

**BEFORE THE
WASHINGTON 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

EXHIBIT BJJ-9

TO THE

DIRECT TESTIMONY OF BONNIE J. JOHNSON

ON BEHALF OF ESCHELON TELECOM, INC.

SEPTEMBER 29, 2006

DS1 CRUNEC Chronology

- 4/30/2003** Qwest sent notice PROS.04.30.03.F.01071.CRUNEC as a Level 3 CMP change with an effective date of 6/16/2003. Qwest made a **one word change** to the CLEC Requested Unbundled Network Elements Construction policy (CRUNEC) PCAT. The change removed the word “conditioning” from the list of incremental facility work examples. (http://www.qwest.com/wholesale/downloads/2003/030430/PCAT_CRUNEC_V4_1.doc) (See Exhibit BJJ-10)
- 5/13/2003** Covad submitted comments and expressed “concern with the removal of the word 'conditioning' from the CRUNEC document” (http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc)
- 5/21/2003** Qwest responded. Qwest said it “respectfully declines this comment.” Qwest said: “Removal of the word ‘conditioning’ from the PCAT language allows the CLEC to use CRUNEC for the build process of products where before they could not. Current products that have conditioning at no charge will not be affected.” (http://www.qwest.com/wholesale/downloads/2003/030521/CNL3_response_CRUNEC_V4.doc)
- JUNE 2003** Echelon started to experience a significant increase in the number of no-build delayed orders. (See 7/18/03 AZ comments below.)
- 7/11/2003** Qwest sent CMP Level 3 notification (PROD.07.11.03.F.03468. UNECRUNEC_V5.0) with an effective date of 8/25/2003. Qwest described a special fee for quote preparation of a “**simple facility rearrangement**” to provide an Unbundled Loop facility. In the PCAT changes, Qwest said: “A simple facility rearrangement consists of a combination of one or more of the following: Redirecting pairs to the requested address that can be used to provide the requested facility. Placement of an additional apparatus case for services needing repeaters will not be included as a simple facility rearrangement; Removing fewer than four load coils; Removing bridged tap as required for requested facility; Placing a repeater card in existing apparatus case; Changing slots for an existing repeater card in an existing apparatus case.” (See http://www.qwest.com/wholesale/downloads/2003/030711/PCAT_CRUNEC_V5_1.doc)
- 7/3/2003 –
7/18/2003** Eschelon escalated DS1 loop orders held order issue with Qwest. In its response, Qwest said: “Qwest has in the past not fully enforced our contractual right to collect on the charges incurred when completing DS1

level unbundled services. Charging is the specific change that has occurred." (See Exhibit BJJ-11)

- 7/18/2003** Eschelon submitted comments to the Arizona Corporation Commission. Eschelon said in its comments that it received "more than *four times* the number of these held order notices in 25 days than it had received in the previous 170 days." (See Eschelon's Comments Regarding Staff Second Report, ACC Docket No. T-00000A-97-0238 (July 18, 2003), p. 5) (emphasis added)
- 7/25/2003** Qwest responded to Eschelon's 7/18/03 comments stating: "Eschelon raises several issues relating to Qwest's construction charges. Qwest agrees with Eschelon that these issues should be addressed and believes that the Phase III cost docket is the appropriate forum. However, Qwest does not agree that its policy should be suspended in the interim. Contrary to Eschelon's suggestion, Qwest will agree to refund fees pursuant to a true-up, if necessary, based on the resolution of the issue. Therefore, no suspension of Qwest's construction policy is warranted." (See Qwest Corporation's Reply Comment Regarding Staff's Report and Recommendations, Docket No. T-00000A-97-0238 (July 25, 2003), p. 2)
- 7/25/2003** Eschelon's submitted reply comments asking the Arizona Commission to "require Qwest to undo the changes it has made (and suspend those it is making pursuant to the twice revised CRUNEC policy) to its processes -- thereby decreasing the number of jeopardy notices for service inquiry/no build -- until Qwest brings those changes and associated rates to the Commission and obtains approval" (See Eschelon's Reply Comments Regarding Staff Second Report, Docket No. T-00000A-97-0238 (July 25, 2003), p. 14)
- 7/25/2003** Covad submitted reply comments to the Arizona Commission stating: "Qwest deliberately obfuscated its actions and intent in converting conditioning activity into much more costly and time consuming new construction activity. The Commission should not permit Qwest to undermine competitors' ability to compete with verbal sleights of hand and a deliberate masking of the true impact of its conduct." (Docket. No. T-00000A-97-0238 Covad's Reply Comments Regarding Staff Second Report)
- 7/25/2003** Mountain Telecommunications Inc. submitted reply comments to the Arizona Commission stating: "Unless and until Qwest abandons its policy of imposing "construction" and price quotation charges for line conditioning, it cannot be found to have fulfilled the requirement codified at Section 271(c)(2)(B)(iv) – point 4 of the checklist." (Docket. No. T-00000A-97-0238 Mountain Telecommunications Inc.'s Reply Comments Regarding Staff Second Report)

- 7/25/2003** Allegiance submitted comments via the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 7/25/2003** CBeyond submitted comments the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 7/25/2003** Eschelon submitted comments the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 7/26/2003** Covad submitted comments the Qwest CMP Process in response to Qwest's 7/11/2003 CRUNEC V5.0 notice.
<http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>
- 8/6/2003** Qwest sent CMP notification (PROD.08.06.03.F.03494.DelayedResponse CRUNEC). In its notice, Qwest said it was delaying its response to CLEC comments on CRUNEC V5.0 Qwest sent on 7/11/03 (above). Qwest's notice provided the CLEC comments. Qwest also provided notice of its intent to hold an ad hoc call to discuss the comments on 8/15/2003. (See <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E06%2E03%2EF%2E03494%2EDelayedResponseCRUNEC%2Edoc>)
- 8/8/2003** Qwest sent CMP notification (PROD.08.08.03.F.03496.DelayedResponse CRUNECUpdate). Qwest said: "Qwest proposes and is prepared to discuss in the August 15th CMP ad hoc meeting its intent to suspend the current processes associated with the build of DS1 Capable Unbundled Loops under the CLEC requested UNE Construction (CRUNEC) process. This suspension would be effective beginning on August 20, 2003. The suspension will allow all parties an opportunity to contribute to clarification of processes for CLEC requests to build DS1 Capable Unbundled Loops when no compatible facilities are available." (See <http://www.qwest.com/wholesale/cnla/uploads/PROD%2E08%2E08%2E03%2EF%2E03496%2EDelayedResponseCRUNECUpdate%2Edoc>)
- 8/15/2003** Twelve CLECs (Allegiance, AT&T, Cbeyond, Contact Communications, Covad, Eschelon, MCI, McLeod USA, MTI, Tel-West, Time Warner Telecom, and U S Link) submitted a joint proposal to Qwest CMP for discussion on the ad hoc call. In the proposal, CLECs requested:
- "1. Qwest to promptly revert to its pre-June 2003 work activities, provisioning and assignment processes, and rates/charges for UNEs with respect to this issue.

2. Qwest to withdraw CMP notices PROS.04.30.03.F.01071.CRUNEC_V4.0, PROS.05.21.03.F.01089.FNL_CRUNEC, PROD.07.11.03.F.03468.UNECCRUNEC_V5.0, and PROD.08.06.03.F.03494.DelayedResponseCRUNEC, PROD.08.08.03.F.03494DelayedResponseCRUNEC and any associated changes made or pending pursuant to those notices.
3. Qwest to provide sufficient level of detail in the held/jeopardy notices so that the CLEC knows why Qwest is stating the local facility is not available (such as at least the level of detail provided before January 2003, in the manual reports/spreadsheets, as to the reasons for these notices).
4. Qwest to also re-instate the use of "service inquiry" (as previously used) in the Comments section of the jeopardy notification message (instead of the very recently implemented comment stating "Contact your service manager for options, which include the CRUNEC process").
5. For the period of time from when Qwest implemented these changes (approx. June 15, 2003) until Qwest ceases them and restores its previous practices, Qwest to refund to affected CLECs the difference between the higher special access/private line rates and the DS1 capable loop rate (back to each install date), as well as to convert these lines to DS1 capable loops (with no additional charges), for those customers for which Qwest did provide special access/private lines. This includes orders in process until Qwest has fully implemented its rescission of the changes it made.
6. Qwest to agree that it will not use the CMP process to attempt to make this type of change (e.g., introduce a new rate element, redefine a rate element, change a CLEC's ICA or SGAT term, or unilaterally expand/change a process in a manner that allows Qwest to charge rates for activities not previously subject to a charge (or previously subject to a lower charge). Qwest must either negotiate such terms with CLECs or obtain commission approval before making such changes.
7. Qwest to agree to complete, upon CLEC request, any DS1 capable loop orders that were jeopardized/rejected for reasons (e.g., "conditioning") caused by changes made by Qwest in conjunction with its CRUNEC process (including those made pursuant to its version 4 CRUNEC notice) since June 15, 2003, and waive the NRCs. Although CLECs may have lost some of these customers due to this issue, if the customers are willing to proceed, Qwest should process the orders that it would have processed but for the changes to which CLECs are objecting."

- 8/15/2003** Qwest and CLECs held ad hoc CMP call 12-CLEC Proposal (above).
- 8/20/2003** Qwest sent a non CMP notice (GENL.08.20.03.F.01537.DS1 CapableLoop_CRUNEC) effective immediately. In its notice, Qwest included "the interim process Qwest will follow until the CLECs and Qwest develop a long term process as discussed in the August 15 conference call." (*See* <http://www.qwest.com/wholesale/cnla/uploads/QwestInterimProcess%2DUNBUNDLED%2DLOCALLOOP%2DDDS1CAPABLELOOPANDCRUNEC8%2D20%2D2003%2DFINAL%2Edoc>)
- 9/16/2003** The Arizona Commission ruled: "Staff agrees with Eschelon with respect to the recently imposed construction charges on CLECs for line conditioning. Staff is extremely concerned that Qwest would implement such a significant change through its CMP process without prior Commission approval. As noted by AT&T, during the Section 271

proceeding, the issue of conditioning charges was a contested issue. Language was painstakingly worked out in the Qwest SGAT dealing with the issue of line conditioning which Qwest's new policy is at odds with. Staff recommends that Qwest be ordered to immediately suspend its policy of assessing construction charges on CLECs for line conditioning and reconditioning and immediately provide refunds to any CLECs relating to these unauthorized charges. Qwest should reinstitute its prior policy on these issues as reflected in its current SGAT. If Qwest desires to implement this change, then it should notify the Commission in Phase III of the Cost Docket, but must obtain Commission approval of such a change prior to its implementation. To the extent Qwest does not agree to these conditions, Staff recommends that Qwest's compliance with Checklist Items 2 and 4 be reopened. We agree with Staff.” (See 271 Docket No. T-00000A-97-0238 (Decision No. 66242), (September 16, 2003), ¶ 109.)

9/18/2003

Qwest sent CMP notification (PROS.09.18.03.01198.DS1 CapableLoopProc) as a Level 1 CMP notice, effective immediately. Qwest revised the process to perform “Incremental Facility Work” and “Other Network Functions” without requiring use of CRUNEC. See <http://www.qwest.com/wholesale/downloads/2003/030918/QwestDS1CapableLoopProvisioningProcess-FINALREV5Redline.doc>