

Documented Facts

#	Fact	Documentation	
1	Qwest previously expedited orders for unbundled loops on an expedited basis for Eschelon	Answer, Page 9 ¶ 14 Lines 24-25	
2	McLeod submitted Escalation #39 PROS.09.12.05.F.03242. Expedites_Escalations_V27.	<p>Document 000118</p> <p>McLeod stated: “2w/4w analog loops are no longer an exception in the Pre-Approved Expedite process. Thus Qwest will begin charging \$200 per circuit per day expedite fee instead of following the existing process of approving expedites based upon the Expedites Requiring Approval process.</p> <p>History of Item: McLeodUSA was not even aware this issue was on table for discussion.</p> <p>Reason for Escalation / Dispute: McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite.</p> <p>Business Need and Impact: Makes it almost impossible for McLeodUSA to expedite with such a high charge for just 2w/4w loop service.</p> <p>Desired CLEC Resolution: McLeodUSA wants 2w/4w loops to remain in the Expedites Requiring Approval process and thus incur no charges for an approved expedite.”</p> <p>http://www.qwest.com/wholesale/downloads/2005/051028/Escalation_39_Mcleod_PROS_09_12_05_F_0342_Expedites_Escalations_V27.doc</p>	
3	Eschelon joined McLeod’s Escalation #39 PROS.09.12.05.F.03242. Expedites_Escalations_V27.	<p>Document 000120:</p> <p>Qwest (Jill Martian) stated: “Qwest does not formally post the escalation participants on the external web; however, we do show that Eschelon did join the escalation.”</p>	

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4	<p>Qwest included CLEC escalation participants, including Eschelon, Covad, Velocity, AT&T, ELI, and VCI, in Qwest's response to Escalation #39 PROS.09.12.05.F.03242. Expedites_Escalations_V27.</p>	<p>Document 000120-121 Qwest Cynthia Harlan Email Dated November 7, 2005 10:45 AM To: lhankins@covad.com; Jim.hickle@velocitytelephone.com; Johnson, Bonnie J [Eschelon]; Van Meter, Sharon K NEO [AT&T]; lynn_kellas@eli.net; amandas@vcicompany.com Subject: Escalation Response posted to web "During the October 19 CMP meeting, the CLEC community request that Qwest update the Escalation process to inform the CLECs that chosen to participate in the Escalation that the Escalation Response has been posted to the Qwest web site. In the spirit of the conversation at the October CMP meeting, this email is to advise the participants of Escalation #39 that Qwest has posted the Escalation Responses at the following url: http://www.qwest.com/wholesale/cmp/escalations.html In addition, Qwest has submitted a CR to change the Escalation Process. This CR is on the agenda for the November CMP meeting Thank you, Cindy Harlan"</p>	
5	<p>Eschelon requested a CMP ad hoc call to discuss Qwest notice PROS.10.19.05.F.03380. ExpeditesEscalations V30</p>	<p>Document 000117 Eschelon (Kimberly Isaacs) email dated 10/21/05 Eschelon stated: "Eschelon is requesting an ad-hoc call with Qwest and the CLEC community to discuss notice PROS.10.19.05.F.03380.EpeditiesEscalationsV30."</p>	
6	<p>Qwest scheduled an ad hoc call to discuss Qwest notice PROS.10.19.05.F.03380. ExpeditesEscalations V30</p>	<p>Document 001668-001669 Qwest Notice: CMPR.10.25.05.F.03414.Ad_Hoc_Meeting_11-1-05 Subject: CMP- Ad Hoc Meeting Scheduled November 1, 2005 to discuss PROS.10.19.05.F.03380.ExpeditesEscalationsV30 http://www.qwest.com/wholesale/cnla/uploads/CMPR%2E10%2E25%2E05%2EF%2E03414%2EAd%5FHoc%5FMeeting%5F11%2D1%2D05%2Edoc</p>	

7	<p>Eschelon followed the CMP comment process and submitted comments on November 11, 2005 regarding Qwest's CMP notice PROS.10.19.05.F.03380.ExpeditesEscalationsV30</p>	<p>Documents 000124 - 000126 http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</p>	
8	<p>Multiple CLECs submitted CMP comments regarding PROS.10.19.05.F.03380. Expedites EscalationsV30.</p>	<p>Document 000122-000128 http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</p>	
9	<p>Three of five CLECs (including Eschelon) providing comments on notice PROS.10.19.05.F.03380. Expedites EscalationsV30; in CMP referred to discrimination and/or a competitive disadvantage.</p>	<p>Document 000122-000128 Eschelon stated: "The change Qwest is proposing is discriminatory to CLECs and their customers" McLeod stated: "Qwest's removal of the 2w/4w analog loop exception from the Expedites Requiring Approval process places CLECs at a competitive disadvantage" PriorityOne Telecommunications, Inc stated. "PriorityOne Telecommunications, Inc. objects to Qwest's proposed changes due to feeling that it is discriminatory to CLEC's and CLEC customers" http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</p>	
10	<p>Integra said in its comments that "Integra objects to Qwest proposed change to remove the existing approval required expedite process for designed products. When Integra signed the Qwest Expedite Amendment we were not advised that by signing the amendment it would change the current Expedites Requiring Approval process. We signed the amendment believing that this would ADD to our options of having an order completed outside the standard interval. When Integra</p>	<p>Document 000122-000128 http://www.qwest.com/wholesale/downloads/2005/051118/PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</p>	

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	signed the amendment UBL DS0 loops were not included as a product on the list of products in the "Pre-Approved Expedites" list. When the UBL DS0 was added to this list Integra did not comment as at that time we still believed the Expedites Requiring Approval process was in place for our use."		
11	Qwest provided a binding response in CMP by email on November 7, 2005 (dated November 4, 2005) to the McLeod escalation	Document 000129 Qwest stated: "This letter is Qwest's binding response to your October 27, 2005 escalation regarding PROS.09.12.05.F.03242.Expedites_Escalations_V27, which changed the expedite process to include 2w/4w analog loops." http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc	
12	In Qwest's binding response in CM binding response email on November 7, 2005 to the McLeod escalation, Qwest stated: "rates associated with an Interconnection Agreement are outside the scope of the CMP process."	Document 000129 http://www.qwest.com/wholesale/downloads/2005/051104/Qwest_Response_to_Escalation_39_McLeodUSA.doc	
13	Eschelon (Danny de Hoyos, Vice President, Customer Service and Product Delivery), in a letter dated March 21, 2006 to Qwest (Kenneth Beck, Regional Vice President; Director – Interconnection Compliance; General Counsel, Law Department), cited the dispute resolution provisions of the Qwest-Eschelon ICA (Part A, §27).	Document 000130 Eschelon (Danny de Hoyos, Vice President, Customer Service and Product Delivery), in a letter dated April 3, 2006 to Qwest (Kenneth Beck, Regional Vice President; Director – Interconnection Compliance; General Counsel, Law Department) stated: "If Eschelon and Qwest are unable to agree on a resolution, Eschelon reserves its right to as the Arizona Commission to arbitrate the dispute pursuant to Section 27.2 of Part A of the Arizona ICA:	

<p>14</p>	<p>Eschelon challenged the expedite provision using the CMP dispute resolution process</p>	<p>Document 000120 Joint McLeod-Eschelon Escalation #39 Re. PROS.09.12.05.F.03242.Expedites_Escalations_V27 – Denied by Qwest 11/4/05: Qwest (Jill Martian) response: “Qwest does not formally post the escalation participants on the external web; however, we do show that Eschelon did join the escalation”</p> <p>Document 000124-000126 In Eschelon’s comments on notice PROS.10.19.05.F.03380.Expedites EscalationsV30 submitted on November 11,2005, Eschelon stated: “Eschelon 11/3/05 objections to PROS.10.19.05.F.03380.Expedites EscalationsV30.” http://www.qwest.com/wholesale/downloads/2005/051118/PROS.1.18.05.F.03492.FNL_Exp-EscalationsV30Qwest%20Response.doc</p>	
<p>15</p>	<p>The CMP notifications for Versions 11, 22, 27, and 30 of the Expedites and Escalations Overview PCAT were “process” notifications and none of these Versions were noticed as “system” changes.</p>	<p>Document Nos.000066, 000078, 000090, 000105 PROS.07.15.04.F.01882.FNL_ReissueExpeditesV11 http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc PROS.06.01.05.F.02971.Final_Expedites_Escal_V22 http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E01%2E05%2EF%2E02971%2EFinal%5FExpedites%5FEscal%5FV22%2Edoc</p> <p>PROS.09.12.05.F.03242.Expedites_Escalations_V27 http://www.qwest.com/wholesale/cnla/uploads/PROS%2E09%2E12%2E05%2EF%2E03242%2EExpedites%5FEscalations%5FV27%2Edoc PROS.11.18.05.F.03492.FNL_Exp-EscalationsV30 http://www.qwest.com/wholesale/cnla/uploads/PROS%2E11%2E18%2E05%2EF%2E03492%2EFNL%5FExp%2DEscalationsV30%2E</p>	

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16	For product and process changes in CMP, while votes may be taken as to certain CMP procedural issues in the course of considering the change, no vote is taken in CMP as to whether a particular product or process change requested by a CLEC or Qwest should be granted or denied.	<p>Document Nos. 000159-000287</p> <p>The CLEC Originated Product/Process Change Request Process states: “Qwest will develop a draft response based on the discussion from the Monthly CMP Product/Process Meeting. Qwest’s response will be:</p> <ul style="list-style-type: none"> • “Accepted” (Qwest will implement the CLEC request) with position stated, or • “Denied” (Qwest will not implement the CLEC request) with basis for the denial and a detailed explanation, including reference to substantiating material. CLEC originated Product/Process Change Request may be denied for one or more of the following reasons: <p style="padding-left: 40px;">Technologically not feasible—a technical solution is not available</p> <p style="padding-left: 40px;">Regulatory ruling/Legal implications—regulatory or legal reasons prohibit the change as requested, or if the request benefits some CLECs and negatively impact others (parity among CLECs) (Contrary to ICA provisions)</p> <p style="padding-left: 40px;">Outside the Scope of the Change Management Process—the request is not within the scope of the Change Management Process (as defined in this CMP), seeks adherence to existing procedures, or requests for information</p> <p style="padding-left: 40px;">Economically not feasible—low demand, cost prohibitive to implement the request, or both</p> <p style="padding-left: 40px;">The requested change does not result in a reasonably demonstrable business benefit (to Qwest or the requesting CLEC) or customer service improvement</p> <p>Qwest will not deny a CR solely on the basis that the CR involves a change to the back-end systems. Qwest will apply these same concepts to CRs that Qwest originates. SCRIP may be invoked if a CR was denied due to Economically not feasible.</p>	

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		<p>Qwest Originated Product/Process Changes</p> <p>The following defines five levels of Qwest originated product/process changes and the process by which Qwest will originate and implement these changes. None of the following shall be construed to supersede timelines or provisions mandated by federal or state regulatory authorities, certain CLEC facing Web sites (e.g., ICONN and Network Disclosures) or individual interconnection agreements. Each notification will state that it does not supercede individual interconnection agreements. The lists of change categories under each level provided below are exhaustive/finite but may be modified by the process set forth in Section 2.1. Qwest will utilize these lists when determining the disposition level to which new changes will be categorized. The changes that go through these processes are not changes to OSS Interfaces. Level 1-4 changes under this process will be tracked and differentiated by level in the History Log for the affected documents.</p> <p>http://www.qwest.com/wholesale/downloads/2006/060130/Toc22021536</p>	
17	<p>Eschelon told Qwest in writing that it will pay charges for expedites pursuant to the ICA without amendment, including hourly and dispatch charges, in addition for the installation charge for the order requesting the expedite.</p>	<p>Document 000137-000139 Eschelon (Danny de Hoyos, Vice President, Customer Service and Product Delivery), in a letter dated April 3, 2006 to Qwest (Kenneth Beck, Regional Vice President; Director – Interconnection Compliance; General Counsel, Law Department), indicated in the subject line that the letter was regarding: “Escalation and Request for Dispute Resolution pursuant to the Interconnection Agreements; LSR #17114755 (#D49232945); LSR #17192206 (#N49828418; PON #AZ657718T1FAC); ASR #0607700072 (#C50456587; PON # AZ657718T1FAC) stated: “Eschelon said it was willing to pay maintenance and repair charges pursuant to the interconnection agreements (including those approved by the state commissions, which Qwest already routinely charges Eschelon for other types of repairs) to re-establish service.”</p>	

18	When an unbundled loop is installed and then an expedited order is needed several months later (<i>e.g.</i> , to correct a later disconnect in error of that loop) Qwest charges the Commission approved non-recurring charge (NRC) for the later installation of the unbundled loop (<i>e.g.</i> , \$87.93 for DS1 capable loop without testing in Arizona) to restore service (<i>e.g.</i> , to correct the later disconnect in error of that loop), even if the facilities remain in place and no premise dispatch is required.	Document 001674-001675 Qwest expedite amendment, Exhibit A (\$200 per day expedited rate) & Qwest SGAT, Exhibit A, Section 9.2.5.1.1 (\$87.93 rate & footnote A. In Footnote A of Exhibit A to the SGAT, Qwest recognizes that the rate is Commission approved.	
19	Qwest charges the rate in its expedite amendment (<i>e.g.</i> , \$200 per day expedited, which is \$1,000 for a 5-day expedite) if the CLEC has signed the expedite amendment.	The Qwest Expedites for Design Services Exhibit A states: “Expedite for Design Services - Per Order Per Day Event – Non-Recurring \$200.00 http://www.qwest.com/wholesale/downloads/2005/050707/QPP-Expedite-for-Design-Services-Exhibit-A-6-29-05.xls	
20	The Arizona Corporation Commission authorized Eschelon to provide competitive facilities-based and resold local exchange and interexchange telecommunications services in Arizona.	Document 000373	
21	A mutually agreed upon process for expedites requiring approval was in place, including for unbundled loops, before Qwest documented it on its website through CMP Qwest issued an expedites and escalations product notification (Version 1)	Document 000022-000025 Qwest Notice: PROD.09.20.01.F.00087.F.BFR SR. POA LOA. Expedites stated: “The new Expedite and Escalation Overview will be posted to the Wholesale Markets Web page at the following URL:	

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	when documenting the process on its website in which Qwest said that “these updates reflect current practice.”	http://www.qwest.com/wholesale/clecs/exesclover.html . All updates are consistent with the information available in the Statement of Generally Available Terms (SGAT) URL http://www.qwest.com/about/policy/sgats/ ” http://www.qwest.com/wholesale/cnla/uploads/PROD%2E09%2E20%2E01%2EF%2E00087%2EF%2EBFRSR%2Edoc	
22	May 12, 2004, Qwest told CLECs that: “If a CLEC chooses not to amend their Interconnection Agreement, the current expedite criteria and process will be used.”	Document 000006 http://www.qwest.com/wholesale/cmp/archive/CR_PC021904-1.htm	
23	July 15, 2004, Qwest told CLECs that: “If a CLEC chooses not to sign the amendment and pay the approved rates, this will not impact resources. For Qwest's Retail and Access customers, they are bound by the terms established in the tariffs (which have been or are in the process of being filed). Qwest did not want to shut the door for its Interconnect customers because of existing contractual obligations, so is offering those customers two options: 1) To be able to expedite without reason for a per-day improved rate, like the Retail and Access customer, or 2) Continue with the existing process that is in place. Qwest is providing the Interconnect customers an additional option. If the CLEC chooses option 2, and the expedite reason is for one of those listed in the PCAT, they are given the same opportunity at having the due date	Document 000006 http://www.qwest.com/wholesale/downloads/2004/040715/DNLD_QwestResponse_Exp_Escl_V11.doc).	

	requested. This comment is accepted.”		
24	June 29, 2004, Qwest told CLECs that: “Qwest is modifying/changing the existing manual Expedite process to incorporate two processes. These are described as Pre-Approved and Expedites Requiring Approval.”	Document 000006 – 000007 Qwest sent PROS.06.15.04.F.01792.ExpeditesV11 for review and comments. http://www.qwest.com/wholesale/cnla/uploads/PROS%2E06%2E15%2E04%2EF%2E01792%2EExpeditesV11%2Edoc	
25	After Qwest issued Version 30 of the Expedites and Escalations Overview PCAT, the Expedites Requiring Approval process remained in place at Qwest, but Qwest removed certain products (including unbundled loops) from the list of products to which Qwest said the Expedites Requiring Approval process applied.	Document. 000107-000115 The Qwest Expedites and Escalations Overview V30.0 stated: “Requesting an expedite follows one of two processes, depending on the product being requested. If the request being expedited is for a product contained in the “Pre-Approved Expedites” section below, your ICA must contain language supporting expedited requests with a “per day” expedite rate. If the request being expedited is for a product that is not on the defined list, then the expedited request follows the process defined in the “Expedites Requiring Approval” section below.” http://www.qwest.com/wholesale/downloads/2005/051018/PCAT_ExpEscl_V30.doc	
26	Qwest describes its expedites and escalations “local business procedures” in the Qwest “Expedites and Escalations Overview – V40.0,” which is available on the web	Document 001645 - 001654 http://www.qwest.com/wholesale/clecs/exesclover.html ;	
27	Requesting an expedite “follows one of two processes”	Document 001645 The Qwest Expedites and Escalations Overview – V40.0 states: “Requesting an expedite follows one of two processes, depending on the product being requested. If the request being expedited is for a product contained in the "Pre-Approved Expedites" section below, your ICA must contain language supporting expedited requests with	

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		<p>a "per day" expedite rate. If the request being expedited is for a product that is not on the defined list, then the expedited request follows the process defined in the "Expedites Requiring Approval" section below."</p> <p>http://www.qwest.com/wholesale/clecs/exesclover.html;</p>	
28	<p>One of the processes for requesting an expedite is the Expedites Requiring Approval" process and the Expedites Requiring Approval process still exists</p>	<p>Document 001645</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states: “For products not listed in the Pre-Approved Expedite section below, (non-designed products such as POTS, Centrex or DSL service) the following expedite process applies.”</p> <p>http://www.qwest.com/wholesale/clecs/exesclover.html;</p>	
29	<p>Expedite charges are not applicable with the Expedites Requiring Approval process.”</p>	<p>Document 001645</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states: “Expedite charges are not applicable with the Expedites Requiring Approval process”</p> <p>http://www.qwest.com/wholesale/clecs/exesclover.html;</p>	
30	<p>Following is a list of conditions where an expedite is granted” under the “Expedites Requiring Approval” process:</p> <ul style="list-style-type: none"> “Fire Flood Medical emergency National emergency Conditions where your end-user is completely out of service (primary line) Disconnect in error by Qwest 	<p>Document. 001646</p> <p>http://www.qwest.com/wholesale/clecs/exesclover.html;</p>	

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	<p>Requested service necessary for your end-user's grand opening event delayed for facilities or equipment reasons with a future RFS date</p> <p>Delayed orders with a future RFS date that meet any of the above described conditions</p> <p>National Security</p> <p>Business Classes of Service unable to dial 911 due to previous order activity</p> <p>Business Classes of Service where hunting, call forwarding or voice mail features are not working correctly due to previous order activity where the end-users business is being critically affected”</p>		
31	<p>In Qwest Expedites Requiring Approval process there are two options to request an expedite on a Local Service Request (LSR)</p>	<p>Document 001646</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states: To request an expedite on a Local Service Request (LSR) you can either:</p> <ul style="list-style-type: none"> • Submit the request with your expedited due date and populate the EXP field. Also include in REMARKS the reason for the expedited request and then call the Qwest Call Center. • Submit the request with a due date interval from our SIG or 	

		<p>your ICA and then call the Qwest Call Center.</p> <p>In both scenarios, a call to the Qwest Call Center is required on 1-866-434-2555 to process the expedited request.</p> <p>http://www.qwest.com/wholesale/clecs/exesclover.html;</p>	
32	<p>The Qwest Call Center and its telephone number of 1-866-434-2555 used to request an expedite under the Qwest Expedites Requiring Approval process is the same Qwest Call Center and telephone number that is used generally for other LSR Tier 1 escalations; (b) the next escalation level is Tier 2; and (c) the next escalation level is Tier 3, which is the Qwest Service Manager assigned to that CLEC's account.</p>	<p>Document. 001646 & 001653-001654</p> <p>The Qwest Expedites and Escalations Overview – V40.0 states:</p> <p>Expedites and Escalations</p> <ul style="list-style-type: none"> • Local Service Requests (LSRs) <p>Wholesale Center</p> <p>Tier 1 Customer Service Inquiry and Education Center (CSIE) First point of contact for CLECs 866-434-2555</p> <p>Tier 2 Subject Matter Expert (SME), Team Leaders, Team Coaches Respond to issues not resolved at Tier 1 800-366-9974</p> <p>Tier 3 Appropriate Qwest Service Manager Respond to issues not resolved at Tier 2 Service Manager</p>	