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BEFORE THE ARIZONA CORPORATION COMMISSION  
PROCEEDINGS IN ARBITRATION

IN THE MATTER OF THE PETITION OF ) DOCKET NO.  
ESCHELON TELECOM OF ARIZONA, INC. ) ~~T-03406A-06-0572~~  
FOR ARBITRATION WITH QWEST ) T-01051B-06-0572  
CORPORATION, PURSUANT TO 47 U.S.C. )  
§ 252 OF THE FEDERAL )  
TELECOMMUNICATIONS ACT OF 1996. )  
PREARBITRATION  
CONFERENCE

At: Tucson, Arizona  
Date: March 6, 2007  
Filed: **MAR 23 2007**

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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on to be heard before the Arizona  
3 Corporation Commission, 400 West Congress Street,  
4 Tucson, Arizona, commencing at 1:35 p.m. on the 6th day  
5 of March, 2007.

6

7 BEFORE: JANE L. RODDA, Arbitrator

8

APPEARANCES:

9

For Qwest Corporation:

10

QWEST CORPORATION

11

By: Mr. Norman Curtright  
20 East Thomas Road, 16th Floor  
12 Phoenix, Arizona 85012  
(Appeared telephonically)

13

- and -

14

PERKINS COIE, LLP

15

By: Mr. John M. Devaney  
607 14th Street, NW  
16 Washington, D.C. 20005  
(Appeared telephonically)

17

18 For Eschelon Telecom of Arizona:

19

GRAY PLANT MOOTY

20

By: Mr. Gregory R. Merz  
500 IDS Center  
80 South 8th Street  
21 Minneapolis, Minnesota 55402  
(Appeared telephonically)

22

23

MICHELE E. BALMER  
24 Certified Reporter  
Certificate No. 50489

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1           ARBITRATOR RODDA: Let's go on the record. And  
2 this is the time set for the procedural conference in  
3 Dockets No. T-03406A-06-0572 and T-01051B-06-0572,  
4 which is the arbitration of the interconnection  
5 agreement between Eschelon Telecom and Qwest  
6 Corporation.

7           My name is Jane Rodda, and I'm the  
8 Administrative Law Judge assigned as the Arbitrator to  
9 this matter.

10           And the first thing I'll do is take the  
11 appearances of the parties. So on behalf of Eschelon?

12           MR. MERZ: On behalf of Eschelon, Greg Merz  
13 with the Gray, Plant Mooty law firm in Minneapolis.

14           ARBITRATOR RODDA: On behalf of Qwest  
15 Corporation?

16           MR. CURTRIGHT: Norman Curtright on behalf of  
17 Qwest Corporation.

18           MR. DEVANEY: John Devaney also on behalf of  
19 Qwest, and I'm with Perkins Coie out of  
20 Washington, D.C.

21           ARBITRATOR RODDA: Great. All right. Just  
22 today, Norm, I saw -- in fact, just maybe 10 minutes  
23 before this proceeding started, I saw this motion to  
24 dismiss the rate issues.

25           And Mr. Merz, are you going to -- do you have a

1 position on that? Are you going to file something, or  
2 where are we on that?

3 MR. MERZ: And if it's all right with Your  
4 Honor, I would expect to file that probably next  
5 Monday.

6 ARBITRATOR RODDA: That's fine.

7 MR. MERZ: Okay.

8 ARBITRATOR RODDA: So we can discuss that -- or  
9 do we need to discuss that prior to the 19th? Do you  
10 all want another teleconference so we can -- does it  
11 affect witnesses? I mean, does the same witness appear  
12 on these issues as other issues?

13 MR. DEVANEY: I think it would affect certainly  
14 our preparation for the hearing, and certainly would  
15 affect the relevance of some of the witnesses'  
16 testimony. So I would suggest that we take this up  
17 prior to the hearing.

18 ARBITRATOR RODDA: I'm just looking at my  
19 calendar. Are you all involved in other proceedings  
20 next week, the week of the 12th?

21 MR. MERZ: I don't have anything next week.

22 MR. DEVANEY: I have a court argument actually  
23 with Norm in Seattle on the 15th of next week, which I  
24 guess is Thursday. But I think Wednesday would work,  
25 or Monday. Although you would be filing on Monday,

1 Greg. So Wednesday, I guess, for me would be the ideal  
2 day because of this court hearing in Seattle.

3 ARBITRATOR RODDA: I'm looking at Wednesday  
4 here in Arizona is the second day of a regularly  
5 scheduled Open Meeting. Usually it doesn't go into the  
6 second day. And I haven't seen the agenda for this  
7 Open Meeting yet, so I don't know what that is like. I  
8 do know that I have a significant number of items on  
9 that agenda. But other than that, if I'm not in Open  
10 Meeting the 14th, which is a Wednesday, we could do  
11 something telephonic if that works with everybody.

12 Mr. Merz, is that --

13 MR. MERZ: That would be fine.

14 ARBITRATOR RODDA: All right. So let's say  
15 tentatively we'll set up a 10:00 a.m. conference call  
16 for the 14th, and I'll let you all know what that  
17 number is. And that's for oral argument on that  
18 motion.

19 All right. So other than that, let's see. I  
20 just saw that the surrebuttal was filed on March 2nd.  
21 There's a matrix due on the 12th.

22 MR. DEVANEY: Judge, could we ask you a  
23 question about the matrix?

24 Eschelon and Qwest have talked about the format  
25 of the matrix. And if it's okay with you, our

1 preference would be in the matrix to simply list each  
2 issue number, and then in two columns have Eschelon's  
3 proposed contract language and Qwest's proposed  
4 contract language, and that would be it.

5           What we would not include, if you're okay with  
6 it, is the parties' position statements within the  
7 matrix. And the reason is that we have spelled that  
8 out pretty clearly in our testimony, and it would be  
9 fairly time-consuming for both parties to populate the  
10 matrix with that. Obviously, if you have strong  
11 feelings, we'll do what you prefer, but we just wanted  
12 to present that possibility to you.

13           ARBITRATOR RODDA: You know, I think that that  
14 would be fine. But I can find your positions in the  
15 testimony and any closing briefs that we have. But the  
16 most helpful part of the matrix is, one, identifying  
17 what issues are still out there, and also exactly the  
18 language that we're discussing. So that would be fine  
19 with me.

20           MR. DEVANEY: Thanks.

21           ARBITRATOR RODDA: All right. What about  
22 witnesses? Have you been taking the show on the road?

23           MR. DEVANEY: We tried it once in Minnesota,  
24 and the parties have tentatively come up with a  
25 proposal for you on witnesses.

1 ARBITRATOR RODDA: Okay. Why don't you let me  
2 know what that is.

3 MR. DEVANEY: Qwest would go first, and we  
4 would present all of our witnesses in the following  
5 order. Albersheim, Easton, Ashton, Hubbard, Million,  
6 and Stewart.

7 And then Eschelon would go, and, Greg, I think  
8 you said Starkey, Johnson, and Denney, in that order?

9 MR. MERZ: Yeah. That's correct.

10 ARBITRATOR RODDA: Starkey, Johnson, Denney.  
11 And is there another one?

12 MR. MERZ: There's not. Mr. Denney is actually  
13 adopting the testimony of Mr. Weber who is our fourth  
14 witness. A number of Mr. Weber's issues have actually  
15 been resolved.

16 ARBITRATOR RODDA: Which are the witnesses that  
17 would be affected by this motion?

18 MR. MERZ: Well, for Eschelon, Mr. Denney is  
19 our cost witness.

20 MR. DEVANEY: And for Qwest it's Terry Million.

21 ARBITRATOR RODDA: Okay. All right. If that  
22 order works for you, I mean, I have no preference.

23 Do you all have a time frame, an estimate of  
24 how long this is going to take? Will it take the whole  
25 week?

1 MR. MERZ: This is Greg Merz, and I would be  
2 very surprised if it took the whole week. In Minnesota  
3 it did take the whole week, but the department was a  
4 party with witnesses, and that was our Friday.

5 There are a number of issues that have  
6 resolved. I presently -- and I have talked with  
7 Mr. Devaney about this. I think that I am likely to  
8 have significant cross-examination for Albersheim,  
9 Million, and Stewart. With respect to Easton, Ashton  
10 and Hubbard, I believe that it will be very limited  
11 cross-examination, and before the hearing I may  
12 conclude that I have none at all for one or more of  
13 those witnesses.

14 MR. DEVANEY: And Qwest would agree. I don't  
15 think we'll take up the whole week. I would hope we  
16 finish by Thursday and, you know, possibly even  
17 Wednesday, but more than likely Thursday.

18 ARBITRATOR RODDA: Okay. I don't hold you to  
19 that. We have the week if we need it. I was just  
20 planning for personal reasons.

21 MR. DEVANEY: Sure.

22 ARBITRATOR RODDA: All right. So tentatively  
23 we have arranged this conference call for next  
24 Wednesday, Wednesday the 14th.

25 Was there anything else that you wanted to

1 discuss or needed to discuss today?

2 MR. DEVANEY: Judge Rodda, John Devaney for  
3 Qwest. Just a couple of questions. One is we have  
4 talked with Eschelon about whether the witnesses should  
5 present oral summaries of their testimony. And it's  
6 the preference of both parties that we not have oral  
7 summaries. I don't know how you feel about it, but we  
8 thought we would present that possibility to you.

9 ARBITRATOR RODDA: You know, I actually prefer  
10 like a really brief oral summary.

11 MR. DEVANEY: Okay.

12 ARBITRATOR RODDA: It doesn't have to be  
13 extensive, but --

14 MR. DEVANEY: Is something along the order of  
15 5 to 10 minutes your preference?

16 ARBITRATOR RODDA: Yes. In fact, yeah, shorter  
17 is good. But just to frame the context of the witness  
18 for me.

19 MR. DEVANEY: Okay. And then if Eschelon  
20 decides, for example, that it has no questions for  
21 Mr. Easton, Mr. Ashton, Mr. Hubbard, or any of those  
22 individuals, can they be excused from appearing and  
23 traveling for the hearing, or do they need to show up  
24 to swear their testimony?

25 ARBITRATOR RODDA: Here is the problem. We

1 could admit their testimony by stipulation, and the  
2 problem arises if I have any questions, and I don't  
3 know yet.

4 MR. DEVANEY: Okay.

5 ARBITRATOR RODDA: But I may have a better feel  
6 by next Wednesday.

7 MR. DEVANEY: Okay.

8 ARBITRATOR RODDA: And those witnesses that  
9 potentially you wouldn't have any questions for, just  
10 so I can focus on them, that would be Mr. Easton,  
11 Mr. Ashton, and what was the other one? Hubbard?

12 MR. MERZ: Easton, Ashton, and Hubbard are the  
13 three that I may have little or no questions for.

14 ARBITRATOR RODDA: Okay. But we would need --  
15 Mr. Devaney, we need all of the Eschelon witnesses?

16 MR. DEVANEY: Yes, we will.

17 ARBITRATOR RODDA: Okay. Do you have any  
18 comments on the appearance of your witnesses?

19 MR. DEVANEY: Is that directed to Qwest or  
20 Eschelon?

21 ARBITRATOR RODDA: I'm sorry. That was  
22 addressed to you, Mr. Devaney. If no one had any  
23 questions for those witnesses, did you have any problem  
24 with entering their testimony by stipulation?

25 MR. DEVANEY: No. That would be fine.

1 Yeah. That would be fine.

2 MR. MERZ: And Eschelon would not object to  
3 that, Your Honor.

4 ARBITRATOR RODDA: Okay. Yeah. I actually  
5 didn't think that Qwest would, but just to make sure --  
6 just to get your opinion.

7 MR. DEVANEY: No. I appreciate it.

8 ARBITRATOR RODDA: Okay. To the extent that  
9 any of you are going to offer as exhibits or talk about  
10 with your witnesses any FCC orders or court cases, if  
11 you could have copies of those for me I would  
12 appreciate it.

13 MR. DEVANEY: Okay.

14 ARBITRATOR RODDA: I don't know if it will come  
15 up or not, but just in case it does.

16 Anything else?

17 MR. DEVANEY: Do you have any preference as to  
18 marking of exhibits for the hearing? Do you generally  
19 prefer the parties mark in advance of the hearing or  
20 take that up during the hearing?

21 ARBITRATOR RODDA: It's always nice when people  
22 are organized and mark in advance, but I don't  
23 particularly care.

24 MR. DEVANEY: Okay.

25 ARBITRATOR RODDA: I should ask Michele. Do

1 you care?

2 It's always easier if they're marked ahead of  
3 time.

4 MR. DEVANEY: Sounds good.

5 ARBITRATOR RODDA: Anything else?

6 All right. Then I will send out a procedural  
7 order regarding the telephone number and confirming the  
8 date and time of that procedural conference for the  
9 oral argument on the motion.

10 All right. So I'll talk to you all again.

11 MR. MERZ: Thank you.

12 MR. DEVANEY: Thank you.

13 ARBITRATOR RODDA: Thank you all.

14 (The Prearbitration Conference concluded at  
15 1:45 p.m.)

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1 STATE OF ARIZONA )  
 ) ss.  
 2 COUNTY OF MARICOPA )  
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6 I, MICHELE E. BALMER, Certified Reporter  
 7 No. 50489 for the State of Arizona, do hereby certify  
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 11 and ability.

12  
 13 WITNESS my hand this 16th day of March, 2007.  
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