

September 3, 2003

BY ELECTRONIC AND OVERNIGHT MAIL

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Post Office Box 47250
Olympia, Washington 98504-7250

Docket No. UT-033025 Implementation of the FCC Triennial Review Order

Dear Ms. Washburn:

Pursuant to the Washington Utility and Transportation Commission's ("Commission") August 22, 2003 Notice Inviting Comments, Eschelon Telecom of Washington, Inc. ("Eschelon") hereby submits its comments regarding the process for implementing the FCC Triennial Review Order (Order).

Eschelon is a facilities-based telecommunications company that is authorized by the Commission to provide switched intraexchange, interexchange and access telecommunications services. Eschelon primarily serves small business customers in western Washington. Eschelon utilizes UNEs, including unbundled loops and transport as well as UNE-P to serve its customers. Eschelon consequently has a substantial interest in the issues raised in this proceeding.

The Order is substantial in length and is many-faceted in terms of its potential effects on CLECs in general and Eschelon in particular. Eschelon has not had time to fully digest the Order as yet. Eschelon submits these comments in response to the Commission's request, but Eschelon reserves the right to further develop or alter its positions as the many issues and implications of the Order become more clear with additional study.

Issues

1. Who bears the burden of going forward and the burden of proof regarding the various issues identified in the FCC's order, i.e., should the Commission initiate the proceedings, or is it more appropriate for an ILEC or CLEC to initiate a proceeding?

Eschelon is participating through its trade association ALTS (Association for Local Telecommunications Services) in developing the CLEC responses for the TRIP taskforce matrices addressing the various procedural and substantive issues raised by the Order. In particular, the questions raised here by this Commission are addressed by the CLEC's joint response to the TRIP matrices. The joint CLEC response should be completed on or about September 8, 2003. Eschelon respectfully requests permission

to supplement these comments with the joint CLEC response to the TRIP matrices when it is available.

2. How does the Commission's review of the FCC's Order affect ongoing proceedings before the Commission, e.g., issues pending in Dockets UT-003022/003040, UT-023003, UT-011219, UT-030614?
 - a. Should the Commission consolidate proceedings, or hold certain proceedings in abeyance pending resolution of issues arising from the FCC's Order?

Eschelon is not a party to all of the proceedings listed, but two of the proceedings mentioned seem particularly worthy of concern. UT-023003 should not be delayed unnecessarily as a result of the FCC's Order. It is highly unlikely that implementation of the Order will result in the complete elimination of any kind of loop or of unbundled switching. Consequently the Commission will need to determine the rates at issue in any event. However, UT-030614 should be delayed until the conclusion of the nine-month proceeding. Insofar as the implementation of the Order may restrict the availability of unbundled switching, loops, and transport, it will do so with respect to specific geographic areas and routes. The Commission should not grant Qwest pricing flexibility for particular wire centers based upon an assessment of the level and extent of competition that currently exists because the implementation of the Order could reduce the level and extent of competition.

- b. Should the Commission import evidence from these or other proceedings to a new docket addressing the various issues identified in the FCC's Order?

No. The Commission should have the most recent information in deciding the many issues in this case. Not all parties were represented in all of the above cases and they consequently did not have an opportunity to either supply information to make the record more complete or to challenge the information submitted by others.

3. Should the Commission address issues affecting Verizon and Qwest in separate proceedings or in one generic proceeding addressing all companies?

There should be one generic proceeding. This should simplify matters somewhat for the Commission, the staff, and most parties.

- a. If no party files a petition concerning a particular ILEC should the Commission initiate a proceeding or wait for a party to file a petition?

Eschelon believes the joint CLEC response to the TRIP matrices is responsive to this issue. Eschelon requests permission to file this response when it is available, on or about September 8, 2003.

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4. What hearing format should the Commission adopt for the various issues identified in the FCC's Order, i.e., a paper process, workshop, or hearing process?

Eschelon believes the joint CLEC response to the TRIP matrices is responsive to this issue. Eschelon requests permission to file this response when it is available, on or about September 8, 2003. A formal hearing process that permits discovery, filing of testimony, and cross examination of witnesses appears necessary in order to develop an adequate record and afford parties a full and fair opportunity to present their cases. However, it may be that a workshop format could be agreed upon for some issues.

5. Should the Commission coordinate any of the proceedings arising from the FCC's Order with other states in Qwest's region?

Hearing and discovery dates should be coordinated with other states to best utilize company resources. In addition, discovery should be narrowly tailored to address specific factual issues. Eschelon anticipates that all parties as well as staff would benefit from establishing common discovery for all states in the Qwest region.

Eschelon appreciates the opportunity to submit these comments to the Commission. Should the Commission or its Staff have any questions concerning this matter, please contact me directly.

Respectfully submitted,

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cc: UT-003022, UT-003040 Service List
UT-023003 Service List
UT-011219 Service List
UT-030614 Service List