

**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 DD-20**

**TO THE**

**REBUTTAL TESTIMONY OF DOUGLAS DENNEY**

**ON BEHALF OF ESCHELON TELECOM, INC.**

**DECEMBER 4, 2006**

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BEFORE THE ARIZONA CORPORATION COMMISSION

SPECIAL OPEN MEETING )  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Phoenix, Arizona  
December 2, 2002

ARIZONA REPORTING SERVICE, INC.  
Court Reporting  
Suite Three  
2627 North Third Street  
Phoenix, Arizona 85004-1103

Prepared for: By: MARY BARRY, RPR  
Certified Court Reporter  
CCR No. 50260

1 am a member of the California Bar. I am in-house  
2 counsel based here in Phoenix.

3 CHMN. MUNDELL: Thank you. Go ahead and  
4 proceed.

5 MR. BROWN: I'd like to take the  
6 opportunity to address all the points that were  
7 brought up by Staff in their proposed order. A  
8 couple of points I'd like to address at the  
9 outset.

10 First of all, I'd like to stress that no  
11 one at Qwest intentionally attempted to disobey  
12 or not obey a lawful order of this Commission.  
13 While this inquiry has highlighted the need for  
14 certain process improvement related to Qwest's  
15 implementation of wholesale rates, I think that  
16 we'd like to stress at the outset that Qwest has  
17 always attempted with regard to implementation  
18 of the Commission's orders, particularly with  
19 respect to rates, to get it right, as opposed to  
20 doing things quickly which also could cause  
21 different types of problems for our customers  
22 including our wholesale customers.

23 CHMN. MUNDELL: Counsel, let me just  
24 jump in here. It would probably be more  
25 appropriate because you are the messenger, you

1 know, and you are bringing the message in, we  
2 probably should have Mr. Berg up, because I  
3 specifically asked when the lawsuit was filed in  
4 the U.S. District Court and we had our lawyers  
5 contact Qwest's lawyers and ask specifically, are  
6 you going to be seeking a stay, and the answer  
7 was no.

8           Okay, so technically that is correct. I  
9 am a lawyer and I understand what that means, and  
10 that is why we asked the question, are you seeking  
11 a stay. No, we are not going to seek a stay.  
12 Those rates will go into effect pursuant to the  
13 Commission's order which would lead, I would think,  
14 to a reasonable conclusion that means immediately  
15 or fairly soon thereafter the order becomes final.

16           So again, I think it's somewhat  
17 disingenuous to state that, well, we are going to  
18 do it as quickly as possible. We want to make  
19 sure it's done correctly. It would seem to me  
20 that the appropriate method to communicate that  
21 would be at the time that the question is asked  
22 by a Commissioner and not to sort of only answer  
23 the question that is specifically asked, because  
24 I wasn't in the conversation, Mr. Kempley, I  
25 think, had the conversation, as I recall, with

1 Mr. Berg.

2           So the question was, are you going to be  
3 seeking a stay. No, we are not going to be seeking  
4 a stay, as I recall the conversation, the rates  
5 will go into effect immediately. Well, here we are  
6 five months later, and I think any definition of  
7 immediately is not five months later.

8           So I just had to jump in there, because you  
9 may not be privy to all that discussion, because  
10 that was the concern I had at the time, and the  
11 other Commissioners had, and we were assured that  
12 these rates would go into effect immediately, again  
13 which I think a reasonable conclusion means fairly  
14 soon after the order became final.

15           MR. BROWN: Chairman Mundell, Mr. Berg  
16 could address that issue as well, but I think the  
17 answer would be the same, which is that Qwest  
18 answered that we would implement, we were not  
19 seeking a stay, that was not our intention, and  
20 we sought to implement the rates immediately.  
21 However --

22           COM. IRVIN: Counsel, could you define  
23 immediately? Or maybe not your definition, but  
24 Qwest's definition of immediate.

25           MR. BROWN: I think Qwest's definition of