



April 25, 2008

Via email and Federal Express Overnight Mail
records@wutc.wa.gov

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P. O. Box 47250
Olympia, WA 98504-7250

RE: In the Matter of the Petition of Qwest Corporation for Commission Approval of
Stipulation Regarding Certain Performance Indicator Definitions and Qwest
Performance Assurance Plan Provisions
Docket No. UT-073034

Dear Ms. Washburn:

Enclosed for filing are an original and five copies of the Reply Comments of Eschelon Telecom of Washington, Inc. on Disputed Issues in the above-referenced matter. I have also enclosed a Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Tobe Goldberg". The signature is written in a cursive, slightly slanted style.

Tobe L. Goldberg
Legal & Regulatory Administrator
Eschelon Telecom, Inc., an Integra Telecom
Company
612.436.6084 (Direct)
612.436.6816 (Department fax)
tlgoldberg@eschelon.com

cc: See Attached Certificate of Service

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

QWEST CORPORATION

Petition for Commission Approval of
Stipulation Regarding Certain Performance
Indicator Definitions and Qwest
Performance Assurance Plan Provisions.

DOCKET NO. UT-073034

REPLY COMMENTS OF
ESCHELON TELECOM OF
WASHINGTON, INC. ON
DISPUTED ISSUES

1 Eschelon Telecom of Washington, Inc. (“Eschelon”) respectfully provides these reply
comments on disputed issues in response to the initial comments of Qwest Corporation
 (“Qwest”) and Commission Staff filed on April 2, 2008.

I. BACKGROUND

2 Eschelon is a signatory of the 2007 Stipulation¹ regarding various proposed modifications
to Qwest’s Performance Assurance Plan (PAP) and Performance Indicator Definitions (PIDs).
Eschelon, along with other CLECs, was involved in negotiations with Qwest regarding changes
to the PAP and PIDs and supports the 2007 Stipulation.

3 On April 2, 2008 Commission Staff and Qwest filed comments regarding two disputed
issues contained in the 2007 Stipulation. The first dispute surrounds the implementation of “one
allowable miss,” in certain circumstances, to Qwest’s PAP. The second dispute surrounds Tier 2
payments. Eschelon provides comments below regarding the “one allowable miss” dispute.

¹ Stipulation Regarding Certain Performance Indicator Definitions and the Qwest Performance Assurance Plan Provisions, filed June 26, 2007. (<http://www.wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/768e51752cc6a3ee882573090066bde8!OpenDocument>).

II. "ONE ALLOWABLE MISS"

4 The "one allowable miss" provision applies only to benchmark and non-interval parity measures in cases where, due to low volumes, the only way for Qwest to meet a performance standard would be to have "perfect" performance. In this set of circumstances, a single miss would result in Qwest failing to meet the performance standard. In addition, in order for Qwest to qualify for the "one allowable miss," Qwest's aggregate CLEC performance must exceed the standard for the particular measure. In other words, if Qwest's overall performance did not meet the standard, then Qwest would not be allowed the "one allowable miss." Eschelon supports adding this provision to the PAP as part of the overall stipulation reached between Qwest and CLECs.

5 Qwest comments, "The One Allowable Miss provision of the 2007 Stipulation modifies the QPAP to eliminate the *unreasonable* performance standard of "perfection" as the only way to avoid a PAP payment."² While Eschelon supports the change in the "one allowable miss" provision as part of the overall Stipulation, Eschelon disagrees with Qwest's general comment that perfection is an unreasonable standard. In fact, perfection is commonly accepted as a standard for certain performance incentives. For example, Section 3.2.2.M of Qwest's Corporation Catalog No. 2 Washington, Private Line Transport Services reads,

Service Guarantee - Provisioning The Company assures that all provisioning requests for DDS, DS1 and DS3 Service will be installed on the customer requested service date (due date) providing it is equal to or greater than the standard intervals published in the Service Interval Guide. If the Company fails to meet this commitment, the customer's bill will be adjusted to reflect a Service Guarantee credit of 100% of the total nonrecurring charges for the service. Service...³

² Qwest Corporation's April 2, 2008 Comments Regarding Remaining Disputed Issues, at Par. 5. (Emphasis added).

³ This provision is available at, http://tariffs.qwest.com:8000/idc/groups/public/documents/tariff/wa_pl_c2_s003p001.pdf#Page=2&PageMode=bookmark.

This provision allows for a refund of the non-recurring installation charge in 100 percent of the cases where Qwest fails to provide service on time.⁴

6 In its comments opposing the one allowable miss provision, Commission Staff states, “Staff analysis of Washington data shows that this change would have reduced Qwest’s liability to CLECs by 19 percent in the last year.”⁵ While Eschelon acknowledges and greatly appreciates Commission Staff’s involvement, work, and review of this filing, Eschelon believes that other factors can at times outweigh a change in Qwest’s liability when determining whether a change should be made to the PAP. An increase in Qwest’s potential liability can increase Qwest’s incentives to perform, but only if the incentives are properly aligned. Likewise, a reduction in Qwest’s potential liability can, but does not necessarily, translate to a reduction in Qwest’s performance. Eschelon generally believes that greater performance incentive payments will provide Qwest with a greater incentive to perform, but believes also that it is important that incentives are aligned with performance. Eschelon has taken into account the issues raised by Staff with regard to “one allowable miss” when negotiating the Stipulation with Qwest and supports the stipulation.


III. CONCLUSION

7 Eschelon supports the 2007 Stipulation and recommends approval by this Commission.

⁴ For similar provisions see also, Qwest Tariff F.C.C. No. 1, Section 5.2.1.C.1 (http://tariffs.qwest.com:8000/idc/groups/public/documents/tariff/fcc1_s005p001.pdf#Page=17&PageMode=bookmarks) and Qwest Local Services Platform Agreement Attachment 2 – QLSP Service Description Section 7.4 (<http://www.qwest.com/wholesale/clecs/commercialagreements.html#>).

⁵ Initial Comments of Commission Staff on Disputed Issues, at Par. 30.

Dated: April 25, 2008

By:  _____

Ginny Zeller
Associate General Counsel
Integra Telecom, Inc.
730 2nd Avenue South, Suite 900
Minneapolis, MN 55402
Telephone: 612 436 1888
Facsimile: 612 436 1988

Douglas Denney
Director, Costs & Policy
Integra Telecom, Inc.
730 2nd Avenue South, Suite 900
Minneapolis, MN 55402
Telephone: 612 436 1606
Facsimile: 612 436 1706

ON BEHALF OF
ESCHELON TELECOM OF WASHINGTON, INC.

CERTIFICATE OF SERVICE
Docket No. UT-073034

I hereby certify that on the date given below the Reply Comments of Eschelon Telecom of Washington, Inc. on Disputed Issues were filed by email and Federal Express with:

Ms. Carole J. Washburn, Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250
E-mail: records@wutc.wa.gov

On the same date, a true and correct copy was sent by email and by regular U.S. Mail, postage prepaid, to:

Lisa Anderl
Qwest Corporation
1600 7th Avenue, Room 3206
Seattle, WA 98191
Email: Lisa.Anderl@qwest.com

Gregory J. Kopta
Davis, Wright, Tremaine
1201 Third Avenue, Suite 2200
Seattle, WA 98101-3045
Email: gregkopta@dwt.com

Gregory Diamond
Covad Communications Company
7901 Lowry Blvd.
Denver, CO 80230
Email: gdiamond@covad.com

William A. Haas
McLeodUSA Telecom. Services
One Martha's Way
Hiawatha, IA 52233
Email: Whaas@mcleodusa.com

Ed Murley
Vice President Regulatory Affairs
Time Warner Telecom
2669 Kilihau Street
Honolulu, HI 96819
Email: ed.murley@twtelecom.com

Rex Knowles
Executive Director – Regulatory
XO Communications
111 E. Broadway, Suite 1000
Salt Lake City, UT 84111
Email: Rex.knowles@xo.com

Ann E. Rendahl
Administrative Law Judge
WUTC
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250


Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P. O. Box 40128
Olympia, WA 98504-0128

Adam E. Torem
Administrative Law Judge
WUTC
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

Simon ffitich
Attorney General-Public Counsel Section
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98101-3188
Email: simonf@atg.wa.gov

Kathy Barnekow
Director of Carrier Relations
TDS Telecom
525 Junction Road, Suite 3000
Madison, WI 53717
Email:Kathy.barnekow@tdstelecom.com

DATED this 25th day of April, 2008.

By: 
Tobe L. Goldberg