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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DOCKET NO. 06B-497T

VOLUME I

IN THE MATTER OF THE PETITION OF QWEST CORPORATION FOR
ARBITRATION WITH ESCHELON TELECOM, INC. PURSUANT TO
47 U.S.C. SECTION 252 OF THE FEDERAL TELECOMMUNICATIONS
ACT OF 1996.

PURSUANT TO NOTICE to all parties in
interest, the above-titled matter came on for hearing
before MANA L. JENNINGS-FADER, Administrative Law Judge
of the Public Utilities Commission, on April 17, 2007,
9:01 a.m., at 1560 Broadway, Suite 250, Denver,
Colorado, said proceedings having been reported in
shorthand by Robin M. McGee, Registered Professional
Reporter.

WHEREUPON, the following proceedings were
had:

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<p>1 the wire center proceeding? 2 MR. TOPP: Filed in this proceeding -- 3 A.L.J. JENNINGS-FADER: Thank you. 4 MR. TOPP: -- address those issues. And -- 5 and none of Qwest's testimony addressed those issues. 6 Eschelon does contain some reference in Mr. Denney's 7 last round of testimony in which he makes some 8 suggestions procedurally on how to handle that. 9 It's Qwest's position that these issues 10 should be decided once and should be decided as a part 11 of the generic proceeding addressing these issue. And 12 Eschelon has -- has taken the position that -- that sort 13 of -- and that is our position, and the question for the 14 Court is how you mesh those together. 15 Do you keep this proceeding open and 16 incorporate the results of that proceeding in order to 17 reach a decision, or close this at the end, enter an 18 interconnection agreement, and reopen the -- and have 19 the parties amend their interconnection agreement to 20 reflect the results of that proceeding? 21 It's very possible that we won't need to come 22 to that point because of sort of the parallel nature of 23 these two proceedings that are taking place, but it is 24 sort of a procedural nuance that we need to figure out 25 how to address.</p>	<p>1 proceeding open until the wire center case has been 2 resolved to wait and see whether there are still 3 language issues that have yet to be resolved. 4 In the meantime, the issues that the parties 5 have more thoroughly provided a record on can be 6 determined. I would say that we have, as part of our 7 testimony, put in orders from three other commissions 8 that address these issues. And we think that, if it 9 were necessary to decide the issues on the record that 10 we have now, you have enough in front of you to do that. 11 But to the extent we agree with Qwest, we 12 agree that we really shouldn't be doing things twice, 13 and so let's wait and see what happens in the wire 14 center proceedings, but don't call this proceeding done 15 until those issues are done. And part of the concern 16 that we have is that there's closed language in this ICA 17 that is interdependent with these wire center issues. 18 And so if you have -- if you say that we've 19 got a contract that will be amended to include those 20 other issues, the wire center issues, you really have a 21 contract that's got some pretty big holes in it. So it 22 really would end up being a document that is ultimately 23 unworkable. Rather than have a document that is 24 unworkable, let's wait until we get to the end, have one 25 compliance filing that does everything, resolves all of</p>
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<p>1 A.L.J. JENNINGS-FADER: Eschelon? 2 MR. MERZ: Our position is what we are 3 seeking in this arbitration is an ICA that addresses all 4 of the issues. And the issues that are the subject of 5 the wire impairment or the impairment proceeding, the 6 wire center proceeding, are really critical issues for 7 the parties' agreement. 8 And our proposal is that you should defer any 9 ruling as to those issues pending some result in the 10 wire center proceeding. Once that proceeding has 11 concluded, there will be presumably negotiation between 12 the parties about how the results of that proceeding 13 ought to be reflected in contract language. 14 To the extent that there are disputes about 15 how the results of that proceeding should be reflected 16 in contract language, then we would hope to come before 17 you again to have those disputes resolved, although at 18 this point, we can't tell what those disputes might be 19 or whether there even will be any. 20 But the result that we hope doesn't occur is 21 that we finish this arbitration, that there's a final 22 ruling that doesn't resolve these issues. 23 In Minnesota, what the ALJs did and what the 24 Commission did is exactly what we're suggesting; and 25 that is, defer considering the issues, keep the</p>	<p>1 the issues. 2 A.L.J. JENNINGS-FADER: Mr. Topp or 3 Mr. McGann, do you have any estimation as to when the 4 wire center proceeding might be concluded with a final 5 Commission decision sufficient to implement, if the 6 Commission were so inclined, Eschelon's suggestion? 7 MR. MCGANN: My recollection of the 8 procedural schedule in that docket is that essentially, 9 the docket was submitted on the papers. We have, I 10 believe, initial statements of position due at the 11 beginning of May, reply statements of position due, I 12 believe, at the beginning of June and, obviously, an 13 order and perhaps exceptions thereafter, so ... 14 A.L.J. JENNINGS-FADER: Excuse me. So it's a 15 recommended decision, not a Commission initial decision? 16 MR. MCGANN: That is correct, because it is 17 in front of A.L.J. Adams at this point. So obviously, 18 it's difficult to say. I would anticipate we would have 19 an order, let's say, four weeks after that those rounds 20 of brief are submitted -- briefs are submitted and 21 exceptions after that. 22 So trying to do a rough calculation, I'm 23 assuming sometime, perhaps at the end of July, beginning 24 of August, we might have an order coming out of that 25 docket. I think that's an ambitious schedule, but we</p>

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1 are hoping that we would have something around that
 2 period of time.
 3 A.L.J. JENNINGS-FADER: Mr. Merz? Merz
 4 (pronouncing)?
 5 MR. MERZ: Merz, like Fred and Ethel.
 6 A.L.J. JENNINGS-FADER: I know you're tired
 7 of using that line, and I apologize for forcing you to,
 8 Mr. Merz.
 9 If we were to -- if the Commission were to
 10 accept Eschelon's proposal in the intervening time
 11 between now and, let's say -- September is ambitious --
 12 so let's be, perhaps, more realistic and say October,
 13 November, what will Eschelon and Qwest do with respect
 14 to the interconnection agreement?
 15 MR. MERZ: The parties have a bridge
 16 agreement that they've been operating under for quite a
 17 while now. The negotiations in these various
 18 arbitration proceedings have been going on literally for
 19 years. The end now, we believe, is in sight, but at the
 20 same time, given the history we have and the amount of
 21 evidence gone into negotiating these issues, we don't
 22 want to end up at the end of the day with something less
 23 than a complete contract.
 24 So we would continue to operate under the
 25 bridge agreement that's been in place between the

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1 parties.
 2 A.L.J. JENNINGS-FADER: If the Commission
 3 were not to accept Eschelon's proposal, what, then,
 4 would happen from Eschelon's perspective? And I
 5 don't -- I wish you not to provide your arguments again,
 6 but procedurally, what would happen? Would it require a
 7 second arbitration? If there were disagreements,
 8 what -- procedurally, how would Eschelon see this going
 9 forward?
 10 MR. MERZ: There would have to be some forum
 11 for the parties to resolve any disputes that there might
 12 be over this language, whether it be a second
 13 arbitration or some other similar kind of proceeding.
 14 But we'd have to end up with a -- with contract language
 15 that -- that both parties either agree or the Commission
 16 says appropriately incorporates the decisions that are
 17 made in that wire center proceeding. So there would
 18 have to be some kind of hearing if the parties weren't
 19 able to come to agreement on that language.
 20 A.L.J. JENNINGS-FADER: Thank you.
 21 Mr. Topp, could you respond to Eschelon's
 22 statements with respect to both additional proceedings
 23 that may be necessary if the decision is to accept
 24 Qwest's proposal and also the applicability of a bridge
 25 agreement if Eschelon's proposal were to be accepted?

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1 MR. TOPP: I -- there's no disagreement that
 2 the parties would operate under the bridge agreement
 3 until we have a new contract in place. That doesn't
 4 govern all issues. There's also an interconnection
 5 agreement that is out there that would -- that would be
 6 governing, in part, as well.
 7 But with respect to the proceedings that
 8 would be necessary, we would agree that it would be
 9 necessary to resolve disputed issues related to contract
 10 language potentially, but we would suggest that
 11 Eschelon's not alone in having those potential disputed
 12 issues and that efficiency would suggest that having
 13 those resolved in a forum where they can be resolved for
 14 all parties is the best approach.
 15 A.L.J. JENNINGS-FADER: And what would that
 16 forum be, in Qwest's opinion?
 17 MR. TOPP: I'm not sure of precisely how that
 18 would be set up, but I think that would come out of the
 19 wire center proceeding or ...
 20 MR. MERZ: And, Your Honor, the parties have
 21 filed their evidence, as Mr. McGann has indicated, and I
 22 don't believe any party has filed specific language. So
 23 at least in the procedural posture that the wire center
 24 case is now, there's not going to be any language that's
 25 produced as a result of that proceeding.

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1 A.L.J. JENNINGS-FADER: Let me understand
 2 what you're saying, Mr. Merz. No specific
 3 interconnection agreement language is proposed as a
 4 result -- or expected to be determined as a result of
 5 the current wire center proceeding in Colorado?
 6 MR. MERZ: Yes. And the issues in front of
 7 the Commission in the wire center proceeding are issues
 8 of general policy, if you will, that the parties will
 9 then have to kind of use the results of that to come up
 10 with language. But no party has proposed specific ICA
 11 language in the wire center proceeding, and specific ICA
 12 language really has always been something that's dealt
 13 with in arbitrations.
 14 A.L.J. JENNINGS-FADER: Qwest, on that point,
 15 please?
 16 MR. MCGANN: I do. I believe Mr. Merz is
 17 correct that there has not been specific interconnection
 18 agreement language proposed in the wire center docket.
 19 I suppose the parties have a disagreement as to whether
 20 or not they will be able to proceed based upon a ruling
 21 in the wire center docket without that contract
 22 language.
 23 I think we would I assert that essentially,
 24 we should be able to take the Commission's decision in
 25 the wire center docket and be able to proceed and adopt

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<p>1 because I'm not sure how many allies there will be in 2 that proceeding. I think it's certainly conceivable 3 that we might be the ones there, too, that are -- if not 4 the only ones, at least, carrying the laboring oar on 5 these issues. 6 A.L.J. JENNINGS-FADER: And with respect to 7 the second type, services and processes for which -- 8 which Qwest has offered but which have no Commission 9 approved rate, first of all, as to those, why would -- 10 is this the first time Eschelon has seen those rates? 11 I'm trying to understand how -- I understand 12 from your new products how the issue comes up: New 13 product, got to charge something, here it is. Now we're 14 talking about product has been in existence, has 15 Eschelon been paying something and now the rates are 16 changing? I mean, how has this issue come up? 17 MR. MERZ: I'm looking to my -- 18 A.L.J. JENNINGS-FADER: Ms. Clauson, you 19 certainly may speak if you wish. 20 MS. CLAUSON: Thank you. The category of 21 rates that you're asking about, I want to be sure to 22 answer the question, is things that they have been 23 offering, not new products, correct? 24 A.L.J. JENNINGS-FADER: Correct. I'm 25 differentiating it: new products.</p>	<p>1 opportunity to raise the issue of the rate? I mean, 2 that -- I'm trying to understand how it came to be in 3 this arbitration as opposed to ... 4 MS. CLAUSON: Because that's where we've 5 raised the issue, is in negotiations and arbitration, 6 and the arbitration just took a lot longer to get to 7 than we envisioned. 8 A.L.J. JENNINGS-FADER: As to services and 9 products which Qwest -- for which Qwest has been 10 charging in the past which Eschelon has been purchasing 11 and Eschelon believes to have been -- to have been an 12 inflated charge, that's another category, yes? 13 MS. CLAUSON: Yes. 14 A.L.J. JENNINGS-FADER: As to those, why has 15 Eschelon waited until the arbitration to deal with this? 16 Why didn't it deal with it by a complaint case or some 17 other mechanism? 18 MS. CLAUSON: Again, that goes to this whole 19 argument of efficiency. Should we -- we raise the issue 20 and litigate the rate in one arbitration and do them all 21 together? If you look at how many rates are at issue, 22 we have to have individual cases for each one. If you 23 look at one of the other open issues, Qwest opposes our 24 language. 25 Is that Colorado state specific language on</p>
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<p>1 MS. CLAUSON: And so for the second category, 2 a couple of situations may have occurred. First of all, 3 keep in mind, for all -- for -- in either case, we have 4 been negotiating this contract since before March of 5 2001. So we have been raising this issue of how to 6 handle unapproved rates with Qwest in negotiations for 7 literally years. So what to do about those rates and to 8 cure this situation where an unapproved rate could go 9 out there indefinitely has been a negotiated issue 10 during that time. We've been raising it with Qwest all 11 of that time. 12 During the meantime, a couple of situations 13 arise. One is that we -- it's a product we plan to 14 offer in the -- or have the ability to offer going 15 forward and don't currently or it's a price where Qwest 16 imposes its proposed rate. And our objection there is, 17 we don't think the rate they're applying is cost based. 18 Does that answer your question? 19 A.L.J. JENNINGS-FADER: As to the service or 20 product which Eschelon has -- an existing service or 21 product for which Qwest has been charging something but 22 which Eschelon has not in the past purchased, taking 23 that category, okay, that rate, then in your view, is a 24 rate which the Commission needs to deal with in this 25 arbitration because Eschelon has not in the past had an</p>	<p>1 that, our language -- our right to request a cost case? 2 (Discussion off the record.) 3 MS. CLAUSON: That is an open issue in 4 Colorado. So we have an open issue in the negotiations 5 in arbitration as to whether they agree we even have a 6 right to try to get a cost case. And we would have to 7 litigate individually every time that rate. 8 The burden is not, to our understanding, in a 9 cost case to establish rates on the CLEC. The ILEC has 10 the obligation to show that their rates are cost based, 11 and in the meantime, we've tried to negotiate with them 12 knowing that if we couldn't reach agreement, we would 13 arbitrate it. 14 Let me clarify, because apparently, I didn't 15 state it -- all these things I'm talking about are 16 unapproved rates. If they're approved rates, we've paid 17 the approved rate. 18 A.L.J. JENNINGS-FADER: Right. I got that. 19 I understand that. I understand that these are all 20 subcategories and subcategories of unapproved rates. 21 With respect to the efficiencies argument, 22 Eschelon, is it not the case that Eschelon has had to 23 arbitrate an interconnection agreement with Qwest in 24 each jurisdiction in which Eschelon does business with 25 Qwest?</p>

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<p>1 A.L.J. JENNINGS-FADER: That would be fine. 2 Q (By Mr. Merz) And actually, your testimony 3 refers to BJJ 36, but I -- I wonder if maybe you didn't 4 intend to refer to BJJ 39, which is the one that I just 5 handed to you. 6 A Yes, that's correct. 7 Q Now, in your rebuttal testimony at Page 20, 8 you say that Eschelon had asked Qwest to expend 9 resources on root-cause analysis based on a process that 10 is not Qwest's current practice and that Qwest is not 11 required to follow. Is that right? 12 A It is not Qwest's practice that the FOC must 13 be delivered at least a day before, but the date 14 Eschelon had been providing to its service manager was 15 based on that assumption, and therefore, we were talking 16 past each other in trying to go through the data that 17 Eschelon was providing. 18 Q BJJ 39 contains some e-mail correspondence 19 between Qwest and Eschelon. Is that right? 20 A Yes. 21 Q And that correspondence concerns data that 22 Eschelon was providing to Qwest regarding its jeopardy 23 and held-order process? 24 A That's correct. And I spoke to Jean Novak, 25 who was Eschelon's service manager at the time, about</p>	<p>1 notification process. Is that right? 2 A Yes. 3 Q So we know that at least as of August of 4 2004, Eschelon was providing this -- this data. Is that 5 right? 6 A Yes. And Qwest endeavored to respond, yes. 7 Q And you talk about the response, and the 8 response to the e-mail at the top of the page is found 9 there at the bottom of the same page. Is that right? 10 A Yes. This is Eschelon's response to Qwest's 11 e-mail. 12 Q Correct. 13 A Yes. 14 Q Now, if you go to the next page, there are 15 references there in the middle of the page to something 16 called Eschelon issues logs for service managers 17 meetings. Do you see that? 18 A Oh, yes. 19 Q And you were aware that Eschelon prepared 20 issues logs to provide information to Qwest regarding 21 compliance with certain ordering processes. Is that 22 right? 23 A Yes. 24 Q And what we have here on Page 9 and also 25 Page 10 of BJJ 39 are excerpts from those issues logs,</p>
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<p>1 that data and why Qwest was having difficulty analyzing 2 Eschelon's data. 3 Q Now, if you would go to Page 8 of Exhibit 4 BJJ 39. 5 A Yes. 6 Q There are two e-mails on Page 8, correct? 7 A Yes. 8 Q The e-mail -- the first e-mail on the page is 9 from Jean Novak to Bonnie Johnson, correct? 10 A Yes. 11 Q That is an e-mail dated August 25th of 2004. 12 Is that right? 13 A Yes. 14 Q In that e-mail, Ms. Novak is responding to, 15 apparently, a prior e-mail from Ms. Johnson regarding 16 this data that we've been talking about concerning the 17 jeopardy process. Is that right? 18 A Are we looking at the one at 244 or the one 19 at 404? 20 Q I'm looking at the one at the top of the page 21 from Ms. Novak to Bonnie Johnson. 22 A Okay. 23 Q And that is an e-mail in which Ms. Novak is 24 responding to a prior e-mail from Ms. Johnson that 25 provided certain data to get regarding the jeopardy</p>	<p>1 correct? 2 A That's my understanding from what Ms. Johnson 3 identifies these as. 4 Q And you also talked with Ms. Novak about this 5 issue. Is that right? 6 A Yes. 7 Q Now, it says here at the bottom of the 8 page -- there's a reference to an August 3, '05 team 9 meeting. Do you see that? 10 A Yes. 11 Q And it says there, I believe it's the third 12 sentence, "Jean once again stated that Qwest disagrees 13 that it's Qwest process to send the releasing FOC 24 14 hours prior to the FOC due date." Is that right? 15 A Yes. 16 Q And then if you go to the next page, there's 17 another reference to one of these issues logs that's 18 dated October 5th of 2005. Do you see that? 19 A Yes. 20 Q And it says on the second page, "Bonnie asked 21 if Eschelon should continue to send the delayed data to 22 Qwest. Jean said yes." Do you see that? 23 A Yes. 24 Q And Eschelon does continue to send the data 25 that it began sending in 2004. Is that right?</p>

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1 Q We've talked about this issue in a couple of
2 other cases, and you would agree with me that Qwest does
3 provide expedites to its retail customers?
4 A Yes, it does.
5 Q And it does that as a matter of course as
6 part of its regular business practice?
7 A And we offer expedites to all of our
8 customers, retail and CLECs, at the same terms and
9 conditions.
10 Q You are aware that Eschelon brought a
11 complaint in Arizona relating to expedites under its
12 current interconnection agreement, correct?
13 A Yes. The old interconnection agreement,
14 that's correct.
15 Q You're aware that that complaint is now
16 pending?
17 A Yes.
18 Q And you are in fact a witness for Qwest in
19 that case, correct?
20 A Yes, I am.
21 Q And the Arizona Commission staff has filed
22 testimony in that case. You're aware of that?
23 A Yes.
24 Q And in fact, you refer to that Arizona staff
25 testimony in your own testimony. Is that right?

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1 A That's correct.
2 Q The Arizona staff has concluded that Qwest
3 had breached the terms of its interconnection agreement
4 with Eschelon by failing to provide Eschelon with the
5 capability to expedite orders. Is that right?
6 A Yes. And I believe in my testimony, I
7 explained that Qwest believes that the staff has erred
8 in that conclusion.
9 Q And the Arizona staff has concluded that
10 Qwest is required to provide expedites to Eschelon on
11 cost-based rates, correct?
12 A Yes.
13 Q In the Minnesota arbitration, the A.L.J.s
14 also concluded that Qwest is required to provide
15 expedites at cost-based rates, correct?
16 A I know that they require that it be dealt
17 with in a cost docket. I don't recall if they actually
18 concluded it was cost based.
19 Q No. I think my question's different.
20 A Okay.
21 Q You are aware that the Minnesota A.L.J.s said
22 that Qwest should provide expedites to Eschelon at
23 cost-based rates?
24 A I'd have to look at what they -- what -- the
25 A.L.J.s' order.

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1 Q You just don't recall that?
2 A I'm not sure that's exactly what they said.
3 Q Do you recall that the Minnesota Commission
4 also found that Qwest was required to provide expedites
5 to Eschelon at cost-based rates?
6 A Well, what I understand is that they required
7 that the expedite rate be dealt with in the cost docket.
8 That would presume it's cost based, but ...
9 Q You are aware that in the Minnesota
10 arbitration case, Eschelon proposed an interim rate for
11 expedites, right?
12 A Yes.
13 Q And you're aware that that interim rate is a
14 hundred-dollar per order charge?
15 A I believe it's a hundred dollars per order
16 per day.
17 Q Well, it is what it is, but you're aware that
18 it's a hundred-dollar charge that's been proposed by
19 Eschelon?
20 A Yes.
21 Q And you are aware as well that in Minnesota,
22 the Commission ordered that Eschelon's proposed interim
23 rate for expedites be adopted?
24 A Yes. But I, again, believe that's until it
25 has been resolved in the cost docket, so it's an interim

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1 rate.
2 MR. MERZ: I don't have anything further.
3 Thank you, Ms. Albersheim.
4 A.L.J. JENNINGS-FADER: Redirect?
5 I'm sorry. Before you do that, I'd like to
6 tell the parties how I proceed in this matter.
7 We'll do redirect. Then I will have
8 questions for Ms. Albersheim following which parties in
9 the -- Eschelon, you'll have an opportunity to ask
10 questions based on what I ask, and then Qwest, you'll
11 have an opportunity to do whatever redirect or cleanup
12 that you think may be necessary as a result of the
13 questions
14 MR. TOPP: Okay. Thank you.
15 REDIRECT EXAMINATION
16 BY MR. TOPP:
17 Q Ms. Albersheim, I'd have you refer to
18 Exhibit RA 17 to your rebuttal testimony.
19 A My answer?
20 Q The answer testimony, excuse me, that you
21 were discussing with Mr. Merz earlier.
22 A Yes.
23 Q And Mr. Merz asked you a series of questions
24 about a March 4th meeting at -- and some of the entries
25 on Page 5 of that meeting. Is that correct?

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1 MR. TOPP: I have no further questions.
 2 EXAMINATION
 3 BY A.L.J. JENNINGS-FADER:
 4 Q I have a number of questions, but let me
 5 start with a general question about your involvement and
 6 background with the change management process.
 7 What is that? What is your involvement and
 8 background specifically in actually working in the
 9 change management process?
 10 A I'm not part of the change management team
 11 itself. As a witness, I obtain information from the
 12 change management record as my primary source, but then
 13 I also speak to the members of the change management
 14 team if I need additional information, as sometimes
 15 occurred in this case.
 16 I was involved in the development of the
 17 change management as support staff for the people who
 18 were negotiating the change management redesign, but I
 19 do not work as a change management team member.
 20 Q So if I -- am I correct to take from that
 21 that to the extent you talk about -- either in your
 22 written testimony or in response to counsel's questions,
 23 the reasons things happened, for instance, with respect
 24 to the changes that are reflected in Exhibit BJJ 39 --
 25 A Yes.

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1 Q -- that those -- that discussion is based
 2 either on your reading documents or discussions you have
 3 with persons who did participate in that process?
 4 A Yes. So for that exhibit, I spoke directly
 5 with Jean Novak.
 6 Q Is that also true with respect to changes or
 7 implementation through the product -- I'm sorry. That
 8 was a terrible question.
 9 Could you explain, for the Commission's
 10 information, what your involvement is as a matter of
 11 daily work with the product catalog, which is referred
 12 to sometimes as the PCAT?
 13 A I do not participate in the changes to the
 14 PCAT itself. That is handled by our process personnel
 15 and usually takes place as a result of change management
 16 change requests. I get involved if those become an
 17 issue in litigation, and then I must investigate what
 18 took place when that change request was implemented.
 19 Q And so taking your previous answer with
 20 respect to the change management process, may the
 21 Commission take from your answer with respect to the
 22 product catalog that you used the same process for your
 23 investigation; that is, you read whatever documentation
 24 may be available, and you'd speak to interested -- or,
 25 excuse me -- involved persons and obtain your

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1 information that way?
 2 A Yes.
 3 Q Do you have the same -- do you have a
 4 procedural -- excuse me -- an operations involvement
 5 with the service interval guides, sometimes referred to
 6 as the SIGs?
 7 A No, I do not.
 8 Q And working back to the testimony you've
 9 given previously about your work with the change
 10 management process and the product catalog, is that --
 11 your involvement at that same level to the extent you
 12 discuss SIG in your testimony?
 13 A Yes. For the history of service interval
 14 changes, I went to the change management team and
 15 discussed with them how interval changes are implemented
 16 through the SIG.
 17 Q I understand one of the major issues in this
 18 arbitration to be a fundamental disagreement between
 19 Qwest and Eschelon as to the degree of specificity which
 20 must be in an interconnection agreement with respect to
 21 processes and procedures.
 22 Is my understanding correct?
 23 A That's correct.
 24 Q And it's Qwest's position, if I understand it
 25 correctly, that reference to documents such as the

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1 product category or the service interval guide and
 2 reference to processes such as the change management
 3 process suffice to address a wide variety of issues
 4 at -- that are subject to arbitration.
 5 A Yes. It is our belief that the processes and
 6 procedures were not intended to be part of the
 7 interconnection agreement. Those were for terms and
 8 conditions, what products the CLECs would buy from
 9 Qwest, on what terms. But the details regarding how
 10 projects -- products would be proficient should be
 11 according to Qwest's internal procedures, which are
 12 managed through the SIG.
 13 Q I'm sorry. When I was listing all the
 14 various kinds of places one might go for information, I
 15 forgot Qwest's implementation guide.
 16 Are you familiar with that?
 17 A Yes.
 18 Q And referring back to our discussion having
 19 to do with the change management process, the product
 20 catalog and the service interval guide, is your
 21 relationship or your operational understanding of
 22 Qwest's implementation guide based on the same kind of
 23 investigation?
 24 A Yes, though a little more detailed there,
 25 because I used to be in the information technologies

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1 department and had more familiarity with our IT
 2 processes, so I was already pretty familiar with those
 3 documents. But still, as part of my investigation, I
 4 did go to the implementation team at Qwest to discuss
 5 the terms and the implementation guide.
 6 Q Now, getting -- I'm sorry for that diversion.
 7 Let's -- getting back to our discussion about
 8 fundamental areas of disagreement, now, when you
 9 testify, Ms. Albersheim, regarding the use of the change
 10 management process instead of including processes in the
 11 interconnection agreement --
 12 A Yes.
 13 Q -- could you explain for the record
 14 briefly --
 15 Let me start again. If I understand
 16 correctly, there are two types of processes within
 17 change management or -- one of which is a process that
 18 directly relates to service -- to products and
 19 processes. Is that correct? And there's a notification
 20 process and an entire process to deal with Qwest's
 21 implementation of product and process changes, correct?
 22 A Yes, that's correct.
 23 Q And there is a separate process within the
 24 change management process for dealing with changes
 25 having to do with operational systems. Is that correct?

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1 A That's correct.
 2 Q And in fact, referred to as product and
 3 process and systems, correct?
 4 A That's correct.
 5 Q Now, when Qwest talks about referring
 6 product -- process issues to the change management
 7 process, it's referring to using the process related to
 8 products and processes, is that correct, as opposed to
 9 the systems process?
 10 A Well, yes, unless the change involves the
 11 system change. Sometimes they are submitted as one, as
 12 a product and process, but in -- Qwest determines that
 13 the change actually involves systems, so they are moved
 14 over into the systems category.
 15 Q So if when Qwest -- when you testified -- not
 16 Qwest. When you testify that an issue ought to be
 17 referred to the change management process, then what --
 18 to which piece of the change management process are you
 19 suggesting the issue be referred?
 20 A Well, that depends on what change the CLEC
 21 requires, and if what they require is a change to our
 22 procedures, then it would be a product and process
 23 change. But if it requires a change to our systems, it
 24 would be a systems change.
 25 Q In your testimony, do you identify to which

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1 piece of the change management process various issues
 2 ought to be referred, or is this just a general concept?
 3 A It's a general concept, because I don't
 4 believe any were dealt with that way, if that makes any
 5 sense.
 6 Q With that degree of specificity?
 7 A Yes.
 8 Q And if I am putting words in your mouth, stop
 9 me immediately.
 10 A It's okay. I believe that's the case.
 11 Q I understand from the testimony of
 12 Mr. Starkey, his direct testimony, which in this
 13 proceeding is Exhibit No. -- Hearing Exhibit No. 18,
 14 that in approximately mid November of 2006, Qwest
 15 determined that it would begin using a negotiations
 16 template agreement. Is that correct?
 17 A I think it's been longer than that.
 18 Q Well, to the --
 19 A To use a negotiations template, yes.
 20 Q And it did occur at some point during the --
 21 during the negotiations between Eschelon and Qwest that
 22 led to this arbitration?
 23 A Well, Eschelon's negotiations started before
 24 we started using the negotiations template, so they've
 25 been going on a long time.

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1 Q They have been, yes.
 2 A So several intervening events.
 3 Q Sure. And the switch from using the
 4 statement of generally accepted terms and conditions to
 5 using the negotiations template agreement occurred at
 6 some point during that negotiation process between Qwest
 7 and Eschelon?
 8 A I believe that's correct, yes.
 9 Q Do you disagree -- are you familiar with
 10 Mr. Starkey's direct testimony? I believe you are,
 11 because I think you responded to it.
 12 A I responded to it, yes.
 13 Q And do you disagree with his representation
 14 that Qwest issued this notice of change from the SGAT to
 15 the negotiations template agreement by a Level 1 notice?
 16 A I'm not certain.
 17 Q That's to say, you don't recall what the
 18 level --
 19 A Yeah. I don't recall how that was
 20 communicated.
 21 Q In the course of your investigation into the
 22 issues involving change management and referring some of
 23 these issues to change management process, what was the
 24 basis for the change from using -- first of all, what
 25 are statements of generally accepted terms and

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1 A I don't know. At this point I would be
2 guessing.
3 Q Do you know -- do you know -- Ms. Albersheim,
4 please don't do that. Thank you.
5 Ms. Albersheim, do you know whether the
6 negotiations template agreement contains all the
7 provisions that are contained within the Colorado
8 Commission approved SGAT as modified?
9 A I would be guessing.
10 Q So you haven't done a side-by-side
11 comparison?
12 A I have not done a side-by-side. I believe it
13 contains more, but I would be guessing at that.
14 Q Did Qwest prior to switching from the SGAT to
15 the negotiations template agreement seek Commission
16 approval or notify the Commission before it made that
17 change?
18 A I don't believe it has. The thing is, while
19 it has published this negotiations template, I don't
20 believe the SGAT is not in effect. The thing is is that
21 the language in the SGAT is significantly out of date,
22 so I don't believe Qwest has initiated formal
23 proceedings with regard to the SGAT at this time.
24 Q By "formal proceedings," you mean formal
25 proceedings to somehow -- what do you mean by "formal

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1 proceedings"?)
2 A Where it is to change the SGAT, withdraw the
3 SGAT, place the negotiations template in their place, I
4 don't know what Qwest's plans are there, but I don't
5 believe that has taken place yet. So the SGAT isn't
6 void, but it is significantly out of date.
7 Q And so that it leads me, actually, to kind of
8 where I was going with this whole -- I just needed to
9 set the stage.
10 A Yes.
11 Q If there is a dispute between the language in
12 an SGAT, just for example, and the language in the
13 negotiations template agreement, which document governs?
14 A That's hard to answer because I feel like
15 that's a legal question.
16 Q Well, I understand you're a lawyer, but I'm
17 not asking you a legal question. I'm asking you a
18 question based on -- first of all, you're a lawyer?
19 A I'm a lawyer but not for Qwest.
20 Q I understand that, and I'm not asking you a
21 legal question. I am asking you a question based on
22 your understanding and investigation and Qwest's
23 position about things going to CMP and other -- other
24 relevant processes.
25 A Well, you see, I don't believe Qwest

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1 approaches it quite the way you frame the question,
2 because the negotiations template is a starting point
3 for negotiations. It's the starting point for coming up
4 with an interconnection agreement.
5 If the terms in the SGAT and the terms of the
6 negotiation template don't agree, the CLEC is certainly
7 free to bring that to Qwest's attention during the
8 negotiations. And Qwest can address that in the
9 negotiations and determine whether or not the CLEC is
10 correct, change the negotiations template, or come up
11 with some alternative for that CLEC's contract.
12 Q So I gather from that that the negotiations
13 template agreement is not a take-it-or-leave-it
14 proposition.
15 A No, no. It's a starting point.
16 Q Let's move back -- and thank you for that.
17 A Sure.
18 Q It helps me understand a little bit about
19 Qwest's view about the template negotiations template.
20 A Sure.
21 A.L.J. JENNINGS-FADER: I think we're pretty
22 much finished with the -- Mr. Starkey's testimony.
23 Thank you, Counsel, for letting me -- for letting us use
24 that.
25 Q (By A.L.J. Jennings-Fader) Now, Qwest's

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1 view, I believe, in this case is that certain process
2 issues belong in the CMP for a variety of reasons, all
3 of which are discussed in detail in your testimony.
4 Is my understanding correct?
5 A Yes.
6 Q If an issue belongs in CMP and if the issue
7 is a product and process, correctly labeled a product
8 and process issue, what is the process by which the
9 CLEC, in this case Eschelon, can bring the issue to CMP
10 to assure that the issue is addressed with the CMP?
11 A They can submit a change request to have that
12 particular change made to the product or process.
13 Q Now, are change requests for product and
14 process subject to review by all -- all of the CLECs
15 that may participate in the change management process?
16 A They all have the opportunity to review and
17 comment on all change requests, yes.
18 Q Does Qwest under the change management
19 process -- are change requests for product and processes
20 subject to any sort of vote by anyone?
21 A No, but I'd like to clarify what voting
22 means.
23 Q Please do.
24 A Because it is not whether or not a change
25 request is accepted or denied. The voting is to

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1 Q If, taking the exhibit -- the example of the
2 firm order commitment following a jeopardy and the date
3 on which it is to be provided -- let's get the whole
4 deal out there.
5 A Yes.
6 Q Let's assume that Eschelon had never -- had
7 never raised the issue, goes to the CMP, goes to the
8 process and -- product and process portion of the CMP,
9 goes through the whole nine yards and CMP, at the end of
10 the day Qwest says no, okay, which is pretty much what
11 they're saying now --
12 A Right.
13 Q -- okay? How has going through the CMP
14 process done anything for Eschelon other than delay a
15 third party's resolution of the dispute?
16 A It might give Eschelon allies in the argument
17 if other CLECs agree that this change should be made to
18 Qwest's process. So I believe there's a benefit in
19 finding consensus on what this change should be and what
20 the CMP is for. So it does delay, but Qwest could
21 discover that that is important to all of the CLECs and
22 isn't just a process change that Eschelon wanted.
23 Q Now, we'll talk about all -- and you have
24 blended in, then, the reason, among others, that Qwest
25 wants to go for certain of these issues, among them the

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1 FOC following jeopardy has to do with the fact that it
2 wants input from all of the competitive local exchange
3 carriers that participate in the change management
4 process?
5 A That is one, and the other overriding concern
6 for Qwest is to have one set of processes and procedures
7 for everybody.
8 Q So, now, Qwest gets the input, decides not to
9 proceed. What value is it to Eschelon to have had that
10 input from other CLECs, aside from the allies?
11 A Well, if -- if Qwest does not change its
12 mind, then Eschelon has not received any benefit, no.
13 It hasn't gotten that change made. But I don't believe
14 it's appropriate for that change to be made through
15 contract terms.
16 Q Now, you mentioned the word "consensus" in
17 your answer a moment ago.
18 A Um-hum.
19 Q Which consensus? Are change management --
20 excuse me. Are change requests on product and process
21 resolved by consensus?
22 A I'm not sure I would put it that way. Qwest
23 does listen to the input it receives from CLECs when
24 Qwest submits its own change requests and doesn't always
25 implement them. Likewise, it gets input from CLECs on

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1 change requests submitted by other CLECs.
2 So, you know, Qwest doesn't implement change
3 requests in a vacuum. The input from the CLEC community
4 is an important aspect of implementing change requests.
5 Q And now I'd like to talk about -- a little
6 bit about Issue 12-64, which is the root-cause analysis
7 and commission of error, if you will.
8 A Okay.
9 Q I don't know how --
10 A Acknowledgment of mistakes.
11 Q Acknowledgment of mistakes. Thank you. I'll
12 write that down. I want to be sure to use that right.
13 A.L.J. JENNINGS-FADER: And again, Counsel, I
14 apologize. Does someone have Mr. Webber's direct
15 testimony, which will be Exhibit No. 19?
16 MR. MERZ: Yes.
17 A.L.J. JENNINGS-FADER: Thank you.
18 Q (By A.L.J. Jennings-Fader) Could you turn to
19 Page 43.
20 A I'm there.
21 Q And specifically, if you would take a moment.
22 Are you familiar with Mr. Webber's testimony?
23 A Yes. I've read it.
24 Q And there is a long quotation there from
25 Qwest's product catalog at Lines 12 to about 26 --

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1 A Yes.
2 Q -- having to do with postmortems under
3 specific circumstances.
4 A Yes.
5 Q And postmortems are what?
6 A Analysis of mistakes.
7 Q And are they the functional equivalent of
8 root-cause analysis?
9 A Yes, yes. You could call it that, yes. And
10 I'd point out that I believe I reference the same PCAT
11 in my testimony. I just didn't quote it.
12 Q You may, but the quote happened to be here,
13 so --
14 A Yes.
15 Q Okay. Now, did this process that's shown
16 here on Page 43, Lines 12 to 26 result from a change
17 management process?
18 A I couldn't say how all of the changes that
19 might have been made to this would have resulted. It
20 has a history of changes, some probably through the CMP.
21 Q I'm sorry. I should say -- I'm sorry. Does
22 the original concept of doing the root-cause analysis or
23 postmortem referenced in this testimony arise -- did it
24 come through CMP or was it --
25 A Its origin, I don't know.

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1 Q I'm sorry. I should have been clearer.
 2 A That's okay.
 3 Q While I understand -- well, the process
 4 that's referenced on Page 43 -- 43, Lines 12 to 26 of
 5 Mr. Webber's direct testimony, that process is limited
 6 to a particular circumstance. Is that correct?
 7 A Yes. This appears to be limited. This quote
 8 limits the process to repair circumstances, yes.
 9 Q And further, if I'm reading this correctly, a
 10 repair or circumstance met -- excuse me -- maintenance
 11 and repair circumstance on an unusual event, for
 12 example, an event lasting over eight hours, in other
 13 words, it's quite specific, quite directed. Is that
 14 correct?
 15 A Well, that's an example. Another unusual
 16 repair event could be an error, if you will, that occurs
 17 many times or isn't resolved on the first try. I
 18 believe that's just exhibited as an example.
 19 Q So this process may be available for more
 20 than one -- more than the one event referenced,
 21 specifically referenced?
 22 A Yes.
 23 Q Is this process still operational --
 24 A Yes.
 25 Q -- operative?

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1 A Yes, it is.
 2 Q Taking this -- let's assume that there's a
 3 postmortem or root-cause analysis, which is also
 4 referenced in this same quotation, completed.
 5 What happens as a result of that root-cause
 6 analysis? Qwest does one, and then what?
 7 A It provides the results to the CLEC.
 8 Q Anything else?
 9 A That depends on what the CLEC wants to
 10 happen. It's entirely circumstance specific.
 11 Q Does -- do you know whether Qwest charges for
 12 a postmortem or a root-cause analysis which is done
 13 pursuant to this provision?
 14 A No. I don't believe there's a charge for
 15 this.
 16 Q I understand that Qwest's concern in part
 17 about the root-cause analysis -- correct me if I'm
 18 wrong, please -- is that this may result -- may be a
 19 change in Qwest's current process or procedures, is that
 20 correct, or may cause a result in a change to the
 21 current process or procedures?
 22 A I don't think that's our primary concern with
 23 this issue, though that's a possibility. I don't think
 24 that's mainly what our concern is here.
 25 Q To the extent that Qwest has a -- has stated

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1 a concern about Issue 12-64, Eschelon's proposals,
 2 because it might have that effect of changing a process
 3 or procedure, is what is described in Mr. Webber's
 4 testimony on Page 43 a process or procedure that could
 5 be adapted to a broader -- to encompass a broader scope?
 6 A It could. I just have to --
 7 Q I want you to give a complete answer, so if
 8 you have some reservations, please, I'd like to hear
 9 them. I'm not --
 10 A I'd rather be looking at the entire PCAT,
 11 because I believe this is only a portion of what is
 12 available. I believe more's already available from the
 13 account manager PCAT; plus, there is a root-cause
 14 analysis of this kind specific to repair issues.
 15 So we offer them more than this already.
 16 It's possible it could be adapted to do even more than
 17 what is already offered. It depends on the
 18 circumstances, what is asked to be offered.
 19 Q Is part of Qwest's concern about Issue 12-64
 20 that it might be overused, if there were such a -- if
 21 there were a provision in the interconnection agreement,
 22 that it might be overused by Eschelon and cause
 23 increased costs to Qwest as a result?
 24 A I believe that potential exists, yes.
 25 Q And is that one of the concerns that you've

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1 articulated or that's been -- with respect to this
 2 issue?
 3 A That's just my opinion. I haven't really
 4 stated that in my testimony. I believe that their
 5 request is significantly broad and creates that
 6 potential.
 7 Q To address that potential, would a -- would a
 8 provision which limits the number of such requests made
 9 within some period of time address that concern? Yes or
 10 no. And I'll ask you to explain your answer, but I
 11 just ...
 12 A Yes. It would help.
 13 Q And because?
 14 A Well, because then it would limit the amount
 15 of resources spent on those efforts by Qwest, yes, and
 16 might help to limit Eschelon's use of that provision,
 17 you know, and make it use it when it's needed. But
 18 right now, this isn't there. There's no limitation at
 19 this point.
 20 Q And I know we're running into the lunch hour,
 21 but I really just have one more specific issue that I'd
 22 like to talk about with you, and it's not nearly, I
 23 think, as detailed as we have been up to this point.
 24 A Okay. Do I still need this (indicating)?
 25 Q Oh, I think not. Thank you. There's just a

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1 A Yes, it does.
2 Q Let's assume for purposes of my -- of our
3 discussion the following: Qwest's proposal has been
4 accepted. Eschelon brings a complaint, formal complaint
5 before the Commission, claiming that Qwest has not
6 fulfilled its interconnection duties or obligations.
7 The interconnection duties or obligations to which the
8 complaint refers have to do with something to which one
9 must -- for which one must refer to the PCAT in order to
10 determine what those duties or obligations are.
11 With me so far?
12 A Yes.
13 Q Okay?
14 A Okay.
15 Q All right. What PCAT does the Commission
16 look to to determine the duties and obligations of
17 Qwest? And I'll give you some options. The PCAT -- at
18 what point in time? Is it the PCAT in existence on the
19 day that the ICA was filed with the Commission? Is it
20 the PCAT that was in effect on the day in which the
21 alleged failure occurred? Is it the PCAT which -- which
22 was in existence on the date the complaint was filed, or
23 is it the PCAT which is in existence on the date of the
24 hearing before the Commission?
25 A If I understand you correctly, it would be

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1 the PCAT that was in effect the date the alleged
2 infraction occurred that the complaint is filed about.
3 That would have to be, because that would be the
4 procedure in effect at that point.
5 Q And that was just an example.
6 A Okay.
7 Q If Qwest's -- let's assume now following the
8 additional fact that the PCAT to which the ICA -- to
9 which one would look in the event of a complaint that we
10 discussed earlier is the PCAT in effect on the date of
11 the alleged failure.
12 If subsequent to the event of the alleged
13 failure Qwest has changed its PCAT, what impact does
14 that have based -- I mean, from a process view, from the
15 Commission's perspective, trying to -- trying to deal
16 with the complaint, how does the Commission deal with
17 something?
18 A That's already changed?
19 Q That's already changed.
20 A I'm afraid that would really depend on the
21 circumstances. I'm not sure I could answer that
22 globally, because it would depend on if the change may
23 have improved the situation that caused the problem in
24 the first place or if had made the process so different
25 that it's hard to address in that forum. I can't really

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1 guess how that would be affected.
2 Q Thank you so much.
3 A Sure.
4 Q My apologies for my inartfully worded
5 questions, but thank you for your responses.
6 A Sure.
7 A.L.J. JENNINGS-FADER: Mr. Merz.
8 MR. MERZ: Thank you, Your Honor.
9 RECROSS-EXAMINATION
10 BY MR. MERZ:
11 Q The judge had some questions for you this
12 morning about the substitution of a negotiation template
13 for the PCAT. Do you recall that?
14 A Yes. As a starting point for negotiations,
15 yes.
16 MR. MERZ: And, Your Honor, I have a document
17 that I'd like to get marked.
18 A.L.J. JENNINGS-FADER: Exhibit No. 29 for
19 identification.
20 (Exhibit 29 marked for identification.)
21 A Is this different?
22 Q (By Mr. Merz) You have there what's marked
23 as Exhibit 29, is that correct, for identification?
24 A Yes.
25 Q And you recognize Exhibit 29 as the CMP

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1 notice relating to the substitution of the negotiation
2 template for the PCAT. Is that right?
3 A It appears to be part of it, yes.
4 MR. MERZ: Your Honor, Eschelon offers --
5 A.L.J. JENNINGS-FADER: I'm sorry. Could you
6 give me the date of the letter?
7 MR. MERZ: It is dated November 15, 2006.
8 It's a notice that went to Kim Isaacs, who's an Eschelon
9 employee. It's a notice -- a CMP notice from Qwest.
10 A.L.J. JENNINGS-FADER: And the subject is
11 CMP getting started as a CLEC B-21.
12 MR. MERZ: If you read down --
13 A.L.J. JENNINGS-FADER: No. I'm sorry. Is
14 that just the subject -- one of the lines --
15 MR. MERZ: That's the subject line, yes.
16 A.L.J. JENNINGS-FADER: That's all I wanted,
17 to make sure you were talking about the same document.
18 MR. MERZ: I understand, Your Honor.
19 Eschelon offers Exhibit 29.
20 A.L.J. JENNINGS-FADER: Exhibit offered.
21 Objection or voir dire?
22 MR. TOPP: No objection.
23 A.L.J. JENNINGS-FADER: Exhibit 29 is
24 admitted.
25 (Exhibit 29 admitted.)

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1 Q (By Mr. Merz) You see here, Ms. Albersheim,
2 this notice identifies the change was in fact a Level I
3 change?
4 A Yes, I see that.
5 Q There was also a question this morning about
6 whether the SGAT would continue to be available for
7 opt-in after the negotiation templates were put in
8 place, and you see that this issue was addressed here on
9 this notice that we've now admitted as Hearing
10 Exhibit 29?
11 A Yes, I see that.
12 Q And you see that the notice from Qwest says
13 that the SGATs are no longer available to opt in and
14 have been replaced by the negotiation templates. Is
15 that right?
16 A See that, yes.
17 Q Now, Mr. Topp had some questions for you this
18 morning regarding --
19 A.L.J. JENNINGS-FADER: I'm sorry.
20 MR. MERZ: I'm sorry?
21 A.L.J. JENNINGS-FADER: Only questions that I
22 asked.
23 MR. MERZ: Only your questions. All right.
24 A.L.J. JENNINGS-FADER: Yes.
25 MR. MERZ: That's it.

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1 A.L.J. JENNINGS-FADER: Thank you.
2 Mr. Topp, any redirect based on my questions?
3 MR. TOPP: Just one short one, maybe two.
4 A.L.J. JENNINGS-FADER: As many as you need,
5 Counsel.
6 REDIRECT EXAMINATION
7 BY MR. TOPP:
8 Q Ms. Albersheim, you were asked some questions
9 about whether processes vary between states. Do you
10 recall that?
11 A Yes.
12 Q Generally, does Qwest attempt to make
13 processes consistent?
14 A Yes, Qwest does.
15 Q And where there is a difference in processes
16 between states, is there any general cause for those
17 changes?
18 A Well, that can be as a result of an order in
19 that state that requires us to do things in a different
20 way, yes. I -- I was getting confused a little by the
21 judge's question, because I was hearing the question
22 about rates, and rates will vary across states. But in
23 terms of processes, we try to make them the same, but
24 sometimes we have no choice.
25 MR. TOPP: No further questions.

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1 A.L.J. JENNINGS-FADER: Thank you.
2 Ms. Albersheim, thank you so much for your
3 testimony, both written and oral, and it's very helpful
4 to the Commission. Thank you, ma'am. You're excused.
5 Qwest, prepared for your next witness?
6 MR. TOPP: At this point, Qwest will call
7 Teresa K. Million, which is a little out of order, which
8 we apologize for.
9 THE WITNESS: Do you mind if I get a copy of
10 my --
11 A.L.J. JENNINGS-FADER: You certainly may,
12 but I'll give you the official version.
13 THE WITNESS: All right. Thank you.
14 A.L.J. JENNINGS-FADER: Actually, while
15 we're -- while I'm thumbing through these documents,
16 what -- have we proceeded with respect to Mr. Easton?
17 Is he available?
18 MR. TOPP: Mr. Easton is arriving tonight, so
19 he will be available tomorrow.
20 A.L.J. JENNINGS-FADER: That's fine. Thank
21 you. I should have asked earlier. My apologies,
22 Counsel.
23 MR. TOPP: And when would you like me to
24 offer Mr. Hubbard's testimony?
25 A.L.J. JENNINGS-FADER: At any time that's

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1 convenient, close of business today or whenever you
2 think. Obviously, at some point before you close the
3 case.
4 Ms. Million.
5 TERESA MILLION,
6 being first duly sworn in the above cause, was examined
7 and testified as follows:
8 A.L.J. JENNINGS-FADER: Thank you, ma'am.
9 Please state your name, spell your last name for the
10 record.
11 THE WITNESS: My name is Teresa Million,
12 M-i-l-l-i-o-n, just like the number.
13 A.L.J. JENNINGS-FADER: Thank you very much,
14 ma'am.
15 Mr. Topp.
16 DIRECT EXAMINATION
17 BY MR. TOPP:
18 Q Good afternoon, Ms. Million.
19 A Good afternoon.
20 Q You've submitted testimony in this case. Is
21 that correct?
22 A Yes, I have.
23 Q And I have direct testimony dated
24 December 15th marked for identification as Exhibit 12,
25 answer testimony with exhibits dated March 26th of 2007

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1 questions about design changes, and particularly of
2 the -- part of the design-change issue that relates to
3 the rate for loops and connecting facility assignments.
4 You're familiar with those issues, correct?
5 A Yes.
6 Q Now, the parties have a dispute about whether
7 the design-change rate of \$73.93 applies only to design
8 changes for unbundled transport or whether it applies to
9 both transport and loops. Is that right?
10 A Yes.
11 Q And it's Eschelon's position that that rate
12 was approved only with respect to transport, and it's
13 Qwest's position that it was approved with respect to
14 both unbundled loops and unbundled transports. Is that
15 right?
16 A Yes.
17 Q Now, that rate, the \$73.93 rate, was set back
18 in a cost case in 2001 in Colorado. Is that right?
19 A I don't have the year memorized, but it was
20 in a prior cost case, yes.
21 Q And do you believe -- does 2001 sound about
22 right to you?
23 A Yes.
24 Q And Qwest began charging for design changes
25 for unbundled transports shortly after that rate was

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1 approved in 2001. Is that right?
2 A That's my understanding.
3 Q Qwest did not begin charging for design
4 changes to loops until October of 2005. Is that right?
5 A That's my understanding.
6 Q And before October of 2005, Qwest was
7 providing CLECs with loop design changes at no
8 additional charge, correct?
9 A I think it would have depended on the type of
10 change, whether it took a reorder of the circuit or not,
11 but as it relates to the design changes, the specific
12 \$73 charge, no.
13 Q And I want to make sure I'm clear. I'm
14 talking about the kind of design changes that are the
15 subject of the parties' dispute.
16 Prior to October 2005, Qwest was providing
17 those kinds of design changes for loops to CLECs at no
18 additional charge, correct?
19 A My only qualification was, as I indicated,
20 whether or not some changes would have required a change
21 in service-order processing which I would not have known
22 about, like an order had been cancelled and resubmitted.
23 Q And that would be subject to some separate
24 rate --
25 A Yes.

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1 Q -- that had been determined by the
2 Commission?
3 A Yes.
4 Q And specified in the parties' contract?
5 A Yes.
6 Q Now, one of the things that Mr. Denney has
7 said in this case in his testimony is that the section
8 of the SGAT that concerns unbundled transport references
9 the charge for design changes but that the section
10 concerning unbundled loops does not.
11 Are you familiar with that testimony?
12 A Yes.
13 Q And you don't dispute that that's the case,
14 do you?
15 A No.
16 Q You agree that the SGAT sets out a
17 design-change charge relating to transport in the body
18 of the contract referring to transport?
19 A There is some discussion of design changes
20 there. However, design changes themselves are listed in
21 9.20 of the miscellaneous charges, meaning that it's
22 applicable to both transport loops and perhaps other
23 services and UNES.
24 Q And 9.20, you're referring to a section of
25 Exhibit A to the SGAT, correct?

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1 A Correct, miscellaneous services.
2 Q And I'm focusing now on the body of the
3 contract, the part of the contract that comes before
4 Exhibit A. Are you with me?
5 A Yes, I am.
6 Q And that sets out the terms and conditions
7 under which Qwest will provide Eschelon with unbundled
8 net -- I'm sorry -- which Qwest is offering as part of
9 its SGAT to provide unbundled network elements, correct?
10 A So you're asking specifically about the
11 SGAT --
12 Q Yes.
13 A -- not the ICA under arbitration?
14 Q Yes. I'm focusing specifically now on the
15 SGAT.
16 A Yes.
17 Q And the SGAT contains provisions that
18 describe terms and conditions under which Qwest is
19 offering to provide unbundled transport.
20 A Correct.
21 Q And in the section related to unbundled
22 transport, there's reference specifically to design
23 changes.
24 A I believe so in the SGAT. I'm sorry. We
25 seem to have changed from the ICA to the SGAT. I just

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1 the design-change rate that has been approved by the
 2 Colorado Commission is an average for design changes?
 3 A It's a reflection of all the design-change
 4 orders that Qwest might perform, yes.
 5 Q And so it's Qwest's position that it includes
 6 design changes for transport, and it includes design
 7 changes for loops, and it includes CFA changes. Isn't
 8 that right?
 9 A Yes.
 10 Q Now, since there's averaging going on, you
 11 would agree that the cost to perform all three of those
 12 kinds of design changes isn't exactly the same, is it?
 13 A Well, although Ms. Million would probably be
 14 the best one to respond to this, but my understanding in
 15 the Minnesota cost docket where we looked specifically
 16 at the process flow for unbundled loops and for
 17 transport, there was only like a three-minute difference
 18 in the processing of a design change. So in that case,
 19 while there may have been a difference, it was not
 20 significant.
 21 Q For averaging to be going on, there has to be
 22 some above the average and some below the average.
 23 You'd agree with that in all events, correct?
 24 A I would agree the definition of an average is
 25 that, yes.

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1 Q And you will agree with me that on average,
 2 it costs Qwest more to perform a design change for an
 3 unbundled transport circuit than it does for a loop,
 4 correct?
 5 A Well, based on that three-minute difference,
 6 then, yes, I would say that there's a slight difference
 7 in transport.
 8 Q And in fact, you are aware that Ms. Million
 9 makes the point that Eschelon has received an advantage
 10 as a result of paying a lower design-change charge for
 11 units than would have been the case had that charge been
 12 calculated on a standalone basis?
 13 A Yes.
 14 Q You're familiar with that testimony --
 15 A Yes.
 16 Q -- of Ms. Million?
 17 A Yes.
 18 Q Now, if the standalone cost for a unit-design
 19 change is higher than the average, you would agree with
 20 me, would you not, that the standalone cost of a loop
 21 design change must be lower than the average?
 22 A I'm just saying theoretically, on average --
 23 I just want to be very cautious here. I am not a cost
 24 witness for Qwest, and I do not represent the cost for
 25 design changes, that that was extensively in the

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1 testimony of Ms. Million. So I'm -- I'm with you here
 2 as far as my understanding of the design changes, but I
 3 am not representing the cost in this proceeding.
 4 Q And I'm referring to your direct testimony at
 5 Page 10, and I'm focusing specifically on the testimony
 6 that begins at Line 20.
 7 The question there is, "Is there merit to
 8 Eschelon's claim that the cost of design changes for
 9 loops are less than those for design changes for UDITs?"
 10 Do you see that?
 11 A Yes.
 12 Q And then you testified that there's no basis
 13 for this assumption.
 14 A Yes.
 15 Q Do you see that?
 16 A Yes.
 17 Q And that was your testimony?
 18 A Yes.
 19 Q You would agree that Ms. Million's testimony
 20 actually provides a basis for that assumption, does it
 21 not?
 22 A Yes, it does.
 23 Q Now, you in your testimony refer to the
 24 non-recurring cost study and -- is that right?
 25 MR. DEVANEY: Your Honor, is it possible to

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1 get a page reference?
 2 MR. MERZ: I didn't really have a specific
 3 one in mind, because I think it's something she talked
 4 about in a number of places. But I can probably find
 5 one here.
 6 A What I discuss, which is actually on the next
 7 page, Page 11, is a reference to the Colorado proceeding
 8 that put the Exhibit A of the SGAT in place, that that's
 9 not, I believe, the actual cost docket order.
 10 Q (By Mr. Merz) And my question is whether you
 11 refer in your testimony to the non-recurring cost study
 12 relating to design changes.
 13 Do you recall making reference to that cost
 14 study in your testimony?
 15 A I would have to look. I absolutely know I
 16 make reference to the Commission proceeding that put the
 17 Exhibit A in place of the SGAT that put the \$73
 18 charge -- and 93 cents charge in place. I am not a
 19 hundred percent sure if I actually referred to the cost
 20 docket itself.
 21 Q Go to your rebuttal testimony at Page 7. And
 22 I'm looking at Line -- the testimony that begins at the
 23 very end of Line 13, where you say, "The non-recurring
 24 cost study on which the rate is based estimates the
 25 amount of time on average that it will take to perform

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DOCKET NO. 06B-497T

VOLUME II

IN THE MATTER OF THE PETITION OF QWEST CORPORATION FOR
ARBITRATION WITH ESCHELON TELECOM, INC. PURSUANT TO
47 U.S.C. SECTION 252 OF THE FEDERAL TELECOMMUNICATIONS
ACT OF 1996.

PURSUANT TO NOTICE to all parties in
interest, the above-titled matter continued in hearing
before MANA L. JENNINGS-FADER, Administrative Law Judge
of the Public Utilities Commission, on April 18, 2007,
9:02 a.m., at 1560 Broadway, Suite 250, Denver,
Colorado, said proceedings having been reported in
shorthand by Robin M. McGee, Registered Professional
Reporter.

WHEREUPON, the following proceedings were
had:

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1 been shared with Eschelon in this case, with any party
2 with which Qwest is negotiating.
3 Q But I believe the record states that the
4 Commission doesn't have those rates, correct? We
5 don't -- I'm sorry. We have the rates. We don't have
6 the cost support.
7 A Well, Ms. Million would be able to tell you
8 whether the specific studies that underlie these rates
9 have ever been shared with the Commission. I don't know
10 that.
11 Q If I represent to you that her testimony or
12 the testimony of Qwest is that those rates -- those cost
13 studies are not in the record in these proceedings, will
14 you accept that?
15 A Yes.
16 Q What is the basis, then, for -- so, then,
17 Qwest's -- I'm sorry. Let me ask you this: If the
18 Commission does not approve or address interim rates in
19 this proceeding, then in an interim period between now
20 and the time that -- never mind. I got it. I'm sorry.
21 If I understand, then, Qwest wants the
22 Commission, in essence, to approve the process for --
23 that would allow the Commission in the future to look at
24 the rates contained in Exhibit A which have not been
25 subject to prior Commission approval.

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1 A That's correct.
2 Q And in doing so, the Commission, in your
3 view, does or does not express any view with respect to
4 whether the rates in Exhibit A are cost based? In other
5 words, are you -- it's just, Approve the process. Does
6 it say anything about the rates in making that
7 approve-the-process decision?
8 A Well, in approving the process, a part of
9 that process, again, is that before Qwest would charge
10 these rates, they would file the rate and the cost
11 support with the Commission. The Commission at that
12 time could look at it, make sure that they are
13 comfortable with the rate that Qwest is charging.
14 Q Process is, in Section 22-6 -- excuse me --
15 6.1. Is that correct?
16 A That's correct.
17 Q Forgive me. Does that -- if you recall, does
18 that envision a full-blown examination of the rates by
19 the Commission?
20 A All 22.6.1 states is that a copy of the rate
21 and the cost study which underlies the rate will be
22 provided to the Commission.
23 Q And would it then be, in your understanding,
24 left to the Commission to determine what to do, that is
25 to say, whether to start a case or not?

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1 A That would be my understanding. And, you
2 know, I guess the way I would envision it, and I'm sure
3 it would differ from commission to commission, but a
4 staff person could look at the cost study. They could
5 decide that they felt it was generally supportive of the
6 rate, and the rate would go forward. They could decide,
7 Gee, there's something here that -- that bears further
8 examination, and they could suggest the Commission open
9 a docket on that.
10 You know, a lot of it would depend on what
11 cost dockets are on the horizon with the Commission as
12 well. The intent is to have some process in the
13 interim. As you're aware, you know, we don't undertake
14 the cost docket, you know, every month or even every
15 year. So there needs to be some process so that in the
16 interim, parties such as Eschelon can receive new
17 services and Qwest can charge for those services.
18 A.L.J. JENNINGS-FADER: Thank you,
19 Mr. Easton. I appreciate that.
20 Mr. Merz?
21 And by that I mean all of your testimony.
22 Thank you.
23 CROSS-EXAMINATION
24 BY MR. MERZ:
25 Q Good morning, Mr. Easton.

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1 A Good morning.
2 Q I just really had one area that I wanted to
3 talk with you about, and that concerns Issue 5-16,
4 the -- whether or not nondisclosure agreements will be
5 provided to Eschelon.
6 And you refer in your testimony to the audit
7 provision that is at 18.3.1 as the reason why Eschelon
8 doesn't need these nondisclosure agreements because
9 they'll have the opportunity to audit under that
10 provision, correct?
11 A That was one of the reasons I cite. In
12 addition, the language is specific about which
13 organization or groups within an organization would have
14 access to the information. So there's some protections
15 built in there as well.
16 Q Audit, as used in 18.3.1, is a defined term.
17 Is that correct?
18 A I would need to borrow the book again.
19 A.L.J. JENNINGS-FADER: I'll be happy to do
20 so, sir. It's on Page -- the discussion, I think, is on
21 320 and 321. I don't know. Somewhere in that vicinity.
22 A It is a capitalized term, so I would assume
23 it is a defined term.
24 Q (By Mr. Merz) Then if you refer to
25 Section 18.1.1, that's where we find the definition of

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1 audit as it's used in 18.3.1. Is that correct?
2 A Yes.
3 Q And you see there that "audit" is defined to
4 mean the comprehensive review of books, records and
5 other documents used in the billing process for services
6 performed, including, without limitation, reciprocal
7 compensation and facilities provided under this
8 agreement.
9 Do you see that?
10 A Yes.
11 Q Now, the nondisclosure agreements that we're
12 talking about are not documents used in the billing
13 process for services performed, are they?
14 A No.
15 Q So --
16 A They are forecasting. It's forecasting
17 information.
18 Q So in fact, the audit provision would not
19 protect Eschelon in the event that the nondisclosure
20 agreements aren't provided.
21 Do you agree with me there?
22 A No, I wouldn't agree with you there. And the
23 reason I say that, again, going back to 18.3.1, it says,
24 "Either party may request an audit of the other party's
25 compliance with this agreement, measures and

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1 requirements applicable to limitations on the
2 distribution, maintenance and use of proprietary or
3 other protected information that the requesting party
4 has provided to the other."
5 And to me, that specifically gets at
6 information such as the forecasting information we're
7 talking about here.
8 Q But an audit is limited to certain kinds of
9 documents. An audit as defined in Section 18 is limited
10 to certain kinds of documents, correct?
11 A Now, you're referring back to 18.1.1?
12 Q I am.
13 A And I, to be honest with you, sir, cannot
14 explain why they refer to billing process here when the
15 language in 18.3.1 clearly is -- goes beyond the scope
16 of billing issues.
17 Q You would agree with me that if the audit
18 right under 18.3.1 is limited to the documents that are
19 described in 18.1.1, the nondisclosure agreements that
20 we're talking about fall outside the scope of that
21 audit, right?
22 A They are not documents that -- related to the
23 billing process.
24 Q And so they fall outside the scope of that
25 audit right, correct?

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1 A Well, they fall outside of the language in
2 18.1.1.
3 MR. MERZ: I have no further questions, Your
4 Honor.
5 Thank you, sir.
6 A.L.J. JENNINGS-FADER: Mr. Topp?
7 MR. TOPP: Thank you.
8 REDIRECT EXAMINATION
9 BY MR. TOPP:
10 Q Mr. Merz, with respect to the -- or, excuse
11 me -- Mr. Easton, with respect to the --
12 A Thank you.
13 MR. MERZ: I can answer too. I don't mind.
14 Q (By Mr. Topp) The issue that Mr. Merz just
15 raised, would you see any problem from Qwest's
16 perspective if the word "audit" was not capitalized in
17 that section to get rid of any confusion as to whether
18 the definition appearing earlier --
19 A I think that suggestion makes sense.
20 Q Now, the judge asked you some questions about
21 the dispute on Issue 2-3. And if we need to pull the
22 matrix, we can do so. But there was a lot of discussion
23 about the language in the nature that -- isn't it also
24 true that there's an issue related to placement of the
25 rate language?

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1 A Well, Qwest has its language in Section 2.
2 Eschelon has proposed adding its language. They've got
3 some clarifying language in Section 2 but want to add
4 some additional language to Section 22.
5 Q So that is also a part of that dispute?
6 A That's correct.
7 Q We also talked about nondisclosure
8 agreements. You were asked some questions associated
9 with that and its relationship to audit rights. And
10 I've tried to come up with a situation where maybe
11 Eschelon would have cause to consider an audit, such as
12 a bunch of Qwest retail marketing activity targeted at
13 areas where Eschelon has forecasted growth.
14 Theoretically, that could happen.
15 Are nondisclosure agreements going to impact
16 Eschelon's ability to establish good cause or not?
17 A No.
18 Q Now, moving to the issue of transit records,
19 which is Issue 7-18 and 19. You were asked some
20 questions about what information Qwest is able to
21 provide or what is contained in transit records.
22 Is that the -- beyond the information
23 contained in the records, does Qwest also have other
24 significant concerns associated with providing those
25 records?

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1 documentation --
 2 Q Okay. Thank you.
 3 A -- and process.
 4 Q If the Commission accepts Qwest's position
 5 that these matter -- the matters -- first of all, let me
 6 start -- let me start again. Do you agree with Qwest
 7 that there is no definition of "process" in the CMP
 8 document?
 9 A I've been unable to find one.
 10 Q What is Eschelon's operational definition,
 11 for purposes of your testimony, of "process"?
 12 A And I had a conversation with Ms. Johnson
 13 about this yesterday. My preference would be to sort of
 14 let her tell you that. I mean, I could give you the
 15 recount of that.
 16 Q Well, but for purposes of your testimony, I
 17 mean, you talk extensively in your testimony about
 18 process.
 19 When you were discussing that, what had you
 20 in mind?
 21 A And it comes down to what Ms. Johnson
 22 yesterday -- it really comes down to functionally, there
 23 are changes that impact systems, and those are fairly
 24 easy many times to define because it's going to impact a
 25 particular system in a particular way. And then there's

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1 everything else.
 2 And I think everything else is the sort of
 3 product, slash, process; or process, slash, product
 4 changes. They're varied. They cover a number of
 5 different sort of areas and topics. But I think a
 6 working definition is, if it doesn't impact a system
 7 directly, then it's a process or product change.
 8 I would just add a little bit, that the CMP
 9 document does talk about separate sort of meetings that
 10 happen for systems versus product or process.
 11 Ms. Johnson informs me that they're often done at the
 12 same time. But I think functionally, the folks who work
 13 at CMP have this understanding of which is which and
 14 have to sort of deal with the different ways in which
 15 they're both handled in the document.
 16 Q Broadly stated, I believe Eschelon's
 17 principal concern discussed in your testimony with
 18 respect to referring matters to other processes rather
 19 than including them within the contract itself is the
 20 lack of certainty from Eschelon's perspective.
 21 A Yes. I think that's fair.
 22 Q Is there -- that's wrong. Is the issue for
 23 Eschelon the degree to which, from Eschelon's
 24 perspective, Qwest controls the process to which the
 25 issues would be referred as opposed to the issue being

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1 the fact that it is another process to which Eschelon
 2 would have to look to determine the contract terms?
 3 A It's the first of those.
 4 Q Short of a -- short of the Commission's
 5 writing a provision that said something to the effect
 6 that we're -- these issues in dispute having to do with
 7 process, the contractual certainty issues, as you refer
 8 to them, short of a decision that says those contractual
 9 certainty issues are referred to the CMP but no CMP
 10 or -- or service interval guide or product category
 11 change will be effective unless agreed to by Eschelon,
 12 short of language to that degree, is there something
 13 that will -- would Eschelon find acceptable some -- a
 14 Commission decision which accepts Qwest's proposals?
 15 Personal opinion or not.
 16 A I think the way I'm going to answer that is
 17 that -- let me just take the scenario you described,
 18 which is, assume the Commission has issued an order that
 19 said, these things get kicked to CMP but can't be
 20 changed unless Eschelon agrees.
 21 I don't think that would be acceptable to
 22 Eschelon for, I think, at least two reasons. One, I
 23 think the intention of Eschelon in this entire section
 24 of the case is that it's entitled to under Section 2-51
 25 a contract that spells out the relationship between it

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1 and Qwest, an enforceable contract under Sections 2-51
 2 and 2-52 of the act that it can point to and that it can
 3 further negotiate with Qwest if Qwest wants to make
 4 changes.
 5 CMP -- and -- and I think I say that in the
 6 testimony. CMP is a good mechanism by which information
 7 can be exchanged between the parties and can be a good
 8 mechanism when agreement is reached by all the parties.
 9 But it has serious flaws, not only in terms of requiring
 10 Eschelon's agreement, but also in terms of -- of the
 11 notice process, how Qwest can implement things quickly
 12 over Eschelon's objections or not, those kinds of
 13 shortcomings when you deal with ICA language between the
 14 two companies.
 15 So I do not think Eschelon would find it
 16 acceptable to kick things to CMP even if they had to
 17 agree, because what they're really trying to do is
 18 effectuate their rights under Section 2-51 for an ICA
 19 that's meaningful and complete and a four-corners
 20 document.
 21 Q And just so we kind of tie that into access
 22 to UNEs and that discussion, I think, and -- actually,
 23 no. And so Qwest's position is that one need not have
 24 that detail in the interconnection agreement because the
 25 interconnection agreement is not for the purpose of nits

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1 definitive list.
 2 A I think that's fair, and I think there is a
 3 good reason for that.
 4 Q There very well may be, and I believe you
 5 actually gave that reason to Mr. Devaney, but I just
 6 wanted to be sure that I understood that the -- the --
 7 if, as you said earlier, the parties, in your -- I think
 8 you said you think the parties pretty much understand
 9 what these -- what the activities are.
 10 What, then, is the harm in listing along with
 11 the specificity objective of the contract those
 12 activities here as opposed to leaving it with simply a
 13 list of examples?
 14 A I think there are two reasons. The first is,
 15 there literally would be thousands of them. I mean, it
 16 literally could be as -- as easy as changing an
 17 interconnection tie pair in an FDI from one block to
 18 another. It could be as much as repairing a bad pair,
 19 doing a transfer to a new pair. There are just
 20 literally hundreds, potentially thousands, of these
 21 individual activities that happen on a day-to-day basis
 22 to provide a working facility that Qwest does for its
 23 retail customers that it also should do for Eschelon.
 24 So, one, it's just not probably very
 25 efficient to list them here, but more importantly, I

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1 think, if you listed 100 and you forgot the 101st, that
 2 shouldn't remove Qwest from the obligation just because
 3 you weren't able to list all 175 or 200, or however many
 4 of these there were.
 5 That's really the point the FCC makes in the
 6 TRO at about -- starting at about Paragraph 632, when it
 7 talks about network modifications, because Verizon
 8 pushed it to say, List all the activities that we have
 9 to do, and the FCC said, No, that's not the right way to
 10 do this, because the standard is nondiscrimination. And
 11 it's necessary to understand what you do for your retail
 12 in these various circumstances to understand what you
 13 have to do for the CLEC.
 14 Q And actually, that leads me to another point.
 15 In your testimony with respect to this issue,
 16 in discussion with Mr. Devaney, you talked about if
 17 Qwest does X activity for itself, then it would be
 18 included in this list for -- it would be considered
 19 included, and that's a non -- because of the
 20 nondiscrimination --
 21 A Yes.
 22 Q -- as you just testified. With respect to
 23 "for itself," you mean for its retail customers?
 24 A I mean for its retail customers, also for its
 25 affiliates. I think the FCC really gives a three-prong

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1 for itself, for its affiliates or for any customer,
 2 whether that be a retail or wholesale customer. It
 3 doesn't limit discrimination to just among CLECs, for
 4 example. It includes the activities Qwest does for its
 5 own retail customers.
 6 Q Right. And I appreciate that. I was trying
 7 to figure out what -- for itself. I mean, I understand
 8 that's a term of art. I wanted to be sure I understood
 9 what you were talking about.
 10 If you know, Mr. Starkey, is the language for
 11 Issue 9-31 drawn from any source; meaning, is it part
 12 of -- or was it part of the original statement of
 13 generally acceptable terms and conditions? Is it
 14 something that's developed over time from other
 15 interconnection agreements?
 16 A Do you mean the entirety of the language,
 17 including the agreed-upon section?
 18 Q I'm talking about all the agreed-upon
 19 language, the agreed-upon language, the e.g. language,
 20 moving, adding to, repairing language.
 21 A I don't know the answer to that question. I
 22 don't know where it was taken from.
 23 I can tell you that "moves, adds, changes" is
 24 a term of art in the industry. It's something that
 25 engineers understand as the necessity of going out to

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1 the network to rearrange it to provide service. MAC,
 2 M-A-C, moves, adds and changes, is a generally used
 3 term.
 4 Q If that's true, sir, then what's the
 5 necessity of the parenthetical language?
 6 A I believe that was specifically put in
 7 there -- and Mr. Denney may be able to give you more
 8 insight into this. But I believe that was specifically
 9 put in there because of the concerns of Eschelon that
 10 they had gotten notice that Qwest was going to start
 11 charging tariffed rates for certain of these particular
 12 activities which Eschelon believed to be encompassed
 13 within access to UNEs.
 14 And so they wanted to make sure that one of
 15 the issues debated in this proceeding was the extent to
 16 which those were access to UNEs that would likewise be
 17 applied via TELRIC-based rates.
 18 I note that Qwest's counterproposal before
 19 this was -- well, let me take that back. Qwest's
 20 counterproposal "at applicable rates" indicates that
 21 they'll charge potentially tariffed rates for these
 22 things. So Eschelon wanted to be very specific that
 23 these particular things that they had understood would
 24 be charged tariffed rates were included in here to be
 25 debated rather than ignored and then later Qwest file a

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<p>1 accurate to the best of your knowledge? 2 A Yes. 3 MR. MERZ: Your Honor, Eschelon offers 4 Hearing Exhibits 22, 23 and 24. 5 A.L.J. JENNINGS-FADER: Thank you, Counsel. 6 Exhibit 22 is offered. Voir dire or objection? 7 MR. DEVANEY: No objection. 8 A.L.J. JENNINGS-FADER: Exhibit 23 is 9 offered. Voir dire or objection? 10 MR. DEVANEY: No objection. 11 A.L.J. JENNINGS-FADER: Exhibit 23 is 12 offered. Voir dire or objection? 13 MR. DEVANEY: No objection. 14 A.L.J. JENNINGS-FADER: Thank you, Counsel. 15 Exhibits 22, 23 and 24 are admitted. 16 MR. MERZ: Your Honor, Ms. Johnson's 17 available for cross-examination. 18 A.L.J. JENNINGS-FADER: Thank you, sir. 19 CROSS-EXAMINATION 20 BY MR. DEVANEY: 21 Q Hello, Ms. Johnson. 22 A Good afternoon. 23 Q I actually just have one question for you. 24 When I was cross-examining Mr. Starkey, he asked you a 25 question about whether Eschelon has access to its</p>	<p>1 you have any cross-examination based on that -- redirect 2 excuse me -- based on that? 3 MR. MERZ: I do not. 4 EXAMINATION 5 BY A.L.J. JENNINGS-FADER: 6 Q Ms. Johnson, were you here during 7 Mr. Starkey's testimony this morning and this afternoon? 8 A I was. 9 Q And then you're aware that, a couple of 10 things he said, perhaps you'll be able to give me more 11 information? 12 A Yes. 13 Q Let me start with what I think may be the 14 easier of the two, and that has to do with Issue 12-64, 15 which is root-cause analysis and acknowledgment of 16 mistakes. 17 And I asked him whether he had any sense of 18 the relative expense, Qwest's and Eschelon's, for -- 19 first he said that Eschelon would have some expense 20 associated with the root-cause analysis. Do you recall 21 that? 22 A Yes, I do. 23 Q And is that accurate? 24 A That is -- is accurate, time spent to 25 root-cause it ourself and make certain that the -- the</p>
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<p>1 customers' circuit IDs and addresses, and he volunteered 2 you for that answer, I think. And he said he thought 3 that Eschelon did, and I want to ask you that question. 4 Does Eschelon have access to its customer IDs 5 and addresses? 6 A We have that information in our systems. 7 What I don't know is what specific electronic reporting 8 capabilities we have, but we do have access to it. 9 Q And that would be circuit ID and customer 10 addresses in your -- 11 A That is correct. 12 Q And that information is in some electronic 13 database? 14 A That is correct. 15 Q And it can be retrieved in one form or 16 another. You're just not sure how you would go about 17 retrieving it. Is that correct? 18 A That is correct. 19 Q And I take it you've not had occasion to do 20 that yourself, then? 21 A That is correct. 22 MR. DEVANEY: Okay. That's all I have. 23 Thank you. 24 A.L.J. JENNINGS-FADER: Thank you. 25 Ms. Johnson -- let me ask first, Mr. Merz, do</p>	<p>1 issue or the problem lies with Qwest. 2 Q And then Qwest will have some expense with 3 respect to its investigation. Is that correct? 4 A I would assume that Qwest would have some 5 expense. 6 Q Some time? 7 A Some time or expense. The language does read 8 that we agreed that it was a Qwest issue, so it's our 9 belief that Qwest should incur the cost for their error, 10 and then they also reap the benefits, you know, to any 11 changes that they may make to help prevent that in the 12 future as well. 13 Q And do you agree with Mr. Starkey that the 14 expense borne by Eschelon and also the expense by Qwest 15 will vary based on the circumstances of the situation? 16 A I would agree with that. 17 Q I asked -- now, with respect to Issue 12-87, 18 having to do with controlled production testing, I was 19 going through some questions with Mr. Starkey with 20 respect to current practice with respect to whether 21 Qwest at present has control over determining when 22 recertification is done and by whom it is done, meaning 23 by -- is it all CLECs? Is it only a particular subset? 24 Do you recall that? 25 A I do recall that.</p>