

FORMAL COMPLAINT



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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
Commissioner

2003 DEC -8 P 4: 13

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Arizona Corporation Commission
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UTILITIES DIVISION STAFF

Docket No. T-03406A-03-0888

Complainant,

v.

ESCHELON COMMUNICATIONS, INC.

COMPLAINT

Respondent.

The Arizona Corporation Commission ("Commission") Utilities Division ("Staff"), for its Complaint and Petition for Relief against Eschelon Communications, Inc. formerly known as Advanced Telecommunications, Inc. ("Eschelon") alleges the following:

JURISDICTION

1. The Commission has jurisdiction to hear complaints against public service corporations pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of Arizona Revised Statutes.

RESPONDENT

2. Respondent Eschelon is a public service corporation. The Commission authorized Eschelon to provide facilities-based local exchange service, resold local exchange service and resold interexchange service in Arizona on July 25, 2000, in decision No. 62751.

1 **BACKGROUND**

2 3. Between the dates of February 28, 2000 and July 31, 2001, Eschelon negotiated and
3 entered into at least ten interconnection agreements with Qwest Corporation, formerly known as US
4 West (“Qwest”). Eschelon agreed to keep the agreements confidential. Neither Eschelon nor Qwest
5 filed the ten confidential agreements with the Commission for approval. 47 U.S.C. § 252(e) of the
6 Telecommunications Act of 1996 (“the 1996 Act”) requires that all interconnection agreements be
7 filed with the State Commissions for review. Section 252(e) of the Act requires the Commission to
8 reject an interconnection agreement if it is discriminatory or not consistent with the public interest,
9 convenience, and necessity. A.A.C. R14-2-1506(A) requires negotiated interconnection agreements
10 to be filed with the Commission by the parties within 30 calendar days of the agreement’s execution.
11 A.A.C. R14-2-1506(C) states that the parties may jointly or separately file the agreements. Eschelon
12 violated both Section 252(e) of the 1996 Act and A.A.C. R14-2-1506 by failing to file the
13 interconnection agreements with the Commission for review.

14 **CLAIMS**

15 **COUNT ONE**

16 4. Staff restates paragraphs 1 through 3 as if fully set forth herein.

17
18 5. Section 252(e) of the 1996 Act states “Any interconnection agreement adopted by
19 negotiation or arbitration shall be submitted for approval to the State commission.”

20
21 6. A.A.C. R14-2-1506(A) states “An interconnection agreement shall be submitted to the
22 Commission for approval under 47 U.S.C. 252(e) ... in the case of negotiated agreements, within 30
23 calendar days of the execution of the agreement.”

24
25 7. A.A.C. R14-2-1506(C) states that the materials filed for approval “can be filed jointly
26 or separately by the parties....”

27
28 8. Eschelon and Qwest negotiated and executed the interconnection agreements listed in

1 Table One below:

2 **Table One:**

3 **Eschelon – Qwest Interconnection Agreements**

4

	Date	Title
5	1. 2/28/2000	Confidential/Trade Secret Stipulation
6	2. 7/21/2000	Trial Agreement
7	3. 11/15/2000	Confidential Purchase Agreement
8	4. 11/15/2000	Confidential Amendment to Confidential/ Trade Secret Stipulation (Amending 2/28/2000 agreement)
9	5. 11/15/2000	Escalation Procedures Letter from Qwest
10	6. 11/15/2000	Daily Usage Information Letter from Qwest
11	7. 11/15/2000	Features Letter from Qwest
12	8. 11/15/2000	Confidential Billing Settlement Agreement
13	9. 7/03/2001	Status of Switched Access Minute Reporting Letter from Qwest
14	10. 7/31/2001	Implementation Plan

15

16 9. Eschelon did not file the interconnection agreements listed in Table One above with
17 the Commission as required pursuant to 47 U.S.C. § 252(e).

18
19 10. Because Eschelon did not file the interconnection agreements listed in Table One
20 above with the Commission as required pursuant to 47 U.S.C. § 252(e), Eschelon violated 47 U.S.C.
21 § 252(e).

22
23 11. Eschelon did not file the interconnection agreements listed in Table One above with
24 the Commission as required pursuant to A.A.C. R14-2-1506(A) and (C).

25
26 12. Because Eschelon did not file the interconnection agreements listed in Table One
27 above with the Commission as required pursuant to A.A.C. R14-2-1506(A) and (C), Eschelon
28

1 violated A.A.C. R14-2-1506(A) and (C).
2

3 13. The interconnection agreements entered into by Eschelon with Qwest, among other
4 things, allowed Eschelon to receive a 10 percent discount on services purchased by Eschelon from
5 Qwest for five years.
6

7 14. The interconnection agreements entered into by Eschelon with Qwest, among other
8 things, granted Eschelon preferential treatment when compared to other Competitive Local Exchange
9 Carriers related to escalation procedures.

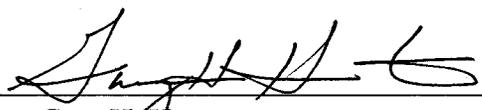
10 **RELIEF**

11 16. Staff requests that the Commission impose appropriate monetary fines on Eschelon for
12 its violations of 47 U.S.C. § 252(e) and A.A.C. R14-2-1506(A) and (C).
13

14 17. Staff requests that the Commission provide such additional relief as may be
15 appropriate.
16

17 RESPECTFULLY SUBMITTED this 8th day of December, 2003.

18 ARIZONA CORPORATION COMMISSION

19
20 By: 

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1 Original and 13 copies of the foregoing filed
2 this 8th day of December, 2003, with:

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