

**Qwest**  
421 Southwest Oak Street  
Suite 810  
Portland, Oregon 97204  
Telephone: 503-242-5420  
Facsimile: 503-242-8589  
e-mail: carla.butler@qwest.com

**Carla M. Butler**  
Lead Paralegal

May 25, 2007

Frances Nichols Anglin  
Oregon Public Utility Commission  
550 Capitol St., NE  
Suite 215  
Salem, OR 97301

Re: ARB 775

Dear Ms. Nichols Anglin:

Enclosed for filing in the above entitled matter please find an original and (5) copies of Qwest Corporation's Rebuttal Testimony of:

Renee Albersheim (Qwest/18 [pages 20 and 56 are CONFIDENTIAL] and Exhibits Qwest/19-Qwest/27);  
Curtis Ashton (Qwest/28 and Exhibits Qwest/29-Qwest/32);  
William Easton (Qwest/33 and Exhibits Qwest/34 (CONFIDENTIAL), Qwest/35 (CONFIDENTIAL), and Qwest/36);  
Karen Stewart (Qwest/37 and Exhibit Qwest/38); and  
Teresa Million (Qwest/39).

If you have any questions, please do not hesitate to give me a call.

Sincerely,



Carla M. Butler

CMB:  
Enclosure

**CERTIFICATE OF SERVICE**

**ARB 775**

I hereby certify that on the 25<sup>th</sup> day of May 2007, I served the foregoing **QWEST CORPORATION'S REBUTTAL TESTIMONY OF RENÉE ALBERSHEIM, CURTIS ASHTON, WILLIAM EASTON, KAREN STEWART AND TERESA MILLION** in the above entitled docket on the following persons via means of e-mail transmission to the e-mail addresses listed below.

\*Mark Trincherro, Esq.  
Davis Wright Tremaine  
1300 SW Fifth Avenue  
Suite 2300  
Portland, OR 97201  
[marktrincherro@dwt.com](mailto:marktrincherro@dwt.com)

Karen L. Clauson  
Eschelon Telecom, Inc.  
730 2<sup>nd</sup> Avenue S.  
Suite 900  
Minneapolis, MN 55402-2489  
[klclauson@eschelon.com](mailto:klclauson@eschelon.com)

Alex Duarte  
Qwest Corporation  
421 SW Oak Street, Rm. 810  
Portland, OR 97204  
[Alex.duarte@qwest.com](mailto:Alex.duarte@qwest.com)

\*Gregory Merz  
Gray Plant Mooty  
Minneapolis, MN 55402  
[Gregory.merz@gpmlaw.com](mailto:Gregory.merz@gpmlaw.com)

DATED this 25<sup>th</sup> day of May, 2007.

**QWEST CORPORATION**



By: \_\_\_\_\_  
ALEX M. DUARTE, OSB No. 02045  
421 SW Oak Street, Suite 810  
Portland, OR 97204  
Telephone: 503-242-5623  
Facsimile: 503-242-8589  
e-mail: alex.duarte@qwest.com  
Attorney for Qwest Corporation

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**ARB 775**

**In the Matter of**

**ESCHELON TELECOM OF OREGON,  
INC.**

**Petition for Arbitration of an  
Interconnection Agreement with Qwest  
Corporation, Pursuant to Section 252 of the  
Telecommunications Act**

**REBUTTAL TESTIMONY OF**

**RENÉE ALBERSHEIM**

**FOR**

**QWEST CORPORATION**

**DISPUTED ISSUE NOS. 1-1, 9-37, 9-37(a), 9-38, 12-64, 12-67, 12-71, 12-72, 12-73 and 12-  
87**

**May 25, 2007**

**TABLE OF CONTENTS**

I. IDENTIFICATION OF WITNESS .....1

II. PURPOSE OF TESTIMONY.....2

III. THE CHANGE MANAGEMENT PROCESS (“CMP”) .....3

    A. Qwest Cannot Act Arbitrarily Through the CMP..... 7

    B. The Relationship between the Parties’ ICA and the CMP..... 12

    C. The Legal Authority Cited by Eschelon Does Not Support its Position..... 16

    D. Design Changes ..... 18

    E. CRUNEC ..... 18

    F. TRRO PCAT..... 20

    G. Matters that have Settled..... 22

IV. ISSUE 1-1: SERVICE INTERVALS .....24

V. ISSUE 9-37: NON-IMPAIRED WIRE CENTER LIST .....27

VI. ISSUE 9-37(a): ADDING NON-IMPAIRED WIRE CENTERS .....28

    A. Ordering UNEs in Non-Impaired Wire Centers ..... 28

    B. Methodology for Determining Non-Impairment ..... 29

VII. ISSUE 9-38: PROCESSING HIGH CAPACITY LOOP AND TRANSPORT  
REQUESTS .....30

VIII. ISSUE 12-64: ACKNOWLEDGEMENT OF MISTAKES .....31

IX. ISSUE 12-67: EXPEDITES.....35

X. ISSUES 12-71, 12-72 AND 12-73: JEOPARDY NOTICES .....46

XI. ISSUE 12-87: CONTROLLED PRODUCTION OSS TESTING.....59

XII. CONCLUSION.....67

## **LIST OF EXHIBITS**

- QWEST/19 CHANGE REQUEST PC072303-1
- QWEST/20 CHANGE REQUEST PC081403-1
- QWEST/21 NOTICE OF JEOPARDY DOCUMENTATION CHANGES
- QWEST/22 REDLINES TO JEOPARDY PCAT
- QWEST/23 REDLINES TO LIST OF JEOPARDY CODES
- QWEST/24 CR PC081903-1 SIG INCREASE - WITHDRAWN
- QWEST/25 CR PC020205-1 DD INCREASE ON 911
- QWEST/26 MAINTENANCE AND REPAIR PCAT
- QWEST/27 ANALYSIS OF EXHIBIT BJJ-6

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

**I. IDENTIFICATION OF WITNESS**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Renée Albersheim. I am employed by Qwest Services Corporation, parent company of Qwest Corporation (“Qwest”), as a Staff Witnessing Representative. I am testifying on behalf of Qwest. My business address is 1801 California Street, 24th floor, Denver, Colorado, 80202.

**Q. DID YOU FILE DIRECT TESTIMONY ON MAY 3, 2007?**

A. Yes, I did.

1                                    **II.        PURPOSE OF TESTIMONY**

2  
3  
4  
5  
6  
7  
8  
9  
10  
11

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

A.        The purpose of my testimony is to respond to portions of the testimony of Eschelon witnesses Mr. Doug Denney, Mr. Michael Starkey and Ms. Bonnie Johnson. Specifically, I respond to Eschelon’s criticisms of Qwest’s actions with regard to the Change Management Process (“CMP”). I also respond to Eschelon’s proposals for Interconnection Agreement terms relating to Service Intervals, Acknowledgment of Mistakes, Expedites, Jeopardy Notices, and terms relating to Access to Operations Support Systems (“OSS”) contained in Section 12.

1                   **III.           THE CHANGE MANAGEMENT PROCESS (“CMP”)**

2  
3   **Q.    ESCHELON WITNESS MICHAEL STARKEY PRESENTS FOUR EXAMPLES**  
4       **OF ISSUES HANDLED THROUGH THE CMP AND CLAIMS THAT THOSE**  
5       **FOUR EXEMPLIFY HOW QWEST OPERATES THROUGH THE CMP. IS**  
6       **THIS A FAIR AND ACCURATE REPRESENTATION?**

7    A.    No, because the “examples” presented by Eschelon are only four out of the hundreds of  
8       issues handled through the CMP since its redesign by the industry as a whole in 2002.  
9       Further, Eschelon paints a misleading picture of the process that was followed in each of  
10      its examples.

11  
12 **Q.    HOW MANY PRODUCT AND PROCESS CHANGE REQUESTS HAVE QWEST**  
13 **AND CLECs TOGETHER ADDRESSED THROUGH THE CMP SINCE 2002?**

14   A.    As of January 29, 2007, Qwest’s archive lists 373 Product and Process Change Requests.<sup>1</sup>  
15       There are an additional 13 listed as active.

16  
17 **Q.    HOW MANY OF THESE IN THE CMP RECORDS DID ESCHELON SUBMIT?**

18   A.    94.

19  
20 **Q.    HOW MANY DID OTHER CLECs SUBMIT?**

21   A.    168.

22  
23 **Q.    ARE THE REMAINING CHANGE REQUESTS LISTED IN THE RECORDS**  
24 **ONES THAT WERE SUBMITTED BY QWEST?**

---

<sup>1</sup> Active Product and Process change requests may be viewed at  
[http://www.qwest.com/wholesale/cmp/cr/CLEC\\_Qwest\\_CMP\\_Product\\_Process\\_Interactive\\_Report.htm](http://www.qwest.com/wholesale/cmp/cr/CLEC_Qwest_CMP_Product_Process_Interactive_Report.htm). The  
Product and Process Change Request Archive may be viewed at  
[http://www.qwest.com/wholesale/cmp/archive/CLEC\\_Qwest\\_CMP\\_Product\\_Process\\_Interactive\\_Report.htm](http://www.qwest.com/wholesale/cmp/archive/CLEC_Qwest_CMP_Product_Process_Interactive_Report.htm).



1 A. Yes. Qwest has submitted 124 Product and Process Change Requests and the CLEC  
2 community as a whole has submitted 262.

3

4 **Q. WHAT KINDS OF ISSUES DO THE PRODUCT AND PROCESS CHANGE**  
5 **REQUESTS IN TOTAL ADDRESS?**

6 A. Product and Process Change Requests handle issues ranging from “Develop a Process for  
7 CLECs to get a FULL CSRs on Resale Centrex lines” to “Allow Customers to Move and  
8 change local service providers at the same time” to “Perform Line Moves and UDC  
9 Removal for QWEST DSL Resale and Qwest DSL on UNE-P orders at no charge to the  
10 CLEC/DLEC.”

11

12 **Q. HOW MANY SYSTEM CHANGE REQUESTS HAVE QWEST AND THE CLECs**  
13 **TOGETHER ADDRESSED THROUGH THE CMP SINCE 2002?**

14 A. As of January 29, 2006, Qwest’s archive lists 696 Systems Change Requests.<sup>2</sup> There are  
15 34 others listed as active.

16

17 **Q. HOW MANY OF THESE SYSTEMS CHANGE REQUESTS WERE SUBMITTED**  
18 **BY ESCHELON?**

19 A. 136.

20

21 **Q. HOW MANY WERE SUBMITTED BY OTHER CLECs AND BY QWEST?**

22 A. Other CLECs have submitted 311 in addition to Eschelon’s 136; Qwest has submitted  
23 283.

24

---

<sup>2</sup> Active Systems change requests may be viewed at  
[http://www.qwest.com/wholesale/cmp/cr/CLEC\\_Qwest\\_CMP\\_Systems\\_Interactive\\_Report.htm](http://www.qwest.com/wholesale/cmp/cr/CLEC_Qwest_CMP_Systems_Interactive_Report.htm). The Systems  
Change Request Archive may be viewed at  
[http://www.qwest.com/wholesale/cmp/archive/CLEC\\_Qwest\\_CMP\\_Systems\\_Interactive\\_Report.htm](http://www.qwest.com/wholesale/cmp/archive/CLEC_Qwest_CMP_Systems_Interactive_Report.htm).

1 **Q. WHAT KINDS OF ISSUES DO THE SYSTEMS CHANGE REQUESTS IN**  
2 **TOTAL ADDRESS?**

3 A. The issues addressed in the Systems Change Requests range, for example, from  
4 developing the capability to submit Directory Listing information at the same time LSRs  
5 are being submitted through EDI for UNE orders to adding a delete function to IMA  
6 System Administration Options to Bill Format Changes allowing for inclusion of third-  
7 party reference telephone numbers and URLs.

8  
9 **Q. WHAT DO THESE MORE THAN 1,000 PRODUCT AND PROCESS AND**  
10 **SYSTEMS CHANGE REQUESTS DEMONSTRATE?**

11 A. These more than a thousand changes demonstrate that the CMP works efficiently and  
12 effectively. The four “examples” that Eschelon witness Michael Starkey chooses to  
13 discuss in this direct testimony are portrayed in a light that Qwest does not believe  
14 reflects actual events. Eschelon chose these four issues, one of which related to a service  
15 that Eschelon does not even order, to attempt to persuade the Commission to adopt  
16 Eschelon’s proposed CMP-related ICA language. Using a limited description of the  
17 facts, Eschelon explains events surrounding four issues handled through the CMP to try  
18 to portray Qwest as a bad actor.

19  
20 **Q. MR. STARKEY ASSERTS THAT ESCHELON IS NOT CRITICIZING THE**  
21 **CMP, BUT RATHER, QWEST’S ROLE IN THE CMP, AND THAT THE**  
22 **COMMISSION NEED NOT FIND THAT THE CMP IS “BAD” OR “BROKEN”**  
23 **IN ORDER TO ADOPT ESCHELON’S PROPOSED CMP-RELATED ICA**  
24 **LANGUAGE.<sup>3</sup> ARE THESE REPRESENTATIONS BY MR. STARKEY**  
25 **CONSISTENT WITH THE POSITION TAKEN BY ESCHELON WITH ITS**

---

<sup>3</sup> Exhibit Eschelon/1, p. 95.

1           **PROPOSED CMP-RELATED ICA LANGUAGE?**

2    A.    No. Eschelon is attempting to nullify the CMP with regard to the CMP-related issues in  
3           dispute between the parties.

4

5    **Q.    BUT HOW IS THAT TRUE? ISN'T ESCHELON JUST ATTEMPTING TO**  
6           **CAPTURE QWEST'S CURRENT PRACTICES IN THE PARTIES' ICA?**

7    A.    Eschelon seeks to expand Qwest's obligations and create one-off, unique processes for  
8           CMP-related ICA issues in dispute: Issue 1-1: service intervals, Issues 12-71 through 12-  
9           73: jeopardy notices, and Issue 12-67: expedited orders. Eschelon's approach to these  
10          issues has a dire effect on the CMP by effectively removing this list of issues from the  
11          purview of the CMP. I will explain why this is true in detail in my testimony below.

12

13   **Q.    WHAT IS THE FUNDAMENTAL DISPUTE BETWEEN THE PARTIES**  
14          **CONCERNING CMP-RELATED ISSUES?**

15   A.    Eschelon claims that Qwest abuses the CMP and uses the CMP to accomplish its own  
16          goals, pushing through changes against CLEC objections. But this claim ignores  
17          completely the reality of the recourse provisions in the document that governs the CMP,  
18          which was developed by the CLECs and Qwest as part of the 2002 CMP redesign (the  
19          "CMP Document" attached as Qwest/2 to my direct testimony), and it ignores the reality  
20          of the more than 700 Change Requests submitted by CLECs, including Eschelon, and  
21          implemented through the CMP to their benefit. Eschelon's claims are not supported by  
22          the record. Qwest cannot force anything through the CMP. CLECs have numerous  
23          mechanisms available to them to delay, alter or prevent Qwest changes. CLECs use these  
24          mechanisms to significant effect, preventing Qwest from acting arbitrarily. The four  
25          examples presented by Eschelon have not been accurately represented, and these four  
26          examples actually show Qwest's extensive efforts to be responsive to its CLEC  
27          customers.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**A. QWEST CANNOT ACT ARBITRARILY THROUGH THE CMP**

**Q. MR. STARKEY CLAIMS ON PAGE 40 OF HIS TESTIMONY THAT “CMP PROVIDES ESCHELON NO REAL ABILITY TO KEEP QWEST FROM UNILATERALLY MAKING” CHANGES. IS THAT BORNE OUT BY THE RECORD?**

A. No, it is not. In my direct testimony, I described the various mechanisms set forth in the CMP document that are available to CLECs to oppose changes proposed by Qwest through the CMP. These include comments, postponement, escalations, review by the CMP Oversight Committee, dispute resolution, and, finally, filing a complaint with a state commission. Furthermore, the CMP archive itself disproves Mr. Starkey’s claims. CLECs have rejected a significant number of the changes proposed by Qwest through the CMP. For example, Qwest has submitted 436 change requests to the CMP – and withdrawn 97 of those, either because CLECs vocally opposed the changes or because, in the case of systems change requests, they were given such a low priority by the CLEC vote that it was clear that they would not be implemented.

**Q. DID ESCHELON HELP ESTABLISH THE PROCEDURES THAT PREVENT QWEST FROM ACTING ARBITRARILY IN THE CMP?**

A. Yes, as I stated in my direct testimony, public records show that Eschelon was a very active and vocal participant in the CMP redesign process that resulted in the CMP document controlling the CMP today.

**Q. ON PAGE 46 OF HIS TESTIMONY, MR. STARKEY MAKES MUCH OF QWEST HAVING A “NOTICE AND GO” CAPABILITY FOR CMP NOTICES**

1           **AND PROPOSED CHANGES. IS MR. STARKEY’S DESCRIPTION**  
2           **ACCURATE?**

3    A.    No. Only “Level 0” changes, which Mr. Starkey accurately defines “as changes that do  
4           not change the meaning of documentation and do not alter CLEC operating procedures,”  
5           and “Level 1” notices, which Mr. Starkey accurately defines “as changes that do not alter  
6           CLEC operating procedures or changes that are time critical corrections to a Qwest  
7           product/processes,” might be described in this way.  
8

9           All other levels of change require Qwest to give advance notification to CLECs, giving  
10          the CLECs the opportunity to comment or object. But CLECs can prevent  
11          implementation of the proposed changes even under the Level 0 and Level 1  
12          notifications. In addition to all of the layers of recourse that I discussed in my direct  
13          testimony, and listed above, Qwest works cooperatively with CLECs in this process. For  
14          example, Qwest issued a Level 1 notice regarding updates to its maintenance and repair  
15          documentation on September 27, 2006. When CLECs expressed concerns about this  
16          notice, including regarding the designated level of the change, Qwest retracted the notice,  
17          withdrew the documentation changes, and proceeded to hold meetings with CLECs to  
18          discuss the changes.

19   **Q.    WHAT IS THE RECORD IN CMP ON PRODUCT AND PROCESS CHANGE**  
20   **NOTIFICATIONS, AND WHAT DOES THAT RECORD DEMONSTRATE**  
21   **CONCERNING QWEST’S ROLE IN THE CMP?**

22   A.    Qwest has submitted more than 1900 product and process change notices in the CMP. Of  
23          those more than 1900 change notices, CLECs have objected to only 63. In response to  
24          these 63 objections, Qwest retracted, modified, partially implemented, or resubmitted as

1 change requests 52 of them. For the remaining 11 notices, following clarification  
2 meetings with CLECs, it was determined that no action was required. This data is clear  
3 evidence that: (1) Qwest cannot and does not take unilateral or “arbitrary” action in the  
4 CMP; and (2) CLECs have an opportunity to delay, change or prevent Qwest initiated  
5 changes. The CMP Document puts controls in place that the CLECs can and do use –  
6 just as the CLECs intended in redesigning the CMP in 2002.

7  
8 **Q. MR. STARKEY CLAIMS ON PAGE 45 OF HIS DIRECT TESTIMONY THAT**  
9 **“THE VAST MAJORITY OF QWEST-INITIATED CHANGES ARE**  
10 **ACCOMPLISHED THROUGH LEVEL 0-3 EMAIL NOTIFICATIONS.”**  
11 **PLEASE RESPOND.**

12 A. It is not surprising that there are a large number of lower level changes to the CMP.  
13 These change notices address a variety of minor issues, like typographical corrections to  
14 documentation, postings to web pages, information on training, and status reports on  
15 external documentation changes submitted by CLECs. The CMP Document contains  
16 provisions permitting these types of notifications because they have a very low or  
17 minimal impact on CLEC processes. This is borne out by the fact that CLECs have  
18 objected to only 63 of the more than 1900 change notifications submitted in the CMP by  
19 Qwest.

20  
21 **Q. MR. STARKEY ASSERTS THAT “IN CONTRAST TO THE RELATIVELY**  
22 **QUICK ‘NOTICE AND GO’ PROCESS THAT IS AVAILABLE TO QWEST, IF A**  
23 **CLEC DISAGREES WITH A CHANGE PROPOSED BY QWEST,”<sup>4</sup> IT MUST**  
24 **SEEK A COMMISSION DETERMINATION TO REVERSE THE CHANGE. HE**  
25 **THEN CITES AN ARIZONA DOCKET TO SUPPORT THIS CLAIM. IS THIS A**

---

<sup>4</sup> Exhibit Eschelon/1, at p. 47.

1           **CLEC's ONLY RECOURSE AND IS THE ARIZONA DOCKET A VALID**  
2           **COMPARISON TO THE PROCESSES AVAILABLE THROUGH THE CMP?**

3    A.    No. First, with regard to the expedites issue, which is the subject of the Arizona docket,  
4           Eschelon did not even use one of the most powerful mechanisms detailed in the CMP  
5           Document for disputing changes proposed in the CMP. Eschelon did not seek to  
6           postpone implementation of the expedite process, although it could have done so easily.  
7           Pursuant to the CMP Document, if Qwest had disagreed with a request from Eschelon to  
8           postpone implementation of the proposed changes, Eschelon could have asked for an  
9           arbitrator to decide whether implementation of the changes should be postponed until the  
10          dispute regarding the issue was resolved through the CMP or pursuant to the dispute  
11          resolution as set forth in Section 15 of the CMP Document. If the arbitrator had decided  
12          against Qwest and ordered postponement, under the provisions of the CMP Document,  
13          Qwest would have been required to pay the arbitrator's costs (and, vice versa, if the  
14          arbitrator had decided against Eschelon, Eschelon would have been required to pay  
15          costs). But Eschelon did not seek postponement or use the dispute resolution process  
16          established in the CMP Document. Instead, it opted to file litigation. Second, Mr.  
17          Starkey tries to portray the scheduling of the hearing for the Arizona docket as the norm  
18          for complaint proceedings. What Mr. Starkey omits is the primary reason why the  
19          hearing was delayed: Qwest's counsel had a six-week jury trial in Boston that caused a  
20          scheduling conflict.

21  
22    **Q.    HAS A CLEC EVER USED THE DISPUTE RESOLUTION PROCESS IN THE**  
23    **CMP?**

24    A.    Yes, the dispute resolution process was invoked once, by VCI. The matter was taken to  
25          the Oversight Committee, where it was settled by the parties. Eschelon was instrumental  
26          in helping the parties come to agreement.

1 **Q. WAS ESCHELON RESPONSIBLE FOR CREATING ANOTHER CMP**  
2 **MECHANISM THAT ALLOWS CLECs TO MAKE CHANGES TO QWEST'S**  
3 **PROCESSES AND PROCEDURES?**

4 A. Yes. Eschelon requested, and Qwest implemented, the "External Documentation  
5 Process." This process allows CLECs to request documentation updates without issuing  
6 a CMP change request. These requests are limited to Level 1 and Level 2 changes and  
7 are communicated via an email announcement. Thus, Mr. Starkey's statement on page  
8 38 of his testimony that "there are no CLEC CMP notifications" is not entirely accurate.  
9 Since this process was created, CLECs have submitted 103 documentation requests.  
10 Qwest has accepted and implemented 70% of these, 75% of which were submitted by  
11 Eschelon.

12

13 **Q. HAS ESCHELON TAKEN ADVANTAGE OF THE CMP DISPUTE PROCESS AS**  
14 **LAYED OUT IN THE CMP DOCUMENT?**

15 A. No.

16

17 **Q. DOES QWEST MAKE UP THE RULES OF THE CMP AS IT GOES ALONG, AS**  
18 **MR. STARKEY CLAIMS ON PAGE 94 OF HIS TESTIMONY?**

19 A. No. The CMP Document governs the process and Qwest adheres to it, which the record  
20 amply demonstrates.

21

22 **Q. DOES QWEST HAVE THE ABILITY TO CHANGE THE PROVISIONS IN THE**  
23 **CMP DOCUMENT UNILATERALLY?**

24 A. No, changes to the CMP Document can only be made by a unanimous vote of all parties  
25 at a CMP meeting, per the rules of the CMP document.

26

27



1 **Q. HAVE ANY CHANGES BEEN MADE TO THE CMP DOCUMENT SINCE IT**  
2 **WAS DRAFTED BY THE INDUSTRY AS A WHOLE?**

3 A. Yes. Through September 2006, parties have submitted 22 change requests seeking  
4 changes to the CMP Document. Of these, 16 have been passed by a unanimous vote of  
5 the CMP participants.

6  
7 **Q. HOW MANY OF THESE CHANGES WERE REQUESTED BY QWEST?**

8 A. Qwest requested 15 of these changes to the CMP Document. Of these, 13 have been  
9 passed by a unanimous vote of the CMP participants. One did not pass, and one is still  
10 pending.

11

12 **Q. HAS ESCHELON REQUESTED CHANGES TO THE CMP DOCUMENT?**

13 A. Yes. Eschelon has requested two changes to the CMP Document. Of these, one passed  
14 by a unanimous vote of the CMP participants, and the other one did not pass.

15

16 **Q. WHAT DO THESE CMP DOCUMENT CHANGE REQUESTS**  
17 **DEMONSTRATE?**

18 A. First, these CMP Document change requests demonstrate that all CMP participants have  
19 the ability to request changes to the document governing the operation of the CMP.

20 Second, they demonstrate that no party, including Qwest, has the ability to change the  
21 CMP Document without the unanimous consent of all CMP participants.

22

23 **B. THE RELATIONSHIP BETWEEN THE PARTIES' ICA AND THE CMP**

24 **Q. ESCHELON'S WITNESSES CLAIM THAT ESCHELON'S PROPOSED CMP-**  
25 **RELATED INTERCONNECTION AGREEMENT LANGUAGE WILL HAVE NO**  
26 **IMPACT ON THE CMP. ARE THEY CORRECT?**

1 A. No. Eschelon engages in a misleading fiction: that because interconnection agreement  
2 language trumps inconsistent CMP provisions then, by definition, Eschelon's  
3 interconnection agreement proposals will have no impact on the CMP. To accept  
4 Eschelon's position, one must accept that Qwest can operate one way for Eschelon and  
5 another way for all of Qwest's other CLEC customers. This assumes that it is technically  
6 and economically feasible for Qwest to build and maintain separate system functionality  
7 for Eschelon, and to create and maintain separate processes for Eschelon, all without  
8 compensation from Eschelon. This assumption is wrong. The effect of Eschelon's  
9 proposed CMP-related ICA language contradicts the primary purposes for which the  
10 CMP was created – to establish a single set of systems and processes and a centralized  
11 mechanism for managing changes to those systems and processes. If multiple CLECs  
12 take the same approach Eschelon proposes here, Qwest and its wholesale customers will  
13 be on a slippery slope. In the next arbitration proceeding between Qwest and the next  
14 CLEC, which issues historically handled through the CMP will the CLEC seek to freeze  
15 in place in its ICA? How many one-off special processes will Qwest be asked to  
16 implement in the next arbitration?

17

18 **Q. ESCHELON WITNESS MR. STARKEY CLAIMS ON PAGE 27 OF HIS DIRECT**  
19 **TESTIMONY THAT QWEST IS SEEKING TO REVERSE THE HIERARCHY**  
20 **BETWEEN INTERCONNECTION AGREEMENTS AND THE CMP PROCESS.**  
21 **IS HE CORRECT?**

22 A. No, he is not. Qwest recognizes that where interconnection terms conflict with CMP  
23 processes, the interconnection terms prevail. Qwest's position addresses more  
24 fundamental questions: (1) Will CLECs receive better, more efficient service if  
25 processes are addressed and developed through the CMP rather than in interconnection  
26 agreements? (2) Should existing processes be frozen in place for the term of an  
27 interconnection agreement, or be allowed to improve consistent with the priorities and

1 input of the industry as a whole?

2 For several important reasons, the CMP is a more effective process than having a series  
3 of interconnection agreements that seek to freeze particular procedures in place. First,  
4 upholding an effective CMP ensures that decisions on processes and procedures are made  
5 by members of the industry that have an interest, rather than by one CLEC holding the  
6 issue hostage through its ICA or by having commissions make decisions on detailed  
7 technical issues that involve a large number of CLECs and competing concerns. Second,  
8 Qwest's proposed language and, indeed, its approach generally here with regard to CMP-  
9 related ICA sections, helps ensure that CLECs are treated in a nondiscriminatory manner.  
10 Third, Qwest's approach ensures that Qwest can train its employees on one set of  
11 procedures to provide service to all CLECs and, as a result, provide efficient and high-  
12 quality service to all. Qwest's service performance since the time that the CMP has been  
13 in place has been outstanding. Finally, Qwest's proposed CMP-related language prevents  
14 burdensome administrative efforts and costs, namely negotiating and filing hundreds of  
15 interconnection agreement amendments before improvements requested through the CMP  
16 can be implemented.

17

18 **Q. MR. STARKEY ARGUES ON PAGE 27 OF HIS DIRECT TESTIMONY THAT A**  
19 **PROVISION IN THE CMP DOCUMENT EVIDENCES THAT THE CMP WAS**  
20 **NOT INTENDED TO CREATE UNIFORM PROCESSES AND SYSTEMS. IS**  
21 **THIS A VALID ARGUMENT?**

22 A. No, Mr. Starkey's argument does not hold up under examination. Mr. Starkey cites the  
23 provision in the CMP Document that makes clear that the terms of an ICA prevail in  
24 cases of conflict between it and the CMP. He states that this provision is a "built-in  
25 recognition" of ICA terms that vary from the CMP. Then he concludes that this  
26 "recognition" disproves Qwest's assertion that a primary purpose of the CMP is to create

1 uniform processes and procedures. While Mr. Starkey is technically correct that ICA  
2 terms trump CMP processes, he ignores the broader context associated with creation of  
3 CMP. The CMP Document itself states in Section 1.0, Introduction and Scope, that:

4  
5 CMP provides a means to address changes that support or affect pre-ordering,  
6 ordering/provisioning, maintenance/repair and billing capabilities and associated  
7 documentation and production support issues for local services . . . provided by . .  
8 . CLECs to their end users. The CMP is applicable to Qwest's 14-state in-region  
9 serving territory.

10  
11 Before the development of the CMP, CLECs were complaining loudly about Qwest's  
12 service quality. Since creation of CMP, Qwest has greatly improved its service quality.  
13 Uniform processes created by the CMP have contributed to Qwest's improved  
14 performance.

15 **Q. TO SUPPORT ESCHELON'S PROPOSED CMP-RELATED ICA LANGUAGE,**  
16 **MR. STARKEY POINTS OUT ON PAGE 43 OF HIS DIRECT TESTIMONY**  
17 **THAT "MANY OF THE AGREED UPON ICA PROVISIONS . . . HAVE A**  
18 **MODERATE OR MAJOR EFFECT ON ESCHELON'S OPERATING**  
19 **PROCEDURES, BUT MANY OF THEM DID NOT GO THROUGH CMP AS**  
20 **THEY WERE NEGOTIATED OR OPTED IN TO AND PUBLICLY FILED WITH**  
21 **THE COMMISSION." PLEASE COMMENT.**

22 A. Mr. Starkey neglects to mention that "many of the agreed upon ICA provisions" were  
23 changes proposed by Eschelon. Qwest undertook significant efforts over the last four  
24 years to negotiate with Eschelon and to reach agreement on disputed ICA language. In  
25 the spirit of these negotiations, Qwest compromised when it could and tried hard to avoid  
26 including too much process and procedure in the ICA. Mr. Starkey cites Exhibit  
27 Eschelon/44 as an example of the "many agreed upon provisions." But this exhibit  
28 covers only two paragraphs from Section 8 of the ICA.

1 **Q. MR. STARKEY CLAIMS ON PAGE 18 OF HIS DIRECT TESTIMONY THAT**  
2 **QWEST HAS NO CONSISTENT TEST THAT EXCLUDES CERTAIN ISSUES**  
3 **FROM INCLUSION IN A COMMISSION-APPROVED INTERCONNECTION**  
4 **AGREEMENT. PLEASE RESPOND.**

5 A. There is no litmus test or bright line rule that excludes issues from a Commission-  
6 approved interconnection agreement. Eschelon takes the position that not having such a  
7 test or bright line is a flaw or problem in Qwest's reasoning on CMP-related issues. But  
8 suggesting that such a test or bright line is necessary ignores the reality of both history  
9 and of the parties' four years of negotiation. As I said in my direct testimony, older  
10 interconnection agreements contain some specific procedural terms. Qwest has worked  
11 hard to eliminate those terms from subsequent interconnection agreements to allow the  
12 centralization of those processes and procedures. With its proposed CMP-related ICA  
13 language, Eschelon would have Qwest turn back the clock to the days when processes  
14 were decentralized, and unique and sometimes contradictory terms and procedures  
15 increased provisioning errors and harmed service quality.

16

17 **C. THE LEGAL AUTHORITY CITED BY ESCHELON DOES NOT SUPPORT ITS**  
18 **POSITION**

19 **Q. IN ANSWER TO THE QUESTION, "HAS THE FCC CONSIDERED THIS**  
20 **QWEST PROPOSED TEST FOR LIMITING THE SCOPE OF**  
21 **INTERCONNECTION AGREEMENTS?," MR. STARKEY ANSWERS "YES,**  
22 **THE FCC EXPRESSLY REJECTED QWEST'S ARGUMENT."<sup>5</sup> THEN HE**  
23 **CITES THE DECLARATORY RULING. DO YOU AGREE THAT THE FCC**  
24 **HAS MADE SUCH A CONSIDERATION AND EXPRESSLY REJECTED IT?**

25

---

<sup>5</sup> Exhibit Eschelon/1, p. 22.

1 A. No. First, Qwest has not proposed a litmus test or bright line rule for what should or  
2 should not be included in an ICA. What Qwest has argued is for the Commission to  
3 uphold the CMP, which quite simply works effectively, as the record demonstrates and as  
4 the industry intended in redesigning the CMP in 2002. Second, the declaratory Ruling,  
5 and also the Forfeiture Order cited by Mr. Starkey, do not speak to the issues that Mr.  
6 Starkey claims, let alone “expressly reject” Qwest’s argument for its proposed CMP-  
7 related language in this arbitration proceeding.

8

9 **Q. DID THE FCC ADDRESS THE CHANGE MANAGEMENT PROCESS IN THE**  
10 **DECLARATORY RULING OR IN THE FORFEITURE ORDER?**

11 A. No, the FCC did not even mention the CMP in either decision. The Declaratory Ruling  
12 concerns something else altogether: the scope of the mandatory filing requirement set  
13 forth in section 252 of the Communications Act of 1934, as amended. Furthermore, just  
14 eight weeks before the FCC issued the Declaratory Ruling, the FCC Wireline  
15 Competition Bureau completed an ICA arbitration in Virginia between AT&T and  
16 Verizon, and adopted language in the parties’ ICA that provided for certain matters  
17 (changes to the process for UNE conversions) to be addressed through the CMP. It is  
18 very unlikely that the FCC would have eliminated or hobbled an FCC-approved process  
19 like the CMP without addressing the issue expressly just a few weeks after its Wireline  
20 Competition Bureau had supported its use in an arbitration proceeding.

21 In the Forfeiture Order, the FCC addressed Qwest’s obligation to file interconnection  
22 agreements with state commissions. The CMP was not an issue in the case. Nothing in  
23 the Forfeiture Order requires that the business procedures managed by the CMP be  
24 incorporated into interconnection agreements.

1 **Q. WHAT DO YOU INTEND TO DEMONSTRATE HERE WITH REGARD TO**  
2 **THE HANDFUL OF EXAMPLES THAT MR. STARKEY USES TO**  
3 **DEMONSTRATE ESCHELON'S PERCEPTION OF THE CMP?**

4 A. Mr. Starkey and other Eschelon witnesses have presented a misleading picture of the  
5 examples they use as a basis for their claim that Qwest has been inconsistent in its  
6 behavior in the CMP. I will provide some additional details regarding the examples  
7 below. In each case, what Eschelon has portrayed as Qwest "changing its mind," or  
8 Qwest acting "inconsistently," is in fact Qwest's significant efforts to be responsive to its  
9 CLEC customers.

10 **D. DESIGN CHANGES**

11 **Q. MR. STARKEY RAISES THE ISSUE OF DESIGN CHANGE CHARGES ON**  
12 **PAGE 50 OF HIS DIRECT TESTIMONY AS AN EXAMPLE OF QWEST**  
13 **ACTIONS IN THE CMP. IS THIS A VALID EXAMPLE?**

14 A. No. The example that Mr. Starkey discusses was a non-CMP notice related to rates. Mr.  
15 Starkey admits this was a non-CMP notice. Mr. Starkey has also admitted that rates are  
16 outside of the scope of CMP. Thus, it was proper for Qwest to deal with this issue  
17 outside of the CMP. Therefore, it is not valid for Mr. Starkey to try to use a rate issue as  
18 an example of Qwest actions in the CMP.

19 **E. CRUNEC**

20 **Q. HAVE ANY CLECs USED THE UNE CONSTRUCTION ("CRUNEC") PROCESS**  
21 **SINCE IT WAS COMPLETED AND IMPLEMENTED IN 2004?**

22 A. No. To date, seven CLECs have signed CRUNEC amendments, which are effective in  
23 five states. No CLEC has placed a CRUNEC order. Mr. Starkey admits that Eschelon  
24 does not use the CRUNEC process.

1 **Q. WHY DID QWEST SUBMIT A CHANGE REQUEST IN THE CMP RELATED**  
2 **TO THE CRUNEC PROCESS?**

3 A. The description for CRUNEC in the PCAT contained the word “conditioning.” But it  
4 was confusing because “conditioning” in the context of CRUNEC does not mean the  
5 same task when the term “conditioning” is used in conjunction with loops for the  
6 provisioning of data services. Mr. Starkey’s discussion of this issue reflects this  
7 confusion. He states that “previously, Qwest had conditioned loops in the normal course  
8 of provisioning without additional charge.” But conditioning loops bears no resemblance  
9 whatsoever to “conditioning” as it relates to CRUNEC. The two are not the same, and  
10 that was the reason that Qwest made the wording change in the PCAT CRUNEC  
11 description in the first instance. The edit was simply a clarification.

12

13 **Q. CAN THE NOTICE ISSUED BY QWEST IN 2003 BE ACCURATELY**  
14 **CHARACTERIZED AS A “NOTICE AND GO” CMP NOTIFICATION, AS**  
15 **ALLEGED BY MR. STARKEY?<sup>6</sup>**

16 A. No. Mr. Starkey admits on page 42 of his direct testimony that “Level 3” changes require  
17 initial notification at least 31 calendar days prior to implementation. This time period  
18 gives CLECs an opportunity to assess the impact of the proposed change on their  
19 operations, and object to the notice if necessary. I have described the various recourses  
20 available to CLECs that allow them to stop the process and debate the change with  
21 Qwest. There is nothing “notice and go” about a Level 3 change like the one at issue  
22 here.

23

24 **Q. MR. STARKEY CLAIMS ON PAGE 54 OF HIS DIRECT TESTIMONY THAT**  
25 **THE CRUNEC NOTICE CAUSED PROBLEMS FOR ESCHELON. WAS THE**

---

<sup>6</sup> Exhibit Eschelon/1, at p. 51.



1           **CHANGE TO THE CRUNEC PROCESS RESPONSIBLE FOR AN INCREASE IN**  
2           **ESCHELON'S HELD ORDERS?**

3    A.    No. Eschelon does not even use the CRUNEC process, which Mr. Starkey admits.  
4           Furthermore, at the same time that Qwest issued the CMP notice for its proposed change  
5           clarifying the CRUNEC process, Qwest was instructing its technicians to follow proper  
6           procedures for the construction of DS1 loops. In error, Qwest's technicians had been  
7           constructing DS1 loops outside of process. Mr. Starkey's description of events is not  
8           completely accurate.

9  
10   **Q.    WAS THE INCREASE IN HELD ORDERS THE "DRAMATIC SPIKE"**  
11   **DESCRIBED BY MR. STARKEY?**

12   A.    No, not really. What Mr. Starkey does not explain is that the spike discussed in the  
13           document he referenced was for a specific type of held orders, but was not reflective of  
14           held orders over all. In fact, a review of data for all held orders for DS1 loops during the  
15           time in question shows a decline in Eschelon's held orders over all. For the months of  
16           April through July of 2003, Eschelon's total percentage of held orders was [BEGIN  
17           **CONFIDENTIAL**] XX%, XX%, XX%, and XX%, respectively [END  
18           **CONFIDENTIAL**].

19  
20                                   **F.    TRRO PCAT**

21  
22   **Q.    WHY DID QWEST SUBMIT CHANGE REQUEST PC103704-1ES RELATED TO**  
23   **IMPLEMENTATION OF THE TRRO?**

24   A.    Qwest's intent in submitting this Change Request was to implement PCAT changes  
25           associated with products that were impacted by the *USTA II* and *TRRO* Orders.

26

1 **Q. IS ESCHELON’S DESCRIPTION OF THE *TRRO* PCAT AS A “SECRET PCAT”**  
2 **VALID?**

3 A. Absolutely not. Nothing was ever “secret”, as alleged by Eschelon in the most  
4 inflammatory fashion possible. Qwest made the information concerning the changes to  
5 the PCAT related to the *TRRO* available to all CLECs, whether or not they needed or  
6 wanted the information. Contrary to Eschelon’s allegations, this “example” actually  
7 illustrates that Qwest does not act arbitrarily in the CMP, and that CLECs have a great  
8 deal of impact on what changes are implemented in the CMP, and how they are  
9 implemented.

10

11 **Q. WHAT FACTS CAN YOU CITE TO SUPPORT YOUR STATEMENTS?**

12 A. The Change Request at issue, which by its nature provided advance notice of Qwest’s  
13 proposed changes to the PCAT to all CLECs, was relevant only for those CLECs who  
14 had signed *TRRO* amendments to their ICAs, or *TRRO*-compliant ICAs, with Qwest. The  
15 parties to these *TRRO*-related agreements needed to have procedures in place for doing  
16 business. Qwest created a new PCAT with *TRRO*-related changes in it and posted it to a  
17 website separate from the original PCAT. This second, new PCAT could be accessed  
18 with a password. Once Qwest received feedback from CLECs to the proposed PCAT  
19 changes in its Change Request, Qwest gave the password to all CLECs, whether they had  
20 entered into a *TRRO*-related contract or not. This is exactly how the CMP is supposed to  
21 work, and this is why the industry as a whole created the time frames and other steps  
22 associated with the change request process in the CMP.

23

24 **Q. WHY DID QWEST CREATE A *TRRO*-RELATED PCAT WEBSITE ACCESSED**  
25 **BY A PASSWORD IN THE FIRST INSTANCE?**

26 A. Qwest was simply trying to avoid the confusion of having the *TRRO*-related PCAT  
27 posted on the same website with the original PCAT. There was no other reason

1           whatsoever. Qwest never intended to “conceal” or otherwise keep “secret” the *TRRO*-  
2           related PCAT. Given the many CLEC participants in the CMP and the open lines of  
3           communication between CLECs, it is simply ridiculous to contemplate that Qwest would  
4           even attempt such a move. Eschelon is simply attempting to make much ado about  
5           nothing.

6  
7           **Q.   MR. STARKEY DESCRIBES THE EVENTS SURROUNDING THE CHANGE**  
8           **REQUEST TO IMPLEMENT THE *TRRO* AS EVIDENCE OF QWEST’S**  
9           **WAFLING IN THE CMP, OR WORSE, EVIDENCE OF QWEST’S ATTEMPTS**  
10           **TO USE THE CMP FOR ITS OWN ENDS. IS THIS A FAIR**  
11           **CHARACTERIZATION OF THE EVENTS?**

12          A.   No. Eschelon tries to damn Qwest for being responsive to its wholesale customers, and  
13           tries to claim that this issue is evidence that the CMP is not working. This issue shows  
14           the opposite is true.

15  
16          **Q.   HAS THE CHANGE REQUEST RELATED TO QWEST’S *TRRO*-RELATED**  
17           **PCAT BEEN IMPLEMENTED?**

18          A.   No. It was deferred in part, pending completion of *TRRO* dockets, including the docket  
19           in Arizona. The change request was re-activated at the CMP meeting on November 15,  
20           2006, in order to deal with those products that are not at issue in the *TRRO* dockets.

21                           **G.   MATTERS THAT HAVE SETTLED**

22          **Q.   DID QWEST AGREE TO SETTLE SEVERAL OPEN ISSUES IN THIS CASE IN**  
23           **PART AS A RESULT OF THE ALJ ORDER IN MINNESOTA?**

24          A.   Yes. In addition, the parties have settled several other issues as this case has proceeded  
25           in Minnesota and other states.

1 **Q. HAS QWEST CHANGED ITS POSITION WITH REGARD TO THE IMPACT**  
2 **OF ESCHELON'S LANGUAGE ON THE CMP, BECAUSE QWEST SETTLED**  
3 **SEVERAL ISSUES WHICH QWEST HAS CATAGORIZED AS CMP-**  
4 **IMPACTING?**

5 A. No, not at all. Qwest weighed its options very carefully in deciding to settle certain  
6 issues in this case. While Qwest has not changed it position on the remaining issues,  
7 Qwest determined that it was in the company's best interests to settle some issues.

8  
9 **Q. WHAT IS THE IMPACT TO THE CMP OF THE ESCHELON CONTRACT**  
10 **PROVISIONS THAT QWEST HAS AGREED TO IN ORDER TO SETTLE**  
11 **SOME ISSUES IN THIS CASE?**

12 A. The impact is that for the agreed-upon provisions, it will be necessary for Qwest to seek  
13 an amendment to Eschelon's ICA should a change request be submitted to the CMP that  
14 would be contrary to the terms now contained in Eschelon's contract for such things as  
15 Pending Service Order Notices, Fatal Rejection Notices, Loss and Completion Reports.  
16 The result would be that Qwest would not be likely to accept change requests on these  
17 items. Thus, Eschelon has succeeded in preventing the CMP from working as it was  
18 intended with regard to the items that are now in Eschelon's contract.

1                                    **IV.            ISSUE 1-1: SERVICE INTERVALS**

2

3    **Q.    MR. STARKEY ALLEGES ON PAGE 97 OF HIS TESTIMONY THAT THE**  
4            **DISPUTE BETWEEN THE PARTIES CONCERNS WHETHER CHANGES TO**  
5            **SERVICE INTERVALS WILL BE ADDRESSED IN THE ICA OR IN “NON-**  
6            **CONTRACTUAL SOURCES (SUCH AS CMP/PCAT/SIG) FOR PROVISIONING**  
7            **INTERVALS THAT CAN BE UNILATERALLY CHANGED BY QWEST.” DO**  
8            **YOU AGREE WITH MR. STARKEY’S CHARACTERIZATION OF THE ISSUE**  
9            **IN DISPUTE?**

10   **A.**    No. There is no opportunity in any “non-contractual sources” for Qwest to unilaterally  
11            change service intervals. My direct testimony describes in detail the process that takes  
12            place for altering intervals and the procedural protections in place to protect CLECs if  
13            they disagree with Qwest actions. In addition, Qwest and Eschelon have been operating  
14            with intervals being covered through non-contractual sources across Qwest’s region since  
15            1999. If that method of operation was so problematic for Eschelon, one would expect  
16            examples of problems to have arisen during that time period. Eschelon identifies none.  
17            The current system is not broken, and there is no need for Eschelon to try to fix it.

18

19   **Q.    ON PAGE 104 OF HIS DIRECT TESTIMONY, MR. STARKEY ASSERTS THAT**  
20            **“THE COMMISSION WOULD HAVE NO OPPORTUNITY TO MAKE THESE**  
21            **DETERMINATIONS [CONCERNING SERVICE INTERVAL CHANGES] IF**  
22            **QWEST HAS ITS WAY.” DO YOU AGREE?**

23   **A.**    No. That is simply not the case, as I demonstrated in my direct testimony by citing  
24            provisions in the CMP Document, including the right of an objecting party to file a  
25            complaint with a state commission at any time. Again, the CMP was developed by the  
26            industry – Qwest and the CLECs – and provides the kinds of layers of recourse and

1 protections for CLECs that one would expect them to have advocated and insisted upon  
2 as part of the process. CLECs can involve the Commission at anytime in a CMP dispute.

3  
4 **Q. ESCHELON CITES WASHINGTON AND MINNESOTA CASES TO SUPPORT**  
5 **ESCHELON'S ARGUMENT FOR ITS PROPOSED LANGUAGE IN THE ICA.**  
6 **IS MR. STARKEY'S CITATION TO THESE CASES PERSUASIVE?**

7 A. No, because since the Section 271 proceedings, Qwest has proposed shortening service  
8 intervals 39 times and proposed lengthening them only twice in that same time frame.  
9 Over all that time, and over all 41 service interval changes, there were only two that  
10 might have raised CLEC objections, and might have caused CLECs to involve the  
11 Commission by following the procedures agreed upon in the CMP. What Mr. Starkey  
12 fails to mention is that one of Qwest's proposed increases was withdrawn in part because  
13 of CLEC concerns.<sup>7</sup> And the one increase that was implemented received no comment or  
14 objection from any CLEC.<sup>8</sup> Pursuant to the CMP, CLECs have ample opportunity to  
15 oppose service interval changes and to bring a dispute to the Commission, if necessary.

16  
17 **Q. MR. STARKEY ASSERTS ON PAGE 103 OF HIS DIRECT TESTIMONY THAT**  
18 **ESCHELON IS CREATING AN "EFFICIENT PROCESS" AND**  
19 **"STREAMLINED PROCEDURES" WITH ITS PROPOSED SERVICE**  
20 **INTERVAL LANGUAGE. IS THIS AN ACCURATE DESCRIPTION?**

21 A. No. Eschelon hopes to persuade the Commission to adopt its proposed language by using  
22 attractive buzzwords like "efficient" and "streamlined." But in addition to requiring the  
23 parties to execute time and resource-consuming amendments, Eschelon wants to require  
24 Qwest to use specific forms, attached as Exhibits N and O to the ICA, to implement

---

<sup>7</sup> Exhibit Qwest/24, CR PC081903-1. I 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.

<sup>8</sup> Exhibit Qwest/25, CR PC020205-1.

1 service interval changes. This is an administrative burden for Qwest that could result in  
2 one special process for Eschelon (and opt-ins) and another process for other CLECs.  
3 Before the development of the CMP as part of the section 271 proceedings, CLECs  
4 complained about Qwest's inconsistent service quality. Qwest cannot be expected to  
5 train its employees and provide good, nondiscriminatory service to its wholesale  
6 customers if it has to cope with keeping track of, and complying with, multiple diverse  
7 requirements. Eschelon presents these types of proposed procedures as if each one is  
8 small, or as if each one should hardly be a burden on Qwest. But the fact is that each one  
9 does cause Qwest to incur costs and to have to jump over new hurdles -- many of which  
10 Qwest and the industry in general thought they had resolved with the implementation of  
11 the CMP.

12  
13 **Q. WHAT IS ESCHELON'S GOAL WITH REGARD TO ICB INTERVALS?<sup>9</sup>**

14 A. Mr. Starkey's testimony makes clear that Eschelon is trying to freeze current processes in  
15 place, unless it can use the CMP to obtain more favorable treatment. Freezing specific  
16 provisions into the ICA concerning ICB intervals ignores the larger reality:  
17 telecommunications is a dynamic industry in which technological advancements are  
18 made virtually on a daily basis. These processes and procedures have been effectively  
19 addressed through the CMP. There is no need to change that approach as a part of this  
20 proceeding.

21  

---

<sup>9</sup> As I noted Qwest's language in my direct testimony at page 31, ICB Intervals are typically negotiated for special projects, such as installations of 25 or more loops.

1                   **V.           ISSUE 9-37: NON-IMPAIRED WIRE CENTER LIST**

2

3 **Q.       DOES QWEST BELIEVE THE PARTIES ARE CLOSE TO AGREEMENT ON**  
4 **THIS ISSUE?**

5 A.       Yes. Qwest believes that it is likely that the parties will be able to come to agreement on  
6 this section of the contract. Should agreement not be reached by June, Qwest will cover  
7 this section issue in greater detail in its surrebuttal.



1           **VI.           ISSUE 9-37(A): ADDING NON-IMPAIRED WIRE CENTERS**

2                   **A.           ORDERING UNEs IN NON-IMPAIRED WIRE CENTERS**

3

4   **Q.           SHOULD THE PARTIES BE ABLE TO COME TO TERMS ON THIS SECTION**  
5   **OF THE INTERCONNECTION AGREEMENT?**

6   A.       Yes. Qwest continues to believe that the parties are close to agreement on terms for this  
7       section of the interconnection agreement. If the parties do not come to agreement on  
8       terms for this section of the interconnection agreement by June, Qwest will provide  
9       further testimony on this issue in its surrebuttal.

10

1           **B.        METHODODOLOGY FOR DETERMINING NON-IMPAIRMENT**

2   **Q.        ARE THE PARTIES CLOSE TO AGREEMENT ON THIS SECTION OF THE**  
3   **ICA?**

4   A.        Yes. Qwest still believes that the parties are likely to come to an agreement on this  
5            section of the interconnection agreement. If this issue does not come to settlement by  
6            June, then Qwest will provide further testimony in its surrebuttal.

7

1  
2  
3  
4  
5  
6  
7  
8

**VII. ISSUE 9-38: PROCESSING HIGH-CAPACITY LOOP  
AND TRANSPORT REQUESTS**

**Q. DOES QWEST BELIEVE THE PARTIES WILL REACH AGREEMENT ON  
THIS SECTION OF THE ICA?**

A. Yes. The parties are close to agreement on terms for this section of the ICA. If the parties do not reach agreement by June, Qwest will provide further testimony in its surrebuttal.

1           **VIII.           ISSUE 12-64: ACKNOWLEDGEMENT OF MISTAKES**

2   **Q.   MR. STARKEY ARGUES ON PAGE 73 OF HIS DIRECT TESTIMONY THAT**  
3   **BY PROPOSING TO INCLUDE ACKNOWLEDGMENT OF MISTAKES**  
4   **LANGUAGE IN THE MINNESOTA ICA AND NOT IN THE COLORADO ICA,**  
5   **QWEST CONTRADICTS ITS OWN ADVOCACY BY SUPPORTING A UNIQUE**  
6   **PROCEDURE FOR MINNESOTA. DO YOU AGREE?**

7   A.   No. Qwest undertook to make a number of procedural changes in response to the  
8   Minnesota proceeding. Those changes address root cause analysis and acknowledgement  
9   of mistakes and are documented in our processes and procedures. Qwest does not believe  
10   that it is necessary to include language in any contract since these issues have been  
11   addressed by Qwest in its processes and procedures. Qwest determined that language  
12   would be necessary in Minnesota given the order that was issued there, so Qwest  
13   endeavored to craft language that was consistent with the result of the Minnesota case.  
14   Eschelon’s proposed language expands Qwest’s obligation well beyond what was ordered  
15   in Minnesota.

16  
17   **Q.   DOES ESCHELON’S PROPOSED LANGUAGE CREATE AMBIGUITY?**

18   A.   Yes. Eschelon’s first sentence in section 12.1.4.2.1, “[t]he letter will include a recap of  
19   *sufficient* pertinent information to identify the issue,” adds vague, unclear requirements to  
20   Qwest’s obligation. This language could allow Eschelon to claim that information  
21   provided by Qwest is not sufficient, thereby giving a straight-forward process the  
22   potential for dispute that would require Commission resolution.

23  
24   **Q.   WHAT IS QWEST’S CONCERN ABOUT ESCHELON PROPOSAL FOR**  
25   **PARAGRAPH 12.1.4.2.5?**

26   A.   Qwest is concerned that the phrase “will be provided on a non-confidential basis,” could

1 give Eschelon the right to claim that Qwest must provide all data associated with a root  
2 cause analysis in its letter to the end-user customer. This language could force Qwest to  
3 publicly reveal sensitive and protected information such as CPNI.

4  
5 **Q. MR. STARKEY ARGUES ON PAGE 70 OF HIS TESTIMONY THAT QWEST**  
6 **SHOULD HAVE SUBMITTED THE ACKNOWLEDGMENT OF MISTAKES**  
7 **ISSUE IN THE MINNESOTA DOCKET TO THE CMP. DO YOU AGREE?**

8 A. No. The result of the docket, which was the Minnesota Commission order that I referred  
9 to above, did not rise to the level of a regulatory change request as Mr. Starkey claims.  
10 Eschelon is the only CLEC to request this process, and Eschelon has not availed itself of  
11 the opportunity to request a letter since completion of that case.

12  
13 **Q. DO CLECs ALREADY HAVE A MECHANISM FOR REQUESTING ROOT**  
14 **CAUSE ANALYSIS FROM QWEST?**

15 A. Yes. Qwest's service managers will provide root cause analysis to a CLEC upon request,  
16 as documented in the Account Manager PCAT.<sup>10</sup>

17  
18 Handling maintenance and repair post mortems (root cause analysis) when you  
19 submit a specific request for a post mortem on an unusual repair event, e.g., event  
20 over eight hours. Your Qwest Service Manager will review the logged notes  
21 regarding the event and discuss the circumstances surrounding the event with the  
22 Qwest Repair Center to determine the cause, the process used to repair/restore  
23 service, and the process(es) implemented to prevent a reoccurrence of the event.  
24 Working with Qwest's Repair Center/Network Reliability Operations Center, as  
25 appropriate, your Qwest Service Manager will conduct the Root Cause Analysis  
26 (RCA) and provide you the complete analysis in writing. Investigation and  
27 preparation of a typical postmortem takes from 2-10 business days depending on  
28 the complexity of the event.

29  
30  

---

<sup>10</sup> See Exhibit Qwest/6 filed with my direct testimony.

1 **Q. HAS QWEST TAKEN STEPS TO REDUCE ERRORS IN WHOLESALE**  
2 **ORDERS?**

3 A. Yes. In response to Eschelon's Minnesota complaint in 2003, Qwest undertook  
4 significant efforts to ensure that it handles wholesale orders correctly and in a way that  
5 allows CLECs to compete meaningfully. These efforts are listed in Qwest's February  
6 2004 Compliance Filing to the Minnesota Commission, and include such investments as:  
7 system upgrades so retail sales representatives could not access or modify wholesale  
8 orders; adoption of PID-20 to evaluate how accurately Qwest processes LSRs;  
9 development of a quality assurance plan; and implementation of a customized training  
10 program, among other improvements.

11  
12 **Q. MR. STARKEY USES AN EXAMPLE OF A REPAIR SITUATION ON PAGES**  
13 **41-42 OF HIS TESTIMONY AS EVIDENCE THAT THE RESULTS OF THE**  
14 **SETTLEMENT OF THE MINNESOTA DOCKET NEED TO BE EXPANDED**  
15 **BEYOND WHOLESALE ORDERS. DOES QWEST ALREADY HAVE A**  
16 **PROCESS IN PLACE FOR ROOT CAUSE ANALYSIS FOR REPAIRS?**

17 A. Yes. Qwest has a process for root cause analysis of repair problems. This process is  
18 documented in the Maintenance and Repair PCAT under "Chronic Service Problems."<sup>11</sup>

19  
20 **Chronic Service Problems (Design and Non-Design)**

21 Services having repeated, unresolved service issues may be designated a  
22 chronic service problem if the following conditions occur:

- 23 • The circuit has had at least three trouble reports in a rolling 30 days
- 24 • The circuit has similar, repeated test results on two or more trouble
- 25 reports
- 26 • Trouble on the circuit often clears during testing

27 Qwest's Maintenance and Repair Technicians focus on resolving chronic  
28 service problems by:

- 29 • Analyzing chronic reports for trends
- 30 • Determining root causes

---

<sup>11</sup> See Exhibit Qwest/26, Maintenance and Repair PCAT.

- 1 • Taking ownership of the trouble report until service is restored
- 2 • Assisting or calling upon internal and/or external experts

3  
4 If you feel a circuit has a chronic service problem and requires special attention,  
5 note the situation on the trouble report you submit or bring it to the attention of  
6 the RSA who creates your report. Once our Maintenance and Repair  
7 Technician completes the repair, clearing the chronic trouble, Qwest will  
8 maintain the chronic trouble ticket in “Pending Close” status until you accept  
9 the trouble as resolved.

10

11 **Q. WHY DOES QWEST OBJECT TO LANGUAGE THAT PERMITS REQUESTS**  
12 **FOR ROOT CAUSE ANALYSES WHEN QWEST PROVIDES SUCH ANALYSES**  
13 **AS A MATTER OF ROUTINE ANYWAY?**

14 A. Qwest objects to Eschelon’s proposed language because it gives Eschelon unfettered  
15 leeway to demand a root cause analysis, even when it is readily apparent that a problem  
16 has not been caused by Qwest. Eschelon can use such a request as a tactic to delay  
17 responding to one of its end-user customer’s complaints and to cast blame on Qwest for a  
18 problem, even when Qwest is not at fault. Under Qwest’s current practice, CLECs can  
19 and do ask for root cause analyses for repair. Qwest account service managers also  
20 routinely grant root cause analysis requests for Eschelon. But current practice gives  
21 Qwest some discretion -- and some protection -- as to when it is proper for the company  
22 to undertake a root cause analysis.

23

24 **Q. WHAT DO THE EXAMPLES OF ROOT CAUSE ANALYSES CONTAINED IN**  
25 **MS. JOHNSON’S EXHIBIT ESCHELON/87 AND CITED BY MR. STARKEY IN**  
26 **HIS TESTIMONY DEMONSTRATE?**

27 A. These examples demonstrate that Qwest has an effective root cause analysis request  
28 process in place already for repair, and that Eschelon has made use of this process.

29

1 **IX. ISSUE 12-67: EXPEDITES**

2 **Q. WHAT IS THE FUNDAMENTAL DISPUTE BETWEEN THE PARTIES**  
3 **REGARDING EXPEDITES?**

4 A. The parties disagree about the way that Qwest should offer expedites. As I will explain  
5 in greater detail below, Eschelon proposes language that puts Qwest in the position of  
6 providing expedites without accounting for the differences between the products being  
7 expedited. The contract language proposed by Qwest for expedites reflects Qwest's  
8 current practice, the distinction between designed services and non-designed services,  
9 and the terms for different products such as LIS and unbundled loops. In all of the states  
10 in its 14-state region, Qwest offers expedites to CLECs on the same terms and conditions  
11 as it offers them to its retail customers.

12  
13 **Q. WHAT IS THE BASIS OF THE PARTIES' DISPUTE OVER WHETHER**  
14 **EXPEDITES LANGUAGE SHOULD APPEAR IN SECTIONS 7 AND 9 OF THE**  
15 **ICA, OR IN SECTION 12?**

16 A. Qwest proposes expedites language for Sections 7 and 9 of the ICA in order to be  
17 product-specific. Qwest provisions expedites on a product-specific basis, so it is logical  
18 to include expedite provisions in the ICA sections that address LIS trunk orders (Section  
19 7) and UNEs (Section 9), for example. Eschelon argues that expedite provisions should  
20 appear in Section 12 of the ICA. But Section 12 concerns Access to OSS and is not  
21 intended to address product-specific operational procedures.

22  
23 **Q. IN HIS TESTIMONY EXPLAINING QWEST'S EXPEDITE PROCESS, MR.**  
24 **DENNEY ATTEMPTS TO DISMISS THE DISTINCTION THAT QWEST**  
25 **DRAWS BETWEEN DESIGNED AND NON-DESIGNED SERVICES. IS THIS A**  
26 **LEGITIMATE DISTINCTION?**



1 A. No. Saying that there is no meaningful distinction between designed and non-designed  
2 services with regard to expedites is like saying there is no meaningful difference between  
3 Plain Old Telephone Service and Digital Subscriber Line service. Mr. Denney's  
4 argument does not withstand scrutiny. As I explained in my direct testimony, Qwest  
5 provides expedites as set forth in the PCAT via one of two options. The first option  
6 applies to expedites for designed services (like an unbundled loop) and charges apply.  
7 The second option provides expedites for non-designed service (POTS) and charges do  
8 not apply. It is critical to note, first, for non-designed services (POTS services), CLECs  
9 and Qwest's retail customers alike both can obtain an expedited due date under certain  
10 defined circumstances at no charge. Second, for designed services, CLECs and Qwest's  
11 retail customers alike both can obtain expedites for any reason so long as they pay a  
12 \$200-per day charge.

13

14 **Q. WHY ARE DESIGNED AND NON-DESIGNED SERVICES CONSIDERED TO**  
15 **BE TWO DIFFERENT CATEGORIES OF SERVICE?**

16 A. Designed and non-designed services are substantially different in the amount and nature  
17 of work required. Qwest's processes for ordering and provisioning non-designed services  
18 differ substantially from its processes for ordering and provisioning designed services. A  
19 designed service is identified by a "circuit ID" and is provisioned out of multiple  
20 systems. An expedite for a designed service necessarily impacts those multiple systems.  
21 Examples of wholesale designed services are unbundled loops (DS0, DS1, DS3, etc.).  
22 Examples of retail designed services are private lines (DS1, DS3, etc.). Non-designed  
23 services on the wholesale side are QPP and resale POTS, and on the retail side are retail  
24 POTS.

25

26 **Q. IS THERE ANY LEGAL SUPPORT FOR THE DISTINCTION THAT QWEST**  
27 **DRAWS BETWEEN DESIGNED AND NON-DESIGNED SERVICES?**

1 A. Yes. The FCC has expressly acknowledged that the ordering and provisioning of  
2 network elements has no retail analogue.<sup>12</sup> Also, the performance standards developed in  
3 the section 271 proceedings show how the industry differentiates between the two types  
4 of services.

5  
6 **Q. WHAT PERFORMANCE STANDARDS ARE YOU REFERRING TO?**

7 A. For example, OP-3 measures the percentage of orders that Qwest must complete on time,  
8 labeled “Commitments Met. For resale and UNE-P, which is now generally known as  
9 QPP, Qwest must provide parity with Qwest’s retail POTS lines. The same is true for  
10 OP-4, the standard installation interval. The performance standards developed for  
11 unbundled loops are very different from these, however. For unbundled loops -- DS0  
12 loops -- there is a “benchmark” standard, rather than a requirement for Qwest to provide  
13 “parity” with retail services because there is no retail analogue for the provisioning of  
14 unbundled DS0 loops.

15  
16 **Q. MR. DENNEY CITES TWO DIFFERENT SECTIONS OF QWEST’S OREGON  
17 PRIVATE LINE TRANSPORT SERVICES TARIFF TO SUPPORT HIS  
18 ASSERTION THAT “ESCHELON PROPOSES LANGUAGE MODIFICATIONS  
19 TO MAKE CLEAR THAT ESCHELON HAS THE SAME RIGHT TO CHARGE  
20 FOR CERTAIN RATES AND SERVICES UNDER THE TERMS OF THE ICA AS  
21 QWEST DOES.”<sup>13</sup> ARE BOTH OF THE SECTIONS OF THE CATALOG CITED  
22 BY MR. DENNEY RELEVANT?**

23 A. No. In Exhibit Eschelon/36, Mr. Denney refers to Section 3.2.2 from the catalog, and  
24 from Section 4. Section 3.2.2 concerns *repairs* and addresses the “Reestablishment of

---

<sup>12</sup> *In re 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*, 15 FCC Rcd 3953, FCC 99-404 (Rel. Dec. 22, 1999).

<sup>13</sup> See Exhibit Eschelon/9 at p. 242.

1 Service Following Fire, Flood or Other Occurrence.” This section has nothing to do with  
2 expedited orders, meaning the provisioning of a circuit or such circumstances as grand  
3 opening events or disconnects in error. It addresses repairing or restoring service.  
4 Indeed, the word “expedite” appears nowhere in Section 3.5. Instead, Section 4 of the  
5 catalog cited by Mr. Denney provides as follows:

6 Section 4.1.4 states:

7 4.1.4 Expedite

8 If a customer desires that service should be provided on an earlier date than that  
9 which has been established for the order, the customer may request that service be  
10 provided on an expedited basis. If the Company agrees to provide the service on  
11 expedited basis, an **Expedited Charge will apply**. The customer will be notified  
12 the Expedite Charge prior to the order being issued. (emphasis added)

13  
14 **Q. MR. DENNEY ALSO CITES THE OREGON ADVANCED COMMUNICATIONS**  
15 **SERVICES CATALOG. ARE BOTH OF THE SECTIONS OF THE CATALOG**  
16 **CITED BY MR. STARKEY RELEVANT?**

17 A. No. In Exhibit Eschelon/36, Mr. Denney attaches pages from Section 3.5 from the  
18 catalog. As is the case described above regarding Qwest private line transport services  
19 tariff, Section 3.5 of the catalog concerns *repairs* and addresses the “Reestablishment of  
20 Service Following Fire, Flood or Other Occurrence.” This section again has nothing to  
21 do with expedited orders. It merely addresses repairing or restoring service. Indeed, the  
22 word “expedite” appears nowhere in Section 3.5.

23  
24 **Q. WHAT DOES THE ADVANCED COMMUNICATIONS SERVICES CATALOG**  
25 **PROVIDE?**

26 A. The catalog makes very clear that charges apply to expedites. Section 3.1.1, which  
27 concerns “Service Date Change,” states:

28 If a customer desires that service be provided on an earlier date than that which  
29 has been established for the order, the customer may request that service be

1 provided on an expedited basis. If the Company agrees to provide the service on  
2 an expedited basis, an **Expedite Charge will apply** as set forth in the Competitive  
3 Private Line Transport Services Price Cap Tariff. The customer will be notified  
4 of the Expedite Charge prior to the order being issued. (emphasis added).

5  
6 **Q. DOES THIS CATALOG PROVISION INDICATE ANYTHING ELSE ABOUT**  
7 **EXPEDITES?**

8 A. Yes. The catalog recognizes the facts that underlie the basis for defining expedites as a  
9 superior service.

10 **Q. HOW DOES THE CATALOG DO SO?**

11 A. The catalog does so by noting the difference between provisioning a service according to  
12 a standard interval, and expediting a service to provide it sooner. The FCC and state  
13 commissions have recognized that Qwest gives CLECs a “meaningful opportunity to  
14 compete” by provisioning services according to approved standard service intervals,  
15 which are monitored through performance measures.<sup>14</sup> Providing a service in a shorter  
16 time frame than that set forth in a standard interval is a premium service. Qwest witness  
17 Teresa Million explains the nature of the expedites service in greater detail in her rebuttal  
18 testimony. This tariff language also reflects that fact that this is a service utilized for  
19 special circumstance, and not as a matter of routine unless a CLEC is willing to incur the  
20 charges. If every CLEC requested an expedite for every order, then Qwest could not  
21 grant all such requests or provide consistent and nondiscriminatory service, not to  
22 mention the fact that service intervals would be rendered meaningless.

23  
24  

---

<sup>14</sup> See e.g., *In re 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*, 15 FCC Rcd 3953 ¶ 8 (Rel. Dec. 22, 1999); *In re Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, 15 FCC Rcd 18354, 18361-18362 ¶ 13, n.33 (FCC Rel. June 30, 2000); *In re Application by Verizon New England Inc. et al., for Authorization to Provide In-Region, InterLATA Services In Maine*, 17 FCC Rcd 11659 ¶ 7 (FCC Rel. June 19, 2002); *Re U. S. WEST Communications, Inc.*, 2002 WL 1378630, ¶ 7 (Ariz. Corp. Comm. May 21, 2002).

1 **Q. WHY IS THE QUESTION WHETHER EXPEDITES ARE A SUPERIOR**  
2 **SERVICE RELEVANT?**

3 A. Eschelon argues that Qwest discriminates in provisioning expedites, even though Qwest  
4 offers the service in the same way to both its retail and wholesale customers. To win this  
5 argument, Eschelon must persuade the Commission that: (1) there is no legitimate  
6 distinction between non-designed (POTS) and designed (unbundled loop) services; and  
7 (2) an expedite is a UNE, and not a premium service. The latter point is the basis for  
8 Eschelon's assertion that expedites must be cost-based. But expedites are not UNEs;  
9 they are a superior service and subject to a TSLRIC standard, as explained by Ms.  
10 Million in her rebuttal testimony.

11

12 **Q. WHAT IS ESCHELON REALLY SEEKING IN THIS ARBITRATION WITH**  
13 **REGARD TO EXPEDITES?**

14 A. Eschelon is seeking special treatment, thus giving it a competitive advantage over all  
15 other CLECs. Today, CLECs have entered into agreements with Qwest to pay \$200 per  
16 day for expedites under any circumstances for design services. Eschelon, however,  
17 would have this Commission approve a preferential flat rate for Eschelon of \$100 per  
18 expedited order. If the Commission were to approve Eschelon's proposed expedites  
19 language and its suggested rate, Eschelon would be able to provide service to end-user  
20 customers on an expedited basis more cheaply than any other carrier, including Qwest.

21

22 **Q. ISN'T IT TRUE THAT THE SERVICE THAT QWEST OFFERS TO ESCHELON**  
23 **AND OTHER CLECs TODAY IS SUPERIOR TO WHAT IT PROVIDES TO ITS**  
24 **OWN RETAIL END-USER CUSTOMERS?**

25 A. Yes. Eschelon can obtain orders for high-capacity loops expedited by Qwest at rates,  
26 terms and conditions that are superior to what Qwest provides to itself. Qwest's standard  
27 provisioning interval for DS1 and DS3 private lines is nine days. CLECs, including

1 Eschelon, can obtain a DS1-capable loop in five days, and a DS3 capable loop in seven  
2 days. Thus, if a customer orders a DS1-capable loop from Eschelon and wants the line  
3 delivered in one day, the order will have to be expedited five days, and it would cost the  
4 customer \$1,000 (\$200 per day times five days). In contrast, if the same customer  
5 approaches Qwest and orders a DS1 private line (the retail analogue) and wants the line  
6 delivered in one day, the order must be expedited nine days and the cost to the customer  
7 is \$1800 (\$200 per day times nine days). Eschelon receives superior service under these  
8 circumstances in other states.

9  
10 **Q. ARE THERE ANY OTHER WAYS IN WHICH ESCHELON SEEKS TO**  
11 **EXPAND QWEST’S CURRENT EXPEDITES SERVICE AND TO OBTAIN**  
12 **SPECIAL, PREFERENTIAL TREATMENT FOR ITSELF?**

13 A. Yes. Eschelon’s proposed expedites language contains the list of emergency conditions  
14 for which Qwest offers expedites for non-designed and designed services (only in  
15 Washington through the process set forth in the PCAT. Calling it a “minor difference,”  
16 Eschelon has added subsection (f) to the list: “Disconnect in error when one of the other  
17 conditions on this list is present or is caused by the disconnect in error.”<sup>15</sup> This proposed  
18 language, which would provide free expedites for Eschelon under circumstances under  
19 which no other CLEC is eligible, means that if Eschelon were to make a mistake and  
20 disconnect one of its own customers, Qwest would be obligated to pay for that mistake by  
21 providing Eschelon with a free expedite. Obviously, this is not fair, and does not  
22 constitute a “minor” change to the list of defined emergency circumstances.

23  
24 **Q. BUT MR. DENNEY CLAIMS THAT ‘ESCHELON’S PROPOSAL THAT**  
25 **WOULD PROVIDE FOR EXPEDITED SERVICE ON AN EMERGENCY BASIS**

---

<sup>15</sup> Exhibit Eschelon/9, at p. 215.

1           **WHEN A CUSTOMER’S SERVICE IS DISCONNECTED IN ERROR IS**  
2           **CONSISTENT WITH QWEST’S PAST PRACTICE?”<sup>16</sup> IS THAT NOT TRUE?**

3    A.    No, that is not true. When Qwest causes a disconnect in error, it provides an expedite  
4           free of charge. That seems only fair. But, if a CLEC were to cause a disconnect in error  
5           and one of its own end-user customers were to lose service, it would not be the result of  
6           any fault on Qwest’s part, and it should not be Qwest who should bear the costs of  
7           providing expedited service.

8  
9    **Q.    MR. DENNEY STATES ON PAGE 234 OF HIS DIRECT TESTIMONY THAT**  
10           **QWEST OFFERS A SERVICE TO ITS RETAIL RESIDENTIAL CUSTOMERS**  
11           **CALLED “EXPRESS SERVICE” IN SOME STATES THAT QWEST DOES NOT**  
12           **OFFER TO CLECs. IS THIS ACCURATE?**

13   A.    No. The “express service” that Mr. Denney describes is equivalent to the service  
14           intervals that CLECs already receive for resale residential and QPP services under the  
15           same circumstances. But CLECs are not charged the \$22 fee that Mr. Denney cites.  
16           Thus, because the intervals for these products are already so short, there is no need for  
17           expedited due dates.

18  
19   **Q.    IS IT TRUE, AS DESCRIBED BY MR. DENNEY, THAT QWEST PROVIDED**  
20           **ESCHELON WITH EXPEDITES AT NO CHARGE, AND THEN SUDDENLY**  
21           **CHANGED ITS MIND AND UNILATERALLY STARTED CHARGING**  
22           **ESCHELON AND OTHER CLECs FOR THE SERVICE?**

23   A.    No. Qwest previously provided expedites for designed services at no charge for CLECs  
24           under certain defined circumstances, like fire and flood emergencies, until it became  
25           apparent that CLECs were gaming the system and submitting spurious emergency

---

<sup>16</sup> Exhibit Eschelon/9, at p. 215.

1 expedite requests. Qwest's program became unworkable because of the large number of  
2 illegitimate CLEC expedite requests. As a result, Qwest modified its expedite service  
3 through the CMP. As detailed in my direct testimony, Qwest provided ample advance  
4 notice of the changes to the expedite service. No CLECs requested postponement of  
5 Qwest's proposed changes to the expedites process, or sought dispute resolution pursuant  
6 to the CMP Document, or filed a complaint against Qwest as a result of the changes  
7 implemented through the CMP. As stated, expedites are a superior service, and a  
8 majority of CLECs have been willing to enter into an ICA amendment and pay \$200 per  
9 day for the service.

10  
11 **Q. WHAT DID THE ADMINISTRATIVE LAW JUDGES IN THE MINNESOTA**  
12 **ARBITRATION CONCLUDE REGARDING EXPEDITES?**

13 A. The Minnesota ALJs determined, first, that Qwest's expedite process is not  
14 discriminatory.<sup>17</sup> Second, the ALJs recommended adoption of Qwest's proposed ICA  
15 language for expedites.<sup>18</sup> Only on the rate issue did the Minnesota ALJs recommend a  
16 ruling in favor of Eschelon.<sup>19</sup> Qwest has filed an exception to the latter recommendation  
17 because it is contrary to law.

18  
19 **Q. HAS THE ARIZONA STAFF ISSUED ANY RECOMMENDATIONS IN THE**  
20 **PENDING ESCHELON/QWEST COMPLAINT CASE, DOCKET NO. T-03406A-**  
21 **0257 AND T-01051B-06-0257, CONCERNING EXPEDITES?**

---

<sup>17</sup> See *In the Matter of the Petition of Eschelon Telecom, Inc., for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252 (b) of the Federal Telecommunications Act of 1996, Docket OAH 3-2500-17369-2, MPUC No. P-5340,421/IC-06-768*, Qwest Corporation's Exceptions to the Arbitrators' Report (January 26, 2007 ("*MN Arbitrators' Report*")), at ¶ 220. Eschelon disputes the meaning of the Arbitrator's Report and believes that the Arbitrator actually recommended Eschelon's language with narrow exceptions. This issue will be litigated in Minnesota.

<sup>18</sup> *MN Arbitrators' Report*, at ¶ 220.

<sup>19</sup> *MN Arbitrators' Report*, at ¶ 221.



1 A. Yes. Arizona Staff witness Pamela Genung has filed testimony in the above-referenced  
2 docket concluding, like the ALJs presiding over the Minnesota arbitration, that Qwest's  
3 expedite process is not discriminatory.<sup>20</sup> She also recognized in her testimony that the  
4 general repair provisions in the parties' ICA are "irrelevant" to the issue of expedited  
5 orders.<sup>21</sup>

6 **Q. WHAT ELSE DID THE ARIZONA STAFF WITNESS CONCLUDE?**

7 A. In her testimony, Ms. Genung opined that Qwest's expedites process violates the parties'  
8 current ICA.<sup>22</sup> This issue is irrelevant to this arbitration, however., Nevertheless, Qwest  
9 notes for the record that it believes that Ms. Genung did not interpret the parties' current  
10 ICA correctly, or take into consideration all of the language concerning expedites in the  
11 current ICA.

12 **Q. WHAT PROVISIONS OF THE PARTIES' ICA DID MS. GENUNG RELY UPON**  
13 **IN HER TESTIMONY?**

14 A. Ms. Genung based her analysis on the language in the ICA in Section 3.2.2.12, that  
15 stated: "U S WEST shall provide CO-PROVIDER the capability to expedite a service  
16 order."

17 **Q. HAS QWEST ALWAYS PROVIDED ESCHELON WITH THE CAPABILITY TO**  
18 **EXPEDITE ORDERS SINCE THE TIME THE PARTIES ENTERED INTO**  
19 **THEIR CURRENT ICA?**

20 A. Yes. Qwest is, and has been, in full compliance with the parties' contract.  
21

---

<sup>20</sup> See *In The Matter of the Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation, Direct Testimony of Pamela Genung*, January 30, 2007, at p. 32 ("AZ Genung Direct").

<sup>21</sup> *AZ Genung Direct*, at p. 28.

<sup>22</sup> *AZ Genung Direct*, at p. 34.

1 **Q. IN THIS ARBITRATION, WHAT IS THE ADVANTAGE OF QWEST'S**  
2 **PROPOSAL FOR CONTRACT LANGUAGE DEALING WITH EXPEDITES**  
3 **OVER THE LANGUAGE THAT EXISTS IN THE PARTIES' CURRENT ICA?**

4 A. Under the current ICA, Qwest has complete discretion to decide whether or not to grant  
5 expedites. Under Qwest's contract language proposal, the circumstances under which  
6 expedites are granted for non-designed services are clearly delineated, and expedites are  
7 always granted for designed services at a cost of \$200 per day. This language is  
8 consistent with the expedite process designed in the CMP, and it is consistent with the  
9 process available to all Qwest customers.

10

11 **Q. WHAT IS ESCHELON SEEKING VIA ITS CONTRACT LANGUAGE FOR**  
12 **EXPEDITED ORDERS?**

13 A. Eschelon is seeking to change Qwest's processes for expediting orders while bypassing  
14 the change management process, which is the industry forum intended for such process  
15 and procedure changes. Eschelon is also seeking preferential treatment for its expedited  
16 orders, receiving expedites in all circumstances, not just when resources are available to  
17 expedite orders. No other customer has this access to expedites. In effect, Eschelon is  
18 seeking to receive expedites at the expense of all other Qwest customers, CLEC and retail  
19 customers alike.

20

21 **Q. WHICH LANGUAGE SHOULD THIS COMMISSION ADOPT FOR ISSUE 12-67**  
22 **AND ITS SUBPARTS?**

23 A. This Commission should adopt Qwest's language for expedited orders. Qwest's  
24 language is consistent with Qwest's current practices for all of its customers, and  
25 Eschelon is not entitled to special, preferential treatment that gives it a competitive  
26 advantage.

27

1           **X.           ISSUES 12-71, 12-72 AND 12-73: JEOPARDY NOTICES**

2   **Q.    MS. JOHNSON CLAIMS ON PAGE 70 OF HER DIRECT TESTIMONY THAT**  
3   **ESCHELON’S PROPOSED LANGUAGE REFLECTS QWEST’S CURRENT**  
4   **PRACTICE, WHICH WAS DEVELOPED IN THE CMP. IS MS. JOHNSON**  
5   **CORRECT?**

6   A.   No, she is not. Eschelon has added a phrase to its proposal – “at least the day before”  
7       – which alters the timing of notices for the resolution of jeopardy situations. Advance  
8       notice at least a day before is not Qwest’s current practice.

9   **Q.    ESCHELON CLAIMS THAT QWEST COMMITTED TO DELIVERING A**  
10   **NEW DUE DATE RESOLVING AN ORDER IN JEOPARDY AT LEAST ONE**  
11   **DAY IN ADVANCE OF THE NEW DUE DATE. DID QWEST MAKE SUCH A**  
12   **COMMITMENT?**

13   A.   No, and the CMP record proves it. The evidence presented by Eschelon regarding the  
14       applicable CMP Change Requests shows that Qwest never made such a commitment.  
15       I have attached the actual Change Requests, which include the minutes from the  
16       Project Meetings.<sup>23</sup> As I will cite below, a review of the meeting minutes associated  
17       with these Change Requests shows that there was never an explicit request by  
18       Eschelon or an agreement by Qwest to provide “at least a day” or 24-hours notice in  
19       advance of a new due date.

20   **Q.    WHAT DID ESCHELON ASK FOR IN ITS FIRST CHANGE REQUEST**  
21   **PC72303-1?**

22   A.   In the first change request, Eschelon asked that Customer Not Ready (“CNR”)  
23       jeopardy notices not be sent before 5:00 p.m. on the original due date.

24

---

<sup>23</sup> See Exhibits Qwest/19 - Change Request PC072303-1 and Qwest/20 - Change Request PC081403-1.

1 **Q. WHAT WAS THE RESULT OF THE FIRST CHANGE REQUEST?**

2 A. Qwest implemented the change request, and now CNR Jeopardy notices are not sent until  
3 6:00 p.m..

4 **Q. WHAT DID ESCHELON ASK FOR IN ITS SECOND CHANGE REQUEST**  
5 **PC-081403?**

6 A. In the second change request, Eschelon asked to “[c]hange the jeopardy notification  
7 process to reduce unnecessary jeopardy notices being sent to the CLEC when the Due  
8 Date is not in jeopardy and to improve the overall jeopardy notification process.”<sup>24</sup>

9 **Q. WHAT WAS THE RESULT OF THE SECOND CHANGE REQUEST?**

10 A. Qwest made a number of revisions to the jeopardy process, including making a  
11 distinction between “critical date jeopardies” and “due date jeopardizes,” so that CLECs  
12 could know that only “due date jeopardies” could result in late delivery of service. Qwest  
13 started systems work to eliminate “critical date jeopardies” to avoid the confusion that  
14 these notices were creating. Qwest agreed to provide additional information on a  
15 jeopardy within 72 hours if a solution to the jeopardy was not reached.

16 **Q. DID ESCHELON’S ORIGINAL CHANGE REQUEST SEEK THE ONE-DAY**  
17 **ADVANCE NOTICE?**

18 A. No. The CMP meeting minutes dated August 20, 2003 make this clear:

19 August CMP Meeting Bonnie Johnson with Eschelon presented this CR. Bonnie  
20 explained that Eschelon is asking that the circuit not be put into CNR [Customer  
21 Not Ready] Status until 5 p.m. local time on the due date.  
22

23 The minutes for the next CMP meeting on September 17, 2003 contain Qwest’s response:

24 September CMP Meeting Jill Martain with Qwest said that Qwest accepts this CR  
25 and will be making changes to a backend system to hold CNR jeopardies until 6  
26 p.m. Mountain time.

---

<sup>24</sup> See Exhibit Qwest/20 – Expected Deliverable.

1 **Q. DID QWEST SEE A LINK BETWEEN THE FIRST CHANGE REQUEST AND**  
2 **THE SECOND CHANGE REQUEST?**

3 A. Yes. Qwest pointed out that the second change request had “synergies” with the first:

4 Qwest believes this CR has synergies with the Eschelon CR PC072303-1  
5 “Customer Not Ready (CNR) jeopardy notice should not be sent by Qwest to  
6 CLEC before 5 PM.” Qwest proposes moving this Change Request into  
7 Evaluation Status while we investigate the commonalities further and will provide  
8 a status update at the November CMP meeting.

9 Eschelon agreed to alter the second change request to reflect these synergies. The CMP  
10 record for Eschelon’s second change request, PC081403-1, under the heading  
11 “Description of Chang,” states:

12 Changed the description of this CR as a result of synergies with PC072303-1.  
13 During the October 15 CMP meeting we discussed whether we should close/leave  
14 open/ or update CR PC081403-1 “Delayed order process modified to allow the  
15 CLEC a designated time frame to respond to a released delayed order.” The  
16 reason we wanted to close/leave open or update PC081403-1 is because  
17 PC072303-1 is meeting many of the needs. Bonnie Johnson agreed to change this  
18 CR, as long as we retained the original CR description.  
19

20 **Q. THROUGH THE COURSE OF ADDRESSING CHANGE REQUESTS PC072303-**  
21 **1 AND PC081403-1 IN THE CMP, DID ESCHELON CLARIFY THE TIME**  
22 **FRAME IT WAS REQUESTING FOR ADVANCE NOTICES?**

23 A. Yes. In a CMP clarification meeting on August 26, 2003, Eschelon refined its request:

24  
25 Bonnie [Johnson] advised they would like a 2-4 business hour time frame to  
26 respond to the FOC before Qwest puts the LSR [Local Service Request] in CNR  
27 [Customer Not Ready status].  
28

29 **Q. HOW DID QWEST RESPOND TO MS. JOHNSON’S REFINED REQUEST ON**  
30 **BEHALF OF ESCHELON?**

31 A. Qwest proposed a compromise. In a subsequent CMP *ad hoc* meeting on October 6,  
32 2003, the following took place:

1  
2 Jill Martain discussed the synergy's (sic) between PC072303-1 and this CR and  
3 the issue that came up in the CLEC Forum about FOCs not being sent after a  
4 delayed order is released. Jill explained she would like to implement changing  
5 the jep [jeopardy] timeframe to 6 pm as identified in PC072303-1. As a result of  
6 this change it will address many of the issues with not enough time to respond to a  
7 jep. Jill referred to this as Phase 1. Jill will issue a Qwest CR to modify the Jep  
8 Process and make additional changes as needed. Changes such as define jep  
9 codes, determine when to send jeps, and for what conditions. Jill said she  
10 certainly can accommodate some time frames in between FOC and Jep. Jill  
11 referred to this as Phase 2. Bonnie agreed that Jill's new CR and implementing  
12 the changes for PC072303-1 will take care of this CR. Changing the jep times  
13 will take care of most of these issues.

14 **Q. DID ESCHELON AGREE TO QWEST'S ALTERNATIVE PROPOSAL FOR THE**  
15 **CHANGE REQUEST?**

16 A. Yes. The CMP meeting minutes for December 8th note as follows:

17 Bonnie Johnson – Eschelon asked about the CR request regarding when the  
18 CLEC gets a jep, and then Qwest does not allow the CLEC time to react to the  
19 FOC (4 hour minimum). Jill asked Bonnie if we could wait and determine the  
20 impact of the 6pm jep time change as this change should reduce the number of  
21 jeps and reduce this issue. Bonnie agreed we could discuss this later if it is still  
22 an issue.

23 And the minutes of the CMP meeting on July 21, 2004 reflect as follows: “Bonnie said it  
24 is hard to determine at times [whether jeopardy-related issues are a compliance issue or a  
25 process problem], but she is willing to close this CR and handle the compliance issue  
26 with the Service Manager. The CLECs agreed to close the CR.”

27 As noted above, Ms. Johnson of Eschelon agreed to Qwest's proposal. As is customary  
28 through the CMP, a series of meetings between Qwest and the CLECs took place to  
29 discuss the details of the jeopardy-related change requests, and the parties worked  
30 diligently and successfully to come up with a collaborative solution.

31

1 **Q. DID QWEST PROVIDE DOCUMENTATION DEMONSTRATING THE**  
2 **CHANGES THAT WERE MADE AS A RESULT OF THE CHANGE REQUEST?**

3 A. Yes. As discussed in the change request, attached as Exhibit Qwest/20, documentation  
4 changes were sent to the CLECs. The notice for these changes was sent on April 12,  
5 2004, and is attached as Exhibit Qwest/21. The version of the PCAT showing the  
6 redlined changes in process that was identified in that notice is attached as Exhibit  
7 Qwest/22. Changes to the list of jeopardy codes made to indicate which jeopardy  
8 situations could impact the due date, which was also identified in the notice, is attached  
9 as Exhibit Qwest/23.

10 **Q. WHAT IS THE SIGNIFICANCE OF THE DOCUMENTS THAT WERE SENT**  
11 **TO THE CLECs?**

12 A. These documents represent the result of Change Request PC081403-1. The redlines to  
13 these documents are the specific changes made as a result of the change request.

14 **Q. IS THERE ANY MENTION IN THE REDLINED CHANGES OR ANYWHERE**  
15 **IN THESE DOCUMENTS OF A REQUIREMENT THAT THE FOC (FIRM**  
16 **ORDER COMMITMENT) ON A JEOPARDY BE SENT AT LEAST A DAY**  
17 **BEFORE THE NEW DUE DATE?**

18 A. No.

19 **Q. DID THE CLECs HAVE AN OPPORTUNITY TO REVIEW AND COMMENT**  
20 **ON THESE DOCUMENTATION CHANGES?**

21 A. Yes. The notice attached as Exhibit Qwest/21 informed CLECs that they had 15 days to  
22 provide comments to the notice at the document review website.

23 **Q. DID QWEST RECEIVE ANY COMMENTS OR CHANGES TO THESE**  
24 **DOCUMENTS VIA THE DOCUMENT REVIEW WEBSITE?**

25 A. No.

1 **Q. CAN QWEST CLOSE A CHANGE REQUEST WITHOUT THE EXPRESS**  
2 **PERMISSION OF THE CLECs?**

3 A. No. The CMP Document provides: “The CR will be closed when CLECs determine that  
4 no further action is required for that CR.” The CMP Document also states that, “[a]CR is  
5 updated to Completed status when the CLECs and Qwest agree that no further action is  
6 required to fulfill the requirements of the CR.”

7 **Q. DID ESCHELON EVER USE THE CMP ESCALATION PROCEDURE TO**  
8 **INDICATE THAT IT WAS NOT SATISFIED WITH THE OUTCOME OF**  
9 **EITHER OF THE TWO JEOPARDY-RELATED CHANGE REQUESTS?**

10 A. No.

11 **Q. DID ESCHELON SEEK TO POSTPONE IMPLEMENTATION OF THE**  
12 **CHANGE TO THE PROCESS?**

13 A. No.

14 **Q. DID ESCHELON GO TO THE CMP OVERSIGHT COMMITTEE TO DISPUTE**  
15 **THE OUTCOME OF THE CHANGE REQUESTS?**

16 A. No.

17 **Q. DID ESCHELON USE THE CMP DISPUTE PROCESS TO CHALLENGE THE**  
18 **CHANGE REQUESTS?**

19 A. No.

20 **Q. HAS ESCHELON SUBMITTED A NEW CHANGE REQUEST SEEKING A ONE-**  
21 **DAY ADVANCE NOTICE?**

22 A. No.

23 **Q. SHOULD THE JEOPARDY PROCESS DEVELOPED THROUGH THE CMP BE**  
24 **CHANGED IN THE PARTIES’ ICA THROUGH ESCHELON’S PROPOSED**



1           **LANGUAGE THAT OBLIGATES QWEST TO PROVIDE ESCHELON AT**  
2           **LEAST A DAY'S ADVANCE NOTICE OF A NEW DUE DATE FOR AN ORDER**  
3           **IN JEOPARDY STATUS?**

4    A.    No. The jeopardy process is used by all CLECs, and Eschelon has willingly and  
5           effectively used the CMP to change the jeopardy process in the past. Eschelon's attempts  
6           to now claim that the CMP process was somehow flawed, when Eschelon agreed to  
7           Qwest's implementation of the change request at issue, should be rejected. Indeed, by its  
8           own course of conduct, Eschelon should be estopped from asserting that its proposed  
9           CMP-related ICA language is justified by its one-sided recount of CMP history. The  
10          CMP record shows that the implementation of Eschelon's change requests was a work of  
11          compromise between the parties. Qwest never promised a one-day advance notice.  
12          Despite Eschelon's representations to the contrary, what the jeopardy example  
13          demonstrates is that Qwest and CLECs work together cooperatively through the CMP,  
14          and they resolve the issues submitted by the CLECs and Qwest through change requests.

15  
16    **Q.    WHAT ARE THE ADVANTAGES THAT ESCHELON CLAIMS RESULT FROM**  
17           **ITS PROPOSED LANGUAGE FOR JEOPARD NOTICES?**

18    A.    Eschelon claims that 1) customers will receive service more quickly, and 2) that Qwest's  
19          PIDs will not be impacted by Eschelon's proposed changes.<sup>25</sup>

20    **Q.    DOES ESCHELON'S PROPOSAL RESULT IN THESE OUTCOMES?**

21    A.    No. In fact, the evidence provided by Eschelon in Exhibits Eschelon/114 and  
22          Eschelon/115 demonstrate the contrary.<sup>26</sup> First, Eschelon claims a link between the  
23          receipt of an FOC and the occurrences of CNR jeopardies. Qwest's analysis of

---

<sup>25</sup> Exhibit Eschelon/43, Johnson Direct at p. 63.

<sup>26</sup> Eschelon has chosen not to file its original exhibit containing examples of facility jeopardies. Rather, it has filed a heavily annotated response to an exhibit I filed in another case. For clarity and easier reading, I have attached my original analysis of its original examples as Exhibit Qwest/27.

1 Eschelon's data on CNR jeopardies, contained in Exhibit Qwest/27 and discussed in  
2 detail below, represents a very small portion of the total number of orders that Eschelon  
3 places with Qwest, demonstrating that such issues are rare. It also demonstrates that  
4 Qwest works very hard to deliver circuits as quickly as possible after a jeopardy is  
5 resolved, and even when Eschelon must supplement an order, the designed services are  
6 often delivered in advance of the three-day interval required for these services.

7 Eschelon's proposed language will not improve these results.

8 Second, the data in Exhibit Eschelon/114, also discussed in more detail below,  
9 demonstrates that Eschelon is not dependent on the FOC to install service, and that  
10 Eschelon is in communication with Qwest, as more than 76% of these orders were  
11 delivered by Qwest and accepted by Eschelon on the original due date, even though  
12 Eschelon did not receive an FOC.

13 Third, Eschelon's proposed language would impact Qwest's PIDs in spite of Eschelon's  
14 proposal to the contrary. The OP-3 PIDs, which measure whether Qwest delivers service  
15 on time, exclude CNR jeopardies. Since Eschelon's proposed language reduces the  
16 occurrence of CNR jeopardies, its proposed language cannot help but impact Qwest  
17 performance on these PIDs.

18 **Q. ESCHELON'S PROPOSAL SUGGESTS THAT ESCHELON NEEDS MORE**  
19 **TIME TO COMPLETE AN ORDER BECAUSE ESCHELON TAKES A**  
20 **FACILITY JEOPARDY NOTICE AS A SIGNAL THAT SERVICE WILL NOT**  
21 **BE DELIVERED ON TIME? IS THAT HOW ESCHELON SHOULD RESPOND**  
22 **TO A FACILITY JEOPARDY NOTICE?**

23 A. No. Nothing in our procedures states that a facility jeopardy notice should be interpreted  
24 as a definite indicator that service will be delivered late. All of our documents state that  
25 the service MAY be delivered late. A jeopardy notice is NOT a signal to stop working.

1 The CLEC should always complete the work it needs to do in order to receive service on  
2 the original requested due date. Then, if the jeopardy is resolved on the original due date,  
3 the CLEC will be ready to receive service, and service will be delivered on time.

4 **Q. MS. JOHNSON CLAIMS THAT YOU STATED AT THE MINNESOTA**  
5 **HEARING IN THE ARBITRATION IN THAT STATE THAT THE FOC IS THE**  
6 **ONLY ADEQUATE NOTICE TO A CLEC THAT SERVICE IS READY TO BE**  
7 **DELIVERED BY QWEST.<sup>27</sup> DOES MS. JOHNSON ACCURATELY DESCRIBE**  
8 **YOUR TESTIMONY?**

9 A. No. To make clear what I did say, I will quote directly from the transcript:

10 Q And what Eschelon is saying is, look, if you haven't told us the circuit is  
11 coming, you can't treat that as a CNR jeopardy; right?

12 A Yes.

13 Q And Qwest disagrees with that; is that correct?

14 A We don't disagree with the notion that a CNR jeopardy should be assigned  
15 appropriately.

16 Q And if the CLEC doesn't have adequate notice that the circuit is being  
17 delivered, adequate notice consisting of an FOC, then you would agree that a  
18 CNR jeopardy is not appropriate; correct?

19 A Yes.

20 Q And you would also agree that not only do you need the FOC, but you need  
21 the FOC in enough time to be able to act on it; correct?

22 A I would agree with that. I would submit, though, that in the examples  
23 provided we only found three cases where we classified a subsequent jeopardy as  
24 a CNR, in error, and that is mostly because the service was delivered. And  
25 communication was happening between Qwest and the CLEC technicians.<sup>28</sup>

26 In addition, I responded to the following:

27  
28 Q Are you saying that the CLEC ought to be relying on something other than the  
29 official notice, the FOC that it receives from Qwest, as the indication of when the  
30 circuit is going to be delivered?

---

<sup>27</sup> Exhibit Eschelon/43, Johnson Direct, at p. 72.

<sup>28</sup> MN Tr. Vol. I, pp. 94-95.

1           A For a formal process, no. But it also doesn't make sense if we're in  
2 communication with each other and the circuit can be accepted not to install the  
3 circuit and have it done on time.<sup>29</sup>

4 **Q.   WHAT WOULD THE IMPACT BE IF THE COMMISSION WERE TO**  
5 **ADOPT ESCHELON'S PROPOSED LANGUAGE FOR ISSUES 12-71, 12-72 AND**  
6 **12-73?**

7 A.   The impact would be that Qwest would be contractually obligated to implement a new  
8 process for jeopardy notices for Eschelon. It would be unreasonable to force Qwest to  
9 handle jeopardy notices using one set of procedures for Eschelon (and any opt-ins to the  
10 ICA) and a different set of procedures for all other CLECs. The added complexity would  
11 also create a greater possibility for errors. This arbitration proceeding is not the  
12 appropriate forum for process changes that impact all CLECs. These issues should be  
13 handled in the CMP rather than in interconnection agreements.

14 **Q.   ESCHELON'S PROPOSAL INCLUDES LANGUAGE ENCOURAGING THE**  
15 **PARTIES TO TRY TO MEET THE DUE DATE. DOESN'T THAT ALLEVIATE**  
16 **QWEST'S CONCERN REGARDING THE ONE-DAY ADVANCE NOTICE**  
17 **REQUIREMENT?**

18 A.   No. Whether or not Eschelon should be in a position to accept timely delivery of a  
19 circuit, Eschelon's proposed language indicates that Qwest cannot code a subsequent  
20 jeopardy as a "CNR" if the FOC is not sent at least a day before. As the evidence  
21 demonstrates, in most instances this characterization of the cause of the delay is  
22 unreasonable. Even if Eschelon's proposed changes were appropriate, changing PID  
23 measurements should not be addressed in a single party arbitration.

24 **Q.   ESCHELON PROVIDED EXHIBIT ESCHELON/115 AS EVIDENCE OF ITS**  
25 **NEED FOR ONE-DAY ADVANCE NOTICE OF A NEW DUE DATE FOR AN**

---

<sup>29</sup> MN Tr. Vol. 1, p. 96.

1           **ORDER. IS THIS EXHIBIT PERSUASIVE?**

2           A.    No. The exhibit lists XX delayed orders. **[BEGIN CONFIDENTIAL]** These 23  
3           delayed orders are less than X% of the total number of Eschelon's delayed orders, and  
4           about XX% of Eschelon's total LSRs in the past year. **[END CONFIDENTIAL]** Qwest  
5           researched and analyzed the orders cited in the exhibit. For only 15 of the 23 delayed  
6           orders did Qwest not provide a FOC. And, for 12 of those 15 delayed orders, the record  
7           shows that Qwest did not provide a FOC because other order activity by Eschelon or by  
8           Qwest eliminated the need for a FOC.<sup>30</sup>

9           **Q.    MR. JOHNSON CLAIMS ON PAGE 73 OF HER DIRECT TESTIMONY THAT**  
10           **QWEST HAS NOT CONSULTED ITS FOC ARCHIVE TO VERIFY THE DATA**  
11           **CONTAINED IN A PRIOR VERSION OF EXHIBIT QWEST/27, AND SHE**  
12           **CITES YOUR TESTIMONY AT THE MINNESOTA HEARING TO SUPPORT**  
13           **THIS CLAIM. HAS QWEST SINCE CONSULTED ITS FOC ARCHIVES?**

14          A.    Yes. And the analysis of Eschelon's data, which is contained in ExhibitQwest/27, is fully  
15          supported by the data in Qwest's systems. What Ms. Johnson fails to mention is that I  
16          was asked by Eschelon at the hearing to analyze the FOC data on the witness stand. I did  
17          that analysis based on the information available, which did not include data from the  
18          FOC archive. A subsequent review of Qwest's FOC archive did not contradict the  
19          analysis I provided at the Minnesota hearing, and the FOC data is included in Exhibit  
20          Qwest/27.

21          **Q.    MS. JOHNSON DISCUSSES AT SOME LENGTH THE FACT THAT QWEST**  
22          **REQUIRES THREE-DAYS NOTICE TO ARRANGE STAFFING FOR A**  
23          **DESIGNED SERVICE THAT HAS BEEN DELAYED WHEN THE CLEC**

---

<sup>30</sup> See Exhibit Qwest/27, Analysis of Eschelon Exhibit BJJ-6, as presented in Minnesota, Arizona, Colorado and Washington.

1           **CUSTOMER IS NOT READY TO ACCEPT A CIRCUIT FROM QWEST.<sup>31</sup> IS IT**  
2           **VALID FOR MS. JOHNSON TO EQUATE THE STANDARD INTERVAL TO**  
3           **RE-DELIVER A CIRCUIT WITH THE TIMING OF A FIRM ORDER**  
4           **COMMITMENT NOTICE?**

5    A.    No. There is no relationship between the two activities. The three-day standard interval  
6           is necessary to ensure that Qwest technicians can be made available to provision a  
7           designed circuit to the CLEC. Qwest must have the flexibility to manage the technicians'  
8           work assignments in order to ensure that other CLECs and other Qwest customers are not  
9           negatively impacted by the need to send a technician back to the CLEC a second time,  
10          simply because the CLEC was not ready to receive the circuit on the original due date. It  
11          is Qwest's practice to attempt to deliver the circuit as soon as possible, and Qwest does  
12          not always take three days to do so. In fact, several of the examples analyzed in Exhibit  
13          Qwest/27 demonstrate situations in which the circuit was delivered and accepted by  
14          Eschelon before the new due date.

15          An FOC, a firm order commitment, is simply the electronic notice sent by Qwest to the  
16          CLEC to confirm a due date. An FOC sent following a jeopardy is the notice to confirm  
17          the new due date for an order in jeopardy.

18    **Q.    DOES QWEST ALREADY HAVE INCENTIVE TO DELIVER TIMELY FOCs?**

19    A.    Yes. Qwest already has a significant incentive in the form of PID P0-5 - Firm Order  
20          Confirmations (FOCs) On Time. While this PID is not specific to FOCs in response to  
21          jeopardy situations, these FOCs are not excluded from this PID. Mr. Starkey suggests  
22          that Qwest has an incentive to misclassify FOCs in order to achieve better PID  
23          performance. Mr. Starkey provides no basis for this assertion. However, evidence to the  
24          contrary is available in the form of the extensive audits of Qwest's performance measures

---

<sup>31</sup> See Exhibit Eschelon/43, Johnson Direct, pp. 57-58.

1 that were undertaken by an independent auditor, Liberty Consulting, in Oregon and  
2 twelve other states, as a part of Qwest's successful Section 271 efforts.<sup>32</sup>

3 **Q. MS. JOHNSON CITES EXHIBIT ESCHELON/114 AS DEMONSTRATING**  
4 **EXAMPLES OF ORDERS FOR WHICH NO FOC WAS SENT. PLEASE**  
5 **COMMENT ON THE DATA IN THIS EXHIBIT.**

6 A. The data in this exhibit demonstrates Qwest's commitment to deliver service as close to  
7 the original due date as possible. It also demonstrates that, in most instances, Eschelon is  
8 capable of accepting delivery of service on the due date, even in the absence of an FOC.  
9 These are examples of orders that went into jeopardy status on or before the original due  
10 date. If one compares the data in the column labeled "Eschelon Requested Due Date" to  
11 the data in the column "Completion Date," one sees that in the vast majority of these  
12 examples, the service was delivered on Eschelon's original requested due date.

13 **Q. THUS, WHAT IS ESCHELON SEEKING VIA ITS LANGUAGE PROPOSAL**  
14 **FOR JEOPARDY NOTICES?**

15 A. Eschelon is seeking to alter Qwest's procedures via its contract language rather than via  
16 the industry forum established for these changes, the CMP. Eschelon is also seeking  
17 special treatment that is not offered to other CLECs for its orders. For these reasons, this  
18 Commission should adopt Qwest's language for jeopardy notices.

---

<sup>32</sup> See for example *In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, FCC 02-332, December 23, 2002, at ¶ 13; *In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of New Mexico, Oregon and South Dakota*, FCC 03-81, April 15, 2003, at ¶¶ 3 and 11.

1           **XI.           ISSUE 12-87: CONTROLLED PRODUCTION OSS TESTING**

2   **Q.       WHY DOES ELECTRONIC INTERFACE TESTING OCCUR?**

3   A.       Electronic interface testing is necessary to ensure that electronic orders delivered by a  
4           CLEC's computer system to Qwest's computer systems can be processed properly.  
5           Every time a change is made to Qwest's electronic interfaces, CLECs must make  
6           corresponding changes to their computer systems. It is vital for these changes to be  
7           tested on both sides. Any change creates the possibility for errors in order processing.  
8           Testing is used to find and correct these errors whether they occur within the CLEC's  
9           system or in Qwest's system.

10 **Q.       WHAT IS UNIQUE ABOUT THE CONTROLLED PRODUCTION PHASE OF**  
11 **ELECTRONIC INTERFACE TESTING?**

12 A.       This phase of an interface test is the first true production test of orders using a new  
13           electronic interface. In other words, it is the first time that a CLEC order submitted by  
14           the CLEC's computer system is received and processed by Qwest's computer system.  
15           During this phase of testing, Qwest staff work closely with CLEC staff to monitor the  
16           CLEC's orders from end-to-end. This is the last phase of testing, and the last opportunity  
17           to catch errors in the process, errors that might cause systems problems for Qwest and for  
18           other CLEC.

19 **Q.       MS. JOHNSON ALLEGES ON PAGE 93 OF HER DIRECT TESTIMONY THAT**  
20 **ESCHELON'S PROPOSED LANGUAGE FOR ISSUE 12-87 REFLECTS**  
21 **QWEST'S CURRENT PRACTICE. IS THAT TRUE?**

22 A.       No. The CMP Document clearly places certification testing requirements under Qwest's  
23           control:

24                   New Releases of the application-to-application interface may require re-  
25                   certification of some or all business scenarios. A determination as to the need



1 for re-certification will be made by the Qwest coordinator in conjunction with  
2 the Release Manager of each Release.<sup>33</sup>

3 To support her allegation, Ms. Johnson cites the EDI Implementation Guidelines for  
4 Release 19.2, which *only applied* to Release 19.2 of IMA.<sup>34</sup> Furthermore, the provisions  
5 cited by Ms. Johnson provide: “. . . Controlled Production is not required on any EDI  
6 transaction that successfully completed Controlled Production testing *in a prior*  
7 *release.*”<sup>35</sup> The issue here is with new releases, such as IMA Release 20.0, that require  
8 controlled production testing. As I stated in my direct testimony, the language in this  
9 section of the contract concerns Eschelon’s obligations for testing its computer  
10 connections to Qwest’s systems. It is not up to Eschelon to determine what testing is  
11 required. It is important to note that testing is required to ensure that when Eschelon’s  
12 systems communicate with Qwest’s systems, those communications do not have a  
13 negative impact on Qwest’s systems, and by extension, other companies that are using  
14 Qwest’s systems. When changes are made to Qwest’s systems, such as changes  
15 requested by CMP participants, only Qwest, as the owner of its systems, is in a position  
16 to determine what testing is required in order to establish that other companies’ interfaces  
17 with Qwest are working properly.

18 **Q. DOES VERSION 19.2 OF THE EDI IMPLEMENTATION GUIDELINES UPON**  
19 **WHICH MS. JOHNSON RELIES ANTICIPATE THE NEED FOR**  
20 **CONTROLLED PRODUCTION TESTING, EVEN FOR TRANSACTIONS FOR**  
21 **WHICH THE CLEC HAS ALREADY BEEN CERTIFIED?**

---

<sup>33</sup> Exhibit Qwest/2, the CMP Document, Section 11.0. (Emphasis added.)

<sup>34</sup> Johnson Direct Testimony, p. 95.

<sup>35</sup> *Id.* (Emphasis added.)

1 A. Yes. Just below the language quoted by Ms. Johnson on page 48 of the guidelines is the  
2 following statement:

3  
4 At the time a CLEC migrates to a new release, any transaction(s) that the CLEC  
5 does not yet have in production using a current IMA EDI version is considered to  
6 be a new implementation effort. These transactions must be implemented using  
7 all Phases of the implementation lifecycle as defined in this document. **In some**  
8 **releases, existing transactions are updated with significant additions that add**  
9 **business rules and/or large map changes. If the CLEC intends to use the new**  
10 **functionality, they will be required to perform a new product**  
11 **implementation of this transaction. This will entail Progression Testing and**  
12 **Controlled Production submittal of scenarios that reflect the new**  
13 **functionality. CLECs not intending to use the new functionality will be**  
14 **allowed to recertify existing functionality that is still available in the new**  
15 **release.**<sup>36</sup>

16 The bolded language clearly anticipates the need for controlled production testing due to  
17 significant changes in a release. That is what took place in IMA Release 20.

18 **Q. IS IT VALID TO ASSUME THAT THE TESTING THAT IS REQUIRED TODAY**  
19 **WILL BE SUFFICIENT TO MEET TESTING NEEDS IN THE FUTURE?**

20 A. No. Qwest's systems are constantly changing and evolving. Eschelon is well aware of  
21 this fact. As of November 30, 2006, Eschelon has submitted 136 systems change  
22 requests to Qwest. Other CLECs have submitted 311 systems change requests in the  
23 same time period. In addition, Qwest itself has submitted 283 systems change requests.  
24 Many of Qwest's systems change requests have been made in response to industry  
25 changes in standards for electronic order processing. For example, the industry has  
26 recently determined that ILECs and CLECs should use a different communications  
27 protocol for the processing of orders, known as XML.

28 **Q. MUST ALL SYSTEMS CHANGES BE TESTED?**

29 A. Yes. At a minimum, to ensure that it can continue to provide consistent and reliable  
30 service, Qwest must test every change to Qwest's systems before implementing changes.

---

<sup>36</sup> EDI Implementation Guidelines Release 19.2, p. 48. (Emphasis added.)

1 Every time a systems change request is implemented through the CMP, Qwest must  
2 analyze the change and determine what testing will be required to ensure that CLEC  
3 orders will enter Qwest's systems properly for processing. Qwest must have the  
4 flexibility to require additional testing from CLECs if such testing is warranted.  
5 Eschelon would have this Commission tie Qwest's hands and allow Eschelon to decide  
6 whether or not it agrees to additional testing requirements.

7 **Q. WHO IS IN THE BEST POSITION TO DETERMINE THE RISK OF**  
8 **FOREGOING CONTROLLED PRODUCTION TESTING?**

9 A. The owner of the electronic interface (IMA) and the downstream systems that the  
10 electronic interface accesses is in the best position to make that determination. Qwest is  
11 the only party in a position to know what testing is required to verify that an application  
12 modification is working properly.

13 **Q. DOES THE CERTIFICATION PROCESS DETERMINE WHETHER A CLEC**  
14 **HAS ACCESS TO QWEST'S OSS VIA A COMPUTER-TO-COMPUTER**  
15 **INTERFACE?**

16 A. Yes. In order for a CLEC to use the computer-to-computer interface provided by Qwest  
17 to access its OSS (whether it is IMA EDI or IMA XML), that CLEC must complete the  
18 certification process. If it does not wish to complete the certification process, the CLEC  
19 may not use Qwest's computer-to-computer interface to submit its orders. That does not,  
20 however, mean that orders cannot be submitted electronically. The CLEC still has the  
21 alternative of using Qwest's human-to-computer electronic interface, known as IMA  
22 GUI.

23 **Q. MS. JOHNSON CLAIMS ON PAGE 102 OF HER TESTIMONY THAT QWEST**  
24 **IS TRYING TO RESERVE THE RIGHT TO IMPOSE UNNECESSARY**  
25 **TESTING, AND THUS THE COST OF UNNECESSARY TESTING, ON**

1       **ESCHELON. IS THAT ACCURATE?**

2       A.    No. When Qwest determines that testing is required, the testing is necessary. The cost of  
3       testing, both to Qwest and to Eschelon, is part of the cost of doing business with  
4       computer-to-computer transactions. All parties have an interest in ensuring that these  
5       transactions will be processed correctly and in a way that minimizes costs. Qwest incurs  
6       costs as well when controlled production testing is required, because this phase of testing  
7       is a joint effort involving personnel from both Qwest and the CLEC. When the CLEC  
8       submits transactions into production during this phase of testing, Qwest personnel  
9       actively monitor these transactions as they proceed through Qwest systems. When Qwest  
10       determines that controlled production testing is required, Qwest has determined that the  
11       risk of foregoing testing outweighs the cost of conducting the tests. Significantly,  
12       Qwest's own costs are multiplied by the number of CLECs that must conduct controlled  
13       production testing, since each such test requires the participation of Qwest personnel.  
14       But Qwest is willing to bear these costs, as Qwest has determined that the risk of  
15       insufficient testing far outweighs the cost of conducting these tests.

16       **Q.    DO UPDATES TO EXISTING SYSTEMS REQUIRE LESS RIGOROUS**  
17       **TESTING?**

18       A.    No, not every time. The move from IMA Release 19.2 to IMA Release 20.0 is a prime  
19       example. The underlying architecture of IMA Release 20.0 is changing from EDI to  
20       XML. This is such a significant change that Qwest is treating this as a new  
21       implementation that requires controlled production testing for all CLECs who wish to  
22       move to this release of IMA. Ms. Johnson cites provisions in the EDI Implementation  
23       Guidelines for IMA Release 19.2. The provisions of that Implementation Guideline have  
24       no bearing on IMA Release 20.0. But if Eschelon's proposed language for controlled  
25       production testing were in place today, Eschelon could then argue that it would not be  
26       required to perform controlled production testing for IMA Release 20.0, even though all

1 other CLECs are required to do so and the reasons for undertaking the testing are well-  
2 founded and critical.

3 **Q. MS. JOHNSON MENTIONS ON PAGE 101 OF HER DIRECT TESTIMONY**  
4 **THAT THE IMA IMPLEMENTATION GUIDELINE DOCUMENT IS NOT**  
5 **UNDER CMP CONTROL. IS THERE ANY REASON THAT IT SHOULD BE?**

6 A. No. The Implementation Guidelines are written by Qwest's Information Technologies  
7 department as an explanation of Qwest's requirements for CLEC use of its computer-to-  
8 computer interfaces. Only Qwest can determine the requirements for use of these  
9 interfaces.

10 **Q. MS. JOHNSON CITES EXHIBIT ESCHELON/119, WHICH CONSISTS OF**  
11 **EXCERPTS OF CMP REDESIGN MEETING MINUTES AS SUPPORTING**  
12 **ESCHELON'S CONTENTION THAT THE EDI IMPLEMENTATION**  
13 **GUIDELINES SHOULD BE UNDER CMP SUPERVISION.<sup>37</sup> DO THE CITED**  
14 **MINUTES SUPPORT MS. JOHNSON'S CONTENTION?**

15 A. No, Exhibit Eschelon/119 does not provide support for Ms. Johnson's argument. The  
16 commitment made in the CMP Redesign Meeting was that changes to Qwest's systems  
17 would be made under CMP supervision. That is what happens today in the form of  
18 systems change requests, as described elsewhere in this testimony and in my direct  
19 testimony. The statement in the minutes reflects that such changes will be documented in  
20 all relevant systems documentation, including the EDI Implementation Guidelines. There  
21 is no statement to suggest that these systems documents will also be placed under CMP  
22 supervision.

23 **Q. ESCHELON HAS MADE AN ADDITIONAL PROPOSAL FOR THIS**  
24 **LANGUAGE THAT IT BELIEVES SHOULD ALLEVIATE QWEST'S**

---

<sup>37</sup> Exhibit Eschelon/43, Johnson Direct Testimony, at p. 101.

1           **CONCERN REGARDING CONTROLLED PRODUCTION TESTING. DOES**  
2           **THE NEW PROPOSAL ALLEVIATE QWEST’S CONCERNS?**

3           A.     No. Eschelon has made the following proposal:

4                     12.6.9.4 Controlled Production – Qwest and CLEC will perform controlled  
5                     production **for new implementations, such as new products, and as otherwise**  
6                     **mutually agreed by the Parties.** The controlled production process is designed  
7                     to validate the ability of CLEC to transmit EDI data that completely meets X12  
8                     (or mutually agreed upon substitute) standards definitions and complies with all  
9                     Qwest business rules. Controlled production consists of the controlled  
10                    submission of actual CLEC production requests to the Qwest production  
11                    environment. Qwest treats these pre-order queries and orders as production pre-  
12                    order and order transactions. Qwest and CLEC use controlled production results  
13                    to determine operational readiness. Controlled production requires the use of  
14                    valid account and order data. All certification orders are considered to be live  
15                    orders and will be provisioned.

16           The problem with Eschelon’s new proposal is that it specifically indicates that controlled  
17           production testing is required for new products and activity types, but then the language  
18           leaves it up to the parties to agree if controlled production testing will take place in other  
19           circumstances. Under Eschelon’s proposal, Eschelon could claim that it has the right to  
20           negotiate controlled production testing for IMA Release 20.0. It has not been Qwest’s  
21           practice to negotiate controlled production testing.

22           **Q.     MS. JOHNSON ARGUES THAT ESCHELON’S PROPOSED LANGUAGE DOES**  
23           **NOT REPRESENT A “THREAT TO THE INDUSTRY AT LARGE” BECAUSE**  
24           **QWEST PERMITS CLECs TO FOREGO TESTING IN SOME**  
25           **CIRCUMSTANCES.<sup>38</sup> PLEASE RESPOND.**

26           A.     Ms. Johnson’s logic does not make sense. As I stated above, Qwest makes the  
27           determination of testing requirements for every release of IMA. If Qwest determines that  
28           in certain circumstances controlled production testing is not required for that specific  
29           release, such as Release 19.2 cited by Ms. Johnson, that determination only applies to that

---

<sup>38</sup> Exhibit Eschelon/43, Johnson Direct Testimony, at pp. 101-102.

1 given release. Qwest, however, has determined that controlled production testing is  
2 required for IMA Release 20.0.<sup>39</sup> Qwest has made that determination based on the  
3 significant changes in that release and to ensure the security and integrity of Qwest's OSS  
4 for all who use them, including CLECs.

5 **Q. WHAT IS ESCHELON SEEKING VIA ITS LANGUAGE PROPOSALS FOR**  
6 **CONTROLLED PRODUCTION TESTING?**

7 A. Eschelon is seeking to change Qwest procedures via its contract, thus bypassing the  
8 CMP, the industry forum established for process, procedure and systems changes.  
9 Eschelon is also seeking special treatment not afforded to other CLECs.

10 **Q. WHICH LANGUAGE SHOULD THIS COMMISSION ADOPT FOR ISSUE 12-**  
11 **83?**

12 A. This Commission should adopt Qwest's proposed language for Issue 12-83 to give Qwest  
13 the ability to determine testing requirements as needed to ensure that Qwest's electronic  
14 interfaces function proper

---

<sup>39</sup> The IMA XML Implementation Guidelines for IMA Release 20.0 can be found at <http://www.qwest.com/wholesale/ima/edi/>. The minimum testing requirements for this release of IMA are found in Appendix C on page 64.

1 **XII. CONCLUSION**

2 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

3 A. This Commission faces a clear choice with respect to the relationship between the CMP  
4 and the interconnection agreement. Eschelon proposes locking procedures in place  
5 through the parties' ICA and requiring interconnection agreement amendments to change  
6 those obligations.

7 Qwest sees many disadvantages to this approach. First, and most importantly, it creates  
8 the potential for Qwest to face inconsistent obligations for its CLEC customers. While  
9 theoretically there is no problem with such an approach, applying it in the real world is  
10 extremely difficult and burdensome. Thousands of Qwest employees serve hundreds of  
11 CLECs in multiple states every day. Requiring those employees to handle identical  
12 requests under different rules for different CLECs is inefficient, creates more possibility  
13 for error, and creates the risk of discriminatory treatment for CLECs. History has shown  
14 that standardized processes allow Qwest to provide high-quality service to CLECs.

15 Qwest could attempt to deal with this issue of inconsistent obligations by changing its  
16 processes for all CLECs to reflect Eschelon's proposals, but such an effort would be  
17 cumbersome, would lead to confusion, and would create problems where Eschelon has  
18 requested a process that other CLECs do not want. In effect, Eschelon would then be  
19 controlling the process for all CLECs. Neither of the two alternatives described above  
20 make for good policy.

21 A second primary problem with Eschelon's proposals is that they freeze processes in time  
22 in an industry that is rapidly evolving. Many changes have occurred to Qwest's  
23 processes since 2001. Undoubtedly, all members of the industry will want many more  
24 changes in the future. Locking processes into interconnection agreement provisions



1 forces companies to amend hundreds of interconnection agreements in order to make a  
2 change that applies industry-wide. This burden is so large that such change would only  
3 take place in the most compelling of circumstances, and, even then, would take a very  
4 long time to complete.

5 In contrast, Qwest's proposed CMP-related language for the parties' ICA takes advantage  
6 of a process, the CMP that has proven to be effective. The CMP provides significant  
7 safeguards to CLECs in the event of disputes. It allows changes to take place without  
8 significant unnecessary administrative burdens, and it creates uniform processes that  
9 allow Qwest to provide high-quality, consistent service to its CLEC customers.

10 I urge this Commission to adopt Qwest's approach on the CMP issues.

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

12 **A.** Yes, it does.

## Open Product/Process CR PC072303-1 Detail

**Title: Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)**

CR Number	Current Status Date	Area Impacted	Products Impacted
PC072303-1	Completed 2/18/2004	Provisioning	Any product with test and accept of a circuit on a basic install and the current process applies.

**Originator:** Johnson, Bonnie

**Originator Company Name:** Eschelon

**Owner:** Martain, Jill

**Director:** Schultz, Judy

**CR PM:** Sanchez-Steinke, Linda

### Description Of Change

Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install). If a CLEC is not ready to test at the time Qwest calls on the due date, the CLEC has until 5 PM to call Qwest and test and accept the circuit. Qwest should not place the Local Service Request ("LSR") in a customer not ready jeopardy status, because the customer is ready within the required time frame.

Qwest does not provide CLECs with a specified time on the due date when testing and acceptance will take place. Testing and acceptance may occur any time before 5 pm local time. As long as the CLEC is ready to test and accept the circuit before 5pm on the due date, therefore, the customer is ready on the due date. Nonetheless, Qwest places a "CNR" jeopardy on an LSR if Qwest calls a CLEC to test and accept the circuit on the due date and the CLEC is not ready to test and accept the circuit at the time Qwest calls. Even if the CLEC communicates to Qwest that it will call Qwest back on the due date and before 5 PM local time, Qwest places the request in a CNR jeopardy status. Qwest should not use the CNR jeopardy notice for this situation. CNR is not a valid jeopardy code, because the CLEC is ready before 5pm (i.e., on the due date).. By incorrectly using the CNR jeopardy for this situation, , Qwest forces CLECs to manage CNR jeopardy notices that have no validity. Qwest is causing CLECs additional work in the CLECs workflow process for no valid reason. Qwest should change the process on issuing CNR jeopardy for this situation. Eschelon has reviewed the "C" list of jeopardy codes located in the Qwest IMA User Guide, and there is no customer jeopardy ("C" list) that applies to this situation. As a matter of fact, this situation does not present a jeopardy situation at all because the order is not in "jeopardy."

Expected Deliverable

Develop, document, and train a process to manage requests for basic install circuits in situations in which the CLEC is ready on the due date (before 5pm), although perhaps not at the first time that Qwest chooses to call.. Cease using a CNR jeopardy for the situation described above, because the customer IS ready on the due date (as the Qwest basic install definition is from 8 AM to 5 PM local time).

---

## Status History

07/23/03 - CR Submitted

07/24/03 - CR Acknowledged

07/31/03 - Held Clarification Meeting

08/20/03 - August CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

08/26/03 - Had conversation with Bonnie Johnson and would be ok with Eschelon to hold jep until 6 p.m. Mountain time

09/17/03 - September CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

10/06/03 - Held Ad Hoc Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

10/15/03 - October CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

11/19/03 - November CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

12/05/03 - Qwest issued PROS.12.05.03.F.01131.ProvisioningV29 proposed effective date 1/19/04

12/17/03 - December CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

01/02/04 - Qwest issued PROS.01.02.04.F.01222.FNL\_ProvisioningV29 CMP FINAL NOTICE on Provisioning and Installation Overview V29.0 effective 1/19/04

01/21/04 - January CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

02/18/04 - February CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

---

## Project Meetings

02/18/04 February CMP Meeting Jill Martain with Qwest said the final notice was sent on 1/2/04 and the PCAT was effective 1/19/04. Stephanie Prull asked if Qwest is holding the jep statuses in IMA. Jill said that a system CR would be required to hold jep statuses from the inquiry functionality, only the jeopardy notices were being held in IMA. This CR will be moved to Completed status.

01/21/04 January CMP Meeting Jill Martain with Qwest said that the final notice was sent 1/2/04 and was effective 1/19/04. It was agreed that this CR would move to CLEC Test status. 12/17/03 December CMP Meeting Jill Martain with Qwest said she would like to talk about this CR & PC081403-1 which are in Development (see PC081403-1 for more information). Additional information on jepoardies was discussed in the CLEC ad hoc meeting. Bonnie Johnson with Eschelon said she had received Susan's note this morning and this is not tied to the 6 p.m. jepoardies. This CR will remain in Development status.

11/19/03 November CMP Meeting Jill Martain with Qwest said that the CR is in progress and expects deployment in December 2003. This CR will remain in Development status.

Thu 10/23/03 3:06 PM From: Bonnie Johnson to: Linda Sanchez-Steinke  
Subject: RE: PC072303-1 Jeopardies Hi Linda, I have received no feedback. I perceive that to mean we are OK.

Bonnie J. Johnson Director Carrier Relations Eschelon Telecom, Inc. Phone 612 436-6218 Fax 612 436-6318 Cell 612 743-6724

Thu 10/23/03 2:18 PM From: Linda Sanchez-Steinke To: Bonnie Johnson  
Subject: PC072303-1 Jeopardies Hi Bonnie -

I wanted to follow up with you and find out if any CLECs provided feedback to you about holding jeopardies (those listed in the supplemental information included in the CR) until 6 p.m. Mountain time.

Would you let me know if you have received feedback from companies that did not want to move forward with the proposal?

Thank you

Linda Sanchez-Steinke CRPM Qwest 303-965-0972

10/15/03 October CMP Meeting Phyllis Sunins with Qwest said that we held an ad hoc meeting last week and at the meeting the CLECs agreed to hold jeopardy notifications until 6 p.m. Mountain time. Qwest expects to implement this change in December 2003. Jill Martain will open a Qwest initiated CR to review the jeopardy process. Bonnie Johnson with Eschelon said that at the ad hoc meeting CLECs were given time to review the list of jeopardy codes and hasn't received negative feedback from any CLECs. Bonnie will call Linda Sanchez-Steinke next week if she does receive feedback from CLECs that do not want jeopardy notification held until 6 p.m. Mountain time. Phyllis added that she is doing a study of August jeopardy data. Liz Balvin with MCI needs additional definition of C31 and C34 jeopardy codes. Phyllis said that Eschelon had asked for additional documentation around jeopardy codes and the documentation will be available at the end of the month. Liz said she would wait for the documentation to be distributed and will submit comments. This CR will remain in Development status.

Ad Hoc Meeting Minutes PC072303-1 October 6, 2003 1-877-572-8687,  
Conference ID 3393947# 10:00 a.m. - 10:30 a.m. Mountain Time

List of Attendees: Lori Mendoza - Allegiance Donna Osborne-Miller - AT&T Regina Mosley - AT&T Phyllis Burt - AT&T Ann Adkisson - AT&T Carla Pardee - AT&T Julie Pikar - U S Link Jen Arnold - U S Link Kim Isaacs - Eschelon Bonnie Johnson - Eschelon Jeanne Whisenant - Qwest Lori Dalton - Qwest Dave Hahn - Qwest Jill Martain - Qwest Phyllis Sunins - Qwest Deny Toye - Qwest Russ Urevig - Qwest Linda Sanchez-Steinke - Qwest

The meeting began with Qwest making introductions and welcoming all attendees. Linda Sanchez-Steinke with Qwest explained that the purpose of the meeting was to discuss CR PC072303-1 and synergies between PC081403-1.

Jill Martain with Qwest explained the attachment to the notification for the ad hoc meeting is a list of jeopardy types, other than "C" type jeopardies, that Qwest proposes be sent at 6 p.m. Mountain time. Jill further explained that the proposal eliminates sending jeopardy notifications for situation that are identified early in the day but later resolved by Qwest on the same date. Bonnie Johnson with Eschelon said there were a lot of duplicate jeopardies for weather / work force and asked for further explanation. Jill explained that Qwest tracks internally the jeopardies by work group and the work groups are identified by the letter codes. Deny Toye with Qwest said that the "B" jeps are central office and "C" jeps are customer jeps.

Jill asked if it would cause a problem to send the jeopardies listed on the spreadsheet at 6 p.m. Mountain time. Bonnie said that CLECs would be left hanging and it would be too late to contact the customer if didn't receive them until 6 p.m. Deny said that when Qwest gets to the due date that we make a call and the CLEC would have been notified via telephone call if placing the order in jeopardy. Bonnie said that helped to know that CLECs will get a call on the due date if the order is in jeopardy and then they can call customers. Deny will check all products that Qwest makes a telephone call on due date if the order is placed in jeopardy. Jill said that she will submit an additional CR to re-address the jeopardy process.

Kim Isaacs said that she has submitted a documentation request asking for additional explanation of jeopardy meaning.

Lori Mendoza will get input from Allegiance, Donna Osborne-Miller will get input from AT&T, Bonnie said she would send something out to the community asking for additional input. Linda asked if there were any additional questions. No questions were asked and Linda said that we would discuss this CR at the October CMP meeting.

09/17/03 September CMP Meeting Jill Martain with Qwest said that Qwest accepts this CR and will be making changes to a backend system to hold CNR jeopardies until 6 p.m. Mountain time. The targeted date for implementation is December 2003. Jill explained that Qwest would like to expand holding all jeopardies sent mechanically except with unbundled loop before FOC, for conditioning and facility reasons. Bonnie Johnson with Eschelon said she was not sure if they could be acting on those and if they would agree to hold until 6 p.m. There will be an ad hoc meeting scheduled and Jill will provide a list of jeps to be considered with the notification. This CR was moved to Development status.

08/20/03 - August CMP Meeting Bonnie Johnson with Eschelon presented this CR. Bonnie explained that Eschelon is asking that the circuit not be put into CNR status until 5 p.m. local time on the due date. Lori Mendoza with Allegiance supports this CR. Lori asked if Bonnie included in the CR the situation when the customer is not able to stay late when there is a Qwest problem. Bonnie said that in those situations, it would not be

appropriate to put the order in CNR status. This CR will be moved to Presented status.

#### CLEC Change Request Clarification Meeting

8:15 a.m. (MDT) / Thursday, July 31, 2003

1-877-572-8687 3393947# PC072303-1 Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)

Name/Company: Bonnie Johnson, Eschelon Kim Isaacs, Eschelon Stephanie Prull, McLeod Liz Balvin, MCI Sharon Van Meter, AT&T Mike Zulevic, Covad Denny Graham, Qwest Jeanne Whisenant, Qwest Linda Sanchez-Steinke, Qwest

Introduction of Attendees Introduction of participants on the conference call was made and the purpose of the call discussed. Review Requested (Description of) Change Linda read the description of change from the CR submitted by Eschelon; Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install). If a CLEC is not ready to test at the time Qwest calls on the due date, the CLEC has until 5 PM to call Qwest and test and accept the circuit. Qwest should not place the Local Service Request ("LSR") in a customer not ready jeopardy status, because the customer is ready within the required time frame.

Qwest does not provide CLECs with a specified time on the due date when testing and acceptance will take place. Testing and acceptance may occur any time before 5 pm local time. As long as the CLEC is ready to test and accept the circuit before 5pm on the due date, therefore, the customer is ready on the due date. Nonetheless, Qwest places a "CNR" jeopardy on an LSR if Qwest calls a CLEC to test and accept the circuit on the due date and the CLEC is not ready to test and accept the circuit at the time Qwest calls. Even if the CLEC communicates to Qwest that it will call Qwest back on the due date and before 5 PM local time, Qwest places the request in a CNR jeopardy status. Qwest should not use the CNR jeopardy notice for this situation. CNR is not a valid jeopardy code, because the CLEC is ready before 5pm (i.e., on the due date).. By incorrectly using the CNR jeopardy for this situation, , Qwest forces CLECs to manage CNR jeopardy notices that have no validity. Qwest is causing CLECs additional work in the CLECs workflow process for no valid reason. Qwest should change the process on issuing CNR jeopardy for this situation. Eschelon has reviewed the "C" list of jeopardy codes located in the Qwest IMA User Guide, and there is no customer jeopardy ("C" list) that applies to this situation. As a matter of fact, this situation does not present a jeopardy situation at all because the order is not in "jeopardy."

Jeanne Whisenant with Qwest asked if this CR was for all orders sent through IMA. Bonnie Johnson with Eschelon answered yes this is for LSRs sent through IMA where the CNR process applies, and said Eschelon issues private line and LIS trunking orders on ASR. Jeanne explained the ASR process is manual and that CNR letters are sent by the SDC on due date and no longer than 2 business days after the due date. Bonnie said this CR doesn't apply to orders submitted via ASR because it is not an automated process.

Liz Balvin with MCI said she supports this change request, and said that MCI may not meet the time when Qwest initially calls but will get back to Qwest by the end of the day.

Sharon Van Meter with AT&T also supports this CR.

Confirm Areas & Products Impacted The area of this Change Request impacts orders submitted via LSR where CNR process applies.

Confirm Right Personnel Involved Qwest confirmed the correct personnel were on the call to resolve the CR.

Identify/Confirm CLEC's Expectation Develop a process where the jeopardy notice will not be sent by Qwest before 5 p.m. local time on the due date.

Identify any Dependent Systems Change Requests No systems change requests.

Establish Action Plan (Resolution Time Frame) Eschelon will present this CR at the August CMP meeting.

---

## **QWEST Response**

September 9, 2003

DRAFT RESPONSE

For Review by the CLEC Community and Discussion at the September 17, 2003 CMP Meeting

Bonnie Johnson Eschelon

SUBJECT: Qwest's Change Request Response - PC072303-1 Customer Not Ready ("CNR") jeopardy notice should not be sent by Qwest to CLECs before 5 PM local time on the due date (for basic install)."

QWEST Response:

Qwest accepts this change requested by Eschelon, however, a back end system change will be required to hold the CNR jeopardy notifications until 6 PM Mountain time. This system change is due to the fact that Qwest put mechanization in place previously to provide timely jeopardy notification to our CLEC community.

Qwest has targeted this process change to take place in December 2003 and will provide notification to the CLEC Community.

Sincerely,

Jill Martain Manager Process Management

---

[<Back](#)

---

Information Current as of 11/27/2006

## Open Product/Process CR PC081403-1 Detail

**Title: Jeopardy Notification Process Changes (new title). Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends an updated FOC (old title).**

CR Number	Current Status Date	Area Impacted	Products Impacted
PC081403-1	Completed 7/21/2004	Provisioning	Private Line, Resale, Unbundled Loop, EEL (UNE-C), UNE-P

**Originator:** Johnson, Bonnie

**Originator Company Name:** Eschelon

**Owner:** Sunins, Phyllis

**Director:** Bliss, Susan

**CR PM:** Harlan, Cindy

### Description Of Change

Changed the description of this CR as a result of synergies with PC072303-1. During the October 15 CMP meeting we discussed whether we should close/leave open/ or update CR PC081403-1 'Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order'. The reason we wanted to close/leave open or update PC081403-1 is because PC072303-1 is meeting many of the needs. Bonnie Johnson agreed to change this CR, as long as we retained the original CR description.

\*\*\*\*\*

Change Jeopardy Notices sent on DVA and PTD for Designed Services

After analysis of Due Dates that are being missed when jeopardy

notices are sent prior to the Due Date, Qwest is proposing that only

specific jeopardy conditions be sent to the CLEC on the critical date of DVA

and PTD. On DVA, Qwest would prefer to only send jeopardy notices for

facility and plug-in issues. The jeopardy codes would be those that start

with a "K" (facility reasons) or on a jeopardy code of V25 (PICS/BRI

plug-ins required.) For the critical date of PTD, Qwest would continue to

send all jeopardy notices except those that end in "33" (work force issues)

i.e., B33, E33, P33. The reason for eliminating the "33" jeopardy code is

due to the fact that Qwest is not missing Due Dates for this reason and is



causing unnecessary jeopardy notices being sent to the CLEC. Along with these proposed changes, Qwest would also like to hear suggestions from the CLEC community any changes they feel would benefit the overall jeopardy notification process. Changes being implemented with PC072303-01, Expanding the Jeopardy Notifications to 6 p.m. Mountain Time are also helping the overall jeopardy process.

Expected Deliverable:

Change the jeopardy notification process to reduce unnecessary jeopardy notices being sent to the CLEC when the Due Date is not in jeopardy and to improve the overall jeopardy notification process.

\*\*\*\*\*

Qwest will contact the CLEC to test and accept only after the updated FOC has been sent and a designated time frame has passed. Qwest will not put the order in a CNR (customer not ready) jeopardy status until this time frame has passed and the CLEC is not ready.

When Qwest puts a CLECs request in delayed for facilities jeopardy status, Qwest should be required to send the CLEC an updated FOC when the delayed order is released and allow the CLEC a reasonable time frame to prepare to accept the circuit. Qwest releases orders form a held status (in some cases the CLEC has not even received an updated FOC) and immediately contacts the CLEC to accept the circuit. Because Qwest does not allow the CLEC a reasonable amount of time to prepare for the release of the delayed order, the CLEC may not be ready when Qwest calls to test with the CLEC. Qwest then places the request in a CNR jeopardy status. Qwest should modify the Delayed order process, to require Qwest to send an updated FOC and then allow a reasonable amount of time for the CLEC to react and prepare to accept the circuit before contacting the CLEC for testing.

Expected Deliverable:

Qwest will modify, document and train a process, that requires Qwest to send an updated FOC and allow a CLEC a reasonable amount of time (from the time the updated FOC is sent) to prepare for testing before Qwest contacts the CLEC to test and accept the circuit. Qwest should cease applying a jeopardy status of CNR to delayed orders that are released and the CLEC has not been provided a reasonable amount of time to prepare to test/accept the circuit.

This should apply to all orders where the delayed order process is followed and testing is required.

### Status History

Date	Action	Description
8/14/2003		CR Submitted
8/15/2003		CR Acknowledged
8/19/2003		LWTC for Bonnie regarding Clarification Meeting
8/26/2003		Held Clarification Call
9/17/2003		Sep CMP meeting minutes will be posted to the database
10/6/2003		Held CLEC Ad Hoc call to discuss synergys between this CR and PC072303-1
10/8/2003		Sent response to CLEC
10/10/2003		Sent email to Bonnie to request change of statusto withdraw due to syncergy's with other CR PC072303-1

10/13/2003	Bonnie advised she would like to keep open and reference PC072303-1 and Jill's new CR when it is issued
10/15/2003	Oct CMP meeting minutes will be posted to the project meeting section
10/30/2003	Changed the description of this CR as a result of synergies with PC072303-1. During the October 15 CMP meeting we discussed whether we should close/leave open/ or update CR PC081403-1 'Delayed order process modified to allow the CLEC a designated time frame to respond to a released delayed order'. The reason we wanted to close/leave open or update PC081403-1 is because PC072303-1 is meeting many of the needs. Bonnie Johnson agreed to change this CR, as long as we retained the original CR description.
11/19/2003	Nov CMP meeting minutes will be posted to the database
12/1/2003	Scheduled CLEC ad hoc meeting for 12/8/03 to review jep codes/content
12/5/2003	CMPR.12.05.03.F.01144.JeopardyProcessHandout
12/8/2003	Held ad hoc meeting to review jep codes / content
12/17/2003	Dec CMP Meeting notes will be posted to the database
1/21/2003	Jan CMP meeting minutes will be posted to the database
2/18/2004	Feb CMP Meeting notes will be posted to the project meeting section
3/4/2004	Held ad hoc meeting with CLECs
3/17/2004	March CMP meeting notes will be posted to the project meeting section
4/12/2004	Sent document to document review site
4/21/2004	April CMP meeting notes will be posted to the project meeting section
5/19/2004	May CMP Meeting notes will be posted to the project meeting section
6/16/2004	June CMP Meeting notes will be posted to the project meeting section
7/21/2004	July CMP Meeting notes will be posted to the project meeting section

## Project Meetings

July 21, 2004 CMP Meeting notes: Cindy Macy – Qwest advised that this CR was implemented May 27. Qwest would like to close this CR. Bonnie Johnson – Eschelon advised she is having a problem with compliance to this process. Bonnie asked if there is additional work going on for this CR? Jill advised we put the process in place to identify and work critical jeopardy codes so the CLECs do not have to worry about the interim jeopardy codes. In addition the process includes providing additional details on the jeopardy within 72 hours if we are not able to send an FOC within that time frame. Jill Martain – Qwest asked if this is a compliance issue or a process problem. Bonnie said it is hard to determine at times, but she is willing to close this CR and handle the compliance issue with the Service Manager. The CLECs agreed to close the CR.

June 16, 2004 CMP Meeting notes: Cindy Macy – Qwest advised this

process was implemented May 27. No comments came in for this CR. We would like to move this CR to CLEC Test Status.

May 19, 2004 CMP Meeting notes: Cindy Macy – Qwest advised this process will be implemented May 27. No comments were received. Cindy thanked Phyllis Sunins and Jill Martain for all of their work on this CR. Qwest held several input sessions with the CLECs to work out issues prior to releasing the documentation. This CR will remain in Development Status.

April 21, 2004 CMP Meeting notes: Phyllis Sunins – Qwest advised that the updates to the documentation have posted to the documentation site. The comment cycle is open with customer feedback due by April 27. This CR will remain in Development Status.

March 17, 2004 CMP Meeting notes: Agreement was reached that the initial jeopardy notice would continue to be sent as documented (based on current system functionality). Qwest proposed that an updated Jeopardy Notification with additional detailed remarks would be sent within 72 hrs from when the Initial Jeopardy was sent if a solution to the delayed condition has not been reached. The proposal means that within 72 hrs from the initial Jeopardy Notification, the CLEC will receive one of the following: 1. FOC confirming original Due Date 2. FOC confirming revised Due Date based on Network resolution of the Jeopardy condition including details on the delay. 3) An "updated" Jeopardy Notification with more specific details of the Jeopardy condition. An FOC will follow when the revised Due Date has been determined.

In addition, Qwest will discontinue critical date jeopardy notifications and continue due date jeopardy notifications. (Critical date jeopardy notifications will still go out until a system enhancement can be made to change this, but the CLECs can disregard them). Phyllis will revise the PCAT to identify jeopardy codes where "The Due Date is in Jeopardy" (YES/NO) so that you can ignore "Critical Date" Jeopardy Codes that do not impact the Due Date until a separate enhancement can be made. The PCAT update has been forwarded to the external documentation team. Bonnie Johnson – Eschelon stated that she wants to make sure that we get documentation to support the process that an FOC must be sent before a customer not ready jeopardy occurs. Phyllis advised she is still working on this issue with an interdepartmental team. Phyllis advised that Jean Novak – Service Manager has had meetings with Network to respond to the examples that Eschelon forwarded as "inaccurate Jeopardy Notices and is still working on the issue. Jean is working on 'inaccurate jeopardy notices' and Phyllis is working on 'when you don't get an FOC'. Bonnie Johnson advised Qwest can contact us anytime during the day to accept the service. If we are contacted after 5PM we don't want the jeopardy to be considered a customer not ready. Bonnie advised she wants this information in the PCAT. This CR will stay in Development Status.

PC081403-1 Jeopardy Notification Process Ad hoc meeting March 4, 2004

In attendance: Kim Isaacs – Eschelon Phyllis Sunins – Qwest Julie Pickard – US Link Bonnie Johnson – Eschelon Regina Mosely – ATT Cheryl Peterson – ATT Phyllis Burt – ATT Carla Pardee – ATT Jill Martain – Qwest Jim McClusky – Accenture Donna Osborne Miller – ATT Peggy Rehn – New Start Stephanie Prull – Eschelon

Cindy Macy – Qwest opened the call and reviewed the agenda items. Phyllis Sunins – Qwest thanked Kim Isaacs – Eschelon for providing examples that Phyllis investigated. Phyllis asked if the CLECs had the chance to review the documentation and if they had any questions.

Bonnie Johnson – Eschelon said she reviewed the documentation and summarized the changes. Bonnie verified that Qwest is proposing to omit critical jeopardy notifications, but not due date impacting jeopardy notifications. All of the CLECs agreed to this change as previous meetings so this change is okay to implement.

Bonnie asked if the mechanical notifications are the ones that will not be updated with additional information. Phyllis advised that it could be a manual notification also, as the same notification goes out, it is just that the process is manual.

Phyllis explained we could send additional information on the updated notification. Qwest does not always have enough information when we first determine a jeopardy condition. If we try to provide more information in the beginning, the chances are that the information will not be very accurate. We do not want to convey a service issue if it really isn't a problem. Phyllis advised Qwest would send additional information within 72 hours.

Bonnie confirmed that the CLEC should always receive the FOC before the due date. Phyllis agreed, and confirmed that Qwest cannot expect the CLEC to be ready for the service if we haven't notified you. Bonnie asked about the CNR in error? (When the CLEC has gotten a CNR without a FOC). Jill Martain – Qwest advised that we believe eliminating the 'critical date' jeopardies will take care of the bulk of the problem with CNR jeopardies.

Jill advised this solution would be implemented in two phases. The CLECs will get jeopardy notices, but you can ignore the 'critical date' jeopardy notices. These jeopardies are identified on the matrix that Phyllis put together. System changes are needed to stop these jeopardies and that will take awhile to get implemented. We would like to implement this process and monitor the impact and see if it has reduced the number of issues.

Cindy Macy – Qwest asked how will the CLECs know which jeopardy codes to ignore? Jill and Phyllis asked for the CLECs preference to how they would like this identified on the matrix. Agreement was reached to add a column to the matrix (3rd column) and call it 'Due Dates in Jeopardy'.

Phyllis Burt – ATT asked if these codes are going away and we wouldn't see them on the order. Phyllis – Qwest advised these are not due date impacting codes, they are interim steps before the due date. These codes will not go away until the system changes can be made. The CLECs do not need to take action on these codes.

Bonnie Johnson – Eschelon asked Stephanie about the EDI impacts. Can we ignore these or do we have to change any code? Stephanie said so far it seems as if this will work for us.

Bonnie confirmed that Qwest would provide additional information on Jeopardies within 72 hours from distribution of the initial jeopardy notification. Jill agreed and summarized that we will publish the process as a Level 3 with a comment cycle. If the CLECs need to meet again before we publish the document please advise Cindy Macy. The CLECs should monitor the process after it is implemented to determine if it has improved.

Next steps: Publish documentation Level 3.

February 18, 2004 CMP Meeting Phyllis Sunins – Qwest advised that she is working with Kim Isaacs – Eschelon and analyzing some examples that

were sent in. Qwest did find a few process compliance examples that are being addressed. Cindy Macy – Qwest will provide a document to address Eschelon's examples and this will be reviewed during the ad hoc meeting the first week in March. This CR will remain in Development Status.

#### Ad Hoc Call January 23, 2004 PC081403-1 Jeopardy Process

In attendance: Liz Balvin – MCI Karen Severson – Telephone Associates  
Kim Isaacs – Eschelon Phyllis Sunins – Qwest Jill Martain – Qwest  
Stephanie Prull – Eschelon Trudy Hughs – Idea One Shirley Richard – Idea  
One Rosie Glastell – Idea One Bonnie Johnson – Eschelon Colleen  
Sponseller – MCI Mary Hunt – MCI Carla Pardee – ATT Linda Sanchez-  
Steinke – Qwest Cindy Macy – Qwest Nancy Sanders – Comcast

Cindy Macy – Qwest opened the call and reviewed the agenda. Cindy advised that we will discuss providing more detail on Jep Notices, review the improvements as a result of the CNR 6pm Jep CR, and discuss examples that were sent in regarding subsequent FOC not sent.

Jill Martain reviewed the agenda and advised that Phyllis Sunins will provide additional details regarding the work that has been completed. Phyllis will share where we have been, where we are and where we want to go with this CR.

Phyllis began the discussion and asked the CLECs how the jeopardy notification process change to 6pm is going? Kim Isaacs – Eschelon advised she had gathered a couple weeks worth of data. It does appear there has been an effect. The impact is not as great as she thought it would be, but they will continue to monitor the change. Kim explained she noticed an interesting situation and Eschelon saw that quite a few sups of due date, then FOC on due date and then Jep on sup. Kim will send examples to Phyllis to investigate.

Rosemary – Idea One asked why is Qwest holding the jep until 6 PM. Phyllis explained a CR was issued to implement a new process. Effective with the new process a jeopardy notification is not sent when a jeopardy condition is cleared the same day by 6 PM. Kim Isaacs – Eschelon advised this process is only on mechanized jeps, not manual jeps.

Phyllis said the next topic to discuss is the request for additional wording on jeps. Phyllis explained that we can provide more detail on subsequent jeps. The first jep that goes out is considered a preliminary jep, with a preliminary view of the issue. Qwest does not know additional details until the engineer does investigation and finds out more. Our target is that within 72 hrs Qwest would either send an FOC or another jeopardy notification with additional detail. Bonnie Johnson – Eschelon advised the mechanical jeps are not detailed enough.

Phyllis advised another idea that may be possible is to use HEET, which is used on the ASR side. This is a web tool to check status on delayed orders. It may be possible to implement for LSRs. Rosemary – Idea One asked what is RTT. Phyllis advised RTT is a Referral Tracking Tool that tracks facility shortages. RTT is Engineering's database for resolving facility situations referred to them. Bonnie advised she would like to review other alternatives if HEET is not a viable solution.

Today Qwest sends jeopardy notifications for both Critical Date Jeopardies and Due Date Jeopardies. Phyllis discussed the idea of sending jeopardy notifications that would impact the Due Date only. Qwest would discontinue sending jeopardy notifications for jeopardies on Critical Dates that are cleared the same day or the next day and the Due Date is still met. As an example; Qwest sends jeopardy notifications for PICs – V25 (plug in network cards) problems. This jeopardy situation is resolved so

that the Due Date is met. Another example is Jeopardy Notifications for Work Force Issues (33's). Qwest works with our Work Forces to readjust their loads so that the Due Date is met. Bonnie Johnson – Eschelon agreed they do not want to see jeps for 'interim date' issues. If the end due date is impacted, then they need to know. Idea One and MCI supported Bonnie's comment. Phyllis confirmed that the due date jep would still happen, (Qwest could discontinue the Critical Date jeopardies which are cleared by Due Date) . If the Due Date will be missed, it is part of Qwest's Network Processes to call the CLEC on the Due Date. In addition, the CLECs will receive their jeopardy notification after 6 PM. MCI verified when the jep is sent it comes as an 865 EDI transaction, and the FOC is an 855 EDI transaction.

Bonnie advised they do want more detail on what the jep'd problem is. They need to know if it is a F1 pair, or the street needs to be dug up. She would like more detail on one jep in particular: 'Local Facility not available'. Bonnie asked when does this jep occur. What situation causes this jep to be assigned?

Phyllis discussed the two examples that Eschelon sent in. 1) One was a jeopardy notification sent for a PICs issue, no FOC was sent & then CNR. – This was an example of a Critical Date Jeopardy that would be addressed by the proposal of not sending Critical Date Jeopardy Notifications as the situation is cleared so that the Due Date can be met, thus the CLEC would expect Qwest to deliver on the Due Date.

2) The other example is a Network compliance issue, which Phyllis is working with Network to correct.

Bonnie thanked Phyllis for reviewing the examples. Bonnie advised that if they receive a CNR jep, and the CLEC has not received the FOC, they would escalate the situation. Bonnie advised they want the order worked without having to sup the order and they would like the jep lifted. Bonnie advised she would like to develop a process of how we will handle this situation when we get a CNR and didn't get the FOC.

Phyllis summarized our next steps:

Kim Isaacs will send examples to Phyllis of orders sup'd on due date

CLECs will continue to monitor 6pm jeps

Jill / Phyllis will review wording of jeps to add more detail

Bonnie brought up a concern on the time required for getting funding to implement the "Due Date only" Jeopardy notifications (from a mechanical perspective). She proposed having Qwest furnish a list of "Critical Date" jeopardy notifications which could be "disregarded on an interim basis. Phyllis will research this request. This information will be worked via the CMP process and additional meetings.

January 21, 2004 CMP Meeting Jill Martain – Qwest advised that we met with the CLECs last month and agreed to monitor the JEP process and then meet again in January to review additional information that can be put on the Jeopardy notice. We have a meeting scheduled for January 23 to discuss this further. Bonnie sent in two examples where they did not get a subsequent FOC and the order was jep'd for CNR. Bonnie advised that Qwest needs to find a way to get the FOC to the CLEC. The impact to our business is that we are forced to sup the order and take a new due date. Qwest no longer takes the hit on the held order in this situation too. Bonnie advised that Qwest needs to aggressively tackle this issue as it impacts our business, end users and held orders. It is high profile and

critical and it needs to be fixed. Jill Martain – Qwest advised we have the examples and we are prepared to talk in more detail at the Friday meeting. This CR will remain in Development Status.

- December 17, 2003 CMP Meeting Jill Martain – Qwest advised we had an ad hoc meeting to review the updated Jeopardy matrix. Jill is working with the centers to provide additional information on the Jeopardy notices. The team agreed to monitor the impact of the change to 6pm jep notices and meet again next month to review any additional changes needed and to review enhanced jeopardy description information. Bonnie Johnson – Eschelon advised she will monitor internally the impact to the change in jeopardy time frames and provide feedback at our next meeting. (Included comment from Bonnie Johnson in the following sentence). Bonnie said this CR is not related to CR to change the jeopardy to 6pm). This CR will remain in Development Status.

#### Clarification Call PC081403-1 Jeopardy Notification Process

December 8, 2003 3:00 – 4:00

In attendance: Valerie Estorga – Qwest Valerie Star – NoaNet Oregon Marty Petrowski – WAN Tel Oregon Kim Isaacs – Eschelon Anne Atkinson – ATT Jill Martain – Qwest Phyllis Burt – ATT James McClusky – Accenture Donna Osborne Miller – ATT Steph Prull – Eschelon Ray Smith – Eschelon Cheryl Peterson – ATT Carla Pardee – ATT Wayne Hart – Idaho PUC Bonnie Johnson – Eschelon Cindy Macy – Qwest

Cindy Macy – Qwest introduced the attendees and reviewed the purpose of the call. Cindy verified the attendees had the Jeopardy Notification matrix.

Jill Martain – Qwest explained we have held discussions with the CLECs in hopes of improving the jeopardy process. Jill would like to review the matrix and allow the CLECs to ask questions and voice their concerns.

Jill explained the change to send jeopardy notification at 6pm was effective over the weekend. This applies to all mechanized jeopardy codes. The intent of this change should reduce the number of jeopardies sent, as Qwest clears many jeopardies through out the day.

Jill explained there are some manual jeopardies that are not part of this process, such as C)% and SX. Based on investigation, we are looking at sending jeopardies on Facility and Plug in equipment issues. These would be K and V25 – PICS jeps. Possibility exists to eliminate all 33 work force jeps. This will allow us to reduce the number of jeps sent on certain phases of the order.

Bonnie Johnson – Eschelon said she would be glad to try this process and see what improvement it makes.

Marty – WAN Tel asked if Qwest could send more information on the jep notification. If the description / content / reason why Qwest is placing the order in jep, would help the CLEC understand and address the problem. For example, if Qwest says there are local facility issues but does not say what kind of issue, the CLEC can not take action on the issue. It is very difficult for the CLEC to find more out about the issue too. Jill agreed she would see if we could provide more detail on why the order was placed in jeopardy. Jill said if more information can be included she would try to get that implemented as soon as possible.

Bonnie Johnson – Eschelon agreed that providing adequate information on jeopardy notices is critical for the CLEC to look at alternative solutions.

Steph Prull – Eschelon asked if the process could be revised to include the correlation between the 'reason code' and the 'jeopardy detail code' on the jeopardy notice. The Disclosure document has the reason code but does not have a correlation to the jeopardy detail code. Jill advised she would look into this.

Kim Isaacs – Eschelon asked about C09 as this code seems in conflict with the held order process. Jill advised C09 would not occur on a held order situation. Jill advised jeps are per order, not per LSR.

Bonnie Johnson – Eschelon asked about the CR request regarding when the CLEC gets a jep, and then Qwest does not allow the CLEC time to react to the FOC (4 hour minimum). Jill asked Bonnie if we could wait and determine the impact of the 6pm jep time change as this change should reduce the number of jeps and reduce this issue. Bonnie agreed we could discuss this later if it is still an issue.

Bonnie also asked if there was a CLEC forum planned for January. Cindy advised she did not know but would check on. Bonnie suggested we talk about it at the December CMP meeting, and that possibly a better time for the Forum would be in February.

Jill agreed to check on the following items:

1 – adding content to the jeopardy description to make it more informative  
2 – check how reason codes match to jep codes in the Disclosure document

Next Steps: The team agreed to meet again around the week of January 13 to review how the 6pm jeopardy change has impacted the process and to determine our next steps

Novmeber 19, 2003 CMP Meeting Jill Martain- Qwest advised this CR was revised to say that the CR was going to revisit the existing Jeopardy process, including what notices should be sent to the customer and then also discuss the content of those notices. Bonnie Johnson – Eschelon agreed updating the CR was okay. Jill Martain-Qwest advised the next step is to schedule an ad hoc meeting to review information and gather input. John Berard – Covad advised he has a jeopardy request item to be included in this CR.

Oct 15, 2003 CMP Meeting Phyllis Sunins – Qwest reported that she is doing a study of the August data and that there are synergies with this CR and PC072303-1. Jill Martain will also open a new CR to address the overall Jeopardy Process. Bonnie Johnson – Eschelon advised she would like to keep this CR open and reference it to PC072303-1 and Jill's new CR. Discussion took place regarding maybe the scope of this CR should be changed, instead of Jill creating a new CR. Cindy agreed she would talk to Jill about this. Liz Balvin – MCI advised she has some questions about what certain jep codes mean. A documentation CR has been issued to request definition of jep codes. The team advised that Liz should respond during the comment cycle and ask about the jep codes she is interested in (C31 and C34). John Berard – Covad asked how many jeps are resolved the same day? Bonnie Johnson – Eschelon said she did not know numbers but Jill implied the majority of jeps are resolved the same day. This CR will move to Development Status.

10/6/03 Ad Hoc Meeting

Lori Mendoza Allegiance Russ Urevig Qwest Deni Toye Qwest Phyllis Burt  
ATT Julie Pickar US Link Dave Hahn Qwest Jeanne Whisnet Qwest Laurie  
Dalton Qwest Ann Adkinson ATT Jill Martain Qwest Phyllis Sunins Qwest



Carla Pardee ATT Jen Arnold US Link Kim Issacs Eschelon Bonnie Johnson  
Eschelon Donna Osborne Miller ATT Regina Mosely ATT

Jill Martain discussed the synergy's between PC072303-1 and this CR and the issue that came up in the CLEC Forum about FOCs not being sent after a delayed order is released. Jill explained she would like to implement changing the jep timeframe to 6 pm as identified in PC072303-1. As a result of this change it will address many of the issues with not enough time to respond to a jep. Jill referred to this as Phase 1. Jill will issue a Qwest CR to modify the Jep Process and make additional changes as needed. Changes such as define jep codes, determine when to send jeps, and for what conditions. Jill said she certainly can accommodate some time frames in between FOC and Jep. Jill referred to this as Phase 2. Bonnie agreed that Jill's new CR and implementing the changes for PC072303-1 will take care of this CR. Changing the jep times will take care of most of these issues.

- 9/17/03 CMP Meeting Bonnie Johnson – Eschelon presented the CR to the CLEC Community. Bonnie advised this continues to be a problem. Eschelon does not normally get an FOC after a delayed order gets released. Sometimes we get the FOC and we do not have time to react. Qwest needs to make certain that if we release an order from delayed status that the CLEC gets an FOC, and has time to react before the order is put in a CNR jep. This happens often. Our service delivery personnel escalate with the tester and the FOC group. Jill Martain is working on the issue with not receiving an FOC. This was brought up at the CLEC forum. Cindy Macy-Qwest asked if the changes associated to PC072303-1 – changing the time when Qwest jeps for CNR, would meet this CR. Bonnie advised no, because in this case the order is being released from delayed status and the original FOC has already occurred.

CLEC Change Request – PC081403-1 Clarification Meeting Tuesday August 26, 2003

1-877-552-8688 7146042#

Attendees Cindy Macy – CRPM Russ Urevig – Qwest Phyllis Sunins – Qwest Laurie Dalton – Qwest Bonnie Johnson – Eschelon Deni Toyte – Qwest Stephanie Prull – McLeod Julie Picker - US Link

Introduction of Attendees Cindy Macy-Qwest welcomed all attendees and reviewed the request.

Review Requested (Description of) Change Bonnie Johnson-Eschelon reviewed the CR. Bonnie explained that ½ the time they do not get an FOC after the order is released. This problem is being addressed by Jill Martain and is not part of this CR but it is an issue that impacts this CR. The CLEC needs time to react to the released LSR and to accept the circuit.

Phyllis explained the jep could be placed early in the morning and the tech working on the it may get a solution the same day. This creates a timing difficulty. The current process is for the order to be jep'd, Qwest would send an FOC when they find out the issue has been taken care of, and then if the customer is not ready the LSR is put in CNR.

Bonnie advised they would like a 2-4 business hour time frame to respond to the FOC before Qwest puts the LSR in CNR.

The process today does not give a time frame on the FOC, it gives a date but no time frame.

Confirm Areas and Products Impacted Macy - Qwest confirmed that the attendees were comfortable that the request appropriately identified all areas and products impacted.

Confirm Right Personnel Involved Macy - Qwest confirmed with the attendees that the appropriate Qwest personnel were involved.

Identify/Confirm CLEC's Expectation Macy-Qwest reviewed the request to confirm Eschelon's expectation.

Identify and Dependant Systems Change Requests Macy-Qwest asked the attendees if they knew of any related change requests.

Establish Action Plan Macy-Qwest asked attendees if there were any further questions. There were none. Macy-Qwest stated that the next step was for Eschelon to present the CR at the September Monthly Product/Process Meeting and thanked all attendees for attending the meeting.

---

## **QWEST Response**

October 8, 2003

For Review by CLEC Community and Discussion at the October 15, 2003, CMP Product/Process Meeting

Bonnie Johnson Eschelon

SUBJECT: CLEC Change Request Response - CR # PC081403-1

This is a preliminary response regarding the Eschelon CR PC081403-1. This CR requests that the 'Delayed order process be modified to allow the CLEC a designated time frame to respond to a released delayed order after Qwest sends and updated FOC. Qwest will contact the CLEC to test and accept only after the updated FOC has been sent and a designated time frame has passed. Qwest will not put the order in a CNR (customer not ready) jeopardy status until this time frame has passed and the CLEC is not ready'.

Qwest believes this CR has synergies with the Eschelon CR PC072303-1 'Customer Not Ready (CNR) jeopardy notice should not be sent by Qwest to CLEC before 5 PM'. Qwest proposes moving this Change Request into Evaluation Status while we investigate the commonalities further and will provide a status update at the November CMP meeting.

An Ad Hoc Meeting is scheduled for Monday, October 6, 2003 from 10:00 – 11:30 a.m. MST to discuss CR# PC072303-1 and PC081403-1.

Sincerely,

Phyllis Sunins Wholesale Markets Process Organization

---

[<Back](#)

---

Information Current as of 3/19/2007



**Announcement Date:** April 12, 2004  
**Proposed Effective Date:** May 27, 2004

**Document Number:** PROS.04.12.04.F.01558.ProvisioningV42  
**Notification Category:** Process Notification  
**Target Audience:** CLECs, Resellers

**Subject:** CMP - Provisioning and Installation Overview  
V42.0

**Level of Change:** Level 3  
**Associated CR Number or System Release Number:** CLEC CR # PC081403-1

**Summary of Change:**

On April 12, 2004, Qwest will post planned updates to its Wholesale Product Catalog that include new/revised documentation for Provisioning and Installation Overview V42.0. These will be posted to the Qwest Wholesale Document Review Site located at <http://www.qwest.com/wholesale/cmp/review.html>.

A modification to the existing jeopardy process was made to the Provisioning Points of Interface Section, Jeopardy Subsection, noting critical date jeopardies (indicates a critical date prior to the due date is in jeopardy) may be ignored, however, Due Date (DD) jeopardies (indicates your due date is in jeopardy) will continue to impact specific situations. Critical date jeopardies are identified in the download document "Jeopardy Data" (see the Provisioning and Installation Overview PCAT) in the column labeled "Is Due Date in Jeopardy?" If the due date is not in jeopardy, this column will contain "No" and you can disregard the jeopardy notice sent for this condition and continue your provisioning process with the scheduled DD. If the column contains "Yes" and Qwest is responsible for resolution of the jeopardy condition, you will be advised of a new due date when the jeopardy condition has been resolved. Resolution usually occurs within 72 hours.

In that same section and subsection, a modification to an existing process was made under the Jeopardy Notice Timeline Section reflecting that within 72 hours of the initial jeopardy notice, either an updated jeopardy notification with more specific details of the jeopardy condition or an FOC advising of the new DD will be sent. If an updated jeopardy notice is sent, an FOC will also be sent advising of the DD Qwest can meet when the Ready For Service (RFS) Date is known.

Current operational documentation for this product or business procedure is found on the Qwest Wholesale Web Site at this URL: <http://www.qwest.com/wholesale/clecs/provisioning.html>

**Comment Cycle:**

CLEC customers are encouraged to review these proposed changes and provide comment at any time during the 15-day comment review period. Qwest will have up to 15 days following the close of the comment review to respond to any CLEC comments. This response will be included as part of the final notification. Qwest will not implement the change sooner than 15 days following the final notification.

Qwest provides an electronic means for CLEC customers to comment on proposed changes. The Document Review Web Site provides a list of all documents that are in the review stage, the process for CLECs to use to comment on documents, the submit comment link, and links to current documentation and past review documents. The Document Review Web Site is found at <http://www.qwest.com/wholesale/cmp/review.html> Fill in all required fields and be sure to reference the Notification Number listed above.

**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.



**Timeline:**

Planned Updates Posted to Document Review Site	Available April 12, 2004
CLEC Comment Cycle on Documentation Begins	Beginning April 13, 2004
CLEC Comment Cycle Ends	5:00 PM, MT April 27, 2004
Qwest Response to CLEC Comments (if applicable)	Available May 12, 2004 <a href="http://www.qwest.com/wholesale/cmp/review_archive.html">http://www.qwest.com/wholesale/cmp/review_archive.html</a> <a href="http://www.qwest.com/wholesale/cmp/review.html">http://www.qwest.com/wholesale/cmp/review.html</a>
Proposed Effective Date	May 27, 2004

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

## Provisioning and Installation Overview – [V37.0](#) [V42.0](#)

*History Log* ([Link italicized text to: Replace Existing Download With Attached History Log](#))

### Description

Provisioning and installing Unbundled Network Elements (UNEs), Resale, and Interconnection products and services require that we each perform various tasks throughout the provisioning and installation cycle. While many of these tasks are unique to individual products and services, as defined in [Wholesale Products and Services](#) documentation, some are constant regardless of the products or services ordered. This document depicts those tasks Qwest commonly performs (such as: issuance/processing of Firm Order Confirmations (FOCs), Pending Service Order Notice(s) (PSOs), Jeopardies, Design Layout Reports/Records (DLR), installation and dispatching, Loss Notifications, Completion Notifications (CNs), and Loss and Completion Reports) during the provisioning and installation of Qwest's Wholesale Products and Services. ([Link blue text to: http://www.qwest.com/wholesale/pcat/index.html](http://www.qwest.com/wholesale/pcat/index.html))

### Availability

UNE, Resale, and Interconnection products and services are available throughout [Qwest's 14-state local service territory](#) ([Link blue text to: http://www.qwest.com/wholesale/pcat/territory.html](http://www.qwest.com/wholesale/pcat/territory.html)) based on your Qwest Interconnection Agreement. Qwest provides access to existing network elements and facilities when no construction is required and will perform minor modifications (such as running a jumper or clearing a defective pair) to allow you access.

### Technical Publications

Complying with Industry Standard Performance and Acceptance Testing, Qwest provisions UNE, Resale, and Interconnection products and services in accordance with Industry specifications, interfaces and parameters. These are described in the appropriate Technical Reference Publications in Qwest's [Technical Publications](#). ([Link blue text to: http://www.qwest.com/techpub/](http://www.qwest.com/techpub/)) For product specific performance and acceptance testing requirements, refer to the web pages for individual [Wholesale Products and Services](#). ([Link blue text to: http://www.qwest.com/wholesale/pcat/index.html](http://www.qwest.com/wholesale/pcat/index.html))

[Back to Top](#)

### Pricing

#### Rates

Rates and/or applicable discounts are available in Exhibit A or the specific rate sheet in your Interconnection or Resale Agreement.

#### Tariffs, Regulations, and Policy

Regulations and policies impacting individual products and services are defined within each product and service found in the Qwest [Wholesale Products and Services](#) web pages. ([Link blue text to: http://www.qwest.com/wholesale/pcat/index.html](http://www.qwest.com/wholesale/pcat/index.html))

When you submit a request for Enhanced Extended Loop (EEL), Loop Multiplexer (MUX) Combination (LMC), Sub-Loop (except Shared Distribution Loop), Unbundled Local Loop product family, Unbundled Network Element – Switching (UBS), Unbundled Dark Fiber (UDF), Unbundled Dedicated Interoffice Transport (UDIT) and Unbundled Network Elements-Platform (UNE-P) product family the standard assignment and/or design process will be followed in its entirety. The standard assignment process may include both mechanized and manual processes. Requests that can be provisioned over copper facilities

use the mechanized assignment process. When facilities cannot be assigned via this process, the default is the [Manual Steps Required for Copper Facility Assignment Process](#) (Link blue text to: Attached "Manual Steps Required for Copper Facility Assignment Process 04-15-03.doc"). Requests that are provisioned over fiber use the [Fiber Facility Assignment Process for DS1 and Above](#) (Link blue text to: Attached "Fiber Facility Assignment Process for DS1 and Above 07-29-02.doc").

For primary service requests for 2-Wire or 4-Wire Analog (Voice Grade) Unbundled Local Loop, EEL, LMC, Sub-Loop (except Shared Distribution Loop) and the UNE-P product family, Qwest will construct facilities in alignment with Eligible Telecommunications Carrier (ETC) or Provider of Last Resort (POLR) obligations. For information regarding ETC or POLR obligations, refer to [Regulatory Commissions and Telecommunications Associations](#). (Link blue text to: <http://www.qwest.com/wholesale/clecs/rcta.html>)

If no facilities are available for your requested service, Qwest will look for a pending engineering job order that could fill your service request in the future. If an engineering job order is identified, Qwest will provide the Ready For Service (RFS) date. You will have the opportunity to wait for the service to be delivered or cancel your request.

Availability of facilities is always on a first come first serve basis. If the request is for a 2-Wire or 4-Wire Analog (Voice Grade) Unbundled Local Loop or UNE-P service and is considered primary service as defined by ETC or POLR obligations, and no facilities are available and there is no planned engineering job, an engineering job order will be initiated to ensure delivery of the primary service to the end-user.

Secondary service requests will be held for 30 business days for 2-Wire or 4-Wire Analog (Voice Grade) Unbundled Local Loop, EEL, LMC and Sub-Loop (except Shared Distribution Loop), where facilities cannot be located and there is no planned engineering job. Requests for other Unbundled Local Loop products, UDF and UDIT where facilities cannot be located and there is no planned engineering job will be held for 30 business days. If facilities become available, a FOC is generated and sent to you in response to your original request. If at the conclusion of the 30 business day hold facilities are still unavailable your request will be rejected or cancelled. Exceptions may apply where Commission Orders or state requirements exist. Exceptions may occur with Qwest/U S West merger Stipulations/Agreements in the states of Minnesota and Washington.

For secondary service requests for UNE-P Product Family and UBS where facilities cannot be located and there is no planned engineering job, your request will be held by Qwest until spare facilities become available or you request cancellation of the Local Service Request (LSR). When facilities become available, a FOC will be generated and sent to you in response to your original request.

If it is determined that facilities are unavailable, contact your Qwest Service Manager for other options. (Link blue text to: <http://www.qwest.com/wholesale/clecs/accountmanagers.html>) Information for Competitive Local Exchange Carriers (CLEC) requested UNE Construction is available in Qwest's [CLEC Requested Unbundled Network Elements \(UNE\) Construction](#) (CRUNEC). (Link blue text to: <http://www.qwest.com/wholesale/clecs/crunec.html>)

You have the capability to view funded Qwest Outside Plant (OSP) and Interoffice (IOF) engineering jobs that exceed \$100,000 in total cost on the InterCONNECTION ([ICONN](#)) database. (Link blue text to: <http://www.qwest.com/iconn/>)

CLECs will be responsible for any construction charges for which an end-user would be responsible. In other situations, Qwest does not agree that it is obligated to build UNEs, but it will consider requests to build UNEs pursuant to Section 9.19 of the appropriate state [SGAT](#) Agreement. (Link blue text to: <http://www.qwest.com/about/policy/sgats/>)

[Back to Top](#)

## Implementation

This section of the web page describes tasks commonly performed while provisioning and installing UNEs, Resale and Interconnection products and services.

### General Points of Interest

- Qwest's provisioning tasks begin when your service request (Access Service Request (ASR) or LSR) is successfully accepted by our service order processing systems. Refer to the [Pre-Ordering Overview](http://www.qwest.com/wholesale/clecs/preordering.html) (Link blue text to: <http://www.qwest.com/wholesale/clecs/preordering.html>) and the [Ordering Overview](http://www.qwest.com/wholesale/clecs/ordering.html) (Link blue text to: <http://www.qwest.com/wholesale/clecs/ordering.html>) for information on submitting your service requests. Specific provisioning requirements and tasks related to individual products are defined for each product in the Qwest [Wholesale Products and Services](http://www.qwest.com/wholesale/pcat/index.html) (Link blue text to: <http://www.qwest.com/wholesale/pcat/index.html>)

- **Application Date:**

Application Date (APP): Qwest assigns an APP once your LSR or ASR is submitted with sufficient accurate information to allow us to proceed. If your service request is incomplete, inaccurate, or requires additional information, the application of critical dates may be delayed until the service request is complete and accurate.

Critical dates are assigned based on individual products and services and do not necessarily apply to all Wholesale Products and Services. The following are for illustration purposes only.

- **Provisioning Related Dates:**

- Design Layout Report Date (DLRD): Designed Layout Report sent to your designated agent.
- Confirming Design Layout Report Date (CDLR): Date Qwest is to receive your confirmation that the Design Layout Report is satisfactory.
- Records Issue Date (RID): Manual or mechanized order tracking date identifying when all design and assignment data is sent to the necessary service implementation groups.
- Designed, Verified, and Assigned Date (DVA): Date implementation groups report all documents and materials are received and complete.

- **Installation Related Dates:**

- Wired and Office Tested Date (WOT): Date all wiring completed, all plug-ins optioned and aligned, frame continuity established, switching equipment (with translation loading) installed and tested, and, if applicable, interoffice facilities tested.
- Frame Continuity Date (FCD): The date that frame to frame continuity is assured by appropriate tests.
- Plant Test Date (PTD): The date on which installation and testing of all facilities and equipment is completed. Acceptance testing performed with you and your end-user if applicable.
- Due Date (DD): Service available to you or your end-user. Also referred to as "Service Date (SD)".

- **Service Interval Guide (SIG):**

Service intervals are defined in the [Service Interval Guide \(SIG\)](http://www.qwest.com/wholesale/guides/sig/index.html). (link blue text to: <http://www.qwest.com/wholesale/guides/sig/index.html>) Dates for items and services not in the Service Interval Guide (SIG) are negotiated on an Individual Case Basis (ICB) as defined in the SIG.

- Qwest business days do not include Saturdays, Sundays, or holidays as defined in the General Information Section of the [SIG](#). Qwest normal business hours are Monday through Friday from 8 AM to 5 PM but may vary based on company policy, union contracts and location. Contact your Qwest Service Manager to obtain individual Qwest location business hours or if you need assistance negotiating intervals for an individual case. (Link blue text to: <http://www.qwest.com/wholesale/guides/sig/index.html>)



[Back to Top](#)

## Provisioning Points of Interface

### Firm Order Confirmation (FOC)

Once your service request is successfully accepted by Qwest's service order processing systems, a Firm Order Confirmation (FOC) is generated and sent to you in response to an original ASR/LSR or SUP transaction generated by you.

The FOC is processed when the 2<sup>nd</sup> position of your ASR or LSR 'REQTYP' field is a "B" indicating a Firm Order. The FOC is your acknowledgement that Qwest has received your request, created a Qwest service order, and established a due date for your request. The FOC provides you details for you to coordinate the overall provisioning and installation of the requested services such as:

- Purchase Order Number (PON)
- Version Identification
- Qwest Assigned Order Numbers
- Critical Dates, if applicable
- Circuit Identification(s) / Telephone Number(s)

In some cases (72 Hour FOC agreements for Unbundled Loop), the FOC also indicates that the assigned facilities have been validated and are ready for installation.

FOCs are returned via the method used to submit your service requests. If you used a mechanized tool, (e.g., [Interconnect Mediate Access \(IMA\)](#) ([Link blue text to http://www.Qwest.com/wholesale/ima/gui/imauser.html](http://www.Qwest.com/wholesale/ima/gui/imauser.html))) refer to that tool to receive, access, or view your FOCs. Refer to Qwest's specific [LSR](#) ([link blue text to http://www.qwest.com/wholesale/forms/lsr.html](http://www.qwest.com/wholesale/forms/lsr.html)) and [ASR](#) ([Link blue text to: http://www.qwest.com/wholesale/forms/asr.html](http://www.qwest.com/wholesale/forms/asr.html)) to learn more about Qwest requirements.

PSO(s) will be issued once Qwest has issued the service orders associated with your LSR and sent the associated FOC. For additional information refer to *PSO*s. ([Link italicized text to: attached download DNLD\\_PSON](#)). For detailed information contained in the PSO, refer to [Local Service Ordering Guidelines \(LSOG\)](#). ([Link blue text to: http://www.qwest.com/wholesale/clecs/lzog.html](http://www.qwest.com/wholesale/clecs/lzog.html))

Qwest's Service FOC and Installation Interval Guidelines are defined in the [Service Interval Guide \(SIG\)](#). ([Link blue text to: http://www.qwest.com/wholesale/guides/sig/index.html](http://www.qwest.com/wholesale/guides/sig/index.html)).

The following "Exclusions" are not defined in the Standard Interval Guide:

- Projects, when we jointly determine the work is to be handled as a project
- Individual Case Base (ICB) intervals due to the quantity or type of services or specialized arrangements as listed in state and FCC tariffs
- An independent company's services are involved and Qwest is not the controlling provider
- A premises visit determined by the availability of you or your end-user

Contact your Qwest Service Manager to obtain assistance negotiating intervals. Coordination of premises visits are handled as necessary during the normal provisioning and installation processes.

### Provider Initiated Activity (PIA)/Change Flag (CFLAG)

The PIA/CFLAG is used to communicate changes Qwest made on the service order that are different from what was requested on the original LSR. These changes are a result of two different conditions:



1. Changes that occurred as a result of a verbal directive from you
2. Changes due to processing requirements within Qwest

When the PIA/CFLAG field is marked, the Remarks section of the FOC contains text indicating any deviations from the original request. For LSRs that are IMA versions 13.0 or later, the following matrix outlines the PIA/CFLAG Reason, PIA values that are available, and a description of when those values are used:

PIA/CFLAG Reason	PIA Value IMA Version 13.0 & 14.0	Description
<b>Exchange Carrier Circuit (ECCKT)</b>	1	Used when: <ul style="list-style-type: none"> <li>• Qwest changes the Circuit Identification (CKTID) on a subsequent FOC from what was provided on the original FOC</li> <li>• The ECCKT on the LSR needs to be reformatted so it can be processed in the Qwest Service Order Processor (SOP)</li> <li>• On a change of loop type, the ECCKT on the FOC will provide the new ECCKT. The ECCKT on the LSR contains the existing ECCKT. The ECCKT on the FOC is the new ECCKT</li> </ul>
<b>Verbal Due Date Change Request by you</b>	2	Used when: <ul style="list-style-type: none"> <li>• On the Due Date you called and requested a verbal due date change</li> <li>• Due to system limitations a Supp Type 2 could not be issued and a verbal supplement was accepted</li> </ul> <p>NOTE: Qwest preference is a supplement via IMA/<a href="#">Electronic Data Interface (EDI)</a>/Interconnect Imaging Solutions (IIS). This is an exception handling situation.</p>
<b>Due Date Change by Qwest</b>	2	Used when: <ul style="list-style-type: none"> <li>• Desired Due Date (DDD) on the LSR was shorter than standard interval. Qwest will provide the new DD on the original FOC for each applicable LSR version</li> <li>• DDD on the LSR was an invalid DD such as a Sunday or Holiday</li> <li>• When a dispatch was required and the requested DDD on the LSR was not available</li> <li>• When the DDD on the LSR is changed as a result of a Delayed Order Condition</li> <li>• When a Supp Type 3 was submitted where the original DDD on the LSR must be changed (i.e., supp to change from coordinated to basic install requires new standard interval or address changes on Supp Type 3 and DD must be changed)</li> </ul>
<b>ECCKT and Due Date Change</b>	3	Used on IMA versions 13.0 and 14.0 when the ECCKT and Due Date both change on the subsequent FOC
<b>Other</b>	4	Used when: <ul style="list-style-type: none"> <li>• No other PIA value is appropriate, i.e., unexpected situations with release activity when manual changes are required</li> </ul>

		<ul style="list-style-type: none"> <li>• Low occurrences of a particular situation do not warrant an individual PIA value, i.e., original FOC did not contain the voice mail retrieval number and a subsequent FOC was issued with the required information or when an subsequent FOC is issued releasing a LSR from a delayed order condition and Qwest is able to meet the original due date</li> <li>• A new situation is identified and a new PIA value is not yet available in IMA</li> <li>• Multiple PIA values are required with IMA version 13.0 and 14.0 LSRs</li> </ul>
<b>Service Order Number Change</b>	5	<p>Used when:</p> <ul style="list-style-type: none"> <li>• A subsequent FOC is sent advising you that the service order number(s) previously provided on the earlier FOC has changed</li> <li>• A change in the Related Purchase Order Number (RPON) or Related Order number was needed on a subsequent FOC</li> </ul>
<b>Route Index (RTI) change</b>	6	Used on a subsequent FOC if the information provided on the original FOC was changed (i.e., on New activity the Route Index (RTI) previously provided was changed)
<b>Change to TERS/HID and/or TLI</b>	7	Used on a sub-sequent FOC if the information provided on the original FOC was changed (i.e., on New activity the Telephone Line Identification (TLI) or Terminal (TER) number on the original FOC had a typographical error and was later corrected)
<b>Invalid PON Characters</b>	8	Used on IMA version 13.0 and 14.0 LSRs when special characters i.e., a virgule “/” appear in the PON field of the LSR and Qwest must change it to a dash in order to be able to process the request
<b>Telephone Number Change</b>	9	<p>Used when:</p> <ul style="list-style-type: none"> <li>• During processing of a LSR Qwest determines that the Telephone Number (TN) entered on the LSR is not available. Qwest will provide the new TN on the FOC</li> <li>• A typographical error on the original FOC was identified. The correct TN will be provided on a subsequent FOC</li> </ul>
<b>Verbal supplement for CFA slot change on the Due Date</b>	10	On the due date the Carrier Facility Assignment (CFA) provided on the LSR needs to be changed and the supplement is not sent prior to order completion
<b>Dispatch Entry not valid</b>	11	<p>Used when:</p> <ul style="list-style-type: none"> <li>• The dispatch information on the LSR was invalid, i.e., an invalid appointment reservation was received and Qwest scheduled a new appointment through Appointment Scheduler</li> <li>• The LSR requests a dispatch, but a dispatch is not required for provisioning and you have not indicated in the remarks to Tag the Demarcation, Qwest will ignore the dispatch request</li> </ul>
<b>AN (SBN/BTN/MAN) Change</b>	12	<p>Used when:</p> <ul style="list-style-type: none"> <li>• LSRs with Requisition Type of CB (Local Number Portability (LNP)) and BB (Unbundled Local Loop/LNP) that have the ported TN in the Account Number (AN) field instead of the main AN field on the LSR, Qwest processes the order (porting the requested TN) using the main AN and provides the correct AN on the FOC</li> <li>• A LSR requesting a change or conversion from a Centrex account to a Plain Old Telephone Service (POTS) (Resale or UNE-P) account, the FOC will reflect the new POTS AN</li> <li>• LSRs requesting a Loop type change and the Billing Telephone Number (BTN) changes. The AN on the FOC reflects the new</li> </ul>

		AN
<b>BAN Change</b>	13	The Summary Billing Account Number (BAN) is incorrect on the LSR and Qwest provides the correct BAN information on the original FOC

NOTE: A subsequent FOC referred to in the above table is an additional FOC that is sent to you on a particular version of a LSR after the original FOC was submitted. It is not a FOC that is submitted as a result of a supplemental request.

## Jeopardy Notifications

A jeopardy, caused by either you or Qwest, endangers completing provisioning and/or installation processes and impacts meeting the scheduled due date of your service request. Examples of jeopardy conditions are Customer Not Ready, No Facilities Available, or when an error is identified on your LSR after a FOC has been sent. When your service request is in jeopardy, Qwest notifies you via a status update, email, Jeopardy Notification, telephone call, and/or a FOC. The purpose of the jeopardy notification process is to identify jeopardy conditions to you that impact meeting the scheduled due date of your service requests. The sequence of sending a jeopardy notification and/or a FOC may change depending on when the facility condition is identified.

## Jeopardy Resolution Responsibilities

Depending upon the type of service, Non-Designed (POTS) or Designed, jeopardy codes are formatted as follows:

- Jeopardy codes for Non-Designed (POTS) services are two alpha characters.
- Jeopardy codes for Designed services are one alpha and two numeric characters.

Responsibility for resolution is as follows:

- Qwest is responsible for resolving all Designed jeopardy codes starting with the letters "A" through "V", with the exception of all "C" jeopardy codes, K10, and K11. We are also responsible for resolution of Non-Designed jeopardy codes CF, CL, CO, and CS. Examples include:
  - V25 –Qwest Equipment Center has a Plug-in Inventory Control System (PICS) problem. We will escalate to obtain the PICS equipment for installation in the Central Office in time to meet the DD.
  - CF - Unavailability or lack of outside plant or buried service wire.

In some jeopardy resolution situations, we may need to partner with you but we will initiate the resolution process.
- You are responsible for taking the appropriate action to resolve jeopardy codes beginning with "C", K10, and K11 for Designed service requests and all jeopardy codes beginning with "S" for Non-Designed services. Examples include:
  - C01 or SA indicates that the end-user was not ready to accept service on the DD.
  - C05 or SX indicates that an error condition was identified after a FOC had been sent

Jeopardy notifications that are mechanically generated from our Network systems are held until 6 PM Mountain Time. This eliminates sending numerous jeopardy notifications for conditions that are cleared on the same day. Jeopardy conditions that are resolved before 6 PM Mountain Time do not generate notifications that are sent to you. Jeopardy conditions that are not cleared by 6 PM Mountain Time will generate notifications that are sent to you at 6 PM Mountain Time. Jeopardy conditions identified between 6 PM and 11:59 PM Mountain Time generate notifications that are sent on a real time basis.

Jeopardy notifications that are created manually are sent on a real time basis.

Subsequent due dates for service requests in jeopardy for customer reasons will be established using current processes for both dispatched and non-dispatched orders. If the service request in jeopardy requires a supplemental service request, no further processing will occur until the supplement is received. Supplement service request processing is covered in the [Ordering Overview](http://www.qwest.com/wholesale/clecs/ordering.html) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/ordering.html>).

If a jeopardy notice is sent for a LSR involving a CLEC error that was identified after FOC and a supplement is not received to correct the error condition within 4 hours, the service order(s) will be canceled but the LSR will remain in a jeopardy condition. If after 30 business days the LSR is still in a jeopardy status, the LSR will be rejected.

Qwest differentiates between DD jeopardies and Critical Date jeopardies. DD jeopardies indicate that your due date is in jeopardy; however, Critical Date jeopardies indicate that a critical date prior to the DD is in jeopardy. Critical Date jeopardies can be ignored by you. Critical Date jeopardies are identified in the Jeopardy Data document (see download in the following paragraph) in the column labeled "Is Due Date in Jeopardy?" If the DD is not in jeopardy, this column will contain "No" and you can disregard the jeopardy notice sent for this condition and continue your provisioning process with the scheduled DD. If the column contains "Yes" and Qwest has the responsibility to resolve the jeopardy condition, we will advise you of the new DD when the jeopardy condition has been resolved. This is usually within 72 hours

For information regarding jeopardy codes contained on notices and clarification regarding who is responsible for taking steps to resolve jeopardy conditions, download *Jeopardy Data* (Link italicized text to: [Insert New Download Replace existing download with "DNLD\\_Jeopardy Data\\_Provisioning\\_V41.0"](#)).

### Jeopardy Notice Timeline

The following table depicts the standard process for sending you a Jeopardy Notification related to a jeopardy condition.

If a LSR goes into a jeopardy condition and it is detected:	And:	Then the following occurs:
Prior to the <u>due date DD</u>	The RFS Date is not known	<ul style="list-style-type: none"> <li>• Qwest sends <u>a an initial jeopardy notice.</u></li> <li>• <u>Within 72 hours of the initial jeopardy notice, either an updated jeopardy notification with more specific details of the jeopardy condition or a FOC advising of the new DD will be sent to you. If an updated jeopardy notice is sent, we will also send a FOC advising you of the DD Qwest can meet when the RFS Date is known. Once the RFS Date is known, a FOC is sent advising you of the due date Qwest can meet.</u></li> </ul>
Prior to the <u>due date DD</u>	The RFS Date is known	<ul style="list-style-type: none"> <li>• Qwest sends <u>a an initial jeopardy notice.</u></li> </ul>

		<ul style="list-style-type: none"> <li>• <b>Within 72 hours of the initial jeopardy notice, A</b> FOC is subsequently sent advising you of the <b>due-dateDD</b> that Qwest can meet.</li> </ul>
On the <b>due-dateDD</b>	Once the Qwest Interconnect Service Center (ISC) is advised of the condition (if the RFS Date is not known)	<ul style="list-style-type: none"> <li>• Qwest sends a jeopardy notice.</li> <li>• Once the RFS Date is known, a FOC is sent advising you of the <b>due-dateDD</b> Qwest can meet.</li> </ul>
On the <b>due-dateDD</b>	Once the Qwest ISC is advised of the condition (if the RFS Date is known)	<ul style="list-style-type: none"> <li>• Qwest sends a jeopardy notice.</li> <li>• A FOC is subsequently sent advising you of the new <b>due dateDD</b> that Qwest can meet.</li> </ul>

For information regarding error conditions, refer to the Error Notice Matrix within the [Ordering Overview](#). (Link blue text to: <http://www.qwest.com/wholesale/clecs/ordering.html>)

Jeopardy notices are returned via the method used to submit your service request. If you used a mechanized tool, refer to that tool to receive, access, or view your jeopardy notice.

Subsequent due dates for service requests in jeopardy for customer reasons will be established using current processes in place today for both dispatched and non-dispatched orders. If the service request in jeopardy requires a supplemental service request, no further work will occur until the supplement is received. Supplement service request processing is covered in the [Ordering Overview web page](#). (Link blue text to: <http://www.qwest.com/wholesale/clecs/ordering.html>)

For LSRs where a jeopardy notice is sent due to a CLEC error being identified after FOC and if a supplement is not received to correct the error condition within 4 hours, the service order(s) will be cancelled but the LSR remains in a jeopardy condition. If after 30 business days the LSR is still in a jeopardy status, the LSR will be rejected.

### Designed and Unbundled Local Loop

If you submit a LSR for multiple lines/loops and Qwest cannot provision all of the lines/loops due to lack of facilities and you have not requested reuse of facilities, several options are applicable. You will receive a Jeopardy Notice informing you of a delay due to lack of facilities and you may select one of the following:

1. Split the LSR between the lines/loops that can be provisioned and those that are delayed due to lack of facilities. The following is applicable to splitting the LSR:
  - You must submit a supplement to the original LSR to request the lines/loops that can be provisioned. The lines/loops that cannot be provisioned currently must be removed. For information regarding supplements refer to the [Ordering Overview](#) (Link blue text to: <http://www.qwest.com/wholesale/clecs/ordering.html>)
  - You must submit a second LSR for the remaining lines/loops that are delayed due to lack of facilities.
  - You must complete the Related Purchase Order Number (RPON) field of the second LSR with the Purchase Order Number (PON) of the original (supped) LSR.
  - You must complete the Related Purchase Order Number (RPON) field of the supplement with the Purchase Order Number (PON) of the second LSR.

- Qwest will not apply 1<sup>st</sup> line installation charges to the second LSR because it is considered a continuation of the initial request at the same end-user address.
- The original Application date and Due Date will apply to the supplement and second LSR.
- Additional charges normally associated with provisioning a line/loop may be applicable per your Interconnection Agreement with Qwest.
- The second LSR and related service order(s) may remain in delayed status due to lack of facilities. The service order(s) will follow the Delayed Order Process for LSR Designed Orders or the Delayed Order Process for LSR Non-Designed and PAL Orders.
- You will receive a Jeopardy Notice for the lines/loop that are delayed due to lack of facilities. When the RFS date is known, you will receive a FOC advising you of the due date Qwest can meet.
- The LSR splitting process may be repeated should facilities become available during the Delayed Order Process.

2. If you don't respond to the jeopardy notice, the LSR and related service order(s) will go into the applicable Delayed Order Process. The LSR will be rejected and the order(s) canceled after the appropriate number of days. Refer to specific [Wholesale Products and Services](#) for additional information. (Link blue text to: <http://www.qwest.com/wholesale/pcat/index.html>).

### Analog Switched Services

If you submit a LSR for multiple lines, one of the following scenarios will occur when the technician is on the premises:

1. If facilities are available and all lines can be provisioned, they are installed and the order and LSR are completed
2. If facilities are not available and none of the lines can be provisioned, the order is placed into the applicable Delayed Order Process
3. If facilities are available and some of lines can be provisioned, they are installed. The remaining lines will be delayed for facility reasons and the following will occur:
  - The lines that are delayed for facility reasons are taken from the original order, placed on a new "C" order, and the new "C" order is attached to the LSR.
  - Qwest will apply the same Application Date and Due Date to the new "C" order that are on the original LSR.
  - You will receive a new FOC, PSON Notice, and Jeopardy Notice for the new "C" order.
  - The original order will be completed and the new "C" order will be placed in the applicable Delayed Order Process.
  - The LSR and the new "C" order will remain in jeopardy status.

### Design Layout Records (DLR)

When ordering UNE, Resale (non-POTS), and Interconnection products and services you may request a Design Layout Record (DLR) that provides the technical details of the circuit's facilities and termination provided by Qwest. You can utilize this technical information describing the facilities, such as cable make-up, carrier channel bank type and system mileage, and signaling termination compatibility (along with your own termination details), to design and connect your end-user's service. Refer to Qwest's [LSR](#) (link blue text to <http://www.qwest.com/wholesale/forms/lr.html>) and [ASR](#) (Link blue text to: <http://www.qwest.com/wholesale/forms/asr.html>) forms and field entries for how to request a DLR. Facility requirements for individual products and services can be found in the Qwest [Wholesale Products and Services](#) (Link blue text to: <http://www.qwest.com/wholesale/pcat/index.html>) web pages.

- **Retrieving and Viewing Design Layout Records (DLR)**

Page 10 of 20201204

[Qwest 22 PCAT Provisioning and Installation\\_V42\\_0.doc](#)[PCAT\\_Provisioning and Installation\\_V41.0](#)[PCAT\\_Provisioning and Installation\\_V41.0.doc](#)[PCAT\\_Provisioning and Installation\\_V37.0.doc](#)

Last saved by [maneillemunz](#) Michael A. Johnson 3/19/2007 8:30:00 AM 4/6/2004 9:15:00 AM 04/05/04 8:24 AM 04/02/04 9:12 AM 03/11/04 10:51 AM



Using either Customer Electronic Maintenance and Repair (CEMR) or IMA you can view, retrieve and print Design Layout Records at your desktop by inputting the Circuit ID (e.g., Serial Number, Telephone Number, CFA, 2/6 code) and submitting your request.

Viewing the DLR, you can then e-mail it to yourself, or print the report on your local printer. For details on accessing Design Layout Records in IMA, refer to the [IMA User Guide](http://www.qwest.com/wholesale/ima/gui/imauser.html). (Link blue text to <http://www.qwest.com/wholesale/ima/gui/imauser.html>) Refer to the [CEMR User Guide](http://www.qwest.com/wholesale/systems/cemrandrce.html) (Link blue text to: <http://www.qwest.com/wholesale/systems/cemrandrce.html>) to learn more about processing Design Layout Records, using CEMR, or to view Circuit ID diagrams and descriptions.

Design Layout Reports can also be delivered electronically based on the requirements defined in Qwest's [CLEC Questionnaire](http://www.qwest.com/wholesale/clecs/clec_index.html). (Link blue text to: [http://www.qwest.com/wholesale/clecs/clec\\_index.html](http://www.qwest.com/wholesale/clecs/clec_index.html)) Contact your Qwest Service Manager should you need assistance.

[Back to Top](#)

## Installation Points of Interface

Qwest will install services up to the demarcation point. Refer to your Qwest Interconnection Agreement and to individual [Wholesale Products and Services](http://www.qwest.com/wholesale/pcat/index.html) (Link blue text to: <http://www.qwest.com/wholesale/pcat/index.html>) web pages for specific installation requirements and to Qwest's [Service Interval Guide](http://www.qwest.com/wholesale/guides/sig/index.html) (link blue text to: <http://www.qwest.com/wholesale/guides/sig/index.html>) for specific product installation intervals.

Facilities furnished by Qwest on your, or your end-user's, premises up to and including the demarcation point or equivalent device, are the property of Qwest. Because we need reasonable access to all such facilities, we will coordinate entry dates and times with your appropriate personnel to accommodate installation, testing, and inspection of such facilities and lines.

While Qwest's normal hours of installation are Monday through Friday - 8:00 AM to 5:00 PM, arrangements outside normal hours can be made for some services. Refer to your Qwest Interconnection Agreement for details on the Out of Hours Installation process. Overtime rates are assessed; refer to the [SGAT Exhibit A](http://www.qwest.com/about/policy/sgats/) for relevant state price information. (Link blue text to: <http://www.qwest.com/about/policy/sgats/>)

## Installation Options

Installation requirements and tasks vary based on the UNE, Resale, or Interconnection products and services ordered as well as specific language in your Interconnection Agreement. Individual product requirements and tasks are defined for each product in Qwest's [Wholesale Products and Services](http://www.qwest.com/wholesale/pcat/index.html) web pages. Additional tasks requested by you may be billable. Refer to your Qwest Interconnection Agreement for details or contact your Qwest Service Manager should you need assistance. (Link blue text to: <http://www.qwest.com/wholesale/pcat/index.html>)

## Additional Miscellaneous Work Activities

There may be instances when you request additional miscellaneous work activities from Qwest in order to provision your service. At your request, Qwest will perform these activities:

- Aerial Service Wire Rearrangement/Replacement
- Buried Service Wire (BSW) Rearrangement/Replacement
- Network Interface Device (NID) Moves

Service Wire/Drop is placed between the serving terminal and the end-user's NID. There are two types of Service Wire/Drop. Buried service wire is placed either direct buried or in innerduct from the serving terminal located in a pedestal to the end-user's NID. Aerial service wire is placed from the serving terminal located on a pole to the end-user's NID.

### **Aerial Service Wire Rearrangement/Replacement**

Aerial Service Wire Rearrangements/Replacements refer to simple aerial rearrangements which may result from a NID move or other end-user request.

When you request relocation of an existing Service Wire/Drop, Qwest will perform the work and bill you. A NID move may also be required when you request Service Wire Rearrangement. You may request Service Wire Rearrangement via a LSR/ASR and Qwest will perform the associated work. Other requests to replace an end-user-damaged Service Wire/Drop or resolve instances where potential danger exists are processed via the Qwest repair process.

By submitting a LSR/ASR, you are authorizing Qwest to perform Service Wire Rearrangement/Replacement and accepting the charges.

Rates for Service Wire Rearrangement/Replacement are covered by the "Additional Labor – Other, Dispatch" charges found in your Interconnection Agreement or the SGAT Exhibit A. If these rates are not contained in your Interconnection Agreement, an amendment is required before the work is performed.

If the address remains the same, the activity type on the LSR would be a "C" to denote change activity. Mark the LSR for manual handling and include a notation in the Remarks Section that the drop is to be moved.

If the address changes due to the drop being moved, the activity type on the LSR would be a "T" to denote transfer activity. Do not mark the LSR for manual handling in this instance because this is normal processing for an address change.

### **Buried Service Wire Rearrangement/Replacement**

When you submit a LSR/ASR and additional BSW capacity is required, the original LSR should state the requirement for BSW activity in the Remarks Section. Qwest will not charge for BSW expansions as stipulated in state specific [Tariffs/Catalogs/Price Lists](#). (Link italicized text to: <http://tariffs.qwest.com:8000/>). When the original request has been placed in jeopardy for BSW activities, a supplemental LSR/ASR is required to perform work activities related to providing additional capacity.

When you require that the BSW be rerouted, the cost for trenching the new BSW will be billed to you in accordance with state tariff. This will also apply to a request to bury an existing aerial Drop.

By submitting a request for BSW on an original or supplemental LSR/ASR, you are authorizing Qwest to perform BSW work and accepting the charges.

Rates for BSW work are not contained in your Interconnection Agreement and an amendment is not required. Instead, you will be billed the same rates a retail end-user would be billed. Applicable Retail Universal Service Order Codes (USOCs) will be used to bill retail tariff rates. For additional information related to USOC and Field Identifiers (FID) refer to [USOC / FID Finder](#). (Link italicized text to: <http://usocfidfind.uswest.com>). Buried Drop work charges are determined by tariff, state, and the length of Service Wire/Drop. Rates for this activity can be found in the [Retail Tariff](#). (Link italicized text to: (Link italicized text to: <http://tariffs.uswest.com:8000/iiop/WAlmap?objectid=0-2826>))



When you originate a trouble ticket that requires Qwest replace a buried Drop/BSW to resolve the trouble, Qwest will lay a temporary Service Wire/Drop on the ground at the end-user premises. That Drop will be buried on a subsequent visit and will not require additional action by you.

If there is damage to the Service Wire/Drop, Qwest will perform the necessary work and bill the responsible party, i.e., end-user or contractor.

If the address remains the same, the activity type on the LSR would be a "C" to denote change activity. Mark the LSR for manual handling and include a notation in the Remarks Section that the drop is to be moved.

If the address changes due to the drop being moved, the activity type on the LSR would be a "T" to denote transfer activity. Do not mark the LSR for manual handling in this instance because this is normal processing for an address change.

### Network Interface Device Moves

The NID is a means of connection for on-premises wiring and Qwest's distribution plant. The simple NID is generally placed on the outside of a single-family residence and allows connection of Qwest facilities to end-user owned inside wire. Only simple NID moves are applicable to this section.

NID moves occur when an end-user requests a move of a NID from one physical location to another location on the same building at a single-family unit. Aerial or BSW moves may also be required when you request a NID move and additional charges may be applicable (see above). You may request a simple NID move via a LSR/ASR and Qwest will perform the associated work.

By submitting a request for a NID move on an original or supplemental LSR/ASR, you are authorizing Qwest to perform NID work and accepting the charges.

Rate elements may include "Additional Labor Charges" to perform work on a new installation at the end-user premises. On existing services a "Dispatch" charge will be billed along with the "Additional Labor Charge". USOCs for "Dispatch" and "Additional Labor Charges" are contained in your Interconnection Agreement. If these rates are not contained in your Interconnection Agreement, an amendment is required before service is provided. Rates for these charges may be found in the [SGAT \(Link italicized text to: http://www.qwest.com/about/policy/sgats\)](http://www.qwest.com/about/policy/sgats) in the most recent Exhibit A for the relevant state.

### Exceptions

Please contact your Service Manager for additional information regarding the following:

- Pole and Pedestal moves that may require permits due to easements. These moves are not described in this document.
- For all other types of NID moves, i.e., Multi-Tenant Environment (MTE) NID.

### Order Entry

For NID moves or Service Wire Rearrangement/Replacement, populate the LSR/ASR as follows:

- When you request this type of work during the initial loop request, populate the LSR/ASR with the following information:
  - ACT = N (New)
  - Remarks Field examples are:

- Customer has new construction requirements, please move NID to rear East wall of the garage.
  - Customer has requested the Aerial Drop be moved to allow construction, place Aerial on Northwest corner of house.
  - Customer has requested Aerial Drop be changed to Buried Drop, all associated charges are accepted.
- Manual Indicator = Y
  - Complete the remaining fields on the LSR/ASR as required.
- When a request is made for this type of work on an existing loop, populate the LSR/ASR with the following information:
    - ACT = C (change)
    - Remarks Field examples are:
      - Customer has new construction requirements, please move NID to rear East wall of the garage.
      - Customer has requested the Aerial drop be moved to allow construction, place Aerial on Northwest corner of house.
      - Customer has requested Aerial Drop be changed to Buried Drop, all associated charges are accepted.
    - Manual Indicator = Y
    - Complete the remaining fields on the LSR/ASR as required.

## Delivering UNE, Resale, and Interconnection Services

To deliver your Wholesale products and services, Qwest's Service Delivery Coordinators (SDC) and Customer Communication Technicians (CCT) work with your designated point of contact, identified on your service request. We will coordinate the necessary provisioning and installation functions, using our existing processes for both dispatched and non-dispatched orders, communicating with our internal organizations and your contact to deliver the services requested.

As your service request flows through our work centers, when critical provisioning, installation and/or testing functions cannot be performed on time, your service request may be delayed and a jeopardy code assigned. Subsequent due dates for orders in jeopardy for customer reasons will be established using normal processes in place today for both dispatched and non-dispatched orders. If the order in jeopardy requires a supplemental order, no further work will occur until the supplement is received. Supplements and delayed order processing are covered in the [Ordering Overview web page](http://www.qwest.com/wholesale/clecs/ordering.html). (Link blue text to: <http://www.qwest.com/wholesale/clecs/ordering.html>)

## Dispatching Qwest Technicians

Our Technicians are dispatched to perform installation and test work, either at your premises or your end-user's premises as required for the services ordered. 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.

When our dispatched field technician arrives, we attempt to contact you if your technician is not available. If our technician can finish their work, we try to notify you of completion. If we are unable to contact you the service request is closed and a voice message is left notifying you that the service is installed with all testing completed. If your designated contact cannot be reached, and our technician cannot complete the required work and/or testing, your service request is delayed, a jeopardy code is assigned, and additional

dispatch charges may apply. When you request a new due date, and a dispatch is required to complete the installation and testing, a minimum interval of three business days is necessary.

[Back to Top](#)

## Circumstances Impacting Service Delivery

Conditions preventing Qwest from completing your service as requested include:

- While Qwest's testing indicates the service meets all testing requirements to and including the Network Interface Unit (NIU), your technician or local contact is not ready to accept service. (Note: Not applicable for Provider Tested Access (PTA) eligible orders that are completed after required testing is performed.)
- Your technician or local contact is unable to provide the access necessary for Qwest technicians to finish their work. No Access situations include:
  - Your technician or vendor not available for testing
  - No access to the service and/or premises
    - Access to a locked terminal room is unavailable
    - Unable to access restricted areas necessary to turn up service
    - Unable to access premises (e.g., end-user not home, no local contact, big dog in yard, etc.)
- Your service request requirements changed on the Due Date
- Although the service is active, your technician or local contact not ready to accept the service
- Conduit or entrance cable facilities you provide are not available
- Your test results are not acceptable to you
- You experience a weather, disaster, or work stoppage condition at your site
- You are not ready to accept an order on the Due Date

### Customer Not Ready (CNR)

For all service requests there is a maximum allowable time for you to delay acceptance of service. The maximum delay for a "Customer Not Ready" (CNR) condition for services ordered is 30 business days from the original due date. On the 31<sup>st</sup> business day if you have not accepted or cancelled your service request, Qwest will automatically cancel it and bill you any appropriate cancellation charges.

For services ordered via a LSR form, jeopardy notices are issued within two business days of the Qwest Service Center receiving notification of the CNR condition. The CNR jeopardy notice will provide information regarding the action required during the 30 business days you have to respond. A reminder jeopardy notice is also sent on the 15<sup>th</sup> business day to encourage you to take appropriate action. If you wish to accept the service within the 30-business day timeframe, issue a supplement with a new due date that occurs within 30 business days of the original due date for service. If you wish to cancel the service request within the 30-business day timeframe, issue a SUP to cancel the service request. Cancellation charges will apply if appropriate. If you have not accepted the service by the 31<sup>st</sup> business day, your order(s) will be canceled, the LSR will be rejected, and cancellation charges will apply if appropriate.

For Disconnects ordered via a LSR form, a CNR jeopardy notice is sent to notify you of the CNR condition and to provide information regarding the action required during the 10 business days you have to respond. If you wish to disconnect service on a new due date within 30 business days of the original due date, you must issue a supplement requesting the new due date within 10 business days of the original due date. If you wish to cancel the disconnect service request, you must issue a supplement within 10 business days of the original due date. If you have not issued a supplement within 10 business days of the original due date, your service request will be canceled on the 11<sup>th</sup> business day after your original due date. If you still wish to disconnect service after your previous service request has been canceled, you must submit another LSR form

For services ordered via an ASR form, the originator is advised of the CNR condition via telephone, email, fax, etc. Within five business days of the original due date, a CNR letter is mailed to notify you of

the CNR condition and to provide information regarding the action required during the 30 business days you have to respond. A telephone call is also made on the 15<sup>th</sup> business day to encourage you to take appropriate action. If you wish to accept the service on a new due date within 30 business days of the original due date, you must issue a supplement requesting service on the new due date. For Local Interconnection Service (LIS) only, if you wish to accept billing for service on the original due date before accepting the service itself, contact your SDC to complete the service request. If you wish to cancel the service request within the 30-business day timeframe, issue a supplement to cancel the service request. Cancellation charges will apply if appropriate. If you have not accepted the service by the 31<sup>st</sup> business day or did not accept billing (for LIS only), your order(s) will be canceled and cancellation charges will apply if appropriate.

When a field technician is dispatched out to perform installation for a Wholesale order and he/she determines that initial/additional service drop wire (for residential premises) and/or conduit placement (for business premises) is required, the following will apply:

- Non-design (i.e., UNE-P): Qwest Field Technician will contact you to inform you of a jeopardy condition regarding placement of drop wire and/or conduit. The notification to you will be either directly to your contact or via a voice message. If your voice message system is full, the field technician will make one more attempt to contact you. If the field technician is unable to contact you directly, the order will be placed in CNR jeopardy status.

Internal process authorization of charges will need to be approved by you via a SUP on the LSR. Appropriate USOCs will be applied to the service order after the SUP is received. Placement of conduit and the cost associated with it is the responsibility of the property owner. If conduit placement is required, the field technician may advise the property owner where the conduit should start and end.

- Design (i.e., Unbundled): The Qwest Field Technician will contact the Qwest CLEC Coordination Center (QCCC) or Design Services Center (DSC) and the QCCC or DSC will contact you to inform you of the jeopardy condition regarding placement of drop wire and/or conduit. The order will be placed into CNR jeopardy status.

Authorization of charges will need to be approved by you via a SUP on the LSR. Appropriate USOCs will be applied to the service order after the SUP is received. Placement of conduit and the cost associated with it is the responsibility of the property owner.

- If conduit placement is required, the field technician may advise the property owner where the conduit should start and end. If the QCCC or DSC cannot reach you, they will leave a voice message. After the property owner or end-user contacts you to advise that conduit placement is complete, the order can be re-scheduled. At that time, you will update Qwest via LSR notification.
- The BSW group will receive notification and schedule contractors to place service wire. After service wire is placed, the field technician is then dispatched out to complete installation.
- Status on a pending order can be obtained via the [Qwest Escalation Desk](http://www.qwest.com/wholesale/clecs/exesclover.html) (Link italicized text to: <http://www.qwest.com/wholesale/clecs/exesclover.html>)

For Disconnects ordered via an ASR form, the originator is advised of the CNR condition via telephone. A CNR Disconnect Letter is also mailed to notify you of the CNR condition and to provide information regarding the action required during the 10 business days you have to respond. If you wish to disconnect service on a new due date within 30 business days of the original due date, you must issue a supplement requesting the new due date within 10 business days of the original due date. If you wish to cancel the disconnect service request, you must issue a supplement within 10 business days of the original due date. In you have not issued a supplement within 10 business days of the original due date, your service

request will be canceled on the 11<sup>th</sup> business day after your original due date. If you still wish to disconnect service after your previous service request has been canceled, you must submit another ASR form.

## CNR Managed Projects

Defined as “any request for service by a single CLEC resulting in the issuance of multiple service requests that must be worked simultaneously for the request to be completed” with each request having the valid assigned Project ID (PRN) and a Project Manager/Coordinator monitoring the project.

When a service request is part of a project, and you are not ready to accept the service 30 business days after the original Due Date, the same process is followed. The Project Manager will be notified at the same time the Cancellation Notice is sent.

[Back to Top](#)

## Disconnect Orders

Qwest handles disconnects with the same care as new installations or rearrange orders. For products that follow the POTS workflow, Qwest will process your disconnect order upon receipt. For products that follow the Designed workflow, Qwest will take additional steps to ensure that your service request is handled appropriately. These steps include the following:

1. Prior to the Due Date of a disconnect order, our Customer Communications Technicians (CCT) review the order to determine if the disconnect is non-payment related.
2. If the disconnect is for non-payment, the order is completed as scheduled.
3. For orders not related to non-payment, the CCT checks for related orders (e.g., “Adds” requiring coordination with disconnects) and, on or before the Due Date, contacts your designated contact to confirm the disconnect should be completed as scheduled. If you choose to:
  - Delay the disconnect order and can provide a firm due date, the CCT will advise you that a supplement must be issued immediately to prevent interruption of service.
  - Delay the disconnect order but are unable to provide a firm Due Date, you will be advised to cancel the service request and resubmit it when you have a firm date for the service to be disconnected.
  - Request the order be canceled, you must issue a supplement to the order. The CCT will put the order in jeopardy and refer it to the Qwest Order Originator.

If the Qwest CCT is unable to reach your contact personally or via voice messaging, they will contact the Order Originator to advise them that the disconnect request will not be completed unless or until Qwest receives confirmation from you. If the CCT is able to leave a voice message, the order will be re-scheduled following your return call and according to your instructions. Qwest will not disconnect service unless or until we make direct contact with you and a supplement is issued.

If you are not interested in receiving a confirmation telephone call prior to Qwest disconnecting your service, the Quick Release Disconnect (QRD) process will allow you to option out of the confirmation telephone call on an order by order basis. To take advantage of the QRD process, you must complete the following steps:

1. Contact your Service Manager to obtain additional information and enroll in the QRD process. The Service Manager will provide you with a Letter Of Authorization (LOA) for your signature that Qwest will keep on file. After Qwest receives the signed LOA, you will be able to submit disconnect orders (on ASR or LSR forms) that instruct Qwest to process the service request without making a confirmation telephone call to you.

2. If you choose to use the QRD option and you submit your disconnect request on an ASR form, you must enter "QRD" in the Remarks Section of the ASR form.
3. If you choose to use the QRD option and you submit your disconnect request on a LSR form, you must enter "QRD" in the Implementation Contact (IMPCON) field and "000-000-0000" in the Telephone Number (TELNO (IMPCON)) field of the LSR form.

If you wish to use the QRD option and you fail to provide the appropriate entries on the ARS or LSR form, you must issue a supplement. Your Qwest SDC cannot add QRD to your service request.

[Back to Top](#)

## Loss Notification

A Qwest Loss Notice (LN), also referred to as "Provider Notification (PN)", provides Post-Order information regarding outward line activity authorized by end-users when they select a new local service provider. LNs are available to *IMA GUI and IMA EDI* users. (Link italicized text to: <http://www.qwest.com/wholesale/ima/gui/imauser.html>) You may receive a LN as follows:

- IMA EDI users will automatically receive an 836 EDI transaction:
  - You must subscribe to this type of LN via the Qwest Information Technologies (IT) Help Desk at 888-796-9102.
  - LNs will be provided at a Working Telephone Number (WTN) Level.
- IMA GUI users will automatically receive a fax and/or email
  - You must subscribe to this type of LN via the Qwest IT Help Desk at 888-796-9102.
  - LNs will be provided at a WTN Level.

Refer to the *LSOG* (refer to Provider Notification) for detailed information regarding LN. (Link italicized text to: <http://www.qwest.com/wholesale/clecs/lisog.html>)

## Completion Notification

The Qwest Completion Notice (CN), also referred to as "Completion Response" is a Post-Order function and is available for IMA GUI and IMA EDI users. (Link blue text to: <http://www.qwest.com/wholesale/ima/gui/imauser.html>) For detailed information contained in the CN, refer to *LSOG*. (Link blue text to: <http://www.qwest.com/wholesale/clecs/lisog.html>)

## Post Completion Notification

After a LSR has completed, there are times when it is necessary for Qwest to make changes to the original service order or issue replacement or correction service orders. The Post Completion Notification Process is used to contact you when changes have been made to the original order activity or when subsequent order activity has been issued (post completion).

When post completion order activity warrants notification, a Qwest SDC will send an e-mail message to the LSR originator within 24 hours with the pertinent details. If an e-mail address was not provided on the LSR (i.e., IMA EDI requests), the LSR originator will be contacted to obtain the appropriate e-mail address or an alternative address to use to notify you.



[Back to Top](#)

## Loss and Completion Reporting

In today's competitive environment end-users are free to choose their local service provider as well as change the products/services they purchase from their provider. Qwest reports this end-user activity (movement to and from Qwest, movement from CLEC to CLEC, as well as changes on the end-user's account) on two reports: the Loss Report and the Completion Report.

Loss and Completion Reports contain activity that notifies you when work-order activity is completed, impacting you or your end-user's account. Loss and Completion Reports are generated within Qwest's 14 state local service territory and only for specific products. Refer to our [Billing Information – Additional Outputs](#) web page ([Link blue text to: http://www.qwest.com/wholesale/clecs/output.html](http://www.qwest.com/wholesale/clecs/output.html)) for more information about these specific products.

- **Loss Report:** The Loss report is issued when an order is completed or cancelled showing outward line activity, including a full or partially discontinued account.
- **Completion Report:** Is generated when an order is completed or cancelled. Completion reports can contain both Loss and Completion activity.

## Report Frequency and Delivery Methods

Generated daily, Loss and Completion Reports are sent to your assigned point of contact via the transport medium (e.g., NDM (Direct or Dial-In), Electronic Fax, or by WEB) you choose. The [New Customer Questionnaire](#) ([Link blue text to: http://www.qwest.com/wholesale/clecs/clec\\_index.html](http://www.qwest.com/wholesale/clecs/clec_index.html)) lists specific requirements related to the various delivery methods.

We recommend large reports be sent in a flat file format, which can be mechanically parsed for your further use, while smaller reports in a report format may be more suitable for manual use. Refer to [Loss and Completion Reports](#) ([Link blue text to: http://www.qwest.com/wholesale/training/coursecatalog.html](http://www.qwest.com/wholesale/training/coursecatalog.html)) training web site which includes the Loss/Completion Sample Reports Job Aid to view examples of the Loss and Completion reports. Producing reports daily eliminates questioning if a report was missed. Exceptions to receiving the report daily include service orders that do not meet required report edits. The orders that error due to reporting edits are corrected so they may subsequently appear on the report. When a report is not received, it could be a transport issue needs to be resolved. For assistance (e.g., No File Received, Data Content, Missing Orders or Incorrect Data, Change Transport Medium, Re-send Report), or if you have questions, contact the Wholesale Systems Help Desk at 888 796-9102.

If you are not receiving your Loss and Completion Reports, contact your Qwest Service Manager for assistance.

[Back to Top](#)

## Training

### Qwest 101 "Doing Business With Qwest"

- This introductory, instructor led, course is designed to teach the CLEC and Reseller how to efficiently transact business with Qwest providing an overview of products and services, systems, ASR/LSR, reports, and web resource access information. [Click here for course detail and registration information.](#) ([Link blue text to: http://www.qwest.com/wholesale/training/ilt\\_desc\\_qwest\\_101.html](http://www.qwest.com/wholesale/training/ilt_desc_qwest_101.html))

Qwest offers a variety of product related training courses that cover provisioning, installation and testing details for our UNE, Resale, and Interconnection products and services. [Click here](#) ([Link blue text to: http://www.qwest.com/wholesale/training/coursecatalog.html](http://www.qwest.com/wholesale/training/coursecatalog.html)) to review our Course Catalog or refer to

individual [product and service](#) web pages (Link blue text to: <http://www.qwest.com/wholesale/pcat/index.html>) to identify specific training recommendations.

[Back to Top](#)

## Contacts

[Wholesale Customer Contacts](#) (Link blue text to: <http://www.qwest.com/wholesale/clecs/escalations.html>)

[Back to Top](#)

## Frequently Asked Questions

This section is currently being compiled based on your feedback.

[Back to Top](#)

**Last Update:** ~~March 16, 2004~~ May 27, 2004

META Tags: Provisioning Overview, UNE Provisioning, Resale Provisioning, Interconnection Provisioning, Provisioning Interface Points, Critical Dates, Critical Tasks, Critical Events, Service Interval Guidelines, Workflow Events, Order Lifecycle, Due Dates, Event Tracker, ET, Work Tasks, FID, Field Identifier, Order Flow, FOC, Firm Order Confirmation, FOC Int Code, FOC Interval Code, Loss & Completion Reporting, Local Response, LSC, LSRC, Firm Order Management, Installation Intervals, Dispatching, Completion Notifications, Supps, Supplemental Order Processing, Installation, Dispatching, Customer Not Ready, Acceptance Testing, Customer Not Ready, CNR, Cancellation Notice, Billing Acceptance Letter, Managed Projects, Disconnect Orders



## Jeopardy Data

### Designed

Jeopardy Code	Responsible Party	Is the Due Date in jeopardy?	Jeopardy Notice Description	User Friendly Jeopardy Description	Responsibilities
A34	Qwest - Wholesale Markets	No	Weather/Disaster/ Work Stoppage	There is a Qwest Interconnect Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
B14	Qwest – Field Forces	No	Installation/Wiring Problem	A Qwest Network technician has identified a problem at the customer premises prior to the Due Date (DD). In most cases this is associated with a Network interface problem.	Qwest will work to resolve the problem.
B31	Qwest – Field Forces	No	Inadequate Pre-Service Testing or Conformance Testing	Qwest Network installation is delayed due to inadequate Pre-Service or Conformance Testing. This could be a problem associated with Collocation.	Qwest will work to resolve the problem.
B33	Qwest – Field Forces	No	Work Force	A Qwest Field Force Technician is not currently available to complete the job requirements for provisioning.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
B34	Qwest - Field Forces	No	Weather/Disaster/ Work Stoppage	There is a Qwest Network Installation (field forces) delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
C01	CLEC	Yes	Not Ready	CLEC or CLEC end-user is not ready or service order is not accepted by the CLEC. (Qwest has tested the service to meet all testing requirements.)	Follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
C02	CLEC	Yes	End-user Internal Access	End-user access was not provided	Follow the process outlined in the Customer Not Ready



					section of the Provisioning and Installation Overview PCAT.
C03	CLEC	Yes	Subscriber Change in Requirements	The CLEC or end-user made a change in LSR requirements prior to or on the DD. This may include buried drop issues where a customer must pay for buried service wire before installation can occur.	Follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
C05	CLEC	Yes	Reject Condition Identified After the FOC Was Sent to the CLEC	Qwest has identified a fatal reject or non-fatal error condition after the FOC has been sent to the CLEC.	A response to this notice must be made within 4 business hours of this notice being sent or all associated orders will be canceled. If the error is not corrected in a timely manner, it is possible that the DD may be missed. Also if no response is made within 30 business days, the LSR will be rejected.
C09	CLEC	Yes	Problem with Related Order	Qwest has identified a problem with a related order(s). Usually this occurs when multiple Qwest service orders are necessary to provision a single CLEC request. All facilities are not available. At least one of the service orders cannot be worked. All associated orders are in jeopardy until the service orders(s) with the defined jeopardy is resolved.	Qwest will look for a possible solution.
C12	CLEC	Yes	Customer Accepts Billing/Wholesale only	The CLEC accepts billing only for Feature Group, Local Interconnection Service (LIS), hot cuts, or rollovers but physical work must still be completed.	No action required by the CLEC. The service orders in the Service Order Processors (SOPs) are completed to commence billing

					with CLEC acceptance, but the orders within Qwest's downstream system Work Force Administration (WFA) remains open until the service is actually accepted.
C24	CLEC	Yes	CLEC/Customer Provided Conduit or Entrance Cable	There is a problem with CLEC or end-user provided conduit or entrance cable.	You must supplement the LSR when the CLEC/end-user work is completed.
C29	CLEC	Yes	Pending Customer Status	CLEC or end-user action is required to resolve a facility issue. Details of the required action will be communicated on the jeopardy notice.	You must supplement the LSR to communicate that appropriate action has been taken.
C30	CLEC	Yes	Unbundled order dependent on left-In	Left-In service of previous CLEC exists at the pending order location and requires a service order be placed before this CLEC request can be completed.	Qwest will work with the CLEC to clear the working Left-In.
C31	CLEC	Yes	Inadequate Pre-Service Testing or Conformance Testing	Qwest Network installation is delayed due to inadequate CLEC Pre-Service or Conformance Testing. This could be a problem associated with Collocation.	Qwest will work to resolve the problem.
C34	CLEC	Yes	Weather/Disaster/Work Stoppage	There is a CLEC or end-user delay due to weather/disaster/work stoppage. May also be due to National Emergency.	Follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
C40	CLEC	Yes	Project Managed Order Held For CLEC/Customer Reason	A project-managed order is delayed for a CLEC or end-user reason.	Follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.

D01	Independent Companies	Yes	Not Ready	The Independent Company (ILEC) is not ready or the ILEC does not accept the request for service.	The CLEC needs to work directly with the ILEC to determine the date that the ILEC will be ready or what revision must be made on the service request.
D34	Independent Companies	Yes	Weather/Disaster/ Work Stoppage	There is an ILEC delay due to weather/disaster/work stoppage.	The CLEC needs to work directly with the ILEC to determine when the delay can be resolved.
E14	Qwest - Central Office	No	Installation/Wiring Problem	There is a Qwest Central Office installation or wiring problem.	Qwest will work to resolve the problem.
E31	Qwest - Central Office	No	Inadequate Pre-Service Testing or Conformance Testing	Qwest Network installation is delayed due to inadequate Central Office Pre-Service or Conformance Testing. This could be a problem associate with Collocation.	Qwest will work to resolve the problem.
E33	Qwest - Central Office	No	Work Force	Central Office resources are not currently available to meet provisioning functions.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
E34	Qwest - Central Office	No	Weather/Disaster/ Work Stoppage	There is a Qwest Central Office delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
F31	Qwest - Construction	No	Inadequate Pre-Service Testing or Conformance Testing	Qwest Outside Construction is delayed due to inadequate Pre-Service or Conformance Testing.	Qwest will work to resolve the problem.
F33	Qwest - Construction	No	Work Force	Construction resources are not currently available to complete the job requirements for provisioning.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step

					on time.
F34	Qwest - Construction	No	Weather/Disaster/ Work Stoppage	There is a Qwest Outside Construction delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
G33	Qwest - Other Field Forces	No	Work Force	Other Field forces are not currently available for provisioning responsibilities	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
G34	Qwest - Other Field Forces	No	Weather/Disaster/ Work Stoppage	There is a Qwest buried drop delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
H13	Qwest - NROC /Complex Translations	No	Translations Problem	A Qwest translation problem exists.	Qwest will work to resolve the problem.
H33	Qwest - NROC /Complex Translations	No	Work Force	NROC/Complex Translation personnel are currently unavailable to meet provisioning service requirements.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
H34	Qwest - NROC /Complex Translations	No	Weather/Disaster/ Work Stoppage	There is a Qwest translation delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
K08	Qwest - Engineering	Yes	Local Loop Requires Conditioning	Qwest Engineering determined that the local loop requires conditioning.	Qwest will look for a possible solution.
K09	Qwest - Engineering	Yes	Problem with Related Order	Qwest Engineering has identified a problem with a related order(s). Usually this occurs when multiple Qwest service orders are necessary to provision a single CLEC request. All facilities are not available. At least one of the service orders cannot be worked. All associated orders are in jeopardy until the service order(s) with the	Qwest will look for a possible solution.

				defined jeopardy is resolved.	
K10	Qwest - Engineering	Yes	RTT Status will be awaiting funding/SNRE	Qwest Engineering has begun a review process to determine options and alternatives to provide the CLEC service when immediate facilities are unavailable.	The CLEC should contact their Qwest Service Manager for options.
K11	Qwest - Engineering	Yes	Dependent order has RTT issued or SNRE status	CLEC action is required to resolve a facility issue on a dependent or related service order.	The CLEC should contact their Qwest Service Manager for options.
K14	Qwest - Engineering	Yes	Installation/Wiring Problem	A Qwest Engineering installation or wiring problem exists.	Qwest will work to resolve the problem.
K15	Qwest - Engineering	Yes	Records and Physical Wiring and/or Cable Makeup Do Not Agree	Qwest Engineering records and physical wiring and /or cable make up do not agree.	Qwest will work to resolve the problem.
K17	Qwest - Engineering	Yes	Local Facility Not Available	Qwest Engineering local facility is not available.	Qwest will look for a possible solution.
K18	Qwest - Engineering	Yes	Local Facility Defective	Qwest Engineering local facility is defective.	Qwest will look for a possible solution.
K19	Qwest - Engineering	Yes	Interoffice Facility Not Available	Qwest Engineering interoffice facility is not available.	Qwest will look for a possible solution.
K20	Qwest - Engineering	Yes	Interoffice Facility Defective	Qwest Engineering interoffice facility is defective.	Qwest will look for a possible solution.
K22	Qwest - Engineering	Yes	Switch Equipment Not Available	Qwest Engineering switch equipment is not available.	Qwest will look for a possible solution.
K31	Qwest - Engineering	Yes	Inadequate Pre-Service Testing or Conformance Testing	Qwest Engineering is delayed due to inadequate Pre-Service or Conformance Testing.	Qwest will work to resolve the problem.
K33	Qwest - Engineering	Yes	Work Force	Engineering work forces are not currently available to complete construction job requirements.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
K34	Qwest - Engineering	Yes	Weather/Disaster/Work Stoppage	There is a Qwest Engineering delay due to weather/disaster/work	Qwest will follow up, as appropriate,



				stoppage.	when safety allows.
K45	Qwest - Engineering	Yes	Unbundled Only/RTT Issued	Qwest Engineering found that no facility was available as a result of a Service Inquiry . Refer to the Service Inquiry for detailed status of the service order.	You should contact their Qwest Service Manager for options.
N13	Qwest - RCMAC	No	Translations Problem	Qwest Translation Center has identified a translations problem associated with the service order	Qwest will work to resolve the problem.
N33	Qwest - RCMAC	No	Work Force	RCMAC work force personnel are not currently available to complete provisioning service requirements.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
N34	Qwest - RCMAC	No	Weather/Disaster/ Work Stoppage	There is a Qwest RCMAC Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
P31	Qwest - Design Service Center	No	Inadequate Pre-Service Testing or Conformance Testing	Qwest Test and Design Service Center is delayed due to inadequate Pre-Service or Conformance Testing.	Qwest will work to resolve the problem.
P33	Qwest - Design Service Center	No	Work Force	Qwest Test and Design Service Center are personnel are not currently available to complete the design requirements prior to the DD.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
P34	Qwest - Design Service Center	No	Weather/Disaster/ Work Stoppage	There is a Qwest Test and Design Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.
V25	Qwest – Basic Rate Interface (BRI)/Plug-In Control System (PICS)	No	Plug-In Problem	Qwest Equipment Center has a Plug-In problem.	Qwest will escalate to resolve the Plug-In problem.



V33	Qwest - BRI/PICS	No	Work Force	A Qwest PICS personnel are not currently available to deliver the equipment prior to the DD	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
V34	Qwest - BRI/PICS	No	Weather/Disaster/ Work Stoppage	There is a Qwest Equipment Center delay due to weather/disaster/work stoppage.	Qwest will follow up, as appropriate, when safety allows.

**Non-Designed**

Jeopardy Code	Responsible Party & Jeopardy Code Description	Is Due Date in Jeopardy?	Jeopardy Notice Description	Responsibilities
CF	Qwest-Company Facilities	Yes	Unavailability or lack of outside plant or buried service wire. Outside plant includes all facilities -wire cable, terminals, carrier, cross connecting devices, etc. A Qwest engineering job is required to provide facilities before the service can be installed.	Qwest will work to resolve the problem.
CL	Qwest - Can't complete /Work Load	No	Heavy workload conditions and/or field force shortages.	Qwest personnel will continue to escalate to find resources or reschedule personnel to complete this provisioning step on time.
CO	Qwest - Company Other	No	Other conditions. May include Service Order inaccuracy, marketing errors in selecting/ordering equipment, work stoppage, weather, etc.	Qwest will work to resolve or when safety allows, as appropriate.
CS	Qwest - Company Switching	No	Unavailability or lack of central office facilities: switching equipment, frame cross connects plug in equipment, calling feature translations, etc.	Qwest will work to resolve the problem.
SA	Subscriber Access	Yes	CLEC access problem: technician cannot gain physical access to the office/center or contact person is not available for information.	You should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
SL	Subscriber Later	Yes	CLEC notification received prior to the DD requesting an appointment or DD later than the	You should follow the process outlined in the Customer Not Ready section of the Provisioning





			original desired DD.	and Installation Overview PCAT.
SO	Subscriber Other	Yes	CLEC cause not covered by other codes.	You should follow the process outlined in the Customer Not Ready section of the Provisioning and Installation Overview PCAT.
SR	Working Left-In	Yes	Date change due to a Working Left-In condition.	Qwest will work with the CLEC to clear the working Left-in.
SX	Error Condition Identified After the FOC Was Sent to the CLEC	Yes	Reject Condition Identified After the FOC was sent to the CLEC.	The CLEC must respond to this notice within 4 business hours of this notice being sent or all associated orders will be canceled. If the error is not corrected in a timely manner, it is possible that the DD may be missed. Also if no response is made within 30 business days, the LSR will be rejected.

## Open Product/Process CR PC081903-1 Detail

**Title: Change in Resale, UNE and Interconnection Services Service Interval Guide (SIG)**

CR Number	Current Status Date	Area Impacted	Products Impacted
PC081903-1	Withdrawn 9/17/2003		LIS / Interconnect

**Originator:** Stulen, Sandy

**Originator Company Name:** Qwest Corporation

**Owner:** Stulen, Sandy

**Director:** Hooks, Perry

**CR PM:** Sanchez-Steinke, Linda

### Description Of Change

Adding 21-30 NPA-NXXs with a 40 business day interval and adding 31-40 NPA-NXXs with a 45 business day interval. This is due to recent ASOG revisions which expanded quantities of NPA-NXXs and CICs on ASRs.

Expected Deliverable:

Proposed Implementation Date 10-31-03

### Status History

08/19/03 - CR Submitted

08/19/03 - CR Acknowledged

08/19/03 - Clarification Meeting

08/20/03 - August CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

09/17/03 - September CMP Meeting - Meeting minutes will be posted to this CR's Project Meetings section.

### Project Meetings

09/17/03 - September CMP Meeting Sandy Stulen with Qwest gave an update on this CR. Qwest would like to withdraw this CR and doesn't plan to change the SIG. Bonnie Johnson with Eschelon asked if Qwest can provide the intervals requested at last month's meeting. Sandy Stulen answered she doesn't have the data. This CR will be moved to Withdrawn Status.

08/20/03 - August CMP Meeting Sandy Stulen with Qwest presented changes to the LIS interconnection intervals to add additional quantities of NPA-NXXs to more nearly resemble feature group because of the increase in CIC codes shown on the TQ with the release of ASOG 27. The quantity of NPA-NXX codes had changed on a previous ASOG. Qwest is now proposing to make changes to the LIS, Wireless and Feature Group SIGs with the release of ASOG 27. The change is specifying an interval, which was previously ICB. Bonnie Johnson with Eschelon asked that Qwest analyze and provide to the CLECs the average number of business days orders with ICB due dates were completed, as this could have a negative impact on CLECs. There will be an Ad Hoc meeting scheduled to gather input to this CR.

---

[<Back](#)

---

**Information Current as of 11/27/2006**

## Open Product/Process CR PC020205-1 Detail

### Title: DD Intervals on 911

CR Number	Current Status Date	Area Impacted	Products Impacted
PC020205-1	Completed 6/15/2005	Ordering	911 - PS/ALI

**Originator:** Recker, Jim

**Originator Company Name:** Qwest Corporation

**Owner:** Recker, Jim

**Director:** Campbell, Bill

**CR PM:** Stecklein, Lynn

### Description Of Change

Change the service intervals associated with the PS/ALI CAMA trunks/circuits from 5 days, as referenced in EEL-DS0, to a 12 business day interval to assure diversity is designed to the level available using the existing infrastructure.

### Status History

2/2/05 CR Submitted

2/3/05 CR Acknowledged

2/16/05 Status changed to presented

2/16/05 Discussed at the Product/Process CMP Meeting - See Attachment E in the Distribution Package

3/16/05 Discussed at the Product/Process CMP Meeting - See Attachment E in the Distribution Package

3/16/05 Status changed to Development

3/23/05 PROD.03.23.05.F.02717.AccessEmergencySvcsV16

4/20/05 Discussed at the Product/Process CMP Meeting - See Attachment E In the Distribution Package

4/21/05 PROD.0421.05.F.02850.FNLAccessEmergencySvcsV16

5/18/05 Status changed to CLEC Test

5/18/05 Discussed at the May Product/Process CMP Meeting - See Attachment E in the Distribution Package

6/15/05 Discussed at the June Product/Process CMP Meeting - See Attachment E in the Distribution Package

---

## Project Meetings

6/15/05 Product/Process CMP Meeting

Jill Martain - Qwest stated that this request was effective on 5/7/05 and will move to a Completed Status.

5/18/05 Product/Process CMP Meeting

Lynn Stecklein - Qwest stated that the final notice was sent on 4/21/05 with an effective date of 5/7/05. The CR will move to CLEC Test.

4/20/05 Product/Process CMP Meeting

Lynn Stecklein - Qwest stated that the comment cycle ended on 4/7/05 and there were no comments. Lynn said that the final notice will go out 15 days prior to the effective date of 5/7/05.

Jill Martain - Qwest stated that this CR will remain in Development.

3/23/05 Timeline: Planned Updates Posted to Document Review Site Available March 23, 2005 CLEC Comment Cycle on Documentation Begins Beginning March 24, 2005 CLEC Comment Cycle Ends 5:00 PM, MT April 07, 2005 Qwest Response to CLEC Comments (if applicable) Available April 22, 2005 <http://www.qwest.com/wholesale/cmp/reviewarchive.html> Proposed Effective Date May 07, 2005

3/16/05 Product/Process CMP Meeting

Lynn Stecklein - Qwest stated that we are moving forward on the PCAT updates and that this request will move to Development.

2/16/05 Product/Process CMP Meeting Jim Carroll - Qwest presented this CR. Jim stated that this CR will change the service intervals associated with the PS/ALI CAMA trunks/circuits from 5 days, as referenced in EEL-DSO, to a 12 business day interval to assure diversity is designed to the level available using the existing infrastructure.

Liz Balvin - Covad asked if Qwest was extending the interval from 5 to 12 days to get a more accurate listing.

Jim Carroll - Qwest said that it is due to the design of the trunk and will allow Qwest to bring in a greater design for more diversity in the trunks.

Liz Balvin - Covad asked if the end user will have services and that this request will enhance.

Jim Carroll - Qwest stated that this request is for new services only.

Bonnie Johnson - Eschelon asked if this detail will be on the notification so that they could forward to their engineering department to appropriately comment.

Jim Carroll - Qwest said that the detail will be provided.

Jill Martain - Qwest stated that this status of this CR moves to Presented.

---

[<Back](#)

---

**Information Current as of 11/27/2006**



## WHOLESALE

[CONTACT US](#)

### 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

## Maintenance and Repair Overview - V67.0

[History Log](#)

### Description

Qwest's Wholesale customers can initiate trouble reports for Wholesale Products and Services via electronic or manual interfaces enabling you to initiate, change, and cancel trouble reports to Qwest. Qwest will update you on the status of your trouble report through final disposition. You are responsible for all maintenance and repair contact with your end-user. Prior to issuing a trouble report to Qwest, you must isolate your end-user's trouble to the Qwest provisioned product or service.

If your end-users experience problems with their local circuits or services, provisioned with Qwest provided products and services, their first point of contact is you, their local service provider. Qwest will direct your end-users who call our repair centers in error to contact their local service provider. Qwest provides repair services to you, for the Qwest Wholesale Products and Services you purchased, in substantially the same time and manner as we repair similar services for ourselves, our end-users, our affiliates, and any other party. The maintenance and repair information presented in this overview includes the following Wholesale Products and Services:

- Interconnection Service (e.g., Local Interconnection Service (LIS) Trunks, Transport, etc.)
- Unbundled Network Elements (UNEs)
- Resale Services

To help make securing repair assistance efficient and easy for you, this web page summarizes some of key aspects of Qwest's Maintenance and Repair Process, including:

- High-level overview of our maintenance and repair process as it pertains to you
- Responsibilities related to you and to Qwest
- Submitting and managing trouble reports with Qwest
- Chronic problems and escalations
- Testing and monitoring

### Definitions of Terms

- Wholesale Repair Center: This team takes trouble reports for Centrex Services, Complex Products and Services, Design Services (DS0, DS1 and DS3 circuit number), Non-Designed Service, Shared Loop Service, Telephone Number, UNE and Unbundled Local Loop.

- Central Office Resource Allocation Center (CORAC): Dispatch center that allocates company-wide workload related to all problems residing in switches inside Central Offices. Examines trouble to isolate problems and dispatch appropriate technicians: Complex, Central Office, and Framers.
- Customer Electronic Maintenance and Repair System (CEMR): Graphical user interface to Qwest Operation Support Systems for trouble administration activities such as creating and editing trouble reports, monitoring status and reviewing trouble history on Circuit IDs.
- Customer Service Inquiry and Education (CSIE): Used to submit trouble report within 24 hours of Service Order Confirmation.
- Loop Maintenance Operating System (LMOS): Used to initiate, analyze, and track trouble reports on Plain Old Telephone Service (POTS). Contains POTS record and trouble history data and retains pending and completed service order data for a specified period of time.
- Local Resource Allocation Center (LRAC): Dispatch center that allocates company-wide workload for all problems residing outside the Central Office. Examines trouble to isolate problem and dispatches appropriate technicians: Network, Cable, and Customer Service.
- Mediated Access (MEDIACC): Electronic gateway used primarily to mechanically process telephone circuit repair activities with Work Force Administration/Control (WFA/C).
- Network Reliability and Operations Center (NROC): The NROC's Complex Translations group provisions and maintains switch-based services, performs routing and charging functions, tests and analyzes equipment trouble to resolve software errors, provides process/project assistance including but not limited to 911, supports NPA splits, performs preventative maintenance, supports office conversions and conducts training.
- QCCC Warranty Group: Used to report trouble on UNEs within 30 calendar days of Service Order Completion.
- Qwest High-Speed Internet™ Technical Support Center (800-247-7285): Used for Resale and UNE-P.
- Recent Change Memory Allocation Center (RCMAC): Stores last 30 days of work done on all telephone numbers and POTS related circuit IDs.
- Repair Call Expert Application (RCE): Used to create trouble reports for non-design services, to provide access to LMOS and to Mechanized Loop Testing (MLT).
- Repair Call Handling Center (RCHC): This team will take trouble reports for Non-Design Services, POTS, and Non-Complex Products and Services. Resale - Simple Residential (1FR) Resale - Simple Business (1FB), UNE-P POTS.
- WFA/C: Stores Design Services trouble tickets by circuit number and includes location, trouble history, and connections to other circuit details. WFA/C is frequently used by other Qwest systems.
- Work Force Administration/Dispatch In (WFA/DI) and Work Force Administration/Dispatch Out (WFA/DO): Systems supporting central offices and field activities that include coordinating, assigning, dispatching, and tracking work requests.

### **Availability**

Maintenance and Repair support services are available throughout Qwest's [14-state local service territory](#). Organized geographically, our Maintenance Control Centers and Repair Call Handling Centers manage restoration of service on a non-discriminatory basis across all our territory.

### **Terms and Conditions**

### **Branding**



Qwest technicians will use unbranded maintenance and repair forms while interfacing with your end-users. Upon request from you, Qwest will use branded repair forms provided by you. Qwest technicians will not discuss your products and services with your end-users. Such inquiries will be redirected to you.

### Technical Publications

All Qwest maintenance and routine test parameters and levels are in compliance with Telcordia's General Requirement Standards for Network Elements, Operations, Administration, Maintenance and Reliability. Product and service specific maintenance and test requirements can be found in Qwest's [Technical Publications](#).

[Back to Top](#)

## Pricing

### Rates

UNE, Resale and Interconnection related maintenance and repair activity applicable charges may apply as defined in the Federal Communications Commission (FCC) 1 Tariff, Sections 5 and 13, Intrastate Tariffs, and your Qwest Interconnection Agreement. [Click here](#) to review Tariff related charges. Prices are as filed in the [Statements of Generally Available Terms and Conditions \(SGATs\)](#) in the most recent Exhibit A for the relevant state.

The following table illustrates the charges that may apply to your trouble report:

### Maintenance and Repair Charges

Applicable Charge	Scenario	Impacted Products
Trouble Isolation Charge (TIC)	CLEC contacts Qwest to report trouble. CLEC authorizes TIC (either through CEMR or with the repair attendant). If, after dispatching a Field Technician, Qwest determines that the trouble is not in the Qwest network, a TIC will be applied. TIC does not apply if the trouble is found in the Qwest Network.	POTS (Unbundled Network Element-Platform (UNE-P) or Resale)
Maintenance of Service Charge (MSC)	CLEC contacts Qwest to report trouble. CLEC has performed trouble isolation testing and provides test results, if applicable, to Qwest. If trouble is found in Qwest's network, no charges will apply. If no trouble is found in the Qwest network and Qwest dispatched a technician to an	Design Services

	<p>unattended Qwest building or the end-user's premises, the MSC will be applied. MSC is applicable per technician for the period of time worked. (Technician can refer to Central Office Tech and/or Field Technician). Basic MSC applies when a Qwest technician performs work during standard business hours. Overtime MSC applies when a Qwest technician performs work on a business day outside of standard business hours or on a Saturday. Premium MSC applies when a Qwest technician performs work on a Sunday or Qwest recognized holiday. MSCs are identified in Exhibit A of the appropriate state SGAT.</p>	
<p>Dispatch</p>	<p>CLEC contacts Qwest to report trouble. CLEC has performed trouble isolation testing and provides test results to Qwest. If trouble is found in Qwest's network, no charges will apply. If one or more technicians are dispatched and no trouble is found in Qwest's network, a dispatch charge (in addition to the MSC) will be applied. Dispatch charges will apply for each additional dispatch request when no trouble is found in the Qwest network.</p>	<p>All UNEs and Design Services</p>

For information regarding how to view current Qwest Maintenance and Repair charges for your organization prior to receiving a bill, you may refer to the [Qwest Maintenance and Repair Invoice Tool User Guide](#).

Maintenance and Repair charges will not be processed if the date on which the work was completed is 30 calendar days or more in arrears of the Qwest process date. Charges for Maintenance and Repair work will appear no later than the second bill cycle after the date the work was

completed.

[Back to Top](#)

## CLEC Roles and Responsibilities

### Maintenance and Repair Trouble Administration

You are responsible for Maintenance and Repair Trouble Administration for your own end-users, providing them with the means and processes to report troubles associated with their services provided by you. This includes taking all necessary trouble information from them to resolve troubles. Qwest will not work directly with your end-users and at no time should you provide them with Qwest's contact numbers. Qwest will only accept trouble reports from your repair center and we require that you provide us with your contact name and telephone number on all trouble reports in order for us to call if access or additional information is needed.

### Maintaining End-user Data

You are responsible for maintaining your end-users' account data including, but not limited to:

- Name, address and telephone number
- Circuit ID information provided by Qwest at the time the network element was provisioned
- Your port assignment information

### Single Point of Contact

We each must identify a Single Point of Contact (SPOC) to resolve service related issues, and we are both responsible for reviewing and providing updates to SPOC information as required. Qwest SPOCs are accessible 24/7. Note: Qwest's SPOC numbers should not be given to your end-users nor should you direct them to call any department within Qwest. Misdirected calls to Qwest from your end-users or a third party will be referred back to you.

- **Misdirected Calls**

If your end-user calls our Repair Centers, the call is considered misdirected and the caller will be advised to contact their service provider for assistance. Qwest will provide the end-user with their service provider's name if available.

### Demarcation Points

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). See [FCC 97-209](#) and Public Service Commission (PSC) 900 Tariff Section 16 for clarification. To issue an accurate trouble report, you must identify the demarcation point/network interface along with the Qwest provided circuit identification and isolate the trouble to the Qwest side of the demarcation. The specific location of the end-user premises demarcation point can be determined by working back from your end-user's telephone or station equipment. In accordance with applicable safety and privacy regulations, you may choose to use various inside wire isolation techniques. If you require binding post information to complete your repair or installation work, your technician may call Qwest's Repair Department. If available, Qwest will provide demarcation binding post information for Design facilities and building terminal binding post information for POTS facilities through its Repair Department upon request. If binding post information is not available, the existing process for tagging the demarcation point will

apply. Should you choose not to dispatch your own technician to find the demarcation point and initiate a trouble report against the network element in question, you will incur MSC. During a trouble isolation request you can ask that the demarcation point be identified and tagged.

### Tagging of Circuits

The Qwest technician that provisioned your end-user's new service was responsible for tagging the demarcation point of the communication lines for your specific service. However, this information can change, be destroyed/lost, or a premise visit may not have been required to turn up the specific service/product. If you cannot identify your end-user's demarcation point, you may request that Qwest tag and identify the demarcation point of the lines that serve your end-users.

#### Design Services

You may request tagging a demarcation point for any Qwest Designed Service. This request can be submitted via your normal channels for submitting service requests or through repair call handling groups such as Wholesale Repair Center, RCHC, or an Electronic Gateway. This type of request is considered Additional Labor that will be billed to you as regulated MSC. There are two scenarios for tagging a demarcation point after an order has been completed:

- Circuit is for New Service 30 calendar days or less of order completion.
- Circuit is for service that is beyond 30 calendar days of order completion.

If the circuit is for new service 30 calendar days or less of order completion, you should call the Wholesale Repair Center, or RCHC, or request a trouble ticket via the Electronic Gateway. Indicate that this is new service, include lift and lay unbundled information (within 30 calendar days), and state that you cannot locate the tag. We will dispatch a repair technician. If we find that the circuit is tagged, we will bill you a MSC. If the circuit is not tagged, we will tag it and you will not be charged.

If the circuit is for service that is beyond 30 calendar days of service order completion and an out of service condition exists, we will dispatch to the end-user premises to isolate and/or fix the trouble. If the end-user indicates that they want the circuit tagged, we will direct them to contact you. If you authorize tagging the circuit, we will tag it and apply the MSC identified as Additional Labor.

If you report an out of service condition and also request additional tagging be done on other circuits during that premise visit, we will issue an Assist Test (AT) ticket for each additional circuit tagged. This is also billable and charges for all tickets will be applied to one ticket. There will be no material charges since all work is being done on the Qwest regulated side of the demarcation point.

If you contact Qwest Repair and request that we tag a circuit and an out of service condition does not exist, you will be asked to submit a service request via your normal channels if the circuit is beyond the 30 calendar day new service order completion window. The order will be written for the Additional Labor required to do the work.

If you want Qwest to move or relocate the demarcation point you must submit a service request and have an order issued before any work is performed. The technician will not move or relocate the demarcation

point or perform any work on the end-user side of the demarcation point until an order has been issued.

### Non-Design (POTS) Services

You may request tagging a demarcation point for any Qwest Non-Designed Service. This request can be submitted via your normal channels for submitting service requests or through repair call handling groups such as Wholesale Repair Center, RCHC, or an Electronic Gateway. There are two scenarios for tagging a demarcation point after an order has been completed:

- Circuit is for New Service 30 calendar days or less of order completion.
- Circuit is for service that is beyond 30 calendar days of order completion.

If the circuit is for new service 30 calendar days or less of order completion, you should call the Wholesale Repair Center, or RCHC, or request a trouble ticket via the Electronic Gateway. Indicate that this is new service (within 30 calendar days), and state that you cannot locate the tag. We will dispatch a repair technician. If we find that the circuit is tagged, we will bill you a TIC. If the circuit is not tagged, we will tag it and you will not be charged.

If the circuit is for service that is beyond 30 calendar days of service order completion and an out service condition exists, we will dispatch to the end-user premises to isolate and/or fix the trouble. We will also tag the circuit at that time as part of the Repair Process.

If you contact Qwest Repair and request that we tag a circuit and an out of service condition does not exist, you will be asked to submit a service request via your normal channels if the circuit is beyond the 30 calendar day new service order completion window.

If you want Qwest to move or relocate the demarcation point you must submit a service request and have an order issued before any work is performed. The technician will not move or relocate the demarcation point until an order has been issued.

### Carrier Facility Assignment (CFA) Cut to Fix

The CFA is a facility from a Qwest Central Office that terminates at your location (e.g., central office). If you report trouble on a CFA and it has been isolated to the Qwest portion of the CFA, the system or individual channel (time slot) will be repaired or temporarily re-routed to a different channel bank/facility until the original facility can be repaired. You will not need to submit a service request to repair the CFA.

If you request a permanent CFA move when you report trouble, we will make the permanent move, however, you will need to submit a service request. If you are able to obtain an order number or Purchase Order Number (PON) during the permanent move when the Customer Communication Technician (CCT) is online, provide it to that individual. It is your responsibility to submit a service request via an ASR when cutting to another facility. Repair will work the redesign, i.e., permanent move, as they do other circuit redesigns.

If you are unable to get an order number or PON with the CCT online, we will proceed with making the permanent move and hold the trouble ticket as No Access (NA) until you can obtain an order number or PON. If you cannot obtain an order number or PON until the next working day and

you want the new CFA cut prior to obtaining an order number or PON, we will make the cut and place the trouble ticket in NA status for 24 hours (work day, Monday - Friday). If you have not contacted us with an order number or PON by the expiration of that NA period, Qwest will notify you that we intend to cut the circuit back to its original CFA.

### **Correcting the Wrong Demarcation on Repair/Moving the Demarcation**

If you want Qwest to correct or move the demarcation point, you must submit a trouble ticket or a service request and have an order issued before any work is performed. There are primarily three scenarios for correcting/moving the demarcation point. They are as follows:

- Your end-user has requested repair because the demarcation point is not found or the service is not working at the expected location. The technician finds that the installation is correct per the service order and the service is working appropriately at the expected location. If your end-user wants the circuit moved, you must submit a service request and have an order issued before any work will be performed. If your end-user does not want the circuit moved, you will be charged a MSC and a dispatch charge.
- Your end-user has requested repair because the demarcation point is not found or the service is not working at the expected location. The technician finds that the installation is correct per the service order and the service is working appropriately at the expected location. The Repair Technician finds that an incorrect address was provided on the original order and that the circuit needs to be re-designed. You will need to cancel the original order and submit a service request for a new order with the correct address.
- Your end-user has requested repair because the demarcation point is not found or the service is not working at the expected location. The technician finds that the installation is not correct per the service order and the service is not working appropriately at the expected location. The Repair Technician will make any changes necessary to make the installation correct per the original order.

### **Testing Faulty Elements**

Before initiating a trouble report to Qwest, and to expedite the repair process, you are responsible for identifying the fault and location of the trouble within the Network prior to contacting Qwest.

- **Test Assurance**  
At times additional screening and testing may be needed to isolate a trouble when automatic testing is not conclusive. Qwest's remote test equipment can isolate a trouble to the network interface unit, customer service unit, or point of interface. If further isolation is required, you may request the dispatch of a Qwest technician to your end-user's premises. We will ask that one of your technicians meet our technician at the premises. If this is not possible, a Qwest technician will be sent to your end-user's premises on an "Assist Test Ticket." Qwest will validate premises access with you and will not contact your end-user without your authorization. Restoring out-of-service conditions take precedence over requests for test assistance. You may request assistance online or by calling and speaking with a Repair Service Attendant (RSA) who will create a trouble report to track testing.

### **Testing POTS and Other Services at Fault**

For services Qwest provides, where you do not have the ability to isolate the trouble (e.g., Resale, POTS, LIS), you are not responsible for trouble

isolation. In such cases, Qwest will perform all testing, trouble isolation and resolution within Qwest's Network on your behalf. For POTS (Resale or UNE-P) you are still responsible for isolating the trouble at the NID. If a Qwest technician is dispatched to the end-user's premise and the trouble is not found in the Qwest network, a TIC will apply. You must either authorize or deny authorization for TIC when a trouble report is opened. If you do not authorize TIC, a Qwest technician will not be dispatched.

### **Isolating Faulty Element**

After you test the circuit to determine the trouble condition and isolate the trouble to Qwest's network, you need to determine, to the extent possible, the specific network element experiencing a fault condition. If the trouble is isolated to your side of the demarcation point, you are responsible for repairing the trouble condition. If the trouble is isolated to Qwest's side of the demarcation point, Qwest will repair the trouble. With your authorization, when Qwest dispatches a technician to the end-user's premise, and the technician isolates the trouble to your side of the demarcation point, a MSC will be applied. Specific products, i.e., Enhanced Extended Loop (EEL), Unbundled Local Loop, Loop Multiplexer (MUX) Combination (LMC), and Unbundled Dedicated Interoffice Transport (UDIT), provide trouble isolation and testing as a joint process. In this situation, you are responsible for testing and providing trouble isolation results prior to submitting a trouble report to Qwest. If you elect not to perform trouble isolation testing, Qwest will offer the option of performing the testing on your behalf. If you request optional testing from Qwest, you are required to provide your name, telephone number, and authorization to test (either verbally or electronically (via CEMR)). If you use CEMR, include the narrative "optional testing authorized" in the comments. For additional information regarding optional testing for applicable products refer to the following:

- [Enhanced Extended Loop](#)
- [Unbundled Local Loop - General Information](#)
- [Loop MUX Combination \(LMC\)](#)
- [Unbundled Dedicated Interoffice Transport \(UDIT\)](#)

Qwest will provision an Unbundled DS1 Loop to meet American National Standards Institute (ANSI) standards. Depending on the type of installation option you chose, test results may or may not have been provided at time of test and turn up.

If, after acceptance of a DS1 Capable loop, you cannot get the loop to work, you will test to ensure that there are no problems on the customer side of the demarcation point. You will then open a repair ticket and provide test results. Qwest will conduct testing and if applicable will contact you to arrange a joint meet; this could include joint testing at the customer's premises. Once testing has been completed, and should Qwest find the circuit to function within prescribed transmission parameters, we will mutually share relevant/applicable information pertaining to the circuit; this may include type of CPE, distance and gauge of inside wire, circuit design, end-to-end distance, number of repeaters and distance between repeaters.

If it cannot be determined why the circuit will not work for you, we will alter the dB loss setting where technically feasible, to make the circuit functional. At this point, Qwest will bill for the dispatch and the time spent to meet and work on the circuit with you.

### **Test Results Before Submitting a Trouble Report**

If you do not provide test results (except for Resale, POTS, and LIS)

when attempting to submit a trouble report and elect not to have Qwest perform optional testing on your behalf, Qwest will not have enough information to open a valid trouble ticket and therefore will not open one. You will need to obtain testing information prior to Qwest accepting and issuing a valid trouble report. For information regarding test results, acceptable test results, and unacceptable test results; refer to [Test Results Information](#).

You have the right to request reconciliation of trouble reports in order to minimize repeat reports. You can initiate the reconciliation process through your Qwest Service Manager.

### **Third Party Owned Network Element - Repairs**

You are responsible for trouble repairs when a third party owns a network element. Qwest does not perform trouble maintenance or repairs for third party-owned elements. Depending on your Qwest Interconnection Agreement, Qwest may provide Third Party assistance on a Time and Material basis. Contact your Qwest Service Manager if you need clarification.

### **Submitting Trouble Reports**

The maintenance and repair process begins with the discovery that a service is not functioning properly. This can occur when your end-user realizes they are experiencing poor sound quality, no dial tone or another trouble condition with their telephone service and contacts your customer service organization for assistance or, utilizing your own network testing, monitoring and surveillance tools, you discover a trouble condition.

The core hours of operation for a repair technician are 9 AM to 5 PM local time. Specific hours of operation for repair technicians in a particular area are available when a repair ticket is issued. Note: Some products and services may have Qwest "Promise of Service™" intervals in which Qwest will hold itself to a higher level of service than normal specified guidelines. The Qwest "Promise of Service™" interval will automatically be available to Qwest customers for these products and services. The Qwest "Promise of Service™" initiative may result in guidelines that reduce the timeframe for maintenance and repair, however, these guidelines are not included in, or supported by, Qwest Performance Indicator Definitions (PID) or Performance Assurance Plan (PAP) obligations. To view the list of switch features included in the 8 hour Qwest "Promise of Service™" click on [List of Features - Qwest Promise of Service](#).

### **Recent Service Request Activity**

If you have a service-affecting problem, Qwest recommends the following options:

- If a service order is pending for the line/circuit, call the Customer Service Inquiry and Education (CSIE) at 866 434-2555.
- If notification has been received within the last 24 hours indicating your service order may have completed, contact the CSIE.
- If notification was received more than 24 hours ago indicating your service order may have completed, contact the Qwest Repair Department or issue a repair ticket via CEMR.
- If you have had no recent service order activity, issue a repair ticket via CEMR or contact the Qwest Repair Department.

For better efficiency, use our online CEMR System that connects you to



our internal support systems. CEMR requires security certification. Contact your Qwest Service Manager if you need information related to this application. Step-by-step details regarding CEMR can be found in the [CEMR User Guide](#). In the event CEMR is off line or you encounter difficulty, contact the appropriate Center and our RSAs will take your report manually should it be necessary.

Contact the Wholesale Repair Center for Design Products and Services or the RCHC for Non-Design Products and Services and our RSAs will receive and create your trouble report as well as provide you updates regarding any of your existing trouble reports.

If your service request for Unbundled Local Loops or Resale Design Services was completed within 30 calendar days, you have the option of using one of the methods described above (submit a trouble report via CEMR or to the Wholesale Repair Center) or you may contact the Qwest CLEC Coordination Center (QCCC) for Unbundled Local Loops or the technician for Resale Design Services and they will open, document, and track a trouble ticket.

For Resale Design Services, the technician who provisioned the circuit will provide their name, direct call back number, and normal work schedule. You may call this technician directly within 30 calendar days of service order completion to report trouble.

When submitting multiple trouble tickets for telephone numbers in multiple locations, you may choose to fax your reports to our centers for operational efficiencies. There is no limit as to the number of faxes you are allowed to send.

### **Required Information**

When submitting a trouble report, the results and analysis of your fact-finding, testing and trouble isolation efforts determine the information you provide. Your trouble report must be accurate and complete to enable Qwest to undertake the actions necessary to isolate and resolve the trouble. The following information is required when a trouble report is submitted:

- Telephone number, Qwest circuit identification, or 2/6 code of service in trouble
- Location or address of service, including suite, room, floor, apartment, or unit number
- Detailed fault condition and trouble description, including test results
- Your reporting contact name and telephone number
- Your trouble report or tracking number
- Your local contact names and telephone numbers for premises access
- Hours of access to the end-user premises
- Authorization to test (See note below)
- Authorization to dispatch (See note below)
- Identification of a life threatening situation
- Identification of chronic service problem (as defined in the Chronic Service Problems Section of this Web page)

For non-design services, you may request a courtesy pre-dispatch call from a Qwest technician to you before he/she leaves for your end-user's premises. If you use CEMR, select the "Call Before Dispatch" button on the Narrative Customizing Window (see Figure 10-31 in the CEMR User's Guide). If you use MEDIACC, populate the attribute "additionalTroubleInfoList" with "CLB4 DSP." If you call into the RCHC or Wholesale Repair Center to report trouble, you may also request a pre-dispatch courtesy call from a Qwest Technician. A pre-dispatch call will

not be made unless you request it.

For Non-design Resale Services, Qwest will require an appointment to be scheduled when any of the following are present on the trouble report:

- Physical/Jack/Inside Wire work Requests
- Chronic Trouble (from Display Abbreviated Trouble History (DATH) Analysis)
- Access to yard is "No"
- Network Interface not accessible

For Non-design Business Services, Qwest will require an access window.

If you use CEMR or MEDIACC, you may request a joint Dispatch Out (DPO) field meet. In CEMR you may request a joint DPO by following the instructions on the "CEMR/RCE Joint Meet Screen". In MEDIACC you may request a joint DPO by populating the attribute "additionalTroubleInfoList" with "DPO Joint Meet" and include date and time (e.g., DPO Joint Meet 07/21/04 3 PM). You may also request a joint Dispatch In (DPI) central office meet. In CEMR you may request a joint DPI by following the instructions on the "CEMR/RCE Joint Meet Screen". In MEDIACC you may request a joint DPI by populating the attribute "additionalTroubleInfoList" with "DPI Joint Meet" and include date and time (e.g., DPI Joint Meet 07/21/04 3 PM). To request a joint meet, you must submit your request no later than 3 PM local time the day before the joint meet.

If you use MEDIACC you may request a trouble ticket for IP CENTREX by populating the attribute "additionalTroubleInfoList" with "IPCTX" and the telephone number of the line(s) experiencing difficulty.

With the exception of major outage restoration, cable rearrangements, Multi Tenant Environment (MTE) terminal maintenance/replacement, and post-order/post-repair preventive maintenance, Qwest will not dispatch to the end-user premises without your authorization. The Company Initiated Activity Customer Notifications matrix contains a list of processes, activities, responsibilities, timeframes, and notifications related to Qwest initiated activities. For information regarding when you may be notified of Qwest initiated activity, click on the [Customer Notification](#) matrix.

Note: For Non-Design Services, acceptance of TIC indicates authorization to dispatch. For Non-Design Services, electronically submitted trouble reports via MEDIACC, automatically authorize dispatch and acceptance of TIC. For Designed Services, all electronically submitted trouble reports automatically authorize dispatch and intrusive testing. For Designed Services manually submitted trouble reports, authorization to test shall include authorization to dispatch. Should you wish to provide such permission, Qwest will require the following information for the trouble report:

- Name and telephone number of the end-user premises contact
- Hours of access at the end-user premises

[Back to Top](#)

## Qwest's Roles and Responsibilities

### Responding to Submitted Trouble Reports

To efficiently resolve the reported trouble, our repair organizations are

grouped into Wholesale Product or Design Services or Non-Design Maintenance and Repair teams:

- **Wholesale Repair Center**  
Design Unbundled Network Element and Complex Wholesale Products and Services (LIS Trunking; Unbundled Local Loop, Unbundled Feeder Sub-Loop, Unbundled Switch, Unbundled Transport; Unbundled Dark Fiber; Resale - Design Services)
- **RCHC**  
Non-Design POTS and Non-Complex Wholesale Products and Services (Resale - Simple Residential (1FR) and Business (1FB); UNE-P POTS; Line sharing, Unbundled Distribution Sub-Loops; Local Number Portability (LNP).

Refer to the Contact Section of this web page for Wholesale Repair and RCHC telephone numbers.

Organized geographically, Qwest's RSAs and Repair Centers manage the restoration of service on a non-discriminatory basis providing you the same timeliness and quality repair service we provide to ourselves, our end-users, our affiliates, and any other party. Your trouble reports are prioritized based on service without regard to the service provider.

When submitting a trouble report for POTS service, you may request Emergency Call Forwarding (ECF) if you have an out of service condition regardless of whether or not Call Forwarding is on the account. Refer to [CEMR On-line Help](#) (enter "Emergency Call Forwarding" in the search field, click on find, and scroll to requested information) for additional information regarding ECF. If the account has Call Forwarding, you may also call the RCHC to have call forwarding (Courtesy Call Forwarding) activated with a repair condition.

Utilize your normal trouble-reporting channel into the appropriate Center for repair call handling, trouble report creation, status updates, and escalation management. Available 24/7, representatives within the Wholesale Repair Center, RCHC, and Design Service Centers serve as your advocate representing your needs within Qwest. Some services attendants provide include:

- Ensuring trouble isolation procedures are immediately initiated for your reported trouble
- Providing you with a report number for reference, if necessary
- Coordinating among Qwest departments to resolve your Wholesale product and service related troubles
- Monitoring open trouble reports
- Communicating status when you call
- Accepting your requests for escalation and cooperatively managing them within Qwest when you deem necessary
- Providing you with support when the electronic interface, [CEMR](#), is unavailable
- Answering questions regarding trouble reports or processes

### Escalations

At your discretion, you may initiate an escalation of your trouble report at any time during the repair process through either an electronic interface provided by Qwest or by calling either the Wholesale Repair Center for UNEs and Complex services or the RCHC for POTS and Non-Complex services. Escalations begin with the tester or screener and passes to the duty Supervisor, Manager, Director, and Vice President levels within Qwest. For additional information regarding repair escalations, refer to [Wholesale Customer Service Repair Escalation List](#)

[for Residence, Small Business, Large Business, and Wholesale.](#)

### Repairing Faulty Products and Services

When you initiate a trouble report, our center technicians receive and manage the issue through resolution for Design Services. Your trouble report is routed for testing and trouble isolation where the trouble is initially isolated to one of three general areas:

- **Central Office:** Includes hardware, wiring, and equipment supporting the network switching or network routing housed inside the Central Office
- **Translations:** Includes individual line and complex switch translations
- **Field:** Includes network elements and supporting infrastructure equipment (copper, fiber, NIDs, and electronics) as well as cable outage restoration and proactive maintenance

Technicians in multiple locations across all three general areas may be required to isolate the trouble and restore service. Responsibilities of our repair technicians include:

- Assigning a technician responsible for initial testing on circuits identified in your trouble report (also referred to as a trouble ticket) and isolating trouble
- Routing your report for dispatch to Central Office, Translations, and/or Field Technicians as applicable
- Escalating your report internally until a resource is assigned or progress made
- Performing tests to verify service restoration
- Coordinating cooperative testing
- Facilitating test result handoff activity and restoration concurrence
- Assigning resolution codes prior to closing your report

### No Access (Designed Services only)

When a Qwest Technician is dispatched at your request, they may encounter a No Access situation that prevents repairing the trouble. No Access situations include:

- Your technician or vendor not available for testing or trouble resolution
- No circuit access
- No premises access

Exception: When optional testing is approved by the customer of record, Stop Time will apply to the trouble ticket while testing is performed. This stop time will not delay the progress of the trouble ticket through the repair process, but it will account for the time the customer of record would have spent performing this testing.

If a No Access situation occurs, trouble resolution is delayed and additional dispatching charges may apply.

When a trouble ticket is received from you for unbundled services, the Repair CCT will validate the circuit notes for the installed circuit and identify from those notes whether there is a "Y" or "N" associated with the "NIU ACCESS (Y/N)" field. This information should have also been Emailed or given verbally to you at the time of installation:

- If the Network Interface Unit (NIU) Access field is marked with a "Y", Qwest should have access to the NIU without assistance from you or the end-user. Qwest technicians will review this information with the customer of record via a phone call or electronic

communication during the initial testing step of the trouble ticket process to determine whether there have been any changes since the service was installed or the last time it was repaired. If the NIU ACCESS field is marked with a "Y" and dispatch is authorized, we will proceed with dispatching a technician.

- If the NIU Access field is marked with a "N", it indicates Qwest does not have access to the NIU without assistance from you or the end-user. Qwest technicians will review this information with the customer of record via a phone call or electronic communication during the initial testing step of the trouble ticket process to determine whether there have been any changes since the service was installed or the last time it was repaired. We will proceed with testing and dispatch based on this information and the entry of the trouble ticket. (Note: electronically submitted trouble reports automatically authorize dispatch and intrusive testing. For manually submitted trouble reports, authorization to test includes authorization to dispatch.)
- If the circuit notes do not indicate the NIU ACCESS status, the CCT will update the circuit notes for future reference based on findings during this repair visit.
- If, after testing remotely from the center; a central office; or another access point, it is determined that access is required to repair the circuit and access is not available and you have been informed of the no access situation, NA or stop time will apply until access is provided.
  - After hours, i.e., outside standard business hours, Qwest will not dispatch to the last testable point in a circuit if isolation can be obtained via remote testing. If, after isolation testing (either remotely from a repair center; a central office; or another access point) it is determined that access is required to repair the circuit and access is not available and you have been informed of the no access situation, NA or stop time will apply until access is provided. If testing indicates that the problem is in the Qwest network and end-user premise access is not required to repair the circuit, NA or stop time will not apply.
- When you enter a trouble ticket or a Qwest representative contacts you, access information will be validated. Examples of contacts that include information we will ask you to provide are as follows:
  - Verified access hours with my customer to be 800 to 1600. After that time there will be no access to the communication room where all equipment including Qwest's is located.
  - Access hours for the building are, 900 to 1700; however, the communication closet is outside of the building requiring contact with the guard who is at gate 7X24.
  - Access to the customer communication cage is 900 to 1600. Building access is 800 to 1700 and for immediate access to the cage call xxx-yyy-xxxx number.

### **Out of Hours Dispatch**

While Qwest's Maintenance and Repair Centers operate 24/7 not all functions and locations are covered 24/7. In major metropolitan areas, where technicians are on duty around the clock, Qwest dispatches as if the request was received during normal business hours and tests circuits to the last Central Office where a technician is available. Qwest always calls out technicians in life threatening, fire, national security, or other emergency situations. If an out-of-service condition exists that cannot wait until normal business hours for resolution, in an area where Qwest's technicians are not available 24/7, Qwest will determine the necessity to dispatch and/or call out a technician when the trouble is isolated to a non-staffed Central Office and there is access to the premises. Exceptions may occur in the event of Central Office conversions, system outages, severe weather conditions, or during emergency preparedness

situations.

### **Providing Trouble Report Status Updates**

Qwest provides two ways to check the status of your trouble reports:

- With Qwest's CEMR System you can view trouble reports, status updates and messages posted by our technicians from your own computer.
  - For Trouble Type Abbreviations and Descriptions for Design UNE and Complex as well as Non-Design POTS and Non-Complex Products and Services refer to our [CEMR On-line Help/RCE User Guide](#).
- Or, contact the Wholesale Repair Center for Design Products and Services or the RCHC for Non-Design Products and Services to request a status update. If the RSA does not have current information, they will contact the appropriate tester to update you.

### **Closing Your Trouble Report**

When your Design service is restored to Qwest's last point of presence or demarcation point, the Maintenance Control Office (MCO) CCT will contact you to coordinate cooperative testing, obtain restoration concurrence, and provide test results. After obtaining your approval to close your trouble report, the MCO CCT will assign trouble codes and close the trouble report. You can view your closed trouble reports via the history function in CEMR.

When your Non-Design service is restored, Qwest assigns disposition and cause codes, closes the trouble ticket, and notifies you that the trouble has been resolved. Trouble tickets that are received by Qwest electronically, via existing functionality in CEMR/MEDIACC, will be closed electronically. You can view your closed trouble reports via the history function in CEMR. If a trouble ticket was opened via a phone call to the Qwest Repair center, Qwest will assign disposition and cause codes, close the trouble ticket, and notify you via a phone call that the trouble has been resolved.

### **Qwest Design Services Trouble Ticket Codes and Qwest Non-Design Disposition & Cause Codes**

Information provided in the following documents describes the various trouble reporting codes for design and non-design services and their specific definition.

[Design Services Trouble Codes](#) describe the type of trouble encountered.

[Non-Design Services Disposition and Cause Codes](#) identify the reason for service problems. Disposition Codes indicate the action taken to clear the reported trouble, while Cause Codes indicate why.

[Test Results Information](#) describes acceptable network test results, unacceptable test results, and other related information.

[Back to Top](#)

## **Additional Maintenance and Repair Activities**

### **Abnormal Events**

Qwest follows established [FCC guidelines](#) for restoration priorities related

to:

- **Major Network Outages:** Switch, Interoffice facility, or Major cable failures that could be the result of cable cuts or switch problems
- **Major Disasters:** Natural disasters such as floods, fires, bomb threats, hazardous waste, and tornados

### Major Outage Notification

Qwest offers an automatic Major Outage Notification. Contact your Qwest Service Manager if you have questions or would like to learn more about the automatic notification process.

If you choose to receive Qwest's automatic notifications, you will be notified of certain reportable events in our network that may be service affecting. Notifications are sent via Internet e-mail or facsimile simultaneously with our internal event notification usually within 30 minutes after the Qwest work center determines a reportable event has occurred, even if the service problem is already resolved. Examples of reportable events are:

- 911 - Any disruption of 911 services regardless of duration.
- Inter Office Facility (IOF)/Transport Failure.
  - One or more T3s for 30 minutes or more.
  - One or more T3s supporting TSP Defense or Federal Aviation Administration (FAA) Government critical circuits for 15 minutes or more.
- Switch - Total switch failure for two minutes or more or partial switch failure involving 5000 or more lines for 30 minutes or more.
- Signaling - Signaling System 7 (SS7) node isolation of five minutes or more. Switching Transfer Point (STP) or Service Control Point (SCP) down situations for two hours or more.
- Power - Major service interruption as a result of a power failure.
- Fire - Major service interruption as a result of a fire.
- A failure resulting in 25 or more initial end-user reports.

If you choose not to receive automatic notifications, our RSA will provide information of major outages only in conjunction with an active trouble report. With the exception of certain proprietary information, Qwest uses the same thresholds and processes for external notification as it does for internal purposes. Service restoration is non-discriminatory and accomplished as quickly as possible according to Qwest and/or industry standards.

### Major Disasters

Qwest complies with established federal and state requirements providing network disaster recovery planning at both the state and national levels. Functional exercises are conducted to audit our proficiency at managing the unique communications requirements associated with catastrophic disasters and recovery events. During disaster recovery exercises, Qwest's NROC is responsible for notifying your operations center to obtain input and/or cooperation from you. FCC regulations require that all Telecommunication Organizations comply with any applicable federal and state requirements concerning disaster recovery exercises, with us each notifying the other prior to performing these exercises.

### Chronic Service Problems (Design and Non-Design)

Services having repeated, unresolved service issues may be designated a chronic service problem if the following conditions occur:

- The circuit has had at least three trouble reports in a rolling 30

- days
- The circuit has similar, repeated test results on two or more trouble reports
- Trouble on the circuit often clears during testing

Qwest's Maintenance and Repair Technicians focus on resolving chronic service problems by:

- Analyzing chronic reports for trends
- Determining root causes
- Taking ownership of the trouble report until service is restored
- Assisting or calling upon internal and/or external experts

If you feel a circuit has a chronic service problem and requires special attention, note the situation on the trouble report you submit or bring it to the attention of the RSA who creates your report. Once our Maintenance and Repair Technician completes the repair, clearing the chronic trouble, Qwest will maintain the chronic trouble ticket in "Pending Close" status until you accept the trouble as resolved.

### **Monitoring Network Equipment**

Qwest's NROC monitors and maintains our facilities focusing on network integrity, reliability, availability, and quality. Some functions include:

- Call gap management
- Disaster recovery planning at both the state and national levels
- Network traffic management
- Notification of mass calling events
- Operations information control
- Signaling network control
- Tier II network surveillance of Qwest's network to proactively monitor our network identifying and resolving issues as they occur

Qwest offers surveillance or alarm detection capabilities with Interconnect products and services. Contact your Qwest Service Manager if you need additional information.

### **Preventive Maintenance**

Qwest will work cooperatively with you to determine reasonable notification requirements of service-affecting activities that may occur in normal operation of our business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements, routine preventative maintenance, and major switching machine change-out. Generally, such activities may affect many services. No specific advance notification period is applicable to all service activities.

### **Preventive Maintenance Windows**

Qwest generally performs proactive maintenance activities during "off hours" with maintenance windows between:

- 10:00 PM through 6:00 AM Monday through Friday
  - Saturday 10:00 PM through Monday 6:00 AM
- NOTE: If 911 service is impacted, the following maintenance windows are used:
- Tuesday through Thursday, 3:00 AM - 6:00 AM Applicable when 50% or more of a 911 trunk group is affected and/or switch translations work is involved. A representative from the affected Public Safety Answering Point (PSAP) must provide approval via the Qwest Center for 911 Customer



Service.

- o Monday through Thursday, 10:00 PM to 6:00 AM Applicable for all other activity when less than 50% of a 911 trunk group is involved. A representative from the affected PSAP must provide approval via the Qwest Center for 911 Customer Service.

Qwest will perform maintenance activity on Qwest High-Speed Internet™ Remote Equipment Terminals specifically to augment network bandwidth between the remote terminal location and the associated Central Office as needed for end-user service requirements. Qwest will notify you of augmented facilities by posting location and date information on the [Qwest High-Speed Internet™ RT FAC Augment Schedule](#) web site at least 3 days prior to the scheduled maintenance activity. The maintenance window for this work is between:

- 12:00 AM (midnight) and 4:00 PM Monday through Saturday

Switch, transport, or power activities that have the potential to impact customer service are scheduled during a maintenance window except as described below. Maintenance Window activities may include:

- Repairing equipment that has a high impact on customer service
- Modifying hardware or software
- Installing new equipment that involves the following:
  - o Contact or integration with existing equipment or infrastructure and high impact to customer service
- Maintaining 911 service (Monday through Thursday from 10:00 PM to 6:00 AM)

Proactive loop maintenance for switched-based Non-Design Services includes Automatic Line Tests (ALIT) which are performed nightly between 9:00 PM and 6:00 AM and MLT performed between 8:00 PM and 4:00 AM after all New (N) or Transfer (T) service order activity. This is also applicable to repair activity involving a dispatch to the field. A dispatch to your end-user's premises may result from these tests.

Non-Maintenance Window Activities may include:

- Repairing equipment to restore interrupted service
- Maintaining equipment associated with the ability to provide service, equipment may involve the following:
  - o Communication links
  - o Operational Support Systems
  - o Surveillance equipment
- Working on routine tasks that do not jeopardize service
- Installing new equipment under the following conditions:
  - o No contact with existing equipment or infrastructure
  - o No integration with existing equipment or infrastructure
  - o No impact to customer service exists

While we normally perform major switch maintenance during the above maintenance windows, there will be occasions where this will not be possible. Qwest will provide you notification of any and all maintenance activities that may impact your ordering practices such as embargoes, moratoriums, or quiet periods in substantially the same time and manner as we provide this information to ourselves, our end-users, our affiliates, and any other party.

### **Major Switch Maintenance**

Major switch maintenance activities include switch conversions, switch generic software upgrades and switch equipment additions.

Switch conversions typically require service order embargoes to ensure seamless transition from the old to the new switch. An embargo is a period of time prior to and after the conversion date where trunk connections into the switch are frozen; no trunk related orders, with the exception of conversion orders, will be accepted or provisioned. Embargos for trunk-side facilities extend from 30 days before the conversion date until five days after the conversion.

Line side orders are also impacted by switch conversions. With the exception of disconnect orders, non-switch related billing and records orders, and emergency orders, no service orders may be completed from five days before until two days after the conversion date; referred to as the quiet period. Disconnect orders are the only orders accepted during the quiet period and will be completed after the quiet period expires.

Planned conversions, including embargo periods, and generic software upgrades in Qwest's switches are posted on the InterCONNECT (ICONN) database containing Local Exchange Routing Guide Information.

[Back to Top](#)

## Training

### Local Qwest 101 "Doing Business With Qwest"

- This introductory web-based training course is designed to teach the Local CLEC and Local Reseller how to do business with Qwest. It will provide a general overview of products and services, Qwest billing and support systems, processes for submitting service requests, reports, and web resource access information. [Click here to learn more about this course and to register.](#)

### CEMR (Customer Electronic Maintenance & Repair) Web Based Training

- This self-directed, web based training course is designed to teach the participant how to use the Qwest Customer Electronic Maintenance & Repair (CEMR) system to troubleshoot and submit trouble reports on design and non-design circuits. This course provides system demonstrations and allows you to complete hands-on activities using the CEMR system. [Click here for course detail and registration information.](#)

View additional Qwest course by clicking on [Course Catalog](#)

[Back to Top](#)

## Contacts

Qwest contact information is located in [Wholesale Customer Contacts](#)

[Back to Top](#)

## Frequently Asked Questions (FAQs)

This section is currently being compiled based on your feedback.

[Back to Top](#)

**Last Update:** November 6, 2006

[ABOUT QWEST](#) | [CAREERS AT QWEST](#)

Copyright © 2006 Qwest | [Legal Notices](#) | [Privacy Policy](#) | [Wholesale Legal Notice](#)

ESCHELON DATA FROM BJJ-6				QWEST REVIEW			
PON	LSR ID	Reason for Invalid Customer Not Ready Jeopardy	ST	Order #	Qwest Tech Notes	CNR Jeopardy in Error?	FOC Sent after original Jeopardy?
OR462897T1FAC	12971352	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	OR	N10835043	Although Qwest did not send a FOC prior to the DD of 1/11/05; Qwest started working with Adam at Eschelon prior to 5 p.m. End result is that Eschelon was having wiring problems and Adam at Eschelon indicated that he needed to dispatch a technician to the cage and Adam said he would supp the order. Qwest subsequently received the supplement as indicated by Eschelon and Adam at Eschelon accepted the service on 1/12 (Qwest installed the service prior to the supp'd due date of 1/17)	NO	NO
UT474484T1FAC	13275636	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	UT	N13197574	DD 2/9/05 missed due to Qwest reasons and a jeopardy of K45 was shown on the order in Qwest's systems as the original due date miss. Qwest contacted Mark at Eschelon at 7:36 am on the DD to advise of possible miss. 2/10 at 7:18 called Eschelon and left Voice Mail that Qwest was ready to test and due date rescheduled for today. Eschelon never called back and a second DD jeopardy of C01 was posted against the order. C01 jeopardy notice was sent to CLEC on the 10th. 2/14 supp to chg DD to 2/17; however Qwest still installed on the 14th.	NO	NO
CO477191T1FAC	13337990	Releasing FOC not sent 24 hours prior to DD Qwest applied an invalid CNR Jeopardy	CO	N14415724	CLEC received jeopardy notice at 1:41 and Qwest immediately followed with a FOC at 1:52 re-acknowledging the DD of 2/17/05; 2/17 referred to CLEC but no CLEC callback at 17:16 so C01 jeep; 2/17 18:21 CLEC cld bk & accepted, tester removed C01 jeep	NO	YES
OR477412T1FAC	13349048	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	OR	N14485305	Orig K17 jeep sent 2/22 at 6:02 pm. Jeopardy condition cleared on the DD. Contacted Eschelon to attempt to turn up the circuit. Eschelon indicated they would be avail after 5P Pac, CLEC had equipment problems and C01 jeep posted; 2/24 supp to chg DD to 3/1; Qwest did install and Eschelon accepted on 2/24 instead of waiting until new DD of 3/1	NO	NO
AZ485850T1FAC	13789261	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N17311757	Jeopardy notice was sent 3/16 and later cleared. No FOC resent. Talked to Tracy at Eschelon on the PTD 3/16/05 at 13:59, he was going to test and call back. 3/17 no callback from CLEC. C01 jeep posted. 3/18 supp to chg DD to 3/23; Qwest installed the circuit on 3/18 with the CLEC instead of waiting for new 3/23 date.	NO	NO
WA494646T1FAC	14216585	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	WA	N21366533	K17 jeep sent 4/13 and K43 on DD 4/14/05. Contacted Jeff at Eschelon at 16:58 he said he would test and call back. Jeff called back at 17:23 can't see signal. Problem originally thought to be on CLEC side. 4/15 found trbl to be in Qwest wiring, fixed & CLEC accepted	NO	NO
AZ510194T1FAC	14657841	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N26053835	Sent K17 jeep on 5/31 and a K18 on 6/3. DD 6/3/05 missed due to Qwest reasons and coded as such in Qwest internal systems. No FOC sent. 6/6 refd to CLEC who will test & call back C01 jeep; CLEC can't loop NIU; Originally problem thought to be on the CLEC side. 6/7 found trbl to be in Qwest wiring, fixed & CLEC accepted	NO	NO
CO528230T1FAC	15276469	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	CO	N30873460	Sent K17 jeoparrdy on 8/1. Sent K18 jeopardy on 8/4. Sent FOC 8/5 at 7:33 DD 8/5/05; 8/5 16:34 refd to CLEC; 19:23 no CLEC callback C01 jeep; 8/8 supp to chg DD to 8/11; 8/8 CLEC called to accept	NO	YES
WA535799T1FAC	15508546	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	WA	N33388590	Initial jeep sent K17 on 8/29. Jeep K08 on 8/31. 9/2 sent FOC with DD 9/2/05 at 3:05. 9/2 refd to Joe at Eschelon at 16:13, Joe advised to C01 jeep.C01 jeep; 9/6 supp to chg DD to 9/9; 9/7 CLEC accepted the circuit	NO	YES
AZ591886T1FAC	16172421	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N40299259	Sent K17 on 11/21. K45 jeep sent also on 11/21at 6pm. Sent FOC 11/21 5:49pm with 11/22 DD. 11/22 1658 refd to CLEC; 1729 no CLEC callback C01 jeep; 11/29 supp to chg DD to 12/2; 11/29 CLEC can't loop NIU will dispatch CLEC tech to cage; 12/2 CLEC accepted	NO	YES
WA609209T1FAC	16594320	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	WA	N44115166	Initial jeep 1/11 K17 jeep. 1/12 K17 jeep. No FOC. DD 1/13/06; 1/13 referred to CLEC Jeff at Eschelon at 16:49 left message. 17:29 on 1/13 worked with CLEC to try to turn up CKT. CLEC unable to accept. C01 jeep; 1/17 supp to chg DD to 1/20; 1/18 refd to CLEC & CLEC (Joe) accepted	NO	NO Qwest Error
AZ610571T1FAC	16615282	Releasing FOC not sent the day prior to DD Qwest applied an invalid end user customer no access C02 jeopardy	AZ	N43700628	Initial jeep K17 on 1/11. Sent FOC 1/16 at 3:42 with 1/16 DD. 1/16 15:51 received call from outside tech, advised NoAccess to prem Called CLEC and advised no access. C02 jeopardy posted. 1/20 supp to chg DD to 1/25, old CLEC advsd ckt rdy; 1/23 CLEC accepted (prior to 1/25 supped due date)	NO	YES

ESCHELON DATA FROM BJJ-6				QWEST REVIEW			
PON	LSR ID	Reason for Invalid Customer Not Ready Jeopardy	ST	Order #	Qwest Tech Notes	CNR Jeopardy in Error?	FOC Sent after original Jeopardy?
AZ610687T1FAC	16615986	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N45042996	K17 jep 1/13. No FOC. 1/16 C01 jep posted. DD 1/16/06; 1/16 15:43 advsd Lex at Eschelon order was released from held. He said would test and call back. 16:39 CLEC cannot loop NIU, still trying to meet DD. CLEC wl stay til 1800, unable to resolve before CLEC left, C01 jep'd in error (should have been K jep); 1/18 supp to chg DD to 1/23; 1/18 CLEC accepted	YES	NO
AZ620905T1FAC	16798946	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N46302319	Initial K17 jep sent on 1/31. FOC send 2/2 with DD 2/7; 2/6 K18 jep was issued. No subsequent FOC. 2/7 10:08 referred order to CLEC to test but no CLEC callback (as of 17:34); C01 jep posted. 2/8 supp to chg DD to 2/13; 2/9 CLEC accepted service and order completed.	NO	YES
AZ624356T1FAC	16886232	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N47011517	Sent K17 jeops on 2/13. No FOC. Sent K18 jep at 16:02 on 2/16. DD 2/16, jep was cleared in the field. 2/16 16:04 talked to CLEC who was going to test and call back, but no CLEC callback (as of 17:58) C01 jep; 2/17 supp to chg DD to 2/22; 2/20 CLEC accepted	NO	NO
MN660526T1FAC	17197449	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	MN	N49735347	Sent K17 on 3/24 at 13:10. Then at 18:01 B33 jep sent followed by a C01 jep on 3/24/06; 3/24 13:35. Talked to Stan at Eschelon advised end user needs to provide ground. C01 jep EU needs to provide ground; K18 jep to recover prs; CNR jeopardy posted in error due to pair recovery issue. 3/30 CLEC accepted	YES	NO
MN659573T1FAC	17223262	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	MN	N50018967-70	3/27 sent K17 jeopardy for 2 orders. 3/27 K18 jep on another order. No FOC. 3/28 C01 jep. 3/28 13:44 called CLEC, referred to Dave. 13:53 said to jep back to Escelon they are not ready. 3/29 supp to chg DD to 4/3; 3/30 refd to CLEC; 3/31 CLEC accepted	NO	NO
OR668544T1FAC	17301788	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	OR	N50692388	4/14 sent K17 jep 3pm. No FOC. DD 4/14/06; 4/14 refd 15:30 referred to Surge at Eschelon, but no callback; C01 posted. 4/21 supp to chg DD to 4/26; 4/24 refd to CLEC & CLEC accepted	NO	NO
WA696462T1FAC	17804830	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	WA	N55399841	6/7 sent K18 jep at 8:55. Jeopardy resolved later in the day on due date (6/7) DD 6/7/06. 6/7 16:45 tried to ref CLEC 206-346-3806 but Ring No Answer. C01 jep; 6/8 DD chg to 6/13; 6/8 CLEC accepted	NO	NO
CO689077T1FAC	17705435	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	CO	N55328894	5/25 17:18 K18 jep was sent. K17 also sent at 18:01. 5/26 FOC sent at 12:36 pm with DD 5/26/06. 5/25 19:12 called CLEC left voice mail was ready to test (day before the DD) 5/26 16:47 no CLEC callback jep C01; 5/30 supp to chg DD to 6/2; 5/20 refd to CLEC & CLEC accepted	NO	YES
CO702280T1FAC	17929677	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	CO	N57492344	6/20 at 15:48 K17 jep issued. 6/22 13:00 send FOC with DD 6/22/06. 6/22 K43 discovered and missed due to Qwest reasons; 6/23 13:04 called Jeff at Eschelon, talked to Jeff advised ready to test and accept. 6/26 9:17 no response from CLEC. 6/26 9:20 pending acceptance Pete. 6/27 supp to chg DD to 6/29; 6/28 CLEC accepted	NO	YES
AZ716331T1FAC	18253036	Releasing FOC not sent the day prior to DD Qwest applied an invalid CNR jeopardy	AZ	N59678376	Sent K17 jep 7/24. FOC 7/27 13:00 for a DD of 7/27/06. 7/27 V25 jep sent. Missed the due to Qwest reasons on 7/27 and coded original due date miss to Qwest. No FOC. 7/28 12:44 refd to Lex but no CLEC callback and a subsequent C01 jep posted on 7/28. 7/31 supp to cng DD to 8/3; 8/2 refd to CLEC & CLEC accepted	NO	NO Qwest Error
AZ719081T1FAC	18386264	Releasing FOC for K 1 jep never sent. Qwest applied invalid CNR jeopardy	AZ	N61499633	8/4 11:26 K17 jep issued. 8/8 18:04 K17 jep issued. 8/9 11:36 K17 jep issued. 8/9 two more jeopardies issued. DD 8/9/06. jeopardy issue resolved on the due date. 8/9 tried to call CLEC 17:22. C01 jeopardy posted in error.	YES	NO Possible Qwest Error

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**ARB 775**

**In the Matter of**

**ESCHELON TELECOM OF OREGON,  
INC.**

**Petition for Arbitration of an Interconnection  
Agreement with Qwest Corporation,  
Pursuant to Section 252 of the  
Telecommunications Act**

**REBUTTAL TESTIMONY OF**

**CURTIS ASHTON**

**FOR**

**QWEST CORPORATION**

**(Disputed Issues 8-21 and 8-21(a) –(e))**

**May 25, 2007**

**TABLE OF CONTENTS**

**I. IDENTIFICATION OF WITNESS ..... 1**

**II. ISSUE 8-21 (AND SUBPARTS (A) – (E)) ..... 1**

1                   **I.       IDENTIFICATION OF WITNESS**

2   **Q.     PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**  
3   **WITH QWEST CORPORATION.**

4   A.     My name is Curtis Ashton. I am employed by Qwest Corporation (“Qwest”) as a  
5           senior staff technical support power maintenance engineer in the technical support  
6           group, local network organization. My business address is 700 W. Mineral,  
7           Littleton, Colorado, 80120.  
8

9   **Q.     DID YOU FILE DIRECT TESTIMONY IN THIS DOCKET?**

10  A.     Yes.  
11

12  **Q.     PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.**

13  
14  A.     The purpose of my testimony is to reply to certain portions of the Direct  
15           Testimony filed by Eschelon witnesses Michael Starkey relating to charges for  
16           DC Power. In particular, I address Starkey’s testimony for Issue 8-21, including  
17           subsections (a) – (e), relating to charges for DC Power Plant .  
18

19                   **II.     ISSUE 8-21 (AND SUBPARTS (A) – (E))**

20  **Q.     WHAT IS THE ISSUE IN DISPUTE?**

21  A.     As I stated in my direct testimony, there are several disputed issues in the ICA  
22           (Issues 8-21, 8-21(a), 8-21(b), 8-21(c), 8-21(d) and 8-21(e)) that relate to Qwest’s  
23           provisioning of -48 Volt DC Power to CLEC collocations within Qwest’s central  
24           offices. For each of these issues, beginning with Issue 8-21, a core dispute is



1 whether language in the ICA pertaining to billing on a measured basis for the DC  
2 Power used by a CLEC should apply to both the power plant and power usage  
3 charges described in the ICA, as Eschelon contends, or only to the power usage  
4 charge, as Qwest contends. As I also suggested in my direct testimony, and as  
5 Qwest witness Teresa Million has testified, these types of issues involving cost  
6 evidence are clearly better suited for resolution in a cost proceeding like a cost  
7 docket. Ms. Million describes this in greater detail in her Rebuttal Testimony.  
8 Nonetheless, I feel compelled to respond here to certain portions of Mr. Starkey's  
9 testimony where he misstates facts relating to DC power in Qwest central offices,  
10 and Qwest's engineering of power plant in the central office.

11 **Q. HOW DOES QWEST DESIGN A POWER PLANT?**

12 A. Qwest engineers take the total requirement of all power needs into consideration  
13 when designing the power plant for a central office. What I mean by this is that  
14 the engineer factors in not only the power requirements of Qwest equipment, but  
15 also collocators (CLECs) within that central office. For example, when a CLEC  
16 provides Qwest with an order for power, Qwest provisions the feed at the  
17 requested amount, and ensures that the power plant has sufficient spare capacity  
18 to provide that ordered amount of power. If the existing plant does not have  
19 sufficient spare capacity to accommodate the CLEC's order, then Qwest will add  
20 capacity as needed. Mr. Starkey states that Qwest designs a Central Office power  
21 plant based on List 1 drain – the current that the equipment will draw when fully  
22 carded on the busiest hour of the busiest day of the year – and that is correct for  
23 Qwest equipment. However, the reality of designing for CLEC needs is that  
24 Qwest does not know, cannot know, and cannot reasonably forecast the draw that  
25 CLEC equipment will take, so Qwest uses the ordered amount to size the power

1 plant capacity made available to CLECs. Qwest plans its DC power plant  
2 capacity so that if a CLEC orders a certain amount of power capacity in its power  
3 feeds, that amount of power capacity is made always available to them in the  
4 power plant.

5 **Q. DOESN'T ESCHELON TELL QWEST WHAT ITS ANTICIPATED**  
6 **USAGE WILL BE WHEN IT PLACES AN ORDER?**

7 A. No, Eschelon does not. Since Eschelon cannot forecast its own usage, Qwest,  
8 who has less information about Eschelon's business plans than Eschelon does,  
9 certainly cannot do so either. Under those circumstances, the only reasonable  
10 amperage to include in power plant planning for CLECs is the ordered amount, as  
11 that is the amount that the CLEC has indicated it needs via its order. It is also the  
12 only number that Qwest has to plan to. If a CLEC orders a 100 amp feed, Qwest  
13 plans accordingly. There is no basis for Qwest to even guess at what power the  
14 CLEC may draw over that feed, or when the CLEC may need that ordered amount  
15 of power.

16 **Q. CAN QWEST MEASURE THE COMBINED LIST 1 DRAIN OF**  
17 **ESCHELON'S COLLOCATED EQUIPMENT?**

18 A. No. As I explain in more detail later in my testimony, Qwest can determine the  
19 peak load or usage of all the telecommunications equipment in a central office,  
20 but this will not allow Qwest to determine the discrete List 1 drain for a given  
21 CLEC's equipment. For CLECs electing power measurement, Qwest will take  
22 random usage measurements 2-4 times per year, but this will not allow Qwest to  
23 determine the combined peak drain of a given CLEC's collocated equipment, let  
24 alone the discrete List 1 drain for each piece of equipment collocated by that

1 CLEC. Nor can Qwest predict what the CLEC equipment current drain will be if  
2 the CLEC adds cards and customers, or even equipment. The Engineering and  
3 Installation interval for power plant components (3-6 months) is such that if a  
4 CLEC adds cards, customers, or totally new equipment (only with the latter does  
5 the CLEC have to tell Qwest that it is growing, and even then with only 90 days  
6 of pre-notification), Qwest must have the power plant capacity available ahead of  
7 time. The only way to ensure that happens is to size the power plant capacity for  
8 the amount of power capacity ordered by the CLEC.

9 **Q. CAN QWEST ESTIMATE THE COMBINED LIST 1 DRAIN OF**  
10 **ESCHELON'S COLLOCATED EQUIPMENT?**

11 A. No. This would be dangerous for the reasons described in the previous example  
12 (the possibility of running out of power plant capacity due to CLEC growth  
13 before more capacity can be added). Also, while Qwest on very rare occasions  
14 estimates List 1 drain for itself (as Mr. Starkey points out, this is supported by  
15 Qwest technical documentation), it does so with equipment with which it is  
16 familiar (installed in many offices and tested in Qwest labs). Qwest has no field  
17 or lab experience with many types of CLEC equipment, so estimating a List 1  
18 drain could lead to an underestimation. Underestimating the necessary power  
19 plant capacity will not only be harmful to CLEC equipment, but to all equipment  
20 in the central office, since (as Mr. Starkey points out) the power plant is a shared  
21 resource. Insufficient capacity will cause the batteries to drain to such a voltage  
22 that all the equipment will fail.

1 **Q. WHY DOESN'T QWEST SIMPLY ASK ESCHELON TO PROVIDE ITS**  
2 **ANTICIPATED USAGE, OR THE COMBINED LIST 1 DRAIN OF THE**  
3 **EQUIPMENT THAT ESCHELON INTENDS TO COLLOCATE?**

4 A. Even if Eschelon provided an accurate List 1 drain for all of its collocated  
5 equipment, that number would be irrelevant, as Ms. Million describes in greater  
6 detail in her Rebuttal Testimony. The rate for DC Power Plant was not designed  
7 based on the List 1 drain for CLEC equipment, or any other measure of CLEC  
8 usage. Accordingly, there would be no reason to ask CLECs for that information  
9 in the collocation application.

10 In addition, List 1 drain is a combination of data provided by manufacturer testing  
11 combined with Qwest lab and field experience with the equipment. A  
12 manufacturer may give a List 1 drain, but often Qwest has adjusted that drain in  
13 its Engineering tools based on lab and field experience. Even if a CLEC were to  
14 provide a manufacturer's List 1 drain, Qwest has no idea of the conditions under  
15 which that drain was obtained. It's possible that the List 1 drain is too low, and as  
16 I previously stated, using that drain to size the power plant could have disastrous  
17 consequences.

18 Finally, to be very clear, while Mr. Starkey talks about List 1 drain throughout his  
19 testimony, Eschelon is not asking to be billed based on List 1 drain. Eschelon is  
20 asking to be billed based on random measurements of its power usage, which is  
21 something entirely different. I discuss this in more detail later, but this also  
22 makes the debate over whether Qwest should ask for List 1 drain somewhat  
23 academic. Eschelon is NOT asking here to be billed for power plant based on the  
24 List 1 drain of its equipment.

1 **Q. UNDER WHAT CIRCUMSTANCES WOULD A CLEC NEED OR USE**  
2 **THE ORDERED AMOUNT OF POWER?**

3 A. A good example of a situation in which the ordered amount of power could be  
4 required would be if Qwest had a complete power failure within a central office,  
5 and the batteries fully discharged. During power outages, the power to the  
6 telecommunications equipment is supplied primarily by batteries. For a time, a  
7 diesel engine may be supplying backup power. If the engine cannot be refueled  
8 the batteries would become the sole source of power. Once the power backup  
9 plant is running solely off battery power, the batteries begin to discharge. Once  
10 the batteries are no longer sufficient to power the equipment, the equipment  
11 would shut down. After power is restored, CLEC and Qwest equipment would  
12 draw an amount of power approaching or reaching the maximum power draw of  
13 that equipment. This is sometimes referred to as a “List 2 Event.” Qwest designs  
14 the power plant so that in such an event, CLEC and toll equipment within the  
15 central office will have the List 2 drain available to them, ahead of even Qwest’s  
16 own switch.<sup>1</sup> A central office power plant is sized on the total requirement of  
17 every piece of equipment that has a power drain. Indeed, under the List 2 drain  
18 situation described above, each and every piece of Eschelon’s equipment in the  
19 central office would have List 2 drain power capacity available to it.

---

<sup>1</sup> The engineering characteristics of Qwest’s switches require that they be restored in stages after a battery discharge event described above. Thus, the List 2 draw for these switches is not experienced at one time – but not as a result of the availability of power plant capacity or the switches’ need for power.

1 **Q. ESCHELON TALKS ABOUT WANTING TO PAY FOR POWER PLANT**  
2 **ON AN “AS CONSUMED” OR “MEASURED” BASIS. IS POWER**  
3 **PLANT “CONSUMED” IN THE SAME WAY THAT POWER ITSELF IS**  
4 **CONSUMED?**

5 A. No, of course not. First, it is important to observe that power plant is not  
6 “consumed.” Power plant consists of several durable pieces of equipment that  
7 last for years. As Mr. Starkey states, power plant capacity is shared among the  
8 several users of power in a central office, but power plant capacity is not  
9 consumed. A better way to describe power plant capacity is in terms of  
10 availability, rather than consumption. For any particular power user, the question  
11 is whether there is sufficient capacity in the power plant available to convert and  
12 deliver the electric current its telecommunications equipment may eventually  
13 consume. That is a completely different question than how much electric current  
14 the telecommunications equipment actually consumes on an hour-by-hour basis.

15 Secondly, power plant is a fixed investment, and the costs of that plant do not  
16 vary with usage. The amount of power that Eschelon may consume at the point in  
17 time that any particular power measurement is taken may not bear any  
18 relationship to the amount of power plant capacity that Eschelon has ordered or  
19 that Qwest makes available to Eschelon. Third, while electric power usage (in  
20 Amps or Watts) is measured, the “measurement” of DC power plant capacity does  
21 not change until there are additions of primary components (e.g., batteries,  
22 rectifiers, etc.) that make additional power plant capacity available to power users.  
23 In other words, power plant is not amenable to “measurement.”

1 **Q. IN HIS DIRECT TESTIMONY, MR. STARKEY REFERS TO QWEST**  
2 **CHANGING THE WAY IT CHARGES FOR [POWER] USAGE. WILL**  
3 **YOU PLEASE COMMENT?**

4 A. Mr. Starkey is correct when he states that Qwest has made available to CLECs the  
5 option to be billed for power usage on a measured basis. I'm not sure what point  
6 Mr. Starkey is making, though, in this regard. Does Qwest offer the option to pay  
7 for power usage on a measured basis? Yes, it does. That offer is not remarkable,  
8 though. AC Power is typically billed on a measured basis, such as on a cents per  
9 kw-hour basis. You can measure kw-hours of AC Power consumed. You can  
10 measure amps of DC Power consumed. You cannot, however, measure the kw-  
11 hours or amps of rectifiers, batteries or inverters "consumed." The rectifiers,  
12 batteries and inverters that make up power plant are not "consumed" or used up.  
13

14 **Q. HOW DOES QWEST DETERMINE WHEN TO AUGMENT POWER**  
15 **PLANT IN A CENTRAL OFFICE?**

16 A. Generally speaking, there are three inputs that factor into a power plant augment  
17 decision. Qwest designs and engineers power plant capacity sufficient to meet the  
18 total busy hour load of all equipment present in the central office, plus all CLEC  
19 ordered amounts of power, plus the anticipated busy hour drain of expected future  
20 Qwest equipment additions. Qwest compares the sum of these three factors  
21 against the power plant capacity currently installed in the central office, and  
22 ensures that the power plant capacity installed remains greater than the sum of  
23 these three factors.  
24

1 **Q. WHAT IS “BUSY HOUR LOAD”?**

2 A. “Busy Hour Load” in this context is the amount of power used by all equipment  
3 in the central office on the busiest hour of the busiest day. Mr. Starkey often  
4 refers to this as “peak drain” in his testimony, or sometimes as the List 1 Drain.  
5 List 1 drain is actually specific to individual shelves of fully-carded equipment at  
6 the busy hour.

7

8 **Q. PLEASE COMMENT ON MR. STARKEY’S STATEMENT INDICATING**  
9 **THAT POWER PLANT INVESTMENT IS “DRIVEN BY USAGE.”**

10 A. Qwest’s power plant investment is not “driven by usage,” and Mr. Starkey makes  
11 a flawed leap in logic in the conclusion that he draws in that regard. Mr. Starkey  
12 states that peak drain drives power plant investment, and therefore, “power plant  
13 is driven by the amount of DC Power used by the equipment in the central office.”  
14 (Starkey Direct Testimony, p. 130, lines 1-3.) There are several problems with  
15 Mr. Starkey’s conclusion. First, as I stated above, busy hour load (which Mr.  
16 Starkey refers to as “peak drain” in his testimony) is only one of several variables  
17 that influences power plant investment. Projected future deployment of Qwest  
18 equipment and the power ordered by CLECs are also part of the power plant  
19 investment equation. Accordingly, the amount of power *ordered* by the CLEC is  
20 also a factor driving power plant investment.

21 Second, and more critically, Mr. Starkey chooses his words very carefully in his  
22 testimony in order to blur a critical fact: The power “usage” that is a part of  
23 Qwest’s power plant investment equation is NOT the same thing as the power



1 usage upon which Eschelon wants Qwest to charge for power plant. The peak  
2 “usage” or drain that Mr. Starkey describes in his testimony is a single snapshot in  
3 time, and it is a part of the power plant investment equation. It is what I  
4 previously described as the “busy load” -- the combined usage of all equipment in  
5 the central office at the busiest hour of the busiest day. The specific and discrete  
6 CLEC measured usage that would be captured several times per year for a CLEC  
7 electing power measurement is something entirely different, however, and is NO  
8 part of the power plant investment equation. Therefore, there can be no legitimate  
9 basis to charge a CLEC for power plant based on its discrete measured usage  
10 (which is what Eschelon is arguing for here), because that Eschelon-specific  
11 measured usage is no part of the power plant investment equation. CLEC day-to-  
12 day usage does not drive power plant investment.

13 **Q. CAN YOU FURTHER EXPLAIN THE DIFFERENCE BETWEEN “PEAK”**  
14 **USAGE AND CLEC-SPECIFIC MEASURED USAGE?**

15 A. Certainly. In his testimony, Mr. Starkey describes “peak drain,” which again is  
16 the combined usage of all equipment in the central office on the busiest hour of  
17 the busiest day. When Qwest measures a CLEC’s usage and bills for usage on  
18 that basis under the power measurement option, however, Qwest is measuring the  
19 CLEC’s discrete usage at random times throughout the year, and not at “peak  
20 drain,” on the busiest hour of the busiest day. Combined central office peak drain  
21 usage is a factor in planning power plant investment. A specific CLEC’s discrete  
22 and randomly measured usage throughout the year is never a factor in planning  
23 power plant investment. Measured CLEC usage—which is the basis upon which  
24 Eschelon wants Qwest to charge for plant—therefore does not “drive” power

1 plant investment. In fact, it is not even a factor that goes into the decision about  
2 when to augment power plant.

3 To illustrate, assume a CLEC orders a single 100 amp power feed. Also assume  
4 that the CLEC elects the power measurement option for power usage. Assume  
5 that random measurements taken by Qwest three times during the year show  
6 usage of 47 amps, 25 amps and 32 amps. NONE of these numbers, however, are  
7 any part of the equation that drives Qwest power plant augment decisions. The  
8 amount of power *ordered* by the CLEC, however—the 100 amps—is a part of  
9 that power plant investment calculus. Eschelon’s power order, therefore,  
10 certainly would drive power plant investment. Eschelon’s discrete measured  
11 power usage, however, would not.

12

13 **Q. CAN YOU GRAPHICALLY ILLUSTRATE THE DIFFERENCE**  
14 **BETWEEN A CLEC’S RANDOM MEASURED USAGE, THE LIST 1**  
15 **DRAIN OF ITS EQUIPMENT, AND THE LIST 2 DRAIN OF ITS**  
16 **EQUIPMENT?**

17 A. Yes, that is what my attached Exhibit Qwest/29 illustrates. The essence of Mr.  
18 Starkey’s testimony is that Eschelon wants to place a power order for its ultimate  
19 capacity needs, Eschelon expects Qwest to make that capacity available, but  
20 Eschelon only wants to pay based on measured usage, even though Qwest does in  
21 fact make the ordered capacity available. Exhibit Qwest/29 demonstrates this  
22 principle. In that illustration, the top, green line is Eschelon’s power order,  
23 indicating that Eschelon has ordered 100 amps. Thus, Qwest reasonably uses the  
24 ordered amount in its power planning process, and makes decisions about power

1 plant capacity based on the need to be able to provide the ordered amount if  
2 required. The middle, blue line represents the List 1 drain of Eschelon's  
3 equipment. This is the amount of power plant capacity that Eschelon claims  
4 Qwest should assume for engineering purposes—even though Qwest does not  
5 know the List 1 drain for Eschelon's equipment, or when Eschelon might draw  
6 that amount, and even though Qwest's power plant rate is not based on List 1  
7 drain. Finally, the lowest, red line reflects Eschelon's actual power consumption  
8 over a period of time. As the illustration makes clear, that usage will fluctuate,  
9 and a random measurement of that usage will not allow Qwest to determine the  
10 combined List 1 drain of Eschelon's equipment (if that were even relevant).

11 **Q. WHY CAN'T QWEST JUST MEASURE ESCHELON'S PEAK USAGE**  
12 **AND BILL FOR POWER PLANT ON THAT BASIS?**

13 A. First, Qwest does not know when Eschelon's peak usage will occur. Usage  
14 fluctuates, as illustrated in Exhibit Qwest/29, and peak usage will be different for  
15 different CLECs. A business-based CLEC like Eschelon will probably not  
16 experience peak usage on Mother's Day or Christmas, unlike a CLEC that serves  
17 many residential customers. Second, the Power Measurement option for usage  
18 billing contemplates 2-4 random measurements throughout the year. After each  
19 measurement, Qwest charges for usage based on that measurement at that fixed  
20 rate, until the time of the next measurement. So, if a measurement indicated 47  
21 amps of power were being drawn over a power feed, Qwest would charge for 47  
22 amps of power usage each month until the next measurement occurred.  
23 Accordingly, if Qwest attempted to identify the two peak moments of a given  
24 CLEC's usage each year, take measurements at those two spikes, and bill at that  
25 peak level for a period of months, it is quite likely that the CLEC would complain

1 of this practice. Finally, and most importantly, as I stated previously, even if  
2 Qwest could capture Eschelon's peak usage and treat that as a proxy for the  
3 combined List I drain of Eschelon's equipment, that is NOT the basis on which  
4 Qwest charges for power plant, it is NOT the basis on which the power plant rate  
5 was designed, and it is NOT the basis on which Eschelon seeks to be charged for  
6 power plant in this proceeding. Ms. Million testifies to this in greater detail.

7 **Q. IN HIS DIRECT TESTIMONY, MR. STARKEY CONTENDS THAT**  
8 **QWEST IS DISCRIMINATORY IN THE WAY IT CHARGES FOR**  
9 **POWER. PLEASE COMMENT.**

10 A. As I stated previously, Qwest makes available to Eschelon the power capacity that  
11 Eschelon has ordered. Qwest has no way of knowing if or when Eschelon's  
12 equipment will draw upon that full capacity. If Eschelon determines that it does  
13 not require as much power capacity as it anticipated, then it will have the option  
14 under the Power Reduction language in its ICA to pay less by reducing the  
15 amount of fused power that Qwest makes available to it. Eschelon has the ability  
16 to manage its power needs and charges in the central office by availing itself of  
17 the Power Reduction and Power Measurement options, if it so chooses.  
18 Fundamentally, however, Qwest will charge Eschelon for the power capacity that  
19 Qwest makes available to Eschelon, and it is up to Eschelon to manage its power  
20 requirements as it sees fit.

21 **Q. HAVE STATE COMMISSIONS CONSIDERED AND REJECTED THE**  
22 **SAME DISCRIMINATION ARGUMENT THAT MR. STARKEY MAKES**  
23 **HERE?**

1 A. Yes. The parties completed the first arbitration in this matter in Minnesota in  
2 October 2006, and the Arbitrator's Report<sup>2</sup> recommended that Qwest's proposed  
3 language be adopted in the ICA. The Minnesota Arbitrator's Report found that  
4 "there is no evidentiary basis" for finding that Qwest's DC power plant rates are  
5 discriminatory, and added that "[t]hese are issues that should be examined" in a  
6 cost docket.<sup>3</sup>

7 Both the Washington Utilities and Transportation Commission and the Utah  
8 Public Service Commission have also rejected the very same discrimination  
9 argument that Mr. Starkey makes here in other proceedings as well. Mr. Starkey  
10 also represents McLeodUSA Telecommunications Services, Inc. ("McLeod") in  
11 complaint proceedings that McLeod brought in several states regarding Qwest's  
12 DC power plant rate. While I am not a lawyer, I have represented Qwest as a  
13 witness in those proceedings, and the discrimination argument that Mr. Starkey  
14 has made there is the same argument he makes here.

15 In the McLeod proceeding before Washington Commission, the Administrative  
16 Law Judge found in a Recommended Decision that "[t]he record in this  
17 proceeding does not support a claim that Qwest's DC power plant rate or rate  
18 structure is discriminatory."<sup>4</sup> The Washington Commission adopted the ALJ's

---

<sup>2</sup> *In the Matter of Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. §252(b) of the Federal Telecommunications Act of 1996*, Minnesota Public Utilities Commission Docket No. P-5340, 421/IC-06-768, January 16, 2006 Arbitrator's Report (hereinafter "MN Arbitrator's Report"). The Minnesota Commission adopted the Arbitrator's Report in its March 30, 2007 *Order Resolving Arbitration issues*.

<sup>3</sup> *MN Arbitrator's Report*, ¶ 108, p. 27.

<sup>4</sup> *McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation*, Washington State Utilities and Transportation Commission, Docket UT-063013, Initial Order: Recommended Decision to Deny Petition for Enforcement (September 29, 2006), p. 24.

1 Recommended Decision in an order entered on February 15, 2007.<sup>5</sup> The  
2 Washington Commission found that McLeod had failed to meet its burden to  
3 demonstrate that Qwest’s charges for DC Power were in any way discriminatory.<sup>6</sup>  
4 The Washington Commission also found, as both I and Qwest witness Theresa  
5 Million and I have previously testified in this docket, that the arguments that  
6 McLeod made there—the same arguments that Eschelon makes here—implicated  
7 rates and thus belonged in a cost proceeding. Indeed, the Washington  
8 Commission described as “disingenuous” McLeod’s “insistence that it is not  
9 challenging the DC power rate, but rather merely the application of the rate. Said  
10 the Commission: “A good measure of McLeod’s testimony in this proceeding  
11 involves how Qwest developed the rate in question and why the plant capacity  
12 rate is improper. The DC power rate structure as well as the rates charged are  
13 intertwined with the actual application of the rate and cannot be separated as  
14 McLeod contends.”<sup>7</sup> Eschelon witness Mr. Starkey, who was also McLeod’s  
15 witness on these issues in that proceeding, makes those very same arguments in  
16 this proceeding, again contending that Eschelon is not challenging Qwest’s rate  
17 for DC power plant, but challenging only the application of that rate. The  
18 Washington Commission also confirmed that “a more appropriate forum for  
19 determining a DC power rate is a rate proceeding,” rather than a case involving “a  
20 petition for enforcement by a single carrier” where “the evidence does not rise to  
21 the level that would allow us to determine a proper CLEC rate for DC power.”<sup>8</sup>

---

<sup>5</sup> *McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation*, Washington State Utilities and Transportation Commission, Docket UT-063013, Final Order Affirming Initial Order; Denying Petition for Enforcement, February 15, 2007 (attached as Exhibit Qwest/30 (hereinafter referred to as the “WA Final Order”).

<sup>6</sup> *WA Final Order*, ¶ 24.

<sup>7</sup> *WA Final Order*, ¶ 26.

<sup>8</sup> *WA Final Order*, ¶ 28.

1 The Utah and Colorado commissions also rejected Mr. Starkey’s argument in the  
2 McLeod proceedings in those states. The Utah Commission indicated that,  
3 contrary to Mr. Starkey’s assertion, a CLEC’s power cable order is its power plant  
4 order, and thus rejected the very same argument that Mr. Starkey makes here, now  
5 on behalf of Eschelon. Specifically, the Utah Commission said: [N]othing in the  
6 ICA, statute or regulation or Commission order that would require Qwest to do  
7 more than it is doing now; namely, billing McLeod for its collocation power plant  
8 based upon McLeod’s order for power distribution cables. We therefore conclude  
9 Qwest’s billing to McLeod for DC Power Plant does not constitute discriminatory  
10 conduct.”<sup>9</sup>

11 The Administrative Law Judge in the Colorado McLeod proceeding<sup>10</sup> similarly  
12 issued a Recommended Decision rejecting McLeod’s claims and granting  
13 Qwest’s counterclaims on the amounts that McLeod had withheld for power plant  
14 charges. The Administrative Law Judge determined that “McLeodUSA failed to  
15 meet its burden of proof to demonstrate the basis upon which rates were approved  
16 in [a prior Colorado cost docket], how such rates are discriminatory, and how they  
17 result in McLeodUSA paying more than its share for the costs of the DC Power  
18 Plant . . . .”<sup>11</sup>

19 Finally, the Iowa Utilities Board also denied McLeod’s complaint, on the grounds  
20 that the alleged discrimination issues should be considered in a more appropriate

---

<sup>9</sup> *In the Matter of McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation for Enforcement of Commission-Approved Interconnection Agreement*, Public Service Commission of Utah Docket No. 06-2249-01, Report and Order (September 28, 2006) p. 28 (attached as Exhibit Qwest/31).

<sup>10</sup> *McLeod Telecommunications Services, Inc., v. Qwest Corporation*, Public Utilities Commission of the State of Colorado, Docket No. 06F-124T.

<sup>11</sup> *Id.*, 3/14/2007 Recommended Decision, ¶ 100 (attached as Exhibit Qwest/32).

1 docket, such as a cost docket.<sup>12</sup> On April 17, 2007, the Iowa Board denied  
2 McLeod's Application for Rehearing in that proceeding.

3 In short, to date, not a single commission has granted the relief that McLeod  
4 sought in their complaints or that Eschelon seeks in these interconnection  
5 arbitration proceedings.

6

7 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

8 A. Yes, it does.

9

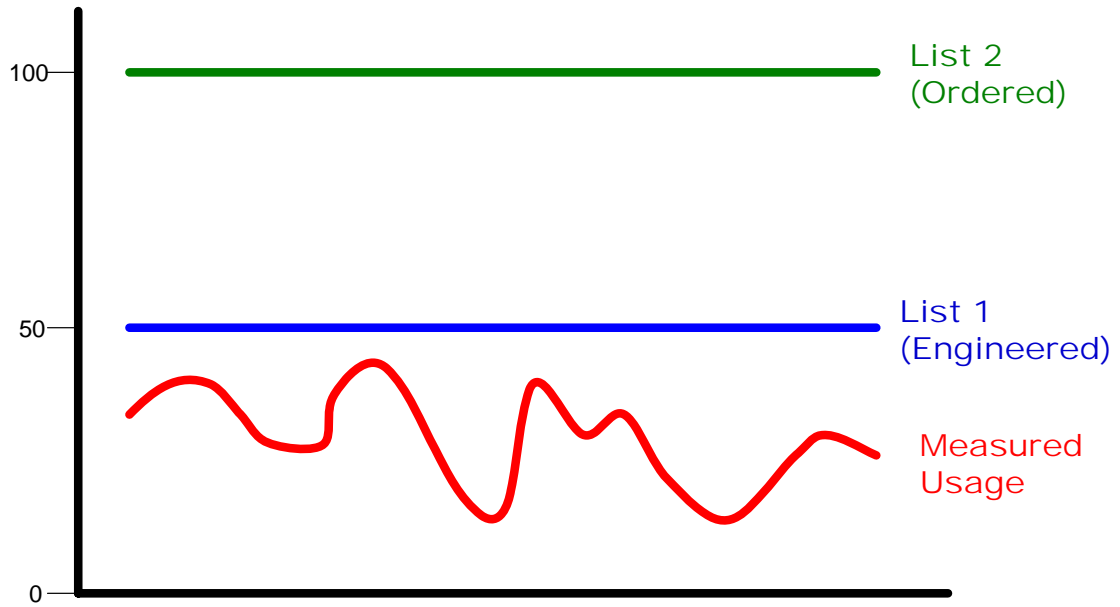
10

---

<sup>12</sup> *McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation*, Iowa Utilities Board, Docket No. FCU-06-20, Final Order, (July 27, 2006) p. 15.



# DC Power for 100 Amp Order



[Service Date February 16, 2007]

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

McLEODUSA	)	
TELECOMMUNICATIONS	)	DOCKET UT-063013
SERVICES, INC.,	)	ORDER 04
	)	
Petitioner,	)	
	)	FINAL ORDER AFFIRMING
v.	)	INITIAL ORDER; DENYING
	)	PETITION FOR ENFORCEMENT
QWEST CORPORATION,	)	
	)	
Respondent.	)	
.....	)	

1 *Synopsis: This Order affirms the initial order denying McLeodUSA’s petition for enforcement of the DC Power Measuring Amendment to its interconnection agreement with Qwest.*<sup>1</sup>

**I. INTRODUCTION**

2 **Nature of Proceeding.** This docket involves a petition for enforcement of an amendment to an interconnection agreement between McLeodUSA (McLeod) and Qwest Corporation (Qwest). In its petition, McLeod alleges that the DC power measuring amendment between McLeod and Qwest requires Qwest to bill McLeod for collocation DC power on a usage basis. Qwest responds that the amendment calls for a two-part bill, billing for DC power plant on the basis of capacity originally ordered and for DC power supply on a usage basis.

3 **Appearances.** Gregory Kopta, Davis Wright Tremaine, attorney, Seattle, Washington, represents McLeodUSA (McLeod), the petitioner. Lisa Anderl, Associate general counsel, Qwest Corporation, represents respondent Qwest Corporation (Qwest).

4 **Initial order.** The initial order, by Administrative Law Judge Theodora M. Mace, would deny the petition for enforcement. The order ruled that the language of the amendment was ambiguous and that the Washington Utilities and Transportation Commission (Commission) should rely on extrinsic evidence to determine the intent of the parties. The order found the extrinsic evidence supported Qwest's interpretation and that Qwest should bill McLeod for DC power plant on an as ordered basis, and for DC power supply on a usage basis.

5 **Petition for administrative review.** McLeod filed a petition for administrative review of the initial order and Qwest filed an answer opposing the petition.

6 **Decision on review.** We affirm the initial order.

## II. BACKGROUND

7 Under Section 251 of the Telecommunications Act of 1996 (the Act), competitive local exchange carriers ("CLECs," such as McLeod) may enter interconnection agreements with incumbent local exchange companies ("ILECs" such as Qwest) to receive services from the incumbents that enable them to serve their own customers. From time to time, the CLEC and the ILEC enter into amendments to the underlying interconnection agreements. Under the Act, state commissions are charged with enforcement of interconnection agreements.<sup>2</sup>

8 In addition, the Commission approved a statement of generally accepted terms (SGAT) for Qwest, pursuant to Section 271 of the Act. The SGAT is a form of interconnection agreement that CLECs can adopt to govern their commercial relationship with Qwest. In this case, the underlying interconnection agreement is based on the Qwest SGAT. Attached to the SGAT is a schedule of rates applicable to services provided (Exhibit A). Exhibit A to the SGAT is revised from time to time as new rates and services are approved by the Commission.

---

<sup>1</sup> Technical telecommunications terms used in this Order are defined in the glossary at the end of the Order.

<sup>2</sup> The Commission's jurisdiction to hear and resolve such matters is confirmed in RCW 80.36.610.

**A. The petition for enforcement.**

- 9 This petition for enforcement arose out of dispute between McLeod and Qwest about the meaning of the DC power measuring amendment (amendment) to their underlying interconnection agreement (ICA).<sup>3</sup>
- 10 The dispute involves the parties' differing interpretations of the amendment's provisions for billing DC power. DC power is billed based on both 1) the power plant capacity necessary to supply the required amount of power and 2) the actual amount of DC power used. The DC power plant converts AC power from the local electric utility into DC power that is used to operate central office telecommunications equipment belonging to both the ILECs and collocated<sup>4</sup> competitive local exchange carriers (CLECs).
- 11 When a CLEC desires to collocate its equipment in a Qwest central office, the CLEC places an order for distribution cables sized according to its ultimate need for DC power to run the collocated equipment. DC power is then delivered to CLEC collocation sites by means of these distribution cables. Qwest takes the ordered size of CLEC distribution cable into account when determining how much power plant capacity is required to provide DC power at its central offices. The amount of DC power CLECs actually use is routinely different from the capacity of the distribution cable they have ordered.
- 12 Under the original interconnection agreement, Qwest billed McLeod for DC power under a bifurcated DC Power Usage Rate, which was composed of a power plant charge and a usage charge. However, both charges were calculated by applying the plant and usage rates against the amount of cable plant *capacity* originally ordered by the CLEC.

---

<sup>3</sup> McLeod adopted Qwest's Statement of Generally Available Terms (SGAT) as the ICA between it and Qwest on March 22, 2000. The SGAT is a type of generic agreement required under the federal Telecommunications Act of 1996 that competitive local exchange carriers (CLECs) may adopt without engaging in protracted individual negotiations with ILECs. The Commission approved the McLeod-Qwest ICA on August 30, 2000 in Docket UT-993007. The parties executed the DC Power Measuring Amendment on August 18, 2004 and the Commission approved it on September 29, 2004.

<sup>4</sup> Collocation means that CLECs place their telecommunications equipment on the ILEC network so that CLECs may serve their own customers.

- 13 McLeod alleges that the DC power measuring amendment now requires that both the power plant rate and the usage rate should be applied to *measured* usage, rather than the originally ordered capacity. Qwest contends that under the amendment, the actual DC power supplied should be billed on a usage basis, but the power plant capacity component should be billed according to the capacity originally ordered by the CLEC.
- 14 McLeod further alleges that Qwest charges CLECs more for DC power than Qwest imputes to itself and that this constitutes discriminatory or preferential treatment in violation of the interconnection agreement, as well as state and federal law.<sup>5</sup>

### **B. The initial order.**

- 15 The initial order ruled that: 1) the language of the DC power measuring amendment was ambiguous as to its meaning ; 2) determination of the intent of the amendment required review of extrinsic evidence; 3) the extrinsic evidence supported Qwest's interpretation that the DC power rate was composed of a capacity rate billed according to originally ordered capacity and a usage rate billed according to a usage-based factor; 4) there was insufficient evidence to support McLeod's claim of discrimination; and 5) a cost or rate proceeding is the proper forum to present a challenge to the DC power rate.

## **III. ADMINISTRATIVE REVIEW**

- 16 McLeod seeks administrative review of the initial order on grounds that the initial order: 1) improperly interpreted the DC power measuring amendment in isolation; 2) improperly refused to consider McLeod's claim of discrimination; and 3) improperly found that a petition for enforcement was not the correct forum for determining the DC power rate. Qwest responds that the initial order correctly determined the intent of the DC power measuring amendment and properly addressed the discrimination and rate claims.

---

<sup>5</sup> Sections 251 and 252 of the Act and RCW 80.36.180, 80.36.170, 80.36.186.

**A. Interpretation of DC power measuring amendment**

- 17 We hold that the initial order was correct in its interpretation of the amendment. The initial order properly found that the language of the amendment on its face did not clearly demonstrate what the parties intended to be the proper application and calculation of DC power rates. Because the meaning of the amendment was ambiguous, the initial order then reviewed all the extrinsic evidence the parties submitted. This included the historic method of calculating the charge under the underlying interconnection agreement, emails exchanged at the time of the negotiation of the amendment; a spreadsheet rate analysis conducted by McLeod engineers; the change management process that contained information about how Qwest expected to calculate the rate; Qwest's 2001 collocation study; and Qwest's power plant engineering practices.
- 18 The key piece of extrinsic evidence was the rate analysis McLeod engineers conducted in 2004 when the amendment was executed. In preparing their analysis the engineers relied on the description and rate schedule attached to the interconnection agreement.<sup>6</sup> The rate schedule provided for a DC power usage rate composed of a power plant component and a usage component.
- 19 We agree with the initial order that the McLeod engineers' spreadsheet analysis demonstrates McLeod's understanding that only the usage rate calculation would change as a result of the amendment because the projected savings only related to the

---

<sup>6</sup> McLeod witness Spocogee testified that the McLeod engineers reviewed the interconnection agreement, the amendment, and Exhibit A to the interconnection agreement. Exhibit A was admitted as Exhibit 26, and consists of an SGAT rate schedule identifying all rates including collocation rates. McLeod later argued that the Commission should actually consider the version of Exhibit A that was in effect at the time the original interconnection agreement was signed. McLeod submitted that original version with its opening brief. The Commission subsequently requested the parties to respond to Bench Request No. 1 which asked for the versions of Exhibit A that were in effect at the time of the negotiation and execution of the amendment. The parties submitted "8<sup>th</sup> revised 7<sup>th</sup> Amended Exhibit A" effective May 26, 2004 and "8<sup>th</sup> revised 8<sup>th</sup> Amended Exhibit A" effective August 11, 2004. The description and rates applicable to collocation DC power in these responses to the Bench Request are identical to the description and rates in Exhibit 26. The parties' response to Bench Request 1 is admitted in evidence. In its petition for administrative review McLeod renews its argument that the Commission should consider the original Exhibit A in interpreting the DC power measuring amendment. This argument was addressed and rejected in the initial order, and is rejected here, because it is contrary to principles of contract interpretation requiring determining intent either from the four corners of the document or from extrinsic evidence regarding what the parties intended when they entered into the amendment.

usage portion of the DC power charge.<sup>7</sup> The engineers' analysis did not calculate savings related to the power plant segment of the charge. If McLeod had understood that the amendment would change both the power plant and usage components of the calculation, it is reasonable to conclude that the engineers' analysis of benefits from the amendment would have included savings from both components. McLeod only developed its current interpretation of the amendment - that both power plant and usage should be billed on a usage basis - as a result of its May 2005 audit, well after the amendment had been executed.

- 20 McLeod contends that the term "usage" throughout both the interconnection agreement and the DC power measuring amendment encompasses both power plant and usage elements of the DC power usage rate. McLeod points out that the term "usage" in the interconnection agreement: "-48 Volt DC Power Usage Charge" includes power plant charges even though it is captioned a "usage" charge. Similarly, the language describing the DC power charge in Exhibit A terms the charge a "Power Usage" charge, even though it includes both power plant and usage components. McLeod argues that because "usage" means the same in the agreement and the amendment there is no ambiguity and the amendment requires billing for both plant and usage based on actual usage.
- 21 McLeod is correct that the term "usage" as it is incorporated into the interconnection agreement includes both power plant and usage, but McLeod misses the point that the meaning of the amendment, as related to the underlying agreement, must be determined according to the meaning attributed to the amendment when it was formed, not at some later time or under some subsequent legal analysis. The McLeod engineering analysis shows that the parties understood that the amendment applied only to the usage portion of the DC power usage charge.

## **B. Discrimination**

- 22 McLeod asserts that the initial order failed to construe the DC power measuring amendment as a part of the whole interconnection agreement. McLeod claims that the terms of the underlying interconnection agreement require Qwest to provide

---

<sup>7</sup> Exhibit 65.

collocation services, including DC power, on a nondiscriminatory basis and that the DC power measuring amendment did not change Qwest's obligation in that regard.

- 23 McLeod contends the evidence demonstrates that Qwest charges CLECs much more for DC power (because of the way Qwest calculates the rate) than Qwest imputes to itself for DC power. McLeod asserts that because Qwest fails to provide DC power to McLeod on the same basis as Qwest provides such power to itself, Qwest violates the interconnection agreement and the amendment, as well as federal and state anti-discrimination laws.
- 24 McLeod provided evidence intended to show that Qwest's power plant rate, applied on an "as-ordered" basis, may be higher than necessary for Qwest to recover its costs. However, this evidence does not necessarily dictate a conclusion that improper discrimination or preference has occurred. We have long held that a utility may charge different rates for the same service if it is reasonable to do so. In this case, Qwest does not "collocate" equipment, hence its imputed rates for DC power may reasonably differ from the rates it charges CLECs under negotiated interconnection agreements. Moreover, Qwest provided evidence that it does not assign power costs to itself solely on a measured basis, but rather that it takes into account the total costs for power plant which do not vary with usage.<sup>8</sup> The fact that Qwest does not impute to itself the same costs for DC power that it charges McLeod does not of itself constitute improper discrimination. We conclude that McLeod failed to meet its burden to show that Qwest's DC Power rate is improperly discriminatory.

### **C. Proper forum.**

- 25 McLeod further contends that the initial order erred in concluding that a rate proceeding or cost docket would be the necessary forum for challenging Qwest's DC power rate. First McLeod asserts that it is not challenging the rate, but rather the application of the rate. Second, McLeod contends that in *AT&T v. Verizon* (AT&T complaint),<sup>9</sup> the Commission permitted AT&T to challenge Verizon's application of access rates as discriminatory and unduly preferential even though the proceeding was initiated as a complaint and not a cost docket or rate proceeding.

---

<sup>8</sup> Exhibit 41T (Ashton), pp. 5-7; Exhibit 51T (Million).

<sup>9</sup> *AT&T v. Verizon Northwest Inc.*, Docket UT-020406, Eleventh Supp. Order (August 12, 2003).



- 26 We find disingenuous McLeod's insistence that it is not challenging the DC power rate, but rather merely the application of the rate. A good measure of McLeod's testimony in this proceeding involves how Qwest developed the rate in question and why the plant capacity rate is improper. The DC power rate structure as well as the rates charged are intertwined with the actual application of the rate and cannot be separated as McLeod contends.
- 27 We further conclude that this matter is distinguishable from the AT&T complaint case. There, we allowed a CLEC to challenge Verizon's access rates, departing from our usual caution about "single-issue" ratemaking. In addition, in the AT&T complaint, Verizon admitted that its access rates needed revision, and in fact, the issue of access charge levels had gained national notoriety. Moreover, the record in the AT&T complaint case was voluminous and contained significant information about access charge costs and rates.
- 28 In this case, we have a petition for enforcement by a single carrier. While there is some evidence addressing Qwest's cost to provide DC power capacity to CLECs and to itself, the evidence does not rise to the level that would allow us to determine a proper CLEC rate for DC power. The rate approach proposed by McLeod, to charge for both plant capacity and power usage based on measured usage ignores the fact that there is a fixed plant capacity cost that should properly be included in determining the DC power rate. We conclude that our order in the AT&T complaint case is not applicable to the situation in this case and that the initial order was correct that a more appropriate forum for determining a DC power rate is a rate proceeding.

### **C. Conclusion.**

- 29 We conclude that the initial order correctly determined that Qwest's interpretation of the DC power measuring amendment reflects the intent of the parties at the time of the amendment, and that McLeod failed to carry its burden to show that Qwest's application of the DC power rate is improperly discriminatory or preferential.

#### IV. FINDINGS OF FACT

- 30 (1) The Washington Utilities and Transportation Commission (Commission) has  
the authority to enforce interconnection agreements between CLECs and  
ILECs under the federal Telecommunications Act of 1996 and Washington  
law.
- 31 (2) Interconnection agreements are a form of contract and are subject to  
interpretation according to the law of contract interpretation.
- 32 (3) Qwest is an ILEC subject to the jurisdiction of the Commission.
- 33 (4) McLeod is a CLEC subject to the jurisdiction of the Commission with regard  
to enforcement of interconnection agreements.
- 34 (5) Qwest and McLeod entered into an interconnection agreement approved by the  
Commission on August 30, 2000 in Docket UT-993007.
- 35 (6) The interconnection agreement provided for the billing of DC power charges  
for both power plant capacity and usage on an “as-ordered” basis.
- 36 (7) Qwest and McLeod entered into the DC power measuring amendment to the  
interconnection agreement which was approved by the Commission on  
September 29, 2004.
- 37 (8) The rate schedule relied on by the parties at the time the amendment was  
executed reflected the language contained in Exhibit 26 admitted into the  
record of this proceeding.
- 38 (9) The extrinsic evidence regarding the amendment demonstrates that when the  
amendment was executed, the parties intended that it would bill McLeod on a  
usage basis only for the power usage element of Qwest’s DC power rate and  
that the power plant element of the DC power rate would continue to be billed  
on an “as-ordered” basis.

## V. CONCLUSIONS OF LAW

- 39 (1) The Commission may grant or deny CLEC petitions for enforcement of  
interconnection agreements under the federal Telecommunications Act of  
1996 and Washington law.
- 40 (2) The Commission has the authority to address claims of discrimination under  
both the federal Telecommunications Act of 1996 and Washington law.
- 41 (3) The law of contract interpretation requires the Commission to first determine  
the intent of the parties by reviewing the four corners of the contract itself.
- 42 (4) If the Commission determines that the contract is ambiguous on its face, the  
Commission may rely on extrinsic evidence to determine the intent of the  
parties with respect to the contract.
- 43 (5) The language of the amendment and the rate schedule relied on by the parties  
is ambiguous on its face as to the intent of the parties in entering into the  
agreement.
- 44 (6) McLeod failed to demonstrate that the intent of the parties when the  
amendment to the interconnection agreement was executed required Qwest to  
bill all DC power charges on an “as used” basis.
- 45 (7) McLeod failed to demonstrate on the record of this proceeding that Qwest’s  
DC power rate and rate structure were discriminatory.

DOCKET UT-063013  
ORDER 04

PAGE 11

**VI. ORDER**

46 We deny McLeod's petition for enforcement and order McLeod to return the full amount of disputed DC power charges in the amount of \$205,019.57, within 30 days of the date of this Order.

Dated at Olympia, Washington, and effective February 15, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

DOCKET UT-063013  
ORDER 04

PAGE 12

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**

**GLOSSARY**

<b>TERM</b>	<b>DESCRIPTION</b>
Central Office	A building where the local loops are connected to switches to allow connection to other customers; also referred to as a wire center where there are several switches functioning as a switch exchange. <i>(From Newton's, at page 157.)</i>
CLEC	Competitive local exchange company. Not an ILEC, and generally subject to very limited regulation.
ILEC	Incumbent local exchange company; a company in operation at the time the Act was enacted (August 1996).
Interconnection Agreement	An agreement between an ILEC and requesting telecommunications carrier (which may be a CLEC) addressing terms, conditions and prices for interconnection, services or network elements pursuant to Section 251.
Section 251(c)(3)	The section of the Act that requires ILECs to provide unbundled access to network elements, or UNEs.
Section 271	The portion of the Act under which Bell Operating Companies, or BOCs, could obtain authority from the FCC to provide long distance service in addition to service within their in-state service areas.
Telecom Act or "Act"	Telecommunications Act of 1996, 110 Stat. 56, Public Law 104-104; Feb. 8, 1996.

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

---

In the Matter of the Complaint of )  
McLeodUSA Telecommunications )  
Services, Inc., vs. Qwest Corporation for )  
Enforcement of Commission-Approved )  
Interconnection Agreement )

---

DOCKET NO. 06-2249-01

REPORT AND ORDER

ISSUED: September 28, 2006

SYNOPSIS

Having concluded that the parties' DC Power Measuring Amendment does not affect billing for DC power plant rate elements under the parties' interconnection agreement and having concluded that Qwest Corporation's ("Qwest") billing of McLeodUSA Telecommunications Services, Inc. ("McLeod") for DC power plant based upon the amperage of distribution cable ordered is not discriminatory, the Commission dismissed McLeod's complaint and ordered McLeod to pay Qwest \$146,493.12 withheld from Qwest as a result of the parties' dispute.

---

DOCKET NO. 06-2249-01

-ii-

TABLE OF CONTENTS

<b>I. PROCEDURAL HISTORY</b> .....	1
<b>II. BACKGROUND, DISCUSSION, FINDINGS, AND CONCLUSIONS</b> .....	5
<b>A. The ICA, Exhibit A, and the DC Power Measuring Amendment</b> .....	5
<b>B. Commission Jurisdiction</b> .....	8
<b>C. Interpretation of the DC Power Measuring Amendment</b> .....	9
1. McLeod’s Plain Reading of the Texts .....	10
2. Qwest’s Plain Reading of the Text .....	11
3. The Parties’ Intent Is Not Clear from the Four Corners of the Text ...	12
4. Examination of Extrinsic Evidence .....	14
a. McLeod’s Position .....	14
b. Qwest’s Position .....	14
c. The Extrinsic Evidence Supports Qwest’s Position .....	19
<b>D. McLeod’s Claim of Discrimination</b> .....	19
1. McLeod’s Position .....	21
2. Qwest’s Position .....	24
3. The Evidence Does Not Support McLeod’s Claim .....	24
<b>E. Qwest’s Counterclaim</b> .....	26
<b>III. ORDER</b> .....	27



DOCKET NO. 06-2249-01

-1-

By The Commission:

**I. PROCEDURAL HISTORY**

On March 8, 2006, pursuant to *Utah Code Ann.* §§ 54-8b-2.2(1)(e), 54-8b-16, 54-8b-17, and 63-46b-3, McLeodUSA Telecommunications Services, Inc. (“McLeod”) filed a Complaint against Qwest Corporation (“Qwest”) for enforcement of its Commission-approved interconnection agreement (“ICA” or “Agreement”) with Qwest. McLeod’s specific allegations relate to the parties’ “DC Power Measuring Amendment to the Interconnection Agreement between Qwest Corporation and McLeodUSA Telecommunications Services, Inc.” (“DC Power Measuring Amendment” or “Amendment”) executed on August 18, 2004. McLeod alleges Qwest has breached the terms of the DC Power Measuring Amendment by continuing to charge McLeod for the “ordered” amount of DC Power Plant at McLeod’s Utah collocation spaces leased from Qwest rather than the pro rata share of power actually used by McLeod, resulting in an overcharge of approximately \$24,000 per month since August 2004. McLeod also alleges Qwest’s continued billing of DC Power Plant based on the amperage of power distribution cable ordered to supply McLeod’s collocation spaces constitutes discriminatory conduct in violation of *Utah Code Ann.* § 5-8b-3.3. McLeod seeks Commission order requiring Qwest to comply with the terms of the DC Power Measuring Amendment by charging McLeod only for the power actually used for all elements, including DC Power Plant, and ordering Qwest to refund the amount Qwest has overcharged McLeod for DC Power Plant from August 18, 2004, to the date of the Commission’s order.

DOCKET NO. 06-2249-01

- 2 -

On March 20, 2006, Qwest filed its Answer and Counterclaim (“Answer”) arguing the DC Power Plant charge was not affected by the DC Power Measuring Amendment and denying Qwest’s billing for power plant is contrary to the terms of the DC Power Measuring Amendment. Qwest seeks Commission order denying McLeod’s Complaint in its entirety and directing McLeod to immediately pay all amounts due under Qwest’s invoices but withheld by McLeod as a result of the parties’ dispute, plus interest and late payment fees in accordance with the ICA.

Also on March 20, 2006, following a duly noticed Prehearing Conference, the Administrative Law Judge issued a Scheduling Order providing deadlines for the pre-filing of several rounds of written testimony and setting an evidentiary hearing for May 24-25, 2006. On March 21, 2006, pursuant to request of the parties, the Commission issued a Protective Order to govern the handling and disclosure of confidential information in this docket.

On April 13, 2006, McLeod filed a Motion to Compel Qwest to Respond to Data Requests (“Motion to Compel”) seeking Commission order compelling Qwest to respond to McLeod data request numbers 3 and 8 seeking, respectively, (1) the cost studies underlying the collocation rates at issue in this docket, and (2) the DC Power capacity in Qwest’s central offices in Utah. In its Response to Motion to Compel filed on April 24, 2006, Qwest argued it should not be required to respond to either data request as the information sought is not relevant to this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. On May 5, 2006, the Administrative Law Judge issued an Order Denying Motion to Compel Discovery concluding the information sought by McLeod was not relevant to the narrow issue of

DOCKET NO. 06-2249-01

- 3 -

the application of the DC Power Measuring Amendment to the DC Power Plant charge and was not reasonably calculated to lead to the discovery of admissible evidence on that issue.

On May 23, 2006, Qwest filed a Motion to Strike Portions of the Surrebuttal Testimonies of Mr. Michael Starkey and Mr. Sidney Morrison (“Motion to Strike”) claiming the challenged testimony is irrelevant to the issues before the Commission in this docket, represents an impermissible collateral attack on the Commission-approved Power Plant rates, and is late filed.

Hearing convened on May 24, 2006, before the Administrative Law Judge (“ALJ”). McLeod was represented by Gregory J. Kopta of Davis, Wright, Tremaine, LLP and William A. Haas, McLeod Vice President and Deputy General Counsel. Tami Spocogee, McLeod’s Director of Network Cost and Access Billing; Sidney L. Morrison, Senior Consultant and Chief Engineer for QSI Consulting, Inc. (“QSI”); and Michael Starkey, President of QSI testified on behalf of McLeod. Qwest was represented by Gregory B. Monson of Stoel Rives and Timothy J. Goodwin and Lisa A. Anderl, both in-house counsel for Qwest. William R. Easton, Qwest’s Director–Wholesale Advocacy; Robert J. Hubbard, a Director of Technical Support in Qwest’s Network Public Policy Organization; and Curtis Ashton, Senior Staff Technical Support Power Maintenance Engineer in Qwest’s Technical Support Group, Local Network Organization, testified on behalf of Qwest.<sup>1</sup>

---

<sup>1</sup>Although parties pre-filed and offered into evidence confidential testimony and exhibits, the evidentiary hearing remained open at all times. This Order discloses no confidential information; no confidential order has been prepared or issued in this docket.

DOCKET NO. 06-2249-01

- 4 -

At hearing, having considered the parties' oral argument, the Administrative Law Judge denied Qwest's Motion to Strike. At the conclusion of hearing, the Administrative Law Judge requested an updated listing of the Universal Service Order Codes for collocation power charges listed on Qwest's bills to McLeod. The ALJ informed parties that, absent objection, he intended to admit said listing into evidence for consideration by the Commission. On July 28, 2006, McLeod filed said listing. Qwest having filed no objection, this listing is hereby admitted into evidence as Hearing Exhibit 24.

On July 14, 2006, McLeod and Qwest filed their initial post-hearing briefs in this matter.

On July 26, 2006, Qwest filed a Motion to Admit Late Filed Exhibits ("Motion to Late File") seeking admission of McLeod's responses to Qwest Data Requests 16 and 19 in a parallel Washington proceeding and nine pages of transcript from the Washington evidentiary hearing, numbered Hearing Exhibit 25, 26, and 27, respectively.

On August 1, 2006, McLeod filed its Opposition to Qwest's Motion to Admit Late Filed Exhibits ("Opposition") arguing the evidentiary record has long been closed in this proceeding and Qwest has provided no compelling reason for reopening that record to admit additional evidence, particularly where said evidence is not relevant to the proceeding and where Qwest was aware of said evidence prior to the hearing in this docket.

On August 2, 2006, the ALJ issued an Order Granting Motion to Admit Late-Filed Exhibits, admitting into evidence the offered McLeod response to Qwest Data Request 16,

DOCKET NO. 06-2249-01

- 5 -

McLeod response to Qwest Data Request 19, and transcript extract from the parties' parallel Washington proceeding as Hearing Exhibits 25, 26, and 27, respectively.

On August 9, 2006, McLeod, having conferred with Qwest and the ALJ, filed for admission into evidence as Hearing Exhibits 28 and 29, respectively, the Arizona Rebuttal Testimony of Michael Starkey and excerpts from the parallel evidentiary hearing in Arizona. There being no objection to their admission, these documents are hereby admitted into evidence as marked. Also on August 9, 2006, McLeod and Qwest filed their post-hearing reply briefs.

On September 13, 2006, McLeod filed as Supplemental Authority an Order Granting Rehearing for Purposes of Reconsideration of the Iowa Utilities Board, dated September 12, 2006, Docket No. FCU-06-20.

**II. BACKGROUND, DISCUSSION, FINDINGS, AND CONCLUSIONS**

**A. The ICA, Exhibit A, and the DC Power Measuring Amendment**

Qwest and McLeod are party to an ICA acknowledged by this Commission<sup>2</sup> on July 10, 2000, in Docket No. 00-2249-01, as amended in Docket No. 00-049-63 on July 11, 2000. Said dockets are a matter of public record and we herein take administrative notice of the ICA, amendment, record, and decisions in said dockets to the extent necessary to resolve the matter before us.

The parties agree that, under the terms of the ICA, McLeod was obligated to pay Qwest for DC power and power plant on an "as ordered" basis in accordance with the collocation rate elements listed in section 8.1.4 of Exhibit A to Qwest's Utah Statement of

---

<sup>2</sup>As McLeod had opted into an existing agreement previously approved by the Commission, the Commission acknowledged but did not approve the agreement.

DOCKET NO. 06-2249-01

- 6 -

Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunication Services (“SGAT”).<sup>3</sup> Exhibit A, incorporated by reference in the ICA, lists the recurring charges for the rate elements in question as follows:

8.1.4	48 Volt DC Power Usage	
8.1.4.1	-48 Volt DC Power Usage, per Ampere, per month	
	8.1.4.1.1 Power Plant	
	8.1.4.1.1.1 Power Plant – Less than 60 Amps	\$11.7795
	8.1.4.1.1.2 Power Plant – Equal to or Greater Than 60 Amps	\$7.7927
8.1.4.2	Power Usage	
	8.1.4.2.1 Power Usage – 60 Amps or Less, per Amp	\$1.95
	8.1.4.2.2 Power Usage – More than 60 Amps, per Amp	\$3.89

As a result of proceedings conducted under the auspices of Qwest’s Change Management Process (“CMP”), Qwest developed and offered to various competitive local exchange carriers (“CLECs”) a DC Power Measuring Amendment to the ICA which McLeod and Qwest executed on August 18, 2004. Attachment 1 to the Amendment, titled “DC Power Measuring”, contains the language at issue in this docket, which reads as follows:

1.2 If CLEC orders sixty (60) amps or less, it will normally be placed on a BDFB where no monitoring will occur since the power usage rate reflects a discount from the rates for those feeds greater than sixty (60) amps. If CLEC orders more than sixty (60) amps of power, it normally will be placed on the power board. Qwest will monitor usage at the power board on a semi-annual basis. However, Qwest also agrees to take a reading within thirty (30) Days of a written CLEC request, after CLEC’s installation of new equipment. Qwest will perform a maximum of four (4) readings per year on a particular collocation site. Based on these readings, if CLEC is utilizing less than the ordered amount of power, Qwest will reduce the monthly usage rate to CLEC’s actual use. If CLEC is utilizing

---

<sup>3</sup>At hearing, the ALJ notified parties the Commission would take administrative notice of the SGAT and we hereby do so to the extent necessary to resolve the matter before us.

DOCKET NO. 06-2249-01

- 7 -

more than the ordered amount, Qwest will increase the monthly usage rate to the CLEC's actual use. Until such time that CLEC places equipment and a request is received from CLEC to monitor, Qwest will bill CLEC based on the amount of power ordered. Once Qwest receives a CLEC monitoring request, it will bill the actual power usage rate from the date of the CLEC's monitoring request until the next reading. The next reading date may be generated as a result of the CLEC request or a Qwest routine reading and Billing will be adjusted on whichever date comes first.

## 2.0 Rate Elements – All Collocation

2.1 -48 Volt DC Power Usage and AC Usage Charges. Provide -48 volt DC power to CLEC collocated equipment and is fused at one hundred twenty-five percent (125%) of request. The DC Power Usage Charge is for the capacity of the power plant available for CLEC's use. The AC Usage Charge is for the power used by CLEC. Both the DC Power Usage Charge and the AC Usage Charge are applied on a per ampere basis.

2.2 The -48 Volt DC Power Usage Charge is specified in Exhibit A of the Agreement and applies to the quantity of -48 Volt Capacity specified by the CLEC in its order.

2.2.1 -48 Volt DC Power Usage Charge – Applies on a per amp basis to all orders of greater than sixty (60) amps. Qwest will initially apply the -48 Volt DC Power Usage Charge from Exhibit A to the Agreement to the quantity of power ordered by CLEC. Qwest will determine the actual usage at the power board as described in Section 1.2. There is a one (1) amp minimum charge for -48 Volt DC Power Usage.

McLeod and Qwest agree the Amendment changed the billing method for the Exhibit A rate element “8.1.4.2.2 Power Usage – More than 60 Amps, per Amp” from an “as ordered” to an “as measured” basis.<sup>4</sup> However, the parties disagree as to the meaning and effect

---

<sup>4</sup>For example, prior to execution of the Amendment, if McLeod ordered 120 amps of DC power for a particular collocation space, Qwest would thereafter bill McLeod at the “8.1.4.2.2 Power Usage – More than 60 Amps, per Amp” rate for 120 amps of power regardless of how much power McLeod actually used. Under the Amendment, Qwest now measures McLeod's actual DC power usage so that if, for example, McLeod only uses 87 amps Qwest

DOCKET NO. 06-2249-01

- 8 -

of the Amendment in relation to Exhibit A's DC Power Plant rate element "8.1.4.1.1.2 Power Plant – Equal to or Greater Than 60 Amps". McLeod argues the Amendment requires that charges for this element also be billed on an "as measured" basis. Qwest argues the Amendment does not affect the "as ordered" billing for any DC Power Plant rate element. McLeod further argues that Qwest's billing of DC Power Plant is discriminatory in that Qwest charges McLeod more for said power plant than it charges itself.

**B. Commission Jurisdiction**

As an initial matter, Qwest argues the Commission's decision in cost Docket No. 00-049-106 precludes both McLeod's contract claims and its claim of discrimination. Qwest notes it is undisputed that Qwest has been charging McLeod the Commission-approved rate per amp ordered for DC Power Plant ever since Exhibit A implementing the Commission's decisions in Docket No. 00-049-106 was approved and incorporated into the parties' ICA. Therefore, Qwest cannot be held to have discriminated against McLeod, nor can the Commission retroactively change that rate. Likewise, Qwest notes it is well settled that changing the terms of interconnection agreements contravenes the mandate of the Telecommunications Act of 1996 ("Act") that ICA's have the binding force of law.<sup>5</sup> Therefore, the Commission is precluded from changing the terms of either the ICA or the Amendment as McLeod would have the Commission do.

---

bills McLeod at the "8.1.4.2.2 Power Usage – More than 60 Amps, per Amp" rate for the 87 amps of power actually used rather than the 120 amps McLeod had ordered.

<sup>5</sup>Citing *Pacific Bell v. Pac-West Telecomm, Inc.*, 325 F.3d 1114, 1127 (9<sup>th</sup> Cir. 2003).



DOCKET NO. 06-2249-01

- 9 -

McLeod responds that the Commission in Docket No. 00-049-106 never approved or adopted Qwest's collocation cost study. Instead, the Commission adopted a collocation cost model developed by the Division of Public Utilities and approved collocation rates derived from that model, but never expressly or implicitly approved Qwest's charging DC Power Plant rates based on the size of the power distribution cables ordered by a CLEC. It is this practice that McLeod believes is discriminatory and McLeod sees nothing in the Commission's orders in Docket No. 00-049-106 that would preclude its claim of discrimination.

Having considered the parties' arguments, we are satisfied that McLeod's contract and discrimination claims are not precluded by prior Commission order or by the Act. In rendering our decisions herein, we do not, as suggested by Qwest, seek to change the terms of the Amendment but to interpret them in order to resolve the parties' dispute. Likewise, McLeod's claim of discrimination goes not to the rates approved by the Commission in Docket No. 00-049-106 but to Qwest's application of those rates to McLeod's collocation facilities. We have both the authority and a duty to investigate such a claim.

**C. Interpretation of the DC Power Measuring Amendment**

In interpreting a contract, we "first look[] to the contract's four corners to determine the parties' intentions, which are controlling."<sup>6</sup> "A contract's interpretation may be

---

<sup>6</sup>*Swenson v. Erickson*, 2006 UT App 34, ¶11 (quoting *Fairbourn Commercial, Inc. v. American Housing Partners, Inc.*, 2004 UT 54, ¶ 10, 88 P.3d 350 (quotations and citations omitted)).

DOCKET NO. 06-2249-01

- 10 -

either a question of law, determined by the words of the agreement, or a question of fact, determined by extrinsic evidence of intent.”<sup>7</sup>

**1. McLeod’s Plain Reading of the Texts**

McLeod argues the operable change to the parties’ ICA wrought by the Amendment is contained in Amendment subsection 2.2.1, entitled “-48 Volt DC Power Usage Charge”, under which Qwest agrees to bill on an “as used” basis for all orders greater than 60 amps. McLeod notes this same language is used at Exhibit A item “8.1.4.1 -48 Volt DC Power Usage, per Ampere, per Month”. Therefore, according to McLeod, the simplest, most logical reading of subsection 2.2.1 is that it applies to all of the rate elements under Exhibit A item 8.1.4.1 relating to service of 60 amps or more, including “8.1.4.1.1.2 Power Plant–Equal to or Greater Than 60 Amps”.

McLeod also points out that Amendment subsection 2.1 states “the DC Power Usage charge is for the capacity of the power plant available for CLEC’s use.” According to McLeod, the word “capacity” in this subsection can only refer to power plant such that the Amendment must be read as affecting the Power Plant rate elements.

According to McLeod, there simply is no reading of the language in the Amendment itself and the underlying Exhibit A that suggests that power plant is to be charged on an “as ordered” basis, while power consumption is meant to be charged on an “as measured” basis. Indeed, McLeod argues everything about the language of the Amendment and the structure of the charge identified as 8.1.4.1 “-48 Volt DC Power Usage” supports its

---

<sup>7</sup>*Peterson v. Sunrider Corp.*, 2002 UT 43, ¶14, 48 P.3d 918 (quoting *Kimball v. Campbell*, 699 P.2d 714, 716 (Utah 1985)).

DOCKET NO. 06-2249-01

- 11 -

interpretation of the Amendment as intended to equally affect Power Usage and Power Plant rates by billing both on an “as measured” basis.

**2. Qwest’s Plain Reading of the Text**

In support of its assertion that the Amendment was intended to affect only the Power Usage rate element, Qwest notes Amendment subsection 1.2 generally describes how the usage measuring process will be implemented. The first sentence of this section states “the power usage rate [for orders of 60 amps or less] reflects a discount from the rates for those feeds greater than sixty (60) amps.” Exhibit A of the parties’ ICA reflects this discount in that the rate per amp ordered for Power Usage for orders of 60 amps or less is less than the rate per amp ordered for Power Usage for orders greater than 60 amps. In contrast, the rates for Power Plant indicate the opposite; the Power Plant rate is higher for orders of less than 60 amps. Therefore, according to Qwest, read in the context of the entire agreement, this section plainly excludes Power Plant rates from the rates affected by the Amendment.

In addition, Qwest notes Amendment subsection 1.2 states “Qwest will reduce the monthly usage rate to CLEC’s actual use” while making no mention of the Power Plant rate. Qwest further notes the term “usage rate” is singular and can therefore only reasonably refer to the Power Usage rate at Exhibit A item 8.1.4.2.2. Likewise, the Amendment refers several times to the “Charge” affected by the Amendment. Had the parties intended the Amendment to apply to more than one charge, they would have used the plural “Charges”. That they did not do so indicates that Qwest’s interpretation of the Amendment is the correct one. McLeod’s interpretation, on the other hand, would require the Commission to ignore or give plural effect to

DOCKET NO. 06-2249-01

- 12 -

the singular reference to “Charge” throughout the Amendment, which, according to Qwest, would violate a cardinal principle of contract interpretation.<sup>8</sup>

**3. The Parties’ Intent Is Not Clear from the Four Corners of the Text**

Having reviewed these documents in detail, and having considered the parties’ arguments on this point, we must conclude the parties’ intent is not clear from the documents themselves.

McLeod makes much of the fact that the term “-48 Volt DC Power Usage” appears in the heading of Amendment subsection 2.1 and also appears, relatively unchanged, at item 8.1.4 of Exhibit A. Therefore, the Amendment’s command to bill “as measured” must apply to each of the Usage and Power Plant rate elements under Exhibit A item 8.1.4 for orders greater than 60 amps. However, Amendment subsection 1.2 specifically limits the measuring and billing activities outlined therein to CLEC orders of “more than sixty (60) amps of power”. The only rate element under Exhibit A item 8.1.4 that applies expressly to orders of “more than sixty (60) amps” is “8.1.4.2.2 Power Usage – More than 60 Amps, per Amp”. In contrast, Power Plant item 8.1.4.1.1.2, is described as applying to “Equal to or Greater Than 60 Amps”. “More than” and “Equal to or Greater Than” are not the same thing and it is not at all clear that the parties must have intended the former to include the latter.

We are likewise not convinced by McLeod’s reliance on the third sentence in Amendment subsection 2.1: “The DC Power Usage Charge is for the capacity of the power plant available for CLEC’s use.” McLeod believes this sentence can only refer to the Power Plant rate

---

<sup>8</sup>Citing *WebBank v. Metropolitan Insurance and Annuity Co.*, 54 P.3d 1139, 1144 (Utah 2002).

DOCKET NO. 06-2249-01

- 13 -

elements in Exhibit A. While this interpretation is not unreasonable on its face, it is equally apparent that there is no “DC Power Usage Charge” listed in Exhibit A. Indeed, subsection 2.1 also states that the “AC Usage Charge is for the power used by the CLEC”, but there is no AC Usage Charge listed in Exhibit A. Furthermore, the power plant rate elements listed in Exhibit A are specifically identified therein as “Power Plant” rate elements so there would seem to be little point in trying to tie the non-existent “DC Power Usage Charge” of Amendment subsection 2.1 to any power plant rate element in Exhibit A item 8.1.4.1.1.

Qwest’s position is equally untenable. We simply cannot reasonably conclude from a reading of the text that the Amendment unambiguously changes the billing method for the Power Usage rate element but has no impact on the Power Plant rate element. While we disagree with McLeod’s reliance on Amendment subsection 2.1, one can not deny that on its face it plainly refers to some charge pertaining to the “capacity of the power plant”, yet Qwest would have us conclude based on these texts alone that the Amendment has nothing to do with power plant charges. Nor, given the many instances of apparently erroneous rate element labels and inartful phrasing evident in the Amendment, are we willing to base a decision in favor of Qwest’s position on some number of singular, rather than plural, references plucked from the text.

Given these numerous inconsistencies, we are not able to determine the parties’ intent solely from within the four corners of the documents. We therefore must look to extrinsic evidence of the parties’ intent in order to give meaning and affect to the Amendment.

DOCKET NO. 06-2249-01

- 14 -

**4. Examination of Extrinsic Evidence<sup>9</sup>****a. McLeod's Position**

McLeod argues its reading of the Amendment is consistent with past practice in that, prior to the Amendment, Qwest billed for all elements under Exhibit A item 8.1.4.1 in a consistent manner; that is, Qwest billed for both Power Usage and Power Plant elements based on the size of the distribution cable ordered by McLeod. Absent express language to the contrary, one would expect this billing practice to continue under the Amendment, with both Power Plant and Usage being assessed on an "as measured" basis. Indeed, McLeod notes the Amendment specifically excludes those Power Plant and Power Usage rate elements applicable to 60 amps or less. Therefore, it is reasonable to conclude that Qwest could have easily and explicitly excluded all Power Plant rate elements from the Amendment had it wished to do so. Instead, Qwest would have this Commission read the Amendment as changing the billing structure for some elements while leaving others unchanged. Nowhere in the Amendment is this departure from past practice described, nor can Qwest point to anywhere in the Amendment where the Power Plant charge for orders greater than or equal to 60 amps is specifically excluded from billing on an "as measured" basis.

**b. Qwest's Position**

Qwest notes the only McLeod employee to testify in this docket confirmed that McLeod's sole concern prior to entering into the DC Power Measuring Amendment was that its

---

<sup>9</sup>We note our examination is limited by the fact that neither McLeod nor Qwest presented the testimony of any persons involved in drafting, negotiating, or agreeing to the DC Power Measuring Amendment.

DOCKET NO. 06-2249-01

- 15 -

rates not increase, and that once this concern had been satisfied McLeod entered into the Amendment without further questions. Furthermore, Qwest notes that a spreadsheet prepared by McLeod prior to execution of the Amendment and used by McLeod to analyze anticipated cost savings refers to “metered amps used” but makes no reference to power plant rates or savings. Qwest argues this spreadsheet proves the only savings McLeod anticipated from the Amendment were related to the Power Usage charge, not the Power Plant charges. In addition, Qwest points to McLeod’s admission that it did not focus on the specific Power Plant element and attempt to calculate any power plant savings from the Amendment until May 2005, nine months after entering into the Amendment. According to Qwest, this delay belies any claimed “expectation” by McLeod regarding the Amendment and treatment of power plant rate elements.<sup>10</sup>

Qwest also argues that, through its Change Management Process and Product Catalog (“PCAT”), it plainly, objectively, and openly manifested its intent that the Amendment would alter only the Power Usage charge, not the Power Plant charge, and reasonably expected that McLeod understood this intent. Through its CMP, Qwest operates a forum for the CLECs with which it does business that includes discussions and information about Qwest products or changes to those products. These changes are typically accompanied by a PCAT available on Qwest’s website. In this case, Qwest made several documents available on its CMP website regarding its proposed power measuring product and changes thereto, and notified sixteen

---

<sup>10</sup> McLeod claims the members of the engineering group that built this spreadsheet, based on documents provided by Qwest, were not contract or rate specialists and were not even familiar with the multiple power rate elements billed separately by Qwest. McLeod admits the concern within the narrow group at McLeod doing this analysis was to make sure power charges would not increase, as had already been encountered in the analysis of a proposed amendment in Michigan, but notes that shortly after execution of the Amendment, and only weeks after the first audit was reviewed by contract and rate specialists, McLeod began raising questions and concerns with Qwest about the way in which it was applying its power plant charge.

DOCKET NO. 06-2249-01

- 16 -

McLeod employees of their availability. Qwest specifically notified McLeod that discussions regarding the proposed changes would include how power measuring would impact monthly recurring charges, how power measuring relates to cost dockets, how Qwest would measure power, whether the power measuring offering would be optional or required, and whether an interconnection amendment would be required. Qwest also admitted into evidence the following CLEC question and Qwest response concerning whether the Power Plant charge would continue to be charged “as ordered”:

For the following question, assume the collocation is in AZ, we’re ordering 120 Amps, the DC Power Measurement is 53, the Power Plant per amp rate is \$10.75, the power usage [less than] 60 amps, per amp is \$3.64 and Power Usage [greater than] 60 amps, per amp is \$7.27. Currently we are billed 120 Amps at \$10.75 and 120 Amps at \$7.27. Per this proposal I interpret that we would be billed 120 Amps @ \$10.75 and 53 Amps @ 3.64. Likewise, if the new DC Power Measurement was 87, we would be billed 120 Amps at \$10.75 and 87 Amps at \$7.27. Is that correct?

Qwest’s response:

The rate that will be applied to the measured amount will be dependent on the amount that was ordered not the amount measured. In other words you would be billed 120 Amps at \$10.75 per amp and the measures of 53 amps and 87 amps would have the usage rate or [sic] \$7.27 per amp because the ordered amount was greater than 60 amp (120).

Qwest asserts it is reasonable that any CLEC reading this question and response would conclude that Qwest intended the proposed change apply only to measured power usage, not to charges for power plant ordered.

In addition, Qwest’s PCAT defined the “Capacity Charge” as recovering “the cost of the capacity of the power plant available for [CLEC] use” while the “Usage Charge” was



DOCKET NO. 06-2249-01

- 17 -

defined as recovering “the cost of the power used.” Qwest also notes that where the PCAT deals specifically with the DC Power Measuring product it clearly states that only the “usage rate” would be impacted. McLeod claims it never saw this document prior to executing the Amendment. However, Qwest argues McLeod’s failure in this regard is unreasonable in that McLeod was aware of the CMP and PCAT processes generally and there has been no evidence offered to indicate that McLeod could not or should not have been aware of this dialog. Qwest also notes the evidence is absolutely clear that McLeod never communicated to Qwest the intent that it now claims it had in entering into the Amendment.

Regarding the CMP and PCAT, McLeod notes that the sole McLeod employee who attended the CMP meeting had a very narrow job focus that would not have enabled the employee to grasp the larger issues relating to the proposed Amendment. McLeod also notes the CMP documents state no ICA amendment will be necessary to implement measurement of the DC Usage charge, but that Qwest ultimately drafted and offered such an amendment. McLeod believes Qwest defies logic in arguing that a discussion of a process that Qwest said could be implemented without the need of an amendment gave McLeod notice as to Qwest’s intentions concerning a process that ultimately did result in an amendment.

McLeod also argues that if the Commission gives any weight to the CMP process it should consider the fact that while the PCAT, the final product of the CMP, specifically refers to a “Capacity Charge” and excludes such charge from “as measured” billing, the Amendment makes no reference to such a charge, thereby supporting McLeod’s conclusion that the Amendment pertains to both usage and capacity charges. Even if, as suggested by Qwest,

DOCKET NO. 06-2249-01

- 18 -

McLeod had been perfectly familiar with the CMP process and products, the Amendment drafted by Qwest was very different from that discussed in the CMP and PCAT.

However, Qwest points to the fact that those charged with negotiating the DC Power Measuring Amendment on behalf of McLeod were instructed to ensure any amendment did not result in increased power charges. According to Qwest, these instructions, along with the experience of McLeod personnel in negotiating similar agreements in other jurisdictions, demonstrate the importance McLeod placed on the Amendment and should cause this Commission to conclude that if McLeod had given the matter reasonable thought and proceeded with reasonable diligence it would have been aware of Qwest's intent as provided in the CMP communications and PCAT. McLeod's unexpressed intent should therefore have no bearing on the Commission's decision.

Finally, Qwest points out that charging for power plant as consumed rather than as ordered would allow McLeod to pay for less capacity than is actually available for its use. Even if Qwest were to design power plant to List 1 drain<sup>11</sup>, as advocated by McLeod, there is no dispute that actual measured usage would almost always fall below List 1 drain, often far below List 1 drain. Thus, McLeod seeks to pay for capacity based on a measured usage that would typically fall far below the power capacity McLeod expects Qwest to provide. According to Qwest, no interpretation of the Amendment could support such a result.

---

<sup>11</sup>List 1 drain is the average busy day/busy hour current during normal plant operations.

DOCKET NO. 06-2249-01

- 19 -

**c. The Extrinsic Evidence Supports Qwest's Position**

The evidence of record supports Qwest's assertion that it intended the DC Power Measuring Amendment to have no affect on Power Plant rate elements while also showing that McLeod should have been aware of that intent. In contrast, McLeod has provided no evidence to prove that at the time of execution it believed the Amendment would change how it was billed for the Power Plant rate elements. Given this, it is reasonable that we interpret the Amendment in conformance with Qwest's interpretation as the party that authored and offered the Amendment, and undertook reasonable efforts to make its intent known to those to whom the Amendment would be offered.<sup>12</sup> Thus, we find and conclude the evidence supports Qwest's stated intent at the time of execution such that the Amendment changes the billing from "as ordered" to "as measured" for only Exhibit A item 8.1.4.2.2 "Power Usage – More than 60 Amps, per Amp".

**D. McLeod's Claim of Discrimination**

*Utah Code Ann.* § 54-8b-2.2(1)(b)(ii) provides

[e]ach telecommunications corporation shall permit access to and interconnection with its essential facilities and the purchase of its

---

<sup>12</sup>RESTATEMENT (SECOND) OF CONTRACTS § 201 provides:

- (2) Where the parties have attached different meanings to a promise or agreement or a term thereof, it is interpreted in accordance with the meaning attached by one of them if at the time the agreement was made
  - (a) that party did not know of any different meaning attached by the other, and the other knew the meaning attached by the first party; or
  - (b) that party had no reason to know of any different meaning attached by the other, and the other had reason to know the meaning attached by the first party.

As noted by Qwest, Utah state courts have not decided whether Section 201 of the Restatement should be incorporated as part of Utah law. However, the court in *Flying J, Inc. v. Comdata Network, Inc.*, 405 F.3d 821, 834 (10th Cir. 2005) observed in applying a different part of section 201 to resolve that dispute: "The Utah Supreme Court has not specifically adopted Restatement (Second) of Contracts § 201; however, it has consistently adopted other Restatement provisions."

DOCKET NO. 06-2249-01

- 20 -

essential services on terms and conditions, including price, no less favorable than those the telecommunications corporation provides to itself and its affiliates.

Commission Rule 746-348-7 lists physical collocation as an essential facility or service pursuant to this section. Likewise, Section 7.1.9 of the ICA requires Qwest to provide collocation power to McLeodUSA on terms that are no worse than the terms Qwest provides for itself:

Power as referenced in this Agreement refers to any electrical power source supplied by [Qwest] for [McLeod] equipment. [Qwest] will supply power to support [McLeod] equipment at equipment-specific DC and AC voltages. At a minimum, [Qwest] shall supply power to [McLeod] at parity with that provided by [Qwest] to itself.

In addition, McLeod notes the Federal Communications Commission (“FCC”) has concluded that § 251 of the Act prohibits discrimination in an unqualified and absolute manner<sup>13</sup> such that it rejected

for purposes of section 251, our historical interpretation of "non-discriminatory," which we interpreted to mean a comparison between what the incumbent LEC provided other parties in a regulated monopoly environment. We believe that the term ‘nondiscriminatory,’ as used throughout section 251, applies to the terms and conditions an incumbent LEC imposes on third parties as well as on itself. In any event, by providing interconnection to a competitor in a manner less efficient than an incumbent LEC provides itself, the incumbent LEC violates the duty to be “just” and “reasonable” under section 251(c)(2)(D).<sup>14</sup>

---

<sup>13</sup>Citing *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-235, First Report and Order, 11 FCC Rcd. 15499 ¶ 217 (1996) (“*Local Competition Order*”).

<sup>14</sup>*Id.* ¶ 218.

DOCKET NO. 06-2249-01

- 21 -

The FCC went on to make clear that the terms and conditions by which an incumbent LEC offers unbundled network elements “must be equal to the terms and conditions under which the incumbent LEC provisions such elements to itself.”<sup>15</sup>

The parties agree Qwest bills McLeod for DC Power Plant based on the amperage of power distribution cable ordered by McLeod for each collocation space. For example, if McLeod orders a 180 amp distribution cable, Qwest will bill McLeod for 180 amps of power plant using the rate element at Exhibit A item 8.1.4.1.1.2. Qwest claims it then engineers McLeod’s collocation space power plant to be able to supply 180 amps of power if needed. McLeod disputes this claim, noting that, rather than engineering a specific collocation space power plant tailored to a CLEC’s distribution cable order for that space, Qwest actually engineers the power plant for its entire central office based upon the List 1 drain of the entire central office, including the List 1 drain of all Qwest and CLEC equipment, which equates to the total electrical usage load demanded within each office.

**1. McLeod’s Position**

Based on these facts and arguments, McLeod appears to advance two related claims of discrimination: (1) although McLeod may order a specific amperage distribution cable, Qwest should know that McLeod’s collocation facility will not actually require that much DC power under normal operating conditions and should therefore engineer, and bill, the DC power plant for that collocation space according to the smaller List 1 drain of the equipment McLeod actually intends to collocate; and (2) Qwest admits it engineers its own power plant using the

---

<sup>15</sup>*Id.* ¶ 315.

DOCKET NO. 06-2249-01

- 22 -

List 1 drain of its own equipment but bills McLeod for collocation power plant based on the size of McLeod's distribution cable order, acting as a proxy for the List 2 drain<sup>16</sup> of McLeod's collocation equipment. In both cases, according to McLeod, the resulting DC Power Plant charges are higher than they would be if Qwest engineered McLeod's power plant as it does its own.

McLeod argues its orders for distribution cables are not orders for power plant capacity and should therefore not be used to size its power plant. McLeod notes nothing in the ICA, the SGAT, or Exhibit A requires Qwest to charge McLeod for DC power plant based on the size of its power distribution cable orders. According to McLeod, sound engineering principles dictate that McLeod size its distribution cables at substantially larger amperages than it would ever require under normal power plant operating conditions, but that Qwest unreasonably uses the amperage of the distribution cable order to bill McLeod for its collocation space power plant. In support of this position, McLeod points to Qwest's own technical publications instructing engineers to size "batteries and chargers" to List 1 drain while only using the larger List 2 drain to size "feeder cables, circuit breakers, and fuses".

Furthermore, McLeod notes that, contrary to Qwest's claims, Qwest virtually never augments its power plant to accommodate the List 2 drain represented by McLeod distribution cable orders. Therefore, Qwest does not incur power plant augmentation costs

---

<sup>16</sup>List 2 drain is a "worst case scenario" drain on the power plant. One typical example of when List 2 drain is demanded is associated with the start up of telecommunications equipment after a power outage. In this scenario, the central office runs off of AC power supplied by the backup generator until the fuel runs out. If for some reason the generator cannot be refueled, the office would run entirely off of battery power. After about four hours, the batteries would be unable to provide enough power to run the telecommunications equipment, and the equipment would shut down. When AC power is restored and the equipment begins to power back up, there is a List 2 drain on the power plant. The parties agree List 2 drain is significantly higher than List 1 drain. Therefore, power plant bills calculated using List 2 drain would be higher than those calculated using List 1 drain.

DOCKET NO. 06-2249-01

- 23 -

directly and proportionately related to any McLeod distribution cable order. McLeod also disputes Qwest's claim that Qwest must maintain a unique amount of capacity available to meet each CLEC's List 2 drain. Instead, according to McLeod, central office power plant capacity is pooled and shared by all equipment in the central office such that the cost of that capacity should be based upon the relative use of the power plant by each collocator and Qwest should bill each collocator accordingly. Such a practice would also be consistent with the language of the Amendment referring to assessing "-48 Volt DC Power Usage" charges based on measured use.

McLeod further argues Qwest should determine the List 1 drain of the equipment McLeod intends to collocate and size and bill McLeod's power plant accordingly. According to McLeod, this List 1 drain information would not be difficult for Qwest to obtain. First, Qwest could simply ask McLeod for this information. Second, Qwest uses several pieces of equipment common to a typical McLeod collocation so it already knows the List 1 drain for that equipment. Furthermore, Qwest admits it can usually obtain the List 1 drain for other equipment from the equipment manufacturer. Thus, there is no excuse for Qwest's not using this information in billing McLeod for power plant facilities. The fact that Qwest chooses instead to charge McLeod for DC Power Plant based on the size of its distribution cable orders while sizing its own power plant based on the List 1 drain of its equipment is proof of discrimination since the result is that Qwest provides power plant to itself on more favorable terms than it makes available to CLECs such as McLeod.

DOCKET NO. 06-2249-01

- 24 -

**2. Qwest's Position**

Qwest believes it is reasonable for Qwest to size its plant based on CLEC orders. In support of this position, Qwest notes McLeod's expectation that Qwest should make List 2 drain available for McLeod's use if the need ever arises. Furthermore, Qwest does not know the List 1 drain of the CLECs' equipment when orders for distribution cable are placed. Qwest states that if it knew the List 1 drain of McLeod's equipment it would size the power plant accordingly. However, since McLeod does not provide this information with its distribution cable orders,<sup>17</sup> Qwest must use those orders as a proxy for the List 2 drain it is obligated to provide and therefore engineers McLeod's power plant to that level. Qwest argues this practice is entirely consistent with the Commission's order in Docket No. 00-049-106 requiring power plant to be charged based on the number of amps specified in the CLEC power plant order.

Finally, Qwest argues that McLeod gave up nothing in order to gain the savings on power usage charges realized via the Amendment. McLeod has not been injured, discriminated against, or otherwise disadvantaged by the Amendment; it has only benefitted, as it intended to do when it entered into the Amendment.

**3. The Evidence Does Not Support McLeod's Claim**

In reviewing this matter, we start by noting the parties' agreement that the ICA obligated McLeod to pay for DC Power Plant on an "as ordered" basis and that not until the filing of the current Petition dealing specifically with the DC Power Measuring Amendment did McLeod register any type of formal complaint with the Commission regarding Qwest's billing

---

<sup>17</sup>Qwest points out McLeod has never provided List 1 drain information with its distribution cable orders, but Qwest also admits it has never asked McLeod to provide this information.



DOCKET NO. 06-2249-01

- 25 -

for DC Power Plant. Nor does the record contain any evidence that McLeod, prior to May 2005, raised any concern of discriminatory conduct with Qwest pertaining to its collocation power plant engineering or billing.

In Docket No. 00-049-106, this Commission approved a “DC Power Plant – Equal to or Greater Than 60 Amps” rate element to be charged on a recurring basis for CLEC DC power plant orders. McLeod has made no showing that Qwest’s charging this rate on an “as ordered” basis for distribution cable orders is contrary to our decision in Docket No. 00-049-106 and we find nothing in the record to indicate Qwest has applied this rate in a discriminatory manner.

McLeod effectively orders “power plant” by means of its power distribution cable orders and sizes these cable orders based on both the List 2 drain of the equipment it intends to collocate in the short-term and the List 2 drain of additional equipment it may collocate in the future in that space. The only power plant order McLeod then provides to Qwest is its order for distribution cable. It is therefore reasonable Qwest uses this order to bill McLeod for its power plant.

Nothing in the record suggests that McLeod has ever asked Qwest to size its collocation power plant to an amount less than that indicated by its ordered distribution cable amperage. Nor does McLeod provide Qwest the List 1 drain of its collocation equipment when ordering distribution cable.<sup>18</sup> Instead, McLeod expects Qwest, on its own and with no direction from McLeod, to determine the List 1 drain for McLeod’s equipment and engineer the DC power

---

<sup>18</sup>Were McLeod to provide this information, Qwest has testified that it would engineer McLeod’s power plant and bill McLeod accordingly. Indeed, if McLeod had provided the List 1 drain for its equipment when placing its distribution cable orders, our conclusion concerning McLeod’s discrimination claim might be different.

DOCKET NO. 06-2249-01

-26-

plant for that collocation accordingly, despite the higher amperage of the distribution cable McLeod has ordered. We find nothing in the ICA, statute, regulation, or Commission order that would require Qwest to do more than it is now doing; namely, billing McLeod for its collocation power plant based upon McLeod's orders for power distribution cable. We therefore conclude Qwest's billing to McLeod for DC Power Plant does not constitute discriminatory conduct.

**E. Qwest's Counterclaim**

Qwest counterclaims for the amounts withheld by McLeod as a result of this dispute. According to McLeod, it has withheld \$146,493.12 billed by Qwest. Qwest seeks payment of this amount, plus any applicable interest and late payment fees pursuant to the parties' ICA. Because we agree with Qwest's interpretation of the DC Power Measuring Amendment and find that Qwest has billed McLeod appropriately in accordance with the parties' ICA and Commission order, we find and conclude that McLeod owes Qwest the \$146,493.12 it withheld from Qwest as a result of the parties' dispute. ICA section 11.10.1 provides that disputed amounts will be paid within thirty (30) days following resolution of the dispute. We therefore order McLeod to make payment to Qwest within 30 days from the date of this Order. However, we do not order McLeod to pay Qwest any interest or late payment fees. Qwest points to no specific ICA provisions to support its request for these payments and, having reviewed the ICA, we find no such provisions. We therefore deny Qwest's claim for said interest or fees.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed:

DOCKET NO. 06-2249-01

-27-

**III. ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The complaint filed herein is dismissed.
- McLeodUSA Telecommunications Services, Inc., shall pay Qwest Corporation

\$146,493.12 no later than thirty days from the date of this Order.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

Dated at Salt Lake City, Utah, this 28<sup>th</sup> day of September, 2006.

/s/ Steven F. Goodwill  
Administrative Law Judge

DOCKET NO. 06-2249-01

-28-

Approved and Confirmed this 28<sup>th</sup> day of September, 2006, as the Report and  
Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#50659

Decision No. R07-0211

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 06F-124T

---

MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.,

COMPLAINANT,

V.

QWEST CORPORATION,

RESPONDENT.

---

**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
G. HARRIS ADAMS  
DISMISSING COMPLAINT AND GRANTING  
COUNTERCLAIM**

---

Mailed Date: March 14, 2007

Appearances:

Andrew Newell, Esq., Denver, Colorado, for Complainant,  
McLeodUSA Telecommunications Services, Inc.; and

Timothy J. Goodwin, Esq., Denver, Colorado, Lisa Anderl, Esq.,  
Seattle, Washington, *pro hac vice*, and Richard Corbetta, Esq.,  
Denver, Colorado, for Respondent, Qwest Corporation.

**TABLE OF CONTENTS**

I. STATEMENT ..... 2  
II. FINDINGS AND ANALYSIS ..... 4  
    A. Background ..... 4  
    B. Charged as Ordered ..... 7  
    C. Burden of Proof ..... 10  
    D. Alleged Breach of Interconnection Agreement ..... 11

E. Alleged Discrimination in Violation of C.R.S. § 40-6-119, 47USC §§ 251(c)(6) and 252(d)).....20

F. Counterclaim .....26

III. CONCLUSIONS .....27

IV. ORDER .....27

A. It Is Ordered That: .....27

**I. STATEMENT**

1. This docket concerns the complaint by McLeodUSA Telecommunications Services, Inc. (McLeodUSA) against Qwest Corporation (Qwest) filed on March 15, 2006.

2. On March 22, 2006, the Commission entered its Order to Satisfy or Answer. On May 15, 2006, an Order Setting Hearing and Notice of Hearing scheduled a hearing in this matter.

3. On April 11, 2006, Qwest filed its Answer and Counterclaim.

4. On May 1, 2006, McLeodUSA’s Answer to Qwest’s Counterclaim was filed.

5. By Decision R06-0465-I, the Unopposed Motion for Waiver of Requirement to File Complainant’s Witness and Exhibit List under Commission’s Default Deadlines was granted.

6. On April 26, 2006, Complainant’s Certification of Intent to Proceed to Hearing was filed.

7. By Decision No. R06-0499-I, the procedural schedule governing this proceeding was modified and the hearing was rescheduled to August 16 and 17, 2006.

8. By Decision No. R06-0698-I, McLeodUSA’s Motion to Compel Responses to McLeodUSA’s First Set of Data Requests to Qwest filed May 15, 2006 was granted in part. By

Decision No. R06-0939-I, McLeodUSA's Motion to Compel Responses to McLeodUSA's Second Set of Data Requests to Qwest was denied.

9. By Decision No. R06-0919-I, the procedural schedule was vacated because it was difficult to prepare for hearing without knowing the outcome of pending discovery motions.

10. By Decision No. R06-1059-I, the Verified Motion for Admission *Pro Hac Vice* filed by Lisa A. Anderl, Esquire, was denied without prejudice for failure to meet the filing requirements of Rule 221 Colo.R.Civ.P. The defect was subsequently corrected and the Verified Renewed Motion for Admission Pro Hac Vic filed by Lisa A. Anderl, Esquire, on September 29, 2006, was granted by Decision No. R06-1202-I.

11. By Decision No. R06-1083-I, the procedural schedule was modified and the hearing was again rescheduled to November 14 and 15, 2006.

12. At the assigned place and time, the undersigned Administrative Law Judge (ALJ) called the matter for hearing. During the course of the hearing, McLeodUSA sponsored the testimony of Ms. Tami Spocogee, Mr. Sidney Morrison, and Mr. Michael Starkey. Qwest sponsored the testimony of Mr. Curtis Ashton, Mr. Michael Starkey (as an adverse witness), and Mr. William R. Easton. Exhibits 1 through 11, 14, and 16 through 35 were identified, offered, and admitted into evidence. Confidential Exhibits 2C, 3C, 5C, 14C, 23C, 31C, and 32C were also identified, offered, and admitted into evidence. Exhibits 8 and 8A were admitted as late-filed Hearing Exhibit 8 to substitute for Exhibit 8 utilized at hearing. At the close of the hearing, McLeodUSA moved to close the record in this docket, with the limited exception of the late filing of Exhibit 8. The unopposed motion was granted and the matter was taken under advisement.

13. McLeodUSA filed its Initial Statement of Position on January 5, 2007. Qwest also filed its Post Hearing Brief on January 5, 2007. The McLeodUSA Telecommunications Service, Inc., Reply Brief and the Reply Statement of Position of Qwest Corporation were each filed on January 19, 2007.

14. Pursuant to § 40-6-109, C.R.S., the record and exhibits of the proceeding, and a recommended decision are transmitted to the Commission.

## **II. FINDINGS AND ANALYSIS**

### **A. Background**

15. Complainant McLeodUSA is an Iowa Corporation with its primary place of business located at 6400 C. Street SW, Cedar Rapids, IA 52406-3177. McLeodUSA is authorized by the Colorado Secretary of State to do business in Colorado and has been issued a Certificate of Public Convenience and Necessity by this Commission to provide competitive local exchange services.

16. Qwest Corporation is a corporation organized and existing under the laws of the State of Colorado that is authorized by the Commission to provide facilities to carriers like McLeodUSA.

17. No party challenges the Commission's jurisdiction in this docket.

18. Pursuant to § 252 of the Telecommunications Act of 1996 (Telecommunications Act or Act), McLeodUSA and Qwest entered into an Interconnection Agreement (ICA, Interconnection Agreement or Agreement) that was approved by the Commission on February 16, 2001 in Docket No. 01T-019. McLeodUSA offers competitive local services in several markets in Colorado using collocation space leased from Qwest pursuant to § 251(c)(6) of the



Telecommunications Act and the Interconnection Agreement, as amended, in connection with McLeodUSA's network facilities.

19. In the context of rules 2530 through 2579, Rule 2531(b) defines an interconnection agreement, for purposes of § 252(e)(1) of the Telecommunications Act of 1996, as “a binding contractual agreement or amendment thereto, without regard to form, whether negotiated or arbitrated, between an ILEC and a telecommunications carrier or carriers that includes provisions concerning ongoing obligations pertaining to rates, charges, terms, and/or conditions for interconnection, network elements, resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, or collocation.” *Rule 2531(b) of the Rules Regulating Telecommunications Providers, Services, and Products, 4 Code of Colorado Regulations (CCR) 723-2.*

20. Pursuant to § 252(i) of the Act, McLeodUSA elected to adopt the previously approved interconnection agreement between Qwest and Pathnet, Inc., Docket No. 99T-599, which was approved by Decision C00-0069 (dated January 21,2000), as amended and approved by Decision C00-0875 (dated August 22, 2000). *See*, Decision No. C01-0156 and Hearing Exhibit 8. The agreement has been amended many times by the parties’ express agreement as well as in accordance with Commission decisions.

21. The Agreement was negotiated in accordance with the terms of the Act and the laws of Colorado. “It shall be interpreted solely in accordance with the terms of the Act and the applicable state law in the state where the service is provided.” Section 3.18 of the Pathnet ICA in Exhibit 8.

22. “The headings of Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.” Section 3.28 of the Pathnet ICA in Exhibit 8.

23. McLeodUSA and Qwest negotiated for, and entered into, the DC Power Measuring Amendment to the Interconnection Agreement between Qwest Corporation and McLeodUSA Telecommunications Services, Inc. for the State of Colorado (DC Power Amendment), admitted to be attached as Exhibit A to McLeodUSA's Complaint (Hearing Exhibit 7).

24. McLeodUSA installs various pieces of equipment in its collocation sites. Most of such equipment requires electrical power for operation. The usage charges giving rise to the Complaint are distinct from the charges associated with building the infrastructure necessary to deliver DC power to McLeodUSA's collocation. Such charges are assessed on a non-recurring basis and have already been paid by McLeodUSA.

25. By Decision No. C04-1493 (dated December 17, 2004), the DC Power Amendment that gives rise to this proceeding was approved. This decision granted the jointly-filed Motion for Approval of Amendment filed by Qwest and McLeodUSA. The Commission recited the requirement for Commission review under the Act and the criteria for approval including: “rates in negotiated agreements must be just and reasonable, nondiscriminatory, and based on the cost of providing the interconnection or network element.” Decision No. C04-1493 at 2. Supporting the proposed rates, the Commission found that “[t]he proposed rates are supported by cost studies on file in Docket No. 99A-577T.” *Id.*

26. McLeod implicitly alleges that the parties elected to put the amendment into effect upon execution (August 18, 2004), rather than upon Commission approval (December 17,

2004), under the terms of the DC Power Amendment. McLeodUSA contends that Qwest began violating the amendment effective August 2004.

27. Hearing Exhibit 8 reflects the parties' current understanding of the Agreement. Without specification, some additional information is included in Hearing Exhibit 8 about which the parties take no position.<sup>1</sup> The Power Reduction Amendment was provided as part of Hearing Exhibit 8 (noted as Exhibit 8A), although it had not been approved by the Commission at the time of filing.

28. Except as specifically modified by the DC Power Amendment, the provisions of the Agreement remain in full force and effect. See Hearing Exhibit 8.

29. The DC Power Amendment resulted in certain rates being billed based upon actual usage, versus a historical "as ordered" basis. The parties disagree as to which rates were affected by the amendment. Qwest monitored power usage at those McLeodUSA collocations that were originally ordered with more than 60 amps service. Qwest admitted that charges for DC power in a collocation cage are established in Exhibit A to both McLeodUSA's Interconnection Agreement with Qwest, and the DC Power Amendment attached as Exhibit A to McLeodUSA's Complaint.

**B. Charged as Ordered**

30. It is not disputed that under the Agreement, Qwest billed McLeodUSA for DC power based on the ordered amount of power by McLeodUSA on the collocation application (*i.e.* if McLeodUSA ordered 100 amps for a collocation location, Qwest billed DC collocation power charges at 100 amps each month. See, *e.g.* Confidential Exhibit WRE\_5, Hearing Exhibit 23C).

---

<sup>1</sup> McLeodUSA and Qwest' Joint Notice of Filing Exhibits 8 and 8A, filed November 29, 2006.

Qwest billed such charge, and McLeodUSA paid such charge, regardless of whether the McLeodUSA's equipment consumed 20 or 90 amps of current in a particular month.

31. Before, during, and after Docket No. 99A-577T, power usage rates were applied on a per-amp-ordered basis. Transcript Vol. II at 139, lines 13-17. McLeodUSA does not dispute power plant charges invoiced by Qwest on the number of amps specified in the power feed orders on an as-ordered basis before the DC Power Amendment in this docket. Transcript Vol. I at 16, lines 14-24. Ms. Spocogee contends that was the case because McLeodUSA considered the power plant as part of the power usage charges listed in the Agreement. Transcript Vol. I at 19-20. Once the DC Power Amendment was signed for the power usage components, McLeodUSA expected the power plant to also be billed on a measured basis because it was a component of the power usage.

32. The Collocation rates in Exhibit A to the Statement of Generally Available Terms and Conditions (SGAT) were approved by the Commission in Docket No. 99A-577T. Following the Commission's decision in Docket No. 99A-577T, Qwest's rate structure changed and created a separate rate for power plant and usage. Transcript Vol. II at 116.

33. While the approved amendment references Exhibit A to the Agreement (*i.e.* Exhibit A to the SGAT), no part of Exhibit A was included with the amendment. Versions of SGAT Exhibit A have been provided in Hearing Exhibits 10, 11, and 26. The current SGAT has been incorporated into Qwest Local Network Interconnection and Service Resale Tariff, Colo. P.U.C. No. 22. McLeodUSA contends that the organization of the rates and rate groupings at issue in this case did change from one version of SGAT Exhibit A to the next. Qwest does not oppose such contention, acknowledges that the versions differ insignificantly in structuring or organization of the power rate elements over time, and presents argument based upon the

February 2005 version of the SGAT Exhibit A (Hearing Exhibit 11). Qwest admitted that the capacity charge referenced in the product catalog is the same as the power plant charge in the Hearing Exhibit 11 and that such version of the Exhibit A is nearly identical to all versions of the Exhibit A since the last cost docket in Colorado. Transcript Vol. II, page 105, lines 19-23; and page 106, lines 12-17. For ease of reference, the current version of Exhibit A to the SGAT will be used and referenced for analyzing the amendment.

34. Qwest's DC Power offering, which provides -48 volt DC power to a CLEC's collocation equipment, has two rate elements: one for the power plant capacity itself and another for power usage. Qwest assessed two separate per amp, per month, charges for -48 volt DC power usage.

35. After the DC Power Amendment, Qwest began billing the second element of -48 volt DC power usage using the monitored power usage (in most instances). Qwest continued to bill for the first element, "Power Plant" -- at the ordered level of power.

36. Qwest witnesses testified that Qwest's cost study, which was adopted by the Commission, incorporates the sizing of the power plant based upon the feeder line order. Transcript Vol. II at 114-115. Because the Qwest cost model, included power plant charges on a per-amp-ordered basis, Mr. Ashton believes that Qwest is ordered to charge power plant on a per-amp-ordered basis. Transcript Vol. II at 48, lines 9-12. Transcript Vol. II at 137, lines 15-20.

37. Qwest acknowledges that technical publications were not modified following the Commission's decision in Docket No. 99A-577T with regard to how Qwest engineers power plant to accommodate CLEC capacity. Existing publications state that the power plant is to be sized based on List 1 drain. Although not explicitly documented in technical publications, Qwest argues that Qwest power engineers work for one director and that the director applies

Commission rules, decisions and laws without regard to technical documentation. Transcript Vol. II at 49.

38. Mr. Ashton acknowledged that Qwest maintains forms for field technicians to record metered usage (approximate List 1 drain) and List 2 drains (Forms 840 and 841). However, he also states that there is no way for a field technician to know List 2 drains, that those forms are rarely used, and that the forms are not required to be used. Form 840 is often used as a power inventory form that is reported back to the engineers so they can keep track of exactly what equipment is in the office. Form 841 is really not a power plant form, it is a battery distribution fuse board (BDFB) form to track loads on a BDFB, if the engineers feel they may overload the BDFB. Transcript Vol. II at 55-56.

**C. Burden of Proof.**

39. Except as otherwise provided by statute, the Administrative Procedure Act imposes the burden of proof in administrative adjudicatory proceedings upon "the proponent of an order." § 24-4-205(7) C.R.S. McLeodUSA bares the burden of proof by a preponderance of the evidence as to claims stated in the Complaint. Section 13-25-127(1), C.R.S.; *Rule 1500 of the Rules of Practice and Procedure*, 4 CCR 723-1. Qwest bears the burden of proof by a preponderance of the evidence as to claims stated in the Counterclaim. Section 13-25-127(1), C.R.S.; *Rule 1500 of the Rules of Practice and Procedure*, 4 CCR 723-1. The preponderance standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole, slightly tips in favor of that party.

**D. Alleged Breach of Interconnection Agreement.**

40. McLeodUSA alleges that because Qwest has continued to charge McLeodUSA the "ordered" amount for the "Power Plant" rate element for -48 volt DC power usage, Qwest breached the Agreement, as amended by the DC Power Amendment.

41. McLeodUSA alleges that Qwest has overcharged McLeodUSA in the approximate amount of \$44,000 per month since August 2004, and continues to overcharge McLeodUSA on a monthly basis. McLeodUSA seeks a refund of the excessive charges in through the Commission's authority to enforce the interconnection agreement approved pursuant to 47 U.S.C. §§ 251- 252.

42. McLeodUSA primarily contends that the amendment is clear and should be enforced upon its terms. Attachment 1, Section 2.0 to the DC Power Amendment,

addresses the 'Rate Elements' at issue, and Section 2.1 specifically identifies '-48 Volt DC Power Usage' as the relevant rates to be impacted. Subsection 2.2.1 then discusses the '-48 Volt DC Power Usage Charge,' and explains that the change to be effectuated by the Amendment is that 'Qwest will determine the **actual usage** at the power board . . .' Subsection 2.2.1 goes on to state that the 'actual usage' measured at the power board is applied to '-48 Volt DC Power Usage' as 'specified in Exhibit A of the Agreement. Exhibit A of the Agreement (or the pricing appendix) shows that '-48 Volt DC Power Usage' - the exact same term as used in the Amendment - covers both power plant and usage charges.

McLeodUSA's Initial Statement of Position at 4-5 (emphasis original).

43. After discovering that Qwest was billed certain collocation power charges using ordered levels, rather than based on actual usage, McLeodUSA initiated a billing dispute in September 2005 and began withholding disputed amounts equal to the amount of alleged overcharges since the effective date of the DC Power Amendment. McLeodUSA ceased withholding disputed amounts in December 2005, while reserving its right to challenge all such billings. Qwest denied the billing dispute and insists the charges are valid.

44. McLeodUSA contends that the interpretation proffered, that the reference to -48 Volt DC Power Usage applied to all rates grouped under 8.1.4.1 of SGAT Exhibit A, is the simplest and most logical result. It is argued that the language of the amendment unequivocally supports this outcome as well. Because the amendment acknowledges that the DC Power Usage charge is for the capacity of the power plant available for CLEC use, it cannot be intended that capacity of the power plant references charges in 8.1.4.1.1. Further, the rate grouping at 8.1.4.1 uses the identical term as the amendment. Thus, it is argued there is no basis to determine how the Power Plant rate (8.1.4.1.1) is charged unless the amendment refers to 8.1.4.1.

45. McLeodUSA argues that Section 2.1 reads "-48 volt DC power usage and AC usage charges." Because the precise term "-48 volt DC power usage" appears only once in section 8.1.4, McLeodUSA contends that the reference is intended to be to all rates within the grouping at 8.1.4. Transcript Vol. II at 131-132.

46. McLeodUSA argues that its proffered interpretation is consistent with past practices. Historically, charges for all elements in the rate grouping were based upon feeder size. The amendment was to change the basis of the charges to usage, rather than feeder size.

47. Qwest also primarily contends that the amendment is clear and should be enforced upon its terms. Qwest contends that the language of the DC Power Amendment does not modify the DC Power Plant Charge:

Counted conservatively, the DC Power Measuring Amendment mentions the 'DC Power Usage Charge' five times, and mentions the 'usage rate' another two times, for a total of seven mentions in less than one page of text. There is no mention of a 'Power Plant' charge. Thus, the simplest interpretation of this language is that the Amendment changes the 'power usage charge' for orders greater than sixty amps, but no other charge - not the power plant charge or any other charge.

Qwest Post Hearing Brief at 10-11.



48. Qwest contends that the language in section 2.2.1 of the DC Power Amendment regarding the -48 volt DC power usage charge must apply to the rate at section 8.1.4.1.2.2 of Exhibit A to the SGAT. Considering Exhibit A, Qwest finds that usage charges listed in 8.1.4 include two usage charges: power usage less than 60 amps and power usage more than 60 amps. Qwest contends there are no other charges containing the phrase "power usage." Based upon his understanding that the power measuring applies only to usage greater than 60 amps, Mr. Easton concludes that that rate of \$4.50 is the power usage charge referenced in section 2.2.1 of the amendment. Transcript Vol. II at 126.

49. Mr. Easton contends that because there is no charge associated with SGAT 8.1.4.1, it is a heading having no force or effect. Transcript Vol. II at 126. He also contends that any language in Exhibit A not having associated charges is a heading having no force and effect under section 3.28 of the Agreement. Transcript Vol. II at 126.

50. Qwest argues that the binding Agreement of the parties cannot be changed by the Commission. Such argument disregards the nature of the complaint requiring interpretation of the parties' agreement. In fact, Qwest's own statement refutes the argument and properly characterizes that "[t]his Commission must interpret the DC Power Measuring Amendment to effect the intent of the parties at the time the Amendment was executed and approved by the Commission." Reply Statement of Position of Qwest Corporation at 2.

### **1. Discussion**

51. It is clearly the Commission's responsibility to arbitrate, approve, and enforce interconnection agreements under § 252 of the Act. *Pac. Bell v. Pac-West Telecomm., Inc.*, 325 F.3d 1114, 1126 (9<sup>th</sup> Cir. 2003). It has been recognized that "this grant to the state commissions to approve or reject and mediate or arbitrate interconnection agreements necessarily implies the

authority to interpret and enforce specific provisions contained in those agreements.” *e.spire Communs., Inc. v. N.M. Pub. Regulation Comm'n*, 392 F.3d 1204, 1207 (10th Cir. 2004) *quoting* *Southwestern Bell Tel. Co. v. Brooks Fiber Communications of Okla., Inc.*, 235 F.3d 493, 497 (10th Cir. 2000); see also *BellSouth Telcoms., In v. MCIMetro Access Transmission Servs., Inc.*, 317 F.3d 1270, 1274 (11th Cir. 2003).

52. The 10<sup>th</sup> Circuit Court of Appeals has explained the context of interconnection agreements:

‘[T]he Interconnection Agreement did not arise in a vacuum; it was but one step in a complex and on-going regulatory process.’ *Aplt. App., Vol I*, at A37 (*E.spire v. Baca*, 269 F. Supp. 2d. 1310, 1329 (D.N.M. 2003)). An interconnection agreement is not an ordinary private contract. It is a document resulting from arbitration authorized and required by federal law which cannot be viewed in isolation. An interconnection agreement is not to be construed as a traditional contract but as an instrument arising within the context of ongoing federal and state regulation. *Verizon Maryland, Inc. v. RCN Telecom Servs., Inc.*, 232 F. Supp. 2d 539, 552 n.5 (D. Md. 2002) (‘An interconnection agreement is part and parcel of the federal regulatory scheme and bears no resemblance to an ordinary, run-of-the-mill private contract.’). It is counterintuitive to require a state commission to interpret such a document without the benefit of the circumstances giving rise to the agreement.

*e.spire Communs., Inc. v. N.M. Pub. Regulation Comm'n*, 392 F.3d 1204, 1207 (10th Cir. 2004)

53. Consistent with the Agreement and the parties’ arguments, it is also appropriate to consider the DC Power Amendment under Colorado contact law.

54. “In determining whether a provision in a contract is ambiguous, the instrument’s language must be examined and construed in harmony with the plain and generally accepted meanings of the words used, and reference must be made to all the agreement’s provisions. *Fibreglas Fabricators, Inc. v. Kylberg*, 799 P.2d 371, 374 (Colo. 1990)....The intention of the parties must appear expressly or by clear implication. *Charles Ilfeld Co. v. Taylor*, 156 Colo. 204, 397 P.2d 748, 750 (Colo. 1964).” *Lake Durango Water Co. v. PUC*, 67 P.3d 12 (Colo. 2003).

55. “A contract is ambiguous when it is reasonably susceptible to more than one meaning. *KN Energy, Inc. v. Great W. Sugar Co.*, 698 P.2d 769, 777 (Colo. 1985). To decide whether a contract is ambiguous, a court may consider extrinsic evidence regarding the meaning of the written terms, including evidence of local usage and of the circumstances surrounding the making of the contract. *Id.* The court may not, however, consider the parties’ extrinsic expressions of intent. *Id.*” *Water Rights of Pub. Serv. Co. v. Meadow Island Ditch Co. No. 2*, 132 P.3d 333, 339-340 (Colo. 2006).

56. The foundation of McLeodUSA’s argument is based upon the identity of terms between the DC Power Amendment and Section 8.1.4.1 of SGAT Exhibit A. McLeodUSA argues that Section 8.1.4.1 is a substantive rate grouping that describes how rates are applied within that grouping. Qwest contends that 8.1.4.1 is merely a heading that must be disregarded in interpreting the amendment, as agreed in Section 3.28 of the Pathnet ICA in Exhibit 8, because it is merely a heading that shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of the Agreement. McLeodUSA counters that, if 8.1.4.1 is disregarded as a heading, the link between the amendment and Exhibit A would be severed. Further, without reference to Section 8.1.4.1 of Exhibit A, a portion of Section 2.2.1 of the amendment becomes meaningless.

57. Upon approval of the DC Power Amendment, the Agreement, as amended, becomes the integrated agreement of the parties. See Hearing Exhibit 7 at 2. Beyond the amendment, the remainder of the Agreement must be reviewed to determine whether the parties’ intent is expressed or implied. Extrinsic evidence will only be relied upon if there is ambiguity found in the Agreement that cannot be resolved by the entirety of the integrated agreement.

58. The crux of the dispute is whether reference to -48 Volt DC Power Usage in section 2 of the amendment is intended to refer to the -48 Volt DC Power Usage category (*i.e.* 8.1.4.1 in SGAT Exhibit A), or Power Usage rates within the -48 Volt DC Power Usage category (*i.e.* 8.1.4.1.2 in SGAT Exhibit A).

59. Section 8.1.4.1 reference -48 volt DC power usage per ampere per month and that is the only line in Section 8 of SGAT Exhibit A that uses the term -48 volt DC power usage. Transcript Vol. II at 126.

60. The ALJ finds that Section 8.1.4.1 is not a mere heading within the scope of Section 3.28 of the Pathnet ICA in Exhibit 8. First, it is not clear that such reference in the Agreement applies to Exhibit A. Second, headings are not intended to add substance. Rather, they are utilized for convenience and points of reference. To interpret Exhibit A without reference to any lines not associated with a rate, under Qwest's interpretation, would render a meaningless exhibit and an absurd result. McLeodUSA illustrated that Section 8.1.4.1 adds intended meaning to the Exhibit A in questioning Mr. Easton regarding the reference that specifies the DC power usage charges are to be charged on a per-amp per-month basis.

61. Qwest points to the grammatical use of terms. Because reference in Section 1.2 is made to usage rate (singular), it is argued that only one rate in Exhibit A is affected. A similar argument is made with reference to -48 Volt DC Power Usage Charge. It is argued that use of the singular must be disregarded to support McLeodUSA's interpretation.

62. Both parties make arguments regarding the statement in Section 2.1 that "[t]he DC Power Usage Charge is for the capacity of the power plant available for CLEC's use." Qwest contends it is senseless that the parties would have defined Power Usage to mean Power Plant. In any event, the Agreement does not supersede the Commission's determination in Docket No.

99A-577T as to what costs are recovered by rates and the record in this docket does not include such foundation.

63. Reviewing similar amendments and the integrated Agreement, and the lack of evidence regarding the application thereof, the ALJ finds no informative or determinative pattern demonstrating intent as to the rates affected by executing the DC Power Amendment. However, more likely than not, the weight of evidence indicates that the DC Power Amendment was not drafted with the specificity of references to Exhibit A that McLeodUSA depends upon. Over time, the parties have not consistently applied several terms (*i.e.* rate, charge, element, or rate element) to make any intention clear regarding the pending dispute. The lack of consistency and specificity of terms in other amendments indicates that the DC Power Amendment was similarly drafted.

64. The parties' arguments that the precise wording of the amendment is controlling in applying Exhibit A, or determinative of the parties' intent in entering the amendment, is not compelling. Both parties offered extensive testimony regarding the precise phrase "-48 Volt DC Power Capacity" in the DC Power Amendment and the SGAT. However, the ALJ does not find it reasonable to interpret the phrase -48 Volt DC Power Usage Charge with great precision to the language in Exhibit A while that adjacent reference to an AC Usage Charge appears nowhere in Exhibit A.

65. More times than not, the prior amendments to the Agreement have not been as precisely aligned with the pricing exhibit as McLeodUSA contends as to the DC Power Amendment. The ALJ finds that the parties, more likely than not, intended a description of rates for power usage in SGAT Exhibit A, reflected in 8.1.4.1.2.

66. Section 1.2 of the DC Power Amendment states that orders for sixty (60) amps or less will not be monitored because the power usage rate reflects a discount from the rates for those feeds greater than sixty (60) amps. Contrary to McLeodUSA's interpretation, this statement is not true for the Power Plant rates in 8.1.4.1.1.

67. "Extrinsic evidence is admissible to prove intent when there is an ambiguity in the terms of the agreement." *Cherokee Metro. Dist. v. Simpson*, 148 P.3d 142, 146 (Colo. 2006), *citing* *USI Props. E., Inc. v. Simpson*, 938 P.2d 168, 173 (Colo. 1997). Both parties present plausible interpretations over aspects of the amendment in support of their interpretation thereof. After consideration of the arguments submitted, the ALJ finds that the lack of specificity and identity of terms between the DC Power Amendment and SGAT Exhibit A creates an unmistakable ambiguity in the terms of agreement. Extrinsic evidence must also be considered to determine the parties' intent as to the DC Power Amendment.

68. Neither McLeodUSA nor Qwest offered testimony of direct participants in the negotiations for the DC Power Amendment or the Agreement.

69. Ms. Spocogee admitted that the subject in dispute never was discussed in the course of negotiations, and Qwest was not aware of McLeodUSA's interpretation, because understanding was assumed.

70. The expectation that power plant would be billed on a measured basis following the amendment is called into question based upon the timing and presentation of its claim. The breach was alleged to have accrued in August 2004, yet no contest was raised until September 2005. It seems unlikely that McLeodUSA would have waited almost a year to confirm the expected benefits of the amendment and there is little evidence of an unexpected outcome of the amendment.

71. Hearing Exhibit 22 and Exhibit WRE\_4 to Hearing Exhibit 23 are likely the best evidence presented as to McLeodUSA's intent because they record events by persons involved in the adoption of the amendment and were created at a time near in proximity to execution of the amendment.

72. Qwest argues that Hearing Exhibit 22 comprises internal communications relating to the DC Power Amendment prior to its execution. While McLeodUSA designed a spreadsheet to estimate and track savings after the amendment to bill on metered usage, Qwest properly contends that the spreadsheet is not consistent with McLeodUSA's interpretation of the amendment. See emails in Hearing Exhibit 22.

73. Exhibit WRE\_4 to Hearing Exhibit 23 is a spreadsheet that was provided to Qwest in discovery. It was compiled by McLeodUSA to calculate the monthly savings from billing based upon usage. Notably, the USOC amount at 8.1.4.1.2.2 of \$4.50, consistent with Qwest's interpretation of the amendment, was used by McLeodUSA to determine "Calculated Monthly Savings." The estimate of savings only calculates savings from the power usage charge, not the power plant charge that McLeodUSA now argues was affected. Ms. Spocogee admitted that no analysis of power plant savings was ever done prior to the execution of the DC Power Amendment. It is inexplicable why those representing McLeodUSA at that time would have disregarded power plant savings in calculating the monthly savings. In any event, there is no indication that those representing McLeodUSA did not understand and agree to the calculated savings.

74. Application of the more descriptive reference to -48 DC Power Usage is also supported by reviewing dealings of the parties prior to the execution of the DC Power Amendments. Exhibit WRE\_5 (Hearing Exhibit 23C) is a representative Qwest Price Quote

provided to McLeodUSA months prior to the amendment giving rise to the present dispute. Recurring charges are quoted at the ordered amount (as both parties agree was appropriate at the time), but it is notable that the USOC C1FP5 rate element is described in the same term as is used in the amendment. While the USOC C1FQ6 rate element makes no reference to power usage -- this is the element McLeodUSA contends was intended to be affected by the amendment. In the dealings between the parties, it has not been shown that USOC C1FQ6 was understood to be within the terms of DC power usage at 8.1.4.1.

75. Qwest properly notes that its interpretation is also consistent with the singular -48 Volt DC Power Usage Charge found in Section 2.2 that references Exhibit A using identical terminology as previously used by the parties in their dealings evidenced by Exhibit WRE\_5.

76. Qwest contends that pronouncements and discussions in the nonbinding Change Management Process evidences the intent of the amendment. However, unilateral expressions of one's intent, without more, do not evidence a meeting of the minds in agreement by contracting parties. *Western Air Lines, Inc. v. Hollenbeck*, 124 Colo. 130 (Colo. 1951). In absence of this information being associated with the negotiation and adoption of the contract, it does not provide extrinsic evidence of the parties' intent in entering the amendment.

77. Based upon all of the evidence presented, the ALJ finds that the DC Power Amendment only modified the DC power usage rate at 8.1.4.1.2.2 of Exhibit A to the SGAT.

**E. Alleged Discrimination in Violation of C.R.S. § 40-6-119, 47USC §§ 251(c)(6) and 252(d)).**

78. McLeodUSA alleges that Qwest's continued billing of DC Power Plant at ordered levels rather than actual usage results in McLeodUSA paying more than its share for the costs of the DC Power Plant, which was modeled as a usage-sensitive charge. As such, Qwest is



discriminating against McLeodUSA in favor of itself and any other carrier that is using more of the amps of DC Power it originally ordered in a given month than McLeodUSA. This practice results in charges to McLeodUSA that are excessive and discriminatory in violation of C.R.S. § 40-6-119 and 47 U.S.C. § 251(c)(6).

79. Pricing standards under the Act require the Commission to set just and reasonable rates for the interconnection of facilities and equipment, for purposes of § 251(c)(2), that are nondiscriminatory. 47 U.S.C. § 252(d)(1)(A)(ii) and 47 CFR 51.503.

80. The FCC has provided guidance to state Commissions regarding the pricing of elements. 47 C.F.R. 51.501 et seq. State commissions are specifically authorized to require Qwest to recover nonrecurring costs through recurring charges over a reasonable period of time. Nonrecurring charges must be allocated efficiently among requesting telecommunications carriers, and shall not permit an incumbent LEC to recover more than the total forward-looking economic cost of providing the applicable element. 47 C.F.R. 51.507(e).

81. The Commission described Total Element Long Run Incremental Cost (TELRIC) in the cost docket, Docket No. 99A-577T:

TELRIC is a “forward-looking” methodology that estimates the cost of providing network elements at the level of output provided by the current network, using current wire center locations and the least cost, most efficient, currently available technology and procedures.

Prices are set based upon what it would cost to provide the products and services starting in the present and going forward. The prices are not to be based on the historical costs or investment costs. TELRIC assumes that the company is efficient and is utilizing the most up-to-date, commercially available technology, and network design.

Decision No. C01-1302, 2001 Colo. PUC LEXIS 1140, 9-12 (Colo. PUC 2001).

82. Reviewing Exhibit 14, Mr. Starkey summarized and illustrated the allegations of discrimination. Hearing Exhibit Nos. 14 and 14C. Exhibit 14 is a discovery request focusing

upon comparing how Qwest engineers power plant for CLECs at the size of the power cables that are ordered by the CLEC in the collocation application (*i.e.* List 2 drain) as opposed to the very different engineering standard that Qwest has suggested it applies to its own equipment (*i.e.* List 1 drain).

83. As a result of these differing standards, because there are a number of CLECs collocated in many central offices and because the feeder orders often substantially exceed the actual List 1 drain or use anticipated by those CLECs, McLeodUSA contends that there may be Qwest central offices wherein the total CLEC orders and the List 1 drain of the ILEC may exceed the total capacity of the central office. Exhibit 14C illustrates that this scenario has occurred at least once in Colorado. For example, Column B of Exhibit 14C identifies "All CLEC Orders." Column A identifies the DNVRCOCHHGE central office. The column of total CLEC orders for power feeder cables is the CLEC order for power cables. McLeodUSA contends that the closest analog to this number is the List 2 drain.

84. Column C, Load for Power Plants in CO, is the total load on the plant, including Qwest's load.

85. Column D, List 1 Planning, is some additional load that Qwest plans over their planning horizon.

86. Column E is the summation of columns B, C and D.

87. Column F is the total plant capacity available to CLECs – notably not the total plant at the central office because additional plant might be in that same office that is not available to CLECs. Multiple numbers in Column F indicates that multiple power plants are available within the office. Mr. Ashton clarified that Column F references the total power plant in each central office referenced. Transcript Vol. II at 79-80.

88. Based upon Qwest's internal documents, McLeodUSA contends that it is reasonable to assume that CLECs actually use approximately 40 percent of the total orders (*i.e.* the List 1 drain).

89. The List 1 drain of all CLECs at the DNVRCOCHHGE central office would be about 12 percent of the total load for the central office. Yet, McLeodUSA contends that Qwest's interpretation of the amendment results in CLECs being charged for about 30 percent of the total load when only approximately 12 percent is being used. On the other hand, Qwest estimates base load on actual usage and McLeodUSA contends that including Qwest's feeder cables instead of the load in Column C, that number would drastically decrease the CLEC portion of the load.

90. McLeodUSA contends that designing central offices in this manner is inconsistent with every technical document in this record that indicates Qwest should engineer the entire power plant based on the List 1.

91. Thus, McLeodUSA contends that Qwest's engineering of plant for CLECs (*i.e.* List 2 drain) differently than for themselves (*i.e.* List 1 drain) is unjustly discriminatory.

92. The Commission reaffirmed its adoption of Qwest's Collocation Study in C02-0409 at 67, Docket No. 99A-577T. Mr. Ashton testified that he is familiar with the study and that he provided inputs for the model. While the model does not explicitly state that power plant is charged on a per amp ordered basis, Mr. Ashton testified that the assumption is implicit because that is how the cost study was modeled. Transcript Vol. II at 40-48. He generally believes and assumes that the Commission ordered Qwest to charge on a per-amp-ordered basis because the Commission adopted the Qwest cost model which says that power plant is charged on a per-amp-ordered basis.

93. Although technical publications were admittedly not modified, Qwest believed that “order” meant “feeder cable.” Transcript Vol. II at 49. Mr. Ashton acknowledged that the written rule for sizing power plant says to try to design plant based on List 1 drain; however he states that he follows the Commission’s order where it conflicts with Qwest written technical documentation. Transcript Vol. II at 50-51.

94. The only documentation that Qwest provided supporting the statement that power plant is sized by taking into account the List 2 drain of CLECs is Confidential Hearing Exhibit 14C. Mr. Ashton further described spreadsheets that provide the foundation for such discovery response to track existing load, what the collocation orders were in that site, and what planned loads Qwest planned for each central office.

95. Mr. Ashton testified that Qwest engineers take the total requirement of power needs into consideration when designing the power plant for a central office. Such needs consider Qwest’s requirements as well as CLECs’ requirements for power. As for CLECs, Qwest relies upon the power feed ordered and “**assumes** that the order is based upon List 2 Drain - - the current the equipment will draw under the most power demanding conditions, such as initial power-up after a power failure.” Hearing Exhibit 31 at 4. Mr. Ashton contends that such an assumption is reasonable because Qwest does not know, and cannot reasonably forecast, the draw that CLEC equipment requires.

96. From an engineering standpoint, Qwest admits that “Qwest designs a Central Office based upon List 1 drain -- the current the equipment will draw when operating normally at maximum capacity.” *Id.* Designing central offices in this manner assures CLECs that the ordered amount of power will be available to them at all times.

97. Mr. Ashton contends that Qwest receives a CLEC order for power and has no way of knowing whether the ordered amount is the List 1, List 2, something less, or something more. All is known is that it is an ordered amount of power. Thus, Qwest assumes that the ordered amount is the List 2, for sizing cable; however, this provides no information as to actual load (*i.e.* approximately List 1 Drain). Transcript Vol. II at 77. Therefore, he contends that one would not know how to amend technical documentation based upon these circumstances.

### 1. Discussion

98. Without identifying any legal basis, Qwest generally contends that McLeodUSA should not be able to challenge Commission approved collocation rates adopted in Docket No. 99A-577T. It is contended that those rates were determined in a fully contested proceeding and incorporated into the pricing exhibits (SGAT Exhibit A) in McLeodUSA's ICA.

99. The Commission has broad rate authority to avoid discrimination under federal and Colorado law. See, 47 U.S.C. , C.R.S. §§ 40-3-101, 40-3-102, 40-3-111, 40-3-111, and 40-6-119. In absence of any supporting authority for its contention, Qwest fails to demonstrate that any challenge to collocation rates is beyond the scope of this proceeding and Commission authority.

100. Presenting evidence and argument on several issues, the parties blur ratemaking considerations with facility or engineering considerations. Both parties presented evidence regarding the appropriate manner to recover costs in rates based upon a measured or an ordered basis. Extensive evidence and argument has been offered regarding the design, construction, and use of facilities. While these issues may impact cost recovery and rate design, these matters add little to this proceeding because there is no basis for comparison to existing rates in the record. Collocation rates were approved in Docket No. 99A-577T based upon the Commission's

adoption of Qwest's collocation cost study. The cost support for the collocation rates in the Agreement is not in the record. Generally speaking, ordered versus usage may both theoretically be allocators over which costs may be recovered. The record in this docket does not demonstrate the modeling, assumptions, conditions, and calculations for the recovery of costs designed therein. This is not to say that the rate cannot be considered in this complaint docket; rather, that McLeodUSA failed to meet its burden of proof to demonstrate the basis upon which rates were approved in 99A-577T, how such rates are discriminatory, and how they result in McLeodUSA paying more than its share for the costs of the DC Power Plant under the amendment in violation of law.

**F. Counterclaim**

101. Qwest alleges that McLeodUSA has been properly charged for DC Power in accordance with the Interconnection Agreement, specifically the DC Power Amendment, in an amount not less than \$355,827.15.

102. McLeodUSA admits withholding disputed amounts equal to the amount of overcharges since the effective date of the DC Power Amendment.

103. Qwest alleges that McLeodUSA disputed such charges and improperly failed to pay these withheld amounts in breach of the DC Power Amendment.

104. Qwest requests that McLeodUSA be ordered to pay the balance due in accordance with the terms of the Agreement.

105. McLeodUSA generally denied the counterclaim, but admits withholding disputed amounts in accordance with the terms of the parties' interconnection agreement. McLeodUSA also notes that it voluntarily resumed payments in December 2005 while reserving its right to challenge all such amounts.

106. Based upon the findings above regarding the DC Power Amendment, Qwest has met its burden of proof on its counterclaim as to the scope of DC power charges modified by the amendment. McLeodUSA will be ordered to pay the balance due in accordance with the terms of the Interconnection Agreement.

### **III. CONCLUSIONS**

107. The DC Power Amendment resulted in the DC power usage charge specified at 8.1.4.1.2 of Exhibit A to Qwest's SGAT and McLeodUSA's Interconnection Agreement with Qwest being billed based upon actual measured usage, versus a historical as-ordered basis.

108. McLeodUSA failed to meet its burden of proof to show that Qwest breached the interconnection agreement between McLeodUSA and Qwest.

109. McLeodUSA failed to meet its burden of proof to demonstrate that the rates approved in Docket No. 99A-577T are discriminatory in violation of law.

110. Qwest met its burden to show that disputed charges for DC power at issue in this docket were appropriately charged in accordance with the Agreement.

### **IV. ORDER**

#### **A. It Is Ordered That:**

1. The Complaint by McLeodUSA Telecommunications Services, Inc. (McLeodUSA) against Qwest Corporation (Qwest) is dismissed.

2. The Counterclaim by Qwest against McLeodUSA is granted. Qwest is entitled to charge McLeodUSA for DC power in accordance with this decision and the Interconnection Agreement approved by the Commission in Docket No. 01T-019. McLeodUSA shall pay the balance due for such charges in accordance with such agreement.

3. Docket No. 06F-124T is closed.

4. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.



6. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(SEAL)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

G. HARRIS ADAMS

---

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**ARB 775**

**In the Matter of**

**ESCHELON TELECOM OF OREGON,  
INC.**

**Petition for Arbitration of an  
Interconnection Agreement with Qwest  
Corporation, Pursuant to Section 252 of the  
Telecommunications Act**

**REBUTTAL TESTIMONY OF**

**WILLIAM R. EASTON**

**FOR**

**QWEST CORPORATION**

**(Disputed Issues 2-3, 2-4, 5-6, 5-7, 5-7(a), 5-8, 5-9, 5-11, 5-12, 5-13, 5-16, 7-18, 7-19, 22-88,  
22-88(a), 22-89, 22-90 and 22-90(a-ac))**

**May 25, 2007**

**TABLE OF CONTENTS**

	Page
<b>I. IDENTIFICATION OF WITNESS.....</b>	<b>1</b>
<b>II. PURPOSE OF TESTIMONY .....</b>	<b>1</b>
<b>III. SECTION 2 DISPUTED ISSUES .....</b>	<b>2</b>
<b>IV. SECTION 5 DISPUTED ISSUES .....</b>	<b>10</b>
<b>V. SECTION 7 DISPUTED TRANSIT RECORD ISSUES .....</b>	<b>31</b>
<b>VI. SECTION 22 DISPUTED ISSUES.....</b>	<b>34</b>
<b>VII. CONCLUSION .....</b>	<b>38</b>

1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.**

3 A. My name is William R. Easton. My business address is 1600 7th Avenue, Seattle  
4 Washington. I am employed as Director – Wholesale Advocacy. I am testifying on  
5 behalf of Qwest Corporation (“Qwest”).

6 **Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS PROCEEDING?**

7 A. Yes.

8 **II. PURPOSE OF TESTIMONY**

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. The purpose of my testimony is to respond to the Eschelon testimony of Douglas.  
11 Denney. Specifically, I reply to Mr. Denney’s testimony as it relates to the following  
12 disputed issues:

- 13           ▪ Section 2 issues
- 14           ▪ Section 5 issues
- 15           ▪ Section 7 issues
- 16           ▪ Section 22 issues

1 **III. SECTION 2 DISPUTED ISSUES**

2 **Issue No. 2-3**

3 **Q. MR. DENNEY ARGUES ON PAGE 20, LINES 4-5 OF HIS TESTIMONY THAT**  
4 **QWEST “ATTEMPTS TO CREATE AN UNECESSARY DEFAULT THAT RATE**  
5 **CHANGES WILL BE APPLIED PROSPECTIVELY.” HOW DO YOU**  
6 **RESPOND?**

7 A. Qwest’s proposal avoids ambiguity in situations where a Commission order does not  
8 specify a “true-up” requirement. In such situations, the Qwest language clarifies that the  
9 appropriate implementation process is to apply the rates prospectively from the effective  
10 date of the order.

11 **Q. ON PAGE 18, LINES 11-13, MR. DENNEY STATES THAT SECTION 22 OF THE**  
12 **INTERCONNECTION AGREEMENT (“ICA”) “ALREADY DEALS WITH THE**  
13 **APPLICATION OF RATES IN EXHIBIT A AND DOES SO MORE**  
14 **THOROUGHLY AND CLEARLY THAN QWEST’S PROPOSED SINGLE**  
15 **SENTENCE IN SECTION 2.2.” PLEASE COMMENT.**

16 A. Contrary to Mr. Denney’s assertion, Section 22 is silent as to what is to occur when a  
17 Commission order does not specify a true-up of past billing. Section 22.4.1.2 states:

18 22.4.1.2 If the Interim Rates are reviewed and changed by the Commission, the  
19 Parties shall incorporate the rates established by the Commission into this  
20 Agreement pursuant to Section 2.2 of this Agreement. Such Commission-  
21 approved rates shall be effective as of the date required by a legally binding order  
22 of the Commission.

23 Although Mr. Denney claims on page 20 that the Qwest language creates ambiguity, he is  
24 wrong. Under Qwest’s proposal, one looks first to the Commission order to determine

1 when a rate applies. If the Commission order fails to address the issue, a rate change is  
2 applied prospectively. There is nothing ambiguous about Qwest's language.

3  
4 **Q. ON PAGE 21, LINES 11-17, MR. DENNEY NOTES THAT ESCHELON IS NOW**  
5 **PROPOSING ALTERNATIVE SECTION 2.2 LANGUAGE WHICH ADDRESSES**  
6 **THE ISSUE OF DISTINGUISHING BETWEEN CHANGES TO PREVIOUSLY-**  
7 **APPROVED PRICES AND CHANGES TO PRICES NOT PREVIOUSLY**  
8 **APPROVED. IS IT NECESSARY TO MAKE SUCH A DISTINCTION?**

9 A. No. The Qwest language seeks to avoid ambiguity where a Commission order does not  
10 specify a true-up requirement. Qwest's clarifying language applies both to changes to  
11 previously-approved rates, as well as to changes to prices not previously approved.  
12 However, this in no way precludes the Commission from treating the two types of rates  
13 differently.

14 **Q. IN CONJUNCTION WITH ITS NEW RATE LANGUAGE FOR SECTION 2.2,**  
15 **HAS ESCHELON ALSO PROPOSED NEW RATE LANGUAGE FOR SECTION**  
16 **22.4.1.2?**

17 A. Yes. As a part of its proposal for Issue No. 2-3, Eschelon proposes to add the following  
18 sentence into Section 22.4.1.2:

19 Each party reserves its rights with respect to whether Interim Rates are subject to  
20 true-up. If, however, the Commission issues an order with respect to rates that is  
21 silent on the issue of a true-up, the rates shall be implemented and applied on a  
22 prospective basis from the effective date of the legally binding Commission  
23 decision as described in Section 2.2.

1 **Q. DOES QWEST ACCEPT THE NEW ESCHELON LANGUAGE?**

2 A. No. Although Qwest believes the addition of clarifying language to Section 22 is  
3 appropriate, Qwest believes the added language should read as follows:

4 Rates in Exhibit A include legally binding decisions of the Commission and shall  
5 be applied on a prospective basis from the effective date of the legally binding  
6 Commission decision, unless otherwise ordered by the Commission.

7 The Qwest language removes any ambiguity. One looks first to the Commission order to  
8 determine when a rate applies. If the Commission order fails to address the issue, a rate  
9 change is applied prospectively.

10

11 **Issue No. 2-4**

12 **Q. PLEASE COMMENT ON MR. DENNEY'S TESTIMONY REGARDING THE**  
13 **CHANGE OF LAW LANGUAGE THAT IS AT DISPUTE IN ISSUE NO. 2-4.**

14 A. Although I disagree with Mr. Denney's characterizations of the Qwest-proposed  
15 language, I do agree with him that the change of law language should: 1) provide the  
16 parties with clear guidance as to when a change of law will take effect; 2) not provide an  
17 opportunity for any party to delay the effect of a change in law; and 3) preserve the  
18 authority of the relevant regulatory body. The Qwest-proposed language satisfies all  
19 three of Mr. Denney's requirements. It also provides specificity as to when a change of  
20 law will take effect. It allows either party to give notice to make such change effective  
21 on the effective date of the legally binding change. Finally, Qwest's proposed language  
22 preserves the authority of the regulatory body.

1 **Q. ON PAGES 23 AND 24, MR. DENNEY ARGUES THAT THE QWEST**  
2 **PROPOSAL CREATES AMBIGUITY BECAUSE IT DISTINGUISHES**  
3 **BETWEEN AN “EFFECTIVE DATE” AND AN “IMPLEMENTATION DATE.”**  
4 **WHAT IS THE DIFFERENCE BETWEEN THE TWO?**

5 A. An “effective date” is the date the Commission order takes effect. An implementation  
6 date is the date on which the parties are obligated to act pursuant to the order. An  
7 example which illustrates the difference would be an FCC order which stated that six  
8 months from the effective date of the order, an ILEC would no longer be required to offer  
9 a specific service at TELRIC rates. Since not all changes in law orders specify when the  
10 parties’ obligations are to change, the Qwest proposal provides guidance by specifying  
11 that should either party give notice within 30 days, the parties’ obligations under the  
12 interconnection agreement would change as of the effective date of the change of law  
13 order. Should neither party provide such notice, the parties’ obligations under the  
14 interconnection agreement would not change until an amendment went into effect

15  
16 **Q. MR. DENNEY ALSO ARGUES THAT WHAT CONSTITUTES NOTICE IS**  
17 **UNCLEAR. DO YOU AGREE?**

18 A. No. The undisputed language in Section 5.21 of the agreement specifically spells out  
19 what constitutes a notice and who is to receive it.



1 **Q. ON PAGE 24, LINE 12 THROUGH PAGE 25, LINE 2 MR. DENNEY STATES**  
2 **THAT QWEST’S PROPOSAL CREATES AN OPPORTUNITY FOR DELAY**  
3 **SINCE THE EFFECTIVE DATE OF A CHANGE IN LAW DEPENDS ON**  
4 **WHETHER ONE PARTY GIVES THE OTHER NOTICE. PLEASE COMMENT.**

5 A. Qwest’s language removes any incentive for delay by providing that with notice by either  
6 party within 30 days, the effective date of any resulting amendment shall be the effective  
7 date of the change of law. This removes the ability of one party or the other to drag out  
8 the negotiations of an amendment to establish a later implementation date of the change  
9 of law. If neither party provides notice, the effective date of the change of law will be the  
10 amendment date. This avoids the situation of either party being able to approach the  
11 other party months (or perhaps years) after a change of law, request the agreement to be  
12 amended to comply with the change of law, and then expect that it be made effective on  
13 the effective date of the change of law.

14 Qwest believes that this process is both simple and fair, as each party has an equal  
15 opportunity to notify the other party of its intent with respect to changes in law. By  
16 establishing a fair and straightforward process, the Qwest language will eliminate future  
17 disputes over when an amendment should be made effective between the parties.

1 **Q. MR. DENNEY ARGUES THAT LIMITED RESOURCES MAY PREVENT**  
2 **ESCHELON FROM HAVING KNOWLEDGE OF REGULATORY**  
3 **PROCEEDINGS, AND THUS IMPACT ITS ABILITY TO PROVIDE NOTICE.**  
4 **IS THIS REALLY A CONCERN?**

5 A. No. I would note that Eschelon is by all appearances a sophisticated company with a  
6 great deal of awareness of the regulatory environment. Regardless, in the age of the  
7 Internet, with each state utility commission having its own homepage, it is difficult to  
8 argue that any CLEC lacks easy access to relevant regulatory information.

9  
10 **Q. ON PAGE 25, LINES 6-8, MR. DENNEY CLAIMS THAT THE QWEST**  
11 **LANGUAGE WOULD ALLOW FOR AN EFFECTIVE DATE FOR A CHANGE**  
12 **OF LAW TO BE DIFFERENT THAN THE DATE ORDERED BY THE**  
13 **COMMISSION. IS MR. DENNEY'S INTERPRETATION CORRECT?**

14 A. No. Mr. Denney ignores the first sentence of Qwest's change of law language, which  
15 begins:

16 *When a regulatory body or court issues an order causing a change in law **and that***  
17 ***order does not include a specific implementation date.** . . . [Emphasis added.]*  
18

19 The Qwest language regarding the effective date of the change in law applies only when  
20 an effective date is not specified.

1 **Q. ON PAGE 12, MR. DENNEY PROPOSES ALTERNATIVE LANGUAGE**  
2 **REGARDING EFFECTIVE DATES OF CHANGE OF LAW AMENDMENTS.**  
3 **DOES QWEST AGREE WITH THIS LANGUAGE?**

4 A, No. Eschelon is now proposing the following alternative language related to Issue No. 2-  
5 4 - change of law:

6 Each Party reserves its rights with respect to the effective date of a legally binding  
7 modification or change of the Existing Rules and, if different, other dates for  
8 implementation or application of an order, if any. If a Party desires a particular  
9 deadline or time period for application or implementation of any aspect of a  
10 proposed order, the Party may request under the Commission's regularly  
11 established rules that the Commission establish a specific implementation date,  
12 stay the order, or provide other such relief as applicable. If, however, the  
13 Commission enters an order that is silent on the issue, the order shall be  
14 implemented and applied on a prospective basis from the date that the order is  
15 effective either by operation of law or as otherwise stated in the order (such as  
16 "effective immediately" or a specific date), unless subsequently otherwise ordered  
17 by the Commission or, if allowed by the order, agreed upon by the Parties.

18 Qwest objects to this new language. Rather than providing a clear process for how the  
19 parties are to proceed in cases of change of law, as the Qwest language does, the new  
20 Eschelon language appears only to preserve the parties' rights to resolve this issue at a  
21 future time.

22

23 **Q. ON PAGES 25, LINE 18 THROUGH PAGE 27, LINE 7 MR. DENNEY CITES AN**  
24 **ARIZONA PROCEEDING AS SUPPORT FOR HIS POSITION THAT THE**  
25 **TERM "EFFECTIVE DATE" IS AMBIGUOUS. IS THE ARIZONA**  
26 **PROCEEDING CITED BY MR. DENNEY RELEVANT TO THIS LANGUAGE**  
27 **DISPUTE?**

28 A. No. The Arizona proceeding that Mr. Denney cites did not relate at all to the effective  
29 date of a cost docket order. Rather, it was agreed by all parties to that proceeding that the

1 ordered rates would apply on June 12, 2002. The dispute in that proceeding related to  
2 when Qwest would have its systems modified to reflect the new prices. That question is  
3 not addressed by this contract language. This contract provision relates to the first  
4 question - namely the date that the new rates apply.

1                                   **IV. SECTION 5 DISPUTED ISSUES**

2

3   **Q.    BEFORE ADDRESSING THE SPECIFIC POINTS RAISED BY MR. DENNEY,**  
4           **DO YOU HAVE A GENERAL COMMENT ON ESCHELON’S PAYMENT AND**  
5           **DEPOSIT TESTIMONY?**

6    A.    Yes. Eschelon devotes more than 40 pages to criticizing Qwest’s proposed payment and  
7           deposit language, but devotes little space to explaining why Eschelon should not pay its  
8           bills on time. In fact, Eschelon has a history of late and slow payment with Qwest and, as  
9           will be discussed later in my testimony, pays its bills **[BEGIN CONFIDENTIAL**  
10          **REDACTED**<sup>1</sup> days **END CONFIDENTIAL]** later than most other CLECs. Although  
11          Eschelon claims that it believes Qwest should have the ability to protect its financial  
12          interests when there is a legitimate concern about future payment, Eschelon’s past  
13          payment behavior and proposed billing language belie this claim. Indeed, Mr. Denney  
14          speaks of “unilateral” action and “devastating” consequences related to Qwest’s proposed  
15          remedies in cases of non-payment, but fails to acknowledge that the ability to prevent  
16          these consequences lies solely in Eschelon’s hands. Eschelon need only pay its  
17          *undisputed* bills in a timely manner to avoid consequences such as the discontinuance of  
18          taking orders or becoming subject to deposit requirements. The payment and deposit  
19          language that Qwest is proposing is simply a reasonable business precaution designed to  
20          encourage timely payment and, when it does not occur, provide the ability for Qwest to  
21          limit its financial risk. Similar language is contained in Qwest’s Oregon SGAT and in

---

<sup>1</sup> Redacted information is provided in Confidential Exhibit Qwest/34.

1 the Oregon AT&T and Covad arbitrated ICAs. . In approving Qwest's language in the  
2 Oregon Covad arbitration, the arbitrator stated:

3 Likewise, the language offered by Qwest for Sections 5.4.2 and 5.4.3 are industry  
4 standard, help limit ILEC's exposure in the event of bankruptcy and relate solely  
5 to undisputed amounts due and owing. Qwest's proposed language for Sections  
6 5.4.2 and 5.4.3 are adopted and shall be included in the ICA submitted by the  
7 parties.<sup>2</sup>  
8

9 Eschelon provides no compelling reason why it should not abide by the same payment  
10 and deposit terms as other carriers.  
11

12 **Issue Nos. 5-6, 5-7 and 5-7(a)**

13 **Q. ON PAGE 62, MR. DENNEY ARGUES THAT DISCONTINUING THE**  
14 **PROCESSING OF ORDERS IS A VERY SERIOUS STEP THAT SHOULD ONLY**  
15 **BE USED AS A LAST RESORT. DO YOU AGREE?**

16 A. Yes, I agree with Mr. Denney that this is a serious step. Unfortunately, however, it is  
17 often the only step that will get a CLEC to pay undisputed bills. Nonetheless, Qwest's  
18 language reflects rights it has had under prior interconnection agreements and contains  
19 limitations designed to protect CLECs. For example, Qwest's proposed language: (1)  
20 excludes disputed amounts; (2) provides that Qwest will not take this action until  
21 payments are more than 30 days past due; and (3) requires that Qwest provide notice to  
22 Eschelon (and the Commission) at least 10 business days in advance. Again, it is  
23 important to note that the ability to avoid this serious step lies solely within Eschelon's

---

<sup>2</sup> *In the Matter of Petition of Covad Communication Company, for Arbitration of an Interconnection Agreement With Qwest Corporation.* ARB 584. (Oregon PUC, Order No. 05-980, September 6, 2005).

1 control.

2

3 **Q. ON PAGE 62, LINES 12-16 OF HIS TESTIMONY, MR. DENNEY REFERS TO**  
4 **“UNJUSTIFIED DISCONNECTION OR DISRUPTION OF SERVICE ORDER**  
5 **PROCESSING.” DOES QWEST’S PROPOSED LANGUAGE ALLOW IT TO**  
6 **DISCONNECT SERVICE OR DISCONTINUE SERVICE ORDER PROCESSING**  
7 **UNJUSTIFIABLY?**

8 A. No. Qwest will only disconnect service or discontinue order processing based on the fact  
9 that Eschelon has not paid for services that Qwest has previously provided under the  
10 terms of the contract. In light of this non-payment, Qwest is justified in limiting its  
11 exposure to potential future non-payment.

12

13 **Q. IS QWEST’S PROPOSED ORDER DISCONTINUATION LANGUAGE**  
14 **CONSISTENT WITH ITS ICAs WITH OTHER CARRIERS?**

15 A. Yes. Similar language appears in the Oregon SGAT and the arbitrated agreements with  
16 AT&T and Covad.

17

18 **Q. ON PAGES 65-67, MR. DENNEY DESCRIBES A RECENT INCIDENT WHERE**  
19 **QWEST THREATENED TO STOP PROCESSING ORDERS BECAUSE OF**  
20 **OVERDUE BALANCES. COULD YOU PLEASE DESCRIBE THE**  
21 **CIRCUMSTANCES THAT LEAD UP TO THIS SITUATION?**

22 A. To begin with, this is not a situation that developed overnight. Eschelon has a long  
23 history with Qwest of ignoring payment due dates, paying less than it owes, and misusing

1 the dispute process to avoid timely payment. In fact, despite the 30-day payment  
2 requirement language in its ICAs, on average Eschelon takes over [BEGIN  
3 CONFIDENTIAL REDACTED<sup>3</sup> days END CONFIDENTIAL] to pay its monthly  
4 bills. This is [BEGIN CONFIDENTIAL REDACTED<sup>4</sup> days END CONFIDENTIAL]  
5 longer than other CLECs incurring similar monthly charges.

6 In May 2006, Eschelon's undisputed past due amount was more than \$3 million. Qwest  
7 determined Eschelon's undisputed past due balance as follows: First, Qwest determined  
8 that, as of May 24, 2006, Eschelon's past due balance (i.e., the total amount owing more  
9 than 30 days past due) stood at more than \$4 million. Qwest then subtracted from that  
10 past due balance every single dollar that Eschelon claimed to be in pending dispute status  
11 (approximately \$932,000) regardless of the fact that Qwest's records showed less than  
12 half that amount in pending dispute status. By this method, Qwest determined that, even  
13 when viewed in the light most favorable to Eschelon, Eschelon's *undisputed past due*  
14 balance (total past due, less all amounts claimed to be in dispute) exceeded \$3.1 million  
15 as of May 24, 2006. Based on this significant undisputed past due balance, Qwest  
16 notified Eschelon that, while Qwest was willing to further discuss the discrepancy  
17 concerning the amounts in dispute, it would not tolerate such a large past due balance,  
18 and would therefore begin suspending service order activity if the undisputed past due  
19 amounts were not paid within a month. Qwest's demand was fully consistent with the  
20 parties' interconnection agreements and Qwest's tariffs since, incontrovertibly, by virtue  
21 of such a large *undisputed* past due balance, Eschelon was in default of its payment

---

<sup>3</sup> Redacted information is provided in Confidential Exhibit Qwest/34.



1 obligation under these agreements and tariffs.

2  
3 **Q. WHAT WAS THE END RESULT OF QWEST'S THREATENED ACTION?**

4 A. After much discussion between the parties regarding the amounts in dispute, whether  
5 checks that Eschelon had sent to Qwest represented payment of past due balances or were  
6 for current amounts due, and whether Eschelon's payments were for Eschelon or  
7 affiliated companies, Eschelon ultimately paid the majority of undisputed past due  
8 balances by the deadline set by Qwest. Qwest therefore agreed to defer order suspension,  
9 while reserving all rights, even though Eschelon had not fully cured its default. Qwest  
10 continued to monitor payments and notified Eschelon on August 11, 2006 that it had yet  
11 to fully cure the default. Therefore, while the companies continue to work through a  
12 process to reconcile the disputed amounts, Eschelon still carries a significant undisputed  
13 past due balance.

14  
15 **Q. WHAT DID THIS COLLECTIONS DISPUTE DEMONSTRATE?**

16 A. This dispute is a clear demonstration that the payment and deposit language that Qwest  
17 proposes in this arbitration proceeding is necessary and provides effective incentives for  
18 the parties to work out their differences without having to involve the Commission in  
19 managing the companies' business-to-business relationship. The fact that Eschelon's  
20 underpayment had gone on for so long and was such a significant amount also  
21 demonstrates that threats of suspending service order activity are not something that

---

<sup>4</sup> *Id.*

1 Qwest takes lightly or undertakes for insignificant amounts.

2 **Q. ON PAGE 67, LINES 2-3, MR. DENNEY STATES THAT “ESCHELON PAID**  
3 **ALL AMOUNTS ALLEGED BY QWEST.” IS THIS REALLY WHAT**  
4 **HAPPENED?**

5 A. No. As I described above, Qwest required a payment based on the amount shown as past  
6 due on its books, less a figure provided by Eschelon itself for amounts in dispute.  
7 Qwest’s August 11, 2006 letter to Eschelon, contained in Mr. Denney’s Exhibit  
8 Eschelon/12, makes clear that, in determining the amount in default, Qwest was  
9 excluding the amount that Eschelon claimed was in dispute. In fact, as noted above,  
10 Eschelon paid the majority of what Qwest was owed, but not all of what Qwest was  
11 owed. Thus, Eschelon still carries a significant past due balance with Qwest. Based on  
12 this history, Eschelon cannot now argue that it paid Qwest any more than Qwest was  
13 owed.

14  
15 **Q. ON PAGE 67, LINE 3, MR. DENNEY CLAIMS THAT ESCHELON PAID MORE**  
16 **THAN \$ 9 MILLION TO QWEST. WAS ALL OF THE \$ 9 MILLION RELATED**  
17 **TO UNDISPUTED PAST DUE AMOUNTS?**

18 A. No. Mr. Denney’s \$ 9 million figure includes payment for ongoing services and also for  
19 amounts owed by companies affiliated with Eschelon that were not part of Qwest’s  
20 calculation of Eschelon’s undisputed past due amount. This confusion over what  
21 constituted payment for ongoing services versus what amounts were to be applied to past  
22 due balances for Eschelon accounts explains some of the correspondence in Exhibit

1 Eschelon/12 regarding whether amounts had been paid or not.

2

3 **Q. ON PAGE 73, LINES 22-24, MR. DENNEY ARGUES THAT THE**  
4 **INFORMATION USED BY QWEST TO DETERMINE WHETHER TO**  
5 **DISCONNECT SERVICE OR DISCONTINUE PROCESSING ORDERS IS NOT**  
6 **ALWAYS ACCURATE AND IS EXTREMELY VAGUE. IS THIS TRUE?**

7 A. No. There are two figures relevant to determining undisputed past due amounts: total  
8 amounts billed and amounts disputed by the billed party. Qwest provides detailed  
9 information by Billing Account Number (BAN) for total amounts billed. With some  
10 minor exceptions, due to LATAs that overlap state boundaries, these BANs correspond to  
11 states. As to amounts in dispute, through the Change Management Process (“CMP”),  
12 Qwest and the CLECs, including Eschelon, have developed a formal process to insure  
13 that disputes are formally identified and resolved. Mr. Denney’s claims are simply  
14 unfounded.

15

16

17 **Issue No. 5-8**

18 **Q. ON PAGE 63, LINES 17-20, MR. DENNEY CLAIMS THAT QWEST COULD**  
19 **DEMAND A DEPOSIT EVEN WHEN THERE IS NO LEGITIMATE CONCERN**  
20 **ABOUT ESCHELON’S ABILITY TO PAY. IS THERE ANY BASIS FOR SUCH**  
21 **A CONCERN?**

22 A. No. Qwest’s deposit requirements are triggered by a history of delinquent payments or a  
23 credit review. Given that a company’s credit standing and payment behavior is an

1 indicator of its ability to pay future bills, the fact that a company has a change in its credit  
2 standing or a history of making delinquent payments raises a legitimate concern about  
3 that company's risk of non-payment.  
4

5 **Q. MR. DENNEY STATES ON PAGE 64, LINES 6-8 THAT ESCHELON "CANNOT**  
6 **HAVE ITS FINANCIAL RESOURCES TIED UP IN FRIVOLOUS DEPOSITS."**  
7 **PLEASE COMMENT.**

8 A. If Eschelon were to ever find itself in sufficient financial straits so as to force Qwest to  
9 demand a deposit, the deposit request would not be frivolous. Qwest's proposed contract  
10 terms are designed to provide a deposit as a possible form of protection in the event of  
11 such a situation. If Qwest were, as Mr. Denney suggests, to demand a deposit in a  
12 situation where Eschelon was not in real financial trouble, or had not displayed a genuine  
13 recalcitrance to paying undisputed bills, there is no doubt that Eschelon would protect its  
14 interests through appropriate action before this Commission.

15 Mr. Denney argues that \$5.8 million is not real money to Qwest. However, that is a  
16 considerable sum for any company, not to mention a company like Qwest that is  
17 operating in today's highly-competitive telecommunications marketplace. Mr. Denney's  
18 argument also ignores the fact that Eschelon is not Qwest's only customer. The purpose  
19 of the payment language in an ICA is to balance the needs of both the billing and billed  
20 parties. Mr. Denney focuses only on the impacts of deposit requirements on Eschelon  
21 and ignores the necessity of deposits for Qwest. Finally, Mr. Denney again fails to  
22 acknowledge that Eschelon need only pay its bills on time to avoid deposit requirements.

1 **Q. ON PAGE 64, LINES 14-15, MR. DENNEY IMPLIES THAT QWEST’S DEPOSIT**  
2 **REQUIREMENTS ARE SOMEHOW UNFAIR SINCE “QWEST WOULD NOT**  
3 **BE FACED WITH PAYING ANY DEPOSIT TO ESCHELON.” DOES THIS**  
4 **ARGUMENT MAKE SENSE?**

5 A. No. As Mr. Denney himself acknowledges in his footnote on page 62 of his testimony,  
6 *Eschelon* is the party that purchases services from Qwest, not the other way around.  
7 Deposits are designed to limit the risk of non-payment. Given that Qwest is not  
8 purchasing services from Eschelon, there is simply no reason for Qwest to pay a deposit  
9 to Eschelon.

10  
11 **Q. ON PAGE 64, LINE 16 THROUGH PAGE 65, LINE 5, MR. DENNEY ATTEMPTS**  
12 **TO JUSTIFY THE NEED FOR COMMISSION INVOLVEMENT IN DEPOSIT**  
13 **REQUIREMENTS BY ARGUING THAT ESCHELON AND QWEST HAVE**  
14 **DISAGREEMENTS ABOUT BILLING INFORMATION, AND THEREFORE,**  
15 **REQUIRE AN INDEPENDENT ARBITRATOR. DO BILLING**  
16 **DISAGREEMENTS HAVE AN IMPACT ON DEPOSIT REQUIREMENTS?**

17 A. No. The repeatedly delinquent deposit language in Section 5.4.5 specifically applies to  
18 undisputed amounts. Therefore, amounts that Eschelon disputes would not be subject to  
19 the requirements laid out in Section 5.4.5.

1 **Q. ON PAGES 75-77, MR. DENNEY DETAILS WHAT HE DESCRIBES ARE THE**  
2 **REASONS THAT ESCHELON AND QWEST OFTEN DISAGREE ABOUT THE**  
3 **AMOUNT OF ESCHELON'S UNDISPUTED AMOUNTS PAST DUE TO**  
4 **QWEST. HAVE YOU HAD AN OPPORTUNITY TO LOOK INTO ANY OF THE**  
5 **SITUATIONS THAT MR. DENNEY DESCRIBES?**

6 A. Yes. I investigated a number of the incidents that Mr. Denney describes and found the  
7 circumstances to be very different than how Mr. Denney has characterized them. Below,  
8 I will briefly respond to a number of the claims made by Mr. Denney.

9 Qwest Takes It Upon Itself to Declare Disputes Resolved

10 Mr. Denney is incorrect when he states that Qwest simply unilaterally declares disputes  
11 to be resolved. Through the Change Management Process (CMP), Qwest has developed  
12 a detailed process to handle disputes. This process provides for a clear communications  
13 path between Qwest and the CLECs, and provides for escalations should CLECs not  
14 agree with Qwest's proposed resolution. Although Mr. Denney argues at length on pages  
15 78 to 80 that Eschelon should not have to follow this process, the use of a standard  
16 process would go a long way towards reducing misunderstandings between the parties.

17 Mr. Denney is correct that the parties' current ICA has dispute resolution procedures.  
18 Although the ICA procedures differ from those developed during the Change  
19 Management Process, they do call for the parties to work jointly to resolve disputes, and  
20 they allow either party to invoke the dispute resolution process if a dispute has not been  
21 resolved in 120 days. Despite the joint responsibility for resolving disputes, Qwest  
22 billing personnel report that they often send a resolution letter to Eschelon, yet hear  
23 nothing back. However, Eschelon continues to withhold payment.

1           Qwest's Notices of Past Due Amounts Do Not Include Billing Account Number Detail

2           It is Qwest's practice to include a spreadsheet with billing account number detail with  
3           collections letters. Contrary to this practice, I did find that *one* of the six Eschelon  
4           collection letters did not include this information. Again, communication between the  
5           parties would allow for a quick remedy of the situation.

6           Detail Does Not Match With Amounts in Letter

7           An examination of the e-mail string in Exhibit Eschelon/13 shows that Qwest was more  
8           than willing to set up meetings to explain the spreadsheet and to discuss Eschelon's  
9           concerns.

10          Payments Not Posted in a Timely Manner

11          Contrary to Mr. Denney's assertion, the issue described in Exhibit Eschelon/14 is not an  
12          example of payments not being posted in a timely manner. Rather, Mr. Denney's Exhibit  
13          Eschelon/14 has to do with billing for out-of-region services, not for local services  
14          purchased under the interconnection agreement. According to Qwest's records, this  
15          payment was not received and posted by Qwest until October 24<sup>th</sup>, 2006, the day Ms.  
16          May's letter was sent out. It should be noted that the letter includes the following  
17          language to cover just this type of situation:

18                            If payment has been sent, please disregard this notice. If you feel you have  
19                            received this notice in error, please contact me immediately so we can work with  
20                            you to correct any discrepancies in our records.  
21  
22

23          Finally, I would point out that although Section 6.1 of the Wholesale Service Agreement  
24          that these services were purchased out of requires that "all invoiced amounts shall be paid  
25          via wire transfer," the Eschelon correspondence in Exhibit Eschelon/14 indicates that  
26          Eschelon paid by check, thus delaying the posting of the payment.

1           Qwest Includes Amounts Not Due in Its Past Due Amounts

2           The mail string in Exhibit Eschelon/15 indicates that Qwest inadvertently cited a figure  
3           as “past due” instead of “due”. When the matter was brought to Qwest’s attention, Qwest  
4           acknowledged the error and apologized. It is exactly these types of exchanges between  
5           the parties that can reveal misunderstandings before they become a problem.

6           Refund Amounts Are Applied to Past Due Balances

7           Qwest does not adjust accounts by issuing billing refunds to any carrier with a past due  
8           balance. Rather, in that situation, Qwest will apply any credits due and owing to past due  
9           balances. From a business perspective, it only makes sense to address the past due  
10          balances before issuing any refunds.

11          Black Hole for Disputes

12          Contrary to Mr. Denney’s inference that disputes go into a “black hole,” Qwest’s e-mail  
13          in Exhibit Eschelon/16 agreed to investigate the status of a past dispute and offered  
14          assurances that Qwest wanted to work with Eschelon to make sure that disputes did not  
15          fall into a black hole. The particular issue referred to in the e-mails had to do with a  
16          Colorado tax issue. In fact, prior to Mr. Markert’s e-mail, Qwest’s tax specialists met  
17          with Eschelon to explain why Qwest’s tax treatment was correct. This was not a case of  
18          Qwest ignoring an Eschelon dispute.

19          DSL Rate Adjustment

20          This adjustment had to do with the wholesale discount applied to DSL purchased under a  
21          commercial agreement. Based on FCC DSL categorization in December 2005, effective



1 January 28, 2006, all CLECs received an 18% DSL discount across-the-board. The  
2 discount amounts that Eschelon received in previous months were correct.

3 Misapplied Payments

4 According to Qwest billing center personnel, there have been cases where Qwest has  
5 received conflicting information from Eschelon regarding how payments are to be  
6 applied, with the remittance letter to the payment center saying one thing, and Eschelon  
7 saying something different to the Qwest collections department. This has led Eschelon to  
8 incorrectly claim payments have been misapplied.

9 Qwest Left Hand Not Knowing What Its Right Hand is Doing

10 As I have just discussed, Qwest has had experiences with Eschelon where different  
11 groups are receiving conflicting information. In fact, it was to avoid just such situations  
12 that Qwest requested that copies of the remittance letter be sent to both the payment  
13 center and the collections group.

14

15 **Q. IN A FOOTNOTE ON PAGE 78, MR. DENNEY DESCRIBES A SITUATION**  
16 **WHERE QWEST BILLS WERE SENT TO AN INCORRECT ADDRESS AND**  
17 **QWEST SUBSEQUENTLY THREATENED TO DISCONNECT SERVICE. ARE**  
18 **YOU AWARE OF THIS SITUATION?**

19 A. Yes. This situation is related to Eschelon's recent purchase of Mountain  
20 Telecommunications and One Eighty Communications. Although there was a delay on  
21 Qwest's part in updating its billing information, bills were sent to both companies and the  
22 bills presumably were, or could have been, forwarded to the Eschelon billing department.

1 The delay in updating the billing information in no way relieves Eschelon of its  
2 obligation to pay for the services that Qwest provides. Ultimately, Eschelon did pay the  
3 amounts it owed and service was not disconnected.

4

5 **Q. YOU DISCUSSED THE FACT THAT ESCHELON TAKES CONSIDERABLY**  
6 **LONGER TIME THAN MANY OTHER COMPANIES IN ITS PEER GROUP TO**  
7 **PAY ITS BILLS. ARE THE INCIDENTS CITED BY MR. DENNEY A POSSIBLE**  
8 **EXPLANATION FOR THIS SITUATION?**

9 A. No. First, as I have just explained, Mr. Denney has mischaracterized these incidents.  
10 Telecommunications billing is a complex process. For Eschelon alone, Qwest has 269  
11 accounts and 19 different due dates. Given this complexity, it is not surprising at all that  
12 there may be occasional misunderstandings and disputes between the parties. The e-  
13 mails and other correspondence that Mr. Denney has attached to his testimony  
14 demonstrate to me that Qwest is very willing to work with Eschelon to minimize  
15 misunderstandings and resolve disputes.

16 Second, the other carriers in Eschelon's peer group have similarly complex billing. It is  
17 the same Qwest personnel and processes that are used to bill these other carriers, yet  
18 these other carriers somehow manage to pay their bills in half the time that it takes  
19 Eschelon to pay its bills.

1 **Q. DO YOU HAVE ANY OTHER REASON TO BELIEVE THAT IT IS NOT THE**  
2 **QWEST BILLING PROCESS THAT EXPLAINS ESCHELON'S PAYMENT**  
3 **HISTORY?**

4 A. Yes. Further evidence that Eschelon is the party responsible for its slow payment  
5 behavior exists in the form of payment history of a company that Eschelon acquired in  
6 2006: Oregon Telecom. Attached as Confidential Qwest/35 is a listing by month of past  
7 due balances for Oregon Telecom. For the seven months prior to Eschelon assuming  
8 control, past due balances averaged [BEGIN CONFIDENTIAL REDACTED<sup>5</sup> END  
9 CONFIDENTIAL]. In the past seven months, however, past due balances have  
10 averaged [BEGIN CONFIDENTIAL REDACTED<sup>6</sup> END CONFIDENTIAL]. This  
11 dramatic change in payment behavior occurred after Eschelon acquired Oregon Telecom  
12 and despite the fact that the same Qwest billing processes and personnel were used both  
13 before and after the Eschelon acquisition.

14

15 **Q. ON PAGE 89 THROUGH 92, MR. DENNEY DISCUSSES WHY HE BELIEVES**  
16 **THE WORDS "NON DE MINIMUS" ARE NECESSARY IN THE DEPOSIT**  
17 **LANGUAGE. WHY IS MR. DENNEY'S ARGUMENT FLAWED?**

18 A. Although Mr. Denney argues that there is a common understanding as to what constitutes  
19 a "non de minimus" amount, Mr. Denney's assertion that \$ 5.8 million is real money to  
20 Eschelon, but not to Qwest, simply demonstrates that "de minimus" can have vastly  
21 different meanings, depending on the context and the party involved. More importantly,

---

<sup>5</sup> Redacted information is provided in Confidential Exhibit Qwest/34.

<sup>6</sup> Id.

1 Eschelon has presented no evidence that Qwest has ever invoked collections or deposit  
2 requirements based upon insignificant amounts. The \$3 million dispute that I discussed  
3 previously is a clear example of the fact that Qwest does not undertake these types of  
4 actions for small amounts. Qwest's proposed language has not resulted in problems for  
5 carriers operating under the Oregon SGAT that I am aware of, or under the AT&T and  
6 Covad ICAs. Finally, Mr. Denney's offer to substitute the words "non material" for non  
7 de minimus is, again, a solution to a problem that does not exist.

8  
9 **Issue No. 5-9**

10 **Q. ON PAGE 93, MR. DENNEY ARGUES THAT THERE ARE A NUMBER OF**  
11 **COMPANIES WITH A DIFFERENT DEFINITION OF REPEATEDLY**  
12 **DELINQUENT THAN QWEST IS PROPOSING IN THIS ARBITRATION AND**  
13 **THAT QWEST IS THEREFORE HOLDING ESCHELON TO A DIFFERENT**  
14 **STANDARD THAN OTHER COMPANIES. PLEASE COMMENT.**

15 A. As I discussed above, this same "repeatedly delinquent" language appears in Qwest's  
16 SGAT, as well as the arbitrated agreements for AT&T and Covad in dockets ARB 527  
17 and ARB 584. In fact, the language was developed in the Section 271 workshops by  
18 Qwest and the participating CLECs. Thus, the agreements cited by Mr. Denney are  
19 either very old agreements or are wireless/paging agreements. For example, the ATI  
20 agreement in Washington was approved in 1998, the Pathnet agreement was signed in  
21 1999, and the McLeodUSA agreement was signed in 2000. Qwest's agreements with  
22 wireline carriers have contained the proposed "repeatedly delinquent" language for  
23 several years. For wireless/paging carriers, Qwest has not experienced the same

1 magnitude of non-payment issues. Nonetheless, since early 2004, Qwest is using the  
2 same deposit language being proposed here in all new contracts with wireless/paging  
3 carriers.

4  
5 **Issue Nos. 5-11 and 5-12**

6 **Q. MR. DENNEY STATES ON PAGE 96, LINES 21-22, “THE KEY HERE IS THAT**  
7 **COMMISSION OVERSIGHT IS PRESERVED AND QWEST IS NOT**  
8 **ALLOWED TO UNILATERALLY DEMAND DEPOSITS.” IS THIS THE KEY?**

9 A. No. First, there is no need to insert the Commission into the parties’ business  
10 relationship in an attempt to prohibit Qwest from utilizing standard and reasonable  
11 business practices. Second, although Mr. Denney describes the actions of Qwest as being  
12 unilateral, any action that Qwest takes must first be triggered by Eschelon’s failure to pay  
13 its *undisputed* billing amounts. There is simply no need for Qwest to invoke the deposit  
14 requirements if Eschelon pays undisputed amounts in a timely manner.

15  
16 **Issue No5-13**

17 **Q. ON PAGE 97, LINES 22-23, MR. DENNEY ARGUES THAT QWEST SECTION**  
18 **5.4.7 LANGUAGE, WHICH ALLOWS FOR AN INCREASE IN A DEPOSIT**  
19 **BASED UPON A REVIEW OF A PARTY’S CREDIT STANDING, IS**  
20 **UNNECESSARY. WHY DOES QWEST BELIEVE THAT THIS LANGUAGE**  
21 **IS NECESSARY?**

22 A. Circumstances can change over the course of the parties’ business relationship. It only  
23 makes sense that deposit requirements be allowed to reflect those changes. Although Mr.

1 Denney argues that the Section 5.4.7 language nullifies the deposit language in Section  
2 5.4.5, it is actually complementary to the language in Section 5.4.5 and allows for deposit  
3 requirements to be revised as a party's circumstances change. This same language is in  
4 the Oregon SGAT and the arbitrated AT&T and Covad agreements. I am not aware of  
5 any other carriers objecting to this language or raising the issues that Eschelon raises  
6 here.

7  
8 **Q. DO YOU AGREE WITH MR. DENNEY'S CONCERN EXPRESSED ON PAGE**  
9 **100, LINES 8-21, THAT UNDER SECTION 5.4.7, THERE WOULD BE NO**  
10 **"TRIGGERING EVENT" THAT COULD BE USED TO SELECT THREE**  
11 **MONTHS FOR CALCULATING A DEPOSIT AMOUNT?**

12 A. No. The date of the credit review itself is the triggering event if Qwest determines that  
13 Eschelon's credit standing warrants the imposition of a deposit requirement.

14  
15 **Q. IS MR. DENNEY CORRECT WHEN HE STATES ON PAGE 99 THAT IT IS**  
16 **QWEST'S POSITION THAT IT COULD READ SOMETHING IN THE PAPER**  
17 **AND SIMPLY INCREASE ESCHELON'S DEPOSIT?**

18 A. No. It is possible, however, that Qwest could read something in the paper that would  
19 lead it to question Eschelon's credit worthiness. Based on this information, Qwest could  
20 then perform a credit review. Should the review determine that there were sufficient  
21 credit concerns, the Qwest language would allow Qwest to request a deposit.

1 **Q. HAS ESCHELON NOW PROPOSED ALTERNATE LANGUAGE FOR SECTION**  
2 **5.4.7?**

3 A. Yes. Eschelon is now proposing to modify the Qwest language as indicated below:

4 **5.4.7 If a Party has received a deposit pursuant to Section 5.4.5 but the**  
5 **amount of the deposit is less than the maximum deposit amount permitted by**  
6 **Section 5.4.5, the Billing Party may review the other Party's credit standing and**  
7 **increase the amount of deposit required, if approved by the Commission, but in**  
8 **no event will the maximum amount exceed the amount stated in Section 5.4.5.**  
9 **Section 5.4 is not intended to change the scope of any regulatory agency's or**  
10 **bankruptcy court's authority with regard to Qwest or CLECs.**

11

12 **Q. IS QWEST OPPOSED TO THE PROPOSED CHANGES?**

13 A. Yes. In addition to objecting to Eschelon's attempt to involve the Commission in normal  
14 business processes, Qwest objects to the clause inserted at the beginning of the section.  
15 This language is designed to prevent Qwest from asking for a deposit if a deposit has not  
16 previously been requested. This language undermines the purpose of Section 5.4.7,  
17 which is to allow deposit requirements to reflect a change in circumstances. A change in  
18 circumstances may well warrant a deposit requirement despite the fact that a deposit has  
19 not been required previously. Eschelon's language would prohibit this reasonable  
20 business practice and should be rejected.

21

22 **Q. PLEASE SUMMARIZE QWEST'S PAYMENT AND DEPOSIT CONCERNS.**

23 A. Over the past several years, Qwest has found itself in the position of being left stranded  
24 with large receivables when CLECs have filed Chapter 7 bankruptcy and exited the local  
25 exchange market. These recent experiences highlight the need for Qwest to have greater,  
26 not fewer, payment and credit protections. The payment and deposit language proposed  
27 by Eschelon, especially considering the ability of other CLECs to opt-in to this  
28 agreement, would unreasonably increase Qwest's financial exposure.

1 Qwest's proposed language, on the other hand, strikes a balance between the needs of  
2 both parties, as reflected by the fact that these same provisions were agreed to by CLECs  
3 during the Section 271 workshops. In its testimony on payment and deposit issues,  
4 however, Eschelon ignores this balance and instead focuses only on purported  
5 disadvantages to Eschelon. Eschelon devotes a great deal of its testimony to criticizing  
6 Qwest's proposed language, but it offers no explanation for why it should not pay its  
7 *undisputed* bills in a timely manner. In the end, Eschelon offers no compelling reason  
8 why the payment and deposit language that was agreed to by all parties during the  
9 Section 271 workshops should now be modified.

10  
11 **Issue No. 5-16**

12 **Q. IN DISCUSSING THE NON-DISCLOSURE AGREEMENT ISSUE ON PAGE 104,**  
13 **LINES 10-18, MR. DENNEY ARGUES THAT IF QWEST DOES NOT PROVIDE**  
14 **ESCHELON WITH COPIES OF THE NON-DISCLOSURE AGREEMENTS,**  
15 **ESCHELON WOULD HAVE INSUFFICIENT INFORMATION TO OBJECT IF**  
16 **SENSITIVE INFORMATION WERE PROVIDED TO A QWEST EMPLOYEE**  
17 **NOT AUTHORIZED BY THE ICA TO RECEIVE IT. IS THIS A VALID**  
18 **CONCERN?**

19 **A.** No. First, the Qwest language mandates very strict procedures for the handling of CLEC-  
20 forecasted information. Second, in addition to the stringent requirements set forth in  
21 Section 5.16.9.1, under Section 18, Eschelon has further protection and recourse if it  
22 believes that Qwest has misused confidential information. Section 18.3.1 of the ICA  
23 provides that "either party can request an audit of the other party's compliance with the



1 Agreement's measures and requirements applicable to limitations on distribution,  
2 maintenance, and use of proprietary or other protected information that the requesting  
3 party has provided the other."

4

5 **Q. ON PAGE 105, LINE 11 THROUGH PAGE 106, LINE 3, MR. DENNEY ARGUES**  
6 **THAT ESCHELON IS NOT OFFERED PROTECTION UNDER THE AUDIT**  
7 **CLAUSES OF SECTION 18.1. DO YOU AGREE?**

8 A. No. Like the Section 5.16.9.1 language, the audit language was developed jointly by the  
9 CLECs and Qwest during the Section 271 workshops. Mr. Denney fails to demonstrate  
10 that these agreed-to provisions do not provide adequate protection for Eschelon. The  
11 audit provisions, in conjunction with the stringent requirements set forth in Section  
12 5.16.9.1, provide Eschelon with ample protection.

1                   **V. SECTION 7 DISPUTED TRANSIT RECORD ISSUES**

2  
3    **Issue No. 7-18 and 7-19**

4    **Q. MR. DENNEY HAS ARGUED IN OTHER STATES THAT ESCHELON'S**  
5           **RECORDS DO NOT ALLOW IT TO VALIDATE TRANSIT BILLING, AND**  
6           **THAT THE RECORDS ONLY ALLOW IT TO INFER IF QWEST IS ACTING**  
7           **AS A TRANSIT PROVIDER. ARE YOU AWARE OF INFORMATION THAT**  
8           **ESCHELON HAS AVAILABLE TO IT THAT WOULD ALLOW IT TO**  
9           **VALIDATE QWEST'S TRANSIT BILLING?**

10   **A.** Yes. Eschelon has two sources of information that allows it to validate transit billing.  
11           First, Qwest's monthly transit bills provide detail of transiting minutes by end office and  
12           provide the company code of the terminating carrier. Attached as Exhibit Qwest/36 is a  
13           sample of a Qwest transit bill, which indicates how this information is provided.  
14           Through a comparison with the recordings from its own switch, Eschelon can validate  
15           that Qwest transited these calls to the terminating carrier. In addition, presumably the  
16           terminating carrier is billing Eschelon for termination. Eschelon can therefore compare  
17           the details of the termination bill with the details of the Qwest transit bill to determine if  
18           there are any inconsistencies.

19  
20   **Q. WAS THE QWEST TRANSIT RECORD PRODUCT DESIGNED TO PROVIDE**  
21           **RECORDS FOR ORIGINATING CARRIERS?**

22   **A.** No. The Qwest Category 11 transit record product was designed to create records for  
23           terminating carriers, not originating carriers. Qwest did not design a transit record

1 product for originating carriers because the originating carrier's switch already has the  
2 capability of creating such a record. Qwest cannot, without significant expense, provide  
3 Category 11 records associated with transit traffic originated by Eschelon. If the  
4 terminating party does not request the transit records, Qwest does not create them. In  
5 addition, Qwest's existing transit records do not contain all of the information that  
6 Eschelon seeks in its proposed language in Section 7.6.4. For example, transit records do  
7 not contain the originating and terminating Common Language Location Identification  
8 ("CLLI") codes, the originating and terminating state jurisdiction, the rate elements being  
9 billed, or the rates applied to each minute. To accomplish what Eschelon is asking for,  
10 Qwest would have to undertake a significant amount of additional programming, solely  
11 to meet the needs of just one carrier.

12  
13 **Q. MR. DENNEY ARGUES ON PAGE 109, LINES 10-17 THAT QWEST MUST**  
14 **HAVE THE CALL DETAIL INFORMATION IN ORDER TO PRODUCE ITS**  
15 **SUMMARY BILLS. PLEASE COMMENT.**

16 A. As a part of its pre-bill processing, Qwest does summarize the transit call detail  
17 information. However, Qwest does not create the records that Eschelon is proposing that  
18 Qwest provide. As noted above, Qwest would need to undertake significant  
19 reprogramming to create such records.

1 **Q. MR. DENNEY NOTES THAT THE ESCHELON-PROPOSED LANGUAGE**  
2 **ONLY ALLOWS FOR RECORDS TO BE REQUESTED ONCE EVERY SIX**  
3 **MONTHS. GIVEN THIS LIMITATION, WHY IS THIS STILL A PROBLEM**  
4 **FOR QWEST?**

5 A. As I just discussed, Qwest does not have the capability of mechanically producing these  
6 records. As a result, Qwest personnel would need to request data pulls for each of the  
7 end offices in the sample, an extremely time-consuming process. This is especially true  
8 given that the Eschelon-proposed language would allow the sample to consist of data for  
9 every end office in the state.

10

11 **Q. HAS QWEST BEEN WILLING TO WORK WITH ESCHELON REGARDING**  
12 **ITS TRANSIT VALIDATION ISSUES?**

13 A. Yes. Qwest billing personnel have had a number of discussions with Eschelon to explain  
14 how billing validation can be accomplished. In addition, Qwest has offered to work with  
15 Eschelon and has provided several call-by-call reports to help it validate bills.

1 **VI. SECTION 22 DISPUTED ISSUES**

2

3 **Issue No. 22-88 , 22-88(a) and 22-89**

4 **Q. MR. DENNEY ARGUES AT PAGE 241, LINES 17-18 THAT “ESCHELON**  
5 **NEEDS THE SAME CERTAINTY AND CLARITY REGARDING THE RATES**  
6 **THAT ESCHELON CHARGES QWEST AS QWEST DESIRES REGARDING**  
7 **THE RATES QWEST CHARGES ESCHELON.” DOES QWEST’S PROPOSED**  
8 **LANGUAGE PROVIDE THIS CERTAINTY?**

9 A. Yes. Mr. Denney himself cites three pages of agreed upon language that specifies when  
10 the CLEC may charge rates from Exhibit A and when CLEC tariff rates apply. This  
11 agreed-upon language makes it very clear in what situations CLECs may charge Qwest,  
12 and what rates apply. Given the clarity of this agreed-upon language, no credence should  
13 be given to Mr. Denney’s claims that Qwest’s proposed language creates ambiguity or a  
14 false impression that Eschelon cannot charge for services pursuant to the ICA. The  
15 reality is that all of the elements on the Exhibit A relate to services that Qwest provides to  
16 Eschelon. Only a small subset of the rate elements relate to services for which Eschelon  
17 may charge Qwest. As Mr. Denney himself notes in his footnote on page 62, Eschelon is  
18 almost always the purchaser of services under the ICA. For the small number of cases  
19 where Eschelon may charge Qwest, the language in the ICA, as demonstrated by Mr.  
20 Denney’s cited language, provides the necessary clarity.

1 **Issue No. 22-88(a)**

2 **Q. DOES QWEST'S PROPOSED IDENTIFICATION OF THE QWEST OREGON**  
3 **ACCESS SERVICES TARIFF CAUSE CONFUSION, AS MR. DENNEY**  
4 **CLAIMS?**

5 A. No. Again, Mr. Denney himself cites to agreed-upon language from the ICA that makes  
6 it clear when CLEC tariff rates apply. What is unclear is how the specification of the  
7 Qwest tariff in the Exhibit A would cause any confusion. Such identification of the tariff  
8 has not caused confusion for the many other carriers that have the same specification in  
9 their Exhibit A.

10

11 **Issue No. 22-89**

12 **Q. ON PAGES 251, AND 252 MR. DENNEY DISCUSSES ESCHELON'S PROPOSED**  
13 **LANGUAGE IN ISSUE NO. 22-89. PLEASE SUMMARIZE QWEST'S**  
14 **POSITION.**

15 A. As I noted in my direct testimony, given that Commission rules and federal law govern a  
16 parties' right to initiate a cost proceeding, there is no need to address it in an ICA. In  
17 addition, there is a danger that, by including rights such as this one, it could create a risk  
18 that other rights not listed are excluded.

1 **Issue No. 22-90**

2 **Q. IN HIS DISCUSSION OF ISSUE 22-90, MR. DENNEY STATES THAT QWEST**  
3 **HAS AGREED TO A PORTION OF ESCHELON'S PROPOSED LANGUAGE**  
4 **ESTABLISHING A FILING PROCESS FOR UNAPPROVED RATES. IS THIS**  
5 **QWEST'S POSITION?**

6 A. No. Qwest has not agreed to Eschelon's proposed process in Oregon. This process is not  
7 one that this Commission has deemed to be necessary in the past, and given that Qwest  
8 has agreed to litigate disputed rates in this proceeding, such a process is not necessary  
9 now.

10

11 **Q. ON PAGE 255, LINES 3-7, MR. DENNEY STATES THAT ESCHELON WANTS**  
12 **TO PRECLUDE A SITUATION WHERE QWEST PROPOSES "UNAPPROVED**  
13 **RATES AND THEN LEAVES THEM IN EFFECT INDEFINITELY WITH NO**  
14 **ACTION BY QWEST TO SUPPORT THE RATES TO THE COMMISSION OR**  
15 **OBTAIN COMMISSION APPROVAL OF THE RATES." WOULD THIS BE**  
16 **THE OUTCOME IF ESCHELON'S PROPOSED PROCESS WERE REJECTED?**

17 A. No. As Mr. Denney discusses in his testimony, Eschelon has issues with several of  
18 Qwest's unapproved Oregon rates, but these rates will be litigated in this proceeding.  
19 This is a clear demonstration that CLECs, such as Eschelon, have recourse before this  
20 Commission if they were to believe that an unapproved rate is not appropriate. Given  
21 this existing recourse, establishing an additional process is not necessary.

1 **Q. ON PAGE 255, LINES 14-18, MR. DENNEY EXPRESSES CONCERN THAT**  
2 **QWEST WILL NOT PROCESS ORDERS FOR A NEW PRODUCT UNLESS**  
3 **CLECs SIGN AN AMENDMENT CONTAINING THE UNAPPROVED RATE.**  
4 **PLEASE COMMENT.**

5 A. Mr. Denney's expressed concern is misplaced. It only makes sense that an amendment  
6 containing the terms and conditions under which a product is offered is entered into by  
7 the parties. In fact, Qwest has a legal obligation to require an amendment and to file such  
8 amendment with the Commission. Should a CLEC have an issue with the unapproved  
9 rate that Qwest proposes, the arbitration process can be used to resolve the issue, just as it  
10 is being done in this case.

11  
12 **Q. FINALLY, ON PAGE 263, LINES 4-15, MR. DENNEY ARGUES THAT**  
13 **ESCHELON NEEDS A MECHANISM THAT ALLOWS IT TO REVIEW**  
14 **QWEST'S COST STUDIES IN ORDER TO MAKE A DECISION ON WHETHER**  
15 **TO INTERVENE IN A COST PROCEEDING. DO YOU AGREE?**

16 A. No. Although Mr. Denney cites "the money and resources required for intervention,"  
17 realistically, it would take little of either to initially intervene in a cost docket to be on the  
18 docket service list for all filings. In fact, the resources required to file a petition for  
19 intervention are far and away exceeded by the resources required to review the cost  
20 studies.



1

**VII. CONCLUSION**

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

3 **A. Yes.**

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

218 L04 XXXX XXX MAR 08 2005 MSG

BILL NO 218 L04-XXXX XXX  
INVOICE NO L04XXXXXXXX-05061  
BILL DATE MAR 5, 2005  
ACNA XXXX PAGE XXX

\* \* \*DETAIL OF USAGE CHARGES FOR OFFICE ABCDMNXFDS0 \* \* \*  
END OFFICE COMPANY CODE - 7890

USAGE BILLING CYCLE FEB 05 05 THRU MAR 04 05

LOCAL

RATE	CATEGORY	ZN	QUANTITY	RATE	AMOUNT
SWITCHED TRANSPORT					
TRANSIT LOCAL					
AN 1019XXX	TERMINATING MINUTES		167	.0045	.75
TOTAL TRANSITING			167		.75
TOTAL SWITCHED TRANSPORT CHARGES					.75

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

218 L04 XXXX XXX MAR 08 2005 MSG

BILL NO 218 L04-XXXX XXX  
INVOICE NO L04XXXXXXXX-05061  
BILL DATE MAR 5, 2005  
ACNA XXXX PAGE XXX

\* \* \*DETAIL OF USAGE STATISTICS FOR OFFICE ABCDMNXFDS0 \* \* \*  
USAGE BILLING CYCLE FEB 05 05 THRU MAR 04 05

LOCAL

TERMINATING	PIU	LOP	PDR	RECORDED	MOU	MESSAGES T/O	FACTORD	MOU
TANDEM								
AN 1019XXX								
TRANSIT LOCAL					167	58	.0000	167
TOTAL					167	58		167

TOTAL LOCAL USAGE CHARGES FOR OFFICE	ARCDMNXFDSO	.75
*****		
TOTAL USAGE CHARGES FOR OFFICE ARCDMNXFDSO		.75
*****		

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**ARB 775**

**In the Matter of**

**ESCHELON TELECOM OF OREGON,  
INC.**

**Petition for Arbitration of an  
Interconnection Agreement with Qwest  
Corporation, Pursuant to Section 252 of the  
Telecommunications Act**

**REBUTTAL TESTIMONY OF**

**KAREN A. STEWART**

**FOR**

**QWEST CORPORATION**

**(Disputed Issue Nos. 4-5 (a, b, c), 9-31, 9-32, 9-33, 9-34, 9-35, 9-36, 9-39, 9-41, 9-42, 9-50, 9-51, 9-52, 9-53, 9-54a, 9-55, 9-56, 9-56a, 9-58, 9-58 (a, b, c, d, e), 9-59, 9-61,(a, b, c) and 24-92)**

**May 25, 2007**

## TABLE OF CONTENTS

<b>I. IDENTIFICATION OF WITNESS.....</b>	<b>1</b>
<b>II. DISPUTED ISSUES .....</b>	<b>1</b>
<b>ISSUE NOS. 4-5 (A, B AND C) - DESIGN CHANGES .....</b>	<b>1</b>
<b>ISSUE NO. 9-31 - ACCESS TO UNES.....</b>	<b>10</b>
<b>ISSUE NOS. 9-33 AND 9-34 – QWEST NETWORK MAINTENANCE AND MODERNIZATION ACTIVITIES.....</b>	<b>17</b>
<b>ISSUE NO. 9-51 – APPLICATION OF UDF-IOF TERMINATION RATE ELEMENT .....</b>	<b>25</b>
<b>ISSUE NO. 9-53 - ACCESS TO UCCRE .....</b>	<b>26</b>
<b>ISSUE NO. 9-55 - COMBINATIONS OF LOOPS AND TRANSPORT .....</b>	<b>32</b>
<b>ISSUE NOS. 9-56 AND 9-56A – SERVICE ELIGIBILITY CRITERIA AUDITS.....</b>	<b>39</b>
<b>ISSUE NOS. 9-58 (ALL A, B, C, D, E) ORDERING, BILLING, AND CIRCUIT ID FOR COMMINGLED ARRANGEMENTS.....</b>	<b>42</b>
<b>ISSUE NO. 9-59 - ESCHELON ALTERNATE COMMINGLED EEL REPAIR LANGUAGE .....</b>	<b>64</b>
<b>ISSUE NOS. 9-61(A, B, C) LOOP-MUX COMBINATIONS.....</b>	<b>66</b>
<b>III. CONCLUSION .....</b>	<b>73</b>

## I. IDENTIFICATION OF WITNESS

**Q. PLEASE STATE YOUR NAME.**

A. My name is Karen A. Stewart. I filed direct testimony in this proceeding on May 11, 2007.

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. My rebuttal testimony responds to the direct testimony of Eschelon witnesses Douglas Denney and Michael Starkey relating to the following issues as they are numbered in Eschelon's petition for arbitration: Issue Nos. 4-5 (a, b, c), 9-31, 9-33, 9-34, 9-39, 9-41, 9-42, 9-51, 9-52, 9-53, 9-55, 9-56, 9-56a, 9-58, 9-58 (a, b, c, d, e), 9-59, 9-61,(a, b, c).

**Q. DO YOU HAVE AN UPDATED STATUS ON SETTLED ISSUES DISCUSSED IN YOUR DIRECT TESTIMONY?**

A. Yes. In addition to the settled issues identified in my direct testimony, Qwest and Eschelon have settled Issue No. 9-42, and no further action is required by the Commission regarding this issue.

## II. DISPUTED ISSUES

### Issue Nos. 4-5 (A, B and C) - Design Changes

**Q. BASED ON THE PARTIES DIRECT TESTIMONY, WHAT ISSUES RELATING TO DESIGN CHANGES REMAIN UNRESOLVED?**

A. There are two issues relating to design changes that remain in dispute. First, the parties continue to disagree concerning whether a charge for changes to connection facility assignments ("CFAs") should apply in the circumstance where a CFA is required while Qwest and Eschelon are performing a coordinated cut-over. This dispute is designated as Issue No. 4-5(a). Second, Mr. Denney's direct testimony confirms that there is a fundamental disagreement between Qwest and Eschelon concerning the rates that should apply to design changes involving unbundled dedicated interoffice transport ("UDIT"), unbundled loops, and CFA

changes that Eschelon requests. This issue is designated as Issue No. 4-5(c). In the testimony that follows, I respond to Eschelon's assertions relating to CFA design changes and also address some of the flawed assumptions underlying the rates Eschelon is proposing for design changes. Qwest witness Terri Million also addresses these issues in her testimony, and she describes the single rate Qwest is proposing for all design changes and the basis for that proposal.

**Q. WHICH ISSUES INVOLVING DESIGN CHANGES ARE NO LONGER IN DISPUTE?**

A. The parties have resolved the definition of "design change," and that issue is therefore no longer in dispute. In addition, Qwest is agreeing to Eschelon's proposed language for ICA Sections 9.2.3.8 and 9.2.4.4.2 – which is encompassed by Issue No. 4-5—that involves references to the fact that the ICA includes design change charges for unbundled loops. Accordingly, Issue No. 4-5 is also closed. Further, as I describe in my direct testimony, Qwest has accepted Eschelon's proposed language for ICA Section 9.6.3.6 that refers to the presence of design change rates for UDITs in Exhibit A of the ICA. Qwest believes its acceptance of this language resolves Issue No. 4-5(b). However, Eschelon is apparently now taking the position that its proposals relating to design change are a "package" and that no remaining design change issues can be resolved unless Qwest accepts all of Eschelon's proposals, including rate proposals, for these issues. In other words, even though Qwest is accepting Eschelon's proposed language for Issue No. 4-5(b), Eschelon apparently still intends to litigate the issue.

**Q. WITH RESPECT TO THE DESIGN CHANGE ISSUES STILL IN DISPUTE, AT PAGE 28 OF HIS TESTIMONY, MR. DENNEY ASSERTS THAT THERE IS A RISK THAT QWEST WILL STOP PROVIDING DESIGN CHANGE SERVICES TO ESCHELON. IS THIS ASSERTION CORRECT?**

A. No. Contrary to Mr. Denney's assertion, Qwest will continue to provide design change services to Eschelon at the rates for design changes listed in Exhibit A and, accordingly, has agreed to include in the ICA the definition of "design

change” that Eschelon itself has proposed. The real dispute relating to design changes is not whether Qwest will agree to provide them but, instead, whether Eschelon will agree to rates that compensate Qwest for the costs it incurs to perform them.

**Q. MR. DENNEY ALSO ASSERTS AT PAGES 35 THAT QWEST INTENDS TO CHARGE A TARIFFED RATE FOR DESIGN CHANGES WITHOUT OBTAINING THE COMMISSION’S APPROVAL TO ASSESS A TARIFFED RATE. IS HIS ASSERTION CORRECT?**

A. No. While Qwest believes that design changes are not a service required under Section 251 of the Act and therefore are not governed by the Act’s cost-based pricing requirement, Qwest is not seeking to establish that right in the Oregon interconnection agreement with Eschelon.

*Issue No. 4-5(a)*

**Q. WITH RESPECT TO CHARGES FOR CFA CHANGES, HAS MR. DENNEY ACCURATELY DESCRIBED THE WORK REQUIRED FOR CFAs AND THE COSTS ASSOCIATED WITH THEM?**

A. No. As an initial matter, it is important to be clear about why Qwest is required to make CFA changes and to incur the costs they impose. CFA changes occur when a customer desires to obtain service from Eschelon instead of from Qwest or another carrier. After the new connect service order is submitted by Eschelon, a Qwest engineer must connect the customer’s loop to Eschelon’s equipment collocated in a Qwest central office. To enable Qwest to perform this connection on its behalf, Eschelon provides Qwest with a “connecting facility assignment” or CFA on the interconnection distribution frame (“ICDF”) in Qwest’s central office. In other words, Eschelon identifies the specific place on the ICDF where the Qwest engineer should connect the loop. In some cases, the ICDF locations that Eschelon gives Qwest are incorrect, thus requiring a Qwest technician to remove the loop from one location on the ICDF and to reconnect the loop to another location on the ICDF or to another frame in the central office.



Mr. Denney has mischaracterized the work required for a CFA change by simplistically analogizing it to unplugging a lamp from a socket and replugging it into a different socket.<sup>1</sup> Moreover, while Mr. Denney focuses on the technician-related work required for CFAs, he fails to recognize that technician time is not included in the costs underlying Qwest's proposed the rate for design changes, as Ms. Million can confirm. Accordingly, in the end, his testimony relating to this issue is not even relevant.

**Q. AT PAGES 46-47 OF HIS DIRECT TESTIMONY, MR. DENNEY PROVIDES EXAMPLES OF CHARGES THAT ESCHELON HAS BEEN ASSESSED FOR CFAs IN AN ATTEMPT TO DEMONSTRATE THAT ESCHELON HAS PAID UNREASONABLE AMOUNTS FOR CFAs. WHAT DO THESE EXAMPLES ACTUALLY REVEAL ABOUT THE CFA ISSUE?**

A. It is important to emphasize that since Eschelon provides the CFAs to Qwest, it is Eschelon's responsibility to have a quality control process in place to manage its CFAs. If it takes Eschelon multiple attempts to find a valid CFA, as suggested by Mr. Denney's examples, this reflects Eschelon's lack of inventory quality control in a central office, which can also be a significant issue when it comes to timely repair issues. While these examples suggest that Eschelon's inventory records are seriously inaccurate, Qwest follows specific and established procedures to ensure that its records are accurate. Accordingly, when a CFA change occurs, Qwest confirms if a design change is required, and then makes all of the systems changes necessary to have a correct engineering record for that UNE.

If Eschelon is concerned about the costs it incurs for CFAs, it should improve its quality controls, not attempt to deny Qwest the full recovery of the costs imposed by Eschelon's use of defective CFAs. Indeed, the fact that Eschelon required Qwest to perform multiple CFA changes, as occurred in Mr. Denney's examples, demonstrates why it is essential that Qwest be compensated for these activities.

---

<sup>1</sup> See Direct Testimony of Douglas Denney ("Denney Direct"), at p. 50.

Qwest should not be required to perform work caused by Eschelon's incorrect CFAs and then have Eschelon fail to provide full compensation and cost recovery for the work it imposed.

**Q. DOES A CLEC HAVE THE ABILITY TO MINIMIZE COSTS OF CFA CHANGES BY MINIMIZING THE NUMBER OF CFA CHANGES THAT ARE REQUIRED?**

A. Yes. CFA assignments are controlled and inventoried by the CLEC. If the CLEC has a quality control process in place for inventorying CFAs, then last minute changes to CFAs should rarely occur. In the rare situation of a CFA change requested by Qwest, Qwest does not charge the CLEC a CFA design change charge. Therefore, the root cause of the vast majority of CFA design change charges is poor quality control of CFA assignments on the part of the CLEC. The proper and fair way for Eschelon to minimize the costs of CFAs is for it to exercise sound quality control in its selection of proper, working CFAs, so that CFA changes are rarely needed. It does not make good policy sense to allow CLECs to have a poor quality process and for Qwest to bear the cost of this through below-cost CFA design change charges. When Eschelon requests CFA changes, it must be required to compensate Qwest for the significant time and expense of carrying out those changes.

**Q. IS MR. DENNEY CORRECT IN ASSERTING AT PAGES 48 TO 50 OF HIS DIRECT TESTIMONY THAT THE COSTS QWEST INCURS FOR CFA DESIGN CHANGES PERFORMED DURING COORDINATED CUT-OVERS ARE MINIMAL AND LESS THAN OTHER CFA DESIGN CHANGES?**

A. No. The presence of a Qwest technician in a central office who is performing a coordinated cut-over does not in any way affect, much less eliminate, the primary activities and costs that CFA changes require. First, a CFA change requires Qwest to reprocess a new order, which includes detailed review of the order, for the new CFA. There is no central office technician activity involved with this reprocessing, and therefore, the presence of a technician in the central office to

perform a coordinated cut-over does not eliminate or in any way reduce the activities and costs required to reprocess a new order. Second, a CFA change requires a Qwest engineer to “redesign” the CFA by conducting a review of a computer database to determine if Qwest’s available facilities can accommodate the new CFA assignment. Again, there is no central office technician activity involved with these redesigns and therefore a technician’s performance of a coordinated cut-over has no effect on the tasks and costs required for redesigns. Third, the presence of a Qwest technician for a cut-over does not eliminate the need for a technician to disconnect a UNE connection from a frame and reconnect it to another location on the frame or to another frame altogether. Fourth, regardless whether a technician is already in a central office, Qwest must update its downstream operation support systems to reflect the new, correct CFA information.

**Q. HOW DO THESE FACTS DEMONSTRATING THE LACK OF A RELATIONSHIP BETWEEN A COORDINATED CUT-OVER AND THE WORK REQUIRED FOR CFAs DESIGN CHANGES AFFECT THE RATE ESCHELON IS PROPOSING FOR CFAs?**

A. As I discuss below, Eschelon is proposing a rate for CFA design changes of only \$5.00 when a CFA assignment is changed during a coordinated cut-over. The entire premise of Eschelon’s rate proposal is that the cut-over eliminates the need for Qwest to perform most of the activities required for a CFA design change. In fact, as demonstrated in the preceding answer, the coordinated cut-over does not eliminate activities Qwest must perform to carry out a CFA design change and, accordingly, Eschelon’s proposed rate of \$5.00 significantly underestimates the costs Qwest incurs. The rate would impermissibly prevent Qwest from recovering its costs in violation of Qwest’s right of cost recovery under the Act.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 4-5(A)?**

A. The Commission should reject the language that Eschelon is proposing for Section 9.2.3.9 that would improperly prevent Qwest from fully recovering the costs it incurs for CFA changes. There is no factual basis for Mr. Denney’s

assertion that the presence of a Qwest technician during a coordinated cut-over reduces the costs of CFA design changes. Nor is there any factual basis for his claim that the rate for CFA design changes should be less than the rates for other design changes. As Ms. Million discusses in her testimony, the cost study that Qwest relies upon, and that other commissions have used to set the rate for design changes, includes CFA design changes.

*Issue No. 4-5(c)*

**Q. WHAT TYPES OF DESIGN ACTIVITIES MUST QWEST PERFORM FOR DESIGN CHANGES INVOLVING UNBUNDLED LOOPS?**

A. Qwest must perform multiple activities to provide CLECs with design changes for unbundled loops. These activities are triggered by Eschelon's submission of a supplemental order or verbal CFA change request, which requires a Qwest engineer to analyze the existing order and design the new order to determine if a change in the design is necessary to meet the requirements of the new order. These activities impose costs that Qwest must be permitted to recover through a design change charge.

**Q. IS THERE MERIT TO MR. DENNEY'S CLAIM THAT THE COSTS OF DESIGN CHANGES FOR LOOPS ARE LESS THAN THOSE FOR DESIGN CHANGES FOR UDIT?**

A. No. There is no basis for this assumption, since DS1 and DS3 unbundled loops on fiber systems may require the same type of re-design work as is required for UDIT using similar fiber muxing equipment. In claiming that loop design changes are less costly than UDIT design changes, Mr. Denney asserts that the use of "Local Service Requests" ("LSRs") for loops instead of the "Access Service Requests" ("ASRs") used for UDIT contributes to the alleged lower cost of loop design changes. As described at pages 53-54 of his direct testimony, he bases this assertion on the claim that ASRs "are more manually-intensive" than LSRs. The flaw in this analysis is that Mr. Denney fails to account for the re-design work that may be required because of the use of fiber muxing equipment.

Mr. Denney also ignores the fact that although this Commission has not set a design change rate, other state commissions in Qwest's region have set a single design change rate based on a cost study that establishes a single, averaged rate for UDIT, loop, and CFA design changes.

**Q. IS MR. DENNEY CORRECT IN ASSERTING THAT QWEST DOES NOT HAVE AN EXISTING RIGHT TO ASSESS LOOP OR CFA DESIGN CHANGE CHARGES IN OREGON?<sup>2</sup>**

A. No. Mr. Denney bases this assertion on an out-of-context statement that I made in the Minnesota arbitration that “neither Qwest’s SGAT nor the parties’ current ICA includes a design change charge for loops.”<sup>3</sup> However, that statement was unique to Minnesota and accurately reflects the fact that under a prior Minnesota cost docket order, the absence of a commission-ordered design change rate in that state prevented Qwest from charging a design rate and from recovering its costs in that state. That is not the case in Oregon. Thus, the design change rate is included in the “Miscellaneous Charges” section of Exhibit A to the existing Qwest-Eschelon Oregon ICA and, accordingly, Qwest has a contractual right to collect the charge and to recover the costs it incurs to provide Eschelon and other CLECs with design changes.

**Q. IS MR. DENNEY’S POSITION CONSISTENT WITH THE RIGHT QWEST HAS UNDER THE TELECOMMUNICATIONS ACT TO RECOVER THE COSTS IT INCURS TO PROVIDE ACCESS TO UNEs?**

A. No. Mr. Denney does not contest the fact that Qwest incurs costs to provide Eschelon with loop and CFA design changes. Instead, his position is that under the existing ICA, Qwest should not be permitted to recover these costs because there is no Commission approved rate for these activities. He is plainly attempting to deny Qwest recovery of costs that he acknowledges are incurred.

---

<sup>2</sup> See Denney Direct, at pp. 43-44.

<sup>3</sup> See Denney Direct, at p. 44.

That position is inconsistent with the right Qwest has under Section 252(d) of the Telecommunications Act of 1996 to recover the costs it incurs to provide access to UNEs. In addition, for purposes of the ICA being arbitrated in this case, Eschelon is proposing rates for loop and CFA design changes that, as Ms. Million confirms, are less than the costs Qwest's incurs. Eschelon's proposed rates would deny Qwest full recovery of its costs, which it is clearly entitled to under the Act.

**Q. AT PAGES 40-42 OF HIS DIRECT TESTIMONY, MR. DENNEY CLAIMS THAT QWEST'S DECISION TO BEGIN CHARGING FOR LOOP DESIGN CHANGES DEMONSTRATES THAT QWEST SELECTIVELY USES THE CMP PROCESS TO THE DISADVANTAGE OF CLECs. IS MR. DENNEY'S CLAIM CORRECT?**

A. No. Qwest witness, Renee Albersheim, responds in detail in her rebuttal testimony to Eschelon's inaccurate claim that Qwest somehow improperly uses the Change Management Process ("CMP") process only for its benefit and not for the benefit of CLECs.

**Q. HAS MR. DENNEY PROVIDED ANY COST SUPPORT FOR ESCHELON'S PROPOSAL TO USE DIFFERENT DESIGN CHANGE RATES FOR UDIT, LOOPS, AND CFAs?**

A. No. Mr. Denney proposes design change rates of \$58.27 for UDIT, \$30.00 for loops and \$5.00 for CFA changes, stating only that these rates are "reasonable" because design changes for loops and CFAs allegedly cost less than design changes for UDIT. As I describe above, Mr. Denney's descriptions of the work Qwest must perform for loop and CFA design changes are inaccurate and incomplete. Thus, the premise for the different rates he proposes – that loop and CFA design changes involve significantly less work – is wrong. Equally important, Mr. Denney does not provide a cost study, cost data, or even a spreadsheet showing a cost calculation to support these proposals. Without such information, there is of course no way for the Commission to determine that the rates are compensatory and consistent with the Act's requirement that Qwest recover its costs.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 4-5(C)?**

- A. The Commission should reject Eschelon's unsupported attempt to establish non cost supported design change rates for design changes. The Commission should adopt the interim rate proposal supported in the testimony of Qwest witness Ms. Million.

**Issue No. 9-31 - Access to UNEs**

**Q. BEFORE RESPONDING TO MR. STARKEY'S TESTIMONY RELATING TO THIS ISSUE, PLEASE PROVIDE A BRIEF SUMMARY OF THE ISSUE.**

- A. This issue involves language in Section 9.1.2 of the ICA that defines the access Qwest will provide Eschelon to the UNEs that Qwest makes available under Section 251(c)(3) of the Act. Consistent with applicable legal requirements, Qwest has agreed to ICA language obligating it to provide Eschelon with non-discriminatory access to UNEs at standard service performance levels and to perform "those Routine Network Modifications that Qwest performs for its own End User Customers." Mr. Starkey's testimony confirms that Eschelon's proposed version of Section 9.1.2 would impermissibly expand the access Qwest provides to UNEs beyond the requirements imposed by governing law.

**Q. MR. STARKEY ASSERTS THAT WITHOUT ESCHELON'S PROPOSED LANGUAGE IN SECTION 9.1.2, THE ICA WILL NOT HAVE LANGUAGE ASSURING ESCHELON OF NONDISCRIMINATORY ACCESS TO UNEs. IS THAT ASSERTION CORRECT?**

- A. No. The parties' agreed language in Section 9.1.2 expressly and unambiguously requires Qwest to provide Eschelon with nondiscriminatory access to UNEs: "Qwest shall provide non-discriminatory access to Unbundled Network Elements on rates, terms, and conditions that are non-discriminatory, just and reasonable." It is surprising that Mr. Starkey would testify about the alleged absence of an obligation in the ICA for Qwest to provide non-discriminatory access to UNEs

without discussing or even mentioning this clear language in Section 9.1.2 that requires Qwest to provide precisely that form of access.

**Q. AT PAGES 143, AND 152-154 OF HIS DIRECT TESTIMONY, MR. STARKEY ALSO SUGGESTS THAT WITHOUT ADOPTION OF ESCHELON'S PROPOSED ADDITION TO SECTION 9.1.2, THE ICA WILL NOT ENSURE ACCESS TO UNES EQUAL TO THAT WHICH QWEST HAS FOR ITSELF AND THAT OTHER CLECs HAVE. IS THERE ANY MERIT TO THAT SUGGESTION?**

A. No. Again, Mr. Starkey makes these assertions without discussing or even mentioning agreed language in Section 9.1.2 that shows the assertions to be baseless. The agreed language expressly links the UNE access to which Eschelon is entitled to the UNE access that Qwest provides to itself: "Where Technically Feasible, the access and Unbundled Network Element provided by Qwest will be provided in 'substantially the same time and manner' to that which Qwest provides to itself or to its Affiliates." In circumstances where Qwest does not provide access to UNEs to itself, the agreed language in Section 9.1.2 obligates Qwest to provide access to Eschelon that gives it a meaningful opportunity to compete: "In those situations where Qwest does not provide access to Network Elements to itself, Qwest will provide access in a manner that provides [Eschelon] with a meaningful opportunity to compete."

Similarly, the agreed language in Section 9.1.2 ensures that Eschelon will receive the same access to UNEs that other CLECs receive: "The quality of an Unbundled Network Element Qwest provides, as well as the access provided to that element, will be equal between all Carriers requesting access to that element." This language clearly establishes that Eschelon is entitled to access to UNEs equal to that provided to other CLECs.

**Q. IS THERE ANY SUPPORT FOR MR. STARKEY'S ADDITIONAL CLAIM AT PAGE 151 OF HIS TESTIMONY THAT WITHOUT ESCHELON'S**



**PROPOSED ADDITIONS TO SECTION 9.1.2, ESCHELON WILL NOT BE ABLE TO OBTAIN MODIFICATIONS AND REPAIRS TO UNES?**

- A. No. Again, Mr. Starkey ignores agreed language in Section 9.1.2 that obligates Qwest to make modifications to UNEs on a nondiscriminatory basis:

Qwest shall perform for [Eschelon] those Routine Network Modifications that Qwest performs for its own End User Customers. The requirement for Qwest to modify its network on a nondiscriminatory basis is not limited to copper loops and applies to all unbundled transmission facilities, including Dark Fiber transport when available pursuant to Section 9.7.

The term “Routine Network Modifications” as used in this section is defined in the ICA to include, at a minimum, the specific network modifications that the FCC listed in the *Triennial Review Order* as the modifications ILECs are required to provide.

In addition to the language quoted above, the agreed language in Section 9.1.1.2.3 makes it clear that Qwest will maintain and repair UNEs for Eschelon:

“[Eschelon’s] purchase of access to a UNE does not relieve Qwest of the duty to maintain, repair, or replace the UNE.” Mr. Starkey also ignores this language in making his inaccurate assertion that without Eschelon’s proposed addition to Section 9.1.2, Qwest will be free to withhold UNE maintenance and repairs.

**Q. IN HIS ATTEMPT TO SUPPORT ESCHELON’S PROPOSED LANGUAGE FOR SECTION 9.1.2, AT PAGES 146-149 OF HIS TESTIMONY, MR. STARKEY CITES TWO “EXAMPLES” THAT HE CLAIMS DEMONSTRATE THAT QWEST WILL NOT PROVIDE ESCHELON WITH NONDISCRIMINATORY ACCESS TO UNES. DO THE EXAMPLES SUPPORT THAT CLAIM?**

- A. No. The first “example” that Mr. Starkey cites involves a Qwest notice from December 2005 introducing a proposed CMP change for DS1 loops. As Mr. Starkey states, the notice provided that unbundled loops would not be available “to serve another CLEC, IXC, or other Telecommunications Provider.” Qwest has since withdrawn that notice and is not imposing this limitation. Indeed, as

Mr. Starkey eventually acknowledges at page 147 of his testimony, Qwest has not proposed that limitation in this proceeding and it is therefore not at issue. Qwest has agreed to the following language in Section 9.1.1.2.1, which establishes that the restriction on the use of UNEs to which Mr. Starkey refers will not apply: “Except as provided in this Section 9.1.1.2.1 and in Section 9.23.4.1, Qwest shall not impose limitations, restrictions, or requirements on requests for, or the use of, Unbundled Network Elements for the service [Eschelon] seeks to offer.”

The second “example” that Mr. Starkey refers to is a September 2006 CMP notice regarding a process clarification for CFA changes that did not deny access to any UNEs or UNE activities. Rather, it was a reasonable clarification by Qwest regarding the process for CFA changes on the due date. Qwest was attempting to address concerns created by CLECs who were abusing the CFA change process. When CLECs do not have an adequate CFA management system in place, they frequently attempt to demand the ability to make numerous verbal changes to orders that can turn a non-coordinated cut into a coordinated cut. The CMP notice to which Mr. Starkey refers was an outgrowth of this situation, as Qwest was facing the risk that unlimited verbal changes to orders would interfere with its ability to complete all service orders due on a particular day within a reasonable period of time. That result not only would have had negative consequences for Qwest, but it also would have unfairly affected CLECs that provide correct, working CFAs in advance of due dates for orders. Qwest’s CMP notice reflected an attempt to address this untenable situation.

**Q. ARE ESCHELON’S PROPOSED ADDITIONS TO SECTION 9.1.2 CONSISTENT WITH THE OBLIGATIONS ILECs HAVE TO PROVIDE ACCESS TO UNEs?**

A. No. Eschelon’s proposal to include “move,” “add to,” and “change” as part of “accessing” UNEs would potentially obligate Qwest to provide a form of access that it does not provide to other CLECs or to its own retail customers. Further, Eschelon’s language implies that access to or use of a UNE entitles it to moves,

adds and changes at no additional charge. That result would violate Qwest's right of cost recovery.

Moreover, as I describe in my direct testimony, Eschelon's proposed addition 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."<sup>4</sup> Under Eschelon's proposed language, Qwest could be required to build new facilities and to provide access to "a yet unbuilt superior network." For example, the undefined requirement for Qwest to "add to" UNEs could obligate Qwest to build new facilities and to go beyond the routine network maintenance that ILECs must provide. Similarly, Eschelon does not define the meaning of "changing the UNE," thereby leaving the door open to changes that go beyond routine network maintenance.

In the *Triennial Review Order* ("TRO"), the FCC ruled at paragraph 632 that ILECs must provide "routine network modifications" to unbundled transmission facilities and loops. In that same paragraph, the FCC defined these modifications as "those activities that incumbent LECs regularly undertake for their own customers," while establishing that routine modifications "do not include the construction of new wires." By proposing the vague requirement for Qwest to provide "moves," "adds," and "changes," Eschelon is going beyond the routine network modifications Qwest is providing for its own customers in violation of the TRO. Since the ICA already includes agreed language ensuring that Eschelon will receive UNE access equal to that which Qwest's retail customers receive, Eschelon's proposed language is not necessary to ensure equal access and would serve only as a potential vehicle for Eschelon to demand superior access.

**Q. AS YOU DESCRIBE THE DIFFERENCES IN INTERPRETATION BETWEEN QWEST AND MR. STARKEY REGARDING ESCHELON'S PROPOSED LANGUAGE, THE DISPUTE SEEMS TO POTENTIALLY**

---

<sup>4</sup>*Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 813 (8th Cir. 1997).

**BOIL DOWN TO QWEST’S ABILITY TO CHARGE FOR ACTIVITIES AND TO RECOVER ITS COSTS. IS THAT AN ACCURATE PERCEPTION?**

- A. I believe so. With that in mind and with the benefit of Eschelon’s testimony, Qwest has developed a proposal that addresses both parties’ concerns. Using Eschelon’s language as a starting point and with Qwest’s red-lined changes, Qwest proposes the following language:

**Additional activities available for Access to** Unbundled Network Elements includes moving, adding to, repairing and changing the UNE (through, e.g., design changes, maintenance of service including trouble isolation, additional dispatches, and cancellation of orders) **at the applicable rate.**

Qwest offers this language as a good faith effort to settle this dispute between the parties. The proposal does not eliminate all of Qwest’s concerns about the ambiguity of Eschelon’s language, but it eases that concern by including language that ensures cost recovery for the activities required by the language.

**Q. WHAT IS THE BASIS FOR YOUR CONCERN THAT ESCHELON’S PROPOSAL MAY BE DESIGNED TO PREVENT QWEST FROM RECOVERING THE COSTS OF THE ACTIVITIES LISTED IN THE PROPOSAL?**

- A. In the companion arbitration in Minnesota, Mr. Denney testified in reference to the activities listed in Eschelon’s proposed language that “those types of things are already covered in the recurring rates.”<sup>5</sup> He asserted further that because the costs of all of the activities required by Eschelon’s language are allegedly already included in monthly recurring rates, adoption of Eschelon’s language would not require the development of any new rates or rate elements or payment by Eschelon of any rates other than the existing recurring rates for UNEs.<sup>6</sup> Further, in the recent arbitrations in Colorado and Washington, Eschelon witness, Michael

---

<sup>5</sup> Minnesota Hearing Transcript, Vol. 4, p. 207, lines 17-18. Qwest will provide a copy of this excerpt during the hearing.

<sup>6</sup> Minnesota Hearing Transcript, Vol. 4, p. 206, line 22 – p. 208, line 6.

Starkey, has testified that the terms “move,” “add to,” and “change” include “thousands” of activities, including some activities are not known today and will evolve as technology changes. Taken together, the testimony of Mr. Denney and Mr. Starkey shows that the real purpose of Eschelon’s proposal is not to add another cumulative guarantee against nondiscrimination but, instead, to obtain potentially “thousands” of activities that may relate to UNEs without paying any further charges and certainly without paying any charges that are set by tariffs. Neither Mr. Denney nor any other Eschelon witness has provided evidence that the costs of the undefined activities encompassed by Eschelon’s language are included in any recurring rates.

**Q. CAN YOU PROVIDE AN EXAMPLE OF A RATE FOR AN ACTIVITY THAT QWEST BELIEVES IS NOT INCLUDED IN THE MONTHLY RATE OF A UNE?**

A. Yes. The unbundled transport section of Exhibit A to the ICA includes rates for UDIT Rearrangements. There are examples of various moves of the UDIT termination a CLEC may request. Based on the testimony of Mr. Denny cited above, Qwest is concerned that the “moving” portion of the Eschelon proposed section 9.1.2 could result in Eschelon disputing the application of this rate.

**Q. DOES QWEST’S PROPOSED USE OF “AT THE APPLICABLE RATE” MEAN THAT QWEST INTENDS TO CHARGE TARIFFED RATES FOR ALL ACTIVITIES ENCOMPASSED BY “MOVING, ADDING TO, REPAIRING, AND CHANGING”?**

A. No. Qwest recognizes that some activities encompassed by these terms are associated with providing “access” to a UNE and are therefore governed by cost-based rates. However, these terms are both broad and undefined, and the “thousands” of activities Eschelon claims they encompass could easily include activities that are not part of “access” to a UNE and that are not governed by the required of cost-based rates. To provide for this likelihood, Qwest has proposed it’s “at the applicable rate language.” By contrast, Eschelon’s proposal would

improperly require Qwest to perform thousands of activities, many of which Eschelon cannot even identify today, either at no charge at all beyond a monthly UNE recurring rate or at cost-based rates with no possibility of applying tariffed rates for activities that are not within the obligations of Section 251 of the Act.

**Q. PLEASE SUMMARIZE QWEST’S POSITION RELATING TO ISSUE NO. 9-31.**

A. Through the parties’ agreed language in Section 9.1.2, Qwest has fully committed to provide Eschelon with the access to UNEs required by the Act and that other CLECs in Oregon receive. Eschelon’s proposed addition to the parties’ agreed language should be rejected because it is overly broad, could be misinterpreted to imply that the listed activities are to be performed at no additional charge or at an incorrect charge, and could create obligations that the Act does not impose. Notwithstanding these concerns and in the interest of narrowing the parties’ disputes, Qwest would agree to the modified version of Eschelon’s proposal set forth above, which assures Qwest of the cost recovery to which it is entitled under the Act.

**Issue Nos. 9-33 and 9-34 – Qwest Network Maintenance and Modernization Activities**

***ISSUE NO. 9-33***

**Q. MR. STARKEY ASSERTS AT PAGE 160 OF HIS DIRECT TESTIMONY THAT ESCHELON’S “ADVERSE AFFECT” LANGUAGE MUST BE INCLUDED IN THE INTERCONNECTION AGREEMENT TO ENSURE THAT QWEST’S MAINTENANCE AND MODERNIZATION ACTIVITIES DO NOT PREVENT ESCHELON FROM PROVIDING “WORKING SERVICE” TO ITS CUSTOMERS. HAS QWEST EVER PUT AN ESCHELON CUSTOMER OUT OF SERVICE BECAUSE OF NETWORK MAINTENANCE OR MODERNIZATION ACTIVITIES?**

A. Mr. Starkey does not identify any occasions in which Qwest put an Eschelon customer out of service because of an activity involving network maintenance or modernization, and I am not aware of any occasions in which that has occurred.

The absence of any such incidents demonstrates the hypothetical nature of Mr. Starkey's concerns and shows that his attempt to paint a dire picture of the risks arising from Qwest's maintenance and modernization activities is exaggerated.

**Q. IS MR. STARKEY CORRECT IN ASSERTING THAT QWEST HAS NOT PROVIDED ANY ASSURANCE THAT ITS NETWORK MODERNIZATION AND MAINTENANCE ACTIVITIES WILL NOT HARM ESCHELON'S CUSTOMERS?**

A. No. Mr. Starkey ignores agreed language in Section 9.1.9 in which Qwest commits that “[n]etwork maintenance and modernization activities will result in UNE transmission parameters that are within transmission limits of the UNE ordered by [Eschelon].” This language already provides Eschelon with contractual protection against network activities that hypothetically could put Eschelon customers out of service. This language requires Qwest to ensure that its network maintenance and modernization activities do not result in transmission parameters that fail to meet those Eschelon can reasonably expect for the UNEs it orders unless Qwest has given advance notice subject to FCC rules. In addition, Qwest has provided further protection to Eschelon and its customers by agreeing in Section 9.1.9 that “modifications and changes to UNEs” may result in only “minor changes to transmission parameters.” As this language shows, contrary to Mr. Starkey's claim, Qwest has agreed to language that protects Eschelon and its customers from the hypothetical situation of changes to UNEs arising from network maintenance and modernization activities that could put Eschelon customers out of service.

**Q. IN VIEW OF THE PARTIES' AGREED LANGUAGE LIMITING THE CHANGES IN TRANSMISSION PARAMETERS THAT CAN RESULT FROM NETWORK ACTIVITIES, IS THERE ANY LEGITIMATE NEED FOR ESCHELON'S VAGUE REQUIREMENT THAT MODERNIZATION AND MAINTENANCE ACTIVITIES MAY NOT “ADVERSELY AFFECT” SERVICE TO ANY END USER CUSTOMERS?**

- A. No. There is no legitimate need for Eschelon's proposed language. Indeed, Qwest is very concerned that the vagueness of Eschelon's proposal would lead to time-consuming disputes between the parties about whether a network activity had an "adverse effect" on an Eschelon customer. As I describe in my direct testimony, this language is not tied to any industry standard or identifiable metric, and is therefore subject to broad interpretation and dispute. The vagueness of the language would leave Qwest guessing as to whether a network change is permitted under the ICA, which could have the undesirable effect of discouraging Qwest from carrying out network maintenance and modernization activities.

In addition, Eschelon's proposed language focuses improperly on the service that Eschelon is providing to its customers instead of the service that Eschelon orders and receives from Qwest. When Qwest provides a UNE to Eschelon, it can only be responsible for the quality of that network element. There are other factors within Eschelon's control and beyond Qwest's control that affect the quality of service Eschelon's customers receive, and it is therefore improper to establish a standard for Qwest that focuses on the service Eschelon provides to its customers.

**Q. DOES MR. STARKEY EXPLAIN THE MEANING OF ESCHELON'S "NOT ADVERSELY AFFECT" LANGUAGE IN HIS TESTIMONY?**

- A. No. Although Mr. Starkey acknowledges Qwest's criticism that Eschelon's proposal is impermissibly vague, nowhere in his testimony does he provide any meaningful definition of what it means to "adversely affect" service to an Eschelon customer. His inability to provide a definition further confirms the ambiguity of the standard and the likelihood that it would lead to disputes between the parties.

**Q. MR. STARKEY SUGGESTS AT PAGE 175 OF HIS DIRECT TESTIMONY THAT ESCHELON WILL NOT BE PROTECTED FROM CUSTOMER DISRUPTION EVEN IF QWEST MAINTAINS AND MODERNIZES ITS NETWORK IN ACCORDANCE WITH INDUSTRY**



**STANDARDS. DOES MR. STARKEY PROVIDE MEANINGFUL SUPPORT FOR THIS STATEMENT?**

- A. No. The only support for this statement that Mr. Starkey offers is a vague description of an occasion in which Qwest allegedly provided Eschelon with non-working circuits that met industry standards for permissible decibel (“db”) loss. 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. In addition, the one-time occurrence that Mr. Starkey describes did not even involve a network modernization or maintenance activity. Instead, it involved the installation of a new service that did not initially work but that Qwest engineers quickly and effectively corrected.

It is a matter of common sense that without quantifiable performance metrics, it is very difficult to measure performance. That is why the telecommunications industry has created standards bodies and invested very significant resources to develop reliable, quantifiable performance metrics. The single occurrence that Mr. Starkey describes hardly justifies the conclusion that compliance with industry standards is irrelevant to protecting against consumer disruption. Mr. Starkey is forced to reach that unfounded conclusion only because he is in the difficult position of trying to defend Eschelon’s standardless “no adverse effect” proposal.

**Q. DOES ESCHELON HAVE AN ALTERNATIVE PROPOSAL FOR THIS ISSUE?**

- A. Yes. Eschelon has the following alternative proposal based on language ordered by the Administrative Law Judges in the Minnesota arbitration: “If such changes result in the CLEC’s End User Customer experiencing unacceptable changes in the transmission of voice or data, Qwest will assist the CLEC in determining the source and will take the necessary corrective action to restore the transmission

quality to an acceptable level if it was caused by the network changes.” Eschelon has also proposed an additional modification to section 9.1.9 of “Such notices will contain the location(s) at which the changes will occur including, if the changes are specific to an End User Customer, the circuit identification, if readily available.” I address this proposal in the following section of my testimony involving Issue 9-34.

**Q. DOES THIS ALTERNATIVE PROPOSAL ELIMINATE THE CONCERNS YOU DISCUSS ABOVE?**

A. No. The proposal raises some of the same concerns as Eschelon’s original proposal. Specifically, the reference to “unacceptable changes” is as vague as Eschelon’s “no adverse affect” language. Eschelon does not define “unacceptable” or tie the term to any measurable industry standard. In addition, while the proposal would require Qwest to restore transmission quality to “an acceptable level,” Eschelon does not define what is “acceptable” or tie this term to any industry standard. As a result, Qwest would have no meaningful way of knowing, first, whether a change to its network is permitted under the ICA or, second, what specific corrective steps to take in response to an impermissible change.

For example, what if an area code split discussed below is an “unacceptable change” for an end user customer? Qwest could not possibly make the change “acceptable” by reversing the area code split. Qwest would be in the position of potentially violating the ICA through no fault of its own, but rather, because it followed an Oregon Commission order while also meeting all FCC notice requirements. Moreover, in the event of an area code split, requiring Qwest to attempt to locate every Eschelon customer in that area code and to send a list of affected customers to Eschelon would result in unnecessary investments of time and money. Eschelon knows which of its customers are within particular area codes and likely would not make any use of a list provided by Qwest of customers within the area code (assuming Qwest could even identify Eschelon’s customers.) Even with a list from Qwest, Eschelon would have to compile its own list because

it would need all the names and billing addresses for its affected customers in order to send them any required notifications.

**Q. DOES ESCHELON’S USE OF THE DEFINED TERM, “END-USER CUSTOMER,” ALSO CREATE A CONCERN REGARDING BOTH THIS ALTERNATIVE PROPOSAL AND ESCHELON’S ORIGINAL PROPOSAL?**

A. Yes. Eschelon’s use of the defined term, “CLEC’s End User Customer,” would improperly expand the prohibition against “unacceptable changes” to third party retail customers, including customers of carriers other than Qwest and Eschelon. “End User Customer” is defined in Section 4.0 of the ICA as “a third party retail customer that subscribes to a Telecommunications Service provided by either of the Parties or by another Carrier or by two or more Carriers.” The use of this term expands the prohibition against changes that are “unacceptable” or that have an undefined “adverse effect” beyond Eschelon’s customers to all “third party retail customers,” including customers of carriers that are not parties to this ICA. This broad expansion of the no “adverse effect” prohibition even further limits Qwest’s ability to engage in network modernization and maintenance activities. Further, by including the term “End-User Customer” in its proposed language for Section 9.1.9, Eschelon is attempting to regulate Qwest’s relationship with other CLECs through this ICA that is between only Eschelon and Qwest. It is clearly improper to attempt through this ICA to set terms and conditions for Qwest’s relationship with other CLECs.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 9-33?**

A. The Commission should reject Eschelon’s vague proposals because they are not tied to any measurable metric, the ICA already protects Eschelon against network changes that alter transmission parameters, and both proposals would create counter-productive disincentive for Qwest to modernize and maintain its network.

*Issue No. 9-34*

**Q. IN DISCUSSING THE NOTICE OF NETWORK CHANGES THAT QWEST WILL PROVIDE TO ESCHELON, MR. STARKEY STATES THAT QWEST WILL NOT AGREE TO PROVIDE THE “LOCATION” OF CHANGES, AS THAT TERM HAS BEEN DEFINED BY THE FCC. IS THAT ASSERTION CORRECT?**

A. No. As I describe in my direct testimony, Qwest is committing to provide notices that meet the requirements of the FCC’s notice rule relating to network changes set forth in 47 C.F.R. § 51.327. Consistent with the requirements of that rule, Qwest will include in the notice information indicating the locations at which network changes will occur. Mr. Starkey asserts that the FCC’s reference to “location” effectively means that an ILEC must provide the address of every CLEC customer whose service could be affected by a change to the network. However, the FCC uses the term “location” in Rule 51.327 not to refer to the addresses of CLEC customers but, instead, to refer to “the location(s) at which the changes will occur.” In other words, an ILEC must identify the location in its network where the change will occur, which would, in turn, allow CLECs to determine based on their own records whether any of their customers could be affected by the change.

**Q. IS MR. STARKEY’S TESTIMONY SEEKING CUSTOMER ADDRESSES IN NOTICES OF NETWORK CHANGES CONSISTENT WITH THE COMMISSION’S DECISION IN THE QWEST-COVAD ARBITRATION?**

A. No. In that arbitration, the Commission rejected Covad’s demand that Qwest should be required to provide CLEC customer addresses in notices relating to Qwest’s retirement of copper loops.<sup>7</sup> Instead, the Commission accepted Qwest’s proposal to provide notices that comply with the FCC’s notice requirements and directed the parties to include a reference to those requirements in the ICA.

---

<sup>7</sup> Order No. 05-980, Arbitration Order, *In the Matter of Covad Communications Company Petition for Arbitration of an Interconnection Agreement with Qwest Corporation*, OPUC docket ARB 584 (September 6, 2005), Appendix A, at p. 5.

Consistent with that ruling and governing FCC rules relating to notice of network changes, Qwest does not have any obligation to provide Eschelon with the addresses of its customers that could be affected by network maintenance or modernization. Instead, Qwest's obligation is to provide Eschelon with sufficient information about where a network change is taking place so that Eschelon – not Qwest – can identify the addresses of any of its customers that could be affected by the change. In addition, if that information is not enough, Qwest's notices include the name and telephone number of a contact person at Qwest who can provide additional information about the location and nature of the network changes, as required by Rule 51.327(a)(2).

**Q. IS MR. STARKEY CORRECT IN ASSERTING AT PAGE 177 THAT THE “INTENT” OF THE FCC’S RULES RELATING TO NOTICE OF NETWORK CHANGES REQUIRES QWEST TO INCLUDE CIRCUIT IDENTIFICATION NUMBERS OF ESCHELON CIRCUITS IN ITS NOTICES?**

A. No. There is no requirement in Rule 51.327(a)(2) or any other FCC rule relating to notice for an ILEC to provide circuit ID numbers for CLEC circuits that are potentially affected by a network change. Eschelon has access to the circuit ID numbers of the circuits it obtains from Qwest. If Eschelon wants to know the ID numbers of circuits that may be affected by a network change, it can obtain that information from its own records after learning from Qwest the location of the network change. Eschelon should not be permitted to force Qwest to research this information – which would have to be done manually – when the information is readily available to Eschelon.

**Q. HAS ESCHELON ALSO SUBMITTED AN ALTERNATIVE PROPOSAL FOR THIS ISSUE?**

A. Yes. Eschelon has offered the following alternative proposal (in an updated draft of the ICA dated March 14, 2007) based on language ordered by the Administrative Law Judges in the Minnesota arbitration: “Such notices will contain the location(s) at which the changes will occur including, if the changes

are specific to an End User Customer, the circuit identification, if readily available.”

**Q. DOES THIS PROPOSAL ELIMINATE THE CONCERNS YOU HAVE DISCUSSED RELATING TO ESCHELON’S APPROACH TO THIS ISSUE?**

A. No. While this alternative proposal is an improvement on Eschelon’s original proposal, it still improperly attempts to shift the burden of determining circuit IDs from Eschelon to Qwest. Because Eschelon has access to circuit IDs in its own records and Qwest has neither ready access to those IDs nor a legal obligation to provide them, Eschelon’s alternative proposal is improper and should be rejected. Again, in the Qwest-Covad arbitration, the Commission rejected Covad’s notice proposal for copper retirements, ruling that Qwest’s agreement to comply with the FCC’s rules relating to notices of network changes was sufficient to ensure that Covad would receive proper notice of changes.<sup>8</sup> Consistent with that ruling and the FCC’s rules relating to notice, the Commission should reject Eschelon’s attempt to shift responsibility for locating circuits IDs onto Qwest.

**Issue No. 9-51 – Application of UDF-IOF Termination Rate Element**

**Q. PLEASE PROVIDE AN OVERVIEW OF THE DISPUTE RELATING TO ISSUE NO. 9-51.**

A. This issue concerns a dispute regarding how to define a rate element involving unbundled dark fiber (UDF). Eschelon has proposed changes to the definition of this rate element, claiming that the definition requires clarification. It is apparent, however, that through its proposed definitional change, Eschelon is actually seeking to limit Qwest’s ability to recover all the costs it incurs for dark fiber terminations.

---

<sup>8</sup> Order No. 05-980, docket ARB 584, Appendix A, p. 5.

**Q. WHY SHOULD THE COMMISSION ADOPT QWEST’S LANGUAGE RELATING TO THIS ISSUE?**

A. As I explain in my direct testimony, Qwest is often required to perform more than one dark fiber termination in a central office. Eschelon’s proposal would improperly deny Qwest compensation when more than one termination is required. Eschelon apparently has taken this position based on its erroneous view that the existing rate for dark fiber terminations already factors in the possibility of Qwest having to perform more than one termination in a central office. Qwest witness, Ms. Million, explains in her testimony why this view is wrong and establishes that the rate for dark fiber terminations is based on one termination and not on multiple terminations. Because that is the case, Qwest must be permitted to charge the rate for each termination in a central office in order to be fully compensated for its costs.

**Issue No. 9-53 - Access to UCCRE**

**Q. PLEASE PROVIDE AN OVERVIEW OF ISSUE NO. 9-53 AND YOUR INITIAL RESPONSE TO THE TESTIMONY OF MR. DENNEY.**

A. Issue No. 9-53 originated from Eschelon’s initial request that Qwest place the “Unbundled Customer Controlled Rearrangement Element” (“UCCRE”) product in the ICA at Section 9.9.<sup>9</sup> However, as confirmed by Mr. Denney,<sup>10</sup> as a re-write of its rules pursuant to the *TRRO*, the FCC has removed from Rule 51.319(d)(2)(iv) the requirement for ILECs to provide digital cross-connects for UCCRE.<sup>11</sup> UCCRE was the product that Qwest developed to meet the previous FCC requirement. As I discuss below, Mr. Denney asserts incorrectly that another FCC rule regarding simple central office cross-connects could be interpreted as requiring access to UCCRE.

---

<sup>9</sup> Eschelon has also identified this as Subject Matter No. 22 in the direct testimony of Mr. Denney.

<sup>10</sup> See Denney Direct, at p. 117.

<sup>11</sup> See and compare former 47 C.F.R. § 51.319(d)(2)(iv) and current 47 C.F.R. § 51.319(d)(2).

In addition, Mr. Denney's testimony does not include any claim that Eschelon's has any impending plans to use UCCRE or any impending need for it. Its concern relating to this issue is apparently hypothetical.

**Q. MR. DENNEY ASSERTS (PAGES 145 TO 146) THAT IF QWEST DOES NOT OFFER UCCRE IN THE ICA, ESCHELON WILL EXPERIENCE DISCRIMINATION AND BE AT A COMPETITIVE DISADVANTAGE. IS THERE ANY BASIS FOR THIS CLAIM?**

A. No. As an initial matter, neither Eschelon nor any other CLEC has ever ordered UCCRE service from Qwest in Oregon or in any other state. Having never had a need for UCCRE, Eschelon has little basis for complaining that it will be competitively disadvantaged without the service in the future.

In addition, Qwest is discontinuing UCCRE for all CLECs entering into new ICAs and for all other CLECs when their current ICAs eventually expire. Thus, Qwest is not singling out Eschelon, as Mr. Denney suggests. Instead, given the FCC's removal of UCCRE from its unbundling rules and the lack of CLEC demand for the service, Qwest is moving toward elimination of the service offering for all CLECs. The only difference among the CLECs is the timing of Qwest's elimination of UCCRE. For CLECs like Eschelon that are entering into new ICAs, Qwest is eliminating the UCCRE offering now by not including it in the new ICAs. For CLECs with ICAs that contain the UCCRE offering and that are not expiring soon, the offering will remain in their ICAs until they enter into new agreements. However, those CLECs, like Eschelon, have not demonstrated any demand for UCCRE.

**Q. IN HIS DIRECT TESTIMONY AT PAGE 146, MR. DENNEY CITES TO THE FACT THAT UCCRE IS AVAILABLE UNDER THE AT&T ICA AS EVIDENCE OF THE DISCRIMINATORY COMPETITIVE DISADVANTAGE THAT ESCHELON WOULD FACE IF UCCRE IS NOT INCLUDED IN ITS ICA. HAS AT&T EVER ORDERED UCCRE FROM QWEST UNDER THEIR ICAs?**



A. No. Neither AT&T nor any other CLEC has ever ordered UCCRE. Mr. Denney's claim of discriminatory competitive disadvantage lacks credibility especially given that neither the CLEC he cites nor any other CLEC have ever ordered UCCRE under their ICAs, and Eschelon itself has never ordered the service.

**Q. MR. DENNEY APPEARS TO ASSUME THAT QWEST CANNOT STOP OFFERING A PRODUCT OR SERVICE ELIMINATED BY THE FCC UNLESS IT OBTAINS APPROVAL FROM A STATE COMMISSION. IS THERE ANY BASIS FOR THAT ASSUMPTION?**

A. No. There is nothing in the *TRO* or the *TRRO* suggesting that ILECs must seek approval from a state commission before discontinuing the UNEs and services that the FCC eliminated from Section 251 in those orders. On the contrary, the FCC made it clear in the *TRRO* that its changes in unbundling requirements are to be implemented through the interconnection negotiation process, not by seeking approval of the changes from state commissions. Thus, the FCC states at paragraph 233 of the *TRRO* that "the incumbent LEC and competitive LEC must negotiate in good faith regarding any rates, terms, and conditions necessary to implement our rule changes."

Mr. Denney attempts to single out UCCRE by claiming that Qwest should be required to go to the Commission to seek approval to stop offering the product, instead of relying on the ICA negotiation process. There is no such requirement and, indeed, Qwest has proceeded just as the FCC has directed by relying on the ICA negotiation process.

**Q. GIVEN THAT THE FCC HAS DIRECTED ILECs AND CLECs TO RELY ON THE ICA NEGOTIATION PROCESS TO IMPLEMENT CHANGES IN UNBUNDLING REQUIREMENTS, IS IT INEVITABLE THAT THE TIMING OF NEGOTIATIONS WILL VARY TO SOME EXTENT FROM ONE CLEC TO ANOTHER?**

A. Yes. Qwest, of course, cannot renegotiate ICAs with all CLECs at precisely the same time. As a result, it is unavoidable that changes in the FCC's unbundling requirements will be implemented sooner for some CLECs than for others. For example, if Qwest and a CLEC mutually agree upon all the provisions of a renegotiated ICA implementing the *TRO* and *TRRO*, that agreement likely can be completed and approved in a matter of a few months. By contrast, if Qwest and a CLEC do not agree on the provisions required to implement the *TRO* and the *TRRO* and are required to arbitrate, it would take much longer to complete and have the agreement approved. As a result, for some period of time, one CLEC is likely to have an ICA with different unbundling requirements than are in another CLEC's ICA. The differences in the ICAs are not the result of discrimination, as Mr. Denney would suggest, but are instead the result of inevitable differences in timing.

**Q. WHEN IT HAS ELIMINATED THE OBLIGATION TO PROVIDE CERTAIN PRODUCTS AND ELEMENTS, HAS THE FCC RECOGNIZED THAT THERE MAY BE A PERIOD OF TIME DURING WHICH A PRODUCT OR ELEMENT WILL CONTINUE TO BE AVAILABLE TO SOME CARRIERS WHILE NOT BEING AVAILABLE TO OTHER CARRIERS?**

A. Yes. The FCC has used the concept of "grandfathered" service to give carriers that have relied on a product or service time to adjust to the elimination of the product or service. In these circumstances, the FCC has adopted transitional phase-outs for carriers that have previously relied on the product or service, while making the product or service immediately unavailable to carriers that did not previously rely on it. For example, while the FCC eliminated the high frequency portion of the loop ("HFPL") as a UNE in the *TRO*, it permitted CLECs with existing "line sharing arrangements" to continue obtaining the HFPL at whatever rate the ILEC was charging prior to the *TRO*.<sup>12</sup> However, those pre-*TRO* rates were no longer available for CLECs that did not have "grandfathered" line

---

<sup>12</sup> *TRO*, at ¶ 264.

sharing arrangements. Those CLECs were required to pay different rates than the FCC established as part of its phase-out of the HFPL as a UNE.<sup>13</sup>

As this example shows, the FCC recognizes that there will be timing differences among CLECs in the implementation of its network unbundling orders. These differences do not result in a form of discrimination prohibited by the Act; instead, they are the result of necessary and often unavoidable differences in the timing of implementation of the FCC's orders and contract replacements.

**Q. IN THE UNLIKELY EVENT THAT ESCHELON HAS A NEED FOR UCCRE, CAN IT OBTAIN THE SERVICE FROM QWEST EVEN IF IT IS NOT INCLUDED IN THE ICA?**

A. Yes. As I discuss in my direct testimony, in the unlikely event that Eschelon has a need for UCCRE, it can obtain the service through Qwest's retail Command-A-Link tariff.

**Q. IS MR. DENNEY CORRECT IN STATING THAT THE FCC DID NOT INTEND TO ELIMINATE UCCRE EVEN THOUGH THE FCC HAS REMOVED ACCESS TO DIGITAL CROSS-CONNECT SYSTEMS FROM ITS NETWORK UNBUNDLING RULES?**

A. No. As Mr. Denney acknowledges, UCCRE service is provided through access to digital cross-connect systems. Prior to the *TRO*, FCC Rule 51.319(d)(2)(iv) required ILECs to provide access to the functionality of digital cross-connect systems. Following the *TRO*, as Mr. Denney admits (at page 160), the FCC eliminated this provision, thereby establishing that ILECs are not required to provide access to the functionality of digital cross-connect systems. Because UCCRE service is dependent upon access to these systems, the FCC's elimination of this unbundling obligation necessarily established that ILECs have no obligation to provide unbundled access to UCCRE service.

---

<sup>13</sup> *TRO*, at ¶ 265.

Mr. Denney's suggestion that the FCC did not truly intend to eliminate access to digital cross-connect systems and UCCRE when it modified its unbundling rules after the *TRO* is inaccurate. First, if there were any merit to the argument that the FCC's unbundling rules should not be implemented as they are written, but should instead be implemented as a party believes they were intended, the rules would be completely malleable and uncertain. I am not a lawyer, but I do not believe that is how agency rules and regulations are implemented. Second, there is no basis for Mr. Denney's conclusion that the FCC did not intend to eliminate access to digital cross-connect systems in its post-*TRO* rules. If that were the case, the FCC would have corrected its alleged oversight through an errata or some other corrective measure. That it has not done so confirms that it deliberately eliminated UCCRE from its unbundling rules.

**Q. DOES THE REQUIREMENT IN RULE 51.305(A)(2)(IV) FOR ILECs TO PROVIDE INTERCONNECTION AT "CENTRAL OFFICE CROSS-CONNECT POINTS" IMPLICITLY IMPOSE A REQUIREMENT TO PROVIDE ACCESS TO CROSS-CONNECT SYSTEMS, AS MR. DENNEY SUGGESTS (PAGE 160)?**

A. No. If the FCC had intended to continue requiring ILECs to provide access to UCCRE, it would not have deleted the rule requiring that access in reliance on a different rule that does not mention access to cross-connect systems. It is simply illogical to assume, as Mr. Denney does, that FCC chose to move from a clear requirement in a former rule to a vague, inferential requirement based on a rule that does not even address UCCRE.

**Q. SHOULD QWEST HAVE THE RIGHT TO STOP OFFERING A SERVICE LIKE UCCRE THAT THE FCC HAS ELIMINATED FROM ITS UNBUNDLING RULES AND THAT CLECs DO NOT ORDER?**

A. Yes. If the FCC determines that there is no longer a competitive need for ILECs to offer a product or a service, ILECs have no legal obligation to continue offering the product or service in new ICAs. Under Mr. Denney's argument and Eschelon's proposal for Sections 9.9 and 9.9.1, Qwest would be denied the

benefits from these changes in the law for indefinite periods of time because old ICAs do not include the new legal requirements. The result would be that Qwest would be forced to enter into new ICAs that reflect old law and competitive conditions that no longer exist. That approach is not consistent with sound public policy and law, as it would fail to give effect to the FCC's determinations of what the current law should be based on competitive conditions.

**Q. PLEASE SUMMARIZE YOUR RECOMMENDATION FOR ISSUE NO. 9-53.**

- A. The Commission should reject Eschelon's attempt to impose unnecessary administrative and notice requirements for a product that Qwest has no legal obligation to offer and for which CLECs, including Eschelon, have shown no demand. In addition, there is no reasonable basis for requiring Qwest to maintain external and internal documentation, pricing and ordering information for a service that has never been ordered. Thus, the Commission should reject Eschelon's proposed Sections 9.9 and 9.9.1 and exclude UCCRE from the ICA.

**Issue No. 9-55 - Combinations of Loops and Transport**

**Q. PLEASE PROVIDE AN OVERVIEW OF THE DISPUTES ENCOMPASSED BY ISSUE NO. 9-55.**

- A. While Issue No. 9-55 (also identified in the testimony of Mr. Starkey as Subject Matter No. 24) encompasses multiple provisions of the ICA, there are a small number of fundamental differences in the parties' positions that account for the parties' conflicting ICA language for these provisions. Generally, Qwest's proposed Section 9.23.4 describes the terms and conditions for Enhanced Extended Loops ("EELs"), Commingled EEL circuits and High Capacity EELs. The Qwest EEL product offering consists of a combination of an Unbundled Loop and UDIT. However, in response to Eschelon's proposal, Qwest agreed to remove the terms and conditions associated with commingling (*i.e.*, the combining of a UNE and non-UNE network circuit) from Section 9.23 and to create a new ICA Section 24 dedicated to commingling. This change in structure has challenged both parties to make sure the necessary terms and conditions are

described in each section and to make sure that inappropriate duplication does not occur.

**Q. PLEASE DESCRIBE THE SPECIFIC DISPUTE RELATING TO ISSUE NO. 9-55.**

A. The dispute covered by Issue No. 9-55 arises from Eschelon's attempt to define a "Loop-Transport Combination" as a generic "umbrella" EEL, and then sweep unique products and commingled circuits with unique terms and conditions under this umbrella. Specifically, the products are: EELs, Commingled EEL circuits (which is an arrangement where either an EEL transport or EEL loop circuit is connected to a private line circuit), and High Capacity EELs.<sup>14</sup> The problem with Eschelon's proposal is that Qwest does not have a "Loop-Transport Combination" generic EEL offering. Through its proposed language, Eschelon is attempting to either create a product offering that does not exist, or eliminate the distinctions between the product offerings and commingled arrangement identified above. In either case, Qwest opposes this attempt on Eschelon's part to create a new Qwest product and, accordingly, objects to inserting the term "Loop-Transport Combinations" in the ICA provisions. Qwest further opposes Eschelon's attempts to add confusion regarding the unique terms and conditions relating to EELs, Commingled EEL circuits, and High Capacity EELs.

**Q. AT PAGE 214, MR. STARKEY CLAIMS THE USE OF LOOP-TRANSPORT COMBINATION IS "EFFICIENT" BECAUSE YOU DON'T HAVE TO LIST ALL THREE TERMS MULTIPLE TIMES. DO YOU AGREE?**

A. No. The three EELs identified by Mr. Starkey (*i.e.*, EELs, Commingled EEL circuits and High Capacity EELs) have different terms and conditions that apply to each arrangement and, accordingly, should be listed and addressed separately. There is nothing "efficient" about trying to discuss three distinct service arrangements as if they are a single product. On the contrary, the use of the same

---

<sup>14</sup> Eschelon proposed ICA at Section 9.23.4.

name for different products with distinct attributes will cause confusion and potential inefficiency.

**Q. DO YOU HAVE ANY COMMENTS REGARDING MR. STARKEY'S STATED BUSINESS REASON FOR WANTING TO INCLUDED "LOOP-TRANSPORT COMBINATIONS" IN THE ICA?**

A. Yes. Mr. Starkey states at pages 215-216 that if a combination is created between a UNE circuit and a private line circuit, then the UNE circuit terms and conditions should be included in the ICA so that this Commission retains jurisdiction over the UNE circuit. Mr. Starkey suggests this is Eschelon's only objective in proposing this language.

**Q. WHAT IS QWEST'S RESPONSE TO THIS CONCERN AND OBJECTIVE OF ESCHELON'S?**

A. Setting aside Qwest's concerns that the Eschelon language goes way beyond, and is not consistent with, Eschelon's stated objectives, Qwest is in conceptual agreement with Eschelon -- the ICA should govern the rates, terms and conditions of the UNE circuit in a commingled arrangement, and the appropriate tariff or price list should cover the rates, terms and conditions of the private line circuit in the commingled arrangement.

However, as I stated above, Eschelon's language is not consistent with (and clearly goes beyond) this clear and simple objective. Eschelon attempts to modify, change and add ambiguities to numerous ICA provisions toward the supposed end of achieving this objection. If this is Eschelon's actual objective, then Qwest proposes the following ICA language to address Eschelon's concerns and to settle Issue No. 9-55:

When a UNE circuit is commingled with a non-UNE circuit, the rates, terms and conditions of the ICA will apply to the UNE circuit (including Commission jurisdiction) and the non-UNE circuit will be governed by the rates, terms and conditions of the appropriate Tariff.<sup>15</sup>

---

<sup>15</sup> "Tariff" as used in the ICA is a defined term that refers to Qwest interstate tariffs and state

Qwest would agree to insert this language both in Section 9.23 and in the Eschelon-proposed Section 24 Commingling section of the ICA. This is a clear and straightforward manner for addressing Eschelon's expressed concerns without creating undue confusion in Section 9.23 of the ICA. In fact, Qwest has already made such a commitment at section 24.1.2.1. Nonetheless, Qwest would agree to state it again to assure Eschelon that this is not a problem that needs extensive and confusing edits to the ICA.

**Q. YOU STATE THAT ESCHELON'S LANGUAGE GOES BEYOND ESCHELON'S STATED OBJECTIVE. CAN YOU PROVIDE AN EXAMPLE TO SUPPORT YOUR STATEMENT?**

A. Yes. I did not have to search far to confirm the legitimacy of this concern. In its own testimony, Eschelon states: "Eschelon proposes use of the term 'Loop Transport Combination,' which would include Commingled EELs as being ordered through the LSR process."<sup>16</sup> This statement sheds light on Eschelon's true motive, since the "Loop Transport Combination" umbrella product would impose significant process and systems changes on Qwest. This is because Qwest's current systems require the use of both LSRs and ASRs for Commingled EELs, and Eschelon's proposal would eliminate the use of ASRs for this product.

**Q. WHAT CONCERNS DOES QWEST HAVE ABOUT HAVING THE ENTIRE COMMINGLED ARRANGEMENT (NOT JUST THE UNE CIRCUIT) GOVERNED BY THE ICA UNDER ESCHELON'S LOOP-TRANSPORT UMBRELLA TERM?**

A. Qwest is concerned that Eschelon is seeking to have Qwest's special access and private line circuit's terms and conditions be governed by the ICA. This is improper because special access and private line services are provided pursuant to tariffs, not pursuant to Section 251 of the Act, and, accordingly, terms and conditions for these services are found in the governing tariffs, not in ICAs.

---

tariffs, price lists and price schedules.

<sup>16</sup> See Denney Direct, at p. 185.



Moreover, in combination with its demands that commingled arrangements be put in place with a single order, or LSR, and be billed in Qwest's "CRIS" billing system, Eschelon is attempting directly to have this Commission (via an ICA arbitration) force Qwest to change its special access and private line service order process and billing arrangements. By eliminating the commingling restriction, the FCC modified the rules to permit CLECs to commingle UNEs and combinations of UNEs with services (*e.g.*, switched, special access and private line services offered pursuant to tariff) that a requesting carrier has obtained at wholesale from an ILEC pursuant to any method other than unbundling under section 251(c)(3) of the Act. Wholesale services such as switched and special access services have always been separate and distinct products from those UNE products provided to CLECs under the terms and conditions of their ICA. Each of these products, whether it is tariffed or UNE, has its own established ordering, provisioning, and billing systems and methods. Eliminating the commingling restriction did not change that, and nowhere in the *TRO* or *TRRO* does the FCC require ILECs to modify the rate, terms and conditions of their special access and private lines services, beyond removing any commingling with UNE restrictions. The FCC only required the ILECs to perform the necessary functions to effectuate such commingling upon request. Qwest has established provisioning processes and methods for all commingled arrangements to meet that requirement and has provided for billing of the UNE rates to the UNE circuit and the appropriate special access and/or private line tariff rates to the tariffed circuit.

**Q. ON PAGES 214-215, MR. STARKEY IMPLIES THAT QWEST, VIA THE ICA, IS ATTEMPTING TO HAVE THE UNE PORTIONS OF A COMMINGLED ARRANGEMENT BE COVERED BY ITS TARIFFS. DO YOU AGREE WITH THIS ACCUSATION?**

A. No. Qwest has not made any attempt to have the terms and conditions for UNEs be dictated by the terms in its tariffs that govern access services. Mr. Starkey does not provide any support for his accusation. In fact, in agreed ICA language, Qwest commits as follows:

24.1.2.1 The UNE component(s) of any Commingled arrangement is governed by the applicable terms of this Agreement. The other component(s) of any Commingled arrangement is governed by the terms of the alternative service arrangement pursuant to which that component is offered (e.g., Qwest's applicable Tariffs, price lists, catalogs, or commercial agreements). Performance measurements and/or remedies under this Agreement apply only to the UNE component(s) of any Commingled arrangement. Qwest is not relieved from those measurements and remedies by virtue of the fact that the UNE is part of a Commingled arrangement.

Qwest has been clear that when two circuits are commingled, each circuit retains the appropriate terms and conditions. Mr. Starkey's unsupported accusations are clearly at odds with the Qwest-approved ICA language. As I stated above, it is Eschelon's proposed melding of EELs, Commingled EEL circuits and High Capacity EELs into a single umbrella product that creates the confusion regarding this issue.

**Q. MR. STARKEY QUOTES FCC REFERENCES TO “LOOP-TRANSPORT COMBINATIONS” IN HIS TESTIMONY AS SUPPORT FOR ESCHELON’S LANGUAGE.<sup>17</sup> WHAT IS YOUR RESPONSE TO THESE FCC REFERENCES?**

A. Both references, to paragraphs 575 and 576 of the *TRO*, discuss “UNE combinations,” which means a combination that is made up of a UNE loop and UNE transport. Neither of these cites discusses combinations between UNEs and non-UNEs. There is no basis for Mr. Starkey's leap of logic under which he assumes that that because the FCC discusses “UNE Combinations,” Eschelon is some how free to attempt to thrust upon Qwest a new loop-transport definition that covers UNE combinations and UNEs with private line combinations.

Mr. Starkey's next two FCC references, to paragraphs 584 and 593 of the *TRO*, actually support Qwest's language. Paragraph 584 notes that UNE and private line combinations are clearly identified as “commingled” loop transport combinations, and paragraph 593 further defines such arrangements as a

---

<sup>17</sup> See Starkey Direct, at pp. 213-214.

“commingled EEL.” Commingled EEL is Qwest’s name for UNE and private line loop-transport combinations. His final cite to paragraph 594 again modifies loop-transport combinations with the “commingled” descriptor.

In summary, none of the FCC references identified by Mr. Starkey supports Eschelon’s proposal for use of a confusing umbrella definition of “loop-transport combination” that attempts to cover UNE combinations and UNEs with private line combinations.

**Q. IN SUMMARY, WHY SHOULD THE COMMISSION ADOPT QWEST’S PROPOSAL AND REJECT ESCHELON’S USE OF THE TERM “LOOP-TRANSPORT COMBINATIONS”?**

- A. The FCC uses the term “loop-transport combination” to generally describe varieties of EELs, not to establish an unbundled product separate from EELs. By contrast, Eschelon uses “loop-transport combination” as a defined term that applies equally to EELs, High Capacity EELs, and Commingled EELs. Although “loop-transport combination” is not a Qwest product, Eschelon improperly proposes to assign product attributes to it. *See, e.g.*, §§ 9.23.4.4.3.1 (Intervals); 9.23.4.5.1.1 (Billing); 9.23.4.6.6 (BANS).

Qwest has developed and implemented separate and distinct systems, procedures and provisioning intervals for EELs, UNEs and tariffed private line services and is under no legal requirement to implement costly modifications to provide Eschelon’s proposed “loop-transport combination” umbrella product.

If Eschelon’s true concern is that UNEs be governed under the ICA and Commission jurisdiction while non-UNE (*e.g.*, private line) circuits be governed under the applicable tariff, Qwest’s proposed ICA language addresses that concern. Qwest recommends the Commission adopt the Qwest proposed language and that it reject the Eschelon “Loop-Transport Combination” language.

**Issue Nos. 9-56 and 9-56a – Service Eligibility Criteria Audits**

**Q. MR. DENNEY EXPLAINS AT PAGE 166 OF HIS DIRECT TESTIMONY THAT ESCHELON’S PROPOSAL RELATING TO SERVICE ELIGIBILITY AUDITS IS PREMISED ON THE ASSUMPTION THAT THE FCC PERMITS ILECs TO CONDUCT THESE AUDITS ONLY UPON A SHOWING OF CAUSE? IS MR. DENNEY CORRECT IN ASSERTING THAT AN ILEC MUST STATE THE REASON OR CAUSE BEFORE CONDUCTING AN AUDIT?**

A. No. This issue involves a straightforward interpretation and application of the FCC’s rulings in the *TRO* relating to the rights of ILECs to conduct audits to determine if CLECs are complying with the service eligibility requirements that apply to High Capacity EELs. Mr. Denney relies on a partial, incomplete quote and an inaccurate description of the FCC’s rulings in an attempt to support his assertion that “Qwest is required by the FCC to have cause before conducting an audit regarding CLEC compliance with service eligibility requirements.” An accurate reading of the *TRO* shows that the FCC did not impose a “cause” requirement for ILEC audits.

Moreover, a “for cause” requirement would inevitably lead to disputes and delays, since it is likely that Qwest and Eschelon would not agree on what is a reasonable “cause.” This is particularly likely given the vagueness of the term, as proposed by Eschelon. The end result would be that Qwest’s attempts to exercise its legal right to conduct audits would be forced into a lengthy, time-consuming dispute resolution processes. That is not what the FCC envisioned when it granted ILECs audit rights without imposing any “for cause” requirement.

**Q. PLEASE DESCRIBE THE AUDIT RIGHTS THAT THE FCC GRANTED ILECs IN THE *TRO* FOR DETERMINING CLEC COMPLIANCE WITH THE SERVICE ELIGIBILITY CRITERIA.**

A. Contrary to Mr. Denney’s assertion, the FCC did not condition ILEC audit rights on a demonstration of cause or its reason to believe that a CLEC is violating the service eligibility criteria. Instead, as described in paragraph 626 of the *TRO*, an

ILEC is permitted to “obtain and pay for an independent auditor to audit, on an annual basis, compliance with the qualifying service eligibility criteria.” The auditor must issue an opinion regarding the requesting carrier’s compliance with the criteria. If the auditor determines that the CLEC is not in compliance, the CLEC must make true-up payments, convert non-complying circuits to the appropriate service, and may have to pay the costs of the independent auditor. If the auditor concludes that the CLEC is complying with the criteria, the ILEC must reimburse the CLEC for the costs associated with the audit. Nowhere in this description of ILEC audit rights does the FCC refer to or impose a demonstration of reason or cause requirement.

- Q. SINCE THE FCC DID NOT IMPOSE A REASON OR CAUSE REQUIREMENT FOR SERVICE ELIGIBILITY AUDITS, IS THE AUDIT PROCESS SUBJECT TO POTENTIAL ABUSE BY THE ILECs, AS MR. DENNEY CLAIMS?**
- A. No. While the FCC did not impose a reason or cause requirement, it did take steps to ensure that ILECs would not abuse the audit process. Specifically, as I describe above, the FCC established that if an auditor concludes that the CLEC is complying with the service eligibility criteria, the ILEC must reimburse the CLEC for the costs associated with the audit. This reimbursement obligation gives ILECs a strong incentive not to conduct abusive audits. Indeed, the FCC stated in paragraph 628 of the *TRO* that the intent of this reimbursement requirement for ILECs is to “eliminate the potential for abusive or unfounded audits.” In addition, the *TRO* establishes that ILECs are permitted to conduct audits only “on an annual basis,” which further prevents ILECs from conducting abusive audits. It is through this reimbursement scheme and the annual limit on audits, not through a “cause” requirement, that the FCC eliminated the potential for abusive audits.
- Q. HOW DOES MR. DENNEY INACCURATELY QUOTE THE *TRO* IN CLAIMING THAT THE FCC IMPOSED A REASON OR CAUSE REQUIREMENT FOR SERVICE ELIGIBILITY AUDITS?**

A. Mr. Denney relies on a partial quote of paragraph 621 of the *TRO* where the FCC quotes a prior order in which it said that audits “will not be routine practice” and will be undertaken only when the ILEC has a concern about compliance with the service eligibility criteria. The first problem with Mr. Denney’s presentation of this quote is that the statement is from an FCC order – the *Supplemental Order Clarification* – that was superseded by the *TRO*’s pronouncements relating to service eligibility requirements and ILEC audit rights. It is curious that Mr. Denney does not quote or describe in any detail the FCC’s rulings in the *TRO* relating to audit rights, since those rulings are the FCC’s latest and last word on the subject. The second problem with Mr. Denney’s reliance on this quote is that he fails to discuss the footnote – footnote 1898 from the *TRO* – that follows the paragraph from which the quote is taken. In that paragraph, the FCC summarizes the audit rights it established in the *Supplemental Order Clarification*. Conspicuously absent from that summary is any mention of a “for cause” requirement. In summary, Mr. Denney’s attempt to take a single sentence (out of an entire section describing audit rights) out of context is not persuasive. The FCC has been consistent and specific regarding ILECs’ audit rights; if it had intended to impose a “for cause” requirement, it would have said so.

**Q. MR. DENNEY ALSO IMPLIES (PAGE 166) THAT QWEST HAS NOT AGREED TO REIMBURSE ESCHELON FOR THE COSTS OF AN AUDIT IF AN AUDITOR DETERMINES THAT ESCHELON IS COMPLYING WITH THE SERVICE ELIGIBILITY CRITERIA? IS THAT ASSERTION ACCURATE?**

A. No. Mr. Denney has overlooked or ignored an agreed provision in the ICA under which Qwest commits very clearly that it will reimburse Eschelon for the costs of an audit that results in a finding that Eschelon is complying with the service eligibility criteria. Section 9.23.4.3.1.3.5 could not be any clearer:

To the extent the independent auditor’s report finds that [Eschelon] complied in material respects with the Service Eligibility Criteria, Qwest must reimburse [Eschelon] for [Eschelon’s] costs associated with the audit, including staff time and other appropriate costs for responding to the

audit (e.g., collecting data in response to auditor's inquiries, meeting for interviews, etc.).

As this language shows, the reimbursement scheme that the FCC adopted as protection against abusive audits is in the ICA. There is therefore no practical need and no legal basis for Eschelon's "cause" proposal.

**Q. HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

A. The Commission should reject Eschelon's proposed addition to Section 9.23.4.3.1.1, and thereby allow Qwest to retain the limited audit rights granted by the FCC in the *TRO*. Further, for the same reasons that I describe above, the Commission should reject Eschelon's demand that Qwest provide information about specific circuits that may not be in compliance with the service eligibility requirements as a pre-condition to an audit. There is no cause requirement for audits and certainly no mention anywhere by the FCC of a requirement to identify specific circuits as a pre-condition to an audit. Furthermore, any such requirement could result in additional disputes and delays in Qwest's exercise of its established right to conduct audits, as Eschelon could impose delay by triggering a debate concerning whether "cause" for an audit exists.

**Issue Nos. 9-58 (ALL A, B, C, D, E) Ordering, Billing, and Circuit ID for Commingled Arrangements**

**Q. PLEASE PROVIDE A SUMMARY OF THIS ISSUE.**

A. Issue No. 9-58 and the related sub-issues (a, b, c, d, e) (identified in Eschelon's testimony as Subject Matter No. 26) involve process-related disputes between the parties. When a CLEC orders either an EEL loop or EEL transport commingled with a private line transport circuit or a channel termination circuit (a Commingled EEL), it is necessary to order, provision and bill each circuit out of the appropriate Qwest service order systems and to follow the established processes Qwest has for these products. For example, when a CLEC orders an EEL loop commingled with a private line transport circuit, the design of Qwest's systems and processes requires that the CLEC order the EEL loop by submitting a LSR. Qwest bills the CLEC for this network element through its "CRIS" system.

By contrast, the design of Qwest's systems and processes requires that the CLEC order the private line transport circuit by submitting an ASR, and Qwest bills the CLEC for this circuit through a different billing system referred to as the "IABS system." Each circuit is separate and, to permit proper tracking of the product for provisioning and billing purposes, is assigned its own circuit ID. Moreover, the EEL loop is provided pursuant to terms and conditions that are specific to that facility, and the private line transport circuit is provided based on specifically defined terms and conditions set forth in tariffs.

This dispute arises because of Eschelon's demands that Qwest modify its systems and processes so that commingled EELs are provisioned and processed as though they are a single, unified UNE element, instead of a combination of two very distinct circuits with distinct characteristics and provisioning requirements. Eschelon's proposals in this regard would require very significant changes to Qwest's systems and processes at a very substantial cost. In addition to the fact that Qwest has no obligation to make such changes, Eschelon apparently is not proposing to compensate Qwest for the costs they would impose.

Issue No. 9-58 is also connected to Issue No. 9-55 and Eschelon's attempt to define a "Loop-Transport Combination" as a generic "umbrella" EEL encompassing EELs, Commingled EELs, and High Capacity EELs. The net result is that Eschelon is requesting that the ICA govern the Qwest special access and private line circuits that comprise a commingled arrangement.

- Q. WHAT CONCERNS DOES QWEST HAVE ABOUT HAVING THE ENTIRE COMMINGLED ARRANGEMENT (NOT JUST THE UNE CIRCUIT) GOVERNED BY THE ICA UNDER ESCHELON'S LOOP-TRANSPORT UMBRELLA TERM?**
- A. As I discuss above, Qwest is concerned that Eschelon is seeking to have Qwest's special access and private line circuit terms and conditions be governed by the ICA. This is improper because these are tariffed services that Qwest does not provide pursuant to Section 251 of the Act, and, therefore, ICA terms and



conditions do not apply to them. Moreover, the combination of Eschelon's demands that commingled arrangements be put in place with a single LSR and be billed in CRIS is a direct attempt to have this Commission (via an ICA arbitration) force Qwest to change its special access and private line service order process and billing arrangements.<sup>18</sup>

By eliminating the former restriction on commingling in the *TRO*, the FCC modified the rules to permit CLECs to commingle UNEs and combinations of UNEs with services (*e.g.*, switched, special access and private line services offered pursuant to tariff) that a requesting carrier has obtained at wholesale from an ILEC pursuant to any method other than unbundling under section 251(c)(3) of the Act. Wholesale services such as switched and special access services have always been separate and distinct products from those UNE products provided to CLECs under the terms and conditions of their ICA. Each of these products, whether the product is tariffed or a UNE, has its own established ordering, provisioning, and billing systems and methods. Eliminating the commingling restriction did not change this. Nowhere in the *TRO* or *TRRO* does the FCC require ILECs to modify the rate, terms and conditions of their special access and private lines services, beyond removing any commingling with UNE restrictions. The FCC only required the ILECs to perform the necessary functions to effectuate such commingling upon request. Qwest has established provisioning processes and methods for all commingled arrangements to meet that requirement. Qwest's processes and methods provide for billing of the UNE rates to the UNE circuit and the appropriate special access and/or private line tariff rates to the tariffed circuit.

**Q. MR. DENNEY SUGGESTS ON PAGES 170 THAT THE REQUIREMENT TO ORDER COMMINGLED EELs IN THE MANNER PROPOSED BY QWEST IS SO ONEROUS AND INEFFICIENT THAT THE**

---

<sup>18</sup> See Denney Direct, at p. 185.

**COMMINGLED EEL WOULD NOT BE USEFUL TO CLECs. DO YOU HAVE ANY COMMENTS?**

- A. Yes. A Commingled EEL is a commingled arrangement, consisting of an EEL transport or EEL Loop circuit connected to a Private Line transport or Private Line channel termination circuit. Both the UNE and the Private Line circuits are ordered and billed separately, and there are numerous possible variations that do not lead to a Commingled EEL being defined as a single product offering, as Eschelon is demanding that Qwest create and develop.

Moreover, numerous UNE, access and private line network arrangements require multiple orders to be placed and multiple circuit IDs to be managed. Even Eschelon acknowledges with its language at Section 9.23.4.5.4 that multiplexed facilities require at least two service orders and multiple circuits IDs. The typical arrangement of 28 DS1s multiplexed on to a DS3 facility will have up to 29 different circuit IDs. This is true in the UNE EEL, special access and private line arena. Eschelon has not suggested that Qwest commingle two separate facilities of different bandwidth/capacity into one order, one bill, and one circuit ID. I fail to understand how having a Commingled EEL arrangement -- when the private line circuit and the EEL circuit are the same bandwidth capacity -- provisioned with two service orders and two circuit IDs would be so burdensome as to cause CLECs to not find this a useful offering.

**Q. DOES QWEST ANTICIPATE THERE WILL BE A LARGE VOLUME OF CLEC ORDERS FOR A SINGLE BANDWIDTH COMMINGLED EEL ARRANGEMENT?**

- A. No. When available, Eschelon will select the "all UNE EEL" option, which does not implicate the ordering and provisioning concerns that Eschelon expresses. Eschelon's statements about the difficulty of having to manage one additional circuit ID and one additional service order per Commingled EEL therefore revolve around a very narrow application -- that of a single bandwidth Commingled EEL when the all UNE loop and transport EEL is not available. It is

not realistic that this narrow circumstance could have the broad market implications that Mr. Denney suggests.

**Q. WHEN WOULD YOU TYPICALLY SEE A SINGLE BANDWIDTH COMMINGLED EEL UTILIZED BY A CLEC?**

A. Generally, a CLEC's first choice will be to use UNE transport and UNE loops (when available) to make a UNE EEL. In the event one or the other is not available, then a CLEC will use a special access or private line circuit with a UNE circuit in a commingled arrangement (*i.e.*, a Commingled EEL). Qwest agrees with Mr. Denney that the need for a same bandwidth Commingled EEL typically arises when the transport is between non-impaired wire centers, resulting in a CLEC being required to use tariffed transport with a UNE loop.<sup>19</sup>

**Q. WHAT IS THE SPECIFIC DISPUTE ENCOMPASSED BY ISSUE NO. 9-58?**

A. Issue No. 9-58 involves Eschelon's attempt to require Qwest to overhaul its systems and processes to make them capable of handling a single LSR service order request whenever Eschelon orders any product encompassed by its "Loop-Transport Combination" umbrella term. *See* Echelon's proposed language for Sections 9.23.4.5.1, 9.23.4.5.1.1 and 9.23.4.5.4.

**Q. DOES THIS CREATE CONCERNS FOR QWEST RELATING TO ITS PROVISIONING AND INSTALLATION PROCESSES?**

A. Yes. In particular, these concerns arise when the request is for a Commingled EEL. As I describe above, when a CLEC orders an EEL Loop commingled with a special access transport circuit, the design of Qwest's systems and processes requires that the CLEC order the EEL loop by submitting a LSR. Qwest bills the CLEC for this network element through its "CRIS" system. By contrast, the design of Qwest's systems and processes requires that the CLEC order the special

---

<sup>19</sup> *See* Denney Direct, at p. 170.

access transport circuit by submitting an ASR, and Qwest bills the CLEC for this circuit through a different billing system referred to as the “IABS system.”

**Q. WHAT IS YOUR RESPONSE TO MR. DENNEY’S STATEMENT THAT ESCHELON’S PROPOSALS (THAT THE COMMINGLED EEL BE IMPLEMENTED ON A SINGLE LSR) ARE “SIMPLE”?**

A. Despite Mr. Denney’s representation on page 171 that Eschelon’s proposals are “simple,” the simplistic idea of using the remarks section of the LSR to convey that this is a UNE circuit commingled with a private line circuit is not reasonable or feasible with the current Qwest provisioning systems. The remarks section can be utilized to convey information at the time of ordering or repair. However, once the initial activity has been completed, Qwest’s systems do not retain, much less read, the remarks section of the original LSR. This fact is even more critical, as I discuss later in this section, in connection with Eschelon’s request for a single circuit ID for commingled arrangements.

**Q. CAN YOU PROVIDE AN EXAMPLE OF A SYSTEM THAT CANNOT READ THE REMARKS SECTION?**

A. Yes. UNEs are subject to specific performance indicator measurements (“PIDs”) and potential “PAP payments” by Qwest for failing to meet performance metrics. Special access and private line arrangements are not subject to the same performance indicator measurements and potential PAP payments. If Qwest were required to create a hybrid product (such as would result if all of Eschelon’s proposals in 9-58 a, b, c, d, e were adopted by the Commission) that was a mix of both the UNE circuit and private line facilities, it would be inappropriate to subject Qwest to UNE-specific PIDs and potential payments on this hybrid product.

If a single LSR and single circuit ID (as Eschelon proposes in Issue 58(a)) were utilized, Qwest’s systems would not recognize what part of the hybrid circuit has an installation and/or repair issue linked to a specific performance indicator measurement and potential payment. In addition, our systems used to track these

measurements do not read and filter results by the remarks section of the LSR. While Qwest believes the complete Eschelon proposal in Issue Nos. 9-58 A, B, C, D, E should be rejected, at a minimum, the Commission would need to exclude such hybrid products from the Oregon UNE-specific performance indicator measurements.

**Q. DOES QWEST COMMIT IN THE ICA THAT THE UNE CIRCUIT COMMINGLED WITH A PRIVATE LINE CIRCUIT (COMMINGLED EEL) WILL BE PROPERLY MEASURED BY PIDs, AND IF APPROPRIATE, THAT PAP PAYMENTS WILL BE MADE IF THERE IS A PERFORMANCE ISSUE WITH UNE?**

A. Yes. Qwest has made that commitment in the ICA at Section 24.1.2.1:

24.1.2.1 The UNE component(s) of any Commingled arrangement is governed by the applicable terms of this Agreement. The other component(s) of any Commingled arrangement is governed by the terms of the alternative service arrangement pursuant to which that component is offered (e.g., Qwest's applicable Tariffs, price lists, catalogs, or commercial agreements). Performance measurements and/or remedies under this Agreement apply only to the UNE component(s) of any Commingled arrangement. Qwest is not relieved from those measurements and remedies by virtue of the fact that the UNE is part of a Commingled arrangement.

The Qwest process for Commingled EELs thus expressly establishes application of the correct performance measurements for the UNE circuit component of the Commingled EEL.

**Q. HAS ESCHELON OFFERED TO REIMBURSE QWEST FOR ANY ADDITIONAL COSTS THAT ITS PROPOSAL WOULD CAUSE QWEST TO INCUR?**

A. No. I am not aware that Eschelon has made any offer to reimburse Qwest for the unique service ordering process costs that its single LSR demand would create.

**Q. ARE OTHER CLECs USING QWEST'S EXISTING SYSTEMS AND PROCESSES TO ORDER COMMINGLED EELs?**

A. Yes. Despite Mr. Denney's statements on page 171, other CLECs are finding the Qwest Commingled EEL to be a useful product, and Qwest is successfully provisioning other CLEC's requests for commingled EELs based on the process outlined by Qwest in its proposed Section 9.23.4.5. Qwest is not aware of a single CLEC that has claimed that the Commingled EEL ordering process is so "difficult" that it is ordering private line services as an alternative. As described in my direct testimony, the requirement for two separate orders and two separate circuit IDs is consistent with at least one other ILEC's ordering process for commingled arrangements.

**Q. DOES QWEST BELIEVE THAT THIS ARBITRATION IS THE CORRECT FORUM FOR DISCUSSING DETAILED OPERATIONAL SUPPORT SYSTEMS (OSS)-RELATED CHANGES, SUCH AS ESCHELON'S SINGLE LSR REQUEST?**

A. No. Qwest has developed and implemented OSS-related procedures and intervals for UNE EELs, and UNEs commingled with special access circuits and is under no legal requirement to modify these systems to support Eschelon's proposed "Loop-Transport Combination" single umbrella OSS process concept. Mr. Denney is incorrect when he claims on pages 183-184 that Eschelon is not asking Qwest to modify systems and incur costs. Such modifications as Eschelon proposes in Issue No. 9-58 would require Qwest to incur significant OSS-related costs that it is entitled to recover under the Act.

Further, the Change Management Process ("CMP") was approved as part of Section 271 proceedings by both this Commission and the FCC for the purpose of providing a vehicle to address the types of changes in OSS-related processes and systems changes that impact UNEs. From a CLEC's perspective, the purpose of CMP is to provide the CLEC community with a meaningful opportunity to modify Qwest's OSS-related systems, processes and procedures. CMP also allows CLECs collectively to prioritize what changes should be made to OSS-related systems and whether the costs to make any specific change to those systems is worthwhile. This stands in contrast to Eschelon's attempt here to

circumvent the CMP process and have this arbitration proceeding redefine OSS-related service order changes without the prioritization input from the whole CLEC community, and without allowing other CLECs to weigh in on their willingness to pay for such changes. In summary, even if the changes to the LSR ordering process that Eschelon is proposing were appropriate – which they are not – the CMP is the proper forum for raising any concerns with UNEs. For more detail regarding CMP, please see the testimony of Qwest witness Renee Albersheim.

**Q. ARE THERE OTHER STAKEHOLDERS, BESIDES CLECs, THAT WOULD BE IMPACTED BY THE CHANGES ESCHELON DEMANDS?**

A. Yes. Interexchange carriers (“IXCs”) use Access Service Requests (“ASRs”) and the Integrated Access Billing System (“IABS”) billing in addition to CLECs. Any changes made to these process and systems impact these large users. In addition, ordering and billing requirements for IABS and the Customer Records Information System (“CRIS”) are governed by the Ordering and Billing Forum (“OBF”) (a national forum) and are set on a national basis. While there may be some options concerning how to implement these national standards, it is an extensive and lengthy process to review and implement any significant changes to them because so many carriers are affected by the changes. Clearly, Qwest cannot change its ordering and billing practices simply because one CLEC wants Qwest to do so.

**Q. HAS A CMP REVIEW BEGUN FOR COMMINGLED EELs?**

A. Yes. Commingling is a requirement that resulted from the *TRO* and *TRRO* proceedings that required ILECs to provide commingled arrangements between UNEs and special access and private lines. Therefore, CMP is the appropriate forum for potential *TRO*- and *TRRO*-generated systems changes. Initially, numerous CLECs, including Eschelon, agreed that *TRRO* legal issues were not settled, and that the change request intended to complete *TRRO*-related work should be deferred pending completion of the *TRRO* wire center dockets in Qwest’s states. However, since then, Qwest has reactivated the *TRO/TRRO*-

related CR and discussions are under way as to how best to review the various systems and process changes that occurred as a result of these FCC orders. For more detail regarding CMP and *TRRO* related changes, please see the testimony of Qwest witness Renee Albersheim.

**Q. WHAT DOES QWEST RECOMMEND THE COMMISSION ORDER WITH RESPECT TO ISSUE NO. 9-58?**

- A. The Commission should reject Eschelon's attempt to force Qwest to modify its systems and processes for special access and private line to accommodate Eschelon's proposed and improper "Loop-Transport Combination" umbrella term. Under Eschelon's proposal, Qwest would be required to (1) create an entirely new and unique hybrid service, and (2) permit Eschelon to submit one LSR to order this hybrid service. Qwest's existing ordering, provisioning, and billing processes already provide the ability to commingle tariffed special access and UNE services when properly requested via their respective ordering processes. Qwest's commingling processes are no different than those implemented by other ILECs.

To the extent that Eschelon has any concerns, the Commission should indicate that Eschelon can properly address its OSS-related concerns for UNEs in the appropriate *TRO/TRRO* related CMP proceeding. Via CMP, Eschelon has the opportunity to work with the CLEC community to prioritize any OSS changes and how such costs will be recovered. Thus, an acceptance of the Qwest proposed language does not foreclose Eschelon's opportunity to have its requests reviewed via CMP.

Moreover, UNEs are subject to specific Performance Indicator Measurements ("PIDs") and potential payments. It would be inappropriate to apply these measurement and payment provisions to the "Loop-Transport combination," since these combinations contain a non-UNE private line circuit that is not subject to these provisions.

In summary, the Commission should allow this section to remain as proposed by Qwest and consistent with the current Qwest methods and procedures for



processing not only EEL services commingled with tariffed services, but also all commingling requests.

**Q. WHAT IS THE SPECIFIC DISPUTE IN ISSUE NO. 9-58(a)?**

A. Issue No. 9-58(a) involves Eschelon's attempt to force Qwest to change its processes by requiring Qwest to utilize a single circuit ID for all of Eschelon's proposed "Loop-Transport Combination" umbrella of offerings, including for Commingled EELs.

**Q. IS IT NECESSARY FOR QWEST TO HAVE SEPARATE CIRCUIT IDs FOR THE DIFFERENT CIRCUITS THAT COMPRISE A COMMINGLED EEL?**

A. Yes. Eschelon's demand that Qwest use a single circuit ID for commingled EELs instead of separate identification numbers for the UNE and non-UNE (special access and/or private line) circuits is improper for several reasons. Many of the factors that I have described above apply with equal force to Eschelon's single circuit ID request. First, circuit IDs often include product-specific information that Qwest relies upon for proper processing, monitoring of performance indicator measurements and billing of products. Using a circuit ID assigned to a UNE for a tariffed service may result in mis-identification of the service and lead to billing and other errors. Second, there is no legal requirement for Qwest to change its systems for this purpose; indeed, Qwest uses separate circuit ID numbers for other CLECs, so adoption of that approach for Eschelon will not result in unequal treatment. Third, CMP is the correct forum to address such OSS-related process changes. Fourth, it would be very costly for Qwest to modify its operational systems to meet Eschelon's demand for use of the same circuit ID number after a conversion. As far as I am aware, Eschelon is not proposing to compensate Qwest for the costs to implement this very substantial change.

**Q. WHY IS CMP, NOT THIS ARBITRATION, THE CORRECT FORUM FOR ESCHELON TO SEEK THE USE OF A SINGLE CIRCUIT ID FOR COMMINGLED ARRANGEMENTS?**

- A. Eschelon's demand for a single circuit ID involves processes that will affect the whole CLEC community, not just Eschelon, as it relates not only to the actual billing processes, but also to how costs will be recovered of changes to the billing systems. It is inappropriate for Eschelon to drive significant system changes that could result in higher OSS-related costs for all other CLECs, none of whom have a voice in this arbitration decision-making process. This demand should therefore be addressed through the CMP, not through an arbitration proceeding involving a single CLEC.

**Q. YOU MENTIONED THE CIRCUIT ID CONTAINS INFORMATION ABOUT THE SPECIFIC CIRCUIT. COULD YOU PLEASE PROVIDE EXAMPLES OF THE TYPE OF INFORMATION?**

- A. Yes. In his testimony, Mr. Denney makes reference to the simplicity of Eschelon's proposals that Qwest use some note in the remarks section to identify that a circuit ID is in error and thus does not correctly identify the circuit. I have discussed above how the remarks section is not retained in the Qwest systems. In addition, given the mixed or hybrid nature of what Eschelon is proposing, the question becomes how would downstream systems be able to identify and manage the facility properly if the circuit ID they are using does not accurately reflect the nature of the circuit?

By way of illustration, set forth below is the circuit ID of an unbundled DS-1 loop and a private line DS-1 channel termination (the closest equivalent to a DS1 unbundled loop) service, along with an indicator of what each character means:

DS-1 Private Line Service: 15/HCGS/147426/NW

DS-1 Unbundled Loop: 3/HCFU/105228/NW

The first two characters or in this case numbers (15 and 3) are the prefix and they indicate the LATA and the type of circuit. For this instance:

15 denotes Private Line in LATA 628 in MN

3 denotes Unbundled DS-1 Loop in LATA 628 in MN

The next four characters are the service code and service modifiers and in this case:

HCGS denotes the DS-1 Service Technical Characteristics (HC) and it is an interstate service (GS)

HCFU denotes the DS-1 Service Technical characteristics (HC) and it is intrastate service (FU)

The next set of six numerical characters is the serial number of the circuit. It is necessary to issue a new serial number to ensure that no duplication occurs. This serial number is generated automatically.

The last two characters represent the region where the circuit exists and in this case it is Northwest.

When a circuit ID does not actually reflect the service being provided, it can cause errors in provisioning, billing and documentation of service quality. To have a single circuit ID for commingled EELs would require Qwest to develop and implement a new circuit identification for what is essentially a hybrid product within Qwest's pre-order, order, provisioning, circuit inventory and tracking, repair, and billing systems. Again, circuit IDs are developed using a national Telcordia standard. Qwest cannot simply decide to "make up" a new way of using the circuit IDs without it potentially having a national impact. Major changes also would be required for all of Qwest's associated technical publications that support these systems. This would be an extremely time-consuming and expensive undertaking. Further, given the service performance measurements issues discussed above, it may not be possible to identify and apply appropriate PID and PAP measurements to the product.

**Q. PLEASE RESPOND TO MR. DENNEY'S STATEMENT IMPLYING HOW A COMMINGLED EEL REPLACES AN EXISTING FACILITY.<sup>20</sup>**

A. Generally, commingled EELs can be installed in two ways -- through a completely new installation or through a conversion. In a conversion situation, the same network facilities are commonly used to convert from an all UNE EEL

---

<sup>20</sup> See Denny Direct, at p. 179.

(or all private line service) to a Commingled EEL arrangement. However, to state that this is only a name and price change that effectively could be carried out on the back of an envelope (*i.e.*, using the remarks section of the order), as Mr. Denney suggests, fails to recognize the fact that each of the circuits in the commingled arrangement have different rates, terms and conditions of service.

One analogy is basic residential telephone service (the 1FR) as compared to the flat business line (1FB). It is true that the same facilities can be used (or even converted) from one to the other, and there is a corresponding name and price change. However, the differences in terms and conditions can be very different. For a residential line new connect, Qwest may have a Provider of Last Resort (POLR) obligation to build, while the business line may not. The business line telephone number may be advertised in the business section of the directory while a residential line is not. A business line may be serving a 9-1-1 center and eligible for Telecommunications Service Priority (TSP), and therefore have priority restoration in an emergency, while the residential line may not.

The fact that the same network facilities are utilized is not a reason to put in place a process that does not insure that the correct terms and conditions of service are followed for each circuit in a commingled arrangement.

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 9-58(A)?**

A. For the reasons that I describe above and in my direct testimony, the Commission should adopt Qwest's proposed language for Section 9.23.4.5.4 and reject Eschelon's language that would require the use of a single circuit ID for commingled EELs and all so-called "Loop-Transport Combinations."

**Q. PLEASE DESCRIBE THE DISPUTE RELATING TO ISSUE NO. 9-58(B).**

A. This issue arises because of Eschelon's demand that for each so-called "Loop-Transport Combination, "Qwest should use a single billing account number ("BAN") – or issue a single bill – for the different circuits that are commingled." Eschelon presents this demand in its proposed language for Section 9.23.4.6.6.

Because Qwest opposes this improper demand, it recommends that Eschelon's proposed Section 9.23.4.6.6 should be excluded from the ICA.

**Q. WHY IS ESCHELON'S DEMAND FOR USE OF A SINGLE BILLING ACCOUNT NUMBER IMPROPER?**

- A. Eschelon's demand that Qwest use a single BAN for the elements comprising a commingled EEL or for Eschelon's proposed "Loop-Transport Combination" fails to recognize that BANs contain essential product-specific information that affects the proper billing for products. This information affects, for example, whether a product is billed at a UNE-based rate or at a tariffed rate. Without separate BANs for the distinct products that comprise commingled arrangements, billing errors would be inevitable.

In addition, BANs are a national billing standard governed by the OBF (a national ordering and billing forum). These national standards ensure that all IXC and CLEC customers can expect standardized ordering and billing requirements regardless of which state or ILEC they are ordering service from.

**Q. WOULD IT BE COSTLY FOR QWEST TO MODIFY ITS SYSTEMS AND PROCESSES TO PERMIT THE USE OF A SINGLE BILLING ACCOUNT NUMBERS FOR A COMMINGLED ARRANGEMENT?**

- A. Yes. Eschelon's demand for a single BAN would impose very substantial costs on Qwest because of the systems changes that would be required. Qwest has no legal obligation to make those changes, and, moreover, Eschelon apparently is not offering to compensate Qwest for the costs of performing them. Qwest has developed and implemented systems, procedures and intervals for EELs, UNEs and tariffed services and is under no legal requirement to modify these systems to provide Eschelon's proposed "Loop-Transport Combination" product. Moreover, this attempt to force Qwest to move special access and/or private line billing from IABS to CRIS is asking this Commission to reach in to the special access terms and conditions via the ICA. This is improper, and, in reality, it potentially

becomes a form of rate ratcheting that Qwest is explicitly not required to do for CLECs per the *TRO*.

**Q. HAS ESCHELON PROPOSED ANY ALTERNATIVE LANGUAGE FOR ITS PROPOSED SECTION 9.23.4.6.6 RELATING TO A SINGLE BILLING ACCOUNT NUMBER?**

A. Yes. Issue No. 9-58(c) involves Eschelon's alternative proposal for Section 9.23.4.6.6, which Eschelon apparently advocates if the Commission rejects its improper request for single BANs with commingled arrangements. Eschelon's alternative proposal is as follows:

**9.23.4.6.6 For each Point-to-Point Commingled EEL (see Section 9.23.4.5.4), so long as Qwest does not provide all chargeable rate elements for such EEL on the same Billing Account Number (BAN), Qwest will identify and relate the components of the Commingled EEL on the bills and the Customer Service Records. Unless the Parties agree in writing upon a different method(s), Qwest will relate the components of the Commingled EEL by taking at least the following steps:**

**9.23.4.6.6.1 Qwest will provide, on each Connectivity Bill each month, the circuit identification ("circuit ID") for the non-UNE component of the Commingled EEL in the sub-account for the related UNE component of that Commingled EEL;**

**9.23.4.6.6.2 Qwest will assign a separate account type to Commingled EELs so that Commingled EELs appear on an account separate from other services (such as special access/private line);**

**9.23.4.6.6.3 Each month, Qwest will provide the summary BAN and sub-account number for the UNE component of the Commingled EEL in a field (e.g., the Reference Billing Account Number, or RBAN, field) of the bill for the non-UNE component; and**

**9.23.4.6.6.4 For each Commingled EEL, Qwest will provide on all associated Customer Service Records the circuit ID for the UNE component; the RBAN for the non-UNE component; and the circuit ID for the non-UNE component.**

**Q. IS ESCHELON'S ALTERNATIVE OR BACK-UP VERSION OF SECTION 9.23.4.6.6 APPROPRIATE?**

A. No. Eschelon's back-up version of Section 9.23.4.6.6 suffers from most of the same flaws that characterize its original version. Most significantly, this version, like the original version, would require major changes to Qwest's systems and processes. Even a casual review of the extensive list above reveals the inaccuracy of Mr. Denney's statements that Eschelon is not asking Qwest to modify systems or incur costs to meet their various proposals.<sup>21</sup> I am not exactly sure who Mr. Denney thinks would work for free to modify the Qwest systems and/or to perform extensive manual labor on the Eschelon bills each month to perform the tasks listed above.

As I stated in my direct testimony, under Eschelon's back-up version of Section 9.23.4.6.6, Qwest would be required, at a minimum to: (1) modify its systems and processes to include on bills for the UNE circuit of commingled EELs the circuit ID of the non-UNE component; (2) create an entirely separate account type within its billing systems for commingled EELs; (3) modify its systems and processes to include on bills for the non-UNE circuit of commingled EELs "the summary BAN and sub-account number for the UNE component;" and (4) modify its systems and processes to include on all customer service records for commingled EELs "the circuit ID for the UNE circuit; the RBAN for the non-UNE component; and the circuit ID for the non-UNE circuit."

These major changes to Qwest's billing systems and processes, which Qwest would be implementing solely in response to Eschelon's request, would impose upon Qwest very substantial costs. Qwest has no legal obligation to modify its systems and processes in this way, and, moreover, Eschelon has no legitimate business justification for these far-reaching modifications.

---

<sup>21</sup> See Denney Direct, at p. 183.

**Q. WHY IS CMP, NOT THIS ARBITRATION PROCEEDING, THE CORRECT FORUM FOR ESCHELON TO ADDRESS BILLING CONCERNS FOR UNES IN A COMMINGLED ARRANGEMENT?**

A. At the risk of sounding repetitive, all of Issue No. 58 (a, b, c, d, e), to the extent they impact access to UNEs, affect all CLECs, not just Eschelon, and therefore should be addressed through the CMP, not through an arbitration proceeding involving a single CLEC. This is particularly true in these billing issues, since Eschelon is unwilling to make special arrangements with Qwest agreeing to pay for the systems and ongoing manual personnel work that is going to be necessary to meet its billing demands.

**Q. WHAT DOES QWEST RECOMMEND WITH RESPECT TO BOTH ISSUE NOS. 9-58(B) AND (C)?**

A. For the reasons I describe above and in my direct testimony, the Commission should reject both of Eschelon's BAN proposals and not include in the ICA any of the language Eschelon proposes for Section 9.23.4.6.6 and its sub-parts. In particular, the Commission should reject Eschelon's improper attempt to have the terms and conditions of Qwest special access and private line tariffs governed by the ICA.

**Q. PLEASE DESCRIBE THE DISPUTE ENCOMPASSED BY ISSUE NO. 9-58(D).**

A. Issue No. 9-58(d) relates directly to Eschelon's demands described above involving single LSRs, single circuit IDs, and single BANs for commingled EELs. In its proposed Sections 9.1.1.1.1 and 9.1.1.1.1.2, Eschelon sets forth these same proposals for what it refers to as "Other Arrangements." By "other arrangements," Eschelon is apparently referring to commingled arrangements other than commingled EELs.

**Q. WHAT IS ESCHELON SPECIFICALLY PROPOSING FOR THESE "OTHER ARRANGEMENTS"?**



- A. Even though these “other arrangements” do not exist, and may never exist, Eschelon is nevertheless proposing specific requirements for these non-existent and undefined “other arrangements”:

**9.1.1.1.1 Commingled EELs are addressed in Section 9.23. For any other Commingled arrangement, the following terms apply, in addition to the general terms described in Section 24:**

**9.1.1.1.1.2 When a UNE or UNE Combination is connected or attached with a non-UNE wholesale service, unless it is not Technically Feasible or the Parties agree otherwise, CLEC may order the arrangement on a single service request; if a circuit ID is required, there will be a single circuit ID; and all chargeable rate elements for the Commingled service will appear on the same BAN. If ordering on a single service request, using a single identifier, and including all chargeable rate elements on the same BAN is not Technically Feasible, Qwest will identify and relate the elements of the arrangement on the bill and include in the Customer Service Record for each component a cross reference to the other component, with its billing number, unless the Parties agree otherwise.**

**Q. IS ESCHELON’S PROPOSAL APPROPRIATE?**

- A. No. As I described in my direct testimony, there is no basis for Eschelon’s attempt to impose upon Qwest the duty to specific processes for unknown and undefined commingled arrangements.

**Q. MR. DENNEY STATES THAT THIS IS SUBJECT TO THE PARTIES AGREEING UPON TECHNICAL FEASIBILITY.<sup>22</sup> DOES THIS CAVEAT PROVIDE REASSURANCE TO QWEST?**

- A. No. When Qwest and Eschelon cannot agree on what is technically feasible within Qwest’s systems for defined commingled arrangements, I have little confidence that the parties will agree in the future upon processes for “other arrangements.” In addition, there is a huge difference between “technically feasible” and financially prudent. With this type of broad language, Eschelon could attempt to prove some process was technically feasible for a product for

---

<sup>22</sup> See Denney Direct, at p. 192.

which there is little or no demand, with little regard (if any) of the actual cost to Qwest of actually putting the process in place. This is particularly troublesome for potentially low volume, as yet unidentified, “other arrangements.”

**Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 9-58(D)?**

A. The Commission should reject Eschelon’s billing proposals for non-existent “other arrangements” and exclude Eschelon’s proposed Sections 9.1.1.11 and 9.1.1.1.2 from the ICA. Clearly, the parties should address any concerns regarding new arrangements when any such arrangements are specifically identified.

**Q. PLEASE DESCRIBE THE DISPUTE ENCOMPASSED BY ISSUE NO. 9-58(E).**

A. This dispute is a continuation of Eschelon’s attempt to eliminate the basic differences between the UNE and non-UNE circuits (*e.g.*, special access and/or private line) of commingled EEL arrangements and to impose upon Qwest ordering, billing, and provisioning processes that ignore those differences. The dispute also is a continuation of Eschelon’s demand for Qwest to make major, costly changes to its systems and processes without compensation. In this particular case, Eschelon is seeking to eliminate the separate and distinct provisioning intervals that apply to the UNE and non-UNE circuits (*e.g.*, special access and/or private line) of the commingled EELs. “Provisioning intervals” refer to the period of time between Qwest’s receipt of an order from a CLEC and Qwest’s installation or provisioning of the service or facility the CLEC ordered.

**Q. WHAT IS QWEST’S PROPOSAL FOR ISSUE NO. 9-58(E)?**

A. Qwest’s proposal preserves the necessary distinctions between the UNE and non-UNE circuits of commingled EELs and properly recognizes that different and separate provisioning intervals are required for each component. Qwest’s proposal is as follows:

24.3.2 The service interval for Commingled EELs will be as follows. For the UNE component of the EEL see Exhibit C. For the tariffed component of the EEL see the applicable Tariff.

**Q. DOES QWEST HAVE A LEGITIMATE NEED TO USE DIFFERENT AND SEPARATE PROVISIONING INTERVALS FOR THE UNE AND NON-UNE CIRCUIT OF COMMINGLED EELs?**

A. Yes. For engineering and legal reasons, it is essential for Qwest to use and preserve the different provisioning intervals that apply to the UNE and non-UNE circuits (*e.g.*, special access and/or private line) of commingled EELs. First, the service orders for each circuit must be complete before they are submitted and Qwest can begin the installation process. When the UNE is processed first, the UNE circuit ID becomes essentially the CFA for the special access private line circuit. For these reasons, it is essential from an installation and engineering perspective to have separate provisioning intervals for the UNE and non-UNE circuits.

From a legal perspective, the terms and conditions for the non-UNE circuits of commingled EELs are typically set forth in interstate and intrastate tariffs that include provisioning intervals. As the Commission is well aware, tariffs are binding and Qwest does not have discretion to deviate from them. Because Eschelon's proposal for the use of single provisioning intervals for commingled EELs could force Qwest to deviate from tariffed provisions, the proposal is improper.

**Q. BEGINNING AT PAGE 193, MR. DENNEY STATES THAT "ESCHELON AGREES TO A LENGTHENED INTERVAL." DO YOU BELIEVE THIS IS CORRECT?**

A. My understanding of the testimony is that Eschelon is stating only that it will "agree" to the longest interval. In the example provided by Mr. Denney, that interval is the special access and/or private line circuit installation interval, which Mr. Denney mischaracterizes as "agreeing to a lengthened interval." The private line tariff and special access installation intervals are not subject to modification

in this arbitration and/or in the ICA. Thus, Eschelon does not have the ability to “agree” to an interval -- the interval is as stated in the Qwest Service Interval Guide for tariffed services. All Eschelon is apparently acknowledging is that Eschelon is required to follow the interval for special access and private line tariffs when installing these circuits.

**Q. MR. DENNEY DISCUSSES AN INSTALLATION INTERVAL EXAMPLE (PAGE 184) THAT INCLUDES THE FIRM ORDER COMMITMENT (“FOC”) INTERVAL. DO YOU HAVE ANY COMMENTS ON HIS EXAMPLE?**

A. Yes. For the example he provided, the FOC would be 48 hours, not the 72 hours he erroneously suggests. He states that the requirement to have the FOC from one circuit to complete the order for the second circuit results in a potential installation delay of the FOC interval, but that delay is not the 72 hours that he claims. Mr. Denney goes on to say that this time period for total service delivery time frame “thus diminishes the usefulness of the commingled arrangement.” Given the dollar savings associated with commingled arrangements that Mr. Denney outlined in his testimony at page 183 (between approximately \$210 and \$82 per month over the life of the circuit), it is difficult to believe that a 48-hour delay “diminishes the usefulness of the commingled arrangement” and makes it “inferior,” as Mr. Denney suggests.

**Q. WHY SHOULD THE COMMISSION ADOPT THE QWEST LANGUAGE?**

A. Qwest’s language for Section 24.3.2 properly recognizes and maintains the necessary distinctions between the provisioning intervals for the UNE and the non-UNE circuit of commingled EELs. Accordingly, the Commission should adopt Qwest’s proposal and reject each of Eschelon’s proposals described above that would impose single provisioning intervals.

**Issue No. 9-59 - Eschelon Alternate Commingled EEL Repair Language**

**Q. PLEASE PROVIDE AN OVERVIEW OF THE DISPUTE ENCOMPASSED BY ISSUE NO. 9-59.**

A. This dispute also involves commingled EELs. If the Commission rejects Eschelon's demand relating to a single circuit ID for commingled EELs, as it should, Eschelon is proposing alternative language in connection with Issue No. 9-59 that, as I describe in my direct testimony, would require Qwest to make significant modifications to the systems and processes it uses for carrying out repairs associated with the individual circuits that are included in commingled EELs.

**Q. WHAT IS ESCHELON SEEKING THROUGH THIS PROPOSAL?**

A. Eschelon is seeking that in the event of a "trouble" associated with a commingled EEL arrangement, it be permitted to submit just a single trouble report instead of a report for each circuit that comprises the commingled EEL.

**Q. IS THERE ANY BASIS FOR MR. DENNEY'S ASSERTION AT PAGE 196 THAT QWEST'S PROPOSAL WOULD EFFECTIVELY CAUSE A DELAY IN THE REPAIR OF A COMMINGLED EELS?**

A. No. If Eschelon believes, for example, that the trouble with a commingled EEL is associated with the UNE circuit, it can identify the UNE as the circuit with the failure and provide the circuit ID for the non-UNE special access circuit in the remarks section of the trouble ticket. If Qwest then determines through the repair process that the failure is with the UNE circuit, it will repair the UNE and Eschelon will not have any need to submit a second repair ticket. If it turns out that the trouble is associated with the non-UNE special access circuit, only then will it become necessary for Eschelon to submit a second trouble ticket. In that event, under Qwest's proposal, a Qwest technician would contact an Eschelon employee, and they would jointly agree upon which company would submit the second trouble ticket. Because Qwest will already have the test results from the first trouble ticket, it will be able to immediately begin the repair process for the second ticket and thereby avoid delay.

**Q. WOULD IT BE APPROPRIATE TO ADOPT ICA LANGUAGE UNDER WHICH ESCHELON WOULD NEVER BE REQUIRED TO OPEN A SECOND REPAIR TICKET FOR COMMINGLED EELs?**

A. No. In response to the concerns that Eschelon expressed about the repair process for commingled EELs, Qwest took the significant step of agreeing to modify its process to eliminate, in most cases, the need for Eschelon to submit a second trouble ticket. However, it is entirely unrealistic to assume that a second trouble ticket will never be needed. For example, if Eschelon incorrectly identifies the trouble with a commingled EEL as being associated with the non-UNE circuit of the arrangement, it is unavoidable that a second trouble ticket will have to be submitted that correctly identifies the trouble as being associated with the UNE circuit.

This is particularly the case when the repair would be handled by different Qwest repair centers. Even for Qwest retail customers, a second ticket is often required if a trouble is turned in on the loop portion of a private line network and the trouble is in the interoffice transport of the network. Different tickets are required because frequently different repair organizations work on interoffice troubles versus loop repairs handled by outside technicians.

**Q. WHY SHOULD THE COMMISSION ADOPT THE QWEST LANGUAGE?**

A. Qwest's language for Sections 9.23.4.7.1 and 9.23.4.7.1.2 properly and realistically recognizes when a second repair ticket may be necessary, yet it allows the end-to-end repair process to begin with the issuing of a single repair ticket. Accordingly, the Commission should adopt Qwest's proposal and reject Eschelon's proposals described above that would inflexibly require the use of a single repair ticket in all situations without regard for the ability of Qwest's systems to handle that requirement or for the very substantial costs that Qwest would incur just to attempt to modify its systems to meet this requirement.

**Issue Nos. 9-61(A, B, C) Loop-Mux Combinations**

**Q. PLEASE PROVIDE A REMINDER OF THE NATURE OF THE DISPUTES ENCOMPASSED BY THIS ISSUE.**

- A. The disputes encompassed by Issue No. 9-61 and the related sub-issues involve “loop-mux combinations,” or “LMCs.” LMC is comprised of an unbundled loop, as defined in Section 9.2 the Agreement (referred to in this Section as an LMC Loop), combined with a DS1 or DS3 multiplexer (with no interoffice transport) that a CLEC obtains from a tariff.

Qwest is under no obligation to provide a stand-alone multiplexer as a UNE. A multiplexer is electronic equipment that allows two or more signals to pass over a single circuit. In the example of LMC, the multiplexer allows the traffic from several individual loops go over a single, higher bandwidth facility obtained through a tariff. Accordingly, a CLEC must order the multiplexed facility used for LMCs through the applicable tariff. LMC, therefore, involves the connecting of a UNE Loop with a tariffed facility and thus constitutes a commingled arrangement, since commingling is, per the FCC’s ruling in the *TRO*, a connection or attaching of a UNE and a wholesale non-UNE.

The first dispute between the parties (Issue No. 9-61) is the section of the ICA in which the LMC offering should be placed. Qwest has properly included LMCs in Section 24 because it is a commingling offering. Eschelon has proposed moving it to the UNE Combination section in 9.23. Issue No. 9-61(a) concerns Eschelon’s demand that Qwest provide the stand-alone multiplexing service as a UNE instead of as a tariffed facility. Issue No. 9-61(b) involves a dispute concerning whether intervals for LMC should be in Exhibit C; and Issue No. 9-61-(c) involves whether the rates for LMC multiplexing should be included in Exhibit A.

**Q. AT PAGE 217 OF HIS DIRECT TESTIMONY, MR. STARKEY IMPLIES THAT QWEST HAS DECIDED TO STOP PROVIDING MULTIPLEXING AT TELRIC RATES. IF THE COMMISSION RESOLVES THIS ISSUE IN**

**QWEST’S FAVOR, WILL MULTIPLEXING STILL BE AVAILABLE TO ESCHELON AT TELRIC RATES?**

A. Yes. Eschelon will have unbundled access to multiplexing when ordering Unbundled Dedicated Interoffice Transport (UDIT) in a UNE combination. Thus, to the extent that Mr. Starkey is attempting to create the impression that Eschelon will not have any access to multiplexing if Qwest’s position is adopted, that impression is inaccurate.

**Q. MR. STARKEY ALSO STATES AT PAGE 217 THAT ESCHELON IS ONLY SEEKING UNBUNDLED ACCESS TO MULTIPLEXERS AT TELRIC RATES WHEN COMBINED WITH UNEs. IS THIS CORRECT?**

A. No. While Eschelon is seeking to use multiplexing in UNE combinations, it also is clearly seeking to use multiplexing with unbundled loops with the LMC product. Since multiplexing is not a stand-alone UNE, it is not a UNE combination when Qwest is asked to combine and unbundled loop and stand-alone multiplexing.

As I described in my direct testimony and as bears repeating here, stand-alone multiplexing is not a UNE that Qwest is required to provide on an unbundled basis. In the decision of the FCC’s Wireline Competition Bureau in the Verizon-WorldCom Virginia arbitration, paragraph 491, the Bureau rejected WorldCom’s proposed language that would have established multiplexing as an independent network element, stating that the FCC has never ruled that multiplexing is such an element: “We thus reject WorldCom’s proposed contract language because it defines the ‘Loop Concentrator/Multiplexer’ as a network element, which the Commission has never done.”<sup>23</sup> Accordingly, the use of multiplexing with a UNE loop is not, contrary to Mr. Starkey’s representation, a combination of two UNEs.

---

<sup>23</sup> *In the Matter of Petition of WorldCom, Inc., et al., for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon-Virginia and for Arbitration*, CC Docket Nos. 00-218, 249, 251, 17 FCC Rcd. 27,039 (FCC Wireline Competition Bureau, July 17, 2002), at ¶ 494.



Instead, it is a commingled arrangement involving a UNE loop and a tariffed multiplexing service.

**Q. IF MULTIPLEXING IS NOT A UNE, WHY DID QWEST PREVIOUSLY MAKE MULTIPLEXING AVAILABLE UNDER ITS SGAT?**

A. Multiplexing is a feature functionally of combinations with transport (*e.g.*, UDIT) and, as such, was included in the Qwest SGAT. Until the FCC issued the *TRO* in August 2003, commingling arrangements were not available to CLECs. This created somewhat of a dilemma for CLECs when they desired to connect UNE loops with the much larger UDIT transport facilities terminated in their collocation areas. The UDIT was then utilized to connect between their collocation spaces in ILEC central offices. Without commingling, there was no readily available mechanism for “handing off” UNE loops to the collocation space so the UNE Loops could connect to these larger UDIT facilities. To address this situation, Qwest voluntarily offered LMC, thereby allowing CLECs to connect or hand off their loops to the larger transport facilities. Subsequently, the FCC’s Wireline Competition Bureau’s statement in the Verizon-WorldCom Virginia arbitration confirmed that this offering was not a UNE offering compelled by Section 251 but, instead, was a voluntary offering.

**Q. PLEASE EXPLAIN THE RELATIONSHIP BETWEEN THE FCC’S RULING IN THE *TRO* THAT REQUIRED ILECs TO PROVIDE COMMINGLING AND THE NEED FOR THE LMC ARRANGEMENT THAT QWEST HAD BEEN OFFERING UNDER ITS SGAT.**

A. With ILECs being required to provide commingled arrangements after issuance of the *TRO*, CLECs no longer needed access to Qwest’s LMC offering in order to hand off loops to the larger transport facilities terminated in their collocations. More importantly, CLECs can now terminate the unbundled loops directly on their special access transport facilities terminated in the Qwest central offices. By being able to purchase commingled arrangements – UNE loops commingled with special access or private line tariffed service, for example – CLECs now have a legally-mandated mechanism available to them through which ILECs provide

multiplexing in conjunction with higher bandwidth tariffed services to connect UNE loops. Significantly, ILECs are not required -- and never have been required -- to provide this multiplexing as a UNE on a stand-alone basis. Instead, per the *TRO*, ILECs now provide multiplexing as a component of commingled arrangements under which UNE loops are commingled with tariffed private line services. The heart of the dispute raised by this issue is that Eschelon is attempting to break out the multiplexing component of these commingled arrangements and to assign UNE attributes to it, including UNE pricing and provisioning intervals. There is no legal basis for assigning UNE attributes to LMC. On the contrary, the Verizon-WorldCom Virginia arbitration decision confirms that multiplexing stand alone from UDIT is not a UNE.

**Q. HAS THE FCC SPOKEN CONCERNING WHETHER UNE RATES OR TARIFFED RATES SHOULD APPLY TO MULTIPLEXING THAT ILECs PROVIDE FOR USE WITH COMMINGLED ARRANGEMENTS?**

A. Yes. In describing its commingling ruling in paragraph 583 of the *TRO*, the FCC explained that commingling allows a CLEC to attach a UNE to an “interstate access service.” Significantly, in providing an example of a tariffed “interstate access service” to which a CLEC may attach a UNE, the FCC specifically referred to multiplexing: “Instead, commingling allows a competitive LEC to connect or attach a UNE or UNE combination with an interstate access service, *such as high-capacity multiplexing* or transport services.” (Emphasis added.) In the very next sentence, the FCC emphasized that “*commingling will not enable a competitive LEC to obtain reduced or discounted prices on tariffed special access services . . .*” (Emphasis added.)

**Q. WHAT IS THE SIGNIFICANCE OF THESE STATEMENTS AND RULING BY THE FCC?**

A. This portion of the *TRO* directly refutes any claim by Eschelon that it is entitled to multiplexing at UNE rates, terms, and conditions when it obtains multiplexing for use with commingled arrangements. First, the FCC states very clearly that the multiplexing used with commingling is “an interstate access service.” This

statement directly contradicts Eschelon's claim that the multiplexing used with commingling is nothing more than a feature or function of the UNE loop component of a commingled arrangement. Instead, it is a separate "access service." Second, the FCC states unambiguously that when a CLEC obtains an access service like multiplexing for use with commingling, it is not entitled to "reduced or discounted prices on [the] tariffed special access services." In other words, Eschelon is required to pay the tariffed rate for multiplexing used with commingling and is not entitled to a UNE rate.

Clearly, the FCC's statements establish that the terms of the applicable tariffs govern multiplexing, including the terms relating to provisioning intervals. Accordingly, the multiplexing and non-UNE transport circuits of commingled arrangements are to be provisioned based on the intervals in the tariffs, not based on intervals that apply to UNEs.

**Q. AT PAGES 229 AND 230 OF HIS TESTIMONY, MR. STARKEY ASSERTS THAT MULTIPLEXING IS A FEATURE, FUNCTION, OR CAPABILITY OF UNBUNDLED LOOPS AND THAT CLECs ARE THEREFORE ENTITLED TO ACCESS TO MULTIPLEXING AS A UNE AND PURSUANT TO THE TYPES OF TERMS AND CONDITIONS THAT APPLY TO UNES. IS HE CORRECT?**

A. No. From both a factual basis and a legal perspective, multiplexing is not a feature, function, or capability of UNE loops. From a factual perspective, central office-based multiplexing is not required for a UNE loop facility to function. If the functioning of a DS1 loop, for example, was dependent upon multiplexing, there might be a factual argument that multiplexing is a feature or function of the loop. But since a DS1 loop functions regardless whether there is multiplexing used to mux together multiple loops, multiplexing cannot reasonably be viewed as a "feature, function, or capability" of the loop. In addition, the multiplexing function is provided through equipment that is physically separate from and independent of UNE loops. That equipment is located in Qwest's central offices. Exhibit Qwest 38, attached to my testimony, contains diagrams that clarify the

differences between the multiplexing equipment used to create an unbundled loop at the main distribution frame (or its equivalent) in a central office and the multiplexing used to “mux” or aggregate numerous loops up to a higher capacity transport facility.

From a legal perspective, the –Verizon-WorldCom Virginia decision confirms that stand-alone multiplexing is not a UNE. In addition, the UNEs that ILECs are required to provide at TELRIC rates are limited to those network elements for which the FCC has made fact-based findings of competitive impairment pursuant to Section 251(d)(2)(B). The FCC has never made a finding that CLECs are competitively impaired without access stand-alone multiplexing at TELRIC rates and has never declared that multiplexing is a UNE.

In sum, Mr. Starkey’s inaccurate claim that stand-alone central office multiplexing is a feature or function of the loop necessary to the functioning of the loop is simply a thinly veiled attempt to obtain multiplexing as a UNE at low TELRIC rates. There is neither a factual or legal basis for this claim.

**Q. IS MULTIPLEXING A FEATURE, FUNCTION, OR CAPABILITY OF UNE TRANSPORT?**

- A. Yes. Qwest agrees that when multiplexing is provided in a combination with DS1 or DS3 transport that meets the *TRRO* impairment criteria and hence is a UNE, the multiplexing will be provided at TELRIC rates. Thus, if Eschelon requests a UNE combination comprised of a UNE loop combined with UNE transport, Qwest will provide multiplexing at TELRIC rates. In that circumstance, multiplexing is a feature or function of UNE transport and, accordingly, UNE terms and conditions, including UNE TELRIC rates, apply. By contrast, because multiplexing is not a feature or function of the UNE loop, multiplexing used to combine multiple unbundled loops together (without transport ) is stand-alone multiplexing – in other words, it is not provided as a feature or function of a transport UNE. As such, that stand-alone multiplexing is not governed by UNE combination rates or other UNE terms and conditions.

**Q. AT PAGE 230 TO 231 OF HIS TESTIMONY, MR. STARKEY PROVIDES QUOTES FROM THE FCC THAT HE CLAIMS ESTABLISH THAT MULTIPLEXING IS A FEATURE OR FUNCTION OF THE UNBUNDLED LOOP. DO THESE STATEMENTS FROM THE FCC SUPPORT THAT CONCLUSION?**

A. No. The statements from the FCC that Mr. Starkey cites involve an entirely different type of multiplexing than is at issue here. Specifically, the FCC is referring in these statements to multiplexing for loops that takes place between a customer's premises and a main distribution frame in a central office. In this application, the FCC is being clear that to the extent any type of multiplexing (such as digital loop carrier systems, which are often viewed as a form of multiplexing) between the end user premises and the main distribution frame in the central office is required, the ILEC must "de-mux" the loop so it can be handed off to the CLEC in the central office. By contrast, the multiplexing that is in dispute between Qwest and Eschelon is multiplexing that takes place not between a customer's premise and the main distribution frame (or equivalent), but after a fully functional loop has been terminated in the Qwest central office and a CLEC wants to multiplex numerous loops together to a higher capacity transport facility.

**Q. PLEASE TIE YOUR DISCUSSION ABOVE ESTABLISHING THAT STAND-ALONE LOOP MULTIPLEXING IS NOT A UNE TO THE SPECIFIC ICA PROVISIONS ENCOMPASSED BY THIS ISSUE.**

A. The fact that stand-alone loop multiplexing is not a UNE dictates the proper outcome for each of the disputed ICA provisions encompassed by this issue. First, the threshold dispute in Issue No. 9-61 is where the LMC product offering should be placed in the ICA. Qwest has properly placed it in Section 24, which is the commingling section that Eschelon itself requested Qwest to include in the ICA. By contrast, Eschelon is proposing to include LMCs in Section 9.23 of the ICA, which is within the ICA section that governs UNE combinations. UNE combinations are combinations of elements that qualify as UNEs that ILECs must

provide under Section 251(c)(3) of the Act. Because an LMC is a combination of a UNE and a tariffed multiplexing service, it is not a UNE combination but, instead, is a commingled arrangement. Accordingly, LMCs should be addressed in Section 24 of the ICA, not in Section 9.

Second, Eschelon's proposed language for ICA Section 9.23.9 and related sub-parts is premised on the assumption that multiplexing is a stand-alone UNE. Based on that assumption, Eschelon assigns UNE attributes, including UNE-based rates, to multiplexing. For the reasons I describe above, Eschelon's premise is wrong. Multiplexing is not a stand-alone UNE, and Eschelon's proposals based on the assumption that it is are therefore flawed and should be rejected.

Third, since LMC is not a UNE combination and is a commingled service, the service intervals for LMC are properly placed in the Qwest Service Interval Guide, not in Exhibit C of the ICA. The Service Interval Guide sets forth the intervals for commingled arrangements. By contrast, if Exhibit C is included in the ICA at all, it addresses service intervals only for UNEs. Because LMC is a commingled arrangement and not a UNE or UNE combination, it should not be included in Exhibit C. However, the UNE loop portion of LMC does utilize the EEL loop, and as such is an unbundled loop and can be treated as other unbundled loops for the purposes of establishing a standard interval.

### **III. CONCLUSION**

**Q. DO YOU HAVE ANY FINAL COMMENTS?**

A. Yes. Although there are substantive differences in the issues that I have addressed in my testimony, there are recurring themes in the manner in which Qwest and Eschelon have addressed the issues through the language they have proposed for the ICA. Qwest has proposed language that recognizes and incorporates the FCC's rulings in the *TRO* and *TRRO* and that recognizes the need

for uniform systems and processes in the service that Qwest provides to all CLECs.

By contrast, Eschelon's proposals rely on sweeping general language that is intended to impose the broadest possible unbundling, and in some cases, new obligations on Qwest without regard for applicable law. Moreover, in several cases, Eschelon is proposing language that is broad and vague and not susceptible to either meaningful analysis by the Commission or to precise and practical implementation by the parties. If the Eschelon language is adopted, this would likely result in disputes concerning implementation of the ICA, which would unnecessarily require the Commission and the parties to devote limited resources to resolving disputes that could be avoided through the use of the type of precise ICA language that Qwest is proposing.

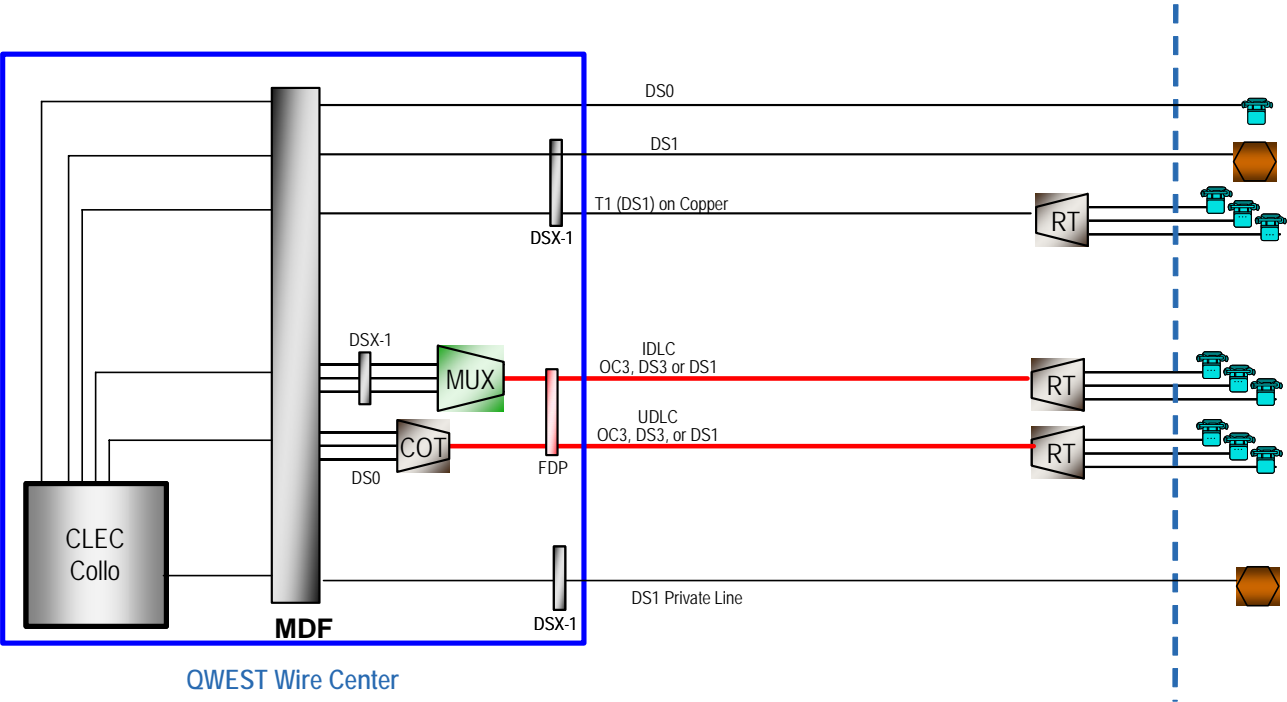
For these reasons, the Commission should adopt Qwest's proposed ICA language for each of the issues that I have addressed.

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

A. Yes.

# Unbundled Loop

Qwest/38  
Stewart/1



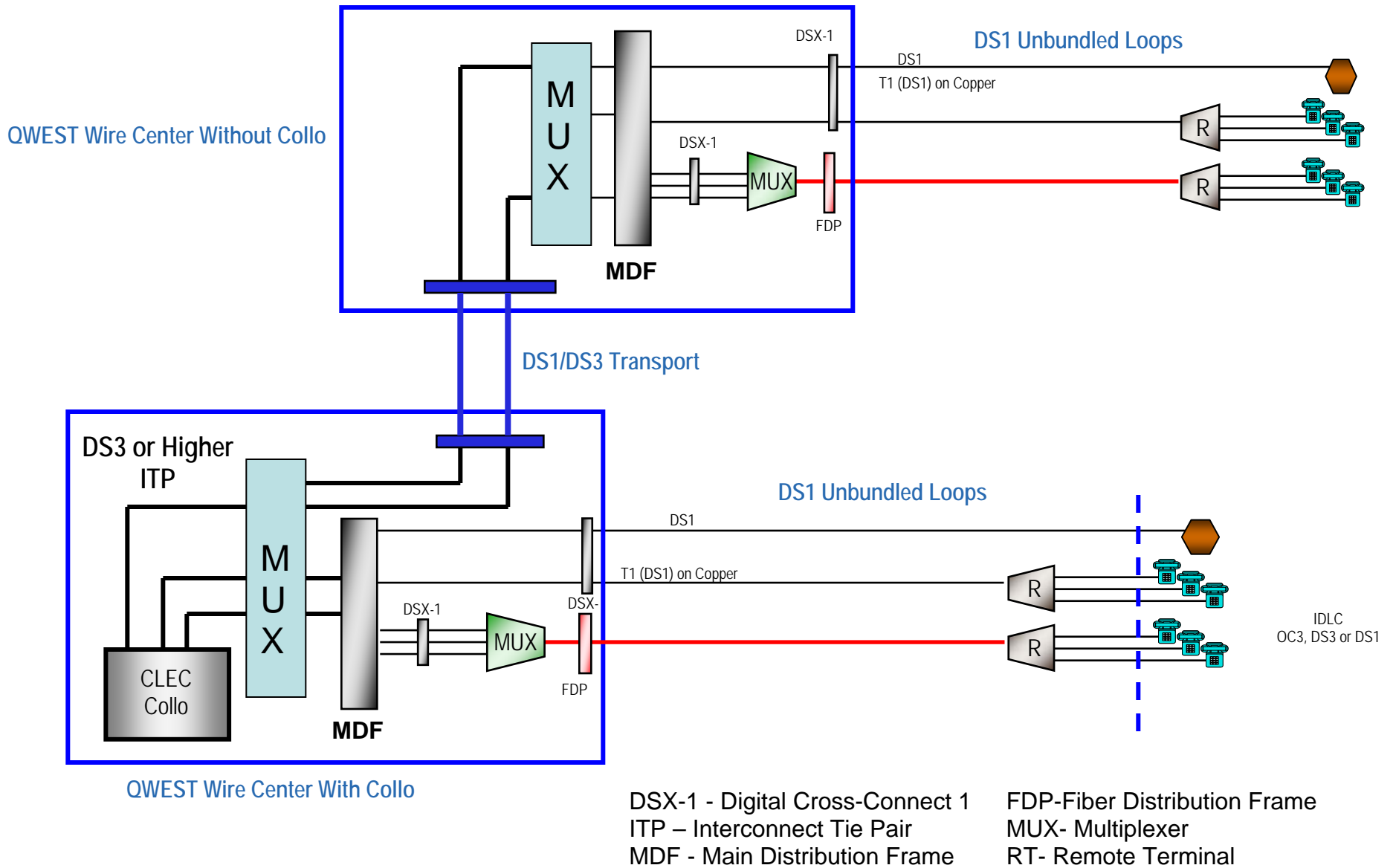
DSX-1 - Digital Cross-Connect 1  
IDLC - Integrated Digital Loop Carrier  
MDF - Main Distribution Frame

FDP- Fiber Distribution Frame  
MUX- Multiplexer  
RT- Remote Terminal  
UDLC - Universal Digital Loop Carrier



# Loop and Transport Combinations

Qwest/38  
Stewart/2



DSX-1 - Digital Cross-Connect 1  
ITP - Interconnect Tie Pair  
MDF - Main Distribution Frame

FDP-Fiber Distribution Frame  
MUX- Multiplexer  
RT- Remote Terminal

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**ARB 775**

**In the Matter of**

**ESCHELON TELECOM OF OREGON,  
INC.**

**Petition for Arbitration of an  
Interconnection Agreement with Qwest  
Corporation, Pursuant to Section 252 of the  
Telecommunications Act**

**REBUTTAL TESTIMONY OF**

**TERESA MILLION**

**FOR**

**QWEST CORPORATION**

**(Disputed Issues 4-5, 8-21, 9-43, 9-44 12-67 and 22-90)**

**May 25, 2007**

**TABLE OF CONTENTS**

<b>I. IDENTIFICATION OF WITNESS</b>	1
<b>II. PURPOSE OF TESTIMONY</b>	1
<b>III. RESPONSE TO MR. STARKEY</b>	3
<b>IV. RESPONSE TO MR. DENNEY</b>	17

1

## I. IDENTIFICATION OF WITNESS

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Teresa K. Million. I am employed by Qwest Services Corporation,  
4 parent company of Qwest Corporation (“Qwest”), as a Staff Director in the Public  
5 Policy organization. In this position, I am responsible for directing the  
6 preparation of cost studies and representing Qwest’s costs in a variety of  
7 regulatory proceedings. My business address is 1801 California St., Room 4700,  
8 Denver, Colorado.

9 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS PROCEEDING?**

10 A. Yes, I did.

11

## II. PURPOSE OF TESTIMONY

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. The purpose of my testimony is to respond to the cost issues raised in the  
14 testimonies of Mr. Michael Starkey with respect to Issue Nos. 8-21, DC Power  
15 Plant, and 9-43 and 9-44, Conversions, and to Mr. Douglas Denney with respect  
16 to Issue Nos. 4-5, Design Changes, 12-67, Expedite Order Charge, and 22-90,  
17 Unapproved Rates.

18 **Q. ARE YOU STILL OF THE OPINION THAT COST ISSUES SHOULD BE  
19 RAISED IN A DIFFERENT PROCEEDING?**

20 A. Yes. As I stated in my direct testimony, generally, it is better to address all of the  
21 cost issues raised in this arbitration proceeding in a separate docket because an  
22 arbitration, such as this one, is a proceeding between only two parties, Qwest and  
23 Eschelon, that would have limited application to the terms and conditions  
24 contained in a single interconnection agreement (“ICA”). A separate proceeding

1 to set permanent rates, on the other hand, would afford all competitive local  
2 exchange carriers (“CLECs”) the opportunity to participate and would be broadly  
3 applicable to all CLECs. Furthermore, I continue to believe that the issues  
4 presented in proceedings involving costs and rates are complex, as they require  
5 detailed analysis of cost models, cost studies and the inputs and assumptions that  
6 go into them. Issues that have this level of complexity are best addressed in  
7 generic proceedings that involve all interested parties and that focus specifically  
8 and exclusively on cost and rate-related issues.

9 **Q. IS IT CORRECT THAT QWEST IS NOT SIMILARLY OPPOSED TO**  
10 **THE COMMISSION SETTING INTERIM RATES IN THIS**  
11 **ARBITRATION?**

12 A. Yes. Qwest currently offers elements to Eschelon at rates that it proposes on an  
13 interim basis until permanent rates are established in a cost docket. As I noted in  
14 my direct testimony, it seems inefficient to litigate rates on an interim basis only  
15 to litigate them again in a cost docket. However, as I also noted, Qwest does not  
16 oppose the idea of the Commission establishing interim rates. What Qwest does  
17 oppose is Eschelon’s notion that Qwest should file cost studies and evidence in  
18 this arbitration in the same way that it would in a full-blown cost docket. Because  
19 of the magnitude of the rates in dispute in this arbitration, litigating 150-plus rates  
20 in such a time-constrained proceeding would make it unmanageable and would  
21 preclude the type of thorough cost analysis that this Commission is accustomed to  
22 conducting and that would be essential to establishing lawful permanent  
23 wholesale rates under the Act. Therefore, in my direct testimony, I proposed a  
24 solution whereby the Commission could adopt interim rates, based on the fully-  
25 litigated and approved rates established by the New Mexico Commission, pending  
26 a cost docket here in Oregon to set permanent rates.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**III. RESPONSE TO MR. STARKEY**

**ISSUE 8-21 - DC POWER PLANT**

**Q. PLEASE SUMMARIZE THE NATURE OF THE DISPUTE RELATING TO ISSUE 8-21.**

A. Qwest’s position on this issue is that only the DC Power Usage rate should be applied on a per-amp *used* basis for power feed orders greater than 60 amps, but that the DC Power Plant rate should be applied on a per-amp *ordered* basis regardless of the size of the power feed order. Mr. Starkey argues that the DC Power Plant rate should be applied in the same manner as the DC Power Usage rate on a per-amp used basis for power feed orders greater than 60 amps.

**Q. MR. STARKEY STATES AT PAGE 121 OF HIS DIRECT TESTIMONY THAT ESCHELON TAKES ISSUE WITH THE ASSESSMENT OF THE POWER PLANT RATE. PLEASE COMMENT.**

A. As I stated in my direct testimony, 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 a commission. It would not be appropriate for the Commission to make a determination in this arbitration regarding the appropriate assessment of the power plant rate in a vacuum without also reviewing the rate. The proper forum for such a review of rates and their application is in a proceeding, such as a cost docket, where detailed cost data relating to inputs and assumptions are in evidence. In fact, in her recommended decision in the McLeod Power Complaint proceeding in Washington the Administrative Law Judge (ALJ) determined that a “cost docket, or similar cost review, is the forum for judging the adequacy of rates and rate structures for CLEC access to ILEC networks.”<sup>1</sup> In addition, in the

---

<sup>1</sup> *McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation*, Washington State Utilities and Transportation Commission, Docket UT-063013, Initial Order: Recommended Decision to

1 arbitration between Eschelon and Qwest in Minnesota, the Arbitrator also  
2 concluded that because there was no evidentiary basis, the applicability of DC  
3 Power Plant rates “are issues that should be examined in the UNE Cost Case.”<sup>2</sup>  
4 That type of information is not in evidence in this arbitration proceeding either,  
5 and therefore, there is no basis upon which to make such a determination.

6 **Q. MR. STARKEY FURTHER STATES ON PAGE 122 OF HIS TESTIMONY**  
7 **THAT QWEST SHOULD ASSESS ITS POWER PLANT RATE ON A**  
8 **USAGE BASIS. WAS QWEST’S POWER PLANT RATE DEVELOPED**  
9 **ON A USAGE BASIS?**

10 A. No. Qwest’s power plant rate was not developed, nor was it based on any concept  
11 of actual power usage. There is absolutely no correlation between the cost per  
12 amp of power plant generated by Qwest’s study and Mr. Starkey’s contention that  
13 it should be applied on a per-amp-used basis. The ALJ in Washington understood  
14 this issue when she stated in her order in the McLeod complaint proceeding that  
15 the “Qwest collocation power plant rate was not developed on a ‘usage’ basis, as  
16 McLeod claims. Even though the word ‘usage’ is found in the formula, the rate  
17 was developed to get at what the cost of hypothetical power plant would be on a  
18 per amp basis, without regard to usage.”<sup>3</sup>

19 Furthermore, it defies reason that Mr. Starkey would argue that Qwest’s rate is or  
20 should be applied on a usage basis. After all, in every state where a power plant

---

Deny Petition for Enforcement, September 29, 2006, p. 24, ¶ 68, (“*Washington Recommended Decision*”). (Attached as Exhibit Qwest/30 to the rebuttal testimony of Curtis Ashton is the Final Order from the Washington Utilities and Transportation Commission affirming its Initial Order which denied McLeod’s petition for enforcement.)

<sup>2</sup> *In the Matter of the Petition of Eschelon Telecom, Inc., for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252 (b) of the Federal Telecommunications Act of 1996, OAH 3-2500-17369-2, MPUC No. P-5340,421/IC-06-768, Arbitrator’s Report, January 16, 2007, ¶ 108.*

<sup>3</sup> *Id.*, at ¶ 58.

1 rate element that is the same as the one at issue in this arbitration has been  
2 approved in a contested case Qwest's cost studies were closely scrutinized by the  
3 parties. In each case the power plant rate was described as applying on a per-  
4 amp-ordered basis. This is true of the approved power plant rates in other states  
5 where Eschelon operates, and it is also true of the power plant rate approved by  
6 the New Mexico Commission that Qwest is proposing in this proceeding. That  
7 rate has been consistently billed to CLECs in those states on that basis, and no  
8 CLEC complained about Qwest's application of the rate until McLeod raised the  
9 issue in 2005 after years of consistent billing by Qwest. If there had been any  
10 question about the way the rate was being charged, it surely would have been  
11 brought to light before now.

12 Finally, in Utah, the Commission pointed out in its decision in the McLeod  
13 complaint proceeding that the record did not "contain any evidence that McLeod,  
14 prior to May 2005, raised any concern of discriminatory conduct with Qwest  
15 pertaining to its collocation power plant engineering or billing."<sup>4</sup> Thus, as the  
16 Utah Commission found, the only chargeable unit developed in Qwest's cost  
17 study is the cost of an amp of power plant capacity, and nothing in that rate  
18 development has anything to do with the actual electrical current that any  
19 telecommunications equipment in a central office might consume.

20 **Q. BEGINNING ON PAGE 132, MR. STARKEY DISCUSSES QWEST'S**  
21 **ENGINEERING PRACTICES WHEN IT SIZES ITS POWER PLANT. DO**  
22 **THE FCC'S TELRIC PRICING RULES REQUIRE QWEST TO ADD**  
23 **CAPACITY TO ITS POWER PLANT IN ORDER TO CHARGE CLECs**

---

<sup>4</sup> *In the Matter of the Complaint of McLeodUSA Telecommunications Services, Inc., vs. Qwest Corporation for Enforcement of Commission-Approved Interconnection Agreement*, Public Service Commission of Utah, Docket No. 06-2249-01, Report and Order, September 28, 2006 ("*Utah Report and Order*"), p. 25.



1           **FOR POWER PLANT?**

2    A.    No. There is nothing in the FCC’s TELRIC rules that requires Qwest to add to its  
3           existing power plant to accommodate CLEC demand for capacity. If Qwest’s  
4           power plant, as it existed in 1996, had had adequate capacity to meet CLEC  
5           demand Qwest would have been under no obligation to build additional plant to  
6           accommodate that demand, and Qwest would still have been entitled to charge the  
7           CLECs for the amount of power plant capacity made available to them. In reality,  
8           however, Qwest often increased the size of its power plant because of the orders it  
9           received from CLECs for power feeds in the 1999 and 2000 timeframe. The size  
10          of these increases was driven by assumptions about the amount of power capacity  
11          that would be required to satisfy the CLECs’ orders for power feeds.  
12          Nevertheless, Qwest’s power plant studies calculate cost on the basis of an Amp  
13          of power plant capacity. The studies do not calculate costs on the basis of the size  
14          of any given power plant or on the basis of the actual usage of electrical current  
15          coming through the plant.

16   **Q.    DID McLEOD MAKE THE SAME ARGUMENTS ABOUT THE**  
17   **ENGINEERING OF QWEST’S POWER PLANT THAT MR. STARKEY**  
18   **PRESENTS IN THIS PROCEEDING?**

19   A.    Yes. Mr. Starkey has made these same arguments on behalf of McLeod in several  
20          states, including Washington, Utah, Colorado and Arizona.<sup>5</sup> In evaluating the  
21          instructiveness of those arguments in determining the proper application of  
22          Qwest’s power plant rates the Washington ALJ found that “McLeod’s arguments  
23          are generally unpersuasive.”<sup>6</sup> Furthermore, Mr. Starkey argued for McLeod, as he

---

<sup>5</sup> Although there has been no decision to date in the McLeod Power Complaint proceeding in Arizona, the Commission decisions in Washington, Utah and Colorado have all found in Qwest’s favor on the arguments by McLeod that are similar to those presented by Eschelon in this proceeding.

<sup>6</sup> *Washington Recommended Decision*, at ¶ 62.

1 does for Eschelon, that based on Qwest's engineering practices Qwest's power  
2 plant rate as currently applied is discriminatory. However, even in the  
3 Qwest/Eschelon arbitration proceeding in Minnesota, the Arbitrator determined  
4 that "there is no evidentiary basis for drawing such a conclusion here."<sup>7</sup> Further  
5 still, in its decision in the McLeod Power Complaint, the Utah Commission  
6 stated, "We find nothing in the ICA, statute, regulation, or Commission order that  
7 would require Qwest to do more than it is now doing; namely, billing McLeod for  
8 its collocation power plant based upon McLeod's orders for power distribution  
9 cable. We therefore conclude Qwest's billing to McLeod for DC Power Plant  
10 does not constitute discriminatory conduct."<sup>8</sup> Thus, in the McLeod power  
11 complaint proceedings, Mr. Starkey has been unable to prevail on his claim of  
12 discrimination on the basis of his assertions about a rate that had previously been  
13 found by a commission to be non-discriminatory in a cost docket. Nor should this  
14 Commission make such a finding in this arbitration proceeding on the basis of  
15 similar assertions by Eschelon.

---

<sup>7</sup> *Arbitrator's Report*, at ¶ 108.

<sup>8</sup> *Utah Report and Order*, at p. 26.

1 **ISSUES 9-43 and 9-44 – CONVERSIONS**

2 **Q. PLEASE DESCRIBE THE NATURE OF THE CONVERSIONS DISPUTE.**

3 A. As I explained in my direct testimony, Qwest believes that the issue of UNE-to-  
4 private line conversions is a matter that would better be addressed in a separate  
5 proceeding designed to resolve other *TRRO*-related issues. Eschelon's position is  
6 that the conversion of its UNE circuits to private line services should be a price  
7 change only, and should not require a change in circuit identifiers ("IDs"). In  
8 Eschelon's view, this "price-only" change does not justify Qwest charging a  
9 nonrecurring charge for the conversion. This Commission, however, disagreed  
10 with that position and thus recognized in the *TRRO* wire center non-impairment  
11 docket (docket UM 1251) that Qwest incurs costs in the process of converting  
12 UNE transport or high-capacity loops to alternative facilities and arrangements,  
13 and therefore should be permitted to assess an appropriate charge.<sup>9</sup> Circuit ID  
14 changes are necessary for converting UNEs to private line services and,  
15 accordingly, Qwest is entitled to recover the costs it incurs to facilitate those  
16 conversions.

17 **Q. DOES QWEST AGREE WITH MR. STARKEY'S STATEMENT ON PAGE**  
18 **192 OF HIS TESTIMONY THAT CONVERSIONS SHOULD NOT PUT**  
19 **ESCHELON'S CUSTOMERS OUT OF SERVICE?**

20 A. Yes. However, Mr. Starkey's testimony about the potential problems associated  
21 with Qwest's process for converting UNEs to private lines has nothing to do with  
22 the issue of whether it is appropriate for Qwest to recover the costs of those  
23 processes. In fact, the process that Qwest has established for converting UNE  
24 circuits to private lines is specifically designed to ensure that the conversion is  
25 transparent to both the end-user customer and the CLEC serving that customer,

---

<sup>9</sup> Qwest has recently filed its cost study as the Commission's order in docket UM 1251 required.

1 and that it does not result in placing the CLEC's end-user customer out of service.  
2 To date, after more than *1400* conversions involving this type of circuit ID  
3 change, Qwest is not aware of any complaints from CLECs claiming that a  
4 customer's service has been disrupted by this conversion process.

5 The point is that this particular process comes with a cost. In order to ensure that  
6 the conversion process is transparent to Eschelon and its customers' services,  
7 Qwest interjects a number of manual activities into the process so that certain  
8 automated steps do not occur that could otherwise result in disruption of those  
9 services. The purpose of many of the tasks included in the conversion process is  
10 to avoid placing Eschelon's end-user customers at risk. It would be inappropriate  
11 for a CLEC to complain to the commissions that Qwest does not do enough to  
12 automate its systems, and then also complain about the cost when Qwest must  
13 interrupt the automated systems that it *has* developed with manual activities in  
14 order to accommodate processes such as converting UNEs to private line circuits.  
15 These activities are captured in the conversion steps that I outlined in my direct  
16 testimony and, at least partially, in the costs that Qwest proposes to recover  
17 through its nonrecurring charge. I say "partially" because Qwest's current  
18 nonrecurring private line-to-UNE conversion charge proposed here is based on a  
19 process that did not contemplate circuit ID changes. Mr. Starkey's discussion of  
20 alleged "risks" to Eschelon's customers resulting from Qwest's process is merely  
21 a smokescreen, and proves exactly why Qwest undertakes those steps and  
22 proposes a nonrecurring charge to recover the costs for them.

1 **Q. MR. STARKEY STATES, ON PAGE 195 OF HIS DIRECT TESTIMONY,**  
2 **THAT THE CIRCUIT ID SHOULD NOT BE CHANGED DURING A**  
3 **CONVERSION. DO YOU AGREE?**

4 A. No. As I explained in my direct testimony, the whole point of the conversion is  
5 that the product is changing from that of a wholesale UNE product purchased  
6 only by CLECs through ICAs to a tariffed service purchased by CLECs, other  
7 interconnecting companies and Qwest's retail customers through commercial  
8 contracts. UNEs and special access or private line services are clearly  
9 distinguishable from each other, not only by price and classification, but also by  
10 the customers to whom they are available, and by the differing ordering,  
11 maintenance and repair processes that attach to each of them. Qwest tracks  
12 inventory, as well as provisioning, repair and maintenance attributes of these  
13 distinct products through the use of circuit IDs. It would be grossly inefficient,  
14 expensive and wasteful for Qwest to have to create another product specifically  
15 for CLECs and to establish yet another method of tracking this new product in its  
16 systems when it already has an existing product, as well as the systems and  
17 methods to track it in place. Qwest should not have to make changes to its myriad  
18 of operations support systems ("OSS"), processes and tracking mechanisms, such  
19 as circuit IDs, in order to accommodate each new regulatory nuance regarding  
20 how it offers its services to its customers and its competitors. Qwest has already  
21 expended hundreds of millions of dollars to enhance and modify its ordering,  
22 provisioning and inventory systems to be able to appropriately track facilities it  
23 has been required to provide as UNEs. It should not now have to spend millions  
24 more to modify its systems one more time in order to track these same facilities  
25 yet another way, especially when there are existing alternative products that  
26 Qwest can provide to CLECs. The costs associated with this type of  
27 system/process rework simply do not make sense in a competitive environment,

1 particularly given Eschelon's refusal to compensate Qwest for the costs it seeks to  
2 impose. Imposing these costs would place an unfair and legally impermissible  
3 burden on Qwest, especially when Qwest already has systems and identifiers in  
4 place to track these existing private line services.

5 **Q. IS THE CHANGING OF THE CIRCUIT ID MERELY A CONVENIENCE**  
6 **FOR QWEST'S RECORD-KEEPING?**

7 A. No. While proper record-keeping is the type of good business practice that Qwest  
8 strives for, the FCC rules, as well as many state commissions' rules, require that  
9 incumbent telephone carriers accurately maintain records that track inventories of  
10 circuits. And, while Qwest is required to maintain subsidiary records in sufficient  
11 detail to align specific circuits with the billing, accounting, and jurisdictional  
12 reporting requirements related to the services that these circuits support, CLECs  
13 such as Eschelon are not subject to these same burdensome reporting  
14 requirements. Qwest accomplishes these reporting requirements through the use  
15 of circuit IDs and other appropriate codes, depending on the systems affected by  
16 the requirement. It is ironic, and certainly contradictory, that Mr. Starkey uses  
17 Eschelon's product tracking needs as a reason why Qwest should not be able to  
18 change circuit IDs during the conversion process. Qwest is required to make such  
19 a change so that it, like Eschelon, can maintain its records and systems and, in  
20 addition, accurately report its products in accordance with its regulatory  
21 requirements.

1 **Q. IS IT TRUE, AS MR. STARKEY STATES ON PAGE 196, THAT WHEN**  
2 **QWEST ORIGINALLY CONVERTED CLECs' PRIVATE LINE**  
3 **CIRCUITS TO UNES, THEY WERE ALLOWED TO KEEP THEIR**  
4 **PRIVATE LINE CIRCUIT IDs?**

5 A. Yes. In addition, Mr. Starkey claims that I have “been unable to explain why the  
6 circuit ID must be changed in the current situation when no such change was  
7 required in previous conversions.”<sup>10</sup> However, as I explained in my direct  
8 testimony in this case, as well as my testimony and data request responses in other  
9 states and in other proceedings where Eschelon has participated (i.e., the *TRRO*  
10 wire center proceedings), this was done only because those CLECs objected to  
11 Qwest’s efforts to convert those private line circuit IDs to circuit IDs representing  
12 UNE products. Qwest, however, only converted those circuits without changing  
13 circuit IDs on a very limited basis for embedded circuits ordered before April  
14 2005. Contrary to Mr. Starkey’s assertions, circuit ID changes have been required  
15 on all conversions of private lines to UNEs that have been requested since April  
16 2005.

17 Further, as I stated previously, the reason for discontinuing that practice in 2005  
18 was that Qwest discovered, after allowing the circuit IDs to remain unchanged  
19 initially, that it was experiencing difficulty in managing the large number of  
20 circuits manually. Further still, Qwest was incurring substantial expenses on the  
21 resources necessary to track those circuits individually outside of Qwest’s  
22 systems. This tracking is necessary, not only for regulatory reporting purposes as  
23 I mentioned above, but also in order for Qwest to maintain its subsidiary records  
24 accurately so that maintenance and repairs on those circuits could be handled out  
25 of the appropriate service centers. Therefore, as of April 2005, that option is no

---

<sup>10</sup> Direct Testimony of Michael Starkey (“Starkey Direct”), p.196. (Emphasis added.)

1 longer available, and thus, any circuit additions or changes made to circuits after  
2 that date are required to change circuit IDs as well. Currently, there are fewer  
3 than 7% of all DS1 and DS3 UNEs that still have private line circuit IDs. Qwest  
4 has accounted for those circuits in its conversion cost study, and thus does not  
5 include activities, or the associated costs, triggered by a change of circuit ID for  
6 those “grandfathered” circuits in its conversion costs.

7 **Q. IS MR. STARKEY CORRECT WHEN HE STATES ON PAGE 199 THAT**  
8 **QWEST’S CONVERSION OF UNEs TO PRIVATE LINE CIRCUITS**  
9 **SHOULD BE A BILLING CHANGE ONLY?**

10 A. No. In fact, the *TRRO* **mandated** that within twelve months from the effective  
11 date of the order, CLECs “...must transition the affected DS1 or DS3 dedicated  
12 transport UNEs to alternative facilities or arrangements.”<sup>11</sup> Further, the FCC  
13 specifically identified that those alternative arrangements would include “...self-  
14 provided facilities, alternative facilities offered by other carriers, or special access  
15 services offered by the incumbent LEC.”<sup>12</sup> Clearly, the twelve-month transition  
16 period contemplated by the FCC has come and gone. Thus, for wire centers that  
17 the FCC and now, this Commission, have deemed to be “non-impaired,” Qwest is  
18 no longer required to provide access to DS1 or DS3 UNE loops or inter-office  
19 transport, yet many CLECs, including Eschelon, remain on Qwest’s facilities. As  
20 I pointed out in my direct testimony, this language in the *TRRO* means not only  
21 that Qwest is no longer required to price these services at TELRIC rates, but that  
22 the FCC recognized an ILEC’s existing special access (private line) services to be  
23 one of the alternatives available to CLECs after transition.

---

<sup>11</sup> *TRRO*, ¶ 143. (Emphasis added.)

<sup>12</sup> *Id.*, at ¶ 142.



1 UNEs are priced at TELRIC; therefore, in order for Qwest to be able to price  
2 these alternative services at something other than a TELRIC rate, as the *TRRO*  
3 permits, it is necessary for Qwest to convert UNEs to private line services. If  
4 Qwest were not allowed to convert the UNE circuits to private line circuits, the  
5 FCC's non-impairment findings in the *TRRO* would essentially be rendered  
6 meaningless. Thus, to the extent that Qwest incurs costs to facilitate the CLEC's  
7 conversion from a UNE to a private line service, Qwest should be entitled to  
8 assess an appropriate charge.

9 **Q. MR. STARKEY STATES THAT FCC RULES PROHIBIT QWEST FROM**  
10 **CHARGING CLECs FOR THE NONRECURRING COSTS OF**  
11 **CONVERTING CIRCUITS FROM UNES TO PRIVATE LINE SERVICES.**  
12 **DO YOU AGREE?**

13 A. No. According to Mr. Starkey, what the FCC rules and orders require is that  
14 Qwest not charge "...*untariffed* termination charges, or any disconnect fees, re-  
15 connect fees, or charges associated with establishing a service for the first  
16 time..."<sup>13</sup> However, the point the FCC was making with the passages that Mr.  
17 Starkey quotes is that LECs should not be able to receive a windfall or be unjustly  
18 enriched as a result of converting CLEC circuits from UNEs to private lines. The  
19 FCC said nothing about prohibiting a LEC from recovering its legitimate and  
20 necessary costs of conversion. As this Commission recognized in its own *TRRO*  
21 wire center docket (UM 1251), Qwest incurs costs in the process of converting  
22 UNE transport or high-capacity loops to the alternative facilities and  
23 arrangements contemplated by the FCC in the *TRRO*. Therefore, Qwest should be  
24 permitted to assess an appropriate tariffed charge, or as Qwest proposes in this  
25 arbitration, a charge approved by this Commission in a cost docket or other

---

<sup>13</sup> Starkey Direct, p. 161 (quoting 47 CFR §51.316(c)). (Emphasis added.)

1 proceeding. In the case of the conversions of UNEs to alternative facilities, *but*  
2 *for* the conversion, Qwest would not have to incur the costs of performing the  
3 associated tasks.

4 **Q. ON PAGE 203 OF HIS TESTIMONY, MR. STARKEY EQUATES THE**  
5 **CONVERSION OF DS1 AND DS3 UNEs TO PRIVATE LINE SERVICES**  
6 **WITH THE CONVERSION OF UNE-P TO QPP. IS HIS COMPARISON**  
7 **APPROPRIATE?**

8 A. No. As I discussed in my direct testimony, the circumstances surrounding the  
9 conversion of UNE-P to Qwest's Qwest Platform Plus™ ("QPP") product are not  
10 the same as they are for UNE-to-private line conversions. First, in the case of  
11 DS1s and DS3s, the circuits are only changing from UNEs to Qwest's existing  
12 private line services in the wire centers that have been determined to be non-  
13 impaired; in all other wire centers, DS1s and DS3s will continue to be classified  
14 as UNEs. In the case of UNE-P, however, the loop portion of the product remains  
15 a UNE in *all* wire centers, while the switching and shared transport components  
16 of UNE-P are no longer classified as UNEs at all. Clearly, Qwest did not have an  
17 existing product that combined both UNE and non-UNE components available to  
18 CLECs. Therefore, when it was no longer required to provide UNE-P, Qwest  
19 voluntarily created a new product (*i.e.*, QPP) in order to replace UNE-P.

20 Second, the loop portion of the QPP product is identified by the telephone number  
21 for purposes of billing, maintenance and repair. In other words, the loop portion  
22 of QPP is not identified by a circuit ID. Furthermore, because the telephone  
23 number does not change, whether it is part of UNE-P or QPP, no conversion of  
24 the UNE loop occurs. Further still, QPP can be billed differently through the  
25 assignment of new universal service order codes ("USOCs") without  
26 consideration for other systems or centers.

1 Mr. Starkey argues that Qwest's transitioning from UNE-P to QPP, not by  
2 changing circuit IDs, but by merely re-pricing the service, is evidence that Qwest  
3 could do the same thing in this circumstance. However, unlike DS1s and DS3s,  
4 **there is no circuit ID** associated with the loop in the case of a finished service  
5 like UNE-P or QPP. As part of UNE-P, the QPP elements were already being  
6 billed out of the Customer Record Information System ("CRIS") billing system,  
7 and thus a change in USOCs was all that was necessary to effectuate new rates.  
8 Clearly, the way in which Qwest tracks the loop for purposes of repair and  
9 maintenance does not change as a result of the conversion from UNE-P to QPP.  
10 Thus, Mr. Starkey's comparison of these two unrelated situations is not  
11 meaningful.

12 As I discussed above, DS1 and DS3 UNEs are available at TELRIC rates only to  
13 CLECs. Thus, in wire centers that continue to be identified as "impaired" going  
14 forward, Qwest must still offer those products as UNEs, unlike the switching and  
15 shared transport components of UNE-P which are no longer classified as UNEs at  
16 all. In order to charge a rate for the DS1 and DS3 services in the non-impaired  
17 wire centers to a rate other than TELRIC, as Qwest is entitled to do under the  
18 FCC's *TRRO* decision, Qwest must re-classify them as something other than  
19 UNEs. In the case of UNE-P, Qwest was not converting a UNE product to an  
20 existing tariffed equivalent, because QPP did not previously exist. In the case of  
21 DS1s and DS3s, however, Qwest has a product offering that is a tariffed  
22 equivalent to its UNE offering. Thus, in converting the UNE product to a tariffed  
23 private line product, Qwest must change the circuit ID and cannot simply re-price  
24 the service.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**IV. RESPONSE TO MR. DENNEY**

**ISSUE 4-5 – DESIGN CHANGES**

**Q. MR. DENNEY TESTIFIES ON PAGE 28 OF HIS DIRECT TESTIMONY THAT ESCHELON “NEEDS A RULING THAT PROVIDES CERTAINTY THAT QWEST WILL CONTINUE TO PROVIDE DESIGN CHANGES AT COST-BASED RATES.” HAS QWEST PROPOSED A COST-BASED RATE FOR DESIGN CHANGES IN OREGON?**

A. Yes. In my direct testimony, Qwest proposed as an interim rate the cost-based TELRIC rates, including the design change charge, established by the New Mexico Commission in Utility Case 3495, Phase B, and made effective May 24, 2005. This \$51.76 charge is contained in the “Miscellaneous Charges” section of the New Mexico SGAT, Exhibit A, just as it is in Oregon, and applies to all design changes requested or required by a CLEC.

**Q. MR. DENNEY IMPLIES THAT THE RATES FOR DESIGN CHANGES ONLY APPLY TO TRANSPORT (I.E., UDOT) AND THAT A DIFFERENT RATE SHOULD APPLY FOR UNBUNDLED LOOPS AND CFA CHANGES. IS HE CORRECT?**

A. No. Mr. Denney is wrong. The design change charge cost study submitted by Qwest in the New Mexico cost docket, upon which Qwest’s proposed Oregon rate for design changes is based, calculates the average cost of performing a design change for all types of products (*i.e.*, loops and transport), and under all types of circumstances, including CFA (connecting facility assignment) changes. The nonrecurring cost study estimates the amount of time, on average, that it will take to perform any given task in the list of activities necessary to complete a design change, and the probability that the task will occur. Qwest’s nonrecurring cost study did not distinguish between the various circumstances in which a design

1 change might be requested by a CLEC. Furthermore, it is clear from the  
2 description of the design change element, included in the Executive Summary of  
3 the Nonrecurring Cost Study (Study ID# 8607 filed in a compliance filing in  
4 September 2004 ), that it was intended to apply to all types of design changes and  
5 not to transport only. Otherwise, the description would not include references to  
6 end-user premises (transport is from one central office to another central office  
7 and does not involve end users), optional features and functions, and type of  
8 channel interface. The notation “type of channel interface” in the design change  
9 description specifically contemplates situations involving CFA changes.

10 Finally, it is important to note that the design change element in New Mexico, as  
11 well as in Oregon, is, as Qwest has stated, contained within the Miscellaneous  
12 Charges section of its Exhibit A and not in the section where the rates pertaining  
13 specifically to UDIT are contained. There has never been a dispute about the fact  
14 that Qwest’s miscellaneous charges apply in a variety of circumstances and to a  
15 variety of products. For Mr. Denney to now suggest otherwise would be  
16 disingenuous to say the least. The fact that Qwest may not have charged a CLEC  
17 the rate for certain types of design changes does not mean that the costs for those  
18 design changes were not included in the cost study and the resulting rate.

19 **Q. IS IT NECESSARY TO DEVELOP SEPARATE CHARGES FOR THE**  
20 **VARIOUS TYPES OF DESIGN CHANGES, AS MR. DENNEY**  
21 **SUGGESTS?**

22 A. No. Neither this Commission nor the FCC has required Qwest to provide  
23 nonrecurring charges to cover every possible nuance of every possible way that  
24 every possible product might be provisioned by Qwest for the CLECs. Nor would  
25 it be appropriate to micromanage Qwest’s product offerings by requiring it to  
26 provide costs and processes to address every possible “flavor” of provisioning

1 activity in an increasingly competitive environment.

2 Eschelon has taken advantage for several years of the fact that the design change  
3 charge, as it is applied to UDIT, is lower than it would be if the costs were  
4 calculated on a stand-alone basis, according to Mr. Denney. At the same time, by  
5 its own admission,<sup>14</sup> Eschelon has had the benefit of no charge for design changes  
6 to unbundled loops. Now that Qwest has determined to charge CLECs for all of  
7 the design change types included in the calculation of its rate, Mr. Denney would  
8 have this Commission believe that Qwest must accept interim rates for each type  
9 of design change, and then seek permanent rates from the Commission in a  
10 different proceeding.<sup>15</sup> As I have pointed out above, however, Qwest has already  
11 received approval from the New Mexico Commission for the design change  
12 charge that it is proposing in this proceeding, and that rate is an average of the  
13 costs for performing a design change for all types of products, under all types of  
14 circumstances.

15 **Q. MR. DENNEY POINTS OUT, BEGINNING ON PAGE 45 OF HIS**  
16 **TESTIMONY, THAT QWEST'S DESIGN CHANGE CHARGE IS**  
17 **HIGHER THAN ITS INSTALLATION RATES FOR ANALOG LOOPS IN**  
18 **SEVERAL QWEST STATES. PLEASE COMMENT.**

19 A. Mr. Denney argues that it “defies logic” that Qwest’s design change charge would  
20 exceed the installation charges for 2/4 wire analog loops by 859% for basic  
21 installations, and 569% for coordinated installations without cooperative testing.  
22 Mr. Denney’s statement is misleading at best because it ignores the fact that, as I  
23 stated above, the design change charge applies to *all* types of products and *all*

---

<sup>14</sup> Direct Testimony of Douglas Denney (“Denney Direct”), p. 37.

<sup>15</sup> Denney Direct, p. 34.

1 types of circumstances. This means, therefore, that the design change charge  
2 applies not only to analog loops, but also to DS1 and DS3 loops, UDIT, UDF  
3 (unbundled dark fiber), LMC (Loop MUX Combo) and other loop-based products  
4 that involve connecting facility assignment (CFA) changes. Not surprisingly, Mr.  
5 Denney failed to include the installation charges for any of those products in his  
6 comparison to the design change rate. If he had, the Commission would have  
7 seen that the approved installation charges for loops range from \$10.75 for a 2  
8 and 4-wire basic installation to \$360.33 for coordinated installations with  
9 cooperative testing for DS1 and DS3 loops. Furthermore, the installation rates for  
10 UDIT, UDF and LMC range from approximately \$99 to more than \$500 in  
11 Oregon. Thus, it is clear that while some of the installation rates for some of the  
12 products to which design change charges apply are lower than the proposed  
13 design change charge of \$51.76, some of them, including some of the loop rates,  
14 are significantly higher. The point is that Mr. Denney's discussion is focused  
15 very narrowly on one product to which the design change charge applies, and thus  
16 appears intended to lead the Commission to a conclusion that is irrelevant. The  
17 Commission, however, established the nonrecurring rates for each of these  
18 elements on the basis of the inputs that it believed were appropriate for that  
19 element. In the case of design changes, Qwest proposes a single rate that is  
20 intended to apply to all product types, under all circumstances. If Mr. Denney  
21 wants to discuss how the design change rate compares to the Commission-  
22 approved installation rates, he should compare it to all of the installation rates for  
23 all of the relevant products to which design change charges apply. The fact that  
24 some rates are higher and some rates are lower is not the point; each rate stands  
25 on its own based on the costs that are recovered by that element.

26

1 **Q. MR. DENNEY ALSO POINTS OUT ON PAGE 44 THAT THE**  
2 **COORDINATED INSTALLATION WITHOUT COOPERATIVE**  
3 **TESTING RATE IN MANY OF QWEST'S STATES IS LOWER THAN**  
4 **THE DESIGN CHANGE CHARGE PROPOSED FOR OREGON. IS**  
5 **THAT IMPORTANT?**

6 A. No. First, the Commission should be aware that in many of the states referred to  
7 by Mr. Denney (*e.g.*, Idaho, Iowa, Montana, Nebraska, North Dakota and South  
8 Dakota), the rate for coordinated installation without cooperative testing is a  
9 voluntarily-reduced rate that Qwest agreed to as part of a benchmarking process  
10 that it went through during the 271 proceedings. Second, Mr. Denney incorrectly  
11 lumps Wyoming in that group because at one time it too had benchmarked  
12 installation rates. However, in Wyoming, as a result of a 2004 cost docket,<sup>16</sup> not  
13 only is the coordinated installation without cooperative testing rate for analog  
14 loops higher (at \$120.80) than Qwest's proposed design change charge in this  
15 proceeding but the same is true for the basic installation rate for analog loops (at  
16 \$104.73). Once again, Mr. Denney focuses the Commission on the 2/4 wire  
17 analog loop rates in these states, but he ignores the often much higher installation  
18 rates for the other products to which the design change charge applies. This  
19 results in an analysis that is just as misleading and irrelevant for these states as it  
20 is for Oregon.

---

<sup>16</sup> *In the Matter of the Filing of Qwest Corporation for Approval of Its 2004 Total Element Long Run Incremental Cost Studies*, Public Services Commission of Wyoming, Docket No. 70000-TA-04-1023 (Record No. 9277).



1 **ISSUE NO. 12-67 - EXPEDITES**

2 **Q. MR. DENNEY DISCUSSES ON PAGE 224 OF HIS TESTIMONY**  
3 **ESCHELON'S RIGHT TO A "COST-BASED" RATE FOR EXPEDITES IF**  
4 **ONE IS ESTABLISHED. WHAT IS COST-BASED PRICING?**

5 A. There are two common types of cost-based pricing utilized in the  
6 telecommunications industry: Total Element Long Run Incremental Cost  
7 ("TELRIC") and Total Service Long Run Incremental Cost ("TSLRIC").  
8 TELRIC is an economic costing method that was established by the FCC as a  
9 result of the 1996 Telecommunications Act for use in pricing the UNEs that  
10 incumbent local exchange carriers ("ILECs"), such as Qwest, are required to  
11 provide to CLECs pursuant to Section 251 of the Act.

12 In the case of TELRIC, the ILEC estimates the average cost (including direct,  
13 indirect, overhead and common costs) of providing an unbundled element, such as  
14 a loop, to a CLEC, and the resulting cost is equivalent to the price of the element.  
15 In the case of TSLRIC, the ILEC estimates the average direct and indirect cost of  
16 providing a service to its customers. The purpose of TSLRIC is to determine a  
17 level of cost *above which* a given service (or group of services) is to be priced.  
18 Instead of cost and price being equal as in the TELRIC method, TSLRIC is  
19 typically used to determine the price floor for retail services, as well as some  
20 wholesale telecommunications services, such as basic local exchange and private  
21 line services.

22 The amount of contribution above TSLRIC that is assigned to any given service  
23 for purposes of recovering a portion of the ILEC's overhead and common costs  
24 varies depending on a number of factors, including demand, competitiveness of  
25 the service, and the social and political pressures society places on the ILEC to

1 provide the service. For example, basic local exchange services provided to  
2 residential customers have traditionally been priced only slightly above TSLRIC  
3 costs, while private line services provided to business customers are often priced  
4 well above TSLRIC and, therefore, make a greater contribution to the overhead  
5 costs of the ILEC.

6 **Q. WHY ISN'T TELRIC AN APPROPRIATE METHOD FOR**  
7 **DETERMINING THE PRICE FOR EXPEDITING AN ORDER FOR AN**  
8 **UNBUNDLED NETWORK ELEMENT, SUCH AS A DS1-CAPABLE**  
9 **LOOP?**

10 A. As I explained above, the application of TELRIC pricing is limited to Section 251  
11 UNEs. The only pricing authority the Act confers upon state commissions is that  
12 set forth in Section 252(c)(2), which directs states to set prices in the exercise of  
13 their Section 252 arbitration authority for interconnection services and UNEs that  
14 ILECs provide under Sections 251(c)(2) and (c)(3). Section 252(c)(2) provides  
15 specifically that, in exercising their arbitration authority, states shall determine  
16 “the just and reasonable rate for the interconnection of facilities and equipment  
17 for purposes of subsection [251(c)(2)] . . . [and] for network elements for  
18 purposes of subsection [251(c)(3)].”<sup>17</sup> As shown by this language, nothing in this  
19 section gives state commissions pricing authority over superior services that an  
20 ILEC is not required to provide, such as expedited orders; instead, the authority  
21 that Congress granted in that section is plainly limited to unbundled elements and  
22 services that must be provided under Section 251(c). Thus, nowhere in Section  
23 251 is there a requirement for ILECs to provide CLECs with superior service.  
24 And, contrary to Mr. Denney’s claims, expedites do constitute a superior service,  
25 if for no other reason than that Qwest *already* provisions services for CLECs in

---

<sup>17</sup> 47 U.S.C. § 252(d)(1).

1 shorter intervals than it does for its own retail customers. Furthermore, when the  
2 FCC initially interpreted the Section 251(c)(3) requirement to provide  
3 nondiscriminatory access to UNEs as requiring ILECs to provide superior service,  
4 the Eighth Circuit struck down this language as violating the Act.

5 It is also important to note that this particular portion of the Eighth Circuit's  
6 decision was never disturbed by the United States Supreme Court.<sup>18</sup> In fact, the  
7 Florida Commission articulated this point clearly when it said:

8 It is clear there is no obligation imposed or implied in Rule 51.311(b) that an  
9 incumbent render services to a CLEC superior in quality to those provided to a  
10 retail customer requesting similar services. So long as rates are identical for all  
11 requesting parties, CLEC and retail alike, parity exists in the provisioning  
12 structure for service expedites, and there is no conflict with Rule 51.311(b). We  
13 reiterate that current regulations do not compel an ILEC to provide CLECs with  
14 access superior in quality to that supplied to its own retail customers.<sup>19</sup>

15 Thus, because this Commission's authority to apply TELRIC pricing is limited to  
16 Section 251 services and elements under the Act, and the service of expediting  
17 orders is a superior service not required by Section 251, it would be inappropriate  
18 for the Commission to determine a TELRIC-based price for the Expedited Order  
19 charge.

---

<sup>18</sup> See e.g., *Iowa Utilities Board v. AT&T*, 120 F.3d 753, 812-813 (8th Cir. 1997), *aff'd in part and rev'd in part*, 525 U.S. 366, 397 (1999).

<sup>19</sup> *In re Joint Petition by NewSouth et al.*, 2005 Fla. PUC LEXIS 634 \*150, Order No. PSC-05-0975-FOF-TP (Fla. PSC Oct. 11, 2005).

1 **Q. WHEN YOU SAY THAT THE COMMISSION'S TELRIC PRICING**  
2 **AUTHORITY IS LIMITED, ARE YOU SUGGESTING THAT THE**  
3 **COMMISSION DOES NOT HAVE JURISDICTION OVER WHOLESALE**  
4 **RATES?**

5 A. No. Clearly, the Commission has pricing authority under the Act over Section  
6 251 services and elements. Indeed, Qwest has participated in cost dockets before  
7 this Commission in which various rates for Section 251 services and elements  
8 were set. These rates are the rates associated with Qwest's universal service order  
9 codes ("USOCs"), and are the rates charged by Qwest to CLECs in Oregon.  
10 Qwest is not trying to modify any of these rates. These rates are completely  
11 separate from the expedite charge at issue in this proceeding.

12 The FCC's list of Section 251 elements is generally limited to those elements and  
13 services that are "necessary" for a CLEC to be able to compete with ILECs on an  
14 equal footing. In cases where the FCC has found that access to a specific element  
15 in an ILEC's network is not required, cost-based pricing no longer applies and an  
16 ILEC is free to negotiate a market rate with CLECs. For example, as a part of the  
17 *TRRO*, the FCC determined that ILECs were no longer required to provide  
18 CLECs with access to unbundled switching or shared transport at TELRIC rates,  
19 effectively eliminating the Section 251 product that up until then had been  
20 referred to as "UNE-P." As a result, Qwest negotiated commercial agreements  
21 with CLECs and began offering a non-Section 251 product called "Qwest  
22 Platform Plus" ("QPP") that included market-based rates.

23 As discussed above, because the service of expediting an order is a superior  
24 service that allows a CLEC to circumvent the standard installation intervals  
25 provided for UNEs, which are already installed on shorter intervals than Qwest  
26 provides for its own retail customers, it cannot be considered a Section 251

1 service. Further, the Commission has accepted the same Expedite Charge in  
2 multiple tariffs and price lists under the same terms and conditions for Qwest's  
3 other customers who wish to leapfrog ahead of other customers with their  
4 installation requests. In fact, the Expedite Order Charge that Qwest uses for its  
5 CLEC customers is the same rate, and is assessed under the same terms and  
6 conditions, as the charge for expedites that currently exists for both Qwest's retail  
7 and wholesale customers in Oregon. Thus, the \$200 per-day-advanced Expedite  
8 Order Charge that exists in Qwest's tariffs, including the Private Line Transport  
9 Services Tariff No. 31 and the Exchange and Network Services Tariff No. 33, has  
10 already been accepted by this Commission.

11 **Q. WHY ISN'T TSLRIC AN APPROPRIATE COST-BASED METHOD FOR**  
12 **DETERMINING THE PRICE FOR EXPEDITING AN ORDER?**

13 A. The reason that TSLRIC cannot be used to "determine the price" for the  
14 Expedited Order Charge is that the purpose of TSLRIC is not to determine a price  
15 but, rather, to establish a *price floor* for a service. This means that as long as the  
16 service is priced at some level above its direct and indirect costs (*i.e.*, its  
17 TSLRIC), then the purpose of TSLRIC has been met. In the case of the  
18 Expedited Order Charge, the way to establish the appropriate level above TSLRIC  
19 for pricing the service is for Qwest to determine the value of an expedite based on  
20 what the market will bear. Qwest went through that process when it sought, and  
21 received, Commission acceptance of \$200 per day as the charge for expediting an  
22 order for its retail and wholesale customers in its tariffs.

1 **Q. HAS QWEST GENERATED A TSLRIC COST STUDY TO DETERMINE**  
2 **THE MINIMUM RATE THAT QWEST MUST CHARGE TO ENSURE**  
3 **THE SERVICE IS ABOVE COST?**

4 A. Yes. Qwest determined the minimum price floor that it could charge for  
5 performing an expedite and opted to charge \$200 per day, the exact same amount  
6 utilized by BellSouth (AT&T) to perform the exact same work.

7 **Q. IS MR. DENNEY'S PROPOSED CHARGE OF \$100 A COST-BASED**  
8 **CHARGE?**

9 A. No. As Mr. Denney states on page 223 of his testimony, the \$100 fee proposed  
10 by Eschelon is a compromise. It is not based on any analysis of Qwest's costs to  
11 perform an expedite and is, in fact, below the minimum price floor established in  
12 Qwest's TSLRIC study for the activities necessary to complete an expedite. Nor  
13 is Mr. Denney's proposed expedite fee based on any analysis of the value  
14 associated with Eschelon's ability to leapfrog ahead of its competitors' orders that  
15 are already in queue.

16 **Q. WHAT IS THE APPROPRIATE BASIS FOR THE \$200 EXPEDITED**  
17 **ORDER CHARGE?**

18 A. The fee for an expedited order is payment to Qwest for the value of a premium or  
19 superior service that it provides to CLECs and to its retail and other wholesale  
20 customers alike. It is not based on cost, although Qwest certainly does incur costs  
21 to process a request for an expedited order. For these orders, Qwest must invest  
22 time and resources to work the order into an existing provisioning schedule,  
23 coordinate activities among the several Qwest departments that are involved in  
24 the installation process, and communicate with the customer regarding the status  
25 of the order. However, the value of an expedited order is the intangible benefit of  
26 a superior service provided to the customer by Qwest (*i.e.*, the ability to go to the

1 head of the line and leapfrog over the other customers whose orders are already in  
2 queue). If Qwest did not charge its customers for the value they receive in going  
3 to the head of the line, those customers would receive an unfair advantage over  
4 other customers. Thus, by making expedites available to all of its customers *for a*  
5 *fee*, every customer has the same ability as every other customer to decide for  
6 itself how important it is to obtain expedited orders. Obviously, *it would be*  
7 *impossible for Qwest to expedite every order*; thus, Qwest sets a price for  
8 obtaining superior service that guarantees that only those customers for whom the  
9 priority to expedite an order is very high will request the service.

10 **Q. ARE THERE SIMILAR EXAMPLES IN EVERYONE'S COMMON**  
11 **EXPERIENCE THAT COULD HELP EXPLAIN THIS CONCEPT?**

12 A. Yes. Take a concert, for example. Whether it is a rock concert, a symphony or a  
13 country and western concert, they all have one thing in common: concert-goers  
14 pay a premium for seats that are up front and closer to the stage than they do for  
15 seats that are in the back and farther away from the stage. And while it does not  
16 cost any more to produce a show for the people in the front row than it does to  
17 produce a show for the people in the last row, it is not unusual for the people in  
18 the front row to pay a ticket price that is two or three times (or more) higher than  
19 the price for back-row tickets. The reason some concert-goers are willing to pay  
20 the higher price is because they perceive enough value in being close to the stage  
21 to make it worth paying the premium fee. Other concert-goers are willing to sit  
22 farther away to pay a lower price. The same is true of expedite charges; some  
23 customers, including CLECs, are willing to pay a premium in order to receive  
24 what they perceive to be the superior service of shortening their installation  
25 interval and moving to the head of the line. Other CLECs are satisfied to accept  
26 the standard installation interval and forego paying the additional fee. Each

1 CLEC makes the business choice to pay the fee or not pay the fee on the basis of  
2 the perceived value to its business to expedite orders. This is no different than the  
3 decision process that Qwest's retail and other wholesale customers go through  
4 when they determine whether or not to pay the \$200 per-day fee to expedite their  
5 installation orders.

6 **ISSUE NO. 22-90(B) – (AE) – UNAPPROVED RATES**

7 **Q. ON PAGE 255, MR. DENNEY CITES TO THE DESIGN CHANGE**  
8 **CHARGE AS AN EXAMPLE OF ESHELON'S PROBLEM WITH**  
9 **QWEST'S TREATMENT OF UNAPPROVED RATES. PLEASE**  
10 **COMMENT.**

11 A. Mr. Denney argues that "Qwest has provided *no* related cost study, obtained *no*  
12 related ICA amendment, and sought *no* related Commission approval, but,  
13 instead, simply commenced billing for design changes for loops."<sup>20</sup> This is not  
14 quite accurate.

15 First, as I explained above, Qwest has proposed in this proceeding a New Mexico  
16 Commission-approved rate based on a cost study that was filed as part of Utility  
17 Case No. 3495, Phase B. That cost study quite clearly calculated a rate for design  
18 changes that was intended to apply in a variety of circumstances to a variety of  
19 Qwest products, including loops. Second, the fact that Qwest chose not to bill  
20 CLECs for design changes for loops pursuant to that rate was simply a benefit that  
21 Eschelon and the other CLECs quietly took advantage of. Qwest, however,  
22 received no compensation from the CLECs during that time for the design work it  
23 was performing on their behalf at no charge. Now that Qwest has determined to

---

<sup>20</sup> Denney Direct, p. 256.



1 bill Eschelon the design change charge for all of the products to which it was  
2 intended to apply, Mr. Denney claims that Eschelon is being treated unjustly and  
3 that Qwest bears the burden for substantiating its rates. In the case of the design  
4 change charge, Qwest has not only already substantiated the rate, but has also  
5 obtained approval from several commissions, including the New Mexico  
6 Commission, to charge that rate. There is nothing unjust about Qwest charging  
7 CLECs for services it performs on their behalf; what is unjust is Mr. Denney's  
8 suggestion that Qwest be required in the current competitive environment to  
9 provision products at no charge.

10 Finally, it is important to note that Qwest has many unapproved rates in Oregon  
11 as evidenced by the more than 150 rates at issue in this arbitration. In each case  
12 as new products or new applications of products have been introduced in Oregon,  
13 it has been Qwest's practice to charge CLECs without first obtaining Commission  
14 approval of the rate. Qwest bases its rates on TELRIC studies that it conducts in  
15 anticipation of filing a cost docket. Mr. Denney argues that Qwest should be  
16 provided an "incentive" to substantiate its rates and obtain approval in a "more  
17 timely manner."<sup>21</sup> This argument, however, ignores the fact that there are many  
18 reasons why services might be provided using unapproved rates, sometimes for  
19 long periods of time, and often through no fault of Qwest.

20 For example, many of the rates at issue here were filed with this Commission in  
21 the now-closed UM 1025 cost docket that I have discussed above. The point is  
22 that it would place a chilling effect on Qwest's provisioning of services for which  
23 permanent rates have not been established if Qwest were expected to begin  
24 providing products and services to the CLECs, but not be able to charge CLECs

---

<sup>21</sup> Denney Direct, p. 257.

1 for those services until after the Commission approved rates for them. This is  
2 especially true given the fact that many of the products and services that Qwest  
3 offers are added at the request of CLECs. For Mr. Denney to suggest that, absent  
4 Commission approval of a rate, it is fair to allow Qwest to charge only the  
5 unsupported rates that Eschelon proposes, ignores the realities of the competitive  
6 environment and all but guarantees that Qwest would not recover its costs to  
7 provide those services.

8 **Q. IN PROPOSING RATES FOR CERTAIN ELEMENTS, MR. DENNEY**  
9 **MAKES SEVERAL CLAIMS IN HIS DIRECT TESTIMONY,**  
10 **BEGINNING ON PAGE 271, ABOUT THE ADEQUACY OF QWEST'S**  
11 **COST SUPPORT. PLEASE COMMENT.**

12 A. Mr. Denney claims that Qwest provided cost studies with inputs that were  
13 inconsistent with prior Commission decisions. In addition, he points out that  
14 Qwest only provided cost studies for only some of its proposed rates. He then  
15 provides a table on page 269 of his direct testimony that shows both Qwest's and  
16 Eschelon's proposed rate for the elements he has selected.<sup>22</sup> On page 282, Mr.  
17 Denney provides a table that summarizes the basis for Eschelon's proposed rates.  
18 My review of these tables and Mr. Denney's claims uncovers a number of  
19 concerns with what he has portrayed in his testimony and his table.

---

<sup>22</sup> It is important to note that Mr. Denney's table on page 269 displays Qwest's proposed rates from the Joint Issues Matrix and not the interim rates that Qwest proposed and attached to my direct testimony as Exhibit Qwest/17.

1 **Q. HOW DO YOU RESPOND TO MR. DENNEY'S ASSERTIONS THAT**  
2 **QWEST'S RATES DO NOT REFLECT PRIOR COMMISSION**  
3 **DECISIONS?**

4 A. I think it is important to note that when it calculates costs for new elements  
5 subsequent to a Commission decision in a cost docket, Qwest is not obligated to  
6 rigidly follow the inputs ordered in that docket. The inputs ordered in a specific  
7 docket are specific to the rate elements that were at issue in that case and do not,  
8 necessarily or by Commission mandate, carry forward to each future cost study  
9 that Qwest might prepare. The reason for this is simply that the passage of time,  
10 refinement of studies and the incorporation of new and updated information in  
11 studies often result in costs for new elements that do not warrant the changes in  
12 inputs decided for previously-submitted elements.

13 For example, assume the Commission determined in a prior cost docket that a  
14 particular time estimate for a particular function in a nonrecurring cost study  
15 should be reduced by 30%, from 10 minutes to 7 minutes. In a subsequent filing,  
16 assume that Qwest has revisited this time estimate with its subject matter experts  
17 and, based on current practices and their application in a new element, the subject  
18 matter experts estimate the forward-looking time for that function to be 8 minutes.  
19 It would be unreasonable to presume that Qwest should simply reduce that  
20 estimate by 30%, down to 5.6 minutes without first being given the opportunity to  
21 present the new study and new evidence to the Commission to demonstrate why 8  
22 minutes is a better estimate for the task than the 7 minutes ordered for another  
23 element in a previous cost docket. The mere passage of time between a  
24 Commission decision in one docket and the presentation of new costs and  
25 elements in another docket, not to mention other factors (such as the changing  
26 competitive environment), provides a sufficient reason for taking a fresh look at

1 cost study inputs, rather than simply automatically applying previous decisions to  
2 new information. This is the main reason that Qwest believes that the appropriate  
3 place to review detailed inputs in cost studies and determine permanent rates is in  
4 a cost proceeding, instead of this arbitration.

5 **Q. DOES MR. DENNEY PROVIDE THE COMMISSION WITH A SINGLE,**  
6 **CONSISTENT APPROACH TO DETERMINING INTERIM RATES?**

7 A. No. Mr. Denney uses several approaches to determine the rates he is proposing  
8 on Eschelon's behalf. For example, in addition to adjusting Qwest's rates to  
9 reflect prior Commission decisions as I discussed above, he sometimes merely  
10 halved Qwest's proposed rate. In other instances, he averaged some, but not all,  
11 of the approved rates from Qwest's other states, and in other instances he simply  
12 proposed a rate that already existed in Eschelon's current ICA. He does not  
13 justify his "pick and choose" approach to proposing interim rates; rather, he goes  
14 to great lengths to explain *what* he did in making each of his various proposals,  
15 but not *why* it was appropriate to use so many varied approaches in proposing  
16 rates. Thus, for Mr. Denney to propose the adjustments he has in this proceeding,  
17 without giving the Commission the opportunity to conduct a detailed analysis of  
18 the underlying studies or factors, such as the current competitive environment, is,  
19 once again, support for establishing a separate proceeding to address permanent  
20 costs. It is also the reason for Qwest's proposal to use the New Mexico rates,  
21 which were more recently reviewed and approved in a fully-litigated cost  
22 proceeding, as interim rates until permanent rates can be established.

23 Therefore, in the absence of a fully-developed cost docket, and pursuant to  
24 Qwest's proposal to use the existing approved rates from New Mexico on an  
25 interim basis, I reiterate my position that the merits of the permanent treatment of  
26 unapproved rates should be addressed as a part of that process and not as a part of

1           this arbitration proceeding.

2   **Q.   HAVE YOU COMPLETED YOUR ANALYSIS OF MR. DENNEY'S**  
3   **PROPOSED RATES?**

4   A.   No. Through the discovery process, Qwest has requested certain information  
5       from Eschelon concerning the assumptions and methodologies Mr. Denney used  
6       to develop the rates he is proposing. Upon receiving that information, I expect to  
7       provide further analysis of Eschelon's rate proposals in my surrebuttal testimony.

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

9   A.   Yes, it does.