

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**In the Matter of the Petition of)
Eschelon Telecom of Utah, Inc. for)
Arbitration with Qwest Corporation,)
Pursuant to 47 U.S.C. Section 252 of the)
Federal Telecommunications Act of 1996)**

DOCKET NO. 07-2263-03

REBUTTAL TESTIMONY

OF

RENÉE ALBERSHEIM

FOR

QWEST CORPORATION

Disputed Issues: 1-1, 9-37, 9-37(a), 9-38, 12-64, 12-67, 12-71, 12-72, 12-73 and 12-87

QWEST EXHIBIT 1R

JULY 27, 2007

NON-PROPRIETARY & NON-CONFIDENTIAL

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LIST OF EXHIBITS

- Exhibit 1R.1 Change Request PC072303-1
- Exhibit 1R.2 Change Request PC081403-1
- Exhibit 1R.3 Notice of Jeopardy Documentation Changes
- Exhibit 1R.4 Redlines to Jeopardy PCAT
- Exhibit 1R.5 Redlines to list of Jeopardy Codes
- Exhibit 1R.6 CR PC081903-1 SIG Increase - Withdrawn
- Exhibit 1R.7 CR PC020205-1 DD Increase on 911
- Exhibit 1R.8 Maintenance and Repair PCAT
- Exhibit 1R.9 Analysis of Exhibit BJJ-6

1

2

III. THE CHANGE MANAGEMENT PROCESS (“CMP”)

3

4 **Q. ESCHELON WITNESS MICHAEL STARKEY PRESENTS SOME EXAMPLES**
5 **OF ISSUES HANDLED THROUGH THE CMP AND CLAIMS THAT THEY**
6 **EXEMPLIFY HOW QWEST OPERATES THROUGH THE CMP. IS THIS A**
7 **FAIR AND ACCURATE REPRESENTATION?**

8 A. No, because the “examples” presented by Eschelon are only a few out of the hundreds of
9 issues handled through the CMP since its redesign by the industry as a whole in 2002.

10 Further, Eschelon paints a misleading picture of the process that was followed in each of
11 its examples.

12

13 **Q. HOW MANY PRODUCT AND PROCESS CHANGE REQUESTS HAVE QWEST**
14 **AND CLECS TOGETHER ADDRESSED THROUGH THE CMP SINCE 2002?**

15 A. As of January 29, 2007, Qwest’s archive lists 373 Product and Process Change
16 Requests.¹ There are an additional 13 listed as active.

17

18 **Q. HOW MANY OF THESE IN THE CMP RECORDS DID ESCHELON SUBMIT?**

19 A. 94.

¹ Active Product and Process change requests may be viewed at
http://www.qwest.com/wholesale/cmp/cr/CLEC_Qwest_CMP_Product_Process_Interactive_Report.htm.
The Product and Process Change Request Archive may be viewed at
http://www.qwest.com/wholesale/cmp/archive/CLEC_Qwest_CMP_Product_Process_Interactive_Report.htm

1 **Q. HOW MANY DID OTHER CLECS SUBMIT?**

2 A. 168.

3

4 **Q. ARE THE REMAINING CHANGE REQUESTS LISTED IN THE RECORDS**
5 **ONES THAT WERE SUBMITTED BY QWEST?**

6 A. Yes. Qwest has submitted 124 Product and Process Change Requests and the CLEC
7 community as a whole has submitted 262.

8

9 **Q. WHAT KINDS OF ISSUES DO THE PRODUCT AND PROCESS CHANGE**
10 **REQUESTS IN TOTAL ADDRESS?**

11 A. Product and Process Change Requests handle issues ranging from “Develop a Process for
12 CLECs to get a FULL CSRs on Resale Centrex lines” to “Allow Customers to Move and
13 change local service providers at the same time” to “Perform Line Moves and UDC
14 Removal for QWEST DSL Resale and Qwest DSL on UNE-P orders at no charge to the
15 CLEC/DLEC.”

16

17 **Q. HOW MANY SYSTEM CHANGE REQUESTS HAVE QWEST AND THE CLECS**
18 **TOGETHER ADDRESSED THROUGH THE CMP SINCE 2002?**

19 A. As of January 29, 2006, Qwest’s archive lists 696 Systems Change Requests.² There are
20 34 others listed as active.

² Active Systems change requests may be viewed at
http://www.qwest.com/wholesale/cmp/cr/CLEC_Qwest_CMP_Systems_Interactive_Report.htm. The Systems
Change Request Archive may be viewed at
http://www.qwest.com/wholesale/cmp/archive/CLEC_Qwest_CMP_Systems_Interactive_Report.htm.

1 **Q. HOW MANY OF THESE SYSTEMS CHANGE REQUESTS WERE SUBMITTED**
2 **BY ESCHELON?**

3 A. 136.
4

5 **Q. HOW MANY WERE SUBMITTED BY OTHER CLECS AND BY QWEST?**

6 A. Other CLECs have submitted 311 in addition to Eschelon's 136; Qwest has submitted
7 283.
8

9 **Q. WHAT KINDS OF ISSUES DO THE SYSTEMS CHANGE REQUESTS IN**
10 **TOTAL ADDRESS?**

11 A. The issues addressed in the Systems Change Requests range, for example, from
12 developing the capability to submit Directory Listing information at the same time LSRs
13 are being submitted through EDI for UNE orders to adding a delete function to IMA
14 System Administration Options to Bill Format Changes allowing for inclusion of third-
15 party reference telephone numbers and URLs.
16

17 **Q. WHAT DO THESE MORE THAN 1,000 PRODUCT AND PROCESS AND**
18 **SYSTEMS CHANGE REQUESTS DEMONSTRATE?**

19 A. These more than a thousand changes demonstrate that the CMP works efficiently and
20 effectively. The four "examples" that Eschelon witness Michael Starkey chooses to
21 discuss in this direct testimony are portrayed in a light that Qwest does not believe
22 reflects actual events. Eschelon chose these four issues, one of which related to a service

1 that Eschelon does not even order, to attempt to persuade the Commission to adopt
2 Eschelon's proposed CMP-related ICA language. Using a limited description of the
3 facts, Eschelon explains events surrounding four issues handled through the CMP to try
4 to portray Qwest as a bad actor.

5
6 **Q. MR. STARKEY ASSERTS THAT ESCHELON IS NOT CRITICIZING THE**
7 **CMP, BUT RATHER, QWEST'S ROLE IN THE CMP, AND THAT THE**
8 **COMMISSION NEED NOT FIND THAT THE CMP IS "BAD" OR "BROKEN"**
9 **IN ORDER TO ADOPT ESCHELON'S PROPOSED CMP-RELATED ICA**
10 **LANGUAGE.³ ARE THESE REPRESENTATIONS BY MR. STARKEY**
11 **CONSISTENT WITH THE POSITION TAKEN BY ESCHELON WITH ITS**
12 **PROPOSED CMP-RELATED ICA LANGUAGE?**

13 A. No. Eschelon is attempting to nullify the CMP with regard to the CMP-related issues in
14 dispute between the parties.

15
16 **Q. BUT HOW IS THAT TRUE? ISN'T ESCHELON JUST ATTEMPTING TO**
17 **CAPTURE QWEST'S CURRENT PRACTICES IN THE PARTIES' ICA?**

18 A. Eschelon seeks to expand Qwest's obligations and create one-off, unique processes for
19 CMP-related ICA issues in dispute: Issue 1-1: service intervals, Issues 12-71 through 12-
20 73: jeopardy notices, and Issue 12-67: expedited orders. Eschelon's approach to these
21 issues has a dire effect on the CMP by effectively removing this list of issues from the
22 purview of the CMP. I will explain why this is true in detail in my testimony below.

³ Starkey Direct, p. 106.

1 **Q. WHAT IS THE FUNDAMENTAL DISPUTE BETWEEN THE PARTIES**
2 **CONCERNING CMP-RELATED ISSUES?**

3 A. Eschelon claims that Qwest abuses the CMP and uses the CMP to accomplish its own
4 goals, pushing through changes against CLEC objections. But this claim ignores
5 completely the reality of the recourse provisions in the document that governs the CMP,
6 which was developed by the CLECs and Qwest as part of the 2002 CMP redesign (the
7 “CMP Document” attached as Exhibit 1.1 to my direct testimony), and it ignores the
8 reality of the more than 700 Change Requests submitted by CLECs, including Eschelon,
9 and implemented through the CMP to their benefit. Eschelon’s claims are not supported
10 by the record. Qwest cannot force anything through the CMP. CLECs have numerous
11 mechanisms available to them to delay, alter or prevent Qwest changes. CLECs use these
12 mechanisms to significant effect, preventing Qwest from acting arbitrarily. The four
13 examples presented by Eschelon have not been accurately represented, and these four
14 examples actually show Qwest’s extensive efforts to be responsive to its CLEC
15 customers.
16

1 **A. Qwest Cannot Act Arbitrarily Through the CMP**

2
3 **Q. MR. STARKEY CLAIMS ON PAGE 42 OF HIS TESTIMONY THAT “CMP**
4 **PROVIDES ESCHELON NO REAL ABILITY TO KEEP QWEST FROM**
5 **UNILATERALLY MAKING” CHANGES. IS THAT BORNE OUT BY THE**
6 **RECORD?**

7 **A.** No, it is not. In my direct testimony, I described the various mechanisms set forth in the
8 CMP document that are available to CLECs to oppose changes proposed by Qwest
9 through the CMP. These include comments, postponement, escalations, review by the
10 CMP Oversight Committee, dispute resolution, and, finally, filing a complaint with a
11 state commission. Furthermore, the CMP archive itself disproves Mr. Starkey’s claims.
12 CLECs have rejected a significant number of the changes proposed by Qwest through the
13 CMP. For example, Qwest has submitted 436 change requests to the CMP – and
14 withdrawn 97 of those, either because CLECs vocally opposed the changes or because, in
15 the case of systems change requests, they were given such a low priority by the CLEC
16 vote that it was clear that they would not be implemented.

17
18 **Q. DID ESCHELON HELP ESTABLISH THE PROCEDURES THAT PREVENT**
19 **QWEST FROM ACTING ARBITRARILY IN THE CMP?**

20 **A.** Yes, as I stated in my direct testimony, public records show that Eschelon was a very
21 active and vocal participant in the CMP redesign process that resulted in the CMP
22 document controlling the CMP today.

1 **Q. ON PAGE 48 OF HIS TESTIMONY, MR. STARKEY MAKES MUCH OF**
2 **QWEST HAVING A “NOTICE AND GO” CAPABILITY FOR CMP NOTICES**
3 **AND PROPOSED CHANGES. IS MR. STARKEY’S DESCRIPTION**
4 **ACCURATE?**

5 A. No. Only “Level 0” changes, which Mr. Starkey accurately defines “as changes that do
6 not change the meaning of documentation and do not alter CLEC operating procedures,”
7 and “Level 1” notices, which Mr. Starkey accurately defines “as changes that do not alter
8 CLEC operating procedures or changes that are time critical corrections to a Qwest
9 product/processes,” might be described in this way.

10

11 All other levels of change require Qwest to give advance notification to CLECs, giving
12 the CLECs the opportunity to comment or object. But CLECs can prevent
13 implementation of the proposed changes even under the Level 0 and Level 1
14 notifications. In addition to all of the layers of recourse that I discussed in my direct
15 testimony, and listed above, Qwest works cooperatively with CLECs in this process. For
16 example, Qwest issued a Level 1 notice regarding updates to its maintenance and repair
17 documentation on September 27, 2006. When CLECs expressed concerns about this
18 notice, including regarding the designated level of the change, Qwest retracted the notice,
19 withdrew the documentation changes, and proceeded to hold meetings with CLECs to
20 discuss the changes.

21

1 **Q. WHAT IS THE RECORD IN CMP ON PRODUCT AND PROCESS CHANGE**
2 **NOTIFICATIONS, AND WHAT DOES THAT RECORD DEMONSTRATE**
3 **CONCERNING QWEST’S ROLE IN THE CMP?**

4 A. Qwest has submitted more than 1900 product and process change notices in the CMP. Of
5 those more than 1900 change notices, CLECs have objected to only 63. In response to
6 these 63 objections, Qwest retracted, modified, partially implemented, or resubmitted as
7 change requests 52 of them. For the remaining 11 notices, following clarification
8 meetings with CLECs, it was determined that no action was required. This data is clear
9 evidence that: (1) Qwest cannot and does not take unilateral or “arbitrary” action in the
10 CMP; and (2) CLECs have an opportunity to delay, change or prevent Qwest initiated
11 changes. The CMP Document puts controls in place that the CLECs can and do use –
12 just as the CLECs intended in redesigning the CMP in 2002.

13
14 **Q. MR. STARKEY CLAIMS ON PAGE 47 OF HIS DIRECT TESTIMONY THAT**
15 **“THE VAST MAJORITY OF QWEST-INITIATED CHANGES ARE**
16 **ACCOMPLISHED THROUGH LEVEL 0-3 EMAIL NOTIFICATIONS.”**
17 **PLEASE RESPOND.**

18 A. It is not surprising that there are a large number of lower level changes to the CMP.
19 These change notices address a variety of minor issues, like typographical corrections to
20 documentation, postings to web pages, information on training, and status reports on
21 external documentation changes submitted by CLECs. The CMP Document contains
22 provisions permitting these types of notifications because they have a very low or
23 minimal impact on CLEC processes. This is borne out by the fact that CLECs have

1 objected to only 63 of the more than 1900 change notifications submitted in the CMP by
2 Qwest.

3
4 **Q. MR. STARKEY ASSERTS THAT “IN CONTRAST TO THE RELATIVELY**
5 **QUICK ‘NOTICE AND GO’ PROCESS THAT IS AVAILABLE TO QWEST, IF A**
6 **CLEC DISAGREES WITH A CHANGE PROPOSED BY QWEST,”⁴ IT MUST**
7 **SEEK A COMMISSION DETERMINATION TO REVERSE THE CHANGE. HE**
8 **THEN CITES AN ARIZONA DOCKET TO SUPPORT THIS CLAIM. IS THIS A**
9 **CLEC’S ONLY RECOURSE AND IS THE ARIZONA DOCKET A VALID**
10 **COMPARISON TO THE PROCESSES AVAILABLE THROUGH THE CMP?**

11 A. No. First, with regard to the expedites issue, which is the subject of the Arizona docket,
12 Eschelon did not even use one of the most powerful mechanisms detailed in the CMP
13 Document for disputing changes proposed in the CMP. Eschelon did not seek to
14 postpone implementation of the expedite process, although it could have done so easily.
15 Pursuant to the CMP Document, if Qwest had disagreed with a request from Eschelon to
16 postpone implementation of the proposed changes, Eschelon could have asked for an
17 arbitrator to decide whether implementation of the changes should be postponed until the
18 dispute regarding the issue was resolved through the CMP or pursuant to the dispute
19 resolution as set forth in Section 15 of the CMP Document. If the arbitrator had decided
20 against Qwest and ordered postponement, under the provisions of the CMP Document,
21 Qwest would have been required to pay the arbitrator’s costs (and, vice versa, if the
22 arbitrator had decided against Eschelon, Eschelon would have been required to pay

⁴ Starkey Direct, at p. 49.

1 costs). But Eschelon did not seek postponement or use the dispute resolution process
2 established in the CMP Document. Instead, it opted to file litigation. Second, Mr.
3 Starkey tries to portray the scheduling of the hearing for the Arizona docket as the norm
4 for complaint proceedings. What Mr. Starkey omits is the primary reason why the
5 hearing was delayed: Qwest's counsel had a six-week jury trial in Boston that caused a
6 scheduling conflict.

7
8 **Q. HAS A CLEC EVER USED THE DISPUTE RESOLUTION PROCESS IN THE**
9 **CMP?**

10 A. Yes, the dispute resolution process was invoked once, by VCI. The matter was taken to
11 the Oversight Committee, where it was settled by the parties. Eschelon was instrumental
12 in helping the parties come to agreement.

13
14 **Q. WAS ESCHELON RESPONSIBLE FOR CREATING ANOTHER CMP**
15 **MECHANISM THAT ALLOWS CLECS TO MAKE CHANGES TO QWEST'S**
16 **PROCESSES AND PROCEDURES?**

17 A. Yes. Eschelon requested, and Qwest implemented, the "External Documentation
18 Process." This process allows CLECs to request documentation updates without issuing
19 a CMP change request. These requests are limited to Level 1 and Level 2 changes and
20 are communicated via an email announcement. Thus, Mr. Starkey's statement on page
21 38 of his testimony that "there are no CLEC CMP notifications" is not entirely accurate.
22 Since this process was created, CLECs have submitted 103 documentation requests.

1 Qwest has accepted and implemented 70% of these, 75% of which were submitted by
2 Eschelon.

3

4 **Q. HAS ESCHELON TAKEN ADVANTAGE OF THE CMP DISPUTE PROCESS AS**
5 **LAYED OUT IN THE CMP DOCUMENT?**

6 A. No.

7

8 **Q. DOES QWEST MAKE UP THE RULES OF THE CMP AS IT GOES ALONG, AS**
9 **MR. STARKEY CLAIMS ON PAGE 94 OF HIS TESTIMONY?**

10 A. No. The CMP Document governs the process and Qwest adheres to it, which the record
11 amply demonstrates.

12

13 **Q. DOES QWEST HAVE THE ABILITY TO CHANGE THE PROVISIONS IN THE**
14 **CMP DOCUMENT UNILATERALLY?**

15 A. No, changes to the CMP Document can only be made by a unanimous vote of all parties
16 at a CMP meeting, per the rules of the CMP document.

17

18 **Q. HAVE ANY CHANGES BEEN MADE TO THE CMP DOCUMENT SINCE IT**
19 **WAS DRAFTED BY THE INDUSTRY AS A WHOLE?**

20 A. Yes. Through September 2006, parties have submitted 22 change requests seeking
21 changes to the CMP Document. Of these, 16 have been passed by a unanimous vote of
22 the CMP participants.

1 **Q. HOW MANY OF THESE CHANGES WERE REQUESTED BY QWEST?**

2 A. Qwest requested 15 of these changes to the CMP Document. Of these, 13 have been
3 passed by a unanimous vote of the CMP participants. One did not pass, and one is still
4 pending.

5

6 **Q. HAS ESCHELON REQUESTED CHANGES TO THE CMP DOCUMENT?**

7 A. Yes. Eschelon has requested two changes to the CMP Document. Of these, one passed
8 by a unanimous vote of the CMP participants, and the other one did not pass.

9

10 **Q. WHAT DO THESE CMP DOCUMENT CHANGE REQUESTS**
11 **DEMONSTRATE?**

12 A. First, these CMP Document change requests demonstrate that all CMP participants have
13 the ability to request changes to the document governing the operation of the CMP.

14 Second, they demonstrate that no party, including Qwest, has the ability to change the
15 CMP Document without the unanimous consent of all CMP participants.

16

17 **B. *The Relationship between the Parties' ICA and the CMP***

18 **Q. ESCHELON'S WITNESSES CLAIM THAT ESCHELON'S PROPOSED CMP-**
19 **RELATED INTERCONNECTION AGREEMENT LANGUAGE WILL HAVE NO**
20 **IMPACT ON THE CMP. ARE THEY CORRECT?**

21 A. No. Eschelon engages in a misleading fiction: that because interconnection agreement

1 language trumps inconsistent CMP provisions then, by definition, Eschelon's
2 interconnection agreement proposals will have no impact on the CMP. To accept
3 Eschelon's position, one must accept that Qwest can operate one way for Eschelon and
4 another way for all of Qwest's other CLEC customers. This assumes that it is technically
5 and economically feasible for Qwest to build and maintain separate system functionality
6 for Eschelon, and to create and maintain separate processes for Eschelon, all without
7 compensation from Eschelon. This assumption is wrong. The effect of Eschelon's
8 proposed CMP-related ICA language contradicts the primary purposes for which the
9 CMP was created – to establish a single set of systems and processes and a centralized
10 mechanism for managing changes to those systems and processes. If multiple CLECs
11 take the same approach Eschelon proposes here, Qwest and its wholesale customers will
12 be on a slippery slope. In the next arbitration proceeding between Qwest and the next
13 CLEC, which issues historically handled through the CMP will the CLEC seek to freeze
14 in place in its ICA? How many one-off special processes will Qwest be asked to
15 implement in the next arbitration?

16
17 **Q. ESCHELON WITNESS MR. STARKEY CLAIMS ON PAGE 27 OF HIS DIRECT**
18 **TESTIMONY THAT QWEST IS SEEKING TO REVERSE THE HIERARCHY**
19 **BETWEEN INTERCONNECTION AGREEMENTS AND THE CMP PROCESS.**
20 **IS HE CORRECT?**

21 A. No, he is not. Qwest recognizes that where interconnection terms conflict with CMP
22 processes, the interconnection terms prevail. Qwest's position addresses more
23 fundamental questions: (1) Will CLECs receive better, more efficient service if

1 processes are addressed and developed through the CMP rather than in interconnection
2 agreements? (2) Should existing processes be frozen in place for the term of an
3 interconnection agreement, or be allowed to improve consistent with the priorities and
4 input of the industry as a whole?

5
6 For several important reasons, the CMP is a more effective process than having a series
7 of interconnection agreements that seek to freeze particular procedures in place. First,
8 upholding an effective CMP ensures that decisions on processes and procedures are made
9 by members of the industry that have an interest, rather than by one CLEC holding the
10 issue hostage through its ICA or by having commissions make decisions on detailed
11 technical issues that involve a large number of CLECs and competing concerns. Second,
12 Qwest's proposed language and, indeed, its approach generally here with regard to CMP-
13 related ICA sections, helps ensure that CLECs are treated in a nondiscriminatory manner.
14 Third, Qwest's approach ensures that Qwest can train its employees on one set of
15 procedures to provide service to all CLECs and, as a result, provide efficient and high-
16 quality service to all. Qwest's service performance since the time that the CMP has been
17 in place has been outstanding. Finally, Qwest's proposed CMP-related language prevents
18 burdensome administrative efforts and costs, namely negotiating and filing hundreds of
19 interconnection agreement amendments before improvements requested through the CMP
20 can be implemented.

1 **Q. MR. STARKEY ARGUES ON PAGES 27-28 OF HIS DIRECT TESTIMONY**
2 **THAT A PROVISION IN THE CMP DOCUMENT EVIDENCES THAT THE**
3 **CMP WAS NOT INTENDED TO CREATE UNIFORM PROCESSES AND**
4 **SYSTEMS. IS THIS A VALID ARGUMENT?**

5 A. No, Mr. Starkey's argument does not hold up under examination. Mr. Starkey cites the
6 provision in the CMP Document that makes clear that the terms of an ICA prevail in
7 cases of conflict between it and the CMP. He states that this provision is a "built-in
8 recognition" of ICA terms that vary from the CMP. Then he concludes that this
9 "recognition" disproves Qwest's assertion that a primary purpose of the CMP is to create
10 uniform processes and procedures. While Mr. Starkey is technically correct that ICA
11 terms trump CMP processes, he ignores the broader context associated with creation of
12 CMP. The CMP Document itself states in Section 1.0, Introduction and Scope, that:

13

14 CMP provides a means to address changes that support or affect pre-ordering,
15 ordering/provisioning, maintenance/repair and billing capabilities and
16 associated documentation and production support issues for local services . . .
17 provided by . . . CLECs to their end users. The CMP is applicable to Qwest's
18 14-state in-region serving territory.

19

20 Before the development of the CMP, CLECs were complaining loudly about Qwest's
21 service quality. Since creation of CMP, Qwest has greatly improved its service quality.

22 Uniform processes created by the CMP have contributed to Qwest's improved

23 performance.

24

1 **Q. TO SUPPORT ESCHELON’S PROPOSED CMP-RELATED ICA LANGUAGE,**
2 **MR. STARKEY POINTS OUT ON PAGE 45 OF HIS DIRECT TESTIMONY**
3 **THAT “MANY OF THE AGREED UPON ICA PROVISIONS . . . HAVE A**
4 **MODERATE OR MAJOR EFFECT ON ESCHELON’S OPERATING**
5 **PROCEDURES, BUT MANY OF THEM DID NOT GO THROUGH CMP AS**
6 **THEY WERE NEGOTIATED OR OPTED IN TO AND PUBLICLY FILED WITH**
7 **THE COMMISSION.” PLEASE COMMENT.**

8 A. Mr. Starkey neglects to mention that “many of the agreed upon ICA provisions” were
9 changes proposed by Eschelon. Qwest undertook significant efforts over the last four
10 years to negotiate with Eschelon and to reach agreement on disputed ICA language. In
11 the spirit of these negotiations, Qwest compromised when it could and tried hard to avoid
12 including too much process and procedure in the ICA. Mr. Starkey cites Eschelon
13 Exhibit 3.1 as an example of the “many agreed upon provisions.” But this exhibit covers
14 only two paragraphs from Section 8 of the ICA.

15

16 **Q. MR. STARKEY CLAIMS ON PAGE 20 OF HIS DIRECT TESTIMONY THAT**
17 **QWEST HAS NO CONSISTENT TEST THAT EXCLUDES CERTAIN ISSUES**
18 **FROM INCLUSION IN A COMMISSION-APPROVED INTERCONNECTION**
19 **AGREEMENT. PLEASE RESPOND.**

20 A. There is no litmus test or bright line rule that excludes issues from a Commission-
21 approved interconnection agreement. Eschelon takes the position that not having such a
22 test or bright line is a flaw or problem in Qwest’s reasoning on CMP-related issues. But
23 suggesting that such a test or bright line is necessary ignores the reality of both history

1 and of the parties' four years of negotiation. As I said in my direct testimony, older
2 interconnection agreements contain some specific procedural terms. Qwest has worked
3 hard to eliminate those terms from subsequent interconnection agreements to allow the
4 centralization of those processes and procedures. With its proposed CMP-related ICA
5 language, Eschelon would have Qwest turn back the clock to the days when processes
6 were decentralized, and unique and sometimes contradictory terms and procedures
7 increased provisioning errors and harmed service quality.

8
9 *C. The Legal Authority Cited by Eschelon Does Not Support its Position*

10 **Q. IN ANSWER TO THE QUESTION, "HAS THE FCC CONSIDERED THIS**
11 **QWEST PROPOSAL FOR LIMITING THE SCOPE OF INTERCONNECTION**
12 **AGREEMENTS?," MR. STARKEY ANSWERS "YES, THE FCC EXPRESSLY**
13 **REJECTED QWEST'S ARGUMENT."⁵ THEN HE CITES THE**
14 **DECLARATORY RULING. DO YOU AGREE THAT THE FCC HAS MADE**
15 **SUCH A CONSIDERATION AND EXPRESSLY REJECTED IT?**

16 **A.** No. First, Qwest has not proposed a litmus test or bright line rule for what should or
17 should not be included in an ICA. What Qwest has argued is for the Commission to
18 uphold the CMP, which quite simply works effectively, as the record demonstrates and as
19 the industry intended in redesigning the CMP in 2002. Second, the declaratory Ruling,
20 and also the Forfeiture Order cited by Mr. Starkey, do not speak to the issues that Mr.
21 Starkey claims, let alone "expressly reject" Qwest's argument for its proposed CMP-

⁵ Starkey Direct, p. 24.

1 related language in this arbitration proceeding.

2

3 **Q. DID THE FCC ADDRESS THE CHANGE MANAGEMENT PROCESS IN THE**
4 **DECLARATORY RULING OR IN THE FORFEITURE ORDER?**

5 A. No, the FCC did not even mention the CMP in either decision. The Declaratory Ruling
6 concerns something else altogether: the scope of the mandatory filing requirement set
7 forth in section 252 of the Communications Act of 1934, as amended. Furthermore, just
8 eight weeks before the FCC issued the Declaratory Ruling, the FCC Wireline
9 Competition Bureau completed an ICA arbitration in Virginia between AT&T and
10 Verizon, and adopted language in the parties' ICA that provided for certain matters
11 (changes to the process for UNE conversions) to be addressed through the CMP. It is
12 very unlikely that the FCC would have eliminated or hobbled an FCC-approved process
13 like the CMP without addressing the issue expressly just a few weeks after its Wireline
14 Competition Bureau had supported its use in an arbitration proceeding.
15 In the Forfeiture Order, the FCC addressed Qwest's obligation to file interconnection
16 agreements with state commissions. The CMP was not an issue in the case. Nothing in
17 the Forfeiture Order requires that the business procedures managed by the CMP be
18 incorporated into interconnection agreements.

19 **Q. WHAT DO YOU INTEND TO DEMONSTRATE HERE WITH REGARD TO**
20 **THE HANDFUL OF EXAMPLES THAT MR. STARKEY USES TO**
21 **DEMONSTRATE ESCHELON'S PERCEPTION OF THE CMP?**

22 A. Mr. Starkey and other Eschelon witnesses have presented a misleading picture of the

1 examples they use as a basis for their claim that Qwest has been inconsistent in its
2 behavior in the CMP. I will provide some additional details regarding the examples
3 below. In each case, what Eschelon has portrayed as Qwest “changing its mind,” or
4 Qwest acting “inconsistently,” is in fact Qwest’s significant efforts to be responsive to its
5 CLEC customers.

6 ***D. Design Changes***

7 **Q. MR. STARKEY RAISES THE ISSUE OF DESIGN CHANGE CHARGES ON**
8 **PAGE 65 OF HIS DIRECT TESTIMONY AS AN EXAMPLE OF QWEST**
9 **ACTIONS IN THE CMP. IS THIS A VALID EXAMPLE?**

10 A. No. The example that Mr. Starkey discusses was a non-CMP notice related to rates. Mr.
11 Starkey admits this was a non-CMP notice. Mr. Starkey has also admitted that rates are
12 outside of the scope of CMP. Thus, it was proper for Qwest to deal with this issue
13 outside of the CMP. Therefore, it is not valid for Mr. Starkey to try to use a rate issue as
14 an example of Qwest actions in the CMP.

15 ***E. CRUNEC***

16 **Q. HAVE ANY CLECS USED THE UNE CONSTRUCTION (“CRUNEC”)**
17 **PROCESS SINCE IT WAS COMPLETED AND IMPLEMENTED IN 2004?**

18 A. No. To date, seven CLECs have signed CRUNEC amendments, which are effective in
19 five states. No CLEC has placed a CRUNEC order. Mr. Starkey admits that Eschelon
20 does not use the CRUNEC process.

1 **Q. WHY DID QWEST SUBMIT A CHANGE REQUEST IN THE CMP RELATED**
2 **TO THE CRUNEC PROCESS?**

3 A. The description for CRUNEC in the PCAT contained the word “conditioning.” But it
4 was confusing because “conditioning” in the context of CRUNEC does not mean the
5 same task when the term “conditioning” is used in conjunction with loops for the
6 provisioning of data services. Mr. Starkey’s discussion of this issue reflects this
7 confusion. He states that “previously, Qwest had conditioned loops in the normal course
8 of provisioning without additional charge.” But conditioning loops bears no resemblance
9 whatsoever to “conditioning” as it relates to CRUNEC. The two are not the same, and
10 that was the reason that Qwest made the wording change in the PCAT CRUNEC
11 description in the first instance. The edit was simply a clarification.
12

13 **Q. CAN THE NOTICE ISSUED BY QWEST IN 2003 BE ACCURATELY**
14 **CHARACTERIZED AS A “NOTICE AND GO” CMP NOTIFICATION, AS**
15 **ALLEGED BY MR. STARKEY?⁶**

16 A. No. Mr. Starkey admits on page 44 of his direct testimony that “Level 3” changes require
17 initial notification at least 31 calendar days prior to implementation. This time period
18 gives CLECs an opportunity to assess the impact of the proposed change on their
19 operations, and object to the notice if necessary. I have described the various recourses
20 available to CLECs that allow them to stop the process and debate the change with
21 Qwest. There is nothing “notice and go” about a Level 3 change like the one at issue

⁶ Starkey Direct, at p. 54.

1 here.

2

3 **Q. MR. STARKEY CLAIMS ON PAGE 56 OF HIS DIRECT TESTIMONY THAT**
4 **THE CRUNEC NOTICE CAUSED PROBLEMS FOR ESCHELON. WAS THE**
5 **CHANGE TO THE CRUNEC PROCESS RESPONSIBLE FOR AN INCREASE IN**
6 **ESCHELON'S HELD ORDERS?**

7 A. No. Eschelon does not even use the CRUNEC process, which Mr. Starkey admits.
8 Furthermore, at the same time that Qwest issued the CMP notice for its proposed change
9 clarifying the CRUNEC process, Qwest was instructing its technicians to follow proper
10 procedures for the construction of DS1 loops. In error, Qwest's technicians had been
11 constructing DS1 loops outside of process. Mr. Starkey's description of events is not
12 completely accurate.

13

14 **Q. WAS THE INCREASE IN HELD ORDERS THE "DRAMATIC SPIKE"**
15 **DESCRIBED BY MR. STARKEY?**

16 A. No, not really. What Mr. Starkey does not explain is that the spike discussed in the
17 document he referenced was for a specific type of held orders, but was not reflective of
18 held orders over all. In fact, a review of data for all held orders for DS1 loops during the
19 time in question shows a decline in Eschelon's held orders over all. For the months of
20 April through July of 2003, Eschelon's total percentage of held orders was [BEGIN

21 **CONFIDENTIAL]**

[END CONFIDENTIAL]

1 **F. TRRO PCAT**

2
3 **Q. WHY DID QWEST SUBMIT CHANGE REQUEST PC103704-1ES RELATED TO**
4 **IMPLEMENTATION OF THE TRRO?**

5 A. Qwest's intent in submitting this Change Request was to implement PCAT changes
6 associated with products that were impacted by the *USTA II* and *TRRO* Orders.
7

8
9 **Q. IS ESCHELON'S DESCRIPTION OF THE TRRO PCAT AS A "SECRET PCAT"**
10 **VALID?**

11 A. Absolutely not. Nothing was ever "secret", as alleged by Eschelon in the most
12 inflammatory fashion possible. Qwest made the information concerning the changes to
13 the PCAT related to the *TRRO* available to all CLECs, whether or not they needed or
14 wanted the information. Contrary to Eschelon's allegations, this "example" actually
15 illustrates that Qwest does not act arbitrarily in the CMP, and that CLECs have a great
16 deal of impact on what changes are implemented in the CMP, and how they are
17 implemented.
18

19 **Q. WHAT FACTS CAN YOU CITE TO SUPPORT YOUR STATEMENTS?**

20 A. The Change Request at issue, which by its nature provided advance notice of Qwest's
21 proposed changes to the PCAT to all CLECs, was relevant only for those CLECs who
22 had signed *TRRO* amendments to their ICAs, or *TRRO*-compliant ICAs, with Qwest. The

1 parties to these *TRRO*-related agreements needed to have procedures in place for doing
2 business. Qwest created a new PCAT with *TRRO*-related changes in it and posted it to a
3 website separate from the original PCAT. This second, new PCAT could be accessed
4 with a password. Once Qwest received feedback from CLECs to the proposed PCAT
5 changes in its Change Request, Qwest gave the password to all CLECs, whether they had
6 entered into a *TRRO*-related contract or not. This is exactly how the CMP is supposed to
7 work, and this is why the industry as a whole created the time frames and other steps
8 associated with the change request process in the CMP.
9

10 **Q. WHY DID QWEST CREATE A *TRRO*-RELATED PCAT WEBSITE ACCESSED**
11 **BY A PASSWORD IN THE FIRST INSTANCE?**

12 A. Qwest was simply trying to avoid the confusion of having the *TRRO*-related PCAT
13 posted on the same website with the original PCAT. There was no other reason
14 whatsoever. Qwest never intended to “conceal” or otherwise keep “secret” the *TRRO*-
15 related PCAT. Given the many CLEC participants in the CMP and the open lines of
16 communication between CLECs, it is simply ridiculous to contemplate that Qwest would
17 even attempt such a move. Eschelon is simply attempting to make much ado about
18 nothing.
19

1 **Q. MR. STARKEY DESCRIBES THE EVENTS SURROUNDING THE CHANGE**
2 **REQUEST TO IMPLEMENT THE *TRRO* AS EVIDENCE OF QWEST'S**
3 **WAFLING IN THE CMP, OR WORSE, EVIDENCE OF QWEST'S ATTEMPTS**
4 **TO USE THE CMP FOR ITS OWN ENDS. IS THIS A FAIR**
5 **CHARACTERIZATION OF THE EVENTS?**

6 A. No. Eschelon tries to damn Qwest for being responsive to its wholesale customers, and
7 tries to claim that this issue is evidence that the CMP is not working. This issue shows
8 the opposite is true.

9

10 **Q. HAS THE CHANGE REQUEST RELATED TO QWEST'S *TRRO*-RELATED**
11 **PCAT BEEN IMPLEMENTED?**

12 A. Implementation is now in progress. The Change request was deferred in part, pending
13 completion of *TRRO* dockets, including the docket in Arizona. The change request was
14 re-activated at the CMP meeting on November 15, 2006, in order to deal with those
15 products that are not at issue in the *TRRO* dockets.

16

17 **G. *Matters that have Settled***

18 **Q. DID QWEST AGREE TO SETTLE SEVERAL OPEN ISSUES IN THIS CASE IN**
19 **PART AS A RESULT OF THE ALJ ORDER IN MINNESOTA?**

20 A. Yes. In addition, the parties have settled several other issues as this case has proceeded
21 in Minnesota and other states.

1 **Q. HAS QWEST CHANGED ITS POSITION WITH REGARD TO THE IMPACT**
2 **OF ESCHELON'S LANGUAGE ON THE CMP, BECAUSE QWEST SETTLED**
3 **SEVERAL ISSUES WHICH QWEST HAS CATAGORIZED AS CMP-**
4 **IMPACTING?**

5 A. No, not at all. Qwest weighed its options very carefully in deciding to settle certain
6 issues in this case. While Qwest has not changed it position on the remaining issues,
7 Qwest determined that it was in the company's best interests to settle some issues.

8

9 **Q. WHAT IS THE IMPACT TO THE CMP OF THE ESCHELON CONTRACT**
10 **PROVISIONS THAT QWEST HAS AGREED TO IN ORDER TO SETTLE**
11 **SOME ISSUES IN THIS CASE?**

12 A. The impact is that for the agreed-upon provisions, it will be necessary for Qwest to seek
13 an amendment to Eschelon's ICA should a change request be submitted to the CMP that
14 would be contrary to the terms now contained in Eschelon's contract for such things as
15 Pending Service Order Notices, Fatal Rejection Notices, Loss and Completion Reports.
16 The result would be that Qwest would not be likely to accept change requests on these
17 items. Thus, Eschelon has succeeded in preventing the CMP from working as it was
18 intended with regard to the items that are now in Eschelon's contract.

19

1 provisions in the CMP Document, including the right of an objecting party to file a
2 complaint with a state commission at any time. Again, the CMP was developed by the
3 industry – Qwest and the CLECs – and provides the kinds of layers of recourse and
4 protections for CLECs that one would expect them to have advocated and insisted upon
5 as part of the process. CLECs can involve the Commission at anytime in a CMP dispute.
6

7 **Q. ESCHELON CITES WASHINGTON AND MINNESOTA CASES TO SUPPORT**
8 **ESCHELON’S ARGUMENT FOR ITS PROPOSED LANGUAGE IN THE ICA.**
9 **IS MR. STARKEY’S CITATION TO THESE CASES PERSUASIVE?**

10 A. No, because since the Section 271 proceedings, Qwest has proposed shortening service
11 intervals 39 times and proposed lengthening them only twice in that same time frame.
12 Over all that time, and over all 41 service interval changes, there were only two that
13 might have raised CLEC objections, and might have caused CLECs to involve the
14 Commission by following the procedures agreed upon in the CMP. What Mr. Starkey
15 fails to mention is that one of Qwest’s proposed increases was withdrawn in part because
16 of CLEC concerns.⁷ And the one increase that was implemented received no comment or
17 objection from any CLEC.⁸ Pursuant to the CMP, CLECs have ample opportunity to
18 oppose service interval changes and to bring a dispute to the Commission, if necessary.
19

⁷ Exhibit 1R.6, CR PC081903-1. I erred when I stated on page 28 of my direct testimony that Qwest has only decreased intervals. Subsequent research found this one unopposed change request that increased an interval.

⁸ Exhibit 1R.7, CR PC020205-1.

1 **Q. MR. STARKEY ASSERTS ON PAGE 119 OF HIS DIRECT TESTIMONY THAT**
2 **ESCHELON IS CREATING AN “EFFICIENT PROCESS” AND**
3 **“STREAMLINED PROCEDURES” WITH ITS PROPOSED SERVICE**
4 **INTERVAL LANGUAGE. IS THIS AN ACCURATE DESCRIPTION?**

5 A. No. Eschelon hopes to persuade the Commission to adopt its proposed language by using
6 attractive buzzwords like “efficient” and “streamlined.” But in addition to requiring the
7 parties to execute time and resource-consuming amendments, Eschelon wants to require
8 Qwest to use specific forms, attached as Exhibits N and O to the ICA, to implement
9 service interval changes. This is an administrative burden for Qwest that could result in
10 one special process for Eschelon (and opt-ins) and another process for other CLECs.
11 Before the development of the CMP as part of the section 271 proceedings, CLECs
12 complained about Qwest’s inconsistent service quality. Qwest cannot be expected to
13 train its employees and provide good, nondiscriminatory service to its wholesale
14 customers if it has to cope with keeping track of, and complying with, multiple diverse
15 requirements. Eschelon presents these types of proposed procedures as if each one is
16 small, or as if each one should hardly be a burden on Qwest. But the fact is that each one
17 does cause Qwest to incur costs and to have to jump over new hurdles -- many of which
18 Qwest and the industry in general thought they had resolved with the implementation of
19 the CMP.

20

1 **Q. WHAT IS ESCHELON'S GOAL WITH REGARD TO ICB INTERVALS?⁹**

2 A. Mr. Starkey's testimony makes clear that Eschelon is trying to freeze current processes in
3 place, unless it can use the CMP to obtain more favorable treatment. Freezing specific
4 provisions into the ICA concerning ICB intervals ignores the larger reality:
5 telecommunications is a dynamic industry in which technological advancements are
6 made virtually on a daily basis. These processes and procedures have been effectively
7 addressed through the CMP. There is no need to change that approach as a part of this
8 proceeding.

9

10 **V. ISSUE 9-37: NON-IMPAIRED WIRE CENTER LIST**

11

12 **Q. DOES QWEST BELIEVE THE PARTIES HAVE COME TO AGREEMENT ON**
13 **THIS ISSUE?**

14 A. Yes. The parties have filed a proposed settlement agreement with this Commission.¹⁰ If
15 the Commission approves this settlement, then the terms of the settlement resolve all wire
16 center issues in this arbitration.

17

⁹ As I noted Qwest's language in my direct testimony at page 31, ICB Intervals are typically negotiated for special projects, such as installations of 25 or more loops.

¹⁰ See *In the Matter of the Investigation Into Qwest Wire Center Data*, Docket No. 06-049-40, Notice of Joint Filing and Amended Request for Order Approving Settlement, Filed June 27, 2007.

1 **VI. ISSUE 9-37(A): ADDING NON-IMPAIRED WIRE CENTERS**

2 **A. *Ordering UNES in Non-Impaired Wire Centers***

3
4 **Q. DOES QWEST BELIEVE THE PARTIES HAVE COME TO AGREEMENT ON**
5 **THIS ISSUE?**

6 A. Yes. As noted above, the parties have filed a proposed settlement agreement with this
7 Commission. If the Commission approves this settlement, then the terms of the
8 settlement resolve all wire center issues in this arbitration.

9
10 **B. *Methodology for Determining Non-Impairment***

11 **Q. DOES QWEST BELIEVE THE PARTIES HAVE COME TO AGREEMENT ON**
12 **THIS ISSUE?**

13 A. Yes. As noted above, the parties have filed a proposed settlement agreement with this
14 Commission. If the Commission approves this settlement, then the terms of the
15 settlement resolve all wire center issues in this arbitration.

16
17 **VII. ISSUE 9-38: PROCESSING HIGH-CAPACITY LOOP**
18 **AND TRANSPORT REQUESTS**

19
20 **Q. DOES QWEST BELIEVE THE PARTIES HAVE COME TO AGREEMENT ON**
21 **THIS ISSUE?**

22 A. Yes. As noted above, the parties have filed a proposed settlement agreement with this

1 Commission. If the Commission approves this settlement, then the terms of the
2 settlement resolve all wire center issues in this arbitration.

3
4 **VIII. ISSUE 12-64: ACKNOWLEDGEMENT OF MISTAKES**

5
6 **Q. MR. STARKEY ARGUES ON PAGE 73 OF HIS DIRECT TESTIMONY THAT**
7 **BY PROPOSING TO INCLUDE ACKNOWLEDGMENT OF MISTAKES**
8 **LANGUAGE IN THE MINNESOTA ICA AND NOT IN THE UTAH ICA, QWEST**
9 **CONTRADICTS ITS OWN ADVOCACY BY SUPPORTING A UNIQUE**
10 **PROCEDURE FOR MINNESOTA. DO YOU AGREE?**

11 A. No. Qwest undertook to make a number of procedural changes in response to the
12 Minnesota proceeding. Those changes address root cause analysis and acknowledgement
13 of mistakes and are documented in our processes and procedures. Qwest does not believe
14 that it is necessary to include language in any contract since these issues have been
15 addressed by Qwest in its processes and procedures. Qwest determined that language
16 would be necessary in Minnesota given the order that was issued there, so Qwest
17 endeavored to craft language that was consistent with the result of the Minnesota case.
18 Eschelon's proposed language expands Qwest's obligation well beyond what was ordered
19 in Minnesota.

20
21 **Q. DOES ESCHELON'S PROPOSED LANGUAGE CREATE AMBIGUITY?**

22 A. Yes. Eschelon's first sentence in section 12.1.4.2.1, "[t]he letter will include a recap of
23 *sufficient* pertinent information to identify the issue," adds vague, unclear requirements to

1 Qwest's obligation. This language could allow Eschelon to claim that information
2 provided by Qwest is not sufficient, thereby giving a straight-forward process the
3 potential for dispute that would require Commission resolution.
4

5 **Q. WHAT IS QWEST'S CONCERN ABOUT ESCHELON PROPOSAL FOR**
6 **PARAGRAPH 12.1.4.2.5?**

7 A. Qwest is concerned that the phrase "will be provided on a non-confidential basis," could
8 give Eschelon the right to claim that Qwest must provide all data associated with a root
9 cause analysis in its letter to the end-user customer. This language could force Qwest to
10 publicly reveal sensitive and protected information such as CPNI.
11

12 **Q. MR. STARKEY ARGUES ON PAGE 72 OF HIS TESTIMONY THAT QWEST**
13 **SHOULD HAVE SUBMITTED THE ACKNOWLEDGMENT OF MISTAKES**
14 **ISSUE IN THE MINNESOTA DOCKET TO THE CMP. DO YOU AGREE?**

15 A. No. The result of the docket, which was the Minnesota Commission order that I referred
16 to above, did not rise to the level of a regulatory change request as Mr. Starkey claims.
17 Eschelon is the only CLEC to request this process, and Eschelon has not availed itself of
18 the opportunity to request a letter since completion of that case.
19

20 **Q. DO CLECS ALREADY HAVE A MECHANISM FOR REQUESTING ROOT**
21 **CAUSE ANALYSIS FROM QWEST?**

22 A. Yes. Qwest's service managers will provide root cause analysis to a CLEC upon request,

1 as documented in the Account Manager PCAT.¹¹

2
3 Handling maintenance and repair post mortems (root cause analysis) when you
4 submit a specific request for a post mortem on an unusual repair event, e.g.,
5 event over eight hours. Your Qwest Service Manager will review the logged
6 notes regarding the event and discuss the circumstances surrounding the event
7 with the Qwest Repair Center to determine the cause, the process used to
8 repair/restore service, and the process(es) implemented to prevent a
9 reoccurrence of the event. Working with Qwest's Repair Center/Network
10 Reliability Operations Center, as appropriate, your Qwest Service Manager will
11 conduct the Root Cause Analysis (RCA) and provide you the complete analysis
12 in writing. Investigation and preparation of a typical postmortem takes from 2-
13 10 business days depending on the complexity of the event.

14
15 **Q. HAS QWEST TAKEN STEPS TO REDUCE ERRORS IN WHOLESALE**
16 **ORDERS?**

17 A. Yes. In response to Eschelon's Minnesota complaint in 2003, Qwest undertook
18 significant efforts to ensure that it handles wholesale orders correctly and in a way that
19 allows CLECs to compete meaningfully. These efforts are listed in Qwest's February
20 2004 Compliance Filing to the Minnesota Commission, and include such investments as:
21 system upgrades so retail sales representatives could not access or modify wholesale
22 orders; adoption of PID-20 to evaluate how accurately Qwest processes LSRs;
23 development of a quality assurance plan; and implementation of a customized training
24 program, among other improvements.

25

¹¹ See Exhibit 1R.6 filed with my direct testimony.

1 **Q. MR. STARKEY USES AN EXAMPLE OF A REPAIR SITUATION ON PAGE 74**
2 **OF HIS TESTIMONY AS EVIDENCE THAT THE RESULTS OF THE**
3 **SETTLEMENT OF THE MINNESOTA DOCKET NEED TO BE EXPANDED**
4 **BEYOND WHOLESALE ORDERS. DOES QWEST ALREADY HAVE A**
5 **PROCESS IN PLACE FOR ROOT CAUSE ANALYSIS FOR REPAIRS?**

6 A. Yes. Qwest has a process for root cause analysis of repair problems. This process is
7 documented in the Maintenance and Repair PCAT under “Chronic Service Problems.”¹²
8

9 **Chronic Service Problems (Design and Non-Design)**

10 Services having repeated, unresolved service issues may be designated a
11 chronic service problem if the following conditions occur:

- 12 • The circuit has had at least three trouble reports in a rolling 30 days
- 13 • The circuit has similar, repeated test results on two or more trouble
- 14 reports
- 15 • Trouble on the circuit often clears during testing

16
17 Qwest’s Maintenance and Repair Technicians focus on resolving chronic
18 service problems by:

- 19 • Analyzing chronic reports for trends
- 20 • Determining root causes
- 21 • Taking ownership of the trouble report until service is restored
- 22 • Assisting or calling upon internal and/or external experts

23
24 If you feel a circuit has a chronic service problem and requires special attention,
25 note the situation on the trouble report you submit or bring it to the attention of
26 the RSA who creates your report. Once our Maintenance and Repair
27 Technician completes the repair, clearing the chronic trouble, Qwest will
28 maintain the chronic trouble ticket in “Pending Close” status until you accept
29 the trouble as resolved.

30

¹² See Exhibit 1R.8, Maintenance and Repair PCAT.

1 **Q. WHY DOES QWEST OBJECT TO LANGUAGE THAT PERMITS REQUESTS**
2 **FOR ROOT CAUSE ANALYSES WHEN QWEST PROVIDES SUCH ANALYSES**
3 **AS A MATTER OF ROUTINE ANYWAY?**

4 A. Qwest objects to Eschelon's proposed language because it gives Eschelon unfettered
5 leeway to demand a root cause analysis, even when it is readily apparent that a problem
6 has not been caused by Qwest. Eschelon can use such a request as a tactic to delay
7 responding to one of its end-user customer's complaints and to cast blame on Qwest for a
8 problem, even when Qwest is not at fault. Under Qwest's current practice, CLECs can
9 and do ask for root cause analyses for repair. Qwest account service managers also
10 routinely grant root cause analysis requests for Eschelon. But current practice gives
11 Qwest some discretion -- and some protection -- as to when it is proper for the company
12 to undertake a root cause analysis.

13

14 **Q. WHAT DO THE EXAMPLES OF ROOT CAUSE ANALYSES CONTAINED IN**
15 **MS. JOHNSON'S ESCHELON EXHIBIT 3.44 AND CITED BY MR. STARKEY**
16 **IN HIS TESTIMONY DEMONSTRATE?**

17 A. These examples demonstrate that Qwest has an effective root cause analysis request
18 process in place already for repair, and that Eschelon has made use of this process.

19

1 the ICA. But Section 12 concerns Access to OSS and is not intended to address product-
2 specific operational procedures.

3
4 **Q. IN HIS TESTIMONY EXPLAINING QWEST'S EXPEDITE PROCESS, MR.**
5 **DENNEY ATTEMPTS TO DISMISS THE DISTINCTION THAT QWEST**
6 **DRAWS BETWEEN DESIGNED AND NON-DESIGNED SERVICES. IS THIS A**
7 **LEGITIMATE DISTINCTION?**

8 A. No. Saying that there is no meaningful distinction between designed and non-designed
9 services with regard to expedites is like saying there is no meaningful difference between
10 Plain Old Telephone Service and Digital Subscriber Line service. Mr. Denney's
11 argument does not withstand scrutiny. As I explained in my direct testimony, Qwest
12 provides expedites as set forth in the PCAT via one of two options. The first option
13 applies to expedites for designed services (like an unbundled loop) and charges apply.
14 The second option provides expedites for non-designed service (POTS) and charges do
15 not apply. It is critical to note, first, for non-designed services (POTS services), CLECs
16 and Qwest's retail customers alike both can obtain an expedited due date under certain
17 defined circumstances at no charge. Second, for designed services, CLECs and Qwest's
18 retail customers alike both can obtain expedites for any reason so long as they pay a
19 \$200-per day charge.

20
21 **Q. WHY ARE DESIGNED AND NON-DESIGNED SERVICES CONSIDERED TO**
22 **BE TWO DIFFERENT CATEGORIES OF SERVICE?**

23 A. Designed and non-designed services are substantially different in the amount and nature

1 of work required. Qwest's processes for ordering and provisioning non-designed services
2 differ substantially from its processes for ordering and provisioning designed services. A
3 designed service is identified by a "circuit ID" and is provisioned out of multiple
4 systems. An expedite for a designed service necessarily impacts those multiple systems.
5 Examples of wholesale designed services are unbundled loops (DS0, DS1, DS3, etc.).
6 Examples of retail designed services are private lines (DS1, DS3, etc.). Non-designed
7 services on the wholesale side are QPP and resale POTS, and on the retail side are retail
8 POTS.

9
10 **Q. IS THERE ANY LEGAL SUPPORT FOR THE DISTINCTION THAT QWEST**
11 **DRAWS BETWEEN DESIGNED AND NON-DESIGNED SERVICES?**

12 A. Yes. The FCC has expressly acknowledged that the ordering and provisioning of
13 network elements has no retail analogue.¹³ Also, the performance standards developed in
14 the section 271 proceedings show how the industry differentiates between the two types
15 of services.

16
17 **Q. WHAT PERFORMANCE STANDARDS ARE YOU REFERRING TO?**

18 A. For example, OP-3 measures the percentage of orders that Qwest must complete on time,
19 labeled "Commitments Met. For resale and UNE-P, which is now generally known as
20 QPP, Qwest must provide parity with Qwest's retail POTS lines. The same is true for

¹³ *In re 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*, 15 FCC Rcd 3953, FCC 99-404 (Rel. Dec. 22, 1999).

1 OP-4, the standard installation interval. The performance standards developed for
2 unbundled loops are very different from these, however. For unbundled loops -- DS0
3 loops -- there is a “benchmark” standard, rather than a requirement for Qwest to provide
4 “parity” with retail services because there is no retail analogue for the provisioning of
5 unbundled DS0 loops.

6
7 **Q. MR. DENNEY CITES TWO DIFFERENT SECTIONS OF QWEST’S UTAH**
8 **PRIVATE LINE TRANSPORT SERVICES TARIFF TO SUPPORT HIS**
9 **ASSERTION THAT “ESCHELON PROPOSES LANGUAGE MODIFICATIONS**
10 **TO MAKE CLEAR THAT ESCHELON HAS THE SAME RIGHT TO CHARGE**
11 **FOR CERTAIN RATES AND SERVICES UNDER THE TERMS OF THE ICA AS**
12 **QWEST DOES.”¹⁴ ARE BOTH OF THE SECTIONS OF THE CATALOG CITED**
13 **BY MR. DENNEY RELEVANT?**

14 A. No. In Eschelon Exhibit 2.21, Mr. Denney refers to Section 3.2.2 from the Private Line
15 Transport Service Price List in Utah. Section 3.2.2 concerns *repairs* and addresses the
16 “Reestablishment of Service Following Fire, Flood or Other Occurrence.” This section
17 has nothing to do with expedited orders, meaning the provisioning of a circuit or such
18 circumstances as grand opening events or disconnects in error. It addresses repairing or
19 restoring service. Indeed, the word “expedite” appears nowhere in Section 3.2 nor does it
20 appear in Section 2.4 of the Access Service Tariff. All of these sections deal with the
21 restoral of service. Instead, Section 4 of the Private Line Transport Services Price list
22 cited by Mr. Denney provides as follows:

¹⁴ See Denney Direct at p. 242.

1 4.1.4 Expedite

2 If a customer desires that service should be provided on an earlier date than that
3 which has been established for the order, the customer may request that service be
4 provided on an expedited basis. If the Company agrees to provide the service on
5 expedited basis, an **Expedited Charge will apply**. The customer will be notified
6 the Expedite Charge prior to the order being issued. (emphasis added)

7
8 **Q. MR. DENNEY ALSO CITES THE UTAH ADVANCED COMMUNICATIONS**
9 **SERVICES PRICE LIST. ARE ALL OF THE SECTIONS OF THE PRICE LIST**
10 **CITED BY MR. STARKEY RELEVANT?**

11 A. No. In Eschelon Exhibit 2.21, Mr. Denney attaches pages from Section 3.5 from the
12 catalog. As is the case described above regarding Qwest private line transport services
13 price list, Section 3.5 concerns *repairs* and addresses the “Reestablishment of Service
14 Following Fire, Flood or Other Occurrence.” This section again has nothing to do with
15 expedited orders. It merely addresses repairing or restoring service. Indeed, the word
16 “expedite” appears nowhere in Section 3.5.

17
18 **Q. WHAT DOES THE ADVANCED COMMUNICATIONS SERVICES PRICE LIST**
19 **PROVIDE?**

20 A. The price list makes very clear that charges apply to expedites. Section 3.1.1, which
21 concerns “Service Date Change,” states:

22 If a customer desires that service be provided on an earlier date than that which
23 has been established for the order, the customer may request that service be
24 provided on an expedited basis. If the Company agrees to provide the service on
25 an expedited basis, an **Expedite Charge will apply** as set forth in the Competitive
26 Private Line Transport Services Price Cap Tariff. The customer will be notified
27 of the Expedite Charge prior to the order being issued. (emphasis added).

1 **Q. DOES THIS PRICE LIST PROVISION INDICATE ANYTHING ELSE ABOUT**
2 **EXPEDITES?**

3 A. Yes. The catalog recognizes the facts that underlie the basis for defining expedites as a
4 superior service.
5

6 **Q. HOW DOES THE PRICE LIST DO SO?**

7 A. The price list does so by noting the difference between provisioning a service according
8 to a standard interval, and expediting a service to provide it sooner. The FCC and state
9 commissions have recognized that Qwest gives CLECs a “meaningful opportunity to
10 compete” by provisioning services according to approved standard service intervals,
11 which are monitored through performance measures.¹⁵ Providing a service in a shorter
12 time frame than that set forth in a standard interval is a premium service. Qwest witness
13 Teresa Million explains the nature of the expedited service in greater detail in her rebuttal
14 testimony. This tariff language also reflects that fact that this is a service utilized for
15 special circumstances, and not as a matter of routine unless a CLEC is willing to incur the
16 charges. If every CLEC requested an expedite for every order, then Qwest could not
17 grant all such requests or provide consistent and nondiscriminatory service, not to
18 mention the fact that service intervals would be rendered meaningless.
19

¹⁵ See e.g., *In re 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*, 15 FCC Rcd 3953 ¶ 8 (Rel. Dec. 22, 1999); *In re Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, 15 FCC Rcd 18354, 18361-18362 ¶ 13, n.33 (FCC Rel. June 30, 2000); *In re Application by Verizon New England Inc. et al., for Authorization to Provide In-Region, InterLATA Services In Maine*, 17 FCC Rcd 11659 ¶ 7 (FCC Rel. June 19, 2002); *Re U. S. WEST Communications, Inc.*, 2002 WL 1378630, ¶ 7 (Ariz. Corp. Comm. May 21, 2002).

1 **Q. WHY IS THE QUESTION WHETHER EXPEDITES ARE A SUPERIOR**
2 **SERVICE RELEVANT?**

3 A. Eschelon argues that Qwest discriminates in provisioning expedites, even though Qwest
4 offers the service in the same way to both its retail and wholesale customers. To win this
5 argument, Eschelon must persuade the Commission that: (1) there is no legitimate
6 distinction between non-designed (POTS) and designed (unbundled loop) services; and
7 (2) an expedite is a UNE, and not a premium service. The latter point is the basis for
8 Eschelon's assertion that expedites must be cost-based. But expedites are not UNEs;
9 they are a superior service and subject to a TSLRIC standard, as explained by Ms.
10 Million in her rebuttal testimony.

11

12 **Q. WHAT IS ESCHELON REALLY SEEKING IN THIS ARBITRATION WITH**
13 **REGARD TO EXPEDITES?**

14 A. Eschelon is seeking special treatment, thus giving it a competitive advantage over all
15 other CLECs. Today, CLECs have entered into agreements with Qwest to pay \$200 per
16 day for expedites under any circumstances for design services. Eschelon, however,
17 would have this Commission approve a preferential flat rate for Eschelon of \$100 per
18 expedited order. If the Commission were to approve Eschelon's proposed expedites
19 language and its suggested rate, Eschelon would be able to provide service to end-user
20 customers on an expedited basis more cheaply than any other carrier, including Qwest.

21

1 **Q. ISN'T IT TRUE THAT THE SERVICE THAT QWEST OFFERS TO ESCHELON**
2 **AND OTHER CLECS TODAY IS SUPERIOR TO WHAT IT PROVIDES TO ITS**
3 **OWN RETAIL END-USER CUSTOMERS?**

4 A. Yes. Eschelon can obtain orders for high-capacity loops expedited by Qwest at rates,
5 terms and conditions that are superior to what Qwest provides to itself. Qwest's standard
6 provisioning interval for DS1 and DS3 private lines is nine days. CLECs, including
7 Eschelon, can obtain a DS1-capable loop in five days, and a DS3 capable loop in seven
8 days. Thus, if a customer orders a DS1-capable loop from Eschelon and wants the line
9 delivered in one day, the order will have to be expedited five days, and it would cost the
10 customer \$1,000 (\$200 per day times five days). In contrast, if the same customer
11 approaches Qwest and orders a DS1 private line (the retail analogue) and wants the line
12 delivered in one day, the order must be expedited nine days and the cost to the customer
13 is \$1800 (\$200 per day times nine days). Eschelon receives superior service under these
14 circumstances in other states.

15

16 **Q. ARE THERE ANY OTHER WAYS IN WHICH ESCHELON SEEKS TO**
17 **EXPAND QWEST'S CURRENT EXPEDITES SERVICE AND TO OBTAIN**
18 **SPECIAL, PREFERENTIAL TREATMENT FOR ITSELF?**

19 A. Yes. Eschelon's proposed expedites language contains the list of emergency conditions
20 for which Qwest offers expedites for non-designed and designed services (only in
21 Washington through the process set forth in the PCAT. Calling it a "minor difference,"
22 Eschelon has added subsection (f) to the list: "Disconnect in error when one of the other

1 conditions on this list is present or is caused by the disconnect in error.”¹⁶ This proposed
2 language, which would provide free expedites for Eschelon under circumstances under
3 which no other CLEC is eligible, means that if Eschelon were to make a mistake and
4 disconnect one of its own customers, Qwest would be obligated to pay for that mistake by
5 providing Eschelon with a free expedite. Obviously, this is not fair, and does not
6 constitute a “minor” change to the list of defined emergency circumstances.
7

8 **Q. BUT MR. DENNEY HAS CLAIMED THAT “ESCHELON’S PROPOSAL THAT**
9 **WOULD PROVIDE FOR EXPEDITED SERVICE ON AN EMERGENCY BASIS**
10 **WHEN A CUSTOMER’S SERVICE IS DISCONNECTED IN ERROR IS**
11 **CONSISTENT WITH QWEST’S PAST PRACTICE?”¹⁷ IS THAT NOT TRUE?**

12 **A.** No, that is not true. When Qwest causes a disconnect in error, it provides an expedite
13 free of charge. That seems only fair. But, if a CLEC were to cause a disconnect in error
14 and one of its own end-user customers were to lose service, it would not be the result of
15 any fault on Qwest’s part, and it should not be Qwest who should bear the costs of
16 providing expedited service.
17

¹⁶ Denney Direct, at p. 167.

¹⁷ Denney Direct, at p. 173.

1 **Q. MR. DENNEY STATES ON PAGE 192 OF HIS DIRECT TESTIMONY THAT**
2 **QWEST OFFERS A SERVICE TO ITS RETAIL RESIDENTIAL CUSTOMERS**
3 **CALLED “EXPRESS SERVICE” IN SOME STATES THAT QWEST DOES NOT**
4 **OFFER TO CLECS. IS THIS ACCURATE?**

5 A. No. The “express service” that Mr. Denney describes is equivalent to the service
6 intervals that CLECs already receive for resale residential and QPP services under the
7 same circumstances. But CLECs are not charged the \$22 fee that Mr. Denney cites.
8 Thus, because the intervals for these products are already so short, there is no need for
9 expedited due dates.

10

11 **Q. IS IT TRUE, AS DESCRIBED BY MR. DENNEY, THAT QWEST PROVIDED**
12 **ESCHELON WITH EXPEDITES AT NO CHARGE, AND THEN SUDDENLY**
13 **CHANGED ITS MIND AND UNILATERALLY STARTED CHARGING**
14 **ESCHELON AND OTHER CLECS FOR THE SERVICE?**

15 A. No. Qwest previously provided expedites for designed services at no charge for CLECs
16 under certain defined circumstances, like fire and flood emergencies, until it became
17 apparent that CLECs were gaming the system and submitting spurious emergency
18 expedite requests. Qwest’s program became unworkable because of the large number of
19 illegitimate CLEC expedite requests. As a result, Qwest modified its expedite service
20 through the CMP. As detailed in my direct testimony, Qwest provided ample advance
21 notice of the changes to the expedite service. No CLECs requested postponement of
22 Qwest’s proposed changes to the expedites process, or sought dispute resolution pursuant
23 to the CMP Document, or filed a complaint against Qwest as a result of the changes

1 implemented through the CMP. As stated, expedites are a superior service, and a
2 majority of CLECs have been willing to enter into an ICA amendment and pay \$200 per
3 day for the service.
4

5 **Q. WHAT DID THE ADMINISTRATIVE LAW JUDGES IN THE MINNESOTA**
6 **ARBITRATION CONCLUDE REGARDING EXPEDITES?**

7 A. The Minnesota ALJs determined, first, that Qwest's expedite process is not
8 discriminatory.¹⁸ Second, the ALJs recommended adoption of Qwest's proposed ICA
9 language for expedites.¹⁹ Only on the rate issue did the Minnesota ALJs recommend a
10 ruling in favor of Eschelon.²⁰ Qwest has filed an exception to the latter recommendation
11 because it is contrary to law. The Commission adopted the ALJs recommendations, but it
12 appears that Eschelon and Qwest have differing interpretations regarding the
13 Commission's order on expedites. It is likely that the parties will again go before the
14 Minnesota Commission to settle this issue.
15

¹⁸ See *In the Matter of the Petition of Eschelon Telecom, Inc., for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252 (b) of the Federal Telecommunications Act of 1996*, Docket OAH 3-2500-17369-2, MPUC No. P-5340,421/IC-06-768, Qwest Corporation's Exceptions to the Arbitrators' Report (January 26, 2007 ("MN Arbitrators' Report"), at ¶ 220. Eschelon disputes the meaning of the Arbitrator's Report and believes that the Arbitrator actually recommended Eschelon's language with narrow exceptions. This issue will be litigated in Minnesota.

¹⁹ *MN Arbitrators' Report*, at ¶ 220.

²⁰ *MN Arbitrators' Report*, at ¶ 221.

1 **Q. HAS THE ARIZONA STAFF ISSUED ANY RECOMMENDATIONS IN THE**
2 **PENDING ESCHELON/QWEST COMPLAINT CASE, DOCKET NO. T-03406A-**
3 **0257 AND T-01051B-06-0257, CONCERNING EXPEDITES?**

4 A. Yes. Arizona Staff witness Pamela Genung has filed testimony in the above-referenced
5 docket concluding, like the ALJs presiding over the Minnesota arbitration, that Qwest's
6 expedite process is not discriminatory.²¹ She also recognized in her testimony that the
7 general repair provisions in the parties' ICA are "irrelevant" to the issue of expedited
8 orders.²²
9

10 **Q. WHAT ELSE DID THE ARIZONA STAFF WITNESS CONCLUDE?**

11 A. In her testimony, Ms. Genung opined that Qwest's expedites process violates the parties'
12 current ICA.²³ This issue is irrelevant to this arbitration, however., Nevertheless, Qwest
13 notes for the record that it believes that Ms. Genung did not interpret the parties' current
14 ICA correctly, or take into consideration all of the language concerning expedites in the
15 current ICA.
16

17 **Q. WHAT PROVISIONS OF THE PARTIES' ICA DID MS. GENUNG RELY UPON**
18 **IN HER TESTIMONY?**

19 A. Ms. Genung based her analysis on the language in the ICA in Section 3.2.2.12, that

²¹ See *In The Matter of the Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation, Direct Testimony of Pamela Genung*, January 30, 2007, at p. 32 ("AZ Genung Direct").

²² *AZ Genung Direct*, at p. 28.

²³ *AZ Genung Direct*, at p. 34.

1 stated: "U S WEST shall provide CO-PROVIDER the capability to expedite a service
2 order."

3
4 **Q. HAS QWEST ALWAYS PROVIDED ESCHELON WITH THE CAPABILITY TO**
5 **EXPEDITE ORDERS SINCE THE TIME THE PARTIES ENTERED INTO**
6 **THEIR CURRENT ICA?**

7 A. Yes. Qwest is, and has been, in full compliance with the parties' contract.

8
9 **Q. IN THIS ARBITRATION, WHAT IS THE ADVANTAGE OF QWEST'S**
10 **PROPOSAL FOR CONTRACT LANGUAGE DEALING WITH EXPEDITES**
11 **OVER THE LANGUAGE THAT EXISTS IN THE PARTIES' CURRENT ICA?**

12 A. Under the current ICA, Qwest has complete discretion to decide whether or not to grant
13 expedites. Under Qwest's contract language proposal, the circumstances under which
14 expedites are granted for non-designed services are clearly delineated, and expedites are
15 always granted for designed services at a cost of \$200 per day. This language is
16 consistent with the expedite process designed in the CMP, and it is consistent with the
17 process available to all Qwest customers.

18
19 **Q. WHAT IS ESCHELON SEEKING VIA ITS CONTRACT LANGUAGE FOR**
20 **EXPEDITED ORDERS?**

21 A. Eschelon is seeking to change Qwest's processes for expediting orders while bypassing
22 the change management process, which is the industry forum intended for such process

1 and procedure changes. Eschelon is also seeking preferential treatment for its expedited
2 orders, receiving expedites in all circumstances, not just when resources are available to
3 expedite orders. No other customer has this access to expedites. In effect, Eschelon is
4 seeking to receive expedites at the expense of all other Qwest customers, CLEC and retail
5 customers alike.

6
7 **Q. WHICH LANGUAGE SHOULD THIS COMMISSION ADOPT FOR ISSUE 12-67**
8 **AND ITS SUBPARTS?**

9 A. This Commission should adopt Qwest's language for expedited orders. Qwest's
10 language is consistent with Qwest's current practices for all of its customers, and
11 Eschelon is not entitled to special, preferential treatment that gives it a competitive
12 advantage.

13
14 **X. ISSUES 12-71, 12-72 AND 12-73: JEOPARDY NOTICES**
15

16 **Q. IN OTHER STATES MS. JOHNSON HAS CLAIMED THAT ESCHELON'S**
17 **PROPOSED LANGUAGE REFLECTS QWEST'S CURRENT PRACTICE,**
18 **WHICH WAS DEVELOPED IN THE CMP. IS ESCHELON'S PROPOSAL**
19 **CONSISTENT WITH QWEST'S CURRENT PRACTICES?**

20 A. No, it is not. Eschelon has added a phrase to its proposal – “at least the day before” –
21 which alters the timing of notices for the resolution of jeopardy situations. Advance
22 notice at least a day before is not Qwest's current practice.

1 **Q. ESCHELON CLAIMS THAT QWEST COMMITTED TO DELIVERING A NEW**
2 **DUE DATE RESOLVING AN ORDER IN JEOPARDY AT LEAST ONE DAY IN**
3 **ADVANCE OF THE NEW DUE DATE.²⁴ DID QWEST MAKE SUCH A**
4 **COMMITMENT?**

5 A. No, and the CMP record proves it. The evidence presented by Eschelon regarding the
6 applicable CMP Change Requests shows that Qwest never made such a commitment. I
7 have attached the actual Change Requests, which include the minutes from the Project
8 Meetings.²⁵ As I will cite below, a review of the meeting minutes associated with these
9 Change Requests shows that there was never an explicit request by Eschelon or an
10 agreement by Qwest to provide “at least a day” or 24-hours notice in advance of a new
11 due date.

12

13 **Q. WHAT DID ESCHELON ASK FOR IN ITS FIRST CHANGE REQUEST**
14 **PC72303-1?**

15 A. In the first change request, Eschelon asked that Customer Not Ready (“CNR”) jeopardy
16 notices not be sent before 5:00 p.m. on the original due date.

17

18 **Q. WHAT WAS THE RESULT OF THE FIRST CHANGE REQUEST?**

19 A. Qwest implemented the change request, and now CNR Jeopardy notices are not sent until
20 6:00 p.m.

²⁴ See Johnson Direct at page 73.

²⁵ See Exhibits Exhibit 1R.1 - Change Request PC072303-1 and Exhibit 1R.2 - Change Request PC081403-1.

1 **Q. WHAT DID ESCHELON ASK FOR IN ITS SECOND CHANGE REQUEST**
2 **PC-081403?**

3 A. In the second change request, Eschelon asked to “[c]hange the jeopardy notification
4 process to reduce unnecessary jeopardy notices being sent to the CLEC when the Due
5 Date is not in jeopardy and to improve the overall jeopardy notification process.”²⁶
6

7 **Q. WHAT WAS THE RESULT OF THE SECOND CHANGE REQUEST?**

8 A. Qwest made a number of revisions to the jeopardy process, including making a
9 distinction between “critical date jeopardies” and “due date jeopardizes,” so that CLECs
10 could know that only “due date jeopardies” could result in late delivery of service. Qwest
11 started systems work to eliminate “critical date jeopardies” to avoid the confusion that
12 these notices were creating. Qwest agreed to provide additional information on a
13 jeopardy within 72 hours if a solution to the jeopardy was not reached.
14

15 **Q. DID ESCHELON’S ORIGINAL CHANGE REQUEST SEEK THE ONE-DAY**
16 **ADVANCE NOTICE?**

17 A. No. The CMP meeting minutes dated August 20, 2003 make this clear:
18

19 August CMP Meeting Bonnie Johnson with Eschelon presented this CR.
20 Bonnie explained that Eschelon is asking that the circuit not be put into CNR
21 [Customer Not Ready] Status until 5 p.m. local time on the due date.
22

²⁶ See Exhibit 1R.2 – Expected Deliverable.

1 The minutes for the next CMP meeting on September 17, 2003 contain Qwest's response:

2 September CMP Meeting Jill Martain with Qwest said that Qwest accepts this
3 CR and will be making changes to a backend system to hold CNR jeopardies
4 until 6 p.m. Mountain time.
5

6 **Q. DID QWEST SEE A LINK BETWEEN THE FIRST CHANGE REQUEST AND**
7 **THE SECOND CHANGE REQUEST?**

8 A. Yes. Qwest pointed out that the second change request had "synergies" with the first:

9

10 Qwest believes this CR has synergies with the Eschelon CR PC072303-1
11 "Customer Not Ready (CNR) jeopardy notice should not be sent by Qwest to
12 CLEC before 5 PM." Qwest proposes moving this Change Request into
13 Evaluation Status while we investigate the commonalities further and will
14 provide a status update at the November CMP meeting.
15

16 Eschelon agreed to alter the second change request to reflect these synergies. The CMP
17 record for Eschelon's second change request, PC081403-1, under the heading
18 "Description of Chang," states:

19 Changed the description of this CR as a result of synergies with PC072303-1.
20 During the October 15 CMP meeting we discussed whether we should
21 close/leave open/ or update CR PC081403-1 "Delayed order process modified
22 to allow the CLEC a designated time frame to respond to a released delayed
23 order." The reason we wanted to close/leave open or update PC081403-1 is
24 because PC072303-1 is meeting many of the needs. Bonnie Johnson agreed to
25 change this CR, as long as we retained the original CR description.
26

27 **Q. THROUGH THE COURSE OF ADDRESSING CHANGE REQUESTS PC072303-**
28 **1 AND PC081403-1 IN THE CMP, DID ESCHELON CLARIFY THE TIME**
29 **FRAME IT WAS REQUESTING FOR ADVANCE NOTICES?**

30 A. Yes. In a CMP clarification meeting on August 26, 2003, Eschelon refined its request:

1 Bonnie [Johnson] advised they would like a 2-4 business hour time frame to
2 respond to the FOC before Qwest puts the LSR [Local Service Request] in CNR
3 [Customer Not Ready status].
4

5 **Q. HOW DID QWEST RESPOND TO MS. JOHNSON'S REFINED REQUEST ON**
6 **BEHALF OF ESCHELON?**

7 A. Qwest proposed a compromise. In a subsequent CMP *ad hoc* meeting on October 6,
8 2003, the following took place:

9
10 Jill Martain discussed the synergy's (sic) between PC072303-1 and this CR and
11 the issue that came up in the CLEC Forum about FOCs not being sent after a
12 delayed order is released. Jill explained she would like to implement changing
13 the jep [jeopardy] timeframe to 6 pm as identified in PC072303-1. As a result
14 of this change it will address many of the issues with not enough time to
15 respond to a jep. Jill referred to this as Phase 1. Jill will issue a Qwest CR to
16 modify the Jep Process and make additional changes as needed. Changes such
17 as define jep codes, determine when to send jeps, and for what conditions. Jill
18 said she certainly can accommodate some time frames in between FOC and Jep.
19 Jill referred to this as Phase 2. Bonnie agreed that Jill's new CR and
20 implementing the changes for PC072303-1 will take care of this CR. Changing
21 the jep times will take care of most of these issues.
22

23 **Q. DID ESCHELON AGREE TO QWEST'S ALTERNATIVE PROPOSAL FOR THE**
24 **CHANGE REQUEST?**

25 A. Yes. The CMP meeting minutes for December 8th note as follows:

26 Bonnie Johnson – Eschelon asked about the CR request regarding when the
27 CLEC gets a jep, and then Qwest does not allow the CLEC time to react to the
28 FOC (4 hour minimum). Jill asked Bonnie if we could wait and determine the
29 impact of the 6pm jep time change as this change should reduce the number of
30 jeps and reduce this issue. Bonnie agreed we could discuss this later if it is still
31 an issue.
32

33 And the minutes of the CMP meeting on July 21, 2004 reflect as follows: “Bonnie said it
34 is hard to determine at times [whether jeopardy-related issues are a compliance issue or a

1 process problem], but she is willing to close this CR and handle the compliance issue
2 with the Service Manager. The CLECs agreed to close the CR.”

3 As noted above, Ms. Johnson of Eschelon agreed to Qwest’s proposal. As is customary
4 through the CMP, a series of meetings between Qwest and the CLECs took place to
5 discuss the details of the jeopardy-related change requests, and the parties worked
6 diligently and successfully to come up with a collaborative solution.

7
8 **Q. DID QWEST PROVIDE DOCUMENTATION DEMONSTRATING THE**
9 **CHANGES THAT WERE MADE AS A RESULT OF THE CHANGE REQUEST?**

10 A. Yes. As discussed in the change request, attached as Exhibit 1R.2, documentation
11 changes were sent to the CLECs. The notice for these changes was sent on April 12,
12 2004, and is attached as Exhibit 1R.3. The version of the PCAT showing the redlined
13 changes in process that was identified in that notice is attached as Exhibit 1R.4. Changes
14 to the list of jeopardy codes made to indicate which jeopardy situations could impact the
15 due date, which was also identified in the notice, is attached as Exhibit 1R.5.

16
17 **Q. WHAT IS THE SIGNIFICANCE OF THE DOCUMENTS THAT WERE SENT**
18 **TO THE CLECS?**

19 A. These documents represent the result of Change Request PC081403-1. The redlines to
20 these documents are the specific changes made as a result of the change request.

1 **Q. IS THERE ANY MENTION IN THE REDLINED CHANGES OR ANYWHERE**
2 **IN THESE DOCUMENTS OF A REQUIREMENT THAT THE FOC (FIRM**
3 **ORDER COMMITMENT) ON A JEOPARDY BE SENT AT LEAST A DAY**
4 **BEFORE THE NEW DUE DATE?**

5 A. No.

6

7 **Q. DID THE CLECS HAVE AN OPPORTUNITY TO REVIEW AND COMMENT**
8 **ON THESE DOCUMENTATION CHANGES?**

9 A. Yes. The notice attached as Exhibit 1R.3 informed CLECs that they had 15 days to
10 provide comments to the notice at the document review website.

11

12 **Q. DID QWEST RECEIVE ANY COMMENTS OR CHANGES TO THESE**
13 **DOCUMENTS VIA THE DOCUMENT REVIEW WEBSITE?**

14 A. No.

15

16 **Q. CAN QWEST CLOSE A CHANGE REQUEST WITHOUT THE EXPRESS**
17 **PERMISSION OF THE CLECS?**

18 A. No. The CMP Document provides: "The CR will be closed when CLECs determine that
19 no further action is required for that CR." The CMP Document also states that, "[a]CR is
20 updated to Completed status when the CLECs and Qwest agree that no further action is
21 required to fulfill the requirements of the CR."

22

1 **Q. DID ESCHELON EVER USE THE CMP ESCALATION PROCEDURE TO**
2 **INDICATE THAT IT WAS NOT SATISFIED WITH THE OUTCOME OF**
3 **EITHER OF THE TWO JEOPARDY-RELATED CHANGE REQUESTS?**

4 A. No.

5

6 **Q. DID ESCHELON SEEK TO POSTPONE IMPLEMENTATION OF THE**
7 **CHANGE TO THE PROCESS?**

8 A. No.

9

10 **Q. DID ESCHELON GO TO THE CMP OVERSIGHT COMMITTEE TO DISPUTE**
11 **THE OUTCOME OF THE CHANGE REQUESTS?**

12 A. No.

13

14 **Q. DID ESCHELON USE THE CMP DISPUTE PROCESS TO CHALLENGE THE**
15 **CHANGE REQUESTS?**

16 A. No.

17

18 **Q. HAS ESCHELON SUBMITTED A NEW CHANGE REQUEST SEEKING A ONE-**
19 **DAY ADVANCE NOTICE?**

20 A. No.

21

1 **Q. SHOULD THE JEOPARDY PROCESS DEVELOPED THROUGH THE CMP BE**
2 **CHANGED IN THE PARTIES' ICA THROUGH ESCHELON'S PROPOSED**
3 **LANGUAGE THAT OBLIGATES QWEST TO PROVIDE ESCHELON AT**
4 **LEAST A DAY'S ADVANCE NOTICE OF A NEW DUE DATE FOR AN ORDER**
5 **IN JEOPARDY STATUS?**

6 A. No. The jeopardy process is used by all CLECs, and Eschelon has willingly and
7 effectively used the CMP to change the jeopardy process in the past. Eschelon's attempts
8 to now claim that the CMP process was somehow flawed, when Eschelon agreed to
9 Qwest's implementation of the change request at issue, should be rejected. Indeed, by its
10 own course of conduct, Eschelon should be estopped from asserting that its proposed
11 CMP-related ICA language is justified by its one-sided recount of CMP history. The
12 CMP record shows that the implementation of Eschelon's change requests was a work of
13 compromise between the parties. Qwest never promised a one-day advance notice.
14 Despite Eschelon's representations to the contrary, what the jeopardy example
15 demonstrates is that Qwest and CLECs work together cooperatively through the CMP,
16 and they resolve the issues submitted by the CLECs and Qwest through change requests.

17
18 **Q. WHAT ARE THE ADVANTAGES THAT ESCHELON CLAIMS RESULT FROM**
19 **ITS PROPOSED LANGUAGE FOR JEOPARD NOTICES?**

20 A. Eschelon claims that 1) customers will receive service more quickly, and 2) that Qwest's
21 PIDs will not be impacted by Eschelon's proposed changes.²⁷

22

²⁷ Johnson Direct, at p. 68.

1 **Q. DOES ESCHELON'S PROPOSAL RESULT IN THESE OUTCOMES?**

2 A. No. In fact, the evidence provided by Eschelon in Exhibits 3.75 and Exhibit 3.76
3 demonstrate the contrary.²⁸ First, Eschelon claims a link between the receipt of an FOC
4 and the occurrences of CNR jeopardies. Qwest's analysis of Eschelon's data on CNR
5 jeopardies, contained in Exhibit 1R.9 and discussed in detail below, represents a very
6 small portion of the total number of orders that Eschelon places with Qwest,
7 demonstrating that such issues are rare. It also demonstrates that Qwest works very hard
8 to deliver circuits as quickly as possible after a jeopardy is resolved, and even when
9 Eschelon must supplement an order, the designed services are often delivered in advance
10 of the three-day interval required for these services. Eschelon's proposed language will
11 not improve these results.

12
13 Second, the data in Eschelon Exhibit 3.75, also discussed in more detail below,
14 demonstrates that Eschelon is not dependent on the FOC to install service, and that
15 Eschelon is in communication with Qwest, as more than 76% of these orders were
16 delivered by Qwest and accepted by Eschelon on the original due date, even though
17 Eschelon did not receive an FOC.

18
19 Third, Eschelon's proposed language would impact Qwest's PIDs in spite of Eschelon's
20 proposal to the contrary. The OP-3 PIDs, which measure whether Qwest delivers service

²⁸ Eschelon has chosen not to file its original exhibit containing examples of facility jeopardies. Rather, it has filed a heavily annotated response to an exhibit I filed in another case. For clarity and easier reading, I have attached my original analysis of its original examples as Exhibit 1R.9.

1 on time, exclude CNR jeopardies. Since Eschelon's proposed language reduces the
2 occurrence of CNR jeopardies, its proposed language cannot help but impact Qwest
3 performance on these PIDs.
4

5 **Q. ESCHELON'S PROPOSAL SUGGESTS THAT ESCHELON NEEDS MORE**
6 **TIME TO COMPLETE AN ORDER BECAUSE ESCHELON TAKES A**
7 **FACILITY JEOPARDY NOTICE AS A SIGNAL THAT SERVICE WILL NOT**
8 **BE DELIVERED ON TIME? IS THAT HOW ESCHELON SHOULD RESPOND**
9 **TO A FACILITY JEOPARDY NOTICE?**

10 A. No. Nothing in our procedures states that a facility jeopardy notice should be interpreted
11 as a definite indicator that service will be delivered late. All of our documents state that
12 the service MAY be delivered late. A jeopardy notice is NOT a signal to stop working.
13 The CLEC should always complete the work it needs to do in order to receive service on
14 the original requested due date. Then, if the jeopardy is resolved on the original due date,
15 the CLEC will be ready to receive service, and service will be delivered on time.
16

17 **Q. MS. JOHNSON CLAIMS THAT QWEST AGREES THAT THE FOC IS THE**
18 **ONLY ADEQUATE NOTICE TO A CLEC THAT SERVICE IS READY TO BE**
19 **DELIVERED BY QWEST, AND SHE BASED THIS CLAIM ON YOUR**
20 **TESTIMONY IN MINNESOTA.²⁹ IS THIS AN ACCURATE REFLECTION OF**
21 **YOUR TESTIMONY?**

22 A. No. To make clear what I did say, I will quote directly from the transcript:

²⁹ Johnson Direct, at p. 77.

1

2 Q And what Eschelon is saying is, look, if you haven't told us the circuit is
3 coming, you can't treat that as a CNR jeopardy; right?

4 A Yes.

5 Q And Qwest disagrees with that; is that correct?

6 A We don't disagree with the notion that a CNR jeopardy should be assigned
7 appropriately.

8 Q And if the CLEC doesn't have adequate notice that the circuit is being
9 delivered, adequate notice consisting of an FOC, then you would agree that a
10 CNR jeopardy is not appropriate; correct?

11 A Yes.

12 Q And you would also agree that not only do you need the FOC, but you need
13 the FOC in enough time to be able to act on it; correct?

14 A I would agree with that. I would submit, though, that in the examples
15 provided we only found three cases where we classified a subsequent jeopardy
16 as a CNR, in error, and that is mostly because the service was delivered. And
17 communication was happening between Qwest and the CLEC technicians.³⁰
18

19 In addition, I responded to the following:

20

21 Q Are you saying that the CLEC ought to be relying on something other than
22 the official notice, the FOC that it receives from Qwest, as the indication of
23 when the circuit is going to be delivered?

24 A For a formal process, no. But it also doesn't make sense if we're in
25 communication with each other and the circuit can be accepted not to install the
26 circuit and have it done on time.³¹
27
28

29 To summarize, Qwest agrees that notice is required. Qwest does not agree that the FOC
30 is the only adequate notice.
31

³⁰ MN Tr. Vol. I, pp. 94-95.

³¹ MN Tr. Vol. 1, p. 96.

1 **Q. WHAT WOULD THE IMPACT BE IF THE COMMISSION WERE TO**
2 **ADOPT ESCHELON'S PROPOSED LANGUAGE FOR ISSUES 12-71, 12-72 AND**
3 **12-73?**

4 A. The impact would be that Qwest would be contractually obligated to implement a new
5 process for jeopardy notices for Eschelon. It would be unreasonable to force Qwest to
6 handle jeopardy notices using one set of procedures for Eschelon (and any opt-ins to the
7 ICA) and a different set of procedures for all other CLECs. The added complexity would
8 also create a greater possibility for errors. This arbitration proceeding is not the
9 appropriate forum for process changes that impact all CLECs. These issues should be
10 handled in the CMP rather than in interconnection agreements.

11

12 **Q. ESCHELON'S PROPOSAL INCLUDES LANGUAGE ENCOURAGING THE**
13 **PARTIES TO TRY TO MEET THE DUE DATE. DOESN'T THAT ALLEVIATE**
14 **QWEST'S CONCERN REGARDING THE ONE-DAY ADVANCE NOTICE**
15 **REQUIREMENT?**

16 A. No. Whether or not Eschelon should be in a position to accept timely delivery of a
17 circuit, Eschelon's proposed language indicates that Qwest cannot code a subsequent
18 jeopardy as a "CNR" if the FOC is not sent at least a day before. As the evidence
19 demonstrates, in most instances this characterization of the cause of the delay is
20 unreasonable. Even if Eschelon's proposed changes were appropriate, changing PID
21 measurements should not be addressed in a single party arbitration.

22

1 **Q. ESCHELON PROVIDED ESCHELON EXHIBIT 3.76 AS EVIDENCE OF ITS**
2 **NEED FOR ONE-DAY ADVANCE NOTICE OF A NEW DUE DATE FOR AN**
3 **ORDER. IS THIS EXHIBIT PERSUASIVE?**

4 A. No. The exhibit lists 23 delayed orders. **[BEGIN CONFIDENTIAL]**

5
6 **[END CONFIDENTIAL]** Qwest researched
7 and analyzed the orders cited in the exhibit. For only 15 of the 23 delayed orders did
8 Qwest not provide a FOC. And, for 12 of those 15 delayed orders, the record shows that
9 Qwest did not provide a FOC because other order activity by Eschelon or by Qwest
10 eliminated the need for a FOC.³²

11

12 **Q. MR. JOHNSON CLAIMS ON PAGE 78 OF HER DIRECT TESTIMONY THAT**
13 **QWEST HAS NOT CONSULTED ITS FOC ARCHIVE TO VERIFY THE DATA**
14 **CONTAINED IN A PRIOR VERSION OF EXHIBIT 1R.9, AND SHE CITES**
15 **YOUR TESTIMONY AT THE MINNESOTA HEARING TO SUPPORT THIS**
16 **CLAIM. HAS QWEST SINCE CONSULTED ITS FOC ARCHIVES?**

17 A. Yes. And the analysis of Eschelon's data, which is contained in Exhibit 1R.27, is fully
18 supported by the data in Qwest's systems. What Ms. Johnson fails to mention is that I
19 was asked by Eschelon at the hearing to analyze the FOC data on the witness stand. I did
20 that analysis based on the information available, which did not include data from the
21 FOC archive. A subsequent review of Qwest's FOC archive did not contradict the

³² See Exhibit 1R.9, Analysis of Eschelon Exhibit BJJ-6, as presented in Minnesota, Arizona, Colorado and Washington.

1 analysis I provided at the Minnesota hearing, and the FOC data is included in Exhibit
2 1R.9.
3

4 **Q. MS. JOHNSON DISCUSSES AT SOME LENGTH THE FACT THAT QWEST**
5 **REQUIRES THREE-DAYS NOTICE TO ARRANGE STAFFING FOR A**
6 **DESIGNED SERVICE THAT HAS BEEN DELAYED WHEN THE CLEC**
7 **CUSTOMER IS NOT READY TO ACCEPT A CIRCUIT FROM QWEST.³³ IS IT**
8 **VALID FOR MS. JOHNSON TO EQUATE THE STANDARD INTERVAL TO**
9 **RE-DELIVER A CIRCUIT WITH THE TIMING OF A FIRM ORDER**
10 **COMMITMENT NOTICE?**

11 A. No. There is no relationship between the two activities. The three-day standard interval
12 is necessary to ensure that Qwest technicians can be made available to provision a
13 designed circuit to the CLEC. Qwest must have the flexibility to manage the technicians'
14 work assignments in order to ensure that other CLECs and other Qwest customers are not
15 negatively impacted by the need to send a technician back to the CLEC a second time,
16 simply because the CLEC was not ready to receive the circuit on the original due date. It
17 is Qwest's practice to attempt to deliver the circuit as soon as possible, and Qwest does
18 not always take three days to do so. In fact, several of the examples analyzed in Exhibit
19 1R.9 demonstrate situations in which the circuit was delivered and accepted by Eschelon
20 before the new due date.

21 An FOC, a firm order commitment, is simply the electronic notice sent by Qwest to the
22 CLEC to confirm a due date. An FOC sent following a jeopardy is the notice to confirm

³³ See Johnson Direct, pp. 63, 66 and 68.

1 the new due date for an order in jeopardy.

2

3 **Q. DOES QWEST ALWAYS USE THE FULL THREE-DAY INTERVAL TO**
4 **PROVISION A SUPPLEMENTAL ORDER FOR A DESIGNED SERVICE?**

5 A. No. As I noted above, Eschelon's own data as analyzed in my exhibit 1R.9 demonstrates
6 that the full three days is not always required. Of the 18 orders in Eschelon's sample of
7 23 that properly required a supplement, only 1 took the full three days to provision. The
8 remaining 17 were provisioned early, some on the same day that the supplemental order
9 was submitted.

10

11 **Q. DOES THE THREE DAY PROVISIONING INTERVAL ON A SUPPLEMENTAL**
12 **ORDER RESULT IN CUSTOMERS RECEIVING SERVICE LATER THAN**
13 **THEY WOULD OTHERWISE?**

14 A. No, not really. Remember that a supplemental order is required when Eschelon is not
15 ready to accept service on the original requested due date, so delivery is already likely to
16 be late. Based on the examples discussed above, it appears that, in general, Eschelon and
17 Qwest work very hard to provide the service as quickly as possible regardless of the new
18 due date.

19

20 **Q. MS. JOHNSON PRESENTED EXHIBIT 3.78 TO SHOW QWEST'S RECENT**
21 **UNWILLINGNESS TO CONTINUE RESPONDING TO ESCHELON'S CLAIMS**
22 **REGARDING JEOPARDY ERROR DATA. PLEASE RESPOND.**

23 A. Eschelon made a habit of sending data to its Qwest service team regarding Eschelon's

1 perception that Qwest was not in compliance with the jeopardy process. Eschelon's
2 service management team at Qwest has found it fruitless to continue to respond to
3 Eschelon's data because Eschelon continually presents the data on the premise that FOCs
4 must be sent at least a day before the new due date. This is not now, and has not been,
5 Qwest's practice, and it is not a requirement. Thus, it is absolutely pointless for Qwest to
6 continue to try respond to Eschelon's data, as Eschelon's data has been continuously
7 presented based on an incorrect premise. The service management team's refusal to
8 continue responding to Eschelon's data is not a sudden reversal. The team was never
9 able to respond to Eschelon's data because it was incorrect to begin with.

10
11 **Q. DOES QWEST ALREADY HAVE INCENTIVE TO DELIVER TIMELY FOCs?**

12 A. Yes. Qwest already has a significant incentive in the form of PID P0-5 - Firm Order
13 Confirmations (FOCs) On Time. While this PID is not specific to FOCs in response to
14 jeopardy situations, these FOCs are not excluded from this PID. Mr. Starkey suggests
15 that Qwest has an incentive to misclassify FOCs in order to achieve better PID
16 performance. Mr. Starkey provides no basis for this assertion. However, evidence to the
17 contrary is available in the form of the extensive audits of Qwest's performance measures
18 that were undertaken by an independent auditor, Liberty Consulting, in Utah and twelve
19 other states, as a part of Qwest's successful Section 271 efforts.³⁴

20

³⁴ See for example *In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, FCC 02-332, December 23, 2002, at ¶ 13; *In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of New Mexico, Oregon and South Dakota*, FCC 03-81, April 15, 2003, at ¶¶ 3 and 11.

1 **Q. MS. JOHNSON CITES ESCHELON EXHIBIT 3.75 AS DEMONSTRATING**
2 **EXAMPLES OF ORDERS FOR WHICH NO FOC WAS SENT. PLEASE**
3 **COMMENT ON THE DATA IN THIS EXHIBIT.**

4 A. The data in this exhibit demonstrates Qwest's commitment to deliver service as close to
5 the original due date as possible. It also demonstrates that, in most instances, Eschelon is
6 capable of accepting delivery of service on the due date, even in the absence of an FOC.
7 These are examples of orders that went into jeopardy status on or before the original due
8 date. If one compares the data in the column labeled "Eschelon Requested Due Date" to
9 the data in the column "Completion Date," one sees that in the vast majority of these
10 examples, the service was delivered on Eschelon's original requested due date.

11

12 **Q. THUS, WHAT IS ESCHELON SEEKING VIA ITS LANGUAGE PROPOSAL**
13 **FOR JEOPARDY NOTICES?**

14 A. Eschelon is seeking to alter Qwest's procedures via its contract language rather than via
15 the industry forum established for these changes, the CMP. Eschelon is also seeking
16 special treatment that is not offered to other CLECs for its orders. For these reasons, this
17 Commission should adopt Qwest's language for jeopardy notices.

18

19 **XI. ISSUE 12-87: CONTROLLED PRODUCTION OSS TESTING**

20

21 **Q. WHY DOES ELECTRONIC INTERFACE TESTING OCCUR?**

22 A. Electronic interface testing is necessary to ensure that electronic orders delivered by a

1 CLEC's computer system to Qwest's computer systems can be processed properly.
2 Every time a change is made to Qwest's electronic interfaces, CLECs must make
3 corresponding changes to their computer systems. It is vital for these changes to be
4 tested on both sides. Any change creates the possibility for errors in order processing.
5 Testing is used to find and correct these errors whether they occur within the CLEC's
6 system or in Qwest's system.
7

8 **Q. WHAT IS UNIQUE ABOUT THE CONTROLLED PRODUCTION PHASE OF**
9 **ELECTRONIC INTERFACE TESTING?**

10 A. This phase of an interface test is the first true production test of orders using a new
11 electronic interface. In other words, it is the first time that a CLEC order submitted by
12 the CLEC's computer system is received and processed by Qwest's computer system.
13 During this phase of testing, Qwest staff work closely with CLEC staff to monitor the
14 CLEC's orders from end-to-end. This is the last phase of testing, and the last opportunity
15 to catch errors in the process, errors that might cause systems problems for Qwest and for
16 other CLEC.
17

18 **Q. MS. JOHNSON ALLEGES ON PAGE 98 OF HER DIRECT TESTIMONY THAT**
19 **ESCHELON'S PROPOSED LANGUAGE FOR ISSUE 12-87 REFLECTS**
20 **QWEST'S CURRENT PRACTICE. IS THAT TRUE?**

21 A. No. The CMP Document clearly places certification testing requirements under Qwest's
22 control:

1 New Releases of the application-to-application interface may require re-
2 certification of some or all business scenarios. A determination as to the need
3 for re-certification will be made by the Qwest coordinator in conjunction with
4 the Release Manager of each Release.³⁵
5

6 To support her allegation, Ms. Johnson cites the EDI Implementation Guidelines for
7 Release 19.2, which *only applied* to Release 19.2 of IMA.³⁶ Furthermore, the provisions
8 cited by Ms. Johnson provide: “. . . Controlled Production is not required on any EDI
9 transaction that successfully completed Controlled Production testing *in a prior*
10 *release.*”³⁷ The issue here is with new releases, such as IMA Release 20.0, that require
11 controlled production testing. As I stated in my direct testimony, the language in this
12 section of the contract concerns Eschelon’s obligations for testing its computer
13 connections to Qwest’s systems. It is not up to Eschelon to determine what testing is
14 required. It is important to note that testing is required to ensure that when Eschelon’s
15 systems communicate with Qwest’s systems, those communications do not have a
16 negative impact on Qwest’s systems, and by extension, other companies that are using
17 Qwest’s systems. When changes are made to Qwest’s systems, such as changes
18 requested by CMP participants, only Qwest, as the owner of its systems, is in a position
19 to determine what testing is required in order to establish that other companies’ interfaces
20 with Qwest are working properly.
21

³⁵ Exhibit 1.1, the CMP Document, Section 11.0. (Emphasis added.)

³⁶ Johnson Direct Testimony, p. 102.

³⁷ *Id.* (Emphasis added.)

1 **Q. DOES VERSION 19.2 OF THE EDI IMPLEMENTATION GUIDELINES UPON**
2 **WHICH MS. JOHNSON RELIES ANTICIPATE THE NEED FOR**
3 **CONTROLLED PRODUCTION TESTING, EVEN FOR TRANSACTIONS FOR**
4 **WHICH THE CLEC HAS ALREADY BEEN CERTIFIED?**

5 A. Yes. Just below the language quoted by Ms. Johnson on page 48 of the guidelines is the
6 following statement:

7
8 At the time a CLEC migrates to a new release, any transaction(s) that the CLEC
9 does not yet have in production using a current IMA EDI version is considered
10 to be a new implementation effort. These transactions must be implemented
11 using all Phases of the implementation lifecycle as defined in this document. **In**
12 **some releases, existing transactions are updated with significant additions**
13 **that add business rules and/or large map changes. If the CLEC intends to**
14 **use the new functionality, they will be required to perform a new product**
15 **implementation of this transaction. This will entail Progression Testing**
16 **and Controlled Production submittal of scenarios that reflect the new**
17 **functionality. CLECs not intending to use the new functionality will be**
18 **allowed to recertify existing functionality that is still available in the new**
19 **release.**³⁸

20
21 The bolded language clearly anticipates the need for controlled production testing due to
22 significant changes in a release. That is what took place in IMA Release 20.

23

24 **Q. IS IT VALID TO ASSUME THAT THE TESTING THAT IS REQUIRED TODAY**
25 **WILL BE SUFFICIENT TO MEET TESTING NEEDS IN THE FUTURE?**

26 A. No. Qwest's systems are constantly changing and evolving. Eschelon is well aware of
27 this fact. As of November 30, 2006, Eschelon has submitted 136 systems change
28 requests to Qwest. Other CLECs have submitted 311 systems change requests in the

³⁸ EDI Implementation Guidelines Release 19.2, p. 48. (Emphasis added.)

1 same time period. In addition, Qwest itself has submitted 283 systems change requests.
2 Many of Qwest's systems change requests have been made in response to industry
3 changes in standards for electronic order processing. For example, the industry has
4 recently determined that ILECs and CLECs should use a different communications
5 protocol for the processing of orders, known as XML.
6

7 **Q. MUST ALL SYSTEMS CHANGES BE TESTED?**

8 A. Yes. At a minimum, to ensure that it can continue to provide consistent and reliable
9 service, Qwest must test every change to Qwest's systems before implementing changes.
10 Every time a systems change request is implemented through the CMP, Qwest must
11 analyze the change and determine what testing will be required to ensure that CLEC
12 orders will enter Qwest's systems properly for processing. Qwest must have the
13 flexibility to require additional testing from CLECs if such testing is warranted.
14 Eschelon would have this Commission tie Qwest's hands and allow Eschelon to decide
15 whether or not it agrees to additional testing requirements.
16

17 **Q. WHO IS IN THE BEST POSITION TO DETERMINE THE RISK OF**
18 **FOREGOING CONTROLLED PRODUCTION TESTING?**

19 A. The owner of the electronic interface (IMA) and the downstream systems that the
20 electronic interface accesses is in the best position to make that determination. Qwest is
21 the only party in a position to know what testing is required to verify that an application
22 modification is working properly.

1 **Q. DOES THE CERTIFICATION PROCESS DETERMINE WHETHER A CLEC**
2 **HAS ACCESS TO QWEST'S OSS VIA A COMPUTER-TO-COMPUTER**
3 **INTERFACE?**

4 A. Yes. In order for a CLEC to use the computer-to-computer interface provided by Qwest
5 to access its OSS (whether it is IMA EDI or IMA XML), that CLEC must complete the
6 certification process. If it does not wish to complete the certification process, the CLEC
7 may not use Qwest's computer-to-computer interface to submit its orders. That does not,
8 however, mean that orders cannot be submitted electronically. The CLEC still has the
9 alternative of using Qwest's human-to-computer electronic interface, known as IMA
10 GUI.

11

12 **Q. MS. JOHNSON CLAIMS ON PAGE 108 OF HER TESTIMONY THAT QWEST**
13 **IS TRYING TO RESERVE THE RIGHT TO IMPOSE UNNECESSARY**
14 **TESTING, AND THUS THE COST OF UNNECESSARY TESTING, ON**
15 **ESCHELON. IS THAT ACCURATE?**

16 A. No. When Qwest determines that testing is required, the testing is necessary. The cost of
17 testing, both to Qwest and to Eschelon, is part of the cost of doing business with
18 computer-to-computer transactions. All parties have an interest in ensuring that these
19 transactions will be processed correctly and in a way that minimizes costs. Qwest incurs
20 costs as well when controlled production testing is required, because this phase of testing
21 is a joint effort involving personnel from both Qwest and the CLEC. When the CLEC
22 submits transactions into production during this phase of testing, Qwest personnel
23 actively monitor these transactions as they proceed through Qwest systems. When Qwest

1 determines that controlled production testing is required, Qwest has determined that the
2 risk of foregoing testing outweighs the cost of conducting the tests. Significantly,
3 Qwest's own costs are multiplied by the number of CLECs that must conduct controlled
4 production testing, since each such test requires the participation of Qwest personnel.
5 But Qwest is willing to bear these costs, as Qwest has determined that the risk of
6 insufficient testing far outweighs the cost of conducting these tests.
7

8 **Q. DO UPDATES TO EXISTING SYSTEMS REQUIRE LESS RIGOROUS**
9 **TESTING?**

10 A. No, not every time. The move from IMA Release 19.2 to IMA Release 20.0 is a prime
11 example. The underlying architecture of IMA Release 20.0 is changing from EDI to
12 XML. This is such a significant change that Qwest is treating this as a new
13 implementation that requires controlled production testing for all CLECs who wish to
14 move to this release of IMA. Ms. Johnson cites provisions in the EDI Implementation
15 Guidelines for IMA Release 19.2. The provisions of that Implementation Guideline have
16 no bearing on IMA Release 20.0. But if Eschelon's proposed language for controlled
17 production testing were in place today, Eschelon could then argue that it would not be
18 required to perform controlled production testing for IMA Release 20.0, even though all
19 other CLECs are required to do so and the reasons for undertaking the testing are well-
20 founded and critical.

1 **Q. MS. JOHNSON MENTIONS ON PAGE 107 OF HER DIRECT TESTIMONY**
2 **THAT THE IMA IMPLEMENTATION GUIDELINE DOCUMENT IS NOT**
3 **UNDER CMP CONTROL. IS THERE ANY REASON THAT IT SHOULD BE?**

4 A. No. The Implementation Guidelines are written by Qwest's Information Technologies
5 department as an explanation of Qwest's requirements for CLEC use of its computer-to-
6 computer interfaces. Only Qwest can determine the requirements for use of these
7 interfaces.

8

9 **Q. MS. JOHNSON CITES ESCHELON EXHIBIT 3.80, WHICH CONSISTS OF**
10 **EXCERPTS OF CMP REDESIGN MEETING MINUTES AS SUPPORTING**
11 **ESCHELON'S CONTENTION THAT THE EDI IMPLEMENTATION**
12 **GUIDELINES SHOULD BE UNDER CMP SUPERVISION.³⁹ DO THE CITED**
13 **MINUTES SUPPORT MS. JOHNSON'S CONTENTION?**

14 A. No, Eschelon Exhibit 3.80 does not provide support for Ms. Johnson's argument. The
15 commitment made in the CMP Redesign Meeting was that changes to Qwest's systems
16 would be made under CMP supervision. That is what happens today in the form of
17 systems change requests, as described elsewhere in this testimony and in my direct
18 testimony. The statement in the minutes reflects that such changes will be documented in
19 all relevant systems documentation, including the EDI Implementation Guidelines. There
20 is no statement to suggest that these systems documents will also be placed under CMP
21 supervision.

22

³⁹ Johnson Direct Testimony, at p. 107.

1 **Q. ESCHELON HAS MADE AN ADDITIONAL PROPOSAL FOR THIS**
2 **LANGUAGE THAT IT BELIEVES SHOULD ALLEVIATE QWEST’S**
3 **CONCERN REGARDING CONTROLLED PRODUCTION TESTING. DOES**
4 **THE NEW PROPOSAL ALLEVIATE QWEST’S CONCERNS?**

5 A. No. Eschelon has made the following proposal:

6

7 12.6.9.4 Controlled Production – Qwest and CLEC will perform controlled
8 production **for new implementations, such as new products, and as**
9 **otherwise mutually agreed by the Parties.** The controlled production process
10 is designed to validate the ability of CLEC to transmit EDI data that completely
11 meets X12 (or mutually agreed upon substitute) standards definitions and
12 complies with all Qwest business rules. Controlled production consists of the
13 controlled submission of actual CLEC production requests to the Qwest
14 production environment. Qwest treats these pre-order queries and orders as
15 production pre-order and order transactions. Qwest and CLEC use controlled
16 production results to determine operational readiness. Controlled production
17 requires the use of valid account and order data. All certification orders are
18 considered to be live orders and will be provisioned.

19

20 The problem with Eschelon’s new proposal is that it specifically indicates that controlled
21 production testing is required for new products and activity types, but then the language
22 leaves it up to the parties to agree if controlled production testing will take place in other
23 circumstances. Under Eschelon’s proposal, Eschelon could claim that it has the right to
24 negotiate controlled production testing for IMA Release 20.0. It has not been Qwest’s
25 practice to negotiate controlled production testing.

26

1 **Q. MS. JOHNSON ARGUES THAT ESCHELON’S PROPOSED LANGUAGE DOES**
2 **NOT REPRESENT A “THREAT TO THE INDUSTRY AT LARGE” BECAUSE**
3 **QWEST PERMITS CLECS TO FOREGO TESTING IN SOME**
4 **CIRCUMSTANCES.⁴⁰ PLEASE RESPOND.**

5 A. Ms. Johnson’s logic does not make sense. As I stated above, Qwest makes the
6 determination of testing requirements for every release of IMA. If Qwest determines that
7 in certain circumstances controlled production testing is not required for that specific
8 release, such as Release 19.2 cited by Ms. Johnson, that determination only applies to that
9 given release. Qwest, however, has determined that controlled production testing is
10 required for IMA Release 20.0.⁴¹ Qwest has made that determination based on the
11 significant changes in that release and to ensure the security and integrity of Qwest’s OSS
12 for all who use them, including CLECs.

13
14 **Q. WHAT IS ESCHELON SEEKING VIA ITS LANGUAGE PROPOSALS FOR**
15 **CONTROLLED PRODUCTION TESTING?**

16 A. Eschelon is seeking to change Qwest procedures via its contract, thus bypassing the
17 CMP, the industry forum established for process, procedure and systems changes.
18 Eschelon is also seeking special treatment not afforded to other CLECs.

19

⁴⁰Johnson Direct Testimony, at pp. 108.

⁴¹ The IMA XML Implementation Guidelines for IMA Release 20.0 can be found at <http://www.qwest.com/wholesale/ima/edi/>. The minimum testing requirements for this release of IMA are found in Appendix C on page 64.

1 **Q. WHICH LANGUAGE SHOULD THIS COMMISSION ADOPT FOR ISSUE 12-**
2 **83?**

3 A. This Commission should adopt Qwest's proposed language for Issue 12-83 to give Qwest
4 the ability to determine testing requirements as needed to ensure that Qwest's electronic
5 interfaces function properly.

6

7 **XII. CONCLUSION**

8

9 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

10 A. This Commission faces a clear choice with respect to the relationship between the CMP
11 and the interconnection agreement. Eschelon proposes locking procedures in place
12 through the parties' ICA and requiring interconnection agreement amendments to change
13 those obligations.

14

15 Qwest sees many disadvantages to this approach. First, and most importantly, it creates
16 the potential for Qwest to face inconsistent obligations for its CLEC customers. While
17 theoretically there is no problem with such an approach, applying it in the real world is
18 extremely difficult and burdensome. Thousands of Qwest employees serve hundreds of
19 CLECs in multiple states every day. Requiring those employees to handle identical
20 requests under different rules for different CLECs is inefficient, creates more possibility
21 for error, and creates the risk of discriminatory treatment for CLECs. History has shown
22 that standardized processes allow Qwest to provide high-quality service to CLECs.

1 Qwest could attempt to deal with this issue of inconsistent obligations by changing its
2 processes for all CLECs to reflect Eschelon's proposals, but such an effort would be
3 cumbersome, would lead to confusion, and would create problems where Eschelon has
4 requested a process that other CLECs do not want. In effect, Eschelon would then be
5 controlling the process for all CLECs. Neither of the two alternatives described above
6 make for good policy.

7
8 A second primary problem with Eschelon's proposals is that they freeze processes in time
9 in an industry that is rapidly evolving. Many changes have occurred to Qwest's
10 processes since 2001. Undoubtedly, all members of the industry will want many more
11 changes in the future. Locking processes into interconnection agreement provisions
12 forces companies to amend hundreds of interconnection agreements in order to make a
13 change that applies industry-wide. This burden is so large that such change would only
14 take place in the most compelling of circumstances, and, even then, would take a very
15 long time to complete.

16
17 In contrast, Qwest's proposed CMP-related language for the parties' ICA takes advantage
18 of a process, the CMP that has proven to be effective. The CMP provides significant
19 safeguards to CLECs in the event of disputes. It allows changes to take place without
20 significant unnecessary administrative burdens, and it creates uniform processes that
21 allow Qwest to provide high-quality, consistent service to its CLEC customers.

22
23 I urge this Commission to adopt Qwest's approach on the CMP issues.

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

2 **A.** Yes, it does.