

ORIGINAL 70355

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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF )	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD )	T-03406A-06-0091
COMMUNICATIONS COMPANY, ESCHELON )	T-03267A-06-0091
TELECOM OF ARIZONA, INC., MCLEODUSA )	T-03432A-06-0091
TELECOMMUNICATIONS SERVICES, INC., )	T-04302A-06-0091
MOUNTAIN TELECOMMUNICATIONS, INC., )	T-01051B-06-0091
XO COMMUNICATIONS SERVICES, INC AND )	
QWEST CORPORATION REQUEST FOR )	
COMMISSION PROCESS TO ADDRESS KEY )	
UNE ISSUES ARISING FROM TRIENNIAL )	
REVIEW REMAND ORDER, INCLUDING )	
APPROVAL OF QWEST WIRE CENTER LISTS. )	
)	
)	

**JOINT CLECs EXCEPTIONS TO THE RECOMMENDED OPINION AND ORDER**

Joint CLECs<sup>1</sup> respectfully submit these exceptions to the recommended order (“RO”) in this docket. Joint CLECs request a modification to paragraph 21 of this RO, which establishes the effective date of the non-impaired wire center designations for Joint CLECs. Given the particular procedures and the timing of the issuance of the RO in this docket, the Joint CLECs will not be provided appropriate lead time to convert circuits in non-impaired wire centers before the non-impaired designations are effective. Joint CLECs have provided proposed amendment language below.

The effective date of non-impairment filings starts a 90 day clock by which CLECs are to convert impacted circuits.<sup>2</sup> In many cases, a CLEC must convert an impacted circuit to an

<sup>1</sup> DIECA Communications, Inc., doing business as Covad Communications Company, and Mountain Telecommunications, Inc., Eschelon Telecom of Arizona, Inc., and McLeodUSA Telecommunications Services, Inc.

<sup>2</sup> Wire Center Settlement Agreement at Section VI.G.1.

1 alternative which is more expensive than the unbundled network element that was being  
2 purchased. Further, the process of converting circuits demands significant time and resources  
3 from the CLEC doing the conversion. As a result, a CLEC would not begin the conversion  
4 process until it was certain that no party to the proceeding had objections to the non-impairment  
5 filing.

6 The August 12, 2010 procedural order in this docket established a time period for making  
7 objections to the new proposed non-impairment designations. The date for CLECs to file  
8 objections was October 7, 2010 and the date for Staff to file its objections was October 22, 2010.<sup>3</sup>  
9 After an extensive reviewing of the data, no CLEC filed objections on October 7, 2010 and Staff  
10 recommended approval of the new designations on October 22, 2010.<sup>4</sup> Thus, CLECs could not  
11 have reasonably been aware that circuits would need to be transitioned until October 22, 2010.

12 Under a strict reading of the Wire Centers Settlement Agreement, the language in the RO  
13 (paragraphs 20 and 21) would set the effective date for the non-impairment filing at August 18,  
14 2010 – that is, 30 days after Qwest provided all of the supporting data (Qwest supplied to Integra  
15 on July 19, 2010).<sup>5</sup> However, the recommended effective date ends up being two full months  
16 before the deadline for CLEC objections – due to the ultimate lack of CLEC objections. This  
17 harms CLECs who participated in this docket, including requesting and reviewing the Qwest data  
18 under the time frames set forth in the Procedural Order. Joint CLECs request that paragraph 21 be  
19 amended, as outlined below, to set the effective date of the non-impairment designations as of the  
20 last date that objections were due:

21 21. The terms of the Wire Center Settlement Agreement were  
22 determined to be fair and reasonable in Decision No. 70355.  
23 Consequently, for the parties to that agreement, the effective date of the  
uncontested wire center designations is controlled by that agreement.

24 \_\_\_\_\_  
25 <sup>3</sup> Procedural Order, August 12, 2010, p. 4.

26 <sup>4</sup> Staff's Comments on Qwest's 2010 Proposed Additions to Non-Impaired Wire Center  
Designations, October 22, 2010, p. 3.

27 <sup>5</sup> While Qwest filed with the Commission in this docket on June 21, 2010, and Integra  
immediately requested all supporting data, Integra did not receive all of the necessary supporting  
data until July 19, 2010.

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1 However, in this phase of the docket, CLECs were not required to file  
2 objections until October 7, 2010 and Staff was not required to file until  
3 October 22, 2010. Further-However, the terms of the Wire Center  
4 Settlement Agreement do not bind non-party carriers. Therefore, the  
5 effective date for the non-impaired designations for CLECs that are parties  
6 to the settlement agreement shall be October 22, 2010 and for all carriers  
7 other than for the Joint CLECs, it is reasonable that the effective date of  
8 the non-impaired designations in the 2010 Application should be the  
9 effective date of this decision.

10 This will provide Joint CLECs a more reasonable timeframe under which they needed to  
11 convert impacted circuits.

12 RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of January 2011.

13 ROSHKA DEWULF & PATTEN, PLC

14 By



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20 Communications Company, Eschelon Telecom of Arizona,  
21 Inc., Mountain Telecommunications and McLeodUSA  
22 Telecommunications Services, Inc.

23 Original and 23 copies of the foregoing  
24 filed this 24<sup>th</sup> day of January 2011 with:

25 Docket Control  
26 Arizona Corporation Commission  
27 1200 West Washington Street  
Phoenix, Arizona 85007

Copy of the foregoing hand-delivered/mailed  
this 24<sup>th</sup> day of January 2011 to:

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