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August 20, 2009

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
Docket Control – Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

Via Federal Express

RE: In the Matter of the Petition of Eschelon Telecom of Arizona, Inc. for Arbitration with Qwest Corporation, Pursuant to 47 U.S.C. Section 252 of the Federal Telecommunications Act of 1996
Docket Nos. T-03406A-06-0572 & T-01051B-06-0572

Dear Sir/Madam:

I enclose herein for filing the original and three copies of Eschelon Telecom of Arizona, Inc's Motion for Modification of Procedural Schedule in the above-referenced matter.

Sincerely,

Gregory R. Merz

GRM/cdn

cc w/enclosure to:

Jane Rodda, Administrative Law Judge
Michael Patten
Norman G. Curtright
Philip J. Roselli
Melissa Kay Thompson
John M. Devaney
Janice Alward, Chief Counsel
Ernest G. Johnson, Director
Arizona Reporting Service, Inc.

Arizona Corporation Commission
DOCKETED
AUG 25 2009

DOCKETED BY

GP:2632156 v1

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE PETITION OF
9 ESCHELON TELECOM OF ARIZONA, INC. FOR
10 ARBITRATION WITH QWEST CORPORATION,
11 PURSUANT TO 47 U.S.C. § 252 OF THE FEDERAL
12 TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-03406A-06-0572
DOCKET NO. T-01051B-06-0572

13 **ESCHELON TELECOM OF ARIZONA, INC.'S**
14 **MOTION FOR MODIFICATION OF PROCEDURAL SCHEDULE**

15 Eschelon Telecom of Arizona, Inc. ("Eschelon") respectfully submits its request to
16 modify the Procedural Schedule in the above-referenced matter as follows:

17 At the evidentiary hearing held in the above-referenced matter on August 11, 2009,
18 Qwest's witness, Karen Stewart, read into the record certain proposed contract language that
19 Qwest characterized as a proposal to "settle" the remaining issues in this case. The substance of
20 Qwest's settlement proposal was not disclosed to Eschelon until minutes before the
21 commencement of the hearing. Eschelon learned of the specific language being proposed by
22 Qwest at the time Ms. Stewart read that language into the record. Qwest did not, either at the
23 hearing or thereafter, provide Eschelon with a copy of the language.

24 At the conclusion of the evidentiary hearing, it was agreed that a joint status would be
25 held on September 11, 2009, for the purpose of allowing the parties to attempt to negotiate
26 contract language and, thereafter, advising the Administrative Law Judge on whether the parties
27 had reached an agreement to resolve the issues remaining in this case. At that time, Eschelon
28

1 understood that Qwest would be providing Eschelon with a writing reflecting Qwest's proposed
2 contract language without delay.

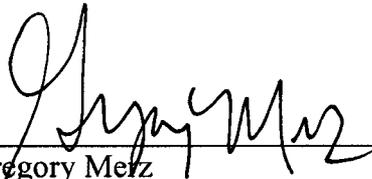
3 On August 17, counsel for Eschelon contacted Qwest's counsel to find out when
4 Eschelon could expect to receive Qwest's proposed contract language. In response to that
5 inquiry, Eschelon was informed that the language needed to be circulated and discussed
6 internally at Qwest before it could be provided to Echelon. Thus, counsel representing Qwest
7 advised that he did not expect that Eschelon would have Qwest's language until "early next
8 week." Eschelon responded that it was concerned about the unforeseen delay and advised that it
9 might seek a continuance of the status conference.
10

11 The status conference was previously scheduled for September 11 to give the parties an
12 adequate amount of time to attempt to come up with mutually acceptable contract language.
13 Because Eschelon has not yet been provided with Qwest's proposed language and, it appears,
14 will not be provided with the language until some undetermined time in the future, Eschelon
15 requests that the status conference schedule be continued until a date that is 30 days after Qwest
16 provides Eschelon with its proposed contract language. A continuance of the status conference
17 is needed to assure that Eschelon has a reasonable opportunity to review Qwest's proposed
18 language and negotiate meaningfully regarding any issues raised by that language.
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Dated: August 20, 2009.

GRAY, PLANT, MOOTY, MOOTY
& BENNETT, P.A.

By: 

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COUNSEL FOR ESCHELON TELECOM OF
ARIZONA, INC.

GP:2632075 v1

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss

COUNTY OF HENNEPIN)

Claudia Neal, being first duly sworn, deposes and says on oath that on the 20th day of August, 2009, she served the attached:

**ESCHELON TELECOM OF ARIZONA, INC.'S MOTION
FOR MODIFICATION OF PROCEDURAL SCHEDULE**

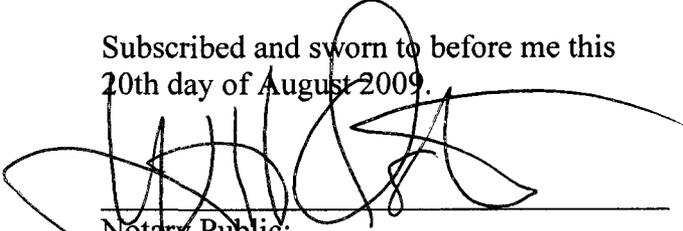
upon the following:

Jane Rodda Administrative Law Judge Hearing Division Arizona Corporation Commission 1200 West Washington Street Phoenix, AZ 85007	Janice Alward, Chief Counsel Legal Division ARIZONA CORPORATION COMMISSION 1200 West Washington Street Phoenix, AZ 85007
Michael Patten ROSHKA DeWULF & PATTEN 400 East Van Buren Street, Ste. 800 Phoenix, AZ 85004	Ernest G. Johnson, Director Utilities Division ARIZONA CORPORATION COMMISSION 1200 West Washington Phoenix, AZ 85007
Norman G. Curtright QWEST CORPORATION 20 East Thomas Road, 16 th Floor Phoenix, AZ 85012	John M. Devaney PERKINS COIE LLP 607 14 th Street, NW Washington, DC 20005
Philips J. Roselli KAMELET SHEPHERD & REICHERT, LLP 1515 Arapahoe Street Tower I, Suite 1600 Denver, CO 80202	ARIZONA REPORTING SERVICE, INC. 2200 North Central Avenue, Suite 502 Phoenix, AZ 85004-1104
Melissa Kay Thompson QWEST SERVICES CORPORATION 1801 California Street, 10 th Floor Denver, CO 80202	

by arranging for the deposit of a true and correct copy thereof in a sealed envelope duly addressed to the above, postage prepaid, in the United States mails at Minneapolis, Minnesota.

Claudia Neal
Claudia Neal

Subscribed and sworn to before me this
20th day of August 2009.



Notary Public:
My Commission Expires:

