

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)

SURREBUTTAL TESTIMONY

OF

MICHAEL STARKEY

ON BEHALF OF

ESCHELON TELECOM, INC.

June 8, 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. ARE YOU THE SAME MICHAEL STARKEY WHO FILED DIRECT**
7 **TESTIMONY IN THIS PROCEEDING ON MAY 11, 2007, AND**
8 **REBUTTAL TESTIMONY ON MAY 25, 2007?**

9 A. Yes.

10 **II. OVERVIEW OF SURREBUTTAL TESTIMONY**

11 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

12 A. I will respond to rebuttal testimony of Qwest. I have listed below the issues I
13 address in my surrebuttal testimony and the corresponding Qwest witness who
14 addressed that issue in his or her rebuttal testimony.

- 15 • Section III: Contractual Certainty – Interconnection Agreement/Change
16 Management Process – Issues (Qwest witnesses Renee Albersheim¹ and
17 Karen Stewart²);

¹ Rebuttal Testimony of Renee Albersheim on behalf of Qwest Corp., Oregon PUC ARB 775. May 25, 2007 (“Qwest/18”).

² Rebuttal Testimony of Karen Stewart on behalf of Qwest Corp., Oregon PUC ARB 775. May 25, 2007 (“Qwest/37”).

- 1 • Section IV: Subject Matter 1 (Interval Changes and Placement) – Issue 1-1
2 and subparts (Qwest witness Renee Albersheim);
- 3 • Section V: Subject Matter 11 (Power) – Issue 8-21 and subparts (Qwest
4 witnesses Curtis Ashton³ and Teresa Million⁴);
- 5 • Section VI: Subject Matter 14 (Nondiscriminatory Access to UNEs) – Issue 9-
6 31 (Qwest witness Karen Stewart);⁵
- 7 • Section VII: Subject Matter 16 (Network Maintenance and Modernization) –
8 Issue Nos. 9-33 and 9-34 (Qwest witness Karen Stewart);
- 9 • Section VIII: Subject Matter 18 (Conversion) – Issues 9-43 and 9-44 and
10 subparts (Qwest witness Teresa Million);
- 11 • Section IX: Subject Matter 24 (Loop-Transport Combinations) – Issue 9-55
12 (Qwest witness Karen Stewart); and
- 13 • Section X: Subject Matter 27 (Multiplexing/Loop-Mux Combinations) – Issue
14 9-61 and subparts (Qwest witness Karen Stewart).

15 **III. CHANGE MANAGEMENT PROCESS, INTERCONNECTION**
16 **AGREEMENT TERMS, AND THE NEED FOR CONTRACTUAL**
17 **CERTAINTY**

18 **Q. HOW IS SECTION III OF YOUR TESTIMONY ORGANIZED?**

19 **A.** I will first discuss Qwest’s attacks on the factual record that Eschelon provided by

³ Rebuttal Testimony of Curtis Ashton on behalf of Qwest Corp., Oregon PUC ARB 775. May 25, 2007 (“Qwest/28”).

⁴ Rebuttal Testimony of Teresa Million on behalf of Qwest Corp., Oregon PUC ARB 775. May 25, 2007 (“Qwest/39”).

⁵ Qwest/37 (Stewart).

1 way of four examples (and associated chronologies),⁶ as well as Qwest's
2 arguments based on closed language "matters that have settled,"⁷ and then I will
3 discuss Qwest's more general claims regarding the CMP, contractual certainty,
4 and the FCC and state commission decisions discussed in my direct testimony.⁸
5 Both Ms. Albersheim and Ms. Stewart address these issues.

6 **A. SPECIAL CONSTRUCTION (CRUNEC), DESIGN CHANGES,**
7 **MINNESOTA 616, AND SECRET TRRO PCAT EXAMPLES OF**
8 **WHEN QWEST VACILLATES OR MANEUVERS AS TO CMP**

9 **Q. QWEST TESTIFIES THAT ESCHELON HAS PRESENTED A**
10 **"MISLEADING PICTURE" OF SEVERAL EXAMPLES OF QWEST'S**
11 **HANDLING OF ISSUES IN CMP.⁹ DO YOU AGREE?**

12 A. No. The opposite is true, as my discussion of each example will show. Eschelon
13 has presented an accurate picture of each example discussed in my direct
14 testimony¹⁰ and provided supporting documentation¹¹ to allow an independent
15 review of the facts. In addition, to avoid voluminous filings of many exhibits,
16 Eschelon has made efficient and proper use of summary information and excerpts,

⁶ Compare Qwest/18, Albersheim/18-22 (and Qwest/37, Stewart/13) with Eschelon/1, Starkey/50-94 & Eschelon/56-62, 79, 87, 93-98, and 110-113.

⁷ Qwest/18, Albersheim/22-23.

⁸ Compare Qwest/18, Albersheim/3 – 17 (and Qwest/37, Stewart/12-13, Qwest/37, Stewart/50-53, & 59) with Eschelon/1, Starkey/9-49 & Eschelon/53 (Johnson); see also Eschelon/54 (Johnson) & Eschelon/55 (Johnson).

⁹ Qwest/18, Albersheim/3, line 9.

¹⁰ Eschelon/1, Starkey/49-94.

¹¹ See, e.g., Eschelon/110-113 (Johnson), Eschelon/115 (jeopardies), Eschelon/79 (Johnson) (delayed/held orders), Eschelon/56 (Johnson), Eschelon/57 (Johnson), Eschelon/58 (Johnson) (CRUNEC), and Eschelon/59 – 62 (Johnson) (Secret TRRO PCAT); see also additional examples in Eschelon/93 – 98 (Johnson) (expedited orders or "expedites").

1 while providing sufficient information (including URLs to information on
2 Qwest's own web site) to allow further review of the entire documents (many of
3 which were prepared by Qwest) if desired. Despite these efforts by Eschelon to
4 be thorough and fair in reasonably presenting a large number of facts, Qwest
5 testifies:

6 Mr. Starkey and other Eschelon witnesses have presented a
7 misleading picture of the examples they use as a basis for their
8 claim that Qwest has been inconsistent in its behavior in the CMP.
9 I will provide some additional details regarding the examples
10 below.¹²

11
12 Similarly, in the Arizona arbitration,¹³ Ms. Albersheim testified:

13 ...Eschelon has presented small pieces of the record for each of
14 these topics, and chosen the pieces that seem on the surface to
15 support Eschelon's position. I will present a more complete
16 discussion of each topic....¹⁴

17 An examination of each example will show that Qwest presents even smaller
18 pieces of the record (to the extent it attempts to support its assertions with
19 evidence at all), and Qwest's version of events is inaccurate.¹⁵ As in my direct

¹² Qwest/18, Albersheim/18.

¹³ 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; ("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.

¹⁴ Qwest-Eschelon AZ ICA Arbitration, Docket No. T-03406A-06-0572, T-01051B-06-0572, Albersheim AZ Rebuttal (Feb. 9, 2007), p. 21, lines 2-4.

¹⁵ Ms. Albersheim points to more than 1,000 product and process and system changes and claims that they demonstrate that the CMP works efficiently and effectively (Qwest/18, Albersheim/5) and that Eschelon's examples "are portrayed in a light that Qwest does not believe reflects actual events" (Qwest/18, Albersheim/5, lines 13-14). I addressed Ms. Albersheim's argument at pages 93-94 of my direct testimony (Eschelon/1, Starkey/93-94). Though Qwest claims these are isolated incidents, the significance of these examples is that they occurred at all. If CMP was the disciplined process

1 testimony, I will refer to the four primary examples as CRUNEC, Design
2 Changes, MN 616 and Secret TRRO PCATs.¹⁶ Ms. Albersheim also responds¹⁷
3 to an example I provided with respect to Expedited Orders.¹⁸ Mr. Denney
4 addresses expedited orders (Issue 12-67), and Ms. Johnson responds specifically
5 to Ms. Albersheim’s claims regarding the example in my direct testimony.

6 **1. CRUNEC Example**¹⁹

7 **Q. QWEST CITES SOME PERCENTAGES TO SHOW THAT THE**
8 **DRAMATIC SPIKE IN HELD ORDERS WAS ONLY FOR A “SPECIFIC**
9 **TYPE OF HELD ORDERS” BUT WAS “NOT REFLECTIVE OF HELD**
10 **ORDERS OVER ALL.”²⁰ DO THESE PERCENTAGES AFFECT YOUR**
11 **ANALYSIS OF THIS ISSUE?**

12 **A.** No. As I explained in my direct testimony, the CRUNEC example (involving a
13 change that Qwest implemented through CMP relating to special construction
14 charges, which Qwest calls “CLEC Requested UNE Construction” or
15 “CRUNEC”) relates to “no-build situations” that exist when Qwest will not build

Qwest claims it is, these examples would not have occurred at all. These examples demonstrate that: Qwest has used the CMP to advantage itself relative to its own policy positions, there is potential for abuse in the future, and safeguards in the form of clear ICA terms are needed to protect against this abuse. Furthermore, Ms. Albersheim’s data on the amount of changes in CMP does not include product and process changes that Qwest tries to implement outside of CMP. *See, e.g.*, Secret TRRO PCATs example (Eschelon/1, Starkey/74-94 & Eschelon/59 – 64 (Johnson) and Eschelon/72-76 (Johnson)).

¹⁶ Eschelon/1, Starkey/50-94.

¹⁷ Qwest/18, Albersheim/10.

¹⁸ Eschelon/1, Starkey/47-48 (citing Eschelon Complaint against Qwest).

¹⁹ Eschelon/1, Starkey/50-60 and Eschelon/56-58 (Johnson).

²⁰ Qwest/18, Albersheim/20, lines 12-14.

1 for CLECs because it would likewise not build for itself for the normal charges
2 assessed to its customers.²¹ As is apparent from my discussion of this example in
3 the context of these no-build situations, the data I cited in my direct testimony²²
4 related to this specific type of held order (“service inquiry” or “no-build” held
5 orders). The fact that Qwest used the CMP notice to apply no-build held orders
6 to situations in which it should not do so is what caused the spike. In other
7 words, my numbers related only to a specific type of held order because that type
8 of held order is *the only type relevant to the discussion*. The held orders that
9 spiked were the ones for which Qwest started to demand charges and a lengthy
10 process that would cause delay when none of those charges or that lengthy
11 process applied previously.

12 **Q. QWEST SUGGESTS THAT ITS CONDUCT IN ISSUING THIS NOTICE**
13 **THROUGH CMP DID NOT CAUSE THE PROBLEMS FOR**
14 **ESCHELON.²³ IS THAT ACCURATE?**

15 A. No. The before and after effects of Qwest’s one-word change to its PCAT speak
16 for themselves. Before Qwest implemented this change in CMP, Eschelon did
17 not have this problem, but afterwards it did. Similarly, Allegiance and Covad
18 both submitted CMP comments indicating that they had “already” been
19 negatively impacted by Qwest’s implementation of this one-word change to

²¹ Eschelon/1, Starkey/50-51.

²² Eschelon/1, Starkey/54.

²³ Qwest/18, Albersheim/19, line 24 – p. 20, line 3.

1 Qwest's PCAT.²⁴ Twelve CLECs joined in opposing this change.²⁵ Only after
2 the CLECs, including Eschelon, brought this issue to the attention of the Arizona
3 Commission in the 271 proceeding did Qwest revoke it. Qwest's attempt to
4 suggest the lack of a causal relationship is ineffective and contrary to the findings
5 of the Arizona Commission.²⁶ Contrary to Qwest's suggestion that it was being
6 responsive to its CLEC customers,²⁷ Qwest denied Covad's objection in CMP²⁸
7 and only retracted its change later after the Arizona Commission became
8 involved.²⁹

9 **Q. MS. ALBERSHEIM CLAIMS THAT THE "CONDITIONING" IN THE**
10 **CONTEXT OF CRUNEC "BEARS NO RESEMBLANCE**
11 **WHATSOEVER" TO "CONDITIONING" LOOPS FOR DATA**
12 **SERVICES,³⁰ AND THAT QWEST SUBMITTED THE LEVEL 3 CRUNEC**

²⁴ CLEC Comments Received from Allegiance and Covad on July 26, 2003 (stating the companies have "*already been negatively impacted*") (emphasis added). See Eschelon/56, Johnson/3, p. 3 citing

<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>

²⁵ Eschelon/56, Johnson/3-4.

²⁶ September 16, 2003, 271 Order, ACC Docket No. T-00000A-97-0238 (Decision No. 66242), ¶109 (quoted at Eschelon/1, Starkey/57-58).

²⁷ Qwest/18, Albersheim/18, lines 7-9 ["In each case, what Eschelon has portrayed as Qwest 'changing its mind,' or Qwest acting 'inconsistently,' is in fact Qwest's significant efforts to be responsive to its CLEC customers."]

²⁸ Eschelon/1, Starkey/53.

http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc

²⁹ Eschelon/56, Johnson/4-5 (9/16/03, 9/18/03).

³⁰ Qwest/18, Albersheim/19.

1 **NOTICE TO CLARIFY THIS POINT.³¹ IS THERE ANY SUPPORT FOR**
2 **MS. ALBERSHEIM’S CLAIMS?**

3 A. No. Despite Ms. Albersheim’s claim that the Level 3 CRUNEC notice was
4 “simply a clarification,”³² the results of Qwest’s notice³³ and the Arizona
5 Commission’s order on the notice³⁴ speak for themselves. The record shows that
6 this notice did not just clarify, rather it had serious business-affecting
7 consequences on Eschelon and other CLECs.

8 **Q. IS MS. ALBERSHEIM’S CLAIM THAT “CONDITIONING” FOR**
9 **CRUNEC IS SOMETHING COMPLETELY DIFFERENT THAN**
10 **“CONDITIONING” LOOPS FOR DATA SERVICES SUPPORTED BY**
11 **THE RECORD?**

12 A. No. Though Ms. Albersheim claims that my testimony reflects “confusion” on
13 this point,³⁵ her attempt to distinguish between CRUNEC “conditioning” and loop
14 “conditioning” is undermined by the record. As shown in the Arizona
15 Commission’s 271 Order in Docket No. T-00000A-97-0238, the Arizona
16 Commission and its Staff were concerned about Qwest’s policy related to “line

³¹ Qwest/18, Albersheim/19, lines 1-11.

³² Qwest/18, Albersheim/19, line 11.

³³ Eschelon/1, Starkey/53-54. See also CLEC Comments Received from Allegiance and Covad on July 26, 2003 (stating the companies have “*already been negatively impacted*”) (emphasis added), Eschelon/56, Johnson/3, citing

<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>

³⁴ Eschelon/1, Starkey/57-58. The Arizona Commission and Staff conditioned Checklist Items 2 and 4 of the Qwest Section 271 evaluation on Qwest’s agreement to suspend the policy set forth in Qwest’s Level 3 CRUNEC notice and provide refunds to CLECs.

³⁵ Qwest/18, Albersheim/19, lines 6-9.

1 conditioning” – not some other different type of activity related to “CRUNEC”
2 conditioning. I provided the pertinent language from the Commission’s order in
3 my direct testimony.³⁶ The Commission’s Order states: “Staff agrees with
4 Eschelon with respect to the recently imposed *construction charges on CLECs*
5 *for line conditioning*. Staff is extremely concerned that Qwest would implement
6 such a *significant change* through its CMP process without prior Commission
7 approval.”³⁷ By referring to Qwest’s Level 3 CRUNEC notice as a “significant
8 change,” the Arizona Commission made clear that Ms. Albersheim’s claim that it
9 was a simple clarification is false. More importantly, by clearly referring to
10 construction charges for “line conditioning,” the order shows that Ms.
11 Albersheim’s attempt to distinguish between line conditioning and CRUNEC
12 conditioning to support her claim that it was not Qwest’s Level 3 CRUNEC
13 notice that caused problems for Eschelon and other CLECs should be rejected.

14 **Q. MS. ALBERSHEIM MAKES MUCH OF THE FACT THAT ESCHELON**
15 **DOES NOT USE THE CRUNEC PROCESS.³⁸ WHY IS IT THEN THAT**
16 **ESCHELON WAS SO CONCERNED ABOUT QWEST’S CRUNEC**
17 **NOTICE?**

³⁶ Eschelon/1, Starkey/57-58.

³⁷ September 16, 2003 Order in the 271 Docket, Docket No. T-00000A-97-0238 (Decision No. 66242) at ¶109 (emphasis added). The Arizona Commission also states: “Staff recommends that Qwest be ordered to immediately suspend its policy of assessing *construction charges on CLECs for line conditioning and reconditioning...*” *Id.* (emphasis added)

³⁸ Qwest/18, Albersheim/18, lines 23-24; Qwest/18, Albersheim/20, line 3; and Qwest/18, Albersheim/5, line 15.

1 A. It is the effect of the notice that greatly concerned Eschelon. As I said in my
2 direct testimony, almost immediately after the effective date of Qwest's unilateral
3 email notification, Eschelon began experiencing a dramatic spike in the number
4 of no-build held orders relative to DS1 loops ordered from Qwest.³⁹ Because
5 Eschelon did not use the CRUNEC process, it did not expect changes in that
6 process to affect its business. A CMP notice for a process never used by
7 Eschelon should not have had such a business-affecting impact on Eschelon.

8 **Q. QWEST STATES THAT ITS NOTICE WAS JUST A "CLARIFICATION"**
9 **OF THE CRUNEC PROCESS AND SUGGESTS THAT THE BUSINESS**
10 **IMPACT THEREFORE WAS THE RESULT, NOT OF A QWEST**
11 **CHANGE IN PROCESS IMPLEMENTED THROUGH CMP, BUT OF AN**
12 **EFFORT BY QWEST TO COMPLY WITH A PREVIOUSLY EXISTING**
13 **PROCESS.⁴⁰ QWEST ADDS THAT YOUR DESCRIPTION OF THESE**
14 **EVENTS "IS NOT COMPLETELY ACCURATE."⁴¹ PLEASE RESPOND.**

15 A. I accurately described this Qwest position in my direct testimony, where I quoted
16 Qwest's claim word-for-word.⁴² I said: "Qwest said:

17 Qwest has in the past not fully enforced our contractual right to
18 collect on the charges incurred when completing DS1 level
19 unbundled services. Charging is the specific change that has
20 occurred.⁴³"

³⁹ Eschelon/1, Starkey/54.

⁴⁰ Qwest/18, Albersheim/19, line 11.

⁴¹ Qwest/18, Albersheim/20, lines 7-8.

⁴² Eschelon/1, Starkey/55, lines 3-6.

⁴³ Qwest (Teresa Taylor) email to Eschelon (July 3, 2003).

1 Qwest identifies no inaccuracy in my description of events. Qwest’s claim that
2 “[i]n error, Qwest’s technicians had been constructing DS1 loops outside of
3 process”⁴⁴ is no more persuasive now in this case than it was at that time and in
4 the Arizona 271 proceeding. This was a clear, business-affecting and rate-
5 impacting change that Qwest inappropriately attempted to implement through
6 CMP but had to revoke as a result of the 271 proceedings. The Arizona Staff
7 described it as a “significant change” and recommended “that Qwest be ordered to
8 immediately suspend its policy.”⁴⁵ This very type of impermissible significant
9 change is the subject of Eschelon’s proposal for Issue 9-31 (Nondiscriminatory
10 Access to UNEs), as I discuss further below regarding Issue 9-31, and as Mr.
11 Denney discusses in his surrebuttal testimony regarding cost recovery issues
12 relating to Issue 9-31.

13 2. Design Changes Example

14 **Q. QWEST STATES THAT IT IS “NOT VALID...TO TRY TO USE A RATE**
15 **ISSUE AS AN EXAMPLE OF QWEST ACTIONS IN THE CMP.”⁴⁶ IS**
16 **THAT AN ACCURATE DESCRIPTION OF YOUR EXAMPLE?**

17 A. No. I provided the purpose of the design changes⁴⁷ example in my direct
18 testimony as follows: “I discuss the issue here because Qwest’s treatment of its
19 proposed language for Issue 4-5 Design Changes is another example of Qwest’s

⁴⁴ Qwest/18, Albersheim/20, lines 6-8.

⁴⁵ Arizona 271 Order, ¶109.

⁴⁶ Qwest/18, Albersheim/18, lines 17-18.

⁴⁷ For a discussion of Subject Matter 4 (Design Changes, Issue 4-5), see the testimony of Mr. Denney.

1 directing – or, inconsistently, not directing – issues to CMP, to its own advantage
2 (and the corresponding disadvantage of CLECs). Consequently, the issue
3 highlights the need for the certainty of ICA language to govern the
4 Qwest/Eschelon business relationship for the years to come.”⁴⁸ On pages 61-62
5 of my direct testimony,⁴⁹ I provided, as evidence of Qwest’s inconsistency,
6 Qwest’s differing positions over time with respect to whether the *definition* of the
7 term design change should, or should not, be subject to CMP.

8 Qwest’s single criticism of this example is that the rates associated with design
9 changes are outside the scope of CMP.⁵⁰ I expressly discussed this distinction on
10 page 61 of my direct testimony, where I said: “When Eschelon inquired about
11 these changes, Qwest CMP personnel responded that ‘this item is outside the
12 scope of CMP.’⁵¹ While this statement would be correct regarding rate issues
13 (which clearly do not belong in CMP), it does not answer the fact that Qwest
14 chose to address the *definition* of design changes outside the CMP, and also chose
15 to unilaterally establish new rates not only outside CMP but without benefit of
16 Commission review or approval.” I suggested that the Commission should
17 conclude from this example that Qwest’s inconsistent treatment of design changes
18 shows that CLECs must have contract language upon which they may fairly

⁴⁸ Eschelon/1, Starkey/60-61.

⁴⁹ Eschelon/1, Starkey/61-62.

⁵⁰ Qwest/18, Albersheim/18, lines 10-18.

⁵¹ Eschelon/1, Starkey/61. *See also* Eschelon/11, Denney/3.

1 depend in their dealings with Qwest. Nothing in Qwest’s rebuttal testimony alters
2 this conclusion.

3 **3. Minnesota 616 Example**

4 **Q. MS. ALBERSHEIM RESPONDED TO THE CRUNEC EXAMPLE,**
5 **DESIGN CHANGES EXAMPLE, AND SECRET TRRO PCATS**
6 **EXAMPLE IN SECTION III (CMP) OF HER REBUTTAL TESTIMONY.**
7 **DID MS. ALBERSHEIM RESPOND TO THE MINNESOTA 616**
8 **EXAMPLE IN SECTION III OF HER REBUTTAL TESTIMONY?**

9 A. No.⁵² Ms. Albersheim responds to some of the points⁵³ I made in my direct
10 testimony about the Minnesota 616 example in Section VIII of her testimony,
11 within her discussion of Issue 12-64 (Root Cause Analysis and Acknowledgement
12 of Mistakes).⁵⁴ I will address those points here, and Ms. Johnson discusses Issue
13 12-64 in her testimony.⁵⁵

14 **Q. MS. ALBERSHEIM TAKES ISSUE WITH YOUR TESTIMONY,**
15 **CLAIMING THAT QWEST DOES NOT CONTRADICT “ITS OWN**
16 **ADVOCACY” BY “PROPOSING TO INCLUDE ACKNOWLEDGEMENT**

⁵² Qwest/18, Albersheim/18-22, Section III(D), III(E), and III(F).

⁵³ Qwest/18, Albersheim/31, lines 2-15 and Qwest/18, Albersheim/32, lines 5-11. Ms. Albersheim erroneously references pages 41-42 of my testimony at Qwest/18, Albersheim/33, lines 12-13. This should refer to Ms. Johnson’s rebuttal testimony.

⁵⁴ Ms. Albersheim discusses Issue 12-64 in her rebuttal testimony at Qwest/18, Albersheim/31-34.

⁵⁵ Eschelon/43, Johnson/38 – 54 and Eschelon/127, Johnson/4-17. Ms. Johnson also addresses Issue 12-64 in her surrebuttal testimony.

1 **OF MISTAKES LANGUAGE IN THE MINNESOTA ICA AND NOT IN**
2 **THE [OREGON⁵⁶] ICA...” PLEASE RESPOND.**

3 A. A simple comparison of Qwest’s previous testimony about its preference for
4 uniformity due to the disadvantages of alleged unique “one-off” processes⁵⁷ with
5 Qwest’s current testimony about the disadvantages of uniformity⁵⁸ demonstrates
6 the contradiction in Qwest’s own advocacy. If Qwest consistently opposed “one-
7 off” processes, it could have voluntarily made the Minnesota 616 terms available
8 to other CLECs and in other states to gain uniformity. Although Ms. Albersheim
9 claims that the Minnesota Commission’s order in the 616 case “did not rise to the

⁵⁶ Qwest/18, Albersheim/31, lines 3-5. Ms. Albersheim erroneously refers to the Colorado ICA instead of the Oregon ICA. See Qwest/18, Albersheim/31, line 4.

⁵⁷ See, e.g., Qwest/18, Albersheim/6, lines 7-11 (“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). [Ms. Albersheim has testified that Qwest believes its proposal of a Minnesota-only provision for Issue 12-64 is a “one-off” process. Qwest-Eschelon ICA MN Arbitration Transcript, Vol. I, p. 15, line 17 – p. 16, line 3 (Albersheim).] 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).

⁵⁸ Qwest/1, Albersheim/49. Qwest has attempted to distinguish Issue 12-64 because it “was not necessary for Qwest to undertake systems changes” (Albersheim Arizona Rebuttal, p. 36, lines 17-18), but it was also not necessary for Qwest to undertake system changes for the now closed Issue 12-75 (tag at the demarcation point) (see previous footnote). See Qwest-Eschelon ICA MN Arbitration, Transcript, Vol. I, p. 104, line 10 – p. 105, line 11 (where Ms. Albersheim lists the issues in Section 12 that “anticipate systems change requests” and does not include tag at the demarcation point (Issue 12-75)). If the real reason for Qwest’s objection were opposition to “one-off” terms, Qwest could have simply made the acknowledgement of mistakes terms available to all CLECs in CMP (as it says it is currently doing for tag at the demarcation point, Issue 12-75). As previously discussed, however, Qwest has chosen not to deal with this particular subject which is unfavorable to Qwest in CMP. Eschelon/1, Starkey/69-71.

1 level of a regulatory change request,”⁵⁹ the CMP Document provides for Qwest to
2 voluntarily initiate a change request (with no regulatory order at all),⁶⁰ as I
3 explained in my direct testimony.⁶¹

4 Qwest did not use CMP for acknowledgement of mistakes, even though Qwest
5 has admitted⁶² its choice not to do so has resulted in a “one-off” process. At the
6 same time, Qwest asks the Commission to send issues for which Eschelon
7 requests contractual certainty to CMP to avoid one-off processes. If Qwest is
8 opposed to one-off processes, then it should be willing to adopt, for the Oregon
9 ICA, the ICA language on root cause analysis and acknowledgement of mistakes
10 that was adopted in the Minnesota ICA. Eschelon has sought the same terms for
11 Issue 12-64 in all of the states in which it operates.

12 **Q. MS. ALBERSHEIM TESTIFIES THAT “ESCHELON’S PROPOSED**
13 **LANGUAGE EXPANDS QWEST’S OBLIGATION WELL BEYOND**
14 **WHAT WAS ORDERED IN MINNESOTA.”⁶³ PLEASE RESPOND.**

15 A. There is no reason that an ICA provision that will apply on a going forward basis
16 needs to be limited to the scope of the example in that case. There should be no
17 arbitrary limitation to the context in which the customer-affecting error occurs
18 before Qwest should acknowledge such errors or analyze the errors such that they

⁵⁹ Qwest 18, Albersheim/32, line 9.

⁶⁰ CMP Document (Qwest/2 & Eschelon/53), §5.4.

⁶¹ Eschelon/1, Starkey/69.

⁶² Qwest-Eschelon Minnesota arbitration, Transcript, Vol. I, p. 15, line 17 – p. 16, line 3 (Albersheim) (Eschelon/6), quoted in Eschelon/1, Starkey/70.

⁶³ Qwest/18, Albersheim/31, lines 11-15.

1 can be avoided, or minimized, on a going-forward basis. In any event, in her
2 rebuttal testimony, Ms. Johnson addressed Qwest's claim that Eschelon's
3 language goes beyond the scope of the Minnesota order, explaining that the
4 Minnesota Commission itself disagreed with Qwest's view on the scope of its
5 own commission order.⁶⁴ In fact, in March, the Minnesota commission not only
6 adopted Eschelon's proposed language but also it said its "concern for the
7 anticompetitive consequences of service quality lapses has *never* been as narrow
8 as Qwest's language would suggest."⁶⁵ In April, Ms. Albersheim testified that
9 she was aware that the Minnesota Commission had rejected Qwest's narrow
10 interpretation of that Commission's own 616 order.⁶⁶ She provides no basis for
11 testifying on May 25, 2007 -- with no mention of the Minnesota Commission's
12 own ruling on this point -- that Eschelon's language "expands Qwest's obligation
13 well beyond what was ordered in Minnesota."⁶⁷

14 **Q. MS. ALBERSHEIM STATES THAT ESCHELON HAS ARGUED THAT**
15 **QWEST SHOULD HAVE SUBMITTED THE ACKNOWLEDGEMENT**
16 **OF MISTAKES ISSUE TO CMP.⁶⁸ IS THAT AN ACCURATE**
17 **DESCRIPTION OF YOUR TESTIMONY AND ESCHELON'S POSITION?**

⁶⁴ Eschelon/127, Johnson/6-7.

⁶⁵ Eschelon/30, Denney 15 (emphasis added) (March 30, 2007).

⁶⁶ Colorado Transcript (April 17, 2007), Docket No. 06B-497T, Vol. I, p. 80, lines 20-24 ("Q And you were aware, were you not, that the Minnesota Commission actually rejected Qwest's narrow interpretation of its order in the Minnesota 616 case, correct? A Yes.") (Ms. Albersheim).

⁶⁷ Qwest/18, Albersheim/31, lines 11-15.

⁶⁸ Qwest/18, Albersheim/32, lines 5-8.

1 A. No. Qwest cites page 70 of my direct testimony.⁶⁹ On that page, I specifically
2 testified (with emphasis in original): “Eschelon is *not* advocating use of the CMP
3 procedures, as it has consistently maintained that this issue should be addressed in
4 the interconnection agreement.” Eschelon addresses not its own position but the
5 “inconsistency in Qwest’s position,”⁷⁰ because Qwest has argued in this
6 proceeding both that this issue should be dealt with in CMP and that it should
7 not.⁷¹ Qwest has been inconsistent, and this inconsistency should be taken into
8 account when evaluating Qwest’s claims.

9 As discussed above, Qwest’s stated position is that processes, procedures, and
10 business practices should be handled in CMP to avoid “one-off” processes,⁷² but
11 for this particular issue of acknowledging Qwest mistakes, Qwest did not use
12 CMP even though as discussed above Qwest admits that its decision not to do so
13 has resulted in a “one-off” process.⁷³ In an attempt to explain away this
14 inconsistency, Ms. Albersheim has testified that this issue does not “apply to all
15 CLECs.”⁷⁴ Apparently to bolster this claim, Qwest also erroneously describes the

⁶⁹ Qwest/18, Albersheim/32, line 5.

⁷⁰ Eschelon/1, Starkey/70, line 8.

⁷¹ Compare Exhibit 3 to Eschelon’s Arbitration Petition (Joint Disputed Issues Matrix, dated 10/10/06), Qwest Position Statement, pp. 162-163 (“this issue involves processes that affect all CLECs... Processes that affect all CLECs should be addressed through CMP....”) (quoted in Eschelon/1, Starkey/73) with Qwest/18, Albersheim/32, lines 5-8 (when asked whether “Qwest should have submitted the acknowledgement of mistakes issue in the Minnesota docket to the CMP,” Ms. Albersheim responded “No”).

⁷² Qwest/18, Albersheim/6, line 7; *id.* Albersheim/13, line 15.

⁷³ Qwest-Eschelon Minnesota arbitration, Transcript, Vol. I, p. 15, line 17 – p. 16, line 3 (Albersheim) (Eschelon/6), quoted in Eschelon/1, Starkey/70.

⁷⁴ See, e.g., Minnesota arbitration Hearing Ex. 2 (Albersheim Reb.), p. 40, lines 13-15 (“nor does it apply to all CLECs”).

1 results of the MN 616 Case as a “settlement,”⁷⁵ as further discussed below. The
2 Minnesota Commission’s orders in the Minnesota 616 Case clearly apply to all
3 CLECs and not only Eschelon. The Minnesota Commission found that Qwest
4 had “failed to adopt operational procedures to promptly acknowledge and take
5 responsibility for mistakes in processing wholesale orders.”⁷⁶ The order did not
6 say “Eschelon orders.” The Minnesota Commission also found that “[p]roviding
7 adequate wholesale service includes taking responsibility when the wholesale
8 provider’s actions harm customers who could reasonably conclude that *a*
9 *competing carrier* was at fault. Without this kind of accountability and
10 transparency, retail competition cannot thrive.”⁷⁷ The order did not say that the
11 customer would blame “Eschelon.” Similarly, in its later order finding Qwest’s
12 compliance filing inadequate, the Minnesota Commission’s ordering paragraphs
13 regarding the required contents of Qwest’s next compliance filing included
14 several items that referred to all Qwest wholesale orders and CLECs generally
15 (not only Eschelon).⁷⁸

16 Qwest’s required compliance filing reflects this same use of references to “all”
17 Qwest wholesale orders and CLECs generally (not only Eschelon).⁷⁹ Despite the
18 Minnesota Commission-ordered requirements that are clearly not limited to
19 Eschelon and Qwest’s own earlier position statement stating that this issue

⁷⁵ Qwest/18, Albersheim/33, line 14.

⁷⁶ Eschelon/5, Starkey/13.

⁷⁷ Eschelon/5, Starkey/13 (emphasis added).

⁷⁸ Eschelon/5, Starkey/4-5; see, e.g., *id.* at paragraphs (f), (i), (j), (k), (l).

⁷⁹ Minnesota 616 case, Qwest Compliance Filing (Dec. 15, 2003), pp. 3-5.

1 “involves processes that affect all CLECs, not just Eschelon,”⁸⁰ Ms. Albersheim
2 has supported Qwest’s choice not to use CMP by repeatedly testifying: “This
3 process is not one that requires Qwest to alter its procedures overall, nor does it
4 apply to all CLECs.”⁸¹ This is results-oriented conduct. It is not a process
5 affecting all CLECs, because Qwest did not want to use CMP, so it says it is not
6 one. If these Commission-ordered requirements to *implement*⁸² steps regarding
7 acknowledgment provisions for *all* Qwest errors in processing wholesale orders,⁸³
8 which the Commission described as “*processes and procedures*,”⁸⁴ are not
9 processes that affect all CLECs⁸⁵ that “should be addressed through CMP”⁸⁶
10 according to Qwest, then Qwest’s proposed test for excluding terms from the
11 interconnection agreement on the basis that they are processes or affect multiple
12 CLECs is meaningless. Qwest’s own inconsistency on this issue demonstrates
13 that Qwest’s approach to CMP is one of convenience and does not offer Eschelon
14 any certainty upon which Eschelon may plan its business.

⁸⁰ Exhibit 3 to Eschelon’s Arbitration Petition (Joint Disputed Issues Matrix, dated 10/10/06), Qwest Position Statement, pp. 162-163.

⁸¹ 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).

⁸² Eschelon/5, Starkey/5.

⁸³ Eschelon/5, Starkey/4, paragraph (f).

⁸⁴ Eschelon/5, Starkey/3.

⁸⁵ Terms may be implemented in CMP on a state-specific basis. Expedites, for which Qwest offers unique terms in Washington but not its other 13 states (see Mr. Denney’s discussion of Issue 12-67), is an example.

⁸⁶ Exhibit 3 to Eschelon’s Arbitration Petition (Joint Disputed Issues Matrix, dated 10/10/06), Qwest Position Statement, pp. 162-163 (“this issue involves processes that affect all CLECs... Processes that affect all CLECs should be addressed through CMP....”) (quoted in Eschelon/1, Starkey/73)

1 **Q. MS. ALBERSHEIM REFERS TO THE RESULTS OF THE MINNESOTA**
2 **616 DOCKET AS A “SETTLEMENT.”⁸⁷ IS THIS AN ACCURATE**
3 **CHARACTERIZATION OF THE RESULTS IN MINNESOTA?**

4 A. No. Qwest is attempting to explain why Qwest did not use CMP, despite its
5 statements about CMP in its position statement.⁸⁸ In her direct testimony, Ms.
6 Albersheim described the *MN 616 Case* order as a “decision” by the
7 Commission.⁸⁹ The word “settlement” did not appear in the direct testimony of
8 Ms. Albersheim related to Issue 12-64. Section 4.1 of the CMP Document
9 contains procedures applicable to regulatory change requests.⁹⁰ Now, in her
10 rebuttal testimony, Ms. Albersheim has started to describe the decisions of the
11 Minnesota Commission erroneously as a “settlement.”⁹¹ By portraying the ruling
12 as a voluntary settlement, Qwest may argue that the Commission-ordered
13 requirements did not fall within the CMP’s definition of a regulatory change,
14 because Section 4.1 of the CMP Document (Eschelon/53 and Qwest/2) provides
15 that regulatory changes “are not voluntary.” The requirements, however, were not
16 voluntary. In the *MN 616 Case*, the Commission ruled that “Qwest failed to
17 provide adequate service at several key points in the customer transfer process

⁸⁷ Qwest/18, Albersheim/33, line 14.

⁸⁸ Exhibit 3 to Eschelon’s Arbitration Petition (Joint Disputed Issues Matrix, dated 10/10/06), Qwest Position Statement, pp. 162-163.

⁸⁹ Qwest/1, Albersheim/51, line 35.

⁹⁰ Eschelon/1, Starkey/69 (quoting Section 4.1 in footnote 138). The CMP Document outlines procedures for voluntarily initiating a change request, if a regulatory change request is not required. *Id.* p. 69, lines 13-16.

⁹¹ Qwest/18, Albersheim/33, line 14.

1 and that these inadequacies reflect system failures that must be addressed.”⁹² The
2 Commission made this ruling based on documented facts and not a settlement.⁹³
3 The Commission exercised its “general authority to require telephone companies
4 to provide adequate service” without a contested case *not* because of a settlement
5 but because the Commission found there were insufficient disputed facts to
6 require a contested case hearing before making its findings.⁹⁴ In the Minnesota
7 arbitration, the ALJs said that the “Commission *ordered* Qwest to make a
8 compliance filing”⁹⁵ and, with respect to the compliance filing, said that Qwest
9 “made three compliance filings, eventually agreeing, in response to *increasingly*
10 *specific direction from the Commission*, to implement procedures.”⁹⁶ At the
11 Minnesota arbitration hearing, Ms. Albersheim, who is an attorney,⁹⁷
12 acknowledged that, in fact, the result of the *MN 616 Case* was not a settlement,
13 but a Commission Order.⁹⁸

⁹² Eschelon/5 [Order, *MN 616 Case* (July 30, 2003), p. 5].

⁹³ *See, e.g., id.*, p. 3 (“Interpretations aside, the following facts are not disputed.”) (quoting Qwest email to Eschelon customer).

⁹⁴ *Id.*

⁹⁵ Eschelon/29 [MN Arbitrators’ Report, ¶206].

⁹⁶ Eschelon/29 [MN Arbitrators’ Report, ¶207 (emphasis added)].

⁹⁷ Qwest/1, Albersheim/2, lines 1-3.

⁹⁸ Eschelon/6 [MN Transcript, Vol. 1, p. 15, lines 10-16 (testimony of Ms. Albersheim)].

1 **4. Secret TRRO PCAT Example**⁹⁹

2 **Q. QWEST COMPLAINS ABOUT WHAT IT CALLS INFLAMMATORY**
3 **LANGUAGE.¹⁰⁰ WHAT INFLAMMATORY LANGUAGE IS MS.**
4 **ALBERSHEIM REFERRING TO?**

5 A. Ms. Albersheim apparently finds troubling my use of the term *secret* to refer to
6 Qwest’s password-protected TRRO PCATs.¹⁰¹ She claims that there was nothing
7 secret about them. According to Ms. Albersheim, Qwest issued its TRRO PCAT
8 as password-protected (originally without providing the password until the CLEC
9 blindly signed Qwest’s form TRRO amendment) “to avoid the confusion of
10 having the TRRO-related PCAT posted on the same website with the original
11 PCAT.”¹⁰² Eschelon defined the first-ever password-protected PCATs as “secret”
12 to clearly distinguish them “from generally available PCATs accessible without a
13 password distributed through Qwest notice process.”¹⁰³ Apparently, Qwest does
14 not like it when the shoe is on the other foot. The reality is that Qwest could have
15 included the password in its initial notice if its motivation had been as simple as
16 to “avoid confusion,” but Qwest chose not to do so. Until it distributed the
17 password and, today, for those who are unfamiliar with the password process, the
18 “TRRO” PCATs were and are secret. This term distinguishes them from the
19 generally available PCATs.

⁹⁹ Eschelon/1, Starkey/74-94; Eschelon/59-64 (Johnson); Eschelon/68-69 (Johnson) and Eschelon/72-76 (Johnson).

¹⁰⁰ Qwest/18, Albersheim/21, lines 1-4.

¹⁰¹ Eschelon/1, Starkey/78, footnote 162.

¹⁰² Qwest/18, Albersheim/21, lines 26-27.

¹⁰³ Eschelon/1, Starkey/78, footnote 162. *See also* Eschelon/59, Johnson/11, footnote 6.

1 **Q. IS THE REASON PROVIDED BY MS. ALBERSHEIM FOR WHY**
2 **QWEST PASSWORD PROTECTED ITS TRRO PCATS CONVINCING?**

3 A. No. There are many different offerings in Qwest’s PCAT on its website, some
4 which apply to a CLEC and some which do not. There is no basis to believe that
5 Qwest’s non-CMP TRO/TRRO PCAT would have caused any more confusion for
6 carriers who had not signed TRRO amendments if they were not password-
7 protected than any other offering in Qwest’s PCAT that doesn’t apply to a
8 particular carrier. CLECs did not ask for these TRRO PCATs to be password-
9 protected, nor did the CLECs give Qwest any reason to believe that they would
10 have been confused if the TRRO PCAT was not password-protected. Though Ms.
11 Albersheim testifies that “it is simply ridiculous to contemplate that Qwest would
12 even attempt”¹⁰⁴ to keep the TRRO-related PCAT secret, Ms. Albersheim ignores
13 the fact that, at that time, there were several CLECs who had not signed such
14 agreements and were contesting the terms of the TRRO in various state
15 proceedings.¹⁰⁵ Therefore, Qwest had a vested interest in keeping its unilateral
16 implementation of the FCC’s TRO/TRRO decisions secret from those who had
17 not signed the amendments yet, so that these non-CMP PCATs (which proved to
18 be premature and not reflective of the FCC’s final rules) could not be used in the
19 state dockets to show how Qwest was implementing the FCC’s decisions.

¹⁰⁴ Qwest/18, Albersheim/22, lines 3-4.

¹⁰⁵ In the Minnesota Qwest-Eschelon ICA arbitration, Ms. Albersheim acknowledged this point as follows: “Qwest was aware that several CLECs had not signed such agreements and were contesting the terms of the TRRO in various state dockets.” Albersheim Minnesota Rebuttal Testimony (MNPUC Docket No. P-5340, 421/IC-06-76 8 OAH Docket No. 3-2500-17369-2, 9/22/06), p. 28, lines 13-15. Ms. Albersheim did not include this explanation in her testimony in the Oregon arbitration proceeding.

1 **Q. MS. ALBERSHEIM STATES THAT THE CHANGE REQUEST**
2 **RELATED TO THE TRRO PCAT WAS REACTIVATED AT THE**
3 **NOVEMBER CMP MEETING.¹⁰⁶ WOULD YOU LIKE TO COMMENT?**

4 A. Yes. I discussed this issue in my direct¹⁰⁷ and rebuttal testimony. Qwest told
5 CLECs that Qwest was placing the Change Request in completed status (though
6 all of it was not completed)¹⁰⁸ and was instead opening new, separate Change
7 Requests for each of the remaining products Qwest had previously included in the
8 former single Change Request.¹⁰⁹ Based on this unilateral action by Qwest in
9 disregard of Eschelon's repeated requests to negotiate these issues with respect to
10 the ICA rather than placing UNE availability and other terms through CMP, Ms.
11 Stewart testified: "discussions are under way as to how best to review the various
12 systems and process changes that occurred as a result of these FCC orders."¹¹⁰
13 Apparently, Qwest is attempting to assure the Commission that it needs to do
14 nothing here because there is another forum in which issues are being discussed.
15 Although Qwest could have used its own CMP forum at any time (as in 2005 it

¹⁰⁶ Qwest/18, Albersheim/22, lines 19-20. *See also* Qwest/37, Stewart/50-51.

¹⁰⁷ Eschelon/1, Starkey/89-90 and Eschelon/123, Starkey/27-28.

¹⁰⁸ Qwest indicated in its minutes for the meeting that it asked at the meeting if there were any objections to the closure of this Change Request, but the minutes are inaccurate in this respect because Qwest did not ask about objections. Qwest simply announced it was closing the Change Request.

¹⁰⁹ Per the CMP document, the definition of development is: "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." (*See* Eschelon/53 or http://www.qwest.com/wholesale/downloads/2007/070129/QwestWholesaleChangeManagementDocument_01_29_07.doc, at p. 55).

¹¹⁰ Qwest/37, Stewart/51.

1 said it would do, along with SGAT updates),¹¹¹ it chose to issue non-CMP
2 notices¹¹² instead and is only choosing to bring the issues to CMP now that
3 Commission oversight in the arbitrations is imminent. Qwest should not be able
4 to dodge review of the issues in that manner at this late date.

5 Qwest ignores the fact that when this issue was previously discussed in CMP (*i.e.*,
6 pre-arbitrations), CLECs said the proper alternative to CMP was to handle TRRO
7 changes in law through ICA negotiations that, if unsuccessful, would be decided
8 by state commissions in ICA arbitrations.¹¹³ CLECs including Eschelon
9 maintained that Qwest should negotiate TRRO issues, including operational and
10 conversion issues, in ICA negotiations,¹¹⁴ as recommended by the FCC.¹¹⁵

11 Eschelon continues to maintain that is the case.

¹¹¹ Eschelon/72, Johnson/14, 6/30/05 CMP meeting minutes (“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. . . . 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.”) *See also* Eschelon/59, Johnson/1 and 8 (chronology, quoting these minutes).

¹¹² Qwest has argued this was not a choice but the result of an agreement not to use CMP. Apparently to explain away its failure to use CMP as it had previously indicated it would do, Qwest claimed there was an agreement in CMP that PCAT changes specific to the TRRO are handled outside the scope of CMP. *See* Eschelon/1, Starkey/80. As discussed below, Qwest repeatedly used this alleged agreement as a sword to prevent mutual development of processes (which Eschelon requested occur in ICA negotiations) based on an alleged inability to act because of that agreement. Note how quickly the “agreement” dissipated upon Qwest’s self-interest in bringing the PCATs into CMP. Suddenly, the alleged obstacle that prevented discussion of these issues for years is no obstacle at all.

¹¹³ *See, e.g.*, Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes). A comparison of the full text from the change request (Eschelon/62, Johnson/2) with the excerpt in the chronology (Eschelon/59, Johnson/4-5) shows that Eschelon accurately and fairly quoted from the minutes in its chronology.

¹¹⁴ Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes).

1 Furthermore, Qwest has said over time that changes will be made in conjunction
2 with SGAT updates. Qwest has taken this position in CMP, through its service
3 management team, and in ICA negotiations. On June 30, 2005, Qwest committed
4 in CMP:

5 . . . *as SGAT language changes, we will have a comment period*
6 and that the States will engage you when decisions are made.
7 *Cindy also said that PCAT changes will be brought through*
8 *CMP.*¹¹⁶

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

10 As agreed to at CMP, the PCATs/Business Procedures associated
11 specifically to TRRO are handled outside the scope of CMP *until*
12 *such time that there is an approved SGAT*, which is why the
13 change was noticed as a non-CMP document.¹¹⁷

14 Again, on April 6, 2006, the Qwest ICA negotiations team told Eschelon:

15 From those discussions it was agreed that *until such time that a*
16 *SGAT is filed* and the TRRO related issues were finalized that all
17 of the TRRO processes and issues would be deferred from a CMP
18 perspective.¹¹⁸

¹¹⁵ TRRO, ¶¶ 196 and 227.

¹¹⁶ Eschelon/59, Johnson/8-9 (6/30/05) (emphasis added).

¹¹⁷ Eschelon/59, Johnson/11.

¹¹⁸ Eschelon/59, Johnson/12 (4/6/06) (emphasis added). 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). Yet, Qwest responded that it is “premature to initiate TRRO discussion at this time.” 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(Johnson)), the Commission should not allow Qwest to exclude these issues from this arbitration because Qwest has 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 (Commingle Arrangements).]

1 **Q. DOES QWEST’S TESTIMONY IN THIS PROCEEDING TELL A**
2 **DIFFERENT STORY?**

3 A. Yes. I explained in my direct testimony¹¹⁹ that what Qwest said it would do does
4 not square with what Qwest has actually done. Despite the assurances (quoted
5 above) over more than a year’s time from every one of these groups within Qwest
6 that Qwest would update the SGATs and deal with “TRRO” issues (including
7 those that Eschelon was asking Qwest to negotiate under Section 252) in CMP as
8 Qwest did so, Qwest has testified that it “*stopped updating its SGATs*”¹²⁰ and that
9 “SGATs have not been updated to incorporate changes in law since 2002 and are
10 therefore outdated documents.”¹²¹ This raises a genuine question about Qwest’s
11 conduct in representing to Eschelon and other CLECs that it will deal with issues
12 in conjunction with updating the SGAT when, according to Ms. Stewart’s sworn
13 testimony, Qwest had no intention at all of updating those SGATs. As I
14 explained in my direct testimony, Qwest also recently notified CLECs that Qwest
15 was no longer making the SGATs available for CLEC opt in.¹²²

16 As the above quotations illustrate, Qwest has consistently pushed out dealing with
17 business-impacting issues that have resulted from the TRO/TRRO based on its
18 promise to deal with them collaboratively when the time is right. At the same

¹¹⁹ Eschelon/1, Starkey/82-83.

¹²⁰ Qwest/15, Stewart/43, line 29.

¹²¹ Stewart Colorado Rebuttal Testimony (06B-497T, 3/26/07), p. 31.

¹²² Eschelon/1, Starkey/25, footnote 55 and p. 30 and pp. 82-83.

1 time, Qwest has been busily churning out business-affecting¹²³ secret (*i.e.*,
2 password-protected) PCATs¹²⁴ that have not gone through any collaborative
3 process at all – not ICA negotiations (as requested by Eschelon and other
4 CLECs),¹²⁵ not CMP in conjunction with SGAT filings (as promised by
5 Qwest),¹²⁶ and not Commission proceedings (as also promised by Qwest).¹²⁷
6 Qwest implements its own “TRRO” view of the world through notifications that
7 it chose for years to *not send through the CMP* notification or change request
8 processes, while at the same time it refused to negotiate these issues under
9 Section 252 on the grounds that *Eschelon* should take the issue to CMP.¹²⁸
10 Eschelon has exercised its Section 252 right to raise these issues in negotiation
11 and arbitration. Qwest, as the party advocating they belong in CMP, elected not
12 to raise them there (or in any regulatory proceeding) during negotiations and
13 before Eschelon incurred the expense of the ICA arbitrations. As such, Eschelon
14 maintains that this arbitration is the appropriate place to deal with the business
15 impacting aspects of the TRO/TRRO.

16 Qwest has implemented its many TRRO PCATs¹²⁹ without scrutiny (through
17 CMP or otherwise) and is now, remarkably, claiming that the “existing”¹³⁰

¹²³ Eschelon/77 (Johnson) and Eschelon/64 (Johnson).

¹²⁴ Eschelon/77 (Johnson).

¹²⁵ Eschelon/59, Johnson/4-5 (11/17/04 CMP November monthly meeting minutes).

¹²⁶ Eschelon/59, Johnson/8-9 (6/30/05).

¹²⁷ Eschelon/59, Johnson/8-9 (6/30/05).

¹²⁸ Eschelon/52 (Johnson); *See also*, Qwest/37, Stewart/52-52 and 59.

¹²⁹ Eschelon/77 (Johnson).

1 processes are already in place and it will be too costly or time-consuming to
2 change them (e.g., conversions, see Issues 9-43/9-44). However, Qwest should
3 not have implemented them unilaterally in the first place. If it ultimately incurs
4 costs in changing terms and processes that it should not have put in place
5 unilaterally and over Eschelon's objections, Qwest is the cost causer and should
6 bear those alleged costs.

7 **Q. MS. ALBERSHEIM DESCRIBES THESE EVENTS AS QWEST'S**
8 **CONSIDERABLE ATTEMPTS TO BE RESPONSIVE TO ITS CLEC**
9 **CUSTOMERS.¹³¹ WHAT IS YOUR REACTION?**

10 A. This testimony is telling as to Qwest's view of how it may treat its wholesale
11 customers. In the face of clearly expressed desires by its customers to deal with
12 these issues in pretty much any way other than the unilateral approach Qwest has
13 taken, Qwest persists undeterred in its objectionable approach. Persisting in
14 advancing the opposite of the CLECs' desired outcome is a unique interpretation
15 of "responsiveness," and fully underscores Eschelon's insistence in this docket for
16 contractual certainty. Eschelon is clearly not going to get a resolution through
17 Qwest's customer service efforts, and therefore, needs the statutorily assigned
18 oversight of the Commission to resolve these issues.

19 **Q. MS. ALBERSHEIM CLAIMS THAT ESCHELON IN ITS EXAMPLES**
20 **AND EXHIBITS IS TRYING TO FALSELY PAINT QWEST AS**

¹³⁰ See e.g., Qwest/39, Million/10, line 25.

¹³¹ Qwest/18, Albersheim/22, lines 12-14.

1 **“CHANGING ITS MIND” AND ACTING INCONSISTENTLY IN CMP¹³²**
2 **BY PRESENTING INSUFFICIENT OR MISLEADING¹³³**
3 **INFORMATION. IS MS. ALBERSHEIM CORRECT WITH REGARD TO**
4 **THE SECRET TRRO PCAT EXAMPLE?**

5 A. No. Ms. Albersheim’s claim is incorrect as it relates to all of the examples I
6 provide, but with regard to the secret TRRO PCAT example specifically,
7 Eschelon/59 (Johnson) provides an accurate description of events, and the
8 documents associated with the chronology in Eschelon/60, Eschelon/61 and
9 Eschelon/62 confirm the facts as presented in that chronology.¹³⁴ The chronology
10 in Eschelon/59 contains quotations from the documents. A comparison of the
11 excerpts in Eschelon/59 to those documents shows that Eschelon’s chronology in
12 Eschelon/59 accurately and fairly quotes that documentation, provides
13 information (such as URLs) to allow easy access to those documents, and
14 includes additional information as well. And despite Ms. Albersheim’s claim that
15 Eschelon provided a “misleading picture”¹³⁵ and her previous criticism of these
16 same examples as being based on only “small pieces”¹³⁶ of the record on this
17 issue, Ms. Albersheim provides no examples of information omitted by Eschelon

¹³² Qwest/18, Albersheim/18, lines 6-9.

¹³³ Qwest/18, Albersheim/18, line 4.

¹³⁴ In the Minnesota arbitration proceeding, Qwest criticized Eschelon for not providing the entire public record for these examples and attached several documents to its Minnesota rebuttal testimony that purportedly provided the remainder of the public record. Though Eschelon disagreed with Qwest’s criticism, to avoid a similar argument in Oregon, Eschelon included the documentation that Qwest claimed Eschelon left out in Minnesota. They demonstrate that Eschelon’s summaries and excerpts are fair and accurate.

¹³⁵ Qwest/18, Albersheim/18, line 4.

¹³⁶ Qwest-Eschelon AZ ICA Arbitration, Docket No. T-03406A-06-0572, T-01051B-06-0572, Albersheim AZ Rebuttal (Feb. 9, 2007), p. 21, lines 2-4 (quoted above).

1 to support her claims.

2 **5. Closed ICA Language and CMP**

3 **Q. QWEST TESTIFIES ABOUT THE ALLEGED “IMPACT” OF CLOSED**
4 **ICA LANGUAGE ON CMP.¹³⁷ PLEASE RESPOND.**

5 A. Ms. Albersheim testifies that Qwest’s acceptance of Eschelon’s language in the
6 ICA on issues that were previously disputed but closed in several states after the
7 Minnesota Commission rejected Qwest’s position will have the impact of making
8 it necessary for Qwest to seek an amendment to Eschelon’s ICA to accommodate
9 changes in CMP.¹³⁸ Her testimony flatly contradicts the language of the CMP
10 Document,¹³⁹ as well as Qwest’s own conduct.¹⁴⁰ One example given by Qwest is
11 Fatal Rejection Notices.¹⁴¹ Issue 12-74 showed that Qwest is happy to agree that
12 the consequences of assignment of fault is appropriate content for inclusion in an

¹³⁷ Qwest/18, Albersheim/22-23.

¹³⁸ Qwest/18, Albersheim/22-23.

¹³⁹ CMP Document (Eschelon/53 (Johnson)), Section 1.0 (Scope); *see, e.g.*, Eschelon/123, Starkey/36-40.

¹⁴⁰ Eschelon/45 (Johnson). *See also* Eschelon/47 (Johnson). In the McLeodUSA example on page 18 of Ms. Johnson’s direct testimony (Eschelon/43, Johnson/18), for example, McLeodUSA pointed out that its ICA language was different from Qwest’s PCAT but Qwest had not sought an amendment from McLeodUSA before making those changes. Instead, Qwest confirmed what the CMP Document provides, that McLeodUSA’s ICA will govern for McLeodUSA anyway. Other conduct by Qwest that is contrary to this statement is Qwest’s choice not to bring certain issues through CMP. For example, as discussed with respect to Issue 12-64 (acknowledgement of mistakes), Qwest was ordered to put certain processes in place but did not bring those processes through CMP either as a regulatory or other change request. And, with respect to the Covad-Qwest ICA language on testing that allows Covad to charge Qwest in certain instances (Eschelon/47 (Johnson)), Qwest did not make those terms available through CMP so other CLECs could also apply the same procedures (as the language includes intervals and other procedures, and not merely charges). Instead, Qwest made Eschelon go into arbitration in Minnesota on this issue to obtain similar terms before Qwest later agreed to language.

¹⁴¹ Qwest/18, Albersheim/23, line 15.

1 interconnection agreement when fault is assigned to Eschelon, and only Eschelon
2 is bound to consequences. Both Sections 12.2.7.2.4.1 and 12.2.7.2.4.2 deal with
3 the consequences of an error in the context of Fatal Rejection Notices. Note that
4 Qwest did not object to Section 12.2.7.2.4.1, which obligates Eschelon to
5 resubmit its order when Eschelon makes a mistake, and did not insist that this
6 language be replaced with a reference to the PCAT because it is unsuitable for a
7 contract. On the flip side, however, when the subject matter is Qwest's
8 obligations when Qwest makes an error, suddenly Qwest argued the content is
9 inappropriate for inclusion in an interconnection agreement and belongs in the
10 PCAT. Not only is Qwest not prevented from making changes in CMP (so long
11 as it respects the Scope provision indicating that Eschelon's ICA controls for
12 Eschelon and any CLECs opting into that ICA), but also Qwest failed to show any
13 legitimate interest in reserving for itself the ability to, through CMP, assign the
14 consequences of Qwest errors to CLECs.

15 Ironically, Ms. Albersheim is making the very argument that the Minnesota
16 Commission rejected when adopting Eschelon's language – after which Qwest
17 closed the language in other states. She is essentially arguing that ICA and CMP
18 terms cannot conflict or overlap so that one or the other must be modified to
19 ensure uniformity. The Minnesota ALJs' recommendations (approved by the
20 Minnesota Commission), upon which Qwest closed these issues, expressly
21 rejected this argument, finding: “Clearly, the CMP process would permit the

1 provisions of an ICA and the CMP to coexist, conflict, or potentially overlap.”¹⁴²
2 With respect to Ms. Albersheim’s example of Loss and Completion Reports,¹⁴³
3 the Minnesota ALJs said: “Qwest has failed to identify any credibly adverse
4 effect on CLECs, itself, or the public interest if this language were incorporated
5 into the ICA.¹⁴⁴ With respect to Ms. Albersheim’s example of the Pending
6 Service Order Notifications (“PSOs”),¹⁴⁵ the Minnesota ALJs said that Ms.
7 Albersheim’s concerns were “overstated”¹⁴⁶ and found:

8 It appears to be unlikely that the inclusion of this language will
9 “freeze” CMP processes, create an administrative burden for
10 Qwest, or cause Qwest to maintain separate systems, processes,
11 and procedures for Eschelon versus other CLECs. The CMP
12 document itself envisions that CMP processes may well differ
13 from those in negotiated ICAs. Qwest has failed to show that
14 maintaining the current level of information in the PSO will harm
15 the CMP process or other CLECs or create a burden for Qwest.
16 This language would not prevent Qwest from adding to the
17 information made available to other CLECs, through the CMP, nor
18 would it prevent Qwest from changing the format of the
19 information. It does not appear that any systems modification
20 would be necessary to comply with this provision. Eschelon
21 credibly contends that this minimal amount of information is
22 reasonable and necessary for it to accurately coordinate the
23 provision of service to new customers.¹⁴⁷

24 Ms. Albersheim concludes that “Eschelon has succeeded in preventing the CMP

¹⁴² Eschelon/29, Denney/7 [MN Arbitrators’ Report, ¶22].

¹⁴³ Qwest/18, Albersheim/23, line 15.

¹⁴⁴ Eschelon/29, Denney/59-60 [MN Arbitrators’ Report, ¶¶244 & 246]. Issue 12-74 (Fatal Rejection Notices) has since closed in all six states with Eschelon’s language.

¹⁴⁵ Qwest/18, Albersheim/23, line 115.

¹⁴⁶ Eschelon/29, Denney/56 [MN Arbitrators’ Report, ¶229]. Issue 12-70 (PSOs) has since closed in all six states with Eschelon’s language.

¹⁴⁷ Eschelon/29, Denney/56 [MN Arbitrators’ Report, ¶229]. Issue 12-70 (PSOs) has since closed in all six states with Eschelon’s language.

1 from working as it was intended”¹⁴⁸ without acknowledging that the Minnesota
2 Commission expressly found this is exactly how CMP was intended to work.¹⁴⁹
3 The federal Act likewise envisions this result.¹⁵⁰

4 **B. CMP SCOPE AND QWEST’S CLAIM THAT IT CANNOT ACT**
5 **ARBITRARILY IN CMP**

6 **Q. BEFORE ADDRESSING THE MERITS OF MS. ALBERSHEIM’S**
7 **REBUTTAL TESTIMONY ON THE RELATIONSHIP BETWEEN THE**
8 **ICA AND CMP AND THE NEED FOR CONTRACTUAL CERTAINTY,**
9 **DO YOU HAVE ANY GENERAL COMMENTS ABOUT HER**
10 **TESTIMONY ON THIS ISSUE?**

11 A. Yes. Numerous times throughout Ms. Albersheim’s rebuttal testimony, she refers
12 to Eschelon’s proposals as “Eschelon’s proposed CMP-related ICA language.”¹⁵¹
13 Ms. Albersheim’s use of this phrase is an attempt to use semantics to make it
14 appear as if Eschelon has CMP-related proposals. To be clear: Eschelon does not
15 have “CMP-related ICA language” proposals. What Ms. Albersheim is
16 apparently referring to is Eschelon’s proposals on the issues for which Qwest
17 wants to omit from the ICA and rely exclusively on the CMP.¹⁵² For these issues,
18 Eschelon’s proposals are not “CMP-related.” Rather, a more accurate description

¹⁴⁸ Qwest/18, Albersheim/23, lines 17-18.

¹⁴⁹ Eschelon/29, Denney/7 & 56 [MN Arbitrators’ Report, ¶22 & ¶229].

¹⁵⁰ Eschelon/1, Starkey/31-36.

¹⁵¹ Qwest/18, Albersheim/15, line 15. *See also* Qwest/18, Albersheim/16, lines 12-13; Qwest/18, Albersheim/6, lines 2 & 14; and Qwest/18, Albersheim/16, line 7 (“CMP related issues.”)

¹⁵² This list of issues is found at page 16 of my direct testimony (Eschelon/1, Starkey/16).

1 of them would be “ICA-related” because they provide the contractual certainty
2 that is the purpose of ICAs. It is only Qwest’s proposals for these issues that can
3 be accurately characterized as “CMP-related” because, rather than clearly spelling
4 out terms and conditions in the ICA, they are silent or point to the CMP, Qwest’s
5 PCAT, Qwest’s Standard Interval Guide (“SIG”) on its web site, or Qwest’s
6 discretion.¹⁵³

7 **Q. MS. ALBERSHEIM CLAIMS IN HER REBUTTAL TESTIMONY THAT**
8 **THE PURPOSE OF CMP IS TO CENTRALIZE PROCESSES AND**
9 **PROCEDURES AND MAKE THEM UNIFORM ACROSS CLECS.¹⁵⁴ IS**
10 **QWEST’S REBUTTAL TESTIMONY CONSISTENT ON THIS POINT?**

11 A. No. Ms. Albersheim once again discusses the ability of the CMP to centralize
12 processes and systems¹⁵⁵ to ensure uniformity.¹⁵⁶ Ms. Albersheim argues that
13 even though older ICAs contained specific terms, Qwest has “worked hard to
14 eliminate” those specific terms processes and procedures from interconnection
15 agreements.¹⁵⁷ She again claims that adopting Eschelon’s proposals would have

¹⁵³ See, e.g., Qwest’s proposal for 1-1(a) and 1-1(e). Compare to Eschelon’s proposals for the same issues. Eschelon/1, Starkey/99-101. 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.

¹⁵⁴ Qwest/18, Albersheim/13, lines 9-11 & Qwest/18, Albersheim/14, line 25 – p. 15, line 1.

¹⁵⁵ Qwest/18, Albersheim/13, lines 10-11.

¹⁵⁶ Qwest/18, Albersheim/14, line 26 – p. 15, line 1 and Qwest/18, Albersheim/68, line 8. See also, Qwest/37, Stewart/74.

¹⁵⁷ Qwest/18, Albersheim/16, lines 10-12.

1 Qwest “turn back the clock”¹⁵⁸ on Qwest’s hard work in this regard.¹⁵⁹ In
2 contrast, Qwest witness Ms. Stewart has told the exact opposite story from the
3 one told by Ms. Albersheim. Ms. Stewart has testified as follows:

4 In an order issued in 2004, the FCC established that under the opt-
5 in provision in Section 252(i), a CLEC can only opt into an entire
6 ICA or SGAT, not just individual provisions. Under this "all-or-
7 nothing" rule, CLECs that choose to opt into another carrier's ICA
8 or an SGAT can no longer "pick-and-choose" individual provisions
9 that they want and reject other provisions they don't want. A
10 CLEC that elects to negotiate an agreement instead of opting into
11 one has, by definition, chosen not to be eligible to pick and choose
12 any or all of the provisions from another carrier's ICA. While a
13 CLEC can negotiate terms and conditions of its own choosing,
14 Qwest is not bound to accept every term and condition, even if it is
15 a part of another agreement. The FCC explained the reason behind
16 the "all-or-nothing rule," stating that the rule would promote more
17 give and take in negotiations and would produce agreements that
18 are more tailored to the individual needs of carriers.¹⁶⁰

19 Similarly, in Minnesota, Ms. Stewart testified:

20 Moreover, due to the FCC’s elimination of the “pick-and choose”
21 rule and its move to the “all-or-nothing” rule, as discussed CLECs
22 are much less likely to opt into a standard SGAT when ICAs have
23 become increasingly more tailored to CLECs. This tailoring has
24 increased as CLECs have shaped their businesses to have a
25 specialized focus, which is often necessary to survive in today’s

¹⁵⁸ Qwest/18, Albersheim/16, line 13.

¹⁵⁹ I have explained why Ms. Albersheim is wrong when she contends that the purpose of CMP is to implement uniform processes and procedures for all CLECs as well as why Eschelon is not attempting to “turn back the clock.” See Eschelon/123, Starkey/18-20.

¹⁶⁰ Stewart Colorado Rebuttal Testimony (06B-497T, 3/26/07), p. 32. Despite providing this testimony in the Eschelon-Qwest ICA Arbitration in Colorado (as well as other states in which the companies have arbitrations, see Stewart Arizona Rebuttal Testimony (T-03406A-06-0572/T-01051B-06-0572, 2/9/07), p. 33; Stewart Washington Responsive Testimony (UT-063061, 12/4/06), p. 27; Stewart Minnesota Rebuttal Testimony (PUC Docket No . P-5340,421/IC-06-768/OAH Docket No . 3-2500-17369-2, 9/22/06), p. 370, Ms. Stewart omits this from her testimony in Oregon. Ms. Stewart also testified in her Colorado Rebuttal testimony (at page 33) and her Minnesota Rebuttal Testimony (at page 39) that “it is essential that the disputed issues in this arbitration be resolved on their merits and based on the law as it exists today.”

1 highly competitive telecommunications market.¹⁶¹

2 Ms. Stewart's statement that CLEC ICAs have become increasingly tailored to the
3 CLEC's specialized business is in direct conflict with Ms. Albersheim's
4 testimony which states that Qwest has "worked hard to eliminate" these
5 specialized terms from CLEC ICAs.¹⁶² Moreover, Ms. Stewart states that
6 tailoring ICAs to meet the specialized needs of CLECs is often necessary for
7 CLEC survival in the competitive telecommunications marketplace, but Ms.
8 Albersheim is asking that any terms tailored to meet Eschelon's specialized focus
9 be omitted from the ICA. Based on Ms. Stewart's testimony describing the
10 benefits of ICAs tailored to the individual needs of carriers, it appears that Ms.
11 Albersheim's testimony and the Qwest's positions which she supports, would
12 have the effect of making it more difficult for Eschelon to survive in today's
13 telecommunications marketplace. After all, Ms. Albersheim testifies that Qwest
14 has "worked hard to eliminate"¹⁶³ the very thing that Ms. Stewart testifies is

¹⁶¹ Qwest-Eschelon ICA MN Arbitration, Stewart MN Rebuttal, p. 36, lines 19-25.

¹⁶² Qwest/18, Albersheim/16. It is also directly contradictory to Ms. Albersheim's claim that "Before the creation of the current CMP, many interconnection agreements were highly individualized. Through the extensive collaborations in the creation of the CMP, and the section 271 evaluations of Qwest's systems and processes, Qwest and the CLECs have created mechanisms to ensure that Qwest can provide the best service for CLECs. As a result, Qwest has taken steps to try to make its contract language reflect these improvements. While process language still exists, Eschelon should not be allowed to compound the problem and turn back the clock on the processes that have proven effective for all of Qwest's CLEC customers." (Qwest/1, Albersheim/25) What Ms. Albersheim refers to as compounding a problem, Ms. Stewart refers to as necessary for survival in the telecommunications market.

¹⁶³ Qwest/18, Albersheim/15 ["Qwest undertook significant efforts over the last four years to negotiate with Eschelon and to reach agreement on disputed ICA language. In the spirit of these negotiations, Qwest compromised when it could and tried hard to avoid including too much process and procedure in the ICA."] Ms. Stewart testifies that there has been increasingly tailored ICAs since the FCC's All Or Nothing Rule, which was issued in mid-2004 – the same time frame that, according to Ms. Albersheim, Qwest was engaging in negotiations with the goal of not including too much process and procedure detail in the ICAs.

1 necessary to survival in today's telecommunications marketplace – *i.e.*,
2 individualized ICAs.

3 **Q. DESPITE MS. ALBERSHEIM'S TESTIMONY ATTACKING**
4 **SPECIALIZED ICAS, HAS SHE PREVIOUSLY TESTIFIED IN SUPPORT**
5 **OF SPECIALIZED TERMS IN ICAS WITH CLECS?**

6 A. Yes. In her rebuttal testimony in the Minnesota arbitration proceeding,
7 Albersheim testified “of course Qwest supports unique negotiated agreements
8 with CLECs.”¹⁶⁴ Ms. Albersheim's testimony from Minnesota stands in stark
9 contrast to the position Ms. Albersheim expressed in her testimony here,¹⁶⁵ as
10 well as Qwest's position in this case on a sub-set of the issues that uniformity
11 should rule.¹⁶⁶ Additionally, as I explained in my direct testimony, Eschelon is not
12 attempting to defeat uniform processes.¹⁶⁷

13 **Q. MS. ALBERSHEIM CLAIMS THAT UNIFORM PROCESSES ARE**
14 **NEEDED SO THAT IT CAN TRAIN ITS EMPLOYEES ON ONE SET OF**
15 **PROCESSES AND HAS RESULTED IN A HIGHER QUALITY OF**
16 **SERVICE,¹⁶⁸ AND THAT “UNIQUE”,¹⁶⁹ “ONE-OFF”¹⁷⁰ PROCESSES**

¹⁶⁴ Albersheim Minnesota Rebuttal Testimony, p. 14. Ms. Albersheim left this testimony out of her direct and response testimonies in Oregon.

¹⁶⁵ Qwest/18, Albersheim/26, lines 1-2 (“This is an administrative burden for Qwest that could result in one special process for Eschelon (and opt-ins) and another process for other CLECs.”) *See also* Qwest/18, Albersheim/6, lines 7-8.

¹⁶⁶ *See* Eschelon/1, Starkey/16 for a list of issues for which Qwest would like to deal with in CMP rather than have specific contract language in the ICA.

¹⁶⁷ Eschelon/1, Starkey/35-36.

¹⁶⁸ Qwest/18, Albersheim/14.

¹⁶⁹ Qwest/18, Albersheim/6, line 7.

1 **UNDERMINES THESE OBJECTIVES. DOES MS. ALBERSHEIM’S**
2 **CLAIM HOLD UP TO SCRUTINY?**

3 A. No. I addressed this issue in my rebuttal testimony,¹⁷¹ where I explained that
4 CLEC ICAs are not uniform today and have not been in the past, yet Ms.
5 Albersheim describes Qwest’s service quality as “outstanding.”¹⁷² If Qwest’s
6 service quality has been “outstanding” (as Ms. Albersheim puts it) when CLEC
7 ICA terms are not uniform, then uniform terms are not needed going forward to
8 maintain that level of service quality. Ms. Albersheim’s reasoning does not make
9 sense.

10 Ms. Albersheim also claims that uniform processes helps ensure that CLECs are
11 treated in a nondiscriminatory manner.¹⁷³ Section 252(i) of the federal Act,
12 however, serves that purpose by requiring interconnection agreements to be
13 publicly filed and available for opt-in to avoid discrimination. For example, the
14 Washington Commission has rejected the notion that different publicly filed ICA
15 terms amounted to discrimination. [“The fact that there are differences in change
16 of law provisions among various agreements is not discriminatory: It reflects the
17 variations in negotiation and arbitration of terms in interconnection

¹⁷⁰ Qwest/18, Albersheim/6, line 7.

¹⁷¹ Eschelon/123, Starkey/39-40 and Eschelon/47.

¹⁷² Qwest/18, Albersheim/14, line 13.

¹⁷³ Qwest/18, Albersheim/14, lines 7-9.

1 | agreements...”]¹⁷⁴

2 | **Q. MS. ALBERSHEIM CLAIMS THAT “UNIFORM PROCESSES AND**
3 | **PROCEDURES” ARE SUPPORTED BY THE CMP SCOPE CLAUSE. IS**
4 | **SHE CORRECT?**

5 | A. No. At page 15 of her rebuttal testimony,¹⁷⁵ Ms. Albersheim quotes Section 1.0
6 | of the CMP as follows:

7 | CMP provides a means to address changes that support of affect
8 | pre-ordering, ordering/provisioning, maintenance/repair and billing
9 | capabilities and associated documentation and production support
10 | issues for local services...provided by...CLECs to their end users.
11 | The CMP is applicable to Qwest’s 14-state in-region serving
12 | territory.

13 | This language does not support Ms. Albersheim’s notion that the purpose of CMP
14 | was to make processes and procedures uniform among all CLECs. First, as
15 | pointed out by the Minnesota Department of Commerce (“DOC”) staff,¹⁷⁶ the
16 | language says that “CMP provides *a* means to address changes...”, the language
17 | does not say that CMP is *the only* means to address changes. Section 1.0 of the
18 | CMP Document (Eschelon/53) specifically provides:

19 | In cases of conflict between the changes implemented through this
20 | CMP and any CLEC interconnection agreement (whether based on
21 | the Qwest SGAT or not), the rates, terms and conditions of such

¹⁷⁴ 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.”

¹⁷⁵ Qwest/18, Albersheim/15.

¹⁷⁶ Qwest-Eschelon MN ICA Arbitration, Reply Testimony of Minnesota DOC witness Ms. Doherty
(Sept. 22, 2006), p. 10, lines 13-16 (“Q. Does inclusion of a process/product/procedure in CMP
preclude that process/product/procedure from being defined in an ICA between two parties? A. No,
it does not. It is important to note that in defining the scope of CMP, Qwest’s CMP document states
that “CMP provides a means to address changes” to OSS interfaces.”).

1 interconnection agreement shall prevail as between Qwest and the
2 CLEC party...¹⁷⁷

3 Second, Eschelon/45 shows that Qwest has agreed to language in the ICA that
4 differs from what is in Qwest's PCAT without CMP activity. One example is
5 Issue 8-24, which is found at pages 2-3 of Eschelon/45. Qwest agreed to close
6 this issue based on Eschelon's proposal – a proposal that Qwest testified would be
7 a “change in existing Qwest process” and a change “that will impact all
8 CLECs,”¹⁷⁸ and a proposal that was different from Qwest's PCAT. Notably,
9 Qwest closed this language without any CMP activity. This undercuts Ms.
10 Albersheim's notion that uniformity is the overarching goal, and generic ICAs
11 relying upon detailed processes discussed in CMP are required for the sake of
12 efficiency.

13 **Q. MS. ALBERSHEIM CRITICIZES YOUR USE OF THE TERM “NOTICE**
14 **AND GO” WHEN DESCRIBING QWEST’S CMP NOTICES. ARE HER**
15 **CRITICISMS WARRANTED?**

16 A. No. Ms. Albersheim simply ignores the meaning of Notice and Go I discussed in
17 my testimony, establishes her own definition, and then criticizes me for not
18 subscribing to her definition.

19 **Q. PLEASE ELABORATE.**

20 A. I discussed Qwest's “Notice and Go” ability in CMP in my direct testimony¹⁷⁹ as

¹⁷⁷ Section 1.0 of Eschelon/53 (Johnson); *see also* Eschelon/123, Starkey/36-40.

¹⁷⁸ Qwest (Hubbard) Washington Direct Testimony, p. 45, lines 15-18.

¹⁷⁹ Eschelon/1, Starkey/46.

1 follows: “if Qwest wants to make a change, it simply notices CLECs, solicits and
2 then may deny their requests for modifications, and implements its proposed
3 change in as little as 31 days after initial notice.” Therefore, the “go” in the
4 “notice and go” allows Qwest to implement its proposed change once the notice
5 period is over (which is 31 days for a Level 3 Notice).¹⁸⁰ No vote is taken
6 regarding the change¹⁸¹ and Qwest can reject (or “respectfully decline”)¹⁸²
7 objections from CLECs and implement the change.¹⁸³

8 Ms. Albersheim states that my description is not accurate and that only Level 0
9 and Level 1 notices can be “notice and go.”¹⁸⁴ She equates notice and go with
10 “effective immediately,” whereas I defined it for purposes of my testimony as to
11 “go” after the applicable notice period. Ms. Albersheim states notices that give
12 CLECs an opportunity to comment or object cannot be “notice and go.”
13 However, she fails to realize that the comments and objections are ineffectual if
14 Qwest disagrees because it can, and does, implement its changes even over
15 unanimous CLEC opposition.¹⁸⁵ I suppose there can be various definitions or
16 uses of “notice and go,” but arguing semantics is silly when the real issue here is

¹⁸⁰ Eschelon/1, Starkey/46, lines 4-7.

¹⁸¹ I describe the two narrow circumstances that may trigger a vote in CMP at pages 44 and 45 of my direct testimony (Eschelon/1, Starkey/44-45). No votes are taken on whether Qwest product or process notices or CRs may be implemented.

¹⁸² *See e.g.*, discussion of CRUNEC example, Eschelon/1, Starkey/50-60. *See also* Eschelon/56 and Eschelon/57.

¹⁸³ Eschelon/1, Starkey/45-46.

¹⁸⁴ Qwest/18, Albersheim/8, lines 3-7. *See also* Qwest/18, Albersheim/19, claiming that Qwest’s 2003 CRUNEC cannot be accurately characterized as “notice and go.”

¹⁸⁵ Eschelon/1, Starkey/57. *See also*, CMP Document (Eschelon/53), Section 5.4. For example, in the CRUNEC example, the twelve active CLECs all unanimously objected, and Qwest moved forward anyway, until the Arizona Commission became involved. Eschelon/56, Johnson/3-4.

1 the ability of Qwest to move forward (*i.e.*, “go”) with its changes after issuing a
2 notice of the change, regardless of the comments or objections it may receive
3 from CLECs.¹⁸⁶

4 **Q. MS. ALBERSHEIM TAKES ISSUE WITH YOUR EXPLANATION THAT**
5 **CMP PROVIDES NO REAL ABILITY TO KEEP QWEST FROM**
6 **MAKING CHANGES QWEST WANTS TO MAKE IN CMP.¹⁸⁷ WOULD**
7 **YOU LIKE TO RESPOND?**

8 A. Yes. Though Ms. Albersheim points to a number of provisions by which a CLEC
9 can pursue a disagreement with Qwest,¹⁸⁸ the bottom line is that Qwest has the
10 ability in CMP to overrule CLEC disagreement and go forward with the Qwest
11 change. If a CLEC asks Qwest to postpone a change, Qwest can reject the
12 request.¹⁸⁹ If a CLEC files comments expressing disagreement with Qwest’s
13 change, Qwest can deny the comments.¹⁹⁰ If a CLEC raises an issue in CMP
14 Oversight Committee meetings, Qwest can reject it.¹⁹¹ The CRUNEC example
15 shows that Qwest moved forward with a serious, business-affecting change
16 against the unanimous escalation and opposition of CLECs in CMP, and only

¹⁸⁶ This is why Ms. Albersheim’s claim that the CMP allows CLECs to “prevent” Qwest changes is false (*see, e.g.*, Qwest/18, Albersheim/6, line 23; Qwest/18, Albersheim/8, lines 10-12; and Qwest/18, Albersheim/9, line 4). Qwest would only change/postpone/withdraw a notice or CR in CMP if it wants to, and a CLEC cannot force Qwest’s hand.

¹⁸⁷ Qwest/18, Albersheim/7. *See also* Qwest/18, Albersheim/11 and Qwest/18, Albersheim/7, lines 8-10.

¹⁸⁸ Qwest/18, Albersheim/7, lines 10-12.

¹⁸⁹ Eschelon/1, Starkey/45, lines 6-10 and Eschelon/53 (Johnson) (CMP Document), Section 5.5.3.3.

¹⁹⁰ Eschelon/53 (Johnson) (CMP Document).

¹⁹¹ Eschelon/1, Starkey/76, footnote 156. CLECs argued that changes to UNE availability should be addressed in negotiation/arbitration and not in CMP.

1 changed its tune once a state commission weighed in and conditioned a favorable
2 271 recommendation on Qwest reverting back to its prior CRUNEC policy.

3 **Q. MS. ALBERSHEIM CLAIMS THAT OUT OF THE 436 CHANGE**
4 **REQUESTS MADE BY QWEST IN CMP, IT WITHDREW 97 OF THOSE**
5 **BECAUSE OF VOCAL OPPOSITION BY CLECS OR BECAUSE, IN THE**
6 **CASE OF SYSTEM CHANGES, THEY WERE GIVEN SUCH A LOW**
7 **PRIORITY BY CLECS.¹⁹² HAVE YOU ALREADY ADDRESSED THIS**
8 **CLAIM?**

9 A. Yes. This issue was addressed in my rebuttal testimony¹⁹³ and in Eschelon/50
10 (Johnson). This information shows that Ms. Albersheim is wrong. Qwest only
11 withdraws changes in CMP if it wants to, and there is nothing in the CMP
12 Document that requires Qwest to withdraw changes because of CLEC opposition.
13 Indeed, there is not even a vote taken on Qwest proposed product and process
14 changes in CMP.¹⁹⁴

15 **Q. MS. ALBERSHEIM POINTS TO A LEVEL 1 NOTICE IT ISSUED ON**
16 **SEPTEMBER 27, 2006, REGARDING MAINTENANCE AND REPAIR**
17 **DOCUMENTATION, AND STATES THAT QWEST RETRACTED THE**
18 **NOTICE AND WITHDREW THE DOCUMENTATION CHANGES**
19 **BASED ON CLECS' CONCERNS.¹⁹⁵ DOES THIS EXAMPLE SHOW**

¹⁹² Qwest/18, Albersheim/7, lines 14-17.

¹⁹³ Eschelon/123, Starkey/51-54.

¹⁹⁴ Eschelon/1, Starkey/37, lines 12-14.

¹⁹⁵ Qwest/18, Albersheim/8.

1 **THAT CLECS CAN “PREVENT” QWEST PROPOSED CHANGES AS**
2 **MS. ALBERSHEIM CLAIMS?¹⁹⁶**

3 A. No. Ms. Albersheim omits key facts that, when disclosed, show Qwest will
4 unilaterally implement changes over CLEC objection.

5 On May 25, 2007, Ms. Albersheim testified that, after CLECs expressed concerns
6 about a September 27, 2006 Level 1 notice, Qwest “withdrew the documentation
7 changes.”¹⁹⁷ Ms. Johnson indicates in her surrebuttal testimony (Eschelon/141)
8 that a core CLEC concern about the September 27, 2006 changes was Qwest’s
9 proposed deletion of the following sentence from the Dispatch PCAT: “When a
10 Qwest technician is dispatched to a premise, the Qwest demarcation point will be
11 tagged if a tag is not present.” Qwest noticed documentation changes to the
12 Dispatch PCAT again on December 1, 2006 (Level 3) and on April 2, 2007 (Level
13 4). Qwest sent the latter notice almost two months before filing of Ms.
14 Albersheim’s testimony. Both the December and the April changes included
15 deletion of the same sentence about which CLECs “expressed concerns” (*i.e.*,
16 objected) in September of 2006 and which was reflected in the “documentation
17 changes” that Ms. Albersheim recently testified Qwest withdrew. Qwest
18 implemented changes on May 17, 2007, including deletion of that key sentence,
19 over Eschelon’s objection.¹⁹⁸ Ms. Johnson of Eschelon participated in these CMP

¹⁹⁶ Qwest/18, Albersheim/8, lines 12-13.

¹⁹⁷ Qwest/18, Albersheim/8, lines 15-17.

¹⁹⁸ Eschelon/142, Johnson.

1 discussions.¹⁹⁹ She describes Eschelon/142 in her testimony. These
2 developments, which occurred before Ms. Albersheim submitted her testimony
3 but which she does not mention, show that CLECs cannot prevent Qwest
4 unilateral action in CMP, as claimed by Ms. Albersheim.

5 That Qwest implemented this change over CLEC objection shows that CLECs
6 cannot “prevent” Qwest from making these changes in CMP. For Qwest-initiated
7 changes (including Level 4 – change requests), after Qwest abides by the time
8 frames in the CMP document, it may implement changes over CLEC objection
9 (as it did in the CRUNEC example).

10 **Q. REGARDING YOUR TESTIMONY THAT QWEST’S NOTICE AND GO**
11 **PROCESS IS RELATIVELY QUICK COMPARED TO A STATE**
12 **COMMISSION COMPLAINT PROCEEDING,²⁰⁰ MS. ALBERSHEIM**
13 **TESTIFIES THAT A COMMISSION DOCKET IS NOT A VALID**
14 **COMPARISON TO THE PROCESSES AVAILABLE TO ESCHELON**
15 **THROUGH CMP.²⁰¹ IN YOUR TESTIMONY, WERE YOU**
16 **COMPARING THE PROCESS AVAILABLE TO ESCHELON?**

17 A. No. Ms. Albersheim responds to this particular question on page 10 of her
18 rebuttal testimony by listing various optional CMP procedures available *to*

¹⁹⁹ Eschelon/142, Johnson (Change Request PC030607-1, documenting participation of Ms. Johnson but not Ms. Albersheim). I discussed this example in footnote 197 on page 50 of my rebuttal testimony. See Eschelon/123, Starkey/50, footnote 197. Ms. Johnson provided Eschelon/85, which consists of meeting minutes, CMP notices, comments and emails related to this issue, with her direct testimony (Eschelon/43).

²⁰⁰ Eschelon/1, Starkey/47.

²⁰¹ Qwest/18, Albersheim/10, lines 1-16.

1 *Eschelon and other CLECs* and appears to suggest that some of them may have
2 taken less time.²⁰² The comparison I was making, however, was between (1) the
3 CMP *notice* procedures available *only* to *Qwest* and (2) state commission
4 complaint proceedings that *CLECs* may bring pursuant to the dispute resolution
5 provisions of their ICAs and/or CMP.²⁰³ Despite Ms. Albersheim’s discussion of
6 alternative procedures in CMP, there simply is no provision in the CMP
7 Document that allows *CLECs* to implement product and process changes over the
8 objection of *Qwest* in any timeframe, much less on 31 or fewer days notice. As
9 the CRUNEC and other examples show, *Qwest* has the ability to implement
10 changes quickly over the objection of multiple *CLECs*.

11 **Q. MS. ALBERSHEIM TESTIFIES THAT ESCHELON OMITTED THE**
12 **PRIMARY REASON FOR WHY THE HEARING WAS DELAYED IN**
13 **THE PARTICULAR EXAMPLE YOU USED WHEN COMPARING THE**
14 **LENGTH OF TIME FOR QWEST TO MAKE A CHANGE VERSUS**
15 **CLECS.²⁰⁴ PLEASE RESPOND.**

16 A. In my testimony, I pointed out that the ten-month time period required to obtain a
17 hearing date in the Arizona Complaint Docket as a result of *Eschelon’s* CMP

²⁰² Ms. Albersheim provides no basis to show that any of the procedures for which *Qwest* is the decision maker would have led to any different result from *Qwest’s* current position. If litigation in six states does not change *Qwest’s* position, more time in CMP would not do so. The result would be delay, with this Commission still needing in the end to resolve the issue.

²⁰³ *Qwest/2*, *Albersheim/100* (CMP Document) (Section 15.0 states: “This process does not limit any party’s right to seek remedies in a regulatory or legal arena at any time.”). Ms. Albersheim testifies that I asserted a *CLEC* “must” seek a Commission determination and suggests that I ignored other available processes. *Qwest/18*, *Albersheim/9-10*. I testified, however, that a *CLEC* “may” seek dispute resolution in each state, and I recognized other provisions of the CMP Document, while pointing out that they are optional. *Eschelon/1*, *Starkey/57*, line 6 & footnote 103.

²⁰⁴ *Qwest/18*, *Albersheim/10*, lines 18-20.

1 dispute resolution efforts is a far cry from the 31-day time period in which Qwest
2 can accomplish changes through Level 3 CMP notifications.²⁰⁵ This is true
3 regardless of the reason for the length of the time needed to process the case.²⁰⁶
4 In the event that Qwest were to claim that ten months is an unusually long period
5 of time and Eschelon may receive relief earlier in other dispute resolutions, I
6 specifically quoted the representation of Qwest counsel that six months to hear a
7 single issue presented by a complaint was so short an amount of time that Qwest
8 had not even heard of rocket dockets proceeding that fast.²⁰⁷ The need to make
9 that point is validated by Ms. Albersheim's rebuttal testimony in which Qwest
10 does, in fact, try to suggest that "the scheduling of the hearing for the Arizona
11 docket" may not be the "norm for complaint proceedings."²⁰⁸ According to
12 Qwest's own counsel, however, several months is like a rocket docket compared
13 to the norm.²⁰⁹ The time required for a CLEC to obtain a result through CMP
14 dispute resolution (regardless of whether that time is the same or somewhat

²⁰⁵ Eschelon/1, Starkey/47-48. Similarly, when Eschelon wanted a change in the delayed order policy, completion of Eschelon's delayed order change request in CMP from submission to an unsatisfactory closure, took 469 days, whereas when Qwest wanted a change Qwest was able to implement it in CMP in only 43 days. *See* Eschelon/79 (Johnson).

²⁰⁶ Qwest asserts that one of its attorneys on the case had a scheduling conflict with another case. Qwest/18, Albersheim/10, lines 19-20. Surely Qwest is not suggesting that this is a one-time experience and no other scheduling conflicts will arise in any other case to cause delays in other dispute resolution proceedings. Qwest does not point to any complaint case that has been tried in less than the 31-day period available to Qwest for its own Level 3 CMP changes. In fact, Qwest's "rocket docket" comment (quoted below) suggests that the opposite is more generally true.

²⁰⁷ AZ Complaint Docket, Transcript, Procedural Conference (July 27, 2006), 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.")

²⁰⁸ Qwest/18, Albersheim/10, lines 16-18.

²⁰⁹ AZ Complaint Docket, Transcript, Procedural Conference (July 27, 2006), p. 18, lines 20-24 (quoted above).

1 different from the time needed in the Arizona Complaint Docket) is much longer
2 than the 31-day period in which Qwest can accomplish changes through Level 3
3 CMP notifications. I also referred to Qwest's expressed intent to conduct
4 multiple depositions and other discovery in that case as an example of the
5 expense and resources that a CLEC in dispute resolution will experience that
6 Qwest does not with its quick and easy notification process.²¹⁰ These facts should
7 be considered when weighing any Qwest suggestion that dispute resolution for
8 CLECs is the best means to address every issue. This is particularly true because
9 Qwest will "probably never"²¹¹ be the party initiating CMP dispute resolution.
10 As noted in the Staff testimony in the Arizona Complaint Docket,²¹² Qwest
11 certainly did not initiate other dispute resolution in the situation in the Arizona
12 Complaint Docket, despite its own alleged conclusion that this should have been
13 done.

14 **Q. DOES THE COMMISSION HAVE TO FIND THAT "THE CMP IS NOT**
15 **WORKING" TO ADOPT ESCHELON'S LANGUAGE ON THE**
16 **ISSUES?**²¹³

17 A. No.²¹⁴ In many instances Eschelon is relying upon the established CMP rules for

²¹⁰ Eschelon/1, Starkey/47-48.

²¹¹ Eschelon/55 (Johnson) (October 2-3, 2001 CMP Redesign Meeting Minutes, Att. 4, p. 36, Action Item #86). *See also* Eschelon/123, Starkey/43-44.

²¹² The Arizona Staff indicated that "Qwest should have expedited the request first and then followed up afterwards with the dispute resolution process." Staff Testimony, Arizona Complaint Docket, p. 34, lines 19-20.

²¹³ Qwest/18, Albersheim/22, line 13.

²¹⁴ Eschelon/1, Starkey/95-96.

1 its position.²¹⁵ None of its positions is inconsistent with the scope of CMP.²¹⁶ As
2 I indicated in my direct testimony,²¹⁷ although CMP has weaknesses that become
3 self-evident when describing CMP procedures and providing examples of how
4 Qwest has used CMP to its advantage,²¹⁸ the Commission does not have to find
5 that CMP is “bad” or “broken” to determine any of the disputed issues in
6 Eschelon’s favor. Likewise, the Commission need not determine that an ICA
7 supersedes CMP – the parties to CMP, including Qwest, have already agreed that
8 is the case. The issue is whether when a CLEC like Eschelon believes a particular
9 process or policy is important enough to its business to arbitrate that issue on its
10 own merits, does that issue warrant inclusion in the contract, and if so, whether
11 Eschelon’s or Qwest’s proposed language better fits the bill.

12 **Q. MS. ALBERSHEIM STATES THAT QWEST HAS NOT PROPOSED A**
13 **LITMUS TEST OR BRIGHT LINE RULE FOR WHAT SHOULD OR**
14 **SHOULD NOT BE INCLUDED IN THE ICA, AND THAT YOU ARE**

²¹⁵ See, e.g., Eschelon/123, Starkey/35-39.

²¹⁶ See *id.*

²¹⁷ Eschelon/1, Starkey/95.

²¹⁸ Ms. Albersheim disagrees with my testimony at page 94 of my direct where I liken Qwest’s conduct to playing cards with a big brother who “makes up the rules of the game as he goes along.” Qwest/18, Albersheim/11, lines 17-20. She then goes on to explain that Qwest cannot unilaterally change the CMP Document (or “make up the rules”). Ms. Albersheim missed the point of my testimony. I was referring to Qwest’s conduct in CMP that is demonstrated in the four examples I provided in my direct testimony – examples showing that Qwest determines whether or not to address issues in CMP, and oftentimes changes its mind on this point along the way. [“As these examples show...] I was not referring to Qwest’s ability to modify the CMP Document. [“it is the Commission who should set the ‘rules’ by establishing interconnection agreement terms and conditions that must be filed, approved, and amended if changed.”] See also, Eschelon/1, Starkey/94, lines 16-17 [“The Commission who should set the ‘rules’ by establishing interconnection agreement terms and conditions...”] As I mentioned at page 44 of my direct testimony, changes to the CMP Document are only 1 of 2 examples of when voting in the CMP occurs (Eschelon/1, Starkey/44).

1 **WRONG TO SUGGEST THAT THE LACK OF A LITMUS TEST IS A**
2 **FLAW IN QWEST’S REASONING.²¹⁹ WOULD YOU LIKE TO**
3 **RESPOND?**

4 A. Yes, I’m afraid that Ms. Albersheim misunderstood the point I was making. My
5 point is that Qwest’s position on these issues rests on the assumption that an issue
6 is either inherently a “CMP issue” or a “contractual issue” – and for that position
7 to be valid, there must be some way to make the determination of whether an
8 issue is a CMP issue or a contractual issue.²²⁰ The purpose of my testimony was
9 to show that despite claiming that an issue inherently belongs in either CMP or
10 the ICA, Qwest provided no test for making this determination (and the “tests”
11 Qwest had proposed in the past have been rejected by the FCC). As a result,
12 Qwest would be free to make that call based on what suits its objectives at any
13 particular time.

14 The purpose of my testimony was not to criticize Qwest for not having a litmus
15 test; it was to point out the inconsistency in Qwest acting as though there was one
16 when there is not. Because ICAs and CMP co-exist, with the ability for terms in
17 ICAs to vary from what is in CMP, there does not need to be a test to determine
18 whether issues belong in CMP versus ICA. As the Staff said in the Arizona
19 Complaint Docket, “changes made through the CMP may affect some, but not all,
20 CLECs depending on the terms of their Interconnection Agreements.”²²¹ What is

²¹⁹ Qwest/18, Albersheim/16, lines 5-12; *See also*, Qwest/18, Albersheim/17, lines 1-2.

²²⁰ Eschelon/1, Starkey/18-19.

²²¹ Staff Testimony, Arizona Complaint Docket, p. 10, lines 3-4.

1 important is whether parties have negotiated issues and taken steps pursuant to
2 Section 251/252 to seek Commission resolution of these issues. When this
3 occurs, the Commission should decide the issues on their merits and adopt an ICA
4 with clear terms, rather than leaving those issues up to future changes or
5 interpretations by either of the parties. There is no dispute that these issues have
6 been negotiated in this case, and therefore these issues are properly before the
7 Commission for resolution of contract language.

8 **C. THE FCC ORDERS ARE ON POINT**

9 **Q. MS. ALBERSHEIM TAKES ISSUE WITH THE FCC ORDERS YOU**
10 **REFERENCE IN YOUR DIRECT TESTIMONY²²² THAT YOU SAY**
11 **SUPPORT ESCHELON'S POSITION. WHAT IS MS. ALBERSHEIM'S**
12 **PRIMARY COMPLAINT?**

13 A. Ms. Albersheim claims that because the *Declaratory Ruling* and *Forfeiture Order*
14 do not expressly reference Qwest's CMP process, they "do not speak to the issues
15 Mr. Starkey claims."²²³ Ms. Albersheim is wrong. The purpose of my testimony
16 in this regard is to show that the FCC has rejected Qwest's proposals for
17 determining whether provisions should be excluded from an ICA. As I discussed
18 in my direct testimony,²²⁴ Qwest has stated that provisions should be excluded
19 from an ICA if (a) the label Qwest puts on the provision is "process" or

²²² Eschelon/1, Starkey/22-24.

²²³ Qwest/18, Albersheim/17, lines 4-6.

²²⁴ Eschelon/1, Starkey/19-21.

1 “procedure”²²⁵ or (b) if the provision affects all CLECs²²⁶ – or in other words,
2 Qwest proposes to limit the ICA to a schedule of itemized charges and associated
3 description of the services to which the charges apply. The FCC orders I point to
4 – the *Declaratory Ruling* and *Forfeiture Order* – show that Qwest’s view of what
5 should be excluded from an ICA is wrong. Though Ms. Albersheim focuses on
6 these orders not expressly referencing Qwest’s CMP process,²²⁷ they did not need
7 to because they speak to Qwest’s narrow view of the scope of an ICA (the same
8 view Qwest is taking in this proceeding) – and reject that view. Not to mention
9 that the *Forfeiture Order* was issued two years after Qwest’s CMP was
10 implemented, when the FCC was fully aware of the CMP’s existence.²²⁸
11 Obviously, if the FCC has rejected Qwest’s view of what should be *excluded* from
12 an ICA, that means that those provisions are to be *included* in an ICA when
13 negotiated/arbitrated – it does not mean that the FCC meant for these to be
14 addressed in CMP (although the FCC did not specifically say that).

15 For example, the FCC’s *Declaratory Ruling* states: “***We therefore disagree with***
16 ***Qwest that the content of interconnection agreements should be limited to the***
17 ***schedule of itemized charges and associated descriptions of the services to***
18 ***which those charges apply.***” In contrast, Ms. Albersheim has testified that “It is

²²⁵ Eschelon/1, Starkey/19-22. *See also* Ms. Johnson’s discussion of Issue 12-64.

²²⁶ Eschelon/1, Starkey/20, lines 13-14.

²²⁷ Qwest/18, Albersheim/17, lines 11-13.

²²⁸ Eschelon/1, Starkey/24.

1 Qwest's position that business procedures do not belong in this agreement...²²⁹

2 The FCC said that the ICAs should not be limited only to rates and descriptions of
3 services, which can only mean that the FCC envisioned that business process and
4 procedures describing the manner by which CLECs will access those services
5 should be included in ICAs, contrary to Ms. Albersheim's assertions.

6 **Q. MS. ALBERSHEIM STATES THAT THE FCC ADOPTED LANGUAGE**
7 **JUST EIGHT WEEKS BEFORE THE DECLARATORY RULING THAT**
8 **PROVIDED FOR CERTAIN MATTERS TO BE ADDRESSED THROUGH**
9 **CHANGE MANAGEMENT PROCESS.²³⁰ MS. ALBERSHEIM CLAIMS**
10 **THAT THE FCC WOULDN'T HOBBLE AN FCC APPROVED PROCESS**
11 **AFTER ADVOCATING ITS USE WEEKS EARLIER.²³¹ IS MS.**
12 **ALBERSHEIM'S TESTIMONY ON THIS POINT MISLEADING?**

13 A. Yes, very much so. First, the decision to which Ms. Albersheim points is not an
14 Order adopted by the FCC, rather it is a decision of the Wireline Competition
15 Bureau who was called upon to decide issues in the stead of the state commission.
16 Accordingly, this decision has no more bearing on Oregon than any other state
17 commission order. In contrast, the *Declaratory Ruling* I cite in my testimony is
18 an order voted on by the FCC. Ms. Albersheim's attempt to make it appear as if
19 my position rests on an assumption that the FCC issued two contradictory orders
20 within weeks of each other is simply not true. The authority to which Ms.

²²⁹ Albersheim Minnesota Rebuttal Testimony (MN PUC Docket No. P-5340, 421/IC-06-768, OAH Docket No. 3-2500-17369-2, 9/22/06), p. 12, lines 20-21.

²³⁰ Qwest/18, Albersheim/17.

²³¹ Qwest/18, Albersheim/17, lines 17-20.

1 Albersheim cites is not an FCC order.

2 Ms. Albersheim also takes out of context the mention of the Change Management
3 process in the WCB's decision. The Change Management Process discussed in
4 the WCB's decision is the Verizon – not Qwest – Change Management Process,
5 so this decision does not even apply to Qwest, and Ms. Albersheim provides no
6 indication that the Qwest CMP process is comparable to Verizon's. Perhaps more
7 importantly, the WCB included a reference to Verizon's Change Management
8 Process in the ICA at the request of the CLEC (AT&T),²³² not the ILEC, as Qwest
9 is doing here. The WCB therefore was not addressing a situation in which the
10 ILEC was attempting to point to the CMP process instead of addressing
11 provisions in the ICA, as Qwest is proposing in this proceeding. These two
12 situations are not comparable.

13 Moreover, the ICA adopted by the WCB in the decision to which Ms. Albersheim
14 refers contained the very business processes and procedures that Qwest is
15 attempting to exclude here. For instance, the WCB's decision adopted specific
16 provisioning intervals to be included in ICAs,²³³ the very thing that Qwest
17 opposes under Issues 1-1 and subparts. Therefore, the WCB decision Ms.
18 Albersheim relies on actually undermines Qwest's proposals in this case.

²³² Verizon Virginia Arbitration Order, ¶ 343.

²³³ See e.g., Verizon Virginia Arbitration Order, ¶406 [“We adopt AT&T's proposed section 1.3.4. Verizon does not dispute AT&T's statement that the parties reached agreement on a 45-day augmentation interval. Verizon's language is similar to AT&T's, except that Verizon would use the collocation intervals set forth in its applicable tariff. Given the choice of language that specifies an exact interval to which the parties have already agreed or language referencing intervals set forth in a tariff that may not be in effect at the time this Order is issued, we select the former because it is more specific.”]

1 **Q. IS MS. ALBERSHEIM’S CRITICISMS OF YOUR RELIANCE ON THE**
2 **FORFEITURE ORDER ALSO MISPLACED?**

3 A. Yes. In the *Forfeiture Order*, the FCC rejected Qwest’s notion that it could
4 simply post its service offering information on its website in lieu of Section 252
5 Agreements because it would render Section 252 ICAs meaningless and provide
6 no certainty to CLECs.²³⁴ This is precisely what Qwest is attempting to do by
7 omitting critical terms and conditions from the ICA and defer to the
8 CMP/PCAT/SIG that Qwest maintains on its website – *i.e.*, undermine the
9 certainty of contractual language in favor of a “process” (CMP) controlled by
10 Qwest. In its *Forfeiture Order*,²³⁵ the FCC expressly rejected Qwest’s claim that
11 the *Declaratory Ruling* authorized posting of information regarding service
12 offerings on a website *in lieu of* an agreement filed with, and approved by, state
13 commissions.

14 **IV. SUBJECT MATTER NO. 1. INTERVAL CHANGES AND PLACEMENT**

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

17 **Q. ARE MOST OF MS. ALBERSHEIM’S REBUTTAL ARGUMENTS ON**
18 **ISSUES 1-1 AND SUBPARTS ALREADY ADDRESSED IN YOUR**
19 **PREVIOUS TESTIMONY?**

²³⁴ Eschelon/1, Starkey/23-24.

²³⁵ 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 A. Yes. In the interest of brevity, I will not repeat those arguments but will identify
2 where that issue has been addressed elsewhere in my testimony.²³⁶ I would,
3 however, like to specifically address one point I made previously in my testimony
4 that Ms. Albersheim raises again in her rebuttal testimony. Ms. Albersheim takes
5 issue with my testimony that Qwest could make unilateral changes to
6 provisioning intervals if its proposal on Issues 1-1 and subparts is adopted,²³⁷ and
7 claims that there is no opportunity in any non-contractual sources for Qwest to
8 make unilateral changes to intervals.²³⁸ However, as I previously stated,²³⁹ the
9 ALJs and Commission in Minnesota agreed with Eschelon that Qwest can make
10 unilateral changes, and that adopting Eschelon's proposal (the same proposal
11 Eschelon has offered in this proceeding for Issues 1-1 and subparts) would not

²³⁶ Like in her direct testimony, Ms. Albersheim claims that Eschelon's goal is to "freeze" specific provisions in place. (Qwest/18, Albersheim/13, line 14; p. 14, line 3; p. 26, line 14). For a response to this Qwest argument, see Eschelon/123, Starkey/18-21 and & 60-61. Ms. Albersheim also claims that the amendment process proposed by Eschelon is a special process for Eschelon (Qwest/18, Albersheim/26, line 2). I explained the reasons showing this is not a special process for Eschelon's proposal, rather identical, agreed-to amendments exist for new products (Eschelon/123, Starkey/57-59).

²³⁷ I discussed in my direct testimony that the real issue here is whether Qwest can implement changes (in this instance, changes to intervals) over CLEC comments and objections in CMP and put those changed intervals in the SIG – and Qwest can. (*See*, Starkey Direct, pp. 50-60 (Eschelon/1, Starkey/50-60) (CRUNEC example)) and Eschelon/56-58). Ms. Albersheim seems to believe that Qwest cannot take "unilateral" actions because CMP provides the opportunity for comment, request for postponement, and escalation for some of these changes (at least for Level 4 change requests, which increased intervals are - *See* Eschelon/1, Starkey/45-46 for discussion of Qwest's "Notice and Go" ability for most changes). But the point is that Qwest can implement these changes over CLEC objections once the comment/response timeframes have expired or the comments or requests for postponement have been rejected by Qwest – *i.e.*, the ability of "unilateral" actions I discuss.

²³⁸ Qwest/18, Albersheim/24.

²³⁹ Eschelon/1, Starkey/112-113.

1 harm the effectiveness of CMP or Qwest’s ability to respond to industry
2 changes.²⁴⁰

3 **Q. MS. ALBERSHEIM CLAIMS THAT ESCHELON IGNORES THE**
4 **“REALITY” THAT “TELECOMMUNICATIONS IS A DYNAMIC**
5 **INDUSTRY IN WHICH TECHNOLOGICAL ADVANCEMENTS ARE**
6 **MADE VIRTUALLY ON A DAILY BASIS.”²⁴¹ IS THIS “REALITY”**
7 **SUPPORT FOR QWEST’S PROPOSAL TO LENGTHEN INTERVALS**
8 **WITHOUT COMMISSION APPROVAL?**

9 A. No. I addressed this claim in my rebuttal testimony.²⁴² Ms. Albersheim said that
10 “these processes and procedures have been effectively addressed through the
11 CMP.”²⁴³ However, in cases in which disagreement will result (as in the case of
12 increased intervals, as Ms. Albersheim has acknowledged),²⁴⁴ it is not “effective”
13 or “efficient” to require the parties to negotiate/arbitrate an ICA, have Qwest
14 lengthen an interval in CMP, potentially follow the dispute resolution process of
15 CMP, only to later come to the Commission for resolution. It would be more
16 efficient to require Commission approval in the first instance for lengthening

²⁴⁰ Eschelon/29, Denney/7 [MN Arbitrators’ Report ¶22 (quoted on page 55 of my rebuttal testimony, Eschelon/123, Starkey/55)].

²⁴¹ Qwest/18, Albersheim/26, lines 16-18.

²⁴² Eschelon/123, Starkey/64-66.

²⁴³ Qwest/18, Albersheim/26, lines 18-19. In Arizona, Ms. Albersheim testified: “These processes and procedures are more *efficiently* addressed through CMP.” Rebuttal Testimony of Renee Albersheim, Arizona Docket T-03406A-06-0572/T-01051B-06-0572, p. 36, lines 6-7 (2/9/07). (emphasis added)

²⁴⁴ Ms. Albersheim: “Over all that time, and over all 41 service interval changes, there were only two that might have raised CLEC objections, and might have caused CLECs to involve the Commission...” Qwest/18, Albersheim/25, lines 9-11. Ms. Albersheim also testified in the Minnesota arbitration proceeding that, “It is likely that there will be disputes any time Qwest attempts to lengthen an interval.” (Albersheim Minnesota Rebuttal Testimony, p. 35, lines 6-7).

1 intervals, as Eschelon proposes. In addition, as noted above, the Minnesota
2 Commission upheld the ALJs' finding that Eschelon's proposal would not harm
3 Qwest's ability to respond to industry changes or harm the effectiveness of
4 CMP.²⁴⁵

5 **Q. MS. ALBERSHEIM DISAGREES WITH YOUR TESTIMONY**
6 **REGARDING COMMISSION INVOLVEMENT.²⁴⁶ PLEASE RESPOND.**

7 A. First of all, Ms. Albersheim misquotes my testimony. Ms. Albersheim claims that
8 I said: "The Commission would have no opportunity to make these
9 determinations if Qwest has its way."²⁴⁷ This is not my testimony. My testimony
10 to which Ms. Albersheim cites actually says: "the Commission would have no
11 opportunity to make these determinations *before Qwest makes these changes* if
12 Qwest has its way."²⁴⁸ This is important because though Ms. Albersheim is
13 correct that a CLEC can pursue its disagreement at the state commission, what she
14 fails to mention is that in my testimony, I explained that with Qwest's proposal,
15 Qwest would be able to implement an increase to an interval in CMP before
16 Eschelon can obtain a decision on Qwest's action from the state commission.²⁴⁹
17 As a result, the Commission would have no opportunity to make these
18 determinations before Qwest's lengthened interval would take effect. This would

²⁴⁵ Eschelon/29, Denney/7 [MN Arbitrator's Report, ¶22] and Eschelon/30, Denney/22 [MN PUC Arbitration Order, p. 22, ¶ 1].

²⁴⁶ Qwest/18, Albersheim/24-25.

²⁴⁷ Qwest/18, Albersheim/24, lines 19-22.

²⁴⁸ Eschelon/1, Starkey/104. (emphasis added)

²⁴⁹ Eschelon/1, Starkey/34-35.

1 cause Eschelon to make changes to adapt to this longer interval before it can
2 receive a decision from the state commission, and even if the Commission
3 ultimately agrees with Eschelon, Eschelon would have already incurred the
4 expense to change to the longer interval, and would incur more expense to change
5 back to the shorter interval following the commission's decision. All the while,
6 Eschelon's customers are forced to wait longer for service. This would also result
7 in the Commission being asked to resolve this issue in "crisis mode." That is a
8 key difference in Eschelon's proposal: it allows the Commission to make these
9 determinations *before* an increase to an interval takes effect.

10 **Q. MS. ALBERSHEIM CRITICIZES YOUR REFERENCE TO THE**
11 **DECISIONS OF THE WASHINGTON AND MINNESOTA**
12 **COMMISSIONS THAT REJECTED PREVIOUS QWEST ATTEMPTS TO**
13 **LENGTHEN INTERVALS. SHE POINTS TO THE CHANGES TO**
14 **INTERVALS QWEST HAS PROPOSED SINCE THE 271 PROCEEDINGS**
15 **AS SUPPORT FOR HER CLAIM THAT THE WASHINGTON AND**
16 **MINNESOTA ORDERS SHOULD HAVE NO BEARING HERE.²⁵⁰**
17 **WOULD YOU LIKE TO RESPOND?**

18 A. Yes. I'm not quite sure what point Ms. Albersheim is making here, but if her
19 point is that Qwest has not pursued lengthened intervals in CMP since the CMP
20 was approved, that makes no difference. Qwest could change its strategy to

²⁵⁰ Qwest/18, Albersheim/25.

1 pursue longer intervals at any time in CMP, and based on its testimony and
2 position on Issue 1-1, that is a very likely scenario.

3 Nonetheless, the point of my references to the state commission orders was to
4 show that other commissions have already found the need to exert their authority
5 with regard to Qwest's attempts to lengthen intervals, and that the Oregon
6 Commission's authority in this regard should be preserved so that it can decide
7 *before* the interval change takes effect and customers are harmed, as Eschelon's
8 proposal provides.

9 **Q. QWEST COMPLAINS THAT ESCHELON'S PROPOSAL REQUIRES**
10 **QWEST TO "USE SPECIFIC FORMS" WHICH IS AN**
11 **"ADMINISTRATIVE BURDEN FOR QWEST THAT COULD RESULT IN**
12 **ONE SPECIAL PROCESS FOR ESCHELON (AND OPT-INS) AND**
13 **ANOTHER PROCESS FOR OTHER CLECS."²⁵¹ PLEASE RESPOND.**

14 A. I address these forms and Qwest's burdensomeness argument in my rebuttal
15 testimony.²⁵² Eschelon proposes to use, for lengthening intervals, the identical
16 streamlined vehicle that is in place today for new products under Section 1.7.1 of
17 the SGAT and other approved interconnection agreements, making use of simple
18 advice adoption letters.²⁵³ I address Qwest's claims about unique or one-off
19 processes in Section III of this testimony. If Qwest's statements about its

²⁵¹ Qwest/18, Albersheim/26, lines 1-2.

²⁵² Eschelon/123, Starkey/57-59.

²⁵³ As explained in my rebuttal testimony (Eschelon/123, Starkey/58), Qwest recently removed these exhibits from its Negotiations Template through a non-CMP notice effective on one day's notice. Eschelon/128 (Johnson).

1 preference for uniformity²⁵⁴ are valid, however, it should prefer using the same
2 language and forms for the Oregon ICA as it already must use for lengthening of
3 intervals under the Minnesota order.²⁵⁵

4 **Q. MS. ALBERSHEIM REFERS TO TWO INTERVAL INCREASES AND 39**
5 **SHORTENED INTERVALS SINCE THE 271 PROCEEDINGS.²⁵⁶ WITH**
6 **REGARD TO THE TWO LENGTHENED INTERVALS, MS.**
7 **ALBERSHEIM SAYS THAT YOU FAILED TO MENTION THAT ONE**
8 **OF THEM WAS WITHDRAWN IN PART BECAUSE OF CLEC**
9 **CONCERNS AND THE OTHER ONE RECEIVED NO CLEC COMMENT**
10 **OR OBJECTION.²⁵⁷ IS MS. ALBERSHEIM'S CRITICISM**
11 **WARRANTED?**

12 A. No. I find it ironic that Ms. Albersheim would criticize my testimony for failing
13 to mention certain details regarding these two lengthened intervals when Ms.
14 Albersheim completely failed to mention them at all in her direct testimony. In
15 fact, Ms. Albersheim represented in her direct testimony that Qwest had never to
16 date increased intervals.²⁵⁸ Ms. Albersheim changes her tune in her rebuttal
17 testimony to create a concern where none exists. At least, none existed for Qwest
18 when Ms. Albersheim testified in her direct testimony that Qwest had only

²⁵⁴ See, e.g., Qwest/18, Albersheim/14, line 26 – p. 15, line 1.

²⁵⁵ Eschelon/29, Denney/7 [MN Arbitrators' Report ¶22] and Eschelon/30, Denney/22 [MN PUC Arbitration Order, p. 22, ¶ 1].

²⁵⁶ Qwest/18, Albersheim/25.

²⁵⁷ Qwest/18, Albersheim/25, lines 11-13.

²⁵⁸ Qwest/1, Albersheim/33, line 23 (“so far, Qwest has only decreased intervals.”)

1 shortened intervals, so far.²⁵⁹ Nonetheless, to the extent that Ms. Albersheim is
2 attempting to create the impression that Eschelon's proposal is not needed
3 because interval increases may not trigger CLEC objection, this is a false
4 impression and is not consistent with Ms. Albersheim's prior testimony, where
5 she stated that "it is likely that there will be disputes any time Qwest attempts to
6 lengthen an interval."²⁶⁰ Ms. Albersheim also claims that Qwest withdrew one of
7 these proposed increases "in part because of CLEC concerns,"²⁶¹ but this claim is
8 not supported by Ms. Albersheim's own Qwest/24. Nowhere on Qwest/24 does it
9 say that a CLEC objected to this CR, nor does it say that Qwest withdrew the CR
10 because of CLEC objection.

11 **V. SUBJECT MATTER NO. 11: POWER**

12 Issue No. 8-21 and subparts: ICA Sections 8.2.1.29.2.1; 8.2.1.29.2.2; 8.3.1.6;
13 8.3.1.6.1; and 8.3.1.6.2 and subparts; and Exhibit A Sections 8.1.4 and 8.6.1.3

14 **Q. DO ISSUES 8-21 AND SUBPARTS RELATE TO ESCHELON**
15 **RECEIVING NONDISCRIMINATORY ACCESS TO COLLOCATION**
16 **POWER?**

17 A. Yes. Qwest has testified to sizing power plant for Eschelon (and other CLECs')
18 equipment differently than it sizes power plant for Qwest's own equipment.

²⁵⁹ Ms. Albersheim testifies that she "erred when I stated on page 28 of my direct testimony that Qwest has only decreased intervals. Subsequent research found this one unopposed change request that increased an interval." Qwest/18, Albersheim/25, footnote 7. Ms. Albersheim does not show that one increased interval, which Qwest did not even recall and had to perform research to find, was or should be basis for concern.

²⁶⁰ Albersheim Minnesota Rebuttal Testimony (MN PUC Docket P-5340, 421/IC-06-768, 9/22/06) p. 35, lines 6-7.

²⁶¹ Qwest/18, Albersheim/25, lines 12-13.

1 Unfortunately for Eschelon, this results in Qwest charging Eschelon for power
2 plant that the CLEC never uses – and could never use based on the size of the
3 power cables serving the Eschelon collocation – and provides a cost advantage for
4 Qwest, who, under Qwest’s proposal, would “pay” less than Eschelon pays for the
5 very same power plant. It is clear from Qwest’s testimony that it charges CLECs
6 for power plant based on the size of their power cables – which must, by
7 engineering standards, be sized based on List 2 drain (or the “worst case” scenario
8 drain). It is also clear from Qwest’s testimony that it sizes power plant for its own
9 equipment based on a lower List 1 drain, which means, at most, Qwest “pays” for
10 power plant at List 1 drain. The fact that List 2 drain (the basis for Qwest’s
11 charges on Eschelon) is higher, in some cases significantly higher, than List 1
12 drain (the maximum amount Qwest would “pay” for power plant) means that
13 Eschelon would pay more for power plant than does Qwest under Qwest’s
14 proposal. This is *prima facie* discrimination, and this discrimination is not
15 permitted under ICA and Act.²⁶²

16 **Q. PLEASE EXPLAIN THIS POINT FURTHER.**

17 A. It is Eschelon’s position that when power is measured, the power plant rate should
18 be assessed on that measured usage, similar to how Qwest would bill the usage
19 charge. Qwest, on the other hand, proposes to continue to bill the power plant
20 rate based on the size of the CLEC’s power cable even when the CLEC’s power is
21 measured. Eschelon also proposes language that would commence charging for

²⁶² Eschelon/1, Starkey/126-127.

1 power once equipment is collocated and begins to draw power, while Qwest
2 proposes language that would allow it to commence charging for power before
3 Eschelon's equipment is collocated and before Eschelon even has the ability to
4 draw power. In both cases, Eschelon's proposals are aimed at establishing
5 processes by which it pays for the power and power facilities it actually uses (as
6 Qwest's internal processes ensure for Qwest's own use), rather than processes that
7 ensure it will always pay more than Qwest does for the same amount of power.

8 **Q. MR. ASHTON SUBMITTED REBUTTAL TESTIMONY PURPORTING**
9 **TO SHOW HOW QWEST SIZES POWER PLANT IN ITS CENTRAL**
10 **OFFICES.²⁶³ PLEASE RECAP WHY THE SIZING OF POWER PLANT**
11 **IS IMPORTANT TO ISSUE 8-21.**

12 A. Qwest is attempting to assess a charge to recover the investment in the central
13 office power plant based on the size of the CLEC power cables. However, all
14 information points to Qwest actually sizing (or investing in) power plant based on
15 the peak *usage* of the total power plant – *i.e.*, the entire facilities as shared by both
16 CLECs and Qwest.²⁶⁴ Qwest's attempt to charge for power plant based on the
17 size of Eschelon's power cable, yet initially size and build its power plant based
18 on total peak usage, results in Qwest overcharging Eschelon for power plant as
19 well as Qwest discriminating against Eschelon by forcing Eschelon to pay more
20 for power to serve its customers than Qwest pays to serve its customers. This
21 results from the fact that Eschelon's cables, based on sound engineering and

²⁶³ Qwest/28, Ashton/2-3 and 8.

²⁶⁴ Eschelon/1, Starkey/132-137.

1 safety reasons, will always be larger than any amount of power it will actually
2 use. Indeed, it is this exact engineering truism that drives Qwest NOT to build the
3 capacity available in its power plant equipment based on this standard – *i.e.*, List
4 2 drain. To do so would significantly “over” engineer the facility with the result
5 being wasted capital investment (or on the part of Eschelon when it is assessed
6 power plant rates in this fashion – overcharges).

7 **Q. DOES MR. ASHTON’S REBUTTAL TESTIMONY EXPOSE A MAJOR**
8 **FLAW IN QWEST’S POSITION ON THIS ISSUE?**

9 A. Yes. Mr. Ashton describes his view of how Qwest sizes power plant as follows:

10 Qwest designs and engineers power plant capacity sufficient to
11 meet the total busy hour load of all equipment present in the
12 central office, plus all CLEC ordered amounts of power, plus the
13 anticipated busy hour drain of expected future Qwest equipment
14 additions. Qwest compares the sum of these three factors against
15 the power plant capacity currently installed in the central office,
16 and ensures that the power plant capacity installed remains greater
17 than the sum of these three factors.²⁶⁵

18 What Mr. Ashton is saying is that Qwest sizes power plant based on:

- 19 • the List 1 drain²⁶⁶ of Qwest’s equipment (and the expected increase in
20 Qwest L1 drain over a planning horizon),
21 plus;
22 • the List 1 drain of CLEC’s equipment,²⁶⁷

²⁶⁵ Qwest/28, Ashton/8. *See also* Qwest/28, Ashton/9, lines 15-20 (“...busy hour load (which Mr. Starkey refers to as “peak drain” in his testimony) is only one of several variables that influences power plant investment. Projected future deployment of Qwest equipment and the power ordered by CLECs are also part of the power plant investment equation. Accordingly, the amount of power *ordered* by the CLEC is also a factor driving power plant investment.”)

²⁶⁶ List 1 drain is explained at pages 133-135 of my direct testimony (Eschelon/1, Starkey/133-135).

1 plus;

- 2 • the List 2 drain of CLEC's equipment.²⁶⁸

3 This is an obvious admission that Qwest sizes power plant differently for Qwest
4 (List 1 drain) than it does Eschelon (List 1 drain + List 2 drain) – and
5 consequently, charges CLECs for a far larger portion of its power plant
6 investment than CLECs will ever use.²⁶⁹ Mr. Ashton makes this admission
7 because it is the only way that Qwest's application of the power plant rate based
8 on the size of the CLEC's power cables would match up with its claimed
9 engineering practices regarding power plant. In other words, Qwest claims that it
10 sizes power plant based on the size of the CLEC power cable order so that Qwest
11 can charge CLEC that amount for power plant. Unfortunately, Mr. Ashton's
12 admission is directly inconsistent with Qwest's Technical Publications that direct
13 Qwest engineers to size power plant based on the List 1 drain (or peak usage) of
14 all equipment in the central office – regardless of the equipment's owner. In other
15 words, Mr. Ashton's testimony appears to be an “after the fact” rationalization
16 meant to support Qwest's existing collocation power rate structure – even though

²⁶⁷ The “total busy hour load of all equipment present in the central office” would include the List 1 drain of both Qwest's equipment and collocated CLEC equipment.

²⁶⁸ List 2 drain is explained at pages 135-137 of my direct testimony (Eschelon/1, Starkey/135-137). Qwest assumes that the power cable ordered by the CLEC represents the List 2 drain of CLEC equipment.

²⁶⁹ Qwest/28, Ashton/2, lines 20-23. (“Mr. Starkey states that Qwest designs a Central Office power plant based on List 1 drain – the current that the equipment will draw when fully carded on the busiest hour of the busiest day of the year – and that is correct for Qwest equipment.”) What Mr. Ashton is saying is that it sizes power plant for Qwest based on peak operating draw under normal conditions, but sizes power plant for CLECs based on peak operating draw under worst case scenario.

1 his rationalization highlights the discriminatory nature of Qwest's current
2 practice.

3 **Q. WHY WOULD MR. ASHTON CONSTRUCT A RATIONALIZATION**
4 **THAT CONFLICTS WITH THE ENTIRETY OF QWEST'S INTERNAL**
5 **ENGINEERING DOCUMENTATION DESCRIBING THE PROPER**
6 **MANNER TO ENGINEER POWER PLANT, WHEN THAT**
7 **RATIONALIZATION FURTHER HIGHLIGHTS THE**
8 **DISCRIMINATION INHERENT IN QWEST'S PROPOSED RATE**
9 **STRUCTURE?**

10 A. Qwest places Mr. Ashton between the proverbial "rock and a hard place." If he
11 concedes that power plant is sized based on the peak usage of all equipment in the
12 central office – both Qwest and CLEC – as Qwest's Technical Publications
13 require, there would be no basis for assessing the power plant charge based on the
14 size of the CLEC power cable order, and Qwest's position on Issue 8-21 would be
15 exposed as fatally flawed. However, by blatantly disregarding Qwest's
16 engineering documentation in an attempt to avoid this problem – by claiming that
17 Qwest sizes power plant for CLECs consistent with the manner it assesses power
18 plant charges on CLECs – Mr. Ashton is forced to admit that Qwest discriminates
19 against Eschelon by requiring Eschelon to fund a larger proportion of Qwest's
20 power plant when compared to Qwest, relative to Eschelon's usage. The only
21 logical conclusion from this bevy of contractions put forward by Mr. Ashton, is

1 that the position he is trying to defend – *i.e.*, the integrity of charging Eschelon
2 power plant rates based upon the size of its power cables – is seriously flawed.

3 **Q. MR. ASHTON CRITICIZES YOUR TESTIMONY, CLAIMING THAT**
4 **BUSY HOUR LOAD “IS ONLY ONE OF SEVERAL VARIABLES THAT**
5 **INFLUENCES POWER PLANT INVESTMENT.”²⁷⁰ WOULD YOU LIKE**
6 **TO RESPOND?**

7 A. Yes. Mr. Ashton’s testimony exposes the weakness in Qwest’s claim that it sizes
8 power plant based on the size of CLEC power cable orders. I explained in my
9 direct testimony²⁷¹ the process Qwest uses to size power plant, which was taken
10 directly from one of the technical publications Qwest uses to size power plant
11 (Bellcore Technical Document 790-100-652 and other Qwest Technical
12 Publications). Bellcore Document 790-100-652, at page 5-5, specifically lists the
13 variables that do influence power plant sizing and investment. These variables
14 include “initial busy hour drain” and “drain increase during forecast period,”²⁷²
15 just as my testimony describes.²⁷³ However, what does not show up on this list of
16 “influencing factors” to power plant sizing is power cable order/size or List 2
17 drain. Contrary to Mr. Ashton’s claim, these influencing factors do not include

²⁷⁰ Qwest/28, Ashton/9, lines 16-17.

²⁷¹ Eschelon/1, Starkey/132.

²⁷² There are three other influencing factors on this list: (1) AC input, (2) circuit voltage limits, and (3) grounding requirements.

²⁷³ As I testified in direct testimony (Eschelon/1, Starkey/133), power plant is sized based on “forecasted peak usage.”

1 the “power *ordered* by CLECs.”²⁷⁴ So, it is Mr. Ashton who makes “a flawed
2 leap in logic”²⁷⁵ when he departs dramatically from Qwest’s own engineering
3 documents in claiming that Qwest sizes power plant based on the size of the
4 CLEC power cable order. Since Qwest does not – and by its own Technical
5 Publications, should not – size power plant for CLEC equipment based on the size
6 of the CLEC power cable, there is no basis for Qwest to assess the power plant
7 rate based on Eschelon’s power cable size when power is measured.

8 **Q. MR. ASHTON TESTIFIES THAT “QWEST CAN DETERMINE THE**
9 **PEAK LOAD OR USAGE OF ALL THE TELECOMMUNICATIONS**
10 **EQUIPMENT IN A CENTRAL OFFICE, BUT THIS WILL NOT ALLOW**
11 **QWEST TO DETERMINE THE DISCRETE LIST 1 DRAIN FOR A**
12 **GIVEN CLEC’S EQUIPMENT.”²⁷⁶ IS IT NECESSARY FOR QWEST TO**
13 **DETERMINE THE DISCRETE LIST 1 DRAIN FOR A GIVEN CLEC FOR**
14 **QWEST TO BE ABLE TO SIZE POWER PLANT FOR CLECS LIKE IT**
15 **DOES ITSELF?**

²⁷⁴ Qwest/28, Ashton/9, line 18. Qwest repeatedly refers to CLEC “power orders” or “ordered amounts” of power in its rebuttal testimony (*see, e.g.*, Qwest/28, Ashton/2, 3, 6, 8, 9, 11 and 12), which as I explain in my rebuttal testimony (Eschelon/123, Starkey/67-68), is actually the terms Qwest coined for the CLEC power cable order. CLECs do not order power plant capacity from Qwest. Qwest attempts to confuse this issue further in its rebuttal testimony by referring to generic terms such as power “requirement” and “power needs” in describing how Qwest designs a power plant (Qwest/28, Ashton/2, line 14 and p. 2, line 12 and p. 13, line 16).

²⁷⁵ Qwest/28, Ashton/9, lines 10-11. (“Qwest’s power plant investment is not ‘driven by usage,’ and Mr. Starkey makes a flawed leap in logic in the conclusion he draws in that regard.”)

²⁷⁶ Qwest/28, Ashton/3, lines 18-21.

1 A. No. I explained why Mr. Ashton is wrong on this point in my rebuttal
2 testimony.²⁷⁷ Mr. Ashton acknowledges that Qwest is able to determine the peak
3 usage of all telecommunications equipment in the central office, which as
4 explained in Qwest's own Technical Publications, is the appropriate standard to
5 use for sizing power plant for a central office.²⁷⁸ This means that Qwest should
6 size power plant based on the peak usage of the central office at the busy hour,
7 and charge all users in the central office for power plant based on their pro rata
8 share of the total usage. Given that central office power plant is sized to
9 accommodate the peak usage of all telecommunications equipment in the office
10 (both CLEC and Qwest) at the busy hour, there is no need for Qwest to build in
11 more power plant for CLECs, as Mr. Ashton claims Qwest does – or worse yet,
12 for Qwest to charge Eschelon for that unnecessary power plant.

13 Qwest creates the impression that Qwest must build-in additional power plant
14 capacity for CLECs because CLECs could add additional equipment/cards/etc.
15 and increase their power draw faster than Qwest could add power plant capacity.
16 Qwest's concern is misplaced. Not only do CLECs provide Qwest advance notice
17 of equipment it will place in their collocations (based on intervals that are not
18 being disputed) as well as the expected number of circuits served by this
19 equipment in their collocation applications, but it is also highly likely that any
20 increase in power draw for Eschelon would result in a comparable decrease in
21 power draw for another carrier. That is, because oftentimes a customer "won" by

²⁷⁷ Eschelon/123, Starkey/71-73.

²⁷⁸ Eschelon/1, Starkey/132-135, citing Qwest Technical Publications.

1 Eschelon is a customer “lost” by another carrier in the central office, and because
2 the power plant is a shared resource and serves all carriers in a particular central
3 office, the power draw increase for Eschelon on that power plant will be cancelled
4 out by the power draw decrease from the other carrier, resulting in no impact on
5 the shared power plant capacity needed to serve that office. This shows that
6 Qwest’s claim that it needs to know the discrete List 1 drain for a particular
7 CLEC in order to size power plant for that CLEC the same way Qwest sizes
8 power plant for its own customers is not accurate. Rather, the peak drain at the
9 busy hour is the relevant information for properly sizing power plant, and Mr.
10 Ashton acknowledges that Qwest has this information. However, even if Qwest
11 would need the discrete List 1 drain for individual CLECs to properly size power
12 plant, contrary to Mr. Ashton, Qwest can obtain this information.²⁷⁹

13 **Q. MR. ASHTON TESTIFIES THAT EVEN IF QWEST HAD ESCHELON’S**
14 **LIST 1 DRAIN, THIS NUMBER WOULD BE IRRELEVANT.²⁸⁰ WOULD**
15 **YOU LIKE TO RESPOND?**

16 A. Yes. Qwest is arguing both sides of the issue. Qwest creates the impression that
17 it needs to know Eschelon’s individual List 1 drain in order for Qwest to size the
18 power plant in a nondiscriminatory fashion, because according to Qwest, Qwest

²⁷⁹ Eschelon/123, Starkey/71-73, explaining ways Qwest could obtain a CLEC’s list 1 drain or estimate the List 1 drain. Mr. Ashton claims that estimating List 1 drain for CLECs is “dangerous” (Qwest/28, Ashton/4, line 11), but this procedure is expressly discussed in Qwest Technical Publication 77368 (“A rough estimate of List 1 drain is 30-40% of the List 2 drain”), which was authored by Mr. Ashton. Power plant is sized to accommodate the peak usage of all telecommunications equipment in the central office at the busy hour, so Mr. Ashton’s concern about insufficient power plant capacity is accounted for in the methodology for sizing power plant.

²⁸⁰ Qwest/28, Ashton/5, line 5.

1 has no idea about Eschelon's potential power draw. But when I show that Qwest
2 does in fact have the List 1 drain information Qwest alleges it needs (or can easily
3 obtain that information), Qwest argues that a CLEC's List 1 drain information is
4 irrelevant. Qwest cannot have it both ways. I actually agree with Mr. Ashton that
5 a particular CLEC's List 1 drain is irrelevant for sizing power plant for the central
6 office (because it is sized based on the aggregate peak usage of all equipment in
7 the central office at the busy hour), and that being the case, Qwest unarguably has
8 all the information it needs to properly size power plant for CLECs the same way
9 it does for itself.

10 Mr. Ashton also argues that there is no reason for Qwest to acquire a CLEC's list
11 1 drain because the power plant rate is not based on List 1 drain,²⁸¹ but this
12 undermines Qwest's power plant rate proposal because the cost study does not
13 develop the power plant rate element based on any measure of CLEC power cable
14 capacity by which Qwest proposes to apply the power plant rate.

15 **Q. MR. ASHTON STATES THAT QWEST/29 SHOWS THAT ESCHELON IS**
16 **ATTEMPTING TO PAY FOR LESS POWER PLANT THAN QWEST**
17 **ACTUALLY MAKES AVAILABLE TO ESCHELON.²⁸² IS THIS WHAT**
18 **QWEST/29 SHOWS?**

19 **A.** No. Qwest/29 is flawed for a number of reasons. First, Mr. Ashton claims that
20 Qwest/29 is demonstrative of Eschelon's "ordered" and "usage" amounts.

²⁸¹ Qwest/28, Ashton/5, lines 6-7.

²⁸² Qwest/28, Ashton/11-12.

1 However, what Qwest/29 actually shows is the power usage requirements of a
2 central office as a whole. List 2 drain of a central office (both CLEC and Qwest
3 equipment) – or the capacity of power cables – will be greater than List 1 drain,
4 and List 1 drain will be greater on a central office wide basis than measured usage
5 (at all times other than the busy hour). Therefore, if Mr. Ashton’s concern about
6 Eschelon paying less for power plant than Qwest makes available was legitimate,
7 this would hold true for the entire central office as a whole (including Qwest) –
8 not just Eschelon. Second, the labeling of Exhibit Qwest/29 is misleading. As I
9 explained in my rebuttal testimony,²⁸³ CLECs do not order power plant capacity,
10 rather they order power cables. However, Qwest/29 attempts to obscure this fact
11 by referring to a “100 amp order.” However, this order would be an order for
12 power cables, which is not a factor in sizing power plant capacity²⁸⁴ (as Mr.
13 Ashton apparently acknowledges by labeling List 1 “engineered” capacity), nor
14 should it be an indication to Qwest of how much power plant capacity a CLEC
15 will need. Though Mr. Ashton claims that “Qwest does in fact make the ordered
16 capacity available,”²⁸⁵ this, too, is misleading. Obviously at any time other than
17 the busy hour, there will be free power plant capacity available to any carrier in
18 the central office – not just Eschelon. Therefore, Qwest’s insinuation that any
19 free power plant capacity is available exclusively for Eschelon’s use is false
20 because Qwest, Eschelon, or any other carrier could draw upon that free capacity

²⁸³ Eschelon/123, Starkey/67-68.

²⁸⁴ Eschelon/1, Starkey/132-137.

²⁸⁵ Qwest/28, Ashton/11, lines 20-21.

1 when it is available. This exposes another problem with Qwest/29: by
2 characterizing this exhibit as an Eschelon-specific scenario, Qwest makes it
3 appear as if the spare capacity (represented by the difference between measured
4 usage and List 1 drain) is available exclusively to Eschelon. However, this spare
5 capacity could be used by Qwest or any other carriers. It is exactly because spare
6 capacity on the power plant can be used by any central office user, that it should
7 be factored in when engineering the size of the plant – *i.e.*, no rational engineer
8 would build a power plant that always had substantial additional capacity based
9 on the irrational notion that some portion of the spare capacity can be guaranteed
10 to an individual user. Yet, that is what Mr. Ashton is asking the Commission to
11 believe Qwest does with Qwest/29 – even though he is contradicted by every
12 Qwest engineering document that speaks to these issues. The end result is that
13 despite the fact that spare power plant capacity is available for Qwest’s use or any
14 other carriers’ use, Qwest wants Eschelon to pick up the tab for it.

15 **Q. LET’S ASSUME FOR THE SAKE OF ARGUMENT THAT QWEST**
16 **VIOLATES ITS TECHNICAL PUBLICATIONS AND ACTUALLY DOES**
17 **SIZE POWER PLANT FOR CLEC EQUIPMENT DIFFERENTLY THAN**
18 **IT SIZES POWER PLANT FOR QWEST’S OWN EQUIPMENT, AS MR.**
19 **ASHTON DESCRIBES. IS QWEST’S ATTEMPT TO SUPPORT THIS**
20 **DIFFERENT TREATMENT CONVINCING?**

1 A. No. However, before I address the flaws in Mr. Ashton’s reasoning, I should
2 reiterate the point I made in my direct testimony²⁸⁶ that Qwest is prohibited from
3 treating Eschelon differently than itself for power per the ICA and the Act.
4 Therefore, no reason Qwest can provide can justify Qwest treating Eschelon
5 differently than itself when sizing power plant, as it has admitted in this case. In
6 other words, the FCC does not leave room for “reasonable discrimination,” it
7 requires a strict non-discrimination.

8 **Q. WHY DOES MR. ASHTON CLAIM THAT IT MUST TREAT CLECS**
9 **DIFFERENTLY THAN QWEST IN THE PROVISIONING OF POWER**
10 **PLANT?**

11 A. One reason that Mr. Ashton provides is that “Qwest does not know, cannot know,
12 and cannot reasonably forecast the draw that CLEC equipment will take, so
13 Qwest uses the ordered amount to size the power plant capacity made available to
14 CLECs.”²⁸⁷ There are a number of problems with this rationale. First, Mr.
15 Ashton again erroneously claims that CLECs order power plant capacity. This is
16 not the case.²⁸⁸ Second, since power plant is a shared resource of the central
17 office,²⁸⁹ Qwest does not and cannot make available certain amounts of power
18 plant capacity to Eschelon.²⁹⁰ Furthermore, Mr. Ashton’s claim that Qwest must
19 size power plant based on the size of the CLEC power cable because Qwest has

²⁸⁶ Eschelon/1, Starkey/126-127.

²⁸⁷ Qwest/28, Ashton/2, line 24 – p. 3, line 1.

²⁸⁸ Eschelon/123, Starkey/68-70.

²⁸⁹ Eschelon/1, Starkey/141, lines 11-13.

²⁹⁰ Eschelon/123, Starkey/75-76.

1 no idea what to expect in terms of the CLEC's power draw²⁹¹ is false. Qwest has
2 a list of the CLEC's equipment from the collocation application (vendor, model
3 number, etc.) and knows the CLECs expected number of circuits. In addition,
4 Qwest uses some of the same equipment that CLECs do, and in these instances,
5 knows what the List 1 drain is for this equipment. And if for some reason Qwest
6 does not have access to the list 1 drain for CLEC equipment, Qwest has a specific
7 procedure to estimate List 1 drain.²⁹² And, Qwest's years of experience in
8 designing power plant and measuring CLEC power usage should be a strong
9 indicator that CLECs don't use the full List 2 power of their power cables. Qwest
10 knows full well that CLECs are required to size power cables at the higher List 2
11 drain pursuant to manufacturer's recommendations and safety reasons, and have
12 no intention to "max out" those cables.²⁹³ Finally, if Qwest needed any additional
13 information from the CLEC to size power plant properly, Qwest controls the

²⁹¹ Qwest/28, Ashton/2, line 24 – p. 3, line 1. *See also*, Qwest/28, Ashton/12, line 13.

²⁹² Qwest Technical Publication #77368 ("A rough estimate of List 1 drain is 30-40% of the List 2 drain."). List 1 drain is estimated at approximately 30-40% of List 2 drain. Therefore, if Qwest does not have access to List 1 drain for Eschelon, it could estimate that List 1 drain by assuming 30-40% of the size (in amperage) of Eschelon's power cables (which Qwest assumes is Eschelon's List 2 drain). Since Qwest has a specific procedure to estimate List 1 drain when information is not available from the vendor or through experience in using the equipment, Mr. Ashton's claim that sizing power plant for CLECs like it does for itself would force Qwest to "guess at what power the CLEC may draw over that feed" (Qwest/28, Ashton/3, lines 13-14) is incorrect. Qwest would not need to guess because there is a specific engineering procedure for developing a reliable (albeit "rough") estimate of List 1 drain.

²⁹³ Mr. Ashton complains that Eschelon doesn't tell Qwest what its anticipated usage will be, and since according to Mr. Ashton, Eschelon cannot forecast its usage, Qwest cannot forecast it either. (Qwest/28, Ashton/3, lines 5-9). Mr. Ashton fails to mention, however, that Qwest never asks the CLEC for its anticipated usage. All Qwest would have to do is ask the CLEC for its List 1 drain on the collocation application and then Qwest would unarguably have the information it says it needs to size power plant for CLECs in the same manner it uses to size for Qwest equipment. Nonetheless, Qwest sizes power plant based on the aggregate usage of the entire central office, so the individual power draw of a CLEC is not needed for this exercise and that's likely why Qwest does not ask for it.

1 application process by which CLECs request collocation services, and it could
2 easily ask for whatever information it needs to properly gauge CLEC usage –
3 rather than blindly relying on the power cable order which it knows is an
4 inaccurate way to gauge power plant consumption.²⁹⁴

5 This information seriously undercuts Mr. Ashton’s notion that “the only
6 reasonable amperage to include in power plant planning for CLECs is the ordered
7 amount” because it is “the only number that Qwest has to plan to.”²⁹⁵ Qwest has
8 a substantial amount of additional information for the purposes of sizing power
9 plant for CLECs, and if Qwest needed a different “number” to properly size
10 power plant, then it should simply ask for it.

11 **Q. DOES MR. ASHTON PROVIDE ANOTHER REASON WHY QWEST**
12 **MUST ALLEGEDLY TREAT ESCHELON DIFFERENT THAN ITSELF**
13 **WHEN SIZING POWER PLANT?**

14 A. Yes.²⁹⁶ Mr. Ashton says that “a good example of a situation in which the ordered
15 amount of power could be required would be if Qwest had a complete power
16 failure within a central office, and the batteries fully discharged.”²⁹⁷ Mr. Ashton
17 reasons that when power is restored to this central office, CLECs and Qwest may

²⁹⁴ Eschelon/123, Starkey/71-73.

²⁹⁵ Qwest/28, Ashton/3, lines 11-12.

²⁹⁶ Mr. Ashton also claims that the power plant rate should not be assessed based on usage because power plant equipment is not consumed, power plant is a fixed investment, and power plant is not amenable to measurement. Qwest/28, Ashton/7. I addressed these issues at pages 77-78 of my rebuttal testimony (Eschelon/123, Starkey/77-78).

²⁹⁷ Qwest/28, Ashton/6, lines 3-5.

1 draw something close to their List 2 drain when re-starting their equipment.²⁹⁸
2 Qwest claims that since a CLEC may require List 2 drain power at re-start, it is
3 reasonable for Qwest to engineer the power plant to the size of the CLEC power
4 cable.²⁹⁹

5 **Q. IS THIS A “GOOD EXAMPLE” AS MR. ASHTON CLAIMS?**

6 A. No. First, I find it interesting that Mr. Ashton would characterize this as a “good”
7 example, while failing to explain that this is the *only* example of a situation that
8 Qwest can dream up in which Qwest would need to provide CLECs the List 2
9 drain amount of power associated with the size of their power cables at the same
10 time – and even then, Qwest can provide no example of this “List 2 event” ever
11 happening. Further, the hypothetical “List 2 Event” that Mr. Ashton creates
12 should never happen if Qwest is properly monitoring the draw on its power plant.
13 For Qwest’s scenario to happen, the following would have to occur:

- 14 • Qwest assumes the central office completely loses power: this should not
15 happen (especially in central offices in which CLECs are collocated) because
16 Qwest is required to have backup generation on site to power equipment if it
17 loses AC power from the utility.³⁰⁰ Indeed, Qwest charges CLECs in its

²⁹⁸ Qwest/28, Ashton/6, lines 11-13.

²⁹⁹ Though Mr. Ashton acknowledges that both Qwest and CLECs would both draw an amount of power approaching or reaching the maximum power draw of the equipment, or List 2 drain (Qwest/28, Ashton/6, lines 11-12), Qwest admittedly does not size power plant at List 2 drain for Qwest equipment. If Qwest actually needed to size power plant for CLEC equipment at List 2 drain because the CLEC may need to draw that amount of power, Qwest would also need to size power plant at List 2 drain for Qwest equipment (based on Mr. Ashton’s admission that Qwest may also need this amount of power in Mr. Ashton’s hypothetical List 2 drain event).

³⁰⁰ Backup AC generation is described at Eschelon/1, Starkey123.

1 power plant rate costs associated with diesel generator backup. Therefore,
2 Qwest will not lose power to the central office so long as Qwest continues to
3 pour diesel fuel into the backup generator and Mr. Ashton's singular example
4 will not occur.³⁰¹

- 5 • Qwest assumes all CLECs would require List 2 drain amount of power
6 simultaneously once power is restored to the central office: this would not
7 happen. First of all, Mr. Ashton is assuming that every CLEC in the central
8 office is using its collocation to maximum capacity – *i.e.*, bays are entirely full
9 and equipment fully carded. This is highly unlikely. However, even if all
10 CLECs were using their collocation to the maximum capacity and Qwest lost
11 power to the central office and had to restart, Qwest would monitor re-start so
12 that power surges do not occur. One way Qwest would prevent the List 2
13 drain event that Mr. Ashton describes is by pulling fuses in the central
14 office³⁰² so that not all equipment starts up simultaneously.³⁰³
- 15 • Qwest assumes it has some obligation to provide the full List 2 drain amount
16 of power to CLECs under this "List 2 Event": the List 2 event that Mr.
17 Ashton describes is something that could, if at all, take place only during a

³⁰¹ Mr. Ashton testifies that "For a time, a diesel engine may be supplying backup power. If the engine cannot be refueled the batteries would become the sole source of power." (Qwest/28, Ashton/6, lines 6-8). However, Mr. Ashton never explains why Qwest could not refuel its backup generator or why the backup generator would only operate "for a time."

³⁰² Technical Document 790-100-654RG, p. 14, describes "pulling the discharge fuses" as a procedure for starting to charge batteries from low voltage resulting from complete battery discharge, and explains that it "has no harmful consequences."

³⁰³ Mr. Ashton makes the unsupported assertion that Qwest somehow makes power available to CLECs at restart "ahead of even Qwest's own switch." (Qwest/28, Ashton/6, lines 15-16). This is not the case. Qwest has no ability to parse out power plant capacity to any user or users, and that capacity is available indiscriminately to all users (both CLECs and Qwest).

1 major catastrophe, or what is referred to as a “force majeure.” Qwest would
2 certainly invoke the force majeure clause of the ICA (Section 5.7) if it was
3 unable to provide power during the hypothetical “List 2 Event” Mr. Ashton
4 describes, and a subsequent disagreement with a CLEC arose regarding
5 Qwest’s inability to provide that power. So even if all of the stars aligned to
6 bring about Mr. Ashton’s List 2 Event example – something that has never
7 happened to Qwest – Qwest has built in protection in the ICA from a CLEC
8 claiming breach of contract if Qwest did not provide full List 2 power.

9 **Q. LET’S ASSUME FOR THE SAKE OF ARGUMENT THAT MR.**
10 **ASHTON’S “LIST 2 DRAIN EVENT” DID COME TO PASS AND**
11 **ASSUME FURTHER THAT CLECS DO NEED THE FULL LIST 2 DRAIN**
12 **ASSOCIATED WITH THEIR POWER CABLES AT RE-START. WOULD**
13 **THIS SUPPORT MR. ASHTON’S EXPLANATION OF HOW QWEST**
14 **SIZES POWER PLANT?**

15 A. No. Mr. Ashton testifies that Qwest sizes power plant capacity by using the
16 following equation: List 1 drain of Qwest equipment + List 1 drain of CLEC
17 equipment + List 2 drain of CLEC equipment. If a central office did actually lose
18 power and CLECs needed List 2 drain at re-start, according to Mr. Ashton’s own
19 testimony, Qwest would still have spare power plant capacity in the amount of
20 CLEC List 1 drain. Therefore, even under Qwest’s view of power plant sizing,
21 Qwest is oversizing the power plant and attempting to force Eschelon to pay for
22 power plant capacity that it could never use.

1 **Q. MS. MILLION STATES THAT NOTHING IN THE FCC'S TELRIC**
2 **RULES REQUIRES QWEST TO ADD TO ITS EXISTING POWER**
3 **PLANT TO ACCOMMODATE CLEC DEMAND FOR CAPACITY.³⁰⁴ IS**
4 **IT YOUR TESTMONY THAT QWEST MUST ADD POWER PLANT**
5 **CAPACITY IN ORDER TO CHARGE FOR IT?**

6 A. No,³⁰⁵ and Ms. Million provides no cite where I made this claim in my
7 testimony.³⁰⁶ TELRIC (which is the basis for collocation power rates) calculates
8 rates based on total demand (or the "total" in Total Element Long Run
9 Incremental Cost). A properly constructed TELRIC cost study will calculate the
10 total investment for a UNE and then divide that number by total demand to
11 calculate chargeable units. This results in an average cost for an element and
12 accounts for total investment and total demand. In this way, TELRIC accounts
13 for the total investment Qwest makes to serve total demand and assumes away the
14 short run marginal cost concerns Ms. Million raises.

15 **Q. QWEST CLAIMS THAT THE DISAGREEMENTS UNDER ISSUE 8-21**
16 **ARE BETTER ADDRESSED IN A COST PROCEEDING WHERE ALL**

³⁰⁴ Qwest/39, Million/6, lines 2-3.

³⁰⁵ Ms. Million also testifies that the "problem with Eschelon's position is that it ignores the fact that the rate for an element, along with application of the rate on a unitized basis, determines the amount of TELRIC cost recovery that Qwest is permitted by commission." (Qwest/39, Million/3, lines 14-17). Eschelon does not ignore the relationship between the rate and its application and the importance of this to proper cost recovery, and I actually agree with Ms. Million that the way the rate is developed is important to its application. That is why in my rebuttal testimony, *see* Eschelon/123, Starkey/78-80, I explained that Qwest developed its cost study for the power plant rate based on *usage* – the same way that Eschelon wants Qwest to apply the power plant rate. There is nothing in the development of Qwest's power plant rate to suggest that it is based on CLEC power cable orders, as Qwest wants to apply the rate.

³⁰⁶ I showed at pages 73 – 75 of my rebuttal testimony that Qwest's claims about augmenting power plant based on CLEC orders for power cables are inaccurate (Eschelon/123, Starkey/73-75).

1 **INTERESTED PARTIES CAN BE REPRESENTED.³⁰⁷ HAVE YOU**
2 **ALREADY ADDRESSED THIS POINT?**

3 A. Yes. I addressed this issue in my rebuttal testimony³⁰⁸ and will not repeat those
4 arguments here.³⁰⁹

5 **Q. QWEST COMPLAINS THAT ESCHELON WANTS TO BE BILLED ON**
6 **DAY TO DAY USAGE, WHILE QWEST SIZES POWER PLANT ON**
7 **BUSY HOUR USAGE, AND THESE ARE TWO TOTALLY DIFFERENT**
8 **THINGS.³¹⁰ WOULD YOU LIKE TO RESPOND?**

9 A. Qwest's claims are exaggerated. Mr. Ashton states that Eschelon would be
10 measured on random power measurements throughout the year, and would not be
11 billed on the busy day busy hour (the manner in which power plant is sized). This
12 appears to be an admission that Qwest sizes power plant for CLECs based on
13 peak usage, and if so, then Qwest agrees with me on this point. However, Qwest
14 has the flexibility to measure Eschelon's usage and bill according to that
15 measurement at times when Eschelon's usage is at its greatest. Qwest is fully
16 knowledgeable about the busy day busy hour for each central office, and if it so

³⁰⁷ Qwest/28, Ashton/2, lines 5-7. *See also*, Qwest/39, Million/3.

³⁰⁸ Eschelon/123, Starkey/84-85.

³⁰⁹ At page 8 of his rebuttal testimony, Mr. Ashton discusses my testimony about the Qwest DC Power Measuring Amendment and states that "I'm not sure what point Mr. Starkey is making, though, in this regard. Does Qwest offer the option to pay for power usage on a measured basis? Yes, it does." (Qwest/28, Ashton/8, lines 5-7). The point I was making in my testimony (Eschelon/1, Starkey/127-128) is that Qwest originally assessed both power charges – usage and power plant – on the size of the CLEC power cable, and changed the application of one of these rate elements (usage) to be applied on measured usage, and now claims that it is unreasonable to assume that both rate elements should be assessed on measured usage. If Qwest applied both power rate elements in the same manner before the change, it is logical that the change should apply to both rate elements so that they will be applied on the same basis after the change.

³¹⁰ Qwest/28, Ashton/10.

1 chooses, it can measure Eschelon's usage at that time.³¹¹ Though Mr. Ashton
2 refers to these measurements as "random,"³¹² they would really only be random if
3 Qwest wants them to be random. For instance, Mr. Ashton shows three
4 hypothetical power measurements on which a CLEC could be billed (47 amps, 25
5 amps and 32 amps), and claims that "NONE of these numbers, however, are any
6 part of the equation that drives Qwest power plant augment decisions."³¹³ This is
7 not entirely true. If the 47 amp measurement represents the CLEC's usage at the
8 busy hour, then it would be a fundamental component of the primary engineering
9 equation used to size power plant (along with the aggregate busy hour usage of
10 the other power users in the central office).³¹⁴

³¹¹ Though the ICA calls for Qwest to measure power on a semi-annual basis and the busy hour busy day only occurs once per year, Qwest could measure the power at the peak times during those time periods (*e.g.*, Mother's Day in the first half of the year, and Christmas Day in the second half of the year – or whatever the peak drain period may be for that particular central office). And though CLEC's can request Qwest to take a power measurement, Qwest can select the time of the measurement over a 30 day period after the request, so it can pick a time at which Qwest believes that Eschelon's power draw will be at its greatest (and there's a possibility that it could result in the CLEC paying more for power). Furthermore, through my work with other CLECs on collocation power issues, I have examined time series data for power measurements taken by Qwest and have determined that they do not vary by large degrees from measurement to measurement. And though Qwest focuses on the alleged under-recovery it would experience if it sized power plant based on List 1 drain but charge based on measured usage, Qwest ignores the over-recovery Qwest would experience by sizing power plant based on List 1 drain but charging CLECs based on a higher List 2 drain.

³¹² Qwest/28, Ashton/10, line 19.

³¹³ Qwest/28, Ashton/11, lines 6-7. *See also*, Qwest/28, Ashton/10, lines 21-23 ("A specific CLEC's discrete and randomly measured usage throughout the year is never a factor in planning power plant investment.") I agree with Mr. Ashton that a specific CLEC's usage is not a factor in planning power plant investment, rather it is the aggregate peak usage of the entire central office (Qwest and all CLECs) at the busy hour that is relevant. That is why Qwest does not need to know Eschelon's individual power usage in order to size power plant for Eschelon's equipment in a nondiscriminatory manner.

³¹⁴ It would represent the CLEC's portion of the aggregate peak usage at the busy hour used to size power plant in the central office.

1 Mr. Ashton goes on to claim that if the CLEC had ordered a 100 amp power
2 cable, it is this 100 amps that would be part of the equation. Mr. Ashton is wrong.
3 Since this 100 amps associated with the power cable (which is based on List 2
4 drain by engineering requirements) has no relationship to the peak usage that a
5 CLEC draws over that cable (List 1 drain), this 100 amps would not drive power
6 plant investment and would not be “part of the equation.”³¹⁵ It is telling that Mr.
7 Ashton never claims that a CLEC’s busy hour usage would ever reach anywhere
8 close to the List 2 drain capacity of its power cables, but Qwest wants to charge
9 Eschelon for power plant as if Eschelon draws that amount every month.

10 **Q. QWEST CLAIMS THAT “IT IS UP TO ESCHELON TO MANAGE ITS**
11 **POWER REQUIREMENTS” THROUGH THE POWER REDUCTION**
12 **AND POWER MEASUREMENT OPTIONS.³¹⁶ DOES THIS MEAN THAT**
13 **QWEST SHOULD NOT APPLY THE POWER PLANT RATE ON NON-**
14 **DISCRIMINATORY MEASURED USAGE?**

15 A. No.³¹⁷ Qwest’s Power Reduction offering addresses the ability of changing fuses
16 at the BDFB, changing breakers at the power plant, or potentially re-engineering
17 smaller power cables aimed at re-engineering a CLEC’s power *distribution*
18 infrastructure. Power *distribution* is a different component than power *plant*, and
19 the two are sized differently – power distribution is sized at List 2 drain and

³¹⁵ As explained above, Qwest’s own technical documents belie Mr. Ashton’s claim and do not list power cables or List 2 drain as influencing factors for power plant sizing.

³¹⁶ Qwest/28, Ashton/13, lines 19-20.

³¹⁷ I also address this point at Eschelon/123, Starkey/80-82.

1 power plant is sized at a lower List 1 drain. Therefore, the Power Reduction
2 offering is irrelevant to the proper application of the power plant rate.

3 **Q. QWEST POINTS TO DECISIONS IN WASHINGTON AND UTAH**
4 **RELATED TO A MCLEODUSA COMPLAINT AGAINST QWEST AND**
5 **THE MINNESOTA ARBITRATORS' REPORT FROM THE**
6 **COMPANION ESCHELON/QWEST ARBITRATION AS SUPPORT FOR**
7 **QWEST'S POSITION ON ISSUE 8-21.³¹⁸ WOULD YOU LIKE TO**
8 **RESPOND?**

9 A. Yes. The Washington and Utah decisions Qwest references are based on a
10 McLeodUSA/Qwest ICA amendment and specific agreed upon language between
11 those two parties that does not apply to Eschelon and Qwest.

12 Moreover, contrary to Qwest's claims, the Minnesota Arbitrators' Report did not
13 reject the notion that Qwest discriminates in its application of the power plant
14 rate. In fact, the Minnesota Arbitrators' Report finds that "it is theoretically
15 possible that the current pricing scheme results in a discriminatory rate or over-
16 recovers capacity costs from CLECs,"³¹⁹ but the Report finds that the evidence
17 provided was not sufficient to draw this conclusion, so the Minnesota Arbitrators'
18 find that these issues should be dealt with in a UNE cost case.³²⁰ It is possible
19 that Qwest's application of the power plant rate based on the size of CLEC's
20 cable could indeed be found to be discriminatory in a future Minnesota UNE cost

³¹⁸ Qwest/28, Ashton/13-16 and Qwest/39, Million/4-5.

³¹⁹ Eschelon/29, Denney/27.

³²⁰ Eschelon/29, Denney/27 [MN Arbitrators' Report, ¶108].

1 case. Similarly, the initial order in the McLeodUSA Washington complaint³²¹
2 case does not reject the notion of discrimination. The Washington initial order
3 states: “Although it may be possible for the Commission to require Qwest to
4 implement a nondiscriminatory rate for DC power, the record in this case does not
5 provide a sufficient basis for such a determination.”³²² This decision goes on to
6 explain that the scope of that particular complaint case between McLeodUSA and
7 Qwest focused on the intent of those companies at the time they entered into an
8 ICA amendment that does not apply to Eschelon and Qwest.³²³

9 Furthermore, the Iowa Board found that “The available evidence indicates a valid
10 concern exists regarding possible discrimination, but the record has not been fully
11 developed on this issue.”³²⁴ The Iowa Board also found that “it is clear that
12 Qwest treats CLECs differently in this respect” as it relates to assigning power
13 plant costs, and found that “[m]oreover, Qwest admits that it assigns Power Plant
14 costs to itself based on List 1 drain (which approximates its actual use), but
15 charges CLECs based on the amount of power ordered (which approximates List
16 2 Drain).”³²⁵ The Board went on to state that, “the Board is concerned about

³²¹ McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation, Washington Docket UT-063013, Initial Order: Recommended Decision to Deny Petition for Enforcement. Order 03, dated 9/29/06.

³²² McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation, Washington Docket UT-063013, Initial Order: Recommended Decision to Deny Petition for Enforcement. Order 03, dated 9/29/06, p. 22. The Washington Commission affirmed the Initial Order. Qwest/30, Ashton/2.

³²³ McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation, Washington Docket UT-063013, Initial Order: Recommended Decision to Deny Petition for Enforcement. Order 03, dated 9/29/06, p. 22.

³²⁴ Iowa Utilities Board, Final Order in Docket No. FCU-06-20, issued 7/27/06, p. 14.

³²⁵ Id.

1 Qwest's practices in this respect" and suggested that this issue be revisited in an
2 appropriate docket (such as an arbitration proceeding) in which the Board can
3 order relief.³²⁶

4 **Q. MR. ASHTON ALSO POINTS TO THE COLORADO PROPOSED**
5 **DECISION IN THE MCLEODUSA COMPLAINT CASE AS FURTHER**
6 **SUPPORT FOR QWEST'S POSITION.³²⁷ PLEASE RESPOND.**

7 A. Mr. Ashton notes that the ALJ's recommended decision in this case found that:
8 "McLeodUSA failed to meet its burden of proof to demonstrate the basis upon
9 which rates were approved in [a prior Colorado cost docket], how such rates are
10 discriminatory, and how they result in McLeodUSA paying more than its share
11 for the costs of the DC Power Plant..."³²⁸ Mr. Ashton's selective cite of
12 paragraph 100 of the ALJ's recommended decision does not tell the whole story.
13 I have provided the entire paragraph 100 of the ALJ's recommended decision
14 below:

15 Presenting evidence and argument on several issues, the parties
16 blur ratemaking considerations with facility or engineering
17 considerations. Both parties presented evidence regarding the
18 appropriate manner to recover costs in rates based upon a
19 measured or an ordered basis. Extensive evidence and argument
20 has been offered regarding the design, construction, and use of
21 facilities. While these issues may impact cost recovery and rate
22 design, these matters add little to this proceeding because there is

³²⁶ Id., p. 15.

³²⁷ Qwest/28, Ashton/16, citing *McLeod Telecommunications Services, Inc. v. Qwest Corporation*, Public Utilities Commission of the State of Colorado, Docket No. 06F-124T, Recommended Decision (3/14/07), provided as Qwest/32.

³²⁸ Qwest/28, Ashton/16, citing *McLeod Telecommunications Services, Inc. v. Qwest Corporation*, Public Utilities Commission of the State of Colorado, Docket No. 06F-124T, Recommended Decision (3/14/07), paragraph 100, provided as Qwest/32.

1 no basis for comparison to existing rates in the record. Collocation
2 rates were approved in Docket No. 99A-577T based upon the
3 Commission's adoption of Qwest's collocation cost study. **The**
4 **cost support for the collocation rates in the Agreement is not in**
5 **the record.** Generally speaking, ordered versus usage may both
6 theoretically be allocators over which costs may be recovered.
7 **The record in this docket does not demonstrate the modeling,**
8 **assumptions, conditions, and calculations for the recovery of**
9 **costs designed therein.** This is not to say that the rate cannot be
10 considered in this complaint docket; rather, that McLeodUSA
11 failed to meet its burden of proof to demonstrate the basis upon
12 which rates were approved in 99A-577T, how such rates are
13 discriminatory, and how they result in McLeodUSA paying more
14 than its share for the costs of the DC Power Plant under the
15 amendment in violation of law.³²⁹

16 As the above excerpt shows, the reason cited by the ALJ to support the notion that
17 McLeodUSA failed to meet its burden of proof was the lack of cost support for
18 the collocation rates. However, Eschelon provided the cost support in this case
19 that the ALJ in the McLeodUSA complaint case found lacking³³⁰ and explained
20 why that cost study supported Eschelon's proposed application of the power plant
21 rate.³³¹ Therefore, the cite from the ALJ's proposed decision in the McLeodUSA
22 complaint case against Qwest that Mr. Ashton selectively pulled from paragraph
23 100, does not even apply to Eschelon and the evidence it has presented in this
24 case.

³²⁹ *McLeod Telecommunications Services, Inc. v. Qwest Corporation*, Public Utilities Commission of the State of Colorado, Docket No. 06F-124T, Recommended Decision (3/14/07), paragraph 100, provided as Qwest/32.(emphasis added)

³³⁰ Eschelon/123, Starkey/78-79.

³³¹ Eschelon/123, Starkey/79-80.

1 It also bears noting that the ALJ found that, “Generally speaking, ordered versus
2 usage may both theoretically be allocators over which costs may be recovered.”³³²
3 This rebuts Qwest’s position in this case that “power plant is not amenable to
4 ‘measurement’”³³³ because it is “a fixed investment”³³⁴ consisting of “several
5 durable pieces of equipment that last for years.”³³⁵ As the ALJ found, power
6 plant investment can be recovered over the usage of that power plant.³³⁶

7 **Q. A COMMON THEME IN QWEST’S REFERENCES TO THE DECISIONS**
8 **IN OTHER STATES AND PROPOSED DECISION IN COLORADO IS**
9 **THE NOTION THAT THERE IS A LACK OF BASIS FOR A FINDING**
10 **THAT QWEST’S APPLICATION OF THE POWER PLANT RATE**
11 **BASED ON THE SIZE OF CLEC POWER CABLE ORDERS IS**
12 **DISCRIMINATORY. PLEASE SUMMARIZE WHY QWEST’S POWER**
13 **PLANT RATE APPLICATION IS DISCRIMINATORY TO ESCHELON.**

14 **A.** The problem is relatively basic. As the Iowa Board’s Order indicates, Qwest has
15 admitted to assigning power plant costs to itself based on List 1 drain and
16 assigning power plant costs to CLECs based on List 2 drain. List 2 drain (which
17 represents a “worst case scenario” load) is higher than List 1 drain (which is based

³³² *McLeod Telecommunications Services, Inc. v. Qwest Corporation*, Public Utilities Commission of the State of Colorado, Docket No. 06F-124T, Recommended Decision (3/14/07), paragraph 100, provided as Qwest/32.

³³³ Qwest/28, Ashton/7, line 23.

³³⁴ Qwest/28, Ashton/7, line 15.

³³⁵ Qwest/28, Ashton/7, lines 6-7.

³³⁶ Eschelon/123, Starkey/77-78, explaining how TELRIC pricing principles allow recovery of costs of fixed investments over the shared usage of that investment.

1 on normal operating load). Therefore, what Qwest is doing is assigning higher
2 power plant costs on CLECs (List 2 drain) than it is assigning to itself (List 1
3 drain). I provide an example in my direct testimony.³³⁷ I also provided an
4 example of the discriminatory nature of Qwest's application of the power plant
5 rate at the hearing in the Colorado McLeodUSA complaint case, where I showed
6 with Qwest's own numbers that Qwest was charging CLECs for 30% of the
7 power plant, while CLECs were only using 12% of the power plant capacity.³³⁸
8 These overcharges result in a windfall to Qwest and forces CLECs to subsidize
9 Qwest's power costs.

10 **Q. BUT QWEST CLAIMS THAT IT MAKES THE FULL CAPACITY OF**
11 **THE CABLE AVAILABLE TO CLECS IN TERMS OF POWER PLANT**
12 **CAPACITY. DOES THIS HAVE ANY BEARING ON THE**
13 **DISCRIMINATION EXAMPLE YOU PROVIDE ABOVE?**

14 A. No, because Qwest does not invest in power plant based on CLEC orders for
15 power cables. As the Iowa Utilities Board found, "Typically, an order for power
16 from an individual CLEC does not require additional investment in power plant
17 facilities. Instead, it is the total power consumption by Qwest and all CLECs that
18 would trigger the need for additional power plant facilities."³³⁹ Because Qwest's
19 investments in power plant facilities are not incremental to CLEC orders for
20 power cables, there is no basis for Qwest assigning costs to CLECs as if it does,

³³⁷ Eschelon/1, Starkey/136.

³³⁸ Transcript, 11/15/06, Docket No. 06F-124T, McLeodUSA Telecommunications Services, Inc. v Qwest Corp., 18, lines 4-11.

³³⁹ IUB Order, pp. 13-14.

1 which is what assigning power plant costs to CLECs based on List 2 drain does.
2 Further, as the Iowa Board found, “power plant facilities are not dedicated to
3 individual companies, but are common to all those within a central office. This
4 includes Qwest and all CLECs collocating in that office.”³⁴⁰ Therefore, even if
5 Qwest did invest in power plant based on the size of a CLEC power cable order
6 (which would violate its own Technical Publications), the excess power plant
7 capacity that Qwest would be building into its central office power plant would be
8 available for the use of any company in the central office (Qwest and all CLECs).
9 Despite this power plant capacity being equally available for Qwest’s and
10 Eschelon’s (and other collocators’) use, Qwest is attempting to make Eschelon
11 pay for it.

12 **Q. MS. MILLION STATES THAT THE WASHINGTON AND UTAH**
13 **DECISIONS IN THE MCLEODUSA COMPLAINT CASES IN THOSE**
14 **STATES FOUND THAT QWEST’S POWER PLANT COST STUDY IS**
15 **NOT BASED ON USAGE.³⁴¹ WOULD YOU LIKE TO RESPOND?**

16 A. Yes. As shown in my rebuttal testimony,³⁴² Qwest’s cost study divides the total
17 power plant investment by “DC power usage” to calculate chargeable units of
18 power plant. Though Ms. Million acknowledges the appearance of “usage” in the
19 cost study,³⁴³ she essentially claims that it was a bad choice of words on Qwest’s

³⁴⁰ IUB Order, p. 13.

³⁴¹ Qwest/39, Million/4-5.

³⁴² Eschelon/123, Starkey/78-79.

³⁴³ Qwest/39, Million/4, line 16.

1 part when developing the cost study. Qwest's hindsight aside, it is undisputable
2 that no measure of "power order" or "power cable" is used to develop Qwest's
3 power plant rate (which is the basis for Qwest's proposed application of the
4 power plant rate). Qwest simply stating that its use of the term "usage" in the cost
5 study is something different than electrical usage does not explain why it is more
6 appropriate then for Qwest to apply the power plant rate based on the size of the
7 CLEC power cable order.

8 **Q. QWEST REFERENCES THE MINNESOTA ARBITRATORS' REPORT**
9 **AND THE WASHINGTON DECISION AS SUPPORT FOR QWEST'S**
10 **POSITION THAT THIS ISSUE IS BETTER ADDRESSED IN A UNE**
11 **COST CASE.³⁴⁴ DOES THIS MEAN THAT THIS IS THE CASE IN**
12 **OREGON?**

13 A. No. For example, in Minnesota there is an open investigation into Qwest's UNE
14 rates in which the proper application of the power plant rate will be reviewed, and
15 as explained above, the Arbitrators' Report left open the possibility of a finding of
16 discrimination related to Qwest's proposed application of power plant rates.
17 Power rates are not currently under investigation in Oregon , so the decision of
18 the Minnesota ALJs does not have the same appeal in Oregon in terms of
19 administrative convenience. Qwest's reference to the Washington
20 McLeodUSA/Qwest complaint case is also misplaced. The fact that the
21 Washington McLeodUSA/Qwest case was a complaint case and this case is an

³⁴⁴ Qwest/39, Million/3-4.

1 arbitration case is an important factor in the Washington decision. The
2 Washington decision states: “Within the scope of this docket, the Commission
3 may only determine the intent of the parties with regard to the DC power
4 measuring amendment. A cost docket, or similar cost review, is the forum for
5 judging the adequacy of rates and rate structures for CLEC access to ILEC
6 networks.”³⁴⁵ Notably, the decision referenced “a cost docket, or similar cost
7 review” as the appropriate forum for addressing this issue. This arbitration is a
8 “similar cost review” and is, therefore, an appropriate forum for addressing these
9 issues according to the Washington decision.

10 **VI. SUBJECT MATTER NO. 14: NONDISCRIMINATORY ACCESS TO**
11 **UNES**

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

13 **Q. WHAT IS THE CRUX OF THE DISPUTE UNDER ISSUE 9-31?**

14 A. Qwest maintains that tariff or other non-TELRIC rates may apply to moves, adds,
15 and changes *to a UNE*,³⁴⁶ whereas Eschelon relies upon authority showing that
16 TELRIC rates apply to access to UNES, including moves, adds, and changes to
17 the UNE.³⁴⁷ When applying TELRIC rates, this Commission has said that

³⁴⁵ McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation, Washington Docket UT-063013, Initial Order: Recommended Decision to Deny Petition for Enforcement. Order 03, dated 9/29/06, p. 22.

³⁴⁶ Compare Qwest/37, Stewart 16 (the activities encompassed by Eschelon’s proposed language “could easily include activities that are not part of ‘access’ to a UNE”) with Eschelon’s proposals for Section 9.1.2 (“Access to Unbundled Network Elements includes moving, adding to, repairing and changing *the UNE* . . .”) (emphasis added).

³⁴⁷ Eschelon/1, Starkey/152-154 (citing FCC rules and orders).

1 competitive carriers need to “gain[] full use of the loop’s capabilities.”³⁴⁸
2 Without moves, adds, and changes to loops, Eschelon will not have full use of the
3 loop’s capabilities. Although Section 9.1.2 contains language regarding
4 nondiscriminatory access to UNEs, Qwest’s conduct (described below) shows that
5 – notwithstanding Section 9.1.2 and all other provisions of the ICA – Qwest’s
6 position is that it may charge retail tariff rates for activities that have historically
7 been provided at TELRIC rates without first obtaining regulatory approval.
8 Qwest has confirmed in testimony that the goal of its proposed modifications to
9 Section 9.1.2 is to allow it to do just that:

10 Q. I mean, is it what -- is Qwest's goal here with this language, additional
11 activities available for UNEs, to hold open the option to charge tariffed
12 rates for moving, adding to, repairing and changing UNEs?

13 A. In the example I just gave, it was a tariff rate, yes.³⁴⁹

14 Q Now, is it Qwest's position that "at the applicable rates" would be a
15 TELRIC-based rate?

16 A It would depend on the activity being performed.

17 Q Would -- if it were, for example, design changes, maintenance of
18 service, including trouble isolation, additional dispatches and cancellation
19 of orders, you would agree that those things would all be subject to
20 TELRIC rates, wouldn't you?

21 A You're moving a little fast for me, but, for example, no. . . . So it
22 would -- you know, in one case there would be no charge, one case it
23 would be a TELRIC, and another case, such as expedites, it potentially
24 could be a tariff charge. So that's why it's applicable rates.³⁵⁰

³⁴⁸ Eschelon/23, Denney/57 (Order No. 03-085, Docket UT/138/UT 139, Phase III, p. 14, footnote 51, citing FCC UNE Remand Order, ¶172). Similarly, in its *First Report and Order* at ¶ 268, the FCC found that the requirement to provide “access to UNEs” must be read broadly, concluding that the Act requires that UNEs “be provisioned in a way that would make them useful.”

³⁴⁹ Arizona arbitration, Transcript Vol. II (March 20, 2007), p. 199, line 25 – p. 200, line 5 (Ms. Stewart).

³⁵⁰ Colorado arbitration, Transcript Vol. I (April 17, 2007) (Ms. Stewart).

1 In the latter quotation, Ms. Stewart provides expedites as an example of an
2 activity for which Qwest would charge a tariff rate under this section of the ICA
3 expressly dealing only with non-discriminatory access to Section 251 Unbundled
4 Network Elements. Qwest's use of expedites as an example shows that the goal
5 of Qwest's proposed Section 9.1.2 language is to unilaterally implement tariff
6 rates with no prior contract amendment or prior Commission approval allowing it
7 to do so, as Qwest has already done for expedites.³⁵¹

8 The CRUNEC example described in my direct testimony is another example of a
9 situation in which Qwest unilaterally implemented much higher rates including
10 potential tariff rates³⁵² for activities that have historically been provided as part of
11 access to UNEs at TELRIC rates, without obtaining Commission approval or an
12 ICA amendment.³⁵³ Mr. Denney discusses the CRUNEC example further in his
13 discussion regarding Issue 9-31 and recurring and non-recurring rates.

14 If Eschelon is unable to obtain access to UNEs on reasonable terms and
15 conditions and at cost based rates, Eschelon will be competitively disadvantaged

³⁵¹ See e.g., Eschelon/32, Denney/1 (showing no change in ICA language while Qwest implemented changes to expedites, so that expedites that had been available for loops under the ICA were no longer available under the same ICA without paying tariff rate) & Eschelon/9, Denney/204 at footnote 170 (providing corresponding Oregon ICA provisions). Expedites (Issue 12-67) are addressed in the testimony of Mr. Denney and Ms. Johnson, including her exhibits. See Eschelon/29, 33, 41 and 93 through 109.

³⁵² Qwest's CRUNEC PCAT states that the CLEC "will be responsible for any construction charges that a Qwest retail end-user would be responsible for paying. . . . When facilities are not available, Qwest will build facilities dedicated to an end-user 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. In other situations, Qwest does not agree that it is obligated to build UNEs" See <http://www.qwest.com/wholesale/clecs/crunec.html>

³⁵³ Eschelon/1, Starkey/50-60 (CRUNEC example).

1 vis-à-vis Qwest. Either of Eschelon’s two alternative language proposals
2 confirms that access to UNEs includes moving, adding to repairing and changing
3 *the UNE (i.e., not a tariff or other non-UNE product)*, and therefore these UNE
4 activities are available at TELRIC rates (unless the contract is amended, such as
5 pursuant to the change in law provision). The Commission should adopt
6 Eschelon’s proposal for Issue 9-31 and preserve nondiscriminatory access to
7 UNEs at cost-based rates.

8 **Q. MS. STEWART TESTIFIES THAT THE DISPUTE UNDER ISSUE 9-31**
9 **“BOILS DOWN” TO “QWEST’S ABILITY TO CHARGE FOR**
10 **ACTIVITIES AND TO RECOVER ITS COSTS.”³⁵⁴ IS THIS DIFFERENT**
11 **FROM YOUR DESCRIPTION ABOVE OF THE CRUX OF THE ISSUE?**

12 A. Yes. Qwest’s ability to charge for activities and to recover its costs for all
13 activities under the ICA, including any activities addressed in Section 9.1.2, is
14 already established in agreed upon language in the ICA. I quoted the agreed upon
15 language in ICA Section 5.1.6 in my direct and rebuttal testimony,³⁵⁵ just as I
16 have quoted it in other states.³⁵⁶ Yet, Ms. Stewart does not mention this agreed
17 upon language in Section 5.1.6 in either her direct or rebuttal testimony, even
18 though she is critical of not “discussing or even mentioning” agreed upon

³⁵⁴ Qwest/37, Stewart/15 (first Q&A).

³⁵⁵ Eschelon/1, Starkey/36 at footnote 79; Eschelon/123, Starkey/89, lines 3-14.

³⁵⁶ See e.g., Washington arbitration, Starkey Rebuttal, pp. 80-81 (Dec. 4, 2006); Colorado arbitration, Starkey Rebuttal, pp. 81-82 (March 26, 200) (both quoting Section 5.1.6 within my discussion of Issue 9-31). Ms. Stewart did not mention Section 5.1.6 in her surrebuttal testimony in Washington or Colorado either.

1 language in the ICA.³⁵⁷ The dispute is not whether Qwest may recover its costs
2 but whether Qwest may wrongfully over-recover by charging tariff or other non-
3 TELRIC rates when TELRIC rates apply.

4 **Q. MS. STEWART TESTIFIES THAT ESCHELON’S LANGUAGE “WOULD**
5 **VIOLATE QWEST’S RIGHT OF COST RECOVERY,”³⁵⁸ CLAIMS THAT**
6 **ESCHELON MAY ATTEMPT TO CHANGE THE APPLICATION OF A**
7 **RATE,³⁵⁹ AND STATES THAT QWEST’S ALLEGED COST RECOVERY**
8 **CONCERN IS BASED AT LEAST IN PART ON TESTIMONY OF MR.**
9 **DENNEY IN THE “COMPANION ARBITRATION IN MINNESOTA.”³⁶⁰**
10 **WHERE DOES ESCHELON RESPOND TO THESE CLAIMS?**

11 A. Mr. Denney responds to these claims in his surrebuttal testimony regarding cost
12 recovery issues relating to Issue 9-31.³⁶¹

13 **Q. MS. STEWART QUOTES PORTIONS OF AGREED UPON LANGUAGE**
14 **IN THE ICA, ALLEGES THAT YOU IGNORED THEM, AND SUGGESTS**
15 **THAT THEY RENDER ESCHELON’S PROPOSAL UNNECESSARY.³⁶²**
16 **PLEASE RESPOND.**

17 A. This is first of the four Qwest concerns that I described on page 86 of my rebuttal
18 testimony as Qwest’s concern that “the closed ICA language fully captures

³⁵⁷ Qwest/37, Stewart/10-11 & p. 11.

³⁵⁸ Qwest/37, Stewart/14 (first two lines).

³⁵⁹ Qwest/37, Stewart/14.

³⁶⁰ Qwest/37, Stewart/15.

³⁶¹ *See also* Eschelon/123, Starkey/88-89, 102-103.

³⁶² Qwest/37, Stewart/10-12.

1 Qwest’s legal obligations so no additional language is needed to ensure
2 nondiscriminatory access to UNEs.³⁶³ I responded to that concern on pages 87-88
3 of my rebuttal testimony. Nonetheless, Ms. Stewart twice states that I allege an
4 absence of an obligation in the ICA for Qwest to provide non-discriminatory
5 access to UNEs “without discussing or even mentioning” agreed upon language in
6 Section 9.1.2.³⁶⁴ She states, as she has in four other states, that this is
7 “surprising.”³⁶⁵ Eschelon has fully recognized agreed upon language in the ICA
8 stating that Qwest must provide non-discriminatory access to UNEs, while also
9 explaining why additional language is needed in Section 9.1.2.³⁶⁶

10 It is Qwest that ignores the issue here. Eschelon has been forthright in describing
11 the Qwest conduct (revising its rate proposals in negotiations and in its 8/31/06
12 ICA negotiations template) to refer to retail tariffs that initially prompted
13 Eschelon to pursue its language for Section 9.1.2.³⁶⁷ Qwest did not raise this in
14 the first instance in a cost case or other filing with the Commission. Although
15 Eschelon pointed to this Qwest conduct,³⁶⁸ Ms. Stewart discusses Issue 9-31
16 “without discussing or even mentioning” its revised rate proposals in negotiations
17 and the corresponding changes to Qwest’s 8/31/06 ICA negotiations template as

³⁶³ Eschelon/123, Starkey/86, lines 11-12, citing Qwest/14, Stewart/13, lines 13-24; Qwest/14, Stewart/14, lines 13-15; and Qwest/14, Stewart/18, lines 10-12.

³⁶⁴ Qwest/37, Stewart/10-11.

³⁶⁵ Qwest/37, Stewart/10, second to last line. Arizona arbitration, Stewart Rebuttal, p. 11, line 23; Colorado arbitration, Stewart Answer, p. 11 (no line numbers); Minnesota arbitration, Stewart Rebuttal, p. 10, line 18, Washington arbitration, Stewart Responsive, p. 10, line 13.

³⁶⁶ See e.g., Eschelon/1, Starkey/144, lines 1-2 (quoted in above footnote).

³⁶⁷ Eschelon/1, Starkey/144-145.

³⁶⁸ Eschelon/1, Starkey/144-145.

1 reasons why the agreed upon portion of Section 9.1.2 may be insufficient by
2 itself. When Qwest later reverted to its earlier negotiations position with respect
3 to Exhibit A (*i.e.*, removing references to the tariff for the items mentioned in the
4 parenthetical in Section 9.1.2), Qwest told Eschelon that doing so did not indicate
5 that Qwest's position that tariff rates apply had changed. Ms. Stewart's testimony
6 since then (such as the above-quoted testimony) has confirmed that Qwest intends
7 its proposed "applicable rates" language in Section 9.1.2 to allow it to charge
8 tariff rates for activities for which TELRIC rates have applied. Eschelon
9 disagrees.³⁶⁹ A decision from the Commission and more explicit contract
10 language is needed to resolve this issue and help avoid future disputes.

11 **Q. QWEST CONTENDS THAT ESCHELON IS ATTEMPTING TO**
12 **"IMPERMISSIBLY EXPAND THE ACCESS QWEST PROVIDES TO**
13 **UNES BEYOND THE REQUIREMENTS IMPOSED BY GOVERNING**
14 **LAW."³⁷⁰ PLEASE RESPOND.**

15 A. I explained in my direct testimony³⁷¹ how Eschelon's proposals are consistent
16 with Qwest's existing obligation under governing law. For brevity, I will not

³⁶⁹ Eschelon/1, Starkey/152-154 (citing FCC rules and orders).

³⁷⁰ Qwest/37, Stewart/10. *See also*, Qwest/37, Stewart/14 ("go beyond the routine network maintenance"); Qwest/37, Stewart/14 ("violates the long-established rule that an ILEC is only required to provide access to its existing network, not access to 'a yet unbuilt superior one.'") I addressed Qwest's "superior network" argument in my rebuttal testimony (Eschelon/123, Starkey/91-93). I also addressed Ms. Stewart's claim that the terms "add to" and "changing the UNE" are vague and could require Qwest to build new facilities. *See* Eschelon/123, Starkey/106-107. Ms. Stewart states that Eschelon's proposal "would potentially obligate" Qwest to provide Eschelon access it doesn't provide to other CLECs or Qwest retail customers (Qwest/37, Stewart/13), but she makes no attempt to support this claim. The word "potentially" is important because this means that Ms. Stewart can provide no concrete examples of Eschelon's language going beyond the FCC's requirements despite four specific functions listed in Eschelon's language.

³⁷¹ Eschelon/1, Starkey/152-154.

1 repeat those arguments here. Qwest provides or has provided these functions for
2 CLECs at cost-based rates, and Eschelon is only asking for certainty that Qwest
3 will continue to provide them at cost-based rates in the future (unless the ICA is
4 amended).³⁷² The examples of Qwest conduct provided by Eschelon illustrate the
5 business need for contractual certainty on this issue.

6 **Q. MS. STEWART CLAIMS THAT THE TERM “ADD TO” IS**
7 **“UNDEFINED,”³⁷³ EVEN THOUGH THIS TERM IS AGREED UPON**
8 **LANGUAGE IN SECTION 9.1.2. HAS MS. STEWART PROVIDED AN**
9 **EXAMPLE THAT SHEDS LIGHT ON THE PROBLEM WITH QWEST’S**
10 **POSITION?**

11 A. Yes. I also addressed Ms. Stewart’s similar claim that the terms “add to” and
12 “changing the UNE” are vague and could require Qwest to build new facilities in
13 my rebuttal testimony.³⁷⁴ At the hearing in Arizona, Ms. Stewart provided the
14 following example:

³⁷² Ms. Stewart claims that Eschelon’s language is not necessary to ensure nondiscriminatory access to UNEs. Qwest/37, Stewart/10-11. Yet, Qwest has made it very clear that it does not view these functions as related to “access” to UNEs under Section 251 of the Act. *See e.g.*, Qwest/37, Stewart/3. If Qwest disagrees that these functions are governed by Section 251, then obviously language is needed to make that obligation clear, or Qwest will impose its unilateral judgment (resulting in less “access” and higher, non-cost based rates). Ms. Stewart points to other language in the ICA that speaks to Qwest’s obligations to provide access to UNEs. Other sections may discuss Qwest’s obligations in this regard, but Eschelon’s proposed language in 9.1.2 makes clear that these activities are required as part of Qwest’s obligation to provide nondiscriminatory “access” to UNEs at cost-based rates. Based on Qwest’s view of these activities, just because they are mentioned in the ICA, does not mean that Qwest will provide (or continue to provide) nondiscriminatory access to them at cost-based rates, which is why Eschelon’s Section 9.1.2 is crucial. Eschelon has identified a business need and proposed language to address that need, and like the other sections of the ICA referenced by Ms. Stewart, that language is designed to spell out Qwest’s obligations regarding access to UNEs.

³⁷³ Qwest/37, Stewart/14.

³⁷⁴ *See* Eschelon/123, Starkey/106-107.

1 However, one of our concerns is this was so open-ended, and particularly
2 the e.g., meaning that this is an example, not the definitive list, that what if
3 what you asked for is we add to the UNE a private line? In that
4 commingled arrangement, the private line rates would apply. Therefore,
5 the applicable rate would be a private line rate.³⁷⁵

6 Ms. Stewart ignores Eschelon's proposed language for Section 9.1.2 which
7 specifically states that "Access to Unbundled Network Elements includes . . .
8 adding *to* . . . *the UNE*." Her example involves adding another product to an
9 order,³⁷⁶ not adding to the UNE for the purpose of accessing the UNE. If this
10 example involved adding to the UNE, the end result would be access to that UNE.
11 Ms. Stewart admits, however, that the result in her example would not be access
12 to a UNE but would be a "commingled arrangement."³⁷⁷

13 Ms. Stewart asks the question: "what if what you asked for is we add to the UNE
14 a private line?"³⁷⁸ Despite her repeated statements about ignoring agreed upon
15 language in the ICA,³⁷⁹ she does not look to the contract for the answer. If she
16 had, she would have found that Eschelon has already reasonably agreed to
17 language that clearly answers her question:

18 24.1.2.1 The UNE component(s) of any Commingled arrangement
19 is governed by the applicable terms of this Agreement. The other
20 component(s) of any Commingled arrangement is governed by the
21 terms of the alternative service arrangement pursuant to which that

³⁷⁵ Arizona arbitration, Transcript Vol. II (March 20, 2007), p. 199, lines 14-20.

³⁷⁶ Per Qwest's position on Issue 9-58, these two products could not even be ordered on the same service request.

³⁷⁷ Arizona arbitration, Transcript Vol. II (March 20, 2007), p. 199, line 18 (quoted above).

³⁷⁸ Arizona arbitration, Transcript Vol. II (March 20, 2007), p. 199, lines 16-17 (quoted above).

³⁷⁹ Qwest/37, Stewart/10-12

1 component is offered (e.g., Qwest’s applicable Tariffs, price lists,
2 catalogs, or commercial agreements).

3 This agreed upon language appears in Section 24 (“Commingling”). As with any
4 contract, the provisions of the contract must be read together, and the contract
5 must be interpreted to give effect to all of its provisions. There is no genuine
6 concern that a term Qwest claims is vague (despite using it in its own proposal)
7 will somehow change the operation of this clear closed language, which allows
8 Qwest to charge its private line tariff rate for the private line component of any
9 commingled arrangement.

10 **Q. MS. STEWART REFERS TO YOUR PREVIOUS TESTIMONY IN**
11 **HEARINGS THAT THE PHRASE MOVE, ADD TO, AND CHANGE**
12 **COULD POTENTIALLY INCLUDE THOUSANDS OF ACTIVITIES.³⁸⁰**
13 **WHAT IS YOUR BASIS FOR THAT TESTIMONY?**

14 A. I was only making the point that the general activities of moving, adding to, and
15 changing UNEs may include many “sub-activities” and even “sub-sub-activities”
16 that may be performed. I’ll provide examples of this below. Although Qwest
17 uses the same list of examples in its proposed language, Qwest has criticized
18 Eschelon’s alternative proposals because they provide examples rather than an
19 exhaustive list of moves, adds, changes.³⁸¹ If an exhaustive list were adopted in
20 ICA language, the language may build in an incentive for Qwest to separately

³⁸⁰ Qwest/37, Stewart/16 & Stewart/17, first line.

³⁸¹ Arizona arbitration, Transcript Vol. II (March 20, 2007), p. 199, lines 14-16 (Ms. Stewart) (“However, one of our concerns is this was so open-ended, and particularly the e.g., meaning that this is an example, not the definitive list. . .”).

1 identify one or more of those sub-activities or sub-sub-activities to circumvent the
2 use of TELRIC based costs when TELRIC rates apply.³⁸² By simply re-naming
3 an activity or referring to a sub-activity, Qwest could argue that it is not
4 encompassed in the exhaustive list.

5 As I said, many “sub-activities” and even “sub-sub-activities” may be performed
6 when accessing UNEs. For example, “Coordinated Installation Without Testing”
7 is a method of installation that Qwest offers for loops. In a pending cost case in
8 Minnesota, Qwest submitted a non-recurring cost (“NRC”) study for Loop
9 Coordinated Installation Without Testing that identifies 73 different steps that are

³⁸² During a time period when the Minnesota Commission had approved a single NRC for installations of a loop, Qwest suddenly stopped processing Eschelon’s orders (in Minnesota, Arizona, and Utah) for loop installations, even though Qwest had previously been processing those orders under the existing ICA. Qwest said that it had conducted a scrub on interconnect contracts over the weekend and found that Eschelon did not have coordinated loop installation options in its contract. When Eschelon escalated this extremely disruptive conduct, Qwest said that Eschelon would need to sign a contract amendment to add those options to its ICA. (Email from Cindy Buckmaster of Qwest to Eschelon, including Bonnie Johnson, dated Feb. 28, 2001.) The issue of whether the single loop installation rate approved at that time by the Minnesota commission included testing, coordination, etc. (*i.e.*, the activities Qwest later identified separately and for which it included a separate charge in its amendments) had been litigated previously, however, in Minnesota as part of the rate compliance filing. When making its compliance filing, Qwest argued that restrictions should be placed on the single loop installation rate, such as requesting that the rate be treated as a basic rate not including coordination, dispatch, and testing (see Qwest’s proposed compliance run in MN Docket No. P442, 5321, 3167, 466, 421/CI-96-1540). Qwest asked the Commission to adopt such restrictions. Eschelon (then Cady) filed opposing comments (Oct. 19, 1999). The Commission refused to adopt Qwest’s restrictions and instead adopted the single rate for all installation of loops. Despite the Commission’s ruling on this issue, Qwest unilaterally disrupted Eschelon’s ordering to attempt to force Eschelon to sign an amendment giving up its right to that single NRC and having to pay separate unapproved charges for multiple sub-activities. When Qwest later properly obtained rates (which were lower than those Qwest unilaterally attempted to impose when disrupting Eschelon’s ordering) for at least some of these separate activities through cost proceedings (instead of disrupting its orders), Eschelon paid the approved rates. There should be no incentive for use of the order disruption in the future. Under Qwest’s proposed language, however, Qwest will only provide access to moves, adds and changes at unspecified “applicable rates.” If a disagreement arises as to which rate is applicable, nothing in Qwest’s language states that Qwest will continue to perform the activity. The same old problem of Qwest demanding an unnecessary ICA amendment could arise, with Qwest refusing to perform the activity until Eschelon signs an amendment agreeing to Qwest’s rate. (With expedites, for example, Qwest requires an ICA amendment to obtain expedites at its tariff rate, even though the existing ICA provides for expedites, as explained by Mr. Denney regarding Issue 12-67.)

1 performed by eight different functional areas within Qwest when Qwest provides
2 coordinated installation of a loop without testing at that non-recurring charge.³⁸³

3 Supporting documentation provided by Qwest for its cost study lists other
4 activities that are included within many of these 73 steps. If each step and sub-
5 step identified for this and every other rate were added together, the total number
6 would quickly become a large number for activities involved in a relatively few
7 number of cost-based rates.

8 Another example is reflected in this Commission's order regarding loop
9 conditioning. Qwest and Verizon separately identified loop conditioning as a
10 charge in addition to the recurring loop charges. As further discussed by Mr.
11 Denney, the Commission found that "loop conditioning and other similar outside
12 plant rearrangement activities are included in the maintenance factors to develop
13 monthly recurring UNE rates."³⁸⁴ If each outside plant rearrangement activity
14 were separately identified, the total number of activities would quickly increase.
15 The larger number of activities does not mean that each one is not part of
16 accessing the UNE at cost-based rates.

17 Rather than attempt to list every conceivable activity, sub-activity, and sub-sub-
18 activity that Qwest might perform to provide Eschelon with access to UNEs,
19 Eschelon proposed terms, "move," "add to," and "change," that are generally-
20 accepted in the industry to describe Qwest's obligations in that regard. Qwest's

³⁸³ A copy of Qwest cost study is attached as part of Eschelon/138.

³⁸⁴ Eschelon/23, Denney/58-59 (Order No. 03-085, Docket No. UT 138/UT 139, pp. 14-15).

1 proposal, in contrast, because it does not include these activities within the
2 definition of access to UNEs, would allow Qwest to claim that an activity that it
3 has performed at a TELRIC rate as part of providing a loop is a “new product” for
4 which Eschelon must pay a tariffed rate.

5 **Q. WHEN THERE ARE POTENTIALLY MANY ACTIVITIES, HOW CAN**
6 **THE COMMISSION BE CONFIDENT THAT ALL OF THOSE**
7 **ACTIVITIES SHOULD BE SUBJECT TO TELRIC-BASED RATES?**

8 A. Eschelon’s language for Section 9.1.2 is limited in two important ways. First, that
9 language only applies to activities that Qwest performs in connection with
10 providing UNEs. Eschelon’s proposed language for Section 9.1.2 specifically
11 states that “Access to Unbundled Network Elements includes moving, adding to,
12 repairing and changing *the UNE*.” I discussed above the limiting nature of this
13 language in connection with Ms. Stewart’s commingling example. If Qwest
14 performs an activity in order to provide something that is not a UNE, such as a
15 private line service, Section 9.1.2 does not apply to such an activity.

16 Second, the language requires nondiscrimination. The activities are defined by
17 the activities which Qwest performs for itself and its end user customers. Ms.
18 Stewart complains that the activities may change over time or as technology
19 changes.³⁸⁵ The same is true, however, of the activities that Qwest performs for
20 itself and its retail customers. Qwest will be able to identify these activities as
21 changes occur, because they will also occur for Qwest and its retail customers.

³⁸⁵ Qwest/37, Stewart/16.

1 Q. QWEST AGAIN³⁸⁶ PROVIDES ITS COUNTERPROPOSAL FOR ISSUE 9-
2 31 IN ITS REBUTTAL TESTIMONY.³⁸⁷ IS THIS LANGUAGE
3 ACCEPTABLE TO ESCHELON?

4 A. No. I addressed the shortcomings of Qwest’s language in my direct testimony.³⁸⁸
5 Qwest’s counter-proposal contains the very same language [“moving, adding to,
6 repairing and changing the UNE (through *e.g.*, design changes, maintenance of
7 service including trouble isolation, additional dispatches, and cancellation of
8 orders)”]³⁸⁹ that Qwest criticizes in Eschelon’s proposal as being vague and
9 undefined.³⁹⁰ As indicated in her above-quoted testimony, Ms. Stewart has
10 acknowledged that Qwest’s proposed language holds open the option for Qwest to
11 charge retail tariff or other non-TELRIC rates. Here, she testifies that the Qwest
12 proposed language “eases” Qwest’s concerns.³⁹¹ Of course opening the door to
13 charging higher, non-TELRIC based rates would ease any alleged concern about
14 whether a list of examples is exclusive, if the longer the list, the more Qwest can
15 charge. A more disciplined approach, based on the law governing access to
16 UNEs, is needed for the language in this ICA provision relating to

³⁸⁶ Qwest/14, Stewart/14.

³⁸⁷ Qwest/37, Stewart/15.

³⁸⁸ Eschelon/1, Starkey/156-157.

³⁸⁹ Qwest/14, Stewart/14. At Qwest/37, Stewart/15, Ms. Stewart shows the phrase “moving, adding to, repairing and” underlined, which could suggest that this phrase is disputed. However, as shown in Ms. Stewart’s direct testimony (Qwest/14, Stewart/14, line 10), Qwest has agreed to this phrase. See Eschelon/123, Starkey/90, footnote 296.

³⁹⁰ Qwest/37, Stewart/13-14.

³⁹¹ Qwest/37, Stewart/15.

1 nondiscriminatory access to UNEs. The federal Act still requires access to UNEs
2 at TELRIC rates.³⁹²

3 **Q. MS. STEWART TAKES ISSUE WITH TWO EXAMPLES YOU**
4 **PROVIDED IN YOUR TESTIMONY.³⁹³ PLEASE RESPOND**
5 **REGARDING THE FIRST EXAMPLE.**

6 A. Ms. Stewart notes that Qwest withdrew its December 2005 CMP notice that
7 would have barred UNEs from being used to serve another CLEC, IXC or other
8 telecommunications provider, and is not imposing this limitation.³⁹⁴ She also
9 notes Qwest has not attempted to impose this limitation on Eschelon. Whether or
10 not Qwest ultimately withdrew this particular notice or not, this example shows
11 that absent clear and unambiguous language in the ICA about what
12 nondiscriminatory access is, Qwest can and will attempt to make this
13 determination for itself through CMP (or outside of CMP) after the arbitration is
14 over – at a time when Qwest rather than this Commission will decide the issue.
15 This example also shows that Qwest has no problem pursuing changes in CMP

³⁹² 47 U.S.C. § 252 (d)(1)(A)(i) & § 251(c)(3) (entitled “Unbundled Access”) (“nondiscriminatory **access to** network elements on an unbundled basis” must be provided “in accordance with . . . section 252”) (emphasis added). In the *Local Competition Order*, the FCC established the TELRIC methodology as the pricing methodology that state commissions must use to determine what are permissible cost-based rates. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 96-98, 95-185, First Report and Order, ¶¶679-89 (1996). The Supreme Court upheld this allocation of federal and state jurisdiction, *see AT&T Corp. v. Iowa Util. Bd.*, 525 U.S. 366, 377-86 (1999), and upheld the TELRIC pricing methodology, *see Verizon Communications v. FCC*, 535 U.S. 467 (2002). Issues presented for arbitration must be resolved in accordance with Sections 251 and 252 of the Act and the rules adopted by the FCC. *See* 47 U.S.C. §§251 and 252; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 13042 (1996) (“*First Report and Order*”); 47 C.F.R. § 51.5 *et seq.*

³⁹³ Qwest/37, Stewart/12-13.

³⁹⁴ Qwest/37, Stewart/12-13.

1 even when that change conflicts with the terms and conditions of an ICA, which
2 seriously undercuts Qwest's claim that terms and conditions in an ICA prevents
3 Qwest and other CMP participants from pursuing different terms and conditions
4 in CMP. And though Qwest withdrew this particular notice, without specific ICA
5 language, nothing prevents Qwest from pursuing this notice or a similar notice at
6 a later date in CMP, even though Eschelon has properly raised the issue in
7 arbitration and incurred the expense of arbitrating it to obtain a resolution in the
8 ICA.

9 **Q. PLEASE RESPOND TO MS. STEWART'S CRITICISM OF YOUR**
10 **SECOND EXAMPLE.**

11 A. Ms. Stewart also takes issue with the example I provided regarding Qwest's Level
12 3 CMP notice to restrict the availability of CFA changes to one on the day of a
13 cut.³⁹⁵ Ms. Stewart testifies that this change "did not deny access to any UNEs or
14 UNE activities," but was instead a "reasonable clarification by Qwest..."³⁹⁶
15 Qwest's CMP change over CLEC objection³⁹⁷ to limit CFA changes to one on the
16 day of the cut is clearly not a clarification of Qwest's CFA changes process. I
17 addressed this issue in my direct testimony,³⁹⁸ where I explained that this is a
18 change to Qwest's process. That this is a process change (and not just a
19 clarification) is supported by the fact that Qwest has provided multiple CFA

³⁹⁵ Eschelon/1, Starkey/148-149.

³⁹⁶ Qwest/37, Stewart/13.

³⁹⁷ Eschelon/129, discussed at Eschelon/123, Starkey/102.

³⁹⁸ Eschelon/1, Starkey/148-149.

1 changes on the day of the cut for four years, as well as the fact that one of the
2 examples used to illustrate the CFA change request included multiple CFA
3 changes.³⁹⁹ Ms. Stewart provides no support for her assertions that CLECs were
4 “abusing”⁴⁰⁰ the CFA change request process, or that multiple CFA changes are
5 the result of an inadequate CLEC CFA management system,⁴⁰¹ or that Qwest was
6 facing any risk of not completing other service orders due to multiple CFA
7 changes.⁴⁰² Ms. Stewart also erroneously suggests that CFA changes are
8 necessarily the CLEC’s fault.⁴⁰³ She states, for example, that the result would
9 “unfairly” affect “CLECs that provide correct, working CFAs,”⁴⁰⁴ as though
10 CLECs not providing correct, working CFAs caused all the CFA changes. In fact,
11 the problem may occur on Qwest’s side, as Ms. Johnson pointed out to Qwest in
12 CMP.⁴⁰⁵ Qwest nonetheless implemented this change over Eschelon’s objection
13 with no exception to the limitation of a single CFA change for when the problem
14 is on Qwest’s side.⁴⁰⁶ If the new CFA fails to work, Qwest will place the order in

³⁹⁹ Eschelon/1, Starkey/149.

⁴⁰⁰ Qwest/37, Stewart/13.

⁴⁰¹ Qwest/37, Stewart/13. Mr. Denney addresses Qwest’s assertions regarding CFA management quality control in his discussion of Design Changes. Eschelon/125, Denney/21-23.

⁴⁰² Qwest/37, Stewart/13.

⁴⁰³ Qwest/37, Stewart/13.

⁴⁰⁴ Qwest/37, Stewart/13.

⁴⁰⁵ Eschelon/27, Denney/34. Mr. Denney addresses Qwest’s claims that CFA changes are the CLEC’s fault in his testimony. See, Eschelon/125, Denney/21-23.

⁴⁰⁶ Eschelon/27, Denney/33. Qwest claimed in CMP that CLECs could request that Qwest perform additional testing to avoid this result and, if the problem is on Qwest’s side, “additional testing would not apply.” *Id.* The Qwest representative appears to be referring to charges for additional testing. If so, she is incorrect. Eschelon conducts its own testing so generally does not order additional testing, which is supposed to be optional. Qwest’s optional testing product is addressed in agreed upon language in Section 12.4.1.6. It provides that, regardless of which side the problem is on, optional testing charges apply. *Other charges*, such as maintenance of service charges, may

1 a customer jeopardy (“CNR”) status. No further action will be taken on Qwest’s
2 part until Qwest receives a valid supplemental request to change the Due Date and
3 the CFA (If applicable).⁴⁰⁷

4 This is an example demonstrating that Qwest can and does make significant
5 changes to the access to UNEs afforded CLECs through the CMP process – a
6 process over which Qwest has control⁴⁰⁸ – and, therefore, contract language is
7 needed to provide certainty regarding UNE access for the term of the contract
8 (unless amended). Eschelon’s ICA language provides the needed clarity on this
9 point. As indicated by the ALJs in Minnesota, “Qwest’s proposed language is in
10 fact more ambiguous than Eschelon’s, because it would leave unanswered the
11 question whether routine changes in the provision of a UNE would be priced at
12 TELRIC or at some other ‘applicable rate.’”⁴⁰⁹ If Qwest intends to charge
13 Eschelon non-TELRIC rates to access UNEs via these, or other, means (e.g.,
14 Additional Dispatches, Trouble Isolation, Design Changes, Cancellations,
15 Expedites, and Maintenance of Service), then it must request and gain approval

not apply when the trouble is on Qwest’s side, but optional testing charges will apply. See Section 12.4.1.5. Eschelon should not have to pay additional charges “so Qwest can find and fix their problems.” Eschelon/27, Denney/33. Regarding the optional testing product (which Qwest also implemented in CMP over CLEC objection), see Eschelon/80-83, Johnson.

⁴⁰⁷ Eschelon/27, Denney/20 (Qwest states: “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).”). Regarding CNR jeopardies and the three-day interval requirement for supplemental orders, see Ms. Johnson’s testimony regarding Issues 12-71 – 12-73.

⁴⁰⁸ See e.g., Eschelon/1, Starkey/45-46 and Eschelon/123, Starkey/52-53.

⁴⁰⁹ Eschelon/29 [MN Arbitrators’ Report, ¶131], as affirmed by the Minnesota PUC (Eschelon/30).

1 from the Commission to do so,⁴¹⁰ and terms and conditions to that effect must be
2 included in the companies' ICA. The Commission should not accept Qwest's
3 invitation to leave the issue unresolved, allowing Qwest to later implement its
4 view unilaterally using the ambiguity in its language to its own advantage.

5 **VII. SUBJECT MATTER NO. 16. NETWORK MAINTENANCE AND**
6 **MODERNIZATION**

7 *Issue Nos. 9-33 and 9-34: ICA Sections 9.1.9*

8 **Q. PLEASE SUMMARIZE THE NETWORK MAINTENANCE AND**
9 **MODERNIZATION ISSUES (ISSUES 9-33 – 9-34).**

10 A. These issues are summarized in my direct and rebuttal testimony.⁴¹¹ Issue 9-33
11 addresses whether minor changes in transmission parameters include changes that
12 adversely affect Eschelon's End User Customer's service (or are unacceptable
13 changes, as proposed in Eschelon's alternative proposal) on more than a
14 temporary or emergency basis [Issue 9-33] and Issue 9-34 addresses whether, in
15 situations when Qwest makes changes that are specific to an Eschelon End User
16 Customer, Qwest should include the circuit identification and Eschelon End User
17 Customer address information in the notice (or, in the alternative, circuit ID
18 information when that information is "readily available").

19 **Issue 9-33**

⁴¹⁰ Eschelon/29 [MN Arbitrators' Report, ¶134], as affirmed by the Minnesota PUC (Eschelon/30) ("Qwest should not be permitted to charge non-TELRIC rates for these activities without the express approval of the Commission.")

⁴¹¹ Eschelon/1, Starkey/160-162 and Eschelon/123, Starkey/108-111.

1 Q. IT APPEARS THAT QWEST'S PRIMARY COMPLAINT⁴¹² ABOUT
2 ESCHELON'S PROPOSAL ON ISSUE 9-33 IS THAT THE TERM
3 "ADVERSELY AFFECT" IS VAGUE AND NOT TIED TO INDUSTRY
4 STANDARDS.⁴¹³ IS QWEST'S REASONING FLAWED?

5 A. Yes. Ms. Stewart claims that there is no legitimate need for Eschelon's
6 "adversely affect" language because Qwest has already agreed that the changes
7 would be "minor" as well as within industry standards.⁴¹⁴ Because of this, Qwest
8 states that Eschelon should have no concern about whether Qwest's maintenance
9 and modernization activities would adversely affect Eschelon's customers.
10 However, if there was no concern in this regard, then Qwest should have no
11 problem with agreeing to either Eschelon's first proposal or Eschelon's alternative
12 proposal based on the Minnesota language ("unacceptable changes in the
13 transmission of voice or data"). Qwest appears to agree with my point⁴¹⁵ that
14 "minor" changes in transmission parameters should not adversely affect

⁴¹² Qwest also claims that Eschelon's language inappropriately focuses on the service quality experienced by Eschelon's End User Customers. Qwest/37, Stewart/19. Eschelon already addressed this issue in its direct testimony (Eschelon/1, Starkey/168) and rebuttal testimony (Eschelon/123, Starkey/115-116). I explained that the FCC rules contain the very same focus as contained in Eschelon's proposal (*i.e.*, "service quality perceived by the requesting telecommunications carrier's end-user customer.") 47 CFR § 51.316(b). Ms. Stewart also expresses concerns about Eschelon's use of the term "end user customer" at page 22 of her rebuttal testimony (Qwest/37, Stewart/22), which I already addressed at pages 120-121 of my rebuttal testimony (Eschelon/123, Starkey/120-121). The language adopted in Minnesota and offered here also refers to changes that result "in the CLEC's End User Customer experiencing unacceptable changes in the transmission of voice or data"). Changes in formerly working service that are unacceptable to Eschelon's customer are generally unacceptable to Eschelon. To the extent that Qwest criticizes the DOC language adopted in Minnesota because it is unclear to whom it must be unacceptable, Eschelon has no objection to adding "to CLEC" after "unacceptable" in proposal #2 [as has been done in closed language in Section 9.21.2.1.5 ("unacceptable to CLEC")].

⁴¹³ Qwest/37, Stewart/18-19.

⁴¹⁴ Qwest/37, Stewart/18.

⁴¹⁵ Eschelon/123, Starkey/109-110.

1 customers whose service is working fine.⁴¹⁶ And that being the case, Qwest
2 should have no objection to making that point clear in the ICA. Qwest's
3 objection to Eschelon's language suggests that Qwest believes that "minor"
4 changes can adversely affect Eschelon's End User Customers. Qwest's argument
5 that Eschelon should find assurance in this language⁴¹⁷ is circular because it
6 assumes that the companies agree on which changes are "minor" when Qwest's
7 opposition to Eschelon's language suggests that non-temporary, non-emergency
8 customer-impacting changes to formerly working service is "minor." Although
9 Qwest claims that Eschelon's language will lead to disputes, Qwest's language is
10 more likely to do so based on the known disagreement of the companies. Rather
11 than build a known dispute into the contract, the Commission should adopt
12 additional language providing that non-temporary, non-emergency customer-
13 impacting transmission parameter changes to working service are not minor.
14 Qwest claims that Eschelon's proposal "could have the undesirable effect of
15 discouraging Qwest from carrying out network maintenance and modernization
16 activities."⁴¹⁸ Labeling an unacceptable customer-impacting change to otherwise
17 working service as "network maintenance and modernization" should not make
18 that change acceptable or something to be encouraged. Eschelon's proposal for
19 Section 9.1.9 encourages proper network maintenance and modernization, allows
20 for minor changes to transmission parameters and even temporary service

⁴¹⁶ Qwest/37, Stewart/18.

⁴¹⁷ Qwest/37, Stewart/18.

⁴¹⁸ Qwest/37, Stewart/19.

1 interruption, and “merely commits Qwest to taking action to restore transmission
2 quality to that which existed before the network change.”⁴¹⁹

3 Eschelon is not arguing against the use of industry standards, and in fact, under
4 Eschelon’s proposal, industry standards would be met.⁴²⁰ Eschelon’s language
5 would require the circuit to be both within industry standards and, when it is, also
6 *to work*.⁴²¹ Again, Issue 9-33 addresses customers that have working service and
7 should not have that working service interrupted through Qwest’s network
8 maintenance and modernization activities that change transmission parameters –
9 activities that are by Qwest’s own admission supposed to be “minor.”

10 **Q. MS. STEWART REFERS TO THE “HYPOTHETICAL” AND**
11 **“EXAGGERATED”⁴²² NATURE OF YOUR CONCERNS RELATED TO**
12 **QWEST PUTTING ESCHELON’S CUSTOMERS OUT OF SERVICE**
13 **DURING MAINTENANCE OR MODERNIZATION ACTIVITIES.**
14 **WOULD YOU LIKE TO RESPOND?**

15 A. Yes. Ms. Stewart does not state that Qwest has never put Eschelon’s customers
16 out of service, rather she states that I did not identify any examples of this

⁴¹⁹ Eschelon/29, Denney/34 [MN Arbitrators’ Report ¶142].

⁴²⁰ See, e.g., closed Section 23 of the ICA (“Network Standards”). See also, ICA Sections 9.2.2.1, 9.2.6, 9.5.2, 9.6.4.5, 12.2.7.2 (“industry standard”).

⁴²¹ See dB level example, Eschelon/1, Starkey/171-174; Eschelon/86 (Johnson). In that example, Qwest argued that it met its obligations if the customer was *taken out of service* if the change in transmission standards was somewhere within a range allowed by industry standards, even if the customer’s service would have *worked* had Qwest used another setting also within the range allowed by industry standards. See Eschelon/1, Starkey/174. Regardless of whether any particular outage occurred from modernization activities in that particular example, Qwest revealed a problem with its interpretation of this language in that situation.

⁴²² Qwest/37, Stewart/18.

1 occurring and that she was personally not aware of any examples. In Ms.
2 Stewart's testimony, she poses the following question: "Has Qwest ever put an
3 Eschelon customer out of service because of network maintenance or
4 modernization activities?"⁴²³ However, she never answers this question with a
5 "yes" or "no." Notably, Qwest has not claimed that it has never put Eschelon's
6 (or other CLECs') customers out of service with its network maintenance and
7 modernization activities, and the dB loss example⁴²⁴ shows that if Qwest has not
8 already done so, the potential for Qwest doing so exists. The dB loss example
9 also shows that it may be very difficult for Eschelon to determine whether it is
10 Qwest's maintenance and modernization activities that cause service problems for
11 its customers.⁴²⁵ Eschelon's proposal is needed to make sure that any such
12 adverse effect does not happen going forward.

⁴²³ Qwest/37, Stewart/17.

⁴²⁴ Eschelon/1, Starkey/171-174 and Eschelon/86 (Johnson). Although Qwest may attempt to claim this example is limited to installation and not modernization activities, Qwest's own email shows this is not the case. See Email from Qwest – Senior Attorney (Joan Peterson) to Eschelon (including Ms. Johnson) dated 10/12/04. Eschelon/86, Johnson/1. Though the particular problems Eschelon brought to Qwest's attention at that time arose during installation, in the course of investigating the cause of this problem, Qwest revealed its *maintenance and modernization policy* to proactively reset dB level at a default of -7.5 during repairs. Qwest's admission in this email (which is quoted at Eschelon/1, Starkey/173) shows that Qwest instructed its technicians that, whenever performing work needed for repairs, they should also reset the dB level at -7.5 (not as part of a needed repair but rather as part of its modernization activities to move to a different default setting). It stands to reason, however, that if Eschelon had to obtain an adjustment in the dB level during installation to obtain an operational circuit, that a later action to return the dBs back to the former level during those modernization efforts would likely once again cause the circuit to become non-operational. Because Qwest provided no advance notice to Eschelon of the instruction that Qwest provided to its technicians in this regard, however, Eschelon would not have known, when troubles or repeat troubles occurred, that changes made per this instruction had been the cause.

⁴²⁵ Qwest only revealed its new policy related to dB settings after Eschelon brought examples of service problems to Qwest's attention.

1 **Q. MS. STEWART CHARACTERIZES YOUR DESCRIPTION OF THE DB**
2 **LOSS EXAMPLE AS “VAGUE”⁴²⁶ AND CLAIMS THAT THIS SINGLE**
3 **EXAMPLE “HARDLY JUSTIFIES THE CONCLUSION THAT**
4 **COMPLIANCE WITH INDUSTRY STANDARDS IS IRRELEVANT...”⁴²⁷**
5 **WOULD YOU LIKE TO RESPOND?**

6 A. Yes. Ms. Stewart’s testimony is inaccurate. With respect to Ms. Stewart’s claim
7 that my description of the dB loss example is “vague,” one only needs to review
8 my description of the dB loss example⁴²⁸ and the supporting documentation
9 Eschelon provided as Eschelon/86 to the direct testimony of Ms. Johnson, to
10 understand that there is no substance to Ms. Stewart’s complaint. For instance,
11 Eschelon dedicated multiple pages of testimony to describing this example,⁴²⁹
12 where Eschelon: (1) explained the Eschelon business issue behind the dB loss
13 example,⁴³⁰ (2) provided background information on the example,⁴³¹ (3) described
14 the applicable standard,⁴³² (4) explained the source of the problem,⁴³³ (5)
15 explained how Eschelon learned of Qwest’s network maintenance and

⁴²⁶ Qwest/37, Stewart/20.

⁴²⁷ Qwest/37, Stewart/20 (“According to Mr. Starkey, the fact that the circuits allegedly were non-working, even though they met industry standards for db loss, demonstrates that industry standards are of limited utility in measuring performance. This claim ignores the long-standing importance of industry standards for establishing performance and quality expectations and for measuring performance.”)

⁴²⁸ Eschelon/1, Starkey/171-174.

⁴²⁹ Eschelon/1, Starkey/171-174.

⁴³⁰ Eschelon/1, Starkey/171, lines 6-11.

⁴³¹ Eschelon/1, Starkey/171-174.

⁴³² Eschelon/1, Starkey/171, lines 16-17 and footnote 284.

⁴³³ Eschelon/1, Starkey/173.

1 modernization policy to reset dB settings,⁴³⁴ (6) quoted directly from a Qwest
2 email for the source of the network maintenance and modernization policy,⁴³⁵ and
3 (7) explained why the dB loss example supports Eschelon's proposal.⁴³⁶ In
4 addition, Eschelon provided a ten page exhibit (Eschelon/86) consisting of emails
5 and a letter between Qwest and Eschelon addressing the dB loss problem. These
6 are accurate and correct copies of the correspondence, and they show that the
7 description and quotes related to the dB loss example in my testimony are
8 accurate. Furthermore, Eschelon provided the facts of this example to Qwest in
9 ICA negotiations. I don't know what else Eschelon could have provided to clear
10 this issue up for Ms. Stewart, and she does not point to any information that
11 Eschelon omitted from its testimony and exhibits related to the dB loss example.
12 The bottom line is that this example shows that Qwest will defend a non-working
13 circuit as being acceptable, within transmission limits, and meeting the ICA, even
14 when the circuit does not work – when another setting also within industry
15 standard would both meet the standard and work.

16 **Q. DID YOU CONCLUDE THAT COMPLIANCE WITH INDUSTRY**
17 **STANDARDS IS “IRRELEVANT” OR OF “LIMITED UTILITY,” AS MS.**
18 **STEWART CLAIMS?⁴³⁷**

⁴³⁴ Eschelon/1, Starkey/172-173.

⁴³⁵ Eschelon/1, Starkey/173, citing Qwest email to Eschelon 10/21/04. *See also* Eschelon/86, Johnson/1.

⁴³⁶ Eschelon/1, Starkey/174.

⁴³⁷ Qwest/37, Stewart/20.

1 A. No. My conclusion is that Qwest should provide circuits to Eschelon that are
2 both within industry standards *and* work,⁴³⁸ and the ICA should recognize this
3 point. Obviously, industry standards are important – primarily because they result
4 in working service to customers – and Eschelon is neither attempting to ignore
5 those standards,⁴³⁹ nor asking Qwest to provide service outside of those
6 standards.⁴⁴⁰

7 In the dB loss example, the applicable industry standard was a range of between -
8 16.5 and 0,⁴⁴¹ not a specific number (-7.5, for example) – because service will
9 work somewhere within that range, but, based on certain factors, may not work at
10 all points within that range.⁴⁴² It was Qwest’s network maintenance and
11 modernization policy⁴⁴³ that pegged the number at -7.5 to move “the network over
12 time to a default setting of -7.5.”⁴⁴⁴ However, the -7.5 default selected by Qwest
13 is not the industry standard, and it results in loops not working in some instances.
14 Therefore, it was Qwest who was ignoring the industry standard range through its
15 network maintenance and modernization policy.

⁴³⁸ Eschelon/1, Starkey/174. The point is that the circuit should both meet industry standards and work.

⁴³⁹ See, e.g., closed Section 23 of the ICA (“Network Standards”). See also, ICA Sections 9.2.2.1, 9.2.6, 9.5.2, 9.6.4.5, 12.2.7.2 (“industry standard”).

⁴⁴⁰ Eschelon/1, Starkey/175.

⁴⁴¹ Eschelon/1, Starkey/171 and footnote 284.

⁴⁴² Eschelon/1, Starkey/171-172.

⁴⁴³ Eschelon addressed Ms. Stewart’s claim that this is an installation issue and not a network maintenance and modernization issue (Qwest/37, Stewart/20). See Eschelon/1, Starkey/172-173.

⁴⁴⁴ Eschelon/1, Starkey/173, lines 6-7, citing Qwest email to Eschelon 10/21/04. See also Eschelon/86, Johnson/1.

1 Q. YOU STATE THAT ESCHELON’S PROPOSAL #2 FOR ISSUE 9-33 IS
2 BASED ON THE MINNESOTA DOC’S PROPOSAL THAT WAS
3 ADOPTED BY THE MINNESOTA COMMISSION – A
4 RECOMMENDATION THAT MS. STEWART HAS CHARACTERIZED
5 IN HER REBUTTAL TESTIMONY AS “VAGUE.”⁴⁴⁵ WOULD YOU LIKE
6 TO RESPOND?

7 A. Yes. As explained in my direct testimony, the Minnesota Commission adopted
8 this language for Issue 9-33 and rejected the same concerns Ms. Stewart has
9 raised here.⁴⁴⁶ Qwest has proposed no substitute for either “adversely affect” or
10 “unacceptable changes” that it would accept. It simply criticizes the terms as
11 being undefined, even though many terms in the contract⁴⁴⁷ – including these
12 same words⁴⁴⁸ – are used in the contract without separate definitions. It is easier
13 to advocate silence than offer a workable solution. Silence, however, does
14 nothing to address the business need to ensure Oregon customers continue
15 receiving working service within industry standards. The ICA needs to articulate
16 a standard on this issue and, if a dispute later occurs with respect to the meaning
17 of that standard, the dispute resolution provisions of the ICA are available to

⁴⁴⁵ Qwest/37, Stewart/21.

⁴⁴⁶ Eschelon/1, Starkey/165 and Eschelon/30, Denney/22 [MN PUC Arbitration Order, p. 22, ¶1].

⁴⁴⁷ See, e.g., closed language in ICA Section 9.2.2.1 (“Unbundled Loops shall be provisioned in accordance with Exhibit C and the performance metrics set forth in Section 20 and with a *minimum of service disruption*”) (emphasis added).

⁴⁴⁸ See closed language in ICA Section 9.21.2.1.5 (“If CLEC requests conditioning and such conditioning significantly degrades the voice services on the Loop to the point that it is *unacceptable* to CLEC, CLEC shall pay the conditioning rate set forth in Exhibit A to recondition the Loop.”) (emphasis added); ICA Section 10.2.4.2 (“Qwest queries shall not *adversely affect* the quality of service to CLEC’s Customers or End User Customers as compared to the service Qwest provides its own Customers and End User Customers”) (emphasis added).

1 obtain further definition, just as they are available for other terms used in the
2 contract without separate definitions. Eschelon has offered several ways to
3 resolve these issues, but nothing – not even a solution acceptable to the DOC
4 staff, ALJs, and commission in Minnesota – satisfies Qwest.

5 **Q. MS. STEWART DISCUSSES AN EXAMPLE OF AN AREA CODE SPLIT**
6 **AND HYPOTHESIZES ABOUT THE EFFECT THAT ESCHELON’S**
7 **PROPOSED “UNACCEPTABLE CHANGE” LANGUAGE FOR ISSUE 9-**
8 **33 COULD HAVE. IS MS. STEWART’S EXAMPLE ON POINT?**

9 A. No. Ms. Stewart’s example is based on a flawed premise. For instance, Ms.
10 Stewart testifies: “For example, what if an area code split discussed below is an
11 ‘unacceptable change’ for an end user customer?”⁴⁴⁹ Then, Ms. Stewart goes on
12 to describe problems that Qwest would allegedly experience because of
13 Eschelon’s language if the area code split is an “unacceptable change.”⁴⁵⁰
14 However, this is another example in which Qwest ignores Eschelon’s proposed
15 ICA language. First of all, an area code split is not governed by the language in
16 dispute under Issue 9-33, and therefore, the question Ms. Stewart poses (quoted
17 above) does not apply here. Eschelon’s proposal #2 states in part that “If such
18 changes result in the CLEC’s End User Customer experiencing unacceptable
19 changes in the transmission of voice or data...” (emphasis added) The “such
20 changes” referred to in Eschelon’s Proposal #2 refers to “minor changes to
21 transmission parameters” referred to in closed language in the previous sentence

⁴⁴⁹ Qwest/37, Stewart/21, 2nd full paragraph, first sentence.

⁴⁵⁰ Qwest/37, Stewart/21-22.

1 of 9.1.9. Also, closed language in 9.1.9 states that “Changes that affect network
2 interoperability include changes to local dialing from seven (7) to ten (10) digit,
3 area code splits, and new area code implementation.” Since the changes
4 referenced in Eschelon’s proposed language for Issue 9-33 are “minor changes to
5 transmission parameters,” and because area code splits are not minor changes to
6 transmission parameters (but are instead “changes that affect network
7 interoperability”), Ms. Stewart’s area code split example is not applicable to
8 Eschelon’s proposed language for Issue 9-33.

9 Ms. Stewart’s concern about providing a list of customers affected by area code
10 splits to Eschelon (presumably in response to Eschelon’s proposal for Issue 9-34)
11 is similarly flawed. Eschelon’s proposal for Issue 9-34 applies to changes that
12 “are specific to a CLEC End User Customer,” and an area code split is not a
13 change that is specific to a CLEC End User Customer.⁴⁵¹ As a result, an area
14 code split is not applicable to the narrow situation accounted for in Eschelon’s
15 proposal for Issue 9-34.

16 **Issue 9-34**

17 **Q. MS. STEWART STATES THAT “LOCATION” REFERRED TO BY THE**
18 **FCC IN RULE 51.327 MEANS THE PLACE IN THE NETWORK WHERE**
19 **THE CHANGE WILL TAKE PLACE RATHER THAN THE**
20 **CUSTOMER’S PREMISES.⁴⁵² DO YOU READ RULE 51.327 THE SAME**

⁴⁵¹ Eschelon/1, Starkey/181.

⁴⁵² Qwest/37, Stewart/24.

1 **WAY?**

2 A. No. There are at least two points to be made here. First of all, Eschelon’s
3 language only requires Circuit ID (and, for proposal #1, customer address
4 information) when the change is “specific to a CLEC End User Customer.” As a
5 result, the location at which the change takes place should identify the location of
6 the Eschelon End User Customer to be affected. If a change is not specific to an
7 Eschelon End User Customer, as in the case of a dialing plan change for example,
8 the circuit ID and customer address information would not be needed to determine
9 the “location” at which the changes are taking place, and would not be required
10 under Eschelon’s proposal. Ms. Stewart also raises the issue of an area code split
11 which, as Eschelon already explained, is a red herring and not a change “specific
12 to an Eschelon End User Customer” that would be covered under Issue 9-34.⁴⁵³
13 Ms. Stewart ignores that Eschelon’s requirement would only apply in narrow
14 circumstances. As with the terms “adversely affect” and “unacceptable changes”
15 in Issue 9-33, Qwest merely advocates silence (*i.e.*, deletion) instead of offering
16 any constructive alternative language in lieu of “specific to an Eschelon End User
17 Customer” to address the business need in Issue 9-34. Eschelon’s previous
18 proposal did not include this phrase, but Eschelon offered it specifically in
19 response to Qwest’s claim that the request for circuit ID information was
20 otherwise overbroad and burdensome. Eschelon then again modified its proposal
21 to offer in its proposal #2 the Minnesota DOC’s further narrowing of the language
22 by deleting the reference to customer address and inserting “if readily available”

⁴⁵³ Eschelon/123, Starkey/122. *See also* Eschelon/1, Starkey/181.

1 in this clause. Eschelon’s modest proposal should be adopted to help ensure that
2 Eschelon customers in Oregon with working service that may be adversely
3 impacted by a Qwest network change may have their service restored as quickly
4 as possible because Eschelon will have the information necessary to identify the
5 cause of the problem to get it corrected.

6 Second, FCC Rule 51.327 is not meant to be all-inclusive (“Public notice of
7 planned network changes must, at a minimum, include...”).⁴⁵⁴ As indicated by
8 the Minnesota ALJs: “The FCC rules do not set out ‘maximum’ requirements
9 that cannot be surpassed.”⁴⁵⁵ Therefore, just because Rule 51.327 does not
10 expressly say that change notices that are specific to an End User Customer must
11 include Circuit ID and customer address information, this does not mean that
12 Qwest should not provide it. The FCC obviously included the words “at a
13 minimum” to allow supplementing the information to be required for these
14 notices. And I have already shown that requiring this information in these narrow
15 circumstances gives meaning to the FCC’s rules.⁴⁵⁶ So, contrary to Ms. Stewart’s
16 suggestion,⁴⁵⁷ I am not reading anything into the FCC’s rule that is not there.

17 **Q. MS. STEWART NOTES THAT THE COMMISSION HAS FOUND**
18 **QWEST’S NOTICES TO COMPLY WITH THE FCC’S RULES IN A**

⁴⁵⁴ Eschelon/1, Starkey/176.

⁴⁵⁵ Eschelon/29, Denney/36-37 [MN Arbitrators Report ¶153].

⁴⁵⁶ Eschelon/1, Starkey/176-177.

⁴⁵⁷ Qwest/37, Stewart/24.

1 **RECENT COVAD ARBITRATION.⁴⁵⁸ SHOULD THAT RULING GUIDE**
2 **THE COMMISSION’S DECISION ON ISSUE 9-34?**

3 A. No, that decision applies to copper retirement situations, and copper retirement
4 has been carved out of Eschelon’s proposal and is addressed elsewhere in the
5 ICA. *See* Section 9.2.1.2.3.

6 In addition, Qwest provides the requested information to itself (as demonstrated
7 by Eschelon/4), and should, therefore, provide it to Eschelon. It is readily
8 available in such situations. Qwest does not explain whether the Commission had
9 this information in the record in the Covad case.⁴⁵⁹ In any event, the
10 Commission’s decision in the Covad case relates to copper retirement, which is
11 not addressed under Issue 9-34 and is addressed in another section of the ICA.

12 **Q. MS. STEWART CLAIMS THAT ESCHELON’S PROPOSAL WOULD**
13 **“FORCE QWEST TO RESEARCH THIS INFORMATION – WHICH**
14 **WOULD HAVE TO BE DONE MANUALLY...”⁴⁶⁰ IS MS. STEWART’S**
15 **CLAIM SUPPORTED BY THE RECORD?**

16 A. No. I provided Eschelon/4, which shows that Qwest already collects this
17 information (both circuit ID and customer address information) for CLEC circuits
18 that are impacted by network changes. This means that Eschelon’s proposal
19 would not require any work of Qwest because Qwest is already collecting the

⁴⁵⁸ Qwest/37, Stewart/23 & 25.

⁴⁵⁹ As indicated in Eschelon/4, Starkey/3, Eschelon only received this information because Qwest provided it in error.

⁴⁶⁰ Qwest/37, Stewart/24.

1 information. Qwest would only need to share this information with Eschelon – as
2 it did (apparently in error)⁴⁶¹ in the case of Eschelon/4.⁴⁶² The Minnesota
3 Arbitrators’ Report found that “if this information is readily available, Qwest
4 should provide it.”⁴⁶³ Eschelon/4 shows that this information is readily available
5 to Qwest, so Qwest should provide it to Eschelon. Eschelon’s proposal #2, based
6 on the language adopted in Minnesota, specifically provides that Qwest will
7 provide “circuit identification, if readily available.”⁴⁶⁴ Although Qwest may
8 argue that Eschelon’s proposal shifts the burden of determining circuit IDs from
9 Eschelon to Qwest,⁴⁶⁵ the language in Eschelon proposal #2 indicates, this
10 information would be provided “if readily available.” If the information is readily
11 available, as Eschelon/4 indicates, then there is no burden being imposed on
12 Qwest – rather it’s a matter of passing this information along to Eschelon.

13 **VIII. 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. ISSUES 9-43 AND 9-44 AND SUBPARTS RELATE TO CONVERSIONS**
17 **FROM UNES TO ALTERNATIVE/ANALOGOUS SERVICES DUE TO A**

⁴⁶¹ Eschelon/4, Starkey/3.

⁴⁶² Eschelon/1, Starkey/180, citing Section 251 of the Act and 47 CFR § 51.313(b).

⁴⁶³ Eschelon/29, Denney/36-37 [MN Arbitrators’ Report, ¶153].

⁴⁶⁴ The term “readily available” is another term that Qwest has criticized as being undefined, but it is already used in closed language in the ICA without separate definition. *See* ICA Section 12.4.0 (“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*.”) (emphasis added).

⁴⁶⁵ *See, e.g.,* Stewart Arizona Rebuttal Testimony (ACC Docket Nos. T-03406A-06-0572/T-01051B-06-0572, 2/9/07), p. 28, lines 12-14.

1 **FINDING OF NON-IMPAIRMENT. SHOULD THESE CONVERSIONS**
2 **INVOLVE PHYSICAL WORK THAT COULD NEGATIVELY AFFECT**
3 **ESCHELON’S BUSINESS AND END USER CUSTOMERS?**

4 A. No. According to the FCC’s rules and orders, conversions should be “seamless”
5 to the End User Customer, should amount to largely a billing function, and
6 should, therefore, not negatively affect Eschelon’s business or the service quality
7 perceived by Eschelon’s End User Customers. However, Qwest ignores the
8 FCC’s decisions on conversions, and instead asks the Commission to exclude
9 language from the ICA on conversions so that Qwest can impose its onerous and
10 potentially service-affecting APOT “procedure” for conversions that Qwest
11 developed unilaterally outside of negotiation/arbitration and outside of CMP.
12 Qwest’s non-proposal should be rejected.

13 Rather, the ICA language should preserve the FCC’s conclusions regarding
14 conversions, and should ensure that service quality to Eschelon’s End User
15 Customers is not disrupted – especially since a “conversion” should be a simple
16 records change and Qwest’s customers do not face any risk associated with
17 conversions. Eschelon’s proposal for Issues 9-43 and 9-44 and subparts
18 accomplishes this objective by keeping circuit IDs assigned to the facility the
19 same during conversions (Issue 9-43)⁴⁶⁶ and identifying a conversion as a billing

⁴⁶⁶ In its interstate access tariff, Qwest distinguishes an administrative change (“the change is administrative only in nature”) from a change that “involves actual physical change to the service.” See Qwest Tariff F.C.C. No. 1, Section 7.1.1.A.2.c.3, Original Page 7-22. Qwest states that “Change of customer circuit identification” is an “administrative change.” *Id.* at Original Page 7-23. Qwest does not identify circuit ID changes with the other changes requiring actual physical change

1 records change, just as the FCC has referred to it (Issues 9-44 and subparts). In
2 addition to discussing these issues in my previous testimony,⁴⁶⁷ I also discuss
3 aspects of this issue in the Secret TRRO PCAT example.

4 **Q. MS. MILLION TESTIFIES THAT THE OREGON COMMISSION**
5 **DISAGREED WITH ESCHELON'S POSITION ON CONVERSION**
6 **CHARGES. WHERE IS THIS ISSUE ADDRESSED IN ESCHELON'S**
7 **TESTIMONY?**

8 A. Mr. Denney responds to Ms. Million's claims regarding conversion charges in his
9 testimony regarding Issue 9-40 (NRCs for Conversion). Issues 9-43 and 9-44
10 relate to the *manner* of conversion (whether the circuit ID changes, re-pricing,

to the service. *Id.* at Original Pages 7-23 – 7-24. The interstate access tariff provides that circuit ID changes will be made at no charge to the Qwest retail customer. *Id.* at Original Pages 7-22 – 7-23.

⁴⁶⁷ Eschelon/1, Starkey/182-207 and Eschelon/123, Starkey/123-133. Ms. Million testifies that the repricing for QPP is different than repricing facilities that were UNEs prior to a conversion. Qwest/39, Million/15-16. I addressed this argument at Eschelon/123, Starkey/131-132. The fact of the matter is that in the QPP scenario, Qwest is no longer required to provide UNE-P at TELRIC rates and has effectuated this regulatory change through a price change via USOCs to bill the difference between the UNE rates associated with UNE-P to new non-UNE rates associated with QPP. This is the same thing that is occurring in a conversion – that is, if Qwest is no longer required to provide a UNE loop at TELRIC rates (because of a finding of non-impairment), a price change must be effectuated to change from the non-UNE rates associated with the UNE loop to non-UNE rates associated with the alternative/analogous service. According to Ms. Million's account, Qwest chose to "voluntarily" create a new product QPP in order to effectuate the regulatory change associated with UNE-P, which allowed these price changes to take place via USOCs (Qwest/39, Million/15). This "voluntary" decision was made without any FCC rules or orders requiring Qwest to create the QPP product. However, when it comes to conversions, Qwest ignores clear FCC rules and orders requiring conversions to be effectuated via price changes, and instead of working with CLECs to convert circuits found to be non-impaired (as Qwest claims it did in the case of UNE-P/QPP) in a seamless fashion, attempts to make conversions manually-intensive and costly. Even if Qwest experienced difficulty in the past keeping circuit IDs the same during conversions (Qwest/39, Million/12), this does not justify Qwest ignoring the FCC's rules and orders that require conversions to be performed in a seamless manner via largely a billing change. The fact that Qwest has effectuated price changes for QPP via USOCs and the fact that Qwest actually performed conversions in the past without changing circuit IDs shows that Qwest can, in fact, convert circuits without changing circuit IDs, but has simply chosen not to, opting instead to unilaterally create a conversion "procedure" outside of ICA negotiation/arbitration and outside of CMP that does not comply with the FCC's rules.

1 use of adder or surcharge, use of USOC and use of same USOC).⁴⁶⁸ As reflected
2 in Eschelon's proposed language for Issue 9-40 and described by Mr. Denney,
3 Eschelon has agreed to pay "a non-recurring charge, if any, in the amount
4 established by the Commission in the Wire Center Docket."⁴⁶⁹ There is no
5 exception in Eschelon's proposed language for Issue 9-40 in the event that either
6 Eschelon's language is adopted and the manner of conversion is a re-pricing or
7 Qwest's proposal is adopted and the manner of conversion is not a re-pricing. In
8 either case, Eschelon will pay a non-recurring charge for the conversion if such a
9 charge is established by the Commission, as discussed with respect to Issue 9-40.

10 **Q. MS. MILLION STATES THAT "THE PROCESS THAT QWEST HAS**
11 **ESTABLISHED FOR CONVERTING UNE CIRCUITS TO PRIVATE**
12 **LINES IS SPECIFICALLY DESIGNED TO ENSURE THAT THE**
13 **CONVERSION IS TRANSPARENT TO BOTH THE END-USER**
14 **CUSTOMER AND THE CLEC..."⁴⁷⁰ AND THAT "THIS PARTICULAR**
15 **PROCESS COMES WITH A COST."⁴⁷¹ DO YOU HAVE CONCERNS**
16 **WITH HER TESTIMONY ON THIS POINT?**

17 **A.** Yes. It is important to point out that Ms. Million acknowledges that the process
18 she is referring to for conversions (*i.e.*, the APOTs procedure)⁴⁷² was established

⁴⁶⁸ Eschelon/3, Starkey/5 (Issues by Subject Matter List).

⁴⁶⁹ Eschelon's proposed language for Section 9.1.14.6; see Mr. Denney's testimony regarding Issue 9-40 (NRCs for Conversion).

⁴⁷⁰ Qwest/39, Million/8, lines 23-25.

⁴⁷¹ Qwest/39, Million/9, line 5.

⁴⁷² Eschelon/1, Starkey/183-189.

1 by Qwest – and as a result, neither CLECs nor the Commission had any input into
2 its development. In fact, Qwest refused to negotiate this issue with Eschelon,
3 instead telling Eschelon that this should be addressed in CMP despite the fact that
4 Qwest was not using CMP to establish the process.⁴⁷³

5 In addition, Ms. Million’s claim that Qwest established a conversion procedure –
6 one that by Ms. Million’s own admission “interjects manual processes” and
7 “comes with a cost” – so that conversions would be transparent to CLECs and
8 their customers does not make sense.⁴⁷⁴ Interjecting manual processes and
9 increasing costs for conversions (not to mention the “freeze” on the facilities
10 required by Qwest’s APOT procedure)⁴⁷⁵ is not indicative of an attempt to make
11 conversions transparent, as Ms. Million claims and as the FCC’s rules require.
12 Then, Ms. Million adds insult to injury by claiming that the conversion procedure
13 unilaterally established by Qwest “comes with a cost.” Following Ms. Million’s
14 reasoning, Qwest should be allowed to set the rules regarding conversions
15 (despite FCC rules to the contrary) and then CLECs should be required to fork

⁴⁷³ Eschelon/1, Starkey/188, footnote 302, citing email from Kathleen Salverda (Qwest), dated 9/6/06. Qwest’s refusal to negotiate this issue flies in the face of the FCC’s *TRO*, which states that “as contemplated by the Act, individual carriers will have the opportunity to negotiate specific terms and conditions necessary to translate our rules into the commercial environment, and to resolve disputes over any new contract language arising from differing interpretations of our rules.” Eschelon/1, Starkey/191, citing *TRO*, ¶ 7.

⁴⁷⁴ I responded to Ms. Million’s claim that Qwest has performed more than 1,000 conversions without complaints at Eschelon/123, Starkey/130, footnote 396 of my rebuttal testimony. Ms. Million states that this number is 1400 conversions in her rebuttal testimony. Qwest/39, Million/9, line 2. Regardless of the number of conversions performed, my response to Qwest’s arguments remain the same. I also responded to Ms. Million’s testimony about the *TRRO* transition period (Qwest/39, Million/13-14) at pages 132-133 of my rebuttal testimony (Eschelon/123, Starkey/132-133).

⁴⁷⁵ Eschelon/1, Starkey/86 & 185-186.

1 over a blank check to cover the costs that Qwest imposes on CLECs through this
2 procedure.

3 **Q. MS. MILLION STATES THAT CONVERSIONS SHOULD BE**
4 **ADDRESSED IN A SEPARATE COST PROCEEDING.⁴⁷⁶ WOULD YOU**
5 **LIKE TO COMMENT?**

6 A. Yes. I find it ironic that Ms. Million would now advocate that the Commission
7 punt this issue to another Commission docket when it is Qwest who has
8 developed a conversion “procedure” on its own outside of a Commission docket,
9 outside of ICA negotiations, and outside of CMP -- a procedure that Qwest is now
10 calling its “existing product”⁴⁷⁷ for conversions. This is also inconsistent with
11 Qwest’s prior statement that this is “best managed through CMP.”⁴⁷⁸ Now that
12 Qwest has developed this “existing product” without input from the Commission
13 or CLECs, and Eschelon has expended the money and resources to arbitrate the
14 issue in this case, Qwest now appears willing to address conversions in a
15 Commission proceeding (just not this Commission proceeding), and will
16 undoubtedly argue that any changes to this “existing product” will cause costs and
17 be too time-consuming. In fact, Ms. Million already claims in this proceeding
18 that changes to Qwest’s “existing product” which is developed outside of CMP,
19 outside of ICA negotiations, and outside the oversight of state commissions and
20 without CLEC input would be too costly. Ms. Million testifies: “It would be

⁴⁷⁶ Qwest/39, Million/8.

⁴⁷⁷ Qwest/39, Million/10, line 16. *See also* Million Colorado Rebuttal Testimony (06B-497T, 3/26/07), p. 8, line 9.

⁴⁷⁸ Eschelon/1, Starkey/188, footnote 302, citing email from Kathleen Salverda (Qwest), dated 9/6/06.

1 grossly inefficient, expensive and wasteful for Qwest to have to create another
2 product specifically for CLECs and to establish yet another method of tracking
3 this new product in its systems when it already has an existing product, as well as
4 the systems and methods to track it in place.”⁴⁷⁹ However, Qwest should not have
5 developed what it calls its “existing product” unilaterally in the first place,⁴⁸⁰
6 especially when that product conflicts with the FCC’s rules and orders on
7 conversions. Punting this issue to another commission docket, as Qwest
8 recommends, would only give Qwest another opportunity to reiterate its
9 objections to changing its unilaterally-established “existing product” – after
10 Eschelon has expended the time and resources to raise this issue in this
11 arbitration. Accordingly, contrary to Qwest’s suggestion, the Commission should
12 resolve this issue in this proceeding.

13 **IX. SUBJECT MATTER NO. 24. LOOP-TRANSPORT COMBINATIONS**

14 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;
15 9.23.4.5.4

16 **Q. PLEASE SUMMARIZE ISSUE 9-55 RELATING TO LOOP TRANSPORT**
17 **COMBINATIONS.**

18 A. At least one component of a Loop Transport Combination is a UNE, and as a
19 result, Loop Transport Combinations should be referenced in Section 9 of the ICA
20 (UNEs). This is important so that the ICA recognizes that the UNE component of

⁴⁷⁹ Qwest/39, Million/10, lines 13-17.

⁴⁸⁰ Eschelon/123, Starkey/29 and 130-131.

1 the Loop Transport Combination is governed by the ICA (and Section 9 of the
2 ICA) even when that UNE is commingled with a non-UNE component. At the
3 same time, the ICA is very clear about how non-UNE components of a Loop
4 Transport combination are to be treated. To this end, Eschelon proposes to define
5 the term Loop-Transport Combinations in the ICA and refer to Loop Transport
6 Combinations in Section 9 (UNEs). This proposed umbrella definition is in
7 addition to the individual definitions also included in Section 9.23.4 of the ICA, in
8 closed language,⁴⁸¹ for “EEL,” “Commingled EEL,” and “High Capacity EEL.”
9 Eschelon’s agreement to, and use of, these individual terms in the ICA shows that
10 Ms. Stewart’s claim that Eschelon is attempting to “eliminate the distinctions
11 between the product offerings and commingled arrangement”⁴⁸² is untrue.
12 Eschelon has committed to those distinctions in the ICA itself.

13 In Eschelon’s proposal, the umbrella term is used when the different combinations
14 are referenced collectively, and the individual terms are used when a specific type
15 of Loop Transport Combination is intended. Just as the FCC has used these
16 individual terms when referring to a specific combination and the umbrella term
17 when referring to more than one, therefore, so does Eschelon in its language.⁴⁸³

18 Qwest has not indicated that any one of these terms is used incorrectly in the ICA

⁴⁸¹ The only open issue in these definitions is the capitalization of Loop Transport Combination. As Eschelon’s proposal contains a definition for Loop Transport Combination in Section 9.23.4, the term would then be capitalized in later references.

⁴⁸² Qwest/37, Stewart/33.

⁴⁸³ TRO, ¶¶575 & 576.

1 to refer to the wrong combination.⁴⁸⁴ Instead, Qwest proposes to exclude these
2 references from the ICA and limit references in Section 9 to only one type of
3 Loop Transport Combinations – EELs. A problem with Qwest’s less clear
4 proposal is that it raises the question of how UNEs in a commingled Loop
5 Transport Combination are to be treated and leaves the door open for Qwest to
6 subject these UNEs to terms and conditions of its tariffs. At some point, the
7 products need to be discussed together, to know how each one operates and is
8 differentiated from the other, and Eschelon’s proposal does that in the most clear
9 and efficient manner.

10 Another problem with Qwest’s proposal is that it simply does not reflect the
11 manner in which closed language in the ICA is already organized. The Service
12 Eligibility Criteria in Section 9 (“UNEs”), for example, apply to both UNE EELs
13 and Commingled EELs.⁴⁸⁵ Qwest’s claim that Section 9 cannot contain
14 commingling terms because commingling is addressed in Section 24⁴⁸⁶ simply
15 does not reflect the organization of the contract. Just as Sections 2.0
16 (“Interpretation and Construction”) and Section 5.0 (“Terms and Conditions”)
17 contain general terms about issues that are later addressed in more detail in other
18 sections of the ICA, Section 24 (“Commingling”) contains general commingling

⁴⁸⁴ If, for example, Qwest had indicated that the collective term was used in a particular situation when one of the individual terms was intended, the companies could have negotiated that issue to determine if they agree that the terminology is correct. Qwest has not identified any such mis-application of the collective term.

⁴⁸⁵ Closed language in ICA Section 9.23.4.1 (“Service Eligibility for High Capacity EELs”) and 9.23.4 (definition of “High Capacity EEL” to include “either EEL or Commingled EEL”).

⁴⁸⁶ Qwest/37, Stewart/32.

1 terms, while specific provisions in other parts of the contract address specific
2 commingling issues. Efficiencies were gained by placing commingling general
3 terms together in one section, rather than repeating terms in different places in the
4 ICA, but Section 24 does not eliminate the need to sometimes address
5 commingling within the discussion of UNEs, as Section 9.23.4.1 shows. The
6 companies changed the title of Section 9.23 from the former SGAT title
7 (“Unbundled Network Elements Combinations (UNE Combinations)”) to
8 “Combinations” – in closed language – to reflect that Section 9.23 contains both
9 UNE Combinations and other combinations (such as the loop and transport
10 combination in a commingled EEL in Section 9.23.4.1). Although the different
11 combinations are addressed together, however, Eschelon’s proposed language
12 makes clear that this does not subject non-UNE components of a commingled
13 arrangement to the terms of the Agreement:

14 Loop-Transport Combination – For purposes of this Agreement,
15 “Loop-Transport Combination” is a Loop in combination, or
16 Commingled, with a Dedicated Transport facility or service (with
17 or without multiplexing capabilities), together with any facilities,
18 equipment, or functions necessary to combine those facilities. At
19 least as of the Effective Date of this Agreement “Loop-Transport
20 Combination” is not the name of a particular Qwest product.
21 “Loop-Transport Combination” includes Enhanced Extended
22 Links (“EELs”), Commingled EELs, and High Capacity EELs. If
23 no component of the Loop-transport Combination is a UNE,
24 however, the Loop-Transport Combination is not addressed in this
25 Agreement. The UNE components of any Loop-Transport
26 Combinations are governed by this Agreement and the other
27 component(s) of any Loop-Transport Combinations are governed

1 by the terms of an alternative service arrangement, as further
2 described in Section 24.1.2.1.⁴⁸⁷

3 **Q. QWEST CLAIMS THAT CONFUSION WOULD RESULT BY DEFINING**
4 **THE TERM “LOOP-TRANSPORT” TO INCLUDE THREE**
5 **OFFERINGS.⁴⁸⁸ IS QWEST’S PURPORTED CONCERN ABOUT**
6 **CONFUSION WARRANTED?**

7 A. No. I addressed this issue in my rebuttal testimony.⁴⁸⁹ Though Ms. Stewart refers
8 to “confusion” no fewer than four⁴⁹⁰ times in her rebuttal testimony as it relates to
9 Eschelon’s proposal for Issue 9-55, she provides no substance to back up these
10 claims and ignores Eschelon’s language that clearly explains how each
11 component of a Loop Transport combination will be treated.⁴⁹¹

12 Eschelon added to its language for Section 9.23.4 a reference to Section 24.1.2.1
13 of the ICA that addresses how non-UNE portions of a commingled Loop
14 Transport combination are to be treated and an express statement that non-UNEs
15 are governed by the alternative service arrangement. [“The UNE components of
16 any Loop-Transport Combinations are governed by this Agreement and the other
17 component(s) of any Loop-Transport Combinations are governed by the terms of
18 an alternative service arrangement, as further described in Section 24.1.2.1”] This

⁴⁸⁷ The latter phrase was modified previously to address Qwest’s stated concerns. See Eschelon/123, Starkey/135 & p. 141, lines 9-12.

⁴⁸⁸ Qwest/37, Stewart/33.

⁴⁸⁹ Eschelon/123, Starkey/140-142.

⁴⁹⁰ Qwest/37, Stewart/33, 34, 35 and 37.

⁴⁹¹ Eschelon/123, Starkey/141.

1 is in addition to closed language in Section 24.1.2.1 that makes clear that non-
2 UNE components of any commingled arrangement are “governed by the terms of
3 the alternative service arrangement...”⁴⁹² Even without the added clarification in
4 Eschelon’s proposed 9.23.4, Qwest’s concern that Eschelon’s language would
5 govern non-UNEs in Section 9 would be unjustified because 24.1.2.1 explains
6 precisely how non-UNEs in a commingled arrangement are to be treated. But
7 now that Eschelon’s proposal for 9.23.4 is even clearer on the matter, Qwest
8 certainly cannot convincingly argue that Eschelon’s language for 9.23.4 would
9 govern non-UNEs in Section 9 of the ICA.

10 Eschelon’s language in 9.23.4 says three things about components of a Loop
11 Transport Combination: (1) if no component is a UNE, the ICA does not govern
12 the combination, (2) UNE components of a Loop-Transport combination are
13 governed by the ICA, and (3) non-UNE components are governed by the terms of
14 an alternative service arrangement, as further described in 24.1.2.1 (which
15 explains that non-UNE components are governed by the alternative service
16 arrangement, and not the ICA). Nowhere in 9.23.4 does it say that the ICA
17 governs non-UNE components, nor does Eschelon’s proposed language,
18 reasonably read, imply that is the case – especially with the added reference to
19 Section 24.1.2.1. As a result, there is no basis for Ms. Stewart’s concerns about

⁴⁹² The Minnesota Arbitrators’ Report concludes that Qwest’s language should be adopted for Issue 9-55 (Eschelon/29, Denney/42-43 (MN Arbitrators’ Report, ¶176)) because Eschelon’s “language would permit the inference that if any part of a combination is a UNE, the entire combination would be covered by the ICA.” However, Eschelon added the reference to Section 24 in its proposed Section 9.23.4 to address this very issue. Based on this clarification, Eschelon’s language cannot be read to imply that the entire commingled circuit would be governed by Section 9.23.4.

1 having the entire commingled arrangement (not just the UNE circuit) governed by
2 the ICA, nor is there any basis for Ms. Stewart’s claim that Eschelon’s proposal
3 “goes way beyond, and is not consistent with, Eschelon’s stated objectives...”⁴⁹³
4 According to Ms. Stewart, Eschelon’s stated objective is to ensure that only the
5 UNE components of the Loop Transport Combination are subject to the ICA,⁴⁹⁴
6 and that is precisely what Eschelon’s language for Section 9.23.4 does.

7 **Q. MS. STEWART EXPRESSES CONCERNS ABOUT “HAVING THE**
8 **ENTIRE COMMINGLED ARRANGEMENT (NOT JUST THE UNE**
9 **CIRCUIT) GOVERNED BY THE ICA UNDER ESCHELON’S LOOP**
10 **TRANSPORT UMBRELLA TERM.”⁴⁹⁵ ARE MS. STEWART’S**
11 **CONCERNS WARRANTED?**

12 A. No. As I explain above, Eschelon’s proposal clearly distinguishes between UNE
13 and non-UNE components of a Loop Transport Combination and there is nothing
14 in Eschelon’s language that could be read as an attempt to govern non-UNEs by
15 Section 9 (UNEs) of the ICA. Eschelon’s language in Section 9.23.4 contains an
16 express statement that non-UNEs are governed by the terms of an alternative
17 service arrangement and a cross reference to Section 24.1.2.1, which expressly
18 states in closed language that the non-UNE component is “governed by the terms
19 of the alternative service arrangement pursuant to which that component is
20 offered (e.g., Qwest’s applicable Tariffs, price lists, catalogs, or commercial

⁴⁹³ Qwest/37, Stewart/34.

⁴⁹⁴ Qwest/37, Stewart/34.

⁴⁹⁵ Qwest/37, Stewart/35.

1 agreements).” Given that Eschelon’s proposal would not govern non-UNEs by
2 the ICA, the concerns that Ms. Stewart raises⁴⁹⁶ are actually non-issues.⁴⁹⁷

3 **Q. MS. STEWART STATES THAT YOU HAVE PROVIDED NO SUPPORT**
4 **FOR YOUR CLAIM THAT QWEST HAS ATTEMPTED TO HAVE**
5 **ACCESS TO UNES DICTATED BY ITS ACCESS TARIFFS.⁴⁹⁸ IS THIS**
6 **TRUE?**

7 A. No. I addressed Ms. Stewart’s claim in my rebuttal testimony.⁴⁹⁹ One example is
8 Qwest’s attempt to apply tariff rates to activities related to nondiscriminatory
9 access to UNEs.⁵⁰⁰ Another example is Mr. Denney’s discussion of intervals for
10 commingled arrangements under Issue 9-58(e).⁵⁰¹ I also provided an example of
11 Qwest attempting to subject UNEs to other non-ICA, non-CMP terms and
12 conditions, as in the case of Qwest’s non-CMP notice related to the APOT
13 procedure for conversions.⁵⁰²

⁴⁹⁶ Qwest/37, Stewart/35-36.

⁴⁹⁷ Mr. Denney addresses Ms. Stewart’s claims regarding a single LSR and CRIS billing in his testimony. *See* Eschelon/125, Denney/101-102.

⁴⁹⁸ Qwest/37, Stewart/36-37.

⁴⁹⁹ Eschelon/1, Starkey/208-209.

⁵⁰⁰ Eschelon/123, Starkey/139. *See also* Eschelon/1, Starkey/144-146; Eschelon/123, Starkey/90-91; and Eschelon/28 (Denney).

⁵⁰¹ Eschelon/9, Denney/179-182.

⁵⁰² Eschelon/123, Starkey/139, lines 14-16; Eschelon/123, Starkey/139, lines 15-16; Eschelon/123, Starkey/125, footnote 380; Eschelon/123, Starkey/129-131; and Eschelon/1, Starkey/183-188.

1 **Q. MS. STEWART TAKES ISSUE WITH YOUR REFERENCES TO THE**
2 **TERM “LOOP TRANSPORT COMBINATIONS” IN THE FCC’S *TRO*.⁵⁰³**
3 **WOULD YOU LIKE TO RESPOND?**

4 A. Yes, I will address each of Ms. Stewart’s criticisms, but before I do, it is
5 important to reiterate the purpose of my testimony to which Ms. Stewart responds.
6 The purpose of my testimony⁵⁰⁴ was to show that Eschelon’s language for Issue
7 9-55 (specifically Section 9.23.4) uses the term “Loop Transport Combinations”
8 in the same way as the FCC uses the term. Ms. Stewart testified in her direct
9 testimony that Eschelon’s proposal was troubling given that Eschelon’s definition
10 of Loop Transport includes commingled arrangements, but the references to the
11 FCC order in my testimony shows that Eschelon’s definition is consistent with the
12 way the FCC uses the term.⁵⁰⁵ I now turn to Ms. Stewart’s criticisms.

13 First, she states that references to both paragraphs 575 and 576 of the *TRO* discuss
14 UNE combinations, so “[n]either of these cites discusses combinations between
15 UNEs and non-UNEs.”⁵⁰⁶ References to these paragraphs were provided to show
16 that the FCC has referred to a UNE combination of loop and transport as a “Loop
17 Transport Combination,” just as Eschelon’s language for Section 9.23.4 does
18 (“Loop Transport Combination includes Enhanced Extended Links (“EELs”)...”).

19 Contrary to Ms. Stewart’s assertions, I make no “leap of logic” to “thrust upon

⁵⁰³ Qwest/37, Stewart/37-38.

⁵⁰⁴ Eschelon/1, Starkey/213-214.

⁵⁰⁵ Eschelon/123, Starkey/135 and 136 and Eschelon/1, Starkey/213-214.

⁵⁰⁶ Qwest/37, Stewart/37.

1 Qwest a new loop transport definition”;⁵⁰⁷ rather, the FCC refers to combinations
2 between UNE transport and UNE loops as Loop Transport Combinations, and so
3 does Eschelon’s Section 9.23.4.⁵⁰⁸

4 Second, Ms. Stewart claims that the references to paragraphs 584, 593 and 594 of
5 the *TRO* support Qwest’s position because they refer to “*commingled* Loop
6 Transport combinations.”⁵⁰⁹ Paragraphs 584 and 593 of the *TRO* show that the
7 FCC has referred to commingled arrangements as “loop transport combinations,”
8 just as Eschelon’s language for 9.23.4 does (“Loop Transport Combinations
9 include...Commingled EELs...”).

10 To sum up, Eschelon’s language for 9.23.4 defines a Loop Transport Combination
11 to include: (1) EELs, (2) Commingled EELs, and (3) High Capacity EELs, and
12 the FCC has used the same term to refer to all three.⁵¹⁰

13 **Q. MS. STEWART PROPOSES ALTERNATIVE LANGUAGE FOR ISSUE 9-**
14 **55.⁵¹¹ IS THIS LANGUAGE ACCEPTABLE TO ESCHELON TO CLOSE**
15 **THIS ISSUE?**

16 A. No. I addressed this issue in my rebuttal testimony,⁵¹² where I explained that
17 Qwest’s language, which references “the appropriate Tariff,” is not acceptable

⁵⁰⁷ Qwest/37, Stewart/37-38.

⁵⁰⁸ Eschelon/1, Starkey/213-214.

⁵⁰⁹ Emphasis added.

⁵¹⁰ Eschelon/1, Starkey/214.

⁵¹¹ Qwest/37, Stewart/34.

⁵¹² Eschelon/123, Starkey/137-139.

1 because the non-UNE circuit will not necessarily be governed by a tariff,⁵¹³ and
2 because the companies have already agreed to language in Section 24.1.2.1,
3 which is not limited to Qwest's tariffs, but also recognizes other alternative
4 arrangements. Section 24.1.2.1 not only makes Qwest's proposed alternative
5 language unnecessary, but Section 24.1.2.1 is also more accurate.

6 **X. SUBJECT MATTER NO. 27: MULTIPLEXING (LOOP-MUX**
7 **COMBINATIONS)**

8 Issue No. 9-61 and subparts: ICA Sections 9.23.9 and subparts; 24.4 and
9 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;
10 24.4.4.3; Exhibit A; Section 9.23.6.6 and subparts

11 **Q. SUBJECT MATTER 27 (ISSUES 9-61 AND SUBPARTS) ADDRESSES**
12 **LOOP MUX COMBINATIONS ("LMC"). PLEASE BRIEFLY**
13 **SUMMARIZE THIS ISSUE.**

14 A. There is no dispute that the loop component of a LMC is a Section 251 UNE. So,
15 regardless of how multiplexing is treated,⁵¹⁴ the LMC should be included in
16 Section 9 of the ICA,⁵¹⁵ which is Eschelon's proposal for Issue 9-61. Eschelon's
17 proposal is based on the language of Section 9.23.8 entitled "Loop Mux

⁵¹³ Footnote 15 at pages 34-35 of Ms. Stewart's rebuttal testimony (Qwest/37, Stewart/34-35) states, "Tariff as used in the ICA is a defined term that refers to Qwest interstate tariffs and state tariffs, price lists and price schedules." Ms. Stewart's testimony is misleading. Tariff is a defined term in the ICA not limited to Qwest's tariffs and price lists. See Section 4 ["Tariff refers to the applicable tariffs, price lists, and price schedules that have been approved or are otherwise in effect pursuant to applicable rules and laws, *whether the Tariff is a Qwest retail Tariff or a CLEC Tariff.*"] (emphasis added)

⁵¹⁴ Eschelon's position is that multiplexing should be provided at TELRIC-based rates in two specific scenarios when it is combined with a Section 251 UNE. Qwest's position is that multiplexing should be obtained pursuant to Qwest's tariff.

⁵¹⁵ Qwest claims that the proper location is Section 24. Qwest/37, Stewart/66.

1 Combination (LMC)” within Section 9.23 entitled “Unbundled Network Elements
2 Combinations (UNE Combinations)” in the Qwest-AT&T interconnection
3 agreement that was approved by this Commission and later used in negotiations as
4 one source of language for the proposed contract.⁵¹⁶ Eschelon agreed upon the
5 same placement in the contract within Section 9 as used by Qwest and AT&T. In
6 the Qwest-AT&T approved ICA, just as in Eschelon’s proposed language, the
7 description of the Loop Mux UNE Combination states that it is a combination of
8 an unbundled loop with a multiplexer and collocation located within the same
9 Qwest Wire Center.⁵¹⁷ In response to Qwest’s stated concerns, Eschelon agreed
10 to additional language in the description expressly stating that the loop is
11 combined with a multiplexed facility “with no interoffice transport.”⁵¹⁸

12 Under Issue 9-61(a), the LMC should be defined as a UNE combination in the
13 ICA instead of a commingled arrangement. Qwest has previously provided
14 multiplexing in three ways: (1) as part of a multiplexed EEL, (2) as part of a
15 Loop-Mux Combination, and (3) as a stand alone UNE.⁵¹⁹ All Eschelon is asking
16 for is Qwest to provide multiplexing in two distinct scenarios in combination with
17 Section 251 UNEs. Contrary to misdirection from Qwest as to multiplexing as
18 stand alone UNEs,⁵²⁰ Eschelon’s language does not request them or require Qwest

⁵¹⁶ Eschelon/51, Johnson/1 (2/4/03 email).

⁵¹⁷ Qwest-AT&T ICA §9.23.8.1.1.

⁵¹⁸ ICA Section 9.23.9.1.1 (closed language).

⁵¹⁹ Eschelon/1, Starkey/231.

⁵²⁰ *See, e.g.,* Qwest/37, Stewart/66 (“Eschelon’s demand that Qwest provide the stand-alone multiplexing service as a UNE instead of as a tariffed facility.”)

1 to provide them. The Commission should not allow Qwest to severely restrict
2 access to multiplexing in this arbitration, especially when this restriction is not
3 based in the FCC rules or orders. To this end, intervals and rates for LMC should
4 be included in the ICA and changed via ICA amendment under Issues 9-61(b) and
5 9-61(c).

6 Issue 9-61 addresses whether the Loop Mux Combination (“LMC”) should
7 continue to be included in Section 9 of the ICA as a UNE combination as it was in
8 the Qwest-AT&T ICA (Eschelon proposes that it should be, and Qwest
9 disagrees); Issue 9-61(a) addresses the proper definition of an LMC, either as a
10 UNE (as proposed by Eschelon) or a commingling arrangement (as proposed by
11 Qwest); Issue 9-61(b) addresses whether service intervals for LMCs should be
12 included in the ICA and changed via ICA amendment (as proposed by Eschelon)
13 or excluded from the ICA and established via CMP (as proposed by Qwest); and
14 Issue 9-61(c) addresses whether rates for LMC Multiplexing should be included
15 in the ICA (as proposed by Eschelon) or excluded from the ICA (as proposed by
16 Qwest).

17 **Q. DO YOU HAVE ANY GENERAL RESPONSE TO MS. STEWART’S**
18 **REBUTTAL TESTIMONY ON ISSUE 9-61?**

19 A. Yes. When evaluating Qwest’s arguments regarding Issue 9-61, it is important to
20 note that Issue 9-61 does not address transport or stand alone multiplexing, as I

1 explained in my rebuttal testimony (quoting ICA Section 24.2.1.1).⁵²¹ Also,
2 despite Eschelon and Qwest asking the Commission to determine how
3 multiplexing should be treated when combined with a UNE loop, as I explained in
4 my rebuttal testimony,⁵²² Qwest’s testimony makes it appear as if this issue has
5 already been decided in Qwest’s favor. For instance, in the very first Q&A in Ms.
6 Stewart’s rebuttal testimony on this issue, she testifies: “Accordingly, a CLEC
7 *must* order the multiplexed facility used for LMCs through the applicable
8 tariff.”⁵²³ Ms. Stewart also states in her rebuttal testimony on Issue 9-61, that,
9 “LMC is comprised of an unbundled loop...combined with a DS1 or DS3
10 multiplexer...that a CLEC obtains from a tariff.”⁵²⁴ Ms. Stewart couches her
11 rebuttal testimony as if Qwest’s position on this issue is fact, but it is not a fact,
12 and Eschelon and Qwest are asking the Commission to resolve that very issue
13 under Issue 9-61(a).

14 **Q. IS A GOOD PORTION OF MS. STEWART’S REBUTTAL TESTIMONY**
15 **ON ISSUES 9-61 AND SUBPARTS SPENT REHASHING ISSUES YOU**
16 **HAVE ALREADY ADDRESSED IN YOUR TESTIMONY?**⁵²⁵

17 A. Yes. Ms. Stewart’s primary rebuttal argument is that Eschelon is seeking access
18 to multiplexing as a “stand alone UNE.”⁵²⁶ I addressed this claim in my rebuttal

⁵²¹ Eschelon/123, Starkey/142-143.

⁵²² Eschelon/123, Starkey/149.

⁵²³ Qwest/37, Stewart/66 (emphasis added)

⁵²⁴ Qwest/37, Stewart/66. *See also* Qwest/37, Stewart/73 (“Because an LMC is a combination of a UNE and a tariffed multiplexing service, it is not a UNE combination...”)

⁵²⁵ Ms. Stewart cites to the Verizon-Virginia arbitration decision (e.g., Qwest/37, Stewart/67-69). I addressed this issue at pages 145-147 of my rebuttal testimony (Eschelon/123, Starkey/145-147).

1 testimony.⁵²⁷ It appears that Ms. Stewart believes that the more she says this
2 (about a dozen times in her rebuttal testimony alone), the more likely the
3 Commission is to believe this misdirection. It is not true, however, and
4 Eschelon's proposed ICA language makes that clear.

5 **Q. MS. STEWART CLAIMS THAT MULTIPLEXING IS A FEATURE OR**
6 **FUNCTION OF UDIT,⁵²⁸ BUT NOT LOOPS. IS SHE CORRECT?**

7 A. Ms. Stewart is only partly correct. I agree with Ms. Stewart that multiplexing is a
8 feature or function of UDIT and should be provided at TELRIC rates in these
9 instances.⁵²⁹ However, I disagree with the notion that multiplexing is not a
10 feature or function of loops.⁵³⁰

11 Ms. Stewart argues that since loops can function independently of multiplexing,
12 then multiplexing is not a feature/function of the loop.⁵³¹ Ms. Stewart describes
13 her determination of whether multiplexing is a feature or function of a UNE as
14 follows:

15 central office based multiplexing is not required for a UNE loop
16 facility to function. If the functioning of a DS1 loop, for example,
17 was dependent upon multiplexing, there might be a factual
18 argument that multiplexing is a feature or function of the loop. But
19 since a DS1 loop functions regardless whether there is
20 multiplexing used to mux together multiple loops, multiplexing
21 cannot reasonably be viewed as a "feature, function, or capability"

⁵²⁶ Qwest/37, Stewart/66, 67, 69, 71, 72, and 73.

⁵²⁷ Eschelon/123, Starkey/143-144.

⁵²⁸ Qwest/37, Stewart/71.

⁵²⁹ Qwest/37, Stewart/71.

⁵³⁰ Eschelon/1, Starkey/229-231.

⁵³¹ Qwest/37, Stewart/70-71.

1 of the loop. In addition, the multiplexing function is provided
2 through equipment that is physically separate from and
3 independent of UNE loops.⁵³²

4 Ms. Stewart's test makes no sense and does not support Qwest's proposal to
5 provide multiplexing as a feature or function of UDIT, but not UNE loops. First,
6 there are a whole host of items that are features or functions of the loop on which
7 the loop is not *dependent*. For instance, repeaters and load coils are features and
8 functions of the loop, but a properly functioning loop is not always dependent on
9 the existence of these features or functions, and when the loop is used for data
10 service, they are oftentimes removed altogether from the loop during loop
11 conditioning. Contrary to Ms. Stewart's claim, the loop does not have to be
12 dependent on the item in question for it to be a feature or function of the loop.
13 Second, transport is not "dependent" on multiplexing either, but Ms. Stewart
14 agrees that multiplexing is a feature or function of UNE transport.⁵³³ For
15 instance, a CLEC could combine a DS1 UNE transport with a DS1 UNE loop,
16 and this would not require multiplexing.

17 **Q. MS. STEWART ARGUES THAT YOUR RELIANCE ON FCC**
18 **AUTHORITY IS MISPLACED BECAUSE THE CITES YOU POINT TO**
19 **ARE TALKING ABOUT A DIFFERENT TYPE OF MULTIPLEXING**
20 **THAN WHAT IS DISCUSSED IN ISSUE 9-61.⁵³⁴ WOULD YOU LIKE TO**
21 **RESPOND?**

⁵³² Qwest/37, Stewart/70.

⁵³³ Qwest/37, Stewart/71.

⁵³⁴ Qwest/37, Stewart/72.

1 A. Yes. I discussed in my direct testimony⁵³⁵ the routine network modifications
2 rules and pointed out that these rules include deploying a new multiplexer and
3 reconfiguring existing multiplexers for loops as part of the nondiscriminatory
4 obligations of the ILEC. 47 CFR § 51.319(a)(7). Ms. Stewart claims that the FCC
5 “is being clear”⁵³⁶ that the multiplexing being discussed under this rule is different
6 from the multiplexing discussed under Issue 9-61. I disagree with Ms. Stewart’s
7 narrow view of the FCC’s rules.

8 If the routine network modifications rule for loops under § 51.319(a)(7) is
9 compared to the routine network modifications rule for transport under §
10 51.319(e)(4), they are nearly identical. Like the rule applying to loops, the
11 transport rule states that routine network modifications include “deploying a new
12 multiplexer or reconfiguring an existing multiplexer.” There is no distinction in
13 the routine network modification rules between different types of multiplexing –
14 though the FCC could have easily written one into the rule. The FCC could have
15 made such a distinction if it so desired, given that it did make the loop rule
16 specific to loops and the transport rule specific to transport.⁵³⁷ What this means is
17 that the FCC crafted a specific rule to apply to loops versus transport, rather than
18 simply “cutting and pasting” the same routine network modification rule for each
19 UNE, and the FCC could have written a multiplexing distinction into the rule at

⁵³⁵ Eschelon/1, Starkey/230-231.

⁵³⁶ Qwest/37, Stewart/72.

⁵³⁷ For instance, the only differences between the loop and transport rules (besides referring to loops versus transport) is that the transport rule does not include mention of “adding a smart jack”, “adding a line card”, or attaching electronics/equipment for DS1 loop as routine network modifications – all of which are included in the loop rule.

1 that time – but didn’t. Therefore, the distinction that Ms. Stewart makes
2 regarding multiplexing is not grounded in the FCC’s rules.

3 **Q. ARE THERE OTHER REASONS WHY MS. STEWART’S CLAIM THAT**
4 **MULTIPLEXING IS A FEATURE OR FUNCTION OF UNE TRANSPORT**
5 **BUT NOT UNE LOOPS IS UNCONVINCING?**

6 A. Yes. At page 71 of her rebuttal testimony, Ms. Stewart states that Qwest agrees
7 that when multiplexing is used to connect a UNE transport and UNE loop, then
8 multiplexing should be provided at TELRIC.⁵³⁸ In support of this position Ms.
9 Stewart states: “because multiplexing is not a feature or function of the UNE loop,
10 multiplexing used to combine multiple unbundled loops together (without
11 transport) is stand-alone multiplexing – in other words, it is not provided as a
12 feature or function of a transport UNE. As such, that stand-alone multiplexing is
13 not governed by UNE combination rates or other UNE terms and conditions.”⁵³⁹
14 Similarly, in Washington, Ms. Stewart testified: “because multiplexing is not a
15 feature or function of the UNE loop, multiplexing used to commingle UNE loops
16 with tariffed private line transport (as opposed to UNE transport) is stand-alone
17 multiplexing...”⁵⁴⁰ What is being addressed under Issue 9-61, however, is Loop
18 Mux Combination, or an arrangement in which multiplexing connects a UNE loop
19 directly to a CLEC’s *collocation* – not another loop or transport. As I discussed

⁵³⁸ Qwest/37, Stewart/71.

⁵³⁹ Qwest/37, Stewart/71.

⁵⁴⁰ Stewart Washington Response Testimony (Docket No. UT-063061, 12/4/06), p. 82, lines 7-9.

1 in my rebuttal testimony,⁵⁴¹ multiplexing in those other contexts is dealt with in
2 closed language in Section 24.2.1.1 of the ICA and, despite all of Qwest's efforts
3 to confuse the issue so it appears that Eschelon is asking for more than it is, the
4 latter two issues are *not* the subject of Issue 9-61.

5 As shown by Section 24.2.1.1, Qwest agrees that multiplexing should be provided
6 at TELRIC rates when UNE transport provided at TELRIC rates is connected to a
7 UNE loop provided at TELRIC rates. Following this same logic, multiplexing
8 used to connect UNE loop provided at TELRIC rates to collocation provided at
9 TELRIC rates (which LMC is) should be provided at TELRIC rates. The fact that
10 Qwest does not agree in this instance exposes an inconsistency in Qwest's
11 position.

12 **Q. MS. STEWART ARGUES THAT SINCE THE FCC'S TRO LIFTED THE**
13 **COMMINGLING RESTRICTION, QWEST WILL STOP PROVIDING**
14 **LOOP MUX COMBINATIONS AS IT HAS IN THE PAST.⁵⁴² DID THE**
15 **TRO SAY ANYTHING ABOUT A QUID PRO QUO ASSOCIATED WITH**
16 **COMMINGLING OR THAT LIFTING THE COMMINGLING**
17 **RESTRICTION RELIEVED THE ILECS OF THEIR OBLIGATION TO**
18 **PROVIDE MULTIPLEXING AS THEY HAVE PREVIOUSLY PROVIDED**
19 **IT?**

⁵⁴¹ Eschelon/123, Starkey/142-143.

⁵⁴² Qwest/37, Stewart/68-70.

1 A. No, and Ms. Stewart provides no support for this suggestion. Ms. Stewart's
2 support for her claim that Qwest was acting "voluntarily" in providing Loop Mux
3 Combinations is not grounded in any FCC order or rules. Rather, she cites to the
4 Wireline Competition Bureau's decision in the Verizon-Virginia Arbitration as
5 support, and I have explained that Ms. Stewart's reliance on this decision is
6 misplaced.⁵⁴³

7 Ms. Stewart also claims that the FCC's reference to multiplexing as an "interstate
8 access service" in paragraph 583 of the *TRO* "refutes any claim by Eschelon that
9 it is entitled to multiplexing at UNE rates, terms, and conditions when it obtains
10 multiplexing for use with commingled arrangements."⁵⁴⁴ However, multiplexing,
11 like loops and transport, is available both within the context of Section 251 of the
12 Act (as part of the ILEC's obligation to provide nondiscriminatory access to
13 UNEs) as well as under interstate access tariffs (which are not governed by
14 Section 251 of the Act). And contrary to Ms. Stewart's claim, just because a
15 facility or function is available as an "interstate access service" does not mean
16 that it cannot also be available under the Act and the FCC's rules for
17 UNEs/interconnection, as evidenced by the fact that both loops and transport also
18 are available within both contexts. Indeed, the same sentence in paragraph 583 of
19 the *TRO* also referred to transport as an "interstate access service," but transport is
20 unarguably available also within the context of Section 251 of the Act.

⁵⁴³ Eschelon/123, Starkey/145-147.

⁵⁴⁴ Qwest/37, Stewart/69.

1 **Q. YOU SAID ESCHELON DISAGREES THAT QWEST VOLUNTARILY**
2 **PROVIDED LMC.⁵⁴⁵ PLEASE ELABORATE.**

3 A. As I mentioned above, the basis for Ms. Stewart's claim that Qwest voluntarily
4 provided Loop Mux Combinations appears to be the Wireline Competition
5 Bureau's Verizon Virginia arbitration decision,⁵⁴⁶ and I have shown that Ms.
6 Stewart's reliance on this decision is misplaced.⁵⁴⁷ In addition, the Minnesota
7 Commission adopted the following recommendation by the ALJs:

8 Qwest agrees that it must offer multiplexing at UNE rates when it
9 connects two UNEs, or when it is a feature, function, or capability
10 of UNE transport. Given that Qwest has previously provided
11 multiplexing as a UNE when it is provided in conjunction with a
12 UNE loop, as well as when it is provided in conjunction with UNE
13 transport, the Administrative Law Judges agree with the
14 Department's recommendations that Eschelon's language be
15 adopted in the ICA. If Qwest wishes to withdraw or limit
16 multiplexing in the manner it proposes here, it should file a petition
17 with the Commission to obtain permission to modify all ICAs that
18 currently provide for UNE pricing of the multiplexing of a UNE
19 loop into non-UNE transport within a central office.⁵⁴⁸

20 Qwest has previously provided a Commission-approved LMC product at TELRIC
21 rates, and if Qwest wishes to withdraw or limit multiplexing at TELRIC rates over
22 CLEC objection, it should obtain Commission permission before doing so.

23 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

24 A. Yes.

⁵⁴⁵ Qwest/37, Stewart/68.

⁵⁴⁶ Qwest/37, Stewart/68.

⁵⁴⁷ Eschelon/123, Starkey/145-147.

⁵⁴⁸ Eschelon/29, Denney/49 [MN Arbitrators' Report ¶199] and Eschelon/30, Denney/22 [MN PUC Arbitration Order, p. 22, ¶1].

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

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
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SURREBUTTAL TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

ESCHELON TELECOM, INC.

June 8, 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 2nd 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 in regulatory proceedings.

10 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN THIS PROCEEDING?**

11 A. Yes. I filed Direct Testimony in this proceeding on May 11, 2007 and Rebuttal
12 Testimony on May 25, 2007.

13 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

14 A. The purpose of my Surrebuttal Testimony is to respond to the Rebuttal Testimony
15 of Qwest witnesses Renee Albersheim, Karen Stewart, Teresa Million, and
16 William Easton relating to the issues I addressed in my Direct and Rebuttal
17 Testimony.

18 **Q. PLEASE DESCRIBE HOW THE REMAINDER OF YOUR TESTIMONY**
19 **IS ORGANIZED.**

20 A. Below I describe the exhibits to my Surrebuttal testimony. The remainder of my
21 testimony is organized by subject matter number, in the same manner as my

1 Direct and Rebuttal Testimonies. Each subject matter heading may contain one or
2 more disputed issues from the interconnection agreement. For each subject
3 matter, I briefly summarize the issue. In addition, I summarize Qwest's position,
4 as put forth by its respective witness on the subject matter. I also explain the
5 flaws in Qwest's position.

6 **Q. ARE THERE ANY EXHIBITS TO YOUR TESTIMONY?**

7 A. Yes. My Surrebuttal testimony has the following exhibits:

8 **Eschelon/134** – Eschelon email sent on May 4, 2006 explaining its position on
9 design changes and cost recovery.

10 **Eschelon/135** – Selected pages from the “DEPOSITION OF JEROME JENSON
11 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS OF THE
12 STATE OF MINNESOTA,” May 18, 2007 and selected pages from the
13 “DEPOSITION OF MARY MADILL BEFORE THE OFFICE OF
14 ADMINISTRATIVE HEARINGS OF THE STATE OF MINNESOTA,”
15 May 17, 2007.

16 **Eschelon/136** – “Order Denying Reconsideration” dated June 4, 2007 in the
17 Qwest-Eschelon interconnection agreement (ICA) arbitration in
18 Minnesota. Note: Eschelon/29 and Eschelon/30 contain the Arbitrators’
19 Report and “Commission Order Resolving Arbitration Issues...”
20 respectively.

21 **Eschelon/137 (Confidential)** -- Dun and Bradstreet Reports for Qwest and
22 Eschelon. These reports show that, unlike Qwest, Eschelon poses no
23 significant risk of default on its payments.

24 **Eschelon/138** – Qwest's proposed Minnesota cost study for Coordinated Loop
25 Installation without Cooperative Testing and Qwest's support
26 documentation demonstrating that there are multiple activities that make
27 up a single rate.

28 **Eschelon/139** – Excerpt from the testimony of Dr. Bowman, on behalf of Qwest,
29 regarding factors and loadings

30 **Eschelon/140** -- Minnesota Testimony/Transcript Excerpts from the Minnesota
31 Arbitration regarding cost recovery as it relates to Access to UNEs.

1 **II. CHANGE IN LAW (SUBJECT MATTER NOS. 2 AND 3)**

2 **SUBJECT MATTER NOS. 2. RATE APPLICATION & 3. EFFECTIVE DATE**
3 **OF LEGALLY BINDING CHANGES**

4 **Issue Nos. 2-3 and 2-4: ICA Sections 2.2 and 22.4.1.2**

5 **Q. PLEASE PROVIDE A SUMMARY OF ISSUE NOS. 2-3 AND 2-4 AND**
6 **EACH COMPANIES' PROPOSALS FOR THESE ISSUES.**

7 A. Issue 2-3 (the first open provision in Section 2.2 of the ICA) is specific to rates
8 and concerns when Commission-ordered rate changes will take effect. Qwest has
9 proposed language be included in Section 2.2 providing that rate changes will be
10 given prospective effect unless otherwise ordered by the Commission. Eschelon
11 proposes the following sentence from Section 2.2 of the SGAT remain
12 unchanged: "Any amendment shall be deemed effective on the effective date of
13 the legally binding change or modification of the Existing Rules for rates, and to
14 the extent practicable for other terms and conditions, unless otherwise ordered."¹

15 This language respects the authority of the relevant body to determine, at the time
16 it issues an order changing rates, when that ruling will take effect. Eschelon has
17 also offered to add the following sentence to address Qwest's stated concerns:
18 "The rates in Exhibit A and when they apply are addressed in Section 22."²
19 Section 22 is entitled "Pricing" and lays out the general principles applicable to
20 pricing. It contains a subsection entitled "Interim Rates" (Section 22.4). Closed

¹ I provide Eschelon's entire proposed language for Sections 2.2 at Eschelon/9, Denney/10-13.

² Eschelon has also indicated (Eschelon/9, Denney/12, line 31 of my direct testimony) that it would agree to add the word "further" to this sentence to recognize that Section 22 (Pricing) is in addition to Section 2.2, as follows: "The rates in Exhibit A and when they apply are *further* addressed in Section 22."

1 language in Section 22.4.1 provides that unapproved rates “are Interim Rates
2 under this Agreement.” Therefore, although Qwest’s proposal for Issue 2-3 is to
3 place language within Section 2.0 (“Interpretation and Construction”), Section 22
4 (and specifically Section 22.4) is the correct place in the contract to deal with
5 whether rates will be applied prospectively or not (*i.e.*, whether there will be a
6 true-up or not).

7 Qwest argues the ICA language *should* be expanded to provide (in Section 2.2 –
8 under Interpretation and Construction) that there is no true-up unless the
9 Commission orders otherwise.³ If the Commission rules that the ICA language
10 should be expanded to more specifically address true-ups, then the Commission
11 should adopt Eschelon’s proposal for Issue 2-3 and Eschelon’s proposal number
12 two for Issue 2-4.

13 Issue 2-4 is similar to the previous issue in that it concerns when changes of law
14 will take effect (but it is not limited to rates). The parties have agreed that the
15 ICA “shall be amended to reflect such legally binding modification or change.”⁴

16 Regarding Issue 2-4, Qwest proposes, when an order that changes the law “does
17 not include a specific *implementation* date,”⁵ the *effective* date of such a change
18 will depend on whether one party gives the other notice of the change. Qwest’s
19 proposed language creates a new presumption that, when this Commission or

³ Qwest/13, Easton/3, lines 17-22.

⁴ ICA, Section 2.2.

⁵ Qwest/13, Easton/7, lines 10-11.

1 another regulatory body issues an order expressly stating that its ruling becomes
2 “effective immediately,” Qwest and other parties do *not* have to implement the
3 order immediately -- even if no party has requested a separate implementation
4 date or a stay of the order -- unless the Commission on its own also expressly
5 identifies a separate, specific implementation date. When one party gives the
6 other party notice within thirty days of the effective date of the order, Qwest
7 proposes that the amendment will be “deemed *effective* on the date of that
8 order.”⁶ When one party does not give notice, Qwest proposes that the *effective*
9 *date* of the legal change will be – not the date ordered by the Commission if it has
10 said that its order is effective immediately (or is effective immediately by
11 operation of law) – but an effective date in the ICA amendment reflecting that
12 change.

13 Eschelon’s first proposal for Issue 2-4 is simply to strike Qwest’s additions to
14 Section 2.2 and use the above-quoted SGAT sentence. Eschelon’s second,
15 alternative proposal for Issue 2-4 is to add three provisions to Section 2.2 (**shown**
16 **in underlining on pages 17-18 of my direct testimony**) to clean up the
17 distinction that Qwest appears to desire between an “implementation” date and an
18 “effective” date, as well as to add the following language to the end of Section
19 22.4.1.2:

20 Each Party reserves its rights with respect to whether Interim Rates
21 are subject to true-up. If, however, the Commission issues an order
22 with respect to rates that is silent on the issue of a true-up, the rates
23 shall be implemented and applied on a prospective basis from the

⁶ Qwest/13, Easton/7, lines 13-14.

1 effective date of the legally binding Commission decision as
2 described in Section 2.2.

3 The first provision of Eschelon’s alternate proposal confirms that each party has
4 an obligation to ensure the agreement is amended. The second provision adds
5 clarification as to the relationship between Section 2.2 and Section 22 (Pricing).
6 The third provision recognizes that the effective date and implementation may (or
7 may not) be different and establishes that the burden is on the companies (*i.e.*, not
8 the Commission) to identify when they are different and, if a different date is
9 desired, to request a date different from the effective date for implementation of a
10 ruling. To address Qwest’s stated concerns that a presumption is needed in cases
11 when the order is silent on the issue, Eschelon’s proposal provides, when the
12 order is silent, the implementation date and effective date are the same, unless the
13 Commission orders otherwise or, if allowed by the order, the parties to the ICA
14 agree otherwise.⁷

15 Eschelon’s second, alternative proposal for Issue 2-4 includes addition of two
16 sentences to Section 22.4.1.2. In response to Qwest’s proposal, Eschelon has
17 proposed two sentences which expressly state the companies reserve their rights
18 with respect to a true-up. Eschelon’s proposal number two also provides that, if
19 an order is silent as to a true-up, Qwest gets the default provision it seeks,
20 indicating rates will be applied and implemented on a prospective basis (except
21 for new products when Section 1.7.1.2 is used).

⁷ Eschelon/9, Denney/22-23

1 **Q. REGARDING YOUR LAST POINT AS TO A TRUE-UP, DOES QWEST**
2 **AGREE THAT LANGUAGE IN SECTION 22 IS APPROPRIATE?**

3 A. Yes. Although Qwest agrees that language in Section 22 is appropriate, Qwest
4 rejects Eschelon's proposal without explanation.⁸ Eschelon's proposed language
5 for the end of Section 22.4.1.2 clarifies that both Eschelon and Qwest reserve
6 their rights with respect to true-ups; has parties first look to a Commission order
7 with regard to whether rates are subject to a true-up; and in cases where a
8 Commission order is silent provides for the prospective treatment of rates.

9 Qwest's language, on the other hand, creates a default presumption that there will
10 not be a true-up, fails to acknowledge each parties' rights with respect to true-up
11 arguments, and lastly looks to a Commission order to determine whether the
12 Commission overrode the no true-up presumption.⁹

13 Qwest ignores the language of its own proposal. Although Mr. Easton claims that
14 its proposed language "avoids ambiguity" in cases when the Commission does not
15 specify a true-up requirement,¹⁰ Qwest's proposed language for Sections 2.2 and
16 *22 does not even mention* the term "true-up."¹¹

17 **Q. ARE QWEST AND ESCHELON IN GENERAL AGREEMENT**
18 **REGARDING THE PRINCIPLES THAT SHOULD BE USED TO**
19 **GOVERN PROPER CHANGE OF LAW LANGUAGE (ISSUE NO. 2-4)?**

⁸ Qwest/33, Easton/4, lines 1-9.

⁹ Qwest/33, Easton/4, lines 4-6.

¹⁰ Qwest/33, Easton/2, line 7.

¹¹ Eschelon/125, Denney/5-6

1 A. Yes. Mr. Easton and I agree that the “change of law language should: 1) provide
2 the parties with clear guidance as to when a change of law will take effect; 2) not
3 provide an opportunity for any party to delay the effect of a change of law; and 3)
4 preserve the authority of the relevant regulatory body.”¹² However, it is clear that
5 despite Qwest’s agreement with these principles, Qwest’s language fails all three
6 criteria.

7 **Q. REGARDING THE FIRST CRITERION, DOES QWEST’S PROPOSED**
8 **LANGUAGE PROVIDE CLEAR GUIDANCE AS TO WHEN A CHANGE**
9 **OF LAW WILL TAKE EFFECT?**

10 A. No. As discussed above, for example, one of the situations in which guidance is
11 needed involves a true-up requirement, and only Eschelon’s proposed language
12 uses the term true-up and clearly indicates when a change in law will take effect if
13 the Commission’s order is silent on the issue.

14 **Q. REGARDING THE SECOND CRITERION, DOES QWEST’S PROPOSED**
15 **LANGUAGE LIMIT A PARTY’S ABILITY TO DELAY A CHANGE OF**
16 **LAW?**¹³

17 A. No. As discussed in my direct testimony (Eschelon/9, Denney/14-15) and
18 rebuttal testimony (Eschelon/125, Denney/13-15), Qwest’s language allows
19 parties to attempt to avoid a change of law by remaining silent about changes that
20 work against a party, in hopes that the party advantaged by the change of law fails

¹² Qwest/33, Easton/4, lines 4-6.

¹³ Qwest/13, Easton/11, lines 7-10.

1 to take notice. Given that given its greater resources Qwest will more likely be a
2 party in every proceeding impacting Qwest, while all CLECs (including smaller
3 CLECs opting into this agreement) are less likely to be a party to all of these same
4 cases, it is Qwest that will likely benefit from selective silence. If Qwest were
5 truly concerned about avoiding delay, then it would accept Eschelon's alternative
6 proposal, which clearly affirms that both parties have the obligation to amend the
7 contract upon a change of law.¹⁴

8 Mr. Easton argues that Eschelon is sophisticated and shows a "great deal of
9 awareness" and would likely know of any changes of law.¹⁵ Qwest ignores that
10 Eschelon is a small company compared to Qwest, and the resources available to
11 Eschelon reflect that difference in size. In addition, if Qwest is confident in
12 Eschelon's ability to take advantage of changes of law that benefit Eschelon, why
13 would Qwest be opposed to Eschelon's language? The only answer can be that
14 Qwest hopes to catch Eschelon or another, smaller carrier who happens to opt into
15 Eschelon's ICA.¹⁶

16 **Q. REGARDING THE THIRD CRITERION, DOES QWEST'S PROPOSED**
17 **LANGUAGE IMPINGE UPON A REGULATORY BODY'S**
18 **AUTHORITY?**¹⁷

¹⁴ See Eschelon's Second Alternative proposal, which is discussed in Eschelon/9, Denney/10-13 and Eschelon/9, Denney/3-4.

¹⁵ Qwest/33, Easton/7, lines 5-6.

¹⁶ Qwest argues that the ability for CLECs to opt into other CLEC negotiated agreements is part of the reason Qwest has chosen to stop updating its SGATs. See Qwest/14, Stewart/43-44.

¹⁷ Qwest/33, Easton/7, lines 10-20.

1 A. Yes.¹⁸ Qwest’s language establishes scenarios when Qwest could argue a
2 Commission-ordered effective date is voided due to Eschelon’s failure to notify
3 Qwest¹⁹ of the order, even in circumstances when Qwest was a party to the case
4 causing the change of law (and even when Eschelon was *not* a party). When Mr.
5 Easton suggests that Qwest’s language “applies only when an effective date is not
6 specified,”²⁰ he again ignores Qwest’s own proposal. Qwest’s proposal states,
7 when an “order does not include a specific *implementation date*” and neither
8 party provides notice of the order to the other party, “the *effective date* of the
9 legally binding change shall be the *effective date of the amendment* unless the
10 Parties agree to a different date.” Qwest’s proposed language flies in the face of a
11 regulatory body’s authority because it means that, even though the Commission
12 may order that its ruling be “effective immediately,” the effective date “shall” be
13 the date of the *amendment* – and *not* the date ordered by the Commission!
14 Although Eschelon pointed this out to Qwest,²¹ Qwest continues to propose a
15 change, not to the implementation date, but to the “effective date of the legally
16 binding change.”

¹⁸ See also Eschelon/9, Denney 17.

¹⁹ Note: Qwest’s language would also apply in cases where Qwest fails to give notice to Eschelon, but as described previously, this scenario is less likely.

²⁰ Qwest/33, Easton/7, lines 19-20.

²¹ For example, in an April 11, 2006 memo to Qwest regarding Section 2.2, Eschelon said: “Qwest also added a sentence about what happens “in the event” that neither party provides notice. If Qwest is a party to a proceeding and Eschelon is not and Qwest receives an adverse result, Qwest’s language would allow Qwest to delay the effectiveness of that adverse ruling by simply not notifying Eschelon of the ruling. Is this really Qwest’s position? Also, while the previous sentence includes the language “unless otherwise ordered,” this sentence does not. If a Commission issues an order in a generic cost proceeding that has been properly noticed and the order states that it is effective immediately, does Qwest believe it can change the effective date of the order because neither party gave the other notice (even if one or both parties were party to the proceeding)? That is what Qwest’s language says. Is this really Qwest’s position?”

1 Even assuming this problem with Qwest’s language were belatedly corrected,
2 correcting it would be more helpful if the terms used are clear. Only Eschelon’s
3 proposal recognizes that there may (or may not) be two different dates (effective
4 date and implementation date) and spells out what this means. Eschelon’s
5 language reflects the correct presumption. It provides that, if the order is silent,
6 the effective date and the implementation date are the same. This places the
7 burden on the appropriate party – the party wanting a separate implementation
8 date – to speak up during a proceeding and request that date. Qwest’s language
9 has the opposite presumption: if the order is silent and neither party provides
10 notice, the effective date and the implementation date are two different dates, with
11 the parties and not the Commission setting the effective date. Qwest’s proposal
12 places the burden on the Commission to identify the need for a separate
13 implementation date, even when the companies do not request a date or a stay of
14 the Commission’s order.

15 An illustration of the problems with Qwest’s language is the Commission’s
16 Decision No. 64922 in Phase II of the UNE Cost Docket T-00000A-0194.²² Mr.
17 Easton argues that the Show Cause proceeding that resulted from Qwest’s failure
18 to implement the Commission’s order in the UNE Cost Docket “did not relate at
19 all to the effective date of a cost docket order.”²³ Mr. Easton misses the point, as
20 the dispute was regarding the **implementation date** of a Commission order.

21 Although Qwest’ language contains no definition of these terms, Qwest in its

²² See Eschelon/9, Denney/14-15

²³ Qwest/33, Easton/8, lines 28-29.

1 testimony defines an effective date as “the date the order takes effect”²⁴ and
2 implementation date as “the date on which the parties are obligated to act
3 pursuant to the order.”²⁵ Nowhere in Arizona Commission Decision No. 64922 is
4 a separate implementation date established, as the Commission expected the order
5 to be implemented immediately.²⁶ In that case, Qwest suggested that it could
6 therefore implement the order on a different schedule (five months to a year.)²⁷
7 Qwest’s proposed ICA language incorporates Qwest’s approach in that case for
8 orders without a separate, specific implementation date. Therefore, instead of
9 simply delaying the date on which “Qwest would have its systems modified to
10 reflect the new prices”²⁸ Qwest could also deny the effective date of the order to
11 Eschelon, or any CLEC opting into Eschelon’s interconnection agreement, if
12 Eschelon (or the opting CLEC) failed to give notice to Qwest within 30 days of
13 the Commission’s order. Clearly Qwest’s language would circumvent the
14 authority of the Commission.

²⁴ Qwest/33, Easton/5, line 5

²⁵ Qwest/33, Easton/5, line 6.

²⁶ At the open meeting, the Commission indicated that it believed it was reasonable to conclude that an order indicating that it was effective “immediately” means “fairly soon” *see* Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 9, lines 12-15, and that, in any event, “any definition of immediately is not five months later.” *See id.*, p. 10, lines 6-7.

²⁷ *See* Transcript of 12/2/02 Special Open Meeting, AZ Show Cause Case, p. 10, line 25 – p. 11, line 8 (emphasis added) (quoted on Eschelon/9, Denney/22, lines 8-10).

²⁸ Qwest/33, Easton/9, line 2.

1 **III. DISGIN CHANGES (SUBJECT MATTER NO. 4)**

2 **SUBJECT MATTER NO. 4. DESIGN CHANGES**

3 **Issue Nos. 4-5, 4-5(a), and 4-5(c): ICA Sections 9.2.3.8, 9.2.3.9, 9.2.4.4.2,**
4 **9.20.13 and Exhibit A**

5 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF ISSUE 4-5 AND SUBPARTS**
6 **(DESIGN CHANGES).**

7 A. Issues 4-5, 4-5(a) and 4-5(c) apply to design changes for loops [issue 4-5], CFA
8 changes [issue 4-5(a)], and their respective charges [issue 4-5(c)] in Exhibit A.
9 Eschelon's language makes clear that Qwest will continue to provide design
10 changes and CFA changes for loops and that if any charges apply they reflect
11 cost-based rates.

12 **Q. MS. STEWART STATES THAT, BECAUSE QWEST AGREES TO**
13 **ESCHELON'S PROPOSED LANGUAGE IN ICA SECTIONS 9.2.3.8 AND**
14 **9.2.4.4.2, ISSUE 4-5 SHOULD BE CLOSED.²⁹ IS THIS ISSUE CLOSED?**

15 A. No. Issue 4-5 establishes language in the contract regarding Qwest's ability to
16 charge for design changes for loops. Issue 4-5(c) determines the interim rate that
17 would apply to such design changes. Issue 4-5 can not be separated from issue 4-
18 5(c). Otherwise, the contract would establish Qwest's ability to charge for design
19 changes for loops, without establishing an appropriate rate for such charges,³⁰
20 and the result would be Qwest's unilateral implementation of rates for design

²⁹ Qwest/37, Stewart/2.

³⁰ A similar linkage occurs with issue 4-5(a) and 4-5(c). 4-5(a) establishes when Qwest can charge for CFA changes and 4-5(c) establishes the appropriate rate.

1 changes for loops.³¹ This was also discussed in detail in my rebuttal testimony
2 (Eschelon/125, Denney/12-13). Eschelon has made clear for many months now
3 that it reserves the right to argue that there should be no separate rate for design
4 changes for loops and CFAs because these costs are already recovered in
5 recurring rates. Eschelon's proposed language is subject to that contingency (*i.e.*,
6 Eschelon does not agree to language stating that Qwest may charge Eschelon
7 without also assuring in the ICA that the charge will be a cost-based rate). The
8 language cannot be closed, therefore, until the cost issue is addressed.
9 Eschelon/134 shows that Eschelon made this position clear to Qwest in writing as
10 early as May 4, 2006, though Eschelon made its position clear to Qwest in
11 negotiations prior to that time.³² It is important to consider Eschelon's proposals
12 for Issues 4-5 and subparts together so that the ICA is clear as to if and when
13 Eschelon would pay separate non-recurring rates for these design changes and
14 what these rates would be. If the Commission were to find, for example, that any
15 costs to Qwest were already included in the recurring rate, it would be
16 inappropriate to include the proposed language stating that Qwest could also
17 charge a non-recurring rate.

18 As stated in my rebuttal testimony, Eschelon/125, Denney/13, there are three open
19 issues for resolution: (1) whether Qwest may charge a separate charge for design
20 changes for unbundled loops even though Qwest has not done so in the past (ICA
21 Section 9.2.3.8; Issue 4-5); (2) if so, whether Qwest may charge the same rate that

³¹ See also Eschelon/125, Denney/11-13.

³² See also, Eschelon/9, Denney/30, lines 14-16

1 it charges to perform design changes for UDITs or all loops to perform design
2 changes associated with certain Connecting Facility Assignment (“CFA”) changes
3 that are relatively common, require very little time, and can be performed on the
4 day of cut during the loop installation process when Eschelon is already paying
5 for coordination (ICA Section 9.2.3.9; Issue 4-5(a)); and (3) what is the
6 appropriate rate (Exhibit A Section 9.20.13; Issue 4-5(c)). Specifically with
7 respect to the rate, if Qwest may charge separately for design changes for
8 unbundled loops: (a) what rate Qwest may charge for design changes for loops
9 (Exhibit A Section 9.20.13.2); (b) what rate Qwest may charge for certain CFA
10 changes (Exhibit A Section 9.20.13.3); and (c) whether the rates identified by the
11 Commission in this arbitration should be Interim Rates.

12 **Q. MS. STEWART DISAGREES WITH YOUR TESTIMONY THAT THERE**
13 **IS NO BASIS FOR DESIGN CHANGE CHARGES FOR LOOPS IN THE**
14 **SGAT OR ICA.³³ HAS SHE IN THE PAST AGREED WITH YOU ON**
15 **THIS POINT?**

16 A. Yes. I addressed this issue at Eschelon/9, Denney/29-30 and Eschelon/125,
17 Denney/ 13-14. Ms. Stewart argues that her admission in Minnesota that “neither
18 Qwest’s SGAT nor the parties’ current ICA includes a design change charge for
19 loops” was unique to Minnesota and does not apply in Oregon.³⁴ In Minnesota
20 Ms. Stewart testified:

³³ Qwest/37, Stewart/8.

³⁴ Qwest/37, Stewart/8.

1 **Minnesota**

2 “Mr. Denney **is correct** in stating that neither Qwest's SGAT nor
3 the parties' current ICA includes a design change charge for loops.
4 However, **that fact** should not prevent Qwest from recovering the
5 costs it incurs to provide these changes for Eschelon's benefit.”
6 (Stewart Minnesota Rebuttal Testimony, pp. 6-7, September 22,
7 2006, emphasis added).

8 Qwest can not point to any language in the SGAT or Eschelon’s current ICA that
9 provides for the basis for Qwest to charge the design change charges for loops in
10 Oregon. Qwest’s argues that because the design change charge is listed in the
11 Miscellaneous section of Exhibit A, it applies to both loops and CFA changes. I
12 explained in my rebuttal testimony (Eschelon/125, Denney/26-27) miscellaneous
13 charges do not automatically apply to all UNEs, but the contract points to the
14 specific situations in which the charges in Exhibit A apply. The fact that the
15 SGAT included the design change charge only for transport and for years Qwest
16 charged this rate only for transport demonstrates that the rate was not intended to
17 apply to unbundled loops or 2/4 wire loop cutover CFA changes.

18 **Q. MS. MILLION CLAIMS THAT YOUR STATEMENT THAT “QWEST**
19 **HAS PROVIDED NO RELATED COST STUDY, OBTAINED NO**
20 **RELATED ICA AMENDMENT, AND SOUGHT NO RELATED**
21 **COMMISSION APPROVAL, BUT, INSTEAD, SIMPLY COMMENCED**
22 **BILLING FOR DESIGN CHANGES FOR LOOPS”³⁵ IS INACCURATE. ³⁶**
23 **PLEASE RESPOND.**

³⁵ Eschelon/9, Denney/256

³⁶ Qwest/39, Million/29.

1 A. Ms. Million states that this statement “is not quite accurate,”³⁷ by explaining that
2 the New Mexico Commission approved the design change charge in its recent
3 cost docket.³⁸ She further argues that the rate in New Mexico was “quite
4 clearly... intended to apply in a variety of circumstances to a variety of Qwest
5 products, including loops.”³⁹ What happened in a New Mexico cost case -- a case
6 in which Eschelon was not involved and a state in which Eschelon does not do
7 business -- is irrelevant to the design change charge in Oregon. Ms. Million
8 seems to be agreeing that, with the explicit addition of “in Oregon” to my
9 sentence, it is accurate. Ms. Million does not offer any evidence of her claims,
10 does not provide the cost study from New Mexico, and does not provide
11 testimony from New Mexico demonstrating that the rate was “quite clearly”
12 intended to apply to loops.

13 Further, Ms. Million does not dispute that the Oregon Commission has not
14 approved a rate for any type of design changes;⁴⁰ for years Qwest provided design
15 changes to CLECs at no additional charge;⁴¹ and that Qwest sent an unexpected
16 notice to CLECs announcing that it would commence billing a NRC for design

³⁷ Qwest/39, Million/29, lines 13-14.

³⁸ Qwest/39, Million/29, lines 15-17.

³⁹ Qwest/39, Million/29, lines 17-19.

⁴⁰ See Exhibit A filed with the Oregon petition where both parties have agreed that the design change charge is an unapproved rate.

⁴¹ Eschelon/9, Denney/255.

1 changes for loops including CFA changes, despite the fact that there was no
2 change in CLECs contracts and no order from the Oregon Commission.⁴²

3 **Q. MS. STEWART STATES THAT THE “REAL DISPUTE” IS “WHETHER**
4 **ESCHELON WILL AGREE TO RATES THAT COMPENSATE QWEST**
5 **FOR THE COSTS IT INCURS TO PERFORM” DESIGN CHANGES.⁴³ IS**
6 **THIS THE “REAL DISPUTE”?**

7 A. No. The fact that Eschelon has agreed to compensate Qwest for design changes
8 (either because Qwest is already recovering design change costs in existing rates
9 or because Qwest establishes cost-based rates for design changes) cannot be
10 disputed. This is clear in Eschelon’s direct testimony,⁴⁴ rebuttal testimony,⁴⁵ and
11 most importantly, the ICA language.⁴⁶ Eschelon has also agreed to language in
12 Section 5.1.6 of the ICA which states that “Nothing in this Agreement shall
13 prevent either Party from seeking to recover costs...”

14 Ms. Stewart points to my testimony at the Minnesota hearing as “the basis for
15 [her] concern that Eschelon’s proposal may be designed to prevent Qwest from

⁴² Eschelon/9, Denney/255.

⁴³ Qwest/37, Stewart/3. *See also*, Qwest/37, Stewart/6 and Stewart/15.

⁴⁴ Eschelon/9, Denney/34, lines 10-11 (“Qwest can assess a cost-based rate for design changes.”) and Eschelon/9, Denney 28, lines 5-6 (“Eschelon needs a ruling that provides certainty that Qwest will continue to provide changes at TELRIC rates.”).

⁴⁵ Eschelon/125, Denney/14, lines 3-5 (“Eschelon’s position statement, testimony and, most importantly, contract language make very clear that Eschelon is not attempting to prevent or limit Qwest from recovering its costs.”) *See also*, Eschelon/125, Denney/17, lines 2-5 (“Eschelon’s language does in fact allow Qwest to assess a CFA design change charge in these circumstances – an interim rate, pending Qwest requesting and obtaining approval of a different rate. ”).

⁴⁶ Eschelon/9, Denney/31 – 34.

1 recovering the costs”⁴⁷ of design changes and other UNE-related activities.
2 However, Ms. Stewart misses the point of my testimony in Minnesota. I
3 explained that separate non-recurring charges for design changes and other UNE-
4 related activities may not be appropriate because “Qwest is compensated”⁴⁸ in the
5 existing rates for UNEs. As I explained, cost and maintenance factors were
6 applied to Qwest’s existing recurring rates to recover costs related to network
7 operations, doing repairs, maintaining the network, and moving circuits.⁴⁹ It
8 would be inappropriate for Qwest to recover these costs in its recurring rates
9 (through the application of these cost and maintenance factors) and recover them
10 again in separate non-recurring charges,⁵⁰ particularly given that charges for these
11 activities should be TELRIC based (as I also explained in my Minnesota
12 testimony).⁵¹

13 **Q. WHAT IS THE REAL DISPUTE?**

14 A. The real dispute is whether Qwest already recovers design change costs in other
15 rates, and if not, whether Qwest should be allowed to apply the same charge for
16 UDIT design changes to design changes for loops and CFAs, and the appropriate
17 rate that should apply for design changes. To the extent that Qwest shows that
18 these costs are not recovered elsewhere, those rates should be non-discriminatory,
19 cost-based TELRIC rates.

⁴⁷ Qwest/37, Stewart/15.

⁴⁸ Minnesota Hearing Transcript, V. 4, p. 204, line 22.

⁴⁹ Minnesota Hearing Transcript, V. 4, p. 207.

⁵⁰ *See, e.g.*, Eschelon/9, Denney/ 44-45.

⁵¹ Minnesota Hearing Transcript, V. 4, p. 206, lines 18-21.

1 **Q. MS. STEWART CLAIMS THAT “QWEST IS NOT SEEKING TO**
2 **ESTABLISH” TARIFFED RATES FOR DESIGN CHANGES IN**
3 **OREGON.⁵² WOULD YOU LIKE TO COMMENT?**

4 A. Yes. As discussed in my direct testimony at Eschelon/9, Denney 35, Qwest
5 previously indicated its intent to apply tariff rates to design changes and Ms.
6 Stewart testifies, “while Qwest believes that design changes are not a service
7 required under Section 251 of the Act and therefore are not governed by the Act’s
8 cost-based pricing requirement, Qwest is not seeking to establish that right in the
9 Oregon interconnection agreement with Eschelon.”⁵³ Qwest should commit that
10 Qwest will not seek to impose tariffed designed change charges on Eschelon in
11 another proceeding after this proceeding is complete. Eschelon has expended the
12 time and resources to negotiate and arbitrate the issue in this arbitration.⁵⁴ Qwest
13 should not be able to avoid this issue simply by agreeing today and raising the
14 issue tomorrow after this case has concluded.⁵⁵

15 Similarly, Ms. Stewart testifies: “...Qwest is not seeking to establish that right in
16 the Oregon interconnection agreement with Eschelon”⁵⁶ Again, Ms. Stewart is
17 careful to leave Qwest’s options open by referring to Qwest’s current “the Oregon
18 interconnection agreement.” As the four examples I describe in my direct

⁵² Qwest/37, Stewart/3.

⁵³ Qwest/37, Stewart/3.

⁵⁴ *See, e.g.*, Starkey Direct, pp. 132-133.

⁵⁵ Ms. Stewart testified in Minnesota that “Qwest will raise that issue in a separate proceeding that permits all interested parties – not just Qwest and Eschelon – to present their views on the subject.” (Stewart Minnesota Rebuttal Testimony, p. 6, lines 12-14).

⁵⁶ Qwest/37, Stewart/3.

1 testimony show, Qwest's intent today may not be what Qwest actually does.
2 Qwest's September 2005 letter that informed CLECs that it would begin assessing
3 design change charges for loops, despite the absence of support for the charge in
4 the SGAT and ICAs, was an unexpected and substantial change in Qwest's
5 charges for design changes, and was done without seeking ICA amendments.
6 This shows that Qwest's representations that it will not assess tariff charges for
7 design changes, without clear ICA language prohibiting such a policy, cannot be
8 relied upon.

9 Furthermore, as explained by Mr. Starkey under Issue 9-31, Qwest's recent
10 attempt at crafting language related to design changes and other UNE-related
11 activities is an attempt at stripping these activities from Section 251 of the Act so
12 that Qwest can apply rates that are not TELRIC-based. Why would Qwest object
13 to recognizing design changes and other UNE-related activities as "access" to
14 UNEs in the ICA if Qwest did not intend to apply non-TELRIC, tariff rates for
15 them? And why would Qwest have modified its position in negotiations and
16 issued its 8/31/06 non-CMP notice modifying its Negotiations Template to
17 indicate that tariff charges will apply to design changes and other UNE-related
18 activities, if Qwest did not intend to apply tariff rates to them? This is further
19 supported by Ms. Stewart's claim that design changes and other UNE-related
20 activities are not governed by Section 251 of the Act.

21 **Q. MS. STEWART STATES THAT YOUR ASSERTION THAT THERE IS A**
22 **RISK THAT QWEST WILL STOP PROVIDING DESIGN CHANGES IS**

1 **NOT CORRECT.⁵⁷ IS THIS RISK SUPPORTED BY PAST**
2 **EXPERIENCE?**

3 A. Yes. There have been cases in which an ICA contains express language regarding
4 a product or service and Qwest has still refused to provide it. For instance,
5 despite clear language in the ICA entitling Eschelon to expedites for UNE loops,
6 Qwest denied its obligation in this regard.⁵⁸ And, despite clear language entitling
7 CLECs to UNE Combinations in the early ICAs, Qwest initially refused to
8 provide UNE-P under the ICAs, forcing Eschelon to get orders from the state
9 commissions in Minnesota and Arizona before Qwest would provide it.

10 Furthermore, if Qwest is able to remove these activities from Qwest’s obligation
11 to provide nondiscriminatory “access” to UNEs and charge non-cost based tariff
12 rates,⁵⁹ and in addition restrict access,⁶⁰ Qwest will still put Eschelon at a
13 competitive disadvantage although Qwest is making these functions “available.”

14 **Q. MS. STEWART TESTIFIES THAT “THERE IS NO BASIS FOR” YOUR**
15 **ASSUMPTION THAT THE COSTS FOR DESIGN CHANGES FOR**
16 **LOOPS ARE LESS THAN THOSE FOR UEDIT DESIGN CHANGES.⁶¹ IS**
17 **HER TESTIMONY CORRECT?**

⁵⁷ Qwest/37, Stewart/3.

⁵⁸ Qwest denied that the following contract provision entitles Eschelon to receive expedites for UNE loops: Qwest “shall provide CO-PROVIDER the capability to expedite a service order...” Eschelon/93, Johnson/5, footnote 9; *See also*, discussion of Issue 12-67 in Eschelon/9, Denney/200 and Eschelon/125, Denney/111.

⁵⁹ Eschelon/9, Denney/35-39 and Eschelon/28 (Denney).

⁶⁰ Eschelon/9, Denney/40-52 and Eschelon/27 (Denney).

⁶¹ Qwest/37, Stewart/7.

1 A. No. I have provided a basis for why the design change charge for loops, to the
2 extent they are not recovered in other rates, should be less than the design change
3 charge for UDIT. *See* Eschelon/9, Denney/47-56 and Eschelon/125, Denney/18-
4 21 and Denney/29-30. This information was available to Ms. Stewart when she
5 claimed that I provided “no basis” for Eschelon’s position. I have shown that, to
6 the extent, if any, that separate charges for design changes for loops and CFAs are
7 proper, a number of other factors support the use of lower rates than the rate
8 which applies to UDIT.⁶²

9 **Q. DOES QWEST’S PROPOSAL TO CHARGE THE SAME RATE FOR**
10 **UDIT DESIGN CHANGES AS FOR DESIGN CHANGES FOR LOOPS**
11 **AND CFAS CONFLICT WITH ANOTHER QWEST RATE PROPOSAL?**

12 A. Yes. Qwest’s claim that the costs for all design changes – whether UDIT, loop or
13 CFA – should be the same⁶³ conflicts with Qwest’s misguided rate proposal for
14 conversions (*see*, Issue 9-43/9-44). Qwest is seeking a conversion charge for
15 transport that is four times the rate it is seeking for loop conversions, which shows
16 that Qwest believes that work related to transport is more complex, more

⁶² Eschelon/9, Denney/48-52, explaining that design changes should not exceed the installation rate because design changes are component(s) of installation. *See also*, Eschelon/9, Denney/52-53, explaining that the design change cost study Qwest relies upon assumes processing and billing systems associated with transport services (EXACT and IABS), not loop systems (IMA and CRIS); Eschelon/9, Denney/ 54-55, explaining that the work involved with transport is typically more complex than that involved in loops; and Eschelon/9, Denney/55, explaining that the time and work involved in a CFA change during test and turn-up is minimal because the Qwest technician is already standing at the frame and is coordinating the cutover with Qwest testing personnel and Eschelon personnel.

⁶³ Qwest/37, Stewart/8.

1 manually-intensive, and thus higher cost than that for loops.⁶⁴ However, when it
2 comes to design changes, Qwest argues that they should be the same. Qwest
3 certainly cannot have it both ways.

4 **Q. QWEST CLAIMS THAT YOUR TESTIMONY “FAILS TO ACCOUNT**
5 **FOR THE RE-DESIGN WORK THAT MAY BE REQUIRED BECAUSE**
6 **OF THE USE OF FIBER MUXING EQUIPMENT.”⁶⁵ DOES THIS**
7 **SUPPORT QWEST’S POSITION?**

8 A. No. This was addressed in my rebuttal testimony (Eschelon/125, Denney/29-30).
9 Qwest’s lone example regarding the use of muxing equipment shows the danger
10 in relying on Qwest’s conjecture about costs, rather than requiring Qwest to file
11 cost studies to support its claim that the costs of design changes for loops and
12 CFA (to the extent that they are not already recovered) are sufficiently similar to
13 design changes for UDIT that applying the same rate for all is appropriate.

14 **Q. QWEST CLAIMS THAT YOU HAVE NOT ACCURATELY DESCRIBED**
15 **THE WORK REQUIRED FOR CFAS AND THE COSTS ASSOCIATED**
16 **WITH THEM.⁶⁶ WOULD YOU LIKE TO RESPOND?**

17 A. Yes. Qwest made the same argument in its direct testimony, and I responded to
18 this argument at Eschelon/125, Denney/18-19.⁶⁷ Like Ms. Stewart’s direct

⁶⁴ Compare Qwest’s proposed interim rate in section 9.6.12 of Exhibit A (Private Line / Special Access to UDIT Conversion) of \$123.96 to Qwest’s proposed interim rate in section 9.2.8 of Exhibit A (Private Line / Special Access to Unbundled Loop Conversion) of \$38.18.

⁶⁵ Qwest/37, Stewart/7.

⁶⁶ Qwest/37, Stewart/4.

⁶⁷ Eschelon/125, Denney/18-19 refers to a deposition of Mr. Jenson. Mr. Jenson’s deposition

1 testimony, in which she states that “In advocating a much lower rate for CFA
2 changes, Eschelon focuses on only the “lift and lay” component of this process,
3 failing to acknowledge the multiple other steps that are involved.”⁶⁸ As I
4 explained in my rebuttal testimony (Eschelon/125, Denney/19-20) Qwest is
5 wrong because Eschelon is paying for coordination of the cut separately, which
6 will cover the activities that Qwest claims I ignore.⁶⁹ Since Eschelon’s language
7 limits the CFA change option to coordinated installations, none of the activities
8 that Ms. Stewart claims I ignore should factor in to the appropriate rate for a CFA
9 design change.

10 **Q. MS. STEWART COMPLAINS THAT YOU DID NOT PROVIDE A COST**
11 **STUDY FOR THE INTERIM RATES THAT ESCHELON PROPOSES.⁷⁰**
12 **HAVE YOU ALREADY ADDRESSED THIS ISSUE?**

13 A. Yes, I addressed this issue at Eschelon/125, Denney/32-33 of my rebuttal
14 testimony, where I explained that it is Qwest’s – not Eschelon’s – obligation to
15 provide cost support for the charges that Qwest will assess Eschelon.
16 Furthermore, Eschelon’s proposed rates for design change charges for loops and

transcript was not available at the time of rebuttal testimony. The relevant pages from his deposition are provided as Eschelon/135.

⁶⁸ Qwest/14, Stewart/11.

⁶⁹ Eschelon/9, Denney/50(“Eschelon is paying for coordination, or for Qwest’s central office technician to remain in contact with personnel in Qwest’s test center so that the technician has real time access to information during the cutover.”) and Eschelon/125, Denney/19(“Eschelon is already separately paying for coordination during these coordinated cuts, and this coordination should cover the types of activities that serve as the basis for Ms. Stewart’s erroneous claim that a CFA change turns “a standard installation into a coordinated installation without additional coordinated installation cost recovery by Qwest.”)

⁷⁰ Qwest/37, Stewart/9.

1 CFAs on the day of the cut are offered by Eschelon as interim rates,⁷¹ until such
2 time that the Commission reviews and sets appropriate rates.⁷² Therefore, Ms.
3 Stewart's criticism about the lack of a cost study is misplaced.

4 **Q. MS. MILLION DISAGREES THAT THE DESIGN CHANGE CHARGE**
5 **WAS DEVELOPED SPECIFICALLY FOR UDOT, AND CLAIMS THAT**
6 **THE COST STUDY CALCULATES THE AVERAGE COST FOR ALL**
7 **DESIGN CHANGE PRODUCTS.⁷³ DID MS. MILLION PROVIDE ANY**
8 **COST SUPPORT INFORMATION TO SUPPORT HER CLAIM?**

9 A. No. In my direct testimony I provided excerpts from a Qwest cost study showing
10 that its design change charge was constructed based on UDOT systems and ASRs
11 (which are used for UDOT) instead of LSRs (which are used for loops).⁷⁴ Nothing
12 in the study refers to LSRs, loops or CFA changes, which would be contained in
13 the study if the study actually included costs for these items.

14 Ms. Million states, "it is clear from the description of the design change element,
15 included in the Executive Summary of the Nonrecurring Cost Study... that it was
16 intended to apply to all types of design changes and not transport only."⁷⁵ Qwest
17 should be able to point to specific information in its cost study, rather than a
18 study's Executive Summary which has nothing to do with the actual cost

⁷¹ See, Eschelon's position statement for Issue 4-5(c) in the Disputed Issues Matrix.

⁷² See, e.g., Eschelon/9, Denney 254-288.

⁷³ Qwest/39, Million/17, lines 18-22 See also, Qwest/37, Stewart/8.

⁷⁴ Eschelon/9, Denney 52-52.

⁷⁵ Qwest/39, Million/18, lines 1-5.

1 calculations, to support its claim that the design change charge was developed for
2 all design change charge products – but it has not. Further, as explained above in
3 response to Qwest’s only example (fiber mux) for why the cost of design changes
4 for transport **may** be the same as design changes for loops, it is certain that this
5 rate was not intended to apply to CFA changes.

6 **Q. IS MS. MILLION’S CLAIM THAT THE DESIGN CHANGE RATE WAS**
7 **BASED ON AN AVERAGE FOR ALL DESIGN CHANGE PRODUCTS**
8 **SUPPORTED BY QWEST’S COST STUDY FOR DESIGN CHANGES?**⁷⁶

9 A. No, and perhaps this is why Ms. Million does not rely on the actual cost study
10 calculations to substantiate her claim. Qwest’s design change cost studies show
11 clearly that the rate for design change charge does not average together costs for
12 all design change products. For example, as shown in the Probability columns of
13 the cost study, the probability for all almost of the activities are shown as 100%⁷⁷
14 and the exceptions, contrary to Ms. Million’s claims, have nothing to do with
15 averaging together the “cost of performing a design change for all types of
16 products (i.e., loops and transport) and under all types of circumstances including
17 CFA (connecting facility assignment) changes.”⁷⁸ If this cost study averaged
18 together different activities for different design change products as Qwest claims,
19 all of the probabilities would not be 100%. The fact that there is no averaging

⁷⁶ Qwest/39, Million/17.

⁷⁷ See Eschelon/9, Denney/53.

⁷⁸ Qwest/39, Million/17, lines 20-22. The exceptions have to do with manual versus mechanical ordering and another manual activity labeled, “Manually calculate charges if the service is interLCA facility or other manually billed products (tandem exhaust, etc.)” The notes in this study indicate that this is applied to “ASRs manually handled.” See Eschelon/9, Denney 53.

1 together of different activities, or assumed probability that certain activities would
2 occur for some design changes but not others, shows that this cost study is
3 developed to apply to one product – UDIT. If this cost study averaged UDIT
4 design change costs together with loop design change costs, as Qwest claim, it
5 would have to include assumptions for loops – but it does not.

6 **Q. IF MS. MILLION IGNORES THE COST STUDY SHOWING THAT THE**
7 **DESIGN CHANGE CHARGE WAS DEVELOPED FOR UDIT ONLY, ON**
8 **WHAT DOES SHE RELY FOR HER CLAIM THAT THE COST STUDY**
9 **AVERAGES TOGETHER COSTS FOR ALL DESIGN CHANGE**
10 **PRODUCTS?**

11 A. She relies on the description of the rate element in the Executive Summary of
12 Qwest’s compliance filing, which refers to “end user premises” and “channel
13 interface,” and claims that this terminology supports the application of this charge
14 to loops and CFAs.⁷⁹ First of all, Ms. Million’s claim does not comport with the
15 cost study information explained above, showing that the design change charge
16 was developed specifically to apply to UDIT and not loops or CFA. Second,
17 contrary to Ms. Million’s testimony, the description of the rate element in the
18 Executive Summary (and the use of the phrase “type of channel interface”) does
19 not specifically contemplate situations involving the CFA changes (or same day
20 pair changes) discussed under Issue 4-5. A change to the type of channel
21 interface means a change to the NC/NCI code, which a same day pair change does

⁷⁹ Qwest/39, Million/18, lines 5-8.

1 not require (a same day pair change does not require a redesign of the circuit;
2 rather the circuit is terminated to a different slot, and the circuit ID may or may
3 not change). Therefore, Qwest's own compliance filing clearly shows that the
4 rate does not apply to CFA changes discussed in Section 9.2.3.9 of the ICA.

5 Further, Ms. Stewart's testimony verifies the fact that CFA changes are not a part
6 of the design change charge. Ms. Stewart states, "while Mr. Denney focuses on
7 the technician-related work required for CFAs, he fails to recognize that
8 technician time is not included in the costs underlying Qwest's proposed rate for
9 design changes."⁸⁰ Although the amount of time is small,⁸¹ technicians are clearly
10 involved in CFA changes, which Qwest admits require a technician's involvement
11 in the lift & lay⁸² and which Ms. Stewart claims also requires other technician
12 work.⁸³ Because technician time is part of the CFA costs and the cost study for
13 the design change charge does not include any technician time, this rate could not
14 have contemplated (or included) CFA changes. Therefore, it is not correct that
15 the design change charge "calculates the average cost of performing a design
16 change for all types of products (i.e., loops and transport) and under all types of
17 circumstances including CFA (connecting facility assignment) changes."⁸⁴ The

⁸⁰ Qwest/37, Stewart/4.

⁸¹ Eschelon/125, Denney/19-21.

⁸² Qwest/14, Stewart/11, lines 3-5. ("Qwest central office technician's disconnection of a jumper from one CFA on a frame and reconnection of the jumper to another CFA on a frame") & *id.* lines 14-16 ("Once the tester has coordinated these efforts, the tester will have the CO tech run a jumper from the tie pair to the new CFA per the new design, i.e., the "lift and lay" portion of the effort").

⁸³ See, e.g., Qwest/14, Stewart/11, lines 7-8. ("The Central Office technician is also involved in the coordination").

⁸⁴ Qwest/39, Million/17, lines 20-22.

1 design change charge calculation can not be the average of activities that are not
2 even in the study to begin with.

3 Although Qwest argues that it has the right to charge the design change charge for
4 UDIT, Loops and CFA changes,⁸⁵ the rate has not been approved for either
5 application and historically Qwest applied this unapproved rate only to design
6 changes for UDIT. Qwest's previous conduct (until September 1, 2005⁸⁶)
7 demonstrates that Qwest understood that the approved UDIT charge did not apply
8 to CFA changes. Before September 1, 2005, Qwest charged the rate for UDITs
9 but not loops,⁸⁷ consistent with the correct application of the UDIT charge per
10 Qwest's own cost study that *does not address technician time* (and the SGAT
11 language authorizing use of the charge for UDITs but not loops⁸⁸). Qwest can no
12 more properly apply an approved UDIT charge to CFA changes than it can select
13 an approved Collocation charge and apply it to CFA changes. The approved rate
14 must be applied appropriately and in light of the costs and activities upon which
15 the rate was based, which in this case Qwest admits does not include the
16 technician time involved in CFA changes.⁸⁹

17 **Q. MS. MILLION TESTIFIES THAT THERE HAS NEVER BEEN A**
18 **DISPUTE ABOUT THE FACT THAT QWEST'S MISCELLANEOUS**

⁸⁵ Qwest/37, Stewart/8.

⁸⁶ Eschelon/10 (Denney). See also Eschelon/1, Starkey/60-64.

⁸⁷ Eschelon/9, Denney/37

⁸⁸ 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.). See Eschelon/9, Denney 31-32.

⁸⁹ Qwest/37, Stewart/4.

1 **CHARGES APPLY IN A VARIETY OF CIRCUMSTANCES AND TO A**
2 **VARIETY OF PRODUCTS.⁹⁰ IS THIS ACCURATE?**

3 A. No. There have been long standing disputes regarding Qwest's application of
4 miscellaneous charges. In the Colorado cost docket, 99A-577T, AT&T
5 recommended that these charges be set to zero.⁹¹ In the Minnesota UNE cost
6 docket the ALJs ruled (and the Commission upheld) that miscellaneous charges
7 should be set to zero. Paragraph 196 of the ALJs' order reads:

8 **MISCELLANEOUS CHARGES (9.20)**

9 Qwest has identified a number of miscellaneous charges (in half-
10 hour increments, as opposed to quarter-hour increments approved in
11 the Generic Cost Case) relating to additional engineering, labor,
12 testing, and maintenance. Some, but not all, are listed for pricing in
13 the Second UNE Pricing Prehearing Order. Many of these charges
14 relate to troubles on the line. Qwest's list is modeled on its FCC
15 tariff charges, as opposed to any cost study based on TELRIC
16 methodology. **Qwest has failed to explain how these charges**
17 **would be applied, such as how it would distinguish between**
18 **situations when such costs are already included in element**
19 **prices, or when "additional" engineering, labor, testing, or**
20 **maintenance justifiably would be required.** Qwest has clarified
21 only that none of these charges would apply if trouble were found
22 on Qwest's side of the network. **Qwest has failed to adequately**
23 **explain the application of these charges, and they should be**
24 **deleted from its SGAT.⁹²**

25 Page 10 of the Minnesota Commission order states:

26 The Commission appreciates the concerns raised by the CLECs.
27 The ALJ Report noted the need for clarity when discussing

⁹⁰ Qwest/39, Million/18, lines 13-15.

⁹¹ See the Direct and Rebuttal Testimony of Michael Hydock on Behalf of the Joint Case of AT&T Communications of the Mountain States, Inc., Worldcom, Inc. & XO Colorado, Inc., In the Matter of U S West Communications, Inc.'s Statement of Generally Available Terms and Conditions, Docket No. 99A-577T, June 27, 2001, Exhibit MH-1, page 20.

⁹² Emphasis added, footnotes deleted. August 2, 2002 ALJs' Report in MN PUC Docket CI-01-1375.

1 miscellaneous charges (ALJ Report ¶ 196), category 11
2 mechanized charges (¶ 208), and the charges listed in Qwest's
3 Statement of Generally Available Terms (SGAT) (¶ 223). But the
4 principle applies more broadly. **There is little point in**
5 **establishing costs related to mere labels;** costs must correspond
6 to real world phenomena. **If Qwest intends to charge a CLEC for**
7 **an element or a service, Qwest should be able to say what the**
8 **charge is for.** The description should conform to how an element
9 is used in the relevant cost model, and provide sufficient
10 information to let purchasers determine what they want to buy and
11 whether they have received it.⁹³

12 **Q. IS MS. MILLION'S TESTIMONY THAT MISCELLANEOUS CHARGES**
13 **"APPLY IN A VARIETY OF CIRCUMSTANCES AND TO A VARIETY**
14 **OF PRODUCTS"**⁹⁴ **CONSISTENT WITH QWEST'S OWN ACTIONS**
15 **REGARDING MISCELLANEOUS CHARGES?**

16 A. No. For example, in the state of Washington the Commission approved
17 miscellaneous charges for additional labor installation which applies to out of
18 hours installations. Despite the Commission approved rate, Qwest forced
19 Eschelon to sign a contract amendment in order to obtain out of hours
20 installations for EELs. Qwest was unwilling to apply this miscellaneous charge to
21 EELs without specific language in the contract allowing this charge. In this case
22 Eschelon communicated to Qwest that it was clear this rate applied to both out of
23 hour loop and EEL installations, yet Qwest demanded a contract amendment.⁹⁵

⁹³ Emphasis added, footnotes deleted. October 2, 2002 Order in MN PUC Docket CI-01-1375 ("MN 271 Cost Order").

⁹⁴ Qwest/39, Million/18, lines 13-15.

⁹⁵ Qwest forced Eschelon to sign a similar amendment in Oregon.

1 For design changes, where parties disagree on the rate application, Qwest has
2 implemented this charge across its states (except Minnesota) without contract
3 amendments, via a simply email notice.⁹⁶ When convenient Qwest applies
4 miscellaneous charges at will, as with design changes, but in other circumstances
5 Qwest demands a contract amendment to clarify when miscellaneous charges
6 apply.

7 **Q. MS. MILLION DISAGREES WITH YOUR SUGGESTION THAT IT IS**
8 **NECESSARY TO DEVELOP SEPARATE RATES FOR DESIGN**
9 **CHANGES FOR LOOPS AND CFAS.⁹⁷ WOULD YOU LIKE TO**
10 **RESPOND?**

11 A. Yes. Ms. Million implies that Eschelon's proposal would require Qwest to
12 develop a rate to accommodate "every possible nuance of every possible way that
13 every possible product might be provisioned by Qwest for the CLECs."⁹⁸ Ms.
14 Million's claim is misleading and exaggerated. Eschelon's position is simple: if
15 Qwest is not already recovering the costs of design changes for loops and CFAs
16 (something for which Qwest did not previously assess an additional charge prior
17 to its unilateral September 2005 notification), it should be required to show that
18 the costs for these are sufficiently similar to that of UDIT before being allowed to
19 charge that rate. If Qwest is able to make this showing, then it would be allowed
20 to charge the same rate for each. However, I have shown that the costs for design

⁹⁶ Eschelon/9, Denney/ 40-41.

⁹⁷ Qwest/39, Million/18, lines 19-26 through Million/19, lines 1-14.

⁹⁸ Qwest/39, Million/18, lines 22-24.

1 changes for loops and CFAs are *not* similar to that of design changes for UDIT,
2 and therefore, a proper cost-based rate should reflect the costs for that activity –
3 otherwise the rate developed will not reflect the underlying costs for loops and
4 CFAs (charges that a CLEC will face more frequently than the UDIT design
5 change charge).

6 Though Ms. Million attempts to confuse the issue by referring to “every possible
7 nuance” and “every possible ‘flavor,’” the fact of the matter is that the
8 Commission has required separate TELRIC-based charges for many different
9 “nuances” or “flavors” of a particular product. For example, the Commission has
10 required Qwest to provide separate rates for various types (or “flavors”) of loops
11 (*e.g.*, analog and digital, 2 wire and 4 wire, etc.). Likewise, Qwest has developed
12 separate non-recurring installation charges for loops of various types (*e.g.*, 2 wire,
13 DS1 and DS3). Qwest has even proposed different non-recurring charges for
14 conversions for loops versus UDIT, which shows that even Qwest understands
15 that when costs for products are not the same, separate rates should be established
16 based on the underlying costs for each. Taking Ms. Million’s argument to its
17 logical conclusion, Qwest could develop just one rate element to apply to all loops
18 or installation of all loops. However, the reason for different cost based rates for
19 different products is that the underlying costs for each of the products is different,
20 and therefore, applying a rate to a product that has no relationship to its
21 underlying cost would violate the cost-based pricing principles required by the
22 Act.

1 **Q. HOW DO YOU RESPOND TO QWEST’S ARGUMENT THAT “THE**
2 **FACT THAT QWEST MAY NOT HAVE CHARGED A CLEC THE RATE**
3 **FOR CERTAIN TYPES OF DESIGN CHANGES DOES NOT MEAN**
4 **THAT THE COSTS FOR THOSE DESIGN CHANGES WERE NOT**
5 **INCLUDED IN THE COST STUDY AND THE RESULTING RATE.”⁹⁹**

6 A. CLECs make business plans and decisions based upon the costs they face. Qwest
7 has a responsibility during a UNE cost case to clearly identify how the rates it
8 proposes will be applied. Qwest should not be allowed to creatively apply rates to
9 new applications three years after it started charging the rate. If Qwest believes a
10 Commission ordered rate applies to a certain product or service, but for some
11 reason Qwest decides not implement that rate, then Qwest should make it clear in
12 both Exhibit A and CLEC’s contracts regarding the application of the rate. Qwest
13 has done this in the past for other rate elements, therefore it is difficult to believe
14 that Qwest simply failed to make these clarifications for design change charges.
15 For example, the Exhibit A, to the Eschelon/Qwest ICA in this case contains the
16 following footnotes, which are not in dispute in this arbitration:

17 Footnote 13 (applies to numerous rate elements): Qwest is unable to bill
18 Manual NRC rates at this time; the corresponding Mechanized NRC rate
19 will be billed instead.

20 This example is from the Exhibit A filed with the petition for arbitration, but are
21 not unique to Eschelon and nor is the example exhaustive regarding Qwest’s use
22 of footnotes to clarify when charges will apply. Following are two additional
23 examples are from the Colorado Exhibit A:

⁹⁹ Qwest/39, Million/18, lines 16-18..

1 Footnote 6: Effective 8/1/03, Qwest will not charge the Channel
2 Regeneration charges of: DS1 REC \$2.32, NRC \$ 477.52 and DS3
3 REC \$7.34, NRC \$1,806.53 that were approved in Docket 99A-
4 577T. Contract amendments to remove the charges are not
5 required. Qwest reserves the right to revert back to the contractual
6 rate only after appropriate notice is given. Future regulatory
7 rulings and/or events may be subject to the conditions described
8 under "Change in Law Provisions" of the SGAT (Section 2.2) or
9 the applicable interconnection agreement.

10 Footnote 8: The Recurring charge applies when the NID is
11 purchased separately. Qwest has not implemented the NID
12 recurring charge of \$0.60 approved in Docket 99A-577T but
13 reserves to right to assess such a charge in the future.

14 **Q. WHAT WAS THE PURPOSE OF YOUR COMPARISON IN YOUR**
15 **REBUTTAL TESTIMONY OF THE DESIGN CHANGE CHARGE TO**
16 **THE LOOP INSTALLATION CHARGES?¹⁰⁰**

17 A. As stated in my direct testimony, "Because connecting to the CFA is one
18 component (or a subset of components) of installation, the work (and cost)
19 involved in performing a CFA change will be less than the work (and cost) of
20 performing the installation.¹⁰¹ Ms. Million is critical of my comparison of the
21 design change charge to the 2/4 wire loop installation charge, claiming that the
22 comparison should have been made to all installations rather than just to the
23 installation for the 2/4 wire loop.¹⁰² It is important to note that Ms. Million does
24 not take issue with the fact that the work and thus cost for the design change is a
25 subset of the work and cost of an installation, which was the point of my original
26 statement.

¹⁰⁰ Eschelon/9, Denney/ 48-49

¹⁰¹ Eschelon/9, Denney/49 lines 1-3.

¹⁰² Qwest/39, Million/19, lines 19-21.

1 **IV. PAYMENT AND DEPOSITS (SUBJECT MATTERS NOS. 5, 6 & 7)**

2 **SUBJECT MATTER NOS. 5, 6 & 7. DISCONTINUATION OF ORDER**
3 **PROCESSING, DISCONNECTION, DEPOSITS AND REVIEW OF CREDIT**
4 **STANDING**

5 **Issue Nos. 5-6, 5-7, 5-7(a) 5-8, 5-9, 5-11, 5-12 and 5-13: ICA Sections 5.4.2,**
6 **5.4.5 and 5.4.7**

7 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF THE PAYMENT AND**
8 **DEPOSIT ISSUES (ISSUES 5-6, 5-7, 5-7(A), 5-8, 5-9, 5-11, 5-12 AND 5-13).**

9 A. Issue 5-6 relates to whether Commission approval should be obtained before
10 Qwest takes the customer impacting action of discontinuing processing
11 Eschelon's orders based on allegations of Eschelon's failure to make timely
12 payment (as proposed by Eschelon), or whether Qwest should be permitted to act
13 unilaterally to discontinue order processing when it alleges failure to pay (as
14 Qwest proposes). Issue 5-7 and subpart address whether Qwest should obtain
15 Commission approval before being allowed to disconnect Eschelon's customers'
16 circuits (as proposed by Eschelon), or whether Qwest can take this serious step
17 unilaterally.

18 Issues 5-8 and 5-9 address the definition of "Repeatedly Delinquent" which is a
19 key term in determining if and when Qwest can require Eschelon to make a
20 deposit. Issue 5-8 relates to whether an amount must be "non de minimus" for
21 that amount to be used in determining whether payment has been Repeatedly
22 Delinquent, as Eschelon proposes, or whether payment may be considered
23 Repeatedly Delinquent based on any late undisputed amount, no matter how small

1 that amount is, as proposed by Qwest. Issue 5-9 relates to whether Repeatedly
2 Delinquent payment should be defined as late payments in three consecutive
3 months (Eschelon's proposal)¹⁰³ or late payments in three or more months in a 12
4 month period (Qwest's proposal).

5 Issue 5-11 addresses whether a party should be able to seek Commission relief
6 once the other party demands a deposit. Eschelon's proposal would require
7 payment of a deposit within 30 days unless one party challenges the deposit
8 amount at the Commission, in which case the deposit payment due date would be
9 ordered by the Commission. Qwest proposes that a party should pay the deposit
10 within 30 days with no vehicle to challenge this deposit amount at the
11 Commission before making the payment.

12 Eschelon's proposal for Issue 5-12 takes an alternative approach: instead of
13 relying on the definition of Repeatedly Delinquent as the trigger for a deposit
14 requirement, this proposal would allow the Commission to make this
15 determination based on all relevant circumstances. Qwest does not have an
16 alternative proposal under Issue 5-12.

17 Issue 5-13 relates to whether a separate provision is needed that would allow one
18 party to unilaterally review the other party's credit standing and increase the
19 deposit amount (or, according to Qwest, establish a new deposit requirement)

¹⁰³ Eschelon has an alternative proposal for Issue 5-9 that would define repeatedly delinquent as three late payments in a six month period.

1 based on this review, as Qwest proposes, or whether deposit requirements are
2 sufficiently addressed elsewhere in the contract, as Eschelon proposes.¹⁰⁴

3 **Q. MR. EASTON SEEMS SURPRISED THAT ESCHELON SPENDS MORE**
4 **THAN 40 PAGES DISCUSSING THE DISPUTES REGARDING THE**
5 **CONTRACT LANGUAGE AND DOES NOT DISCUSS WHETHER**
6 **ESCHELON SHOULD PAY ITS BILLS ON TIME.¹⁰⁵ CAN YOU**
7 **EXPLAIN?**

8 A. Yes, Eschelon's testimony discusses the contract language proposals and the
9 implications of the parties' proposals because it is the contract language that has
10 brought the parties to these arbitration disputes. Mr. Easton states, "Eschelon
11 devotes more than 40 pages to criticizing Qwest's proposed payment and deposit
12 language, but devotes little space to explaining why Eschelon should not pay its
13 bills on time."¹⁰⁶ The contract language regarding when bills are due and
14 Eschelon's obligations to pay its bills **is not in dispute.**¹⁰⁷

15 **Q. MR. EASTON STATES THAT "ESCHELON NEED ONLY PAY ITS**
16 **UNDISPUTED BILLS IN A TIMELY MANNER TO AVOID**
17 **CONSEQUENCES SUCH AS THE DISCONTINUANCE OF TAKING**
18 **ORDERS OR BECOMING SUBJECT TO DEPOSIT REQUIREMENTS"**¹⁰⁸

¹⁰⁴ Eschelon has an alternative proposal for Issue 5-13 that would allow the review Qwest seeks but would require Commission approval.

¹⁰⁵ Qwest/33, Easton 10, lines 12-15.

¹⁰⁶ Qwest/33, Easton/10, lines 12-15.

¹⁰⁷ See sections 5.4.1, 5.4.2, 5.4.3, 5.4.5 and 5.4.8.

¹⁰⁸ Qwest/33, Easton/10, lines 16-18.

1 **AND THAT THE ABILITY TO PREVENT THESE CONSEQUENCES**
2 **LIES “SOLELY” WITH ESCHELON.¹⁰⁹ IS MR. EASTON CORRECT?**

3 A. No. If it were that simple this would not be an issue. I showed in my rebuttal
4 testimony that there are many reasons why the information on which Qwest bases
5 these decisions may be inaccurate. These reasons include: (1) Qwest declaring
6 disputes as “resolved” when no agreement has been reached and Qwest has taken
7 no action to bring the matter to dispute resolution,¹¹⁰ (2) Qwest not posting
8 Eschelon’s payments in a timely manner,¹¹¹ (3) Qwest claiming as past due
9 amounts, payments that are not due yet,¹¹² and (4) Qwest not updating
10 information about where to send Eschelon’s invoices/correspondence¹¹³ - just to
11 name a few.¹¹⁴ Contrary to Mr. Easton’s claim, even if Eschelon paid all
12 undisputed amounts, these problems, individually or in combination, could lead
13 Qwest to believe Eschelon is past due and invoke remedies. In addition, these

¹⁰⁹ Qwest/33, Easton/10, lines 15-16. Mr. Easton also implies that all Eschelon has to do is dispute amounts that it believes are inappropriate to avoid consequences. Qwest/33, Easton/11, lines 20-21; Easton/15, lines 8-9 and Easton/18, lines 17-18. However, even if Eschelon disputes charges and Qwest disagrees, Qwest can simply “resolve” the dispute and force Eschelon to escalate the dispute or Qwest will reclassify the amount as “late.” This is especially egregious given that this is not the billing dispute process set forth in the Qwest/Eschelon ICA.

¹¹⁰ Eschelon/9, Denney 75-76 and 78-82 Eschelon/16 (Confidential), Eschelon/19 and Eschelon/20.

¹¹¹ Eschelon/9, Denney/76; Eschelon/14.

¹¹² Eschelon/9, Denney/76; Eschelon/13 (Confidential).

¹¹³ Eschelon/9, Denney/77; Eschelon/18. Qwest continues to have difficulties in this regard. 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, only corrected the information at Qwest 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. Qwest’s proposal for an open-ended provision to demand a deposit without any standard should be rejected.

¹¹⁴ See also, Eschelon/9, Denney/Denney Direct, pp. 69-71; Eschelon/12 through Eschelon/18.

1 examples show that the ability to avoid these consequences is not solely in
2 Eschelon's control.

3 Case in point: in the case of Eschelon/14, Qwest sent Eschelon a letter on
4 10/24/06 claiming that Eschelon had outstanding undisputed amounts and
5 threatened to stop processing Eschelon's orders and disconnect Eschelon's
6 circuits within three days if Qwest's demands were not met. However, Eschelon
7 had already paid the amount Qwest was claiming was overdue a week before
8 Qwest sent its letter. If Eschelon had not taken steps to show Qwest this mistake
9 very quickly (Qwest threatened to take action in 3 days), Qwest could have
10 stopped processing Eschelon's orders and disconnected circuits based on incorrect
11 information. Qwest's mistake of not posting Eschelon's payment, which led to
12 Qwest's letter threatening disconnection, was not in Eschelon's control.¹¹⁵ Mr.
13 Easton's testimony ignores the reality that Eschelon could pay all undisputed
14 charges, but if Qwest disagrees (because Qwest incorrectly posted a payment as
15 late, for example), Qwest could invoke remedies based on flawed information and
16 Eschelon and its customers would face dire consequences through no fault of
17 Eschelon's.¹¹⁶

¹¹⁵ Though Eschelon asked Qwest to examine its process to see why this mistake occurred, Qwest simply responded that the payment had been posted and the account was current – without any explanation of why the problem occurred.

¹¹⁶ Mr. Easton testifies at Qwest/33, Easton/12, lines 8-10 rebuttal testimony that Qwest cannot unjustifiably disconnect circuits or stop processing Eschelon's orders because "Qwest will only disconnect service or discontinue order processing based on the fact that Eschelon has not paid for services that Qwest has previously provided under the terms of the contract." The problem with Mr. Easton's reasoning is that he calls Qwest's view of Eschelon's payment status a "fact," when it is not a fact and can oftentimes be incorrect. When Qwest's view of Eschelon's payment status is incorrect, Eschelon runs the risk of Qwest unjustifiably disconnecting its circuits or refusing to

1 **Q. MR. EASTON DISAGREES THAT COMMISSION OVERSIGHT IS**
2 **NEEDED TO PROTECT ESCHELON AND ITS END USER**
3 **CUSTOMERS.¹¹⁷ WOULD YOU LIKE TO RESPOND?**

4 A. Yes. On the one hand Qwest objects to Commission oversight in what it calls
5 standard business practices,¹¹⁸ but on the other hand suggests that if Eschelon has
6 a problem with the actions taken by Qwest “there is no doubt that Eschelon would
7 protect its interest through appropriate action before this Commission.”¹¹⁹
8 Qwest’s proposals provide Qwest with the unilateral right to disrupt Eschelon’s
9 end user customers by failing to process orders or to disrupt Eschelon’s business
10 by demanding a deposit, but limits Eschelon’s ability to dispute Qwest’s actions.
11 As discussed in my direct testimony at Eschelon/9, Denney/78-81; Denney/82-83
12 and my rebuttal testimony at Eschelon/125, Denney 42-44 and Denney/49, the
13 dispute resolution process would likely be too slow to avoid irreparable harm as a
14 result of Qwest’s actions. End user customers in Oregon are best served if these
15 issues are handled up front, rather than in crisis mode, before the Commission.

process Eschelon’s orders as demonstrated by Eschelon/17 (Confidential) (Denney). Qwest has indicated that it reserves the right to disconnect Eschelon’s circuits and stop processing Eschelon’s orders without further notice. Eschelon/12, Denney/2 (Confidential), letter from Kathie Makie (Qwest) to Christopher Gilbert (Eschelon), dated 4/20/06.

¹¹⁷ Qwest/33, Easton/26, lines 9-11.

¹¹⁸ Qwest/33, Easton/26, lines 10-11.

¹¹⁹ Qwest/33, Easton/17, lines 13-14.

1 **SUBJECT MATTER NO. 5. DISCONTINUATION OF ORDER PROCESSING**
2 **AND DISCONNECTION**

3 **Issue Nos. 5-6, 5-7, and 5-7(a): ICA Sections 5.4.2, 5.4.3, 5.1.13.1**

4 **Q. THE PAYMENT AND DEPOSITS ISSUES (ISSUES 5-6, 5-7, 5-8, 5-9, 5-11,**
5 **5-12 AND 5-13) RELATE TO QWEST’S ABILITY TO DISCONNECT**
6 **ESCHELON’S CIRCUITS, DISCONTINUE PROCESSING ESCHELON’S**
7 **ORDERS, AND DEMAND DEPOSITS FOR PAYING UNDISPUTED**
8 **CHARGES LATE. WHY IS IT IMPORTANT FOR THE COMMISSION**
9 **TO RESOLVE ANY DISPUTE ABOUT ESCHELON’S PAYMENT**
10 **STATUS BEFORE QWEST TAKES THESE ACTIONS?**

11 A. Because the determination of undisputed amounts is not always clear. I have
12 explained that there are a number of reasons why the disputed amounts that Qwest
13 calculates and the disputed amounts that Eschelon calculates can differ.
14 Therefore, it is crucial that, when a disagreement exists about payment status, the
15 information relied upon for these remedies is accurate, reliable, and reviewed by
16 the Commission before the remedy is invoked.¹²⁰ Eschelon’s proposal does not
17 limit Qwest’s ability to protect its financial interests when a legitimate concern
18 about the future ability to pay exists, it only includes the Commission in the
19 equation before Qwest is able to take the serious step¹²¹ of disconnecting
20 Eschelon’s circuits, for example. If Qwest can disconnect Eschelon’s circuits or

¹²⁰ See, Eschelon/9, Denney/74.

¹²¹ Mr. Easton agrees at Qwest/33, Easton/11, line 16 of his rebuttal testimony that discontinuing the processing of orders is a very serious step. It is puzzling why, if Mr. Easton agrees that this is a very serious step, why the Commission should not have the ability to ensure that information is accurate and substantiated before the serious step is taken.

1 stop processing Eschelon's orders without Commission approval, even if
2 Eschelon later demonstrates to the Commission that Qwest's actions were not
3 justified, the damage to Eschelon and its End User Customers will have already
4 been done. That is why it is important for the Commission to review these
5 disagreements *before* Qwest takes action.

6 To this end, Eschelon's proposals for Issues 5-6 and 5-7 require Commission
7 approval before a Billing Party may stop processing orders or disconnect circuits
8 of the Billed Party based on allegations of failure to make timely payment. Under
9 Issues 5-8 and 5-9, Eschelon proposes a reasonable definition of "Repeatedly
10 Delinquent," which is a key term in determining if and when Qwest can demand a
11 deposit, and under Issue 5-11, Eschelon proposes language so that the Billed Party
12 may seek Commission relief if it disagrees with the Billing Party's demand for a
13 deposit. For Issue 5-12, Eschelon offers an alternative provision that would allow
14 the Commission to make determinations regarding deposits based on all relevant
15 circumstances. And finally, Eschelon disagrees with Qwest's attempt to get a
16 second and unnecessary "bite at the apple" with respect to increasing deposit
17 amounts and demanding new deposits under Issue 5-13.

18 **Q. MR. EASTON'S TESTIMONY SUGGESTS THAT ESCHELON'S**
19 **PROPOSAL PROVIDES NO PROTECTION FOR QWEST IN THE**

1 **EVENT OF A LEGITIMATE CONCERN ABOUT ESCHELON'S**
2 **FUTURE ABILITY TO PAY.¹²² IS THIS TRUE?**

3 A. No. Eschelon's proposal provides for the same protections as Qwest's proposal,
4 the difference being that Eschelon's proposal is designed to ensure that these
5 remedies are invoked with Commission approval. Eschelon's language protects
6 both Qwest and Eschelon by safeguarding Qwest against legitimate concerns
7 about future ability to pay, while at the same time protecting Eschelon from
8 having its order processing stopped, circuits disconnected, or a substantial deposit
9 imposed, based on inaccurate information regarding undisputed amounts. Under
10 Eschelon's proposal, if Qwest is correct about Eschelon's payment status, then
11 Eschelon will pay a deposit (either because Eschelon agrees or because the
12 Commission agrees with Qwest's assessment). In contrast, Qwest's language, by
13 allowing Qwest to take action without Commission approval, protects only Qwest
14 and puts Eschelon at the distinct competitive disadvantage of having its ability to
15 conduct business dictated by Qwest's view of Eschelon's payment status – which
16 has been shown in the past to be incorrect.

17 **Q. DOES MR. EASTON'S REBUTTAL TESTIMONY SHOW THAT QWEST**
18 **AND ESCHELON CAN DISAGREE ABOUT DISPUTED AMOUNTS?**

19 A. Yes. Mr. Easton acknowledges this in his rebuttal testimony at Qwest/33,
20 Easton/13, line 11 when he discusses the recent Qwest threat to stop processing
21 Eschelon orders and disconnect Eschelon circuits. As he points out, Eschelon

¹²² Qwest/33, Easton/16, line 18 to Easton/17, lines 1-3.

1 claimed that \$932,000 was in dispute, while Qwest's records showed less than
2 half that amount in pending dispute status.¹²³ Therefore, according to Mr.
3 Easton's own testimony, what Eschelon and Qwest consider to be disputed
4 amounts can differ. Eschelon also did not agree with Qwest about the amount of
5 undisputed payments that were past due.

6 **Q. IS ESCHELON A SIGNIFICANT PAYMENT RISK TO QWEST?**

7 A. No. Mr. Easton claims that Eschelon ignores payment due dates, pays less than it
8 owes and misuses the dispute process to avoid timely payment.¹²⁴ He also claims
9 that Eschelon pays its bills later than other CLECs.¹²⁵ Mr. Easton fails to
10 acknowledge that Eschelon is a regular payer of large sums of money to Qwest.
11 Eschelon regularly pays about \$5 million per month to Qwest. This is not
12 indicative of a company that is a payment risk to Qwest because it does not pay its
13 bills. When there is a dispute, Eschelon will withhold disputed amounts, but this
14 does not mean that Eschelon "pays less than it owes" as Mr. Easton claims.
15 Rather it shows that Eschelon sometimes disagrees with the amount Qwest claims
16 Eschelon owes – which is Eschelon's right under its ICA, and is not really
17 surprising given the amount of services purchased and amounts of money that are
18 involved. I also disagree with Mr. Easton's assertion that Eschelon misuses the
19 dispute process to avoid timely payment. Mr. Easton does not provide any
20 examples or other evidence in support of his claims, nor am I aware of any

¹²³ Qwest/33, Easton/13, line 11.

¹²⁴ Qwest/33, Easton/10, line 8.

¹²⁵ Qwest/33, Easton/10, lines 9-10.

1 instances of Eschelon misusing the billing dispute process. It is actually Qwest
2 who abuses the billing dispute process by ignoring the process set forth in
3 Eschelon's ICA with Qwest and using instead a process that Qwest developed
4 through CMP. The CMP billing dispute process Qwest imposes on Eschelon
5 results in Qwest forcing Eschelon to escalate disputes if it disagrees with Qwest's
6 assessment, and allows Qwest to call disputes "resolved" when Eschelon does not
7 agree – problems that can lead to Eschelon and Qwest disagreeing on Eschelon's
8 disputed amounts, and increased risk that Qwest will invoke serious remedies
9 when there is no basis for doing so.¹²⁶

10 Furthermore, because Mr. Easton does not provide the supporting data on which
11 he relies in support of his comparison of Eschelon's timeliness of payment with
12 that of other CLECs, it is difficult to comment on that assertion. However,
13 information from Dun and Bradstreet (D&B) indicates that both Qwest and
14 Eschelon pay more slowly than the industry average. While Eschelon pays
15 somewhat more slowly than Qwest, Eschelon's creditworthiness is rated higher
16 than Qwest's.¹²⁷ Therefore, Mr. Easton's comparison of Eschelon's payment
17 interval to other CLEC customers of Qwest is unproven and does not demonstrate
18 that Eschelon is a risk for future payment. But even if, assuming *arguendo*, Mr.

¹²⁶ Mr. Easton testifies: "As to amounts in dispute, through the Change Management Process ("CMP") Qwest and the CLECs, including Eschelon, have developed a formal process to insure that disputes are formally identified and resolved." Qwest/33, Easton/16, lines 11-13. I explained in my direct testimony (Eschelon/9, Denney/79 and Eschelon/20) Eschelon did not develop the CMP billing dispute process with Qwest. Further, the billing dispute process developed in CMP is not the same process as in Eschelon's ICA and Qwest's CMP billing dispute process labels disputes as "resolved" even when Eschelon may disagree.

¹²⁷ See Confidential Eschelon/137.

1 Easton were correct that Eschelon pays later than other CLECs and constitutes a
2 legitimate payment risk, Qwest would be protected in this situation under
3 Eschelon’s proposal.

4 **Q. PLEASE DESCRIBE MORE FULLY THE DUN AND BRADSTREET**
5 **INFORMATION YOU REFER TO ABOVE.**

6 A. The D&B Commercial Credit Scoring Report shows that Qwest also pays later
7 than the industry average.¹²⁸ That information shows that Eschelon pays 14 days
8 later than the industry average and Qwest pays 10 days later than the industry
9 average. However, Eschelon actually has a better commercial credit score rating
10 than does Qwest – with Eschelon scoring a “fair” rating and Qwest scoring a
11 “significant risk”¹²⁹ rating. The bottom line is that the evidence shows Eschelon
12 poses no credit risk to Qwest.

13 Finally, Qwest’s nonspecific references to risk based on credit scores support the
14 need for standards if credit scores are cited as a means to demand further deposits.
15 To the extent that the Commission accepts the use of credit report data for such a
16 purpose, an acceptable credit score should be conversely used to determine that a
17 deposit is *not* necessary or can be decreased.

¹²⁸ See, Eschelon/137. This exhibit contains D&B reports for Qwest and Eschelon as well as an overview of the D&B Commercial Credit Score, including an explanation of how these scores are calculated and the data included in the scores.

¹²⁹ D&B Credit Score Class ranges from 0-5, with Qwest scoring a 4 “significant risk.” The credit score classes are as follows: 1=low risk; 2=moderate risk; 3=average risk; 4=significant risk; 5=high risk.

1 **Q. YOU DISCUSS ABOVE THE POTENTIAL FOR ESCHELON AND**
2 **QWEST TO DISAGREE ABOUT DISPUTED AMOUNTS. DO THE**
3 **PARTIES CURRENTLY AGREE ABOUT THE AMOUNT OF DISPUTED**
4 **CHARGES?**

5 A. No. Qwest continues to claim that Eschelon is in default¹³⁰ (which, according to
6 Qwest, means that Qwest can stop processing Eschelon's orders or demand a
7 deposit without further notice). Eschelon believes that it is current with Qwest.¹³¹

8 **Q. MR. EASTON CLAIMS THAT SINCE QWEST'S RECENT THREAT TO**
9 **STOP PROCESSING ORDERS ESCHELON RESULTED IN ESCHELON**
10 **PAYING A SUBSTANTIAL AMOUNT OF MONEY TO QWEST, THIS**
11 **SHOWS THAT QWEST'S PROPOSAL WORKS.¹³² DO YOU AGREE?**

12 A. No. Nothing has really been resolved. Because Qwest continues to claim that
13 Eschelon is in default, Eschelon is still at risk of Qwest's refusing (without further
14 notice) to process its orders or of Qwest's disconnecting Eschelon's circuits.
15 Neither Qwest's threat nor its proposed language does anything to address the
16 problems explained above that leads to disagreements about disputed amounts.
17 This is precisely why Eschelon's proposal would involve the Commission when
18 disagreements arise to make sure that the information relied upon for making
19 these determinations is accurate and substantiated.

¹³⁰ Qwest/33, Easton/14, line 9.

¹³¹ Eschelon does not have undisputed amounts due Qwest more than 30 days past the payment due date.

¹³² Qwest/33, Easton/14, line 15 through Easton/15, line 1.

1 **Q. DID ESCHELON AND QWEST, THROUGH THE CHANGE**
2 **MANAGEMENT PROCESS, DEVELOP A FORMAL PROCESS**
3 **REGARDING PAYMENT DISPUTES?**¹³³

4 A. No. This was documented in my direct testimony (Eschelon/9, Denney/79 and
5 Eschelon/20).

6 **SUBJECT MATTER NO. 6. DEPOSITS**

7 **Issue Nos. 5-8, 5-9, 5-11 and 5-12: ICA Section 5.4.5**

8 **Q. MR. EASTON STATES THAT THERE IS NO WAY THAT QWEST**
9 **COULD DEMAND A DEPOSIT WHEN THERE IS NO LEGITIMATE**
10 **CONCERN ABOUT ESCHELON'S ABILITY TO PAY.**¹³⁴ **DO YOU**
11 **AGREE WITH MR. EASTON?**

12 A. No. Mr. Easton states that since Qwest's deposit requirements are triggered by a
13 history of delinquent payment, deposits would only be triggered when a history of
14 delinquent payment raises a legitimate concern about a company's risk of
15 nonpayment.¹³⁵ Mr. Easton's reasoning is somewhat circular. The disagreement
16 under Issue 5-8 addresses what constitutes "Repeatedly Delinquent" – which is
17 the key term used to determine whether a deposit is justified. Mr. Easton's
18 testimony simply assumes that Qwest's proposed definition of "Repeatedly
19 Delinquent" is the correct one, and so any collection action taken under Qwest's

¹³³ Qwest/33, Easton/16, lines 12-14.

¹³⁴ Qwest/33, Easton/16, lines 18-23.

¹³⁵ Qwest/33, Easton/16, line 18 through Easton/17, lines 1-3.

1 proposed definition is appropriate and justified. This is not the case. Though
2 Qwest appears to agree that a de minimus amount should not trigger a deposit
3 requirement, it will not agree to recognize that in the ICA. If Qwest later changed
4 its mind and decided to demand a deposit on a de minimus amount, Qwest's
5 proposal would allow for it.

6 In addition, Repeatedly Delinquent is defined in terms of *undisputed* charges paid
7 more than 30 days after the payment due date. Given that there are significant
8 disagreements about what those undisputed amounts are, Qwest could claim that
9 Eschelon is Repeatedly Delinquent based on Qwest's view of Eschelon's payment
10 status even when Eschelon disagrees with Qwest and has made timely payment to
11 Qwest.

12 **Q. HOW DOES MR. EASTON RESPOND TO THE INFORMATION IN**
13 **YOUR TESTIMONY SHOWING THAT THE**
14 **INTERCONNECTION/SERVICE AGREEMENTS OF OTHER**
15 **CARRIERS WITH QWEST CONTAIN THE SAME "3 CONSECUTIVE**
16 **MONTH" STANDARD ESCHELON PROPOSES?¹³⁶**

17 A. Mr. Easton states that the "agreements cited by Mr. Denney are either very old
18 agreements or are wireless/paging agreements."¹³⁷ Mr. Easton's attempt to
19 downplay this issue is not convincing. Mr. Easton never says that the "3
20 consecutive month standard" in these agreements is insufficient to protect its

¹³⁶ See, Eschelon/9, Denney/93-94.

¹³⁷ Qwest/33, Easton/25, lines 18-19.

1 interests,¹³⁸ nor does Mr. Easton address the discrimination that occurs when it
2 forces Eschelon to take less favorable terms than are provided to other carriers.

3 **Q. UNDER ISSUES 5-11 AND 5-12, MR. EASTON DISAGREES THAT**
4 **COMMISSION OVERSIGHT IS NEEDED.¹³⁹ WOULD YOU LIKE TO**
5 **RESPOND?**

6 A. Yes. I have explained above why the Commission's independent evaluation of
7 the facts regarding the imposition of a deposit is needed in these circumstances.¹⁴⁰
8 Mr. Easton's claim that Qwest would not invoke deposit requirements if Eschelon
9 pays timely¹⁴¹ is not supported by the examples I provided above showing that
10 Qwest threatened action based on amounts Eschelon paid *early*. Further, Mr.
11 Easton's claim gives Eschelon little comfort, given Qwest's position on Issue 5-
12 13 (Section 5.4.7) that Qwest could demand a deposit at Qwest's discretion even
13 when Eschelon is current with Qwest.¹⁴²

14 **Q. WHAT IS MR. EASTON'S RESPONSE TO YOUR LIST OF**
15 **EXPLANATIONS REGARDING WHY ESCHELON AND QWEST**
16 **OFTEN DISAGREE ABOUT THE AMOUNT OF ESCHELON'S**
17 **UNDISPUTED AMOUNTS ESCHELON OWES QWEST?**

¹³⁸ Though Mr. Easton claims that Qwest has not experienced the same magnitude of non payment issues related to wireless/paging carriers as CLECs, he provides no evidence to support this claim. Qwest/33, Easton/25 line 23 through Easton/26, line 1.

¹³⁹ Qwest/33, Easton/26, lines 9-11.

¹⁴⁰ *See also*, Eschelon/9, Denney/94-96 and Eschelon/125, Denney/49.

¹⁴¹ Qwest/33, Easton/26, lines 13-14.["There is simply no need for Qwest to invoke the deposit requirements if Eschelon pays undisputed amounts in a timely manner."]

¹⁴² Eschelon/125, Denney/52-57.

1 A. Mr. Easton’s rebuttal testimony at Qwest/33, Easton/10, lines 16-18 demonstrates
2 that disputes exist regarding the amounts owed that are in dispute. As a result it
3 should be clear that, despite Mr. Easton’s statement that “Eschelon need only pay
4 its *undisputed* bills in a timely manner to avoid consequences such as the
5 discontinuance of taking orders or becoming subject to deposit requirements,”¹⁴³
6 the issue is not that simple.

7 Further, a careful reading of Mr. Easton’s testimony demonstrates that the issues
8 raised in my rebuttal testimony are legitimate and lead to disputes regarding
9 payments due.

- 10 • Qwest admits that it declares disputes “resolved” despite CLEC disagreement, but
11 claims this is not unilateral because the CLEC can escalate Qwest’s conclusion.¹⁴⁴
12 Further, Qwest concludes that the use of Qwest’s process “would go a long way
13 towards reducing misunderstandings between the parties.”¹⁴⁵ Another way of
14 saying this is that Qwest believes billing disputes would disappear if Eschelon
15 would simply drop its dispute when Qwest does not agree. This is precisely the
16 problem I illustrated in my direct testimony.
- 17 • Mr. Easton does not deny that some of Qwest’s notices of past due status did not
18 include BAN detail.¹⁴⁶
- 19 • Mr. Easton also does not deny that BAN detail did not always match with the
20 amount Qwest was claiming to be past due.¹⁴⁷

¹⁴³ Qwest/33, Easton/10, lines 16-18.

¹⁴⁴ Qwest/33, Easton/19, lines 9-23. The end point of the escalation Qwest refers to is to the Commission. Though Qwest has testified that the Commission should not become involved in the day to day business disputes between the companies it proposes that Eschelon bring these disputes to the Commission in instances where Eschelon disagrees with Qwest.

¹⁴⁵ Qwest/33, Easton/19, lines 15-16.

¹⁴⁶ Qwest/33, Easton/20, lines 1-5.

¹⁴⁷ Qwest/33, Easton/20, lines 6-9.

- 1 • Mr. Easton admits that Qwest does not always post payments in a timely manner,
2 but criticizes Eschelon's example because it was in relation to "out of region
3 services, not local services purchased under the interconnection agreement."¹⁴⁸
- 4 • Mr. Easton admits that Qwest included amounts that were not past due in its past
5 due totals.¹⁴⁹
- 6 • Mr. Easton admits that Qwest applies billing refunds owed to carriers to amounts
7 Qwest determines are past due, which could include amounts in dispute.¹⁵⁰
- 8 • Mr. Easton does not deny that disputes may fall into the "black hole" but states
9 that the particular email as part of Eschelon/16 with the "black hole" reference
10 was not a case of an Eschelon dispute.¹⁵¹
- 11 • Mr. Easton disagrees that the DSL Rate adjustment was improperly applied.¹⁵²
- 12 • Mr. Easton does not deny that payments are misapplied, but blames Eschelon for
13 poor communication.¹⁵³
- 14 • Mr. Easton does not deny there is confusion between Qwest's payment center and
15 collections group, but blames Eschelon for failing to send copies of its remittance
16 letter to both groups.¹⁵⁴
- 17 • Mr. Easton does not deny or address the final two issues raised in my direct
18 testimony regarding Qwest employee turnover resulting in lost disputes and
19 Qwest's failing to update information about where to send invoices.¹⁵⁵
- 20 Mr. Easton states that "Telecommunications billing is a complex process."¹⁵⁶ and
21 cites to Eschelon's 269 accounts and 19 different due dates. Mr. Easton states

¹⁴⁸ Qwest/33, Easton/20, lines 10-26.

¹⁴⁹ Qwest/33, Easton/21, lines 1-5.

¹⁵⁰ Qwest/33, Easton/21, lines 6-10.

¹⁵¹ Qwest/33, Easton/21, lines 11-18..

¹⁵² Qwest/33, Easton/ 21, lines 19-21 through Easton/22, lines 1-2.

¹⁵³ Qwest/33, Easton/22, lines 3-8. Note that Mr. Easton did not provide any details supporting his claim blaming Eschelon.

¹⁵⁴ Qwest/33, Easton/22, lines 9-13.

¹⁵⁵ Eschelon/9, Denney/77, lines 26-31

¹⁵⁶ Qwest/33, Easton/23, line 10.

1 that given “Given this complexity, it is not surprising at all that there may be
2 occasional misunderstandings and disputes between the parties.”¹⁵⁷ However,
3 despite this complexity and the history of misunderstandings and disputes, Qwest
4 proposes that it have extreme flexibility in determining when to stop processing
5 Eschelon’s orders and/or demand a payment deposit.

6 **Q. DO THE EXAMPLES ABOVE RELATE TO HOW LONG IT TAKES**
7 **ESCHELON TO PAY ITS BILLS?**

8 A. No. In fact the length of time allowed under the contract for a carrier to pay its
9 bills is not in dispute.¹⁵⁸ Mr. Easton misrepresents the purpose of these billing
10 dispute examples provided in my direct testimony. Mr. Easton implies that the
11 examples were related to Qwest’s complaints about the length of time it takes
12 Eschelon to pay its bills.¹⁵⁹ My direct testimony clearly states regarding the list
13 above, “There are several reasons that Eschelon and Qwest could disagree on the
14 amount of undisputed charges.”¹⁶⁰ Disagreements about the amount of
15 undisputed charges are directly relevant to Eschelon’s proposed language
16 regarding payment and deposits and the necessity of the language proposed by
17 Eschelon, including the need for Commission oversight before extreme measures
18 such as stopping of order processing is taken.

¹⁵⁷ Qwest/33, Easton/23, lines 11-23.

¹⁵⁸ See sections 5.4.1, 5.4.2, 5.4.3, 5.4.5 and 5.4.8 of the Interconnection Agreement.

¹⁵⁹ See the question on Qwest/33, Easton/23, lines 5-10, where Mr. Easton relates the examples in my Direct Testimony to the length of time Eschelon pays its bills. See also the first question on Qwest/33, Easton/ 24, lines 1-3, where he relates Qwest’s billing process to the time it takes Eschelon to pay its bills.

¹⁶⁰ Eschelon/9, Denney/75, lines 18-19

1 **Q. IS QWEST’S EXAMPLE REGARDING OREGON TELECOM**
2 **RELEVANT TO THE OPEN LANGUAGE REGARDING PAYMENT AND**
3 **DEPOSITS?¹⁶¹**

4 A. No. Again there is no dispute regarding the amount of time Eschelon has to pay
5 its bills. Mr. Easton’s testimony regarding Oregon Telecom has nothing to do
6 with the issues in dispute. Further, I disagree with Mr. Easton’s characterization
7 regarding Oregon Telecom’s bill payments since the company was purchased by
8 Eschelon. Mr. Easton provided no detail to allow Eschelon to determine how his
9 numbers were developed, but it appears Mr. Easton’s numbers include disputed
10 amounts, despite Mr. Easton’s testimony¹⁶² that the contract language in dispute
11 applies only to undisputed amounts. Eschelon is diligent in its review of Qwest’s
12 bills and after the purchase of Oregon Telecom has undertaken an effort to review
13 the bills it receives. Oregon Telecom’s bills with Qwest are current and the
14 amounts represented by Mr. Easton on Qwest/35 are **not** past due.

15 **SUBJECT MATTER NO. 7. REVIEW OF CREDIT STANDING**

16 **Issue No. 5-13: ICA Section 5.4.7**

17 **Q. MR. EASTON CLAIMS THAT QWEST NEEDS TO BE ABLE TO**
18 **INCREASE DEPOSITS UNDER SECTION 5.4.7 BECAUSE**
19 **“CIRCUMSTANCES CAN CHANGE OVER THE COURSE OF THE**

¹⁶¹ Qwest/33, Easton/24, lines 4-13.

¹⁶² See Qwest/33, Easton/11, lines 17-20 where he states, “Qwest’s language reflects rights it has had under prior interconnection agreements and contains limitations designed to protect CLECs: (1) **excludes disputed amounts...**”

1 **PARTIES' BUSINESS RELATIONSHIP.’’¹⁶³ WILL THE ICA HANDLE**
2 **CHANGES IN CIRCUMSTANCES AS THEY RELATE TO DEPOSITS**
3 **ABSENT QWEST’S PROPOSED SECTION 5.4.7?**

4 A. Yes. Section 5.4.5 allows Qwest to demand a deposit if the other party is doing
5 business with Qwest for the first time and has not established satisfactory credit
6 with Qwest *or* if the other party is Repeatedly Delinquent *or* if the other party is
7 reconnected after a disconnection or discontinuation of order processing.
8 Therefore, not only can Qwest demand a deposit under 5.4.5 if a party is doing
9 business with Qwest for the first time, but Qwest also can demand a new deposit
10 if circumstances change. For example, if a party that previously paid its bills on
11 time became Repeatedly Delinquent, as defined in 5.4.5, Qwest could demand a
12 new deposit. Section 5.4.6 also allows an existing deposit requirement to be
13 recalculated based on a “material change in financial standing.” Therefore, the
14 ICA already accomplishes (in closed language) Qwest’s stated purpose for
15 Section 5.4.7 – to allow Qwest to demand a new deposit or deposit increase to
16 reflect a change in circumstances.¹⁶⁴

17 **Q. DOES QWEST’S LANGUAGE IN 5.4.7 EFFECTIVELY NULLIFY THE**
18 **DEPOSIT LANGUAGE IN 5.4.5?**

19 A. Yes. Mr. Easton disagrees with this statement from my direct testimony on page
20 93-94 arguing that Qwest’s language in 5.4.7 “is actually complementary to the

¹⁶³ Qwest/33, Easton/26, line 22.

¹⁶⁴ *See*, Eschelon/9, Denney/99-100

1 language in section 5.4.5...”¹⁶⁵ However, this is precisely the problem with
2 Qwest’s language in section 5.4.7. Qwest views this language as a second bite at
3 the apple, an additional opportunity to impose a payment deposit upon Eschelon
4 regardless of the language in section 5.4.5. Section 5.4.5 contains strict standards
5 and specific circumstances under which a deposit would be required. Qwest’s
6 section 5.4.7 language nullifies this because it acts on its own and provides Qwest
7 with unilateral authority to impose a payment deposit.¹⁶⁶ Qwest’s language in
8 section 5.4.7 contains no standards, measures, or triggering events that would
9 warrant a payment deposit.

10 **Q. QWEST DISAGREES THERE IS NO TRIGGERING EVENT STATING,**
11 **THAT “THE CREDIT REVIEW ITSELF IS THE TRIGGERING**
12 **EVENT.”¹⁶⁷ IS QWEST’S STATEMENT ACCURATE?**

13 A. No. I addressed this argument at Eschelon/9, Denney/99-100 of my rebuttal
14 testimony. Simply put, Mr. Easton is reading language into the ICA that does not
15 exist. The “date of credit review” is not one of the triggering events listed under
16 Section 5.4.5. Therefore, if Qwest’s Section 5.4.7 is adopted, Qwest may attempt
17 to interpret its 5.4.7 so that the deposit cap established under Section 5.4.5 does
18 not apply.¹⁶⁸ Further, Qwest’s Section 5.4.7 places no criteria around what a
19 credit review entails (like Section 5.4.5 does), nor does Qwest indicate what part

¹⁶⁵ Qwest/33, Easton/27, line 2.

¹⁶⁶ See Eschelon/9, Denney/100.

¹⁶⁷ Qwest/33, Easton/27, line 12.

¹⁶⁸ Eschelon/9, Denney/99-100 and Eschelon/125, Denney/54-55.

1 of a credit review would trigger an increase in the deposit. This lack of detail in
2 Section 5.4.7 is troublesome and provides Qwest the ability to unilaterally require
3 a deposit or deposit increase without regard to the language in Section 5.4.5.

4 Since Qwest on its own whim decides when to perform a credit review, it means
5 nothing for Qwest to argue the review is the triggering event. Qwest is essentially
6 arguing that if Qwest feels a review is warranted, then Qwest may demand a
7 deposit. Under Qwest's language in section 5.4.7 there is no standard of review
8 and the language does not even require Qwest to demonstrate a deposit is
9 necessary. Qwest may use the simple fact it decided to review Eschelon's credit
10 standing. Mr. Easton disagrees with my statement that Qwest could read
11 something in the paper and increase Eschelon's deposit, but then notes, "It is
12 possible however that Qwest could read something in the paper that would lead it
13 to question Eschelon's credit worthiness. Based on this information, Qwest could
14 then perform a credit review."¹⁶⁹ Under Qwest's language this undefined review
15 does not need to turn up one real cause for concern in order for Qwest to be able
16 to invoke a payment deposit. This is what I was referring to when I noted
17 Qwest's language in section 5.4.7 nullifies the language in section 5.4.5.

18 **Q. QWEST DEFENDS ITS PAYMENT AND DEPOSIT PROPOSALS BY**
19 **STATING SIMILAR LANGUAGE TO QWEST'S PROPOSALS RESIDES**
20 **IN THE OREGON SGAT AND THE AT&T AND COVAD ICAS.¹⁷⁰ DOES**

¹⁶⁹ Qwest/33, Easton/27, lines 18-20.

¹⁷⁰ Qwest/33, Easton/27, lines 3-4.

1 **THIS MEAN ESCHELON’S PROPOSALS SHOULD BE REJECTED, AS**
2 **MR. EASTON IMPLIES?**

3 A. No. Just because language is contained in an agreement elsewhere does not mean
4 that language cannot be improved upon, and the Covad ICA, to which Mr. Easton
5 refers, is a prime example. I addressed this Qwest argument in my rebuttal
6 testimony (Eschelon/125, Denney/48).

7 **Q. MR. EASTON STATES THAT QWEST IS OPPOSED TO ESCHELON’S**
8 **ALTERNATIVE LANGUAGE FOR SECTION 5.4.7.¹⁷¹ WHAT REASONS**
9 **DOES MR. EASTON PROVIDE FOR QWEST’S DISAGREEMENT?**

10 A. Qwest disagrees with the alternative language because it involves the Commission
11 and because it makes clear that Section 5.4.7 applies to increasing the amount of
12 an existing deposit and does not allow the establishment of a new deposit.¹⁷²
13 According to Mr. Easton, this undermines the purpose of Section 5.4.7, which is
14 to reflect a change in circumstances.¹⁷³

15 **Q. DO YOU AGREE?**

16 A. No. I have explained in detail why the Commission should be involved when
17 disagreements exist about Eschelon’s payment status before these remedies are
18 invoked and will not repeat those arguments here. Regarding Mr. Easton’s
19 second claim about Eschelon’s alternative language – that it undermines the
20 purpose of Section 5.4.7 – I have demonstrated Qwest’s stated purpose of Section

¹⁷¹ Qwest/33, Easton/28, lines 13-14.

¹⁷² Qwest/33, Easton/28, lines 15-16.

¹⁷³ Qwest/33, Easton/lines 16-17.

1 5.4.7 is already accounted for in Sections 5.4.5 and 5.4.6 of the ICA.

2 **V. NON DISCLOSURE AGREEMENTS, BILL VALIDATION AND**
3 **NONDISCRIMINATORY ACCESS TO UNES (SUBJECT MATTER NOS.**
4 **8, 9 & 14)**

5 **SUBJECT MATTER NO. 8. COPY OF NON-DISCLOSURE AGREEMENT**

6 **Issue No. 5-16: ICA Section 5.16.9.1**

7 **Q. PLEASE SUMMARIZE THIS ISSUE.**

8 A. Qwest has agreed that Qwest employees to whom Eschelon's forecasts and
9 forecasting information are disclosed will be required to execute a nondisclosure
10 agreement covering the information. Eschelon's proposed language would
11 require Qwest to provide Eschelon with a signed copy of each non-disclosure
12 agreement within ten days of execution. Qwest objects to having to provide
13 copies of signed non-disclosure agreements.

14 **Q. DID MR. EASTON OF QWEST RAISE ANY NEW ARGUMENTS IN**
15 **REBUTTAL TESTIMONY RELATED TO THIS ISSUE TO WHICH YOU**
16 **WOULD LIKE TO RESPOND?**

17 A. No. Mr. Easton raised two arguments in his rebuttal testimony. Mr. Easton
18 implies that Eschelon is protected because "the Qwest language mandates strict
19 procedures for the handling of CLEC forecasted information."¹⁷⁴ Mr. Easton also
20 states that Eschelon is protected via section 18 of the agreement because it can

¹⁷⁴ Qwest/33, Easton/29, lines 19-20.

1 audit Qwest if it believes the information is being misused.¹⁷⁵ I address these
2 arguments and explain why Eschelon’s simple proposal that Qwest provide copies
3 of signed nondisclosure agreements is preferable in my direct testimony,
4 Eschelon/9, Denney/102-106 and rebuttal testimony, Eschelon/125, Denney 57-
5 60.

6 **SUBJECT MATTER NO. 9. TRANSIT RECORD CHARGE AND BILL**
7 **VALIDATION**

8 *Issues Nos. 7-18 and 7-19: ICA Sections 7.6.3.1 and 7.6.4*

9 **Q. PLEASE SUMMARIZE THIS ISSUE.**

10 A. In order to validate the bills Qwest provides, Eschelon needs occasional access to
11 a limited number of call records that would allow for bill verification. Eschelon’s
12 language allows for Eschelon to obtain these records from Qwest for the purpose
13 of bill verification.

14 **Q. MR. EASTON CLAIMS ESCHELON HAS ALL THE INFORMATION IT**
15 **NEEDS TO VALIDATE QWEST’S TRANSIT BILLING.¹⁷⁶ IS THIS**
16 **CORRECT?**

17 A. No. Mr. Easton provides a copy of the type of information Qwest would provide
18 to Eschelon with its bills and suggests that Eschelon can reconcile this data with
19 information recorded in Eschelon’s switch. However, it is precisely the inability

¹⁷⁵ Qwest/33, Easton/29, lines 22-23 through Easton/30, lines 1-3.

¹⁷⁶ Qwest/33, Easton/31, lines 7-10. Note Mr. Easton also offers to explain to Eschelon “how billing validation can be accomplished.” (Qwest/33, Easton/33, lines 13-14) Eschelon knows how to validate its bills and the language Eschelon proposes in this section is designed for that purpose.

1 to reconcile this information that would cause Eschelon to seek detailed call
2 records from Qwest. It is not possible to compare Eschelon's originating switch
3 records¹⁷⁷ with Qwest's invoice because Qwest's invoice is a summary bill and
4 does not contain usage by call by ANI. Qwest bills are summaries over a period
5 of time -- they do not even contain usage by date. It is also not possible to use
6 billing from terminating carriers¹⁷⁸ to validate Qwest's bills, as Eschelon is bill
7 and keep with many carriers and thus these records are not provided to Eschelon.
8 Further, even if Eschelon were able to make such a comparison for some sample
9 of records, Mr. Easton does not suggest what to do when the two sources of data
10 do not match. It is precisely these reasons why Eschelon seeks data, on a limited
11 basis, in order to verify Qwest's bills.

12 **Q. MR. EASTON CLAIMS THAT QWEST'S SYSTEMS WOULD REQUIRE**
13 **A "SIGNIFICANT AMOUNT OF ADDITIONAL PROGRAMMING"¹⁷⁹ IN**
14 **ORDER TO PROVIDE ESCHELON WITH THESE RECORDS. IS THIS**
15 **ACCURATE?**

16 A. No. Qwest must already has the ability to generate call records in order to
17 produce the bills it sends to Eschelon, otherwise how would it be able to generate
18 summary bills. It makes no sense that Qwest can not provide the background data
19 used to produce those summary bills. Further, Eschelon is able to provide IXCs

¹⁷⁷ Qwest/33, Easton/31, lines 14-15.

¹⁷⁸ Qwest/33, Easton/31, lines 16-18.

¹⁷⁹ Qwest/33, Easton/32, line 10..

1 both originating and terminating call records when they request background data
2 in order to validate their bills.

3 **Q. MR. EASTON STATES THAT “QWEST HAS OFFERED TO WORK**
4 **WITH ESCHELON AND HAS PROVIDED SEVERAL CALL-BY-CALL**
5 **REPORTS TO HELP IT VALIDATE BILLS.”¹⁸⁰ HOW DO YOU**
6 **RESPOND?**

7 A. This is precisely the point of Eschelon’s proposed language. Eschelon’s language
8 would require Qwest to provide “sample 11-01-XX records for specified
9 offices.”¹⁸¹ Eschelon’s language reasonably limits this request to a maximum of
10 once every six months, provided that Qwest’s billing is accurate.¹⁸² Qwest’s
11 unwillingness to put its offer to provide such information going forward in writing
12 is a concern. Mr. Easton does not explain why Qwest is unwilling to continue to
13 work with Eschelon in this manner going forward. If Qwest is willing to do so,
14 documenting these terms in the ICA should not be an issue.

15 **SUBJECT MATTER NO. 14: NONDISCRIMINATORY ACCESS TO UNES**

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

17 **Q. DO YOU AND MR. STARKEY BOTH ADDRESS ISSUES RELATED TO**
18 **NONDISCRIMINATORY ACCESS TO UNES?**

¹⁸⁰ Qwest/33, Easton/33, lines 14-15.

¹⁸¹ See Eschelon proposed language for 7.6.3.1.

¹⁸² See Eschelon proposed language for 7.6.3.1.

1 A. Yes. In her rebuttal testimony, Ms. Stewart states that a basis for Qwest’s stated
2 concern about cost recovery is my testimony in “the companion arbitration in
3 Minnesota.”¹⁸³ I will respond to Ms. Stewart’s claims regarding cost recovery
4 and my testimony on cost recovery. Mr. Starkey addresses Qwest’s other
5 testimony regarding Issue 9-31 in his surrebuttal testimony (Eschelon/132) on this
6 issue.

7 **Q. DO YOU AGREE WITH MS. STEWART’S SUMMARY OF YOUR**
8 **TESTIMONY IN “THE COMPANION ARBITRATION IN**
9 **MINNESOTA”¹⁸⁴?**

10 A. No. Ms. Stewart indicates that, at least for a phrase from the Minnesota testimony
11 upon which she relies, “Qwest will provide a copy of this excerpt during the
12 hearing.”¹⁸⁵ She does not indicate why she does not include any pertinent
13 Minnesota testimony with her testimony to allow full review and comment.
14 Eschelon sees no reason to wait for the hearing and has attached excerpts from my
15 Minnesota testimony, including the portions cited by Ms. Stewart, in
16 Eschelon/140.

17 Ms. Stewart then provides a summary of my testimony. She states that in
18 Minnesota I “asserted” that “because the costs of *all* of the activities required by
19 Eschelon’s language are allegedly already included in monthly *recurring* rates,
20 adoption of Eschelon’s language would not require the development of any new

¹⁸³ Qwest/37, Stewart/15.

¹⁸⁴ Qwest/37, Stewart/15.

¹⁸⁵ Qwest/37, Stewart/15 at footnote 5 (but not footnote 6).

1 rates or rate elements or payment by Eschelon of any rates other than the existing
2 recurring rates for UNEs.”¹⁸⁶ A reading of Eschelon/140 shows this summary is
3 inaccurate, and is particularly inaccurate with respect to Oregon.¹⁸⁷ I specifically
4 testified, for example, that there are two ways of generating compensation to
5 Qwest (recurring or nonrecurring rates)¹⁸⁸ and that there would be a debate in the
6 upcoming Minnesota cost case as to whether costs are appropriately recovered in
7 recurring or nonrecurring rates.¹⁸⁹ At several points in my Minnesota testimony, I
8 indicate that costs associated with access to UNEs may, or may not, be included
9 in existing recurring or non-recurring rates, and I also acknowledge Qwest’s right
10 to come before the Commission to propose rates and substantiate its costs.¹⁹⁰

11 Dr. Edward Fagerlund of the Minnesota Department of Commerce (the
12 “Department” or “DOC”) expressly disagreed with Qwest’s suggestion, as shown
13 by the following exchange with the ALJ in Minnesota:

¹⁸⁶ Qwest/37, Stewart/15 (emphasis added), citing Minnesota Hearing Transcript, Vol. 4, p. 206, line 22 – p. 208, line 6. For cited testimony, see Eschelon/140, Denney/5.

¹⁸⁷ As I explain regarding Issue 22-90, Minnesota has procedures in place with respect to unapproved rates that are currently unique to Minnesota. See, e.g., Eschelon/9, Denney/256. In Minnesota, Commission policy and prior ruling provides that Qwest cannot assess miscellaneous charges on CLECs without Commission approval. See Eschelon/140, Denney/12 at lines 6-8. Also, in the testimony cited by Qwest, Qwest asks me whether the activities under Eschelon’s language “are already included in the monthly recurring rates *in Minnesota* for UNEs,” but Ms. Stewart omits any mention of this state-specific reference. See Eschelon/140, Denney/5 (Minnesota arbitration, Transcript, Vol. 4, p. 207, lines 24-25) (emphasis added).

¹⁸⁸ Eschelon/140, Denney/4-5 (p. 204, line 25 – p. 205, line 5).

¹⁸⁹ Eschelon/140, Denney/5 (p. 208, lines 3-11).

¹⁹⁰ See, e.g., Eschelon/140, Denney/12 at lines 4-6 & line 15; *id.* Denney/13 at footnote 9 (“may” already be recovered); *id.* Denney/14, lines 1-2 & 5-6; *id.* Denney/16, at 11-12 (“*whether* Qwest already recovers design change charges elsewhere and, *if not*, the appropriate rate”) (emphasis added); *id.* Denney/17, lines 9-10; *id.* Denney/18, lines 7-9; *id.* Denney/20, lines 2-3 & 11-12.

1 Q . . . But the question is in the language that's proposed does that already
2 reach the conclusion without going through that process? If it requires
3 TELRIC rates for those activities that are identified, doesn't it already
4 make that determination that those costs are included in the UNE recurring
5 rate?

6 A No, I would say those are two separate things. First of all, are the costs
7 recovered somewhere? That's one question. Then a second question is do
8 you get to recover these at TELRIC or at a nonTELRIC? So those really
9 are two separate questions. . . . It does not say that any conceivable
10 moving, adding to, repairing, and changing are already covered in current
11 rates. I don't read that here at all.¹⁹¹

12 . . .

13 Q So you're just reading it to mean that it has to be a TELRIC rate, and
14 whether or not that rate's been established or that cost is included in some
15 TELRIC rate is still an open issue?

16 A Yes.¹⁹²

17 The ALJs in Minnesota recommended adoption of Eschelon's proposed language
18 for Issue 9-31 (proposal #1), and the Commission adopted that
19 recommendation.¹⁹³

20 **Q. MS. ALBERSHEIM NONETHELESS FOCUSES ON RECURRING OR**
21 **MONTHLY RATES¹⁹⁴ AND QUOTES YOU AS TESTIFYING THAT**
22 **“THOSE TYPES OF THINGS ARE ALREADY RECOVERED IN THE**

¹⁹¹ Eschelon/140, Denney/8 (p. 52 line 9 – p. 53, line 2) (Judge Sheehy; Dr. Fagerlund).

¹⁹² Eschelon/140, Denney/8 (p. 53 lines 6-10) (Judge Sheehy; Dr. Fagerlund).

¹⁹³ Eschelon/29, Denney/32, MN Arbitrators' Report, ¶132, affirmed in relevant part in the MN PUC Order Resolving Arbitration (Eschelon/30, Denney/6 & p. 22, ¶1) (Topic 17). See discussion of the ALJs' ruling at Eschelon/1, Starkey/157-158.

¹⁹⁴ Qwest/37, Stewart/15-16.

1 **RECURRING RATES.”¹⁹⁵ WHAT TYPES OF THINGS WERE YOU**
2 **DISCUSSING IN THAT RESPONSE?**

3 A. I was discussing cost factors that were used in establishing recurring rates.¹⁹⁶
4 Instead of identifying each and every activity and assigning a separate rate per
5 activity, cost factors, such as maintenance factors, are used.¹⁹⁷ I was responding
6 to Qwest’s suggestion that, “if this language is adopted, for Qwest to be
7 compensated there has to be rate elements in the interconnection agreement that
8 link up with the activities encompassed by those three terms.”¹⁹⁸ In those
9 situations in which costs are recovered through cost factors, that will not be the
10 case.¹⁹⁹

11 **Q. IS THIS USE OF COST FACTORS A DISPUTED ISSUE?**

12 A. No, it is well established. As shown in Eschelon/139, Qwest (then US West)
13 similarly testified before this Commission in 1995 that the company’s cost
14 methodology followed the Commission’s seven cost principles, including “to
15 capture cost associated with the provisioning of a building block, factors and
16 investment loadings should be used when costs cannot easily be identified

¹⁹⁵ Qwest/37, Stewart/15, citing Minnesota Transcript, Vol. 4, p. 207, lines 17-18. See Eschelon/140, Denney/5.

¹⁹⁶ Eschelon/140, Denney/5 (p. 207, lines 5-6).

¹⁹⁷ Eschelon/140, Denney/5 (p. 207, lines 9-12).

¹⁹⁸ Eschelon/140, Denney/5 (p. 206, line 24 – p. 207, line 3) (Mr. Devaney).

¹⁹⁹ It is also important to note that when I testified in Minnesota that these activities were included in the current Minnesota recurring rates (Eschelon/140, Denney/5 (p. 207, line 22 – p. 208, line 11) (Devaney)), I was speaking specifically with regard to Minnesota and the fact that in the last UNE cost case the Minnesota Commission denied Qwest separate NRCs for many of these activities. I also noted that this issue would be addressed in the upcoming Minnesota cost case.

1 directly.”²⁰⁰ In his surrebuttal testimony (Eschelon/132), Mr. Starkey discusses
2 the activities and sub-activities that may go into access to UNEs. If activities and
3 sub-activities are recovered in the recurring rate, creating a separate additional
4 charge would allow double recovery. If Qwest substantiates that they are not
5 recovered in a recurring or non-recurring charge, Qwest may substantiate its costs
6 to the Commission and obtain an approved TELRIC based rate that will then be
7 added to the ICA per Section 2.2. In Arizona, Ms. Stewart agreed generally that
8 “in order for Qwest to charge a separate rate, Qwest has to prove that the cost to
9 perform that activity is not already recovered in another rate.”²⁰¹

10 **Q. HAS THIS COMMISSION ADDRESSED MAINTENANCE FACTORS,**
11 **THE RELATIONSHIP BETWEEN RECURRING AND NON-**
12 **RECURRING CHARGES, AND POTENTIAL DOUBLE RECOVERY FOR**
13 **ACCESS TO UNES?**

14 A. Yes. This Commission found that “loop conditioning and other similar outside
15 plant rearrangement activities are included in the maintenance factors to develop
16 monthly recurring UNE rates.”²⁰² Therefore, the Commission declined to adopt
17 non-recurring charges for loop conditioning “to prevent double recovery of these
18 costs.”²⁰³ Moreover, the Commission said that, before it would consider
19 establishing a non-recurring charge for loop conditioning, “it would first be

²⁰⁰ Eschelon/139, Denney/2 (Docket No. UM 351).

²⁰¹ Arizona arbitration, Transcript Vol. II, p. 200, lines 16-20.

²⁰² Eschelon/23, Denney/58-59 (Order No. 03-085, Docket No. UT 138/UT 139, pp. 14-15).

²⁰³ Eschelon/23, Denney/58 (Order No. 03-085, Docket No. UT 138/UT 139, p. 15).

1 necessary for the ILECs to remove loop conditioning costs from the maintenance
2 factor included in the monthly recurring cost of the loop.”²⁰⁴

3 The principles applied by this Commission in that case are the principles that I
4 discussed throughout the Minnesota proceeding, as I have done in this case, with
5 respect to the two ways of generating compensation to Qwest (recurring or
6 nonrecurring rates) where a separate charge should not be used if the costs are
7 already recovered in one or the other of these two types of rates.

8 **Q. DOES QWEST’S CONDUCT WITH RESPECT TO LOOP**
9 **CONDITIONING SHORTLY AFTER THIS COMMISSION ISSUED ITS**
10 **ORDER PROVIDE SUPPORT FOR ADOPTION OF ESCHELON’S**
11 **PROPOSED LANGUAGE?**

12 A. Yes. The Commission entered Order No. 03-085 regarding loop conditioning
13 (Eschelon/123) on February 5, 2003. On April 30, 2003, Qwest sent to all
14 participating CLECs a Level 3 (“notice and go”) CMP notification, indicating an
15 effective date of June 16, 2003, for a one-word change to its PCAT.²⁰⁵ The one-
16 word change was to delete “conditioning” from the list of incremental facility
17 work that Qwest would perform as part of access to loops.²⁰⁶ When Eschelon
18 contacted Qwest about the unexpected impact to Eschelon and its customers,
19 Qwest admitted that the effect of its CMP notice was to implement a new Qwest

²⁰⁴ Eschelon/23, Denney/58 (Order No. 03-085, Docket No. UT 138/UT 139, p. 15 & footnote 53).

²⁰⁵ Eschelon/57, Johnson.

²⁰⁶ Eschelon/56, Johnson.

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.²⁰⁷

7 Less than three months after the Commission entered Order No. 03-085 stating
8 that there is no separate NRC for loop conditioning, Qwest refused to provide
9 loop conditioning as part of provisioning the loop. Qwest denied access to loops
10 that needed conditioning and told CLECs that they had to use the special
11 construction process (which requires lengthy delays and substantial costs to
12 build), which Qwest calls CRUNEC. This had a significant impact on Eschelon
13 and its customers. As described by Mr. Starkey, Qwest implemented this change
14 over the unanimous objection of the multiple participating CLECs, and the change
15 was reversed only after CLECs raised the issue with the Arizona commission
16 (which still had an open 271 proceeding at that time).²⁰⁸

17 Eschelon’s proposed language gets to this very type of situation. Under
18 Eschelon’s proposed language, Qwest must continue to provide access to UNEs at
19 TELRIC-based rates. While Qwest may challenge rates or seek new charges
20 when it can substantiate unrecovered costs, it must do so in an orderly manner and

²⁰⁷ Qwest (Teresa Taylor) email to Eschelon (July 3, 2003).

²⁰⁸ Eschelon/1, Starkey, 50-60 (CRUNEC example); Eschelon/56, Johnson (CRUNEC chronology).

1 not by unilaterally stopping to perform the activity or only performing it at
2 unsubstantiated rates that it unilaterally declares are “applicable.”

3 **Q. MS. STEWART CLAIMS THAT ESCHELON MAY ATTEMPT TO**
4 **CHANGE THE APPLICATION OF AN EXISTING RATE²⁰⁹ BASED ON**
5 **ITS LANGUAGE BECAUSE THE COSTS ARE CURRENTLY**
6 **RECOVERED IN A NON-RECURRING CHARGE RATHER THAN A**
7 **RECURRING CHARGE. PLEASE RESPOND.**

8 A. The point is that the costs are recovered, not where they are recovered.
9 Eschelon’s proposal language simply provides that the rates for access to UNEs
10 will be TELRIC based. Either a TELRIC based non-recurring charge or a
11 TELRIC-based recurring charge falls within that language. When costs are
12 analyzed, if Qwest substantiates costs that are not recovered in either a recurring
13 or a non-recurring charge, Qwest may obtain a Commission-approved TELRIC
14 rate to recover those costs.²¹⁰

²⁰⁹ Qwest/37, Stewart/14 .

²¹⁰ ICA Section 5.1.6. See Eschelon/140, Denney/10 (p. 58, lines 1-6) (Dr. Fagerlund addressing UDIT rearrangements).

1 **VI. WIRE CENTER ISSUES (ISSUE NOS. 9-37, 9-37(A), 9-37(B), 9-38, 9-39**
2 **(EXCEPT CAPS), 9-40, 9-41 AND 9-42)**

3 *Issues Nos. 9-37, 9-37(a), 9-37(b), 9-38, 9-39 (except caps), 9-40, 9-41 and 9-42;*
4 *ICA Sections 9.1.13.3, 9.1.14.4, 9.1.14.4.3 (and subparts), 9.1.13.4.1.2, 9.1.13.4,*
5 *9.1.13.4.2, 9.1.13.4.1.2.1, 9.1.14.4.2, 9.1.13.5.2, 9.1.14.6, 9.1.15.2.1, and*
6 *9.1.14.4.1 and definitions*

7 **Q. MS. ALBERSHEIM TESTIFIED IN HER DIRECT TESTIMONY THAT**
8 **QWEST WOULD ADDRESS THE WIRE CENTER ISSUES IN ITS**
9 **REBUTTAL TESTIMONY.²¹¹ DID QWEST DO SO?**

10 A. No. In its direct testimony Qwest provided almost no testimony on these issues,
11 stating Qwest will address these issues in its rebuttal testimony if the issues are
12 not closed at that time.²¹² I addressed Qwest's failure to provide testimony on
13 these issues in my rebuttal testimony (Eschelon/125, Denney/65-67).²¹³ Qwest
14 repeats this step and provides no testimony at all in its rebuttal testimony stating
15 that, if necessary, Qwest will cover these issues in surrebuttal testimony.²¹⁴
16 Qwest had full opportunity to file testimony and chose to approach the testimony
17 deadlines in this manner.

18 A written settlement agreement has not been executed at this time. Eschelon
19 believes an agreement may have been reached in principle and, despite events
20 over the last couple of days that cause some concern as to whether there is a

²¹¹ Qwest/1, Albersheim/43 (Issue 9-37); Qwest/1, Albersheim/47 (Issue 9-37(a)); Qwest/1, Albersheim/48 (Issue 9-38); Qwest/14, Stewart/40 (Issue 9-39 – except caps); and Qwest/14, Stewart/30 (Issue 9-40).

²¹² Qwest/1, Albersheim/43 (Issue 9-37); Qwest/1, Albersheim/47 (Issue 9-37(a)); Qwest/1, Albersheim/48 (Issue 9-38); Qwest/14, Stewart/40 (Issue 9-39 – except caps); and Qwest/14, Stewart/30 (Issue 9-40).

²¹³ See also Eschelon/9, Denney/114-115.

²¹⁴ Qwest/18, Albersheim/27, Albersheim/28, Albersheim/29 and Albersheim/30.

1 meeting of the minds, hopes that is still the case. After a written settlement
2 agreement is reached, it will be submitted for Commission approval. If due to any
3 unforeseen reason it would not be approved, the only evidence in the record on
4 these issues is the evidence submitted by Eschelon.

5 As indicated in direct testimony,²¹⁵ the Commission has approved a Qwest-
6 Eschelon “Bridge Agreement Until New Interconnection Agreements Are
7 Approved” which provides: “the Parties elect to address the changes of law as
8 part of their new ICAs for each state . . . and not as an amendment to the existing
9 ICAs between Qwest and CLEC for each such state.”²¹⁶ Eschelon has
10 consistently maintained that the wire center issues will be addressed in the
11 proposed ICA to be adopted as a result of this arbitration (e.g., *not* as an
12 amendment to either the existing agreement and *not* as amendment to the
13 proposed ICA²¹⁷). Eschelon has not changed that position in any forum, including
14 any multi-state resolution of the wire center issues. Any compliance filing of the
15 ICA adopted in this matter should occur after the wire center issues are resolved
16 (e.g., by approval of the settlement agreement) so that the ICA will contain the

²¹⁵ Eschelon/9, Denney 115, footnote 103.

²¹⁶ See Eschelon/37 (“Bridge Agreement” executed Dec. 8, 2005). 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).

²¹⁷ Arbitration Petition, p. 103, lines 6-8 (Oct. 10, 2006). On March 20, 2007 (before the filing of direct testimony on May 11, 2007 in this matter), the Commission entered its order in the wire center docket, making any argument by Qwest that the issues should be stayed pending an order in that docket moot. See Eschelon/40, Denney/1.

1 complete terms of the contract, as the open wire center terms and other language
2 in the ICA are inter-related.

3 **Issue 9-40: NRCs For Conversion**

4 **Q. MS. MILLION TESTIFIES THAT THE OREGON COMMISSION**
5 **DISAGREED WITH YOUR POSITION ON CONVERSION CHARGES.**
6 **DOES MS. MILLION MISCHARACTERIZE YOUR TESTIMONY?**

7 A. Yes. I acknowledged in my direct testimony²¹⁸ that the Oregon Commission's
8 order in UM 1251 allowed Qwest to submit a cost study for UNE to private line
9 conversions and that Eschelon agrees to abide by the TELRIC rate set by the
10 Commission in the Wire Center Docket, and has *proposed language* for Issue 9-
11 40 that memorializes Eschelon's agreement to abide by the TELRIC rate
12 established by the Commission in the Wire Center Docket. Despite all of this,
13 Ms. Million testifies:

14 In Eschelon's view, this 'price-only' change does not justify Qwest
15 charging a nonrecurring charge for the conversion. This
16 Commission, however, disagreed with that position and thus
17 recognized in the *TRRO* wire center non-impairment docket
18 (docket UM 1251) that Qwest incurs costs in the process of
19 converting UNE transport or high-capacity loops to alternative
20 facilities and arrangements, and therefore should be permitted to
21 assess an appropriate charge.²¹⁹

22 However, the position I described in my earlier testimony does not conflict with
23 the Commission's order in UM 1251 because, as I explained in my previous
24 testimony, Eschelon acknowledges the Commission's order in UM 1251 and

²¹⁸ Eschelon/9, Denney/140. See also Eschelon/1, Starkey/202 and Eschelon/123, Starkey/126.

²¹⁹ Qwest/39, Million/8, lines 7-13.

1 agrees to abide by it. What Eschelon does object to is Qwest’s open-ended
2 proposal to not only charge a TELRIC charge established by the Commission in
3 the Wire Center Docket, but also potentially other conversion charges.²²⁰ As
4 discussed with regard to Issue 9-40, Qwest proposes language that would obligate
5 Eschelon to pay “all applicable non-recurring charges associated with the
6 appropriate alternative service arrangements.”²²¹ Qwest’s reference to all
7 “charges” (plural) indicates that Qwest may attempt to assess for a UNE to private
8 line conversion more than just the Commission-approved TELRIC conversion
9 charge referenced in UM 1251, if that language were adopted.

10 **Q. MS. MILLION TESTIFIES THAT CONTRARY TO MR. STARKEY’S**
11 **CLAIM IN HIS DIRECT TESTIMONY,²²² QWEST INCURS COSTS TO**
12 **PERFORM CONVERSIONS AND SHOULD BE ALLOWED TO ASSESS**
13 **AN APPROPRIATE CHARGE FOR THESE CONVERSIONS.²²³ PLEASE**
14 **RESPOND.**

15 A. The “appropriate charge” Ms. Million refers to is the conversion charge
16 referenced in the Commission’s order in UM 1251.²²⁴ As discussed by Mr.
17 Starkey,²²⁵ Qwest is envisioning a different and much more manually-intensive
18 “conversion” than what the FCC requires in its rules and orders, and then claims

²²⁰ Eschelon/1, Starkey/202 and Eschelon/9, Denney/139.

²²¹ Eschelon/9, Denney/139-141.

²²² Eschelon/1, Starkey/200-202.

²²³ Qwest/39, Million/14-15.

²²⁴ Qwest/39, Million/8, footnote 9. *See also* Qwest/39, Million/14-15.

²²⁵ See Issue nos. 9-43 and 9-44 in Eschelon/1, Eschelon/123 and Eschelon/132.

1 that Eschelon is attempting to keep Qwest from recovering its costs for this
2 additional work. However, if Qwest simply performs conversions as the FCC
3 requires, Qwest would not be performing additional work or incurring additional
4 costs. The answer is to remain true to the conversion process in the FCC's rules
5 and order.

6 In addition, as discussed above, Eschelon's proposal in this arbitration
7 acknowledges this charge and Eschelon's proposed ICA language for Issue 9-40
8 agrees to abide by the rate established by the Commission in the Wire Center
9 Docket. However, Qwest's proposal for Issue 9-40 is that Qwest wants to
10 potentially charge more than the conversion charge referenced in UM 1251 for
11 UNE to private line conversions. This would be inappropriate because the FCC
12 has found that "incumbent LECs are never required to perform a conversion in
13 order to continue serving their own customers" and these charges "are
14 inconsistent with an incumbent LEC's duty to provide nondiscriminatory access
15 to UNEs and UNE combinations on just, reasonable, and nondiscriminatory rates,
16 terms and conditions."²²⁶ It would be inappropriate for Qwest to assess charges
17 for UNE to private line conversions other than a rate established in the
18 Commission's Wire Center Docket.

²²⁶ *TRO*, ¶ 587.

1 **VII. UNE AVAILABILITY, CERTAIN RATE APPLICATIONS AND**
2 **COMMINGLED EELS (SUBJECT MATTER NOS. 22, 22A, 25 & 26)**

3 **SUBJECT MATTER NO. 22, UNBUNDLED CUSTOMER CONTROLLED**
4 **REARRANGEMENT ELEMENT (“UCCRE”)**

5 **Issue No. 9-53: ICA Sections 1.7.3, 9.9 and 9.9.1**

6 **Q. PLEASE SUMMARIZE THIS ISSUE.**

7 A. These issues deal with the circumstances under which Qwest can cease to offer to
8 CLECs products and services that it has previously offered and that have been
9 approved by the Commission. The two products that prompted Eschelon’s
10 proposals are Qwest’s performance of cross-connects for CLECs on intrabuilding
11 cable subloops (Issue No. 9-50)²²⁷ and Unbundled Customer Controlled
12 Rearrangement Element (“UCCRE”) (Issue 9-53), because Qwest will not offer
13 them to Eschelon even though these products continue to be offered to other
14 CLECs through Qwest’s SGAT and ICA with other CLECs. Eschelon’s proposed
15 language would require that the rates and services approved by this Commission
16 related to UCCRE be available to Eschelon so long as they are available to other
17 CLECs.²²⁸ In addition, Eschelon has proposed to make a product phase-out
18 process available to Qwest when Qwest desires to cease offering products but
19 does not want to individually obtain ICA amendments from every CLEC. Both
20 proposals address the problem of Qwest offering a product to some CLECs but
21 not others and the need for nondiscriminatory treatment.

²²⁷ This issue has closed. See Eschelon/9, Denney/145.

²²⁸ See Eschelon/9, Denney/148-154.

1 **Q. MS. STEWART TESTIFIES THAT THERE IS NO DEMAND FOR THE**
2 **SERVICES SUBJECT TO THIS DISPUTE.²²⁹ SHOULDN'T DEMAND BE**
3 **TAKEN INTO ACCOUNT?**

4 A. As I stated in my Direct Testimony, the issue, for purposes of applying the
5 prohibition under federal and state law against discrimination, is not whether there
6 is “demand” for a product or service, but rather, whether Qwest makes the
7 product or service available to other CLECs.²³⁰ Qwest does not dispute that it
8 does, in fact, make both cross connects and UCCRE available to CLECs, both
9 under its SGAT and under ICAs.

10 Furthermore, if Qwest were permitted to unilaterally withdraw a product based on
11 nothing more than its assertion that there is “no demand” for the product,
12 Eschelon would, without Commission review, have little or no means for
13 challenging such an assertion. “Lack of demand” may or may not be a factor that
14 the Commission will wish to take into account, but Qwest should be required to
15 make its case to the Commission, rather than engaging in self help and proceeding
16 without Commission oversight.

17 **Q. HOW DO YOU RESPOND TO MS. STEWART'S TESTIMONY THAT**
18 **QWEST'S IS NO LONGER UPDATING ITS SGAT AND AS A RESULT**
19 **THE SGAT IS OUT OF DATE?²³¹**

²²⁹ Qwest/37, Stewart/27 and 32.

²³⁰ Eschelon/9, Denney/155-157.

²³¹ Qwest/14, Stewart/ 43.

1 A. This issue is being addressed by Mr. Starkey in his discussion of the “Secret
2 TRRO PCAT Example” in Section III(A)(4) of his surrebuttal testimony
3 (Eschelon/132).

4 **Q. MS. STEWART CITES AN ORDER ISSUED IN 2004, IN WHICH THE**
5 **FCC ESTABLISHED THAT UNDER THE OPT-IN PROVISION IN**
6 **SECTION 252(i), A CLEC CAN ONLY OPT INTO AN ENTIRE ICA OR**
7 **SGAT, NOT JUST INDIVIDUAL PROVISIONS.²³² HOW DO YOU**
8 **RESPOND?**

9 A. First, Eschelon is not seeking to opt in to an ICA; it is negotiating and arbitrating
10 one. Second, in adopting the all-or-nothing rule, the FCC clearly stated that doing
11 so did not limit the nondiscrimination provisions of the Act, which continue to
12 protect CLECs.²³³ Finally, Qwest should find Eschelon’s proposed language
13 acceptable because Qwest has that language in its SGAT and other CLEC ICAs.
14 It is interesting that, on the one hand, Qwest points to the SGAT as the basis for
15 its own template, but on the other, Eschelon is not supposed to be able to point out
16 when the SGAT or other CLEC ICAs are the basis of its language.

²³² Qwest/14, Stewart/43 and 44.

²³³ See, e.g., Starkey Rebuttal, note 16 on page 7: “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.

1 **Q. QWEST CLAIMS THAT ESCHELON CAN STILL OBTAIN THE UCCE**
2 **PRODUCT THROUGH ITS TARIFFED COMMAND-A-LINK**
3 **PRODUCT.²³⁴ DOES THIS ALLEVIATE ESCHELON’S CONCERNS?**

4 A. No. The fact Qwest offers a product that Eschelon purchases through its tariffs as
5 well as at cost based rates does not remove from Qwest the obligation to provide
6 the product at TELRIC rates, nor does it offer protection to Eschelon if it chooses
7 to utilize this product. First, Qwest’s tariffed products are often priced
8 significantly above cost. Second, the FCC in the TRRO specifically determined
9 that an ILEC’s offer of a product to CLECs through its special access tariffs was
10 not a basis for removal of a product as a UNE.²³⁵

11 **SUBJECT MATTER NO. 22A. APPLICATION OF UDF-IOF TERMINATION**
12 **(FIXED) RATE ELEMENT**

13 **Issue No. 9-51: ICA Section 9.7.5.2.1.a**

14 **Q. PLEASE SUMMARIZE THIS ISSUE.**

15 A. The contract contains descriptions of rate elements along with the method in
16 which they are applied. This section of the contract applies to the rate in 9.7.5.1.4
17 of Exhibit A. Eschelon has two proposals (a third attempt to close this issue is
18 described below) for this section of the contract. Eschelon’s first proposal is to
19 add clarifying language that is consistent with the SGAT language. Eschelon’s

²³⁴ Qwest/37, Stewart/30.

²³⁵ See *TRRO* ¶46 where the FCC states: “We find that statutory concerns, administrability concerns, and concerns about an anticompetitive price squeeze, preclude a rule that forecloses UNE access upon a finding by the Commission that carriers are potentially able to compete using special access or other tariffed alternatives. We also find that a competitor’s current use of special access does not, on its own, demonstrate that that carrier is not impaired without access to UNEs.”

1 second proposal is to use the SGAT language without changes. Qwest has
2 proposed to change the contract terms related to the rate application for this
3 element despite the fact that there has been no change in this rate since the rate
4 was approved and the corresponding SGAT language went into effect. Qwest has
5 offered no support, including cost studies, for the change it proposes.

6 **Q. DID MS. STEWART RAISE ANY NEW ARGUMENTS WITH RESPECT**
7 **TO THIS ISSUE?**

8 A. No. Ms. Stewart argues that Eschelon is attempting to change the definition of
9 this rate element in order “to limit Qwest’s ability to recover all the costs it incurs
10 for dark fiber terminations.”²³⁶ I explain in my rebuttal testimony, Eschelon/125,
11 Denney/94-97, why Ms. Stewart’s claims are inaccurate and that Qwest, not
12 Eschelon, is attempting to change the rate application of this rate element, without
13 evidence, in this arbitration.

14 **Q. IN YOUR REBUTTAL TESTIMONY YOU INDICATE THAT QWEST**
15 **PROVIDED A UDF-IOF COST STUDY FROM NEW MEXICO ON MAY**
16 **23, 2007.²³⁷ HAVE YOU HAD THE OPPORTUNITY TO REVIEW THIS**
17 **COST STUDY?**

18 A. Yes. As indicated in my rebuttal testimony Eschelon does not believe that the
19 New Mexico costs should dictate the appropriate rates in Oregon. After providing
20 the New Mexico cost support Qwest also provided the UDF-IOF study approved

²³⁶ Qwest/37, Stewart/25.

²³⁷ Eschelon/125, Denney/92, footnote 240.

1 by the Washington Commission.²³⁸ I have reviewed both of these studies and
 2 have determined that they calculate cost in a similar manner. The rate for this
 3 element is disputed as part of issue 22-90(ab). Qwest has not provided cost
 4 support for the rate in Oregon. Below I have copied the relevant page from the
 5 Washington cost study showing that in Washington (and New Mexico) the
 6 investment, from which the costs are derived, were developed per 1 fiber
 7 termination.

CENTRAL OFFICE LOCATION - FIBER DISTRIBUTION PANEL - INTEROFFICE TERMINATION						
Washington	Material Price	Units Required	Total Material Price	Fiber Termination Capacity	Price per Fiber Termination	
72 fiber module \$1084.72 each [8 modules per bay for a total of 576 fiber terminations]	\$1,084.72	x 8	\$8,677.76 /	576	\$15.07	
IFC Bay 7' \$534.80 each			\$534.80 /	576	\$0.93	
Splice module \$ 389.20 each [8 modules per bay, each modules holds 192 fibers; a total of 1536 fiber splices per bay]	\$389.20	x 8	\$3,113.60 /	1536	\$2.03	
Splice tray \$28.00 each [2 trays per drawer, 12 fibers per tray, 8 drawers per module, 8 modules per bay, 1536 fiber splices; 128 total trays per bay]	\$28.00	x 128	\$3,584.00 /	1536	\$2.33	
Fiber splice bay \$702.80 each [8 splice modules per bay, 1536 total fiber splices per bay]			\$702.80 /	1536	\$0.46	
72 fiber mic riser cable connectorized one-end \$1512, plus 4.7078 per foot for fiber riser cable, average 150 feet between bays]	\$4.71	x 150	\$706.17 /	72	\$9.81	
Investment per fiber termination						51.62
Investment per fiber termination	x	1	Fibers Required =			\$51.62
Total Investment Factor (TIF) - Mountings without warehousing, 3/99						1.9906
FDP Installed Investment						\$102.75
Washington Average Fiber Sheath Utilization (Transport Model)						0.67
Washington Total 1 Fiber Termination Investment						\$ 153.37

8

9 If Qwest will provide its cost studies for the Oregon ordered UDF-IOF
 10 termination per pair or provide written confirmation that the cost studies in these
 11 states calculates costs consistent with the cost study in Washington, then Eschelon

²³⁸ The Washington cost study was provided to me by Ms. Million on May 24, 2007.

1 would offer the following language that appropriately captures how these costs
2 are calculated in Qwest's cost studies.²³⁹

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. A UDF-IOF
6 termination charge applies per single strand termination or per pair
7 termination at an FDP or like cross-connect point.

8 Qwest's original proposal contains the same beginning as the Eschelon proposal,
9 but contains the following two sentences in place of the last sentence above:
10 "Two UDF-IOF terminations apply per cross connect provided on the facility.
11 Termination charges apply for each intermediate office terminating at an FDP or
12 like cross-connect point." If Qwest provides written confirmation that the Oregon
13 UDF termination per pair cost study calculates cost in the same way as the
14 Washington cost study then Eschelon's language proposal is better because it is
15 consistent with the manner in which the underlying costs are calculated. If the
16 Oregon study is unique, Qwest should provide that study in order to properly
17 review Qwest's proposed changes to the SGAT language.

18 **Q. DOES QWEST HAVE A NEW PROPOSAL FOR THIS ISSUE AND HAVE**
19 **YOU HAD THE OPPORTUNITY TO REVIEW THIS PROPOSAL?**

20 A. Yes. On June 8, 2007 Qwest sent a new proposal for section 9.7.5..1.a (listed
21 below):

²³⁹ Note that this proposal is in response to Qwest's June 8, 2007 proposal discussed below.

1 UDF-IOF Termination (Fixed) Rate Element. This rate element is
2 a recurring rate element and provides a termination at the
3 interoffice FDP within the Qwest Wire Center. A minimum of two
4 UDF-IOF termination charges apply per pair. A UDF-IOF
5 termination charge also applies per each termination at an FDP or
6 like cross-connect point for each intermediate office on the dark
7 fiber route.

8 Qwest's new proposal suffers from the same flaws as its previous proposal. First,
9 as demonstrated above, the UDF-IOF cost study calculates cost per "1 Fiber
10 Termination."²⁴⁰ Qwest's new proposal does not reflect this, but provides that "A
11 minimum of two charges will apply per pair." Since Qwest has rates for this
12 termination charge for both "UDF single strand" and "UDF-per pair,"²⁴¹ it is
13 unclear what Qwest's statement means. The most direct way to address this cost
14 is by Eschelon's proposal above²⁴² which states, "A UDF-IOF termination charge
15 applies per single strand termination or per pair termination at an FDP or like
16 cross-connect point," since this is how the costs are calculated. This is also
17 consistent with Exhibit A, as Exhibit A lists termination charges for a single
18 strand and termination charges per pair.

19 **Q. IS QWEST'S RATE PROPOSAL FOR UDF-IOF, ISSUE 22-90(AB),**
20 **CONSISTENT WITH THE WASHINGTON COST STUDY?**

21 A. No. The Washington cost study calculates cost per "1 fiber termination." In
22 Washington, the cost for two fibers is twice the cost of a single fiber termination.
23 Qwest's rates in Washington reflect this as the cost for a single strand is \$3.08 and

²⁴⁰ See the last row of the cost study provided above.

²⁴¹ See Sections 9.7.4.1.4 and 9.7.5.1.4 of Exhibit A. This is not in dispute.

²⁴² Note that Eschelon's proposal is contingent upon Qwest providing the cost studies in the other large Qwest states or confirming

1 the cost per pair is \$6.16.²⁴³ The termination rate per pair in Oregon is \$8.51, but
2 Qwest's proposal for the termination rate for a single strand is \$4.90 from
3 Qwest's original proposal or \$4.35 based on the New Mexico rates. Based on the
4 Washington cost study methodology, the single strand rate should be \$4.255 or
5 half of the Commission approved termination per pair rate.

6 **SUBJECT MATTER NO. 25. SERVICE ELIGIBILITY CRITERIA**

7 **Issue Nos. 9-56 and 9-56(a): ICA Sections 9.23.4.3.1.1 and 9.23.4.3.1.1.1.1**

8 **Q. PLEASE SUMMARIZE THIS ISSUE.**

9 A. Qwest is required by the FCC to have cause before conducting an audit regarding
10 CLEC compliance with service eligibility requirements. Eschelon's proposed
11 language memorializes this requirement and requires Qwest to provide
12 information to Eschelon that Qwest used to support its cause for review.

13 **Q. MS. STEWART CLAIMS YOU IGNORE THE "FCC'S RULINGS IN THE**
14 **TRO RELATING TO AUDIT RIGHTS."²⁴⁴ IS THIS CORRECT?**

15 A. No. As I testified in my Direct and Rebuttal Testimony, in the TRO the FCC
16 stated that its auditing procedures were comparable to those it established in a
17 previous order. The FCC took specific note of the requirements of that order and

²⁴³ See Qwest's Negotiations Template Exhibit A in Washington
(<http://www.qwest.com/wholesale/downloads/2007/070511/WANT04-30-07Errata.xls>).

²⁴⁴ Qwest/37, Stewart/41..

1 directed carriers to develop the details regarding auditing in their interconnection
2 agreements.²⁴⁵

3 **Q. MS. STEWART ARGUES QWEST IS REQUIRED TO REIMBURSE**
4 **CLECS IN CERTAIN INSTANCES FOR AUDIT COSTS PURSUANT TO**
5 **ICA SECTION 9.23.4.3.1.3.5. DOES THIS ALLEVIATE ESCHELON'S**
6 **CONCERNS REGARDING AUDITS WITHOUT CAUSE?**²⁴⁶

7 A. No. Although Ms. Stewart is correct that ICA Section 9.23.4.3.1.3.5 requires
8 Qwest to reimburse Eschelon in the event the Independent Auditor finds Eschelon
9 complied in material respects with the Service Eligibility Criteria, that provision
10 doesn't necessarily reimburse Eschelon for its indirect costs and lost opportunity
11 costs.²⁴⁷ Every time Eschelon is required to redirect an employee from one
12 activity to another, that employee is unable to work on the business task to which
13 he or she was originally assigned. While Eschelon may be able to recoup the cost
14 of the employee's time spent working on the audit, the work the employee should
15 have been doing has gone undone. Thus, the audit imposes a very real
16 opportunity cost on Eschelon. The opportunity cost to Eschelon of the employee
17 working on unnecessary audit activities is the cost of the next best alternative,

²⁴⁵ Eschelon/9, Denney/168; Eschelon/125, Denney/97-98. At Qwest/37, Stewart/41 Ms. Stewart claims that I ignore footnote 1898 of the TRO, but this is not the case. Paragraph 621 of the TRO lists the Commission findings regarding audit requirements in its *Supplemental Order Clarification* to convert tariffed loop-transport combinations to UNE rates. A clear reading of this paragraph and footnote 1898 demonstrates that the conditions set forth in footnote 1898 were principles in addition that audits only be taken when the ILEC has a concern that CLEC has not met the relevant criteria for conversion.

²⁴⁶ Qwest/37, Stewart/41 and Stewart/42.

²⁴⁷ An opportunity cost is the value of the best foregone alternative use of the resources employed. In this case, the opportunity costs are the value of the work the employee could have been doing if the employee had not been diverted to work on the audit.

1 which is the foregone benefit that the employee would have generated for
2 Eschelon had the employee been able to work on his or her assigned tasks.

3 **SUBJECT MATTER NO. 26. COMMINGLED EELS/ARRANGEMENTS**

4 *Issue Nos. 9-58, 9-58(a), 9-58(b), 9-58(d), 9-58(e) and 9-59: ICA Sections*
5 *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,*
6 *9.1.1.1.1.2, and 9.23.4.7*

7 **Q. PLEASE SUMMARIZE THESE ISSUES.**

8 A. Qwest attempts to add an operational glue charge in order for Eschelon to
9 purchase a point-to-point commingled EEL. Unlike UNE EELs and the special
10 access equivalent to a UNE EEL, for commingled EELs Qwest proposals will
11 delay installation of commingled EELs, lengthen the repair intervals for these
12 circuits and make bill verification difficult. Qwest accomplishes this task by
13 requiring separate orders, separate trouble tickets and separate bills for each
14 component of the commingled EEL. Qwest's proposal not only diminishes the
15 usefulness of commingled EELs, but impacts the terms and conditions of the
16 UNE component of the commingled circuit.

17 A point-to-point Commingled EEL should be a useful and meaningful alternative
18 for the circumstances when a UNE EEL is no longer available. Because a
19 Commingled EEL is functionally equivalent to a UNE EEL, a Commingled EEL
20 should be put together (ordering, tracking, repair and billing) in a manner similar
21 to a UNE EEL. Eschelon's language accomplishes this task, while Qwest's
22 language allows Qwest to diminish the usefulness of the commingled EEL by

1 delaying provisioning and repair. In addition, Qwest's language allows Qwest to
2 provide bills for the components of the commingled EEL that are not related in
3 any way and thus extremely difficult to review and verify. I address these issues,
4 along with many of the points raised by Qwest in my direct testimony at
5 Eschelon/9, Denney 169-200 and in my rebuttal testimony at Eschelon/125,
6 Denney/99-111.

7 **Q. WHAT GENERAL CRITICISMS DOES QWEST RAISE WITH RESPECT**
8 **TO ESCHELON'S PROPOSALS RELATED TO COMMINGLED**
9 **EELS/ARRANGEMENTS?**

10 A. Qwest raises three general criticisms of Eschelon's language proposals. First,
11 Qwest complains that this issue should be raised through CMP, not through
12 Eschelon's arbitration.²⁴⁸ Second, Qwest claims the costs to make all of
13 Eschelon's changes would be prohibitive and Eschelon is not willing to
14 compensate Qwest to make these changes.²⁴⁹ Third, Qwest argues that Eschelon
15 is attempting to impact the terms of Qwest's special access products and that
16 Qwest is not required to change its systems.²⁵⁰

17 **Q. IS CMP THE PROPER FORUM FOR THIS ISSUE?**²⁵¹

18 A. No. The issue of why it is inappropriate to send these issues to CMP is discussed
19 in the testimony of Mr. Starkey. Mr. Starkey's surrebuttal testimony specifically

²⁴⁸ Qwest/37, Stewart/49-53 and 59.

²⁴⁹ Qwest/37, Stewart/43, 52, 46.

²⁵⁰ Qwest/37, Stewart/44, 46, 51, 56, 57, 61

²⁵¹ See also Eschelon/125, Denney/109-110.

1 addresses Qwest's secret PCAT and Qwest's attempt to implement provisions of
2 the TRO/TRRO conditions outside the scope of CMP. It should also be noted that
3 the provisions in these sections of the ICA have nothing at all to do with the wire
4 center dockets, the completion of which Ms. Stewart claims Qwest is awaiting.²⁵²
5 Even more problematic is Qwest's claim that Eschelon's disputes should be
6 ignored because other CLECs are operating under Qwest's unilaterally
7 implemented current procedures.²⁵³ In essence, what Qwest is arguing is: (1)
8 commingled EEL issues should be handled through CMP; (2) Qwest will not
9 submit the issues to CMP, claiming it is waiting for the outcome of the unrelated
10 non-impaired wire center proceedings;²⁵⁴ (3) in the meantime, CLECs should use
11 the Qwest non-CMP process; and (4) Qwest concludes that there is no reason for
12 dispute regarding ICA language for commingled EELs / arrangements, because
13 CLECs are already using the non-CMP Qwest process.²⁵⁵ Qwest's circular logic
14 should be rejected, as further addressed in the testimony of Mr. Starkey.

15 **Q. QWEST CLAIMS THAT THE PROVISIONS PROPOSED BY ESCHELON**
16 **WOULD CAUSE QWEST TO INCUR SIGNIFICANT COST AND**
17 **SHOULD THEREFORE BE REJECTED. WHAT IS YOUR**
18 **RESPONSE?**²⁵⁶

²⁵² Qwest/37, Stewart/50.

²⁵³ Qwest/37, Stewart/48 and 49.

²⁵⁴ Ms. Stewart now claims that these issues are being dealt with in CMP (Qwest/37, Stewart/50 and 51), but at this point in time Qwest has not presented any CRs associated with these PCATs. Eschelon/72 (Johnson).

²⁵⁵ Qwest/37, Stewart/35.

²⁵⁶ See also Eschelon/9, Denney/ 183-184; 188; 189-190 and Eschelon/125, Denney/104.

1 A. First, it is important to understand that today Qwest allows CLECs to order UNE
2 EELs on one order, issue trouble reports for the entire circuit, and receive billing
3 for the two components on a single bill. This is also the case for the special
4 access equivalent of a UNE EEL. Thus, Qwest's claim that it is prohibitively
5 expensive to implement Eschelon's proposals is difficult to believe. Qwest
6 attempts to verify this expense by claiming that the UNE and non-UNE circuits
7 must be separated in all practical respects, or else mass confusion will result.
8 Qwest claims it will have trouble provisioning, repairing and billing for these
9 circuits if they are combined any way other than the physical combination
10 required by the FCC. The fact that Qwest combines loop and transport circuits on
11 a regular basis demonstrates that Qwest's fears are unfounded. Qwest uses the
12 threat of unsubstantiated extraordinary expense in an attempt to stop CLECs from
13 making practical requests for the ordering, maintenance and billing of
14 combinations of circuits that Qwest is legally required to provide.²⁵⁷

15 **Q. IS ESCHELON ATTEMPTING TO ALTER THE TERMS AND**
16 **CONDITIONS OF QWEST'S SPECIAL ACCESS CIRCUITS THROUGH**
17 **ITS LANGUAGE PROPOSALS?**²⁵⁸

18 A. No. The purpose of this proceeding is to determine the terms and conditions that
19 apply to UNEs. It is Qwest that is attempting to weaken the terms and conditions

²⁵⁷ Eschelon/125, Denney/106 refers to a deposition of Ms. Madill indicating that the same provisioning center processes orders for UNE and Private Line circuits. Ms. Madill's deposition transcript was not available at the time of rebuttal testimony. The relevant pages from her deposition are provided as Eschelon/137.

²⁵⁸ See also Eschelon/125, Denney/101-102.

1 that apply to the UNE component of commingled EELs by delaying installation
2 and lengthening the process for repairs. Eschelon's proposal does not seek to
3 alter the terms and conditions of the non-UNE component of the commingled
4 EEL, but instead insures that the commingled facility is sufficiently described
5 such that it can be practically used by Eschelon.

6 **Q. DOES QWEST HAVE A LEGITIMATE NEED TO USE DIFFERENT AND**
7 **SEPARATE PROVISIONING INTERVALS FOR THE UNE AND NON-**
8 **UNE CIRCUIT OF A COMMINGLED EEL?²⁵⁹**

9 A. No. Qwest is currently able to provision a UNE EEL under a single provisioning
10 interval. Thus, Ms. Stewart's claim that "it is essential for Qwest to use and
11 preserve different provisioning intervals"²⁶⁰ is not accurate. Further, Ms. Stewart
12 argues that "it is difficult to believe that a 48-hour delay 'diminishes the
13 usefulness of the commingled arrangement' and makes it 'inferior,' as Mr.
14 Denney suggests.²⁶¹ Contrary to Ms. Stewart's claim, provisioning intervals are
15 important and allowing Qwest to delay the provisioning interval to CLECs for
16 two to three days is inappropriate and improper.

²⁵⁹ Qwest/37, Stewart/62.

²⁶⁰ Qwest/37, Stewart/62.

²⁶¹ Qwest/37, Stewart/63. Note that Ms. Stewart takes issue with the 72 hour delay I mention in my Direct Testimony claiming the delay would only be 48 hours. Qwest is required to provide a FOC for an unbundled DS1 loop within 72 hours. Qwest is required to provide a FOC for a DS1 point to point UNE EEL within 48 hours. Since, in the example given, Eschelon would be combining an unbundled DS1 loop with non-UNE transport, I used the 72 hour interval for the loop. Regardless whether it is a two or three day delay, there is still a delay and the delay is significant.

1 **Q. MS. STEWART SUGGESTS THAT YOU EXAGGERATE IN YOUR**
2 **DIRECT TESTIMONY REGARDING THE CHOICE OF HAVING TO**
3 **EXIT THE MARKET FOR COMMINGLED EELS OR SWITCH TO**
4 **HIGHER PRICED SPECIAL ACCESS LINES.²⁶² HOW DO YOU**
5 **RESPOND?**

6 A. Eschelon, as other CLECs certainly would do, evaluates the costs before selling
7 services to its customers. Eschelon cannot ignore the price it pays or any
8 diminished product functionality of the circuits it leases from Qwest. As the price
9 that Eschelon pays for each circuit increases, Eschelon's willingness to offer
10 products to end users using these circuits diminishes. This is not a hypothetical
11 threat, but an economic reality. Currently Eschelon sells products to end users by
12 purchasing unbundled network elements from Qwest and attaching these elements
13 to the Eschelon network. In some situations Eschelon also uses UNE EELs to
14 serve end user customers. Eschelon does not use UNE EELs in every market
15 where they could be used, as the conditions in each market dictate the practicality
16 of using EELs to serve customers in that market. The use of non-UNE
17 components to serve end user customers is even more limited and requires
18 evaluation on a case by case basis. There should be no doubt that decrease in
19 usability or increase in the cost of facilities that Eschelon leases from Qwest will
20 impact Eschelon's participation in certain markets in Oregon.

²⁶² Qwest/37, Stewart/44-45.

1 **Q. AT QWEST/37, STEWART/57, MS STEWART STATES THAT**
2 **ESCHELON'S PROPOSAL FOR A SINGLE BILLING ACCOUNT**
3 **NUMBER ("BAN") POTENTIALLY BECOMES A FORM OF "RATE**
4 **RATCHETING" THAT QWEST IS EXPLICITLY NOT REQUIRED TO**
5 **DO FOR CLECS AS PART OF THE TRO. HOW DO YOU RESPOND?**

6 A. This is in no way ratcheting. Ratcheting is when the rates for UNE and special
7 access services are blended based on proportional use. Eschelon is not proposing
8 blended or ratcheted rates for Commingled EELs and its proposals would not
9 result in ratcheting or blended rates, contrary to Ms. Stewart's testimony. A
10 single BAN would simple contain the appropriate charges for the commingled
11 facilities on a single bill. Eschelon's proposal does not impact the rates it would
12 pay for either UNEs or special access circuits.

13 **Q. ARE TWO UNIQUE CIRCUIT IDS NECESSARY FOR POINT-TO-POINT**
14 **COMMINGLED EELS?²⁶³**

15 A. No. Qwest currently uses a single circuit ID for point-to-point UNE EELs and
16 point-to-point special access circuits and is able to provision, bill and document
17 service quality for these circuits. There is no reason why Qwest can not use a
18 single circuit ID for point-to-point commingled EELs. This is discussed in detail
19 in my direct testimony at Eschelon/9, Denney/171-172.

20 **Q. DO MULTIPLEXED EELS HAVE MULTIPLE CIRCUIT IDS**
21 **ASSOCIATED WITH THE MULTIPLEXED EEL ARRANGEMENT?**

²⁶³ Qwest/37, Stewart/52.

1 A. Yes. Ms. Stewart concludes that because “Eschelon has not suggested that Qwest
2 commingle two separate facilities of different bandwidth/capacity into one order,
3 one bill, and one circuit ID,” she fails to understand how a point-to-point
4 commingled EEL “provisioned with two service orders and two circuit IDs would
5 be so burdensome.”²⁶⁴

6 Ms. Stewart made the same argument in her direct testimony at Qwest/14,
7 Stewart/57 and I responded how multiplexed EELs are different in my rebuttal
8 testimony on page 94.

9 **Q. WOULD QWEST’S PROPOSAL FOR ISSUE 9-59 SOLVE THE**
10 **PROBLEM OF DELAY FOR THE REPAIR OF A COMMINGLED EEL?**

11 A. No. Ms. Stewart claims there is no basis for my claim that Qwest’s proposal
12 would delay the repair of a commingled EEL,²⁶⁵ but then contradicts herself a few
13 sentences later. Ms. Stewart explains that if Eschelon guesses correctly whether
14 the UNE or non-UNE portion of the circuit has problems, “Eschelon will not have
15 any need to submit a second repair ticket.”²⁶⁶ If Eschelon guesses wrong, “only
16 then will it become necessary for Eschelon to submit a second trouble ticket.”²⁶⁷
17 It is the submission of the second repair ticket that provides for the delay. Ms.
18 Stewart states Qwest will “immediately begin the repair process for the second

²⁶⁴ Qwest/37, Stewart/45.

²⁶⁵ Qwest/37, Stewart/64.

²⁶⁶ Qwest/37, Stewart/64.

²⁶⁷ Qwest/37, Stewart/64.

1 ticket and thereby avoid delay.”²⁶⁸ However, the fact that an extra step, checking
2 one component of the commingled product before a second repair ticket can be
3 opened, was introduced into the repair process can not help but introduce delay to
4 the repair of the entire circuit.

5 **Q. MS. STEWART STATES THAT “WITHOUT SEPARATE BANS FOR**
6 **THE DISTINCT PRODUCTS THAT COMPRISE COMMINGLED**
7 **ARRANGEMENTS, BILLING ERRORS WOULD BE INEVITABLE.”²⁶⁹**
8 **DO YOU AGREE?**

9 A. No. This was discussed in my rebuttal testimony on Eschelon/125, Denney/104-
10 106.

11 **Q. DO YOU AGREE WITH MS. STEWART’S STATEMENT THAT, IF**
12 **ESCHELON’S PROPOSALS ARE NOT REJECTED BY THE**
13 **COMMISSION, THEN AT A MINIMUM “THE COMMISSION WOULD**
14 **NEED TO EXCLUDE SUCH HYBRID PRODUCTS FROM THE**
15 **OREGON UNE-SPECIFIC PERFORMANCE INDICATOR**
16 **MEASUREMENTS.”²⁷⁰**

17 A. No. The UNE components of commingled arrangements should continue to be
18 subject to the Oregon Performance Assurance Plan (“QPAP”). The QPAP
19 provides incentives for Qwest for on time provisioning, timely repair and accurate
20 billing for products and services purchased by CLECs from Qwest. Allowing

²⁶⁸ Qwest/37, Stewart/64..

²⁶⁹ Qwest/37, Stewart/56.

²⁷⁰ Qwest/37, Stewart/47.

1 Qwest to circumvent the PAP for UNEs simply because they are part of a
2 commingled arrangement further undermines the value of the commingled EEL.
3 Ms. Stewart is inappropriately arguing against language that Qwest has already
4 agreed upon in the ICA. Closed language in Section 24.1.2.1 specifically states
5 that the performance measurements and remedies apply to the UNE component(s)
6 of any Commingled arrangement:

7 24.1.2.1 . . . Performance measurements and/or remedies under this
8 Agreement apply only to the UNE component(s) of any
9 Commingled arrangement. Qwest is not relieved from those
10 measurements and remedies by virtue of the fact that the UNE is
11 part of a Commingled arrangement.

12 **VIII. EXPEDITED ORDERS**

13 **SUBJECT MATTER NO. 31. EXPEDITED ORDERS**

14 **Issues Nos. 12-67 and 12-67(a)-(g)**

15 **Q. MS. ALBERSHEIM STATES IN HER REBUTTAL TESTIMONY THAT**
16 **THE FUNDAMENTAL DISPUTE BETWEEN THE PARTIES**
17 **REGARDING EXPEDITES IS “ABOUT THE WAY THAT QWEST**
18 **SHOULD OFFER EXPEDITES.”²⁷¹ DO YOU AGREE?**

19 **A. No.** As stated in my direct and rebuttal testimony,²⁷² the two over-arching
20 questions for resolution are:

21 (1) **Interim Wholesale Rate (whether TELRIC):** At what rate
22 should expedites be provided to a Qwest wholesale customer (*i.e.*
23 Eschelon), at least on an interim basis until a permanent rate is set?
24 and

²⁷¹ Qwest/18, Albersheim/35

²⁷² Eschelon/9, Denney/201; Eschelon/125, Denney/111

1 (2) **Exceptions to Charging Additional Fee for Expedites:**
2 Should the circumstances when Qwest provides exception(s) to
3 charging an additional fee for expedites be nondiscriminatory?

4 Ms. Albersheim’s testimony focuses on the second of these two questions. In
5 other words, she is focusing on the exception rather than the general rule. Ms.
6 Albersheim’s testimony also focuses on the first of Eschelon’s alternate proposals
7 for the exception, with no recognition of the compromise Eschelon has offered
8 with its alternate proposal for exceptions to charging an additional fee for
9 expedites. Ms. Albersheim states that the difference in the Qwest contract
10 language is “the distinction between designed services and non-designed
11 services.”²⁷³ Under Eschelon’s second (and fourth²⁷⁴) proposal, however, “Qwest
12 will grant and process CLEC’s expedite request, and expedite charges are not
13 applicable, if Qwest does not apply expedite charges to its retail Customers, such
14 as when certain conditions (*e.g.*, fire or flood) are met and the applicable
15 condition is met with respect to CLEC’s request for an expedited order.” To the
16 extent the distinction between designed services and non-designed services
17 applies to its retail customers, this language should address Ms. Albersheim’s
18 stated concern.

19 **Q. QWEST STATES THAT YOU “ATTEMPT TO DISMISS THE**
20 **DISTINCTION THAT QWEST DRAWS BETWEEN DESIGNED AND**

²⁷³ Qwest/18, Albersheim/35, lines 7-8.

²⁷⁴ Eschelon now also has a fourth proposal, which contains the language of the second proposal but also addresses resource availability. Eschelon/125, Denney/125. The first and third proposals are Eschelon’s *initial* proposal (with resource availability addressed in the third proposal). Eschelon’s *alternate* proposal is its second and fourth versions.

1 **NON-DESIGNED SERVICES” AND INDICATES THAT EXPEDITES**
2 **SHOULD BE PROVIDED UNDER TWO OPTIONS, ONE FOR AN**
3 **ADDITIONAL FEE AND ANOTHER WITH NO ADDITIONAL FEE.²⁷⁵**
4 **PLEASE COMMENT.**

5 A. This Commission has said that it is “unconvinced” by Qwest’s (then US West’s)
6 “claim that it is necessary from a technical standpoint to provision all unbundled
7 elements in the same manner as private lines and other complex
8 telecommunications services.”²⁷⁶ This lends support for adoption of Eschelon’s
9 proposal number one (or three) for Issue 12-67(a).

10 Even with this finding from the Commission, Eschelon has reasonably offered in
11 the alternative to compromise on Issue 12-67(a) (Exceptions to Charging an
12 Additional Fee) with its alternate proposal, which I described above. Although
13 the latter proposal accommodates Qwest’s claimed distinction,²⁷⁷ Qwest has not
14 accepted it and barely acknowledges its existence. For example, on pages 41-42
15 of her testimony (Qwest/18), Ms. Albersheim testifies that Eschelon is seeking
16 preferential treatment because she claims sub-paragraph (f) of Echelon’s proposal

²⁷⁵ Qwest/18, Albersheim/35, line 23 – p. 36, line 24.

²⁷⁶ Eschelon/23, Denney 17 (Order No. 98-444).

²⁷⁷ Although Qwest claims that its language distinguishes between designed and non-designed services, Qwest rejected Eschelon’s proposal in negotiations to identify products in the definitions of the terms “designed,” “non-designed” and “POTS” in the ICA. Under Qwest’s proposal here (which refers to the PCAT), by simply moving a product from one category to another in its PCAT, Qwest could make expedites unavailable for additional product(s). When Eschelon provided its definition proposal to Qwest in 2004, Eschelon also enclosed an August 16, 2002 Qwest ex parte filing with the FCC in which Qwest identifies which products it believes are defined and which are non-designed, which was used as a basis for Eschelon’s proposed definitions. Qwest nonetheless would not agree to identify products in the definition of these terms in the ICA. Ironically, Qwest now claims that its proposal is “product-specific.” Qwest/18, Eschelon/35, line 17.

1 number one is different from Qwest’s practice.²⁷⁸ There is no sub-paragraph (f),
2 or any sub-paragraphs at all, in Eschelon’s alternate proposal. If Qwest is
3 dissatisfied with proposals number one and two, it may accept alternative
4 proposals number three or four for Issue 12-76(a).

5 Ms. Albersheim’s testimony about the two expedite options under Qwest’s
6 proposal,²⁷⁹ as though there were not two under Eschelon’s proposal, is puzzling.
7 Under both companies’ proposals, there is one “option” when charges apply (*see*
8 Section 12.2.1.2.3 – “expedite charges in Exhibit A will apply”)²⁸⁰ and another
9 “option” when charges do not apply (*see* Section 12.2.1.2.1, #2 & #4 – “expedite
10 charges are not applicable, if Qwest does not apply expedite charges to its retail
11 Customers”).²⁸¹ It is undisputed that Qwest provides expedites to itself²⁸² and its
12 retail customers.²⁸³ It is also undisputed that Qwest does not charge its retail
13 customers an additional expedite fee in all cases; rather, Qwest provides

²⁷⁸ 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). *See* Eschelon/9, Denney/215 at footnote 191.

²⁷⁹ *See, e.g.*, Qwest/18, Albersheim/36.

²⁸⁰ Qwest/18, Albersheim/36 (“The first option applies to expedites for designed services (like an unbundled loop) and charges apply.”).

²⁸¹ Qwest/18, Albersheim/36 (“The second provides expedites for non-designed service (POTS) and charges do not apply.”).

²⁸² 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).

²⁸³ *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); Qwest/18, Albersheim/36 (“The first option applies to expedites for designed services (like an unbundled loop) and charges apply.”); Qwest/18, Albersheim/36 (“The second provides expedites for non-designed service (POTS) and charges do not apply.”).

1 exceptions to charging an additional fee for expedites under certain conditions.²⁸⁴
2 Eschelon’s proposed language takes into account these undisputed facts with its
3 two “options” (*i.e.*, the general rule and the exception).

4 **Q. MS. ALBERSHEIM TESTIFIES THAT THE RETAIL ANALOGUE**
5 **LEGAL STANDARD AND PIDS SUPPORT THE DISTINCTION**
6 **BETWEEN DESIGNED AND NON-DESIGNED SERVICES.²⁸⁵ IS QWEST**
7 **CONSISTENT ON THIS POINT?**

8 A. No. Qwest wants this Commission to treat *all* loops (DS0, DS1 and higher) as
9 designed services.²⁸⁶ In this particular response, Ms. Albersheim states “there is
10 no retail analogue for the provisioning of unbundled *DS0* loops,”²⁸⁷ while
11 omitting any reference to DS1 and higher loops. Qwest’s position is that high
12 capacity loops (DS1 and higher) have a retail analogue, which is the retail private
13 line,²⁸⁸ a point Qwest made in the Arizona Complaint Case specifically regarding

²⁸⁴ 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)). See also Qwest/18, Albersheim/36, lines 8-10 (“It is critical to note, first, for non-designed services (POTS services), CLECs and Qwest’s retail customers alike both can obtain an expedited due date under certain defined circumstances at no charge.”).

²⁸⁵ Qwest/18, Albersheim/36, line 26 – p. 37, line 14.

²⁸⁶ Qwest rejects all expedite orders for loops, not only high capacity loops, under the existing ICA. See Eschelon/32, Denney/1. See Qwest/18, Albersheim/36, lines 21-22 (“Examples of wholesale designed services are unbundled loops (DS0, DS1, DS3, etc.). Examples of retail designed services are private lines (DS1, DS3, etc.).”)

²⁸⁷ Qwest/18, Albersheim/37, lines 11-12 (emphasis added).

²⁸⁸ Qwest/18, Albersheim/41, line 5 (“a DS1 private line (the retail analogue)”).

1 expedites.²⁸⁹ If per Qwest the retail analogue standard is the standard for the
2 distinction,²⁹⁰ then its position would be that DS0 loops are non-designed services
3 and DS1 and higher loops are designed services, instead of its current position
4 that all loops are designed services.

5 Similarly, the PIDs do not support this Qwest proposition. Qwest cites a PID here
6 (OP-3) and it has cited another PID previously (OP-4) for this proposition.²⁹¹ The
7 PIDs are attached to the Petition as Exhibit B to the proposed ICA.²⁹² Qwest
8 suggests that, in these two PIDs, standards for resale and QPP POTS services are
9 set at “parity” with Qwest retail POTS, while unbundled loops are compared to
10 “benchmark” standards because there is no retail analogue for loops on the Qwest
11 retail side. Even a brief review of the PIDs shows that the suggestion is simply
12 incorrect. In these PIDs, standards for a number of UNE loops are set as “parity”
13 with retail, including 4-wire loops, ISDN-capable loops, DS3 loops and higher.

²⁸⁹ 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 (emphasis added).

²⁹⁰ 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.” *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.

²⁹¹ Minnesota arbitration, Albersheim Surrebuttal, p. 26, line 11 (“The same is true for OP-4, the standard installation interval.”).

²⁹² The Proposed ICA is Exhibit 5 to Eschelon’s Petition, so the PIDs are Exhibit 5(B) to Eschelon’s Petition. In Petition Exhibit 5(B), PID OP-3 (Installation Commitments Met) is found on pages 36-38; PID OP-4 (Installation Interval) is found on pages 39-41.

1 DS1 UNE loops are compared to “parity” with retail for all states on OP-3, and
2 for half of the states for OP-4.²⁹³ Qwest refers specifically to “DS0 loops.”²⁹⁴
3 The term “DS0 loops” is not used in the PIDs. There are many PIDs that use
4 “parity” at retail, however, as the comparison for analog and non-loaded 2-wire
5 loops.²⁹⁵ If per Qwest the PIDs determine the distinction, then its position would
6 be that DS0 loops are non-designed services and DS1 and higher loops are
7 designed services, instead of its current position that all loops are designed
8 services.

9 **Q. MS. ALBERSHEIM DESCRIBES THE JANUARY RULING OF THE**
10 **MINNESOTA ALJS’ IN THE QWEST-ESCHELON ARBITRATION**
11 **PROCEEDING REGARDING ISSUE 12-67.²⁹⁶ DO YOU AGREE WITH**
12 **HER DESCRIPTION?**

13 A. No. The ALJs’ Recommended Decision is attached to my direct testimony as
14 Eschelon/29.²⁹⁷ Ms. Albersheim states that “the ALJs recommended adoption of
15 Qwest's proposed ICA language for expedites.”²⁹⁸ The ALJs, however, adopted

²⁹³ Petition Exhibit 5(B), p. 37 (OP-3) and p. 40 (OP-4).

²⁹⁴ Qwest/18, Albersheim/37, line 11.

²⁹⁵ See PIDs OP-5(A), OP-6, OP-15, MR-3, MR-4, MR-5, MR-7 and MR-8. The PID “Definition of Terms” contains the following definition for purposes of the PIDs: “Plain Old Telephone Service (POTS) – Refers to basic 2-wire, non-complex analog residential and business services. Can include feature capabilities (e.g., CLASS features).”

²⁹⁶ Qwest/18, Albersheim/43, lines 11-17.

²⁹⁷ The Commission’s orders in the Minnesota Arbitration are attached to my direct testimony as Eschelon/29 and Eschelon/30. The Commission’s order denying Qwest’s motion for reconsideration is provided with this testimony as Eschelon/136. Ms. Albersheim also addresses the Arizona Staff Testimony. Qwest/18, Albersheim/43-44. The Arizona Staff Conclusions are attached to my direct testimony as Eschelon/33. See Eschelon/9, Denney/239-241.

²⁹⁸ Qwest/18, Albersheim/43, lines 14-15(citing MN Arbitrators’ Report ¶220 in footnote 18).

1 Qwest’s language and position with respect to a single sub-point only
2 (nondiscrimination). Qwest cites paragraph 220 of the Arbitrators’ Report, which
3 states (with emphasis added): “There is no discrimination. *On this point*,
4 Qwest’s position and language should be adopted.” A reading of the ALJs’
5 decision on expedites (paragraphs 219-222) shows that the ALJs’ rejected
6 Qwest’s position on the other issues. These issues include (1) the role of the
7 CMP; (2) expedites being an integral part of access to UNEs (i.e., *not* a superior
8 service); and (3) cost-based rates.²⁹⁹ The ALJs rejected Qwest’s per day tariff rate
9 proposal³⁰⁰ and recommended adoption of Eschelon’s positions regarding an
10 interim rate and TELRIC pricing.³⁰¹ The sub-point for which the ALJs adopted
11 Qwest’s position – whether emergency situations should create an exception to
12 charging an additional fee for expedited ordering – is dealt with in Section
13 12.2.1.2.1 and subparts of Eschelon’s proposed language. Eschelon recognizes
14 that the Minnesota ALJs’ rejected these sections of Eschelon’s language. If this
15 Commission agrees, Eschelon offers two alternatives: (1) modify the list of
16 conditions in Section 12.2.1.2.1 to include only those that the Commission finds
17 Qwest provides to its retail customers;³⁰² or (2) do not reach the issue of which

²⁹⁹ Eschelon/29, Denney/6-7 and Eschelon/29, Denney/54-55 [MN Arbitrators’ Report, ¶¶ 21-22 & 219-222]. See Eschelon/125, Denney/113-122.

³⁰⁰ Qwest’s proposed ICA language states: “The request for expedite will be allowed only when the request meets the criteria outlined in the Pre-Approved Expedite Process in Qwest’s Product Catalog for expedite charges at Qwest’s wholesale web site.” See, e.g., Qwest proposed language for Section 7.3.5.2.2. The Product Catalog (“PCAT”) states: “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*.³⁰⁰ Eschelon/106, Johnson/45 (emphasis added). This PCAT language is inconsistent with the Minnesota ALJs’ ruling on pricing.

³⁰¹ Eschelon/29, Denney/55 [MN Arbitrators’ Report, ¶¶ 221-222].

1 conditions create an exception to charging and instead adopt Eschelon’s alternate
2 proposal (number two or number four) for Section 12.2.1.2.1 (which articulates a
3 nondiscrimination standard but does not include a list of conditions in the
4 contract).

5 In her May 25, 2007 rebuttal testimony Ms. Albersheim also said about the
6 Minnesota ALJs’ ruling: “Qwest has filed an exception to the latter
7 recommendation because it is contrary to law.”³⁰³ Ms. Albersheim fails to point
8 out that almost three months prior to this testimony, on March 6, 2007, the
9 Minnesota commission rejected Qwest’s exception on expedites and voted (4-0)
10 to adopt the ALJs’ recommendations regarding expedites. On March 30, 2007,
11 the Minnesota Commission issued its written order, almost two months before
12 Ms. Albersheim’s rebuttal testimony.³⁰⁴ In April, during the Colorado
13 Commission hearing, Ms. Albersheim testified that she had received a copy of the
14 Minnesota Commission’s written order.³⁰⁵ On May 11, I included a copy of the
15 order (Eschelon/30) with my direct testimony (Eschelon/9). In responding to that
16 testimony on May 25, Ms. Albersheim refers to Qwest’s exception and testifies

³⁰² See, e.g., Qwest (Ms. Martain) Direct (Aug. 28, 2006), Arizona Complaint Docket, p. 40, lines 4-10 (quoted below). *See, also.*, JW-3 (Qwest retail tariff pages), p. 3 (“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. . . .”

³⁰³ Qwest/18, Albersheim/43, lines 16-17.

³⁰⁴ Eschelon/30, Denney/15-19 & 22 [MN PUC Arbitration Order, pp. 15-19 & p. 22, ¶1 & p. 23 ¶5 (Topic 29)].

³⁰⁵ Colorado Transcript (April 17, 2007), Docket No. 06B-497T, Vol, I, p. 80, lines 2-19 (Ms. Albersheim).

1 that the Minnesota commission's ruling is "contrary to law"³⁰⁶ without
2 mentioning that the Minnesota commission had already rejected Qwest's
3 exception. Qwest did not move to reconsider on the expedites issue and, on the
4 issues for which Qwest sought reconsideration, the Commission has since denied
5 Qwest's motion (Eschelon/136).

6 **Q. REGARDING PLACEMENT OF THE EXPEDITE ICA LANGUAGE, MS.**
7 **ALBERSHEIM TESTIFIES THAT QWEST PROPOSES PRODUCT-**
8 **SPECIFIC PLACEMENT WHEREAS "SECTION 12 CONCERNS**
9 **ACCESS TO OSS AND IS NOT INTENDED TO ADDRESS PRODUCT-**
10 **SPECIFIC OPERATIONAL PROCEDURES."**³⁰⁷ **DOES QWEST'S**
11 **LANGUAGE COVER ALL PRODUCTS FOR WHICH EXPEDITES**
12 **SHOULD BE AVAILABLE?**

13 A. No. I address placement of the ICA language (Issues 12-67(d)-(f)), including the
14 nature of Section 12,³⁰⁸ on pages 220-222 of my direct testimony (Eschelon/9)
15 and on page 112 of my rebuttal testimony (Eschelon/125). By limiting expedites
16 to two product areas (UNEs in Section 9 and Interconnection in Section 7),
17 Qwest's language is too narrow. Qwest's language contains no language in

³⁰⁶ Qwest/18, Albersheim/43, lines 16-17.

³⁰⁷ Qwest/18, Albersheim/35, lines 13-21.

³⁰⁸ See Section 12.1.1 of proposed ICA (closed language). *See also* 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") ("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).

1 Section 10 (Ancillary Services), which includes Local Number Portability.
2 Expedites need to be available, however, for local number portability.³⁰⁹
3 Eschelon’s language regarding expedited ordering is logically placed in the
4 Section (12.2) addressing “Pre-Ordering, Ordering, and Provisioning.”

5 Ms. Albersheim states that Section 12 is “not intended to address product-specific
6 operational procedures,”³¹⁰ but provides no support for this statement. A reading
7 of Section 12 shows that is not the case. Section 12.4.1.6, for example, addresses
8 optional testing, *which only applies to loops*. Section 12.4.3.4 on its face applies
9 *only to UNEs* (“Qwest shall test to ensure the electrical continuity of all UNEs”).
10 If Ms. Albersheim’s revisionist view of the structure of the contract were correct,
11 these provisions would be in Section 9 (UNEs). Even though they only deal with
12 UNEs and are not systems issues, they are in Section 12 because it logically
13 belongs under Maintenance & Repair (one of the delineated “OSS” categories³¹¹),
14 just as expedited ordering logically belongs under Ordering in Section 12.

15 There is no reason to repeat the language in two or more places when the terms
16 can be centralized in one place, as is done for other provisions in Section 12.³¹²

17 Section 12.4.1.8, for example, deals with both Maintenance of Service charges

³⁰⁹ Qwest/9, Albersheim/4 (Qwest expedites PCAT) provides expedites are available for local number portability (“Port In/Port Within”) for fee-added expedites and the listed resold products for the expedite charge. Eschelon has agreed in all of its alternative language proposals to pay an expedite charge.

³¹⁰ Qwest/18, Albersheim/35, lines 20-21.

³¹¹ *See also* Third Report and Order, ¶425 (“the Commission defined OSS as consisting of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions”).

³¹² Eschelon has proposed to place cross references to Section 12 in Sections 7 and 9 (where Qwest would otherwise place its language).

1 (which apply to one set of products) and Trouble Isolation charges (which apply
2 to a different set of products). Section 12.2.2 (Service Requests), for example,
3 deals with ordering for various products that are covered elsewhere in the contract
4 (such as Section 12.2.2.2's provision that ASRs will be used for ordering UDITs,
5 even though UDITs are otherwise dealt with in Section 9). Eschelon's proposal is
6 more logical for the user of the contract, which will look to the ordering section
7 regarding expedited ordering (just as in the existing ICAs expedited ordering is in
8 the ordering section).

9 **Q. MS. ALBERSHEIM TESTIFIES THAT THE OREGON ADVANCED**
10 **COMMUNICATIONS SERVICES CATALOG PAGES PROVIDED BY**
11 **ESCHELON IN EXHIBIT ESCHELON/36 HAVE "NOTHING TO DO**
12 **WITH EXPEDITED ORDERS."**³¹³ **PLEASE RESPOND.**

13 A. Ms. Albersheim testifies (with emphasis in original) that "Section 3.2.2 concerns
14 *repairs*³¹⁴ . . . and has nothing to do with expedited orders."³¹⁵ Jill Martain, a
15 former Qwest's CMP Process Manager³¹⁶ who is identified in a Change Request
16 relating to expedites as the "owner" of that expedite change request,³¹⁷ has also
17 testified on this issue. While she also attempted to portray the waiver of non-

³¹³ See, e.g., Qwest/18, Albersheim/38, lines 20-21.

³¹⁴ Qwest/18, Albersheim/37, line 24. The numbering in Oregon is somewhat different (so there is actually not a 3.2.2 in Eschelon/36), but the point remains the same.

³¹⁵ Qwest/18, Albersheim/38, lines 20-21.

³¹⁶ Eschelon/110, Johnson/17.

³¹⁷ Eschelon/106, Johnson/5.

1 recurring charges for retail customers as a repair-related issue, she testified in the
2 Arizona Complaint Docket about Section 3.2.2 of Qwest’s retail tariff:

3 The tariff then goes on to state that if the end user elects to move
4 service to a temporary location (either within the same building, or
5 a different building) that non-recurring charges would apply. This
6 would include the non recurring charge to expedite a design
7 service. However, when the customer moves its service, via a
8 service order, back to the original premise location, if it meets the
9 criteria as outlined in 3.2.2.d included below, the non-recurring
10 charges would be *waived (including the expedite fee)*” (emphasis
11 added)).³¹⁸

12 According to Ms. Albersheim, Section 3.2.2 has nothing to do with expedites, but
13 according to Ms. Martain, Section 3.2.2 shows that the expedite fee will be
14 waived under certain circumstances (as contended by Eschelon when it provided
15 Eschelon/36 with its direct testimony). Both of these witnesses were testifying
16 for Qwest; yet, they provide different information. This provides some insight
17 into the difficulty of pinning down Qwest as to which conditions it extends
18 exceptions to charging to itself and its retail customers to obtain
19 nondiscriminatory treatment, leading to the need for contractual certainty.

20 The particular tariff pages are less pertinent to Eschelon’s more recent alternate
21 proposal number two (and four) for Section 12.2.1.2.1 (Issue 12-67(a)),³¹⁹
22 because proposal number two (four) does not include a list of emergency
23 conditions. Section 12.2.1.2.1 addresses when Qwest makes exception(s) to

³¹⁸ Qwest (Ms. Martain) Direct (Aug. 28, 2006), *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, Arizona Docket Nos. T-03406A-06-0257 and T-01051B-06-0257, [“Arizona Complaint Docket”], p. 40, lines 4-10.

³¹⁹ Eschelon/125, Denney/123-124; Eschelon/125, Denney/125 (#4).

1 charging an additional fee for expedites. Eschelon's proposal number two/four
2 states that Qwest will grant and process CLEC's expedite request, and expedite
3 charges are not applicable, if Qwest does not apply expedite charges to its retail
4 Customers, such as when certain emergency conditions (*e.g.*, fire or flood) are
5 met and the applicable condition is met with respect to CLEC's request for an
6 expedited order. If Qwest offers an exception to charging a separate expedite fee
7 either at the commencement of the term of the ICA or during its term (as may be
8 reflected in current or future tariff pages), Eschelon's proposal number two/four
9 provides that Qwest must offer that exception to Eschelon as well when the same
10 emergency conditions are met. The issue then becomes, when there is no
11 exception to charging for retail or wholesale customers, what rate applies. As I
12 indicated in my direct testimony (Eschelon/9, Denney/237-238), the approach
13 reflected in Eschelon's first proposal is preferable in that it offers more certainty
14 as to the conditions under which exceptions to charging a separate fee will be
15 made. If the Commission finds that some of all of these conditions are
16 inapplicable (or does not reach that issue), however, Eschelon's alternate proposal
17 at least articulates a nondiscrimination standard. It also limits future disputes at
18 least to the extent that the companies agree Qwest does not apply expedite
19 charges for its retail customers.

20 **Q. DOES MS. ALBERSHEIM'S INTERPRETATION OF THE EXISTING**
21 **ICA LANGUAGE RAISE CONCERNS?**

1 A. Yes. Ms. Albersheim interprets the current contract to give Qwest “*complete*
2 *discretion* to decide whether or not to grant expedites.”³²⁰ She cites no contract
3 provision to support this claim, and there is none.³²¹ In the Colorado arbitration,
4 Ms. Albersheim cited the following contract provision as the basis for her claim
5 of complete discretion:

6 3.2.2.12 “U S WEST shall provide CO-PROVIDER the capability to
7 expedite a service order.”³²²

8 Ms. Albersheim’s testimony about the existing contract language reinforces
9 Eschelon’s concern about the need for specific expedite terms in the
10 interconnection agreement (as opposed to referring to Qwest’s PCAT, as
11 proposed by Qwest³²³). It certainly provides another reason to choose Eschelon’s
12 language over Qwest’s language.

13 Use of the word “shall” generally indicates a mandatory obligation. Instead,
14 Qwest is apparently arguing that it may comply with the above contract provision
15 by providing a capability that could at Qwest’s discretion never actually result in

³²⁰ Qwest/18, Albersheim/45, lines 4-5 (emphasis added).

³²¹ 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.”).

³²² Colorado arbitration, Albersheim Answer, p. 55, lines 4-5 (quoting Att. 5, Section 3.2.2.12).

³²³ Qwest Proposed ICA Sections 7.3.5.2.2 & 9.1.12.1.2.

1 an order being expedited. It defies logic that this is the intended meaning of this
2 language.

3 **Q. DO YOU AGREE WITH MS. ALBERSHEIM ABOUT THE**
4 **IMPORTANCE OF CLEARLY DELINEATING TERMS IN THE**
5 **CONTRACT³²⁴ AND, IF SO, DO YOU DRAW THE SAME CONCLUSION**
6 **AS MS. ALBERSHEIM?**

7 A. Eschelon agrees that it is important to clearly delineate terms in the contract
8 (which is one reason why its proposal for Issue 12-67 and subparts includes terms
9 in the ICA, whereas Qwest's language refers to Qwest's PCAT³²⁵). Mr. Starkey
10 discusses the value of obtaining contractual certainty so the companies may plan
11 their business needs and avoid or minimize disputes in his testimony.³²⁶ I
12 disagree with Ms. Albersheim's conclusion that Qwest's proposed language
13 accomplishes that important objective.

14 Ms. Albersheim suggests that problems with the above-quoted contract language
15 will be avoided here because expedite terms are "clearly delineated" in Qwest's
16 proposed contract language.³²⁷ To evaluate Ms. Albersheim's claim that Qwest's

³²⁴ Qwest/18, Albersheim/45, lines 4-7.

³²⁵ Qwest Proposed ICA Sections 7.3.5.2.2 & 9.1.12.1.2.

³²⁶ *See, e.g.*, Eschelon/1, Starkey/9-10; Eschelon/123, Starkey/4-5.

³²⁷ Qwest/18, Albersheim/45, lines 4-7. Ms. Albersheim also testifies that Qwest's language is more clearly delineated because expedites are "always granted for designed services at a cost of \$200 per day," a process that she says is consistent for all Qwest customers. *See id.* Albersheim/45, lines 7-8. Her testimony on this point, however, is inconsistent and does not deliver the promised clarity. Ms. Albersheim testified separately in this proceeding that expedites are *not* always available but are provided only when resources are available. Qwest/1, Albersheim/64, lines 7-9 ("Via the approved expedite process discussed above, Qwest provides expedites to CLEC for any order upon request (*so long as resources are available*) for a fee of \$200 per day.") (emphasis added); *see also* Qwest/18,

1 language delineates Qwest’s expedite obligations more clearly than the previous
2 contract language, one need only review Qwest’s proposed language. To the
3 extent to which Qwest’s language deals with the issue at all (as opposed to
4 referring to the PCAT), Qwest’s proposed language provides merely that
5 expedites “*are allowed*.”³²⁸ Following Ms. Albersheim’s logic, Qwest’s language
6 for the new ICA would also give Qwest “complete discretion to decide whether or
7 not to grant expedites.”³²⁹ It could even be viewed as less certain, because it uses
8 permissive language (allowed) rather than mandatory language (shall). Nowhere
9 in Qwest’s proposed language does it expressly say that Qwest will actually grant
10 an expedite. In contrast, Eschelon has learned its lesson from Qwest’s unilateral
11 interpretation of the existing contracts.³³⁰ Based on that experience, Eschelon
12 proposed language which specifically provides: “Qwest will *grant and process*
13 CLEC’s expedite request” when the terms are met (which includes Eschelon’s
14 payment of the rate in Exhibit A).³³¹ Eschelon agrees with Ms. Albersheim that
15 more clearly delineating contract terms is an advantage,³³² however, Eschelon’s

Albersheim/45, lines 5-7.

³²⁸ Qwest Proposed ICA Sections 7.3.5.2, 7.3.5.2.2, 9.1.12.1.2, 9.1.12.1.2 (emphasis added).

³²⁹ Qwest/18, Albersheim/45, lines 4-5.

³³⁰ In the Arizona Complaint Docket, for example, Arizona Staff concluded that “CLECs should not be forced into signing” the expedite amendment. (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.) The Arizona Staff added that “since CLEC interconnection agreements are voluntarily negotiated or arbitrated,” Qwest “rather than trying to force Eschelon into signing an amendment,” could have taken the issue to arbitration under the Qwest-Eschelon ICA. (*Id.* p. 36, line 21 – p. 37, line 2.)

³³¹ Eschelon’s Proposed ICA Section 12.2.1.2.2 (emphasis added).

³³² Qwest/18, Albersheim/1, lines 4-7.

1 position is that only Eschelon’s proposed language accomplishes this objective
2 and minimizes future disputes.

3 **Q. MS. ALBERSHEIM STATES THAT “[F]OR DESIGNED SERVICES,**
4 **CLECS AND QWEST’S RETAIL CUSTOMERS ALIKE BOTH CAN**
5 **OBTAIN EXPEDITES FOR ANY REASON SO LONG AS THEY PAY A**
6 **\$200-PER DAY CHARGE”³³³ AND CLAIMS ESCHELON IS SEEKING**
7 **“SPECIAL TREATMENT.”³³⁴ PLEASE RESPOND.**

8 A. The mistake Ms. Albersheim makes it to equate providing a retail service *at the*
9 *same price* with providing wholesale service on nondiscriminatory terms. The
10 threshold question to be addressed is whether for itself Qwest provides the service
11 to its retail customers, separate from the question of price. Ms. Albersheim has
12 admitted that Qwest provides expedites for itself.³³⁵ Therefore, the analysis
13 moves to another question, which addresses what the wholesale price should be
14 (whether TELRIC-based). Qwest inappropriately collapses these two questions
15 into one, as I described in my rebuttal testimony.³³⁶ I discussed this analysis and
16 Qwest’s claims about superior³³⁷ service in my rebuttal testimony (Eschelon/125)
17 at pages 113-120.

³³³ Qwest/18, Albersheim/36, lines 10-12.

³³⁴ Qwest/18, Albersheim/40, line 14.

³³⁵ AZ 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.”).

³³⁶ Eschelon/125, Denney/113-114.

³³⁷ Qwest/18, Albersheim/40, lines 1-10.

1 Ms. Albersheim's claim of special treatment suggests that she believes that
2 Eschelon's desire for cost-based pricing for expedites would somehow preclude
3 any other CLEC from making the same arguments and seeking the same rates.
4 Cost-based pricing for expedites would put Eschelon on equal footing with Qwest
5 when it comes to providing expedites to its end-user customers, because under
6 cost-based pricing both Qwest and Eschelon would face the same economic
7 signals (cost) with regard to expedites.

8 Further, CLECs in Oregon would be able to opt into Eschelon's ICA. To
9 conclude that Eschelon is somehow inappropriately carving itself an Eschelon-
10 only exemption is contrary to the principles of Section 252(i) of the Act, which
11 are discussed in more detail by Mr. Starkey.³³⁸

12 **Q. WAS IT ALWAYS QWEST'S POSITION THAT NON COST BASED**
13 **RATES APPLY AND EXPEDITE CHARGES REQUIRE NO**
14 **COMMISSION APPROVAL?**

15 A. No. Historically Qwest has treated expedites as a rate element subject to cost
16 based pricing, as I described in my direct testimony (Eschelon/9) at pages 228-
17 231.

18 **Q. MS. MILLION REFERENCES A DECISION OF THE FLORIDA**
19 **COMMISSION IN SUPPORT FOR HER ARGUMENT THAT THE**

³³⁸ See, e.g., Eschelon/1, Starkey/35..

1 **EXPEDITE CHARGES ASSOCIATED WITH UNE ORDERS SHOULD**
2 **NOT BE COST-BASED.**³³⁹ **IS THIS CITATION PERSUASIVE?**

3 A. No. Contrary to the Eighth Circuit’s superior service analysis, the Florida
4 Commission failed to consider the nature of the service that the incumbent
5 provided to itself. The correct analysis of that issue is that reflected in the
6 decision of the North Carolina Commission in the *NewSouth* case.³⁴⁰ In that
7 case, the North Carolina commission rejected BellSouth’s arguments and affirmed
8 its conclusion that expedited service is subject to the nondiscrimination
9 obligations of Section 251, stating, “The Commission also believes that
10 expediting service to customers is simply one method by which BellSouth can
11 provide access to UNEs and that, since BellSouth offers service expedites to its
12 retail customers, it must provide service expedites at TELRIC rates pursuant to
13 Section 251 and Rule 51.311(b).”³⁴¹

14 **Q. MS. MILLION DESCRIBES TELRIC AND TSLRIC COSTING**
15 **METHODS.**³⁴² **DOES HER DESCRIPTION SUPPORT QWEST’S**
16 **POSITION WITH RESPECT TO THE APPROPRIATE WHOLESALE**
17 **RATE FOR EXPEDITES?**

³³⁹ Qwest/39, Million/24.

³⁴⁰ *Re NewSouth Communications Corp.*, 2006 WL 707683 (N.C.U.C. February 8, 2006).

³⁴¹ *Id.* at *47; *see also Re Verizon Delaware , Inc.*, 2002 WL 31521484 at *12 (Del. Pub. Serv. Comm’n 2002) (requiring cost-based rate for expedited CLEC service orders).

³⁴² Qwest/39, Million/25 and 26.

1 A. No. Ms. Million admitted that Qwest's proposal for the expedite charge is not
2 based on cost.³⁴³ Accordingly, if the Commission rejects Qwest's argument that
3 expedites are a superior service, then there is no dispute that Qwest's non-cost
4 based expedite charge is inappropriate.

5 **Q. MS. MILLION ARGUES THAT EXPEDITE CHARGES FOR UNE**
6 **ORDERS SHOULD BE BASED ON A PRICE THAT A "MARKET CAN**
7 **BEAR."**³⁴⁴ **PLEASE RESPOND.**

8 A. First, Ms. Million neglects to mention that the market in question is the wholesale
9 market for provisioning essential bottleneck facilities such as the UNE loop, *to*
10 *which Qwest is a dominant (if not sole) provider.* Eschelon cannot simply go to
11 another wholesale provider to get a better price. The FCC described this situation
12 as follows:

13 Congress recognized that, because of the incumbent LEC's
14 incentives and superior bargaining power, its negotiations with
15 new entrants over the terms of such agreements would be quite
16 different from typical commercial negotiations. As distinct from
17 bilateral commercial negotiation, the new entrant comes to the
18 table with little or nothing the incumbent LEC needs or wants. The
19 statute addresses this problem by creating an arbitration proceeding
20 in which the new entrant may assert certain rights, including that
21 the incumbent's prices for unbundled network elements must be
22 "just, reasonable and nondiscriminatory."³⁴⁵

23 Ms. Million fails to acknowledge that the dominant provider in the wholesale
24 market (Qwest) also competes with Eschelon and other CLECs in retail markets.

³⁴³ Qwest/39, Million/27.

³⁴⁴ Qwest/39, Million/26.

³⁴⁵ Local Competition Order, ¶15.

1 The dominant provider has the ability and incentives to use its “superior
2 bargaining power”³⁴⁶ in its wholesale markets to gain advantage in retail markets.
3 This very combination is what constitutes the economic barriers to meaningful
4 competition that the Telecommunications Act and federal unbundling rules were
5 developed to remedy.

6 Second, Ms. Million’s argument that the price should be set at a level the market
7 can bear is meaningless: Ms. Million overlooks basic economic theory which is,
8 generally speaking, as the price of a good or service goes up, the quantity goes
9 down, and at some point the quantity of demand will drop to zero. Ms. Million’s
10 suggestion (that the “value” of expedite should be determined based on the price
11 that the market can bear) does not result in the maximum *total* value of expedites.
12 Note that basic economic theory³⁴⁷ says that there exists a certain price level that
13 maximizes the total value for the product *for the producer* (Qwest); and there also
14 exist *another, lower* price level that maximizes the total value of the product *for*
15 *society* (which includes Qwest, Eschelon, other CLECs and End User Customers).
16 The first level is the price resulting from an unregulated monopoly market; the
17 second price is the price resulting from a competitive market. It is this basic
18 economic theory that has been at the heart of governmental regulation of local
19 telecommunications markets both before and after the Telecommunications

³⁴⁶ Local Competition Order, ¶15.

³⁴⁷ Virtually any microeconomic textbook covers this topic. See for example, B.E. Binger and E. Hoffman *Microeconomics with Calculus*, Scott, Foresman and Company, 1985, pp. 377-386.

1 Act.³⁴⁸ Now Ms. Million is suggesting to dismiss this regulation and the
2 economic theory behind it, and instead, let the dominant provider dictate its price
3 for expedites. As is evident from the following citation, the TRRO confirmed that
4 the ILECs' dominance in the provisioning of essential bottleneck facilities
5 continues to be a reason for price regulation in UNE markets.

6 It would be unreasonable to conclude that Congress created a
7 structure to incent entry into the local exchange market, only to
8 have that structure undermined, and possibly supplanted in its
9 entirety, by services priced by, and largely within the control of,
10 incumbent LECs.³⁴⁹

11 **Q. MS. MILLION ARGUES THAT THE COMMISSION ACCEPTED THE**
12 **SAME EXPEDITE CHARGE AS QWEST PROPOSES HERE IN**
13 **MULTIPLE TARIFFS.³⁵⁰ DOES THIS ARGUMENT SUPPORT QWEST'S**
14 **POSITION?**

15 A. No. None of these tariffs dealt with access to UNEs.³⁵¹ These services were de-
16 regulated because the Commission found sufficient evidence of competition in
17 these markets, while the markets for essential local facilities such as the local loop

³⁴⁸ The Local Competition Order (at ¶ 740) elaborates on the issue of pricing in competitive and non-competitive markets as follows: "Just compensation is not, however, intended to permit recovery of monopoly rents. The just and reasonable rate standard of TELRIC plus a reasonable allocation of the joint and common costs of providing network elements that we are adopting attempts to replicate, with respect to bottleneck monopoly elements, the rates that would be charged in a competitive market, and, we believe, is entirely consistent with the just compensation standard." (footnotes omitted).

³⁴⁹ *TRRO*, ¶ 48.

³⁵⁰ Qwest/39, Million/26.

³⁵¹ In her testimony, Ms. Million refers specifically to the Private Line Transport Services Tariff No. 31, and the Exchange and Network Services Tariff No. 33. (Qwest/39, Million/26, lines 8-10.

1 continue to be impaired without special pricing rules applied to them.³⁵²
2 Similarly, Access Services, which provide network access to long-distance
3 services, as well as local services *in the markets with sufficient facilities-based*
4 *competition*,³⁵³ are regulated based on a different set of standards than access to
5 UNE markets (network elements in impaired markets). The TRRO confirmed the
6 need for a different pricing standard in the markets for UNEs than the pricing
7 standard used in the Access markets. This fact is captured in the following
8 citation from the FCC TRRO:

9 Here, upon further consideration, we determine that in the local
10 exchange market, the availability of a tariffed alternative should
11 not foreclose unbundled access to a corresponding network
12 element, even where a carrier could, in theory, use that tariffed
13 offering to enter a market.³⁵⁴

14 Thus, Congress's enactment of section 251(c)(3), and the associated cost-based
15 pricing standard in section 252(d)(1), at a time when special access services were
16 already available to carriers in the local exchange market indicates that UNEs
17 were intended as an *alternative* to these services, available **at alternative**
18 **pricing**.³⁵⁵

19 **Q. IN SUPPORT OF HER CLAIM THAT EXPEDITED ORDERS FOR UNES**
20 **SHOULD NOT BE COST BASED, MS. MILLION MENTIONS THAT THE**
21 **FCC EXCLUDED CERTAIN NETWORK ELEMENTS FROM THE**

³⁵² TRRO, ¶ 2. UNE Loop markets are those markets that continue to be considered impaired as defined by TRRO.

³⁵³ As defined by the TRRO.

³⁵⁴ TRRO, ¶ 48.

³⁵⁵ TRRO, ¶ 51 (italicized font is original to the source; bold font added for emphasis).

1 **UNBUNDLING REQUIREMENTS.³⁵⁶ PLEASE RESPOND.**

2 A. Ms. Million’s argument is counter to Qwest’s claim that expedite charges offered
3 to Eschelon for UNEs need not be cost based. Indeed, she says that the FCC’s list
4 of Section 251 elements is limited to those elements and services that are
5 necessary for a CLEC to compete with the ILEC “on an equal footing.”³⁵⁷ She
6 states that as part of its TRRO, the FCC excluded from this list unbundled
7 switching, shared transport and the UNE-Platform. This comment only confirms
8 the products *that remain* on the FCC list of elements – including unbundled loops
9 -- are necessary for a CLEC to compete with the ILEC “on an equal footing.”³⁵⁸
10 As such, non discriminatory access to those elements remains critical, and
11 Qwest’s proposal is contrary to the FCC’s continuing requirement that CLECs
12 remain able to avail themselves of these elements as required.

13 **Q. MS. MILLION CLAIMS THAT THE ABILITY TO EXPEDITE ORDERS**
14 **HAS VALUE BECAUSE IT ALLOWS ESCHELON TO “LEAPFROG”**
15 **OVER OTHER CUSTOMERS.³⁵⁹ DOES THIS ARGUMENT JUSTIFY A**
16 **NON-COST BASED EXPEDITE FEE?**

17 A. No. Ms. Million neglects to recognize that as a wholesale provider and
18 competitor to CLECs in retail markets, Qwest faces a different expedite “fee”
19 than the fee it proposes to charge Eschelon. This fee is Qwest’s internal cost of

³⁵⁶ Qwest/39, Million/25.

³⁵⁷ Qwest/39, Million/25.

³⁵⁸ Qwest/39, Million/25.

³⁵⁹ Qwest/39, Million/28.

1 expediting the order. Because Qwest proposes to charge Eschelon an expedite fee
2 that is not based on costs, Qwest's proposal allows Qwest to "leapfrog" ahead of
3 CLECs on unfair and discriminatory terms by using its unique position as a
4 provider of essential facilities.

5 In addition, Qwest provides expedites when the emergency conditions are met
6 only if resources are available.³⁶⁰ If resources are available, there is no one to
7 "leap" over.

8 **Q. MS. MILLION MENTIONS A QWEST TSLRIC STUDY RELATED TO**
9 **EXPEDITE CHARGES.³⁶¹ HAS QWEST PROVIDED THIS STUDY?**

10 A. No. Qwest has not provided this study in negotiations or this arbitration even
11 though Eschelon requested cost support from Qwest.³⁶² Qwest's Transmittal No.
12 202, supporting the change in the interstate tariff expedite rate contained a cost
13 study with a rate of \$133.57.³⁶³ This cost study, available for download from the
14 FCC website, is the same as a proprietary cost study filed by Ms. Million in the

³⁶⁰ Qwest/9, Albersheim/2. Regarding resource availability, see Eschelon/125, Denney/126-130.

³⁶¹ Qwest/39, Million/26.

³⁶² See, e.g., Eschelon/34 (Denney).

³⁶³ Eschelon/36, Denney/17-29, See Qwest Transmittal No. 202, Description and Justification Qwest Expedite Order Charge, available at:

http://svartifoss2.fcc.gov/cgi-bin/ws.exe/prod/ccb/etfs/bin/binary_out.pl?70394. It is interesting to note that Qwest states that "This change is being made at the request of customers who want a simpler and easier method to expedite their orders and calculate the cost of that expedite" (paragraph 1). Apparently, Qwest is representing that its retail customers would prefer to pay a higher, but certain rate of \$200 per day, rather than a rate that may be between \$0 and \$156.63 but it is certain will not be more than \$156.63 (half of the installation charge). With Covad's Change Request, Qwest's CLEC customer (Covad), in contrast, was simply trying to get expedites at all when the emergency conditions were not met, as before that time Qwest would not provide them to CLECs for non-emergencies at any price. See Eschelon 106. There was nothing to simplify about, or any cost calculation method to make easier for, a fee-added process in non-emergencies for CLECs, because there wasn't one.

1 Arizona Complaint Docket. The only difference is the cost factors applied. Ms.
2 Million reports a rate of \$123.08.³⁶⁴ The expedite cost study includes two hours
3 of unexplained coordination time, which accounts for over half of the cost result.
4 In addition, the costs include activities such as order processing for retail services,
5 which should not be included in wholesale costs. These studies also include
6 activities that would already be captured in the loop installation NRC such as
7 monitoring and logging service order completion, and testing.

8 **Q. HAS QWEST ACKNOWLEDGED THAT A PER DAY CHARGE DOES**
9 **NOT REFLECT QWEST'S COSTS?**

10 A. Yes. In the Minnesota ICA arbitration proceeding between Eschelon and Qwest,
11 Ms. Million testified as follows:

12 Q. Are there activities that Qwest does when it
13 expedites that it doesn't do when it delivers a loop on the
14 normal regular interval?

15 A. There are not activities that are different, but the
16 activities performed on different days than they would
17 normally be done.

18 Q. You do the same thing; you just do it faster?

19 A. That's correct.³⁶⁵

20 **Q. MS. MILLION PROVIDES AN EXAMPLE OF CONCERT-GOERS WHO**
21 **TYPICALLY PAY PREMIUM CHARGES FOR SEATS IN THE**

³⁶⁴ Ms. Million Direct Testimony in the Expedite Complaint Case, p. 6, line 21.

³⁶⁵ See, e.g., *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration with Qwest Corporation, Pursuant to 47 U.S.C. Section 252 of the Federal Telecommunications Act of 1996*, Minnesota Public Utilities Commission Docket No. P-5340, 421/IC-06-768, Hearing Transcript, Vol. 2, p. 97, lines 18-25.

1 **FRONT.**³⁶⁶ **DOES MS. MILLION'S EXAMPLE JUSTIFY QWEST'S NON-**
2 **COST BASED RATES?**

3 A. No. The telecommunications industry is not akin to a rock concert. Ms. Million's
4 example only underscores that a dominant provider (a music star or Qwest) with
5 market power, when non-price regulated, can charge rates in excess of cost.
6 Although both industries have dominant providers, they differ with respect to the
7 importance of services they provide and the manner in which they are regulated.
8 The importance of telecommunications services is demonstrated by the long
9 history of its regulation and is captured in the very first provision of the
10 Communications Act of 1934:

11 **SEC. 1. [47 U.S.C. 151] PURPOSES OF ACT, CREATION OF**
12 **FEDERAL COMMUNICATIONS COMMISSION.** For the
13 purpose of regulating interstate and foreign commerce in
14 communication by wire and radio so as *to make available, so far*
15 *as possible, to all the people of the United States,* without
16 discrimination on the basis of race, color, religion, national origin,
17 or sex, a rapid, efficient, Nationwide, and world-wide wire and
18 radio communication service with *adequate facilities at reasonable*
19 *charges, for the purpose of the national defense, for the purpose of*
20 *promoting safety of life and property through the use of wire and*
21 *radio communication,* and for the purpose of securing a more
22 effective execution of this policy by centralizing authority
23 heretofore granted by law to several agencies and by granting
24 additional authority with respect to interstate and foreign
25 commerce in wire and radio communication, there is hereby
26 created a commission to be known as the "Federal
27 Communications Commission," which shall be constituted as
28 hereinafter provided, and which shall execute and enforce the
29 provisions of this Act.³⁶⁷

³⁶⁶ Qwest/39, Million/28 and 29.

³⁶⁷ Emphasis added.

1 **Q. MS. MILLION SUGGESTS THAT THE CHOICE TO EXPEDITE**
2 **SHOULD BE BASED ON THE “PERCEIVED VALUE TO THEIR**
3 **BUSINESS.”³⁶⁸ IS “VALUE OF SERVICE” APPROPRIATE PRICING**
4 **FOR WHOLESALE SERVICES?**

5 A. No. UNE rates are required to be based, not on the “value of service,” but on
6 economic cost. This is for good reason, as the rates are meant to allow
7 competitors to have access to similar cost structures as the ILEC. Imagine if
8 Qwest were allowed to charge the “value of service” for all wholesale products
9 and services offered. The “value of service” to the CLEC is essentially the
10 amount that it can charge its end-user customers for the service. In essence,
11 “value of service” pricing extracts any profit available to the CLEC and
12 redistributes that profit to the wholesale provider (i.e. Qwest). It is no wonder
13 that Qwest would prefer to charge this way for all wholesale services and it is
14 obvious why Congress and the FCC mandated economic costs, as meaningful
15 competition would not exist with UNEs priced according to the “value of
16 service.”

17 **Q. MS. ALBERSHEIM DENIES THAT QWEST PROVIDED ESCHELON**
18 **WITH AN EXCEPTION TO CHARGING A SEPARATE FEE FOR**
19 **EXPEDITES AND THEN SUDDENLY CHANGED ITS MIND AND**

³⁶⁸ Qwest/39, Million/29. The complete sentence reads: “Each CLEC makes the business choice to pay the fee or not to pay the fee on the basis of the perceived value to its business to expedite orders.”

1 **STARTED CHARGING ESCHELON AND OTHER CLECS FOR THIS**
2 **SERVICE.³⁶⁹ IS SHE CORRECT?**

3 A. No. Ms. Johnson addresses Qwest’s conduct with respect to expedites in CMP in
4 her testimony (Eschelon/141). As I indicated in my direct testimony,³⁷⁰ before
5 Qwest initiated its Version 27 and 30 CMP notices, from the very beginning of
6 the interconnection relationship between Eschelon and Qwest, when Eschelon
7 opted in to the AT&T interconnection agreement in 2000 (before Qwest even
8 created the expedites PCAT³⁷¹), Qwest provided Eschelon with expedite
9 capability at no additional charge for loops and other UNEs when certain
10 specified emergency conditions were met (“emergency-based expedites”).³⁷² In
11 addition, Staff Conclusion Number One from the Arizona Complaint Case further
12 verifies that Qwest provided Eschelon expedites for all products and services,
13 including unbundled loops, under Eschelon’s current contract for a period of
14 almost six years. It states:

15 Qwest did not adhere to the terms and conditions of the current Qwest -
16 Eschelon Interconnection Agreement, which allows Eschelon the
17 capability to expedite orders, when Qwest denied this option without
18 Eschelon signing an amendment to the Agreement. Qwest should
19 continue to support the same Expedite Process that has been used in the
20 past for all products and services (including unbundled loops) if the order

³⁶⁹ Qwest/18, Albersheim/42.

³⁷⁰ Eschelon/9, Denney/204-206 (referencing Ms. Johnson’s chronology and expedite exhibits).

³⁷¹ See Eschelon/96 (Sept. 22, 2001 product notification) (discussed in Eschelon/93 at Johnson/5).

³⁷² 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 meets any of the Emergency criteria or conditions or where the customer's
2 safety may be an issue if the Expedite is not processed. No additional
3 charge should be applied beyond the standard installation charge.³⁷³

4 Ms. Johnson addresses Qwest's claims regarding expedites in CMP in her
5 testimony (Eschelon/141).

6 **IX. SUBJECT MATTER NOS. 44 AND 45**

7 **SUBJECT MATTER NO. 44. RATES FOR SERVICES**

8 **Issues 22-88, 22-88(a) and 22-89: ICA Sections 22.1.1 and 22.4.1.3, and Exhibit**
9 **A, Section 7.11.**

10 **Q. PLEASE SUMMARIZE ISSUE 22-88 AND ITS SUBPARTS.**

11 A. Issues 22-88 and 22-88(a) deal with the language characterizing rates contained in
12 Exhibit A.³⁷⁴ Eschelon proposes that rates in Exhibit A be referred to in general
13 terms, as "rates for services," without specifying the provider of services. Qwest
14 proposes that rates in Exhibit A be referred to as Qwest's rates. As I explained in
15 my direct testimony, a number of rates contained in Exhibit A apply to Eschelon's
16 charges to Qwest.³⁷⁵ Therefore, the ICA and its Exhibit A should not inaccurately
17 confine rates to "Qwest rates" or misleadingly refer solely to "Qwest tariffs," as
18 proposed by Qwest. Eschelon's proposal for Issue 22-89 complements the
19 already agreed-upon portions of the ICA³⁷⁶ that set a process for establishment of

³⁷³ Eschelon/33 (Denney) (Staff Executive Summary).

³⁷⁴ Issue 22-88 deals with the general references to rates in Exhibit A, while Issue 22-88(a) deals with a specific line item in Exhibit A describing rates for IntraLATA toll traffic.

³⁷⁵ See numerous citations from the agreed-upon language of the ICA contained in Eschelon/9, Denney/244-247.

³⁷⁶ Section 22.6.1.

1 interim rates. Eschelon's proposal for Issue 22-89 clarifies that each company has
2 a right to request a cost proceeding at the Commission to set permanent rates.

3 **Issue 22-88**

4 **Q. MR. EASTON ARGUES THAT THE AGREED UPON ICA LANGUAGE**
5 **MAKES IT CLEAR WHAT RATES ESCHELON MAY CHARGE**
6 **QWEST.³⁷⁷ DO YOU AGREE?**

7 A. No. I have addressed this argument in my rebuttal testimony.³⁷⁸ I can only add
8 that Mr. Easton's claim that the ICA alone (without Exhibit A) specifies rates that
9 Eschelon may charge is contrary to the facts at his disposal: Mr. Easton
10 acknowledges reviewing³⁷⁹ the four pages of my direct testimony³⁸⁰ with citations
11 from the ICA language that reference Exhibit A as a source of rates that CLECs
12 may charge. Each one of these citations refers to rates (or parameters identifying
13 rates³⁸¹) that are located in Exhibit A. Below I reproduce the list of these rates
14 and parameters:

- 15 7.3.3.1 Trunk Installation NRC
16 7.3.3.2 Trunk Rearrangement NRC
17 7.3.7.1 Assumed Mileage For Local Transit And ISP-
18 Bound Transit Tandem Switching And Tandem
19 Transmission Rates

³⁷⁷ Qwest/33, Easton/34, lines 10-11.

³⁷⁸ Eschelon/125, Denney/136-137

³⁷⁹ Qwest/33, Easton/34, lines 9-10.

³⁸⁰ Eschelon/9, Denney/244-247.

³⁸¹ Such a parameter is the assumed mileage that determines the applicable rate for mileage-sensitive rates.

1	7.3.7.2	Assumed Mileage For IntraLATA Toll Transit
2		Tandem Switching And Tandem Transmission
3		Rates
4	7.6.3	Transit Record Charges
5	8.2.3.10	Labor Charges For Audits
6	9.2.5.2	Trouble Isolation Charge
7	10.2.5.5.4	Rate For Managed Cuts
8	21.14.1.2	Daily Usage Files Records Charge

9 Without Exhibit A, the above listed rates – rates that Eschelon would charge
10 Qwest – are not specified.

11 **Q. MR. EASTON CLAIMS THAT BECAUSE THE SUBSET OF SERVICES**
12 **FOR WHICH ESCHELON MAY CHARGE QWEST IS SMALL, THERE**
13 **IS NO NEED TO ACKNOWLEDGE THE FACT THAT ESCHELON**
14 **WILL CHARGE QWEST SOME OF THE RATES IN EXHIBIT A.³⁸²**
15 **PLEASE RESPOND.**

16 A. Mr. Easton’s logic simply does not apply to a contract. He might as well argue
17 that because Eschelon purchases some UNE services from Qwest infrequently,
18 there is no need to include rates for those services in the ICA.

19 **Issue 22-88(a)**

20 **Q. REGARDING ISSUE 22-88(A), MR. EASTON CLAIMS THAT A**
21 **REFERENCE TO QWEST’S TARIFF UNDER THE RATES FOR**
22 **MUTUALLY EXCHANGED INTRALATA TOLL TRAFFIC IS**
23 **ACCEPTABLE BECAUSE IT DID NOT CONFUSE THE MANY OTHER**

³⁸² Qwest/33, Easton/34, lines 16-20.

1 **CARRIERS THAT HAVE THE SAME SPECIFICATION IN THEIR**
2 **EXHIBIT A.³⁸³ PLEASE RESPOND.**

3 A. Eschelon should not be held captive to the ICA language of other carriers,
4 especially if the ICAs of other carriers contain ambiguity.

5 **Issue 22-89**

6 **Q. MR. EASTON CLAIMS THAT “GIVEN THAT COMMISSION RULES**
7 **AND FEDERAL LAW GOVERN A PARTIES’ RIGHT TO INITIATE A**
8 **COST PROCEEDING, THERE IS NO NEED TO ADDRESS IT IN AN**
9 **ICA.”³⁸⁴ IS THIS CORRECT?**

10 A. No. This is addressed in my rebuttal testimony (Eschelon/125, Denney/138-139).
11 It is important to note that Mr. Easton is not stating that Eschelon has the right to
12 initiate a cost proceeding at the Commission, he simply notes, “Commission rules
13 and federal law govern a parties right to initiate a cost proceeding...”³⁸⁵ Mr.
14 Easton does not conclude what these rules and laws state and does not cite them.
15 As discussed in my rebuttal testimony (Eschelon/125, Denney/139) Qwest’s
16 position is troubling in that in other states Qwest has argued interim rates should
17 not be dealt with in an arbitration, while at the same time seeking to limit
18 language that would allow Eschelon the right to request a cost proceeding to
19 replace interim rates with Commission approved rates. Eschelon’s proposed

³⁸³ Qwest/33, Easton/35, lines 7-9.

³⁸⁴ Qwest/33, Easton/35, lines 15-17.

³⁸⁵ Qwest/33, Easton/35, lines 15-16.

1 language for this issue, section 22.4.1.3 of the ICA is repeated below.

2 Nothing in this Agreement shall waive any right of either Party to
3 request a cost proceeding at the Commission to establish a
4 Commission-approved rate to replace an Interim Rate.

5 **SUBJECT MATTER NO. 45. UNAPPROVED RATES**

6 Issue No. 22-90 and Subparts (a)-(ae): ICA Sections 22.6, 22.6.1, 22.4.1.1 and
7 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
8 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,
9 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,
10 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,
11 8.7.4, 8.8 and subparts, 8.12 and subparts, 8.13 and subparts, 8.15.2 and
12 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,
13 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,
14 9.6.11 and subparts, 9.6.12, 9.7 and subparts, 9.20 and subparts, 9.23.7,
15 9.23.7.11.1, 9.23.7.11.2 and subparts, 10.7.12, and 10.7.12.1.

16 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF ISSUE 22-90 AND ITS**
17 **SUBPARTS.**

18 A. Issue 22-90 concerns Qwest's filing with the Commission for the approval of
19 previously unapproved rates for section 251 products. As I explained in my direct
20 testimony, this language is intended to reflect a decision by the Minnesota
21 Commission in the 271 case setting UNE rates.³⁸⁶

22 Minnesota is currently the only Qwest state where Exhibit A contains no rates for
23 certain items for which Qwest has neither obtained a Commission-approved rate,
24 nor filed cost support and complied with that process, and yet Qwest must provide
25 the product under the terms of the interconnection agreement. In the other states
26 (including Oregon), Qwest currently may force its wish list rates upon CLECs by

³⁸⁶ Eschelon/9, Denney/256-259.

1 refusing to provide the product at all if CLECs do not sign an amendment
2 containing its unapproved rates. The result in Minnesota is the appropriate result
3 because Qwest has both not met its burden to show that its rates comply with the
4 cost-based standard and not taken reasonable steps to obtain interim or permanent
5 rates from the Commission.

6 Although Eschelon is proposing the Minnesota process (with the same results) in
7 Oregon and other states, Qwest objects to this process because “Qwest has agreed
8 to litigate disputed rates in this proceeding.”³⁸⁷ As discussed in my rebuttal
9 testimony (Eschelon/125, Denney/142) Qwest’s agreement to litigate interim rates
10 in Oregon may solve the immediate problem of unapproved rates, but does not
11 address this issue going forward. Eschelon has proposed language to be included
12 in the ICA, which Qwest has not agreed to, providing that “Qwest shall obtain
13 Commission approval before charging for a UNE process that it previously
14 offered without charge” and that “[f]or a UNE or process that Qwest previously
15 offered without charge, the rates in Exhibit A do not apply until Qwest obtains
16 Commission approval or the Parties agree to a negotiated rate.”³⁸⁸ The language
17 further provides that, when the companies are unable to agree on a negotiated
18 rate, the Commission, not Qwest, may establish the interim rate.

³⁸⁷ Qwest/33, Easton/36, lines 7-8.

³⁸⁸ Proposed ICA Section 22.6.1 and 22.6.1.1 (Issues 22-90 and 22-90(a)).

1 What Eschelon’s proposed language would not permit is what Qwest has
2 historically done in Oregon: simply impose rates that have not been agreed to and
3 that the Commission has not reviewed and leave those rates in place indefinitely.

4 **INTERIM RATE LANGUAGE PROPOSALS – ISSUES 22-90 AND 22-90(A)**

5 **Q. DOES MR. EASTON RAISE ANY NEW ARGUMENTS IN HIS**
6 **REBUTTAL TESTIMONY WITH REGARD TO ISSUE 22-90 AND 22-**
7 **90(A) AND THE PROCESS FOR ESTABLISHING INTERIM RATES?**

8 A. No. Mr. Easton admits that Qwest has ignored the Minnesota process dealing
9 with rates, arguing “such a process is not necessary”³⁸⁹ in Oregon. Further, Mr.
10 Easton argues that Qwest should not have to provide Eschelon with cost support
11 unless Eschelon intervenes in a cost docket.³⁹⁰ However, by rejecting Eschelon’s
12 proposed language in this section, Qwest has not agreed to provide cost support to
13 the Commission for its rates and thus there may be no docket in which Eschelon
14 can intervene. Qwest attempts to shift the burden of demonstrating costs from
15 Qwest to Eschelon by forcing Eschelon to arbitrate rates for each unapproved
16 rate. Mr. Easton states: “Should a CLEC have an issue with the unapproved rate
17 that Qwest proposes, the arbitration process can be used to resolve the issue, just
18 as it is being done in this case.”³⁹¹ Mr. Easton’s testimony reflects a complete
19 reversal from Qwest’s position in other states, where Qwest has attempted to

³⁸⁹ Qwest/33, Easton/36, line 8.

³⁹⁰ Qwest/33, Easton/37, lines 12-20.

³⁹¹ Qwest/33, Easton/37, lines 8-10.

1 prevent unapproved rates from being addressed in arbitration proceedings.³⁹²
2 There is no commitment by Qwest that it will not take that position in the future
3 in Oregon. Qwest's proposal will result in the status quo in which Qwest can
4 impose its unapproved rates upon CLECs without ever having to justify these
5 rates before the Commission.

6 **Q. MS. MILLION CRITICIZES ESCHELON'S PROPOSALS IN 22-90 AND**
7 **22-90(A) STATING THAT IT REQUIRES QWEST TO "PROVISION**
8 **PRODUCTS AT NO CHARGE." IS THIS AN ACCURATE**
9 **REPRESENTATION OF ESCHELON'S LANGUAGE PROPOSALS FOR**
10 **SECTION 22.6.1 AND 22.6.1.1?**

11 A. No. Based upon Ms. Million's testimony it is unclear whether she has actually
12 read Eschelon's proposals for this section of the contract. Ms. Million states, "It
13 would place a chilling effect on Qwest's provisioning of services for which
14 permanent rates have not been established if Qwest were expected to begin
15 providing products and services to the CLECs, but not be able to charge CLECs
16 for those services until after the Commission approved rates for them."³⁹³ She

³⁹² See, e.g., Order Denying Motion to Dismiss Issues, *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between Qwest Corporation and Eschelon*, WA Docket UT-063061, Order 10 (April 19, 2007) ("Qwest argues that the issues related to the establishment of wholesale rates should be dismissed because these rates would ultimately apply to multiple carriers and an interconnection arbitration between two carriers is not the appropriate forum to address such issues.").

³⁹³ Qwest/39, Million/30, line 22 to Million/31, line 1.

1 continues, “many of the products and services that Qwest offers are added at the
2 request of CLECs.”³⁹⁴

3 Eschelon’s language in no way prohibits Qwest from recovering its cost. I have
4 copied Eschelon’s proposed language below:

5 22.6.1 Qwest shall obtain Commission approval before charging
6 for a UNE or process that it previously offered without charge. If
7 Qwest offers a new Section 251 product or service or one that was
8 previously offered with a charge for which a price/rate has not
9 been approved by the Commission in a TELRIC Cost Docket
10 (“Unapproved rate”), Qwest shall develop a TELRIC cost-based
11 rate and submit that rate and related cost support to the
12 Commission for review within sixty (60) Days of the later of (1)
13 the Effective Date of this Agreement, or (2) Qwest offering the rate
14 to CLEC, unless the Parties agree in writing upon a negotiated rate
15 (in which case Qwest shall file the negotiated rate with the
16 Commission within 60 Days). Except for negotiated rates, Qwest
17 will provide a copy of the related cost support to CLEC (subject to
18 an applicable protective agreement, if the information is
19 confidential) upon request or as otherwise ordered by the
20 Commission. If the Parties do not agree upon a negotiated rate and
21 the Commission does not establish an Interim Rate for a new
22 product or service or one that was previously offered under Section
23 251 with an Unapproved Rate, CLEC may order, and Qwest shall
24 provision, such product or service using such Qwest proposed rate
25 until the Commission orders a rate. In such cases, the Qwest
26 proposed rate (including during the aforementioned sixty (60) Day
27 period) shall be an Interim Rate under this Agreement.

28 22.6.1.1 For a UNE or process that Qwest previously offered
29 without charge, the rates in Exhibit A do not apply until Qwest
30 obtains Commission approval or the Parties agree to a negotiated
31 rate. If the Parties do not agree on a negotiated rate, the
32 Commission does not establish an Interim rate, and Qwest does not
33 submit a proposed rate and related cost support to the Commission
34 within the time period described in Section 22.6.1 for a new
35 product or service or one that was previously offered under Section
36 251 with an Unapproved Rate, the Unapproved rate(s) in Exhibit A

³⁹⁴ Qwest/39, Million/31, lines 2-3.

1 do not apply. Qwest must provision ~~the~~ such products and services
2 pursuant to the terms of this Agreement, at no additional charge,
3 until Qwest submits the rate and related cost support to the
4 Commission for approval.

5 The first sentence of Eschelon's proposed 22.6.1 deals with a UNE or process that
6 Qwest has previously offered without charge and requires Commission approval
7 before Qwest can begin charging. As discussed in my direct testimony
8 (Eschelon/9, Denney/262) this provision is reasonable as a Commission-approved
9 rate (such as the recurring loop rate) should not be undermined by allowing Qwest
10 to unexpectedly and unilaterally announce that it will commence billing for work
11 for which it is already recovering its costs in the approved rate. Such conduct
12 would defeat not only the requirement that rates be cost based but also the
13 requirements to obtain a Commission-approved amendment *before* changing the
14 terms of the existing agreement under which the parties are already operating.
15 Without this provision, Qwest would have the incentive to avoid a review of its
16 rates during a UNE cost case, because without Commission review, Qwest
17 attempts to impose whatever rate it desires. CLECs make business decisions
18 based upon the rates that Qwest charges at a certain point in time. CLECs
19 account for the fact that these rates may change and/or be restructured during a
20 cost case. It is impossible to account for possibility that Qwest may create
21 additional rates, for services it already performs and implement those rates
22 without Commission oversight.

23 The second sentence of Eschelon's proposed 22.6.1 states that for new products
24 and for products previously offered without charge, if Qwest wishes to charge a

1 rate, Qwest is required to submit cost support to the Commission unless parties
2 are able to negotiate a rate. This provision simply requires Qwest to make its cost
3 support available when it wishes to impose new rates. This requirement is
4 reasonable as the pricing standards of the federal rules require that rates, terms
5 and conditions for network elements and methods of obtaining access to
6 interconnection and network elements³⁹⁵ be just, reasonable, non-
7 discriminatory,³⁹⁶ and be established by state commissions based on the forward-
8 looking cost pricing standard.³⁹⁷

9 The third sentence clarifies that Qwest will also provide this cost support to
10 Eschelon. Again, this is reasonable, as Qwest is proposing to charge Eschelon
11 these rates.

12 The fourth sentence indicates that for new products, if the Commission does not
13 establish an interim rate, then Qwest's proposed rate will apply, until the
14 Commission orders a permanent rate. Thus, in the case where "products and
15 services that Qwest offers are added at the request of CLECs"³⁹⁸ (i.e. new
16 products) Eschelon's language clearly allows for Qwest to charge.

³⁹⁵ 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.

³⁹⁶ 47 CFR § 51.503(a).

³⁹⁷ 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.

³⁹⁸ Qwest/39, Million/31, lines 2-3.

1 The fifth sentence clarifies that in the case above, Qwest's proposed rate is
2 classified as an interim rate.

3 Eschelon's proposed language in 22.6.1.1 describes what happens in the case
4 where Qwest fails to submit cost support to the Commission. In this case, Qwest
5 would not be able to charge for unapproved rates. This is solely within Qwest's
6 control.

7 To summarize, Eschelon's proposal in no way prohibits Qwest from recovering
8 its cost or prohibit Qwest from charging for a UNE or process that it performs on
9 behalf of Eschelon, in fact Eschelon's proposal is the mechanism by which Qwest
10 can charge for existing products for which Qwest previously did not charge or
11 entirely new products. Eschelon's proposal places two limitations upon Qwest's
12 ability to charge: First, Qwest must submit cost support for the rates it wishes to
13 charge; and second, if Qwest is currently providing a UNE or process to Eschelon
14 without a unique, separate charge,³⁹⁹ then Qwest must obtain Commission
15 approval before charging for that UNE or process. In all cases, Qwest has the
16 opportunity to negotiate rates with the CLEC. Thus, Ms. Million's statement,
17 "what is unjust is Mr. Denney's suggestion that Qwest be required in the current

³⁹⁹ See the discussion of issue 9-31 (Nondiscriminatory Access to UNEs) in this surrebuttal testimony and the surrebuttal testimony of Mr. Starkey (Eschelon/132). This section discusses how some processes are recovered implicitly through the factors applied to other UNEs. Commission review and approval is important before a charge is established for a UNE or process that Qwest previously offered without charge to ensure that the new rates are not already recovered in existing rates.

1 competitive environment to provision products at no charge”⁴⁰⁰ does not
2 accurately reflect my testimony or Eschelon’s proposed language.

3 **INTERIM RATE PROPOSALS -- ISSUES 22-90(B) THROUGH 22-90(AE)**

4 **Q. DO YOU HAVE ANY UPDATES TO ESCHELON’S INTERIM RATE**
5 **PROPOSALS?**

6 A. In my rebuttal testimony (Eschelon/125, Denney/148-149) I made corrections to
7 the rate for 9.23.6.8.1 and 9.23.7.7.1 (LMC Rearrangement DS0 NRC and EEL
8 Rearrangement DS0 NRC -- \$107.93). Upon preparing responses to Qwest’s data
9 requests I noticed that for 9.23.6.8.1 and 9.23.7.7.1 I had pulled the wrong rate out
10 of the Qwest adjusted cost study and should have proposed \$139.28. This was
11 communicated to Qwest in response to Qwest’s 9th data request, part a.

12 **Q. WHAT CRITICISMS DOES MS. MILLION MAKE OF ESCHELON’S**
13 **PROPOSED INTERIM RATES?**

14 A. First, it is important to note that Ms. Million failed to complete an analysis of
15 Eschelon’s proposed rates⁴⁰¹ despite the fact that Qwest has been aware of
16 Eschelon’s proposals since at least the filing of the Oregon petition on October
17 10, 2006. The Commission ordered three rounds of testimony in this matter.⁴⁰²
18 Qwest did not seek an exception to that order, but instead, Qwest granted one to
19 itself, limiting Eschelon’s response opportunity.

⁴⁰⁰ Qwest/39, Million/30, lines 7-9.

⁴⁰¹ Qwest/39, Million/34, lines 2-4.

⁴⁰² ALJ Ruling (April 26, 2007). This order modified the procedural schedule. The earlier procedural schedule also include three rounds of testimony.

1 Ms. Million's levies two complaints against Eschelon's interim rate proposal.
2 She complains that I used "several approaches to determine the rates he is
3 proposing on Eschelon's behalf"⁴⁰³ and that "he does not justify his "pick and
4 choose" approach to proposing interim rates."⁴⁰⁴ Ms. Million also argues that
5 Qwest is not obligated to follow prior Commission decisions when setting interim
6 rates.⁴⁰⁵

7 **Q. HAS ESCHELON JUSTIFIED ITS APPROACH WITH REGARD TO ITS**
8 **INTERIM RATE PROPOSAL?**

9 A. Yes. First, it is important to note that Eschelon has attempted to negotiate
10 reasonable interim rates with Qwest. Qwest has been unwilling to discuss interim
11 rates. Eschelon's approach was to develop a set of interim rates that would be fair
12 and our initial hope was that Qwest would accept Eschelon's compromise offer on
13 interim rates. Eschelon has not proposed rates that it would advocate before this
14 Commission in a UNE Cost Docket, but has looked to other sources to derive
15 rates that would be appropriate on an interim basis and fair to both parties.

16 In my direct testimony (Eschelon/9, Denney/271-284) I explained why Eschelon
17 took the approach it did in proposing its interim rates.⁴⁰⁶ I explained that
18 Eschelon asked for cost studies from Qwest supporting Qwest's proposed rates
19 and that while Qwest supplied some cost studies they did not supply cost studies

⁴⁰³ Qwest/39, Million/33, lines 7-8.

⁴⁰⁴ Qwest/39, Million/34, lines 12-13.

⁴⁰⁵ Qwest/39, Million/32, lines 4-6.

⁴⁰⁶ See also Eschelon/125, Denney/155-157.

1 for other rates.⁴⁰⁷ I explained that I reviewed of these cost studies and found that
2 they ignored prior Commission orders, proposed rates that we in excess of what
3 Eschelon currently pays Qwest today, were in excess of TELRIC rates ordered by
4 Commissions in the other large Qwest states, contained rates higher than what
5 Qwest was offering to other CLECs and contained rates higher than what Qwest
6 offered to itself in the Qwest-Qwest interconnection agreement.⁴⁰⁸ In other
7 words, Qwest's cost support is unreliable.⁴⁰⁹ I further explained that Eschelon
8 does not have available to it all of the information that would be required to make
9 these cost studies consistent with prior Commission orders,⁴¹⁰ though the
10 Commission could order this result as a part of this case, and thus did not attempt
11 to adjust these cost studies for the purposes of providing interim rates.⁴¹¹

12 Because Qwest's cost studies were unreliable and Eschelon did not have the
13 information available to it to adjust these cost studies to make them consistent
14 with prior Commission orders, Eschelon took the following approach to interim
15 rates. First, Eschelon looked to determine whether it could accept any of Qwest's

⁴⁰⁷ Eschelon/9, Denney/271.

⁴⁰⁸ Eschelon/9, Denney/271.

⁴⁰⁹ It is interesting to note that even Qwest decided to abandon its cost support as its proposal for interim rates and instead decided to rely upon the rates ordered by the New Mexico Commission. (Qwest/16, Million/23).

⁴¹⁰ Eschelon requested from Qwest all of its cost studies used to set the Commission approved rates in Oregon in hopes that this information could be used to make the necessary adjustments to Qwest's cost studies to comply with the Commission's orders. On June 4, 2007 Qwest provided six CDs with 1940 files related to the Oregon cost dockets. All of these files are in PDF format, rather than Excel, which is easier to work with. Qwest's data response came with 96 pages describing what is contained in the 1940 files. Qwest did provide the final compliance filing in UT 138 in Excel format.

⁴¹¹ Eschelon/9, Denney/274-275.

1 interim rate proposals. Though Ms. Million laments the 150 interim rates at issue
2 in this arbitration⁴¹² it is important to note that Eschelon accepted Qwest's
3 proposed interim rate for more than 250 rates. Ms. Million does not complain
4 about this part of my approach as Qwest has accepted this proposal.

5 Next, I looked to the current Eschelon/Qwest interconnection agreement.⁴¹³ This
6 agreement contains a number of collocation rates that Eschelon is paying today.
7 Qwest has offered no justification as to why these rates should be replaced with
8 higher rates that have not been approved by the Commission.

9 Next, I looked to see what interim rate offers Qwest was making available to
10 other carriers and itself.⁴¹⁴ These are Qwest proposed rates that have been
11 accepted by other carriers. Qwest has offered no justification as to why it makes
12 these interim rates available to other carriers in Oregon, but not to Eschelon.

13 For the remainder of the interim rates, with a few exceptions listed below,
14 Eschelon proposed to average the rates ordered by the other large Qwest states.⁴¹⁵
15 Eschelon did not choose the states with the lowest rates or the states with the
16 highest rates, but the other large Qwest states that are comparable to Oregon and
17 in which Eschelon happens to be doing business, arbitrating an interconnection
18 agreement with Qwest, and was a party to the UNE cost proceedings setting those

⁴¹² Qwest/39, Million/30, line 11.

⁴¹³ Eschelon/9, Denney/277-278.

⁴¹⁴ Eschelon/9, Denney/278-280.

⁴¹⁵ Eschelon/9, Denney/275-276.

1 rates. Another option could have been to pick states that have Commission
2 ordered rates similar to the ordered rates in Oregon and use the remaining rates in
3 those state(s) as a proxy for the rates in Oregon.

4 In cases where there were no Commission ordered rates, Eschelon attempted to
5 adjust Qwest cost studies to be consistent with the Commission's prior orders.⁴¹⁶

6 As I have noted, we do not have all of the information necessary to make all of
7 the adjustments ordered by the Commission and as a result this method produced
8 interim rates on the high side. In cases where interim rates could not be proposed
9 by any of the means above and Qwest failed to provide cost support at all,
10 Eschelon proposed half of Qwest's proposed rate.⁴¹⁷ Eschelon could have
11 proposed zero, as Qwest had provided absolutely no cost support, but was
12 attempting to reach a reasonable compromise.

13 Ms. Million's statement that while "he goes to great lengths to explain *what* he
14 did in making each of his various proposals, but not *why* it was appropriate to use
15 so many varied approaches in proposing rates"⁴¹⁸ is inaccurate. My direct
16 testimony explained the *why* of Eschelon's proposals (Eschelon/9, Denney/271-
17 284).⁴¹⁹ I agree with Ms. Million that in Exhibit Eschelon/25 I went to great
18 lengths to explain exactly *what* I did in making each proposal.⁴²⁰

⁴¹⁶ Eschelon/9, Denney/273-275.

⁴¹⁷ Eschelon/9, Denney/280-281.

⁴¹⁸ Qwest/39, Million/33, lines 13-16.

⁴¹⁹ See also Eschelon/125, Denney/155-157.

⁴²⁰ In addition to the information provided with testimony, I provided data responses to Qwest

1 **Q. SHOULD INTERIM RATES REFLECT PRIOR COMMISSION**
2 **DECISIONS REGARDING COST INPUTS AND ASSUMPTIONS?**

3 A. This approach makes the most sense. Ms. Million states that “I think it is
4 important to note that when it calculates costs for new elements subsequent to a
5 Commission decision in a cost docket, Qwest is not obligated to rigidly follow the
6 inputs ordered in that docket.”⁴²¹ What she is effectively saying is that Qwest
7 should be allowed to ignore prior Commission orders when establishing interim
8 rates, until such time that the Commission reconfirms or alters its prior decisions.
9 I agree with Ms. Million that when Qwest files a cost case Qwest may make
10 arguments different from what the Commission has ordered. However, we are
11 talking about interim rates – rates that Qwest proposes to charge until such time
12 that a Commission has a cost case to determine permanent rates – and it is
13 appropriate for these rates to reflect prior Commission decisions. Otherwise,
14 Qwest would never have an incentive to have a cost case and when it does have a
15 cost case, Qwest would have no incentive to have all of the rates it proposes to
16 charge CLECs reviewed by the Commission. Qwest is essentially looking for the
17 right to charge its proposed rates, of which many lack cost support, to CLECs
18 indefinitely.

regarding specific questions about Eschelon’s proposal. In addition, at Qwest’s request, I made myself available for a deposition. Qwest later cancelled the deposition, indicating it would not depose me.

⁴²¹ Qwest/39, Million/32, lines 4-6.

1 **X. CONCLUSION**

2 **Q. WHAT ARE YOUR RECOMMENDATIONS TO THE OREGON**
3 **COMMISSION?**

4 A. I recommend that the Commission adopt Eschelon's proposed Interconnection
5 Agreement language as described in this testimony.

6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 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)

EXHIBIT 134

From: Clauson, Karen L.
Sent: Thursday, May 04, 2006 12:18 PM
To: '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@state.mn.us; Zeller, Ginny A.
Subject: Qwest notice

Kathy/Qwest:

Enclosed is the Qwest notice that you requested in which Qwest announced, without going to the Commissions, or going through CMP, or requesting an ICA amendment, that "Qwest will commence billing CLECs non-recurring charges for design changes to Unbundled Loop circuits."

Eschelon has made its offer relating to Design Changes to attempt to resolve this issue without litigation. If the issue is arbitrated/litigated, Eschelon reserves its right to argue that there should be no separate charge for Design Changes for unbundled loops (as there has not been under the current ICAs/cost proceedings) until Qwest gets a rate for Design Changes for loops approved by the Commissions. The approved recurring rates for loops, including cost factors, cover these costs. If they did not, Qwest surely would have included these request for such charges in past cost cases.

In any event, even if language about Design Changes is included in the ICA, the amount of the rate will be in issue. It isn't reasonable that a change to a loop order would cost more than installing the loop to begin with.

Karen L. Clauson
Senior Director of Interconnection/Sr. Attorney
Eschelon Telecom, Inc.
730 2nd Ave. South, Suite 900
Minneapolis, MN 55402
Phone: [redacted]
Fax: [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)

EXHIBIT 135

DEPOSITION OF JEROME JENSON
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
OF THE STATE OF MINNESOTA

In the Matter of Qwest Corporation's Application
for Commission Review of TELRIC Rates Pursuant to
47 U.S.C. 251

PUC DOCKET NO. P-421/AM-06-713
OAH DOCKET NO. 3-2500-17511-2

DEPOSITION OF JEROME JENSON,
taken pursuant to Notice, before Janet Shaddix Eling,
Registered Professional Reporter and Notary Public, at
1500 Bremer Tower, 445 Minnesota Street, on May 18, 2007,
commencing at approximately 8:30 a.m.

* * *

DEPOSITION OF JEROME JENSON - MAY 18, 2007

Page 2

1 APPEARANCES:
 2 ERIC F. SWANSON, Attorney at Law,
 3 Winthrop & Weinstine, 225 South Sixth Street, Suite
 4 3500, Minneapolis, Minnesota 55402, appeared for
 5 and on behalf of Qwest Corporation.
 6 DENNIS AHLERS, Attorney at Law,
 7 730 Second Avenue South, Suite 900, Minneapolis,
 8 Minnesota 55402, appeared for and on behalf of
 9 Eschelon.
 10 DAN LIPSCHULTZ, Attorney at Law,
 11 Moss & Barnett, 4800 Wells Fargo Center, 90 South
 12 Seventh Street, Minneapolis, Minnesota 55402,
 13 appeared for and on behalf of the CLEC Coalition.
 14 LINDA S. JENSEN, Assistant Attorney
 15 General, 1400 Bremer Tower, 445 Minnesota Street,
 16 St. Paul, Minnesota 55101, appeared for and on
 17 behalf of the Department of Commerce.
 18 ALSO PRESENT:
 19 Doug Denney, Sid Morrison,
 20 Ed Fagerlund, John Grinager
 21
 22
 23 WHEREUPON, the following proceedings were
 24 duly had and entered of record, to wit:
 25

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WITNESS	PAGE
JEROME JENSON	
Examination By Ms. Jensen	4
Examination By Mr. Lipschultz	102
Examination By Mr. Ahlers	117
Further Examination By Ms. Jensen	124
Examination By Mr. Swanson	124

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1 (Whereupon, Minnesota Statute 486.10 was
 2 complied with.)
 3 JEROME JENSON,
 4 after having been first duly sworn, was
 5 examined and testified on his oath as follows:
 6 EXAMINATION
 7 BY MS. JENSEN:
 8 Q Good morning, Mr. Jenson, I'm Linda Jensen, I
 9 represent the Department of Commerce. Can we start
 10 with just putting your name on, you know, state your
 11 name, your employer, and your job title for us?
 12 A Okay. My formal name is Jerome Allen Jenson, and
 13 I'm employed at Qwest Communications.
 14 Q And what's your job there?
 15 A The title is lead process analyst.
 16 Q Okay. I'd like to just briefly go through some of
 17 your background, if I may. How long ago -- what
 18 year did you start with Qwest?
 19 A I started with, actually, Northwestern Bell, in
 20 1979.
 21 Q What was your job then?
 22 A Central office technician.
 23 Q What did that involve at that time?
 24 A At that time, many things. Doing wiring on the
 25 frame, wiring orders, shooting trouble in the

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1 switch, repairing, doing routines, pretty much the
 2 typical kinds of things a central office technician
 3 would do.
 4 Q Okay. How long did you have that job?
 5 A The first three years -- well, actually, let's say
 6 the first two years, I think it was, I was working
 7 downtown Minneapolis, and then I worked on some
 8 conversions of switches for a couple of years. And
 9 then I worked as a central office technician out of
 10 what was at that time the south SCC out of
 11 Bloomington, Minnesota, and then in 1987 I took a
 12 job in management, and I was -- at that time in
 13 management, it was called a complex translation
 14 support.
 15 Q Before you go ahead with that, you said you were
 16 doing conversion of switches for a couple of years.
 17 Can you generally tell us what that entailed?
 18 A Okay. Back in those days there was a great number
 19 of analog switches, which were step by step and
 20 crossbar offices, and we had conversions going on at
 21 that time, converting them to electronic switches,
 22 such as 1 ESS or 1A ESS.
 23 Q And were you based out of an office here in the Twin
 24 Cities?
 25 A During the time we were doing conversions?

DEPOSITION OF JEROME JENSON - MAY 18, 2007

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1 Q I'm sorry. Tell me again, DVA is?
 2 A Design, verify and assign.
 3 Q Is it possible for, for example, step 2 and step 8
 4 to be done as one activity?
 5 A It is if it's not a basic reuse. If it's a basic
 6 new, if you look across it says NA for the lift and
 7 lay.
 8 Q For the basic new?
 9 A Um-hum.
 10 Q Okay. I'm going to ask you to take a look at
 11 Exhibit 2. You'll notice that on those pages on the
 12 left-hand column is a series of numbers, and I'd
 13 like you to turn down to number 3041, which is on
 14 page 68 of 516.
 15 You'll notice at page 3015 there's a
 16 caption, loop basic install first - install
 17 continued, and at 3034 is subtotal for design, 3036,
 18 central office frames, and then line 3041 is
 19 complete cross-connect. And as you go across the
 20 page there's a column for time of four minutes and
 21 then there's a probability number one column with a
 22 value of two. Do you know what that probability of
 23 two refers to?
 24 MR. SWANSON: Just as foundation,
 25 Mr. Jenson, have you seen Exhibit 2 before?

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1 THE WITNESS: No, I haven't.
 2 MR. SWANSON: Answer the question, if you
 3 can.
 4 THE WITNESS: I would say that I believe
 5 the two stands for the probability of two jumpers.
 6 BY MS. JENSEN:
 7 Q Okay. And why do you say that? Maybe I should say,
 8 why does that make sense to you?
 9 A That would be one jumper placed on an interconnect
 10 distributing frame and one jumper placed on the main
 11 distributing frame.
 12 Q Okay, thank you. Is that configuration of an
 13 intermediate distribution frame connect always used
 14 with CLECs?
 15 A I'm sorry, I didn't catch that.
 16 Q Is that configuration always used with CLECs where
 17 there's the two jumpers?
 18 A Again, I have to go back to the different variations
 19 of central offices and frames and layout. There can
 20 be some places where they have a shared ICDF and an
 21 MDF where it's all on the same frame, in which case
 22 there could be one jumper.
 23 Q What kinds of central offices would that be the case
 24 in?
 25 A It would probably be more common in some of the

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1 smaller frames that don't have the low profile.
 2 Q What do you --
 3 A Low profile meaning like a COSMIC frame. Telephone
 4 lingo. A low profile is a COSMIC frame and on a low
 5 profile COSMIC frame we have punchdown terminations.
 6 Typically, when we have that, then, we have a
 7 secondary or a tie frame or an interconnect frame.
 8 CLECs don't terminate, or we don't place their
 9 terminations on a COSMIC frame. So in a smaller
 10 office where they don't have the low profile frame,
 11 they have a ladder, they have, say, a nine-foot
 12 frame or an 11-foot frame, and we've got the wire
 13 wrap terminations, and if there's room on there and
 14 they don't have the space to add an interconnect
 15 frame in that central office, then they will place
 16 the CLEC's CFA terminations on that frame. On those
 17 kinds of frames, you can have one jumper.
 18 Q Can you describe from where exactly to where the IDF
 19 jumper goes in any more detail?
 20 A Are you saying the ICDF?
 21 Q Yeah. An ICDF stands for intermediate connection?
 22 A ICDF stands for interconnect distributing frame,
 23 which is where CLECs typically terminate their CFAs.
 24 Q Yes, please.
 25 A Okay. On that frame there is a cross-connect placed

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1 from the CLEC's CFA to a tie pair.
 2 Q And when the CLEC termination is to a tie pair, the
 3 tie pair is from where to where?
 4 A Tie pairs are used to connect distributing frames
 5 together and that's a hard-wired tie pair. Meaning
 6 it's placed there by vendors or Qwest installers to
 7 tie two frames together, and that's an assignable
 8 piece of -- well, that's an assignable tie pair that
 9 comes out of TIRKS on the design. So that's -- it's
 10 there, it doesn't have to be run, it's hard-wired,
 11 it's in place.
 12 Q And where there's an MDF jumper, where does that go
 13 to, from where to where?
 14 A Okay. The tie pair from the ICDF is hard-wired to
 15 the MDF. Meaning at the other end of that tie pair
 16 will appear on the MDF. So then we place a jumper
 17 from that appearance to the cable and pair.
 18 Q I'd like to move to the 2A on the list of
 19 provisioning steps. What is that?
 20 A 2A is a provisioning step, it's a DVA provisioning
 21 step, and we check the CLEC 's CFA for dial tone, we
 22 check it to make sure that the telephone number
 23 that's on the order or on the WORD document is the
 24 same one that's assigned to that CFA by the CLEC by
 25 doing an ANI test, and we also make a test to make

DEPOSITION OF JEROME JENSON - MAY 18, 2007

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1 technician, and it's an area I wouldn't want to put
2 my foot in.

3 Q Item number 6. Analyze DD WFA-DI work requests.
4 First of all, what is DD?

5 A DD is due date.

6 Q Okay. And what does step 6 entail?

7 A It entails details -- I should say it's a work
8 request coming out of WFA-DI to work a conversion, a
9 UNE conversion, and it can be, depending upon the
10 type of product and the type of installation option
11 chosen by the CLEC, it could be non-time specific,
12 it could be time specific, it could be, you know,
13 whatever the CLEC wants us to do, for the most part,
14 when we do the conversion.

15 Q Why does it take two minutes to do that?

16 A Okay. When they get a work request like that it may
17 or may not be the same technician that did the DVA
18 work, it could be another technician. They would
19 get that work request, they would either go find the
20 WORD document that's in a pending file that had been
21 used previously, they would look at that WORD
22 document to find out what kind of service it is,
23 find some circuit detail, find out some circuit
24 details.
25 They would look at the work request that

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1 they got, whether it was like a all-day cut, meaning
2 they can do it any time during the day, or if it's
3 time specific and they want it done at 8:00 in the
4 morning, or 9:00 in the morning, they would pull a
5 current copy of it up out of WFA to make sure that
6 the copy that's on record in TIRKS is the same issue
7 as the one that's in their pending file, to make
8 sure that there have been no supps or revisions done
9 on that order. And then they would determine
10 whether or not they have to arrange their schedule
11 or, you know, work it into their work load so that
12 they can get that cut done at whatever time
13 requested by the CLEC.

14 Q Do you know what percentage of requests are time
15 specific?

16 A I don't have that information.

17 Q Do you know what percentage of requests are being
18 done by a tech other than the tech who did the DVA
19 work?

20 A I don't have that information either.

21 Q Did you take those things into account, though, in
22 making your time estimate?

23 A No, because essentially the same thing happens
24 whether it's the same tech or a different tech.

25 Q And so you did not take that into account, either of

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1 those factors into account in doing your time
2 estimates?

3 A No, I did not, because there was no difference.

4 Q Let's see. What is the next item? The next
5 provisioning step?

6 A The next one is a due date pre-service CFA dial tone
7 check. We're checking the CLEC's service for dial
8 tone, ANI, and polarity. And it's usually done
9 prior to when we do the conversion. Typically one
10 hour before.

11 Q Can you explain the difference between the work
12 being done in item 7 with the work being done in
13 item 2A of the provisioning steps?

14 A Essentially, it's the same thing.

15 Q Why is it done on the due date?

16 A Well, what we find is that normally on step 2A it is
17 usually DVA. Typically, and in most cases, a CLEC
18 does not have their dial tone on it and working on
19 DVA. So step 2 is just a check of it and we notify
20 the CLEC by the entries in the OSSLOG, and I believe
21 the QCCC also gives a call or some notification to
22 the CLEC to say we've checked for dial tone on DVA,
23 there is no dial tone. If there is more than two
24 days between DVA and due date and a CLEC has
25 subscribed to PTA notification, we also give them a

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1 48-hour dial tone check. That's not mentioned in
2 here, and my understanding is that we do that as a
3 courtesy.

4 The QCCC will create a handoff on what we
5 call a 48-hour dial tone check. If that CLEC has
6 subscribed to PTA notification then we'll check that
7 CFA again. If there's still no dial tone, which is
8 pretty common, we'll give the CLEC another
9 notification of no dial tone. On due date we have
10 to do it again most of the time to make sure that
11 the CLEC is ready to do the conversion. So we
12 usually do it one hour before, if it's a coordinated
13 cut, and generally we do it prior to when we began
14 doing a conversion of a basic reuse. We do it
15 again, and if there is still no dial tone, we notify
16 the CLEC, and they have the option of doing a verbal
17 CFA change if they want, or they can try and make an
18 attempt to fix their problem.

19 So there's just a lot of stuff built in
20 here to make the CLEC successful on due date, and
21 we're trying to help them make them successful and
22 do a conversion that's, you know, problem free. We
23 give them every opportunity to be successful, and it
24 seems like we end up doing these checks for dial
25 tone more often than once.

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1 Q You said that on step 2A for most CLECs there isn't
2 dial tone; is that right?
3 A That's what we seem to find.
4 Q What's the value of that check at that point --
5 A Well --
6 Q -- if you know going in that most times you're not
7 going to find dial tone?
8 A DVA, again, stands for design, verify and assign.
9 We want to make sure we've got a circuit that's
10 designed properly, we want to verify that it's got a
11 signal on it, it's got dial tone on it, it's got
12 whatever is going to be put over that circuit, and
13 we make sure that it's wired correctly and assigned
14 correctly and it's ready to go on due date so we
15 don't have any unexpected problems.
16 Q I'm sorry, maybe my question was clumsy. But you
17 know that most of those -- you're not going to have
18 dial tone following that test?
19 A Well, it's not true in every case, but it seems to
20 be more common than not.
21 Q How does a tech actually do the CFA dial tone check?
22 What does he do?
23 A They have a test set and they will check for dial
24 tone. They'll -- they will pull dial tone, they'll
25 dial the CLEC's ANI number, and they'll ANI the

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1 number to make sure that it matches up to the number
2 that's on the WORD document, and then they also test
3 for polarity, tip and ring polarity, from the CLEC
4 at the CFA.
5 Q So the CFA dial tone check is the tech dials the ANI
6 of the CLEC using the test set?
7 A Using a test set or a handset, correct.
8 Q Anything else that's done at that point to complete
9 the CFA dial tone check?
10 A They will put the results of their tests in the
11 OSSLOG again.
12 Q And how is that done?
13 A At a WFA terminal.
14 Q It's a data entry at a WFA terminal?
15 A On that order number, yes.
16 Q And is it a check the box, is there some narrative
17 written in?
18 A No, it's pretty much entered in by typing.
19 Q Typing, ran the test, looks good? I mean, is it a
20 field that's entered, is it either a plus or minus,
21 on or off, I mean, literally, what's done?
22 A We just ask them to put the results of the
23 pre-service dial tone checks in OSSLOG. I guess how
24 they want to enter that in there is up to them. I
25 mean, there's no prescribed format. They can type

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1 it in just as long as it can be understood by the
2 QCCC and by anybody else that wants to go into
3 OSSLOG and look at that.
4 Q So OSSLOG just allows the tech to make
5 handwritten -- or not handwritten, typed-in
6 narrative descriptions of things, there's no special
7 field for recording the results of a dial tone
8 check?
9 A There's not like a box or anything you would check,
10 no.
11 Q Just so I understand, is OSSLOG literally just a log
12 of running events?
13 A OSSLOG is associated to the order in WFA-C. And
14 OSSLOG starts as soon as the order hits WFA. And
15 there's a record of everything that happens.
16 Handoffs, if somebody does something, notes are put
17 in there, comments, if something is -- is going to
18 be jeoped for some reason that is put in there.
19 That way there's history. If somebody picks it up
20 at some point down the road then they can go back
21 and read the OSSLOG to know what has or hasn't
22 happened, what the tests were, what the results
23 were, does action need to be taken.
24 Q But my question is it's just a running log of events
25 that's not preformatted in some fashion?

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1 A No. Some of the interactions between WFA-C and
2 WFA-DI, those internal things in the operating
3 system happen automatically, but any human
4 interface, you'd have to access it and manually put
5 it in.
6 Q Is there anything else done besides what you've
7 already described of dialing the ANI to see if
8 there's dial tone and then making an entry in OSSLOG
9 that's part of step 7 of the provisioning steps?
10 A I -- can you repeat that question?
11 Q You've said that the tech dials ANI in order to
12 complete the CFA dial tone check, and then records
13 the results of that in the OSSLOG. Is there
14 anything else that's part of step 7 of the
15 provisioning steps?
16 A On step 7, because it's due date, they will make a
17 call in to the QCCC and let the implementor in the
18 QCCC know that there is no dial tone on the CLEC's
19 CFA. And if that's the case, usually with the
20 CLEC -- with a COT on the line with the implementor,
21 they'll call the CLEC, and if the CLEC wants to do a
22 verbal CFA change, or I guess it's up to them what
23 they want to do, they would stay on the line, if it
24 was a verbal CFA, they would give us a new CFA, and
25 we would rewire it to a new CFA and hopefully that

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1 new CFA would have dial tone on it.
 2 Q And that's if there was no dial tone. What if there
 3 is dial tone, is there anything else that's part of
 4 step 7 that you have mentioned already?
 5 A They would enter that into the results of their dial
 6 tone checks into OSSLOG again.
 7 Q Right. And that's if there's no dial tone; correct?
 8 Let me rephrase the question. Other than what
 9 you've already described, is there anything else
 10 that's part of step 7?
 11 A Oh, boy. I'm kind of having a blank right here, I
 12 can't recall right now.
 13 Q There's nothing else that you can think of right
 14 now?
 15 A No.
 16 Q Okay. Step 8 we talked a little bit about before, I
 17 think you indicated that this is where the tech
 18 completes the lift and lay process. Step 9, setup
 19 of DD test with I&M tech. What is that again? What
 20 does step 9 entail?
 21 A Step 9?
 22 Q Yes.
 23 A Setup of due date test with I&M tech?
 24 Q Right.
 25 A Okay. That is on a -- if the installation happens

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1 to be a basic new, for example, it's a new cable
 2 pair, and we will test with the outside technician
 3 to make sure that they're getting dial tone out
 4 there, everything is working good. They'll do some
 5 transmission tests on it to make sure that the
 6 parameters are within standards.
 7 Q So item 9 includes not only -- well, when you say
 8 the setup of the due date test, what do you mean by
 9 that?
 10 A We'll do what's referred to as head-to-head tests
 11 with the outside tech, meaning we have a test set,
 12 they have a test set, and we send tests back and
 13 forth.
 14 Q How many tests are part of this?
 15 A We'll usually -- we'll usually do one test. Well,
 16 it's going to depend. It depends on if there's any
 17 special equipment on it, like an FMT or loop
 18 extender. Those require some more transmission
 19 tests. If it's just a bare cable pair, then we just
 20 generally just do -- I may not name them all, but
 21 we'll do like a thousand and four, and I think we do
 22 like a C notch message, test it for noise, and there
 23 may be another one or two, I just can't recall.
 24 Q On item number 10. Complete due date work status
 25 with CCTI. What is CCTI again?

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1 A I forget what that stands for, but it's a test and
 2 turnup implementor in the QCCC.
 3 Q And what does it mean to complete the due date work
 4 status?
 5 A We're giving them a verbal that it has been -- the
 6 cutover or the turnup or whatever it is that we're
 7 working on has been complete and then they notify
 8 the CLEC so the CLEC can go ahead and do their
 9 tests.
 10 Q And this is only done under certain circumstances
 11 according to the columns. So a new install with
 12 performance testing, a new install with cooperative
 13 testing, and a new coordinated install with
 14 cooperative testing, and not otherwise. Why is
 15 that? I take that back. Also the new coordinated
 16 without cooperative testing. So it's not done on
 17 the reuse; right? Let me rephrase that.
 18 This is only done in some circumstances,
 19 what are those circumstances?
 20 A I'm trying to remember what the responsibilities are
 21 with performance testing and it's just not coming to
 22 mind here, I'm drawing a blank. But there are
 23 certain things that are required for each one of
 24 these, like performance testing, cooperative
 25 testing, and there's feedback that has to be given

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1 to the CLEC and the QCCC does that at the time that
 2 we finish the due date work. So on these that
 3 require feedback and whether the cutover is
 4 successful, it may be test results, it may be, yeah,
 5 we finished the cut, we did the cut at 10:30 a.m.,
 6 we were done at 10:35, these things require some
 7 kind of feedback to the CLEC.
 8 Q And you think it's related to the performance
 9 testing or cooperative testing?
 10 A Yeah, without having the product catalog in front of
 11 me I'm just kind of drawing a blank right now on
 12 what the requirements are in each one of these.
 13 Q Okay. The last item is number 11, post due date
 14 work complete in WFA-DI, what does that entail?
 15 A Okay. Again, in WFA-DI it's -- they're going to get
 16 a work request for that due date work and that will
 17 be a handoff, like a SPLI-5, SPLI-B, something on
 18 that order, that tells them what the requirements
 19 are for that particular order. And once they've
 20 done the conversion and made the whatever, then they
 21 would go into WFA-DI and they would complete that
 22 work item, that work request.
 23 Q And, I'm sorry, tell me again, why is this only done
 24 on reuse where there's a conversion?
 25 A Okay. It's done on a reuse and it's done on a

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1 a process and build a system and build a -- we had
 2 to put efficiencies in to trying to do batch cuts,
 3 which could be a minimum of 25 per day and a maximum
 4 of 100 per day per CO for all CLECs. In order to do
 5 that many a day, to do, you know, do all the lift
 6 and lays and try to get wiring done and everything
 7 else, we had to try to add some efficiencies.
 8 And we asked IT to develop the batch
 9 status tool, which is the tool that the CLECs can
 10 interface to find out the status of orders, and then
 11 our techs, our central office techs would status
 12 their work in there, whether to jeep something or
 13 complete something or start something, whatever the
 14 case might be. That eliminated having to go into
 15 WFA, to enter things into OSSLOG. However, they
 16 still had work steps that they had to complete in
 17 DI. So it took away some of the WFA work, but not
 18 all of it.
 19 Q Can you think of and give us any other examples in
 20 your long experience at Qwest where you or someone
 21 you know has brought that to someone's attention and
 22 then achieved a change or enhancement in the
 23 process?
 24 A No.
 25 Q I'm almost done, so bear with me. I wrote a note

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1 here, I think you referred earlier to some work you
 2 did at some point in your long career at Qwest
 3 dealing with collocations. And can you tell me,
 4 very briefly, what collocation work you did?
 5 A You're talking about the physical collocation work
 6 or --
 7 Q I'm talking about --
 8 A Okay.
 9 Q I don't have my notes here. The time period at
 10 Qwest where I think you said as one of your
 11 assignments you were doing collocation work, that's
 12 at least what I wrote down, so I'm wondering what
 13 collocation work you did, and that's the best I can
 14 do to frame the question for you.
 15 A That goes back a long ways. Some of the things I
 16 did was write some processes on how to do job
 17 surveys on site for collocation requests. We asked
 18 our central office techs to do some of that work
 19 instead of having to fly an engineer in from
 20 wherever, and we asked the central office tech to do
 21 a little bit of engineering, almost, to look at an
 22 area in the central office where the engineer
 23 thought they could place a collocation.
 24 We asked the technician to look at the
 25 overhead racking, in the process we asked the

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1 technician to look to make sure it wasn't blocking
 2 egress, doorways, or fire escape routes. We asked
 3 them to measure the floor out to make sure that the
 4 space that they were requesting was available and it
 5 would work there, and if there were any obstructions
 6 or reasons why something wouldn't work in that
 7 location, and then they would go back to the
 8 planning engineer, collocation planning engineer,
 9 and get back what they found.
 10 Q Did any of that work involve issues related to
 11 collocation power?
 12 A Yeah, there was, now that you say that. There was
 13 also another job aid, or process, if you will, that
 14 asked them to check the availability of vacant fuse
 15 positions on power boards, or BF -- boy, BF -- gosh
 16 darn it.
 17 Q I can't remember that third letter either, but I
 18 know exactly what you're talking about.
 19 A BDFBs, there you go, which are distribution bays for
 20 power feeds. And then they would say, yeah, there's
 21 a vacant spot here to put a 20 amp or 50 amp or 100
 22 amp, whatever the request was. And basically we
 23 were just providing them their eyes, is all we were
 24 doing.
 25 Q So you did not have any input into the collocation

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1 cost study in this case, did you?
 2 A On the placement of --
 3 Q Well, let me ask you this. Did you have any input
 4 into the collocation cost study that's at issue in
 5 this case that you're aware of?
 6 A I'm sorry, I still don't understand.
 7 Q And you may have just answered my question. So
 8 that's fine. There's another study in this case and
 9 it's called a collocation cost study and I was just
 10 wondering if you provided any inputs into that study
 11 and I think your answer is no.
 12 A No.
 13 MR. LIPSCHULTZ: That's all I have,
 14 thanks.
 15 EXAMINATION
 16 BY MR. AHLERS:
 17 Q Hi, Mr. Jenson, I'm Dennis Ahlers with Eschelon
 18 Telecom, and I have a few questions for you.
 19 Referring to page 105 of Exhibit 1, and
 20 step 7, there was some discussion earlier about
 21 that, and as I understand it you do a dial tone
 22 check in step 2A and then you do another one in step
 23 7; is that right?
 24 A Yes.
 25 Q And briefly what is the reason that you do the

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1 second dial tone check?
 2 A Well, first of all, we want to make sure we don't
 3 have any problems on due date, when we actually do
 4 the conversion, that the CLEC is ready, they have
 5 dial tone on their CFA, and that way we don't have
 6 to delay the conversion or change the due date or
 7 push it out or supp the order.
 8 Q And do you do that second dial tone check even if
 9 there is dial tone the first time?
 10 A In our process we do, yes.
 11 Q And why is that?
 12 A Things can change. I can say from experience with
 13 one CLEC that things would change sometimes from DVA
 14 to due date, on DVA they'd be working and on due
 15 date they wouldn't. Well, they were having switch
 16 trouble, part of their switch was not working and
 17 there was no dial tone. So we'd catch things like
 18 that. Or I've seen situations where stuff has been
 19 typed out, and suddenly it was working one day and
 20 not the next. I assume it got typed out, 'cause
 21 nothing really changed as far as the wiring, but
 22 there's just no dial tone at the CFA.
 23 Q What does the term typed out mean?
 24 A I use it in -- somebody, or some system, most likely
 25 a person, types in the order into a switch, and says

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1 this CFA is going to have this phone number with
 2 these features, et cetera, et cetera, so the person
 3 that would actually be doing the -- we call them
 4 line recent changes.
 5 Q Would that person be a Qwest person?
 6 A It would be a CLEC.
 7 Q A CLEC person?
 8 A Um-hum.
 9 Q Is there anything that could happen in between the
 10 first dial tone and the second dial tone test on the
 11 Qwest side of things?
 12 A It's possible a jumper might get removed
 13 accidentally or somebody was placing a jumper and
 14 something broke. I mean, it's not -- it's not
 15 something we like to see but, I mean, it's possible.
 16 Q I think you said in step 7 that one of the things
 17 you'd take into account and commit with times is
 18 that CLECs would sometimes make a verbal change to a
 19 CFA; is that correct?
 20 A On due date, we give the -- if there's no dial tone
 21 on the CFA and it's something they can't fix on the
 22 spot over the phone, such as a defective CFA, we
 23 give them the -- we give them the opportunity to do
 24 a verbal CFA.
 25 Q And how often does that happen?

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1 A I don't have the data on that.
 2 Q What would be -- when that happens, what additional
 3 steps do you have to go through?
 4 A Well, we would get on -- the central office
 5 technician, if there was no dial tone on the due
 6 date, the central office technician would get on the
 7 phone and call the QCCC and get the implementor, and
 8 then they would add on the CLEC and tell them, you
 9 know, we got this cut, there's no dial tone, what do
 10 you want to do. I mean, it's up to the CLEC to
 11 decide.
 12 Q And at that point, when they tell you what they want
 13 to do, what happens next?
 14 A Well, it depends on what they tell us to do.
 15 Q Well, if they tell you they want to go forward or
 16 make a change on the spot, what happens then?
 17 A For example, they give us a new CFA to wire to?
 18 Q Correct.
 19 A Okay. We would take that verbally and we would go
 20 to the -- wherever the CFA was terminated, most of
 21 the time on the ICDF, and we would move the jumper.
 22 Sometimes you have to run a new jumper. But in any
 23 case, we would rewire it to the new CFA that they
 24 gave us on a verbal, and then there's some other
 25 things that happen as far as the CLEC resubmitting

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1 or supping the order, but I'm not familiar with how
 2 that works upfront because we do require that the
 3 order be redesigned to reflect the new CFA on it.
 4 Q And in the time reflected for doing that, is that
 5 included in step 7?
 6 A I haven't included that.
 7 Q Okay. So would it be included in one of the other
 8 steps?
 9 A I have not included it anyplace.
 10 Q So earlier I thought you said you had taken that --
 11 it was one of the things you had taken into account
 12 in including it in your times.
 13 A A defective CFA?
 14 Q Yeah.
 15 A No, I don't believe I said that.
 16 Q Okay. If I could have you turn to 135. And this is
 17 just a question so that I can understand the
 18 entire -- or make sure I understand the entire
 19 chart. The very last column on the right side, what
 20 does that column represent?
 21 A Okay. This is supposed to represent just a high
 22 level description of these provisioning activities.
 23 I noticed on 136 there is a list of definitions,
 24 however, I never supplied that, and I don't know who
 25 put that in there, but those definitions don't --

DEPOSITION OF MARY MADILL
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
OF THE STATE OF MINNESOTA

In the Matter of Qwest Corporation's Application
for Commission Review of TELRIC Rates Pursuant to
47 U.S.C. 251

PUC DOCKET NO. P-421/AM-06-713
OAH DOCKET NO. 3-2500-17511-2

DEPOSITION OF MARY MADILL,
taken pursuant to Notice, before Janet Shaddix Eling,
Registered Professional Reporter and Notary Public, at
1500 Bremer Tower, 445 Minnesota Street, St. Paul,
Minnesota, on May 17, 2007, commencing at approximately
9:00 a.m.

* * *

DEPOSITION OF MARY MADILL - MAY 17, 2007

Page 2

1 APPEARANCES:
 2 DAVID AAFEDT, Attorney at Law,
 3 Winthrop & Weinstine, 225 South Sixth Street, Suite
 4 3500, Minneapolis, Minnesota 55402, and JOAN C.
 5 PETERSON, Attorney at Law, 200 South Fifth Street,
 6 Room 2200, Minneapolis, Minnesota 55402, appeared
 7 for and on behalf of Qwest Corporation.
 8 DENNIS AHLERS, Attorney at Law,
 9 730 Second Avenue South, Suite 900, Minneapolis,
 10 Minnesota 55402, appeared for and on behalf of
 11 Eschelon.
 12 DAN LIPSCHULTZ, Attorney at Law,
 13 Moss & Barnett, 4800 Wells Fargo Center, 90 South
 14 Seventh Street, Minneapolis, Minnesota 55402,
 15 appeared for and on behalf of the CLEC Coalition.
 16 LINDA S. JENSEN, 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 Doug Denney, Sid Morrison, Terri Million
 22 Ed Fagerlund, John Grinager
 23
 24 WHEREUPON, the following proceedings were
 25 duly had and entered of record, to wit:

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WITNESS	PAGE
MARY MADILL	
Examination By Ms. Jensen	4
Examination By Mr. Ahlers	137
Examination By Mr. Lipschultz	147

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1 (Whereupon, Minnesota Statute 486.10 was
 2 complied with.)
 3 MARY MADILL,
 4 after having been first duly sworn, was
 5 examined and testified on her oath as follows:
 6 EXAMINATION
 7 BY MS. JENSEN:
 8 Q Good morning.
 9 A Good morning.
 10 Q I'm Linda Jensen and I represent the Department of
 11 Commerce. I have a number of questions that I'd
 12 like to ask you, but why don't we start with you
 13 just identifying yourself for the record, your name,
 14 your employer, your position?
 15 A Okay. I'm Mary Madill, I work for Qwest
 16 Communications. I have been there for almost 36
 17 years, the last nine of which have been in the
 18 wholesale department. Prior to that it was the
 19 consumer retail side of the house, residence,
 20 business, billing, sales, so that's kind of my
 21 background. I manage the Duluth center that
 22 processes the unbundled loop orders, as well as EEL
 23 orders, some private line orders. Other things,
 24 too, but they're not covered in what you're looking
 25 at at this point in time.

Page 5

1 Q All right. Why don't we back up. Tell me, when did
 2 you start with Qwest?
 3 A Oh, gosh, I think it was 1971. I've been there 36
 4 years, actually this past January would have been 36
 5 years.
 6 Q And had you worked for any telephone company prior
 7 to that?
 8 A No.
 9 Q What was your educational background prior to coming
 10 to Qwest?
 11 A High school and I had started college and then got
 12 married and went with my husband in the service, and
 13 didn't go back to school, came back, and started
 14 with Qwest when my husband went overseas.
 15 Q And when you were with Qwest initially, was that in
 16 Duluth?
 17 A Yes.
 18 Q Have you been employed at the Duluth location ever
 19 since?
 20 A No, I've been surplus a few times, I've worked in
 21 St. Paul in a building not far from here for
 22 two-and-a-half years.
 23 Q All right. Let's step through chronologically then.
 24 When you first started with Qwest in 1971, what was
 25 your first position?

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1 information, the same information for all centers is
 2 populated on that report.
 3 Q How many centers are there?
 4 A Des Moines, Minneapolis, Duluth, and then Aegis has
 5 their Sierra Vista location, they also have an
 6 offshore location in Bangalore, India, and those are
 7 the centers that would be processing the wholesale.
 8 We also have national wholesale work that's
 9 processed in Thornton, Colorado, and Dublin, Ohio.
 10 Q National wholesale products, did you say?
 11 A Yes.
 12 Q And how is that different from the wholesale
 13 products that you process in the other centers?
 14 A The Des Moines, Minneapolis, Duluth, and the two
 15 Aegis centers are primarily processing orders that
 16 are within our region, our 14-state region, and the
 17 national group is processing wholesale locations
 18 outside of those 14 states.
 19 Q Do you know if any differences -- let me back up.
 20 You indicated that Aegis is using essentially the
 21 same systems and taking -- making the same steps to
 22 process orders as you use in Duluth. Do you know if
 23 that's true of the national centers as well?
 24 Understanding that they're different products.
 25 A I know just enough about national that I know they

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1 use different systems than we have.
 2 Q Can you describe generally what you understand about
 3 that?
 4 A I do not know anything about their systems other
 5 than I know they don't use IMA, which is the
 6 electronic route that carriers send their requests
 7 in to us for LSRs. They have a different system
 8 that they type in to process an order, they're not
 9 using the same systems that we have.
 10 Q And you don't really know anything about the
 11 differences?
 12 A I don't.
 13 Q Do you know what they use instead of IMA?
 14 A I do not.
 15 Q Do you get reports on them?
 16 A I don't recall that they're on the report that I get
 17 on a monthly basis. I do believe it's just our
 18 in-region centers that are on that report that I
 19 get.
 20 Q How many national centers are there? There's two,
 21 did you say, Ohio --
 22 A And in Thornton, Colorado.
 23 Q Do you know who would have -- do you know who your
 24 counterpart would be in the national centers?
 25 A Paula Rozzi, R-O-Z-Z-I.

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1 Q And who -- where is Paula out of?
 2 A She's located in Denver.
 3 Q And do you know if she oversees both national
 4 centers?
 5 A Yes, she does.
 6 Q The Duluth center, do you know whether you handle a
 7 loop MUX combination?
 8 A Yes, we do.
 9 Q And can you explain your understanding of what that
 10 is?
 11 A I cannot give you an explanation of what that is.
 12 Q Tell me why.
 13 A Because I don't process those specific type of
 14 orders.
 15 Q Do you have even a colloquial understanding of what
 16 that is?
 17 MS. PETERSON: Can I ask for a
 18 clarification? Are you asking for the function of
 19 the product?
 20 BY MS. JENSEN:
 21 Q I'm asking her for her understanding of what she
 22 knows about this, what it is, whatever that might
 23 be.
 24 A No, I don't have an explanation for that product.
 25 Q Do you know that it's handled manually or is it

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1 automated?
 2 A That is handled manually.
 3 Q And is it handled manually by the same group of --
 4 by some subset of the 72 SDCs?
 5 A Yes.
 6 Q Is that subset of people distinguished in any way?
 7 A No. Is your question is there a separate group that
 8 handles loop MUX?
 9 Q Yeah, or a separate group that handles that type of
 10 thing, and that type of thing includes the loop MUX,
 11 is there some distinction that's relevant to you?
 12 A If those are EELs, then yes, they would be --
 13 there's a separate group of people that handles EEL
 14 orders. Not all of the SDCs are trained on EELs.
 15 And that's a piece of the work that would not be
 16 handled in Sierra Vista, that is not handled in
 17 Sierra Vista. EELs are not done at contract
 18 locations.
 19 Q Earlier I think you said you did some training of
 20 the SDCs; is that correct?
 21 A I myself didn't, no, have not done training of SDCs.
 22 Q You develop training plans?
 23 A Correct.
 24 Q Okay. Can you tell me if the Duluth center handles
 25 ASRs as well as LSRs?

DEPOSITION OF MARY MADILL - MAY 17, 2007

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1 A Yes, some types of ASRs.
 2 Q Do you know what types?
 3 A Private line.
 4 Q Anything else?
 5 A No.
 6 Q Do you know whether the Duluth center handles
 7 commingled EELs, or commingled LMC, loop MUX combo?
 8 A The Duluth center would handle any type of EEL that
 9 could be ordered.
 10 Q Including commingled ones?
 11 A If that's a type of EEL that could be requested,
 12 then yes, we would be able to process that order.
 13 Q You say if that's a type that is ordered. You're
 14 not certain if it is?
 15 A Correct.
 16 Q And why do you say that you handle it if it's a type
 17 of EEL? Is that because you handle all types -- you
 18 know that you handle all types of EELs?
 19 A Yes.
 20 Q Do you know what the term commingle refers to?
 21 A No, I don't.
 22 Q Do you have -- I used the term ASR earlier and you
 23 described that one of the ASRs you handle is a
 24 private line. What does the term ASR mean to you?
 25 A ASR is access service request, versus LSR being

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1 local service request.
 2 Q Do you have an understanding of how ASRs and LSRs
 3 may be handled differently in your center?
 4 A Yes, there are different systems that are used to
 5 process the orders.
 6 Q Can you describe that in a little more detail,
 7 please?
 8 A Are you looking for the types of systems that --
 9 Q Yeah. You tell me there are different systems used,
 10 what do you mean by that?
 11 A Okay. In the LSR world the request from the
 12 carriers come to us in IMA, and in the ASR side of
 13 wholesale those requests come in via EXACT, it's
 14 another acronym, E-X-A-C-T. So the work lists are
 15 presented differently. As the SDCs go in to select
 16 their work it looks a little bit different in how
 17 you select your work to make sure that we're pulling
 18 the oldest work first. They also issue the orders
 19 into a different system. The order is created in an
 20 IABS, I-A-B-S system, versus on the other side of
 21 the world we're typing into WEBSOP, which is
 22 creating that order for us. The ASR side of the
 23 world does not have flow through orders like we have
 24 with unbundled, there are no completely or partially
 25 created orders on the ASR side, it's all manual

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1 typing.
 2 Q So, for example, all of the EELs are manual?
 3 A EEL is all manual, there's no flow through, but EEL
 4 is actually an LSR product, it comes in on an LSR,
 5 it does not come in on an ASR.
 6 Q I'm sorry. Private line is the example you used,
 7 those are all handled manually?
 8 A Yes.
 9 Q Do you know what EXACT stands for?
 10 A I don't.
 11 Q Or IABS?
 12 A I don't.
 13 Q You said that when the SDC goes in to look for the
 14 oldest orders, are you describing a screen that
 15 they're looking at?
 16 A Yes.
 17 Q And in order to look at the ASRs and the LSRs, are
 18 they looking at two different screens?
 19 A Yes. Those two products come in via two different
 20 electronic interfaces to the company. So I'm either
 21 looking at one or the other, there's no place that
 22 they're combined.
 23 Q And for people who handle -- are there --
 24 A SDCs?
 25 Q SDCs who handle both?

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1 A Yes.
 2 Q And how do they choose what's the oldest order to
 3 take when they have the two different systems that
 4 they're working on?
 5 A We would normally have them assigned to a specific
 6 product, to the ASR product. We would have a
 7 manager looking at the two lists to see where we
 8 need help, and if we need -- if one has greater
 9 volume than the other we would then move some of
 10 those head count resources over and have them start
 11 working LSR work, rather than ASR work, or vice
 12 versa.
 13 Q Can you give me some sense of how often that change
 14 might occur? Is that something you monitor
 15 continuously and at 3:00 you might change something
 16 over?
 17 A I have a manager who monitors that pretty much
 18 throughout the day. We pull a report up three times
 19 a day and it's sent to all of the managers in the
 20 center, should we not have the screens up ourselves
 21 and have the chance to be checking, we can see a
 22 report that's in front of us as far as the volumes
 23 and the current currency of the work that's out
 24 there.
 25 Q And you might make adjustments in the work that any

DEPOSITION OF MARY MADILL - MAY 17, 2007

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1 SDC is doing to reflect the type of work coming in
 2 at that point?
 3 A Yes.
 4 Q Okay.
 5 A Normally we are not moving very frequently between
 6 ASR work and LSR work. There's a lot of movement
 7 between the different products within the LSR
 8 systems that we're using.
 9 Q And I guess my question is would you make a change
 10 midday for a given SDC?
 11 A We could.
 12 Q Is it more typical that it would be done like at the
 13 beginning of the day or the beginning -- I'm just
 14 trying to get some sense. Is it a change you would
 15 make at the beginning of a day, the beginning of a
 16 week, at the beginning of a month?
 17 A Because volumes aren't predictable it could happen
 18 at any of the times you're saying.
 19 Q Including during the course of a work shift?
 20 A Yes.
 21 Q Do you know whether the LSRs or ASRs in general, one
 22 or the other, is more complicated?
 23 A There's complexity to both. I think there are some
 24 unbundled loops that are easier unbundled loops.
 25 But I think there are also unbundled loops and EELs

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1 that are just as complex as some of the private line
 2 orders that we see too. It's still utilizing a lot
 3 of the same Qwest systems. The orders come in to us
 4 differently, but internally we're still looking for
 5 design orders, we're still looking at some of the
 6 same information to validate those orders before we
 7 can process them.
 8 Q I'm sorry. When you say design order, what do you
 9 mean by that?
 10 A The orders when they flow out of our center after
 11 they've been provisioned to go to the design center
 12 within the network group.
 13 Q All of them?
 14 A Yes.
 15 Q Are you aware of any products that entail both an
 16 ASR and an LSR element?
 17 A We have customers who would be moving from an ASR,
 18 from a private line, they're disconnecting a private
 19 line and turning it into an unbundled loop or an
 20 EEL, but it's not simultaneous, they're normally a
 21 conversion from private line to EEL or unbundled.
 22 Q And do you know whether Qwest provisions any
 23 products for CLECs that involve both an ASR and an
 24 LSR element?
 25 A I need to clarify that. If they presently have a

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1 private line and they're going to an -- they're
 2 going to turn it into an EEL or an unbundled loop,
 3 that comes in to us as an LSR. But we're actually
 4 issuing a disconnect order on the private line side
 5 and a connection order on the LSR side for either
 6 the new EEL or the unbundled loop. So it comes in
 7 to us as one element, it's coming in to us as an
 8 LSR, but we're actually processing an order as an
 9 ASR and as an LSR. I'm not sure if that's what you
 10 were asking.
 11 Q I had asked you earlier if you knew what the term
 12 commingled EEL meant and I think you said no, you
 13 didn't. And so I'm not going to ask you about how
 14 commingled EELs are handled, unless you know.
 15 A No, I don't.
 16 Q Are you aware of any circumstances where an order
 17 would -- would include an order for a -- what I'm
 18 going to call a commingled product, but it's a
 19 product that includes both an ASR and an LSR
 20 element. Have you ever heard of that before?
 21 A I'm not aware.
 22 Q Is there any -- are you aware of any system tools or
 23 resources that would allow either the SDC or a
 24 supervisor or anyone else in the manual processing
 25 to coordinate the processing of an ASR and an LSR

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1 that were part of a single order or were going to be
 2 used by the customer as a single resource?
 3 A And your question was is there a tool?
 4 Q Yeah. Is there anything that either the CSR or a
 5 supervisor could do to allow the provisioning of
 6 that to occur essentially simultaneously?
 7 A No, because they're built in two different systems,
 8 they're different billing systems, and the orders
 9 are input into entirely different systems.
 10 Q Is there anything like WEBSOP that allows those
 11 systems to talk to one another that translates
 12 information?
 13 A Not that I'm aware of.
 14 Q Okay. And I think you said on the ASR side, the
 15 billing system is IABS?
 16 A Yes.
 17 Q And what was the billing system on the LSR side?
 18 A CRIS.
 19 Q Do the CSRs, or any of the other employees
 20 supervising or training the CSRs, depend on the
 21 productivity measures?
 22 MS. PETERSON: Can I ask what you mean by
 23 CSRs? Are you meaning --
 24 MS. JENSEN: I'm sorry. Am I using the
 25 wrong --

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 136

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
 Marshall Johnson
 Phyllis Reha
 Thomas Pugh

Chair
 Commissioner
 Commissioner
 Commissioner



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)

ISSUE DATE: June 4, 2007

DOCKET NO. P-5340,421/IC-06-768

ORDER DENYING RECONSIDERATION

PROCEDURAL HISTORY

On May 26, 2006, Eschelon Telecom, Inc. (Eschelon), asked the Commission to arbitrate disputed issues in an interconnection agreement with Qwest Corporation (Qwest) pursuant to Sections 251 and 252 of the federal Telecommunications Act of 1996.¹

On March 30, 2007, the Commission issued its ORDER RESOLVING ARBITRATION ISSUES, REQUIRING FILED INTERCONNECTION AGREEMENT, OPENING INVESTIGATIONS AND REFERRING ISSUE TO CONTESTED CASE PROCEEDING.

On April 9, 2007, Qwest petitioned the Commission to reconsider its decision on two issues:
 1) limits on Qwest's discretion to characterize a missed deadline as "Customer Not Ready," and
 2) limits on Qwest's discretion to discontinue processing orders for Eschelon.

On April 30, 2007, Eschelon and the Minnesota Department of Commerce each recommended that the Commission deny Qwest's request.

The Commission met on May 31, 2007, to consider this matter.

FINDINGS AND CONCLUSIONS

The Commission has reviewed the record and the arguments of the parties.

¹ Pub.L.No. 104-104, 110 Stat. 56, codified in various sections of Title 47, United States Code.

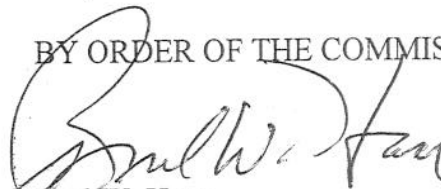
The Commission finds that the petition for reconsideration does not raise new issues, does not expose errors or ambiguities in the March 30 Order, and does not otherwise persuade the Commission that it should rethink the decision set forth therein. The Commission concludes that those decisions are the most consistent with the facts, the law and the public interest, and will therefore deny the petition for reconsideration.

The Commission will so order.

ORDER

1. The petition for reconsideration is hereby denied.
2. 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)

EXHIBIT 137

PUBLIC VERSION

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)

EXHIBIT 138

NONRECURRING COST DETAIL SUMMARY

Study Name: MINNESOTA COST DOCKET 2006 NONRECURRING COST STUDY 9540
Study Year: 2006
Analyst: Deffley

Page 109 Of 516
NRC Version: 3.57
Date: 12/15/06

State: Minnesota

Work Item	Time Minutes	Prob #1	Prob #2	Prob #3	Prob #4	Applied Time (Minutes)	Labor /Hour	Cost
A	B	C	D	E	F	G	H	I
						B * (C Thru F)		H * (G/60)

LOOP COORD INSTALL WITHOUT TESTING FIRST - INSTALL

ADD

-INTERCONNECT SERVICE CENTER (ISC) - QWEST

.05, .5, .6, .08 probabilities is percent of time this activity will occur.

Prob (.15) is percent orders that will fall out of IMA for manual handling.

Prob (.5) is percent orders processed by QWEST

Review LSR for completeness and accuracy, contractual entries	3	1.000	0.150	0.500		0.23	\$41.98	\$0.16
Verify Connecting Facility Assignment (CFA) for facility/circuit availability	1	0.050	0.150	0.500		0.00	\$41.98	\$0.00
Exchange info, obtain CO, name, address, office type. Access Telephone Address Guide to ob	4	1.000	0.150	0.500		0.30	\$41.98	\$0.21
CPPD look-up billing USOC's for co-provider	2	1.000	0.150	0.500		0.15	\$41.98	\$0.10
Summary Bill List-Look up Billing Telephone Number, tax code, and bill date	2	1.000	0.150	0.500		0.15	\$41.98	\$0.10
Analyze request to determine co-provider, type of order, and installation option	2.5	1.000	0.150	0.500		0.19	\$41.98	\$0.13
Determine critical dates	1	1.000	0.150	0.500		0.08	\$41.98	\$0.05
If directory advertising or retail contract or both, issue order to remove information from account	1.5	0.500	0.150	0.500		0.06	\$41.98	\$0.04
Populate required fields	3	1.000	0.150	0.500		0.23	\$41.98	\$0.16
Type, review and submit to customer the Firm Order Confirmation (FOC)	3	1.000	0.150	0.500		0.23	\$41.98	\$0.16
Input order into service order processor. Type and format order for billing and provisioning	9.5	1.000	0.150	0.500		0.71	\$41.98	\$0.50
Ensure order is successfully distributed to the systems and is ready for provisioning	3	1.000	0.150	0.500		0.23	\$41.98	\$0.16
Handle calls from other departments working the order	5	0.600	0.150	0.500		0.23	\$41.98	\$0.16
Handle issues including conditioning, facility, cable&pai	5	0.080	0.150	0.500		0.03	\$41.98	\$0.02

Subtotal - INTERCONNECT SERVICE CENTER (ISC) - QWEST						2.79		\$1.95
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-INTERCONNECT SERVICE CENTER (ISC) - OUTSOURCER

.05, .5, .6, .08 probabilities is percent of time this activity will occur.

Prob (.15) is percent orders that will fall out of IMA for manual handling.

Prob (.5) is percent orders processed by OUTSOURCER

Review LSR for completeness and accuracy, contractual entries	3	1.000	0.150	0.500		0.23	\$22.50	\$0.08
Verify Connecting Facility Assignment (CFA) for facility/circuit availability	1	0.050	0.150	0.500		0.00	\$22.50	\$0.00
Exchange info, obtain CO, name, address, office type. Access Telephone Address Guide to ob	4	1.000	0.150	0.500		0.30	\$22.50	\$0.11
CPPD look-up billing USOC's for co-provider	2	1.000	0.150	0.500		0.15	\$22.50	\$0.06
Summary Bill List-Look up Billing Telephone Number, tax code, and bill date	2	1.000	0.150	0.500		0.15	\$22.50	\$0.06
Analyze request to determine co-provider, type of order, and installation option	2.5	1.000	0.150	0.500		0.19	\$22.50	\$0.07
Determine critical dates	1	1.000	0.150	0.500		0.08	\$22.50	\$0.03
If directory advertising or retail contract or both, issue order to remove information from account	1.5	0.500	0.150	0.500		0.06	\$22.50	\$0.02
Populate required fields	3	1.000	0.150	0.500		0.23	\$22.50	\$0.08
Type, review and submit to customer the Firm Order Confirmation (FOC)	3	1.000	0.150	0.500		0.23	\$22.50	\$0.08
Input order into service order processor. Type and format order for billing and provisioning	9.5	1.000	0.150	0.500		0.71	\$22.50	\$0.27
Ensure order is successfully distributed to the systems and is ready for provisioning	3	1.000	0.150	0.500		0.23	\$22.50	\$0.08
Handle calls from other departments working the order	5	0.600	0.150	0.500		0.23	\$22.50	\$0.08
Handle issues including conditioning, facility, cable&pai	5	0.080	0.150	0.500		0.03	\$22.50	\$0.01

NONRECURRING COST DETAIL SUMMARY

Study Name: MINNESOTA COST DOCKET 2006 NONRECURRING COST STUDY 9540
Study Year: 2006
Analyst: Deffley

Page 110 Of 516
NRC Version: 3.57
Date: 12/15/06

State: Minnesota

Work Item A	Time Minutes B	Prob #1 C	Prob #2 D	Prob #3 E	Prob #4 F	Applied Time (Minutes) G	Labor /Hour H	Cost I
						B * (C Thru F)		H * (G/60)
LOOP COORD INSTALL WITHOUT TESTING FIRST - INSTALL (con't)								
Subtotal - INTERCONNECT SERVICE CENTER (ISC) - OUTSOURCER						2.79		\$1.05
-LOOP PROVISIONING CENTER (LPC)								
<i>.15 weighting is probability a Loop order will fall out for manual assistance.</i>								
Clear RMA (Request for manual assistance)	11.25	0.150				1.69	\$40.62	\$1.14
Subtotal - LOOP PROVISIONING CENTER (LPC)						1.69		\$1.14
-DESIGN								
<i>Probabilities are % manual work required.</i>								
Order handling/screening	5	0.100				0.50	\$44.92	\$0.37
GOC (Generic Order Control) order log	6	0.100				0.60	\$44.92	\$0.45
Enter WA (Work Authorization) mask	5	0.100				0.50	\$44.92	\$0.37
Prepare loop input/DRI (Design Related Information)	5	0.150				0.75	\$44.92	\$0.56
Circuit design	12	0.100				1.20	\$44.92	\$0.90
Distribute WORD (Work Order Record Detail) document	2	0.050				0.10	\$44.92	\$0.07
Subtotal - DESIGN						3.65		\$2.73
-CENTRAL OFFICE RESOURCE ADMINISTRATION CENTER (CORAC)								
Screen order	1	1.000				1.00	\$40.62	\$0.68
Load work request to technician	0.2	1.000				0.20	\$40.62	\$0.14
Subtotal - CENTRAL OFFICE RESOURCE ADMINISTRATION CENTER (CORAC)						1.20		\$0.81
-CENTRAL OFFICE FRAMES								
<i>2 probability is for cross-connects placed at Main Distributing Frame and Interconnect Distribution Frame</i>								
<i>0.3 probability represents the forward-looking percentage of new loop orders.</i>								
<i>0.7 probability represents the forward-looking percentage of re-use (existing) loop orders.</i>								
Analyze order	5	1.000				5.00	\$48.80	\$4.07
Complete cross-connect	4	2.000				8.00	\$48.80	\$6.51
Pre-service Connecting Facility Arrangement (CFA) Dial tone check	4	1.000				4.00	\$48.80	\$3.25
Complete loop qualification	2	1.000	0.300			0.60	\$48.80	\$0.49
Record Designed, Verified, Assigned (DVA) test results	2	1.000	0.300			0.60	\$48.80	\$0.49
Post DVA work complete is WFA-DI (Work Force Administration - Dispatch In Module)	2	1.000				2.00	\$48.80	\$1.63
Analyze Due Date, WFA-DI work request	2	1.000	0.700			1.40	\$48.80	\$1.14
Due Date pre-service CFA dial tone check	4	1.000	0.700			2.80	\$48.80	\$2.28
Complete Due Date lift and lay process	3	1.000	0.700			2.10	\$48.80	\$1.71
Set up of due date test with I&M tech	2	1.000	0.300			0.60	\$48.80	\$0.49
Post Due Date work complete in WFA-DI	2	1.000	0.700			1.40	\$48.80	\$1.14
Subtotal - CENTRAL OFFICE FRAMES						28.50		\$23.18

NONRECURRING COST DETAIL SUMMARY

Study Name: MINNESOTA COST DOCKET 2006 NONRECURRING COST STUDY 9540
Study Year: 2006
Analyst: Deffley

Page 111 Of 516
NRC Version: 3.57
Date: 12/15/06

State: Minnesota

Work Item A	Time Minutes B	Prob #1 C	Prob #2 D	Prob #3 E	Prob #4 F	Applied Time (Minutes) G	Labor /Hour H	Cost I
						B * (C Thru F)		H * (G/60)
LOOP COORD INSTALL WITHOUT TESTING FIRST - INSTALL (con't)								
-LOAD RESOURCE ADMINISTRATION CENTER (LRAC)								
<i>0.3 probability represents forward-looking percentage of loop orders requiring a dispatch.</i>								
Screen order	2	1.000	0.300			0.60	\$40.62	\$0.41
Load/Dispatch work request to technician	5	1.000	0.300			1.50	\$40.62	\$1.02
Closeout work request with Technician, complete work in WFA-DC	3	1.000	0.300			0.90	\$40.62	\$0.61
Subtotal - LOAD RESOURCE ADMINISTRATION CENTER (LRAC)						3.00		\$2.03
-INSTALLATION/FIELD TECHNICIAN								
<i>0.35 probability is percent of time access/sai point and service terminal work required.</i>								
<i>.8 probability is percent of orders requiring due date dispatch because CLEC did not accept order completion on pre-survey date</i>								
<i>0.3 probability represents forward-looking percentage of loop orders requiring a dispatch.</i>								
<i>.5 probability is percent not capitalized.</i>								
<i>.5 probability is percent of time customer contact required on pre-survey date.</i>								
Analyze work request - pre survey date	1	1.000			0.300	0.30	\$57.18	\$0.29
Analyze work request - due date	1	1.000		0.800	0.300	0.24	\$57.18	\$0.23
Travel time to end user premises - pre survey date	21	1.000			0.300	6.30	\$57.18	\$6.00
Travel time to end user premises - due date	21	1.000		0.800	0.300	5.04	\$57.18	\$4.80
Access Point/Serving Area Interface work	13	0.350			0.300	1.37	\$57.18	\$1.30
Service Terminal	15	0.350	0.500		0.300	0.79	\$57.18	\$0.75
Customer Contact - pre survey	5	0.500			0.300	0.75	\$57.18	\$0.71
Customer Contact - due date	5	1.000		0.800	0.300	1.20	\$57.18	\$1.14
Contact Implementor (QCCC) to advise of arrival to perform work- due date	3	1.000			0.300	0.90	\$57.18	\$0.86
I & M Technician performs installation work activity - pre survey date	15	1.000			0.300	4.50	\$57.18	\$4.29
I & M Technician performs installation work activity - due date	10	1.000		0.800	0.300	2.40	\$57.18	\$2.29
Contact Implementor - pre survey date	3	1.000			0.300	0.90	\$57.18	\$0.86
Contact Implementor - due date	3	1.000		0.800	0.300	0.72	\$57.18	\$0.69
Clsoe work with Dispatch	3	1.000			0.300	0.90	\$57.18	\$0.86
Subtotal - INSTALLATION/FIELD TECHNICIAN						26.30		\$25.07
-PROJECT COORDINATOR								
<i>.65 probability is percent LX-- loops.</i>								
<i>.35 probability is percent LX-N and above loops.</i>								
<i>.15 probability is percent of LX-- requiring testing</i>								
<i>0.3 probability represents the forward-looking percentage of new loop orders.</i>								
Screen WFA (Work Force Administration) for order accuracy	4	1.000				4.00	\$44.92	\$2.99
Verify LNO (Local Network Operation) completion	2	1.000				2.00	\$44.92	\$1.50
Coordinate/assemble parties to work order	5	1.000				5.00	\$44.92	\$3.74
Complete performance testing LX-- loops	8	0.650	0.150	0.300		0.23	\$44.92	\$0.18
Complete performance testing LX-N and above loops	20	0.350		0.300		2.10	\$44.92	\$1.57
Document test results	3	1.000		0.300		0.90	\$44.92	\$0.67
Notify customer/co-provider of work completion	4	1.000				4.00	\$44.92	\$2.99

NONRECURRING COST DETAIL SUMMARY

Study Name: MINNESOTA COST DOCKET 2006 NONRECURRING COST STUDY 9540
Study Year: 2006
Analyst: Deffley

Page 112 Of 516
NRC Version: 3.57
Date: 12/15/06

State: Minnesota

Work Item A	Time Minutes B	Prob #1 C	Prob #2 D	Prob #3 E	Prob #4 F	Applied Time (Minutes) G B * (C Thru F)	Labor /Hour H	Cost I H * (G/60)
LOOP COORD INSTALL WITHOUT TESTING FIRST - INSTALL (con't)								
Post order complete in WFA/C (Work Force Administration - Control Module)	3	1.000				3.00	\$44.92	\$2.25
Subtotal - PROJECT COORDINATOR						21.23		\$15.90
Total For Service:						91.15		\$73.86

MINNESOTA

DECEMBER

2006

DOCUMENTATION

BOOK

**UNBUNDLED
LOOP
DS0**

INTERCONNECT SERVICE CENTER

Serves as the primary order provisioning contact for Competitive Local Exchange Carrier (CLEC) customers who purchase unbundled network elements products and services (i.e. Unbundled Loop, Unbundled Lineside Port, Resale) from Qwest.

The center provides end-to-end order coordination from request through order completion and serves as the primary liaison for the customer for all downstream organizations.

**UNBUNDLED LOOP
PROCESS, TIME ESTIMATES, PROBABILITIES**

Date: November 21, 2006
From: Mary Madill
Title: Manager-Service Delivery
Interconnect Service Center

NOTE:
50% of orders are processed by Qwest. 50% of orders are processed by Outsourcer - Arizona
Outsourcer labor rate - \$22.50

INSTALL

Work activity begins:	May include these tasks:	First (minutes)	Ea. Addl (minutes)	Probability of occurrence (%)
Receive LSR	Reviews LSR for completeness and accuracy, contractual entries (analyze request to determine co-provider, type of order and installation option)	3		100
	Verifies CFA or facility/circuit availability	1		5
	Exchange Info-Obtain Central Office, name, address and office type, Access Telephone Address Guide to obtain the central office address	4		100
	CPPD-lookup billing USOC's for co-provider	2		100
	Summary Bill List-Look up BTN#, tax code, and Bill date	2		100
	Analyzes request to determine the co-provider, type of order and installation option.	2.5		100
	Verify Qwest end user Customer Service Record to determine if order issuance is applicable to provide the product. If applicable, may include rejecting the LSR.	N/A		
	Determine if the end user has Qwest directory advertising	N/A		
	Determine if the end user has Qwest retail contract	N/A		
	Determine critical dates	1		100
Issue appropriate forms and/or orders	If there is either directory advertising or a retail contract or both, issue the order to remove the information from the account. An estimate of 50% of the accounts will have these.	1.5		50
Customer Request Management (CRM)	Populate required fields	3	3	100
Review FOC	Type, review and submit to customer the Firm Order Confirmation (FOC)	3		100
Issue service order	Input unbundled loop order into service order processor (manually typing and formatting of all order for billing and provisioning of the loop)	9.5	4.5	100
Service Order Analysis & Control (SOAC/SOP)	Ensure order is successfully distributed to the systems and is ready for provisioning	3	3	100
Call Handling	Includes handling calls from other departments working the order.	5	1	60
Error on Service Order (ESOI)	Handling of problems on the LSR, provisioning issues such as conditioning, facility problems, cable & pair, and typing problems handled by the center.	5	1	8

DISCONNECT				
Work activity begins:	May include these tasks:	Time used: (minutes)		
Receive LSR	Reviews LSR for completeness and accuracy, validate circuit belongs to the co-provider	3		100
	Verifies existing account (accesses CSR in BOSS/CARS) and obtains closing bill address if applicable	2		100
Review FOC	Type, review and submit to customer the Firm Order Confirmation (FOC)	2		100
Issue service order	Input disconnect of loop order into the service order processor (manually typing and formatting of all order for billing and provisioning of the loop)	9.5	4.5	100
Customer Request Management (CRM)	Populate required fields	3	3	100
Service Order Analysis & Control (SOAC/SOP)	Ensure order is successfully distributed to the systems and is ready for provisioning	3	3	100

The times described in this chart are for all unbundled loops. These times are based on the projected savings with the order creation by IMA and increased experience level in the ISC. IMA does not create a complete order for all types of Unbundled Loop; some manual typing is required.

The Job Title and Job Function/Account Code for the individuals performing these tasks is:
SDC (Service Delivery Consultant) Job function code 6623.123
ISC Work Time for Unbundled Loops

Key Assumptions:

- The times documented are forward looking.
- The times documented here are average times.
- They do not reflect problems encountered during the processing of the service order.
- They do not include supplements to the initial order.
- These estimates do not include any maintenance or repair time.
- IMA partial order creation. IMA will create a portion of the service order and may vary by Unbundled Loop product.



Service Performance Indicator Definitions (PID)

14-State 271 PID Version 6.0

December 18, 2003

**PO-2
ELECTRONIC FLOW-THROUGH**

<p>Purpose: Monitors the extent Qwest's processing of CLEC Local Service Requests (LSRs) is completely electronic, focusing on the degree that electronically-transmitted LSRs flow directly to the service order processor without human intervention or without manual retyping.</p>	
<p>Description: PO-2A - Measures the percentage of all electronic LSRs that flow from the specified electronic gateway interface to the Service Order Processor (SOP) without any human intervention.</p> <ul style="list-style-type: none"> • Includes all LSRs that are submitted electronically through the specified interface during the reporting period, subject to exclusions specified below. <p>PO-2B – Measures the percentage of all flow-through-eligible LSRs ^{NOTE 1} that flow from the specified electronic gateway interface to the SOP without any human intervention.</p> <ul style="list-style-type: none"> • Includes all flow-through-eligible LSRs that are submitted electronically through the specified interface during the reporting period, subject to exclusions specified below. 	
<p>Reporting Period: One month</p>	<p>Unit of Measure: Percent</p>
<p>Reporting Comparisons: CLEC aggregate, individual CLEC</p>	<p>Disaggregation Reporting: Statewide level (per multi-state system serving the state). Results for PO-2A and PO-2B will be reported according to the gateway interface* used to submit the LSR: 1 LSRs received via IMA-GUI 2 LSRs received via IMA-EDI</p> <p>*CO also reports an aggregate of IMA-GUI and IMA-EDI results.</p>
<p>Formula: PO-2A = [(Number of Electronic LSRs that pass from the Gateway Interface to the SOP without human intervention) ÷ (Total Number of Electronic LSRs that pass through the Gateway Interface)] x 100</p> <p>PO-2B = [(Number of flow-through-eligible Electronic LSRs that actually pass from the Gateway Interface to the SOP without human intervention) ÷ (Number of flow-through-eligible Electronic LSRs received through the Gateway Interface)] x 100</p>	
<p>Exclusions:</p> <ul style="list-style-type: none"> • Rejected LSRs and LSRs containing CLEC-caused non-fatal errors. • Non-electronic LSRs (e.g., via fax or courier). • Records with invalid product codes. • Records missing data essential to the calculation of the measurement per the PID. • Duplicate LSR numbers. (Exclusion to be eliminated upon implementation of IMA capability to disallow duplicate LSR #'s.) • Invalid start/stop dates/times. 	

**PO-2
ELECTRONIC FLOW-THROUGH**

<p>Product Reporting:</p> <ul style="list-style-type: none"> • Resale • Unbundled Loops (with or without Local Number Portability) • Local Number Portability • UNE-P (POTS) • Line Sharing 	<p>Standards: PO-2A: CO: CO PO-2B benchmarks minus 10 percent NOTE 2</p> <p>All Other States: Diagnostic PO-2B: NOTE 2</p>	
	Resale:	95%
	Unbundled Loops:	85%
	LNP:	95%
	UNE-P:	95%
Line Sharing:	Diagnostic NOTE 3	
<p>Availability: Available (except as follows):</p> <p>Line Sharing – beginning with Jul 04 data on the Aug 04 report</p>	<p>Notes: 1. The list of LSR types classified as eligible for flow through is contained in the “LSRs Eligible for Flow Through” matrix. This matrix also includes availability for enhancements to flow through. Matrix will be distributed through the CMP process.</p> <p>2. In Colorado the standard for PO-2 is considered met if the standard for either PO-2A or PO-2B is met. For both PO-2A and PO-2B, the benchmark percentages shown apply to the aggregations of PO-2A-1 and PO-2A-2 (i.e., the combined PO-2A result) and of PO-2B-1 and PO-2B-2 (i.e., the combined PO-2B result).</p> <p>3. The standard and future disaggregated reporting of the Line Sharing product is TBD, pending resolution of TRO issues.</p>	

LOOP PROVISIONING CENTER (LPC)

Utilizing the Facility Assignment Control System (FACS), ensures customer service order activity is provisioned with outside plant and central office facilities. FACS automatically processes the order with the facilities assignments.

Assignment Consultants are responsible for FACS component exception messages. A Request for Manual Assistance (RMA) is generated when all conditions for a customer service cannot be met. The assignment consultant resolves the RMA and the order is placed back into the system.

NONRECURRING COST STUDY SUPPORT DOCUMENTATION

PRODUCT: Unbundled Loop, Subloop, Enhanced Extended Loop, Loop-Mux
 WORK CENTER: LOOP PROVISIONING CENTER
 DATE: JULY 21, 2004
 SOURCE: GARY STACY
 TITLE: LEAD PROCESS ANALYST
 PHONE: 303-707-3277

ASSUMPTIONS: The average clearing time shown is an objective. Average clearing time per RMA includes all order types: inward, outwa and changes as well as single and multi-line requests. Specific objectives have not been established for inward/change or outward activity.

INSTALL			
WORK ITEM	WORK ACTIVITY DESCRIPTION / DETAIL(Define Acronyms)	TIME ESTIMATE (MINUTES)	PROBABILITY OF MANUAL OCCURRENCE POTS(%) PROBABILITY OF MANUAL OCCURRENCE DESIGNED(%)
1	Clear RMA (Request for Manual Assistance)	11.25	15 40
DISCONNECT			
WORK ITEM	WORK ACTIVITY DESCRIPTION / DETAIL(Define Acronyms)	TIME ESTIMATE (MINUTES)	PROBABILITY OF OCCURRENCE POTS(%) PROBABILITY OF OCCURRENCE DESIGNED(%)
1	Clear RMA (Request for Manual Assistance)	11.25	15 40

PROCESS DETAILS

The LPC is responsible for ensuring customer service order activity is provisioned with outside plant and central office facilities in a timely and accurate manner. The Facility Assignment Control System (FACS) which is comprised of components; Service Order Analysis and Control (SOAC), Position Analysis Workstation (PAWS), Loop Facilities Assignment and Control (LFACS) and SWITCH is the provisioning application supported by the LPC. Assignment Consultants are the employees responsible for FACS component exception messages.

Brief descriptions of the FACS components are:

SOEC - maintains control and status information on all service order requests, as well as the input image and certain data resulting from processing. This system interfaces with the service order processor (SOP) and the other service provisioning systems. SOAC generates assignment requests to LFACS for outside plant and to SWITCH for central office facilities. After assignments are made, SOAC receives responses from LFACS and SWITCH, merges and formats this data into a service order assignment section and automatically returns it to the SOP. SOAC sends the formatted assignments to Work Force Administration/Dispatch Out (WFA/DO). For switched customer service requests SOAC sends the telephone number, office equipment and features to MARCH for translation to the physical switch.

PAWS - a software system linked to SOAC to receive messages on service order activity. The primary function of PAWS is to distribute exception messages to Assignment Consultants for resolution.

LFACS - maintains a mechanized inventory of outside plant facilities (i.e., customer addresses, cables, cable pairs, cross box and customer serving terminals, assembled loops and loop makeup) and assigns the outside plant facilities to assignment requests received from SOAC. LFACS also generates work sheets for cable transfers and reconcentrations. These activities are updated mechanically upon notification of completion. In addition, LFACS is used to make repair changes to working customer service.

SWITCH - used to inventory and assign central office switching equipment and related facilities i.e., range extension equipment, tie pairs and bridge lifters. Assignment requests are received from SOAC after successful LFACS assignments are made.

When all conditions for a customer service request cannot be met by the FACS components a Request for Manual Assistance (RMA) is generated. An RMA indicates service order processing has been stopped. The RMA identifies the reason the service order cannot be automatically processed, the FACS component that failed processing and provides an image of the customer service request.

All RMAs are sent from SOAC to PAWS. PAWS places the RMAs into a 'next work package' queue. Assignment Consultants using an intelligent work station (IWS) terminal access PAWS to retrieve RMAs for resolution. Assignment Consultants are trained to resolve all RMA types for all service requests. Meaning, they can resolve exception messages for POTS, non-designed specials, specials and Wholesale product/services(s) service order activity. The objective for RMA resolution per Assignment Consultant is forty (40) per day.

Qwest has developed two (2) applications which utilize artificial intelligence to resolve various RMAs. The applications are ARMAR (Automatic RMA Resolution) and APP (Automated Provisioning Platform). ARMAR is used to resolve working left-in RMAs. APP resolves RMAs which are a result of; exact match for address cannot be found, no available/compatible cable facilities, restricted terminals and loop makeup not available. These applications have reduced the number of RMAs sent to Assignment Consultants for resolution. Assignment Consultants will get these RMAs only if the artificial intelligence applications cannot resolve.

FACS flow through objectives have been established for; total customer service requests, special service orders and artificial intelligence (mechanical) applications. The **overall flow through objective** is based on total service order volume that includes; POTS, non-designed specials, coin, specials, Wholesale product/service(s) and artificial intelligence applications. **Individual flow through objectives** have been established for Special Services (orders provisioned in TIRKS) and artificial intelligence RMA resolution. **No individual flow through objectives** have been established for POTS, non-designed specials, coin or Wholesale product/service(s). The flow through and RMA objectives consider all order activity types: inward, outward and change as well as, single and multi-line requests. There is a single objective for Assignment Consultant RMA resolution, this objective does not differentiate between type of customer service requests (inward, outward, change) or number of lines per requests.

DESIGN

- Overall responsibility for RID (Record Issue Date) completion.
- Upholding Qwest design standards
- Assigns interoffice facilities and equipment at the circuit level
- Prepares and distributes WORD (Work Order Record Detail) including DLR (Design Layout Record).
- Ensures that TIRKS (Trunks Integrated Record Keeping System) designs meet the customer expectations.
- Escalates as necessary to ensure pre-RID dates are met.
- Advises Qwest sales forces or order originators of jeopardies as they are discovered.
- Maintains TIRKS database integrity by making design changes as they occur (i.e. cable pair changes, etc.)

ANALOG LOOP PROCESS - DESIGN

SOURCE : Don Bergman, Lead Process Analyst DATE: JULY 27, 2004	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE		BASIC WITH COOPERATIVE		COORDINATED WITH COOPERATIVE		PERCENT MANUAL PROBABILITY
	F	EA	F	EA	F	EA	F	EA	F	EA	
INSTALL	PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		
1. Order handling and Screening: Check the order for accuracy Check Service Order Analysis and Control (SOAC) for Request for Manual Assistance Verify A and Z Location in RDLOC Screen (TIRKS) Access Trunks Integrated Record Keeping System (TIRKS) Check order to see if it's coordinated or basic Call Originator if order needs any changes	5	5	5	5	5	5	5	5	5	5	10
2. Generic Order Control (GOC) Order Logging: Access TIRKS (Work Authorization WA, PCFLOW, and GCNOTE) to find any errors in TIRKS Verify Order in Service Processor Screen and Log GOC Put remarks in GCNOTE Order Manually Logged	6	6	6	6	6	6	6	6	6	6	10
3. Enter WA Mask Check Availability of Facilities in TIRKS (Verify if customer owned facility is available for use) Add required Data to WA screen Verify that WA Screen Matches Service Order Manually input WA Screen	5	5	5	5	5	5	5	5	5	5	10
4. Prepare Loop/Design Related Information (DRI) Screen Verify that Loop Facilities Assignment and Control System (LFACS) Assignment & TIRKS Agree Check information on LPADM, DRI, Loop2 and CD Screen Resolve Design Related Information (DRI) Errors Resolve Local Loop Errors Manually load LPADM, DRI, LOOP2, and CD Screen	5	5	5	5	5	5	5	5	5	5	15

	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE		BASIC WITH COOPERATIVE		COORDINATED WITH COOPERATIVE		PERCENT MANUAL PROBABILITY	
	F	EA	F	EA	F	EA	F	EA	F	EA		
	PER ORDER	MINUTES	PER ORDER	MINUTES	PER ORDER	MINUTES	PER ORDER	MINUTES	PER ORDER	MINUTES		
5. Circuit Design	12	12	12	12	12	12	12	12	12	12		10
Check GCNOTE or PCFLOW for error												
Resolve Facility, Assignment or Equipment Issues with Communication Processor (CP)												
Resolve Circuit Detail Errors												
Build Circuit Detail Document												
Jeopardize and Escalate Order												
6. Distribute Word Document	2	2	2	2	2	2	2	2	2	2		5
Distribute Design Document												
Resolve any Distribution Errors												
Issue Design Layout Record (DLR)												
Issue Word Document												

	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE		BASIC WITH COOPERATIVE		COORDINATED WITH COOPERATIVE		PERCENT MANUAL PROBABILITY	
	F	EA	F	EA	F	EA	F	EA	F	EA	F	EA
	PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES			
DISCONNECT												
1. Order Handling and Screening:												
Check for Order Accuracy	5	5	5	5	5	5	5	5	5	5	5	10
Check SOAC for RMA's												
Verify A & Z Location in RDLOC												
Access TIRKS for Circuit information												
2. GOC Order Logging:												
Access TIRKS (WA, PCFLOW, and GCNOTE) for any errors	6	6	6	6	6	6	6	6	6	6	6	10
Verify Order in Service Processor												
Screen and Log GOC												
Put remarks in GCNOTE that order was manually logged.												
3. Enter WA Mask												
Verify Facilities in TIRKS	5	5	5	5	5	5	5	5	5	5	5	10
Add required data to WA Screen Matches Service Order												
Verify that WA Screen matches Service Order												
Manually input WA Screen												
4. Disconnect Circuit:												
Check GCNOTE or PCFLOW for any errors	5	5	5	5	5	5	5	5	5	5	5	10
Resolve Facility, Assignment or Equipment issues with CP												
Resolve Circuit Detail Document												
Jeopardize and Escalate Order												
5. Distribute Word Document:												
Resolve any Distribution Errors	2	2	2	2	2	2	2	2	2	2	2	5
Issue DLR												
Issue Word Document												

CENTRAL OFFICE RESOURCE ADMINISTRATION CENTER (CORAC)

Utilizes Work Force Administration/Dispatch In (WFA/DI) to build installation daily service order logs. Monitors and logs service order progress and completion in WFA/DI.

Re-loads and re-schedules service orders that cannot be completed.

DATE: JULY 30, 2004 SOURCE: JIM BARGANSKI TITLE: MANAGER PROCESS MANAGEMENT										
CORAC	Basic Installation									
	Each Additional									
	Basic Installation with Performance Testing									
	Each Additional									
	Basic Installation with Cooperative Testing									
	Each Additional									
	Coordinated Installation with Cooperative Testing									
	Each Additional									
	Coordinated Installation with No Testing									
	Each Additional									
2 WIRE OR 4 WIRE ANALOG LOOP										
1. Screen Handoff	NA	NA	NA	NA	1 min	1 min	1 min	1 min	1 min	1 min
2. Load work request to Technician	NA	NA	NA	NA	.2 min	.2 min	.2 min	.2 min	.2 min	.2 min

1. Screen work request.

The Load Specialist screens the work request for the installation option. If no coordinated time, the work item is loaded to any qualified technician for the day tour. If the item requires a specific time, a call must be made to verify the COT is aware and available in the loading phase. No handoffs are allowed to CRON load.

2. Load work request to COT.

The Load Specialist locates a qualified and available technician. If all day hand off, load to technician. If specific appointment, call and load technician.

CENTRAL OFFICE

Responsible for service connection in the central office and associated testing and administrative functions. Places cross-connects (jumpers), performs cross-office testing, and provides support to field installation and control center for circuit testing as required.

DISPATCH

Local Resource Administration Center (LRAC)

Using Work Force Administrator/Dispatch Out (WFA/DO)

- Builds Installation Technician daily service order/trouble ticket log
- Monitors service order/trouble ticket progress (start and stop)
- Logs service order/trouble ticket completion in WFA/DO
- Re-loads/re-schedules service orders/trouble tickets that could not be completed for various reasons i.e., no access to customer premise, plant facility problems, etc.

FOR ALL UNBUNDLED ELEMENT ORDERS THAT REQUIRE DISPATCH to Field		
	FIRST	EA ADDL
1. Screen Order	2 min	2 min
2. Load/Dispatch work request to Technician	5 min	1 min
3. Closeout work request with Technician, complete work in WFA-DO	3 min	3 min

SOURCE:

**Susan Fabschutz - Process
Jul-04**

LRAC work activity descriptions

1. Screen Order

Continuously monitoring DOLST (WFADO Work List)

Validate load to identify PLD status in WFADO for loadable/dispatchable work items.

Match and Merge work items.

Resolve any exceptions in WFADO

Balance workload.

Move resources as necessary to meet critical dates.

2. Load Work Request to Technician

Manually build technician's load

Prioritize technician's load

Load item to technician

Dispatch technician on work item.

Note OSSLOG with status.

3. Close out Work Request

Create handoff ticket to other department when applicable, i.e. Constructions, Cable maintenance

Note OSSLOG with status

Add additional USOCs as needed

Escalate or put order in jeopardy as necessary

Complete order in WFADO

Access WFADO DOCOMP screen

Complete order with accurate information

8/2/2004

Product Management - Cindy Buckmaster, Bob Mohr estimate that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.

INSTALLATION

Performs necessary field work on new orders and changes to existing service including:

- Travel to customer premises
- Cross-connect activity at feeder plant to distribution plant field locations
- Customer premises work activities to connect circuit at the network interface
- Circuit testing as required
- Order completion with LRAC

INSTALLATION		UNBUNDLED LOOP - ANALOG AND HICAP									
DATE: JULY 30, 2004		BASIC #		COORDINATED WITHOUT TESTING #		BASIC WITH PERFORMANCE		BASIC WITH COOPERATIVE		COORDINATED WITH COOPERATIVE	
SOURCE: Alan Braegger		F	EA	F	EA	F	EA	F	EA	F	EA
TITLE: SENIOR PROCESS MANAGER		PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER
INSTALL		MINUTES	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES
1. Analyze work request - pre-survey date.**		1	0	1	0	1	0	1	0	1	0
1. Analyze work request - due date.		1	0	1	0	1	0	1	0	1	0
The I&M Technician accesses the WORD/CDOC document.											
The I&M Technician determines what work requirements are associated to the assignment or equipment to the work order.											
The I&M Technician verifies the Circuit Design is accurate.											
2. Travel time to end user premises - pre-survey date.**											
2. Travel time to end user premises - due date.		21	0	21	0	21	0	21	0	21	0
Includes time to drive to Access Point or Serving Area Interface and End User premises, including service terminal as required.											
3. Access Point/Serving Area Interface work (as required-24%, probability)		13	10	13	10	13	10	13	10	13	10
Travel to AP/ISAI Box.											
Test and verify in and out facilities are acceptable for service.											
Place Cross-Connect.											
4. Service Terminal (as required-24% probability, 50% reconnect vs. new)		15	10	15	10	15	10	15	10	15	10
Travel to Service Terminal											
Test and verify the facilities (f2) and Buried Service Wire.											
Place Drop Wire termination.											
5. Customer contact - pre-survey (required 50% of the time).**		5	0	5	0	5	0	5	0	5	0
5. Customer contact - due date.		5	0	5	0	5	0	5	0	5	0
Notify customer at premises of work to be performed.											
6. Contact Implementor (QCCC) - due date.		3	0	3	0	3	0	3	0	3	0
I&M Technician contacts Implementor to update logs to note that Technician arrived on premise to perform work.											
7. I&M Technician performs installation work activity - pre-survey date.**		15	10	15	10	15	10	15	10	15	10
7. I&M Technician performs installation work activity - due date..		15	10	15	10	15	10	15	10	15	10
Installs NI (Network Interface) if required.											
Terminates CLEC IW, if can be done in less than 10 minutes, if available.											
Performs all Core Tests.											
Performs any other tests required by Circuit Type.											
8. Contact Implementor - pre-survey date.**		3	0	3	0	3	0	3	0	3	0
8. Contact Implementor - due date.		3	0	3	0	3	0	3	0	3	0
I&M Technician contacts Implementor to report all Core Tests results.											
Update all Core Tests in the OSSLOG.											
Report to Implementor where the NI is located and if circuit is tagged											

UNBUNDLED LOOP - ANALOG AND HICAP									
BASIC #	COORDINATED WITHOUT TESTING #			BASIC WITH PERFORMANCE			BASIC WITH COOPERATIVE		
	F	EA	EA	F	EA	EA	F	EA	EA
	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES	PER ORDER MINUTES
0	0	0	0	0	0	0	10	0	0
<p>INSTALL</p> <p>9. Implementor assembles all of the parties needed to perform cooperative test. Time spent to gather all parties to work order I&M technician will wait no more than 30 minutes for this coordination to take place prior to pulling off to perform other work CLEC accepts or rejects order.</p> <p>10. Perform Required Testing with CLEC (Cooperative Orders) Perform technical specification/Core Test as required. Includes cooperative testing with CLEC as required. Does not include additional cooperative testing that may be requested by CLEC. I&M Technician handling off the order in WFA C to the Implementor</p> <p>11. Close work item with Dispatch. I&M Technician contacts LRAC and closes order in WFA-DO.</p>									
0	0	0	0	0	0	0	15	10	10
3	1	3	1	3	1	3	1	3	1

FOOTNOTES

Activities apply if option ordered is for new service.
 ** It is estimated that 20% of loop orders will be completed on pre-survey date. It is estimated that customer contact occurs 50% of the time on pre-survey date. Product Management - Cindy Buckmaster estimates that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.

**% DEDICATED
INSIDE
PLANT (DIP)
REPORT**

LARG Switch OE Inventory Reports			
Local Network			
Data as of Sunday, April 2, 2006			
Monthly Totals			
		<u>MONTHLY</u>	
		<u>TOTALS</u>	<u>MEASUREMENTS</u>
OE COUNTS	_OE	6-Apr	11,425,841
	DIPS	6-Apr	4,757,446
	_OE	6-Mar	11,451,357
	DIPS	6-Mar	4,739,031
	_OE	6-Feb	11,515,085
	DIPS	6-Feb	4,700,667
	_OE	6-Jan	11,570,933
	DIPS	6-Jan	4,667,701
	_OE	5-Dec	11,632,202
	DIPS	5-Dec	4,633,531
	_OE	5-Nov	11,688,787
	DIPS	5-Nov	4,618,280
	_OE	5-Oct	11,735,223
	DIPS	5-Oct	4,589,588
	_OE	5-Sep	11,802,406
	DIPS	5-Sep	4,533,478
	_OE	5-Aug	11,849,091
	DIPS	5-Aug	4,501,389
	_OE	5-Jul	11,897,073
	DIPS	5-Jul	4,469,645
	_OE	5-Jun	12,008,403
	DIPS	5-Jun	4,412,124
	_OE	5-May	12,086,526
	DIPS	5-May	4,367,791
	_OE	5-Apr	12,179,349
	DIPS	5-Apr	4,303,053
		TOTAL OE	152,842,276
		TOTAL DIPS	59,293,724
		% (DIP)	0.39
		(DEDICATED INSIDE PLANT)	

**MECHANIZED
INSTALLATION
HISTORY
REPORTING
(MIHR)
REPORT**

Field Cross Connect and New-Reuse Percentage

MIHR REPORT IO FOR CODE:3 NAME: COMPANY RES AND BUS					
TITLE: BSA PXJ REPORT FOR RES & BUS					
REPORTING PERIOD: 01/01/05 THROUGH 12/31/05					
MARCH 2006					
Product Management - Cindy Buckmaster estimates that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.					
STATE	STATE	# INWRD LNS	# PXJ	% PXJ	
41A	AZ	791843	362465	46%	
41B	NM	254218	108792	43%	
41C	CO	804556	331798	41%	
41D	WY	67492	23296	35%	
43A	OR	469910	126166	27%	
43B	WA	856478	205533	24%	
43C	UT	321011	127192	40%	
43D	MT	94959	30727	32%	
43E	ID	151503	69856	46%	
45A	MN	438728	125914	29%	
45B	NE	77602	17140	22%	
45C	IA	242377	67222	28%	
45D	ND	42474	11535	27%	
45E	SD	44729	10774	24%	
QWEST		4657880	1618410	35%	

PROJECT COORDINATOR

Has overall control responsibility for provisioning, maintaining, coordination and testing of designed services.

Contacts other centers/technicians for the coordinated effort to complete service order activity requirements.

Tests with central office, field installation personnel as necessary.

Provides test results to customer.

Notify customer of work completed

Complete order in required systems (Work Force Administration)

DATE: AUGUST 4, 2004		8/2/2004		Product Management - Cindy Buckmaster, Bob Mohr estimate that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.	
SOURCE: KATHY OCKEN		Product Management - Cindy Buckmaster, Bob Mohr estimate that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.		Product Management - Cindy Buckmaster, Bob Mohr estimate that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.	
TITLE: SENIOR PROCESS ANALYST		Product Management - Cindy Buckmaster, Bob Mohr estimate that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.		Product Management - Cindy Buckmaster, Bob Mohr estimate that forward-looking the percentage of new loops versus reuse will be 30% new, 70% reuse.	
PROJECT COORDINATOR		FORWARD LOOKING UNBUNDLED LOOP ANALOG - New Orders		FORWARD LOOKING UNBUNDLED LOOP ANALOG - New Orders	
		BASIC		BASIC WITH PERFORMANCE	
		COORDINATED WITHOUT TESTING		BASIC WITH COOPERATIVE	
		F EA PER ORDER MINUTES		F EA PER ORDER MINUTES	
		4 4 4 4		4 4 4 4	
		F EA PER ORDER MINUTES		F EA PER ORDER MINUTES	
		4 4 4 4		4 4 4 4	
		F EA PER ORDER MINUTES		F EA PER ORDER MINUTES	
		4 4 4 4		4 4 4 4	
<p>1. Screen WFA/C for Order accuracy. times diff from other products re due to the fact that many tasks are automated in the QCCC Access WFA/C OSSLSST by region by date Access service order directly thru SOP's System</p>					
<p>Check order for the following: Type of Product by circuit detail and USOC, Appointment time for all coordinated orders, if testing is requested, if dispatch is requested, related orders, correct USOC's and remarks in S&E section of order; all "D" orders must have Frame Due Time of 6:00pm for Basic orders and 11:00pm for Coordinated orders, For IPG check all pairs coming off at D</p>					
<p>Load remarks into OSSLSST for all orders and complete out the WSD for each order handed off</p>					
<p>Missing orders on LSR - Check Tirks and Event Tracker and RTT to determine problem. Escalate as needed</p>					
<p>Order writing errors-determine source dept and follow thru to correction and check CRM for original request from the CLEC</p>					
<p>Orders requiring dispatch or meet time need to contact SDC to resolve</p>					
<p>Late drops: Screen and label, load into "Scissors", assign to tester, handoff order, contact LRAC and CORAC for all inside and outside work, notify coach</p>					
<p>Order issued with past due dates: screen and label, contact LRAC request new DD, Input date into "Schedule" date field of OSSOI in the PTD/DD fields and assign to tester</p>					
<p>Load orders into Scissors</p>					
<p>Assign orders to coordinator</p>					
<p>Input orders into schedule by coordinator position number</p>					
<p>handoff all LX-N and above orders to the CCT's to LRAC and CORAC</p>					
<p>Cancel Orders</p>					
<p>Close out Records orders</p>					
<p>Clean up duplicate Pon numbers</p>					
<p>Clean up Duplicate order numbers</p>					
<p>Correct PON numbers in Scissors</p>					

PROJECT COORDINATOR	FORWARD LOOKING UNBUNDLED LOOP ANALOG - New Orders					
	BASIC	COORDINATED WITHOUT TESTING	BASIC WITH PERFORMANCE	BASIC WITH COOPERATIVE	COORDINATED WITH COOPERATIVE	
NEW INSTALL	F EA PER ORDER MINUTES	F EA PER ORDER MINUTES	F EA PER ORDER MINUTES	F EA PER ORDER MINUTES	F EA PER ORDER MINUTES	F EA PER ORDER MINUTES
2A. Verify LNO completion.	2	2	2	2	2	2
The C/I verifies the LNO (Central Office and/or I&M technician has completed the physical work required on the work request for DVA and DD in WFA/C. Typically, DVA will post automatically at the item level once all of the DVA dates have been met at the Circuit If Central Office work has not been completed by the DVA date, the C/I notifies the Central Office to complete their work. The current Designed Services Jeopardy process is then followed. If the physical work cannot be completed, the C/I posts a jeopardy against the DVA date in WFA/C. If the work cannot be completed on DD because the CLEC is not ready, the C/I will place a "C" code jeopardy against the order. The current Designed Services Jeopardy process is then followed. If the work cannot be completed on DD because of a Qwest problem, the C/I will post the appropriate jeopardy code against the DD. The current Designed Services Jeopardy process is then followed. The C/I makes the appropriate remark entries into the WFA/C OSSLOG (Work Request Log).						
2B. Coordinate/ assemble parties to work order If a Coordinated Cut has been requested, the C/I will call the CLEC to receive and "OK" to begin work.	NA	NA	NA	NA	NA	NA
3A. Complete Performance Testing. NOTE: 65% of DS0 are LX- which have the following test times: 0 min for 85% of LX- orders / 8 min for 15% of LX- (testing required for IPG, etc) 35% of DS0 are LX-N and above which have the following test times: 20 min for 100% of LX-N ^ orders In cases where the C/I is able to test, the testing is performed with the DS I&M Technician. The C/I records the test results on the WFA/C OSSCN (Circuit Notes) screen. The tests performed are listed in the Basic QCCC and Coordinated QCCC Job Aids	8 20	8 20	8 20	8 20	8 20	8 20

	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE		BASIC WITH COOPERATIVE		COORDINATED WITH COOPERATIVE	
	F	EA	F	EA	F	EA	F	EA	F	EA
	PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES	
NEW INSTALL	3	3	3	3	3	3	3	3	3	3
3B. Document Performance Testing.										
The C/I monitors and records the test results on the WFAC OSSCN (Circuit Notes) screen. These test results are obtained by the Central Office technician and the DS I&M technician testing the newly provisioned circuit. The tests performed are listed in the Core Test Requirements Documentation										
4. Cooperative Testing	NA	NA	NA	NA	NA	NA	15	15	15	15
The C/I acts as the central contact between the DS I&M technician and the CLEC. The C/I notes the tests performed and enters the result information on the WFAC OSSCN (Circuit Notes) screen. The C/I records any pertinent remarks on the WFAC OSSLOG (Work Request Log).										
5. Notify CLEC of order completion.	4	NA	4	NA	4	NA	4	NA	4	NA
The C/I notifies the CLEC that the work request is completed. The C/I informs the CLEC of any additional charges that will apply. The C/I provides required test result information to the CLEC. The C/I records the CLEC order completion contact information on the WFAC OSSLOG (Work Request Log).										
6. Post order complete in WFAC.	3	3	3	3	3	3	3	3	3	3
times diff from other products re due to the fact that many tasks are automated in the QCCC The C/I posts the Due Date complete on the WFAC OSSOI (Order Installation) screen. The C/I completes any additional remarks on the WFAC OSSLOG (Work Request Log). The C/I completes any required electronic billing or rebates in WFAC. The C/I will send the test results to participating CLECs through the PTA system.										

	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE		BASIC WITH COOPERATIVE		COORDINATED WITH COOPERATIVE	
	F	EA PER ORDER	F	EA PER ORDER	F	EA PER ORDER	F	EA PER ORDER	F	EA PER ORDER
DISCONNECT										
1. Screen WFA/C for Order accuracy. times diff from other products re due to the fact that many tasks are automated in the QCCC Screen OSSLST in WFA/C. Verify information on WORD document in WFA/C. Refer WORD document back to Designer if not accurate Check for CLEC work locations involved on order Enter note if CLEC involved on OSSCN in WFA/C. Check for remote test capability and hand-off to Designer or LNO if appropriate Check to see if item is loaded in WFA-D/DO Assign Critical Dates in WFA/C Enter name and number on DOISWR in WFA/DO	2	2	2	2	2	2	2	2	2	2
2. Contact CLEC Notify CLEC work is complete Add pertinent notes to OSSCN screen in WFA/C If customer is not available, enter the following information on the OSSOI2 screen in WFA/C No customer contact Telephone Number called	2	NA	2	NA	2	NA	2	NA	2	NA
3. Complete circuit in WFA/C Check WFA/C OSSLST for critical events Check DISP for PRE status in WFA/DO Jeopardize and escalate to accommodate customer's need Add additional billing charges in WFA/C on the CMNT/RMK line of the OSSOI Complete order in WFA/C Perform required tests Contact Designer if required	3	3	3	3	3	3	3	3	3	3

DATE: AUGUST 4, 2004		8/2/2004	
SOURCE: KATHY OCKEN		Product MGMT - Cindy Buckmaster, Bob Mohr estimate that forward-looking the % of new loops versus reuse will be 30% new, 70% reuse.	
TITLE: SENIOR PROCESS ANALYST			
PROJECT COORDINATOR			
REUSE	BASIC		BASIC WITH PERFORMANCE
	F	EA	F EA
	PER ORDER	PER ORDER	PER ORDER
	MINUTES	MINUTES	MINUTES
	4	4	4
<p>1. Screen WFAJC for Order accuracy. times diff from other products re due to the fact that many tasks are automated in the QCCC Access WFAJC OSSLSST by region by date Access service order directly thru SOPs System Check order for the following: Type of Product by circuit detail and USOC. Appointment time for all coordinated orders. If testing is requested, If dispatch is requested, related orders, correct USOC's and remarks in S&E section of order, all "D" orders must have Frame Due Time of 6:00pm for reused orders and 11:00pm for coordinated orders, For IPG check all pairs coming off at D Load remarks into OSSLSST for all orders and complete out the WSD for each order handed off Missing orders on LSR - Check Tirks and Event Tracker and RTT to determine problem. Escalate as needed Order writing errors-determine source dept and follow thru to correction and check CRM for original request from the CLEC Orders requiring dispatch or meet time need to contact SDC to resolve Late drops: Screen and label, load into "Scissors", assign to tester, handoff order, contact LRAC and CORAC for all inside and outside work, notify coach Order issued with past due dates: screen and label, contact LRAC request new DD, Input date into "Schedule" date field of OSSOI in the PTD/DD fields and assign to tester Load orders into Scissors Assign orders to coordinator Input orders into schedule by coordinator position number handoff all LX-N and above orders to the CCT's to LRAC and CORAC Cancel Orders Close out Records orders Clean up duplicate Pon numbers Clean up Duplicate order numbers Correct PON numbers in Scissors</p>			
COORDINATED WITHOUT TESTING		COORDINATED WITH TESTING	
F		F EA	
PER ORDER		PER ORDER	
MINUTES		MINUTES	
4		4	

PROJECT COORDINATOR		FORWARD LOOKING UNBUNDLED LOOP ANALOG - Reuse (Existing)			
REUSE	BASIC F EA PER ORDER MINUTES	COORDINATED WITHOUT TESTING F EA PER ORDER MINUTES		BASIC WITH PERFORMANCE F EA PER ORDER MINUTES	
			2 2	2 2	2 2
<p>2A. Verify LNO completion.</p> <p>The C/I verifies the LNO (Central Office and/or I&M technician has completed the physical work required on the work request for DVA and DD in WFA/C. Typically, DVA will post automatically at the item level once all of the DVA dates have been met at the Circuit</p> <p>If Central Office work has not been completed by the DVA date, the C/I notifies the Central Office to complete their work.</p> <p>If the physical work cannot be completed, the C/I posts a jeopardy against the DVA date in WFA/C. The current Designed Services</p> <p>Jeopardy process is then followed.</p> <p>If Dial Tone is not detected by the Central Office Technician and the CLEC is participating in the NDT PTA Notification, then the C/I will send the NDT notification through the PTA system.</p> <p>If the work cannot be completed on DD because the CLEC is not ready, the C/I will place a "C" code jeopardy against the order.</p> <p>The current Designed Services Jeopardy process is then followed.</p> <p>If the work cannot be completed on DD because of a Qwest problem, the C/I will post the appropriate jeopardy code against the DD.</p> <p>The current Designed Services Jeopardy process is then followed.</p> <p>The C/I makes the appropriate remark entries into the WFA/C OSSLOG (Work Request Log).</p>					
	NA NA	5 NA	NA NA	NA NA	NA NA
<p>2B. Coordinate/assemble parties to work order</p> <p>If a Coordinated Cut has been requested, the C/I will call the CLEC to receive and "OK" to begin work.</p>					
	NA NA	NA NA	NA NA	NA NA	NA NA
<p>3A. Complete Performance Testing.</p> <p>In cases where the C/I is able to test, the testing is performed with the DS I&M Technician. The C/I records the test results on the WFA/C OSSCN (Circuit Notes) screen. The tests performed are listed in the Basic QCCC and Coordinated QCCC Job Aids</p>					
PROJECT COORDINATOR		FORWARD LOOKING UNBUNDLED LOOP ANALOG - Reuse (Existing)			

	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE	
	F	EA	F	EA	F	EA
REUSE	PER ORDER MINUTES		PER ORDER MINUTES		PER ORDER MINUTES	
3B. Document Performance Testing. this takes less time for reuse because most documentation is already existing from the new (just updates are noted)	2	2	2	2	2	2
The C/I monitors and records the test results on the WFA/C OSSCN (Circuit Notes) screen. These test results are obtained by the Central Office technician. The tests performed are listed in the Core Test Requirements Documentation						
4. Cooperative Testing (coop on reuse)	NA	NA	NA	NA	NA	NA
The C/I acts as the central contact between the DS I&M technician and the CLEC. The C/I notes the tests performed and enters the result information on the WFA/C OSSCN (Circuit Notes) screen.						
The C/I records any pertinent remarks on the WFA/C OSSLOG (Work Request Log).						
5. Notify CLEC of order completion.	4	NA	4	NA	4	NA
The C/I notifies the CLEC that the work request is completed.						
The C/I informs the CLEC of any additional charges that will apply.						
The C/I provides required test result information to the CLEC.						
The C/I records the CLEC order completion contact information on the WFA/C OSSLOG (Work Request Log).						
6. Post order complete in WFA/C. times diff from other products re due to the fact that many tasks are automated in the QCCC	3	3	3	3	3	3
The C/I posts the Due Date complete on the WFA/C OSSOI (Order Installation) screen.						
The C/I completes any additional remarks on the WFA/C OSSLOG (Work Request Log).						
The C/I completes any required electronic billing or rebates in WFA/C.						
The C/I will send the test results to participating CLECs through the PTA system.						

PROJECT COORDINATOR	FORWARD LOOKING UNBUNDLED LOOP ANALOG - Reuse (Existing)					
	BASIC		COORDINATED WITHOUT TESTING		BASIC WITH PERFORMANCE	
	F	EA	F	EA	F	EA
	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER	PER ORDER
	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES	MINUTES
<p>DISCONNECT</p> <p>1. Screen WFA/C for Order accuracy. times diff from other products re due to the fact that many tasks are automated in the QCCC Screen OSSLST in WFA/C. Verify information on WORD document in WFA/C. Refer WORD document back to Designer if not accurate Check for CLEC work locations involved on order Enter note if CLEC involved on OSSCN in WFA/C. Check for remote test capability and hand-off to Designer or LNO if appropriate Check to see if item is loaded in WFA-DI/DO Assign Critical Dates in WFA/C Enter name and number on DOISWR in WFA/DO</p>	2	2	2	2	2	2
<p>2. Contact CLEC</p> <p>Notify CLEC work is complete Add pertinent notes to OSSCN screen in WFA/C If customer is not available, enter the following information on the OSSO12 screen in WFA/C No customer contact Telephone Number called</p>	2	NA	2	NA	2	NA
<p>3. Complete circuit in WFA/C</p> <p>Check WFA/C OSSLST for critical events Check DISP for PRE status in WFA/DO Jeopardize and escalate to accommodate customer's need Add additional billing charges in WFA/C on the CMNT/RMK line of the OSSOI Complete order in WFA/C Perform required tests Contact Designer if required</p>	3	3	3	3	3	3

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 139

Excerpt from the Direct Testimony of
Dr. Robert Bowman
on behalf of US WEST Communications, Inc.

in

Oregon Docket No. UM 351

*In the Matter of the Investigation into the Cost of Providing
Telecommunications Services*

Filed: August 14, 1995

1
2 6. INCREMENT. The concept of LRIC is based upon an
3 increment that is large enough to capture all
4 relevant changes in the cost of the firm caused by
5 the decision to offer the service or provide the
6 building block.

7
8 7. FACTORS AND LOADINGS. In order to capture cost
9 associated with the provisioning of a building
10 block, factors and investment loadings should be
11 used when costs cannot easily be identified
12 directly. Factors and loadings consist of annual
13 cost factors and investment loadings.
14

15 Q. DOES USWC'S COST METHODOLOGY FOLLOW THE SEVEN COST
16 PRINCIPLES?

17
18 A. Yes, the seven cost principles were followed in
19 completing the cost study support used in Tables I -
20 IV.

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 140

This Exhibit consists of the following documents from the Eschelon-Qwest Minnesota arbitration case (Minnesota Docket No. P-5340, 421/IC-06-768):

- Eschelon-Qwest Minnesota Arbitration Hearing Transcript, Volume IV, pp. 202-209 (Denney).
- Eschelon-Qwest Minnesota Arbitration Hearing Transcript, Volume V, pp. 51-58 (Fagerlund).
- Minnesota Direct Testimony of Douglas Denney (excerpt), pp. 19, 26, and 36.
- Minnesota Rebuttal Testimony of Douglas Denney (excerpt), pp. 8, 10 and 15.
- Minnesota Surrebuttal Testimony of Douglas Denney (excerpt), p. 18.

1 EVIDENTIARY HEARING - VOLUME 4 - OCTOBER 19, 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 19, 2006.
20
21

22 BEFORE: Judge Kathleen Sheehy
23 Judge Steve Mihalchick
24 REPORTER: Angie D. Threlkeld, RPR CRR
25

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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 4			
2	WITNESS		PAGE	
3	JAMES WEBBER			
4	Direct Examination by Mr. Merz		5	
	Cross-Examination by Mr. Devaney		11	
5	Cross-Examination by Ms. Thompson		37	
	Cross-Examination by Ms. Anderson		67	
6	Redirect Examination by Mr. Merz		90	
	Recross-Examination by Mr. Devaney		94	
7	Examination by Judge Mihalchick		96	
	Examination by Judge Sheehy		98	
8	Further Redirect Examination by Mr. Merz		101	
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9	BONNIE JOHNSON			
10	Direct Examination by Mr. Merz		109	
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12	DOUGLAS DENNEY			
13	Direct Examination by Mr. Merz		130	
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18	EXHIBITS:	MRK'D	OFR'D	REC'D
19	33 - Webber Direct	5	11	11
20	34 - Webber Rebuttal	5	11	11
21	35 - Webber Surrebuttal	5	11	11
22	36 - Open Eschelon Proposal 1 and 2 (12.1.5.4.7)	5	11	11
23	37 - Attachment 5 to the Minnesota agreement	43	44	44
24	38 - 10/19/05 Announcement	51	51	51
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 3 40 - Johnson Rebuttal 108 111 111
 4 41 - Johnson Surrebuttal 108 111 111
 5 42 - Denney Direct 129 132 132
 6 43 - Denney Rebuttal 129 132 132
 7 44 - Denney Surrebuttal 129 132 132
 8 45 - Denney Trade Secret
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 10 46 - Proposal regarding
Subject 17, Issue 9-39 129 132 132
 11 47 - Qwest price quote 129 147 147
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1 (Whereupon, Exhibits 33 through 36 were
 2 marked for identification by the
 3 court reporter.)
 4 JAMES D. WEBBER,
 5 After having been first duly sworn, was
 6 examined and testified on his oath as follows:
 7 JUDGE SHEEHY: All right. Good morning,
 8 everyone. It appears we are about to start the
 9 testimony of Mr. Webber.
 10 MR. MERZ: That's correct, Your Honor.
 11 JUDGE SHEEHY: Mr. Merz.
 12 DIRECT EXAMINATION
 13 BY MR. MERZ:
 14 Q Mr. Webber, would you tell us by whom are you
 15 employed?
 16 A QSI Consulting, Inc.
 17 Q What is your business address?
 18 A 4515 Barr Creek Lane in Naperville, Illinois.
 19 Q Do you have in front of you there a document that's
 20 been marked as Exhibit 33?
 21 A I do.
 22 Q Is Exhibit 33 your direct testimony filed in this
 23 case?
 24 A It is.
 25 Q Do you also have a document marked Exhibit 34?

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1 has decided to define these as something that they
 2 are saying they can't define. You're defining them
 3 as your special access availability. It's not clear
 4 to me that Qwest could not provide these like they
 5 do with EELs today over, you know, using the single
 6 circuit ID. It's not clear at all.

7 Q So is it your testimony that Qwest could begin using
 8 single circuit IDs for commingled EELs, it could
 9 begin accepting single local service requests and
 10 use single billing account numbers for commingled
 11 EELs without incurring any costs; is that your
 12 testimony?

13 A Qwest does those things today for loops and
 14 transport combinations, and we believe that Qwest
 15 can do that -- you know, should be able to do that
 16 going forward. Just because we've changed the name
 17 of something shouldn't -- I don't see why that
 18 changes the cost of Qwest providing these
 19 circuits --

20 Q So the answer to my --

21 A -- yes.

22 Q -- question is that we could do all that I just
 23 listed without incurring any costs; is that correct?

24 A And I don't know the any -- the any cost part.
 25 There's -- You know, the name of the product, there

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1 may be -- there may be some minor costs. I don't
 2 see any significant cost to doing that.

3 Q Okay. And that's not based -- Your conclusion about
 4 no cost is not based on any study that you've
 5 conducted; is that correct?

6 A I mean, to -- There's no cost study, because Qwest
 7 is doing it today. So that's -- I mean, I think
 8 I've stated that's the basis of my --

9 Q Okay.

10 A -- the basis of my conclusion.

11 Q I think you were here yesterday for -- I'm changing
 12 the subject now to issue 9-31, access to UNEs, which
 13 I don't think is addressed in your testimony; but
 14 you were the recipient of a punt yesterday. Punt --
 15 I didn't mean that pejoratively. But --

16 A 9-31. What's the ICA section? Can you -- So I can
 17 just refresh myself.

18 Q Bear with me a moment. It --
 19 JUDGE SHEEHY: 9.1.2.
 20 MR. DEVANEY: Thank you.
 21 THE WITNESS: Got it. Thank you.

22 BY MR. DEVANEY:

23 Q This is the proposal that Eschelon has presented
 24 that -- and I'm paraphrasing -- that would establish
 25 that access to UNEs includes moving, adding, or

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1 changing UNEs. Do you recall a discussion about
 2 that yesterday that I had with Mr. Starkey?

3 A Yes.

4 Q What is your understanding, if you have one, of the
 5 activities that are encompassed by the terms moving,
 6 adding, or changing UNEs?

7 A Well, I mean, I just -- I'm going to defer to
 8 Mr. Starkey and his testimony on this issue, but I
 9 believe these are -- these are activities -- moving,
 10 adding, or changing, which is closed language, that
 11 Qwest is going to do these things in the agreement.
 12 I read this as closed. The issue really is about
 13 whether access -- the words about access to or
 14 activities available for I thought is the open part
 15 of that language.

16 Q Well, let me ask you a different question.

17 A So --

18 Q Would you agree with me that Qwest should be
 19 compensated for whatever activities are encompassed
 20 by the terms moving, adding, or changes to UNEs?

21 A Well, I believe Qwest -- I mean, for a lot of these
 22 things, I mean, Qwest is compensated. I mean, we
 23 went through a cost case establishing -- you know,
 24 establishing rates and costs for different things.
 25 And there's -- I mean, there's two ways of

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1 generating that compensation, either recurring or
 2 nonrecurring rates. And I believe you are
 3 compensated. And I agree for those activities that
 4 you -- you know, that you do, Qwest should be and is
 5 compensated.

6 Q Okay. Well, what does moving UNEs mean, as proposed
 7 by Eschelon's language? What activities are
 8 encompassed by that?

9 A I mean, moving could be changing the -- you know,
 10 kind of changing the point at the end of -- say, at
 11 the -- at the -- you know, in the office where the
 12 UNE's connecting to the -- to Eschelon's facilities,
 13 you know, so you're moving from one termination
 14 point to another.

15 Q But moving is not a defined term anywhere, is it?

16 A Right. I think you had that conversation yesterday.

17 Q Right.

18 A Right.

19 Q So we don't know if whatever activities are
 20 encompassed by that undefined term are included as
 21 rate elements in the interconnection agreement, do
 22 we?

23 A No, I think -- I think we do, because, I mean, we're
 24 not asking here for something extraordinary that's
 25 outside of activities that Qwest currently does.

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1 And those -- So the rates -- When we set the rates
 2 for the unbundled network elements, as you'll
 3 remember, you know, these included the activities --
 4 these included factors like Mr. Starkey referred to.
 5 They include, you know, costs to -- so that Qwest is
 6 recovered, you know, for its normal, you know,
 7 activities associated with provisioning of loops.
 8 Q So is the intent here that Qwest will provide the
 9 same access to UNEs that it provides for its own
 10 customers and affiliates?
 11 A I don't know that there's anything here about own
 12 customers and affiliates. It's about what Qwest is
 13 currently doing today to provide UNEs, to provide --
 14 to provide access to these, you know. And we've
 15 listed some things like design changes, maintenance
 16 of service. And I believe really the focus of this
 17 language is the rates at which these activities
 18 would be compensated for. And what Eschelon
 19 believes is these should be TELRIC -- you know,
 20 TELRIC rates would be the basis for these types of
 21 activities.
 22 Q And I don't want to prolong this, but you say these
 23 types of activities. The words moving, changing, or
 24 adding to UNEs, if this -- if this language is
 25 adopted, for Qwest to be compensated there has to be

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1 rate elements in the interconnection agreement that
 2 link up with the activities encompassed by those
 3 three terms; would you agree with that?
 4 A No, I don't -- I don't agree with that because of
 5 the way -- I mean, remember when we set the
 6 recurring rates, there were these cost factors that
 7 we put into these rates that included things for --
 8 network operations types of activities or network
 9 operations. There wasn't a specific -- We didn't
 10 define each and every network operations activity
 11 and create a separate rate. Or there's -- Remember
 12 there's a maintenance factor that gets applied to
 13 all of the UNEs. That maintenance factor would
 14 include going out, doing repairs, maintaining the
 15 network, if there's moves that are included in --
 16 you know, that Qwest is moving the circuit, like you
 17 heard in retirement or replacing, those types of
 18 things are already recovered in the recurring rates.
 19 So I don't agree that there should be a separate --
 20 Q Okay. So that --
 21 A -- rate element necessarily.
 22 Q That's helpful. So it's your testimony here that
 23 moving, adding, changing to activities that would be
 24 required by Eschelon's language are already included
 25 in the monthly recurring rates in Minnesota for

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1 UNEs; is that correct?
 2 A I -- Yes, I believe that they are. And there's a
 3 cost case that can -- You know, if there's a debate
 4 over these, I know -- there are -- there are some
 5 rate elements that we'll be having a debate in the
 6 upcoming cost case --
 7 Q Okay.
 8 A -- about whether they're appropriately recovered in
 9 recurring versus nonrecurring rates. And that -- I
 10 think that -- you know, that will be the debate that
 11 will take place there.
 12 MR. DEVANEY: Your Honor, may I consult
 13 with my client for one moment?
 14 JUDGE SHEEHY: Yes.
 15 MR. DEVANEY: Thank you, Mr. Denney.
 16 THE WITNESS: Thank you.
 17 JUDGE SHEEHY: Ms. Anderson.
 18 CROSS-EXAMINATION
 19 BY MS. ANDERSON:
 20 Q Good afternoon, Mr. Denney.
 21 A Good afternoon.
 22 Q I'm going to ask you first of all about subject
 23 matter 2, issue 2-3. And I believe that shows up on
 24 your direct testimony at page 8, lines 9 through 10,
 25 concerning the effective date of UNE pricing

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1 decisions.
 2 A And --
 3 Q Are you there, sir?
 4 A Right. And I believe -- I mean, there's been an
 5 update to some of the -- some of the language
 6 surrounding this. So I'm not sure that this is the
 7 latest language proposal.
 8 Q My question is somewhat general.
 9 A Okay.
 10 Q Let me know then if you think you can answer it. Is
 11 it Eschelon's view -- And, first of all, at least
 12 the version of Qwest's proposal as the department
 13 sees it is that Eschelon believes Qwest's proposal
 14 leads to some ambiguity, is that right, with respect
 15 to specific -- any specific commission order? In
 16 other words, the date of an effective UNE pricing
 17 decision, under Qwest's language you believe there's
 18 some ambiguity there; correct?
 19 A Yes, that's correct.
 20 Q Now, Dr. Fagerlund has testified essentially that if
 21 you left the agreed-upon language in Section 22 and
 22 not also included language in Section 2.2 that the
 23 ambiguity concern of Eschelon would be eliminated.
 24 Do you agree with that?
 25 A Can you explain -- explain to me again what

1 EVIDENTIARY HEARING - VOLUME 5 - OCTOBER 20, 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 20, 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
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 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 (Whereupon, Exhibits 48, 49, 50, and 51
 2 were marked for identification by the
 3 court reporter.)
 4 JUDGE SHEEHY: All right. Good morning,
 5 everyone. It's my understanding -- Let's see. The
 6 reply testimony of Katherine Doherty and the
 7 surreply testimony of Katherine Doherty have been
 8 marked as Exhibits 48 and 49. And it's my
 9 understanding there is no cross of Ms. Doherty
 10 planned, and the parties agree to admission of her
 11 testimony --
 12 MR. MERZ: That's correct, Your Honor.
 13 JUDGE SHEEHY: -- by stipulation.
 14 MR. DEVANEY: That is correct.
 15 JUDGE SHEEHY: All right. Then Exhibits
 16 48 and 49 are received exhibit.
 17 (Whereupon, Exhibits 48 and 49 were
 18 received.)
 19 MR. MERZ: I have one issue from
 20 yesterday that I just wanted to make sure I mention.
 21 JUDGE SHEEHY: Sure.
 22 MR. MERZ: We had previously filed an
 23 errata to Mr. Denney's testimony, and I just want to
 24 make sure that the record is clear that the
 25 replacement copies are inserted into the hearing

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 24 52 - Rebholz Reply 20 21 21
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 54 - Fagerlund Reply 27 30 30
 55 - Fagerlund Surreply 27 29 29

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1 copy, just so there's no confusion later on.
 2 JUDGE MIHALCHICK: I think you said that
 3 yesterday.
 4 MR. MERZ: I couldn't remember if I had.
 5 I knew I had for Mr. Webber, but I wasn't certain
 6 about Mr. Denney. So...
 7 JUDGE SHEEHY: Okay. And the next
 8 exhibits we have marked are the reply testimony of
 9 Mr. Schneider, which is Exhibit 50, and the surreply
 10 testimony of Mr. Schneider, which is 51. And there
 11 is cross for Mr. Schneider?
 12 Okay. Then please take your seat.
 13 ROGER SCHNEIDER,
 14 After having been first duly sworn, was
 15 examined and testified on his oath as follows:
 16 JUDGE SHEEHY: Okay. Ms. Anderson.
 17 DIRECT EXAMINATION
 18 BY MS. ANDERSON:
 19 Q Good morning, Mr. Schneider.
 20 A Good morning.
 21 Q You have before you what has been marked for
 22 identification as Exhibit 50, the reply testimony
 23 and exhibit of Roger L. Schneider, do you not?
 24 A Get the right stack here. Yes.
 25 Q And also in front of you is what's been marked for

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1 MS. ANDERSON: None. Thank you.
 2 EXAMINATION
 3 BY JUDGE SHEEHY:
 4 Q I have a question about -- I'm still kind of trying
 5 to understand this issue on access to UNEs -- it's
 6 issue 9-31 -- and what it's intended to accomplish
 7 and why it's there. And I think an Eschelon
 8 witness -- I can't remember who it was, maybe
 9 Mr. Denney -- testified that this language about
 10 access to UNEs means moving, changing, various
 11 specific activities, design changes and things like
 12 that, whatever the language says, that it was
 13 intended to require Qwest to charge only TELRIC
 14 rates for those particular activities. Was that
 15 your understanding as well?
 16 A Yeah, I think that's one of the goals.
 17 Q Okay. And then Mr. Denney said that in his view
 18 that all these activities were already included in
 19 the recurring charges for UNE rates that have been
 20 set in various cost studies over the years. And,
 21 for example, the recurring charge would include
 22 costs for repairing and changing and moving and
 23 whatever else would be encompassed within that
 24 language. But I haven't really seen that anyone --
 25 I mean, is that your view? Have you looked at it in

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1 that way or --
 2 A Well, it certainly --
 3 Q -- is it --
 4 A It certainly may. We would want to review -- for
 5 any new charge, nonrecurring or recurring, a new
 6 charge for one of these moving, adding, repairing,
 7 changing, we would want to look at the list of
 8 activities that are represented in the cost study
 9 for that new charge, and we would like to then
 10 compare that to the list of activities that are
 11 represented by the recurring and nonrecurring
 12 charges for the already-established prices and be
 13 very careful then that there isn't duplication.
 14 That's why throughout this case the
 15 department has been opposed to taking a price from
 16 somewhere else just because it's convenient or an
 17 average of prices or a quote preparation for element
 18 X and use it for element Y and so on, and we've said
 19 that we don't support any of that. And the reason
 20 is that before a price should come in, we think
 21 there ought to be a careful review of the
 22 activities. And then and only then would somebody
 23 be -- I mean, if Qwest can say, We do these A, B,
 24 and C things when you want us to move something or
 25 change something and that's not covered, and we look

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1 and we see, you know, those costs wouldn't be
 2 covered -- those expenses are not covered in any
 3 other way, so then, yeah, if -- it would be -- they
 4 would have proved that they have a right to a new
 5 charge for that. So I think the process is there.
 6 It's just you file a cost study, and we have a
 7 review then of the activities.
 8 Q Well, I would agree with you that is the way that I
 9 would try to figure that out. But the question is
 10 in the language that's proposed does that already
 11 reach that conclusion without going through that
 12 process? If it requires TELRIC rates for those
 13 activities that are identified, doesn't it already
 14 make that determination that those costs are
 15 included in the UNE recurring rate?
 16 A No, I would say those are two separate things.
 17 First of all, are the costs recovered somewhere?
 18 That's one question. Then a second question is do
 19 you get to recover these at TELRIC or at a
 20 non-TRILIC? So those are really two separate
 21 questions. And as to the first, I don't think it
 22 begs the -- I don't think it -- it already states
 23 that anything here has to -- is -- I mean, let me
 24 start over. It does not say that any conceivable
 25 moving, adding to, repairing, and changing are

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1 already covered in current rates. I don't read that
 2 here at all. That there is the -- there is an
 3 opportunity for Qwest to file --
 4 Q Okay.
 5 A -- if they --
 6 Q So you're just reading it to mean it has to be a
 7 TELRIC rate, and whether or not that rate's been
 8 established or that cost is included in some TELRIC
 9 rate is still an open issue?
 10 A Yes.
 11 Q Okay. That helps me.
 12 Okay. That's all I had. Any follow-up
 13 questioning based on mine?
 14 Mr. Devaney.
 15 MR. DEVANEY: Yes, briefly.
 16 RE-CROSS-EXAMINATION
 17 BY MR. DEVANEY:
 18 Q Dr. Fagerlund, with respect to the words moving,
 19 adding, changing, I take it it's not your position
 20 that this agreement should include a form of access
 21 to UNEs that goes beyond the requirements of the
 22 act, is it?
 23 A Well, that certainly could be negotiated, that there
 24 may be things that Qwest provides beyond the
 25 requirements of the act.

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1 Q But are you suggesting this commission should order
 2 that if it's not agreed to in negotiations?
 3 A No, I don't believe the -- There's the issue of
 4 state law and what authority the state commissions
 5 have and so forth. But as a general proposition,
 6 without -- trying to stay away from that other issue
 7 of the authority that state commissions have to make
 8 requirements and even have UNEs that don't interfere
 9 with the purpose -- with the FCC, that whole
 10 argument, with respect to the specific UNEs already
 11 ordered by the -- already required by the
 12 commission, the FCC, I don't think the state
 13 commission should require that a -- Okay. I'll
 14 start over. The state commission can't overturn a
 15 decision by the FCC saying that such and such
 16 service or element is not a UNE. So I would agree
 17 with you that if the FCC has said something is not a
 18 UNE, the state commission should not put in language
 19 requiring that to be a UNE.
 20 Q Okay. You testified earlier that the terms moving,
 21 adding to, or changing aren't defined anywhere in
 22 the agreement or in Eschelon's proposed language. I
 23 think I'm -- am I fairly stating your testimony?
 24 A Yes. I was actually saying that I wasn't able to
 25 define them. But...

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1 Q And so my question is, given the lack of definition
 2 for those terms, would you agree with me that it's
 3 certainly possible that a dispute could arise
 4 between the parties if this language is adopted
 5 under which Eschelon may demand a form of access
 6 that goes beyond what the act requires?
 7 A I don't believe they could successfully make that
 8 claim based on this language.
 9 Q But given the lack of definition, isn't it possible
 10 that that dispute could be left hanging out there?
 11 A Such an argument could always be made, but that --
 12 so you could have a dispute. I wouldn't say that
 13 you're not going to have such a dispute, but I don't
 14 think it would be successful.
 15 MR. DEVANEY: Okay. Your Honor, may I
 16 consult for one moment?
 17 JUDGE SHEEHY: Yes.
 18 BY MR. DEVANEY:
 19 Q Dr. Fagerlund, if I heard you correctly earlier
 20 discussing Judge Sheehy's question about whether
 21 these moving, changing, or adding activities are
 22 covered in recurring rates, did I hear you say that
 23 you believe they are?
 24 A No, I didn't say that they are. I was saying that
 25 they could be in recurring or nonrecurring

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1 charges --
 2 Q Okay.
 3 A -- or certain aspects. Again, we're talking about
 4 some hypothetical repairing. And so some repairing
 5 may be in recurring and...
 6 Q I'm looking at Exhibit A to the interconnection
 7 agreement. And I'll certainly come up and show you
 8 this. You might know this though, because I know
 9 how familiar you are with the cost proceeding.
 10 Section 9.6.11 has a series of nonrecurring rates
 11 for UDIT rearrangements. Are you familiar with
 12 those rates? And I can come up and show you if you
 13 like.
 14 JUDGE SHEEHY: What page? He's got it
 15 now.
 16 BY MR. DEVANEY:
 17 Q It's page 20 of Exhibit A. Do you see that?
 18 A One of the reasons we have the UNE descriptions
 19 matrix in Minnesota is so that I can refer to it and
 20 understand what these UNEs are. But I see it here,
 21 yes.
 22 Q UDIT rearrangements?
 23 A Yes.
 24 Q Would a UDIT rearrangement in your view fall within
 25 the moving, adding to, or changing language that

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1 Eschelon is proposing?
 2 A I can't say that I know exactly what this UDIT
 3 rearrangement is. So I really am not totally
 4 familiar with what it is other than just what the
 5 terms say, and sometimes that's not always accurate.
 6 But maybe a good example of how some kind of
 7 rearrangement of a UNE Eschelon would have access
 8 to, and here we could have a UNE price for -- price
 9 for that.
 10 Q And it's not included in a recurring rate, correct;
 11 it's in a nonrecurring rate?
 12 A Yes, that -- that is a -- it's not a repair. It's a
 13 rearrangement. It doesn't sound like a repair. It
 14 sounds like an alteration.
 15 Q So there's been testimony from Eschelon that the
 16 costs of moving, adding, and changing are included
 17 in recurring rates. If UDIT rearrangements fall
 18 within those categories, that wouldn't be true,
 19 correct, because it's a separate nonrecurring rate?
 20 A Mr. Devaney, I don't know that they have said -- I
 21 never heard Eschelon say that --
 22 JUDGE SHEEHY: I think it was yesterday
 23 afternoon that the testimony took place.
 24 THE WITNESS: Well, okay. Again, I have
 25 never heard them say that moving, adding to,

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1 et cetera are always included. I think it just
 2 means that they may be included. And that's what I
 3 was trying to say earlier. I think they may be.
 4 And so you do the analysis, and you find out if they
 5 are or if they're not. If they're not, you can have
 6 a new charge like this, your example.
 7 BY MR. DEVANEY:
 8 Q Okay.
 9 A So that's how I -- Because, otherwise, if this
 10 said -- in fact, I think I said in my testimony, if
 11 it said in here that they can have any moving,
 12 adding, and so forth at no additional price, then I
 13 wouldn't agree with that language. I don't read
 14 that into that language at all.
 15 Q But one of the -- This is my last question for you.
 16 One of the challenges we would face in conducting
 17 that kind of inquiry as to whether there are already
 18 rates for those activities is that the activities
 19 aren't defined; correct?
 20 A It appears to apply to activities that haven't been
 21 thought about yet, but -- in specific, but in
 22 general they're general categories.
 23 MR. DEVANEY: Thank you. That's all I
 24 have.
 25 MR. MERZ: No questions, Your Honor.

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1 JUDGE SHEEHY: Any redirect?
 2 REDIRECT EXAMINATION
 3 BY MS. ANDERSON:
 4 Q Dr. Fagerlund, you've been asked a series of
 5 questions now with respect to the access to UNEs.
 6 Is there anything else you would like to add?
 7 A No, thank you.
 8 MS. ANDERSON: Then I have nothing
 9 further.
 10 JUDGE SHEEHY: All right. You're
 11 excused.
 12 (Witness excused.)
 13 JUDGE SHEEHY: All right. Let's go off
 14 the record for a minute and talk about how we're
 15 going to finish up here.
 16 (Off-the-record discussion.)
 17 JUDGE SHEEHY: Okay. We can go back on,
 18 and we'll just put these deadlines on the record.
 19 We've had some discussion about how to -- what
 20 deadline should be set for various filings that the
 21 parties have agreed to in order to sort of bring all
 22 this information together for us. And Eschelon has
 23 committed to filing a language matrix that sets out
 24 the most current language positions of the parties,
 25 including language that was developed during the

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1 course of the hearing and getting that to Qwest for
 2 its review by October 25th, and Qwest has committed
 3 to returning that to Eschelon by October 27th with
 4 any changes that it believes are necessary. And
 5 then if that all goes smoothly, the language matrix
 6 and a new list of issues identifying specifically
 7 which ones are closed and which ones remain open
 8 will be filed with us at OAH by October 31st.
 9 The parties have agreed that there will
 10 be one round of post-hearing briefs, and that can be
 11 filed with us on November 17th. And we have agreed
 12 to attempt to get our recommendation out by
 13 January 10th. And we do understand that these are
 14 time-sensitive issues, so we'll do our best.
 15 Anything else we need to...
 16 MR. MERZ: We don't have anything
 17 further, Your Honor.
 18 JUDGE SHEEHY: Okay. The transcripts are
 19 going to be available by October 30th, according to
 20 the court reporter.
 21 MR. MERZ: Oh, that's an important issue.
 22 Actually, there is one other thing that we need to
 23 talk about. There are stayed issues.
 24 JUDGE SHEEHY: Oh, yes. What do we do
 25 about that?

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1 MR. MERZ: Well, and our thought was
 2 just -- I mean, we don't frankly know at this point
 3 when those issues will be resolved. And our thought
 4 is just the parties could -- The hearing is set for
 5 what, November 9th?
 6 MS. CLAUSON: I think the hearing in the
 7 wire center case is like the 11th, 12th, 13th. So
 8 in our brief we can -- we've asked that they be
 9 decided in this proceeding. So we'll have to --
 10 people will have to comment, both parties will have
 11 to comment in their briefs once we know the results
 12 in that case. The agreement, the DOC proposal that
 13 was circulated, we agreed there would be a mechanism
 14 to get them into our contract. So we'll have to
 15 comment on -- we can either agree on something or --
 16 MR. DEVANEY: Some supplemental briefing
 17 or something like that.
 18 MS. CLAUSON: No, I think it should be in
 19 this brief what we're proposing to do to then get
 20 the stayed issues dealt with.
 21 MR. MERZ: In terms of process.
 22 MR. DEVANEY: Not addressing the merits
 23 of those issues, but rather --
 24 MS. CLAUSON: Right, what we should do
 25 for a process to get them into. Because the DOC

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye
Marshall Johnson
Thomas Pugh
Phyllis Reha
Kenneth Nickolai

Chair
Commissioner
Commissioner
Commissioner
Commissioner

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

Docket No. P-5340, 421/IC-06-768

DIRECT TESTIMONY OF DOUGLAS DENNEY

ON BEHALF OF ESCHELON TELECOM, INC.

AUGUST 25, 2006

1 Under Eschelon's proposal, there is no need for the Commission to set rates for
2 design changes at this time. The issue to address here is the appropriate language
3 to be included in the ICA regarding charges, with the rate, if any, to be established
4 elsewhere. Thus, to the extent that Qwest believes design change costs are not
5 recovered in its existing recurring or non-recurring charges, it may come before
6 the Commission to propose a rate and substantiate its costs. This is consistent
7 with Commission policy and prior ruling that Qwest cannot assess miscellaneous
8 charges on CLECs without Commission approval. Absent Eschelon's language,
9 Eschelon could get all the way through this arbitration case as well as a cost case
10 addressing Qwest's proposed design change charges (if any), only to find out that
11 Qwest refuses to provide design changes or is demanding Eschelon execute an
12 ICA amendment (likely generating further dispute and arbitration) to obtain
13 design changes. Adopting Eschelon's language will avoid future disputes on this
14 issue. This arbitration is the appropriate forum for addressing the ICA language
15 and ensuring that the Commission maintains jurisdiction over rates.

16 **Q. WHAT IS QWEST'S PROPOSAL ON THESE ISSUES?**

17 A. Qwest does not agree with any of the Eschelon's proposed language
18 modifications, and proposes to leave these sections blank. The effective result
19 would allow Qwest to assess the very same design change charge for all three
20 types of design changes discussed under Issue No. 4-5 (i.e., loops, CFAs and

charge was not approved by this Commission and Qwest did not assess a charge throughout the term of the ICA.

1 Eschelon in states where Qwest is assessing these charges when only a few more
2 seconds of work is required. The fact that Qwest is charging more for design
3 changes than for installation and the effect this has on Eschelon's cost to acquire
4 customers demonstrates the need for Commission oversight for design changes.

5 **Q. WHY WOULD DESIGN CHANGE CHARGES BE LESS THAN**
6 **INSTALLATION CHARGES?**

7 A. Because the design change is one component (or a subset of components) of
8 installation, the work (and cost) involved in performing a design change will be
9 less than the work (and cost) of performing the installation. For instance, a CFA
10 change and a NCI code change, two examples of design changes, do not involve a
11 Qwest outside plant dispatch, and therefore, this costly component of the
12 installation rate should not be reflected in any design change charge for these
13 activities.⁹ At the very most, even if the design change includes all components
14 of installation, the design change charge should not be more than the installation
15 charge. Yet in most states the rate for design changes (which Qwest applies to all
16 design changes) is higher than the installation rate. Qwest's current practice of
17 billing more in some states for Design Changes than the Commission-approved
18 installation rate (i.e., for a new install and not just a later change in design) shows
19 that Commission oversight is warranted with regard to design changes.¹⁰ There is

⁹ Eschelon reserves the right to argue that separate charges for design changes are not warranted because they may already be recovered in other rates. This is an issue for any Commission case investigating Qwest-proposed design change charges.

¹⁰ For example in the following states Qwest charges a design change charge that exceeds the SGAT rates

1 times in Exhibit A (for loops, CFA, and UDIT). If Qwest seeks Commission
2 approval of rates, and Eschelon (or another CLEC) demonstrates that there should
3 be three different design change rates for loops, CFA, and UDIT, Eschelon's
4 language again accommodates this outcome, and the Exhibit A would be
5 populated with three different rates. And if the Commission determines that
6 design change charges are already recovered in other rates²⁰ (or if Qwest does not
7 seek Commission approval of separate design change charges in Minnesota), the
8 Exhibit A could be left blank for these three rates, or in the alternative, a
9 placeholder stating "no charge" could be inserted. Again, there is no need to
10 establish rates in this proceeding or amend the Exhibit A pricing appendix, as
11 Eschelon's language will accommodate those rates when, and if, they are
12 approved by the Commission.

13 Qwest's proposal to omit Eschelon's language, on the other hand, only supports
14 Eschelon's contention that Qwest intends to apply access rates for design changes
15 outside the ICA. And this is Eschelon's primary problem with Qwest's proposal:
16 that is, by omitting language that makes clear that design changes will be in
17 Exhibit A, over which the Commission will have authority, Qwest is setting the
18 stage for removing these charges from Commission purview and applying non-
19 cost based access rates.²¹ If Qwest believes that it can substantiate separate

²⁰ Eschelon reserved the right to argue that the rate for design change charges should be zero because, for example, these costs are already recovered in other rates.

²¹ This assumes that Qwest will not use the lack of language to quit providing design changes altogether.

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

LeRoy Koppendrayer
Marshall Johnson
Thomas Pugh
Phyllis Reha
Kenneth Nickolai

Chair
Commissioner
Commissioner
Commissioner
Commissioner

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

Docket No. P-5340, 421/IC-06-768

REBUTTAL TESTIMONY OF DOUGLAS DENNEY

ON BEHALF OF ESCHELON TELECOM, INC.

SEPTEMBER 22, 2006

1 **SUBJECT MATTER NO. 4. DESIGN CHANGES**

2 **Issue Nos. 4-5, 4-5(a) and 4-5(b): ICA Sections 9.2.3.8, 9.2.3.9 and 9.6.3.6**

3 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF ISSUE 4-5 AND SUBPARTS**
4 **(DESIGN CHANGES).**

5 A. Issues 4-5, 4-5(a) and 4-5(b) apply to design change charges for loops, CFA
6 changes during a coordinated cut, and Unbundled Dedicated Interoffice Transport
7 (“UDIT”), respectively.¹²

8 **Q. QWEST STATES THAT IT IS WILLING TO ACCEPT ESCHELON’S**
9 **LANGUAGE FOR ISSUES 4-5(A) AND 4-5(C) AND CLOSE THESE**
10 **ISSUES.¹³ IS THIS THE END OF THE STORY FOR THESE ISSUES?**

11 A. No. The key issue still remains as to whether Qwest already recovers design
12 change charges elsewhere, and if not, the appropriate rate that should apply for
13 design changes for loops and UDIT. Qwest has not shown that these costs are not
14 recovered via other rates, nor has Qwest provided any cost support for the charges
15 it would assess for these design changes. Qwest’s agreement to include the rates
16 for design changes in the ICA is an implicit acknowledgement that these rates
17 should be cost-based and nondiscriminatory, but that is not the approach Qwest is
18 taking with these rates. Qwest intends to apply tariffed access rates to design
19 changes, as evidenced by the process notification Qwest issued on August 31,

¹² Note: Ms. Stewart uses an older numbering convention for these issues, *i.e.*, 4-5(a) for loop design changes, 4-5(b) for CFA design changes and 4-5(c) for UDIT design changes. The issues are the same as the issues referred to in my testimony as Issues 4-5, 4-5(a) and 4-5(b), respectively.

1 Ms. Stewart argues against Eschelon’s proposal for Issue 9-31¹⁵ which identifies,
2 among other activities, design changes as part of access to unbundled network
3 elements. She states that Qwest is concerned Eschelon may be seeking “TELRIC
4 rates for services not within Section 251 of the Act and for which TELRIC rates
5 do not apply.”¹⁶

6 These facts, taken in conjunction with Qwest’s August 31, 2006 notice, strongly
7 imply that Qwest will attempt to apply charges for these activities without
8 Commission approval or review.

9 To the extent that Qwest attempts to show that these costs are not recovered by
10 other rates and seeks cost recovery for them in separate rates, those rates should
11 be non-discriminatory, cost-based TELRIC rates.

12 **Q. BESIDES QWEST’S ATTEMPT TO APPLY TARIFFED ACCESS**
13 **CHARGES FOR DESIGN CHANGES, DOES ESCHELON HAVE OTHER**
14 **CONCERNS REGARDING QWEST’S ATTEMPTS TO RESTRICT**
15 **ACCESS TO DESIGN CHANGES?**

16 **A.** Yes. On September 11, 2006, Qwest issued a Level 3 CMP notice that revised its
17 Provisioning and Installation Overview by changing the verbal supplement for
18 CFA slot change on the due date. Qwest added the following language:

¹⁵ Issue 9-31 is discussed in detail in the testimony of Mr. Starkey.

¹⁶ *Stewart Direct*, page 14, lines 4 – 7.

1 **SUPPORT SYSTEMS” DURING THIS TYPE OF CFA DESIGN**
2 **CHANGE.²⁵ WHAT IS THE PURPOSE OF THIS TESTIMONY?**

3 A. Ms. Stewart is attempting to build upon her incorrect notion that Eschelon’s
4 language would prevent Qwest from assessing a charge for this type of CFA
5 design change, by referring to costs that would purportedly go un-recovered if
6 Qwest were not allowed to assess a charge in these instances. However, Ms.
7 Stewart’s notion is incorrect, as under Eschelon’s proposal Qwest has the
8 opportunity to substantiate its costs regarding these design changes at the
9 Commission and request a rate that recovers the costs that Qwest alleges it incurs.

10 Furthermore, Eschelon is already separately paying for coordination during these
11 coordinated cuts, and this coordination should cover the types of activities that
12 Ms. Stewart mentions (*i.e.*, re-review the service order and update downstream
13 OSS). As explained in my direct testimony²⁶, the actual design change work of
14 the central office technician to perform a CFA design change in this scenario
15 would take a matter of seconds or minutes. And a few minutes of the central
16 office technician’s time should not amount to a charge in the neighborhood of \$70
17 or more, which is what Qwest is assessing in other states.

18

changes...”]

²⁵ *Stewart Direct*, pages 10, lines 12-16.

²⁶ *Denney Direct*, pages 31 – 34.

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

LeRoy Koppendrayer
Marshall Johnson
Thomas Pugh
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Kenneth Nickolai

Chair
Commissioner
Commissioner
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Commissioner

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

Docket No. P-5340, 421/IC-06-768

SURREBUTTAL TESTIMONY OF DOUGLAS DENNEY

ON BEHALF OF ESCHELON TELECOM, INC.

October 9, 2006

1 A. No. The fact that Eschelon has agreed to compensate Qwest for design
2 changes (either because Qwest is already recovering design change costs or
3 because Qwest establishes cost-based rates for design changes) cannot be
4 disputed. This is clear in Eschelon's direct testimony,³⁰ and was reiterated in
5 my rebuttal testimony.³¹ Ms. Stewart's own testimony even shows that she
6 understood when writing her rebuttal testimony that it is Eschelon's position
7 that Qwest should be compensated for design changes to the extent these costs
8 are not double-recovered,³² and the Department of Commerce understands that
9 Eschelon's language would allow Qwest to be compensated for design changes
10 provided to Eschelon.³³ Furthermore, Eschelon has also agreed to language in
11 Section 5.1.6 of the ICA which states that "Nothing in this Agreement shall
12 prevent either Party from seeking to recover costs..."

³⁰ *Denney Direct*, p. 18 ("Qwest can assess a cost-based rate for design changes so long as Qwest files cost support with the Commission and receives Commission approval."); *Denney Direct*, p. 15 ("Eschelon needs a ruling that provides certainty that Qwest will continue to provide changes at cost-based rates."); *Denney Direct*, p. 35, lines 6-12.

³¹ See *Denney Rebuttal*, p. 12. ("Eschelon's position statement, testimony and, most importantly, contract language make very clear that Eschelon is not attempting to prevent or limit Qwest from recovering its costs.") See also *Denney Rebuttal*, p. 14, lines 3-16 ("Eschelon's language does in fact allow Qwest to assess a CFA design change charge in this circumstance to the extent that Qwest has a Commission-approved rate."); See also *Denney Rebuttal*, p. 15, lines 3-9 ("...under Eschelon's proposal Qwest has the opportunity to substantiate its costs regarding these design changes at the Commission and request a rate...")

³² *Stewart Rebuttal*, p. 3, lines 16-18 ("Eschelon acknowledges that Qwest incurs costs to perform design changes for unbundled loops and, further, recognizes that Qwest should be compensated for these costs.") This contradicts Ms. Stewart's testimony at page 1 of her rebuttal where she testifies: "The real dispute relating to design changes is...whether Eschelon will agree to pay for these changes and to compensate Qwest for the costs it incurs to perform them."

³³ *Fagerlund Rebuttal*, p. 9, lines 12-15 ("I support the Eschelon language in Section 9.2.3.8 that provides recognition that a Design Change charge for unbundled loops could be proposed in the future, but leaves open what that charge will be.")

June 8, 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 Surrebuttal Testimony of Douglas Denney, Bonnie J. Johnson, and Michael Starkey with exhibits in the above-referenced matter. Electronic copies of these documents were filed on June 8, 2007.

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,

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

Enclosures

cc: Jason Topp, Qwest (email and Federal Express)
Alex Duarte, Qwest (email and Federal Express)

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 Surrebuttal Testimony of Douglas Denney, Bonnie J. Johnson, and Michael Starkey with exhibits on behalf of Eschelon Telecom of Oregon, Inc. were filed electronically with the Oregon Public Utility Commission on June 8, 2007. The original and five copies were sent via overnight mail on the 8th day of June, 2007 to:

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

and true and correct copies were sent via email and overnight delivery on June 8, 2007, to:

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

Alex M. Duarte
Qwest Corporation
421 SW Oak Street, Room 810
Portland, OR 97204
Alex.Duarte@qwest.com

DATED this 8th day of June, 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)

SURREBUTTAL TESTIMONY

OF

BONNIE JOHNSON

ON BEHALF OF

ESCHELON TELECOM, INC.

June 8, 2007

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1 **I. INTRODUCTION AND EXHIBITS**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Bonnie Johnson and my business address is 730 2nd Avenue South,
4 Suite 900, Minneapolis, Minnesota 55402.

5 **Q. ARE YOU THE SAME BONNIE J. JOHNSON WHO FILED DIRECT**
6 **TESTIMONY ON MAY 11, 2007 AND REBUTTAL TESTIMONY ON**
7 **MAY, 25, 2007 IN THIS PROCEEDING?**

8 A. Yes.

9 **Q. PLEASE IDENTIFY THE EXHIBITS TO YOUR TESTIMONY.**

10 A. As part of my testimony, I have included the following exhibits:

- 11 • Eschelon/142: CMP/ICA: Qwest September 27, 2006 Level 1 Notice;
12 Excerpts of Qwest's September 27, 2006 proposed red lined changes to its
13 Dispatch PCAT; Qwest December 1, 2006 Level 3 notice; Excerpts of
14 Qwest's December 1, 2006 proposed red lined changes to its Dispatch
15 PCAT; Qwest initiated CR PC030607-1 Detail; Qwest April 2, 2007 Level
16 4 Notice; Excerpts of Qwest's April 2, 2007 proposed red lined changes to
17 its Dispatch PCAT; Eschelon's comments and Qwest's response to
18 Eschelon comments of the April 2, 2007 Multiple PCAT changes
19 (including the Qwest Dispatch PCAT); Qwest May 2, 2007 Final notice
20 of May 17, 2007 implementation and Qwest response (above) to CLEC
21 comments.

- 1 • Eschelon/143: CMP/ICA: Eschelon initiated CR PC-030603-1; Screen
2 shot of the External Documentation Requests Process & CLEC External
3 Process Clarification Request on Qwest’s web site; Excerpts from Qwest’s
4 External Documentation Request Process Guide (slides 1, 13 and 14).
- 5 • Eschelon/144: ACKNOWLEDGEMENT/ROOT CAUSE: Recent Qwest
6 Retail Letter to Eschelon’s End User Customer.
- 7 • Eschelon/145: ACKNOWLEDGEMENT/ROOT CAUSE: Eschelon June
8 4, 2007 Email to Qwest.
- 9 • Eschelon/146: EXPEDITES: Documentation relating to Qwest PCAT
10 Expedites & Escalation Overview: Version 11. Mr. Denney quoted these
11 documents in his rebuttal testimony and provided the URLs at that time.¹
- 12 • Eschelon/147: EXPEDITES: Documentation relating to additional CMP
13 issues for which a CLEC(s) escalated, Qwest provided a binding response,
14 and the CLEC took the issue to CMP Oversight for review (as well as the
15 VCI escalation to which Ms. Albersheim refers²).

16 **Q. DID YOU PREPARE THESE EXHIBITS OR HAVE THEM PREPARED**
17 **UNDER YOUR DIRECTION?**

¹ The quotations from Eschelon’s Comments and Qwest’s Response on Eschelon/125, Denney/129 are found at Eschelon/146, Johnson/8-9. Qwest’s redline showing deletion of the sentence “All expedite requests require approval to ensure resource availability” (Eschelon/125, Denney/129-130) is found at Eschelon/146/Johnson/2.

² Qwest/18, Albersheim/10, line 24.

1 A. The documents in Eschelon/142, Eschelon/143, Eschelon/145, Eschelon/146 and
2 Eschelon/147 were prepared by Qwest. I compiled the exhibits, and they contain
3 true and correct copies of Qwest's documents. Eschelon/144 is an email from
4 Eschelon to Qwest. I was copied on this email.

5 **Q. MR. STARKEY REFERS IN HIS TESTIMONY TO YOUR TESTIMONY**
6 **INCLUDING ITS EXHIBITS. HAVE YOU REVIEWED THAT**
7 **TESTIMONY, AND IF SO, DID MR. STARKEY TAKE ANY**
8 **STATEMENT OR EVENT OUT OF CONTEXT?**

9 A. I have reviewed that testimony and, no, Mr. Starkey did not take any statement or
10 event out of context.

11 **Q. MR. DENNEY REFERS IN HIS TESTIMONY TO YOUR TESTIMONY**
12 **INCLUDING ITS EXHIBITS. HAVE YOU REVIEWED THAT**
13 **TESTIMONY, AND IF SO, DID MR. DENNEY TAKE ANY STATEMENT**
14 **OR EVENT OUT OF CONTEXT?**

15 A. I have reviewed that testimony and, no, Mr. Denney did not take any statement or
16 event out of context.

17 **Q. PLEASE DESCRIBE ESCHELON/142 RELATED TO QWEST**
18 **MAINTENANCE AND REPAIR/DISPATCH PCAT CHANGES.**

1 A. Eschelon/142 contains several Qwest prepared documents, which I identify in my
2 above list of exhibits. These documents all relate to an example Ms. Albersheim
3 provides to support her testimony that “CLECs can prevent implementation of
4 proposed changes even under the Level 0 and Level 1 notifications.”³ Ms.
5 Albersheim’s example is the withdrawal of a Level 1 notice and associated
6 documentation changes. Specifically, she points to a level 1 CMP notice Qwest
7 distributed to withdraw documentation regarding tagging at the demarc in
8 Qwest’s PCATs, because of CLEC concerns.⁴ I personally was involved in that
9 process and was present for all of the related ad hoc and CMP meetings. What
10 Ms. Albersheim does not explain, is a core concern expressed by CLECs
11 regarding the Qwest proposed changes related to a key sentence in Qwest’s
12 Dispatch PCAT. Qwest proposed to delete the sentence that reads: “When a
13 Qwest technician is dispatched to a premise, the Qwest demarcation point will be
14 tagged if a tag is not present.”⁵

³ Qwest/18, Albersheim/8, lines 10-13.

⁴ Qwest/18, Albersheim/8, lines 13-18.

⁵ Eschelon/142, Johnson/3 & p. 6, & p. 13 (See first paragraph under the heading “Description” – showing redlined deletion of this sentence).

1 Although Ms. Albersheim testifies in her May 25, 2007 testimony that Qwest
2 “withdrew the documentation changes,”⁶ Eschelon/142 shows that Qwest
3 proposed to delete the same sentence in the September 27, 2006 level 1 proposed
4 change to the Dispatch PCAT⁷ again in a December 1, 2006 level 3 proposed
5 change to the Dispatch PCAT,⁸ and finally again in a April 2, 2007 level 4
6 proposed change to the Dispatch PCAT.⁹ I objected on behalf of Eschelon, but
7 Qwest implemented the change (i.e., deleted this key sentence) over Eschelon’s
8 objections.¹⁰ As a result of Qwest’s implementation, the current Dispatch PCAT
9 shows that the sentence “When a Qwest technician is dispatched to a premise, the
10 Qwest demarcation point will be tagged if a tag is not present” no longer appears
11 in Qwest’s Dispatch PCAT.¹¹Ms. Albersheim , uses this as an example of how
12 “CLECs can prevent implementation of the proposed changes even under the
13 level 0 and level 1 notifications,”¹² but CLECs were unable to prevent
14 implementation of Qwest’s objectionable change, which was a core issue of
15 concern for CLECs. Although Ms. Albersheim refers to the designated level of

⁶ Qwest/18, Albersheim/8, line 17.

⁷ Eschelon/142, Johnson/3.

⁸ Eschelon/142, Johnson/6.

⁹ Eschelon/142, Johnson/13.

¹⁰ Eschelon/142, Johnson/14-21.

¹¹ Eschelon/142, Johnson/23.

¹² Qwest/18, Albersheim/8, lines 10-13.

1 the change,¹³ changing the level of the change did nothing to prevent Qwest from
2 implementing this change over our objection.

3 Mr. Starkey references Eschelon/142 when responding to Ms. Albersheim's
4 claims regarding CMP. The other five exhibits described above are referenced
5 below in my discussion of Section 12 issues.

6 **II. SECTION 12 ISSUES: SUBJECT MATTERS 29, 31, 33, AND 43**

7 **A. SUBJECT MATTER NO 29. ROOT CAUSE ANALYSIS AND**
8 **ACKNOWLEDGEMENT OF MISTAKES**

9 *Issues Nos. 12-64, 12-64(a) and 12-64(b): ICA Section 12.1.4 and subparts*

10 **Q. MS. ALBERSHEIM TESTIFIES THAT CHANGES MADE AS A RESULT**
11 **OF THE MINNESOTA PROCEEDING REGARDING**
12 **“ACKNOWLEDGEMENT OF MISTAKES . . . ARE DOCUMENTED IN”**
13 **QWEST’S “PROCESS AND PROCEDURES” AND THAT IT IS**
14 **UNNECESSARY TO ADDRESS THEM IN THE ICA “BECAUSE THESE**
15 **ISSUES HAVE BEEN ADDRESSED BY QWEST IN ITS PROCESSES**
16 **AND PROCEDURES.”¹⁴ HAS QWEST PROVIDED DOCUMENTED**
17 **PROCESSES AND PROCEDURES REGARDING THESE CHANGES**
18 **RELATED TO ACKNOWLEDGEMENT OF MISTAKES TO**
19 **ESCHELON?**

¹³ Qwest/18, Albersheim/8, line 16.

1 A. No, and I have found no documentation on Qwest's web site (specific to
2 Minnesota or for other states) that documents the procedures ordered by the
3 Minnesota commission specific to acknowledgement of mistakes in paragraphs
4 (e), (f), (g), (h), (i), (j), (k), and/or (l) of its order.¹⁵

5 Qwest previously told Eschelon that Qwest's *policy* is that Qwest will *not* provide
6 a written acknowledgement to be provided to the customer, even when the
7 purpose of the acknowledgement is to correct Qwest mis-information provided to
8 an Eschelon customer.¹⁶ The Minnesota commission ordered procedures
9 requiring a change in that policy because the commission required Qwest to
10 provide written acknowledgments of mistakes in the manner and form described
11 in its order.¹⁷ Ms. Albersheim has said, regarding ICA language, that "Qwest
12 determined that language would be necessary in Minnesota given the order that
13 was issued there,"¹⁸ but Qwest proposes deletion of all such language from the
14 ICA in Oregon. While Ms. Albersheim's testimony in her Oregon surrebuttal
15 may suggest that Qwest has implemented these procedures in Oregon, that is not
16 the case. Despite any suggestion to the contrary in Ms. Albersheim's testimony
17 on this point, this is not a situation in which the acknowledgment of mistakes
18 procedures are in the PCAT and Qwest is asking that they not also be included in

¹⁴ Qwest/18, Albersheim/31, lines 8-11.

¹⁵ Eschelon/5, Starkey/4-5.

¹⁶ Eschelon/127, Johnson/5, footnote 8 (quoting email exchange).

¹⁷ Eschelon/5, Starkey/4-5, paragraphs (e), (f), (g), (h), (i), (j), (k), and (l).

¹⁸ Qwest/18, Albersheim/31, lines 11-12.

1 the ICA.¹⁹ They are not in the PCAT and, to Eschelon's knowledge, the
2 procedures ordered by the Minnesota commission specific to acknowledgement of
3 mistakes in paragraphs (e), (f), (g), (h), (i), (j), (k), and/or (l) of its order²⁰ are not
4 available in any state other than Minnesota. Language is needed in the ICA to
5 obtain these terms in Oregon.

6 **Q. MS. ALBERSHEIM SUGGESTS THAT ICA LANGUAGE IS**
7 **UNNECESSARY BECAUSE "QWEST'S SERVICE MANAGERS WILL**
8 **PROVIDE ROOT CAUSE ANALYSIS TO A CLEC UPON REQUEST, AS**
9 **DOCUMENTED IN THE ACCOUNT MANAGEMENT PCAT,"²¹ "QWEST**
10 **HAS A PROCESS FOR ROOT CAUSE ANALYSIS OF REPAIR**
11 **PROBLEMS"²² AND, REGARDING THE EXAMPLES IN ESCHELON/87,**
12 **"THESE EXAMPLES DEMONSTRATE THAT QWEST HAS AN**
13 **EFFECTIVE ROOT CAUSE ANALYSIS IN PLACE ALREADY FOR**
14 **REPAIR, AND THAT ESCHELON HAS MADE USE OF THIS**
15 **PROCESS."²³ PLEASE RESPOND TO THIS TESTIMONY REGARDING**
16 **ROOT CAUSE ANALYSIS.**

17 **A.** Language regarding root cause analysis is needed in the ICA so that Eschelon
18 may plan its own procedures. ICA language is also needed to help ensure

¹⁹ This appears to be Qwest's argument regarding root cause analysis for which, as discussed below, there is some documentation in the PCAT.

²⁰ Eschelon/5, Starkey/4-5.

²¹ Qwest/18, Albersheim/32, lines 15-16.

²² Qwest /18, Albersheim/33, line 17.

1 mistakes that Qwest makes while acting as Eschelon’s vendor will be analyzed so
2 they may be avoided in the future. If they are not, Qwest may benefit when
3 Eschelon’s customers become dissatisfied and change carriers because they do not
4 realize it was a Qwest mistake or, as in the Minnesota 616 case, Qwest tells the
5 customer incorrectly that it was an Eschelon mistake.

6 Qwest’s proposal to rely on the PCAT does not meet these needs. First, Qwest
7 may easily change the PCAT over CLEC objection.²⁴ As the maintenance and
8 repair example discussed above with respect to Eschelon/124 shows, Qwest may
9 remove clear language that has been in the PCAT for a long period of time over
10 CLEC objection. Qwest’s PCAT change in the CRUNEC example,²⁵ which was
11 also made over CLEC objection, disrupted Eschelon’s orders and impacted its
12 customers, but Ms. Albersheim claimed that the disruptive Level 3 CRUNEC
13 notice was “simply a clarification.”²⁶ Second, in her rebuttal testimony, Ms.
14 Albersheim again limits Qwest’s obligation to perform root cause to repair
15 situations.²⁷ As I discuss in my rebuttal testimony,²⁸ Qwest currently interprets its

²³ Qwest/18, Albersheim/34, lines 27-28.

²⁴ Eschelon/127, Johnson/5.

²⁵ Eschelon/56, Johnson (CRUNEC chronology); Eschelon/1, Starkey/50-60.

²⁶ Qwest/18, Albersheim/19, line 11; discussed in Eschelon/132, Starkey/8.

²⁷ See Qwest/18, Albersheim/32 line 18, (describing Qwest’s Account Manager responsibilities from its PCAT) “Handling maintenance and repair post mortems....”; Qwest/18, Albersheim/33, line 17 “Qwest has a process for root cause analysis of repair problems.”; Qwest/18, Albersheim/34, lines 27-28 “...Qwest has an effective root cause analysis request process in place already for repair....”.

²⁸ Eschelon/127, Johnson/9-14.

1 obligations more narrowly than they are described in Qwest’s own posted
2 documentation.

3 Finally, Qwest is currently refusing to perform root cause analysis of jeopardies
4 examples for Eschelon, as I also discuss in my rebuttal testimony.²⁹ This
5 illustrates that the PCAT language is insufficient without ICA language. As
6 indicated by Mr. Starkey, the FCC has said that there is no “web-posting
7 exception” under the Act.³⁰

8 **Q. SPECIFICALLY REGARDING SECTION 12.1.4.2.1, MS. ALBERSHEIM**
9 **CLAIMS THAT ESCHELON’S PROPOSED LANGUAGE, WHICH USES**
10 **THE WORD “SUFFICIENT” CREATES “AMBIGUITY.”³¹ PLEASE**
11 **RESPOND.**

12 A. In Minnesota, where most of the language of Section 12.1.4 was agreed upon, a
13 few phrases remained open (and, ultimately, only one phrase was left open, as
14 previously discussed). Ms. Albersheim continues to point out these phrases in
15 Oregon, although in Oregon Qwest’s proposal is to delete all of Eschelon’s
16 language. In this case, Ms. Albersheim refers to a requirement that the
17 acknowledgement letter include “[t]he letter will include a recap of sufficient
18 pertinent information to identify the issue.”³² Qwest eventually agreed to this
19 language, including the term “sufficient,” in Minnesota, after initially proposing

²⁹ Eschelon/127, Johnson/10-11.

³⁰ *Qwest Forfeiture Order* at ¶32, discussed in Eschelon/123, Starkey/60-61.

³¹ Qwest/18/Albersheim31, lines 17 and 19.

1 to delete the word “sufficient” from this phrase. Without the word “sufficient,”
2 Qwest could arguably be allowed to withhold the necessary information without
3 which the acknowledgement letter would not serve its intended purpose.
4 Eschelon’s language offers more clarity. It reasonably requires not all
5 information but simply information sufficient to identify the issue.

6 **Q. SPECIFICALLY REGARDING SECTION 12.1.4.2.5, MS. ALBERSHEIM**
7 **ARGUES THAT ESCHELON’S PROPOSAL THAT THE**
8 **ACKNOWLEDGEMENT LETTERS BE PROVIDED ON A NON**
9 **CONFIDENTIAL BASIS COULD FORCE QWEST TO PUBLICLY**
10 **REVEAL SENSITIVE AND PROTECTED INFORMATION SUCH AS**
11 **CPNI.³³ PLEASE COMMENT.**

12 A. Qwest is required to provide this information in Minnesota on a non-confidential
13 basis and yet Qwest has provided no support that it has been forced to publicly
14 reveal sensitive and protected confidential information. The only basis Qwest
15 provides for this claim is that “the phrase ‘will be provided on a non-confidential
16 basis’ could give Eschelon the right to claim that Qwest must provide all data
17 associated with a root cause analysis in its letter to the end-user customer.”³⁴
18 Qwest seems to arrive at this conclusion by ignoring the thing to be provided on a
19 non-confidential basis. Eschelon’s proposed language in Section 12.1.4.2.5
20 specifically states that “The *acknowledgment response* described in Section

³² Eschelon Proposed ICA language, Section 12.1.4.2.1.

³³ Qwest/18, Albersheim/32, lines 2-3 .

³⁴ Qwest/18, Albersheim32, lines 1-2.

1 12.1.4.2.3 and provided by the Qwest Service Manager to CLEC” is what must be
2 provided on a “non-confidential” basis. There is no mention of root cause
3 analysis in either Sections 12.1.4.2.3 or 12.1.24.2.5. The first sentences of both
4 Sections 12.1.4.1 and 12.1.4.2 refer to requests for “root cause analysis and/or
5 acknowledgement” – identifying them as two separate things. There is no basis
6 for this Qwest claim. It is based on a sentence fragment and, when the entire
7 sentence is provided, the claim disappears.

8 **Q. AT PAGE 33 OF HER REBUTTAL TESTIMONY, MS. ALBERSHEIM**
9 **NOTES THAT QWEST HAS TAKEN STEPS TO MINIMIZE ERRORS IN**
10 **PROVISIONING AND THAT THE PIDS MEASURE HOW WELL**
11 **QWEST PERFORMS IN TERMS OF PROCESSING LSRS. PLEASE**
12 **RESPOND.**

13 A. My rebuttal testimony addresses this claim, and I won’t repeat those arguments
14 here.³⁵ Ms. Albersheim refers to minimizing errors, not to eliminating them,
15 which recognizes that some errors will continue to occur. When Qwest does
16 make an error while acting as Eschelon’s vendor, Eschelon’s need for
17 acknowledgement of the mistake and/or provide root cause analysis will not be
18 any less in that particular case. In the Minnesota 616 case, for example, Qwest
19 gained a more than \$460,000 per year customer as a result of a single Qwest error
20 that Qwest’s representatives, when dealing with Eschelon’s customer, blamed on

³⁵ Eschelon/127, Johnson/15.

1 Eschelon.³⁶ If Qwest is not required by ICA language to acknowledge mistakes
2 and/or provide root cause analyses, Eschelon may have no way to ensure Qwest
3 will acknowledge mistakes and/or provide root cause analyses when
4 circumstances call for either or both. Although Qwest took steps in Minnesota in
5 response to the Minnesota 616 Order, that fact did not prevent the ALJs in the
6 Minnesota arbitration from recommending rejection of Qwest’s proposal.³⁷

7 **Q. AT PAGE 34 OF HER REBUTTAL, MS. ALBERSHEIM INDICATES**
8 **THAT ESCHELON’S CONTRACT PROPOSAL PROVIDES ESCHELON**
9 **“UNFETTERED LEEWAY” TO DEMAND A ROOT CAUSE ANALYSIS**
10 **EVEN WHEN IT IS READILY APPARENT THAT A PROBLEM HAS**
11 **NOT BEEN CAUSED BY QWEST. IS IT LIKELY THAT ESCHELON**
12 **WOULD SEEK SUCH ANALYSES FOR NO REASON?**

13 A. No. Why would Eschelon spend its time and resources preparing requests for root
14 cause analyses only to have Qwest point back to Eschelon’s error when Eschelon
15 knows full well that the problem had not been caused by Qwest (i.e., it’s *readily*
16 *apparent* that the problem is Eschelon’s)? I am frequently the person who
17 researches and sends the root cause requests to Qwest, and I manage the log of
18 this activity on behalf of Eschelon. We do not do this for no reason. It takes our
19 resources to research and compile the information to be root caused.

20 Additionally, should Qwest ever feel as though it’s being asked to perform root

³⁶ Eschelon/5, Starkey/7. See Eschelon/1, Starkey/64-74 (discussing the Minnesota 616 case).

³⁷ Eschelon/29, MN Arbitrators’ Report ¶208.

1 cause analyses when it is readily apparent that it is not at fault, it could work with
2 Eschelon’s business units or pursue dispute resolution under the closed language
3 in Section 5 of the ICA. Qwest would prefer to maintain all the “discretion” - and
4 “some protection” – “as to when it is proper for the company to undertake a root
5 cause analysis” while denying Eschelon any and all discretion or protection.³⁸
6 The Commission should adopt Eschelon’s proposed language with respect to
7 acknowledgement of mistakes and root cause analyses.

8 **B. SUBJECT MATTER NO. 31. EXPEDITED ORDERS**

9 *Issues Nos. 12-67 and 12-67(a)-(g)*

10 **Q. DO YOU AND MR. DENNEY BOTH DISCUSS ASPECTS OF ISSUE 12-67**
11 **REGARDING EXPEDITES?**

12 A. Yes. Mr. Denney addresses Issue 12-67 and subparts in his testimony. I address
13 points here that relate to CMP events. I personally participated in CMP with
14 respect to these expedite issues. I previously provided an expedite chronology
15 and other exhibits relating to expedites with my direct testimony (Eschelon/93 –
16 Eschelon/109).

17 **Q. MS. ALBERSHEIM STATES THAT, WITH REGARD TO THE**
18 **EXPEDITES ISSUES, ESCHELON “DID NOT EVEN USE ONE OF THE**
19 **MOST POWERFUL MECHANISMS DETAILED IN THE CMP**
20 **DOCUMENT FOR DISPUTING CHANGES PROPOSED IN THE CMP”**

³⁸ See Qwest/18, Albersheim/34, lines 20-22.

1 **BY SEEKING POSTPONEMENT.³⁹ PLEASE RESPOND.**

2 A. Eschelon disagrees that postponement under the CMP Document is a powerful
3 mechanism. Mr. Starkey described the reasons why postponement offers little
4 protection to CLECs in his testimony.⁴⁰ Under the CMP document, postponement
5 requests are only made by CLECs,⁴¹ as Qwest is the company that determines
6 whether or not product and process requests are implemented. There is no CLEC-
7 permitted implementation of a change that Qwest would need to postpone.⁴²
8 Qwest determines whether postponement is granted in the first instance.⁴³ Ms.
9 Albersheim seems to be saying that Eschelon should have attempted to cure
10 Qwest's unilateral implementation of its objectionable CMP expedites notice⁴⁴ by
11 asking Qwest to determine that Qwest should not implement its notice. Qwest
12 had already rejected the objections of Eschelon and other CLECs, however.
13 Eschelon had a response from Qwest, and there was no reason or any requirement
14 in the CMP Document to go back to Qwest again.

³⁹ Qwest 18/, Albersheim/10, lines 4-6.

⁴⁰ Eschelon/123, Starkey/42-43.

⁴¹ Qwest/2, Albersheim/45 (Section 5.5: "A CLEC may request that Qwest postpone the implementation of a Qwest-originated or CLEC-originated change in accordance with this section."). This process is optional. See *id.* ("may").

⁴² Ms. Albersheim asserts that Mr. Starkey's statement that there are no CLEC CMP notifications is "not entirely accurate" because there is an external documentation process. Qwest/18, Albersheim/11, lines 9-11. If there were CLEC CMP notifications, the postponement process would logically be mutual, so that Qwest could ask to postpone CLEC implementations. As I discuss below, Ms. Albersheim's statement is incorrect because there are no CLEC CMP notifications.

⁴³ Qwest/2, Albersheim/47 (Section 5.5.3 "Qwest's Determination of Postponement Request").

⁴⁴ See Eschelon/108 (Qwest notice annotated to highlight information showing it was a Qwest-initiated notice not associated with any change request by Covad or any other CLEC).

1 Ms. Albersheim refers in her testimony to an arbitrator regarding postponement.⁴⁵
2 The CMP Document states: “This optional arbitration provides interim relief only
3 and is limited to the question of whether Qwest must postpone implementation of
4 the proposed change until the dispute or the postponement request is resolved
5 under the Dispute Resolution process.”⁴⁶ Nothing in this provision avoids dispute
6 resolution/litigation. The companies must still go through dispute resolution
7 (which under the CMP Document may include proceedings before state
8 commissions⁴⁷) after the Optional Arbitration Process for Interim Postponement
9 of Disputed Changes is completed. Ms. Albersheim points to no benefit in terms
10 of time in taking this extra step. And, this step should have been unnecessary to
11 attempt to prevent implementation of Qwest’s change, because the CMP
12 Document states in the Scope section that, in cases of conflict between CMP and
13 the ICA, the ICA controls.⁴⁸ Qwest had been providing expedites for unbundled
14 loops under the ICA,⁴⁹ so Qwest should have continued to do so under this Scope
15 provision despite its CMP notice. Ms. Albersheim argues that Eschelon should
16 have used more of the optional processes under the CMP Document, but Qwest

⁴⁵ Qwest/18, Albersheim/10, lines 9-12.

⁴⁶ Qwest/2, Albersheim/48-49 (Section 5.5.4 “Optional Arbitration Process for Interim Postponement of Disputed Changes while Dispute Resolution Proceeds”).

⁴⁷ Qwest/2, Albersheim/100 (Section 15.0 “Dispute Resolution”), see last sentence on page 100.

⁴⁸ Qwest/2, Albersheim/14 (Section 1.0 “Scope”).

⁴⁹ *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 did not follow the Scope provision – which is not optional.

2 **Q. MS. ALBERSHEIM STATES THAT ESCHELON DID NOT “USE THE**
3 **DISPUTE RESOLUTION PROCESS ESTABLISHED IN THE CMP**
4 **DOCUMENT”⁵⁰ REGARDING EXPEDITES AND INSTEAD “OPTED TO**
5 **FILE LITIGATION.”⁵¹ DID ESCHELON RUSH TO LITIGATION**
6 **WITHOUT ATTEMPTING TO RESOLVE EXPEDITE ISSUES IN CMP?**

7 **A.** No.⁵² Eschelon took several steps to raise relevant issues in CMP regarding the
8 Qwest-initiated notices as to expedited orders, including:

- 9 • Eschelon escalated Qwest’s Version 27 Expedite PCAT changes in CMP, by
10 joining McLeod’s escalation.⁵³ Qwest later confirmed that “Eschelon did join
11 the escalation,”⁵⁴ and it included Eschelon (along with several other CLECs)
12 in Qwest’s response to this escalation.⁵⁵ Qwest provided a binding response
13 in CMP to this escalation.⁵⁶ The CMP Document provides for escalations,
14 and participation in other CLEC’s escalations⁵⁷ in Section 14.0.⁵⁸
- 15 • Eschelon requested a CMP ad hoc meeting to discuss Qwest’s Version 30
16 Expedite PCAT notice.⁵⁹ The CMP Document provides that a CLEC may
17 request additional meetings in Section 3.0.⁶⁰ Eschelon participated in the call,

⁵⁰ Qwest/18, Albersheim/10, lines 15-16.

⁵¹ Qwest/18, Albersheim/10, line 16.

⁵² Eschelon/9, Denney/206, lines 4-8.

⁵³ Eschelon/94, Johnson/1, #2 (#39 PROS.09.12.05.F.03242. Expedites_ Escalations_V27); *See also*, Eschelon/93, Johnson/12.

⁵⁴ Eschelon/94, Johnson/1, #3; *See also*, Eschelon/93, Johnson/12.

⁵⁵ Eschelon/94, Johnson/2, #4.

⁵⁶ Eschelon/94, Johnson/4, ##11-12.

⁵⁷ Eschelon/53, Johnson/100 (second bullet point); *See also* Qwest/2 (Albersheim).

⁵⁸ Eschelon/53 (Johnson) and Qwest/2 (Albersheim).

⁵⁹ PROS.10.19.05.F.03380. ExpeditesEscalations V30. *See* Eschelon/94, Johnson/2, #5 and Eschelon/93, Johnson/12.

⁶⁰ Eschelon/53 (Johnson) & Qwest/2 (Albersheim).

- 1 and Qwest admits that “some CLECs expressed dissatisfaction on the ad-hoc
2 call.”⁶¹
- 3 • Eschelon submitted comments⁶² on Qwest’s Level 3 Version 30 Expedite
4 PCAT notice.⁶³ The CMP Document provides that a CLEC may provide
5 comments upon Level 3 notices in Section 5.4.4.⁶⁴ Eschelon’s 11/3/05 CMP
6 comments are posted on the Qwest CMP web page.
- 7 • Eschelon escalated with Qwest under the dispute resolution provisions of the
8 Qwest-Eschelon ICAs⁶⁵ and the CMP Document (§15.0).⁶⁶ Eschelon’s
9 dispute resolution letter expressly identified Qwest’s Version 27 and Version
10 30 Expedite PCAT CMP changes as subject to the dispute in the subject line:
11 “Joint McLeod-Eschelon Escalation #39 Re.
12 **PROS.09.12.05.F.03242.Expedites_Escalations_V27 – Denied by Qwest**
13 **11/4/05;** Eschelon 11/3/05 objections to
14 PROS.10.19.05.F.03380.ExpeditesEscalationsV30.”⁶⁷
- 15 • Eschelon proposed Section 12.2.1.2 (expedite language) in ICA
16 negotiations.⁶⁸
- 17 • Eschelon filed a complaint with the Arizona state commission.⁶⁹

⁶¹ Qwest (Martain) Direct (July 13, 2006), p. 27, lines 3-4, in *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”].

⁶² Eschelon/98, Johnson 3-5.

⁶³ PROS.10.19.05.F.03380. ExpeditesEscalations V30. See Eschelon/94, Johnson/3, #7 and Eschelon/93, Johnson/13.

⁶⁴ Eschelon/53 (Johnson) and Qwest/2 (Albersheim).

⁶⁵ An Eschelon March 21, 2006, escalation and request for dispute resolution letter to Qwest stated that Eschelon reserved its right to submit the dispute to all of the state commissions pursuant to the dispute resolution provisions of the ICAs, and an attachment to that letter included relevant ICA provisions from each state. See Eschelon/41, Denney.

⁶⁶ Eschelon/53 (Johnson) and Qwest/2 (Albersheim). Regarding CMP dispute resolution, see Eschelon/123, Starkey/46-54 and Eschelon/54-55.

⁶⁷ Eschelon/41, Denney 8; see also Eschelon/93, Johnson/14 and Eschelon/41.

⁶⁸ Qwest April 6, 2006, ICA draft. Section 15.0 of the CMP Document, (Eschelon/53) states: “This process does not limit any party’s right to seek remedies in a regulatory or legal arena at any time.” Section 252 negotiation and arbitration is one such regulatory or legal arena. See Eschelon/1, Starkey/49.

1 As this last bullet point shows, Eschelon filed a complaint with the Arizona
2 commission to resolve the CMP and ICA dispute resolution for the issues
3 addressed in the complaint after taking a number of steps in CMP. Ms.
4 Albersheim attempts to make it appear as if Eschelon took little or no action in
5 CMP before taking the dispute to the state commission (“file litigation”⁷⁰), which
6 the above bullet point items show is simply not the case.⁷¹

7 In any event, CMP Section 15.0 entitled “Dispute Resolution Process”
8 specifically provides that a complaint may be brought “at any time.”⁷² Eschelon’s
9 complaint is consistent with the CMP Document.

10 **Q. YOU REFER ABOVE TO ESCHELON’S COMPLAINT RELATING TO**
11 **EXPEDITED ORDERS AS A CMP DISPUTE RESOLUTION, BUT MS.**
12 **ALBERSHEIM TESTIFIES THAT ONLY ONE CLEC (NOT ESCHELON)**
13 **HAS “EVER” USED THE DISPUTE RESOLUTION PROCESS IN CMP.⁷³**
14 **PLEASE EXPLAIN.**

⁶⁹ 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”].

⁷⁰ Qwest/18, Albersheim/10, lines 15-16.

⁷¹ Although Ms. Albersheim criticizes Eschelon for using other procedures in the CMP Document, Qwest did not pursue them either, as the Staff in Arizona concluded it should have done. See Eschelon/9, Denney/205-206 (citing Arizona Staff Testimony).

⁷² Eschelon/53 (Johnson), Section 15.0; *See also*, Qwest/2 (Albersheim).

⁷³ Qwest/18, Albersheim/10, lines 22-24.

1 A. Qwest’s claim doesn’t make sense, both because Eschelon has used the CMP
2 Dispute Resolution process (Section 15.0) and because VCI used other provisions
3 of the CMP Document but not the Dispute Resolution process (Section 15.0).

4 In the case of Eschelon’s complaint in the Arizona Complaint Docket, Eschelon’s
5 dispute resolution letter expressly identified Qwest’s Version 27 and Version 30
6 Expedite PCAT CMP changes as subject to the dispute resolution.⁷⁴ Dispute
7 Resolution under Section 15.0 of the CMP Document may include proceedings
8 before state commissions, which may be brought at any time.⁷⁵ Eschelon’s
9 Complaint is a CMP dispute resolution.⁷⁶

10 The VCI matter that Qwest points to as the only CLEC use of the dispute
11 resolution process “ever”⁷⁷ in CMP, was not handled under Section 15.0
12 (“Dispute Resolution Process”) but rather Section 14.0 (“Escalation Process”) and
13 Section 18.0 (“Oversight Review Process”) of the CMP Document.⁷⁸ Although
14 Qwest for some unidentified reason singles out the VCI matter, several other
15 matters have also been handled through either Section 14.0 (“Escalation

⁷⁴ Eschelon/41, Denney/8.

⁷⁵ Qwest/2, Albersheim/100 (Section 15.0 “Dispute Resolution”), see last sentence on page 100.

⁷⁶ Qwest/2, Albersheim/100 (Section 15.0 “Dispute Resolution”), see last sentence on page 100. See Mr. Starkey’s discussion of dispute resolution under the CMP Document, which includes a single CLEC complaint against Qwest with a state commission. Eschelon/123, Starkey/43-47.

⁷⁷ Qwest/18, Albersheim/10, line 22.

⁷⁸ As the name “Oversight” suggests, Section 18.0 indicates that it applies to issues raised with “using this CMP.” See Eschelon/53 (Johnson) and Qwest/2 (Albersheim). Section 18.0 of the CMP Document not only provides that it is “optional,” but also that: “It will not be used when one or more processes documented in this CMP are available to obtain the resolution the submitter desires.” *Id.*

1 Process”)⁷⁹ or Section 18.0 (“Oversight Review Process”),⁸⁰ or both. For
2 example, Eschelon/147 and a review of Eschelon/70 through Eschelon/73 shows
3 that other CLECs have used the same process as used by VCI (first using CMP
4 14.0 Escalation Process and then CMP 18.0 Oversight Review process). Yet, Ms.
5 Albersheim does not consider those CLEC escalations that were followed by a
6 request for Oversight Review as dispute resolution. Data with respect to the
7 number of dispute resolutions is meaningless if Qwest can simply choose not to
8 count valid dispute resolutions or uses some criteria for counting dispute
9 resolutions other than those in the CMP Document (Section 15.0) itself.

10 **Q. MS. ALBERSHEIM ASSERTS THAT MR. STARKEY’S CLAIM THAT**
11 **THERE ARE NO CLEC CMP NOTIFICATIONS IS “NOT ENTIRELY**
12 **ACCURATE” BECAUSE THERE IS AN EXTERNAL**
13 **DOCUMENTATION PROCESS.⁸¹ DO YOU AGREE?**

14 **A.** No. The CMP Document is very clear on this point. Only Qwest may implement
15 changes by notification (Levels 1-3) in CMP.⁸² All CLEC proposed *changes*
16 (*i.e.*, not notices) are submitted as change requests (Level 4),⁸³ as Mr. Starkey
17 indicates in his direct testimony.⁸⁴

⁷⁹ See Section 14.0 “Escalation Process” Eschelon/53 (Johnson) and Qwest/2 (Albersheim).

⁸⁰ Eschelon/48 (Johnson) (List of CMP Oversight Committee Meeting Minutes Posted on the Qwest Wholesale Website).

⁸¹ Qwest/18, Albersheim/11, lines 9-11.

⁸² Eschelon/53 (Johnson), Section 5.4. These are described as “Qwest Originated” changes. *See id.*; *See also*, Qwest/2 (Albersheim).

⁸³ Eschelon/53, Johnson/25.

1 I requested the External Documentation Process at Qwest on Eschelon's behalf.⁸⁵
2 Qwest's attempt to portray the External Documentation process as a notification
3 process through which CLECs may implement product and process changes by
4 notice, like Qwest, does not accurately reflect the process implemented by Qwest.
5 CLECs are not allowed to use the external documentation process to make
6 "changes to Qwest's processes and procedures"⁸⁶ as Ms. Albersheim claims. In
7 fact, Qwest's own documentation shows that changes to process are "out of
8 scope"⁸⁷ for the external documentation process. As Eschelon said in its change
9 request when requesting this process, Eschelon requested this process because
10 "although Qwest has existing internal processes, Qwest has not documented many
11 of those processes for CLECs."⁸⁸ Nonetheless, Qwest's process is to require
12 CLECs to find information in Qwest's website, PCAT, or technical publications
13 before they approach the Qwest service manager with requests for information.⁸⁹
14 In its change request, Eschelon pointed out that, "without adequate
15 documentation, when the process breaks down, CLECs are forced to spend
16 unnecessary time and resources debating with Qwest representatives about the
17 process itself, when those challenges could be avoided by simply pointing to

⁸⁴ Eschelon/1, Starkey/41, lines 8-9.

⁸⁵ Eschelon/143, Johnson/2 (Originator: Johnson, Bonnie).

⁸⁶ Qwest/18, Albersheim/11, lines 2-3.

⁸⁷ Eschelon/143, Johnson/12.

⁸⁸ Eschelon/143, Johnson/2.

⁸⁹ Eschelon/92 (Johnson) (Qwest Service Center and Manager Roles in Relation to CMP) (6/6/02), p. 1 (first bullet point: "Requests for Information").

1 mutually accessible documentation that clearly states the process for all involved.
2 Instead, unnecessary escalations waste CLEC and Qwest resources.”⁹⁰

3 Qwest documents processes for itself.⁹¹ Until recently, Qwest provided access to
4 its methods and procedures (with confidential information redacted) to Eschelon
5 and other CLECs, so they had access to those procedures to allow a
6 nondiscriminatory opportunity to use those procedures and train their employees
7 on them (as well as to confirm that the procedures were applied in a
8 nondiscriminatory manner). Qwest had said that, in order “to comply with the
9 Telecommunications act of 1996 Qwest developed a redaction process which
10 allows CLEC’s access to the retail product methods and procedures contained in
11 InfoBuddy that are available for Resale. That information is formatted into a
12 WEB based application known as Resale Product Database (“RPD”). The
13 redaction process removes only the proprietary information found in InfoBuddy
14 that Qwest is not mandated via the Act to provide to CLEC’s.”⁹² Recently,
15 however, Qwest has “retired” RPD over Eschelon’s objection, so that this
16 information will no longer be available to CLECs.⁹³ Therefore, other clear and
17 accessible documentation is even more important now than before.

⁹⁰ Eschelon/143, Johnson/2.

⁹¹ “Shon Higer-Qwest stated that Qwest does have a lot of procedures in place i.e. PCATs, business procedures, LSOG, and that they do get updated *like Retail’s do.*” (emphasis added), from http://www.qwest.com/wholesale/cmp/archive/CR_SCR062105-01.htm; See also Eschelon/99 (Johnson) (Qwest 6/27/01 email).

⁹² Eschelon/99 (Johnson) (6/27/01 Qwest Senior Service Manager email).

⁹³ Eschelon/100 (Johnson) (RPD Retirement notice, effective 4/29/06, and Eschelon objection).

1 The External Documentation process is a mechanism for CLECs to identify and
2 request corrections or clarification in Qwest’s documentation that Qwest should
3 have corrected or clarified itself.⁹⁴ It shifts the burden to CLECs to clean up
4 Qwest’s documentation. This is accomplished through a request placed to Qwest
5 and not a general notification by a CLEC. This is very different from Qwest’s
6 ability to implement product and process changes by notice after waiting an
7 applicable time period and then going forward with the change. And, like many
8 other changes in CMP, only Qwest has the ability to deny an External
9 Documentation request.⁹⁵

10 **Q. MS. ALBERSHEIM CLAIMS THAT QWEST’S PROPOSAL FOR**
11 **EXPEDITED ORDERS “REFLECTS QWEST’S CURRENT**
12 **PRACTICE,”⁹⁶ WHICH QWEST HAS SAID WAS DEVELOPED**
13 **“THROUGH THE CMP.”⁹⁷ PLEASE RESPOND.**

14 **A.** CLECs did not request an “expedite process for design services, like unbundled
15 loops”⁹⁸ to obtain “more certainty” than the emergency-based Expedites

⁹⁴ Eschelon/53 (Johnson), Section 3.3 and Section 2.4.4; *See also*, Qwest/2 (Albersheim).

⁹⁵ Eschelon/143, Johnson/13 “You will be notified within 14 business days whether your request is accepted or denied.” *See also* Qwest/18, Albersheim/11, lines 10-11 (indicating that Qwest has denied almost one-third of Eschelon’s external documentation requests).

⁹⁶ Qwest/18, Albersheim/35, lines 7-8.

⁹⁷ Qwest/18, Albersheim/43, lines 2-3. *See also* Qwest/1, Albersheim/55-56.

⁹⁸ Qwest/18, Albersheim/53, lines 3-7. While Covad, due to its business plan may order primarily “designed” products, Covad asked for an “Enhanced Expedite Process *for Provisioning*,” as the title of the Change Request reflects. Eschelon/106, Johnson/1. Qwest was the company that said that it would accept the change request “*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 those changes.” Eschelon/106, Johnson/9.

1 Requiring Approval process provided.⁹⁹ As discussed in the testimony of Mr.
2 Denney,¹⁰⁰ CLECs had certainty with the long-standing emergency-based
3 Expedites Requiring Approval process (which had been available for loops since
4 at least 2000).¹⁰¹ CLECs sought – not to eliminate one process in favor of the
5 other (as suggested by Qwest) but – to use *both* processes to expedite orders,
6 including for unbundled loops (which are, per Qwest, “designed” facilities). At
7 the time Qwest introduced its *fee-added* non-emergency expedite process, it
8 assured CLECs that the new fee-added process was *in addition* to the existing
9 emergency-based expedite process. Qwest’s statements are directly quoted below:

- 10 • On May 12, 2004, Qwest told CLECs that: “If a CLEC chooses not to
11 amend their Interconnection Agreement, the current expedite criteria and
12 process will be used.”¹⁰²
- 13 • On July 15, 2004, Qwest told CLECs that: “If a CLEC chooses not to sign
14 the amendment and pay the approved rates, this will not impact resources.
15 For Qwest's Retail and Access customers, they are bound by the terms
16 established in the tariffs (which have been or are in the process of being
17 filed). Qwest did not want to shut the door for its Interconnect customers
18 because of existing contractual obligations, so is offering those customers
19 two options: 1) To be able to expedite without reason for a per-day
20 improved rate, like the Retail and Access customer, or 2) Continue with
21 the existing process that is in place. Qwest is providing the Interconnect
22 customers an additional option. If the CLEC chooses option 2, and the
23 expedite reason is for one of those listed in the PCAT, they are given the

⁹⁹ Qwest/1, Albersheim/55, line 21.

¹⁰⁰ Eschelon/9, Denney/204.

¹⁰¹ 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”); *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”).

¹⁰² Eschelon/106, Johnson/11.

1 same opportunity at having the due date requested. This comment is
2 accepted.”;¹⁰³ and

- 3 • On June 29, 2004, Qwest told CLECs that: “Qwest is modifying/changing
4 the existing manual Expedite process to incorporate two processes. These
5 are described as Pre-Approved and Expedites Requiring Approval.”¹⁰⁴

6 Qwest’s apparent attempt to portray its Version 27 and 30 PCAT changes to
7 remove unbundled loops from the expedite process as a CLEC-desired change is
8 inconsistent with the documented facts.¹⁰⁵ Despite Qwest’s suggestions that these
9 changes were associated with Covad’s change request,¹⁰⁶ Qwest specifically put
10 “not applicable” on its Version 27 and 30 notices in the space Qwest itself
11 provides for listing any “Associated CR Number.”¹⁰⁷ On notices for earlier
12 Versions, issued before the Covad change request was completed, Qwest placed
13 the Covad change request number in this category.¹⁰⁸ Therefore, CLECs knew
14 that the earlier changes may be related to the Covad change request. Qwest had
15 left the Covad change request open while it determined whether any other
16 products would be added to the fee-added expedite process.¹⁰⁹ Once Qwest
17 agreed to close/complete the Covad change request in July of 2005, CLECs had a
18 reasonable expectation that there would be no additional changes to the products

¹⁰³ Eschelon/146, Johnson/9.

¹⁰⁴ Eschelon/93 (quoting June 29, 2004 announcement).

¹⁰⁵ CLECs known to Eschelon who objected to the Qwest-initiated CMP changes to Versions 27 and/or 30 of Qwest’s Expedites and Escalations Overview PCAT include Eschelon, McLeodUSA, PriorityOne, Integra, Velocity, AT&T, ELI, and VCI. *See* Eschelon/94, Johnson/1-2. For a summary of Eschelon’s actions in CMP, *see id.* and Mr. Denney’s discussion of Expedited Orders.

¹⁰⁶ *See, e.g.*, Qwest/1, Albersheim/55, lines 21-22 (“hence, Covad’s change request”).

¹⁰⁷ Eschelon/108 (Johnson).

¹⁰⁸ *id.*

1 under each process. Versions 27 and 30 were Qwest-initiated changes,
2 announced in October of 2005 by Level 3 Qwest notifications. They were *not*
3 Level 4 change requests; they were not associated with the Covad change request;
4 and they were opposed by Eschelon, as well as other CLECs.¹¹⁰

5 **Q. QWEST THEN CLAIMS THAT QWEST DEVELOPED ITS CURRENT**
6 **EXPEDITE PROCEDURES BECAUSE OF ABUSE OF THE**
7 **EMERGENCY CONDITIONS SUCH AS GAMING THE SYSTEM AND**
8 **SUBMITTING SPURIOUS EMERGENCY EXPEDITE REQUESTS.¹¹¹ IS**
9 **THAT WHAT QWEST SAID AT THE TIME?**

10 A. No. Qwest now claims that, after the July 2004 implementation of the fee-added
11 expedites reflected in PCAT Version 11, Qwest “was seeing cases” of abuse.¹¹²
12 Ms. Albersheim testifies that “CLECs were gaming the system and submitting
13 spurious emergency expedite requests.”¹¹³ Qwest provided no detail or
14 documentation in support of this claim in testimony. In the Arizona Complaint
15 Docket, Qwest witness Ms. Martain claimed generally that CLECs tried to
16 escalate expedite requests when they did not have an expedite amendment and the
17 situation did not qualify for an expedite under the emergency-based expedites

¹⁰⁹ Eschelon/106, Johnson/11.

¹¹⁰ Eschelon/94, Johnson/1-2.

¹¹¹ Qwest/18, Albersheim/42-43.

¹¹² Qwest (Ms. Martain – CMP Process Manager) Direct (July 13, 2006) (Arizona Complaint Docket), p. 24, lines 15-18.

¹¹³ Qwest/18, Albersheim/42-43.

1 requiring approval process.¹¹⁴ Qwest may have included Eschelon in that
2 example because Qwest claimed that Eschelon needed an expedite amendment,
3 but Eschelon's position is that it *does* qualify for an expedite under its existing
4 ICA (and Arizona Staff testified in that case¹¹⁵ that Staff agreed).

5 Qwest makes the decision of whether to accept or deny an expedite request. If the
6 conditions were not met in any examples, presumably Qwest would have denied
7 the expedite requests because the conditions had not been met. After all, there is
8 a list of conditions and Qwest requires the CLEC to provide support that it meets
9 the conditions. If there had been a widespread problem of gaming the system
10 with CLECs requesting emergency expedites under circumstances that did not
11 meet the emergency conditions, it seems that Qwest would have identified that
12 problem when announcing the changes that it now says are designed to address
13 the problem. When Qwest announced its Versions 27 and 30 PCAT changes,
14 however, Qwest made no mention of so-called abuse, gaming the system, or
15 spurious requests. In its announcement of its Version 30 change – which removed
16 expedite capability for unbundled loops from emergency-based expedites – Qwest
17 cited a legal reason (“parity”) as the reason for this Qwest-initiated change.¹¹⁶

¹¹⁴ Qwest (Ms. Martain – CMP Process Manager) Direct (July 13, 2006) (Arizona Complaint Docket), p. 24, line 31 – p. 25, line 3 (“CLECs trying to escalate expedite requests when they did not have an expedite amendment”).

¹¹⁵ Eschelon/33, Denney/1-2 (Executive Summary from Staff Testimony).

¹¹⁶ Eschelon/103, Johnson/1.

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. MS. ALBERSHEIM CLAIMS THAT ON PAGE 70 OF YOUR DIRECT**
4 **TESTIMONY, YOU CLAIM ESCHELON’S PROPOSED LANGUAGE**
5 **REFLECTS QWEST’S CURRENT PRACTICE “WHICH WAS**
6 **DEVELOPED IN CMP.” IS THAT WHAT YOUR DIRECT TESTIMONY**
7 **SAYS?**

8 **A.** No. In my direct testimony I say that the portion of the process regarding the day
9 before was already Qwest’s existing process. In CMP, Qwest confirmed it was its
10 existing documented process and documented its commitment and the process on
11 the web site.

12 **Q. MS. ALBERSHEIM CLAIMS THAT ESCHELON’S PROPOSED PHRASE**
13 **“THE DAY BEFORE” ALTERS THE TIMING OF NOTICES.¹¹⁷ HOW**
14 **DO YOU RESPOND?**

15 **A.** In my Rebuttal testimony¹¹⁸ I describe Qwest’s claim that the phrase the day
16 before in Eschelon’s proposal is a “requirement”¹¹⁹ and is also a part of Qwest’s
17 claim that Eschelon’s proposal “force[s] extra time” in to the process and causes
18 delay.¹²⁰ This claim by Ms. Albersheim, is just another way to say the same

¹¹⁷ Qwest/18, Albersheim/46, line 7.

¹¹⁸ Eschelon/127, Johnson/24.

¹¹⁹ Qwest/1, Albersheim/69, lines 4-5.

¹²⁰ Washington arbitration (Albersheim Responsive) (Dec. 4, 2006), p. 58, line 21 – p. 59, line 1 (“If a jeopardy situation can be resolved on the original due date, all parties should try to ensure that it is. This is in the best interests of the end-user customer. It makes no business sense to force extra time

1 thing.¹²¹ In any of these variations, Qwest’s claim that Eschelon’s proposal
2 causes delay or alters timing is inaccurate.

3 Eschelon is *not* proposing that, in any circumstance (with or without an FOC; on
4 the original due date or on another date¹²²), Qwest cannot attempt to deliver the
5 circuit or that Qwest must wait to deliver the FOC before attempting delivery.
6 This is self-evident from the language of Eschelon’s proposal (see below).
7 Eschelon wants Qwest to use best efforts to deliver the circuit on the due date, just
8 as Eschelon uses best efforts to accept the circuit on the due date,¹²³ and
9 Eschelon’s language therefore *requires* best efforts. The language of Eschelon’s
10 proposed language for Issue 12-72 – showing Eschelon has committed to use best
11 efforts – is as follows:

12 **Issue 12-72 (with emphasis added):**

13 12.2.7.2.4.4.1 There are several types of jeopardies. Two of these
14 types are: (1) CLEC or CLEC End User Customer is not ready or
15 service order is not accepted by the CLEC (when Qwest has tested
16 the service to meet all testing requirements.); and (2) End User
17 Customer access was not provided. For these two types of
18 jeopardies, Qwest will not characterize a jeopardy as CNR or send

into the process that could guarantee the original due date is **not** met. But that is exactly what Eschelon's 24-hour advance notice requirement would do.”). *See* Eschelon/43, Johnson/75.

¹²¹ See Eschelon/127, Johnson/23 – 28.

¹²² The “original” due date means the due date requested by CLEC on its order (*i.e.*, the date in jeopardy). Qwest sometimes refers to the “due date” without distinguishing whether it means the original date, the new due date, or the date of attempted delivery without an FOC identifying the new due date. There is no properly established due date until Qwest sends an FOC with a new due date after the jeopardy is cleared. (*See* ICA Section 9.2.4.4.1) In other words, Qwest is making delivery unexpectedly without properly establishing the due date. (Eschelon may refer to the date of attempted delivery as the new due date for ease of reference, but I wanted to clarify that it is not properly a new due date until an FOC is sent with that date.) In any event, whether the unexpected delivery occurs on the original due date or another date, under Eschelon’s proposed language, Eschelon will use best efforts to accept service delivery.

¹²³ *See, e.g.*, Eschelon/114 (Examples: No FOC After Qwest Facility Jeopardy yet Eschelon Accepts Circuit).

1 a CNR jeopardy to CLEC if a Qwest jeopardy exists, *Qwest*
2 *attempts to deliver the service*, and Qwest has not sent an FOC
3 notice to CLEC after the Qwest jeopardy occurs but at least the day
4 before Qwest attempts to deliver the service. *CLEC will*
5 *nonetheless use its best efforts to accept the service*. If needed,
6 the Parties will attempt to set a new appointment time on the same
7 day and, if unable to do so, Qwest will issue a Qwest Jeopardy
8 notice and a FOC with a new Due Date.

9 Eschelon’s proposed language clearly states that, even when Qwest falls down
10 and does not provide an FOC or provides an untimely FOC, Eschelon “will
11 nonetheless use its best efforts to accept the service.”¹²⁴

12 **Q. MS. ALBERSHEIM CLAIMS THAT QWEST “NEVER” MADE A**
13 **COMMITMENT TO DELIVER A NEW DUE DATE RESOLVING AN**
14 **ORDER IN JEOPARDY THE DAY BEFORE THE NEW DUE DATE.¹²⁵ IS**
15 **THAT TRUE?**

16 A. No. Ms. Albersheim is wrong when she says that the “evidence presented by
17 Eschelon regarding the applicable CMP Change Requests shows that Qwest never
18 made such a commitment.”¹²⁶ In my response below, I point directly to the
19 exhibits where Qwest makes this commitment. Qwest both made a commitment
20 to send an Firm Order Confirmation (“FOC”) with the due date after a Qwest
21 facility jeopardy and to do so at least the day before the due date. Eschelon
22 submitted the evidence of this Qwest commitment with its direct testimony, so
23 this evidence was in the record at the time that Ms. Albersheim made her

¹²⁴ Eschelon Proposed ICA Section 12.2.7.2.4.4.1.

¹²⁵ Qwest/18, Albersheim/46, lines 9-13; Qwest/18, Albersheim/52, line 11.

¹²⁶ Qwest/18, Albersheim/46, lines 13-14; Qwest/18, Albersheim/52, line 11.

1 statement to the contrary. In addition, I will explain how Qwest creates
2 confusion by discussing two CMP change requests together – PC081403-1¹²⁷ and
3 PC072303-1¹²⁸ – when change request PC072303-1 does not even relate to FOCs
4 that follow a Qwest facility jeopardy.¹²⁹

5 **Q. DID QWEST COMMIT TO DELIVER A NEW DUE DATE RESOLVING**
6 **AN ORDER IN JEOPARDY AND TO DO SO AT LEAST THE DAY**
7 **BEFORE THE NEW DUE DATE?**

8 A. Yes. On February 26, 2004, in CMP Qwest provided to Eschelon a response to
9 an example in which Qwest, after a Qwest facility jeopardy, had not provided an
10 FOC with a new due date the day before.¹³⁰ In its response, Qwest made the
11 commitment in CMP that Ms. Albersheim suggests Qwest did not make. To
12 confirm Qwest’s process and ensure a mutual understanding of the facts,
13 Eschelon specifically asked Qwest whether, under Qwest’s process, “shouldn’t
14 we have received the releasing FOC the day before the order is due?”¹³¹ Qwest
15 responded:

16 **Yes an FOC should have been sent prior to the Due Date.**¹³²

¹²⁷ Eschelon/111; *see also* Qwest/20 (Albersheim).

¹²⁸ Eschelon/112; *see also* Qwest/19 (Albersheim).

¹²⁹ Eschelon/112; *see also* Qwest/19 (Albersheim).

¹³⁰ Eschelon/110, Johnson/5 (2/26/04). The notice for the March 4, 2004 meeting was dated February 26, 2004. Eschelon/113, Johnson/1. The enclosed materials (distributed with the notice on 2/26/04) are dated February 25, 2004 and are part of Eschelon/113, Johnson/2-6.

¹³¹ Eschelon/110, Johnson/5 (2/26/04) (emphasis added) & Eschelon/113, Johnson/3.

¹³² Eschelon/110, Johnson/5 (2/26/04) (emphasis added) & Eschelon/113, Johnson/3.

1 During the March 4, 2004 call to discuss these materials (including Eschelon's
2 example and Qwest's response), Eschelon "confirmed that the CLEC should
3 *always* receive the FOC before the due date."¹³³ Qwest "agreed, and confirmed
4 that Qwest cannot expect the CLEC to be ready for the service if we haven't
5 notified you."¹³⁴ With this commitment from Qwest, change request PC081403-1
6 was closed.¹³⁵

7 A copy of the meeting materials provided on February 26, 2004 is included in
8 Eschelon/113 to my direct testimony.¹³⁶ Similarly, the copy of the Detail for
9 Change Request PC081403-1, which Ms. Albersheim attaches to her testimony as
10 Qwest/20 (and which Eschelon provided as part of its direct testimony in
11 Eschelon/111), establishes that Eschelon accurately quoted from that Change
12 Request Detail in its chronology of this issue.¹³⁷

13 In addition, on page 22 of my rebuttal testimony (Eschelon/127), I explained that
14 Qwest continued to recognize that Qwest's process was to send an FOC before
15 the due date (*i.e.*, a "timely" FOC) and treated Qwest failure to do so in particular

¹³³ Eschelon/110, Johnson/5 (3/4/04) & Eschelon/110, Johnson/21; Qwest/20, Albersheim/5.

¹³⁴ Eschelon/110, Johnson/5 (3/4/04) & Eschelon/110, Johnson/21; Qwest/20, Albersheim/5.

¹³⁵ Eschelon/110, Johnson/5-6 (7/21/04) & Eschelon/110, Johnson/20; Qwest/20, Albersheim/3. Qwest agreed that, after a Qwest facility jeopardy, if Qwest did not send an FOC with the new due date the day before, this should be treated as a "compliance issue." *See id.* In other words, Qwest's process is to provide the FOC the day before, and when it does not do so, it is out of compliance with its own process.

¹³⁶ Eschelon/113, Johnson/2-6. For the March 4, 2004 ad hoc CMP meeting minutes, see Eschelon/111, Johnson/5 & Qwest/20, Albersheim/4-6.

¹³⁷ Compare Qwest/20 (Albersheim) with excerpts in the chronology in Eschelon/110 (*see also* the full change request in Eschelon/111).

1 cases as non-compliance with its process.¹³⁸ For example, Qwest told Eschelon at
2 that time that, in five examples for which Qwest said “a FOC was not sent timely
3 prior to the due date,” Qwest provided coaching to the non-compliant Qwest
4 employee(s) and indicated Qwest would continue to monitor compliance with the
5 process.¹³⁹ Qwest’s use of “timely” before “prior to” the due date shows that
6 Qwest also understood that a “timely” FOC is one delivered “prior to” the due
7 date.¹⁴⁰

8 **Q. MS. ALBERSHEIM STATES THAT THE “CMP RECORD PROVES”**
9 **THAT QWEST “NEVER” MADE THIS COMMITMENT, AND SHE**
10 **SUGGESTS THAT SHE IS BEING MORE COMPLETE IN HER**
11 **PRESENTATION OF THE “CMP RECORD” BECAUSE SHE**
12 **ATTACHES THE “ACTUAL” CHANGE REQUESTS.¹⁴¹ DID MS.**
13 **ALBERSHEIM PRESENT ANY NEW PART OF THE CMP RECORD OR**
14 **POINT TO ANY INFORMATION IN THE CMP DOCUMENTS**
15 **PROVIDED BY ESCHELON TO SHOW THAT QWEST DID NOT MAKE**
16 **THE COMMITMENTS QUOTED ABOVE?**

17 **A.** No. Ms. Albersheim testified that her purpose in attaching the “actual” change
18 requests containing CMP meeting minutes as Qwest/19 and Qwest/20 to her

¹³⁸ Eschelon/43, Johnson/76, lines 12-17.

¹³⁹ Eschelon/110, Johnson/ 7-8 (Qwest service manager email dated Aug. 25, 2004) (emphasis added); *id.* p. 7 (“Five of the LSRs in the spreadsheet are where a *FOC was not sent timely prior to the due date* Qwest will continue to monitor this”) (emphasis added); *id.* p. 8 (“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”).

¹⁴⁰ *See id.* p. 7.

1 rebuttal testimony was to show “there was never an explicit request by Eschelon
2 or an agreement by Qwest to provide ‘at least a day’ or 24-hours notice in
3 advance of a new due date.”¹⁴² Eschelon attached both of those identical change
4 requests, however, to its *direct* testimony.¹⁴³

5 Also, despite Ms. Albersheim’s suggestion that she was making a more complete
6 record by attaching “the actual Change Requests, which include the minutes from
7 the Project Meetings,”¹⁴⁴ the February 25, 2004¹⁴⁵ Qwest meeting materials that
8 contain key evidence of this Qwest commitment are notably absent from her
9 testimony and its exhibits (even though Eschelon pointed Qwest directly to it in
10 its my direct testimony).¹⁴⁶ Ms. Albersheim attached Change Request PC081403-
11 1 to her testimony (as Qwest/20). Qwest/20 specifically refers to the March 4,
12 2004 ad hoc meeting discussed above,¹⁴⁷ but Ms. Albersheim omitted the

¹⁴¹ Qwest/18, Albersheim/46, lines 9-19.

¹⁴² Qwest/18, Albersheim/46, lines 17-19. In Arizona she said her purpose in attaching the change requests was to “present a more complete record of the activities that took place regarding the Change Requests in question.” Albersheim AZ Rebuttal (Feb. 9, 2007), p. 21, lines 15-17.

¹⁴³ *Compare* Qwest/19 (Albersheim) *with* Eschelon/112 (Johnson). *Compare* Qwest/20 (Albersheim) *with* Eschelon/111 (Johnson).

¹⁴⁴ Qwest/18, Albersheim/46, line 15. See Arizona arbitration, Albersheim Rebuttal, 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 Meetings.”).

¹⁴⁵ Eschelon/110, Johnson/5 (2/26/04) refers to meeting materials dated 2/25/06. The correct date for this meeting material is 2/25/04.

¹⁴⁶ Eschelon/43, Johnson/70. Eschelon/110, Johnson/5 (chronology, 2/26/04). Eschelon explained in Eschelon/110 that Qwest’s commitment is documented in written materials dated February 25, 2004 that were attached to the March 4, 2004 meeting notice relating to Change Request PC081403-1. *See id.* & Eschelon/110, Johnson/5 (2/26/06 & 3/4/04). *See also* Eschelon/113, Johnson/1 (2/26/04 notice) & Eschelon/113, Johnson/2-6 (meeting materials dated 2/25/04).

¹⁴⁷ Qwest/20, Johnson/3 (“3/4/04 – Held ad hoc meeting with CLECs”) & pp. 4-5.

1 materials provided by Qwest on February 26, 2004¹⁴⁸ for that ad hoc meeting
2 from her exhibits.¹⁴⁹ Key documentation of Qwest’s commitment to send an FOC
3 at least the day before the due date (which I quoted and cited above), however, is
4 contained in that documentation omitted by Qwest.

5 **Q. QWEST DISCUSSES TWO DIFFERENT CHANGE REQUESTS. DOES**
6 **QWEST CLEARLY DISTINGUISH THEM?**

7 A. No. Qwest introduces confusion by discussing two different change requests
8 without explaining the facts relating to them or distinguishing clearly when Qwest
9 is discussing which change request. The first change request (PC081403-1) is the
10 subject of Eschelon’s Jeopardy Classification and Firm Order Confirmations
11 Chronology (Eschelon/110, Johnson/3) and relates to situations involving Qwest
12 facility jeopardies. I’ll refer to this as the *Qwest Jeopardy Change Request*.¹⁵⁰ In
13 the *Qwest Jeopardy Change Request*, Eschelon requested “a reasonable time
14 frame to prepare to accept the circuit.”¹⁵¹ Initially, Eschelon identified a
15 minimum of 2 to 4 hours as a time frame for discussion.¹⁵² As indicated above,

¹⁴⁸ See Eschelon/113 (Johnson); Eschelon/113, Johnson/3 (“shouldn’t we have received the releasing FOC the day before the order is due? . . . Response #1 This example is non-compliance to a documented process. Yes an FOC should have been sent prior to the Due Date”).

¹⁴⁹ See Eschelon/110, Johnson/5 (2/26/04). The notice for the March 4, 2004 meeting was dated February 26, 2004. Eschelon/113, Johnson/1. The enclosed materials (distributed with the notice on 2/26/04) are dated February 25, 2004 and are part of Eschelon/113, Johnson/2-6.

¹⁵⁰ Change Request PC081403-1 is Eschelon/111 (Johnson); it is also Qwest/20.

¹⁵¹ Eschelon/111, Johnson/2. See also Qwest/20, Albersheim/2. Eschelon was requesting not a delay but advance notice of delivery of a circuit so that Eschelon could be prepared to accept the circuit *on time*.

¹⁵² Eschelon/111, Johnson/11; Qwest/20, Albersheim/10; Qwest/18, Albersheim/48, lines 25-27. Eschelon was clear that this was a “minimum” only, and the request therefore included a longer time frame to prepare to accept the circuit. See Qwest/20, Albersheim/9 (12/8/03) (“4 hour minimum”).

1 however, Qwest later committed to a longer time frame (to provide the FOC the
2 day before the due date), as that is Qwest’s process.¹⁵³

3 The other change request (PC072303-1)¹⁵⁴ has nothing to do with Qwest facility
4 jeopardies.¹⁵⁵ It relates to situations in which there is no Qwest-caused jeopardy
5 (of any kind, facility or otherwise).¹⁵⁶ The issue in this change request is whether
6 Eschelon has until 5:00 p.m. to accept a circuit for basic installations on the due
7 date or whether Qwest can declare an Eschelon-caused (“Customer Not Ready”
8 or “CNR”) jeopardy if it attempts to deliver the circuit earlier in the day and
9 Eschelon is not ready at that time but is ready before 5:00 p.m. In these cases,
10 Eschelon has received an FOC for the due date, but the question revolves around
11 timing of delivery on that date. I will refer to this as the *Before 5:00 p.m. CNR*
12 *Jeopardy Change Request*.¹⁵⁷ As a result of this change request, Qwest made “a

Note that Qwest, as part of its ICA proposal, commits to no time frame (whether 4 hours or 24 hours). In fact, Qwest’s CMP Process Manager has denied that Qwest must send an FOC at all in these situations, much less send them in advance. Eschelon/110, Johnson/16-18.

¹⁵³ Eschelon/113, Johnson/3 (2/26/04) (quoted above); *see also* Qwest/20, Albersheim/5 (3/4/04 minutes).

¹⁵⁴ Change Request PC072303-1 is Eschelon/112; it is also Qwest/19.

¹⁵⁵ The term “Qwest facility jeopardy” refers generally to a Qwest-caused issue or potential issue that places delivery of the requested facility on the due date at risk (i.e., in ‘jeopardy’) due to an issue relating to facilities in the Qwest network (such as lack of facilities, bad pairs, etc.). Further information about the type of jeopardy dealt with in Eschelon’s proposed language for this issue is provided in footnotes 4, 5, and 6 to Eschelon/115. In particular, see the discussion of “K jeps” in footnote 6 of Eschelon/115.

¹⁵⁶ Eschelon/112 (Johnson); *see also* Qwest/19 (Albersheim) (PC072303-1).

¹⁵⁷ Eschelon/112 (Johnson); *see also* Qwest/19 (Albersheim) (PC072303-1).

1 back end system change” to “hold the CNR jeopardy notifications until 6 PM
2 Mountain time.”¹⁵⁸

3 A comparison of the description of the change request in Qwest/20 (*Qwest*
4 *Jeopardy Change Request*) and Qwest/19 (*Before 5:00 p.m. CNR Jeopardy*
5 *Change Request*) shows that Eschelon made different requests in each one. The
6 titles alone demonstrate this:

7 *Qwest Jeopardy Change Request* (PC081403-1): “Delayed Order
8 process modified to allow the CLEC a designated time frame to
9 respond to a released delayed order after Qwest sends an updated
10 FOC.”¹⁵⁹

11 *Before 5:00 p.m. CNR Jeopardy Change Request* (PC072303-1):
12 “Customer Not Ready (“CNR”) jeopardy notice should not be sent
13 by Qwest to CLECs before 5 PM local time on the due date (for
14 basic install)”¹⁶⁰

15 Although there were “synergies”¹⁶¹ because both change requests dealt to some
16 extent with jeopardies, the resolution of one request did not replace the other.
17 The change in the timing of jeopardies until 6 p.m. for situations when the due
18 date was provided on an FOC as a result of the *Before 5:00 p.m. CNR Jeopardy*
19 *Change Request* did not resolve the request for a reasonable time frame to prepare

¹⁵⁸ Qwest/19, Albersheim/6 (Qwest 9/9/03 Response) (PC072303-1).

¹⁵⁹ Eschelon/111, Johnson/11; Qwest/20, Albersheim/1 (PC081403-1). This is the title of Eschelon’s Change Request. When Qwest later expanded the Change Request, it added another title (“Jeopardy Notification Process Changes”) but Eschelon requested that the original title and change description also be retained as its request remained a part of the expanded Change Request (as discussed by Ms. Johnson in her surrebuttal testimony). *See* Qwest/20, Albersheim/1.

¹⁶⁰ Eschelon/112, Johnson/1; Qwest/19 (PC072303-1), p. 1.

¹⁶¹ Qwest/20, Albersheim/11 (10/8/03); Qwest/18, Albersheim/48, lines 3-4 & 12.

1 to accept the circuit in situations when Qwest failed to deliver a FOC after a
2 Qwest facility jeopardy in the *Qwest Jeopardy Change Request*.

3 **Q. IN MS. ALBERSHEIM’S REBUTTAL TESTIMONY, SHE RESPONDS TO**
4 **THE QUESTION “WHAT DID ESCHELON ASK FOR IN ITS SECOND**
5 **CHANGE REQUEST PC-081403.”¹⁶² PLEASE RESPOND.**

6 A. It appears her choice in how to describe Eschelon’s request may be related to
7 Qwest’s claim of a “compromise”¹⁶³ to limit issues in CMP. As I discuss below,
8 there was no such compromise. I personally submitted both change requests and
9 represented Eschelon in CMP in these meetings, and Eschelon did not give up its
10 Change Request or associated expected deliverables as part of a compromise or
11 otherwise. The jeopardies discussion was *expanded* in CMP to include more
12 issues. This is shown by the change in title, which is more general in scope and
13 thus broader and more inclusive than the original title, while still including
14 Eschelon’s original request:

15 “Title: Jeopardy Notification Process Changes (new title). Delayed
16 order process modified to allow the CLEC a designated time frame
17 to respond to a released delayed order after Qwest sends an
18 updated FOC (old title).”¹⁶⁴

19 Ms. Albersheim testifies that “Eschelon asked to ‘change the jeopardy notification
20 process to reduce unnecessary jeopardy notices being sent to the CLEC when the
21 Due Date is not in jeopardy and to improve the overall jeopardy notification

¹⁶² Qwest/18, Albersheim/47, lines 4-5.

¹⁶³ Qwest/18, Albersheim/48, line 41 and Qwest/18, Albersheim/52, lines 9-11.

1 process.”¹⁶⁵ This description is very broad, referring generally to improving the
2 *overall* process. Ms. Albersheim then references Qwest/20 – Expected
3 Deliverable in a footnote as support for her claim. A closer review of Qwest/20
4 shows there are two expected deliverables in this Change Request. The
5 description of change (the first paragraph you read in the Change Request) makes
6 it clear that Qwest updated the Change Request with Qwest’s new, *additional*
7 description of change and expected deliverable (Ms. Albersheim quotes Qwest’s
8 expected deliverable). The description of change states:

9 “Changed the description of this CR as a result of synergies with
10 PC072303-1. During the October 15 CMP meeting we discussed
11 whether we should close/leave open/ or update CR PC081403-1
12 'Delayed order process modified to allow the CLEC a designated
13 time frame to respond to a released delayed order'. The reason we
14 wanted to close/leave open or update PC081403-1 is because
15 PC072303-1 is meeting many of the needs. Bonnie Johnson agreed
16 to change this CR, *as long as we retained the original CR*
17 *description.*”¹⁶⁶

18 Qwest had determined the scope was *larger* than Eschelon’s request regarding the
19 jeopardy process, and wanted to update the description and expected deliverable
20 to increase the scope. I asked that Eschelon’s description of change remain as a
21 part of the Change Request so it would be clear that Eschelon’s request would be
22 included and to avoid the very kind of confusion Ms. Albersheim has now
23 introduced. Eschelon’s description of change and expected deliverable, which
24 remained a part of the Charge Request, stated:

¹⁶⁴ Qwest/20, p. 1.

¹⁶⁵ Qwest/18, Albersheim/47, lines 6-8.

¹⁶⁶ Qwest/20, p.1 (emphasis added).

1 “Qwest will contact the CLEC to test and accept only after the
2 updated FOC has been sent and *a designated time frame* has
3 passed. *Qwest will not put the order in a CNR (customer not*
4 *ready) jeopardy status* until this time frame has passed and the
5 CLEC is not ready. When Qwest puts a CLECs request in delayed
6 for facilities jeopardy status, Qwest should be *required to send the*
7 *CLEC an updated FOC when the delayed order is released* and
8 *allow the CLEC a reasonable time frame to prepare* to accept the
9 circuit. Qwest releases orders form a held status (in some cases the
10 CLEC has not even received an updated FOC) and immediately
11 contacts the CLEC to accept the circuit. Because Qwest does not
12 allow the CLEC a reasonable amount of time to prepare for the
13 release of the delayed order, the CLEC may not be ready when
14 Qwest calls to test with the CLEC. Qwest then places the request
15 in a CNR jeopardy status. Qwest should modify the Delayed order
16 process, to require *Qwest to send an updated FOC and then allow*
17 *a reasonable amount of time for the CLEC to react and prepare*
18 *to accept the circuit before contacting the CLEC for testing.*

19 Expected Deliverable:

20 *Qwest will modify, document and train a process, that requires*
21 *Qwest to send an updated FOC and allow a CLEC a reasonable*
22 *amount of time (from the time the updated FOC is sent) to*
23 *prepare for testing before Qwest contacts the CLEC to test and*
24 *accept the circuit.*¹⁶⁷

25 This shows that Eschelon clearly made these requests as part of this Change
26 Request. The description of change quoted above shows that I took steps to
27 ensure that, when Qwest expanded the scope of the Change Request, Eschelon’s
28 request (including this expected deliverable) remained a part of the Change
29 Request. Eschelon specifically requested a documented “designated time frame”
30 and, as the quotations from Qwest documentation in my discussion above, Qwest
31 committed in writing in posted minutes (i.e., documented) that it had an internally
32 documented process to provide the FOC the day before delivering the circuit.

¹⁶⁷ Qwest/20, p. 2 (emphasis added).

1 **Q. WAS THERE ANY COMPROMISE TO COMPLETE ONE OF THESE**
2 **CHANGE REQUESTS INSTEAD OF THE OTHER?**

3 A. No, although that seems to be the impression Qwest is attempting to create in its
4 testimony. Qwest claims that it “proposed a compromise.”¹⁶⁸ Instead of
5 describing the supposed compromise, Qwest directly quotes from October 6,
6 2003, CMP minutes that make no reference to a compromise.¹⁶⁹ The quote
7 actually refutes Qwest’s own claim. Qwest clearly refers in the quotation to two
8 *phases*, both of which will be completed, and *not* a compromise to complete one
9 request and not the other.¹⁷⁰ Phase 1 is “changing the jep timeframe to 6 pm”¹⁷¹
10 (*i.e.*, *Before 5:00 p.m. CNR Jeopardy Change Request*, PC072303-1), and Phase 2
11 is to “accommodate some time frames in between FOC and Jep”¹⁷² (*i.e.*, *Qwest*
12 *Jeopardy Change Request*, PC081403-1). The *Before 5:00 p.m. CNR Jeopardy*
13 *Change Request* (PC072303-1; Phase 1) was completed on February 18, 2004,
14 with the back end system change to hold the CNR jeopardy notifications until 6
15 p.m. Mountain time.¹⁷³ The *Qwest Jeopardy Change Request* (PC081403-1;
16 Phase 2) was completed on July 21, 2004, with Qwest’s commitment of its

¹⁶⁸ Qwest/18, Albersheim/48, line 31 and Qwest/18, Albersheim/52, lines 10-11.

¹⁶⁹ Qwest/18, Albersheim/49, lines 2-13.

¹⁷⁰ Qwest/18, Albersheim/49, lines 5-7 and 10.

¹⁷¹ Qwest/18, Albersheim/49, lines 4-5.

¹⁷² Qwest/18, Albersheim/49, lines 9-10.

¹⁷³ Qwest/19, Albersheim/1 (“Completed 2/18/2004”) & Qwest/19, Albersheim/6 (describing back end system change) (PC072303-1).

1 existing process described above to send the FOC the day before the due date
2 after a Qwest facility jeopardy.¹⁷⁴

3 **Q. QWEST TWICE REFERS TO “THE CHANGE REQUEST” OR “THE**
4 **CR.”¹⁷⁵ THE FIRST TIME, WHEN QWEST TESTIFIES THAT**
5 **ESCHELON AGREED TO QWEST’S ALTERNATIVE PROPOSAL FOR**
6 **“THE CHANGE REQUEST,” TO WHAT CHANGE REQUEST IS**
7 **QWEST REFERRING?**

8 A. Qwest does not say, but from the description it is apparent that Qwest is referring
9 to the *Before 5:00 p.m. CNR Jeopardy Change Request*, (PC072303-1; Phase 1).
10 For this change request, Eschelon proposed a process change to not send a CNR
11 jeopardy notice before 5 p.m. and instead Qwest offered the alternative proposal
12 of a systems solution – “back end system change” – to hold the CNR jeopardy
13 notice until 6 p.m. Mountain time. Eschelon accepted that proposal, and the
14 change request was completed on February 18, 2004.

15 **Q. THE SECOND TIME THAT QWEST REFERS TO “THE CR” IS WHEN**
16 **QWEST STATES THAT ESCHELON AGREED TO CLOSE “THE CR.”¹⁷⁶**
17 **TO WHICH CHANGE REQUEST IS QWEST REFERRING?**

18 A. Qwest does not say, but Qwest quotes from the July 21, 2004, CMP minutes for
19 the *Qwest Jeopardy Change Request* (PC081403-1; Phase 2).¹⁷⁷ By referring to

¹⁷⁴ Qwest/20, Albersheim/1 (“Completed 7/21/2004”) (PC081403-1).

¹⁷⁵ Qwest/18, Albersheim/49, line 15 and line 26.

¹⁷⁶ Qwest/18, Albersheim/49, line 26.

1 both change requests as “the Change Request” or “the CR,” Qwest’s testimony
2 tends to suggest that there was some compromise with respect to the first change
3 request (PC072303-1; Phase 1) that resolved the second change request
4 (PC081403-1; Phase 2). This is not the case.

5 **Q. WAS THERE ANY REASON FOR ESCHELON TO ESCALATE THE**
6 **OUTCOME OF “THE CR,”¹⁷⁸ GO TO THE CMP OVERSIGHT**
7 **COMMITTEE TO DISPUTE THE OUTCOME OF “THE CR,”¹⁷⁹ USE**
8 **THE CMP DISPUTE PROCESS FOR “THIS CR,”¹⁸⁰ OR SUBMIT**
9 **ANOTHER REQUEST¹⁸¹ FOR EITHER OF THESE TWO CHANGE**
10 **REQUESTS?**

11 A. No. For both change requests, Qwest completed the change requests.¹⁸² *The*
12 *problem is that Qwest is no longer honoring the CMP resolution of the Qwest*
13 *Jeopardy Change Request* (PC081403-1), as described in the attachment to my
14 direct testimony.¹⁸³ It is frustrating, at best, for Eschelon to read testimony by

¹⁷⁷ Compare Qwest/18, Albersheim/49, lines 23-26 with Qwest/20, Albersheim/3.

¹⁷⁸ Qwest/18, Albersheim/51, lines 7-10.

¹⁷⁹ Qwest/18, Albersheim/51, lines 14-16.

¹⁸⁰ Qwest/18, Albersheim/51, lines 17-19.

¹⁸¹ Qwest/18, Albersheim/51, lines 20-22.

¹⁸² As indicated above, *Before 5:00 p.m. CNR Jeopardy Change Request* (PC072303-1) was completed on February 18, 2004, with the back end system change to hold the CNR jeopardy notifications until 6 PM Mountain time. [Qwest/19, Albersheim/1 (PC072303-1) (“Completed 2/18/2004”) and Qwest/19, Albersheim/6 (describing back end system change)]. *Qwest Jeopardy Change Request* (PC081403-1) was completed on July 21, 2004, with the commitment described above to send the FOC the day before the due date after a Qwest facility jeopardy. [Qwest/20, Albersheim/1 (“Completed 7/21/2004”) and Qwest/19, Albersheim/3-4 (7/21/04)].

¹⁸³ Eschelon/110, Johnson/16-18.

1 Qwest saying that Eschelon should submit a change request in CMP to obtain a
2 result that it already achieved through CMP. Qwest has elected to disregard its
3 own CMP resolution without following its own CMP processes to initiate a
4 change in that resolution when Qwest desires a different outcome.

5 **Q. MS. ALBERSHEIM TESTIFIES THAT ESCHELON HAS PORTRAYED**
6 **QWEST AS “CHANGING ITS MIND” OR ACTING**
7 **“INCONSISTENTLY” WHEN “IN FACT” ESCHELON’S EXAMPLES**
8 **ARE DEMONSTRATIVE OF “QWEST’S SIGNIFICANT EFFORTS TO**
9 **BE RESPONSIVE TO ITS CLEC CUSTOMERS.”¹⁸⁴ IS MS.**
10 **ALBERSHEIM CORRECT?**

11 A. No. Qwest’s email dated September 1, 2005,¹⁸⁵ is evidence that Qwest has
12 arbitrarily changed its policy and did not honor the result achieved through
13 completion of the Qwest Jeopardy Change Request (PC081403-1). As this email
14 shows, Qwest is not only denying that it must provide the FOC after a Qwest
15 facility jeopardy the day before the due date, Qwest has actually denied that it
16 must provide it at all. And, Qwest maintains it may still classify the jeopardy as
17 CNR if a CLEC is not ready as a result of Qwest’s failure to provide notice.¹⁸⁶

18 While in February of 2004, Qwest confirmed in CMP that its process is to send an

¹⁸⁴ Qwest/18, Albersheim/18, lines 7-9.

¹⁸⁵ Eschelon/110, Johnson/18 (9/1/05 email from Qwest CMP Process Manager).

¹⁸⁶ Qwest/18, Albersheim/56, lines 6-8 Qwest refers to unspecified “order activity” as “eliminate[ing] the need for an FOC,” *see id.*, despite the unqualified requirement of the SGAT and closed language in the proposed ICA (9.2.4.4.1) to provide an FOC after a Qwest facility jeopardy.

1 FOC “*prior to the Due Date*,”¹⁸⁷ Qwest later claimed that this is just a “goal”¹⁸⁸
2 and that there is no requirement in these situations to send an FOC at all. To
3 confirm Qwest’s new position and ensure that Eschelon was not
4 misunderstanding it, Eschelon sent Qwest a scenario in which Qwest, after a
5 facility jeopardy, sent no FOC at all and yet Qwest classified the jeopardy as a
6 Customer Not Ready (*i.e.*, Eschelon-caused) jeopardy.¹⁸⁹ Despite completion of
7 *Qwest Jeopardy Change Request* (PC081403-1), Qwest’s CMP Process Manager
8 responded: “Your scenario is correct.”¹⁹⁰

9 In contrast, in CMP, Qwest “agreed, and confirmed that Qwest cannot expect the
10 CLEC to be ready for the service if we haven’t notified you.”¹⁹¹ Now, Qwest is
11 expecting the CLEC to be ready for service even if Qwest has not notified the
12 CLEC.¹⁹² Qwest did not escalate in CMP, go to the CMP oversight committee,
13 use the CMP dispute resolution process, or submit a Qwest-initiated CR to
14 achieve this change. Qwest just arbitrarily changed its policy, despite all of
15 Eschelon’s efforts to work through CMP as requested by Qwest. Qwest then adds
16 salt to the wound by claiming this arbitrary action is indicative of “Qwest’s

¹⁸⁷ Eschelon/110, Johnson/18.

¹⁸⁸ Eschelon/110, Johnson/16 (8/29/05 email from CMP Process Manager) and Eschelon/110, Johnson/18 (9/1/05 email from CMP Process Manager).

¹⁸⁹ Eschelon/110, Johnson/17-18 (9/1/05 Eschelon email).

¹⁹⁰ Eschelon/110, Johnson/18 (9/1/05 Qwest email).

¹⁹¹ Eschelon/111, Johnson/5 (3/4/04); *See also*, Qwest/20, Albersheim/5.

¹⁹² Eschelon/110, Johnson/18 (9/1/05 Qwest email); *See also* Qwest/18, Albersheim/53, line 25, p. 54, line 2.

1 significant efforts to be responsive to its CLEC customers.”¹⁹³ Clearly, the
2 interconnection agreement needs to address this issue for Eschelon to obtain any
3 consistent, reliable result upon which it can plan its business.

4 **Q. MS. ALBERSHEIM RESPONDS TO A SERIES OF Q & A’s ON PAGE 50**
5 **OF HER REBUTTAL TESTIMONY REGARDING REDLINED**
6 **CHANGES QWEST MADE TO ITS PCAT. MS. ALBERSHEIM CLAIMS**
7 **“THESE DOCUMENTS REPRESENT THR RESULT OF CHANGE**
8 **REAUEST PC081403-1.”¹⁹⁴ DID YOU ADDRESS THIS IN YOUR DIRECT**
9 **TESTIMONY?**

10 A. Yes. Ms. Albersheim’s rebuttal testimony is not responsive to my direct
11 testimony in this respect. I provided detailed facts regarding Qwest’s claims that
12 providing an FOC the day before is not its current practice, because Qwest did not
13 include it in its PCAT, in my direct testimony.¹⁹⁵

¹⁹³ Qwest/18, Albersheim/18, lines 8-9; Qwest/18, Albersheim/6, lines 26-27; and Qwest/18, Albersheim/22, line 12. Similarly, in response to an email from Eschelon indicating that “this is not the process we discussed in CMP,” Qwest responded: “Qwest will continue to strive to deliver service on the due date to meet our customers’ expectations.” *See* Eschelon/110, Johnson/19. This is hardly responsive to the need expressed by Eschelon. For further discussion of that business need, see Issues 12-71 – 12-73 (discussed by Ms. Johnson).

¹⁹⁴ Qwest/18, Albersheim/50, line 12.

¹⁹⁵ Eschelon/43, Johnson/79-85.

1 **D. SUBJECT MATTER NO. ISSUE 43. CONTROLLED PRODUCTION**

2 **Issue No. 12-87: ICA Section 12.6.9.4**¹⁹⁶

3 **Q. MS. ALBERSHEIM’S REBUTTAL TESTIMONY SEEMS TO SUGGEST**
4 **THAT ESCHELON HAS PROPOSED THAT IT BE ALLEVIATED FROM**
5 **ANY CONTROLLED PRODUCTION TESTING – EVEN WHERE NEW**
6 **RELEASES ARE CONCERNED. IS THAT ACCURATE?**

7 **A.** No, it is not. Under both of Eschelon’s proposals,¹⁹⁷ Eschelon would indeed
8 participate in controlled production testing with new releases such as IMA
9 Release 20.0 (i.e., “new implementations”).¹⁹⁸ I discuss this issue on pages 41-42
10 of my rebuttal testimony. Eschelon also discussed why, if this is Qwest’s current
11 practice, it needs to be addressed in the ICA in Eschelon’s previous testimony on
12 this issue.¹⁹⁹

13 **Q. MS. ALBERSHEIM TESTIFIES THAT ESCHELON’S PROPOSED**
14 **LANGUAGE DOES NOT REFLECT QWEST’S CURRENT PRACTICE.**²⁰⁰
15 **HAS MS. ALBERSHEIM PROVIDED SWORN TESTIMONY TO THE**
16 **CONTRARY?**

¹⁹⁶ Throughout discussion of Issue 12-87 there are references to the Implementation Guidelines. Excerpts are included with my testimony as Eschelon/122.

¹⁹⁷ Eschelon/43, Johnson/94, line 8 – 95 line 8.

¹⁹⁸ See Qwest/18, Albersheim/60, lines 7-8. Ms. Albersheim has admitted that Release 20.0 is a “new implementation” (i.e., the term used in Eschelon’s proposed language). See Qwest-Eschelon ICA MN Arbitration, Qwest/18, Albersheim/70 (“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”).

¹⁹⁹ Eschelon/43, Johnson/99 - 102.

²⁰⁰ Qwest/18, Albersheim/59, lines 19-23.

1 A. Yes. I discuss her reversal of position on pages 97-99 of my direct testimony.
2 The Minnesota commission upheld the ALJs' finding that "Qwest agrees that
3 Eschelon's language accurately depicts its current practice, which does not
4 require CLECs to recertify if they have successfully completed testing of a
5 previous release; in addition, Qwest admits that Qwest can control whether a
6 CLEC can access its OSS."²⁰¹ I address the Minnesota ALJs' ruling on page 105
7 of my direct testimony.

8 **Q. MS. ALBERSHEIM CLAIMS THAT THERE IS NO STATEMENT TO**
9 **SUGGEST THAT THESE SYSTEMS DOCUMENTS WILL ALSO BE**
10 **PLACED UNDER CMP SUPERVISION.²⁰² IS THAT THE CASE?**

11 A. No. I addressed the CMP Redesign meeting minutes in my direct²⁰³ and rebuttal
12 testimony,²⁰⁴ and Eschelon provided excerpts from the meeting minutes in
13 Eschelon/19 and Eschelon/20. Qwest provided no documentation to support its
14 claims. Qwest admits that Eschelon was an active participant in the CMP
15 Redesign team.²⁰⁵ Despite this explicit language stating that the guideline is
16 within the scope of CMP, Ms. Albersheim continues²⁰⁶ to maintain it is not, but

²⁰¹ Eschelon/30, MN PUC Arbitration Order, p. 22, ¶1; Eschelon/29, MN Arbitrators' Report, ¶255.

²⁰² Qwest/18, Albersheim/64, lines 20-22.

²⁰³ Eschelon/43, Johnson/99 - 101.

²⁰⁴ Eschelon/127, Johnson/35.

²⁰⁵ Qwest/1, Albersheim/21, lines 5-7 ("According to the records of the CMP redesign, Eschelon was an active and vocal participant in the CMP redesign process, meaning that Eschelon had a hand in the design of the CMP as it exists today.").

²⁰⁶ In the Minnesota Arbitration of the same contract language, Ms. Albersheim testified that the IMA Implementation Guideline documents are not and should not be under the CMP control. *See* Qwest-Eschelon ICA MN Arbitration, Albersheim MN Surrebuttal, p. 44 lines 4-10.

1 provides no evidence to support her statement. She attempts to re-characterize the
2 statements in the minutes, claiming that they “reflect that such changes will be
3 documented in all relevant systems documentation, including the EDI
4 Implementation Guidelines.”²⁰⁷ The minutes, however, specifically state – not
5 simply that the changes will be documented – but that they will be *within the*
6 *scope of CMP*. Qwest has admitted it is not handling them within the scope of
7 CMP at this time.²⁰⁸

8 **Q. DOES QWEST RAISE ANY OTHER NEW ISSUES REGARDING ISSUE**
9 **12-87 IN ITS REBUTTAL TESTIMONY?**

10 A. No. Given that Ms. Albersheim’s rebuttal does not appear to raise any other new
11 issues and suggests that Eschelon has proposed to be relieved of all obligations
12 pertaining to controlled production testing – even for new releases – which is
13 incorrect, I will not repeat that discussion here.

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes.

²⁰⁷ Qwest/18, Albersheim/64, lines 19-20.

²⁰⁸ Ms. Albersheim testified that the IMA Implementation Guideline documents *are not* and should not be under the CMP control. *See* Qwest-Eschelon ICA MN Arbitration, Albersheim MN Surrebuttal, p. 44 lines 4-10.

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 142

This Exhibit consists of the following:

Qwest Notice dated September 27, 2006 entitled
PROS.09.27.06.F.04212.Dispatch_and_M&R_Overview
<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E27%2E06%2EF%2E04212%2EDispatch%5Fand%5FM%26R%5FOverview%2Edoc>

Redline Dispatch Changes V4.0 (excerpt). Entire document available at:
http://www.qwest.com/wholesale/downloads/2006/060926/PCAT_Dispatch_V4.doc

Qwest Level 3 CMP Notice dated December 1, 2006, entitled
PROS.12.01.06.F.04363.Tagging_of_Circuits
<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E12%2E01%2E06%2EF%2E04363%2ETagging%5Fof%5FCircuits%2Edoc>

Redline Dispatch Changes V5.0 (2006) (excerpt). Entire document available at:
http://www.qwest.com/wholesale/downloads/2006/061130/PCAT_Dispatch_V5.doc

Qwest Level 4 CMP CR PC030607-1 Detail
http://www.qwest.com/wholesale/cmp/cr/CR_PC030607-1.htm

Notice of changes to PCATs dated April 2, 2007
<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E04%2E02%2E07%2EF%2E04608%2ETagCircuitsProcessUpdate%2Edoc>

Red lined Dispatch PCAT Changes V5.0 (2007)(excerpt): Entire document available at:
http://www.qwest.com/wholesale/downloads/2007/070330/PCAT_Dispatch_V5.doc

Eschelon comments and Qwest's response:
http://www.qwest.com/wholesale/downloads/2007/070502/Qwest_Resp_to_Cmmnt_PR_OS_05_02_07_F_04667_FNL_TagCircuitsProcessUpd.doc

Qwest notice of implementation:
<http://www.qwest.com/wholesale/cnla/uploads/PROS%2E05%2E02%2E07%2EF%2E04667%2EFNL%5FTagCircuitsProcessUpd%2Edoc>

Current Dispatch PCAT (excerpt). Entire document available at:
<http://www.qwest.com/wholesale/clecs/dispatch.html>

Announcement Date: September 27, 2006
Effective Date: September 28, 2006
Document Number: PROS.09.27.06.F.04212.Dispatch_and_M&R_Overview
Notification Category: Process Notification
Target Audience: CLECs, Resellers
Subject: CMP - Dispatch - V3.0 and Maintenance and Repair Overview – V66.0
Level of Change: Level 1

Summary of Change:

On September 28, 2006, Qwest will post updates to its Wholesale Product Catalog that include corrections, clarifications and additional information for Dispatch. 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

Updates are associated with a clarification on the tagging of the demarcation point if a technician is dispatched for repair. In the Dispatch PCAT under the Description section, Qwest will be removing two statements to make it align with current practices documented in the Maintenance and Repair Overview. In the Maintenance and Repair Overview under CLEC Roles and Responsibilities section, sub section Tagging of Circuits, Qwest will be providing clarifying language which describes the Qwest technician process if on a repair call and if tagging of the demarcation is requested by your end-user for Design and Non-Design circuits.

Actual updates to the operational document are 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>

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 cmpr@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>

Dispatch – ~~V3.0~~V4.0

History Log (Link blue text to: [Add Existing Download with Attached Dispatch History Log](#))

Description

Qwest technicians are dispatched to perform installation and test work as required for installation or repair activity. If requested by you, Qwest installs and repairs your service to the network demarcation point at the end-user's premises. The network demarcation point is the point at which Qwest's network ends and that of another carrier or end-user begins (e.g., Field Connection Point (FCP), Network Interface Device (NID), InterConnection Distributing Frame (ICDF), jack, etc.). ~~Whenever a Qwest technician is dispatched to a premise, the Qwest demarcation point will be tagged if a tag is not present.~~ Refer to the [Maintenance and Repair Overview](#) for information regarding demarcation. (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>). For additional information regarding dispatch, see specific Product Catalogs (PCATs) for [Facility-Based Competitive Local Exchange Carriers \(CLECs\)](#) (Link blue text to: <http://www.qwest.com/wholesale/pcat/interconnection.html>) or [Resale CLECs](#) (Link blue text to: <http://www.qwest.com/wholesale/pcat/resale.html>)

Dispatch is associated with new connection activity (N and T orders) when Qwest determines that physical work at the wire center or the end-user's premises is necessary (e.g., placement and/or removal of cross connects). Qwest technicians are not automatically dispatched for conversion orders, change orders (e.g., feature additions; changes; or removals), or similar requests that do not require technician dispatch. When dispatched for new installation activity, Qwest technicians will tag the network interface if a tag is not present.

Qwest will dispatch for repair issues when you contact us to report trouble. ~~When a Qwest technician is dispatched to a premise for repair activity, the Qwest demarcation point will be tagged if a tag is not present.~~ For additional information regarding when Qwest dispatches for repair and associated charges, e.g., Trouble Isolation Charges (TIC), refer to the [Maintenance and Repair Overview](#). (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>)

Availability

Availability section does not apply to Dispatch.

Terms and Conditions

If you request technician dispatch by indicating Dispatch 'Yes' or by marking your Local Service Request (LSR)/Access Service Request (ASR) for manual handling on an order for which dispatch is not necessary (as determined by Qwest), you must detail your request in the REMARKS section of the LSR/ASR (e.g., "Move NID on Resale") to avoid possible rejection. Additional charges may apply. For information regarding when you can use the Dispatch Field, refer to the [LSOG](#) (Link blue text to: <http://www.qwest.com/wholesale/clecs/lvog.html>) and the [ASOG](#) (Link blue text to: <http://www.qwest.com/wholesale/forms/asr.html>).

If your Technician or end-user requests additional work or services that are not on the original service request, the Qwest technician will advise your technician or end-user to contact the order originator or service provider.

Technical Publications

Technical Publications section does not apply to Dispatch.



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 http://www.qwest.com/wholesale/cmp/review_archive.html
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>

Dispatch – ~~V3.0~~V5.0

History Log (Link blue text to: [Add Existing Download with Attached Dispatch History Log](#))

Description

Qwest technicians are dispatched to perform installation and test work as required for installation or repair activity. If requested by you, Qwest installs and repairs your service to the network demarcation point at the end-user's premises. The network demarcation point is the point at which Qwest's network ends and that of another carrier or end-user begins (e.g., Field Connection Point (FCP), Network Interface Device (NID), InterConnection Distributing Frame (ICDF), jack, etc.). ~~Whenever a Qwest technician is dispatched to a premise, the Qwest demarcation point will be tagged if a tag is not present. Refer to the Maintenance and Repair Overview for information regarding demarcation. (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>). For additional information regarding dispatch, see specific Product Catalogs (PCATs) for Facility-Based Competitive Local Exchange Carriers (CLECs) (Link blue text to: <http://www.qwest.com/wholesale/pcat/interconnection.html>) or Resale CLECs (Link blue text to: <http://www.qwest.com/wholesale/pcat/resale.html>)~~

Provisioning:

General Qwest dispatch information and the associated charges are described in the *Provisioning and Installation Overview*. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/provisioning.html>)

Dispatch, for provisioning, is associated with new connection activity (N and T orders) when Qwest determines that physical work at the wire center or the end-user's premises is necessary (e.g., placement and/or removal of cross connects). Qwest technicians are not automatically dispatched for conversion orders, change orders (e.g., feature additions; changes; or removals), or similar requests that do not require technician dispatch. When dispatched to the premises for new installation activity, Qwest technicians will tag the network interface, if requested, if a tag is not already present.

~~Qwest will dispatch for repair issues when you contact us to report trouble. When a Qwest technician is dispatched to a premise for repair activity, the Qwest demarcation point will be tagged if a tag is not present. For additional information regarding when Qwest dispatches for repair and associated charges, e.g., Trouble Isolation Charges (TIC), refer to the Maintenance and Repair Overview. (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>)~~

Repair:

General Qwest dispatch information and the associated charges are described in the *Maintenance and Repair Overview*. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>)

General maintenance and repair activities regarding demarcation are described in the *Maintenance and Repair Overview*. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>) Product specific dispatch information are described in the individual product PCATs for *Facility-Based Competitive Local Exchange Carriers (CLECs)* (Link italicized text to: <http://www.qwest.com/wholesale/pcat/interconnection.html>) or *Resale CLECs*. (Link italicized text to: <http://www.qwest.com/wholesale/pcat/resale.html>)

Open Product/Process CR PC030607-1 Detail

Title: Tagging Demarcation Points

CR Number	Current Status Date	Area Impacted	Products Impacted
PC030607-1	CLEC Test 5/17/2007	Ordering, Maintenance/Repair, Provisioning	All Designed Services

Originator: Dyson, Mark

Originator Company Name: Qwest Corporation

Owner: Dyson, Mark

Director: Coyne, Mark

CR PM: Stecklein, Lynn

Description Of Change

Qwest submits this change request regarding tagging at the demarcation point so that a process change may be noted. The process change is relevant to designed services only and therefore, includes unbundled loops. The process change is as follows: When a Qwest technician is dispatched on a repair and is at the premises of the end-user, the Qwest technician will tag your circuit if you request it be done. Qwest will revise three documents to make the change clear. These documents consist of the following:

1. The Dispatch Business Procedure
2. The M & R Overview
3. The Provisioning & Installation Overview

Finally, Qwest, in updating these documents, also revises language to ensure all documents sync-up with regard to all tagging processes and procedures; including POTS services.

Lastly, Qwest wants to note that it is happy to tag any circuit anytime you request it be done.

Status History

Date	Action	Description
5/9/2007	Communicator Issued	PROS.05.02.07.F.04667.FNL_TagCircuitsProcessUpd
5/18/2007	Status Changed	Status changed to CLEC Test
5/18/2007	Discussed at Monthly CMP Meeting	Discussed at the May CMP Meeting - See Attachment D in the Distribution Package
3/6/2007	CR Submitted	
3/7/2007	CR Acknowledged	
3/21/2007	Status Changed	Status changed to Presented
3/21/2007	Discussed at Monthly CMP	Discussed at the March Product/Process CMP Meeting - See Attachment D in the Distribution Package

3/21/2007	Status Changed	Status changed to Development
4/27/2007	Communicator	PROS.04.02.07.F.04608.TagCircuitsProcessUpdate

Project Meetings

5/16/07 Product/Process CMP Meeting

Mark Coyne-Qwest stated that the Level 4 Notice went out on April 2nd and will be effective on May 17th. Mark stated that we would move the CR to CLEC Test on the 17th

4/18/07 Product/Process CMP Meeting

Mark Coyne-Qwest stated that a notification was sent on 4/2/07 and that the response to comments is due 5/2/07. He said that this CR will become effective on 5/17/07.

3/21/07 Product/Process CMP Meeting

Georgie Weidenbach-Qwest stated that this change request is regarding tagging at the demarcation point so that a process change may be noted. She said that this process change is relevant to designed services only and therefore, includes unbundled loops. Georgie said that the process change is as follows: When a Qwest technician is dispatched on a repair and is at the premises of the end-user, the Qwest technician will tag your circuit if you request it be done. She said that Qwest will revise the following three documents to make this change clear: 1.The Dispatch Business Procedure 2.The M &R Overview 3.The Provisioning & Installation Overview Georgie said that Qwest, in updating these documents, also revises language to ensure all documents sync-up with regard to all tagging processes and procedures; including POTS services. She said that Qwest wants to note that it is happy to tag any circuit anytime you request it be done. 3/27/07 - Comments to minutes received from Eschelon Kim Isaacs-Eschelon asked if the process was for repair only. Kim asked what Qwest's tagging process is for new installations of design services. Georgie Weidenbach-Qwest said that is correct and that we will tag any time if requested for repair scenarios. Qwest automatically tags when dispatch for the installation of designed services. Kim Isaacs-Eschelon asked if the changes to the Provisioning and Installation Overview would be removing references to the repair process. Georgie Weidenbach-Qwest stated that they were updating all of the PCATs to align the process and to document that as a courtesy Qwest will tag on repair dispatches for unbundled loops if the CLEC requests it. Mark Coyne-Qwest stated that this change will go out as a Level 4.

Ad Hoc Meeting - Tagging of Circuits February 19, 2007

Attendees: Kim Isaacs-Eschelon, Bonnie Johnson-Eschelon, Kathi Lee-AT&T, Cindy Buckmaster-Qwest, Susan Lorence-Qwest, Vicki Dryden-Qwest, Don Tolman-Qwest, Peggy Esquibel-Reed, Qwest, Lynn Stecklein-Qwest

Lynn Stecklein-Qwest stated that the purpose of this meeting is to have additional discussion on Qwest's proposed changes in the Provisioning and Installation and M&R PCATs. Qwest issued a Level 3 notice that was prompted due to decisions made associated with the negotiations going on with Eschelon. She said that the Level 3 notice was issued for some PCAT updates and a change in process. Eschelon requested a change in disposition to a Level 4. Lynn said that this issue was also discussed in the January CMP Meeting and during that meeting an adhoc meeting was requested.

Cindy Buckmaster-Qwest stated that as a result of contract negotiations with 1 to 2 CLECs, there was a misunderstanding on how Qwest tags circuits. She said that with the old process we did not tag everytime we went out and that a sentence was misconstrued. Cindy said that we tried to clean up the PCATs and introduced the language at CMP. She said that our intent has not changed and that if you request a tag, Qwest will tag if the account is not yet tagged.

Don Tolman-Qwest stated that we will tag anytime we dispatch to premis.

Cindy Buckmaster-Qwest agreed and said that in the event we dispatch to the customer premis, we will tag at the CLECs request.

Bonnie Johnson-Eschelon stated that this language was left out of the dispatch PCAT and was taken out of context. She said that this language has been in the PCAT since 2003. She stated that Eschelon has developed an internal process based on what the PCAT says and that now Qwest is stating that the documentation is not clear. Bonnie said that this is a change in process

for Eschelon and that this needs to be a Level 4. She stated that we need to work through the language together and have appropriate amount of time to react to the change. Bonnie stated that they did comment in the January CMP Meeting and that we need to talk about installation and repair separately. She said that there are 2 points with this change. The 1st point is the after 30 days of installation and the 2nd point - if within 30 days and already tagged. Bonnie reiterated that the Provisioning and Installation and Repair PCATs need to be kept separate and that we need to make this change clear in the documentation. She said that the documentation, for example, should say that if the change is after 30 days, you need to submit a LSR and that will point to the Provisioning and Installation or Ordering Overview PCAT. She said that if the situation is within 30 days, it should be in the Repair PCAT. Bonnie also said that her understanding from the November call was that Qwest always tagged on designed services and that she did not see this in the Provisioning and Installation PCAT.

Cindy Buckmaster-Qwest thanked Eschelon for their thoughts and asked if anyone else had any Questions. Cindy asked what the next steps were.

Lynn Stecklein-Qwest stated that she heard that Eschelon is requesting a Level 4 be submitted.

Bonnie Johnson-Eschelon agreed.

Lynn Stecklein-Qwest stated that Qwest will regroup internally and discuss the Level 4 change.

Susan Lorence-Qwest stated that we did discuss that if we could not reach agreement that Qwest will issue a Level 4 and work to get the PCATs consistent. Susan stated that we would not be addressing the rate piece in CMP.

Bonnie Johnson-Eschelon stated that the language talks about the application of rates all over in the documentation.

Susan Lorence-Qwest stated that Qwest will regroup on the consistency of the language but not the rate piece, only the process.

Lynn Stecklein-Qwest asked if there were any other questions and there were none.

-- 1/17/07 January Product/Process CMP Meeting 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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Announcement Date: April 02, 2007
Proposed Effective Date: May 17, 2007
Document Number: PROS.04.02.07.F.04608.TagCircuitsProcessUpdate
Notification Category: Process Notification
Target Audience: CLECs, Resellers
Subject: CMP - Multiple PCAT update to Tagging of Circuits
Level of Change: Level 4
Associated CR Number or System: Qwest CR PC030607-1
Release Number:

Summary of Change:

On April 2, 2007, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Provisioning and Installation Overview - V99.0, Maintenance and Repair Overview - V68.0 and Dispatch - V5.0. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>

On December 1, 2006, Qwest sent the proposed update via a Level 3 notice PROS.12.01.06.F.04363.Tagging_of_Circuits. Qwest received a CLEC change to disposition request. On December 19, 2006, Qwest sent a Delayed Response via notice PROS.12.19.06.F.04415.QwestDelayedResp-TaggingC. Qwest held an adhoc meeting on February 19, 2007. As a result of the adhoc call, Qwest agreed to submit the Qwest CR # PC030607-1 and re-submit this update as a Level 4.

This proposed process change is associated with tagging of a circuit at the demarcation point and is relevant to designed services only and therefore, includes unbundled loops. When a Qwest technician is dispatched on a repair and is at the premises of the end-user, the Qwest technician will tag your circuit if you request it be done. Changes are to the following three documents:

1. Dispatch
2. Maintenance & Repair Overview
3. Provisioning & Installation Overview

The updates to the Dispatch Business Procedure 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.

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.

Updates to these documents include revised language to ensure all documents sync-up with regard to tagging processes and procedures, including POTS services.

These documentation updates are associated with Qwest CR PC030607-1. 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/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 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 02, 2007
CLEC Comment Cycle on Documentation Begins	Beginning April 03, 2007
CLEC Comment Cycle Ends	5:00 PM, MT April 17, 2007
Qwest Response to CLEC Comments (if applicable)	Available May 02, 2007 http://www.qwest.com/wholesale/cmp/review_archive.html
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>

Dispatch – ~~V3.0~~V5.0

History Log (Link blue text to: [Add Existing Download with Attached Dispatch History Log](#))

Description

Qwest technicians are dispatched to perform installation and test work as required for installation or repair activity. If requested by you, Qwest installs and repairs your service to the network demarcation point at the end-user's premises. The network demarcation point is the point at which Qwest's network ends and that of another carrier or end-user begins (e.g., Field Connection Point (FCP), Network Interface Device (NID), InterConnection Distributing Frame (ICDF), jack, etc.). ~~Whenever a Qwest technician is dispatched to a premise, the Qwest demarcation point will be tagged if a tag is not present. Refer to the Maintenance and Repair Overview for information regarding demarcation. (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>). For additional information regarding dispatch, see specific Product Catalogs (PCATs) for Facility-Based Competitive Local Exchange Carriers (CLECs) (Link blue text to: <http://www.qwest.com/wholesale/pcat/interconnection.html>) or Resale CLECs (Link blue text to: <http://www.qwest.com/wholesale/pcat/resale.html>)~~

Provisioning:

General Qwest dispatch information and the associated charges are described in the *Provisioning and Installation Overview*. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/provisioning.html>)

Dispatch, for provisioning, is associated with new connection activity (N and T orders) when Qwest determines that physical work at the wire center or the end-user's premises is necessary (e.g., placement and/or removal of cross connects). Qwest technicians are not automatically dispatched for conversion orders, change orders (e.g., feature additions; changes; or removals), or similar requests that do not require technician dispatch. When dispatched to the premises for new installation activity, Qwest technicians will tag the network interface, if requested, if a tag is not already present.

~~Qwest will dispatch for repair issues when you contact us to report trouble. When a Qwest technician is dispatched to a premise for repair activity, the Qwest demarcation point will be tagged if a tag is not present. For additional information regarding when Qwest dispatches for repair and associated charges, e.g., Trouble Isolation Charges (TIC), refer to the Maintenance and Repair Overview. (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>)~~

Repair:

General Qwest dispatch information and the associated charges are described in the *Maintenance and Repair Overview*. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>)

General maintenance and repair activities regarding demarcation are described in the *Maintenance and Repair Overview*. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>) Product specific dispatch information are described in the individual product PCATs for *Facility-Based Competitive Local Exchange Carriers (CLECs)* (Link italicized text to: <http://www.qwest.com/wholesale/pcat/interconnection.html>) or *Resale CLECs*. (Link italicized text to: <http://www.qwest.com/wholesale/pcat/resale.html>)

Qwest Response to Document In Review

Response Date: May 02, 2007
Document: Process: CMP - Multiple PCAT update to Tagging of Circuits
Original Notification Date: April 02, 2007
Notification Number: PROS.04.02.07.F.04608.TagCircuitsProcessUpdate
Category of Change: Level 4

Qwest recently posted proposed updates to Dispatch V5.0, Provisioning & Installation Overview – V99.0 and Maintenance & Repair Overview V68.0. CLECs were invited to provide comments to these proposed changes during a Document Review period from April 03, 2007 through April 17, 2007. 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.

Qwest Response to Process CMP - Multiple PCAT update to Tagging of Circuits Comments

#	CLEC Comment	Qwest Response
1	<p><i>Eschelon April 16, 2007 Comment: Eschelon objects to Qwest’s proposed changes to its PCATs regarding tagging at the demarcation point (demarc). In any event, Eschelon’s interconnection agreement terms control. Eschelon provides the following comments on Qwest’s proposed PCAT changes:</i></p> <p><i>Eschelon has previously commented on Qwest’s proposed changes, but Qwest does not seem to have taken Eschelon’s earlier comments into account. Perhaps this is because Qwest changed only the disposition level at this time. In any case, please refer to Eschelon’s earlier comments, and some of the same problems (inconsistency, etc.) remain with Qwest’s proposed PCAT changes. For example, Eschelon said in a 1/16/07 response to Qwest: “After reviewing Qwest’s language, we don’t believe the language meets that goal [described below]. 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</i></p>	<p>1 - Qwest did take into consideration Eschelon’s earlier comments and made a number of document changes which were incorporated in the level 3 proposed redline document.</p> <p>2 - Per the Eschelon comment on the Level 3 notice PROS.12.01.06.F.04363.Tagging_of_Circuits, “A comment period connected with a notice is insufficient to deal with these extensive changes.” Qwest changed the disposition to a level 4 to allow additional time as requested.</p>

	<p><i>things in tomorrow's meeting.” At the 1/17/07 CMP meeting, Eschelon communicated some of the concerns it had with the PCAT changes, if Qwest’s goal was to update the PCATs to reflect the closed ICA language. (See http://www.qwest.com/wholesale/calendar/attachments/CMPMeetingMinutesPP2007-01-17_164.pdf).</i></p> <p><i>On April 2, 2007, Qwest issued a level 4 CR which included proposed red lined changes to three PCATs (Dispatch, Maintenance and Repair (M&R), and Provisioning and Installation P&I)). These are the same changes that Qwest proposed on 12/1/06. Qwest did not make any modifications based on the concerns Eschelon expressed, including the change to the section on rates for Service Wire Rearrangements in the P&I PCA.. Eschelon said in the January CMP meeting “Bonnie Johnson.....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.” (See http://www.qwest.com/wholesale/calendar/attachments/CMPMeetingMinutesPP2007-01-17_164.pdf) Qwest still offers no explanation for this change in its April 2, 2007 notice that is unrelated to tagging and Eschelon will object to that change.</i></p> <p><i>Qwest should revise the proposed PCATs to address the issues raised previously and reissue them for comment.</i></p> <p><i>Although Section 1.0 (Scope) of the CMP Document permits the provisions of an ICA and the CMP to coexist, conflict, or potentially overlap, Qwest has indicated that it desires to make changes to its PCAT so that the PCAT terms operate in the same manner as closed language in the Qwest-Eschelon proposed ICA. {3} (Specifically, in an email dated 1/9/07 Mark Coyne (Qwest CMP Manager) said: After the ad hoc 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 . . .”).</i></p>	<p>3 - See response #1 regarding not making any modifications based on the concerns Eschelon expressed.</p> <p>4 - The update to the Service Wire Rearrangement is not directly related to tagging and would normally be considered a level 0 and/or level 1 CMP update. There are no process impacts to the CLECs with this change. Because of the attention paid to these changes, Qwest chose to incorporate this clarification in the redline documents. Qwest felt this change was self-explanatory; however, a mention of this update could have been included on previous notices to provide that clarification.</p> <p>5 - Qwest believes all issues raised previously have been addressed with the current redline.</p> <p>6 - Qwest believes its proposed PCAT changes operate in the same manner as the Eschelon ICA language.</p>
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	<p><i>While the CMP Document does not require Qwest to do so (as the ICA will govern for Eschelon and any CLECs opting into it or successfully using it as a basis for their negotiated agreements) and some CLECs may prefer the previous approach, if that is Qwest's desired result, it has missed the mark.</i></p> <p><i>As we have previously discussed, and as indicated in the examples below, the proposed PCAT changes do not operate in the same manner as that ICA language.</i></p> <p><i>Given Qwest's stated goal, I will include the closed ICA language from the Qwest-Eschelon proposed ICA:</i></p> <p><i>12.3.1 Demarcation Point.</i></p> <p><i>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 completion.</i></p> <p><i>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 Section 12.3.1.1.</i></p> <p><i>EXAMPLES of issues by PCAT:</i></p> <p><i>Dispatch PCAT</i></p> <p><i>Page 1</i> <i>Qwest's proposed changes under the Description. The deleted information represents a change that CLECs may or may not agree with. In concept, if the Qwest technician is dispatched to the premise</i></p>	<p>7 - The Dispatch PCAT was originally developed for Unbundled Loop thus did not take POTS service into consideration. Because this information was not clear, Qwest updated the Dispatch PCAT to clarify the process by adding links to the M&R and P&I PCATs which address all loops, including POTS.</p>
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<p><i>and notices that a tag is not present, there is no reason that the technician should not tag. If Qwest will stop doing so and instead require a request from CLECs in every case, other CLECs need to understand the requirements, making the consistency and clarity overall requested by Eschelon important.</i></p> <p><i>Qwest's proposed changes under the Provisioning and Repair section:</i> <i>Qwest's changes are inconsistent. For provisioning, Qwest provides limited information on when it will tag (and more information in the P&I PCAT). For repair, Qwest removed the language and refers the CLEC to the M&R PCAT. Qwest's changes should be consistent. A CLEC should not have to go to 2 different PCATs to get the whole picture on when Qwest will or will not tag for repair or provisioning.</i></p> <p><i>Example of possible solution: Qwest could move information under provisioning (with the exception of the links to the P&I PCAT) to the P&I PCAT.</i></p> <p><i>Page 2</i> <i>Qwest added "and a technician is dispatched as a result of your request." Eschelon has real business examples when the installation/conversion did not require Qwest to dispatch a technician, however, the service did not work and Eschelon asked Qwest to dispatch a technician. The trouble turned out to be Qwest caused. Eschelon recommends adding language such as "unless the dispatch was required to make the service operable" to the end of the last sentence and a reference to troubles caused by Qwest. Qwest should not be allowed to charge a CLEC if Qwest had to dispatch to make the service work, because a CLEC asks for a dispatch, when Qwest should have initiated the dispatch on its own to provide a working circuit to the CLEC during installation.</i></p> <p><i>Provisioning and Installation PCAT</i></p> <p><i>Page 15</i> <i>Rates for Service Wire Arrangement/Replacement Eschelon discussed this in the January CMP meeting and above. This change is not related to tagging and Qwest provides no explanation of why it made this change and what the impact is to the CLEC. It should not make this change at this time in this context and with so little information provided.</i></p>	<p>8 - The processes in each PCAT are not inconsistent. They address the unique differences between tagging during installation and tagging during repair.</p> <p>9 - In a conversion scenario, associated with an unnecessary dispatch, if it is determined that the trouble is found on Qwest's side of the network, this would be addressed under the Repair scenario described in the very next paragraph.</p> <p>10 - See response #4. Service Wire Rearrangement is not directly related to tagging.</p>
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Qwest should remove this change and possibly propose the change at another time. The proposal should include the reason for the change and the impact so CLECs have a fair opportunity to comment on that information.

*Page 17
Global*

The paragraphs Qwest added are confusing. This is the Provisioning and Installation PCAT. The information should relate to provisioning and installation.

The first paragraph on page 17 - Qwest's proposed changes say Qwest will charge "additional labor" if a CLEC requests tagging. Does Qwest intend this to apply when a CLEC is submitting an LSR for the SOLE purpose of tagging (30 days after installation), as described under "NO REPAIR (AFTER 30 DAYS OF ORDER COMPLETION.)"? It is unclear. Is the following language what Qwest intends? Please elaborate.

NO REPAIR (AFTER 30 DAYS OF ORDER COMPLETION): You may request tagging a demarcation point for any Qwest Service. If you submit an LSR for the sole purpose of tagging, Qwest may charge the applicable charge(s).

Qwest needs to clarify the language and reissue for comment. Eschelon objects to Qwest documenting that it will charge additional labor when the CLEC is paying a NRC for the installation and Qwest is dispatched to the demarc for that installation, if that is Qwest's intent (which is how it could be read now).

The following paragraph (from the dispatch PCAT) should be removed from the Dispatch PCAT and should replace the first paragraph Qwest proposed (and should remove) that Eschelon discussed in the previous paragraph.

Dispatch, for provisioning, is associated with new connection activity (N and T orders) when Qwest determines that physical work at the wire center or the end-user's premises is necessary (e.g., placement and/or removal of cross connects). Qwest technicians are not automatically dispatched for conversion orders, change orders (e.g., feature additions; changes; or removals), or similar requests that do not require technician dispatch.

11 – Yes, this scenario is specific to when no repair condition exists. See Qwest's excerpt: NO REPAIR (AFTER 30 DAYS OF ORDER COMPLETION): Submit an LSR for the sole purpose of tagging. Qwest will charge for the appropriate charge(s).

12 - The focus of the paragraphs in each PCAT are different. The Dispatch PCAT is specific to dispatch activity, while the Provisioning and Installation PCAT section you are referring to is specific to tagging activities.

<p><i>When dispatched to the premises for new installation activity, Qwest technicians will tag the network interface, if requested, if a tag is not already present.</i></p> <p><i>Qwest's 4/2/07 notice states: "This proposed process change is associated with tagging of a circuit at the demarcation point and is relevant to designed services only and therefore, includes unbundled loops." Qwest told CLEC it did not tag for POTS service. The above paragraph is not product specific. If Qwest's terms are different for different products, in spite of PCAT language and telling Eschelon for years it tagged every time it dispatched for all products during installation and repair, then Qwest needs to add information for products the above paragraph does not cover, and tell a CLEC how to request tagging AT NO CHARGE, during installation when the installation requires Qwest to dispatch to the premise to complete the installation.</i></p> <p><i>The third paragraph on page 17 - Qwest's proposed changes is related to: NO REPAIR (WITHIN 30 DAYS OF ORDER COMPLETION): Open a ticket -- If tagged, Qwest will bill the appropriate repair charge(s). If not tagged, Qwest will tag at no charge to CLEC.</i></p> <p><i>Qwest should move the following paragraph under the above indent so it is clear this is the process Qwest uses for this scenario. Should the indented information read as follows:</i></p> <p><i>NO REPAIR (WITHIN 30 DAYS OF ORDER COMPLETION): If the CLEC requires information identifying the Demarcation Point to complete its installation, upon service order completion, Qwest will provide information identifying the location of the Demarcation Point (e.g., accurate binding post or building terminal binding post information) to the CLEC. If Qwest is unable to provide such information, the Demarcation Point is not tagged, and the CLEC has dispatched personnel to find the Demarcation Point and is unable to locate it, Open a repair ticket and Qwest will dispatch a technician and tag the line or circuit at the Demarcation Point at no charge to the CLEC, if the CLEC informs Qwest within 30 Days of service order completion. (Qwest should remove the following proposed sentence. The sentence is not accurate and does not belong here. After 30 days, Qwest requires an LSR and tagged or not, Qwest charges the CLEC. If</i></p>	<p>13 - This request is addressed in the Dispatch PCAT. See excerpt, "When dispatched to the premises for new installation activity, Qwest technicians will tag the network interface, if requested, if a tag is not already present."</p> <p>14 - The language in the Provisioning and Installation PCAT is not related to repair. See "NO REPAIR"</p> <p>If Qwest is asked to dispatch to the premises of your end-user solely for the purposes of tagging the demarc after 30 days, Qwest will bill.</p> <p>If Qwest is asked to dispatch to the premises of your end-user solely for the purposes of tagging the demarc within 30 days, Qwest will not bill.</p>
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<p><i>the request is associated with a repair, the closed ICA states Qwest will not charge if we ask for a tag and that does not belong in the P&I PCAT) If notification to Qwest is made more than 30 Days after the service order completion, Qwest will dispatch a technician and tag the line or circuit at the Demarcation Point and bill the Dispatch and Additional Labor Miscellaneous Elements.</i></p> <p><i>If not, what are the differences?</i></p> <p><i>Maintenance and Repair PCAT</i></p> <p><i>Page 5 Demarcation Points</i></p> <p><i>Suggestions for revision: Qwest should start a new paragraph with the sentence "If you require binding post information...." And give it the Header of "Binding Post Information." This is a separate discussion. Qwest should then remove the last two sentences that start with "should you choose....." of the remaining paragraph.</i></p> <p><i>If Eschelon submits a trouble report and asks Qwest to tag, the closed Eschelon-Qwest ICA language states that Qwest will not charge to tag. If the trouble is in the Qwest network, there is no charge to CLEC. If the trouble is not in the Qwest network, Qwest charges the CLEC under different provisions of the ICA.</i></p> <p><i>It would be appropriate to add "(see below)" to the end of the sentence that then ends that paragraph and should read ".....the existing process for tagging the demarcation point will apply "(see below.)"</i></p> <p><i>Tagging of Circuits</i></p> <p><i>First Qwest proposed paragraph on page 6 This paragraph is not accurate, if Qwest's goal as it stated is to make changes consistent with the Qwest-Eschelon ICA. The closed ICA language states Qwest will not charge. This is from the M&R PCAT, and the statement is too broad and should refer only to repair. The paragraph should read along these lines:</i></p> <p><i>You may request tagging a demarcation point for any Qwest Service when you report trouble. If you report a repair condition and also request tagging on the circuit you reported, and a dispatch to the premises is required, Qwest will perform the tagging at no charge. If a dispatch to the premises is not</i></p>	<p>15 - Qwest will review your suggestion for a potential future update.</p> <p>16 - See response #6.</p> <p>17 - Qwest added this paragraph for clarification purposes to address possible scenarios.</p>
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Announcement Date: May 02, 2007
Effective Date: May 17, 2007
Document Number: PROS.05.02.07.F.04667.FNL_TagCircuitsProcessUpd
Notification Category: Process Notification
Target Audience: CLECs, Resellers
Subject: CMP - FINAL NOTICE and Qwest Response to comments on Multiple PCAT update to Tagging of Circuits
Level of Change: Level 4
Associated CR Number or System Release Number: Qwest CR PC030607-1

Qwest recently posted proposed updates to Provisioning and Installation Overview - V99.0, Maintenance and Repair Overview - V68.0 and Dispatch - V5.0. CLECs were invited to provide comments to these proposed changes during a Document Review period from April 03, 2007 through April 17, 2007. The response has been posted to the Document Review archive web site under the original document review segment for Multiple PCAT update to Tagging of Circuits. The response will be listed in the Comments/Response bracket. The URL is http://www.qwest.com/wholesale/cmp/review_archive.html

Resources:

Customer Notice Archive <http://www.qwest.com/wholesale/notices/cnla/>
Original Notice Number PROS.04.02.07.F.04608.TagCircuitsProcessUpdate

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>

Products & Services

- Local Business Procedures
 - ▶ View More Local Resale Non-Facility Based Business Procedures
 - ▶ View More Local Interconnection Facility Based Business Procedures

Local Business Procedures

Dispatch - V5.0

[History Log](#)

Description

Qwest technicians are dispatched to perform installation and test work as required for installation or repair activity. If requested by you, Qwest installs and repairs your service to the network demarcation point at the end-user's premises. The network demarcation point is the point at which Qwest's network ends and that of another carrier or end-user begins (e.g., Field Connection Point (FCP), Network Interface Device (NID), InterConnection Distributing Frame (ICDF), jack, etc.).

Provisioning:

General Qwest dispatch information and the associated charges are described in the [Provisioning and Installation Overview](#).

Dispatch, for provisioning, is associated with new connection activity (N and T orders) when Qwest determines that physical work at the wire center or the end-user's premises is necessary (e.g., placement and/or removal of cross connects). Qwest technicians are not automatically dispatched for conversion orders, change orders (e.g., feature additions; changes; or removals), or similar requests that do not require technician dispatch. When dispatched to the premises for new installation activity, Qwest technicians will tag the network interface, if requested, if a tag is not already present.

Repair:

General Qwest dispatch information and the associated charges are described in the [Maintenance and Repair Overview](#).

General maintenance and repair activities regarding demarcation are described in the [Maintenance and Repair Overview](#). Product specific dispatch information are described in the individual product PCATs for [Facility-Based Competitive Local Exchange Carriers \(CLECs\)](#) or [Resale CLECs](#).

Availability

Availability section does not apply to Dispatch.

Terms and Definitions

If you request technician dispatch by indicating Dispatch 'Yes' or by marking your Local Service Request (LSR)/Access Service Request (ASR) for manual handling on an order for which dispatch is not necessary (as determined by Qwest), you must detail your request in the REMARKS section of the LSR/ASR (e.g., "Move NID on Resale") to avoid possible rejection. Additional charges may apply. For information regarding when you can use the Dispatch Field, refer to the [LSOG](#) and the [ASOG](#).

If your Technician or end-user requests additional work or services that are not on the original service request, the Qwest technician will advise your technician or end-user to contact the order originator or service provider.

Technical Publications

Technical Publications section does not apply to Dispatch.

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Pricing

Rate Structure

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 143

This exhibit consists of the following:

Eschelon CR PC030603-1 Detail

http://www.qwest.com/wholesale/cmp/archive/CR_PC030603-1.htm

External Documentation Request Process Guide (excerpt provided):

<http://www.qwest.com/wholesale/clecs/exdocprocessrequest.html>

http://www.qwest.com/wholesale/downloads/2005/050930/External_Documentation_CL_EC_Process_Guide_V4_0.ppt

Open Product/Process CR PC030603-1 Detail

Title: Documentation process to allow CLECs to request documentation of existing processes, including documentation on the Qwest Wholesale web site.

CR Number	Current Status Date	Area Impacted	Products Impacted
PC030603-1	Closed 9/17/2003	PreOrder, Ordering	All

Originator: Johnson, Bonnie

Originator Company Name: Eschelon

Owner: Coyne, Mark

Director: McNa, Sue

CR PM: Harlan, Cindy

Description Of Change

Eschelon asks Qwest to develop a quick and effective process for CLECs to obtain readily accessible documentation for existing Qwest processes without having to go through the full, lengthy Change Request (CR) process for each Qwest undocumented process. Qwest has a duty to provide clearly documented processes. When Qwest fails to do so, the burden should not be on CLECs to use CMP to obtain something that Qwest should already have in place without further action by CLECs. Nonetheless, in recent months, Eschelon has had to submit a series of CRs to obtain documented processes for several of Qwest existing processes. (For example, see OC123102-1, PC112502-1 and PC010603-1.) . This is time consuming and a burden to CLECs, even though the duty to provide documentation belongs to Qwest. Simply obtaining documentation for an existing process should not take as many steps and as much time as actually changing a process or system. The reality is that the local service ordering guide (LSOG) and Product Catalog (PCAT) do not always provide needed information, such as information needed for a CLEC to process an accurate LSR, particularly when manual handling is required. Although Qwest has existing internal processes, Qwest has not documented many of those processes for CLECs. Without adequate documentation, when the process breaks down, CLECs are forced to spend unnecessary time and resources debating with Qwest representatives about the process itself, when those challenges could be avoided by simply pointing to mutually accessible documentation that clearly states the process for all involved. Instead, unnecessary escalations waste CLEC and Qwest resources. To avoid this scenario, Qwest needs to provide clear documentation that is readily accessible to CLECs. When Qwest fails to do so, Qwest should have a process in place to obtain the documentation without submitting a CR. CLECs should be involved in development of this process to ensure it

meets their needs. The process could include, for example, a CLEC notice of an undocumented process to a specified Qwest single point of contact for this issue and a designated interval for responding to the request and circulating the new documentation that will be posted on the web site. With such a process, the necessary documentation could be provided much more quickly to the CLECs.

Expected Deliverable:

Qwest to develop a process to provide adequate and complete documentation on the Qwest Wholesale web site, in a user-friendly location and format, for existing processes identified by a CLEC or CLECs. Because these are Qwest existing processes and do not require development, the time to document the process should be minimal. Therefore, the process to obtain the documentation should be quick and easy.

Status History

Date	Action	Description
3/6/2003		Received CR from Eschelon
3/10/2003		Acknowledged CR by P/P CMP Manager
3/12/2003		Contacted Customer and scheduled Clarification Meeting for 3/18/03 9:30 - 10:00
3/18/2003		Held Clarification Meeting
3/19/2003		March CMP Meeting minutes will be posted to the database
4/16/2003		April CMP Meeting minutes will be posted to the database
4/24/2003		Notification advising of CLEC review meeting scheduled for May 14 from 11:30 - 1:00 mst.
5/14/2003		Reviewed Draft process with CLEC Community. Agreed to set up trial with 3 CLECs.
5/21/2003		May CMP Meeting Minutes will be posted to the database
6/3/2003		Training was held for CLECs participating in the trial (Eschelon, ATT and Allegiance). The trial will start effective June 16, 2003.
6/18/2003		June CMP Meeting Minutes will be posted to the database. Bonnie agreed to move this CR to CLEC Test status.
7/16/2003		July CMP Meeting Minutes posted to the database
7/30/2003		Held meeting to gather input from the trial. See notes for details.
8/9/2003		Documentation process released Level 1 (trial CLECs agreed to Level 1)
8/20/2003		August CMP Meeting Minutes - see notes
9/10/2003		

		methodology that is normally or usually followed and not included in external Qwest documentation available to CLECs.
9/17/2003		Sep CMP meeting notes will be posted to the database

Project Meetings

September 17, 2003 CMP Meeting Minutes Cindy Macy – Qwest advised this process is in place and working. Cindy Macy did forward to Bonnie the information regarding ‘existing process’. Bonnie Johnson-Eschelon advised she appreciated the response but she will escalate if the documentation team is not in agreement with her documentation requests. Cindy Macy explained that the Documentation team will pull together the SMEs and the CLEC to discuss the CR if there are any questions or concerns about accepting the CR. This group would try to resolve the questions, and if not it could be escalated to Mark Coyne and Sue McNa. Bonnie agreed to close this CR.

August 20, 2003 CMP Meeting Minutes Mark Coyne – Qwest advised the trial ended July 7. Twelve requests came in. Three requests have been completed. Five will publish in two weeks. Two were closed per the CLECs. Two were originally denied and are now back in review. The team met on July 28 to review the trial. As a result of the trial three updates were requested: 1- send confirmation back This has been implemented

2- provide submit button The developer advised the tab button is used to move between fields and the enter key is used to submit the form

3- escalation / review process The process is updated to include a clarification / review call if needed

Training began on August 4 and the process was implemented August 11. Since then, five additional requests have come in and are being worked on.

Bonnie asked for status regarding her question “what is the definition of an existing process?” Is a process considered ‘existing’ if it is documented internally at Qwest but not documented for CLECs? Or is it any process that is being used by Qwest. Cindy Macy – Qwest advised the definition of an existing process is being looked at. Bonnie advised this affects Level 2 notices also. Liz confirmed the documentation process includes documenting ‘gaps’ in existing processes. Cindy Macy – Qwest advised the concern is over documenting individual case processes that are unique. Cindy Macy – Qwest advised additional information will be provided at the next meeting.

CLEC Change Request – PC030603-1 Meeting minutes - Review Documentation Process trial Wednesday, July 30, 2003

Attendees Cindy Macy – CRPM Mark Coyne – Qwest Jackie Cole – Qwest Carla Pardee – ATT Bonnie Johnson – Eschelon Kim Issacs – Eschelon Lori Mendoza – Allegiance Liz Balvin - MCI

Cindy Macy -Qwest welcomed all attendees and reviewed that the purpose of this meeting is to obtain input on how the Documentation trial went. The main concern has to do with accepting and denying Documentation CRs.

Carla Pardee – ATT shared that she believed this was a very good step for Qwest and it has been easy to use so far. She also said that she is very happy that we will be including certain system documentation in the process.

Bonnie Johnson – Eschelon advised she is frustrated about the level of detail on manual processes and that these are not documented clear enough. Bonnie advised the PCAT put together by Joan Wells for Port Within is an example of a process that is documented to the correct level of detail. Bonnie advised the CLECs need the level of detail to send a good LSR and not have to guess or get the LSR rejected. Bonnie also said this process is easier and quicker and it has a lot of benefits.

Lori Mendoza – Allegiance explained her Service Manager worked with Russ Urevig on a process and got the PCAT updated without any CR (CLEC documentation or CMP). The team agreed this can happen with an internal documentation request. The team agreed the Service Managers or process specialist can and do initiate requests on their own.

Mark and the CLECs discussed the CR request for RPON. This was a CR that was originally denied. Mark agreed to add additional detail to the PCAT overview regarding RPON. Mark's concern has to do with exception processing or situations that are unique or handled as an individual case. Qwest can not document every unique or possible condition. Mark agreed when there is a concern over denying a documentation CR the documentation team will hold a (15 minute) conference call with the product process person, service manager, documentation team and CLEC to discuss and clarify.

Liz Balvin – MCI advised she also has concerns over the use of LA versus SA. Mark asked for examples of this problem and he would be glad to investigate. He will leave this documentation request open until we get examples to proceed. **We have not received examples as of August 5. Please forward examples for us to continue working on this item.

Kim Issacs- Eschelon had the following questions: 1. Submission process - If you hit enter after or at the end of the sentence this sends the CR, even though you may only be ½ done filling out the request. Jackie agreed she would check on this. 2. After submit, the confirmation doesn't send back the description, only a confirmation. Jackie advised this should be fixed and she will check on it. 3. On denials – the CLECs would like to talk to the process person or get a reason why the CR was denied. Mark advised the documentation team will put together a conference call to discuss requests that are denied. 4. When a request has been accepted what Level will it be? The team discussed the level and agreed none of the documentation requests will be handled as a level 0. The request is for them to be at least a Level 1

Bonnie and Mark discussed the concern over Level 2 Bullet #8 and the definition of an existing process. Bonnie asked what is considered an existing process? What is the criteria for an existing process? Is a process that is being used considered an existing process? Cindy Macy agreed she would clarify the intent of this bullet.

The group discussed this process will be available on the web site August 11. We discussed the level that this process should be released under and

the team agreed we should use a Level 1 Notification.

July CMP Meeting Minutes - Mark Coyne – Qwest reported the trial completed last week on July 11, 2003. There were twelve CRs received. Eight were accepted. Out of the eight accepted, one is published and seven are in progress. Of the four remaining one was closed, one was published and two were denied. The target implementation date in the middle of August. We have a meeting scheduled for the week of 7/21 to review the trial results. The CLECs would like to discuss the denial CRs and determine if there is a change that can be made to the denial step. Mark explained Qwest struggles with the level of detail and how much exception processing we document. Bonnie gave an example of LA versus SA and how that causes much confusion in LSR processing. Bonnie requested for the level of detail to not allow for anything to be left to interpretation. She would like to have the information needed to successfully submit the LSR without it being rejected. Bonnie explained she is asking for the same opportunity to have the same information that is available to Qwest. Mark Coyne – Qwest advised this may lead Qwest to revisit the scope and criteria of the Documentation Process. Bonnie Johnson – Eschelon stressed that the process is working, we just have this one glitch to work on. Mark Coyne – Qwest advised we will discuss more next week. This CR will stay in CLEC Test.

June CMP Meeting Minutes - Mark Coyne advised they have received 4-5 documentation requests and are working on them. The training is completed for the CLECs, Service Managers and 50% of the Product/Process Specialists. Qwest would like to move this to CLEC Test. Bonnie advised that was okay.

May CMP Meeting Minutes -

Mark Coyne – Qwest advised we met with the CLECs on May 14, 2003. There was good participation and the process was received very well. Qwest will make minor updates based on comments received. Qwest will trial the process with 3 CLECs: Eschelon, ATT and Allegiance. Qwest will train the 3 CLECs on June 3, with the trial taking place the middle of June – middle of July. Implementation will occur the first week of August. Qwest will leave this CR in Development status. Bonnie Johnson – Eschelon commented the documentation team did a very good job on the process.

PC030603-1 Documentation Process Ad Hoc Meeting May 14, 2003

Review CLEC Documentation Request Process with CLEC Community

In Attendance: Sheila Raunig – Qwest Candice Mowers – Qwest Sharon Van Meter – ATT Donna Osborne Miller – ATT Susan Lamb – Open Access Lori Mendoza – Allegiance Bonnie Johnson – Eschelon John Berard – Covad Jeff Tietz – Qwest Kim Issacs – Eschelon Jackie Cole – Qwest Jill Martain – Qwest Jen Arnold – US Link Sue Mcna – Qwest Cindy Macy – Qwest Mark Coyne – Qwest Liz Balvin – Qwest

Cindy Macy Qwest reviewed the purpose of the meeting and discussed what steps the team has gone through so far. Everyone confirmed they had a copy of the process material to be reviewed.

Mark Coyne reviewed the process in detail. The process was discussed with

the following questions/answers provided.

Donna Osborne-Miller reviewed the Scope table and discussed what was in and out of scope.

Bonnie Johnson asked why there are multiple times / places in the process that the scope is reviewed. Mark advised there is a first cut high level view by the documentation team when the request comes in and then the SME makes the lower level more detailed review.

Sharon Van Meter asked if the comment cycle still applied, as she wanted to be sure they had the opportunity to comment if they were not happy with the process documentation. Mark advised yes, the Level 1 / 2 comments cycle would apply. Sue Mcna advised the documentation would be placed on the document review web site as it is done today.

Liz Balvin asked if Qwest is subject to this same process. Sue Mcna advised we are using a version of this same process today. The internal requests are subject to the same 'in scope/out of scope' review.

Mark Coyne reiterated the work will be handled first in / first out.

Bonnie Johnson asked if all the fields are required on the Request form. Mark advised no. Bonnie said they might not have data for all the fields. Bonnie wanted to make sure the 'Detailed Description of Change' allowed for unlimited or adequate space. Jackie – Qwest advised she would double check the space available and make sure it is large enough.

Bonnie Johnson asked if Qwest would be matching the requests for synergies since we will be handling them FIFO (first in first out). Mark advised we would look at people's workload and synergies to manage the volume.

Cindy asked if we could move existing CRs to this process if the timing was appropriate. The team agreed that would be okay if the timing worked. Carla asked about a CR that was currently in the response cycle. The team agreed this one would not be a good candidate as it is almost through the process.

Mark advised we would like to trial this process initially. Cindy asked for 2-4 CLECs to trial the process. Eschelon, ATT and Allegiance volunteered to participate in the trial. Sheila – Documentation team advised Qwest would schedule a training session with the trial CLECS. The team agreed to trial the process for approximately a 1-month time frame. The trial team will meet again to review and provide input to the process during the trial.

The CLECs advised the process was well done and very few questions or changes were needed.

Thanks, Cindy Macy

4/16/03 April CMP Meeting - PC030603-1 Documentation Process

Mark Coyne – Qwest advised we are currently meeting to develop a process to support this CR. We are reviewing the CR internally and then

will set up a meeting to review and gather input from the CLEC Community. Qwest would like to move this CR to Development status.

3/19/03 March CMP Meeting Minutes - This CR was walked on during the March CMP meeting Bonnie Johnson advised we held the Clarification call on March 18 and she believes Qwest understands the request. Bonnie advised the CLECs would like a process, outside of the CMP process, to advise Qwest about documentation that is missing, in error, or lacking information. Bonnie advised they sometimes need more detail than is in the LSOG. CLECs go to their Service Manager for help but the end result is not updated in the documentation so they continue to go through the same problem. Bonnie advised it is not her responsibility to issue a CR to have the documentation updated after they figure out how to issue the LSR. Sue McNa recapped Bonnie's request and advised Qwest agreed to look at the CR and brainstorm to determine how to handle this request. Sue advised we want to address how the CLECs can best communicate documentation issues to Qwest and also provide prioritization of the work they identify.

Clarification Meeting March 18, 2003 1-877-572-8688 3393947#

PC030603-1 Documentation Process to allow CLECs to request documentation of existing processes, including documentation on the Qwest Wholesale Web Site

Attendees Jill Martain – Qwest Judy DeRosier – Qwest Sue McNa – Qwest Bonnie Johnson - Eschelon Nancy Chapman – Qwest Cindy Macy - Qwest

Meeting Agenda 1.0 Introduction of Attendees Attendees Introduced

2.0 Review Requested (Description of) Change Bonnie reviewed and clarified the CR. Bonnie explained she is asking for existing processes that are not documented on the Qwest Wholesale web site to be documented without going through the CMP process. It is Eschelon's belief that Qwest should have these processes documented. Bonnie would like an easy way for the CLECs to be able to request the process to be documented.

Bonnie explained they have been working with the Service Management team on LSR processes such as rejects. We will get an email from Qwest that explains how to issue the LSR. This information should already be on the web site. The responsibility falls on the CLEC to issue the CR and get the process documented. Bonnie would like a process outside of CMP for documentation requests.

Sue Mcna asked for Bonnie to share her thoughts on how this would work, what the CLECs would like.

Bonnie explained possibly a Level 2 Notification would still be required such as 'Document an existing process that has not been documented before'. The process should be quick and efficient for Qwest too. The process may need a Project Manager.

Sue Mcna said Qwest values the input from the CLECs. We don't always know what documentation is missing. How would the CLECs notify Qwest of missing / errors in documentation?

Bonnie offered the idea of having it as a 'standing agenda item' at the end of the Monthly CMP Product Process Meeting.

Bonnie provided another example of a documentation issue using the documentation links. They do not always link you to the correct process or the process is not detailed enough to help. Then the LSR gets rejected. The LSOG is not always to the level of detail that is needed. They need more details on the 'Business Rules'.

Bonnie also suggested the web site provide look ups by Process not Product. Sue Mcna advised restructuring the web site would be a huge effort.

Sue clarified what Bonnie is suggesting is an: - easy way to communicate to Qwest missing documentation - errors in documentation - gaps or missing information in documentation

Sue asked how the CLECs would prioritize the requests. Suggestions were possibly by identifying what processes are critical or most problematic.

Cindy agreed she would set up an internal working session meeting to begin discussing the CR. Bonnie will present this CR at the March 19 CMP meeting.

3.0 Confirm Areas & Products Impacted Documentation

4.0 Confirm Right Personnel Involved Mark Coyne, Jill Martain, Joann Garramone, Candace Mauers, Service management resource

5.0 Identify/Confirm CLEC's Expectation Sue clarified what Bonnie is suggesting is an: - easy way to communicate to Qwest missing documentation - errors in documentation gaps or missing information in documentation

6.0 Identify any Dependent Systems Change Requests None

7.0 Establish Action Plan (Resolution Time Frame) Bonnie will present at the March CMP Meeting Cindy will set up internal meeting to begin working on resolution

QWEST Response

For Review by the CLEC Community and Discussion at the May 21, 2003 CMP Meeting

May 14, 2003

Eschelon Bonnie Johnson

SUBJECT: Qwest's Change Request Response – CR #PC030603-1
Documentation Process to allow CLECs to request documentation of existing processes

This letter is in response to Eschelon's Change Request (CR) PC030603-1.

This CR requests that Qwest establish a process for the CLECs to request documentation on existing processes or gaps in existing processes.

Qwest accepts this CR and is currently developing: ? A Process to address documentation updates outside of CMP ? A Process for tracking and completing external documentation updates

In addition, Qwest has scheduled a walkthrough of the process with Eschelon and other CLECs. This meeting is scheduled for May 14, 2003 from 11:30 – 1:00 MST.

Qwest requests this CR be placed in Development Status and will provide an update at the June CMP Meeting.

Sincerely,

Mark Coyne Qwest

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CLEC External Documentation Request Process Guide

September 2005

V4.0

For inquiries regarding updates/maintenance to this course, contact:

Jackie Cole
307-772-4742
Jacqueline.Cole@qwest.com

The information provided herein is for training purposes only. The information provided does not create or modify any legal obligations between Qwest and a CLEC. The parties' relationship is governed by existing legal obligations.

Confidential

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In Scope	Out of Scope
Undocumented existing process	Changes to an existing process
Gaps or missing information in existing processes	New or modified process
Clarification of existing processes	System impacting changes (also known as Modified Level 2 or OSS System changes)
Level 1 and 2 type changes only	Level 3 and 4 type changes

Confidential

Within 2 business days from receipt of request the following e-mail will be system generated to the CLEC and Service Manager.

Subject: External Documentation Request #(ID #)-Short Description of Request

Your documentation request no. (ID #) has been received and is currently being reviewed. You will be notified within 14 business days whether your request is accepted or denied. For questions please contact your Service Manager.

Thank you,

The External Documentation Change Request Team

This e-mail is the acknowledgement of receipt,
and the date the e-mail is sent represents the
Acknowledgement Date.

Confidential

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 144

May 16, 2007



Thomas Anthony Carpets
111 2nd Ave Se
Albany OR 97321-2736

**THANK YOU
FOR YOUR ORDER**

Please double-check your order below.
If you need to make changes, or have
any questions, please call your Qwest
Representative or 1 866-99QWEST
(1 866-997-9378) and refer to:
Your order date: 05-14-2007
Your order number: C84221480

ORDER CONFIRMATION

You have ordered these services for:
(541) 917-0452

Standard Modem-Purchase

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 any enclosed instructions.**

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.

Once again, we look forward to doing business with you in the months and years ahead. As
your communications needs expand and change, we'll be here to help you.

Sincerely,

Stephanie Copeland
Vice President, Business Marketing

P.S. If you have any questions about your order, or to learn more about additional Qwest
services available to you, call your Qwest Representative, call 1 866-997-9378 or visit us
at qwest.com/smallbusiness.

*FAX Angie
503-485-0124*



Your Qwest High-Speed Internet Service and related products are offered under the High-Speed Internet Subscriber Agreement terms, which are located at www.qwest.com/legal/highspeedinternetscriberagreement. Please review the terms, which include arbitration and limits on Qwest liability. If you do not agree, call Qwest to cancel your service within 30 days. Qwest updates the Subscriber Agreement from time to time and your continued use of the service(s) constitutes your acceptance of any changes.

Product limitations may exist. If a product insert or specific instructions to obtain additional information were not provided for your product, please contact your Qwest Representative or call 1 866-99QWEST (1 866-997-9378), referring to your order date and order number, for product details, plan and feature restrictions and limitations.

TTY (Telecommunication Services for the Deaf) call 1-800-223-3131.



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 145

From: Isaacs, Kimberly D.
Sent: Monday, June 04, 2007 4:39 PM
To: 'Dobesh, Mary'
Cc: Johnson, Bonnie J.; 'Saldivar, Jodi'
Subject: Qwest Retail Letter Sent To End User Converting to Eschelon - Issue SD115.0

Hello Mary

An end user customer with a conversion to Eschelon Loop with LNP scheduled for 5/18/07 (PON OR902636HGMS LSR ID: 21002938) received the attached letter from Qwest retail on 5/16/07. Will you please determine if Eschelon's wholesale orders generated this letter? The customer reported that they did not place any orders with Qwest retail and they were very confused by the letter. Based on the customer's report and past experience, I am assuming Eschelon's wholesale order caused this letter to be auto-generated. Please determine why the letter was sent. If Eschelon's wholesale orders played a part in the generation of this letter, please take the appropriate steps to ensure this type of communication does not re-occur on other migration requests. Thank you.

Kim Isaacs
Eschelon Telecom, Inc.
ILEC Relations 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)

EXHIBIT 146

This exhibit consists of the following:

Version 11 Expedites & Escalation Red line Changes:

http://www.qwest.com/wholesale/downloads/2004/040629/PCAT_Exp_Escl_V11_0_reissue.doc

CLEC Comments and Qwest's Response regarding Version 11 Expedites & Escalations:

http://www.qwest.com/wholesale/downloads/2004/040715/DNLD_QwestResponse_Exp_Escl_V11.doc

Expedites & Escalations Overview – ~~V8.0~~V11.0

[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 are requests for an improved standard interval that is shorter than the interval defined in our Service Interval Guide (SIG) (Link blue 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

~~All expedite requests require approval to ensure resource availability. Expedite requests are for situations where the requested due date is shorter than the interval defined in our Service Interval Guide (SIG) (Link blue text to: <http://www.qwest.com/wholesale/guides/sig/index.html>) or~~ Requesting an expedite follows one of two processes, depending on the product being requested and the language in your Interconnection Agreement (ICA). Expedite requests are granted ~~for~~ 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 ~~the following conditions if Qwest determines that it has the resource availability on the requested date: 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.~~

Expedites Requiring Approval

If your ICA does not contain, or has not been amended to include language for expedites with an associated “per day” expedite rate, or if the request is for a product that is not listed in the “Pre-Approved Expedites” section below, the following expedite process applies.

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

~~And~~ 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 contact one of the following two centers depending on which center processes your service requests:

- Des Moines, IA on 1-877-340-9627
- Salt Lake City, UT on 1-800-333-5498

For Des Moines and Salt Lake City, when calling one of the above numbers, ask for a representative that handles expedited requests.

You may be asked to provide verification of the expedited reason, such as in medical emergencies or grand opening events. 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

On LSRs, 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) with acknowledging the agreed to expedited due date. If the expedited or agreed to due date is different from what was originally submitted on the LSR, Qwest will indicate via the appropriate PIA value on the Local Request FOC form that the due date has been changed from the ASR or LSR, Qwest will original request.

For ASRs, 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 is approved, Qwest will return a FOC with the expedited due date. 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 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.

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 that may be expedited and will receive the appropriate Expedite Charge:

- 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 (IIS Only)
- DPA's (multiple DPAs or FX, FCO) Trunk
- 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](#)

Note: Any requests that are expedited due to a Qwest caused reason, do not incur an expedite charge.

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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](#) (Link blue text to: <http://www.qwest.com/wholesale/clecs/maintenance.html>) for additional information. You will be referred to [Held, Escalated & Expedited Tool \(HEET\)](#) (Link blue 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](#). (Link blue 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 blue 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 blue text to: 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 blue text to: <http://www.qwest.com/wholesale/clecs/escalations.html>)

Expedites and Escalations

- Local Service Requests (LSRs)

Wholesale Center			
Tier	Responsibility	Activity	Contacts
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	Denver: 800-419-8809 Denver After Hours Duty Pager: 800-423-3641 Minneapolis: 800-366-9974 Minneapolis After Hours Duty Pager: 612-622-3624
Tier 3	Appropriate Qwest Service Manager	Respond to issues not resolved at Tier 2	Service Manager (Link blue text to: http://www.qwest.com/wholesale/clecs/accountmanagers.html)

- Access Service Requests (ASRs) Note: Your [Qwest Service Manager](http://www.qwest.com/wholesale/clecs/accountmanagers.html) (Link blue text to: <http://www.qwest.com/wholesale/clecs/accountmanagers.html>) will advise you which center to contact.

Center	Products & Services	Contacts	Fax
Des Moines	LIS, Feature Group, Private Line, Analog/Digital, HiCap Services (e.g., DS1, DS3, Sonet, SS7, SHARP, SHNS) , Frame Relay	877-340-9627	515-286-6160
Salt Lake City	LIS, Feature Group, Private Line, Analog/Digital, HiCap Services (e.g., DS1, DS3, Sonet, SS7, SHARP, SHNS)	800-333-5498	801-239-4070

- Non ASR/LSRs

Center	Products & Services	Contacts	Fax
Salt Lake City	All	800-879-4072	801-239-5070

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Frequently Asked Questions

This section is currently being compiled based on your feedback.

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| **Last Update:** ~~May 25, 2004~~ July 31, 2004

META Tags: [Expedites](#); [Escalations](#)



Qwest Response to Document In Review

Response Date: July 15, 2004
Document: Product/Process: Expedites & Escalations Overview V11
Original Notification Date: June 29, 2004
Notification Number: PROS.06.29.04.F.01840.ReissueExpeditesV11
Category of Change: Level 3

Qwest recently posted proposed updates to Expedites & Escalations Overview V11. CLECs were invited to provide comments to these proposed changes during a Document Review period from June 30, 2004 through July 14, 2004. 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
 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.

Qwest Response to Product/Process: Expedites & Escalations Overview V11 Comments

#	Page/Section	CLEC Comment	Qwest Response
1		<p><i>Eschelon</i> <i>June 18, 2004</i> Comment: Eschelon objects to Qwest's premature process change based on the following reasons.</p> <p>1. Covad submitted a CR for an expedite request. Qwest has not worked collaboratively with the CLECs to determine a process to meet the needs of all CLECs. Eschelon asks Qwest to hold ad-hoc meetings to define a process that meets all CLECs needs.</p>	<p>Based on the Eschelon comment associated with CR PC 021904-1, Qwest held an Ad hoc meeting on July 9, 2004 to discuss the proposed updates to this PCAT. The Qwest responses to these CLEC comments are based on the Ad hoc meeting discussion.</p> <p>1. For the designed product set, Qwest had discussions during several monthly Product/Process CMP meetings regarding the planned direction. Qwest did not schedule additional ad-hoc meetings for this product set since the questions and discussion did not seem to warrant it. As a result of the comments received on this level 3 notice, Qwest held an Ad hoc meeting on July 9, 2004 to run through the process and clarify any issues or concerns. Minor updates will be made to the PCAT as a result of that meeting. (See below for the specific PCAT updates.) Non-design services still need</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>2. Qwest proposed process says “If your ICA does not contain, or has not been amended to include language for expedites with an associated “per day” expedite rate, or if the request is for a product that is not listed in the “Pre-Approved Expedites” section below, the following expedite process applies.” Qwest has not provided any amendment language or exhibit A pricing.</p> <p>3. Qwest will confirm that if a CLEC chooses not to sign the amendment and pay the Qwest approved rates (when Qwest obtains approved rates)’ how this will impact resources for those CLECs requesting expedites for the “conditions” listed in Qwest Expedite and Escalation Overview. All CLECs have been on equal footing for expediting approval. This will change those dynamics.</p> <p>4. Qwest confirmed in two consecutive monthly meetings (see Qwest CMP April and May 2004 Product/Process meeting minutes) that no CLEC would be charged for expedites that Qwest did not charge its own retail customers. Has Qwest filed and obtained approved rates to charge retail and wholesale customers in each state? If so please provide the detail.</p> <p>5. Qwest has not included some of the most basic products in the “Pre-approved Expedite List” such as UNE-P, Resale POTS and Centrex and analog loops. Will Qwest be expanding the list?</p>	<p>to be addressed and Qwest plans to hold ad-hoc meetings for those products to collaboratively work the expedite process for that sub-set of services.</p> <p>This comment is accepted.</p> <p>2. Qwest is working on the contract amendment language and is targeting July 26, 2004 to have it posted to the web.</p> <p>The details of the tariff pricing and changes are available externally through the normal tariff filing notices.</p> <p>This comment is accepted.</p> <p>3. 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. <u>If the CLEC chooses option 2, and the expedite reason is for one of those listed in the PCAT,</u> they are given the same opportunity at having the due date requested.</p> <p>This comment is accepted.</p> <p>4. Qwest is filing the appropriate tariffs with the target effective date of July 31, 2004. The details of those tariff changes are available externally through the normal tariff filing notices.</p> <p>This comment is accepted.</p> <p>5. As communicated at the CMP monthly Product and Process meetings and in the July 9, 2004 Ad hoc meeting, this proposed change is for designed services only at this time. Qwest is continuing to look at non-designed services and plans to hold ad-hoc meetings with the CLEC community.</p> <p>This comment is accepted.</p>
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	<p>6. Qwest should not discuss or determine rates in CMP. The Commission should approve rates.</p>	<p>6. Qwest agrees rate discussion or determination is outside of CMP. The rates are being filed in the individual tariffs and implemented when approved by the Commission. Qwest is offering the same rate to the CLEC community that is being filed in the tariffs through their Interconnect Agreements that can be effective on July 31, 2004 as well.</p> <p>This comment is accepted.</p>
<p>2</p>	<p><i>MCI</i> <i>July 6, 2004</i></p> <p>Comment: The following summarizes the processes used within Qwest for all Wholesale Products and Services”: It appears Qwest is restricting this process to local products and services?, Is that Qwest’s intent? If not, Qwest should expand to cover Access Products and Services Expedites Requiring Approval section state "Following is a list of conditions where an expedite is granted:</p> <ul style="list-style-type: none"> • 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" <p>MCI Comment: Please clarify, under the above conditions, does Qwest automatically grant expedited due dates upon LRS/ASR request? In addition, under the above conditions, are there fees Qwest will assess?</p> <p>Approved Expedite Request section states "On LSRs, 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) with acknowledging the agreed to expedited due date. If the expedited or agreed to due date is different from what was originally submitted on the LSR, Qwest will indicate via the appropriate PIA value on the Local Request FOC form that the due date has been changed from the ASR or LSR, Qwest will original</p>	<p>Qwest's intent is to include all tariffs as well as the Interconnection Agreements (ICAs) that can order these products in this process. This PCAT addresses specifically the products that are ordered under Interconnect Agreements. Qwest is in the process of filing the FCC #1 Interstate and individual state tariffs and updating product catalogs for the Access and Retail customers which are also included in the Pre-Approved expedite process.</p> <p>This comment is accepted.</p> <p>For the “Expedites Requiring Approval” process, the request is not automatically granted when the LSR is received, however, after a call has been placed into Qwest, Qwest will review and then approve or deny the expedited request. If approved, there are no fees associated with the Expedites Requiring Approval process.</p> <p>Based on discussion in the July 9, 2004 Ad Hoc meeting, the PCAT will be reworded slightly to clarify this. The following paragraph in the PCAT will be modified to read:</p> <p>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 Expedited Requiring</p>



	<p>request.</p> <p>For ASRs,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 is approved, Qwest will return a FOC with the expedited due date. 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."</p> <p>MCI Comment: How will Qwest contact the CLEC to request a supplement? Will a reject/jeopardy be issued?</p> <p>Pre-approved Expedite Section states "Following is a list of the products that may be expedited and will receive the appropriate Expedite Charge:</p> <ul style="list-style-type: none"> • 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 (IIS Only) • DPAs (multiple DPAs or FX, FCO) Trunk • 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 	<p><u>Approval process.</u></p> <p>This comment is accepted.</p> <p>No notice will be issued. Today, when the CLEC calls into the call center,Qwest deals with you in a verbal manner. If a supplement is required, the person who contacted Qwest to request the expedite will be notified to supplement the LSR or ASR.</p> <p>This comment is accepted.</p>
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		<ul style="list-style-type: none">• CCSAC SS7 Trunk or Facility• Unbundled Dark Fiber" <p>MCI Comment: Are all the products listed local? Please distinguish which products are Local vs. Access and which require an LSR and vs. an ASR?</p>	<p>The products in this PCAT are specifically targeted for customers who order Local Interconnection service. The tariffs that are being updated, i.e., the FCC #1, outline which products are included in the actual tariff. The Local Interconnection products that are ordered via an ASR today that are on the list are LIS, UDIT, CCSAC and Unbundled Dark Fiber.</p> <p>This comment is accepted.</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)

EXHIBIT 147

This exhibit consists of the following:

VCI CR SCR061405-03ESDR Detail

http://www.qwest.com/wholesale/cmp/archive/CR_SCR061405-03ESDR.htm

VCI Escalation of Qwest's Denial:

http://www.qwest.com/wholesale/downloads/2005/051006/SCR061405_03_E36_VCI.doc

Qwest Response to VCI Escalation:

http://www.qwest.com/wholesale/downloads/2005/051013/101305_Qwest_Response_E36_Posted_to_Web_101305.doc

MCI Escalation #E18:

http://www.qwest.com/wholesale/downloads/2003/030902/MCI_Escalation-E18.doc

Qwest Response to MCI Escalation:

http://www.qwest.com/wholesale/downloads/2003/030917/QwestResponsetoMCIescalationE18_9-16-03.doc

MCI Response to Qwest's Response:

http://www.qwest.com/wholesale/downloads/2003/030922/MCIResponsetoEscalation_E18_9-19-03.doc

CMP Oversight Committee Meeting Minutes (10/20/03):

<http://www.qwest.com/wholesale/downloads/2003/031029/CMPOversightCommitteeMeetingMinutes102003MCIComments.doc>

CMP Oversight Committee Meeting Minutes (10/27/03):

<http://www.qwest.com/wholesale/downloads/2003/031110/CMPOversightCommitteeMeetingMinutes102703.doc>

Archived System CR SCR061405-03ESDR Detail

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

CR Number	Current Status Date	Level of Effort	Interface/ Release No.	Area Impacted	Products Impacted
SCR061405-03ESDR	Denied 9/12/2005	-	IMA Common/		Resale, POTS

Originator: Gupta, Milan

Originator Company Name: VCI Company

Owner: Winston, Connie

Director: Winston, Connie

CR PM: Stecklein, Lynn

Description Of Change

CLEC's will benefit by a Daily Reject/Jeopardy Report to make certain IMA users are correcting rejects the same day. This change will also allow personnel to keep tally of rejects received each day for each user. Reports should have quantity of rejects by user and type of error.

IMA will allow CLEC's to View and export a daily Reject/Jeopardy Report that includes the User name, PON rejected or Jeopardized and the comment from the FOC. This report will also show if the LSR had been corrected.

Total Quantity received, corrected and detailed description

6/13/2005 REJECTS CORRECTED TOTAL

AMANDA 3 3 3

6/13/2005 AMANDA

An Tn mismatch 1

Pending orders work impacting

Subscriber access 1

Other 1

Total 3

Examples of comments are as follows:

_AN TN Mismatch

- _Pending orders impacting
- _Subscriber Access, Sucscriber other, Subscriber Later
- _Working Left in
- _LTS Value Invalid
- _End User, name or address mismatch
- _Company Facility
- _Class of service invalid
- _Type of service invalid
- _CLEC does not own the account
- _Activity has already been requested or performed
- _TN already working
- _Appointment does not match
- _Address not valid for wire center
- _TN not valid for wire center
- _USOCs already present on account
- _For Switch DMS100 HBQ and ORDMS not valid together
- _LSR requests work on non-working account
- _TN and BTN do not match
- _Invalid request type
- _No cus code for new connect
- _No sup for Jeop received
- _Outlisting mismatch
- _Other

Status History

Date	Action	Description
6/14/2005	CR Submitted	
6/15/2005	CR Acknowledged	
6/16/2005	Clarification Meeting Scheduled	
6/20/2005	Clarification Meeting Held	
6/29/2005	Status Changed	Status changed to Clarification

7/7/2005	Additional Information	QPP will benefit with the implementation of this CR
7/26/2005	Status Changed	Status changed to Presented
7/26/2005	Discussed at Monthly CMP Meeting	Discussed at the June CMP Sytems Meeting - See Attachment B in the Systems Distribution Package
7/20/2005	Discussed at Monthly CMP Meeting	Discussed at the July CMP Sytems Meeting - See Attachment B in the Systems Distribution Package
8/23/2005	Discussed at Monthly CMP Meeting	Discussed at the August CMP Systems Meeting - See Attachment I in the Distribution Package
9/15/2005	Status Changed	Status changed to Denied
9/15/2005	Qwest Response Issued	
9/22/2005	Discussed at Monthly CMP Meeting	Discussed in the September Systems CMP Meeting - See attachment G in the Systems Distribution Package
10/5/2005	Escalation Initiated	Escalation Initiated by VCI - Acknowledged on 10/6/05 E36
7/19/2005	General Meeting Held	Additional Clarification Meeting Held
4/7/2006	Additional Information	CMP Oversight Review Issue Submission - CMPR.04.05.06.F.03840

Project Meetings

10/15/05 Escalation Acknowledgment

Amanda,

This is to acknowledge receipt of your escalations SCR061405-03-E36 and SCR061405-01-E37.

The Escalations were received in our CMP Escalation mailbox on Wednesday, October 5, 2005 1:49 PM CT and 2:23 PM CT respectively.

NOTE: One of your escalation emails shows SCR091405-03 however there is no SCR with that number. I have assumed the escalation is associated with SCR061405-03. If that is not the correct SCR, please get back with me as soon as possible.

This acknowledgment is being sent at approximately 1:00 PM CT, October 6, 2005.

Loretta Huff - Director Prog/Project Mgmt is assigned to these escalations. She can be reached at 303 965 3709 or by e-mail at Loretta.A.Huff@qwest.com.

Qwest will respond with binding position e-mails no later than COB October 13, 2005.

Please contact me with any questions.

Thank you, Susan Lorence Qwest CMP Manager 402 422-4999 --Original Message-- From: amandas@vcicompany.com [mailto:amandas@vcicompany.com] Sent: Wednesday, October 05, 2005

1:49 PM To: amandas@vcicompany.com Subject: VCI COMPANY
CR#SCR091405-03 Denied

Escalation Company: VCI COMPANY CR#: SCR091405-03 Status Code:
Denied

= = = = =
= = = = Description: VCI objects to the denial of this CR. Qwest denied
the CR due to No Demonstrable Business Benefit.

History of Item: 6/16/05 Clarification Meeting Scheduled 6/20/05
Clarification Meeting Held 7/20/05 Discussed at July CMP meeting 8/10/05
sent request to CMP to be added as late adder in IMA 19.0 8/10/05 LOE to
be determined 8/23/05 Qwest stated needs until Sept CMP to give LOE
9/15 Qwest changed CR to denied

Reason for Escalation / Dispute: VCI objects to the denial. It is impossible
for Qwest to deny or disprove. Qwest said they look at what is available
today. What the costs are to implement and weighs it against the business
value to determine if there is no demonstrable benefit. Our objection to
this is that there is nothing available today that gives CLEC's a quantity of
rejects by day as well as a description of the reject in one report by
username. In addition Qwest has never disclosed the Level of Effort for this
CR therefore it should of never been determined that there is no
demonstrable benefit.

Business Need and Impact: The need for this CR is to reduce the number
of rejects by User. CLEC's need to export this information for tracking and
retraining efforts.

Desired CLEC Resolution: That Qwest withdraw the denial. And efficiently
provide a LOE.

= = = = =
= = = =

Lead Submitter: Name: Amanda Silva Title: Carrier Relations Phone
Number: 253 219-3437 E-mail Address: amandas@vcicompany.com

Joint Submitters:

Date/Time Submitted: Wed Oct 5 11:04:12 PDT 2005

9/21/05 Systems CMP Meeting

Anne Robberson/Qwest stated that this CR has been denied. Anne said
that Qwest currently sends Reject and Jeopardy Notifications to the CLECs
as these notices are generated. She said that notices are sent to the
originators of the LSRs in the format that the originator requests. She said
that the CLECs also have access to the existing IMA Post Order tool that
allows queries of notices via the LSR Notice Inquiry. Anne said that Qwest
denies this request due to no demonstrable benefit. Amanda Silva/VCI
Company stated that current tool will not allow them to export the data.
(Comments to minutes received from VCI Company 9/30/05) These tools
do not provide what VCI is requesting. We are seeking a report with
quantity of rejects per day and type of error. Benefit is for Provisioners.
CLECs must know what types of rejects continue to occur to be able to
provide coaching and development to provisioners. Amanda stated that
VCI would be escalating. Bonnie Johnson/Eschelon stated that she takes
offense when Qwest makes the assumption that there is no demonstrable
benefit to the CLEC. Bonnie said that she does not know where this comes
from and that saying that there is no demonstrable benefit to the CLECs is

inappropriate. Jill Martain/Qwest said that Qwest is not saying that there is no benefit to the CLECs. She said that the CMP document states that this can be used when there is no demonstrable benefit for Qwest or the CLECs. Jill stated that Qwest looks at what is available today, what the costs are to implement and then weighs it against the business value to determine if there is a demonstrable benefit to both Qwest and the CLEC. Liz Balvin/Covad said that it might help to engage the CLEC before you make that decision with a simple phone call. Jill Martain/Qwest said that we could have that discussion prior to CMP. Sharon Van Meter/AT&T stated that she agreed with Eschelon and that the no demonstrable benefit reason should apply to Qwest not to the CLEC. Bonnie Johnson/Eschelon agreed that the no demonstrable benefit reason needs to say there is no benefit to Qwest. She said that was her issue when Eschelon's CR was denied. (Comments to Minutes Received from Eschelon 9/30/05) Bonnie said a CLEC would not submit the CR if there was no benefit to the CLEC. Bonnie also said that she questions why this request would not be a benefit to Qwest with the possibility of reducing the number of rejects. Jill Martain/Qwest stated that we will take a look at these concerns

8/17/05 Systems CMP Meeting

Jill Martain - Qwest stated that Qwest continues to evaluate this CR and hopes to have a response in the September CMP Meeting.

7/20/05 Systems CMP Meeting

Amanda Silva - VCI Company stated that they have a business need to help in finding common provisioning errors when the LSR is rejected. They are requesting the PON, Version, Req. Type, and for the type of Reject in remarks on this report Liz Balvin - Covad asked how often do you want Qwest to refresh the information. Amanda Silva - VCI said they want the information refreshed on a daily basis. Liz Balvin - Covad asked if this was GUI specific. Amanda Silva - VCI said that this request was for IMA Common. Jill Martain - Qwest said that this CR will move to a Presented Status.

7/19/05 E-mail received from VCI

Hi Lynn,

BLOCK ACTIVITY and STATE would be important to this report. Is it possible to have that added? For example Blocks: AHKMNO2378 State: IA

-Amanda

VCI Company

7/19/05 Additional Clarification Meeting Amanda Silva - VCI Company, Chuck Anderson - Qwest, Carol Mckenzie - Qwest, Lynn Stecklein - Qwest

Lynn Stecklein - Qwest stated that the purpose of this meeting is to gather additional information regarding VCIs Request. She said that information was e-mailed to VCI prior to this call and will be reviewed. (see below)
From: Stecklein, Lynn Sent: Tuesday, July 19, 2005 8:42 AM To: 'Amanda (E-mail)' Subject:

Hi Amanda,

Below and attached you will find information that will be discussed on our call at 10:00 am MT. The call in number is 877 260-8255 passcode

2467196.

Thanks,

Lynn

Title: SCR061405-03 Daily Reject/Jeopardy Report to view and export into Excel

Description Of Change

CLEC's will benefit by a Daily Reject/Jeopardy Report to make certain IMA users are correcting rejects the same day. This change will also allow personnel to keep tally of rejects received each day for each user. Reports should have quantity of rejects by user and type of error. IMA will allow CLEC's to View and export a daily Reject/Jeopardy Report that includes the User name, PON rejected or Jeopardized and the comment from the FOC. This report will also show if the LSR had been corrected. Total Quantity received, corrected and detailed description

CLEC Ex: 6/13/2005 REJECTS CORRECTED TOTAL AMANDA 3 3 3

6/13/2005 AMANDA An TN mismatch 1 Pending orders work impacting Subscriber access 1 Other 1 Total 3

Examples of comments are as follows: AN TN Mismatch Pending orders impacting Subscriber Access, Subscriber other, Subscriber Later Working Left in LTS Value Invalid End User, name or address mismatch Company Facility Class of service invalid Type of service invalid CLEC does not own the account Activity has already been requested or performed TN already working Appointment does not match Address not valid for wire center TN not valid for wire center

- Title: SCR061405-01 Provisioning report to view and export into Excel

Description Of Change

CLEC's will benefit by keeping record of staff production through an easy to use report of quantity and type of orders submitted by Username. The search function should have daily and monthly detail. IMA will allow CLEC's to View and export Provisioning reports by Username.

Itemized order detail as follows:

NEW CONNECT TRANSFER CONVERSION DISCONNECT SUSPEND LINE
FREEZE REMOVAL TELEPHONE NUMBER CHANGE FEATURE REMOVE/ADD
PIC & LPIC REMOVE/ADD NAME CHANGE RESTORE RECONNECTION
WINBACK OTHER

Total Quantity of orders submitted by Staff member, then a more detailed description of orders submitted.

Report Example: June-05 AMANDA New Connect 6 Transfer 3 Conversion 3
Total 12

Description Of Change

Allow CLECS to query and export a Provisioning Report to view and export into Excel which shall provide a record of staff production including quantity and type of orders submitted by Username in IMA. The search

function should have daily and monthly detail.

- Qwest Comments: Items not included in scope for Provisioning Report: TN Change, Name Change, Winback, Other

Amanda Silva - VCI Company stated that the information provided and discussed during this call is what they are requesting on this request.

Lynn Stecklein - Qwest stated that VCI will be presenting this CR in the July 20, 2005 Systems CMP Meeting. 6/20/05 Clarification Meeting

Attendees: Amanda Silva - VCI Company, Alexis Steckler - VCI Company, Steph Prull - Eschelon, Denise Martinez - Qwest, Carol Mckenzie - Qwest, Jan Martin - Qwest, Phyllis Sunins- Qwest, Anne Robberson - Qwest, Jim Recker - Qwest, Lynn Stecklein - Qwest

Review Description of CR Amanda Silva - VCI is requesting a Daily Reject/Jeopardy Report to view and export into Excel.. She said that they would like the quantity of reject/Jeops by Username, PON, LSR, and reject comments with the ability to also view if the Reject had been corrected.

Discussion: Denise Martinez - Qwest asked if VCI wanted the specific reject codes as well as the comments. Amanda Silva - VCI said that they would like both and that the standard code does not provide the information they need. Denise Martinez - Qwest asked if they were looking for errors too (non fatal) Amanda Silva - VCI said that they can't pull errors in IMA because they have no description Denise Martinez - Qwest asked if they were only looking at rejects/jeops that were specific to them. Amanda Silva - VCI said yes. Denise Martinez - Qwest asked if there were no rejects for the user would they want the user name to appear. Amanda Silva - VCI said that they would still like this information. She said they would like a positive and negative report on rejects and would also like to see if they are corrected. Denise Martinez - Qwest asked if they would like the rejects and jeopardies separated. Alexis Steckler - VCI said that it did not matter. Jan Martin - Qwest asked if there was an error on the LSR that was supp'd, would that be considered a correction. Amanda Silva - VCI said yes. She said that versions would also help

Products and Interface Impacted Resale, POTS, QPP IMA Common

Establish Action Plan Lynn Stecklein - Qwest said that VCI will present this CR in the July 20th Systems CMP Meeting.

QWEST Response

September 12, 2005

DRAFT RESPONSE For Review by the CLEC Community and Discussion at the September 21, 2005 CMP Meeting

TO: Amanda Silva VCI Company

SUBJECT: CLEC CR SCR061405-03 Daily Reject/Jeopardy Report to view and export into Excel. Quantity of Daily Reject/Jeopardy Report to view and export in Excel. Qty of reject/Jeops by Username, PON, LSR, and reject comm. with the ability to also view if the Reject had been corrected

VCI proposes that Qwest develop and implement a report that allows CLECs to view and export details associated to rejects and jeopardies.

Qwest currently sends Reject and Jeopardy Notifications to the CLECs as these notices are generated. Notices are sent to the originators of the LSRs

in the format that the originator requests.

Additionally, CLECs have access to the existing IMA Post Order tool that allows queries of notices via the LSR Notice Inquiry.

Since there is existing functionality already in place that provides details associated to rejects and jeopardies, Qwest denies this request due to No Demonstrable Business Benefit.

Sincerely, Qwest

[<Back](#)

Information Current as of 6/4/2007

CR#SCR061405-03 E36 VCI ESCALATION October 5, 2005

10/05/2005 01:49 PM CT

Sent by: Amanda Silva, VCI Company

Subject: VCI COMPANY --- CR#SCR091405-03 --- Denied

Escalation
Company: VCI COMPANY
CR#: SCR091405-03
Status Code: Denied

= = = = =

Description:

VCI objects to the denial of this CR. Qwest denied the CR due to No Demonstrable Business Benefit.

History of Item:

6/16/05 Clarification Meeting Scheduled
6/20/05 Clarification Meeting Held
7/20/05 Discussed at July CMP meeting
8/10/05 sent request to CMP to be added as late adder in IMA 19.0
8/10/05 LOE to be determined 8/23/05 Qwest stated needs until Sept CMP to give LOE 9/15 Qwest changed CR to denied

Reason for Escalation / Dispute:

VCI objects to the denial. It is impossible for Qwest to deny or disprove. Qwest said they look at what is available today. What the costs are to implement and weighs it against the business value to determine if there is no demonstrable benefit. Our objection to this is that there is nothing available today that gives CLEC's a quantity of rejects by day as well as a description of the reject in one report by username. In addition Qwest has never disclosed the Level of Effort for this CR therefore it should of never been determined that there is no demonstrable benefit.

Business Need and Impact:

The need for this CR is to reduce the number of rejects by User. CLEC's need to export this information for tracking and retraining efforts.

Desired CLEC Resolution:

That Qwest withdraw the denial. And efficiently provide a LOE.

= = = = =

Lead Submitter:

Name: Amanda Silva
Title: Carrier Relations
Phone Number: [redacted]
E-mail Address: [redacted]

Joint Submitters:

Date/Time Submitted: Wed Oct 5 11:04:12 PDT 2005

Escalation #SCR061405-03 -E36

October 13, 2005

Amanda Silva
VCI

Subject: VCI Escalation on SCR061405-03 -E36 associated with Qwest denial of this SCR citing No Demonstrable Business Benefit

This letter is Qwest's binding response to your October 5, 2005 escalation regarding CLEC Change Request number SCR061405-03 E-36 **"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"** and VCI's request to implement this SCR.

Qwest has reviewed the formal escalation and maintains its position that since there is existing functionality that currently provides details associated with rejects and jeopardies, this SCR will continue to be denied due to No Demonstrable Business Benefit.

Although the detail provided in the IMA Post Order Status Update Tool is not exportable, it does provide a means of looking for data which can be requested by either Rejected or Jeopardy status or all statuses can be selected. Additionally, the query can be filtered by:

- Hours – ranging from 1 to 82 hour timeframes
- User ID
- Status types of either LSR or Order
- LSRs entered by EDI, GUI, or both

Once the query is complete, the data can be sorted by any column by clicking the header labels:

- Date/time
- User ID
- PON
- VER (Version)
- AN (Account Number)
- LSR ID
- DDD (Desired Due Date)
- LSR Status
- Order Number
- Order Due (DD)
- Order Status
- Entered By (Source of LSR – EDI or GUI)

Selecting all Status and sorting by PON and date provide an indication of whether a status has been resolved or not.

If additional detail is required, there is supplementary functionality in:

- the IMA Post Order LSR/BRC Notice Inquiry which provides notice specifics
- the IMA Post Order Status Inquiry which provides more detailed status by PON or LSR

As your Service Management team has discussed with you, there is also another source of data outside of CMP that is available to you that contains both BPL and manual reject information. This data is accessible via the Qwest Wholesale website on the CLEC Performance Results Report url and can be exported to Excel. These CLEC specific data reports can be requested through your Service Management team and require a digital certificate.

In summary, the combination of data available in IMA and through the Qwest Performance Results Report URL supports Qwest denial of this CR.

Loretta Huff
Qwest Wholesale
Director Program/Project Mgmt

ESCALATION #E18 – MCI – SEPTEMBER 2, 2003

Sent by: Liz Balvin (MCI) [email redacted] 08/29/2003 02:01 PM CST

08/29/2003 02:01 PM CST

Sent by: Elizabeth Balvin (MCI) [email redacted]
Please respond to Elizabeth Balvin (MCI) [email redacted]

To:
cmpesc@qwest.com

cc:
Connie Winston (Qwest) [email redacted], Inotari (Qwest) [email redacted], Steven Kast (Qwest) [email redacted], Tom Priday (MCI) [email redacted]

Subject:
ESCALATION: Response to TT 141666

- C.htm
- TechEsc_TT242666-MCI Final2.doc

Subject: Escalation

Company: WorldCom

=====
=====

Description: Escalating trouble ticket 141666 response from Qwest (Tier 6) because it inappropriately places the burden on MCI (CLECs) to update its coding that was based on Qwest published business rules. MCI initiated a trouble ticket because Qwest OSS imposes edits on address fields that are optional per Qwest published EDI disclosure documented business rules. Optional "usage definition" as defined by Qwest is "this field is optional for this activity, for this product. The system shall not enforce any business rules and should allow a valid entry." The EDI disclosure documentation reflects no valid entries because given the field is optional, no business rules shall be enforced.

MCI noted that the following fields were optional:

Field name "SAPR" for all activity types

Field name "SASD" for all activity types

Field name "SATH" for all activity types

Field name "SASS" for all activity types

Field name "BOX" for all activity types

and requested that Qwest lift any edits associated with these fields given the published documentation. MCI specifically stated that to change the usage definition for these fields from "optional" to "conditional" would place the burden on CLECs to adjust their code. Thus, Qwest's response inappropriately places the burden on CLECs to change their code when these fields should have no edits applied. Qwest should remove the edits prior to version 14.0 because the system currently is not working according to the EDI disclosure published business rules.

History: Qwest address validation rejects invalid when applied to these optional fields.

Reason for Escalation: See Description

Business need and impact: See Description

Desired CLEC resolution: See Description

CLEC Contact Information: Liz Balvin, Carrier Management (MCI) [contact information redacted]

Thanks,

Liz Balvin
WorldCom Carrier Management - Qwest
[contact information redacted]

-----Original Message-----

From: Winston, Connie (Qwest) [email redacted]
Sent: Thursday, August 28, 2003 4:53 PM
To: Liz Balvin (MCI) [email redacted]
Cc: Owen, Randy
Subject: Response to TT 141666(Qwest Note:242666)

Hi Liz,

Attached (See Attachment 1 following) is the written response you request. This will close the technical escalation for trouble ticket 242666. Of course if you have any questions please feel free to contact Randy Owen or myself.

Thanks,
Connie Winston
[contact information redacted]

Response to MCI's Technical Escalation re: address validation on optional fields.

Liz Balvin of MCI opened a trouble ticket (242666) and requested a technical escalation of Qwest on August 19, 2003 at 11:13am. The description of the trouble ticket follows:

Problem Description: wants to have the entire edit for address validation lifted due to the SATH field being 'Optional' per the 12.0 disclosure documentation

Explanation: Because of this field being 'optional' they have had numerous LSRs rejected because they have designed their systems not to include certain variations on the SATH abbreviations (i.e. AV or TER) and have interpreted the disclosure to mean that IMA

After preliminary investigation, Qwest agrees to change the usage from "optional" to "conditional" for several of the address fields on the End User form. Documentation updates will be included in Qwest's 12.0 and 13.0 Disclosure addenda targeted for publication September 15, 2003.

Regarding the request to lift the address validation edits, Qwest has evaluated this request (which impacts all CLECs) and decided to keep the edits in place. This decision was based on the following:

1. There is a scheduled date for the documentation changes.
2. MCI's request is for temporary removal of the edits until the documentation changes can be implemented. Removing these edits could not be completed earlier than the documentation

changes.

3. This edit has consistently been communicated to implementing EDI CLECs, in team meetings, during the implementation process, and through the following EDI FAQ Pre-Order #1:

The exact address as provided by the Address Validation Query should always be the address used by the CLEC on an LSR, as this is the address on which the BPL performs its address validation edit.¹

In conclusion, Qwest continues to consider future system enhancements proposed by the CLEC community. An example of this is the 14.0 SCR022703-24, "Allow post migration transaction order types to be processed by TN and SANO" that allows for other product and activity types to be submitted with only full AN or TN and SANO rather than a full address from the customer.

Sincerely,
Connie Winston
Director Information Technologies
Qwest

¹ http://www.qwest.com/wholesale/downloads/2003/030225/12_0_Frequently_Asked_Questions-02.25.03.PDF

Escalation #E18
September 16, 2003

Liz Balvin
MCI

Dear Ms. Balvin:

This letter is in response to your September 2, 2003 (E18) escalation regarding the MCI position that the trouble ticket 242666(Noted as 1416666) response from Qwest (Tier 6) was an issue because it *“inappropriately places the burden on MCI (CLECs) to update its coding that was based on Qwest published business rules.”* MCI further states *“MCI initiated a trouble ticket because Qwest OSS imposes edits on address fields that are optional per Qwest published EDI disclosure documented business rules.”*

On August 28, 2003, Qwest issued a response to MCI for a technical escalation MCI had initiated regarding this issue. As part of the response, Qwest stated the following:

“Regarding the request to lift the address validation edits, Qwest has evaluated this request (which impacts all CLECs) and decided to keep the edits in place. This decision was based on the following:

- 1. There is a scheduled date for the documentation changes.*
- 2. MCI’s request is for temporary removal of the edits until the documentation changes can be implemented. Removing these edits could not be completed earlier than the documentation changes.*
- 3. This edit has consistently been communicated to implementing EDI CLECs, in team meetings, during the implementation process, and through the following EDI FAQ Pre-Order #1:*

The exact address as provided by the Address Validation Query should always be the address used by the CLEC on an LSR, as this is the address on which the BPL performs its address validation edit.¹.”

As of September 15, 2003, Qwest has updated the documentation associated with this issue. Additionally, Qwest has reviewed question logs that are maintained as part of Qwest’s EDI implementation process, and the question logs maintained for MCI indicate that Qwest responded several times to MCI with information that detailed these fields and their associated edits.

In conclusion, Qwest does not plan to remove the edits as requested in this escalation.

¹ http://www.qwest.com/wholesale/downloads/2003/030225/12_0_Frequently_Asked_Questions-02.25.03.PDF

Please contact me by telephone at [contact information redacted], or by e-mail at [email redacted] if you have any additional questions.

Sincerely,
Connie Winston
Director-Information Technologies
Qwest

09/19/2003 11:58 AM CST

Sent by: Elizabeth Balvin (MCI) [email redacted]
Please respond to Elizabeth Balvin (MCI) [email redacted]

To:

cmpesc@qwest.com

cc:

Subject:

MCI CMP OVERSIGHT REVIEW ISSUE SUBMISSION

Thanks for Qwest's binding response surrounding escalation E18 (attached). Also attached is Qwest response to trouble ticket 242666.

MCI would like to note the following as discussed at the September CMP Meetings:

- 1) An event notifications should have resulted in the issuance of trouble ticket # 242666 because the edits are not only imposed on MCI's orders (multiple CLECs). At a minimum, this issue should have been categorized as severity 1 or 2 based on production support criteria set in the CMP documentation.
- 2) Qwest's addendum changes places the burden on CLECs to adjust coding. Had Qwest lifted the edits already noted in the disclosure documents as option, NO coding changes would be required for CLECs.
- 3) Qwest expects an exact SAV response match be populated in the address fields, none of which is documented in the EDI disclosure documents. Coding changes are required to accommodate populating a preorder query response to the order, thus this type of information is critical to be noted in disclosure (the bible to building CLECs side of the EDI interface).

Points of clarification:

- 1) MCI did not "request temporary removal of the edits until the documentation changes can be implemented." MCI specifically requested Qwest lift the inappropriate edits, as even noted in the trouble ticket "wants to have the entire edit for address validation lifted due to the SATH field being 'Optional' per the 12.0 disclosure documentation"
- 2) With reference to the following "Qwest has reviewed question logs that are maintained as part of Qwest's EDI implementation process, and the question logs maintained for MCI indicate that Qwest responded several times to MCI with information that detailed these fields and their associated edits." MCI would like it noted that per the 12.0 Question, there are no statements made by Qwest that back-end address validation edits would be imposed on CLECs. MCI was very specific when initiating the trouble ticket that we were referencing 12.0 production orders and disclosure documentation.

In addition, MCI would like to initiate review of this issue to the "Oversight Committee". MCI believes Qwest documentation changes are out of process of the CMP document whereby the following is documented ">>>Major Release may be CLEC impacting (to systems code and CLEC operating procedures) via EDI 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).>>>Point Release may not be CLEC code impacting, but may affect CLEC operating procedures. The Point Release is used 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.>>>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."

Qwest documentation changes required CLECs to code to accommodate. What should have resulted from the trouble ticket issuance was a "Patch Release" whereby the system edits would have been lifted because the system was not working in accordance with the documented business rules. MCI notes the following for discussion purposes:

http://www.uswest.com/disclosures/netdisclosure409/12/12_AddendumVer6.pdf

Expected resolution would be that Qwest cannot update documentation that impacts CLEC coding. That would changes included but not limited to the following:

Qwest documented Usage Definitions: >Usage = N Definition: Not required - This field is not required for this activity, for this product. If the indicator is (N) for all activities, QWest does not mat the field and will not return a -997 if populated. >Usage = R Definition: Required - this field is required for this activity, for this product. The system shall enforce business rules and only allow a valid entry. >Usage = O Definition: Optional - This field is optional for this activity, for this product. The system shall not enforce any business rules and should allow a valid entry. >Usage = C Definition: Conditional - This field is required for activity based upon a condition. The system shall enforce the business rule and require a valid entry when the condition is true. >Usage = P Definition: Prohibited - If this field is populated it will result in a fatal reject.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Example 1)

http://www.uswest.com/disclosures/netdisclosure409/12/12_0_Addendum_Ver1.pdf

Whereby Qwest changed a field "usage" from not required to prohibited.

EU 25a 3/17/03 AHN* Usage Code Changed For product 14 and activities N, D, W, C and T From: N To: P

NOTE: Changing the usage from not required to prohibited would result in fatal rejects if the CLEC built to populate the field. This would constitute a system defect because the

system is not performing as expected based on the published business rules. By simply publishing business rule changes, Qwest places the burden on CLECs to adjust their code.

Example #2)

http://www.uswest.com/disclosures/netdisclosure409/12/12_0_Addendum_Ver_3.pdf

TN1 TNSQ1 6/04/03 CCNA Usage Code Changed From: "O" optional To: "R" required

TN TNSQ2 6/04/03 TXNUM Usage Code Changed From: "O" optional To: "R" required

TN TNSQ3 6/04/03 D/TSENT Usage Code Changed From: "O" optional To: "R" required

TN TNSQ4 6/04/03 TXTYP Usage Code Changed From: "O" optional To: "R" required

TN TNSQ5 6/04/03 TSACT Usage Code Changed From: "O" optional To: "R" required

TN TNSQ6 6/04/03 PON Usage Code Changed From: "O" optional To: "R" required

NOTE: Changing usage definitions from Optional to Required means that CLECs will have accommodate the coding to populate fields or be faced with fatal rejects. This would constitute a system defect because the system is not performing as expected based on the published business rules. By simply publishing business rule changes, Qwest places the burden on CLECs to adjust their code.

Example #3)

http://www.uswest.com/disclosures/netdisclosure409/12/12_Addendum_Ver_4.pdf

LSR 91 8/11/03 EMAIL

Usage Code Changed From: "O" (Product 14, Activities N, D, W, C, T) To: "R" (Product 14, Activities N, D, W, C, T)

NOTE: Changing usage defections from Optional to Required means that CLECs will have accommodate the coding to populate fields or be faced with fatal rejects. This would constitute a system defect because the system is not performing as expected based on the published business rules. By simply publishing business rule changes, Qwest places the burden on CLECs to adjust their code.

Thanks,

Liz Balvin

MCI Carrier Management - Qwest

[contact information redacted]

CMP Oversight Committee Meeting Minutes October 20, 2003

(Qwest Note: These minutes were distributed to the Oversight Committee on October 24, 2003. The deletions and additions in this document are changes made by Liz Balvin-MCI)

In attendance:

Donna Osborne-Miller – ATT
Becky Quintana – Colorado PUC
Mike Zulevic – Covad
Bonnie Johnson – Eschelon
Liz Balvin – MCI
Beth Foster - Qwest
Jim Maher - Qwest
Lynn Notarianni - Qwest
Judy Schultz - Qwest
Kit Thomte – Qwest
Christy Turton - Qwest
Connie Winston - Qwest

Attachment #1 Qwest Response to Oversight Review Issue 10-03-03

Attachment #2 Qwest Response to CMP Escalation #E18 09-16-03

Attachment #3 Qwest Technical Escalation Response to #242666

A CMP Oversight Committee meeting was held on October 20, 2003. The purpose of the CMP Oversight Committee meeting was to review an issue that MCI referred to the Oversight Committee. (See CMP notifications CMPR.09.23.03.F.01573.OversightReviewIssue, CMPR.10.03.03.F.01586.OversightIssueResponse, and CMPR.10.07.03.F.01587.OversightReviewIssue)

Jim Maher-Qwest reviewed the history of the issue and then asked Liz Balvin-MCI to give an overview of the issue. Balvin explained that the issue was associated with Qwest Wholesale Systems Help Desk trouble ticket #242666 MCI had opened regarding address fields that Qwest systems documentation showed as optional fields, and as optional fields Qwest should not edit on these fields. Balvin stated that Qwest was editing on these fields, and that MCI requested that the Qwest edits be removed since the documentation indicated the fields were optional. Balvin then referred to the Definition of Terms in the CMP document that included definitions for a Major Release, Point Release, and Patch Release. Balvin stated that the definition of Patch Release should result in Qwest removing the edits that were in place. ~~Balvin further explained that if Qwest did not remove the edits, then that placed the burden on the CLECs to do CLEC coding.~~ Balvin stated that had Qwest removed the edits, no changes to CLEC coding would have been necessary. When Qwest changed the usage definitions from optional to conditional, Qwest placed the burden on CLECs to adjust coding to accommodate the change.

Becky Quintana-Colorado PUC asked Balvin if MCI had built their interface based on documentation that showed the fields as optional. Balvin stated that CLECs must rely on Qwest documented business rules to understand what edits will be applied. MCI had built their interface based on the documentation, and that when this issue came to light MCI issued a trouble ticket through the Qwest IT Wholesale Systems Help Desk because based on the CMP procedures,

this would be the means to address a software defects. Balvin stated the Qwest response to the trouble ticket was to update the documentation through an EDI addendum, and that Qwest had issued EDI addenda on more than just the address fields. Quintana asked Balvin if MCI thought the trouble ticket should result in Qwest removing the edit. Balvin responded yes, that as a response to the trouble ticket Qwest changed the address fields from optional to conditional and that this had significant impacts to the CLECs. Balvin continued saying that MCI did not believe that the documentation could just be updated due to the impacts to CLEC coding, that the current CMP document language specifically states a Major Release can be be CLEC impacting to process and systems and that the only time a Point Release could impact coding and/or procedures is when Qwest disclosed the change. Balvin emphasized that and that if Qwest had removed the edits there would have been no impacts to the CLECs.

Judy Schultz-Qwest stated that this general issue is being addressed as part of the CLEC-Qwest meetings being held regarding systems documentation and event notifications. Schultz further stated that she does not think that making changes to Qwest's systems would be appropriate in all cases. Schultz provided a potential example of Qwest implementing a CLEC Systems CR, and during implementation missing a systems documentation update. Schultz stated that in that case she believes that CLECs would not want Qwest to update the system and remove the functionality introduced with that CR, but would want the documentation updated. Schultz stated that as issues like this arise it would be in everyone's interest to have flexibility to address solutions. Bonnie Johnson-Eschelon stated that this issue had been part of the CLEC-Qwest meeting that took place on October 14th, but that MCI had been dealing with this issue for months. Connie Winston-Qwest stated that when MCI opened the trouble ticket for this issue Qwest recognized that the documentation was incorrect. She further clarified that the IMA system had been operating with these edits in place for a long time and Qwest had identified in the trouble ticket resolution section that a systems documentation update was going to take place. Winston also stated that this issue was being resolved in IMA 14.0 based on a CMP CR submitted by MCI. Johnson asked if Qwest was making the change in IMA 14.0 due to the MCI CR, or if Qwest would have made the change anyway because of the trouble ticket. Winston responded that Qwest would not have made the changes in IMA 14.0 if the MCI CR had not been submitted since Qwest resolved the trouble ticket with corrections to the Qwest systems documentation. Balvin stated that the crux of the issue is that Qwest regularly updates systems documentation through addenda and that these updates required CLEC coding and that the examples were provided in the initiation of the Oversight review. Lynn Notarianni-Qwest asked Balvin how MCI determined a CMP CR was required for this change and why the CR was submitted prior to the trouble ticket. Balvin responded that MCI had learned of the issue through IMA 10.0 question logs and that they were told by Qwest to issue a CMP CR since these were Qwest back-end system edits. Balvin stated that address validations rejects are significant and that the CR was issued way back when as an overall means to eliminate unnecessary address information to provision LSRs. Balvin also stated that as soon as it was identified back-end system edits were being applied, MCI initiated the trouble ticket. Balvin ~~also~~ stated that MCI assumed that there would be a Qwest systems patch for this issue rather than a documentation update based on the current documented process. She said that it was easy for Qwest to update the documentation, but that left the CLECs with making coding changes, in addition to the current rejects that continue to be caused. Schultz-Qwest pointed out that the CMP document did allow Qwest to resolve trouble tickets by means of a process, software or documentation patch and that the language allowed flexibility depending on the situation. Balvin stated that the flexibility benefited Qwest and not the CLECs. Schultz stated that Qwest was working with the CLECs to determine solutions to problems like these and that she realized that did not solve this specific issue. Balvin responded that she questioned Qwest's understanding of its own Qwest systems because according to Qwest, these edits have been in place for a very long time, yet the documentation flaw was never identified, and that the documentation for this issue remained incorrect for so long. She said the burden was on the CLECs to point out problems like this one. Balvin stated that she would like to propose language that would limit Qwest's ability to make changes that impacted the CLECs and required CLEC coding. Schultz responded saying that the CMP document language did address issues like this from a broader perspective that gave the

parties the flexibility to determine whether a process, software or documentation change was appropriate for a particular situation. Balvin stated that she would rather risk taking a narrower definition with a CMP language change since she did not know of any situation when CLECs would be negatively impacted by more specific language. Schultz stated that such narrow language could be more harmful to the CLECs than to Qwest and that there was a CMP Global Action Item to determine how situations like this could be best managed for all parties while retaining flexibility necessary to develop case specific solutions. Balvin said she did not want changes that impact CLEC coding and that documentation changes could take place for changing fields from conditional to optional since CLEC coding would not be affected. Connie Winston stated that in this instance the system had been operating with these edits in place for years and that the documentation correction was appropriate. Balvin responded saying she believed the documentation clearly outlines that coding impacts should not be occurring outside Major Release and only with Point Releases whereby Qwest disclosed the changes. that she would like to recommend a CMP documentation change that would limit Qwest from making changes that require CLEC coding.

Becky Quintana-Colorado PUC stated that what she had heard from the discussion caused her to concur with Qwest's position. She stated that the language Balvin might recommend could be too narrow and specific to this particular MCI issue. Quintana stated she agreed with Balvin that language could be introduced but that it should be broader in scope such as "prior to making any changes Qwest would have a general meeting with the CLECs". Balvin responded saying that this could leave the burden with the CLECs, and if Qwest had removed the edits this would not have been an issue. Quintana said she understood the language Balvin was considering in relation to this particular issue, but there could be times when CLECs have coded differently and are split on a particular issue. Quintana continued that any language change should be more global and less narrow. Donna Osborne-Miller-ATT stated that ATT wouldn't want the process to be too rigid, and that she would take any language recommendation back to ATT for consideration. Balvin explained that the language she was considering would not affect system documentation changes that changed fields to optional. Those changes do not enforce business rules and CLEC coding would not be required. Connie Winston explained that Qwest was not in a position to know the breadth of CLEC coding and when changes would impact some CLEC's coding and not others. Connie stated that this issue was not a change that took place because of a release but was system behavior that had been in place for years and that had been documented incorrectly.

Becky Quintana asked Liz Balvin if she could develop CMP language that could be reviewed by this team. Balvin agreed that she would have recommended CMP language to the team by close of business October 20th. The Oversight Committee members also agreed that the next meeting would take place on October 27, 2003.

ATTACHMENT 1

Qwest Response to MCI Oversight Issue October 3, 2003
MCI Oversight Request/Escalation Response #E18 9-19-03

09/19/2003 11:58 AM CST

Sent by: Elizabeth Balvin (MCI) [email redacted]
Please respond to Elizabeth Balvin (MCI) [email redacted]

To:
cmpesc@qwest.com
cc:
Subject:
MCI CMP OVERSIGHT REVIEW ISSUE SUBMISSION

Thanks for Qwest's binding response surrounding escalation E18 (attached). Also attached is Qwest response to trouble ticket 242666. (QWEST NOTE: SEE ESCALATION #E18 AT <http://www.qwest.com/wholesale/cmp/escalations.html>)

MCI would like to note the following as discussed at the September CMP Meetings:

1) An event notifications should have resulted in the issuance of trouble ticket # 242666 because the edits are not only imposed on MCI's orders (multiple CLECs). At a minimum, this issue should have been categorized as severity 1 or 2 based on production support criteria set in the CMP documentation.

(1.) Qwest Response: MCI opened trouble ticket 242666 with the Qwest Wholesale Systems Helpdesk on 8/19/03. Qwest reviewed the issue and determined the trouble to be a multi-CLEC impacting event and distributed an Event Notification to the CLEC community on 8/20/03 (See Attachment 1, Event Notification 242666 IMA GUI-EDI Initial-Closure). Subsequently, Qwest distributed an Event Notification to the CLEC community on 9/2/03 announcing the date the documentation would be updated (See Attachment 2, 242666 IMA GUI-EDI 090203 Update Closure). Qwest determined the issue was a severity level 3 based on the production support criteria set forth in the CMP document: "low to medium visibility and minimal loss of functionality." While the Event Notification incorrectly labeled the issue as severity 4, Qwest processed and tracked the issue as a severity 3. Pursuant to Section 12.5 of the CMP¹, if a CLEC disagrees with the severity level Qwest assigns to an issue, the CLEC may utilize the technical escalation process. While MCI did initiate a technical escalation on this trouble ticket, MCI did not contest the severity level assigned to the ticket in that escalation.

2) Qwest's addendum changes places the burden on CLECs to adjust coding. Had Qwest lifted the edits already noted in the disclosure documents as option, NO coding changes would be required for CLECs.

¹ "If the CLEC disagrees with the severity level assigned by the IT Help Desk personnel, the CLEC may escalate using the Technical Escalation Process."

ATTACHMENT 1

(2.) Qwest Response: Qwest has followed CMP requirements for addendum changes defined in the CMP document in section 8.1.7.² As discussed at the monthly systems CMP meetings in August and September 2003, Qwest recognizes that there have been CLEC concerns raised regarding the impact of addendum changes to CLECs and is addressing those issues in joint ad-hoc meetings with the CLECs to help mitigate and resolve those concerns. The first of these meetings was held on Friday, September 12, 2003 during which Qwest and the CLEC community attempted to jointly come up with solutions to address CLEC concerns. Qwest will continue to work this issue jointly with the CLEC community.

3) Qwest expects an exact SAV response match be populated in the address fields, none of which is documented in the EDI disclosure documents. Coding changes are required to accommodate populating a preorder query response to the order, thus this type of information is critical to be noted in disclosure (the bible to building CLECs side of the EDI interface).

(3.) Qwest Response: Qwest agrees with MCI that this information is critical and should be noted in disclosure. As noted in the Event Notification titled 242666 IMA GUI-EDI 090203 Update Closure, Qwest updated its disclosure documentation for IMA 12.0 and 13.0 on September 15, 2003 to include the following: "The field is part of the overall End User Address, and the address information is validated for all orders (with the exception of UNE-P conversion orders) against data in the Qwest Legacy systems. If data exists for this field in the Legacy system for the End User address, the field must be populated and must exactly match the data from the Qwest Legacy system as returned on an Address Validation Response."

Points of clarification:

1) MCI did not "request temporary removal of the edits until the documentation changes can be implemented." MCI specifically requested Qwest lift the inappropriate edits, as even noted in the trouble ticket "wants to have the entire edit for address validation lifted due to the SATH field being 'Optional' per the 12.0 disclosure documentation"

(4.) Qwest Response: As noted in the Qwest response to the MCI technical escalation date August 28, 2003, this edit has consistently been communicated to implementing EDI CLECs, in team meetings, during the implementation process, and through the following EDI FAQ Pre-Order #1: *The exact address as provided by the Address Validation Query should always be the address used by the CLEC on an LSR, as this is the address on which the BPL performs its address validation edit.*

Lifting the edits as MCI has requested would be an enhancement to the system, therefore to address MCI's concern the documentation was updated on September 15, 2003. For example, when the MCI CMP CR SCR061302-01 (Migrate UNE-P Customers by TN) was implemented with IMA 12.0, as noted in the body of the CR and in the description of change, IMA was enhanced and edits were lifted to remove the need for name validation and address validation for UNE-P conversion activities. Additionally, MCI submitted a CMP Change Request(CR) for a new enhancement on February 27, 2003, SCR022703-24, (Allow post migration transaction order

² "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.

- 1st Addendum – 2 weeks after the Release the 1st 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. "

ATTACHMENT 1

types to be processed by TN and SANO) which is currently targeted for implementation with IMA 14.0 on December 8, 2003. Qwest believes this CR is requesting an expansion of the functionality implemented in 12.0 to include UNE-P Post Migration activity and will address MCI's desire for lifting the edits in the system currently applied to the SATH field for address validation.

2) With reference to the following "Qwest has reviewed question logs that are maintained as part of Qwest's EDI implementation process, and the question logs maintained for MCI indicate that Qwest responded several times to MCI with information that detailed these fields and their associated edits." MCI would like it noted that per the 12.0 Question, there are no statements made by Qwest that back-end address validation edits would be imposed on CLECs. MCI was very specific when initiating the trouble ticket that we were referencing 12.0 production orders and disclosure documentation.

(5.) Qwest Response: All of the MCI questions regarding address validation that Qwest references exist in the 10.0 Question log, and nothing changed for address validation in either IMA-EDI disclosure documentation or in the IMA system between IMA releases 10.0 and 12.0 relative to this issue. SCR061302-01 (Migrate UNE-P Customers by TN) was the only CLEC impacting CR implemented for address validation between 10.0 and 12.0, however it was specific to migrate activities and had no impact on the existing edits for post-migration address validation. Additionally, the MCI CR SCR022703-24, (Allow post migration transaction order types to be processed by TN and SANO) is an enhancement scheduled for 14.0 which will change address validation functionality for post migration activities and will remove the edits for post-migration address validation.

In addition, MCI would like to initiate review of this issue to the "Oversight Committee". MCI believes Qwest documentation changes are out of process of the CMP document whereby the following is documented ">>>Major Release may be CLEC impacting (to systems code and CLEC operating procedures) via EDI 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).>>>Point Release may not be CLEC code impacting, but may affect CLEC operating procedures. The Point Release is used 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.>>>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."

(6.) Qwest Response: The above CMP language provided is in the Qwest Wholesale Change Management Process Document in the "Definition of Terms" section at the end of that document. This MCI issue is not the result of a Major Release, Point Release, or Patch Release. This MCI issue is the result of a documentation error that has been in effect since the earliest releases of IMA. Qwest did not make any changes in IMA EDI 12.0 or in any point release that resulted in this MCI issue. MCI began using the IMA EDI release 10.0 function of Order Products on January 14, 2003, but did not identify these edit issues until August 12, 2003. Additionally, MCI issued CMP CR SCR022703-24 on February 27, 2003 (Currently prioritized as the #2 candidate for IMA 14.0), which will resolve this issue. Qwest did not implement a software patch because this issue was identified as an existing documentation error, Qwest subsequently fixed with a documentation update in an addendum on September 15, 2003. This fix, which was identified in Event Notifications distributed for trouble ticket 242666, was communicated to the CLEC community on September 15, 2003, via the addendum notifications SYST.09.15.03.F.04386.IMA_E_13.0_Disc_Ad3, and SYST.09.15.03.F.04387.IMA_E_120_Disc_Ad6.

Qwest documentation changes required CLECs to code to accommodate. What should have resulted from the trouble ticket issuance was a "Patch Release" whereby the system edits would

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have been lifted because the system was not working in accordance with the documented business rules. MCI notes the following for discussion purposes:

http://www.uswest.com/disclosures/netdisclosure409/12/12_AddendumVer6.pdf

Expected resolution would be that Qwest cannot update documentation that impacts CLEC coding. That would changes included but not limited to the following:

Qwest documented Usage Definitions: >Usage = N Definition: Not required - This field is not required for this activity, for this product. If the indicator is (N) for all activities, QWest does not mat the field and will not return a -997 if populated. >Usage = R Definition: Required - this field is required for this activity, for this product. The system shall enforce business rules and only allow a valid entry. >Usage = O Definition: Optional - This field is optional for this activity, for this product. The system shall not enforce any business rules and should allow a valid entry. >Usage = C Definition: Conditional - This field is required for activity based upon a condition. The system shall enforce the business rule and require a valid entry when the condition is true. >Usage = P Definition: Prohibited - If this field is populated it will result in a fatal reject.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Example 1) http://www.uswest.com/disclosures/netdisclosure409/12/12_0_Addendum_Ver1.pdf

Whereby Qwest changed a field "usage" from not required to prohibited.

EU 25a 3/17/03 AHN* Usage Code Changed For product 14 and activities N, D, W, C and T
From: N To: P

NOTE: Changing the usage from not required to prohibited would result in fatal rejects if the CLEC built to populate the field. This would constitute a system defect because the system is not performing as expected based on the published business rules. By simply publishing business rule changes, Qwest places the burden on CLECs to adjust their code.

(7.) Qwest Response: When MCI initiated the trouble ticket, Qwest identified this issue as a documentation defect that has been present since the earliest IMA releases. As a result, Qwest fixed the documentation in addenda on September 15, 2003. Qwest did not make any changes in any recent IMA EDI major, point, or patch releases that caused this issue. Lifting an edit of this nature is considered an enhancement to the system, and will be addressed when the MCI CMP CR SCR022703-24, (Allow post migration transaction order types to be processed by TN and SANO) is implemented.

Example #2)

http://www.uswest.com/disclosures/netdisclosure409/12/12_0_Addendum_Ver_3.pdf

TN1 TNSQ1 6/04/03 CCNA Usage Code Changed From: "O" optional To: "R" required

TN TNSQ2 6/04/03 TXNUM Usage Code Changed From: "O" optional To: "R" required

TN TNSQ3 6/04/03 D/TSENT Usage Code Changed From: "O" optional To: "R" required

TN TNSQ4 6/04/03 TXTYP Usage Code Changed From: "O" optional To: "R" required

TN TNSQ5 6/04/03 TSACT Usage Code Changed From: "O" optional To: "R" required

TN TNSQ6 6/04/03 PON Usage Code Changed From: "O" optional To: "R" required

ATTACHMENT 1

NOTE: Changing usage definitions from Optional to Required means that CLECs will have accommodate the coding to populate fields or be faced with fatal rejects. This would constitute a system defect because the system is not performing as expected based on the published business rules. By simply publishing business rule changes, Qwest places the burden on CLECs to adjust their code.

(8.) Qwest Response: When MCI initiated the trouble ticket, Qwest identified this issue as a documentation defect that has been present since the earliest IMA releases. As a result, Qwest fixed the documentation in addenda on September 15, 2003. Qwest did not make any changes in any recent IMA EDI major, point, or patch releases that caused this issue. Lifting an edit of this nature is considered an enhancement to the system, and will be addressed when the MCI CMP CR SCR022703-24, (Allow post migration transaction order types to be processed by TN and SANO) is implemented.

Example #3) http://www.uswest.com/disclosures/netdisclosure409/12/12_Addendum_Ver_4.pdf

LSR 91 8/11/03 EMAIL

Usage Code Changed From: "O" (Product 14, Activities N, D, W, C, T) To: "R" (Product 14, Activities N, D, W, C, T)

NOTE: Changing usage defections from Optional to Required means that CLECs will have accommodate the coding to populate fields or be faced with fatal rejects. This would constitute a system defect because the system is not performing as expected based on the published business rules. By simply publishing business rule changes, Qwest places the burden on CLECs to adjust their code.

(9.) Qwest Response: When MCI initiated the trouble ticket, Qwest identified this issue as a documentation defect that has been present since the earliest IMA releases. As a result, Qwest fixed the documentation in addenda on September 15, 2003. Qwest did not make any changes in any recent IMA EDI major, point, or patch releases that caused this issue. Lifting an edit of this nature is considered an enhancement to the system, and will be addressed when the MCI CMP CR SCR022703-24, (Allow post migration transaction order types to be processed by TN and SANO) is implemented.

Thanks,

Liz Balvin
MCI Carrier Management - Qwest
[contact information redacted]



IT Wholesale Systems Help Desk

EVENT NOTIFICATION

To: Qwest Wholesale Customers
From: Qwest IT Wholesale Systems Help Desk
Date: August 20, 2003
Subject: System Event Notification

Initial Update Closure

This Event Notification is sent to advise you that Qwest had experienced trouble with the below system:

PCRM Ticket Number: 242666 Ticket Severity: 4 Event Internally Identified by Qwest, no reporting CLECs

ISC Ticket Number:

Event Onset

Time: 10:00 MTN

AM PM

Date: 08/20/03

Description of Trouble: Qwest is making clarifications to its 12.0 and 13.0 pre-order documentation. Fields identified as "Optional" that may be part of the overall End User Address validation process will now be identified as "Conditional." As part of the condition, the Negotiated Business Rules will be worded to the effect that: "The field is part of the overall End User Address, and the address information is validated for all orders (with the exception of UNE-P conversion orders) against data in the Qwest Legacy systems. If data exists for this field in the Legacy system for the End User address, the field must be populated and must exactly match the data from the Qwest Legacy system as returned on an Address Validation Response."

Business Impact: Fields previously identified as "optional" will now be identified as "conditional" with the condition cited above.

Qwest Proposed Work Around: None required. Impact is to documentation only.

System/Application:

- IMA-GUI
- IMA-EDI 12.0, 13.0
- TELIS/EXACT
- E-Commerce Gateway
- CEMR
- Resale Product Database
- MEDIAACC
- Other: _____

Client Region:

- Eastern
- Central
- Western
- All Regions

Estimated resolution Time: 5:00 MTN AM PM Date: TBD

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Event Closure Resolution: To be resolved in addendum to the Disclosure Documentation, date TBD.

Time: 10:15 MTN

AM PM

Date: 08/20/03

System Event Notification has been closed.

Escalation:

Additional questions may be directed to the Qwest IT Wholesale Systems Help Desk at 1-888-796-9102, Option 3.

ATTACHMENT 1



IT Wholesale Systems Help Desk

EVENT NOTIFICATION

To: Qwest Wholesale Customers
From: Qwest IT Wholesale Systems Help Desk
Date: August 20September 2, 2003
Subject: System Event Notification

Initial Update Closure

This Event Notification is sent to advise you that Qwest had experienced trouble with the below system:

PCRM Ticket Number: 242666 Ticket Severity: 4 Event Internally Identified by Qwest, no reporting CLECs

ISC Ticket Number:

Event Onset

Time: 10:00 MTN

AM PM

Date: 08/20/03

Description of Trouble: Qwest is making clarifications to its 12.0 and 13.0 pre-order documentation. Fields identified as "Optional" that may be part of the overall End User Address validation process will now be identified as "Conditional." As part of the condition, the Negotiated Business Rules will be worded to the effect that: "The field is part of the overall End User Address, and the address information is validated for all orders (with the exception of UNE-P conversion orders) against data in the Qwest Legacy systems. If data exists for this field in the Legacy system for the End User address, the field must be populated and must exactly match the data from the Qwest Legacy system as returned on an Address Validation Response."

Business Impact: Fields previously identified as "optional" will now be identified as "conditional" with the condition cited above.

Qwest Proposed Work Around: None required. Impact is to documentation only.

System/Application:

- IMA-GUI
- IMA-EDI 12.0, 13.0
- TELIS/EXACT
- E-Commerce Gateway
- CEMR
- Resale Product Database
- MEDIAACC
- Other: _____

Client Region:

- Eastern
- Central
- Western
- All Regions

Estimated resolution Time: 5:00 MTN AM PM Date: TBD

ATTACHMENT 1

Event Closure Resolution: To be resolved in addendum to the Disclosure Documentation, date **TBD.09/15/03**.

Time: 10:15 MTN

AM PM

Date: 08/20/03

System Event Notification has been closed.

Escalation:

Additional questions may be directed to the Qwest IT Wholesale Systems Help Desk at 1-888-796-9102, Option 3.

ATTACHMENT 2

Escalation #E18
September 16, 2003

Liz Balvin
MCI

Dear Ms. Balvin:

This letter is in response to your September 2, 2003 (E18) escalation regarding the MCI position that the trouble ticket 242666(Noted as 1416666) response from Qwest (Tier 6) was an issue because it *"inappropriately places the burden on MCI (CLECs) to update its coding that was based on Qwest published business rules."* MCI further states *"MCI initiated a trouble ticket because Qwest OSS imposes edits on address fields that are optional per Qwest published EDI disclosure documented business rules."*

On August 28, 2003, Qwest issued a response to MCI for a technical escalation MCI had initiated regarding this issue. As part of the response, Qwest stated the following:

"Regarding the request to lift the address validation edits, Qwest has evaluated this request (which impacts all CLECs) and decided to keep the edits in place. This decision was based on the following:

- 1. There is a scheduled date for the documentation changes.*
- 2. MCI's request is for temporary removal of the edits until the documentation changes can be implemented. Removing these edits could not be completed earlier than the documentation changes.*
- 3. This edit has consistently been communicated to implementing EDI CLECs, in team meetings, during the implementation process, and through the following EDI FAQ Pre-Order #1:*

The exact address as provided by the Address Validation Query should always be the address used by the CLEC on an LSR, as this is the address on which the BPL performs its address validation edit.³"

As of September 15, 2003, Qwest has updated the documentation associated with this issue. Additionally, Qwest has reviewed question logs that are maintained as part of Qwest's EDI implementation process, and the question logs maintained for MCI indicate that Qwest responded several times to MCI with information that detailed these fields and their associated edits.

In conclusion, Qwest does not plan to remove the edits as requested in this escalation.

Please contact me by telephone at [contact information redacted], or by e-mail at [email redacted]. if you have any additional questions.

Sincerely,
Connie Winston
Director-Information Technologies
Qwest

³ http://www.qwest.com/wholesale/downloads/2003/030225/12_0_Frequently_Asked_Questions-02.25.03.PDF

ATTACHMENT 3

-----Original Message-----

From: Winston, Connie (Qwest) [email redacted]
Sent: Thursday, August 28, 2003 4:53 PM
To: Elizabeth Balvin (MCI) [email redacted]
Cc: Owen, Randy
Subject: Response to TT 141666(Qwest Note:242666)

Hi Liz,

Attached (See Attachment 1 following) is the written response you request. This will close the technical escalation for trouble ticket 242666. Of course if you have any questions please feel free to contact Randy Owen or myself.

Thanks,
Connie Winston
[contact information redacted]

Response to MCI's Technical Escalation re: address validation on optional fields.

Liz Balvin of MCI opened a trouble ticket (242666) and requested a technical escalation of Qwest on August 19, 2003 at 11:13am. The description of the trouble ticket follows:

Problem Description: wants to have the entire edit for address validation lifted due to the SATH field being 'Optional' per the 12.0 disclosure documentation

Explanation: Because of this field being 'optional' they have had numerous LSRs rejected because they have designed their systems not to include certain variations on the SATH abbreviations (i.e. AV or TER) and have interpreted the disclosure to mean that IMA should not validate for this information therefore, they want to have the Address Validation edit lifted until the documentation has been updated to show the SATH field as being 'Conditional' and the conditional requirement published and they have been given time to update their systems based on these requirements.

After preliminary investigation, Qwest agrees to change the usage from "optional" to "conditional" for several of the address fields on the End User form. Documentation updates will be included in Qwest's 12.0 and 13.0 Disclosure addenda targeted for publication September 15, 2003.

Regarding the request to lift the address validation edits, Qwest has evaluated this request (which impacts all CLECs) and decided to keep the edits in place. This decision was based on the following:

4. There is a scheduled date for the documentation changes.
5. MCI's request is for temporary removal of the edits until the documentation changes can be implemented. Removing these edits could not be completed earlier than the documentation changes.
6. This edit has consistently been communicated to implementing EDI CLECs, in team meetings, during the implementation process, and through the following EDI FAQ Pre-Order #1:

The exact address as provided by the Address Validation Query should always be the address used by the CLEC on an LSR, as this is the address on which the BPL performs its address validation edit.⁴

⁴ http://www.qwest.com/wholesale/downloads/2003/030225/12_0_Frequently_Asked_Questions-02.25.03.PDF

ATTACHMENT 3

In conclusion, Qwest continues to consider future system enhancements proposed by the CLEC community. An example of this is the 14.0 SCR022703-24, "Allow post migration transaction order types to be processed by TN and SANO" that allows for other product and activity types to be submitted with only full AN or TN and SANO rather than a full address from the customer.

Sincerely,
Connie Winston
Director Information Technologies
Qwest

CMP Oversight Committee Meeting Minutes October 27, 2003

In attendance:

Donna Osborne-Miller – ATT
Becky Quintana – Colorado PUC
Mike Zulevic – Covad
Bonnie Johnson – Eschelon
Liz Balvin – MCI
Jim Maher - Qwest
Lynn Notarianni - Qwest
Judy Schultz - Qwest

Attachment #1 MCI Draft CMP Document Language

Attachment #2 Becky Quintana 10-20-03 E-mail and Draft CMP Document Language

Attachment #3 Qwest Draft CMP Document Language

A CMP Oversight Committee meeting was held on October 27, 2003. The purpose of the CMP Oversight Committee meeting was to continue discussion and review CMP language associated with an issue that MCI referred to the Oversight Committee. (See CMP notifications CMPR.09.23.03.F.01573.OversightReviewIssue, CMPR.10.03.03.F.01586.OversightIssueResponse, and CMPR.10.07.03.F.01587.OversightReviewIssue)

Liz Balvin-MCI stated that she had sent in revisions to the October 20, 2003 meeting minutes (Posted at <http://www.qwest.com/wholesale/cmp/coc.html>) which clarified that MCI interpreted the documentation updates that Qwest had made relative to this issue as being out of scope based on the CMP language. Balvin explained that was why MCI had brought this issue to the CMP Oversight Committee. Balvin then stated that the language MCI had submitted (See Attachment 1) would specifically address changes that impact CLEC coding, and that she had reviewed Becky Quintana's draft language (See Attachment 2). Balvin stated she also agreed with Quintana's draft language since it did not allow CLEC code-affecting updates. Lynn Notarianni-Qwest stated that Qwest had received Quintana's e-mail and draft language and that in the e-mail Becky had asked if patches could be CLEC code affecting. Lynn explained that the example being reviewed by the Oversight Committee was CLEC code impacting. Lynn further stated that Qwest had submitted draft language that would allow Qwest and the CLECs to discuss situations like this in advance with the CLECs, determine CLEC impacts, and discuss options for resolution. Becky asked Lynn if Qwest was intentionally impacting CLEC coding in patches. Lynn responded that Qwest cannot always know how CLECs have coded their interface, and that the CLECs may have put constraints or edits on their side of the interface, which would need to be changed, based on a Qwest patch. Becky asked if a patch release and a point release could be correlated, and stated that her understanding was that a point release and a patch differed only because of timing. Lynn explained that major and point releases were based on CMP CRs, that point releases were designed to deliver changes that had been disclosed in a major release, and that the patch releases were meant to resolve software bugs. Balvin stated that in Redesign it was discussed that CLEC code impacting changes could only be made in major releases, and that the language in the CMP document made that clear. Judy Schultz-Qwest stated that Section 12.3 of the CMP document states that patches could be an emergency release of software, process, or documentation, and that it was not in the CLECs' best interest to have restrictive language that did not allow flexibility to resolve issues on a case by case basis. Balvin-MCI stated that there needed to be language developed around making Qwest system changes when the "system was not working according to documented business rules". Balvin stated that the CLECs rely on

Qwest business rules to do the coding of their interfaces, and that the CLECs rely on the documentation to know the correct edits to code to. Quintana again stated that it was her understanding a patch and point release were the same thing, and differed only in timing. Lynn explained that with this particular issue, Qwest had determined that IMA had been applying the address validation edits for many years, and that the systems documentation was wrong. Lynn said that the definition of a point release included "to fix bugs introduced in previous releases", and that cases like that would involve situations where Qwest had developed the documentation correctly, but the system was not behaving according to the documentation. She said Qwest would fix the system because it was a systems bug. Lynn said that did not take into consideration cases where the documentation was incorrect, and it made the most sense to deal with those instances on a case by case basis. Lynn stated that to Schultz's earlier point, there could be situations where the system was coded correctly, but the documentation was in error and in that case it was assumed all CLECs would agree to the update and correction of the documentation. Bonnie Johnson-Eschelon asked if that meant that when the CLECs determined whether it should be a Qwest systems change that Qwest would make the change based on the CLEC determination. Schultz responded that that was not necessarily the case, and that it would be based on the particular case. Balvin stated that in the event that Qwest and the CLECs did not agree, then Qwest would have the final say. Balvin stated that these situations only affected the CLECs, and that the CLECs did not want the existing situations to keep occurring due to the open-ended language in the CMP document. Notarianni stated that the language that MCI was recommending went to the other extreme and was too limiting. Lynn continued that there needed to be a compromise solution developed because, in some cases, there could be situations when the CLEC coding requirements would be nominal compared to the Qwest coding requirements for resolution of a particular issue but the MCI language required that Qwest make the system coding change. Balvin responded that she thought the existing CMP language precluded Qwest from make changes outside a major release that were CLEC code impacting. She said Qwest having the final say placed 100% of the burden on the CLECs since they would need to escalate or follow other processes if they did not agree with the Qwest solution, and that the Qwest recommended language was the opposite extreme. Schultz stated that there were instances when the CLECs and Qwest had developed mutually agreed to solutions and that was what the Qwest language was trying to capture. Balvin responded that the Qwest proposed language was too open-ended, and that under existing language disagreements were subject to a unanimous vote. Schultz asked if there was a way to develop criteria that could be used for determining solutions to these types of issues. Balvin stated the CMP document language could remain as is since MCI understood code-impacting changes can only take place in a major release, and that other CLEC code impacting changes would only occur if Qwest requested an Exception. Notarianni stated that the Exception would require unanimous approval, and one CLEC voting no against the Exception would result in denial of the Exception request. Balvin stated that in some cases the CLECs would accept the documentation update, and there could be agreement reached that a majority vote be used for that decision. Schultz stated that even in the cases with a majority vote Qwest realized that the CLECs usually support each other in their dealings with Qwest.. Balvin reiterated that Qwest needed to have a stake in the ground with resolving these issues, and with Qwest having the final say that left the CLECs bearing the burden. Balvin stated that Qwest should have responded with more detail regarding the effort to lift the address validation edits. She said that if Qwest had provided a Level of Effort for lifting the address validation edits that would have helped, but that MCI never saw an LOE associated with this work. Notarianni stated that developing decision-making criteria would force all parties to identify the impacts so that solution options could be discussed and more clearly understood. Balvin stated she did not know what CMP language could be recommended to resolve these extremes, and that the existing CMP language precluded Qwest from making changes that were CLEC code impacting. Donna Osborne-Miller-ATT stated that there are so many cases when Qwest listens to the issue, but that Qwest does make the decision on how the particular situation is to be resolved. Balvin stated that with this address validation issue, the documentation was updated and each CLEC was going to have a different LOE for the coding work they had to do. Balvin asked how the CLECs get a guarantee that they can build to the documentation. Balvin stated that Qwest thinks that the CMP document allows Qwest to make CLEC code impacting changes

outside a major release and that she did not believe that was agreed to in Redesign. Notarianni stated that the definitions would be confirmed with Jeff Thompson-Qwest who was a primary Qwest IT representative in Redesign. Balvin stated that there needed to be some CMP language developed that more clearly defined when CLEC coded impacting changes could take place. Schultz stated the Oversight Committee members should think of CMP language that could address these issues. Notarianni stated that she had captured three options that could be explored:

1. Vote on the MCI language change that had been submitted.
2. Submit CMP document language that addressed the concerns raised by both Qwest and the CLECs.
3. Develop decision criteria language that would be followed for determining solution to issues like this address validation edit issue.

Mike Zulevic-Covad stated that he would like to see language that addressed a decision criteria approach. He stated that a decision matrix needed to be created, but that the first step should always be for Qwest to assess the effort to make the code change. Schultz stated that Qwest would go back and look at decision criteria and a potential decision tree. Balvin stated that the language Quintana submitted could be used. Notarianni asked Liz how she thought Quintana's language differed from MCI's. Liz stated that the MCI language stated there could be no CLEC impacts, while the Quintana language did allow operational impacts to the CLECs. Quintana stated that what was missing from her language was the situation when there would be CLEC coding impacts. Quintana further stated that if a compromise was going to be made that there needed to be consideration of how it accommodated Qwest not making a change versus a CLEC impacting change. Schultz stated there were five Qwest action items:

1. Contact Jeff Thompson to get clarification on Redesign discussion regarding CLEC code impacting changes.
2. Review Quintana draft language and suggest modifications to address concerns raised at this meeting.
3. Determine how situations can be handled when Qwest cannot accommodate a Qwest systems change.
4. Determine what Qwest can do other than making a documentation change when it is CLEC code impacting.
5. Identify decision-making criteria that can be used for solution assessment.

The meeting adjourned and it was agreed that the next meeting would take place on November 6th from 11:00-12:00 PM MST.

ATTACHMENT 1

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 implemented immediately by means of an emergency Release of process, software or documentation (known as a Patch) ~~(known as a Patch)~~. **NOTE: Documentation updates are permitted if the updates do not impact CLECs coding. For example, a documentation update that imposes edit(s) that were not disclosed in a major release, would not be permitted.** If Qwest and CLEC deem implementation is not timely,

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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.

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 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.

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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.

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.

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

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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, the CLEC may escalate using the Technical Escalation Process.

Severity 1: Critical Impact

- Critical.
- 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

System affected

Escalation information as available

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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

Notification Intervals are based on the severity level of the ticket. “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. “Notification Interval for No Change in Status” means that a notification will be sent out on a recurring basis within the time specified from the last notification when no change in status has occurred, until resolution. “Notification Interval upon Resolution” means that a notification will be sent out within the time specified from the resolution of the problem.

Notification will be provided during the IT Help Desk normal hours of operation. Qwest will continue to work severity 1 problems outside of Help Desk hours of operation which are Monday-Friday 6:00 a.m. - 8:00 p.m. (MT) and Saturday 7:00 a.m. - 3:00 p.m. (MT), 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.

The chart below indicates the response intervals a CLEC can expect to receive after reporting a trouble ticket to the IT Help Desk.

Severity Level of Ticket	Notification Interval for initial ticket	Notification Interval for Any Change in Status	Notification Interval for No Change in Status	Notification Interval Upon Resolution
Severity Level 1	Immediate acceptance	Within 1 hour	1 hour	Within 1 hour
Severity Level 2	Immediate acceptance	Within 1 hour	1 hour	Within 1 hour
Severity Level 3	Immediate acceptance	Within 4 hours	48 hours	Within 4 hours
Severity Level 4	Immediate acceptance	Within 8 hours	48 hours	Within 8 hours

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:

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- 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.

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.

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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.

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.

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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 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 Call Center Database and IT Trouble Tickets are open regarding the 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. As the circumstances warrant, the WSD 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 information pertinent to ongoing resolution of the trouble.

Definition of terms, page 127 of the CMP document:

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.:

- Major Release may be CLEC impacting (to systems code and CLEC operating procedures) via EDI 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).
- Point Release may not be CLEC code impacting, but may affect CLEC operating procedures. The Point Release is used 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.
- 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. **A Patch Release may come in the form of a process and/or documentation enhancement. NOTE: Documentation updates are permitted if the updates do not impact CLECs**

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| coding. For example, a documentation update that imposes edit(s) that were not disclosed in a major release, would not be permitted.

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-----Original Message-----

From: Quintana, Becky [mailto:Becky.Quintana@dora.state.co.us]

Sent: Monday, October 27, 2003 11:06 AM

To: 'liz.balvin@mci.com'; 'Lorence, Susan'; 'Bonnie Johnson'; 'Donna Osborne-Miller'; Quintana, Becky; 'Mike Zulevic'

Cc: 'Schultz, Judy'; 'Thomte, Kit'; 'Maher, Jim'; 'Steph Prull (E-mail)'

Subject: RE: MCI CMP OVERSIGHT REVIEW ISSUE SUBMISSION

Just language for discussion purposes later - here's another version of Liz's proposed language with my edits. What I don't know (that might make this proposal incorrect) is whether Patch Release ever do require CLEC coding changes. To discuss at 2:00....

Becky

(Qwest Note: following is the attached language included in the above Becky Quintana e-mail)

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.

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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. Resolution of Severity 1 and Severity 2 IT trouble tickets will be implemented immediately by means of an emergency Patch Release of process, software or documentation. ~~(known as a Patch) (known as a Patch).~~ NOTE: Documentation updates are permitted if the updates do not impact CLECs coding. For example, a documentation update that imposes edit(s) that were not disclosed in a major release, would not be permitted. 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.

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 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

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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.

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.

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

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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, the CLEC may escalate using the Technical Escalation Process.

Severity 1: Critical Impact

- Critical.
- 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

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- 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
- 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:

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- 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
- 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

Notification Intervals are based on the severity level of the ticket. “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. “Notification Interval for No Change in Status” means that a notification will be sent out on a recurring basis within the time specified from the last notification when no change in status has occurred, until resolution. “Notification Interval upon Resolution” means that a notification will be sent out within the time specified from the resolution of the problem.

Notification will be provided during the IT Help Desk normal hours of operation. Qwest will continue to work severity 1 problems outside of Help Desk hours of operation which are Monday-Friday 6:00 a.m. - 8:00 p.m. (MT) and Saturday 7:00 a.m. - 3:00 p.m. (MT), 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.

The chart below indicates the response intervals a CLEC can expect to receive after reporting a trouble ticket to the IT Help Desk.

Severity Level of Ticket	Notification Interval for initial ticket	Notification Interval for Any Change in Status	Notification Interval for No Change in Status	Notification Interval Upon Resolution
Severity Level 1	Immediate acceptance	Within 1 hour	1 hour	Within 1 hour
Severity Level 2	Immediate acceptance	Within 1 hour	1 hour	Within 1 hour
Severity Level 3	Immediate acceptance	Within 4 hours	48 hours	Within 4 hours
Severity Level 4	Immediate acceptance	Within 8 hours	48 hours	Within 8 hours

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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.

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

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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.

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

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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 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 Call Center Database and IT Trouble Tickets are open regarding the 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. As the circumstances warrant, the WSD 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 information pertinent to ongoing resolution of the trouble.

Definition of terms, page 127 of the CMP document:

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.:

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- Major Release may be CLEC impacting (to systems code and CLEC operating procedures) via EDI 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).
- Point Release may not be CLEC code impacting, but may affect CLEC operating procedures. The Point Release is used 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.
- Patch Release may not be CLEC code impacting, but may affect CLEC operation procedures. The Patch Release is a specially scheduled process, documentation or software system change ~~for the purpose of installing the software~~ required to resolve an issue associated with a trouble ticket. ~~A Patch Release may come in the form of a process and/or documentation enhancement. NOTE: Documentation updates are permitted if the updates do not impact CLECs coding. For example, a documentation update that imposes edit(s) that were not disclosed in a major release, would not be permitted.~~

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QWEST DRAFT LANGUAGE
OCTOBER 27, 2003

12.0 Production Support

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 implemented immediately by means of an emergency Release of process, software or documentation (known as a Patch). **In the event that Qwest or any CLEC identifies a patch that may impact CLEC coding, either party may initiate a Technical Escalation and request a joint meeting in order to discuss the particular patch. Qwest will notify all CLECs of the joint meeting in which Qwest will review the patch, the proposed resolution, and the variables which affect the resolution. Qwest and the CLECs will discuss any potential resolution options and implementation timeframes. In all instances, these joint meetings are exempt from the five (5) business day advance notification requirement described in Section 3.0.** 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.

Definition of Terms in the last five pages of the CMP document:

<p>Release</p> <ul style="list-style-type: none"> • Major Release • Point Release • Patch Release 	<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"> • Major Release may be CLEC impacting (to systems code and CLEC operating procedures) via EDI 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). • Point Release may not be CLEC code impacting, but may affect CLEC operating procedures. The Point Release is used 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. • Patch Release is a specially scheduled system change for the purpose of installing the software required to resolve an issue
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	<p>associated with a trouble ticket. In the event that Qwest or any CLEC identifies a patch that may impact CLEC coding, either party may initiate a Technical Escalation and request a joint meeting in order to discuss the particular patch. Qwest will notify all CLECs of the joint meeting in which Qwest will review the patch, the proposed resolution, and the variables which affect the resolution. Qwest and the CLECs will discuss any potential resolution options and implementation timeframes. In all instances, these joint meetings are exempt from the five (5) business day advance notification requirement described in Section 3.0</p>
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