

**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-24

TO

REBUTTAL TESTIMONY OF

BONNIE J. JOHNSON

ON BEHALF OF ESCHELON TELECOM, INC.

DECEMBER 4, 2006

This Exhibit contains the following four documents:

1. QWEST'S CR PC100101-5ES DETAIL
http://www.qwest.com/wholesale/cmp/archive/CR_PC100101-5ES.htm
 2. CLECS ESCALATION
<http://www.qwest.com/wholesale/downloads/2001/011206/PC100101-5-E01.doc>
 3. QWEST'S RESPONSE TO ESCALATION
http://www.qwest.com/wholesale/downloads/2001/011220/QresptoEschelonesCR_Final.pdf
 4. CLECS RESPONSE TO QWEST
<http://www.qwest.com/wholesale/downloads/2001/011221/122101email.pdf>
- *Note: Qwest did not respond to CLECs*

1. QWEST'S CR PC100101-5ES DETAIL

Open Product/Process CR PC100101-5ES Detail

Title: Clarification of Additional Testing Process

CR Number	Current Status	
Date	Area Impacted	Products Impacted

PC100101-5ES	Completed
7/12/2002	Repair EEL, UDIT, Unbundled Loop
Originator: Smith, Debra	
Originator Company Name: Qwest Corporation	
Owner: Augustson, Cathy	
Director: Aesquivel III, Frederick	
CR PM: Martin, Ric	

Description Of Change

Currently, CLECs' are responsible for testing UNE's prior to submitting a trouble report to Qwest. CLECs' are to provide test diagnostics including specific evidence that the trouble is in the Qwest Network along with the associated Qwest circuit identification number. If the CLEC elects not to perform the necessary UNE testing, Qwest will offer to do such testing on CLECs' behalf. If such testing is requested by the CLEC, Qwest will perform the additional testing and bill the CLEC the appropriate charges that are in their Interconnection agreement.

If the CLEC does not provide test diagnostics and elects not to have Qwest perform additional testing on their behalf, Qwest will not accept a trouble report. Additional Charges may apply when the testing determines the trouble is beyond the Loop Demarcation Point

This additional testing option is available on the Unbundled Loop Product Suite, Unbundled Dedicated Transport (UDIT), Enhanced Extended Loop (EEL) and Loop Mux.

Status History

10/01/01 - CMP receives CR from Deb Smith, Qwest (Subject Matter Expert (SME))

10/01/01 - CMP CR status changed to 'Submitted.'

10/01/01 - CMP forwards updated CR to Deb Smith, Qwest.

10/17/01 - CMP Meeting: Qwest introduced "Description of Change" and agreed to provide detailed package for CLEC review. Walk through meeting to be scheduled by Qwest in the late October/early November 2001 time frame.

10/26/01 - Notification forwarded to the CLEC community regarding presentation of CR in the 10/31/01 CMP Re-Design Meeting.

10/31/01 - CR presented to the participating CLECs at the CMP Re-Design Meeting. CLECs were requested to provide comments.

11/08/01 - Qwest Notification (Document No. PROD.11.08.R.00197.Mtce&Repair Language; Subject: Update to Product Information on Maintenance and Repair Language within EEL, UDIT, LMC and Unbundled Loop General) transmitted to CLEC community.

11/08/01 - PCAT Documents posted to the Qwest Wholesale CMP Document Review WEB page [<http://www.qwest.com/wholesale/cmp/review.html>]. Comments from CLEC community due in 15 calendar days (11/23/01), as stated in 'Interim External Change Management Process for Qwest Initiated Product/Process Changes, Version 6, 11/26/01.'

11/12/01 - Qwest and Eschelon personnel met to review the information shared in the 10/31/01 CMP Re-Design meeting and to answer additional questions.

11/13/01 - Notification prepared for transmittal to CLEC community regarding follow-up meeting scheduled for 11/26/01.

11/14/01 - CMP Meeting - Qwest advised CLEC community that PCAT documents currently are available for comment.

11/24/01 - No comments were received from the CLEC community regarding PCAT documents posted to the Qwest Wholesale CMP Document Review WEB page.

11/26/01 - Qwest conducted a follow-up meeting with the CLEC community to discuss any technical issues with the CR (primarily operational and testing issues). Responses to questions were prepared for posting on the Qwest Wholesale WEB page.

11/28/01 - "Questions & Answers for Additional Testing 11/26/01" document posted to Qwest Wholesale WEB page [<http://www.qwest.com/wholesale/cmp/changerequest.html>].

11/28/01 - "Additional Testing Process Document - 11/09/01" and "Additional Testing Process Presentation - 11/09/01" posted to Qwest Wholesale WEB page [<http://www.qwest.com/wholesale/cmp/changerequest.html>]. These documents were previously posted in the Qwest Wholesale CMP Re-Design WEB page [<http://www.qwest.com/wholesale/cmp/redesign.html>].

11/30/01 - Qwest IT Wholesale Communicator, November 30, 2001, Document No. SYST.11.30.01.F.02444_CEMR_UG_Update, CEMR User's Guide Update prepared for transmittal to Qwest Wholesale Customers

12/05/01 - Formal Escalation received from Eschelon regarding implementation of CR.

12/06/01 - Qwest response sent acknowledging receipt of Formal Escalation from Eschelon (PC100101-5-E01).

12/07/01 - KMC Telecom notified Qwest to participate in the formal escalation initiated by Eschelon.

12/07/01 - Qwest publishes "QWEST - INTERNAL NOTIFICATION; Announcement Date: December 7, 2001; Effective Date: December 21, 2001; Document Number: I.PROD.12.07.01.F.00603.Pending-_ULL_EEL_LMC_UDIT; Notification Category: Product Notification; Target Audience: CLECs, Resellers; Subject: Pending Updates to Unbundled Local Loop General, EEL, LMC and UDIT Product Catalogs; Change Request Number: CR PC100101-5" for distribution to CLEC community. Notice indicates an effective date of subject updates as December 21, 2001. A fifteen-(15) day notice is provided to the CLEC community.

12/12/01 - CMP Meeting - Qwest advises CLEC community that a formal escalation has been received & that a formal escalation response is forthcoming.

12/13/01 - Qwest transmitted formal escalation response (via e-mail) to the originating CLECs (i.e., Eschelon Telcom, Inc., Covad Communications, and Allegiance Telecom Inc.) [response posted in Qwest Wholesale CMP WEB page; <http://qwest.com/wholesale/cmp/escalations.html>].

12/21/01 - Eschelon reply received responding to the Qwest formal escalation response (dated 12/13/01) [reply posted in Qwest Wholesale CMP WEB page; <http://qwest.com/wholesale/cmp/escalations.html>].

01/16/02 - CMP Meeting - Qwest provided status update indicating that CR is in "Escalated" status, and that Qwest is reviewing Eschelon reply (received 12/21/01).

02/20/02 - Qwest provided status update. CR remains in "Escalated" status. Meeting discussions will be set forth in the Product/Process Draft Meeting Minutes contained in the Product/Process CMP Meeting Distribution Package (03/20/02).

03/20/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status. Meeting discussions will be set forth in the Product/Process Meeting Minutes to be posted on the CMP Web site.

04/17/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status.

05/15/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status. CLECs next step would be to go to Dispute Resolution.

06/19/02 - CMP Meeting - Qwest advised that the CR was still in an Escalated status.

07/08/02 - Per the agreement reached with the CLECs in June's Product and Process CMP meeting, regarding escalated status this CR will carry the appropriate status prior to the escalation

Project Meetings

10/31/01 - CR presented to the participating CLECs at the CMP Redesign Session. Meeting minutes to be incorporated when posted to Wholesale CMP Re-Design WEB page [<http://www.qwest.com/wholesale/cmp/redesign.html>].

2. CLECS ESCALATION

Qwest received the following escalation via the web-based Escalation Tool:

To: flpowers@eschelon.com
cc:

Subject: Eschelon, Allegiance, and Covad --- CR#PC100101-5 --- I

Escalation
Company: Eschelon, Allegiance, and Covad
CR#: PC100101-5
Status Code: I

Qwest Action Requested:
stop impacted activities

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Description:
See email from Lynne Powers to Judy Shultz dated 12/5/01

History of Item:
See email from Lynne Powers to Judy Shultz dated 12/5/01

Reason for Escalation / Dispute:
See email from Lynne Powers to Judy Shultz dated 12/5/01

Business Need and Impact:
See email from Lynne Powers to Judy Shultz dated 12/5/01

Desired CLEC Resolution:
See email from Lynne Powers to Judy Shultz dated 12/5/01

= = = = =
= = = = =

Name: Lynne Powers & Allegiance & Covad
Title: Executive VP
Phone Number: 612-436-6642
E-mail Address: flpowers@eschelon.com

Date/Time Submitted: Wed Dec 5 15:37:28 CST 2001

Qwest received the following e-mail (containing information related to an escalation) via an e-mail to Judy Schultz:

From: "Powers, F. Lynne" <flpowers@eschelon.com>
To: "Judith Schultz" <jmschu4@qwest.com>
cc: "Ford, Laura" <fordl@perkinscoie.com>, "Jim Maher" <jxmaher@qwest.com>, "mzulevic@covad.com" <mzulevic@covad.com>, "Terry Bahner" <tbahner@att.com>, "Liz Balvin" <Liz.Balvin@wcom.com>, "Tom Dixon" <Thomas.F.Dixon@wcom.com>, "Megan Doberneck" <mdoberne@covad.com>, "Evans, Sandy" <sandra.k.evans@mail.sprint.com>, "Gindlesberger, Larry" <lgindles@covad.com>, "Hines, LeiLani" <LeiLani.Jean.Hines@wcom.com>, "Lee, Judy" <soytofu@pacbell.net>, "Littler, Bill" <blittler@integratelecom.com>, "Lees, Marcia" <marcia.lees@sbc.com>, "Menezes, Mitch" <mmenezes@att.com>, "Osborne-Miller, Donna" <dosborne@att.com>, "Quintana, Becky" <becky.quintana@dora.state.co.us>, "Rossi, Matt" <mrossi@qwest.com>, "Stichter, Kathleen L." <klstichter@eschelon.com>, "Thiessen, Jim" <jthiessen@avistacom.net>, "Travis, Susan" <susan.a.travis@wcom.com>, "VanMeter, Sharon" <svanmeter@att.com>, "Wicks, Terry" <terry.wicks@algx.com>, "Woodcock, Beth" <woode@perkinscoie.com>, "Yeung, Shun (Sam)" <qwestosscm@kpmg.com>, "Mark Routh" <mrouth@qwest.com>, "Clauson, Karen L." <klclauson@eschelon.com>

Subject: Escalation regarding Qwest's additional testing CR, #PC100101-5

Eschelon, Covad, and Allegiance initiate an escalation with respect to Qwest's additional testing CR, #PC100101-5. The completed escalation form is enclosed in Word format. (The web-based format didn't work well for this joint escalation.)

Because this issue has been discussed in re-design, we are copying the re-design participants as well, for their information.

Lynne Powers
Executive Vice President
Eschelon Telecom, Inc.
612-436-6642
flpowers@eschelon.com

Terry Wicks
LEC Account Manager
Allegiance Telecom, Inc
469-259-4438
terry.wicks@algx.com

Michael Zulevic
Director-Technical/Regulatory Support
Covad Network Planning and Capacity Mgmt.
520-575-2776
mzulevic@Covad.COM

The information below was contained in the attachment sent to Judy Schultz in regard to an escalation:

CMP Escalations and Dispute Submittal Form
Items marked by a red asterisk (*) are required.

*** CLEC Company Name:**

This escalation is submitted jointly by:

Eschelon Telecom, Inc.
Covad Communications
Allegiance Telecom Inc.

Referred to jointly as “CLECs.”

*** Action Type:**

- select an action type –

Escalation

Entering a change request number is optional, but you are required to select a status (select "no change request number" if you choose not to enter a number).

Change Request Number:

CR #PC100101-5

Change Request Status:

- select one - no change request number Submitted Clarification/Evaluation Presented Implementation CLEC Test Completed

CLECs believe that the appropriate status is “Denied” by CLECs. Qwest has listed the status as “Development.”

NOTE: (Status choices on web need to be revised to include “denied” and “development.”)

*** Description:**

Qwest provided this description of the CR: "Currently, CLECs' are responsible for testing UNE's prior to submitting a trouble report to Qwest. CLECs' are to provide test diagnostics including specific evidence that the trouble is in the Qwest Network along with the associated Qwest circuit identification number. If the CLEC elects not to perform the necessary UNE testing, Qwest will offer to do such testing on CLECs' behalf. If such testing is requested by the CLEC, Qwest will perform the additional testing and bill the CLEC the appropriate charges that are in their Interconnection agreement.

If the CLEC does not provide test diagnostics and elects not to have Qwest perform additional testing on their behalf, Qwest will not accept a trouble report. Additional Charges may apply when the testing determines the trouble is beyond the Loop Demarcation Point This additional testing option is available on the Unbundled Loop Product Suite, Unbundled Dedicated Transport (UDIT), Enhanced Extended Loop (EEL) and Loop Mux."

*** History of Item:**

Qwest provides the following status history in its Interactive Report (*see* http://www.qwest.com/wholesale/downloads/2001/011203/CLEC_CMP_ProductProcess_Interactive_Report.PDF):

“10/01/01 - CR received by Deb Smith of Qwest
10/01/01 - CR status changed to Submitted
10/01/01 - Updated CR sent to Deb Smith
10/17/01 - CMP Meeting: Qwest presented "Description of Change" and agreed to provide detailed package for CLEC review.
Walk through meeting to be scheduled by Qwest in the late October/early November 2001 time frame.
10/31/01 - CR presented to the participating CLECs at the Redesign Session. CLECs to provide comments.
11/08/01 - Qwest Notification (Document No. PROD.11.08.R.00197.Mtce&Repair Language; Subject: Update to Product Information on Maintenance and Repair Language within EEL, UDIT, LMC and Unbundled Loop General) transmitted to CLEC”

Eschelon provided Qwest with the following summary on 12/3/01:

“ We have objected to this CR on several occasions. Other CLECs have objected as well. Terry Wicks of Allegiance has said that, at a minimum, there are too many unanswered questions at this time to implement it. There is no acceptance or consensus from CLECs. (Eschelon does not believe that rates can be established through a CR.) Yet, Qwest has said that it would implement the CR on December 1st. While we can continue to deal with the process issues raised by this approach in Re-Design, today is December 3rd, so we need to know ASAP that this particular CR has not been implemented (or, if implemented, in which states). Qwest does not have the authority to implement the rates in this CR in all states and circumstances described or to refuse trouble tickets, at least as to Eschelon (and others that have opted in to the same AT&T/WCOM contracts). Because it appears that Qwest plans to show the charges on the bill as "miscellaneous" charges, the charges will be difficult, if not impossible, to identify. We need to ensure that no unauthorized charges are placed on our bill. **Please let us know what activities were taken pursuant to this CR and what steps have been taken to ensure that unauthorized charges will not appear on our bill.**

As we discussed, Qwest did not provide citations to any interconnection agreements in its CR. Terry Wicks said at last week's re-design meeting that, when

Qwest presented its CR at the CMP meeting, he asked whether Qwest had reviewed all contracts to be sure that all interconnection agreements required the process and rates in the CR. Terry said that Qwest said it had done so. Eschelon asked Qwest to provide the citations to all of its contracts upon which Qwest relied for its CR. At a later meeting, Qwest agreed to do so. Qwest was later able to provide citations to interconnection agreements for only 3 of the 6 states in which Eschelon has switches (*see* email, copied at end of this email, from Dennis Pappas of Qwest). The rates cited are from the collocation sections of the rate attachments, and it is at least unclear that these rates were intended to apply to this situation. Moreover, the cited interconnection agreement language refers to a trouble isolation charge. It appears that Qwest plans to charge a testing charge, in addition to a trouble isolation charge, in some circumstances. For a fourth contract (Colorado), Qwest provided a citation to language but said "the rates were not noted in your ICA." (*See* email copied below.) Qwest provided no language or rates for MN or OR. Although the CR specifically states that Qwest will "bill the CLEC the appropriate charges that are in their Interconnection agreement," Qwest said on telephone and conference calls that it plans to charge CLECs retail or SGAT rates when a rate is not in the interconnection agreement. (Qwest's rates and basis for charging rates should be formally documented and not gathered from telephone conversations.) Qwest has provided no basis for charging Eschelon retail or SGAT rates, nor does Eschelon agree that those rates apply to Eschelon (which has not opted in to an SGAT). Moreover, Eschelon also provides testing in similar circumstances, and Qwest has not indicated that it intends to pay Eschelon for that testing. If Qwest can charge this rate, Eschelon should also be able to charge Qwest, particularly when Eschelon has to dispatch a technician to prove to Qwest that the trouble is in Qwest's network. Nonetheless, Dennis Pappas of Qwest has said that Qwest will not pay CLECs for providing the same services. Eschelon disagrees.

As Eschelon has previously indicated to Qwest, for the three interconnection agreements for which Qwest provided citation to language and rates (AZ, UT, WA), Eschelon does not agree that the language necessarily applies in the way that Qwest plans to implement it. For example, none of the contract language states that Qwest may refuse to accept a trouble ticket without test results, but Qwest's CR says that it will do so (and, in fact, Qwest has already started doing so, according to participants at the re-design meeting). The number of questions that CLECs have raised in meetings and conference calls is a reasonable indication that the documentation provided by Qwest to date is inadequate. Also, if Qwest is applying the testing process and charges consistently with interconnection agreements (and only when authorized by interconnection agreements, it is unclear why a CR was necessary. What is the "change" that Qwest is requesting?

At last week's re-design meeting, Michael Zulevic of Covad said that the CR is also not consistent with the SGAT language on this issue. I am not familiar with that issue, so I suggested to you on a break that you should follow up with him on that. Eschelon has not opted in to the SGAT.

As we have discussed with Qwest, Eschelon already performs testing. While it plans to continue doing so, its greatest objections to this CR are the rates, the manner in which Qwest plans to show the information on the bill (which is not specific enough for verification of charges), and the way this CR/process has been handled. Eschelon does not want it to set a precedent suggesting that this is acceptable going forward.

Many issues remain disputed, unanswered, or unclear. The interconnection agreement language cited by Qwest specifically requires the parties to work "cooperatively." As we discussed at the re-design meeting, the process used for collocation decommissioning has aspects that could be used as a model in the future for cooperatively reaching agreement. In the meantime, however, Eschelon's immediate concern is ensuring that this CR is not implemented inappropriately. Please let me know what Qwest has in place today and, if this CR has not been suspended, whether it will be.

EMAIL FROM DENNIS PAPPAS OF QWEST:

[NOTE: Dennis called Garth Morrisette of Eschelon to indicate that the "critical sentence," referred to below, was that Qwest is relying upon tariffs for the rates not found in the contracts. On separate calls, Qwest has said that, if there is no rate in the interconnection agreement, Qwest will charge the SGAT rate. Eschelon has not opted in to the SGAT.

With respect to the citations to language below (except rates), the cites below are from Attachment 5 to the interconnection agreements."]

-----Original Message-----

From: Dennis Pappas
Sent: Wednesday, November 14, 2001 3:55 PM
To: Morrisette, Garth M.
Subject: Re: Optional Testing Response

Call me at your convenience, there is a critical sentence that I left out that I need to clarify. Thanks!

"Morrisette, Garth M." wrote:

Thanks Dennis - I'll review this and call you or our account team if I have questions.

Garth.

-----Original Message-----

From: Dennis Pappas
Sent: Wednesday, November 14, 2001 2:19 PM
To: gmmorrisette
Subject: Optional Testing Response

Good afternoon Garth

Just a recap for you. The language mentioned during our meeting was in AZ, UT and WA. In all three agreements, 3.2.17 spoke to responsibility for trouble resolution and 6.2.20.1.1 speaks to the billing of charges depending on where the trouble was isolated.

In CO, the language is in sections 5.1.17, 5.1.25 and 5.2.20.

The rates associated with these sections in AZ is in schedule 1 - attachment 1 under Common elements. Maintenance 1/2 hour increments - Regular is \$22.20 for each 1/2 hour and Overtime is \$31.57 for each 1/2 hour.

Rates in the UT and WA agreement are noted as "Maintenance Labor" and are - Basic \$26.97 / Overtime \$35.87 in UT and Basic \$25.36 / Overtime \$33.73 in WA.

Language existed in CO but the rates were not noted in your ICA. In this instance, we referenced the Tariff to get rates for Basic, Overtime and Premium "Additional Labor other" of \$28.91, \$38.61 and \$48.33 respectively.

Call me with any questions or contact your Account Team representative for additional details. Thank You

Dennis Pappas - Product Manager”

Allegiance provided the following information on 12/3/01:

“Allegiance Telecom has strong concerns regarding Qwest's implementation of the Additional Testing CR and insists that Qwest suspend implementation of Additional Testing charges until Qwest demonstrates the needs for such charges and terms, rates, and conditions for Additional Testing are mutually agreed to by both parties. As Terry Wicks has been stating in the CMP meetings, Allegiance is concerned about numerous unanswered questions concerning the Additional Testing CR, including the rates that Qwest is proposing to charge and the manner in which those rates would be included on an invoice. Since Qwest has not adequately responded to Allegiance's and other CLEC's repeated requests for clarification of this process, Allegiance requests that this CR be immediately suspended and that Qwest clarify the terms, rates and conditions it is proposing for such testing.

It is Allegiance's position that rates must be contained in an effective tariff or an interconnection agreement. Thus, until such time as Qwest has clearly articulated the terms, rates and conditions for Additional Testing and our companies have concluded an amendment or Qwest has an effective tariff, Allegiance can not be held liable for any charges for Additional Testing.”

Covad provided the following information to Qwest on 12/4/01:

“I could not agree more strongly with Karen on the issue of additional testing. As I stated at last week's meetings, not only does Covad find the proposal made by Dennis Pappas and Bill Campbell unacceptable, but it is also inconsistent with the language negotiated during the SGAT 271 workshops. This is exactly the kind of unilateral action historically taken by Qwest that has led to the need to redesign the Change Management Process. It was my understanding that the proposal was being tabled

and re-thought and that Qwest would seek agreement with CLECs through the Change Management Process prior to implementation. I sincerely hope this is still Qwest's plan.”

*** Reason for Escalation / Dispute:**

Qwest has denied the request of CLECs to suspend the CR at least while clarifying the unanswered questions and attempting to gain consensus when possible. Implementation of the CR violates interconnection agreements with CLECs. Many questions remain unanswered. Escalation is urgent, because Qwest has already implemented the CR over CLECs’ objections. With so many unanswered questions, CLECs cannot even determine exactly what has been implemented and whether their individual interconnection agreements are being handled differently. Also, because of the manner in which Qwest is handling the billing of the charges per this CR, bill verification is difficult if not impossible.

CLECs believe that Qwest should be the party responsible for initiating an escalation in this case, because Qwest did not clarify the process and was unable to gain CLEC consensus or approval before implementing its CR. Because Qwest has not initiated the escalation, however, CLECs initiate this escalation.

*** Business Need and Impact:**

For all of the reasons stated above and in meetings and conference calls on this issue, the business need/impact associated with this CR is substantial. This is particularly true because of the potential precedent set by this CR for the handling of future CRs and implementation of rates.

*** Desired CLEC Resolution:**

Suspend implementation of Qwest-initiated CR #PC100101-5 (process and rates).

Review any steps that Qwest has taken to make system changes, train people, or otherwise implement this CR universally at Qwest to ensure compliance with particular interconnection agreements (*e.g.*, interconnection agreements with Eschelon, Covad, and Allegiance in each state). This includes re-training, etc., as to the differences among various interconnection agreements, as well as difference from the SGAT. (Eschelon, Covad, and Allegiance each has an interconnection agreement with Qwest, and none of these CLECs has opted into the SGAT.)

Provide documentation showing that Qwest has trained its personnel and taken other steps to ensure compliance with individual interconnection agreements, including differences in those agreements as compared with the SGAT.

Begin a collaborative effort (similar to that used for collocation decommissioning) to develop an improved process and, when possible, gain consensus before implementation. Ensure that part of the process is to provide accurate bills that reflect interconnection agreement rates and provide sufficient information for bill verification. If no consensus can be reached, Qwest should then be responsible for escalation before implementation.

Ensure reciprocity so that CLECs may recover their costs in the same circumstances in which Qwest is allowed to recover its costs for such testing.

CLEC Contact Information

Allegiance:

Terry Wicks
LEC Account Manager
Allegiance Telecom, Inc
469-259-4438
terry.wicks@algx.com

Covad:

Michael Zulevic
Director-Technical/Regulatory Support
Covad Network Planning and Capacity Mgmt.
520-575-2776
mzulevic@Covad.COM

Eschelon:

Lynne Powers
Executive Vice President
Eschelon Telecom, Inc.
612-436-6642
flpowers@eschelon.com

3. QWEST'S RESPONSE TO ESCALATION

In this response, Qwest addresses the Escalations submitted jointly by Eschelon Telecom, Inc., Covad Communications, and Allegiance Telecom Inc. on December 6, 2001 regarding CR#PC100101-5 on Clarification of Additional Testing Process.¹

BACKGROUND

Qwest's clarification of the testing and test diagnostic requirements for the trouble ticket initiation process, including the option to have Qwest perform these test services, is driven by three primary business reasons: improved repair performance, which benefits both the CLECs and Qwest operationally; increased end user customer satisfaction; and consistent and streamlined communication between CLECs and Qwest.

Testing prior to initiating the trouble report will reduce the number of unnecessary trouble reports CLECs submit to Qwest. This will allow Qwest to allocate its resources into other maintenance and repair areas. The requirement that CLECs perform test isolation allows them to identify and repair cases of trouble that are not in the Qwest network. These trouble isolation steps are the most efficient manner of dealing with service issues.

Testing will also result in reduced repair time and lead to improved customer satisfaction. Circuit repair involves two steps: initial testing to isolate the trouble to a particular network and trouble repair. Accurate information provided by CLECs at the time a trouble report is submitted will focus Qwest's efforts on the network segment that needs to be repaired.

In addition, Qwest is entitled as a matter of law to reasonable cost recovery and when the CLEC authorizes Qwest to perform the testing, Qwest should be reasonably compensated for the costs it incurs to perform that function.

Several meetings were held with CLECs before deployment of the stated process ensued. At the October 17, 2001 CMP Meeting, this process was introduced. Qwest took questions from the audience and scheduled a follow-up meeting to address issues. On October 31, 2001 Qwest presented the Clarification of Additional Testing Process to the CLECs at a CMP meeting and answered questions related to the presentation. The presentation and subsequent questions and answers were issued and posted on the CMP web site following that session. In response to a request from Eschelon, Qwest and Eschelon personnel met on November 12, 2001 to review the information shared at the October 31, 2001 CMP Redesign meeting and to answer additional questions. Finally, on November 26, 2001 Qwest met again with the CLECs to finalize all Questions and Answers. Qwest stayed at this last meeting until there were no unanswered questions. The questions and final responses were posted to the web site as supporting documentation. Those Questions and Answers can be found in the attached Q&A document or at the CMP web site.

¹ Although this response does not specifically address KMC's Escalation because it was received later, Qwest believes that it is equally applicable and serves as a response to that Escalation as well.

At each meeting, the deployment schedule was fully discussed. CLECs were allowed 15 days to try the process out without billing and full billing began on December 1, 2001. Although there was discussion about effective dates, at no time prior to implementation was it implied or suggested that the implementation date would be postponed or cancelled due to objection.

In its escalation, Eschelon and the other CLECs takes issue with the way this CR has been handled, the rates Qwest proposes to charge, and the way the charge appears on the bill. Each of these issues is addressed below.

Qwest's handling of this CR.

Qwest submitted CR #PC100101-5, Clarification of Additional Testing Process, in accordance with its good faith interpretation of the Interim Qwest Product/Process Change Management Process that was agreed to by the Change Management Redesign Core Team.² In addition, the CLECs requested that Qwest formally notify them through the change management processes when Qwest was tightening adherence to existing requirements. Because CLECs were not consistently complying with the requirement to provide test results prior to opening a trouble ticket, Qwest submitted a CR to put CLECs on notice that it would be enforcing that requirement for the reasons noted above. Qwest also outlined an elective testing option available upon CLEC authorization to complement the ticket initiation process for which charges will apply.

As stated above, Qwest implemented this change only after several weeks' notice and several meetings with the CLECS. In each meeting, Qwest offered to negotiate an amendment to a CLEC's interconnection agreement if it disagreed with the rates Qwest has proposed for Optional Testing.

As this CR is a clarification of an existing process, Qwest did provide to CLECs who asked specific cites from the CLEC contracts for the language requested. Additionally, Qwest specifically provided such cites to Eschelon.

It is standard in the industry for each party to test their own facilities and for the CLECs to provide these test results to the ILECs when reporting trouble. CLECs in Qwest's region, including these CLECs, have stated that they are generally in compliance with the standard industry practice. However, it has been Qwest's experience that many CLEC trouble tickets result in No Trouble Found or trouble isolated beyond the demarcation point to the CLEC network. If the testing and trouble isolation steps are not performed by the CLEC, Qwest will not have enough information to issue a trouble report for the CLEC end user. At

² While there has subsequently been disagreement regarding the applicability of the interim process, at the time Qwest issued the CR, it believed in good faith that it applied to process changes that affect a CLEC's operating procedures.

this point, the CLEC can choose to either conduct these tests for their end user or request Qwest to conduct the tests on the CLEC's behalf.

The Rates.

Qwest will not conduct nor bill a CLEC for Optional Testing unless agreed to by the contact personnel at the CLEC business at the time the request is made. If the CLEC does not provide test diagnostics to Qwest, the Qwest representative asks if the CLEC desires for Qwest to perform the Optional Testing on its behalf and validates with the CLEC representative that a testing charge will apply. Thus, every time a CLEC authorizes Qwest to perform Optional Testing, it has also authorized Qwest to charge the CLEC. The CLEC will receive the benefit of this Optional Testing in that the test results will be provided to the CLEC either verbally or electronically.

Qwest is entitled to recover its costs. To this point, Qwest has, until now, borne the entire cost of testing and trouble isolation where the CLECs have not met their requirements to test. These efforts include dispatch into the central office to separate CLEC network troubles from Qwest network troubles or dispatched to the field to separate Qwest network troubles from end-user customer equipment troubles.

As the option for the CLEC to request Qwest to test on a CLEC's behalf is a new offering, if a CLEC should so choose, the CLEC will be billed for the labor expended to conduct the test. Once the test is complete, the test results will be related back to the CLEC. The CLEC can then choose to amend these test results to its initial request and submit a trouble ticket to Qwest or can then choose to resolve the trouble without Qwest's assistance. If Qwest receives a complete trouble ticket and begins trouble resolution, and subsequently determines that the trouble is in the CLEC portion of the network, then the CLEC will be billed the Additional Labor charge for the labor expended on trouble that is not in the Qwest network. This charge is in addition to the Optional Testing charge defined above. Additionally, if the CLEC asks the Qwest technician to perform work to repair trouble in the CLEC network, that CLEC will be billed the Maintenance of Service charge. Again, this charge is in addition to both of the charges identified above. The CLEC only pays for any work that Qwest performs on its behalf.

The Maintenance of Service charge and the Optional Testing charge are separate issues. Maintenance of Service is billed when CLEC authorizes work to be conducted on the CLEC side of the Network. Again, this work is not performed nor billed if not authorized by the CLEC. Additional Labor is requested by the customer and agreed to by the Company. This element is incurred to accommodate a specific customer request that involves only labor, including testing and maintenance. Therefore, this charge applies to a request to test to achieve Trouble Isolation as well as to trouble resolution on a circuit reported to Qwest subsequent to Trouble Isolation. Qwest implemented billing for the Trouble Resolution in June. Qwest believes that some of the concerns that Eschelon has raised about charges that have appeared on the Eschelon bill relate to this implementation, since the bill identified by Eschelon does not include Optional Testing charges. If a CLEC disputes any of the

aforementioned charges, they should continue to do so under the applicable provisions of their interconnection agreements.

Since all of these charges cover different forms of work, there is no double recovery.

Qwest does not bill Retail rates for these services. Qwest will bill only:

1. From the CLEC Contract if a rate is available
2. From the SGAT if a rate is not available. The SGATs contain generally available rates filed by Qwest.³ This ensures non-discriminatory treatment of all CLECs.

Billing Issues.

Concerns have been raised about Qwest's plan to show the charges on the bill as "miscellaneous" charges. Qwest agreed not to begin billing the Optional Testing charge until December 2001. Thus, the charges to which Eschelon refers are not Optional Testing charges. Once Qwest Systems are modified, a unique line item will be available on each bill for the CLEC. This modification is in direct response to the Eschelon concern for line item identification. In the interim the billing for optional testing will appear under additional labor basic. This new line item is planned to read "Additional Labor – Basic Optional Testing". A sample of how Qwest intends to present this information on the bill is set forth below.

³ The SGAT rates are interim in nature until finally approved and may be subject to true-up upon approval, if a commission determines that is necessary.

ESCHELON FORMERLY ATI	BILL DATE: XX/XX/XX PAGE: 1 ACCOUNT NO: X-### ##### ##X
ACCOUNT DETAIL	
MONTHLY SERVICE CHARGES	###.##
ACCOUNT ACTIVITY	###.##
TAXES	.##
QWEST RESALE/INTERCONNECT TOTAL	###.##
<hr/>	
MONTHLY SERVICE - NOV 25 THRU DEC 24	###.##
QWEST RESALE/INTERCONNECT SUBTOTAL MONTHLY SERVICE CHARGES	###.##
SERVICE ADDITIONS AND CHANGES	
SERVICE ORDER NO R#####	
1 ADDITIONAL LABOR OTHER-BASIC – OPTIONAL TESTING ON 10-16-01	###.##
PON #####	
1 BASIC TIME, PER TECHNICIAN, ALGXX	
EA 1/2 HR OR FRACTION THEREOF	
A WHOLESALE DISCOUNT HAS BEEN APPLIED.	
QWEST RESALE/INTERCONNECT SUBTOTAL OF ACCOUNT ACTIVITY	###.##
TAX SUMMARY	
STATE TAX	.##
QWEST RESALE/INTERCONNECT SUBTOTAL OF TAXES	\$.##
QWEST RESALE/INTERCONNECT CURRENT CHARGES	###.##

Proposed Method for Resolution

As set forth above, Qwest believes that it has appropriately clarified the testing and test diagnostic requirements for the trouble ticket initiation process and the Optional Testing charge. However, in the spirit of collaboration, Qwest proposes that the CLECs work together with Qwest to resolve the CLECs' concerns regarding the appropriate rate for the Optional Testing. Qwest's proposal is as follows.

The parties will meet to discuss and, if possible, reach agreement on the following issues:

1. What are the appropriate rates for Optional Testing?
2. When will Optional Testing rates apply?

3. How do the parties appropriately implement the rate (i.e., use individual contract rates, the SGAT rate, amend agreements to reflect the rate)?
4. How are the charges for Optional Testing presented on the CLEC bills?

If the CLECs agree to this proposal, Qwest will suspend billing the Optional Testing charge until January 31, 2002 in order to allow the parties to discuss and reach agreement on these issues. The suspension of billing the Optional Testing will begin at a mutually agreed time and end on January 31, 2002. During that period, Qwest will continue to follow the Optional Testing process as it has been clarified, but will not bill the Optional Testing charge to the CLECs when the CLECs authorize Qwest to perform the Optional Testing. Billing will resume following the suspension. Issues not addressed or closed prior to January 31, 2002 will be considered through CMP.

Qwest requests that the CLECs advise Qwest by December 21, 2001 whether they agree to this collaborative approach.

4. CLECS RESPONSE TO QWEST

122101email.txt

----- Original Message -----

Subject: Allegiance, Covad, and Eschelon Reply re. Additional Testing
Date: Fri, 21 Dec 2001 12:25:13 -0600
From: "Powers, F. Lynne" <flpowers@eschelon.com>
To: "'William Campbell'" <wmcampb@qwest.com>,"'Judith
Schultz'"<jmschu4@qwest.com>
CC: "'Ford, Laura'" <fordl@perkinscoie.com>,"'Jim
Maher'"<jxmaher@qwest.com>,"'Terry Bahner'" <tbahner@att.com>,"'Liz
Balvin'"<Liz.Balvin@wcom.com>,"'Tom Dixon'"
<Thomas.F.Dixon@wcom.com>,"'Megan Doberneck'"
<mdoberne@Covad.COM>,"'Evans,
Sandy'"<sandra.k.evans@mail.sprint.com>,"'Gindlesberger,
Larry'"<lgindles@Covad.COM>,"'Hines, LeiLani'"
<LeiLani.Jean.Hines@wcom.com>,"'Lee, Judy'"
<soytofu@pacbell.net>,"'Littler,
Bill'"<blittler@integratelecom.com>,"'Menezes, Mitch'"
<mmenezes@att.com>,"'Osborne-Miller, Donna'"
<dosborne@att.com>,"'Quintana,
Becky'"<becky.quintana@dora.state.co.us>,"'Rossi, Matt'"
<mrossi@qwest.com>,"Stichter, Kathleen L."
<klstichter@eschelon.com>,"'Travis,
Susan'"<susan.a.travis@wcom.com>,"'VanMeter, Sharon'"
<svanmeter@att.com>,"'Wicks, Terry'" <terry.wicks@algx.com>,"'Woodcock,
Beth'"<woode@perkinscoie.com>,"'Yeung, Shun (Sam)'"
<qwestosscm@kpmg.com>,"'Mark Routh'" <mrouth@qwest.com>,"'Michael
Zulevic'" <mzulevic@Covad.COM>,"Clauson, Karen L."
<klclauson@eschelon.com>,"Stichter, Kathleen
L."<klstichter@eschelon.com>,"Powers, F. Lynne" <flpowers@eschelon.com>

Attached is the Reply of Allegiance, Covad, and Eschelon to Qwest's
Response to the Additional Testing Escalation.

Eschelon's Reply (December 21, 2001):

Page 1

122101email.txt

<<escalatereplyDec21.doc>>

Attachment to Eschelon's Reply (MN Testimony):

<<Haar Ltr re Morrisette Testimony 12-19-01.doc>> <<Morrisette Sup
Testimony 12_19_01 00-849.doc>>

escalatereplyDec21.doc Content-Type: application/msword;
name="escalatereplyDec21.doc"
Content-Transfer-Encoding: base64
Content-Disposition: inline;
filename="escalatereplyDec21.doc"

Haar Ltr re Morrisette Testimony 12-19-01.doc Content-Type: application/msword;
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Morrisette
Testimony
12-19-01.doc"
Content-Transfer-Encoding: base64
Content-Disposition: inline;
filename="Haar Ltr
re Morrisette
Testimony
12-19-01.doc"

Morrisette Sup Testimony 12_19_01 00-849.doc Content-Type: application/msword;
name="Morrisette Sup
Testimony 12_19_01
00-849.doc"
Content-Transfer-Encoding: base64
Content-Disposition: inline;

122101email.txt

filename="Morrisette
Sup Testimony
12_19_01 00-849.doc"

2ndemail.txt

----- Original Message -----

Subject: RE: Allegiance, Covad, and Eschelon Reply re. Additional Testing

Date: Fri, 21 Dec 2001 12:35:14 -0600

From: "Clauson, Karen L." <klclauson@eschelon.com>

To: "Powers, F. Lynne" <flpowers@eschelon.com>,"William Campbell'" <wmcampb@qwest.com>,"Judith Schultz'" <jmschu4@qwest.com>

CC: "'Ford, Laura'" <fordl@perkinscoie.com>,"Jim Maher'" <jxmaher@qwest.com>,"Terry Bahner'" <tbahner@att.com>,"Liz Balvin'" <Liz.Balvin@wcom.com>,"Tom Dixon'"

<Thomas.F.Dixon@wcom.com>,"Megan Doberneck'" <mdoberne@Covad.COM>,"Evans,

Sandy'" <sandra.k.evans@mail.sprint.com>,"Gindlesberger, Larry'" <lgindles@Covad.COM>,"Hines, LeiLani'"

<LeiLani.Jean.Hines@wcom.com>,"Lee, Judy'" <soytofu@pacbell.net>,"Littler,

Bill'" <blittler@integratelecom.com>,"Menezes, Mitch'" <mmenezes@att.com>,"Osborne-Miller, Donna'"

<dosborne@att.com>,"Quintana,

Becky'" <becky.quintana@dora.state.co.us>,"Rossi, Matt'" <mrossi@qwest.com>,"Stichter, Kathleen L."

<klstichter@eschelon.com>,"Travis,

Susan'" <susan.a.travis@wcom.com>,"VanMeter, Sharon'"

<svanmeter@att.com>,"Wicks, Terry'" <terry.wicks@algx.com>,"Woodcock, Beth'" <woode@perkinscoie.com>,"Yeung, Shun (Sam)'"

<qwestosscm@kpmg.com>,"Mark Routh'" <mrouth@qwest.com>,"Michael Zulevic'" <mzulevic@Covad.COM>,"Stichter, Kathleen L."

<klstichter@eschelon.com>

Just a note to indicate that, where it says Eschelon's Reply below, it should say Reply of Allegiance, Covad, and Eschelon. Thanks.

Page 1

Page 25

**REPLY OF ALLEGIANCE, COVAD, AND ESCHELON TO
QWEST'S RESPONSE TO THEIR ESCALATION OF
CR # PC100101-5 REGARDING
ADDITIONAL TESTING AND RELATED ISSUES**

December 21, 2001

Qwest's Response to the joint escalation by Allegiance, Covad, and Eschelon of Qwest-initiated Change Request ("CR") #PC100101-5 is unsatisfactory. Qwest has cited no authority for its processes or rates, and it is evident from Qwest's Response that it has none. Qwest's proposal for resolution does not address the bulk of the issues raised by Allegiance, Covad, and Eschelon, and the proposal erroneously suggests that Qwest may nonetheless impose rates without a contract in place after January 31, 2002. Allegiance, Covad, and Eschelon once again place Qwest on notice that their individual interconnection agreements ("ICAs") control and that Qwest's conduct is in breach of those agreements. Qwest's CR and this escalation do not change that.

Allegiance, Covad, and Eschelon have made a reasonable request to Qwest to consider a collaborative effort, modeled after successful aspects of the one ultimately used to address collocation decommissioning, to address all of the issues raised in this escalation. Allegiance, Covad, and Eschelon continue to support and request use of such a process and suspension of the current one (including rates) in the interim. As we have said throughout this process, we are not opposed in principle to the type of testing at issue and encourage use of reasonable practices along these lines. We already conduct testing before submitting trouble tickets. The process and rates that Qwest has imposed, and the manner in which Qwest has approached this issue, however, are unacceptable. Our proposal for resolution, unlike the Qwest proposal, is not limited to rates or to one month. CLEC CRs are rarely, if ever, processed in a month or even a few months. We are willing, however, to dedicate resources to expedite a collaborative process.

A Legitimate Process for Imposing Terms and Rates, That Recognizes Individual ICA Differences (including ICAs not Based on the SGAT), is Needed.

Qwest seems to agree that the ICAs control over Change Management Process ("CMP") activities. In Colorado, Qwest said:

First of all, it has been addressed in these workshops by inserting language into the SGAT that indicated that the contract language controls over anything that could come out of the Change Management Process -- a contract is a contract, and I believe that's the same for any other ICA, as well.¹

If that were the case, a reasonable expectation would be that Qwest's Response would have simply included citations to each ICA indicating the basis for each term and rate to which we objected. Not only does Qwest's response fail to cite a single contract

¹ Transcript of CMP Workshop Number 6, Colorado Public Utilities Commission Docket Number 97I-198T (Aug. 22, 2001), p. 292, lines 8-13 (Andrew Crain of Qwest).

provision, but also Qwest states that the ICAs do not address all of the issues. For example, Qwest said in its Response that rates are not available in at least some situations, and that Qwest bills from the Statement of Generally Available Terms (“SGAT”) in those situations. (Qwest Resp. p. 4.) No SGAT provision has been opted into by Allegiance, Covad, or Eschelon, however. Qwest has no legal or good faith basis for imposing SGAT rates on Competitive Local Exchange Carriers (“CLECs”) that are not subject to the SGAT.²

Qwest defends its unilateral imposition of rates by stating that it started imposing rates and terms “only after several weeks’ notice and several meetings with CLECs.” (Qwest Resp. p. 2.) Qwest can not cite to a statute or contract authorizing imposition of new rates and terms based on notice of several weeks and several meetings, because one does not exist. The federal Act requires Qwest to negotiate with CLECs and, if agreement is not reached, to arbitrate the issue. In addition, state commissions have rules governing establishment of rates, and ICAs contain provisions regarding rates, terms, and dispute resolution. Despite all of these requirements, Qwest extended none of these processes to the terms and rates that it imposed here. Qwest used the CMP merely as a notice tool, rather than as a means to build consensus and reach agreement. As a basis for doing so, Qwest asserts in its Response that it is entitled to recover its costs. This is an argument properly made in negotiations or dispute resolution proceedings, or to an arbitrator or state commission, *before* imposition of a term or rate. In such situations, CLECs would be allowed to respond that Qwest is permitted cost recovery only when the applicable ICAs permit such recovery and charges are cost-based and approved by a state commission. Then, if the parties do not agree, an arbitrator or commission, with all the facts and evidence relating to the charges before it, would decide the issue. Qwest didn’t follow any such process. Instead, Qwest has unilaterally implemented its claimed entitlement to cost recovery — at the expense of the entitlement of CLECs to the process due to them under the laws and ICAs.

Qwest’s CR and its Response have demonstrated that Qwest applies a “one-size-fits-all” approach, despite differences in individual ICAs. For the actions subject to this particular escalation, Qwest needs to suspend its conduct and follow proper procedures before implementing new terms and rates. Overall, Qwest needs to establish a process to account for individual ICAs when using the CMP and before implementing processes.³

² In footnote 3 on page 4 of its Response, Qwest states: “The SGAT rates are interim in nature until finally approved and may be subject to true-up upon approval, if a commission determines that is necessary.” Qwest cites no authority for this statement, and it is certainly not the case everywhere. For example, in Minnesota, the SGAT rates have not been adopted on an interim or any other basis. If Qwest is referring to a term of the SGAT that provides that the rates are interim and subject to true-up, the argument is circular. Just as the rate doesn’t apply because we haven’t opted in to any SGAT, the true-up provision in an SGAT doesn’t apply either. The rates Qwest is seeking to charge have not been approved by the state commissions for application to Allegiance, Covad, and Eschelon, none of which have opted in to an SGAT.

³ In the CMP Re-Design meetings, CLECs have questioned whether Qwest may use CRs to establish rates at all.

Qwest is Recovering Costs, Without These Additional Charges.

For the reasons discussed above, this is not the appropriate forum in which to argue cost recovery. Because Qwest has interjected that issue here, however, we will briefly point out that Qwest is currently recovering its costs, and perhaps double or triple recovering them in some instances.

Cost Recovery Through Reciprocity.

Much like cost recovery under a bill-and-keep compensation mechanism, Qwest has been compensated through charges that it has not had to pay CLECs to date. For example, when Qwest reports to a CLEC that there is No Trouble Found (“NTF”), the CLEC often dispatches its own technician to test and isolates the trouble to the Qwest network. Once Qwest admits that the trouble was, in fact, in Qwest’s network, Qwest must repair it, because the trouble is in Qwest’s network. Under both the ICAs and the SGATs, Qwest should not be able to charge CLEC in this situation, because the trouble was in Qwest’s network.⁴ But, although the trouble was in Qwest’s network all along, the CLEC incurred the costs associated with the dispatch and trouble isolation/testing. Allegiance, Covad, and Eschelon do not currently recover these costs from Qwest. This is the reciprocity issue raised in the CR calls and in the Escalation. If Qwest is allowed to impose charges in these situations, CLECs will begin to charge Qwest as well. This would increase costs for all in recording and billing these charges among the parties. As long as CLECs are not charging Qwest in these situations, Qwest is recovering costs through these savings to Qwest. If Qwest is dissatisfied with the current arrangement, Qwest needs to commence negotiations, dispute resolution, or arbitrations. It cannot shift this burden to CLECs by simply ignoring the law governing proper procedures and begin unilaterally imposing processes and rates.

Cost Recovery Through Recurring Rate/Maintenance Expense.

Qwest is also recovering costs through the recurring wholesale rates. Qwest is paid a recurring rate to deliver a working product that meets the specifications for that product. CLECs do not pay the full rate to buy a sub-standard or non-working product. If the product is not working properly or does not meet specifications, Qwest is over-recovering costs when receiving the full recurring rate. If Qwest had brought this issue to an appropriate forum for discussion of rates, cost studies would be available to show the components of the recurring rate. Not only do the recurring rates assume a working product, but also the loop cost includes an expense factor that is applied to the loop for

⁴ See, e.g., AZ Eschelon-Qwest ICA, Att. 5, ¶ 3.2.17.7 (providing that a charge “may” apply if Qwest dispatches to perform tests on an unbundled loop “**and the fault is not in Qwest’s facilities**”) (emphasis added); AZ SGAT 9.4.5.3.4 (“If this additional testing uncovers electrical fault trouble . . . in the portion of the network for which Qwest is responsible, CLEC will not be charged by Qwest for the testing.”). Although Qwest suggests in its Response that charges only apply when the trouble is not in Qwest’s network, the discussions about the CR have suggested otherwise. Moreover, in the escalation, Eschelon provided a specific example (with ticket number) of a situation in which the trouble was in Qwest’s network and yet Qwest charged Eschelon (at the SGAT rate) \$84.60 for “Maintenance Dispatch – No Trouble Found.” Qwest did not respond to this example.

maintenance. Because this cost recovery mechanism is already in the wholesale price, any additional charge for the same activity is a double recovery. By not providing any cost support for Qwest's charges and taking the discussion out of any context in which such data would be available, Qwest has prevented analysis of whether any of the costs it is claiming in these charges are already being recovered elsewhere.

Double or Triple Cost Recovery.

In addition to double recovering costs already accounted for in the recurring rates, Qwest will double or triple recover rates if it charges for any of the same activities through what has now developed into at least three charges: (1) testing; (2) trouble isolation charge ("TIC"); and (3) maintenance and repair. As indicated in the Escalation of this issue, it was unclear when and how these charges would apply and whether there is more than one charge. Eschelon identified charges that have already appeared on Eschelon's bill (at SGAT rates) that Eschelon believed, based on Qwest's discussion of this CR to date, were associated with the additional testing issue. In its Response, Qwest said that those charges were not for testing but were for other charges that Qwest instituted in June. There was no ICA activity of any kind in June that would have resulted in new charges being applied to Eschelon's bill. Qwest unilaterally began charging Eschelon SGAT rates, even though Eschelon has not opted in to any SGAT. Eschelon has been left to attempt to identify and verify these charges to dispute them.

Because Qwest has provided no data whatsoever to support the new charges, CLECs are not in a position to determine whether any of the components of each charge overlap and constitute double or triple recovery. Qwest created this problem by attempting to impose rates without following the proper procedures, as discussed above. Applying the proper procedures would help resolve the mysteries created by Qwest's Response and explanations of this CR. When Qwest submitted its Additional Testing CR, Eschelon asked Qwest to provide a basis in its ICAs for the Additional Testing rates. Qwest could not provide citations to provisions of all of Eschelon's ICAs. For those for which Qwest claimed language did support the rates, Qwest pointed to a provision of Eschelon's ICA in AZ that allows a charge for *trouble isolation* when the fault is not in Qwest's network as the basis for the *testing* charge. (See AZ ICA, Att. 5, 3.2.17.7, cited in Qwest email by Dennis Pappas, copied in Escalation.) Therefore, in the Escalation, Eschelon challenged some of those charges. In its Response, Qwest said that Eschelon was mistaken, and those charges are something different. They relate to "Trouble Resolution" billing that Qwest implemented in June. (Qwest Resp. p. 3.) Qwest said that the Additional Testing charge is different from the "Maintenance of Service" charge. The latter charge "involves only labor, *including testing* and maintenance." (Qwest Resp. p. 3, emphasis added). This explanation certainly raises the possibility that the testing charge and the labor charge will both have some of the same components, resulting in double recovery. Similarly, Qwest refers to a "*test* to achieve Trouble Isolation." (Qwest Resp. p. 3, emphasis added). Now, there is some fancy footwork. How is trouble typically isolated, if not through testing? Yet, Qwest has at least two separate charges that it plans to apply: (1) testing; and (2) trouble isolation. Attempting to find the components of each charge begins to feel like a shell game. At a minimum,

the confusion allows for mistakes in application that result in double or triple recovery. Rates and processes should not be imposed in this manner.

If a Compliance Problem Exists, Qwest Needs to Address the Compliance Issue with the Non-Complying CLECs.

Qwest claims that it submitted its Additional Testing CR “because CLECs were not consistently complying with the requirement to provide test results prior to opening a trouble ticket.” (Qwest Resp. p. 2.) Aside from whether there is such a requirement in every ICA of Allegiance, Covad, and Eschelon,⁵ Qwest’s statement raises two additional issues: (1) Qwest has not shown that there is a compliance problem; and (2) Qwest has not explained why Qwest did not deal directly with the non-complying CLECs.

Qwest has Provided No Evidence of a Compliance Problem.

When CLECs submit CRs to CMP, Qwest consistently requires CLECs to provide data and extensive examples to prove that a problem exists before Qwest will provide a solution. Qwest does not simply take the CLEC, a customer, at its word. Yet, in submitting and clarifying its CR, Qwest has provided no data to support its assertion of a compliance problem. CLECs are supposed to take Qwest at its word. In its Response, Qwest does not even attempt to quantify the magnitude of the alleged problem. Qwest’s approach in addressing this problem with a CR applicable to all CLECs is akin to using a sledgehammer to kill a fly.

Although the data did not come to us through CMP, we are aware of related claims that Qwest has made in the wholesale service quality docket in Minnesota (docket number P-421/AM-00-849). In that proceeding, Qwest submitted an exhibit (number 38) that purports to show the percentage of CLEC trouble tickets that Qwest coded with a trouble resolution code of “No Trouble Found.” Presumably, the claim is related to Qwest’s position in this Escalation that there is a compliance problem. Attached is a copy of Eschelon’s testimony that refutes the accuracy of Qwest’s information. As indicated in the attached testimony, a sampling of the Qwest data showed that 54% of Qwest’s results (where Qwest claims NTF) did not match the resolution code Eschelon used in closing the ticket. Specifically, Eschelon’s records show that 28.8% of those tickets were closed with trouble found; 10.9% were closed with a resolution code of “came clear with testing (CCWT),” which means that Qwest saw trouble on the line initially, but the trouble cleared while testing; 6.5% were closed without a call back from Qwest with a trouble resolution code to Eschelon; and 8.7% of the reports do not match trouble tickets in Eschelon’s records. The remaining 45.7% of those tickets were closed

⁵ Qwest claims that it submitted its Additional Testing CR to “notify” CLECs that it was “tightening adherence to existing requirements.” (Qwest Resp. p. 2.) As indicated, Qwest has not shown that there were such existing requirements in each ICA of Allegiance, Covad, and Eschelon. When Eschelon asked for Qwest’s authority for its position that the CR merely “clarified” existing requirements, Qwest could produce no ICA requirement in three states and no rates in several states. The language Qwest did provide does not support all of Qwest’s conduct and rates, and the parties disagree about its application. Whether there is a requirement to provide test results prior to opening a trouble ticket (for these CLECs, which have not opted into an SGAT) is discussed below.

by Qwest with trouble resolution code of “test OK, no trouble found (TOK/NTF).” Of the remaining 45.7% of the tickets, there is also reason to doubt the accuracy of their trouble resolution code. As discussed in the attached testimony, the reason relates to errors in orders written by Qwest order writers that result in closure of the trouble ticket and issuance of a new service order. Because Qwest does not count service order errors in its trouble report data, Qwest’s trouble report data will tend to overestimate the percentage of trouble tickets coded as TOK/NTF.

Qwest has not established that a compliance problem exists, particularly with respect to Allegiance, Covad, and Eschelon. An alleged compliance problem that may not even relate to these CLECs is not a sound basis for imposing new terms and rates on Allegiance, Covad, and Eschelon.

Qwest Should Deal Directly With the Non-Complying CLECs, if Any.

If a compliance problem does exist, Qwest’s Response did not address whether Qwest has attempted to deal directly with the non-complying CLECs to gain compliance. CLECs generally have enforcement and dispute resolution provisions in their ICAs. If these really are existing ICA requirements, Qwest has ample basis to approach a CLEC on a non-compliance issue. Qwest did not even claim in its Response that it had tried to do so and was unsuccessful. If Qwest did so, Qwest did not say what happened and why a CR is a better solution. If Qwest did make this attempt and has reasons why a CR is a better approach, such data should have been part of the presentation and clarification of the CR. Without such supporting data, using a CR to address a compliance issue appears to be further evidence of Qwest’s “one-size-fits-all” approach and the problems it creates.

The CR and Related Terms and Charges are New Requirements and Not Simply Clarifications of Existing Requirements.

In reality, although Qwest has tried to present its CR as a “clarification” of “existing” requirements, Qwest is imposing *new* terms and rates through this CR and related charges that have been discussed as part of this Escalation.⁶ Qwest cites no authority in the ICAs for its claim. None of our ICAs contain all of the Additional Testing, Trouble Isolation, and Maintenance terms at the rates and in the manner in which Qwest is implementing them. Some of our ICAs have some of the requirements to which Qwest refers, and some have none at all. For example, the Minnesota AT&T/WCOM ICA, into which both Allegiance and Eschelon have opted, has *no* provision requiring the

⁶ A similar language issue involves Qwest’s change from “additional testing” (the term used in the initial CR) to “optional testing” (the term used in Qwest’s Response). Qwest appears to be emphasizing the allegedly optional nature of the testing to counter objections about the rates. Given that Qwest will reject a trouble ticket without testing or acceptance of a unilateral, unapproved rate, this is not a truly “optional” situation. Moreover, CLECs cannot conduct testing in certain situations involving pair gain, but the documentation makes no exception for such circumstances. Although Bill Campbell seemed to suggest on a call that an exception would be acceptable to Qwest, this has not been confirmed or documented. Such issues could be dealt with in the CLEC-proposed collaborative process. Even assuming the testing is truly optional, however, an optional rate is also subject to the requirements that rates be based on cost and approved by the commissions.

CLEC to provide test results to Qwest (before opening a trouble ticket or otherwise). Qwest cannot “clarify” a term that is not in the ICA. Even when the CLEC is required to provide test results, the rates imposed by Qwest are not supported by the ICAs. Qwest is imposing new terms, without first following processes required by the ICAs and the law.

Instead of citing any basis in the ICAs for the testing “requirement,” Qwest argues that CLEC testing is important and efficient. (Qwest Resp. p. 1.) Qwest also argues that testing is an industry standard.⁷ (Qwest Resp. p. 1.) As with Qwest’s cost recovery argument, these are arguments properly made in negotiations or dispute resolution proceedings, or to an arbitrator or state commission, *before* imposition of a term or rate. For example, Qwest negotiated language for inclusion in the SGAT that states that “CLEC will perform trouble isolation on the Unbundled Loop and any associated ancillary services prior to reporting trouble to Qwest.” *See, e.g., AZ SGAT 9.2.5.1.* Allegiance, Covad, and Eschelon have not opted in to the SGAT. Before imposing this requirement on them, Qwest needs to negotiate a similar requirement with them in each of their states. All three have said that they in principle agree with this concept, but they want input into how the concept is applied in practice. Instead of coming to the table to negotiate such terms, Qwest is unilaterally imposing its own requirement by rejecting trouble tickets that do not have test results.

In its Response, Qwest states that “In each meeting, Qwest offered to negotiate an amendment to a CLEC’s interconnection agreement if it disagrees with the rates Qwest has proposed for Optional Testing.” (Qwest Resp. p. 2.) This is not the case. Allegiance, Covad, and Eschelon had representatives at the meetings, and this offer was not made at each meeting. To the contrary, Qwest presented the CR as a “clarification” of “existing” requirements, making an amendment unnecessary. At the monthly process CMP meeting in November, Terry Wicks of Allegiance asked Bill Campbell of Qwest whether Qwest had checked everyone’s ICAs to be sure the CR was consistent with those ICAs. Bill Campbell said yes. This response certainly suggested that no amendment was necessary. In fact, an agreement with CLECs is necessary, but Qwest failed to obtain one.

Qwest Has No Authority to Proceed on a “Notice-And-Go” Basis, As it Has Done Here.

Although Qwest entitled the document at issue a “CR,”⁸ it is actually a simple a notice of intent. Qwest essentially acknowledges this in its Response, in which Qwest

⁷ Qwest provides no documentation or citations to standards to support this statement.

⁸ On page 2 of its Response, Qwest states that it submitted its CR based on its “good faith interpretation” of the interim process. In footnote 2 on the same page, Qwest states that “disagreement” has since arisen in CMP Re-Design about the applicability of the interim process to this type of CR. Both Qwest and CLECs agreed that Qwest would submit Qwest-initiated changes as CRs in Product/Process CMP. This mutual understanding is shown by the fact that Qwest submitted this CR. The fact that Qwest has since withdrawn other Qwest-initiated CRs from the Product/Process CMP and seems to indicate in the Response that it would like to do the same with this one, demonstrates a *reversal in position* by Qwest, not a disagreement. Although there is now substantial disagreement about the interim process, that does not change that fact that Qwest has changed course on this issue.

states that the purpose of its CR was to “formally notify” CLECs of the change.⁹ (Qwest Resp. p. 2.) Qwest’s CR stated Qwest’s policy,¹⁰ and Qwest announced a date for implementation. Qwest did not seek consensus or approval at the time, nor did it suspend its plans upon CLEC objection. Although Qwest states in its Response that it answered all questions about the CR (Qwest Resp. pp. 1-2), Qwest omits that several CLECs objected repeatedly to the process and rates and that Qwest answered many questions and objections in the negative. Covad believed that the process had been ceased after a call held during a Re-Design meeting, because of the universal and extensive nature of the objections. But, it turns out that Qwest announced only a slight delay in implementation of the billing, and it proceeded with implementation of the processes over objection. At this time, Qwest is rejecting trouble tickets without testing in states where our ICAs do not require us to test prior to submitting a trouble ticket. Qwest has also said that it will impose SGAT rates when there is no rate in the ICA. As indicated in the Escalation, Qwest is already billing Eschelon SGAT rates, even though Eschelon has not opted in to the SGAT, though Qwest now claims those bills are not for testing. They are for yet another charge or charges.

Qwest’s handling of this CR is very similar to its initial handling of its collocation Release Notifications (“RNs”), in which Qwest announced process changes to collocation that were different from ICA provisions governing collocation. Covad objected to Qwest’s practice of unilaterally changing terms without regard to Covad’s ICAs. Covad (as well as other CLECs, such as AT&T, XO, and ELI) testified as to the inappropriateness of the RNs during section 271 proceedings in Arizona, Colorado, and Washington. The RNs were introduced into evidence as well. As a result, Qwest had to suspend that process¹¹ and recognize that it cannot unilaterally announce a change that amounts to a modification to an ICA. Qwest needs to have the same realization here and pursue a different course in this case. Overall, Qwest needs to recognize that it has no authority for a “notice-and-go” approach to changes that affect CLECs. Blanket notifications that do not account for differences in individual ICAs, whether in the form of a CR or RN, are unauthorized and unenforceable.¹²

Qwest’s handling of this CR has highlighted many issues for resolution in CMP Re-Design. Not only does the Core Team need to re-address the process for Qwest-initiated CRs in Product/Process CMP, but also the Core Team needs to re-address the systems issues with respect to such CRs. For example, Qwest has indicated that it will

⁹ Qwest represents that CLECs requested notice. *See id.* CLECs have consistently requested that Qwest submit CRs to **build consensus and gain approval**, not simply to notify CLECs of unilateral changes. Whether, when, and to what extent agreement or approval is needed, and the process for obtaining it when needed, are all issues that remain for discussion in the CMP Re-Design sessions. In the meantime, the ICAs require agreement.

¹⁰ The one-paragraph CR is quoted in its entirety in the Escalation.

¹¹ Instead, Qwest and CLECs entered into a collaborative process that, despite the unfortunate circumstances leading to its development, ultimately proved successful and satisfactory to CLECs and Qwest. As discussed below, Allegiance, Covad, and Eschelon have suggested using the successful aspects of the collocation decommissioning process as model for resolution here.

¹² Qwest has claimed, in the Re-Design sessions, that under its existing CMP (formerly CICMP) procedures for Product/Process, Qwest may make such changes through RNs only. Qwest’s experience with the collocation decommissioning RNs shows that the contrary is true.

modify its systems to make billing changes. (Qwest Resp. p. 4.) Although Qwest has apparently been planning this change for some time, and Eschelon raised its concerns about the billing aspects of this CR immediately, Qwest has not submitted a systems CR to accomplish such changes. Until such issues can be addressed, in particular, Qwest needs to review and respect each CLEC's ICAs.

Billing Process and Verification Issues Remain Unclear and Unsatisfactory.

In its Response, Qwest states that “a unique line item will be available on each bill for the CLEC.” (Qwest Resp. p. 4.) Qwest indicates that it is making this change “in direct response to the Eschelon concern for line item identification.” (Qwest Resp. p. 4.) Eschelon does need line item identification and sufficient information to identify the basis for each charge. We believe the best method for doing this should be discussed among those affected. Qwest is not making line item identification available immediately. In its Response, Qwest states that it will be providing a paper bill in the interim until a systems modification can be made. Qwest has an obligation to provide an electronic bill (an obligation which has existed since 1996). Nonetheless, Qwest has planned this change without coordinating timing of a systems change. Paper bills place CLECs at a significant disadvantage. Bill validation is virtually impossible using paper bills. Eschelon's paper bills, for example, are hundreds and sometimes more than a thousand pages long. At a minimum, if Qwest intends to use paper bills for these charges, Qwest must use a separate Billing Account Number (“BAN”) for these charges, so that we can try to find these charges in all of that paper.

More information on the bill is only a part of the request made by Allegiance, Covad, and Eschelon in their joint Escalation. With respect to billing, we also asked Qwest to “Ensure that CLECs receive notification, at the time of the activity, if a charge will be applied, because CLECs should not have to wait until the bill arrives to discover that Qwest charged for an activity.” (Joint Suppl. Escalation, p. 9.) As Eschelon said at the most recent CMP meeting, the CLEC needs to know at the time of the event that a charge will apply. Immediately after the work is completed, Qwest needs to send CLEC a statement of services performed, testing results, and applicable charges (by telephone number) that will appear on CLEC's next invoice. If Qwest is claiming that a charge was authorized, a process should also be in place to provide timely documentation as to who authorized the charge. If CLECs must wait until the bill is received, it will be a huge task to go back and analyze what happened in each situation and whether a charge should have been applied. All of these kinds of issues should be discussed and reviewed jointly before implementation.

The CLEC-Proposed Collaborative Process Should be Used to Resolve the Issues.

In the Joint Escalation, we stated as the “Desired CLEC Resolution:”

“Suspend implementation of Qwest-initiated CR #PC100101-5 (process and rates).

Review any steps that Qwest has taken to make system changes, train people, or otherwise implement this CR universally at Qwest to ensure compliance with particular interconnection agreements (*e.g.*, interconnection agreements with Eschelon, Covad, and Allegiance in each state). This includes re-training, etc., as to the differences among various interconnection agreements, as well as difference from the SGAT. (Eschelon, Covad, and Allegiance each has an interconnection agreement with Qwest, and none of these CLECs has opted into the SGAT.)

Provide documentation showing that Qwest has trained its personnel and taken other steps to ensure compliance with individual interconnection agreements, including differences in those agreements as compared with the SGAT.

Begin a collaborative effort (similar to that used for collocation decommissioning) to develop an improved process and, when possible, gain consensus before implementation. Ensure that part of the process is to provide accurate bills that reflect interconnection agreement rates and provide sufficient information for bill verification. Ensure that CLECs receive notification, at the time of the activity, if a charge will be applied, because CLECs should not have to wait until the bill arrives to discover that Qwest charged for an activity. If no consensus can be reached, Qwest should then be responsible for escalation before implementation.

Ensure reciprocity so that CLECs may recover their costs in the same circumstances in which Qwest is allowed to recover its costs for such testing.

Explain the rates being charged before December 1, 2001 for loop maintenance and testing and explain how these rates and their application differ, if at all, from the procedures after December 1, 2001.”

These items continue to be the CLEC desired resolution.¹³ At the December Product/Process CMP meeting, Allegiance, Covad, and Eschelon made a reasonable request to Qwest to consider a collaborative effort, modeled after successful aspects of the one ultimately used to address collocation decommissioning, to address all of the issues raised in this escalation. That process involved, for example:

¹³ In addition, on December 7, 2001, Eschelon sent an email to Qwest (Judy Schultz) stating: The mailout below relates to "Optional Testing" and states that "there were no comments returned to Qwest regarding this change." The change relates to Qwest-initiated CR# PC100101-5. Given the number of communications, written and oral, about this issue, as well as the pending joint escalation, Eschelon does not understand how the notice can indicate that no comments were returned to Qwest.

Eschelon asks Qwest to consider, as part of the "Desired CLEC Resolution" section of the Escalation of CR# PC100101-5, a request to suspend these PCAT changes.

In addition, for purposes of Re-Design, Eschelon asks Judy Lee to add an action item to discuss a process for ensuring that the administrator of these mailouts is notified of comments made through CMP, account teams, etc.

- CLEC opportunity to express desires with respect to the new "product offering."
- Qwest review of CLEC input; proposed "product offering" at the next meeting.
- Meetings (approx. 2 months)
- Presentation to CMP; Posting for 30 days on the WEB for CLEC comment
- Contract amendments to the participating CLECs (option to agree to amend per the new product, negotiate specific changes based upon individual needs, or not do anything until need for the offering).

Although not all aspects of the collocation product were agreed upon, much progress was made in approximately two months of meetings. In addition to this example, the parties have gained experience and learning from Qwest's handling of the appointment scheduler issue. That experience showed that the process works more smoothly if information is provided in advance of action. Qwest's initial announcement of its plan to implement an appointment scheduler in a point release received a substantial adverse reaction. Because Qwest provided so little information about its plans and did not work together with CLECs to confirm what would really meet CLEC needs, Qwest encountered strong opposition. After Qwest incorporated CLEC feedback and provided more information, Qwest met with substantially less resistance. CLECs have asked that, in the future, Qwest take the consensus building approach first, before "announcing" a change. If Qwest comes in with a proposal (a true request for a change, as opposed to notice of one), the parties can work together to develop a workable process/product and minimize disputes.

Allegiance, Covad, and Eschelon continue to support and request use of a thorough collaborative process and suspension of the current process (including rates) in the interim. As we have said throughout this process, we are not opposed in principle to the type of testing at issue and encourage use of reasonable practices along these lines. We already conduct testing before submitting trouble tickets. The process and rates that Qwest has imposed, and the manner in which Qwest has approached this issue, however, are unacceptable. Our proposal for resolution, unlike the Qwest proposal, is not limited to rates or to one month. The collaborative process needs to deal with the processes associated with the trouble isolation and maintenance charges as well, to be clear when each applies. We are willing to dedicate resources to expedite a collaborative process, and we ask Qwest to re-consider this request.

If Qwest agrees, the following representatives will be the points of contact for each of our companies in the collaborative process:

Terry Wicks
LEC Account Manager
Allegiance Telecom, Inc.
469-259-4438

Michael Zulevic
Covad
Director-Technical/Regulatory Support
520-575-2776

Loren Walberg
Director of Repair
Eschelon Telecom, Inc.
612-436-6453

December 19, 2001

Burl Harr, Ph.D.
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, MN 55101-2147

RE: In the Matter of Qwest Wholesale Service Quality Standards
Docket No. P-421/AM-00-849

Dear Dr. Haar:

Enclosed is an original and fifteen (15) copies of Supplemental Testimony by Garth Morrisette. The purpose of Mr. Morrisette's testimony is to respond to inaccurate trouble report data presented by Qwest in Exhibit 38. Since Qwest Exhibit 38 was presented by Qwest late in the afternoon on the last day of the evidentiary hearing, Eschelon is responding with this testimony at this time.

Sincerely,

Dennis Ahlers
Senior Attorney
Eschelon Telecom, Inc.
(612) 436-6249

DDA:tlg
Enclosure
cc: Service List

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Edward A. Garvey
Marshall Johnson
LeRoy Koppendrayner
Phyllis Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Qwest Wholesale Service
Quality Standards

DOCKET NO. P-421/AM-00-849

**SUPPLEMENTAL TESTIMONY OF
GARTH MORRISETTE FOR ESCHELON TELECOM, INC.**

December 19, 2001

1 Q. PLEASE STATE YOUR NAME, EMPLOYER, AND TITLE.

2 A. My name is Garth Morrisette and I am the Director of Regulatory Affairs for
3 Eschelon Telecom, Inc. (Eschelon). My business address is 730 Second Avenue
4 South, Suite 1200, Minneapolis, MN 55402.

5 Q. HAVE YOU BEEN PREVIOUSLY SWORN IN AS A WITNESS IN THIS
6 PROCEEDING?

7 A. Yes.

8 Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?

9 A. The purpose of my supplemental testimony is to correct the record with respect to
10 Eschelon specific data contained in Qwest Exhibit 38.

11 Q. PLEASE DESCRIBE QWEST EXHIBIT 38.

12 A. Qwest Exhibit 38 purports to show the percentage of CLEC trouble tickets that
13 Qwest coded with a trouble resolution code of "no trouble found." Qwest Exhibit
14 38 contains confidential and trade secret information regarding trouble report
15 rates on 73 CLECs, including Eschelon, in Qwest's 14 state service territory. The
16 exhibit is titled "Percent Trouble Tickets for Which No Trouble Was Found -
17 Qwest Region - September 2001." Qwest refers to the exhibit in its Reply Brief
18 in criticizing the Coalition's proposal for MN-6 (Trouble Rate). Qwest implies
19 that the Coalition's proposed standard for MN-6 of no more than 2.5 trouble
20 reports per 100 access lines is not attainable for Qwest because the trouble report
21 rate for CLECs is biased upward as a result of CLECs submitting trouble reports
22 when no trouble is found. Qwest's brief states: "The record shows the percentage
23 of CLEC trouble reports result in no trouble being found." Qwest Reply Brief at

1 p. 31. Qwest supports that statement by referring to Exhibit 38, which was
2 introduced by Qwest late in the afternoon on the last day of the evidentiary
3 hearings. Because the exhibit was introduced so late in the hearing, Eschelon did
4 not have a chance at hearing to refute or rebut the accuracy of the data. Qwest
5 Witness Mr Inouye stated that the data used for Exhibit 38 came from Qwest's
6 Network Department and that he was not sure whether the data had been audited
7 by Liberty Consulting Group as part of the PID auditing process. TR Vol. 9, p.
8 14.

9 **Q. DOES ESCHELON HAVE EVIDENCE THAT REFUTES THE**
10 **ACCURACY OF THE RESULTS IN EXHBIT 38?**

11 A. Yes. Eschelon personnel reviewed trouble tickets for the months of July-October
12 2001 for which Qwest claims the Trouble Tickets were closed with a resolution
13 code of "Test OK, No Trouble Found" (TOK/NTF). Our analysis indicates that
14 54% of those results reported did not match the resolution code Eschelon used in
15 closing the ticket. Specifically, Eschelon's records show that 28.8% of the tickets
16 were closed with trouble found; 10.9% were closed with a resolution code of
17 "came clear while testing" (CCWT) which means that Qwest saw trouble on the
18 line initially, but the trouble cleared while testing; 6.5% were closed without a
19 call back from Qwest with a trouble resolution code, which means that Qwest did
20 not report the trouble resolution code to Eschelon; and 8.7% of the reports do not
21 match trouble tickets in our records. The remaining 45.7 percent of the tickets
22 were closed by Qwest with trouble resolution code of "test OK, no trouble found"
23 (TOK/NTF).

1 **Q. IS THERE ANY REASON TO DOUBT THE ACCURACY OF THE**
2 **TROUBLE RESOLUTION CODE FOR THE REMAINING 45.7% OF THE**
3 **TROUBLE TICKETS IN QUESTION?**

4 A. Yes. Eschelon has experienced significant increase in the number of errors on
5 orders attributable to Qwest that result in features being dropped or omitted from
6 Eschelon's UNE Platform orders. In some cases, PIC changes were not processed
7 on the orders. I was told by a Qwest representative that as many as 70% of
8 Eschelon's orders written by Qwest order writers in November were corrected for
9 these types of errors. I have also been told by Qwest representatives and
10 Eschelon repair personnel that these types of feature/translation issues would be
11 classified by Qwest with the TOK/NTF resolution code. When Qwest closes the
12 ticket with trouble resolution code of TOK/NTF it directs Eschelon to issue a new
13 service order (LSR) to add the feature, or change the PIC on the line. Since
14 Qwest does not count service order errors in its trouble report data, Qwest's
15 trouble report data will tend to overestimate the percentage of trouble tickets
16 coded as TOK/NTF.

17 **Q. BASED ON YOUR TESTIMONY, DO YOU THINK EXHIBIT 38**
18 **ACCURATELY REFLECTS THE PERCENTAGE OF CLEC TROUBLE**
19 **REPORTS THAT RESULT IN NO TROUBLE FOUND?**

20 A. No, at least not with respect to the Eschelon data.

21 **Q. DOES THAT CONCLUDE YOUR SUPPLEMENTAL TESTIMONY?**

22 A. Yes.