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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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Arizona Corporation Commission

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MARC SPITZER, Chairman
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AZ CORP COMMISSION
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DOCKETED BY

UTILITIES DIVISION STAFF,

DOCKET NO. T-03406A-03-0888

Complainant,

v.

ESCHALON TELECOM OF ARIZONA, INC.

Respondent.

PROCEDURAL ORDER

BY THE COMMISSION:

On December 8, 2003, the Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") filed a Complaint against Eschelon Telecom of Arizona, Inc. ("Eschelon"). On December 16, 2003, Staff filed an Errata to the Staff Complaint. The Staff Complaint alleges that Eschelon violated 47 U.S.C. § 252(e) of the Telecommunications Act of 1996 (the "Act") and A.A.C. R14-2-1506(A) and (C) by failing to file certain documents with the Commission that Staff alleges are interconnection agreements between Eschelon and Qwest Corporation ("Qwest").

On December 24, 2003, Staff and Eschelon filed a Stipulation to extend the time for Eschelon to answer the Complaint.

On May 20, 2004, Eschelon filed a Motion to Dismiss and Answer. Eschelon argues that neither Section 252(e) of the Act or A.A.C. R14-2-1506 explicitly requires that CLECs, like Eschelon, file such agreements, and further that some of the documents identified by Staff are not interconnection agreements and thus not subject to filing requirements.

On June 7, 2004, Staff filed a Response to Eschelon's Motion. Staff argues that Eschelon is mistaken as to its obligation to file interconnection agreements and that the question of which documents meet the definition of an interconnection agreement is a mixed question of fact and law.

On July 9, 2004, Eschelon and Staff filed a Stipulation and Request for Procedural Order. The parties have agreed that because certain of the issues raised in Eschelon's Motion to Dismiss

1 may be dispositive, it is appropriate to brief those issues before further proceedings. The parties
2 propose the following briefing schedule:

3	Eschelon's Initial Brief	August 20, 2004
4	Staff's Response Brief	September 20, 2004
5	Eschelon's Reply Brief	October 4, 2004
6	Staff Surreply Brief ¹	October 18, 2004
7	Oral Argument	October 29, 2004

8 The parties' proposal is reasonable and their proposed schedule should be adopted.

9 IT IS THEREFORE ORDERED that the parties shall comply with the stipulated schedule for
10 filing briefs.

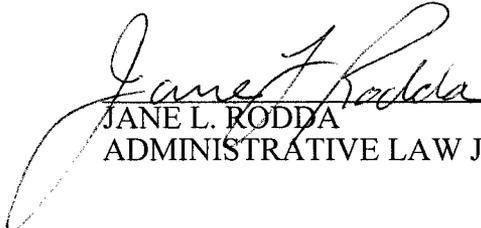
11 IT IS FURTHER ORDERED that a Procedural Conference for the purpose of hearing oral
12 argument shall commence on October 29, 2004 at 10:30 a.m. at the Commission's Phoenix offices,
13 1200 West Washington, Phoenix, Arizona.

14 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
15 Communications) continues to apply to this proceeding.

16 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
17 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

18 DATED this 23rd day of July, 2004.

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 JANE L. RODDA
 ADMINISTRATIVE LAW JUDGE

¹ Only if required to address any new issues not raised in Eschelon's Initial Brief.

1 Copies of the foregoing mailed/delivered
This 23rd day of July, 2004 to:

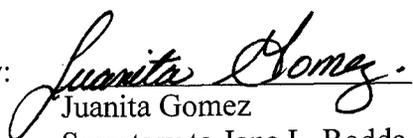
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