

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

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)))))	DOCKET NO. UT-063061
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QWEST CORPORATION

DIRECT TESTIMONY OF

Robert J. Hubbard

(Disputed Issue Nos. 8-20, 8-20(a), 8-21, 8-21(a), 8-21(b), 8-21(c), 8-21(d), 8-22, 8-23, 8-24, 8-29 and 10-63)

SEPTEMBER 29, 2006

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1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**
3 **WITH QWEST CORPORATION.**

4 A. My name is Robert J. Hubbard. I am employed by Qwest Corporation (“Qwest”),
5 as a Director within the Technical and Regulatory Group of the Network Public
6 Policy Organization representing the Network Organization. My business address
7 is 700 West Mineral Avenue, Littleton, Colorado 80120.

8
9 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE, AND PRESENT**
10 **RESPONSIBILITIES.**

11 A. I am a Director of Technical Support in Qwest’s Network Public Policy
12 Organization. This group is responsible for the development of strategies to
13 implement the unbundling of Qwest’s network as required by the
14 Telecommunications Act of 1996 (“the Act”). I provide technical support
15 regarding unbundling issues for the Qwest Network and Public Policy
16 departments.

17
18 I have over 35 years experience with two Regional Bell Operating Companies,
19 Qwest and Indiana Bell Telephone Co. (Indiana Bell), in their network
20 departments. I worked for over 11 years at both Indiana Bell and Qwest as a
21 cable splicer and as a cable repairman involved in all aspects of splicing and
22 repairing copper cables. Subsequently, I moved into the engineering department

1 at Qwest, working as an outside plant design engineer, designing copper and fiber
2 facilities, and analog and digital carrier systems. I then went into the Network
3 Planning Department as a tactical planner, where I planned for future jobs
4 involving fiber cable placement and upgrades to the existing outside plant
5 network. In 1997, I moved into my present job as a Director in the Technical
6 Regulatory Department, where I am responsible for ensuring compliance with the
7 Telecommunications Act and federal and state regulations while continuing to
8 maintain network integrity. My responsibilities include providing litigation
9 support before the Federal Communications Commission (“FCC”) and state
10 commissions on issues relating to network elements and architectures for wireline
11 networks.

12
13 In addition, I represent Qwest in the Network Reliability and Interoperability
14 Council (“NRIC”), a body created by the FCC, to address the reliability and
15 interoperability of wireline networks, broadband, and emerging cyber-networks.
16 Specifically, I currently serve on an NRIC committee addressing issues relating to
17 Broadband and Homeland Security within the United States. I have been a
18 member of two previous NRIC committees and have Best Practice
19 recommendations published on the FCC web site for NRIC in December, 2001,
20 and December, 2003. I am also a member of the FCC outage reporting committee,
21 the NRSC, (Network Reliability Steering Committee), which reports and
22 evaluates network outages that are reportable to the FCC. Additionally for Qwest,
23 I serve as a member of Qwest Emergency Response Team (ERT) for both Qwest

1 in-region and out of region areas, assisting, from a regulatory overview, in
2 disaster planning and disaster reporting to state commissions and the FCC.
3

4
5 **II. PURPOSE OF TESTIMONY**

6 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.**

7 A. My testimony describes the open issues within Section 8 of the negotiated
8 interconnection agreement (“ICA”) between Qwest and Eschelon. Section 8 of
9 the ICA addresses collocation. I also address a single issue in Section 10 of the
10 ICA relating to microduct. My testimony demonstrates why it is appropriate to
11 approve the Qwest proposed language and to reject the Eschelon proposed
12 language.

13
14 **Q. DO ANY OTHER QWEST WITNESS ADDRESS THE ISSUES IN**
15 **SECTION 8?**

16 A. Yes. Ms. Terri Million addresses certain Section 8 issues from a cost
17 perspective, pointing out that some of the issues that Eschelon raises are cost-
18 based issues that should be considered in an appropriate cost proceeding.

19
20 **III. SUMMARY OF THE SECTION 8 ISSUES**

21 **Q. PLEASE SUMMARIZE THE SECTION 8 ISSUES**

22 A. The open issues in Section 8 can be grouped into three subject matter areas: (1)
23 Available Inventory, which is essentially a used collocation product offering; (2)

1 DC Power provided to CLEC collocation spaces, including issues related to
2 provisioning, measurement and billing of DC Power; and (3), Qwest's right and
3 obligation to ensure that NEBS Safety standards are met when CLECs place
4 equipment in collocation space within Qwest's central offices.

5
6 **Q. WHAT METHOD WILL BE USED TO EXPLAIN THE ISSUES?**

7 A. In my testimony I generally explain each issue in the order they appear in the
8 proposed ICA. I first present the Qwest language, and then where Eschelon has
9 deleted something from the Qwest proposed language, I will show it with a **bold**
10 **line strikethrough**. Where Eschelon has proposed additional/revised language, I
11 will show that in **bold underlined text**. If only one party has proposed language,
12 that language is shown with an explanation that the other party offers no language
13 proposal. Finally, for each issue I describe why the Commission should accept
14 the Qwest proposal and, or reject the Eschelon proposal.

15 **IV. ISSUE 8-20 (COLLOCATION AVAILABLE**
16 **INVENTORY- POSTING OF PREVIOUS**
17 **QUOTES FOR SITES)**

18 **Q. WHAT IS AVAILABLE INVENTORY**

19 A. Available Inventory is essentially used collocation space that has been returned to
20 Qwest. Ordering an Available Inventory collocation site as opposed to a new
21 collocation site will allow a CLEC to pay nonrecurring charges discounted by
22 50% for circuit terminations (DS0, DS1, DS3 and OCN) that had previously been
23 provisioned to the Available Inventory site. This allows CLECs to save money on

1 nonrecurring charges for circuit terminations, as compared with a new collocation
2 space.

3

4 **Q. WHAT IS THE NATURE OF THE DISPUTE WITH REGARD TO**
5 **AVAILABLE INVENTORY?**

6 A. As described in greater detail herein, Qwest posts these Available Inventory sites
7 on an external “collocation classifieds” website available to CLECs. The posting
8 for each site includes, among other things, information on the location and size of
9 the available collocation space, and the power feed(s) and circuit terminations that
10 had been provisioned to this site for use by the CLEC that previously occupied the
11 site. In addition, Qwest’s PCAT specifies the 50% discount on nonrecurring
12 charges for circuit terminations previously provisioned to Available Inventory
13 sites. Eschelon wants Qwest to provide additional information. In particular,
14 where Qwest has previously prepared a quote for an Available Inventory site, but
15 where the CLEC requesting that quote chose not to complete the order and accept
16 the Available Inventory site, and the site was therefore returned to inventory,
17 Eschelon wants Qwest to include in its web site posting that previous quote. As I
18 explain herein, however, previous Available Inventory quotes prepared for a
19 different CLEC would be of no use to Eschelon, and there is no basis to require
20 Qwest to modify its Available Inventory offering in this fashion. Further, an
21 interconnection arbitration involving Qwest and a single CLEC is not the
22 appropriate forum or method to initiate change to Qwest’s existing products or

1 processes. Requests to change Qwest processes should be addressed through the
2 Change Management Process (“CMP”), as discussed herein, and as explained
3 more fully in the testimony of Renee Albersheim, filed contemporaneously
4 herewith.

5

6 **Q. WHAT ADDITIONAL LANGUAGE DOES ESCHELON PROPOSE**
7 **RELATIVE TO AVAILABLE INVENTORY?**

8 A. Eschelon proposes the following additional language:

9 **8.1.1.10.1.1.1 Notwithstanding any other provision of this Agreement, if**
10 **Qwest prepares a QPF for a posted Collocation site and for any reason the**
11 **posted Collocation site is returned to Qwest inventory, Qwest will post the**
12 **quoted price from the QPF on the inventory list for that site and, for future**
13 **requests for that site, will waive the QPF, as the quote has already been**
14 **prepared, unless Qwest establishes a change in circumstance affecting the**
15 **quoted price.**

16

17 **Q. DOES QWEST PROPOSE ANY LANGUAGE IN RESPONSE TO THE**
18 **ADDITIONAL LANGUAGE PROPOSED BY ESCHELON?**

19 A. No. For the reasons explained, Qwest rejects the additional language proposed
20 by Eschelon as unreasonable and unwarranted.

21

1 **Q. DOES ESCHELON INDICATE WHY IT WANTS QWEST TO**
2 **PROVIDE PREVIOUS QUOTES FOR AVAILABLE INVENTORY**
3 **SITES, IN ADDITION TO THE SITE INFORMATION ALREADY**
4 **PROVIDED BY QWEST?**

5 A. Yes. In its position statement related to this issue Eschelon indicates, not
6 surprisingly, that in making a “new” vs. “used” collocation purchase decision, a
7 CLEC will consider price. Qwest certainly understands that concept, which is
8 in part why Qwest offers a used collocation product. As explained above, for
9 Available Inventory sites the nonrecurring charges for circuit terminations
10 previously provisioned to those sites will be discounted by 50%. Eschelon’s
11 contention that posting of prior Available Inventory quotes will help guide that
12 “new” vs. “used” purchase decision is simply wrong, however, and
13 demonstrates that Eschelon does not understand the nature of the product
14 offering.

15

16 **Q. WOULD POSTING PREVIOUS QUOTES HELP ESCHELON**
17 **DETERMINE THE PRICE IT COULD EXPECT TO PAY FOR A**
18 **GIVEN AVAILABLE INVENTORY SITE?**

19 A. No. Available Inventory sites are almost never ordered “as is,” nor would one
20 CLEC order a site provisioned in the same fashion as a different CLEC. These
21 sites are posted to include information relating to power, space and circuit
22 terminations as provisioned for the CLEC that previously occupied the space.
23 That information is intended to offer CLECs guidance on the general nature of

1 the vacated site, and the number and type of circuits previously provisioned to
2 the site, for which nonrecurring charges will be discounted 50%. The CLEC
3 ordering an Available Inventory site, however, almost always requests an
4 augment to tailor the site to its specific needs, requesting additional or reduced
5 circuit terminations by type (DSO, DS1, DS3, OCN), different power feeds, or
6 space increases. The quote that Qwest prepares in response is accordingly
7 specific to that CLEC and that CLEC's particular request. It would be of little
8 or no use to a different CLEC in helping that different CLEC estimate what it
9 might pay for that site, as augmented to fit that different CLEC's particular
10 needs.

11
12 **Q. DO YOU HAVE DATA THAT SUPPORTS YOUR CONTENTION THAT**
13 **CLECS ALMOST NEVER ORDER AVAILABLE INVENTORY SITES**
14 **“AS IS?”**

15 **A.** Yes. For the years 2005 and 2006 (through July) combined, CLECs placed 13
16 orders that completed for Available Inventory sites in Washington. Not one of
17 these 13 orders requested that the site be provisioned “as is,” with the same
18 power feeds, space and circuit terminations as had been provisioned to the
19 CLEC that previously occupied the site. For that same period on a region-wide
20 basis throughout Qwest's 14-state region, CLECs placed orders that completed
21 for 129 Available Inventory sites. Only 5 of those were “as is” orders.

22

1 **Q. WHERE A CLEC HAS ORDERED AN AVAILABLE INVENTORY SITE**
2 **BUT THEN DECIDED NOT TO PROCEED WITH THAT ORDER,**
3 **HOW COMMON IS IT THAT A SUBSEQUENT CLEC WILL THEN**
4 **ORDER THAT SAME SITE PROVISIONED IN THE SAME FASHION.**

5 A. That has never happened, so far as Qwest is aware.

6

7 **Q. CAN YOU EXPLAIN IN MORE DETAIL WHAT THIS MEANS IN**
8 **TERMS OF THE USEFULNESS OF PROVIDING PRIOR QUOTES, AS**
9 **REQUESTED BY ESCHELON?**

10 A. It means that a prior quote for a different CLEC requesting different power
11 feed(s), different circuit terminations, and different space does not provide
12 information that would be helpful to a subsequent CLEC in determining what
13 that subsequent CLEC might pay to have the Available Inventory site
14 provisioned to its requirements. Eschelon argues that if its proposed language
15 is accepted, Eschelon will not have to make its application and wait for Qwest
16 to prepare the quote before finding out the price for the listed inventory. That is
17 simply not the case. The quote for the previous CLEC would not, in fact, be the
18 quote for the site as Eschelon would order that site, unless Eschelon were to
19 order the site exactly as the previous CLEC had ordered the site provisioned.
20 As I stated above, in Qwest's experience, that has never happened, nor is it
21 likely to happen. Even in the extremely unlikely event that Eschelon were to
22 order a site exactly as it had been ordered by the previous CLEC, including
23 power feeds and circuit terminations, rate elements change over time, and the

1 rate elements included in the previous quote might no longer be effective. If
2 nonrecurring charges for circuit terminations and power feeds change over time,
3 then to a CLEC reviewing a prior quote to determine an expected price for an
4 Available Inventory site, such prior quotes based on prior rate elements would
5 be irrelevant at best, and misleading at worst.

6
7 **Q. DO YOU HAVE ANY REASON TO BELIEVE THAT THE CURRENT**
8 **INFORMATION PROVIDED FOR AVAILABLE INVENTORY SITES**
9 **ON QWEST'S WEBSITE IMPAIRS OR INHIBITS A CLEC'S ABILITY**
10 **TO ORDER AVAILABLE INVENTORY?**

11 A. No. In fact, Eschelon has not identified a single instance where the information
12 currently available for Available Inventory sites in any way negatively impacted
13 Eschelon's ability to order this product. This is not surprising, because
14 Eschelon has all the information it needs to be able to estimate the cost to have a
15 given Available Inventory site tailored to its needs. In fact, Eschelon has far
16 *better* information than would be provided by a previous quote for the site.
17 Eschelon knows what circuit terminations are available at the site. Eschelon
18 knows how many of each type of circuit termination it needs at the site.
19 Eschelon therefore knows how many of each type of circuit termination will
20 need to be added or removed to meet Eschelon's needs. Eschelon knows the
21 nonrecurring charge for circuit terminations from its rate sheet. It knows from
22 Qwest's website that a 50% discount applies to these nonrecurring charges for
23 circuit terminations for Available Inventory sites. Accordingly, Eschelon does

1 not need a prior quote to determine what it will pay, and in fact, that prior quote
2 will tell Eschelon *nothing* about one key variable in this equation: the number
3 of each type of circuit termination desired by Eschelon. Obviously only
4 Eschelon can know that. Eschelon's insistence, therefore, that Qwest post
5 previous quotes is illogical, and amounts to sheer make work for Qwest.

6

7 **Q. WHAT IS YOUR UNDERSTANDING AS TO WHETHER QWEST IS**
8 **OBLIGATED TO PROVIDE AN AVAILABLE INVENTORY PRODUCT?**

9 A. While I am not a lawyer, my understanding based on the Act and FCC rules is
10 that Qwest has no obligation to offer a "used" collocation product-- let alone to
11 tailor that product to meet Eschelon's demands. Section 251(c)(6) of the Act
12 requires Qwest to "provide, on rates, terms and conditions that are just,
13 reasonable and nondiscriminatory, for physical collocation of equipment
14 necessary for interconnection or access to unbundled network elements"
15 So far as I am aware nothing in the Act, or in the FCC rules promulgated there
16 under, requires that an ILEC offer a "used" collocation option to CLECs to
17 satisfy this requirement, nor am I aware of anything that specifies what
18 information an ILEC must provide if it chooses to voluntarily offer a used
19 collocation product. In like fashion, I am not aware of anything that would
20 require an ILEC to *modify* a product offering and tailor it as demanded by a
21 particular CLEC, where the ILEC is not required to even offer the product in the
22 first instance.

1

2 **Q. DOES QWEST HAVE ANY OTHER CONCERNS ABOUT**
3 **ESCHELON'S REQUEST THAT QWEST MODIFY THE BASIS ON**
4 **WHICH IT OFFERS THE AVAILABLE INVENTORY PRODUCT?**

5 A. Yes, as described in more detail in the testimony of Qwest witness Renee
6 Albersheim, filed contemporaneously herewith, the appropriate forum and
7 mechanism to effect process change is the Change Management Process. I will
8 not reiterate that testimony here, other than to state that CMP provides CLECs
9 with a meaningful opportunity to modify Qwest's systems, processes and
10 procedures, while ensuring that Qwest can implement uniform systems,
11 processes and procedures. Process issues like this one, that would affect the
12 manner in which this product is offered to all CLECs, not just Eschelon, should
13 be addressed in CMP.

14

15 **Q. ESCHELON ALSO PROPOSES IN ISSUE 8-20 THAT IT SHOULD NOT**
16 **BE REQUIRED TO PAY THE REQUIRED QPF ASSOCIATED WITH**
17 **PREPARING A QUOTE FOR AN AVAILABLE INVENTORY SITE,**
18 **WHERE A QUOTE HAD PREVIOUSLY BEEN PREPARED AND THE**
19 **QPF ASSESSED FOR A DIFFERENT CLEC. DO YOU AGREE?**

20 A. No. Eschelon's position regarding the Quote Preparation Fee ("QPF") again
21 demonstrates that Eschelon does not understand the nature of this product
22 offering. When a CLEC orders an Available Inventory site, Qwest prepares a
23 quote, and the QPF recovers Qwest's cost to prepare that quote. If the CLEC

1 decides not to proceed with that order then the site is returned to inventory. If a
2 subsequent CLEC orders the site, Qwest must then prepare an entirely different
3 quote based on that CLEC's entirely different request. The quote for the prior
4 CLEC will not suffice, nor even be particularly relevant, unless the previous
5 CLEC requested that the site be provisioned in the same fashion as the
6 subsequent CLEC. As I testified previously, that has never happened. In
7 addition, as I indicated, rate elements for power and circuit terminations can
8 change over time. Accordingly, the cost for the subsequent CLEC to order the
9 site augmented to meet its needs is different than the cost to the prior CLEC to
10 order the site augmented to meet its needs, and the effort to prepare the quote
11 for the subsequent CLEC is different than the effort to prepare the quote for the
12 prior CLEC. The prior CLEC's quote is irrelevant.

13

14 **V. ISSUE 8-20(A) (AVAILABLE INVENTORY -**
15 **SPACE AUGMENTS)**

16 **Q. WHAT IS THE NATURE OF THIS DISPUTE?**

17 **A.** This dispute relates to Section 8.2.10.4.3 of the ICA, concerning the QPF that
18 applies when Qwest prepares a quote to augment a Special Site as requested by a
19 CLEC. Special Sites are a specific type of Available Inventory site returned to
20 Qwest inventory through Chapter 7 bankruptcy or abandonment, as described in
21 Section 8.2.10.4 of the ICA. These sites will not be decommissioned and may be
22 offered with equipment, equipment racks, cages, and power in place. When a
23 CLEC requests a Special Site Qwest will first confirm to the CLEC that the site is

1 available, and then schedule a site survey and prepare a quote. Consistent with
2 other provisions in the agreement, Qwest will charge the CLEC a Special Site
3 Assessment Fee in this situation for planning and administrative work for requests
4 that did not include an augment. Qwest charges a QPF for this planning and
5 administrative work, however, if the CLEC requested an augment to the site. An
6 augment to a Special Site, of course, requires a greater level of planning and
7 administrative work. Eschelon objects to paying the QPF instead of the Special
8 Site Assessment Fee in situations where an augment was requested. The QPF
9 however, appropriately recovers Qwest's greater costs in planning an augment
10 (vs. provisioning the site "as is") and Qwest is entitled to recover its costs.

11

12 **Q. WHAT LANGUAGE DOES QWEST PROPOSE?**

13 A. 8.2.10.4.3 CPMC will verify whether the requested site is still available for
14 acquisition by conducting a feasibility study within ten (10) Days after receipt of
15 the application. If the site is not available the CPMC will notify the CLEC in
16 writing. If the site is available a site survey will be arranged with the CLEC and
17 Qwest State Interconnect Manager (SICM). Upon completion of the survey
18 Qwest will prepare a quote based on the site inventory and any requested
19 modifications to the site. CLEC must pay in full one hundred percent (100%) of
20 the quoted non-recurring charges to Qwest within thirty (30) Days of receipt of
21 the quote. If Qwest does not receive the payment within such thirty (30) Day
22 period, the quote will expire and the requested site will be returned to Qwest
23 inventory. The CLEC will be charged a special site assessment fee for work

1 performed up to the point of expiration or non-acceptance of the quote. See
2 Section 8.3.11.3.2. If CLEC requests an augment application then CLEC will be
3 a charged a QPF instead of the special site assessment fee. Upon receipt of the
4 full payment for the quoted non-recurring charges, Qwest will begin the
5 establishment of the site records and the complete the job build-out. The interval
6 shall be forty-five (45) Days for completion of the site from receipt of payment.
7 In the event that CLEC requires Qwest to install additional services to the existing
8 site, the interval will revert to the intervals defined in the assuming CLEC's
9 Interconnect Agreement.

10
11 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE?**

12 A. 8.2.10.4.3 CPMC will verify whether the requested site is still available for
13 acquisition by conducting a feasibility study within ten (10) Days after receipt of
14 the application. If the site is not available the CPMC will notify the CLEC in
15 writing. If the site is not available the CPMC will notify the CLEC in writing. If
16 the site is available a site survey will be arranged with the CLEC and Qwest State
17 Interconnect Manager (SICM). Upon completion of the survey Qwest will
18 prepare a quote based on the site inventory and any requested modifications to the
19 site. CLEC must pay in full one hundred percent (100%) of the quoted non-
20 recurring charges to Qwest within thirty (30) Days of receipt of the quote. If
21 Qwest does not receive the payment within such thirty (30) Day period, the quote
22 will expire and the requested site will be returned to Qwest inventory. The CLEC
23 will be charged a special site assessment fee for work performed up to the point of

1 expiration or non-acceptance of the quote. See Section 8.3.11.3.2. ~~If CLEC~~
2 ~~requests an augment application then CLEC will be a charged a QPF~~
3 ~~instead of the special site assessment fee.~~ Upon receipt of the full payment for
4 the quoted non-recurring charges, Qwest will begin the establishment of the site
5 records and the complete the job build-out. The interval shall be forty-five (45)
6 Days for completion of the site from receipt of payment. In the event that CLEC
7 requires Qwest to install additional services to the existing site, the interval will
8 revert to the intervals defined in the assuming CLEC's Interconnect Agreement.

9

10 **Q. WHAT IS THE MAIN ISSUE IN THIS SECTION?**

11 A. Eschelon proposes to strike language that will permit Qwest to appropriately
12 charge the QPF for work that its requests Qwest to perform. When a CLEC
13 requests an augment in association with ordering a Special Site, Qwest must
14 perform certain planning and engineering work in order to determine how to
15 provision that augment request. The QPF recovers the cost of this planning and
16 engineering work. Qwest is entitled to recover its costs.

17

18 **Q. WHY SHOULD THE COMMISSION REJECT ESCHELON'S**
19 **PROPOSAL?**

20 A. Qwest's proposed language simply clarifies which rate element Qwest applies
21 where a CLEC orders a Special Site, and is perfectly consistent with undisputed
22 language in the agreement setting forth collocation rate elements, and specifying
23 when the QPF will apply. If Eschelon wishes to challenge the appropriateness of

1 this rate, or its application in situations where a CLEC requests modifications to a
2 Special Site, then it should present that issue and make those arguments in an
3 appropriate cost proceeding. This interconnection arbitration proceeding is not
4 the appropriate forum to consider cost-based challenges and cost-based evidence.
5

6 **VI. ISSUE 8-21 (-48 VOLT POWER**
7 **MEASUREMENT)**

8 **Q. PLEASE PROVIDE AN OVERVIEW OF THE DISPUTED ISSUES IN**
9 **THE CONTRACT RELATING TO -48 VOLT DC POWER.**

10 A. There are several disputed issues in the ICA (issues 8-21, 8-21(a), 8-21(b), 8-
11 21(c), 8-21(d), 8-22 and 8-23) that relate to Qwest's provisioning of -48 Volt DC
12 Power to CLEC collocations within Qwest's central offices. For each of these
13 issues, beginning with Issue 8-21, a core dispute is whether language in the ICA
14 pertaining to billing on a measured basis for the DC Power used by a CLEC
15 should apply to both the DC Power Plant and DC Power Usage charges described
16 in the ICA , as Eschelon contends, or only to DC Power Usage charge, as Qwest
17 contends. I will first provide some background information related to the
18 provision of DC power in Qwest's central offices, in order to facilitate an
19 understanding of the DC Power Plant vs. DC Power Usage dispute that is
20 pervasive throughout the DC Power portions of the ICA. I will then turn to
21 additional discrete disputes within this section of the ICA.
22

1 **Q. PLEASE DESCRIBE THE QWEST PRODUCT OFFERINGS RELATED**
2 **TO DC POWER.**

3 A. Qwest provides DC Power cabling, which is not at issue in this proceeding, along
4 with the following DC power offerings that I will describe below:

5

6 • -48 Volt DC Power Plant

7 • -48 Volt Power Usage

8 • DC Power Measurement

9 • DC Power Reduction

10 • DC Power Restoration

11

12 These power offerings have been designed to offer CLECs flexibility in managing
13 their DC power requirements while at the same time allowing Qwest to manage
14 the overall power requirements of its central offices.

15

16 **Q. PLEASE DESCRIBE THE QWEST RATE ELEMENTS RELATED TO -48**
17 **VOLT DC POWER CAPACITY AND POWER USAGE ELEMENTS.**

18 A. Qwest's DC Power offering, which provides -48 volt DC power to CLECs'
19 collocation equipment, has two separate rate elements: one of the rate elements is
20 for the power plant and the other is for power usage. The power plant charge
21 recovers the fixed costs of the power plant that is available for a CLEC's use.

22 This charge is applied on a per amp basis based upon the quantity of -48 volt DC
23 power specified in a CLEC's collocation order. For example, if a CLEC were to

1 order a power feed of 180 Amps, it would be billed for the 180 Amps as a power
2 plant charge.

3
4 The second rate element is the usage charge which recovers the cost for power the
5 CLEC uses. Qwest applies the appropriate -48 volt DC power usage charge to the
6 quantity of power ordered. For orders greater than 60 amps CLECs have the
7 option of opting into the DC Power Measurement offering, which is described
8 below.

9

10 **Q. PLEASE DESCRIBE THE DC POWER MEASUREMENT OPTION.**

11 A. The Power Measurement option provides a CLEC with the opportunity to adjust
12 its power consumption usage charges to reflect actual usage, while at the same
13 time maintaining the power capacity it originally ordered. If a CLEC elects the
14 DC Power Measurement option, Qwest will measure power usage on feeds
15 greater than 60 amps on a semi-annual basis provided that an agreement or
16 amendment providing for Power Measurement has been signed between Qwest
17 and the CLEC. Based on these measurements, Qwest will apply the monthly DC
18 power usage rate to the CLEC's actual power usage, rather than to the ordered
19 level. Qwest will also take measurements within 30 calendar days of a written
20 request by a CLEC after installation or removal of equipment. Qwest will
21 perform a maximum of four readings per year on a particular collocation site.
22 The Power Measurement option does not affect the Power Plant charge.

23

1 **Q. PLEASE DESCRIBE THE POWER REDUCTION OFFERING.**

2 A. Power Reduction is an option that allows a CLEC to change its power capacity by
3 reducing ordered amps on a primary and/or secondary feed. The Power
4 Reduction option is offered through a different ICA provision than the Power
5 Measuring option. Power Reduction can either be ordered “With Reservation” or
6 “Without Reservation.” DC Power Reduction With Reservation allows a CLEC
7 to reduce ordered amps on a secondary feed to zero while at the same time
8 reserving the fuse position on the Power Board. The monthly recurring
9 maintenance charge for this reservation does not reserve power, but does hold the
10 power cabling and fuse positions in place for potential future power restoration
11 requests. Power Reduction Without Reservation allows a CLEC to reduce the
12 power on primary and secondary feeds down to a minimum of 20 amps. Billing
13 for the initial power plant capacity ordered at the collocation site will be modified
14 to reflect the reduced amount of power plant capacity provided.

15

16 **Q. PLEASE DESCRIBE THE POWER RESTORATION OPTION.**

17 A. The DC Power Restoration option allows a CLEC to restore previously reduced
18 DC power levels to a level less than or equal to the original DC power level
19 ordered. If a CLEC requests Restoration Without Reservation, Qwest will restore
20 the fuse and breaker position at the power source, if available. If capacity is not
21 available at the original power board, the CLEC will be connected to an alternate
22 power source. In situations where secondary feeds were reduced to zero and the
23 fuse positions were reserved (i.e., Power Reduction With Reservation), if Qwest

1 is unable to provide the requested power restoration of the held secondary feed(s)
2 due to power capacity exhaust, Qwest will refund all the collected power
3 maintenance charges mentioned previously. A Quote Preparation Fee for
4 performing a feasibility study and producing a quote is assessed for power
5 restoration in addition to a power restoration charge if the power is restored.

6

7 **Q. WHY DOES QWEST OFFER THESE OPTIONS?**

8 A. As mentioned previously, these offerings have been designed to offer CLECs
9 flexibility in managing their DC power requirements. Through these offerings,
10 CLECs can manage their power charges as their power needs change over time.
11 With the Power Measurement option a CLEC can reduce power usage charges if
12 consumption is less than ordered. With the Power Reduction option, a CLEC can
13 reduce the amount of power capacity it has available. Finally, Power Restoration
14 allows for reduced capacity to be restored at some point in the future.

15

16 **Q. WITH THAT AS BACKGROUND, WHAT IS THE DISPUTE IN ISSUE 8-**
17 **21?**

18 A. As I explained the above, the fundamental dispute in Issue 8-21 is the same
19 dispute that recurs throughout the sections of the ICA pertaining to DC Power.
20 Qwest has offered power measuring language, per above, that would allow
21 Eschelon to pay for DC Power Usage on a measured basis for power feeds greater
22 than 60 amps. Eschelon wants Qwest to delete the word “usage” from this

1 language so that Power Measurement would apply to both DC Power Usage and
2 DC Power Plant charges.

3

4 **Q. WHAT LANGUAGE DOES QWEST PROPOSE RELATIVE TO ISSUE 8-**
5 **21?**

6 A. 8.2.1.29.2.1 CLEC orders DC power plant in increments of twenty (20) amps
7 per feed minimum. If CLEC orders an increment larger than sixty (60) amps,
8 engineering practice normally terminates such feed on a power board. Qwest
9 measures power usage on the power board, as described in Section 8.2.1.29.2.2
10 below. If CLEC orders an increment of sixty (60) amps or less, the power feed
11 will normally appear on a Battery Distribution Fuse Board (BDFB). No power
12 usage measurement occurs at a BDFB.

13

14 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE RELATIVE TO**
15 **ISSUE 8-21?**

16 A. 8.2.1.29.2.1 CLEC orders DC power plant in increments of twenty (20) amps
17 per feed minimum. If CLEC orders an increment larger than sixty (60) amps,
18 engineering practice normally terminates such feed on a power board. Qwest
19 measures power ~~usage~~ on the power board, as described in Section 8.2.1.29.2.2
20 below. If CLEC orders an increment of sixty (60) amps or less, the power feed
21 will normally appear on a Battery Distribution Fuse Board (BDFB). No power
22 usage measurement occurs at a BDFB.

1

2 **Q. WHY SHOULD THE POWER MEASUREMENT OPTION NOT APPLY**
3 **TO DC POWER PLANT CHARGES?**

4 A. Power measurement does not make sense in the context of fixed DC power
5 plant. Qwest engineers power plant in accordance with a CLEC's ordered
6 amounts of power capacity. As noted above, this is also the amount of power
7 plant capacity that Qwest makes available for the CLEC's use. If Eschelon
8 submits an order for 180 amps of power, then Qwest will design the power plant
9 to ensure that the ordered amount of power (180 amps) is available to Eschelon.
10 This power plant would then be billed at a constant monthly rate according to
11 the amount of amps specified by Eschelon in its order.

12

13 While there is logic to offering an option to pay for "power usage" on an "as-
14 used" or "as-consumed" basis, there is no logic to offering an option to pay for
15 fixed power plant capacity on an "as-consumed" basis. Power plant is not
16 "consumed." Power plant consists of several durable pieces of equipment that
17 last for years. A better way to describe power plant capacity is in terms of
18 availability, rather than consumption. For any particular power user, the
19 question is whether there is sufficient capacity in the power plant available to
20 convert and deliver the electric current its telecommunications equipment will
21 consume. That is a completely different question than how much electric
22 current the telecommunications equipment will consume.

23

24 Power plant is a fixed investment, and the costs of that plant do not vary with
25 usage. The amount of power that Eschelon may consume at the point in time

1 that any particular power measurement is taken may not bear any relationship to
2 the amount of power plant capacity that Eschelon has ordered or that Qwest
3 makes available to Eschelon. While “power usage” can be measured (and
4 charged accordingly under the DC Power Measuring option), the
5 “measurement” of DC power plant capacity does not change until and unless
6 there are additions of primary components (e.g., batteries, rectifiers, etc.) that
7 make additional power plant capacity available to power users. In other words,
8 power plant is not amenable to “measurement.”

9
10 **Q. IS THERE AWAY THAT ESCHELON CAN REDUCE ITS POWER**
11 **PLANT CHARGES, IF IT DETERMINES THAT IT DOES NOT**
12 **REQUIRE AS MUCH POWER AS ORIGINALLY ANTICIPATED?**
13

14 A. Yes. As I described above, a CLEC has the ability to reduce its DC Power Plant
15 charges through the Power Reduction and the Power Reduction with
16 Reservation products offered by Qwest. If a CLEC wants to reduce its monthly
17 charges for the power capacity made available to the CLEC, it has that option.
18 A CLEC may not, however, keep the originally ordered amount of power still
19 available to it but reduce its power plant charges so that it pays for much less
20 capacity than is available to it.

21
22 **Q. WHY SHOULD THE COMMISSION ADOPT QWEST’S POSITION ON**
23 **THIS DISPUTE?**
24

1 A. Qwest must provision power plant as ordered by a CLEC, and as discussed above,
2 the notion of power plant “measurement” is a non-sequitur. If a CLEC requests a
3 180 amp power feed, Qwest provisions power plant capable of providing 180
4 amps of power at all times-- pursuant to the CLEC's request-- and that 180 amp
5 capacity remains month to month, regardless of how much power the CLEC
6 actually uses. As I discussed above, If a CLEC determines that it requires less or
7 more power it may submit an appropriate augment request to make that change,
8 and this will change its monthly DC power plant charge. Failing that, however,
9 Qwest will bill DC power plant ordered at 180 amps at that 180 amp rate, because
10 that is what Qwest has provisioned and that is what Qwest delivers to the CLEC--
11 the capability to always draw 180 amps over that connection.

12
13
14 **VII. ISSUE 8-21(A) (-48 VOLT POWER**
15 **MEASUREMENT)**

16 **Q. WHAT IS THE PRIMARY DISPUTE IN ISSUE 8-21(a)?**

17 A. Issue 8-21(a), involving contract language in Section 8.2.1.29.2.2, includes the
18 same dispute described above (i.e., whether power measuring should apply to
19 both power plant and power usage, or just power usage). Issue 8-21(a) presents a
20 second disputed issue concerning power measurement prior to the time that a
21 CLEC has placed its equipment in its collocation space. Qwest proposes
22 language indicating that it has no obligation to take an initial power measurement
23 reading until such time as a CLEC has installed telecommunications equipment.

1 A power measurement reading taken before a CLEC had installed any equipment
2 would, of course, produce a zero power measurement. Eschelon objects to, and
3 proposes striking, that language, and proposes language that would require Qwest
4 to take an initial power measurement reading even if Eschelon has not yet
5 installed any equipment. Eschelon proposes that it would then notify Qwest when
6 Eschelon has installed equipment, to allow Qwest to take a subsequent reading.
7 To the extent that Eschelon is arguing that an initial power reading of zero would
8 require Qwest to charge nothing for both power usage and power plant, that is
9 problematic, for the reasons discussed above. Even if Eschelon is *using* no power
10 because it has not yet installed its equipment, Qwest would have already
11 provisioned DC power plant sufficient to provide the capacity requested by
12 Eschelon, and would be entitled to charge for that provisioned power plant. As I
13 testified above, power plant capacity as ordered by the CLEC remains month to
14 month, regardless of how much power the CLEC actually uses. If provisioned,
15 that power plant capacity exists whether or not a CLEC has installed equipment.

16

17 **Q. WHAT LANGUAGE DOES QWEST PROPOSE?**

18 A. Qwest proposes:

19 8.2.1.29.2.2 Measurement of Power Usage at the Power Board – Unless CLEC
20 requests power measurement, power will not be measured. Qwest will bill CLEC
21 power usage based on the amount of power ordered unless power measurement is
22 requested and until a reading is taken pursuant to this Section. Qwest will

1 measure power usage at the power board on a semi-annual basis. However,
2 Qwest also agrees to take a reading within thirty (30) Days of a written CLEC
3 request. Qwest will perform a maximum of four (4) readings per year for a
4 particular Collocation site. CLEC is required to have its equipment in place prior
5 to making any request for Qwest measure power usage. Based on these readings,
6 if CLEC is utilizing less than the ordered amount of power, Qwest, will reduce the
7 monthly power usage rate to CLEC's actual use based on the reading from the
8 date of CLEC's measuring request on a going forward basis until the next reading.
9 If CLEC is utilizing more than the ordered amount, Qwest will increase the
10 monthly usage rate to the CLEC's actual use. Once Qwest receives a CLEC
11 measuring request, it will bill the actual power usage rate based on the reading
12 from the date of the CLEC's measuring request, on a going forward basis until the
13 next reading.

14

15 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE?**

16 A. Eschelon accepts some of the Qwest proposed language and attempts to modify it
17 for section 8.2.1.29.2.2 as follows:

18 8.2.1.29.2.2 Measurement of ~~Power~~ Usage at the Power Board – Unless CLEC
19 requests power measurement, power will not be measured. Qwest will bill CLEC
20 ~~power usage~~ based on the amount of power ordered unless power measurement is
21 requested and until a reading is taken pursuant to this Section. Qwest will
22 measure ~~power~~ usage at the power board on a semi-annual basis. However,

1 Qwest also agrees to take a reading within thirty (30) Days of a written CLEC
2 request. Qwest will perform a maximum of four (4) readings per year for a
3 particular Collocation site. ~~CLEC is required to have its equipment in place~~
4 ~~prior to making any request for Qwest measure power usage.~~ If the initial
5 measurement is zero, CLEC must notify Qwest when its equipment is in
6 place and allow Qwest an additional reading to measure power. Based on
7 these readings, if CLEC is utilizing less than the ordered amount of power, Qwest,
8 will reduce the monthly ~~power~~ usage rate to CLEC's actual use based on the
9 reading from the date of CLEC's measuring request on a going forward basis until
10 the next reading. If CLEC is utilizing more than the ordered amount, Qwest will
11 increase the monthly usage rate to the CLEC's actual use. Once Qwest receives a
12 CLEC measuring request, it will bill the actual power usage rate based on the
13 reading from the date of the CLEC's measuring request, on a going forward basis
14 until the next reading.

15

16 **Q. WHY SHOULD THE COMMISSION ADOPT QWEST'S POSITION?**

17 A. As I testified previously, Power Measurement applies only to power usage.
18 Eschelon's language here, as elsewhere in the contract, would apply Power
19 Measurement to both power plant and power usage, and that is why Qwest cannot
20 agree to that language. Qwest would consider Eschelon's position if
21 Eschelon presented it in the appropriate forum to effectuate such change-- CMP--
22 and if Eschelon agreed that its proposed language regarding the initial power

1 reading applied ONLY to the power usage charge, and not the power plant
2 charge. This distinction is important, and appropriate, as I testified above. Qwest
3 provisions DC power plant as ordered by a CLEC to make available at all times
4 the power capacity requested by the CLEC. Qwest will provision Eschelon's
5 power plant to deliver power capacity as requested by Eschelon. A vendor
6 problem or other delay in installing equipment would mean that Eschelon would
7 not have any power *usage* until it could install its equipment, but would not alter
8 the fact that Qwest had, in fact, already provisioned the power *plant* capacity per
9 Eschelon's request.

10
11 In fact, this vendor delay scenario envisioned by Eschelon serves to underscore
12 the nature of the difference between power plant and power usage. Qwest can
13 agree with Eschelon that, if it has installed no equipment, a power measurement
14 reading will show no actual power usage. A zero power measurement usage
15 reading will not mean, however, that Qwest has not provisioned power capacity—
16 it will simply demonstrate that Eschelon is drawing no power. Power plant, as I
17 stated, is not amenable to “measurement.” Putting a clamp on a power feed to
18 measure power usage at a point in time will not tell you what capacity is available
19 over that feed. Accordingly, because Eschelon persists in contending that Power
20 Measurement must apply to power plant, and because Eschelon's proposed
21 language would represent a change to existing Qwest processes that should be
22 considered in CMP, not in an interconnection agreement/arbitration affecting just

1 one CLEC, the Commission should reject Eschelon's position and accept Qwest's
2 language on this issue.

3

4 **VIII. ISSUE 8-21(B) (-48 VOLT POWER**
5 **MEASUREMENT)**

6 **Q. WHAT IS THE PRIMARY DISPUTED IN ISSUE 8-21(b)?**

7 A. Issue 8-21(b), involving contract language in Section 8.3.1.6, presents the same
8 dispute described above in Issue 8-21: whether power measuring should apply to
9 both power plant and power usage, or just power usage.

10

11 **Q. WHAT LANGUAGE DOES QWEST PROPOSE?**

12 A. 8.3.1.6 -48 Volt DC Power. There are two -48 Volt DC Power charges, as
13 described below, one for -48 Volt DC Power Plant and one for -48 Volt DC
14 Power Usage.

15 8.3.1.6.1 The -48 Volt DC Power Plant charge provides -48 Volt DC power
16 to CLEC collocated equipment and is fused at one hundred twenty-five percent
17 (125%) of request. The DC Power Plant Charge recovers the cost of the capacity
18 of the power plant available for CLEC's use.

19 8.3.1.6.2 The -48 Volt DC Power Usage Charge recovers the cost of the
20 CLEC's power usage. -48 Volt DC Power Usage can be provided and charged on
21 a non-measured basis, or, in some cases specified below, on a measured basis.

1 a) Non-Measured -48 Volt DC Power Usage Charge – Qwest will
2 apply the -48 Volt Power Usage charge for the quantity of power ordered
3 by the CLEC. Qwest will not adjust the billed usage based upon power
4 usage readings. This applies to all CLEC orders for -48 Volt DC Power
5 which are equal to or less than sixty (60) amps. Qwest will apply the -48
6 Volt DC Power Usage Charge for the quantity of power ordered by CLEC.
7 Qwest will not adjust the billed usage based upon power usage readings.
8 This charge also applies to all CLEC orders for -48 Volt DC Power Usage
9 which are greater than sixty (60) amps, unless CLEC orders -48 Volt DC
10 Power Measurement, in which case CLEC will be charged for Measured -
11 48 Volt DC Power Usage as described in Section 8.3.1.6.2(b) below.

12
13 b) Measured -48 Volt DC Power Usage Charge – This measured
14 power usage charge applies, if elected by CLEC, on a per amp basis to
15 orders of greater than sixty (60) amps. For orders of greater than sixty
16 (60) amps. CLEC may elect Measured -48 Volt DC Power Usage
17 pursuant to this provision by ordering -48 Volt DC Power Measurement.
18 Qwest will initially apply the -48 Volt DC Power Usage Charge to the
19 quantity of power ordered by CLEC. Qwest will read the actual power
20 usage as described in Section 8.2.1.29.2.2 and will charge based on the
21 power usage at the time of the reading, on a going forward basis, until the
22 next reading.

1 Q. WHAT LANGUAGE DOES ESCHELON PROPOSE?

2 A. 8.3.1.6 -48 Volt DC Power. There are two -48 Volt DC Power charges, as
3 described below, one for -48 Volt DC Power Plant and one for -48 Volt DC
4 Power Usage. **Both Power Charges described in this Section are adjusted**
5 **based on usage readings when power is measured.**

6 8.3.1.6.1 **There are two 48V DC Power charges: (1)** The -48 Volt DC
7 Power Plant charge provides -48 Volt DC power to CLEC collocated equipment
8 and is fused at one hundred twenty-five percent (125%) of request. The DC
9 Power Plant Charge recovers the cost of the capacity of the power plant available
10 for CLEC's use. **The (2) The -48 Volt DC Power Usage Charge, which is also**
11 **specified in Exhibit A. Both -48V DC Power charges may be either non-**
12 **measured or measured, as follows:**

13 ~~8.3.1.6.2 — The -48 Volt DC Power Usage Charge recovers the cost of the~~
14 ~~CLEC's power usage. -48 Volt DC Power Usage can be provided and~~
15 ~~charged on a non-measured basis, or, in some cases specified below, on a~~
16 ~~measured basis.~~

17 a) Non-Measured -48 Volt DC Power Usage Charge – ~~Qwest will~~
18 ~~apply the -48 Volt Power Usage charge for the quantity of power~~
19 ~~ordered by the CLEC. Qwest will not adjust the billed usage based~~
20 ~~upon power usage readings.~~ This applies to all CLEC orders for -48
21 Volt DC Power which are equal to or less than sixty (60) amps. Qwest
22 will apply the -48 Volt DC Power **Usage** Charge for the quantity of power
23 ordered by CLEC. Qwest will not adjust the billed usage based upon

1 ~~**actual usage power usage readings. This charge also applies to all**~~
2 ~~**CLEC orders for -48 Volt DC Power Usage which are greater than**~~
3 ~~**sixty (60) amps, unless CLEC orders -48 Volt DC Power**~~
4 ~~**Measurement, in which case CLEC will be charged for Measured -48**~~
5 ~~**Volt DC Power Usage as described in Section 8.3.1.6.2(b) below.**~~

6
7 b) Measured -48 Volt DC Power **Usage** Charge – This ~~**measured**~~
8 ~~**power usage charge**~~ applies, if elected by CLEC, on a per amp basis to
9 orders of greater than sixty (60) amps. ~~**For orders of greater than sixty**~~
10 ~~**(60) amps. CLEC may elect Measured -48 Volt DC Power Usage**~~
11 ~~**pursuant to this provision by ordering -48 Volt DC Power**~~
12 ~~**Measurement.**~~ Qwest will initially apply the -48 Volt DC Power **Usage**
13 Charge to the quantity of power ordered by CLEC. Qwest will **determine**
14 ~~**read**~~ the actual ~~**power**~~ usage as described in Section 8.2.1.29.2.2 and will
15 charge based on the ~~**power**~~ usage at the time of the reading, on a going
16 forward basis, until the next reading.

17
18 **Q. WHY SHOULD THE COMMISSION ADOPT QWEST'S POSITION?**

19 A. The Commission should adopt Qwest's position for the same reasons I articulated
20 in my testimony on Issue 8-21. Power Plant and Power Usage are two different
21 concepts, and two different charges. Power Measuring applies only to Power
22 Usage.

1

2

**IX. ISSUE 8-21(C) (-48 VOLT POWER
MEASUREMENT)**

3

4 **Q. WHAT IS THE NATURE OF THE DISPUTE IN ISSUE 8-21(c)?**

5 A. Issue 8-21(c), involving contract language in Section 8.3.1.6.1, presents the same
6 dispute described above in Issue 8-21: whether power measuring should apply to
7 both power plant and power usage, or just power usage.

8

9 **Q. WHAT LANGUAGE DOES QWEST PROPOSE?**

10 A. Qwest's proposed language for Section 8.3.1.6.1 was provided above in the
11 discussion on Issue 8-21(b).

12

13 **Q. WHAT LANGUAGE DOES ESCHELON PROPOSE?**

14 A. Eschelon's proposed language for Section 8.3.1.6.1 was provided above in the
15 discussion on Issue 8-21(b).

16

17 **Q. WHY SHOULD THE COMMISSION ADOPT QWEST'S POSITION?**

18 A. The Commission should adopt Qwest's position for the same reasons I articulated
19 in my testimony on Issue 8-21. Power Plant and Power Usage are two different
20 concepts, and two different charges. Power Measuring applies only to Power
21 Usage.

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X. ISSUE 8-21(D) (-48 VOLT POWER MEASUREMENT)

Q. WHAT IS THE NATURE OF THE DISPUTE IN ISSUE 8-21(d)?

A. Issue 8-21(d), involving contract language in Section 8.3.1.6.2, presents the same dispute described above in Issue 8-21: whether power measuring should apply to both power plant and power usage, or just power usage.

Q. WHAT LANGUAGE DOES QWEST PROPOSE?

A. Qwest's proposed language for Section 8.3.1.6.2 was provided above in the discussion on Issue 8-21(b).

Q. WHAT LANGUAGE DOES ESCHELON PROPOSE?

A. Eschelon's proposed language for Section 8.3.1.6.2 was provided above in the discussion on Issue 8-21(b).

Q. WHY SHOULD THE COMMISSION ADOPT QWEST'S POSITION?

A. The Commission should adopt Qwest's position for the same reasons I articulated in my testimony on Issue 8-21. Power Plant and Power Usage are two different concepts, and two different charges. Power Measuring applies only to Power Usage.

1 engineering and planning associated with the administrative functions of
2 processing the request.

3

4 **Q. WHAT IS ESCHELON'S PROPOSED LANGUAGE?**

5 A. Eschelon proposes striking both Section 8.3.9.1.3 and Section 8.3.9.2.3 in their
6 entirety.

7

8 **Q. WHY SHOULD THE COMMISSION ACCEPT QWEST'S PROPOSAL?**

9 A. Qwest's language is reasonable and reflects Qwest's right to recover its costs
10 associated with the project, order and support management, engineering and
11 planning associated with the administrative function of processing the request.
12 If Eschelon has concerns regarding the appropriateness or amount of this
13 charge, then it should raise those concerns in an appropriate cost proceeding.
14 Issues related to appropriate cost recovery, and involving cost studies and other
15 cost-based evidence, should be resolved in a cost proceeding, not in an
16 arbitration proceeding involving a single CLEC.

17

18 **XII. ISSUE 8-23 (DC POWER RESTORATION)**

19 **Q. WHAT IS THE STATUS OF ISSUE 8-23?**

20 A. While the parties identified this as a disputed issue in the matrix provided with
21 the Petition, this issue has subsequently been closed.

22

1

XIII. ISSUE 8-24 (NEBS)

2 **Q. WHAT IS THE NATURE OF THE DISPUTE IN ISSUE 8-24?**

3 A. Issue 8-24 involves section 8.2.3.9 of the ICA, relating to the requirement that
4 equipment placed by CLECs in Qwest's central offices meet certain safety
5 requirements. Specifically, Section 8.2.3.9 requires that equipment placed in
6 central offices must meet NEBS I ("Network Equipment-Building System")
7 safety standards. Eschelon does not dispute that its equipment should be NEBS
8 compliant. Rather, Eschelon contends that Qwest should bear the burden of
9 reviewing the equipment that Eschelon intends to place in the Qwest central
10 office, as specified in Eschelon's collocation application, and determining for
11 Eschelon whether that equipment is NEBS compliant. Qwest disagrees, as it
12 should be Eschelon's obligation to ensure that Eschelon's equipment meets
13 NEBS standards. Eschelon further proposes language suggesting that, if Qwest
14 does not, within 10 days of receiving Eschelon's collocation application,
15 identify NEBS concerns with equipment that Eschelon intends to place, then
16 Qwest may not raise such concerns. In other words, under Eschelon's proposal
17 Qwest could be estopped from addressing legitimate safety concerns and
18 requiring that unsafe equipment be removed from the central office.

19

20 **Q. WHAT LANGUAGE DOES QWEST PROPOSE?**

21 A. 8.2.3.9 If, during installation, Qwest determines CLEC activities or
22 equipment do not comply with the NEBS Level 1 safety standards listed in this

1 Section or are in violation of any Applicable Laws or regulations all equally
2 applied to Qwest, Qwest has the right to stop all installation work related to the
3 activities or equipment at issue until the situation is remedied or CLEC
4 demonstrates that Qwest's determination was incorrect. Qwest shall provide
5 written notice of the non-compliance to CLEC and such notice will include: (1)
6 identification of the specific equipment and/or installation not in compliance; (2)
7 the NEBS 1 safety requirement that is not met by the equipment and/or
8 installation; (3) the basis for concluding that CLEC equipment and/or installation
9 does not meet the safety requirement; and (4) a list of all equipment that Qwest
10 locates at the Premises in question, together with an affidavit attesting that all of
11 that equipment meets or exceeds the safety standard that Qwest contends CLEC's
12 equipment fails to meet If such conditions pose an immediate threat to the
13 safety of Qwest employees, interfere immediately with the performance of
14 Qwest's service obligations, or pose an immediate threat to the physical integrity
15 of the conduit system, cable facilities or other equipment in the Premises, Qwest
16 may perform such work and/or take action as is necessary to correct the condition
17 at CLEC's expense. If time permits, Qwest shall first provide CLEC a
18 meaningful opportunity to respond and, if necessary, remedy the situation. In the
19 event CLEC disputes any action Qwest seeks to take or has taken pursuant to this
20 provision, CLEC may pursue immediate resolution by the Commission or a court
21 of competent jurisdiction.

22

1 Q. WHAT LANGUAGE DOES ESCHELON PROPOSE?

2 A. 8.2.3.9 Qwest will determine and notify CLEC, in the manner
3 described below, within ten (10) Days of CLEC submitting its Collocation
4 application if Qwest believes CLEC's listed equipment does not comply with
5 NEBS Level 1 safety standards or is in violation of any Applicable Laws or
6 regulations, all equally applicable to Qwest. If CLEC disagrees, CLEC may
7 respond with the basis for its position within ten (10) Days of receipt of such
8 notice from Qwest. If, during installation, Qwest determines CLEC activities or
9 equipment other than those listed in the Collocation application do not comply
10 with the NEBS Level 1 safety standards listed in this Section or are in violation of
11 any Applicable Laws or regulations all equally applied to Qwest, Qwest has the
12 right to stop all installation work related to the activities or equipment at issue
13 until the situation is remedied or CLEC demonstrates that Qwest's determination
14 was incorrect. Qwest shall provide written notice of the non-compliance to CLEC
15 and such notice will include: (1) identification of the specific equipment and/or
16 installation not in compliance; (2) the NEBS 1 safety requirement that is not met
17 by the equipment and/or installation; (3) the basis for concluding that CLEC
18 equipment and/or installation does not meet the safety requirement; and (4) a list
19 of all equipment that Qwest locates at the Premises in question, together with an
20 affidavit attesting that all of that equipment meets or exceeds the safety standard
21 that Qwest contends CLEC's equipment fails to meet. If such conditions pose an
22 immediate threat to the safety of Qwest employees, interfere immediately with the

1 performance of Qwest's service obligations, or pose an immediate threat to the
2 physical integrity of the conduit system, cable facilities or other equipment in the
3 Premises, Qwest may perform such work and/or take action as is necessary to
4 correct the condition at CLEC's expense. If time permits, Qwest shall first
5 provide CLEC a meaningful opportunity to respond and, if necessary, remedy the
6 situation. In the event CLEC disputes any action Qwest seeks to take or has taken
7 pursuant to this provision, CLEC may pursue immediate resolution by the
8 Commission or a court of competent jurisdiction.

9

10 **Q. WHY IS ESCHELON'S PROPOSED LANGUAGE INAPPROPRIATE?**

11 A. Eschelon's language would inappropriately shift to Qwest the burden of
12 determining whether equipment that Eschelon intends to place is NEBS
13 compliant. Eschelon proposes that, within 10 days of receiving Eschelon's
14 collocation application, Qwest should review all equipment that Eschelon intends
15 to place and raise any NEBS or other safety concerns then—or apparently be
16 forever estopped from raising such concerns. Of course, Eschelon, as the
17 purchaser of the equipment is in the best position to make this assessment.
18 Eschelon has the relationship with the vendor from whom it is purchasing the
19 equipment in question, and Eschelon has access to any owner's manuals,
20 specification sheets or other literature relating to the equipment in question. It is
21 Eschelon's equipment, not Qwest's equipment. There can be no reasonable basis

1 to shift the burden to Qwest to ensure that Eschelon's equipment satisfies well-
2 known and industry standard safety requirements.

3

4 **Q. WHY DOES ESCHELON CONTEND THAT IT NEEDS THE LANGUAGE**
5 **THAT IT PROPOSES?**

6 A. In its position statement Eschelon expressed concern that "Qwest should not be
7 allowed to wait until a CLEC is incurring the expense of installing the equipment
8 to notify CLEC of its [NEBS] objections." Thus, according to Eschelon, "[t]he
9 onus is on Qwest to promptly read the CLEC's application and notify it of any
10 potential problems."

11 **Q. HAS QWEST EVER WAITED UNTIL ESCHELON INCURRED THE**
12 **EXPENSE OF INSTALLING EQUIPMENT BEFORE NOTIFYING**
13 **ESCHELON OF NEBS-BASED OR OTHER SAFETY CONCERNS?**

14 A. No, never. In fact, not once has Qwest required Eschelon to remove equipment
15 from a Qwest central office. It is fairly clear, then, that Eschelon is proposing a
16 solution to a problem that does not exist.

17 **Q. IS IT A REASONABLE ASSUMPTION THAT ESCHELON WOULD**
18 **HAVE THE REQUIRED INFORMATION ON NEBS FROM ITS VENDOR**
19 **BEFORE PLACING EQUIPMENT IN A QWEST CENTRAL OFFICE?**

20 A. I would certainly think and hope so. NEBS standards address not only hazards
21 and degradation of the network facility but also hazards to personnel. I would

1 think that Eschelon has taken that into account to protect their personnel from
2 safety hazards associated with the equipment they are placing. For that reason
3 the disagreement here does not make sense to me. Eschelon is seeking to put
4 the burden on Qwest to tell Eschelon whether Eschelon's equipment meets
5 NEBS standards. Eschelon should already know this well before it places the
6 equipment. If the equipment meets NEBS standards then Eschelon should have
7 no concerns here. Qwest would obviously have no basis to ask Eschelon to
8 remove equipment for failure to meet NEBS standards if the equipment meets
9 NEBS standards. On the other hand, if the equipment does NOT meet NEBS
10 standards—why is Eschelon placing it in the central office? Eschelon's position
11 on this issue suggests to me that, today, it is not confirming with the equipment
12 manufacturer that the equipment Eschelon is purchasing and placing is NEBS
13 compliant. If that is true, that is very disconcerting.

14 **Q. WHAT ABOUT THE POSSIBILITY ESCHELON RAISES THAT**
15 **QWEST MIGHT WAIT UNTIL ESCHELON PLACES EQUIPMENT**
16 **AND ONLY THEN EXPRESS CONCERNS THAT THE EQUIPMENT IS**
17 **NOT NEBS COMPLIANT?**

18 **A.** This is a complete red herring, for several reasons. First, as I stated above.
19 Qwest has never once requested that Eschelon remove equipment from a Qwest
20 central office due to NEBS safety concerns. Eschelon is therefore proposing a
21 solution to a problem that does not exist. Second, if Qwest ever did ask
22 Eschelon to remove equipment because that equipment did not meet NEBS
23 safety standards, that would have to mean that Eschelon *itself* had failed to
24 assure that the equipment was NEBS compliant before it placed the equipment.

1 I am not talking here about issues relating to the manner in which the equipment
2 was installed, operational degradation, or the like. Rather, the issue here is
3 whether the equipment meets NEBS standards *as manufactured*. The only way
4 an Eschelon piece of equipment that is not NEBS compliant can get into the
5 Qwest central office is if Eschelon placed it there, failing to ensure that the
6 equipment was NEBS compliant in the first place. Again, it is obviously
7 appropriate that Eschelon should have responsibility to ensure that the
8 equipment it places is NEBS compliant, just as Qwest must ensure that the
9 equipment Qwest places is NEBS compliant. Eschelon's red herring concern
10 here is nothing more than an attempt by Eschelon to shift to avoid its burden of
11 ensuring that its equipment is NEBS compliant by shifting that burden and cost
12 to Qwest.

13 **Q. WHAT IF A DISPUTE DOES ARISE AFTER ESCHELON PLACES**
14 **EQUIPMENT IN QWEST'S CENTRAL OFFICE?**

15 **A.** As I stated above that has never happened, but if it did, and if Qwest and
16 Eschelon could not agree on how to proceed, then the parties could resort to the
17 dispute resolution provisions in the Contract. Any such dispute would depend
18 on the particular facts of the situation, but as I suggested above, if the
19 equipment in question did not meet NEBS standards then Eschelon should not
20 have placed it in the first place, and if it did meet NEBS standards, then Qwest
21 would have no reason on that basis (as opposed to how the equipment was
22 installed, for instance) to ask that it be removed. That probably explains why
23 this area has not been controversial in the past. Equipment either is, or is not,

1 NEBS compliant. Eschelon can make this determination for its equipment just
2 as Qwest makes this determination for its equipment.

3

4 **Q. WHY SHOULD THE COMMISSION REJECT ESCHELON'S PROPOSAL**
5 **AND ACCEPT QWEST'S LANGUAGE?**

6 A. The language Qwest proposes in this section preserves Qwest's right and
7 obligation to protect its equipment along with CLECs' equipment present within
8 the same environment. Eschelon, not Qwest, bears the burden of confirming
9 that the equipment it seeks to collocate complies with applicable NEBS
10 requirements, and there is no basis for Eschelon to shift that burden to Qwest.
11 Further, Eschelon's language would effectively estop Qwest from suspending
12 installation work on non-compliant and potentially unsafe equipment, or
13 requiring removal of such equipment, unless Qwest had previously identified its
14 concerns with such equipment within 10 days of receiving Eschelon's
15 collocation application. That is clearly not reasonable. Finally, Eschelon's
16 proposed language would introduce a change to existing Qwest processes, and
17 as I have testified above, CMP is the appropriate forum to consider changes that
18 will impact all CLECs. Also, to the extent that the Eschelon proposed change
19 would cause Qwest to incur additional costs, Qwest is entitled to recover those
20 costs.

21

1 **XIV. ISSUE 8-29 (CONTIGUOUS SPACE OPTION)**

2 **Q. WHAT IS THE NATURE OF THE DISPUTE IN ISSUE 8-29?**

3 A. Issue 8-29 involves Section 8.4.1.8.7.3 of the contract, involving the period of
4 time that Eschelon would have to determine whether to exercise an option on
5 contiguous collocation space once notified by Qwest that the space is available.
6 Qwest's standard contract language allows 72 hours; Eschelon wants 7 days.
7 Qwest is willing change its current language and process to allow for a 7-day
8 response period, but only if that change is effectuated in the appropriate fashion in
9 the appropriate forum- CMP. As I have testified, changes to Qwest processes that
10 affect all CLECs should be considered in CMP, not in an arbitration with a single
11 CLEC. Qwest has, in fact, submitted a CMP notice to change this response
12 period from 72 hours to 7 days. Assuming that other CLECs agree that this
13 longer period is appropriate, Qwest anticipates that this change request will
14 become effective, per the notice, on September 29, 2006. At that point Qwest
15 anticipates closing this issue.

16
17 **Q. WHAT IS QWEST'S PROPOSED LANGUAGE?**

18 A 8.4.1.8.7.3 Where contiguous space has been Optioned, Qwest will make its best
19 effort to notify CLEC if Qwest, its Affiliates or CLECs require the use of CLEC's
20 contiguous space. Upon notification, CLEC will have seventy-two hours to
21 indicate its intent to submit a Collocation application or Collocation Reservation.
22 CLEC may choose to terminate the contiguous space Option or continue without

1 the contiguous provision.

2

3 **Q. WHAT IS ESCHELON'S PROPOSED LANGUAGE?**

4 A 8.4.1.8.7.3 Where contiguous space has been Optioned, Qwest will make its best
5 effort to notify CLEC if Qwest, its Affiliates or CLECs require the use of CLEC's
6 contiguous space. Upon notification, CLEC will have ~~seventy-two hours~~ **seven**
7 **(7) Days** to indicate its intent to submit a Collocation application or Collocation
8 Reservation. CLEC may choose to terminate the contiguous space Option or
9 continue without the contiguous provision.

10

11 **Q. WHY SHOULD THE COMMISSION ACCEPT QWEST'S PROPOSAL?**

12 A This issue is likely to close before the hearing on this matter, as I indicated above,
13 because Qwest initiated the appropriate CMP notice to consider the process
14 change requested here by Eschelon (7-day response period in place of the current
15 72-hour response period). As I have previously testified, the entire purpose of
16 CMP was to ensure that the industry (not just Qwest or one CLEC) is involved in
17 creating and approving processes so that processes are uniform among all
18 CLECs. Processes that affect all CLECs should be addressed through CMP, not
19 through an arbitration involving a single CLEC. Further, implementing a unique
20 process for Eschelon that Qwest does not follow for other CLECs would require
21 Qwest to modify its systems or processes and would cause Qwest to incur costs it
22 is entitled to recover under the Act.

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XV. ISSUE 10-63 (MICRODUCT)

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Q. WHAT IS THE NATURE OF THE DISPUTE IN ISSUE 10-63?

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A. This again is clearly a cost issue that should be addressed in an appropriate cost proceeding. Microduct is a smaller version of an innerduct and resides within that innerduct, and is addressed in Section 10.8.2.29 of the ICA. Eschelon disputes Qwest's proposed charges for microduct in cities where Qwest has not yet deployed microduct within innerduct. This arbitration proceeding is clearly not the appropriate forum for Eschelon to wade into cost issues and cost-based evidence.

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Q. WHAT LANGUAGE DOES QWEST PROPOSE FOR SECTION 10.8.2.29?

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A. 10.8.2.29 In cities where Qwest has not deployed microduct and CLEC wishes to use this technology, CLEC must lease an innerduct. In these locations CLEC will be required to furnish and place the microduct. At the conclusion of the lease, CLEC and Qwest will make a joint decision whether or not CLEC will be required to remove CLEC's microduct from the innerduct.

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Q. WHAT LANGUAGE DOES ESCHELON PROPOSE FOR SECTION 10.8.2.29?

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A. 10.8.2.29 In cities where Qwest has not deployed microduct and CLEC wishes to use this technology, CLEC must lease an innerduct at one-half (1/2) of

21

1 the rate for innerduct in Exhibit A per microduct placed within the innerduct. In
2 these locations CLEC will be required to furnish and place the microduct. At the
3 conclusion of the lease, CLEC and Qwest will make a joint decision whether or
4 not CLEC will be required to remove CLEC's microduct from the innerduct.

5

6 **Q. WHY SHOULD THE COMMISSION ADOPT QWEST'S PROPOSED**
7 **LANGUAGE?**

8 **A.** In Section 10.8.2.29 of the Agreement Qwest proposes language that would
9 apply in cities where Qwest has not deployed microduct. In such cities Qwest
10 will allow a CLEC to lease an innerduct to deploy its own microduct. Eschelon
11 proposes to modify that language by adding language stating that the rate to
12 lease the innerduct should be one half of the rate for innerduct in Exhibit A per
13 microduct placed within the innerduct. In essence Eschelon only wants to pay
14 for half of what it would be using. Eschelon is also mixing apples and oranges
15 here, as it seeks to import rates for microduct—where Qwest has deployed
16 microduct—into situations where Qwest has NOT deployed microduct and is
17 simply offering the innerduct for lease to CLECs. Again, if Eschelon wishes to
18 challenge the rate at which Qwest offers to lease innerduct, then it should do so
19 in an appropriate cost proceeding.

20

XVI. CONCLUSION

21 **Q. DOES THIS CONCLUDE YOUR TESTMONY?**

22 **A.** Yes.