

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

MAR 16 2005

DOCKETED BY [Signature]

DOCKET NO. T-03406A-03-0888

COMMISSIONERS

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

AZ CORP COMMISSION
DOCUMENT CONTROL

UTILITIES DIVISION STAFF,

Complainant,

v.

ESCHELON 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.

By Procedural Order dated July 23, 2004, a briefing schedule was established and the matter set for oral argument.

On September 17, 2004, counsel for Eschelon requested a procedural conference during which Eschelon and Staff reported that they were going to engage in settlement negotiations. The procedural schedule was suspended indefinitely by Procedural Order dated September 17, 2004.

25H

1 Pursuant to Procedural Orders dated September 17, 2004, October 15, 2004, November 19,
2 2004, January 6, 2005, and February 9, 2005, the parties participated in a series of status conferences.
3 During the status conference held March 7, 2004, the parties requested at least 30 days to finalize and
4 file a written settlement agreement, and longer if pre-filed testimony will be required.

5 It is Commission practice that each party to a settlement agreement shall have at least one
6 witness who will testify at a hearing in favor of the proposed settlement.

7 IT IS THEREFORE ORDERED that a hearing on the proposed settlement will commence on
8 **May 11, 2005**, at 10:00 a.m., or as soon as practicable thereafter, at the Commission's Tucson
9 offices, Room 222, 400 West Congress, Tucson, Arizona.

10 IT IS FURTHER ORDERED the parties shall jointly file a written executed settlement
11 agreement by **April 25, 2005**.

12 IT IS FURTHER ORDERED that each party shall reduce to writing and file the testimony of
13 at least one witness in support of the settlement agreement by **April 25, 2005**. Out-of-state witnesses
14 may appear telephonically by requesting such arrangements prior to the hearing.

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

17 DATED this 15th day of March, 2005.

18
19
20 
20 JANE L. RODDA
20 ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed/delivered
22 This 15th day of March, 2005 to:

23 Thomas Campbell
23 Michael T. Hallam
24 Lewis and Roca, LLP
24 40 North Central Avenue
25 Phoenix, AZ 85004
25 Attorneys for Eschelon

26 Dennis D. Ahlers
27 Senior Attorney
27 Eschelon Telecom of Arizona, Inc.
28 730 second Avenue South, Suite 90
28 Minneapolis, MN 55402-2456

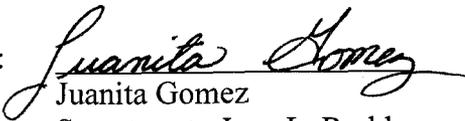
1 Michael W. Patten
2 ROSHKA HEYMAN & DEWULF, PLC
3 One Arizona Center
4 400 East Van Buren Street, Suite 800
5 Phoenix, Arizona 85004
6 Attorneys for McLeodUSA

7 Bill Courter
8 MCLEODUSA
9 P.O. Box 3177
10 Cedar Rapids, Iowa 52406-3177

11 Christopher Kempley, Chief Counsel
12 David Ronald
13 Legal Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, Arizona 85007

17 Ernest Johnson, Director
18 Utilities Division
19 ARIZONA CORPORATION COMMISSION
20 1200 West Washington Street
21 Phoenix, Arizona 85007

22 ARIZONA REPORTING SERVICE, INC.
23 2627 N. Third Street, Suite Three
24 Phoenix, Arizona 85004-1104

25
26 By: 
27 Juanita Gomez
28 Secretary to Jane L. Rodda

19
20
21
22
23
24
25
26
27
28