Consulting Group as part of the PID auditing process. TR Vol. 9, p.  
8 14.

9 **Q. DOES ESCHELON HAVE EVIDENCE THAT REFUTES THE**  
10 **ACCURACY OF THE RESULTS IN EXHIBIT 38?**

11 A. Yes. Eschelon personnel reviewed trouble tickets for the months of July-October  
12 2001 for which Qwest claims the Trouble Tickets were closed with a resolution  
13 code of "Test OK, No Trouble Found" (TOK/NTF). Our analysis indicates that  
14 54% of those results reported did not match the resolution code Eschelon used in  
15 closing the ticket. Specifically, Eschelon's records show that 28.8% of the tickets  
16 were closed with trouble found; 10.9% were closed with a resolution code of  
17 "came clear while testing" (CCWT) which means that Qwest saw trouble on the  
18 line initially, but the trouble cleared while testing; 6.5% were closed without a  
19 call back from Qwest with a trouble resolution code, which means that Qwest did  
20 not report the trouble resolution code to Eschelon; and 8.7% of the reports do not  
21 match trouble tickets in our records. The remaining 45.7 percent of the tickets  
22 were closed by Qwest with trouble resolution code of "test OK, no trouble found"  
23 (TOK/NTF).

1 **Q. IS THERE ANY REASON TO DOUBT THE ACCURACY OF THE**  
2 **TROUBLE RESOLUTION CODE FOR THE REMAINING 45.7% OF THE**  
3 **TROUBLE TICKETS IN QUESTION?**

4 A. Yes. Eschelon has experienced significant increase in the number of errors on  
5 orders attributable to Qwest that result in features being dropped or omitted from  
6 Eschelon's UNE Platform orders. In some cases, PIC changes were not processed  
7 on the orders. I was told by a Qwest representative that as many as 70% of  
8 Eschelon's orders written by Qwest order writers in November were corrected for  
9 these types of errors. I have also been told by Qwest representatives and  
10 Eschelon repair personnel that these types of feature/translation issues would be  
11 classified by Qwest with the TOK/NTF resolution code. When Qwest closes the  
12 ticket with trouble resolution code of TOK/NTF it directs Eschelon to issue a new  
13 service order (LSR) to add the feature, or change the PIC on the line. Since  
14 Qwest does not count service order errors in its trouble report data, Qwest's  
15 trouble report data will tend to overestimate the percentage of trouble tickets  
16 coded as TOK/NTF.

17 **Q. BASED ON YOUR TESTIMONY, DO YOU THINK EXHIBIT 38**  
18 **ACCURATELY REFLECTS THE PERCENTAGE OF CLEC TROUBLE**  
19 **REPORTS THAT RESULT IN NO TROUBLE FOUND?**

20 A. No, at least not with respect to the Eschelon data.

21 **Q. DOES THAT CONCLUDE YOUR SUPPLEMENTAL TESTIMONY?**

22 A. Yes.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 84**

**Example of Eschelon Oversight Committee Meeting Request:  
Meeting Minutes**

This document includes excerpts from Qwest-prepared CMP Redesign Meeting Minutes, as well as excerpts from the CMP Document. It also includes URLs to the complete documents from which the excerpts were taken. Following the excerpts there is a Eschelon-Qwest email exchange in which, despite Qwest’s documented July 2001 commitment in CMP Redesign “to provide minutes from each CICMP meeting and ad hoc meetings/calls,” Qwest said “Qwest believes that minutes for ad hoc meetings associated with a change to disposition request are not required under the current CMP Document. The Eschelon-Qwest email exchange also includes Eschelon’s request for Oversight Committee review.

***Excerpt from July 2001 CMP Redesign Meeting Minutes:***

**“MEETINGS**

Qwest has committed to provide minutes from each CICMP meeting and ad hoc meetings/calls. The minutes will include summaries of the discussions and issues from the meeting. Each CLEC will designate a primary and alternate Change Management point-of-contact who will serve as the official designees for matters regarding the Change Management Process.

- **DECISION:** Qwest committed to provide minutes from each CICMP meeting and ad hoc meetings/calls.
- **DECISION:** Primary point-of-contact is the official voting member, and a secondary (alternate) point-of-contact can vote in the absence of the primary contact.”

Available at:

[http://www.qwest.com/wholesale/downloads/2001/010821/CMP\\_July19\\_Mtg\\_Minutes\\_FINAL\\_Rev\\_14aug2001.doc](http://www.qwest.com/wholesale/downloads/2001/010821/CMP_July19_Mtg_Minutes_FINAL_Rev_14aug2001.doc)

***Excerpt from April 2002 CMP Redesign Meeting Minutes:***

“#111 Menezes-AT&T stated that they are getting meeting minutes for everything and the gap could be closed. Clauson-Eschelon stated that the team needed agendas and meeting minutes for all meetings. Gap analysis item #111 closed.”

Available at:

[http://www.qwest.com/wholesale/downloads/2002/020715/CMP\\_RedesignMeetingMinutesApril2-4FINAL07-15-02.doc](http://www.qwest.com/wholesale/downloads/2002/020715/CMP_RedesignMeetingMinutesApril2-4FINAL07-15-02.doc)

***Excerpt from August 2002 Gap Analysis Document – Gap Analysis for Gap #111:***

"111	Meetings-Minutes	AT&T	Does the provision in the Master Redline, page 54 (Meeting Minutes), mean the Qwest will prepare minutes from the monthly meetings as well as any
------	------------------	------	---

		<p>other meetings held by the CMP group? How about clarification calls? Is there any CMP-related meeting for which minutes would not be taken? We should clarify the language to make clear when minutes will be taken. If there are minutes, are they just posted on the web or are they distributed by e-mail to just the participants/the entire CMP distribution? Does it depend on the meeting?  <b>[CLOSED 4/3/02: Refer to Master Redlined framework]</b></p>
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Available at:

<http://www.qwest.com/wholesale/downloads/2002/020805/CombinedCMPRedesignGapAnalysisRev08-01-02.doc>

**Excerpt from September 2002 CMP Redesign Meeting Minutes:**

“The team then reviewed all occurrences of the word “meeting(s) and determined that the appropriate deliverables were outlined for all meetings, i.e., minutes, distribution materials, and other deliverables. Language was added under “Additional Meetings” in Section 3.0 to clarify that minutes would be distributed.”

Available at:

[http://www.qwest.com/wholesale/downloads/2002/021108/CMP\\_RedesignMeetingMinutes\\_9\\_12-13F\\_11-6-02.doc](http://www.qwest.com/wholesale/downloads/2002/021108/CMP_RedesignMeetingMinutes_9_12-13F_11-6-02.doc)

**Excerpt from September 2002 CMP clean up document – Sections 3.0, 3.1 and 3.2 clean up resulting from the September 2002 Redesign Meeting:**

**“3.0 CHANGE MANAGEMENT PROCESS MEETINGS**

Change Management Process meetings will be conducted on a regularly scheduled basis, at least two (2) consecutive days on a monthly basis. Meeting participants can choose to attend meetings in person or participate by conference call.

Meetings are held to review, ~~prioritize,~~ manage the implementation of Product/Process and System changes, and address ~~eChange management r~~Requests. Qwest will review the status of all applicable Cehange Rrequests. The meeting may also include discussions of Qwest’s OSS Interface Release Calendardevelopment view.

CLEC’s request for additional agenda items and associated materials ~~must~~should be submitted to Qwest at least five (5) business days by noon (MT) in advance of the meeting. Qwest is responsible for distributing the agenda and associated meeting materials ~~at least three (3) business days by noon (MT) in advance of the meeting.~~ IREDUNDANT TO 3.1 and Qwest will be responsible for preparing, maintaining, and distributing meeting minutes. Attendees with any walk-on items should bring hard copy materials of the walk-on items to the meeting and should, at least two (2) hours prior to the meeting, provide copies of such materials electronically (soft copy) to the CMP Manager, cmpcr@qwest.com, for distribution to all parties.

All attendees, whether in person or by phone, must identify themselves and the company they represent.

Additional meetings may be held at the request of Qwest or any CLEC. Meeting notification must contain an agenda plus any supporting meeting materials. ~~Notification for these~~ ~~These~~ meetings ~~will should be distributed announced~~ at least five (5) business days prior to their occurrence. ~~Exceptions may be made for emergency situations.~~ Qwest will record and distribute meeting minutes, unless otherwise noted in this CMP.

### 3.1 Meeting Materials [Distribution Package] for Monthly Change Management Process Meetings [AT&T Note: ~~does this section really only apply to monthly meetings? There should be some standard for all meetings~~]

Meeting materials ~~should~~ will include the following information:

- Meeting Logistics
- Minutes from previous meeting
- Agenda
- Change Requests and responses, as applicable
- New/Active
- Updated
- ~~Log~~
- Issues, Action Items Log and associated statuses
- Release Summary, as applicable
- OSS Interface Release Calendar, as described in Section 6.0
- ~~12 Month Development View~~ [AT&T Note: ~~Redundant to previous bullet~~]
- ~~Monthly System Outage Report~~ Date TBD Trouble Tickets, as described in Section 12.3
- Any other material to be discussed

Qwest will provide Meeting Materials (~~d~~Distribution ~~p~~Package) electronically, by noon ~~(MT), three (3) business days prior to the Monthly CMP Meeting.~~ In addition, Qwest will provide hard copies of the ~~d~~Distribution ~~p~~Package at the Monthly CMP Meeting.

### 3.2 Meeting Minutes for Monthly Change Management Process Meetings [AT&T Note: ~~Qwest writes minutes for all meetings, not just monthly meetings. Relates to Gap 111.~~]

Qwest will take minutes. Qwest will summarize discussions in meeting minutes and include any revised documents such as ~~t~~issues, ~~A~~action items and statuses.

Minutes ~~should~~ will be distributed to meeting participants for comments or revisions no later than five (5) business days by noon (MT) after the meeting. CLEC comments ~~should~~ will be provided ~~within by noon (MT) two (2) business days after receiving draft minutes by noon (MT) to the Qwest CMP Manager.~~ Revised minutes, if CLEC comments are received, ~~should~~ will be distributed ~~posted~~ to the CMP Web site within nine (9) business days by noon (MT) after the meeting. [AT&T Note: ~~"Should" appears in several places in the CMP document. It should be replaces with "will" or "shall"~~]

Available at:

[http://www.qwest.com/wholesale/downloads/2002/020918/CLEANUPQwestWholesaleCMP\\_09\\_13\\_02.doc](http://www.qwest.com/wholesale/downloads/2002/020918/CLEANUPQwestWholesaleCMP_09_13_02.doc)

**Excerpt from Current CMP Document Sections 3.0, 3.1 and 3.2 – No Change from September 2002 Clean Up Document (see above):**

### **“3.0 CHANGE MANAGEMENT PROCESS MEETINGS**

Change Management Process meetings will be conducted on a regularly scheduled basis. The CMP Product/Process and Systems Meetings will be conducted on the same day of each month or on at least two (2) consecutive days on a monthly basis, unless other arrangements are agreed upon by the CLECs and Qwest. Meeting participants can choose to attend meetings in person or participate by conference call.

Meetings are held to review, manage the implementation of Product/Process and System changes, and address Change Requests. Qwest will review the status of all applicable Change Requests. The meeting may also include discussions of Qwest's OSS Interface Release Calendar.

CLEC's request for additional agenda items and associated materials must be submitted to Qwest at least five (5) business days by noon (MT) in advance of the meeting. Qwest is responsible for distributing the agenda and associated meeting materials and will be responsible for preparing, maintaining, and distributing meeting minutes. Attendees with any walk-on items should bring hard copy materials of the walk-on items to the meeting and should, at least two (2) hours prior to the meeting, provide copies of such materials electronically (soft copy) to the CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com), for distribution to all parties.

All attendees, whether in person or by phone, must identify themselves and the company they represent.

Additional meetings may be held at the request of Qwest or any CLEC. Meeting notification must contain an agenda plus any supporting meeting materials. Notification for these meetings will be distributed at least five (5) business days prior to their occurrence. Qwest will record and distribute meeting minutes, unless otherwise noted in this CMP.

#### **3.1 Meeting Materials (Distribution Package) for Monthly Change Management Process Meetings**

Meeting materials will include the following information:

- Meeting Logistics
- Minutes from previous meeting
- Agenda
- Change Requests and responses, as applicable
  - New/Active
  - Updated
- Issues, Action Items Log and associated statuses
- Release Summary, as applicable
- OSS Interface Release Calendar, as described in Section 6.0
- Date TBD Trouble Tickets, as described in Section 12.3
- Any other material to be discussed

Qwest will provide Meeting Materials (distribution package) electronically, by noon (MT), three (3) business days prior to the Monthly CMP Meeting. In addition, Qwest will provide hard copies of the distribution package at the Monthly CMP Meeting.



### **3.2 Meeting Minutes for Change Management Process Meetings**

Qwest will take minutes. Qwest will summarize discussions in meeting minutes and include any revised documents such as issues, action items and statuses.

Minutes will be distributed to meeting participants for comments or revisions no later than five (5) business days by noon (MT) after the meeting. CLEC comments will be provided by noon (MT) two (2) business days after receiving draft minutes to the Qwest CMP Manager, [cmpcr@qwest.com](mailto:cmpcr@qwest.com). Revised minutes, if CLEC comments are received, will be posted to the CMP Web site within nine (9) business days by noon (MT) after the meeting.”

Available at:

[http://www.qwest.com/wholesale/downloads/2007/070304/QwestWholesaleChangeManagementDocument\\_03\\_05\\_07.doc](http://www.qwest.com/wholesale/downloads/2007/070304/QwestWholesaleChangeManagementDocument_03_05_07.doc)

***See next page for Qwest-Eschelon email exchange***

**QWEST-ESCHELON EMAIL EXCHANGE:**

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**From:** Stecklein, Lynn [Qwest; Contact Information Redacted]  
**Sent:** Tuesday, October 31, 2006 2:07 PM  
**To:** Johnson, Bonnie J.; Isaacs, Kimberly D.; sue.wright[Contact Information Redacted];  
Fredricksen, Laurie; Tom Hyde  
**Subject:** Maintenance and Repair and Dispatch meeting description

Attached you will find the meeting description associated with the meeting held on October 10, 2006 to discuss objections on **PROS.09.27.06.F.04212.Dispatch\_and\_MR\_Overview**.

Qwest is providing a more detailed description of the October 10, 2006 ad hoc meeting as an accommodation to Eschelon. Qwest believes that minutes for ad hoc meetings associated with a change to disposition request are not required under the current CMP Document and Eschelon's reference to the July 2001 meeting in which Qwest stated it would provide minutes for ad hoc meetings on the creation of the CMP Document did not create an obligation for all ad hoc meetings. As we pointed out, Section 3 does not provide that. As Eschelon is well aware, Qwest has not in the past provided minutes for all change to disposition request meetings and Eschelon has not objected to this practice in the past. Nonetheless, Qwest has scheduled an ad hoc meeting on November 2, 2006 to discuss Eschelon's proposal for adding a new requirement for ad hoc meeting minutes in the CMP Document.

Thanks,

Lynn Stecklein  
Qwest Wholesale CRPM

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**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, November 01, 2006 9:18 AM  
**To:** 'cmpesc@qwest.com'; 'mark.coyne [Qwest; Contact Information Redacted]'; 'lhankins[Contact Information Redacted]'; 'klee[Contact Information Redacted]'; 'becky.quintana[Contact Information Redacted]'; 'Karen.johnson[Contact Information Redacted]'  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Eschelon Telecom/CMP OVERSIGHT REVIEW ISSUE SUBMISSION - Meeting minutes

Eschelon submits this issue relating to Qwest's failure to adhere to CMP for Oversight Review per Section 18.0 of the CMP document. Qwest is failing to provide meeting minutes for all CMP meetings (specifically ad hoc meetings), as required by Section 3.0 of the CMP document and per Qwest's commitment in CMP Redesign to do so. Qwest has, at times, provided minutes for ad hoc CMP meetings, but its compliance has not been consistent and appears to be worse lately. Excerpts from the Qwest-Eschelon email exchanges to date on this issue are copied below.

On October 12, 2006 Eschelon asked Qwest when Qwest would be providing meeting minutes for an ad hoc call held on October 10, 2006 regarding tagging at the demarc and dispatch. Qwest did not provide meeting minutes. Instead, Qwest provided one paragraph indicating that Qwest will review the PCATs and hold another meeting.

Eschelon provided Qwest the language in 3.0 of the CMP document requiring Qwest to provide meeting minutes. Section 3.0 of the CMP Document is also available at: [http://www.qwest.com/wholesale/downloads/2006/061030/QwestWholesaleChangeManagementDocument\\_10\\_30\\_06.doc](http://www.qwest.com/wholesale/downloads/2006/061030/QwestWholesaleChangeManagementDocument_10_30_06.doc). Section 3.0 requires Qwest to provide meeting minutes. It states

(with emphasis added): "**Additional meetings may be held at the request of Qwest or any CLEC.** Meeting notification must contain an agenda plus any supporting meeting materials. Notification for these meetings will be distributed at least five (5) business days prior to their occurrence. **Qwest will record and distribute meeting minutes, unless otherwise noted in this CMP.**" This is the provision of the CMP Document under which ad hoc meetings are held, and yet Qwest does not consistently distribute meeting minutes.

Eschelon also provided Qwest with the final meeting minutes from the July 19, 2001 CMP redesign meeting. Those meeting minutes are also available at: [http://www.qwest.com/wholesale/downloads/2001/010821/CMP\\_July19\\_Mtg\\_Minutes\\_FINAL\\_Rev\\_14aug2001.doc](http://www.qwest.com/wholesale/downloads/2001/010821/CMP_July19_Mtg_Minutes_FINAL_Rev_14aug2001.doc). The minutes state (with emphasis added): "**Qwest has committed to provide minutes from each CICMP meeting and ad hoc meetings/calls. The minutes will include summaries of the discussions and issues from the meeting.** Each CLEC will designate a primary and alternate Change Management point-of-contact who will serve as the official designees for matters regarding the Change Management Process. · DECISION: Qwest committed to provide minutes from each CICMP meeting and ad hoc meetings/calls." This decision was documented in Section 3.0 of the CMP Document. Qwest cannot change this commitment without a unanimous vote to change the CMP Document, which Qwest has not requested. Eschelon does not favor any change in the CMP Document. The proper course is for Qwest to consistently adhere to Section 3.0's requirement to provide meeting minutes for each ad hoc meeting/call.

On October 26, 2006, Eschelon submitted the following request to Qwest:

"Eschelon requests that the following item be added to the agenda for the ad hoc call regarding CMP meeting minutes:

--Qwest use of notifications as meeting minutes substitutes, when notifications are not subject to comment and posting of comments

A recent example is Qwest's October 25, 2006 notification (CMPR.10.25.06.F.04292. Ad\_Hoc\_Meeting\_Dispatch) regarding tagging at the demarcation point. In the notification, Qwest said the companies agreed to redlining the PCAT, when in fact Qwest simply announced its intent to do so rather than ask for agreement. In addition, Qwest said it was removing inconsistencies in the PCAT when the companies did not agree there were inconsistencies. Qwest presented this information as having been discussed in the October 11, 2006 ad hoc call. If Qwest had provided meeting minutes for the October 11, 2006 ad hoc call, as required by Section 3.0 of the CMP Document, CLECs would have had an opportunity to comment on the minutes and those comments would then be posted to the website. By substituting commentary in the notification for minutes, Qwest avoids this meeting minute comment process. There is no process for a CLEC to comment upon this type of notification that would result in the posting of the CLEC's comments. Qwest needs to place any recap of meeting discussions in minutes that can be commented upon and not in notifications. Eschelon asks Qwest to comply with the CMP Document's requirement to provide meeting minutes for CMP meetings, including ad hoc calls. If, after the call on November 2<sup>nd</sup>, Qwest still will not do so, Eschelon will take this issue to the Oversight Committee."

On October 31, 2006, three weeks after the tag at the demarc call and 19 days after Eschelon requested meeting minutes, Qwest provided a document that does not conform to the meeting minutes format used for CMP monthly meetings and specifically is in a format that precludes any changes to the document. In the subject line of the email, Qwest described the minutes as a "meeting description." Qwest did not refer to the attached PDF document as meeting minutes, as the CMP Document requires. In the email, Qwest said: "Qwest believes that minutes for ad hoc meetings associated with a change to disposition request are not required under the current CMP Document and Eschelon's reference to the July 2001 meeting in which Qwest stated it would

provide minutes for ad hoc meetings on the creation of the CMP Document did not create an obligation for all ad hoc meetings. As we pointed out, Section 3 does not provide that. As Eschelon is well aware, Qwest has not in the past provided minutes for all change to disposition request meetings and Eschelon has not objected to this practice in the past. Nonetheless, Qwest has scheduled an ad hoc meeting on November 2, 2006 to discuss Eschelon's proposal for adding a new requirement for ad hoc meeting minutes in the CMP Document." Qwest's use of the PDF format to prevent changes, which is not how CMP minutes are provided to CLECs, so short in time after receiving Eschelon's request to be able to redline the minutes and have their comments posted creates a question as to Qwest's basis for using PDF. The use of PDF precludes the very redlining described and requested by Eschelon only days before Qwest issued its document in the limiting PDF format. As Qwest acted in this manner, Eschelon is taking this issue to the Oversight Committee now, rather than waiting until after the November 2nd call. The issue needs to be addressed.

Eschelon was present at the CMP Redesign meeting and, in any event, the minutes and the CMP Document speak for themselves. The CMP Document clearly requires minutes for all ad hoc calls. There are no exceptions for any ad hoc meetings described in either the CMP Redesign meeting minutes reflecting the discussion of the subject or in the CMP Document. To the contrary, the discussion in the CMP Redesign meeting minutes specifically states that minutes will be provided for "each" CICMP and ad hoc meeting. Qwest's October 31, 2006 email, states incorrectly that Eschelon is "proposing adding a new requirement for ad hoc meeting minutes in the CMP Document." The CMP Document and the CMP meeting minutes show that this statement is untrue, as the requirement pre-dates the CMP Document and is included in the CMP Document. There is no provision in the CMP Document for changing the document by failing to comply with it consistently. As discussed, Qwest cannot change this commitment without a unanimous vote to change the CMP Document. Unless and until it obtains such a vote, it needs to provide minutes (like the minutes provided for the monthly meetings) for each ad hoc meeting.

Eschelon does not need to update or change the CMP document. The language that Qwest is required to provide meeting minutes is very clear. If Qwest desires to change its requirement to provide meeting minutes for all ad hoc meetings, then it is Qwest, not Eschelon, who will need to make that request and obtain a unanimous vote to implement that change in the CMP document. Eschelon's desired resolution is that Qwest consistently provide meeting minutes (like the minutes provided for the monthly meetings) for each ad hoc meeting.

Supporting documentation:

[http://www.qwest.com/wholesale/downloads/2006/061030/QwestWholesaleChangeManagementDocument\\_10\\_30\\_06.doc](http://www.qwest.com/wholesale/downloads/2006/061030/QwestWholesaleChangeManagementDocument_10_30_06.doc)

"Additional meetings may be held at the request of Qwest or any CLEC. Meeting notification must contain an agenda plus any supporting meeting materials. Notification for these meetings will be distributed at least five (5) business days prior to their occurrence. Qwest will record and distribute meeting minutes, unless otherwise noted in this CMP."

[http://www.qwest.com/wholesale/downloads/2001/010821/CMP\\_July19\\_Mtg\\_Minutes\\_FINAL\\_Rev\\_14aug2001.doc](http://www.qwest.com/wholesale/downloads/2001/010821/CMP_July19_Mtg_Minutes_FINAL_Rev_14aug2001.doc)

## **"MEETINGS**

Qwest has committed to provide minutes from each CICMP meeting and ad hoc meetings/calls. The minutes will include summaries of the discussions and issues from the meeting. Each CLEC

will designate a primary and alternate Change Management point-of-contact who will serve as the official designees for matters regarding the Change Management Process.

**DECISION:** Qwest committed to provide minutes from each CICMP meeting and ad hoc meetings/calls.

**DECISION:** Primary point-of-contact is the official voting member, and a secondary (alternate) point-of-contact can vote in the absence of the primary contact."

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 85**

CLEC Adhoc Meeting  
PROS.09.27.06.F.04235.Dispatch\_and\_MR\_Overview  
October 10, 2006

Attendees: Bonnie Johnson – Eschelon, Kim Isaacs – Eschelon, Tom Hyde – Cbeyond, Laurie Fredricksen – Integra, Sue Wright – XO Communications, Georganne Weidenbach – Qwest, Cindy Buckmaster – Qwest, Mark Dyson – Qwest, Cathy Garcia – Qwest, Don Tolman – Qwest, Cim Chambers – Qwest, Bud Witte – Qwest, Alan Braegger – Qwest, Mark Coyne – Qwest, Susan Lorence – Qwest, Lynn Stecklein - Qwest

Lynn Stecklein – Qwest stated that the purpose of this meeting is to discuss a level 1 process notice that was distributed on September 27<sup>th</sup>. The proposed documentation update on this notice was to the Dispatch and the Maintenance and Repair Overview PCATs. Qwest received comments and/or questions from multiple CLECs regarding this notice. Qwest retracted this notice on September 28<sup>th</sup> in order to work with the CLEC Community to resolve any outstanding issues. This adhoc meeting was scheduled to further clarify that these documentation updates are not a change in Qwest's process and to answer any questions the CLECs may have.

Lynn Stecklein – Qwest stated that the document in question – Dispatch V4.0 and the Maintenance and Repair Overview V66 can be found on the Product/Process Document Review and Response Archive if anyone wanted to refer to them during this discussion.

Georganne Weidenbach – Qwest stated that Qwest's intention on this notice was to get the Dispatch PCAT in sync with the Maintenance and Repair PCAT. She said that words were added to provide clarity on tagging and that the existing Qwest process was not changing.

Bonnie Johnson – Eschelon said she thought we were all clear on the tagging process and policy with documentation back to January/February 2004 and asked if Qwest was now saying that is not the policy.

Georganne Weidenbach – Qwest stated that there are many variables associated with this process design, non design, before and after 30 days.

Tom Hyde – Cbeyond said that he agreed that the changes made to the Maintenance and Repair PCAT is not a clarification but a change. He said there was a situation beyond the 30 day timeline and tagging was done at no charge. Tom said that this tells him the practice is inaccurate.

Georganne Weidenbach – Qwest reiterated that there are so many variables and asked if the situation Cbeyond was referring to was a POTS service.

Tom Hyde – Cbeyond said that they only deal in design UBL.

Georganne Weidenbach – Qwest asked Cbeyond if the technician went out to install and did not tag.

Tom Hyde – Cbeyond stated that in the Denver market they never reuse and that there are always new loops and 100% dispatched.

Georganne Weidenbach – Qwest asked if the technician waived the fee on repair.

Cindy Buckmaster – Qwest stated that the current process is that when a technician is dispatched and the tag is not there, they will tag.

Tom Hyde – Cbeyond stated that the PCATs removed references.

Cindy Buckmaster – Qwest stated that the distinction on the variables was there and we are now reinforcing it in the PCAT.

Tom Hyde – Cbeyond stated that it is not clear.

Alan Braegger – Qwest asked if the repair was an out of service scenario.

Tom Hyde – Cbeyond stated that they never request a dispatch for tagging only.

Alan Braegger – Qwest said that tagging was done incidentally to repair and not billed because there was already a dispatch.

Tom Hyde – Cbeyond stated that this is not clear in the PCAT.

Bonnie Johnson – Eschelon stated that there has been a lot of discussion about tagging. She said that Qwest has never said in the PCAT that they will tag at the time of repair or installation in the PCAT, passed 30 days, within 30 days; on some products and that charges apply to some products.

Cindy Buckmaster – Qwest suggested that we read through the language and see if we could clarify.

Bonnie Johnson – Eschelon asked if anyone could tell her if Qwest tags when dispatching on installation.

Georganne Weidenbach – Qwest stated that we will tag on design with provisioning and on POTS and will tag if asked for free if it is within 30 days.

Cindy Buckmaster – Qwest asked how we could make this clear.

Bonnie Johnson – Eschelon said that this practice is very different from what Qwest has told them.

Cindy Buckmaster – Qwest said that if it is clear they would not have had to ask. She said that if it is not clear then we need to clarify and sync up the language. She said that it should not be in 2 places because it causes confusion and that is why we want to keep the documents in sync and follow the existing process.

Susan Lorence – Qwest asked if we should look at the dispatch PCAT, remove the language and point to the Maintenance and Repair language to determine what needs to be clarified.

Bonnie Johnson – Eschelon said that we should go back the way it was documented 2 to 3 years ago. She said that the intent in the M & R PCAT was to say that you don't tag on POTS orders.

Georganne Weidenbach – Qwest asked if Eschelon meant on provisioning.



Bonnie Johnson – Eschelon said yes.

Susan Lorence – Qwest asked everyone to go to the September Document Review site to look at the language.

Georganne Weidenbach – Qwest reviewed the language in the M&R PCAT.

Tom Hyde – Cbeyond stated that this is a significant change in the M & R PCAT.

Georganne Weidenbach – Qwest said that the Dispatch PCAT did not get to the nitty gritty.

Bonnie Johnson – Eschelon said that in 1<sup>st</sup> paragraph in the M&R PCAT it says that if no dispatch is required on new service, you don't tag. She said it does not say anything for POTS.

Cindy Buckmaster – Qwest stated that is why we need to make the language clearer as there is additional information and detail later in this paragraph.

Tom Hyde – Cbeyond said that POTS have never been tagged. He said this was a SR out of AT&T.

Cindy Buckmaster – Qwest said that was 20 years ago and we need to look at it now.

Bonnie Johnson – Qwest said that with a dispatch, the technician was responsible for tagging.

Cindy Buckmaster – Qwest said that we need to fix that and say that the technician may be responsible for tagging.

Georganne Weidenbach – Qwest said that we will be happy to tag if asked to on POTS.

Bonnie Johnson – Eschelon asked if they would be required to drop their orders to manual handling.

Georganne Weidenbach – Qwest stated that we would need to look at the process beyond 30 days.

Bonnie Johnson – Eschelon stated that she was talking on installation and not beyond 30 days.

Cindy Buckmaster – Qwest said that Eschelon is reading this literally in the 1<sup>st</sup> sentence but that they have to read further into the document.

Bonnie Johnson – Eschelon said she wants clarification on design and non design.

Cindy Buckmaster – Qwest said that we are looking at maintenance and repair and not installation. She said that we are trying to communicate what the current process is. She asked that we be given the opportunity to capture and clarify the thought.

Bonnie Johnson – Eschelon said that after all the conversations with Qwest she is surprised Qwest first said that they tagged on dispatch but now they are saying that they don't.

Georganne Weidenbach – Qwest said that Eschelon does not have very many POTS and asked if we were delving into an area we don't need to worry about.

Bonnie Johnson – Eschelon said that this is something we need to pay attention to.

Cindy Buckmaster – Qwest said that we are also flabbergasted and struggle when we hear that Qwest does this inequitably.

Bonnie Johnson – Eschelon said that if you look at the documentation in the dispatch PCAT it says you tag.

Cindy Buckmaster – Qwest stated that sentence really belongs in the provisioning PCAT.

Georganne Weidenbach – Qwest stated that we want to make the process clear.

Bonnie Johnson – Eschelon said that it is pretty clear and that you can't interpret.

Cindy Buckmaster – Qwest said that you have to read the paragraph in the PCAT in conjunction with the entire document and that you can't read just that 1 sentence.

Susan Lorence – Qwest stated that where it says 'was responsible' in that paragraph is contingent with what is in design and POTS. She said that you have to read the details under design and POTS. She said that you can't take that sentence by itself. Susan said that the 1<sup>st</sup> sentence should be "may be responsible..." and "see below for further details".

Georganne Weidenbach – Qwest stated that we are missing finite details and continuity and that customers need those details to understand going forward.

Susan Lorence – Qwest stated that when you have these things in multiple places you tend to have piece parts and that is not enough. Susan asked if we could start with saying details are provided below.

Bonnie Johnson – Eschelon stated that you need to do what you think is appropriate. She said that the way it is worded in the PCAT is clear and supported by years of the process. She said that Qwest said if they dispatched they would tag and now we are being told that we can't take what you say at face value.

Cindy Buckmaster – Qwest stated that when we say "may dispatch and tag" is under question. She said that a lot of good issues are being raised and we want to address and fix those issues.

Tom Hyde – Cbeyond said that he would like clarity on what the conditions are and what Qwest will and won't do.

Cindy Buckmaster – Qwest agreed that we are trying to provide clarity on this issue.

Laurie Fredricksen – Integra stated that in looking at the Provisioning PCAT there is a sentence regarding premise visits.

Cindy Buckmaster – Qwest stated it is further defined later in the document and that we need to make it more clear.

Bonnie Johnson – Eschelon said that it is defined differently for design vs. non-designed products.

Georganne Weidenbach – Qwest stated that it is the same issue with broad statements and that we need to bring it all in sync.

Cindy Buckmaster – Qwest said that we need to make sure everything is all aligned and that we do not intend to change or defraud – we just want to clarify.

Georganne Weidenbach – Qwest said that reviewing the language is a team effort and we need to make it clearer.

Lynn Stecklein – Qwest asked if we are agreeing to take an action item to make the language more clear in the M&R PCAT.

Vicki Dryden – Qwest said that we need to look at not only the M&R PCAT but the Dispatch PCAT as well as the Provisioning and Installation language.

Georganne Weidenbach – Qwest said that we want to make the language match across the PCATs.

Bonnie Johnson – Eschelon said that it does match.

Georganne Weidenbach – Qwest said that it needs more detail.

Bonnie Johnson – Eschelon said that they need to understand the differences for installation and after installation.

Susan Lorence – Qwest asked if it was appropriate to get a tentative agreement that the installation PCAT will have detail and the M&R PCAT will point to the installation PCAT for details.

Bonnie Johnson – Eschelon said that you have to say when you tag for non-designed or how do we find out.

Cindy Buckmaster – Qwest said that the decision was based on the premise that residential units were single family dwellings and not POTS. She said that we are now into large structures with retail users and POTS type services.

Georganne Weidenbach – Qwest said that you can still ask for tagging to be done.

Bonnie Johnson – Eschelon stated that she was in disbelief after fighting for so many years to hear that Qwest never tags POTS services. She said if you need to make a distinction then do so.

Georganne Weidenbach – Qwest asked if the examples Eschelon was referring to were UBL or resale.

Bonnie Johnson – Eschelon said that they were POTS.

Georganne Weidenbach – Qwest asked if they were POTS UNE-P or QPP and said we need to clarify the process for all services. She said that it has never been the process to tag on POTS provisioning but that you could always request it. She said that it is protocol on design. Georganne said that we need to regroup internally to get the documentation to match and send it

out for review. She said that if we make a change to the process we will follow the appropriate process for that change. Georganne asked if everyone was ok with this 2 step approach.

Tom Hyde – Cbeyond said that he was ok with the 2 step approach but was not sure if we could reach agreement. He said that a great deal of work is needed on the PCATs. He also stated that he will advise his Company to dispute the billing on loop until the circuit is tagged because tagging is required on design services. He said that if the tag blows off, the technician did not install it correctly and that tags don't blow off.

Georganne Weidenbach – Qwest said that was just an example and that tags can be torn off.

Tom Hyde – Qwest stated that it would be the ILEC technician tearing it off.

Georganne Weidenbach – Qwest said that there are a lot of variables. She said that there is a process in place to contact Qwest if you want a circuit tagged. She asked again if everyone was ok with moving forward with clarifying the language.

Tom Hyde – Cbeyond said he was ok with moving forward.

Susan Lorence – Qwest stated that Qwest would review the documents to add clarification and would re-issue this notice as a Level 2 to document the existing process. She said that if changes are needed we can use other means to change the process.

Cindy Buckmaster – Qwest asked if we could have discussions prior to updating the documentation.

Susan Lorence – Qwest said that we could follow up with another adhoc meeting and can all work together to get the language where it needs to be.

Bonnie Johnson – Eschelon asked what she was supposed to tell their people and customers. She said that Qwest doesn't tag and that they need to ask for it and the customer get it 5 days later.

Georganne Weidenbach – Qwest said that you can always ask for tagging upfront.

Bonnie Johnson – Eschelon said that we should meet again to review the revised language.

Susan Lorence – Qwest asked if there was anything we could change immediately in the language.

Cindy Buckmaster – Qwest said that would not solve anything because we should be reading more than 1 sentence.

Georganne Weidenbach – Qwest said that we will attempt to revise the redline documents and review as a team with the CLECs.

Tom Hyde – Cbeyond said that the billing issues may need to be addressed as well. He said that the billing should not start until tagged. He said tagging is part of installation.

Georganne Weidenbach – Qwest said that don't always dispatch.

Tom Hyde – Cbeyond stated that dispatch is required on design services and billing should not start until tagging is complete.

Cindy Buckmaster – Qwest said that this would be a process change.

Georganne Weidenbach – Qwest said that if the circuit is accepted and working, billing should start.

Lynn Stecklein – Qwest asked if there any other questions or comments. There were none.

The meeting was adjourned at 4:00 pm.



**Announcement Date:** December 01, 2006  
**Proposed Effective Date:** January 15, 2007  
**Document Number:** PROS.12.01.06.F.04363.Tagging\_of\_Circuits  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Multiple PCAT update for Tagging of Circuits  
**Level of Change:** Level 3

**Summary of Change:**

On December 1, 2006, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Dispatch V5.0, Maintenance and Repair V68.0 and Provisioning and Installation Overview - V99.0. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>

On September 27, 2006, Qwest sent a Level 1 PROS.09.27.06.F.04212.Dispatch\_and\_MR\_Overview notice to synch up language in the Dispatch and the Maintenance and Repair PCATs. As a result of questions and comments from multiple CLECs regarding this update, Qwest retracted this via PROS.09.28.06.F.04222.Dispatch\_MR\_Retraction. During an adhoc call held on October 10, 2006 Qwest agreed to review the PCATs impacted and agreed to re-issue notice as a Level 2. Since that time, Qwest has determined that a change should be made to the tagging of circuit process and is sending this notice of change as a Level 3.

Updates are associated with a change to the tagging of circuits process. When you report a repair condition and also request tagging on this circuit, and a dispatch to the premises is required, Qwest will perform tagging at no charge to you.

The updates to the Maintenance and Repair Overview will be found in the CLEC Roles and Responsibilities section under Demarcation Points and Tagging of Circuits which describes the change in the tagging of circuits process.

The updates to the Provisioning and Installation Overview will be found in the Additional Miscellaneous Work Activities section under Tagging of Circuits at the Demarc, Qwest will clarify the current process for tagging of circuits.

The updates to the Dispatch PCAT will be found in the Description section. Qwest will update the language by providing links to the Maintenance and Repair Overview and the Provisioning and Installation Overview for dispatch information and the associated charges. In the Pricing section under Rate Structure, Qwest will add language which pertains to a Conversion activity.

Also throughout the PCATs mentioned above additional minor updates will be made.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL:

<http://www.qwest.com/wholesale/clecs/dispatch.html>  
<http://www.qwest.com/wholesale/clecs/maintenance.html>  
<http://www.qwest.com/wholesale/clecs/provisioning.html>

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available December 01, 2006
CLEC Comment Cycle on Documentation Begins	Beginning December 02, 2006
CLEC Comment Cycle Ends	5:00 PM, MT December 16, 2006
Qwest Response to CLEC Comments (if applicable)	Available December 31, 2006 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	January 15, 2007

If you have any questions on this subject, please submit comments through the following link: <http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow

the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>



**Eschelon's 12/15/06 comments on Qwest's 12/01/06 Level 3 notice**

Thank you for submitting your comments through the Qwest CMP Document Review and Comment Process:

The information you entered is listed below.  
If you have any questions, please direct them to [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

=====

Notice Number: 1956\_CNL3\_PROS.12.01.06.F.04363.Tagging\_of\_Circuits

Document Name:

Document Version Number:

Document History Log Line Number:

Comment:

Eschelon objects to Qwest noticing this as a level three change. Eschelon asks Qwest to withdraw this notice and submit Qwest's proposal as a level four change request (CR) for the reasons provided below. Eschelon also objects to the content of the redlines for numerous reasons, which should be discussed further in the context of a change request.

Qwest's proposed changes (shown in its red lined Dispatch, P&I and M&R PCATs) have a significant change to CLEC operating procedures.

From the redlines of the PCATs, Qwest appears to be attempting to implement new rates through CMP. If Qwest is not attempting to do so, Qwest can explain in the context of discussing a CR and then revise its proposal. A comment period connected with a notice is insufficient to deal with these extensive changes.

Qwest described its current policy/process on the October 10th, 2006 call regarding tagging the demarc. Qwest's proposed changes do not reflect that description (see excerpts from 10/10/2006 ad hoc call below).

On that call, Qwest also said it would draft the language and review with CLEC input (see excerpts from 10/10/2006 ad hoc call below). Qwest has not scheduled the ad hoc call it committed to schedule to discuss the changes.

The multiple proposed PCATs conflict with each other and, in some cases, there are conflicts within a single PCAT.

Examples of comments from the October 10th, 2006, meeting minutes regarding the current process:

“Cindy Buckmaster – Qwest stated that the current process is that when a technician is dispatched and the tag is not there, they will tag.”

“Georganne Weidenbach – Qwest stated that we will tag on design with provisioning and on POTS and will tag if asked for free if it is within 30 days.”

“Georganne Weidenbach – Qwest said that we will be happy to tag if asked to on POTS.”

Examples of comments from the October 10th, 2006, meeting minutes regarding obtaining CLEC input and working as a team:

“Georganne Weidenbach – Qwest said that reviewing the language is a team effort and we need to make it clearer.”

“Cindy Buckmaster – Qwest asked if we could have discussions prior to updating the documentation.”

“Susan Lorence – Qwest said that we could follow up with another adhoc meeting and can all work together to get the language where it needs to be.”

“Georganne Weidenbach – Qwest said that we will attempt to revise the redline documents and review as a team with the CLECs.”

=====

Name: Kim Isaacs  
Title: ILEC Relations Process Specialist  
Phone Number: [redacted]  
E-mail Address: [redacted]



**Announcement Date:** December 19, 2006  
**Effective Date:** Immediately  
**Document Number:** PROS.12.19.06.F.04415.QwestDelayedResp-TaggingC  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Qwest Delayed Response - Multiple PCAT update for Tagging of Circuits  
**Level of Change:** Level 3

Qwest recently posted proposed updates to Dispatch V5.0, Maintenance and Repair V68.0 and Provisioning and Installation Overview - V99.0. CLECs were invited to provide comments to these proposed changes during a Document Review period from December 02, 2006 through December 16, 2006.

Because of the complexity of CLEC comments, Qwest is unable to meet the required 15-day timeline for comment response. However, Qwest will provide a response to these comments a minimum of 15 days prior to the implementation of the proposed updates. These responses and implementation dates will be provided through a subsequent final notification.

**Resources:**

Customer Notice Archive <http://www.qwest.com/wholesale/notices/cnla/>  
Original Notice Number PROS.12.01.06.F.04363.Tagging\_of\_Circuits

If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow

the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

**From:** Coyne, Mark [email redacted]  
**Sent:** Tuesday, January 09, 2007 1:43 PM  
**To:** Isaacs, Kimberly D.; Isaacs, Kimberly D.  
**Cc:** Johnson, Bonnie J.; Novak, Jean; Linse, Philip; Lorence, Susan; Stecklein, Lynn; Esquibel-Reed, Peggy; Johnson, Bonnie J.; Novak, Jean; Linse, Philip; Lorence, Susan; Stecklein, Lynn; Esquibel-Reed, Peggy  
**Subject:** Tagging of Circuits

Kim,

I'm sending this email to try and help clarify our position and understanding on changes being noticed on PROS.12.01.06.F.04363.Tagging \_of\_Circuits.

Contrary to Eschelons understanding Qwest does not tag every time they dispatch to the customer premises - this misunderstanding was clarified during the interconnection negotiations. Therefore, it was agreed that CLECs will follow Qwest's normal practice and request tagging to ensure it takes place.

Qwest original intention was to correct the PCATs (Maintenance and Repair, Dispatch, and Provisioning and Installation) to comport with its existing processes.

Qwest scheduled and held its first adhoc call to discuss this and agreed to take CLEC comments into consideration. After the adhoc call, during ICA negotiations with Eschelon, Qwest agreed to tag circuits without charge anytime Qwest is dispatched to an end-users premise and tagging is requested. Because this agreement was reached during negotiations, it is Qwest's intent to make the process change ( it is not a rate change) agreement available to the entire CLEC community and submitted the change as a level 3, which differs greatly from the original intention of correcting and clarifying the existing PCAT language.

The previous process would have charged CLECs additionally for tagging designed circuits during repair if requested.

Qwest is following the CMP requirements in Section 5.4.4.1 and will add this item to the agenda for the next CMP meeting. However, Qwest would prefer not issuing a level 4 CR that will delay implementation of this process change that benefits the full CLEC community.

If there are any questions about the specific contract language, contact your Qwest Service Manager or Phil Linse.

Mark Coyne  
Qwest Manager/CMP  
[contact information redacted]

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

**From:** Johnson, Bonnie J. [email redacted]  
**Sent:** Tuesday, January 16, 2007 2:49 PM  
**To:** Coyne, Mark; Isaacs, Kimberly D.; Coyne, Mark; Isaacs, Kimberly D.  
**Cc:** Novak, Jean; Linse, Philip; Lorence, Susan; Stecklein, Lynn; Esquibel-Reed, Peggy; Johnson, Bonnie J.; Novak, Jean; Linse, Philip; Lorence, Susan; Stecklein, Lynn; Esquibel-Reed, Peggy; Johnson, Bonnie J.  
**Subject:** RE: Tagging of Circuits

Mark,

Thanks for your response. From your email, it sounds as though Qwest's goal is to have the PCAT reflect the language that will be in the Qwest-Eschelon interconnection agreement. (Let me know if that is incorrect.) After reviewing Qwest's language, we don't believe the language meets that goal. It also has some other problems, such as dealing with an issue that is unrelated to tagging, inconsistency in presentation of information that may lead to confusion, etc. We may discuss these types of things in tomorrow's meeting.

We continue to request a change in status to a Level 4. Qwest's proposal is a significant change from Qwest's existing process as reflected in the PCAT. (We also continue to disagree with your description of "existing processes" and your description of when charges apply under those processes. The existing process is reflected in the long-standing PCAT language that says, for example: "Whenever a Qwest technician is dispatched to a premise, the Qwest demarcation point will be tagged if a tag is not present." [1]). You indicate that you would prefer not issuing a Level 4 CR, but you did not give any reason why it would not be a Level 4 CR. If you have a preference that is different from the actual level of the request, you need to request an exception. You indicate that this change benefits the full CLEC community, but that is for the CLEC community to decide. Eschelon was willing to sacrifice some of the benefits of the current process (such as requesting tagging in some cases when a request is not currently required under the existing process as reflected in Qwest's PCAT) in order to close this issue, other CLECs may make a different choice. You would need to request an exception, etc., to find out.

Thanks and we look forward to discussing this issue tomorrow,

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[1] See Qwest's PCAT, *Dispatch* – V 3.0 available at <http://www.qwest.com/wholesale/clecs/dispatch.html>.

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.  
[contact information redacted]



**February 21, 2007**

**Product/Process CMP Team Meeting**

**Distribution Package**

## Tagging of Circuits

Mark Coyne-Qwest stated that Qwest issued a Level 1 notice in October with the intent to provide consistent documentation in the Provisioning, Installation and M&R PCATs. He said that this notice resulted in some CLEC comments and concerns and that Qwest held an adhoc meeting to discuss. Mark stated that Qwest moved forward with some additional updates on a Level 2 notice. He said that due to decisions made associated with the negotiations going on with Eschelon, Qwest was prompted to issue a Level 3 notice for more PCAT updates and a change in process. Mark said that we did receive comments requesting a change in disposition to a Level 4. He said that Qwest issued a delayed response and that we did receive additional comments from Eschelon. Mark stated that Qwest would like to move forward with a separate adhoc meeting to understand Eschelon's concerns and discuss what was discussed in negotiations. He stated that we would proceed with a Level 3 if we can reach agreement and if we can't reach an agreement, Qwest would open up a Level 4 CR.

Bonnie Johnson-Eschelon stated that at a high level there are inconsistencies in dispatch vs. provisioning and installation. She said that **(Comments to minutes from Eschelon 1/26/07) - the Dispatch PCAT refers you to the M&R PCAT** you refer to dispatch and the same should be done for in the Provisioning and Installation PCATs. Qwest also made a change under Service Wire Rearrangements and that has nothing to do with tagging. She also said that Additional Labor and Additional Labor - other **dispatch** are 2 different charges.

Cindy Buckmaster-Qwest said **(Comments to minutes from Eschelon 1/27/07 - yes she made that change as a clean up when she was going through the PCAT.)** She disagreed because they are the same charges.

Bonnie Johnson-**(Comments to minutes from Eschelon 1/26/07 - Eschelon provided Mark Coyne with a copy of Exhibit A and showed him the two different charges.** She said that some changes were not in the tagging section and some changes were made with no explanation as to why.

Cindy Buckmaster-Qwest said that she just saw what Eschelon was referring to and that maybe we should not have made the changes together.

Bonnie Johnson-Eschelon stated that discussions were held with Georganne Weidenbach (Qwest) and Cindy Buckmaster (Qwest) regarding **(Comments to minutes from Eschelon 1/26/07 - Qwest's changes the PCAT and these updates do not match what they said.** She said that **then they read Mark's e-mail and realized that Qwest was trying to make updates that matched what Eschelon had negotiated for its contract. Bonnie said Eschelon made some concessions and** also discussed their concerns regarding **ICA controls and if other CLECs want to opt in the can but are not required to** and that other CLECs need to provide input.

Cindy Buckmaster-Qwest stated that other CLECs do need to weigh in and that is why we have CMP. She said that we get feedback and decide if we move forward with a change. Cindy said that she and Georganne Weidenbach (Qwest) never said the PCATs were wrong but that the PCATs appeared to be inconsistent. She said that we were trying to clarify and acknowledge that they could be misleading if taken out of context.

Bonnie Johnson-Eschelon stated that Qwest said that the PCAT was wrong and **Qwest** has sworn testimony.

Mark Coyne-Qwest stated that we will schedule an adhoc meeting to address the differences and Qwest will determine if we need a Level 3 or 4.

Bonnie Johnson-Eschelon stated that she was ok with this path but **(Comments to minutes from Eschelon 1/26/07 - Eschelon will continue to ask that this be a level 4 change request.)**

Mark Coyne-Qwest asked why Eschelon is requesting a Level 4.

Bonnie Johnson-Eschelon stated that this looks like a major process change to Eschelon **(Comments to minutes from Eschelon 1/26/07 - and the previous Provisioning and Installation and Repair PCATs state Qwest will tag when they dispatch.**

Cindy Buckmaster-Qwest said **(Comments to minutes received from Eschelon 1/26/07 - UBLs are always tagged and the language Qwest proposed changes are different than the current process.** She said that we tried to address that the dispatch PCAT was written from a UBL perspective and not from a POTS perspective. She said that we found that the documentation needed distinction between POTS and design for tagging.

Mark Coyne-Qwest stated that an adhoc meeting will be scheduled.





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### Wholesale Calendar

## February 19, 2007

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<b>Meeting Title</b>	CMP Ad Hoc Meeting - Tagging
<b>Time</b>	10:00 AM MT
<b>Duration</b>	1 Hour
<b>Location</b>	1-877-570-8688 Passcode 7807739#
<b>Meeting Description</b>	Discuss Provisioning, Installation & M&R PCATs (Tagging)
<b>Documents</b>	There are no additional documents for this event.
<b>Contact Information</b>	Lynn Stecklein

ABOUT QWEST : CAREERS AT QWEST

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 86**

From: Peterson Lussenhop, Joan [email redacted]  
Sent: Tuesday, October 12, 2004 9:54 AM  
To: Clauson, Karen L.  
Cc: Johnson, Bonnie J.; Susan Peirce; Ed Fagerlund; Novak, Jean; Montez, Evelyn; Munn, John; Hsiao, Doug  
Subject: RE: Delivery Levels on Some New T1 Orders

Karen:

Contrary to your assertions, the reason my e-mail reached you after close of business is because I was on the phone with Ed Fagerlund from the DOC. I had just spent 2 hours with Qwest personnel on a conference call after they had spent a number of days gathering information. During my conference call, I saw Ed's phone number on my Caller ID about 4 times and felt that I needed to call him immediately. We spent 30 to 45 minutes on the phone. It did not "take a call from DOC" to get me to respond. I was responding and the call from DOC delayed the response.

I will now address the setting of the db at -7.5. As you know, the ANSI range is -16.5 as the lowest setting and "0" as the highest setting for db levels. When the db is set at "0", the signal is very "hot".

We have received increasing numbers of complaints from end-users on our network that their equipment could not perform properly when the db was set at "0". Thus, a number of years ago (approximately four), as Qwest ordered new equipment, we ordered equipment that defaulted to -7.5 (the middle of the range) rather than at either extreme end. In addition, techs were instructed to reset the db at -7.5 whenever they did a repair. This was first given as an instruction four years ago and has been repeated over time. Thus, in order to allow for proper performance of end-user equipment, Qwest has been moving the network over time to a default setting of -7.5. We have looked but cannot find the "memo" you reference. If you have a copy of whatever document you are referring to, that would help.

Qwest is delivering the DSL's within ANSI standards as required by our interconnection agreement. Even though Qwest is fully within the requirements of our interconnection agreement, we have been exploring the situation to see whether we could find a solution that does not create other problems. I will get back to you at the end of the day today.

Joan C. Peterson  
Senior Attorney  
Qwest  
[phone number redacted]

-----Original Message-----

From: Clauson, Karen L. [email redacted]  
Sent: Friday, October 08, 2004 6:57 PM  
To: Peterson Lussenhop, Joan  
Cc: Johnson, Bonnie J.; Susan Peirce; Ed Fagerlund  
Subject: RE: Delivery Levels on Some New T1 Orders

Joan:

After waiting for a substantive response from Qwest, Eschelon is disappointed with the email below. It doesn't seem that it should take almost a week to come back with such a response. If Qwest had a question about the distance, Qwest certainly could have asked it earlier, so we could address that issue. Instead, you have waited until after COB on Friday, so you will not get a response until Monday. We will also respond to Qwest's other statements below

next week. It is unfortunate that it takes a call from the DOC to get even this kind of a response from you. We'll provide that information about the outstanding circuits on Monday - the next business day. (We would like to see a similar turnaround time from Qwest in response to Eschelon's questions.) Qwest has not previously suggested that distance is an issue, even though we have spent weeks dealing with this issue, but we will check into it. In any event, that does not explain the timing. Eschelon still needs to know about the Qwest memo and whether and when Qwest said to start setting the dB levels at -7.5 dB.

Regarding your statement that I "stated that Qwest has not provided" me with an answer, you are incorrect. My email below was specific to you, Joan, and not Qwest generally. I said that I had not heard an answer from you at all since Ken Beck said you were the person who would communicate a response, and that is a true statement. As I said in my email below, "As you are the point of contact now, you need to be sending regular status updates so we have current information on this important, and apparently growing, problem." Far from getting regular status updates, I haven't received so much as an estimate of when we would receive a response from you or even an "I'm working on it." A simple status email would just be common courtesy, but no courtesy has been extended to Eschelon. Given the dearth of any kind of status or other communication from you, Joan, your reference to "responsiveness to our customers" rings hollow. As previously indicated, Eschelon disagrees with your statements about the ICA requirements and believes Qwest does have this requirement. We will send that information on Monday.

-----Original Message-----

From: Peterson Lussenhop, Joan [email redacted]  
Sent: Friday, October 08, 2004 5:14 PM  
To: Clauson, Karen L.  
Cc: Johnson, Bonnie J.; Susan Peirce; Ed Fagerlund  
Subject: RE: Delivery Levels on Some New T1 Orders

Karen:

This is in reply to the e-mails you have sent me this week. In one you stated that Qwest has not provided you with an answer. Qwest has given you an answer that it is providing the T1's within the ANSI standards as required. You have asked for further review. Although Qwest is not required by its interconnection agreement with you to provide db levels at 0, we are currently exploring how your issues might be resolved. We certainly want to be responsive to our customers.

In exploring this issue, we are puzzled by the fact that this problem only appears to be occurring in Minnesota and only with Eschelon. One thing that is unique in Minnesota is that it has an MPOP requirement. This means that the end-user equipment tends to be further away from the point of demarcation. Can you tell me how far from the MPOP your end-user equipment is on these lines where you have experienced problems?

Joan C. Peterson  
Senior Attorney  
Qwest  
[phone number redacted]

-----Original Message-----

From: Clauson, Karen L. [email redacted]  
Sent: Friday, October 08, 2004 9:08 AM  
To: Peterson Lussenhop, Joan  
Cc: Johnson, Bonnie J.; 'Susan Peirce'  
Subject: RE: Delivery Levels on Some New T1 Orders

Joan:

The two additional PONs (both Minnesota) are MN 424414 and MN435006. In both of these cases, Qwest delivered T1s of poor quality that needed an immediate repair. Obviously, when Eschelon pays Qwest for T1s, Eschelon expects a product that does not need a repair before we can use the product as intended. In both of these situations, Eschelon submitted repair tickets. In both cases, as Eschelon has contended, an adjustment to the dB levels and voltage (dB levels and voltage being related) corrected the problem. The dB and voltage levels to which the T1s were set to correct the problem are within the range in the tech pub and ANSI standard. The ICA requires Qwest to provide service consistent with those documents. As indicated below, the tech pub also requires the loop to be free of errors, which it was not until the levels were adjusted.

If Qwest had set the levels at zero dB and 6 volts peak-to-peak which is consistent with Qwest tech pub and ANSI standard) when it installed the loops or adjusted the levels at the time of acceptance (the latter being Qwest's process in every other state even now), these repairs would have been unnecessary. The repair process creates additional work for both parties. This is inefficient. In addition, the Qwest CEMR notes for MN424414 indicate that Qwest plans to bill for 1 hour for this repair. We don't believe such a charge is approved in MN. Even if it were, it would be inappropriate to charge Eschelon for work that Qwest should have done to deliver a quality T1 that does not need repair.

Please let me know what steps Qwest is taking to work on this issue and when Qwest will respond.

Thank you,  
Karen

-----Original Message-----

From: Clauson, Karen L.  
Sent: Thursday, October 07, 2004 4:48 PM  
To: 'Peterson Lussenhop, Joan'  
Cc: Johnson, Bonnie J.; 'Susan Peirce'  
Subject: RE: Delivery Levels on Some New T1 Orders

Joan:

We have two more of these, also both in MN. I will forward you the PONs when I receive them. Ken's email on Tuesday said: "All Future correspondence will come through Joan Peterson from here on with this issue." I haven't heard from you at all. As you are the point of contact now, you need to be sending regular status updates so we have current information on this important, and apparently growing, problem. We have been working the issue on some of these circuits on our end through vendor meets (which have confirmed that the problem is the one we described relating to adjusting levels), but that does not prevent the problem from occurring in the first place (as shown by the two new ones). We are also concerned that Qwest will try to tack on additional charges, such as for vendor meets that should not have had to occur if Qwest simply followed the process that, until this issue arose, it had been following.

What is the status at Qwest, and when will Qwest respond to our questions?

Karen L. Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 900  
Minneapolis, MN 55402

Phone: [redacted]  
Fax: [redacted]

-----Original Message-----

From: Clauson, Karen L.  
Sent: Wednesday, October 06, 2004 4:20 PM  
To: 'Peterson Lussenhop, Joan'  
Cc: Johnson, Bonnie J.; 'Susan Peirce'  
Subject: RE: Delivery Levels on Some New T1 Orders

Joan:  
The problem seems to be spreading. We have two new PONs, also both in MN, to add to your list:

PON MN 433239T1FAC  
PON MN 434638T1FAC

Joan: Can you identify some difference in Qwest's processes or personnel specific to MN which would explain why all of these (now 4 customers/6 circuits -- are in MN)?

The fact that the number is increasing is obviously of concern and we need a solution ASAP.

-----Original Message-----

From: Clauson, Karen L.  
Sent: Tuesday, October 05, 2004 4:28 PM  
To: 'Peterson Lussenhop, Joan'  
Cc: Ahlers, Dennis D.  
Subject: RE: Delivery Levels on Some New T1 Orders

PON MN435908T1FAC

-----Original Message-----

From: Peterson Lussenhop, Joan  
Sent: Tuesday, October 05, 2004 4:19 PM  
To: Clauson, Karen L.  
Cc: Ahlers, Dennis D.  
Subject: RE: Delivery Levels on Some New T1 Orders

Karen:  
Can you provide the PON on the last order?

Joan C. Peterson  
Senior Attorney  
Qwest  
[phone number redacted]

>-----Original Message-----

From: Clauson, Karen L. [email redacted]  
Sent: Tuesday, October 05, 2004 3:01 PM  
To: Peterson Lussenhop, Joan  
Cc: Ahlers, Dennis D.  
Subject: FW: Delivery Levels on Some New T1 Orders

Joan:  
Dennis said you had called about this issue. I have been working on it, so please call me to discuss. Below is some background information for you. Also, Cindy Buckmaster at Qwest said, when such problems arise or we disagree about

the quality of the loop, CLECs should accept the loop and request repair. My understanding, however, is that we did try repair and Qwest did not get the circuits working.

We may try repair again. We need both to get the specific circuits in issue working and to obtain answers to the broader questions regarding Qwest's policy (see, e.g., the third point in Laurie's email below) so we know what to expect going forward. Any assistance that you can provide would be appreciated. This is a time sensitive issue that has been going on for weeks now.

Thanks,

Karen L. Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 900  
Minneapolis, MN 55402  
Phone: [redacted]  
Fax: [redacted]

> >

PON MN426481T1FAC (PRI)  
Qwest Ckt ID - 3.HCFU.101108..NW  
Qwest Order # - N86235709  
Date Order Submitted - 8/23/04

> >

> >

PON MN426476T1FAC (IP)  
Qwest Ckt ID - 3.HCFU.101109..NW  
Qwest Order # - N86501597  
Date Order Submitted - 8/23/04

> >

> >

PON MN433193T1FAC (IP)  
Qwest Ckt ID - 3.HCFU.101247..NW  
Qwest Order # - N90315361  
Date Order Submitted - 9/13/04

> >

> >

Qwest Ckt ID 3.HCFU.101315.NW  
Qwest Order # N91252361

> >

FOC date was 9-29-04

> >

> >

-----Original Message-----

From: Clauson, Karen L.  
Sent: Monday, October 04, 2004 11:37 AM  
To: 'Ken.Beck@qwest.com'  
Cc: 'Novak, Jean'; Spohn, Wayne; Larson, Laurie A.; Boeke, Gerald A.; Johnson, Bonnie J.  
Subject: Delivery Levels on Some New T1 Orders

Ken:

I understand that Wayne is out of the office this week, so Eschelon is addressing this to you. In Wayne's absence, Eschelon may also escalate to his supervisor as needed. In Eschelon's list of questions below, the third one stated:

"Third, as indicated in Kim's earlier email, a Qwest field technician and tester communicated that Qwest has an internal memo indicating they are now setting NIU's at -7.5dB instead of 0dB.

Despite Jean's email, this is a change in process. Please confirm whether Qwest has, in an internal memo or otherwise, decided or provided direction to

set NIU's at -7.5dB instead of 0dB. Also, please indicate whether this decision/direction applies to Qwest retail customers as well." Qwest did not directly respond to this request. Eschelon received this information from a Qwest field technician and a tester. Is Qwest denying the existence of any such communication?

Qwest's enclosed response states that "the Technical Publication is a technical reference guide and is not a contract." In this case, however, the Minnesota Qwest-Eschelon ICA specifically states that Qwest "will deliver the DS-1 service to the End User's network interface consistent with Technical Publication 77375." (MN Amendment No. 4, paragraph 2.3.2.) Qwest's statements about the ICA are wrong. It would be helpful if someone at Qwest familiar with the ICA actually reviewed it before Qwest makes incorrect representations to our business folks.

As Eschelon indicated in the email below: "Technical Publication 77375 requires, however, that the signal be "free of crosstalk, amplified noise and distortion." (See Section 2.1 of that tech pub.) When Eschelon requests 0dB and Qwest instead provides a circuit at a different level, there is noise and distortion. Because the circuit is NOT "free of crosstalk, amplified noise and distortion," the circuit is inconsistent with Technical Publication 77375." In the enclosed response, Qwest suggests that a provision is not enforceable because it is a "declarative statement." Please have your attorneys provide me with the legal basis for that proposition. I am also happy to deal with your attorneys directly if you prefer. If so, please let me know who that is or have the attorney(s) contact me directly.

In the enclosed response, Qwest also discusses digital fiber. Qwest's statements in its letter about digital fiber are inapplicable here. Here, Qwest delivers a 4-wire copper circuit handed off at the NIU. Distortion problems are introduced and, in the past, adjusting the dB loss has cured the problems. Under the process used by Qwest until recently, the adjusted dB level was within in the tech pub's range AND it met the other requirements of the tech pub. Now, Qwest is refusing to do this.

We need to know the basis for the change in process (which was not done through CMP). Qwest appears to be saying in its response that, so long as it always provides a circuit at the bottom end of the range in the Tech Pub, it is meeting the Tech Pub. If that were true, there would be no need for the Tech Pub to contain a range. The Tech Pub would simply say that the carrier must provide a dB of no less than X (-7.5dB in this case). The Tech Pub does not do that. It contains a range. To meet the Tech Pub, the service has to be within that range (including the top of the range = 0 in this case) and actually work for the intended purpose/customer. Meeting the Tech Pub is required by the ICA. (MN Amendment No. 4, paragraph 2.3.2.)

Qwest's enclosed letter is unclear but appears to suggest that the issue with these circuits could be something other than adjusting the dB level. If so, please cooperate with Eschelon, your customer, in adjusting the dB levels on these 4 MN circuits so that, at least as a diagnostic matter, we can confirm this is the issue. In the past, a simple dB level adjustment has worked.

Given the importance of this issue and the delay that has already occurred, we need to proceed to get this issue addressed promptly.

Karen L. Clauson  
Senior Director of Interconnection  
Eschelon Telecom, Inc.  
730 2nd Ave. South, Suite 900  
Minneapolis, MN 55402  
Phone: [redacted]  
Fax: [redacted]

>

-----Original Message-----



From: Spohn, Wayne [email redacted]  
Sent: Wednesday, September 29, 2004 4:26 PM  
To: Larson, Laurie A.  
Cc: Beck, Ken; Novak, Jean; Spohn, Wayne  
Subject: RE: Delivery Levels on Some New T1 Order

Hi Laurie,  
Please see the attached response to your questions.

Thank you,  
Wayne

<<Escelon092904.doc>>

-----Original Message-----

From: Larson, Laurie A.  
Sent: Monday, September 27, 2004 5:19 PM  
To: Spohn, Wayne  
Cc: Larson, Laurie A.; Clauson, Karen L.; Boeke, Gerald A.; Beck, Ken;  
Tietz, Jeff; Johnson, Bonnie J.; 'Novak, Jean'  
Subject: RE: Delivery Levels on Some New T1 Order

Wayne,  
Eschelon has escalated this issue to you, and we have additional questions for you.

First, with respect to Technical Publication 77375, Qwest appears to be reading one provision in isolation to arrive at an incorrect conclusion. Jean's email indicated that Qwest is delivering the DS1 circuits within the ANSI standard. Technical Publication 77375 requires, however, that the signal be "free of crosstalk, amplified noise and distortion." (See Section 2.1 of that tech pub.) When Eschelon requests 0dB and Qwest instead provides a circuit at a different level, there is noise and distortion. Because the circuit is NOT "free of crosstalk, amplified noise and distortion," the circuit is inconsistent with Technical Publication 77375. Have you reviewed Section 2.1 of this Tech Publication? If so, please explain if/and how Qwest claims it is meeting Section 2.1 of Technical Publication 77375 in these circumstances.

Second, Qwest has asked Eschelon to use an NCI code containing the letters "DS" (04DS9) to obtain 0dB. According to table 4-2 on page 4-5 of the same tech pub (77375), however, "DS" indicates a carrier's premises. These circuits go to the end user customer premises. According to the same table in the same tech pub (77375), the letters "DU" are needed for the end user customers premises. Given this, why is Qwest suggesting use of an NCI code with the letters DS to order this local service at?

Third, as indicated in Kim's earlier email, a Qwest field technician and a tester communicated that Qwest has an internal memo indicating they are now setting NIU's at -7.5dB instead of 0dB. Despite Jean's email, this is a change in process. Please confirm whether Qwest has, in an internal memo or otherwise, decided or provided direction to set NIU's at -7.5dB instead of 0dB. Also, please indicate whether this decision/direction applies to Qwest retail customers as well.

Finally, as a matter of customer service, Qwest should provide the dB level requested by the customer to serve the customer's needs. Will Qwest reverse its recent process change and work with CLECs to adjust the levels to those desired by the customer to ensure that signals are free of crosstalk, amplified noise and distortion? Resolution of this issue has already taken too long. We have waited approx. 15 days for Jean's response, and as you can tell from the questions above, Jean did not provide the information we need. Please provide

responses to these questions promptly so we can analyze the information and decide where to go from here.

Regards,  
Laurie Larson  
Sr. Director, Service Delivery  
Eschelon Telecom  
[email redacted]  
[phone number redacted]  
[cell number redacted]  
[fax number redacted]



Wayne Spohn, VP Wholesale Markets  
Qwest Communications  
1801 California, Suite 2400  
Denver, CO 80202

September 29, 2004

Ms. Laurie Larson, Sr. Director, Service Delivery  
Eschelon  
730- Second Avenue South, Suite 900  
Minneapolis, MN 55402

Dear Laurie;

As a threshold matter, Eschelon has stated to Qwest on numerous occasions that the Technical Publication is a technical reference guide and is not a contract. I would refer Eschelon to the interconnection agreements; nowhere in them does it state that DS1 loops will be provisioned to a CLEC at 0 db loss. It does state, however, that Qwest will provide loops and DS1 loops in accordance with ANSI standards, specifically ANSI T1.403. See e.g., Minnesota ICA Attachment 3, §4.2.4.6.

With respect to Technical Publications, Qwest is required to document the specifications for products offered by Qwest. The specifications for the DS1 type service is documented in Technical Publication 77375. Qwest disagrees with Eschelon's interpretation of the DS1 specifications. The statement referred to by Eschelon in the Technical Publication 77375, Section 2.1, paragraph 2, last sentence, is a declarative statement that simply states a fact that digital circuits, in comparison to analog circuits are not subject to interference (crosstalk, amplified noise and distortion). A digital circuit on its own will not induce interference on itself no matter what the db loss is on the circuit. Interference is a factor of multiple circuits within a copper cable—a factor that clearly does not apply to a digital fiber.

Eschelon alleges if Qwest does not set the db at zero (0) the circuit would not be free of crosstalk, amplified noise and distortion (interference). To the contrary, a digital circuit on its own will not induce interference on itself no matter what the db loss is on the circuit. Based on the example provided by Kim Isaacs in an email dated, September 10, 2004, the circuit delivered met all requirements and the documented tests performed by Qwest indicate that the circuit is within the parameters set forth in the interconnection agreement, the ANSI standards and the Technical Publication. All of them consistently set the standard to ensure a circuit turns up at between 0 and -16.5db.

The information provided in an email on September 16 from Jean Novak indicated that nci code (04ds9) delivered service at 0db. Eschelon is correct, however, that this nci code applies to customers with private networks connecting to Qwest and not services terminating at an end users location. This suggested solution would not work, and Qwest apologizes for the inconvenience this may have caused Eschelon.

There was no change in process. Qwest has consistently indicated that Qwest provisions services as specified in the Qwest Technical Publication and following ANSI standards. Qwest process has not changed with regard to db range of 0db to -16.5 db loss as within the accepted parameters. Network channel codes are the same for retail as wholesale. Please refer to technical publication 77375.

Qwest has indicated that Qwest provisions services as specified in the Qwest Technical Publications and following ANSI standards. It is Qwest's responsibility to manage the network and meet the requirements which ensure parity for all customers utilizing Qwest's services whether retail or wholesale.

The information provided in an email on September 16, 2004, from Jean Novak indicating that for the nc/nci code order by Eschelon 0db to -16.5 db was in the normal range. Eschelon elected not to accept the answer; therefore, service management on behalf of Eschelon requested further review at Qwest.

Sincerely,

Wayne Spohn  
VP Wholesale Markets

Cc: Ken Beck  
Jean Novak

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 87**

## **SUMMARY OF EXAMPLES FOR ISSUES 12-64, 12-65 AND 12-66.**

*Note: Supporting documents follow the Summary.*

### **ISSUE 12-64 (ROOT CAUSE ANALYSIS)**

#### **Example 1. Qwest repair technician uses profanity and insults Eschelon's customer**

- Eschelon submitted a repair ticket for customer's line 1.
- Qwest technician was dispatched to repair line 1 and took down line 2 (customer credit card machine).
- The next day Eschelon and Qwest had a vendor meet regarding line 2.
- Eschelon's customer told Qwest he was out \$110.00 for free food because the line for his credit card machine was out of service.
- The Qwest technician made a gesture to reach for his wallet and said "*not paying for <expletive>*".
- Eschelon requested root cause.
- Qwest gave the technician a written warning and covered him on code of conduct.

#### **Example 2. Qwest CO technician refused to cut back an out of service customer**

- A day of customer's cutover from Qwest to Eschelon an issue caused an out of service condition for a customer during a conversion to DS0 loops.
- Eschelon requested Qwest cut the service back to Qwest (standard process).
- Qwest's Coordinated Cutover Center ("QCCC") representative contacted the Qwest Central Office ("CO") technician. The Qwest CO tech refused to cut the customer back.
- Eschelon manager escalated the issue to QCCC manager who got the customer cut back after being out of service for 2 hours.
- Eschelon requested root cause.
- Qwest provided root cause and said Qwest was out of process. The people were trained.

#### **Example 3. Qwest did not follow delayed order process and customer service was delayed**

- Qwest did not follow its delayed order process by failing to send a notification of the customer-related jeopardy condition. As a result, customer jeopardy was cleared 6 days late.
- Eschelon requested root cause.
- Qwest provided root cause and said Qwest was out of process. The people were trained.

#### **Example 4. Qwest tester refused to dispatch; problem in Qwest CO; customer sent to premise at 10 pm**

- Eschelon opened repair ticket for busy Uptown restaurant.
- Qwest said it needed access to customer premises to repair the circuit.

- The customer's personnel responsible for telephone service agreed to go to the location at 10 PM at night. The Qwest technician never showed up.
- Qwest repaired a card in the CO so it never needed access.
- Eschelon requested root cause.

Qwest provided root cause and said Qwest was out of process. The people were trained.

#### **ISSUES 12-64 (ROOT CAUSE ANALYSIS), 12-65 (WINBACK ATTEMPT/DISPARAGING REMARKS BY QWEST'S TECHNICIAN)**

##### **Example 5. Qwest repair attempted winback while at customer's location and said Qwest had superior service**

- Eschelon opened a repair ticket.
- Qwest dispatched a technician.
- Qwest tech told Eschelon's customer Qwest had superior service and the customer would never have these problems if they came back to Qwest.
- Qwest tech said trouble is Customer Premise Equipment (CEMR notes state the cause was in F2 (feeder) but Qwest later clarified that system problem caused CEMR to show changed F2 and really the cause was CPE).
- Eschelon requested root cause.
- Qwest said "Qwest did interview the Qwest employee and appropriate action was taken. Qwest re-trained the employee on Qwest's process on interactions between Qwest employees and CLEC's end users. Additionally, this employee was informed that failure to follow Qwest's process could lead to discipline or the possibility to employee termination."

##### **Example 6. Qwest repair technician makes disparaging remarks about Eschelon; attempts winback; brochures appear**

- Eschelon opened a repair ticket.
- Qwest dispatched a technician.
- The Qwest technician told the customer how bad Eschelon was and tried to sell Qwest' service. Qwest's brochures appeared in the customer's mail 3 days later.
- The Qwest technician told the customer the cause of trouble was Customer Premise Equipment.
- Eschelon dispatched a technician and the lines worked (At Eschelon we call this CCBM (Came clear by magic).
- Eschelon requested root cause.
- Qwest took corrective action.

##### **Example 7. Qwest engineer attempted winback while at premises to install NIU**

- Eschelon submitted order to install demarcation equipment (Network Interface Unit, "NIU") and move existing service from NIU at one building to NIU at the next building.
- Qwest dispatched a Qwest field engineer.
- The Qwest field engineer told Eschelon's customer she should have ordered service from Qwest.

- The Qwest field engineer did return visit and bridged Eschelon's customer on with the Qwest retail sales office.
- Qwest told Eschelon's customer she needed to decide whether she was staying with Eschelon or going to Qwest before they could move the NIU.
- The customer left Eschelon a voice mail saying Qwest was "holding her hostage."
- Eschelon requested root cause.
- Qwest said it "took appropriate action."

**Example 8. Conversion order: a Qwest technician gives inaccurate info, Qwest disconnects DSL 7 days early**

- Eschelon submitted conversion order to Qwest.
- Qwest disconnected the customer's DSL in error, 7 days early.
- The customer contacted Qwest repair about the DSL outage because the conversion was not scheduled for one week (customer was still Qwest's retail customer).
- Problem 1: Qwest repair told the customer Qwest just did what Eschelon told them to do.
- Problem 2: Days prior to the conversion a Qwest technician told the customer the Eschelon order would be held because of lack of facilities upsetting the customer. (This information should have been shared only with Eschelon.)
- The order (1 DS1 loop and 5 analog loops) did not go held, and Qwest installed them on the due date.
- Eschelon requested root cause.
- Qwest did coaching and retraining in the field and centers.

**ISSUES 12-64 (ROOT CAUSE ANALYSIS), 12-65 (WINBACK ATTEMPT/DISPARAGING REMARKS BY QWEST'S TECHNICIAN), 12-66 (WINBACK ATTEMPT DURING QWEST-CAUSED TROUBLE)**

**Example 9. Qwest repair referred customer to the Qwest business office while clearing Qwest caused trouble**

- Eschelon submitted a repair ticket to Qwest.
- The trouble was Qwest caused outage.
- Repair ticket (CEMR) notes state that Qwest referred the customer to the Qwest business office for a winback.
- Eschelon requested root cause.
- Qwest reviewed, retrained and took appropriate action.



## SUPPORTING DOCUMENTS

### Example 1. Qwest repair technician uses profanity and insults Eschelon's customer

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, November 23, 2005 10:50 AM  
To: Boeke, Gerald A.; Offerdahl, Mike R.  
Cc: Novak, Jean; Nielsen, Joshua; Johnson, Bonnie J.; Isaacs, Kimberly D.  
Subject: Matrix: Qwest Employee Concerns - CO

Gerry, Mike, Bonnie and Kim,

Qwest visited your end user and apologized for any misconception which may have caused the end user displeasure. The end user appreciated the visit by Qwest. This occurred in the mid August timeline.

Qwest has given this technician a written warning and was recovered on Qwest's Technician Expectations and Code of Conduct.

Please accept our apology for the time to respond to this issue. Qwest does take these situation as serious issues and does take immediate action. As previously shared, my SPOC did have a heart attack and I was not aware until recently. Since that time Qwest is reviewing all email in the employee's mail box. The good news is she is recovering without any after affects and may be back to work shortly.

Thanks and have a great Turkey Day.

Jean Novak

Entry on shared issues log from weekly call with Qwest

**11/21/05:** Jean will check status and send issue status to Kim on 11-22-05

Entry on shared issues log from weekly call with Qwest

**10/24/05** Bonnie requested escalation again. Bonnie told Jean she would escalate within Eschelon if Qwest does not provide a response

Entry on shared issues log from weekly call with Qwest

**9/26/05** Jean said she received responses and will format responses. Jean will provide response by 9/20/05.

Entry on shared issues log from weekly call with Qwest

**9/14/05** Jean has escalated within compliance.

Entry on shared issues log from weekly call with Qwest

9/7/05 Bonnie asked Jean to provide a response. Bonnie said that it is difficult to revisit this issue with the customer when 60 to 90 days has past before Qwest sends a response. Jean will get status.

---

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, August 03, 2005 9:11 AM  
**To:** Boeke, Gerald A.; Isaacs, Kimberly D.; [CONTACT INFORMATION REDACTED]  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: [CUSTOMER IDENTIFYING INFORMATION REDACTED] - Qwest ticket 0388217

I have forwarded to our compliance group

**From:** Nielsen, Joshua [CONTACT INFORMATION REDACTED]  
**Sent:** Tuesday, August 02, 2005 6:12 PM  
**To:** Offerdahl, Mike R.  
**Cc:** Peterson, Pete; Johnson, Bonnie J.; Isaacs, Kimberly D.; Novak, Jean  
**Subject:** RE: [CUSTOMER IDENTIFYING INFORMATION REDACTED] - Qwest ticket 0388217

Thank you Mike for bringning this to my attention. Jean Novak and I will address this issue.

Josh

**From:** Offerdahl, Mike R.  
**Sent:** Tuesday, August 02, 2005 6:08 PM  
**To:** 'joshua.nielsen [CONTACT INFORMATION REDACTED]  
**Cc:** Peterson, Pete; Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** [CUSTOMER IDENTIFYING INFORMATION REDACTED] - Qwest ticket 0388217  
**Importance:** High

Josh-

I wanted to bring an issue to your attention regarding this trouble ticket. TN in question is [CUSTOMER IDENTIFYING INFORMATION REDACTED]. Qwest tech was out to work on this issue yesterday and took the customer's credit card line down in the process. We had a vendor meet today with our tech and the Qwest tech. the Qwest tech immediately began complaining that he doesn't like to dispatch on repeat tickets and questioned why he was there in the first place. While both techs were on site for the meet the customer questioned them as to why his credit card line was down and advised them that he was out \$110.00 for free food that he gave away due to his credit card line being down. The Qwest tech advised the customer that he was out at the crossbox and advised the customer that he would pay the \$110.00 that the customer was owed. He made a gesture to reach for his wallet and then advised the customer that he was "not paying for <expletive>". Our tech, Paul Ware, basically made the Qwest technician leave at that point after verifying the line good to the dmarc. He then had to apologize profusely for the Qwest technician's behavior and then called me to report the issue. The Qwest technician's name is Ron Runsted. Please look into this issue and let us know your

findings, and please let us know what you plan on doing to make sure this does not happen again. Our technician, our customer, and now myself all agree that this kind of behavior is absolutely unacceptable.

Thank you in advance for your attention to this matter.

Regards,

**Michael R. Offerdahl**  
Supervisor Repair Service Bureau  
Eschelon Telecom, Inc  
[CONTACT INFORMATION REDACTED]

**Example 2. Qwest CO technician refused to cut back an out of service customer**

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Friday, June 10, 2005 8:28 AM  
To: Johnson, Bonnie J.  
Cc: Novak, Jean; Nielsen, Joshua  
Subject: Matrix: DS39.0 Qwest technician would not cut back on day of cut. N2167786 (Colorado)

Bonnie

I had the Network process staff review your example. The Qwest Field Technician was out of process and should have cut back at the direction of the QCCC. The Qwest Field Technician has been advise of correct process. Please provide examples if the occurs in the future Qwest will address immediately.

Thanks,  
Jean

---

**From:** Johnson, Bonnie J.  
**Sent:** Tuesday, May 17, 2005 1:50 PM  
**To:** jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Isaacs, Kimberly D.; Johnson, Bonnie J.; Knudson, Ronda K.  
**Subject:** Qwest technician refused to cut a customer back in an out of service condition

Jean,

A Qwest technician refused to do a cut back at the Qwest QCCC testers request. This caused an out of service condition for our customer. Eschelon had to escalate to get the customer cut back and Eschelon would like confirmation that this event been root caused and addressed internally at Qwest.

On Monday, May 2<sup>nd</sup> (scheduled cut date), Eschelon was working a cut for our customer with the QCCC. Eschelon requested a reuse of facilities on the LSR (noted below). Qwest did not reuse facilities as Eschelon requested on the LSR and Qwest did not add remarks on the FOC that Qwest did not reuse facilities as Qwest should have done per Qwest's documented process. Eschelon was not aware that Qwest was installing new loops for the conversion and Eschelon did not schedule an outside technician to do a cross connect because Qwest did not tell Eschelon

Qwest was not reusing facilities and was installing new loops for the conversion. Eschelon asked the QCCC tester (Rhonda) if the Qwest technician could do the cross connect. Qwest told Eschelon Qwest would charge so Eschelon asked the QCCC tester to cut the customer back because the customer was left with no dial tone. At this time our customer was out of service. Rhonda (the Qwest tester) told Eschelon she asked the Qwest technician to cut the service back, however, Rhonda said the Qwest technician refused to cut the customer back. After almost 2 hours, Ronda Knudson at Eschelon, escalated the issue to a QCCC Supervisor (at the QCCC tester's request). The QCCC Supervisor agreed this was not appropriate and escalated within Qwest network to get the Qwest technician to cut the lines back.

The escalation was successful, however, Eschelon should not have had to escalate with Qwest to get a customer cut back when the customer was without service. In the past, Qwest has told Eschelon that the Qwest tester is in control of the cut. This event is in conflict with Qwest's statements.

We appreciate your assistance with:

- Address training or compliance needs related to reuse of facilities when a CLEC requests such
- Determine why the Qwest technician refused to cut the customer back at the Qwest testers request
- Determine why the Qwest tester did not have the ability to escalate within the QCCC to get the support she needed on this issue. (please note that Eschelon does not take issue with Rhonda's actions and believe she did all she could, however, perhaps there is some gap that needs to be closed regarding the tester being in charge of the cut and when a Qwest tester should escalate internally).
- Verify Qwest took the appropriate corrective action to ensure this will not occur in the future and communicate that has been done to Eschelon.

N order N21637786  
PON CO497418PBM7  
LSR ID 14400809

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

**Example 3. Qwest did not follow delayed order process and customer service was delayed**

**From:** Nielsen, Joshua [CONTACT INFORMATION REDACTED]  
**Sent:** Thursday, February 09, 2006 9:33 AM  
**To:** Isaacs, Kimberly D.  
**Subject:** RE: PON: AZ617631T1FAC LSR ID: 16726010 Root Cause

Kim,

I could have sworn that I responded to this one, but can't find it, so here is the RCA.

After reviewing the issue Qwest has found that this was a case of human error. Qwest has shared and discussed the delayed order process with this employee.

Joshua B. Nielsen  
Qwest Communications  
Service Manager  
[CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Tuesday, January 31, 2006 2:37 PM  
**To:** Josh Nielsen (E-mail)  
**Cc:** Jean Novak (E-mail); Johnson, Bonnie J.; Jegtvig, Daniel E.  
**Subject:** PON: AZ617631T1FAC LSR ID: 16726010 Root Cause

Hello Josh,  
Could you please provide root cause on PON AZ617631T1FAC LSR ID 16726010 to determine why Eschelon did not receive a timely C29 jeopardy on this LSR. Eschelon lost 6 business days that we could have use to coordinate with our end user customer to resolve the C29 jeopardy. This type of delay is not acceptable. Eschelon is requesting root cause and the corrective action Qwest will be taking to ensure that customer jeopardies are sent in a timely manner. Thank you.

Order History:

PON: AZ617631T1FAC LSR ID: 16726010

- 1-23-06 Eschelon submitted PON AZ617631T1FAC for 1 EEL with a requested due date of 1-30-06
- 1-23-06 Qwest sent an FOC confirming the 1-30-06 due date.
- 1-24-06 Qwest sent a K17 Capacity Provisioning- Local Facility Not Available jeopardy
- 1-31-06 Eschelon opened escalation ticket # 25881196 because Qwest did not provide an FOC or additional jeopardy information with 72 hours of the original jeopardy. Russ with Qwest advised that the K17 jep was cleared and the order was in a C29 jep status. Eschelon reported that we never received the C29 jeopardy. Russ stated the C29 jep was missed and we should receive the jeopardy shortly.
- 1-31-06 Qwest sent C29 Customer-Pending Customer Status in RTT jeopardy with the following remarks: THIS IS HELD FOR CONDUIT INSPECTION...AS OF 1/23, CUST HAS NOT SCHEDULED INSPECT.

ACTION: Please provide root cause and corrective action.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
[CONTACT INFORMATION REDACTED]

**Example 4. Qwest tester refused to dispatch; problem in Qwest CO; customer sent to premise at 10 pm**

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Thursday, December 15, 2005 3:29 PM  
**To:** Johnson, Bonnie J.; McAlpine, Tom W.; Jean Novak (E-mail)  
**Cc:** Boeke, Gerald A.  
**Subject:** DE478213/ [CUSTOMER IDENTIFYING INFORMATION REDACTED]

Qwest has identified that process was not followed. I had a call with Staff Process and Network Compliance as well as with the Center Leads (Omaha and Des Moines) and the Director.

I will be responding to the global issue of dispatching after additional review by Qwest.

Thanks  
Jean

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Thursday, December 15, 2005 9:12 AM  
**To:** McAlpine, Tom W.; Jean Novak (E-mail)  
**Cc:** Boeke, Gerald A.; Johnson, Bonnie J.  
**Subject:** RE: DE478213/ [CUSTOMER IDENTIFYING INFORMATION REDACTED]

Sorry, I had gotten paged in the car and left it on the seat. Let me check on this one.

**From:** McAlpine, Tom W.  
**Sent:** Thursday, December 15, 2005 8:35 AM  
**To:** Jean Novak (E-mail)  
**Cc:** Boeke, Gerald A.; Johnson, Bonnie J.  
**Subject:** DE478213/ [CUSTOMER IDENTIFYING INFORMATION REDACTED]

Jean,

One of the Des Moines testers refused to dispatch on a ticket last night for a circuit in Minneapolis. I called your cell phone last night but got voicemail so left a message but didn't hear back from you.

DE478213  
15HCFS116267NW  
[CUSTOMER IDENTIFYING INFORMATION REDACTED]

Testers remarks at 2019 ticket time "ADV WE NO LONGER DO THAT ("do that" being dispatch w/o prem access)/JANET TO FOLLOW UP HER ACCOUNT REP". Ticket was the NA'd until morning. The customer returned Janets voicemail from earlier and agreed to provide access. Qwest took ticket out of NA status and dispatched. Problem found was "CARD WAS PULLED IN CO AT SONEPLEX SHELF".

As you can see the Des Moines testers are still telling us they do not dispatch after hours if there is no prem access. This one was especially bad because 1) they refused to dispatch, 2) the problem was in the CO, 3) we had the customer out at 10PM for no reason.

Jean we would appreciate some answers and some action. There does not appear to be any continuity between what you are telling us and what Des Moines is telling us.

Thanks,  
Tom

**Example 5. Qwest repair attempted winback while at customer's location and said Qwest had superior service**

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, August 02, 2006 11:25 AM  
To: Johnson, Bonnie J.  
Cc: Isaacs, Kimberly D.; Nielsen, Joshua  
Subject: Matrix: QE 20.00

Bonnie

You are correct, I did get this mixed up with QE19.0. The outstanding issue on this was Qwest employee behavior. I finally found the email and here is the results:

Qwest take very serious any alleged misconduct in the interactions between Qwest employees and CLEC's end users. Qwest did interview the Qwest employee and appropriate action was taken. Qwest re-trained the employee on Qwest's process on interactions between Qwest employees and CLEC's end users. Additionally, this employee was informed that failure to follow Qwest's process could lead to discipline or the possibility to employee termination.

Thanks  
Jean Novak

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

Entry on shared issues log from weekly call with Qwest  
**7/24/06 Weekly Status Call:** Jean has not had an opportunity to review this action item.

---

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, June 22, 2006 3:16 PM  
**To:** Johnson, Bonnie J.; 'jlnovak [CONTACT INFORMATION REDACTED]  
**Cc:** Isaacs, Kimberly D.  
**Subject:** RE: Confusion on QE issues log

Jean,  
[Have you looked at this one?](#)

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom Inc.



[CONTACT INFORMATION REDACTED]

Entry on shared issues log from weekly call with Qwest  
**5-15-06** Jean will look at this week

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, May 11, 2006 8:58 AM  
**To:** jlnovak [CONTACT INFORMATION REDACTED]  
**Cc:** Isaacs, Kimberly D.; Johnson, Bonnie J.  
**Subject:** Confusion on QE issues log

Jean,

In your response you have confused two different issues. You named the subject line QE20.0 when this response below was in fact the response to QE19.0 on the log. Qwest never did respond to the Qwest technician portion of issue. Qwest did respond to Qwest's inconsistency in the CEMR ticket. I will attach the last email and add this back on the log and add this email note.

Please provide a response to the Qwest technician issue.

To avoid this confusion in the future, it would be helpful for you to respond to the issue on the email I originally sent you rather than creating a new email and adding the log number in the subject line. These QE issues are so close in nature it is easy to confuse them.

The 1/5/06 note here is not accurate.

QE20.0	12/14/2005	OR	Qwest technician attempts winback to Qwest on Eschelon repair call	12/14/05 Bonnie wrote ":A customer told Eschelon that a Qwest technician Qwest dispatched to repair a trouble on Eschelon's behalf, tried to winback the customer. Per the customer, the Qwest technician used an
				opportunity to tell the customer that Qwest service is superior to Eschelon's service when the customer was already upset about the service outage. When Qwest is dispatched to the customer premise representing
				Eschelon, it is not appropriate for a Qwest technician to try to sell Qwest retail service. On 12/11/05, Qwest dispatched Qwest technician Shannon (per the attached Qwest CEMR ticket) to clear a trouble
				Eschelon reported to Qwest. The customer was very upset when he contacted Eschelon to tell Eschelon that the Qwest technician told him ""If you had Qwest service I could guarantee that you would not have service
				issues like this. If you are interested I can get you in contact with a Qwest rep and we can have your service converted within one week." These events are particularly disturbing to Eschelon because when the customer

				told the Qwest technician he just wanted the Qwest technician to fix trouble, the Qwest technician told the customer Qwest could not fix the problem because it appeared to be an inside wire problem.
				This raises yet another concern. If you review the ticket, Qwest notes the change in cable and pair but coded the ticket to CPE. Action Required: Tell Eschelon what steps Qwest will take to prevent
				this from recurring. Tell Eschelon why Qwest changed cable and pair but coded the ticket to CPE I am attaching the repair ticket below."
				<b>12/14/05</b> Jean wrote "checking"
				<b>12/14/05</b> Jean wrote "I am going to respond on this issue in two email because of the two separate issues. I can immediately respond to ticket closure and have sent for review the issue on tech behavior. #1 Ticket Closure"
				"The Field technician provided a Disposition and cause code in the wrong field. By not using the correct field when inputting the Disposition and cause code it drives errors in the WFA system,
				which is what has happened here. If Eschelon remembers, there have been previous discussions on previously on this issue. This has been reported to the Process Staff for the outside technician. The outside
				technician will be re-trained on the appropriate field to populate. Qwest considers this a performance issue and will deal with it appropriately. The ticket closed to CPE is correct. Qwest did not make any
				changes to the cable or pair. If Eschelon finds any other examples please provide to Qwest for corrective action"
				<b>12/14/05</b> Jean wrote "I had another service manager pull from TIRKS the design of this circuit to check the cable and pair. If this would have been changed it would be reflected in TIRKS. This circuit is still designed to cable 22 pair 1702."
				<b>12/14/05</b> Bonnie wrote "We will wait for the response on the technician then. Gerry will attempt to provide examples, however, this is information
				Qwest already has and should notice when doing quality checks. I assume that it is currently being addressed when found."

				<b>1/5/06</b> Jean wrote "Qwest has reviewed and taken appropriate action on this issue. Any information where Eschelon is not the customer of record will not be provided to Eschelon or any other customer, wholesale or retail." <b>Closed</b>
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**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, December 14, 2005 11:34 AM  
**To:** 'Novak, Jean'; [CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.; Johnson, Bonnie J.  
**Subject:** RE: Qwest technician attempts winback to Qwest on Eschelon repair call

Jean,  
Thanks,  
We will wait for the response on the technician then. Gerry will attempt to provide examples, however, this is information Qwest already has and should notice when doing quality checks. I assume that it is currently being addressed when found.

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

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**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, December 14, 2005 10:53 AM  
**To:** Novak, Jean; Johnson, Bonnie J.; [CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.  
**Subject:** Qwest technician attempts winback to Qwest on Eschelon repair call

Bonnie  
I had another service manager pull from TIRKS the design of this circuit to check the cable and pair. If this would have been changed it would be reflected in TIRKS. This circuit is still designed to cable 22 pair 1702.

---

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, December 14, 2005 10:49 AM  
**To:** Novak, Jean; Johnson, Bonnie J.; [CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.  
**Subject:** Qwest technician attempts winback to Qwest on Eschelon repair call

Bonnie  
I am going to respond on this issue in two email because of the two separate issues. I can immediately respond to ticket closure and have sent for review the issue on tech behavior.

#1 Ticket Closure

The Field technician provided a Disposition and cause code in the wrong field. By not using the correct field when inputting the Disposition and cause code it drives errors in the WFA system, which is what has happened here. If Eschelon remembers, there have been previous discussions on previously on this issue.

This has been reported to the Process Staff for the outside technician. The outside technician will be re-trained on the appropriate field to populate. Qwest considers this a performance issue and will deal with it appropriately.

The ticket closed to CPE is correct. Qwest did not make any changes to the cable or pair.

If Eschelon finds any other examples please provide to Qwest for corrective action.

Thanks

Jean Novak

Regional Service Director

12/11/05 1051 DO SDC FIX OMAHNENWA09 PTLDOR69 PTLDOR74A01 Z CMP ESC

12/11/05 10:51 537 12/11/05 10:40

T D 0910 C 600 F1 F2 F3 CTTN 83661

RET JOB NARR: SCREEN = DOCTC

TRBL FOUND: GD TO DMARC

ACTN TAKEN: GD TO DMARC

DEFECTIVE FOUND CABLE 22 FOUND PAIR 1702

12/11/05 1051 S2H CUS \*\*\*\*\*CUSTOMER STATUS\*\*\*\*\*

WE HAVE TESTED AND PROVED THERE IS NO TROUBLE IN

OUR QWEST NETWORK. SO IF YOU ARE STILL

EXPERIENCING A PROBLEM,WE BELIEVE THE PROBLEM IS

IN YOUR NETWORK OR YOUR END USER. WE WILL BE

12/11/05 1048 S2H CUS FIX OST SHANNON CALLED TO REPORT THAT HAS DIAL TONE Bonnie

GOOD TO DEMARC - DEMARC IS ON 2ND - OST TAGGED CKT

- VERIFIED GOOD TO DEMARC AS OF 1040A - END USER

STIL HAS NDT SO IS A CPE ISSUE SHERI [CONTACT INFORMATION REDACTED]

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, December 14, 2005 10:31 AM  
**To:** Johnson, Bonnie J.; jlnovak [CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest technician attempts winback to Qwest on Eschelon repair call

Thanks, I sent for review.

---

**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, December 14, 2005 10:24 AM  
**To:** 'Novak, Jean'; jlnovak [CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.; Johnson, Bonnie J.  
**Subject:** RE: Qwest technician attempts winback to Qwest on Eschelon repair call

Jean,  
In the body of the word doc.

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

12/11/05 1051 S2H CUS **DEFECTIVE FOUND CABLE 22 FOUND PAIR 1702**  
\*\*\*\*\*CUSTOMER STATUS\*\*\*\*\*  
WE HAVE TESTED AND PROVED THERE IS NO TROUBLE IN  
OUR QWEST NETWORK. SO IF YOU ARE STILL  
EXPERIENCING A PROBLEM,WE BELIEVE THE PROBLEM IS  
IN YOUR NETWORK OR YOUR END USER. WE WILL BE  
CLOSING OUR TICKET AS SUCH (CPE OR IEC).Y  
12/11/05 1050 S2H CUS \*\*\*\*\*TEST RESULTS\*\*\*\*\*  
**TECH= SHANNON**  
LOOP CURRENT= NA  
1004=-5.0  
C-MSG ( NOISE )= 0  
POWER INFLUENCE= NA  
BALANCE= 100

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

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**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, December 14, 2005 9:45 AM  
**To:** Johnson, Bonnie J.; jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest technician attempts winback to Qwest on Eschelon repair call

Bonnie  
Can you point to me in the ticket attached where it states Qwest changed cable and pair. I am not finding and maybe I am just not understanding where Eschelon reads these notes.

Thanks, Jean

---

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, December 14, 2005 9:23 AM  
**To:** Johnson, Bonnie J.; jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest technician attempts winback to Qwest on Eschelon repair call

checking

---

**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, December 14, 2005 9:12 AM  
**To:** jlnovak [CONTACT INFORMATION REDACTED]  
**Cc:** Boeke, Gerald A.; Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest technician attempts winback to Qwest on Eschelon repair call

Jean,

A customer told Eschelon that a Qwest technician Qwest dispatched to repair a trouble on Eschelon's behalf, tried to winback the customer. Per the customer, the Qwest technician used an opportunity to tell the customer that Qwest service is superior to Eschelon's service when the customer was already upset about the service outage. When Qwest is dispatched to the customer premise representing Eschelon, it is not appropriate for a Qwest technician to try to sell Qwest retail service.

On 12/11/05, Qwest dispatched Qwest technician Shannon (per the attached Qwest CEMR ticket) to clear a trouble Eschelon reported to Qwest. The customer was very upset when he contacted Eschelon to tell Eschelon that the Qwest technician told him "*If you had Qwest service I could guarantee that you would not have service issues like this. If you are interested I can get you in contact with a Qwest rep and we can have your service converted within one week.*" These events are particularly disturbing to Eschelon because when the customer told the Qwest technician he just wanted the Qwest technician to fix trouble, the Qwest technician told the customer Qwest could not fix the problem because it appeared to be an inside wire problem. This raises yet another concern. If you review the ticket, Qwest notes the change in cable and pair but coded the ticket to CPE.

Action Required:

Tell Eschelon what steps Qwest will take to prevent this from recurring.

Tell Eschelon why Qwest changed cable and pair but coded the ticket to CPE

I am attaching the repair ticket below.

Thanks,

Bonnie Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.

[CONTACT INFORMATION REDACTED]

Attachment to e-mail -- File Qwest ticket 2-14-05 Qwest employee.doc:

```
COMMAND      D WFAC: WORK LOG (OSSLOG)          /FOR
GO TO PAGE    PRINTER          1 N PAGE 0001    12/12/05 06:55 PST
TRK/TR# OW046847  CKT S 5 /LXFU/492111 /PN
VIEW ALL DISPLAY G  CTR OMAHNENWA09  ORD
*****
DATE  TIME ID FCT  EVNT ACTIVITY DESCRIPTION

12/11/05 1300 CTL ESX  FIX MT /000  PTLDOR74A01
12/11/05 1058 NS1 DRP  FIX MT /NS1
12/11/05 1058 NS1 GRB  FIX MT /NS1
12/11/05 1058 NS1 UPT  FIX MT /000
ADV_NAME ADV_NUM ADV_D/T
12/11/05 1058 NS1 ADP  FIX MT /NS1
12/11/05 1058 NS1 EBV  FIX MT /NS1 12/11/05 10:45 RST-REQUEST
12/11/05 10:58 12/12/05 10:58
T D 0910 C 600 F1 F2 F3 CTTN 83661
TRBL CD: CPE AN CD: 09 S/CTR B
NDT=GD TO DMARC, IF STILL TRBL CHK CPE & IEC
NETWORK
12/11/05 1053 NS1 GRB  FIX MT /NS1
12/11/05 1051 CTL RMK  FIX /WFADOCOMP HANDOFF COMPLETED/TAKE APPROPRIATE
```

051211105131456

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)

```
COMMAND      D WFAC: WORK LOG (OSSLOG)          /FOR
GO TO PAGE    PRINTER          1 N PAGE 0002    12/12/05 06:55 PST
TRK/TR# OW046847  CKT S 5 /LXFU/492111 /PN
VIEW ALL DISPLAY G  CTR OMAHNENWA09  ORD
*****
```

```
DATE  TIME ID FCT  EVNT ACTIVITY DESCRIPTION

ACTION
12/11/05 1051 CTL NOL  FIX MT /000
12/11/05 1051 CTL PAS  FIX MT /000          /WFADOCOMP
FCT1=RMK , COMMAND1=NOL , COMMAND2=AVAIL
12/11/05 1051 CTL PIR  FIX MT /000
RULE 002 (SDC ) MET PROCESS /WFADOCOMP
CRITERIA MET: ANY
12/11/05 1051 CTL BER  FIX AUTO RESTORE NOT ENABLED FOR MC (RST CLS OPTIONS)
12/11/05 1051 DO SDC  FIX OMAHNENWA09 PTLDOR69 PTLDOR74A01 Z CMP ESC
12/11/05 10:51 537 12/11/05 10:40
T D 0910 C 600 F1 F2 F3 CTTN 83661
RET JOB NARR: SCREEN = DOCTC
TRBL FOUND: GD TO DMARC
ACTN TAKEN: GD TO DMARC
```

051211105131186

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)

```
COMMAND      D WFAC: WORK LOG (OSSLOG)          /FOR
GO TO PAGE    PRINTER          1 N PAGE 0003    12/12/05 06:55 PST
TRK/TR# OW046847  CKT S 5 /LXFU/492111 /PN
VIEW ALL DISPLAY G  CTR OMAHNENWA09  ORD
*****
```

```
DATE  TIME ID FCT  EVNT ACTIVITY DESCRIPTION

DEFECTIVE FOUND CABLE 22 FOUND PAIR 1702
12/11/05 1051 S2H CUS *****CUSTOMER STATUS*****
WE HAVE TESTED AND PROVED THERE IS NO TROUBLE IN
OUR QWEST NETWORK. SO IF YOU ARE STILL
EXPERIENCING A PROBLEM,WE BELIEVE THE PROBLEM IS
IN YOUR NETWORK OR YOUR END USER. WE WILL BE
CLOSING OUR TICKET AS SUCH (CPE OR IEC).Y
12/11/05 1050 S2H CUS *****TEST RESULTS*****
```

**TECH= SHANNON**  
LOOP CURRENT= NA  
1004=-5.0  
C-MSG ( NOISE )= 0  
POWER INFLUENCE= NA  
BALANCE= 100

051211105022454

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0004 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

RINGBACK= 103

12/11/05 1050 S2H CUS RESISTANCE: T-R= 999  
RESISTANCE: T-G= 999  
RESISTANCE: R-G= 999  
FOREIGN VOLTAGE: T-R=0 T-G=0 R-G=0  
\*\*WHEN DID OST START DRIVING ON TKT: 0934 \*\*  
\*\*OST STOPPED WRKG TBL TKT: 1045 \*\*  
\*\*TICKET RESTORAL TIME: \*\*  
\*\*\*\*\*

12/11/05 1048 S2H CUS FIX **OST SHANNON CALLED TO REPORT THAT HAS DIAL TONE  
GOOD TO DEMARC - DEMARC IS ON 2ND - OST TAGGED CKT  
- VERIFIED GOOD TO DEMARC AS OF 1040A - END USER  
STIL HAS NDT SO IS A CPE ISSUE SHERI [CONTACT INFORMATION REDACTED]**

12/11/05 0934 DO SDD FIX OMAHNENWA09 PTLDOR69 PTLDOR74A01 Z DSP ESC

051211093429658

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0005 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

12/11/05 09:34 537

12/11/05 0932 NS1 CUS FIX THIS IS ON TECH LOAD FOR DSP LATE MORNING OR EARLY  
AFTERNOON  
12/11/05 0931 NS1 RMK FIX EXTEND TIMER FOR DSP  
12/11/05 0931 NS1 ESC FIX MT /000 PTLDOR74A01 Z  
12/11/05 13:00 PTLDOR74A01  
12/11/05 0930 CTL ESX FIX MT /000 PTLDOR74A01 PTLDOR69  
12/11/05 0923 DO **SDL** FIX OMAHNENWA09 PTLDOR69 PTLDOR74A01 Z PRE ESC  
12/11/05 09:23 **537**  
12/11/05 0906 NS1 RMK FIX EXTEND TIMER FOR DSP  
12/11/05 0906 NS1 ESC FIX MT /000 PTLDOR74A01 Z  
12/11/05 09:30 PTLDOR74A01  
12/11/05 0900 CTL ESX FIX MT /000 PTLDOR74A01 PTLDOR69  
12/11/05 0811 NS1 RMK FIX EXTEND TIMER FOR DSP

051211081157682

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0006 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

12/11/05 0811 NS1 ESC FIX MT /000 PTLDOR74A01 Z  
12/11/05 09:00 PTLDOR74A01  
12/11/05 0811 NS1 RMK CALLED LRAC SPOKE WITH KELLY, ADVSD THAT HAVE 4  
TICKETS IN PORTLAND THAT NEED PRE, SHE WILL WORK  
ON THEM THANKS, NICOLE  
12/11/05 0800 CTL ESX FIX MT /000 PTLDOR74A01 PTLDOR69



12/11/05 0708 NS1 RMK FIX EXTEND FOR LRAC TO LOAD AWARE OF TICKET  
12/11/05 0708 NS1 ESC FIX MT /000 PTLDOR74A01 Z  
12/11/05 08:00 PTLDOR74A01  
12/11/05 0700 CTL ESX FIX MT /000 PTLDOR74A01 PTLDOR69  
12/11/05 0601 A3S CUS FIX JANET CALLED AND ASKED IF I CAN MAKE ONE MORE CALL  
TO LRAC TO MAKE SURE THIS GET'S WORKED AT 10 WHEN  
ACCESS IS AVAILABLE. SPOKE TO JAN IN LRAC WHO  
SAID THAT SHE WILL NOTE THE TICKET TO WORK @ THAT

051211060129855

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0007 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

TIME

12/10/05 2019 J8S RMK FIX RELAYED INFO TO CLEC JANET OF NOTE FOR REQUEST TO  
DPO 1ST AM, 121105. JIM S. [CONTACT INFORMATION REDACTED].  
12/10/05 2017 J8S RMK FIX TALKED TO JIM IN LRAC. HE PUT A NOTE ON THE TICKET  
TO GET LOADED FOR 1ST AM. JIM S. [CONTACT INFORMATION REDACTED].  
12/10/05 2015 J8S RMK FIX CLEC JANET CALLED TO HAVE THIS TICKET LOADED FOR  
1ST AM DPO. JIM S. [CONTACT INFORMATION REDACTED].  
12/10/05 1715 J8S RMK FIX DPO FOR 121105. EXTEND TIME TILL 0700.  
12/10/05 1715 J8S ADP FIX MT /J8S  
12/10/05 1715 J8S ESC FIX MT /J8S PTLDOR74A01 Z  
12/11/05 07:00 PTLDOR74A01  
12/10/05 1715 J8S UPT FIX MT /J8S  
SUM/RMK  
12/10/05 1715 J8S CUS FIX DPO FOR 121105. CALL WITH QUESTIONS. JIM S.

051210171530395

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0008 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

[CONTACT INFORMATION REDACTED].

12/10/05 1713 J8S RMK FIX JIM STRAUBE AT [CONTACT INFORMATION REDACTED] WORKING TICKET.  
12/10/05 1713 J8S GRB FIX MT /J8S  
12/10/05 1712 CTL HDX FIX MT /000 PTLDOR69 Z  
12/10/05 1700 LG1 CUS \*\*\*\*\*INITIAL CONTACT\*\*\*\*\*  
WE HAVE RECEIVED YOUR TICKET AND THE INFORMATION  
MATCHES,THE COMMIT IS 24HOURS. WE ARE DISPATCHING  
TO THE FIELD AND WILL KEEP YOU UPDATED.  
HISTORY CHECKED:YES

MISC INFO:

12/10/05 1700 LG1 CUS THANKS LYNDA [CONTACT INFORMATION REDACTED]  
12/10/05 1659 LG1 UPT FIX MT /000  
REPORT

051210165935980

GSM0011 FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0009 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

\*\*\*\*\* DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

12/10/05 1659 LG1 SUB FIX MT /000 12/10/05 16:59  
RPT: NDT ; NDT [CUSTOMER IDENTIFYING INFORMATION REDACTED] A  
LT09 X131 OPT=Y DSP=YTT 210859  
12/10/05 1657 DO SDA FIX OMAHNENWA09 PTLDOR69 PTL



RTT: 00 SYS: INTASOMA  
12/10/05 1657 CTL PGT FIX MT /000  
THRESHOLD MET  
MCN XX6JVZA20  
12/10/05 1657 MED RMK FIX THIS TROUBLE REPORT CREATION WAS THROUGH THE  
MEDIACC GATEWAY  
12/10/05 1657 MED ADD FIX MT /000 12/10/05 16:57  
TYPE= NDT  
NAF/  
NDT/NO DIAL TONE  
/DETAILS IN OSSLOG  
12/10/05 1657 MED RCV ENTR MT /000 12/10/05 16:57

SN [CUSTOMER IDENTIFYING INFORMATION REDACTED]

051210165741104  
GSM001I FIND SUCCESSFUL - MORE DATA ON NEXT PAGE(S)  
COMMAND D WFAC: WORK LOG (OSSLOG) /FOR  
GO TO PAGE PRINTER 1 N PAGE 0013 L 12/12/05 06:55 PST  
TRK/TR# OW046847 CKT S 5 /LXFU/492111 /PN  
VIEW ALL DISPLAY G CTR OMAHNENWA09 ORD  
\*\*\*\*\*

DATE TIME ID FCT EVNT ACTIVITY DESCRIPTION

SA [CUSTOMER IDENTIFYING INFORMATION REDACTED]

000000000000000  
GSM002I FIND SUCCESSFUL - - - - - LAST PAGE OF OUTPUT DISPLAYED

**Example 6. Qwest repair technician makes disparaging remarks about Eschelon; attempts winback; brochures appear**

-----Original Message-----  
From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Friday, April 01, 2005 4:05 PM  
To: Johnson, Bonnie J.  
Cc: Novak, Jean; Nielsen, Joshua  
Subject: Inappropriate Qwest technician comments  
Importance: High

Bonnie

Corrective action has been taken for the incident described by Eschelon. Qwest has Customer Care Expectations and Guidelines for all employees to follow on how to appropriately handle a customer contact, in particular when the end-user is not a Qwest customer.

Thanks  
Jean

-----Original Message-----  
From: Johnson, Bonnie J. [CONTACT INFORMATION REDACTED]  
Sent: Friday, March 04, 2005 3:08 PM  
To: jlnovak [CONTACT INFORMATION REDACTED]  
Cc: Johnson, Bonnie J.  
Subject: Inappropriate Qwest technician comments

Jean,  
A Qwest technician Qwest dispatched to the customer's premise on a repair ticket made very disturbing comments about Eschelon to our customer. The customer called to report that while a Qwest repair technician was at the customer's location, the Qwest technician told our customer how "bad Eschelon service was". The customer also told Eschelon the Qwest technician tried to sell the customer Qwest service, then 3 days later Qwest brochures describing Qwest services, showed up in the customer's mail. Both Eschelon and our customer find the Qwest's technicians' comments very disturbing. I will attach the associated trouble ticket information below.

Action Required:

- \* Tell Eschelon what Qwest has done about the comments the Qwest technician made to our customer
- \* Tell Eschelon what steps Qwest will take to prevent future occurrences
- \* Tell Eschelon what generated the brochures the customer received 3 days after the Qwest technician was at the location
- \* Tell Eschelon what other Eschelon trouble tickets this Qwest

technician has worked on. Eschelon will need to contact these customers.

\* Qwest closure indicates the trouble was in the customers CPE, however, based on Qwest's report, Eschelon dispatched a technician after the Qwest technician left the location. When the Eschelon technician arrived, the Eschelon technician tested the lines clear. The service worked after the Qwest technician left without any action for the customer or the Eschelon technician. Verify that Qwest closed the ticket to the correct code.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

DLETH EC 666 TN [CUSTOMER IDENTIFYING INFORMATION REDACTED]  
DPA 0 LD 01-01-69 HD 03-04-05  
PRTR

LN RBA07(OATD) [CUSTOMER IDENTIFYING INFORMATION REDACTED]

SA [CUSTOMER IDENTIFYING INFORMATION REDACTED]

LOC

---HIST---

NO	REPORT	S	CLEARED	CLOSED	TST	RPM	SWK	RSL	T
----	--------	---	---------	--------	-----	-----	-----	-----	---

-----  
--  
--

1	02-24-05	901A	1	02-24-05	1246P	02-24-05	1253P	843	899	0	900	303
---	----------	------	---	----------	-------	----------	-------	-----	-----	---	-----	-----

1230  
230

LN - RBA07(OATD) [CUSTOMER IDENTIFYING INFORMATION REDACTED]; CAT 1

01 DTR=02-24-05 901A COM=02-24-05 1258P RSA=666 O/S=N EXC=N

CALLED-NO= - - CATEGORY=1 VER=LU CVER=

NAR TRAN MED ESCHELON@@ALPHS SOL ALCLS TIC-NO ADL \* ALL LINES\* MED  
EMERG LTO \* NAR EDICAL FAC, CLBK W/TST RESULTS,DO \*

NAR A B JEFFREY J BELLIN [CONTACT  
INFORMATION REDACTED]

02 DNT=02-24-05 901A EC=666 ST=PSM RTE=00000000 WP=NWP RSL=LU

NAR DATMED1

03 DNT=02-24-05 905A EC=299 ST=PSH RTE=00000299 WP=NWP RSL=LU

NAR DATMED1 765AVLUT100-499,600-899N  
DLETH EC 666 TN [CUSTOMER IDENTIFYING INFORMATION REDACTED]  
DPA 0 LD 01-01-69 HD 03-04-05  
PRTR

04 DNT=02-24-05 906A EC=256 ST=PS RTE=00000990 WP=NWP RSL=000

NAR WHOLESALE LINE TEST ONLY/TIC-NO-PS

05 DNT=02-24-05 921A EC=843 ST=TST RTE=00000843 WP=SCR RSL=

NAR CIERICK CANDACE STPAUL [CONTACT INFORMATION REDACTED]

06 DTR=02-24-05 1006A COM=02-24-05 1258P RSA=843 O/S=N EXC=N

CALLED-NO= - - CATEGORY=6 VER=LU CVER=

NAR UPDATE TRAN MED ESCHELON@@ALPHS SOL ALCLS TIC-Y/PER RICK ADL \* ALL  
LINES\* M  
NAR D EMERG RCEPROD1

NAR A B RICK/ESCH [CONTACT  
INFORMATION REDACTED]

07 DNT=02-24-05 1006A EC=843 ST=PDB RTE=00000997 WP=TST RSL=900

NAR CIERICK CROSS TO WORKING PAIR HRD BATT R-G TRAN SOL ALL LINES

08 DNT=02-24-05 1007A EC=843 ST=PDB RTE=00000843 WP=NWP RSL=900

NAR CIERICK CROSS TO WORKING PAIR HRD BATT R-G TRAN SOL ALL LINES

09 DNT=02-24-05 1009A EC=899 ST=PRD RTE=00000899 WP=NWP RSL=

NAR GDS PREASSIGNED FOR WORK TODAY 02-24-05 1027A

10 DNT=02-24-05 1009A EC=899 ST=DPO RTE=00000899 WP=NWP RSL=

NAR GDS JOB DISPATCHED BY DO 02-24-05 1144A

11 DNT=02-24-05 1144A EC=899 ST=DPO RTE=00000899 WP=DO RSL=

NAR GDS DO-PROVIDED DISPATCH START TIME  
DLETH EC 666 TN [CUSTOMER IDENTIFYING INFORMATION REDACTED]  
DPA 0 LD 01-01-69 HD 03-04-05  
PRTR

12 DNT=02-24-05 1246P EC=899 ST=CCA RTE=00000899 WP=CRO RSL=

NAR GDS TRBL IN CPE TT ESCHLON

13 DNT=02-24-05 1246P EC=899 ST=CLO RTE=00000899 WP=NWP RSL=

NAR GDS TRBL IN CPE TT ESCHLON

NAR CLEC = A07 REBUNDLE QWEST RESALE/INTE

LAST CLIP DATE 08-17-97

\* Denotes required field

**Example 7. Qwest engineer attempted winback while at premises to install NIU**

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, May 21, 2003 1:00 PM  
To: Johnson, Bonnie J.; Novak, Jean  
Subject: Matrix: Qwest field engineer

Bonnie,  
As part of the Security investigation, the Qwest Retail person was also part of the reveiw. The detailed report was provided to Qwest Compliance for review and appropriate action has been taken.  
thanks jean

-----Original Message-----

From: Johnson, Bonnie J. [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, May 21, 2003 7:52 AM  
To: jlnovak[CONTACT INFORMATION REDACTED]  
Cc: Johnson, Bonnie J.  
Subject: Follow up

Hi Jean,  
After you updated me on the Colorado Engineer item yesterday, we realized that you did not address the Qwest Retail employee. Though the Qwest field engineer initiated the call, the Qwest BO rep was well aware of the situation at hand and that this involved an Eschelon customer and order.

Eschelon believes the Qwest BO rep should have communicated that he could not discuss the customers service under the circumstances. Can you confirm that has been covered as well and the appropriate action was taken?

Bonnie Johnson  
Sr. Manager ILEC Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

Entry on shared issues log from weekly call with Qwest  
**5/20/03** Security completed inverstigation. Meeting was held with the field engineer. Did discuss conduct rules and appropriate action was taken.

Entry on shared issues log from weekly call with Qwest  
**5/13/03** Security completed investigation and supplied to compliance. Jean will follow up with compliance.

**From:** Johnson, Bonnie J.  
**Sent:** Tuesday, May 06, 2003 1:06 PM  
**To:** Johnson, Bonnie J.; 'Novak, Jean'



**Cc:** Clauson, Karen L.; Burgess, Galen J.; Larson, Laurie A.  
**Subject:** RE: Inappropriate Qwest Contact With Wholesale Customer

Hi Jean,  
After our discussion this morning, I requested information on the building owner. Here is the information I received.

[CUSTOMER IDENTIFYING INFORMATION REDACTED] is the owner of the buildings and of [CUSTOMER IDENTIFYING INFORMATION REDACTED], which is the parent company of [CUSTOMER IDENTIFYING INFORMATION REDACTED]. Contact is [CUSTOMER IDENTIFYING INFORMATION REDACTED] for all accounts.

Customer did not initiate contact with Qwest. Order # C275242TIH requested move of 4 lines and installation of DMARC at 2101. This order was jepp'd and referred to Qwest Engineering for installation of DMARC. At that time Eschelon provided Qwest with [CUSTOMER IDENTIFYING INFORMATION REDACTED] contact information and the Qwest engineer contacted both [CUSTOMER IDENTIFYING INFORMATION REDACTED]  
Bonnie Johnson  
Sr. Manager ILEC Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

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**From:** Johnson, Bonnie J.  
**Sent:** Monday, May 05, 2003 5:15 PM  
**To:** 'Novak, Jean'; Johnson, Bonnie J.  
**Cc:** Clauson, Karen L.; Burgess, Galen J.; Larson, Laurie A.  
**Subject:** RE: Inappropriate Qwest Contact With Wholesale Customer  
**Importance:** High

Jean,  
As of this morning Qwest is still pursuing this customer. In the customers words "Qwest is basically holding me hostage". Qwest told the customer that Qwest can provide her service by the end of this week if she orders Qwest service, however, the service will be delayed due to the demarc installation if she orders her service with Eschelon. The customer said Qwest is calling this a winback even though Qwest never provided service at this location.

How can Qwest install service by the end of the week but Eschelon's will be delayed because there is no demarc.

Thanks,

Bonnie Johnson  
Sr. Manager ILEC Relations  
[CONTACT INFORMATION REDACTED]

-----Original Message-----  
From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Monday, May 05, 2003 2:55 PM  
To: Johnson, Bonnie J.  
Subject: Inappropriate Qwest Contact With Wholesale Customer

Bonnie,  
I sent this on. thanks,

---

**From:** Johnson, Bonnie J.  
**Sent:** Friday, May 02, 2003 3:25 PM  
**To:** jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Larson, Laurie A.; Knudson, Ronda K.; Clauson, Karen L.; Johnson, Bonnie J.  
**Subject:** Inappropriate Qwest Contact With Wholesale Customer

Jean,  
Please review the following information for Eschelon and communicate what action will be taken.

Background: Business customer owns two buildings. The addresses are [CUSTOMER IDENTIFYING INFORMATION REDACTED] and [CUSTOMER IDENTIFYING INFORMATION REDACTED]. Per the customer there was never a demarc installed at the 2101 address and all services for 2101 were terminated at the 2107 address demarc and run to the 2101 address. There will now be different owners for the two buildings. The 2101 building can no longer share a demarc with the 2107 building. A new demarc needs to be installed at the 2101 location.

Sequence of events:

**New Service**

- Eschelon customer moved into the 2101 building and needed new service.
- Eschelon submitted LSR ID 6341914 on 3/13 to install new service. Qwest installed the new service on 3/20 at the 2107 demarc, even though Eschelon requested the 2101 address on the LSR.

**Move request**

- Eschelon submitted LSR ID 6549891 to move the 4 lines from the 2107 address to the 2101 address. Qwest issued C14136886 to move the service. Qwest jepp'd the order and communicated to Eschelon that the move cannot be completed until a new demarc is installed.
- Eschelon opened ticket 25083171 with the delayed order group to start the process of getting a demarc installed. Qwest told Eschelon that our LSR to move the customer needed to be cancelled until the demarc was installed. Eschelon did not cancel the LSR. ***Why would Eschelon be required to cancel the order. Wouldn't the held order drive the demarc install?***

**Qwest contact**

- During the week of 4/21 a Qwest engineer was on-site speaking to our customer regarding the demarc install. The Qwest engineer told the customer they should have ordered service from Qwest (Eschelon does not know if this was the same engineer noted below)
- The Qwest engineer was on-site speaking to our customer again on 4/28. The field engineer (Kim Sorento [CONTACT INFORMATION REDACTED]) bridged on a Qwest Retail Sales representative (David Good) and the Qwest Retail Sales rep quoted the customer rates for 4 CTX21 lines @ \$31.38 + installation charges and DSL charges of \$48.90 for 256K and \$54.00 for 640K.
- Qwest told the customer she needs to decide whether she is staying with Eschelon or going to Qwest before they can move forward with the DMARC install.

Please handle appropriately.

Thanks,

Bonnie Johnson  
Sr. Manager ILEC Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

**Example 8. Conversion order: a Qwest technician gives inaccurate info, Qwest disconnects DSL 7 days early**

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, April 21, 2004 3:36 PM  
To: Johnson, Bonnie J.  
Cc: Brolsma, Patrick W.; Bonnie Johnson; Karen Clauson; Kimberly Isaacs; Raymond Smith; Novak, Jean; Tietz, Jeff  
Subject: Matrix: [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

Bonnie,

The Director level management at Qwest has thoroughly investigated both issues. Coaching and re-training on technician conduct with CLECs and CLEC customers has been done both in the repair centers and in the field. Appropriate action has been taken individually with each employee.

Regards,  
Jean Novak

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, April 07, 2004 11:48 AM  
To: Johnson, Bonnie J.  
Cc: Brolsma, Patrick W.; Clauson, Karen L.; Isaacs, Kimberly D.; Smith, Raymond L  
Subject: RE: [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

This is being investigated by corporate compliance. I will check to see what time line they will give me. Jean

**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, April 07, 2004 11:37 AM  
**To:** Johnson, Bonnie J.; 'jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Brolsma, Patrick W.; Clauson, Karen L.; Isaacs, Kimberly D.; Smith, Raymond L  
**Subject:** RE: [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

Jean,  
Eschelon sent this to Qwest over two weeks ago. Will Qwest be providing a response soon?

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Wednesday, March 31, 2004 3:59 PM  
To: Johnson, Bonnie J.

Cc: Brolsma, Patrick W.; Bonnie Johnson; Karen Clauson; Kimberly Isaacs; Raymond Smith  
Subject: [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

Bonnie

I spoke with my contact. Qwest has not concluded our investigation. I will keep you updated.

Thanks,  
Jean

-----Original Message-----

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Thursday, March 25, 2004 8:29 AM  
To: Johnson, Bonnie J.  
Subject: RE: [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

Yes, we are researching.

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, March 25, 2004 6:41 AM  
**To:** Johnson, Bonnie J.; 'jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Brolsma, Patrick W.; Clauson, Karen L.; Isaacs, Kimberly D.; Smith, Raymond L  
**Subject:** RE: [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

Jean,  
Did you receive this? I had not heard from you that it was forwarded on.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

**From:** Johnson, Bonnie J.  
**Sent:** Wednesday, March 24, 2004 6:58 AM  
**To:** jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Brolsma, Patrick W.; Bonnie Johnson; Karen Clauson; Kimberly Isaacs; Raymond Smith  
**Subject:** [CUSTOMER IDENTIFYING INFORMATION REDACTED] Root Cause Analysis/Action required

Eschelon requests Qwest's prompt assistance on an End User Customer conversion issue. This issue involves 1.) A Qwest technician making inappropriate comments to our customer and 2. Qwest taking down our customers DSL and then the Qwest repair center blaming the early disconnection on Eschelon.

The customer is a National Account/multi-location customer for Eschelon. This is the first of 8 total locations the customer was to convert to Eschelon and means over \$200,000 or almost a quarter of a million dollars in revenue for Eschelon. Because this is the first of 8 locations to convert, Qwest needs to deal with this issue before the other 7 locations are converted to avoid similar problems with those conversions.

I have attached a chronology of these events.

Qwest Action required:

- 1.) Qwest will takes measures to address comments made by the Qwest technician. The Qwest technician told our customer that the customer would not receive facilities even though facilities were available by the due date. Qwest employees dispatched to the customers', premises on behalf of the CLEC, should only be sharing information related to the LSR with the customer of record (Eschelon). In the end, none of the orders went held and Qwest delivered all services requested (One DS1 capable loop and 5 analog loops) on the due date Eschelon requested. The Qwest technician unnecessarily upset the customer about a non issue.
- 2.) Qwest will take measures to address the Qwest repair agent telling the End User Customer that "Qwest was just doing what Eschelon asked us to do" without first reviewing the Qwest service order or CLEC LSR. The repair center should refer the customer to Eschelon. In any event the repair center had no basis for their statement because Qwest had obviously not reviewed the service order or LSR before making this statement. If Qwest had done so, it would have seen that the date was later. Instead, Qwest not only discussed issues with our customer that it should not be discussed but also provided false information to our customer. Eschelon asks what steps Qwest will take to prevent this from happening in the future.
- 3.) Qwest will determine why Qwest disconnected the customer's DSL 7 days early. Qwest will communicate what steps it will take to prevent early disconnect of DSL in the future.
- 4.) Qwest will determine if the DSL repair was recorded as a Retail repair. The repair problem was caused by a Qwest error in processing a CLEC Wholesale order.

Between the Qwest technicians comments, Qwest early disconnection of the customers DSL and the Qwest repair center blaming Eschelon in error, the End User Customer is understandably upset and concerned about the port for this order and conversion of the 7 remaining locations. Because Qwest created this upsetting situation for the customer through its errors, it is particularly important that Qwest process the remaining locations without incident.

Let me know if you have any questions,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

Attachment to e-mail -- File *T D C Root Cause Request 3-23-04.doc*:

## **LSR information**

LSR (1) T1 Facility order

- Eschelon submitted PON: AZ379176T1FAC LSR ID: 9882814 to Qwest on 3/11/04 with a 3/18/04 DDD.
- Qwest sent Eschelon a K17 (local facility not available) jeopardy on 3/12/04. Qwest order number is N53132976
- ***Qwest dispatched a Qwest technician to resolve Qwest jeopardy on order on 3/16 and 3/17. The Qwest technician told the End User Customer that "there is no way Eschelon will get this T1 or the 5 analog loops they ordered installed because of facility problems."***

- Qwest sent Eschelon a FOC releasing the order with a 3/18/04 DD (Eschelon's original DD requested)
- Qwest delivered the T1 to Eschelon on 3/18/04 (Eschelon's original DD requested)

#### LSR (2) 5 analog UBL

- Eschelon submitted PON:AZ379180IBC LSR ID: 9908208 to Qwest on 3/15/04 with a DDD of 3/22/04
- Qwest sent Eschelon "K" jeopardy notices (local facility not available) on all 5 Qwest service orders (N53523842 – N53523846)
- Qwest sent Eschelon a FOC releasing all 5 orders from hold on 3/16/04 with a 3/22/04 DD (Eschelon's original DD requested)
- Qwest delivered all 5 loops to Eschelon on 3/22/04 (Eschelon's original DD requested)

#### LSR (3) LNP port order

- Eschelon submitted PON: AZ379180-2IBC LSR ID 9916087 to Qwest on 3/15/04 with a DDD of 3/24/04
- Qwest sent Eschelon an FOC on 3/16/04 confirming Eschelon's DD of 3/24/04. Qwest issued Qwest service order numbers D53926060, N53926061 through N53926079 and N54672724 through N54672729 (PSON showed 3/24/04 DD on all orders)
- ***The End User Customer contacted Qwest Retail Repair on 3/17/04 and told Qwest that the Qwest DSL on TN [CUSTOMER IDENTIFYING INFORMATION REDACTED] was no longer working. (Eschelon does not have the Qwest repair ticket number Qwest will need to find the ticket using the telephone number). Qwest Repair told the customer the reason the DSL was no longer working was because "Eschelon sent an order to disconnect your DSL and we are just doing what they told us to do." (Please note the customer had DSL on two lines. The DSL that Qwest disconnected early was CAP. The DSL that was not disconnected early was DMT.)***
- The customer contacted Eschelon on 3/17/04 upset because Qwest told her that Eschelon disconnected her DSL and she was concerned that she could not get service from Eschelon because the Qwest technician told her Qwest could not install the service Eschelon ordered.
- Eschelon told the customer that the DD Eschelon requested for disconnecting the DSL was not 3/17/04 but was 3/24/04. Eschelon also told her it had received confirmation from Qwest that the T1 service would be installed on 3/18/04 as Eschelon requested.
- The customer contacted Qwest repair on 3/18/04 to get status on the disconnected DSL. After the customer said Eschelon told her Eschelon did not disconnect the DSL on 3/17/04, The Qwest repair agent then admitted that this was a Qwest error.

**Example 9. Qwest repair referred customer to the Qwest business office while clearing Qwest caused trouble**

From: Novak, Jean [CONTACT INFORMATION REDACTED]  
Sent: Friday, October 01, 2004 10:47 AM  
To: Johnson, Bonnie J.  
Cc: Novak, Jean; Tietz, Jeff  
Subject: Matrix: QE7.0

Bonnie

Qwest had reviewed, re-trained and taken appropriate action with this employee.

Thanks,  
Jean Novak

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, September 02, 2004 11:10 AM  
**To:** jlnovak[CONTACT INFORMATION REDACTED]  
**Cc:** Peterson, Pete; Boeke, Gerald A.; Bellin, Jeff J.; Bonnie Johnson; Karen Clauson; Kimberly Isaacs; Raymond Smith  
**Subject:** Qwest Employee Referred Eschelon Customer to BO for Winback while working on Qwest caused repair

Jean,  
A Qwest employee referred Eschelon's customer to the Qwest business office for a winback while clearing a Qwest caused outage Eschelon reported to Qwest. It is quite disturbing to think that a Qwest employee would use this situation as an opportunity to winback an Eschelon customer while repairing a Qwest caused problem on behalf of Eschelon.

In the CEMR ticket below notes say the technician "talked to [CUSOMTER IDENTIFYING INFORMATION REDACTED] ...referred to business office to get line changed to Qwest" (CEMR notes: TT [CUSOMTER IDENTIFYING INFORMATION REDACTED].REF'D TO BO TO GET LINE CHNGD TO QWEST).

**Action required:**

- 1.) Qwest will take measures to address the Qwest technician's actions
- 2.) Qwest will tell Eschelon what measures Qwest is taking to prevent future occurrences

DLETH EC 666 TN [CUSOMTER IDENTIFYING INFORMATION REDACTED]  
DPA 0 LD 01-01-69 HD 08-31-04 PRTR

LN **RBA07**[CUSOMTER IDENTIFYING INFORMATION REDACTED]  
SA [CUSOMTER IDENTIFYING INFORMATION REDACTED]  
LOC  
---HIST---  
NO REPORT S CLEARED CLOSED TST RPM SWK RSL T D C

-----  
1 08-25-04 238P 1 08-26-04 225P 08-26-04 514P 999 899 0 100 407 910 600  
LN - **RBA07**[CUSTOMER IDENTIFYING INFORMATION REDACTED] **CAT 1**  
01 DTR=08-25-04 238P COM=08-25-04 700P RSA=666 O/S=Y EXC=N  
CALLED-NO= - - CATEGORY=1 VER=LU CVER=

NAR CBC OOS MED ESCHELON@@CBC OG OK LINE TESTS OK ROLLS TO LINE  
4 TIC-YES ALT P

NAR

NAR A B JIM OWENS [CONTACT INFORMATION REDACTED]

02 DNT=08-25-04 238P EC=666 ST=PSM RTE=00000000 WP=NWP RSL=LU

NAR

03 DNT=08-25-04 242P EC=299 ST=PSH RTE=00000299 WP=NWP RSL=LU

NAR 765AVLUT100-499,600-899N

DLETH EC 666 TN [CUSTOMER IDENTIFYING INFORMATION REDACTED]

DPA 0 LD 01-01-69 HD 08-31-04 PRTR

04 DNT=08-25-04 246P EC=256 ST=PS RTE=00000800 WP=NWP RSL=000

NAR TOK-OOS CALL SUB WHOLESALE-NO RECENT HISTORY-TDA

05 DNT=08-25-04 249P EC=611 ST=TST RTE=00000611 WP=SCR RSL=

NAR MTRITCH MIKE T [CONTACT INFORMATION REDACTED]

06 DNT=08-25-04 303P EC=611 ST=PD5 RTE=00000997 WP=TST RSL=100

NAR MTRITCH CHK 2 DMARC MLT TOK REQ DSP/VICKIE

07 DNT=08-25-04 303P EC=611 ST=PD5 RTE=00000611 WP=NWP RSL=100

NAR MTRITCH CHK 2 DMARC MLT TOK REQ DSP/VICKIE

08 DNT=08-25-04 305P EC=899 ST=PRD RTE=00000899 WP=NWP RSL=

NAR GDS PREASSIGNED FOR WORK TODAY 08-25-04 0647P

09 DNT=08-25-04 305P EC=899 ST=DPO RTE=00000899 WP=NWP RSL=

NAR GDS JOB DISPATCHED BY DO 08-25-04 0648P

10 DNT=08-25-04 648P EC=899 ST=DPO RTE=00000899 WP=DO RSL=

NAR GDS DO-PROVIDED DISPATCH START TIME

11 DNT=08-25-04 748P EC=899 ST=RMR RTE=00000899 WP=NWP RSL=

NAR GDS RET WILL CLS LATER

12 DNT=08-25-04 748P EC=899 ST=PRD RTE=00000899 WP=NWP RSL=

NAR GDS RET WILL CLS LATER

13 DNT=08-25-04 748P EC=899 ST=DPO RTE=00000899 WP=NWP RSL=

DLETH EC 666 TN [CUSTOMER IDENTIFYING INFORMATION REDACTED]

DPA 0 LD 01-01-69 HD 08-31-04 PRTR

NAR GDS JOB DISPATCHED BY DO 08-25-04 0841P

14 DNT=08-25-04 841P EC=899 ST=DPO RTE=00000899 WP=DO RSL=

NAR GDS DO-PROVIDED DISPATCH START TIME

15 DNT=08-25-04 925P EC=899 ST=NAS RTE=00000300 WP=RR RSL=

NAR GDS NO XX NO WF MUST BE IT RET FOR NEW DD TOMARROW

16 DTR=08-26-04 754A COM=08-26-04 700P RSA=379 O/S=Y EXC=N

CALLED-NO= - - CATEGORY=6 VER=LU CVER=

NAR CHNG APPT NAS'D CBC OOS CBC OOS MED ESCHELON@@CBC OG OK  
LINE TESTS OK ROLL

NAR TO LINE 4 TIC-YES RCEPROD1

NAR A 1000A B 0200P JIM OWENS [CONTACT INFORMATION  
REDACTED]

17 DNT=08-26-04 755A EC=999 ST=PD5 RTE=00000997 WP=TST RSL=100

NAR NO XX NO WF MUST BE IT RET FOR NEW DD TO

18 DNT=08-26-04 757A EC=999 ST=PD5 RTE=00000999 WP=NWP RSL=100

NAR NO XX NO WF MUST BE IT RET FOR NEW DD TO

19 DNT=08-26-04 758A EC=899 ST=PRD RTE=00000899 WP=NWP RSL=

NAR GDS PREASSIGNED FOR WORK TODAY 08-26-04 1125A

20 DNT=08-26-04 758A EC=899 ST=DPO RTE=00000899 WP=NWP RSL=

NAR GDS JOB DISPATCHED BY DO 08-26-04 1125A

21 DNT=08-26-04 1125A EC=899 ST=DPO RTE=00000899 WP=DO RSL=

DLETH EC 666 TN [CUSTOMER IDENTIFYING INFORMATION REDACTED]

DPA 0 LD 01-01-69 HD 08-31-04 PRTR



NAR GDS DO-PROVIDED DISPATCH START TIME  
22 DNT=08-26-04 1138A EC=899 ST=RMR RTE=00000899 WP=NWP RSL=  
NAR GDS PLD 4HCP RPR CD893932  
23 DNT=08-26-04 1138A EC=899 ST=PRD RTE=00000899 WP=NWP RSL=  
NAR GDS PLD 4HCP RPR CD893932  
24 DNT=08-26-04 1138A EC=899 ST=DPO RTE=00000899 WP=NWP RSL=  
NAR GDS JOB DISPATCHED BY DO 08-26-04 0224P  
25 DNT=08-26-04 224P EC=899 ST=DPO RTE=00000899 WP=DO RSL=  
NAR GDS DO-PROVIDED DISPATCH START TIME  
26 DNT=08-26-04 225P EC=899 ST=CCA RTE=00000899 WP=CRO RSL=  
NAR GDS SCREEN = DOCTC  
27 DNT=**08-26-04 225P** EC=899 ST=CLO RTE=00000899 WP=NWP RSL=  
NAR GDS **TT [CUSTOMER IDENTIFYING INFORMATION REDACTED]..REF'D TO  
BO TO GET LINE CHNGD TO QWEST /CTTN01510**  
NAR CLEC = A07 REBUNDLE QWEST RESALE/INTE  
LAST CLIP DATE 04-28-02

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[CONTACT INFORMATION REDACTED]

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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**EXHIBIT 88**

August 10, 2006



**THANK YOU  
FOR YOUR ORDER**

Please double-check your order below. If you need to make changes, or have any questions, please call 1 866-99QWEST (1 866-997-9378) and refer to:  
**Your order date: 08-09-2006**  
**Your order number: C62078891**

**ORDER CONFIRMATION**

You have ordered these services for:

Qwest Choice Business

More information about your services can be found on the back of this letter and on the product sheet(s) enclosed.

Dear Valued Customer;

Thank you for once again putting your trust in Qwest. We're pleased to continue bringing you the quality and reliability you demand, along with a level of service you'd be proud to give your own customers.

To make sure this new phase in our relationship starts off on the right foot, **please verify your order details listed at left and review the enclosed instructions.**

**Important Things to Remember**

- Manage your account conveniently at [qwest.com/smallbusiness](http://qwest.com/smallbusiness). View and pay your bill, sign up for special offers, find product information, and more.
- Get the **best value for your dollar** when you bundle Qwest<sup>SM</sup> High-Speed Internet, long-distance and/or wireless services with a Qwest Choice<sup>TM</sup> Business line. Call or visit us online to learn more.

We look forward to helping you grow your business. As your communications needs expand and change, you know you can call us at 1 866-997-9378.

Sincerely,

Qwest Business Marketing

P.S. if you have any questions about your order, or to learn more about the valuable Qwest options available to you, just call 1 866-997-9378 or visit us at [qwest.com/smallbusiness](http://qwest.com/smallbusiness).

ATTN Phil



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 89**

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Thursday, August 24, 2006 11:59 AM  
**To:** Isaacs, Kimberly D.; Nielsen, Joshua  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Immediate Action Required - Qwest Retail Letters Sent to End User's Converting to Eschelon.

I will take this. We had this before and it was human error. Jean

---

**From:** Isaacs, Kimberly D. [CONTACT INFORMATION REDACTED]  
**Sent:** Thursday, August 24, 2006 11:58 AM  
**To:** Novak, Jean; Nielsen, Joshua  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Immediate Action Required - Qwest Retail Letters Sent to End User's Converting to Eschelon.

Hello Jean and Josh,  
Eschelon is receiving sporadic reports from end users that are converting to Eschelon that they are receiving letters from Qwest retail. The Qwest retail letters state:

“Thank you for once again putting your trust in Qwest. We’re pleased to continue bringing you the quality and reliability you demand, along with a level of service you’d be proud to give your own customers.

To make sure this new phase in our relationship starts off on the right foot, **please verify your order details listed at left and review the enclosed instructions.**”

The order number and due date “at left” on the Qwest retail letter is the Eschelon “C” order number associated with Eschelon’s request for a partial conversion of 1 line to Eschelon QPP w/DSL. It is not acceptable for Qwest retail to engage this type of communication with an end user who has chosen Eschelon as their local service provider for some or all of their service. Eschelon is requesting that Qwest determine why this type of letter is generated and ensure that this type of communication no longer occurs.

Example:

PON: CO724206DSLNLXK

LSR ID: 18451981

Qwest Order Numbers: C62078891 and N62078915

Request for a partial conversion of 1 line to Eschelon QPP w/DSL. Please note that the other telephone numbers on this customer’s Qwest retail account are converting to Eschelon Loop with LNP and are addressed on another LSR.

Qwest Retail sent a letter with the language quoted above to the end user customer on 8-10-06.

**ACTION:**

Please determine why the Qwest retail letters, with the Eschelon order number, are being generated and sent to the end user.

Please ensure that this type of communication is not longer sent to customers, who have chosen Eschelon as their local service provider. Eschelon’s end user customers are concerned and very confused when they receive this type of communication from Qwest retail.

Thank you.

*Kim Isaacs*

*Eschelon Telecom, Inc., ILEC Relations Process Specialist, [CONTACT INFORMATION REDACTED]*

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

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**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                            )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 90**

**QWEST RETAIL LETTER - CHRONOLOGY**

- 8/4/2006 Eschelon submitted a Local Service Request (LSR) [with the Purchase Order Number (PON) of CO724206DSLNLKX; LSR Identification (ID) 18411855]. On the LSR, Eschelon requested conversion of service from Qwest Retail (the Customer's former provider) Eschelon (*i.e.*, a carrier switch).<sup>1</sup>
- 8/4/2006 In response to Eschelon's initial LSR, Qwest sent Eschelon a firm order confirmation (FOC). [On the FOC, Qwest provided Qwest Change "C" order number C60809986 (a Qwest C order to disconnect from the Qwest Retail account) and New "N" order number N60809987 (a Qwest N order to install on to a new Eschelon account).]
- 8/9/2006 Eschelon submitted a supplemental Local Service Request (LSR) [with the Purchase Order Number (PON) of CO724206DSLNLKX; LSR ID 18451981] to change the requested due date to 8/29/06. On the supplemental LSR, Eschelon also requested conversion of service from Qwest Retail (the Customer's former provider) Eschelon (*i.e.*, a carrier switch) but changed the requested due date.
- 8/9/2006 In response to Eschelon's supplemental LSR, Qwest sent Eschelon a firm order confirmation (FOC) confirming that the conversion of service from Qwest Retail to Eschelon would take place on 8/29/06. [On the FOC, Qwest provided Qwest Change "C" order number C62078891 (a Qwest C order to disconnect from the Qwest Retail account) and New "N" order number N62078915 (a Qwest N order to install on to a new Eschelon account).]
- 8/10/2006 Eschelon's End User Customer received a letter dated August 10, 2006, from Qwest Retail. *See* Exhibit BJJ-12. In the margin of the letter, Qwest included ***the date of Eschelon's supplemental order (8/9/09)*** and Eschelon's C order number (***C62078891***). The body of the letter said (with emphasis in original):

"Thank you for once again putting your trust in Qwest. We're pleased to continue bringing you the quality and reliability you demand, along with a level of service you'd be proud to give your own customers.

To make sure this new phase in our relationship starts off on the right foot, **please verify your order details listed at left and review the enclosed instructions.**

---

<sup>1</sup> This End User Customer had 2 lines with Qwest and wanted both converted to Eschelon. Eschelon converted one line with this LSR and the other at a later time with a separate LSR. Qwest requires two LSRs for this type of conversion. *See* <http://www.qwest.com/wholesale/clecs/ordering.html> (deconsolidation).

**Important Things to Remember**

- Manage your account conveniently at **qwest.com/smallbusiness**. View and pay your bill, sign up for special offers, find product information, and more.
- Get the **best value for your dollar** when you bundle Qwest High-Speed Internet, long-distance and/or wireless services with a Qwest Choice Business line. Call or visit us online to learn more.

We look forward to helping you grow your business. As your communications needs expand and change, you know you can call us at 1-800-997-9378.

Sincerely,

Qwest Business Marketing

P.S. If you have any questions about your order, or to learn more about the valuable Qwest options available to you, just call 1-866-997-9378 or visit us at [qwest.com/smallbusiness](http://qwest.com/smallbusiness).”

- 8/21/2006 Although the letter invited the End User Customer to call Qwest, the End User Customer did not initiate contact with Qwest. Instead, *the Qwest Retail Business Office called the End User Customer directly about Eschelon's wholesale order*. The Qwest Retail Business Office told the End User Customer that the service would be **disconnected** at Eschelon's request on 8/29/06 (via Qwest order C62078891).  
The Qwest Retail Business Office did not tell the End User Customer that his service would be transferred to an Eschelon account on 8/29/06 (via Qwest order N62078915) so service disruption would not occur.
- 8/21/2006 Based on the information provided by the Qwest Retail Business Office, the End User Customer called Eschelon extremely upset that his service was going to be disconnected at Eschelon's request. The End User Customer said he was so concerned he was considering cancelling his request to convert the service to Eschelon.
- 8/23/2006 Eschelon's Service Delivery group had to contact the End User Customer and explain Qwest's letter and why the Customer would not be losing service, despite Qwest's use of the term "disconnect." Only after this discussion did the End User Customer say he would move forward with the switch to Eschelon. The End User Customer said he remained concerned about the switch.



- 8/24/2006 Eschelon's End User Customer faxed a copy of the Qwest Retail letter to Eschelon.
- 8/24/2006 Eschelon sent the Qwest Wholesale Service Management team an email about the Qwest Retail letter sent to the End User Customer switching to Eschelon. Eschelon asked Qwest to "ensure that this type of communication is not longer sent to customers, who have chosen Eschelon as their local service provider." See E-mail attached above.
- 8/24/2006 Qwest's Wholesale Regional Service Director responded: "I will take this. We had this before and it was human error." See E-mail above.
- 8/29/2006 Qwest sent Eschelon a completion notice indicating that Eschelon's order had completed. The End User Customer's service was converted to Eschelon.
- 8/31/2006 In an email (attached below), Qwest's Wholesale Regional Service Director provided a root cause analysis stating (with Eschelon footnote added):

"Eschelon requested on LSR 18451981 Version 4 to convert 1 line (CUSTOMER-IDENTIFYING INFORMATION REDACTED) to Eschelon and maintain 1 line (CUSTOMER-IDENTIFYING INFORMATION REDACTED) with Qwest. This end user had subscribed to Qwest's 2-line package.

Qwest's contracted employee incorrectly issued the C order. The order should have changed the 2-line package to no package, which would have converted 1 line (CUSTOMER-IDENTIFYING INFORMATION REDACTED) to Eschelon and retained 1 line (CUSTOMER-IDENTIFYING INFORMATION REDACTED) with Qwest. By issuing the order incorrectly, a letter was automatically generated by the system because the end user's account had changed from a Qwest 2-line package to a Qwest 1 line package.

Qwest Retail did not issue the letter to be sent to this customer on August 10, 2006. The letter was generated automatically by the system because of the C order being incorrectly issued by Qwest Wholesale. The original LSR 18411855 was sent by Eschelon on 8/4/06 with a due date of 8/9/06. The last LSR 18451981 as issued on due date 8/9/06 to change the due date to 8/29/06. Because the LSR was issued on due date the incorrectly written order had already been processed and waiting for due

date. The system had automatically generated to coincide with the original due date of 8/9/06.<sup>2</sup>

Qwest has requested retraining of the contracted employee and all contracted employees have been advised of the correct process and also shown where the process is documented. The situation has addressed.

Please provide to me immediately and further examples so Qwest can take immediate action to correct.”

---

<sup>2</sup> *Note:* The original due date of 8/9/06 was requested on the LSR Eschelon submitted on 8/4/09 (for which the C order number was C60809986). The letter from Qwest Retail, however, did not reference the 8/4/09 order or its C order number. The letter from Qwest Retail (Exhibit BJJ-12) specifically gave the supplemental order date of “08-09-2006” and its C order number of C62078891, identifying the 8/9/09 supplemental order (which had a due date of 8/29/06) as the one prompting the letter.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 91**

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Thursday, August 31, 2006 10:32 AM  
**To:** Isaacs, Kimberly D.; Nielsen, Joshua  
**Cc:** Johnson, Bonnie J.  
**Subject:** Immediate Action Required - Qwest Retail Letters Sent to End User's Converting to Eschelon.

Kim

I can not remember if I responded to this fully so if I have please forgive the redundancy.

Eschelon PON CO724206DSLNLK

LSR 18451981

Eschelon requested on LSR 18451981 Version 4 to convert 1 line ([CUSTOMER INFORMATION REDACTED]) to Eschelon and maintain 1 line ([CUSTOMER INFORMATION REDACTED]) with Qwest. This end user had subscribed to Qwest's 2-line package.

Qwest's contracted employee incorrectly issued the C order. The order should have changed the 2-line package to no package, which would have converted 1 line ([CUSTOMER INFORMATION REDACTED]) to Eschelon and retained 1 line ([CUSTOMER INFORMATION REDACTED]) with Qwest. By issuing the order incorrectly, a letter was automatically generated by the system because the end user's account had changed from a Qwest 2-line package to a Qwest 1 line package.

Qwest Retail did not issue the letter to be sent to this customer on August 10, 2006. The letter was generated automatically by the system because of the C order being incorrectly issued by Qwest Wholesale. The original LSR 18411855 was sent by Eschelon on 8/4/06 with a due date of 8/9/06. The last LSR 18451981 as issued on due date 8/9/06 to change the due date to 8/29/06. Because the LSR was issued on due date the incorrectly written order had already been processed and waiting for due date. The system had automatically generated to coincide with the original due date of 8/9/06.

Qwest has requested retraining of the contracted employee and all contracted employees have been advised of the correct process and also shown where the process is documented. The situation has addressed.

Please provide to me immediately and further examples so Qwest can take immediate action to correct.

Thanks,

Jean Novak

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                            )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 92**

## **Qwest Service Center and Manager Roles in Relation to CMP – Revised 06-06-02**

As discussed in Section 1.0 of the Qwest Wholesale Change Management Process Document, the purpose of the Qwest Wholesale CMP is to afford Qwest and the CLECs a way of changing, retiring, or providing development input for a Qwest OSS interface, product, or process. The CMP is not a forum to resolve isolated issues or CLEC problems that do not involve a change to the way Qwest does business. The CLEC/Qwest Interconnection Agreement may contain applicable procedures and if so this document will not supercede the Interconnection Agreement. CLECs should pursue resolution of all problems of this nature through the informative materials Qwest provides to the CLECs (e.g., Qwest web sites, Product Catalogues (PCATs), and Technical Publications) and through Qwest's Service Centers and Service Managers, as described below. CLECs should contact their assigned Sales Executive when they want to submit an initial product idea, qualify a new opportunity, and ask questions regarding their contract pricing or want to negotiate contract amendments.

When a Service Manager becomes aware of an issue that should become a CMP change, he/she should contact the appropriate product manager, process specialist, and other Qwest SMEs as appropriate who will address the issue in accordance with the CMP.

- Requests for Information - If a CLEC requires information that cannot be found in the appropriate website, PCAT or Technical Publication, the CLEC should contact its Service Manager. The Service manager will contact the Sales Executive to obtain the information if necessary. If the Service Manager is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should escalate the problem through the Service Management Escalation Process (<http://www.qwest.com/wholesale/clecs/exesscover.html> ).
- Systems Problems - If a CLEC encounters a systems problem, the CLEC should first contact the Wholesale Services Help Desk (WSHD). If the WSHD is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should invoke the escalation process detailed in the Qwest-CLEC Technical Issues Escalation document (<http://www.qwest.com/wholesale/systems/generalinfo.html>).
- Service Order Problems - If a CLEC encounters a problem with service orders, the CLEC should first contact the Qwest Interconnect Services Center (ISC) Help Desk. If the ISC Help Desk is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should escalate through the ISC Help Desk. If the center escalation does not resolve the problem to the CLEC's satisfaction the CLEC should contact the CLEC's designated Service Manager.
- Billing Problems – If a CLEC encounters a billing problem the CLEC should first contact its designated Qwest Billing Representative. If the Billing Representative is unable to resolve the problem or provide the requested information to the CLEC's satisfaction then the CLEC should escalate through each level of the Qwest billing management organization. Questions concerning the application of the CLEC/Qwest ICA are considered compliance issues.

- Compliance Issues – If a CLEC encounters contract compliance issues, the CLEC should contact its Service Manager. If the Service Manager is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should escalate the issue through the Service Management Escalation Process (<http://www.qwest.com/wholesale/clecs/exesscover.html> ).
- Network Repair Problems – If a CLEC encounters a network repair problem, the CLEC should contact the Network Repair Center. If the CLEC is not satisfied with the Network Repair Center's solution the CLEC should escalate through the Network Repair Center as outlined on the Qwest Business Procedures - Maintenance and Repair Web site, <http://www.qwest.com/wholesale/clecs/maintenance.html>. If, after escalation, the Network Repair Center is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should contact its designated Service Manager.
- Product Information - If a CLEC requires product information that cannot be found in the appropriate website or PCAT, the CLEC should contact its designated Service Manager. If the Service Manager is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should escalate the problem through the Service Management Escalation Process (<http://www.qwest.com/wholesale/clecs/exesscover.html> ).
- Chronic Performance Issues – If a CLEC encounters chronic poor performance from a Qwest division or employee the CLEC should contact its Service Manager. If the Service Manager is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should escalate the problem through the Service Management Escalation Process (<http://www.qwest.com/wholesale/clecs/exesscover.html> ).
- Isolated Personnel Performance Issues - If a CLEC encounters isolated poor performance by a Qwest employee the CLEC should contact the applicable service center. If the applicable service center is unable to resolve the problem or provide the requested information to the CLEC's satisfaction the CLEC should escalate through the Service Management Escalation Process (<http://www.qwest.com/wholesale/clecs/exesscover.html> ).

In all above instances the reporting CLEC should be prepared to discuss the specific details and examples of the issue and all informative documentation researched. Qwest will conduct a root cause analysis of the examples of the problem, and provide its analysis to the reporting CLEC in a timely manner.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                            )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 93**



## Chronology of the Qwest Change Management Process (CMP) Changes Relating to Expedites

In the first section of this Chronology, background information is provided to explain the terms and context of the CMP items discussed below. In the second section of this Chronology, the history of changes Qwest has made or attempted to make in CMP to both of its expedite processes (requiring approval based on emergency conditions process and later additional for-pay process) is discussed. There are seven sections in the latter history section. Documents cited in each of the seven sections are attached to this Chronology and organized by corresponding section number. Also attached are excerpts from Qwest's Statement of Generally Available Terms (SGAT) and Qwest's complete CMP Document, both printed from Qwest's web site. The CMP document governing the procedures for CMP ("CMP Document") is found at:

[http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument\\_01\\_30\\_06\\_1\\_.doc](http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument_01_30_06_1_.doc)

The "Expedites & Escalations Overview" is a section of Qwest's Product Catalog ("PCAT") on the Qwest wholesale web site. See <http://qwest.com/wholesale/>. Changes to the wholesale PCAT are sometimes made through Qwest's Change Management Process (CMP) either by notice or Change Request ("CR"), depending on the nature of the change. Qwest assigned "Version" numbers to its proposed changes to the "Expedites & Escalations Overview" section of the PCAT, and the first six sections of the history discussion are arranged by Version number. The seventh section addresses CLEC objections, Qwest's denials, and dispute resolution.<sup>1</sup>

### BACKGROUND

**Participation in CMP.** Qwest's CMP documentation on its wholesale web site addresses who may participate in CMP: "Current CLEC Product, Process, or OSS Interface users, or those who have an agreed upon project work plan for implementing a Product, Process or OSS Interface, may submit change requests and participate in the CLEC Industry Team."<sup>2</sup> Eschelon must use Qwest's processes and OSS interfaces to conduct business with Qwest and therefore receives CMP notices and participates in CMP meetings. The CMP is often the only means through which information about system and process changes is obtained. Participation does not equal consent. The CMP Document provides that a participating CLEC's interconnection agreement ("ICA") governs over all CMP changes, and this does not vary depending of whether the CLEC participated in that change. See CMP Document §1.0; see also Qwest-Eschelon ICA, Part A, § 17.1.

**No Voting on Process Changes in CMP.** No voting occurs in CMP as to the substance of product and process changes. In other words, there is no vote in CMP as to whether a particular change request should be adopted or not. Qwest will complete or deny a request for a change in process or product. Regarding Expedites & Escalations, Qwest

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<sup>1</sup> Most of the attached documents are Qwest's own documents (*i.e.*, admissions by Qwest).

<sup>2</sup> <http://www.qwest.com/wholesale/cmp/index.html> (italics deleted)

described its proposed changes as “process” changes. They were not system changes. CLECs are permitted to object in CMP to Qwest product and process changes. Even if, however, every single CLEC objects and Qwest still does not agree, Qwest nonetheless implements its desired change after applicable time periods for product and process changes. (*See* §5.4 of CMP Document.) Qwest refers to such CMP changes as “notification” processes.<sup>3</sup> In contrast to Qwest’s “notice and go” relatively quick process, an objecting CLEC’s only recourse is to seek expensive and time-consuming dispute resolution for each change in state affected by the change. *See id.* & §15.0 Voting only occurs in two situations. First, voting occurs for changes to the CMP Document itself and certain procedures within that document (such as whether to change the disposition level of a CR, §5.4.3.1; whether to grant an exception to the CMP procedures, §16.2.1; *etc.*). *See* CMP Document §§ 5.1.1, 5.1.2, 5.4.3.1, 16.2 *et al.*, 16.4 *et al.*, 17.0. The expedite changes are not changes to the CMP Document or the CMP procedures. Second, voting occurs to prioritize (*i.e.*, “rank) proposed systems (OSS) changes. *See* CMP Document §§ 5.2.1, 5.2.2, 10.3.3, 10.3.4, 16.2 *et al.*, 17.0. The expedite changes are not system changes. Therefore, any reference to voting with respect to the expedite processes is a red herring to create the impression that there is a democratic process for process changes when there is not.

**Section 252(a):** Terms and conditions requiring mutual assent are governed by the ICA, and the CMP Document is clear that the ICA controls *vis a vis* CMP. *See* CMP Document §1.0; *see also* §252(a) of the Act; Notice of Apparent Liability for Forfeiture, *In the Matter of Qwest Corporation Apparent Liability for Forfeiture*, FCC File No. EB-03-IH-0263, ¶32 (March 11, 2004) (FCC said: At “no point did we create a general ‘web-posting exception’ to section 252(a)”).

**CMP, PCAT and SGAT:** Neither the PCAT nor CMP are mentioned anywhere in the Qwest-Eschelon ICA. Eschelon opted into the original AT&T ICA, and the Eschelon-Qwest ICA was approved by the ACC on April 28, 2000. The PCAT and CMP were developed after approval of the ICA, largely through or as the result of the Section 271 proceedings to determine the terms under which Qwest could enter the long distance market. Both the CMP and the PCAT are referenced in Qwest’s Statement of Generally Available Terms (“SGAT”) (which was developed largely through Section 271 proceedings). Qwest’s Arizona SGAT, in both Section 4.156 and Section 7.4.7, provides: “Qwest agrees that CLEC shall not be held to the requirements of the PCAT.”<sup>4</sup> This provision shows that the history of CMP is that it was not intended to bind CLECs. Eschelon is similarly not held to the requirements of the PCAT, as neither the PCAT nor the CMP are part of its ICA with Qwest. Nonetheless, as described below, Eschelon voluntarily followed those processes in this case.

<sup>3</sup>*See, e.g.* Qwest’s 11/18/05 response to Eschelon’s objections to Version 30 (Qwest said: “Qwest utilized the appropriate CMP notification processes to notify CLECs of the pending changes.”) This indicates Qwest’s view that it can unilaterally notify CLECs of changes, rather than obtain their agreement. To the extent that CMP is such a “notice” process, it does not meet the requirement of mutuality for negotiated terms (or Commission involvement for arbitrated terms) governed by Section 252 and does not supplant Section 252, as the CMP Document itself recognizes by indicating that the ICA controls. *See* CMP Document, §1.0.

<sup>4</sup> <http://www.qwest.com/wholesale/downloads/2003/030909/Arizona-SGAT-8-29-03.doc>

**Scope of CMP:** The document governing CMP,<sup>5</sup> in Section 1.0 (“Introduction and Scope”), provides: “In cases of conflict between the changes implemented through this CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through this CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement.”<sup>6</sup> Qwest also repeats this language on many of its CMP notices. Rates and the application of rates are also outside the scope of CMP. *See, e.g.*, Qwest’s response to the McLeod-Eschelon escalation (attached and discussed below) in which Qwest states: “discussion around rates associated with an Interconnection Agreement are outside the scope of the CMP process.”

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<sup>5</sup> The CMP document is Exhibit G to the SGAT. The SGAT provides (at SGAT Section 12.2.6.3) that Exhibit G can be changed per the CMP document processes (which require a unanimous vote in CMP) without amendment of the SGAT. Therefore, the SGAT Exhibit G on the Qwest web site may not have all of the revisions made through CMP that are in the updated CMP document on the Qwest web site (see URL above). For the SGAT Exhibit G, see <http://www.qwest.com/wholesale/downloads/2003/030909/Arizona-08-29-03-Exhibit-G.doc>

<sup>6</sup>[http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument\\_01\\_30\\_06\\_1\\_.doc](http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument_01_30_06_1_.doc)

## HISTORY OF PROPOSED CHANGES<sup>7</sup> TO QWEST EXPEDITE PROCESSES

### 1. Expedites Process – Later Called “Expedites Requiring Approval” Process

[See See Product Notification for Version 1 of the Expedites & Escalations Overview <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E09%2E20%2E01%2EF%2E00087%2EF%2EBFRSR%2Edoc>; see also “Expedites & Escalations Overview – V8.0” - Copy is attached. It appears it is no longer on the Qwest web site.]

**Summary:** Under this process (“Expedites Process”), Qwest will expedite orders for all products and services (including all unbundled loops), but only if the order meets one of the criteria/conditions below. The conditions relate generally to emergencies and harm to end user customers. If the conditions are met, Qwest will grant the expedite (*i.e.*, meet the earlier due date) resources permitting, and no additional charge will apply. If the conditions are not met, no expedite will be granted (*i.e.*, the standard interval applies to establish the due date). The conditions are listed in the bullet points *below*. To obtain such an expedite, the CLEC submits an order with the normal due date interval and may call Qwest to request an expedite. On such a call, the CLEC provides information from which Qwest can determine if the expedite meets one or more of the conditions so that Qwest will approve the request.<sup>8</sup> Under the expedites requiring approval process, Qwest granted expedite requests to Eschelon. [See, *e.g.*, PON Numbers AZ418942CJH (7/26/04); AZ409134CJH (6/22/04); CAZ5016941TIH (5/11/04); AZ467137RAK (1/10/05).] Although there are Commission approved rates for dispatches and hourly labor in Arizona, so that Qwest could have otherwise charged for expedites pursuant to the ICA if such additional dispatches or work were required, the ICA also provides for nondiscrimination.<sup>9</sup> As Qwest does not require its own retail customers to pay an additional expedite charge (*see, e.g.*, Qwest RPD – “Due Dates – POTS/Non-Design – All States Bus Res”),<sup>10</sup> no additional charge applies for CLEC expedites meeting the Original Conditions either under the expedites requiring approval process.

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<sup>7</sup> Other Proposed Changes/Versions. The Qwest “Expedites & Escalations Overview” went through several versions, but some of those versions/changes are not discussed here. Those versions did not affect, for example, the criteria or products to which those criteria apply. (This is just noted here to explain why the version numbers are not consecutive.) To view the other versions, see the history log for the “Expedites & Escalations Overview.” See

[http://www.qwest.com/wholesale/downloads/2006/060407/HL\\_Exp\\_Escl\\_V36.doc](http://www.qwest.com/wholesale/downloads/2006/060407/HL_Exp_Escl_V36.doc)

<sup>8</sup> Therefore, Qwest later called the Expedites Process the “Expedites Requiring Approval” process. This title was not needed initially, as there was only one process. When Qwest later added an optional for pay process to obtain expedites when the conditions were not met but a CLEC would pay a higher charge (see below), Qwest referred to the additional process as the “Pre-Approved Expedite Process” and the Expedites Process as the “Expedites Requiring Approval” process to distinguish them.

<sup>9</sup> The ICA provides that Qwest “shall provide CO-PROVIDER the capability to expedite a service order. . . . If CO-PROVIDER requests a due date earlier than the standard due date interval, then expedite charges may apply.” (ICA Att. 5, Sections 3.2.2.13 & 3.2.4.2.1.) This language is in Attachment 5, which applies to all products and services. Section 31.1 of Part A of the ICA provides that Qwest “shall conduct all activities and interfaces which are provided for under this Agreement with CO-PROVIDER Customers in a carrier-neutral, nondiscriminatory manner.”

<sup>10</sup> Note that “waive charges” refers to other NRCs (such as installation) and not expedite charges, as there are no expedite charges in this process. Eschelon understands that the installation NRC charge will not be waived when Eschelon causes the disconnect in error and has not sought such a waiver here. If the end user customer caused the disconnect, the expedite would not be granted, but that is not the case here. It is a carrier-caused disconnect in error. Eschelon does not get the NRC waiver, as it is the carrier in this case,

Effective Date: The Commission approved the Eschelon-Qwest ICA on April 28, 2000. The mutually agreed upon process was in place before Qwest documented it on its website. On September 22, 2001, Qwest issued a product notification that Qwest had updated its website on methods and procedures for Expedites and Escalations to document the definition of expedite and valid expedite reasons (*i.e.*, the emergency conditions). (*See* Product Notification for Version 1 of the Expedites & Escalations Overview.) This was not a change request or change in process. Qwest specifically recognized in the product notification that “these updates reflect current practice.” *See* <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E09%2E20%2E01%2EF%2E00087%2EF%2EBFRSR%2Edoc> (This Notification is included below in this Exhibit)

Products: All (including unbundled loops – analog and high capacity)

Expedite Charge: No additional charge. [The carrier pays the standard installation/order charge generally but does not pay an extra charge for expediting the due date to an earlier date. The same work (as the work included in the standard charge) is performed, but it is just performed earlier.]

Conditions/criteria for obtaining an expedite requiring approval (“Original Conditions”):

- Fire
- Flood
- Medical emergency
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user’s grand opening event delayed for facilities or equipment reasons with a future Ready For Service (RFS) date
- Delayed orders with a future RFS date that meet any of the above described conditions

## **2. Optional, Additional Pay-for-Expedites Not Meeting Criteria Process (Optional “Pre-Approved Expedite” Process)**

[*See* “Expedites & Escalations Overview – V11.0”  
([http://www.qwest.com/wholesale/downloads/2004/040629/PCAT\\_Exp\\_Escl\\_V11\\_0\\_reis\\_sue.doc](http://www.qwest.com/wholesale/downloads/2004/040629/PCAT_Exp_Escl_V11_0_reis_sue.doc))]

Summary: Sometimes a carrier desires an expedite but the situation does not meet the emergency criteria. For example, an existing End User Customer with service may call its carrier and say: “I need to add 2 lines, and I need it within 2 days because my equipment vendor is only available then.” This situation does not meet the above criteria, so historically an expedite was not available. Covad indicated that, if Qwest were to provide expedites in this type of optional situation (*i.e.*, when the above criteria are not met), Covad would be willing to pay an additional charge to obtain an expedite. Covad submitted a Change Request (CR #PC 021904-1) to Qwest’s CMP to request this optional process. The title of Covad’s CR is “Enhancement to Existing Expedite Process

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but it does get the expedite at no additional charge over and above that NRC (or, Eschelon is willing to pay the Commission approved rates for costs to Qwest for the expedite, if any).

for Provisioning.” Eschelon supported Covad’s request, so long as the imposition of charges was optional and the expedites meeting the criteria were still available (at no additional charge). In Qwest’s May 12, 2004 Response to the Covad CR, Qwest reassured CLECs that: “If a CLEC chooses not to amend their Interconnection Agreement, the current expedite criteria and process will be used.” *See* [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC021904-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC021904-1.htm).

In Qwest’s July 15, 2004 Response to Eschelon’s comments on Covad’s CR, Qwest added: “If a CLEC chooses not to sign the amendment and pay the approved rates, this will not impact resources. For Qwest’s Retail and Access customers, they are bound by the terms established in the tariffs (which have been or are in the process of being filed). Qwest did not want to shut the door for its Interconnect customers *because of existing contractual obligations*, so is offering those customers *two options*: 1) To be able to expedite without reason for a per-day improved rate, like the Retail and Access customer, or 2) Continue with the existing process that is in place. Qwest is providing the Interconnect customers an *additional option*. *If the CLEC chooses option 2, and the expedite reason is for one of those listed in the PCAT*, they are given the same opportunity at having the due date requested. This comment is accepted.” (emphasis changed):  
[http://www.qwest.com/wholesale/downloads/2004/040715/DNLD\\_QwestResponse\\_Exp\\_Escl\\_V11.doc](http://www.qwest.com/wholesale/downloads/2004/040715/DNLD_QwestResponse_Exp_Escl_V11.doc)).

In Qwest’s June 29, 2004 announcement related to Covad’s CR, Qwest said: “Qwest is modifying/changing the existing manual Expedite process to incorporate *two processes*. These are described as Pre-Approved and Expedites Requiring Approval” (emphasis added).

Qwest’s own responses and announcement show that the Covad CR did nothing to alter or eliminate the Expedites Process requiring approval, which remained available for expedites of loop orders when the conditions were met, in addition to the Covad-initiated option, without an ICA amendment. In contrast, Qwest claims in ¶14(B) of its Answer, that “Qwest worked on the process with the industry in CMP for 18 months – from February 2004 to July 2005. Qwest then gave the industry – including Eschelon – until January 2006 to prepare for the new process.” Nothing in Qwest’s responses and announcement, however, suggested that there was going to be an “old process” and a “new process.” Qwest clearly stated that there were “two options” (*see* above), denying that one process would replace the other. CLECs had no reason, therefore, to “prepare” for a new process.

Announcement/Effective Dates: June 29, 2004/July 31, 2004

Products/Pre-Approved Expedite Process: Applies to specified products (see Version 11) only, including unbundled loop (*except for* 2/4 wire analog loops)

Exclusive process for loops? *No*. The Expedites Process (a/k/a “Expedites Requiring Approval”) is still available for all products for no additional charge, if the Original

Conditions are met.<sup>11</sup> For example, Qwest provided expedites at no additional charge to Eschelon that completed on January 10, 2005 (AZ PON 467137RAK), and May 11, 2005 (AZ PON CAZ5016941TIH).

Expedite Charge/ Pre-Approved Expedite Process: \$200 per day expedited (*i.e.*, if the standard interval was 5 days, and the order was for a same day expedite, the additional charge would be \$1,000).

Criteria for obtaining / Pre-Approved Expedite Process: Must sign contract amendment, order products on specified list, and payment of additional charge. No need to meet Original Conditions listed above to obtain an expedite at the \$200 per day expedited rate.

Background (see attached documents):

2/20/04 – Covad submitted a Change Request (CR) requesting a process to expedite installations that did not meet Qwest’s Original Conditions for expedites (see above). ([http://www.qwest.com/wholesale/cmp/archive/CR\\_PC021904-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC021904-1.htm))

6/15/04 – Qwest sent PROS.06.15.04.F.01792.ExpeditesV11 for review and comments. <http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc>

6/18/04 – To review CLEC comments and Qwest responses to the Qwest proposed changes see [http://www.qwest.com/wholesale/downloads/2004/040715/DNLD\\_QwestResponse\\_Exp\\_Escl\\_V11.doc](http://www.qwest.com/wholesale/downloads/2004/040715/DNLD_QwestResponse_Exp_Escl_V11.doc)

6/29/04 – Qwest announcement (attached)

7/31/04 Effective date (see above)

### **3. Expansion of the Original Conditions to Add Additional Conditions**

[See “Expedites & Escalation Overview – V22.0”

([http://www.qwest.com/wholesale/downloads/2005/050506/PCAT\\_Exp\\_Escl\\_V22.doc](http://www.qwest.com/wholesale/downloads/2005/050506/PCAT_Exp_Escl_V22.doc))]

Summary: The status of the Expedites Process requiring approval remained the same. Qwest added three conditions to the list of Original Conditions to expand the occasions upon which Qwest would grant expedites when the conditions were met.

Announcement/Effective Date: May 9, 2005/June 23, 2005

Announcement:

<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E05%2E09%2E05%2EF%2E02892%2EExpedites%5FEscalations%5FV22%2Edoc>

Expedite Charge: No additional charge.

Products: All (including unbundled loops – analog and high capacity). For example, although Covad’s CR had been processed and the optional Pre-Approved for pay process was in place at this time, expedites remained available to CLECs that had not signed that

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<sup>11</sup> See, e.g., later objection by Integra (#6 below): “When Integra signed the Qwest Expedite Amendment we were not advised that by signing the amendment it would change the current Expedites Requiring Approval process. We signed the amendment believing that this would ADD to our options of having an order completed outside the standard interval.”

amendment but met the emergency conditions. For example, Qwest provided an expedite at no additional charge to Eschelon that completed on July 6, 2005 (PON MN510386T1FAC).

Conditions/criteria for obtaining an expedite requiring approval (with three new conditions highlighted as last three bullet points) (“Original Conditions”):

- Fire
- Flood
- Medical emergency
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user’s grand opening event delayed for facilities or equipment reasons with a future Ready For Service (RFS) date
- Delayed orders with a future RFS date that meet any of the above described conditions
- National Security
- Business Classes of Service unable to dial 911 due to previous order activity
- Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected

#### **4. Expansion of Optional, Additional Pay-for-Expedites Not Meeting Criteria Process (“Pre-Approved Expedite” Process) to Add Two Products**

[See “Expedites & Escalation Overview – V27.0”

([http://www.qwest.com/wholesale/downloads/2005/050909/PCAT\\_Exp\\_Escl\\_V27.doc](http://www.qwest.com/wholesale/downloads/2005/050909/PCAT_Exp_Escl_V27.doc))]

Summary: Qwest added two products to the recent optional Pre-Approved Expedite Process (where a charge applies and the conditions need not be met) with no mention that any products would later be removed from the original Expedites Requiring Approval Process (no charge when Original Conditions are met). At this time (*i.e.*, after the effective date of the Version 27 notice), the original process was still available (at no additional charge) for all unbundled loops when the Original Conditions were met. It did not matter to what products the Pre-Approved process applied or did not apply for CLECs not opting to use that process, because such CLECs could still use the Expedites Process when they met the emergency conditions. In Version 27, Qwest added the following two products to the Pre-Approved Expedite Process: (1) port in/port within associated with certain products; and (2) 2/4 wire analog unbundled loops. In the list of products to which the Pre-Approved Expedite Process applied, 2/4 wire analog unbundled loops were previously listed as an exception. Qwest added 2/4 wire analog unbundled loops to the list by removing this exception to the list of applicable products. This allowed CLECs desiring such a process to expedite unbundled analog loops when the expedite did not meet the Original Conditions. Eschelon did not desire to use an expedite process, except in the emergency kinds of situations that are identified on the list of Original Conditions. Because expedites for all unbundled loops (including 2/4 wire analog unbundled loops) were still available at no charge under the original process when the Original Conditions were met, Eschelon expressed no objection to adding them to the Pre-Approved Expedite Process for CLECs who desired to use that process for expedites not meeting the Original Conditions. Eschelon did inquire, however, as to the



cost if a CLEC should later desire to use that process. *See* <http://www.qwest.com/wholesale/downloads/2005/051011/QwestResponsetoDocumentInReview.doc>

Announcement/Effective Dates: October 12, 2005/October 27, 2005

Products/Pre-Approved Expedite Process: Applies to specified products (see Version 11) only, including unbundled loop (*including* 2/4 wire analog loops)

Exclusive process for loops? *No*. The Expedites Requiring Approval are still available for all products for no additional charge, if the Original Conditions are met. For example, Qwest provided an expedite at no additional charge to Eschelon that was granted on Nov. 7, 2005 (PON CO588026T1FAC).

Expedite Charge/ Pre-Approved Expedite Process: \$200 per day expedited (*i.e.*, if the standard interval was 5 days, and the order was for a same day expedite, the additional charge would be \$1,000).

Criteria for obtaining / Pre-Approved Expedite Process: Must sign contract amendment, order products on specified list (which includes all loops), and payment of additional charge. No need to meet Original Conditions listed above to obtain an expedite at that rate.

#### **5. Qwest Attempted to Change the Expedites Process to Exclude CLEC-Caused Disconnects in Error, But Retracted its Proposal After Eschelon Objected.**

[*See* Initial “Expedites & Escalation Overview – V29.0”

([http://www.qwest.com/wholesale/downloads/2005/051014/PCAT\\_Exp\\_Escl\\_V29.doc](http://www.qwest.com/wholesale/downloads/2005/051014/PCAT_Exp_Escl_V29.doc)); *See also* Qwest notice retraction PROS.10.18.05.F.03397.Retract\_ExpandEscal\_V29 <http://www.qwest.com/wholesale/cnla/uploads/PROS%2E10%2E18%2E05%2EF%2E03397%2ERetract%5FExpandEscal%5FV29%2Edoc>]

Summary: Qwest issued a Version 29 in which it attempted to modify some of the original emergency conditions. For example, one of the conditions states that expedites will be granted for “Conditions where your end-user is completely out of service (primary line).” In its proposed Version 29, Qwest proposed to add to this condition a limiting qualifier that said: “Does not include disconnects in error” to begin to exclude CLEC-caused disconnects in error from the emergency conditions. Qwest issued its Version 29 as a “Level 1” notice, which is defined in the CMP Document as minor changes that do not affect CLEC’s procedures so they can become effective immediately.<sup>12</sup> Eschelon objected to the assignment of a Level 1 designation and objected to Qwest’s description of such changes as “simple clarifications that have not been previously documented.” In fact, under this process, Qwest grants expedites for conditions when CLEC’s end user customer is completely out of service (primary line) due to a CLEC disconnect in error. (*See, e.g.*, CAZ5016941TIH (5/11/04); Z467137RAK (1/10/05.)) After all, CLEC is the carrier, just as Qwest is the carrier when

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<sup>12</sup> *See* CMP Document §5.4.2 (“Level 1 changes are defined as changes that do not alter CLEC operating procedures or changes that are time critical corrections to a Qwest product/process. Time critical corrections may alter CLEC operating procedures, but only if such Qwest product/process has first been implemented through the appropriate level under CMP. Level 1 changes are effective immediately upon notification.”).

Qwest disconnects in error. In both cases, the circumstances are different from an error caused by the end user customer. Qwest retracted this notice and did not re-issue it at all (at any Level). Therefore, the Original conditions are still in place and were not modified to exclude CLEC-caused disconnects in error from the emergency conditions.

Announcement/Effective Dates: October 17, 2005/None (Retracted October 18, 2005)

Products: No change (Retracted)

Expedite Charge: No change (Retracted)

Criteria for obtaining: No change (Retracted).

Exclusive process for loops? No change (Retracted)

**6. Two Expedite Processes (Requiring Approval and For Pay) Exist, But Qwest Will No Long Honor the Expedites Process Requiring Approval for Unbundled Loop Products, Even When Conditions Met. For Loops, Expedites Only Available If CLEC Agrees to a Per Day Rate Structure.**

[See “Expedites & Escalation Overview – V30.0”

([http://www.qwest.com/wholesale/downloads/2005/051018/PCAT\\_ExpEscl\\_V30.doc](http://www.qwest.com/wholesale/downloads/2005/051018/PCAT_ExpEscl_V30.doc))]

Summary: Qwest’s changes in Version 30 denied the capability to a CLEC with expedite “language in [its] Interconnection Agreement (ICA)” to expedite any product (including all loops) on Qwest’s expanded Pre-Approved Expedite product list, even when the Original Conditions are met. Among other changes, Qwest deleted the quoted phrase in the previous sentence regarding the ICAs from the PCAT (*see* below). Through this change in CMP, Qwest imposed a “per day” expedite rate structure upon CLECs requesting an expedite for loops, even though rate issues are outside the scope of the CMP process. Ironically, however, in response to an Eschelon and McLeod escalation to object, Qwest denied the escalation because rate issues are “outside the scope of the CMP process.” (*See* #6 below.)<sup>13</sup> As a result of Qwest’s January 3, 2006 Version 30 changes (when combined with those in Version 27), for the first time during the term of the Qwest-Eschelon ICA (since April of 2000), Qwest changed the terms on which expedites were available so that Qwest will not provide the capability to expedite orders under the ICA for unbundled loops, even when the ICA contains expedite language and the Original Conditions are met. As the above examples show, Qwest previously not only did so under the ICA but also did so at no additional charge. The ICA has not changed.<sup>14</sup>

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<sup>13</sup>[http://www.qwest.com/wholesale/downloads/2005/051104/Qwest\\_Response\\_to\\_Escalation\\_39\\_McLeodUSA.doc](http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc)

<sup>14</sup> The ICA provides that its terms cannot be altered without a written amendment of the parties. A party desiring an amendment may request one and, if it is not obtained, seek dispute resolution. Qwest did not do so to obtain an amendment to allow it to refuse to apply the expedites process requiring approval to loops or to impose a new rate structure different from any approved by the Commission. *See* Eschelon-Qwest ICA, Part A, § 17.1: “Except as otherwise provided in this Agreement, no amendment or waiver of any provision of this Agreement, and no consent to any default under this Agreement, shall be effective unless the same is in writing and signed by an officer of the Party against whom such amendment, waiver or consent is claimed. If either Party desires an amendment to this Agreement during the term of this Agreement, it shall provide written notice thereof to the other Party describing the nature of the requested amendment. If the Parties are unable to agree on the terms of the amendment within thirty (30) days after the initial request therefore, the Party requesting the amendment may invoke the dispute resolution process

Following is the Qwest redline showing these changes from the previous version to Version 30 of its PCAT:

Requesting an expedite follows one of two processes, depending on the product being requested ~~and the language in your Interconnection Agreement (ICA)~~. If the request being expedited is for a product ~~on the list of products contained in the “Pre-Approved Expedites” section below (see below), and~~ your ICA has must contain language supporting expedited requests with a “per day” expedite rate; ~~then the requested does not need approval~~. If the request being expedited is for a product that is not on the defined list, ~~or your ICA does not support a “per day” expedite rate~~, then the expedited request follows the process defined in the “Expedites Requiring Approval” section below.

In its November 18, 2005 Response, Qwest gave the following reason for its refusal to provide the capability to expedite orders for loops under the Expedites Process: “Qwest does not sell Unbundled Loops to its end user customers.” In other words, Qwest is apparently claiming there is no retail analogue for loops. Qwest then concludes in the same Response: “so it is not appropriate to make a comparison to retail in this situation.” The Commission, not Qwest, must determine whether the FCC’s tests in the NY 271 Order<sup>15</sup> are met for the provision of UNEs on terms that are just, reasonable, and nondiscriminatory -- in “substantially the same time and manner” for an element with a retail analogue and offering a “meaningful opportunity to compete” when no retail analogue. The FCC stated specifically that the latter retail analogue test is no less rigorous than the first. (*Id.* ¶ 55.) When Qwest decided to change course after six years of operating in an agreed upon matter under the ICA, Qwest should have submitted the issue to the Commission to determine application of this test, not implemented its own, unapproved decision. *See* ICA, Part A, § 17.1.

Announcement/Effective Dates: October 19, 2005/January 3, 2006

Products/Pre-Approved Expedite Process: Applies to specified products (see Version 11) only, including unbundled loop (except for 2/4 wire analog loops until the Version 27 change took effect to include them). Despite earlier effective date for Version 27, Qwest did not change the PCAT to reflect Version 27 until after Version 30 was announced. Therefore, the announcement for Version 30 did not reflect the Version 27 change to add the two products.

Expedite Charge/ Pre-Approved Expedite Process: \$200 per day expedited (*i.e.*, if the standard interval was 5 days, and the order was for a same day expedite, the additional charge would be \$1,000).

Criteria for obtaining / Pre-Approved Expedite Process: Must sign contract amendment with “per day” rate structure, order products on specified list, and payment of additional

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under Section 27 of this Part A of this Agreement to determine the terms of any amendment to this Agreement.”

<sup>15</sup> Memorandum Opinion and Order, *In the Matter of the Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, FCC 99-404, CC Docket No. 99-295, ¶ 44 (rel. December 22, 1999).

charge. No need to meet Original Conditions listed above to obtain an expedite at that rate.

Exclusive process for loops? *Yes, according to Qwest.* Qwest claims the Expedites Requiring Approval are *now no longer available* for all products on the Pre-Approved Expedite list (including all unbundled loops) for no additional charge, even when the Original Conditions are met. The Expedited Requiring Approval process exists as it did before, but Qwest denies the capability to use it for unbundled loops.

## **7. CLEC Objections, Qwest's Denials, and Dispute Resolution**

Although the CMP Document is not part of Eschelon's ICA with Qwest, Eschelon voluntarily followed the CMP objection, escalation, and dispute resolution processes to attempt to resolve this matter. Eschelon also complied with the ICA's dispute resolution provisions before bringing this matter to the Commission.

On October 21, 2005, Eschelon requested a CMP ad hoc call to obtain further information about Qwest's proposed Version 30 changes.

On October 27, 2005, McLeod submitted a written escalation in which McLeod said: "2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Thus Qwest will begin charging \$200 per circuit per day expedite fee instead of following the existing process of approving expedites based upon the Expedites Requiring Approval process. . . . McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite. . . . Makes it almost impossible for McLeodUSA to expedite with such a high charge for just 2w/4w loop service. . . . McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite."<sup>16</sup> See

[http://www.qwest.com/wholesale/downloads/2005/051028/Escalation\\_39\\_Mcleod\\_PROS\\_09\\_12\\_05\\_F\\_0342\\_Expedites\\_Escalations\\_V27.doc](http://www.qwest.com/wholesale/downloads/2005/051028/Escalation_39_Mcleod_PROS_09_12_05_F_0342_Expedites_Escalations_V27.doc). McLeod and Eschelon escalated these issues after Qwest announced both Versions 27 and 30 so it had now become clear that Qwest was attempting to deny the capability to use the Expedites requiring approval process for unbundled loops, though it was unclear through which Version Qwest had actually done so.<sup>17</sup>

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<sup>16</sup> McLeod cited the Version 27 Qwest notice in its escalation (and not also Version 30). By this time, however, Version 30 had been announced and the substance of McLeod's escalation addressed the problem created by the two versions combined. As indicated below, Qwest recognized in its response regarding Version 30 that CLEC's were commenting to multiple notices together. Also, Qwest later claimed that the issue of Qwest's process change resulting in a change in the rate and application of the rate was outside the scope of CMP. Qwest thus rendered further CMP escalation moot, as it had both provided its binding denial and indicated that it would not discuss the issue again in CMP.

<sup>17</sup> Qwest issues a series of notices in a short amount of time that created confusion. It was so confusing that Qwest, in its Nov.18, 2005 had to both describe the overlapping changes and include a complicated timeline to show what it said it had done.

Eschelon joined McLeod's escalation. (Qwest did not formally post the participants at that time but has acknowledged in writing that Eschelon joined the escalation and that Qwest sent its escalation response to Eschelon.) (*See* Qwest/Jill Martain 3/28/06 email.)

On November 1, 2005, a CMP ad hoc call was held on which Qwest and CLECs discussed CLEC's questions and concerns about Versions 27 and 30. Eschelon participated in the ad hoc call.

On November 3, 2005, Eschelon objected to Qwest's Version 30 changes. ***McLeod, Covad, Integra, and PriorityOne also objected.*** CLECs objected, for example, on the grounds that the change resulted in discrimination (between Qwest retail and CLECs & between facility based and non-facility based CLECs)<sup>18</sup> and created unilateral, unapproved rate changes. Qwest issued a written denial.<sup>19</sup> For CLEC objections and Qwest's response, *see*

[http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL\\_Exp-EscalationsV30Qwest%20Response.doc](http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc)

In Qwest's response sent by email on November 7, 2005 (and dated November 4, 2005), Qwest issued a binding written denial of the McLeod-Eschelon escalation. In Qwest's response, Qwest said: "In response to McLeod's concern around the costs associated with an expedited request; discussion around rates associated with an Interconnection Agreement are outside the scope of the CMP process. Qwest maintains its position that 2w/4w analog loops be included in the pre-approved expedite process to create consistencies across the UBL product line as well as other products that follow the designed services flow." *See*

[http://www.qwest.com/wholesale/downloads/2005/051104/Qwest\\_Response\\_to\\_Escalation\\_39\\_McLeodUSA.doc](http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc)

On November 18, 2005, Qwest also issued a written denial of the objections of multiple CLECs (including Eschelon) to Version 30. Qwest acknowledged in its response that it had distributed multiple notices on this topic and thus that comments from CLECs dealt with both Versions 27 and 30.<sup>20</sup> By this time CLECs had already received the binding denial to their escalation (*see* previous paragraph). In the previous denial of the McLeod-Eschelon escalation, even though Qwest had added its requirement for a "per day" rate structure through CMP, Qwest said that rate issues were outside the scope of CMP and therefore Qwest would not discuss in CMP. Qwest had already made clear, therefore, that no further CMP escalation was necessary or would be granted by Qwest.

The CMP Document includes escalation and dispute resolution procedures in Sections 14.0 and 15.0. The CMP document states, in Section 15.0, that: "Without the necessity

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<sup>18</sup> The Eschelon-Qwest ICA contains several provisions requiring nondiscrimination. Section 31.1 of Part A, for example, provides that Qwest "shall conduct all activities and interfaces which are provided for under this Agreement with CO-PROVIDER Customers in a carrier-neutral, nondiscriminatory manner."

<sup>19</sup> CMP is not a consensus process, as described above in the Background section.

<sup>20</sup> Documentation is cited above (as CLEC objections and Qwest response are at the same URL). *See* [http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL\\_Exp-EscalationsV30Qwest%20Response.doc](http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc)

for a prior ADR Process, Qwest or any CLEC may submit the issue, following the commission's established procedures, with the appropriate regulatory agency requesting resolution of the dispute. This provision is not intended to change the scope of any regulatory agency's authority with regard to Qwest or the CLECs. This process does not limit any party's right to seek remedies in a regulatory or legal arena at any time."<sup>21</sup> There is no time limit on requesting resolution, which may occur "at any time." *See id.* The process provides that "any CLEC" may submit an issue to the Commission for resolution. The CMP dispute resolution process anticipates, therefore, that the dispute will be a dispute between an individual CLEC and Qwest. There is no multiple-CLEC requirement or other CMP-specific type of dispute resolution. Under the CMP dispute resolution process (§15), any individual CLEC may submit an issue to the Commission at any time, as Eschelon has done in this case.

Eschelon did not rush to judgment. Eschelon continued to request expedites, which provided Qwest with an opportunity to comply with the ICA. If Eschelon had complained earlier, it would undoubtedly be facing claims now that it did not give Qwest a fair chance to do so. In addition, Eschelon needed to assess the impact on the business, given the high cost and drain on resources caused by litigating individual issues. The severity of the particular rehabilitation center example in Arizona, involving serious 911 issues, compelled action. In addition, it became clear after a number of requests that this was not a Qwest compliance problem but a Qwest policy. Qwest will impose its position that it can unilaterally breach a six-year mutually agreed upon term under the ICA, and create a required "per day" rate structure, without filing anything with the Commission or gaining its approval.<sup>22</sup> It requires a Commission proceeding, therefore, to resolve the issue.

In addition to objecting to Qwest's changes and joining McLeod's escalation in CMP, Eschelon later escalated with Qwest pursuant to the dispute resolution provisions of the Qwest-Eschelon ICA (Part A, §27.2). On a March 31, 2006 dispute resolution call with Qwest, the CMP issues were discussed and, in Eschelon's April 3, 2006 letter to Qwest relating to dispute resolution in this matter, Eschelon specifically cited both Qwest CMP notices (Versions 27 and 30) as subject to the escalation and dispute resolution. Qwest cannot legitimately claim to be unaware of Eschelon's CMP objection and escalation and their relationship to this dispute when the dispute resolution letter contained the following detailed information in the subject line: "Joint McLeod-Eschelon Escalation #39 Re. PROS.09.12.05.F.03242.Expedites\_Escalations\_V27 – Denied by Qwest 11/4/05; Eschelon 11/3/05 objections to PROS.10.19.05.F.03380.ExpeditesEscalationsV30." Qwest is well aware, therefore, that Eschelon has objected to Qwest's change in CMP, escalated the matter in CMP, and pursued both CMP and ICA escalation and dispute resolution to resolve this dispute.

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<sup>21</sup>[http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument\\_01\\_30\\_06\\_1\\_.doc](http://www.qwest.com/wholesale/downloads/2006/060130/QwestWholesaleChangeManagementDocument_01_30_06_1_.doc)

<sup>22</sup> This is not the first time Qwest has done so. Its actions here, for example, are similar to those rejected by this Commission in the Qwest 271 proceeding. Qwest is on notice through these documents and that proceeding that it should not have implemented such a change without first seeking Commission approval. *See, In re. US West Communication, Inc.'s, Compliance with Section 271 of the Telecommunications Act of 1996*, ACC Docket No. T-00000A-97-0238, Decision No. 66242, ¶109 (Sept. 16, 2003).

Section 27.2 of Part A of the ICA provides that, to the extent that Qwest and Eschelon “are unable to agree on certain issues during the term of this Agreement, the Parties may identify such issues for arbitration before the Commission.”

Pursuant to the dispute resolution provisions of both the ICA and the CMP document, the next step was to bring the issue to the state commission for resolution, as Eschelon has done in this case.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 94**



### Documented Facts

#	Fact	Documentation	
1	Qwest previously expedited orders for unbundled loops on an expedited basis for Eschelon	Answer, <i>In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation</i> , ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (May 12, 2006) [“Arizona Complaint Docket”], at p. 9, ¶ 14, lines 24-25.	
2	McLeod submitted Escalation #39 PROS.09.12.05.F.03242. Expedites_Escalations_V27.	<p>Document 000118</p> <p>McLeod stated: “2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Thus Qwest will begin charging \$200 per circuit per day expedite fee instead of following the existing process of approving expedites based upon the Expedites Requiring Approval process.</p> <p>History of Item: McLeodUSA was not even aware this issue was on table for discussion.</p> <p>Reason for Escalation / Dispute: McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite.</p> <p>Business Need and Impact: Makes it almost impossible for McLeodUSA to expedite with such a high charge for just 2w/4w loop service.</p> <p>Desired CLEC Resolution: McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite.”</p> <p><a href="http://www.qwest.com/wholesale/downloads/2005/051028/Escalation_39_Mcleod_PROS_09_12_05_F_0342_Expedites_Escalations_V27.doc">http://www.qwest.com/wholesale/downloads/2005/051028/Escalation_39_Mcleod_PROS_09_12_05_F_0342_Expedites_Escalations_V27.doc</a></p>	
3	Eschelon joined McLeod’s Escalation #39 PROS.09.12.05.F.03242. Expedites_Escalations_V27.	<p>Document 000120:</p> <p>Qwest (Jill Martian) stated: “Qwest does not formally post the escalation participants on the external web; however, we do show that Eschelon did join the escalation.”</p>	

The document numbers refer to non-confidential documents produced in discovery to Qwest in the Arizona complaint case. Qwest has a copy of these documents.

<p>4</p>	<p>Qwest included CLEC escalation participants, including Eschelon, Covad, Velocity, AT&amp;T, ELI, and VCI, in Qwest's response to Escalation #39 PROS.09.12.05.F.03242. Expedites_Escalations_V27.</p>	<p>Document 000120-121 Qwest Cynthia Harlan Email Dated November 7, 2005 10:45 AM To: <a href="mailto:lhankins@covad.com">lhankins@covad.com</a>; <a href="mailto:Jim.hickle@velocitytelephone.com">Jim.hickle@velocitytelephone.com</a>; Johnson, Bonnie J [Eschelon]; Van Meter, Sharon K NEO [AT&amp;T]; <a href="mailto:lynn_kellas@eli.net">lynn_kellas@eli.net</a>; <a href="mailto:amandas@vcicompany.com">amandas@vcicompany.com</a> Subject: Escalation Response posted to web "During the October 19 CMP meeting, the CLEC community request that Qwest update the Escalation process to inform the CLECs that chosen to participate in the Escalation that the Escalation Response has been posted to the Qwest web site. In the spirit of the conversation at the October CMP meeting, this email is to advise the participants of Escalation #39 that Qwest has posted the Escalation Responses at the following url: <a href="http://www.qwest.com/wholesale/cmp/escalations.html">http://www.qwest.com/wholesale/cmp/escalations.html</a> In addition, Qwest has submitted a CR to change the Escalation Process. This CR is on the agenda for the November CMP meeting Thank you, Cindy Harlan"</p>	
<p>5</p>	<p>Eschelon requested a CMP ad hoc call to discuss Qwest notice PROS.10.19.05.F.03380. ExpeditesEscalations V30</p>	<p>Document 000117 Eschelon (Kimberly Isaacs) email dated 10/21/05 Eschelon stated: "Eschelon is requesting an ad-hoc call with Qwest and the CLEC community to discuss notice PROS.10.19.05.F.03380.EpeditiesEscalationsV30."</p>	
<p>6</p>	<p>Qwest scheduled an ad hoc call to discuss Qwest notice PROS.10.19.05.F.03380. ExpeditesEscalations V30</p>	<p>Document 001668-001669 Qwest Notice: CMPR.10.25.05.F.03414.Ad_Hoc_Meeting_11-1-05  Subject: CMP- Ad Hoc Meeting Scheduled November 1, 2005 to discuss PROS.10.19.05.F.03380.ExpeditesEscalationsV30  <a href="http://www.qwest.com/wholesale/cnla/uploads/CMPR%2E10%2E25%2E05%2EF%2E03414%2EAd%5FHoc%5FMeeting%5F11%2D1%2D05%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/CMPR%2E10%2E25%2E05%2EF%2E03414%2EAd%5FHoc%5FMeeting%5F11%2D1%2D05%2Edoc</a></p>	

7	<p>Eschelon followed the CMP comment process and submitted comments on November 11, 2005 regarding Qwest's CMP notice PROS.10.19.05.F.03380.ExpeditesEscalationsV30</p>	<p>Documents 000124 - 000126 <a href="http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc">http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</a></p>	
8	<p>Multiple CLECs submitted CMP comments regarding PROS.10.19.05.F.03380. Expedites EscalationsV30.</p>	<p>Document 000122-000128 <a href="http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc">http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</a></p>	
9	<p>Three of five CLECs (including Eschelon) providing comments on notice PROS.10.19.05.F.03380. Expedites EscalationsV30; in CMP referred to discrimination and/or a competitive disadvantage.</p>	<p>Document 000122-000128 Eschelon stated: "The change Qwest is proposing is discriminatory to CLECs and their customers" McLeod stated: "Qwest's removal of the 2w/4w analog loop exception from the Expedites Requiring Approval process places CLECs at a competitive disadvantage" PriorityOne Telecommunications, Inc stated. "PriorityOne Telecommunications, Inc. objects to Qwest's proposed changes due to feeling that it is discriminatory to CLEC's and CLEC customers" <a href="http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc">http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</a></p>	
10	<p>Integra said in its comments that "Integra objects to Qwest proposed change to remove the existing approval required expedite process for designed products. When Integra signed the Qwest Expedite Amendment we were not advised that by signing the amendment it would change the current Expedites Requiring Approval process. We signed the amendment believing that this would ADD to our options of having an order completed outside the standard interval. When Integra</p>	<p>Document 000122-000128 <a href="http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc">http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</a></p>	

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	signed the amendment UBL DS0 loops were not included as a product on the list of products in the "Pre-Approved Expedites" list. When the UBL DS0 was added to this list Integra did not comment as at that time we still believed the Expedites Requiring Approval process was in place for our use."		
11	Qwest provided a binding response in CMP by email on November 7, 2005 (dated November 4, 2005) to the McLeod escalation	Document 000129 Qwest stated: "This letter is Qwest's binding response to your October 27, 2005 escalation regarding PROS.09.12.05.F.03242.Expedites_Escalations_V27, which changed the expedite process to include 2w/4w analog loops." <a href="http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc">http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc</a>	
12	In Qwest's binding response in CM binding response email on November 7, 2005 to the McLeod escalation, Qwest stated: "rates associated with an Interconnection Agreement are outside the scope of the CMP process."	Document 000129 <a href="http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc">http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc</a>	
13	Eschelon (Danny de Hoyos, Vice President, Customer Service and Product Delivery), in a letter dated March 21, 2006 to Qwest (Kenneth Beck, Regional Vice President; Director – Interconnection Compliance; General Counsel, Law Department), cited the dispute resolution provisions of the Qwest-Eschelon ICA (Part A, §27).	Document 000130 Eschelon (Danny de Hoyos, Vice President, Customer Service and Product Delivery), in a letter dated April 3, 2006 to Qwest (Kenneth Beck, Regional Vice President; Director – Interconnection Compliance; General Counsel, Law Department) stated: "If Eschelon and Qwest are unable to agree on a resolution, Eschelon reserves its right to as the Arizona Commission to arbitrate the dispute pursuant to Section 27.2 of Part A of the Arizona ICA:	

<p>14</p>	<p>Eschelon challenged the expedite provision using the CMP dispute resolution process</p>	<p>Document 000120 Joint McLeod-Eschelon Escalation #39 Re. PROS.09.12.05.F.03242.Expedites_Escalations_V27 – Denied by Qwest 11/4/05: Qwest (Jill Martian) response: “Qwest does not formally post the escalation participants on the external web; however, we do show that Eschelon did join the escalation”</p> <p>Document 000124-000126 In Eschelon’s comments on notice PROS.10.19.05.F.03380.Expedites EscalationsV30 submitted on November 11,2005, Eschelon stated: “Eschelon 11/3/05 objections to PROS.10.19.05.F.03380.Expedites EscalationsV30.” <a href="http://www.qwest.com/wholesale/downloads/2005/051118/PROS.1.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc">http://www.qwest.com/wholesale/downloads/2005/051118/PROS.1.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</a></p>	
<p>15</p>	<p>The CMP notifications for Versions 11, 22, 27, and 30 of the Expedites and Escalations Overview PCAT were “process” notifications and none of these Versions were noticed as “system” changes.</p>	<p>Document Nos.000066, 000078, 000090, 000105 PROS.07.15.04.F.01882.FNL_ReissueExpeditesV11 <a href="http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc</a> PROS.06.01.05.F.02971.Final_Expedites_Escal_V22 <a href="http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E01%2E05%2EF%2E02971%2EFinal%5FExpedites%5FEscal%5FV22%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E01%2E05%2EF%2E02971%2EFinal%5FExpedites%5FEscal%5FV22%2Edoc</a></p> <p>PROS.09.12.05.F.03242.Expedites_Escalations_V27 <a href="http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E12%2E05%2EF%2E03242%2EExpedites%5FEscalations%5FV27%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E12%2E05%2EF%2E03242%2EExpedites%5FEscalations%5FV27%2Edoc</a> PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30 <a href="http://www.qwest.com/wholesale/cnla/uploads/PROS%2E11%2E18%2E05%2EF%2E03492%2EFNL%5FExp%2DEscalationsV30%2E">http://www.qwest.com/wholesale/cnla/uploads/PROS%2E11%2E18%2E05%2EF%2E03492%2EFNL%5FExp%2DEscalationsV30%2E</a></p>	

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		<p><a href="#">doc</a></p>	
<p>16</p>	<p>For product and process changes in CMP, while votes may be taken as to certain CMP procedural issues in the course of considering the change, no vote is taken in CMP as to whether a particular product or process change requested by a CLEC or Qwest should be granted or denied.</p>	<p>Document Nos. 000159-000287</p> <p>The CLEC Originated Product/Process Change Request Process states: “Qwest will develop a draft response based on the discussion from the Monthly CMP Product/Process Meeting. Qwest’s response will be:</p> <ul style="list-style-type: none"> <li>• “Accepted” (Qwest will implement the CLEC request) with position stated, or</li> <li>• “Denied” (Qwest will not implement the CLEC request) with basis for the denial and a detailed explanation, including reference to substantiating material. CLEC originated Product/Process Change Request may be denied for one or more of the following reasons:</li> </ul> <p style="padding-left: 40px;">Technologically not feasible—a technical solution is not available</p> <p style="padding-left: 40px;">Regulatory ruling/Legal implications—regulatory or legal reasons prohibit the change as requested, or if the request benefits some CLECs and negatively impact others (parity among CLECs) (Contrary to ICA provisions)</p> <p style="padding-left: 40px;">Outside the Scope of the Change Management Process—the request is not within the scope of the Change Management Process (as defined in this CMP), seeks adherence to existing procedures, or requests for information</p> <p style="padding-left: 40px;">Economically not feasible—low demand, cost prohibitive to implement the request, or both</p> <p style="padding-left: 40px;">The requested change does not result in a reasonably demonstrable business benefit (to Qwest or the requesting CLEC) or customer service improvement</p> <p>Qwest will not deny a CR solely on the basis that the CR involves a change to the back-end systems. Qwest will apply these same concepts to CRs that Qwest originates. SCRIP may be invoked if a CR was denied due to Economically not feasible.</p>	

		<p><b>Qwest Originated Product/Process Changes</b></p> <p>The following defines five levels of Qwest originated product/process changes and the process by which Qwest will originate and implement these changes. None of the following shall be construed to supersede timelines or provisions mandated by federal or state regulatory authorities, certain CLEC facing Web sites (e.g., ICONN and Network Disclosures) or individual interconnection agreements. Each notification will state that it does not supercede individual interconnection agreements. The lists of change categories under each level provided below are exhaustive/finite but may be modified by the process set forth in Section 2.1. Qwest will utilize these lists when determining the disposition level to which new changes will be categorized. The changes that go through these processes are not changes to OSS Interfaces. Level 1-4 changes under this process will be tracked and differentiated by level in the History Log for the affected documents.</p> <p><a href="http://www.qwest.com/wholesale/downloads/2006/060130/_Toc22021536">http://www.qwest.com/wholesale/downloads/2006/060130/_Toc22021536</a></p>	
17	<p>Eschelon told Qwest in writing that it will pay charges for expedites pursuant to the ICA without amendment, including hourly and dispatch charges, in addition for the installation charge for the order requesting the expedite.</p>	<p>Document 000137-000139</p> <p>Eschelon (Danny de Hoyos, Vice President, Customer Service and Product Delivery), in a letter dated April 3, 2006 to Qwest (Kenneth Beck, Regional Vice President; Director – Interconnection Compliance; General Counsel, Law Department), indicated in the subject line that the letter was regarding: “Escalation and Request for Dispute Resolution pursuant to the Interconnection Agreements; LSR #17114755 (#D49232945); LSR #17192206 (#N49828418; PON #AZ657718T1FAC); ASR #0607700072 (#C50456587; PON # AZ657718T1FAC) stated: “Eschelon said it was willing to pay maintenance and repair charges pursuant to the interconnection agreements (including those approved by the state commissions, which Qwest already routinely charges Eschelon for other types of repairs) to re-establish service.”</p>	

18	When an unbundled loop is installed and then an expedited order is needed several months later ( <i>e.g.</i> , to correct a later disconnect in error of that loop) Qwest charges the Commission approved non-recurring charge (NRC) for the later installation of the unbundled loop ( <i>e.g.</i> , \$87.93 for DS1 capable loop without testing in Arizona) to restore service ( <i>e.g.</i> , to correct the later disconnect in error of that loop), even if the facilities remain in place and no premise dispatch is required.	Document 001674-001675 Qwest expedite amendment, Exhibit A (\$200 per day expedited rate) & Qwest SGAT, Exhibit A, Section 9.2.5.1.1 (\$87.93 rate & footnote A. In Footnote A of Exhibit A to the SGAT, Qwest recognizes that the rate is Commission approved.	
19	Qwest charges the rate in its expedite amendment ( <i>e.g.</i> , \$200 per day expedited, which is \$1,000 for a 5-day expedite) if the CLEC has signed the expedite amendment.	The Qwest Expedites for Design Services Exhibit A states: “Expedite for Design Services - Per Order Per Day Event – Non-Recurring \$200.00 <a href="http://www.qwest.com/wholesale/downloads/2005/050707/QPP-Expedite-for-Design-Services-Exhibit-A-6-29-05.xls">http://www.qwest.com/wholesale/downloads/2005/050707/QPP-Expedite-for-Design-Services-Exhibit-A-6-29-05.xls</a>	
20	The Arizona Corporation Commission authorized Eschelon to provide competitive facilities-based and resold local exchange and interexchange telecommunications services in Arizona.	Document 000373	
21	A mutually agreed upon process for expedites requiring approval was in place, including for unbundled loops, before Qwest documented it on its website through CMP Qwest issued an expedites and escalations product notification (Version 1)	Document 000022-000025  Qwest Notice: PROD.09.20.01.F.00087.F.BFR SR. POA LOA. Expedites stated: “The new Expedite and Escalation Overview will be posted to the Wholesale Markets Web page at the following URL:	

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	when documenting the process on its website in which Qwest said that “these updates reflect current practice.”	<a href="http://www.qwest.com/wholesale/clecs/exesclover.html">http://www.qwest.com/wholesale/clecs/exesclover.html</a> . All updates are consistent with the information available in the Statement of Generally Available Terms (SGAT) URL <a href="http://www.qwest.com/about/policy/sgats/">http://www.qwest.com/about/policy/sgats/</a> ”  <a href="http://www.qwest.com/wholesale/cnla/uploads/PROD%2E09%2E20%2E01%2EF%2E00087%2EF%2EBFRSR%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/PROD%2E09%2E20%2E01%2EF%2E00087%2EF%2EBFRSR%2Edoc</a>	
22	May 12, 2004, Qwest told CLECs that: “If a CLEC chooses not to amend their Interconnection Agreement, the current expedite criteria and process will be used.”	Document 000006 <a href="http://www.qwest.com/wholesale/cmp/archive/CR_PC021904-1.htm">http://www.qwest.com/wholesale/cmp/archive/CR_PC021904-1.htm</a>	
23	July 15, 2004, Qwest told CLECs that: “If a CLEC chooses not to sign the amendment and pay the approved rates, this will not impact resources. For Qwest's Retail and Access customers, they are bound by the terms established in the tariffs (which have been or are in the process of being filed). Qwest did not want to shut the door for its Interconnect customers because of existing contractual obligations, so is offering those customers two options: 1) To be able to expedite without reason for a per-day improved rate, like the Retail and Access customer, or 2) Continue with the existing process that is in place. Qwest is providing the Interconnect customers an additional option. If the CLEC chooses option 2, and the expedite reason is for one of those listed in the PCAT, they are given the same opportunity at having the due date	Document 000006 <a href="http://www.qwest.com/wholesale/downloads/2004/040715/DNLD_QwestResponse_Exp_Escl_V11.doc">http://www.qwest.com/wholesale/downloads/2004/040715/DNLD_QwestResponse_Exp_Escl_V11.doc</a> ).	

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	requested. This comment is accepted.”		
24	June 29, 2004, Qwest told CLECs that: “Qwest is modifying/changing the existing manual Expedite process to incorporate two processes. These are described as Pre-Approved and Expedites Requiring Approval.”	Document 000006 – 000007 Qwest sent PROS.06.15.04.F.01792.ExpeditesV11 for review and comments. <a href="http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc">http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc</a>	
25	After Qwest issued Version 30 of the Expedites and Escalations Overview PCAT, the Expedites Requiring Approval process remained in place at Qwest, but Qwest removed certain products (including unbundled loops) from the list of products to which Qwest said the Expedites Requiring Approval process applied.	Document. 000107-000115 The Qwest Expedites and Escalations Overview V30.0 stated: “Requesting an expedite follows one of two processes, depending on the product being requested. If the request being expedited is for a product contained in the “Pre-Approved Expedites” section below, your ICA must contain language supporting expedited requests with a “per day” expedite rate. If the request being expedited is for a product that is not on the defined list, then the expedited request follows the process defined in the “Expedites Requiring Approval” section below.”  <a href="http://www.qwest.com/wholesale/downloads/2005/051018/PCAT_ExpEscl_V30.doc">http://www.qwest.com/wholesale/downloads/2005/051018/PCAT_ExpEscl_V30.doc</a>	
26	Qwest describes its expedites and escalations “local business procedures” in the Qwest “Expedites and Escalations Overview – V40.0,” which is available on the web	Document 001645 - 001654 <a href="http://www.qwest.com/wholesale/clecs/exesclover.html">http://www.qwest.com/wholesale/clecs/exesclover.html</a> ;	
27	Requesting an expedite “follows one of two processes”	Document 001645 The Qwest Expedites and Escalations Overview – V40.0 states: “Requesting an expedite follows one of two processes, depending on the product being requested. If the request being expedited is for a product contained in the "Pre-Approved Expedites" section below, your ICA must contain language supporting expedited requests with	

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		<p>a "per day" expedite rate. If the request being expedited is for a product that is not on the defined list, then the expedited request follows the process defined in the "Expedites Requiring Approval" section below."</p> <p><a href="http://www.qwest.com/wholesale/clecs/exesclover.html">http://www.qwest.com/wholesale/clecs/exesclover.html</a>;</p>	
28	<p>One of the processes for requesting an expedite is the Expedites Requiring Approval" process and the Expedites Requiring Approval process still exists</p>	<p>Document 001645</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states: “For products not listed in the Pre-Approved Expedite section below, (non-designed products such as POTS, Centrex or DSL service) the following expedite process applies.”</p> <p><a href="http://www.qwest.com/wholesale/clecs/exesclover.html">http://www.qwest.com/wholesale/clecs/exesclover.html</a>;</p>	
29	<p>Expedite charges are not applicable with the Expedites Requiring Approval process.”</p>	<p>Document 001645</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states: “Expedite charges are not applicable with the Expedites Requiring Approval process”</p> <p><a href="http://www.qwest.com/wholesale/clecs/exesclover.html">http://www.qwest.com/wholesale/clecs/exesclover.html</a>;</p>	
30	<p>Following is a list of conditions where an expedite is granted” under the “Expedites Requiring Approval” process:</p> <ul style="list-style-type: none"> <li>“Fire</li> <li>Flood</li> <li>Medical emergency</li> <li>National emergency</li> <li>Conditions where your end-user is completely out of service (primary line)</li> <li>Disconnect in error by Qwest</li> </ul>	<p>Document. 001646</p> <p><a href="http://www.qwest.com/wholesale/clecs/exesclover.html">http://www.qwest.com/wholesale/clecs/exesclover.html</a>;</p>	

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	<p>Requested service necessary for your end-user's grand opening event delayed for facilities or equipment reasons with a future RFS date</p> <p>Delayed orders with a future RFS date that meet any of the above described conditions</p> <p>National Security</p> <p>Business Classes of Service unable to dial 911 due to previous order activity</p> <p>Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected”</p>		
31	<p>In Qwest Expedites Requiring Approval process there are two options to request an expedite on a Local Service Request (LSR)</p>	<p>Document 001646</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states: To request an expedite on a Local Service Request (LSR) you can either:</p> <ul style="list-style-type: none"> <li>• Submit the request with your expedited due date and populate the EXP field. Also include in REMARKS the reason for the expedited request and then call the Qwest Call Center.</li> <li>• Submit the request with a due date interval from our <a href="#">SIG</a> or</li> </ul>	

		<p>your ICA and then call the Qwest Call Center.</p> <p>In both scenarios, a call to the Qwest Call Center is required on 1-866-434-2555 to process the expedited request.</p> <p><a href="http://www.qwest.com/wholesale/clecs/exescoper.html">http://www.qwest.com/wholesale/clecs/exescoper.html</a>;</p>	
32	<p>The Qwest Call Center and its telephone number of 1-866-434-2555 used to request an expedite under the Qwest Expedites Requiring Approval process is the same Qwest Call Center and telephone number that is used generally for other LSR Tier 1 escalations; (b) the next escalation level is Tier 2; and (c) the next escalation level is Tier 3, which is the Qwest Service Manager assigned to that CLEC's account.</p>	<p>Document. 001646 &amp; 001653-001654</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states:</p> <p>Expedites and Escalations</p> <ul style="list-style-type: none"> <li>• Local Service Requests (LSRs)</li> </ul> <p><b>Wholesale Center</b></p> <p>Tier 1 Customer Service Inquiry and Education Center (CSIE) First point of contact for CLECs 866-434-2555</p> <p>Tier 2 Subject Matter Expert (SME), Team Leaders, Team Coaches Respond to issues not resolved at Tier 1 800-366-9974</p> <p>Tier 3 Appropriate Qwest Service Manager Respond to issues not resolved at Tier 2 <a href="#">Service Manager</a></p>	

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 95**

# Due Dates - POTS/Non-Design - All States Bus Res

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- Document Facts
- [Description](#)
- [Application Date/Time \(APP Date/Time\)](#)
  - [Saturday APP Date/Time \(Consumer Only\)](#)
  - [Extended Hours \(Consumer Only\)](#)
  - System Input
- [Appointment Codes](#)
  - [Customer credits](#)
  - [Exceptions](#)
  - System Input
- [Due Dates](#)
  - [Standard Due Date Matrix](#)
  - [Expedites for Non-Dispatchable Service Orders](#)
    - [Expedite Reason Codes](#)
    - [Non-Valid Expedites](#)
    - [Expedite Process for Small Business and Consumer Markets](#)
    - [Expedite Process for Large Business and Global Accounts \(Non-Design-Only\)](#)
  - [Expedites for Dispatchable Service Orders](#)
  - [One and Two Day Due Date Availability](#)
    - [Order Specifics](#)
    - Systems
  - [Product Specific Due Dates](#)
  - [Due Date Calendar Job Aid](#)
    - [Monday - Friday Charts - All market Units](#)
    - [Holidays](#)
    - [Saturday Due Dates through Appointment Scheduler](#)
    - [Sunday Due Dates](#)
    - [Orders Originated on Saturday \(Consumer Only\)](#)
    - [Extended Hours \(Consumer Only\)](#)
    - [Embargo \(Frozen DD\)](#)
      - [Service Order Exceptions](#)
      - Consulting Plus
      - SONAR Input
  - [Appointment Time - 'Access'](#)
  - [Commitment/Completion Time \(On Hold\)](#)
    - [Systems](#)
  - [Negotiation for D & F Orders](#)
  - Facility Check Shows Held Order
  - System Failure
    - FACS, SOPs (SOLAR, SOPAD, RSOLAR), CRIS MI (Eastern), CARS, BOSS (Central), Appointment Scheduler (AS)
    - [BOSS \(Eastern\)](#)
    - PREMIS
    - SONAR and Consulting Plus
- [Subsequent Due Dates](#)

- Example for SD in RSOLAR
- Example for SD in SOLAR
- Example for SD in SOPAD
- Subsequent Due Dates and the SDDI
- Missed Appointment (MA) Codes - 'Not Met Codes'
  - Critical Facts
  - Exceptions
  - Subscriber/Special Reasons
    - Loop Provisioning Center (LP C)
  - Company Reasons
- Pending Order Changes/Cancellations
  - Change/Cancel Issuance Matrix
  - RMK Entry
- Promise of Service
  - Criteria
  - S/SC Responsibility

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## Description

This method provides information on:

- Application Date/Time
- Appointment Codes
- Commitment/Completion Time
- Due Dates
- Expedites
- Missed Appointment Codes
- Promise of Service
- Subsequent Due Dates

Refer to each individual topic for the current description.

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## Application Date/Time (APP Date/Time)

The Application (APP) Date is the date and time the Market Unit (MU) negotiated the service order with the customer. The APP Date entry is located in the Fielded ID section of the service order and the format varies between regions:

- Western: MM-DD-YYYY TTP (06-14-2002 04P)
- Eastern: MM-DD-YY TTA (06-14-02 10A)
- Central: MM-DD TTP (06-14 04P) or MM-DD TP (06-14 4P)

An APP Date is a required order entry.



## Saturday APP Date/Time (Consumer Only)

When an order is taken on a Saturday, the APP date and time on the service order will reflect the Saturday information. The standard due date interval (SDDI) on the order however will be incremented by one day. Example: Saturday and Sunday are not counted. Monday would be day zero (if it's not a Holiday). Tuesday would be day one, etc. See Orders Originated on Saturday (Consumer Only) for additional information.




## Extended Hours (Consumer Only)

When an order is taken on or after 7pm Mountain Standard Time (6pm PST and 8pm CST), the APP date and time on the service order will reflect the extended hours information. The SDDI on the order however will be incremented by one business day. See Extended Hours (Consumer Only) for additional information.

## Appointment Codes

Appointment Codes are one-digit entries required on all N, T and C service orders in all three regions and on D orders in Western region. Appointment Codes are used to identify a customer requested or a company offered due date. The two most commonly used Appointment Codes are X and W. Under very rare occasions would an Y or Z Appointment Code be used. The Appointment Code is located in the Fielded ID section of the service order. See complete Appointment Code definitions below:

APPOINTMENT CODES	
CODE	DESCRIPTION
X	<b>Customer Requested Due Date</b> - the customer asks for a specific date and the company agrees to install service on that date. Types of `X' orders include: <ul style="list-style-type: none"> <li>- Temporary transfer of calls</li> <li>- Suspend/restore service</li> <li>- customer requested a later due date than the standard due date interval</li> </ul>
W	<b>Company Offered Due Date</b> - the DD the customer requests is not available; a company offered date is negotiated. Types of `W' orders include: <ul style="list-style-type: none"> <li>- Completed Work Orders (CWD) - Non-appointment completions</li> <li>- Restore service from non-payment</li> <li>- customer requested an earlier due date than the standard due date interval</li> </ul>
Y	<b>Company initiated change</b> , e.g., number change due to Central Office conversion
Z	<b>Official company service</b> for Qwest



The Appointment Code can be changed on the service order if the orientation of the due date changes. Example:

The customer originally wanted a sooner due date than what the company had available (the Appointment Code would be a W). The customer calls back in and wants to move the due date out by two weeks. The Appointment Code needs to be changed to an X.

## Customer credits

It is important to always apply the appropriate Appointment Code to a service order. The Appointment Codes of either `X or W' indicate the interval between the application date and the due date. (See, Application Date/Time (APP Date/Time ) for additional information). Placing an X in the Fielded ID section of the service order is the only means Qwest has of determining when the customer accepts Qwest's standard due date interval (SDDI) or requests a due date that is later than the SDDI. Conversely, the W has importance because it designates a negotiated due date when the customer's desired due date in not available.

Regulations in nearly all the states require that Qwest complete an order in a given time frame (usually 2 to 5 days) or by the customer's requested date, if later. Failure to complete the order within the state-specific interval for `W' due dates initiates an automatic credit to the customer's bill. An incorrect appointment code may cause a payment to be made when one is not required or worse, a credit is not granted when it should have been. Credits are also given to customers when we completely miss the due date for either the `X or W' appointment codes. See Missed Appointment (MA) Codes - `Not Met Codes' for additional information.

Accurate appointment codes provide Qwest with the ability to provide the customer the service they want while still meeting our regulatory requirements and minimizing the expenses to the Company.

## Exceptions

**DO NOT** enter an Appointment Code on:

- F or R Orders
- D orders in Central and Eastern Regions
- Designed Services
- P Orders (Prewire)
- DB5 and ZZ0 Class of Service orders (establish, change or disconnect)

## Due Dates

Due Dates (DD) are required on every service order. The DD defines the day the service order will be worked and is located in the Fielded ID section of the service order.

## Standard Due Date Matrix

The following job aid is to assist in assigning the correct standard due date interval (SDDI) to the service order. If there are specific product/service due date questions, please refer to the product/service method for the answer. This job aid is for general use only.

<b>BUSINESS AND RESIDENCE STANDARD DUE DATE JOB AID</b>			
<b>ORDER SERVICE TYPE</b>	<b>AND</b>	<b>NOTE</b>	<b>DUE DATE INTERVAL</b>
Flow Through (N,T)	Facility Check indicates "AVAILABLE" and DISPATCH "NO"	CPE may require specific DD interval	3 Business Days* <b>-Exception: MN is 2 business days unless select AIN products</b>

			are being added, then it's 3 business days.
Working Left-In (N,T)	Facility Check shows working detail & TN	Pending Out	<b>Co-ordinate</b> with Pending Out DD - Minimum 3 Business Days <b>-Exception: MN is 2 business days unless select AIN products are being added, then it's 3 business days.</b>
		Working	3 Business Days* <b>-Exception: MN is 2 business days unless select AIN products are being added then it's 3 business days.</b>
Work Order (N,T,C with inward line activity)	Facility Check indicates "AVAILABLE DISP. REQ" and/or DISPATCH "YES"		Next Available Due Date as indicated by Appointment Scheduler*
	Facility Check indicates "HELD ORDER"		Next Available Due Date as indicated by Appointment Scheduler*
Work Order (C Orders)	Select, non-dispatchable, flow through features. See One or Two Day Due Date Availability for additional information.	No Saturday, Sunday or Holidays.	1 or 2 Business Days
Work Order (C Orders)	Features or TN change without inward line activity	For some CO features or Regrades, does not include CustomNet, Caller ID (when ordering the adjunct unit), etc. <b>NOTE:</b> TFC-send mini form "INTERCEP"	3 Business Days <b>-Exception: MN is 2 business days unless select AIN products are being added, then it's 3 business days.</b>
Disconnect (D,F,C) See note in interval column		No Saturdays, Sundays or Holidays	Sub requested Due Date on C orders if the order is taken before 3pm and before 12pm on D and F orders. If not, due date the order for the next business day and EBD.

			<b>Note: If a C order is issued to remove features or an additional line, it is allowed on the Customer requested due date only if it is JUST removals, if there are any I action codes on the order then it does not qualify for the Customer Requested Due Date. Use EBD when appropriate.</b>
Record Order (R)	Examples: Calling Card Only, Adding a Calling Plan, or Billed Number Screening Only	Any service being added with a Record order must follow the guidelines outlined in the method of that service.	Standard due date interval (Use EBD where appropriate)
	Company	Avoid heavy load periods (i.e. 1st and last of each month)	2 Bus Days or more
Non-Work Order (N,T,C,D) CWD (Completed Work Order) <b>Or</b> WC (Work Complete Order)	"For Record Work Only" i.e., Supercedure/ Chg of Resp, Consolidate/ Deconsolidate, <b>Exception - Toll Only</b>	This type of order does not add or remove services to a customers account. <b>Exception - Toll Only</b> orders will still be a 2 day due date in all 14 states	3 Business Days. Use EBD where appropriate for proper billing <b>-Exception MN is 2 Business days unless select AIN products are being added then it's 3 business days.</b> <b>Exception - Toll only orders are 2 business days all states</b>
Suspend/Restore 'C' Orders	For customers with service placed on 'vacation'	This process maintains the customer's account and bill statement. This is not a standard disconnect or new connect.	"Next Business Day" -**This is an exception to Standard 3 business day interval guidelines**
	Treatment - Denial & Restoral for Non-payment issues		See the Treatment and Collection methods in InfoBuddy for each Market Units specific due date guidelines.
*The customer should be asked what due date they want. If it is on or after Qwest's standard due date interval (SDDI) give them their request. If it is not, negotiate a due date using the SDDI.			

Also, Qwest must use FACILITY CHECK on every inward line order and then due date the service order appropriately.

**REMINDER:** If deregulated work is requested or required, in addition to the original order, you can issue a subsequent order using APPOINTMENT SCHEDULER for the due date. This applies to all flow through work orders (on main line).



**When adding additional Products/Services to a pending service order make sure you check the due date requirements for that product/service before you add the item to the order. Some product/services require a minimum due date of three business days (i.e. voice messaging, some AIN features, etc). Because of this requirement, a subsequent C order may have to be issued.**

## Expedites for Non-Dispatchable Service Orders

### Expedite Reason Codes

An expedite is a customer's request for an earlier due date other than the standard day due date interval on non-dispatchable orders. (For dispatchable orders, follow the Override process found in the method). Qwest **does not** grant expedites unless the request falls under the following circumstances:

- Disconnect in Error (DIE)

There are two types of DIE: 1) Qwest generated and 2) customer generated. An expedite will **only** be granted if the DIE is Qwest generated. See Disconnects in Error (DIE) for additional DIE information. *Waive ALL charges.*

Expedite code: DIE

- Medical Emergency

In order for the customer to obtain a medical emergency expedite they must have the supporting documentation. The documentation has to be on legal letterhead and signed by a practicing physician. The documentation has to be faxed or mailed to the Sales Consultant for verification prior to the release of the order. The documentation should be filed according to the local office procedure. *Do not waive charges.*

Expedite code: MED

- Company Error resulting in incomplete customer service (use good judgment when discussing an expedite) An example of this would be the service order is typed incorrectly, adding an unwanted service while leaving off the requested service. An expedite can be done if it is determined that the error was caused by Qwest. *Waive charges only if appropriate.*

Expedite code: QWE

- Fire

Customer has to provide the necessary insurance documentation to obtain an expedite. The documentation has to be faxed or mailed to the Sales Consultant for verification prior to the release of the order. The documentation should be filed according to the local office procedure. *Waive charges only if appropriate.*

Expedite code: FFD

- Flood

Customer has to provide the necessary insurance documentation to obtain an expedite. The documentation has to be faxed or mailed to the Sales Consultant for verification prior to the release of the order. The documentation should be filed according to the local office procedure. *Waive charges only if appropriate.*

Expedite code: FFD

- National Emergency. Examples would include Earthquake, Tornado, and Hurricane. *Waive charges only if appropriate.*

Expedite code: FFD

### Non-Valid Expedites

- Disconnect (D) Orders
- From (F) Orders
- Record (R) Orders
- Working Left Ins (WLI) that have not gone `00-00' due date
- House Arrest/Home Confinement
- Appointment Scheduler (AS)/Tech Visits (must follow the Override process)
- Change (C) Orders with Out (O) action only
- C Orders with C/T action removing or downgrading service only

### Expedite Process for Small Business and Consumer Markets

Step:	Action:
1.	Determine reason for expedite
2.	If the reason is valid obtain all required documentation from customer.
3.	Establish order (Small Business)
	SONAR: <ul style="list-style-type: none"> <li>• Enter the expedited DD in the Desired Due Date field on the SDD01 screen. Make sure the completion time shows 5pm.</li> <li>• Enter the confirmation code* in the CONF# field on the SDD01 screen.</li> <li>• (Remember to add a clear and detailed RMK entry on why the order is being expedited along with the `approving' coach's name, TN and Center)</li> <li>• Proceed with order</li> </ul>
OR	
3	Establish order (Consumer Markets)
4.	If the request is on existing service, enter detailed BOSS/CARS notes

	on why the order was expedited; include the approving coach's name, TN and Center.
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\* The confirmation code consists of the expedite code, e.g. DIE, FFD, etc. and the approving coaches initials: AAB. Example: DIEAAB. The confirmation code would appear in the Extended ID section of the service order like this: EXOR DIEAAB

For additional information on the EXOR FID, see Exclude Service Order (EXOR) Tracking - All States Bus Res .

✖

An `approving coach' can be any authorized manager from any Qwest channel, i.e. Sales, Care, LRAC, RCMAC, etc.
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✖

<b>The due date rules are serious, important obligations of Qwest. Employees adding false or inaccurate information as a reason for expediting the due dates may be falsifying company records and could be subject to disciplinary action, up to and including dismissal.</b>
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\*\*The initials MUST be the coaches initials and not their BOSS/CARS ID. There are edits in place to prevent initials with numbers.

## Expedite Process for Large Business and Global Accounts (Non-Design-Only)

Step	Action
1.	Determine reason for expedite
2.	Obtain all required documentation from customer
3.	Obtain expedite approval from coach.
4.	
5.	Issue order (see applicable system method for specific step/action process)
6.	Enter complete BOSS/CARS note to include reason for expediting and the name and TN of approving coach.

\* The confirmation code consists of the expedite code, e.g. DIE, FFD, etc. and the approving coaches initials: AAB. Example: DIEAAB. The confirmation code would appear in the Extended ID section of the service order like this: EXOR DIEAAB

For additional information on the EXOR FID, see Exclude Service Order (EXOR) Tracking - All States Bus Res

✖

<b>The due date rules are serious, important obligations of Qwest. Employees adding false or inaccurate information as a reason for expediting the due dates may be falsifying company records and could be</b>
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subject to disciplinary action, up to and including dismissal.

## Expedites for Dispatchable Service Orders

To obtain an expedite on a dispatchable service order, refer to the Override process in method.

## One and Two Day Due Date Availability

Qwest offers one and two day due dates on select, non-dispatchable flow through features. Features not on the following lists most follow their standard due date interval.

Click [here](#) to view the One-Day Due Date select feature list. Check [here](#) to view the Two-Day Due Date select feature list.

## Order Specifics

- Change `C' orders only
- One day due dates will be the next business day unless the order is taken on or after 6pm (PST), 7pm (MST) or 8pm (CST). If the service order is taken on or after 7pm (MST), an extra day must be added to the due date interval. Also, service orders should never be due dated on a Saturday, Sunday or Holiday.
  - Example: Order is taken Tuesday evening at 7:05pm. The due date will be Thursday (if Thursday is not a holiday)
  - Example: An order is taken on Friday, the due date will be Monday (if Monday is not a holiday).
  - Example: An order is taken on Saturday, the order will be due Tuesday (if Tuesday is not a holiday)
- Two day due dates will be the day after tomorrow unless the order is taken on or after 6pm (PST), 7pm (MST) or 8pm (CST). If the service order is taken on or after 7pm (MST), an extra day must be added to the due date interval. Also, service orders should never be due dated on a Saturday, Sunday or Holiday.
  - Example: An order is taken on Saturday, the order will be due on Wednesday (if Wednesday is not a holiday)
- If a non-select feature is to be added to the order with a select, flow through feature, the service order must



carry the non-select feature due date.

When figuring a due date, remember the day the service order is placed is day zero except for Saturday. Saturday is day zero, zero.

- I, O, C and T are the only action codes that can be used on these select, non-dispatchable flow through features. Non-select features can be removed `O' from the C order but they can not be added (I or T).
- The following Classes of Service (COS) are the only COS that the one/two day due date can be applied to when adding a select, non-dispatchable flow through feature to an account.
  - POTS
  - Centron
  - Centrex
  - Centrex 21
  - Centrex Plus
  - Centrex Prime



- PAL
- PBX - Non-design
- Resale and UNE-P POTS
- Resale and UNE-P PAL
- Resale and UNE-P Centrex 21
- Resale PBX Trucks Non-designed
- Unbundled Switch Analog Line Port

## Due Date Calendar Job Aid

### Monday - Friday Charts - All market Units

Next Business Day	Five Business Days	Nine Business Days
Two Business Days	Six Business Days	Ten Business Days
Three Business Days	Seven Business Days	
Four Business Days	Eight Business Days	

Some Central Offices in some states are not visited daily, check Appointment Scheduler to determine due date availability if unsure.

### Holidays

No service orders with holiday due dates will be allowed. The following holidays are **NOT** available for service order due dates:

New Years	Jan 1st
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Christmas	December 25th

### Saturday Due Dates through Appointment Scheduler

It is acceptable to assign a Saturday due date to a dispatchable service order if the Saturday date is available in Appointment Scheduler.

### Sunday Due Dates

Sunday due dates are **never** assigned. Check Appointment Scheduler for the appropriate due date on dispatchable orders.

### Orders Originated on Saturday (Consumer Only)

Service orders taken on Saturday must be due dated as if the order was taken on Monday, Monday being day zero. Another way to look at it is if the order was taken on Saturday, add an extra day to the standard due date interval (SDDI). See the Due Date Calendar Job Aid for help in the due date calculations.

## Extended Hours (Consumer Only)

Any service order taken on or after 7pm Mountain Standard Time (6pm PST and 8pm CST) must add a business day to the standard due date interval (SDDI). Example: a service order is taken at 7:05pm (MST) on a Tuesday evening. Wednesday is day zero, making the due date the following Monday (using a standard three day due date interval). See the Due Date Calendar Job Aid for help in the due date calculations.

## Embargo (Frozen DD)

Service order embargoes are necessary during Central Office (CO) conversions because of the possibility that service orders will be disrupted when the 'cutover' is made to the new or upgraded switch. When an embargo is in place, the Market Units may not issue a service order (see service order exceptions below) with a due date that is within the embargo period.

## Service Order Exceptions

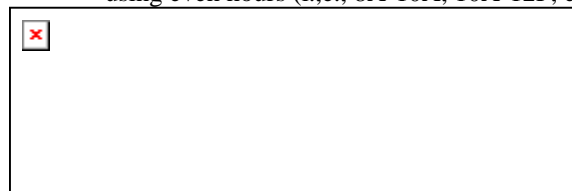
The following service order types are the only orders that can be due dated during an embargo. All other order types must be due dated before or after the embargo. If an order type is issued during an embargo that does not appear on the following list, it will be returned to the originating Market Unit so they can renegotiate a new due date with the customer.

- D and R orders
- F orders, but no T orders
- C orders to suspend and restore for non-payment
- PIC changes
- Toll Restriction orders
- C orders billing for "non-switched" products, such as wiring, wire maintenance plans, time and materials, or trouble isolation charges
- Emergency orders with the approval of the RCMAC

## Appointment Time - 'Access'

Appointment time or Access is the block of time that Qwest has agreed to physically be at the work location to fulfill the customer's work request. Appointment times can range from two-hours to all day depending upon the work request. Appointment times are managed through Appointment Scheduler (AS).

- Residence: Offer AM and PM access first then All Day access.
- Business: Offer AM and PM access first then All Day access or can be divided into 2 hour increments using even hours (i.e., 8A-10A, 10A-12P, etc).



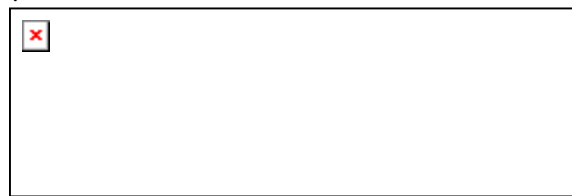
**Note:** Offer All Day access ONLY if the technician just needs access to the Network Interface i.e., NW1/NW2 is the only dispatchable USOC on the service order.



The Appointment Time or Access entry is located in the RMK section of the order. If Qwest misses the appointment time promised to the customer, Qwest will compensate the customer for their inconvenience. See Promise of Service for additional information.

## Commitment/Completion Time (On Hold)

When placing a non-dispatchable service order, the Sales/Service Consultant (S/SC) should advise the customer that their service will be in and working no later than 8am on the due date.



The only exception to the 8am-completion time rule would be if the service order is expedited. If the service order is expedited and the application date and the due date are the same, the completion time must be 5pm. In C+ - over type the 8am-completion time with 5pm.

If the customer calls into the Business Office on the due date to question the status of their service order, the S/SC must review the pending service order for potential problems. If potential problems are detected, the S/SC must follow the order through to resolution. The S/SC must make sure that the problem has been resolved or a satisfactory resolution has been reached before releasing the customer. Follow the process outlined on the [Pending Order Inquiry Job Aid](#) for additional information.

If Qwest misses the commitment time promised to the customer, Qwest will apologize to the customer for any inconvenience we might have caused them. See Promise of Service for additional information.

## Systems

## Negotiation for D & F Orders

When negotiating a DD with a customer who is terminating their service, it is critical to remind them that the disconnect orders are the first orders worked for the day. Because of this, the Sales/Service Consultant should advise the customer to call Qwest the day before the DD if they need to change their order to ensure their service is not interrupted. If the customer calls on the DD, the DD can be changed as long as the order has not completed in the SOP. If the order has already completed, a new order will have to be written to restore the service.

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## Subsequent Due Dates

A Subsequent Due Date (SD) is used when the original DD on an order needs to be changed. When the DD is changed, a Pending Order Change (POC) is issued and the new date is placed in the Unfielded section (top) of the order. Each time the DD is changed, another SD is placed on the order along with the appropriate Missed Appointment (MA) Code. This process can be achieved by typing directly into the Service Order Processors (SOPs)



or SONAR. Consulting Plus does not have the capability yet.

**It is never appropriate to overwrite an existing SD with a new one. See the examples below for the correct format.**

- SD are not valid on R orders in the Eastern region.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 96**



**Announcement Date:** September 20, 2001  
**Effective Date:** Immediately

**Document Number:** PROD.09.20.01.F.00087.F.BFR SR. POA LOA. Expedites  
**Notification Category:** Product Notification  
**Target Audience:** CLECs

**Subject:** Updates to Product Catalog for Bona Fide Request and Special Request, Expedites and Escalations, Proof of Agency and Letter of Agency

TO:

Beginning September 22, 2001, Qwest will issue updates to its Wholesale Product Catalog on methods and procedures for Bona Fide Request (BFR) and Special Request (SR) Processes, Expedites and Escalations, and Proof of Agency (POA) and Letter of Authority (LOA.)

Qwest has enhanced sections of its Business Procedures site to provide a more efficient means for CLECs to obtain procedural information. You will find a summary of these updates on the attached Web Change Notification Forms. You will also find these procedural updates within the Qwest Wholesale Web Site at these locations:

- BFR SR <http://www.qwest.com/wholesale/preorder/bfrsrprocess.html>
- Expedites & Escalations <http://www.qwest.com/wholesale/clecs/exesclover.html>.
- POA/LOA <http://www.qwest.com/wholesale/preorder/index.html>

Some modifications were made based on changes to the Statement of Generally Accepted Terms and Conditions (SGAT). You will find the SGAT documents at: <http://www.qwest.com/about/policy/sgats/>.

You are encouraged to provide feedback to this notice through our web site. We provide an easy to use feedback form at <http://www.qwest.com/wholesale/feedback.html>. A Qwest representative will contact you shortly to discuss your suggestion.

Sincerely,

Qwest

Note: While these updates reflect current practice, it is important to note that there are additional changes that will be forthcoming as a result of ongoing regulatory activities e.g., collaborative workshops and state commission orders. As these changes are defined and implementation dates are determined, notice of additional updates will be provided accordingly.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.



**WEB CHANGE NOTIFICATION FORM:**

**Attention:** Changes have been made to the Qwest Wholesale Markets Web Page URL  
<http://www.qwest.com/wholesale/>

**Product(s) Affected:** Bona Fide Request (BFR) and Special Request (SR) Processes

**Effective Date:** September 21, 2001

The new Bona Fide Request (BFR) and Special Request (SR) Processes Product Catalog will be posted to the Wholesale Markets Web page at the following URL:  
<http://www.qwest.com/wholesale/preorder/bfrsrprocess.html>.

If you do not see the following updates, hit the reload button on your Netscape Navigator, or refresh under view within Internet Explorer.

All updates are consistent with the information available in the Statement of Generally Available Terms (SGAT) URL <http://www.qwest.com/about/policy/sgats/>

Section	Sub Section	UPDATE / ACTIVITY
All Sections		<ul style="list-style-type: none"> <li>The PCAT has been updated to reflect enhanced description and process information.</li> </ul>
Product Description		<ul style="list-style-type: none"> <li>The Bona Fide Request (BFR) and Special Request (SR) Processes PCAT has been updated to clarify information about the process.</li> </ul>
Terms and Conditions		<ul style="list-style-type: none"> <li>Provides information on when the BFR and SR processes should be used.</li> </ul>
Pricing	Rates	<ul style="list-style-type: none"> <li>Hyperlinks to the SGAT established.</li> </ul>
Features/ Benefits		<ul style="list-style-type: none"> <li>Explains the benefit derived from process use.</li> </ul>
Implementation	Pre-Ordering	<ul style="list-style-type: none"> <li>Identifies the requirements associated with the BFR process, hyperlink established to the BFR Application form.</li> <li>Identifies the requirements associated with the SR process, hyperlink established to the SR Application form.</li> </ul>
Implementation	Ordering	<ul style="list-style-type: none"> <li>The ordering process is explained.</li> </ul>
Implementation	Provisioning	<ul style="list-style-type: none"> <li>Processing intervals are addressed in the SGAT, hyperlinks to the SGAT established.</li> </ul>
Billing		<ul style="list-style-type: none"> <li>Identified the Billing system used and hyperlinks to the Billing and Receivable Tracking (BART) web page.</li> </ul>
Training		<ul style="list-style-type: none"> <li>Applicable training courses available to the CLEC.</li> </ul>
Contacts		<ul style="list-style-type: none"> <li>Hyperlink established to the CLEC and Reseller Center Contacts web page.</li> </ul>



**WEB CHANGE NOTIFICATION FORM:**

**Attention:** Changes have been made to the Qwest's Wholesale Markets Web Page  
URL <http://www.qwest.com/wholesale/>

**Product(s) Affected:** All Wholesale Products and Services

**Effective Date:** September 21, 2001

The new Expedite and Escalation Overview will be posted to the Wholesale Markets Web page at the following URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

If you do not see the following updates, hit the reload button on your Netscape Navigator, or refresh under view within Internet Explorer.

All updates are consistent with the information available in the Statement of Generally Available Terms (SGAT) URL <http://www.qwest.com/about/policy/sgats/>

Section	Sub Section	UPDATE / ACTIVITY
Product Description	Introduction	Improve communications with Wholesale customers doing business with Qwest providing them an overview of how to interface with Qwest for Expedites and Escalations.
Introduction	Expedites	Defines an expedite as a request for an improved standard interval, Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date, outlines Qwest's expedite process explaining that internal approval is required, to ensure resource availability, the valid expedite reasons and who to contact if an expedite situation occurs.
Introduction	Escalations	Defines an escalation is a request for status or intervention around a missed critical date. Explains Qwest pro-actively escalates critical dates in jeopardy and who to contact for an escalation, if our Wholesale customers find it necessary to initiate an escalation. Summarizes Qwest's escalation flow, from Service Delivery Coordinator to Senior Director/Vice President level, to resolve an escalation.
Escalations	Escalations - Maintenance and Repair	Links Wholesale customers to Maintenance and Repair web page providing an overview of Qwest's Maintenance and Repair process flow.
Contacts		Identifies contact phone numbers for LSR and ASR expedites and escalations as well as Maintenance and Repair.



**WEB CHANGE NOTIFICATION FORM:**

**Attention:** Changes have been made to the Qwest’s Wholesale Markets Web Page  
URL <http://www.qwest.com/wholesale/>

**Product(s) Affected:** All Wholesale Products and Services

**Effective Date:** September 21, 2001

The new Proof of Authorization / Letter of Agency Overview will be posted to the Wholesale Markets Web page at the following URL <http://www.qwest.com/wholesale/preorder/index.html>

If you do not see the following updates, hit the reload button on your Netscape Navigator, or refresh under view within Internet Explorer.

All updates are consistent with the information available in the Statement of Generally Available Terms (SGAT) URL <http://www.qwest.com/about/policy/sgats/>

Section	Sub Section	UPDATE / ACTIVITY
Product Description		Enhance description of Proof of Authorization (POA) / Letter of Agency (LOA) combining requirements and impact to improve communication with Wholesale customers doing business with Qwest.
Product Description		Defines methods for obtaining a Letter of Agency, also called a Letter of Authorization (LOA) and contents required within the LOA document.
Product Description		Provides examples of an end-user and a CLEC to CLEC LOA.
Product Description		Outlines POA requirements and impact should a conflict exist between end-user’s designation and CLEC/Reseller’s written evidence. Qwest honors end-user’s designated, changing them back to previous provider and, if applicable, charging the CLEC/Reseller a Customer Transfer Charge slamming fee.
Product Description		Explains Qwest follows these same POA/LOA requirements with the same impacts.



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                            )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 97**



**Announcement Date:** October 19, 2005  
**Proposed Effective Date:** January 3, 2006  
**Document Number:** PROS.10.19.05.F.03380.ExpeditesEscalationsV30  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Expedites and Escalations V30  
**Level of Change:** Level 3

**Summary of Change:**

On October 19, 2005, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites and Escalations V30. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is changing its Expedite process to require an expedite amendment to be signed for expedited requests that involve products that follow the designed services flow in order to bring parity across its entire customer base. Qwest recognizes that time is required for some customers to get amendments signed and is therefore extending the implementation of the Level 3 process change beyond the allotted 45 day time frame.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available October 19, 2005
CLEC Comment Cycle on Documentation Begins	Beginning October 20, 2005
CLEC Comment Cycle Ends	5:00 PM, MT November 03, 2005

Qwest Response to CLEC Comments (if applicable)	Available November 18, 2005 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	January 3, 2006

If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 98**

## Qwest Response to Document In Review

**Response Date:** November 18, 2005  
**Document:** Process: Expedites and Escalations V30  
**Original Notification Date:** October 19, 2005  
**Notification Number:** PROS.10.19.05.F.03380.ExpeditesEscalationsV30  
**Category of Change:** Level 3

Qwest recently posted proposed updates to Expedites and Escalations V30. CLECs were invited to provide comments to these proposed changes during a Document Review period from October 20, 2005 through November 3, 2005. The information listed below is Qwest's Response to CLEC comments provided during the review/comment cycle.

### **Resources:**

Customer Notice Archive <http://www.qwest.com/wholesale/cnla/>  
Document Review Site <http://www.qwest.com/wholesale/cmp/review.html>

If you have any questions on this subject or there are further details required, please contact Qwest's Change Management Manager at [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

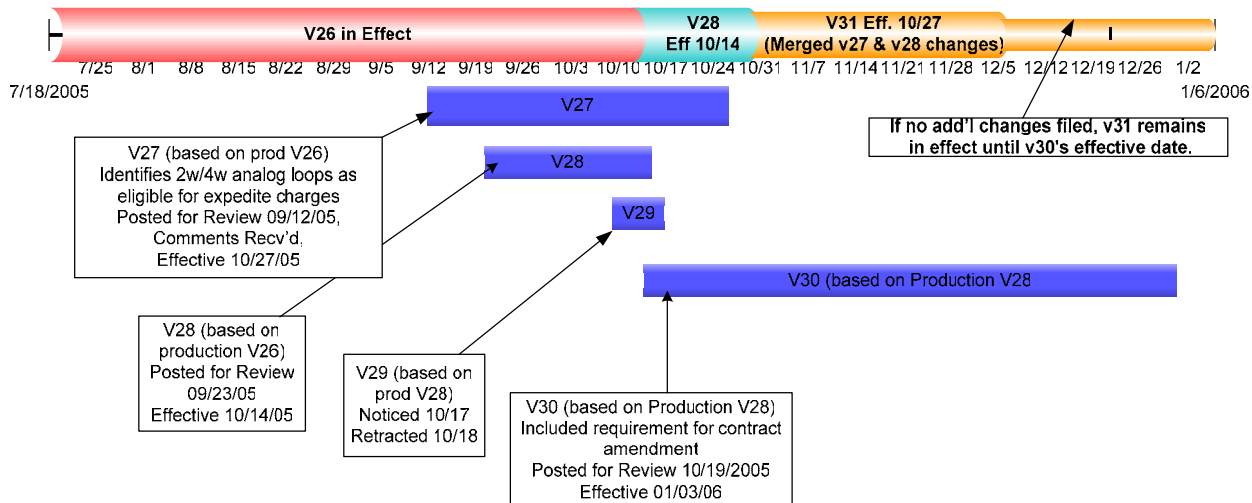
### Qwest Response to Product/Process Expedites and Escalations V30 Comments

As a course of doing documentation updates, it is not unusual for multiple changes to be in process at any given time. These changes may or may not ultimately be implemented. Therefore, CMP standard practice is to base the proposed changes on the current production Version, not a Version that is in process. It appears that this practice led to the submittal of comments by the CLECs during the V30 comment cycle that actually addressed changes made in V27 of this document.

The picture below provides a timeline of the changes that have been made to this document. Version 27 of the document included the change to make 2w/4w analog loops eligible for expedite payments. That change was not commented on (other than a clarifying question on the rate) during the comment cycle and became effective on 10/27/05. Because Version 28 had already become effective, Version 31 was issued -- and merged the Version 27 changes with the Version 28 changes.

Meanwhile Version 30, which added language requiring an amendment to address expedites, had been created. Because Version 30 was created before Version 27 had taken effect, it did not include the Version 27 language per CMP practice. The Version 30 changes will be incorporated into the version that is in production on 1/3/06.

Several of the comments received on the Version 30 document actually address changes that were made in Version 27. Qwest will not respond to the comments which address Version 27 changes but will respond to comments related to the Version 30 amendment language.



#	Page/Section	CLEC Comment	Qwest Response
1		<p><i>McCloud</i> 10/26/05 Comment: Qwest announced it will begin charging expedite fee for 2w/4w loops on Oct. 27th. Qwest just posted a Expedites and Escalations V30 which still has the 2w/4w analog loop exception included. I looked at the previous version (V29) and the exception was also present in that version. Qwest has given until November 3rd to comment on the V30 so I don't see how (1) Qwest can begin charging tomorrow (Oct. 27th) when the review isn't complete and (2) Qwest can even claim that 2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process when it doesn't appear that Qwest has addressed this issue in prior reviews</p>	<p>The change referenced in this comment was included in Version 27 which is already in effect.</p>
2		<p><i>McCloud</i> 11/1/05 Comment:</p>	<p>There is no condition being removed in the Version 30 change. The change referenced in this comment was included in Version 27</p>

		<p>Can you please clarify which condition is being removed where an expedite is granted? Also, I see under the "Pre-Approved Expedites" section that the first product listed is "UBL all except 2W/4W analog".</p> <p>Does this mean that we are going to have this as an exception starting with V30 going forward? I don't see this listed in the history log as something that is being added back into the document as an exception. Please advise. Thank you.</p>	<p>which is already in effect.</p> <p>V30 is changing the process to require expedite language in the customers Interconnection Agreement (ICA) when an expedite is requested for products that follow the designed services flow. Products that follow the designed services flow will not be part of the Expedite Requiring Approval process except in the state of Washington.</p>
3		<p><i>Eschelon</i> <i>11-3-05</i> Comment: In Qwest's response to Covad's CR PC021904-1, Qwest said: "If a CLEC chooses not to amend their Interconnection Agreement, the current expedite criteria and process will be used." The current "expedite requiring approval process" allows a CLEC to request an expedite, at no charge, when the customer's needs met certain criteria. Eschelon relied upon Qwest's response and based its decision to comment, or not comment, on that response. Qwest is now failing to keep the commitments it made to CLECs in CMP, and in its response to Covad, by now changing its position on expedites and unilaterally imposing charges via a process change in CMP. Qwest's proposed change to remove the existing approval required expedite process for designed products will negatively impact Eschelon and its</p>	<p>In regards to Eschelon's comments regarding Qwest's commitments with PC021904-1, discrimination allegations and timing of process notifications, Qwest submits the following response:</p> <p>Qwest did meet its commitment to PC021904-1. As with all processes that exist, they do change over time. Qwest utilized the appropriate CMP notification processes to notify CLECs of the pending changes. In fact, with this particular PCAT, process changes have been implemented since PC021904-1 was closed. For example, Qwest changed the process when it bills expedite charges in the following situations: billing per ASR/LSR instead of per service order, bill expedite charges on delayed orders only when additional costs are incurred, and finally, changed the pre-approved expedite process to include port in/port within.</p> <p>Qwest does not sell Unbundled Loops to its end user customers so it is not appropriate to make a comparison to retail in this situation. Qwest is selling a pipe, not a switched POTS service. The DS0 UBL product can be used for services other than a POTS type service and Qwest does not know what service the CLEC is providing its end user with the DS0 pipe. Therefore, Qwest's position is that there is not the parity component that is being raised with this comment.</p>

	<p>customers. Qwest said its basis for this change is “parity” and that Qwest retail charges for all expedites for “designed” services. However, this claim of “parity” is misleading as Qwest’s new process now treats CLEC POTS customers differently than Qwest POTS customers. Qwest defines parity based on whether a service is “designed.” Qwest has chosen to apply the “design” process to DS0 UBLs, but not to its own POTS customers. The result is that though from the customer perspective the service is the same, Qwest now proposes to treat them differently for the expedite process. The change Qwest is proposing is discriminatory to CLECs and their customers. A CLEC DS0 UBL and a Qwest retail 1FB functionally are the same service. A DS0 loop is merely a POTS line that Qwest choose to provision using a design flow process. For example, a customer could request an expedite using the approval required process when ordering service from Qwest (e.g. a 1FB), and would not have to pay additional charges for the expedite. However, if the customer orders service from a CLEC via a DS0 loop and the customer requests an expedite from the CLEC, the CLEC and the customer would have to pay an additional charge for the same basic service.</p> <p>Eschelon objects to Qwest’s proposed changes to the current approval required</p>	<p>Finally, Qwest did choose to implement the changes on different process notices. This was done to allow the CLEC community ample time to get the expedite amendments through the implementation process, which is longer than the CMP Level 3 notification requirements. For each of the process changes that were made on this process since PC021904-1 completed, Qwest stated clearly in the notification the process change that was being made in each of the notifications.</p>
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		<p>expedite process because it is discriminatory to CLECs and CLEC customers. In addition, because Eschelon relied upon Qwest's comments to Covad's CR, Eschelon also objects to Qwest's addition of UBL DSO products to the pre-approved list of products. Qwest chose to make the change to the approval required expedite process after it added DSO loops to the product list for pre-approved products. The result is that CLECs were unable to effectively comment on a change that now, coupled with Qwest's further change, significantly impacts a CLEC's business.</p>	
4		<p><i>McCloud</i> 11-3-05 Comment: Qwest's removal of the 2w/4w analog loop exception from the Expedites Requiring Approval process places CLECs at a competitive disadvantage because it forces expedite charges upon the end user consumer only when that end user consumer is purchasing from a facilities based CLEC. These expedite charges are not applicable if the end user consumer is purchasing from Qwest or a non-facilities based provider.</p>	<p>The change referenced in this comment was included in Version 27 which is already in effect.</p>
5		<p><i>PriorityOne</i> 11-3-05 Comment: PriorityOne Telecommunications, Inc. objects to Qwest's proposed changes due to feeling that it is discriminatory to CLEC's and CLEC customers. Adding UBL DSO to the list of products is</p>	<p>The change referenced in this comment was included in Version 27 which is already in effect.</p> <p>Qwest has noted PriorityOne's objection to the process change associated with V30. The process change associated with V30 is being made to create consistencies across Qwest's entire customer base for products that follow the Designed Services flow.</p>

		<p>not “parity” as the customer’s perception is that they are requesting a “line”. The end user does not know whether the line is POTs or UBL DSO. They just know that it’s a line.</p> <p>Also, PriorityOne objects to Qwest’s proposed change to remove the existing approval required expedite process for designed products and note that it will negatively impact PriorityOne and its customers.</p>	
6		<p><i>Covad</i> 11-3-05 Comment: Regarding Qwest’s proposed change to remove the existing approval required expedite process for designed products, Covad requests clarification regarding availability of expedited services in the state of Washington, where, currently, Qwest does not offer an expedited services amendment. Covad requests that Qwest reiterate that the Expedites Requiring Approval products will still be available in the State of Washington.</p>	<p>Qwest has reiterated that the Expedites Requiring Approval process will still be available in the state of WA in the V30 redline document. Qwest currently has the following two statements addressing the state of Washington:</p> <p><i>The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA).</i></p> <p><i>The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge.</i></p>
7		<p><i>Integra</i> 11-3-05 Comment: Integra objects to Qwest proposed change to remove the existing approval required expedite process for designed products. When Integra signed the Qwest Expedite Amendment we were not advised that by signing the amendment it would change the current Expedites Requiring</p>	<p>Integra was not advised that by signing the amendment it would change the Expedites Requiring Approval Process for a couple of reasons:</p> <p>1) When an expedite amendment is signed, the CLEC is automatically included in the pre-approved process and the Expedite Requiring Approval process is not applicable any longer for the products identified in the Pre-Approved Expedite section of the PCAT. This was clarified and documented with PC021904-1. In the meeting minutes for the ad-hoc meeting held on July 9, 2004, Qwest</p>

		<p>Approval process. We signed the amendment believing that this would ADD to our options of having an order completed outside the standard interval. When Integra signed the amendment UBL DS0 loops were not included as a product on the list of products in the "Pre-Approved Expedites" list. When the UBL DS0 was added to this list Integra did not comment as at that time we still believed the Expedites Requiring Approval process was in place for our use.</p>	<p>clarified that when a CLEC amends their contract there are no reasons any longer and that if Qwest expedites a request, expedite charges apply.</p> <p>2) The PCAT that was revised with PC021904-01 states the following:</p> <p><i>Requesting an expedite follows <b>one of two processes</b>, depending on the product being requested and the language in your Interconnection Agreement (ICA). If the request being expedited is for a product on the list of products in the "Pre-Approved Expedites" (see below) and your ICA has language supporting expedited requests with a "per day" expedite rate, then the request does not need approval. If the request being expedited is for a product that is not on the defined list, or your ICA does not support a "per day" expedite rate, then the expedited request follows the process defined in the "Expedites Requiring Approval" section below.</i></p> <p>For the change that is being implemented with V30, there is no change to the CLECs that already have an expedite amendment in place.</p>
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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 99**

-----Original Message-----

From: Stephen P Sheahan [email redacted]  
Sent: Wednesday, June 27, 2001 10:38 AM  
To: Clauson, Karen L.  
Subject: Request for InfoBuddy Access

Karen,

I have had a chance to research your inquiry regarding the differences between InfoBuddy, a Qwest internal system database and the Resale Product Database (RPD), a CLEC accessible database.

InfoBuddy is a system that contains all of Qwest's Methods, Practices and policies regarding ordering processes. In addition to that Qwest also has information within the system that is proprietary. In order to comply with the Telecommunications act of 1996 Qwest developed a redaction process which allows CLEC's access to the retail product methods and procedures contained in InfoBuddy that are available for Resale. That information is formatted into a WEB based application known as RPD. The redaction process removes only the proprietary information found in InfoBuddy that Qwest is not mandated via the Act to provide to CLEC's.

For the reason stated above, Qwest is unable to process your request for access to the InfoBuddy system. I previously provided to you information on how to obtain access to the RPD. Should you desire to gain access to the RPD follow the instructions I outlined to you in my June 18, 2001 email and I will process your request.

Respectfully,  
Steve Sheahan  
Senior Service Manager  
Qwest Wholesale Customer Service Operations

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 100**



March 29, 2006

Kim Isaacs  
Eschelon Telecom Inc.  
730 2nd Avenue South - Suite 900  
Minneapolis, MN 55402  
kdisaacs@eschelon.com

TO:Kim Isaacs

<b>Announcement Date:</b>	<b>March 29, 2006</b>
<b>Effective Date:</b>	<b>April 29, 2006</b>
<b>Document Number:</b>	<b>SYST.03.29.06.F.03780.FinalResaleProdDBRet.doc</b>
<b>Notification Category:</b>	<b>Systems Notification</b>
<b>Target Audience:</b>	<b>CLECs, Resellers</b>
<b>Subject:</b>	<b>Final Announcement / Reminder – Resale Product Database Retirement</b>
<b>Associated CR# or System Name and Number</b>	<b>Qwest CR# SCR 062105-01</b>

Qwest is sending this notice as a thirty day reminder courtesy notice regarding the retirement of the Resale Product Database (RPD) scheduled for April 29, 2006. Effective on this date, all references to the RPD, including associated links to the system and corresponding documentation, will be removed from the Qwest Web site (<http://www.qwest.com/>).

Please note that this is the final **systems** notice regarding retirement of the RPD. Any corresponding PCAT documentation changes will be announced through the Product/Process notification protocols.

On August 2, 2005, Qwest notified the customer community of its intent to retire the Resale Product Database (RPD). Qwest sent systems notification number SYST.08.02.05.F.03156.RPDRetire1stNotImpPlan advising of the retirement, and to provide the retirement plan. On August 3, 2005, Qwest issued related notification SYST.08.03.05.F.03159.RPDRetire1stNotCorrection to correct a date related to the comment cycle.

In notification SYST.08.02.05.F.03156.RPDRetire1stNotImpPlan, Qwest stated that, effective April 29, 2006, Qwest will retire the Resale Product Database (RPD) from the list of Operational Support Systems (OSS). With the retirement of the RPD, reference to the RPD will be removed from the Qwest Operations Support System (OSS) Release Calendar and the Change Request form.

Additional information associated with SCR 062105-01 can be found at <http://www.qwest.com/wholesale/cmp/changerequest.html>.

### **Rationale for Retirement and Alternative Information Channels**

1. Qwest is retiring the RPD as part of an overall business strategy to streamline documentation processes and to gain efficiencies in the way documentation is maintained and presented externally. As cited in AI031903-1, *Qwest has already undertaken efforts to provide critical customer information in other documentation including the Product Catalogs (PCATs), business procedures, and Local Service Ordering Guidelines (LSOG).*

As part of the RPD retirement timeline, should a CLEC discern that information in the RPD is not captured in Qwest's other documentation, Qwest has established protocols for requesting updates to those documents. Information on the process, and forms for submitting requested updates, are available on Qwest's Wholesale Web site at <http://www.qwest.com/wholesale/customerService/clecs.html>

2. Qwest believes that the RPD has become a low-utility tool. Based on access data, Qwest concludes that the other vehicles are the preferred information source for customers, and that minimal requests to access the RPD do not justify

Announcement Date:

its continued maintenance.

If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Qwest will continue on schedule for the retirement of the RPD. The timeline appears below.

**Timeline:**

Courtesy Reminder Notice Issued	As a courtesy, 30 days prior to the official retirement, Qwest will publish a Systems notification reminder to the CLEC community.	March 29, 2006
Targeted Retirement Date		April 29, 2006

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Patty Hahn  
Joshua Nielsen

Qwest Communications 1600 7th Ave Room 1806 Seattle WA 98008



## Qwest Response to Document In Review

**Response Date:** September 13, 2005  
**Document:** Systems: SYST.09.13.05.F.03272.RPDRetireFinNot\_CommRspns  
**Original Notification Date:** August 02, 2005  
**Original Notification Number:** SYST.08.02.05.F.03156.RPDRetire1stNotImpPlan

Qwest recently proposed retirement of the Resale Product Database (RPD). CLECs were invited to provide comments to these proposed changes during a Document Review period from *August 2, 2005* through August 17, 2005. The information listed below is Qwest's Response to CLEC comments provided during the review/comment cycle.

### **Resources:**

Customer Notice Archive [http://www.qwest.com/wholesale/cmp/review\\_archivesystem.html](http://www.qwest.com/wholesale/cmp/review_archivesystem.html)  
 Document Review Site <http://www.qwest.com/wholesale/cmp/review.html>

If you have any questions on this subject or there are further details required, please contact Qwest's Change Management Manager at [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

#	Page/Section	CLEC Comment	Qwest Response
1	N/A	Eschelon 08/17/05 During the Ad hoc call on August 17, 2005, Eschelon raised concerns that in Iowa, and maybe Colorado, there was litigation regarding discriminating access to Qwest's M&Ps, to assure that the M&Ps were not discriminatory and different than the Process that Wholesale uses. Eschelon objected to Qwest retiring the database based on the view that there was existing litigation to not discriminate.	Qwest has researched the verbal objection raised by Eschelon in regards to the retirement of RPD and a non-discrimination obligation and has responded directly to them with our findings. Qwest believes it is in compliance with our obligations through our existing PCATs, Business Procedures and LSOG documentation and plans to move forward with the retirement of RPD in April 2006.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 101**



**Announcement Date:** May 06, 2003  
**Effective Date:** May 27, 2003

**Document Number:** PROS.05.06.03.F.01079.Expedite\_Escalation  
**Notification Category:** Process Notification  
**Target Audience:** CLEC, Resellers

**Subject:** CMP - Expedites & Escalations Overview V6.0

**Level of Change:** Level 2  
**Associated CR Number or System Release Number:** Not Applicable

**Summary of Change:**

On May 6, 2003, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites & Escalations Overview V6.0. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Updates to this document are associated with an existing process not previously documented. In the Expedites section, medical emergency has been added to the list of reasons for Expedites.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 7-day comment review period. Qwest will have seven days following the close of the comment review to respond to any CLEC comments.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review web site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline**

Planned Updates Posted to Document Review Site	Available May 06, 2003
CLEC Comment Cycle on Documentation Begins	Beginning May 07, 2003
CLEC Comment Cycle Ends	5:00 PM, MT May 13, 2003
Qwest Response to CLEC Comments (if applicable)	Available May 20, 2003 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	May 27, 2003

If you have any questions on this subject, please submit comments though the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>

Sincerely,

Qwest

**Note:** In cases of conflict between the changes implemented through this notification and any CLEC Interconnection Agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such Interconnection Agreement shall prevail as between Qwest and the CLEC party to such Interconnection Agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

## Expedites & Escalations Overview – ~~V5.0~~V6.0

[History Log](#) (Link blue text to: [Replace Existing Download With Attached History Log](#))

### Introduction

Qwest quickly responds to your escalation or expedite requests offering you clear and complete explanations so you can satisfactorily respond to your end-users.

- Expedites: Requests for an improved standard interval, Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date
- Escalations: Requests for status or intervention around a missed date

The following summarizes the processes used within Qwest for all Wholesale Products and Services to handle expedite and escalation requests.

### Expedites

While Qwest standard intervals, defined in our [Service Interval Guide \(SIG\)](#) (Link blue text to: <http://www.qwest.com/wholesale/guides/sig/index.html>) identify reasonable intervals, at times a valid expedite situation can occur such as:

- Fire
- Flood
- [Medical emergency](#)
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user's grand opening event delayed for facilities or equipment reasons with a future RFS date
- Delayed orders with a future RFS date that meet any of the above described conditions

If an expedite situation occurs, call the assigned Qwest Wholesale Center Representative responsible for processing your service requests. All expedite requests require approval to ensure resource availability. The Qwest Wholesale Center Representative will coordinate with you and Qwest internal organizations to resolve. Expedite charges may apply. If your expedite request is denied, denial reason(s) will be provided.

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### Escalations

Escalations are a request for status or intervention around a missed critical date such as:

- Plant Test Date (PTD)
- Due Date (DD)
- Ready For Service (RFS)

Qwest's Service Centers pro-actively escalate any critical dates in jeopardy and will notify you. If, however, you find it necessary to initiate an escalation, call the assigned Qwest Wholesale Center Representative responsible for processing your orders, for assistance. Regardless of how initiated, by you or internally, Qwest escalation roles and responsibilities can be summarized as:

- Qwest Wholesale Center Representatives  
Local Service Request (LSR) or Access Service Request (ASR) escalations related to Rejects/Delayed orders, critical dates and Firm Order Confirmations (FOC).
- Qwest Service Manager



## Qwest Response to Document In Review

**Response Date:** May 20, 2003  
**Document:** Product/Process: Expedites & Escalations Overview V6.0  
**Original Notification Date:** May 6, 2003  
**Notification Number:** PROS.05.06.03.F.01079.Expedite\_Escalation  
**Category of Change:** Level 2

Qwest recently posted proposed updates to Expedites & Escalations Overview V6.0. CLECs were invited to provide comments to these proposed changes during a Document Review period from May 7, 2003 through May 13, 2003. The information listed below is Qwest's Response to CLEC comments provided during the review/comment cycle.

### Resources:

Customer Notice Archive [http://www.qwest.com/wholesale/cmp/review\\_archive.html](http://www.qwest.com/wholesale/cmp/review_archive.html)  
 Document Review Site <http://www.qwest.com/wholesale/cmp/review.html>

If you have any questions on this subject or there are further details required, please contact Qwest's Change Management Manager at [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

## Qwest Response to Product/Process: Expedites & Escalations Overview V6.0 Comments

#	Page/Section	CLEC Comment	Qwest Response
1		<i>Name of CLEC:AT&amp;T            Date received: 5/6/03            Comment: Please update the ordering rules in the Disclosure Documents as well. AT&amp;T has been instructed to place the expedite situation (such as Medical Expedite) in the remarks field and set the manual indicator to "Y".            As May 6, the LSR EXP field in the IMA EDI disclosure states: If EXP + "Y", the MANUAL IND should = "N".</i>	<p>The current process for Expedites will not change. "Medical emergency" is a valid Expedite reason that was not previously documented. The PCAT updates were clarifying updates only in order to provide an additional valid reason to request an expedite.</p> <p>Placing a "Y" in the EXP field of the Local Service (LSR) forces the order to be handled manually. It is not necessary to place a "Y" in the Manual Indicator field. The REMARKS field can be used to expand upon and clarify the specific reason for the request.</p> <p>The PCAT is being updated to clarify the actions for Expedite situations.</p> <p>Qwest accepts this comment.</p>
2		<i>Name of CLEC:AT&amp;T            Date received: 5/12/03</i>	<p>Based on the comments received, the PCAT updates were clarifying updates only in order to</p>

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.



		<p>Comment: AT&amp;T is not satisfied with this change to the maintenance and repair language. AT&amp;T requested a CR to document the medical expedite process. This document still does not document that process. If the specifics for the ordering process should be contained in another document, i.e. the EDI disclosure document, then there should be a direct reference and link to that site. We have had several meetings with Qwest to outline the specifics of the medical expedite process, and none of that information is contained in this PCAT, not the disclosure document for EDI, not other PCATs for ordering and provisioning. It has taken AT&amp;T approximately 5 and a half months to get the information we have been requesting, and still it is not documented.</p>	<p>provide additional information.</p> <p>The current process for Expedites will not change. "Medical emergency" is a valid Expedite reason that was not previously documented.</p> <p>The PCAT is being updated to clarify the actions for Expedite situations along with a link to the field entry requirements in the Local Service Ordering Guide (LSOG).</p> <p>Qwest accepts this comment.</p>
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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 102**



**Announcement Date:** September 12, 2005  
**Effective Date:** October 27, 2005  
**Document Number:** PROS.09.12.05.F.03242.Expedites\_Escalations\_V27  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Expedites and Escalations V27  
**Level of Change:** Level 3  
**Associated CR Number or System:** Not Applicable  
**Release Number:**

**Summary of Change:**

On September 12, 2005, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites and Escalations V27. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is changing its Expedite process to include all loop types in order to create consistencies across the product line. 2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Additionally, Qwest is also including requests for Port In/Port Within that are associated with one of applicable designed services that are already included in the Pre-Approved Expedite Process. Customers who currently have an expedite amendment will automatically be included in this change.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline**

Planned Updates Posted to Document Review Site	Available September 12, 2005
CLEC Comment Cycle on Documentation Begins	Beginning September 13, 2005
CLEC Comment Cycle Ends	5:00 PM, MT September 27, 2005
Qwest Response to CLEC Comments	Available October 12, 2005



(if applicable)	<a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	October 27, 2005

If you have any questions on this subject, please submit comments through the following link:

<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

## Expedites and Escalations Overview – ~~V26.0~~V27.0

*History Log* (Link italicized text to: [Replace Existing Download With Attached History Log](#))

### Introduction

Qwest quickly responds to your escalation or expedite requests offering you clear and complete explanations so you can satisfactorily respond to your end-users.

- Expedites are requests for an improved standard interval that is shorter than the interval defined in our [Service Interval Guide \(SIG\)](#) (Link italicized text to: <http://www.qwest.com/wholesale/guides/sig/index.html>) or your interconnection Agreement (ICA), Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date.
- Escalations can be initiated for any issue, at anytime, and at any escalation point. Escalations can also be for requests for status or intervention around a missed date.

The following summarizes the processes used within Qwest for all Wholesale Products and Services to handle expedite and escalation requests.

### Expedites

Requesting an expedite follows one of two processes, depending on the product being requested and the language in your Interconnection Agreement (ICA). If the request being expedited is for a product on the list of products in the “Pre-Approved Expedites” (see below) and your ICA has language supporting expedited requests with a “per day” expedite rate, then the requested does not need approval. If the request being expedited is for a product that is not on the defined list, or your ICA does not support a “per day” expedite rate, then the expedited request follows the process defined in the “Expedites Requiring Approval” section below.

#### Expedites Requiring Approval

For products not listed in the Pre-Approved Expedite section below, (non-designed products such as POTS, Centrex or DSL service), or if your ICA does not contain, or has not been amended to include language for expedites with an associated “per day” expedite rate for those specified designed services, the following expedite process applies. Expedite charges are not applicable with the Expedites Requiring Approval process.

Following is a list of conditions where an expedite is granted:

- Fire
- Flood
- Medical emergency
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user’s grand opening event delayed for facilities or equipment reasons with a future RFS date
- Delayed orders with a future RFS date that meet any of the above described conditions
- National Security
- Business Classes of Service unable to dial 911 due to previous order activity
- Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected

For any of the above conditions, expedited request can be made either prior to, or after, submitting your service request.

To request an expedite on a Local Service Request (LSR) you can either:

- Submit the request with your expedited due date and populate the EXP field. Also include in REMARKS the reason for the expedited request and then call the Qwest Call Center.
- Submit the request with a due date interval from our [SIG \(Link italicized text to: http://www.qwest.com/wholesale/guides/sig/index.html\)](http://www.qwest.com/wholesale/guides/sig/index.html) or your ICA and then call the Qwest Call Center.

In both scenarios, a call to the Qwest Call Center is required on 1-888-796-9087 to process the expedited request.

To request an expedite on service requests issued via an Access Service Request (ASR), you may use either of the options described above for LSRs to submit the ASR. You should then call 1 800-244-1271

You may be asked to provide verification of the expedited reason or situation for any of the expedite reasons listed above. In some cases, you may be asked for the service order number that caused the expedite condition, such as the service order number that caused the hunting or call forwarding expedite. The type of verification required will depend on the specific circumstances of the expedite and will be determined on an Individual Case Basis (ICB).

Once your expedite request is received, your Wholesale representative will review the request based on the previous list of available expedite scenarios to determine if the request is eligible for an expedite. If approved, the next step is to contact our Network organization to determine resource availability.

Depending on the type of service on the account, the following action is taken once the request is determined to be eligible for an expedited due date:

#### **Non-Designed/No Dispatch Required**

For requests that do not require a dispatch, the order is issued with the expedited due date.

#### **Non-Designed/Dispatch Required**

For requests that require a dispatch, the Network organization is contacted to determine Technician availability. If appointments are available on the requested due date, your expedite is granted. If no appointments are available, then Qwest will offer an alternative date, if one is available, prior to the requested due date. You can expect to receive a response to your expedited request usually within four business hours.

#### **Designed Services**

For Designed Services, the Network organization is contacted to determine resource availability for the Central Office and Outside Technicians as well as for the Testers that work with you to accept the service. You can expect to receive a response usually within four business hours.

#### **Approved Expedited Requests**

If the expedited request is approved and the original request contained the expedited due date and the EXP field was populated, Qwest will return a Firm Order Confirmation (FOC) acknowledging the agreed to expedited due date. If the expedited or agreed to due date is different from what was originally submitted on the ASR or LSR, Qwest will contact you and request that you supplement your request with the agreed to expedited date. The EXP field on the supplement ASR or LSR must also be populated. If the supplement is not received within

four business hours, Qwest will continue to process the ASR or LSR as if the expedited request was not received and will FOC back the standard interval or the original due date provided on the ASR or LSR if it was longer than the standard interval.

### Denied Expedited Requests

If denied, then we will provide you reasons that the request was denied or we will offer an alternative date that we could install the service. If the request is denied, and you still want to continue to have Qwest provision the service request, Qwest will return a FOC with the standard interval or the original due date provided on the FOC if it was longer than the standard interval.

### Pre-Approved Expedites

The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge. An expedite charge applies per ASR or LSR for every day that the due date interval is improved, based on the standard interval in the SIG, ICA, or ICB criteria as described above. It is not necessary for you to call into Qwest to have the expedite approved. To expedite a service request on an ASR or LSR you must populate the EXP field and put the desired expedited due date in the DDD field on the ASR or LSR.

NOTE: If you order Resold Design Products, which are identified below, you do not need to sign an amendment. You are automatically included based on the terms and conditions outlined in the ICA and individual state tariffs, catalogs or price lists.

When Qwest receives an ASR or LSR with the EXP populated and the DDD is less than the standard interval, Qwest will determine if the request is eligible for an expedite without a call from you. If the request meets the criteria for the Pre-Approved Expedite process, Qwest will process the request and return a FOC acknowledging the expedited due date. The appropriate expedite charge will be added to your service order.

If the request does not meet the criteria for the Pre-Approved Expedite process, the ASR or LSR will be processed under the guidelines for Expedites Requiring Approval as described above.

Following is a list of the products, which require an amendment and may be expedited that will receive the appropriate Expedite Charge:

- UBL ~~all except 2w/4w analog~~
- UBL DID (Unbundled digital trunk)
- UBL DS1 (Unbundled digital trunk facility)
- UNE-C PL (EEL)
- UNE-P ISDN BRI
- UNE-P DSS Facility
- UNE-P DSS Trunk
- UNE-P PRI ISDN Facility
- UNE-P PRI ISDN Trunk
- UNE-P PBX Designed Trunks
- UNE-P PBX DID IN-Only Trunks
- Port In/Port Within associated with any of the applicable designed products listed above
- UDIT
- LIS
- CCSAC SS7 Trunk or Facility
- Unbundled Dark Fiber

Following is a list of Resold Designed Products, which do not require an amendment, which may be expedited and will receive the appropriate expedite charge:

- Analog PBX DID
- Private Line (DS0, DS1, DS3 or above)
- ISDN PRI T1
- ISDN PRI Trunk
- ISDN BRI Trunk
- Frame Relay Trunk
- DESIGNED TRUNKS (Includes designed PBX trunks) Trunk
- MDS / MDSI (*IIS Only*)
- DPAs (multiple DPAs or FX, FCO) Trunk
- Port In/Port Within associated with any of the applicable designed products listed above

Note: Any requests that are expedited due to a Qwest caused reason, do not incur an expedite charge. Additionally, if the due date of an expedited request is missed due to Qwest reasons, expedite charges do not apply.

If the order becomes a Delayed Order on the due date, Qwest will cooperatively work with you to obtain the best Ready For Service date (RFS) possible and expedite charges do not apply.

If an order becomes delayed for facilities prior to the due date, once Qwest establishes a new RFS it is communicated to you via the FOC. If you do not accept the due date that is established and request to expedite the RFS, expedite charges may apply. Each expedited delayed order request will be reviewed on an ICB to determine if expedite charges apply. If the expedited due date request results in Qwest incurring additional costs to improve the date that was FOC'd, expedite charges apply. Qwest will advise you if expedite charges apply prior to confirming the expedited request to obtain approval from you, or offer an alternate date that Qwest can meet. The expedite charges will be based on the number of days improved from the original RFS date.

### **Expedites Supporting Non-Qwest caused Restoral Requests**

This process includes Restoral Requests on Resale/UNE-P/Retail to Resale or UNE-P Conversions and Transfer of Service when the service orders have completed. This process applies to Resale/UNE-P POTS, Resale/UNE-S and Resale UNE-P Centrex 21 products, including DSL.

You will follow this documented **Expedite** process as outlined when you require an expedite to a standard interval in order to restore an end-user due to a Non-Qwest caused out of service condition. An expedite restoral request is a result of your inability to complete a conversion or outside move service request where you were unable to cancel or change the due date on the service order(s) prior to order completion. Restoral requests may involve you alone, a Qwest Retail account and you, or you and a different CLEC on conversion and outside move (T & F) type service order's. Restoral requests will be accepted for both full and partial restorals.

When an expedite restoral request situation occurs, refer to the following when you prepare your service request:

- Issue the Restoral Request LSR as directed per the Decision Charts and order type scenario's.
  - Populate the RPON field with the PON used on the original LSR if available
  - Populate the EXP field
  - Populate Manual IND = Y
  - The REMARKS field can be populated with the specific reason for the request such as:

**Qwest Response to Document In Review**

**Response Date:** October 12, 2005  
**Document:** Process Notification  
**Original Notification Date:** September 12, 2005  
**Notification Number:** PROS.09.12.05.F.03242.Expedites\_Escalations\_V27  
**Category of Change:** Level 3

Qwest recently posted proposed updates to Expedites and Escalations V27. CLECs were invited to provide comments to these proposed changes during a Document Review period from September 13, 2005 through September 27, 2005. The information listed below is Qwest's Response to CLEC comments provided during the review/comment cycle.

**Resources:**

Customer Notice Archive <http://www.qwest.com/wholesale/cnla/>  
 Document Review Site <http://www.qwest.com/wholesale/cmp/review.html>

If you have any questions on this subject or there are further details required, please contact Qwest's Change Management Manager at [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

**Qwest Response to Product/Process Expedites and Escalations V27 Comments**

#	Page/Section	CLEC Comment	Qwest Response
1		<i>Eschelon</i> September 13, 2005 Comment: PROS.09.12.05.F.03242.Expedites_Escalations_V27, indicates that 2/4 Wire Analog Loops will be added as a valid product to the Pre-Approved Expedite Process. What is the rate for a 2/4 Wire Analog Loop Pre-Approved Expedite? Thank you.	The rate for a 2/4 Wire Analog Loop Pre-Approved Expedite is outlined in the Expedite Agreement rate sheet that can be reviewed in the Negotiation Template Agreement at this URL: <a href="http://www.qwest.com/wholesale/clecs/sqats_wireline.html">http://www.qwest.com/wholesale/clecs/sqats_wireline.html</a> .

Escalation

Company: McLeodUSA

CR#: PROS.09.12.05.F.03242.Expedites\_Escalations\_V27

Status Code: Completed

=====

Description:

2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Thus Qwest will begin charging \$200 per circuit per day expedite fee instead of following the existing process of approving expedites based upon the Expedites Requiring Approval process.

History of Item:

McLeodUSA was not even aware this issue was on table for discussion.

Reason for Escalation / Dispute:

McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite.

Business Need and Impact:

Makes it almost impossible for McLeodUSA to expedite with such a high charge for just 2w/4w loop service.

Desired CLEC Resolution:

McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite.

=====

Lead Submitter:

Name: James LeBlanc

Title: Vendor Manager

Phone Number: 918-419-3496

E-mail Address: james.leblanc@mcleodusa.com

Joint Submitters:

Date/Time Submitted: Thu Oct 27 2005 13:40:13 GMT-0500 (Central Daylight Time)

Escalation #39 Regarding PROS.09.12.05.F.03242.Expedites\_Escalations\_V27

November 4, 2005

James LeBlanc  
McLeodUSA

Subject: McLeodUSA Escalation on  
PROS.09.12.05.F.03242.Expedites\_Escalations\_V27

This letter is Qwest's binding response to your October 27, 2005 escalation regarding PROS.09.12.05.F.03242.Expedites\_Escalations\_V27, which changed the expedite process to include 2w/4w analog loops.

Qwest has reviewed the formal escalation and maintains its position to include 2w/4w analog loops in the expedite process.

We researched McLeod's comments regarding not being aware that the issue was on the table for discussion, Qwest sent notification PROS.09.12.05.F.03242.Expedites\_Escalations\_V27 to the CLEC community on September 12, 2005. With that notification, Qwest also included a summary of the changes that were planned to occur and also made available a red-lined copy of the updated PCAT.

As part of the notification, Qwest provided the following summary:

Qwest is changing its Expedite process to include all loop types in order to create consistencies across the product line. 2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Additionally, Qwest is also including requests for Port In/Port Within that are associated with one of applicable designed services that are already included in the Pre-Approved Expedite Process. Customers who currently have an expedite amendment will automatically be included in this change.

CLEC customers were encouraged to review the proposed changes and provide comment at any time during the 15-day comment review period, which ended at 5:00 PM, MT September 27, 2005. Qwest only received one comment associated with this change, questioning what the rate would be and Qwest responded to those comments on October 12, 2005, (Pros.10.12.05.f.03344.final\_exp\_escl\_v27), pointing customers to the negotiations template.

In response to McLeod's concern around the costs associated with an expedited request; discussion around rates associated with an Interconnection Agreement are outside the scope of the CMP process.

Qwest maintains its position that 2w/4w analog loops be included in the pre-approved expedite process to create consistencies across the UBL product line as well as other products that follow the designed services flow.

Loretta Huff  
Qwest Wholesale  
Director Program/Project Mgmt



**From:** Isaacs, Kimberly D.  
**Sent:** Tuesday, March 28, 2006 8:58 AM  
**To:** 'Martain, Jill'  
**Subject:** Escalation #39 PROS.09.12.05.F.03242.Expedites\_Escalations\_V27

Hi Jill,  
I am fairly certain that Eschelon joined this escalation but I do not see a list of CLECs that joined the escalation posted on the Qwest website. Where can I find the list of CLECs that joined an escalation? Also, can you confirm that Eschelon joined Escalation #39? Thanks.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph: 612-436-6038*  
*Fax: 612-436-6138*  
*Email: kdisaacs@eschelon.com*

**From:** Martain, Jill [mailto:Jill.Martain@qwest.com]  
**Sent:** Tuesday, March 28, 2006 11:20 AM  
**To:** Isaacs, Kimberly D.  
**Subject:** FW: Escalation Response posted to web

Hi Kim,

Qwest does not formally post the escalation participants on the external web; however, we do show that Eschelon did join the escalation. Per our discussions at CMP, and the subsequent change to the CMP document, we did include the escalation participants in our response. Following is a copy of the email that was sent. If you have additional questions, please let me know.

Regards,  
Jill Martain  
Qwest

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**From:** Harlan, Cynthia  
**Sent:** Tuesday, March 28, 2006 9:11 AM  
**To:** Martain, Jill  
**Cc:** Lorence, Susan  
**Subject:** FW: Escalation Response posted to web

Fyi - email to all participants

*Cindy Harlan*  
*Wholesale Change Management*  
*Qwest*  
303-382-5765

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 103**



**Announcement Date:** October 19, 2005  
**Proposed Effective Date:** January 3, 2006  
**Document Number:** PROS.10.19.05.F.03380.ExpeditesEscalationsV30  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Expedites and Escalations V30  
**Level of Change:** Level 3

**Summary of Change:**

On October 19, 2005, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites and Escalations V30. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is changing its Expedite process to require an expedite amendment to be signed for expedited requests that involve products that follow the designed services flow in order to bring parity across its entire customer base. Qwest recognizes that time is required for some customers to get amendments signed and is therefore extending the implementation of the Level 3 process change beyond the allotted 45 day time frame.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available October 19, 2005
CLEC Comment Cycle on Documentation Begins	Beginning October 20, 2005
CLEC Comment Cycle Ends	5:00 PM, MT November 03, 2005

Qwest Response to CLEC Comments (if applicable)	Available November 18, 2005 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	January 3, 2006

If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

## Expedites and Escalations Overview – [V29-0V30.0](#)

*History Log* ([Link italicized text to: Replace Existing Download With Attached History Log](#))

### Introduction

Qwest quickly responds to your escalation or expedite requests offering you clear and complete explanations so you can satisfactorily respond to your end-users.

- Expedites are requests for an improved standard interval that is shorter than the interval defined in our [Service Interval Guide \(SIG\)](#) ([Link italicized text to: <http://www.qwest.com/wholesale/guides/sig/index.html>](#)) or your interconnection Agreement (ICA), Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date.
- Escalations can be initiated for any issue, at anytime, and at any escalation point. Escalations can also be for requests for status or intervention around a missed date.

The following summarizes the processes used within Qwest for all Wholesale Products and Services to handle expedite and escalation requests.

### Expedites

Requesting an expedite follows one of two processes, depending on the product being requested ~~and the language in your Interconnection Agreement (ICA).~~ If the request being expedited is for a product ~~on the list of products contained~~ in the “Pre-Approved Expedites” ~~section below(see below),~~ and your ICA ~~has must contain~~ language supporting expedited requests with a “per day” expedite rate, ~~then the requested does not need approval.~~ If the request being expedited is for a product that is not on the defined list, ~~or your ICA does not support a “per day” expedite rate,~~ then the expedited request follows the process defined in the “Expedites Requiring Approval” section below.

#### Expedites Requiring Approval

For products not listed in the Pre-Approved Expedite section below, (non-designed products such as POTS, Centrex or DSL service), or if your ICA does not contain, or has not been amended to include language for expedites with an associated “per day” expedite rate for those specified designed services, the following expedite process applies. Expedite charges are not applicable with the Expedites Requiring Approval process.

Following is a list of conditions where an expedite is granted:

- Fire
- Flood
- Medical emergency
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user’s grand opening event delayed for facilities or equipment reasons with a future RFS date
- Delayed orders with a future RFS date that meet any of the above described conditions
- National Security
- Business Classes of Service unable to dial 911 due to previous order activity
- Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected

For any of the above conditions, expedited request can be made either prior to, or after, submitting your service request.

To request an expedite on a Local Service Request (LSR) you can either:

- Submit the request with your expedited due date and populate the EXP field. Also include in REMARKS the reason for the expedited request and then call the Qwest Call Center.
- Submit the request with a due date interval from our [SIG \(Link italicized text to: http://www.qwest.com/wholesale/guides/sig/index.html\)](http://www.qwest.com/wholesale/guides/sig/index.html) or your ICA and then call the Qwest Call Center.

In both scenarios, a call to the Qwest Call Center is required on 1-888-796-9087 to process the expedited request.

To request an expedite on service requests issued via an Access Service Request (ASR), you may use either of the options described above for LSRs to submit the ASR. You should then call 1 800-244-1271

You may be asked to provide verification of the expedited reason or situation for any of the expedite reasons listed above. In some cases, you may be asked for the service order number that caused the expedite condition, such as the service order number that caused the hunting or call forwarding expedite. The type of verification required will depend on the specific circumstances of the expedite and will be determined on an Individual Case Basis (ICB).

Once your expedite request is received, your Wholesale representative will review the request based on the previous list of available expedite scenarios to determine if the request is eligible for an expedite. If approved, the next step is to contact our Network organization to determine resource availability.

Depending on the type of service on the account, the following action is taken once the request is determined to be eligible for an expedited due date:

#### **Non-Designed/No Dispatch Required**

For requests that do not require a dispatch, the order is issued with the expedited due date.

#### **Non-Designed/Dispatch Required**

For requests that require a dispatch, the Network organization is contacted to determine Technician availability. If appointments are available on the requested due date, your expedite is granted. If no appointments are available, then Qwest will offer an alternative date, if one is available, prior to the requested due date. You can expect to receive a response to your expedited request usually within four business hours.

#### **Designed Services**

For Designed Services, the Network organization is contacted to determine resource availability for the Central Office and Outside Technicians as well as for the Testers that work with you to accept the service. You can expect to receive a response usually within four business hours.

#### **Approved Expedited Requests**

If the expedited request is approved and the original request contained the expedited due date and the EXP field was populated, Qwest will return a Firm Order Confirmation (FOC) acknowledging the agreed to expedited due date. If the expedited or agreed to due date is different from what was originally submitted on the ASR or LSR, Qwest will contact you and request that you supplement your request with the agreed to expedited date. The EXP field on the supplement ASR or LSR must also be populated. If the supplement is not received within

four business hours, Qwest will continue to process the ASR or LSR as if the expedited request was not received and will FOC back the standard interval or the original due date provided on the ASR or LSR if it was longer than the standard interval.

### Denied Expedited Requests

If denied, then we will provide you reasons that the request was denied or we will offer an alternative date that we could install the service. If the request is denied, and you still want to continue to have Qwest provision the service request, Qwest will return a FOC with the standard interval or the original due date provided on the FOC if it was longer than the standard interval.

### Pre-Approved Expedites

The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge.

**Note: Resold Designed products are automatically included based on the terms and conditions outlined in the ICA and individual state tariffs, catalogs or price lists.**

**For products other than the Resold Design products identified below, if your contract does not contain the appropriate expedite language, you will not be able to expedite the request unless the expedite is due to a Qwest caused reason.**

**The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA).**

An expedite charge applies per ASR or LSR for every day that the due date interval is improved, based on the standard interval in the SIG, ICA, or ICB criteria as described above. It is not necessary for you to call into Qwest to have the expedite approved. To expedite a service request on an ASR or LSR you must populate the EXP field and put the desired expedited due date in the DDD field on the ASR or LSR.

~~NOTE: If you order Resold Design Products, which are identified below, you do not need to sign an amendment. You are automatically included based on the terms and conditions outlined in the ICA and individual state tariffs, catalogs or price lists.~~

When Qwest receives an ASR or LSR with the EXP populated and the DDD is less than the standard interval, Qwest will determine if the request is eligible for an expedite without a call from you. If the request meets the criteria for the Pre-Approved Expedite process, Qwest will process the request and return a FOC acknowledging the expedited due date. The appropriate expedite charge will be added to your service order.

If the request does not meet the criteria for the Pre-Approved Expedite process, the ASR or LSR will be processed ~~under the guidelines for Expedites Requiring Approval as described above~~ using the standard interval that is defined in the *Standard Interval Guide for Resale, UNE and Interconnection Services* (Link italicized text to: <http://www.qwest.com/wholesale/guides/sig/index.html>).

Following is a list of the products, which require ~~an amendment~~ expedite language in the ICA and may be expedited that will receive the appropriate Expedite Charge:

- UBL all except 2w/4w analog

- UBL DID (Unbundled digital trunk)
- UBL DS1 (Unbundled digital trunk facility)
- UNE-C PL (EEL)
- UNE-P ISDN BRI
- UNE-P DSS Facility
- UNE-P DSS Trunk
- UNE-P PRI ISDN Facility
- UNE-P PRI ISDN Trunk
- UNE-P PBX Designed Trunks
- UNE-P PBX DID IN-Only Trunks
- UDIT
- LIS
- CCSAC SS7 Trunk or Facility
- Unbundled Dark Fiber

Following is a list of Resold Designed Products, which do not require an amendment, which may be expedited and will receive the appropriate expedite charge:

- Analog PBX DID
- Private Line (DS0, DS1, DS3 or above)
- ISDN PRI T1
- ISDN PRI Trunk
- ISDN BRI Trunk
- Frame Relay Trunk
- DESIGNED TRUNKS (Includes designed PBX trunks) Trunk
- MDS / MDSI (*IIS Only*)
- DPAs (multiple DPAs or FX, FCO) Trunk

Note: Any requests that are expedited due to a Qwest caused reason, do not incur an expedite charge. Additionally, if the due date of an expedited request is missed due to Qwest reasons, expedite charges do not apply.

If the order becomes a Delayed Order on the due date, Qwest will cooperatively work with you to obtain the best Ready For Service date (RFS) possible and expedite charges do not apply.

If an order becomes delayed for facilities prior to the due date, once Qwest establishes a new RFS it is communicated to you via the FOC. If you do not accept the due date that is established and request to expedite the RFS, expedite charges may apply. Each expedited delayed order request will be reviewed on an ICB to determine if expedite charges apply. If the expedited due date request results in Qwest incurring additional costs to improve the date that was FOC'd, expedite charges apply. Qwest will advise you if expedite charges apply prior to confirming the expedited request to obtain approval from you, or offer an alternate date that Qwest can meet. The expedite charges will be based on the number of days improved from the original RFS date.

### **Expedites Supporting Non-Qwest caused Restoral Requests**

This process includes Restoral Requests on Resale/UNE-P/Retail to Resale or UNE-P Conversions and Transfer of Service when the service orders have completed. This process applies to Resale/UNE-P POTS, Resale/UNE-S and Resale UNE-P Centrex 21 products, including DSL.

You will follow this documented **Expedite** process as outlined when you require an expedite to a standard interval in order to restore an end-user due to a Non-Qwest caused out of service condition. An expedite restoral request is a result of your inability to complete a conversion or outside move service request where you were unable to cancel or change the due date on the



service order(s) prior to order completion. Restoral requests may involve you alone, a Qwest Retail account and you, or you and a different CLEC on conversion and outside move (T & F) type service order's. Restoral requests will be accepted for both full and partial restorals.

When an expedite restoral request situation occurs, refer to the following when you prepare your service request:

- Issue the Restoral Request LSR as directed per the Decision Charts and order type scenario's.
  - Populate the RPON field with the PON used on the original LSR if available
  - Populate the EXP field
  - Populate Manual IND = Y
  - The REMARKS field can be populated with the specific reason for the request such as:
    - Restoral request Full, Resale to UNE-P conv, restore original service, Or
    - Restoral request, Partial, Resale to UNE-P conv, restore original service, Or
    - Restoral request, Partial, UNE-P to Resale conv, restore original service, Or
    - Restoral request, Full, Resale or UNE-P T&F, restore F location, etc., Or
    - Restoral Request, Restore original full service back to CLEC XXXX, Or
    - Restoral Request, Restore original partial service back to CLEC XXXX, Or
    - Restoral Request, Restore original F Loc service, full/partial back to old CLEC
    - Restoral Request, Disc service, restore original Retail service, full/partial
- Contact the Wholesale Interconnect Services Center (ISC) at 888 796-9087
- Open an Escalation ticket.
- Request a Warm Transfer to the Customer Service Inquiry and Education Center (CSIE) Tier 1 support group.
- Request a Restoral Request for Previous Service.
- Provide LSR ID if appropriate per Decision Chart and order type scenario's.

#### **Benefits**

- Expedited intervals for restoral of previous service
- Uniform documented process for restoral requests
- Qwest will negate the one month minimum billing on a disconnect or conversion service order as applicable.

#### **Restrictions**

- You must issue appropriate LSRs first (if directed to do so per the Decision Chart below) followed by opening a Call Center escalation ticket. Restoral requests received prior to new LSR issuance will not be accepted, excludes Qwest Retail restorals.
- Standard intervals must be used when submitting LSRs, CSIE will expedite due date appropriately for restoral
- Expedited restoral requests must be requested within 24 hours, extending into the next business day, following the LSR completion date. Restoral requests received after 3 PM will be considered next business day work activity; this includes restoral requests received after 3 PM on Saturday based on the SIG (except for DSL)."
- Service being restored must be the same type of service with same features, same TN's, etc. as was previously provisioned. Full or partial restorals are acceptable.
- Qwest will reuse facilities when the facilities are available for the restoral.
- All applicable recurring and non-recurring charges will apply, based on order completion and physical work that was completed or needs to be completed to restore service. Retail practices will apply when restoring Qwest Retail accounts.
- When a restoral involves two CLECs, it is up to you and the old CLEC to coordinate and agree upon an expedite, prior to opening up the Call Center Escalation ticket(s).
- Expedite charges may apply based upon individual interconnection agreements, state tariffs or SGATS.

The following **Order Type Scenario's** are included in this restoral process:

1. Resale / UNE-P T & F, same CLEC
2. Resale to UNE-P Conversion as is, same CLEC
3. Resale to UNE-P Conversion as specified, same CLEC
4. UNE-P to Resale Conversion as is, same CLEC
5. UNE-P to Resale Conversion as specified, same CLEC
6. Resale / UNE-P Migration to new CLEC with move via single LSR
7. Resale to UNE-P Conversion as is, to a new CLEC
8. Resale to UNE-P Conversion as specified, to a new CLEC
9. UNE-P to Resale Conversion as is, to a new CLEC
10. UNE-P to Resale Conversion as is, to a new CLEC
11. Qwest Retail to Resale / UNE-P Conversion as is
12. Qwest Retail to Resale / UNE-P Conversion as specified
13. Qwest Retail to Resale / UNE-P Conversion with move via single LSR process

<b>Decision Chart, Scenario's 1-5, Same CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Issue Restoral Request LSR as appropriate based on order scenario and order completion, such as a New Connect, Change or Conversion with or without move, Transfer of Service or Disconnect</li> <li>• Follow expedite procedures</li> </ul>

<b>Decision Chart, Scenario's 6-10, To a New CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Either the end-user, or the new CLEC and the end-user must contact the old CLEC's Customer Contact Center and request that the end-user's service be re-established as previously provisioned for the old CLEC on Resale or UNE-P service</li> <li>• Old CLEC must follow expedite procedures</li> <li>• Old CLEC will issue Restoral Request LSR as appropriate based on order scenario and order completion, such as a New Connect, Change or Conversion with or without move</li> <li>• New CLEC must follow expedite procedures</li> <li>• New CLEC will issue Disconnect LSR if required based on order scenario</li> </ul>

		<p>and order completion</p> <ul style="list-style-type: none"> <li>• Old and new CLECs will coordinate their order activity</li> <li>• Contact your Qwest Service Manager if you require assistance with old CLEC contact</li> </ul>
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<b>Decision Chart, Scenario's 11-13, Conversion from Qwest Retail to New CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has Completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Contact the Wholesale ISC Call Center at 888 796-9087</li> <li>• Open an Escalation ticket</li> <li>• Request a warm transfer to the CSIE Tier 1 support group</li> <li>• Place a verbal Restoral Request for Previous Retail Service, full or partial restoral</li> <li>• CSIE will advise you if a new LSR will need to be issued by you</li> <li>• If a new LSR is needed and is not issued within 2 business hours, the escalation ticket will be closed. If this occurs, the CLEC must start the expedite process again once the LSR has been issued as directed.</li> </ul>

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## Escalations

Escalations are a request for status or intervention around a missed critical date such as:

- Plant Test Date (PTD)
- Due Date (DD)
- Ready For Service (RFS)

Qwest's Service Centers pro-actively escalate any critical dates in jeopardy and will notify you. If, however, you find it necessary to initiate an escalation, call the assigned Qwest Wholesale Center Representative at one of the numbers listed in the Expedites section for assistance. Regardless of how initiated, by you or internally, Qwest escalation roles and responsibilities can be summarized as:

- Qwest Wholesale Center Representatives  
Local Service Request (LSR) or Access Service Request (ASR) escalations related to Rejects/Delayed orders, critical dates and Firm Order Confirmations (FOC).
- Qwest Service Manager

Involved only after normal processes fail to resolve the escalation to your satisfaction. Evaluates the situation based on commitments managing associated resolution activities.

- Qwest Senior Service Manager/Director  
Involved only when the Service Manager's efforts are unsuccessful. Provides direction to those working the issue, partnering with Center Coaches and Team leaders.
- Qwest Senior Service Director/Vice President  
Contacted for direction and/or assistance for those working the escalation, providing timely status updates back to the prior level and you directly.

### Escalations – Maintenance and Repair

At your discretion, you may initiate an escalation of your trouble report through our electronic interface Customer Electronic Maintenance and Repair (CEMR) or by calling either the Account Maintenance Support Center (AMSC) for Unbundled Network Elements (UNEs) and Complex services or the Repair Call Handling Center (RCHC) for Plain Old Telephone Service (POTS) and Non-Complex services. Refer to our [Maintenance and Repair Overview](http://www.qwest.com/wholesale/clecs/maintenance.html) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>) for additional information. You will be referred to [Held, Escalated & Expedited Tool \(HEET\)](http://www.qwest.com/wholesale/systems/heet.html) (Link italicized text to: <http://www.qwest.com/wholesale/systems/heet.html>) for ongoing status if your service was requested on an ASR.

### Escalations – Technical Escalation Process

Additional information about the Technical Escalation Process can be obtained from Qwest's [Operations Support Systems General Information](http://www.qwest.com/wholesale/systems/generalinfo.html). (Link italicized text to: <http://www.qwest.com/wholesale/systems/generalinfo.html>)

Note: Occasionally, your end-user may find their way to the Qwest Wholesale Center or Qwest Service Manager and our Wholesale Center Representatives will explain that you are our customer and direct them to you for assistance.

Should you have questions, or need additional information related to the expedite or escalation processes defined above, contact your [Qwest Service Manager](http://www.qwest.com/wholesale/clecs/accountmanagers.html) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/accountmanagers.html>) for assistance.

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## Training

### Qwest 101 "Doing Business With Qwest"

This introductory instructor-led training course is designed to teach the CLEC and Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. [Click here](http://www.qwest.com/wholesale/training/ilt_desc_qwest_101.html) (Link italicized text to: [http://www.qwest.com/wholesale/training/ilt\\_desc\\_qwest\\_101.html](http://www.qwest.com/wholesale/training/ilt_desc_qwest_101.html)) for course detail and registration information.

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## Contacts

Qwest contact information is located in [Wholesale Customer Contacts](http://www.qwest.com/wholesale/clecs/escalations.html). (List italicized text to: <http://www.qwest.com/wholesale/clecs/escalations.html>)

Expedites and Escalations

- Local Service Requests (LSRs)

<b>Wholesale Center</b>			
<b>Tier</b>	<b>Responsibility</b>	<b>Activity</b>	<b>Contacts</b>
Tier 0	Interconnect Service Center (ISC)	First point of contact for CLECs Ticket opened	888-796-9087
Tier 1	Customer Service Inquiry and Education Center (CSIE)	Respond to issues not resolved at Tier 0	888-796-9087
Tier 2	Subject Matter Expert (SME), Team Leaders, Team Coaches	Respond to issues not resolved at Tier 1	800-366-9974
Tier 3	Appropriate Qwest Service Manager	Respond to issues not resolved at Tier 2	Service Manager (Link italicized text to: <a href="http://www.qwest.com/wholesale/clecs/accontmanagers.html">http://www.qwest.com/wholesale/clecs/accontmanagers.html</a> )

NOTE: The Interconnect Service Center (ISC) will not be available for transfers after 8:00 PM Mountain Time Monday through Friday and transfers will not be available on Saturday. Qwest's Service center is available to assist with your needs and, if additional assistance is required you will be transferred to the customer Service Inquiry and Education (CSIE) Center until 8:00 PM MTN Time Monday – Friday. If additional assistance is required after 8:00 PM or on Saturday, Qwest will coordinate a call back or provide additional assistance as needed.

A call center ticket is opened on every call into the ISC or the CSIE Center. Upon resolution of the ticket a close code is assigned to the ticket. Upon request the close code is provided to you. [Should you disagree with the codes used to close the ticket you will use the escalation process.](#) For a list of the close codes used at the CSIE level see the Call Center Database Ticket Reports section of the [Ordering Overview PCAT](#) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/ordering.html>).

- Access Service Requests (ASRs)

	<b>Products &amp; Services</b>	<b>Contacts</b>	<b>Fax</b>
	All	800-244-1271	800-335-5680

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## Frequently Asked Questions

This section is currently being compiled based on your feedback.

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**Last Update:** ~~October 18, 2005~~ [January 3, 2006](#)

**META Tags:** [Expedites](#); [Escalations](#)

## Qwest Response to Document In Review

**Response Date:** November 18, 2005  
**Document:** Process: Expedites and Escalations V30  
**Original Notification Date:** October 19, 2005  
**Notification Number:** PROS.10.19.05.F.03380.ExpeditesEscalationsV30  
**Category of Change:** Level 3

Qwest recently posted proposed updates to Expedites and Escalations V30. CLECs were invited to provide comments to these proposed changes during a Document Review period from October 20, 2005 through November 3, 2005. The information listed below is Qwest's Response to CLEC comments provided during the review/comment cycle.

### **Resources:**

Customer Notice Archive <http://www.qwest.com/wholesale/cnla/>  
Document Review Site <http://www.qwest.com/wholesale/cmp/review.html>

If you have any questions on this subject or there are further details required, please contact Qwest's Change Management Manager at [cmpcomm@qwest.com](mailto:cmpcomm@qwest.com).

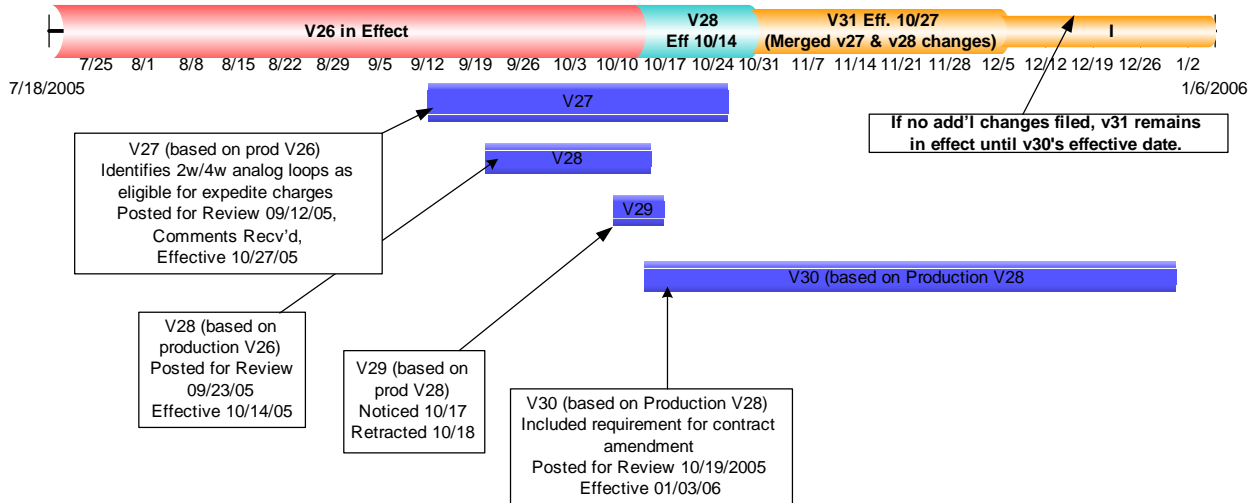
### Qwest Response to Product/Process Expedites and Escalations V30 Comments

As a course of doing documentation updates, it is not unusual for multiple changes to be in process at any given time. These changes may or may not ultimately be implemented. Therefore, CMP standard practice is to base the proposed changes on the current production Version, not a Version that is in process. It appears that this practice led to the submittal of comments by the CLECs during the V30 comment cycle that actually addressed changes made in V27 of this document.

The picture below provides a timeline of the changes that have been made to this document. Version 27 of the document included the change to make 2w/4w analog loops eligible for expedite payments. That change was not commented on (other than a clarifying question on the rate) during the comment cycle and became effective on 10/27/05. Because Version 28 had already become effective, Version 31 was issued -- and merged the Version 27 changes with the Version 28 changes.

Meanwhile Version 30, which added language requiring an amendment to address expedites, had been created. Because Version 30 was created before Version 27 had taken effect, it did not include the Version 27 language per CMP practice. The Version 30 changes will be incorporated into the version that is in production on 1/3/06.

Several of the comments received on the Version 30 document actually address changes that were made in Version 27. Qwest will not respond to the comments which address Version 27 changes but will respond to comments related to the Version 30 amendment language.



#	Page/Section	CLEC Comment	Qwest Response
1		<p><i>McCloud</i> 10/26/05 Comment: Qwest announced it will begin charging expedite fee for 2w/4w loops on Oct. 27th. Qwest just posted a Expedites and Escalations V30 which still has the 2w/4w analog loop exception included. I looked at the previous version (V29) and the exception was also present in that version. Qwest has given until November 3rd to comment on the V30 so I don't see how (1) Qwest can begin charging tomorrow (Oct. 27th) when the review isn't complete and (2) Qwest can even claim that 2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process when it doesn't appear that Qwest has addressed this issue in prior reviews</p>	<p>The change referenced in this comment was included in Version 27 which is already in effect.</p>
2		<p><i>McCloud</i> 11/1/05 Comment:</p>	<p>There is no condition being removed in the Version 30 change. The change referenced in this comment was included in Version 27</p>

		<p>Can you please clarify which condition is being removed where an expedite is granted? Also, I see under the "Pre-Approved Expedites" section that the first product listed is "UBL all except 2W/4W analog".</p> <p>Does this mean that we are going to have this as an exception starting with V30 going forward? I don't see this listed in the history log as something that is being added back into the document as an exception. Please advise. Thank you.</p>	<p>which is already in effect.</p> <p>V30 is changing the process to require expedite language in the customers Interconnection Agreement (ICA) when an expedite is requested for products that follow the designed services flow. Products that follow the designed services flow will not be part of the Expedite Requiring Approval process except in the state of Washington.</p>
3		<p><i>Eschelon</i> <i>11-3-05</i> Comment: In Qwest's response to Covad's CR PC021904-1, Qwest said: "If a CLEC chooses not to amend their Interconnection Agreement, the current expedite criteria and process will be used." The current "expedite requiring approval process" allows a CLEC to request an expedite, at no charge, when the customer's needs met certain criteria. Eschelon relied upon Qwest's response and based its decision to comment, or not comment, on that response. Qwest is now failing to keep the commitments it made to CLECs in CMP, and in its response to Covad, by now changing its position on expedites and unilaterally imposing charges via a process change in CMP. Qwest's proposed change to remove the existing approval required expedite process for designed products will negatively impact Eschelon and its</p>	<p>In regards to Eschelon's comments regarding Qwest's commitments with PC021904-1, discrimination allegations and timing of process notifications, Qwest submits the following response:</p> <p>Qwest did meet its commitment to PC021904-1. As with all processes that exist, they do change over time. Qwest utilized the appropriate CMP notification processes to notify CLECs of the pending changes. In fact, with this particular PCAT, process changes have been implemented since PC021904-1 was closed. For example, Qwest changed the process when it bills expedite charges in the following situations: billing per ASR/LSR instead of per service order, bill expedite charges on delayed orders only when additional costs are incurred, and finally, changed the pre-approved expedite process to include port in/port within.</p> <p>Qwest does not sell Unbundled Loops to its end user customers so it is not appropriate to make a comparison to retail in this situation. Qwest is selling a pipe, not a switched POTS service. The DS0 UBL product can be used for services other than a POTS type service and Qwest does not know what service the CLEC is providing its end user with the DS0 pipe. Therefore, Qwest's position is that there is not the parity component that is being raised with this comment.</p>



	<p>customers. Qwest said its basis for this change is “parity” and that Qwest retail charges for all expedites for “designed” services. However, this claim of “parity” is misleading as Qwest’s new process now treats CLEC POTS customers differently than Qwest POTS customers. Qwest defines parity based on whether a service is “designed.” Qwest has chosen to apply the “design” process to DS0 UBLs, but not to its own POTS customers. The result is that though from the customer perspective the service is the same, Qwest now proposes to treat them differently for the expedite process. The change Qwest is proposing is discriminatory to CLECs and their customers. A CLEC DS0 UBL and a Qwest retail 1FB functionally are the same service. A DS0 loop is merely a POTS line that Qwest choose to provision using a design flow process. For example, a customer could request an expedite using the approval required process when ordering service from Qwest (e.g. a 1FB), and would not have to pay additional charges for the expedite. However, if the customer orders service from a CLEC via a DS0 loop and the customer requests an expedite from the CLEC, the CLEC and the customer would have to pay an additional charge for the same basic service.</p> <p>Eschelon objects to Qwest’s proposed changes to the current approval required</p>	<p>Finally, Qwest did choose to implement the changes on different process notices. This was done to allow the CLEC community ample time to get the expedite amendments through the implementation process, which is longer than the CMP Level 3 notification requirements. For each of the process changes that were made on this process since PC021904-1 completed, Qwest stated clearly in the notification the process change that was being made in each of the notifications.</p>
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		<p>expedite process because it is discriminatory to CLECs and CLEC customers. In addition, because Eschelon relied upon Qwest's comments to Covad's CR, Eschelon also objects to Qwest's addition of UBL DSO products to the pre-approved list of products. Qwest chose to make the change to the approval required expedite process after it added DSO loops to the product list for pre-approved products. The result is that CLECs were unable to effectively comment on a change that now, coupled with Qwest's further change, significantly impacts a CLEC's business.</p>	
4		<p><i>McCloud</i> 11-3-05 Comment: Qwest's removal of the 2w/4w analog loop exception from the Expedites Requiring Approval process places CLECs at a competitive disadvantage because it forces expedite charges upon the end user consumer only when that end user consumer is purchasing from a facilities based CLEC. These expedite charges are not applicable if the end user consumer is purchasing from Qwest or a non-facilities based provider.</p>	<p>The change referenced in this comment was included in Version 27 which is already in effect.</p>
5		<p><i>PriorityOne</i> 11-3-05 Comment: PriorityOne Telecommunications, Inc. objects to Qwest's proposed changes due to feeling that it is discriminatory to CLEC's and CLEC customers. Adding UBL DSO to the list of products is</p>	<p>The change referenced in this comment was included in Version 27 which is already in effect.</p> <p>Qwest has noted PriorityOne's objection to the process change associated with V30. The process change associated with V30 is being made to create consistencies across Qwest's entire customer base for products that follow the Designed Services flow.</p>

		<p>not “parity” as the customer’s perception is that they are requesting a “line”. The end user does not know whether the line is POTs or UBL DSO. They just know that it’s a line.</p> <p>Also, PriorityOne objects to Qwest’s proposed change to remove the existing approval required expedite process for designed products and note that it will negatively impact PriorityOne and its customers.</p>	
6		<p><i>Covad</i> 11-3-05 Comment: Regarding Qwest’s proposed change to remove the existing approval required expedite process for designed products, Covad requests clarification regarding availability of expedited services in the state of Washington, where, currently, Qwest does not offer an expedited services amendment. Covad requests that Qwest reiterate that the Expedites Requiring Approval products will still be available in the State of Washington.</p>	<p>Qwest has reiterated that the Expedites Requiring Approval process will still be available in the state of WA in the V30 redline document. Qwest currently has the following two statements addressing the state of Washington:</p> <p><i>The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA).</i></p> <p><i>The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge.</i></p>
7		<p><i>Integra</i> 11-3-05 Comment: Integra objects to Qwest proposed change to remove the existing approval required expedite process for designed products. When Integra signed the Qwest Expedite Amendment we were not advised that by signing the amendment it would change the current Expedites Requiring</p>	<p>Integra was not advised that by signing the amendment it would change the Expedites Requiring Approval Process for a couple of reasons:</p> <p>1) When an expedite amendment is signed, the CLEC is automatically included in the pre-approved process and the Expedite Requiring Approval process is not applicable any longer for the products identified in the Pre-Approved Expedite section of the PCAT. This was clarified and documented with PC021904-1. In the meeting minutes for the ad-hoc meeting held on July 9, 2004, Qwest</p>

		<p>Approval process. We signed the amendment believing that this would ADD to our options of having an order completed outside the standard interval. When Integra signed the amendment UBL DS0 loops were not included as a product on the list of products in the "Pre-Approved Expedites" list. When the UBL DS0 was added to this list Integra did not comment as at that time we still believed the Expedites Requiring Approval process was in place for our use.</p>	<p>clarified that when a CLEC amends their contract there are no reasons any longer and that if Qwest expedites a request, expedite charges apply.</p> <p>2) The PCAT that was revised with PC021904-01 states the following:</p> <p><i>Requesting an expedite follows <b>one of two processes</b>, depending on the product being requested and the language in your Interconnection Agreement (ICA). If the request being expedited is for a product on the list of products in the "Pre-Approved Expedites" (see below) and your ICA has language supporting expedited requests with a "per day" expedite rate, then the request does not need approval. If the request being expedited is for a product that is not on the defined list, or your ICA does not support a "per day" expedite rate, then the expedited request follows the process defined in the "Expedites Requiring Approval" section below.</i></p> <p>For the change that is being implemented with V30, there is no change to the CLECs that already have an expedite amendment in place.</p>
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**Announcement Date:** November 18, 2005  
**Effective Date:** January 03, 2006  
**Document Number:** PROS.11.18.05.F.03492.FNL\_Exp-EscalationsV30  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP – FINAL NOTICE and Qwest Response to Comment - Expedites and Escalations V30  
**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** Not Applicable

Qwest recently posted proposed updates to Expedites and Escalations V30. CLECs were invited to provide comments to these proposed changes during a Document Review period from October 20, 2005 through November 3, 2005. The response has been posted to the Document Review archive web site under the original document review segment for Expedites and Escalations V30. The response will be listed in the Comments/Response bracket. The URL is [http://www.qwest.com/wholesale/cmp/review\\_archive.html](http://www.qwest.com/wholesale/cmp/review_archive.html).

**Resources:**

Customer Notice Archive <http://www.qwest.com/wholesale/notices/cnla/>  
Original Notice Number PROS.10.19.05.F.03380.ExpeditesEscalationsV30

If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely  
Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 104**


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### Expedites and Escalations Overview - V44.0

[History Log](#)

#### Introduction

Qwest quickly responds to your escalation or expedite requests offering you clear and complete explanations so you can satisfactorily respond to your end-users.

- Expedites are requests for an improved standard interval that is shorter than the interval defined in our [Service Interval Guide \(SIG\)](#) or your interconnection Agreement (ICA), Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date.
- Escalations can be initiated for any issue, at anytime, and at any escalation point. Escalations can also be for requests for status or intervention around a missed date.

The following summarizes the processes used within Qwest for all Wholesale Products and Services to handle expedite and escalation requests.

#### Expedites

Requesting an expedite follows one of two processes, depending on the product being requested. If the request being expedited is for a product contained in the "Pre-Approved Expedites" section below, your ICA must contain language supporting expedited requests with a "per day" expedite rate. If the request being expedited is for a product that is not on the defined list, then the expedited request follows the process defined in the "Expedites Requiring Approval" section below.

#### Expedites Requiring Approval

For products not listed in the Pre-Approved Expedite section below, (non-designed products such as POTS, Centrex or DSL service) the following expedite process applies. Expedite charges are not applicable with the Expedites Requiring Approval process.

Following is a list of conditions where an expedite is granted:

- Fire
- Flood
- Medical emergency
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user's grand opening event delayed for facilities or equipment reasons with a future RFS date
- Delayed orders with a future RFS date that meet any of the above described conditions

- National Security
- Business Classes of Service unable to dial 911 due to previous order activity
- Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected

For any of the above conditions, expedited request can be made either prior to, or after, submitting your service request.

To request an expedite on a Local Service Request (LSR) you can either:

- Submit the request with your expedited due date and populate the EXP field. Also include in REMARKS the reason for the expedited request and then call the Qwest Call Center.
- Submit the request with a due date interval from our [SIG](#) or your ICA and then call the Qwest Call Center.

In both scenarios, a call to the Qwest Call Center is required on 1-866-434-2555 to process the expedited request.

To request an expedite on service requests issued via an Access Service Request (ASR), you may use either of the options described above for LSRs to submit the ASR. You should then call 1 800-244-1271.

You may be asked to provide verification of the expedited reason or situation for any of the expedite reasons listed above. In some cases, you may be asked for the service order number that caused the expedite condition, such as the service order number that caused the hunting or call forwarding expedite. The type of verification required will depend on the specific circumstances of the expedite and will be determined on an Individual Case Basis (ICB).

Once your expedite request is received, your Wholesale representative will review the request based on the previous list of available expedite scenarios to determine if the request is eligible for an expedite. If approved, the next step is to contact our Network organization to determine resource availability.

Depending on the type of service on the account, the following action is taken once the request is determined to be eligible for an expedited due date:

#### **Non-Designed/No Dispatch Required**

For requests that do not require a dispatch, the order is issued with the expedited due date.

#### **Non-Designed/Dispatch Required**

For requests that require a dispatch, the Network organization is contacted to determine Technician availability. If appointments are available on the requested due date, your expedite is granted. If no appointments are available, then Qwest will offer an alternative date, if one is available, prior to the requested due date. You can expect to receive a response to your expedited request usually within four business hours.

#### **Designed Services**

For Designed Services, the Network organization is contacted to determine resource availability for the Central Office and Outside Technicians as well as for the Testers that work with you to accept the service. You can expect to receive a response usually within four business hours.

#### **Approved Expedited Requests**



If the expedited request is approved and the original request contained the expedited due date and the EXP field was populated, Qwest will return a Firm Order Confirmation (FOC) acknowledging the agreed to expedited due date. If the expedited or agreed to due date is different from what was originally submitted on the ASR or LSR, Qwest will contact you and request that you supplement your request with the agreed to expedited date. The EXP field on the supplement ASR or LSR must also be populated. If the supplement is not received within four business hours, Qwest will continue to process the ASR or LSR as if the expedited request was not received and will FOC back the standard interval or the original due date provided on the ASR or LSR if it was longer than the standard interval.

#### **Denied Expedited Requests**

If denied, then we will provide you reasons that the request was denied or we will offer an alternative date that we could install the service. If the request is denied, and you still want to continue to have Qwest provision the service request, Qwest will return a FOC with the standard interval or the original due date provided on the FOC if it was longer than the standard interval.

#### **Pre-Approved Expedites**

The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge.

**Note:** Resold Designed products are automatically included based on the terms and conditions outlined in the ICA and individual state tariffs, catalogs or price lists.

For products other than the Resold Design products identified below, if your contract does not contain the appropriate expedite language, you will not be able to expedite the request unless the expedite is due to a Qwest caused reason.

The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA).

An expedite charge applies per ASR or LSR for every day that the due date interval is improved, based on the standard interval in the SIG, ICA, or ICB criteria as described above. It is not necessary for you to call into Qwest to have the expedite approved. To expedite a service request on an ASR or LSR you must populate the EXP field and put the desired expedited due date in the DDD field on the ASR or LSR.

Note: If the ASR/LSR you are submitting requests a same day due date, your request must be received before 12 noon MT.

When Qwest receives an ASR or LSR with the EXP populated and the DDD is less than the standard interval, Qwest will determine if the request is eligible for an expedite without a call from you. If the request meets the criteria for the Pre-Approved Expedite process, Qwest will process the request and return a FOC acknowledging the expedited due date. The appropriate expedite charge will be added to your service order.

If the request does not meet the criteria for the Pre-Approved Expedite process, the ASR or LSR will be processed using the standard interval that is defined in the [Standard Interval Guide for Resale, UNE and Interconnection Services](#).

Following is a list of the products, which require expedite language in the ICA and may be expedited that will receive the appropriate Expedite Charge:

- UBL
- UBL DID (Unbundled digital trunk)
- UBL DS1 (Unbundled digital trunk facility)
- UNE-C PL (EEL)
- UNE-P ISDN BRI
- UNE-P DSS Facility
- UNE-P DSS Trunk
- UNE-P PRI ISDN Facility
- UNE-P PRI ISDN Trunk
- UNE-P PBX Designed Trunks
- UNE-P PBX DID IN-Only Trunks
- Port In/Port Within associated with any of the applicable designed products listed above
- UDIT
- LIS
- CCSAC SS7 Trunk or Facility
- Unbundled Dark Fiber

Following is a list of Resold Designed Products, which do not require an amendment, which may be expedited and will receive the appropriate expedite charge:

- Analog PBX DID
- Private Line (DS0, DS1, DS3 or above)
- ISDN PRI T1
- ISDN PRI Trunk
- ISDN BRI Trunk
- Frame Relay Trunk
- DESIGNED TRUNKS (Includes designed PBX trunks) Trunk
- MDS / MDSI (IIS Only)
- DPAs (multiple DPAs or FX, FCO) Trunk
- Port In/Port Within associated with any of the applicable designed products listed above

Note: Any requests that are expedited due to a Qwest caused reason, do not incur an expedite charge. Additionally, if the due date of an expedited request is missed due to Qwest reasons, expedite charges do not apply.

If the order becomes a Delayed Order on the due date, Qwest will cooperatively work with you to obtain the best Ready For Service date (RFS) possible and expedite charges do not apply.

If an order becomes delayed for facilities prior to the due date, once Qwest establishes a new RFS it is communicated to you via the FOC. If you do not accept the due date that is established and request to expedite the RFS, expedite charges may apply. Each expedited delayed order request will be reviewed on an ICB to determine if expedite charges apply. If the expedited due date request results in Qwest incurring additional costs to improve the date that was FOC'd, expedite charges apply. Qwest will advise you if expedite charges apply prior to confirming the expedited request to obtain approval from you, or offer an alternate date that Qwest can meet. The expedite charges will be based on the number of days improved from the original RFS date.

If an order was delayed due to a Customer Not Ready (CNR) condition as described in the [Provisioning and Installation Overview](#); and you wish to expedite the newly requested due date, supplement the request with the new Desired Due Date and populate the EXP field of the LSR/ASR. Qwest will review your expedited request for resource availability. In some cases, we may contact you to advise resources for expedite are not available or offer an alternate date. Expedite charges apply and are based on the number of days the CNR standard interval is improved.

#### **Expedites Supporting Non-Qwest caused Restoral Requests**

This process includes Restoral Requests on Resale/UNE-P/Retail to Resale or UNE-P Conversions and Transfer of Service when the service orders have completed. This process applies to Resale/UNE-P POTS, Resale/UNE-S and Resale UNE-P Centrex 21 products, including DSL.

You will follow this documented Expedite process as outlined when you require an expedite to a standard interval in order to restore an end-user due to a Non-Qwest caused out of service condition. An expedite restoral request is a result of your inability to complete a conversion or outside move service request where you were unable to cancel or change the due date on the service order(s) prior to order completion. Restoral requests may involve you alone, a Qwest Retail account and you, or you and a different CLEC on conversion and outside move (T & F) type service order's. Restoral requests will be accepted for both full and partial restorals.

When an expedite restoral request situation occurs, refer to the following when you prepare your service request:

- Issue the Restoral Request LSR as directed per the Decision Charts and order type scenario's.
  - Populate the RPON field with the PON used on the original LSR if available
  - Populate the EXP field
  - Populate Manual IND = Y
  - The REMARKS field can be populated with the specific reason for the request such as:
    - Restoral request Full, Resale to UNE-P conv, restore original service, Or
    - Restoral request, Partial, Resale to UNE-P conv, restore original service, Or
    - Restoral request, Partial, UNE-P to Resale conv, restore original service, Or
    - Restoral request, Full, Resale or UNE-P T&F, restore F location, etc., Or
    - Restoral Request, Restore original full service back to CLEC XXXX, Or
    - Restoral Request, Restore original partial service back to CLEC XXXX, Or
    - Restoral Request, Restore original F Loc service, full/partial back to old CLEC
    - Restoral Request, Disc service, restore original Retail service, full/partial
- Contact the Customer Service Inquiry and Education (CSIE) Center at 866-434-2555
- Open an Escalation ticket.
- Request a Restoral Request for Previous Service.
- Provide LSR ID if appropriate per Decision Chart and order type scenario's.

### Benefits

- Expedited intervals for restoral of previous service
- Uniform documented process for restoral requests
- Qwest will negate the one month minimum billing on a disconnect or conversion service order as applicable.

### Restrictions

- You must issue appropriate LSRs first (if directed to do so per the Decision Chart below) followed by opening a Call Center escalation ticket. Restoral requests received prior to new LSR issuance will not be accepted, excludes Qwest Retail restorals.
- Standard intervals must be used when submitting LSRs, CSIE will expedite due date appropriately for restoral
- Expedited restoral requests must be requested within 24 hours, extending into the next business day, following the LSR completion date. Restoral requests received after 3 PM will be considered next business day work activity; this includes restoral requests received after 3 PM on Saturday based on the SIG (except for DSL)."
- Service being restored must be the same type of service with same features, same TN's, etc. as was previously provisioned. Full or partial restorals are acceptable.
- Qwest will reuse facilities when the facilities are available for the restoral.

- All applicable recurring and non-recurring charges will apply, based on order completion and physical work that was completed or needs to be completed to restore service. Retail practices will apply when restoring Qwest Retail accounts.
- When a restoral involves two CLECs, it is up to you and the old CLEC to coordinate and agree upon an expedite, prior to opening up the Call Center Escalation ticket(s).
- Expedite charges may apply based upon individual interconnection agreements, state tariffs or SGATS.

The following **Order Type Scenario's** are included in this restoral process:

1. Resale / UNE-P T & F, same CLEC
2. Resale to UNE-P Conversion as is, same CLEC
3. Resale to UNE-P Conversion as specified, same CLEC
4. UNE-P to Resale Conversion as is, same CLEC
5. UNE-P to Resale Conversion as specified, same CLEC
6. Resale / UNE-P Migration to new CLEC with move via single LSR
7. Resale to UNE-P Conversion as is, to a new CLEC
8. Resale to UNE-P Conversion as specified, to a new CLEC
9. UNE-P to Resale Conversion as is, to a new CLEC
10. UNE-P to Resale Conversion as is, to a new CLEC
11. Qwest Retail to Resale / UNE-P Conversion as is
12. Qwest Retail to Resale / UNE-P Conversion as specified
13. Qwest Retail to Resale / UNE-P Conversion with move via single LSR process

Decision Chart, Scenario's 1-5, Same CLEC		
IF	AND	THEN
Conversion, Migration and/or Move Service Order has completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Issue Restoral Request LSR as appropriate based on order scenario and order completion, such as a New Connect, Change or Conversion with or without move, Transfer of Service or Disconnect</li> <li>• Follow expedite procedures</li> </ul>

Decision Chart, Scenario's 6-10, To a New CLEC		
IF	AND	THEN
Conversion, Migration and/or Move Service Order has completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Either the end-user, or the new CLEC and the end-user must contact the old CLEC's Customer Contact Center and request that the end-user's service be re-established as previously provisioned for the old CLEC on Resale or UNE-P service</li> <li>• Old CLEC must follow expedite procedures</li> <li>• Old CLEC will issue Restoral Request LSR as appropriate based on order scenario and order completion, such as a New Connect, Change or Conversion with or without move</li> <li>• New CLEC must follow expedite procedures</li> <li>• New CLEC will issue Disconnect LSR if required based on order scenario and order completion</li> <li>• Old and new CLECs will coordinate their order activity</li> </ul>

		<ul style="list-style-type: none"> <li>• Contact your Qwest Service Manager if you require assistance with old CLEC contact</li> </ul>
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<b>Decision Chart, Scenario's 11-13, Conversion from Qwest Retail to New CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has Completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Contact the CSIE Center at 866-434-2555</li> <li>• Open an Escalation ticket</li> <li>• Request a warm transfer to the CSIE Tier 1 support group</li> <li>• Place a verbal Restoral Request for Previous Retail Service, full or partial restoral</li> <li>• CSIE will advise you if a new LSR will need to be issued by you</li> <li>• If a new LSR is needed and is not issued within 2 business hours, the escalation ticket will be closed. If this occurs, the CLEC must start the expedite process again once the LSR has been issued as directed.</li> </ul>

**Escalations**

Escalations are a request for status or intervention around a missed critical date such as:

- Plant Test Date (PTD)
- Due Date (DD)
- Ready For Service (RFS)

Qwest's Service Centers pro-actively escalate any critical dates in jeopardy and will notify you. If, however, you find it necessary to initiate an escalation, call the assigned Qwest Wholesale Center Representative at one of the numbers listed in the Expedites section for assistance. Regardless of how initiated, by you or internally, Qwest escalation roles and responsibilities can be summarized as:

- Qwest Wholesale Center Representatives  
Local Service Request (LSR) or Access Service Request (ASR) escalations related to Rejects/Delayed orders, critical dates and Firm Order Confirmations (FOC).
- Qwest Service Manager  
Involved only after normal processes fail to resolve the escalation to your satisfaction. Evaluates the situation based on commitments managing associated resolution activities.
- Qwest Senior Service Manager/Director  
Involved only when the Service Manager's efforts are unsuccessful. Provides direction to those working the issue, partnering with Center Coaches and Team leaders.
- Qwest Senior Director/Vice President  
Contacted for direction and/or assistance for those working the escalation, providing timely status updates back to the prior level and you directly.

**Escalations - Maintenance and Repair**

At your discretion, you may initiate an escalation of your trouble report through our electronic interface Customer Electronic Maintenance and Repair (CEMR) or by calling either the Qwest Wholesale Repair Center for Unbundled Network Elements (UNEs) and Complex services or the Repair Call Handling Center (RCHC) for Plain Old Telephone Service (POTS) and

Non-Complex services. Refer to our [Maintenance and Repair Overview](#) for additional information.

### Escalations - Technical Escalation Process

Additional information about the Technical Escalation Process can be obtained from Qwest's [Operations Support Systems General Information](#).

Note: Occasionally, your end-user may find their way to the Qwest Wholesale Center or Qwest Service Manager and our Wholesale Center Representatives will explain that you are our customer and direct them to you for assistance.

Should you have questions, or need additional information related to the expedite or escalation processes defined above, contact your [Qwest Service Manager](#) for assistance.

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## Training

### Local Qwest 101 "Doing Business with Qwest"

- This introductory web-based training course is designed to teach the Local CLEC and Local Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. [Click here to learn more about this course and to register.](#)

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## Contacts

Qwest contact information is located in [Wholesale Customer Contacts](#)

Expedites and Escalations

- Local Service Requests (LSRs)

Wholesale Center			
Tier	Responsibility	Activity	Contacts
Tier 1	Customer Service Inquiry and Education Center (CSIE)	First point of contact for CLECs	866-434-2555 Monday - Friday 8:00 AM - 6:00 PM Central, Mountain, and Pacific Time Zones <b>Note:</b> Only orders due to complete on a Saturday that require a same day cancellation, due date change or concurrence should call 612-327-0511. All other requests should be made the next business day.
Tier 2	Subject Matter Expert (SME), Team Leaders, Team Coaches	Respond to issues not resolved at Tier 1	800-366-9974 Monday - Friday 8:00 AM - 6:00 PM Central, Mountain, and Pacific Time Zones
Tier 3	Appropriate Qwest Service	Respond to issues	<a href="#">Service Manager</a>

	Manager	not resolved at Tier 2	
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A call center ticket is opened on every call into the CSIE Center. Upon resolution of the ticket a close code is assigned to the ticket. Upon request the close code is provided to you. Should you disagree with the codes used to close the ticket you will use the escalation process. For a list of the close codes used at the CSIE level see the Call Center Database Ticket Reports section of the [Ordering Overview PCAT](#).

Only orders due to complete this immediate Saturday and require a cancellation or due date change or for concurrence should call 612-327-0511. All other requests should be made the next business day.

- Access Service Requests (ASRs)

Products & Services	Contacts	Fax
All	800-244-1271	800-335-5680

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## Frequently Asked Questions (FAQs)

This section is currently being compiled based on your feedback.

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**Last Update:** January 15, 2007

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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 105**





April 2, 2007

Kim Isaacs  
Advanced TelCom Inc  
730 2nd Avenue South - Suite 900  
Minneapolis, MN 55402  
kdisaacs@eschelon.com

TO:Kim Isaacs

<b>Announcement Date:</b>	<b>April 2, 2007</b>
<b>Proposed Effective Date:</b>	<b>May 17, 2007</b>
<b>Document Number:</b>	<b>PROS.04.02.07.F.04590.Expedites_Escalations_V45</b>
<b>Notification Category:</b>	<b>Process Notification</b>
<b>Target Audience:</b>	<b>CLECs, Resellers</b>
<b>Subject:</b>	<b>CMP - Expedites and Escalations V45</b>
<b>Level of Change:</b>	<b>Level 3</b>

**Summary of Change:**

On April 2, 2007, Qwest will post planned updates to its Wholesale Product Catalog that include revised documentation for Expedites and Escalations V45. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is updating the Expedite process to change the existing manual process. The Approved Expedites Requests and the Pre-Approved Expedites will be changed to return a Firm Order Confirmation (FOC) with the new due date instead of calling you. In an effort to improve center efficiencies Qwest will begin sending a FOC to you for the date provided by Network that Qwest can meet in expedite situations whether it is the date requested by you or an alternate date.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit

comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available April 2, 2007
CLEC Comment Cycle on Documentation Begins	Beginning April 3, 2007
CLEC Comment Cycle Ends	5:00 PM, MT April 17, 2007
Qwest Response to CLEC Comments (if applicable)	Available May 2, 2007 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a>
Proposed Effective Date	May 17, 2007

If you have any questions on this subject, please submit comments through the following link: <http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Maud Arend

## Expedites and Escalations Overview – ~~V44.0~~V45.0

*History Log* (Link italicized text to: [Replace Existing Download With Attached History Log](#))

### Introduction

Qwest quickly responds to your escalation or expedite requests offering you clear and complete explanations so you can satisfactorily respond to your end-users.

- Expedites are requests for an improved standard interval that is shorter than the interval defined in our [Service Interval Guide \(SIG\)](#) (Link italicized text to: <http://www.qwest.com/wholesale/guides/sig/index.html>) or your interconnection Agreement (ICA), Individual Case Basis (ICB) or committed to ICB (Ready for Service (RFS) + Interval) date.
- Escalations can be initiated for any issue, at anytime, and at any escalation point. Escalations can also be for requests for status or intervention around a missed date.

The following summarizes the processes used within Qwest for all Wholesale Products and Services to handle expedite and escalation requests.

### Expedites

Requesting an expedite follows one of two processes, depending on the product being requested. If the request being expedited is for a product contained in the “Pre-Approved Expedites” section below, your ICA must contain language supporting expedited requests with a “per day” expedite rate. If the request being expedited is for a product that is not on the defined list, then the expedited request follows the process defined in the “Expedites Requiring Approval” section below.

#### Expedites Requiring Approval

For products not listed in the Pre-Approved Expedite section below, (non-designed products such as POTS, Centrex or DSL service) the following expedite process applies. Expedite charges are not applicable with the Expedites Requiring Approval process.

Following is a list of conditions where an expedite is granted:

- Fire
- Flood
- Medical emergency
- National emergency
- Conditions where your end-user is completely out of service (primary line)
- Disconnect in error by Qwest
- Requested service necessary for your end-user’s grand opening event delayed for facilities or equipment reasons with a future RFS date
- Delayed orders with a future RFS date that meet any of the above described conditions
- National Security
- Business Classes of Service unable to dial 911 due to previous order activity
- Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected

For any of the above conditions, expedited request can be made either prior to, or after, submitting your service request.

To request an expedite on a Local Service Request (LSR) you can either:

- Submit the request with your expedited due date and populate the EXP field. Also include in REMARKS the reason for the expedited request and then call the Qwest Call Center.
- Submit the request with a due date interval from our [SIG \(Link italicized text to: http://www.qwest.com/wholesale/guides/sig/index.html\)](http://www.qwest.com/wholesale/guides/sig/index.html) or your ICA and then call the Qwest Call Center.

In both scenarios, a call to the Qwest Call Center is required on 1-866-434-2555 to process the expedited request.

To request an expedite on service requests issued via an Access Service Request (ASR), you may use either of the options described above for LSRs to submit the ASR. You should then call 1 800-244-1271

You may be asked to provide verification of the expedited reason or situation for any of the expedite reasons listed above. In some cases, you may be asked for the service order number that caused the expedite condition, such as the service order number that caused the hunting or call forwarding expedite. The type of verification required will depend on the specific circumstances of the expedite and will be determined on an Individual Case Basis (ICB).

Once your expedite request is received, your Wholesale representative will review the request based on the previous list of available expedite scenarios to determine if the request is eligible for an expedite. If approved, the next step is to contact our Network organization to determine resource availability.

Depending on the type of service on the account, the following action is taken once the request is determined to be eligible for an expedited due date:

#### **Non-Designed/No Dispatch Required**

For requests that do not require a dispatch, the order is issued with the expedited due date.

#### **Non-Designed/Dispatch Required**

For requests that require a dispatch, the Network organization is contacted to determine Technician availability. If appointments are available on the requested due date, your expedite is granted. If no appointments are available, then Qwest will offer an alternative date, if one is available, prior to the requested due date. You can expect to receive a response to your expedited request usually within four business hours.

#### **Designed Services**

For Designed Services, the Network organization is contacted to determine resource availability for the Central Office and Outside Technicians as well as for the Testers that work with you to accept the service. You can expect to receive a response usually within four business hours.

#### **Approved Expedited Requests**

If the expedited request is approved and the original request contained the expedited due date and the EXP field was populated, Qwest will return a Firm Order Confirmation (FOC) acknowledging the agreed to expedited due date. If the expedited or agreed to due date Qwest can meet is different from what was originally submitted on the ASR or LSR and the EXP field is populated, Qwest will return a FOC with the new due date and continue to process the request. contact you and request that you supplement your request with the agreed to expedited date. The EXP field on the supplement ASR or LSR must also be populated. On LSRs, if the expedite is approved and the EXP field is not populated, Qwest will contact you and request that you supplement your ASR or request LSR with the new DDD populating and that you populate the EXP field. If the supplement is not received within four business hours, Qwest will continue to

process the ASR or LSR as if the expedited request was not received and will FOC back the standard interval or the original due date provided on the ASR or LSR if it was longer than the standard interval.

### Denied Expedited Requests

If denied, then we will provide you reasons that the request was denied or we will offer an alternative date that we could install the service. If the request is denied, and you still want to continue to have Qwest provision the service request, Qwest will return a FOC with the standard interval or the original due date provided on the FOC if it was longer than the standard interval.

### Pre-Approved Expedites

The Pre-Approved expedite process is available in all states except Washington for the products listed below when your ICA contains language for expedites with an associated per day expedite charge.

Note: Resold Designed products are automatically included based on the terms and conditions outlined in the ICA and individual state tariffs, catalogs or price lists.

For products other than the Resold Design products identified below, if your contract does not contain the appropriate expedite language, you will not be able to expedite the request unless the expedite is due to a Qwest caused reason.

The Expedites Requiring Approval section of this procedure does not apply to any of the products listed below (unless you are ordering services in the state of WA).

An expedite charge applies per ASR or LSR for every day that the due date interval is improved, based on the standard interval in the SIG, ICA, or ICB criteria as described above. It is not necessary for you to call into Qwest to have the expedite approved. To expedite a service request on an ASR or LSR you must populate the EXP field and put the desired expedited due date in the DDD field on the ASR or LSR.

Note: If the ASR/LSR you are submitting requests a same day due date, your request must be received before 12 noon MT.

When Qwest receives an ASR or LSR with the EXP populated and the DDD is less than the standard interval, Qwest will determine if the request is eligible for an expedite without a call from you. If the request meets the criteria for the Pre-Approved Expedite process, Qwest will process the request and return a FOC acknowledging the expedited due date. The appropriate expedite charge will be added to your service order.

If the due date Qwest can meet is different from what was originally requested on the ASR or LSR, Qwest will return a FOC with the new due date and continue to process the ASR or LSR. The appropriate expedite charge will be added to your service order. If the due date on the FOC does not meet your needs, you can supplement the request to a due date that is equal to or greater than standard interval as defined in Qwest SIG's, cancelling the expedite.

If the request does not meet the criteria for the Pre-Approved Expedite process, the ASR or LSR will be processed using the standard interval that is defined in the [Standard Interval Guide for Resale, UNE and Interconnection Services](http://www.qwest.com/wholesale/guides/sig/index.html) (Link italicized text to: <http://www.qwest.com/wholesale/guides/sig/index.html>).

Following is a list of the products, which require expedite language in the ICA and may be expedited that will receive the appropriate Expedite Charge:

- UBL
- UBL DID (Unbundled digital trunk)
- UBL DS1 (Unbundled digital trunk facility)
- UNE-C PL (EEL)
- UNE-P ISDN BRI
- UNE-P DSS Facility
- UNE-P DSS Trunk
- UNE-P PRI ISDN Facility
- UNE-P PRI ISDN Trunk
- UNE-P PBX Designed Trunks
- UNE-P PBX DID IN-Only Trunks
- UDIT
- LIS
- CCSAC SS7 Trunk or Facility
- Unbundled Dark Fiber

Following is a list of Resold Designed Products, which do not require an amendment, which may be expedited and will receive the appropriate expedite charge:

- Analog PBX DID
- Private Line (DS0, DS1, DS3 or above)
- ISDN PRI T1
- ISDN PRI Trunk
- ISDN BRI Trunk
- Frame Relay Trunk
- DESIGNED TRUNKS (Includes designed PBX trunks) Trunk
- MDS / MDSI (*IIS Only*)
- DPAs (multiple DPAs or FX, FCO) Trunk

Note: Any requests that are expedited due to a Qwest caused reason, do not incur an expedite charge. Additionally, if the due date of an expedited request is missed due to Qwest reasons, expedite charges do not apply.

If the order becomes a Delayed Order on the due date, Qwest will cooperatively work with you to obtain the best Ready For Service date (RFS) possible and expedite charges do not apply.

If an order becomes delayed for facilities prior to the due date, once Qwest establishes a new RFS it is communicated to you via the FOC. If you do not accept the due date that is established and request to expedite the RFS, expedite charges may apply. Each expedited delayed order request will be reviewed on an ICB to determine if expedite charges apply. If the expedited due date request results in Qwest incurring additional costs to improve the date that was FOC'd, expedite charges apply. Qwest will advise you if expedite charges apply prior to confirming the expedited request to obtain approval from you, or offer an alternate date that Qwest can meet. The expedite charges will be based on the number of days improved from the original RFS date.

If an order was delayed due to a Customer Not Ready (CNR) condition as described in the [Provisioning and Installation Overview](http://www.qwest.com/wholesale/clecs/provisioning.html) ([Link italicized text to: http://www.qwest.com/wholesale/clecs/provisioning.html](http://www.qwest.com/wholesale/clecs/provisioning.html)); and you wish to expedite the newly requested due date, supplement the request with the new Desired Due Date and populate the EXP field of the LSR/ASR. Qwest will review your expedited request for resource availability and return a FOC acknowledging the due date Qwest can meet. ~~In some cases, we may contact you to advise resources for expedite are not available or offer an alternate date.~~ Expedite charges apply and are based on the number of days the CNR standard interval is improved.

## Expedites Supporting Non-Qwest caused Restoral Requests

This process includes Restoral Requests on Resale/UNE-P/Retail to Resale or UNE-P Conversions and Transfer of Service when the service orders have completed. This process applies to Resale/UNE-P POTS, Resale/UNE-S and Resale UNE-P Centrex 21 products, including DSL.

You will follow this documented **Expedite** process as outlined when you require an expedite to a standard interval in order to restore an end-user due to a Non-Qwest caused out of service condition. An expedite restoral request is a result of your inability to complete a conversion or outside move service request where you were unable to cancel or change the due date on the service order(s) prior to order completion. Restoral requests may involve you alone, a Qwest Retail account and you, or you and a different CLEC on conversion and outside move (T & F) type service order's. Restoral requests will be accepted for both full and partial restorals.

When an expedite restoral request situation occurs, refer to the following when you prepare your service request:

- Issue the Restoral Request LSR as directed per the Decision Charts and order type scenario's.
  - Populate the RPON field with the PON used on the original LSR if available
  - Populate the EXP field
  - Populate Manual IND = Y
  - The REMARKS field can be populated with the specific reason for the request such as:
    - Restoral request Full, Resale to UNE-P conv, restore original service, Or
    - Restoral request, Partial, Resale to UNE-P conv, restore original service, Or
    - Restoral request, Partial, UNE-P to Resale conv, restore original service, Or
    - Restoral request, Full, Resale or UNE-P T&F, restore F location, etc., Or
    - Restoral Request, Restore original full service back to CLEC XXXX, Or
    - Restoral Request, Restore original partial service back to CLEC XXXX, Or
    - Restoral Request, Restore original F Loc service, full/partial back to old CLEC
    - Restoral Request, Disc service, restore original Retail service, full/partial
- Contact the Customer Service Inquiry and Education (CSIE) Center at 866-434-2555
- Open an Escalation ticket.
- 
- Request a Restoral Request for Previous Service.
- Provide LSR ID if appropriate per Decision Chart and order type scenario's.

### Benefits

- Expedited intervals for restoral of previous service
- Uniform documented process for restoral requests
- Qwest will negate the one month minimum billing on a disconnect or conversion service order as applicable.

### Restrictions

- You must issue appropriate LSRs first (if directed to do so per the Decision Chart below) followed by opening a Call Center escalation ticket. Restoral requests received prior to new LSR issuance will not be accepted, excludes Qwest Retail restorals.
- Standard intervals must be used when submitting LSRs, CSIE will expedite due date appropriately for restoral
- Expedited restoral requests must be requested within 24 hours, extending into the next business day, following the LSR completion date. Restoral requests received after 3 PM will be considered next business day work activity; this includes restoral requests received after 3 PM on Saturday based on the SIG (except for DSL)."
- Service being restored must be the same type of service with same features, same TN's, etc. as was previously provisioned. Full or partial restorals are acceptable.

- Qwest will reuse facilities when the facilities are available for the restoral.
- All applicable recurring and non-recurring charges will apply, based on order completion and physical work that was completed or needs to be completed to restore service. Retail practices will apply when restoring Qwest Retail accounts.
- When a restoral involves two CLECs, it is up to you and the old CLEC to coordinate and agree upon an expedite, prior to opening up the Call Center Escalation ticket(s).
- Expedite charges may apply based upon individual interconnection agreements, state tariffs or SGATS.

The following **Order Type Scenario's** are included in this restoral process:

1. Resale / UNE-P T & F, same CLEC
2. Resale to UNE-P Conversion as is, same CLEC
3. Resale to UNE-P Conversion as specified, same CLEC
4. UNE-P to Resale Conversion as is, same CLEC
5. UNE-P to Resale Conversion as specified, same CLEC
6. Resale / UNE-P Migration to new CLEC with move via single LSR
7. Resale to UNE-P Conversion as is, to a new CLEC
8. Resale to UNE-P Conversion as specified, to a new CLEC
9. UNE-P to Resale Conversion as is, to a new CLEC
10. UNE-P to Resale Conversion as is, to a new CLEC
11. Qwest Retail to Resale / UNE-P Conversion as is
12. Qwest Retail to Resale / UNE-P Conversion as specified
13. Qwest Retail to Resale / UNE-P Conversion with move via single LSR process

<b>Decision Chart, Scenario's 1-5, Same CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Issue Restoral Request LSR as appropriate based on order scenario and order completion, such as a New Connect, Change or Conversion with or without move, Transfer of Service or Disconnect</li> <li>• Follow expedite procedures</li> </ul>

<b>Decision Chart, Scenario's 6-10, To a New CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Either the end-user, or the new CLEC and the end-user must contact the old CLEC's Customer Contact Center and request that the end-user's service be re-established as previously provisioned for the old CLEC on Resale or UNE-P service</li> <li>• Old CLEC must follow expedite procedures</li> <li>• Old CLEC will issue Restoral Request LSR as appropriate based on order</li> </ul>



		<p>scenario and order completion, such as a New Connect, Change or Conversion with or without move</p> <ul style="list-style-type: none"> <li>• New CLEC must follow expedite procedures</li> <li>• New CLEC will issue Disconnect LSR if required based on order scenario and order completion</li> <li>• Old and new CLECs will coordinate their order activity</li> <li>• Contact your Qwest Service Manager if you require assistance with old CLEC contact</li> </ul>
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<b>Decision Chart, Scenario's 11-13, Conversion from Qwest Retail to New CLEC</b>		
<b>IF</b>	<b>AND</b>	<b>THEN</b>
Conversion, Migration and/or Move Service Order has Completed	You want full or partial restoral of previous service	<ul style="list-style-type: none"> <li>• Contact the CSIE Center at 866-434-2555</li> <li>• Open an Escalation ticket</li> <li>• Request a warm transfer to the CSIE Tier 1 support group</li> <li>• Place a verbal Restoral Request for Previous Retail Service, full or partial restoral</li> <li>• CSIE will advise you if a new LSR will need to be issued by you</li> <li>• If a new LSR is needed and is not issued within 2 business hours, the escalation ticket will be closed. If this occurs, the CLEC must start the expedite process again once the LSR has been issued as directed.</li> </ul>

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## Escalations

Escalations are a request for status or intervention around a missed critical date such as:

- Plant Test Date (PTD)
- Due Date (DD)
- Ready For Service (RFS)

Qwest's Service Centers pro-actively escalate any critical dates in jeopardy and will notify you. If, however, you find it necessary to initiate an escalation, call the assigned Qwest Wholesale Center Representative at one of the numbers listed in the Expedites section for assistance. Regardless of how initiated, by you or internally, Qwest escalation roles and responsibilities can be summarized as:

- Qwest Wholesale Center Representatives  
Local Service Request (LSR) or Access Service Request (ASR) escalations related to Rejects/Delayed orders, critical dates and Firm Order Confirmations (FOC).
- Qwest Service Manager  
Involved only after normal processes fail to resolve the escalation to your satisfaction. Evaluates the situation based on commitments managing associated resolution activities.
- Qwest Senior Service Manager/Director  
Involved only when the Service Manager's efforts are unsuccessful. Provides direction to those working the issue, partnering with Center Coaches and Team leaders.
- Qwest Senior Service Director/Vice President  
Contacted for direction and/or assistance for those working the escalation, providing timely status updates back to the prior level and you directly.

### **Escalations – Maintenance and Repair**

At your discretion, you may initiate an escalation of your trouble report through our electronic interface Customer Electronic Maintenance and Repair (CEMR) or by calling either the Wholesale Repair for Unbundled Network Elements (UNEs) and Complex services or the Repair Call Handling Center (RCHC) for Plain Old Telephone Service (POTS) and Non-Complex services. Refer to our [Maintenance and Repair Overview](#) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>) for additional information.

### **Escalations – Technical Escalation Process**

Additional information about the Technical Escalation Process can be obtained from Qwest's [Operations Support Systems General Information](#). (Link italicized text to: <http://www.qwest.com/wholesale/systems/generalinfo.html>)

Note: Occasionally, your end-user may find their way to the Qwest Wholesale Center or Qwest Service Manager and our Wholesale Center Representatives will explain that you are our customer and direct them to you for assistance.

Should you have questions, or need additional information related to the expedite or escalation processes defined above, contact your [Qwest Service Manager](#) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/accountmanagers.html>) for assistance.

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## **Training**

### **Local Qwest 101 "Doing Business With Qwest"**

This introductory Web-based training is designed to teach the Local CLEC and Local Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. [Click here to learn more about this course and to register](#). (Link italicized text to: [http://www.qwest.com/wholesale/training/wbt\\_desc\\_lq101.html](http://www.qwest.com/wholesale/training/wbt_desc_lq101.html))

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## **Contacts**

Qwest contact information is located in [Wholesale Customer Contacts](#). (List italicized text to: <http://www.qwest.com/wholesale/clecs/escalations.html>)

Expedites and Escalations

- Local Service Requests (LSRs)

Wholesale Center			
Tier	Responsibility	Activity	Contacts
Tier 1	Customer Service Inquiry and Education Center (CSIE)	First point of contact for CLECs	866-434-2555 Monday – Friday 8:00 AM – 6:00 PM Central, Mountain, and Pacific Time Zones <b>Note:</b> Only orders due to complete on a Saturday that require a same day cancellation, due date change or concurrence should call 612-327-0511. All other requests should be made the next business day.
Tier 2	Subject Matter Expert (SME), Team Leaders, Team Coaches	Respond to issues not resolved at Tier 1	800-366-9974 Monday – Friday 8:00 AM – 6:00 PM Central, Mountain, and Pacific Time Zones
Tier 3	Appropriate Qwest Service Manager	Respond to issues not resolved at Tier 2	Service Manager (Link italicized text to: <a href="http://www.qwest.com/wholesale/clecs/accounmanagers.html">http://www.qwest.com/wholesale/clecs/accounmanagers.html</a> )

A call center ticket is opened on every call into the CSIE Center. Upon resolution of the ticket a close code is assigned to the ticket. Upon request the close code is provided to you. [Should you disagree with the codes used to close the ticket you will use the escalation process.](#)

For a list of the close codes used at the CSIE level see the Call Center Database Ticket Reports section of the [Ordering Overview PCAT](#)(Link italicized text to: <http://www.qwest.com/wholesale/clecs/ordering.html>).

Only orders due to complete this immediate Saturday and require a cancellation or due date change or for concurrence should call 612-327-0511. All other requests should be made the next business day.

- Access Service Requests (ASRs)

	Products & Services	Contacts	Fax
	All	800-244-1271	800-335-5680

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## Frequently Asked Questions

This section is currently being compiled based on your feedback.

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| **Last Update:** ~~January 15, 2007~~ May 17, 2007

META Tags: Expedites; Escalations

From: Kim Isaacs [Eschelon] (email redacted)  
Sent: Friday, April 13, 2007 3:27 PM  
To: Isaacs, Kimberly D.  
Subject: PROS.04.02.07.F.04590.Expedites\_Escalations\_V45 --- ---

Thank you for submitting your comments through the Qwest CMP Document Review and Comment Process.  
The information you entered is listed below.  
If you have any questions, please direct them to cmpcomm@qwest.com.  
This communication was sent with CMP mailer script v2.0.

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Notice Number: PROS.04.02.07.F.04590.Expedites\_Escalations\_V45  
Document Name:  
Document Version Number:  
Document History Log Line Number:  
Comment:

Eschelon objects to Qwest's proposed changes to its expedites PCAT. In any event, Eschelon's interconnection agreement terms control. Eschelon provides the following comments on Qwest's proposed PCAT changes:

1. In Qwest's red-lined document, the first changes are to the emergency-based "Expedites Requiring Approval" when Qwest approves the expedite ("Approved Expedited Requests"). (Qwest adds the term "Qwest can meet," which is discussed below.) Next, Qwest proposes to insert "and the EXP field is populated" where it did not appear before and, at the same time, delete the current language under which Qwest contacts CLEC. Qwest proposes to replace that language with language indicating that Qwest will only continue to process the request if the EXP field is populated. Otherwise, Qwest will contact CLEC to supplement the request and populate the EXP field.

Will this delay orders that previously would have been expedited based upon a call after the request was submitted (as CLEC may not know at the time of submitting the request that an expedite is needed)?

Also, this change raises concerns about the relationship of this change to Qwest's systems business rules. Qwest's proposed language appears to limit the CLEC's ability to obtain emergency-based "Expedites Requiring Approval," to which Eschelon objects. Qwest requires manual handling of many orders, but Qwest's business rules do not appear to allow a CLEC to populate the EXP field when Qwest requires manual handling. Specifically, the LSOG provides the following business rule: "If EXP = 'Y', the MANUAL IND should = 'N'." The red-lined states, regardless of the option used to request the expedite (e.g. Submit the request with your expedited due date and populate the EXP field.... or Submit the request with a due date interval from our SIG or your ICA and the call the Qwest Call Center), the EXP field will need to be populated on either the original LSR or on a supplemental LSR. There are a number of Qwest processes that require manual intervention (Manual Ind = Y). Qwest's requirement of using "Y" for the Manual Indicator should not prevent a CLEC from requesting an expedited due date.

Is the above the intent and/or effect of Qwest's change?

Eschelon objects to that result. If that is not the intent and/or effect, and if this change were to be made, Qwest should revise its language to specifically address this business rule and document in the PCAT this exception to the LSOG rule(s) and re-issue for comment on that language.

2. In Qwest's red-lined document, the next change is to "Pre-Approved Expedites" for which Qwest requires an amendment and a per day fee. The first line of that change introduces a reference to a due date Qwest "can meet" outside of the context of Qwest delayed facilities. Qwest has not explained this change. The Qwest notice with the red-lined document only mentioned "updating the Expedite process to change the existing manual process . . . to return a Firm Order Confirmation" (a separate PCAT change, which is discussed below). Qwest provided no explanation of Qwest's introduction for the first time of a suggestion that Qwest "can meet" some "Pre-Approved" expedite requests but not others.

What is the basis for Qwest's proposed change in the language?

What are the criteria for whether Qwest "can meet" a "Pre-Approved" expedite request?

Are the criteria changing?

Is resource availability a factor?

Currently, resource availability is identified in the PCAT as a factor for the emergency-based "Expedites Requiring Approval" but not generally for "Pre-Approved" expedites for a fee. There is no mention of criteria such as resource availability in the Qwest expedite amendments, which provide that Qwest will process expedite orders when the CLEC pays the fee. The Expedites for Design Services Amendment does not attach any conditions, such as Qwest resource availability, that allows Qwest to arbitrarily change the CLECs requested due date for Pre-Approved Expedites.

If a CLEC has already signed that amendment and has obtained "Pre-Approved" expedites for a fee, will the terms change so now a CLEC may not obtain them in some cases? Does the PCAT change affect Qwest's offering of expedites under its template ICA or amendment proposals?

Qwest's proposed language is ambiguous. Qwest should revise it and re-issue it for comment with more clear language and more explanation.

3. In Qwest's red-lined document, the remainder of this paragraph (relating to Qwest's "Pre-Approved Expedites") appears to allow Qwest, at its sole discretion, to return an FOC with a new due date that is different than the expedited due date requested by the CLEC for which the CLEC has agreed to pay Qwest's fee. Eschelon objects to Qwest acting in this manner at its discretion. This is contrary to Qwest's own Expedites for Design Services Amendment. The Expedites for Design Services Amendment states "Qwest will process the request and return a FOC acknowledging the expedited due date" (as does the previous PCAT language). It does not contain the language that Qwest proposes to add

to the PCAT stating that Qwest may select a date different from that requested by the CLEC, return an FOC to the CLEC with that different date, and then require the CLEC to monitor for a different date and, if that "does not meet [its] needs" supplement the request. At a minimum, Qwest needs to revise and reissue this change for comment with more clearlanguage and more explanation.

4. Additionally, the red-lined language for this section indicates that the interval is "as defined in Qwest's SIG." This statement is incorrect. The interval may be in the interconnection agreement, for example. Other provisions of the PCAT refer to "interval in the SIG, ICA, or ICB criteria." If the redlined paragraph remains part of Qwest's proposal, this language should also be modified and reissued for comment.

5. Qwest stated in its notice that Qwest is updating the Expedite process to change the existing manual process to improve center efficiencies by returning an FOC with the new due date instead of calling CLECs.

Please confirm that CLECs submitting requests electronically may expect to receive an FOC from Qwest and indicate whether CLECs may rely on the information contained in the FOC sent by Qwest.

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Name: Kim Isaacs  
Title: ILEC Relation Process Specialist  
[contact information redacted]

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 106**



Resources

**Change Management Process (CMP)**

**Open Product/Process CR PC021904-1 Detail**

**Title: Enhancement to existing Expedite Process for Provisioning**

CR Number	Current Status Date	Area Impacted	Products Impacted
PC021904-1	Completed 7/20/2005	pre order, order, provisioning	UNE, Transport (including EUDIT), Loop, UNE-P, Line share, Line Splitting, loop splitting

**Originator:** Berard, John

**Originator Company Name:** Covad

**Owner:** Martain, Jill

**Director:** Bliss, Susan

**CR PM:** Harlan, Cindy

**Description Of Change**

Covad requests that Qwest provide a formal process to expedite an order that requires an interval that is shorter than what is currently available for the product.

No expected deliverable listed

Updated the title as a result of the Clarification call

**Status History**

Date	Action	Description
2/20/2004		CR Recieved
2/20/2004		CR Acknowledged
2/23/2004		Contacted John Berard - Covad to set up Clarification Call
2/27/2004		Held Clarification call
3/17/2004		March CMP meeting notes will be posted to the project meeting section
4/21/2004		April CMP meeting notes will be posted to the project meeting section
5/12/2004		Emailed response to Covad
5/19/2004		May CMP Meeting notes will be posted to the project meeting section
6/15/2004		PROS.06.15.04.F.01792.ExpeditesV11
6/16/2004		June CMP Meeting notes will be posted to the project meeting section
7/1/2004		Scheduled ad hoc meeting for 7/9 to discuss project, comments and plan
7/9/2004		Held ad hoc meeting
7/21/2004		July CMP Meeting notes will be posted to the project meeting section

8/16/2004	August CMP meeting minutes will be posted to the database
9/15/2004	Notification for ad hoc meeting scheduled for 9-22-04
9/15/2004	September CMP Meeting minutes will be posted to the database
9/22/2004	CLEC Ad hoc meeting held to review expedite reasons / causes
10/20/2004	October CMP Meeting minutes will be posted to the database
11/17/2004	November CMP Meeting minutes will be posted to the database
12/15/2004	December meeting minutes will be posted to the database
12/16/2004	Scheduled ad hoc meeting for January 6
1/6/2005	Ad hoc meeting held
1/19/2005	Jan CMP meeting minutes will be posted to the database
2/16/2005	Feb CMP meeting minutes will be posted to the database
3/16/2005	March CMP Meeting minutes will be posted to the database
4/20/2005	April CMP Meeting minutes will be posted to the database
5/18/2005	May CMP meeting minutes will be posted to the database
6/15/2005	June CMP meeting minutes will be posted to the database
7/20/2005	July CMP meeting minutes will be posted to the database

### Project Meetings

July CMP Meeting Minutes: Jill Martain – Qwest advised that this went into effect on 6/16/05. Jill asked if it was ok to close this CR. Liz Balvin advised the CR could be closed. This CR will move to Completed Status.

June CMP Meeting Minutes: Jill Martain – Qwest advised that this process is effective June 16 and we would like to move this CR to CLEC Test on June 16th. There was not any objection to change the status to CLEC Test.

May CMP Meeting Minutes: Jill Martain – Qwest advised that the PCAT documentation went out for review on May 9. The comment cycle will close on May 24 and become effective June 23, 2005. This CR will remain in Development Status.

April CMP Meeting Minutes: Jill Martain - Qwest advised that we are working internally to get the three expedite reasons implemented. Jill stated that after meeting internally, we determined that a slight modification was needed. Qwest wants the new Expedite reasons directed to our Business Services. Jill stated that in our ad hoc calls with the CLECs, we did talk about the critical impact to Business customers. Jill recapped the criteria for use of the new Expedite reasons: National Security Business Services unable to dial 911 due to previous order activity Business Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the customer business is being critically affected. Bonnie Johnson - Eschelon asked if there is a definition of business services.

Jill Martain - Qwest advised it would be for more complex business and 1FB type service and this excludes residential and 1FR.

Bonnie Johnson - Eschelon asked for this to be documented.

Jill Martain – Qwest confirmed it would be changed to reflect Business Classes of Service in the actual updates. Liz Balvin - Covad asked if the examples that Qwest looked at were based on Qwest customers.

Jill Martain – Qwest advised the examples were provided by both CLECs and Qwest and discussed in ad hoc meetings.

Liz Balvin – Covad agreed that we should provide definition of Business Services and also asked that the notice reflect that residential would not be included. Liz also confirmed that this does not affect the Expedite process that requires an amendment.

Jill Martain – Qwest confirmed that it does not impact that process. Jill advised the documentation will be updated and sent out for review. Bonnie said thank you for the good results.

This CR will remain in Development Status.

March CMP Meeting Minutes: Jill Martain - Qwest advised that we are still working internally on this request and are hopeful that within the next month the PCAT changes will be available to review with the three additional Expedite reasons. This CR will remain in Development Status. [Comment received from Eschelon: Jill Martain - Qwest advised that we are still working on additional scenarios internally and waiting for internal approval on this request and are hopeful that within the next month the PCAT changes will be available to review with the three additional Expedite reasons.]

February CMP Meeting Minutes: Jill Martain - Qwest advised we are still waiting for final internal approval. Qwest is hoping to have final status next month. This CR will remain in Development Status.

January CMP Meeting Minutes Cindy Harlan/Qwest advised that an ad hoc meeting was held on January 6th. Qwest proposed adding the following as valid Expedite reasons: if access to 911 is not available, if the order is for National Security, and for certain Features in specific situations. The CLECs were receptive to these changes. Qwest has started the process to get final internal review and approval. Additional status will be provided next month. This CR will remain in Development Status.

CLEC Ad Hoc Meeting PC021904-1 Expedite Process January 6, 2005

In attendance: Kari Burke – Comcast Jeff Yeager – Accenture Sharon Van Meter – ATT Chris Terrell – ATT Linda Minesola – Comcast Amanda Silva – VCI Jill Martain – Qwest Wayne Hart – Idaho PUC Kim Isaacs- Eschelon Bonnie Johnson – Eschelon Pete Staze – Eschelon Jennifer Arnold – TDS Metro Steve Kast – MCI Thomas Soto - SBC

Cindy Harlan – Qwest took attendance and reviewed the agenda. The purpose of this call is to discuss options for additional expedite reasons. Cindy explained that Qwest has been reviewing expedites and would like to discuss potentially having Features be considered as a valid expedite reason under certain circumstances. Qwest would like to discuss what the criteria would be and identify Features that cause major impact to the CLECs. We also can potentially add a valid expedite reason if you are unable to dial 911 service and to expedite for National Security reasons. Cindy asked the CLECs to identify what Features create the most impact to the CLECs so we can build some criteria. Cindy advised that Qwest is unable to open other reasons for expedites as we do not have the resources to support that effort.

Bonnie Johnson – Eschelon stated that she didn't think additional resources would be needed to support this. Bonnie said Eschelon's Expedite manager is on the call and she would like him to share with us the large impacting

items. Pete advised that when customers are unable to receive calls this impacts them as if they are out of service. For business customers if they can't receive calls it impacts their revenue.

Jill Martain – Qwest asked if normally there would be an original order to install the service and another one to correct it. Bonnie advised yes, or something changed on one of their features, such as voice mail service, either with their vendor or the equipment, and that causes a need for an expedite. The customer may not understand what they have ordered. Jill asked if it was a fair request that Qwest ask the CLEC for the order number or PON. Bonnie advised that they normally provide this anyway and it is fair, but she does not believe it should be a requirement as there are other reasons too. Jill asked if we could better define and refine the criteria for Hunting so we can go to Retail and Network and discuss further, and publish a reason that is allowable. Otherwise we would negate the standard interval if we automatically allowed expedites on all Hunting requests. Bonnie said it should be an urgent customer situation and their service is not working the way it should be. Bonnie advised that Qwest needs to trust the CLECs request and hope that the CLECs are not abusing the process. Pete Stave – Eschelon advised there are additional steps needed to expedite an order and it is not always easy so we do not request an expedite unless it is necessary.

Jill suggested that we set criteria for this to be an 'urgent customer situation where Hunting or Call Forwarding features are not working correctly and the customer can explain why and provide a service order and/or PON'. The CLECs agreed with this criteria.

Jill asked if there were other features that need to be discussed. Amanda – VCI stated that Features don't pertain to VCI very much, but what happens if a customer is disconnected in error and it is the CLECs error. This happens a few times a month usually due to a disconnect for non payment in error. Jill advised this would need to be handled as a new LSR with standard interval. Another request was made for voice mail set up incorrectly. This can be added to a wrong number for example.

Jill agreed that the items and criteria identified should be workable. Qwest needs to review this internally and determine impacts. Status will be provided at our CMP meeting and we will plan on reviewing the draft process prior to it being published in the PCAT. Another ad hoc meeting will be scheduled at that time.

December CMP Meeting Minutes Cindy Macy – Qwest advised that an ad hoc meeting is scheduled for January 6 to review and further define some options for expanded Expedite reasons. This CR will remain in Development Status.

11/17/04 November meeting minutes Cindy Macy – Qwest advised that Qwest is currently reviewing the expedite process and meeting internally to determine if there are any changes that can be made to the process. This CR will remain in Development Status.

10/20/04 October CMP Meeting Minutes Cindy Macy – Qwest advised that Qwest held an ad hoc meeting. We are reviewing the expedite reasons from the CLECs and the data gathered for potential changes. We hope to have additional information next month. Qwest will hold an ad hoc meeting to review our findings. This CR will remain in Development Status.

PC021904-1 Enhance Expedite Process Ad Hoc Meeting September 22, 2004

In Attendance: Pete Stave – Eschelon Colleen Forbes - ATT Kim Isaacs – Eschelon James Leblanc – McLeod Bonnie Johnson – Eschelon Jean Novak - Qwest Communications Lori Nelson – Mid-Continent Terri Lee - SBC Donna Osborne Miller – ATT Chris Quinstruck - Qwest Cherron Halpern - Qwest Communications Rhonda Velasco – Oregon Telecom Sue Diaz - Qwest Communications Mark Sieres – Advanced Telecom LeiLani Hines – MCI

Brandon McGovern—Advanced Telecom Valerie Estorga - Qwest Communications Roslyn Davis - MCI Christina Valdez - Qwest Communications Scott Ellefson – Qwest John Berard – Covad Dave Miller – Advanced Telecom Michelle Thacker - Qwest Communications Lydell Peterson - Qwest Phil Hunt – McLeod Leti Mudlo - Qwest Robin Jackson – Time Warner Diane Solomonson - Qwest Jolene Brown – Time Warner Stacy Berg – Time Warner Steve Kast - Qwest Communications Jim Christener – McLeod Mark Ashen Brenner – McLeod Chris Voorhees - McLeod Jennifer Fischer - Qwest Communications Diane Johnson – Qwest Michelle Sprague – McLeod Dawn Tafoya - Qwest Communications Jill Martain - Qwest Communications

Cindy Macy – Qwest Communications introduced the attendees and reviewed the agenda. Cindy advised that the purpose of this call is to discuss what is causing the need to expedite. Qwest would like to identify from a CLEC perspective why they expedite. Jill Martain – Qwest added that we would like to identify for non design documentation changes and process changes that could help reduce expedites. Cindy advised that Qwest would like to hear from each CLEC represented so we can gather input and determine what changes could be made to reduce the need for expedites.

Bonnie Johnson – Eschelon advised that Qwest's appointments for new installs and moves in some states were 3 weeks out. This was due to resource issues (no technicians available). Eschelon can not give their customers a 3 weeks due date. We are expediting from a customer service perspective. This was happening in WA/CO/AZ on POTS service.

Colleen – ATT advised that when they submit their orders they have to use appointment scheduler and the date that comes back is what they have to put on their order. They will then call and expedite as the date is not acceptable for their customers. Donna Osborn Miller – ATT advised that they also engage their account teams to help.

Stacy – Time Warner advised that when the due dates is out 2-3 weeks, we have to expedite, and then Qwest wants to charge for the expedite. It is wrong for Qwest to charge for an expedite when the due date is way past standard interval.

Colleen – ATT advised many times the customer is disconnected and needs their service. The disconnect can be due to the customer moving early, an error on Qwest or the CLECs part, the order not getting processes correctly, or a jeopardy.

Bonnie Johnson – Eschelon advised specific to features, our customers have urgent needs. If their call forwarding was set up incorrectly (gave wrong number, or error in programming), and the calls are going to another number it can cause major issues. If a business forwards these calls to a residence, or if there is an emergency and the customer is not able to receive calls it causes major issues for all parties. Call Forwarding generally has a 1-3 day standard interval and a business can not loose calls for 3 days, nor can a residence customer receive calls from a business in error for 3 days. Colleen – ATT advised other LECs have same day turnaround if the order is received before 3p.m.

Jim – McLeod advised orders that are placed in jeopardy for no access are often done in error. The customer says they were available but the technician never came to the door. Then later it is determined that the technician couldn't find the building, or couldn't gain access. Sometimes the customer does give the wrong address and they are now out of service.

Robin Jackson and Stacy Berg – Time Warner advised they have lots of trouble with orders being issued incorrectly. They put information on the LSR that matches the CSR. Then the order gets rejected for address issues. They have to send it in and fix it later, and try to get a new due date. Time Warner also reported that when they build a subscription they send it in and Qwest has to release it. The 'create' needs to be done 3 days

ahead and SOA has to concur. Time Warner wants to know if this is the official process. They work with the LNP team and this process is not working well. Cindy advised she will have the Service Manager contact Robin and Stacy. (robin.jackson@twtelecom.com, Stacey.berg@twtelecom.com)

Dave – Advanced Telecom advised they will get an FOC and the due date is okay. Then on the due date or the day before they will get a jeopardy notice which then needs to be expedited as they have given a due date to their customer.

Bonnie – Eschelon advised when there is an equipment install or vendor meet and we have to coordinate three companies it is very difficult and we usually have to expedite to get the companies represented and the services coordinated and installed.

Bonnie – Eschelon also advised that hunting causes an out of service condition as sometime equipments is needed or there are circular hunting issues and the calls go no where.

Pete – Eschelon advised that coordinated loops installed on LNP are complex and all parties have to be available to keep the customer service from going down.

Lori – Mid-Continent advised that if voice mail is not working the customer perceive this as their service not working. If the call forwarding number is incorrect (wrong area code and the voice messaging needs to be corrected) we have to place an order to fix the issue.

Nicki – Mid-Continent advised sometimes their customers have urgent needs related to their job or personal situation. For example, the customer could be on active duty and need service right away.

John Berard – Covad advised if something goes wrong in the process and the customer gets disconnected in error, it could be the CLECs error, then Covad has to issue another order with a new due date. Sometimes the order is issued as a new order and it should have been a move order so the due date is different.

Dave – Advanced Telecom advised that Qwest does not reject orders consistently. They can submit 10 orders the same and on the 11th order they get a reject. The representative interprets the business rule differently and now we are a day behind. We can talk to 4 different representatives and we can get 4 different answers.

Bonnie – Eschelon confirmed that for non design the same process and charges will apply to Retail. Jill Martain – Qwest confirmed that would occur. Jill – Qwest advised our direction is to not implement a fee for expedites on non design. We are trying to understand some reasons and causes for expedites and address them from a process and documentation perspective. Bonnie advised that is great.

Nicki – Mid-Continent advised she requested an expedite for medical reasons and was asked for a doctors note. Nicki advised this is confidential information. Jill advised it is part of the process to request a note. Our centers are trying to follow the process and make sure the expedite is valid.

Colleen – ATT advised recently we had a customer that filed a PUC complaint and it was on the news so it was a huge issue that needed to be resolved. Jill advised if there are extenuating circumstances you can go through the Escalations process. This is not the norm but under special conditions we do handle escalations.

Cindy – Qwest advised our next steps are to look at the input that was received today and the process. We will determine areas that we can

impact to reduce the need to expedite and provide status at the next CMP meeting. Additional ad hoc meetings may be held.

9/15/04 CMP Meeting Minutes Cindy Macy – Qwest advised that there is an ad hoc meeting scheduled for Wednesday, September 22 to discuss the reasons for expedites. The intent is to look at the cause of expedites to determine if there are improvements that can be made to reduce the number of expedites. This process focuses on non design services. This CR will remain in Development Status.

8/16/04 CMP Meeting Minutes Jill Martain – Qwest advised that Qwest has done additional work on this CR and determined that we won't be able to implement the same process for non design that we implemented for design. We are doing root cause analysis on the data and will determine reasons why expedites are needed. Qwest will meet with each of the CLECs after we have the data and work through the expedite reasons. John Berard – Covad asked some questions about the Expedite V14 PCAT. Jill recapped the process and advised the CLECs that if they have questions they can call her to discuss. John Berard – Covad verified if the error was caused by Qwest than there would not be a charge to expedite. Jill advised that is correct. Bonnie Johnson – Eschelon advised she tried to expedite a feature and the escalation group and Service Manager said they were not able to do this. Bonnie submitted a comment on this issue as Eschelon believes this is an existing process. Bonnie advised her definition of an existing process is if Qwest is performing the process it is an existing process. Bonnie and Jill discussed the issue and agreed that the issue was the difference between what Eschelon sees as an existing process and what Qwest views as an out of compliance. Jill told the center to go ahead and continue to handle feature expedites until we are able to resolve this issue. Bonnie appreciated this as it takes away the immediate pain to Eschelon. Bonnie advised that Eschelon has formed an internal team to review documentation against current process and previous CRs. They are focusing on DSL initially. Bonnie and Jill agreed that Eschelon should submit a CR to determine how to handle the situation when there is disagreement between when Qwest is out of compliance versus when Qwest is performing an existing process. This CR will remain in Development Status.

July 21, 2004 CMP Meeting Minutes: Cindy Macy – Qwest advised that the team held an ad hoc meeting on July 9. During the ad hoc meeting, Jill Martain reviewed the PCAT and addressed comments on the process. Cindy advised that this process is effective July 31 in most states. The following identifies exceptions: AZ 8/5, Northern Idaho and NE 8/2, NE 8/6, WA affects only Access Services. The FCC#1 is effective July 31. Qwest will continue to work on the non design process. Additional status will be provided later. Liz Balvin – MCI advised that the clarification and the updates that were discussed helped a lot. Jill advised those updates have been made. This CR will remain in Development status.

PC021904-1 Expedite Process Ad Hoc Meeting July 9, 2004 10:00 – 11:00 a.m. MT

In attendance: Eric Yohe – Qwest Liz Balvin – MCI Valerie Estorga – Qwest Susan Lorence – Qwest Jackie DeBold – US Link Steve Kast – Qwest Teresa Castro – Vartec Stephanie Prull – Eschelon Sue Lamb – 180 Comm John Berard – Covad Jill Martain – Qwest Ann Atkinson – ATT Julie Pickar – US Link Donna Osborn Miller – ATT Cindy Macy – Qwest

Cindy Macy – Qwest reviewed the history of the CR. Cindy explained that this process was notified on June 15, 2004 and then retracted on June 29, 2004. Cindy reviewed the agenda and purpose of the meeting.

Jill Martain – Qwest advised the intent of the PCAT update was to address the new expedite process on design products. Currently we are not able to include non design products in the process. We will schedule additional ad hoc meetings to discuss non design products and CLEC caused error expedite situations.

Jill advised that July 31 is the tariff effective date. Interstate filings will occur next, and there are a couple states that may go a little later, but each state is in progress of getting the tariffs approved.

Liz Balvin – MCI verified V11 only impacts design services. Jill advised the list of products that are in the pre-approved section are all design products.

Jill advised there will be two processes. 'Expedites that Require Approval' (current process) and the new process 'Approved Expedite Request' for identified design services products. Jill reviewed the PCAT and process in more detail.

Stephanie Prull – Eschelon asked how Qwest will notify the CLEC when Qwest can not meet the expedited date. Jill advised that when the CLEC calls in Qwest will get the name of the person who requested the change and work with them. Stephanie asked what happens if we use the EXP field? Jill advised Qwest would send back the FOC with the PIA value. Stephanie asked if the Retail customers get charged on the 'Expedite Requiring Approval' process. Jill advised no, and neither would the CLECs, unless they sign up for the new process.

Liz Balvin – MCI asked for more clarity on the non design process. Jill advised that the Expedite Process that requires approval applies to non design services or Interconnection Agreements that do not carry the 'per day' expedite rate. Jill agreed to clarify that all non design service expedites or design services expedites if your contract is not amended, will not carry a charge. Non design products can only be expedited for the conditions listed currently. We are still trying to accommodate some CLEC reasons for non design expedites. We will continue working on this and we will have additional calls with the CLECs. Retail follows these same procedures. Jill advised we will work on this in phases.

Jill explained that when you amend your contract there are not reasons for expedites any longer. Qwest agrees to expedite and there is a charge for all expedites.

John Berard – Covad asked if there is a separate charge on design products if there is a fire. Jill advised no, the same charge applies. If Qwest causes the error than there is not a charge.

Stephanie Prull – Eschelon asked when the amendment will be available. Jill advised the target date is July 26. Stephanie asked how this new process affects resource assignment of network technicians. Jill advised we have the resources to cover expedited requests. We have performed volume forecasts. An expedited request and a regular request are equally weighted.

Jill summarized the Pre Approved Expedite process. The CLECs must amend their ICA, the estimated cost to expedite is 200.00 per day, and eligible products are identified in the PCAT.

Stephanie Prull – Eschelon advised that currently the CLECs have special reasons for an expedite that are not included in the list. The CLEC calls the center and works with Qwest to address these situations. Jill advised we need to follow our process, and we will still handle unique conditions. They may need to be escalated.

Liz Balvin – MCI asked if this will be implemented on the Access side. Jill advised the tariff target date is July 31 for Access products. Liz asked Jill to include the tariff reference in the response to comments. Jill advised the exception is the Washington tariff is not being filed at this time.

Jill reviewed the comments to make sure she had addressed the CLECs concerns in today's meeting. The CLECs agreed that the comments have been addressed during today's meeting. Jill advised she will make updates to the PCAT based on today's call.



June 16, 2004 CMP Meeting notes: Jill Martain – Qwest advised for design product the Level 3 notification went out on June 15. For non-design we are still investigating if the process is feasible. The CR will remain in Development Status.

May 19, 2004 CMP Meeting notes: Jill Martain – Qwest advised that Qwest will accept this CR with the caveat to implement this on a product by product basis. There may be some products that this process will not be implemented for. For those products, the old process will stay in place. There will be a cost to expedite and amendments will need to be done. The approximate cost is in the \$150.00 - \$400.00 price range. A per day improvement charge would be assessed. Jill advised that the target list of phase 1 products is included in the response. Qwest is targeting July 31 for implementation. Bonnie verified that this will apply to Retail also. Jill advised yes, and a tariff would be filed. Jill will provide an update next month. This CR will move to Development Status.

April 21, 2004 CMP Meeting notes: Jill Martain – Qwest reviewed the response for this CR. Jill advised that Qwest would like to leave this CR in Evaluation Status as we look at individual products for expedites. Jill asked the CLEC community if they are willing to pay just and reasonable charges to expedite. Bonnie Johnson - Eschelon stated that these charges should apply to retail customers as well. Liz Balvin – MCI asked how this would work. Are the prices driven by what is on our Interconnection Agreement? Jill Martain advised there would be charges in the ICA, and the amendment would have to be written. Bonnie said they would have to be commission approved rates. Jill advised she is not the expert on this process but she believes so. Liz Balvin clarified that if the CLECs are not willing to opt in to the contract, then they would follow the process that is effective today. Jill advised yes. Bonnie advised we do have situations when we have requested an expedite and Qwest denies it. Then the end user customer goes directly to Qwest and the expedite occurs. Jill advised we will keep this perspective in mind. This CR will move to Evaluation Status.

March 17, 2004 CMP Meeting John Berard – Covad presented the CR and explained that Qwest's Expedite Process is written based on certain situations, such as Medical Emergencies. However if the CLEC makes an error, there isn't a process to expedite for a CLEC error reason and the CLEC has to take a regular interval. We want a process to request a faster interval, and we are willing to pay for it. Eschelon supports the request and would like to understand what type of opportunities are available for our Retail customers and if they get charged for an expedite. Bonnie advised that they have had trouble getting their customer in service, and if their customer contacts our Retail organization themselves, they get service in okay. Ervin Rae – ATT advised that he has heard that Qwest leadership is in the process of reviewing our Expedite Process. Jill Martain – Qwest advised that we can take a look at all of these aspects and also review PC081403-1 as this CR is also requesting a 'Restoral Request Process'. This CR will move to Presented Status.

Clarification Meeting February 27, 2004 1-877-552-8688 7146042#  
PC021904-1 Expedite Process for Provisioning – enhancements to existing process

Attendees John Berard – Covad Bryan Comras – Covad Mark Gonzales – Qwest Heidi Moreland – Qwest Jill Martain - Qwest Cindy Macy – Qwest

Meeting Agenda: 1.0 Introduction of Attendees Attendees introduced

2.0 Review Requested (Description of) Change John Berard – Covad reviewed the change request. John explained that Covad would like the title of the CR updated, as this is really a request for an enhancement to the existing expedite process. Cindy agreed to update the CR. John advised that the expedite process is limited today to certain types of orders and processes. For example, medical emergencies. We may find that it is Covad's error that caused the customer to be disconnected. We would like to be able to get our customers restored quicker than standard interval, when it is our error. We are willing to pay for this service. Other ILECs

provide this service. We would like the criteria to be expanded to allow an expedite when the CLEC makes an error. Cindy Macy – Qwest asked for an example of this happening today. John Berard – Covad and Bryan Comras – Covad advised this relates to the Jeopardy process. When Covad fails to complete the order, but we complete the work at the DMARC the customer has service, but we do not close out the records so Qwest doesn't think the customers service is working. Qwest issued a jeopardy notice and since we didn't respond to that notice within 30 days Qwest then cancelled the orders and the service gets disconnected. Covad then goes back and resends the order, but we have to wait the standard interval and that is too long for the end user customer to wait, especially if it is a business account. John Berard – Covad advised disconnects can also happen when the end user selects migration to a new ISP provider. This isn't as critical as the down time is usually very limited as they are hooked up to the new provider. Heidi Moreland – Qwest asked how often this happens? Bryan – Covad replied approximately 20 times per month for Qwest, or once a day on average. Bryan advised that we get faster turn around time on certain products. Heidi confirmed that Shared Loop has a shorter standard installation interval than an unbundled xDSL-capable loop. Heidi advised that the customer could be disconnected when the sync test fails and the notice is not cleared. The DSLAM port is done by the CLEC and the customer is in service. If a supplement is not sent by the CLEC, and if there is no response in 30 days, then the line gets cancelled and pulled down. Covad advised it shouldn't matter what the history or circumstances are, if we are willing to pay for the expedite.

3.0 Confirm Areas & Products Impacted DSL, Line Share, Designed and DSL Products (all products) This applies to any one that was in service and has gone out of service and needs to be set back up due to Customer or end-user error.

4.0 Confirm Right Personnel Involved Jill agreed to get with Joan Wells regarding the Workback / Restoral Request process

5.0 Identify/Confirm CLEC's Expectation Covad would like the ability to pay for an Expedited due date (restoral of disconnected end user) Covad would like to treat these like trouble reports and get the end user back in service in one day. 6.0 Identify any Dependent Systems Change Requests  
PC081403-1 Work Back Restoral Request

7.0 Establish Action Plan (Resolution Time Frame) Covad will present the CR at the March CMP Meeting Qwest will provide our Response at the April CMP Meeting

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## **QWEST Response**

For Review by CLEC Community and Discussion at the May 19, 2004 CMP Meeting

May 12, 2004

Covad Communications John Berard, Director-Operations Support

SUBJECT: Covad's Change Request Response – CR #PC021904-1 Enhance Expedite Process for Provisioning

This letter is in response to Covad Communications Change Request (CR) PC021904-1. This CR requests that Qwest enhance the expedite process to allow for an interval that is shorter than what is currently available for the product.

Qwest will accept PC021904-1 Enhancement to existing Expedite Process, with the caveat that it will be looked at and implemented on a product by product basis. Qwest will continue to look at all of the individual products to determine if we will implement these changes. For those products which the expedite criteria/process does not change, Qwest will leave the existing expedite criteria and process in place. Additionally, as discussed

previously, expedite charges will become applicable for all expedites except those that are due to Qwest caused reasons and amendments will be required to existing Interconnection agreements to implement those charges. If a CLEC chooses not to amend their Interconnection Agreement, the current expedite criteria and process will be used.

The first phase of implementing a change to the expedite process will be around those products that are Designed Services. A list of those products is shown below. For Designed services, an expedite charge is applicable for each day that the due date is improved (unless the expedite is due to a Qwest caused reason). We are targeting an implementation date of July 31, 2004, pending approval of the Interstate FCC#1 tariff, individual state tariffs and Interconnection agreements.

Following are a list of products that will be included in Phase 1: Product UBL all except 2w/4w analog Analog PBX DID Private Line (DS0, DS1, DS3 or above) ISDN PRI T1 ISDN PRI Trunk ISDN BRI Trunk Frame Relay Trunk DESIGNED TRUNKS (Includes designed PBX trunks) Trunk MDS / MDSI DPAs (multiple DPAs or FX, FCO) Trunk UBL DID (Unbundled digital trunk)

For Review by the CLEC Community and Discussion at the April 21, 2003 CMP Meeting

April 14, 2004

Covad John Berard Director – Operations/Change Management

SUBJECT: CR # PC021904-1 Enhance Expedite Process for Provisioning

This letter is in response to Covad's Change Request (CR) PC021904-1 Enhance Expedite Process for Provisioning. This CR requests that Qwest enhance the Expedite process to allow for an interval that is shorter than what is currently available for the product.

Qwest would like to leave this CR in evaluation status as it needs to continue to look at the individual products and provisioning processes that are impacted by this request. Qwest will provide an updated response at the May CMP meeting. Qwest will move this CR to Evaluation status.

Sincerely,

Jill Martain Qwest Communications

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[<Back](#)

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Information Current as of 2/5/2007

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 107**

Examples of Expedite Requests Approved by Qwest for Unbundled Loop Orders (Revised)

<b>S T A T E</b>	<b>PON</b>	<b>LSR ID</b>	<b>Product</b>	<b>Reason Expedite Requested</b>	<b>Qwest Escalation Ticket Number</b>	<b>Date Completed</b>
AZ	AZ418942CJH	11322965	Analog Unbundled Loop	Customer requested	25531379	7-26-04
AZ	AZ409134CJH	10933986	Analog Unbundled Loop	Grand Opening	25494268	6-22-04
AZ	None	None	Analog Unbundled Loop	Qwest disconnect in error	25363502	2-6-04
AZ	CAZ5016941TIH	14503578	Analog Unbundled Loop	Eschelon disconnect in error	25734876	5-11-05
AZ	AZ505525JW	14591180	Analog Unbundled Loop	Customer has no service at new location	25742521	5-26-05
CO	CO397124T1FAC	10442493	DS1 Capable Loop	Customer requested expedited contract expired with current carrier	25456944	5-10-04
CO	CO403624CJH	10700495	Analog Unbundled Loop	Customer request	25480492	6-1-04
CO	CO419695T1FAC	12028645	EEL	Qwest held order ready for service date did not meet customer's requirements	25597104	10-11-04
CO	CO588026T1FAC	16091068	DS1 Capable Loop	Fire	25841849	11-11-05
CO	CO618778T1FAC	16752083	EEL	Qwest held order ready for service date did not meet customer's requirements	25882224	2-6-06
MN	MN510386T1FAC	14872800	DS1 Capable Loop	Qwest held order ready for service date did not meet customer's requirements	25759318	7-6-05
MN	MN452697T1FAC	12425697	DS1 Capable Loop	Qwest held order ready for service date did not meet	25638663	12-2-04

				customer's requirements		
MN	MN432908T1FAC-1	11830617	EEL	Qwest held order ready for service date did not meet customer's requirements	25586372	9-28-04
MN	MN410581LMM	10996838	Analog Unbundled Loop	Customer requested	25504311	6-28-04
MN	MN573604MVPSD	15781085	Analog Unbundled Loop	Customer will have no service at new location	25826564	10-13-05
OR	OR403180IBC	10688799	Analog Unbundled Loop	Customer requested	25480006	5-28-04
OR	OR403371IBC	10694012	Analog Unbundled Loop	Customer requested	25479983	5-28-04
UT	DUT242039-1RML	8424781	Analog Unbundled Loop	Eschelon disconnect in error	25258869	10-20-03
UT	UT406506CJH	10823362	Analog Unbundled Loop	Grand Opening	25491265	6-14-04
UT	UT404171CJH	10727233	Analog Unbundled Loop	Customer will have no service at new location	25482524	6-4-04
UT	UT406378CJH	10820860	Analog Unbundled Loop	Grand Opening	25490996	6-16-04
UT	None	None	Analog Unbundled Loop	Qwest disconnect in error	25804848	8-30-05
WA	WA303487RML	8412382	Analog Unbundled Loop	Eschelon disconnect in error	25258476	10-21-03
WA	WA419298CJH	11336326	Analog Unbundled Loop	Customer will have no service at new location	25532556	7-27-04
WA	WA405774CJH	10798940	Analog Unbundled Loop	Customer will have no service at new location	25488662	6-10-04
WA	WA5045671MLS	10755567	Analog Unbundled Loop	Eschelon disconnect in error	25485579	6-3-04
WA	WA409481T1FAC-1	11223088	DS1 Capable Loop	Customer will have no service at new location	25526529	7-23-04
WA	None	None	Analog Unbundled Loop	Qwest disconnect in error	25838375	10-31-05

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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**EXHIBIT 108**



**Announcement Date:** September 12, 2005  
**Effective Date:** October 27, 2005  
**Document Number:** PROS.09.12.05.F.03242.Expedites\_Escalations\_V27  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Expedites and Escalations V27  
**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** Not Applicable

**Summary of Change:**

On September 12, 2005, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites and Escalations V27. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is changing its Expedite process to include all loop types in order to create consistencies across the product line. 2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Additionally, Qwest is also including requests for Port In/Port Within that are associated with one of applicable designed services that are already included in the Pre-Approved Expedite Process. Customers who currently have an expedite amendment will automatically be included in this change.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline**

Planned Updates Posted to Document Review Site	Available September 12, 2005
CLEC Comment Cycle on Documentation Begins	Beginning September 13, 2005
CLEC Comment Cycle Ends	5:00 PM, MT September 27, 2005
Qwest Response to CLEC Comments	Available October 12, 2005





**Announcement Date:** November 18, 2005  
**Effective Date:** January 03, 2006  
**Document Number:** PROS.11.18.05.F.03492.FNL\_Exp-EscalationsV30  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP – FINAL NOTICE and Qwest Response to  
Comment - Expedites and Escalations V30  
**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** Not Applicable

Qwest recently posted proposed updates to Expedites and Escalations V30. CLECs were invited to provide comments to these proposed changes during a Document Review period from October 20, 2005 through November 3, 2005. The response has been posted to the Document Review archive web site under the original document review segment for Expedites and Escalations V30. The response will be listed in the Comments/Response bracket. The URL is [http://www.qwest.com/wholesale/cmp/review\\_archive.html](http://www.qwest.com/wholesale/cmp/review_archive.html).

**Resources:**

Customer Notice Archive <http://www.qwest.com/wholesale/notices/cnla/>  
Original Notice Number PROS.10.19.05.F.03380.ExpeditesEscalationsV30

If you have any questions on this subject, please submit comments through the following link:  
<http://www.qwest.com/wholesale/cmp/comment.html>.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.



**Announcement Date:** May 09, 2005  
**Proposed Effective Date:** June 23, 2005  
**Document Number:** PROS.05.09.05.F.02892.Expedites\_Escalations\_V22  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers  
**Subject:** CMP - Expedites and Escalations Overview V22  
**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** CLEC CR # PC021904-1

**Summary of Change:**

On May 9, 2005, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites and Escalations Overview V22. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is updating the Expedites Requiring Approval section to modify/change the existing manual process by adding three additional Expedite reasons. Qwest is limiting these changes to Business Classes of Service due to the short due date intervals that already exist for Residential Classes of Service and also due to the discussion with CR PC021904-1 around business customers that are usually being impacted. Also, language is being added related to providing the service order number that caused the expedite condition.

Further information about this Change Request is available on the Wholesale Web site at URL <http://www.qwest.com/wholesale/cmp/changerequest.html>.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**



**Announcement Date:** June 15, 2004  
**Proposed Effective Date:** July 30, 2004

**Document Number:** PROS.06.15.04.F.01792.ExpeditesV11  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers

**Subject:** CMP - Expedites & Escalations Overview V11.0

**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** CLEC CR # PC021904-1

**Summary of Change:**

On June 15, 2004, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Expedites & Escalations Overview V11.0. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

Qwest is modify/changing the existing manual Expedite process to incorporate two processes. These are described as Pre-Approved and Expedites Requiring Approval.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/exesclover.html>.

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html>. Fill in all required fields and be sure to reference the Notification Number listed above.

**Timeline:**

Planned Updates Posted to Document Review Site	Available June 15, 2004
CLEC Comment Cycle on Documentation Begins	Beginning June 16, 2004
CLEC Comment Cycle Ends	5:00 PM, MT June 30, 2004
Qwest Response to CLEC Comments (if applicable)	Available July 15, 2004 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a> <a href="http://www.qwest.com/wholesale/cmp/review.html">http://www.qwest.com/wholesale/cmp/review.html</a>
Proposed Effective Date	July 30, 2004

**Note:** In cases of conflict between the changes implemented through this notification and any CLEC Interconnection Agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such Interconnection Agreement shall prevail as between Qwest and the CLEC party to such Interconnection Agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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EXHIBIT 109

**BEFORE THE ARIZONA CORPORATION COMMISSION**



COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

IN THE MATTER OF:  
ESCHELON TELECOM OF ARIZONA, INC.  
  
Complainant,  
  
vs  
  
QWEST CORPORATION,  
  
Respondent.

DOCKET NO. T-03406A-06-0257  
DOCKET NO. T-01051B-06-0257

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On April 14, 2006, Eschelon Telecom of Arizona, Inc. ("Eschelon") filed with the Arizona Corporation Commission ("Commission") a complaint against Qwest Corporation ("Qwest") stating that Qwest has refused to provide both repairs for disconnects in error and the capability to expedite orders for unbundled loops under the repair and expedite language of the Qwest-Eschelon Interconnection Agreement ("ICA").

On April 27, 2006, Qwest and Eschelon filed an Agreement of Parties for Extension of Time to Answer the Complaint in this matter, giving Qwest until May 12, 2006 to file its Answer.

On May 12, 2006, Qwest filed its Answer to Eschelon's Complaint.

On May 16, 2006, by Procedural Order, a procedural conference was scheduled for May 24, 2006.

On May 19, 2006, at the request of the parties, the procedural conference originally set for May 24, 2006, was rescheduled for May 23, 2006.

At the procedural conference on May 23, 2006, counsel for the parties appeared and discussed their desire to implement an interim resolution regarding repairs and the capability to expedite orders for unbundled loops through the resolution of this proceeding. Each party agreed that an accounting

1 and a “true-up” to settle outstanding financial matters would be made based upon any decision issued  
2 in this matter. The parties were not in agreement regarding the particulars of the interim resolution,  
3 and were therefore ordered to file proposed schedules and interim resolutions for the consideration of  
4 the Administrative Law Judge by procedural order issued on May 23, 2006.

5 On June 2, 2006, both Eschelon and Qwest filed their proposed schedules and interim  
6 resolutions. Eschelon proposed interim terms that apply the emergency conditions of Qwest’s  
7 existing Expedite Requiring Approval, under which, if emergency conditions are met, Qwest would  
8 expedite the order at no additional cost to Eschelon for unbundled loops. If emergency conditions are  
9 not met, Eschelon would pay \$200 per day per expedite request. Qwest proposed interim terms that  
10 would apply the expedite process established in the Change Management Process (requiring Eschelon  
11 to pay \$200 per day per expedite request, without a determination of whether emergency conditions  
12 exist) without requiring Eschelon to enter into an amendment to its ICA. Each proposal provides for  
13 a true-up upon resolution of the matters pending in this docket.

14 Qwest’s proposed interim solution would allow Eschelon to request expedites for the cost of  
15 \$200 per day per expedite, without requiring an amendment to the current ICA, with no provision for  
16 no-cost emergency expedites. Another option is to maintain the status quo. Eschelon’s proposal is a  
17 good compromise, preserving the Eschelon’s ability to obtain no-cost emergency expedites but  
18 providing for payment to Qwest for non-emergency expedites. We will adopt Eschelon’s interim  
19 proposal in this docket, as it best preserves the respective parties’ rights.

20 Likewise, each party proposed disparate timelines for testimony, discovery, and hearing dates.  
21 Eschelon has requested a somewhat compressed timeline. Qwest’s lead counsel indicated that he has  
22 prior legal obligations during July, September, and October of 2006, and therefore Qwest has  
23 requested an extended timeline.

24 Given Staff’s expertise and experience with the Change Management Process, Staff  
25 participation will be necessary in this matter.

26 Taking the parties’ schedules and requirements into account, we will adopt a modified  
27 schedule as follows:

28 . . .

1	Eschelon Testimony	July 14, 2006
2	Qwest Testimony	August 21, 2006
3	Staff Testimony	September 14, 2006
4	Eschelon & Qwest Rebuttal	September 25, 2006
5	Pre-hearing conference	September 27, 2006
6	Hearing	October 2-5, 2006

7 IT IS THEREFORE ORDERED that the parties shall apply the interim resolution for expedite  
8 process provided for in Eschelon Telecom of Arizona's June 2, 2006 filing.

9 IT IS FURTHER ORDERED that the **hearing** in this matter shall be held on **October 2, 2006**  
10 **at 10:00 a.m.** at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. The  
11 parties shall set aside time through October 5, 2006 in the event that additional hearing dates are  
12 necessary.

13 IT IS FURTHER ORDERED that Eschelon's testimony and associated exhibits to be presented  
14 at hearing shall be reduced to writing and filed on or before **July 14, 2006**.

15 IT IS FURTHER ORDERED that Qwest's testimony and associated exhibits to be presented at  
16 the hearing shall be reduced to writing and filed on or before **August 21, 2006**.

17 IT IS FURTHER ORDERED that Staff's testimony and associated exhibits to be presented at  
18 hearing shall be reduced to writing and filed on or before **September 14, 2006**.

19 IT IS FURTHER ORDERED that any rebuttal testimony and associated exhibits to be  
20 presented at hearing by Eschelon and Qwest shall be reduced to writing and filed on or before  
21 **September 25, 2006**.

22 IT IS FURTHER ORDERED that a pre-hearing conference shall be held on **September 27,**  
23 **2006** at 10:00 a.m. at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona.

24 IT IS FURTHER ORDERED that all filings shall be made by 4:00 p.m. on the date the filing  
25 is due, unless otherwise indicated above.

26 IT IS FURTHER ORDERED that any objections to any testimony or exhibits which have  
27 been prefiled as of September 25, 2006, shall be made at or before the September 27, 2006, pre-  
28

1 hearing conference.

2 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
3 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is  
4 scheduled to testify.

5 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
6 regulations of the Commission, except that: any objection to discovery requests shall be made within  
7 7 days<sup>1</sup> of receipt and responses to discovery requests shall be made within 10 days of receipt; the  
8 response time may be extended by mutual agreement of the parties involved if the request requires an  
9 extensive compilation effort; and no discovery requests shall be served after **September 27, 2006**.

10 IT IS FURTHER ORDERED that discovery requests, objections, and answers may be served  
11 electronically.<sup>2</sup>

12 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
13 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
14 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
15 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
16 that the party making such a request shall forthwith contact all other parties to advise them of the  
17 hearing date and shall at the hearing provide a statement confirming that the other parties were  
18 contacted.<sup>3</sup>

19 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are  
20 not ruled upon by the Commission within 20 days of the filing date of the motion shall be deemed  
21 denied.

22 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of  
23 the filing date of the motion.  
24

25 \_\_\_\_\_  
26 <sup>1</sup> "Days" means calendar days. The date of receipt of discovery requests is not counted as a day, and requests  
received after 4:00 p.m. will be considered as received the next business day.

27 <sup>2</sup> If requested by the receiving party, and the sending party has the technical capability, service electronically is  
mandatory.

28 <sup>3</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations  
before seeking Commission resolution of the controversy.



1 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date  
2 of the response.

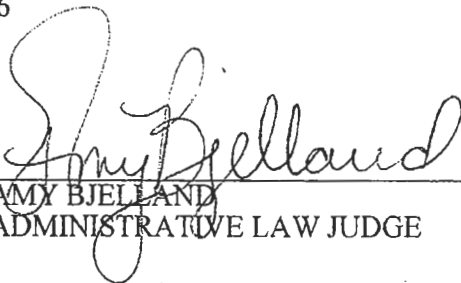
3 IT IS FURTHER ORDERED that all parties must comply with Rule 33 (c) and (d) of the  
4 Rules of the Arizona Supreme Court with respect to practice of law and admission *pro hac vice*.

5 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
6 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
7 Arizona Supreme Court). Representation before the Commission includes the obligation to appear at  
8 all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
9 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
10 Administrative Law Judge or the Commission.

11 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
12 Communications) applies to this proceeding and shall remain in effect until the Commission's  
13 Decision in this matter is final and non-appeable.

14 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
15 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

16 Dated this 6 day of June, 2006

17  
18   
19 \_\_\_\_\_  
20 AMY BJELLAND  
ADMINISTRATIVE LAW JUDGE

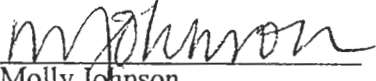
21 Copies of the foregoing mailed/delivered  
this 6 day of June, 2006 to:

22 Michael W. Patten  
23 ROSHKA, DeWULF & PATTEN  
24 400 East Van Buren Street, Ste. 800  
Phoenix, AZ 85004  
Attorneys for Eschelon Telecom of Arizona, Inc.

25 Karen L. Clauson  
26 Eschelon  
27 730 2<sup>nd</sup> Avenue South, Ste. 900  
Minneapolis MN 55402

28 ...  
...

- 1 Norman G. Curtright
- 2 Qwest Corporation
- 3 20 E. Thomas Road, 16<sup>th</sup> Floor
- 4 Phoenix, AZ 85012
  
- 5 Melissa Kay Thompson
- 6 Qwest Services Corporation
- 7 1801 California St., 10<sup>th</sup> Floor
- 8 Denver CO 80202
  
- 9 Christopher Kempley, Chief Counsel
- 10 Legal Division
- 11 ARIZONA CORPORATION COMMISSION
- 12 1200 West Washington Street
- 13 Phoenix, AZ 85007
  
- 14 Ernest G. Johnson, Director
- 15 Utilities Division
- 16 ARIZONA CORPORATION COMMISSION
- 17 1200 West Washington
- 18 Phoenix, AZ 85007
  
- 19 ARIZONA REPORTING SERVICE, INC.
- 20 2627 N. Third Street, Ste. Three
- 21 Phoenix, Arizona 85004-1126

14  
15 By:   
16 Molly Johnson  
17 Secretary to Amy Bjelland

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )

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**EXHIBIT 110**

**JEOPARDY CLASSIFICATION AND FIRM ORDER CONFIRMATIONS**

Issues:

- Circuit not accepted: Qwest failure to provide Eschelon with an FOC after a Qwest jeopardy, with Qwest then applying a Customer Not Ready (CNR) jeopardy even though Eschelon could not accept the circuit because, due to the lack of an FOC, Eschelon did not know Qwest was delivering the circuit. (See CR PC081403-1)
- Circuit accepted: Qwest failure, after sending a Qwest jeopardy for a due date, to provide Eschelon with an FOC with a new due date, with Qwest calling Eschelon to deliver the circuit on a different date (*i.e.*, a date for which there is no FOC) anyway. Although Eschelon may have been able to scramble and accept the circuit, Qwest should have provided an FOC to avoid that scramble. (See CR PC081403-1)

Event Summary (see Chronology below for additional information):

- 8/14/03 In CMP, Eschelon opened a Change Request (CR PC081403-1)
- 2/26/04 In CMP, Qwest confirmed (in response to an example provided by Eschelon) that (1) an **FOC should have been sent** after CLEC received a Qwest facility (K) jeopardy; (2) the FOC should have been sent **the day before the due date**; and (3) both sending the FOC and doing so the day before the due date are **part of Qwest's delayed order process**.
- 7/21/04 In CMP (eleven months after CR submission), Qwest closed the CR by providing that CLECs will receive an FOC after a Qwest facility (K) jeopardy but before (*i.e.*, 24 hours before) delivering the facility -- with compliance issues to be addressed going forward through Qwest Service Management (rather than CMP).
- 8/14/04 Eschelon began raising compliance issues with Qwest Service Management. Eschelon started to provide data relating to DS1 capable loop jeopardies on a regular (monthly/weekly) basis.
- 4/6/05 Qwest Service Management told Eschelon that **it is not part of the Qwest process** for CLEC to receive an FOC after Qwest facility (K) jeopardy but before (*i.e.*, 24 hours before) delivering the facility.
- 4/27/05 Eschelon proposed contract language in Qwest-Eschelon ICA negotiations addressing the issue of CLECs receiving an FOC after a Qwest facility (K) jeopardy but before delivering the facility.
- 8/3/05 **Qwest Service Management told Eschelon that Eschelon should open a Change Request in CMP** if Eschelon wanted to change the process.
- 8/15/05 Eschelon responded that it had already done so and that Qwest is in non-compliance with the process that already went through CMP.
- 9/1/05 Qwest CMP Process Manager told Eschelon that its process does not require Qwest to provide **any FOC at all** (*i.e.*, not just that it did not need to be provided the day before, but also that Qwest could send no FOC) after a facility jeopardy.

- 5/26/06 Issue 12-72 at impasse. Qwest position statement says to refer the issue to CMP.
- 8/25/06 Eschelon provided modified language for Issue 12-72 to Qwest (“at least a day”)
- 10/16/06 Qwest witness, Rene Albersheim, testifies in the Minnesota Eschelon/Qwest arbitration hearing that:
- Eschelon’s proposal reflects Qwest current practice with the exception of the phrase “the day before”
  - Qwest’s current process is to provide the CLEC with an FOC after a Qwest facilities jeopardy has been cleared
  - The FOC is the agreed upon process by which Qwest informs Eschelon of the due date for a circuit
  - If Qwest did not send Eschelon an FOC, a subsequent CNR jeopardy is improper
  - Qwest should not send a subsequent CNR jeopardy when Qwest did not provide an FOC
  - In at least 8 of the 23 examples Eschelon provided to Qwest, Qwest did not send Eschelon an FOC after the jeopardy but before delivering the circuit
  - In only 3 of the 23 examples Eschelon provided to Qwest did Qwest agree that Qwest incorrectly classified the jeopardy as CNR
- 11/3/06 Eschelon sends Qwest jeopardy tracking data, per the usual weekly process.
- 11/7/06 Qwest Director of Service Management responds to Eschelon’s email and states: “Qwest has determined that due to resources Qwest will not be reviewing this report any longer. Qwest through self reporting internally will manage the process and compliance of the delayed order process.”
- Nov. 06+ Eschelon continues to send weekly data, per the usual weekly process. Qwest sent additional emails indicating that Qwest will not review the data and, since then, has simply stopped responding.

### CHRONOLOGY

8/14/03 – Eschelon submitted Change Request PC081403-1 entitled “Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends an updated FOC.” Eschelon provided the following description of the requested change and requested deliverables:

“Qwest will contact the CLEC to test and accept only after the updated FOC has been sent and a designated time frame has passed. Qwest will not put the order in a CNR (customer not ready) jeopardy status until this time frame has passed and the CLEC is not ready.

When Qwest puts a CLECs request in delayed for facilities jeopardy status, Qwest should be required to send the CLEC an updated FOC when the delayed order is released and allow the CLEC a reasonable time frame to prepare to accept the circuit. Qwest releases orders form a held status (in some cases the CLEC has not even received an updated FOC) and immediately contacts the CLEC to accept the circuit. Because Qwest does not allow the CLEC a reasonable amount of time to prepare for the release of the delayed order, the CLEC may not be ready when Qwest calls to test with the CLEC. Qwest then places the request in a CNR jeopardy status. Qwest should modify the Delayed order process, to require Qwest to send an updated FOC and then allow a reasonable amount of time for the CLEC to react and prepare to accept the circuit before contacting the CLEC for testing.” (See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm)).

Qwest will contact the CLEC to test and accept only after the updated FOC has been sent and a designated time frame has passed. Qwest will not put the order in a CNR (customer not ready) jeopardy status until this time frame has passed and the CLEC is not ready.”

8/26/03 – During the CMP clarification call for Change Request PC081403-1, Qwest confirmed it should be sending the CLEC an FOC. The Qwest prepared minutes state: “Phyllis explained the jep could be placed early in the morning and the tech working on the it may get a solution the same day. This creates a timing difficulty. The current process is for the order to be jep’d, **Qwest would send an FOC when they find out the issue has been taken care of**, and then if the customer is not ready the LSR is put in CNR.” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

9/17/03 –Minutes of the CMP meeting regarding Change Request PC081403-1 state: “**Jill Martain is working on the issue with not receiving an FOC**. This was brought up at the CLEC forum. Cindy Macy-Qwest asked if the changes associated to PC072303-1 – changing the time when Qwest jeps for CNR, would meet this CR. Bonnie advised no, because in this case the order is being released from delayed status and the original FOC has already occurred.” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

10/6/03 – Minutes of an ad hoc CMP meeting state: “Jill said she certainly can accommodate some time frames in between FOC and Jep. Jill referred to this as Phase 2.” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm)

10/15/03 – Change Request combined/revised -- Qwest monthly CMP meeting notes state: “Changed the description of this CR as a result of synergies with PC072303-1. During the October 15 CMP meeting we discussed whether we should close/leave open/ or update CR PC081403-1 'Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order'. The reason we wanted to close/leave open or update PC081403-1 is because PC072303-1 is meeting many of the needs. **Bonnie Johnson agreed to change this CR, as long as we retained the original CR description**” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

12/8/03 – CMP clarification call for the revised PC081403-1. Minutes state: “Bonnie Johnson – Eschelon asked about the CR request regarding when the CLEC gets a jep, and then Qwest does not allow the CLEC time to react to the FOC (4 hour minimum). Jill asked Bonnie if we could wait and determine the impact of the 6pm jep time change **as this change should reduce the number of jeps and reduce this issue**. Bonnie agreed we could discuss this later if it is still an issue.” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

1/21/04 – January CMP meeting notes state: “Bonnie sent in two examples where they did not get a subsequent FOC and the order was jep’d for CNR. Bonnie advised that Qwest needs to find a way to get the FOC to the CLEC. **The impact to our business is that we are forced to supp the order and take a new due date. Qwest no longer takes the hit on the held order in this situation too. Bonnie advised that Qwest needs to aggressively tackle this issue as it impacts our business, end users and held orders. It is high profile and critical and it needs to be fixed.** Jill Martain – Qwest advised we have the examples and we are prepared to talk in more detail at the Friday meeting.” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

1/23/04 – Ad hoc CMP call to discuss Change Request PC081403-1 and related examples provided by Eschelon. Minutes stated: “Phyllis said the next topic to discuss is the request for additional wording on jeps. Phyllis explained that we can provide more detail on subsequent jeps. The first jep that goes out is considered a preliminary jep, with a preliminary view of the issue. Qwest does not know additional details until the engineer does investigation and finds out more. **Our target is that within 72 hrs Qwest would either send an FOC or another jeopardy notification with additional detail.** Bonnie Johnson – Eschelon advised the mechanical jeps are not detailed enough. . . .

Phyllis discussed the two examples that Eschelon sent in. 1) One was a jeopardy notification sent for a PICs issue, no FOC was sent & then CNR. – This was an example of a Critical Date Jeopardy that would be addressed by the proposal of not sending Critical Date Jeopardy Notifications as the situation is cleared so that the Due Date can be met, **thus the CLEC would expect Qwest to deliver on the Due Date.**” See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

2/26/04 – Qwest meeting notice<sup>1</sup> for a March 4, 2004 CMP meeting to review materials dated 2/25/06 attached to the notice related to Change Request PC081403-1. Attached 2/25/06 materials stated:

“Example #1 insufficient notice of an order being release prior to Eschelon receiving a CNR jeopardy.

1-23 Jeopardy Notification for K17, K09

1-28 FOC for 1-28

1-28 CNR

Action #1: As you can see receiving the FOC releasing the order on the day the order is due does not provide sufficient time for Eschelon to accept the circuit. Is this a compliance issue, shouldn't we have received the releasing FOC the day before the order is due? In this example, should we have received the releasing FOC on 1-27-04?

Response #1 ***This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date.***<sup>2</sup>

3/4/04 –Ad hoc CMP call. Minutes state: “Bonnie confirmed that the CLEC should always receive the FOC before the due date. ***Phyllis agreed, and confirmed that Qwest cannot expect the CLEC to be ready for the service if we haven't notified you.*** Bonnie asked about the CNR in error? (When the CLEC has gotten a CNR without a FOC). Jill Martain – Qwest advised that we believe eliminating the ‘critical date’ jeopardies will take care of the bulk of the problem with CNR jeopardies.” See

[http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

3/17/04 –CMP meeting. Minutes state: “Bonnie Johnson – Eschelon stated that she wants to make sure that we get documentation to support the process that an FOC must be sent before a customer not ready jeopardy occurs. Phyllis advised she is still working on this issue with an interdepartmental team. Phyllis advised that Jean Novak – Service Manager has had meetings with Network to respond to the examples that Eschelon forwarded as “inaccurate Jeopardy Notices and is still working on the issue. ***Jean is working on ‘inaccurate jeopardy notices’ and Phyllis is working on ‘when you don’t get an FOC’.***” See

[http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

7/21/04 – Closed Change Request PC081403-1 entitled “Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends an updated FOC” at CMP meeting. Minutes state: “***Qwest advised that this CR was implemented May 27.*** Qwest would like to close this CR. Bonnie Johnson – ***Eschelon advised she is having a problem with compliance to this process.*** Bonnie asked if there is additional work going on for this CR? Jill advised we put the process in place to identify and work critical jeopardy codes so the CLECs do not have to worry about the interim jeopardy codes. In addition the process includes providing additional details on the jeopardy within 72 hours if we are not able to send an FOC within that time frame. Jill Martain – Qwest asked if this is a compliance issue or a process problem. Bonnie said it is hard to determine at times,

<sup>1</sup><http://www.qwest.com/wholesale/cnla/uploads/CMPR%2E02%2E26%2E04%2EF%2E01421%2EJeopardyNotifiProcess%2Edoc>

<sup>2</sup><http://www.qwest.com/wholesale/cnla/uploads/PC081403%2D1JeopNotif%2DFinalMarch4meeting%2Edoc> (emphasis changed)



but *she is willing to close this CR and handle the compliance issue with the Service Manager*. The CLECs agreed to close the CR.”  
See [http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm) (emphasis added)

8/16/04 – Email from Eschelon to Qwest Service Management. It states:

**From:** Johnson, Bonnie J.  
**Sent:** Monday, August 16, 2004 7:59 AM  
**To:** jlnovak[contact information redacted]  
**Cc:** Larson, Laurie A.; Bonnie Johnson; Karen Clauson; Kimberly Isaacs; Raymond Smith  
**Subject:** Qwest Held Order Jeopardy Process Compliance

Jean,

Qwest delayed order process compliance issues are impacting our Service Delivery organization. In our last WTM, Eschelon communicated to Qwest that Eschelon was concerned about Qwest's compliance to its newly implemented delayed order process. Eschelon said it would start measuring and reporting Qwest's delayed order compliance to process on an ad-hoc basis for the RC/WTM.<sup>3</sup>

Though Qwest and Eschelon agreed to manage this within the WTM process, Qwest's lack of adherence to its own delayed order process has created such a significant impact to our Service Delivery organization, Eschelon is asking for immediate root cause and action on the attached data.

Qwest sent a notice advising CLECs that the Qwest delayed order center work was being assigned to different centers. Eschelon heard (unofficially) that the Cheyenne, WY delayed order center was closing and in the June CMP meeting told Qwest this impacts CLECs and CLECs need to be notified this happens. When entire centers close and a new group of Qwest employees are doing work they have not performed before, this significantly impacts the CLECs involved.

As a general note, Eschelon has asked its employees that manage the Qwest delayed orders to be patient as Qwest works through its center reassignment and training. However, these Eschelon employees have reported they are having a great degree of difficulty getting answers to questions and finding someone to help. This is over and above the delay in getting any response at all. Prior to Qwest moving the work, Eschelon called the CSIE<sup>4</sup>, asked to be transferred to the delayed order group, requested the information needed, Qwest provided the information and the call was done. This is no longer the case.

**Action required** : Eschelon asks Qwest where Qwest is in the work movement process and what time frame Qwest will finish training its employees processing delayed orders.

---

<sup>3</sup> RC = Report Card (a report Eschelon provided Qwest). WTM = Working Team Meeting (Eschelon and Qwest service management monthly meeting).

<sup>4</sup> CSIE = Qwest's Customer Service Inquiry and Education (otherwise known as Interconnect Service Center (ISC)), see ICA Section 12.1.3.3.2.1.

I am attaching the analysis Kim completed for delayed orders 8/1/04 through 8/13/04. For this project Eschelon included only DS1 loop orders. To help Qwest identify where the breakdown is occurring, Eschelon has included all held orders. Qwest then see who is following process and who is not. As you will see from the summary tab, for all held orders Qwest has about a 50% process compliance rate.

**Action required:** Eschelon asks Qwest to perform root cause expeditiously and tell Eschelon what steps Qwest will take to ensure Qwest is adhering to the delayed order process. Eschelon measured; timely jeopardy, did Qwest send detail or an FOC within 72 hours, did Qwest send an FOC releasing the order at least 24 hours before the release or DD (or did Qwest send a FOC releasing the order at all) and did Qwest inappropriately apply a CNR jeopardy when Qwest did not follow the delayed order process. In addition, Eschelon asks Qwest to remove any inappropriate CNR jeopardies from service orders.

Please let me know if you have questions.

[enclosure – Excel spreadsheet]

Bonnie J. Johnson  
Director Carrier Relations  
[contact information redacted]

8/25/04 – Email from Qwest Service Management to Eschelon. It states:

-----Original Message-----

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, August 25, 2004 2:44 PM  
**To:** Johnson, Bonnie J.  
**Cc:** Larson, Laurie A.; Karen Clauson; Kimberly Isaacs; Raymond Smith;  
Novak, Jean; Tietz, Jeff  
**Subject:** Qwest Held Order Jeopardy Process Compliance  
Bonnie

Attached is the jeopardy analysis completed on the examples provided to Qwest by Eschelon. Qwest would like to note:

- 1.) Five of the LSRs in the spreadsheet are where a FOC was not sent timely prior to the due date because Qwest resolved the facility condition either on PTD or on the due date. The delayed order process was not were the breakdown occurred, rather resolving the facility issue late in the process and still attempting to meet the customers due date. Qwest will continue to monitor this.
- 2.) There were a number of LSRs listed that were due to workforce, B33. It is my understanding that this was discussed in CMP and agreed to by the CLEC community to ignore B33s sent prior to the due date.

In summary:

There were several LSRs that were listed more than once and Qwest provided an explanation for the overall LSR only once.

There were approximately 26 were Qwest saw no process gaps and the CLEC should have expected us on the due date that was FOC'd.

There were 16 were Qwest has taken appropriate action. Of those 16, 5 were due to the issue described above with resolving the facility really late in the process; 5 of those will be addressed through coaching and the other 6 were miscellaneous issues addressed by Qwest.

Let me know if you have additional questions or feedback.

Thanks,  
Jean Novak

8/25/04 – Email from Eschelon to Qwest Service Management. It states:

-----Original Message-----

**From:** Johnson, Bonnie J. [mailto:[bjjohnson@eschelon.com](mailto:bjjohnson@eschelon.com)]  
**Sent:** Wednesday, August 25, 2004 4:04 PM  
**To:** Novak, Jean; Johnson, Bonnie J.  
**Cc:** Larson, Laurie A.; Clauson, Karen L.; Isaacs, Kimberly D.; Smith, Raymond L; Tietz, Jeff  
**Subject:** RE: Qwest Held Order Jeopardy Process Compliance

Jean,

You are correct about the B jeps. Qwest did tell Eschelon to ignore those jeps. Eschelon told Qwest it was sending the universe of DS1 jeoaprdies to review. Eschelon communicated it did so, because Qwest could then tell what Qwest employees/groups/centers were following process and where Qwest needed to focus attention or additional training. I hope Qwest did not spend a significant amount of valuable time doing root cause on those jeopardies where Eschelon agrees Qwest followed its process. As you can see from the spreadsheet, on all but one of the B jeopardies, Eschelon agreed Qwest followed process. The B jeopardy that is marked no, was marked no because Eschelon ignored the B jeopardy, as Qwest's process states (because Qwest said in all cases Qwest meets the DD) and Qwest missed the due date. In those cases, Eschelon is unable to notify the customer until after Qwest has already missed the commitment.

In addition, on those responses Qwest said Eschelon provided duplicates, the LSR had multiple jeopardies and Eschelon was communicating each jeopardy for the LSR separately. On line 15 Eschelon agrees Qwest followed the process, however, on line 9 where Qwest states it is a duplicate, Qwest did not follow the process. Can you confirm that line 9 was addressed? The Qwest comments says duplicate see line 7 and line 7 was a different jeopardy for that LSR.

<<Qwest Analysis of Jeopardy Compliance Eschelon Orders  
080104-081204.xls>>

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone 612 436-6218  
Fax 612 436-6318  
Cell 612 743-6724  
[bjjohnson@eschelon.com](mailto:bjjohnson@eschelon.com) <<mailto:bjjohnson@eschelon.com>>

**2004-Present** – Eschelon continued to provide additional examples to Qwest on a regular (weekly to monthly) basis.

**2/28/05 - From Eschelon Issues Log for Service Manager Meetings (which is regularly provided to Qwest)<sup>5</sup> – Eschelon notes indicate:**

Qwest (Jean) said “Qwest looked at January data and found had Qwest people that did not understand process and were not following the process. Qwest is training. Qwest did see on some the 72 hour response sent when Eschelon checked no.”

**3/28/05 – Qwest email to Eschelon in response to examples. It states:**

“-----Original Message-----

**From:** Novak, Jean [contacted information redacted]

**Sent:** Monday, March 28, 2005 9:00 AM

**To:** Isaacs, Kimberly D.; Jean Novak (E-mail)

**Cc:** Novak, Jean; Nielsen, Joshua

**Subject:** Jeopardy Compliance 3 7 05

Kim,

Qwest completed on the analysis on Eschelon's February Delayed Orders that were sent on March 7, 2005 with the following results:

Missed sending the 72 hour update notification . Qwest is currently working with each department that updates information to insure the Delayed Order Group receives the information needed for processing.

Missed sending the Releasing FOC . Qwest has trained individually and with the group. In addition, tracking information from other Qwest departments which impact timely responses.

Missed providing the Circuit ID/SBN on Jep's sent prior to FOC. Qwest has trained individually and with the group.

Of all the misses due to not adhering to process, 50% were attributed to the same person. Correction action has taken place.

Thanks  
Jean Novak  
Regional Service Director  
Qwest Communications”

**4/06/05 - Discussion during the 4/6/05 Eschelon/Qwest monthly Service Delivery meeting. Eschelon later provided the following documentation to Qwest in an issues log (with emphasis added): “The delayed orders have moved to the Mpls Center. Chris believes she has addressed process and training needs for her Center personnel and Chris and Jean are working with network on the network caused issues. *Chris said there is an outstanding problem of FOC 24 hours in advance when the order had a Qwest K jeopardy.* Chris said**

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<sup>5</sup> Eschelon provides the issues log to Qwest on a regular basis (approx. weekly). It contains information from weekly calls and monthly meetings, as well as email and other communications, between Eschelon and Qwest.

she cannot find that process and she checked with process on the issue. **Chris said Phyllis said this was not a part of the process. Bonnie said she was in disbelief to hear anyone from Qwest make that statement after all of the work in CMP.** Not having time to react to an FOC was one of the main sticking points of the whole process overhaul and Qwest send information as responses to Eschelon's examples that state Qwest should FOC 24 hours before the DD and for the examples Qwest said it was a compliance issue to an existing Qwest process. Bonnie said if Qwest wants to change or work through the process we could do that in CMP. Jean will work with Qwest CMP and review CRs , meeting minutes and ad-hoc meeting minutes on the subject."

4/27/05 - Eschelon proposed contract language in Qwest-Eschelon ICA negotiations addressing the issue of CLECs receiving an FOC after a Qwest facility (K) jeopardy but before delivering the facility

5/04/05 - **From Eschelon Issues Logs for Service Manager Meetings (which is regularly provided to Qwest)** – Eschelon notes indicate Qwest said:

"Chris Siewert was not happy with the the results of the data Kim continues to send Qwest on a daily basis. Bonnie asked if this was network related and Jean said it was also center related and Phyllis is working with network. Chris said they found an SDC that needed to be trained. Qwest has provided no additional information on FOC 24 hours before the DD."

6/27/05 - Eschelon/Qwest weekly issues call – Eschelon later provided the following documentation to Qwest in an issues log (with emphasis added):

"Jean said she had an internal call with Qwest personnel and Qwest disagrees that Qwest sending an FOIC [sic] the day before the DD is a part of the process. Bonnie said that is not true. Qwest responded to an example Kim sent to Phyllis where Qwest sent a CO1 jep on an order that Qwest sent a same day FOC for. **The Qwest response was that Qwest did not follow process and Qwest should send an FOC before the DD. Kim said this is why we did not focus on this as a part of the process. Qwest said it was already a part of the process so it did not need to change. Bonnie sent Jean the CMP notice Qwest sent February of 2004.** Jean will contact Phyllis directly to discuss."

6/27/05 – Eschelon email to Qwest. It stated:

**From:** Johnson, Bonnie J.  
**Sent:** Monday, June 27, 2005 3:18 PM  
**To:** jlnovak [contact information redacted]  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.; Larson, Laurie A.  
**Subject:** FW: Change Management Notice: Meetings: GN: CMP - Jeopardy Notification Process: Effective Immediately

Jean,

As you can see this went out through CMP. Qwest FOCd us that same day date and then CO1 jepped the order. You can see Qwest's response so we never felt we had to approach changing the process. This was in February of 2004.

I am not certain, however, but was under the impression Phyllis did the analysis and provided the responses.

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[contact information redacted]”

**8/3/05 - - From Eschelon Issues Logs for Service Manager Meetings (which is regularly provided to Qwest) – Eschelon/Qwest monthly Service Delivery meeting – Eschelon notes indicate (with emphasis added):**

“Jean stated that Qwest continues to look at data and take appropriate training action, In June Eschelon reported a 74% compliance rate and Qwest believes the compliance was at 80%. Jean will provide Qwest's analysis to Kim to review. Jean once again stated that Qwest disagrees that it is Qwest's process to send the releasing FOC 24 hours prior to the FOC due date. *Jean stated that Eschelon should open a CMP CR if we would like to change the process.*”

**8/9/05 – Qwest email to Eschelon. It stated:**

“-----Original Message-----  
From: Novak, Jean [contacted information redacted]  
Sent: Tuesday, August 09, 2005 10:21 AM  
To: Isaacs, Kimberly D.  
Cc: Novak, Jean; Nielsen, Joshua  
Subject: Delayed order process

Kim

As we discussed at our meeting last week regarding Qwest giving Eschelon a 24-hours notice of a released delayed order. We have had many discussions and Qwest is still holding to the position that this is not part of the delayed order process. At our last meeting, Eschelon indicated that they were going to re-open a previous CR. Can you let me know when you plan to do that and please copy me when you do send the email to re-open.

Thanks  
Jean Novak”

**8/9/05 – Eschelon email to Qwest. (See above at 2/26/04 regarding the notice/agenda for the 3/4/05 call referenced in the email.) It stated:**

“-----Original Message-----  
From: Isaacs, Kimberly D. [contact information redacted]  
Sent: Tuesday, August 09, 2005 10:39 AM

To: Novak, Jean; Johnson, Bonnie J.  
Cc: Nielsen, Joshua  
Subject: RE: Delayed order process

Jean,

As we have discussed in a number of our meetings, Eschelon believes that on 2-25-04 Qwest communicated (see the agenda for the 3-4-05 ad hoc call on change request PC080103-1) that it is Qwest's process to provide 24 hours notice on a released delayed orders. Eschelon is very disappointed that contrary to the written statements Qwest made on 2-25-04, Qwest is maintaining that sufficient notice of an order being released from delayed status is not part of the delayed order process and that issue needs to be brought to CAMP again.

I will discuss the current status of this issue with Bonnie when she returns. Bonnie and I will discuss the alternatives and communicate our next steps to you at that time.

Thank you.

Kim Isaacs  
Eschelon Telecom, Inc  
ILEC Relations Process Specialist  
[contact information redacted]"

8/16/05 – Eschelon email to Qwest. It stated:

**From:** Johnson, Bonnie J.  
**Sent:** Tuesday, August 16, 2005 9:01 AM  
**To:** Isaacs, Kimberly D.; 'Novak, Jean'; Bonnie Johnson; [cmpr@qwest.com](mailto:cmpr@qwest.com)  
**Cc:** 'Nielsen, Joshua'; Larson, Laurie A.; Henderson, Mike P.; Johnson, Bonnie J.  
**Subject:** RE: Delayed order process

All,

As Kim states below, Qwest told Eschelon (and all CLEC's in an ad-hoc meeting for delayed process through CMP) that Qwest's existing process for delayed orders is to FOC the CLEC 24 hours (or the day prior to the new DD). As a practical matter, it is unreasonable to expect a CLEC to accept a circuit when Qwest has told the CLEC the circuit is in jeopardy and Qwest has not sent the CLEC notification that the jeopardy condition no longer exists.

As CLEC's and Qwest worked through overhauling the delayed order process in 2004, Eschelon sent examples to Qwest so the CLEC's and Qwest could collaboratively determine what was and was not process and what changes needed to be made to the process. When Eschelon provided Qwest the example (attached below) when Qwest sent Eschelon an FOC on the due date for that same day due date, and then Qwest jepped the order CO1 because Eschelon was not ready to accept the circuit, Qwest said the example was Qwest non-compliance with Qwest's existing

process to send an updated FOC the day before the due date (*"This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date."*). As a result there was no further discussion on this subject during the time Qwest and CLEC's collaboratively worked on the delayed order process. Qwest cannot now say it has changed its "position" because by changing its "position" Qwest is unilaterally changing its process. Qwest cannot change its process without submitting a level 4 change request through CMP. If Qwest wants to change its existing process, or work collaboratively with CLEC's to develop a new or define the existing process further, Eschelon would be willing to do so. This process would need to care for the concern that Qwest could COI jep a request in error if the CLEC cannot accept the circuit when Qwest did not send a timely updated FOC and allow the CLEC an opportunity to prepare to accept the circuit.

Until such time Qwest submits a level 4 change request through CMP to change its existing process, Eschelon will continue to note Qwest's failure to send Eschelon an FOC 24 hours (or the day before the new due date) after Qwest has sent the CLEC a Qwest jeopardy, as non-compliance to Qwest's existing jeopardy process.

Let me know if you have questions. As I have done in the past, I will enclose Qwest's CMP response to Eschelon's question.

Jill,

I am making you aware of this matter. Our Service Management Team has been unable to resolve the issue with Qwest process. Perhaps we need to gather the CMP Oversight Committee to address.

Here is the information on the receiving FOC 24 hours prior to the release due date for K Jep'd orders. The information I read you is on page two.

Here it is

**Example #1 insufficient notice of an order being release prior to Eschelon receiving a CNR jeopardy.**

**1-23 Jeopardy Notification for K17, K09**

**1-28 FOC for 1-28**

**1-28 CNR**

**Action #1: As you can see receiving the FOC releasing the order on the day the order is due does not provide sufficient time for Eschelon to accept the circuit. Is this a compliance issue, shouldn't we have received the releasing FOC the day before the order is due? In this example, should we have received the releasing FOC on 1-27-04?**

**Response #1** *This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date.*

-----Original Message-----

**From:** [mailouts2@qwest.com](mailto:mailouts2@qwest.com) [SMTP:mailouts2@qwest.com]

**Sent:** Thursday, February 26, 2004 2:57 PM

**To:** kdisaacs[contact information redacted]

**Subject:** Change Management Notice: Meetings: GN: CMP - Jeopardy  
Notification Process: Effective Immediately





ContactMailAttach. htm (7 KB)      ACF308C.doc (77 KB)

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[contact information redacted]”

8/16/05 – Qwest email to Eschelon. It stated:

**“From:** New Cr, Cmp [mailto:cmpcr2@qwest.com]  
**Sent:** Tuesday, August 16, 2005 2:45 PM  
**To:** Johnson, Bonnie J.; Isaacs, Kimberly D.; Novak, Jean; cmpcr@qwest.com  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.  
**Subject:** RE: Delayed order process

Good Afternoon Bonnie,

Your email was received and I see your note stating that you may want to take the issue to the Oversight Committee to address. If you do want to proceed in that direction, please submit your formal request to the [cmpesc@qwest.com](mailto:cmpesc@qwest.com) email address, with the appropriate supporting documentation, as outlined in section 18.2 of the Qwest Wholesale Change Management Process Document.

Thank You.”

8/17/05 – Eschelon email to Qwest. It stated (with emphasis changed):

**“From:** Johnson, Bonnie J.  
**Sent:** Wednesday, August 17, 2005 2:08 PM  
**To:** Isaacs, Kimberly D.; Novak, Jean; Johnson, Bonnie J.  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.  
**Subject:** RE: Delayed order process

Jean,

I discussed this with Jill in CMP today. ***I told Jill that pursuing this issue is not Eschelon’s responsibility. Qwest CMP gave us a response and we discussed this existing Qwest process during ad-hoc calls. If Qwest now says this is not the process, Qwest changed the process and is in violation of CMP process which states Qwest must submit a level 3 or 4 CR. Eschelon has provided Qwest with the following response Qwest gave to CLEC’s via CMP several times.***

Example #1 insufficient notice of an order being release prior to Eschelon receiving a CNR jeopardy.  
1-23 Jeopardy Notification for K17, K09  
1-28 FOC for 1-28  
1-28 CNR

Action #1: As you can see receiving the FOC releasing the order on the day the order is due does not provide sufficient time for Eschelon to accept the circuit. Is this a compliance issue, shouldn't we have received the releasing FOC the day before the order is due? In this example, should we have received the releasing FOC on 1-27-04?

Response #1 This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date.

- ***Specifically Kim's question was "Is this a compliance issue, shouldn't we have received the releasing FOC the day before the order is due?"***
- ***The Qwest response was "This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date."***

Note how Qwest's response states non-compliance to a "documented" process. It just cannot be more clear. ***This exact situation was the major basis for the CR Eschelon submitted and the work Qwest and CLEC's did to overhaul the process.*** I am quite surprised, and frustrated, that we are even at this point and Eschelon has to spend time and resources attempting to resolve this.

Jill said she will review all of the work we did and contact me. In addition, to address Chris Siewert's concerns that Qwest may want to deliver the circuit after Qwest removes the Qwest jeopardy condition without a delay of 24 hours, I did reiterate that we are willing to refine the process to include short duration or even no FOC (with FOC to follow installation) as long as Qwest documents that it cannot inappropriately apply a CO1 jep if Eschelon CANNOT accept the circuit when Qwest did not send a timely FOC.

I suspect Jill will be in contact with you.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[contact information redacted]

8/29/05 – Qwest email to Eschelon. It stated (with emphasis added):

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**From:** New Cr, Cmp [mailto:cmpcr2@qwest.com]  
**Sent:** Monday, August 29, 2005 4:21 PM  
**To:** Johnson, Bonnie J.; Isaacs, Kimberly D.; Novak, Jean; cmpcr@qwest.com  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.; Martain, Jill; Harlan, Cynthia  
**Subject:** RE: Delayed order process

Bonnie,

I have researched the documents and conversations we have had around the jeopardy notification process. I have not found any reference where Qwest has stated that its process was to send a FOC 24-hours prior to the due date on a delayed order situation.

I was also unable to find the specific LSR that you referenced in your email, but I was able to find other spreadsheets where we did analysis on the LSRs that Eschelon believed the FOC was not issued timely. In those situations where we indicated it was a process compliance issue, it was because Qwest internally knew that the jeopardy condition was resolved prior to the due date but did not get the FOC issued in a timely manner. I also found other instances where Qwest had indicated that the reason that we were not able to send a FOC prior to the due date was due to the fact that the facility condition was not resolved until the actual due date. In those instances, Qwest did not state that there was a compliance issue, rather, we documented whether we were able to work with you to actually install the service on the original DDD or whether we completed it at a later date.

*As I tried to communicate at CMP, Qwest's goal is to be able to provide you a FOC prior to the due date. However, that is not always possible as our process is to continue to work on the facility resolution in an effort to meet our customer's requested due date.* If we end up resolving the situation on the due date, Qwest still attempts to coordinate with our customers to turn up the service; and in many instances, we are successful in working with them to install the service and meet the CLECs and their end-users requested date.

I agree that we did have a lot of discussion around this issue when we worked the CR, but we believed that implementing the changes would dramatically reduce the jeopardy conditions and increase the instances when you could expect Qwest to meet the due date. I understand that there will be times when we don't really know until the due date that we can install the service, but those situations should be the exception, not the norm.

Qwest's desire is to continue to move forward with the process that is documented and continue to make every effort to meet our customers due date.

Regards,

Jill Martain

CMP Process Manager

Qwest"

9/1/05 – Eschelon email to Qwest. It stated (with emphasis added):

**From:** Johnson, Bonnie J.  
**Sent:** Thursday, September 01, 2005 8:22 AM  
**To:** 'New Cr, Cmp'; Isaacs, Kimberly D.; Novak, Jean; [cmpcr@qwest.com](mailto:cmpcr@qwest.com)  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.; Martain, Jill; Harlan,

Cynthia; Johnson, Bonnie J.  
**Subject:** RE: Delayed order process

Jill,  
In your response you did not address Qwest's policy/position/process of what happens when Qwest does not provide adequate notice of release via FOC or provides no FOC at all and the CLEC cannot accept the loop. This is usually due to staffing because the CLEC did not have the loop on its schedule. Will Qwest send a CNR jeopardy? ***This is the core of the issue which was outlined in Eschelon's CR that Qwest said it completed as a part of the "overall" redesign of the jeopardy process.***

Please advise. Once Qwest provides a response we can move forward with potential documentation needs.

Thanks,

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[contact information redacted]"

9/1/05 – Qwest email to Eschelon. It stated:

“-----Original Message-----

**From:** Martain, Jill [contact information redacted]  
**Sent:** Thursday, September 01, 2005 10:21 AM  
**To:** Johnson, Bonnie J.; New Cr, Cmp; Isaacs, Kimberly D.; Novak, Jean; cmpcr@qwest.com  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.; Harlan, Cynthia  
**Subject:** RE: Delayed order process

Qwest's current process is that if Qwest is unable to turn up a circuit on the due date and the reason is because the CLEC was not ready, a CNR jeopardy is sent after 6 p.m. MT.

Jill Martain

CMP Process Manager

Qwest”

9/1/05 - Eschelon email to Qwest. It stated :

**From:** Johnson, Bonnie J. [contact information redacted]  
**Sent:** Thursday, September 01, 2005 1:05 PM  
**To:** Martain, Jill; New Cr, Cmp; Isaacs, Kimberly D.; Novak, Jean; cmpcr@qwest.com  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.; Harlan, Cynthia;

Johnson, Bonnie J.  
**Subject:** RE: Delayed order process

Jill,  
So let me confirm:

- Qwest sends Eschelon a facility jeopardy (Qwest jeopardy)
- Qwest does not send Eschelon an FOC releasing the circuit
- Qwest calls Eschelon to deliver the circuit
- Eschelon does not have the resources to accept the circuit by close of business that day
- End result - Qwest places the circuit in a CNR jeopardy status.

Please advise.

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[contact information redacted]”

9/1/05 – Qwest email to Eschelon. It stated (with emphasis added):

“-----Originla Message-----

**From:** **Martain, Jill** [contact information redacted]  
**Sent:** Thursday, September 01, 2005 4:59 PM  
**To:** Johnson, Bonnie J.; New Cr, Cmp; Isaacs, Kimberly D.; Novak, Jean;  
cmpcr@qwest.com  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.; Harlan, Cynthia  
**Subject:** RE: Delayed order process

Bonnie,

Your scenario is correct. Qwest will continue strive to meet our customer’s due date even if that means that we resolve the facility situation on the due date. ***Our goal is to be able to provide you a FOC prior to the due date but there may be occasions that we were not able to do so if we did not resolve the facility condition until the due date.*** Again, this should be the exception, not the normal course of doing business.

Jill Martain

CMP Process Manager

Qwest “

9/6/05 -- Eschelon email to Qwest. It stated:

**“From:** Johnson, Bonnie J. [contact information redacted]  
**Sent:** Tuesday, September 06, 2005 12:08 PM

**To:** Martain, Jill; New Cr, Cmp; Isaacs, Kimberly D.; Novak, Jean;  
cmpcr@qwest.com  
**Cc:** Nielsen, Joshua; Larson, Laurie A.; Henderson, Mike P.; Harlan, Cynthia;  
Johnson, Bonnie J.  
**Subject:** RE: Delayed order process

Jill,  
Eschelon is glad to hear this is the exception and not the rule because this is not the process we discussed in CMP. If Qwest tries to deliver the circuit and Eschelon is not ready, this has to be a Qwest jeopardy because Qwest did not send an FOC, and Qwest cannot delay our order.

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[contact information redacted]"

9/12/05 – Qwest email to Eschelon. It stated:

**From:** Martain, Jill [contact information redacted]  
**Sent:** Monday, September 12, 2005 5:26 PM  
**To:** Johnson, Bonnie J.  
**Subject:** RE: Delayed order process

Bonnie,

I apologize for the late reply. I did want to let you know that I did receive your feedback and comments. Qwest will continue to strive to deliver service on the due date to meet our customer's expectations.

Regards,

Jill Martain  
CMP Process Manager  
Qwest"

8/25/06 - Eschelon modified its proposal for issue 12-72 as follows (in bold):

**Issue 12-71:**

12.2.7.2.4.4 A jeopardy caused by Qwest will be classified as a Qwest jeopardy, and a jeopardy caused by CLEC will be classified as Customer Not Ready (CNR).

**Issue 12-72:**

12.2.7.2.4.4.1 There are several types of jeopardies. Two of these types are: (1) CLEC or CLEC End User Customer is not ready or service order is not accepted by the CLEC (when Qwest has tested the service to meet all testing requirements.); and (2) End User Customer access was not provided. For these two types of jeopardies, Qwest

will not characterize a jeopardy as CNR or send a CNR jeopardy to CLEC if a Qwest jeopardy exists, Qwest attempts to deliver the service, and Qwest has not sent an FOC notice to CLEC after the Qwest jeopardy occurs but at least a day before Qwest attempts to deliver the service. CLEC will nonetheless use its best efforts to accept the service. If needed, the Parties will attempt to set a new appointment time on the same day and, if unable to do so, Qwest will issue a Qwest Jeopardy notice and a FOC with a new Due Date.

**Issue 12-73:**

12.2.7.2.4.4.2 If CLEC establishes to Qwest that a jeopardy was not caused by CLEC, Qwest will correct the erroneous CNR classification and treat the jeopardy as a Qwest jeopardy.

**10/5/05 - From Eschelon Issues Logs for Service Manager Meetings (which is regularly provided to Qwest) – Eschelon notes indicate:**

“Per Jean Qwest implemented a new tracking process to track network sending information so Qwest can send an FOC. Bonnie asked if Eschelon should continue to send the delayed data to Qwest. Jean said yes. in October. The tracking mechanism was implemented in Colorado sometime. Eschelon told Jean that starting in October Eschelon was going to break down the "no FOC" with more detail. Eschelon wants to ensure that Qwest is looking at multiple compliance issues orders and just because there was an FOC did not want other misses overlooked. Jean said Qwest still looks at all of the data, even the no FOC, to determine why no FOC was sent even though Qwest does not consider this non compliance.”

**5/3/06 - From Eschelon Issues Logs for Service Manager Meetings (which is regularly provided to Qwest) – Eschelon notes indicate:**

“Chris Siewert said they analyze the orders. Jean said they address coaching opportunities. Jean said if cross functional she sends to process.”

**6/7/06: -- From Eschelon Issues Logs for Service Manager Meetings (which is regularly provided to Qwest) – Eschelon notes indicate:**

“Monthly Call - Kim indicated they she has saw a decrease in the jeopardy process compliance, many of the mistakes appeared to be "rookie" mistakes. Eschelon has seen slight improvements over the last month or so. Jean indicated that the jeopardy process data is being used to coach new Qwest personnel”

**10/17/06 Excerpts from Eschelon (Q) cross examination of Qwest witness Rene Albersheim (A) at the Minnesota ICA Arbitration Hearing, OAH DOCKET NO.3 - 2 5 0 0 - 17369 – 2, PUC DOCKET NO. P 534 0 , 42 1/ I C - 06 - 768**

**Page 37 lines 11-23 -**

“Q. You say there that Eschelon's proposal does not reflect Qwest's current practice because it adds the phrase at least a day to when Qwest will provide a FOC following a Qwest jeopardy?”

A. At least a day before, yes.

Q. Other than that phrase, at least a day before, is Eschelon's proposal consistent with Qwest's practice?”

A. Current practice, yes, except for that sentence.

Q So you agree with me that Qwest's current practice is to provide the CLEC with an FOC after a Qwest facilities jeopardy has been cleared; is that right?”

A Yes.”

**Page 38 lines 17-19 -**

“Q The FOC is the agreed upon process by which Qwest informs Eschelon of the due date for a circuit?”

A Yes.”

**Page 40 lines 5-14 -**

“Q Now, you would agree with me that of the 23 instances identified by Ms. Johnson in her testimony, 15 of those instances involved Qwest failing to provide any FOC at all; correct? And I mean following the original jeopardy notice.

A I'm not sure. I'd have to count how many of those that would apply to.

Q Well, you can go ahead and do that.

A Thank you. I would say that's definitely true for eight, for five it's not clear.”

**Page 98 lines 23-25**

“A subsequent jeopardy should not be treated as a CNR jeopardy. And in that exhibit we found three cases where we did that.”

**Page 95 lines 6-24 -**

“Q Would you agree that if Qwest didn't provide an FOC following an initial jeopardy, that it would be improper to subsequently categorize the CLEC's inability to take the circuit as a CNR jeopardy?”

A If you're speaking of in a subsequent jeopardy, yes.

Q And if Qwest comes to deliver the circuit and the CLEC can't take it, that's a subsequent jeopardy; correct? That's the way Qwest treats it?”

A Yes.

Q And if the CLEC doesn't have notice and isn't able to take the circuit, Qwest treats that as a CNR jeopardy under its current process; correct?”

A The second jeopardy, yes.

Q And you would agree that that's not proper, if the CLEC hasn't received an FOC in adequate time to be able to act on it; correct?”

A According to procedure, yes.

Q That's Qwest's procedure?”

A Yes.”



11/03/06 - Eschelon email to Qwest, enclosing jeopardy data. It stated:

**From:** Isaacs, Kimberly D. [CONTACT INFORMATION REDACTED]  
**Sent:** Friday, November 03, 2006 9:50 PM  
**To:** Novak, Jean; Dobesh, Mary  
**Subject:** Qwest Jeopardy Process Tracking 11-3-06

Have a great week.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph:* [CONTACT INFORMATION REDACTED]  
*Fax:* [CONTACT INFORMATION REDACTED]  
*Email:* [CONTACT INFORMATION REDACTED]

11/07/06 -- Qwest email to Eschelon. It stated:

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Tuesday, November 07, 2006 9:04 AM  
**To:** Isaacs, Kimberly D.  
**Cc:** Dobesh, Mary  
**Subject:** Qwest Jeopardy Process Tracking 11-3-06

**Attachments:** SENT 2006.11.3 Qwest Jep Process Tracking.xls

Kim  
Qwest has determined that due to resources Qwest will not be reviewing this report any longer. Qwest through self reporting internally will manage the process and compliance of the delayed order process.

Thanks  
Jean Novak

11/13/06 - Eschelon email to Qwest, enclosing jeopardy data. It stated:

**From:** Isaacs, Kimberly D. [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, November 13, 2006 2:14 PM  
**To:** Novak, Jean; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** Qwest Jeopardy Process Tracking 11-13-06

Hello,  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph:* [CONTACT INFORMATION REDACTED]  
*Fax:* [CONTACT INFORMATION REDACTED]  
*Email:* [CONTACT INFORMATION REDACTED]

11/13/06 – Qwest email to Eschelon. It stated:

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, November 13, 2006 2:19 PM  
**To:** Isaacs, Kimberly D.; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Qwest Jeopardy Process Tracking 11-13-06  
Based on resources, Qwest will not be reviewing individual spreadsheets. Qwest will be relying on internal reports to insure compliance. Thanks

11/20/06 - Eschelon email to Qwest, enclosing jeopardy data. It stated:

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, November 20, 2006 11:23 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest Jeopardy Process Tracking 11-20-06

As you know, Eschelon disagrees. Eschelon's request that Qwest review our data and respond to it is ongoing. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Plr:* [CONTACT INFORMATION REDACTED]  
*Fax:* [CONTACT INFORMATION REDACTED]  
*Email:* [CONTACT INFORMATION REDACTED]

11/20/06 – Qwest email to Eschelon. It stated:

**From:** Novak, Jean [mailto:Jean.Novak@qwest.com]  
**Sent:** Monday, November 20, 2006 11:31 AM  
**To:** Isaacs, Kimberly D.; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Qwest Jeopardy Process Tracking 11-20-06

Qwest has made the determination that internal reports will be reviewed that will address all issues for all customers. Thanks, jean

11/27/06 - Eschelon email to Qwest, enclosing jeopardy data. It stated:

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, November 27, 2006 8:11 AM  
**To:** 'Novak, Jean'; 'Dobesh, Mary'  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking - 11/27/2006

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*

*ILEC Relations Process Specialist*  
*Ph:* [CONTACT INFORMATION REDACTED]  
*Fax:* [CONTACT INFORMATION REDACTED]  
*Email:* [CONTACT INFORMATION REDACTED]

11/27/06 – Qwest email to Eschelon. It stated:

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, November 27, 2006 11:50 AM  
**To:** Isaacs, Kimberly D.; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Qwest Jeopardy Process Tracking - 11/27/2006

Qwest will be utilizing internal reports which will capture all issues for all customers.

11/27/06 - Eschelon email to Qwest. It stated:

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, November 27, 2006 11:55 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest Jeopardy Process Tracking - 11/27/2006

As you know, Eschelon disagrees. Eschelon's request that Qwest review our data and respond to it is ongoing

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph:* [CONTACT INFORMATION REDACTED]  
*Fax:* [CONTACT INFORMATION REDACTED]  
*Email:* [CONTACT INFORMATION REDACTED]

12/04/06 - Eschelon email to Qwest, enclosing jeopardy data. It stated:

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, December 04, 2006 9:21 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Jeopardy Process Tracking 12-4-06

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph:* [CONTACT INFORMATION REDACTED]  
*Fax:* [CONTACT INFORMATION REDACTED]  
*Email:* [CONTACT INFORMATION REDACTED]

12/11/06 - Eschelon email to Qwest, enclosing jeopardy data. It stated:

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, December 11, 2006 9:05 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking - 12-11-2006

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
*Ph: [CONTACT INFORMATION REDACTED]*  
*Fax: [CONTACT INFORMATION REDACTED]*  
*Email: [CONTACT INFORMATION REDACTED]*

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with        )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.            )**  
**Section 252 of the Federal                                )**  
**Telecommunications Act of 1996                         )**

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**EXHIBIT 111**

**Resources**

**Change Management Process (CMP)**

**Open Product/Process CR PC081403-1 Detail**

**Title:** Jeopardy Notification Process Changes (new title). Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends an updated FOC (old title).

<b>CR Number</b>	<b>Current Status Date</b>	<b>Area Impacted</b>	<b>Products Impacted</b>
<b>PC081403-1</b>	Completed 7/21/2004	Provisioning	Private Line, Resale, Unbundled Loop, EEL (UNE-C), UNE-P

**Originator:** Johnson, Bonnie  
**Originator Company Name:** Eschelon  
**Owner:** Sunins, Phyllis  
**Director:** Bliss, Susan  
**CR PM:** Harlan, Cindy

**Description Of Change**

Changed the description of this CR as a result of synergies with PC072303-1. During the October 15 CMP meeting we discussed whether we should close/leave open/ or update CR PC081403-1 'Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order'. The reason we wanted to close/leave open or update PC081403-1 is because PC072303-1 is meeting many of the needs. Bonnie Johnson agreed to change this CR, as long as we retained the original CR description.

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Change Jeopardy Notices sent on DVA and PTD for Designed Services

After analysis of Due Dates that are being missed when jeopardy

notices are sent prior to the Due Date, Qwest is proposing that only

specific jeopardy conditions be sent to the CLEC on the critical date of DVA

and PTD. On DVA, Qwest would prefer to only send jeopardy notices for

facility and plug-in issues. The jeopardy codes would be those that start

with a "K" (facility reasons) or on a jeopardy code of V25 (PICS/BRI

plug-ins required.) For the critical date of PTD, Qwest would continue to

send all jeopardy notices except those that end in "33" (work force issues)

i.e., B33, E33, P33. The reason for eliminating the "33" jeopardy code is

due to the fact that Qwest is not missing Due Dates for this reason and is

causing unnecessary jeopardy notices being sent to the CLEC. Along with these proposed changes, Qwest would also like to hear suggestions from the CLEC community any changes they feel would benefit the overall jeopardy notification process. Changes being implemented with PC072303-01, Expanding the Jeopardy Notifications to 6 p.m. Mountain Time are also helping the overall jeopardy process.

**Expected Deliverable:**

Change the jeopardy notification process to reduce unnecessary jeopardy notices being sent to the CLEC when the Due Date is not in jeopardy and to improve the overall jeopardy notification process.

\*\*\*\*\*

Qwest will contact the CLEC to test and accept only after the updated FOC has been sent and a designated time frame has passed. Qwest will not put the order in a CNR (customer not ready) jeopardy status until this time frame has passed and the CLEC is not ready.

When Qwest puts a CLECs request in delayed for facilities jeopardy status, Qwest should be required to send the CLEC an updated FOC when the delayed order is released and allow the CLEC a reasonable time frame to prepare to accept the circuit. Qwest releases orders from a held status (in some cases the CLEC has not even received an updated FOC) and immediately contacts the CLEC to accept the circuit. Because Qwest does not allow the CLEC a reasonable amount of time to prepare for the release of the delayed order, the CLEC may not be ready when Qwest calls to test with the CLEC. Qwest then places the request in a CNR jeopardy status. Qwest should modify the Delayed order process, to require Qwest to send an updated FOC and then allow a reasonable amount of time for the CLEC to react and prepare to accept the circuit before contacting the CLEC for testing.

**Expected Deliverable:**

Qwest will modify, document and train a process, that requires Qwest to send an updated FOC and allow a CLEC a reasonable amount of time (from the time the updated FOC is sent) to prepare for testing before Qwest contacts the CLEC to test and accept the circuit. Qwest should cease applying a jeopardy status of CNR to delayed orders that are released and the CLEC has not been provided a reasonable amount of time to prepare to test/accept the circuit.

This should apply to all orders where the delayed order process is followed and testing is required.

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### **Status History**

08/14/03 - CR Submitted

08/15/03 - CR Acknowledged

8/19/03 - LWTC for Bonnie regarding Clarification Meeting

8/26/03 - Held Clarification Call

9/17/03 - Sep CMP meeting minutes will be posted to the database

10/6/03 - Held CLEC Ad Hoc call to discuss synergys between this CR and PC072303-1

10/8/03 - Sent response to CLEC

10/10/03 - Sent email to Bonnie to request change of status to withdraw due to synergy's with other CR PC072303-1

10/13/03 - Bonnie advised she would like to keep open and reference PC072303-1 and Jill's new CR when it is issued

10/15/03 - Oct CMP meeting minutes will be posted to the project meeting section

10/30/03 - Changed the description of this CR as a result of synergies with PC072303-1. During the October 15 CMP meeting we discussed whether we should close/leave open/ or update CR PC081403-1 'Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order'. The reason we wanted to close/leave open or update PC081403-1 is because PC072303-1 is meeting many of the needs. Bonnie Johnson agreed to change this CR, as long as we retained the original CR description.

11/19/03 - Nov CMP meeting minutes will be posted to the database

12/1/03 - Scheduled CLEC ad hoc meeting for 12/8/03 to review jep codes/ content

12/5/03 - CMPR.12.05.03.F.01144.JeopardyProcessHandout

12/8/03 - Held ad hoc meeting to review jep codes / content

12/17/03 - Dec CMP Meeting notes will be posted to the database

1/21/03 - Jan CMP meeting minutes will be posted to the database

2/18/04 - Feb CMP Meeting notes will be posted to the project meeting section

3/4/04 - Held ad hoc meeting with CLECs

3/17/04 - March CMP meeting notes will be posted to the project meeting section

4/12/04 - Sent document to document review site

4/21/04 - April CMP meeting notes will be posted to the project meeting section

5/19/04 - May CMP Meeting notes will be posted to the project meeting section

6/16/04 - June CMP Meeting notes will be posted to the project meeting section

7/21/04 - July CMP Meeting notes will be posted to the project meeting section

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## Project Meetings



July 21, 2004 CMP Meeting notes: Cindy Macy – Qwest advised that this CR was implemented May 27. Qwest would like to close this CR. Bonnie Johnson – Eschelon advised she is having a problem with compliance to this process. Bonnie asked if there is additional work going on for this CR? Jill advised we put the process in place to identify and work critical jeopardy codes so the CLECs do not have to worry about the interim jeopardy codes. In addition the process includes providing additional details on the jeopardy within 72 hours if we are not able to send an FOC within that time frame. Jill Martain – Qwest asked if this is a compliance issue or a process problem. Bonnie said it is hard to determine at times, but she is willing to close this CR and handle the compliance issue with the Service Manager. The CLECs agreed to close the CR.

June 16, 2004 CMP Meeting notes: Cindy Macy – Qwest advised this process was implemented May 27. No comments came in for this CR. We would like to move this CR to CLEC Test Status.

May 19, 2004 CMP Meeting notes: Cindy Macy – Qwest advised this process will be implemented May 27. No comments were received. Cindy thanked Phyllis Sunins and Jill Martain for all of their work on this CR. Qwest held several input sessions with the CLECs to work out issues prior to releasing the documentation. This CR will remain in Development Status.

April 21, 2004 CMP Meeting notes: Phyllis Sunins – Qwest advised that the updates to the documentation have posted to the documentation site. The comment cycle is open with customer feedback due by April 27. This CR will remain in Development Status.

March 17, 2004 CMP Meeting notes: Agreement was reached that the initial jeopardy notice would continue to be sent as documented (based on current system functionality). Qwest proposed that an updated Jeopardy Notification with additional detailed remarks would be sent within 72 hrs from when the Initial Jeopardy was sent if a solution to the delayed condition has not been reached. The proposal means that within 72 hrs from the initial Jeopardy Notification, the CLEC will receive one of the following: 1. FOC confirming original Due Date 2. FOC confirming revised Due Date based on Network resolution of the Jeopardy condition including details on the delay. 3) An "updated" Jeopardy Notification with more specific details of the Jeopardy condition. An FOC will follow when the revised Due Date has been determined.

In addition, Qwest will discontinue critical date jeopardy notifications and continue due date jeopardy notifications. (Critical date jeopardy notifications will still go out until a system enhancement can be made to change this, but the CLECs can disregard them). Phyllis will revise the PCAT to identify jeopardy codes where "The Due Date is in Jeopardy" (YES/NO) so that you can ignore "Critical Date" Jeopardy Codes that do not impact the Due Date until a separate enhancement can be made. The PCAT update has been forwarded to the external documentation team. Bonnie Johnson – Eschelon stated that she wants to make sure that we get documentation to support the process that an FOC must be sent before a customer not ready jeopardy occurs. Phyllis advised she is still working on this issue with an interdepartmental team. Phyllis advised that Jean Novak – Service Manager has had meetings with Network to respond to the examples that Eschelon forwarded as "inaccurate Jeopardy Notices and is still working on the issue. Jean is working on 'inaccurate jeopardy notices' and Phyllis is working on 'when you don't get an FOC'. Bonnie Johnson advised Qwest can contact us anytime during the day to accept the service. If we are contacted after 5PM we don't want the jeopardy to be considered a customer not ready. Bonnie advised she wants this information in the PCAT. This CR will stay in Development Status.

## PC081403-1 Jeopardy Notification Process Ad hoc meeting March 4, 2004

In attendance: Kim Isaacs – Eschelon Phyllis Sunins – Qwest Julie Pickard – US Link Bonnie Johnson – Eschelon Regina Mosely – ATT Cheryl Peterson – ATT Phyllis Burt – ATT Carla Pardee – ATT Jill Martain – Qwest Jim McClusky – Accenture Donna Osborne Miller – ATT Peggy Rehn – New Start Stephanie Prull – Eschelon

Cindy Macy – Qwest opened the call and reviewed the agenda items. Phyllis Sunins – Qwest thanked Kim Isaacs – Eschelon for providing examples that Phyllis investigated. Phyllis asked if the CLECs had the chance to review the documentation and if they had any questions.

Bonnie Johnson – Eschelon said she reviewed the documentation and summarized the changes. Bonnie verified that Qwest is proposing to omit critical jeopardy notifications, but not due date impacting jeopardy notifications. All of the CLECs agreed to this change as previous meetings so this change is okay to implement.

Bonnie asked if the mechanical notifications are the ones that will not be updated with additional information. Phyllis advised that it could be a manual notification also, as the same notification goes out, it is just that the process is manual.

Phyllis explained we could send additional information on the updated notification. Qwest does not always have enough information when we first determine a jeopardy condition. If we try to provide more information in the beginning, the chances are that the information will not be very accurate. We do not want to convey a service issue if it really isn't a problem. Phyllis advised Qwest would send additional information within 72 hours.

Bonnie confirmed that the CLEC should always receive the FOC before the due date. Phyllis agreed, and confirmed that Qwest cannot expect the CLEC to be ready for the service if we haven't notified you. Bonnie asked about the CNR in error? (When the CLEC has gotten a CNR without a FOC). Jill Martain – Qwest advised that we believe eliminating the 'critical date' jeopardies will take care of the bulk of the problem with CNR jeopardies.

Jill advised this solution would be implemented in two phases. The CLECs will get jeopardy notices, but you can ignore the 'critical date' jeopardy notices. These jeopardies are identified on the matrix that Phyllis put together. System changes are needed to stop these jeopardies and that will take awhile to get implemented. We would like to implement this process and monitor the impact and see if it has reduced the number of issues.

Cindy Macy – Qwest asked how will the CLECs know which jeopardy codes to ignore? Jill and Phyllis asked for the CLECs preference to how they would like this identified on the matrix. Agreement was reached to add a column to the matrix (3rd column) and call it 'Due Dates in Jeopardy'.

Phyllis Burt – ATT asked if these codes are going away and we wouldn't see them on the order. Phyllis – Qwest advised these are not due date impacting codes, they are interim steps before the due date. These codes will not go away until the system changes can be made. The CLECs do not need to take action on these codes.

Bonnie Johnson – Eschelon asked Stephanie about the EDI impacts. Can we ignore these or do we have to change any code? Stephanie said so far it seems as if this will work for us.

Bonnie confirmed that Qwest would provide additional information on Jeopardies within 72 hours from distribution of the initial jeopardy notification. Jill agreed and summarized that we will publish the process as a Level 3 with a comment cycle. If the CLECs need to meet again before we publish the document please advise Cindy Macy. The CLECs should monitor the process after it is implemented to determine if it has improved.

Next steps: Publish documentation Level 3.

February 18, 2004 CMP Meeting Phyllis Sunins – Qwest advised that she is working with Kim Isaacs – Eschelon and analyzing some examples that were sent in. Qwest did find a few process compliance examples that are being addressed. Cindy Macy – Qwest will provide a document to address Eschelon's examples and this will be reviewed during the ad hoc meeting the first week in March. This CR will remain in Development Status.

Ad Hoc Call January 23, 2004 PC081403-1 Jeopardy Process

In attendance: Liz Balvin – MCI Karen Severson – Telephone Associates Kim Isaacs – Eschelon Phyllis Sunins – Qwest Jill Martain – Qwest Stephanie Prull – Eschelon Trudy Hughs – Idea One Shirley Richard – Idea One Rosie Glastell – Idea One Bonnie Johnson – Eschelon Colleen Sponseller – MCI Mary Hunt – MCI Carla Pardee – ATT Linda Sanchez-Steinke – Qwest Cindy Macy – Qwest Nancy Sanders – Comcast

Cindy Macy – Qwest opened the call and reviewed the agenda. Cindy advised that we will discuss providing more detail on Jep Notices, review the improvements as a result of the CNR 6pm Jep CR, and discuss examples that were sent in regarding subsequent FOC not sent.

Jill Martain reviewed the agenda and advised that Phyllis Sunins will provide additional details regarding the work that has been completed. Phyllis will share where we have been, where we are and where we want to go with this CR.

Phyllis began the discussion and asked the CLECs how the jeopardy notification process change to 6pm is going? Kim Isaacs – Eschelon advised she had gathered a couple weeks worth of data. It does appear there has been an effect. The impact is not as great as she thought it would be, but they will continue to monitor the change. Kim explained she noticed an interesting situation and Eschelon saw that quite a few sups of due date, then FOC on due date and then Jep on sup. Kim will send examples to Phyllis to investigate.

Rosemary – Idea One asked why is Qwest holding the jep until 6 PM. Phyllis explained a CR was issued to implement a new process. Effective with the new process a jeopardy notification is not sent when a jeopardy condition is cleared the same day by 6 PM. Kim Isaacs – Eschelon advised this process is only on mechanized jeps, not manual jeps.

Phyllis said the next topic to discuss is the request for additional wording on jeps. Phyllis explained that we can provide more detail on subsequent jeps. The first jep that goes out is considered a preliminary jep, with a preliminary view of the issue. Qwest does not know additional details until the engineer does investigation and finds out more. Our target is that within 72 hrs Qwest would either send an FOC or another jeopardy notification with additional detail. Bonnie Johnson – Eschelon advised the mechanical jeps are not detailed enough.

Phyllis advised another idea that may be possible is to use HEET, which is used on the ASR side. This is a web tool to check status on delayed

orders. It may be possible to implement for LSRs. Rosemary – Idea One asked what is RTT. Phyllis advised RTT is a Referral Tracking Tool that tracks facility shortages. RTT is Engineering's database for resolving facility situations referred to them. Bonnie advised she would like to review other alternatives if HEET is not a viable solution.

Today Qwest sends jeopardy notifications for both Critical Date Jeopardies and Due Date Jeopardies. Phyllis discussed the idea of sending jeopardy notifications that would impact the Due Date only. Qwest would discontinue sending jeopardy notifications for jeopardies on Critical Dates that are cleared the same day or the next day and the Due Date is still met. As an example; Qwest sends jeopardy notifications for PICs – V25 (plug in network cards) problems. This jeopardy situation is resolved so that the Due Date is met. Another example is Jeopardy Notifications for Work Force Issues (33's). Qwest works with our Work Forces to readjust their loads so that the Due Date is met. Bonnie Johnson – Eschelon agreed they do not want to see jeps for 'interim date' issues. If the end due date is impacted, then they need to know. Idea One and MCI supported Bonnie's comment. Phyllis confirmed that the due date jep would still happen, (Qwest could discontinue the Critical Date jeopardies which are cleared by Due Date) . If the Due Date will be missed, it is part of Qwest's Network Processes to call the CLEC on the Due Date. In addition, the CLECs will receive their jeopardy notification after 6 PM. MCI verified when the jep is sent it comes as an 865 EDI transaction, and the FOC is an 855 EDI transaction.

Bonnie advised they do want more detail on what the jep'd problem is. They need to know if it is a F1 pair, or the street needs to be dug up. She would like more detail on one jep in particular: 'Local Facility not available'. Bonnie asked when does this jep occur. What situation causes this jep to be assigned?

Phyllis discussed the two examples that Eschelon sent in. 1) One was a jeopardy notification sent for a PICs issue, no FOC was sent & then CNR. – This was an example of a Critical Date Jeopardy that would be addressed by the proposal of not sending Critical Date Jeopardy Notifications as the situation is cleared so that the Due Date can be met, thus the CLEC would expect Qwest to deliver on the Due Date.

2) The other example is a Network compliance issue, which Phyllis is working with Network to correct.

Bonnie thanked Phyllis for reviewing the examples. Bonnie advised that if they receive a CNR jep, and the CLEC has not received the FOC, they would escalate the situation. Bonnie advised they want the order worked without having to sup the order and they would like the jep lifted. Bonnie advised she would like to develop a process of how we will handle this situation when we get a CNR and didn't get the FOC.

Phyllis summarized our next steps:

Kim Isaacs will send examples to Phyllis of orders sup'd on due date

CLECs will continue to monitor 6pm jeps

Jill / Phyllis will review wording of jeps to add more detail

Bonnie brought up a concern on the time required for getting funding to implement the "Due Date only" Jeopardy notifications (from a mechanical perspective). She proposed having Qwest furnish a list of "Critical Date" jeopardy notifications which could be "disregarded on an interim basis. Phyllis will research this request. This information will be worked via the

CMP process and additional meetings.

January 21, 2004 CMP Meeting Jill Martain – Qwest advised that we met with the CLECs last month and agreed to monitor the JEP process and then meet again in January to review additional information that can be put on the Jeopardy notice. We have a meeting scheduled for January 23 to discuss this further. Bonnie sent in two examples where they did not get a subsequent FOC and the order was jep'd for CNR. Bonnie advised that Qwest needs to find a way to get the FOC to the CLEC. The impact to our business is that we are forced to supp the order and take a new due date. Qwest no longer takes the hit on the held order in this situation too. Bonnie advised that Qwest needs to aggressively tackle this issue as it impacts our business, end users and held orders. It is high profile and critical and it needs to be fixed. Jill Martain – Qwest advised we have the examples and we are prepared to talk in more detail at the Friday meeting. This CR will remain in Development Status.

- December 17, 2003 CMP Meeting Jill Martain – Qwest advised we had an ad hoc meeting to review the updated Jeopardy matrix. Jill is working with the centers to provide additional information on the Jeopardy notices. The team agreed to monitor the impact of the change to 6pm jep notices and meet again next month to review any additional changes needed and to review enhanced jeopardy description information. Bonnie Johnson – Eschelon advised she will monitor internally the impact to the change in jeopardy time frames and provide feedback at our next meeting. (Included comment from Bonnie Johnson in the following sentence). Bonnie said this CR is not related to CR to change the jeopardy to 6pm). This CR will remain in Development Status.

Clarification Call PC081403-1 Jeopardy Notification Process

December 8, 2003 3:00 – 4:00

In attendance: Valerie Estorga – Qwest Valerie Star – NoaNet Oregon Marty Petrowski – WAN Tel Oregon Kim Isaacs – Eschelon Anne Atkinson – ATT Jill Martain – Qwest Phyllis Burt – ATT James McClusky – Accenture Donna Osborne Miller – ATT Steph Prull – Eschelon Ray Smith – Eschelon Cheryl Peterson – ATT Carla Pardee – ATT Wayne Hart – Idaho PUC Bonnie Johnson – Eschelon Cindy Macy – Qwest

Cindy Macy – Qwest introduced the attendees and reviewed the purpose of the call. Cindy verified the attendees had the Jeopardy Notification matrix.

Jill Martain – Qwest explained we have held discussions with the CLECs in hopes of improving the jeopardy process. Jill would like to review the matrix and allow the CLECs to ask questions and voice their concerns.

Jill explained the change to send jeopardy notification at 6pm was effective over the weekend. This applies to all mechanized jeopardy codes. The intent of this change should reduce the number of jeopardies sent, as Qwest clears many jeopardies through out the day.

Jill explained there are some manual jeopardies that are not part of this process, such as C)% and SX. Based on investigation, we are looking at sending jeopardies on Facility and Plug in equipment issues. These would be K and V25 – PICS jeps. Possibility exists to eliminate all 33 work force jeps. This will allow us to reduce the number of jeps sent on certain phases of the order.

Bonnie Johnson – Eschelon said she would be glad to try this process and see what improvement it makes.

Marty – WAN Tel asked if Qwest could send more information on the jep notification. If the description / content / reason why Qwest is placing the order in jep, would help the CLEC understand and address the problem. For example, if Qwest says there are local facility issues but does not say what kind of issue, the CLEC can not take action on the issue. It is very difficult for the CLEC to find more out about the issue too. Jill agreed she would see if we could provide more detail on why the order was placed in jeopardy. Jill said if more information can be included she would try to get that implemented as soon as possible.

Bonnie Johnson – Eschelon agreed that providing adequate information on jeopardy notices is critical for the CLEC to look at alternative solutions.

Steph Prull – Eschelon asked if the process could be revised to include the correlation between the 'reason code' and the 'jeopardy detail code' on the jeopardy notice. The Disclosure document has the reason code but does not have a correlation to the jeopardy detail code. Jill advised she would look into this.

Kim Isaacs – Eschelon asked about C09 as this code seems in conflict with the held order process. Jill advised C09 would not occur on a held order situation. Jill advised jeps are per order, not per LSR.

Bonnie Johnson – Eschelon asked about the CR request regarding when the CLEC gets a jep, and then Qwest does not allow the CLEC time to react to the FOC (4 hour minimum). Jill asked Bonnie if we could wait and determine the impact of the 6pm jep time change as this change should reduce the number of jeps and reduce this issue. Bonnie agreed we could discuss this later if it is still an issue.

Bonnie also asked if there was a CLEC forum planned for January. Cindy advised she did not know but would check on. Bonnie suggested we talk about it at the December CMP meeting, and that possibly a better time for the Forum would be in February.

Jill agreed to check on the following items:

1 – adding content to the jeopardy description to make it more informative  
2 – check how reason codes match to jep codes in the Disclosure document

Next Steps: The team agreed to meet again around the week of January 13 to review how the 6pm jeopardy change has impacted the process and to determine our next steps

Novmeber 19, 2003 CMP Meeting Jill Martain- Qwest advised this CR was revised to say that the CR was going to revisit the existing Jeopardy process, including what notices should be sent to the customer and then also discuss the content of those notices. Bonnie Johnson – Eschelon agreed updating the CR was okay. Jill Martain-Qwest advised the next step is to schedule an ad hoc meeting to review information and gather input. John Berard – Covad advised he has a jeopardy request item to be included in this CR.

Oct 15, 2003 CMP Meeting Phyllis Sunins – Qwest reported that she is doing a study of the August data and that there are synergies with this CR and PC072303-1. Jill Martain will also open a new CR to address the overall Jeopardy Process. Bonnie Johnson – Eschelon advised she would like to keep this CR open and reference it to PC072303-1 and Jill's new CR. Discussion took place regarding maybe the scope of this CR should be changed, instead of Jill creating a new CR. Cindy agreed she would talk to Jill about this. Liz Balvin – MCI advised she has some questions about

what certain jep codes mean. A documentation CR has been issued to request definition of jep codes. The team advised that Liz should respond during the comment cycle and ask about the jep codes she is interested in (C31 and C34). John Berard - Covad asked how many jeps are resolved the same day? Bonnie Johnson - Eschelon said she did not know numbers but Jill implied the majority of jeps are resolved the same day. This CR will move to Development Status.

#### 10/6/03 Ad Hoc Meeting

Lori Mendoza Allegiance Russ Urevig Qwest Deni Toye Qwest Phyllis Burt ATT Julie Pickar US Link Dave Hahn Qwest Jeanne Whisnet Qwest Laurie Dalton Qwest Ann Adkinson ATT Jill Martain Qwest Phyllis Sunins Qwest Carla Pardee ATT Jen Arnold US Link Kim Issacs Eschelon Bonnie Johnson Eschelon Donna Osborne Miller ATT Regina Mosely ATT

Jill Martain discussed the synergy's between PC072303-1 and this CR and the issue that came up in the CLEC Forum about FOCs not being sent after a delayed order is released. Jill explained she would like to implement changing the jep timeframe to 6 pm as identified in PC072303-1. As a result of this change it will address many of the issues with not enough time to respond to a jep. Jill referred to this as Phase 1. Jill will issue a Qwest CR to modify the Jep Process and make additional changes as needed. Changes such as define jep codes, determine when to send jeps, and for what conditions. Jill said she certainly can accommodate some time frames in between FOC and Jep. Jill referred to this as Phase 2. Bonnie agreed that Jill's new CR and implementing the changes for PC072303-1 will take care of this CR. Changing the jep times will take care of most of these issues.

- 9/17/03 CMP Meeting Bonnie Johnson - Eschelon presented the CR to the CLEC Community. Bonnie advised this continues to be a problem. Eschelon does not normally get an FOC after a delayed order gets released. Sometimes we get the FOC and we do not have time to react. Qwest needs to make certain that if we release an order from delayed status that the CLEC gets an FOC, and has time to react before the order is put in a CNR jep. This happens often. Our service delivery personnel escalate with the tester and the FOC group. Jill Martain is working on the issue with not receiving an FOC. This was brought up at the CLEC forum. Cindy Macy-Qwest asked if the changes associated to PC072303-1 - changing the time when Qwest jeps for CNR, would meet this CR. Bonnie advised no, because in this case the order is being released from delayed status and the original FOC has already occurred.

CLEC Change Request - PC081403-1 Clarification Meeting Tuesday August 26, 2003

1-877-552-8688 7146042#

Attendees Cindy Macy - CRPM Russ Urevig - Qwest Phyllis Sunins - Qwest Laurie Dalton - Qwest Bonnie Johnson - Eschelon Deni Toye - Qwest Stephanie Prull - McLeod Julie Picker - US Link

Introduction of Attendees Cindy Macy-Qwest welcomed all attendees and reviewed the request.

Review Requested (Description of) Change Bonnie Johnson-Eschelon reviewed the CR. Bonnie explained that 1/2 the time they do not get an FOC after the order is released. This problem is being addressed by Jill Martain and is not part of this CR but it is an issue that impacts this CR. The CLEC needs time to react to the released LSR and to accept the circuit.

Phyllis explained the jep could be placed early in the morning and the tech working on the it may get a solution the same day. This creates a timing difficulty. The current process is for the order to be jep'd, Qwest would send an FOC when they find out the issue has been taken care of, and then if the customer is not ready the LSR is put in CNR.

Bonnie advised they would like a 2-4 business hour time frame to respond to the FOC before Qwest puts the LSR in CNR.

The process today does not give a time frame on the FOC, it gives a date but no time frame.

Confirm Areas and Products Impacted Macy - Qwest confirmed that the attendees were comfortable that the request appropriately identified all areas and products impacted.

Confirm Right Personnel Involved Macy - Qwest confirmed with the attendees that the appropriate Qwest personnel were involved.

Identify/Confirm CLEC's Expectation Macy-Qwest reviewed the request to confirm Eschelon's expectation.

Identify and Dependant Systems Change Requests Macy-Qwest asked the attendees if they knew of any related change requests.

Establish Action Plan Macy-Qwest asked attendees if there were any further questions. There were none. Macy-Qwest stated that the next step was for Eschelon to present the CR at the September Monthly Product/Process Meeting and thanked all attendees for attending the meeting.

## **QWEST Response**

October 8, 2003

For Review by CLEC Community and Discussion at the October 15, 2003, CMP Product/Process Meeting

Bonnie Johnson Eschelon

SUBJECT: CLEC Change Request Response - CR # PC081403-1

This is a preliminary response regarding the Eschelon CR PC081403-1. This CR requests that the 'Delayed order process be modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends and updated FOC. Qwest will contact the CLEC to test and accept only after the updated FOC has been sent and a designated time frame has passed. Qwest will not put the order in a CNR (customer not ready) jeopardy status until this time frame has passed and the CLEC is not ready'.

Qwest believes this CR has synergies with the Eschelon CR PC072303-1 'Customer Not Ready (CNR) jeopardy notice should not be sent by Qwest to CLEC before 5 PM'. Qwest proposes moving this Change Request into Evaluation Status while we investigate the commonalities further and will provide a status update at the November CMP meeting.

An Ad Hoc Meeting is scheduled for Monday, October 6, 2003 from 10:00 - 11:30 a.m. MST to discuss CR# PC072303-1 and PC081403-1.



Sincerely,

Phyllis Sunins Wholesale Markets Process Organization

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**Information Current as of 8/28/2006**

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon )  
Telecom of Oregon, Inc. for Arbitration with ) Docket No. ARB 775  
Qwest Corporation, Pursuant to 47 U.S.C. )  
Section 252 of the Federal )  
Telecommunications Act of 1996 )**

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**EXHIBIT 112**

## Resources

## Change Management Process (CMP)

## Open Product/Process CR PC072303-1 Detail

**Title: Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)**

CR Number	Current Status Date	Area Impacted	Products Impacted
PC072303-1	Completed 2/18/2004	Provisioning	Any product with test and accept of a circuit on a basic install and the current process applies.

**Originator:** Johnson, Bonnie

**Originator Company Name:** Eschelon

**Owner:** Martain, Jill

**Director:** Schultz, Judy

**CR PM:** Sanchez-Steinke, Linda

### Description Of Change

Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install). If a CLEC is not ready to test at the time Qwest calls on the due date, the CLEC has until 5 PM to call Qwest and test and accept the circuit. Qwest should not place the Local Service Request ("LSR") in a customer not ready jeopardy status, because the customer is ready within the required time frame.

Qwest does not provide CLECs with a specified time on the due date when testing and acceptance will take place. Testing and acceptance may occur any time before 5 pm local time. As long as the CLEC is ready to test and accept the circuit before 5pm on the due date, therefore, the customer is ready on the due date. Nonetheless, Qwest places a "CNR" jeopardy on an LSR if Qwest calls a CLEC to test and accept the circuit on the due date and the CLEC is not ready to test and accept the circuit at the time Qwest calls. Even if the CLEC communicates to Qwest that it will call Qwest back on the due date and before 5 PM local time, Qwest places the request in a CNR jeopardy status. Qwest should not use the CNR jeopardy notice for this situation. CNR is not a valid jeopardy code, because the CLEC is ready before 5pm (i.e., on the due date).. By incorrectly using the CNR jeopardy for this situation, , Qwest forces CLECs to manage CNR jeopardy notices that have no validity. Qwest is causing CLECs additional work in the CLECs workflow process for no valid reason. Qwest should change the process on issuing CNR jeopardy for this situation. Eschelon has reviewed the "C" list of jeopardy codes located in the Qwest IMA User Guide, and there is no customer jeopardy ("C" list) that applies to this situation. As a matter of fact, this situation does not present a jeopardy situation at all because the order is not in "jeopardy."

Expected Deliverable

Develop, document, and train a process to manage requests for basic install circuits in situations in which the CLEC is ready on the due date (before 5pm), although perhaps not at the first time that Qwest chooses to call.. Cease using a CNR jeopardy for the situation described above, because the customer IS ready on the due date (as the Qwest basic install definition is from 8 AM to 5 PM local time).

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## Status History

07/23/03 - CR Submitted

07/24/03 - CR Acknowledged

07/31/03 - Held Clarification Meeting

08/20/03 - August CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

08/26/03 - Had conversation with Bonnie Johnson and would be ok with Eschelon to hold jep until 6 p.m. Mountain time

09/17/03 - September CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

10/06/03 - Held Ad Hoc Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

10/15/03 - October CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

11/19/03 - November CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

12/05/03 - Qwest issued PROS.12.05.03.F.01131.ProvisioningV29 proposed effective date 1/19/04

12/17/03 - December CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

01/02/04 - Qwest issued PROS.01.02.04.F.01222.FNL\_ProvisioningV29  
CMP FINAL NOTICE on Provisioning and Installation Overview V29.0  
effective 1/19/04

01/21/04 - January CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

02/18/04 - February CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

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## Project Meetings

02/18/04 February CMP Meeting Jill Martain with Qwest said the final notice was sent on 1/2/04 and the PCAT was effective 1/19/04. Stephanie Prull asked if Qwest is holding the jep statuses in IMA. Jill said that a system CR would be required to hold jep statuses from the inquiry functionality, only the jeopardy notices were being held in IMA. This CR will be moved to Completed status.

01/21/04 January CMP Meeting Jill Martain with Qwest said that the final notice was sent 1/2/04 and was effective 1/19/04. It was agreed that this CR would move to CLEC Test status. 12/17/03 December CMP Meeting Jill Martain with Qwest said she would like to talk about this CR & PC081403-1 which are in Development (see PC081403-1 for more information). Additional information on jeopardies was discussed in the CLEC ad hoc meeting. Bonnie Johnson with Eschelon said she had received Susan's note this morning and this is not tied to the 6 p.m. jeopardies. This CR will remain in Development status.

11/19/03 November CMP Meeting Jill Martain with Qwest said that the CR is in progress and expects deployment in December 2003. This CR will remain in Development status.

Thu 10/23/03 3:06 PM From: Bonnie Johnson to: Linda Sanchez-Steinke  
Subject: RE: PC072303-1 Jeopardies Hi Linda, I have received no feedback. I perceive that to mean we are OK.

Bonnie J. Johnson Director Carrier Relations Eschelon Telecom, Inc. Phone 612 436-6218 Fax 612 436-6318 Cell 612 743-6724

Thu 10/23/03 2:18 PM From: Linda Sanchez-Steinke To: Bonnie Johnson  
Subject: PC072303-1 Jeopardies Hi Bonnie -

I wanted to follow up with you and find out if any CLECs provided feedback to you about holding jeopardies (those listed in the supplemental information included in the CR) until 6 p.m. Mountain time.

Would you let me know if you have received feedback from companies that did not want to move forward with the proposal?

Thank you

Linda Sanchez-Steinke CRPM Qwest 303-965-0972

10/15/03 October CMP Meeting Phyllis Sunins with Qwest said that we held an ad hoc meeting last week and at the meeting the CLECs agreed to hold jeopardy notifications until 6 p.m. Mountain time. Qwest expects to implement this change in December 2003. Jill Martain will open a Qwest initiated CR to review the jeopardy process. Bonnie Johnson with Eschelon said that at the ad hoc meeting CLECs were given time to review the list of jeopardy codes and hasn't received negative feedback from any CLECs. Bonnie will call Linda Sanchez-Steinke next week if she does receive feedback from CLECs that do not want jeopardy notification held until 6 p.m. Mountain time. Phyllis added that she is doing a study of August jeopardy data. Liz Balvin with MCI needs additional definition of C31 and C34 jeopardy codes. Phyllis said that Eschelon had asked for additional documentation around jeopardy codes and the documentation will be available at the end of the month. Liz said she would wait for the documentation to be distributed and will submit comments. This CR will remain in Development status.

Ad Hoc Meeting Minutes PC072303-1 October 6, 2003 1-877-572-8687, Conference ID 3393947# 10:00 a.m. - 10:30 a.m. Mountain Time

List of Attendees: Lori Mendoza - Allegiance Donna Osborne-Miller - AT&T Regina Mosley - AT&T Phyllis Burt - AT&T Ann Adkisson - AT&T Carla Pardee - AT&T Julie Pikar - U S Link Jen Arnold - U S Link Kim Isaacs - Eschelon Bonnie Johnson - Eschelon Jeanne Whisenant - Qwest Lori Dalton - Qwest Dave Hahn - Qwest Jill Martain - Qwest Phyllis Sunins - Qwest Deny Toye - Qwest Russ Urevig - Qwest Linda Sanchez-Steinke - Qwest

The meeting began with Qwest making introductions and welcoming all attendees. Linda Sanchez-Steinke with Qwest explained that the purpose of the meeting was to discuss CR PC072303-1 and synergies between PC081403-1.

Jill Martain with Qwest explained the attachment to the notification for the ad hoc meeting is a list of jeopardy types, other than "C" type jeopardies, that Qwest proposes be sent at 6 p.m. Mountain time. Jill further explained that the proposal eliminates sending jeopardy notifications for situation that are identified early in the day but later resolved by Qwest on the same date. Bonnie Johnson with Eschelon said there were a lot of duplicate jeopardies for weather / work force and asked for further explanation. Jill explained that Qwest tracks internally the jeopardies by work group and the work groups are identified by the letter codes. Deny Toye with Qwest said that the "B" jeps are central office and "C" jeps are customer jeps.

Jill asked if it would cause a problem to send the jeopardies listed on the spreadsheet at 6 p.m. Mountain time. Bonnie said that CLECs would be left hanging and it would be too late to contact the customer if didn't receive them until 6 p.m. Deny said that when Qwest gets to the due date that we make a call and the CLEC would have been notified via telephone call if placing the order in jeopardy. Bonnie said that helped to know that CLECs will get a call on the due date if the order is in jeopardy and then they can call customers. Deny will check all products that Qwest makes a telephone call on due date if the order is placed in jeopardy. Jill said that she will submit an additional CR to re-address the jeopardy process.

Kim Isaacs said that she has submitted a documentation request asking for additional explanation of jeopardy meaning.

Lori Mendoza will get input from Allegiance, Donna Osborne-Miller will get input from AT&T, Bonnie said she would send something out to the community asking for additional input. Linda asked if there were any additional questions. No questions were asked and Linda said that we would discuss this CR at the October CMP meeting.

09/17/03 September CMP Meeting Jill Martain with Qwest said that Qwest accepts this CR and will be making changes to a backend system to hold CNR jeopardies until 6 p.m. Mountain time. The targeted date for implementation is December 2003. Jill explained that Qwest would like to expand holding all jeopardies sent mechanically except with unbundled loop before FOC, for conditioning and facility reasons. Bonnie Johnson with Eschelon said she was not sure if they could be acting on those and if they would agree to hold until 6 p.m. There will be an ad hoc meeting scheduled and Jill will provide a list of jeps to be considered with the notification. This CR was moved to Development status.

08/20/03 - August CMP Meeting Bonnie Johnson with Eschelon presented this CR. Bonnie explained that Eschelon is asking that the circuit not be put into CNR status until 5 p.m. local time on the due date. Lori Mendoza with Allegiance supports this CR. Lori asked if Bonnie included in the CR the situation when the customer is not able to stay late when there is a Qwest problem. Bonnie said that in those situations, it would not be

appropriate to put the order in CNR status. This CR will be moved to Presented status.

#### CLEC Change Request Clarification Meeting

8:15 a.m. (MDT) / Thursday, July 31, 2003

1-877-572-8687 3393947# PC072303-1 Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)

Name/Company: Bonnie Johnson, Eschelon Kim Isaacs, Eschelon Stephanie Prull, McLeod Liz Balvin, MCI Sharon Van Meter, AT&T Mike Zulevic, Covad Denny Graham, Qwest Jeanne Whisenant, Qwest Linda Sanchez-Steinke, Qwest

Introduction of Attendees Introduction of participants on the conference call was made and the purpose of the call discussed. Review Requested (Description of) Change Linda read the description of change from the CR submitted by Eschelon; Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install). If a CLEC is not ready to test at the time Qwest calls on the due date, the CLEC has until 5 PM to call Qwest and test and accept the circuit. Qwest should not place the Local Service Request ("LSR") in a customer not ready jeopardy status, because the customer is ready within the required time frame.

Qwest does not provide CLECs with a specified time on the due date when testing and acceptance will take place. Testing and acceptance may occur any time before 5 pm local time. As long as the CLEC is ready to test and accept the circuit before 5pm on the due date, therefore, the customer is ready on the due date. Nonetheless, Qwest places a "CNR" jeopardy on an LSR if Qwest calls a CLEC to test and accept the circuit on the due date and the CLEC is not ready to test and accept the circuit at the time Qwest calls. Even if the CLEC communicates to Qwest that it will call Qwest back on the due date and before 5 PM local time, Qwest places the request in a CNR jeopardy status. Qwest should not use the CNR jeopardy notice for this situation. CNR is not a valid jeopardy code, because the CLEC is ready before 5pm (i.e., on the due date).. By incorrectly using the CNR jeopardy for this situation, , Qwest forces CLECs to manage CNR jeopardy notices that have no validity. Qwest is causing CLECs additional work in the CLECs workflow process for no valid reason. Qwest should change the process on issuing CNR jeopardy for this situation. Eschelon has reviewed the "C" list of jeopardy codes located in the Qwest IMA User Guide, and there is no customer jeopardy ("C" list) that applies to this situation. As a matter of fact, this situation does not present a jeopardy situation at all because the order is not in "jeopardy."

Jeanne Whisenant with Qwest asked if this CR was for all orders sent through IMA. Bonnie Johnson with Eschelon answered yes this is for LSRs sent through IMA where the CNR process applies, and said Eschelon issues private line and LIS trunking orders on ASR. Jeanne explained the ASR process is manual and that CNR letters are sent by the SDC on due date and no longer than 2 business days after the due date. Bonnie said this CR doesn't apply to orders submitted via ASR because it is not an automated process.

Liz Balvin with MCI said she supports this change request, and said that MCI may not meet the time when Qwest initially calls but will get back to Qwest by the end of the day.

Sharon Van Meter with AT&T also supports this CR.

**Confirm Areas & Products Impacted** The area of this Change Request impacts orders submitted via LSR where CNR process applies.

**Confirm Right Personnel Involved** Qwest confirmed the correct personnel were on the call to resolve the CR.

**Identify/Confirm CLEC's Expectation** Develop a process where the jeopardy notice will not be sent by Qwest before 5 p.m. local time on the due date.

**Identify any Dependent Systems Change Requests** No systems change requests.

**Establish Action Plan (Resolution Time Frame)** Eschelon will present this CR at the August CMP meeting.

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## **QWEST Response**

September 9, 2003

DRAFT RESPONSE

For Review by the CLEC Community and Discussion at the September 17, 2003 CMP Meeting

Bonnie Johnson Eschelon

**SUBJECT:** Qwest's Change Request Response - PC072303-1 Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)."

QWEST Response:

Qwest accepts this change requested by Eschelon, however, a back end system change will be required to hold the CNR jeopardy notifications until 6 PM Mountain time. This system change is due to the fact that Qwest put mechanization in place previously to provide timely jeopardy notification to our CLEC community.

Qwest has targeted this process change to take place in December 2003 and will provide notification to the CLEC Community.

Sincerely,

Jill Martain Manager Process Management

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**Information Current as of 8/28/2006**



**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 113**



February 25, 2004

**RE: CMP PC081403-1 Jeopardy Notification Process Changes**

**The following information will be used as the basis of discussion on the CMP ad-hoc call, scheduled for March 4, 2004. The purpose of the call is to continue discussions on improving the Jeopardy Notification process for both the CLECs and Qwest.**

**This document includes the information necessary to discuss two proposals:**

- 1) Qwest's proposal on when detailed information for the jeopardy condition could be provided. The second grouping labeled **Proposal 1** below, documents examples (submitted by Eschelon) and researched by Qwest to specific concerns as noted in the e-mail entries shown on the document.
- 2) A proposal to eliminate sending "Critical Date" Jeopardy Notifications. The table will allow the CLECs an opportunity to see the specifics of the proposal. Please see the attached **Proposal 2**

In researching Qwest's response for additional data to the Initial Jeopardy Notifications, it was determined that it would take a system enhancement to allow the additional comments. Additionally, through our research, we also determined that it would be better to wait for some designated period of time before we provide your requested information. Sending the initial outlook on the first jeopardy notice could, in many cases, cause "chatter" jeopardy notices, when we believe you are really wanting the final cause in an adequate time frame.

As a result of system impacts, Qwest has researched what information we actually "know" when the jeopardy condition is first determined. In many cases, the information that we initially know is "preliminary" and needs additional research to determine the exact cause of the jeopardy. Usually within the first 72 hours of the jeopardy notification being issued, Qwest knows what actual work needs to take place to resolve the jeopardy condition. By waiting for our Network partners to determine the actual jeopardy condition, Qwest would not mislead the CLEC by communicating the "first glance" at the solution to the jeopardy condition on the first jeopardy notice.

Our current documented process does not state that additional detailed information would be provided, or in what timeframes we could provide the information, however there have been times when the centers have sent subsequent jeopardy notices providing additional detail in an effort to provide better customer service. After we have reached agreement through these ad-hoc meetings, Qwest will issue the appropriate notifications through CMP and start providing that information as agreed to at these meetings. Until we have done the appropriate notification through CMP, Qwest is unable to change its current process. However, in looking at these examples, Qwest could provide the following additional information going forward within our agreed upon timelines.

Qwest is proposing that the initial jeopardy notice continue to be sent as documented (based on current system functionality). In addition, Qwest proposes that an updated Jeopardy Notification with additional detailed remarks would be sent within 72 hrs from when the Initial Jeopardy was sent if a solution to the delayed condition has not been reached.

This proposal means that within 72 hrs from the initial Jeopardy Notification, the CLEC will receive one of the following:

1. FOC confirming original Due Date
2. FOC confirming revised Due Date based on Network resolution of the Jeopardy condition including details on the delay
3. An "updated" Jeopardy Notification with more specific details of the Jeopardy condition.

The next section outlines the explanations to the examples previously provided and we will use it as a tool to facilitate that discussion of how waiting until 72-hours provides you more accurate information. Then we can determine if the proposal is acceptable and determine next steps.

#### **PROPOSAL 1 – Discussion on providing additional information on Jeopardy Notifications**

Following are examples forwarded by Eschelon in several e-mails illustrating their concerns. Qwest's research & responses are shown in *italics*.

\*\*\*\*\*E-mail dated 1-30-04\*\*\*\*\*

**Example #1 insufficient notice of an order being release prior to Eschelon receiving a CNR jeopardy. 1-23 Jeopardy Notification for K17, K09  
1-28 FOC for 1-28  
1-28 CNR**

**Action #1: As you can see receiving the FOC releasing the order on the day the order is due does not provide sufficient time for Eschelon to accept the circuit. Is this a compliance issue, shouldn't we have received the releasing FOC the day before the order is due? In this example, should we have received the releasing FOC on 1-27-04?**

**Response #1** *This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date.*

**Example #2: Lack of detail on jeopardy notices. The information is not detailed enough to determine why and for how long the order may be held.**

**Action #2: As of 1-30-04, we have not received any additional jeep's that give the details of why the order is held. Please investigate solutions to providing detailed information on the jeopardies.**

**Response #2:** *The first 2 orders were examples of manually sent initial jeopardy notifications (see link to document in PCAT that translates the jeopardy code to information.)*

*The 3<sup>rd</sup> order was an example of a jeopardy notification mechanically sent as soon as the jeopardy was placed in our Network system.*

*Our current documented process does not state that additional detailed information would be provided, or in what timeframes we could provide the information, however there have been times when the centers have sent subsequent jeopardy notices providing additional detail in an effort to provide better customer service. After we have reached agreement through these ad-hoc meetings, Qwest will issue the appropriate notifications through CMP and start providing that information as agreed to at these meetings. Until we have done the appropriate notification through CMP, Qwest is unable to change its current process. However, in looking at these examples, Qwest could provide the following additional information going forward within our agreed upon timelines:*

*Within 72 hrs from the Initial Jeopardy, Qwest proposes to send 1 of the following:*

- *Send FOC confirming original Due Date*
- *Send FOC with revised Due Date (the new Ready For Service Date due to a construction job)*
- *Send an updated Jeopardy Notification with the updated jeopardy information*

**Example #3. No jeopardy code on the jeopardy notice and a lack of detail information. In this example I assume the K17 was omitted from the notice.**

**Action #3: Is this a system issue or compliance issue?**

**Response #3:** *This is an initial jeopardy notification manually sent responding to a Version 12 LSR. The accompanying jeopardy code is only visible on IMA 13.0 and later versions of a LSR.*

*1/28 Initial jeopardy was sent Internal notes indicated that Network had determined that F1 was not balanced.*

*1/29 Network determined that F1 recovered*

*1/30 order assigned*

*Since the order was assigned within 72 hrs, we would continue to provide the FOC confirming the original Due Date. Qwest resolved the facility shortage and conveyed on the FOC*

\*\*\*\*\*E-mail sent 2-6-04\*\*\*\*\*

**Example of Jeopardies lacking information on why the order is held.**

**Jeopardy Notification "CF - Company Facility"**

*1/30 Initial Jeopardy sent on Non-Designed - Internal notes indicate that 1 qualified F2is needed.  
1/30 Order Assigned*

*Since the order was assigned within 72 hrs, we would continue to provide the FOC confirming the original Due Date. Qwest resolved the facility shortage and conveyed on the FOC*

**Jeopardy Notification C05-Customer -Error or Reject Condition Identified after the FOC was Sent to the CLEC.**

**Comments: A response must be made in 4 BUS hours of this notices being sent or all order are canceled. If no response by 30<sup>th</sup> business day, the LSR is rejected.**

*Process Compliance concern. Notes should have been included concerning the address problem. This example has been referred to the Coach.*

**Jeopardy Notification - K17 - Capacity Provisioning-Local Facility Not Available.**

*1/30 Initial Jeopardy Notification sent internal remarks "No Svc Terminal exists for this address" (we frequently see this message - it is very generic)  
1/30 Internal note "Address is not XYZ, it is ABC"  
2/2 Internal note indicating address problem  
2/3 sent C05Jeopardy Notification  
2/3 Order Canceled*

*We would continue to respond to the "flag" that was raised by Engineering or there would be an updated Jeopardy Notification sent within 72 hrs from the initial Jeopardy notification.*

**Jeopardy Notification - SO Subscriber Other**

**Send a SUP to cancel or set a new DD, not to exceed 30 business days (10 for disconnects) from the initial DD. If Billing is not accepted by that time, the LSR is**

**Rejected. Cancellation charges apply, if appropriate. Disregard, if a SUP has been sent.**

*Jeopardy notification sent mechanically as soon as Jeopardy code placed in network system. Qwest is having ongoing discussions on the use of this field to better describe the situations that could be incurred externally.*

**Jeopardy Notification K17 - Capacity Provisioning-Local Facility Not Available.**

*1/30 Initial Jeopardy Notification sent - internal notes indicated no available facilities from CEV to CO.  
2/2 Internal notes indicated that a planner was involved to resolve situation  
2/2 Facility condition was resolved*

*In this situation, providing the information up-front on the initial jeopardy notification would only cause confusion to the CLECs while Qwest was still looking for facilities and determining next steps. However, by 2/2, we knew which direction to take. Usually within the first 72-hours of the jeopardy notice being issued, Qwest knows what actual work needs to take place to resolve the jeopardy condition*

**Jeopardy Notification - K18 Capacity Provisioning - Local Facility Defective (3 consecutive examples of this)**

*In researching the following three examples, there was a period of time that Qwest was determining the situation and looking to identify the proper resolution. In looking at the following information, Qwest could provide an accurate assessment of the problem within 72-hours, avoiding multiple or inaccurate information earlier in the process to the CLECs.*

*2/2 Initial Jeopardy Notification sent internal notes indicated only spare FI was defective  
2/4 CA PR on DLL cond as ADC BT remvd  
2/4 order assigned.....*

*2/2 Initial Jeopardy notification sent- internal notes indicated that FI Span defective  
2/4 Need TMU on these prs  
2/5 F2 now has LMU  
2/5 closed*

*2/2 Initial Jeopardy sent internal notes indicated that spare FI & FH were defective  
2/5 Internal notes indicated that work was done to resolve - job spliced  
2/5 closed*

*Since the order was assigned within 72 hrs, we would continue to provide the FOC confirming the original Due Date.*

**Jeopardy Notification – Local Facility Not Available (2)**

*This is an initial jeopardy notification manually sent responding to a Version 12 LSR. The accompanying jeopardy code is only visible on IMA 13.0 and later versions of a LSR.*

*2/2 Initial Jeopardy Notification sent internal notes indicate that F2 is needed  
2/3 Internal Loop loss discussion in notes  
2/3 Assigned & released*

*Since the order was assigned within 72 hrs, we would continue to provide the FOC confirming the original Due Date. Qwest resolved the facility shortage and conveyed on the FOC*

*2/3 sent Jeopardy Notification internal notes indicate that F1 is needed.  
2/5 Length discussion, metallic/digital discussion  
2/5 Needs slots  
2/6 Working to resolve design issues  
2/9 Sent FOC to confirm DD of 2/10  
2/10 Completed on DD*

*This is an example where the jeopardy condition was not resolved within 72 hrs from the Initial Jeopardy. Based on the proposal, an "updated" jeopardy notification would be sent on 2/6 with the information concerning metallic & digital work, slot work & design issues.*

**\*\*\*\*\*E-mail sent 2-13-04\*\*\*\*\***

**Example of no FOC releasing the held order.**

**1-29 Received an FOC confirming DD of 2-4-02  
1-29 K17 Local Facility Not available  
2-5 Jeopardy for Customer Not ready  
2-6 Completion notice  
Never received FOC releasing jeopardy from K17 jeopardy**

*Qwest Network non-compliance to process (Network continued to work on the Due Date & then tried to turn up on Due Date did not provide timely status to Wholesale to communicate to CLEC)  
Interdepartmental work/discussions continuing.*

**Additional Examples of insufficient jeopardy information**

**Jeopardy Notice K17 Local Facility Not Available**

**Initial jeopardy sent**

2/9 FOC sent

2/9 Initial Jeopardy Notification sent - internal notes indicated that facilities were exhausted.

2/11 Internal notes indicated that the Order was designed using repeater slot

2/11 Sent FOC confirming original DD of 2/13

2/12 CLEC sent supp requesting DD of 2-17

2/16 CLEC accepted earlier than supp'd DD

**Jeopardy Notice V25 – BRI/ICS Plug –in Problem**

Mechanically sent jeopardy notice - proposal to discontinue sending this Jeopardy code as this code is "Critical Date jeopardy – not a Due Date jeopardy. Due Date of 2/10 was met.

**Jeopardy Notification – Local Facility Not Available**

2/10 sent FOC

2/10 sent Initial jeopardy Notification - internal notes indicated that there was no Svg Terminal – verify address

2/11 Internal note indicated that the terminal was now pointed to correct address

2/11 Order assigned/released

2/11 Sent FOC to confirm DD of 2-16

Since the order was assigned within 72 hrs (in this case, next business day), we would continue to provide the FOC confirming the original Due Date.

**Jeopardy Notification K17 – Capacity Provisioning –Local Facility Not Available**

2/10 Initial jeopardy sent (no initial FOC) – internal notes indicated that "Need Rptr F2 prs & more F1 prs"

2/10 Same day internal notes indicate to assign prs that had been conditioned & reserved.

2/10 Closed

2/10 Sent FOC confirm DD of 2-16 (6 hrs later after init jeop)

2/16 Jeopardy Notification sent CNR

Since the order was assigned within 72 hrs, we would continue to provide the FOC confirming the original Due Date. Qwest resolved the facility shortage and conveyed on the FOC

**Jeopardy Notification K18 Capacity Provisioning- Local Facility Defective**

2-10 Initial jeopardy notification sent at 12:59PM – internal notes indicated "Defective F1 PR"

2/10 Internal notes indicated what cable pairs could be used

2/10 Order assigned, designed & issued

2/10 Sent FOC confirming DD of 2/16 (4 hrs after initial jeop)

2/13 CLEC accepted order

Since the order was assigned within 72 hrs, we would continue to provide the FOC confirming the original Due Date. Qwest resolved the facility shortage and conveyed on the FOC

**Jeopardy Notifications –Change Proposal 2 Feb-25, 2004**

- Discontinue "Critical Date" Jeopardy Notifications
- Continue Due Date Jeopardy Notifications –**Designed Services** for the jeopardy codes beginning with the letter **C, D or K**

- Continue Due Date Jeopardy Notifications- Non-Designed Services for the jeopardy codes of CF, SA, SL, SO, SR, and SX.

The following list (without strike-throughs) is currently available to be downloaded from the West Product Catalog public web site at

<http://www.qwest.com/wholesale/clec/provisioning.html> in the Section titled "Jeopardy

Resolution Responsibilities" & the last 3 words of the section "download Jeopardy Data". The strike throughs on the list below are for discussion purposes on March 3.

NOTE: This proposal will be discussed on the March 3, 2004 call. If the CLEC

Community agrees to this proposal, the format of this document will also be discussed.

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
A34	West-Wholesale Markets	Weather/Disaster/Work Stoppage	There is a West Interconnect Center delay due to weather/disaster/work stoppage.	West will follow-up, as appropriate, when safety allows.
B14	West Field Forces	Installation/Wiring Problem	A West Network technician has identified a problem at the customer premises prior to the due date. In most cases, this is associated to a Network interface problem.	West will work to resolve.
B31	West Field Forces	Inadequate Pre-Service Testing or Conformance Testing	West Network installation is delayed due to inadequate pre-Service or Conformance testing. This could be a problem associated to location.	West will work to resolve.
B33	West Field Forces	Work Force	A West Field Force technician is not currently available to complete the job requirements for provisioning.	West personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
B34	West Field Forces	Weather/Disaster/Work Stoppage	There is a West Network Installation (field forces) delay due to weather/disaster/work stoppage.	West will follow-up, as appropriate, when safety allows.
C01	Customer	Not Ready	CLEC or CLEC End User is not ready or follow the process	The CLEC should follow the process



Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
			service order is not accepted by the CLEC. (Qwest has tested the service to meet all testing requirements.)	outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
C02	Customer	End User Internal Access	End User access was not provided	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
C03	Customer	Subscriber Change in Requirements	The CLEC or End User made a change in LSR requirements prior to or on the due date. This MAY include buried drop issues where a customer must pay for buried service wire before installation can occur.	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT
C05	Customer	Reject Condition Identified After the FOC Was Sent to the CLEC	Qwest has identified a fatal reject or non-fatal error condition after the FOC has been sent to the CLEC.	The CLEC must respond to this notice within 4 business hours of this notice being sent or all associated orders will be canceled. If the error is not corrected in a timely fashion, it is possible that the due date may be missed. Also if no response is made within 30 business days, the LSR will be rejected.
C09	Customer	Problem with Related Order	Qwest has identified a problem with a related order(s). Usually this occurs when multiple Qwest service orders are necessary to provide a single CLEC request. All facilities are not	Qwest will look for a possible solution.

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
			available. At least one of the service orders cannot be worked. All associated orders are in jeopardy until the service orders(s) with the defined jeopardy is satisfied.	
C12	Customer	Customer Accepts Billing/Wholesale only	The CLEC accepts billing only for Feature Group, LIS (Local Interconnection Service), hot cuts, or rollovers but physical work must still be completed.	No action required by the CLEC. The service orders in the SOP (Service Order Processors) are completed to commence billing with CLEC acceptance, but the orders within Qwest's downstream system (WFA) remains open until the service is actually accepted
C24	Customer	CLEC/ Customer Provided Conduit or Entrance Cable	There is a problem with CLEC or End User provided conduit, or entrance cable, backboard, or ground.	The CLEC must supp the LSR when the customer's work is completed.
C29	Customer	Pending Customer Status	Customer action is required to resolve a facility issue. Details of the customer action will be communicated on the jeopardy notice.	The CLEC must supp LSR to communicate that appropriate action has been taken by the customer.
C30	Customer	Unbundled order dependent on left-in	Left-in service of previous client exists at the pending order location and requires a service order be placed before this CLEC request can be completed.	Qwest will work with the CLEC to clear the working left-in.
C31	Customer	Inadequate Pre-Service Testing or Conformance Testing	Qwest Network installation is delayed due to inadequate CLEC Pre-Service or Conformance testing. This could be a	Qwest will work to resolve.

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
			problem associated to Co-location.	
C34	Customer	Weather/Disaster/Work Stoppage	There is a CLEC or End User delay due to weather/disaster/work stoppage. May also be due to National Emergency.	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT
C40	Customer	Project Managed Order Held For CLEC/ Customer Reason	A project-managed order is Delayed for a CLEC or End User Customer reason.	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
D01	Independent Companies	Not Ready	The Independent Company (ILEC) is not ready or the ILEC does not accept the request for service.	The CLEC needs to work directly with the Independent Company (ILEC) to determine the date that the ILEC will be ready or what revision must be made on the service request.
D34	Independent Companies	Weather/ Disaster/Work Stoppage	There is an Independent Company (ILEC) delay due to weather/disaster/work stoppage.	The CLEC needs to work directly with the Independent Company (ILEC) to determine when the delay can be resolved.
E14	Qwest- Central Office	Installation/ Wiring Problem	There is a Qwest Central Office installation or wiring problem.	Qwest will work to resolve the problem.
E31	Qwest- Central Office	Inadequate Pre-Service Testing or Conformance Testing	Qwest Network installation is delayed due to inadequate Central Office Pre-Service or Conformance testing. This could be a problem associate to Co-location.	Qwest will work to resolve the problem.
E33	Qwest- Central Office	Work Force	Central Office resources are not currently available to	Qwest personnel will continue to escalate to find resources or

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
			meet provisioning functions.	reschedule personnel to complete this provisioning step on time.
E34	Qwest - Central Office	Weather/Disaster/Work Stoppage	There is a Qwest Central Office delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
F31	Qwest - Construction	Inadequate Pre-Service Testing or Conformance Testing	Qwest Outside Construction is delayed due to inadequate Pre-Service or Conformance testing.	Qwest will work to resolve the problem.
F33	Qwest - Construction	Work Force	Construction resources are not currently available to complete the job requirements for provisioning.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
F34	Qwest - Construction	Weather/ Disaster/Work Stoppage	There is a Qwest Outside Construction delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
G33	Qwest - Other Field Forces	Work Force	Other Field forces are not currently available for provisioning responsibilities	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
G34	Qwest - Other Field Forces	Weather/ Disaster/Work Stoppage	There is a Qwest buried drop delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows
H13	Qwest - NROC /Complex Translations	Translations Problem	A Qwest translation problem exists.	Qwest will work to resolve the problem
H33	Qwest - NROC /Complex Translations	Work Force	NROC/Complex Translation personnel are currently unavailable to meet provisioning service requirements.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
H34	Qwest - NROC	Weather/Disaster/Work Stoppage	There is a Qwest translation delay due to	Qwest will follow up, as appropriate, when

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
	<del>Complex Translations</del>		<del>weather/disaster/work stoppage.</del>	<del>safety allows.</del>
K08	Qwest - Engineering	Local Loop Requires Conditioning	Qwest Engineering determined that the local loop requires conditioning.	Qwest will look for a possible solution.
K09	Qwest - Engineering	Problem with Related Order	Qwest Engineering has identified a problem with a related order(s). Usually this occurs when multiple Qwest service orders are necessary to provide a single CLEC request. All facilities are not available. At least one of the service orders cannot be worked. All associated orders are in jeopardy until the service order(s) with the defined jeopardy is satisfied.	Qwest will look for a possible solution.
K10	Qwest - Engineering	RTT Status will be awaiting funding/SNRE	Qwest Engineering has begun a review process to determine options and alternatives to provide the CLEC service when immediate facilities are unavailable.	The CLEC should contact their Qwest Service Manager for options.
K11	Qwest - Engineering	Dependent order has RTT issued or SNRE status	Customer action is required to resolve a facility issue on a dependent or related service order.	The CLEC should contact their Qwest Service Manager for options.
K14	Qwest - Engineering	Installation/Wiring Problem	A Qwest Engineering installation or wiring problem exists.	Qwest will work to resolve.
K15	Qwest - Engineering	Records and Physical Wiring and/or Cable Makeup Do Not Agree	Qwest Engineering records and physical wiring and /or cable make up do not agree.	Qwest will work to resolve.
K17	Qwest - Engineering	Local Facility Not Available	Qwest Engineering local facility is not available.	Qwest will look for a possible solution.
K18	Qwest - Engineering	Local Facility Defective	Qwest Engineering local facility is	Qwest will look for a possible solution.

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
			defective.	
K19	Qwest - Engineering	Interoffice Facility Not Available	Qwest Engineering interoffice facility is not available.	Qwest will look for a possible solution.
K20	Qwest - Engineering	Interoffice Facility Defective	Qwest Engineering interoffice facility is defective.	Qwest will look for a possible solution.
K22	Qwest - Engineering	Switch Equipment Not Available	Qwest Engineering switch equipment is not available.	Qwest will look for a possible solution.
K31	Qwest - Engineering	Inadequate Pre-Service Testing or Conformance Testing	Qwest Engineering is delayed due to inadequate Pre-Service or Conformance testing.	Qwest will work to resolve.
K33	Qwest - Engineering	Work Force	Engineering work forces are not currently available to complete construction job requirements.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
K34	Qwest - Engineering	Weather/Disaster/Work Stoppage	There is a Qwest Engineering delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
K45	Qwest - Engineering	Unbundled Only/RTT Issued	Qwest Engineering found that no facility was available as a result of a Service Inquiry . Refer to the Service Inquiry for detailed status of the service order.	The CLEC should contact their Qwest Service Manager for options.
N13	Qwest-RCMAC	Translations Problem	Qwest Translation Center has identified a translations problem associated with the service order	Qwest will work to resolve.
N33	Qwest-RCMAC	Work Force	RCMAC work force personnel are not currently available to complete provisioning service requirements.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.

Jeopardy Code	Responsible Party	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
N34	Qwest-RCMAC	Weather/ Disaster/Work Stoppage	There is a Qwest RCMAC Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows
P31	Qwest-Design Service Center	Inadequate Pre-Service Testing or Conformance Testing	Qwest Test and Design Service Center is delayed due to inadequate Pre-Service or Conformance testing.	Qwest will work to resolve problem.
P33	Qwest-Design Service Center	Work Force	Qwest Test and Design Service Center are personnel are not currently available to complete the design requirements prior to the due date	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
P34	Qwest-Design Service Center	Weather/ Disaster/Work Stoppage	There is a Qwest Test and Design Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
V25	Qwest-BRI/PICS	Plug-In Problem	Qwest Equipment Center has a Plug-In (PICs) problem.	Qwest will escalate to resolve the Plug-In (PICs) problem.
V33	Qwest-BRI/PICS	Work Force	A Qwest PICs personnel are not currently available to deliver the equipment prior to the due date	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
V34	Qwest-BRI/PICS	Weather/ Disaster/Work Stoppage	There is a Qwest Equipment Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.

**Non-Designed Jeopardy Data**

Jeopardy Code	Responsible Party & Jeopardy Code Description	Jeopardy Notice Description	Responsibilities



CF	Qwest- Company Facilities	Unavailability or lack of outside plant or buried service wire. Outside plant includes all facilities -wire cable, terminals, carrier, cross connecting devices, etc. A Qwest engineering job is required to provide facilities before the service can be installed.	Qwest will work to resolve.
CL	Qwest- Can't complete /Work Load	Heavy workload conditions and/or field force shortages.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
CO	Qwest- Company Other	Other conditions. May include Service Order inaccuracy; marketing errors in selecting/ordering equipment; work stoppage, weather, etc.	Qwest will work to resolve or when safety allows, as appropriate.
CS	Qwest- Company Switching	Unavailability or lack of central office facilities; switching equipment, frame cross connects plug-in equipment, calling feature translations, etc.	Qwest will work to resolve.
SA	Subscriber Access	CLEC access problem: technician cannot gain physical access to the office/center or contact person is not available for information.	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT
SL	Subscriber Later	CLEC notification received prior to the due date requesting an appointment or due date later than the original desired due date.	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
SO	Subscriber Other	CLEC cause not covered by other codes.	The CLEC should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
SR	Working Left-In	Date change due to a Working Left-In condition.	Qwest will work with the CLEC to clear the working Left-in.
SX	Error Condition Identified After the FOC Was Sent to the CLEC	Reject Condition Identified After the FOC was sent to the CLEC.	The CLEC must respond to this notice within 4 business hours of this notice being sent or all associated orders will be canceled. If the error is not corrected in a timely fashion, it is possible that the due date may be missed.



			<b>Also if no response is made within 30 business days, the LSR will be rejected.</b>
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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 114**

**Examples: No FOC After Qwest Facility Jeopardy yet Eschelon Accepts Circuit**

STATE	PON	LSR ID	Eschelon Requested DD	Date Qwest sent Facility Jeopardy	Date Qwest sent FOC with new due date	Completion Date	Jep Reason <sup>1</sup>
AZ	AZ421869T1FAC	11429264	8/9/2004	8/5/2004 15:01	NOT SENT	8/10/2004	K17
CO	CO421116T1FAC	11414477	8/9/2004	8/5/2004 17:46	NOT SENT	8/9/2004	K17
CO	CO420951T1FAC	11392906	8/5/2004	8/5/2004 20:18	NOT SENT	8/5/2004	K31
AZ	AZ421543T1FAC	11425065	8/10/2004	8/9/2004 10:21	NOT SENT	8/10/2004	K17
WA	WA422083T1FAC	11437082	8/11/2004	8/9/2004 10:21	NOT SENT	8/10/2004	K17
AZ	AZ421327T1FAC	11416145	8/9/2004	8/6/2004 19:01	NOT SENT	8/9/2004	K17
AZ	AZ421282T1FAC	11425680	8/10/2004	8/6/2004 19:04	NOT SENT	8/10/2004	K18
AZ	AZ420155T1FAC-1	11466123	8/13/2004	8/11/2004 15:54	NOT SENT	8/13/2004	K17
WA	WA423983T1FAC	11500848	8/18/2004	8/16/2004 16:17	NOT SENT	8/18/2004	K17
OR	OR396433T1FAC	11553809	8/18/2004	8/17/2004 11:06	NOT SENT	8/24/2004	K17
WA	WA422585T1FAC	11493876	8/17/2004	8/16/2004 19:00	NOT SENT	8/17/2004	K31
CO	CO427009T1FAC	11621745	8/30/2004	8/24/2004 16:55	NOT SENT	8/30/2004	K17
WA	WA427502T1FAC	11631434	8/31/2004	8/25/2004 16:37	NOT SENT	8/31/2004	K17
WA	WA428285T1FAC	11646456	9/1/2004	8/26/2004 13:48	NOT SENT	9/1/2004	K17
CO	CO429394T1FAC	11679999	9/6/2004	8/31/2004 15:11	NOT SENT	9/7/2004	K17
AZ	AZ429142T1FAC	11667478	9/3/2004	8/31/2004 19:00	NOT SENT	9/3/2004	K17
WA	WA426917T1FAC	11634134	8/31/2004	8/31/2004 20:00	NOT SENT	9/1/2004	K18
MN	MN431384T1FAC	11763723	9/13/2004	9/8/2004 8:52	NOT SENT	9/14/2004	K18
CO	CO430797T1FAC	11730414	9/10/2004	9/9/2004 10:04	NOT SENT	9/10/2004	K18
AZ	AZ432601-2T1FAC	11817269	9/17/2004	9/15/2004 17:45	NOT SENT	9/17/2004	K17
CO	CO432035T1FAC	11802462	9/17/2004	9/16/2004 15:37	NOT SENT	9/21/2004	K17
OR	OR431761T1FAC	11769675	9/21/2004	9/20/2004 18:35	NOT SENT	9/21/2004	K17
MN	MN436562T1FAC	11942838	9/30/2004	10/1/2004 8:50	NOT SENT	10/1/2004	K18
OR	OR437771T1FAC	11982859	10/5/2004	10/4/2004 16:05	NOT SENT	10/5/2004	K17
CO	CO438068T1FAC	11998762	10/6/2004	10/5/2004 16:49	NOT SENT	10/6/2004	K18
WA	WA440096T1FAC	12051275	10/13/2004	10/7/2007 8:42	NOT SENT	10/13/2004	K17
AZ	AZ432883T1FAC	12056751	10/11/2004	10/7/2004 19:02	NOT SENT	10/8/2004	K18
CO	CO441109T1FAC	12090563	10/18/2004	10/15/2004 17:36	NOT SENT	10/19/2004	K17
AZ	AZ444106T1FAC	12173985	10/27/2004	10/21/2004 18:50	NOT SENT	10/27/2004	K17
OR	OR438051T1FAC	12039724	10/22/2004	10/21/2004 19:00	NOT SENT	10/22/2004	K17
AZ	AZ445216T1FAC	12207791	11/1/2004	10/25/2004 16:20	NOT SENT	11/1/2004	K17
AZ	AZ445074T1FAC	12197706	10/29/2004	10/27/2004 18:11	NOT SENT	11/1/2004	K17
AZ	AZ445121T1FAC	12197736	10/29/2004	10/27/2004 18:18	NOT SENT	11/1/2004	K17
MN	MN449283T1FAC	12315080	11/12/2004	11/13/2004 6:41	NOT SENT	11/15/2004	K18
CO	CO450550T1FAC	12371789	11/17/2004	11/16/2004 17:22	NOT SENT	11/17/2004	K17
OR	OR450683T1FAC	12364927	11/23/2004	11/17/2004 10:45	NOT SENT	11/18/2004	K17
CO	CO450686T1FAC	12364733	11/18/2004	11/17/2004 15:11	NOT SENT	11/18/2004	K17
CO	CO452630T1FAC	12424050	11/24/2004	11/17/2004 17:53	NOT SENT	11/24/2004	K17
MN	MN451451T1FAC	12386016	11/19/2004	11/19/2004 6:02	NOT SENT	11/19/2004	K17
AZ	AZ452775T1FAC	12504514	11/29/2004	11/26/2004 12:48	NOT SENT	12/16/2004	K17
OR	OR452101T1FAC	12419994	12/2/2004	11/29/2004 19:01	NOT SENT	12/1/2004	K17
MN	MN455151T1FAC	12540220	12/7/2004	12/6/2004 14:59	NOT SENT	12/7/2004	K17
MN	MN455992T1FAC	12566538	12/8/2004	12/6/2004 12:13	NOT SENT	12/14/2004	K17
MN	MN457699T1FAC	12697685	12/15/2004	12/9/2004 10:50	NOT SENT	12/15/2004	K17
MN	MN457785T1FAC	12672771	12/14/2004	12/9/2004 11:48	NOT SENT	12/14/2004	K17
AZ	AZ462970T1FAC	12925464	12/30/2004	12/27/2004 11:32	NOT SENT	1/3/2005	K17
CO	CO463051T1FAC	12940982	1/3/2005	1/3/2005 20:30	NOT SENT	1/3/2005	K31
CO	CO463198T1FAC	12955888	1/4/2005	1/4/2005 15:33	NOT SENT	1/4/2005	K17

**Examples: No FOC After Qwest Facility Jeopardy yet Eschelon Accepts Circuit**

STATE	PON	LSR ID	Eschelon Requested DD	Date Qwest sent Facility Jeopardy	Date Qwest sent FOC with new due date	Completion Date	Jep Reason <sup>1</sup>
AZ	AZ467038T1FAC	13064139	1/17/2005	1/12/2005 19:01	NOT SENT	1/17/2005	K17
WA	WA468578T1FAC	13101291	1/20/2005	1/17/2005 11:00	NOT SENT	1/20/2005	K17
OR	OR472201T1FAC	13209736	2/8/2005	2/7/2005 9:52	NOT SENT	2/7/2005	K17
OR	OR476420T1FAC	13319798	2/21/2005	2/9/2005 9:47	NOT SENT	2/18/2005	K17
WA	WA475753T1FAC	13293177	2/11/2005	2/12/2005 6:16	NOT SENT	2/11/2005	K17
CO	CO476323T1FAC	13320486	2/15/2005	2/15/2005 19:00	NOT SENT	2/16/2005	K17
CO	CO483761T1FAC	13670228	3/10/2005	3/4/2005 9:18	NOT SENT	3/10/2005	K17
OR	OR485490T1FAC	13787467	3/23/2005	3/19/2005 10:32	NOT SENT	3/23/2005	K17
MN	MN492836T1FAC	14161200	4/7/2005	4/5/2005 10:19	NOT SENT	4/6/2005	K17
OR	OR491236T1FAC	14108427	4/8/2005	4/6/2005 9:56	NOT SENT	4/12/2005	K17
CO	CO494908T1FAC	14221170	4/14/2005	4/7/2005 14:32	NOT SENT	4/14/2005	K17
AZ	AZ494131T1FAC	14199221	4/12/2005	4/7/2005 15:02	NOT SENT	4/14/2005	K17
WA	WA493537T1FAC	14183289	4/11/2005	4/8/2005 19:07	NOT SENT	4/14/2005	K14
WA	WA494897T1FAC	14225453	4/14/2005	4/13/2005 16:23	NOT SENT	4/14/2005	K17
AZ	AZ511609-2T1FAC	14829204	6/16/2005	6/14/2005 19:00	NOT SENT	6/16/2005	K20
WA	WA516458T1FAC	14874447	6/24/2005	6/24/2005 20:54	NOT SENT	6/27/2005	K17
CO	CO519795T1FAC	14963176	7/5/2005	7/5/2005 14:50	NOT SENT	7/5/2005	K17
AZ	AZ521877T1FAC	15071483	7/14/2005	7/8/2005 19:02	NOT SENT	7/14/2005	K19
MN	MN524029T1FAC	15136521	7/22/2005	7/19/2005 19:00	NOT SENT	7/22/2005	K17
CO	CO529610T1FAC	15307395	8/9/2005	8/8/2005 19:02	NOT SENT	8/9/2005	K17
CO	CO533822-1T1FAC	15448994	8/26/2005	8/26/2005 13:54	NOT SENT	8/26/2005	K17
CO	CO561834T1FAC	15584931	9/13/2005	9/7/2005 12:27	NOT SENT	9/13/2005	K17
AZ	AZ564280T1FAC	15616958	9/16/2005	9/9/2005 15:58	NOT SENT	9/16/2005	K18
CO	CO566840T1FAC	15647963	9/21/2005	9/14/2005 16:42	NOT SENT	9/21/2005	K17
MN	MN569647T1FAC	15691650	9/26/2005	9/21/2005 14:34	NOT SENT	9/26/2005	K17
WA	WA573617T1FAC	15842284	10/13/2005	10/7/2005 13:35	NOT SENT	10/13/2005	K17
MN	MN575614T1FAC	15888278	10/14/2005	10/13/2005 14:19	NOT SENT	10/14/2005	K17
AZ	AZ579022T1FAC	15890692	10/19/2005	10/17/2005 10:08	NOT SENT	10/19/2005	K17
WA	WA578909T1FAC	15890839	10/19/2005	10/19/2005 13:48	NOT SENT	10/19/2005	K18
WA	WA583048T1FAC	15983956	11/1/2005	10/25/2005 11:31	NOT SENT	11/1/2005	K17
MN	MN590566T1-2FAC	16164514	11/21/2005	11/17/2005 19:02	NOT SENT	11/21/2005	K17
CO	CO607485T1FAC	16562176	1/10/2006	1/4/2006 9:44	NOT SENT	1/10/2006	K17
WA	WA607147T1FAC	16593879	1/13/2006	1/11/2006 11:32	NOT SENT	1/13/2006	K17
AZ	AZ614308T1FAC	16674320	1/23/2006	1/16/2006 16:59	NOT SENT	1/23/2006	K17
CO	CO618292T1FAC	16741518	1/31/2006	1/30/2006 18:20	NOT SENT	1/31/2006	K17
CO	CO619466T1FAC	16773227	2/3/2006	2/3/2006 9:27	NOT SENT	2/3/2006	K17
WA	WA620309T1FAC	16785289	2/6/2006	2/6/2006 9:00	NOT SENT	2/6/2006	K17
CO	CO623637T1FAC	16861503	2/14/2006	2/10/2006 14:37	NOT SENT	2/14/2006	K17
AZ	AZ647266T1FAC	16959301	2/27/2006	2/23/2006 19:00	NOT SENT	2/27/2006	K09
AZ	AZ654564T1FAC	17059161	3/8/2006	3/8/2006 19:00	NOT SENT	3/9/2006	K17
CO	CO655561T1FAC	17108791	3/14/2006	3/13/2006 19:00	NOT SENT	3/14/2006	K18
CO	CO658649T1FAC	17142589	3/17/2006	3/17/2006 19:00	NOT SENT	3/20/2006	K17
AZ	AZ659617T1FAC	17166556	3/21/2006	3/21/2006 10:57	NOT SENT	3/21/2006	K17
UT	UT661820T1FAC	17201968	3/24/2006	3/23/2006 16:33	NOT SENT	3/24/2006	K17
CO	CO671757T1FAC	17376670	4/14/2006	4/13/2006 11:50	NOT SENT	4/14/2006	K17
AZ	AZ675503T1FAC	17437448	4/24/2006	4/17/2006 14:51	NOT SENT	4/24/2006	K17

**Examples: No FOC After Qwest Facility Jeopardy yet Eschelon Accepts Circuit**

STATE	PON	LSR ID	Eschelon Requested DD	Date Qwest sent Facility Jeopardy	Date Qwest sent FOC with new due date	Completion Date	Jep Reason <sup>1</sup>
CO	CO673429T1FAC	17410390	4/19/2006	4/18/2006 13:59	NOT SENT	4/19/2006	K18
MN	MN674783T1FAC	17427718	4/21/2006	4/21/2006 13:08	NOT SENT	4/21/2006	K17
AZ	AZ676024T1FAC	17452406	4/25/2006	4/21/2006 11:26	NOT SENT	4/25/2006	K17
WA	WA675923T1FAC	17448803	4/25/2006	4/25/2006 15:34	NOT SENT	4/25/2006	K17
MN	MN677406T1FAC	17479587	4/28/2006	4/27/2006 15:42	NOT SENT	4/28/2006	K17
WA	WA675028T1FAC	17475105	4/27/2006	4/28/2006 16:19	NOT SENT	4/28/2006	K17
AZ	AZ668247T1FAC	17574052	5/10/2006	5/5/2006 7:43	NOT SENT	5/10/2006	K17
AZ	AZ691803T1FAC	17706573	5/26/2006	5/23/2006 19:00	NOT SENT	5/26/2006	K17
MN	MN694970T1FAC	17885032	6/16/2006	6/16/2006 15:52	NOT SENT	6/16/2006	K17
AZ	AZ697962T1FAC	17903614	6/19/2006	6/16/2006 16:16	NOT SENT	6/19/2006	K17
AZ	AZ702827T1FAC-1	17936361	6/22/2006	6/21/2006 19:00	NOT SENT	6/22/2006	K17
AZ	AZ703453T1FAC	17948451	6/23/2006	6/22/2006 19:00	NOT SENT	6/23/2006	K17
AZ	AZ704447T1FAC	17959480	6/26/2006	6/26/2006 19:00	NOT SENT	6/26/2006	K17
OR	OR703802T1FAC	17949946	6/29/2006	6/27/2006 8:57	NOT SENT	6/29/2006	K17
CO	CO710051T1FAC	18089244	7/11/2006	7/5/2006 15:50	NOT SENT	7/11/2006	K17
AZ	AZ695772T1FAC	18182694	7/19/2006	7/18/2006 19:35	NOT SENT	7/19/2006	K18
OR	OR695481T1FAC	18168772	7/24/2006	7/20/2006 15:33	NOT SENT	7/24/2006	K17
AZ	AZ710895T1FAC	18235824	7/25/2006	7/24/2006 12:14	NOT SENT	7/25/2006	K17
WA	WA720250T1FAC	18317385	8/3/2006	8/2/2006 19:32	NOT SENT	8/3/2006	K14
AZ	AZ720852T1FAC	18396644	8/10/2006	8/9/06 15:51	NOT SENT	8/10/2006	K18
WA	WA730837T1FAC	18544629	8/24/2006	8/18/06 9:18	NOT SENT	8/24/2006	K17
AZ	AZ730370T1FAC	18617928	8/31/2006	8/30/06 11:46	NOT SENT	8/31/2006	K17
WA	WA738691T1FAC	18722200	9/13/2006	9/11/06 14:47	NOT SENT	9/13/2006	K18
WA	WA740030T1FAC	18711818	9/15/2006	9/12/06 18:13	NOT SENT	9/15/2005	K18
WA	WA742805T1FAC	18764802	9/18/2006	9/18/06 14:11	NOT SENT	9/18/2006	K17
AZ	AZ735255T1FAC	18780979	9/20/2006	9/19/06 19:30	NOT SENT	9/20/2006	K14
MN	MN744165T1FAC	18789264	9/20/2006	9/20/06 19:00	NOT SENT	9/20/2006	K18
<sup>1</sup> For Jeopardy Code Definitions, see Qwest Exhibit RA-13							

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 115**

**KEY:**  
**JEOPARDY CLASSIFICATION AND FIRM ORDER CONFIRMATION:**  
**EXAMPLES OF QWEST'S FAILURE TO PROVIDE ANY FOC OR A TIMELY FOC**

**A = QWEST SAYS CLASSIFICATION CORRECT (DESPITE NO FOC AFTER PERTINENT<sup>i</sup> JEOPARDY):** Qwest (1) admits that it is supposed to send an FOC after a Qwest facility jeopardy is cleared;<sup>ii</sup> (2) admits in this example that Qwest sent NO FOC; and yet (3) claims in this example that it is ok to attribute fault by assigning a Customer Not Ready (CNR) (i.e. Eschelon-caused) jeopardy.

Row Numbers: 1, 2, 3, 4, 5, 6, 10, 4,16, 17, 18, 21 (12 total per Qwest)  
[Eschelon agrees Qwest sent no FOC, but disagrees that these should be classified as Eschelon-caused (CNR).]

**B = QWEST SAYS CLASSIFICATION CORRECT (DESPITE UNTIMELY FOC AFTER PERTINENT JEOPARDY):** Qwest (1) does not dispute that, although it sent an FOC, the FOC was not sent at least the day before; and yet (2) claims in this example that it is ok to attribute fault by assigning a Customer Not Ready (CNR) (i.e. Eschelon-caused) jeopardy. Qwest disputes that it agreed in CMP to send an FOC at least the day before.<sup>iii</sup>

Row Numbers: 7, 8, **9**, 11, **13**, 19, 20, NA (8 Total per Qwest)  
[Eschelon does not agree that a pertinent FOC was sent for Nos. 9 and 13 (*see* end note i); Eschelon disagrees that these should be classified as Eschelon-caused (CNR).]

**C = QWEST ADMITS CLASSIFICATION INCORRECT (BUT DUE TO ANOTHER QWEST FACILITY ISSUE):** Qwest (1) admits that it is supposed to send an FOC after a Qwest facility jeopardy is cleared; (2) admits in this example that Qwest sent NO FOC; (3) Qwest admits in this example that it was wrong to blame Eschelon by assigning a Customer Not Ready (CNR) jeopardy CNR; *but* (4) Qwest does not attribute the incorrect classification to the failure to send an FOC; rather, Qwest identified another facility issue (after the first one cleared) and should have sent another Qwest (*i.e.*, “Qwest-caused) facility jeopardy notice instead of a CNR jeopardy.

Row Numbers: 12, 15, 22 (3 Total per Qwest)  
[The companies agree that no FOC was sent. Eschelon agrees that the CNR classification was incorrect, but unlike Qwest considers the absence of an FOC sufficient reason to not assign CNR.]

**“Qwest error”/”Possible Qwest error”<sup>iv</sup>**  
*See next page for end notes*

***End notes for KEY to Jeopardy Classification and Firm Order Confirmation Exhibit***  
***See next page for start of chart***

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<sup>i</sup> Qwest asks the question “FOC Sent after *original* Jeopardy”? (emphasis added). By limiting the question to the “original” jeopardy, Qwest ignores the pertinent jeopardy. In cases with multiple Qwest facility jeopardies, the pertinent question (to determine whether CLEC had advance notice sufficient to prepare for delivery of the circuit), is whether Qwest sent an FOC after the Qwest facility jeopardy that is the *final one before delivery* (which is the question answered by Eschelon in Exhibit BJJ-6). For Row Number 9 (PON RA-R6 PON AZ591886T1FAC) and Row Number 13 (PON AZ602905T1FAC), Qwest represents that it sent an FOC after the *original* jeopardy notice without pointing out that it did not send an FOC after the *pertinent* Qwest facility jeopardy notice. For these two examples, Qwest sent an FOC after the first Qwest facility jeopardy but the order went into a Qwest facility jeopardy a second time, and Qwest *did not send* an FOC after the second Qwest facility jeopardy notice. The most recent information available to Eschelon from the jeopardy/FOC notices, therefore, was that it should not expect delivery, because Qwest had a facility problem to resolve before it could deliver a circuit.

<sup>ii</sup> MN ICA Arbitration Transcript, Vol. I, p. 37, lines 20-23 (Ms. Albersheim): “Q So you agree with me that Qwest’s current practice is to provide the CLEC with an FOC after a Qwest facilities jeopardy has been cleared; is that right? A Yes.” *See also* ICA Section 9.2.4.4.1 (quoted in note 4).

<sup>iii</sup> MN ICA Arbitration Transcript, Vol. 1, p. 37, lines 16-23 (Ms. Albersheim). Qwest claims that Eschelon’s proposed phrase “at least the day before” is not part of Qwest’s current process. *See id.* p. 37, lines 11-19. (Other than that phrase, however, Qwest admits that the remainder of Eschelon’s proposed language reflects Qwest’s current process. *See id.* p. 37, lines 16-23.)

<sup>iv</sup> For Row Numbers 10 and 21 in this exhibit (i.e., PONs WA609209T1FAC and AZ716331T1FAC, respectively), Qwest inserts a note “Qwest error” and for Row Number 22 in this exhibit (PON AZ719081T1FAC), Qwest inserts a note “possible Qwest error.” These three examples generally follow the same pattern as the others up through the point of Qwest assigning the Customer Not Ready (CNR) jeopardy. Generally, Eschelon supplements the order. In these three cases, after Eschelon supplemented the order, there was some unusual FOC activity (with Qwest sending FOCs after the completion notice). While it may have been an error for Qwest to send the additional FOC(s) after the completion notice, that type of error is not the issue here. The assignment of the CNR jeopardy when Qwest has either not sent an FOC or a timely FOC (with “timely” referring to “at least the day before”) after the pertinent Qwest facility jeopardy. In other words, the damage had already been done (with “damage” referring to a delay in delivery due to failure of Qwest to provide sufficient advance notice of delivery). Note that these three Rows (for which Qwest admits an error or possible error) do not coincide with the three for which Qwest admits its CNR classification was incorrect. Only Row 22 falls into both. For Rows 10 and 21, Qwest identifies an error but says the CNR classification was correct. It is unclear, therefore, why Qwest even raised this point.



ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
1. 0R462897T1FAC	12971352	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	OR	N10835043	Although Qwest did not send a FOC prior to the DD of 1/1 1/05: Qwest started working with [ER] <sup>3</sup> at Eschelon prior to 5 p.m. End result is that Eschlon was having wiring problems and	No FOC = Invalid CNR <sup>4</sup>  In addition, with respect to Qwest’s “Review”: Qwest states the 1/11/05 is the “due date,” but there is no “due date” for this request because Qwest did not send an FOC with the new due date. <sup>5</sup> Qwest	NO	NO	“A”  No FOC = Invalid CNR

<sup>1</sup> **Qwest Inconsistent Times:** Qwest does not record times consistently in its Review. Eschelon has compared the times with its own records and found that Qwest does not use military time consistently, and does not always indicate whether AM or PM, which affects the analysis.

<sup>2</sup> Qwest indicated it relied upon Qwest technical notes. See MN PUC Docket No. P-5340, 421/IC-06-768, Rebuttal Testimony of Renee Albersheim, p. 54, lines 19-24. Those notes may or may not be accurate. For purposes of this Exhibit only, Eschelon has accepted the statements in the notes.

<sup>3</sup> **Redacted:** ER = Eschelon contact name redacted.

<sup>4</sup> **ICA Section 9.2.4.4.1:** “. . . If Qwest must make changes to the commitment date, Qwest will promptly issue a Qwest Jeopardy notification to CLEC that will clearly state the reason for the change in commitment date. Qwest will also *submit a new Firm Order Confirmation* that will clearly identify the new Due Date.” (emphasis added). This language appears in the SGAT and Qwest’s negotiations template. See also the PCAT provisions (cited in footnote 5) for “DD Jeopardies” that indicate Qwest’s process is to send an FOC after the facility jeopardy notice if the condition is resolved so that the CLEC should expect delivery.

<sup>5</sup> **DD Jeopardies Mean Expect No Delivery Unless Receive New FOC:** See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process states (emphasis added): “If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.” In other words, for this type of jeopardy, the CLEC is told to do nothing to prepare unless Qwest sends a notice indicating the condition has been resolved. To disregard a jeopardy notice means to plan to prepare to accept delivery as though you had not received a notice. If “yes” is in the column, you do not prepare because you are being told that there is no need to do so *unless you receive a new FOC from Qwest.* Qwest’s PCAT states at <http://www.qwest.com/wholesale/clecs/provisioning.html>:

“Qwest differentiates between DD jeopardies and Critical Date jeopardies. DD jeopardies indicate that your due date is in jeopardy; however, Critical Date jeopardies indicate that a critical date prior to the DD is in jeopardy. Critical Date jeopardies can be ignored by you. Critical Date jeopardies are identified in the Jeopardy Data document (see download in the following paragraph) in the column labeled “Is Due Date in Jeopardy?” If the DD is not in jeopardy, this column will contain “No” and you can disregard the jeopardy notice sent for this condition and continue your provisioning process with the scheduled DD. If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, we will advise you of the new DD when the jeopardy condition has been resolved. This is usually within 72 hours.”

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					[ER]at Eschelon indicated that he needed to dispatch a technician to the cage and [ER] said he would supp the order. Qwest subsequently received the supplement as indicated by Eschelon and [ER] at Eschelon accepted the service on 1/12 (Qwest installed the service prior to the supp’d due date of 1/17)	did not notify Eschelon that Qwest had cleared the K17 <sup>6</sup> jeopardy condition so Eschelon staff and prepare to accept delivery of the circuit. Had Qwest notified Eschelon that there was a new due date, Eschelon could have dispatched to the cage and completed the required wiring thus resolved the issue before Qwest attempted to deliver the circuit. Qwest’s failure to notify deprived Eschelon of this opportunity to prepare.			
2. UT474484T1FAC	13275636	Releasing FOC not sent the day prior to DD Qwest applied an	UT	N13197574	DD 2/9/05 missed due to Qwest reasons and a jeopardy	No FOC Day Prior = Invalid CNR In addition, with	NO	NO	“A” No FOC Day Prior =

<sup>6</sup> **Jeopardy Codes (“K” jeps):** Qwest Jeopardy Data Document ([http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy\\_Data\\_Provisioning\\_August2005.doc](http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy_Data_Provisioning_August2005.doc)) lists the jeopardy code (type) in the first column, the party responsible to resolve the problem in the second column, and whether the due date is in jeopardy in the third column. For example, on Page 6 of 10, in the last row, “K17” is column one; Qwest engineering is listed as the responsible party in column two; and “yes” is in column three. The example shows that: 1) The jeopardy is a K17 Qwest facility jeopardy (*i.e.* Qwest-caused); 2) Qwest engineering is the responsible party to resolve the jeopardy; and 3) The due date is null and void and CLEC is to do nothing unless Qwest sends an FOC with a new due date once the jeopardy condition has been resolved. In this Exhibit, the jeopardy code or type is provided in one of the two review columns (Qwest’s or Eschelon’s) or both. The codes are identified in Qwest Jeopardy Data Document available at [http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy\\_Data\\_Provisioning\\_August2005.doc](http://www.qwest.com/wholesale/downloads/2005/050812/Jeopardy_Data_Provisioning_August2005.doc)

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
		invalid CNR jeopardy.			of K45 was shown on the order in Qwest’s systems as the original due date miss. Qwest contacted [ER] at Eschelon at 7:36 am on the DD to advise of possible miss. 2/10 at 7:18 called Eschelon and left Voice Mail that Qwest was ready to test and due date rescheduled for today. Eschelon never called back and a second DD jeopardy of C01 was posted against the order. C01 jeopardy notice	respect to Qwest’s “Review”: <i>Qwest missed Eschelon’s requested due date</i> because of a Qwest facility jeopardy. Because Qwest then classified it as CNR, Qwest’s missed due date will not count against its performance in the PIDs.  In Qwest’s review, Qwest said the time Qwest called Eschelon, on 2/9/05, to advise Eschelon Qwest would miss the due date as 7:36 <b>AM</b> . Qwest said the time Qwest called Eschelon to deliver the circuit on 2/10/05, is 7:18 but does not say whether this was AM or PM.			Invalid CNR

<sup>7</sup> Eschelon recorded the time directly from IMA while tracking DS1 capable loop jeopardies. Eschelon included the date and time in the spreadsheet it sent to its Service Management team at Qwest. As a rule, if Qwest applied the customer jeopardy to the request before 6 PM Central time on 2/10/05 (local time for this order), Eschelon should have received an automated jeopardy at 19:00 hours on 2/10/05. Eschelon recorded Qwest sending Eschelon the jeopardy at 5:50 AM the next morning. This would suggest that the Qwest may have placed the request in a customer jeopardy status after 6 PM local time on 2/10/05.

<sup>8</sup> **Business Hours:** See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process says “Qwest normal business hours are Monday through Friday from 8 AM to 5 PM but may vary based on company policy, union contracts and location.”

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					was sent to CLEC on the 10th. 2/14 supp to chg DD to 2/17; however Qwest still installed on the 14th.	Qwest’s review says it sent the CO1 jeopardy on 2/10/05; however, Eschelon records show that Qwest sent Eschelon the C01 jeopardy at 5:50 AM on 2/11/05, the following morning. <sup>7</sup> If Qwest contacted Eschelon at 7:18 <b>PM</b> , Qwest’s CNR jeopardy was in error. Qwest’s hours for loop installation are 8 am to 5 pm local time. <sup>8</sup>			
NA <sup>9</sup>	NA	NA					NO	YES	NA
3. OR477412T1FAC	13349048	Releasing FOC for K I jep never sent. Qwest applied invalid CNR Jeopardy	OR	N14485305	Orig K17 jep sent 2/22 at 6:02 pm. Jeopardy condition cleared on the DD. Contacted Eschelon to attempt to turn up the circuit.	No FOC = Invalid CNR  In addition, with respect to Qwest’s “Review”: Eschelon requested a due date of 2/23/05 and Qwest sent a Qwest facility	NO	NO	“ <b>A</b> ”  No FOC = Invalid CNR

<sup>9</sup> NA = Not Applicable. PON CO477191T1FAC is included in Qwest’s Exhibit RA-25, which is supposed to be a response to Exhibit BJJ-6 (*see* Albersheim Rebuttal, p. 57), but Exhibit BJJ-6 does not contain that PON. It appears that Qwest has taken this PON from an exhibit in a different state, though Qwest does not explain that. On page 61 of Ms. Albersheim’s rebuttal testimony, she refers to 23 items, but as indicated on Eschelon’s Exhibit BJJ-6 and on page 126 (lines 7-11) of Mr. Webber’s direct testimony (adopted by Mr. Starkey): “Exhibit BJJ-6 to the testimony of Ms. Johnson includes *twenty-two examples* of situations when Eschelon was unable to accept delivery of the circuit on the due date because Qwest sent no FOC or an untimely FOC and yet Qwest erroneously classified this situation as “Customer Not Ready” when it should not have done so.” (emphasis added).

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					Eschelon indicated they would be avail after 5P Pac, CLEC had equipment problems and CO1 jep posted; 2/24 supp to chg DD to 3/1; Qwest did install and Eschelon accepted on 2/24 instead of waiting until new DD of 3/1.	jeopardy on 2/22/05 at 6:02 PM. There was no “due date” for this request because Qwest did not send an FOC with the new due date. <sup>10</sup> Qwest did not notify Eschelon that Qwest had cleared the jeopardy condition so Eschelon staff could prepare to accept delivery of the circuit. Had Qwest notified Eschelon that Qwest had cleared the jeopardy and there was a new due date, Eschelon may have resolved any equipment troubles prior to Qwest delivering the circuit.			
4. AZ485850T1FAC	13789261	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy.	AZ	N17311757	Jeopardy notice was sent 3/16 and later cleared. No FOC resent. Talked to	No FOC = invalid CNR  In addition, with respect to Qwest’s “Review”:	NO	NO	“A”  No FOC = invalid CNR

<sup>10</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): “If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved*. This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>11</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
					[ER]at Eschelon on the PTD 3/16/05 at 13:5g, he was going to test and call back 3/17 no callback from CLEC. C01 jeep posted. 3/18 supp to chg DD to 3/23; Qwest installed the circuit on 3/18 with the CLEC instead of waiting for new 3/23 date.	Qwest states 3/17/05 is the "due date," but there is no "due date" for this request because Qwest did not send an FOC with the new due date. <sup>11</sup> Per Qwest's Review, not only did Qwest not send Eschelon an FOC, but Qwest attempted to deliver the circuit the day <i>before</i> Eschelon's requested due date. Qwest inaccurately placed a CNR jeopardy on the request. Qwest should have at least called back on the requested due date to deliver the circuit.			
5. WA494646 TIFAC	14216585	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy.	WA	N21366533	K17 jeep sent 4/1 3 and K43 on DD 4/14/05. Contacted [ER] at Eschelon at 16:58 he said he	No FOC = invalid CNR  In addition, with respect to Qwest's "Review": CNR was	NO	NO	"A"  No FOC = invalid CNR

<sup>11</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					would test and call back. [ER] called back at 17:23 can’t see signal. Problem originally thought to be on CLEC side. 4/15 found trbl to be in Qwest wiring, fixed & CLEC accepted.	inappropriate for two reasons. The first is that Qwest did not send Eschelon an FOC and the second is because Qwest placed the CNR jeopardy on the circuit before it checked wiring to ensure the trouble was not on the Qwest side. <i>Qwest did not deliver a working circuit.</i> However, in this example, had the circuit tested good and Qwest was delivering a working circuit, Eschelon would have accepted the circuit in spite of the fact that Qwest did not send Eschelon an FOC with a due date. <sup>12</sup>			
6. AZ510194 TIFAC	14657841	Releasing FOC for K I jep never sent. Owest applied invalid CNR jeopardy.	AZ	N26053835	Sent K17 jep on 5/31 and a KI 8 on 6/3. DD 6/3/05 missed due to Qwest reasons and coded as such in	No FOC = invalid CNR  In addition, with respect to Qwest’s “Review”: CNR was	NO	NO	“A”  No FOC = invalid CNR

<sup>12</sup> Eschelon ICA Section 12.2.7.2.4.4.1 proposal: “CLEC will nonetheless use its best efforts to accept the service.”

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					Qwest internal systems. No FOC sent. 6/6 ref'd to CLEC who will test & call back C01 jeop; CLEC can't loop NIU; Originally problem thought to be on the CLEC side. 6/7 found trbl to be in Qwest wiring, fixed & CLEC accepted.	inappropriate for two reasons. The first is that Qwest did not send Eschelon an FOC and the second is because Qwest placed the CNR jeopardy on the circuit before it checked wiring to ensure the trouble was not on the Qwest side. <i>Qwest did not deliver a working circuit.</i> However, in this example, had the circuit tested good and Qwest was delivering a working circuit, Eschelon would have accepted the circuit in spite of the fact that Qwest did not send Eschelon an FOC with a due date. <sup>13</sup>			
7. CO528230 T1FAC	15276469	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy.	CO	N30873460	Sent KI7 jeoparryd on 8/1. Sent K18 jeopardy on 8/4. Sent FOG 8/5 at 7:33 DD 8/5/05; 8/5 16:34 ref'd	No FOC Day Prior = Invalid CNR	NO	YES	“B” No FOC Day Prior = Invalid CNR

<sup>13</sup> Eschelon ICA Section 12.2.7.2.4.4.1 proposal: “CLEC will nonetheless use its best efforts to accept the service.”



ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					to CLEC; 19:23 no CLEC callback C01 jeop; 8/8 supp to chg DD to 8/1 1 ; 8/8 CLEC called to accept.				
8. WA535799T1FAC	15508546	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy.	WA	N33388590	Initial jeop sent K17 on 8/29. Jeop K08 on 8/31 . 9/2 sent FOG with DD 9/2/05 at 3:05. 9/2 refd to [ER] at Eschelon at 16:13, [ER] advised to C01 jeop.C01 jeop; 9/6 supp to chg DD to 9/9; 9/7 CLEC accepted the circuit	No FOC Day Prior = Invalid CNR  In addition, with respect to Qwest’s “Review”: Qwest first sent Eschelon two Qwest facility jeopardies. On the due date Eschelon’s requested (9/2/05), Qwest sent Eschelon an FOC at 3:05 (15:05) <sup>14</sup> with the new due date of that same day (9/2/05). Qwest contacted Eschelon to deliver the circuit at 16:13 (4:13 PM). This allowed Eschelon only a little over an hour to staff and prepare to accept	NO	YES	“B”  No FOC <i>Day Prior</i> = Invalid CNR

<sup>14</sup> For this request, Eschelon recorded the time directly from IMA and included this time in the spreadsheet Eschelon sent to Qwest service management. The time Eschelon recorded directly from IMA was military time (15:05) so Eschelon determined the time Qwest describes as 3:05 was 3:05 PM.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
						the circuit.			
9. AZ591886T1FAC	16172421	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy.	AZ	N40299259	Sent KI7 on 11/21. K45jep sent also on 1 1/21at 6pm. Sent FOC 11/21 5:49pm with 1 1/22 DD. 1 1/22 1658 ref'd to CLEC; 1729 no CLEC callback C01 jeep; I 1/29 supp to chg DD to 1212; 11/29 CLEC can't loop NIU will dispatch CLEC tech to cage; 12/2 CLEC accepted	NO FOC = invalid CNR  In addition, with respect to Qwest's “Review”: Qwest's Review suggests that Qwest sent a Qwest facility jeopardy, Qwest sent another Qwest facility jeopardy and then Qwest sent Eschelon an FOC. Qwest lists the sequence incorrectly. The times in Qwest's Review show that Qwest sent the second facility jeopardy <i>after</i> Qwest sent the FOC. Looking at the sequence in order of time, the last notice Qwest sent Eschelon was a second Qwest facility jeopardy (K45 jeopardy) <i>after Qwest sent Eschelon the FOC</i> . The request was in a Qwest facility jeopardy status at the	NO	YES	“A”  NO FOC = invalid CNR  <i>See end note i to KEY above regarding pertinent FOC; although an FOC may have been sent after the original jeopardy, an FOC was not sent after the most recent Qwest facility jeopardy before delivery.</i>

ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
						time Qwest called to deliver the circuit at 4:58 PM local time -- <i>two minutes before the close of business.</i> Qwest did not send an FOC releasing the K45 jeopardy so this request did not have a new due date. <sup>15</sup>			
10. WA609209T1FAC	16594320	Releasing FOC for K1 jep never sent. Qwest applied invalid CNR jeopardy.	WA	N44115166	Initial jeep 1/11 K17jeop. 1/12 K17jeop. No FOC. DD 1/13/06; 1/13 referred to CLEC [ER] at Eschelon at 16:49 left message. 17:29 on 1/13 worked with CLEC to try to turn up CKT. CLEC unable to accept. C01 jeep; 1/17	No FOC = Invalid CNR  In addition, with respect to Qwest's "Review": Qwest states 1/13/06 is the "due date," but there is no "due date" for this request because Qwest did not send an FOC with the new due date. <sup>16</sup> Qwest's review states "CLEC unable to accept." The Qwest review does not say	NO	NO Qwest error	"A"  No FOC = Invalid CNR  See end note iv to KEY above regarding Qwest's note ("Qwest error) in previous column

<sup>15</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

<sup>16</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
					supp to chg DD to 1/20; 1/18 refd to CLEC & CLEC [ER] accepted.	why Eschelon was unable to accept the circuit. Eschelon may have been able to accept the circuit if Qwest had sent Eschelon an FOC and Eschelon was prepared to accept the circuit.			
11. AZ610571T1FAC	16615282	Releasing FOC not sent the day prior to DD Qwest applied an invalid end user customer no access C02 jeopardy.	AZ	N43700628	Initial jeop K17 on 1/11. Sent FOC 1/16 at 3:42 with 1/16 DO. 1/16 15:51 received call from outside tech, advised NoAccess to prem Called CLEC and advised no access. C02 jeopardy posted. 1/20 supp to chg DD to 1/25, cld CLEC advsd ckt rdy; 1/23 CLEC accepted (prior to 1/25 supped due date)	No FOC Day Prior = Invalid CNR  In addition, with respect to Qwest's "Review": Eschelon requested a due date of 1/16/06. Qwest sent Eschelon a Qwest facility jeopardy on 1/11/06. Qwest sent a FOC at 3:42 (15:42) <sup>17</sup> on 1/16/06. Qwest's Review says the Qwest technician called a Qwest internal department at 15:51 ( <i>nine minutes later</i> ) to say the Qwest technician did not have access to the	NO	YES	"B"  No FOC <i>Day Prior</i> = Invalid CNR

<sup>17</sup> For this request, Eschelon had recorded the time directly from IMA and included this time in the spreadsheet Eschelon sent to Qwest service management. The time Eschelon recorded directly from IMA was military time (15:42) so Eschelon determined the time Qwest describes as 3:42 was 3:42 PM.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
						customer premise. <i>Qwest allowed Eschelon nine minutes to arrange premise access with the customer.</i>			
12. AZ610687T1FAC	16615986	Releasing FOG for K I jep never sent. Qwest applied invalid CNR jeopardy	AZ	N45042996	K17jep 1/13. No FOC. 1/16 C01 jep posted. 00 1/16/06; 1/16 15:43 advsd [ER] at Eschelon order was released from held. He said would test and call back. 16:39 CLEC cannot loop NIU, still trying to meet DO. CLEC wI stay til 1800, unable to resolve before CLEC left, C01 jep’d in error (should have been K jep); 1/18 supp to chg	No FOC = Invalid CNR  In addition, with respect to Qwest’s “Review”: Although Qwest admits CNR was invalid, it gives only one of the reasons why it was invalid. The other is that Qwest sent no FOC after the facility jeopardy. <sup>18</sup>  Qwest admits it placed a C01 jeopardy on this request in error because Qwest should have placed a K jeopardy (Qwest facility jeopardy) on the request.	YES	NO	“C”  No FOC = Invalid CNR  Companies agree “CNR” was in- appropriate

<sup>18</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): “If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					00 to 1/23; 1/18 CLEC accepted				
13. AZ602905T1FAC	16798946	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N46302319	Initial K17 jeep sent on 1/31 . FOC send 2/2 with 00 2/7; 2/6 K18 jeep was issued. No subsequent FOC. 2/7 10:08 referred order to CLEC to test but no CLEC callback (as of 17:34); C01 jeep posted. 2/8 supp to chg DD to 2/13; 2/9 CLEC accepted service and order completed.	No FOC = Invalid CNR  In addition, with respect to Qwest’s “Review”: Eschelon requested a due date of 2/7/06. Qwest did not send Eschelon an FOC releasing the order from the second Qwest facility jeopardy (K18 jeopardy). <sup>19</sup>	NO	YES	“A”  NO FOC = invalid CNR  <i>See end note i to KEY above regarding pertinent FOC; although an FOC may have been sent after the original jeopardy, an FOC was not sent after the most recent Qwest facility jeopardy before delivery.</i>

<sup>19</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): “If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
14. AZ624356T1FAC	16886232	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	AZ	N47011517	Sent K17 jeops on 2/13. No FOC. Sent K18 jeop at 16:02 on 2/16. DD 2/16, jeop was cleared in the field. 2/16 16:04 talked to CLEC who was going to test and call back, but no CLEC callback (as of 17:58) C01 jeop; 2/17 supp to chg DD to 2/22; 2/20 CLEC accepted	No FOC = Invalid CNR  In addition, with respect to Qwest’s “Review”: Qwest states 2/16/06 is the “due date,” but there is no “due date” for this request because Qwest did not send an FOC with the new due date. <sup>20</sup> Qwest did not notify Eschelon that Qwest had cleared the Qwest jeopardy condition.	NO	NO	“A”  No FOC = Invalid CNR
15. MN660526T1FAC	17197449	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	MN	N49735347	Sent K17 on 3/24 at 13:10. Then at 18:01 B33jeop sent followed by a C01 jeop on 3/24/06; 3/24 1 3:35. Talked to [ER] at Eschelon advised end user needs to provide	No FOC = Invalid CNR  In addition, with respect to Qwest’s “Review”: Although Qwest admits CNR was invalid, it gives only one of the reasons why it was invalid. The other is that Qwest	YES	NO	“C”  No FOC = Invalid CNR  Companies agree “CNR” was in- appropriate

<sup>20</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): “If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved*. This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
					ground. C01 jeop EU needs to provide ground; K18 jeop to recover prs; CNR jeopardy posted in error due to pair recovery issue. 3/30 CLEC accepted	sent no FOC after the facility jeopardy. <sup>21</sup>  Qwest admits in its review that it posted the customer jeopardy (C01) in error.			
16. MN659573TIFAC	17223262	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	MN	N50018967-70	3/27 sent K17 jeopardy for 2 orders. 3/27 K18 jeop on another order. No FOC. 3/28 C01 jeop. 3/28 13:44 called CLEC, referred to [ER]. 13:53 said to jeop back to Escelon they are not ready. 3/29 supp to chg DD to 4/3; 3/30 ref'd	No FOC = Invalid CNR  In addition, with respect to Qwest's "Review": Eschelon requested a due date of 3/28/06. Qwest did not send Eschelon an FOC releasing the orders from Qwest facility jeopardies (K-17 and K18 ). <sup>22</sup>	NO	NO	"A"  No FOC = Invalid CNR

<sup>21</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved*. This is usually within 72 hours.

<sup>22</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved*. This is usually within 72 hours.



ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
					to CLEC; 3/31 CLEC accepted				
17. OR668544T1FAC	17301788	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	OR	N50692388	4/14 sent KI7 jep 3pm. No FOC. DD 4/14/06; 4/14 refd 15:30 referred to [ER] at Eschelon, but no callback; C01 posted. 4/21 supp to chg DD to 4/26; 4/24refd to CLEC & CLEC accepted	No FOC = Invalid CNR  In addition, with respect to Qwest's "Review": Qwest said 4/14/06 is the "due date" but there was no "due date" for this request because Qwest did not send an FOC with the new due date. <sup>23</sup>	NO	NO	"A"  No FOC = Invalid CNR
18. WA696462T1FAC	17804830	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	WA	N55399841	6/7 sent K18 jep at 8:55. Jeopardy resolved later in the day on due date (6/7) DD 6/7/06. 6/7 16:45 tried to ref CLEC [PHONE NUMBER REDACTED]	No FOC = Invalid CNR  In addition, with respect to Qwest's "Review": Qwest said 6/7/06 was the "due date" but there was no "due date" for this request because Qwest did not	NO	NO	"A"  No FOC = Invalid CNR

<sup>23</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
					but Ring No Answer. C01 jeop; 6/8 DD chg to 6/13; 6/8 CLEC accepted	send an FOC with the new due date. <sup>24</sup> Qwest has multiple Eschelon contact numbers and knows that voice mail is available. Qwest may have misdialed if it got a ring no answer and should have tried again or tried another of the readily available Eschelon numbers.			
19. CO689077T1FAC	17705435	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	CO	N55328894	5/25 17:18 K18 jeop was sent. K17 also sent at 18:01. 5/26 FOG sent at 12:36pm with DD 5/26/06. 5/25 19:12 called CLEC left voice mail was ready to test (day before the DD) 5/26 16:47 no CLEC callback jeop C01; 5/30 supp to chg DD to	No FOC Day Prior = Invalid CNR  In addition, with respect to Qwest's "Review": Qwest called Eschelon <i>after business hours</i> the day <i>before the due</i> <i>date</i> . Qwest sent Eschelon an FOC for 5/26/06, not 5/25/06. Qwest inappropriately applied a CNR jeopardy because Qwest should have contacted Eschelon on	NO	YES	"B"  No FOC Day Prior = Invalid CNR

<sup>24</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved*. This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					6/2; 5/20 refd to CLEC & CLEC accepted	the due date.			
20. CO702280T1FAC	17929677	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	CO	N57492344	6/20 at 15:48 K17jeop issued. 6/22 1 3:00 send FOG with DD 6/22/06. 6/22 K43 discovered and missed due to Qwest reasons; 6/23 13:04 called [ER] at Eschelon, talked to [ER] advised ready to test and accept. 6/26 9:17 no response from CLEC. 6/26 9:20 pending acceptance Pete. 6/27 supp to chg DD to 6/29; 6/28 CLEC accepted	No FOC Day Prior = Invalid CNR  In addition, with respect to Qwest’s “Review”: <i>Qwest missed Eschelon’s requested due date</i> because of a Qwest facility jeopardy. Because Qwest then classified it as CNR, Qwest’s missed due date will not count against its performance in the PIDs.  Qwest did not send Eschelon an FOC releasing the order from the second Qwest facility jeopardy (K43 jeopardy). <sup>25</sup>	NO	YES	“B”  No FOC <i>Day Prior</i> = Invalid CNR
21. AZ716331T1FAC	18253036	Releasing FOC not sent the day prior to	AZ	N59678376	Sent K17 jeop 7/24. FOG 7/27	No FOC Day Prior =	NO	NO Qwest Error	“A”

<sup>25</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest’s Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): “If the column contains “Yes” and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				"QWEST REVIEW" <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR "A" – "C"
		DD Qwest applied an invalid CNR jeopardy			13:00 for a DD of 7/27/06. 7/27 V25 jeep sent. Missed the due to Qwest reasons on 7/27 and coded original due date miss to Qwest. No FOG. 7/28 1 2:44 refd to [ER] but no CLEC callback and a subsequent C01 jeop posted on 7/28. 7/31 supp to cng DD to 8/3; 8/2 refd to CLEC & CLEC accepted	Invalid CNR  In addition, with respect to Qwest's "Review": Qwest <i>missed</i> <i>Eschelon's requested</i> <i>due date</i> and Qwest did not send Eschelon an FOC releasing the order from the second Qwest facility jeopardy (V25 jeopardy). <sup>26</sup>			No FOC <i>Day Prior</i> = Invalid CNR  See end note iv to KEY above regarding Qwest's note ("Qwest error) in previous column
22. AZ719081T1FAC	18386264	Releasing FOC for K I jep never sent. Qwest applied invalid CNR jeopardy	AZ	N61499633	8/4 11:26 K17 jeop issued. 8/8 18:04 K17 jeep issued. 8/9 11:36 K17 jeep issued. 8/9 two more jeopardies issued. DD	No FOC = Invalid CNR  In addition, with respect to Qwest's "Review": Qwest admits it posted this jeopardy in error. It appears that Qwest	YES	NO Possible Qwest Error	"C"  No FOC = Invalid CNR  Companies agree "CNR" was

<sup>26</sup> See <http://www.qwest.com/wholesale/clecs/provisioning.html>: Qwest's Provisioning and Installation overview V94.0 PCAT documented process says (emphasis added): "If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy condition has been resolved.* This is usually within 72 hours.

ESCHELON DATA (FROM BJJ-6)				“QWEST REVIEW” <sup>1</sup> (FROM MN RA-30 – COPIED IN BJJ-6)		ESCHELON REVIEW <sup>2</sup> (FROM BJJ-6)	FROM RA-25	FROM RA-25	Eschelon review of RA-25
PON	LSR ID	Reason for Invalid Customer Not Ready (CNR) Jeopardy	ST	Order #			CNR Jeopardy in Error?	FOC Sent after original Jeopardy?	SEE KEY AT END FOR “A” – “C”
					8/9/06. jeopardy issue resolved on the due date. 8/9 tried to call CLEC 17:22. GOI jeopardy posted in error.	admits the error because it called after business hours (without also recognizing it was an error because there was no FOC).			in- appropriate  See end note iv to KEY above regarding Qwest’s note (“Qwest error) in previous column

*FOR KEY – SEE COVER PAGES (pages i-ii)*

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon            )**  
**Telecom of Oregon, Inc. for Arbitration with    )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 116**

**CHANGE REQUESTS RELATED TO JEOPARDY NOTICES IN QWEST'S  
PRODUCT AND PROCESS, AND SYSTEMS CHANGE REQUEST ARCHIVES**

**MCI**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_SCR021403-01.htm](http://www.qwest.com/wholesale/cmp/archive/CR_SCR021403-01.htm)

**SCR021403-01** Withdrawn

2/11/2004

**Title: Add New Reject & Jeopardy for MW1 Unavailability**

**McLeod**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_5097684.htm](http://www.qwest.com/wholesale/cmp/archive/CR_5097684.htm)

**5097684** Withdrawn

11/30/2000

**Title: Jeopardy Notification**

Description of change - Support jeopardy notification through EDI application for Centrex and Centrex Plus.

**Sprint**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_4381492.htm](http://www.qwest.com/wholesale/cmp/archive/CR_4381492.htm)

**4381492** Completed

3/8/2000

**Title: Jeopardies**

Description of change

Sprint wants USW to follow the industry-wide practice of sending FOCs prior to sending Jeopardies.

Sprint needs confirmation of the order first. Then, other arrangements can be made for installation if necessary.

USW sends the Jeopardy before the FOC if they know facilities are not available. This can occur even when availability was confirmed through the Facility Availability Query pre-order transaction (FAQ). Sprint is familiar with USW's disclaimer in its disclosure documentation that availability is not guaranteed, but did not expect the situation to occur as frequently as it does.

USW states in its disclosure document that "A FOC form will be sent to the Co-Provider when an order has been accepted by U S WEST and successfully entered into the U S WEST Service Order Processor". It does not say a Jeopardy will precede the confirmation (full text below).

**Eschelon**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_PC072303-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC072303-1.htm)

**PC072303-1** Completed

2/18/2004

**Title: Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_PC081403-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC081403-1.htm)

**PC081403-1** Completed

7/21/2004

**Title: Jeopardy Notification Process Changes (new title). Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends an updated FOC (old title).**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_PC022105-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC022105-1.htm)

**PC022105-1** Denied

7/29/2005

**Title: ASR Initial Jeopardy Sent to E-mail Address on ASR**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_SCR030204-04.htm](http://www.qwest.com/wholesale/cmp/archive/CR_SCR030204-04.htm)

**SCR030204-04** Denied

6/11/2004

**Title: Provide Electronic Jeopardy Notices for ASR's in QORA and Develop an Interim Manual Process**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_SCR021904-02.htm](http://www.qwest.com/wholesale/cmp/archive/CR_SCR021904-02.htm)

**SCR021904-02** Withdrawn

5/17/2006

**Title: Suppression of Jeopardy Status Updates**

## Qwest

[http://www.qwest.com/wholesale/cmp/archive/CR\\_PC112901-1.htm](http://www.qwest.com/wholesale/cmp/archive/CR_PC112901-1.htm)

**PC112901-1** Withdrawn

12/12/2001

**Title: Standardize Process of Receiving Jeopardy Notices**

Description of change

Qwest currently offers CLECs multiple methods for receiving jeopardy notices. CLECs can receive jeopardy notices via the tool in which the LSR was processed, i.e. EDI or GUI. They also have the option of receiving jeopardy notices via e-mail or fax.

Qwest plans to move to a consistent, mechanized method of sending jeopardy notices. Jeopardy notices will be sent to the CLEC through the same tool that was used to submit the LSR. This will allow Qwest to enhance its internal jeopardy



notification process leading to more consistent and timely notifications for the CLECs.

[http://www.qwest.com/wholesale/cmp/archive/CR\\_30623.htm](http://www.qwest.com/wholesale/cmp/archive/CR_30623.htm)

**30623** Completed

7/18/2002

**Title: On-time jeopardy notification improvements**

**VCI Company**

[http://www.qwest.com/wholesale/cmp/archive/CR\\_SCR061405-03ESDR.htm](http://www.qwest.com/wholesale/cmp/archive/CR_SCR061405-03ESDR.htm)

**SCR061405-03ESDR** Denied

09/12/2005

**Title: Daily Reject/Jeopardy Report to view and export into Excel. Quantity of Daily Reject/Jeopardy Report to view and export in Excel. Qnty of reject/Jeops by Username, PON, LSR, and reject comm with the ability to also view if the Reject had been corrected**

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**In the Matter of the Petition of Eschelon                    )**  
**Telecom of Oregon, Inc. for Arbitration with            )** **Docket No. ARB 775**  
**Qwest Corporation, Pursuant to 47 U.S.C.                )**  
**Section 252 of the Federal                                    )**  
**Telecommunications Act of 1996                            )**

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**EXHIBIT 117**

**From:** Isaacs, Kimberly D. [CONTACT INFORMATION REDACTED]  
**Sent:** Friday, November 03, 2006 9:50 PM  
**To:** Novak, Jean; Dobesh, Mary  
**Subject:** Qwest Jeopardy Process Tracking 11-3-06

Have a great week.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Tuesday, November 07, 2006 9:04 AM  
**To:** Isaacs, Kimberly D.  
**Cc:** Dobesh, Mary  
**Subject:** Qwest Jeopardy Process Tracking 11-3-06

**Attachments:** SENT 2006.11.3 Qwest Jep Process Tracking.xls

Kim

Qwest has determined that due to resources Qwest will not be reviewing this report any longer. Qwest through self reporting internally will manage the process and compliance of the delayed order process.

Thanks  
Jean Novak

**From:** Isaacs, Kimberly D. [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, November 13, 2006 2:14 PM  
**To:** Novak, Jean; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** Qwest Jeopardy Process Tracking 11-13-06

Hello,  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, November 13, 2006 2:19 PM  
**To:** Isaacs, Kimberly D.; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Qwest Jeopardy Process Tracking 11-13-06  
Based on resources, Qwest will not be reviewing individual spreadsheets. Qwest will be relying on internal reports to insure compliance. Thanks

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, November 20, 2006 11:23 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest Jeopardy Process Tracking 11-20-06

As you know, Eschelon disagrees. Eschelon's request that Qwest review our data and respond to it is ongoing. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, November 27, 2006 8:11 AM  
**To:** 'Novak, Jean'; 'Dobesh, Mary'  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking - 11/27/2006

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Monday, November 27, 2006 11:50 AM  
**To:** Isaacs, Kimberly D.; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.  
**Subject:** RE: Qwest Jeopardy Process Tracking - 11/27/2006

Qwest will be utilizing internal reports which will capture all issues for all customers.

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, November 27, 2006 11:55 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** RE: Qwest Jeopardy Process Tracking - 11/27/2006

As you know, Eschelon disagrees. Eschelon's request that Qwest review our data and respond to it is ongoing

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, December 04, 2006 9:21 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Jeopardy Process Tracking 12-4-06  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, December 11, 2006 9:05 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking - 12-11-2006  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, December 18, 2006 9:15 AM  
**To:** 'Novak, Jean'; 'Dobesh, Mary'  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking 12/18/2006  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Tuesday, December 26, 2006 8:50 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking 12/26/06  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Tuesday, January 02, 2007 8:05 AM  
**To:** 'Novak, Jean'; Dobesh, Mary  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking - 1/2/2007  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, January 08, 2007 10:56 AM  
**To:** 'Novak, Jean'; Dobesh, Mary; Saldivar, Jodi  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking - 1/8/2007  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, January 15, 2007 9:10 AM  
**To:** Novak, Jean; Dobesh, Mary; Saldivar, Jodi  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking Sent 1/15/07  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, January 22, 2007 10:16 AM  
**To:** 'Novak, Jean'; Dobesh, Mary; Saldivar, Jodi  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking Sent 1/22/07  
Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Sunday, January 28, 2007 6:26 PM  
**To:** 'Dobesh, Mary'; Saldivar, Jodi  
**Cc:** Novak, Jean; Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking Sent 1-29-07

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, February 19, 2007 8:58 AM  
**To:** 'Dobesh, Mary'; Saldivar, Jodi  
**Cc:** Johnson, Bonnie J.  
**Subject:** Qwest Jeopardy Process Tracking - 2/19/07

Eschelon continues to request that Qwest review the jeopardy process compliance. Due to my absence the week of 2/5/2007 this jeopardy report is a bit larger and includes the jeopardy data for the weeks of 1/29/07 and 2/5/07 and well as the data from the week of 2/12/07. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]



**From:** Isaacs, Kimberly D.  
**Sent:** Monday, February 26, 2007 11:28 AM  
**To:** Saldivar, Jodi; 'Dobesh, Mary'  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking Sent 2-26-2007

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

**From:** Isaacs, Kimberly D.  
**Sent:** Monday, March 05, 2007 9:50 AM  
**To:** 'Dobesh, Mary'; Saldivar, Jodi  
**Cc:** Johnson, Bonnie J.; Isaacs, Kimberly D.  
**Subject:** Qwest Jeopardy Process Tracking Sent 3/5/07

Eschelon continues to request that Qwest review the jeopardy process compliance. Thank you.

*Kim Isaacs*  
*Eschelon Telecom, Inc.*  
*ILEC Relations Process Specialist*  
**Ph:** [CONTACT INFORMATION REDACTED]  
**Fax:** [CONTACT INFORMATION REDACTED]  
**Email:** [CONTACT INFORMATION REDACTED]

## Qwest's Comments on Eschelon's Jeopardy Analysis

-----Original Message-----

**From:** Novak, Jean [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, August 25, 2004 2:44 PM  
**To:** Johnson, Bonnie J.  
**Cc:** Larson, Laurie A.; Karen Clauson; Kimberly Isaacs; Raymond Smith;  
Novak, Jean; Tietz, Jeff  
**Subject:** Qwest Held Order Jeopardy Process Compliance

Bonnie

Attached is the jeopardy analysis completed on the examples provided to Qwest by Eschelon. Qwest would like to note:

1.) Five of the LSRs in the spreadsheet are where a FOC was not sent timely prior to the due date because Qwest resolved the facility condition either on PTD or on the due date. The delayed order process was not where the breakdown occurred, rather resolving the facility issue late in the process and still attempting to meet the customers due date. Qwest will continue to monitor this.

2.) There were a number of LSRs listed that were due to workforce, B33. It is my understanding that this was discussed in CMP and agreed to by the CLEC community to ignore B33s sent prior to the due date.

In summary:

There were several LSRs that were listed more than once and Qwest provided an explanation for the overall LSR only once.

There were approximately 26 where Qwest saw no process gaps and the CLEC should have expected us on the due date that was FOC'd.

There were 16 where Qwest has taken appropriate action. Of those 16, 5 were due to the issue described above with resolving the facility really late in the process; 5 of those will be addressed through coaching and the other 6 were miscellaneous issues addressed by Qwest.

Let me know if you have additional questions or feedback.

Thanks,  
Jean Novak

-----Original Message-----

**From:** Johnson, Bonnie J. [CONTACT INFORMATION REDACTED]  
**Sent:** Wednesday, August 25, 2004 4:04 PM  
**To:** Novak, Jean; Johnson, Bonnie J.  
**Cc:** Larson, Laurie A.; Clauson, Karen L.; Isaacs, Kimberly D.; Smith, Raymond L; Tietz, Jeff  
**Subject:** RE: Qwest Held Order Jeopardy Process Compliance

Jean,

You are correct about the B jeps. Qwest did tell Eschelon to ignore those jeps. Eschelon told Qwest it was sending the universe of DS1 jeopardies to review. Eschelon communicated it did so, because Qwest could then tell what Qwest employees/groups/centers were following process and where Qwest needed to focus attention or additional training. I hope Qwest did not spend a

significant amount of valuable time doing root cause on those jeopardies where Eschelon agrees Qwest followed its process. As you can see from the spreadsheet, on all but one of the B jeopardies, Eschelon agreed Qwest followed process. The B jeopardy that is marked no, was marked no because Eschelon ignored the B jeopardy, as Qwest's process states (because Qwest said in all cases Qwest meets the DD) and Qwest missed the due date. In those cases, Eschelon is unable to notify the customer until after Qwest has already missed the commitment.

In addition, on those responses Qwest said Eschelon provided duplicates, the LSR had multiple jeopardies and Eschelon was communicating each jeopardy for the LSR separately. On line 15 Eschelon agrees Qwest followed the process, however, on line 9 where Qwest states it is a duplicate, Qwest did not follow the process. Can you confirm that line 9 was addressed? The Qwest comments says duplicate see line 7 and line 7 was a different jeopardy for that LSR.

<<Qwest Analysis of Jeopardy Compliance Eschelon Orders

080104-081204.xls>>

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
Phone [CONTACT INFORMATION REDACTED]  
Fax [CONTACT INFORMATION REDACTED]  
Cell [CONTACT INFORMATION REDACTED]  
[CONTACT INFORMATION REDACTED]

### **From Eschelon Issues Logs for Service Manager Meetings**

**2/28/05 Jean said Qwest looked at January data and found had Qwest people that did not understand process and were not following the process. Qwest is training. Qwest did see on some the 72 hour response sent when Eschelon checked no.**

**3/28/05 Jean wrote "Qwest completed on the analysis on Eschelon's February Delayed Orders that were sent on March 7, 2005 with the following results: Missed sending the 72 hour update notification . Qwest is currently working with each department. that updates information to insure the Delayed Order Group receives the information needed for processing. Missed sending the Releasing FOC . Qwest has trained individually and with the group. In addition, tracking information from other Qwest departments. Correction action has taken place."**

**5/4/05 Jean said Chris Siewert was not happy with the the results of the data Kim continues to send Qwest on a daily basis. Bonnie asked if this was network related and Jean said it was also center related and Phyllis is working with network. Chris said they found an SDC that needed to be trained. Qwest has provided no additional information on FOC 24 hours before the DD.**

**8-3-05 Team Meeting Jean stated that Qwest continues to look at data and take appropriate training action, In June Eschelon reported a 74% compliance rate and Qwest believes the compliance was at 80%. Jean will provide Qwest's analysis to Kim to review. Jean once again stated that Qwest disagrees that it is Qwest's process to send the releasing FOC 24 hours prior to the FOC due date. Jean stated that Eschelon should open a CMP CR if we would like to change the process.**

**10/5/05** Per Jean Qwest implemented a new tracking process to track network sending information so Qwest can send an FOC. Bonnie asked if Eschelon should continue to send the delayed data to Qwest. Jean said yes. in October. The tracking mechanism was implemented in Colorado sometime. Eschelon told Jean that starting in October Eschelon was going to break down the "no FOC" with more detail. Eschelon wants to ensure that Qwest is looking at multiple compliance issues orders and just because there was an FOC did not want other misses overlooked. Jean said Qwest still looks at all of the data, even the no FOC, to determine why no FOC was sent even though Qwest does not consider this non compliance.

**5/3/06** Chris Siewert said they analyze the orders. Jean said they address coaching opportunities. Jean said if cross functional she sends to process.

**6/7/06: Monthly Call** - Kim indicated they she has saw a decrease in the jeopardy process compliance, many of the mistakes appeared to be "rookie" mistakes. Eschelon has seen slight improvements over the last month or so. Jean indicated that the jeopardy process data is being used to coach new Qwest personnel

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

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**Qwest Corporation, Pursuant to 47 U.S.C.        )**  
**Section 252 of the Federal                         )**  
**Telecommunications Act of 1996                    )**

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**EXHIBIT 118**

Examples of Qwest position when it will not provide requested documentation.

**Example #1**

-----Original Message-----

From: Novak, Jean [Qwest - Contact information redacted]  
Sent: Wednesday, September 01, 2004 3:43 PM  
To: Johnson, Bonnie J.; McAlpine, Tom W.  
Cc: Boeke, Gerald A.; mjbone1[Contact information redacted]; Tolman, Donald; Beck, Ken; Tietz, Jeff  
Subject: RE: Qwest/Des Moines Ticket Escalations

Bonnie, Bonnie, Bonnie

You know that we do not document our internal processes. The documentation on escalations is already in the PCAT.

Thanks,  
jean

**From:** Johnson, Bonnie J.

**Sent:** Wednesday, September 01, 2004 3:39 PM

**To:** 'Novak, Jean'; McAlpine, Tom W.

**Cc:** Johnson, Bonnie J.; Boeke, Gerald A.; mjbone1[Qwest - Contact information redacted]; Tolman, Donald; Beck, Ken; Tietz, Jeff

**Subject:** RE: Qwest/Des Moines Ticket Escalations

Good information. When will Qwest document this information for CLECs so we know what to expect?

Bonnie J. Johnson  
Director Carrier Relations  
Eschelon Telecom, Inc.  
[Contact information redacted]

-----Original Message-----

From: Novak, Jean [Qwest - Contact information redacted]  
Sent: Wednesday, September 01, 2004 3:02 PM  
To: McAlpine, Tom W.  
Cc: Johnson, Bonnie J.; Boeke, Gerald A.; mjbone1@qwest.com; Tolman, Donald; Beck, Ken; Tietz, Jeff; Novak, Jean  
Subject: Qwest/Des Moines Ticket Escalations

Tom,

The Des Moines Center has reviewed your concern. I believe the confusion is between "internal" and "external" escalations. When Qwest is working on a trouble, our testers

escalate to the organization the trouble is isolated to (i.e. central office, field, etc.). This is considered external escalations because it is outside of the Center.

At any time, the Customer can request an internal escalation to the Center management. However, the Center would still be going to whatever organization the trouble has been handed off to for trouble resolution.

On the trouble ticket OC051822 when the Customer requested to speak to the 2nd level that this trouble had been escalated to, our center tester paged the duty field manager that was involved. This was not meant to be any indication that the trouble could not be escalated to our duty supervisor, but rather going directly to the manager in the Qwest field organization that was working the trouble.

When escalating a trouble that would go from one organization to another, we would not skip from a 1st level to a 3rd level on the actual escalation, but would indicate to the manager being escalated to what level of escalation the ticket was currently at (i.e. at a 1st, 2nd or 3rd level).

On OC051822, when Victor called in at 2046 wanting to be bridged on with the 2nd level receiving the escalation. The center tester paged the duty field manager that had been involved in the escalations. This would be the appropriate action to be taken.

According to Qwest's internal process these tickets were handled appropriately. It is Qwest process to escalate to the point where the ticket is "being handled" and not add additional layers. If Omaha feels a need to contact the Omaha duty manager as well as the organization that has the ticket, as long as the call was made to the other organization process was followed. It appears that Omaha is giving a courtesy call to the Omaha duty manager but still following the Qwest documented process.

Additionally, I believe we need to determine if the escalation request was made and action was being taken and not focus on what organization was receiving the escalation. Therefore, please share with me if the request was denied and no action was taken indicating Qwest process was not followed.

Please let me know if you have further questions.

Jean Novak  
Sr. Service Manager

**Example #2**

**From:** Novak, Jean [Qwest - Contact information redacted]  
**Sent:** Tuesday, November 07, 2006 12:48 PM  
**To:** Isaacs, Kimberly D.; Johnson, Bonnie J.  
**Cc:** Dobesh, Mary  
**Subject:** Agenda Item for Next Month's Network Meeting - Please Invite SME if needed.

Bonnie and Kim

As previously shared with Eschelon, Qwest does not provide to external customer's Qwest's internal processes. Based on the questions below, Eschelon is asking for Qwest's internal processes. Additionally, it would be difficult to discuss every variable when testing to resolve a trouble report. Qwest believes the better way to address repair issues is to understand what issues Eschelon is experiencing with the resolution of repair on the circuit types below.

Please provide to Qwest a full overview with examples of issues Eschelon is experiencing when Qwest is working to resolve a repair on the circuit types below. Qwest will review and then be able to discuss with Eschelon a course of action to resolve any repair issues, if applicable. It would be helpful to Qwest if Eschelon shared with Qwest what Eschelon does to isolate to the trouble to the Qwest network, such as, dB loss, noise, etc.

As far as commitment on MTTR is remains the same; designed services are benchmarked at 4 hours and non design services are benchmarked at 24 hours.

Qwest will not have a SME on our call on Wednesday, November 8, to discuss Qwest's internal processes. However, we will meet with Eschelon when Qwest has had an opportunity to review Eschelon's repair issues and discuss a plan of correction, if applicable.

Thanks  
Jean Novak  
Regional Service Director  
Qwest Communications



**Example #3**

From: Cmp, Comment [email redacted]  
Sent: Friday, June 03, 2005 12:56 PM  
To: Isaacs, Kimberly D.  
Cc: Harlan, Cynthia; Lorence, Susan  
Subject: RE: Product Notice: Resale: GN: CMP - FNL  
ResaleV54\_UNE-PV46:Effective: 6-10-05 (CH)

Kim,

Qwest is unable to honor the request that further information regarding DSL repair processes be added to the Qwest DSL PCATs for the following reasons:

The purpose of the DSL Product Catalogs is to provide general product, process and ordering information. It is not feasible for each PCAT to go into extensive process information due to the volume of information that would entail.

The Loop Qualification Tool is simply that; it is a tool to assist in determining if certain types of products are available to end-users. Qwest is unable to guarantee 100% accuracy of the Loop Qualification Tool for a variety of reasons, two of which are noted in the following documentation:

Technical Publication 77392:

"At the time the customer requests a Qwest DSL service, the customer will be advised to the class of service speeds their loop will support. The customer may then select the service speed they desire. The selected service speed will be used to software provision the central office modem for the maximum downstream and upstream line rates to be supported on the customer's line. These software settings will determine how the two (2) modems train or synchronize  
Note: Although the customer's line may have been provisioned for a particular maximum line rate, the modems may train up at a rate lower than the maximum due to either impairments on or characteristics of the customer's loop."

Loop Qualification and Raw Loop Data - CLEC Job Aid

"Note: A response to a Facility Availability or Loop Qualification query does not reserve facilities nor does it guarantee that they will be available at the time a request for service is processed by the Service Center Representative."

In the event the DSL Technical Support Center determines that the DSL speed needs to be permanently lowered for an end-user and the Loop Qualification Tool does not match the speed you are requested to reduce you end-user to, please contact your Service Manager and they can investigate the reason for the discrepancy.

Thanks, Cindy Harlan  
Cindy Harlan  
Wholesale Change Management  
Qwest  
[contact information redacted]

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**EXHIBIT 119**

## **FINAL MEETING MINUTES**

**CLEC – Qwest Change Management Process Redesign  
Tuesday, March 5 through Thursday, March 7, 2002 Working Session**  
1801 California Street, 23<sup>rd</sup> Floor, Executive Conference Room, Denver, CO  
Conference Bridge: 877.550.8686, passcode 2213337#

**NOTE:** These are FINAL meeting minutes Qwest developed following the working session. Draft minutes were circulated to the CMP Redesign Core Team Members on March 29, 2002. As of May 9, 2002, no comments were received from the meeting attendees.

### **INTRODUCTION**

The Core Team (Team) and other participants met March 5<sup>th</sup> through March 7<sup>th</sup> to continue with the Redesign effort of the Change Management Process. Following is the write up of the discussions, action items, and decisions in the working session. The attachments to these meeting minutes are as follow:

### **ATTACHMENTS**

Attachment 1: CMP Redesign March 5 – 7, 2002 Attendance Record  
Attachment 2a: CMP Redesign Meeting March 5 – 7 Notice and Agenda - 03-05-02  
Attachment 2b: CMP Redesign Meeting March 6 – 7 Notice and Revised Agenda - 03-05-02  
Attachment 2c: CMP Redesign Meeting March 7 Notice and Revised Agenda - 03-06-02  
Attachment 3: Qwest Proposed OSS Interface CR initiation Process Action item Language – 03-07-02  
Attachment 4: Qwest Proposed CR Prioritization Language – Revised 03-07-02  
Attachment 5: CMP Redesign Team Issues Action Items Log – 03-07-02  
Attachment 6: Combined\_CMP\_Redesign\_Gap\_Analysis – Revised 03-07-02  
Attachment 7: CMP Issues Priority 3.5.02 TMC final\_ATT List  
Attachment 8: Ranking of AT&T Priority List Items – 03-06-02  
Attachment 9: Qwest\_Proposed\_Reasons\_to\_Deny\_CRs – Revised 03-07-02  
Attachment 10: Master Redlined CLEC-Qwest CMP Redesign Framework – 03-07-02

### **MEETING MINUTES**

Lee-Facilitator made introductions, reviewed the agenda (refer to Attachment 1), and asked if there were any additional items. Quintana-CPUC stated that the order from the Colorado workshop might change the agenda. The team agreed to defer this discussion until Crain-Qwest arrives in the afternoon.

Lee-Facilitator directed the team to Attachment 3 - OSS Interface CR Initiation Process Action Item Language. Dixon-WorldCom informed the team that the Arizona and Colorado commissions are aware of one impasse issue pertaining to Regulatory Change and are interested to know if there are other potential impasse issues. He suggested that the Redesign Team stay focused on priority issues. Menezes-AT&T stated that in the last couple of meetings, which Dixon-WorldCom had missed, that the team discussed whether Regulatory CRs should be implemented with a manual or

**CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

#	Issue/Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
							<ul style="list-style-type: none"> <li>Generic Order Flow Business Model</li> </ul> <p>Qwest is prepared to discuss and close this Action Item.</p> <p><b>DECISION:</b> Add language to application-to-application as defined above to Redline:</p> <ul style="list-style-type: none"> <li>Changes to An Existing OSS</li> <li>Introduction of An OSS</li> </ul> <p>Also, see generic definition in TERMS.</p> <p>GAP ANALYSIS #81</p>
142	Issue	Oct 30 Meeting	Change to An Existing OSS Interface	<p>Does the team agree that the CR Initiation Process and Prioritization Process have taken place before a change is implemented according to the Changes to an Existing OSS Interface Process?</p> <p>12-11-01 Clarify in the Master Redline that CRs precede any systems changes within the scope of CMP (exceptions?, production support?) (AT&amp;T item # 14)</p>	Core Team	CLOSED Mar 5	<p><b>DECISION:</b> Yes</p> <p><b>DECISION:</b> Yes – See Master Redline Section 3.1 paragraph 3 – AT&amp;T Comments accepted.</p>
143	Issue	Oct 30 Meeting	EDI Implem. Guideline	Is the EDI Implementation Guideline under the scope of CMP?	Qwest— Judy Schultz	CLOSED Mar 5	10/31: The EDI Implementation Guideline will follow the CMP guidelines and

**CLEC-Qwest Change Management Re-design Working Sessions  
Core Team Issues/Action Items Log—CLOSED**

#	Issue/Action	Originator	Category	Description	Owner	Due Date	Resolution/Remarks
				2/6: Does Scope include documentation?			timeframes.  See Master Redline Section 1.0  COMPLETED: See Scope language  GAP ANALYSIS #117, 142
144	Issue	Oct 30 Meeting	Change to An Existing OSS Interface	Provide language to address the earliest conversion time to the newly IMA-EDI release is the weekend after the Release Production Date.	Jeff Thompson/ Mitch Menezes/ Beth Woodcock	CLOSED Oct 30	COMPLETED: Language under Changes to An Existing OSS Interface
145	Issue Action	Oct 30 Meeting	OSS Interface CR Initiation Level of Effort	CLEC comments and Qwest responses should be communicated to CLECs. Create a method to communicate via web site.	Qwest— Judy Schultz	CLOSED Mar 5	COMPLETED: Comments and Response function provided.  GAP ANALYSIS: #45
146	Issue	Oct 30 Meeting	OSS Interface CR Initiation	What are the criteria used to determine 'level of effort' (i.e., S, M, L, XL) for a release?	Qwest— Jeff Thompson	CLOSED Mar 5	<del>12/13: Language included in Master Redline.</del>  01/14: The CLECs requested that Qwest no longer use a standard set of T-shirt size estimates. Instead, Qwest will give Level of Effort estimates via an estimate of the number of hours necessary to complete each CR for CRs generated after 01/01/02. The Core Team must review the

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**EXHIBIT 120**

CLEC-Qwest CMP Redesign  
**Combined Gap Analysis**

#	Element/ Topic	Submitter(s)	Gap/Issues/Comments
141		AT&T	<p>Terms/definitions. CLECs and Qwest have not finished going through the terms drafted by Qwest.</p> <p>The Master Redline makes reference to a CR "status" in several places ("status is deferred", p. 14; "refer to status of existing changes", p.64; "walk-on with current status", p. 13). In addition the CR Form, item 21, refers to status. However, nowhere in the Master Redline are the various status types identified and described (e.g., presented, clarification, deferred, submitted, CLEC Test, development, etc.). This needs to be done.</p>
<b>CLOSED 6/14/02</b>			
<b>MISCELLANEOUS</b>			
142	Documentation	Eschelon	<p>For Re-Design, it would be helpful if the action items in the log were grouped by subject matter (such as the headings in the Table of Contents), so that it would show outstanding issues by subject. This would be useful for comparing the log to the various gap analyses and determining which issues are not yet captured in the log.</p> <p>KPMG Exception 3093: Qwest lacks uniform standards and processes for document management. Qwest has provided, to CLECs, documents in which one or more fundamental items of reference, such as the author, business unit, release date, page numbers, version control, assumptions, and change logs, is absent.</p> <p>Develop and Document Versioning and Develop Version Change History Log ACTION ITEM #199</p> <p>KPMG Exception 3102 (moved from Observation 3044): Qwest's internal OSS interface change management documentation is inconsistent and unclear.</p> <p>Changes to technical publications &amp; product catalog – need long-term process in Master</p> <p>Redlining of changes noted in notices. (This may be different from the versioning issue.) The business need is to ensure that CLECs can identify the changes, at the time of the announcement, so</p>

CLEC-Qwest CMP Redesign  
**Combined Gap Analysis**

#	Element/ Topic	Submitter(s)	Gap/Issues/Comments
143	Finalization of CMP Processes and Documentation	Eschelon	<p>that they can determine how the changes may affect them. The content of notices, and the requirement to redline changes, need to be documented.</p> <p>In the interim, some changes have been communicated through notices, instead of CRs, because for example the changes were already reviewed in 271 proceedings. In the long-term, are there any changes for which CRs are not needed (such as typos) and how are those defined and handled?</p> <p>Is the EDI Implementation Guideline under the scope of CMP? ACTION ITEM #143</p> <p>Addenda to release software and documentation</p> <p>“[A]T&amp;T Comment: We discussed that after the final specifications, there may be other changes made to documentation or the coding that is documented in the form of addenda. Is there another place in the Master redline where this will be addressed since it probably relates to new releases as well as new interfaces:]]” (Master, p. 37)</p> <p>Interim to final: Current language and implemented processes are interim. After all components are developed, need to review for consistency, gaps, etc.</p> <p>“Section X” references: At the end, need to insert references to the correct sections for these cross-references. If the “Section X” does not actually address the issue as anticipated, need to either revisit that Section or the one that referred to it.</p> <p>“URL to be established”: Either insert URL or, if the URL is likely to change, handle in a manner that does not require the document to change every time. (For example, “a URL identified on the CMP website under category X”?)</p> <p>Global terms: Once terms are agreed upon, need to ensure consistency in documents (such as CLEC and not Co-Provider, etc.). For example, p. 50 of Master uses “provider” for Qwest still. Is this correct?</p>



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**EXHIBIT 121**



September 15, 2006

Stephanie Prull  
Eschelon Telecom Inc.  
730 2nd Avenue South - Suite 900  
Minneapolis, MN 55402  
saprull@eschelon.com

TO:Stephanie Prull

<b>Announcement Date:</b>	<b>September 15, 2006</b>
<b>Effective Date:</b>	<b>Immediately</b>
<b>Notification Number:</b>	<b>SYST.09.15.06.F.04194.IMAXMLImpGuideRpst</b>
<b>Notification Category:</b>	<b>Systems Notification</b>
<b>Target Audience:</b>	<b>CLECs, Resellers</b>
<b>Subject:</b>	<b>IMA XML Implementation Guidelines</b>

On September 15, 2006 Qwest will repost the following documents to the Wholesale Web site:

- IMA XML Implementation Guidelines.

Changes to the document are explained in the change history/revision list.

The document can be found at the following URL: <http://www.qwest.com/wholesale/ima/edi/index.html>

If you have any questions or would like to discuss this notice, you may submit questions to itcomm@qwest.com, or your Qwest Service Manager, Joshua Nielsen on (801) 239-5335. Qwest appreciates your business and we look forward to our continued relationship.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

Eschelon/121  
Johnson/  
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If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Patty Hahn  
Joshua Nielsen

Qwest Communications 1600 7th Ave Room 1806 Seattle WA 98008

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**EXHIBIT 122**

# **Qwest Communications, Inc.**

## **XML Implementation Guidelines – for Interconnect Mediated Access (IMA) Release 21.0 Version 6**

### **Date**

April 6, 2007

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### **Prepared by:**

Qwest Communications, Inc. (Qwest)  
Electronic Interface Services Team

For questions regarding this document, please contact

Electronic Interface Services —Team Lead  
(720) 947-2547  
1860 Lincoln St. Floor 11  
Denver, Colorado 80202

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### **Abstract:**

This document will assist CLECs in understanding and successfully managing the process of implementing XML trading capabilities between their organization and Qwest. The information in this document is specific to the use of the XML interface to Interconnect Mediated Access system and should not be construed as being applicable to other XML interfaces available from Qwest.

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## Document Information

Document Owner: Electronic Interface Services–Team Lead

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### Document History

All revisions made to this document are listed here in chronological order.

<b>Version</b>	<b>Date</b>	<b>Description</b>
1.0	7/7/06	New Document for XML Interface 20.0
2.0	9/15/06	Add SATE WSDL, update Connectivity section re: Digital Certificates, updated the Implementation Overview, Negotiations, Connectivity and Progression Testing process diagrams, update Connectivity and Technical Information sections to provide additional configuration and technical information
3.0	10/16/06	Corrected the pull maximum – number of notices that can be requested per pull transaction from 500 to 100.
4.0	10/30/06	Corrected Production WSDL URLs.
5.0	02/05/07	Made updates to Technical Information section.
6.0	03/09/07	Made updated to Technical Section. Minor updates throughout.

**Important:** This document has been through a formal review process. To the best of our knowledge it is accurate. Qwest Communications, Inc. reserves the right to make further modifications, as necessary.

### 3. Implementation Activities

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The use of XML provides an effective mechanism to automate the communication and processing of Order information and to reduce manual processes. The XML Implementation Process will progress according to an agreed upon plan and timeline. The typical project phases for CLECs implementing a given release will include:

1. **Initial Communications:** During this phase, all activities to initiate a CLEC's implementation are conducted, including the Kickoff conference call.
2. **Implementation or Migration Project Plan Negotiation:** During this phase, the Implementation or Migration Project Plan is proposed and negotiated.
3. **Requirements Review:** The Requirements Review phase provides an opportunity for a CLEC to review Qwest's XML system and business requirements and ask any questions they may have regarding those requirements.
4. **Connectivity Testing:** During this phase, CLEC connectivity is established and tested. This phase includes the set up of the Trading Partner configuration.
5. **Progression Testing:** This phase affords the CLEC the opportunity to validate their technical development efforts and to quantify LSR processing results in Qwest's Stand Alone Test Environment (SATE).
6. **Controlled Production:** This phase consists of the controlled submission of CLEC requests to the Qwest production environment for provisioning as production orders. Qwest and the CLEC use Controlled Production results to determine operational readiness for full Production turn-up.
7. **Production:** The CLEC is certified and able to submit full volumes of production LSRs and pre-order transactions to Qwest.

## Migration

### Release Lifecycles

The Qwest XML interface architecture provides the capability for multiple releases to be in production at a given time. This design allows a CLEC to continue production use of a particular release while performing the development necessary to migrate to a more current release. It is important that the CLEC be aware of the retirement date for the current release they are implementing, or currently using, and be prepared to migrate to a subsequent release as appropriate. XML releases have predetermined sunset timeframes, after which point they will be unavailable for use. It is the CLEC's responsibility to be aware of these timeframes and plan accordingly. Release timeframes are updated and posted to the CMP website located at:

<http://www.qwest.com/wholesale/cmp/ossalendar.html>

Note: Use of the GUI interface, which is always the most current release, concurrently with a prior version of XML may not be viable due to differences between the two releases.

### Migrating to a New Release

Qwest supports a multi-release strategy for its XML Interface. Information regarding the release schedule is posted on Qwest's Wholesale website. The Recertification memo for a new release is issued forty-five (45) days prior to the date the release is implemented in Production and contains specific XML-related dates for the release.

Qwest currently uses the following guidelines regarding the availability and retirement of releases:

- Each new release is scheduled to be available in the SATE environment thirty (30) days prior to its implementation in the production environment.
- IMA XML releases are supported six (6) months after the next release is implemented.
- Release guidelines in the Recertification memo are provided to the CLECs forty-five (45) days prior to a release. These include the dates by which a CLEC must begin Progression testing for a given release and when transactions on that release must be in Production by the CLEC. If these dates are not met by the CLEC, the CLEC must implement the next release.

These guidelines are designed to ensure the CLEC's successful implementation or migration and to minimize the risk associated with development and deployment of new software. Variations to this schedule may become necessary and any such changes will likewise be published to CLECs via the normal CMP communication channels.



## **Recertification Requirements**

Recertification is the process by which CLECs demonstrate the ability to correctly generate and accept transactions that were updated for the new release. For each release, Qwest will determine which transactions require the CLEC to perform recertification testing. For a given release, it is possible that only some of the transactions will require recertification by the CLEC. That decision by Qwest will be based upon the following factors:

- Mapping changes
- Changes to Qwest business rules enforced by the system

Transactions requiring recertification will be made known to the CLEC in the Recertification Memo, issued with the Disclosure Documents for the new release. As detailed in the minimum requirements below, a migration test will be required for each product.

At the time a CLEC migrates to a new release, any transaction(s) that the CLEC does not yet have in production using a current IMA version is considered to be a new implementation effort. These transactions must be implemented using all Phases of the implementation lifecycle as defined in this document. In some releases, existing transactions are updated with significant additions that add business rules and/or large schema changes. If the CLEC intends to continue use of the product, they will be required to perform a new product implementation of this transaction. This will entail Progression Testing and Controlled Production submittal of scenarios that reflect the new functionality.

Please note that point releases and/or patches do not require recertification and should have no development impacts.

To recertify or migrate a given transaction, the CLEC must perform the following minimum test requirements in the SATE environment:

### **IMA Pre-Order Transactions - Recertification/migration minimum requirements:**

Recertification or Migration:

The CLEC must successfully test every transaction being migrated as indicated in the Recertification Memo. A successful transaction is one that receives a positive Response Type (i.e. 'Good' or 'Exact Match' response).

### **IMA LSR Order Transactions – Recertification/migration minimum requirements:**

Recertification:

The CLEC must successfully test each product being migrated if the product is listed in the Recertification Notice and at least one supplemental transaction (supp can be tested on any product). Qwest may suggest specific activity types and preorder query types to be tested based on the changes implemented for the specific release. Test transactions should use the suggested activity/query types being migrated to ensure the Qwest changes have been tested successfully. A successful transaction is one that passes the IMA system edits (i.e. does not receive a System Reject).

**Migration Trading Partner Configuration Verification (TCV):**

The CLEC must successfully test at least one transaction for each product being migrated if the product is not listed in the Recertification Notice. A successful transaction is one that passes the IMA system edits (i.e. does not receive a System Reject).

**IMA Post-Order Transactions - Recertification/migration minimum requirements:**

**Recertification:**

The CLEC must test every notice response type being migrated if listed in the Recertification Notice. Please note that if the LR is changing Qwest will indicate the appropriate RT value to be tested.

**Migration:**

The CLEC must test each notice response type being migrated if not listed in the Recertification Notice. Please note that the LR may be any RT Value.

There are many factors that will influence the CLEC's migration plan. These influences and the process for migration are discussed further in the following section of this document.

**Migration Activities**

CLECs will be reminded in writing of their need to migrate to a new release prior to the next release being implemented. For migration, the CLEC will follow the same process as an initial implementation except that Controlled Production is not required on any XML transaction that successfully completed Controlled Production testing in a prior release. Any product not successfully tested in Controlled Production in a prior release will not be migrated under this exemption.

The following steps will be followed by the CLEC:

1. Contact the Qwest-assigned Single Point of Contact (EIS REP).
2. Attend an initial migration kickoff call to discuss Recertification, migration strategy, and 'mid-cycle' data conversion.
3. Develop a migration Project Plan and mutually agree to assist in the scheduling of appropriate resources. This plan will identify the mutually-agreed-upon migration date and acknowledge the 'blackout dates' during which resources and systems may be unavailable to the Recertification/migration project.
4. Complete a Test Plan that includes tests to comply with all minimum testing requirements for a new release.
5. Perform the Progression Testing Phase – following the Migration Testing requirements outlined in the Recertification Memo.
6. Conduct Migration Readiness Assessment after the completion of testing.

# **Qwest Communications, Inc.**

## **XML Implementation Guidelines – for Interconnect Mediated Access (IMA) 20.0 Version 4**

### **Date**

October 30, 2006

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**Prepared by:**  
Qwest Communications, Inc. (Qwest)  
Electronic Interface Services Team

For questions regarding this document, please contact

Electronic Interface Services —Team Lead  
(303) 965-4315  
1005 17<sup>th</sup> St. RM 1050  
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### **Abstract:**

This document will assist CLECs in understanding and successfully managing the process of implementing XML trading capabilities between their organization and Qwest. The information in this document is specific to the use of the XML interface to Interconnect Mediated Access system and should not be construed as being applicable to other XML interfaces available from Qwest.

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## Document Information

Document Owner: Electronic Interface Services–Team Lead

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### Document History

All revisions made to this document are listed here in chronological order.

<b>Version</b>	<b>Date</b>	<b>Description</b>
1.0	7/7/06	New Document for XML Interface
2.0	9/15/06	Add SATE WSDL, update Connectivity section re: Digital Certificates, updated the Implementation Overview, Negotiations, Connectivity and Progression Testing process diagrams, update Connectivity and Technical Information sections to provide additional configuration and technical information
3.0	10/16/06	Corrected the pull maximum – number of notices that can be requested per pull transaction from 500 to 100.
4.0	10/30/06	Corrected Production WSDL URLs.

**Important:** This document has been through a formal review process. To the best of our knowledge it is accurate. Qwest Communications, Inc. reserves the right to make further modifications, as necessary.

### 3. Implementation Activities

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The use of XML provides an effective mechanism to automate the communication and processing of Order information and to reduce manual processes. The XML Implementation Process will progress according to an agreed upon plan and timeline. The typical project phases for CLECs implementing a given release will include:

1. **Initial Communications:** During this phase, all activities to initiate a CLEC's implementation are conducted, including the Kickoff conference call.
2. **Implementation or Migration Project Plan Negotiation:** During this phase, the Implementation or Migration Project Plan is proposed and negotiated.
3. **Requirements Review:** The Requirements Review phase provides an opportunity for a CLEC to review Qwest's XML system and business requirements and ask any questions they may have regarding those requirements.
4. **Connectivity Testing:** During this phase, CLEC connectivity is established and tested. This phase includes the set up of the Trading Partner configuration.
5. **Progression Testing:** This phase affords the CLEC the opportunity to validate their technical development efforts and to quantify LSR processing results in Qwest's Stand Alone Test Environment (SATE).
6. **Controlled Production:** This phase consists of the controlled submission of CLEC requests to the Qwest production environment for provisioning as production orders. Qwest and the CLEC use Controlled Production results to determine operational readiness for full Production turn-up.
7. **Production:** The CLEC is certified and able to submit full volumes of production LSRs and pre-order transactions to Qwest.

## Migration

### Release Lifecycles

The Qwest XML interface architecture provides the capability for multiple releases to be in production at a given time. This design allows a CLEC to continue production use of a particular release while performing the development necessary to migrate to a more current release. It is important that the CLEC be aware of the retirement date for the current release they are implementing, or currently using, and be prepared to migrate to a subsequent release as appropriate. XML releases have predetermined sunset timeframes, after which point they will be unavailable for use. It is the CLEC's responsibility to be aware of these timeframes and plan accordingly. Release timeframes are updated and posted to the CMP website located at:

<http://www.qwest.com/wholesale/cmp/osscalendar.html>

Note: Use of the GUI interface, which is always the most current release, concurrently with a prior version of XML may not be viable due to differences between the two releases.

### Migrating to a New Release

Qwest supports a multi-release strategy for its XML Interface. Information regarding the release schedule is posted on Qwest's Wholesale website. The Recertification memo for a new release is issued forty-five (45) days prior to the date the release is implemented in Production and contains specific XML-related dates for the release.

Qwest currently uses the following guidelines regarding the availability and retirement of releases:

- Each new release is scheduled to be available in the SATE environment thirty (30) days prior to its implementation in the production environment.
- IMA XML releases are supported six (6) months after the next release is implemented.
- Release guidelines in the Recertification memo are provided to the CLECs forty-five (45) days prior to a release. These include the dates by which a CLEC must begin Progression testing for a given release and when transactions on that release must be in Production by the CLEC. If these dates are not met by the CLEC, the CLEC must implement the next release.

These guidelines are designed to ensure the CLEC's successful implementation or migration and to minimize the risk associated with development and deployment of new software. Variations to this schedule may become necessary and any such changes will likewise be published to CLECs via the normal CMP communication channels.

## **Recertification Requirements**

Recertification is the process by which CLECs demonstrate the ability to correctly generate and accept transactions that were updated for the new release. For each release, Qwest will determine which transactions require the CLEC to perform recertification testing. For a given release, it is possible that only some of the transactions will require recertification by the CLEC. That decision by Qwest will be based upon the following factors:

- Mapping changes
- Changes to Qwest business rules enforced by the system

Transactions requiring recertification will be made known to the CLEC in the Recertification Memo, issued with the Disclosure Documents for the new release. As detailed in the minimum requirements below, a migration test will be required for each product.

At the time a CLEC migrates to a new release, any transaction(s) that the CLEC does not yet have in production using a current IMA version is considered to be a new implementation effort. These transactions must be implemented using all Phases of the implementation lifecycle as defined in this document. In some releases, existing transactions are updated with significant additions that add business rules and/or large schema changes. If the CLEC intends to continue use of the product, they will be required to perform a new product implementation of this transaction. This will entail Progression Testing and Controlled Production submittal of scenarios that reflect the new functionality.

Please note that point releases and/or patches do not require recertification and should have no development impacts.

To recertify or migrate a given transaction, the CLEC must perform the following minimum test requirements in the SATE environment:

### **IMA Pre-Order Transactions - Recertification/migration minimum requirements:**

Recertification or Migration:

The CLEC must successfully test every transaction being migrated as indicated in the Recertification Memo. A successful transaction is one that receives a positive Response Type (i.e. 'Good' or 'Exact Match' response).

### **IMA LSR Order Transactions – Recertification/migration minimum requirements:**

Recertification:

The CLEC must successfully test each product being migrated if the product is listed in the Recertification Notice and at least one supplemental transaction (supp can be tested on any product). Qwest may suggest specific activity types and preorder query types to be tested based on the changes implemented for the specific release. Test transactions should use the suggested activity/query types being migrated to ensure the Qwest changes have been tested successfully. A successful transaction is one that passes the IMA system edits (i.e. does not receive a System Reject).

**Migration Trading Partner Configuration Verification (TCV):**

The CLEC must successfully test at least one transaction for each product being migrated if the product is not listed in the Recertification Notice. A successful transaction is one that passes the IMA system edits (i.e. does not receive a System Reject).

**IMA Post-Order Transactions - Recertification/migration minimum requirements:**

**Recertification:**

The CLEC must test every notice response type being migrated if listed in the Recertification Notice. Please note that if the LR is changing Qwest will indicate the appropriate RT value to be tested.

**Migration:**

The CLEC must test each notice response type being migrated if not listed in the Recertification Notice. Please note that the LR may be any RT Value.

There are many factors that will influence the CLEC's migration plan. These influences and the process for migration are discussed further in the following section of this document.

**Migration Activities**

CLECs will be reminded in writing of their need to migrate to a new release prior to the next release being implemented. For migration, the CLEC will follow the same process as an initial implementation except that Controlled Production is not required on any XML transaction that successfully completed Controlled Production testing in a prior release. Any product not successfully tested in Controlled Production in a prior release will not be migrated under this exemption.

The following steps will be followed by the CLEC:

1. Contact the Qwest-assigned Single Point of Contact (SPOC).
2. Attend an initial migration kickoff call to discuss Recertification, migration strategy, and 'mid-cycle' data conversion.
3. Develop a migration Project Plan and mutually agree to assist in the scheduling of appropriate resources. This plan will identify the mutually-agreed-upon migration date and acknowledge the 'blackout dates' during which resources and systems may be unavailable to the Recertification/migration project.
4. Complete a Test Plan that includes tests to comply with all minimum testing requirements for a new release.
5. Perform the Progression Testing Phase – following the Migration Testing requirements outlined in the Recertification Memo.
6. Conduct Migration Readiness Assessment after the completion of testing.



# Qwest Communications, Inc.

## EDI Implementation Guidelines – for Interconnect Mediated Access (IMA) Version 19.2

### Date

April 24, 2006

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### Prepared by:

Qwest Communications, Inc. (Qwest)  
Electronic Interface Services Team

For questions regarding this document, please contact

Team Lead – Electronic Interface Services (CLEC Implementation)  
(303) 965-4315  
1005 17<sup>th</sup> St. RM 1050  
Denver, Colorado 80202

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### Abstract:

This document will assist CLECs in understanding and successfully managing the process of implementing EDI trading capabilities between their organization and Qwest. The information in this document is specific to the use of the EDI interface to Interconnect Mediated Access system and should not be construed as being applicable to other EDI interfaces available from Qwest.

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April 24, 2006

Qwest Communications International, Inc.

EDI Implementation Guidelines – for Interconnect Mediated Access (IMA)  
- Version 19.2

## Document Information

Document Owner: Qwest Lead IT Project Manager – Electronic Interface Services

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### Document History

All revisions made to this document are listed here in chronological order.

<u>Version</u>	<u>Date</u>	<u>Description</u>
1.0	01/07/00	Initial Distribution
2.0	04/12/00	Revised Distribution
3.0	12/08/00	Revised Distribution
4.0	04/23/01	Revised Distribution Note:  VER 4.00 represents a rearrangement of prior IMA EDI information and the incorporation of Facility-Based Directory Listing implementation guidance. Changes to this document are reflected in archived redline/revision copies. Also, Certification Testing is now known as Controlled Production.
5.0	07/25/01	Revised to include Stand Alone Test Environment Implementation guidance and Service Bureau EDI Implementation Guidelines
6.0	10/11/01	The requirement for BANs to be loaded for EDI users was removed and a supplemental Order flow to Section 3, was added to the Technical Information.
7.0	11/09/01	Changed 'Testing' to 'Progression'. Added SATE data addition process. Moved information to Appendix A. Updated Appendix B - Service Bureau. URL links are live. Explained use of TPRs. Explained External Address Worksheet.
8.0	11/30/01	Clarifications included: Process for addition of data to the SATE environment -Process for negotiating manually-generated responses during the Progression Phase - Interaction of the Interoperability environment with Qwest OSS - Minimum FBDL testing requirements for Progression and Controlled Production - URLs were added/updated as necessary.
9.0	01/21/02	Section of FBDL removed- now an IMA product. Explanation of SATE VICKI added. Flow diagrams added. Staffing Plan added as Appendix C
9.0	02/18/02	Flow diagrams changed. Clarification of

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		Combining Interoperability and SATE in Progression Testing. The inability to submit a supplemental order via the GUI when initial order was sent via EDI and vice versa. Clarification on Non-Fatals sent after an FOC. Clarification of minimum test requirements for Implementation and Migration
10.0	05/03/02	Restructure of process information to improve flow. Clarification of minimum test requirements for Implementation and Migration.
11.0	10/02/02	Question log process expanded. Sate product list and hours of availability updated. Clarification of negative 997 testing. FBDL testing process updated.
12.0	02/20/03	Added requirement for FBDL that CLECs need to test additional listings. Clarified Jeopardy flow. Revised roles and responsibilities.
13.0	06/20/03	Updated Service Bureau requirements for connectivity and digital certificates. Updated X-12 examples to reference 13.0 standards. Clarified the process for responses that will be sent during Regression Testing. Further clarified Service Bureau section, pertaining to Qwest’s requirements. Update the information surrounding Qwest responses due to the new LR response replacing the FOC, JEOP, NF, and FATAL. Updated SATE Product list.
14.0	10/24/03	Updated Requirements review activities and timelines associated with Question Logs. Updated IMA Data Conversion to include information regarding dates. Changes to Appendix A. Updated Migration Requirements. Added new FBDL testing requirements.
15.0	3/5/04	Updated the following process elements: Requirements Review: Question Log, Implementation/Migration processes (Negotiations, Controlled Production), Minimum Testing Criteria, Production Support, Template requirements.
15.1	5/3/04	Clarified Controlled Production Minimum Testing Criteria, Updated Service Bureau Lead definition
16.0	9/3/04	Update “Scenario Summary” and “Testing Status Log” to “Test Plan”, Updated all Visio process diagrams, Clarified Migration language, Updated Router Configuration timelines, Clarified Digital Certificate coordination information; Updated CLEC requirements for migration projects in the Service Bureau appendix; Removed Appendix C: Qwest’s EDI Implementation Staff Plan and Organizational Information

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17.0	2/25/05	Added information regarding setup of Subscriber Responses for DLEC & LOA-authorized provisioning agreements, Updated Entrance/Exit Criteria for Controlled Production, Production and Migration Readiness Assessments, Removed the 14.0 information in the Question Log section, Updated Technical Information section with more current examples, Updated list of products available in SATE
17.1	6/27/05	Remove all references to the Interoperability Environment – Interop retired 6/27/05.
18.0	08/26/05	Updated hours of operation, Made updates related to Disclosure changes (removed reference to appendices etc.), clarified the response requirements.
19.0	02/24/06	Clarified Question Log posting when there are no updates, clarified the SATE Data Request process re: request denials and restriction against live production accounts, updated SATE product list, changed references to BPL Reject (RT value Z) to the new RT value V.
19.1	3/10/06	Corrected SATE product list to remove BRI ISDN Resale Order Submittal (contact Qwest for data), Updated Appendix C
19.2	4/24/06	Updated the Production: CLEC Roles and Responsibilities section to include limitations on health check statusing and gateway availability statusing. Updated the Requirements Review section to more clearly state the limitation regarding submission of a supplemental order via the GUI when initial order was sent via EDI and vice versa. Updated TPAI information –Trading Partner Relationship/Transport section to identify that Qwest is compliant with the Interactive Agent Issue 2 standards for Basic Messaging only.

**Important:** This document has been through a formal review process. To the best of our knowledge it is accurate. Qwest Communications, Inc. reserves the right to make further modifications, as necessary.

April 24, 2006

Qwest Communications International, Inc.

## 2. Implementation Activities

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The use of EDI provides an effective mechanism to automate the communication and processing of Order information and to reduce manual processes. The EDI Implementation Process will progress according to an agreed upon plan and timeline. The typical project phases for CLECs implementing a given release will include:

1. **Initial Communications:** During this phase, all activities to initiate a CLEC's implementation are conducted, including the Kickoff conference call.
2. **Implementation or Migration Project Plan Negotiation:** During this phase, the Implementation or Migration Project Plan is proposed and negotiated.
3. **Requirements Review:** The Requirements Review phase provides an opportunity for a CLEC to review Qwest's EDI system and business requirements and ask any questions they may have regarding those requirements.
4. **Firewall and IA-to-IA Connectivity Testing:** During this phase, CLEC connectivity is established and tested. This phase includes the set up of the circuit, pushing of firewall rules, Trading Partner Relationships and IA configuration.
5. **Progression Testing:** This phase affords the CLEC the opportunity to validate their technical development efforts and to quantify LSR processing results in Qwest's Stand Alone Test Environment (SATE).
6. **Controlled Production:** This phase consists of the controlled submission of CLEC requests to the Qwest production environment for provisioning as production orders. Qwest and the CLEC use Controlled Production results to determine operational readiness for full Production turn-up.
7. **Production:** The CLEC is certified and able to submit full volumes of production LSRs and pre-order transactions to Qwest.

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Qwest Communications International, Inc.

## Migrating to a New Release

### Release Lifecycles

The Qwest EDI interface architecture provides the capability for multiple releases to be in production at a given time. This design allows a CLEC to continue production use of a particular release while performing the development necessary to migrate to a more current release. It is important that the CLEC be aware of the retirement date for the current release they are implementing, or currently using, and be prepared to migrate to a subsequent release as appropriate. EDI releases have predetermined sunset timeframes, after which point they will be unavailable for use. It is the CLEC's responsibility to be aware of these timeframes and plan accordingly. Release timeframes are updated and posted to the CMP website located at:

<http://www.qwest.com/wholesale/cmp/osscalendar.html>

Note: Use of the GUI interface, which is always the most current release, concurrently with a prior version of EDI may not be viable due to differences between the two releases.

### Migrating to a New Release

Qwest supports a multi-release strategy for its EDI Interface. Information regarding the release schedule is posted on Qwest's Wholesale website. The Recertification memo for a new release is issued forty-five (45) days prior to the date the release is implemented in Production and contains specific EDI-related dates for the release.

Qwest currently uses the following guidelines regarding the availability and retirement of releases:

- Each new release is scheduled to be available in the SATE environment thirty (30) days prior to its implementation in the production environment.
- IMA EDI releases are supported six (6) months after the next release is implemented.
- Release guidelines in the Recertification memo are provided to the CLECs forty-five (45) days prior to a release. These include the dates by which a CLEC must begin Progression testing for a given release and when transactions on that release must be in Production by the CLEC. If these dates are not met by the CLEC, the CLEC must implement the next release instead.

These guidelines are designed to ensure the CLEC's successful implementation or migration and to minimize the risk associated with development and deployment of new software. Variations to this schedule may become necessary and any such changes will likewise be published to CLECs via the normal CMP communication channels.

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### Recertification Requirements

Recertification is the process by which CLECs demonstrate the ability to correctly generate and accept transactions that were updated for the new release. For each release, Qwest will determine which transactions require the CLEC to perform recertification testing. For a given release, it is possible that only some of the transactions will require recertification by the CLEC. That decision by Qwest will be based upon the following factors:

- Mapping changes
- Changes to Qwest business rules enforced by the system

Transactions requiring recertification will be made known to the CLEC in the Recertification Memo, issued with the Disclosure Documents for the new release. As detailed in the minimum requirements below, a migration test will be required for each product.

**IMPORTANT:** For transmission of **post order responses** from Qwest to the CLECS (including: Provider Notification, Status Updates, Billing Completion Notifications, Pending Service Order Notifications and Batch Hot Cut Status Notifications):

If any one CLEC (identified as an individual RSID/ZCID) elects to receive a given post-order response from Qwest (for either GUI or EDI responses), all other Trading Partners who also provision services using that RSID/ZCID will be configured to receive those post-order responses. This applies to all DLEC arrangements as well as to any other Shared RSID/ZCID or LOA arrangements that CLECS might have in place for provisioning purposes.

The Main CLEC/Trading Partner must test the response transaction as part of the certification process. Any other Trading Partners using the RSID/ZCID of the Main CLEC/Trading Partner may elect to test that post-order response transaction and certify receipt of that subscriber response in Controlled Production or may elect in writing (e-mail is okay) to waive testing of that subscriber response. If the latter, then the customer must acknowledge that they understand they will still be receiving those transactions even though they have not implemented a map to translate the transaction.

At the time a CLEC migrates to a new release, any transaction(s) that the CLEC does not yet have in production using a current IMA EDI version is considered to be a new implementation effort. These transactions must be implemented using all Phases of the implementation lifecycle as defined in this document. In some releases, existing transactions are updated with significant additions that add business rules and/or large map changes. If the CLEC intends to use the new functionality, they will be required to perform a new product implementation of this transaction. This will entail Progression Testing and Controlled Production submittal of scenarios that reflect the new functionality. CLECs not intending to use the new functionality will be allowed to recertify existing functionality that is still available in the new release.

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Qwest Communications International, Inc.

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### **Migration Process**

CLECs will be reminded in writing of their need to migrate to a new release prior to the next release being implemented. For migration, the CLEC will follow the same process as an initial implementation except that Controlled Production is not required on any EDI transaction that successfully completed Controlled Production testing in a prior release. Any product not successfully tested in Controlled Production in a prior release will not be migrated under this exemption.

When ready to begin the migration, the following steps will be followed by the CLEC:

1. Contact the Qwest-assigned EDI Single Point of Contact (SPOC).
2. Attend an initial migration meeting call to discuss Recertification, migration strategy, and 'mid-cycle' data conversion.
3. Develop a migration Project Plan and mutually agree to assist in the scheduling of appropriate resources. This plan will identify the mutually-agreed-upon migration date and acknowledge the 'blackout dates' during which resources and systems may be unavailable to the Recertification/migration project.
4. Complete a Test Plan that includes tests to comply with all minimum testing requirements for a new release.
5. Perform the Progression Testing Phase per the minimum testing requirements for those transactions that are to be migrated to the new release. The CLEC will be expected to execute the required minimum test case scenarios in the SATE environment and provide Qwest the PONs of the successful Scenarios. This will allow Qwest to verify during its Migration Readiness Assessment that the CLEC is ready to move into production on the new release.
6. Conduct Migration Readiness Assessment after the completion of testing.

### **Migration Exit Criteria**

Migration will be considered complete when the CLEC has met all of the following criteria:

- CLEC has completed all agreed upon scenarios as identified in the migration Test Plan.
- CLEC has demonstrated the ability to send valid 850 and 860 transactions.
- CLEC can confirm their ability to receive from Qwest the 997, 855, and 865 transactions and appropriate preorder response transactions.
- CLEC has demonstrated the ability to generate 997 functional acknowledgements in response to Qwest 855 and 865 transactions.
- CLEC can confirm their ability to notify users of responses generated by Qwest, to indicate whether the submitted transaction was successfully processed.
- CLEC can confirm their ability to detect transaction processing failure within any component of the EDI environment.

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Qwest Communications International, Inc.



## **Migration Process**

CLECs will be reminded in writing of their need to migrate to a new release prior to the next release being implemented. For migration, the CLEC will follow the same process as an initial implementation except that Controlled Production is not required on any EDI transaction that successfully completed Controlled Production testing in a prior release. Any product not successfully tested in Controlled Production in a prior release will not be migrated under this exemption.

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1. Contact the Qwest-assigned EDI Single Point of Contact (SPOC).
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4. Complete a Test Plan that includes tests to comply with all minimum testing requirements for a new release.
5. Perform the Progression Testing Phase per the minimum testing requirements for those transactions that are to be migrated to the new release. The CLEC will be expected to execute the required minimum test case scenarios in the SATE environment and provide Qwest the PONs of the successful Scenarios. This will allow Qwest to verify during its Migration Readiness Assessment that the CLEC is ready to move into production on the new release.
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- CLEC can confirm their ability to detect transaction processing failure within any component of the EDI environment.

April 24, 2006

Qwest Communications International, Inc.