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BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

Arizona Corporation Commission

DOCKETED

JUL 18 2007

DOCKETED BY nr

IN THE MATTER OF THE VERIFIED
JOINT APPLICATION OF ESCHELON
TELECOM, INC. AND INTEGRA
TELECOM HOLDINGS, INC. FOR A
LIMITED WAIVER OF THE PUBLIC
UTILITY HOLDING COMPANIES AND
AFFILIATED INTERESTS RULES AND
FOR AUTHORIZATION TO ENCUMBER
AND/OR MORTGAGE ASSETS OF
ESCHELON TELECOM OF ARIZONA,
INC., MOUNTAIN
TELECOMMUNICATIONS OF ARIZONA,
INC., AND ELECTRIC LIGHTWAVE, LLC.

DOCKET NOS. T-03406A-07-0202
T-20527A-07-0202

DECISION NO. 69707

ORDER

Open Meeting
July 12, 2007
Phoenix, Arizona

BY THE COMMISSION:

Introduction

On March 29, 2007, Eschelon Telecom, Inc., ("Eschelon") and Integra Telecom Holdings, Inc. ("Integra") filed a joint application requesting a limited waiver of the Public Utility Holding Companies and Affiliated Interests Rules, A.A.C. R14-2-801 et seq., in connection with a proposed transaction whereby Integra will acquire 100 percent control of Eschelon or, in the alternative, approval of the transaction under the Affiliate Rules. Additionally, Applicants requested that the Commission authorize the encumbrance and/or mortgage of the Arizona assets of Electric Lightwave, Inc. ("Electric Lightwave"), Eschelon Telecom of Arizona, Inc.,

1 (“Eschelon-AZ”) and Mountain Telecommunications of Arizona, Inc. (“MTI-AZ”) in accordance
2 with A.R.S. § 40-285 and A.R.S. § 40-301.

3 FINDINGS OF FACT

4 Background of Applicants

5 Eschelon and Integra in their Joint Application represent the following:

6 1. Eschelon is a corporation organized under the laws of Delaware with a current,
7 principal place of business located at 730 Second Avenue South, Suite 900, Minneapolis,
8 Minnesota 55402.

9 2. Through its operating subsidiaries, Eschelon currently provides service to over
10 60,000 business customers in Arizona, California, Colorado, Minnesota, Montana, Oregon,
11 Nevada, Utah and Washington.

12 3. In Arizona, Eschelon’s two subsidiaries, Eschelon-AZ and MTI-AZ, are authorized
13 to provide local exchange and other intrastate telecommunications services. Eschelon-AZ is
14 authorized to provide service pursuant by Decision No. 62751, granted July 25, 2000, and MTI-AZ
15 is authorized to provide service by Decision No. 60668, granted February 9, 1998.

16 4. The acquisition of MTI-AZ by Eschelon, approved in Decision No. 68992, dated
17 October 20, 2006, was completed on November 1, 2006.

18 5. Together, Eschelon-AZ and MTI-AZ have approximately 6,100 customers and
19 approximately 139 employees in Arizona. Eschelon-AZ’s and MTI-AZ’s primary operations and
20 customer bases are located in the Phoenix and Tucson areas, with operations and customers in
21 other market areas throughout Arizona. Eschelon-AZ and MTI-AZ do not offer service to
22 residential customers in Arizona.

23 6. Integra is a privately-held Oregon corporation with principal offices located at 1201
24 NE Lloyd Boulevard, Suite 500, Portland, Oregon 97232.

25 7. Through its state-specific operating subsidiaries, Integra provides local telephone
26 service, long distance calling and high-speed Internet access to small and mid-sized businesses in
27 Arizona, California, Idaho, Minnesota, North Dakota, Oregon, Utah and Washington.

28 ...

1 8. In Arizona, Integra's subsidiary, Electric Lightwave, is authorized to provide local
2 exchange and intraLATA toll services pursuant to a Certificate of Convenience and Necessity
3 ("CC&N") granted by the Commission in Decision No. 59982, issued in Docket No. U-3054A-95-
4 0503 on January 16, 1997. Electric Lightwave's primary operations and customer base in Arizona
5 are in the greater Phoenix metropolitan area. Electric Lightwave does not offer services to
6 residential customers.

7 9. The acquisition of Electric Lightwave by Integra, approved in Decision No. 68798
8 on June 27, 2006, was completed on August 1, 2006.

9 10. Integra employs more than 1,000 people, serves over 60,000 customers across its
10 eight-state operating area and has invested substantial capital in building and operating a facilities-
11 based, proprietary operating network that includes numerous metropolitan area fiber networks
12 representing over 2,200 route miles (160,000 fiber miles) and a 4,700-mile long-haul fiber
13 network.

14 The Applicants' Transaction

15 Eschelon and Integra in their Joint Application represent the following:

16 11. The Applicants entered into an Agreement and Plan of Merger dated March 19,
17 2007.

18 12. The Agreement provides for a business combination, or merger, of Integra and
19 Eschelon by which Integra will acquire 100 percent of the ownership and control of Eschelon, and
20 Eschelon will be merged into a wholly owned subsidiary of Integra.

21 13. The Integra entity into which Eschelon will be merged is a newly formed entity
22 named ITH Acquisition Corp., which was created for the specific purpose of this transaction.

23 14. Eschelon will be the surviving entity of the merger for all legal purposes, and the
24 combined entity will retain the name Eschelon Telecom, Inc.

25 15. There will be no change in the assets or direct ownership of Eschelon-AZ or MTI-
26 AZ as result of the merger.

27 16. Eschelon-AZ is directly owned by Eschelon Operating Company, which in turn is
28 directly owned by Eschelon Telecom, Inc.

1 17. MTI-AZ is a wholly owned subsidiary of Mountain Telecommunications, Inc., a
2 Delaware corporation that is itself a wholly owned subsidiary of Eschelon Operating Company.

3 18. After consummation of the transaction, Eschelon-AZ and Mountain
4 Telecommunications, Inc., MTI-AZ's parent corporation, will continue to be directly owned by
5 Eschelon Operating Company, which will continue to be directly owned by Eschelon Telecom,
6 Inc.

7 19. Through the proposed transaction Integra will become the corporate parent of
8 Eschelon and Eschelon will continue to operate as a separate subsidiary of Integra.

9 20. The proposed transaction will not affect the ownership of Electric Lightwave,
10 which will continue to operate as a wholly owned and direct subsidiary of Integra.

11 21. Although the proposed transaction will result in Integra owning all the stock of
12 Eschelon, the acquisition will not result in the sale, transfer, loss or disposition of any assets that
13 Eschelon-AZ and MTI-AZ currently hold, or adversely affect any of the customers who receive
14 service in connection with Eschelon-AZ's and MTI-AZ's ongoing operations. Immediately
15 following the consummation of the proposed transaction, customers will continue to receive
16 service under the same rates, terms and conditions of service.

17 22. For brand uniformity and to avoid potential customer confusion, Integra intends to
18 adopt the "doing business as" name of "Integra Telecom" for Eschelon-AZ's and MTI-AZ's
19 operations as soon as possible after closing. The proposed acquisition Eschelon's stock by Integra
20 will be virtually transparent to customers in the State of Arizona in terms of the services they
21 receive and the prices they pay.

22 23. The aggregated total purchase price to be paid by Integra for the ownership of
23 Eschelon will be approximately \$710 million. Pursuant to the Agreement, Eschelon shareholders
24 will receive \$30.00 cash for each share of Eschelon stock they own.

25 24. To finance the acquisition, Integra's parent company, Integra Telecom, Inc., (the
26 "Parent") will raise a total of approximately \$1.2 billion in new debt. The remainder of the loan
27 funds that are not used to purchase all the stock of Eschelon or repay Eschelon's debt will be used
28 ...

1 to refinance Integra's current loan obligations and for excess operating cash, transition expenses
2 and fees. Parent will, directly or indirectly, hold all of the debt associated with the purchase.

3 25. The financing package includes two loan facilities to be held by Integra and notes to
4 be issued by Parent. Upon closing, the two loan facilities (the "Senior Secured Debt"), totaling
5 \$985 million, will be held by Integra and secured by the assets of Integra and its operating
6 subsidiaries, including the assets of Eschelon-AZ, MTI-AZ and Electric Lightwave in Arizona.
7 Additionally, Integra and its operating subsidiaries, including Eschelon-AZ, MTI-AZ and Electric
8 Lightwave, will execute guarantee agreements and become guarantors of the Senior Secured Debt
9 held by Integra.

10 26. Additionally, Parent will issue \$215 million in senior, unsecured notes (the
11 "Notes"). Parent will then contribute the proceeds from the Notes to Integra and the proceeds
12 from the Notes, together with the proceeds from the Senior Secured Debt, which will total \$1.2
13 billion, will be used to complete the purchase of Eschelon, refinance Integra's current debt, pay
14 certain fees and expenses, and fund other Integra needs.

15 27. Deutsche Bank Securities Inc., Morgan Stanley Senior Funding, Inc., and CIBC
16 World Markets Corp. are funding the loans.

17 28. Integra has an existing debt balance of \$455 million as of January 31, 2007.
18 Eschelon's total long term debt is approximately \$145 million. Upon completion of the
19 transaction, Integra will have outstanding debt of \$1.2 billion and Eschelon will have no long term
20 debt.

21
22 The Applicants Request

23 Eschelon and Integra in their Joint Application request the following¹:

- 24 a. A limited waiver pursuant to A.A.C. R14-2-803 authorizing the organization
25 or, in the alternative, authorizing the organization or reorganization of a
26 public utility holding company;
- 27 b. A limited waiver of A.A.C. R14-2-804(B) authorizing Eschelon-AZ, MTI-
28 AZ and Electric Lightwave to guarantee the obligations of Integra under the
Senior Secured Debt proposed in this transaction or, in the alternative,

¹ Joint Application, pages 14 - 15

1 authority for Eschelon-AZ, MTI-AZ and Electric Lightwave to guarantee
2 the obligations of Integra under the Senior Secured Debt pursuant to A.A.C.
R14-2- 804(B);

3 c Authority to pledge, mortgage, lien and/or encumber the assets of Eschelon-
4 AZ, MTI-AZ and Electric Lightwave in connection with the Senior Secured
5 Debt pursuant to A.R.S. § 40-285;

6 d. A finding that the requirements of A.R.S. § 40-301 et seq. are inapplicable
7 to Eschelon-AZ and Electric Lightwave as foreign public service
corporations pursuant to the exemption set forth in A.R.S § 40-301(D);

8 e. Authority to pledge MTI-AZ's assets as security for the Senior Secured Det
9 and MTI-AZ's execution of a guarantee for the Senior Secured Debt and
10 finding that such pledge and guarantee are consistent with the requirements
of A.R.S. § 40-301(C) and § 40-302(A);

11 f. That the Commission act expeditiously to grant the waiver and authority
12 requested prior to, but not later than July 1, 2007;

13 29. The Applicants also request that this Application be approved without a hearing.
14

15 Staff's Analysis and Conclusions

16 The Affiliated Interests Rules

17 30. The Public Utility Holding Companies and Affiliated Interests Rules apply to all
18 Class A - investor-owned utilities, defined as telecommunications carriers that have Arizona
19 jurisdictional annual revenues of more than \$1 million. In the 2006 Annual Report filed with the
20 Commission, Electric Lightwave, Eschelon-AZ and MTI-AZ each generated more than \$1 million
21 of Arizona jurisdictional revenue. The proposed merger/consolidation of Integra and Eschelon
22 entities will create an entity that is considered a Class A investor-owned utility. As a result, the
23 Joint Application is subject to A.A.C. R14-2-801 through 805 of the Public Utility Holding
24 Companies and Affiliated Interests Rules.

25 31. The Applicants provided information responsive to the following, as required by
26 A.A.C. R14-2-803(A), within their Application and in response to Staff's data requests:

27 1. The names and business addresses of the proposed officers and directors of the
28 holding company;

1 In its data response, Integra explained that the Integra and Eschelon senior
2 management teams would be integrated and explained the changes. After
3 the merger closes, the Eschelon CEO will be invited to join the Integra
4 Board.

5 2. The business purposes for establishing or reorganizing the holding company;

6 Integra asserts that the proposed transaction will provide Eschelon-AZ and
7 MTI-AZ with access to Integra's extensive metropolitan area network in
8 Arizona and its long haul network, which will result in decreased costs
9 associated with transporting traffic over facilities leased from the ILECs and
10 will provide Arizona customers a more robust and reliable communications
11 network.

12 3. The proposed method of financing the holding company and the resultant
13 capital structure;

14 As described in the Application, Integra will pay an aggregated purchase
15 price of \$710 million by obtaining loans to effectuate the acquisition. The
16 loans will be secured by the utility plant and assets of Integra's subsidiaries,
17 including Eschelon, and will encumber the plant and assets of Eschelon-AZ,
18 MTI-AZ and Electric Lightwave. In addition, Integra's subsidiaries,
19 including Eschelon-AZ, MTI-AZ and Electric Lightwave, will execute
20 guarantees in connection with the loans.

21 4. The resultant effect on the capital structure of the public utility;

22 Integra has an existing debt with an outstanding balance of \$455 million as
23 of January 31, 2007. Eschelon's total of long term debt is approximately
24 \$145 million. Upon completion of the transaction, Integra will have
25 outstanding debt of \$1.2 billion and Eschelon will have no long term debt.

26 5. An organization chart of the holding company that identifies all affiliates and
27 their relationships within the holding company;

28 The Applicants provided an organization chart within their Application.

6. The proposed method for allocating federal and state income taxes to the
subsidiaries of the holding company;

Integra will allocate federal and state income tax liabilities or credits based upon each of its subsidiary's respective contributions of net income or net loss to the consolidated net income or net loss as reflected on Integra's consolidated income tax return for each taxable year. If one or more of the subsidiaries individually reflects a net loss, it shall receive a credit for income taxes by a calculation of the benefit of that loss in reducing the overall tax liability of the group. This method of allocating federal and state income taxes to subsidiaries will have no adverse impact on the regulated affiliates of Integra in Arizona.

- 1 7. The anticipated changes in the utility's cost of service and the cost of capital
2 attributable to the reorganization;

3 Integra anticipates positive changes in the regulated affiliates' cost of service
4 and cost of capital resulting from operating efficiencies, economies of scale
and greater access to capital.

- 5 8. A description of diversification plans of affiliates of the holding company; and

6 Integra and its affiliates do not have any future diversification plans.

- 7 9. Copies of all relevant documents and filings with the United States Securities
8 and Exchange Commission and other federal or state agencies.

9 Integra, Eschelon and their respective subsidiaries have made various filings
10 for state and Federal approvals required to consummate Integra's acquisition
11 of the outstanding equity interest of Eschelon. Copies the documents were
12 provided to Staff in electronic format. Documents included filings with the
13 Federal Communications Commission, the U.S. Department of Justice, the
Federal Trade Commission and many states, such as Utah, Minnesota,
Colorado, New York, Delaware, Georgia, Hawaii, Indiana, Louisiana,
Pennsylvania and Tennessee.

- 14 10. The contemplated annual and cumulative investment in each affiliate for the
15 next five years, in dollars and as a percentage of projected net utility plant, and
16 an explanation of the reasons supporting the level of investment and the reasons
this level will not increase the risks of investment in the public utility.

17 Integra outlined its future investment plans in a confidential filing
18 responsive to Staff's data request.

- 19 11. An explanation of the manner in which the utility can assure that adequate
20 capital will be available for the construction of necessary new utility plant and
21 for improvements in existing utility plant at no greater cost than if the utility or
its affiliate did not organize or reorganize a public utility holding company.

22 The proposed reorganization does not involve investment in a non-utility
23 affiliate, and therefore will not diminish the amount of capital available for
24 new utility plant or other improvements. The reorganization is intended to
improve Integra's overall profitability which could, in turn, decrease the
25 cost of capital available for system improvements.

- 26 32. The Applicants have stated in their Application that the proposed transaction is not
27 expected to result in the discontinuance, reduction, loss, or impairment of service to Electric
28 Lightwave, Eschelon-AZ, or MTI-AZ customers. The proposed reorganization is not expected to

1 impair the financial status of the Applicants. Staff's analysis of confidential information indicates
2 that the proposed transaction brings together providers with different competitive characteristics
3 and should result in an overall more robust competitor in the business market. Based on these
4 competitive factors and the facts represented by the Applicants in this transaction, Staff believes
5 that the proposed transaction should increase efficiencies and profitability and allow the
6 Applicants to achieve better financial health as a telecommunications company. Based on the
7 forgoing, this proposed transaction should improve the Applicants' ability to attract capital at fair
8 and reasonable terms and to provide safe, reasonable, and adequate service. Staff believes the
9 Applicants have complied with the requirements of A.A.C. R14-2-803(C) and 804(C).

10 The Public Interest

11 33. Integra is in compliance with Decision No. 68798 in which the Commission
12 approved the acquisition of Electric Lightwave by Integra. Electric Lightwave will continue to
13 operate as a separate, wholly owned subsidiary of Integra.

14 34. In Decision No. 68798, the Commission approved Electric Lightwave's
15 participation in the financing arrangements for the acquisition, including the encumbrance of
16 Electric Lightwave's assets as security for the Loans necessary to acquire Electric Lightwave. The
17 financing and encumbrance arrangements the Commission approved have occurred, and Electric
18 Lightwave's assets have been encumbered. This proposed transaction will affect part of Decision
19 No. 68798 since Electric Lightwave will participate in the replacement of the 2006 debt, used to
20 complete the Electric Lightwave purchase, with a new financing arrangement, however, Electric
21 Lightwave assets will again be encumbered as security for the loans necessary to refinance the
22 existing debt and purchase in this proposed application.

23 35. Electric Lightwave clarified its deposit policy by stating that it "may request a
24 deposit before providing service when a customer has a poor credit history or no credit history and
25 Electric Lightwave considers a deposit necessary to safeguard its interests. Electric Lightwave
26 also may request a deposit if the customer has been disconnected for nonpayment and requests
27 restoration of service. Deposits are equal to two times the customers' estimated monthly charges.
28 The deposits accrue interest that is paid to the customer when the deposit is refunded. Electric

1 Lightwave does not currently have an advance payment policy and does not hold any advance
2 payments.”² At this time, Electric Lightwave holds only one deposit for \$1,200 in Arizona and
3 does not hold any advanced payments or pre-payments.

4 36. Eschelon-AZ and MTI-AZ clarified their deposit policies by stating that they “may
5 request deposits from customers whose credit-worthiness is not proven. Deposits do not exceed
6 two months' estimated charges and interest is paid on the deposits. Neither company has pre-
7 payment or advance payment policies. While monthly recurring service charges are billed one
8 month in advance, the companies do not consider these funds advanced payments.” The
9 Companies' position on this issue is consistent with Decision No. 67674 wherein the Commission
10 ordered that while the Generic Docket of Bonding Requirements, Docket No. T-00000J-04-0912,
11 is pending, the definition of “advances” for Eschelon's bonding requirement will not include
12 monthly service charges billed in advance. At this time, Eschelon-AZ holds about \$35,000 in
13 customer deposits and MTI-AZ holds about \$12,000 in customer deposits.

14 37. As discussed in the application and information leading to Decision No. 68798,
15 Electric Lightwave intends to continue with plans to add employees to the Arizona market and will
16 continue to invest in its Arizona network. Integra provided updates on the number of employees
17 and the status of the debt financial plans required in Decision No. 68798 by letter dated April 12,
18 2007 in Docket No. T- 03054A-06-0154.

19 38. Eschelon is in compliance with Decision No. 68992 in which the Commission
20 approved the acquisition of MTI-AZ by Eschelon. This proposed transaction should not materially
21 impact the conditions ordered in Decision No. 68798 since Eschelon-AZ and MTI-AZ will
22 continue to operate as a separate, wholly-owned subsidiaries of Integra.

23 39. The Applicants assert that the combined Integra/Eschelon company will be
24 positioned to invest in an increasing amount of its own loop and transport facilities, thereby
25 decreasing its dependence on Incumbent Local Exchange Carriers (“ILECs”) As the combined
26 Integra/Eschelon organization increases its reliance on its own loop and transport facilities, it
27 simultaneously decreases its vulnerability to a changing regulatory landscape and improves its
28

² Applicant responses to STF 1.16

1 positioning to invest in evolving new technologies. Staff believes that this proposed transaction
2 enhances the business market by resulting in an overall more robust local exchange provider for
3 the entire business market.

4 40. As of March 31, 2007, the combined Integra and Eschelon companies' Arizona
5 workforce was below 400 in number. Integra's plans for the proposed, combined company
6 contemplate a slightly reduced workforce for 2008. However, Integra states that it expects to
7 increase the number of customer service and operations positions while decreasing the number of
8 sales positions. Integra believes that it can manage this change in workforce through normal
9 attrition and relocation and that job layoffs will be used only as a last resort.

10 41. Integra has stated its intention to make substantial additional investment in the
11 combined company's Arizona network to support additional customer growth. At present, Integra
12 contemplates capital investments in excess of several million dollars in 2007 and 2008. This
13 capital will support new products and services that are not currently available over portions of the
14 Eschelon network as well as expansion of the combined Company's network into new service
15 areas.

16 42. In Decision No. 68798, the Commission approved Integra's and Electric
17 Lightwave's request for authorization to guarantee a \$200 million term loan and a second \$250
18 million term loan. Integra planned to use \$243 million from the loans to purchase membership
19 interests in Electric Lightwave, \$175 million to refinance Integra's loan obligations, and the
20 remainder for expenses related to the transactions and excess operating cash. The guarantees were
21 to be secured by a pledge of Electric Lightwave's plant and assets.

22 43. Integra now seeks the authorization to guarantee loans totaling \$1.2 Billion by
23 encumbering the assets of Echelon-AZ, MTI-AZ and Electric Lightwave. While these additional
24 loans will retire past loans and allow for completion of this proposed transaction, the authorization
25 that Integra seeks will result in the doubling of the combined debt held by Integra compared to that
26 held on January 31, 2007. Confidential information provided by Integra indicates that, while
27 Integra's combined debt increases considerably with this proposed transaction, Integra's Debt/Free
28 Cash Flow Ratio and Debt/EBITDA, remain in the a similar position compared to key competitors.

1 Rather than raising specific concerns about the proposed transaction by Integra, the confidential
2 information provided by Integra actually serves to indicate that Competitive Local Exchange
3 Carriers ("CLECs"), in general, are assuming greater debt risk that eventually may translate into
4 service concerns for the entire CLEC industry.

5 44. In their Application, the Applicants stated that the proposed transaction will result
6 in Integra owning all the stock of Eschelon, but will not result in the sale, transfer, loss or
7 disposition of any assets that Eschelon AZ and MTI-AZ currently hold, or adversely affect any of
8 the customers who receive service in connection with Eschelon-AZ's and MTI-AZ's ongoing
9 operations. As supported by the information provided previously, Staff believes that the proposed
10 transaction will not impair the financial status of Electric Lightwave, Eschelon-AZ or MTI-AZ,
11 nor prevent the Applicants' ability to attract capital at fair and reasonable terms and to provide
12 safe, reasonable, and adequate service.

13 45. On May 9, 2007, Electric Lightwave discovered that it had not filed the report
14 required by A.A.C. R14-2-805 on April 15, 2007 regarding diversification plans. Pursuant to a
15 conversation with the Commission's Compliance Section, Electric Lightwave submitted its report,
16 dated May 22, 2007.

17 46. The Applicants have filed a statement of their intention to provide to Electric
18 Lightwave, Eschelon-AZ and MTI-AZ customers a notice published in newspaper(s) of general
19 circulation and to file verification of that with Docket Control. The Applicants have also provided
20 to Staff a draft of a direct mailing that will be provided to Electric Lightwave, Eschelon-AZ and
21 MTI-AZ customers following a decision in this matter. Staff believes that a direct mailing is
22 appropriate to keep local exchange customers informed and allow them to make service decisions
23 as they choose. Staff has reviewed the proposed customer notice and concludes it is consistent
24 with Commission requirements.

25 47. Staff is not aware of any concerns or objections filed by any entity or individual.

26 48. Staff reviewed the Applicants' Joint Application and considered all responses to
27 Staff's data requests.

28 49. Staff did not identify any facts in dispute.

1 Staff's Recommendations

2 50. Staff recommends that the joint application of Eschelon Telecom, Inc.,
3 ("Eschelon") and Integra Telecom Holdings, Inc. ("Integra") be approved pursuant to the Public
4 Utility Holding Companies and Affiliated Interests Rules A.A.C. R14-2-801 et seq.

5 51. Staff recommends that Eschelon-AZ, MTI-AZ and Electric Lightwave be
6 authorized pursuant to A.A.C. R14-2-804(B) to guarantee the obligations of Integra under the
7 Senior Secured Debt proposed in this transaction.

8 52. Staff recommends that Integra's request for authority to pledge, mortgage, lien
9 and/or encumber the assets of Eschelon-AZ, MTI-AZ and Electric Lightwave as security for the
10 Senior Secured Debt pursuant to A.R.S. § 40-285 be approved.

11 53. Staff recommends that authority to pledge MTI-AZ's assets as security for the
12 Senior Secured Debt and MTI-AZ's execution of a guarantee for the Senior Secured Debt and
13 finding that such pledge and guarantee are consistent with the requirements of A.R.S. § 40-301(C)
14 and § 40-302(A) be approved.

15 54. Staff recommends that the Joint Application of Integra and Eschelon be approved
16 without a hearing because Staff believes this transaction does not:

- 17 a. impair the financial status of the Applicants;
18 b. prevent the Applicants' ability to attract capital at fair and reasonable terms;
19 c. prevent the Applicants' ability to provide safe, reasonable and adequate service;
20 d. adversely affect customers.

21 55. Staff further recommends that approval be conditioned on the following:

- 22 a. That Integra provide notice to the Commission within 30 days following the
23 acquisition close proposed in this transaction.
24 b. That for one year following acquisition close or until Eschelon and Integra inform
25 the Commission by filing an affidavit with Docket Control that acquisition-related
26 activities are completed, whichever occurs last, Integra and Eschelon provide
27 written notification to the Director of the Utilities Division and to the individual
28 members of the Commission, at least 60 days in advance, of any planned
acquisition-related Arizona workforce layoffs; any planned acquisition-related
Arizona plant closings; and any planned acquisition-related Arizona facility
closings.
c. That Eschelon and Integra provide Commission Staff with updates by April 15,
2008 and April 15, 2009 on the status of plans proposed in this Transaction to
increase employees and investment in Arizona.

- 1 d. That Eschelon and Integra provide Commission Staff with updates by April 15,
2 2008 and April 15, 2009 of any changes in the status of debt financing plans.
- 3 e. That Integra be limited from pledging any customer deposits, advances or
4 prepayments currently held by Eschelon-AZ, MTI-AZ or Electric Lightwave or
5 which may be held by Eschelon-AZ, MTI-AZ or Electric Lightwave in the future as
6 debt security.
- 7 f. That for the term of the loans in this transaction, Integra shall file with Docket
8 Control an annual attestation that Electric Lightwave, Eschelon-AZ, and MTI-AZ
9 customer deposits, advances, or prepayments have not been pledged as debt
10 security.
- 11 g. That Integra notify Electric Lightwave, Eschelon-AZ and MTI-AZ customers of the
12 acquisition and financing through a direct mailing to Electric Lightwave's,
13 Eschelon-AZ's and MTI-AZ's customers. Verification of the notice should be filed
14 with Docket Control within 90 days of a decision in this matter.

15 CONCLUSIONS OF LAW

- 16 1. Eschelon-AZ, MTI-AZ and Electric Lightwave are public service corporations
17 within the meaning of Article XV of the Arizona Constitution.
- 18 2. The Commission has jurisdiction over Eschelon-AZ, MTI-AZ and Electric
19 Lightwave and the subject matter in this filing.
- 20 3. The Commission, having reviewed the filing and Staff's Memorandum dated
21 June 29, 2007, concludes that it is in the public interest to grant the Joint Application of Eschelon
22 Telecom, Inc. and Integra Telecom Holdings, Inc. pursuant to the Public Utility Holding
23 Companies and Affiliated Interests Rules, A.A.C. R14-2-801 et seq., in connection with a
24 proposed transaction whereby Integra will acquire control of Eschelon and to approve the
25 transaction under A.R.S. § 40-285 and A.R.S. § 40-301 and A.R.S. § 40-302.

26 ORDER

27 IT IS THEREFORE ORDERED that the Joint Application of Eschelon Telecom, Inc. and
28 Integra Telecom Holdings, Inc. for approval under the Public Utility Holding Companies and
Affiliated Interests Rules, A.A.C. R14-2-801 et seq., in connection with a proposed transaction
whereby Integra will acquire control of Eschelon and for approval under A.R.S. § 40-285 and
A.R.S. § 40-301 and A.R.S. § 40-302 be and hereby is approved.

1 IT IS FURTHER ORDERED that the request authority for to guarantee the obligations of
2 Integra under the Senior Secured Debt proposed in this transaction under A.A.C. R14-2-804(B)
3 authority for is approved.

4 IT IS FURTHER ORDERED that the request for authority to pledge, mortgage, lien and/or
5 encumber the assets of Eschelon-AZ, MTI-AZ and Electric Lightwave in connection with the
6 Senior Secured Debt pursuant to A.R.S. § 40-285 is approved.

7 IT IS FURTHER ORDERED that the request for authority to pledge MTI-AZ's assets as
8 security for the Senior Secured Debt and MTI-AZ's execution of a guarantee for the Senior
9 Secured Debt and finding that such pledge and guarantee are consistent with the requirements of
10 A.R.S. § 40-301(C) and § 40-302(A) are approved.

11 IT IS FURTHER ORDERED that Integra provide notice to the Commission within 30 days
12 following the acquisition close proposed in this transaction.

13 IT IS FURTHER ORDERED that for one year following acquisition close or until
14 Eschelon and Integra inform the Commission by filing an affidavit with Docket Control that
15 acquisition-related activities are completed, whichever occurs last, Eschelon and Integra provide
16 written notification to the Director of the Utilities Division and to the individual members of the
17 Commission, at least 60 days in advance, of any planned acquisition-related Arizona workforce
18 layoffs; any planned acquisition-related Arizona plant closings; and any planned acquisition-
19 related Arizona facility closings.

20 IT IS FURTHER ORDERED that Eschelon and Integra provide Commission Staff with
21 updates by April 15, 2008 and April 15, 2009 on the status of plans proposed in this Transaction to
22 increase employees and investment in Arizona.

23 IT IS FURTHER ORDERED that Eschelon and Integra provide Commission Staff with
24 updates by April 15, 2008 and April 15, 2009 of any changes in the status of debt financing plans.

25 IT IS FURTHER ORDERED that Integra, Eschelon-AZ, MTI-AZ, and ELI shall not
26 pledge any customer deposits, advances or prepayments currently held by Integra, Eschelon-AZ,
27 MTI-AZ or Electric Lightwave or which may be held by Integra, Eschelon-AZ, MTI-AZ or
28 Electric Lightwave in the future as debt security.

1 IT IS FURTHER ORDERED that for the term of the loans in this transaction, Integra shall
2 file with Docket Control an annual attestation that Electric Lightwave, Eschelon-AZ, and MTI-AZ
3 customer deposits, advances, or prepayments have not been pledged as debt security.

4 IT IS FURTHER ORDERED that Integra complete its proposed notice to Electric
5 Lightwave, Eschelon-AZ and MTI-AZ customers of the acquisition and financing through a direct
6 mailing to Electric Lightwave's, Eschelon-AZ's and MTI-AZ's customers.

7 IT IS FURTHER ORDERED that Integra file verification that the notice has been
8 completed with Docket Control within 90 days of a decision in this matter.

9 IT IS FURTHER ORDERED that this Decision shall be become effective immediately.

10 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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12 
13 CHAIRMAN

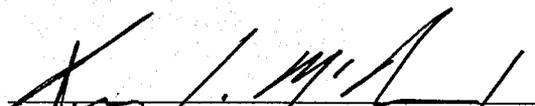

COMMISSIONER

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15 
16 COMMISSIONER


COMMISSIONER


COMMISSIONER

17 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
18 Director of the Arizona Corporation Commission, have
19 hereunto, set my hand and caused the official seal of this
20 Commission to be affixed at the Capitol, in the City of
21 Phoenix, this 18th day of July, 2007.

22 
23 BRIAN C. McNEIL
24 Executive Director

25 DISSENT: _____

26 DISSENT: _____

27 EGJ:AFF:tdp\MAS
28

1 SERVICE LIST FOR: Eschelon Telecom, Inc. and Integra Telecom Holdings, Inc.
2 DOCKET NOS. T-03406A-07-0202 and T-20527A-07-0202

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17 Mr. Ernest G. Johnson
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