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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of)
Eschelon Telecom of Utah, Inc. for)
Arbitration with Qwest Corporation,) DOCKET NO. 07-2263-03
Pursuant to 47 U.S.C. Section 252 of the)
Federal Telecommunications Act of 1996)

**JOINT MOTION OF ESCHELON AND QWEST FOR SINGLE COMPLIANCE
FILING OF THE INTERCONNECTION AGREEMENT AND, IF GRANTED, A
REVISED SCHEDULE**

The Parties submit this joint motion in connection with Issue Nos. 9-37 – 9-42 in
this interconnection agreement (“ICA”) arbitration between Qwest and Eschelon. The

FCC, in the *Triennial Review Remand Order* ("TRRO"), established criteria for determining impairment for DS1 and DS3 loop and dedicated transport UNEs and Dark Fiber based on the number of business lines and/or fiber based collocators in a particular wire center.¹ Issue Nos. 9-37 – 9-42 relate to implementation of these criteria and are generally referred to as the “wire center” issues. This Commission addressed these criteria in the wire center docket (Docket No. 06-049-40 – the “Wire Center Docket”).²

Qwest and Eschelon have both executed a multi-state settlement agreement (“Settlement Agreement”) regarding the wire center issues that includes language to be included in the proposed ICA [as agreed upon (closed) language for arbitration Issue Nos. 9-37 – 9-42 if the Settlement Agreement is approved] after the wire center issues are resolved and before the proposed ICA is finalized. The Settlement Agreement, if approved, will resolve all open language encompassed by Arbitration Issue Nos. 9-37 – 9-42. A copy of the Settlement Agreement executed by Qwest and Eschelon is enclosed. The compromise ICA language on these issues that will be added to the ICA if the Settlement Agreement is approved and not terminated is set forth in Attachment C to the Settlement Agreement.³ Qwest and the Joint CLECs, including Eschelon, are submitting

¹ See 47 CFR § 51.319(a)(4) – (5) and (e)(2)(ii) – (iv) and (e)(3). See also TRRO, ¶¶ 146, 155, 166, 174, 178, 182 and 195.

² Utah Commission Orders dated November 3, 2006 and September 11, 2006 in docket 06-049-40, *In the Matter of the Investigation into Qwest Wire Center Data*.

³ Paragraph VII(A)(1)(b) of the enclosed Settlement Agreement provides: “Eschelon and Qwest have executed a Bridge Agreement and are currently parties to ICA arbitrations. Qwest and Eschelon agree that, in each arbitration, the language in Attachment C will be added as closed (*i.e.*, agreed upon) language to the interconnection agreement that is submitted in the compliance filing for Commission approval in each state. Inserting this language will not re-open or modify any closed language in the proposed interconnection agreement. Eschelon agrees to add the closed language reflected in Attachment C to the negotiations multi-state interconnection agreement negotiations draft within ten (10) business days of the Effective Date of this Settlement Agreement.”

the fully executed Settlement Agreement, with attachments, to the Commission for approval in the Wire Center Docket.

Qwest and Eschelon have agreed to a single compliance filing of the ICA to implement both the Commission's eventual arbitration order in this proceeding and the resolution of the wire center issues. Through this filing, the Parties are asking the Commission to approve this approach of submitting a single compliance filing. Specifically, the Parties request that they be permitted to submit a proposed ICA for approval after the Commission has issued orders that resolve all of the arbitration issues, including the wire center issues (as opposed to, for example, a contract and a later amendment).

If the single compliance filing approach is not acceptable, the Parties have not agreed to any joint request to revise the schedule in this arbitration proceeding.⁴ If the Commission approves a single compliance filing, however, Qwest and Eschelon request the modifications to the arbitration schedule described below. These modifications will give the Commission time to consider the Settlement Agreement in the Wire Center Docket and potentially will eliminate the need for supplemental testimony on Arbitration Issue Nos. 9-37 – 9-42 in this proceeding. Accordingly, if the Commission permits a single compliance filing, Qwest and Eschelon jointly seek the following modifications to the arbitration schedule:

- Modify the schedule to allow two rounds of supplemental testimony and a single round of briefing that will address any open issues involving the ICA language regarding Arbitration Issue Nos. 9-37 – 9-42. This modification would only be needed in the event the Settlement Agreement is not approved or is terminated pursuant to Paragraph VII(C) of the

⁴ If the Commission does not permit a single compliance filing, the Parties reserve their respective rights to file separate requests or filings opposing such requests with the Commission.

Settlement Agreement, with the dates for filing testimony and briefs to be set after the Commission's ruling on the Settlement Agreement in the Wire Center Docket. (The dates may coincide with one or more of the established testimony deadlines in this docket, if consideration of the Settlement Agreement occurs before those deadlines.) This testimony and briefs will be unnecessary if the Commission approves the Settlement Agreement and it is not terminated under Paragraph VII(C) of the Settlement Agreement. If it is necessary to file supplemental testimony on Issue Nos. 9-37 – 9-42, Qwest and Eschelon agree, subject to approval of the ALJ or the Commission, that a hearing is not needed on Issue Nos. 9-37 – 9-42, which can be decided on the written testimony and briefing.

- Schedule a single compliance filing of the ICA after resolution of both the wire center issues (either via approval of the Settlement Agreement or, if it is not approved or is terminated, via an arbitration order based upon the supplemental testimony and briefing in this case described immediately above) and the other arbitration issues, with a specific date for filing of the ICA to be scheduled after both resolutions occur.

As noted above, if the Commission approves the Settlement Agreement, the language of Attachment C will be added to the ICA before the compliance filing under this approach, and no supplemental testimony on the wire center issues will be needed.

For these reasons, Eschelon and Qwest respectfully request that the Commission grant this joint motion for a single compliance filing of the ICA and, if granted, a revised schedule.

June 20, 2007

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