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July 10, 2002

By facsimile & overnight mail

Commissioner Marc Spitzer
Commissioner Jim Irvin
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007-2996

Arizona Corporation Commission

DOCKETED

JUL 11 2002

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Re: AZ Docket Nos. RT-00000F-02-0271, T-00000A-97-0238

Dear Commissioner Spitzer and Commissioner Irvin:

Eschelon Telecom, Inc. ("Eschelon") received a copy of your letters to the Parties in Arizona Docket Numbers RT-00000F-02-0271 and T-00000A-97-0238. Commissioner Spitzer asked the parties to address the differences in the letters submitted by Qwest and Eschelon. Therefore, Eschelon submits this Reply to Qwest's letter to the Commission of June 27, 2002 ("Qwest's June 27 Letter") and the Response of Qwest Corporation to Staff's Request for Comment dated June 27, 2002 ("Qwest's Comments"). Because Qwest criticized Eschelon's previous letter as "unverified rhetoric" (see Qwest's June 27 Letter, p. 1), Eschelon attaches exhibits to further support the information provided.

Change Management Process

The Change Management Process ("CMP") is a primary example of an area in which the information provided by Eschelon and Qwest varies greatly. Eschelon has participated in the CMP (formerly "CICMP") for about as long as any Competitive Local Exchange Carrier ("CLEC"). Although Qwest's June 27 Letter and Qwest's Comments characterize CMP as though it were an arm of the 271 process, that is not the case. Eschelon's participation in CMP was not some effort to involve itself in the 271 proceedings. Quite the reverse is true. Long after Eschelon's initial participation in CMP, some 271 issues were interjected into the CMP-Re-design process when Qwest referred issues from the 271 workshops to the CMP Re-design team. Although some 271 issues were discussed, participation in CMP is far from being the same as participation in 271. Issues raised in monthly CMP meetings were not necessarily brought to the 271 proceedings. These include commercial performance issues. Even if another party mentioned some of these issues in 271 proceedings, the participants in those proceedings did not have the benefit of explanation by Eschelon, which had first-hand commercial experience with the problems.

Because CMP is an important issue about which Qwest's filings vary greatly from Eschelon's information, Eschelon will provide additional information from which the Commission may decide which party more accurately and fairly captured the course of events.¹ About CMP, Eschelon said:

Qwest had Eschelon representatives pulled from CMP Re-Design meetings, reviewed but did not disclose written comments by Eschelon on a Qwest status report that were critical of that report, required Eschelon to withdraw a Change Request relating to anti-competitive behavior before it was distributed to other CLECs, and took other steps to inhibit Eschelon's participation in CMP/CMP Re-Design and prevent information from becoming known. Finally, Eschelon's President personally attended CMP monthly and Re-Design meetings to determine whether Qwest's attacks on Eschelon representatives were fair and whether Qwest's representations that CMP issues could be resolved just as well outside of CMP were accurate. Eschelon's President concluded that Qwest's statements were not fair or accurate and the Eschelon's CMP participation was appropriate and necessary to resolve critical business issues. Eschelon's President encouraged Gordon Martin of Qwest to also attend the CMP meetings to gain an understanding of that process and Eschelon's perspective. Mr. Martin did not do so.

See Eschelon's Letter to Commissioner Spitzer, p. 5 (June 24, 2002) ("Eschelon's June 24 Letter"). Qwest did not address Eschelon's first statement from the above quotation about CMP (that Qwest had Eschelon representatives pulled from CMP Re-Design meetings) in Qwest's June 27 Letter or Qwest's Comments. Therefore, Eschelon will respond to the issues Qwest did address first and then return to this issue.

Comments on CMP Status Report

Eschelon's second statement about CMP was that Qwest "reviewed but did not disclose written comments by Eschelon on a Qwest status report that were critical of that report." Eschelon's June 24 Letter, p. 5. In response to this statement, Qwest said: "In fact, Eschelon *only* submitted specific comments regarding Qwest's monthly CMP re-design status reports *on a single occasion.*" Qwest's June 27 Letter, p. 2. (emphasis added). Enclosed, however, are copies of specific comments regarding Qwest's monthly CMP re-design status submitted by Eschelon to Qwest on *two* occasions. See Exhibits 2 - 3.² As Eschelon indicated in Eschelon's June 24 Letter, Eschelon's October 2001 comments are critical of Qwest's status report. See Exhibit 2. Eschelon submitted a copy of Exhibit 2 to Greg Casey, Audrey McKenney, and Dana Filip of Qwest on Friday,

¹ See Exhibit 1 (Verification of F. Lynne Powers).

² Qwest states that it attached a copy of Eschelon's redlined version of the status report as an exhibit to the report. See Qwest's June 27 Letter, p. 2. Qwest attached Eschelon's comments with respect to Exhibit 3 (see Exhibit 4), but not Exhibit 2. Qwest also refers to a "high level" email submitted by Eschelon. See Qwest's June 27 Letter, p. 2. A copy of that separate email is attached as Exhibit 5.

October 5, 2001 and to Andrew Crain on October 9, 2001. *See* Exhibit 2 (cover email to Mr. Crain). Ms. Filip is Qwest's Senior Vice President of Global Service Delivery, and Mr. Crain is a Qwest attorney. Both Ms. Filip and Mr. Crain are Core Team Members of the CMP Re-design Team. *See* Exhibit 6.

After Eschelon submitted its October 2001 comments on Qwest's CMP status report to Qwest, Mr. Crain reportedly mentioned the comments to WorldCom's attorney Thomas Dixon. Mr. Dixon is an active member of the CMP Re-design Team and active participant in the 271 proceedings in several states, including Arizona. Mr. Dixon asked Mr. Crain for a copy of Eschelon's comments. Mr. Crain responded that he was "mixed up." *See* Exhibit 7. Although Mr. Crain had Eschelon's comments in his possession at the time, as shown by Exhibit 2, Mr. Crain told Mr. Dixon that Eschelon had not "sent anything." *See* Exhibit 7. Despite these facts, Qwest represents to the Commission that "Qwest in no way attempted to limit the distribution or use of Eschelon's comments." Qwest's June 27 Letter, p. 3.

With respect to the October 2001 comments, Eschelon management agreed to provide them directly to Qwest management, instead of submitting them by email to the entire CMP Re-design Team. Eschelon did so for two reasons: (1) to show a spirit of cooperation because Qwest had indicated that it would resolve pressing disputes with Eschelon (which it later did not do); and (2) to respond to attacks by Ms. Filip and Ms. McKenney on Eschelon's participation in the CMP Re-design process made with the purpose of decreasing that participation. *See* Exhibit 8; *see also* discussion below. In these situations, Ms. McKenney sometimes characterized Eschelon as a "bad" business partner. Given Qwest's monopoly supplier position, Eschelon did not need to be expressly reminded that Qwest had the ability to punish conduct it deemed to be "bad."

Withdrawal of Change Request Relating to Qwest Anti-Competitive Conduct

Eschelon's third statement about CMP was that Qwest "required Eschelon to withdraw a Change Request relating to anti-competitive behavior before it was distributed to other CLECs." Eschelon's June 24 Letter, p. 5. In September of 2001, CLECs participated in a call to discuss CMP issues. One of the issues discussed was whether a Change Request would be the appropriate vehicle to raise with Qwest the topic of anti-competitive conduct. Allegiance Telecom ("Allegiance") said that it had recently experienced instances when it believed Qwest personnel gave false information to Allegiance's customers (such as that the customers' service would go down if they proceeded to converting with Allegiance). Eschelon said it had recently had a similar experience. They agreed that a Change Request would be an appropriate avenue for addressing these issues.

On or about September 25, 2001, Allegiance submitted its initial Change Request relating to this issue. *See* Exhibit 9. Allegiance asked Qwest to establish an improved process for reporting occurrences of anti-competitive behavior, including a single point of

contact, a thorough investigation, an appropriate and timely response to CLECs, and proper training of Qwest personnel to prevent future occurrences. *See id.* Qwest assigned the Change Request number PCC092701-3. *See id.* The initial Change Request contained the name and badge number for the Qwest technician alleged to have made inappropriate statements. Eschelon copied the description of the Change Request, containing this information from Qwest's web page. *See id.* Shortly afterward, Eschelon could not find the Change Request on the web page. Today, a slightly modified version of the Change Request (without the technician-identifying information) is posted on the web page with the archived Change Requests, and it has a "Withdrawn" status. *See Exhibit 10.* Allegiance has indicated that Qwest met with Allegiance in October of 2001 and that Qwest, including Ms. McKenney, asked Allegiance to withdraw the Change Request. Qwest's written Status History for the Change Request (posted on the Qwest web page), however, does not document the meeting between Allegiance and Qwest or the fact that Qwest asked Allegiance to withdraw the Change Request. *See Exhibit 10.*³

On September 28, 2001, Eschelon also submitted a Change Request relating to this issue to the Qwest CMP. *See Exhibit 11.* Eschelon described a situation in which a Qwest representative told a customer switching to Eschelon that Eschelon was filing for bankruptcy, which was not a true statement. *See id.* Eschelon asked Qwest to develop a written process to help prevent similar situations in the future. *See id.* Eschelon asked Qwest to include in the process steps for training Qwest employees, reporting the conduct, responding to such situations, and communicating to CLECs on the action taken. *See id.* As in the case of the Allegiance Change Request, Eschelon was seeking a process solution and was not simply reporting an isolated incident.⁴ Qwest is required to provide a Change Request number to the requesting CLEC and log that number into its database within two days after receiving a completed CR. *See CMP Document at § 5.3.*⁵ Qwest did not do so and said, on October 10, 2001, that it had not provided a number because it was "clarifying this issue internally." *See Exhibit 12.* The documented CMP process does not provide for such a step. Qwest (Ms. McKenney and Ms. Filip) asked Eschelon to withdraw the Change Request from CMP, indicating Qwest did not believe

³ When Eschelon later raised an issue relating to the handling of these Change Requests with the CMP Re-design team, Qwest criticized Eschelon for using technician-identifying information in its Change Request and stated that this was one of the reasons that Qwest asked Eschelon to withdraw the Change Request. Eschelon pointed out that this was not the reason given to Eschelon at the time and that Eschelon's Change Request did not contain technician-identifying information. Qwest confused the Change Requests submitted by Allegiance and Eschelon. Eschelon did distribute the Allegiance Change Request to the Core Re-design Team at the later date, but the information provided was taken from Qwest's published web page.

⁴ Eschelon remains dissatisfied with Qwest's approach to these issues. Since then, Eschelon has reported to Qwest additional instances of inappropriate comments by Qwest representatives to Eschelon customers. Afterward, Qwest provides, at most, a vague statement that Qwest investigated and will take appropriate steps. Eschelon does not know what steps were taken either in the particular case or to avoid additional instances in the future. If Qwest had accepted the Change Requests of Eschelon and Allegiance, perhaps a better process would be in place by now.

⁵ *See* <http://www.qwest.com/wholesale/cmp/re-design.html>.

that circulating such examples to other CLECs was consistent with the requirement not to oppose Qwest in 271. Eschelon withdrew the Change Request.

Qwest admits that it asked Eschelon to withdraw the Change Request. *See* Qwest's June 27 Letter, p. 3. Qwest claims that its only reason for doing so was that the "issue related to employee performance, rather than a systemic process issue." *Id.* In that case, according to the governing CMP Document and consistent with the handling of other Change Requests at the time, Qwest should have assigned the Change Request a number, posted the Change Request on its wholesale web page, stated in a written response its position that the issue related to employee performance, posted that response (and its request to withdraw) as part of the Status History, and given the Change Request a published status of "Withdrawn." Qwest followed none of these documented procedures.

Moreover, in both the Eschelon and the Allegiance situations, Ms. McKenney was involved in asking a CLEC to withdraw a Change Request. Ms. McKenney is Senior Vice President of Wholesale Business Development at Qwest. Ms. McKenney is not a member of the CMP team or the service management team. Ms. McKenney handled the bulk of the negotiations of unfiled agreements with Eschelon. The reason given by Qwest for its request to withdraw the Change Request does not explain Ms. McKenney's involvement.

Other Qwest Steps to Inhibit Eschelon's CMP Participation

Eschelon's fourth statement about CMP was that Qwest "took other steps to inhibit Eschelon's participation in CMP/CMP Re-design and prevent information from becoming known." Eschelon's June 24 Letter, p. 5. Qwest claims that Eschelon's participation in CMP was "full" and "never restricted." *See* Qwest's June 27 Letter, p. 3 & Qwest's Comments, p. 7. In April and June of 2001, however, Ms. McKenney of Qwest was calling Eschelon's President to complain that Eschelon should not be participating in Qwest's CMP meetings. Eschelon attempted to reason with Qwest by explaining Eschelon's business need for participating in CMP and describing the competitive disadvantage to Eschelon if prevented from participating in CMP. *See, e.g.,* Exhibit 13. A comparison of Exhibit 13 with Qwest's June 27 Letter and Qwest's Comments raises the question of why Eschelon had to make these arguments at all, if Eschelon's participation in CMP was as free and uninhibited as suggested by Qwest. Note that Ms. McKenney did not write back to Eschelon and say that there has been some misunderstanding and, of course, Eschelon could participate freely in CMP. That was not Qwest's position.

Qwest's efforts to inhibit Eschelon's CMP participation also extended to CMP Re-design meetings. In October of 2001, for example, Ms. Filip specifically asked Eschelon to refrain from participating in a CMP Re-design Team discussion of the interim process for the Qwest Product Catalog ("PCAT"). *See* Exhibit 8. Despite

Eschelon's strong objections to the PCAT process, Eschelon believed it did so, as Qwest requested. *See id.* Nonetheless, Ms. Filip called Eschelon immediately after that session to complain that Lynne Powers of Eschelon had provided some comments when she should have been silent. The effects of Eschelon's silence on this particular occasion far outlasted the particular meeting. Qwest made many changes to the PCAT with either no notice to CLECs of the particular change or at least no red-lining accompanying a notice to show the nature of the change. By the time Eschelon was able to participate on this issue again, Qwest argued that it was too late to go back and provide information to CLECs on the changes made earlier. Therefore, Eschelon and other CLECs never received red-lined documents showing what had changed for many changes to the PCAT.

Ms. Filip and Ms. McKenney generally took the position that the Escalation Letter barring Eschelon from participating in 271 proceedings⁶ also entailed that Eschelon should either be silent or support Qwest's position on other issues in the CMP monthly and Re-design processes. Qwest said that Eschelon had an obligation to deal directly with Qwest executives instead of raising issues in the CMP arena. Eschelon did not believe, however, that Qwest could separately address the types of issues Eschelon raised in those proceedings without affecting other CLECs and that consequently a bilateral approach would be futile. Eschelon provided Qwest management with a summary of Eschelon's pending and recently closed Change Requests to attempt to show the detailed nature of the issues, many of which affected other CLECs, to convince Qwest of Eschelon's legitimate business need to raise in the context of CMP. *See* Exhibit 8. Again, if Qwest was not opposing Eschelon's participation in CMP, the question is raised as to why Eschelon needed to expend resources creating such summaries and trying to persuade Qwest of the need for Eschelon's participation. Qwest verbally opposed Eschelon's arguments. On October 16, 2001, Ms. Filip told me and Eschelon's President on a conference call that Qwest expected Eschelon to not only withdraw the Change Request discussed above but also limit Eschelon's participation in other ways. For example, Ms. Filip asked Eschelon to reduce the number of communications to other CLECs and the testers⁷ concerning Qwest's failings (such as by not copying emails to other members of the CMP Re-design Team) and discuss performance issues off line rather than in meetings attended by others.

The arguments with Qwest about the "allowable" level of Eschelon's participation in CMP and CMP Re-design continued for months. Although Qwest appears to praise Eschelon's participation in the CMP process in its letters to the Commission, Qwest does

⁶ *See* Escalations and Business Solutions Letter signed by Qwest and Eschelon (Nov. 15, 2000) ("Escalation Letter") (copy attached as Exhibit 14).

⁷ For example, on April 3, 2001, Qwest's attorney Laurie Korneffel told Eschelon that Qwest was "comfortable" that Eschelon's participation in a KPMG question/answer proposal would not violate the agreement not to oppose Qwest in 271, but she said that Qwest "would not be in favor of Eschelon serving as a 'test' CLEC." *See* Exhibit 15. Eschelon had to inquire of Qwest as to the boundaries of the limitations on Eschelon's participation, because it had become clear that Qwest interpreted the 271 limitation more broadly than Eschelon.

not disclose that verbally it took a very different stance in its ongoing discussions with Eschelon at the time. Ms. Filip and Ms. McKenney represented that Eschelon's representatives were causing "havoc" in the CMP monthly and Re-design meetings. *See id.* On January 12, 2002, Eschelon's President summarized Qwest's attempts to decrease Eschelon's CMP participation over the last year as a "constant irritant" to the business relationship. *See Exhibit 16.*

In an attempt to put the issue to rest and prove Eschelon's position, as indicated in Eschelon's June 24 Letter (p. 5), Eschelon's President asked Qwest's Executive Vice President of Global Wholesale Markets Gordon Martin to attend the CMP and Re-design sessions, as Eschelon's President had done. *See id.* Along with Ms. McKenney, Mr. Martin was intimately involved in the negotiations with Eschelon, including negotiation of proposed terms that would limit Eschelon's participation in CMP.⁸ Eschelon's President told Mr. Martin that CMP attendance "is the only way that you can determine what goes on as both sides have different views as to what happens at these sessions." *See id.* Exhibit 16 clearly shows that Eschelon's request for Mr. Martin's attendance was made in the context of resolving the issue of Qwest's persistent requests to limit Eschelon's CMP participation. Nonetheless, Qwest's Letter reads as though Eschelon made an unrelated and unprecedented request for upper management to attend CMP meetings. *See Qwest's June 27 Letter, p. 3.* Qwest then represents to the Commission that there "was nothing wrong with Qwest's selecting its representatives who had knowledge about the detail at issue at CMP meetings." *Id.* Eschelon agrees that knowledgeable Qwest employees should attend CMP meetings. This is not, however, the issue that the Commission seeks to investigate and upon which Eschelon commented. The relevant issues are the reason for Eschelon's request that Mr. Martin participate in some CMP meetings and Mr. Martin's (and Ms. McKenney's) conduct in pressing Qwest's efforts to decrease Eschelon's CMP participation without personally observing the Eschelon behavior that Qwest employees characterized as causing "havoc."

Excluding Eschelon From CMP Meetings

As mentioned above, Qwest did not address Eschelon's first statement about CMP in its June 24 Letter -- that Qwest "had Eschelon representatives pulled from CMP Re-Design meetings" -- in Qwest's June 27, 2002 Letter or Qwest's Response. It does not do so, even though Qwest directly responded to Eschelon's statements about Qwest's not disclosing comments on a status report and asking Eschelon to withdraw a Change

⁸ Eschelon took the position that, if Qwest was going to impose limitations on Eschelon's CMP participation, Qwest needed to be clear in its expectations, so that Eschelon would not continue to be criticized by Qwest after the fact for alleged infractions. At a meeting on January 8, 2002, Ms. Filip agreed to provide clear, written expectations to Eschelon by January 11, 2001. On January 11, 2002, Mr. Martin said that Qwest's legal department advised not to provide a written list. He said that, instead, Ms. Filip would call Eschelon to verbalize a list and then there would be some documentation of agreed upon issues. Ms. Filip did not provide a verbal list or later documentation after that date. The parties did not agree on this issue.

Request. Eschelon believes a reasonable conclusion to draw from Qwest's silence on the specifics of this point is that Qwest admits that it pulled Eschelon representatives from CMP Re-design meetings. Qwest broadly states, however, that Eschelon's participation in CMP Re-design was "never restricted," Qwest's Comments, p. 7, so this assertion needs to be addressed.

Qwest excluded Eschelon from virtually all of the Qwest CMP Re-design meetings that took place on October 30, 2001 through November 1, 2001. Lynne Powers of Eschelon planned to participate in those sessions by telephone, and Karen Clauson of Eschelon flew to Denver at Eschelon's expense with the plan of staying through the November 1st meeting. *See* Exhibit 17. As indicated on Qwest's Attendance Record for that meeting, however, Eschelon did not participate on either October 31 or November 1, 2001. *See* Exhibit 18 at Attachment 1. The minutes of the meeting show that both Ms. Powers and Ms. Clauson participated in the meeting on the morning of October 30. *See id.* During this portion of the meeting, the parties were reviewing the agenda and indicating topics that they would like to cover. Eschelon listed several topics. *See id.* After Eschelon started to do so, Ms. Filip left the meeting and participated in a conference call with William Markert, Robert Pickens, and myself of Eschelon.

During the call on October 30, 2001, Ms. Filip threatened that, if Ms. Powers and Ms. Clauson did not stop participating in the meeting immediately, Ms. Filip would *devote all of her energies* to making Eschelon miserable. Specifically, Ms. Filip said, in an angry manner, that she would devote all of her energies to ensuring that Ms. McKenney succeeded in her objectives. I personally heard her make this statement. *See also* Exhibits 19 - 20 (Verification Affidavits of Mr. Markert and Mr. Pickens).⁹ This told Eschelon two things: (1) that Ms. McKenney's objectives were adversarial to those of Eschelon, even though Ms. McKenney represented that she is attempting to further her customer's interests through a "business-to-business" relationship; and (2) that Ms. Filip would use her position to intentionally harm Eschelon's business. Ms. Filip, as Qwest's Senior Vice President for Global Service Delivery, holds Eschelon's lines in her hands. Given the real harm that someone in Ms. Filip's position could do to a business such as Eschelon's, Eschelon had no choice but to capitulate. Ms. Powers dropped off the call. Ms. Powers joined the conference bridge to ask Ms. Clauson to leave the meeting to take a call from her in the hallway. Afterward, as a result, Ms. Clauson had to check out of

⁹ Because Qwest made these statements verbally and not in writing, it has the advantage of saying that Eschelon cannot provide written evidence of Qwest's own statements. In addition to affidavits from Eschelon's participants in the conversation, the Commission has the outside evidence showing that Eschelon intended to participate fully in the meetings but then left abruptly. *See, e.g.,* Exhibit 17. When viewed in the context of all of the other Exhibits provided with this Reply, that conduct is consistent with the evidence that Qwest was attempting to limit Eschelon's participation in CMP. Similarly, Eschelon's statements in its February 8, 2002 letter (discussed in Qwest's Comments, p. 8) should be read in the context of all of the Exhibits to this Reply and, in particular, Exhibit 21. Given Qwest's heavy reliance on oral communications (even including at least one oral agreement with a competitor, *see* Qwest's Comments, at 8), the Exhibits are as much or more written documentation as can be expected to dispute the claims in Qwest's June 27 Letter and Qwest's Comments.

her hotel early and return to Minneapolis. *See* Exhibit 17. Eschelon had raised issues that it believed needed prompt discussion, but Eschelon did not participate in the remainder of the meeting on October 30, or the meetings on October 31 and November 1. Despite Qwest's statements to the contrary, being excluded from meetings restricts participation in the process and prevents a party from raising issues at those meetings. *Cf.* Qwest's Comments, p. 7 ("never restricted") & Qwest's June 27 Letter, p. 3 ("No re-design participant, including Eschelon, has ever been prevented from raising any issue during that process.").

Timing of Qwest's Ending Specific Payments to Eschelon

As indicated, the arguments with Qwest about the "allowable" level of Eschelon's participation in CMP and CMP Re-design continued for months, over which time Eschelon became more resolved that it needed to participate in the meetings. In other words, over this period of time, it became clear to Qwest that Eschelon was not going to remain silent or just do as it was told. As Eschelon pointed out in its June 24 Letter (p. 5, note 14), during the same general time frame¹⁰ when Qwest was having this realization, Qwest stopped making payments to Eschelon, despite written contractual obligations to pay Eschelon. Although Qwest is well aware of the facts, Qwest complains in its June 27 Letter (p. 4) that Eschelon's statements are "vague and non-specific." To address that complaint, Eschelon will be clear about the payments that Qwest stopped, the timing, and the effect on Eschelon.

The Consulting Fee Agreement (§ 3) required Qwest to pay Eschelon "an amount that is ten percent (10%) of the aggregate billed charges for all purchases made by Eschelon from Qwest November 15, 2000 through December 31, 2005."¹¹ A later agreement provided that Qwest would pay this amount to Eschelon on a quarterly basis. This is a written contractual obligation that Qwest has defended as a legitimate settlement agreement. Qwest is not claiming that Eschelon breached this provision. To the contrary, Qwest recently submitted sworn testimony indicating that Qwest now places a "very high value" on the consulting services of Eschelon.¹² Given that according to Qwest's own account Eschelon was in compliance with the written contract, no legitimate basis existed for Qwest to stop payment under that agreement. Qwest stopped paying Eschelon pursuant to this provision, however, after August of 2001. In the

¹⁰ Eschelon uses the term "general" time frame because Qwest payments may be late or may not be due for a set period of time. Therefore, the exact date on which Qwest stopped payments can be difficult to pinpoint.

¹¹ *See* Confidential Amendment to Confidential/Trade Secret Stipulation (Nov. 15, 2000) ["Consulting Fee Agreement"], at § 3; provided by Eschelon in response to Staff Request Number 1:2 in Docket Number RT-00000F-02-0271.

¹² *See* Qwest Corporation's Written Direct Testimony of Judith Rixe, p. 9, line 15, *In the Matter of the Complaint of the Minnesota Department of Commerce Against Qwest Corporation Regarding Unfiled Agreements*, MPUC Docket No. P-421/C-02-197 (April 22, 2002) ["Rixe Testimony"].

absence of a breach, one looks for other factors to explain Qwest's refusal to honor its contractual commitment while Eschelon was providing services of "high value."

Qwest claimed that it was withholding payment because Eschelon had complained that switched access minutes were missing and that Qwest had not delivered on its promise to negotiate pricing adjustments, and negotiations were continuing as to these and other issues. Those issues, however, were separate from the undisputed consulting fee. Qwest could have continued to honor its written obligation to pay the consulting fee, as it was required to do by the contract, while disputed issues were negotiated. Instead, Qwest made it a condition of resolution of Eschelon's legitimate access, service quality, and pricing complaints that the Consulting Fee Agreement be terminated.¹³ Unilaterally enforcing its position, Qwest stopped paying the consulting fee. The last payment was for August of 2001.¹⁴ There is a correlation between the timing of Eschelon's assertion of its various rights and Qwest's stopping of the payments. Qwest knew full well the impact of its action, particularly in the prevailing telecommunications market. Because bankruptcies were so common at that time, one could hardly open a telecommunications publication during this period without reading about another one. Qwest earns more revenue by the second day of January in each year than Eschelon earns in an entire year. Qwest knew which party's bargaining position would be most adversely affected by its decision to stop payments.

When Eschelon raised this issue previously, Eschelon said that it "does not know whether any CLEC that did stop its participation in CMP, if any, continued receiving payments whereas the payments to Eschelon stopped." See Eschelon's June 24 Letter, p. 5, note 14. As indicated, Eschelon does not have access to all of the information necessary to make this determination. Eschelon is aware that other unfiled agreements between other carriers and Qwest have been disclosed, including an agreement or agreements that require payments to McLeodUSA. McLeodUSA was initially a CMP Core Team Member, but its status was changed for failure to participate actively in the working sessions. See Exhibit 18, pp. 11-12. Eschelon has had no opportunity to review the various McLeodUSA agreements, nor is it requesting that here. Eschelon can only state that it cannot confirm one way or another whether McLeodUSA (or any other

¹³ Qwest attempted to impose other conditions as well, as discussed below with respect to the proposals signed by Ms. McKenney. See Exhibit 21.

¹⁴ The Switched Access Reporting Agreement required Qwest to pay Eschelon the difference between \$13.00 per line and \$16.00 per line from January 1, 2001 until the parties agreed to do otherwise. See Letter from Audrey McKenney to Eschelon's President, p. 2 (July 3, 2001) ["Switched Access Reporting Letter"] (provided by Eschelon in response to Staff Request Number 1:2 in Docket Number RT-00000F-02-0271). Although the parties did not agree to do otherwise until March 1, 2002, Qwest also stopped paying Eschelon pursuant to the Switched Access Reporting Letter as of September 2001. Eschelon (not Qwest) had complained about other switched access reporting issues. Unlike the consulting fee, at least some other access issues were the subject of a dispute. When payments stopped, however, there was no dispute that the \$3 per line (approximately \$150,000 per month) was due to Eschelon pursuant to the terms of the Switched Access Reporting Letter. Qwest was not claiming, for example, that Eschelon had yet agreed otherwise.

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carrier) payments, if any, continued while its participation in the CMP Core Team decreased and, if so, whether the two issues are related.

In response to Eschelon's initial statement along these lines, Qwest objects to the possible implication that "Qwest made payments to other CLECs to keep them from participating in the CMP process." See Qwest's June 27 Letter, p. 4. Qwest implies that Eschelon has no evidence that would suggest that Qwest would do such a thing. Enclosed with this Letter is a document, provided to Eschelon by Qwest and signed by Ms. McKenney, that provides that Qwest was willing on October 30, 2001 to pay Eschelon money as long as Eschelon refrained, among other things, "from participating in . . . Change Management Process workshops." See Exhibit 21 (Qwest Proposed Confidential Purchase Agreement ¶ 3). Although Eschelon did not sign this proposal, Qwest was clearly making the offer. Eschelon does not know whether any other carrier was offered and accepted this or a substantially similar proposal. The fact that Qwest made the offer to Eschelon, however, raises the legitimate question as to whether this occurred at the same or any other time.

Eschelon does not have copies of all of the approximately 100 unfiled agreements that Qwest has entered into with various carriers and, of course, it cannot have copies of unwritten agreements. In this environment, it is fair to state that Eschelon does not know whether any carrier signed a document similar to Exhibit 21 and, if so, whether Qwest continued to make payments pursuant to that agreement. Eschelon is not claiming a right to this information. It is an issue for the Commission to investigate, if it so desires.

Qwest concludes its discussion of this issue by stating that "Qwest's and Eschelon's billing disputes are wholly unrelated to the 271 process." Eschelon agrees and, quite frankly, wishes Qwest would have taken this position much earlier. If it had, Eschelon could have participated in the 271 proceedings while negotiating disputes with Qwest. Qwest's assertion now begs the question as to why Qwest then conditioned negotiation of disputes on agreements not to participate in 271 proceedings.

CMP Participation, Absence of Complaints, and Advocacy Regarding Participation in Proceedings

Except when completely excluded from meetings, Eschelon maintained some level of participation in CMP.¹⁵ Although Qwest was not always as successful in limiting Eschelon's participation in CMP as it desired,¹⁶ Qwest's efforts nonetheless forced Eschelon to expend resources in responding to and resisting Qwest's position. See, e.g., Exhibits 8 & 13. Those resources could have been expended on other CLEC business.

¹⁵ Although Eschelon managed to maintain some level of participation in CMP and CMP Re-design, Qwest succeeded particularly in chilling the number of live examples of problems with commercial performance that Eschelon brought to the meetings.

¹⁶ As to whether Qwest attempted to influence Eschelon's level of participation, please see the previous section and attached exhibits.

Also, Eschelon had to consider the risks associated with upsetting its monopoly supplier while at the same time try to protect its own interests. This meant that Eschelon had to maintain a conciliatory tone and cooperate in Qwest's requests at times, even when full, uninhibited participation would have been preferable.¹⁷

Qwest also claims that, at any time, "Eschelon could have sought redress through *regulatory* or legal avenues." See Qwest's June 27 Letter, p. 2 (emphasis added). Qwest does not acknowledge the following restriction in the Escalation Letter:

During the development of the Plan, and thereafter, if an agreed upon Plan is in place by April 30, 2001,¹⁸ Eschelon agrees not to . . . *file complaints before any regulatory body* concerning issues arising out of the Parties' Interconnection Agreements.

See Exhibit 14 (Escalation Letter) (emphasis added), p. 1. Despite Qwest's sweeping claims to the contrary, Eschelon could not, consistent with its obligations, file complaints before any regulatory body regarding quality of service, pricing, discrimination, or any other issue arising under the interconnection agreement during negotiations or afterward. Qwest has not explained why it insisted on the terms of the Escalation Letter as part of proceeding to develop and implement a plan to address Eschelon's quality of service complaints. It has not said why Eschelon could not both work with Qwest to develop a plan and, until satisfied, participate in the 271 and SGAT workshops.¹⁹ When a plan was successfully implemented, Eschelon could have then filed a withdrawal from the 271 proceedings and proclaimed its issues were resolved (as SunWest apparently did, see discussion below). If a plan was not successfully implemented, Eschelon could have filed complaints. Although Qwest's letters suggest that Eschelon was free to do so, the provisions of the Escalation Letter were a Qwest condition of obtaining and implementing a plan to improve service quality, not a provision following successful implementation of a plan. See Exhibit 14; Eschelon's June 24 Letter (pp. 2-4).

Although Qwest conditioned obtaining and implementing a plan to improve service quality upon not opposing Qwest in 271 proceedings, Qwest claims that the purpose of the Escalation Letter "was not to suppress complaints but to *resolve* them." Qwest's June 18 Letter, p. 1 (emphasis in original). As discussed, the text of the Escalation Letter expressly suppresses complaints before, during, and after

¹⁷ Also, as indicated above, the limitations on Eschelon's participation did result in some decisions that lasted beyond the meetings in which Eschelon's participation was affected or precluded.

¹⁸ As indicated in Eschelon's June 24 Letter, this date was extended until the end of July 2001.

¹⁹ Qwest refers to agreements "wherein a CLEC agreed not to participate in the 271 proceeding" and states that "there were only *two* such agreements." Qwest's Comments, p. 3 (emphasis added). Qwest then goes on to discuss *three* such agreements: Eschelon, XO, and McLeodUSA (unwritten agreement "not to be involved in 271"). See *id.* pp. 4-5 & 8. Qwest has not explained why any of these agreements were necessary, if the information possessed by these three CLECs and their participation would not have affected the outcome of the 271 proceedings anyway, as claimed by Qwest.

implementation of a quality service plan. Additionally, as Eschelon previously pointed out:

[O]n October 30, 2001, Qwest provided two written proposals to Eschelon. In those proposals, Qwest said it would require Eschelon to “deliver to Qwest all reports, work papers, or other documents related to the audit process” relating to missing switched access minutes to Qwest. Qwest also conditioned payments otherwise legitimately due to Eschelon upon Eschelon agreeing that it would “when requested by Qwest file supporting testimony/pleadings/comments and testify whenever requested by Qwest in a manner suitable to Qwest (substantively).” Eschelon refused to sign these proposals. The issues between Eschelon and Qwest could easily have been resolved without these provisions, which did nothing to address problems experienced by Eschelon. But, Qwest included those terms as an integral part of its proposals.

See Eschelon’s June 24 Letter, p. 5; see also Exhibit 21 (Proposed Confidential Billing Settlement Agreement, ¶ 7 & Proposed Confidential Purchase Agreement, ¶ 3). Ms. McKenney signed these proposals, copies of which are attached. See *id.*²⁰ Qwest has not explained the purpose of delivering all evidence of the audit process to Qwest, if not to “suppress” information. See Qwest’s June 18 Letter, p. 1.²¹ With respect to the proposal that said Eschelon would “when requested by Qwest file supporting testimony/pleadings/comments and testify whenever requested by Qwest in a manner suitable to Qwest (substantively),” see *id.*,²² it provided no limitation on Qwest’s requests, such as that the testimony requested be true and accurate.²³ The agreement simply contained an offer of a monetary inducement to obtain services and testimony upon request.²⁴ The same document required that the agreement remain confidential.

²⁰ Qwest has actually suggested that Ms. McKenney may represent Qwest on the committee it has said that it will form to review agreements with respect to the filing requirement. See Exhibit 22 (Excerpt from Minnesota transcript, p. 47, line 23 – p. 48, line 2 & p. 50, line 22 – p. 51, line 7).

²¹ Although Qwest may argue that this provision relates to protecting customer-identifying information, that is not the case. Most of the audit documents contain no customer-identifying information. In any case, both Qwest and Eschelon routinely deal with customer-identifying and other confidential information without making one carrier turn everything over to the other. As indicated in Eschelon’s letter to Mr. Nacchio (discussed in Qwest’s Comments, p. 8), Qwest’s verbal communications to Eschelon suggested Qwest’s intent even more clearly than the written documentation.

²² Qwest’s Proposed Confidential Purchase Agreement (¶ 3) also provided: “Eschelon agrees, during the term of this PA, to refrain from initiating or participating in any proceeding (regulatory, judicial, arbitration, or legislative) where Qwest’s interests may be implicated, including but not limited to, formal or informal proceedings related to Qwest’s or its affiliates’ efforts to obtain relief pursuant to section 271 . . . , including but not limited to, Change Management Process workshops, performance indicator/assurance dockets and cost dockets.” See Exhibit 21.

²³ The fact that Eschelon need not be reminded of its obligation to testify truthfully (as alleged by Mr. Martin) is evident from the fact that Eschelon (and not Qwest) raised this issue. Without language in the document to this effect, however, the proposed contractual obligation reads as Qwest intended it – as requiring Eschelon to testify when and how dictated by Qwest.

²⁴ Qwest’s proposal provided that payments would be made monthly so long as Qwest unilaterally determined that Eschelon was providing services “satisfactory” to Qwest. See Exhibit 21 at ¶ 2. Those

See id. Therefore, if Eschelon agreed to the proposal, it would be placed in the position of having to offer testimony without disclosing a fact that would bear on the veracity of that testimony – it had been induced. Eschelon rejected Qwest's proposals, although it did not do so lightly. Eschelon viewed this as its Cuban Missile Crisis with Qwest and genuinely did not know how Qwest would react.

Although Qwest claims that it was just negotiating routine settlement agreements, Qwest has not explained why provisions relating to delivery of evidence to Qwest or testifying as dictated by Qwest are legitimately related to resolving genuine service and pricing disputes. In negotiations, Qwest would not discuss resolution of legitimate issues such as missing switched access minutes, however, without also discussing a commitment by Eschelon relating to evidence and testimony. In its response, Qwest does not address the language of the documents in Exhibit 21. *See* Qwest's Comments, p. 10. Similarly, when Eschelon raised this question in a letter to Qwest's then Chief Executive Officer Joseph Nacchio (which was copied to Qwest's current General Counsel),²⁵ Qwest did not respond to the specific facts. As Qwest indicates in its Comments, Qwest said that it would not "dignify each of Mr. Smith's allegations with a response." Qwest's Comments, p. 9.²⁶ After reading the documents in Exhibit 21 and considering the absence of an explanation, however, a more reasonable conclusion is that Qwest was silent with respect to the proposals in Exhibit 21 because the documents speak for themselves.²⁷

Instead of addressing that issue or acknowledging the express language of the Escalation Letter suppressing complaints, Qwest argues that Eschelon "evidenced a continuing awareness of its ability to go to the regulators if its concerns were not addressed." Qwest's June 27 Letter, p. 2; Qwest's Comments, p. 7. The fact that Eschelon's participation was virtually non-existent in 271 proceedings, combined with

"services" included, for example, Change Management functions. *See id.* If Qwest was not "satisfied" in any particular month, Qwest could, in its discretion, penalize Eschelon for behavior it deemed bad by refusing payment. *See id.*

²⁵ Qwest states in its Comments (p. 8) that AT&T submitted a copy of Eschelon's February 8, 2002, letter to Mr. Nacchio with its filing in both Arizona Docket Numbers RT-00000F-02-0271 and T-00000A-97-0238. Therefore, Eschelon has not attached another copy with this filing. Although the Escalation Letter required Mr. Nacchio to meet with Eschelon, he refused to do so. Although Mr. Nacchio indicated that Ashfin Mohebbi would act on his behalf (*see* letter attached to Qwest's Comments), the Escalation Letter specifically identified Mr. Nacchio and not a subordinate. *See* Exhibit 14. Moreover, despite Mr. Nacchio's representation, Mr. Mohebbi never participated in escalation (or any) discussions.

²⁶ Qwest states that it attached a copy of Mr. Martin's letter to its Comments, so Eschelon has not attached another copy with this filing.

²⁷ The other point that Qwest states it will not "dignify" with a response is a point that was not even made by Eschelon. *See* Qwest June 27 Letter, p. 1, note 1. Although Qwest focuses on some introductory language from a *Wall Street Journal* article cited by Eschelon, Eschelon's June 24 Letter (p. 1) clearly cites the article as evidence to support Eschelon's statement that "Qwest continually attempted to distinguish Qwest from the former company, US West." The examples in the *Wall Street Journal* show this is the case. Qwest's silence on this latter point may reasonably be viewed as an admission that it cannot dispute the truth of the statement about Qwest's conduct vis a vis the former US West.

the absence of Eschelon complaints against Qwest (on non-cost issues),²⁸ shows that Eschelon was not in a position to put that advocacy to the test by risking a breach of the Escalation Letter. Eschelon did argue privately to Qwest that Eschelon believed it had the right to participate more fully in proceedings. Because Qwest routinely did not respond in writing to Eschelon's letters, Qwest has left itself the option of pointing to Eschelon's letters as though Qwest agreed with them at the time. Qwest fails to mention, however, that Qwest verbally opposed Eschelon's advocacy in this regard in no uncertain terms.

One example, in particular, stands out. Eschelon argued to Qwest that the Escalation Letter's requirement that Eschelon "not oppose" Qwest in 271 did not preclude participation in proceedings relating to the language of Qwest's Statement of Generally Available Terms ("SGAT").²⁹ For example, in a letter dated April 5, 2001, Eschelon argued to Qwest: "In theory, Eschelon can either shape interconnection agreements through participation in SGAT proceedings or we can attempt to negotiate agreements with Qwest as desired by Qwest. . . . Either the Implementation Plan must deal substantively with the interconnection agreement process or Eschelon must participate in SGAT proceedings." Exhibit 23, p. 4. Although Qwest is not specific, Eschelon's assertion in this letter apparently "evidenced a continuing awareness" of Eschelon's ability to participate in SGAT proceedings. On this particular occasion, Eschelon not only made its argument but also attempted to act upon it. Eschelon sent a representative, Ms. Clauson, to the multi-state SGAT workshop held in Denver April 30 - May 2, 2001.

Qwest's opposition was swift and unambiguous. Shortly after Ms. Clauson entered the room where the workshop was held, Nancy Lubamersky of Qwest picked up her cell phone and left the room. Before the first break, Qwest had called Eschelon's President to complain of Ms. Clauson's presence. In addition, at the outset of the first break, Qwest's attorney Charles Steese summoned Ms. Clauson to the hallway for a conversation. Mr. Steese told Ms. Clauson in no uncertain terms that she should not be present. He said that he had it on good authority that the agreement to keep Eschelon out of the 271 proceedings specifically included Ms. Clauson. Ms. Clauson attempted to explain the actual language of the Escalation Letter, but Mr. Steese was not interested. Through Qwest's calls to Eschelon and conversation with Ms. Clauson, Qwest succeeded in chilling Eschelon's full participation. After the workshop, Qwest called Eschelon to the carpet and made Eschelon explain "what Karen Clauson had said and had not said" during the workshops. *See* Exhibit 24. In a follow up conference call "to discuss Karen's participation in that meeting and in similar future meetings," *see id.*, Qwest reiterated its position that Eschelon could not participate in the SGAT workshops. Eschelon did not participate in 271/SGAT workshops after this additional demonstration of Qwest's opposition.

²⁸ The Escalation Letter provided that Eschelon could, after notice to Qwest, participate in regulatory cost dockets or dockets regarding the establishment of rates. *See* Exhibit 14.

²⁹ *See* Eschelon's June 24 Letter, p. 3 & note 8.

271 Participation: March of 2002 and After

Qwest states: "Importantly, the Agreement, including any agreement not to oppose Qwest's application for relief under Section 271, was terminated in February of 2002. To the extent that Eschelon decided not to participate fully in the 271 process after that termination, it was Eschelon's internal business decision that mandated that result, not the Agreement." Qwest's June 27 Letter, p. 2; *see also* Qwest's Comments, p. 7. The agreement to not oppose Qwest's 271 bid did not terminate until an effective date of February 28, 2002. *See* Exhibit 25. That agreement was executed on the afternoon of Friday, March 1, 2002. *See id.* Therefore, the first business day on which Eschelon could actually participate in Qwest 271 proceedings was March 4, 2002. On March 4, 2002, Eschelon provided discovery responses to the Minnesota commission, including a 3-inch, 3-ring binder of materials, in Minnesota's 271 proceeding. Minnesota had completed fewer 271 workshops or hearings at that point than other states, and it was one of the few states in which discovery had been directed to Eschelon. Shortly afterward, Eschelon provided similar materials to the Washington commission in response to discovery requests in its 271 proceeding. Recently, Eschelon filed comments with the Federal Communications Commission ("FCC") in opposition to Qwest's 271 application. *See* Exhibit 26 (also available, with exhibits, at <http://www.fcc.gov/e-file/ecfs.html>).

Significantly, Qwest discusses Eschelon's alleged lack of participation in 271 proceedings after termination of the agreement without mentioning that the 271 workshops were essentially completed by then and, when Eschelon has attempted to participate, Qwest has opposed those efforts. In Arizona, Eschelon understood that all workshops were completed by March 2002. Arizona held special open meetings addressing Qwest Operations Support Systems ("OSS") and Performance Assurance Plan ("PAP") after that date, but those meetings would have been particularly difficult to participate meaningfully in without the benefit of participation in the preceding proceedings on those complex topics. To the extent that any 271 proceedings in other states remained active, they were so far along that getting up-to-speed on substance and procedure in time to participate meaningfully was not a realistic possibility. Moreover, when Eschelon attempted to participate in the Minnesota 271 proceeding and to support AT&T's efforts to re-open other proceedings, Qwest opposed those efforts. In Minnesota, Qwest filed a motion to strike Eschelon's testimony. Absence from the 271 proceedings for a period of more than a year has affected Eschelon's ability to participate effectively in 271 proceedings at this point. Although Eschelon has attempted to participate in 271 proceedings on and after March 4, 2002, the reality is that Qwest succeeded in its objective that Eschelon not participate meaningfully for the time period when participation mattered.

Ironically, after criticizing Eschelon for not participating in 271 proceedings after February of 2002 (*see* Qwest's June 27 Letter, p. 2; Qwest's Comments, p. 7), Qwest will likely complain now that Eschelon has filed comments with the FCC in opposition to

Qwest's 271 bid. Qwest has questioned the motives of other CLECs that have challenged its 271 bid on the grounds that they are merely trying to keep Qwest out of their market rather than raising genuine concerns. Qwest may do so now as to Eschelon as well. Eschelon is not an interexchange carrier ("IXC") itself; Eschelon resells the long distance service of another carrier. Eschelon recognizes, however, that allowing Qwest to enter the in-region, interLATA market prematurely would be detrimental to Eschelon, as well as other CLECs and IXCs in Qwest's territory. When weighing this as a motive for Eschelon's actions, however, the Commission should consider that Eschelon nonetheless at one time entered into the Escalation Letter and said it would possibly even support Qwest's 271 bid in 271 proceedings if Qwest's performance justified doing so. That didn't work. Eschelon is opposing Qwest's 271 bid now because genuine commercial performance issues show that Qwest's entry into the in-region long distance market at this time would be premature. *See Exhibit 26.*

Any Benefit Unrelated to Limitation on 271 Participation

Qwest argues that persuading CLECs to stay out of the 271 proceedings aided the process and benefited all CLECs. *See Qwest's Comments, pp. 7 & 10.* For example, Qwest argues that developing an implementation plan to improve the provisioning process for Eschelon benefited all CLECs because the improved process was implemented uniformly. *See id.* While Eschelon agrees that efforts to improve Qwest's provisioning process benefited CLECs, as well as Qwest, Eschelon does not agree that this could not have been done without an agreement to stay out of 271 proceedings. Qwest could have simply worked with CLECs to understand their needs and the CLEC perspective and then improved its processes accordingly. Unfortunately, Qwest was not willing to proceed on that basis.³⁰

³⁰Qwest entered into a confidential agreement with Eschelon, which has since been terminated as to Eschelon, providing for a 10% consulting fee. *See Consulting Fee Agreement, at ¶ 3.* Qwest could have filed this agreement with the commissions and made it available to other CLECs, but it chose not to do so. The fee was part of an arrangement under which Qwest was supposed to purchase consulting services from Eschelon that would benefit all CLECs. As indicated, Qwest recently testified that it now places a "very high value" on the consulting services of Eschelon. *See Rixe Testimony, p. 9, line 15.* Eschelon firmly believes that its efforts were valuable and, in arguing this point, provided documentation and information to Qwest to support Eschelon's position. While Eschelon believes that Qwest benefited from Eschelon's actions because Eschelon expended substantial resources trying to get Qwest to improve its performance, Qwest did not recognize this at the time or actually accept the consulting services. Qwest resisted Eschelon's efforts to form teams or otherwise work on a true consulting basis to improve Qwest's processes. The amount of resources that Eschelon expended to attempt to effectuate change were far more excessive than they needed to be if Qwest had accepted Eschelon's services willingly, given Eschelon (and other CLECs) visibility into its processes, and worked together at an early stage to ensure that processes, when developed, met CLEC needs. For Qwest to now describe in favorable terms its adversarial position that caused such additional resource expenditures does not capture the true course of events, even though Eschelon does agree that its efforts benefited Qwest and other CLECs as well. More recently, it has come to light that Qwest was entering into other unfiled agreements at the time, such as reported agreement(s) ostensibly to purchase fiber capacity, for a discount. If so, this additional information provides further evidence that Qwest's costs are not cost-based, because they allow for Qwest to offer these "discounts" in various forms, and the resale discount, in particular, may need to be reviewed.

What Could Have Been

Qwest attempts to place an unattainable burden on CLECs: to show what would have transpired if the 271-related agreements had not existed. *See, e.g.*, Qwest's June 27 Letter, p. 1. Because of such an agreement, however, Eschelon was not involved in the 271 process and does not know whether all of its issues have been addressed. Eschelon can indicate that Qwest commercial performance problems still exist. *See* Exhibit 26. Eschelon can also point out that its business plan is different from other CLECs that were involved in the process. Eschelon recognizes and appreciates the diligent, resource-intensive, and valuable efforts of larger CLECs, but their needs and those of Eschelon are not the same. In fact, none of the "committed advocates" listed by Qwest as participants in the proceeding have the same needs or information as Eschelon. *See* Qwest's Comments, p. 11. Nor do they have the commercial experience in Qwest's territory comparable to that of Eschelon and McLeodUSA, reportedly Qwest's two largest wholesale customers, neither of which participated. Undoubtedly those participants are committed, but different business plans and commercial experience are significant factors when shaping terms of an SGAT or analyzing commercial performance.

The existence or non-existence of the 271-related agreements is not the only factor affecting what could have been. In June of 2001, Qwest received discovery requests that, by its own account, sought production of the agreements not to participate in 271, but Qwest did not produce them. This fact presents the question of what would have transpired if Qwest complied with the discovery request last June.

On June 11, 2001, AT&T served the following discovery request on Qwest:

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between Eschelon and Qwest.

Exhibit 27 (AT&T's Thirteenth Set of Data Requests to Qwest, Request No. 126, 271 multi-state proceeding, June 11, 2001).³¹

AT&T also requested copies of such agreements with McLeodUSA and a company called Sun West Communications, Inc. ("SunWest"). *Id.*³² SunWest had raised issues relating to Qwest's provisioning of unbundled loops deployed over IDLC with number portability in the Colorado 271 workshop. On June 1, 2001, Qwest filed a

³¹ Also available at www.libertyconsultinggroup.com/discovery_requests.htm.

³² In addition, with respect to any carrier, AT&T requested any "settlement made by Qwest of any dispute over Qwest's compliance, or lack of compliance, with one or more items of the competitive checklist set forth in 47 USC § 271(c)(2)(B)." *Id.*

“Withdrawal of Opposition to Qwest’s Petition to Obtain Approval to Enter the In-Region InterLATA Telecommunication Market” in the Colorado 271 docket on behalf of SunWest [Withdrawal]. *See* Exhibit 28. In the Withdrawal, SunWest said that it had reached a settlement with Qwest. SunWest also said that the issues it raised in the Section 271 workshops had been resolved to SunWest’s satisfaction. *See id.* The timing of AT&T’s discovery request (dated ten days after the Withdrawal) suggests that the mention of a “settlement” in the Withdrawal prompted AT&T’s request. By June 11, 2001, Eschelon was absent from 271 workshops, even though Eschelon had previously raised significant issues in those proceedings. Unlike SunWest, Eschelon’s quality of service issues had not been resolved to Eschelon’s satisfaction.

With respect to SunWest, Eschelon, and McLeodUSA, AT&T requested “settlement” agreements. Qwest specifically states that the two agreements referred to by Commissioner Spitzer that mention Section 271 proceedings, which include the Eschelon Escalation Letter, are “settlements.” *See* Qwest June 18 Letter, p. 1. Therefore, by Qwest’s own account, the agreements are responsive to AT&T’s request. Qwest responded, however, by objecting to the request without providing copies of any agreements.³³ Qwest said:

In addition to the General Objection, Qwest objects to this request on the grounds that it is overly broad, global, seeks information protected by the attorney-client privilege, attorney work product doctrine, or any other legally cognizable privilege, seeks third-party confidential information, seeks information that is highly confidential, proprietary, and competitively sensitive, and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

See Exhibit 29 (Qwest’s Objections and Responses to AT&T’s Thirteenth Set of Data Requests, Response to Request No. 126, 271 multi-state proceeding, June 20, 2001).³⁴

Although Qwest objected that the Request called for “third-party confidential information,” Qwest did not ask Eschelon for consent to disclose any agreements before responding to AT&T’s request, despite language in some of the agreements indicating that they could be disclosed with express written consent of the other party. Nothing in the Escalation Letter prevented Qwest from seeking consent to provide copies in discovery. In addition, with respect to the Consulting Fee Agreement (§ 10), it provides:

In the event either Party . . . has a legal obligation which requires disclosure of the terms and conditions of this Confidential Agreement, the Party having the obligation shall immediately notify the other Party in writing of the nature, scope and source of such obligation so as to enable the other Party, at its option, to take

³³ On every occasion on which Eschelon has been asked to produce its unfiled agreements with Qwest in discovery, Eschelon has provided copies of them (including the Escalation Letter).

³⁴ Also available at www.libertyconsultinggroup.com/discovery_requests.htm.

such action as may be legally permissible so as to protect the confidentiality provided in this Agreement.

Although Eschelon received a copy of the above discovery request directed to Qwest, Eschelon did not exercise its option to take any action to protect the confidentiality provided in the Agreement. Yet, Qwest did not produce the Consulting Fee Agreement or any of the other agreements, including the Escalation Letter, to AT&T in its Response. As indicated, AT&T served its discovery request upon Qwest on *June 11, 2001*. If Qwest had provided AT&T with copies of the Eschelon, McLeodUSA and other agreements at that time, AT&T (and any other party receiving copies of discovery responses) could have raised the issues being addressed by the Commission now at least *seven months* earlier.³⁵ The Commission will decide whether, in addition to identifying any "specific terms or issues" that were not addressed in the 271 workshop process,³⁶ these facts are relevant.

Conclusion

In Eschelon's June 24 Letter, Eschelon indicated that it hesitated to send its letter for a number of reasons, including the state of the telecommunications market, tight resources particularly for a start-up, smaller company, and the fact that Eschelon has settled some of its own claims with Qwest and may be viewed as late in speaking out. Twenty-some additional pages and many exhibits later, Eschelon can confirm that going down this path has caused resource expenditures. Given the statements in Qwest's June 27 Letter and Qwest's Comments and the Commission's expression of its desire for more information to assess those statements, however, it seems incumbent upon Eschelon to provide this information. At the same time, Eschelon is aware that some may criticize Eschelon for entering into unfiled agreements with Qwest. Eschelon had pressing service and pricing issues that it needed resolved to stay alive.³⁷

With respect to Qwest's application for 271 approval, Eschelon has stated its position in its FCC filing. *See Exhibit 26*. Although Eschelon was not an active participant in the Arizona 271 proceeding so it cannot state how each of these issues was addressed, Eschelon can state that the unresolved commercial performance problems described in those Comments occur in Arizona as well. With respect to issue of the impact of the unfiled 271-related agreements on the proceeding, Eschelon has laid out facts responsive to points raised by Qwest that the Commission may use in making its

³⁵ A&T has indicated that it did not learn of the agreements until after the Minnesota Department of Commerce filed its complaint relating to unfiled agreements in February of 2002. Although AT&T's discovery request was served in the multi-state 271 proceeding, information from one proceeding often also becomes available in other proceedings. Once AT&T received the information in the multi-state proceeding, AT&T could have also requested it in Arizona, for example.

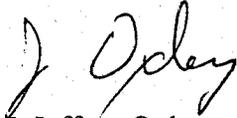
³⁶ Eschelon believes that it has identified such terms and issues, because it has identified commercial performance problems that remain unresolved. *See Exhibit 26*.

³⁷ When considering relative positions of the parties, Eschelon is a \$100 million CLEC with 900 employees, and Qwest is a \$19-billion RBOC with 60,000 employees.

Commissioner Marc Spitzer
Commissioner Jim Irvin
July 10, 2002
Page 21

determination. Commissioner Spitzer's Letter of June 26 suggested that Eschelon and Qwest address the inconsistencies between their earlier letters, and Eschelon has tried to be responsive to that request.

Sincerely,



J. Jeffery Oxley
Vice President, General Counsel, and Corporate Secretary

cc: Chairman William A. Mundell (by facsimile & overnight mail)
Todd L. Lundy, Qwest (by U.S. mail)
Richard Corbetta, Qwest (by email)
Paul A. Bullis, AG Public Advocacy Division (by U.S. mail)
Lindy P. Funkhouser, Residential Utility Consumer Office (by email & U.S. mail)
Docket Control (original plus 20 copies) (by overnight mail)
Service Lists (all parties of record in both dockets) (by email & U.S. mail)

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-0238

IN THE MATTER OF QWEST
CORPORATION'S COMPLIANCE WITH
SECTION 252(e) OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. RT-00000F-02-0271

VERIFICATION OF F. LYNNE POWERS

I, F. Lynne Powers, being duly sworn, state that I am the Executive Vice President of Customer Operations for Eschelon Telecom, Inc. ("Eschelon"). By this affidavit, I verify that the factual assertions relating to the Change Management Process ("CMP") and related events in which I was involved, which are contained in the letter filed today by J. Jeffery Oxley in this proceeding on behalf of Eschelon, are true and correct statements to the best of my knowledge.

-----Original Message-----

From: Clauson, Karen L.
Sent: Tuesday, October 09, 2001 4:14 PM
To: 'Andrew Crain'
Cc: Oxley, J. Jeffery
Subject:

Here is the document that Eschelon provided on Friday to Greg Casey, Audrey McKenney and Dana Filip.



Escheloncmt.doc

Karen L. Clauson
Director of Interconnection
Eschelon Telecom, Inc.
730 2nd Ave. South, Suite 1200
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Phone: 612-436-6026
Fax: 612-436-6126

EXHIBIT 2

ESCHELON'S COMMENTS ON QWEST'S PROPOSED CMP RE-DESIGN
STATUS REPORT: SUBMITTED TO CMP RE-DESIGN

October 5, 2001

EXECUTIVE SUMMARY

Qwest Misrepresents Schedule And Presents Unrealistic Time Frame. The Status Report suggests that the Re-Design effort will be completed by the end of the year. Based on progress to date, Eschelon does not believe that this is reasonably possible or that it would benefit anyone to rush the issues rather than give them the attention they deserve. Re-Design efforts in other regions have taken more than a year. The Re-Design Core Team collectively agreed to a schedule and structure that anticipated dealing with systems issues this year and product/process issues after the first of the year. That schedule is aggressive. It would be unfair to CLECs that are already devoting substantial resources to this process to burden them with more CMP Re-Design meetings and issues to attempt to accelerate an already aggressive schedule. CLECs have stated this at several Re-Design meetings, and the Status Report should indicate this.

Qwest Wrongly Characterizes Outstanding Issues as Resolved. Throughout the Status Report, Qwest refers to various issues as "agreements" or "final." Few of these issues, however, have been finally agreed upon. Virtually all of the language in the master red-lined document is still under review and may change based on future discussions. No votes have been taken finalizing any sections of the documentation. Despite contrary suggestions in Qwest's Status Report, the Re-Design effort is in the early stages, and much work remains to be done. The absence of finalized language does not mean that Core Team members are not working hard or making any progress on the issues. It is simply a testament to the size and nature of the task at hand. The significant issues have not yet been resolved.

Serious Flaws Exist in CMP, and Re-Design Process Needs Improvement to Correct Those Flaws. CLECs have raised serious concerns about the current CMP process, and these issues need to be addressed in Re-Design before any determinations can be made about the validity and effectiveness of the CMP. The Status Report should reflect this. CLECs have been asking for CMP improvements for a long time. But, Qwest is only now turning its attention to CMP. Since the CMP issue was raised in SGAT proceedings, Qwest has added resources to the CMP and CMP Re-Design. While these added resources are available, progress can be made, if these resources are used to manage Re-Design effectively. Improvements in the Re-Design process are needed. For example, Qwest has poorly managed the documentation. As a result, time is wasted in meetings dealing with the wrong documents or attempting to compare documents because Qwest ignored requests to use red-lining to show changes. Qwest has also attempted to limit and chill discussion of participants in the process. Better handling of such issues by Qwest and the facilitator would create efficiencies and encourage informed participation. Qwest indicates in its Status Report that the parties have agreed upon a structure for the Re-Design but does not comment on these types of implementation issues. Qwest needs to be candid in its Status Report, however, about aspects of the Re-Design that need improvement.

ESCHELON'S COMMENTS

Qwest provided a draft of its "Report on the Status of Change Management Process Re-Design" ("Status Report") to the Change Management Process ("CMP") Re-Design Core Team and requested initial comments on that Status Report by October 5, 2001. In response to Qwest's request, Eschelon provides these Comments.

Overall Message as to Progress and Schedule

Overall, the Status Report fails to adequately capture both the current status of the Re-Design effort and the nature and extent of the large amount of work yet to be done. Qwest's Status Report and attached schedule suggest that the Re-Design effort will be completed by the end of the year. Based on the progression to date, Eschelon does not believe that this is reasonably possible or that it would benefit anyone to rush the issues rather than give them the attention they deserve. The length of time needed in other regions demonstrates that the task requires significant time and effort. Participating representatives of Competitive Local Exchange Carriers ("CLECs") have pointed out that, in other Incumbent Local Exchange Carrier ("ILEC") regions, re-design of the CMP has taken more than a year. In contrast, this Re-Design effort is less than three months old. Despite contrary suggestions in Qwest's Status Report, the Re-Design effort is in the early stages, and much work remains to be done. CLECs have raised serious concerns about the current CMP process, and these issues need to be addressed in Re-Design.

A key fact missing from the Status Report is that the Core Team (consisting of CLEC and Qwest representatives) agreed in its early meetings, and at meetings since then, to address all of the systems issues first and then go back through the process and documentation to address product and process issues. All of the parties, including Qwest,

agreed that this was a good approach, because it is difficult to address all of these issues at one time. Although some aspects of the processes may be the same, other aspects may differ between systems and product/process issues. Rather than weigh down the systems discussions with product/process discussions, all decided to work through the systems issues first. This was done with the understanding that even some of the systems language may change when re-visiting each section for product/process issues. Still, it was determined that this would be the best approach.

The parties established a schedule that addresses the *systems* issues through the end of the year, with product and process issues to be addressed after the first of the year. This understanding has been repeated and confirmed at several CMP Re-Design meetings. CLECs confirmed this understanding at the October 2nd meeting. Although the parties said that they would make an exception for the Scope discussion, which would at least preliminarily discuss product and process issues, the CLECs reiterated that generally the decision to pursue systems issues first was still their understanding of the process. In addition to broadening some issues (such as Scope to include more than systems issues, most of the regularly scheduled issues have taken longer than anticipated. Therefore, the product and process issues will most likely be reached later, rather than earlier, than initially projected.

Despite this clearly articulated and repeated understanding that systems issues will be discussed first and through the end of this year, Qwest attached to the proposed Status Report, as Exhibit D, a "Schedule of Working Sessions" that lists product and process issues as subject for discussion at the October 16th, Nov. 1st, Nov. 13th, and Nov. 27th meetings. This represents a unilateral decision by Qwest to breach the collective

agreement of the Core Team with respect to the structure of CMP Re-Design (an issue that Qwest indicates in its Status Report has been resolved). All of those meetings were slated for systems issues in every other Core Team discussion. When Eschelon pointed this out during the October 2nd meeting, Integra and other CLECs agreed that the Schedule of Working Sessions attached to the Status Report did not reflect their understanding.¹ In particular, Qwest has moved product and process discussions ahead of issues that CLECs have identified as pressing. For example, Sprint has requested, at several meetings, that Prioritization of OSS Change Requests be addressed as soon as possible. Therefore, this issue has been listed on the upcoming agenda. On Qwest's proposed working schedule (Exhibit D to the Status Report), issues that had not been slated until next year suddenly appear on the schedule ahead of Prioritization of OSS Change Requests. When Eschelon and Sprint raised this issue at the October 2nd meeting, the facilitator admitted that she had made this change in the schedule without CLEC input. She said she would replace Prioritization on the earlier date, but she did not indicate whether she would also return the other items on the schedule as they had been (rather than moving up product and process issues to November). The Status Report, and Exhibit D in particular, creates a false impression of the anticipated schedule. An impression is created that all of the issues will be dealt with by year's end. Based on progress to date, Eschelon does not believe that is reasonably possible. Such a schedule

¹ Qwest attempted to claim that the schedule reflected issues agreed upon at the conclusion of the previous CMP Re-Design meeting. While it is true that the facilitator started writing these issues on the board, several of the CLEC representatives had left (for travel reasons) by this time, some CLEC representatives (including Eschelon) were on the telephone and could not see the board and certainly did not understand that the facilitator was doing this, and finally a decision was made that the facilitator would put something together for review at the meeting. There was no consensus on the schedule proposed by the facilitator. At the October 2nd meeting, the CLECs again made this clear. Although the CLECs have made issues such as this scheduling issue and red-lining of the OBF document (see above) clear, the facilitator at times appears

would not lead to development of an effective process that addresses CLEC concerns with the existing process.

The length of time needed for completion of the Re-Design Process is not due to any lack of effort, cooperation, or devotion of resources by the CLECs. Although CLECs have requested changes to the CMP (formerly "CICMP") process for well over a year, Qwest has only recently turned its attention to re-designing the process. Now, CLECs are expected to drop everything to meet a very aggressive schedule. Eschelon appreciates the resources that Qwest has finally devoted to this project and, in particular, Eschelon appreciates the hard work of the newly established CMP Director. It will take some time, however, for those resources to adequately address the long-pending issues. In the meantime, Eschelon is devoting substantial resources to the CMP Re-Design, including devoting at least 25% of the time of its Vice President for Provisioning and Repair to the effort. This takes her away from operational and customer-affecting issues to assist Qwest in addressing CMP Re-Design. She is willing to do this, because re-designing CMP is critical. But, the schedule cannot become even more unrealistic. Eschelon and other CLECs have expressed these views about the schedule at several meetings. The Status Report should reflect this.

In addition to the Working Schedule in Exhibit D, the Status Report itself also creates an impression that the CMP Re-Design is farther along than it is. Throughout the Status Report, Qwest refers to various issues as written "agreements" or "final." Few of these reported as resolved issues, however, have been finally agreed upon. The Core Team agreed to work through the documentation once as to systems issues and then *re-*

to take direction from Qwest, and direct discussion from a Qwest perspective, rather than more accurately reflecting when CLECs have not agreed to Qwest's points or proposals.

visit each section as to product and process issues. The Core Team also agreed that the members will be given time to bring issues to their organizations for review and may re-visit them after internal discussions or in light of discussions of later sections that then impact previously discussed sections. At the appropriate time, votes will be taken. No votes have been taken finalizing any sections of the documentation. While some sections may appear final, therefore, they are still under discussion. They will not become final until after the product and process, as well as systems, discussions are complete, and a collective decision has been made that there is no need to return to an issue. This is a necessary process to ensure that issues are dealt with in context and not an isolated manner. It is not an accurate or fair characterization of the issues to describe their present temporary treatment as agreements or final.

Specific Provisions of the Proposed Status Report

Additionally, Eschelon comments on specific provisions of the Proposed Status Report.

“Introduction and Background”

In the Introduction and Background, Qwest states that the “process has resulted in the parties agreeing on many issues.” Status Report, p. 2. As indicated above, use of the term “agreeing” suggests that issues are farther along than is actually the case. The parties have discussed several issues, but few have been finally agreed upon. Qwest also indicates that the “parties have also agreed upon the redesign process itself” refers to Exhibit A. (Exhibit A was not provided with the proposed Status Report for review.) Although Eschelon believed that a structure for re-designing the CMP had been laid out, part of that structure depended on the schedule and the order of issues to be addressed.

After reading Qwest's Status Report, these appear to be open issues that the parties need to further address.

Qwest identifies the process that the Core Team will use to address impasse issues in the Re-Design meetings. The members of the Core Team went through other iterations of this language, while working with the understanding that 271 workshops would be held as to CMP. Eschelon understood that the workshop procedure would provide a review of the Re-Design efforts and address impasse issues. CLEC representatives spent time on the issues without knowing that Qwest intended to cease those workshops. Qwest did not apprise the CLECs of this change through CMP or CMP Re-Design. When WorldCom's attorney apprised the other CLECs of this fact, the group re-visited the language. Qwest's decision not only affected the language regarding resolution of impasse issues, but also it expanded the scope of the issues being addressed in these meetings. Therefore, the schedule will be affected accordingly.

"Agreements Reached Are Tracked in the Master Red-Lined Document"

The CMP Re-Design is a collaborative process, not a negotiation session of the type that occurs for interconnection agreements. The Red-Lined Document is a work in progress, all of which has to be taken into context and may be revised as the parties move through the issues. Despite this, Qwest characterizes the document as though it were a series of agreements. Qwest represents that it has highlighted "agreements" in yellow, but Eschelon did not receive a version with yellow highlighting. If any of the red-line document has been finally "agreed" upon, it would be less than ten percent. Perhaps a global change should be made to the document to simply change all uses of the word "agreed" to "discussed." That would more accurately reflect the current status.

Qwest states that the Core Team members agreed to use the Ordering and Billing Forum's ("OBF") Issue 2233 version 1 as a starting point for discussion and a working document. *See Status Report p. 3.* CLECs made this request in initial comments and repeated the request to use that document as a working document (a basis for red-lining) at every subsequent meeting. CLECs pointed out that the document was only a starting point because, among other reasons, it deals only with systems issues and pre-order order, whereas the CMP Re-Design is broader. But, it was a starting point. Initially, Qwest came to the first meeting with the wrong version of the document – a much shorter version. Then, Qwest worked off of various other documents, without red-lining OBF Issue 2233 version 1. CLECs continued to ask Qwest to respect their request to work off the OBF document and to use red-lining to show changes. It took many meetings to make this happen, and various documents then had to be compiled to get back to CLECs' initial requested approach. Qwest's failure to do so from the start caused inefficiencies and delays.

Similarly, CLECs have requested that, when Qwest seeks to change the proposed language, Qwest bring a red-lined proposal to the meetings to show how Qwest would propose changing the master document's language. Instead, Qwest has continually come to the meetings with new language, some of which is taken from the master document, but with no red-lining to show what was acceptable and what was revised. Much time is lost in meetings comparing documents, when a simple red-line of the proposal would have provided a basis for discussion. While this may seem like a small point, it really has caused delay and frustration. A more organized, clear presentation of the documentation and proposed changes would help avoid delay.

“Issues Discussed in CMP Redesign Meetings”

Qwest indicates that the parties have addressed several issues from the “Colorado Issues Log.” Qwest then goes on to state that the parties have not only addressed the issues but have reached agreements or “clearly defined” the issues. The problem, however, is that the parties have not yet even discussed all of these issues, much less agreed upon or clearly defined them. The most glaring example is the statement on page 7 of Qwest’s Status Report that “The change request prioritization process is clearly defined in Exhibit A.” *Despite repeated requests that Prioritization be addressed, this issue has not even been discussed.* As noted above, the facilitator had moved this issue even farther down the schedule than earlier envisioned, and the parties have not reached it yet. Although CLECs asked that the OBF document (presumably shown in Exhibit A, though that was not provided to CLECs for review), CLECs recognized that the OBF document does not deal with all of the necessary issues and that it will need revision. CLECs suggested the OBF language *only as a starting point*. Qwest recognizes this on page 3 of its Status Report. But, on page 7, Qwest treats the language in the OBF document as an offer to be accepted. It is not such an offer, and Prioritization is an open issue for discussion. To date, the only Prioritization issue even on the schedule this year is Prioritization with respect to system changes. Eschelon has indicated that some form of Prioritization process may be needed for at least some product or process issues. However, that discussion has not taken place, nor does Exhibit A reflect the need to address that issue. Each of the remaining sections of the Status Report would similarly benefit from a more clear statement of the current status.

“Clarity and Accessibility of Qwest CICMP documents (Issue CM-1)”

The Core Team is working to provide clarity and accessibility to Qwest CMP documents, which currently are not clear or accessible. Progress has been made with respect to the CMP web site, though it is still under review. Eschelon has indicated that Qwest has not labeled or grouped documents adequately for easy identification on the Re-Design portion of the CMP web site are, nor does Qwest provide distribution packages for the Re-Design meetings on the web site. Therefore, it is difficult to identify all of the materials needed for each meeting. When an individual has not been involved in all of the Re-Design discussions, finding relevant materials on the Re-Design site is particularly difficult. With respect to both the general CMP web site and the CMP Re-Design web site, Qwest fails to post information sufficiently in advance of a meeting to be useful. For example, Qwest will post documents on the afternoon before a meeting, even though it knows that the participants in the meeting are traveling at that time and do not have access to their computers. Despite these problems, Eschelon appreciates Qwest's willingness to revise its web site. Improvements, such as adding descriptors to the list of Change Requests (instead of just a number), have aided in being able to find documents. Additional work will need to be done and will be addressed in Re-Design.

Web sites are only one aspect of the issue of clarity and accessibility of Qwest CMP documents. CLECs on the Core Team have raised substantial issues about the timing of when documents become accessible (which is often too late), the need for more clarity in notifications to provide meaningful notice, the number and various sources of notifications, and the completeness of documentation. The Core Team has developed helpful improvements, such as better naming conventions and consolidation of several

documents into a single summary for use in meetings. The notification issues are not fully resolved, however. Also, written presentations by Qwest on significant issues are often not included in the agenda or distributed before the meetings. This problem continues and occurred as recently as the last CMP monthly meeting. The Re-Design team needs to address this issue and continue to monitor and work on the CMP documentation issues. Contrary to the Status Report's suggestion, no voting has taken place on this issue, and there is no agreement on the matter.

"Definition and adequacy of Qwest's escalation and dispute resolution process (Issue CM-2)."

To be effective, an escalation process must provide for speedy resolution of issues. By the time of escalation, the parties have already fully clarified the issues, stated their positions, and should have communicated the issue internally at the appropriate levels. Therefore, the groundwork has been laid, and escalation should lead to quick resolution of the issue. This key timing issue, which really determines whether an effective escalation process is in place, is not yet resolved. Although Qwest describes the issue as whether "Qwest responds to request for escalation in 7 days or 14 days," there are other alternatives. For example, the length of time may vary depending on the type of issue or whether a certain level of employee has already responded to the issue. Qwest may not have considered such alternatives, because this discussion has not even taken place yet. No voting has taken place on this issue.

As discussed above, the dispute resolution process was revisited after Qwest ceased the 271 workshops as to CMP, and language was agreed upon, though a vote has not been taken to finalize it.

“Five categories of changes in SBC documents (Issue CM-3)”

The Core Team has not yet addressed the processes for different types of changes. Although Qwest claims to have already “implemented the five categories of changes in its CMP process,” Eschelon does not know what this means. Because the Core Team has not yet discussed this process, Qwest could not have implemented it already. The only evidence to date that Qwest has “implemented” any type of change, other than CLEC-initiated change requests, is that Qwest included some “Qwest-initiated” changes in the last prioritization. Qwest did not complete Change-Requests for these changes, nor did it do much other than to give a couple of minutes of oral summary of the minutes before the CLECs were supposed to vote on them. CLECs asked for additional time to consider the issues before the vote. While they were given additional time, no additional information, or formal Change Requests, were provided to the CLECs. The process was very flawed, and Eschelon hopes that Qwest does not view this a process that would be acceptable to the Re-Design Core Team. None of this work has been done yet. No voting has taken place on this issue.

“Performance measurements for change management (Issue CM-4)”

Eschelon is not involved in the ROC TAG discussions. As Qwest indicates, performance measurements are not a subject of the Re-Design meetings.

“Repair process subject to change management (Issue CM-5)”

The repair process has not yet been discussed. If the schedule that has been discussed in several meetings and was previously agreed upon is applied, such process issues will not be addressed until after the first of the year. No voting has taken place on this issue.

“Frequency of scheduled CICMP meetings (Issue CM-6)”

The CLECs recently asked Qwest to expand the monthly CMP meeting to a two-day session, because the existing meetings are too rushed and do not adequately address the substance of the issues. Too many issues are being dealt with “off-line,” which limits full participation and creates confusion about the issues and their resolution. Qwest agreed to the two-day format, but this has not been incorporated into the CMP documentation yet.

“Qwest-generated CRs (Issue CM-7)”

Although Qwest indicates that it “has committed” to the position it identifies on page 5 of the Status Report as to Qwest-generated CRs, this is news to Eschelon. While Qwest may have committed to this position elsewhere, its inclusion here in the Status Report seems to suggest that some action has been taken in the Re-Design meetings. That is not the case. The status of this issue is simply that the Re-Design team has not addressed it yet. Eschelon believes that Qwest’s stated position is too limiting and inconsistent with the Scope discussions that have been held to date. Eschelon hopes that Qwest intends to work collaboratively with CLECs to develop a definition and process for Qwest-generated CRs that more accurately reflects that discussion. No voting has taken place on this issue.

“Proprietary CR (Issue CM-8)”

CLECs have asked about proprietary CRs and how they are, or should be, defined but little discussion has occurred, and no resolution has been reached. No voting has taken place on this issue.

“EDI draft worksheet availability (Issue CM-9)”

Again, the OBF language in Exhibit A is a starting point only and is not an offer to be accepted or rejected. The status of this issue is that it has not been discussed at all yet.

“Whether CLECs have had input into the development of the CMP (Issue CM-10)”

Eschelon and other CLECs have devoted substantial time and resources into the development of CMP. The outstanding issue, which will be gauged over time, is whether that constitutes *meaningful* input. For example, Eschelon sent an email to Qwest’s CMP Director in which Eschelon describes four recent examples where the CLECs clearly stated their collective position, they thought an understanding had been reached, and then Qwest unilaterally acted otherwise. These are examples only and not the only instances of this. Eschelon does not expect that its input will always be accepted. It does expect candor about whether the input has been accepted or the status of issues.

“Wcom not allowed to vote on EDI CRs (Issue CM-12)”

This issue, as well as EDI CRs generally, has not yet been addressed in Re-Design. No voting has taken place on this issue.

“Scope of CMP (Issue CM-13 and 16)”

The Core Team has made some progress on the issue of scope and tentatively agreed upon initial language. Eschelon has confirmed with Qwest its understanding of the initial language, which includes changes not only to traditional interfaces but also changes to Qwest’s back-end and retail systems or processes that support or affect CLECs. One such affect may be that a change in retail systems may be discriminatory without a comparable change to systems or processes used by CLECs. If so, the change

will come through CMP in some manner. The process for this has yet to be addressed. Qwest has agreed to distribute and post on its web site the process that it currently uses to notify its wholesale unit of retail changes that may affect CLECs. Additional discussion is needed as to how this issue will be handled in the Re-Design and CMP processes.

The Scope language expressly states that it will be re-visited again. Until the substance of the remaining issues is discussed, it is difficult to determine whether the Scope has accurately captured all issues. For example, Qwest has said that it will include production defects in the Scope, but it has said that it believes this type of change will require different handling from other types of changes. The Core Team has not yet discussed this issue to understand it and determine whether a consensus can be reached. Whether the Scope really encompasses production defects will be determined in these discussions. In other words, a high level concept has been discussed, to which it appears there is general agreement, but the devil may be in the details.

“Whether Contents of Exhibit G should be included in SGAT (Issue CM-014)”

Qwest did not provide Exhibit G with the draft Status Report. Eschelon assumes that Exhibit G is the master red-lined CMP document. If Qwest has made any changes or added any highlighting or other notations, CLECs have not had an opportunity to review them. The parties said that Exhibit G should be included in the Statement of Generally Available Terms (“SGAT”). Qwest’s proposed SGAT language states that the CMP document (a very early draft of some portions of it) will be attached in draft form, even though Eschelon has indicated that the document is in too early stages of development at this time. The document should be attached, but Qwest should give the process time to develop.

Qwest also discusses its proposed SGAT language in this section of its Status Report. The Core Team members said that the CMP obligation should be reflected in the SGAT. With respect to the language to be used, the CLECs expressly asked that Qwest not represent that the language in its proposed Section 12.2.6 has been agreed upon. Although CLECs were willing to suggest improvements if Qwest was going to submit the proposed language now, Eschelon and other CLECs expressed a preference for drafting language that more accurately captures the Scope and design of the CMP, once those issues are addressed. However, when Qwest states in its Status Report that "the parties have not agreed upon the language in the entire paragraph," this suggests that the parties have agreed upon some of the language. Although further discussions of the language were held given Qwest's intent to propose it, Eschelon continues to believe that the language would better reflect the re-designed CMP process if the process is further developed before the language is finalized. For example, the proposed language includes a list of items that the CMP "shall" do. Eschelon agrees with AT&T's observation that this list would be better developed when the Re-Design team has had an opportunity to address all of the elements that it believes the process shall include.

The Core Team did not anticipate discussing SGAT language in the Re-Design process at all. Qwest raised the issue after discontinuance of the 271 workshops, when issues that would have been handled in those workshops were moved to the Re-Design meetings. Qwest then brought proposed SGAT language to the Re-Design team meeting and asked CLECs to comment on it. When CLECs attempted to do so, however, Qwest objected that CLECs were spending too much time on the language and legal issues. In that meeting and others, Qwest questioned the participation of attorneys and regulatory

personnel. WorldCom's attorney read from a transcript the testimony of Qwest's witness (who was present in the room for this discussion) that such participation would be allowed. While parties have since been allowed to bring their chosen representatives to the meetings, Qwest's conduct and comments have had a chilling effect.

"Whether Contents of Exhibit H should be included in the SGAT (Issue CM-15)."

Qwest states on page 7 of its Status Report that Exhibit H is the escalation process. Qwest states that it has "conceded" that the escalation process should be included in the SGAT. Apparently, this means that it will be included in the SGAT because there will be an escalation process in the CMP document, which will be attached to the SGAT. Eschelon does not know if it has been established by the commissions that Qwest will therefore be bound by this process. Eschelon assumes that is the case, based on Qwest's statements. In any case, the escalation process is not yet final, as discussed above.

With respect to Qwest's use of the term "conceded," Eschelon notes that Qwest has started to use this term frequently in Re-Design meetings. Although Qwest has criticized other participants as being insufficiently "operational," Qwest's attorney has interjected this concept. Whereas before the participants were discussing the best solution for all, now the issues are discussed in terms of whether Qwest will "concede" any points to CLECs. This is true even when CLECs state that they believe the proposed process will be more beneficial and efficient for all, including Qwest. This change in tone of the meeting has been at Qwest's initiation and is not collaborative or productive.

“Process for notification of CLECs and adequacy of process (Issue CM-17)”

The notification process is of major concern to CLECs. In 40 working days (from July 20, 2001 to September 19, 2001), CLECs received 371 emails from Qwest that purport to provide “notice” to CLECs. Notification is not simply issuance of an email or a web posting; it must be meaningful. The notification issue has been discussed, and some efforts have been made to attempt to address the current problems at least on an interim basis. This issue will continue to be discussed throughout the process. In some cases, proposals will be tried and re-visited if they are not effective or continued if they are effective.

“Documents described and as yet identified and unknown, which include the change request process prioritization and other links (Issue CM-18).”

Eschelon is not familiar with Issue CM-18. It has not been discussed in the Re-Design meetings, and Qwest does not provide any explanation in its Status Report. The only statement that Qwest makes is that the “change request prioritization process is clearly defined in Exhibit A.” As discussed above, this statement says nothing about the current status of this issue and creates an impression that some work has been done when that is not the case. The Prioritization process has not yet been addressed in Re-Design.

“Schedule for Remaining Discussions”

As discussed above, the schedule for remaining discussions provided by Qwest does not accurately reflect the upcoming schedule. The schedule has been described as a work in progress, and it is revisited at each meeting. Usually, issues are re-scheduled for a later meeting, because discussions have taken longer than anticipated. It is unlikely, therefore, that the discussions that were scheduled for after the first of the

year will suddenly be completed in November, as suggested by Qwest's Exhibit. The Re-Design effort is in the early stages, and much work remains to be done.

Conclusion

Eschelon has submitted this additional information to help provide a better understanding of the issues that have been discussed, those that have not been discussed, and the progress of the Re-Design effort to date. Qwest's Status Report is listed in order of the Issues on the Colorado Issues list, even though that list was only provided to the Re-Design team on September 6, 2001. That list has not been the basis for the order of issues or the subject of Re-Design discussions. Whereas Qwest's draft Status Report may comment on the legal posture of certain issues and Qwest's positions, Eschelon had understood the Status Report to also serve the purpose of informing others of the progress of the re-design discussions themselves. Eschelon has tried to add that aspect to the Status Report.

-----Original Message-----

From: Clauson, Karen L.
Sent: Wednesday, November 28, 2001 2:53 AM
To: Jim Maher
Cc: Terry Bahner; Liz Balvin; Clauson, Karen L.; Tom Dixon; Megan Doberneck; Evans, Sandy; Gindlesberger, Larry; Hines, LeiLani; Lee, Judy; Littler, Bill; Lees, Marcia; Menezes, Mitch; Osborne-Miller, Donna; Powers, F. Lynne; Quintana, Becky; Rossi, Matt; Routh, Mark; Schultz, Judy; Stichter, Kathleen L.; Thiessen, Jim; Travis, Susan; VanMeter, Sharon; Wicks, Terry; Woodcock, Beth; Yeung, Shun (Sam); mzulevic@covad.com
Subject: RE: Eschelon's comments on Draft November CMP Redesign Status Report

Enclosed is an electronic copy of Eschelon's comments on Qwest's draft November CMP Redesign status report.



CMPNovEschCmt.doc

-----Original Message-----

From: Jim Maher [SMTP:jxmaher@qwest.com]
Sent: Wednesday, November 21, 2001 12:39 PM
To: Matt White
Cc: Terry Bahner; Liz Balvin; Jeff Bisgard; Karen Clauson; Andrew Crain; Tom Dixon; Megan Doberneck; Evans, Sandy; Filip, Dana; Gindlesberger, Larry; Green, Wendy; Gunderson, Peder; Hines, LeiLani; Hydock, Mike; Jennings-Fader, Mana; Lee, Judy; Littler, Bill; McDaniel, Paul; Lees, Marcia; Menezes, Mitch; Ellen Neis; Osborne-Miller, Donna; Powers, Lynne; Quintana, Becky; Rossi, Matt; Routh, Mark; Schultz, Judy; Stichter, Kathy; Thiessen, Jim; Thompson, Jeffery; Travis, Susan; Priday, Tom; VanMeter, Sharon; Wagner, Lori; Wicks, Terry; Woodcock, Beth; Yeung, Shun (Sam); Ford, Laura; Smith, Richard; Oxley, Jeffery; Nicol, John
Subject: Draft November CMP Redesign Status Report

Following is an e-mail from Beth Woodcock regarding the November CMP Redesign Status Report. I have attached the draft for your review and comments, with the requested comment cycle in the information below. Comments should be made back to Beth Woodcock and Andy Crain, and their e-mail addresses are included in this notification. Thank you.

Jim Maher
303-896-5637

----- Original Message -----

Subject: draft November CMP Redesign Status Report
Date: Wed, 21 Nov 2001 10:15:13 -0800
From: "Woodcock, Elizabeth - DEN" <WoodE@PerkinsCoie.com>
To: "jxmaher@qwest.com" <jxmaher@qwest.com>
CC: "acrain@qwest.com" <acrain@qwest.com>

Jim -- Please distribute this to the Redesign team.

EXHIBIT 3

All --

This is the draft November status report, which we hope to file on Friday, November 30. Please email your comments to Andy Crain and me by close of business Wednesday, November 28. We will revise the report as necessary and distribute it to you again on Thursday, November 29. If you have any further feedback, please email it to Andy and me no later than 10:00 am on Friday November 30. Please feel free to call Andy or me with any questions.

<<draft Nov 2001 CMP redesign status report.doc>>

-- Beth

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<< File: Draft Nov 2001 CMP Redesign Status Report.doc >>

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 97I-198T

IN THE MATTER OF THE INVESTIGATION INTO U S WEST COMMUNICATIONS,
INC.'S COMPLIANCE WITH § 271(C) OF THE TELECOMMUNICATIONS ACT OF 1996

QWEST CORPORATION'S REPORT ON THE STATUS OF CHANGE
MANAGEMENT PROCESS REDESIGN
--Eschelon's Comments, September 27, 2001

Qwest Corporation hereby provides its second monthly status report regarding the meetings it has held with CLEC representatives regarding the redesign of Qwest's Change Management Process ("CMP").¹ Qwest proposes that CLECs and other parties to this proceeding be given a reasonable amount of time to file comments on this report, including comments regarding impasse issues identified in the report, if any. A date certain should also be set when Qwest should file its Status Report each month, so that responding parties may plan their schedules accordingly.

I. INTRODUCTION AND BACKGROUND

Qwest and the CLEC community are continuing to redesign the CMP to address key concerns regarding the process raised by CLECs in the CMP over time, as well as in the section 271 workshops, regarding Qwest's change management process.² Qwest appreciates and commends the CLECs' active participation in these working sessions. CLEC representatives and

¹ Qwest's CMP was formerly known as the "Co-Provider Industry Change Management Process" or "CICMP." The CLECs participating in that process chose to change the name to "Change Management Process."

² Qwest has established a website where it has posted the redesign minutes and other materials. The website address is www.qwest.com/wholesale/cmp/redesign.

Qwest have held five full days of meetings since the last status report was filed. In addition, discussions about redesign issues have been held in separate conference calls, and the Parties have reviewed materials outside of the regularly scheduled CMP redesign meetings. The time and resource commitments required for the redesign effort are substantial. Although many open issues remain, the need for additional progress is not due to a lack of time commitment to the redesign effort.

As a general matter, the parties agreed to address systems issues first, then address product and process issues. The redesign process has resulted in the parties agreeing on interim solutions pending final approval on many issues some issues or sub-sets of issues. The interim implementation of processes may serve as a test of processes which are still under development or in need of refinement. Based on the trial implementation, further revisions can be made. In the first status report, Qwest noted that these issues included the scope of CMP, escalation and dispute resolution processes for the CMP, interim processes for change requests ("CRs") to be submitted by CLECs for systems issues, and CRs to be submitted by Qwest and CLECs relating to product and process issues. Although it appeared that at least partial interim solutions had been developed relating to these issues, the interim trial implementation has helped the Parties identify additional work that needs to be done in each of these areas, such as:

Interim Scope of CMP: The Parties agreed that the Scope of CMP encompasses changes to products and processes (including manual) and OSS interfaces that affect system functions that support or affect the capabilities for local services provided by CLECs to their end users.³ Based

³ CLECs have indicated that they interpret the Scope language to include changes to Qwest retail systems or processes when those changes affect CLECs. For example, if a dramatic improvement was made to the raw loop data tool used by Qwest retail, ensuring that CLECs are aware of the change and a

on discussions since then and the Qwest-initiated CRs submitted (and not submitted) to date, however, the Parties have identified that further discussion is needed as to whether all issues within the Scope of CMP require use of CRs and, if not, the parameters for when CRs are required. The resolution of this issue may ultimately appear in the documentation in another section, such as the types of changes, but the relationship to Scope must be addressed. In addition, a CR submitted by Qwest relating to Additional Testing has raised the issue of whether rates are within the Scope of CMP. As part of Qwest's CR, Qwest included rates that Eschelon has not been able to locate in its interconnection agreements. Qwest did not provide cost support or authority for the rates in its CR.⁴ The extent to which rates are within the Scope of the CMP needs to be addressed and, if part of the Scope, language needs to be developed with respect to this issue.

Interim Escalation and dispute resolution processes for the CMP: Questions have arisen as to when and how the escalation and dispute resolution processes for the CMP apply to Qwest. For example, Qwest submitted a CR in which Qwest stated an effective date for the change "request" in the CR. Although CLECs have objected to the requested change and its effective date, Qwest is nonetheless implementing the CR (including application of rates). The Parties have yet to discuss and agree upon the process for gaining consensus or approval of Qwest-initiated CRs. If Qwest can announce an effective date in a CR and unilaterally implement it over CLEC objection, submission of a CR is, in effect, no different from merely issuing a unilateral notification of a change. Moreover, the burden to escalate and invoke the dispute resolution process is shifted, in every case, to the CLEC. The parties need to address whether circumstances exist in which Qwest must invoke dispute resolution when CLECs do not agree with, or approve, a Qwest-initiated CR. The Core Team also needs to address whether the CR

comparable change is provided to CLECs would be within the scope of CMP. If Qwest disagrees, additional discussion will be needed with respect to this issue.

⁴ The rates identified by Qwest in its CR are associated with activities that Eschelon also conducts and thus for which Eschelon could charge Qwest in similar circumstances. Whether and how either Qwest or CLEC rates may be the subject of CRs has yet to be addressed.

may become effective or the proposed effective date is suspended while the dispute is being resolved. As a separate matter, the Core Team has also identified a need to develop an escalation process for technical issues currently addressed by Qwest's IT wholesale systems help desk.⁵

Interim process for CRs to be submitted by CLECs for systems issues: In its First Status Report, Qwest reported that Qwest and CLECs had agreed "in principle" on an interim process for CRs to be submitted by CLECs for systems issues. The specifics of that process are still under discussion, and a permanent process needs to be agreed upon. A major part of the process for systems issues is prioritization, and prioritization is an open issue that is the subject of much discussion. Processes also need to be developed with respect to CRs submitted by Qwest for systems issues.

Interim process for CRs to be submitted by Qwest and CLECs relating to product and process issues: As indicated above, the Core Team members initially agreed to address systems issues first and then turn to product and process issues. Because of the volume of product and process changes being issued by Qwest in the form of general announcements (rather than CRs), however, CLECs asked to address this pressing aspect of the product and process issues early, on an interim and emergency basis, to get some relief until a fully developed permanent process could be put in place.⁶ The large volume of changes appeared to relate to changes in product catalog or technical publication documentation that Qwest said were required by commissions

⁵ A subcommittee has been formed to address this issue initially and to bring suggested solutions back to the entire Core Team. CLECs have raised concerns about the use of subcommittees to address issues that need to be fully discussed by the entire Core Team. Use of subcommittees for extended discussions ensures that not all Core Team members are exposed to the full discussions of the issues, requires duplicate time and effort of those members who are both on the subcommittee and on the Core Team, and extends the already aggressive time commitment required of CLECs to assist in redesigning Qwest's CMP. CLECs have agreed to make this additional time commitment with respect to the escalation process but have been ensured that doing so will not limit discussion and consideration of the full group, no binding decisions may be made by the subcommittee, and other issues, if any, considered for subcommittees will be limited to those the Core Team members agree are suited for such treatment.

⁶ See "Written Summary Regarding Qwest's Proposed Process Changes for Qwest to Product, Process, and Technical Documentation" (9/25/01) at <http://www.uswest.com/wholesale/cmp/redesign.html>.

through 271 proceedings or OSS testing.⁷ Qwest proposed a high-level interim process that would address such changes. Agreement is still needed as to the criteria for determining whether a change has been mandated by a regulatory body and the amount of information that must be provided with respect to the basis for claiming a CR is regulatory. Also, although Qwest's proposal referred to changes required by 271 proceedings or OSS testing, Qwest has since interpreted the interim process to also apply to other Qwest-initiated CRs (non-"regulatory" CRs). Also, a subcommittee was formed to develop a proposal for defining the categories of changes that must be subject to a CR and those subject to only a notification. Minutes were kept of the first subcommittee meeting, but a promised follow up meeting was not held, and the full Core Team did not review or adopt proposed language relating to circumstances when CRs or notices were required. The Core Team needs to address these issues, as well as compliance with the process itself. For example, the interim process required that changes to product catalogs and technical publications would be red-lined to identify the changes, but CLECs have indicated that they do not believe this is being done. In addition to not operating to any party's satisfaction at this time, the interim process simply does not address all of the issues that need to be addressed in the long term. For the permanent process in particular, the Core Team needs to address the full process for Qwest-initiated changes, including what level of consensus or CLEC approval is required and the process for obtaining it. Discussions of the overall, long-term process for product and process has not yet begun. Those discussions are scheduled to commence after the systems section.

Since the First Report, the parties have ~~reached agreement on~~ discussed and reached tentative agreement on some language relating to exceptions to the process, processing for OSS

⁷ Some of the changes appear to relate to SGAT language, but not all CLECs have opted in to an SGAT. As discussed below, additional discussion is needed in redesign regarding the relationship between interconnection agreements and CRs. For example, what is the process when a Qwest-initiated process change directly conflicts with a provision in a CLEC interconnection agreement.

interfaces, product and process changes (with further discussions planned to clarify the exceptions process); OSS interface change request initiation process; process for introduction of a new OSS interface; process for changes to existing OSS interface process;⁸ and process for retirement of an OSS interface. Because it is a difficult task to deal with multiple issues discretely at first, rather than in context (which must be done due to the number and complexity of the issues – one must begin somewhere), the language relating to these issues will be re-visited again when more of the document is completed and the issues can be evaluated in context. As the CMP meetings continue and some interim processes are tested, additional issues are being identified that will likely result in additional changes to this preliminary language. For example, with respect to the CR initiation process, CLECs have suggested that language needs to be developed to specify additional information that must be included as part of a Qwest-initiated, regulatory, or industry guideline type of CR. To illustrate, the CR may need to state the specific citation to the provision of a regulatory order that is relied upon as the basis for a regulatory CR. In addition, the role of “clarification” discussions needs to be examined with respect to Qwest-initiated and other non-CLEC initiated CRs. When Qwest submitted a CR relating to additional testing, the CR contained less than a paragraph of information about the proposed change. Several conversations have had to occur to clarify the change request. The Core Team needs to

⁸ The agreed implementation timeline for changes an existing OSS interface provides, among other things, for Qwest to provide to CLECs draft technical specifications containing the information CLECs need to code the interface at least 73 calendar days prior to implementing a release, and affords the CLECs eighteen (18) calendar days from the initial publication of the draft technical specifications to provide written comments and/or questions relating to that documentation. Qwest will respond to CLEC comments and/or questions and sponsor a walk through meeting where CLECs' subject matter experts can ask questions of Qwest's technical team regarding specific requirements. Qwest will provide final release requirements no more than forty-five (45) calendar days from the implementation date. Qwest will also provide a thirty

evaluate whether this is the best approach or another process should be used, and the process then needs to be added to the documentation.

III. AGREEMENTS REACHED LANGUAGE DISCUSSIONS ARE TRACKED IN THE INTERIM DRAFT MASTER REDLINED DOCUMENT

The parties agreed to use the OBF's Issue 2233 version 1 as a starting point for discussion and a working document. Qwest is tracking the parties' agreements in that document, which is entitled "Interim Draft Master Redlined Document." A copy of this document, reflecting tentative agreements reached through the November 13, 2001 meeting, is attached ~~hereto~~ as Exhibit A. The parties have not agreed to all of the text in the Interim Draft Master Redlined Document. For ease of reference, the portions of this document that represent the parties' initial agreements are formatted in regular typeface, while the portions of the document that have not yet been discussed appear in italic font.

As noted previously, the terms "interim" and "draft" have special significance as they are used in the document title, "Interim Draft Master Redlined Document." The agreements agreed upon language presented in the Interim Draft Master Redlined Document represents are interim tentative agreements in that Qwest can implement those agreements as soon as practicable that will be subject to further review once additional issues are addressed and the document can be reviewed as a whole. To date, there has been confusion as to when Qwest is implementing some of these tentative understandings. CLECs have asked Qwest to more clearly present any proposals for interim implementation and to ensure that agreement is reached as to such implementation. At the same time, the The tentative agreements remain in draft form not only

(30) day test window for any CLEC that desires to jointly test with Qwest prior to the implementation date.

because they are subject to contextual review later but also because they are subject to change throughout the redesign process. As noted earlier, interim implementation allows parties to observe the interim processes in operation, discuss them, and revise them as needed. -At the end of the redesign process, the parties will review the document as a whole, including language revised as a result of lessons learned from interim efforts, and make necessary changes to ensure that the discrete agreements reached regarding different issues fit together into a cohesive and integrated whole. The effort to achieve an overall review will include ensure action items are captured and the language is compared to existing CMP documentation, the OBF document, the tables of contents, the Colorado 18 point issues list, CLEC initial comments, and any other barometers of whether all of the relevant issues have been addressed.

As discussed, tThe parties have now believed they had reached agreement in principle on an interim OSS interface change request initiation process,⁹ which provideds that Qwest and CLECs both submit CRs to request changes to OSS interfaces for. ~~Both Qwest-initiated and CLEC-initiated OSS interface CRs follow the agreed process. See Exhibit A. The process provides that Qwest will hold a clarification meeting to ensure that the intent of the CR is clear. All OSS interface CRs will be discussed and modified, if necessary, at the monthly CMP meetings. This process is incorporated in Exhibit A.~~ Interim implementation has shown, however, that additional aspects of this process need to be addressed. During the interim period, when Qwest was to submit CRs for its proposed system changes, Qwest unilaterally announced that it had added an appointment scheduler for GUI users to a point release with a short

⁹ Note that the interim process was limited to "initiation" of CRs and does not address the remaining stages of the process, such as the complicated issues of prioritizing and processing system CRs.

implementation period. Point releases are not subject to prioritization. CLECs pointed out that Qwest's decision created a disparity between GUI and EDI users with respect to this issue. Qwest moved the appointment scheduler to the next, full release (which also included a scheduler for EDI users). Qwest did not, however, submit a CR for the appointment scheduler or include the appointment scheduler in the vote. Qwest indicated that it believed the appointment scheduler would benefit CLECs, but the purpose of the vote is to allow CLECs to prioritize which beneficial CRs should be worked first. Instead, Qwest devoted resources to the appointment scheduler that could have been devoted to CRs prioritized higher by CLECs. In effect, the Qwest-initiated change leap-frogged ahead of top priority CLEC-initiated CRs, even though Qwest did not submit a CR requesting the systems change. This situation has raised questions that need to be addressed by the redesign team.

~~The parties have also reached agreement in principle on processes for the introduction of a new OSS interface, changes to an existing OSS interface, and retirement of an OSS interface. Each of these processes sets forth an agreed timeline for advance notification to CLECs and the opportunity for CLECs to provide input regarding new OSS interfaces, changes to existing OSS interfaces, and retirement of OSS interfaces. These processes are incorporated in Exhibit A.~~

~~The agreed implementation timeline for changes an existing OSS interface provides, among other things, for Qwest to provide to CLECs draft technical specifications containing the information CLECs need to code the interface at least 73 calendar days prior to implementing a release, and affords the CLECs eighteen (18) calendar days from the initial publication of the draft technical specifications to provide written comments and/or questions relating to that documentation. Qwest will respond to CLEC comments and/or questions and sponsor a walk through meeting where CLECs' subject matter experts can ask questions of Qwest's technical~~

~~team regarding specific requirements. Qwest will provide final release requirements no more than forty five (45) calendar days from the implementation date. Qwest will also provide a thirty (30) day test window for any CLEC that desires to jointly test with Qwest prior to the implementation date.~~

II. ISSUES DISCUSSED IN CMP REDESIGN MEETINGS

In the meetings to date, the parties' discussions have touched on a wide range of issues. Many of those issues have resulted in action items or "placeholders" for discussions to be dealt with later. The Core Team needs to work through each of these issues at some point to be sure the concerns have been addressed. In response to CLEC concerns, the facilitator is making efforts to ensure that action items are captured in enough detail to include the context of the discussion so that the group is able to adequately address the issue at a later date. Copies of the meeting minutes from the July 11 through September 20, 2001 meetings were attached to the prior status report. Copies of the meeting minutes for the October 2, 3, 16, 30, 31 and November 1, 2001 meetings are attached here to as Exhibit B. Although meeting minutes have been distributed, the quality and timeliness of the minutes has been an issue of concern. Conversations are not transcribed, and the nature of the note taking varies from meeting to meeting. Often, another meeting has taken place before draft minutes to the previous meeting are distributed. This makes meaningful review of the minutes difficult. Specifically, the parties have addressed the following issues on the Colorado Issue Log for Workshop No. 6 (1st Session), Section 12, General Terms and Conditions, CICMP, BFR, June 19-22, 2001.

Clarity and accessibility of Qwest CICMP documents (Issue CM-1). The parties have discussed the need and ability to clarify and make available Qwest's CMP documents. Qwest has agreed to CLEC requests to enhance the design of the CMP website to increase ease of

navigation and locating specific documents. Work on this issue continues. For example, CRs in addition to those initiated by CLECs (Qwest-initiated, regulatory, and industry CRs) need to be added to the Qwest wholesale CMP website. In addition, additional discussions are planned relating to the agenda (such as meaning and handling of "walk on" items) and meeting materials to ensure that parties have adequate notice and opportunity to participate meaningfully on issues of importance to them.

Definition and adequacy of Qwest's escalation and dispute resolution process (Issue CM-2). The parties have discussed and agreed upon an escalation and dispute resolution process for the CMP. Those processes are set forth at pp. 33-35, 39-40 of Exhibit A. As described above, these agreements will remain in draft form until the conclusion of the redesign process in order to allow for any necessary adjustments. Also, as discussed above, additional issues have been identified for discussion and resolution.

Five categories of changes in SBC documents (Issue CM-3). While the parties have not fully discussed or reached agreement on the categories of changes to be included in Qwest's CMP, Exhibit A includes ~~all~~ four of the five categories of system changes included in SBC's documents. Those categories are listed in Exhibit A under the heading "Types of Change." ~~heading "Changes to Existing Interfaces." Qwest has already implemented the five categories of changes in its OSS CMP process.~~ "Production Support" is not currently listed as a type of change, at Qwest's request. But, the production support language proposed by Qwest indicates that certain production support changes (at lower levels of severity) should be requested using a

CR. Therefore, the parties still need to address this issue and the proper handling of production support changes.¹⁰

As discussed, a number of open issues remain with respect to Qwest-initiated CRs. The parties also need to develop the process for Regulatory and Industry Guideline types of changes. As discussed above, the parties have also identified areas of disagreement about the processes applicable to each type of change and are working through those issues. This includes everything from how much and what kind of information is required at CR initiation (such as the specific citation to the source of a regulatory change) to whether and when CRs are prioritized (including whether Qwest-initiated CRs require consensus or approval) and what kind of support the changes receive after implementation. Although the types of changes have been the subject of more discussion, the process applicable to each type of change for such issues remains to be worked out.

Performance measurements for change management (Issue CM-4). Performance measurements for CMP are being discussed in the ROC TAG and are not a subject of the redesign meetings. To date, the parties to the ROC TAG have agreed upon one new performance measurement, PO-16, which measures timeliness of release notifications. The ROC TAG discussions regarding other change management measures are continuing.

Although the performance measurements themselves are not being discussed in CMP redesign, performance measurement issues have arisen. For example, the parties have had initial discussions of how and when changes to performance measurements will be made and whether

¹⁰ Although it may not ultimately be called "production support," the redesign team needs to develop a similar process for product and process issues that arise after implementation of a product and process change.

this will be handled in any way through CMP. This issue has not been resolved or reduced to language. Also, Qwest has proposed language that would expand the definition of Regulatory CRs to include changes to improve performance when Qwest believes that the change would reduce penalties payable by Qwest. If such CRs are not subject to prioritization, they may jump ahead of operations-affecting changes prioritized by CLECs that for some reason are not associated with penalties. CLECs have opposed the proposed language and the issue remains under discussion.

Repair process subject to change management (Issue CM-5). Qwest has committed to including repair processes in CMP. The parties' agreement on the scope of the CMP reflects ~~that~~ commitment. See Exhibit A at pp. 4-6.

Frequency of scheduled CICMP meetings (Issue CM-6). The parties have agreed that CMP will be conducted on a regularly scheduled basis, at least on a monthly basis. At the CLECs' request, based on the volume of issues to be addressed at these monthly forums and the need for more substantive discussion, Qwest agreed to change the monthly forum format to include two separate full day meetings, with one full day dedicated to system CMP issues and one full day dedicated to product and process CMP issues.

Qwest-generated CRs (Issue CM-7). Qwest has committed to submit Qwest-originated CRs for changes to OSS interfaces, which are defined in the Interim Draft Master Redline Document as "existing or new gateways (including application-to-application interfaces and Graphical User Interfaces), connectivity and system functions that support or affect the pre-order, order, provisioning, maintenance and repair, and billing capabilities for local services provided by CLECs to their end users." Qwest has also agreed to submit CRs for Qwest-initiated regulatory and industry guideline changes. The meaning of this commitment has not yet been

worked out. If the commitment to “submit Qwest-initiated CRs” is to be meaningful, the submission of a CR must be distinguishable from a mere unilateral notice of a change distributed by Qwest to CLECs. If a Qwest-initiated CR may announce an effective date for a change that will be implemented irrespective of consensus or CLEC approval, the possibility arises that Qwest may, in effect, modify a CLEC’s interconnection agreement by simply running a CR through CMP and implementing it over CLEC objection. Safeguards are needed to prevent that result. The term “submit” suggests that a CR will be submitted “for approval.” The parties have yet to grapple with this issue. The piecemeal interim processes do not address this issue.

Proprietary CR (Issue CM-8). Exhibit A currently does not contain provisions for proprietary CRs. The parties have not discussed whether to include proprietary CRs in the process.

EDI draft worksheet availability (Issue CM-9). As discussed above, the parties have agreed to an interim implementation timeline for changes to an existing OSS interface, which includes a requirement for Qwest to provide to CLECs draft technical specifications containing the information CLECs need to code the interface at least 73 calendar days prior to implementing a release, affords the CLECs an opportunity to provide written comments and/or questions relating to that documentation, and requires Qwest to provide final release requirements no less than forty-five (45) calendar days from the implementation date. Qwest will also provide a thirty (30) day test window for any CLEC that desires to jointly test with Qwest prior to the implementation date.

Whether CLECs have had input into the development of the CMP (Issue CM-10). CLECs that are Core Team members are actively participating in the redesign meetings. The

Core Team has agreed that it needs to develop a process for bringing the results of the Core Team redesign effort to the full CMP and allowing other CLECs to have input at that point.

WCom not allowed to vote on EDI CRs (Issue CM-12). This issue has not yet been addressed in the redesign meetings.

Scope of CMP (Issue CM-13 and 16). The parties had~~ve~~ reached tentative agreement regarding the definition of the scope of the CMP, which is set forth in the Interim Draft Master Redlined Document. See Exhibit A, Introduction and Scope, at pp. 4-6. As discussed above, additional Scope issues have been identified that need to be addressed in upcoming redesign working sessions. In addition to those Scope issues, the parties also plan to discuss when an issue is within the Scope of CMP and should be handled by CR versus when an issue should be handled by the Qwest account team for that CLEC.

Whether Contents of Exhibit G should be included in SGAT (Issue CM-14). Qwest has conceded this issue, and the parties to the redesign effort have discussed revisions to SGAT Section 12.2.6. Qwest has made some changes to Section 12.2.6 at the request of CLECs, but the parties have not agreed upon the language in the entire paragraph. Qwest's proposal regarding Section 12.2.6 is attached as Exhibit C to Qwest Corporation's Report on the Status of Change Management Process Redesign filed on October 10, 2001. Since the discussions of this SGAT language were held in Redesign, it has become apparent that the language and the relationship between the SGAT (or an interconnection agreement) and the CMP documentation needs further discussion. As indicated above, unless submission of a CR by Qwest means that some sort of approval or consensus is required of CLECs, the potential exists for Qwest to unilaterally amend the SGAT or interconnection agreements by using a CR to notify CLECs of a change that is otherwise contrary to the SGAT or interconnection agreement. For example, Qwest has

indicated that it believes its Additional Testing CR is consistent with the SGAT. Some CLECs, such as Eschelon, however, have not opted in to the SGAT. Those provisions, and those rates, are not a part of the interconnection agreement. Nonetheless, Qwest proposed to implement the CR, including imposition of rates not in the contract, on December 1, 2001, over Eschelon's objection. Discussion is needed of the relationship of CRs to interconnection agreements and how this process will be managed.

Whether Contents of Exhibit H should be included in SGAT (Issue CM-15). Qwest has conceded this issue, and the parties to the redesign effort have discussed revisions to SGAT Section 12.2.6. Qwest has made some changes to Section 12.2.6 at the request of CLECs, but the parties have not agreed upon the language in the entire paragraph. Section 12.2.6 refers to just Exhibit G, because Exhibit H (the escalation process) is now included within Exhibit G. Qwest's proposal regarding Section 12.2.6 is attached as Exhibit C to Qwest Corporation's Report on the Status of Change Management Process Redesign filed on October 10, 2001. See supra Issue CM-14.

Processes for notification of CLECs and adequacy of process (Issue CM-17). The parties have reached preliminary agreement regarding various notification processes relating to CR processing, but have not reached final agreement on all notification process. The parties have also reached agreement on the basic categories of notifications and a naming convention for Qwest's CLEC notifications. The current process, however, is still inadequate and needs further revision. The notices remain unclear as to the precise nature of changes and the basis for those changes, and further discussion is needed as to when a notice, as opposed to a CR, is sufficient.

Documents described and as yet unidentified or unknown, which include the change request prioritization process and other links (Issue CM-18). The redesign team has begun to

discuss the change request prioritization process for systems, but has not yet reached final agreement. Prioritization is related to many of the other issues discussed (such as the types of changes, CR initiation process, etc.), and those issues will need to be re-addressed in light of prioritization decisions. A significant related issue yet to be discussed fully is sizing, or level of effort. Although the draft language refers to sizes of effort (small through extra large), no criteria are given for how these determinations are made.

IV. SCHEDULE FOR REMAINING DISCUSSIONS

The schedule of upcoming meetings, including proposed subjects, is attached as Exhibit C and is subject to change based on the progress made by the parties. Qwest has agreed to discuss scheduling of meetings for after the first of the year so that the parties may plan their time and arrange for travel. Eschelon asks that the schedule take into account the numerous additional CMP commitments that have been asked of CLECs since the first schedule was set. Although the year 2001 schedule included 2-3 meetings per month for redesign, the parties said at the time that the meetings would be working sessions to address all issues and minimize any time required of CLECs outside of those meetings. Since then, the number of requests for time outside of the redesign sessions has increased greatly. These requests including reviewing documents and minutes, participating in off-line conference calls and subcommittee meetings, and responding to status reports. CLECs have been requesting CMP improvements for some time, but they should not have to choose now between feast or famine. After waiting some time for change, CLECs cannot suddenly drop everything to attend to the CMP issues at the expense of the other critical issues. If there are 21 business days in a month, and 6 of those days are spent in CMP and CMP redesign meetings, at least 25% of the CLEC's business hours are spent redesigning Qwest's CMP process. Once additional time outside of those meetings is added, the percentage gets closer to 50%. CLECs have businesses to run. While CMP issues are critical,

other critical issues also need attention. Eschelon asks that these realistic business needs and time constraints be considered in developing the calendar for 2002.

VI. CONCLUSION

Qwest appreciates the time and effort the CLECs have devoted to participating in the redesign of Qwest's CMP. Qwest is confident that the collaborative redesign process will result in an effective CMP that meets CLEC needs and is consistent with industry practices.

Dated this ____ day of November, 2001.

Respectfully submitted,

Andrew D. Crain, No. 029659
Kris A. Ciccolo, No. 17948
Qwest Corporation
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Denver, Colorado 80202
Telephone: (303) 672-5823

ATTORNEYS FOR QWEST CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that an original and five copies of the above and foregoing Qwest Corporation's Report on the Status of Change Management Process Redesign was hand delivered this ____ day of November, 2001, to the following:

Mr. Bruce N. Smith
Colorado Public Utilities Commission
Executive Secretary
1580 Logan St., Office Level 2
Denver, CO 80203

and a copy has been hand delivered on the following:

**Joseph Molloy
Colorado Public Utilities
Commission
1580 Logan St., OL-2
Denver, CO 80203

**Mana Jennings-Fader
Assistant Attorney General
1525 Sherman St., 5th Floor
Denver, CO 80203

and a copy was served electronically to each person on the e-mail distribution list for this docket.

-----Original Message-----

From: Woodcock, Elizabeth - DEN [SMTP:WoodE@PerkinsCoie.com]
Sent: Thursday, November 29, 2001 11:19 PM
To: 'Terry Bahner'; 'Liz Balvin'; 'Jeff Bisgard'; 'Karen Clauson'; 'Andrew Crain'; 'Tom Dixon'; 'Megan Doberneck'; 'Evans, Sandy'; 'Filip, Dana'; 'Gindlesberger, Larry'; 'Green, Wendy'; 'Gunderson, Peder'; 'Hines, LeiLani'; 'Hydock, Mike'; 'Jennings-Fader, Mana'; 'Lee, Judy'; 'Littler, Bill'; 'McDaniel, Paul'; 'Lees, Marcia'; 'Menezes, Mitch'; 'Ellen Neis'; 'Osborne-Miller, Donna'; 'Powers, Lynne'; 'Quintana, Becky'; 'Rossi, Matt'; 'Routh, Mark'; 'Schultz, Judy'; 'Stichter, Kathy'; 'Thiessen, Jim'; 'Thompson, Jeffery'; 'Travis, Susan'; 'Priday, Tom'; 'VanMeter, Sharon'; 'Wagner, Lori'; 'Wicks, Terry'; 'Woodcock, Elizabeth - DEN'; 'Yeung, Shun (Sam)'; 'Ford, Laura - DEN'; 'Smith, Richard'; 'Oxley, Jeffery'; 'Nicol, John'; 'Jim Maher'; 'Matt White'
Subject: REPLACEMENT revised draft CMP redesign status report
Importance: High

All --

I inadvertently sent the wrong version of the revised report -- this one includes a footnote indicating that we are attaching the redlined comments submitted by Eschelon and WorldCom as an exhibit. I welcome your comments regarding the progress made in this week's session. Please email me or call me on my cell phone (720 971 9115) tomorrow -- before noon -- if you have any questions or comments because we must finalize and file the status report tomorrow. Thanks.

<<rvsd draft Nov 2001 CMP redesign status report.doc>>

-- Beth

Elizabeth A. Woodcock
Perkins Coie LLP
1899 Wynkoop Street, Suite 700
Denver, Colorado 80202-1043
Ph: (303) 291-2316
Fax: (303) 291-2400
woode@perkinscoie.com



rvsd draft Nov 2001
CMP redesi...

EXHIBIT 4

-----Original Message-----

From: Clauson, Karen L.
Sent: Thursday, March 14, 2002 5:52 PM
To: Jim Maher; Bahner, Terry; Balvin, Liz; Clauson, Karen; Crain, Andrew; Dixon, Tom; Doberneck, Megan; Ferris, Robin; Jacobs, Teresa; Jennings-Fader, Mana; Lee, Judy; Lees, Marcia; Littler, Bill; Menezes, Mitch; Nobs, Christian; Osborne-Miller, Donna; Powers, Lynne; Prescott, Deborah; Quintana, Becky; Rossi, Matt; Routh, Mark; Schultz, Judy; Stichter, Kathy; Thompson, Jeffery; Travis, Susan; VanMeter, Sharon; White, Matt; Wicks, Terry; Woodcock, Beth; Yeung, Shun (Sam); Zulevic, Mike
Cc: Powers, F. Lynne; Johnson, Bonnie J.; Stichter, Kathleen L.
Subject: RE: Colorado Draft CMP Status Report & Postponement-Arbitration Language & Regulatory CR

I will be in a meeting with Qwest for most of the day tomorrow, so will be unable to provide comments by the suggested times listed below.

To at least provide comments at a high level, with respect to the Status Report, Eschelon Telecom disagrees with the Report. There are still significant subjects to be addressed before Eschelon could agree to a statement that "all substantive aspects of" either systems or process CMP have been agreed upon. It is not yet the case. With respect to the process going forward, Qwest fails to mention that Eschelon, which had no advance opportunity to review the materials that other parties had reviewed in the 271 context, repeatedly indicated that it had insufficient time to review the "critical" issues list or agree to it. The parties had finally started a serious discussion of issues critical to Eschelon's business in a fairly methodical manner when the flow of the meetings was disrupted to rush into a review of possible impasse issues. To the extent "agreements" are reached at all at this point, they are "high level" only. We all know from past experience, and from these Redesign meetings in particular, however, that the devil is in the details. If decisions on important but "detailed" issues are left until later, when the incentive of possible 271 approval is absent, it is unlikely that satisfactory progress will be made in those areas. Although progress has been made, the current CMP structure and documentation are inadequate. Eschelon has been involved with CMP since one of the earliest CICMP meetings and has devoted substantial resources to CMP and CMP Redesign. Eschelon believes that sufficient time should be allowed to properly complete the process in which Eschelon and other parties already have so much invested.

-----Original Message-----

From: Jim Maher [SMTP:jxmaher@qwest.com]
Sent: Wednesday, March 13, 2002 7:06 PM
To: Bahner, Terry; Balvin, Liz; Clauson, Karen; Crain, Andrew; Dixon, Tom; Doberneck, Megan; Ferris, Robin; Filip, Dana; Green, Wendy; Gunderson, Peder; Heline, Mark; Hydock, Mike; Jacobs, Teresa; Jennings-Fader, Mana; Kessler, Kim; Lee, Judy; Lees, Marcia; Lemon, Lynne; Littler, Bill; McDaniel, Paul; Menezes, Mitch; Nicol, John; Nobs, Christian; Nolan, Laurel; Osborne-Miller, Donna; Powers, Lynne; Prescott, Deborah; Priday, Tom; Quintana, Becky; Rossi, Matt; Routh, Mark; Schultz, Judy; Spence, Barbara; Stichter, Kathy; Thompson, Jeffery; Travis, Susan; VanMeter, Sharon; White, Matt; Wicks, Terry; Woodcock, Beth; Yeung, Shun (Sam); Zulevic, Mike
Subject: Colorado Draft CMP Status Report & Postponement-Arbitration Language & Regulatory CR
Importance: High

Attached are three documents that are being distributed for comments. Comments on the Colorado Draft Report are due back to Beth Woodcock by 11:00AM Friday Mar 15th. Comments on the other two documents are due back by close of business Friday Mar 15th. Please contact me with any

questions. Thanks, Jim

<< File: Draft Colo March CMP status report 03-13-02.doc >> << File: Qwest
Product-Process Change Postponement Arbitration Language - 03-13-
02.doc >> << File: Regulatory CR Implementation Language 03-13-02.doc
>>

Qwest-CL&C Change Management Process Re-design

Core Team Membership

Revised October 31, 2001

Core Team Members

| Company | Last Name | First Name | Email | Phone |
|----------------------|----------------|------------|--|-------------------------------|
| Allegiance Telecom | Wicks | Terry | terry.wicks@algx.com | 469-259-4438 |
| | Bahner | Terry | Tbahner@att.com | 303-298-6149 |
| AT&T | Hydock | Mike | mkydock@att.com | 303-298-6653 |
| | McCue | Bill | | Pager: 888-858-7243 pm 108884 |
| Menezes | Menezes | Mitch | mmenezes@att.com | 303-298-6493 |
| | Osborne-Miller | Donna | dosborne@att.com | 303-298-6178 |
| Van Meter | Van Meter | Sharon | svanmeter@att.com | 303-298-6178 |
| | Thiessen | Jim | jthiessen@avistacom.net | 509-444-4089 |
| Covad Communications | Doberneck | Megan | mdoberne@covad.com | 720-208-3636 |
| | Gindlesberger | Larry | Lgindles@covad.com | 330-209-5499 |
| Zulevic | Zulevic | Mike | mzulevic@covad.com | 520-575-2776 |
| | Clauson | Karen | kclauson@eschelon.com | 612-436-6026 |
| Powers | Powers | Lynne | lpowers@eschelon.com | 612-436-6642 |
| | Stichter | Kathy | kstichter@eschelon.com | 612-436-6022 |
| Bigard | Bigard | Jeff | jbiscar@qwest.com | |
| | Crain | Andy | Acrain@qwest.com | |
| Filip | Filip | Dana | Dana.filip@qwest.com | 303-992-2819 |
| | Green | Wendy | Wteepe@qwest.com | 303-382-8124 |
| LeMon | LeMon | Lynne | Llemon@qwest.com | 303-965-6321 |
| | Maher | Jim | Jxmaher@qwest.com | 303-896-5637 |
| McDaniel | McDaniel | Paul | prmcdan@qwest.com | |
| | Rossi | Matt | mrossi@uswest.com | 303-896-5432 |
| Routh | Routh | Mark | mrouth@uswest.com | 303-896-3781 |
| | Schultz | Judy | jmschu4@qwest.com | 303-965-3725 |
| Thompson | Thompson | Jeff | jthomp@qwest.com | 303-896-7276 |
| | Woodcock | Beth | woode@perkincoie.com | |
| SBC Telecom | Lees | Marcia | Marcia.lees@sbc.com | 314-340-1131 |
| | Evans | Sandy | sandra.kevans@mail.sprint.com | 913-433-8499 |
| Sprint | Young | Barbara | Barbara.c.young@mail.sprint.com | 541-387-9850 |
| | Balvin | Liz | liz.balvin@wcom.com | 303-217-7305 |
| WorldCom | Dixon | Tom | Thomas.f.Dixon@wcom.com | 303-390-6206 |

Qwest-CLEC Change Management Process Re-design

Core Team Membership

Revised October 31, 2001

| Company | Last Name | First Name | Email | Phone |
|---------|-----------|------------|--|--------------|
| | Hines | LeiLani | LeiLani.Jean.Hines@wcom.com | 303 217-7340 |
| | Priday | Thomas | Tom.priday@wcom.com | 303 217-4356 |
| | Travis | Susan | susan.a.travis@wcom.com | 303-390-6845 |

Other Participants

| Company | Last Name | First Name | Email | Phone |
|----------------------------|----------------|------------|--|--------------|
| Accenture | Powell | Mark | | |
| Colorado PUC | Jennings-Fader | Mana | mana.jennings@state.co.us | 303-866-5267 |
| | Quintana | Becky | Becky.Quintana@dora.state.co.us | 303-894-2881 |
| CapGemini | Ferris | Robyn | | |
| Electric Light Wave | Gunderson | Peder | peder.gunderson@eli.net | 360-816-3429 |
| Integra | Littler | Bill | blittler@integratecom.com | 503-793-5923 |
| KPMG Consulting | Nobs | Christian | cnobs@kpmg.com | 415-831-1323 |
| | Yeung | Shun (Sam) | shunyeung@kpmg.com | 212-954-6351 |
| Level 3 | Cheaney | Rhonda | | |
| | Hatcher | Michelle | | |
| | Smith | Jason | | |
| McLeod | Sprague | Michelle | msprague@mcleodusa.com | 319-790-7402 |
| NightFire Software Inc | Carias | Bob | | |
| | Lozano | Manuel | | |
| Premier Communications | Simon | Scott | | |
| Quintessent Communications | John | Jean | | |
| Rhythms Links Inc. | Ayala | Joe | | |
| XO Communications | Good | Marianne | | |
| | Mott | Anthony | | |
| Scindo Networks | DeGarlais | Vince | vcedegarlais@scindonetworks.com | 720-528-4207 |
| | Gavrilis | George | Gtgavrilis@scindonetworks.com | 720-528-4193 |
| Telcordia | Thompson | Nancy | | |

Facilitator

| | | | | |
|----------------------|-----|------|--|--|
| XTel Solutions, Inc. | Lee | Judy | soytofu@pacbell.net | |
|----------------------|-----|------|--|--|

-----Original Message-----

From: Tom Dixon [SMTP:Thomas.F.Dixon@wcom.com]
Sent: Monday, October 22, 2001 9:34 AM
To: 'Clauson, Karen L.'
Subject: FW: Eschelon Comments on status Report

FYI

Thomas F. Dixon
Attorney
707-17th Street, #3900
Denver, Colorado 80202
303-390-6206
303-390-6333 (fax)
thomas.f.dixon@wcom.com <<mailto:thomas.f.dixon@wcom.com>>

-----Original Message-----

From: Andrew Crain [<mailto:acrain@qwest.com>]
Sent: Monday, October 22, 2001 8:16 AM
To: Thomas.F.Dixon@wcom.com
Subject: Re: Eschelon Comments on status Report

I was mixed up. I don't think they sent anything.

EXHIBIT 7



October 5, 2001

Greg Casey
Executive Vice President
Qwest Corporation
1801 California Street, 51st Floor
Denver, CO 80202

Audrey McKenney
Senior Vice President, Wholesale Markets
Qwest Corporation
1801 California Street, Room 2350
Denver, CO 80202

Dana L. Filip
Senior Vice President
Wholesale Customer Service Operations
555 17th Street, 22nd Floor
Denver, CO 80202

Dear Mr. Casey, Ms. McKenney, and Ms. Filip:

Enclosed are a number of attachments. The first attachment is Eschelon's Comments on the CMP Re-Design, which Eschelon has prepared but is not distributing to the other members of the Re-Design Core Team. I am providing these Comments to you instead for two reasons: (1) Mr. Casey's commitment to Cliff Williams of Eschelon that three of our four outstanding issues with Qwest would be resolved today, and (2) Dana Filip's and Audrey McKenney's expression of substantial disappointment with Eschelon's level of participation in the recent CMP Re-Design meeting. As of this communication, only one of the issues discussed with Mr. Casey has been resolved by Qwest. You need to understand that Eschelon has strong objections and legitimate criticisms of the CMP and CMP Re-Design and the PCAT process in particular. After Eschelon changed its level of participation in the most recent meeting, Qwest obtained the result it sought. Eschelon has met its commitment to Qwest, Qwest has not fully met its commitment to Eschelon.

The second attachment lists the Eschelon change requests that are currently open or were recently closed. It includes a summary of the change request, the underlying business issue the business impact to Eschelon. The change requests date back to at least December of 2000. Qwest's failure to move forward on those requests has imposed substantial costs on Eschelon. In discussions with Dana and Audrey before the CMP Re-Design meeting, Eschelon understood that Qwest asked Eschelon to change its level of participation in that meeting on the interim process for PCAT changes and instead deal directly with Qwest regarding this issue. We understand Qwest's request to apply to that issue and not Eschelon's other issues. Eschelon will

EXHIBIT 8

Mr. Casey, Ms. McKenney, and Ms. Filip
October 5, 2001
Page 2

continue to participate in the CMP, because of the importance of our change requests to our business.

The final attachment is Eschelon's proposed resolution of our outstanding issues with Qwest. These are not the same terms I offered to Audrey yesterday. Instead, they represent a balancing of Eschelon's willingness to change its level of participation in CMP Re-Design and the cost to Eschelon in terms of delaying resolution of significant problems, and the gain to Qwest in achieving the results it sought in making this request of Eschelon.

As I indicated to Dana and Audrey, I believe that we have an overall good business relationship. We need to maintain and develop that relationship by demonstrating flexibility and compromise. Eschelon believes that it has demonstrated its willingness and ability to do so. Qwest can demonstrate its willingness and ability to do so by negotiating and executing the resolution of item two on Attachment 3 by October 19th, as Mr. Casey committed to do. Doing so by that date is critical, and we look forward to working with you to accomplish that goal.

Sincerely,

Richard A. Smith
President and Chief Operating Officer
Eschelon Telecom, Inc.
(612) 436-6626

Attachments

"Allegiance has experienced numerous instances when Qwest personnel have given false information to our customers. There have been instances of disparaging remarks against Allegiance and down right rudeness by Qwest Techs. When I have documented these occurrences and given the dates, times, names, etc. to my service manager, it has taken weeks to get any reply. The reply has not been sufficient to hold the offender accountable. In several cases, Qwest has simply replied that it did not happen or it did not happen as reported. The current process is not sufficient to handle these occurrences.

The most recent example happened today. PON 806241-HDSL1 - The FOC date to put in the circuit for this client is 09/25/01. Qwest was at the customer premises on 09/24/01 at 5:10 p.m. to do some work. The Qwest tech who went out was extremely rude to the customer. The Tech stated he has come several times, always after closing (5p.m.) and was not happy that he did not have access to the MPOE. The tech, [name redacted], badge [number redacted] did not identify himself until the owner mentioned another company. The owner asked the tech if he worked for End 2 End Communications and the tech got upset and simply left. Several times the Qwest techs have told the customers that they would go down if they proceeded with converting to Allegiance.

Allegiance is requesting that an improved process be put in place that the CLECs can report these occurrences of anti-competitive behavior when they happen. This process should include a single point of contact , a thorough investigation with an appropriate response to the CLECs in a timely manner. The process should also include the proper training of Qwest personnel to prevent future occurrences."

-- Initial Description of Allegiance CR #PCCR092701-3, copied by Eschelon from Qwest CMP web site (with identifying information redacted).

EXHIBIT 9

| | | | | | |
|---|---|-----------------------|-----------------------|----------------------|---------------------------|
| CR # | Title | Current Status | Organization | Area Impacted | Report Line Number |
| PC092701-3 | Develop a process for a point of contact, a process of investigating and proper training conducted when improper behavior by Qwest personnel occurs | Withdrawn 10/10/01 | Wholesale ProdProc | Provisioning | 68 |
| <p>Director: Dubuque, Toni Originator: Wicks, Terry Owner: Masztaler, Joan CR PM: Thomte, Kit</p> <p style="text-align: right;">Originator Company Name: Allegiance</p> | | | | | |

Description Of Change

Allegiance has experienced numerous instances when Qwest personnel have given false information to our customers. There have been instances of disparaging remarks against Allegiance and down right rudeness by Qwest Techs. When I have documented these occurrences and given the dates, times, names, etc. to my service manager, it has taken weeks to get any reply. The reply has not been sufficient to hold the offender accountable. In several cases, Qwest has simply replied that it did not happen or it did not happen as reported. The current process is not sufficient to handle these occurrences.

The most recent example happened today. PON 806241-HDSL1 – The FOC date to put in the circuit for this client is 09/25/01. Qwest was at the customer premises on 09/24/01 at 5:10 p.m. to do some work. The Qwest tech who went out was extremely rude to the customer. The Tech stated he has come several times, always after closing (5p.m.) and was not happy that he did not have access to the MPOE. The tech did not identify himself until the owner mentioned another company. The owner asked the tech if he worked for End 2 End Communications and the tech got upset and simply left. Several times the Qwest techs have told the customers that they would go down if they proceeded with converting to Allegiance.

Allegiance is requesting that an improved process be put in place that the CLECs can report these occurrences of anti-competitive behavior when they happen. This process should include a single point of contact, a thorough investigation with an appropriate response to the CLECs in a timely manner. The process should also include the proper training of Qwest personnel to prevent future occurrences

Status History

09/25/01 – CR received from Terry Wicks of Allegiance Telecom

09/27/01 – CR status changed to Submitted
09/27/01 – Updated CR sent to Terry Wicks of Allegiance Telecom
09/28/01 – Established clarification meeting with Terry Wicks of Allegiance Telecom for 10/10/01
10/10/01 - Spoke with Terry Wicks, he asked to have the CR withdrawn and cancelled our meeting scheduled for 10/10/01.

-----Original Message-----

From: Stichter, Kathleen L.
Sent: Sunday, September 30, 2001 2:38 PM
To: mrossi@qwest.com
Cc: Powers, F. Lynne; Clauson, Karen L.
Subject: New CR Ensure employees do not comment on CLEC

[Enclosure]

Kathy Stichter
ILEC Relations Manager
Eschelon Telecom Inc
Voice 612 436-6022
Email klstichter@eschelon.com

EXHIBIT 11

Co-Provider Change Request Form

Log # _____ Status: _____
Submitted By: Kathy Stichter Date Submitted: 9/28/01
Co-Provider: Eschelon Telecom, Inc Internal Ref# _____
Submitter: Kathy Stichter, ILEC Relations Manager, klstichter@eschelon.com, 612-436-6122, 612-436-6022
Name, Title, and email/fax#/phone#

Proprietary for submission to Account Manager Only? Please check mark ✓ as appropriate
X Yes □ No

Title of Change:

Process to ensure Qwest employees do not comment on a CLEC.

Area of Change Request: Please check mark ✓ as appropriate and fill out the appropriate section below
□ System □ Product X Process

System Change Request Section

Interfaces Impacted: Please check mark ✓ as appropriate

- CEMR □ IMA EDI □ MEDIACC □ TELIS
□ EXACT □ IMA GUI □ Product Database □ Wholesale Billing Interfaces
□ HEET □ Directory Listings □ Other
Please describe

Description of Change:

Is new information requested in a specific screen or transaction?

- Yes □ No

If yes, name the screen or transaction: _____

Products Impacted: Please check mark ✓ as appropriate and also list specific products within product group, if applicable

- Centrex □ Resale
□ Collocation □ SS7
□ EEL (UNE-C) □ Switched Services
□ Enterprise Data Services □ UDIT
□ LIDB □ Unbundled Loop
□ LIS □ UNE-P
□ LNP □ Wireless
□ Private Line □ Other
Please describe Please describe

Known Dependencies:

Additional Information: (e.g., attachments for business specifications and/or requirements documents)

Co-Provider Priority Level

- High □ Medium □ Low

Desired Implementation Date: ASAP- High

Product Change Request Section

Products Impacted: Please check mark all that apply (if "Other" please describe further)

- | | | | | |
|--|--------------------------------------|--|---|---------------------------------|
| <input type="checkbox"/> LIS/Interconnection | <input type="checkbox"/> Collocation | <input type="checkbox"/> UNE | <input type="checkbox"/> Ancillary | <input type="checkbox"/> Resale |
| <input type="checkbox"/> EICT | <input type="checkbox"/> Physical | <input type="checkbox"/> Switching | <input type="checkbox"/> AIN | |
| <input type="checkbox"/> Tandem Trans./TST | <input type="checkbox"/> Virtual | <input type="checkbox"/> Transport (incl. EUDTT) | <input type="checkbox"/> DA | |
| <input type="checkbox"/> DTT/Dedicated Transport | <input type="checkbox"/> Adjacent | <input type="checkbox"/> Loop | <input type="checkbox"/> Operation Services | |
| <input type="checkbox"/> Tandem Switching | <input type="checkbox"/> ICDF Collo. | <input type="checkbox"/> UNE - P | <input type="checkbox"/> INP/LNP | |
| <input type="checkbox"/> Local Switching | <input type="checkbox"/> Other _____ | <input type="checkbox"/> EEL (UNE-C) | <input type="checkbox"/> Other _____ | |
| <input type="checkbox"/> Other _____ | | <input type="checkbox"/> UDF | | |
| | | <input type="checkbox"/> Other _____ | | |

Description of Change:

Known Dependencies:

Additional Information: (e.g., attachments for business specifications and/or requirements documents)

Co-Provider Priority Level

- High Medium Low

Desired Implementation Date: _____

Process Change Request Section

Area Impacted: Please check mark as appropriate

- Pre-Ordering
 Ordering
 Billing
 Repair X Other _____

Please describe:

This Impacts Eschelon's ability to complete as a CLEC. It impacts our entire business.

Description of Change:

Disparaging, inappropriate and inaccurate remarks by Qwest employees, including but not limited to, Eschelon has filed for bankruptcy, are extremely destructive. Such remarks, at the least, create time and energy for Eschelon employees to eliminate the doubts in our customers' and potential customers' minds. There is a high possibility for Eschelon to lose business. Recently a customer, who was switching from Qwest to Eschelon, called Qwest to remove their service. The Qwest employee asked our customer what company they were going with. When the customer responded, the Qwest employee warned them about Eschelon saying that Eschelon has filed for bankruptcy. Eschelon asks Qwest for a written process to prevent this situation from happening again. The process should include:

- What steps Qwest will take for training its' employees, to prevent this type of situation in the future.
- How a CLEC reports a situation.
- How quickly Qwest will respond to a situation.
- How Qwest will communicate back to the CLEC on the action taken for a situation.

Products Impacted: Please check mark as appropriate and also list specific products within product group, if applicable

- | | |
|---|--|
| <input type="checkbox"/> Centrex _____ | <input type="checkbox"/> Resale _____ |
| <input type="checkbox"/> Collocation _____ | <input type="checkbox"/> SS7 _____ |
| <input type="checkbox"/> EEL (UNE-C) _____ | <input type="checkbox"/> Switched Services _____ |
| <input type="checkbox"/> Enterprise Data Services _____ | <input type="checkbox"/> UDIT _____ |
| <input type="checkbox"/> LIDB _____ | <input type="checkbox"/> Unbundled Loop _____ |

Co-Provider Industry Change Management Process

Qwest Wholesale Program

- LIS _____
- LNP _____
- Private Line _____

- UNE-P _____
- Wireless _____
- Other _____

Please describe

Please describe

Known Dependencies:

Additional Information: (e.g., attachments for business specifications and/or requirements documents)

Co-Provider Priority Level

- High
- Medium
- Low

Desired Implementation Date: _____

~~This Section to be Completed by Qwest CICMP Manager~~

Qwest Account Manager Notification

Account Manager: _____ Notified: _____

Qwest CICMP Manager Clarification Request

- Yes
- No

If yes, clarification request sent: _____ Clarification received: _____

Co-Provider Industry Team Clarification Request

- Yes
- No

If yes, clarification request sent: _____ Clarification received: _____

Status, Evaluation and Implementation Comments:

Candidate for a Release

- Yes
- No

If yes, Release Number: _____

-----Original Message-----

From: Matthew Rossi [SMTP:mrossi@qwest.com]
Sent: Wednesday, October 10, 2001 3:57 PM
To: Stichter, Kathleen L.
Subject: Re: FW: New CR Ensure employees do not comment on CLEC

Kathy,

We are clarifying this issue internally - that is why you haven't been given a log number.

We do have your CR and I have forwarded it on to the appropriate individuals. Someone will be contacting you shortly concerning this issue.

Matt

-----Original Message-----

From: Stichter, Kathleen L.
Sent: Wednesday, October 10, 2001 3:38 PM
To: mrossi@qwest.com; jmschu4@qwest.com
Cc: Powers, F. Lynne; Clauson, Karen L.
Subject: FW: New CR Ensure employees do not comment on CLEC

Matt,

I have not received an assigned CR number for this. Did I miss something? Let me know where it is in the process.

Thanks

Kathy Stichter
ILEC Relations Manager
Eschelon Telecom Inc
Voice 612 436-6022
Email klstichter@eschelon.com

EXHIBIT 12

-----Original Message-----

From: Powers, F. Lynne
Sent: Monday, June 18, 2001 5:10 PM
To: 'McKenney, Audrey'
Subject: Qwest CICMP

Audrey,

Please see the attached e-mail that I sent to you on April 29, 2001. I will call you to discuss this issue further.

Lynne Powers
Vice President of Provisioning & Repair
Eschelon Telecom Inc.
flpowers@eschelon.com
(612) 436-6642
Fax: (612) 436-6742

-----Original Message-----

From: Powers, F. Lynne
Sent: Sunday, April 29, 2001 9:03 AM
To: 'McKenney, Audrey'
Cc: Clauson, Karen L.; Oxley, J. Jeffery; Smith, Richard A.
Subject: CICMP

Audrey,

I am writing this e-mail as a response to your discussions with Rick Smith regarding my participation in Qwest's CICMP meetings. Since you have not attended a CICMP meeting before, I thought I would provide you with more information regarding the nature of Eschelon's participation in CICMP, the general purpose of these meetings as presented to us by Qwest, and why I feel that it is important and necessary that I continue to participate in these meetings.

Enclosed is a list of Change Requests (CRs) that Eschelon has submitted to Qwest's Co-Provider Industry Change Management Process (CICMP). While it may not be all inclusive, the enclosed list contains a good number of the CRs submitted by Eschelon. As you can see from reviewing the list, the Change Requests deal with detailed, technical issues. Resolution of those issues often involves a number of different organizations and systems within Qwest. The required changes, if made, generally cannot be made for Eschelon only. Even if they could be, neither Qwest nor Eschelon would want the vast majority of such changes to be made on an Eschelon-only basis. As you have pointed out in the past, taking things out of process can unnecessarily create inefficiencies and introduce the potential for error on both sides. Both companies generally agree that uniform systems and processes benefit everyone, because system upgrades, training, processing of orders, and related issues will work more smoothly if the processes are known and consistent. There are exceptions to this general proposition, and we discuss those issues separately with Qwest. For

many types of system and process changes, however, once a system or process is changed, that change will affect Qwest and other CLECs as well. In CICMP, Co-Providers vote on whether requested changes should be made, so that changes are consistent with industry needs and priorities.

For these types of reasons, our account team members and other individuals at Qwest often direct us to CICMP as the best forum for raising an issue. None of the changes listed in the enclosed document were requested for the first time in CICMP. Eschelon has first discussed its issues with Qwest, including discussions with the account team, IT, or billing group. When an issue is identified as one that is appropriate for CICMP, Eschelon submits a CR to CICMP, as other CLECs do. Sometimes Eschelon's CRs are adopted, and other times they are not. If CICMP is not able to address Eschelon's needs, Eschelon can escalate an issue. Eschelon would be at a competitive disadvantage if all of its competitors were able to participate in CICMP, request changes, and vote on them, except Eschelon. Eschelon must be part of the industry discussion in CICMP to seek needed changes, to vote on changes proposed by others that may not meet Eschelon's needs, and to keep abreast of changes being made that will necessarily affect Eschelon and the industry.

If you wish to discuss this issue further, please feel free to call me. Thank you.

Lynne Powers
Vice President of Provisioning & Repair
Eschelon Telecom Inc.
flpowers@eschelon.com
(612) 436-6642
Fax: (612) 436-6742



EschelonCRs.doc



Qwest
1801 California Street
Suite 5200
Denver, CO 80202
Telephone: 303-992-2787
Facsimile: 303-992-2789

Greg Casey
Executive Vice President
Wholesale Markets

November 15, 2000

CONFIDENTIAL AGREEMENT

VIA ELECTRONIC MAIL AND FACSIMILE

Richard A. Smith
President and Chief Operating Officer
Eschelon Telecom, Inc.
730 Second Avenue South, Suite 1200
Minneapolis, Minnesota 55402

Re: Escalation procedures and business solutions

Dear Rick:

As a result of ongoing discussions between Eschelon and Qwest in recent days, the parties have addressed numerous proposals intended to better the parties' business relationship. In principle, the parties have agreed to: (1) develop an implementation plan by which to mutually improve the companies' business relations and to develop a multi-state interconnection agreement; (2) arrange quarterly meetings between executives of each company to address unresolved and/or anticipated business issues; and (3) establish and follow escalation procedures designed to facilitate and expedite business-to-business dispute solutions.

1. IMPLEMENTATION PLAN

By no later than December 31, 2000, the parties agree to meet together (via telephone, live conference or otherwise), and as necessary thereafter, to develop an Implementation Plan. The purpose of the Implementation Plan ("Plan") will be to establish processes and procedures to mutually improve the companies' business relations and to develop a multi-state interconnection agreement. Both parties agree to participate in good faith and dedicate the necessary time and resources to the development of the Implementation Plan, and to finalize an Implementation Plan by no later than April 30, 2001. Any necessary escalation and arbitration of issues arising during development of the Plan must also be completed by April 30, 2001.

During development of the Plan, and thereafter, if an agreed upon Plan is in place by April 30, 2001, Eschelon agrees to not oppose Qwest's efforts regarding Section 271 approval or to file complaints before any regulatory body concerning issues arising out of the Parties' Interconnection Agreements. Both before and after April 30, 2001, Eschelon reserves the right, after notice to Qwest, to participate in regulatory cost proceedings or dockets regarding the establishment of rates. Notwithstanding any other provision of this agreement, if no Plan is agreed upon by April 30, 2001, the Parties will have all remedies available at law and equity in any forum.

2. QUARTERLY MEETINGS

Beginning in 2001 and continuing through the end of 2005, the parties agree to attend and participate in quarterly executive meetings, the purpose of which will be to address, discuss and attempt to resolve unresolved business issues and disputes, anticipated business issues, and issues related to the Parties' Interconnection Agreements, Implementation Plan, and other agreements. The meetings will be attended by executives from both companies at the vice-president and/or above level.

3. ESCALATION PROCEDURES

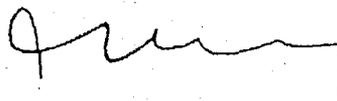
The parties wish to establish a business-to-business relationship and agree that they will resolve any and all business issues that may arise between them, including but not limited to, their Interconnection Agreements and Amendments, in accordance with the escalation procedures set forth herein. The parties agree, subject to any subsequent written agreement between the parties, to: (1) utilize the following escalation process and time frames to resolve such disputes; (2) commit the time, resources and good faith necessary to meaningful dispute resolution; (3) not proceed to a higher level of dispute resolution until either a response is received or expiration of the time frame for the prior level of dispute resolution; (4) grant to one another, at the request of the other party, reasonable extensions of time at Levels 1 and 2 of the dispute resolution process to facilitate a business resolution; and (5) complete Levels 1, 2 and 3 of dispute resolution before seeking resolution through arbitration or the courts.

| <u>Level</u> | <u>Participants</u> | <u>Time frame for discussions</u> |
|--------------|---|-----------------------------------|
| LEVEL 1 | Vice Presidents (Judy Tinkham/Dave Kunde, Lynne Powers, Bill Markert, or successors) | 10 business days |
| LEVEL 2 | Senior Vice Presidents (Greg Casey/Rick Smith, or successors) | 10 business days |
| LEVEL 3 | CEOs (Joe Nacchio/Rick Smith, or successors) | 10 business days |
| LEVEL 4 | Arbitration according to the provisions of the Parties' Interconnection Agreements and/or other agreements (to be expedited and completed within 90 days, upon request of one of the Parties) | |
| LEVEL 5 | CEOs (Joe Nacchio/Rick Smith, or successors) | 10 business days |

LEVEL 6 If a dispute is not resolved in Levels 1 through 5, either party may initiate litigation in federal or state court, with all questions of fact and law to be submitted for determination to the judge, not a jury. The parties agree that the exclusive venues for civil court actions initiated by Eschelon are the United States District Court for the District of Minnesota or a court of the State of Minnesota and the exclusive venues for civil court actions initiated by Qwest are the United States District Court for the Districts of Minnesota or Colorado or the courts of the State of Minnesota or Colorado. When a court issues a final order, no longer subject to appeal, the prevailing party shall be awarded reasonable attorneys' fees and expenses. In the event that either party files an action in court, the parties waive: (a) primary jurisdiction in any state utility or service commission; and (b) any tariff limitations on damages or other limitation on actual damages, to the extent that such damages are reasonably foreseeable and acknowledging each party's duty to mitigate damages.

If the parties agree with the terms set forth above, they will each execute a copy of this letter in the signature spaces provided on the last page. Upon signature of both parties, the parties will be bound by the terms set forth herein. This letter agreement may be executed in counterparts and by facsimile.

Very truly yours,



Greg Casey
Executive Vice President
Wholesale Markets

TERMS OF LETTER AGREEMENT ACCEPTED BY:

QWEST CORPORATION

[Handwritten signature]

[name]

evp

[title]

11-15-00

[date]

Approved as to legal form

NOV 15 2000

[Handwritten signature]

ESCHELON TELECOM, INC.

[name]

[title]

[date]

TERMS OF LETTER AGREEMENT ACCEPTED BY:

QWEST CORPORATION

[name]

[title]

[date]

ESCHELON TELECOM, INC.



[name]

President - COO

[title]

11/15/00

[date]

Oxley, J. Jeffery

From: Laurie Korneffel [lkornef@uswest.com]
Sent: Tuesday, April 03, 2001 10:51 AM
To: Oxley, J. Jeffery
Subject: Re: Request relating to Change Management/CONFIDENTIAL

Thanks for your inquiry. Qwest is comfortable with Eschelon's participation in the question/answer proposal, however, we would not be in favor of Eschelon serving as a "test" CLEC, to the extent that that sort of arrangement is proposed. If you'd like to discuss further, please feel free to call me at (303) 672-1780 or Jim at (303) 672-2877.

"Oxley, J. Jeffery" <jjoxley@eschelon.com> on 04/03/2001 07:12:18 AM

To: "'Korneffel, Laurie'" <lkornef@uswest.com>
cc: "Jim Gallegos (E-mail)" <JHGalle@uswest.com>, "Powers, F. Lynne" <flpowers@eschelon.com>

Subject: Request relating to Change Management/CONFIDENTIAL

Laurie,

Eschelon has received several requests from KPMG representatives to respond to questions concerning Qwest's change management process. Lynne Powers participates in the periodic meetings in Denver. The first request we didn't respond to. Now a second request has been made and we need to respond. While I don't believe that responding to KPMG's questions is prohibited by our agreements, I do have some concern because we can't know what KPMG will ask or how KPMG will use our answers. Before I advise Lynne on whether to go ahead, I want to get your reaction. We will certainly respect your concerns, but as you might anticipate, saying "No" may well raise eyebrows.

Please let me know your thoughts. I do need to respond in the next day or so.

Thanks, Jeff

Jeff Oxley
Vice President, General Counsel
Eschelon Telecom, Inc.
(612) 436-6692 (voice)
(612) 436-6792 (FAX)

NOTICE - CONFIDENTIAL INFORMATION

The information in this communication is privileged and strictly confidential. It is intended solely for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, any dissemination, distribution, copying or other use of the information contained in this communication is strictly prohibited. If you have received this communication in error, please first notify the sender immediately and then delete this communication from all data storage devices and destroy all hard copies.

-----Original Message-----

From: Smith, Richard A.
Sent: Saturday, January 12, 2002 9:18 AM
To: 'gordon.martin@qwest.com'
Subject: Change Management/Process Redesign Meetings

Mr. Martin/Gordon:

On our conference call yesterday - we discussed the Change Management/Process Redesign Meetings and Eschelons participation at these sessions over the last year - these have been a constant irritant to our relationship with Qwest - and the two(2) sides of the story that I received were that Eschelon has "causing havoc" at these sessions - and from my people I heard that we were just discussing business issues. I could not sort this out - so I attended four(4) days of these sessions so far - and plan on attending more. Gordon - by attending, I realized what REALLY what was going on was a true discussion/debate/compromise process where the CLEC's and Qwest discuss business processes - and there are some differences remaining that are defined as the parties coming to impasse.

I WOULD STRONGLY ENCOURAGE YOU TO ADDEND A DAY OF THESE SESSIONS - would suggest the next Change Management Process for Product/Process in Denver at 1801 California (your building) on January 16th, 2002. If you do that, I will attend in person as well with Karen Clausen. Believe that is the only way that you can determine what goes on as both sides have different views as to what happens at these sessions - so you make your own determination. This represents a relatively small investment in time on your part - and you will have a chance to meet with your significant customers, i.e; Allegiance, AT&T, MCI Worldcom, Eschelon, Integratel, McCleod (sometimes). I was going to attend via Conference Call this time with Karen Clausen - but if you attend in person - I will do the same.

My motivation here is to get you up to speed on the process and people and intentions - to see how it works so that we can be more alligned at our future discussions. If not at this session for a full day - then four(4) hours. Or at the next session.

Believe that this would be time well spent.

Rick Smith

dvantage Performance Corp.

7447 Egan Drive
Savage MN, 55378

To: Michelle Speranza
Eschelon Telecom, Inc. (Corp)
730 Second Ave South
Suite 1200
Minneapolis MN 55402

Invoice No: 401830
Date Issued: 10/29/01
Agent: TQ
Page: 1

| Passenger Type | Ticket/Conf No | Depart Date | Airline/Vendor | Itinerary | Arrive | Total Fare |
|-----------------|-----------------|-------------|-----------------|--------------|----------------|------------|
| From | To | | Depart | | Flight | |
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| Clauson/Karen.L | | 10/29/01 | | | | |
| Dom. Air | 1503300386 | | Northwest Airli | MSP/DEN/MSP/ | | 183.50 |
| MSP Minneapolis | DEN Denver | | 10/29/01 | 20:44 | 10/29/01 21:43 | 565 |
| DEN Denver | MSP Minneapolis | | 11/01/01 | 17:10 | 11/01/01 20:06 | 548 |

Invoice Total: 183.50

Payments Applied To This Invoice



Pymt For Inv #401830 10/29/01 183.50-

Total Payments: 183.50-

Balance Due: 0.00

TYPE : NSCK
PLAN :
PAYMT METHOD:
PHONE#:

ORIGIN: 10/30/01
UPDATE: 10/30/01

GROUP :
STATUS: G
IATA#: 24520322

| DATE | EMP | RESV# | DESCRIPTION | | CHARGES | CREDITS | BALANCE |
|----------|-----|-------|-------------|----------|----------|----------|---------|
| 1. 10/29 | 0 | 16072 | ROOM TR | 1817. 1 | \$179.00 | | |
| 2. 10/29 | 0 | 16072 | ROOM TAX | 1817. 1 | \$6.62 | | |
| 3. 10/29 | 0 | 16072 | LOCAL TX | 1817. 1 | \$17.45 | | |
| 4. 10/30 | 0 | 16072 | RM SERV | 82471817 | \$19.22 | | |
| 5. 10/30 | 67 | 16072 | CCARD-BK | | | \$222.29 | |
| | | | | | | | \$.00 |

FINAL MEETING MINUTES

CLEC – Qwest Change Management Process Re-design
Tuesday, October 30 through Thursday, November 1, 2001 Working Session
1801 California Street, 23rd Floor, Executive Conference Room, Denver, CO
Conference Bridge: 1-877-847-0304, passcode 7101617#

NOTE: These are Final meeting minutes Qwest developed following the three day working session, and which incorporate CLEC comments following distribution to the Redesign Core Team Members on 11-12-01. Comments to the minutes were received from ATT on 11-23-01. An e-mail from ATT dated 11-23-01 is included as Attachment #18.

INTRODUCTION

The Core Team (Team) and other participants met October 30 through November 1 to continue with the Re-design effort of the Change Management Process. Following is the write up of the discussions, action items, and decisions in the working session. The attachments to these meeting minutes are as follow:

ATTACHMENTS

- #1 October 30 through November 1, 2001 Attendance Record
- #2 October 30 through November 1 CMP Redesign Meeting Notice and Agenda
- #3 October 31, 2001 Revised Agenda
- #4 November 1, 2001 Revised Agenda
- #5 CMP Re-design Issues and Action Items Log – Revised 11/01/01
- #6 Schedule of CMP Re-design Working Sessions – Revised 11/01/01
- #7 Qwest Proposed Changes to Existing OSS Interfaces Language – Revised 11/01/01
- #8 Qwest Proposed CLEC – Qwest OSS Interface CR Initiation Process – Revised 11/01/01
- #9 Qwest Proposed Introduction of an OSS Interface Process – 11-01-01
- #10 CMP Core Team Expectations 11-09-01
- #11 Core Team Member List 8/3/01
- #12 CMP Re-design General Attendance Record 10/17/01
- #13 Qwest Proposed CR Prioritization Language – 11-01-01
- #14 Qwest Proposed Retirement of an Existing Interfaces Process – 11-01-01
- #15 Additional Testing Process Presentation – 10-24-01 (icon)
- #16 Additional Testing Process Notification – 10-24-01 (icon)
- #17 Gindlesberger e-mail regarding CPAP 11-01-01
- #18 ATT E-mail dated Nov 23, 2001

EXHIBIT 18

MEETING MINUTES

The meeting began with introductions of the meeting attendees. Judy Lee then reviewed the three-day agenda. Lynn Powers of Eschelon requested discussion about three areas; what is included in a point release versus a major release, how OSS Interfaces for industry guidelines are handled, and within the prioritization process how are exception CR's handled. These items were in the planned agenda but the team agreed to allow time for discussion to address Eschelon's concerns. Donna Osborne-Miller of AT&T requested the discussion about Introduction for a New OSS Interface be coordinated around the schedule of AT&T's EDI Analyst, Bill McCue. Karen Clauson of Eschelon stated she'd like to ensure the team addresses point releases being covered in the OSS Interface language, USOC combinations and appointment scheduler, and definitions of types of changes. Karen Clauson also asked when the CLECs would get the defined processes of how changes are managed. Judy Lee stated that OSS Interface items will be discussed in this session, and how the changes are implemented for application-to-application and GUI interfaces.

Judy Schultz of Qwest stated that the CLECs had identified four items that were CLEC affecting for Qwest initiated CR's, and that the sub-team needed to readdress and expand the four items. Judy wanted the team to revisit this subject because CLEC affecting as defined by the subteam was too narrow. Lynne Powers of Eschelon agreed that there were areas where the CLEC affecting definition should be expanded.

Karen Clauson of Eschelon asked what the process was for a CR that is a Qwest initiated change and NOT a regulatory change or a system change. Clauson asked if the PCAT & Tech Pub updates or changes were for regulatory changes only (interim process.). Judy Schultz of Qwest stated that the interim process for Qwest initiated CRs was meant for all Qwest product/process changes that altered CLEC operating procedures. Lynn Powers of Eschelon was under the impression and asked the group if their understanding was that the interim process was for PCAT & Tech Pub regulatory changes, and not all Qwest initiated processes. [AT&T Comment: The introductory language to the Qwest initiated product/process change document states that it is for changes that result from the 271 process or OSS testing. Therefore, a further discussion of this process and how it will be used is necessary and appropriate.] Judy Schultz of Qwest responded that the intent was to identify and issue CRs for the 4 items identified as CLEC affecting. Sharon Van Meter of AT&T stated the team needed to have the discussion about expanding the CLEC affecting definition in this meeting. Judy Schultz of Qwest referred the CLECs to the CLEC notification spreadsheet which includes CLEC affecting changes that are on the list of four items. [AT&T reviewed the spreadsheet, but because it has one line (with very little information) for each change, it was really of no use to AT&T in determining the kinds of changes that were involved and how they might impact CLECs. At the November 13 redesign meeting, AT&T requested that Qwest provide more detailed information about the review it conducted on this list of changes and that Qwest provide the list of further items it derived from this review. Judy Schultz agreed that Qwest would provide. With this information it should be possible to have a meaningful discussion of this topic. In the meantime,

AT&T expects that Qwest will not rely exclusively on the 4 CLEC-impacting changes that were preliminarily identified by a subgroup of the Redesign Core Team several weeks ago. Qwest should be bringing any changes that may impact CLEC's through the CR submission, review and approval process. At the 11/15/01 CMP Systems meeting, Judy Schultz confirmed that this would be Qwest's approach. Terry Wicks of Allegiance Telecom voiced a concern that process timeframes are set without an announcement of when processes will be implemented for Qwest initiated CRs that are CLEC affecting without the CLECs having the ability to comment. Wicks referred to the optional testing process that had been reviewed at the CMP Monthly Meeting, and that was on the agenda for review at the Redesign. Clauson stated that the Qwest date for optional testing of November 19th should be suspended. Judy Schultz of Qwest stated that she was aware of these concerns and that the Qwest SMEs were lined up for Oct 31st to discuss the issue based on the CLECs requesting that date at the CMP Monthly Meeting.

Judy Lee then began a review of "Qwest's Proposed Changes to Existing OSS Interfaces Language" (See Attachment 6). The team began with a clarification on determining the number of major and point releases Qwest would do in a calendar year, and asked for a definition of a major release versus a point release. Jeff Thompson of Qwest stated that a major release is CLEC code impacting, i.e., the change on the Qwest side would necessitate changes the CLEC side, such as EDI mapping. Thompson further explained that a major release is one that Qwest would disclose to CLECs and provide them the opportunity to work within the 73-day notification timeline. Thompson stated a major release is one in which Qwest and the CLECs work to ensure our combined systems work together. Jeff Thompson of Qwest continued by stating that a point release is a Qwest release that has no impact to CLEC code on the interface (excluding previously disclosed changes) and could include a fix for bugs introduced in the major release. Thompson further explained that a point release could be changing something in the GUI only, or implementing a code change Qwest had included in the release but that had not been activated in the major release. Jeff Thompson stated the proposed timeline for notification of GUI changes was 21 days, and that for EDI changes Qwest agreed that the 73-day notification timeframe would be used. Lynne Powers of Eschelon stated that a major release should be expanded to include CLECs that use GUI only. Powers proposed internal Qwest initiated changes go into the prioritization process of releases even if it did not impact CLEC code. Powers stated a major GUI change needs to have the 73-day schedule and prioritization. Jeff Thompson stated that Qwest has looked at these timelines, but that this timeline for GUI would have a major impact to our business. Judy Lee clarified that Qwest needed to look into this situation for what the future process would be, until then the escalation process is in place for working exceptions.

Mitch Menezes of AT&T asked about IMA 10.0 prioritization. Mitch asked about regulatory CRs and how they related to the CPAP. He also voiced concern about being able to get the Redesign meeting minutes quicker. Judy Schultz of Qwest introduced Jerri Brooks of Qwest and stated Brooks would assist Maher in developing the minutes. The team agreed that the timelines for getting the draft Redesign meeting minutes out and Core Team Member and Participant to provide feedback/comments would be 5 business

days for a one-day session, and 7 business days for a three-day session. Qwest will post final meeting minutes within 2 business days of incorporating all final feedback and comments.

Sharon Van Meter of AT&T asked that the team agree to address the future schedule for Redesign in 2002. Judy Lee stated that discussion was planned for later in the session.

Judy Lee stated the need to close on the language for major release and point release. Jeff Thompson of Qwest stated that a major release impacts CLEC code. Sharon Van Meter of AT&T suggested the team add "CLEC affecting" such as "operating procedures" to the language. Terry Wicks of Allegiance Telecom made a clarifying point that Judy Schultz of Qwest had stated earlier that Qwest was recommending the CLECs readdress the definition of CLEC affecting items to the list of 4 currently in place. Once that list expands then the notification would increase to include the additional information. Judy Schultz of Qwest proposed that GUI requirements that do not require code changes would be completed within the 21-day notification timeframe. If the change did require an impact to the code, then there would be other notification timelines, such as the 73-day notification schedule.

Karen Clauson of Eschelon stated that Qwest needed to ensure this language, once defined, is included in the process of how to implement the notification scheduling and prioritization. Judy Lee clarified that during the last sessions an action item was taken to define point release in the documentation and the number of major and point releases that will be made in a calendar year. [AT&T Comment: This should be issue/action item no. 133. It would be helpful if the minutes could state that an item is being added to, or is already on, the issues/action items list and the number on the list. This will make clearer which discussion generated an action item.]

Jeff Thompson of Qwest stated CLEC-affecting non-code changes could be treated as a Qwest initiated CR. He further clarified that the CLEC affecting definition needs to include significant changes and changes that may not change CLEC procedures, and to quantify substantive changes; for example, changing the color of a screen because someone may feel the screen will be more readable with a different color.

Tom Dixon of WorldCom stated OBF language limits the number of major releases to four for all interfaces, and we might want to consider the same four limitations unless the CLECs agree to additional major releases through the CMP. Judy Lee stated the OBF language is specific to preorder and order only, and there is a separate committee in OBF for billing. Larry Gindlesberger of Covad Communications stated he believed the OBF language was four changes per interface. Mitch Menezes/Donna Osborne-Miller of AT&T took an action item to follow up on what the OBF states, what the OBF intent is, and what the CLECs feel is an appropriate number of major releases. They will provide a response back by the next CMP Redesign meeting. [AT&T Comment: AT&T has responded that with IMA interfaces no more than 4 changes per year that affect CLEC code is okay. With other interfaces, we asked that the language state that no

more than 2 changes per year that affect CLEC code be the standard. Qwest is to provide CLECs with a response to this request.]

Mitch Menezes of AT&T asked what is Qwest's goal for major releases in a year. Jeff Thompson of Qwest stated that IT typically tries to stick to two releases a year for billing, and usually only one or two other major releases a year for systems other than IMA. The team determined that the language needed to include the rules for the other interfaces as well. Tom Dixon of WorldCom stated the need to clarify language addressing regulatory mandated and industry guidelines. If no release is scheduled to coincide with the mandate, then an additional (special) release may be necessary. Tom Dixon of WorldCom asked if an industry body could mandate. Judy Lee stated that an industry guideline is not mandated but strongly recommended, such as LSOG 5 and LSOG 6 to be implemented industry-wide within a calendar year of OBF issuing final guidelines on a specific LSOG version. Tom Dixon stated that industry related changes are not prioritized today. He suggested that CMP re-design might want to review it in the future. He also stated that CLECs could initiate industry recommended changes as well as Qwest. [AT&T Comment: Our recollection is that Qwest has stated in meetings that both CLECs and Qwest may submit CRs for regulatory and industry change CRs. This needs to be clearly identified in the Master Redline document.]

The final decision was made to add language to the document that "Qwest standard operating practice is to implement 3 major releases and 3 point releases (for IMA only) within a calendar year. Unless a change is mandated as a regulatory change Qwest will implement no more than four (4) release per OSS Interface requiring coding changes to the CLEC interfaces within a calendar year. The major release changes should occur no less than three (3) months apart." [AT&T Comment: Qwest is to determine whether it will agree to 2 releases on interfaces other than the IMA.]

Within the Application-to-Application section, Mitch Menezes asked what Qwest does with documentation for releases that are currently in effect. For production support, Qwest updates the documentation with the addendum to the disclosure document. The Requirements Review Application-to-Application was changed to "This section describes the timelines that Qwest, and any CLEC choosing to implement on the Qwest Release Production Date (date the Qwest release is available for use by CLECs), will adhere to in changing existing interfaces. For any CLEC not choosing to implement on the Qwest Release Production Date, Qwest and the CLEC will negotiate a mutually agreed to CLEC implementation timeline, including testing."

Jeff Thompson of Qwest stated that at day 73 CLECs would receive draft technical specifications. He further explained that the technical specifications are the documents that provide information the CLECs need to code the interface. The final decision on the language update was "Qwest will provide draft technical specifications at least seventy-three (73) calendar days prior to implementing the release unless the exception process has been invoked. Technical specifications are documents that provide information the CLECs need to code the interface. CLECs have eighteen (18) calendar days from the initial publication of draft technical specifications to provide written comments/questions

on the documentation.” Tom Dixon stated that following the timeline chart there are no compensation days allowed for timelines on weekend and holidays. The overall process would take no more than 73 calendar days.

Mitch Menezes of AT&T asked if CLECs could provide additional comments after the comment period. Jeff Thompson of Qwest stated IT will continue to take comments, corrections and do the same work as they do today to ensure the systems work well. Jeff stated that in his experience few CLECs are able to go to production at the same time Qwest does. Jeff Thompson of Qwest stated this is part of the migration process; Bill McCue of AT&T confirmed that this is happening now.

Judy Lee moved the team into the Walk Through of Draft Interface Technical Specifications. Bill McCue stated that the walk through would be closer to the 58th day. Jeff Thompson of Qwest stated that the walkthrough can take about 10 days and by the 58th day the walkthrough would be completed. Mitch Menezes of AT&T asked how the walkthroughs are conducted. Jeff Thompson of Qwest stated the walkthroughs are conducted in lockup meetings, usually all day sessions but that depends on how large the release is. Bill McCue of AT&T stated that those who would be in the walkthroughs would need to go through the summary of changes first to be prepared and expedite the walkthrough.

There were significant changes to the “Walk Through of Draft Interface Technical Specifications” section. The agreed to language is “Qwest will sponsor a walk through, including the appropriate internal subject matter experts (SMEs), beginning 68 calendar days prior to implementation and ending no later than 58 calendar days prior to implementation. A walk through will afford CLEC SMEs the opportunity to ask questions and discuss specific requirements with Qwest’s technical team. CLECs are encouraged to invite their technical experts, systems architects, and designers, to attend the walk through.

Walk through Notification Content

This notification will contain:

- Purpose
- Logistical information (including a conference line)
- Reference to draft technical specifications, or web site
- Additional pertinent material

Conduct the Walk-through

Qwest will lead the review of technical specifications. Qwest technical experts will answer the CLEC SMEs’ questions. Qwest will capture action items such as requests for further clarification. Qwest will follow-up on all action items and notify CLECs of responses 45 calendar days prior to implementation.”

CLEC Comments on Draft Interface Technical Specifications Section was reviewed and updated to read “If the CLEC identifies issues or requires clarification, the CLEC must send written comments to the Systems CMP Manager no later than 55 calendar days prior

to implementation.” Judy Schultz of Qwest stated that Qwest would respond to the comments no later than 45 calendar days prior to implementation. Jeff Thompson of Qwest stated the way this process works is when an implementation time is determined by the CLEC, Qwest and the CLEC sit down and develop a mutually agreed to schedule. It was determined that Qwest will commit to this timeline schedule, even though each CLEC schedule will likely to vary based on individual needs. Jeff Thompson of Qwest stated IT would follow the 73-day timeline assuming that the CLEC will go into production on the same day as Qwest. Thompson stated each CLEC would negotiate their schedule with Qwest IT. Jeff also stated Qwest would meet the schedule but Qwest needs the CLEC comments according to the 73-day schedule to be considered for the Final Requirements.

Section V and VI were updated to reflect the following changes.

“Qwest Response to Comments

Qwest will review and respond with written answers to all CLEC issues, comments/concerns no later than forty-five (45) calendar days prior to implementation. The answers will be shared with all CLECs, unless the CLECs question(s) are marked proprietary. Any changes that may occur as a result of the responses will be distributed to all CLECs in the same notification letter. The notification will include the description of any change(s) made as a result of CLEC comments. The change(s) will be reflected in the final technical specifications.

Final Interface Technical Specifications

The notification letter resulting from the CLEC comments from the Initial Release Notification will constitute the Final Technical Specifications.”

Mitch Menezes of AT&T stated that CLECs needed to adhere to the timeline for providing comments even if the CLECs are not going to implement at the same time as Qwest. Jeff Thompson of Qwest stated that comments received after the comment cycle could be incorporated if necessary. Mitch Menezes of AT&T asked about adding a placeholder to ensure that the connection is made to between the CR Process and this Process. [AT&T Comment: this should be reflected in the issues/action items log. The point is to insure that we are clear in the Master Redline about what the process flow is from beginning to end. Any process that is preceded by a CR needs to be clear. Any process that is not preceded by a CR needs to be clear.] Menezes also asked if EDI Implementation guidelines are covered under the Change Management Process. Jeff Thompson took this as an action item.

Thompson stated that a release is installed during a weekend, therefore the earliest date for CLEC implementation will be on the following weekend. Tom Dixon suggested that a footnote is needed to explain this timeline. Jeff Thompson will provide language.

Language was added to the Joint Testing Period that stated “Qwest will provide a 30 day test window for any CLEC who desires to jointly test with Qwest prior to the release production date.”

Judy Lee began the review of the Requirements Review – Graphical User Interface (GUI) section. Tom Dixon of WorldCom asked if a redlined version of technical documentation was provided to CLECs. Jeff Thompson answered that redlining the technical specifications will not be beneficial for the CLEC technical SMEs, therefore, Qwest will only provide a clean version of the technical specifications. [AT&T Comment: Jeff did state that when the Final Notification Letter comes out, Qwest will identify in one of the documents provided what changed from the draft interface technical specifications.]

Draft GUI Release Notice was updated and new language added. “Prior to implementation of a change to an existing interface, Qwest will notify CLECs of the draft release notes and the planned implementation date. Notification will occur at least twenty-eight (28) calendar days prior to implementing the release unless an exception process has been invoked. This notification will include draft user guide information if necessary. CLECs must provide comments/questions on the documentation no later than 25 calendar days prior to implementation. Final notice for the release will be published at least twenty-one (21) calendar days prior to production release date.” [AT&T Comment: we discussed that Qwest would provide the notification by the morning of the 28th calendar day so that CLECs have that first full day to review. This should be reflected in the language.]

Mitch Menezes of AT&T asked if Qwest was required to submit a CR for Qwest initiated GUI changes. Jeff Thompson of Qwest answered that starting with IMA release 10.0, Qwest will submit a CR for each Qwest initiated GUI change. It was identified that there are four (4) types of changes; Qwest initiated, CLEC initiated, Regulatory and Industry Changes. It was further determined that CLECs can initiate CRs for regulatory and industry guideline changes. The redline document was updated as follows. “The notification will contain: Written summary of change(s), Target time frame for implementation, and any cross reference to draft documentation such as the user guide or revised user guide pages.”

Qwest committed to a 28 calendar day timeline for the draft summary of changes, user guides and information on training. Mitch Menezes of AT&T asked when a CR is closed. Schultz explained that a CR is not closed until the CLECs agree to close it at the CMP meeting. [AT&T Comment: the process/timing for closing a CR should be discussed and documented in the Master Redline document.] The following update was made to the Content of Final Interface Release Notice section. The GUI timeframe changed from 15 to 21 days and the language of “emergency changes” was changed to “production support type changes.” The team then finalized the draft language for “Qwest Proposed Changes to Existing OSS Interface Language, Revised 10-16-01”. Judy Schultz-Qwest asked the team if Qwest could plan to implement the process based on the language agreed to. There was no disagreement.

The team then began to review “Qwest Proposed CLEC-Qwest OSS Interface Change Request Initiation Process” (See Attachment 7). Judy Schultz of Qwest stated that language proposed at the last session for product and process had been incorporated into this document based on agreement from the team. Judy reviewed the high level changes

in the proposed document. Schultz pointed out the differences between the two processes since OSS Interfaces included release schedules and prioritization. Liz Balvin of WorldCom asked how the level of effort was defined for implementation of the CR (i.e., Small, Medium, Large, XtraLarge.) She stated that it was important for CLECs to understand what these sizes mean and how they are defined. Jeff Thompson of Qwest stated that he could not state the definitions in terms of hours or months, however he could define the sizing as follows: Small affects a single subsystem in a single system, Medium affects multiple sub systems, Large affects multiple systems. Language was added to reflect the language for small, medium, large and extra large projects. Jeff committed to go back and put definitions around these sizing clarifications in the Terms section of the CMP framework. [AT&T Comment: this still needs to be discussed.] Donna Osborne-Miller of AT&T asked for more detail than the brief descriptions Thompson provided to the team. [AT&T Comment: don't believe this has been done. Should be part of the broader discussion on the categories of size.] Thompson explained that initial LOE assessment is based off of a brief single or two sentence business description that is provided on a Qwest internal form called a User Request(UR) [AT&T Comment: CLECs and Qwest should discuss the UR process and how it feeds into the CMP. This should be documented in the Master Redline document].

Liz Balvin of WorldCom stated that the process Qwest uses to prioritize is not clear. Tom Dixon of WorldCom asked when an initial candidate list gets created. Balvin responded that the initial list comes from the prioritized CRs. Thompson reviewed the prioritization process and explained how CRs are packaged. Dixon clarified his understanding stating there is a "rolling" candidate list based on prioritization and a CR either rolls off of or stays on the list. Dixon suggested that we change language to show that Qwest develops a final release candidate list. Thompson stated that the timeframe from the voting to the business and system requirements is about 6 weeks. Dixon asked what the definition of a late adder or new CR is. Thompson updated the document to reflect – "Using the initial release candidate list, Qwest will begin business and system requirements. During the business and systems requirement efforts, CRs may be modified or new CRs may be generated (by CLECs or Qwest), with a request that the new or modified CRs be considered for addition to the release candidate list (late added CRs). If the CMP body grants the request to consider the late added CRs for addition to the release candidate list, Qwest will size the CRs requirements work effort. If the requirements work effort, for the late added CRs, can be completed by the end of system requirements, the initial release candidate list and the new CRs will be prioritized by CLECs in accordance with the agreed upon Prioritization Process (see Section xx). If the requirements work effort, for the late added CRs, cannot be completed by the end of system requirements, the CR will not be eligible for the release and will be returned to the pool of CRs that are available for prioritization in the next OSS interface release."

Becky Quintana-Colorado PUC suggested adding another paragraph that states: "At the monthly CMP meeting following the completion of the business and system requirements, Qwest will conduct a packaging discussion, which may include packaging options based on any affinities between candidates on the release candidate list. The newly packaged list of CRs will be used as the release candidate list during the design

phase of a release. At the monthly CMP meeting following the completion of design, Qwest will commit to a final list of CRs for inclusion in the release. If, in the course of the code and test effort, Qwest determines that it cannot complete the work required to include a candidate in the planned release, Qwest will ATT Comment: discuss with advise the CLECs, in the next CMP meeting, ATT Comment: of either the removal of that candidate from the list ATT Comment: or a delay in the release date to incorporate that candidate. If the candidate is removed from the list, Qwest will also advise the CLECs as to whether or not the candidate could become a candidate for the next point release, with appropriate disclosure as part of the current major release of the OSS interface. Alternatively, the candidate will be returned to the pool of CRs that are available for prioritization in the next OSS interface release.”

Mitch Menezes of AT&T stated that the CLECs are blind to some of the changes that Qwest initiates because some of those changes are not reviewed at the CMP meeting. Judy Schultz of Qwest clarified by explaining the UR/CR process. Menezes was under the impression that there were situations when Qwest decides to make a change and it is not seen by the CLEC. Schultz explained that any CLEC affecting OSS Interface changes would be brought before the CLEC community for clarification, and prioritization, excluding production support, pursuant to the CMP. Terry Wicks of Allegiance stated that the internal Qwest CR process is the same as that of a CLEC initiated CR. Tom Dixon of WorldCom stated that all of the change requests, including Qwest initiated, should be reviewed at the CMP monthly meetings.

The CMP Re-Design Team then began reviewing “Qwest Proposed Introduction of an OSS Interface Process” (See Attachment 8). For Application-to-Application OSS Interfaces, Qwest is proposing a 9-month implementation timeframe. Qwest will issue a release announcement, and the preliminary interface implementation plan, and will conduct a review of the new interface technical specifications with the CLEC SMEs. Donna Osborne-Miller of AT&T asked what the phrase “New Interface” means. Judy Schultz and Jeff Thompson of Qwest explained that “New Interface” means a brand new interface that neither Qwest nor the CLECs have ever used. Mitch Menezes of AT&T clarified that it could replace an existing interface. Menezes requested that language be added to the document stating the proposed functionality of the interface, including whether the interface will replace an existing interface.

Menezes asked if oral comments or questions during and after the walkthrough would be addressed in writing. Jeff Thompson of Qwest stated that if the question cannot be answered during the walkthrough, then a written response would be provided. Thompson took an action item to add a definition for Technical Specifications to the Terms section of this document. The timeline was reviewed by the team. Tom Dixon of WorldCom expressed concern that Qwest might not be providing enough lead time for CLEC development. Terry Wicks of Allegiance Telecom clarified that a CR will be submitted with the change in advance of the introduction, and that the 9-month timeframe does not begin until after the CR is presented. [AT&T Comment: as commented earlier in these minutes, when a CR precedes a process needs to be stated clearly in the Master Redline document.] Dixon proposed a 14-day timeframe for final notification

[AT&T Comment: The fourteen day period applies to CLEC comments to the Qwest initial release announcement at the beginning of this process.] instead of a 7-day timeframe and Jeff Thompson of Qwest agreed. The time frame was updated in the timeline section. Judy Schultz of Qwest provided language that stated Qwest would conduct a review meeting of the preliminary implementation plan to review the functionality. This language was incorporated into the document. The CLEC Comments / Qwest response cycle and review section was updated to give CLECs 14 calendar days from the initial release announcement to provide written comments/questions on the documentation. Larry Gindlesberger of Covad Communication mentioned that the CMP redesign team should look at the CR process to ensure it covers how CRs are managed for a New Interface [AT&T Comment: add to the issues/action items log, if not there.]. The team revised the documentation to address this issue.

The Introduction of A New GUI timeline was updated to reflect the discussion. Qwest took an action item to determine when training of a new GUI will be available to the CLECs. Judy Lee reviewed the changes with the group to ensure all CLECs agreed with the language updates. Judy Schultz of Qwest worked through the language to state that CLECs must forward their written comments to Qwest as identified in paragraph II.2. Final Notification was updated to state that Qwest would notice 21 calendar days prior to release production date. The team completed discussion and updates to Attachment 8.

Discussion then moved to the Core Team Members. Judy Lee reviewed the CLEC-Qwest Change Management Process Re-design Core Team Expectation/Responsibilities, dated August 7th, 2001

- Team members need to have an LOA (Letter of Authorization) if voting on a member's behalf during an absence.
- Mike Zulevic of Covad Communications asked if the Core Team membership applies to individuals or a CLEC company. The team clarified that membership relates to the CLEC Company and CLECs may be represented by contractors.
- Tom Dixon of WorldCom stated that if a contractor works for a company, he/she represents the company or CLEC, therefore, a LOA is not required.

Terry Wicks of Allegiance Telecom and Tom Dixon of WorldCom asked how the Core Team will measure the quality of participation. The team added language that Core Team members that participate on the phone need to announce for the people in the room if they drop off or are added on to the line. Tom Dixon of WorldCom then asked how the Core Team defines how a member is a "dedicated resource." Terry Wicks of Allegiance clarified that being a dedicated resource meant being actively involved at all meetings. A subteam led by Leilani Hines (Sharon Van Meter and Terry Wicks) will define 'level of participation' and will propose additional upgrades to the Core Team Expectations/Responsibilities document by the next Redesign meeting.

The current Core Team Membership was reviewed and consists of: Allegiance Telecom, AT&T, Avista, Covad Communications, Eschelon Telecom, SBC Telecom, Sprint, WorldCom, and Qwest. Those moved from Core Team member status to participant are: Electric Lightwave, Integra, Level 3, McLeodUSA, Premier Communications, XO

Communications. Those moved to participants were moved because they missed three consecutive sessions. Judy Lee will notify these CLECs of their Core Team status. Rhythms and Scindo Networks have informed Qwest that their company will no longer participate in CMP. It was agreed that any CLEC may participate in the CMP Redesign sessions.

The team then began to review the Qwest proposed "Retirement of Existing OSS Interfaces language." (See Attachment 10). Retirement of an application-to-application interface will be implemented over a 9-month timeframe. However, Qwest would have shared its 12-month development view informing the CLECs of the planned interface retirement. Bill McCue of AT&T stated that the 9-month schedule provided no overlap for comparable functionality in this language. The proposed language indicated the existing interface is retired at the same time as a new interface is deployed. In reviewing the language around Comparable Functionality (paragraph 4) it was determined that Qwest would ensure comparable functionality at least six months prior to retiring an Application to Application interface. Jeff Thompson of Qwest agreed with the comparable functionality retirement timeline and the team updated the language. The language regarding retiring an interface with no usage was discussed. The Team decided that Qwest might propose to retire an interface if there is no usage consecutively for three months. Tom Dixon of WorldCom asked if a CLEC didn't agree with the retirement of an interface, how they could stop the retirement. Jeff Thompson of Qwest stated that in this situation, the CLEC would negotiate with Qwest to come to an agreement.

Mitch Menezes of AT&T asked if functionality is changed for an Application-to-Application (EDI) and a GUI at the same time. Jeff Thompson of Qwest answered this is not necessarily always the case. Thompson stated that normally the goal is to have the functionality for the EDI and the GUI done at the same time. Thompson asked if it was the expectation of the CLECs to have EDI and GUI functionality implemented at the same time. Thompson stated it was imperative to separate the current process from processes that were being developed in Redesign, and that the CMP process would define how CLEC functionality was implemented and whether there could be temporary differences in functionality. Menezes stated that the CLECs would understand if there were a week difference in functionality availability between EDI and GUI, but that any greater amount of time would represent benefits to one interface user over another. Terry Wicks-Allegiance agreed with Menezes. The team determined to let this issue (EDI – GUI simultaneous functionality implementation) be addressed within the CMP process during prioritization discussion. [AT&T Comment: It appears that this issue was captured as no. 157 on the issues/action items log. This item was closed as being resolved in the changes to Existing OSS Interfaces language. It may still be discussed in prioritization, if appropriate.]

Larry Gindlesberger of Covad Communications then began a review of the CPAP proceeding (See Attachment 17). Lynn Stang of Qwest joined the team to provide an overview of the CPAP and QPAP. Stang shared with the team that the Colorado PUC is planning to issue its ruling on CPAP by early next week. Lynne explained the acronyms as listed below:

CPAP – Colorado Assurance Plan
PID – Performance Indicator Definition
QPAP – Qwest Performance Assurance Plan

Additional discussion ensued. It was determined by the team that the CPAP discussion should be postponed until the Colorado order was released.

Mark Routh of Qwest then reviewed the revised Change Request form. Mitch Menezes of AT&T asked what is the difference between a system and a sub-system. Jeff Thompson of Qwest explained Billing System is a "system" and the parts of that billing system are sub-systems or system components. A sub-system will be defined under Terms.

Donna Osborne-Miller of AT&T asked where a CLEC should send a request if they were not sure of whether it was a product or process change. Mark Routh of Qwest stated when in doubt, CLECs can send the change request to either him or Matt Rossi. Routh clarified that he and Rossi coordinate all CRs received from CLECs to ensure there are no overlaps. Judy Schultz of Qwest responded that most product/process changes result in a system change, but that there was not a desire to create multiple CRs for the same request. Terri Bahner of AT&T expressed concern about what would happen if a CLEC missed a product or system affected on the CR form. Judy Schultz of Qwest stated that any areas being addressed by the CR request would be identified during the clarification meeting. [AT&T Comment: This should be added to the issues/action items log. We need to discuss how these overlaps should be handled, what the process is for Qwest to expeditiously reconcile internally where a CR falls and how to process such CRs. If a CR affects both product/process and systems, what is done to coordinate among all the right folks? At which CMP meeting are they discussed (systems or product/process)?, etc.]

The team then began a review of "Qwest Proposed CR Prioritization Language" (See Attachment 11). Mitch Menezes of AT&T asked if prioritization applied to System CRs only, and not Product and Process CRs. Judy Schultz of Qwest stated that prioritization only applies to Systems CRs. Menezes also asked how prioritization was handled for regulatory changes. Sharon Van Meter of AT&T stated that the CR should state if this was a regulatory change with regulatory material attached. Van Meter stated that would help the CLECs in prioritizing the release. Qwest agreed to add language to the CR for regulatory changes to include the effective date and docket number. [AT&T Comment: This will not be enough information. The CR originator should also provide order numbers and dates, page numbers and paragraph numbers supporting the CR. If the language of the order does not directly support the CR, the originator should provide its reasoning as to how the regulatory order mandates such a change. Mandatory dates for implementation required by the regulatory order should also be provided.] Tom Dixon of WorldCom asked if industry guideline changes are ever issued without a period of time to be implemented. It was determined, that as a general rule, industry guidelines do provide a period of time for industry-wide implementation. Donna Osborne-Miller of AT&T asked if the CLECs have the flexibility to choose what date they'd like to implement regulatory and industry guideline changes. Jeff Thompson

of Qwest answered that it depends upon the system. For example, BOSS industry guidelines usually provide very specific timeframes, whereas Industry guidelines around LSOG are more flexible with their implementation timeframes. Liz Balvin of WorldCom stated that if industry guideline changes were implemented prior to CLECs needing them, the CLECs could escalate the issue.

The team discussed how to prioritize the regulatory and industry changes. It was determined that further discussion about how to prioritize these CRs was needed and it was determined that Qwest would develop language to address the CLEC concerns. Mitch Menezes of AT&T stated that even though the CLECs could use the Escalation/Dispute Resolution process, the team needed to develop language that identified process details that would minimize the need for Escalation and Dispute Resolution. Mitch Menezes of AT&T stated the guidelines are "recommendations" for the most part. Menezes suggested making regulatory CRs subject to prioritization while ensuring Qwest had adequate time to meet the implementation date. Qwest took an action item to revisit its position to not include regulatory and industry guideline changes as part of the prioritization process.

Discussion then moved to changes associated with PIDs and the associated PAPs. Liz Balvin of WorldCom expressed concern that it may cost less for Qwest to pay penalties rather than fix a problem. Qwest took an action item to address whether Qwest considered a CLEC originated performance improvement change should be handled as a regulatory change. [AT&T Comment: don't believe that Qwest has responded to this yet.] Discussion began around the area of prioritization and voting. Judy Lee asked if the CLECs are truly 'voting' or ranking and rating the CRs. The Team decided to reflect new language that states "ranking" and lists specific steps to accomplish the ranking process.

At the end of the 3-day redesign session, the Team reviewed the remaining CMP elements to be discussed. Judy Lee noted that there are three remaining OSS Interface elements yet to complete negotiations. And they are: Prioritization (Regulatory change, Industry Guideline change), Interface Testing and Production Support. The following elements Lee identified as overall CMP elements:

- Revisit Managing the CMP
- Voting Process
- Revisit Exception Process
- Training
- Revisit Web Site

Lee reminded the Team that a process was negotiated for Product/Process CR Initiation that included an implementation timeframe. Lee asked the Team if there were additional elements for Product/Process. The Team was not ready to discuss this question. Lee suggested that the Team look at all of the elements of Product/Process CMP Redesign issues prior to the next meeting so there will be a base level understanding of the overall process for OSS and how it fits in line with Product/ Process. Lee referred the Team to

the COIL 18 Point List and Qwest's proposed Table of Contents (Issues List) as references.

The Team agreed to the following agenda items for the next session:

- Status on CPAP
- Prioritization
- Interface Testing
- Production Support
- Issues/Action Log

The CMP Redesign Team allotted time on October 31 at the end of redesign meeting for the entire CLEC community to join a CMP Product/Process ad hoc meeting to discuss Qwest's Additional Testing product offering. Bill Campbell, Fred Aesquivel, and Dennis Pappas discussed and answered questions pertaining to Attachments 14 and 15. This ad hoc meeting was in response to a request made by the CLECs at the monthly Product/Process meeting. CLECs were asked to forward their additional questions and concerns to the presenters. The presenters will also follow-up on action items from this meeting. [AT&T Comment: please provide a status of this at the next redesign meeting.]

October 30, 31 and November 1 CMP Redesign Issues/Action Items

| Open | Closed |
|--|---|
| #137, 162: Terms #138: OBF Language #139, 141-142: Change to An Existing OSS Interface #140: Note on Timelines #143: EDI Implementation Guideline #145-146, 148: OSS Interface CR Initiation Process #149: Introduction of A New OSS Interface #150, 167-168, 174: Prioritization #151: CMP Redesign Core Team Expectations/Responsibilities #152: Training #153: Timelines #156: Administration-Notification Methods #158: CPAP/PID #161: Proposed Language Documents #163: CR Process #164-165: CR Initiation Form #169: Types of Change #170: PID Change #171: IMA 10.0 Changes #172: Roles and Responsibilities #173: Voting Process #175: Core Team Membership | #92, 135, 147, 160: CR Process #114: CLEC Impacting Check Sheet—Post Oct 5 Meeting Minutes #127: CR Initiation Form #130: Product/Process CR Initiation Process #134: OSS Interface Releases #136: Redesign Meeting Minutes #144: Change to An Existing OSS Interface #154: CLEC Comments #155: Reformat Proposed Language #157: Same Time Availability of Functionality #159: New OSS Interface #166: Regulatory Source Information |

CMP Redesign Working Session

October 30, 31, November 1, 2001 Attendance Record

Core Team Members

| 10-30 | 10-31 | 11-01 | Company | Last Name | First Name | Email | Phone | Comments |
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CMP Redesign Working Session

October 30, 31, November 1, 2001 Attendance Record

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Other Participants

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Facilitator

| | | | | | | | | | |
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|--|---|---|---|----------------------|-----|------|--|--------------|--|

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-0238

IN THE MATTER OF QWEST
CORPORATION'S COMPLIANCE WITH
SECTION 252(e) OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. RT-00000F-02-0271

VERIFICATION OF WILLIAM D. MARKERT

I, William D. Markert, being duly sworn, state that I am the Vice President of Network Financial Management for Eschelon Telecom, Inc. ("Eschelon"). By this affidavit, I verify that the factual assertions relating to the October 30, 2001, conference call with Dana Filip of Qwest, in which I was involved, that are contained in the letter filed today by J. Jeffery Oxley in this proceeding on behalf of Eschelon, are true and correct statements to the best of my knowledge.

When Ms. Filip said that she would devote all of her energies to ensuring that Audrey McKenney of Qwest succeeded in her objectives, the context and her manner were clear that she was telling us that she would do her best to make doing business with Qwest even more difficult and impact Eschelon's ability to survive. It was a threat, and particularly given Ms. Filip's position, I took it seriously.

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-0238

IN THE MATTER OF QWEST
CORPORATION'S COMPLIANCE WITH
SECTION 252(e) OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. RT-00000F-02-0271

VERIFICATION OF ROBERT PICKENS

I, Robert Pickens, being duly sworn, state that I am the Executive Vice President of Marketing for Eschelon Telecom, Inc. ("Eschelon"). By this affidavit, I verify that the factual assertions relating to the October 30, 2001, conference call with Dana Filip of Qwest, in which I was involved, that are contained in the letter filed today by J. Jeffery Oxley in this proceeding on behalf of Eschelon, are true and correct statements to the best of my knowledge.

When Ms. Filip said that she would devote all of her energies to ensuring that Audrey McKenney of Qwest succeeded in her objectives, the context and her angry manner were clear that she was threatening us. The objectives were not positive objectives for Eschelon. It was a threat to do financial harm to Eschelon, and I took it seriously.

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

This Confidential Billing Settlement Agreement ("Agreement"), dated October 30, 2001, is between Qwest Corporation ("Qwest") and Eschelon Telecom, Inc. ("Eschelon") (collectively the "Parties") who hereby enter into this Confidential Billing Settlement Agreement with regard to the following:

RECITALS

1. Qwest is an incumbent local exchange provider operating in various states.
2. Eschelon is a competitive local exchange provider that operates in various states.
3. Qwest and Eschelon are parties to interconnection agreements, executed pursuant to sections 251 and 252 of the federal Telecommunications Act of 1996 ("Act") and approved by the appropriate state agencies referred to hereinafter as the "Interconnection Agreements."
4. Various billing disputes, including, but not limited to, pricing and switched access minutes, have arisen between the Parties under the Interconnection Agreements and applicable tariffs regarding interconnection services and unbundled network elements, provided by one Party to the other (referred to hereinafter as the "Disputes").
5. In an attempt to finally resolve the Disputes and to avoid delay and costly litigation, and for valuable consideration, the Parties voluntarily enter into this Agreement to resolve fully the Disputes.

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

6. Qwest and Eschelon agree to resolve the Disputes as of the date of this Agreement as follows. In consideration for Qwest's payment to Eschelon described in this paragraph, Eschelon

agrees to the waiver and release described in paragraphs 7 and 8 below. Qwest will make a one-time payment to Eschelon in the amount of \$1.344 million. Qwest will wire that sum of money to Eschelon within five (5) business days of the execution of this Agreement.

7. Eschelon agrees to convert to the mechanized process for receiving access records on November 8, 2001. The current manual and mechanized processes will be run in parallel to identify operational issues, if any. As part of the mechanized process, the Qwest carried intraLATA toll traffic will be part of the mechanized records. Commencing with January 1, 2002, Eschelon will rely solely on the mechanized process. The Parties agree to use the executive business escalation process to address any disputes related to switched access issues. As part of this Agreement, the Parties agree that the July 3, 2001 letter from Audrey McKenney to Richard A. Smith, Re: Status of Switched Access Minutes Reporting, is terminated and that all obligations stated therein have been satisfied. Further, Eschelon agrees to deliver to Qwest all reports, work papers, or other documents related to the audit process described in that letter. Eschelon will certify to Qwest within 10 days of execution of this Agreement that it has delivered to Qwest all reports, work papers, or other documents (originals and copies) as required by this Agreement. If Eschelon violates this provision of this Agreement it shall be a material breach of this Agreement. Regardless, the Parties and their agents or consultants shall treat such information as confidential and subject to Rule of Evidence 408.

8. For valuable consideration to be paid by Qwest to Eschelon as provided in paragraph 6 above, Eschelon hereby releases and forever discharges Qwest and its associates, owners, stockholders, predecessors, successors, agents, directors, officers, partners, employees, representatives, employees of affiliates, employees of parents, employees of subsidiaries, affiliates, parents, subsidiaries, insurance carriers, bonding companies and attorneys, from any

and all manner of action or actions, causes or causes of action, in law, under statute, or in equity, suits, appeals, petitions, debts, liens, contracts, agreements, promises, liability, claims, affirmative defenses, offsets, demands, damages, losses, costs, claims for restitution, and expenses, of any nature whatsoever, fixed or contingent, known or unknown, past and present asserted or that could have been asserted or could be asserted through the date of the execution of this Agreement in any way relating to or arising out of the Disputes.

9. The terms and conditions contained in this Agreement shall inure to the benefit of, and be binding upon, the respective successors, affiliates and assigns of the Parties. In addition, the terms and conditions of this Agreement, including all facts leading up to the signing of this Agreement shall bind the Parties.

10. Each Party hereby covenants and warrants that it has not assigned or transferred to any person any claim, or portion of any claim which is released or discharged by this Agreement.

11. The Parties expressly agree that they will keep the substance of the negotiations and or conditions of the settlement and the terms or substance of Agreement strictly confidential. Except for purposes of enforcing this Agreement, the Parties further agree that they will not communicate (orally or in writing) or in any way disclose the substance of negotiations and/or conditions of the settlement and the terms or substance of this Agreement to any person, judicial or administrative agency or body, business, entity or association or anyone else for any reason whatsoever, without the prior express written

consent of the other Party unless compelled to do so by law. It is expressly agreed that this confidentiality provision is an essential element of this Agreement. The Parties agree that this Agreement and negotiations, and all matters related to these two matters, shall be subject to the Rule 408 of the Rules of Evidence, at the federal and state level. The Parties further agree that a breach of the confidentiality provisions of this Agreement will materially harm the other Party in a manner which cannot be compensated by monetary damages, and that in the event of such breach the prerequisites for an injunction have been met.

12. In the event either Party has a legal obligation which requires disclosure of the terms and conditions of this Agreement, the Party having the obligation shall immediately notify the other Party in writing of the nature, scope and source of such obligation so as to enable the other Party, at its option, to take such action as may be legally permissible so as to protect the confidentiality provided for in this Agreement. At least ten days advance notice under this paragraph shall be provided to the other Party, whenever possible.
13. This Agreement constitutes the entire agreement between the Parties and can only be changed in a writing or writings executed by both of the Parties. Each of the Parties forever waives all right to assert that this Agreement was a result of a mistake in law or in fact.

14. This Agreement shall be interpreted and construed in accordance with the laws of the State of Colorado, and shall not be interpreted in favor or against any Party to this Agreement except as expressly provided herein.
15. The Parties have entered into this Agreement after conferring with legal counsel.
16. If any provision of this Agreement should be declared to be unenforceable by any administrative agency, court of law, or other tribunal of competent jurisdiction the remainder of the Agreement shall remain in full force and effect, and shall be binding upon the Parties hereto as if the invalidated provision were not part of this Agreement.
17. Any claim, controversy or dispute between the Parties in connection with this Agreement, shall be resolved by private and confidential arbitration conducted by a single arbitrator engaged in the practice of law, under the then current rules of the American Arbitration Association. The Federal Arbitration Act, 9 U.S.C. §§ 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator shall only have the authority to determine breach of this Agreement, but shall not have the authority to award punitive damages. The arbitrator's decision shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees and shall share equally in the fees and expenses of the arbitrator.
18. The Parties acknowledge and agree that they have legitimate disputes about the billing and provisioning issues and that the resolution reached in this Agreement represents a

compromise of the Parties' positions. Therefore, the Parties agree that resolution of the issues contained in this Agreement cannot be used against the other Party.

19. This Agreement may be executed in counterparts and by facsimile.

IN WITNESS THEREOF, the Parties have caused this Confidential Billing Settlement Agreement to be executed as of this 30th day of October 2001.

Eschelon Operating Company

QWEST Corporation

By: _____

By: Audrey McKenney

Title: _____

Title: SUP-Wholesale MKTs

Confidential Purchase Agreement

This Purchase Agreement ("PA") is made and entered into by and between Eschelon Telecom, Inc. ("Eschelon") and Qwest Service Corporation ("Qwest") (collectively, the "Parties") effective on the 30th day of October, 2001.

The Parties have entered into enter this PA to facilitate and improve their business and operational activities, agreements and relationships. In consideration of the covenants, agreements and promises contained below the Parties agree to the following:

1. This PA is entered into between the Parties based on the following conditions, which are a material part of this agreement:

1.1 This PA shall be binding on Qwest and Eschelon and each of their respective successors and assigns.

1.2 This PA may be amended or altered only by written instrument executed by authorized representatives of both Parties. Each of the Parties forever waives all right to assert that this Agreement was the result of a mistake in law or in fact.

1.3 The Parties, intending to be legally bound, have executed this PA effective as of October 30, 2001, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

1.4 Unless terminated as provided in this section, the term of this PA is from January 1, 2002 until December 31, 2002. This PA may be terminated during the term of the agreement in the event of a material breach of the terms of this Agreement.

1.5 If either Party's performance of this PA or any obligation under this PA is prevented, restricted or interfered with by causes beyond such Parties' reasonable control, including but not limited to acts of God, fire, explosion, vandalism which reasonable precautions could not protect against, storm or other similar occurrence, any law, order, regulation, direction, action or request of any unit of federal, state or local government, or of any civil or military authority, or by national emergencies, insurrections, riots, wars, strike or work stoppage or material vendor failures, or cable cuts, then such Party shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference (a "Force Majeure").

1.6 The Parties agree that they will keep the terms and conditions, substance of the negotiations and/or conditions of this PA, and any documents exchanged pursuant to this PA strictly confidential. The Parties further agree that they will not communicate (orally or in writing) or in any way disclose the substance of the negotiations and the terms or substance of this PA or any documents pursuant to this PA, to any person, judicial or administrative agency or body, business, entity or association or anyone else for any reason whatsoever, without the prior express written consent of the other Party unless compelled to do so by law or unless Eschelon pursues an initial public offering, and then only to the extent that disclosure by Eschelon is

necessary to comply with the requirements of the Securities Act of 1933 or the Securities Exchange Act of 1934. In the event Eschelon pursues an initial public offering, it will: (1) first notify Qwest of any obligation to disclose some or all of this PA; (2) provide Qwest with an opportunity to review and comment on Eschelon's proposed disclosure of some or all of this PA; and (3) apply for confidential treatment of the PA. In addition to a potential public offering, Eschelon may pursue private placements or other forms of investments in Eschelon or one of its subsidiaries or affiliates. In the event that potential investors require Eschelon to provide them with information subject to this Confidentiality provision, Eschelon will: (1) first notify Qwest of any obligation to disclose some or all of the confidential information; (2) provide Qwest with an opportunity to review and comment on Eschelon's proposed disclosure of some or all of the confidential information; and (3) require the other party to sign a non-disclosure agreement before providing the confidential information. It is expressly agreed that this confidentiality provision is an essential element of this PA and negotiations, and all matters related to these matters, shall be subject to Rule 408 of the Rules of Evidence, at the federal and state level. In the event either Party has a legal obligation which requires disclosure of the terms and conditions of this Agreement, the Party having the obligation shall immediately notify the other Party in writing of the nature, scope and source of such obligation so as to enable the other Party, at its option, to take such action as may be legally permissible so as to protect the confidentiality provided for in this Agreement. At least ten days advance notice under this paragraph shall be provided to the other Party, whenever possible. As noted previously, it is anticipated that the Parties shall exchange confidential information (i.e. most likely that Qwest will deliver to Eschelon confidential information) in performing the obligations contained in this Agreement. The Party receiving such confidential information ("Receiving Party") shall treat such information as it would treat its own confidential information. In addition, the Receiving Party shall not disclose the confidential information outside its company and only with those employees have a need to know. The Receiving Party shall not copy such confidential information without the written consent of the other Party. In addition, the Receiving shall return the confidential information of the other Party upon demand of such Party.

1.7 Neither Party will present itself as representing or jointly marketing services with the other, or market its services using the name of the other Party, without the prior written consent of the other Party.

1.8 This PA shall be interpreted and construed in accordance with the laws of the State of Colorado and shall not be interpreted in favor or against any Party to this Agreement.

2. In consideration of the agreements and covenants set forth above, Qwest agrees to purchase from Eschelon, during the Term of this PA, \$1.8 million in carrier-related services ("Services"), to be paid ratably within five business days of the last day of each month, for the period January through December 2002. The payment described in this paragraph will be made so long as Qwest determines that Eschelon is performing consistent with this Agreement and is providing satisfactory Services. The Services may include, but are not limited to, Eschelon providing Qwest with the following: analyses of carrier pricing by market and market segment and comparisons between carriers; peer group benchmarking, including comparisons of operational and financial aggregate metrics of carriers; consulting services for Qwest's out-of-region CLEC operations on operational, financial or other issues; special projects that may be

requested on an ad hoc basis; monthly consultative meetings with top Eschelon executives; and other consulting services regarding Qwest's products and processes, including but not limited to Change Management functions.

2.1 The Parties will resolve any disputes under this Agreement pursuant to the Escalation Procedures established by the Parties. Any claim, controversy or dispute between the Parties in connection with this Agreement, shall be resolved by private and confidential arbitration conducted by a single arbitrator engaged in the practice of law, under the then current rules of the American Arbitration Association. The Federal Arbitration Act, 9 U.S.C. §§ 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator shall only have the authority to determine breach of this Agreement, but shall not have the authority to award punitive damages. The arbitrator's decision shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees and shall share equally in the fees and expenses of the arbitrator.

3. As part of the Services described herein, it is anticipated that the parties will exchange confidential and proprietary information. Specifically, it is anticipated that Qwest shall provide confidential and proprietary, and sensitive information to Eschelon. Accordingly, as a material element of this PA, unless otherwise requested by Qwest or an affiliate, and out of an abundance of caution that Eschelon not misuse (intentionally or by mistake) such information, Eschelon agrees, during the term of this PA, to refrain from initiating or participating in any proceeding (regulatory, judicial, arbitration, or legislative) where Qwest interests may be implicated, including but not limited to, formal and informal proceedings related to Qwest's or its affiliates' efforts to obtain relief pursuant to section 271 of the Telecommunications Act of 1996, including but not limited to, Change Management Process workshops, performance indicator/assurance dockets and cost dockets. Notwithstanding the foregoing, since Eschelon will help Qwest with, including but not limited to, its business process, products and operations, Eschelon shall, when requested by Qwest file supporting testimony/pleadings/comments and testify whenever requested by Qwest in a manner suitable to Qwest (substantively). In addition, upon request by Qwest, Eschelon will withdraw or dismiss existing proceedings.

Made and entered into on the 30th day of October, 2001, by Eschelon and Qwest.

Eschelon Telecom, Inc.

Qwest Services Corporation

Authorized Signature

Audrey McKenney
Authorized Signature

Name Printed/Typed

Audrey McKenney
Name Printed/Typed

Title

Senior VP - Wholesale MKB
Title

Date

10-30-01
Date

Excerpt from Transcript, *In the Matter of the Complaint of the Minnesota Department of Commerce Against Qwest Corporation Regarding Unfiled Agreements*, Minnesota Public Utilities Commission Docket No. P-421/C-02-197; OAH Docket No. 6-2500-14782-2, before Administrative Law Judge Klein (May 1, 2002).

Testimony of Qwest witness Larry Brotherson:

"43

21 Q Thank you. That was helpful. Page 7, starting with
22 line 16, which is a question about whether Qwest has
23 a process for reviewing agreements to assure
24 compliance with the act, you've talked about a new
25 business practice. What was the old business

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1 practice?
2 A I think it was an informal practice, much along the
3 same lines, but the intent is to establish a more
4 formal process around the -- around the steps.
5 Q Well, were you part of that process?
6 A No.
7 Q Do you know who was part of that process?
8 A I am aware that the -- some attorneys were involved
9 in some of these agreements. I'm aware that some of
10 the managers that were involved in some of these
11 agreements.
12 Q For each particular agreement do you have any
13 knowledge as to who was involved in the old process?
14 A No.
15 Q For each of the agreements do you know whether there
16 was, in fact, any process used?
17 A I'm not sure what the process that was used.
18 Q For any of the agreements have you seen any
19 documents that would indicate that there was a
20 process used?
21 A Well, certainly they bear the signatures of certain
22 managers within Qwest. At least one document
23 indicated a stamp from one of the lawyers in the law
24 department, which would -- with a signature, which
25 would indicate that one of the lawyers in the law

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1 department viewed that document. Beyond that, no.
2 Q Was there a date next to that signature?
3 A Some of the signatures carry.

4 Q The signature of the lawyer that you referred to,
5 was there a date next to his or her signature?
6 A I don't recall.
7 Q Is it possible that that lawyer reviewed that
8 document before it was finalized?
9 A I can't speak to the -- what the lawyer reviewed.
10 Q Is it possible?
11 A That they would have approved it before it was in
12 final form? I don't know.
13 Q It's possible that no process was used at all, other
14 than the person who was signing the contract; isn't
15 that correct?
16 A I don't believe that's correct.
17 Q Why?
18 A Well, I don't believe the lawyer would have approved
19 and signed the document if it was not in final form.
20 But to your point, it is possible. But my
21 experience would say that they would have put their
22 signature on a document that was a final form and
23 not something that did not represent what it was
24 that they were approving.
25 Q So if the lawyer signed the document, in your

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1 opinion the lawyer would have reviewed the document
2 and approved it at that point; correct?
3 A Based on my experience, yes.
4 Q Based upon your experience then that -- it appears
5 that the document does not go through any further
6 process after it's been approved by the lawyer and
7 signed by the parties?
8 A I can't say one way or the other on that.
9 Q So it is possible then that a lawyer takes a look at
10 the agreement, makes sure that all of the particular
11 paragraphs are in order, the language is proper, the
12 intent of the parties is set forth, that the proper
13 parties have signed the agreement, it's good to go,
14 and then gives an okeydokey on it, correct; that's
15 possible?
16 A That's possible.
17 Q All right. But you're talking here about a process
18 by which someone now reviews that document to see if
19 it has to go through another process which is being
20 filed with one or more state commissions, and
21 there's nothing that you've reviewed to indicate
22 that any of these agreements ever went through that

23 process; correct?
24 A I'm not familiar with the process that the documents
25 go through. So I have no opinion on what those

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1 steps are, that's correct.
2 Q And you've set forth what the new process is going
3 to be, but you have no idea what that process will
4 be; is that correct?
5 A I've set forth what the steps are that I understand
6 to be the new process.
7 Q All right. Well, let's go through that. All
8 material agreement terms will be submitted to a
9 committee comprised of representatives at the
10 executive director level or above. What is the
11 executive director level or above?
12 A That would be one level or more above the level of
13 director --
14 Q Okay. For your division --
15 A -- which would be --
16 Q -- who is your director?
17 A I would be a director in wholesale.
18 Q So one step above you in your chain would be?
19 A One step or above would be Dan Hult or Audrey
20 McKenney.
21 Q And you're wholesale?
22 A And I'm wholesale.
23 Q Now, also then -- Well, let's back up. Then you
24 would expect either Mr. Hult or Ms. McKenney then to
25 be part of this committee?

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1 A If it dealt with a document involving that
2 organization.
3 Q Well, we're dealing with wholesale agreements,
4 agreements between Qwest and CLECs, interconnection
5 agreements, or being reviewed to see if it is an
6 interconnection agreement. Is there any other
7 division that would be handling this other than
8 wholesale?
9 A For an agreement involving in-region wholesale
10 services, no.
11 Q And the 11 agreements we're talking about, are those
12 all in-region wholesale agreements?
13 A They all have wholesale elements in them, to my
14 recollection. I don't know if everything in the

15 agreement is -- involves wholesale.
16 Q Well, your understanding of what these agreements
17 are, your understanding what of the process will be,
18 if Qwest were to do this all over again under the
19 new process, would you understand that each of these
20 agreements then would go through this committee?
21 A That would be my understanding.
22 Q And, therefore, would Mr. Hult or Ms. McKenney be a
23 part of that committee, given these agreements?
24 A They would not necessarily be a member of that
25 committee. I would not designate the particular

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1 member of the committee. If this were an issue
2 involving service, it may be an executive director
3 level or above dealing with service issues. If it
4 were order processing or systems, it may be an
5 executive director or above dealing with systems
6 issues. I think it would turn, in part, on what the
7 issue was.
8 Q If it were a services issue, who would be the
9 executive director level for that committee?
10 A Perhaps Ms. Filip.
11 Q And above her?
12 A Mr. Martin.
13 Q And above him?
14 A Mr. Mohebbi or Mr. Nacchio.
15 Q Then we move to the legal affairs division. Now,
16 who would be the executive director level from legal
17 affairs?
18 A I don't know.
19 Q Do you know anyone in legal affairs that would have
20 the title that's equivalent to the people that
21 you've already discussed?
22 A I know attorneys who would carry that level. I
23 don't know which of them would be involved on this
24 committee.
25 Q Can you give me two or three?

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1 A Mr. Gallegos, Mr. Hoffman, Ms. Mosier.
2 Q Okay. Thank you. Public policy. Can we -- Can we
3 name some people that would be at that level in that
4 division?
5 A I can't think of anyone offhand.
6 Q Where does Mr. Corbetto come into place?

7 A Mr. Corbetta?
8 Q Corbetta. I apologize.
9 A He works in the law department.
10 Q Which law department?
11 A Qwest law department.
12 Q Is that legal affairs? Is that policy and law
13 regulatory? What is that?
14 A I believe it's legal affairs.
15 Q And Ms. Korneffel?
16 A She works in the same organization as Mr. Corbetta,
17 Ms. Korneffel.
18 Q Are they at the executive director level or above?
19 A I don't know their titles.
20 Q The wholesale business development section.
21 A Yes.
22 Q Who would be at the executive director level or
23 above?
24 A Ms. Audrey McKenney.
25 Q Well, there seems to be some overlap then. So

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1 apparently Ms. McKenney is involved in many of these
2 divisions or at least more than one. Which of these
3 divisions does she participate in?
4 A She would be wholesale business development.
5 Q Okay. But you also said that -- Is that the
6 division you're in then?
7 A Yes.
8 Q All right. Wholesale service delivery, who would be
9 at the executive director level?
10 A I believe that's Ms. Dana Filip.
11 Q And above Ms. Filip?
12 A Mr. Gordon Martin.
13 Q And above Mr. Martin?
14 A Mr. Mohebbi.
15 Q And above Mr. Mohebbi?
16 A Mr. Nacchio.
17 Q Again, you seem to be coming up with the same name
18 in several of these. Maybe I'm wrong. Did you
19 mention Mr. Martin in two or three of these?
20 A Mr. Martin would -- Mr. Gordon Martin would be the
21 president of the wholesale organization. Reporting
22 to him would be Ms. McKenney, Ms. Filip, someone
23 from finance, someone from the business office,
24 someone from various organizations within wholesale.
25 Q So Mr. Martin could be the representative from

1 several of these; is that correct?

2 A He could.

3 Q And Mr. Nacchio could be a member of all of these;
4 correct?

5 A He could. It's a hierarchy.

6 Q The policy and law regulatory division, who are we
7 dealing with there at this level?

8 A That would be Steve Davis' organization, and I'm not
9 familiar with all of the parties in that
10 organization.

11 Q Steve Davis, Chuck Ward?

12 A Yes.

13 Q This new process it's going to have -- you're going
14 to memorialize all decisions in writing. So I
15 assume, like you indicated, the current process has
16 no such memorialization; correct? I'll rephrase it.
17 Is it fair to say the new (sic) process, as far as
18 you know, does not have any written memorialization
19 built into it?

20 JUDGE KLEIN: Counsel, do you mean the
21 new process or the old process?

22 MR. ALPERT: I said the old process
23 first.

24 JUDGE KLEIN: Yes.

25 THE WITNESS: If I understand the

1 question, if you're asking did the old process
2 memorialize all decisions, I can't answer that. I
3 don't know.

4 BY MR. ALPERT:

5 Q And the new process is that decision going to be --
6 are you aware as to whether it would be public or
7 confidential?

8 A I'm not. I think that would probably turn on the
9 nature of the decision."

April 5, 2001



Dana L. Filip
Senior Vice President
Wholesale Customer Service Operations
Qwest Corporation
555 17th Street, 22nd Floor
Denver, CO 80202

(via U.S. Mail and email)

Audrey McKenney
Vice President
Wholesale Markets Finance
Qwest Corporation
1801 California Street, Room 2350
Denver, CO 80202

(via U.S. Mail and email)

Re: Implementation Plan; confidential/subject to Rule 408

Dear Ms. Filip and Ms. McKenney:

Next week myself and several members of my management team will be meeting with Dana Filip and her colleagues to discuss Qwest's draft of our Implementation Plan and to discuss Qwest's February 2001 Report Card. As you know, our agreement calls for us to finalize the Implementation Plan by April 30, 2001. At our last meeting in Denver, Ms. Filip committed to providing a draft of the Implementation Plan to Eschelon by March 15. Eschelon received the Draft Plan on March 26. As David Kunde explained to Dana the following day, the Draft Plan is silent on many critical issues. Dana acknowledged those concerns and indicated that she could address some of our concerns but that many of them would need to be addressed by Audrey and her team.

I am writing to set out our view of what the Implementation Plan needs to accomplish. Following that, I set out the principal discrete items that Qwest and Eschelon need to resolve to do so. I ask that you both review my list of items and divide the responsibility for responding to me on the items between you.

* REDACTED *

EXHIBIT 23

Ms. Filip and Ms. McKenney
April 5, 2001
Page 2

* REDACTED *

Ms. Filip and Ms. McKenney
April 5, 2001
Page 3

* REDACTED *

* REDACTED *

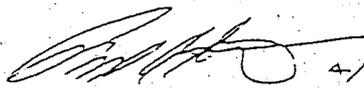
Interconnection Agreements

Our interconnection agreements with Qwest are in or near evergreen status. Eschelon had sought to have new interconnection agreements with Qwest instead of an Implementation Plan, but settled for a Plan that would address how we are to negotiate interconnection agreements. The Draft Plan is silent on this. In theory, Eschelon can either shape interconnection agreements through participation in SGAT proceedings or we can attempt to negotiate agreements with Qwest as desired by Qwest. Eschelon has attempted to negotiate loop cutover language with Qwest. Qwest's response is that it will not negotiate loop cutover language – Eschelon must accept whatever process Qwest decides upon. This is unacceptable. Either the Implementation Plan must deal substantively with the interconnection agreement process or Eschelon must participate in SGAT proceedings.

Ms. Filip and Ms. McKenney
April 5, 2001
Page 5

* REDACTED *

Sincerely,



4/5/01

Richard A. Smith
President and Chief Operating Officer
Eschelon Telecom, Inc.
(612) 436-6626

Enclosure

May 2, 2001

Audrey McKenney
Vice President
Wholesale Markets Finance
Qwest Corporation
1801 California Street, Room 2350
Denver, CO 80202

(via email and U.S. Mail)

Dana L. Filip
Senior Vice President
Wholesale Customer Service Operations
Qwest Corporation
555 17th Street, 22nd Floor
Denver, CO 80202

(via email and U.S. Mail)

Re: May 2, 2001 Conference Call CONFIDENTIAL/SUBJECT TO RULE 408

Dear Audrey and Dana,

Here are my minutes of our call the morning of May 2nd. Audrey, Dana and Laurie Korneffel were on the call for Qwest. Myself, Dave Kunde, Jeff Oxley and for a few minutes, Bill Markert were on the call for Eschelon. Please let me know if my minutes are inaccurate or incomplete.

* REDACTED *

EXHIBIT 24

Ms. McKenney and Ms. Filip
April 23, 2001
Page 2

CONFIDENTIAL/SUBJECT TO RULE 408

* REDACTED *

REDACTED

VI. Eschelon's Participation in SGAT Discussions

Jeff explained what Karen Clauson had said and had not said during discussions of Qwest's SGAT at a pre-271 application workshop in Denver. Jeff stated that Eschelon had not taken any action opposing Qwest's efforts to get 271 approval. Laurie agreed that she would arrange a conference call with Jeff and Karen and someone from Qwest who had been at the meeting to discuss Karen's participation in that meeting and in similar future meetings.

Sincerely,

Richard A. Smith
President and Chief Operating Officer
Eschelon Telecom, Inc.
(612) 436-6626

REDACTED

Settlement Agreement

This Settlement Agreement (this "Agreement") is dated March 1, 2002 (the "Effective Date"), and is between Qwest Corporation, a Colorado corporation ("Qwest"), and Eschelon Telecom, Inc., a Delaware corporation ("Eschelon"). Qwest and Eschelon are referred to collectively as the "Parties" and individually as the "Party."

Whereas, Qwest is an incumbent local exchange carrier operating in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming;

Whereas, Eschelon is a competitive local exchange carrier operating in the states of Arizona, Colorado, Minnesota, Oregon, Utah, and Washington, as well as Nevada;

Whereas, each of the Parties seeks to avoid delay and costly litigation and to resolve certain issues in dispute.

Qwest and Eschelon therefore agree as follows:

1. Definitions. When used in this Agreement, the following terms have the following meanings:

"Act" means the Telecommunications Act of 1996.

"CABS" means carrier access billing system.

"Claims" means, individually and collectively, each and every claim, action, causes of action, suit, demand, damage, judgment, execution, cost, expense, liability, controversy, setoff, omission, and loss of any kind whatsoever, whether known or unknown, whether in law or in equity, including any related interest expenses that may have accrued in connection therewith, from the beginning of time through February 28, 2002, that Eschelon or Qwest has, had or may have against the other Party arising out of the Disputes through February 28, 2002.

"Disputes" means, for the time period through February 28, 2002: (1) disputes concerning service credits; (2) disputes concerning consulting and network-related services provided by Eschelon to Qwest; (3) CABS disputes concerning switched access minutes of use; (4) disputes concerning payment of UNE-E line and UNE-E Non-Recurring Charge credits; and (5) disputes concerning Eschelon's claims of anti-competitive conduct and unfair competition.

"Interconnection Agreement" means the interconnection agreements and all amendments thereto filed with the PUC in each state in which Eschelon obtains services and facilities from Qwest.

"PUC" means state public utility commission.

03/01/02 2:33 PM

Settlement Agreement

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\\\\DC - 66983/45 - #1488679 v2

EXHIBIT 25

"Terminated Agreements" has the meaning set forth in paragraph 3(b) below.

"UNE-E" means Unbundled Network Element – Eschelon, a product purchased by Eschelon under its Interconnection Agreement, as amended in November of 2000 and July and August of 2001.

"UNE-P" means Unbundled Network Element – Platform.

2. Release of Claims. (a) For valuable consideration to be paid by Qwest to Eschelon as provided in Paragraph 3(a) below, Eschelon hereby fully waives, releases, acquits, and discharges Qwest and its associates, owners, stockholders, successors, assigns, partners, parents, insurance carriers, bonding companies, affiliates and subsidiaries, and each of their respective directors, officers, agents, employees and representatives from any and all Claims arising out of the Disputes through February 28, 2002.

(b) In consideration of the waiver and release described in Paragraph 2(a) above, Qwest hereby fully waives, releases, acquits, and discharges Eschelon and its associates, owners, stockholders, successors, assigns, partners, parents, insurance carriers, bonding companies, affiliates and subsidiaries, and each of their respective directors, officers, agents, employees and representatives from any and all Claims arising out of the Disputes through February 28, 2002.

3. Actions to be Taken. The Parties shall undertake the following actions:

(a) On the Effective Date, Qwest shall provide payment, using credits, to Eschelon in an amount equal to \$7,912,000, with offsets as follows: (i) apply \$6,380,000 against UNE-E charges and associated charges that are not disputed by the Parties as of February 28, 2002; and (ii) apply and credit \$1,532,000 — which sum represents \$7,912,000 less \$6,380,000 — against all current and non-disputed invoices that are payable by Eschelon to Qwest. Eschelon shall determine how the offset amounts in each of clauses (i) and (ii) will be applied and shall so designate in writing to Qwest within ten days of the Effective Date.

(b) For convenience and various reasons, the Parties hereby terminate the following agreements ("Terminated Agreements"), as of the Effective Date:

- (1) Feature Letter dated November 15, 2000;
- (2) Implementation Plan Letter dated November 15, 2000;
- (3) Escalation procedures and business solution letter dated November 15, 2000;
- (4) Confidential Purchase Agreement dated November 15, 2000;
- (5) Confidential Amendment to Confidential/Trade Secret Stipulation dated November 15, 2000;
- (6) Third Amendment to Confidential/Trade Secret Agreement dated July 3, 2001;
- (7) Status of switched access minute reporting letter dated July 3, 2001; and
- (8) Implementation Plan dated July 31, 2001/August 1, 2001.

(c) Attachment 3 to the Implementation Plan dated July 31, 2001/August 1, 2001 relating to UNE-E will continue to bind the Parties unless the Parties agree otherwise in a writing executed by both Parties. Eschelon agrees that Qwest will file this Attachment 3 as an amendment to the Interconnection Agreement.

(d) The Billing/Usage letter dated November 15, 2000 will be terminated when the Parties agree the manual process is terminated and Eschelon moves to the mechanized process described in Paragraph 3(g) below.

(e) Qwest shall make the UNE-E offering and existing business processes related to the UNE-E offering available to Eschelon through the current term of the Interconnection Agreement Amendment Terms dated November 15, 2000.

(f) Within ten days of the Effective Date, the Parties shall form a joint team. The purpose of the joint team shall be to develop a mutually acceptable plan (the "Plan") to convert UNE-E lines to UNE - P. Qwest and Eschelon shall use best efforts to cooperate in converting UNE-E lines to UNE-P in accordance with the Plan.

(g) Qwest and Eschelon shall work closely together in moving Eschelon from a manual to a mechanized process so that Eschelon can bill for access on UNE-P. The Parties shall work closely for 60 days to validate working telephone numbers and associated minutes of use, and will terminate the manual process after these 60 days with the consent of both Parties. If the parties are unable to agree on the date of the termination of the manual process, then the Parties shall follow the procedures described in paragraph 8 below.

(h) Level 3 Escalation. Upon execution of this Agreement, Eschelon's February 8, 2002 request for a Level 3 escalation will be deemed permanently withdrawn.

4. Successors and Assigns. The terms and conditions contained in this Agreement shall inure to the benefit of and be binding upon, the respective successors, affiliates and assigns of the Parties.

5. Assignment of Claims. No Party has assigned or transferred to any person any Claim, or portion of any Claim, released or discharged by this Agreement.

6. Filing of Agreement. The Parties agree that negotiation of this Agreement is subject to Rule 408 of the Federal Rules of Evidence, and similar rules at the state level. Notwithstanding the foregoing, nothing in this Agreement shall prevent a Party from asserting a claim against the other Party to enforce this Agreement and nothing herein shall bar a Party from filing this Agreement as it deems necessary and appropriate in order to comply with state or federal law, or in connection with a relevant legal or regulatory proceeding in which Qwest or Eschelon is a party. Qwest and Eschelon expressly contemplate that this Agreement will be filed

with the PUCs in its region in states where Eschelon is certified and has an interconnection agreement.

7. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties. This Agreement can be amended or changed only in a writing or writings executed by both of the Parties, except that this Agreement must not be amended or modified in any way by electronic message or e-mail communications.

8. Dispute Resolution. Each Party reserves its rights to resort to all remedies, including seeking resolution by a PUC or a court, agency, arbitrator, or regulatory authority of competent jurisdiction.

9. Notices. Except as otherwise provided in this Agreement, every notice or other communication to a Party required, permitted or contemplated under this Agreement must be in writing and (a) served personally, in which case delivery will be deemed to occur at the time and on the day of delivery; (b) delivered by certified mail or registered mail, postage prepaid, return receipt requested, in which case delivery will be deemed to occur the day it is officially recorded by the U.S. Postal Service as delivered to the intended recipient; or (c) delivered by next-day delivery to a U.S. address by recognized overnight delivery service such as Federal Express, in which case delivery will be deemed to occur upon receipt. Upon prior agreement of the Parties' designated recipients identified below, notice may also be provided by facsimile. Except as otherwise provided in this Agreement, every notice or other communication must be delivered using one of the alternatives mentioned in this paragraph and must be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving written notice in compliance with this paragraph:

If to Qwest:

Qwest Corporation
Attention: General Counsel
1801 California Street, Suite 5200
Denver, Colorado 80202
Tel: (303) 672-2700
Fax: (303) 295-7046

If to Eschelon:

Eschelon Telecom, Inc.
Attention: General Counsel
730 2nd Avenue, Suite 1200
Minneapolis, MN 55402
Tel: (612) 436-6692
Fax: (612) 436-6792

10. No Waiver. The Parties agree that their entering into this Agreement is without prejudice to, and does not waive, any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial, or other forum addressing any matters other than the Claims.

11. No Admission. The Parties acknowledge and agree that they have legitimate disputes relating to the issues described in this Agreement, and that the resolution reached in this Agreement represents a compromise of the Parties' positions. Therefore, the Parties deny any wrongdoing or liability and expressly agree that resolution of the issues

contained in this Agreement cannot be used against the other Party in any manner or in any forum (except for claims related to breaches of this Agreement).

12. Counterparts. This Agreement may be executed by facsimile and in counterparts, each of which is an original and all of which together constitute one and the same instrument.

EXECUTION PAGE FOLLOWS

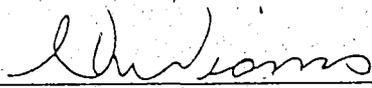
Counterpart Execution Page
Settlement Agreement

The undersigned are executing this Settlement Agreement on the date stated in the introductory clause.

QWEST CORPORATION

By: _____
Name: Dana Filip
Title: Senior Vice President

ESCHELON TELECOM, INC.

By:  _____
Name: Clifford D. Williams
Title: Chief Executive Officer

Counterpart Execution Page
Settlement Agreement

The undersigned are executing this Settlement Agreement on the date stated in the introductory clause.

QWEST CORPORATION

By: Dana Filip
Name: Dana Filip
Title: Senior Vice President

ESCHELON TELECOM, INC.

By: _____
Name: Clifford D. Williams
Title: Chief Executive Officer

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Qwest Communications International, Inc.) WC Docket No. 02-148
)
Consolidated Application for Authority to)
Provide In-Region, InterLATA Services in)
Colorado, Idaho, Iowa, Nebraska and North)
Dakota)

To: The Commission

COMMENTS OF
ESCHELON TELECOM, INC.
IN OPPOSITION TO THE CONSOLIDATED APPLICATION OF
QWEST COMMUNICATIONS INTERNATIONAL INC
FOR AUTHORITY TO PROVIDE IN-REGION, INTERLATA SERVICES IN
COLORADO, IDAHO, IOWA, NEBRASKA AND NORTH DAKOTA

Karen L. Clauson

Eschelon Telecom, Inc.
730 2nd Avenue South, Suite 1200
Minneapolis, MN 55402-2456
(612) 436-6225

July 3, 2002

EXHIBIT 26

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Before the
FEDERAL COMMUNICATIONS COMMISSION
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QWEST COMMUNICATIONS INTERNATIONAL INC.
FOR AUTHORITY TO PROVIDE IN-REGION, INTERLATA SERVICES IN
COLORADO, IDAHO, IOWA, NEBRASKA AND NORTH DAKOTA

Eschelon Telecom, Inc. ("Eschelon") submits these Comments in response to the Federal Communications Commission's ("FCC's") Public Notice requesting comments on the Application by Qwest Communications International, Inc. ("Qwest") for authorization under Section 271 of the Communications Act to provide in-region, interlata service in the states of Colorado, Idaho, Iowa, Nebraska, and North Dakota ("Qwest's Application"). Eschelon believes that approving Qwest's Application at this time would be premature, given the problems with Qwest's commercial performance.

I. ABOUT ESCHELON

Eschelon was founded in 1996 and is a rapidly-growing provider of integrated voice, data, and Internet services. The company offers small and medium sized businesses

telecommunications and Internet products including local lines, long distance,¹ business telephone systems, DSL, Dedicated T-1 access, network solutions, and Web hosting.² Eschelon employs more than 950 telecommunications/Internet professionals and currently provides service to more than 32,000 business customers in Arizona, Colorado, Minnesota, Oregon, Utah, and Washington. Eschelon is certified in Idaho, Nebraska, and New Mexico as well.³

Eschelon started out as a reseller but, over the last two and a half years, has built a network to provide facilities-based local exchange service using its own switches and collocations. Eschelon does not own its own fiber; it leases facilities. Eschelon owns and operates switches in Arizona, Colorado, Minnesota, Oregon, Utah, and Washington. In some cases (particularly when a customer is located outside of the area served by Eschelon's switch), Eschelon also orders UNE-P, UNE-E/UNE-Star,⁴ or resale from Qwest to serve customers.⁵

Eschelon's target customers are small to medium size businesses. To put Eschelon's business in context, Eschelon serves or has served stores, offices, schools, churches, gymnasiums, libraries, museums, hospitals, clinics, warehouses, jails, florists, pizza delivery shops, restaurants, coffee shops, bail bonds offices, hair salons, automobile services, funeral homes, and other small to medium businesses. Eschelon's loop customers subscribe to an average of approximately 4 to 5 lines, and Eschelon's T1 customers subscribe to an average of

¹ Eschelon is a reseller of the long distance services of a large interexchange carrier ("IXC").

² For more information about Eschelon, please visit Eschelon's web site at www.eschelon.com.

³ Eschelon also provides service to customers in Nevada. Because Nevada is not within Qwest's territory, however, Nevada is not discussed in these Comments. In these Comments, Eschelon provides examples from several of the states in Qwest's territory in which Eschelon operates, not only Colorado. Generally, Qwest uses the same systems and processes across its states.

⁴ Regarding UNE-Eschelon ("UNE-E") and UNE-Star, see discussion below regarding billing accuracy and reporting.

⁵ Eschelon often refers to customers and lines served through Eschelon's own switching facilities as "On-Net" or "On-Switch" and customers and lines served through UNE-E, UNE-P, or resale as "Off-Net."

approximately 16 access line equivalents. Eschelon's customers are not located only in the downtown, urban areas. In Colorado, for example, Eschelon has customers in Denver's northern suburb of Lafayette, as far south as Colorado Springs, and as far west as Golden. Looking at a map of Colorado shows that this covers a broad area. Eschelon has expanded beyond the larger metropolitan areas. For example, in Oregon, Eschelon is expanding from serving business customers in Portland to serving them in the Eugene and Salem areas as well.

Eschelon is an Interconnect Mediated Access ("IMA")-Graphical User Interface ("GUT") user. Eschelon has engaged a vendor to work with Qwest to implement IMA-Electronic Data Interchange ("EDI"), but that effort is in the early stages.

Qwest has indicated to Eschelon that Eschelon is Qwest's second largest Competitive Local Exchange Carrier ("CLEC") wholesale customer.

II. QWEST'S COMMERCIAL PERFORMANCE

Qwest needs to improve its commercial performance in the local market before entering the in-region interlata market. Eschelon raises performance problems with Qwest⁶ through avenues such as Qwest's account/service management team⁷ and to some extent Qwest's Change Management Process ("CMP").⁸ Since January of 2001, Eschelon has also provided to Qwest a monthly "Report Card" summarizing Eschelon's experience with Qwest's performance. In the

⁶ Eschelon has also summarized problems in discovery responses to requests recently received from state commissions. See, e.g., Exhibits 1 - 2. If Qwest has submitted discovery requests to the commissions asking for copies of discovery responses, Qwest may have also received copies of these documents through those processes.

⁷ Each week, Eschelon provides to Qwest a lengthy issues log. Because confidential (customer identifying) information runs throughout the document, Eschelon has not attached a copy of the current issues log as an exhibit. But, Qwest has copies of the logs that it has received each week, including the most recent one. Eschelon personnel also participate in a weekly conference call with Qwest service managers to discuss the performance problems identified in the log and any others that have arisen. As documented in the logs, many resources are devoted to resolving these problems, and delays are common.

⁸ See, e.g., <http://www.qwest.com/wholesale/cmp/changerequest.html> and <http://www.qwest.com/wholesale/cmp/archive.html> (current and archived Eschelon Change Requests).

April 2002 Report Card, for example, of 15 measures, Qwest received an “unsatisfactory” for 10 and a “satisfactory” for five of the measures. See Exhibit 3. Eschelon provides these Report Cards, along with backup data,⁹ to Qwest monthly, and meets each month with Qwest executives to discuss the results. Over the last six months (November 2001 – April 2002), Qwest met satisfactory performance levels only 38% of the time.

Some of the commercial performance problems known to Qwest¹⁰ that need to be addressed are described in the enclosed documents and also include:

A. Release 10.0 Change Preventing CLEC-to-CLEC Orders

Qwest has a documented process regarding how to submit CLEC-to-CLEC orders electronically.¹¹ Since the 10.0 Release on June 17, 2002, however, Eschelon cannot submit electronically CLEC-to-CLEC orders following that documented process, or at all when the circuit identification numbers are not populated in IMA. When trying to do so, Eschelon receives various error messages (such as cannot find Customer Service Record, “CSR”). The error messages are up-front edits, so Eschelon is not allowed to proceed with the order. Eschelon was not informed in advance of any change in Release 10.0 that should have caused this result. Qwest told Eschelon that a third party system change caused the problem due to edits in one system that were not in the other. The practical problem confronting Eschelon and other CLECs

⁹ Because the backup data includes confidential (customer identifying) information, copies have not been attached as Exhibits. Qwest, however, has the copies of each Report Card, with back up data, that it has received each month from Eschelon since January of 2001.

¹⁰ Because Qwest bears the ultimate burden of proof as to its commercial performance on all checklist items even if “no party files comments challenging compliance with a particular requirement,” see *In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, at ¶ 47, FCC 99-404 (rel. December 22, 1999) [“FCC BANY Order”], if Qwest has not done so, Qwest should have brought these known issues forward in ongoing proceedings in discussions of Qwest’s performance.

¹¹ See <http://www.qwest.com/wholesale/clecs/migrateconvert.html>; and <http://www.qwest.com/wholesale/ima/gui/faq.html> as of July 2, 2002.

is that due dates provided to end-user customers could be missed because Qwest's Release has prevented CLECs from relying on the documented process and placing CLEC-to-CLEC orders.

Eschelon submitted its first ticket with Qwest regarding this issue on June 21, 2002. Eschelon escalated the issue to its Qwest senior service manager and a Qwest process specialist, but they became unavailable while the issue remained unresolved. Several days went by with no update from Qwest. On July 1, 2002, Eschelon asked Qwest to correct the problem in IMA-GUI by the end of the day. Qwest did not correct the problem. On July 2, 2002, Qwest distributed an Event Notification (for Ticket Number 5970408) that states: "Work Around: IMA will remove the edit for AN placeholder of 000-000-0000-000 being invalid. Until fix is in place the LSR should be manually submitted. See URL: www.qwest.com/wholesale/clecs/escalations.html for contact information and/or faxing in your request." Eschelon does not know why Qwest waited until July 2, 2002, to distribute an event notification related to this issue, when Eschelon and Allegiance Telecom both submitted tickets on June 21, 2002. Eschelon has informed Qwest that the work around identified in the event notification is unacceptable to Eschelon. Manually faxing orders to Qwest would introduce the increased likelihood of error and all of the other problems associated with faxes. Eschelon also told Qwest that the ticket severity level should appropriately be level 1, not level 3.

The experience with Release 10.0 is not an isolated example. Eschelon's experience in dealing with releases, point releases, and patches is that it does not appear that the process and systems personnel at Qwest are coordinating sufficiently to determine the impact of system changes on existing Qwest processes. Qwest's research into the impact on manual processes is insufficient, because the systems changes have unexpected consequences. Eschelon then has to

experience and report the problem and deal with the adverse impacts instead of avoiding the problem upfront.

B. OSS – Lack of Flow Through

On June 26, 2002, Qwest confirmed to Eschelon that any telephone number coming from a 1FB with CCMS, Centrex 21, Centrex or Centron for conversion to UNE-P or Resale POTS will not flow through. The orders will fall out of IMA for manual handling. In addition, the orders do not flow through the switch. They fall out for manual handling of Qwest switch translations. While the “disconnect” portion of the order flows through, the “new translation” falls out, which places the customer out of service. Eschelon end-user customers have been out of service for several hours until translations is worked or Eschelon opens a ticket to have the translations worked. Eschelon previously asked Qwest to provide true flow through for UNE-P and resale orders (*see* Change Request #SCR100201-1), but Qwest closed that Change Request with a status of “completed.” Eschelon now believes that this was erroneous, because these orders do not truly flow through. Given the amount of “exceptions” listed on Qwest’s flow through eligible chart, there are very few order types that flow through.

C. OSS – Cumbersome GUI

Eschelon recently participated in a Qwest-initiated conference call regarding Qwest’s GUI. Eschelon uses the IMA-GUI to place its orders with Qwest. Qwest indicated that a third party tester had suggested that the GUI was cumbersome. Eschelon agreed with the tester. Although time for review and response was short, Eschelon identified at least nine areas in which the GUI could be improved. At Qwest’s request, Eschelon submitted nine Change Requests to

the Qwest CMP relating to these changes.¹² Eschelon will not know whether Qwest will make the changes until the Change Requests are processed.

Even assuming all of those changes are made, the GUI process will remain cumbersome as long as it continues to rely on so many manual processes. In many situations, Qwest instructs CLECs to select “manual handling” and insert remarks as part of the process for placing an order.¹³

D. UNE-P and Resale Customers Affected by Unannounced Dispatches

Qwest has apparently commenced a project to increase copper availability. Unfortunately, Qwest has failed to coordinate adequately with CLECs to avoid service disruptions. Eschelon first learned of this situation in the context of its migration of existing customer lines to UNE-P, but the problem also occurs with conversions of new customers to CLECs using UNE-P and resale. For orders that do not otherwise generally require a dispatch (such as conversions and reuse of facilities), Qwest nonetheless dispatches a technician to change cable and pair. If Qwest apprised Eschelon of its plan to do so, Eschelon could coordinate with Qwest and set end-user customer expectations. Qwest has not done that. At a minimum, this causes customer confusion, because Eschelon has told the customer that no technician would be needed. Instead of the expected seamless conversion, a Qwest technician appears and tells Eschelon's customer that the technician is going to take down the customer's service. This is disconcerting enough for the customer. If something goes wrong, the disruption may also be

¹² See <http://www.qwest.com/wholesale/cmp/changerequest.html>.

¹³ See, e.g., <http://www.qwest.com/wholesale/clecs/migrateconvert.html> (instructions for CLEC-to-CLEC conversions state: “The Manual Indicator, field 108a of the LSR form, must equal ‘Y’”); <http://www.qwest.com/wholesale/ima/gui/faq.html> (instructions for how a CLEC issues a change order on a newly converted account when the CSR has not yet been updated state: “Select ‘Yes’ from the Manual Indicator drop down list on the Remarks Tab in the LSR window”).

prolonged. In addition, depending on the work performed by Qwest, customer premise equipment could be affected (analog versus digital, modems, equipment settings, *etc.*). Notification and coordination are needed to address these issues.

On July 2, 2002, for example, a Colorado customer was supposed to convert to Eschelon. The order required no dispatch. But, a Qwest technician nonetheless arrived and changed a cable and pair. The Qwest technician failed to complete the cross connect at the demarcation. Therefore, the end-user customer – an insurance company – suddenly found that it could make no calls on a business day shortly before a holiday weekend. As of the afternoon of July 3, 2002, the customer could still make no calls. Qwest told Eschelon that it had tagged the lines at the demarcation, so Eschelon could dispatch a technician to fix the problem. Although Qwest created the service disruption, Eschelon went ahead and dispatched a technician to get the customer back in service. This should have been Qwest's responsibility.

When Qwest begins a project such as the project to increase copper availability, Qwest should provide adequate notice to CLECs and coordinate with them to avoid service disruptions. Also, Qwest should not be able to impose extra work and costs on CLECs to complete and correct work that Qwest is performing on its own. The orders placed by Eschelon did not require technical work, but Eschelon has nonetheless had to dispatch technicians or otherwise resolve these issues.

Regarding the magnitude of the problem, Eschelon will not necessarily know of all of the instances when this occurs. While a Qwest dispatch may surprise and displease a customer, the customer may choose not to call Eschelon. Then, Eschelon does not even have an opportunity to explain the problem.

E. DSL – Repair

According to Qwest's documentation, Qwest Digital Subscriber Line ("DSL") is available at retail rates with UNE-P, including UNE-P-Centrex (and Centron). *See, e.g.,* <http://www.qwest.com/wholesale/pcat/unepectrex.html> ("You may convert existing Qwest Digital Subscriber Line (DSL) to UNE-P Centrex with Qwest DSL service. You may also request the installation of new Qwest DSL service on an eligible and existing UNE-P Centrex, subject to loop qualification and availability.") Nonetheless, Qwest is not fully prepared to deal with DSL repair issues. Qwest has said it does not have back end system records containing the DSL technical information needed for repair of Centron/Centrex Plus lines with DSL. On June 5, 2002, Qwest confirmed this to Eschelon. Qwest said that, when the service order is processed, the critical technical DSL information needed for repair drops off and does not populate in the Qwest back end systems. Qwest said this information is lost and cannot be retrieved. Qwest also said that this problem occurs in Qwest's Eastern and Central billing regions. Those regions include Colorado, as well as Arizona, Minnesota, and Utah, of Eschelon's states. This issue is of particular concern to Eschelon in Colorado and Minnesota, because of Eschelon's significant number of existing Centrex Plus/Centron lines in those states.

Due to this problem, when Eschelon calls the Qwest repair centers (general repair or DSL repair), the Qwest representative will have no repair record with the information needed to repair a trouble in the DSL portion of the line. The Qwest representative may not even know that the customer has DSL. At a minimum, the customer will experience delays, and Eschelon will have to expend resources on escalating and resolving the problem, if it can be resolved. The DSL may have to be re-installed, because the technical information about the existing DSL service is lost.

Qwest has asked Eschelon to provide additional forecasting and conduct additional monitoring of repair issues because of this problem. This imposes extra resource burdens on Eschelon. More importantly, Eschelon's end-user customers will be adversely affected.

In addition to the above repair problem, a new problem arose this week. There is insufficient time before this filing to determine all of the facts, so Eschelon will simply mention it here as a possible issue. It appears that Qwest changed the routing for the telephone number that has been given to Eschelon for DSL repairs without adequate notice to CLECs (or to Qwest representatives receiving calls). Now, when Eschelon calls the same number, the Qwest personnel are unfamiliar with the issues and do not know why Eschelon is calling them. Eschelon has submitted a repair ticket to obtain the correct telephone number for DSL technical support and repair. Eschelon has been unable to locate a Qwest notice to CLECs stating that the process or telephone number changed. Eschelon will continue to investigate and escalate this issue.

F. DSL – Delay When Qwest Disconnects in Error

When Eschelon converts a customer from Qwest to Eschelon, Qwest at times disconnects the customer's DSL in error. For example, the Customer Service Record ("CSR") may be inaccurate and show the DSL on the wrong line. Although the error is Qwest's error, Qwest has said that its policy is to provide the CLEC the standard interval before Qwest will restore the DSL to the end-user customer. Therefore, the CLEC's end-user customers must wait days for their DSL service to be restored, when it never should have been disrupted. For some business customers that rely heavily on DSL service, a disruption in DSL service can be as important or more important than a disruption in voice service. If Qwest disconnects the DSL service of one

of its retail customers in error, Qwest retail is unlikely to tell the customer that Qwest's policy is to make the customer wait for days to restore the customer's DSL service.

G. DSL – Qwest Disconnects DSL Early (Before Voice)

When Eschelon converts a customer from Qwest to Eschelon, Qwest at times disconnects the customer's DSL early. For example, Eschelon submits an order for UNE-P with DSL and indicates the due date. Qwest then disconnects the DSL before the due date. The customer still has voice service but loses DSL service. As indicated, some business customers rely heavily on DSL service, and a disruption in DSL service can be as important or more important than a disruption in voice service. This situation not only causes the end-user customer to lose its DSL service and become frustrated, but also causes additional work for both carriers. It also causes customer confusion because the customer believes that it has changed to a new provider. In fact, the customer is still a customer of Qwest's because the DSL was disconnected before the due date for the conversion to the CLEC. This leads to a frustrating and unsatisfactory experience for the customer, which may blame the CLEC even though Qwest disconnected the DSL early. Eschelon previously encountered a similar problem at Qwest when Qwest would take down the customer's voice mail early (before the due date for the voice service). Although the voice mail problem has since been resolved, the DSL problem appears similar and causes similar headaches.

H. DSL - Migration of Customers

Qwest has no process to migrate an existing CLEC customer (e.g., on resale or UNE-Star) with DSL to UNE-P without bringing the DSL service down. When Eschelon attempted to move existing customers with DSL to UNE-P, as it is entitled to do under its interconnection agreements, the DSL service went down. DSL service is important to end-user customers and,

when moving from one form of service to another, the transition should be seamless to the end-user customer. Eschelon has had to postpone its plan to move existing customers with DSL to UNE-P until Qwest develops and implements a process that does not have this adverse impact to the end-user. In the meantime, although Eschelon is entitled to the lower rates available with UNE-P, Qwest continues to bill Eschelon at higher rates, even though Eschelon is prepared to move the customers now. Qwest has not provided a date when a process will be in place.

I. DSL - Ordering

Another DSL issue arose in the last few days. There is insufficient time before this filing to determine all of the facts, so Eschelon will simply mention it here as a possible issue. Qwest's Qhost system was down on June 28 and July 1, 2002, and Eschelon continued to have problems on July 2, 2002. Eschelon uses this Qwest ordering tool to obtain information needed to complete Eschelon's work. When the system is down, Eschelon can not obtain information necessary to complete DSL installations. Eschelon has been unable to locate a Qwest notice to CLECs of the Qhost outage. Eschelon will continue to investigate and escalate this issue.

J. Maintenance & Repair – Discrimination

When Qwest provides repair services to its retail customers, Qwest provides a statement of time and materials and applicable charges to the customer at the time the work is completed. When Qwest provides repair services to its CLEC wholesale customers, however, Qwest does not do so. Despite Eschelon's requests that Qwest provide this information to CLECs,¹⁴ Qwest

¹⁴ See, e.g., <http://www.qwest.com/wholesale/downloads/2001/011221/122101email.pdf>, p. 13 of 21 ("More information on the bill is only a part of the request made by Allegiance, Covad, and Eschelon in their joint Escalation. With respect to billing, we also asked Qwest to 'Ensure that CLECs receive notification, at the time of the activity, if a charge will be applied, because CLECs should not have to wait until the bill arrives to discover that Qwest charged for an activity.' (Joint Suppl. Escalation, p. 9.) As Eschelon said at the most recent CMP meeting, the CLEC needs to know at the time of the event that a charge will apply. Immediately after the work is completed,

does not provide needed information until the monthly wholesale invoices arrive at a much later point in time. This places CLECs at a disadvantage. CLECs cannot dispute a charge at the time the work is completed, when all of those involved are most likely to know the facts necessary to determine the accuracy of the charge. CLECs must wait until the bill is received, and then it is a huge task to analyze after the fact what happened in each situation and whether a charge should have been applied.

K. Maintenance & Repair – Branding and Customer Confusion

Although Qwest has refused to provide CLECs with a statement when work is completed, Qwest nonetheless has at times left such Qwest statements with Eschelon's end-user customers in Arizona and Washington. Eschelon has examples of this again this month. Eschelon provides such examples to its service manager. In a typical situation that occurred this month, Qwest provided a US West-branded statement of time and materials to Eschelon's end-user customer and required Eschelon's customer to sign it. The Qwest Wholesale web site,¹⁵ under Branding, states: "Qwest technicians will use unbranded maintenance and repair forms while interfacing with your end-users. Upon request from you, Qwest will use branded repair forms provided by you. Qwest technicians will not discuss your products and services with your end-users. Such inquiries will be redirected to you." This language does not reflect reality. These situations cause customer confusion, as well as additional work for Eschelon in clarifying the issue with customers and resolving the issues with Qwest.

Qwest needs to send CLEC a statement of services performed, testing results, and applicable charges (by telephone number) that will appear on CLEC's next invoice. If Qwest is claiming that a charge was authorized, a process should also be in place to provide timely documentation as to who authorized the charge. If CLECs must wait until the bill is received, it will be a huge task to go back and analyze what happened in each situation and whether a charge should have been applied. All of these kinds of issues should be discussed and reviewed jointly before implementation.").

L. Maintenance & Repair – Untimeliness of Bills

The problem of not receiving a statement when work is completed is compounded by the problem of untimely bills for maintenance charges. Eschelon's Colorado bill for November 2001 contained charges going back to August and September of 2001. Eschelon's Colorado bill for December 2001 contained charges going back to September of 2001. Eschelon's Colorado bill for January 2002 contained charges going back to September, October, and December of 2001. Eschelon's Colorado bill for February 2002 contained maintenance charges going back to October and November of 2001. Bill verification becomes virtually impossible when dealing with such outdated information.

M. Maintenance & Repair – Insufficient Information on Bills

The problems of not receiving a statement when work is completed and untimeliness of bills are compounded further by the lack of sufficient information on Qwest's invoices. For unbundled loops, Qwest has not included circuit identification information in Eschelon's bills for maintenance and repair charges. This is true even though Qwest requires Eschelon to submit the repair ticket containing the circuit identification. The bill also does not include the date of the dispatch or trouble repair. Instead, Qwest provides the date on which Qwest writes the order to initiate the charge on the bill, which could even occur in a different month. If Eschelon has multiple tickets for the same circuit identification number, the bill does not provide sufficient information from which Eschelon may identify the ticket to which the charge applies. In Oregon and Washington, Qwest does not provide the Universal Service Ordering Code ("USOC") for the charge. Although Qwest claims to have a high billing accuracy rate, Qwest could not show it

¹⁵ See <http://www.qwest.com/wholesale/clecs/maintenance.html>.

using the information it provides to Eschelon. Eschelon believes that circumstances exist when Qwest charges Eschelon although it should not do so, but the insufficient and untimely information provided by Qwest prevents Eschelon from being able to establish this in many cases. As discussed above with respect to receiving a statement when work is completed, Eschelon should be able to inquire about a charge at the time the work is performed, when the facts are known, and should not have to bear the burden and expense of trying to decipher Qwest's bills much later.

N. Maintenance & Repair – Authorization and Accuracy for Closing Tickets

Eschelon has complained to Qwest that Qwest at times closes tickets without calling Eschelon for authorization. Eschelon has also pointed out that Qwest closes tickets in some cases with the incorrect cause and disposition codes.

O. Maintenance and Repair – Pair Gain/Testing

Over Eschelon's objections to the process used to do so, Qwest instituted an additional or "optional" testing policy and rates.¹⁶ Qwest said that it will either reject a trouble ticket or offer to test for CLECs when a CLEC does not conduct testing of loops before submitting a trouble ticket. Although Eschelon has not opted in to any SGAT containing language to this effect, Eschelon does conduct testing before submitting trouble reports. When Qwest uses pair gain (IDLC), however, Eschelon cannot obtain accurate testing results. Because Eschelon cannot do so, pursuant to Qwest's policy, Qwest will charge Eschelon the so-called "optional" testing charge (which does not appear in all of Eschelon's interconnection agreements). Qwest may also dispatch because Qwest cannot remotely test either and charge Eschelon a dispatch charge. If

¹⁶ See <http://www.qwest.com/wholesale/downloads/2001/011221/122101email.pdf>.

the trouble is not in Qwest's network, Qwest will bill Eschelon not only a testing charge and a dispatch charge, but also a No Trouble Found charge. Eschelon should not be incurring all of these charges when the inability to provide accurate test results is due to Qwest's use of pair gain.

On Qwest's web page, under the heading of Maintenance and Repair,¹⁷ Qwest states: "Trouble isolation and testing is a joint process. You are responsible for testing and providing trouble isolation results prior to submitting a trouble report to Qwest. If you elect not to perform trouble isolation testing, Qwest will offer you the option of performing the testing on your behalf." Qwest also lists on that web page, as "Examples of acceptable test results" that "You report: "Pair Gain," you need to relay the actual test results." When Eschelon reports "pair gain" as a result, however, Qwest has refused to open a repair ticket unless Eschelon authorizes the "Optional Testing Charges." If the language on the web page means that "pair gain" is an acceptable test result, as it appears to Eschelon, Qwest is not complying with its documented process in these cases.

P. **Maintenance and Repair – Reciprocity**

Qwest told Eschelon that, although Qwest will charge Eschelon for testing-related charges, Qwest will not accept charges from Eschelon for testing that Eschelon conducts for Qwest in the same circumstances. Qwest's policy in this regard gives Qwest an advantage over every other carrier that must pay charges in these situations.

¹⁷ See <http://www.qwest.com/wholesale/pcat/unloop.html>.

Q. Loss and Completion Reports

Qwest retail has a competitive advantage over wholesale customers, because Qwest retail and not Qwest wholesale receives accurate customer loss information. A primary problem with the Loss and Completion Reports is that the reports do not provide CLECs with the intended ability to identify which customers have left the CLEC for another carrier. This is a significant issue that adversely affects the CLEC's reputation and the end-user customer. If Eschelon cannot determine that a customer has left (a "loss"), Eschelon continues to bill the customer. Eschelon cannot send a closing bill and settle the account. Doing so later significantly decreases the likelihood of full collection. Eschelon and other CLECs are made to look bad with the customer, who does not understand why a carrier would not know that the customer has left. Eschelon has invested significant amount of time into attempting to improve the Loss and Completion reports and has obtained improvements. Additional issues remain, however. Eschelon has asked that only losses appear on the loss report (rather than including all orders submitted on the report). Qwest has agreed to add a column to the loss report to indicate whether the loss is internal to the CLEC or external. This change has not yet been made, however. The loss report is also only as accurate as the typist who manually enters the USOC or FID. Manual entry is still required on the service order to transmit information to the loss report. In addition, the information on the loss report also appears on the completion report but, due to errors and different criteria for the reports, the information may not appear on the Loss and Completion Reports for the same conversion on the same day. The loss may appear in the loss report one day, and the completion for the same customer may appear in the completion report on another day.

R. Inadequate Notice of Rate and Profile Changes

Qwest denied Eschelon's escalation regarding advance notice of rate and profile changes, although it incorporated some of Eschelon's proposals.¹⁸ Eschelon was able to obtain some additional information regarding rate changes, but the information provided by Qwest is still inadequate. For example, whereas Eschelon asked Qwest to provide the previously billed rate and the new rate, to facilitate bill verification, Qwest provides general information, such as a reference to a discount change without enough information to easily identify the impact on the bills.¹⁹ When Qwest discovers a claimed error or when Qwest changes a rate, Qwest sends a general, high level notification to all CLECs. It has started to also provide some detail of the changes to the CLEC in a spreadsheet. Qwest populates the spreadsheet with all of the USOCs that Qwest indicates the CLEC is allowed to order under the Interconnection Agreement. Eschelon has asked Qwest to provide, on the spreadsheet, which USOCs Eschelon orders. This is necessary because of the manner in which Qwest is sending its notices. For example, in February of 2002, Qwest sent Eschelon a spreadsheet that included more than 3,000 USOCs, only one of which Eschelon was currently using. Researching each USOC to determine what Qwest said it had incorrectly billed and the impact to Eschelon's invoices is a labor-intensive, time-consuming task. This task would have been completely unnecessary if Qwest had simply provided meaningful notice to Eschelon of the proposed rate change to the one USOC used by Eschelon. Qwest also rejected Eschelon's proposals for presenting the rate and alleged errors as

¹⁸ See http://www.qwest.com/wholesale/downloads/2002/020214/CLEC_Response013102.pdf and Qwest responses on same web page.

¹⁹ Qwest provides to CLECs either 1 minus discount (ending with a percentage) or a tariffed rate, rather than the rate less the discount percent that appears on the invoice. To ensure meaningful notice of rate changes, Eschelon has asked Qwest to supply the actual incorrect rate (dollar amount) and the actual correct rate (dollar amount). For

proposed changes. Qwest notifies CLECs of changes, which CLECs must then challenge after the fact (if they are provided with enough information to do so and receive the notification before Qwest implements the correction).

Although rate changes may seem straight forward, CLECs cannot necessarily predict when Qwest believes a rate has changed. For example, Eschelon first raised the issue of notice of rate and profile changes when Qwest, without Eschelon's knowledge, conducted a "scrub" of the interconnection agreements. Pursuant to that "scrub" (a term used by Qwest at the time), Qwest deleted a USOC in Eschelon's profile because Qwest unilaterally determined that Eschelon did not have a certain type of loop installation in its interconnection agreement (*i.e.*, the interconnection agreement did not include the rate sought by Qwest). Although Eschelon ultimately persuaded Qwest that Eschelon's interconnection agreement did include this type of loop installation, Qwest deprived Eschelon of the opportunity to raise this issue in advance of the profile change. Qwest actually started rejecting Eschelon's orders for loops and then Eschelon had to escalate to get the orders re-started. This happened in at least three states (Minnesota, Arizona, and Utah). Although Eschelon hopes that this particular issue will not arise again, this example highlights the problem created if Qwest may merely notify CLECs of a rate or profile change after the fact instead of involving the CLEC in the decision. Qwest's current policy of notifying CLECs of changes instead of attempting to gain CLEC agreement, as proposed by Eschelon, applies in Colorado, Idaho, Iowa, Nebraska, and North Dakota, as well as Qwest's other states.²⁰

example, if Qwest bills Eschelon \$10.00 for a line and then the rate to be billed to Eschelon changes to \$9.00, the notification should show \$10.00 as the existing rate and \$9.00 as the new rate.

²⁰ See <http://www.qwest.com/wholesale/cmp/escalations.html> (Qwest responses).

S. Policy of Applying Rates not in Eschelon's Interconnection Agreements

Qwest has a policy of applying rates from Qwest's Statement of Generally Available Terms ("SGATs") even when those rates have not been approved by a state commission (as opposed to simply being allowed to go into effect) and a CLEC has not opted in to the SGAT. Eschelon has not opted in to any SGAT. Nonetheless, in an email dated June 11, 2002 to Eschelon, the Qwest sales representative for Eschelon said, for example:

"With respect to the rate discussion, Qwest's position has not changed. We will be billing Commission ordered rates, where they exist. If they don't exist, we'll be billing rates in your contract, if they exist for the type of installation we are doing and if there are no contractual rates, we will bill SGAT rates."

Because Eschelon has not opted in to any SGAT, Qwest should not apply these charges to Eschelon. Nonetheless, Qwest does charge some SGAT rates to Eschelon, even after Eschelon has objected to such charges. In some cases, the charge should be zero. For example, Qwest should not be able to charge Eschelon for features in states in which the features are included in the switch port price, regardless of whether Qwest has proposed feature rates in its SGAT. In other cases, if a charge is due and really is not in the interconnection agreement, Qwest should negotiate a rate, obtain commission approval for a rate, or at least reach agreement on using the commission approved cost models and processes to calculate the rate.²¹ Qwest should not be able to simply select a rate and apply it unilaterally. In Minnesota, the Public Utilities Commission ("MPUC") recently voted to adopt (with some modification) the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Law Judge in *In the Matter of Onvoy Inc.'s Complaint Against Qwest and Request for Expedited Hearing*, MPUC Docket No.

P-421/C-01-1896 (April 12, 2002).²² Onvoy filed a successful complaint against Qwest regarding the manner in which Qwest proposed to true up its charges for caged and cageless collocation. In calculating the true-up, Qwest used its own prices. The MPUC found that Qwest should have used the AT&T/MCI HAI model previously adopted by the MPUC in the first cost case, even though that model had to be adjusted or used as an approximation to calculate the particular rate. CLECs should not have to establish which model applies every time a rate is needed. Pursuant to its policy of applying SGAT rates when Qwest unilaterally interprets a contract to not include a rate, however, Qwest is applying its proposed rate and methodology on CLECs.

Qwest's policy of notifying CLECs of rate changes which CLECs must then dispute after the fact if they disagree compounds the problems created by Qwest's policy of applying SGAT rates in non-SGAT situations. CLECs must devote time and energy to verifying and disputing the bills before Qwest establishes a basis for charging the SGAT rates. Generally, Qwest does not even identify in advance when it is applying an SGAT rate, so CLECs must spend time identifying and verifying the issue.

Qwest is aware of Eschelon's long-standing position that the SGAT rates do not apply to Eschelon. Qwest should not be reporting that bills which include these rates are accurate for CLECs that have not opted in to the SGAT. Moreover, the burden to prove the rates as inaccurate in these cases should not be on Eschelon and other CLECs.

²¹ The fact that the Colorado commission did not adopt all of Qwest's proposed SGAT rates in its recent cost case suggests that not every SGAT rate is based on a commission approved methodology.

²² If a written order has been issued as to the MPUC's vote, Eschelon has not yet received a copy and has not found a copy on the MPUC web page. An Eschelon representative was present for the MPUC's public deliberations and vote.

T. Billing Accuracy

As many of the above issues demonstrate, Eschelon does not believe its bills are accurate. Eschelon's records show that, as of the end of May 2002, Eschelon has more than \$2.2M in outstanding billing disputes with Qwest spread across all Qwest states where Eschelon operates. Given this, Eschelon questions a claim that, by any realistic standard, Qwest's bills are 99-100% accurate. The disputed amounts encompass different types of disputes, including (1) inaccurate rates; (2) invalid rates not ordered by State Commissions or mutually negotiated between both parties; (3) charges that are not applicable to Eschelon such as termination penalties, exempted taxes, directory advertising, and third party toll; and (4) rates that are not TELRIC such as billing maintenance and repair charges from Qwest's FCC tariffs.

Eschelon does not receive all information according to Qwest's Customer Guide to Billmate (Qwest's electronic version of their CRIS bill). Eschelon submitted a Change Request to Qwest's CMP in September of 2000 to ask Qwest to populate all fields of the billmate file. Although some corrections were made, some states, such as Oregon and Washington, do not yet have USOCs populated in all Billmate files. In the UNE-P invoices that Eschelon is now currently receiving, multiple columns in Billmate are not populated with information that is supposed to be reflected according to Qwest's Billmate Guide. In addition, Qwest's Billmate product does not break out usage for shared transport and local switching, which precludes validation of rates and usage. Validating zone prices is also affected because Qwest does not provide the CLLI code on the invoice.

In addition to the issues discussed above, 100% of the bills for UNE-Eschelon/UNE-Star are inaccurate. See Exhibits 4 - 5 (Affidavits of Lynne Powers and Ellen Copley). As described

in the Affidavit of Lynne Powers, an interim credit/true-up process is used instead of accurate billing. In March 2002 alone, Qwest eventually agreed that its credit calculation was almost \$50,000 too low. Therefore, even the interim process results in inaccurate charges. The bills for the UNE-Star product cannot be described as accurate. As of May of 2002, UNE-Star represents approximately 60% of Eschelon's total monthly invoice amount.

As described in the Affidavit of Lynne Powers, Eschelon is in the process of moving many lines from UNE-Star to UNE-P. *See* Exhibit 4. Because this process commenced only recently, Eschelon has only recently started to receive invoices from Qwest and has had little time to fully review them. Following is a preliminary list of issues that Eschelon is reviewing with respect to the Colorado and Minnesota invoices:

1. Colorado BAN 303-B11-6766 997 (May 28, 2002)
 - a. Includes charges for stand-by line usage - appropriate for UNE-P?
 - b. Billing discounted tariff rate of \$1.04 per call for directory assistance calls, rather than the correct facility-based rate of \$0.34 per call.
 - c. Billing a discounted tariff rate for per-call activation charges (such as last call return) when these feature costs are included in the local switching/port charges.
 - d. Billing inaccurate non-recurring charges ("NRCs") for UNE-P installs. There are many occurrences of \$75.83 charges for a new UNE-P line, when the Commission ordered rate is \$57.87. In addition, for many existing UNE-P line installs, Qwest is billing Eschelon \$8.35, when the ordered rate is \$0.71. Neither of the higher rates mentioned have been negotiated by the parties.
 - e. Duplicate charges for LNP and flat rated usage charges on single ANI.
 - f. Qwest uses its own estimate of usage charges instead of billing them accurately in some cases. *See* <http://www.qwest.com/wholesale/pcat/unepecentrex.html> (UNE-P-Centrex: "Until Qwest systems are able to record and bill actual usage information, Shared Transport Originating MOU and Local Switching Originating MOU will be billed at a flat monthly rate based on assumed MOU."). Qwest unilaterally sets the estimate, and Eschelon had no opportunity to discuss and negotiate an appropriate rate.

- g. Some incremental zone charges (lines outside Zone 1) are billed twice (double billing) -- once separately as an increment and then again combined with the line charge/port charge.
- h. Qwest's calculation of fractional charges are inaccurate.

For Colorado, these issues by themselves account for a preliminary billing error rate of approximately 9.3%.

2. Minnesota BAN 320-Z28-2603 (May 28, 2002)

Many of the same issues present on the Colorado invoice are present on the Minnesota invoice. In addition, Eschelon has raised another issue with Qwest. Qwest is billing Centrex resale rates on UNE-P lines. Qwest responded that it will address the issue in future billing months by posting all common block lines into the correct billing system. It is burdensome, however, for Eschelon to identify this issue and then wait one or two months to determine if the problem is indeed corrected and appropriate credits applied.

For Minnesota, the UNE-P issues by themselves account for a preliminary billing error rate of approximately 18.7%.

If, taken together, all of the billing and rate issues raised by Eschelon do not change the result for billing accuracy under the PID measurement, Eschelon believes the measure is faulty and does not capture the CLEC experience. When a CLEC is as dissatisfied with the billing process as Eschelon is with Qwest's billing process, it is difficult to be told that the bills are allegedly perfect.

U. Reporting

Although Eschelon's conversion from UNE-E (with resale billing) to UNE-P has only recently commenced, Qwest is already reporting Eschelon's UNE-E/UNE-Star lines as UNE-P lines for purposes of the Regional Oversight Committee (ROC) Performance Indicator Definition (PID) data. *See* Exhibit 4 (Affidavit of Lynne Powers). Previously, Qwest reported these lines as business lines, which is how the lines appear on the bill received by Eschelon. In reviewing the PID data recently, Eschelon found that Qwest's reporting of the lines changed from business lines to UNE-P lines in approximately November of 2001.²³ At that time, Qwest changed its reporting not only on a going forward basis, but also retroactively to January of 2001 so that months previously reported as business lines were then reported as UNE-P lines. *See id.* Eschelon was not notified in advance of this change.

V. Switched Access

Over a period of time, Eschelon complained to Qwest that Qwest was not providing complete and accurate records from which Eschelon could bill interexchange carriers access charges for UNE-E/UNE-Star and On-net customers. As an example, if a Qwest retail customer who has selected Qwest as the intraLATA toll PIC calls an Eschelon UNE-E/UNE-Star local customer, Qwest should provide a record of that intraLATA toll call to Eschelon, so that Eschelon can bill Qwest for terminating access. Eschelon needs an accurate report of switched access minutes of use ("MOU"), so that Eschelon may properly bill interexchange carriers for access.

²³ Although separate categories are used for other products (such as UNE-P-POTS), separate categories were not created for UNE-E products (such as UNE-E-POTS). If Qwest is claiming that it included UNE-E lines with UNE-P lines because there was not a separate category, Qwest could have simply created another category, as it did with UNE-P-POTS.

With respect to missing switched access minutes, Eschelon's position that MOU are missing was supported by an audit, external and internal datapoints, and Qwest's own admissions. First, an auditor retained by Eschelon made a number of calls that were not found in the access records Qwest provided to Eschelon, and Qwest did not locate those calls. Second, as a reality check, Eschelon provided Qwest data showing that the MOU provided by Qwest to Eschelon for UNE-P are substantially lower than the MOU received by Qwest, other RBOCs, and Eschelon for on-net lines. Finally, Qwest admitted that the MOU that it provided to Eschelon did not include intraLATA toll traffic carried by Qwest. On that basis alone, the MOU were understated.

Qwest disputed Eschelon's claims as to the vast majority of the missing minutes. Recently, the number of minutes reported to Eschelon jumped significantly and became closer to the number of minutes that Eschelon has maintained it should have been receiving all along.²⁴ This is another, significant datapoint supporting Eschelon's position that MOU were missing for a long period of time. If Qwest was also understating MOU for other CLECs, CLECs were unable to bill interexchange carriers for access charges for that period of time.²⁵

The increase in number of minutes occurred very recently, and Eschelon does not know yet whether all of these minutes will be billable or whether this increase in the number of minutes will continue.

²⁴ Although Qwest may claim that this is due to a change from use of an interim process to use of Daily Usage Files ("DUF"), Eschelon previously attempted to move off the interim process. Qwest asked Eschelon to return to the interim process, because the long-term process was not working at that time.

²⁵ For a period of time ending with February 28, 2002, Eschelon and Qwest settled the switched access issue. From February 28, 2002 until the usage increased recently, minutes were missing that Eschelon otherwise could have used to bill IXCs. Even after the usage increased, Eschelon still has concerns about the issue of Qwest-carried intraLATA toll traffic.

W. Collocation

In its negotiation of interconnection agreements for all of the states in which Eschelon operates or is certified, Qwest and Eschelon have reached impasse with respect to certain collocation issues. *See Exhibit 6.* With respect to off-site adjacent collocation, for example, Qwest has refused to agree to provide this type of collocation, even though Eschelon has provided to Qwest evidence that another RBOC is providing it. *See id.*

X. Change Management Process

The Change Management Process (“CMP”) redesign process is not fully completed, and the final stages were completed in a manner that precluded full review and participation, particularly for small carriers. When the redesign team was initially formed, the plan was to rely primarily on “working” sessions rather than activities outside of the meetings. This was, in part, due to what CLECs then viewed as an aggressive schedule. By the end of the sessions, so many documents were being circulated and so much work expected outside of the many working sessions that one or more persons could do nothing but CMP redesign work. Eschelon does not have that kind of resources. The need for this was driven more by Qwest’s self-imposed 271 deadlines than outside factors.²⁶

²⁶ Although Qwest was in a hurry to try to finish, Qwest could have taken some simple steps to advance the goals of the group that it did not take. For example, with respect to the production support language developed near the end of the recent working sessions, CLECs pointed out several deficiencies in the language and provided suggestions for expanding the language. Nonetheless, at the next session, Qwest’s proposed language had changed little and in fact some language had been deleted. The group then spent a day and a half, or longer, drafting language to describe Qwest’s existing production support process. At one point, after the group had toiled over some language, a Qwest process specialist agreed with language drafted by the group and said words to the effect of: “yes, that is what my document says.” Qwest undoubtedly has internal documentation that describes relevant portions of its existing processes. If the documentation contains confidential information, pertinent documents could have been redacted or revised before distribution to CLECs. An advantage of this approach would have been that Qwest and CLECs would be working from consistent language when implementing these processes. Instead, the redesign team had to re-invent the wheel in this and other situations. This not only took more time but also increased the likelihood that some issues may not have been covered completely or consistently. Another example of how Qwest could have

The CMP documentation is not completely finalized, and redesign meetings or calls continue. The redesigned process is only beginning to be implemented at this time. At the most recent CMP monthly product and process meeting, discussions were held about whether the process was being followed and how it should apply. It is too early to conclude that Qwest is complying with the redesigned process.

Y. Tandem Failure Events

Qwest has had six failures at Qwest tandem switches in its region in the last three months (seven since October of 2001). In addition, on May 21, 2002, a Qwest Litespan 2000 went down in Salt Lake City (Draper Central Office). The tandem failure events occurred as follows:

| | |
|-------------------|------------|
| October 2-4, 2001 | Minnesota |
| March 18, 2002 | Washington |
| March 19-20, 2002 | Utah |
| March 29, 2002 | Oregon |
| May 16, 2002 | Washington |
| June 20, 2002 | Utah |
| June 26, 20002 | Minnesota |

Eschelon has submitted informal complaints to the state commission staffs in Utah, Washington, Minnesota, and Oregon about these tandem failure events. Although these failures did not occur in Colorado, the problem is a multi-state problem in Qwest's territory. Qwest has not indicated that different conditions exist in Colorado or any other Qwest state that would prevent the problem from occurring in those states as well.

Each of the failures has adversely affected Eschelon and its end-user customers. For example, in the Salt Lake City tandem failure in June of 2002, approximately 1 out of every 2

advanced the meetings was to provide more operational personnel for pertinent discussions. Many of the process specialists are liaisons who do not have the extent of first-hand experience that would have benefited discussions.

long distance calls failed. Approximately 1 out of every 3 local calls failed. While these numbers would vary throughout the outage, this helps describe the problem. The June Utah outage lasted for more than 2 hours. The previous outage in Salt Lake City lasted 14 hours. Customers are threatening to leave, and some have left, Eschelon as a result of these situations.

A tandem failure should be rare. Qwest has not provided Eschelon with evidence to show that these problems will not continue to occur. Tandem failures are particularly harmful to small carriers, such as Eschelon, which do not have the volume to attract IXCs to build trunking to them. Carriers should not have to build unnecessary trunking, or otherwise incorporate inefficiencies in their network, because Qwest's network is unreliable.

The problems are Qwest failures at the tandem. Qwest sent notices to CLECs of its tandem failures. Qwest labeled those notices as confidential, however, which deters CLECs from distributing the notices to customers to show that the problem is at Qwest's tandem. The fact that Qwest has a tandem failure is something customers should know. Customers have asked Eschelon for evidence that the problem was in Qwest's network. Eschelon asked Qwest to provide non-confidential documentation confirming that the failures were at the Qwest tandem. But, Qwest has refused to put anything in writing for Eschelon to use in explaining the problem to end-user customers.

Some customers inadvertently called Qwest when the problems occurred. Eschelon reported to Qwest that some of these customers claim to have received incorrect information from Qwest. The proper procedure is for Qwest's representatives to refer calls from our customers to Eschelon, but it does not appear that they have followed that procedure consistently.

Eschelon's end-user customers are experiencing service problems. They are businesses and tell us that this affects their business. Eschelon's business is also adversely affected. There is not only an immediate financial impact from losing customers but also a longer-term financial detriment from the damage to Eschelon's reputation. And, on a going forward basis, Eschelon needs to be able to rely on Qwest's network and to plan its business with confidence in the network.

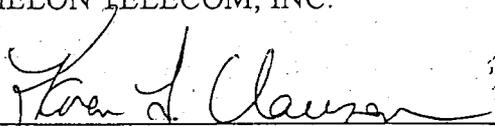
III. CONCLUSION

As this information regarding Qwest's commercial performance demonstrates, approving Qwest's Application at this time would be premature.

July 3, 2002

ESCHELON TELECOM, INC.

By:



Karen J. Clauson
Eschelon Telecom, Inc.
730 2nd Avenue South, Suite 1200
Minneapolis, MN 55402-2456
(612) 436-6026

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of U S WEST Communications, Inc.'s)
Motion for an Alternative Procedure to Manage the)
Section 271 Process) Case No. USW-T-00-3
)

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:)
U S WEST COMMUNICATIONS, INC.) DOCKET NO. INU-00-2
)

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Investigation Into)
U S WEST Communications Inc.'s Compliance with)
Section 271 of the Telecommunications Act of 1996) Docket No. D2000.5.70
)

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF U S WEST)
COMMUNICATIONS, INC.'S SECTION)
271 APPLICATION AND MOTION FOR)
ALTERNATIVE PROCEDURE TO) UTILITY CASE NO. 3269
MANAGE THE SECTION 271 PROCESS)
)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

U S WEST Communications, Inc.)
Section 271 Compliance) Case No. PU-314-97-193
Investigation)
)

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of U S WEST)
Communications, Inc. for Approval of Compliance)
with 47 U.S.C. § 271(d)(2)(B)) Docket No. 00-049-08
)

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF)
QWEST CORPORATION REGARDING 271 OF)
THE FEDERAL TELECOMMUNICATIONS ACT) DOCKET No. 70000-TA-00-599
OF 1996, WYOMING'S PARTICIPATION IN A)
MULTI-STATE SECTION 271 PROCESS, AND)
APPROVAL OF ITS STATEMENT OF)
GENERALLY AVAILABLE TERMS)

AT&T'S THIRTEENTH SET OF DATA REQUESTS TO QWEST

AT&T Communications of the Mountain States, Inc., AT&T Communications of the Midwest, Inc. and AT&T Local Services on behalf of its TCG Affiliates (collectively "AT&T") submit the following data requests to Qwest Corporation, ("Qwest") to be answered by those officers, employees, or agents of Qwest (or their subsidiaries, affiliates or parent companies) who possess the requested information and who are authorized to answer on behalf of Qwest.

In responding to this request, please refer to the definitions and instructions that were given with AT&T's First Set of Data Requests.

DATA REQUESTS

AT&T 125

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between Sun West Communications and Qwest.

AT&T 126

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between Eschelon and Qwest.

AT&T 127

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between McLeod and Qwest.

AT&T 128

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of any settlement made by Qwest of

any dispute over Qwest's compliance, or lack of compliance, with one or more items of the competitive checklist set forth in 47 USC § 271 (c)(2)(B).

DATED: June 11, 2001.

**AT&T COMMUNICATIONS OF THE
MOUNTAIN STATES, INC., AT&T
COMMUNICATIONS OF THE
MIDWEST, INC., AND AT&T LOCAL
SERVICES**

By: _____

Mary B. Tribby
David S. Harmon
1875 Lawrence Street, Suite 1575
Denver, Colorado 80202
Telephone: (303) 298-6494
Facsimile: (303) 298-6301

-----Original Message-----

From: Joanne Ragge [mailto:jragge@uswest.com]

Sent: Friday, June 01, 2001 4:22 PM

To: Abdul-Qadir Meraj; Ahlers Dennis; Barbara Fernandez; Beck Steve; Becky Quintana; Bellinger Hagood; Best Harlan; Bewick Penny; Bill Steele; Boswell Rebecca; Bowles Julie; Boyd Cheryl; Bridget McGee-Stiles; Brigham Bob; Bruce Smith; Bumgarner Margaret; Ceguera Phil; Ciccolo Kris; Clauson Karen; Connors John; Cox Rod; Crain Andy; DeCook Rebecca; DeVaney John; Dixon Tom; Doberneck Megan; Doherty Phillip; Donahue Terri; Doyscher Gena; Dunnington Terri; Ellison Maderia; Emory-Cherrix Lezlee; Freeberg Tom; Friesen Letty; Grundon Traci; Harris Andrea; Hartzler Amy; Hopfenbeck Ann; Houston Cindi; Howerton Cynthia; Hsiao Douglas; Hundley Joyce; Hydock Michael; Isar Andrew; Jennings-Fader Mana; Jerry Enright; John Epley; Johnson Alan; Joseph Molloy; Joyce Rodney; Klug Gary; Kunkleman Tim; LaFrance David; Lipman Richard; Liston Jean; Lubamersky Nancy; Majkowski Vince; Marquez Tony; Marshall Kate; McDaniel Paul; Menezes Mitch; Mike Zimmerman; Mirabella Nancy; Munn John; Musselwhite Brian; Neil Langland; Nichols Robert; Norcross Michelle; Owens Jeff; Paula Strain; Pedersen Kate; Peters Tim; Powers Jennifer; Priday Tom; Ragge Joanne; Roth Diane; Rushing Cassie; Sacilotto Kara; Scheidler Jana; Schwartz Christine; Seger Viki; Sekich Dominick; Skeer Martin; Shoemaker Lisa; Simpson Lori; Spiller Dudley; Sprague Ethan; Starr Arleen; Seger Viki; Steese Chuck; Stewart Karen; Strain Paula; Strom Lise; Sussman Don; Taylor Lori; Terry Robin; Thomas Brian; Titzer Karen; Townsend Robert; Tribby Mary; Snowberger Vince; Viveros Chris; Walczak Adam; Wendling Warren; Waysdorf Julia; Wendie Allstot; Wicks Jill; Williams Mark; Wilson Ken; Wolters Rick; Young Barbara; Zulevic Mike

Subject: CO Docket No 971-198T - SunWest Withdrawal of Opposition

Attached hereto please find Sun West's Withdrawal of Opposition to Qwes't
Petition to Obtain Approval to Enter the In-Region InterLATA
Telecommunications
Market which was filed with the Commission today:



Mac Word 3.0

(See attached file: 271SunwestWithdrawal.doc)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE INVESTIGATION
INTO U S WEST COMMUNICATIONS, INC.'S
COMPLIANCE WITH § 271(C) OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. 97I-198T

WITHDRAWAL OF OPPOSITION TO QWEST'S PETITION TO
OBTAIN APPROVAL TO ENTER THE IN-REGION INTERLATA
TELECOMMUNICATIONS MARKET

SunWest Communications, Inc. ("SunWest") and Qwest Corporation ("Qwest") have reached a settlement with respect to all outstanding claims made by Sunwest as to Qwest. On or about January 31, 2001, SunWest filed a Statement of Position Opposing [Qwest's] Petition to Obtain Approval to Enter the In-Region Inter-LATA Telecommunications Market - Third and Fourth Workshops. On or about May 9, 2001, SunWest filed a Supplement to Statement of Position Opposing [Qwest's] Petition to Obtain Approval to Enter the In-Region Inter-LATA Telecommunications Market - Fifth Workshop. Representatives from SunWest have also given testimony before the CPUC in the Section 271 workshops. One of SunWest's concerns in the Section 271 workshops was how Qwest provisions unbundled loops deployed over IDLC with number portability. This and other issues SunWest raised in the Section 271 workshops have been resolved to SunWest's satisfaction, and are no longer a concern. Accordingly, SunWest hereby withdraws its opposition to Qwest's Section 271 application.

DATED this ____ day of May, 2001.

SUNWEST COMMUNICATIONS, INC.

By: _____

Scott J. Mikulecky, #16113

DUFFORD & BROWN P.C.

101 N. Tejon, Suite 410

Colorado Springs CO 80903

(719) 471-0559 (telephone)

(719) 471-0583 (fax)

Attorneys for SunWest Communications, Inc.

CERTIFICATE OF SERVICE

I hereby certify that an original and five copies of the above and foregoing **Withdrawal of Opposition to Qwest's Petition to Obtain Approval to Enter the In-Region InterLATA Telecommunications Market** was hand delivered this 1st day of June, 2001, to the following:

Mr. Bruce N. Smith
Colorado Public Utilities Commission
Executive Secretary
1580 Logan St., Office Level 2
Denver, CO 80203

and a copy has been hand delivered on the following:

**Joseph Molloy
Colorado Public Utilities Commission
1580 Logan St., OL-2
Denver, CO 80203

**Mana Jennings-Fader
Assistant Attorney General
1525 Sherman St., 5th Floor
Denver, CO 80203

and a copy was served electronically to each person on the e-mail distribution list for this docket.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of U S WEST Communications, Inc.'s Motion)
for an Alternative Procedure to Manage the Section 271)
Process) Case No. USW-T-00-3
_____)

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:)
U S WEST COMMUNICATIONS, INC.) DOCKET NO. INU-00-2
_____)

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Investigation Into U S WEST)
Communications Inc.'s Compliance with Section 271 of the)
Telecommunications Act of 1996) Docket No. D2000.5.70
_____)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

U S WEST Communications, Inc.)
Section 271 Compliance)
Investigation) Case No. PU-314-97-193
_____)

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of U S WEST)
Communications, Inc. for Approval of Compliance with 47)
U.S.C. § 271(d)(2)(B)) Docket No. 00-049-08
_____)

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF QWEST)
CORPORATION REGARDING 271 OF THE FEDERAL)
TELECOMMUNICATIONS ACT OF 1996, WYOMING'S) DOCKET No. 70000-TA-00-599
PARTICIPATION IN A MULTI-STATE SECTION 271)
PROCESS, AND APPROVAL OF ITS STATEMENT OF)
GENERALLY AVAILABLE)
_____)

BEFORE THE NEW MEXICO REGULATION COMMISSION

IN THE MATTER OF Qwest Corporation's Section 271)
Application and Motion for Alternative Procedure to)
Manage the Section 271 Process) Utility Case No. 3269
_____)

QWEST'S OBJECTIONS AND RESPONSES TO AT&T'S THIRTEENTH SET OF DATA REQUESTS

Qwest Corporation ("Qwest"), through its undersigned counsel, submits its objections and responses to the Thirteenth Set of Data Requests (hereinafter "Discovery Requests"), served by AT&T as follows:

GENERAL OBJECTIONS

Qwest objects to each request contained in the Discovery Requests on the following grounds:

1. Qwest objects to the Discovery Requests as overly broad, unduly burdensome, and beyond the scope of the discovery contemplated in this proceeding.
2. Qwest objects to the Discovery Request insofar as the requests purport to require Qwest to provide documents not within its possession or control on the grounds that the request is unreasonable, oppressive and unduly burdensome.
3. Qwest objects to the Discovery Requests insofar as the requests are unduly vague and ambiguous as to be impossible to answer.
4. Qwest objects to the Discovery Requests insofar as the requests call for the production of documents protected by the attorney-client privilege, the work product doctrine, the corporate self-evaluation privilege, or any other legally cognizable privilege.
5. Qwest objects to the Discovery Requests because they seek irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence.
6. Qwest objects to the Discovery Requests on the grounds that they seek information that is highly confidential, proprietary and because they violate the confidentiality rights of third parties.

7. Qwest specifically reserves the right to supplement objections and/or add additional objections in the future.

Notwithstanding and without waiving the general objections, Qwest provides its specific objections and responses to specific requests which are incorporated in this document as if fully set forth herein.

DATED this 20th of June, 2001.

By

John L. Munn
Charles W. Steese
Andrew Crain
1801 California Street
Suite 3800
Denver, CO 80202
(303) 672-2709

Attorneys for Qwest Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2001 I caused a copy of the foregoing to be served to the following:

| | |
|--|--|
| Myrna J. Walters, Secretary Idaho Public Utilities Commission 472 West Washington Boise, Idaho 83702 Case No. USW-T-00-3 | Penny Baker Iowa Utilities Board 350 Maple Street Des Moines, IA 50319-0069 Docket No. INU-00-2 |
| Dennis Crawford Montana Public Service Commission 1701 Prospect Helena, MT 59601 Docket No. D2000.5.70 | William W. Binek North Dakota Public Service Commission State Capitol - 12th Floor Bismarck, ND 58505-0480 Case No. PU-314-97-193 |
| Ms. Julie Orchard, Executive Secretary Utah Public Service Commission Fourth Floor, Heber Wells Building 160 East 300 South Salt Lake City, UT 84111 Docket No. 00-049-08 | Stephen G. Oxley Secretary and Chief Counsel Wyoming Public Service Commission Hansen Building, Suite 300 2515 Warren Avenue Cheyenne, WY 82002 Docket No. 70000-TA-00-599 |
| Charles F. Noble, Esq. Director - Legal Division Public Regulation Commission 224 E. Palace Avenue Santa Fe, NM 87501 | |

and a copy was hand delivered to the following:

| | |
|--|---|
| **Robert S. Nelson Montana Consumer Counsel 616 Helena Avenue PO Box 201703 Helena, MT 59601 | Consumer Advocate Department of Justice Consumer Advocate Division 310 Maple Street Des Moines, IA 50319-0069 (3 copies) |
| **Cheryl Murray Department of Commerce 160 E. 300 South Salt Lake City, UT 84014 | Ivan Williams Consumer Advocate Staff Public Service Commission of Wyoming 2515 Warren Avenue, Suite 300 Cheyenne, WY 82002 (3 copies) |

and a copy was served electronically to each person on the superlist kept by Liberty Consulting Group for these dockets.

** Denotes signed non-disclosure agreement received.

Multi 271 - MT, UT, ND, ID, IA, WY,
NM
MT-D2000.5.70, UT 00-049-08, ND
PU-314-97-193, ID USW-T-00-3, IA
INU-00-2, WY 70000-TA-00-599, NM No.
3269
AT&T 13-125

INTERVENOR: AT&T Communications of the Mountain States, Inc.

REQUEST NO: 125

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between Sun West Communications and Qwest.

RESPONSE:

In addition to the General Objections, Qwest objects to this request on the grounds that it is overly broad, global, seeks information protected by the attorney-client privilege, attorney work product doctrine or any other legally cognizable privilege, seeks third party confidential information, seeks information that is highly confidential, proprietary, and competitively sensitive, and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, Qwest objects because SunWest only does business in the state of Colorado; as a result, the underlying dispute and settlement with SunWest in Colorado has no relevance to the 7 state process for this reason as well.

Multi 271 - MT, UT, ND, ID, IA, WY,
NM
MT-D2000.5.70, UT 00-049-08, ND
PU-314-97-193, ID USW-T-00-3, IA
INU-00-2, WY 70000-TA-00-599, NM No.
3269
AT&T 13-126

INTERVENOR: AT&T Communications of the Mountain States, Inc.

REQUEST NO: 126

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between Eschelon and Qwest.

RESPONSE:

In addition to the General Objection, Qwest objects to this request on the grounds that it is overly broad, global, seeks information protected by the attorney-client privilege, attorney work product doctrine, or any other legally cognizable privilege, seeks third party confidential information, seeks information that is highly confidential, proprietary, and competitively sensitive, and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Multi 271 - MT, UT, ND, ID, IA, WY,
NM
MT-D2000.5.70, UT 00-049-08, ND
PU-314-97-193, ID USW-T-00-3, IA
INU-00-2, WY 70000-TA-00-599, NM No.
3269
AT&T 13-127

INTERVENOR: AT&T Communications of the Mountain States, Inc.

REQUEST NO: 127

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of settlement made between McLeod and Qwest.

RESPONSE:

In addition to the General Objections, Qwest objects to this request on the grounds that it is overly broad, global, seeks information protected by the attorney-client privilege, attorney work product doctrine, or any other legally cognizable privilege, seeks third party confidential information, seeks information that is highly confidential, proprietary, and competitively sensitive, and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Multi 271 - MT, UT, ND, ID, IA, WY,
NM
MT-D2000.5.70, UT 00-049-08, ND
PU-314-97-193, ID USW-T-00-3, IA
INU-00-2, WY 70000-TA-00-599, NM No.
3269
AT&T 13-128

INTERVENOR: AT&T Communications of the Mountain States, Inc.

REQUEST NO: 128

Please produce all agreements, letters and other documents of any kind that reflect the terms and provisions, or any term or provision, of any settlement made by Qwest of any dispute over Qwest's compliance, or lack of compliance, with one or more items of the competitive checklist set forth in 47 USC § 271 (c) (2) (B).

RESPONSE:

In addition to the General Objections, Qwest objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably limited in time, vague and ambiguous, seeks information protected by the attorney-client privilege, attorney work product doctrine, or any other legally cognizable privilege, seeks third party confidential information, seeks information that is highly confidential, proprietary, and competitively sensitive, and seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Also, Qwest objects to providing information outside of the 7 states involved in this 7 state proceeding as being overly broad and seeking irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence in this 7 state proceeding. Additionally, Qwest objects because this request is seeking documents related to disputes regarding compliance with the competitive checklist and the workshops addressing compliance with the competitive checklist are closed.