

UT-043007 Smith Direct
 Eschelon Telecom, Inc. July 23, 2004
 Exhibit No. _____ (RLS-23T)

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
 Marshall Johnson
 Ken Nickolai
 Phyllis A. Reha
 Gregory Scott

Chair
 Commissioner
 Commissioner
 Commissioner
 Commissioner

In the Matter of a Request by Eschelon
 Telecom for an Investigation Regarding
 Customer Conversion by Qwest and Regulatory
 Procedures

ISSUE DATE: November 12, 2003

DOCKET NO. P-421/C-03-616

ORDER FINDING COMPLIANCE FILING
 INADEQUATE AND REQUIRING
 FURTHER FILINGS

PROCEDURAL HISTORY

L The Original Order

On July 30, 2003 the Commission issued an Order in this case finding that Qwest had failed to provide adequate service at several key points in the process of transferring a customer to Eschelon Telecom, Inc. and that these service inadequacies reflected systemic failures that must be addressed. The Commission identified four key failures:

- (1) Qwest failed to adopt operational procedures to ensure the seamless transfer of customers to competitive carriers.
- (2) Qwest failed to adopt operational procedures to prevent its retail division from interfering with Eschelon's ability to serve its customer and to prevent its retail division from providing misleading characterizations of Eschelon's conduct.
- (3) Qwest failed to adopt operational procedures to prevent its retail service representatives from canceling or otherwise modifying wholesale orders.
- (4) Qwest failed to adopt operational procedures to promptly acknowledge and take responsibility for mistakes in processing wholesale orders.

The Order required Qwest to make a compliance filing detailing its proposal for remedying these service inadequacies. The proposal was to include at least the following items:

- (1) Procedures for ensuring that retail service representatives are properly separated from the Company's wholesale operations, including a report on the feasibility of installing computer software to alert retail service representatives when they are dealing with wholesale orders or accounts and computer software to disable retail service representatives' ability to make changes in wholesale orders or accounts.
- (2) Procedures for promptly acknowledging and taking responsibility for mistakes in processing wholesale orders.
- (3) Procedures for reducing errors in processing wholesale orders, including a report on the feasibility of maximizing reliance on electronic processing, with an explanation of the necessity for each manual operation required for wholesale order processing.

II. The Compliance Filing; Parties' Comments

On August 29, 2003, Qwest made the compliance filing required under the July 30 Order.

On September 12, 2003, Eschelon filed comments claiming that Qwest's filing was not in full compliance with the Order, alleging the following deficiencies:

- (1) The procedures proposed for alerting retail service representatives that certain orders were wholesale orders that should not be changed or cancelled were limited to "porting" orders, excluding many if not most of the wholesale orders processed by Qwest.
- (2) The proposal to install computer software to block retail service representatives' ability to make changes in wholesale orders did not include all retail service representatives, did not clearly identify which retail service representatives were included and which were excluded, and did not explain Qwest's rationale for deciding which retail service representatives to include and which to exclude.
- (3) The proposals for reducing errors in processing wholesale orders did not address errors in orders that were manually processed.
- (4) The proposal for complying with the Order's directive to develop "procedures for promptly acknowledging and taking responsibility for mistakes in processing wholesale orders" was limited to addressing typographical errors.
- (5) The filing provided insufficient detail on how Qwest monitors contacts between its wholesale and retail employees, how often it detects improper contacts, and how it deals with those contacts.

On September 25 and October 9 Eschelon filed supplemental comments alleging another incident of inappropriate contact between Qwest's wholesale and retail divisions and questioning the propriety of a Qwest advertising campaign highlighting alleged disparities between Qwest's quality of service and that of its competitors.

On September 15, 2003, the Minnesota Department of Commerce (the Department) filed comments stating that Qwest's compliance filing was not in full compliance with the July 30 Order, alleging the following deficiencies:

- (1) The proposals for reducing errors in processing wholesale orders did not address errors in orders that were manually processed.
- (2) It was not clear that the procedures proposed for alerting retail service representatives that certain orders were wholesale orders that should not be changed or cancelled would apply to all wholesale orders.
- (3) It was not clear that Qwest's proposal to block selected retail service representatives' ability to make changes in wholesale orders would apply to all types of wholesale orders.

III. Commission Proceedings

On October 30, 2003, the compliance filing came before the Commission. The following persons appeared: Qwest, Eschelon, the Department, and McLeod USA Telecommunications, Inc. and U S Link, Inc., appearing jointly in support of Eschelon.

FINDINGS AND CONCLUSIONS

The Commission has examined the compliance filing and concurs with Eschelon and the Department that it does not fully comply with the terms of the July 30 Order.

The filing fails to propose procedures for reducing errors in processing wholesale orders that must be manually processed. It fails to propose procedures for acknowledging any mistakes in processing wholesale orders other than typographical errors. It fails to propose effective procedures to alert retail service representatives when they are dealing with wholesale orders, except for a subset of wholesale orders representing approximately 50% of the total. It fails to provide adequate detail about the scope, rationale, and timing of its plan to block selected retail service representatives' ability to make changes in wholesale orders. It fails to provide adequate detail about how the Company monitors contacts between its wholesale and retail divisions, how it handles inappropriate contacts, and how frequently it finds that inappropriate contacts have occurred.

The Commission will require additional filings to remedy these deficiencies.

ORDER

1. Within 30 days of the date of this Order, Qwest shall make a compliance filing further detailing processes and procedures for remedying the service inadequacies identified in the Commission's July 30 Order. This filing shall include at least the following items:

- (a) Procedures for extending to all wholesale orders notice procedures alerting retail service representatives when they are dealing with wholesale orders, eliminating references to "porting" orders and "LNP [Local Number Portability] orders in the original compliance filing.
- (b) Modification of the content of the notice alerting retail service representatives when they are dealing with wholesale orders to advise them to refer the customer to the new carrier and take no further action.
- (c) A detailed explanation of which retail service representatives will be blocked from making changes in wholesale orders, which retail service representatives will not be blocked from making changes in wholesale orders, and the reasons for distinguishing between these two groups of retail service representatives.
- (d) A feasibility report justifying any decision that it is not feasible to block all retail service representatives from making changes in wholesale orders.
- (e) Procedures for ensuring that Qwest acknowledges mistakes in processing wholesale orders using the following language: "Qwest acknowledges its mistake in processing this wholesale order. The error was not made by the new service provider."
- (f) Procedures for extending the error acknowledgment procedures set forth in part (e) to all Qwest errors in processing wholesale orders.
- (g) Procedures for communicating to line staff that time is of the essence both for identifying errors in processing wholesale orders and for providing the acknowledgment set forth in part (e) and procedures for requiring the acknowledgment as soon as practicable after the cause of the error has been identified.
- (h) Procedures for ensuring that acknowledgments appear on Qwest letterhead or other indicia to show that it is Qwest making the acknowledgment.
- (i) Procedures for providing the acknowledgment to the competitive local exchange carrier, who in turn may provide it to the end use customer, to prevent improper contacts with the other carrier's customer.
- (j) Procedures for preventing use of a confidentiality designation in acknowledgments, to ensure that the competitive local exchange carrier can provide the acknowledgment to its end user customer.
- (k) Procedures for making the acknowledgment process readily accessible to competitive local exchange carriers, including procedures for identifying clearly the person(s) to whom requests for acknowledgments should be directed.

- (l) Procedures for ensuring that persons designated to provide acknowledgments have been appropriately trained and have the authority to provide acknowledgments.
 - (m) A proposal for including performance measures for Centrex 21 and linesharing services in performance measure PO-2 in the Long Term PID process, including submission of a proposal for such performance measures to the Long Term PID Administration Form by the next filing deadline of November 6, 2003.
 - (n) A proposal for reducing errors in processing manual wholesale orders, such as additional proof reading.
2. The compliance filing required in paragraph 1 shall include time lines for implementing each item.
 3. Qwest shall file quarterly reports with the Department of Commerce on how many disciplinary actions and training sessions have occurred as a result of improper contacts or activities between the Company's wholesale and retail divisions.
 4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(SEAL)

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