

**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-38

TO THE

REBUTTAL TESTIMONY OF BONNIE JOHNSON

ON BEHALF OF ESCHELON TELECOM, INC.

DECEMBER 4, 2006

This Exhibit consists of the following:

1. Excerpt from Qwest Minnesota testimony (Ms. Stewart) indicating that Qwest stopped updating SGATs in 2003 and has no plans to do so.
2. Notices issued by Qwest informing CLECs that Qwest is withdrawing SGATs, barring CLEC opt in for SGATs and replacing SGATs with Qwest's Negotiation Template Agreement.
3. Screen shots from Qwest's website showing that Qwest has replaced SGATs with Negotiations Template Agreements, and is now providing SGATs (in PDF) for reference purposes only.

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
SUITE 1700
100 WASHINGTON SQUARE
MINNEAPOLIS, MN 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
SUITE 350
121 SEVENTH PLACE EAST
ST. PAUL, MN 55101-2147

LeRoy Koppendraye	Chair
R. Marshall Johnson	Commissioner
Kenneth Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis Reha	Commissioner

IN THE MATTER OF THE PETITION OF)	
ESCHELON TELECOM, INC. FOR)	PUC Docket No. P-5340, 421/IC-06-768
ARBITRATION WITH QWEST)	OAH Docket No. 3-2500-17369-2
CORPORATION, PURSUANT TO 47 U.S.C.)	
SECTION 252 OF THE FEDERAL)	
TELECOMMUNICATIONS ACT OF 1996)	

QWEST CORPORATION

REBUTTAL TESTIMONY OF KAREN STEWART

(Disputed Issue Nos. 4-5 (a,b,c), 9-31, 9-32, 9-33, 9-34, 9-35, 9-36, 9-39, 9-50, 9-52, 9-53, 9-54, 9-54a, 9-55, 9-56, 9-56a, 9-58, 9-58 (a,b,c,d,e), 9-59, 9-61,(a,b,c), 24-92.)

SEPTEMBER 22, 2006

PUBLIC DOCUMENT

TRADE SECRET DATA
HAS BEEN EXCISED

1 *Review Remand Order.* There are, therefore, network elements and services in
2 the SGAT that Qwest has no obligation to provide under Section 251.
3 Conversely, there are new requirements that benefit CLECs -- such as allowing
4 commingled arrangements -- that are not included in the SGAT.

5 **Q. DO QWEST AND CLECS STILL USE QWEST'S SGATS AS A**
6 **FOUNDATION FOR THEIR NEGOTIATIONS?**

7 A. Typically not. CLECs now have multiple other options available to them. These
8 options include other carriers' ICAs that CLECs are able to opt into and also
9 Qwest's multi-state "Template Agreement." The Template Agreement is based on
10 the individual states' SGATs. It includes state-specific language and has been
11 modified to reflect and incorporate changes in law. The Template Agreement is
12 the underlying agreement that Qwest and CLECs typically use as the base
13 document for their negotiations. Because of the effectiveness and utility of the
14 Template Agreement, Qwest stopped updating its SGATs. Indeed, the SGATs
15 have not been updated to incorporate changes in law since 2003 and are therefore
16 outdated documents. The regulatory process for modifying and updating SGATs
17 is very time consuming and resource-intensive. With the other options available
18 to CLECs, there has not been a need to go through this process and to expend the
19 significant resources that would be required. Moreover, due to the FCC's
20 elimination of the "pick-and-choose" rule and its move to the "all-or-nothing"
21 rule, as discussed below, CLECs are much less likely to opt into a standard SGAT
22 when ICAs have become increasingly more tailored to CLECs. This tailoring has
23 increased as CLECs have shaped their businesses to have a specialized focus,
24 which is often necessary to survive in today's highly competitive
25 telecommunications markets.

26 **Q. EVEN IF QWEST HAD BEEN UPDATING ITS SGAT, WOULD IT BE**
27 **APPROPRIATE FOR ESCHELON TO REQUEST THAT INDIVIDUAL**



Announcement Date: November 15, 2006
Effective Date: November 16, 2006
Document Number: PROS.11.15.06.F.04322.MultLangChangeforSGATs
Notification Category: Process Notification
Target Audience: CLECs, Resellers
Subject: CMP – Getting Started as a CLEC V21
 Getting Started as a Reseller V12
 Interconnection Agreements V74
 Interconnection Negotiations Process V12
 Provisions Available for Opt In V12
 New Customer Questionnaires V32

Level of Change: Level 1

Summary of Change:

On November 16, 2006, Qwest will post updates to its Wholesale Product Catalog that include corrections, clarifications and additional information for Getting Started as a CLEC V21, Getting Started as a Reseller V12, Interconnection Agreements V74, Interconnection Negotiations Process V12, Provisions Available for Opt In V12, and New Customer Questionnaires V32 . You will find a redlined version of the changes on the Product/Process Document Review Archive at http://www.qwest.com/wholesale/cmp/review_archive.html.

Qwest is updating the mentioned documents to provide additional information and clarification that does not change the process. The references to the SGATs and Exhibits and applicable language changes are being made. The SGATs are no longer available to opt into and have been replaced with the Negotiations Template Agreement (NTA).

Actual updates to the operational documents are found on the Qwest Wholesale Web Site at these URLs:

http://www.qwest.com/wholesale/clecs/clec_index.html
http://www.qwest.com/wholesale/clecs/reseller_index.html
<http://www.qwest.com/wholesale/clecs/negotiations.html>
<http://www.qwest.com/wholesale/clecs/negotiationsprocess.html>
<http://www.qwest.com/wholesale/clecs/provisionoptin.html>
<http://www.qwest.com/wholesale/clecs/newcustquestionnaire.html>

Comment Cycle:

No formal comment cycle applies. CLECs who feel the change(s) described in this Level 1 notification alter(s) CLEC operating procedures should immediately contact the Qwest CMP Manager, by e-mail, at cmpcr@qwest.com.

Sincerely

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>



November 15, 2006

Announcement Date:
Effective Date: November 16, 2006
Document Number: PROS.11.15.06.F.04302.Amendments_SGATs
Notification Category: Process Notification
Target Audience: CLECs, Resellers,
Subject: Amendments SGATs

Summary of Change:

On November 16, 2006 Qwest will post updates to its Wholesale Product Catalog that include new/revised documentation for Amendments and SGATs. This material becomes effective on November 16, 2006.

Qwest is updating the following documents to remove the SGATs, Exhibits and language that pertains to the SGATs. The title of the web page will now become Negotiation Template Agreement. SGATs continue to be available as reference documents through the Quick Links located on the right side of the Wholesale web page.

Amendments:

- New Products and Services section – removed SGAT language
- New Products and Services Not in the Files SGATs title of section changed to Amendments for New Products and Services

SGATs:

- Title of document changed from SGATs (Wireline) to Negotiations Template Agreement (NTA)
- Interconnection Business section removed including the Dropdown and documents for the 14 state SGAT and Exhibits.
- Negotiations Template Agreement section – removed SGAT language
- Exhibit B by state and Exhibit K by state sections are added to include these Exhibits. These have not changed and remain as last published on the SGAT Interconnection Business section of this same document. Only the location within the document has changed.
- Resale Agreements and Exhibits - removed SGAT language and changed to NTA

Redline SGAT documents are found at URL: <http://www.qwest.com/about/policy/sgats/>

Actual updates are found on the Qwest Wholesale Web site at the following URLs:

<http://www.qwest.com/wholesale/clecs/amendments.html>
<http://www.qwest.com/wholesale/clecs/sgatswireline.html>

Sincerely

Qwest Corporation

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<http://www.qwest.com/wholesale/notices/cnla/maillist.html>



- PRODUCTS & SERVICES
- CUSTOMER SERVICE
- RESOURCES

Cable (MSOs) | ILECs/ICOs | IXCs| International | ISPs/ESPs | Local Interconnection & Resale | National Service Resellers | Wireless

Wholesale: Local Interconnection – Facility Based Solutions

Local Interconnection and Local Resale Quick Links

- ▶ 271 Qwest Performance Results
- ▶ Agreements & Amendments
- ▶ Change Management (CMP)
- ▶ CEMR
- ▶ Customer Notice Archive (CNLA)
- ▶ IMA
- ▶ Local Services Ordering Guide (LSOG)
- ▶ QORA
- ▶ Service Interval Guides
- ▶ SGATs
- ▶ Tariffs
- ▶ Technical Publications
- ▶ USOC/FID Finder

Local Interconnection - Facility Based Competitive Local Exchange Carriers (CLECs) V 5.0

[History Log](#)

If you are a Qwest Interconnection – Facility Based Competitive Local Exchange Carrier (CLEC) customer, use the menus below to find Product, Service and Business Procedure information.

Product and Service Solutions

Select a Product or Service Solution

Business Procedures

Select a Business Procedure

Forms

Select a Form

Network Information

- [ICONN Database](#)
- [Network Disclosures](#)
- [Technical Publications](#)

New Customers

If you are new to the interconnection business, and considering interconnecting with Qwest as a CLEC within our [14-state local service territory](#), you have two choices as to how we conduct business based on the following criteria:

..... Interconnection - Facility Based CLECs provide local telecommunication products and services via their own switches and network facilities to their business and residential end-users. I want to do

▶ [View More Solutions](#)

business as an Interconnection - Facility Based CLEC - [Let's Get Started!](#)

Resale – Non Facility Based CLECs purchase Qwest's products and services, at a resale rate either through a separate negotiated agreement with Qwest or a tariff, and resell these products and services to their end-users. I want to do business as a Resale – Non Facility Based CLEC - [Let's Get Started!](#)

9

External Documentation Requests Process & CLEC External Process Clarification Request

Would you like Qwest to clarify language about an existing process? Is there an existing process that you need to see documented? Or, do you need to notify Qwest about an unintentional change to an undocumented or documented existing process?

[Click Here to View the Qwest External Documentation Requests Process & CLEC External Process Clarification Request Forms and User Guides.](#)

Last Update: October 16, 2006

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WHOLESALE

CONTACT US

Products & Services

Local Business Procedures

Local Business Procedures

▶ **View More Local Resale Non-Facility Based Business Procedures**

▶ **View More Local Interconnection Facility Based Business Procedures**

Negotiations Template Agreement (NTA)

[History Log](#)

Multi-state Negotiation Interconnection Agreement

Qwest Multi-state Negotiations Interconnection Agreement template is offered by Qwest as a baseline Agreement for negotiations between Qwest and CLECs entering into Agreements in multiple states. The Template is Qwest's offer to provide more consistent language across multiple states.

Select Negotiations Template Agreement

Where there is state specific language required, Qwest is indicating that ordered language from that state will be substituted in Agreements negotiated for that state. In many cases, state Commissions require that state specific language to be part of the Agreement. If you are not entering into an Agreement for those states, the statement does not apply.

Exhibit A - by State

Select an Exhibit A

Exhibit B - by State

Select an Exhibit B

Quick Links

Agreements

- ▶ Commercial
- ▶ Interconnection
- ▶ Resale
- ▶ Wireless
- ▶ Non Impaired Wire Center
- ▶ Opt-In Provisions
- ▶ Negotiations Template

Amendments

- ▶ Amendments

SGATs

- ▶ Reference Documents

Exhibit D - by State

Select an Exhibit D

Exhibit K - by State

Select an Exhibit K

The following Exhibits are applicable to Qwest's 14 state local service territory

Select an Exhibit

Resale Business**Qwest Resale Agreements and Exhibits**

- [Resale Agreement 3-30-06](#)
- Exhibit A-See appropriate state NTA Exhibit A
- Exhibit B-See appropriate state NTA Exhibit B
- Exhibit G-See appropriate state NTA Exhibit G
- Exhibit K-See appropriate state NTA Exhibit K

Qwest Non Impaired Wire Centers


-

Qwest Non-Impaired Wired Center Lists for Loops and Dedicated Transport

The FCC's Triennial Review Remand Order (TRRO), FCC 04-290 (WC Docket No. 04-313 and CC Docket No. 01-338) released February 4, 2005, modified the rules under which Qwest is required to offer DS1, DS3, and dark fiber loops and transport as Unbundled Network Elements (UNEs) pursuant to section 251(c)(3) of the Communications Act of 1934, as amended. The FCC found that CLECs are not impaired without DS1 and DS3 loops in wire centers that meet certain criteria, and they are not impaired without DS1, DS3, and dark fiber between wire centers that meet other criteria. See 47 U.S.C. §§ 51.319(a)(4) (DS1 loops), 51.319(a)(5) (DS3 loops), 51.319(e)(2)(ii) (dedicated DS1 transport), 51.319(e)(2)(iii) (dedicated DS3 transport), 51.319(e)(2)(iv) (dark fiber transport). CLECs are not impaired without dark fiber loops in any location. See 47 U.S.C. § 51.319(a)(6).

The attached lists identify those Qwest wire centers that meet the non-impairment criteria

established in the TRRO for DS1 and DS3 loops and DS1, DS3, and dark fiber transport.

Select an Attachment 

Last Update: November 22, 2006

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Regulatory Documents

SGATs - Reference Only

This page is for reference purposes only and contains past versions and redlined versions of the SGATs filed with state Public Utility Commissions. If you wish to amend an existing interconnection agreement or wish to establish a new interconnection agreement, please [click here](#) to access the Qwest Wholesale Website.

Available as downloadable Adobe Acrobat PDF files (requires free Adobe [Acrobat Reader](#)).

- [Arizona](#)
- [Colorado](#)
- [Idaho](#)
- [Iowa](#)
- [Minnesota](#)
- [Montana](#)
- [Nebraska](#)
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