

**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 MS-7

TO THE

REBUTTAL TESTIMONY OF MICHAEL STARKEY

ON BEHALF OF ESCHELON TELECOM, INC.

DECEMBER 4, 2006



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October 16, 2006

Karen L. Clauson
Eschelon Telecom, Inc.
730 Second Avenue South, Suite 900
Minneapolis, MN 55402

Re: Eschelon/Qwest Minnesota Arbitration, Issue 9-58

Dear Ms. Clauson:

I am writing to advise you of a policy-related decision Qwest has reached that has a bearing on Issue 9-58, commingled arrangements, and the related sub-issues within Issue 9-58.

As you recall, Issue 9-58 and sub-issues involve Eschelon's requests that Qwest modify its existing provisioning processes and operating systems for commingled arrangements. As Qwest has explained in its response to Eschelon's petition for arbitration and in the pre-filed testimony of Ms. Karen Stewart, Qwest opposes these requests on several grounds, including on the ground that substantial changes to processes and systems that affect many CLECs should not be addressed in a single arbitration between Qwest and Eschelon.

Notwithstanding Qwest's substantive concerns and consistent with Qwest's view that changes of the type Eschelon is proposing should be reviewed in a forum open to all interested carriers, Qwest has decided to initiate review of these issues in the Change Management Process ("the CMP"). Qwest will submit these issues to CMP within the next two months. By proceeding in this manner, all Minnesota local exchange carriers that have an interest in these issues will be permitted to provide input.

[13141-0714/DA062880.001]

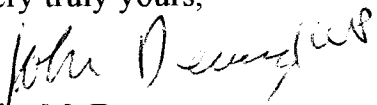
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Perkins Coie LLP and Affiliates

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Please contact me if you have any questions.

Very truly yours,



John M. Devaney

cc: Honorable Steve M. Mihalchick
Honorable Kathleen D. Sheehy
Gregory R. Merz
Julia E. Anderson
Kevin O'Grady

October 17, 2006

John M. Devaney (by email)
Perkins Coie
607 Fourteenth Street NW
Washington, D.C. 20005-2011

Re: Eschelon/Qwest Minnesota Arbitration Issue 9-58 and subparts

Dear Mr. Devaney:

As you know, Eschelon disagrees with your position and the manner in which you have described it in your letter. You attempt to portray Qwest as being concerned about “all Minnesota carriers that have an interest in these issues,” despite Qwest’s history of steadfastly refusing to address this issue in any collaborative or other forum for a period of years. (*See, e.g.*, Starkey Direct, p. 67 line 5 – p. 68, line 4; Starkey Rebuttal, p. 30, line 6 – p. 31, line 6; Starkey Surreply, p. 31, line 4 – p. 35, line 15; Exhibit BJJ-7.)

You also portray Issue 9-58 as a proposal to change “existing” processes, even though Qwest implemented those processes outside of ICA negotiations (as requested by Eschelon and other CLECs),¹ CMP (as promised by Qwest),² and Commission proceedings (as also promised by Qwest).³ (*See* Starkey Surrebuttal, p. 34.) Qwest has unilaterally implemented at least 77 non-CMP “TRRO” PCAT changes without going through CMP, negotiations, or Commission proceedings. (*See* Exhibit BJJ-44.) They are not existing processes; they are improper. If changes are now required, Qwest is the cost causer for those changes. (Starkey Surrebuttal, p. 35.)

Your letter omits any reference to updating the SGATs. At the January 5, 2005 CMP Oversight Committee Meeting (the minutes of which Qwest omitted from its allegedly complete Exhibits RA 26-28 but which Eschelon provided as part of Exhibit BJJ-36 and quoted in Exhibit BJJ-7), Becky Quintana of the Colorado commission staff objected to limiting products via CMP prematurely (*i.e.*, before Qwest updated its SGATs). (*See* Exhibit BJJ-36, p. 8.) Qwest committed to update the SGATs and has repeated that commitment since then. (*See* Starkey Surrebuttal, pp. 32-34.)

¹ *See, e.g.*, Exhibit BJJ-7, p. 4 (11/17/04 CMP November monthly meeting minutes); *see* Qwest Exhibit RA-26, p. 7; *see also* Exhibit BJJ-30.

² *See, e.g.*, Exhibit BJJ-7, pp. 8-9 (6/30/05); Qwest Exhibit RA-26, pp. 4-5.

³ Exhibit BJJ-7, pp. 8-9 (6/30/05).

Qwest claims that CLEC opposition to addressing these issues in CMP rather than ICA negotiations can somehow be construed as CLEC consent for Qwest to unilaterally impose its TRRO view “outside the scope of CMP”⁴ with no negotiation or arbitration. No reasonable interpretation of CLEC comments leads to this result. For example, TelWest specifically said in CMP that the issues “should be arbitrated and not unilaterally implemented by Qwest.”⁵ (*See* Starkey Direct, pp. 67-68.) Eschelon properly raised these issues in negotiations, and they are properly before the Commission for arbitration.

Your letter “advising” Eschelon of Qwest’s “policy-related” decision to finally bring issues through CMP comes too late. Qwest denied request after request to deal with these issues earlier. Now, when Eschelon has expended the time and resources to arbitrate these issues, Qwest attempts to pull the decision away from the Commission and belatedly decide them for itself in CMP. If the result is unsatisfactory, Qwest would have Eschelon expend additional resources to litigate the issues and again travel to six states to decide later still what should be decided now. Even at this late date, Qwest limits its offer to Issue 9-58 and does not address Issues 9-43 and 9-44.

If Qwest is interested in negotiating a resolution along the lines of the language proposed by Eschelon so that Qwest agrees in advance to the parameters (*e.g.*, single order, single circuit ID, single bill, without APOT changes), Eschelon is certainly willing to discuss implementing the mechanics through CMP. Absent such a resolution, however, these issues are properly before the Commission for resolution in this arbitration.

Sincerely,

Karen L. Clauson

cc (by email):

Honorable Kathleen D. Sheehy
Honorable Steve M. Mihalchick
Gregory R. Merz
Jason Topp
Julia E. Anderson
Kevin O’ Grady

⁴ *See* Exhibit BJJ-7 (3/29/06 – Qwest service management email to Eschelon)

⁵ *See* Exhibit BJJ-7 (11/17/04 CMP November monthly meeting minutes)