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Arizona Corporation Commission

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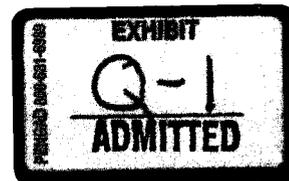
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BEFORE THE ARIZONA CORPORATION COMMISSION



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Commissioner

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

DIRECT TESTIMONY

OF

KAREN STEWART

ON BEHALF OF

QWEST CORPORATION

APRIL 20, 2009

(Disputed Issue No. 9-59)

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1

I. IDENTIFICATION OF WITNESS

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Karen A. Stewart. I am a Director in the Qwest Services Corporation
4 Regulatory Compliance Organization. My office is located at 421 SW Oak Street,
5 Portland, Oregon.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
7 EMPLOYMENT EXPERIENCE.**

8 A. I received a Bachelor of Science degree in Business Administration from Portland
9 State University in 1980, and a Masters degree in Business Administration from the
10 University of Oregon in July 1994. I have been employed by Qwest and its
11 predecessor companies since 1981. I have held a variety of positions in Qwest,
12 including sales, product management, E911 project management and technical
13 design, regulatory affairs manager, and regulatory compliance.

14 I am currently a member of the Qwest Regulatory Compliance organization and have
15 represented Qwest in a number of workshops conducted under Section 271 of the
16 Telecommunications Act of 1996 ("the Act") related to Qwest's provisioning of
17 unbundled network elements ("UNEs") region-wide and specifically in the state of
18 Arizona.

19 **Q. HAVE YOU TESTIFIED BEFORE THIS COMMISSION BEFORE?**

20 A. Yes.

21 **Q. HAVE YOU TESTIFIED BEFORE OTHER STATE REGULATORY
22 COMMISSIONS?**

23 A. Yes. I have also testified in the states of Colorado, Idaho, Iowa, Minnesota, Montana,
24 Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington,
25 and Wyoming.

1 Qwest also provides a functionality similar to an EEL, e.g. combined loop and
2 transport circuits to CLECs and retail end users via its retail/wholesale private line
3 services. The loop portion of the private line is commonly called a "channel
4 termination."

5 In a commingled EEL, one of the elements of the EEL is not a UNE. A typical
6 commingled EEL arrangement would be an EEL unbundled loop connected to a
7 private line transport circuit. However, this is just an example, as the loop circuit
8 could be a private line channel termination and the UNE in this arrangement could be
9 the transport circuit or a UDIT. Consistent with governing FCC rules relating to
10 commingled arrangements, the UNE terms and conditions set forth in the
11 interconnection agreement would apply to the UNE (*i.e.*, the EEL Loop) circuit,
12 while the provisions of the tariff (or price list as appropriate) would dictate the terms
13 and conditions that would apply to the private line transport circuit in the
14 arrangement. Specifically, the FCC notes this application of rates, terms and
15 conditions in the *Triennial Review Order* at footnote 1796:

16 For example, a competitive LEC connecting a UNE loop to special
17 access interoffice transport facilities would pay UNE rates for the
18 unbundled loops and tariffed rates for the special access service . . .

19 Eschelon's proposed language in connection with Issue 9-59 would require Qwest to
20 make significant modifications to the systems and processes it uses for carrying out
21 repairs associated with the individual circuits that are included in commingled EELs.
22 Specifically, Eschelon proposed that in the event of a "trouble" associated with a
23 commingled EEL arrangement that a single repair interval should apply in all
24 situations to repair either circuit in a commingled arrangement. Qwest strongly
25 opposes, including Eschelon's proposal in the ICA because there are very legitimate
26 and necessary reasons why two repair intervals are required for a commingled EEL.

1 including, in part, because two circuit IDs are required to effectively manage the
2 tracking and repair of each circuit in the commingled arrangement.

3 Moreover, Telcordia systems that are designed for all ILECs manage all trouble
4 reports and repair intervals on a circuit-by-circuit basis. The transport element in this
5 example is a tariffed circuit, while the loop is a UNE circuit. These circuits have
6 different circuit IDs and are often governed by different performance parameters,
7 including repair intervals. These differences are reflected in Qwest's repair processes
8 for commingled EELs, which are substantially the same as those used by other
9 ILECs, including those of SBC (as described in my Exhibit KAS-1, which was
10 previously filed in this matter). Based on information and belief, Qwest's repair
11 processes for commingled EELs are also consistent with those of Verizon. For more
12 information regarding the impact to the Qwest repair systems of a single repair
13 interval, please see the testimony of Qwest witness Timothy Gianes.

14 **Q. DID QWEST MAKE ANY EFFORT TO REACH A COMPROMISE ON**
15 **ISSUE 9-59?**

16 **A.** Yes. Despite its opposition to Eschelon's proposed language for the relevant portion
17 of the ICA, Qwest agreed to make changes to its repair process for commingled EELs
18 to address the concerns of Eschelon and to make a good faith effort at closing Issue 9-
19 59 during the ICA arbitration proceeding.

20 **Q. WHAT WAS ESCHELON'S PROPOSED LANGUAGE FOR THE REPAIR**
21 **OF COMMINGLED EELS IN ISSUE 9-59 DURING THE ARBITRATION?**

22 **A.** Eschelon proposed:

23 9.23.4.7 Maintenance and Repair for UNE Component of Commingled EELs

24
25 9.23.4.7.1 When CLEC reports a trouble through any of the means
26 described in Section 12.4.2.2, so long as Qwest provides more than one

1 circuit ID per Commingled EEL, CLEC may provide all circuit IDs
2 associated with the Commingled EEL in a single trouble report (i.e.,
3 Qwest shall not require CLEC to submit separate and/or consecutive
4 trouble reports for the different circuit IDs associated with the single
5 Commingled EEL). If CLEC is using CEMR to submit the trouble report,
6 for example, CLEC may report one circuit ID and include the other
7 circuit ID in the remarks section (unless the Parties agree to a
8 different method). Qwest will communicate a single trouble report
9 tracking number (i.e., the "ticket" number) (described in Section
10 12.1.3.3.3.1.1) for the Commingled EEL to CLEC at the time the trouble
11 is reported.
12

13 9.23.4.7.1.1 If any circuit ID is missing from any Customer Service
14 Record associated with the Commingled EEL, Qwest will provide the
15 circuit ID information to CLEC at the time CLEC submits the trouble
16 report.
17

18 9.23.4.7.1.2 Qwest may charge a single Maintenance of Service or
19 Trouble Isolation Charge (sometimes referred to as "No Trouble Found"
20 charge) only if Qwest dispatches and no trouble is found on both
21 circuits associated with the Commingled EEL. If CLEC may charge Qwest
22 pursuant to Section 12.4.1.8, CLEC may also charge only a single charge
23 for both circuits associated with the Commingled EEL.
24

25 **Q. DID QWEST MAKE AN ATTEMPT TO ADOPT AS MUCH OF THE**
26 **ESCHELON PROPOSED LANGUAGE AS ITS AUTOMATED REPAIR**
27 **SYSTEMS WOULD ALLOW?**

28 **A.** Yes. Qwest reviewed the Eschelon proposal and did agree to modify its repair
29 processes for commingled EELs. In so doing, Qwest was cognizant of Eschelon's
30 repeated representations in this arbitration and arbitrations in other states that it was
31 not seeking to require Qwest to modify its operation support systems ("OSSs") and
32 other automated systems through its proposals that sought modifications to Qwest's
33 existing processes for installation, billing and repair of commingled EELs.

1 Q. DID ESCHELON STATE IN SWORN TESTIMONY THAT IT WAS NOT
2 REQUIRING QWEST TO MODIFY ITS SYSTEMS TO ACCOMMODATE
3 ITS PROPOSED COMMINGLED EEL PRODUCT MODIFICATIONS?

4 A. Yes. Specifically, in his arbitration testimony describing Eschelon's proposals
5 relating to commingled EELs, Mr. Denney stated that "Eschelon is not asking Qwest
6 to modify systems and incur costs"¹

7 Q. WHAT WAS QWEST'S PROPOSED MODIFICATION TO THE REPAIR
8 PROCESS FOR COMMINGLED EELS?

9 A. Qwest agreed to modify its process as follows for repairs of a commingled EEL
10 arrangement when Qwest is providing all of the network elements. However, given
11 the complexities and various repair problems that can occur, it may be necessary that
12 a second repair ticket be opened, which would result in an associated second repair
13 interval starting. Thus, Qwest could not agree that there would never be a second
14 repair ticket and its associated repair interval. This is not unique to commingled
15 arrangements. Frequently, a second ticket (and associated repair interval) is required
16 for repairs involving UNE EELs and private line access services. For example, if a
17 repair on the loop portion of a UNE EEL or channel termination is requested and the
18 trouble is found on the higher capacity transport instead, a second repair ticket
19 becomes necessary and is opened. This allows for proper tracking, and future
20 references for repair history. In some cases, there may need to be an additional repair
21 center involved that would handle the loop-only related failure.

22 Qwest proposed to modify its process as follows:

23 First, the CLEC would do isolation testing to the Qwest network, and the
24 CLEC must provide overall test results across both circuits or authorize
25 optional testing for the UNE circuit before opening a trouble ticket. Charges

¹ Denney Direct at 157-58.

1 for Qwest performing testing on behalf of the CLEC are found in Exhibit A of
2 the ICA.

3 Second, the CLEC submits a repair ticket following the normal process, on the
4 specific Commingled circuit the CLEC has reason to believe has the failure.
5 For illustrative purposes, let's assume it is the UNE Loop.

6 Third, the CLEC will reference in the remarks field, the circuit ID of the
7 circuit that is linked (commingled) with the circuit identified as having the
8 failure. In our illustrative example; this would be the higher capacity
9 transport.

10 Fourth, Qwest processes the ticket and begins the repair process on the UNE
11 Loop, and if trouble is found on the UNE Loop, Qwest makes the repair and
12 the ticket is closed.

13 In the alternative, the UNE Loop tests clear, Qwest tests the associated circuit
14 identified in the remarks section and and Qwest finds trouble on the high
15 capacity transport portion of the commingled circuit. Qwest will close the
16 UNE Loop repair ticket; and communicate to the CLEC what was found. No
17 maintenance of services charges will apply since the trouble was isolated in
18 the Qwest network (even if not specifically on the UNE loop as reported by
19 the CLEC). The Qwest technician will contact the CLEC and they will
20 mutually agree upon which company opens the second repair ticket for the
21 higher capacity transport. If the Qwest technician opens the ticket, it will be a
22 manual ticket and not contain the bonded automated trouble ticket advantages.
23 If the CLEC opens the trouble ticket, it can follow the normal automated
24 process and enjoy all automated ticket advantages.

1 Fifth, no time delay occurs regardless of whether Qwest or the CLEC opens
2 the second ticket, and thus the repair process is not delayed. Qwest will
3 already be using the testing information gained from the first ticket to begin
4 the repair process for the second ticket.

5 Sixth, due to the fact that these are different services, the repair clock for
6 quality service measurements will start and end with the opening and closing
7 of the ticket associated with the specific circuit. In this example, the UNE
8 repair ticket would be closed with no trouble found, but no maintenance of
9 service charges would apply, since there was trouble found within the Qwest
10 network on the private line transport portion circuit.

11 Qwest believes these proposed changes address the issues raised by Eschelon, without
12 requiring significant system changes. By contrast, Eschelon's proposal could not be
13 implemented within its existing repair systems without significant changes to
14 systems.

15 **Q. DID QWEST PROPOSE ICA LANGUAGE THAT REFLECTED THE**
16 **MODIFICATIONS TO THE REPAIR PROCESS YOU DESCRIBE ABOVE?**

17 **A.** Yes. Qwest proposed the following language to memorialize this commitment in the
18 ICA:

19 9.23.4.7 Maintenance and Repair for UNE Component of Commingled EELs

20
21 9.23.4.7.1 When CLEC reports a trouble through any of the means described
22 in Section 12.4.2.2, CLEC may provide both circuit IDs associated with the
23 Commingled EEL in a single trouble report. If CLEC is using CEMR to
24 submit the trouble report, for example, the CLEC will first report one circuit
25 ID (the circuit it believes has the trouble) and include the other circuit ID in
26 the remarks section. Should a second repair ticket be required for the circuit
27 in the remarks section, Qwest will contact CLEC, and they will mutually
28 agree who will open the second repair ticket.

1 9.23.4.7.1.1 Intentionally left blank

2 9.23.4.7.1.2 Qwest may charge a single Maintenance of
3 Service or Trouble Isolation Charge only if Qwest dispatches
4 and no trouble is found on either circuit associated with the
5 Commingled EEL.

6 The language that follows is Qwest's proposed language with red-lining to show
7 how the proposal differs from Eschelon's proposal in the arbitration:

8 **9.23.4.7 Maintenance and Repair for UNE Component of Commingled**
9 **EELs**

10
11 9.23.4.7.1 When CLEC reports a trouble through any of the means described
12 in Section 12.4.2.2, ~~so long as Qwest provides more than one circuit ID per~~
13 ~~Commingled EEL~~, CLEC may provide all **both** circuit IDs associated with the
14 Commingled EEL in a single trouble report. ~~(i.e., Qwest shall not require~~
15 ~~CLEC to submit separate and/or consecutive trouble reports for the different~~
16 ~~circuit IDs associated with the single Commingled EEL).~~ If CLEC is using
17 CEMR to submit the trouble report, for example, **the CLEC may will first**
18 report one circuit ID **(the circuit it believes has the trouble)** and include the
19 other circuit ID in the remarks section. **Should a second repair ticket be**
20 **required for the circuit in the remarks section, Qwest will contact CLEC,**
21 **and they will mutually agree who will open the second repair ticket.** ~~for~~
22 ~~the Qwest will communicate a single trouble report tracking number (i.e., the~~
23 ~~"ticket" number) (described in Section 12.1.3.3.1.1) for the Commingled~~
24 ~~EEL to CLEC at the time the trouble is reported.~~

25 **9.23.4.7.1.1 If any circuit ID is missing from any Customer**
26 **Service Record associated with the Commingled EEL,**
27 **Qwest will provide the circuit ID information to CLEC at**
28 **the time CLEC submits the trouble report. Intentionally**
29 **left blank**

30 9.23.4.7.1.2 Qwest may charge a single Maintenance of
31 Service or Trouble Isolation Charge ~~(sometimes referred to as~~
32 **"No Trouble Found" charge)** only if Qwest dispatches and no
33 trouble is found on **either both** circuits associated with the
34 Commingled EEL. ~~If CLEC may charge Qwest pursuant to~~
35 ~~Section 12.4.1.8, CLEC may also charge only a single~~

1 ~~charge for both circuits associated with the Commingled~~
2 ~~EEL.~~

3 Q. IS THIS LANGUAGE QWEST PROPOSED DURING THE ARBITRATION
4 IN EFFECT IN ANY OTHER ESHELON ICA?

5 A. Yes. This language is in effect in Minnesota, Oregon, Utah and Washington.

6 Q HAS ESHELON MADE ANY ASSERTIONS ABOUT PROBLEMS ARISING
7 FROM APPLICATION OF THIS ICA LANGUAGE ADOPTED IN THESE
8 OTHER STATES?

9 A. No. I am not aware of any complaints that Eschelon has made regarding this repair
10 process that has been in effect, in some cases, for more than 13 months.

11 Q. WHY IS IT SOMETIMES NECESSARY FOR A CLEC TO SUBMIT A
12 TROUBLE REPORT FOR EACH CIRCUIT ASSOCIATED WITH A
13 COMMINGLED EEL?

14 A. It is critical that Qwest maintain accurate repair history detail on each circuit and
15 circuit type. These various obligations require submission of a trouble report specific
16 to the circuit where trouble was actually found. However, with appropriate trouble
17 isolation testing, the CLEC will generally know which circuit is experiencing trouble.
18 Further, if no trouble is found on the circuit identified in the trouble ticket, Qwest will
19 also test the commingled circuit identified in the remarks section of the ticket.
20 However, the opening of a second ticket automatically creates a second repair interval
21 in the systems Qwest utilizes.

1 **Q. HAS ESCHELON AGREED TO COMPENSATE QWEST FOR THE COSTS**
2 **QWEST WOULD INCUR TO IMPLEMENT THE SYSTEMS AND PROCESS**
3 **CHANGES THAT ECHELON'S PROPOSAL RELATING TO A SINGLE**
4 **REPAIR INTERVAL FOR TWO TROUBLE REPORTS WOULD REQUIRE?**

5 A. No, to my knowledge, Eschelon is requesting that Qwest implement significant
6 changes on its behalf without agreeing or offering to compensate Qwest for any
7 process or system related changes. Eschelon's apparent refusal to compensate Qwest
8 for the changes is an additional, significant flaw in its proposal. In contrast to
9 Eschelon's proposal, Qwest's proposal can be reasonably and efficiently implemented
10 within Qwest's existing repair systems without costly modifications. For more detail
11 on the financial impact to Qwest of this proposal, please see the testimony of Timothy
12 Gains.

13 **Q. IS IT REALISTIC TO ASSUME THAT A SECOND REPAIR TICKET (AND**
14 **ITS ASSOCIATED REPAIR INTERVAL) FOR COMMINGLED EEL**
15 **ARRANGEMENTS WILL NEVER BE REQUIRED AS PROPOSED BY**
16 **ESCHELON, AND CAN QWEST MAKE THAT COMMITMENT?**

17 A. No. The intent of Qwest's agreement to modify its repair process is to eliminate the
18 need in most circumstances for Eschelon to open two repair tickets instead of one for
19 commingled arrangements. It is important to note, however, that repairs can give rise
20 in some situations to an unavoidable need for two repair tickets and two repair
21 intervals.

22 **Q. DID THE COMMISSION ADOPT QWEST'S PROPOSED REPAIR PROCESS**
23 **DESCRIBE ABOVE?**

24 A. Yes. The Commission adopted Qwest's proposed repair process.²

² Opinion and Order, *In the Matter of the Petition of Eschelon Telecom, Inc., for Arbitration with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*,

1 **Q. FOLLOWING THE COMMISSION'S ORDER ADOPTING THE QWEST**
2 **REPAIR PROCESS, WERE THE PARTIES ABLE TO NEGOTIATE**
3 **ADDITIONAL MODIFICATIONS TO THE QWEST REPAIR PROCESS AND**
4 **THE ICA LANGUAGE?**

5 A. Yes. Additional progress was made to narrow the areas of dispute between the
6 parties. However, the primary area of remaining disagreement between the parties
7 involves the time interval within which Qwest is required to complete repairs for a
8 commingled EEL. During the post hearing negotiations for Issues 9-59 Qwest
9 believes that Eschelon's revised ICA language would have expanded Qwest's repair
10 obligations instead of further documenting the Qwest proposed repair processes as
11 ordered by the Commission. Each party's final proposed ICA language is reproduced
12 at pages 4-6 of the ALJ's Recommended Opinion and Order (ROO).

13 **Q. HOW DID THE ALJ RULE ON THE PARTIES' PROPOSALS IN THE ROO?**

14 A. The ALJ adopted Eschelon's proposed language, with some additional clarifying
15 language, and recommended that instead of using separate repair intervals for each
16 component of the commingled EEL, Qwest should change its current process and use
17 a single repair interval for commingled EELs. Under Eschelon's proposed language
18 as adopted by the ALJ, the governing interval would be the longer of the UNE and
19 non-UNE intervals, except that separate intervals would govern if Eschelon does not
20 provide Qwest with the circuit IDs for both the UNE and the non-UNE circuit.³

21 **Q. DOES QWEST HAVE CONCERNS ABOUT THIS PROPOSAL?**

22 A. Yes. In addition to the legal position outlined in Qwest's Exceptions to the ROO,
23 filed on January 7, 2009, Qwest has four fact-based objections. First, Eschelon's
24 proposal does not account for important differences between Point-to-Point and
25 Multiplexed EELs. Second, the proposal is based upon inappropriate comparisons

Decision No. 70356 at 67 (May 16, 2008) ("Arbitration Order").

³ ROO at 13 and language set forth therein for ICA §§ 9.12.4.7.4.1 and 9.23.4.7.4.1.1.

1 between retail and wholesale services. Third, the proposed language does not adhere
2 to the Commission's order to adopt "Qwest's repair proposal." And fourth, the
3 transition from two intervals to one repair interval for commingled EELs would
4 require extensive changes to the OSSs used in the repair process (again, it is
5 important to note that these are Telcordia systems and are not unique to Qwest) and
6 would therefore impose very significant costs on Qwest. I will address the first three
7 fact-based objections in the remainder of my testimony, while Timothy Ganes will
8 address the fourth objection in his testimony.

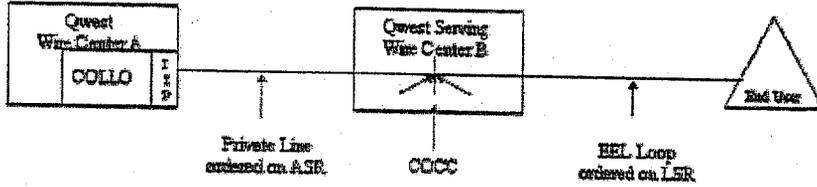
9 **B Eschelon's Proposal Does Not Account for Important Differences**
10 **Between Point-to-Point and Multiplexed EELs**

11 **Q. CAN YOU CLARIFY THE DIFFERENCE BETWEEN A POINT-TO-POINT**
12 **EEL AND A MULTIPLEXED EEL?**

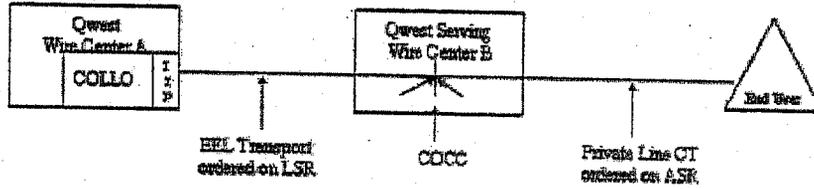
13 **A.** Yes. Both UNE EELs and commingled EELs are available in two general
14 configurations, the Point-To-Point EEL and the Multiplexed EEL. A point-to-point
15 commingled EEL is a UNE circuit connected to a Private Line circuit of the same
16 bandwidth; and either the loop or the transport is ordered from either the Private Line
17 Transport (PLT) or Special Access (SA) tariff. The connection between the tariffed
18 service and the UNE service is made via a central office connecting channel (COCC).
19 Two examples are:

- 20 • An EEL Loop connected to a PLT Transport circuit of the same bandwidth.
21 See diagram A
- 22 • EEL Transport connected to a PLT Channel Termination (loop) of the same
23 bandwidth, serving an end-user customer premises. See diagram B

EEL Loop Connected to PLT/SA Transport Circuit - Same Bandwidth
Diagram A



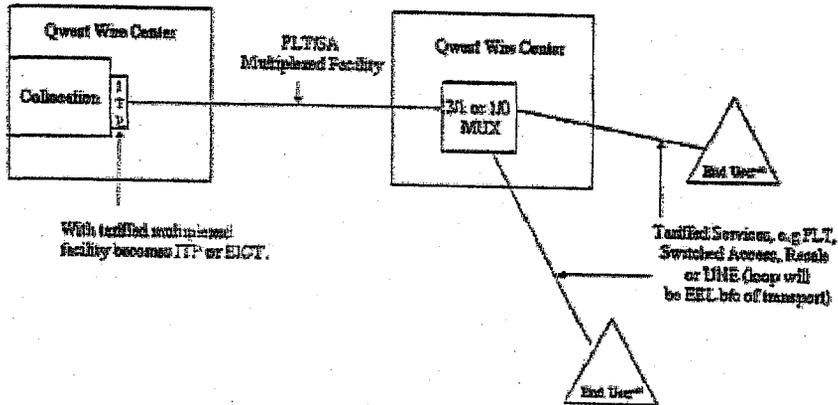
EEL Transport Connected to PLT/SA Chan Term Circuit - Same Bandwidth
Diagram B



1
2
3
4
5

A commingled EEL can also be a multiplexed EEL, e.g., an EEL unbundled Loop connected to a PLT/SA tariff multiplexed transport facility between Qwest wire centers. See diagram C.

EEL Loops Connected to a PLT/SA Multiplexed Facility
Diagram C



6

1 **Q. WHY ARE THESE DIFFERENCES RELEVANT TO THE PARTIES'**
2 **DISPUTE?**

3 A. For all multiplexed circuit arrangements, regardless of whether they are UNE EELs,
4 resale or retail private line service, each individual circuit in the network
5 configuration has its own separate circuit ID. Should a repair be called in on such an
6 arrangement, a repair ticket is required for each circuit, e.g., any of the specific loops
7 or higher capacity transport. If the wrong portion of the network arrangement has
8 been identified in a trouble report, then a separate ticket is opened and required. The
9 opening of an additional repair ticket on a different circuit in the network
10 configuration results in a new repair clock starting in all multiplexed network
11 configurations for both retail and wholesale. In other words, the repair clock restarts
12 in this situation for all multiplexed network arrangements, which means there is
13 parity between retail and wholesale services for this purpose.

14 However, Eschelon appears to want the Commission to require a single repair interval
15 for all EELs, not just point to point EELs. This would require Qwest to create a
16 unique repair processes regarding repair intervals than it currently provides for any
17 retail or wholesale customer. Qwest does not believe it appropriate to do so and
18 Qwest will be expanding on the legal aspects of this order in its post-hearing briefs.

19 **C Eschelon's Proposal is Premised on Inappropriate Comparisons**
20 **Between Retail and Wholesale Services**

21 **Q. DO YOU AGREE WITH THE SUGGESTION THAT QWEST'S PROPOSAL**
22 **IS DISCRIMINATORY BECAUSE THE COMMINGLED EEL IS NOT**
23 **TREATED ON PAR WITH THE UNE EEL OR PRIVATE LINE/SPECIAL**
24 **ACCESS?**

25 A. No. This suggestion is based on improper comparisons between retail and wholesale
26 services. The comparisons are improper because, as noted above, for all

1 Multiplexed circuit arrangements, regardless of whether they are wholesale EELs,
2 resale or retail private line service, each individual circuit in the network
3 configuration has its own separate circuit ID and therefore this is always two
4 individual repair tickets and two repair intervals.

5 Moreover for single bandwidth EELs, two different circuits, from two different
6 service arrangements (typically UNE and private line) are commingled. For each
7 individual network service for retail and wholesale customers, an individual circuit ID
8 (or its equivalent, such as a phone number) is assigned and each has its own repair
9 ticket and repair interval. In addition, as discussed below, these individual repair
10 activities are monitored as part of the Qwest PIDs and Potential PAP payments.

11 **D Eschelon's Proposed Language Does Not Adhere to the**
12 **Commission's Order to Adopt "Qwest's Repair Proposal"**

13 **Q. DOES ESCHELON'S PROPOSED LANGUAGE COMPLY WITH THE**
14 **COMMISSION'S ORDER TO ADOPT "QWEST'S REPAIR PROPOSAL"?**

15 **A.** No, as described above, "Qwest's repair proposal" as adopted by the Commission's
16 Order and as presented in the arbitration proceeding plainly requires a separate repair
17 interval or time clock for each circuit of a commingled EEL. Specifically, in my
18 prior testimony, I stated that "the repair clock for quality service measurements will
19 start and end with the opening and closing of the ticket associated with the *specific*
20 *circuit.*" The use of the singular – a "specific circuit" – clearly means that each
21 circuit will have its own, unique repair clock. If Qwest had intended to have just one
22 repair clock for both circuits, I would have made that clear by stating that a single
23 repair clock will apply to both circuits.

24 But, instead, my testimony recognizes that it may be necessary to open a trouble

1 ticket for each circuit and, when that occurs, the repair clock for each "specific
2 circuit" will begin and end with the opening and closing of each ticket.

3 There is no suggestion anywhere in my testimony that the Qwest repair proposal
4 adopted by the Commission calls for just one repair clock for both circuits. That
5 would not be consistent with Qwest's current processes and, accordingly, the concept
6 is not in my testimony. Moreover, the language that Eschelon presented in the
7 arbitration and that Qwest responded to in the arbitration did not even contain the
8 concept of a single repair clock.

9 In recommending the use of a single repair interval, the ROO states that Qwest has
10 not "convinced us that the repair time of four hours is overly burdensome."⁴
11 However, as described in Timothy Gianes' testimony also filed today, this statement
12 overlooks the fact that moving to a single repair interval for commingled EELs will
13 require Qwest to make extensive, costly changes to its OSSs because Qwest's systems
14 currently cannot combine the repair intervals for commingled circuits.

15 **E PID/PAP Impacts of a Single Repair Interval**

16 **Q. FOR COMMINGLED EELS SUPPLIED BY QWEST – FOR EXAMPLE, A**
17 **PRIVATE LINE AND UNBUNDLED LOOP –ARE THERE SEPARATE**
18 **SERVICE QUALITY MEASUREMENTS THAT WOULD APPLY**
19 **INDIVIDUALLY TO EACH CIRCUIT OF THE COMMINGLED**
20 **ARRANGEMENT?**

21 **A.** Yes, each circuit – the private line transport and the unbundled loop, as in the
22 example – would be treated individually from an ordering and maintenance/repair

⁴ ROO at 11.

1 perspective.

2 **Q. WHAT ARE SOME OF THE MEASUREMENTS THAT WOULD APPLY TO**
3 **THESES INDIVIDUAL CIRCUITS?**

4 A. For ordering there are several: OP-3 (installation commitments met), OP-4
5 (installation interval), OP-5 (new service installation quality) and OP-6 (installation
6 delay interval). For maintenance, there are also several: MR-5 (repair within 4
7 hours), MR-6 (repair interval), MR-7 (repeat repair rate) and MR-8 (trouble rate).

8 **Q. FOR SOME MAINTENANCE PIDS, IS A KEY COMPONENT QWEST'S**
9 **ACTUAL PERFORMANCE AGAINST THE REPAIR INTERVAL**
10 **STANDARD ESTABLISHED FOR A SERVICE (E.G., A CIRCUIT)?**

11 A. Yes. For example, in MR-5 (repair within 4 hours) if a commingled single repair
12 interval of four hours was established for two individual circuits with different circuit
13 IDs, then this PID's results would not be valid for this combined pair of circuits, since
14 the combination is not comparable to the PID standard. For example, the PID results
15 for the UNE DS1 loop are a parity standard against retail DS1 private line.
16 Therefore, if a single 4 hour repair interval for a DS1 UNE loop and a commingled
17 private line DS3 transport, is compared against a Qwest retail repair of a single DS1
18 loop, it may lead to Qwest results implying a lack of parity in the two repairs.

19 **Q. WHERE ARE THE SERVICE QUALITY MEASUREMENTS DEFINED**
20 **THAT WOULD ADDRESS THE INDIVIDUAL CIRCUITS IN A**
21 **COMMINGLED SERVICE?**

22 A. In the Service Performance Indicator Definitions (PID) that are part of the ICA
23 Exhibit B, incorporated as part of each CLEC's interconnection agreement in

1 Arizona. Currently, the ICAs contain the 14-State Section 271 PID Version 9.0.

2 **Q. DOES THE PID SPECIFY ANY DISAGGREGATIONS FOR THESE**
3 **MEASUREMENTS?**

4 A. Yes, there are two primary dimensions along which measurements are divided. The
5 first is geographically within the state, essentially an urban and rural breakdown. The
6 second is by product, for example, resale residential, resale DS1, unbundled loop 2-
7 wire, EEL-DS1.

8 **Q. WHAT IS THE PURPOSE OF MAKING THESE DISAGGREGATIONS IN**
9 **THE MEASUREMENTS?**

10 A. The essential purpose is to compare like to like services to measure service quality.
11 One would not want to compare a resale residential installation with a private line
12 fiber DS3 installation, to use an extreme example. A resale residential installation is
13 compared with the same retail residential service. A DS3 installation is compared
14 with a retail DS3 installation. Also, installations and repairs in an urban area require
15 a different approach than in a rural area. The comparisons have to be apples to apples
16 for the statistical tests to be appropriate.

17 **Q. WHAT KINDS OF STANDARDS ARE IN PLACE TO ASSESS SERVICE**
18 **QUALITY?**

19 A. There are basically two standards: benchmark and parity. Benchmarks are simply a
20 bright line comparison with a standard. For example, the OP-3 standard for EEL-
21 DS1 is 90% completed by the due date. If 90% or more are completed by the due
22 date, then the standard is met. Parity standards involve a comparison with a retail
23 comparative product. For example, unbundled DS1 loops are compared with retail

1 DS1. Statistical tests of parity are calculated to determine whether or not the
2 wholesale unbundled result is the same or different from the retail result.

3 **Q. WHAT WOULD HAPPEN IF SEPARATE SERVICES (E.G., UNBUNDLED**
4 **LOOP AND PRIVATE LINE TRANSPORT) WERE COMBINED ON THE**
5 **WHOLESALE SIDE AND TREATED AS A SINGLE SERVICE?**

6 A. The statistical tests would not be valid, since the comparison is no longer of apples to
7 apples. Although the results may show a disparity, that disparity is not a function of
8 disparate treatment, but rather of a faulty and imprecise measurement system. For the
9 statistical tests to be valid, the comparisons must be of apples to apples.

10 **Q. ARE THERE TECHNICAL STATISTICAL LIMITATIONS THAT WOULD**
11 **ADVISE AGAINST ATTEMPTING TO COMBINE SEPARATE SERVICES**
12 **FOR PERFORMANCE REPORTING?**

13 A. Yes, the problem in much of statistical analysis is to reduce error variance. That is
14 the primary reason for disaggregating along geographical and product dimensions.
15 Combining disparate products or services, like combining across geographical areas,
16 increases the error variance and reduces the effectiveness of the statistical tests.

17 **Q. DOES THE PID SPECIFY ANY WAY TO COMBINE SERVICES THAT ARE**
18 **PART OF A COMMINGLED ARRANGEMENT INTO A SINGLE**
19 **MEASUREMENT?**

20 A. No, the PID properly specifies the specific products for which measurements will be
21 made, separately from other products. The PID also specifies the service
22 performance standard for each product. There is not way to combine separate
23 products.

24 **Q. WHY IS THAT?**

1 A. One reason is that it would be nearly impossible to determine a comparative standard
2 for the separate combinations. The separate portions of a commingled service would
3 each have a separate standard, and one could be a benchmark and the other parity.
4 The PID has no specifications for how to combine products and standards.

5 **Q. WOULD PERFORMANCE ASSURANCE PLAN (PAP) PAYMENTS APPLY**
6 **TO A COMMINGLED SERVICE?**

7 A. Yes, PAP payments are specified in Exhibit K of the ICA.

8 **Q. FOR WHICH PRODUCT DISAGGREGATIONS DOES THE PAP SPECIFY**
9 **THAT PAYMENTS BE MADE?**

10 A. The PAP refers to the Exhibit B PID disaggregations, and payment calculations are
11 made for each of the product disaggregations specified in the PID, as well as each of
12 the geographical disaggregations specified in the PID.

13 **Q. COULD PAYMENTS IN THE PAP BE CALCULATED ON COMMINGLED**
14 **SERVICES TOGETHER?**

15 A. No, not without first creating PID disaggregations for the commingled services. This
16 would essentially involve creating a new metric, i.e., a PID and specific product
17 disaggregation that would include the two commingled services.

18 **Q. WOULD IT BE NECESSARY TO CREATE PID DISAGGREGATIONS FOR**
19 **EACH AND EVERY POSSIBLE COMMINGLED ARRANGEMENT**
20 **BETWEEN SERVICES A CLEC COULD REQUEST?**

21 A. Yes. For example, a CLEC could potentially create different commingled
22 combinations of unbundled transport, unbundled loops and various private line

1 services.

2 **Q. WOULD IT BE NECESSARY TO CREATE A BENCHMARK OR PARITY**
3 **RETAIL COMPARATIVE FOR EACH NEW METRIC?**

4 A. Yes, although it would be difficult to determine a benchmark or identify a retail
5 comparative since, by definition, the commingled arrangements are rare. Finding an
6 appropriate comparative standard would be very difficult.

7 **IV. CONCLUSION**

8 **Q. DO YOU HAVE ANY FINAL COMMENTS?**

9 A. Yes. The Arizona Corporation Commission should adopt the Qwest proposed
10 language for this issue. Qwest's proposed language properly and realistically
11 recognizes when a second repair clock interval (and its associated repair ticket) may
12 be necessary, yet it also allows the end-to-end repair process to begin with the issuing
13 of a single repair ticket if Eschelon inserts the commingled circuit ID in the remarks
14 section. Accordingly, the Commission should adopt Qwest's proposal and reject
15 Eschelon's proposals described above that would inflexibly require the use of a single
16 repair interval in all situations without regard for the ability of Qwest's systems to
17 handle that requirement, or for the very substantial costs that Qwest would incur just
18 to attempt to modify its systems to meet this requirement.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE PETITION OF)
ESCHELON TELECOM OF ARIZONA,)
INC. ARBITRATION WITH QWEST)
CORPORATION, PURSUANT TO 47 U.S.C.)
SECTION 252 OF THE FEDERAL)
TELECOMMUNICATIONS ACT OF 1996)

Docket No. T-03406A-06-0572
T-01051B-06-0572

STATE OF OREGON)
COUNTY OF MULTNOMAH)

AFFIDAVIT OF
KAREN A. STEWART

) : SS

Karen A. Stewart, of lawful age being first duly sworn, deposes and states:

1. My name is Karen A. Stewart. I am Staff Director Compliance for Qwest Corporation in Portland, Oregon. I have caused to be filed written Direct Testimony in Docket Nos. T-03406A-06-0572 and T-01051B-06-0572.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

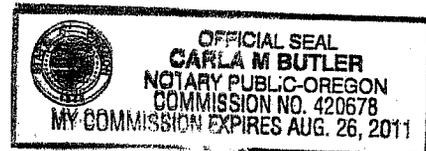
Further affiant sayeth not.


Karen A. Stewart

SUBSCRIBED AND SWORN to before me this 17th day of April, 2009.


Notary Public

My Commission Expires: 8/26/2011





KRISTIN MAYES
Chairman
GARY PIERCE
Commissioner
SANDRA KENNEDY
Commissioner
PAUL NEWMAN
Commissioner
BOB STUMP
Commissioner

**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

REBUTTAL TESTIMONY

OF

KAREN STEWART

ON BEHALF OF

QWEST CORPORATION

July 24, 2009

(Disputed Issue No. 9-59)

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1 **I. Identification of Witness**

2 **Q. PLEASE STATE YOUR NAME.**

3 A. My name is Karen A. Stewart, and I filed direct testimony on behalf of Qwest Corporation
4 in this proceeding on April 20, 2009.

5 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

6 A. The purpose of my rebuttal testimony is to respond to the Responsive Testimony of
7 Eschelon witness Douglas Denney.

8 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

9 A. My testimony and that of Qwest witness, Timothy Gianes, demonstrate that Qwest has
10 implemented repair procedures for point-to-point, single bandwidth commingled EELs
11 that are consistent with industry standards and are based upon Qwest's existing repair
12 systems. Qwest has taken steps to modify its standard processes by permitting Eschelon
13 to include the circuit identification numbers of the UNE and non-UNE circuits of a point-
14 to point commingled EEL in the "remarks" section of a trouble report, as described in the
15 Direct Testimony of Mr. Gianes. This addition to Qwest's standard processes minimizes
16 the possibility of delays in the time for repairing these facilities. Eschelon's proposal that
17 would impose a single repair interval for the two different circuits that make up a
18 commingled EEL is unnecessary and is inconsistent with standard industry practices.
19 Further, as Mr. Gianes has established, Qwest's industry-standard repair systems are not
20 designed for the use of a single repair interval for two different circuits and would have to
21 be significantly modified if Eschelon's proposal were adopted. For these reasons, the
22 Commission should reject Eschelon's proposed language for the parties' Interconnection
23 Agreement ("ICA") that would impose a single repair interval.

24
25 ///

26

1 **II. Scope of the Proceeding**

2 **Q. PLEASE DEFINE THE ISSUE PRESENTED IN THIS PROCEEDING.**

3 A. Because Mr. Denney's testimony addresses a broad array of issues relating to commingled
4 EELs, it is important to review the procedural history leading to this proceeding and to
5 understand the proceeding's very limited scope. A review of that history demonstrates
6 that the only issues presented here are (1) whether the Commission should adopt
7 Eschelon's proposal for a single repair interval for point-to-point commingled EELs, and
8 (2) whether Qwest should be permitted to recover costs if the Commission adopts
9 Eschelon's proposal. Mr. Denney's testimony strays far beyond these narrow issues and
10 presents new proposals for the parties' ICA that are procedurally improper and
11 substantively flawed.

12 Disputes regarding the provisioning, ordering, repair, and billing of commingled EELs
13 were addressed in the parties' lengthy arbitration proceeding that began with Eschelon's
14 petition for arbitration filed September 8, 2006. Since that date, the parties have presented
15 extensive testimony on commingled EELs, hearings have been held, and multiple rulings
16 have been rendered by the Commission. Among those rulings, the Commission ordered
17 the parties to adopt Qwest's repair process for point-to-point commingled EELs.

18 While the Commission adopted Qwest's repair process, it did not adopt ICA language
19 implementing that process. Instead, it directed the parties "to negotiate and submit with
20 their compliance filing, language that incorporates Qwest's repair proposal."¹ The
21 Commission ruled further that if the parties were unable to agree upon language, "we will
22 re-open the arbitration to address the issue."² The arbitration was eventually re-opened
23 and the resulting Recommended Opinion and Order recommended adoption of Eschelon's
24 proposal for a single repair interval. However, the Commission did not adopt that
25 recommendation and, instead, ordered the Hearing Division to "schedule additional

26 ¹ Arbitration Order, Decision No. 70356 at 67.

² *Id.*

1 expedited proceedings to develop a record on the costs and benefits of Eschelon's
2 proposed single interval proposal, including whether Qwest has a right to recover the costs
3 of implementing a single repair interval for Commingled EELs."³ Thus, the only issues
4 properly addressed in this proceeding are whether the Commission should adopt a single
5 repair interval and whether it should permit Qwest to recover costs if that requirement is
6 adopted.

7 **Q. DOES MR. DENNEY ATTEMPT IN HIS RESPONSIVE TESTIMONY TO**
8 **BROADEN THE SCOPE OF THIS PROCEEDING TO ISSUES OTHER THAN**
9 **THE USE OF A SINGLE REPAIR INTERVAL FOR BOTH CIRCUITS OF**
10 **POINT-TO-POINT COMMINGLED EELS?**

11 **A.** Yes. In his Responsive testimony at pages 48-49, for example, Mr. Denney states that
12 consideration of Qwest's costs and procedures to repair commingled EELs in this current
13 proceeding should include a discussion of Eschelon's previously rejected proposal to use a
14 singled circuit identification number for both circuits of a commingled EEL. However,
15 that issue has already been decided, as shown by the following ruling in the Commission's
16 Arbitration Order:

17 Eschelon's proposals for ordering (Issue No. 9-58), circuit IDs
18 (Issue No. 9-58(a)), and billing (Issue No. 9-58(b)) related to
19 commingled EELs would require substantial changes to Qwest's
20 processes, which would result in undetermined, but potentially
21 substantial costs for Qwest. It would also appear to affect all other
CLECs requesting the same services from Qwest. Changes to these
processes are better addressed in the CMP, or similar forum, or in a
generic docket. Consequently, we adopt Qwest's proposed
language for issues 9-58, 9-58(a) and 9-58(b).⁴

22 As this quote shows, the Commission clearly rejected Eschelon's circuit ID proposal.
23 Mr. Denney's attempt to exceed the limited scope and to re-litigating this and other issues
24 is improper and should be rejected.

25
26 ³ See Procedural Order, Feb. 18, 2009 (defining issues to be decided).

⁴ Arbitration Order, Decision No. 70356 at 66-67.

1 **Q. DOES THE COMMISSION'S ARBITRATION RULING QUOTED ABOVE**
2 **PROVIDE GUIDANCE CONCERNING HOW THE ISSUE OF A SINGLE**
3 **REPAIR INTERVAL SHOULD BE RESOLVED?**

4 A. Yes. It is significant that the Commission rejected Eschelon's proposals relating to
5 commingled EELs, in part, on the ground that they would require "substantial changes to
6 Qwest's processes" could impose "potentially substantial costs for Qwest." As
7 Mr. Ganes' testimony establishes, a requirement for Qwest to use a single repair interval
8 for both circuits of commingled EELs would impose both significant changes to Qwest's
9 processes and substantial costs, which is precisely what led the Commission to reject
10 Eschelon's other proposals relating to commingled EELs.

11 **Q. HAS ESCHELON DEMONSTRATED THAT IT HAS SUFFICIENT DEMAND**
12 **FOR COMMINGLED EELS TO JUSTIFY THE CHANGES AND COSTS IT IS**
13 **SEEKING TO IMPOSE ON QWEST?**

14 A. No. In addition, in a proceeding in another state, Eschelon has stated that it has no
15 forecasted purchases of point-to-point commingled EELs from Qwest. While Mr. Denney
16 will claim that Eschelon's lack of demand is the result of Qwest's supposedly burdensome
17 processes relating to point-to-point commingled EELs, it simply is not credible that
18 Qwest's use of a separate circuit IDs and separate, consecutive repair intervals for the two
19 circuits of a commingled EEL is enough to cause Eschelon not to order this service. In all
20 likelihood, there are other, undisclosed business reasons for Eschelon's lack of demand.
21 Whatever the reason, Eschelon should not be permitted to impose significant process
22 changes and costs on Qwest relating to a service for which it has shown no meaningful
23 demand.

24 **Q. AT PAGES 45-49 OF HIS TESTIMONY, MR. DENNEY CRITICIZES THE**
25 **TELCORDIA COST ESTIMATE PROVIDED WITH MR. GIANES' DIRECT**
26 **TESTIMONY ON THE GROUNDS THAT IT DOES NOT ASSUME THE USE OF**

1 **A SINGLE CIRCUIT ID NUMBER FOR POINT-TO-POINT COMMINGLED**
2 **EELS? IS THAT A LEGITIMATE CRITICISM?**

3 A. No. The first problem with this criticism is that the Commission rejected Eschelon's
4 demand for a single circuit ID number, and it would therefore be illogical to present a cost
5 estimate based upon the use of a single circuit ID. As Mr. Gianes explained in his direct
6 testimony, the cost estimate from Telcordia to modify Qwest's repair systems is based on
7 repairing a point-to point single bandwidth commingled EEL that is comprised of two
8 circuits -- a UNE circuit and a private line (or special access) circuit, each with its own
9 unique circuit identification number. As with all retail and wholesale circuits provided by
10 Qwest, each unique circuit has it own circuit identification number. Qwest's industry-
11 standard repair systems do not have built into them the capability to track or time the
12 opening or closing of a repair ticket for one circuit based on any testing or repair activities
13 that are taking place on a different circuit. But that is what would be required under
14 Eschelon's proposal for a single repair interval for both circuits of a point-to-point
15 commingled EEL.

16 **III. Eschelon's New Language Proposals for the Parties' Interconnection Agreement**

17 **Q. DOES MR. DENNEY PRESENT SEVERAL NEW LANGUAGE PROPOSALS**
18 **FOR THE PARTIES' INTERCONNECTION AGREEMENT IN HIS**
19 **TESTIMONY?**

20 A. Yes. Mr. Denney's presentation of new language proposals that go beyond the limited
21 issue of a single repair interval for point-to-point commingled EELs reflects Eschelon's
22 view that multiple issues relating to ICA Section 9.23.4.7 and repairs of commingled
23 EELs are being decided here. As I discuss above, however, the Commission's order
24 establishing this limited proceeding does not contemplate that the parties will inject new
25 disputes into the proceeding. Mr. Denney apparently believes that any new language
26 proposed for the ICA is no longer limited to the narrow issue of single repair interval but

1 that, instead, the Commission has opened the door to revisiting other aspects of the ICA
2 language relating to commingled EELs. That belief is wrong, as the discussion above
3 demonstrates. If Mr. Denney's approach were accepted, the net result would be that more
4 sub-sections of ICA Section 9.23.4.7 of the ICA language would be in dispute than when
5 this docket began.

6 This narrow issue under review is captured in the alternative proposals for sections
7 9.23.4.7.41 and 9.23.4.7.4.1.1. Unlike Eschelon, Qwest is not requesting any new
8 language at this stage in the proceeding.

9 **Q. AT PAGES 32-33 OF HIS TESTIMONY, MR. DENNEY EXPRESSES**
10 **BEWILDERMENT CONCERNING WHY QWEST INCLUDED TESTIMONY**
11 **REGARDING MULTIPLEXED EELS IN ITS DIRECT TESTIMONY. DO YOU**
12 **HAVE ANY COMMENT ON THIS ISSUE?**

13 **A.** Qwest was concerned because Eschelon had rejected all of Qwest's prior language
14 proposals that properly identified Section 9.23.4.7 as relating only to the repair of point-
15 to-point single bandwidth Commingled EELs and not to other types of EELs.
16 Mr. Denney's testimony now clarifies that the parties are in agreement that the ICA and
17 the dispute being addressed here are limited to point-to-point commingled EELs.
18 Accordingly, this is one belated proposal from Eschelon with which Qwest can agree.
19 Qwest accepts Eschelon's newly proposed Section 9.23.4.7, which provides:

20 9.23.4.7 Maintenance and Repair for UNE Component for point-to-
21 point Commingled EELs.

22 This language properly identifies that this section of the ICA addresses only the repair of
23 point-to-point commingled EELs.

24 **Q. IN THE ESCHELON NEWLY PROPOSED LANGUAGE FOR SECTION**
25 **9.23.4.7.1, ESCHELON HAS ADDED "FOR A DESCRIPTION OF POINT TO**
26 **POINT, SEE SECTION 9.23.4.4.1 & 9.23.4.5.4." DOES QWEST AGREE WITH**
THIS NEW LANGUAGE?

1 A. Qwest agrees that there is benefit in clarifying what a "point-to-point" means, but
2 recommends that the last reference to 9.23.4.5.4 be stricken, since it is unnecessary and
3 refers to an ordering detail for an all UNE EEL which could create confusion in the
4 context of Section 9.23.4.7.

5 **Q AT PAGES 17 THROUGH 19 OF HIS TESTIMONY, MR. DENNEY PROPOSES**
6 **REPLACING THE TERM "CIRCUIT" WITH "CIRCUIT ID" IN SEVERAL**
7 **SECTIONS OF 9.23.4.7 OF THE ICA. IS THAT AN APPROPRIATE CHANGE?**

8 A. No. It appears that Eschelon is proposing use of this term to advance the false premise that
9 a circuit "ID" does not mean "identification" of a unique number to identify a circuit in
10 the Qwest provisioning system as it always has been, but rather is used to identify only a
11 "portion" of a circuit. The proposal assumes incorrectly that somehow a "portion" of a
12 circuit could have a unique circuit "ID." The accuracy of this interpretation of Eschelon's
13 proposal is confirmed by Eschelon's related and newly proposed modifications to
14 9.23.4.7.2: "For trouble reporting, for both portions of a Point-to-Point Commingled EEL
15 identified by CLEC, see section 12.4.2.2."

16 This proposed change is simply for the purpose of attempting to support Eschelon's new
17 advocacy that a commingled EEL is a single circuit and not a combination of two circuits.
18 This is not consistent with standard industry practices and the common industry
19 understanding of what a circuit ID connotes, and Qwest therefore urges rejection of this
20 untimely proposal. Specifically, Qwest is concerned that at page 7, footnote 13,
21 Mr. Denney defines "ID" as meaning "identifiers." Again, at page 20 of his testimony,
22 Mr. Denney seems to imply that circuit "IDs" are circuit "identifiers" and in fact makes a
23 point of italicizing and bolding the word "identifiers" as if it means something different
24 than a circuit "identification" number as the term "ID" is commonly used. He continues
25 on page 20 by stating, "Clarity regarding the terminology will help avoid future disputes."
26 This is an admirable goal to be sure, but the confusing use of the word "identifiers" and

1 claiming "portions" of a circuit can have a different circuit identification number does not
2 bring any clarity to the ICA language.

3 As Mr. Denney correctly states in his Responsive testimony at page 15, ICA section
4 9.23.4.7.2 was not in dispute for ICA filing compliance purposes:

5 9.23.4.7.2. For trouble reporting, for both circuits identified by
6 CLEC in a point-to-Point Commingled EEL, see section 12.4.2.2.

7 In sum, Qwest does not agree to additional insertions of the term "ID" because Eschelon
8 is attempting to use a non-industry standard definition and understanding of the term
9 "ID." to advance its inaccurate position that a commingled EEL is not comprised of two
10 separate circuits. The Commission should reject Eschelon's attempt to redefine the
11 meaning of circuit "ID." The language in Section 9.23.4.7.2 should remain as it was when
12 the parties agreed to it, so that circuit "ID" refers to the identification numbers assigned to
13 each of the two separate circuits used with a commingled EEL.

14 **Q. AT PAGE 23 OF HIS TESTIMONY, MR. DENNEY PROPOSES DELETING**
15 **QWEST'S LANGUAGE IN SECTION 9.23.4.7.2.1.2 ESTABLISHING THAT**
16 **QWEST CANNOT OPEN A SECOND TROUBLE REPORT IF ESCHELON DOES**
17 **NOT PROVIDE QWEST WITH THE CIRCUIT ID NUMBER OF THE SECOND**
18 **CIRCUIT. IS MR. DENNEY'S PROPOSAL PROPER?**

19 **A.** No. Again, this is another newly proposed change that exceeds the limited scope of this
20 proceeding. Further, contrary to Mr. Denney's claim that the second sentence in this
21 section is unclear, the language is a critical component of the point-to-point commingled
22 EEL repair process and is a necessary provision of this section. This section should
23 remain as proposed by Qwest:

24 9.23.4.7.2.1.2 If CLEC believes it has the ability to isolate trouble
25 to a specific circuit, CLEC will identify that circuit as the one it
26 believes has the trouble, and will also provide the other circuit ID.
If CLEC does not provide the circuit ID of the second circuit,
Qwest will be unable to open a second trouble report and therefore
will not do so.

1 If Eschelon does not provide the circuit identification number of the second circuit, Qwest
2 will not have the information needed to open the second trouble report and therefore will
3 be unable to so do. Further, the inappropriateness of this proposed deletion becomes even
4 clearer when considered in conjunction with the language in Section 9.23.4.7.4 of the
5 ICA, which provides:

6 9.23.4.7.4 Although there may be two trouble tickets, no time
7 delay will result because Qwest will use the testing information
8 gained from the first ticket to begin the repair process for the
9 second ticket, which Qwest will open without delay.

10 The combination of these two paragraphs would place Qwest in the position of having to
11 open a second trouble report without delay despite the fact that Qwest would be without
12 the circuit ID needed to open the second report. Consistent with industry standards and
13 practices, Qwest's repair systems depend on a valid circuit identification number to open a
14 trouble report. Accordingly, the Commission should reject Eschelon's proposal to delete
15 the second sentence of Section 9.23.4.7.4.

16 **Q. TO ADDRESS THE LIMITED ISSUE PRESENTED IN THIS PROCEEDING,
17 DOES QWEST HAVE RECOMMENDED LANGUAGE FOR SECTION 9.23.4.7?**

18 **A. Yes** Qwest's proposed language for this complete section of the ICA is set forth below.

19 **9.23.4.7 Maintenance and Repair for UNE Component of Point-to-Point Commingled EELs.**

20 9.23.4.7.1 For trouble screening, isolation and testing for both circuits identified by
21 CLEC in a Point-to-Point Commingled EELs, see Section 12.4.1. For a description of
22 "point-to-point", see Sections 9.23.4.4.1.

23 9.23.4.7.2 For trouble reporting, for both circuits identified ay CLEC in a Point to Point
24 Commingled EEL, see Section 12..4.2.2.

25 9.23.4.7.2.1 When CLEC reports a trouble through any of the means described in
26 Section 12.4.2.2, CLEC may provide both circuit IDs associated with the
Commingled EEL in a single trouble report using the remarks field.

9.23.4.7.2.1.1 Qwest recognizes CLEC does not always have the ability to
isolate trouble to the specific circuit when Commingling two circuits of the
same bandwidth.

1 9.23.4.7.2.1.2 If CLEC believes it has the ability to isolate trouble to a specific
2 circuit, CLEC will identify that circuit as the one it believes has the trouble, and
3 will also provide the other circuit ID. If CLEC does not provide the circuit ID of
the second circuit, Qwest will be unable to open a second trouble report and
therefore will not do so.

4 9.23.4.7.2.1.2.1 If CLEC is using CEMR to submit the trouble report, for
5 example, CLEC will include the other circuit ID in the remarks section.

6 9.23.4.7.2.2 If trouble is found in the Qwest network on the first circuit identified
7 by CLEC in its trouble report, Qwest will repair the trouble. A second trouble
report will not be required if the trouble is found on the first circuit identified by
CLEC in its trouble report.

8 9.23.4.7.2.3 If no trouble is found on the first circuit and CLEC has provided a
9 second circuit ID in its trouble report, Qwest will test the second circuit. Qwest
will open a manual trouble report in that instance.

10 9.23.4.7.2.4 If the trouble is isolated to the Qwest network on the second
11 Commingled circuit, Qwest will repair the trouble. Qwest will contact CLEC with
the trouble ticket number.

12 9.23.4.7.2.5 Qwest will assign and provide disposition codes as described in
13 Section 12.4.4.

14 9.23.4.7.3 If Qwest dispatches and no trouble is found on either circuit associated with
15 the Commingled EEL, Qwest may charge only one Maintenance of Service or Trouble
Isolation Charge for the Commingled EEL.

16 9.23.4.7.3.1 No Maintenance of Service or Trouble Isolation Charge will apply if
the trouble is in the Qwest network.

17 9.23.4.7.4 Although there may be two trouble reports, no time delay will result because
18 Qwest will use the testing information from the first report to begin the repair process for
the second report. Qwest will open the second trouble report without delay.

19 9.23.4. 7.4.1 Because Commingled EELs are comprised of two different circuits,
20 the time for quality service measurement will start and end with the opening and
closing of the ticket associated with the specific circuit.

21 9.23.4.7.5 The Parties will work together to address repair issues and to prevent adverse
22 impacts to End User Customer(s).

23 **Q. AT PAGE 29 OF HIS TESTIMONY, MR. DENNEY STATES THAT THE**
24 **WASHINGTON COMMISSION ADOPTED ESCHELON'S LANGUAGE**
25 **PROPOSAL FOR THIS ISSUE (9-59). IS THAT STATEMENT ACCURATE?**
26

1 A. No. First, Mr. Denney does not state what Eschelon language proposal he is referring to.
2 That omission makes his answer confusing, since there have been many Eschelon
3 proposals relating to commingled EELs, including the new language unveiled in
4 Mr. Denney's Responsive testimony. He states that the Commission adopted Eschelon's
5 language proposal for "this issue (9-59)," implying that the Washington Commission
6 adopted the proposal for a single repair interval. However, regardless which version he is
7 referring to, the Washington Commission did not adopt any requirement that a single
8 interval be used for the repair of point-to-point commingled EELs. Section 9.23..4.7 of
9 the Washington ICA currently reads:

10 9.23.4.7 Maintenance and Repair for UNE Component of Point-to-Point
11 Commingled EELs

12 9.23.4.7.1 When CLEC reports a trouble through any of the means described in
13 Section 12.4.2.2, so long as Qwest provides more than one circuit ID per
14 Commingled EEL, CLEC may provide all circuit IDs associated with the
15 Commingled EEL in a single trouble report (*i.e.*, Qwest shall not require CLEC to
16 submit separate and/or consecutive trouble reports for the different circuit IDs
17 associated with the single Commingled EEL). If CLEC is using CEMR to submit
18 the trouble report, for example, CLEC may report one circuit ID and include the
19 other circuit ID in the remarks section (unless the Parties agree to a different
20 method). Qwest will communicate a single trouble report tracking number (*i.e.*,
21 the "ticket" number) (described in Section 12.1.3.3.3.1.1) for the Commingled
22 EEL to CLEC at the time the trouble is reported.

23 9.23.4.7.1.1 If any circuit ID is missing from any Customer Service Record
24 associated with the Commingled EEL, Qwest will provide the circuit ID
25 information to CLEC at the time CLEC submits the trouble report.⁵

26 9.23.4.7.1.2 Qwest may charge a single Maintenance of Service or Trouble
Isolation Charge (sometimes referred to as "No Trouble Found" charge) only if
Qwest dispatches and no trouble is found on both circuits associated with the
Commingled EEL. If CLEC may charge Qwest pursuant to Section 12.4.1.8,
CLEC may also charge only a single charge for both circuits associated with the
Commingled EEL.⁶

As is clearly demonstrated by the language in the Washington ICA, there is no
requirement for a single repair interval, contrary to Mr. Denney's suggestion otherwise.

⁵ Ordered by the Washington Commission in Docket No. UT-063061, Order No. 16 (¶ 114).

⁶ Ordered by the Washington Commission in Docket No. UT-063061, Order No. 16 (¶ 114).

1 **IV. Qwest's Single Bandwidth Commingled EELs are Offered Consistent with Industry**
2 **Standards**

3 **Q. MR. DENNEY ATTEMPTS TO SUPPORT HIS ARGUMENT THAT QWEST'S**
4 **PROCESSES FOR POINT-TO-POINT COMMINGLED EELS ARE IMPROPER**
5 **AND BURDENSOME BY FOCUSING ON CONVERSIONS OF UNE EELS. HOW**
6 **DO YOU RESPOND TO HIS CLAIM THAT A CONVERSION FROM AN ALL**
7 **UNE EEL TO A COMMINGLED EEL RESULTS IN A RE-USE OF THE SAME**
8 **PHYSICAL FACILITY AND THEREFORE RENDERS QWEST'S PROCESSES**
9 **UNNECESSARY.⁷**

10 **A.** Whether Qwest re-uses existing facilities has no bearing on what the appropriate terms
11 and conditions should be for a product or service. An analogy demonstrates this point.
12 Consider a customer who was using a residence local exchange dial-up service provided
13 over a copper pair line that had a repair commitment time of 24 hours. The customer then
14 installs a home office and re-uses the same copper pair line to install a local loop channel
15 termination connection to his new employer's private line network. Not only would the
16 rates be different, but the terms and conditions of the service would be fundamentally
17 different. Indeed, the repair commitment time in this circumstance could be reduced
18 from 24 to four hours, which would occur even though the customer would be using the
19 same copper loop. The relevant point is that the terms would change because the
20 customer obtained a new service, just as would be the case if a customer converted from
21 an all-UNE EEL to a commingled EEL served over the same facility.

22 In addition, in this hypothetical, the circuit identification number of the copper loop would
23 change from a 10 digit phone number to a private line circuit ID number. Qwest also
24 would not retain a 24 hour repair commitment for this loop because the end user had done
25 a re-use of facilities, but rather would use the appropriate four hour repair interval as
26

⁷ Denney pages 7-9.

1 determined by the new circuit ID. The efficiency of the whole national telephone network
2 is built on the concept that facilities will be re-used to support different services (even for
3 the same customer), and it is not relevant to the terms and conditions of a particular
4 service whether the service is provided over a re-used facility.

5 **Q. IS THERE ANY MERIT TO ESCHELON'S ASSERTION THAT LITTLE OR NO**
6 **EFFORT IS NEEDED TO CONVERT A UNE CIRCUIT TO A SPECIAL**
7 **ACCESS/PRIVATE LINE CIRCUIT AND THAT IT IS A SIMPLE BILLING**
8 **CHANGE?⁸**

9 **A.** No. First, I would note that the limited scope of this proceeding does not include a review
10 of Qwest's conversion policies. Further, as I describe above, whether a network facility
11 was used previously in a certain way or whether it was installed for a certain purpose is
12 irrelevant to determining the maintenance and repair procedures that apply to the service
13 that is being offered over the facility today. .

14 Moreover, Qwest disagrees with Mr. Denney's characterization of conversions as
15 requiring only a simple billing change. The conversion of a UNE circuit to a special
16 access/private line circuit involves substantial effort by multiple departments within
17 Qwest. The conversion of a UNE circuit to a special access/private line circuit involves
18 three functional areas within Qwest's ordering and provisioning organizations. These
19 areas address not only the accurate inventory of the circuit, but operational integrity,
20 accurate billing, and future maintenance and reliability.

21 **Q. MR. DENNEY STATES THAT QWEST IS MAKING COMMINGLED EELS AN**
22 **UNUSABLE ALTERNATIVE⁹ TO UNE EELS AND THAT QWEST IS RAISING**
23 **OPERATIONAL BARRIERS FOR THE CLEC¹⁰. DO YOU AGREE WITH**
24 **THESE STATEMENTS?**

25
26 ⁸ Denney at page 9.

⁹ Denney at 10.

¹⁰ Denney at 2.

1 A. Absolutely not. Qwest has developed its repair interval polices for point-to-point
2 commingled EELs consistent with standard industry operational procedures. Each
3 network offering to a wholesale or retail customers has its own unique circuit
4 identification number of some type, and each has its own repair interval when there is
5 trouble on that circuit. Repair intervals are not tied to a re-use of facilities and they are
6 not tied to what provisioning process was used to install them. Nor are repair intervals
7 tied to the distance of the circuit, e.g., a circuit across town may have the same repair
8 interval as a circuit that runs across the nation.

9 There is no attempt on the part of Qwest to raise an "operational" barrier to Eschelon or
10 any other CLEC in using the straightforward process I have outlined above. As Qwest
11 witness Mr. Gianes has testified, not only is this consistent with industry guidelines, it is
12 consistent with how the Qwest repair systems operate.

13 **Q. HOW MANY CIRCUITS HAVE BEEN IMPACTED BY THE TRRO SO FAR AT**
14 **QWEST?**

15 A. Qwest has converted just over 2100 circuits in 2006, 2007 and 2008.

16 **Q. DID ALL OF THESE CONVERSION CREATE COMMINGLED CIRCUIT**
17 **ARRANGEMENTS, AND SPECIFICALLY SINGLE BANDWIDTH POINT-TO-**
18 **POINT COMMINGLED ARRANGEMENTS?**

19 A. No. While Qwest does not have a way to count all of the single bandwidth point-to-point
20 commingled EELs in its network, it believes it is an extremely small percentage of the
21 TRRO-related conversions.

22 **Q. DOES THIS MEAN THAT QWEST ANTICIPATES THAT THE REPAIR**
23 **PROCESS FOR SINGLE BANDWIDTH POINT-TO-POINT COMMINGLED**
24 **CIRCUITS WILL APPLY TO A SMALL NUMBER OF CIRCUITS?**

25 A. Yes. Qwest believes the limited scope of the use of single bandwidth commingled EELs
26 does not justify a large expenditure of its limited IT resources to update its repair systems

1 to accommodate this non-standard industry application of a single repair interval over two
2 different circuits.

3 **Q. WHY DO YOU BELIEVE THERE ARE LIMITED APPLICATIONS FOR A**
4 **SINGLE BANDWIDTH POINT-TO-POINT EEL?**

5 A. I believe all network providers attempt to limit the amount of dedicated facilities (and in
6 particular interoffice transport facilities used to create a single bandwidth commingled
7 EEL) that are used to serve a single end-user customer, because it is not an efficient use of
8 network resources. The explosive growth of Voice Over Internet Protocol (VoIP) is a
9 current example of how the whole industry is attempting to decrease the use of dedicated
10 facilities on a large scale.

11 **Q. DO YOU HAVE ANY FINAL GENERAL COMMENTS ABOUT THE**
12 **CONVERSION OF UNE EELS TO SINGLE BANDWIDTH COMMINGLED**
13 **EELS IN A COMPETITIVE ENVIRONMENT?**

14 A. Yes. If a CLEC is required to do a conversion to a single bandwidth commingled
15 arrangement as Mr. Denney describes during his discussion of a conversion with a re-use
16 of facilities, it is typically because the transport circuit is between two non-impaired wire
17 centers. Therefore, the FCC and this Commission has determined this route to be non-
18 impaired, and Qwest is no longer required to provide access to DS1 or DS3 UNE loops, or
19 DS1 or DS3 inter-office transport. In making such a determination, the FCC has found
20 that sufficient alternatives are available to CLECs in the affected wire centers so that
21 unbundling of Qwest's facilities is no longer necessary to permit CLECs to compete in the
22 market. What this means is that for such affected wire centers, CLECs have facilities
23 available to them from other carriers, or they have the ability to construct their own
24 facilities, thereby making reliance on Qwest's DS1 and DS3 UNEs unnecessary.

25 This is inconsistent with the situation that Mr. Denney is trying to portray that Qwest's
26 private line services are Eschelon's only alternative and that somehow Qwest's repair

1 processes for point-to-point commingle arrangements has created a non-competitive
2 environment for the CLEC. First, this portrayal is based upon statements alone, not on
3 evidence of what is actually taking place in the marketplace. Second, the portrayal is
4 inconsistent with FCC findings of non-impairment. As those findings establish, Eschelon
5 has alternatives to using the Qwest private line network.

6 **Q. YOU HAVE MENTIONED INDUSTRY STANDARD PROCEDURES SEVERAL**
7 **TIMES. DO YOU HAVE REASON TO BELIEVE THE QWEST REPAIR**
8 **PROCESS FOR COMMINGLED EELS IS CONSISTENT WITH OTHER**
9 **PROVIDERS?**

10 **A.** Yes. Exhibit KAS-1, attached to my testimony, contains a copy of SBC's commingling
11 policy and general ordering information for commingled arrangements. SBC clearly
12 requires that each circuit in the commingled arrangement be ordered separately and that
13 repairs are managed separately. They also establish that a CLEC is responsible for
14 performing the trouble isolation to the specific circuit and that the CLEC must report the
15 trouble on that circuit to the correct repair center. The Qwest process allows for the
16 CLEC to report the trouble on the circuit it believes has trouble and if the circuit tests
17 clear, Qwest will open the second ticket and internally will do the referral to a different
18 repair center if necessary.

19 **V. PID/PAP Impacts of a Single Repair Interval**

20 **Q. DO YOU HAVE ANY COMMENTS REGARDING MR. DENNEY'S**
21 **STATEMENTS ADDRESSING QWEST'S CONCERNS ABOUT ISSUES**
22 **RELATING TO THE AFFECT ON ITS PERFORMANCE ASSURANCE PLAN**
23 **("PAP") OF MOVING TO A SINGLE REPAIR INTERVAL FOR COMMINGLED**
24 **EELS?**

25 **A.** Yes. First, Qwest agrees in concept with a portion of what Mr. Denney states on page 43.
26 Specifically, I agree that unless ordered differently by a state commission, performance

1 issues involving a UNE should be addressed in the ICA as part of a state-specific Qwest
2 Performance Assurance Plan, and performance concerns with a non-UNE circuit should
3 be addressed pursuant to the service arrangement that the circuit was obtained from (*e.g.*,
4 Qwest tariffs, price lists, catalogue or commercial agreements).¹¹ However, Eschelon, as
5 represented by Mr. Denney, continues to want to create some type of non-industry
6 standard hybrid single circuit made up of part a UNE and part a non-UNE. I would note
7 that neither the Arizona QPAP nor the Arizona private line and special access tariffs (*e.g.*,
8 tariffs, price lists, catalogue or commercial agreements) contemplates such a non-industry
9 standard hybrid circuit. Nor do they contemplate that the repair time of one type of circuit
10 would be intertwined with the repair of another type of circuit.

11 **Q. FOR EXAMPLE, ON PAGE 44 OF HIS RESPONSIVE TESTIMONY,**
12 **MR. DENNEY STATES IT WOULD "OVERCOMPLICATE" THE ISSUE IF A**
13 **NEW PID MEASURE WAS CREATED FOR COMMINGLED CIRCUITS. DO**
14 **YOU AGREE?**

15 **A.** I agree only to the extent that the existing performance measurements are applied to the
16 specific types of circuits for which they were developed. I do not agree as it relates to
17 using PIDs that apply only to UNEs to commingled circuits that are a combination of two
18 types of circuits, a UNE and private line/special access circuit. If Qwest is required to
19 develop a single repair interval over two circuits, than the associated maintenance and
20 repair PIDs developed for an all UNE circuit should not be utilized to gauge the
21 performance of the repair standard. New PIDs (for the UNE only) would need to be
22 developed, or in the alternative, the commingled circuits should be exempt from the
23 existing maintenance and repair PIDs.

24
25 ¹¹ As Exhibit DD-30 to his testimony, Mr. Denney has attached a copy of an order from
26 the Qwest Alternative Form of Regulation docket in the state of Washington. That docket and the
order are not relevant to the Qwest Performance Assurance Plan in Arizona and should not have
any bearing on application of the Arizona Plan.

1 VI. Cost Recovery

2 Q. IF THE COMMISSION ADOPTS ESCHELON'S PROPOSAL OF A SINGLE
3 REPAIR INTERVAL, SHOULD QWEST BE PERMITTED TO RECOVER THE
4 COSTS OF IMPLEMENTING THAT REQUIREMENT?

5 A. Yes. It is a fundamental requirement of the Telecommunications Act of 1996 (established
6 by Section 252), that ILECs like Qwest be permitted to recover the costs, including the
7 costs of operation support systems, they incur to provide CLECs with access to services
8 mandated by the Act. Consistent with this requirement, Qwest must be permitted to
9 recover the costs of implementing a single repair interval if the Commission adopts
10 Eschelon's proposal. Requiring Eschelon to reimburse Qwest for these costs is consistent
11 with the basic principle of cost causation, as it is undisputed that Qwest would not incur
12 the costs but for Eschelon's demand.

13 Q. IF QWEST IS REQUIRED TO IMPLEMENT THE SINGLE REPAIR INTERVAL,
14 WOULD THE RESULTING SYSTEMS MODIFICATIONS AND COSTS
15 PRODUCE ANY BENEFITS FOR QWEST'S RETAIL OPERATIONS?

16 A. No. These changes would be solely for Eschelon and would not affect Qwest's retail
17 operations and customers. Indeed, Qwest does not allow retail customers to use a single
18 repair interval across two distinct circuits. Eschelon is therefore requesting what is fairly
19 characterized as a superior repair service – a service that exceeds what Qwest provides its
20 retail customers. If Eschelon succeeds in obtaining this superior service, it should be
21 required to pay for it.

22 Q. WHAT METHOD SHOULD THE COMMISSION ADOPT TO PERMIT QWEST
23 TO RECOVER THE COSTS OF IMPLEMENTING ESCHELON'S PROPOSAL?

24 A. If the Commission adopts Eschelon's proposal, Qwest recommends that in this
25 proceeding, the Commission declare and establish that Qwest is permitted to recover the
26 reasonable costs of implementing the proposal. The amount of Qwest's cost recovery

1 should be determined after Qwest completes implementation of the single repair interval
2 and the costs of implementation are fully known. Although the Telcordia estimate
3 provides a solid basis for forecasting Qwest's costs, it would be fairest to both parties to
4 determine the actual amount of Qwest's recovery after the costs are incurred. That will
5 ensure that there is no over-recovery or under-recovery. Accordingly, the Commission
6 should declare Qwest's right to recovery in this proceeding (if Eschelon's proposal is
7 adopted) and re-open the arbitration to determine the amount of cost recovery after
8 Qwest's completes implementation and incurs the costs.

9 **Q. MR. DENNEY ARGUES AT PAGE 52 OF HIS TESTIMONY THAT THE**
10 **COMMISSION DOES NOT NEED TO ADDRESS COST RECOVERY BECAUSE**
11 **SECTION 5.1.6 OF THE ICA ESTABLISHES A PROCESS FOR RECOVERING**
12 **COSTS? DOES THAT PROVISION ELIMINATE ANY NEED FOR THE**
13 **COMMISSION TO ADDRESS COST RECOVERY, AS MR. DENNEY CLAIMS?**

14 **A.** No. Section 5.1.6 of the ICA provides only that nothing in the ICA shall prevent either
15 party "from seeking to recover" costs. That is precisely what Qwest is doing here –
16 seeking to recover costs if Eschelon's proposal is adopted. Surely, Eschelon is not going
17 to agree voluntarily to compensate Qwest for the costs, as Mr. Denney's testimony makes
18 clear. Accordingly, a declaration and ruling from this Commission is essential.

19 **Q. HOW DO YOU RESPOND TO MR. DENNEY'S ASSERTION THAT THE COST**
20 **OF THE REPAIR SYSTEM MODIFICATIONS REQUIRED BY ESCHELON'S**
21 **PROPOSAL COULD BE RECOVERED THROUGH QWEST'S RATES FOR**
22 **PRIVATE LINE SERVICE.¹²**

23 **A.** This assertion is simply wrong. As a factual matter, Qwest's private line rates were
24 established long before Eschelon ever proposed a single repair interval and therefore those
25 rates could not possibly include the costs of implementing the proposal. Further,
26

¹² Denney Responsive Testimony at 54.

1 Mr. Denney provides no evidence that Qwest's private line rates, which are not governed
2 by the type of cost-based requirement set forth in Section 252 of the Act for UNEs,
3 include any of the systems-related costs that Eschelon's proposal would impose. In
4 addition, while I am not a lawyer, my understanding is that there is nothing in the 1996
5 Act's cost-based pricing requirement that permits prices to be set based upon comparisons
6 of prices for competitive services like private line that are not within Sections 251 and
7 252.

8 **VII. Conclusion**

9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 **A. Yes.**

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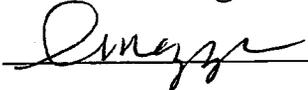
25 
26 _____

Exhibit KAS-1

Commingling

Current FCC rules now allow requesting telecommunication carriers to commingle UNEs and combinations of UNEs, with wholesale facilities or services it has obtained from the SBC ILEC (e.g., special access services purchased from an SBC tariff), subject to various limitations and restrictions. To request a commingled arrangement, a CLEC must first have language in its Interconnection Agreement (ICA) with the particular SBC ILEC which language permits commingling and provides the associated terms and conditions. Any commingling is subject to the terms and conditions of the ICA, and the lawful and effective FCC rules and orders, including without limitation 47 C.F.R. § 51.318(b).

One of the restrictions on commingling is found in the FCC's mandatory eligibility criteria adopted in the *Triennial Review Order*. FCC Rule 51.318(b). Commingled arrangements that are subject to that Rule must meet its requirements, and the CLEC must provide the SBC ILEC with certification on a circuit-by-circuit basis that those requirements are met. Please see SBC CLEC on line handbook product and services section under Commingling.

Mandatory Eligibility Criteria

Following is only intended as a summary of the FCC's mandatory eligibility criteria applying to certain commingled arrangements (as well as DS1/DS3 EELs) from FCC Rule 51.318(b), as informed by the *Triennial Review Order* where the FCC adopted and explained those criteria.

FCC Rule 51.318(b) applies to (1) an unbundled DS1 loop in combination, or commingled, with a dedicated DS1 transport facility or service or a dedicated DS3 or higher transport facility or service, or an unbundled DS3 loop in combination, or commingled, with a dedicated DS3 or higher transport facility or service, or (2) an unbundled dedicated DS1 transport facility in combination, or commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 or higher channel termination service (collectively, referred to as the "Included Arrangements").

CLEC (directly and not via an affiliate) must be certified to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.

The following criteria must be satisfied for each Included Arrangement, including without limitation each DS1 circuit, each DS3 circuit, each DS1 EEL and each DS1 equivalent circuit on a DS3 EEL:

- o Each circuit to be provided to each end user will be assigned a local telephone number (NPA-NXX-XXXX) that is associated with local service provided within an SBC local service area and within the LATA where the circuit is located ("Local Telephone Number"), prior to the provision of service over that circuit

Commingling

- (and for each circuit, CLEC will provide the corresponding Local Telephone Number(s) as part of the required certification); and
- o Each DS1-equivalent circuit on a DS3 EEL or on any other Included Arrangement, must have its own Local Telephone Number assignment, so that each DS3 must have at least 28 Local voice Telephone Numbers assigned to it; and
 - o Each circuit to be provided to each end user will have 911 or E911 capability prior to the provision of service over that circuit; and
 - o Each circuit to be provided to each end user will terminate in a collocation arrangement that meets the requirements of FCC Rule 51.318(c); and
 - o Each circuit to be provided to each end user will be served by an interconnection trunk that meets the requirements of FCC Rule 51.318(d); and
 - o For each 24 DS1 EELs, or other facilities having equivalent capacity, CLEC will have at least one active DS1 local service interconnection trunk that will transmit the calling party's Local Telephone Number connection with calls exchanged over the trunk, and the trunk is located in the same LATA as the end user premises served by the Included Arrangement; and
 - o Each circuit to be provided to each end user will be served by a switch capable of providing local voice traffic.

Examples of Types of Commingled Arrangements

Inasmuch commingling was prohibited by the FCC prior to the *Triennial Review Order*, the absolute and relative demands for commingling and possible types of commingled arrangements are unknown. The SBC ILECs believe among the more common types, which may be requested without a BFR, would be the following:

1. UNE DS0 Loop connected to a channelized Special Access DS1 Interoffice Facility, via a special access 1/0 mux
2. UNE DS1 Loop connected to a non-channelized Special Access DS1 Interoffice Facility
3. UNE DS1 Loop connected to a channelized Special Access DS3 Interoffice Facility, via a special access 3/1 mux
4. UNE DS3 Loop connected to a non-channelized Special Access DS3 Interoffice Facility
5. UNE DS3 Loop connected to a non-concatenated Special Access Higher Capacity Interoffice Facility (e.g., SONET Service)
6. UNE DS1 Dedicated Transport connected to a channelized Special Access DS3 channel termination
7. UNE DS3 Dedicated Transport connected to a non-channelized Special Access DS3 channel termination
8. UNE DS3 Dedicated Transport connected to a non-concatenated Special Access Higher Capacity channel termination (i.e., SONET Service)
9. Special Access DS0 channel termination connected to channelized UNE DS1 Dedicated Transport, via a 1/0 UNE mux

Commingling

10. Special Access DS1 channel termination connected to non-channelized UNE DS1 Dedicated Transport
11. Special Access DS1 channel termination connected to channelized UNE DS3 Dedicated Transport, via a 3/1 UNE mux

The SBC ILECs are, and have been, developing and testing processes to accommodate commingling. CLEC Online will be updated periodically to reflect the completion status for testing. Commingling arrangements not included in the list shall be processed via the Bona Fide Request Process. Please refer to the Commingling Arrangement Availability spreadsheet for state specific availability.

Please contact the Local Account Manager with any questions you may have regarding commingling arrangements.

Commingling requests can be for new circuits or to have existing circuits reconfigured to terminate to an appropriate collocation arrangement. Please note that the re-configuration of a special access circuit to a commingled arrangement may trigger termination charges, if any, under the applicable tariffs or contracts.

New Commingling for the Listed Commingled Arrangements

All new commingling activity will require:

- Access commingling order must reflect the unique commingling project ID, NEWCMGL
- Orders must reflect one of the following unique non-billable commingling tracking USOCs, as appropriate:
 - KSTZQ.....Access
 - KSTZW.....Local

All new commingled activity will require the customer to:

- Relate install orders as needed
- On access orders,, use the appropriate project ID

Additional Requirements for Type 4. Above

- ASR submitted electronically via EXACT or Web Access to order the dedicated DS1 transport special access facility.
- LSR submitted to order the UNE DS1 loop – Must be manually faxed to CLEC's NON-ICR fax number.
- PON number of ASR must be cross referenced in the LSR Remarks field.
- PON number of LSR must be cross referenced in the ASR Remarks field.
- Both the LSR and ASR must reflect the unique commingling project ID, NEWCMGL

Reconfiguration of Existing Circuit to Listed Commingling Arrangement

All reconfiguration commingling activity (ASR/LSR) will require:

- Customer and service center coordination
- Orders must reflect one of the following unique commingling project IDs
 - SBCCMGL.....like-for-like reconfiguration/no downtime
 - SBCCMGLCOLLO.....physical change/downtime
- Orders must reflect one of the following unique non-billable commingling tracking USOCs, as appropriate (KSTY2–Access or KSTY1-Local)

Commingling

All reconfiguration commingled activity will require the customer to:

- o Issue disconnect and install orders as needed
- o Prior to the access disconnect order; the customer must issue an order to remove the access optional features that are not available with UNEs.
- o Relate disconnect and install orders as needed and use correct channel assignments
- o Use the appropriate project ID to prevent the order from being rejected

Note -- Termination liability charges will likely apply when an access circuit is disconnected prior to the expiration of any term and/or volume commitment. The SBC ILECs do not waive or otherwise affect any such termination liabilities by performing the commingling sought by CLEC.

Customer Downtime Associated with Reconfigurations

Customers will NOT experience downtime (provided the request is accurately submitted) on reconfigurations when:

- o The reconfiguration is like-for-like, i.e., when the existing circuit sought to be reconfigured already terminates to a 51.318(c) collocation arrangement and no new connection(s) are required
- o The reconfiguration is like-for-like, and includes meeting the mandatory eligibility criteria, including a 51.318(c) collocation arrangement which is already part of the existing design.

Customers WILL experience downtime on a reconfiguration when the circuit to be reconfigured was not terminated into a 51.318(c) collocation arrangement or when a new connection must be made, and thus requires the provisioning of a circuit into a 51.318(c) collocation arrangement. The amount of downtime will be determined on an individual case basis.

Repair on Commingled Arrangements

All repairs, trouble tickets, etc associated with a commingled arrangement will be handled by the appropriate centers supporting the segment of the commingled arrangement involved (i.e., Access center will handle Access segments; the Local center will handle UNE segments). The customer is responsible for identifying and reporting the problem to the appropriate center.

ASR Ordering

Information for CLECs unfamiliar with ordering via the Access Service Request can obtain information at: <https://access-os2.sbc.com/waoWeb/>

New customers would open the 'Getting Started' section at the top of the page and the instructions provide the steps on how to begin using the SBC ASR Ordering. The customer would want to become a Registered Customer. Prior to receiving an ID and a password, the customer can select "Training" up in the right hand corner.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE PETITION OF)	
ESCHELON TELECOM OF ARIZONA,)	
INC. ARBITRATION WITH QWEST)	Docket No. T-03406A-06-0572
CORPORATION, PURSUANT TO 47 U.S.C.)	T-01051B-06-0572
SECTION 252 OF THE FEDERAL)	
TELECOMMUNICATIONS ACT OF 1996)	
STATE OF OREGON)	AFFIDAVIT OF
COUNTY OF MULTNOMAH)	KAREN A. STEWART
)	
) :	SS

Karen A. Stewart, of lawful age being first duly sworn, deposes and states:

1. My name is Karen A. Stewart. I am Staff Director Compliance for Qwest Corporation in Portland, Oregon. I have caused to be filed written Rebuttal Testimony in Docket Nos. T-03406A-06-0572 and T-01051B-06-0572.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

Karen A. Stewart

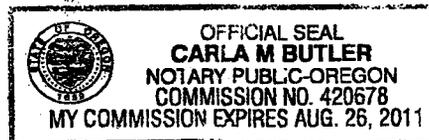
 Karen A. Stewart

SUBSCRIBED AND SWORN to before me this 15 day of July, 2009.

Carla M Butler

 Notary Public

My Commission Expires: 8/28/2011



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2 for filing this 24th day of July, 2009, to:

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 West Washington street
6 Phoenix, Arizona 85007

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8 Jane Rodda
9 Administrative Law Judge
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11 Arizona Corporation Commission
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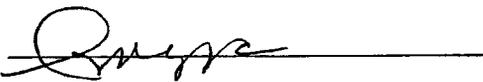
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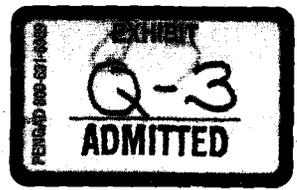
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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN MAYES
Chairman
GARY PIERCE
Commissioner
SANDRA KENNEDY
Commissioner
PAUL NEWMAN
Commissioner
BOB STUMP
Commissioner

**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

DIRECT TESTIMONY

OF

TIMOTHY GIANES

ON BEHALF OF

QWEST CORPORATION

APRIL 20, 2009

(Disputed Issue No. 9-59)

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1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Timothy Gianes. I am a Lead Process Analyst in Qwest Network
4 Services. My office is located at 608 E. Pikes Pak, Colorado Springs CO.

5 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
6 **EMPLOYMENT EXPERIENCE.**

7 A. I have been employed by Qwest and its predecessor companies since January
8 1973. I have held a variety of positions in Qwest, including Construction Tech,
9 Business Installation Tech, Field Supervisor, Test Center Supervisor, Repair Call
10 Center Manager, & Designed Services Repair Center Director.

11 In my current position as Lead Process Analyst, I have several responsibilities
12 relating to Qwest's processes and procedures for performing repairs for designed
13 services.¹ My responsibilities include providing support for the repair processes
14 for unbundled services. I also perform supporting tasks relating to repairs that
15 involve process compliance, performance results, and analyses of the impacts on
16 Qwest's processes resulting from change requests. In particular, my
17 responsibilities include providing subject matter expert advice to Qwest personnel
18 involved in the repair process and participating in decision-making and
19 preparation of documentation relating to changes in the repair process. I monitor
20 the results of Qwest's repair processes and am involved in analyzing and
21 proposing enhancements to the process. I also provide training on an informal

¹ "Designed services" refers to services that are different from "plain old telephone service," or "POTS." These services are complex in that they typically involve the use of multiple network elements to provide a service and require coordinating or designing those elements to produce the service. Qwest uses a highly sophisticated electronic system – known as "TIRKS" – to capture or document the design of these services. A designed service also is identified through a circuit identification number ("circuit ID") associated with each circuit used in the design, unlike a POTS service that is identified through a standard telephone number.

1 basis to Qwest personnel relating to changes to the repair process. I have had
2 these responsibilities for designed services since 2000 and have had them for
3 unbundled services in particular since 2007.

4 **II. PURPOSE OF TESTIMONY**

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 A. My testimony addresses the practical implications of Eschelon's proposal that
7 Qwest begin using one repair interval instead of two for commingled Enhanced
8 Extended Loops ("EELs"). My testimony explains that moving from two repair
9 intervals to one interval would require extensive changes to Qwest's Operation
10 Support Systems ("OSSs") used in the repair process and would therefore impose
11 very significant burdens and costs on Qwest. My testimony also explains that
12 Qwest has legitimate reasons for using separate repair intervals for the UNE and
13 non-UNE circuits that comprise a commingled EEL.

14 **III. QWEST'S CURRENT PROCESSES FOR REPAIRING**
15 **COMMINGLED EELS**

16 **Q. WHAT ARE QWEST'S CURRENT PROCESSES FOR REPAIRING**
17 **COMMINGLED EELS?**

18 A. The process for repairing a commingled EEL begins with a CLEC's submission of
19 a trouble report to notify Qwest that there is a problem with a specific circuit.
20 The submission of a report triggers certain activities through which Qwest
21 determines the location and nature of any problems with a circuit and repairs the
22 circuit if the trouble is within Qwest's network. As I explain below, it is usually
23 necessary for a CLEC to submit a separate trouble report for each circuit of a
24 commingled EEL. A CLEC has the option of simultaneously submitting a report
25 on both circuits, but most CLECs elect to open just one report for the circuit that
26 they suspect is having the trouble. A CLEC's decision concerning which circuit
27 to include in a trouble report is based upon testing of the circuits that is usually

1 performed by the CLEC. Under Qwest's standard process, a CLEC is required to
2 perform thorough testing to isolate the problem before submitting a trouble report,
3 although a CLEC can authorize Qwest to perform these testing and isolation
4 procedures for it. The "isolation" testing that is performed is for the purpose of
5 determining which network (the CLEC's or Qwest's) has the trouble and, if it is
6 Qwest's network, where within the network the trouble is located.

7 **Q. UPON RECEIVING A TROUBLE REPORT FOR ONE OF THE**
8 **CIRCUITS OF A COMMINGLED EEL, WHAT STEPS DOES QWEST**
9 **TAKE?**

10 A. When a trouble report is submitted by a CLEC, Qwest "grabs" the report to begin
11 the testing and isolation process. The report is either grabbed electronically
12 through Qwest's automated test system or manually by a Qwest technician. If the
13 testing discloses that there is no trouble on the circuit within Qwest's network,
14 Qwest submits a request to the CLEC to close the report, indicating in the request
15 that no trouble was found in Qwest's network. If trouble is found on the circuit in
16 Qwest's network, a Qwest technician hands off the report to personnel in the
17 appropriate Qwest central office or to field personnel. Those personnel then
18 further isolate and repair the trouble within Qwest's network. The technician who
19 performs the repair completes final testing to ensure the repair is effective and
20 then submits a request to the CLEC to close the trouble report. Throughout this
21 process, Qwest provides the CLEC with status reports on the progress of the
22 repair effort.

23 **Q. WHAT PROCESS IS FOLLOWED IF QWEST DOES NOT FIND ANY**
24 **TROUBLE ON THE CIRCUIT THAT IS IDENTIFIED IN THE CLEC'S**
25 **TROUBLE REPORT?**

26 A. If Qwest tests and determines there is no trouble in the Qwest network on the
27 circuit listed in the trouble report, it will inform the CLEC of that result. The

1 CLEC then has the option of opening a new trouble report on the second circuit of
2 the commingled EEL. If the CLEC does submit a trouble report on the second
3 circuit, there is usually no need to associate that circuit with the first circuit
4 identified in the first trouble report. That is because the two reports are separate
5 and distinct from each other, as they involve separate circuits. Qwest will then
6 create a new repair ticket specific to that second circuit and will proceed with
7 testing and isolation. If trouble is found in that circuit on Qwest's network, Qwest
8 performs the necessary repair or "restoration" activities. An exception to this
9 process that I have just described is in those states (*e.g.*, Minnesota) in which
10 Qwest has accommodated Eschelon by agreeing to accept a single trouble report
11 that lists the circuit suspected of having trouble in the "circuit ID" field of the
12 report and also lists the circuit ID of the second or associated circuit in the
13 "remarks" field of the report. In that case, there is no need for Eschelon to submit
14 a second trouble report. However, Qwest itself opens or creates a second trouble
15 report for the associated circuit listed in the remarks field, as authorized by
16 Eschelon's listing of the second circuit in the remarks field.

17 **Q. WHY ARE SEPARATE TROUBLE REPORTS TYPICALLY REQUIRED**
18 **FOR EACH CIRCUIT OF A COMMINGLED EEL?**

19 **A.** Like other ILECs, Qwest receives and processes trouble reports electronically
20 using OSSs developed by Telcordia. The Telcordia systems are designed for
21 ILECs to manage trouble reports on a circuit-by-circuit basis. This circuit-
22 specific management is vital to the repair process, as it ensures that trouble reports
23 are routed to the repair centers and technicians that are best equipped to handle
24 the specific type of circuit at issue. For example, certain repair centers and
25 individual technicians have particular expertise in circuits of a specific
26 transmission parameter (*e.g.*, DS0, DS1, or DS3), while other centers and
27 technicians have expertise in circuits of a different transmission parameter. It is
28 clearly in the best interests of Qwest's CLEC customers for Qwest to route trouble

1 reports to the repair centers and technicians with the greatest level of expertise in
2 handling the specific type of circuit that is at issue. The Telcordia systems permit
3 this routing based upon information contained in the circuit identification
4 numbers ("circuit IDs") assigned to each circuit. The submission of a trouble
5 ticket that is specific to a circuit and that contains the circuit ID number of the
6 circuit permits Qwest's Telcordia systems to route the ticket to the appropriate
7 repair center and technician.

8 The need for separate trouble reports for the separate circuits of a commingled
9 EEL also flows from the fact that there are different designs and performance
10 parameters for each circuit whether it is a UNE or non-UNE. Qwest's electronic
11 ticketing system is designed to recognize the design and service parameters of
12 only the circuit listed in the "circuit ID" field of a trouble report and is not capable
13 of recognizing or pulling that information for an associated circuit listed in the
14 "remarks" field. This has important implications, since the inability of the system
15 to pull up this information for an associated circuit means that for performance
16 monitoring purposes, the system cannot identify whether there has been a "met"
17 or a "miss" with respect to compliance with performance requirements (*e.g.*,
18 compliance with the governing repair interval applicable to that circuit). Equally
19 important, Qwest's system can only implement "auto-testing" for a circuit listed in
20 the circuit ID field and cannot do so for a circuit listed in the remarks section.
21 The practical significance of this is that auto-testing typically allows for more
22 efficient completion of the testing process than does manual testing.

23 **Q. DOES QWEST'S STANDARD REPAIR PROCESS INCLUDE SEPARATE**
24 **REPAIR INTERVALS FOR THE UNE AND NON-UNE CIRCUITS OF A**
25 **COMMINGLED EEL?**

26 **A. Yes.**

1 **Q. WHY DOES QWEST HAVE SEPARATE REPAIR INTERVALS FOR**
2 **THE UNE AND NON-UNE CIRCUITS OF A COMMINGLED EEL?**

3 A. Separate and distinct repair intervals are established by different tariffs and
4 interconnection agreements for individual products and services. Qwest has an
5 obligation to comply with the intervals in those tariffs and agreements.

6 **Q. PLEASE DESCRIBE THE CONSEQUENCES QWEST FACES IF IT**
7 **MISSES A REPAIR INTERVAL FOR A CIRCUIT.**

8 A. The circuits that Qwest provides to CLECs through tariffs and interconnection
9 agreements are governed by repair requirements that are specific to the type of
10 circuit or service at issue. For each circuit, Qwest is required to comply with a
11 "mean time to repair" ("MTTR") duration or interval that is developed based upon
12 the unique characteristics of different types of circuits. Through application of
13 MTTRs, it is determined whether Qwest had a "miss" or a "meet" with respect to
14 the repair of a particular circuit or product – whether the repair was completed
15 within the interval established by the MTTR. Unbundled services are assigned
16 "like" MTTR parameters to those assigned to similar retail products. For
17 example, DS1 products typically carry a 4-hour MTTR while a POTS service may
18 be 24 hours. Thus, a DS1 ticket with an actual duration of four hours and ten
19 minutes would be considered a "miss," but a POTS ticket with the same duration
20 would be treated as a "met." A "miss" relating to the performance of a repair can
21 result in financial penalties being assessed against Qwest.

22 **Q. WHAT IS THE SIGNIFICANCE OF QWEST HAVING A "MISS"**
23 **AGAINST A MTTR THAT GOVERNS THE REPAIR OF A**
24 **PARTICULAR CIRCUIT?**

25 A. Under the interconnection agreements it has with CLECs, including the ICA
26 resulting from this arbitration, Qwest is held accountable for the percentage of
27 misses and average MTTR results it achieves. Misses or a failure to meet parity

1 requirements with respect to comparable services can result in financial penalties,
2 rebates to customers in situations involving outages, and possible liability for
3 business losses resulting from a failure to meet performance requirements.

4 **Q. PLEASE EXPLAIN HOW MEAN TIME TO REPAIR INTERVALS**
5 **APPLY TO COMMINGLED EELS.**

6 A. Each of the two circuits that make up a commingled EEL carries standard MTTR
7 designations and parameters that result in "misses" if Qwest fails to meet them.
8 Each circuit of a commingled EEL and therefore each trouble report submitted in
9 connection with a commingled EEL also impacts the average MTTR parity
10 measures.² The linked circuits of a commingled EEL often have different
11 standard duration measures (e.g., the EEL at 4 hours and the linked Private Line
12 at 24 hours). The MTTR durations and "met/miss" results for the two circuits of a
13 commingled EEL are measured independently, since they are distinct and
14 different circuits.

15 **Q. PLEASE DESCRIBE THE EFFECTS ON QWEST'S "MET" AND "MISS"**
16 **DETERMINATIONS THAT WOULD RESULT FROM ADOPTION OF**
17 **ESCHELON'S PROPOSAL OF A SINGLE REPAIR INTERVAL FOR**
18 **COMMINGLED EELS.**

19 A. As described, the two circuits that make up a commingled EEL are distinctly
20 different circuits, and Qwest is required to accurately report MTTR and met/miss
21 results for each circuit. If Qwest is ordered to use a single, consolidated repair
22 interval for both circuits, this could artificially inflate the MTTR against a circuit
23 that in fact was not out of service and could result in inaccurately reporting a
24 circuit as a miss instead of a met. In other words, even if the first circuit submitted
25 by Eschelon is tested as "no trouble" by Qwest, Eschelon's proposal would require

² "Parity measures" refer to comparisons of average MTTRs for unbundled services (EEL) against comparable retail services.

1 Qwest to keep that report open while it tests the second circuit. As a result, for
2 performance measurement purposes, there could be a "miss" and resulting
3 financial penalties for that first circuit even though Qwest completed testing of the
4 first circuit within the governing interval. I provide an example of this in the
5 discussion below. The solution for avoiding this improper result is to allow
6 Qwest to close the first trouble report at the time that no trouble is found on that
7 circuit and to then open a second trouble report on the second circuit. Separate
8 MTTRs, with separate repair clocks, should be tracked for each circuit.

9 **Q. DOES QWEST ALSO MAINTAIN SEPARATE REPAIR INTERVALS**
10 **FOR ITS RETAIL SERVICES?**

11 A. Yes.

12 **Q. HOW DO YOU RESPOND TO THE SUGGESTION THAT QWEST'S USE**
13 **OF A SEPARATE REPAIR INTERVAL FOR EACH CIRCUIT OF A**
14 **COMMINGLED EEL IS DISCRIMINATORY IN COMPARISON TO**
15 **QWEST'S REPAIR PROCESS FOR UNE EELS AND PRIVATE**
16 **LINE/SPECIAL ACCESS?**

17 A. This suggestion is unfounded. In fact, Qwest follows the same policy across the
18 board by requiring retail customers to report a single circuit per ticket when the
19 circuits are not terminated at the same location.

20 **Q. YOU HAVE DESCRIBED QWEST'S STANDARD REPAIR PROCESS --**
21 **HAS QWEST ALREADY MODIFIED THAT PROCESS TO**
22 **ACCOMMODATE ESCHELON?**

23 A. Yes. In several states, Qwest has agreed to allow Eschelon to submit the two
24 circuits of a commingled EEL on a single trouble ticket by listing the circuit with
25 the suspected trouble and also listing the "associated" or second circuit in the
26 "remarks" section of the ticket. If the testing of the first circuit does not identify
27 trouble, Qwest automatically opens a second ticket on the associated circuit and

1 performs testing and isolation on that circuit. If trouble is found on that circuit in
2 Qwest's network, Qwest repairs and restores the circuit. In this process, separate
3 repair clocks are used for each circuit, meaning that the repair clock for the first
4 circuit opens and closes and then a new, separate repair clock opens for the
5 second circuit.

6 **Q. IN THE STATES IN WHICH QWEST IS USING THIS MODIFIED**
7 **REPAIR PROCESS, HAS ESCHELON IDENTIFIED ANY PROBLEMS**
8 **OR OTHERWISE COMPLAINED ABOUT THE USE OF SEPARATE**
9 **REPAIR CLOCKS FOR CIRCUIT OF A COMMINGLED EEL?**

10 A. To the best of my knowledge, Eschelon has not notified Qwest of any complaints,
11 service issues, or concerns with this process.

12 **IV. THE TRANSITION FROM TWO INTERVALS TO ONE REPAIR**
13 **INTERVAL FOR COMMINGLED EELS WOULD REQUIRE**
14 **EXTENSIVE CHANGES TO THE OSSs USED IN THE REPAIR**
15 **PROCESS**

16 **Q. PLEASE EXPLAIN WHY IMPOSING A SINGLE REPAIR INTERVAL**
17 **FOR THE TWO CIRCUITS OF A COMMINGLED EEL WOULD**
18 **REQUIRE QWEST TO MAKE SIGNIFICANT CHANGES TO ITS OSS.**

19 A. Adoption of Eschelon's request for a single repair interval would require Qwest to
20 choose one of two possible courses of action. First, Qwest would have to keep
21 open the first trouble report submitted on the first trouble ticket while it is testing,
22 isolating, repairing, and clearing the second circuit (assuming the trouble in the
23 second circuit is in Qwest's network). Alternatively, Qwest would have to add in
24 additional MTTR duration from the first trouble report while it creates the second
25 trouble report for the second ticket. Qwest would have to develop a revised
26 process and system enhancements to be able to properly administer two circuits
27 within a single ticket duration while performing all of the standard test, isolation,
28 repair, and ticket closure functions.

1 **Q. HOW WOULD THIS IMPACT QWEST?**

2 A. The Qwest ticketing system does not contain two separate circuit ID fields.
3 Therefore, as the system is currently designed, neither Qwest nor Eschelon can
4 input information, and properly administer and track resolution for two separate
5 circuits listed in a single trouble report. Additionally, Qwest's current repair
6 ticketing system utilizes the single circuit per ticket methodology to allow any
7 auto-test capability and to hand off a report and circuit to the central office or
8 field personnel responsible for completing a repair. The lack of the dual circuit
9 ID fields also eliminates the opportunity for Qwest to take advantage of any
10 potential "auto testing" functionality on the second circuit, which may result in
11 longer MTTRs. Further, the current ticketing system does not allow individually
12 tailored "miss" and "met" determinations, as those determinations are hard-coded
13 or locked into Qwest's systems based on established product and tariff definitions.
14 Therefore, Qwest would be unable to detect electronically which of the
15 commingled circuits had the longer miss/met duration and could not electronically
16 apply that duration to the single ticket.

17 A result of this limitation would be the need for extensive manual ticket creation
18 and manual ticket cancellations, which would create risks of human error in the
19 repair process. Further, a requirement of this type of significant manual activity
20 would lead to large volumes of work that would severely stretch Qwest's available
21 resources. The resulting taxation on resources could disrupt and slow down the
22 repair process, with potentially harmful effects for Eschelon and other CLECs.
23 For these reasons, Qwest cannot implement a manual solution to this problem,
24 and, if Eschelon's proposal were adopted, would have no choice but to undertake
25 the very costly systems changes that I describe below.

1 **Q. DO YOU HAVE A FURTHER EXAMPLE THAT DEMONSTRATES**
2 **HOW QWEST WOULD BE AFFECTED?**

3 A. Yes. For purposes of this example, assume that circuit # 1 of a commingled EEL
4 has a repair interval of four hours and that circuit # 2 has an interval of 24 hours.
5 Assume further that Eschelon submits a trouble report that lists circuit # 1 in the
6 circuit ID field and that circuit # 2 is listed in the remarks field. Assume further
7 that Qwest completes the testing of circuit # 1 within three hours and finds no
8 trouble and then completes the testing of circuit # 2 within another two hours, for
9 a total of five hours of testing. Even though that is well within the 24-hour
10 interval that would apply under Eschelon's proposal (*i.e.*, the longer of the two
11 intervals), Qwest's electronic system would still report that as a "miss," triggering
12 financial penalties. That is because Qwest's system identifies or pulls the
13 performance parameters only for the circuit listed in the circuit ID field – circuit #
14 1 – which means that the five hours of testing will be deemed by the system to be
15 a "miss" against the four hours that applies to circuit # 1. The only solution to this
16 problem would be for Qwest to modify its system to include access to the
17 performance parameters for the circuit listed in the remarks section – circuit # 2 –
18 which is an extremely costly undertaking.

19 **Q. WHAT OTHER CHANGES TO THE OSS WOULD QWEST HAVE TO**
20 **MAKE IN ORDER TO TRANSITION FROM TWO INTERVALS TO ONE**
21 **REPAIR INTERVAL FOR COMMINGLED EELS?**

22 A. The new process, as defined by Eschelon, would require Qwest to test the
23 commingled circuits consecutively, not simultaneously. As a result, for trouble
24 reports where trouble is found in Qwest's network on the second circuit listed in
25 the remarks field, there will be an automatic addition of MTTR duration to the initial
26 circuit listed in the circuit ID field. As is the case with all ILECs that use the
27 Telcordia ticketing system, the system does not allow Qwest to hand off to
28 internal work groups that may be required to fix the trouble on the second circuit

1 ID using the original trouble report. Qwest must internally create a second
2 trouble report for this purpose. Notably, Qwest uses the same ticketing system or
3 "WFAC systems" as other Regional Bell Operating Companies, and those
4 systems are designed by Telcordia according to industry standards.

5 **Q. HOW WOULD THIS IMPACT QWEST?**

6 A. Using the existing repair ticketing system design, Qwest would have to manually
7 create a second ticket in every case that Eschelon included a second circuit ID
8 within the remarks field of a trouble report. Also, CLEC access hours and local
9 contact information are required on all new trouble reports tickets, and Qwest
10 would have to obtain this information from Eschelon for the second trouble
11 reports that it opens for circuits listed in the remarks field. This would require
12 Qwest to contact Eschelon to acquire this data before dispatching to the field
13 when a dispatch is needed to complete a repair. In addition, to prevent an
14 automatic decline in performance results, Qwest would have to attempt to test all
15 secondary tickets simultaneously or in parallel, to the extent possible, to minimize
16 adding second ticket test time into the duration of the first ticket.

17 **Q. WHAT OTHER CHANGES TO ITS OSS WOULD QWEST HAVE TO**
18 **MAKE IN ORDER TO TRANSITION FROM TWO INTERVALS TO ONE**
19 **REPAIR INTERVAL FOR COMMINGLED EELS?**

20 A. It is our understanding that Eschelon would require Qwest to keep the original
21 trouble report open even if the first circuit is tested as no trouble found (*i.e.*, tests
22 find no trouble in Qwest's network). The report on the first circuit would remain
23 open while Qwest performs additional tests, isolation, and potential resolution on
24 the second circuit listed included in the remarks field of the trouble report. As I
25 allude to above, this would cause Qwest to falsely report additional MTTR
26 duration on the initial circuit, which may have quickly cleared the Qwest network
27 of trouble. An example demonstrates the problem:

1 14:00 Initial circuit (4 hour met/miss parameter) reported by CLEC and included
2 associated circuit (4 hour met/miss parameter) in remarks.

3 14:25 A Qwest technician has picked up the trouble report and performed
4 required tests and determined the Qwest network is clear on that circuit.
5 Typically, the Qwest technician would immediately contact the CLEC to
6 close the report, which would result in duration of 25 minutes and a "met"
7 ticket.

8 14:26 Qwest creates new trouble report on the second circuit provided by the
9 CLEC.

10 14:35 The Qwest technician has completed test/isolation and determined there is
11 trouble in the Qwest network on the second circuit. He "hands-off" the
12 report to the field work group to resolve it.

13 18:20 A Qwest field technician has resolved the problem, performed required
14 final tests, and contacted the CLEC to close the ticket.

15 In this typical scenario, under the current process used by Qwest for all customers
16 reporting two different circuits, each report would have been a "met" report, with
17 no financial penalties. The reported duration for the first circuit would be 25
18 minutes, and the reported duration for the second circuit would be three hours and
19 54 minutes.

20 However, in this same scenario under Eschelon's proposal, the first report would
21 have an inaccurate, combined duration of four hours and 19 minutes and would be
22 a "miss." Similarly, if Eschelon allowed Qwest to close the first report after 25
23 minutes but then required Qwest to back-time the start time of the second report
24 by 25 minutes, there would be the same net result with a miss on the second
25 report. Depending on the final order, the problem could be exacerbated even

1 more when the two circuits of a commingled EEL have different design and
2 transmission requirements and therefore different duration and miss/met
3 parameters (*i.e.*, the interval for the first circuit is four hours and the interval for
4 the second circuit is 24 hours). Qwest would potentially miss all of the first
5 reports that include combined durations where Qwest did test trouble on the
6 second circuit, since the second circuit carries a much longer parameter.

7 **Q. HOW WOULD THIS IMPACT QWEST?**

8 A. In all instances, this would automatically tack on the additional test, isolation, and
9 restoration time of the second trouble report to the MTTR of the first trouble
10 report. This would increase the miss rates, especially for "multiplexed services"
11 where the EEL circuit could be a four-hour duration and the private line circuit
12 could be an eight or 24-four hour duration. Regardless of the transmission rates
13 and measured miss/met durations of each circuit, this will artificially drive up
14 average duration for most EEL circuits and would skew actual performance
15 results. This action would also cause double counting of MTTR against both the
16 first and second ticket.

17 **Q. ARE THERE ANY OTHER REASONS WHY IT WOULD BE DIFFICULT**
18 **FOR QWEST TO MODIFY ITS SYSTEMS TO COMBINE THE REPAIR**
19 **INTERVALS FOR COMMINGLED CIRCUITS?**

20 A. Yes. Since the Qwest trouble ticketing system is provided by and supported by
21 Telcordia, Qwest would need to explore and initiate massive change requests.
22 These requests would not only have to allow the input of two different circuits on
23 the same trouble report, but also would have to give the system the capability to
24 (1) recognize this input automatically, (2) immediately create a second ticket on
25 the associated circuit, and (3) initiate auto test, where capable, on the second
26 circuit. Only with these and additional enhancements would Qwest be able to
27 comply with this request and not inaccurately report longer durations against

1 certain trouble tickets and/or face penalties for misses that were not actually
2 misses.

3 **Q. HOW LONG WOULD IT TAKE QWEST TO IMPLEMENT THESE**
4 **SYSTEMS AND PROCESS CHANGES IF THEY WERE REQUIRED?**

5 A. We know that making these changes would be extremely time-consuming, but we
6 do not yet have a time estimate from our systems vendor, Telcordia. As described
7 below, however, we have received a high level cost estimate from Telcordia.

8 **Q. HOW DO CUSTOMERS REPORT CUSTOMER-OWNED**
9 **MULTIPLEXED CIRCUITS TO QWEST (i.e. DS0 VS. DS0 CIRCUITS**
10 **RIDING THE DS1)?**

11 A. Customers are expected to test and isolate trouble either into a specific DS0
12 (lower level entity) or the DS1 (higher level entity) before reporting the trouble to
13 Qwest. Customers are not allowed to include the DS0 level circuits within the
14 DS1 ticket. If multiple DS0 circuits are in trouble, each DS0 circuit must be
15 reported on a separate ticket, each of which would carry its own start and end
16 time, which determines the overall duration for each ticket. As stated above, if
17 the customer "elects" to include additional circuit IDs in the remarks section of
18 the single reported circuit, it may do so, but no additional tickets are automatically
19 created by Qwest. Nor are the additional circuits reported in any systems or
20 contained in performance results.

21 **Q. DOES QWEST ALLOW RETAIL OR OTHER WHOLESALE RESALE**
22 **CUSTOMERS TO SUBMIT AND INCLUDE CIRCUITS (I.E. DS0) THAT**
23 **RIDE A HIGHER LEVEL CIRCUIT (I.E. DS1) OWNED BY THE SAME**
24 **CUSTOMER ON THE TICKET THEY CREATED FOR THEIR DS1?**

25 A. No. Qwest requires all customers, retail and wholesale alike, to follow the same
26 repair ticketing procedure covered in the previous question, with the exception of
27 the arrangement with Eschelon in some states mentioned earlier.

1 **V. THE TRANSITION FROM TWO INTERVALS TO ONE REPAIR**
2 **INTERVAL FOR COMMINGLED EELS WOULD IMPOSE VERY**
3 **SIGNIFICANT COSTS ON QWEST**

4 **Q. WHAT WOULD IT COST QWEST TO TRANSITION FROM TWO**
5 **INTERVALS TO ONE REPAIR INTERVAL FOR COMMINGLED EELS?**

6 A. The high level estimate provided by the vendor (Telcordia) who supports the
7 WFA ticketing system is approximately \$375,000 - \$425,000. Attached hereto as
8 Confidential Exhibit TG-1 is a summary of that estimate provided by Telcordia.

9 **Q. WHY DID QWEST APPROACH TELCORDIA FOR THE REPAIR**
10 **TICKETING SYSTEM COST ESTIMATE?**

11 A. Telcordia is the historical and current vendor that supports Qwest's repair
12 ticketing systems, along with other extensive circuit-based system functionality.
13 As mentioned, all RBOCs use the same type of Telcordia repair system.

14 **Q. WHAT WERE THE TELCORDIA COST ESTIMATES BASED ON?**

15 A. Qwest, based on the known potential requirements of the Commission order,
16 provided system enhancement requirements to Telcordia.

17
18 **Q. WHO WITHIN TELCORDIA WAS RESPONSIBLE FOR RECEIVING**
19 **AND UNDERSTANDING THE REQUIREMENTS PROVIDED BY**
20 **QWEST AND FOR PROVIDING QWEST WITH THIS HIGH LEVEL**
21 **ESTIMATE?**

22 A. Gary Leslie Telcordia - WFAC-NSDB Solution Architect was the primary contact
23 for the detailed system enhancement requirements and was responsible for
24 interpreting those requirements into actionable items used to establish the
25 estimate. The actual estimate presentation provided by Telcordia to Qwest was
26 authored by Jack Lynott - Telcordia Account Executive.

1 **Q. WHAT ARE SOME OF THE KEY ELEMENTS OF THE SYSTEM**
2 **ENHANCEMENT REQUIREMENTS?**

3 A. These and possibly additional enhancements are required to enable Qwest to
4 effectively meet provisions of a Commission directive that would require Qwest
5 to not only allow the CLEC to submit more than one circuit per ticket, but to also
6 effectively manage a modified one off repair process on these tickets with two
7 circuits while not degrading the current level of performance which could result in
8 financial penalties or other costs to Qwest:

- 9 1. The enhancement estimate is dependant on the CLEC utilizing current Electronic
10 Bonding with Qwest (CEMR);
- 11 2. Add new data entry fields, rather than using a free flowing remarks section, into
12 the WFAC ticket template format (OSSTREB Screen) to allow the CLEC to enter
13 a 2nd circuit ID along with their required test results, LCON info, Premises Access
14 info, etc.;
- 15 3. The WFA system would then need to recognize when a second circuit ID is
16 entered and would in fact automatically create a second ticket almost instantly;
- 17 4. Where Auto-test capability exists, the system would then kick off remote tests on
18 both circuits and post results to each individual ticket;
- 19 5. For tickets where Qwest isolates trouble into the Qwest network and where Auto
20 Hand-off is capable, the system will handoff the ticket to the appropriate internal
21 Qwest work group to fix or further isolate the trouble;
- 22 6. For tickets where Auto-test or Auto hand-off are not capable, a tester or testers
23 will manually perform the required tests/isolation/hand-off/resolution/closeout on
24 each individual ticket.
- 25 7. Each ticket will indicate there is a "related" ticket so if more than one Qwest
26 technician is handling the tickets they will know the circuits are part of a
27 Commingled EEL arrangement and will administer unique process requirements
28 as agreed.
- 29 8. When one of the related tickets is resolved/closed, the dynamic EB status message
30 will include:
 - 31 a. A short message to indicate that this TR is one of a related pair
 - 32 b. The Related TR#
 - 33 c. The Related Circuit Id

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN MAYES
Chairman
GARY PIERCE
Commissioner
SANDRA KENNEDY
Commissioner
PAUL NEWMAN
Commissioner
BOB STUMP
Commissioner

**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

EXHIBITS
OF
TIMOTHY GIANES
ON BEHALF OF
QWEST CORPORATION
APRIL 20, 2009
(Disputed Issue No. 9-59)

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE PETITION OF)
ESCHELON TELECOM OF ARIZONA,)
INC. ARBITRATION WITH QWEST)
CORPORATION, PURSUANT TO 47 U.S.C.)
SECTION 252 OF THE FEDERAL)
TELECOMMUNICATIONS ACT OF 1996)

Docket No. T-03406A-06-0572
T-01051B-06-0572

STATE OF COLORADO)
COUNTY OF EL PASO)

AFFIDAVIT OF
TIMOTHY W. GIANES

SS

Timothy W. Gianes, of lawful age being first duly sworn, deposes and states:

1. My name is Timothy W. Gianes. I am Lead Process Analyst for Qwest Corporation in Colorado Springs, Colorado. I have caused to be filed written Direct Testimony in Docket Nos. T-03406A-06-0572 and T-01051B-06-0572.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

Timothy W. Gianes

Timothy W. Gianes

SUBSCRIBED AND SWORN to before me this [Fill in Number] day of April, 2009.

Deborah Clark Cooper

Notary Public

My Commission Expires: 10-24-2009



EXHIBIT TG-1

(REDACTED)



the elements of success

Arizona Corporation Commission
Docket No. T-03406A-06-0572
Docket No. T-01051B-06-0572
Qwest Corporation - TG-1
Confidential Exhibits of Timothy Glines
April 20, 2009

Auto-Generate & Relate Electronic Bonding (EB) Trouble Reports (TRs) ROM Proposal 9WQC07 for WFA/C Enhancement

Prepared for:



Telcordia Contact:

Jack Lynott
Telcordia Account Executive
303-292-0938
jlynott@telcordia.com

March 26, 2009

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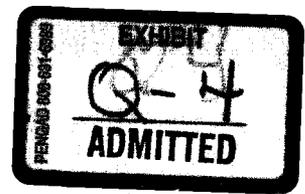
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KRISTIN MAYES
Chairman
GARY PIERCE
Commissioner
SANDRA KENNEDY
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PAUL NEWMAN
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**IN THE MATTER OF THE PETITION OF
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SECTION 252 OF THE FEDERAL
TELECOMMUNICATIONS ACT OF 1996**

DOCKET Nos. T-03406A-06-0572
T-01051B-06-0572

REBUTTAL TESTIMONY
OF
TIMOTHY GLANES
ON BEHALF OF
QWEST CORPORATION
July 24, 2009

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1 **I. Introduction and Summary**

2 **Q. PLEASE STATE YOUR NAME.**

3 A. My name is Timothy Gianes, and I filed direct testimony in this proceeding on April 20,
4 2009.

5 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

6 A. My testimony responds to the Responsive Testimony of Eschelon witness, Douglas
7 Denney. Mr. Denney relies on a series of incorrect assumptions and premises to make the
8 argument that there is no legitimate operational need for Qwest to have separate repair
9 intervals for the UNE and non-UNE components of commingled EELs. He also
10 challenges the validity of Telcordia's cost estimate for implementing a single repair
11 interval based upon a premise that this Commission expressly rejected in its Arbitration
12 Order. My testimony demonstrates the flaws in Mr. Denney's assumptions, explains why
13 two repair intervals are necessary and legitimate, and refutes Mr. Denney's criticisms of
14 Telcordia's cost estimate.

15 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

16 A. First, Mr. Denney's claim that a single repair interval should be used for commingled
17 EELs begins with the premise that a commingled EEL is a single, undifferentiated circuit.
18 As a single circuit, Mr. Denney contends, there should be a single repair interval. This
19 testimony ignores the fact that as the term "commingled" implies, a commingled EEL is
20 defined as two separate services that are physically joined together or attached. While the
21 services are combined, each service retains its own unique characteristics, and Qwest has
22 repair processes that are tailored to those characteristics. It is far too simplistic to claim
23 that a commingled EEL is a single, undifferentiated circuit and that, upon being combined
24 together, the services lose their unique characteristics. In fact, as I show below,
25 Mr. Denney himself has previously described a commingled EEL as being comprised of
26

1 "two circuits," a description that is consistent with the reality that this service is a
2 combination of two separate services.

3 Second, Mr. Denney argues that applying a single four-hour interval to commingled EELs
4 would be consistent with the fact that the governing PID/PAP establishes a four-hour
5 interval for both UNE loops and private line transport. He claims that Qwest should not
6 be permitted to exceed a total of four hours of repair time for a commingled EEL because
7 that would violate the four-hour intervals established for the two services that comprise a
8 commingled EEL. This argument ignores the fact that the process for repairing two
9 services that are combined together is necessarily different from that used to repair a
10 single, uncombined UNE or private line service. With a combined commingled EEL, the
11 initial repair effort should focus first on the circuit or service that is suspected to have the
12 trouble on it. In some cases, however, the trouble will not be on that circuit, which
13 requires testing and repairing the second circuit. In that circumstance, it is unrealistic to
14 expect Qwest to always complete testing and repair of the two separate services within the
15 four-hour timeframe established for testing and repair of just one of the services. The
16 separate four-hour intervals in the PID/PAP for UNE and private line services were not
17 established in the context of repairing those services when they are combined as a
18 commingled EEL, and it is therefore inaccurate for Mr. Denney to claim that exceeding
19 four hours repair time for a commingled EEL should result in a PID/PAP violation.

20 Third, Mr. Denney's challenge to the Telcordia cost estimate I provided with my direct
21 testimony is based on the contention that the estimate should have been based on the
22 assumption that Qwest would use a single circuit identification number for each of the two
23 services that comprise a commingled EEL. This contention directly conflicts with the
24 Commission's Arbitration Order, as the Commission expressly considered and rejected
25 Eschelon's request that Qwest be required to use a single circuit ID for commingled EELs.
26 Mr. Denney simply ignores this ruling. By assuming that separate circuit IDs will be used

1 for the UNE and private line services, the Telcordia cost estimate – unlike Mr. Denney –
2 accurately projects the costs of Eschelon's repair proposal in a manner consistent with the
3 Arbitration Order.

4 **II. Separate Intervals are Required for Repairs of the Separate Services that Comprise**
5 **a Commingled EEL.**

6 **Q. AT PAGES 43-44 OF HIS RESPONSIVE TESTIMONY, MR. DENNEY ASSERTS**
7 **THAT THE SEPARATE FOUR-HOUR REPAIR INTERVALS FOR THE UNE**
8 **LOOP AND SPECIAL ACCESS TRANSPORT COMPONENTS OF A**
9 **COMMINGLED EEL SHOULD RUN SIMULTANEOUSLY, NOT**
10 **CONSECUTIVELY. IS THAT CONSISTENT WITH HOW REPAIRS OF**
11 **COMMINGLED EELS ARE PERFORMED?**

12 **A.** No. Mr. Denney's position reflects a fundamental misunderstanding concerning how
13 commingled EELs are tested and repaired. The basic principle guiding this process is that
14 the circuit suspected of having the trouble on it should be tested first. This principle
15 reflects the fact that any repair of a circuit requires Qwest to invest resources and time,
16 beginning with a technician's act of opening a trouble ticket, the second step of testing the
17 circuit, the third next step of performing any necessary repairs, and the final step of
18 closing the ticket. It is clearly efficient to perform this time-consuming, multi-step
19 process first for the circuit suspected of having the trouble and to turn to the second circuit
20 only if it turns out that there is no trouble on the first circuit. This approach, in contrast to
21 that of addressing both circuits of a commingled EEL simultaneously as Eschelon
22 proposes, avoids spending unnecessary time and resources and rarely results in additional
23 delay in repairing the circuit with the trouble on it.

24 **Q. WHY DOES TESTING AND REPAIRING THE CIRCUITS OF A COMMINGLED**
25 **EEL CONSECUTIVELY INSTEAD OF SIMULTANEOUSLY RARELY LEAD TO**
26 **DELAY?**

1 A. In most cases, a CLEC performs isolation testing, validating that the trouble is off the
2 CLEC network, before an initial trouble report is created and submitted to Qwest. If the
3 testing is done properly, a CLEC is able to identify the circuit of a commingled EEL that
4 has the trouble on it. When communicated to Qwest, that testing information enables
5 Qwest to focus immediately on the circuit with the trouble on it and to clear the trouble
6 without ever having to take any actions relating to the second circuit. As a result, with a
7 process that tests and repairs circuits consecutively instead of simultaneously, there is no
8 need in the typical case to address the second circuit and therefore no delay in repairing
9 the commingled EEL. The need to test and repair the second circuit arises only in the
10 unusual situation where the circuit with the trouble on it is misidentified in the initial
11 testing. That simply does not happen often.

12 **Q. MR. DENNEY SUGGESTS THAT USING CONSECUTIVE REPAIR INTERVALS**
13 **INSTEAD OF SIMULTANEOUS INTERVALS WILL REGULARLY LEAD TO**
14 **SERVICE OUTAGES OR DISRUPTIONS IN EXCESS OF FOUR HOURS. IS**
15 **THAT ASSERTION ACCURATE?**

16 A. No. As I describe above, Qwest usually has enough information to identify the circuit
17 with the trouble on it and is able to repair that circuit within the four-hour interval that
18 typically applies. Because there is usually no need to address the second circuit, repairs
19 are typically completed within four hours, and service outages or disruptions that last
20 more than four hours are the exception. Eschelon's proposal for simultaneous intervals is
21 therefore designed to address an alleged problem that, in reality, does not exist with any
22 regularity. There simply are not regular or frequent occasions in which the repair of a
23 commingled EEL requires more than four hours. It is notable that although Mr. Denney
24 speaks ominously about the alleged harms of having consecutive repair intervals, he fails
25 to identify even one occasion on which Qwest took more than four hours to repair a
26 ///

1 commingled EEL. He and Eschelon would have Qwest incur very significant costs to
2 address an alleged problem that is unproven.

3 **Q. IN ITS ARBITRATION ORDER, THE ARIZONA COMMISSION REJECTED**
4 **ESCHELON'S REQUEST FOR THE USE OF A SINGLE CIRCUIT ID FOR THE**
5 **TWO COMPONENTS OF A COMMINGLED EEL, PERMITTING QWEST TO**
6 **CONTINUE USING SEPARATE CIRCUIT IDS FOR THOSE COMPONENTS. IS**
7 **THAT RULING CONSISTENT WITH MR. DENNEY'S ARGUMENTS FOR THE**
8 **USE OF SIMULTANEOUS REPAIR INTERVALS FOR COMMINGLED EELS?**

9 A. No. Qwest's operating systems require opening and closing a trouble report for each
10 circuit that has its own circuit ID number. Under Eschelon's proposal described in
11 Mr. Denney's testimony, a commingled EEL would be viewed as one, continuous circuit,
12 and a single trouble report – not two reports – would be opened and eventually closed for
13 the commingled EEL. However, Mr. Denney's view is fundamentally flawed. A
14 commingled EEL is not one continuous circuit, but rather a continuous transmission path
15 made up of two distinct circuits, each with its own specific and unique circuit ID. This
16 conclusion is consistent with the Commission's Arbitration Order, which affirmed that
17 each circuit of a commingled EEL will properly have its own circuit ID.¹ Thus, the
18 problem with Mr. Denney's proposed approach is that Qwest's systems are tied to circuit
19 ID numbers and require opening and closing a report for each circuit that has its own
20 circuit ID number. It is therefore not possible for Qwest to open a trouble report on the
21 first circuit of a commingled EEL, complete the testing on that circuit, and then move on
22 to the second circuit without opening a second trouble report for that circuit. Instead, it is
23 necessary for Qwest to open and close separate trouble reports for each circuit that
24 comprises a commingled EEL.

25
26

¹ Arbitration Order, Decision No. 70356 at 66-67.

1 **Q. MR. DENNEY CLAIMS THAT THE USE OF TWO REPAIR INTERVALS FOR**
2 **COMMINGLED EELS IS DISCRIMINATORY AND IS DESIGNED TO MAKE IT**
3 **DIFFICULT FOR ESCHELON AND OTHER CLECS TO USE THIS SERVICE?**
4 **IS THERE ANY MERIT TO THIS CLAIM?**

5 A. No. The repair process for commingled EELs, including the use of two repair intervals, is
6 the same process used for any customer that is leasing two different circuits from Qwest.
7 A commingled EEL is comprised of two separate and distinct circuits with uniquely
8 developed service parameters, including uniquely developed repair intervals. For any
9 other CLEC that obtains a service from Qwest that involves two distinct circuit types with
10 two separate circuit ID, Qwest will necessarily treat the circuits as separate and distinct for
11 repair and other purposes. For those services, as with a commingled EEL, the trouble
12 report for each circuit is opened separately, the circuit is tested and repaired separately
13 from the other circuit, and the trouble report is closed separately from the trouble report
14 for the other circuit. As I describe above, Qwest's systems and processes require this
15 separate treatment whenever there are two circuits with two distinct circuit ID numbers.
16 Mr. Denny is therefore wrong in claiming that Qwest is seeking two separate repair
17 intervals to interfere with the ability of CLECs to use commingled EELs. On the contrary,
18 Qwest's process is required by its systems and supported by legitimate business needs.
19 Qwest is not seeking to discriminate against Eschelon, but rather is proposing that
20 Eschelon be treated in the same way as Qwest's other customers.

21 **Q. IF THE COMMISSION ADOPTS ESCHELON'S PROPOSAL FOR A SINGLE**
22 **REPAIR INTERVAL, WHAT CHOICE WOULD QWEST FACE?**

23 A. Qwest could not comply with a requirement of a single repair interval without making the
24 far-reaching systems changes described in my direct testimony and reflected in Telcordia's
25 cost estimate. The systems changes would be necessary to enable Qwest's systems to
26 reconcile the two circuits onto a single trouble report. This would be necessary for Qwest

1 to not only ensure that the trouble ticket is assigned to the appropriate personnel, but also
2 to initiate the proposed testing on both circuits. Furthermore, if the requirement is
3 imposed and Qwest is obligated to make those costly changes, Qwest may still face the
4 prospect of financial penalties under the PID/PAP due to artificially extended repair
5 intervals for at least one circuit, potential "misses" and incorrect records regarding how
6 much time was spent on each circuit with respect to trouble reports relating to the
7 individual circuits.

8 **Q. WOULD THE SYSTEMS CHANGES ALLOW QWEST TO AVOID THE**
9 **INEFFICIENCIES OF HAVING TO TEST BOTH CIRCUITS OF A**
10 **COMMINGLED EEL SIMULTANEOUSLY?**

11 **A.** No. The system changes addressed in Telcordia's estimate would only give Qwest the
12 ability to recognize two circuits IDs on a trouble report and to initiate isolation and testing
13 activities for the circuits associated with those IDs. To avoid extended repair intervals and
14 potential "misses" and the financial penalties that could flow from them, Qwest would still
15 have to open trouble tickets for the two circuits simultaneously and conduct isolation and
16 testing of the circuits simultaneously. This simultaneous testing/isolation process would
17 have to be performed in all instances, as waiting to test one circuit after the other could
18 lead to missed tickets and financial penalties. This fundamentally inefficient process,
19 which would require Qwest to continuously test circuits that have no trouble on them,
20 would not be eliminated by the systems changes.

21 **Q. AT PAGE 43 OF HIS TESTIMONY, MR. DENNEY COMPARES COMMINGLED**
22 **EELS TO UNE EELS AND SPECIAL ACCESS EELS, ARGUING THAT THE**
23 **USE OF TWO CONSECUTIVE REPAIR INTERVALS FOR COMMINGLED**
24 **EELS WOULD BE DISCRIMINATORY. ARE MR. DENNEY'S COMPARISONS**
25 **APPROPRIATE AND IS HIS CONCLUSION ACCURATE?**

26

1 A. No. In comparing a commingled EEL to a UNE EEL or even a special access EEL,
2 Mr. Denney once again ignores the fact that we are no longer dealing with a single circuit,
3 but rather a combination of two distinct circuits. It is simply not an apple-to-apples
4 comparison. Both a UNE EEL and a special access EEL are comprised of a single circuit,
5 with a single service type end-to-end. A commingled EEL, on the other hand, is a hybrid
6 of the two, requiring connection of two service types. With a single service type, both a
7 UNE EEL and a special access EEL will each carry a single circuit ID. If Eschelon were
8 to convert a UNE EEL to a special access EEL, the special access EEL could carry a
9 single circuit ID. However, when Eschelon chooses to convert a UNE EEL to a
10 commingled EEL, it has chosen to retain one as a UNE circuit and to convert the other
11 portion to a special access circuit, which are two distinct services. This remains true even
12 if both circuits of the commingled EEL are of the same bandwidth. As such, two distinct
13 service types carry with them different service parameters, including varying repair
14 intervals. Any other CLEC wishing to do the same will receive exactly the same
15 treatment by Qwest. It is not discriminatory in the least.

16 **Q. AT PAGE 7 OF HIS RESPONSIVE TESTIMONY, MR. DENNEY ATTEMPTS TO**
17 **SUPPORT HIS ARGUMENT FOR A SINGLE REPAIR INTERVAL BY**
18 **CONTENDING THAT A COMMINGLED EEL IS A SINGLE, CONTINUOUS**
19 **CIRCUIT. IS THAT AN ACCURATE DESCRIPTION OF A COMMINGLED**
20 **EEL?**

21 A. No. As I describe above, a commingled EEL is not one continuous circuit, but rather a
22 continuous transmission path made up of two distinct circuits, each with its own specific
23 service parameters and unique circuit ID.

24 **Q. HAS MR. DENNEY HIMSELF PREVIOUSLY DESCRIBED A COMMINGLED**
25 **EEL AS BEING COMPRISED OF MORE THAN ONE CIRCUIT?**

26

1 A. Yes. In his rebuttal testimony filed in this arbitration on February 9, 2007, Mr. Denney
2 clearly recognized that a commingled EEL is comprised of two circuits. Describing
3 Eschelon's alternative proposal relating to repairs of commingled EELs – the very issue
4 now before the Commission – Mr. Denney stated that the proposal "allows for Eschelon to
5 open a single trouble report for *both of the circuits associated with a commingled EEL.*"²
6 As this testimony shows, Mr. Denney has only recently started to claim that a commingled
7 EEL is comprised of just one circuit.

8 In addition to Mr. Denney's shifting testimony on this subject, Eschelon itself has
9 previously recognized in submissions to this Commission that a commingled EEL is
10 comprised of two circuits. For example, in its exceptions to the Administrative Law
11 Judge's Recommended Opinion and Order filed on March 7, 2008, Eschelon argued that
12 Qwest's process allows "four hours for *one circuit* and another four hours for *the other*
13 *circuit.*"³ The "[f]ailure to relate the UNE and non-UNE components of a commingled
14 EEL could result in Eschelon paying for *circuits* that it does not even use." These
15 descriptions show that despite its new advocacy, Eschelon knows full well that a
16 commingled EEL is comprised of more than one circuit. Mr. Denney's attempt to support
17 Eschelon's request for a single repair interval with the argument that a commingled EEL is
18 one continuous circuit is simply inconsistent with – and contradicted by – his prior
19 testimony and Eschelon's prior statements.

20 **Q. AT PAGES 35-37 OF HIS TESTIMONY, MR. DENNEY ARGUES THAT QWEST**
21 **WILL BE IN VIOLATION OF THE REPAIR INTERVALS IN ITS TARIFFS AND**
22 **INTERCONNECTION AGREEMENTS IF CONSECUTIVE INTERVALS ARE**
23 **USED FOR COMMINGLED EELS INSTEAD OF A SINGLE INTERVAL. DO**
24 **QWEST'S TARIFFS AND INTERCONNECTION AGREEMENTS REQUIRE**

25
26

² Denney Rebuttal at 89 (filed Feb. 9, 2007) (emphasis added).

³ Eschelon Exceptions at 14 (filed March 7, 2008) (emphasis added).

1 **THE USE OF A SINGLE REPAIR INTERVAL FOR COMMINGLED EELS, AS**
2 **MR. DENNEY SUGGESTS?**

3 A. No. Qwest's ICAs and tariffs address service requirements, including repair requirements,
4 for individual circuits and services. They do not address service and repair requirements
5 for commingled EELs, but instead address those requirements only for the component
6 services that are used with commingled EELs. The repair interval requirements in the
7 ICAs and tariffs appropriately assume that Qwest is repairing only a single circuit at a
8 time and do not contemplate the situation when a commingled EEL in which a UNE
9 service and a non-UNE service are combined. In that situation, for the reasons I describe
10 above, it would be highly impractical and inefficient to have a single repair interval and to
11 effectively require simultaneous testing of the two circuits supporting those different
12 services. Applying a single four-hour repair interval to both of those circuits, as
13 Mr. Denney suggests should be done, would not be consistent with the factual
14 assumptions underlying the development of the circuit-specific intervals. To use the old
15 cliché, it would be like trying to fit a square peg into a round hole. That mismatch would
16 have the practical effect of Qwest being penalized for "misses" that were never intended
17 to qualify as misses when the intervals were developed.

18 **Q. PLEASE RESPOND TO MR. DENNEY'S ASSERTIONS AT PAGES 41-43 OF HIS**
19 **RESPONSIVE TESTIMONY THAT QWEST SHOULD NOT BE DEEMED TO**
20 **HAVE MET ITS PID/PAP OBLIGATIONS IF A CUSTOMER SERVED BY A**
21 **COMMINGLED EEL IS OUT OF SERVICE FOR MORE THAN FOUR HOURS.**

22 A. This assertion is incorrect, and curiously ignores that it is the existence of sufficient
23 competition in Arizona wire centers that results in the availability and use of commingled
24 EELs in the first place. Qwest is no longer required to make available certain unbundled
25 elements. As a result, the non-UNE portions of a commingled EEL are no longer subject
26 to PID/PAP requirements. There is no requirement in the PID/PAP relating to the time in

1 which Qwest must complete repairs of commingled EELs as a whole. The PID/PAP
2 requirements apply only to UNE offerings and do not apply to retail private line offerings.
3 Accordingly, those requirements can only be properly applied to the UNE circuit portion
4 of a commingled EEL. The related but stand-alone non-UNE circuit portion of a
5 commingled EEL does not have any UNE attributes and is not subject to the PID/PAP
6 requirements. Again, Mr. Denney is proposing to misapply intervals developed for
7 individual, stand-alone circuits to the combined UNE and non-UNE circuits that make up
8 a commingled EEL. In fact, Mr. Denney's proposal could be seen as an attempt to
9 inappropriately extend UNE treatment to a non-UNE service.

10 The only requirement imposed by repair intervals is for Qwest to complete the repair of an
11 *individual* circuit within the specified interval (e.g., four hours). For example, assuming
12 separate four-hour intervals for the UNE circuit and the non-UNE circuit of a commingled
13 EEL, Qwest would be in full compliance with both intervals if it completed the UNE
14 circuit within four hours of opening a trouble report and then completed the repair of the
15 non-UNE circuit within four hours of opening a trouble report for that circuit. Qwest
16 would be in compliance with the intervals even if the total repair time for both circuits
17 exceeded four hours. Moreover, if we assume a four-hour repair interval for the UNE
18 circuit of a commingled EEL, a six-hour interval for the non-UNE circuit of the
19 commingled EEL, and 5 1/2 hours of time to actually fix trouble on the non-UNE circuit,
20 that does not mean that Qwest would miss the four-hour interval on the UNE circuit in
21 violation of its PID/PAP obligations. We cannot ignore the fact that we are dealing with
22 two distinct circuits. In both examples, Qwest is fully compliant with its obligations.
23 Mr. Denney's contrary contention is based upon a misapplication of the PID/PAP repair
24 intervals.

25 **Q. IN RESPONSE TO YOUR TESTIMONY DESCRIBING THE TESTING THAT**
26 **ESCHELON AND OTHER CLECS ARE REQUIRED TO PERFORM BEFORE**

1 **SUBMITTING A TROUBLE REPORT FOR A COMMINGLED EEL,**
2 **MR. DENNEY STATES THAT QWEST IS IMPROPERLY ATTEMPTING TO**
3 **REQUIRE ESCHELON TO IDENTIFY THE LOCATION WITHIN QWEST'S**
4 **NETWORK WHERE THERE IS TROUBLE WITH A CIRCUIT? IS THAT AN**
5 **ACCURATE CHARACTERIZATION OF QWEST'S POSITION?**

6 A. No. A CLEC should make a good faith effort to identify the circuit it believes has the
7 trouble on it. However, Qwest has agreed to ICA language in Section 9.23.4.7.2.1.1 that
8 recognizes a CLEC may not always be able to make that determination: "Qwest
9 recognizes CLEC does not always have the ability to isolate trouble to the specific circuit
10 when commingling two circuits of the same bandwidth." Mr. Denney's testimony ignores
11 this language.

12 **III. The Telcordia Estimate Accurately Forecasts the Costs that Qwest Would Incur to**
13 **Implement a Single Repair Interval for Commingled EELs.**

14 Q. **AT PAGES 46-47 OF HIS TESTIMONY, MR. DENNEY CRITICIZES THE COST**
15 **ESTIMATE PROVIDED WITH YOUR DIRECT TESTIMONY ON THE**
16 **GROUND THAT TELECORDIA SHOULD HAVE ESTIMATED THE COSTS OF**
17 **SYSTEMS CHANGES BASED ON THE ASSUMPTION THAT QWEST WILL**
18 **USE THE SAME CIRCUIT IDENTIFICATION NUMBER FOR BOTH THE UNE**
19 **AND THE NON-UNE CIRCUIT OF A COMMINGLED EEL? IS THAT A VALID**
20 **CRITICISM?**

21 A. No. Since Qwest has historically used separate circuit IDs for the circuits of commingled
22 EELs and the Commission approved that approach in its Arbitration Order, it would have
23 been illogical to ask Telcordia to provide an estimate based upon the assumption that
24 Qwest will use a single circuit ID. A cost estimate based on that assumption would be
25 inaccurate because the reality is that, consistent with the Arbitration Order, Qwest will
26 continue to use two circuit IDs for commingled EELs.

1 **Q. IS THERE ANY VALIDITY TO MR. DENNEY'S SUGGESTION THAT QWEST**
2 **HAS EXAGGERATED THE COSTS OF THE SYSTEMS CHANGES THAT**
3 **WOULD BE REQUIRED BY THE USE OF A SINGLE REPAIR INTERVAL FOR**
4 **COMMINGLED EELS?**

5 **A.** No. The requirements for system enhancements were submitted by Qwest to Telcordia
6 using the minimum requirements that would enable Qwest to identify and handle two
7 circuits submitted by a CLEC on a single trouble report. The estimate based upon these
8 minimum requirements reflects the fact that Qwest's legacy systems currently are limited
9 to handling a single circuit, including being limited to single circuit hand-off and restoral
10 capabilities. And while the estimates are based on minimum requirements, that does not
11 mean that the modifications will be minimal. As noted in my direct testimony, substantial
12 work will have to be done to systems and processes to meet Eschelon's demands. This
13 would be evident, if not obvious, to anyone with practical experience in this arena. If
14 anything, the estimates provided by Qwest were conservative given that we derived based
15 on minimum requirements. The necessary modifications would not only add complexity
16 by circumventing current efficient processes and practices that have been in place for
17 years, but are needed only to enable Qwest to carry out the inefficient process of testing,
18 isolating, restoring, and closing out both circuits of a commingled EEL simultaneously,
19 which is what Qwest would be forced to do if Eschelon's proposal were adopted. Qwest
20 did not submit any additional requirements to Telcordia, and the cost estimate therefore
21 reflects the minimum that Qwest would incur to comply with a requirement of a single
22 repair interval.

23 **IV. Conclusion**

24 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

25 **A.** Yes.
26

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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE PETITION OF)
 ESCHELON TELECOM OF ARIZONA,)
 INC. ARBITRATION WITH QWEST)
 CORPORATION, PURSUANT TO 47 U.S.C.)
 SECTION 252 OF THE FEDERAL)
 TELECOMMUNICATIONS ACT OF 1996)
)
 STATE OF COLORADO)
 COUNTY OF EL PASO)
)

Docket No. T-03406A-06-0572
 T-01051B-06-0572

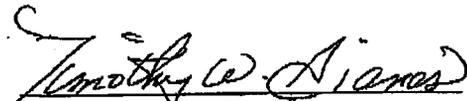
AFFIDAVIT OF
 TIMOTHY W. GIANES

SS

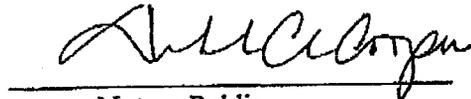
Timothy W. Gianes, of lawful age being first duly sworn, deposes and states:

1. My name is Timothy W. Gianes. I am Lead Process Analyst for Qwest Corporation in Colorado Springs, Colorado. I have caused to be filed written Rebuttal Testimony in Docket Nos. T-03406A-06-0572 and T-01051B-06-0572.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.


 Timothy W. Gianes

SUBSCRIBED AND SWORN to before me this 24th day of July, 2009.


 Notary Public

My Commission Expires: 10-24-2009



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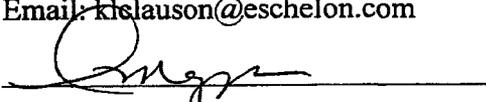
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26

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
SANDRA KENNEDY
PAUL NEWMAN
BOB STUMP

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

RESPONSIVE TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

ESCHELON TELECOM OF ARIZONA, INC.

June 8, 2009

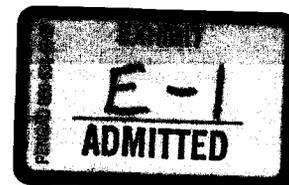


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1

2 **I. INTRODUCTION**

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. My name is Douglas Denney. I work at 6160 Golden Hills Drive in Golden
5 Valley, Minnesota.

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am employed by Integra Telecom, Inc. as Director of Costs and Policy. Integra
8 Telecom, Inc. ("Integra") completed its purchase of Eschelon Telecom, Inc.
9 ("Eschelon") on August 31, 2007. My responsibilities include negotiating
10 interconnection agreements ("ICAs"), monitoring, reviewing and analyzing the
11 wholesale costs that Integra and its affiliates, including Eschelon Telecom of
12 Arizona, Inc., pay to carriers such as Qwest, and representing Integra in
13 regulatory proceedings.

14 The testimony in this docket is filed on behalf of Eschelon Telecom of Arizona,
15 Inc.

16 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN THIS PROCEEDING?**

17 A. Yes. I filed written Direct Testimony in this proceeding on November 8, 2006,
18 Rebuttal Testimony on February 9, 2007, and Surrebuttal Testimony on March 2,
19 2007. I also testified orally in this docket on March 20, 2007. My testimony
20 involved numerous issues, including the issue that is the subject of this testimony,
21 the repair commitment for commingled EELs. In addition, I was involved in
22 Eschelon's attempts to negotiate resolution of this issue, both prior to the filing

1 initial testimony as part of this arbitration and subsequent to the Commission's
2 initial order¹ regarding these issues.

3 **Q. WHAT IS THE PURPOSE OF YOUR RESPONSIVE TESTIMONY?**

4 A. The purpose of my Responsive Testimony is to respond to the Direct Testimony
5 of Qwest witnesses Karen Stewart and Timothy Gaines regarding issue 9-59
6 (Maintenance and Repair – Commingled EELs), pertaining to section 9.23.4.7 of
7 the Eschelon / Qwest Interconnection Agreement. The central dispute here is
8 whether Qwest may, consistent with the FCC's order regarding commingling,
9 erect operational barriers relating to maintenance and repair that make
10 Commingled EELs difficult to use and not an effective competitive option. I
11 address Eschelon's position that Qwest should not be allowed to erect such
12 operational barriers.

13 **Q. PLEASE DESCRIBE HOW THE REMAINDER OF YOUR TESTIMONY**
14 **IS ORGANIZED.**

15 A. After this Introduction (Section I), my testimony is organized into three parts.
16 Section II defines terms and introduces and summarizes the testimony. Section
17 III of the testimony summarizes the differences between Eschelon and Qwest in
18 the language for the repair of point-to-point commingled EELs. This section

¹ In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration with Qwest Corporation Pursuant to 47 USC Section 252(b) of the Federal Telecommunications Act of 1996, Opinion and Order, Decision No. 70356, Docket Nos. T-03406A-06-0572 and T-01051B-06-0572, May 16, 2008.

1 further explains why multiplexed EELs have not been an issue with respect to
2 Eschelon's proposal and how Qwest uses multiplexed EELs to distract from the
3 real debate regarding repair commitment times. This section also responds to
4 issues raised by Qwest regarding performance for point-to-point commingled
5 EELs and shows why Qwest's cost estimates are erroneous and how Qwest has
6 likely already recovered more than enough revenue from CLECs to implement
7 changes to assure that commingled EELs are not treated as an inferior service.
8 The final Section IV concludes the testimony.

9 **Q. ARE THERE ANY EXHIBITS TO YOUR TESTIMONY?**

10 A. Yes, my testimony has the following exhibits:

11 **Exhibit DD-28** A copy of the Minnesota Commission Order determining that the
12 Commission has jurisdiction with regard to commingled EELs and
13 conversions from UNEs to special access circuits.

14 **Exhibit DD-29** A copy of pages from the Service Interval Tables (Exhibit C to
15 the Interconnection Agreement) and Qwest tariffs (FCC #1 and AZ Private
16 Line Tariff) showing that Qwest has a 4 hour repair commitment for both
17 UNE and special access/private line DS1 and DS3 facilities.

18 **Exhibit DD-30** A copy of the Washington Commission's decision in Qwest's
19 AFOR where it determined that, as a condition of the AFOR, Qwest must
20 include UNE substitutes (i.e. special access circuits) in its PIDs and PAP.

21 **Exhibit DD-31** A copy of relevant pages from the compliance filing Exhibit A
22 and Qwest's special access tariff showing the rates for the various
23 components of point-to-point commingled EELs.

24 **II. DEFINITIONS AND SUMMARY**

25

1 **Q. WHAT IS AN EEL AND HOW IS IT GENERALLY USED??**

2 A. An Enhanced Extended Link (“EEL”) (whether UNE, commingled, or special
3 access as requested by CLEC) is a combination of loop and transport that
4 connects an end user customer to a CLEC collocation cage. Section 9.23.4 of the
5 ICA defines EELs, in language that is not in dispute, as follows:

6 EEL – EEL consists of a combination of an Unbundled Loop and
7 unbundled Dedicated Transport (with or without multiplexing
8 capabilities), together with any facilities, equipment, or functions
9 necessary to combine those Unbundled Network Elements. Such
10 an EEL is a UNE Combination.

11
12 Commingled EEL – If CLEC obtains at UNE pricing part (but not
13 all) of a loop-transport Combination, the arrangement is a
14 Commingled EEL. (Regarding Commingling, see Section 24.)

15
16 High Capacity EEL – “High Capacity EEL” is a loop-transport
17 Combination (either EEL or Commingled EEL) when the Loop or
18 transport is of DS1 or DS3 capacity. High Capacity EELs may
19 also be referred to as “DS1 EEL” or “DS3 EEL,” depending on
20 capacity level.

21
22 A combination of loop and transport can also be made using special access or
23 private line circuits,² as Qwest’s witness recognized.³ A point-to-point special
24 access or private line combination of loop and transport is typically referred to as
25 a special access point-to-point circuit. For convenience, I will refer to special
26 access or private line combinations of loop and transport as special access EELs.⁴

² See, e.g., TRO ¶620 (referring to “tariffed loop-transport combinations” which may be converted to “UNE rates”).

³ Hearing Transcript, Vol. 2, p. 180, lines 1-2 (Ms. Stewart) (“There are definitely private line scenarios that include loop and transport, yes.”).

⁴ A private line is purchased from Qwest out of its interstate or intrastate private line tariff. I will

1 Qwest witnesses now imply that private line and UNE circuits have “different
2 designs and performance parameters,”⁵ without supporting this suggestion.
3 Qwest established no physical difference between a UNE and private line circuit.
4 Nor did Qwest explain how Qwest could design them differently consistent with
5 its nondiscrimination obligations.

6 A CLEC will typically purchase a UNE EEL or commingled EEL (collectively
7 “EEL”) when it wants to serve an end user customer in a wire center where the
8 CLEC is not collocated. When collocated, the CLEC can connect a customer
9 loop directly to the CLEC’s collocation (so does not need an EEL for this
10 purpose). Without a collocation, the loop needs to be extended, via interoffice
11 transport, to a wire center where the CLEC is collocated. A UNE EEL or
12 Commingled EEL allows a CLEC to extend the loop for this purpose. A special
13 access EEL also allows a CLEC to extend the loop (referred to as channel
14 termination in the special access / private line tariffs) in this manner, though at a
15 price even higher than the commingled EEL.

16 **Q. HOW IS A COMMINGLED EEL DIFFERENT FROM A UNE EEL?**

use the term private line and special access interchangeably to refer to both private line circuits purchased from Qwest’s intrastate tariffs and special access circuits purchased from Qwest’s interstate tariffs.

⁵ Gaines Issue 9-59 Direct, p. 5, lines 9-10. See also Stewart Issue 9-59 Direct, p. 4, line 6.

1 A. As both are combinations of loop and transport and both serve this same purpose,
2 the difference between them is price,⁶ as Qwest has acknowledged.⁷ As indicated
3 in the agreed upon ICA language quoted above,⁸ a Commingled EEL is defined
4 the same as a UNE EEL, except that the UNE EEL is entirely priced at UNE
5 rates, whereas with a Commingled EEL, the CLEC obtains at UNE pricing part
6 (but not all) of the combination.⁹ The remainder is obtained at a higher, non-UNE
7 price.¹⁰ For an EEL, both the loop and transport portions of the circuit are
8 available at TELRIC-based rates, while, for a Commingled EEL, the UNE portion
9 of the circuit is still available at a TELRIC-based rate but the non-UNE portion is
10 subject to a higher, tariffed rate. (For a special access EEL, both portions are
11 subject to the higher tariffed rate, with no portion at a TELRIC-based rate.)

⁶ Hearing Exhibit E-13 (Denney Dir.), pp. 156-157.

⁷ See MN Transcript at Vol. 2, p. 181 (testimony of Karen Stewart of Qwest), at Hearing Exhibit E-7 (Starkey Reb.), MS-6:

Q. I want you to think of a hypothetical circuit that before the TRRO was a UNE EEL and after the TRRO is a commingled EEL.

A. Yes.

Q. The difference between those two things is the price; is that correct?

A. Typically, yes.

⁸ This language appears in the Qwest Proposed Language column of the Joint Issues Matrix (p. 73).

⁹ See TRO ¶593 (describing a Commingled EEL as “to obtain *at UNE pricing* part of a high-capacity loop-transport combination”) (emphasis added).

¹⁰ Hearing Exhibit E-13 (Denney Dir.), p. 155. See also TRO ¶593 (describing a Commingled EEL as “to obtain at UNE pricing part of a high-capacity loop-transport combination”).

1 Q. ALTHOUGH QWEST SUGGESTS THERE ARE TWO CIRCUITS IN A
2 COMMINGLED EEL AS OPPOSED TO ONE CIRCUIT WITH A UNE
3 EEL,¹¹ IS A COMMINGLED EEL DIFFERENT FROM A UNE EEL IN
4 THIS RESPECT?

5 A. No. Although a commingled EEL has a higher price than a UNE EEL for
6 regulatory reasons, the physical facilities are identical. Contrast Qwest's use in its
7 language of "two different circuits"¹² with the FCC's description of "the UNE
8 loop *portion of a commingled circuit*" (singular).¹³ The physical facility is the
9 same for all three loop-transport combinations (UNE, commingled, special
10 access).¹⁴ Qwest's witness testified:

11 Q. A commingled EEL is an EEL where either the loop or the transport is
12 not a UNE; is that right?

13 A. Yes.

¹¹ See Qwest's 9/25/08 proposal related to the compliance filing for Section 9.23.4.7.4.1 ("Because Commingled EELs are comprised of two different circuits") (shown in ~~strikeout~~ below). See also Stewart Issue 9-59 Direct, p. 4, lines 3-4 ("circuit-by-circuit basis"); Gaines Issue 9-59 Direct, p. 4, lines 20-21.

¹² E.g., Qwest September 22, 2008 Updated Proposal (§9.23.4.7.10).

¹³ See TRO ¶594. The Commission did not state in its Resolution of Issues 9-58 and 9-59 on pages 66-68 that there are two different circuits (as opposed to a "portion of a commingled circuit" per TRO ¶594). Rather, the Commission allowed Qwest to use two circuit identifiers ("IDs") for the Commingled EEL (the "commingled circuit," *id.*). The Commission said that it was adopting Qwest's repair proposal "given existing operation systems." Order No. 70356, p. 67, lines 25-26. Although the Commission allowed Qwest to use two circuit IDs, Qwest is not *required* to do so as a physical or legal matter. If Qwest chooses to use two circuit IDs, it is making an inefficient decision and is the causer of any resulting costs, as discussed below.

¹⁴ See diagram from Qwest PCAT at E-13 (Denney Direct), p. 153; see also *id.* p. 153, line 10 – p. 154, line 2 ("The picture for a Point-To-Point Commingled EEL, would be identical to the picture above, except that the label, not the facilities, for 'EEL Transport' or 'EEL Loop' would be replaced with non-UNE label, such as 'Private Line Transport' or 'Channel Termination.').

1 Q. Would you agree with me that a UNE EEL and a commingled EEL are
2 *functionally the same thing*?

3 A. They could be doing the same thing, *yes*.¹⁵

4
5 When an end user customer switches carriers, while retaining the same services,
6 the end user customer may continue to use the same physical facilities before and
7 after the conversion (*e.g.*, to avoid potential outages that may occur if the facilities
8 are changed when switching carriers) to the extent those facilities are technically
9 compatible.¹⁶ This is known as “reuse” of facilities.¹⁷

10 Facilities may be reused when an end user customer served by a carrier via a UNE
11 EEL or special access/private line either switches to another carrier or stays with
12 the same carrier (via a conversion) which serves the customer via a commingled
13 EEL, and vice versa.¹⁸ A facility may be reused, regardless of the type of loop-
14 transport combination, because the physical facility (whether described as “two

¹⁵ Hearing Transcript, Vol. 2, p. 180, lines 11-17 (Ms. Stewart) (emphasis added).

¹⁶ See agreed upon language in ICA Section 12.3.5.1, stating: “For migration/conversion activity, Qwest will reuse facilities to the extent those facilities are technically compatible with the service to be provided for the migration/conversion activity (*i.e.*, not ‘new’ activity). Regarding Loop facilities, see also Section 9.2.2.15.”

¹⁷ See, *e.g.*, agreed upon language in ICA Sections 9.2.2.15 & 12.3.5. For example, the Network Interface Device (“NID”) portion of the ICA provides: “If CLEC orders Unbundled Loops on a *reuse* basis, the existing drop and Qwest’s NID, as well as any on premises wiring that Qwest owns or controls, *will remain in place and continue to carry the signal* over the Customer’s on-premises wiring to the End User’s equipment.” ICA Section 9.5.1 (agreed upon language) (emphasis added).

¹⁸ See, *e.g.*, TRO, p. 13 & ¶583; see <http://www.qwest.com/wholesale/pcat/trroeel.html#order>

1 different circuits,”¹⁹ having two circuit identifiers or “IDs,” *etc.*²⁰) is the same. In
2 other words, the ability to “reuse” facilities when converting among these loop-
3 transport combinations demonstrates that the facility is the same, regardless of the
4 type of loop-transport combination; otherwise, the carrier would have to order
5 new, different facilities in every case without the option to reuse the existing
6 facilities. When there is no physical change in the underlying facility, a
7 conversion is a billing only conversion (i.e., a record change only).²¹ For
8 example, when converting from a UNE EEL to a special access circuit, per
9 Qwest’s documented process, Qwest requires the CLEC to add to its service
10 request the following remark: “TRRO Transition from UNE to PLT. *Records*
11 *change only. No physical work.* Reuse facilities. UNE Billing Number.”²² The
12 same is true in the reverse situation (when a CLEC converts from a special access
13 circuit to a UNE EEL). For the latter type of request, Qwest’s Product Catalog
14 (“PCAT”) documentation states:

¹⁹ E.g., Qwest September 22, 2008 Updated Proposal (§9.23.4.7.10).

²⁰ As Qwest’s ICA language could be viewed as a matter of semantics (because, regardless of the terminology used, there is only one circuit) and because of the language adopted by the Commission (but see above footnote), Eschelon used Qwest’s two circuit terminology in the compliance filing proposal. Qwest’s language, however, is confusing and creates an impression that there are two circuits rather than two portions of a commingled circuit (as indicated by the FCC, TRO ¶594). Therefore, now that the Commission is revisiting the language, Eschelon has clarified the language in this respect in its current language proposal (see below).

²¹ TRO ¶ 588 (concluding conversion of a circuit from a UNE to a non-UNE is primarily a billing change).

²² See Qwest PCAT at <http://www.qwest.com/wholesale/clecs/trocompliancectransition.html> (emphasis added).

1 “A conversion nonrecurring charge is assessed when converting an
2 existing Private Line/Special Access circuit to EEL. *This is a*
3 *billing change only and referred to as Conversion As Is. No*
4 *Physical work or redesign of the circuit is involved.* . . .

5
6 “Eligible circuits that are converted from Private Line/Special
7 Access Service to EEL *will retain all optional features and*
8 *functions that were associated with the existing service as*
9 *requested from the tariff(s).*”²³

10
11 Therefore, contrary to Qwest’s erroneous suggestion that a commingled EEL has
12 more circuits than a UNE EEL, the physical configuration of the commingled
13 EEL does not justify any additional repair commitment time over and above the
14 repair commitment time for the other loop-transport combinations,²⁴ as discussed
15 below. As shown by the above Qwest PCAT quotation, no redesign of the circuit
16 is involved because the physical facility is identical.

17 **Q. PLEASE PROVIDE A SUMMARY OF YOUR TESTIMONY.**

18 A. The remaining issue for resolution as a result of the Commission’s recent order is
19 fundamentally about the end user customer experience. CLECs have a right to
20 serve its customers via commingled EELs, but Qwest seeks to effectively vitiate
21 that right by making commingled EELs an unusable alternative, compared to their

²³ See Qwest PCATs at <http://www.qwest.com/wholesale/pcat/eel.html> and <http://www.qwest.com/wholesale/pcat/troeel.html> (emphasis added).

²⁴ See Exhibit 5 to Eschelon’s Petition (Exhibit to the ICA) at Exhibit B (PIDs), at MR-5 (All Troubles Cleared within 4 hours), p. 65 (UNE DS1 Capable Loop and UNE DS1 level UDIT are both “parity with retail” – indicating retail and wholesale both have repair commitment times of 4 hours). See also Exhibit DD-29.

1 UNE or special access equivalent, by unnecessarily allowing itself a longer repair
2 commitment, up to 8 hours, for commingled EELs, compared with a 4 hour repair
3 commitment for UNE and special access EELs. CLECs using commingled EELs
4 can not compete effectively with Qwest if they must give their customers an
5 anticipated repair time that may be twice what a Qwest retail customer would
6 receive when served over the identical physical facility.

7 The Commission ordered this proceeding “to develop a record on the costs and
8 benefits of Eschelon’s proposed single interval proposal, including whether Qwest
9 has a right to recover the costs of implementing a single repair interval for
10 Commingled EELs.”²⁵

11 The benefit to end user customers is clear. While commingled EELs are higher
12 priced than their UNE equivalent, they are cheaper than a special access EEL.
13 Customers benefit from a CLEC’s ability to mitigate cost increases as a result of
14 the loss of UNE availability.

15 Qwest fails to develop a proper record on cost by failing to demonstrate that the
16 cost estimate provided as part of Qwest’s proposed solution is, in fact, the least
17 cost, most efficient method for implementing a single repair commitment time.
18 Far from showing that it considered costs of all feasible alternatives, Qwest did

²⁵ Arizona Commission Decision No. 70740, p. 14, lines 23-25. Because “intervals” generally relate to installations, I will use the repair terminology of “commitment time” in my testimony.

1 not even show that it analyzed the costs associated with the alternatives presented
2 in this case by Eschelon. Qwest should have at least compared its cost estimate
3 with a cost estimate of the existing electronic process supplemented with remarks
4 contained in Eschelon's compliance language proposal²⁶ and a cost estimate for
5 the use of a single circuit ID (*e.g.*, in association with Universal Service Ordering
6 Codes, or "USOCs," to allow adders on the bill, as Qwest has done with QPP) as
7 originally proposed by Eschelon in this docket.²⁷ By failing to consider the cost
8 of other options, Qwest fails to "develop the record"²⁸ as required by the
9 Commission.

10 Further, Qwest's testimony fails to justify why Qwest should be relieved of its
11 performance obligations with respect to commingled EELs. Qwest failed to
12 demonstrate that it should be allowed to consider a customer as being without
13 trouble in situations when a trouble continues to exist on Qwest's network,
14 causing Eschelon's customer to be out of service.

15 **Q. WHY DOESN'T ESCHELON PURCHASE UNE EELS INSTEAD OF**
16 **COMMINGLED EELS TO AVOID QWEST'S INFERIOR**
17 **COMMINGLED EELS OFFERING?**

²⁶ See Section 9.23.4.7.2.1.2.1 (quoted below).

²⁷ *E.g.*, Hearing Exhibit E-6 (Starkey Dir.), pp. 145-168.

²⁸ Arizona Commission Decision No. 70740, p. 14, line 23.

1 A. UNEs are priced lower than their special access equivalents and therefore it
2 makes business sense to purchase UNEs when they are available. However, there
3 are certain circumstances, outlined in the *Triennial Review Remand Order*²⁹ when
4 Qwest is no longer obligated to provide circuits at UNE rates. Qwest is still
5 obligated to provide these circuits, but can do so under a different pricing
6 standard. Qwest has chosen to use special access private line circuits, and their
7 corresponding higher rates, to meet its obligation. Over ILEC objections, the
8 FCC gave CLECs the right to combine (*i.e.*, commingle) UNE and non-UNE
9 elements purchased from ILECs. ILECs would like CLECs to buy private lines
10 rather than UNEs, because the prices for private lines are higher. One method
11 Qwest has chosen to achieve this objective is to provide commingled services in
12 such a way that make them difficult to use and in a manner that reduces a CLEC's
13 ability to compete.

²⁹ Order on Remand, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 20 FCC Red. 2533 (2005), *aff'd*, Covad Communications Co. v. FCC, 450 F.3d 528 (D.C. Cir. 2006) ("Triennial Review Remand Order"), ¶ 5. *See also* 47CFR § 51.319 (a)(4)

1 **III. ISSUE 9-59: MAINTENANCE AND REPAIR OF COMMINGLED EELS**

2 **LANGUAGE DIFFERENCES**

3 **Language for 9.23.4.7**

4 **Q. BEFORE RESPONDING TO ISSUES RAISED BY QWEST RELATED TO**
5 **THE COST AND BENEFITS OF A SINGLE REPAIR COMMITMENT**
6 **TIME, PLEASE DESCRIBE ESCHELON'S PROPOSAL.**

7 A. I will first describe the latest ICA language exchange between Eschelon and
8 Qwest for compliance filing purposes and then I will present Eschelon's current
9 language proposal, followed by an explanation of the two differences between
10 these proposals.

11 **Q. PLEASE SHOW THE DISPUTED LANGUAGE DIFFERENCES FOR THE**
12 **COMPLIANCE FILING FOR SECTION 9.23.4.7.**

13 A. Below is the latest ICA language exchange between Eschelon and Qwest, which
14 is also contained in the Commission's Decision No. 70740.³⁰ Underlined
15 language represents Eschelon's proposal, for which Qwest does not agree.
16 Strikeout language represents Qwest's proposal with which Eschelon does not
17 agree. In other words, if all of the redlined changes were accepted, the remaining
18 language is Eschelon's last proposal for compliance filing purposes. Language

³⁰ Commission Decision No. 70740, pp. 4-6; see also Eschelon's 9/26/08 Reply Comments at Attachment 5 (Eschelon's 9/25/08 Reply to Qwest's 9/25/08 Proposal).

1 that contains neither underline nor strikethrough was not in dispute for compliance
2 filing purposes.

3 9.23.4.7 Maintenance and Repair for UNE Component of ~~for Point-to-Point~~
4 ~~Commingled EELs (Point A-Point B, with no mux)~~

5
6 9.23.4.7.1 For trouble screening, isolation, and testing, ~~for both~~
7 ~~circuits identified by CLEC in a Point-to-Point Commingled EEL~~, see
8 Section 12.4.1.

9
10 9.23.4.7.2 For trouble reporting, for both circuits identified by CLEC
11 in a Point-to-Point Commingled EEL, see Section 12.4.2.2

12
13 9.23.4.7.2.1 When CLEC reports a trouble through any of the
14 means described in Section 12.4.2.2, CLEC may provide both
15 circuit IDs associated with the Commingled EEL in a single
16 trouble report.

17
18 9.23.4.7.2.1.1 Qwest recognizes CLEC does not always
19 have the ability to isolate trouble to the specific circuit
20 when Commingling two circuits of the same bandwidth.

21
22 9.23.4.7.2.1.2 If CLEC believes it has the ability to isolate
23 trouble to a specific circuit, CLEC will identify that circuit
24 as the one it believes has the trouble, and will also provide
25 the other circuit ID. ~~If CLEC does not provide the circuit~~
26 ~~ID of the second circuit, Qwest will be unable to open a~~
27 ~~second trouble report and therefore will not do so.~~

28
29 9.23.4.7.2.1.2.1 If CLEC is using CEMR to submit
30 the trouble report, for example, CLEC will include
31 the other circuit ID in the remarks section.

32
33 9.23.4.7.2.2 If trouble is found in the Qwest network on the first
34 circuit identified by CLEC in its trouble report, Qwest will repair
35 the trouble. A second trouble report will not be required if the
36 trouble is found on the first circuit identified by CLEC in its
37 trouble report.
38

1 9.23.4.7.2.3 If no trouble is found on the first circuit and CLEC
2 has provided a second circuit ID in its trouble report, Qwest will
3 test the second circuit. ~~Qwest will open a manual trouble report in~~
4 ~~that instance.~~

5
6 9.23.4.7.2.4 If the trouble is isolated to the Qwest network ~~on the~~
7 ~~second Commingled circuit~~, Qwest will repair the trouble. Qwest
8 will contact CLEC with the trouble ticket number.

9
10 9.23.4.7.2.5 Qwest will assign and provide disposition codes as
11 described in Section 12.4.4.

12
13 9.23.4.7.3 If Qwest dispatches and no trouble is found on either circuit
14 associated with the Commingled EEL, Qwest may charge only one
15 Maintenance of Service or Trouble Isolation Charge for the Commingled
16 EEL.

17
18 9.23.4.7.3.1 No Maintenance of Service or Trouble Isolation
19 Charge will apply if the trouble is in the Qwest network.

20
21 9.23.4.7.4 Although there may be two trouble reports, no time delay will
22 result because Qwest will use the testing information from the first report
23 to begin the repair process for the second report. Qwest will open the
24 second trouble report without delay.

25
26 9.23.4.7.4.1 ~~Because Commingled EELs are comprised of two~~
27 ~~different circuits, the time for quality service measurement will~~
28 ~~start and end with the opening and closing of the ticket associated~~
29 ~~with the specific circuit.~~

30 The time for quality service measurement will start and end with
31 the opening and closing of the trouble ticket associated with the
32 specific circuit. In no event, however, shall the total repair
33 commitment time be increased as a result. The total repair
34 commitment time for a Commingled EEL shall not exceed the
35 repair commitment time for the greater of either a UNE EEL or a
36 special access/private line EEL for the same bandwidth.

37
38 9.23.4.7.4.1.1 For example, if the repair commitment time
39 for a UNE EEL is 4 hours and the repair commitment time
40 for a special access/private line is 4 hours, the repair
41 commitment time for a Commingled EEL will also be 4
42 hours.

1
2 9.23.4.7.5 The Parties will work together to address repair issues and to
3 prevent adverse impacts to End User Customer(s).
4

5 **Q. PLEASE SHOW ESCHELON'S CURRENT ICA LANGUAGE PROPOSAL**
6 **FOR SECTION 9.23.4.7.**

7 A. Below is Eschelon's current proposal. The underlying and strikeout (with no gray
8 shading) has the same meaning as above. The *gray shaded language* indicates
9 Eschelon's changes for Eschelon's current proposal.

10 9.23.4.7 Maintenance and Repair for UNE Component ~~of for Point-to-Point~~
11 ~~Commingled EELs (Point A Point B, with no mux)~~

12
13 9.23.4.7.1 For trouble screening, isolation, and testing, ~~for both~~
14 ~~circuits identified by CLEC in a Point-to-Point Commingled EELs,~~³¹ see
15 Section 12.4.1. For a description of "point-to-point," see Sections
16 9.23.4.4.1 & 9.23.4.5.4.

17
18 9.23.4.7.2 For trouble reporting, for both ~~circuits identified by CLEC~~
19 ~~in portions of a Point-to-Point Commingled EEL identified by CLEC,~~ see
20 Section 12.4.2.2.

21
22 9.23.4.7.2.1 When CLEC reports a trouble through any of the
23 means described in Section 12.4.2.2, CLEC may provide both
24 circuit IDs associated with the Commingled EEL in a single
25 trouble report.³²

³¹ *Note:* Given that Point-to-Point EELs are referenced in the heading, Eschelon continues to believe the gray shaded language should be deleted. If, however, Qwest desires its use here, Eschelon has no objection to including it as shown here. Eschelon considers all of the gray shaded language in this Section 9.23.4.7.1 optional (given the heading), but offers it to address Qwest's stated concerns.

³² *Note:* If Qwest chooses a more efficient approach rather than using two circuit IDs, as discussed below, all references in the language to two circuit IDs would need to be changed. The process would then be more like for a UNE EEL.

1
2 9.23.4.7.2.1.1 Qwest recognizes CLEC does not always
3 have the ability to isolate trouble to the specific circuit ID
4 ~~for a point-to-point when Commingled EEL. a point-to-~~
5 ~~point two circuits of the same bandwidth.~~
6

7 9.23.4.7.2.1.2 If CLEC believes it has the ability to isolate
8 trouble to a specific circuit ID, CLEC will identify that
9 circuit ID as the one it believes has the trouble, and will
10 also provide the other circuit ID. ~~If CLEC does not provide~~
11 ~~the circuit ID of the second circuit, Qwest will be unable to~~
12 ~~open a second trouble report and therefore will not do so.~~
13

14 9.23.4.7.2.1.2.1 If CLEC is using CEMR to submit
15 the trouble report, for example, CLEC will include
16 the other circuit ID in the remarks section.
17

18 9.23.4.7.2.2 If trouble is found in the Qwest network on the first
19 circuit ID identified by CLEC in its trouble report, Qwest will
20 repair the trouble. A second trouble report will not be required if
21 the trouble is found on the first circuit ID identified by CLEC in its
22 trouble report.
23

24 9.23.4.7.2.3 If no trouble is found on the first circuit ID and CLEC
25 has provided a second circuit ID in its trouble report, Qwest will
26 test the ~~portion of the Commingled EEL associated with~~ the second
27 circuit ID. ~~Qwest will open a manual trouble report in that~~
28 ~~instance.~~
29

30 9.23.4.7.2.4 If the trouble is isolated to the Qwest network ~~on the~~
31 ~~second Commingled circuit~~, Qwest will repair the trouble. Qwest
32 will contact CLEC with the trouble ticket number.
33

34 9.23.4.7.2.5 Qwest will assign and provide disposition codes as
35 described in Section 12.4.4.
36

37 9.23.4.7.3 If Qwest dispatches and no trouble is found on either circuit ID
38 associated with the Commingled EEL, Qwest may charge only one
39 Maintenance of Service or Trouble Isolation Charge for the Commingled
40 EEL.
41

1 9.23.4.7.3.1 No Maintenance of Service or Trouble Isolation
2 Charge will apply if the trouble is in the Qwest network.
3

4 9.23.4.7.4 Although there may be two trouble reports, no time delay will
5 result because Qwest will use the testing information from the first report
6 to begin the repair process for the second report. Qwest will open the
7 second trouble report without delay.
8

9 ~~9.23.4.7.4.1 Because Commingled EELs are comprised of two~~
10 ~~different circuits, the time for quality service measurement will~~
11 ~~start and end with the opening and closing of the ticket associated~~
12 ~~with the specific circuit.~~

13 The time for quality service measurement will start and end with
14 the opening and closing of the trouble ticket associated with the
15 specific circuit ID. In no event, however, shall the total repair
16 commitment time be increased as a result. The total repair
17 commitment time for a Commingled EEL shall not exceed the
18 repair commitment time for the greater of either a UNE EEL or a
19 special access/private line EEL circuit for the same bandwidth.
20

21 9.23.4.7.4.1.1 For example, if the repair commitment time
22 for a UNE EEL is 4 hours and the repair commitment time
23 for a special access/private line is 4 hours, the repair
24 commitment time for a Commingled EEL will also be 4
25 hours.
26

27 9.23.4.7.5 The Parties will work together to address repair issues and to
28 prevent adverse impacts to End User Customer(s).
29

30 **Q. WHAT IS THE ORIGIN OF ESCHELON'S COMPLIANCE FILING**
31 **LANGUAGE PROPOSAL?**

32 **A.** Eschelon's language was developed not to reflect Eschelon's substantive position
33 but to reflect the Commission's order, as part of the compliance filing in response
34 to the Commission's Order (Decision No. 70356).³³ Attachment 1 to Eschelon's

³³ See Comments of Eschelon Telecom of Arizona, Inc. Regarding Issue 9-59 (Maintenance and

1 September 2008 Comments contains a section-by-section description of
2 Eschelon's compliance language and how it conforms to the Commission's Order.
3 Attachment 5 to Eschelon's September 2008 Reply Comments contain the latest
4 differences between the Eschelon and Qwest language, which is reproduced
5 above.

6 **Q. HOW DOES ESCHELON'S CURRENT PROPOSAL DIFFER FROM ITS**
7 **COMPLIANCE FILING LANGUAGE PROPOSAL?**

8 A. Eschelon's current proposal differs in two respects, now that the purpose is to re-
9 visit certain language on this issue rather than compliance with all of the
10 previously ordered language. First, Eschelon has inserted the phrase "for Point-
11 to-Point" before "Commingled EELs." It did not make sense to include this
12 phrase when the issue was compliance to the Commission's ordered language
13 whereas, as a substantive matter, Eschelon has consistently been clear that its
14 proposal relates to point-to-point EELs, as discussed below. Second, Eschelon
15 has clarified the terminology to be clear that, even though at this time the
16 Commission has allowed Qwest to use two circuit *identifiers*, the EEL is made up
17 of two portions of a single commingled circuit.³⁴ The commingled EEL does not

Report – Commingled EELS) – Section 9.23.4.7 of ICA ("Eschelon Issue 9-59 Comments"),
September 18, 2008, p. 2 and Attachment 1; and Reply Comments of Eschelon Telecom of
Arizona, Inc. Regarding Issue 9-59 (Maintenance and Repair – Commingled EELS) – section
9.23.4.7 of ICA ("Eschelon Issue 9-59 Reply Comments"), September 25, 2008, p. 4, lines 5-6
and Attachment 5.

³⁴ See TRO ¶594; see also agreed upon definition of commingled EEL in ICA Section 9.23.4
(quoted above).

1 have two physical circuits, as discussed in Section II above (regarding the
2 identical physical configuration of the UNE EEL and the commingled EEL).
3 Clarity regarding this terminology will help avoid future disputes.

4 **Q. QWEST WITNESS, MS. STEWART, DISCUSSES CERTAIN CONTRACT**
5 **LANGUAGE RELATED TO THIS ISSUE. WHAT IS THE SOURCE OF**
6 **THE LANGUAGE SHE CITES?**

7 A. Ms. Stewart cites Eschelon's initial proposed language for this issue, prior to a
8 Commission decision in this case.³⁵ Ms. Stewart appears to be making the
9 argument that Qwest has been responsive to the concerns raised by Eschelon.³⁶
10 That is not the case. Eschelon's primary concern with Qwest's proposed
11 commingling language is that Qwest is attempting to erect operational barriers
12 making it difficult and competitively inferior for Eschelon to use commingled
13 EELs in order to force Eschelon to purchase a higher cost, pure special access
14 product.³⁷ Eschelon has demonstrated why Qwest's responses to Eschelon's

³⁵ Stewart Issue 9-59 Direct, pp. 4, line 23 through 5, line 23.

³⁶ Stewart Issue 9-59 Direct, p. 4, lines 16-19.

³⁷ Denney Direct, pp. 144, line 6 through 145, line 2; Denney Rebuttal, p. 80, lines 16-17 and p. 81, lines 4-8; and Denney Rebuttal, pp. 85, line 13 through p. 86, line 5.

1 language proposals were inadequate³⁸ and documented the difficulty in engaging
2 Qwest in negotiations to resolve this issue.³⁹

3 **Summary of Differences**

4 **Q. WHAT ARE THE CURRENT DIFFERENCES BETWEEN ESCHELON'S**
5 **PROPOSED LANGUAGE AND QWEST'S PROPOSED LANGUAGE?**

6 **A.** There are four general differences between the Eschelon and Qwest language.
7 The first difference is in sections 9.23.4.7 and 9.23.4.7.1 relating to multiplexing
8 of point-to-point EELs.⁴⁰ Eschelon's compliance filing language is from prior
9 Qwest proposed language (*i.e.*, it was compliant with an order to use Qwest's
10 language)⁴¹ and Qwest's proposal introduces ambiguous terms that are not
11 defined or used elsewhere within the ICA ("Point A," "Point B" and "no mux").⁴²

12 The second difference is in sections 9.23.4.7.2.1 and 9.23.7.2.1.2 allowing the
13 CLEC to report two circuit IDs on a single trouble report. Eschelon's compliance
14 filing language memorializes language previously proposed by Qwest

³⁸ Denney Direct, pp. 171-174; Denney Rebuttal, pp. 88, line 10 through 89, line 6; and Denney Surrebuttal, pp. 93, line 8 through 94, line 3.

³⁹ Eschelon Issue 9-59 Comments, pp. 3, line 18 through 5, line 8; and Eschelon Issue 9-59 Reply Comments, pp. 2, line 26 through 6, line 13.

⁴⁰ Regarding the term "point-to-point" (separate from Qwest's unclear "no mux" language), see Eschelon's current proposal above and discussion below of Eschelon's proposal having related to point-to-point EELs.

⁴¹ This was discussed in Eschelon Issue 9-59 Comments, Attachment 1, #1.

⁴² This was discussed in Eschelon Issue 9-59 Reply Comments, pp. 27, line 16 through 28, line 20.

1 (9.23.4.7.2.1)⁴³ and removes unclear language proposed by Qwest
2 (9.23.7.2.1.2).⁴⁴

3 The third difference is in sections 9.23.4.7.2.3 and 9.23.4.7.2.4, which describe
4 what happens if trouble is not found on the first circuit. Eschelon's language
5 removes undefined and unnecessary Qwest language in 9.23.4.7.2.3⁴⁵ and clarifies
6 that Qwest will repair trouble found on its network by deleting Qwest's
7 ambiguous proposal in 9.23.4.7.2.4.⁴⁶

8 The fourth difference is in sections 9.23.4.7.4.1 and 9.23.4.7.4.1.1. This
9 difference captures the essence of the dispute and involves the repair commitment
10 time. Eschelon's language clarifies that the end user customer will not experience
11 a delay in repair due to the fact that the customer is being served via a
12 commingled circuit, while Qwest's language allows Qwest to delay the repair of
13 commingled circuits and thus erects an anticompetitive operational barrier as
14 compared to the corresponding UNE EEL or SA EEL product.

15 **Q. WHICH OF THE DISPUTES REFLECTED IN THE FOUR LANGUAGE**
16 **DIFFERENCES DISCUSSED ABOVE IS THE FOCUS OF QWEST'S**
17 **TESTIMONY?**

⁴³ This was discussed in Eschelon Issue 9-59 Reply Comments, pp. 28, line 21 through 29, line 5.

⁴⁴ This was discussed in Eschelon Issue 9-59 Reply Comments, pp. 29, line 6 through 30, line 4.

⁴⁵ This was discussed in Eschelon Issue 9-59 Reply Comments, p. 30, lines 5 - 18.

1 A. Qwest's testimony focuses on the first dispute associated with point-to-point
2 EELs (9.23.4.7 and 9.23.4.7.1) and the fourth dispute (9.23.4.7.4.1 and
3 9.23.4.7.4.1.1) associated with repair commitment time.

4 *Qwest Testimony Incorrectly Describes the Decisions of the Arizona*
5 *Commission, the FCC and Other State Commissions Regarding Commingled*
6 *EELs*

7 **Q. DID THE COMMISSION ORDER QWEST'S REPAIR PROCESS, AS**
8 **REFLECTED IN QWEST'S LANGUAGE, FOR THIS ISSUE?**

9 A. No. Qwest incorrectly states on numerous occasions that the "Commission
10 adopted Qwest's proposed repair process."⁴⁷ Ms. Stewart's references to the
11 Commission's Decision No. 70356 ignores the Commission's later decision in
12 which the Commission states regarding the repair commitment, "we were
13 concerned that Qwest's process of required two repair tickets would result in
14 unnecessary delay."⁴⁸ Further, the Commission said, "Qwest's approach appears
15 to be more cumbersome than necessary and would double the repair commitment
16 time over Eschelon's proposal and over the commitment for the repair of UNE
17 EELs and special access / private lines."⁴⁹ Further, the Commission said, "Qwest

⁴⁶ This was discussed in Eschelon Issue 9-59 Reply Comments, pp. 30, line 20 through 31, line 4.

⁴⁷ Stewart Issue 9-59 Direct, p. 11, line 24. See also, Stewart Issue 9-59 Direct, p. 2, lines 3-6, p. 12, lines 1-4, and p. 16, lines 13-17.

⁴⁸ Decision No. 70740, p. 11, lines 1-2.

⁴⁹ Decision No. 70740, p. 11, lines 11-13.

1 has not convinced us that the repair time of 4 hours is overly burdensome,”⁵⁰ and
2 the Commission states, “[o]ur resolution of this issue in Decision No. 70356 did
3 not decide the merits of this issue or we would have rejected Eschelon’s proposal
4 presented in its Exception.”⁵¹ Clearly, the Commission did not adopt all the
5 processes currently reflected in Qwest’s PCAT, as suggested by Qwest’s witness..

6 **Q. DOES THE FCC STATE THAT TERMS AND CONDITIONS FOR**
7 **COMMINGLED EELS DO NOT BELONG IN INTERCONNECTION**
8 **AGREEMENTS?**

9 A. No. Qwest witness implies, by reference to an FCC footnote in the *Triennial*
10 *Review Order*,⁵² that the Commission can not determine terms and conditions for
11 comingled products because “the interconnection agreement would apply to the
12 UNE (*i.e.*, the EEL Loop) circuit, while the provisions of the tariff (or price list as
13 appropriate) would dictate the terms and conditions that would apply to the
14 private line transport circuit in the arrangement.”⁵³ Qwest witness only quotes
15 from a portion of this footnote.⁵⁴ When the entire footnote is viewed, it is clear

⁵⁰ Decision No. 70740, p. 11, lines 16-17.

⁵¹ Decision No. 70740, p. 11, lines 18-20.

⁵² Report and Order, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, (“Triennial Review Order”), 17 FCC Rcd 16978 (2003).

⁵³ Stewart Issue 9-59 Direct, p. 10-15.

⁵⁴ Stewart Issue 9-59 Direct, p. 16-18.

1 that the FCC was discussing rates for various components of a commingled EEL.

2 The entire footnote reads:

3 For example, a competitive LEC connecting a UNE loop to special
4 access interoffice transport facilities would pay UNE rates for the
5 unbundled loops and tariffed rates for the special access service.
6 We recognize that, at some point, competitive LECs may make a
7 business decision to either use UNEs or wholesale services to serve
8 a customer. For example, a competitive LEC buying UNE DS1
9 transport continues to add UNE DS1 transport facilities to its
10 network. At some point, the competitive LEC will make a
11 business decision to either buy DS3 special access (and convert its
12 traffic onto the larger facility) or to buy UNE DS3 transport, where
13 available and if the competitive LEC meets the service eligibility
14 requirements.⁵⁵

15 In addition, the FCC clearly stated that: "...competitive LECs may connect,
16 combine, or otherwise attach UNEs and combinations of UNEs to wholesale
17 services (e.g., switched and special access services offered pursuant to tariff), and
18 incumbent LECs shall not deny access to UNEs and combinations of UNEs on the
19 grounds that such facilities or services are somehow connected, combined, or
20 otherwise attached to wholesale services."⁵⁶ The FCC specifically noted that it
21 modified its rules "... to require incumbent LECs to perform the necessary
22 functions to effectuate such commingling upon request."⁵⁷ Further, the FCC
23 acknowledged arguments made by ILECs that commingling should be prohibited
24 because of billing and operational issues involved in commingling and concluded

⁵⁵ *Triennial Review Order*, fn 1796.

⁵⁶ *Triennial Review Order*, ¶579.

1 that such issues should be addressed “through the same process that applies for
2 other changes in our unbundling requirements adopted herein, i.e., through change
3 of law provisions in interconnection agreements.”⁵⁸ In effect, the FCC said that
4 CLECs have a right to obtain commingled EELs under Section 251 of the Act,
5 and therefore the state commission has authority over the interrelationship of the
6 two components because such interrelationship necessarily affects the CLECs’
7 251 rights. The end result is that commingling operational issues should be
8 addressed in the ICA.

9 **Q. DOES QWEST FULLY DESCRIBE THE DECISIONS IN OTHER**
10 **STATES?**

11 A. No. Qwest’s witness states that Qwest’s proposed language for this issue is “in
12 effect in Minnesota, Oregon, Utah and Washington.”⁵⁹ First, this is not true with
13 respect to Washington, as the Commission adopted Eschelon’s language proposal
14 for this issue (9-59).⁶⁰ Second, in all three of the other states, the language of
15 Section 9.23.4.7 in effect in the contract does *not* include any reference to repair
16 commitment time. Both Oregon and Minnesota ruled that the issue should be
17 decided in a separate docket, and neither has yet finally determined the issue in

⁵⁷ *Triennial Review Order*, ¶579.

⁵⁸ *Triennial Review Order*, ¶583.

⁵⁹ Stewart Issue 9-59 Direct, p. 10, line 5.

⁶⁰ UT-063061, Order 16, January 18, 2008, ¶114

1 separate dockets at this time.⁶¹ Thus, any implication that all other states have
2 decided this issue in favor of Qwest is inaccurate.

3 **Q. QWEST CONCLUDES THAT, BECAUSE ESCHELON HAS NOT**
4 **COMPLAINED RECENTLY IN OTHER STATES, QWEST'S**
5 **DISCRIMINATORY PROCESS MUST BE OKAY. IS THIS AN**
6 **ACCURATE CONCLUSION?**

7 A. No. Eschelon has complained throughout all of the Qwest-Eschelon ICA
8 arbitrations in six states about Qwest's commingled EEL process and specifically
9 the repair commitment time. Both Qwest witnesses refer to lack of additional
10 complaints by Eschelon since then, as though this indicates satisfaction with
11 Qwest's process.⁶² First, as mentioned above, in the both Minnesota and Oregon,
12 the Commissions ordered that separate dockets be opened to address issues
13 related to commingled EELs.⁶³ Issuing separate complaints in these states would
14 likely be referred to, or consolidated with, those dockets. Eschelon's ongoing
15 opposition to Qwest's position, which is still subject to resolution in those states,

⁶¹ Oregon ARB 775, Arbitrator's Decision, March 26, 2008, p. 55; and Minnesota P-5340,421/IC-06-768 - Order Resolving Arbitration Issues, Requiring Filed Interconnection Agreement, Opening Investigations and Referring Issue to Contested Case Proceeding, March 30, 2007, p. 22

⁶² Stewart Issue 9-59 Direct, p. 10, lines 6-10 and Gaines Issue 9-59 Direct, p. 9, lines 6-11.

⁶³ The Minnesota docket is underway and the Commission recently concluded that it has jurisdiction over these issues. In the matter of Qwest Corporation's Conversion of UNEs to Non-UNEs and In the Matter of Qwest Corporation's Arrangements for Commingled Elements, *Order Adopting Administrative Law Judge's Recommended Order on Motion for summary Disposition*, Docket Nos. P-421/C-07-370 and P-421/C07-371, March 23, 2009. This order is attached to this testimony as Exhibit DD-28.

1 shows that Eschelon continues to complain about Qwest's practices, despite
2 Qwest's allegation of complacency. Second, as I testified previously in this
3 docket, Qwest's proposals create operational and competitive barriers to using
4 commingled EELs.⁶⁴ Thus, as a result, Eschelon cannot incorporate use of
5 commingled EELs into its business planning so long as its customers would suffer
6 a delay up to twice what a Qwest retail customer would suffer for repairs. In
7 Washington, where Eschelon language was adopted more recently, Eschelon has
8 initiated that process of planning for commingled EELs, though separate Qwest
9 operational issues have arisen there.

10 **POINT-TO-POINT COMMINGLED EELS**

11 **Multiplexed EEL versus Point-to-Point EEL**

12 **Q. WHAT IS THE DIFFERENCE BETWEEN A MULTIPLEXED EEL AND**
13 **A POINT-TO-POINT EEL?**

14 A. An EEL is considered point-to-point when the loop and transport portion of the
15 EEL are the same bandwidth. The EEL is considered a multiplexed EEL when
16 the loop and transport are of different bandwidths. This is explained in ICA
17 language that is not in dispute, which Eschelon cross references in its current
18 proposal (see existing ICA Sections 9.23.4.4.1 & 9.23.4.5.4, cited in proposed

⁶⁴ See, e.g., Denney Direct, pp. 144, line 13 through 145, line 2; Denney Rebuttal, pp. 80, line 16 through 81, line 12; and Denney Surrebuttal, pp. 85, line 9 through 86, line 7.

1 Section 9.23.4.7.1.⁶⁵) It should be noted that, when I refer to bandwidth, I refer to
2 the signal at the end points of the EEL. It is likely that all transport circuits ride
3 over higher capacity circuits, such as an OC-3 or OC-48. However, for a point-
4 to-point EEL, the signal both originates and terminates at a same level (e.g., DS1
5 for a DS1 point-to-point EEL) regardless of whether the signal rides over higher
6 capacity circuits. The most common type of multiplexed EEL is when a CLEC
7 leases DS1 loops, a multiplexer and DS3 transport from Qwest. The multiplexer
8 combines the DS1 signals so they can ride over the DS3 transport. Up to 28 DS1s
9 can be combined onto a DS3. The most common type of point-to-point EEL is a
10 DS1 point-to-point EEL.

11 **Q. IS THERE AN ISSUE REGARDING WHETHER THE REPAIR PROCESS**
12 **CONTAINED IN THE LANGUAGE IN 9.23.4.7 APPLIES TO**
13 **MULTIPLEXED EELS?**

14 A. No. Eschelon's commingling language has consistently applied to point-to-point
15 EELs. For example, in the second paragraph of my *direct* testimony in this case, I
16 wrote, "[t]he the intent of Eschelon's proposed language is to ensure that *point-to-*
17 *point* Commingled EELs are a useful offering and a meaningful alternative to the
18 point-to-point UNE EEL product it is replacing."⁶⁶ I further explained,

⁶⁵ Cross referencing existing ICA sections, instead of re-stating an issue, avoids the problem of ambiguities and conflicts caused by attempting to describe something in somewhat different ways in different parts of the ICA.

⁶⁶ Denney Direct, p. 144, lines 6-8. [emphasis added]

1 “Eschelon’s proposals are simple, as these proposals align the ordering, tracking,
2 repair and billing provisions of a point-to-point UNE EEL and a *point-to-point*
3 *Commingled EEL.*”⁶⁷ Eschelon’s initial language proposal for issue 9-59
4 specifically refers to point-to-point commingled EELs.⁶⁸ This concept is repeated
5 in my rebuttal testimony⁶⁹ and in my surrebuttal testimony. I specifically explain
6 why multiplexed commingled EELs are not an issue.⁷⁰

7 **Q. WHY ARE MULTIPLEXED COMMINGLED EELS NOT AN ISSUE?**

8 A. The reason that multiplexed EELs are different is that the loop and transport
9 portions are of different bandwidth. This is significant for two reasons. First,
10 because the transport portion of the multiplexed EEL contains numerous lower
11 capacity circuits, multiple circuit IDs help to identify a specific customer’s circuit
12 in this multi-capacity, multi-circuit arrangement. Second, when trouble on a
13 multiplexed EEL occurs, a single CLEC experiencing trouble typically knows
14 what portion of the EEL (loop or transport) is likely experiencing the difficulty,
15 *which is not the case with a point-to-point EEL.* This is because multiple loop
16 circuits are multiplexed together and ride on a higher capacity transport circuit
17 when the multiplexing or transport portion of the circuit has trouble, multiple

⁶⁷ Denney Direct, p. 145, lines 4-6. [emphasis added]

⁶⁸ Denney Direct, p. 149, lines 15-16.

⁶⁹ Denney Rebuttal, p. 80, lines 16-17 and p. 85, lines 8-10.

⁷⁰ Denney Surrebuttal, pp. 92, line 8 through p. 93, line 7.

1 CLEC customers are impacted. When a single CLEC customer on a multiplexed
2 EEL experiences trouble, then it is highly likely that the trouble is in the loop
3 portion of the multiplexed EEL.⁷¹

4 Second, repair on a multiplexed EEL is treated the same whether it is a UNE,
5 private line, or commingled arrangement.⁷² As a result, Eschelon does not claim
6 that Qwest has made the repair of a multiplexed commingled EEL more difficult,
7 longer, and thus competitively inferior than its UNE or special access equivalent
8 as Qwest has done with its commingled EEL product.

9 **Q. WHY DOES QWEST SPEND SO MUCH OF ITS TESTIMONY**
10 **DISCUSSING MULTIPLEXED EELS?**⁷³

11 A. I don't know. It should not be because of the language difference in the
12 compliance filing proposals (difference number one discussed above), because
13 Eschelon clearly indicated at the time that the difference was due to the need to
14 comply with the order to adopt Qwest's language on that point, and Eschelon's
15 proposed language exactly reflected the language Qwest proposed in the case.⁷⁴

⁷¹ The CLEC would first confirm that the trouble was not in its own network. See, e.g., ICA Section 12.4.1.

⁷² See Stewart Issue 9-59 Direct, p. 15, lines 3-13 and p. 16, lines 1-4.

⁷³ See Stewart Issue 9-59 Direct, p. 6, lines 15-19, p. 12, lines 23-25, pp. 13, line 11 through 15, line 18, pp. 15, line 26 through 16, line 4; and Gaines Issue 9-59 Direct, p. 8, lines 12-19, p. 11, lines 1-18, p. 14, lines 10-12, and p. 15, lines 8-27.

⁷⁴ Eschelon explained this in Eschelon Issue 9-59 Comments, Attachment 1, Row #1 [citing Q-17 (Stewart Direct), p. 81, lines 24-27 & p. 82, lines 18-19].

1 Eschelon has litigated these issues with Qwest in six states and has consistently
2 discussed its proposals as they relate to point-to-point commingled EELs. By
3 focusing on multiplexing, Qwest may seek to distract the Commission from the
4 real issue regarding Qwest's proposal for substandard repair of a commingled
5 point-to-point EEL compared to its UNE and special access equivalents. Qwest
6 also attempts to convince this Commission that Eschelon is asking for something
7 more than what Qwest offers its retail and private line customers.⁷⁵ Qwest is also
8 able, via this argument, to refer to inapplicable examples when the repair time
9 commitments on the different portions of the commingled circuit are different,⁷⁶
10 thus creating confusion. The Commission should not be distracted by Qwest's
11 arguments regarding multiplexed commingled EELs, as they are not the issue.

12 **Q. IS ESCHELON NONETHELESS WILLING TO MODIFY ITS REPAIR**
13 **LANGUAGE TO REFER TO POINT-TO-POINT COMMINGLED EELS?**

14 **A.** Yes. Now that compliance with the order's adoption of Qwest's language on this
15 point is not the pending issue, Eschelon proposes, as it has proposed from the
16 beginning of this case,⁷⁷ that 9.23.4.7 read:

17 9.23.4.7 Maintenance and Repair for UNE Component of Point-to-Point
18 Commingled EELs

⁷⁵ Stewart Issue 9-59 Direct, p. 15, lines 14-18 and Gaines Issue 9-59 Direct, p. 15, lines 8-27.

⁷⁶ Gaines Issue 9-59 Direct, p. 11, lines 1-18 and p. 14, lines 10-12.

⁷⁷ This was Eschelon's original proposal for this section of 9-59. See Denney Direct, p. 149, lines 15-16.

1 The remaining changes proposed by Qwest in this section and section 9.23.4.7.1
2 are unnecessary and confusing, for the reasons previously given.⁷⁸

3 **REPAIR COMMITMENT**

4 **Summary of Issue**

5 **Q. WHAT IS THE ISSUE REGARDING REPAIR OF COMMINGLED**
6 **POINT-TO-POINT EELS?**

7 A. The issue, and the heart of this debate, revolves around whether Qwest should be
8 allowed to provide commingled EELs on an operationally inferior basis (*i.e.*, with
9 longer repair commitment times) compared to their UNE and special access
10 equivalents.⁷⁹ Qwest proposes to do this by imposing a process that can result in
11 delayed repairs for commingled EELs. Instead of committing to a 4 hour repair
12 window, as it does for UNE EELs and special access EELs, Qwest's proposal
13 allows it up to 8 hours to repair commingled EELs. The Commission recognized
14 this and set this proceeding "to develop a record on the costs and benefits of
15 Eschelon's proposed single interval proposal, including whether Qwest has a right

⁷⁸ This was discussed in Eschelon Issue 9-59 Comments, Attachment 1, #1 and Eschelon Issue 9-59 Reply Comments, pp. 27, line 16 through 28, line 20.

⁷⁹ As separately discussed, where UNE EELs are unavailable after the TRRO, the alternative to a commingled EEL is the higher priced special access private line product.

1 to recover the costs of implementing a single repair interval for Commingled
2 EELs.”⁸⁰

3 **Q. WHAT ARGUMENTS HAS QWEST MADE WITH REGARD TO COSTS**
4 **AND BENEFITS OF A SINGLE REPAIR INTERVAL?**

5 A. After stripping away Qwest’s arguments that have nothing to do with this issue,
6 Qwest argues that (1) a CLEC should be able to identify which portion (loop or
7 transport) of a commingled circuit has trouble; (2) a single repair commitment
8 time will adversely impact the PIDs and Qwest’s associated payments under the
9 PAP; and (3) it would be expensive for Qwest to implement a solution for a single
10 repair commitment time (which Qwest refers to as a repair “interval”).

11 **Q. WHAT ARE THE RELEVANT REPAIR COMMITMENT TIMES FOR**
12 **UNE EELS, SPECIAL ACCESS EELS, AND THEIR INDIVIDUAL**
13 **COMPONENTS, AND HOW DO THESE INTERVALS COMPARE TO**
14 **QWEST’S PROPOSAL FOR COMMINGLED EELS?**

15 A. Table 1 below compares Qwest repair commitment times for UNE and special
16 access, DS1 and DS3 loops and transport circuits. This table also compares
17 Qwest repair commitment times for DS1 and DS3 point-to-point UNE EELs,
18 point-to-point special access EELs and Qwest’s proposed repair commitment
19 times for point-to-point commingled EELs. Qwest argues that it has “separate

⁸⁰ Arizona Commission Decision No. 70740, p. 14, lines 23-25.

1 repair intervals for the UNE and non-UNE circuits of a commingled EEL”⁸¹
 2 because, “[s]eparate and distinct repair intervals are established by different tariffs
 3 and interconnection agreements for individual products and services.”⁸²
 4 However, as can be seen from the table, Qwest commits to a 4 hour repair
 5 window for both UNE and non-UNEs. This is true when loops and transport are
 6 purchased alone or when they are combined into a UNE or special access EEL.
 7 Thus the argument that Qwest needs separate and distinct repair times for
 8 commingled EELs to “comply with the intervals in those tariffs and
 9 agreements”⁸³ makes no sense as a 4 hour repair commit time would comply with
 10 both the tariffs and agreements.

11 **Table 1: Comparison of Qwest Repair Commitment Times**⁸⁴

Product	Repair Commitment Times		
	Loop Only	Transport Only	EEL (Loop & Transport)

⁸¹ Gaines Issue 9-59 Direct, p. 6, lines 1-2.

⁸² Gaines Issue 9-59 Direct, p. 6, lines 3-4.

⁸³ Gaines Issue 9-59 Direct, p. 6, lines 4-5.

⁸⁴ Repair commitment times for UNEs are contained in Exhibit C, Service Interval Tables, to the Eschelon / Qwest ICA. Loop repair commitments are contained in section 1.0(i); transport repair commitments are contained in section 2.0; and EEL repair commitments are contained in section 6.0. Repair commitment times for special access circuits are contained in Qwest’s Tariff FCC #1 section 7.1.2.G.6.a. (Note that Qwest’s AZ Competitive Private Line Transport Services Price Cap Tariff also has a repair commitment of 4 hours for DS1s and DS3s (see section 2.4.5.B.5).) The tariff pages are attached to this testimony as Exhibit DD-29. Qwest’s proposed repair commitment times for commingled EELs is taken from Qwest’s testimony. Ms. Stewart states, “the repair clock for quality service measurements will start and end with the opening and closing of the ticket associated with the specific circuit.” (Stewart Issue 9-59 Direct, p. 8, lines 5-7.)

UNE DS1	4 hours	4 hours	4 hours
Special Access DS1	4 hours	4 hours	4 hours
Qwest Proposed Commingled DS1			up to 8 hours
UNE DS3	4 hours	4 hours	4 hour
Special Access DS3	4 hours	4 hours	4 hours
Qwest Proposed Commingled DS3			up to 8 hours

1

2 Qwest takes it one step further and argues throughout its testimony that customers
 3 served over a commingled EEL could be out of service for more than 4 hours, and
 4 Qwest could still be considered meeting its repair commitment times.⁸⁵

5 **Trouble Isolation**

6 **Q. WHEN THERE IS TROUBLE IN QWEST'S NETWORK, CAN**
 7 **ESCHELON IDENTIFY WHICH PORTION OF A POINT-TO-POINT**
 8 **EEL (LOOP OR TRANSPORT) CONTAINS THE TROUBLE?**

9 **A.** No. Ms. Stewart states, "with appropriate trouble isolation testing, the CLEC will
 10 generally know which circuit is experiencing the trouble."⁸⁶ Mr. Gaines also
 11 states that "a CLEC is required to perform thorough testing to isolate the problem
 12 before submitting a trouble report,"⁸⁷ and he implies that the CLEC is required to
 13 determine "which network (the CLEC's or Qwest's) has the trouble and, if it is on

⁸⁵ See Gaines Issue 9-59 Direct, p.13, lines 1 – 19. Mr. Gaines provides an example where Qwest takes 4 hours and 20 minutes to repair the commingled EEL, but under Qwest's process its commitments would be met.

⁸⁶ Stewart Issue 9-59 Direct, p. 10, lines 16-17.

⁸⁷ Gaines Issue 9-59 Direct, p. 3, lines 1-2.

1 Qwest's network, where within the network the trouble is located."⁸⁸ As I
2 describe in more detail below, Qwest's testimony is contrary to closed language
3 in the Eschelon / Qwest ICA, to Qwest's PCAT and to the ability of CLECs to
4 locate trouble within the Qwest network.

5 **Q. WHAT OBLIGATIONS ARE OUTLINED IN THE CLOSED SECTIONS**
6 **OF THE ESCHELON / QWEST INTERCONNECTION AGREEMENT?**

7 A. Section 12.4.1.1 of the Eschelon / Qwest ICA states, "Before either Party reports
8 a trouble condition, it shall use its best efforts to isolate the trouble to the other
9 Party's facilities." Section 12.4.1.3 states that "Qwest and CLEC will report
10 trouble isolation test results to the other."⁸⁹ There is no obligation to determine
11 what portion of the Qwest network is experiencing trouble. Qwest's PCAT
12 recognizes this fact stating, "Qwest recognizes the CLEC does not always have
13 the ability to isolate trouble to the specific circuit when commingling two circuits
14 of the same bandwidth; however it remains the CLEC's responsibility to isolate
15 the trouble to Qwest's network and provide those test results when reporting
16 trouble."⁹⁰ Like the ICA, Qwest own documentation shows that Qwest requires

⁸⁸ Gaines Issue 9-59 Direct, p. 3, lines 5-6.

⁸⁹ All of ICA Section 12.4.1 (entitled "Trouble Screening, Isolation, and Testing") is cross-referenced in Section 9.23.4.7.1 of Eschelon's proposal.

⁹⁰ Qwest's process for maintenance and repair of commingled EELs in Qwest's TRRO - Commingling and Unbundled Network Elements - Combinations (UNE-C) PCAT (See <http://www.qwest.com/wholesale/clecs/trrocommingunec.html>)

1 CLECs to isolate the trouble to the Qwest network, and not to a specific location
2 within that network.

3 **Q. WHY IS IT DIFFICULT FOR CLECS TO DETERMINE WHAT**
4 **PORTION OF A POINT-TO-POINT EEL (LOOP OR TRANSPORT)**
5 **CONTAINS TROUBLE?**

6 A. When Eschelon is experiencing trouble with a point-to-point EEL,⁹¹ it typically
7 uses test equipment to place a signal on the line and attempts to loop that signal
8 to the network interface unit ("NIU"). The NIU is located at the customer
9 premise, and the test equipment is placed at the end of the circuit where Qwest's
10 network connects to the CLEC network. If the test equipment has difficulties
11 receiving signals from the NIU, then Eschelon knows there is a problem
12 somewhere between the test equipment and the NIU – in other words, whether the
13 trouble is on Qwest's network since Qwest's network is what is between the test
14 equipment and the NIU. However, Eschelon will not know where in Qwest's
15 network it is experiencing trouble. Eschelon provides Qwest with test results that
16 could include error codes and signal patterns or details such as times the circuit is
17 out of service (assuming the problem is intermittent) or simply a notice that the
18 circuit is down hard and Eschelon can't loop to the NIU (*i.e.* the customer is

⁹¹ This is true for all types of point-to-point EELs we have been discussing (*i.e.* UNE, special access and commingled).

1 completely out of service).⁹² Qwest technicians do not ask Eschelon where on the
2 Qwest network the trouble occurs.⁹³ As indicated, if Eschelon has test results, it
3 gives them to Qwest.

4 **Q. WHAT IMPACT DOES THE INABILITY TO DETERMINE WHAT**
5 **PORTION OF A POINT-TO-POINT EEL CONTAINS TROUBLE HAVE**
6 **ON QWEST'S REPAIR COMMITMENTS?**

7 A. This should have no impact on Qwest's repair commitment. For both a point-to-
8 point UNE EEL and a point-to-point special access EEL, Qwest is able to commit
9 to a 4 hour repair window regardless of whether a CLEC is able to determine
10 where on Qwest's network the trouble resides. Qwest should offer the same
11 commitments for commingled EELs. Instead, Qwest is proposing separate,
12 consecutive repair commitments for each portion (loop and transport) of a
13 commingled EEL. The result is that, if the CLEC's trouble isolation does not
14 yield which portion of the Qwest network contains the trouble, Qwest's repair
15 commitment becomes something greater than 4 hours. This is because, under
16 Qwest's proposal, the repair clock on the second portion of a commingled EEL
17 does not begin until Qwest determines that there is no problem on the first portion

⁹² "Can't Loop the NIU" is a valid test result: See
http://www.qwest.com/wholesale/downloads/2006/060901/Test_Results_Information_10_04.doc
c

⁹³ If Eschelon had information regarding where on the Qwest network the trouble existed, Eschelon would pass this information onto Qwest.

1 of the commingled EEL. End user customers should not have to tolerate this
2 delay because Qwest has chosen an onerous policy for implementation of CLECs'
3 right to serve those customers using commingled EELs.

4 **PID/PAP**

5 **Q. HOW DOES QWEST'S PROPOSAL IMPACT ITS PERFORMANCE**
6 **MEASURE COMMITMENTS?**

7 A. Qwest's proposed language for commingled circuits allows Qwest the opportunity
8 to meet its repair commitment of restoring service within 4 hours even when the
9 CLEC customer is out of service for longer than 4 hours due to troubles on the
10 Qwest network. It also allows Qwest to report repair commitment times shorter
11 than the actual time a customer is out of service. Mr. Gaines provides a "typical
12 scenario"⁹⁴ in which Qwest receives a trouble report on a point-to-point
13 commingled circuit. The trouble is on the Qwest network, and the customer is out
14 of service for 4 hours and 20 minutes.⁹⁵ In this scenario, the CLEC representative
15 guesses incorrectly and initially reports trouble on the portion of the commingled
16 EEL that did not have problems. In Mr. Gaines' example, it takes Qwest 25
17 minutes to determine that the CLEC guessed at the wrong circuit.⁹⁶ Qwest opens

⁹⁴ Gaines Issue 9-59 Direct, p. 13, line 15.

⁹⁵ In the scenario the trouble is reported at 14:00 (Gaines Issue 9-59 Direct, p. 13, line 1) and resolved at 18:20 (Gaines Issue 9-59 Direct, p. 13, line 13).

⁹⁶ The first trouble report is cleared at 14:25 (Gaines Issue 9-59 Direct, p. 13, lines 3-4).

1 the second trouble ticket on the portion of Qwest's network that Qwest is able to
2 determine for its own network actually contained the problem, and Qwest uses
3 almost the entire 4-hour window to repair the circuit.⁹⁷ Mr. Gaines concludes:

4 In this typical scenario, under the current process used by Qwest
5 for all customers reporting *two different circuits*, each report
6 would have been a "met" report, with no financial penalties. The
7 reported duration for the first circuit would be 25 minutes, and the
8 reported duration for the second circuit would be three hours and
9 54 minutes.⁹⁸

10 Thus, despite the fact that it took Qwest more than 4 hours to put the customer
11 (served via a single circuit) back in service, Qwest's proposal would allow it to
12 consider its performance obligations met. This is precisely the scenario
13 Eschelon's language is designed to avoid. If the same customer switched to the
14 same service purchased using special access facilities or, where available a UNE
15 EEL service, and the exact same single-circuit facility was reused (see Section II
16 above), the end user customer would be given a four hour commitment time and,
17 if not met, Qwest could and should see that reflected in the performance
18 measurements. Qwest should not be able to claim credit for meeting a 4 hour
19 repair commitment when a customer is out of service for more than 4 hours.
20 Qwest should be provided with the proper incentives to clear troubles within the

⁹⁷ The second ticket is opened at 14:26 (Gaines Issue 9-59 Direct, p. 13, line 8) and closed at 18:20 (Gaines Issue 9-59 Direct, p. 13, line 13).

⁹⁸ Gaines Issue 9-59 Direct, p. 13, lines 15-19 (emphasis added). *But see* my testimony above (regarding the fact that a commingled EEL is comprised of one circuit).

1 commitment times regardless of whether the circuit is provided over UNEs,
2 private lines, or some combination of the two.

3 Qwest considers the case when a customer is out of service for more than 4 hours
4 due to a trouble on Qwest's network, but Qwest is able to repair individual piece
5 parts of the trouble in less than 4 hours as an "artificially inflat[e]"⁹⁹ restoral
6 times and could lead to "results implying a lack of parity."¹⁰⁰ What is artificial is
7 Qwest's proposal to *consider* a customer repaired (*i.e.* the customer's service is
8 working) even when the customer remains out of service due to a trouble on
9 Qwest's network. It also cannot be considered parity when Qwest fails to repair
10 commingled EELs within the same time frames for their UNE or special access
11 counterparts.

12 **Q. HOW SHOULD PERFORMANCE MEASURES BE TREATED FOR**
13 **EACH COMPONENT OF A COMMINGLED CIRCUIT?**

14 A. Unless otherwise ordered by the Commission¹⁰¹ or negotiated between a CLEC
15 and Qwest, each component of a commingled circuit should be subject to the
16 performance metrics associated with that circuit (*i.e.*, simultaneously, not
17 consecutively). For example, the most common commingled circuit is likely to be

⁹⁹ Gaines Issue 9-59 Direct, p. 7, line 22.

¹⁰⁰ Stewart Issue 9-59 Direct, p. 18, line 18.

¹⁰¹ For example, as part of Qwest's AFOR petition in Washington, the Commission required Qwest to provide the performance standards as outlined in Qwest's PAP and associated PIDs for all UNEs and UNE substitute (e.g. special access / private line) circuits. This decision is attached to

1 a combination of a UNE Loop and special access transport. Each has a 4-hour
2 repair commitment, and neither should result in a customer's outage lasting more
3 than 4 hours total. Different provisions describe what happens per component
4 when the commitment is not met. The UNE consequences are governed by
5 Qwest's PAP and associated PIDs,¹⁰² while the special access circuit
6 consequences are governed by the associated tariff. For all the reasons given,
7 there is no reason, at this time, to overcomplicate the issue by creating a new PID
8 measure for the commingled circuit and associated benchmark or parity
9 standard.¹⁰³

10 The key is that service should not be considered working when the trouble is on
11 the Qwest network and the end user customer is out of service.

12 **Q. HAS QWEST OFFERED TO COMPENSATE ESCHELON FOR LOST**
13 **BUSINESS REVENUES AS A RESULT OF QWEST'S DEGRADED**
14 **REPAIR PROCESS FOR COMMINGLED EELS?**

15 A. No. Qwest witness suggests that Qwest may be responsible for "possible liability
16 for business losses result from a failure to meet performance requirements."¹⁰⁴

17 Qwest, however, has made no language proposal or conceptual offer to Eschelon

this testimony as Exhibit DD-30.

102 Qwest's PAP and PIDs are part of the Eschelon / Qwest interconnection agreement. Exhibit B to the ICA contains the PIDs and Exhibit K contains the PAP.

¹⁰³ See Stewart Issue 9-59 Direct, pp. 21, line 13 through 22, line 6 where she suggests the opposite.

¹⁰⁴ Gaines Issue 9-59 Direct, p. 7, lines 2-3.

1 to compensate Eschelon directly for lost revenue in the event Eschelon loses
2 revenue as a result of Qwest's delay in repairing its customer's service.

3 **Q. HAS QWEST OFFERED ANY SERVICE PERFORMANCE MEASURE**
4 **OTHER THAN A POTENTIAL 8 HOUR REPAIR WINDOW FOR A**
5 **COMMINGLED EEL?**

6 A. No. Though Qwest has provided a "typical scenario"¹⁰⁵ in which it says it was
7 able to repair an out of service commingled EEL in 4 hours and 20 minutes,
8 Qwest has not proposed any repair commitments for commingled EELs other than
9 the maximum 8 hour repair commitment.

10 **Cost Estimate**

11 **Q. QWEST DESCRIBES SOME SYSTEM CHANGES THEY CLAIM**
12 **WOULD BE REQUIRED TO IMPLEMENT ESCHELON'S PROPOSED**
13 **LANGUAGE. WHAT IS THE UNDERLYING ASSUMPTION THAT**
14 **DRIVES QWEST'S PROPOSED SYSTEM CHANGES?**

15 A. Qwest's proposed systems solution is based on the incorrect assumption that two
16 separate circuit IDs for each component of a commingled EEL are required as a
17 physical matter. Qwest, in its September 25, 2008 proposed ICA language,
18 specifically stated that the reason for its position as to the longer "time for quality
19 service measurement" is "[b]ecause Commingled EELs are comprised of two

¹⁰⁵ Gaines Issue 9-59 Direct, p. 13, line 15.

1 different circuits.”¹⁰⁶ In other words, Qwest’s proposed systems solution is driven
2 by the fact that Qwest requires two separate circuit IDs, for the UNE and non-
3 UNE component of a commingled EEL, which is in turn driven by the erroneous
4 assumption that two circuit IDs are needed because these two components are two
5 separate circuits. Ms. Stewart states, “there are very legitimate and necessary
6 reasons why two repair intervals are required for a commingled EEL, including,
7 in part, because two circuit IDs are required to effectively manage the tracking
8 and repair of *each circuit* in the commingled arrangement.”¹⁰⁷ She further
9 explains, “ILECs manage all trouble reports and repair intervals on a circuit-by-
10 circuit basis.”¹⁰⁸

11 **Q. WHAT REASON DOES QWEST GIVE AS TO WHY TWO CIRCUIT IDS**
12 **ARE ALLEGEDLY ESSENTIAL TO THE REPAIR PROCESS?**

13 **A.** Mr. Gaines asserts that the “*circuit specific* management is vital to the repair
14 process, as it ensures that trouble reports are routed to the repair centers and
15 technicians that are best equipped to handled the specific type of circuit at
16 issue.”¹⁰⁹

¹⁰⁶ See Qwest’s 9/25/09 proposal at Section 9.23.4.7.4.1 (shown in Eschelon’s 9/26/08 Reply Comments at Attachment 5).

¹⁰⁷ Stewart Issue 9-59 Direct, pp. 3, line 25 through 4, line 2 (emphasis added). See also Stewart Issue 9-59 Direct, p. 16, lines 5-9.

¹⁰⁸ Stewart Issue 9-59 Direct, p. 4, lines 3-4. See also Gaines Issue 9-59 Direct, p. 4, lines 20-21.

¹⁰⁹ Gaines Issue 9-59 Direct, p. 4, lines 21-24 (emphasis added).

1 **Q. DO POINT-TO-POINT UNE EELS OR POINT-TO-POINT SPECIAL**
2 **ACCESS EELS HAVE SEPARATE CIRCUIT IDS FOR EACH**
3 **COMPONENT (LOOP AND TRANSPORT) OF THE CIRCUIT?**

4 A. No. Both of these loop-transport combinations are one circuit and, accordingly,
5 one circuit ID. As discussed above in Section II regarding the physical
6 configuration of the commingled EEL and reuse of facilities, the physical facility
7 is the same for all three point-to-point loop-transport combinations (UNE,
8 commingled, special access). They are all comprised of one circuit.

9 **Q. HOW IS QWEST ABLE TO ROUTE POINT-TO-POINT UNE EELS AND**
10 **POINT-TO-POINT SPECIAL ACCESS EELS TO THE PROPER**
11 **TECHNICIANS AND REPAIR CIRCUITS WITHIN THE TIME**
12 **COMMITMENTS USING ONE CIRCUIT ID FOR BOTH**
13 **COMPONENTS?**

14 A. Mr. Gaines addresses this question, stating that "certain repair centers and
15 individual technicians have particular expertise in circuits of a specific
16 transmission parameter (e.g. DS0, DS1, or DS3), while other centers and
17 technicians have expertise in circuits of a different transmission parameter."¹¹⁰
18 This shows that, because point-to-point EELs are combinations of components
19 with specific transmission parameters (in this case either DS1 or DS3), a single
20 circuit ID can be used to ensure that troubles are routed to the proper technicians.

1 Regarding the specific transmission parameter (e.g. DS0, DS1, or DS3), Qwest
2 agrees (via language in Section 9.23.4) that a “High Capacity EEL” is a loop-
3 transport Combination (*either EEL or Commingled EEL*) when the Loop or
4 transport is of DS1 or DS3 capacity. High Capacity EELs may also be referred to
5 as ‘DS1 EEL’ or ‘DS3 EEL,’ depending on capacity level” (emphasis added). To
6 the extent that Mr. Gaines, when referring to “different transmission parameters,”
7 is attempting to suggest that a UNE DS1 EEL has different transmission
8 parameters from a Commingled DS1 EEL, this agreed upon definition illustrates
9 that is not the case.

10 **Q. DOES QWEST’S TESTIMONY GIVE ANY INDICATION THAT IT**
11 **CONSIDERED WHETHER THE USE OF A SINGLE CIRCUIT ID FOR**
12 **POINT-TO-POINT COMMINGLED EELS OR ANY OTHER OPTION**
13 **MAY BE A MORE EFFICIENT SOLUTION THAN THE SYSTEM**
14 **MODIFICATIONS PROPOSED BY QWEST?**

15 A. No. The systems modification is the only solution proffered by Qwest. Qwest
16 has not provided any cost studies or other supporting data to show how the costs
17 of Eschelon’s long-proposed solutions compare to Qwest’s inefficient and
18 unnecessary proposal or even that Qwest has conducted such an analysis.
19 Eschelon filed its petition for arbitration, with its requested relief, in September of
20 2006. Since then, Qwest has expended substantial resources opposing Eschelon’s

¹¹⁰ Gaines Issue 9-59 Direct, p. 4, lines 24-27.

1 position without providing any cost data throughout that time period to show that
2 other solutions (such as the USOCs, discussed below) are not more cost effective.

3 **Q. GIVEN THAT MS. STEWART AND MR. GAINES AGREE THAT**
4 **CIRCUIT-SPECIFIC MANAGEMENT IS VITAL FOR MANAGING**
5 **TROUBLE REPORTS,¹¹¹ WHAT DO YOU CONCLUDE?**

6 A. To effectively manage and track repairs, Qwest should manage these repairs
7 based on the single circuit that comprises a commingled EEL, just as Qwest does
8 for UNE EELs and special access EELs. It simply cannot be as difficult as Qwest
9 is making it to develop a more cost efficient solution than the one that Qwest is
10 now proposing for an identical physical facility. Because Qwest is also
11 Eschelon's competitor, Qwest's self-interest is served by exaggerating the costs
12 and difficulties of providing a commingled EEL to force CLECs into its higher
13 priced special access product. Qwest can not, consistent with its
14 nondiscrimination obligations, relegate CLECs to less efficient and less "vital"
15 trouble report tracking and management simply because Qwest chooses to charge
16 a higher price for one component of a circuit.

17 **Q. PLEASE DESCRIBE YOUR UNDERSTANDING OF QWEST'S**
18 **PROPOSED SYSTEMS MODIFICATION APPROACH.**

¹¹¹ Stewart Issue 9-59 Direct, p. 4, lines 3-4. See also Gaines Issue 9-59 Direct, p. 4, lines 20-24.

1 A. Qwest's proposal appears to allow the CLEC to simultaneously submit both
2 circuit IDs associated with each component of a commingled EEL in such a way
3 that Qwest's systems simultaneously open two repair tickets and each repair ticket
4 will indicate to the Qwest technician that it is related to another ticket, in case two
5 different technicians are working each ticket.¹¹² This system modification would
6 be used instead of the process contained in the Eschelon's proposed compliance
7 language, under which Eschelon would indicate the second circuit ID in the
8 existing remarks section of the trouble ticket, and Qwest's technician would repair
9 both circuits as necessary.

10 **Q. WHAT IS THE ESTIMATED COST OF THESE SYSTEM**
11 **MODIFICATIONS?**

12 A. Qwest provided an estimate from its vendor for "approximately \$375,000 and
13 \$425,000."¹¹³

14 **Q. HAS QWEST PROVIDED A COST ESTIMATE FOR THE PROCESS**
15 **OUTLINED BY ESCHELON'S PROPOSED COMPLIANCE LANGUAGE**
16 **FOR DEALING WITH THE SECOND CIRCUIT ID CONTAINED IN THE**
17 **REMARKS SECTION OF THE TROUBLE TICKET?**

¹¹² Gaines Issue 9-59 Direct, p. 17, lines 9-33.

¹¹³ Gaines Issue 9-59 Direct, p. 16, line 7.

1 A. Unfortunately not. Although Eschelon made this proposal to use the existing
2 remarks field (familiar to both companies' personnel via its use for conveying
3 other repair information) in this docket as early as September 8, 2006¹¹⁴ (and
4 before that in negotiations), Qwest has provided no cost estimate or cost data
5 regarding this proposal, even after more recently being ordered to develop the
6 record. Qwest should have attempted to demonstrate that its systems solution is
7 the least cost most efficient solution. At a minimum, Qwest should have
8 compared the estimated costs of the systems changes with the cost associated with
9 the process outlined in the Eschelon proposed compliance language, as well as the
10 cost of the single circuit ID solution presented by Eschelon in its Petition in
11 September 2006¹¹⁵ and described in testimony in this case.

12 **Q. IS ESCHELON REFUSING TO COMPENSATE QWEST FOR**
13 **REQUIRED CHANGES TO IMPLEMENT A SINGLE REPAIR**
14 **COMMITMENT TIME FOR COMMINGLED EELS?**

15 A. Eschelon has taken no such position. Both Qwest witnesses claim that Eschelon's
16 failure to agree in advance to compensate Qwest amounts to Eschelon's refusal to
17 compensate Qwest for changes.¹¹⁶ First, Qwest has not proposed or specifically
18 asked for compensation to implement a single repair commitment time for

¹¹⁴ See Ex. 4 (Proposed ICA) to Eschelon Petition (9/8/06), p. 227, §9.23.4.7.1 ["If CLEC is using CEMR to submit the trouble report, for example, CLEC may report one circuit ID and include the other circuit ID in the remarks section (unless the Parties agree to a different method)."].

¹¹⁵ See Ex. 4 (Proposed ICA) to Eschelon Petition (9/8/06), p. 225, §9.23.4.5.4.

1 commingled EELs, but instead has promised it would be significant amounts of
2 dollars.¹¹⁷ Second, Qwest's most recent testimony is the first time Qwest has
3 even attempted to estimate the amount of dollars that it asserts implementing its
4 unilaterally selected process would cost. Third, as described above, Qwest
5 provided no evidence that it made any effort to seek a least cost solution to
6 implementing a solution. Fourth, Eschelon initially asked Qwest to negotiate a
7 solution before Qwest had implemented any process, and Qwest refused.¹¹⁸ At
8 the time, Qwest indicated it would develop these issues with CLECs through
9 CMP,¹¹⁹ which Qwest did not do and instead implemented an inefficient and
10 discriminatory process without CLEC input over Eschelon's objection.¹²⁰ Finally,
11 Qwest's concern is already addressed in the general Terms and Conditions section
12 (Section 5) of the ICA. Specifically, Section 5.1.6 of the ICA provides: "Nothing
13 in this Agreement shall prevent either Party from seeking to recover the costs and
14 expenses, if any, it may incur in (a) complying with and implementing its
15 obligations under this Agreement, the Act, and the rules, regulations and orders of
16 the FCC and the Commission. . . ." ¹²¹ This is not a license to impose unproven

¹¹⁶ Gaines Issue 9-59 Direct, p. 18, lines 9-18; and Stewart Issue 9-59 Direct, p. 11, lines 1-12.

¹¹⁷ Hearing Exhibit Q-17, Stewart Direct, p. 84, lines 14-24.

¹¹⁸ Hearing Exhibit E-10, Johnson Direct, Exhibit BJJ 18

¹¹⁹ *Id.*

¹²⁰ Hearing Exhibit E-10, Johnson Direct, Exhibit BJJ7, p. 4

¹²¹ In addition, if the rates are approved, they are reflected in Exhibit A or will be pursuant to

1 charges for inefficient solutions, but it does give Qwest an ability to recover
2 legitimate costs and expenses after making the appropriate showing to the
3 Commission. It has not made that showing here.

4 **Q. IF QWEST WERE TO IMPLEMENT ITS SYSTEM CHANGES OR SOME**
5 **OTHER SOLUTION, WOULD QWEST BE COMPENSATED?**

6 A. Yes, and it is likely Qwest has already been compensated. Qwest is required to
7 make commingled EELs available to CLECs. Implicit in that requirement is that
8 Qwest provide commingled EELs in such a way that they are useful.¹²²
9 Otherwise, Qwest could absolve itself of every requirement of the Telecom Act
10 by implementing products in such a way that make it impossible for CLECs to
11 compete effectively. While the *Triennial Review Order* required Qwest to offer
12 commingled arrangements,¹²³ it also allowed Qwest to charge rates in excess of
13 forward looking economic cost for the non-UNE portion of these arrangements.

Section 2.2 when approved. If the rates are unapproved, Section 22.6 provides a mechanism for Qwest to recover its costs. If Qwest seeks a right to charge a non-TELRIC based rate in some other proceeding (*see* Hearing Exhibit E-7 (Starkey Reb.) at MS-6 [MNI Transcript, Vol. 2, pp. 136-137, Ms. Stewart]) and prevails, then the change in law provisions of the ICA will apply. Under Qwest's argument, none of these provisions are given effect, though they must be under Arizona law.

¹²² See FCC First Report and Order at ¶268. See generally the discussion of nondiscriminatory access to UNEs in Mr. Starkey's testimony. E.g., Hearing Exhibit E-6 (Starkey Dir.), pp. 131-144. This illustrates that the concept of availability is intended to mean available as a practical, operational matter.

¹²³ TRO ¶ 579. The FCC defines "commingling" as "the connecting, attaching, or otherwise linking of a UNE or a UNE combination to one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to any method other than unbundling under section 251(c)(3) of the Act, or the combining of a UNE or UNE combination with one or more such wholesale services."

1 Rates in excess of economic cost are considered economic profit.¹²⁴ As stated,
 2 the most common type of commingled arrangement is likely to be a DS1 UNE
 3 Loop combined with DS1 special access transport. Table 2 below compares the
 4 cost of a UNE EEL and a commingled EEL assuming either 5 miles or 10 miles
 5 of transport.¹²⁵

6 **Table 2: Comparison of UNE EEL and Commingled EEL Prices**

Transport Mileage	DS1 UNE EEL	DS1 Commingled EEL (SA xport and UNE Loop)	Difference
5 miles	\$106.47	\$245.37	\$138.90
10 miles	\$112.63	\$325.37	\$212.74
Source ¹²⁶	ICA, Exhibit A section 9.1.2 for ITP, 9.2.3.3.1 for DS1 loop and 9.6.2 for DS1 transport	FCC #1, Section 21.5.2.C for ITP, 17.2.11.C.1 for DS1 transport and ICA, Exhibit A 9.2.3.3.1 for a DS1 UNE Loop	

7
 8 With a monthly difference in revenue of between \$139 and \$213, Qwest would
 9 recoup its investment in its proposed systems modification after the first 74 to 164
 10 commingled circuits it sold.¹²⁷ Given that Qwest had already made "1,436 UNE

¹²⁴ Economic cost includes what is considered a normal profit, which is profit that can be earned in a highly competitive environment. Economic profit is profit in excess of a normal profit.

¹²⁵ Each EEL consists of an interconnection tie pair, a loop component and a transport component. I disagree with Ms. Stewart's suggestion that a commingled EEL would require an additional central office connection channel to connect the loop and transport pieces together.

¹²⁶ The source documents for these rates are attached to this testimony as Exhibit DD-31.

¹²⁷ These numbers are calculated assuming a 2 year average customer life. The upper bound was calculated by dividing the upper bound cost estimate (\$425,000) by the two year EEL revenue increase from 5 miles of transport (\$138.90 * 24) and dividing the result by 0.78 to account for potential discounts from Qwest's regional commitment plan. The lower bound was calculated

1 to private line conversions”¹²⁸ during 2006¹²⁹ alone, Qwest has undoubtedly
2 already recouped more than enough money from CLECs to make these or more
3 efficient systems or other changes.

4 **Q. WHY DO YOU BELIEVE THAT ALLOWING CLECS TO USE A SINGLE**
5 **CIRCUIT ID FOR COMMINGLED EELS WOULD BE A LOWER COST**
6 **SOLUTION THAN THE SYSTEM CHANGES PROPOSED BY QWEST?**

7 A. The FCC recognized that the conversion away from UNEs to non-UNEs was
8 primarily a billing change.¹³⁰ Qwest currently bills UNE EELs on a single bill
9 and utilizes a single circuit ID. Each bill contains USOCs for each component of
10 the EEL circuit which dictates the price the CLEC pays. Qwest could have
11 simply charged higher rates for the portion of the circuit that was no longer a
12 UNE. This could have been done either through a new set of USOCs specific to
13 commingled circuits, for tracking purposes, or simply by implementing rate
14 increases as the FCC envisioned. Retaining a single circuit ID would eliminate
15 the need for a half a million dollar system change as there is no repair
16 commitment issue when a single circuit ID is utilized. The cost of new USOCs is

by dividing the lower bound cost estimate (\$375,000) by the two year EEL revenue increase from 10 miles of transport (\$212.74 * 24) and does not include the regional commitment plan.

¹²⁸ Million Surrebuttal, p. 12, line 14.

¹²⁹ It should be noted that these conversions weren't necessarily to commingled EELs (Qwest did not provide how many commingled EELs CLECs actually buy), but the price increases available to Qwest as a result of these conversions would be similar.

¹³⁰ TRO ¶ 588.

1 likely to be in the neighborhood of tens of thousands of dollars rather than the
2 hundreds of thousands of dollars associated with Qwest's systems change
3 proposal. Qwest has the burden to establish its costs, and it has not shown this is
4 not the case. As discussed above, it had not provided evidence that it even
5 developed such cost data or conducted such an analysis. Focusing instead on a
6 high cost less efficient approach allows Qwest to argue it should not have to meet
7 the 4 hour repair commitment time at all for a commingled EEL, rather than
8 engaging in the exercise ordered by the Commission, to develop the record as to
9 costs.

10 I recognize that the Commission did not order Qwest to implement the single
11 circuit ID solution, as I proposed in earlier testimony in this case.¹³¹ However, as
12 part of Qwest's obligation "to develop a record on the costs and benefits of
13 Eschelon's proposed single interval proposal,"¹³² Qwest should demonstrate that
14 its solution is the least cost solution to implementing a single repair commitment

¹³¹ It also did not prohibit Qwest from doing so. As I indicated earlier, the Commission did not state in its Resolution of Issues 9-58 and 9-59 on pages 66-68 that there are two different circuits (as opposed to a "portion of a commingled circuit" per TRO ¶594). Rather, the Commission allowed Qwest to use two circuit identifiers ("IDs") for the Commingled EEL (the "commingled circuit," *id.*). Although the Commission allowed Qwest to use two circuit IDs, Qwest is not *required* to do so as a physical or legal matter. The Commission said that it was adopting Qwest's repair proposal "given existing operation systems." Order No. 70356, p. 67, lines 25-26. Since then, the Commission has ordered Qwest to develop the record as to costs, but Qwest did not provide evidence for the record of costs associated with other feasible uses of its existing operations systems, such as using the existing remarks field, as discussed above.

¹³² Arizona Commission Decision No. 70740, p. 14, lines 23-24.

1 time and, at the very least, consider the cost of the single proposals long presented
2 by Eschelon in this case.

3

4 **IV. CONCLUSION**

5 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

6 A. The remaining issue for resolution as a result of the Commission's recent order is
7 fundamentally about the end user customer experience. CLECs have a right to
8 serve its customers via commingled EELs, but Qwest seeks to effectively vitiate
9 that right by making commingled EELs an unusable alternative, compared to their
10 UNE or special access equivalent, by unnecessarily allowing itself a longer repair
11 commitment, up to 8 hours, for commingled EELs, compared with a 4 hour repair
12 commitment for UNE and special access EELs. CLECs using commingled EELs
13 can not compete effectively with Qwest if they must give their customers an
14 anticipated repair time that is twice what a Qwest retail customer would receive
15 when served over the identical physical facility. Qwest's proposal should be
16 rejected.

17 Qwest has failed to "to develop a record on the costs and benefits of Eschelon's
18 proposed single interval proposal"¹³³ as required by the Commission. Instead
19 Qwest has selectively considered one possible solution, without regard for other

¹³³ Arizona Commission Decision No. 70740, p. 14, lines 23-25.

1 alternatives and the costs of those alternatives. Qwest has not demonstrated that
2 its solution is the least cost solution and, at a minimum, should have compared the
3 cost of the system changes to the cost of using the existing electronic process in
4 association with comments in the existing remarks section of a trouble report, and
5 Eschelon's single circuit ID proposal.

6 The benefit of Eschelon's proposal to end user customers and competition is clear.
7 Customers served via commingled EELs will not be subject to longer repair
8 commitment times and are less likely to suffer delays, if Eschelon's proposal is
9 adopted. With Qwest's proposal, even though Qwest may happen to repair the
10 commingled circuit within less than 8 hours in particular or even typical
11 instances, CLECs cannot commit to less time to their customers and therefore
12 cannot set customer expectations and plan their businesses accordingly. This is a
13 competitive disadvantage, to the detriment of competition.

14 Finally, Qwest should not be relieved of its performance obligations with respect
15 to commingled EELs. Qwest should not be allowed to consider a customer
16 repaired even when a trouble continues to exist on Qwest's network causing the
17 customer to be out of service.

18 **Q. WHAT ARE YOUR RECOMMENDATIONS TO THE COMMISSION?**

19 A. I recommend that the Commission adopt Eschelon's proposed language for the
20 repair of commingled EELs, with the changes reflected in Eschelon's current

1 language proposal (shown above). Eschelon also requests any further relief that
2 the Commission deems just and proper, based on this additional record, to
3 facilitate the efficient, effective, and nondiscriminatory provision and repair of
4 commingled EELs as requested by Eschelon.

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 **A. Yes.**

7

1 ORIGINAL and 15 copies sent via UPS overnight delivery for filing this 5th day of June,
2 2009, to:

3 Arizona Corporation Commission
4 Docket Control – Utilities Division
5 1200 West Washington Street
6 Phoenix, AZ 85007
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10
11
12


Jill Kowalczyk

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP

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

EXHIBIT DD-28

RESPONSIVE TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

ESCHELON TELECOM OF ARIZONA, INC.

June 5, 2009

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Qwest Corporation's
Conversion of UNEs to Non-UNEs

ISSUE DATE: March 23, 2009

DOCKET NO. P-421/C-07-370

In the Matter of Qwest Corporation's
Arrangements for Commingled Elements

DOCKET NO. P-421/C-07-371

ORDER ADOPTING ADMINISTRATIVE
LAW JUDGE'S RECOMMENDED ORDER
ON MOTION FOR SUMMARY
DISPOSITION

AMENDED NOTICE AND ORDER FOR
HEARING

PROCEDURAL HISTORY

On June 26, 2007, the Commission referred the jurisdictional issues in these two related cases to the Office of Administrative Hearings under Minn. Stat. § 14.57 *et seq.* On December 9, 2008, the Administrative Law Judge filed her Recommended Order on Motion for Summary Disposition, finding that the Commission did have jurisdiction in both cases and explaining her reasons for reaching that conclusion.

On December 19, 2008, Qwest Corporation (Qwest) filed exceptions to the Administrative Law Judge's recommended order. The following parties filed replies supporting the conclusions of the Administrative Law Judge: the Minnesota Department of Commerce; Integra Telecom of Minnesota, Inc.; Eschelon Telecom of Minnesota, Inc.; and the CLEC Coalition, a group of competitive local exchange carriers.¹ On March 3, 2009, the Administrative Law Judge's Recommended Order on Motion for Summary Disposition came before the Commission.

¹ The members of the CLEC Coalition are McLeodUSA Telecommunications Services, Inc.; POPP.com, Inc.; TDS Metrocom; and XO Communications of Minnesota, Inc.

FINDINGS AND CONCLUSIONS

I. Threshold Jurisdictional Issues

The issues in both these cases stem from decisions of the Federal Communications Commission (FCC) releasing Qwest and other incumbent local exchange carriers from earlier obligations under 47 U.S.C. §§ 251 (c) (3) and 252 (d) (1) to provide certain services as unbundled network elements (UNEs) to competitive local exchange carriers at cost-based rates. As services are “de-listed” as UNEs, incumbent carriers become free to charge higher, market-based rates for them, even when these services are commingled with services that remain UNEs.

In these two cases, competitive local exchange carriers purchasing wholesale services from Qwest asked this commission to set rates and terms and conditions of service for the conversion of specific existing service arrangements from UNE-based facilities to non-UNE-based facilities and for the commingling of UNE and non-UNE service components on a going-forward basis. Qwest challenged the Commission’s jurisdiction over these issues, claiming that exclusive jurisdiction lay with the FCC.

The Administrative Law Judge to whom the Commission referred the jurisdictional issues in these cases framed them as follows:

- Does the Commission have authority with respect to issues arising over the rates, terms and conditions for conversions from UNE to non-UNE facilities? (Docket 07-370)
- Does the Commission have authority with respect to disputes arising over the terms and conditions for the UNE and non-UNE components and the interrelationship of them in commingled arrangements? (Docket 07-371)

After briefing by all parties, the Administrative Law Judge found that this Commission had jurisdiction in both cases. On the conversion issue, she found as follows:

The Administrative Law Judge has concluded, based on the provisions of the TRO² and the TRRO,³ that the FCC has expressly directed the negotiation of rates, terms, and conditions relating to conversion processes in interconnection agreements, and consequently the Commission has legal authority under § 252 to address these issues in this docket.⁴ (Footnotes added.)

² Report and Order, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 18 FCC Rcd. 16978 (2003), vacated in part, remanded in part, U.S. Telecom Ass’n v. FCC, 359 F.3d 554 (D.C.Cir. 2004) (TRO).

³ Order on Remand, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 20 FCC Rcd. 2533 (2005), aff’d, Covad Communications Co. v. FCC, 450 F.3d 528 (D.C. Cir. 2006) (TRRO).

⁴ ALJ’s Recommended Order, p. 6.

On the issue of commingling, she found:

The FCC has clearly stated that these are the types of issues to be addressed in interconnection agreements, and the Administrative Law Judge accordingly concludes the Commission has the legal authority under § 252 to resolve issues in this docket relating to the terms and conditions under which Qwest provides commingled elements and services.⁵

The Commission has carefully examined the Administrative Law Judge's recommended order and the record on which it is based. Her recommended order is closely reasoned in its analysis and compelling in its conclusions; the Commission will accept and adopt it.

The Commission will also refer the remaining issues, which relate to rates and terms and conditions of service, for evidentiary development, as set forth below.

II. Jurisdiction and Referral for Contested Case Proceedings

The Commission has jurisdiction over the remaining substantive issues in this case as set forth in detail in the Recommended Order of the Administrative Law Judge, adopted herein.

The Commission finds that it cannot resolve the remaining issues of rates and terms and conditions of service on the basis of the record before it. These issues turn on numerous, specific facts that are best developed in formal evidentiary hearings. The Commission will therefore amend its original Notice and Order for Hearing to refer the remaining issues in this case for contested case proceedings.

III. Issues to be Addressed

The remaining issues in this case relate to appropriate rates and terms and conditions of service under 47 U.S.C. § 252 (d), Minn. Stat. §§ 237.09 and 237.12, and related statutes and regulations. The parties shall address these issues in the course of contested case proceedings. They may also raise and address other issues relevant to rates and terms and conditions of service.

IV. Procedural Outline

A. Administrative Law Judge

The Administrative Law Judge assigned to this case is Kathleen D. Sheehy. Her address and telephone number are as follows: Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101; (651) 361-7848. The mailing address of the Office of Administrative Hearings is P.O. Box 64620, St. Paul, Minnesota 55164-0620.

⁵ ALJ's Recommended Order, p. 8.

B. Hearing Procedure

• *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 660 Olive Street, St. Paul, Minnesota 55155; (651) 297-3000. These rules and statutes also appear on the State of Minnesota's website at www.revisor.leg.state.mn.us.

The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

• *Right to Counsel and to Present Evidence*

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

• *Discovery and Informal Disposition*

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Ganesh Krishnan, Public Utilities Rates Analyst, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 201-2215; or Jeanne Cochran, Assistant Attorney General, 1100 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-2106.

• *Protecting Not-Public Data*

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

- *Accommodations for Disabilities: Interpreter Services*

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

- *Scheduling Issues*

The times, dates, and places of evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and the parties.

- *Notice of Appearance*

Any party intending to appear at the hearing who has not already done so must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- *Sanctions for Non-compliance*

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

C. Parties and Intervention

The current parties to this case are Qwest; the Minnesota Department of Commerce; Integra Telecom of Minnesota, Inc.; Eschelon Telecom of Minnesota, Inc.; and the CLEC Coalition. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

D. Prehearing Conference

A prehearing conference, which may be conducted by telephone, will be scheduled by the Administrative Law Judge. The Office of Administrative Hearings will inform the parties and the Commission of its time, date, and place.

Parties and persons intending to intervene in the matter should participate in the conference, prepared to discuss time frames and scheduling. Other matters which may be discussed include the locations and dates of hearings, discovery procedures, settlement prospects, and similar issues. Potential parties are invited to participate in the pre-hearing conference and to file their petitions to intervene as soon as possible.

V. Application of Ethics in Government Act

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 *et seq.*, apply to rate setting cases. Persons appearing in this proceeding may be subject to registration, reporting,

and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Campaign Finance and Public Disclosure Board, telephone number (651) 296-5148, with any questions.

VI. Ex Parte Communications

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

ORDER

1. The Commission hereby accepts, adopts, and incorporates herein the Administrative Law Judge's Recommended Order on Motion for Summary Disposition, which is attached as Attachment B.
2. The Commission hereby refers the remaining issues in this case to the Office of Administrative Hearings for contested case proceedings, as set forth above.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION


Burl W. Haar
Executive Secretary

(SEAL)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 201-2202 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

ATTACHMENT A

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East Suite 350
St. Paul, Minnesota 55101-2147**

**In the Matter of Qwest Corporation's
Conversion of UNEs to Non-UNEs**

**MPUC Docket No. P-421/C-07-370
P-421/C-07-371**

**In the Matter of Qwest Corporation's
Arrangements for Commingled Elements**

OAH Docket No. 3-2500-19047-2

NOTICE OF APPEARANCE

Name, Address, Mailing Address, and Telephone Number of Administrative Law Judge:

**Kathleen D. Sheehy, Office of Administrative Hearings, 600 North Robert Street, St. Paul,
Minnesota 55101; Mailing Address: P.O. Box 64620, St. Paul, Minnesota 55164-0620;
Telephone Number: (651) 361-7848.**

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER AND E-MAIL ADDRESS:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER AND E-MAIL ADDRESS:

SIGNATURE OF PARTY OR ATTORNEY _____

DATE: _____

ATTACHMENT B

**OAH 3-2500-19047-2
MPUC P-421/C-07-370
& P-421/C-07-371**

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION**

**In the Matter of Qwest Corporation's
Conversion of UNEs to Non-UNEs**

**RECOMMENDED ORDER
ON MOTION FOR
SUMMARY DISPOSITION**

**In the Matter of Qwest Corporation's
Arrangements for Commingled
Elements**

This matter is before Administrative Law Judge Kathleen D. Sheehy on Qwest's Motion for Summary Disposition, filed September 15, 2008. The motion record closed October 31, 2008, upon receipt of Qwest's Reply Memorandum.

Jason D. Topp, Qwest Corporation, 200 South Fifth Street, Room 2200, Minneapolis, MN 55402, appeared on behalf of Qwest. Dennis D. Ahlers, Associate General Counsel, Integra Telecom, 730 Second Avenue South, Suite 900, Minneapolis, MN 55402, appeared for Integra. Dan Lipschultz, Moss & Barnett, 4800 Wells Fargo Center, 90 South Seventh St., Minneapolis, MN 55402-4129, appeared on behalf of the CLEC Coalition. Linda S. Jensen, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, MN 55101-2131, appeared on behalf of the Department of Commerce (Department).

Based upon all of the files, records, and proceedings herein, and for the reasons explained in the attached Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION AND ORDER

1. **IT IS HEREBY RECOMMENDED** that Qwest's Motion for Summary Disposition be **DENIED**.
2. **IT IS HEREBY ORDERED** that this Recommendation is certified for final decision to the Minnesota Public Utilities Commission.

Dated: December 9, 2008

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

MEMORANDUM

The Minnesota Public Utilities Commission opened these dockets to further investigate issues that arose during the arbitration of an interconnection agreement between Qwest and Eschelon (now Integra). In the arbitration proceeding, Eschelon and Qwest disagreed about the appropriate language in the interconnection agreement relating to Qwest's processes and prices for converting unbundled network elements (UNEs)—which Qwest is no longer obligated to offer at TELRIC prices under § 251 of the Telecommunications Act of 1996—into services available (at higher prices) through Qwest's tariff or through a commercial agreement. In addition, the parties disagreed about the appropriate language relating to Qwest's processes and prices for providing commingled enhanced extended loops (EELs), which are composed of both a § 251 UNE (the loop) and a non-UNE facility (the transport circuit).

Qwest objected to the Commission's assertion of authority over these issues, and in its order referring this matter to the Office of Administrative Hearings, the Commission requested that Qwest's jurisdictional objections be addressed before any further proceedings take place.¹ The parties jointly agreed to defer consideration of these issues for a time in order to focus on other pending dockets.² They have slightly reframed the wording of the legal issues referred by the Commission.³ And they have further agreed that Qwest's motion for summary disposition is the best procedural method for presenting these jurisdictional issues and that there are no genuine issues of material fact that would preclude resolution of these issues as a matter of law.⁴

Legal Issues

1. Does the Commission have authority with respect to issues arising over the rates, terms and conditions for conversions from UNE to non-UNE facilities? (Docket 07-370)

2. Does the Commission have authority with respect to disputes arising over the terms and conditions for the UNE and non-UNE components and the interrelationship of them in commingled arrangements? (Docket 07-371)

Arguments of the Parties

Qwest maintains that state commissions are limited to setting rates, terms, and conditions for UNEs and other services that incumbent local exchange carriers (ILECs) are required to provide pursuant to § 251. Because UNE conversions and commingled EELs involve non-251 services, state commissions lack authority to set rates, terms, and conditions for them. It maintains that a

¹ Notice and Order for Hearing (June 26, 2007).

² Joint Request for Continuance (September 21, 2007).

³ Joint Statement of Legal Issues (May 29, 2008).

⁴ First Prehearing Order ¶ 5 (September 12, 2007).

state commission's only authority with respect to these arrangements is to establish rates and terms for the UNE component of a commingled EEL, because that is the only component that is within a commission's § 251 authority. Qwest cites a variety of commission decisions and federal court decisions for the proposition that the arbitration authority of state commissions under § 252 only permits the imposition of terms and conditions for services and UNEs included within § 251. Accordingly, Qwest contends the commission "has no jurisdiction to determine how Qwest should provide the non-251 services used with UNE conversions or the non-251 services used with commingled EELs."⁵ Qwest also maintains that the UNE and non-UNE components of commingled EELs are subject to different regulatory schemes and that Qwest cannot be compelled to provide the non-UNE elements and services under the "ultra-regulatory framework" of § 251. Finally, Qwest maintains that a state commission lacks jurisdiction to establish terms and conditions for interstate access services, because that is within the exclusive regulatory authority of the FCC.

Integra maintains that the FCC has explicitly addressed conversion processes and has made it clear that carriers are to negotiate those processes through the § 252 arbitration process and that state commissions have the obligation to address and resolve these issues through that process. In addition, Integra argues that the FCC has provided guidance on the pricing and procedures to be employed, indicating that conversion should be a "seamless" process that does not affect a customer's perception of service quality. Consequently, Integra contends the Minnesota Commission has not only the authority but the obligation to oversee this process under § 252. With regard to commingling, Integra maintains that because Qwest is obligated under § 251 to provide commingled EELs, the Commission has the authority to prohibit Qwest from erecting operational barriers that would make the process of ordering, provisioning, and repairing commingled EELs difficult or impossible for competitive local exchange carriers (CLECs) to use. Both Integra and the CLEC Coalition urge the Commission to follow the approach taken by the Washington State Utilities and Transportation Board, which concluded that conversions and commingled arrangements fall within the arbitration authority of state commissions.⁶

The Department contends that Qwest has overstated the distinction between § 251 and non-251 elements, maintaining that conversion involves the process of moving a § 251 element to a different status and that all activities involved in the process therefore relate to the cost, provisioning, and pricing of § 251 UNEs, over which the Commission has exclusive authority. The Department also argues that the Commission has independent authority under state law to ensure that the wholesale pricing of converting and commingling non-251 elements is fair and reasonable.

⁵ Qwest Memorandum in Support of Motion for Summary Disposition at 9.

⁶ *In the Matter of the Petition of Qwest Corporation and Eschelon Telecom, Inc.*, Order No. 18, Commission's Final Order at ¶¶ 68-70, 92-108, Docket No. UT-063081 (WUTC Oct. 16, 2008).

Analysis

Under 47 U.S.C. § 251, ILECs are required to negotiate in good faith the terms and conditions of interconnection agreements with CLECs and to lease certain network facilities at TELRIC rates. If an agreement cannot be negotiated, the Act requires that unresolved § 251 disputes be submitted to arbitration, subject to oversight by state public service commissions. Initially, the FCC took the position that ILECs had to "unbundle" and provide most basic network elements at TELRIC prices. Since then, the FCC has changed its analysis of unbundling and interconnection obligations and has progressively limited the number of network elements ILECs must provide under § 251. Those changes were announced in 2003, in the Triennial Review Order (TRO),⁷ and in 2005, in the Triennial Review Remand Order (TRRO).⁸ The issues in this case arise as a result of the FCC's de-listing of certain § 251 elements in those orders, which have required ILECs and CLECs to address both the conversion of a product originally provided as a UNE to an alternative service arrangement and the commingling of a UNE with another product.

Conversions

In a section of the TRO addressed to the scope of unbundling obligations, the FCC addressed conversion issues as follows:

We decline the suggestions of several parties to adopt rules establishing specific procedures and processes that incumbent LECs and competitive LECs must follow to convert wholesale services (e.g., special access services offered pursuant to interstate tariff) to UNEs or UNE combinations, and the reverse, *i.e.*, converting UNEs or UNE combinations to wholesale services. Because both the incumbent LEC and requesting carriers have an incentive to ensure correct payment for services rendered, and *because both parties are bound by duties to negotiate in good faith, we conclude that these carriers can establish any necessary procedures to perform conversions with minimal guidance on our part.*⁹

. . . Converting between wholesale services and UNEs or UNE combinations should be a seamless process that does not affect the customer's perception of service quality. We recognize that conversions may increase the risk of service disruptions to

⁷ Report and Order, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd. 16978 (2003), *vacated in part, remanded in part*, *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (TRO).

⁸ Order on Remand, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 20 FCC Rcd. 2533 (2005), *aff'd*, *Covad Communications Co. v. FCC*, 450 F.3d 528 (D.C. Cir. 2006) (TRRO).

⁹ TRO ¶ 585 (emphasis added) (footnote omitted).

competitive LEC customers because they often require a competitive LEC to groom interexchange traffic off circuits and equipment that are already in use in order to comply with eligibility criteria. Thus, *requesting carriers should establish and abide by any necessary operational procedures to ensure customer service quality is not affected by conversions.*¹⁰

. . . We recognize . . . that once a competitive LEC starts serving a customer, there exists a risk of wasteful and unnecessary charges, such as termination charges, re-connect and disconnect fees, or non-recurring charges associated with establishing a service for the first time. We agree that such charges could deter legitimate conversions from wholesale services to UNEs or UNE combinations, or could unjustly enrich an incumbent LEC as a result of converting a UNE or UNE combination to a wholesale service. Because incumbent LECs are never required to perform a conversion in order to continue serving their own customers, we conclude that such charges are inconsistent with an incumbent LEC's duty to provide nondiscriminatory access to UNEs and UNE combinations on just, reasonable, and nondiscriminatory rates, terms, and conditions. Moreover, we conclude that such charges are inconsistent with section 202 of the Act, which prohibits carriers from subjecting any person or class of persons (e.g., competitive LECs purchasing UNEs or UNE combinations) to any undue or unreasonable prejudice or advantage.¹¹

We conclude that conversions should be performed in an expeditious manner in order to minimize the risk of incorrect payments. *We expect carriers to establish any necessary timeframes to perform conversions in their interconnection agreements or other contracts.*¹²

Qwest argues, creatively, that the TRO addressed only the reverse of the situation here—conversions from wholesale non-251 services to Section 251 UNEs—and that the absence of codified regulations governing conversions to non-251 services underscores the fact that state commissions lack authority over this process.¹³ On the contrary, the FCC could not have been more clear in its direction that conversion processes include both the procedures to convert wholesale services to UNEs “and the reverse, *i.e.*, converting UNEs or UNE combinations to wholesale services.”¹⁴ The FCC clearly envisioned that the availability of an element as a UNE might change, depending on other

¹⁰ TRO ¶ 586 (emphasis added) (footnotes omitted).

¹¹ TRO ¶ 587 (footnotes omitted).

¹² TRO ¶ 588 (emphasis added).

¹³ Qwest Reply Memorandum at 4-5.

¹⁴ TRO ¶ 585.

circumstances, and that ILECs and CLECs should be prepared to shift their billing for these elements between prices set in interconnection agreements and those contained in long-term commercial contracts.¹⁵ The FCC did not adopt rules for the conversion process because it determined the parties should negotiate these terms in good faith in their interconnection agreements.

Moreover, in the TRRO the FCC reaffirmed the validity of its existing rules governing conversions and commingling in the situation where one element used as part of an EEL (dedicated transport) is no longer subject to unbundling pursuant to section 251(c)(3).¹⁶ It also declined to prohibit conversions entirely, as requested by Bell Operating Companies (including Qwest), in part because of the difficulty CLECs have in purchasing circuits as UNEs:

For example, competitive LECs demonstrate that they often must purchase special access circuits because they encountered difficulties in purchasing the circuits as UNEs. In those cases, the competitive LECs accept special access pricing in order to provide prompt service to their customers, then convert those circuits to UNEs as soon as possible. Competitive LECs also explain that they may purchase special access services as part of a broader contract, which enables them to avoid having to coordinate connectivity through the access service request and local service request processes. But that option is available only because the availability of UNEs gives the competitive LECs leverage to negotiate lower prices for tariffed services.¹⁷

The Administrative Law Judge has concluded, based on the provisions of the TRO and the TRRO, that the FCC has expressly directed the negotiation of rates, terms, and conditions relating to conversion processes in interconnection agreements, and consequently the Commission has legal authority under § 252 to address these issues in this docket.

Commingling

At one point in time, the FCC had restricted the obligation of an ILEC to "commingle" UNEs and combinations of UNEs with tariffed services; in the TRO, the FCC eliminated this restriction. The TRO provides, in relevant part:

We therefore modify our rules to affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (e.g., switched and special access services offered pursuant to tariff), and to *require incumbent LECs to perform the necessary functions to effectuate such commingling upon request.*

¹⁵ TRO ¶ 587.

¹⁶ TRRO ¶ 142 n. 398 (citing TRO ¶¶ 585-89 (conversions) and ¶¶ 579-84 (commingling)).

¹⁷ TRRO ¶ 231.

By commingling, we mean the connecting, attaching, or otherwise linking of a UNE, or a UNE combination, to one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to any method other than unbundling under section 251(c)(3) of the Act, or the combining of a UNE or UNE combination with one or more such wholesale services.¹⁸

We conclude that the Act does not prohibit the commingling of UNEs and wholesale services and that section 251(c)(3) of the Act grants authority for the Commission to adopt rules to permit the commingling of UNEs and combinations of UNEs with wholesale services, including interstate access services. An incumbent LEC's wholesale services constitute one technically feasible method to provide nondiscriminatory access to UNEs and UNE combinations. . . . For these reasons, we require incumbent LECs to effectuate commingling by modifying their interstate access service tariffs to expressly permit connections with UNEs and UNE combinations.¹⁹

Finally, the FCC addressed arguments advanced by incumbent LECs that commingling should be prohibited because of the billing and operational issues involved in commingling a UNE with an interstate access service. It concluded that these issues could be addressed "through the same process that applies for other changes in our unbundling requirements adopted herein, i.e., through change of law provisions in interconnection agreements."²⁰ As noted above, the FCC reaffirmed the validity of these commingling rules in the TRRO.²¹

Qwest's argument that the Commission lacks authority is based more on semantics than on any substantive analysis of a state commission's legal authority to address the terms and conditions under which an ILEC is obligated to provide commingled facilities. It does not appear to the ALJ that Integra has advocated contract language that would impermissibly require Qwest to provide transport or any other non-251 facility as a UNE or at a TELRIC rate.²² What

¹⁸ TRO ¶ 579 (emphasis added).

¹⁹ TRO ¶ 581 (footnotes omitted).

²⁰ TRO ¶ 583.

²¹ TRRO ¶142 n. 398.

²² See Integra Memorandum at 6 (UNE component of a commingled EEL is priced at TELRIC; the non-UNE may be priced at a tariffed or other non-UNE rate). See also *In the Matter of the Petition of DIECA Communications, Inc., d/b/a Covad Communications Company, for Arbitration to Resolve Issues Relating to an Interconnection Agreement with Qwest Corporation*, Arbitrator's Report at PP 46, 48 (Dec. 15, 2004), adopted by Minnesota Public Utilities Commission, Docket No. P-5692, 421/IC-04-549 (Mar. 14, 2005) (declining to characterize non-251 elements and services as UNEs or to require their provision at TELRIC rates); *Qwest Corp. v. Arizona Corporation Commission*, 496 F.Supp.2d 1069 (D. Ariz. 2007) (state commission cannot require unbundling of non-251 elements or require their provision at TELRIC rates as a matter of state law); *Bellsouth Telecommunications, Inc., v. Kentucky Public Service Commission*, 2007 WL 2736544 (E.D. Ky.) (state commission cannot arbitrate rates for switching, a non-251 element).

Integra has disputed are the duplicative operational processes involved in ordering, provisioning, billing, and repairing UNEs separately from interstate access services, maintaining these processes constitute an operational barrier to obtaining access to a UNE. The FCC has clearly stated that these are the types of issues to be addressed in interconnection agreements, and the Administrative Law Judge accordingly concludes the Commission has the legal authority under § 252 to resolve issues in this docket relating to the terms and conditions under which Qwest provides commingled elements and services.

Based on the agreement of the parties, the Administrative Law Judge hereby certifies this Recommended Order to the Commission for its consideration and final order pursuant to Minn. R. 1400.7600 A & B before any further proceedings take place in this docket.²³

K.D.S.

²³ Fourth Prehearing Order (June 27, 2008).

STATE OF MINNESOTA)
COUNTY OF RAMSEY)SS

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 23rd day of March, 2009 she served the attached

ORDER ADOPTING ADMINISTRATIVE LAW JUDGE'S RECOMMENDED ORDER ON MOTION FOR SUMMARY DISPOSITION - AMENDED NOTICE AND ORDER FOR HEARING.

MNPUC Docket Number: P-421/C-07-370 & P-421/C-07-371

- XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid
- XX By personal service
- XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Commissioners
Carol Casebolt
Peter Brown
Eric Witte
Marcia Johnson
Kate Kahlert
Mark Oberlander
Kevin O'Grady
Ganesh Krishnen
Mary Swoboda
DOC Docketing
AG - PUC
Julia Anderson - OAG
John Lindell - OAG

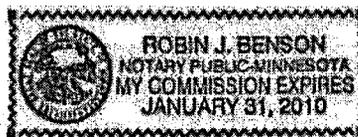
Margie DeLaHunt

Subscribed and sworn to before me,

a notary public, this 23 day of

March, 2009

Robin Benson
Notary Public



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman

GARY PIERCE

SANDRA D. KENNEDY

PAUL NEWMAN

BOB STUMP

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

EXHIBIT DD-29

RESPONSIVE TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

ESCHELON TELECOM OF ARIZONA, INC.

June 5, 2009

**EXHIBIT C
SERVICE INTERVAL TABLES**

(h) Established Repair Intervals for Basic 2-wire Analog Loops, Line Splitting,:

Twenty-four (24) hours OSS
Forty-eight (48) hours AS

(i) Established Repair Intervals for 4-wire Analog Loops, 2/4 Wire Non-Loaded Loops, Basic Rate ISDN Capable Loops, and ADSL Compatible Loops, xDSL-I Capable Loops, DS1 Capable Loops, and DS3 Capable Loops:

Four (4) hours

(j) Quick Loop (No dispatch required)

a)	1 to 8 Lines	Three (3) business days
b)	9 to 16 Lines	Three (3) business days
c)	17 to 24 Lines	Three (3) business days
d)	25 or more Lines	ICB

Quick Loop with Number Portability (No dispatch required)

a)	1 to 8 Lines	Three (3) business days
b)	9 to 24 Lines	Four (4) business days
c)	25 or more Lines	ICB

(k) Intentionally Left Blank

(l) Intentionally Left Blank

(M) Established Service Intervals for 2/4 wire Distribution and Non-loaded Distribution Loop

1 or more Lines	Two (2) business days or Appointment Scheduler
-----------------	--

**EXHIBIT C
SERVICE INTERVAL TABLES**

2.0 Unbundled Dedicated Interoffice Transport (UDIT) Service Interval Table:

Product	Services Ordered	Installation Commitments	Repair Commitments
UDIT Rearrangements			
DS0	1 to 8	Zone 1: Five (5) business days	Four (4) hrs. Zone 1
		Zone 2: Six (6) business days	Four (4) hrs. Zone 2
	9 to 16	Zone 1: Six (6) business days	Four (4) hrs. Zone 1
		Zone 2: Seven (7) business days	Four (4) hrs. Zone 2
	17 to 24	Zone 1: Seven (7) business days	Four (4) hrs. Zone 1
		Zone 2: Eight (8) business days	Four (4) hrs. Zone 2
	25 or more	ICB	ICB
DS1	1 to 8	Zone 1: Five (5) business days	Four (4) hrs Zone 1
		Zone 2: Eight (8) business days	Four (4) hrs Zone 2
	9 to 16	Zone 1: Six (6) business days	Four (4) hrs Zone 1
		Zone 2: Nine (9) business days	Four (4) hrs Zone 2
	17 to 24	Zone 1: Seven (7) business days	Four (4) hrs Zone1
Zone 2: Ten (10) business days		Four (4) hrs Zone 2	
	25 or more	ICB	Four (4) hrs
DS3	1 to 3 Circuits	Zone 1: Seven (7) business days	Four (4) hrs Zone 1
		Zone 2: Nine (9) business days	Four (4) hrs Zone 2
	4 through 12 Circuits	ICB	Four (4) hrs

**EXHIBIT C
SERVICE INTERVAL TABLES**

5.0 Intentionally Left Blank

6.0 Enhanced Extended Loop (EEL) and Loop Mux Combination (LMC) Service Interval Table:

Product	Services Ordered	Installation Commitments	Repair Commitments
Enhanced Extended Loop (EEL) - Loop Mux Combo (LMC) DS0 or Voice Grade Equivalent	1 to 8	Zone 1: Five (5) business days Zone 2: Six (6) business days	Four (4) hrs High Density Four (4) hrs Low Density
	9 to 16	Zone 1: Six (6) business days Zone 2: Seven (7) business days	Four (4) hrs High Density Four (4) hrs Low Density
	17 to 24	Zone 1: Seven (7) business days Zone 2: Eight (8) business days	Four (4) hrs High Density Four (4) hrs Low Density
	25 or more	ICB	Four (4) hrs
Enhanced Extended Loop (EEL) - Loop Mux Combo (LMC) DS1	1 to 8	Zone 1: Five (5) business days Zone 2: Eight (8) business days	Four (4) hrs High Density Four (4) hrs Low Density
	9 to 16	Zone 1: Six (6) business days Zone 2: Nine (9) business days	Four (4) hrs High Density Four (4) hrs Low Density
	17 to 24	Zone 1: Seven (7) business days Zone 2: Ten (10) business days	Four (4) hrs High Density Four (4) hrs Low Density
	25 or more	ICB	Four (4) hrs
Enhanced Extended Loop (EEL) - Loop Mux Combo (LMC) DS3 Subject to cap limitations in the Agreement.	1 to 3 Circuits	Zone 1: Seven (7) business days Zone 2: Nine (9) business days	Four (4) hrs High Density Four (4) hrs Low Density
	4 or more Circuits	ICB	Four (4) hrs
Enhanced Extended Loop Conversions- Private Line (PLTS) to EEL - Conversion as is		ICB	4 hrs

REGULATIONS, RATES AND CHARGES

Applying to the provision of Access Services
within a Local Access and Transport Area (LATA)
or equivalent market areas for
Connection to Interstate Communications Facilities
for Customers within the operating territory of

Qwest Corporation
in the State(s) of
Arizona (AZ) (Company Code [CC] 5101)
Colorado (CO) (CC 5102)
Idaho (ID - Boise LATA) (CC 5103)
Idaho (ID - Spokane LATA) (CC 5162)
Iowa (IA) (CC 5141)
Minnesota (MN) (CC 5142)
Montana (MT) (CC 5104)
Nebraska (NE) (CC 5143)
New Mexico (NM) (CC 5105)
North Dakota (ND) (CC 5144)
Oregon (OR) (CC 5163)
South Dakota (SD) (CC 5145)
Utah (UT) (CC 5107)
Washington (WA) (CC 5161)
Wyoming (WY) (CC 5108)

as provided herein

d/b/a
Qwest

Original Tariff effective August 8, 2000

Access Services are provided by means of wire, fiber optics, radio or
any other suitable technology or a combination thereof.

[1] This entire Tariff is issued under the authority of Special Permission No. 00-072.

(Filed under Transmittal No. 2.)

Issued: August 7, 2000

Effective: August 8, 2000

By: Director - Federal Regulatory
Suite 5100
1801 California Street
Denver, Colorado 80202

7. PRIVATE LINE TRANSPORT SERVICE

7.1 GENERAL

7.1.2 MISCELLANEOUS CHARGES AND CREDITS

G. Service Interruptions and Credits (Cont'd)

(T)

4. Use of an Alternative Service Provided by the Company

Should the customer elect to use an alternative service provided by the Company during the period that a service is interrupted, the customer must pay the tariffed rates and charges for the alternative service used.

5. Temporary Surrender of a Service

In certain instances, the customer may be requested by the Company to surrender a service for purposes other than maintenance, testing or activity relating to a service order. If the customer consents, a credit allowance will be granted. The credit allowance will be 1/1440 of the monthly rate for each period of 30 minutes or fraction thereof that the service is surrendered. In no case will the credit allowance exceed the monthly rate for the service surrendered in any 1 monthly billing period.

6. Service Guarantee - Repair

a. General

The Company assures that all service interruptions for the following PLTS services and associated rate elements, excluding Self-Healing On-Net Channel Termination, will be restored within four hours from the time the interruption was reported by the customer.

- Low Speed Data
- D.C. Channel
- Voice Grade
- Audio and Video - monthly rated
- Digital Data Service
- Digital Data Service 2-Wire
- Simultaneous Voice Data Service
- DS1 Service
- DS3 Service
- Synchronous Service Transport
- SONET Ring Service CT

(Filed under Transmittal No. 157.)

Issued: March 24, 2003

Effective: April 8, 2003

7. PRIVATE LINE TRANSPORT SERVICE

7.1 GENERAL

7.1.2 MISCELLANEOUS CHARGES AND CREDITS

G.6.a. (Cont'd)

Service Guarantee - Repair credit allowances for SST concatenated services with SHARP apply only when a Company provided SONET-compatible Remote Node is available at the customer premises. Repair credit allowances do not apply to Optical SHARP.

(D)

When a Service Guarantee - Repair credit is applied to a service, no other service interruption credit calculation is applicable for the same interruption.

The process used to determine the credit allowance for service interruption shall be as follows:

- For Service Guarantee - Repair and Service Guarantee - Diversity two point services, one credit shall apply per inoperative two-point service, per occurrence as set forth in d., e. and 11.2.1.
- For Service Guarantee - Repair and Service Guarantee - Diversity, multipoint services, one credit shall apply per inoperative multipoint service, per occurrence as set forth in d., e. and 11.2.1.

(Filed under Transmittal No. 245.)

Issued: July 1, 2005

Effective: July 16, 2005

7. PRIVATE LINE TRANSPORT SERVICE

7.1 GENERAL

7.1.2 MISCELLANEOUS CHARGES AND CREDITS

G.6.a. (Cont'd)

(T)

- For Service Guarantee - Repair and Service Guarantee - Diversity multiplexed services, the credit shall apply per inoperative termination, per occurrence. When the facility which is multiplexed or the multiplexer itself is inoperative, the credit shall be assessed per inoperative termination associated with the service including the multiplexer on the facility to the hub, and all the individual services from the hub. When the service which rides a channel of the multiplexed facility is inoperative while the facility which is multiplexed and its multiplexer are operative, the credit shall apply to that portion of the service from the hub to a customer premises which is inoperative. For Service Guarantee - Repair and Service Guarantee - Diversity multiplexed services, the credit shall apply per inoperative termination, per occurrence as set forth in d., e. and 11.2.1, following.
- For Private Line Transport Services Digital Data Service, Digital Data Service 2-Wire, and DS1 Service any period during which the error performance is below that specified for the service will be considered as an interruption.

(Filed under Transmittal No. 157.)

Issued: March 24, 2003

Effective: April 8, 2003

**COMPETITIVE
PRIVATE LINE
TRANSPORT SERVICES**

**Qwest Corporation
Price Cap Tariff
Arizona**

**TITLE PAGE
Release 1**

Issued: 7-30-01

Effective: 8-29-01

Regulations, terms, conditions and charges
for connection to intrastate communications facilities
to provide Private Line Transport Services
within a Local Access and Transport Area (LATA)
over facilities wholly within the state and between
points within a LATA for customers within the
operating territory of

Qwest Corporation

in the State of

ARIZONA

(Company Code 5101)

as provided herein

Issued: 9-24-07

Effective: 10-24-07

2. GENERAL REGULATIONS

2.4 PAYMENT ARRANGEMENTS AND CREDIT ALLOWANCES

2.4.5 CREDIT ALLOWANCE FOR SERVICE INTERRUPTIONS

B. When a Credit Allowance Applies (Cont'd)

3. For Private Line Transport Service Self-Healing Alternate Route Protection (SHARP), out of service credit will apply when the customer experiences a service interruption and the system fails to switch to the protected electronics and/or facilities within one second. The protected electronics and/or facilities are between the Company point of termination located on the customer premises and/or the Company Wire Center(s) associated with the SHARP option. Such credit will be based on information provided by the network surveillance system associated with SHARP. In the event of a service interruption, one month's billing credit of the protected service will be given. Such credit will apply to the Channel Termination and the SHARP rate element for SHARP protected service. Credit will be limited to a maximum of one month for an interruption or series of interruptions within that month. (C)
4. For Self-Healing Network Service (SHNS), out of service credit will apply as specified in 5.2.15.B.3., following. (C)
5. Service Guarantee - Repair (C)

The Company assures that all service interruptions for DS1 and DS3 Service, excluding Free-Frame DS1, will be restored within four (4) hours from the time the interruption was reported by the customer. Failure to meet this commitment will result in a credit allowance as set forth in b., following.

Issued: 7-30-01

Effective: 8-29-01

2. GENERAL REGULATIONS .

2.4 PAYMENT ARRANGEMENTS AND CREDIT ALLOWANCES

2.4.5 CREDIT ALLOWANCE FOR SERVICE INTERRUPTIONS

B.5. (Cont'd)

- a. In addition to B.1. through B.4., preceding, as applicable, the following terms and conditions apply to Service Guarantee - Repair:
- A service is interrupted when it becomes unusable to the customer because of a failure of a facility component used to furnish service under this Tariff or in the event that the protective controls applied by the Company result in the complete loss of service by the customer. An interruption period starts when an inoperative service is reported and ends when the service is operative.
 - The interruption period is based on the start and stop time of the service interruption and excludes customer requested monitoring and other times when the service or customer's premises is not available for testing or repair of the service.
 - The credit allowance for an interruption or a series of interruptions shall not exceed any applicable monthly charges for the service interrupted in any one monthly billing period, as determined in B.1., preceding.

b. Service Guarantee - Repair Credit

	USOC	CREDIT
• DS1 Service		
- 4 hours up to but not including 8 hours	SG3BB	\$ 60.00
- 8 hours up to but not including 16 hours	SG3CB	70.00
- 16 hours up to but not including 24 hours	SG3DB	80.00
- 24 hours and over	SG3EB	100.00
• DS3 Service		
- 4 hours up to but not including 8 hours	SG3BB	500.00
- 8 hours up to but not including 16 hours	SG3CB	700.00
- 16 hours up to but not including 24 hours	SG3DB	800.00
- 24 hours and over	SG3EB	1,000.00

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP

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

EXHIBIT DD-30

RESPONSIVE TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

ESCHELON TELECOM OF ARIZONA, INC.

June 5, 2009

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKET UT-061625
)	
QWEST CORPORATION	)	ORDER 08
)	
For an Alternative Form of Regulation	)	ORDER ACCEPTING, SUBJECT TO
Pursuant to RCW 80.36.135	)	CONDITIONS, AFOR CARRIER-TO-
	)	CARRIER SERVICE QUALITY
	)	PLAN AND GRANTING MOTION
	)	TO FILE REPLY TO COMMENTS
.....)	

1 **Synopsis:** *The Commission accepts, subject to conditions, the AFOR carrier-to-carrier service quality plan filed by Qwest Corporation and grants its motion to file reply comments.*

MEMORANDUM

I. Background and Procedural History

2 On October 20, 2006, Qwest Corporation (Qwest) filed with the Washington Utilities and Transportation Commission (Commission) a request for an alternative form of regulation (AFOR) under RCW 80.36.135. On March 6, 2007, Qwest, the Commission’s Regulatory Staff (Staff)¹, the Joint CLECs², the Northwest Public Communications Council, Washington Electronic Business and Telecommunications Coalition and the Department of Defense and all other Federal Executive Agencies, filed a multi-party Settlement Agreement and modified AFOR.

¹ In formal proceedings such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “ex parte” wall separating the Commissioners, the presiding ALJ, and the Commissioners’ policy and accounting advisors from all parties, including Staff. *RCW 34.05.455.*

² Covad Communications Company, Integra Telecom of Washington, Inc., Time Warner Telecom of Washington, LLC, and XO Communications (collectively referred to as the Joint Competitive Local Exchange Carriers or Joint CLECs).

- 3 On July 24, 2007, the Commission entered Order 06 approving the modified AFOR, subject to conditions. We found that the modified AFOR did not meet the requirement in RCW 80.36.135(3) for a carrier-to-carrier service quality plan, and required, among other conditions, that Qwest file an acceptable plan. We allowed other parties to file comments on the plan within 14 days of its filing.
- 4 On July 31, 2007, Qwest filed its carrier-to-carrier service quality plan relying heavily on the Qwest Performance Assurance Plan (QPAP).³ On August 10, 2007, Qwest replaced the original filing with the currently effective QPAP.⁴ Qwest stated that it inadvertently filed proposed updates to the plan rather than the currently effective plan.
- 5 The Joint CLECs filed comments on August 13, 2007. Staff filed comments on August 14, 2007. On August 15, 2007, Qwest filed a motion for leave to file a reply to the comments accompanied by its reply.

II. Discussion and Decision

A. Qwest's Carrier-to-Carrier Service Quality Plan.

- 6 In response to Order 06, Qwest asserts that the modified AFOR, as set forth in the Settlement Agreement, meets the statutory requirement that an AFOR contain a proposal for ensuring adequate carrier-to-carrier service quality. Qwest's plan is "the simple statement that the AFOR *does not, in any way* affect existing carrier-to-carrier service quality requirements."⁵ Qwest asserts that it will not argue the merits of whether its original proposal is sufficient under RCW 80.36.135(3), and argues that the following existing service quality requirements fulfill the statutory obligation: the QPAP; service quality provisions for tariffed switched access and payphone services;

³ The QPAP was developed as part of a multi-state collaborative in the Commission's Sec. 271 proceeding to allow Qwest to enter the long-distance market. It contains a series of detailed wholesale quality assurance measures with metrics and self-effectuating penalties payable to other CLECs and to the Commission. It was adopted by the Commission in Dockets UT-003022 and UT-003040, April 5, 2002, and is scheduled to expire by its terms in December 2008.

⁴ The initial filing included Qwest's requested modifications to the QPAP filed in Docket UT-073034.

⁵ Qwest Submittal, ¶ 1. (Emphasis in original).

Provision 3 of the modified AFOR;⁶ and wholesale service quality standards and requirements in existing Commission rules.⁷

7 Qwest explains that the QPAP is a major component of existing carrier-to-carrier service quality requirements and that the QPAP is included in Qwest's Statement of Generally Available terms (SGAT) and the interconnection agreements of numerous CLECs. Qwest states that it is required under the QPAP to make payments to CLECs and the Commission for failure to provide service quality in parity to that it provides to its retail customers. Qwest asserts that the QPAP contains specific performance measures and self-executing remedies for failure to achieve those measures thus fulfilling its purpose to serve as an anti-backsliding mechanism. Qwest argues that the QPAP ensures adequate service quality because it provides a monetary incentive to Qwest to provide good service and compensates wholesale customers who are impacted when service falls below a certain standard.

8 Qwest acknowledges it has proposed modifications to the QPAP that are currently pending in Docket UT-073034.

B. Comments on Qwest's Plan.

9 The Joint CLECs contend that current carrier-to-carrier service quality standards are not sufficient to ensure service quality during the term of the AFOR because Qwest's QPAP is subject to potential modification in several ways. First, Qwest has requested approval from the Federal Communications Commission (FCC) to forbear from providing unbundled network elements (UNEs) in the Seattle Metropolitan Statistical Area (MSA).⁸ If granted, the CLECs assert the petition would render the QPAP almost meaningless. Second, the QPAP, by its own terms and conditions, is scheduled to expire December 23, 2008. Third, they say, Qwest views the QPAP as

⁶ This provision applies if the Commission were to revoke previously-granted competitive classification for DS-1 or DS-3 private line services.

⁷ See Qwest Submittal, ¶ 14, citing WAC 480-120-401 (network performance standards), -411 (safety standards), -402, (network maintenance standards), and -560 (collocation requirements).

⁸ WC Docket No. 07-97 filed April 27, 2007, nearly two months after the parties, including the CLECs, reached their settlement in this matter. We note that Staff in its prefiled direct testimony in support of the settlement recommended that the Commission direct Qwest not to seek FCC forbearance from its unbundling obligations during the term of the AFOR (see Wilson: 142C, P.73).

subject to revision even when it has been included in Commission-approved interconnection agreements.⁹

- 10 The Joint CLECs argue that Qwest should be permitted to use the QPAP as a carrier-to-carrier service quality plan for the AFOR only if Qwest agrees to: (1) maintain the current QPAP for the term of the AFOR unless modified by the Commission and (2) apply the QPAP to all services Qwest provides to other carriers as a substitute for UNEs if the FCC grants Qwest's petition for forbearance in the Seattle MSA.
- 11 Staff concurs with Qwest that existing service quality requirements ensure adequate service quality and meet the statutory mandate of RCW 80.36.135(3). Staff notes that the Commission does not relinquish any authority over service quality standards by accepting the AFOR and could act to augment the requirements for carrier-to-carrier service quality through the QPAP review process or through adoption of rules. However, Staff recommends that the QPAP not be permitted to expire entirely during the term of the AFOR.
- 12 Staff suggests that if the Commission concludes that Qwest's proposal does not meet the statutory requirements, it could provide Qwest with guidance on how it could fulfill those requirements and allow Qwest to file an augmented plan to cure the deficiency. Staff asserts that if the Commission concludes that the modified AFOR meets the statutory requirements, the Commission could still adopt rules in a separate proceeding that would apply to all carriers, including Qwest, or extend or augment the QPAP.
- 13 Qwest requested leave to file a reply in order to address new issues raised for the first time in the comments of other parties.¹⁰ We grant Qwest's motion and allow the Company to reply to the comments filed by the Joint CLECs and Staff. Qwest's need to respond to new arguments raised in the comments constitutes cause for allowing a reply.¹¹

⁹ In its petition to modify the QPAP in Docket UT-073034, Qwest requests the Commission apply all approved changes to interconnection agreements with all carriers in Washington that have adopted the QPAP in their agreements.

¹⁰ WAC 480-07-370(d)(i).

¹¹ *Id.*

14 In reply, Qwest asserts the Joint CLECs' comments are not consistent with supporting the Settlement. In addition, Qwest asserts that the Joint CLECs seek relief that exceeds the Commission's jurisdiction, is not relevant to an AFOR, or is not supported by the record in this case.

15 While Qwest notes that Staff continues to support the Settlement, Qwest opposes Staff's proposal to extend the term of the QPAP or include commercial agreements under the QPAP in this proceeding.

C. Decision.

16 The purpose of the AFOR statute is to achieve a number of public policy goals, including promoting diversity in the provision of telecommunications services and products in Washington and permitting flexible regulation of telecommunications companies previously regulated under traditional rate of return/rate base methodology. We must "order implementation of [an AFOR] unless [we] find that, on balance, an alternative plan as proposed or modified fails to meet" the policy considerations in subsection (2) of the statute.¹²

17 In contrast to the broad policy considerations of subsection (2), the directive of the AFOR statute on carrier-to-carrier service quality is specific. Independent of any other federal or state requirements, an AFOR "must include a proposal for ensuring carrier-to-carrier service quality, including service quality standards or performance measures for interconnection, and appropriate enforcement or remedial provisions in the event a company fails to meet those service quality standards or performance measures."¹³ This provision of the statute is mandatory. The statutory standard is not simply a broad "consistency with the public interest" test. Rather, an AFOR's proposed carrier-to-carrier service quality plan must include required elements (standards or performance measures and remedies) and "ensure" wholesale service quality for the term of the AFOR.

¹² RCW 80.36.135.

¹³ *Id.*

- 18 In essence, adequate carrier-to-carrier service quality to preserve or enhance effective competition is part of the *quid pro quo* to replace traditional regulation at the retail level with an AFOR plan. We evaluate Qwest's proposal under this statutory standard.¹⁴
- 19 Qwest's submission fails to meet the statutory standard. We disagree with Qwest and Staff that the statutory requirement is met because of their assertion that the modified AFOR does not affect existing service quality measures. Simply referring to existing service quality measures, including the Commission's authority to adopt service quality rules or initiate a complaint to address service quality deficiencies, does not constitute a "plan" under the statute. Further, relying on existing measures, without more, does not "ensure" that the measures will remain in place for the term of the AFOR. As we have repeatedly noted, the law requires an AFOR to include specific carrier-to-carrier service quality measures or standards and appropriate enforcement or remedial provisions in the event the company fails to meet those standards.
- 20 All parties appear to agree that the current QPAP establishes service quality standards for the majority of services and facilities competitors obtain from Qwest and provides an incentive for Qwest to comply with those standards through self-effectuating penalties. We recognize that the current QPAP is effectively the only carrier-to-carrier service quality plan that covers the majority of products and services purchased by competitors. That said, we are not persuaded that the QPAP ensures adequate service quality within the meaning of the AFOR statute.
- 21 The QPAP fails to ensure adequate service quality while the AFOR will be in effect because it expires earlier. The AFOR is approved for a four-year term. The QPAP is scheduled to expire on December 23, 2008.¹⁵ By its own terms and conditions, the QPAP cannot provide a carrier-to-carrier service quality plan for the full term of the AFOR. Second, even prior to the QPAP's expiration, Qwest has proposed changes in

¹⁴ We need not address directly the comments of parties regarding the effect of federal matters, outcomes of potential rulemaking proceedings, or pending cases in other jurisdictions in our consideration of the terms of a proper AFOR for Qwest in the state of Washington.

¹⁵ Qwest Washington SGAT Eighth Revision, Ninth Amended – Exhibit K – November 30, 2004, ¶¶ 13.1, 16.3.

the QPAP that would reduce the Company's carrier-to-carrier service obligations.¹⁶ The statutory emphasis on the importance of these obligations as integral to any AFOR persuades us that any changes to the QPAP must be measured against the standards of RCW 80.36.135(3) before approval by the Commission. Finally, the QPAP is only applicable to unbundled network elements, interconnection, collocation, and resale under interconnection agreements. This limitation does not ensure adequate carrier-to-carrier service quality for any other wholesale services competitors may use to compete with Qwest during the term of the AFOR.

22 Accordingly, we conclude that the QPAP must be modified to fulfill the requirements of RCW 80.36.135(3). Subject to the following conditions, the current provisions of the QPAP, together with other existing measures, should constitute an adequate carrier-to-carrier service quality plan within the meaning of the statute. First, the QPAP must remain in place for the full four-year term of the AFOR, unless modified by the Commission. This condition recognizes the current provisions of the QPAP including the requirement to review the QPAP after five and one-half years to determine whether to modify or terminate the QPAP, remain in effect.¹⁷ Absent modification, the QPAP will provide carrier-to-carrier service quality standards for the full term of the AFOR.

23 Second, the QPAP must remain available to all wholesale carriers in its current form unless modified by the Commission. This condition does not preclude Qwest, or any other party, from seeking Commission approval of changes to the QPAP, such as those changes currently under consideration in a separate proceeding.¹⁸ Third, the QPAP terms and conditions must apply to all wholesale services provided by Qwest as a substitute for unbundled network elements during the term of the AFOR, unless the affected parties agree otherwise.

24 We need not address the argument that we lack jurisdiction to impose QPAP terms and conditions on the provision of wholesale service under commercial agreements or special access services, because an AFOR is consensual. The AFOR terms and

¹⁶ In Docket UT-073034, Qwest requests approval to modify performance measures and remedies in the QPAP and apply those changes to all CLECs that have incorporated prior versions of the QPAP into their interconnection agreements.

¹⁷ *Id.*, ¶16.3.

¹⁸ *See*, i.e. Docket UT-073034.

conditions will not take effect unless Qwest agrees to these conditions within the time allotted by RCW 80.36.135(4).

FINDINGS OF FACT

- 25 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings of fact and conclusions upon issues and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the detailed findings:
- 26 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies.
- 27 (2) Qwest Corporation (Qwest) is engaged in the business of furnishing telecommunications service within the state of Washington as a public service company.
- 28 (3) Order 06 in this proceeding required Qwest to, among other conditions, file an acceptable carrier-to-carrier service quality plan in compliance with RCW 80.36.135(3).
- 29 (4) Qwest filed a carrier-to-carrier service quality plan that consists of existing wholesale service quality requirements, largely the existing Qwest Performance Assurance Plan (QPAP).
- 30 (5) The QPAP is effectively the only existing carrier-to-carrier service quality plan for the majority of services and facilities obtained by competitors from Qwest.
- 31 (6) The QPAP is scheduled to expire on December 23, 2008, during the term of the proposed AFOR.

- 32 (7) The QPAP does not apply to all wholesale services Qwest provides to its wholesale customers.
- 33 (8) Without modification, the plan submitted by Qwest does not provide the degree of certainty necessary to ensure that carrier-to-carrier service quality standards are met or that remedial measures will be imposed for failure to comply during the term of an alternative form of regulation.

CONCLUSIONS OF LAW

- 34 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 35 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, this proceeding. *RCW Title 80.*
- 36 (2) A plan for an alternative form of regulation must include a carrier-to-carrier service quality plan that ensures carrier-to-carrier service quality standards or performance measures are met and provides for remedial measures in the event the company fails to meet those standards or measures. *RCW 80.36.135(3).*
- 37 (3) Qwest's existing wholesale service quality requirements fail to meet the statutory requirements of RCW 80.36.135(3), and the policy goals included in RCW 80.36.300(2) and 80.36.135(2)(d).
- 38 (4) A carrier-to-carrier service quality plan that will not be in effect for the term of an alternative form of regulation fails to meet the standard in RCW 80.36.135(3).
- 39 (5) A carrier-to-carrier service quality plan that does not apply to all wholesale services provided during the term of an alternative form of regulation fails to meet the standard in RCW 80.36.135(3).

- 40 (6) If accepted, the Commission's modifications to and conditions on Qwest's carrier-to-carrier service quality plan would meet the statutory goals of RCW 80.135.
- 41 (7) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *RCW Title 80.*

ORDER

THE COMMISSION ORDERS:

- 42 (1) The carrier-to-carrier service quality submission filed by Qwest Corporation is accepted, subject to the modifications and conditions set forth in the body of this Order, specifically:
- (a) The QPAP shall remain in effect for the full four-year term of the AFOR, unless modified by the Commission.
 - (b) The QPAP must remain available to all wholesale carriers in its current form unless modified by the Commission.
 - (c) The QPAP terms must apply to all wholesale services provided by Qwest as a substitute for unbundled network elements during the term of the AFOR, unless the affected parties agree otherwise.
- 43 (2) The AFOR terms and conditions as set forth in Order 06 and this Order will not take effect unless and until Qwest agrees to them within the time allotted by RCW 81.36.135(4).
- 44 (3) Qwest Corporation's motion for leave to file reply comments is granted.

- 45 (4) The Commission retains jurisdiction over the subject matter and parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective September 6, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP

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

EXHIBIT DD-31

RESPONSIVE TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

ESCHELON TELECOM OF ARIZONA, INC.

June 5, 2009

**Eschelon / Qwest Exhibit A
Compliance Filing**

8.14	Intentionally Left Blank						
8.15	Collocation Available Inventory						
8.15.1	Standard Sites						
8.15.1.1	Removal of Terminations						
8.15.1.1.1	DS0, per 100 Terminations			ICB		3	
8.15.1.1.2	DS1, per Termination			ICB		3	
8.15.1.1.3	DS3, per Termination			ICB		3	
8.15.1.1.4	OCN, per 12 Fibers			ICB		3	
8.15.1.2	Quote Preparation Fee (QPF)						
8.15.1.2.1	Cageless (uses rate from 8.3.1.1)				\$1,381.54		A
8.15.1.2.2	Caged (uses rate from 8.4.1.1)				\$1,381.54		A
8.15.2	Special Sites						
8.15.2.1	Special Site Assessment Fee				\$1,058.00		1, 10
8.15.2.2	Network Systems Assessment Fee				\$1,663.00		1, 10
8.15.2.3	Site Survey Fee				\$150.00		1
8.15.3	Re-usable Elements			ICB			3
8.16	Collocation Decommissioning (uses rates from 9.20)						
8.16.1	Additional Labor Other - Basic				\$27.26		A
8.16.2	Additional Labor Other - Overtime				\$36.41		A
8.16.3	Additional Labor Other - Premium				\$45.57		A
8.16.4	Additional Dispatch				\$83.10		A
8.17	Joint Testing (uses rates from 8.2.2.1)						
8.17.1	Set-Up Fee (price contains a one hour set up fee)				\$55.20		1
8.17.2	Test Time Fee, per Half Hour				\$27.60		A
9.0	Unbundled Network Elements (UNEs)						
9.1	Interconnection Tie Pairs (ITP) - Per Connection						
9.1.1	DS0	\$0.36					A
9.1.2	DS1	\$0.85					A
9.1.3	DS3	\$8.06					A
9.2	Unbundled Loops						
9.2.1	Analog Loops					See 9.2.4	
9.2.1.1	2-Wire Voice Grade Loop						
9.2.1.1.1	Zone 1	\$9.05					A
9.2.1.1.2	Zone 2	\$14.84					A
9.2.1.1.3	Zone 3	\$36.44					A
9.2.1.2	Intentionally Left Blank						
9.2.1.3	4-Wire Voice Grade Loop						
9.2.1.3.1	Zone 1	\$11.77					A
9.2.1.3.2	Zone 2	\$19.29					A
9.2.1.3.3	Zone 3	\$47.37					A
9.2.2	Nonloaded Loops					See 9.2.4	
9.2.2.1	2-Wire Nonloaded Loop						
9.2.2.1.1	Zone 1	\$9.05					A
9.2.2.1.2	Zone 2	\$14.84					A
9.2.2.1.3	Zone 3	\$36.44					A
9.2.2.2	Intentionally Left Blank						
9.2.2.3	4-Wire Nonloaded Loop						
9.2.2.3.1	Zone 1	\$11.77					A
9.2.2.3.2	Zone 2	\$19.29					A
9.2.2.3.3	Zone 3	\$47.37					A
9.2.2.4	Cable Unloading / Bridge Tap Removal						
9.2.2.4.1	Under 18,000 Feet, per Loop				\$40.00		A, 7
9.2.2.4.2	Above 18,000 Feet, per Location (for Aerial and Buried)				\$70.00		A, 7
9.2.2.4.3	Above 18,000 Feet, per Location (for Underground)				\$400.00		A, 7
9.2.2.4.4	Above 18,000 Feet, Each Additional Coil or Tap at the Same Time &				\$2.00		A, 7
9.2.2.5	Unbundled Loop Grooming						
9.2.2.5.1	Unbundled Loop Grooming (2-Wire)	\$0.37					A, 5
9.2.2.5.2	Unbundled Loop Grooming (4-Wire)	\$0.85					A, 5
9.2.3	Digital Capable Loops						
9.2.3.1	Basic Rate ISDN / xDSL-I Capable / ADSL Compatible Loop					See 9.2.4	
9.2.3.1.1	Zone 1	\$9.05					A
9.2.3.1.2	Zone 2	\$14.84					A
9.2.3.1.3	Zone 3	\$36.44					A
9.2.3.2	Intentionally Left Blank						

**Eschelon / Qwest Exhibit A
Compliance Filing**

9.2.3.3	DS1 Capable Loop		See 9.2.5		
9.2.3.3.1	Zone 1	\$67.39		A	
9.2.3.3.2	Zone 2	\$67.86		A	
9.2.3.3.3	Zone 3	\$76.06		A	
9.2.3.4	DS3 Capable Loop		See 9.2.6		
9.2.3.4.1	Zone 1	\$739.07		A	
9.2.3.4.2	Zone 2	\$749.77		A	
9.2.3.4.3	Zone 3	\$932.62		A	
9.2.3.5	Intentionally Left Blank				
9.2.3.6	2-Wire Extension Technology	\$4.06		A	
9.2.3.7	2-Wire Extension Technology - Unbundled Loop Grooming	\$0.37		A	
9.2.4	Loop Installation Charges for 2 & 4-Wire Analog & Nonloaded, ADSL Compatible, ISDN BRI Capable and xDSL - 1 Capable Loops where conditioning is not required.		See 9.2.1, 9.2.2, & 9.2.3.1		
9.2.4.1	Basic Installation				
9.2.4.1.1	First		\$53.86		A
9.2.4.1.2	Each Additional		\$46.40		A
9.2.4.2	Basic Installation with Performance Testing				
9.2.4.2.1	First		\$117.30		A
9.2.4.2.2	Each Additional		\$84.16		A
9.2.4.3	Coordinated Installation with Cooperative Testing / Project Coordinated Installation				
9.2.4.3.1	First		\$141.67		A
9.2.4.3.2	Each Additional		\$84.16		A
9.2.4.4	Coordinated Installation without Cooperative Testing / Project Coordinated				
9.2.4.4.1	First		\$58.18		A
9.2.4.4.2	Each Additional		\$50.73		A
9.2.4.5	Basic Installation with Cooperative Testing				
9.2.4.5.1	First		\$117.30		A
9.2.4.5.2	Each Additional		\$84.16		A
9.2.5	DS1 Loop Installation Charges		See 9.2.3.3		
9.2.5.1	Basic Installation				
9.2.5.1.1	First		\$87.93		A
9.2.5.1.2	Each Additional		\$67.58		A
9.2.5.2	Basic Installation with Performance Testing				
9.2.5.2.1	First		\$169.69		A
9.2.5.2.2	Each Additional		\$124.27		A
9.2.5.3	Coordinated Installation with Cooperative Testing / Project Coordinated Installation				
9.2.5.3.1	First		\$194.07		A
9.2.5.3.2	Each Additional		\$124.27		A
9.2.5.4	Coordinated Installation without Cooperative Testing / Project Coordinated				
9.2.5.4.1	First		\$93.49		A
9.2.5.4.2	Each Additional		\$73.14		A
9.2.5.5	Basic Installation with Cooperative Testing				
9.2.5.5.1	First		\$169.69		A
9.2.5.5.2	Each Additional		\$124.27		A
9.2.6	DS3 Loop Installation Charges		See 9.2.3.4		
9.2.6.1	Basic Installation				
9.2.6.1.1	First		\$87.93		A
9.2.6.1.2	Each Additional		\$67.58		A
9.2.6.2	Basic Installation with Performance Testing				
9.2.6.2.1	First		\$169.69		A
9.2.6.2.2	Each Additional		\$124.27		A
9.2.6.3	Coordinated Installation with Cooperative Testing / Project Coordinated Installation				
9.2.6.3.1	First		\$194.07		A
9.2.6.3.2	Each Additional		\$124.27		A
9.2.6.4	Coordinated Installation without Cooperative Testing / Project Coordinated				
9.2.6.4.1	First		\$93.49		A
9.2.6.4.2	Each Additional		\$73.14		A
9.2.6.5	Basic Installation with Cooperative Testing				
9.2.6.5.1	First		\$169.69		A
9.2.6.5.2	Each Additional		\$124.27		A
9.2.7	Intentionally Left Blank				
9.2.8	Private Line / Special Access to Unbundled Loop Conversion		\$40.32		A

**Eschelon / Qwest Exhibit A
Compliance Filing**

9.6.1.3	Over 25 to 50 Miles	\$52.27	\$0.00		A, 5	A, 5	
9.6.1.4	Over 50 Miles	\$52.27	\$0.00		A, 5	A, 5	
9.6.1.5	Installation			\$7.60			A, 5
9.6.1.6	Disconnect			\$0.53			A, 5
9.6.2	DS1 UDIT (Recurring Fixed & per Mile)						
9.6.2.1	Over 0 to 8 Miles	\$35.88	\$0.65		C, 5	C, 5	
9.6.2.2	Over 8 to 25 Miles	\$35.88	\$0.94		C, 5	C, 5	
9.6.2.3	Over 25 to 50 Miles	\$38.00	\$1.75		C, 5	C, 5	
9.6.2.4	Over 50 Miles	\$36.00	\$1.59		C, 5	C, 5	
9.6.2.5	Installation			\$7.60			A, 5
9.6.2.6	Disconnect			\$0.53			A, 5
9.6.3	DS3 UDIT (Recurring Fixed & per Mile)						
9.6.3.1	Over 0 to 8 Miles	\$243.17	\$13.32		C, 5	C, 5	
9.6.3.2	Over 8 to 25 Miles	\$246.16	\$15.90		C, 5	C, 5	
9.6.3.3	Over 25 to 50 Miles	\$250.66	\$22.91		C, 5	C, 5	
9.6.3.4	Over 50 Miles	\$249.28	\$22.49		C, 5	C, 5	
9.6.3.5	Installation			\$7.60			A, 5
9.6.3.6	Disconnect			\$0.53			A, 5
9.6.4	Intentionally Left Blank						
9.6.5	Intentionally Left Blank						
9.6.6	Intentionally Left Blank						
9.6.7	Channel Performance						
9.6.7.1	DS0 Low Side Channel Performance	\$11.32			A		
9.6.8	Intentionally Left Blank						
9.6.9	Intentionally Left Blank						
9.6.10	Intentionally Left Blank						
9.6.11	UDIT Rearrangement						
9.6.11.1	DS0 Single Office			\$173.14			A
9.6.11.2	DS0 Dual Office			\$215.19			A
9.6.11.3	High Capacity Single Office			\$234.17			A
9.6.11.4	High Capacity Dual Office			\$261.31			A
9.6.12	Private Line / Special Access to UDIT Conversion			\$126.14			1, 10
9.7	Unbundled Dark Fiber (UDF)						
9.7.1	Initial Records Inquiry (IRI)						
9.7.1.1	Simple			\$156.67			A
9.7.1.2	Complex			\$199.77			A
9.7.2	Field Verification and Quote Preparation (FVQP)			\$1,459.05			A
9.7.3	Engineering Verification			\$346.77			1, 5
9.7.4	UDF - Single Strand						
9.7.4.1	UDF - Interoffice Facility (UDF-IOF) - Single Strand						
9.7.4.1.1	Order Charge, per Strand / Route / Order			\$553.66			A, 5
9.7.4.1.2	Order Charge, Each Additional Strand / Route / Order			\$267.08			A, 5
9.7.4.1.3	Fiber Transport, per Strand / Mile	\$62.75			1, 5		
9.7.4.1.4	Termination, per Strand / Office / Termination	\$3.33			1, 5		
9.7.4.1.5	Fiber Cross-Connect, per Strand	\$2.17			1, 5		
9.7.4.1.5.1	Installation			\$8.64			1, 5
9.7.4.1.5.2	Disconnect			\$9.44			1, 5
9.7.5	UDF - per Pair						
9.7.5.1	UDF - Interoffice Facility (UDF-IOF) - per Pair						
9.7.5.1.1	Order Charge, per First Pair / Route / Order			\$553.66			A
9.7.5.1.2	Order Charge, Each Additional Pair / Route / Order			\$267.08			A
9.7.5.1.3	Fiber Transport, per Pair / Mile	\$81.80			A		
9.7.5.1.4	Termination, per Pair / Office / Termination	\$6.65			A		
9.7.5.1.5	Fiber Cross-Connect, per Pair	\$3.96			A		
9.7.5.1.5.1	Installation			\$8.64			A
9.7.5.1.5.2	Disconnect			\$9.44			A
9.7.8	Dark Fiber Splice			\$663.01			1, 5
9.7.7	UDF MTE Subloop	ICB			ICB	3	3
9.8	Intentionally Left Blank						
9.9	Intentionally Left Blank						
9.10	Intentionally Left Blank						
9.11	Intentionally Left Blank						

REGULATIONS, RATES AND CHARGES

Applying to the provision of Access Services
within a Local Access and Transport Area (LATA)
or equivalent market areas for
Connection to Interstate Communications Facilities
for Customers within the operating territory of

Qwest Corporation
in the State(s) of
Arizona (AZ) (Company Code [CC] 5101)
Colorado (CO) (CC 5102)
Idaho (ID - Boise LATA) (CC 5103)
Idaho (ID - Spokane LATA) (CC 5162)
Iowa (IA) (CC 5141)
Minnesota (MN) (CC 5142)
Montana (MT) (CC 5104)
Nebraska (NE) (CC 5143)
New Mexico (NM) (CC 5105)
North Dakota (ND) (CC 5144)
Oregon (OR) (CC 5163)
South Dakota (SD) (CC 5145)
Utah (UT) (CC 5107)
Washington (WA) (CC 5161)
Wyoming (WY) (CC 5108)

as provided herein

d/b/a
Qwest

Original Tariff effective August 8, 2000

Access Services are provided by means of wire, fiber optics, radio or
any other suitable technology or a combination thereof.

[1] This entire Tariff is issued under the authority of Special Permission No. 00-072.

(Filed under Transmittal No. 2.)

Issued: August 7, 2000

Effective: August 8, 2000

By: Director - Federal Regulatory
Suite 5100
1801 California Street
Denver, Colorado 80202

21. EXPANDED INTERCONNECTION - COLLOCATION (EIC) SERVICE

21.5 RATES AND CHARGES (CONT'D)

21.5.2 EXPANDED INTERCONNECTION CHANNEL TERMINATIONS AND INTERCONNECTION TIE PAIRS

**A. Private Line Transport Service EICT,
per termination**

	USOC	NONRECURRING CHARGE	MONTHLY RATE
• Analog PLTS	TKCGX	\$467.44	\$ 4.02
• DDS	TKCHX	467.44	4.02
• 1.544 Mbps	TKCJX	313.25	17.22
• 44.736 Mbps or 45 Mbps	TKCKX	329.00	52.50

**B. Switched Access Service EICT,
per termination**

• DS1 Switched Transport	TKCLX	313.25	17.22
• DS3 Switched Transport	TKCNX	329.00	52.50

**C. Private Line Transport Service ITP,
per termination**

• 1.544 Mbps	TKCUX	211.78	5.98
• 44.736 Mbps or 45 Mbps	TKCVX	211.78	26.26
• Optical	TBCAX	211.78	18.89

(N)

(Filed under Transmittal No. 170.)

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17. PRIVATE LINE TRANSPORT SERVICE -- PRICING FLEXIBILITY

17.2 RATES AND CHARGES
17.2.11 DS1 SERVICE (CONT'D)

C. Transport Channels

1. 1.544 Mbps

a. Monthly

MILEAGE BAND	USOC	NON-PLAN	MONTHLY RATE		
			ZONE 1	ZONE 2	ZONE 3
• 0	1YFC1				
- Fixed		-	-	-	-
- Per Mile		-	-	-	-
• Over 0 to 8	1YFC2				
- Fixed		\$92.00	\$92.00	\$92.00	\$92.00
- Per Mile		16.00 (I)	16.00 (I)	16.00 (I)	16.00 (I)
• Over 8 to 25	1YFC3				
- Fixed		92.00 (R)	92.00 (R)	92.00(R)	92.00(R)
- Per Mile		16.00 (I)	16.00 (I)	16.00 (I)	16.00 (I)

(Filed under Transmittal No. 206.)

Issued: August 16, 2004

Effective: August 31, 2004

17. PRIVATE LINE TRANSPORT SERVICE – PRICING FLEXIBILITY

17.2 RATES AND CHARGES

17.2.11 DS1 SERVICE

C. Transport Channels

1. 1.544 Mbps

a. Monthly (Cont'd)

MILEAGE BAND	USOC	NON-PLAN	MONTHLY RATE		
			ZONE 1	ZONE 2	ZONE 3
• Over 25 to 50 1YFC4					
- Fixed		\$92.00(R)	\$92.00(R)	\$92.00(R)	\$92.00(R)
- Per Mile		16.00 (I)	16.00 (I)	16.00 (I)	16.00 (I)
• Over 50 1YFC5					
- Fixed		92.00(R)	92.00(R)	92.00(R)	92.00(R)
- Per Mile		16.00 (I)	16.00 (I)	16.00 (I)	16.00 (I)

(Filed under Transmittal No. 206.)

Issued: August 16, 2004

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