

Terri Dunnington  
Interrogatory Manager  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
(303) 672-2808

ATTACHMENT 6

Qwest. 

April 17, 2002

*OVERNIGHT DELIVERY*

Carole Washburn  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. S.W.  
Olympia, Washington 98504-7250

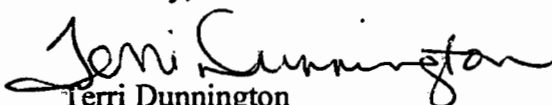
Re: Docket No. UT-003022 and UT-003040  
Qwest's Responses to Bench Request Nos. 046

Dear Ms. Washburn:

Enclosed are an original and five copies of Qwest's Response to Bench Request No. 046 in the above-mentioned docket.

If you have any questions, I can be reached at (303) 672-2808.

Sincerely,



Terri Dunnington  
Interrogatory Coordinator

Enclosure

cc: \ Attached Service List

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April, 2002 I caused a copy of Qwest's Response to Washington Utilities and Transportation Commission's Bench Request to be served upon the following via the U S mail.

<b>**Mark Trincherro</b> <b>**Lise K. Strom</b> Davis Wright Tremaine 1300 SW Fifth Avenue, Suite 2300 Portland, OR 97201-5682 Fax: (503) 778-5299 marktrincherro@dwt.com	<b>**Brooks Harlow</b> Miller, Nash, Wiener, Hager & Carlsen 4400 Two Union Square 601 Union Street Seattle, WA 98101 Fax: (206) 622-7485 harlow@millernash.com
<b>**Gregory J. Kopta</b> Davis Wright Tremaine 2600 Century Square, 25th Floor 1501 Fourth Avenue Seattle, WA 98101-1688 Fax: (206) 628-7699 Gregkopta@dwt.com	<b>**Arthur A. Butler</b> Ater Wynne Hewitt Dodson & Skerritt, LLP 601 Union Street, Suite 5450 Seattle, WA 98101-2327 Fax: (206) 467-8406 aab@aterwynne.com
<b>**Ann E. Hopfenbeck</b> MCI WorldCom Inc. 707 17th Street, Suite 3600 Denver, CO 80202 Fax: (303) 390-6333 Ann.Hopfenbeck@wcom.com	<b>**Bob Cattanaugh</b> Dorsey & Whitney LLP Pilsbury Center South 220 South 6 <sup>th</sup> Street Minneapolis, MN 55402
<b>**Mary B. Tribby</b> AT&T 1875 Lawrence Street Suite 1575 Denver, CO 80202 Fax: (303) 298-6301 mbtribby@att.com	<b>**Lisa Anderl</b> Qwest 1600 - 7th Ave. Suite 3206 Seattle, WA 98191

**\*\* denotes signed protective agreement**

*Mike Nash*

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QWEST CORPORATION

STATE: Washington  
DOCKET NO: Docket No. UT-003022 and UT-003040  
CASE DESCRIPTION: In the Matter of the Investigation into U S WEST's  
Compliance with Section 271  
INTERVENOR: Washington Bench  
REQUEST NO: BCH INF-04-046

REQUEST:

Please provide the Commission with the same information Qwest has provided in response to Public Counsel's Data Request No. ATG 07-052:

Please produce a list of and copies of every written contract, agreement , or letter of understanding between Qwest and a competitive local exchange carrier (CLEC) operating in Washington state which was entered into by Qwest since January 1, 2000, but not including any such agreement filed with the Washington Utilities and Transportation Commission.

On March 8, 2002, Qwest responded to Public Counsel's request No. ATG 07-052 and sent its response electronically to, among other parties, the Administrative Law Judge in this proceeding and the Commission's Records Center. Because the information was never filed in hard copy, and because responses to data requests are not usually served on the Administrative Law Judge or the Records Center, the information was never formally received by the Commission. This Bench Request is intended to allow the information to be included properly as a part of the Commission's files in this matter, and to allow the Commission to properly review it.

RESPONSE:

Qwest is attaching the agreements that it provided in response to Public Counsel's Data Request No. ATG 07-052.

Respondent: Legal



CONFIDENTIAL



March 2, 2000

Mr. Kevin Saville  
US West, Inc.  
200 South 5<sup>th</sup> Street  
Room 395  
Minneapolis, MN 55402

Re: Stipulation  
Docket No. P3009, 3052, 5096, 471, 3017/PA-11-1192

Dear Mr. Saville:

Enclosed please find a copy of the fully executed Stipulation Between ATI and US West which is confidential and trade secret.

Sincerely,

Dennis D. Ahlers  
Senior Attorney

Enclosure

CONFIDENTIAL/TRADE SECRET

STIPULATION BETWEEN ATI AND US WEST

February 28, 2000

[Trade Secret Data Begins

WHEREAS, US WEST, Inc., ("USWC") and Advanced Telecommunications, Inc., d/b/a Cady Communications, Inc., Cady Telemanagement, Inc., American Telephone Technology, Inc., Electro-Tel, Inc. and Intelicom, Inc. (collectively "ATI") have reached a settlement agreement that resolves numerous disputes between ATI and USWC (collectively "Parties), including the proposed merger currently being considered by the Minnesota Public Utilities Commission ("MPUC") in MPUC Docket No. P-3009, 3052, 5096, 421, 3017/PA-99-1192; and

WHEREAS, the settlement agreement between the Parties includes both regulatory and non-regulatory components; and

WHEREAS, as a result of this settlement agreement, ATI has agreed to drop its opposition to the proposed merger, as modified by this agreement; and

WHEREAS, USWC and ATI have memorialized the regulatory components of our settlement agreement in a Stipulation and Agreement ("Agreement") to be filed February 28, 2000 with the MPUC; and

WHEREAS, the Parties wish to set forth the additional terms of their agreement in this separate document; and

WHEREAS, the Parties consider these additional provisions to be of critical importance in reaching an overall resolution of this matter; and

WHEREAS, ATI has made clear that without these additional provisions, it would have continued to oppose the proposed merger and may also have pursued other legal recourse;

**NOW, THEREFORE IT IS AGREED THAT:**

Confidentiality

1. The terms of this agreement are confidential, contain trade secret information and shall not be disclosed unless pursuant to a lawful Order compelling such disclosure. In such event that production is compelled, neither Party shall disclose the terms of this agreement without first notifying the other Party.

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### Interconnection Agreement Implementation and Enforcement

2. In the accompanying Agreement filed with the MPUC on February 28, 2000, the Parties agreed to implement certain Direct Measures of Quality (DMOQs) under the Parties' Minnesota Interconnection agreement. The Parties agree that the implementation of these DMOQs shall become effective upon execution of this agreement. The DMOQ provisions in the Minnesota Interconnection Agreement include, among other things, Overall Performance Index measurements and credits. With respect to the Overall Performance Index credits for October and November, 1999, U S WEST agrees to credit ATI \$89,290 by March 15, 2000.

3. In USWC states other than Minnesota in which ATI presently operates or in which ATI shall establish operations, the Parties agree to assess USWC wholesale service quality using the same three performance measurements identified in the accompanying Agreement. In these states, the measurements shall be called "Service Performance Measurements" (SPMs). The Service Performance Measurements shall be based upon the Overall Performance Index DMOQs implemented pursuant to the interconnection agreement in Minnesota except that the minimum standards will be mutually negotiated by the parties. These SPMs may from time to time be modified under this agreement unless the Parties agree otherwise. Further, since the Parties intend these SPMs to be used for measurement purposes only, the Parties agree that this agreement provides no basis for a claim against US WEST to issue credits or pay penalties associated with the SPMs.

4. As soon as reasonably practicable, the Parties shall negotiate mutually acceptable minimum standards for assessing USWC's performance under each SPM in each state other than Minnesota. USWC shall report its performance under these standards to ATI on a monthly basis. The Parties agree that the SPMs for other states shall apply to customer migration from resale to unbundled loops.

5. The Parties understand that the standard for each SPM may differ from state to state. If USWC's performance fails to meet or exceed the standard for any SPM in any state for a consecutive three month period, the signatories to this agreement, or their successor officers, shall meet to determine how to improve performance. The Parties further agree that the standards initially established are performance baselines. The Parties agree that the standards should be evaluated from time to time and that they will in good faith negotiate modifications as appropriate.

6. ATI does not waive its right to any performance or per occurrence measurements or credits that may be established for USWC in any state under state or federal law, rule, or regulation or as may be available to ATI from adopting a new or amending its existing Interconnection Agreements. US WEST likewise reserves its right to challenge any performance or per occurrence measurements or credits that may be

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CONTAINS TRADE SECRET DATA

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established for USWC in any state under state or federal law, rule, or regulation or as may be available to Cady from adopting a new or amending its existing Interconnection Agreements.

#### Reciprocal Compensation

7. Cady has asserted that USWC must pay reciprocal compensation for internet related terminating traffic under its Interconnection Agreements and under applicable state and federal law. USWC has asserted that it has no legal obligation to pay reciprocal compensation for such traffic. Notwithstanding these differences and without waiving their positions, the parties agree for settlement purposes that reciprocal compensation for terminating internet traffic shall be paid at the most favorable rates and terms contained in an agreement executed to date by USWC. The parties will develop a full implementation plan on these reciprocal compensation issues by March 31, 2000. Further, the parties agree that for purposes of applying these rates and terms and conditions they will work cooperatively to develop a means by which ISP traffic will be broken out in the least costly manner practicable.

#### Resale Agreement Issues

8. The Parties have had a long dispute over various wholesale discount and resale agreement issues. USWC continues to disagree with ATI's position on these issues. However, USWC agrees to pay ATI \$380,000 to resolve outstanding disputes between the Parties relating to the wholesale discount and the definition of the circumstances in which the discount on twenty or more stations/lines at a single location, as described in ATI's February 22, 2000 letter. This credit shall be made on or before March 15, 2000 and will resolve all past and future claims associated with: (1) the implementation of the Resale discount; and (2) the interpretation of a "location" for the application of a discount for Centron systems consisting of twenty or more stations/lines at a single location.

9. USWC also agrees to credit ATI with \$15,800 through its normal business process to correct past errors in applying the appropriate discounts for flat rated trunking and to apply the flat rate trunking discount appropriately on a going forward basis. In addition, USWC has as of February 15, 2000, credited ATI for \$175,918 relating to situations where both Parties agree that ATI has twenty or more lines at a location, but the discount had not yet been applied. ATI will verify that the credits have been appropriately made. USWC will make every effort to accurately apply the twenty or more line discount on a going forward basis and agrees to provide appropriate credits to ATI in the event of errors in this process.

10. With respect to termination liability assessments (TLA) and while the Minnesota Commission continues to have an open docket on this issue, USWC agrees to continue to suspend such assessments in Minnesota when a USWC customer converts to an ATI customer on a resale basis and to credit ATI with any such TLA payments ATI

has made in Minnesota. USWC understands that the outstanding TLA charges that remain to be suspended is approximately \$16,000. ATI understands that USWC will continue to levy TLAs in other states. ATI reserves its right to pursue all avenues available to protest such assessments in any forum. USWC reserves its right to seek to have TLAs reinstated in Minnesota, and to assess such TLAs going forward, if permitted under law. Both Parties reserve all rights, but agree to negotiate in good faith, with respect to any potential retroactive assessments, should TLAs be permitted under Minnesota law.

#### Dedicated Provisioning Team

11. USWC agrees to dedicate Aimee Croatt as a Coach and locate her at ATI's offices at 511 11<sup>th</sup> Avenue South in Minneapolis for a period of at least six months. If Ms. Croatt is not available for assignment, USWC will provide another Coach who is knowledgeable of and experienced in working with all the different groups and functions within USWC related to provisioning. ATI must approve the assignment of any Coach other than Ms. Croatt. USWC will also utilize a service delivery coordinator (SDC) to assist the Coach. The parties recognize that the Coach and the SDC will need to complete training before the requirements in this paragraph 11 and paragraph 12 can be fully implemented. All properly input orders that, for one reason or another, are not flowing through the accepted process would be the responsibility of the Coach or SDC. The Coach would have access to all USWC's systems and would work within the USWC organization and using USWC's processes to resolve issues as quickly as possible. The Coach would track the reasons for problem orders to aid in defining and refining current processes for both USWC and ATI. ATI will provide any facilities requested by USWC for the Coach. ATI has also indicated that it will work cooperatively with USWC to identify and pay the incremental and extraordinary costs associated with the dedicated provisioning team.

12. At the appropriate time, USWC agrees to dedicate a provisioning team to work with the Coach and handle all interaction with ATI on order processing. After spending two months on site with the ATI provisioning team, the Coach and/or the SDC should have the criteria and information available to make a decision as to how many US West provisioners will be needed to oversee the ATI orders. The provisioning team will be physically located at the 511 11<sup>th</sup> Avenue South location. The parties agree to evaluate the dedicating provisioning team requirement in 12 months after the effective date of this agreement.

#### Migration of ATI customers from resale to facilities based service

13. In the accompanying agreement, USWC and ATI agreed to continue to work together to develop a specific and detailed migration plan. The Parties agree that the DMOQs under the Minnesota interconnection agreement and accompanying agreement will apply to customer migration from resale to UNEs. The Parties here also agree that the SPMs for other states will apply to migration of customers in those states.

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## Dispute Resolution

14. In the event of future disputes between the Parties, in addition to the dispute resolution mechanism provided under the Interconnection Agreement, the Parties agree to use the following alternative dispute resolution procedures as their preferred remedy; provided, however, that in the event the negotiations referenced below do not resolve the dispute within thirty (30) Business Days of the initial written request, unless the Parties mutually agree to a different time frame. Either Party may elect, before filing a claim or response in arbitration (as the case may be) to submit an otherwise arbitrable dispute to the Commission, the FCC, or a court of appropriate jurisdiction.

Negotiations. At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising between the Parties. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

Arbitration. Unless either Party chooses to submit the dispute to the Commission, FCC or court of competent jurisdiction, if the negotiations do not resolve the dispute within the applicable time frame, the dispute, if allowed under applicable law, shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in these rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within thirty (30) Business Days of the demand for arbitration. The arbitrator shall control the scheduling so as to process the matter expeditiously.

The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

Expedited Arbitration Procedures. If the issue to be resolved through the negotiations referenced above directly and materially affects service to either Party's end user customers, including, without limitation, any dispute that relates to the timeliness of USWC's processing or provisioning of a request or order for collocation, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration or other legal recourse shall be seven (7) Business Days. Once such a service affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., Rules 53 through 57).

Costs. Each Party shall bear its own costs of these procedures, including the costs of responding to reasonable discovery. If the arbitrator finds that a Party's discovery requests require the responding Party to undertake unreasonable or unnecessarily burdensome efforts or expense, the Party seeking discovery shall reimburse the responding Party the costs of production of documents in response to such requests (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

#### Severability

15. The Parties agree that in the event that any provision of this agreement is found to be unlawful or otherwise prohibited by a regulatory agency or court of competent jurisdiction, the remaining provisions of this agreement shall remain in full force and effect.

#### Execution and Effective Date

16. This Stipulation resolves numerous issues between Cady and USWC, including all issues among the parties in MPUC Docket Number P-3009, 3052, 5096, 421, 3017/PA-99-1192, related to approval and consummation of the merger. The Parties agree to expressly represent to the Minnesota Public Utilities Commission that they recommend acceptance of the accompanying Stipulation and Agreement without reservation, and agree not to engage in any advocacy to the contrary or in support of any additional conditions in the USWC/Qwest merger proceeding.

17. It is expressly agreed by and between the Parties that nothing contained in this Stipulation, shall be deemed an admission or declaration against the interests of any of the Parties, or shall in any way prejudice the rights or positions of any of the Parties in

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any other administrative or judicial proceeding of any sort. The Parties also agree that any documents, materials, or statements made in furtherance of this agreement, shall not be admissible as evidence in any regulatory or judicial proceeding, and will not be discussed or described in any way with any person or persons not currently employed by the parties, except to enforce this agreement.

18. This Stipulation applies to each of the parties and shall be binding on the successors and assigns of the parties

19. The provisions of this Stipulation shall take effect upon execution and will terminate on March 17, 2002.

20. This Stipulation may be executed in identical counterparts with the same effect as if a single copy were executed.  
Trade Secret Data Ends]

US WEST COMMUNICATIONS, INC.

Dated: February \_\_, 2000

By: [Signature]  
Title: Personnel Director

ADVANCED TELECOMMUNICATIONS, INC.

Dated: February 23, 2000

By: [Signature]  
Title: Chief Operating Officer / Chief Financial Officer

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## TRIAL AGREEMENT

**[Trade Secret Data Begins**

This Trial Agreement (the "Agreement") is entered into by and between QWEST Corporation (formerly U S WEST Communications, Inc.) ("QWEST") and Eschelon Telecom, Inc. (formerly Advanced Telecommunications, Inc. dba Cady Communications, Inc., Cady Telemanagement, Inc., American Telephone Technology, Inc., Electro-Tel, Inc. and Intellectcom, Inc.) (collectively "Eschelon"). On a Trial basis, QWEST and Eschelon (collectively the "Parties") have agreed to locate a dedicated provisioning team at Eschelon's facility at 51T 11<sup>TH</sup> Avenue South, Suite 340, Minneapolis, MN 55415 (the "Facility"), and Eschelon has agreed to pay the incremental and extraordinary costs associated with the dedicated provisioning team.

Eschelon agrees to be a Trial Participant for the QWEST Market Trial ("Trial") of the Products and Services that are set forth on Attachment 1 (collectively, the "Services"), which is incorporated herein by this reference. Section 3 of Attachment 1 provides an overview of the Trial and describes goals of the Trial.

Eschelon understands and acknowledges that the Agreement is a Trial, and that this Trial does not commit either Party to provide a dedicated provisioning team outside the context of the Trial or to continue providing a dedicated provisioning team after conclusion of the Trial. Eschelon also understands and acknowledges that, other than this Agreement, there is no legal, regulatory, or contractual requirement that QWEST locate a dedicated provisioning team at a competitive local exchange provider's facility. This Trial will be conducted under the following Terms and Conditions, including Attachment 1.

1. **ABOUT THE SERVICE.** The respective responsibilities of QWEST and Eschelon are described in Attachment 1.
2. **TERM.** The Parties have agreed that this Agreement is effective as of May 1, 2000 and will expire one (1) year from this date.
3. **PAYMENT AND CHARGES.**
  - 3.1 Eschelon shall pay QWEST the sum of \$9,206 each month for the term of the Agreement. Such charges do not include applicable taxes imposed by law.
  - 3.2 Eschelon shall pay each bill thirty days after receipt of the invoice. Late payments are subject to a charge of one and one-half percent (1-1/2%) per month, or the maximum allowed by law, whichever is less.
4. **TERMINATION.** Either Party may terminate this Agreement for cause provided written notice specifying the cause for termination and requesting correction within thirty (30) days is given the other Party and such cause is not corrected within such thirty (30) day period. Cause is any material breach of the terms of this Agreement.
5. **LIMITATION OF LIABILITY.** QWEST SHALL NOT BE LIABLE TO ESCHELON FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFIT, OR LOSS OF INFORMATION OR DATA. IN NO EVENT SHALL

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QWEST LIABILITY TO ESCHELON FOR ANY DAMAGES RELATED TO SERVICE EXCEED AN AMOUNT EQUAL TO THE TOTAL AMOUNT THAT WOULD HAVE BEEN CHARGED TO ESCHELON FOR SERVICE NOT PERFORMED OR IMPROPERLY PERFORMED. REMEDIES OF ESCHELON UNDER THIS AGREEMENT ARE EXCLUSIVE AND LIMITED TO THOSE EXPRESSLY DESCRIBED IN THIS AGREEMENT.

6. **PERSONAL INJURY; PROPERTY DAMAGE.** Each Party shall be responsible for any actual physical damages it directly causes in the course of its performance under this Agreement, limited to damages resulting from personal injuries, death, or property damage arising from negligent acts or omissions; PROVIDED HOWEVER, THAT, EXCEPT AS PROVIDED IN SECTION 4.2.1.4 OF ATTACHMENT 1, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFIT, OR LOSS OF INFORMATION OR DATA.
7. **DISCLAIMER OF WARRANTIES; LIMITED REMEDY.** QWEST MAKES NO WARRANTY OF ANY KIND, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. In the event of an error, delay, defect, breakdown, or failure in Service or QWEST platform, QWEST's sole obligation shall be limited to the use of reasonable diligence under the circumstances to restore Service. Eschelon's sole and exclusive remedy in the event of an error, delay, defect, breakdown or failure in Service shall be limited to a daily prorated credit of any monthly service fee Eschelon paid for Service during the period of said event. No credit shall be available for difficulties such as Eschelon equipment failure, slow dial tone, busy circuits, any local telephone company or long distance company network failures or other causes beyond QWEST's reasonable control. Nothing in this section in any way affects or limits the rights Eschelon has under other agreements with QWEST or in consequence of any statute, regulation, or rule to service quality and performance guarantees, credits, penalties, or compensation of any kind.
8. **UNCONTROLLABLE CIRCUMSTANCES.** Neither Party shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative, judicial, executive or administrative authorities; or any other circumstances which are not within its reasonable control.
9. **CONFIDENTIALITY, PRESS RELEASES.** The terms of this Agreement are confidential, contain trade secret information and shall not be disclosed unless pursuant to a lawful Order compelling such disclosure. In such event that production is compelled, neither Party shall disclose the terms of this Agreement without first notifying the other Party. Neither Party shall use the other's name in any press releases, sales promotions, or other publicity matters relating to the Trial or the Services without written approval from the other Party. Nothing in this section in any way affects or limits rights and obligations of the Parties relating to confidentiality and nondisclosure under other agreements with one another.

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10. **DISPUTE RESOLUTION.** If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents should arise, and the Parties do not resolve it in the ordinary course of their dealings (the "Dispute"), then it shall be resolved in accordance with the then-current rules of the American Arbitration Association ("AAA"). A single arbitrator engaged in the practice of law and knowledgeable about the subject matter of the dispute shall conduct the arbitration. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the Dispute. The arbitrator shall not have authority to award punitive damages. All expedited procedures prescribed by the AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Minneapolis, Minnesota metropolitan area or in another mutually agreeable location. It is acknowledged that the Parties, by mutual, written agreement, may change any of these arbitration practices for a particular, some, or all Dispute(s).
11. **LAWFULNESS.** This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any provision not in compliance is void. This Agreement shall be governed by the laws of the state where Service is purchased.
12. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the Parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.
13. **HUMAN RELATIONS.**
  - 13.1 Eschelon will not attempt to manage, supervise, or otherwise direct the performance of QWEST employees, including the Coach and the Service Delivery Coordinator ("SDC").
  - 13.2 Eschelon agrees that during the term of the Agreement and for a period of 12 months thereafter, without the prior written consent of QWEST, Eschelon will not actively solicit for employment any employee of QWEST, including the Coach and SDC, working in its Facility.
  - 13.3 Eschelon agrees that it will abide by and support in every respect the QWEST Code of Conduct, related policies and procedures, and applicable state and federal laws, as the same relate to the working conditions of the Coach and the SDC working in its Facility. Eschelon's agreement to so abide specifically includes but is not limited to the QWEST Non-Discrimination, Workplace Violence, Sexual Harassment, and Safety and Hygiene policies, abbreviated copies of which are attached as Attachment 2.
14. **RESPONSIBILITY FOR ENVIRONMENTAL CONTAMINATION.** Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any

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environmental hazard that either Party did not introduce to the affected work location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any environmental hazard that the indemnifying Party, its contractors or agents introduce to the work locations or (ii) the presence or release of any environmental hazard for which the indemnifying Party is responsible under applicable law.

#### **15. GENERAL.**

- 15.1 Eschelon shall not assign or transfer any interest in this Agreement without the prior written consent of QWEST, which consent shall not be unreasonably denied or delayed. QWEST may assign or transfer this Agreement to any parent, subsidiary, successor or affiliated company without the prior written consent of Eschelon.
- 15.2 This Agreement constitutes the entire understanding between Eschelon and QWEST with respect to the Service provided herein and supersedes any prior Agreement or understanding(s).
- 15.3 If either Attachment conflicts with any terms or conditions stated in the body of this Agreement, this Agreement shall govern the Parties' relationship with respect to such conflict. If the terms and conditions of this Agreement conflict with any other document, the terms and conditions stated in this Agreement shall govern the Parties' relationship with respect to such conflict.
- 15.4 This Agreement benefits Eschelon and QWEST. There are no third Party beneficiaries.
- 15.5 Failure or delay by either Party to exercise any right, power, or privilege hereunder, will not operate as a waiver hereto.
- 15.6 If a Party returns this Agreement by facsimile machine, the signing Party intends the copy of this authorized signature printed by the receiving facsimile machine to be its original signature.

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16. EXECUTION. The Parties have read, understand and agree to all of the above terms and conditions of this Agreement and hereby execute and authorize this Agreement as of the latest date shown below.

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Eschelon Telecom, Inc. (formerly  
Advanced Telecommunications, Inc. dba  
Cady Communications, Inc., Cady  
Telemanagement, Inc., American  
Telephone Technology, Inc., Electro-Tel,  
Inc. and Intellicom, Inc.)

QWEST Corporation (formerly U S  
WEST Communications, Inc.)

  
Authorized Signature

  
Authorized Signature

J. Jeffery Oxley  
Name Typed or Printed

Jasmin T. Espy  
Name Typed or Printed

Executive Director - Law and Policy  
Title

Vice President - Marketing  
Title

7/14/00  
Date

7-21-00  
Date

730 Second Avenue South, Suite 1200  
Minneapolis, MN 55402

Elizabeth J. Stamp  
1801 California Street, Suite 2410  
Denver, CO 80202

Address for Notices

Address for Notices

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CONTAINS TRADE SECRET DATA



**ATTACHMENT 1  
TO  
TRIAL AGREEMENT**

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1. **PARTICIPANT'S NAME.** The Participant is Eschelon Telecom, Inc. (formerly Advanced Telecommunications, Inc. dba Cady Communications, Inc., Cady Telemanagement, Inc., American Telephone Technology, Inc., Electro-Tel, Inc. and Intelcom, Inc.).
2. **PARTICIPANT'S LOCATION(S).** The location for the Trial shall be 511 11<sup>th</sup> Avenue South, #340, Minneapolis, MN 55415 (the "Facility").

3. **TRIAL OVERVIEW AND GOALS.**

During the Trial, subject to the parameters outlined below, QWEST will locate a provisioning team, consisting of at least two QWEST employees, at the Facility. Though the activities performed by these employees will not differ from the activities these employees would perform on any CLEC's behalf at a QWEST service center, the QWEST employees will perform such activities at the Facility for the term of the Trial.

The goals of the Trial include, but are not limited to, the following three items. The first goal is to evaluate whether offering dedicated provisioning teams at customer locations outside of QWEST service centers would be feasible, given the logistics of providing provisioning support on a broad scale. The second goal is to evaluate whether offering dedicated provisioning teams at customer locations outside of QWEST service centers has the potential to significantly reduce the number of errors in orders submitted by customers. The third goal is to evaluate whether offering dedicated provisioning teams at customer locations outside of QWEST service centers, when compared to existing provisioning support arrangements, has the potential to facilitate the resolution of service and provisioning issues.

4. **THE TRIAL.** The Trial shall consist of the Services as set forth in this Section 4.

4.1 **Facilities and Equipment**

4.1.1 Eschelon shall provide the following facilities and equipment so QWEST can provide the services identified in this Agreement.

4.1.1.1 Eschelon will provide to QWEST a secured office at the Facility. The office will have a lock on the door. Eschelon will not have a key to the secured office at the Facility. The QWEST Coach and SDC will be the only people with a key to the secured office.

4.1.1.2 Eschelon will provide office furnishings, including desks and chairs, for the office. Eschelon will provide power for the office.

4.1.1.3 Eschelon will provide 5 telephone lines (with long distance functionality), 2 telephone sets, and a dedicated facsimile machine for QWEST's use.

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- 4.1.1.4 Eschelon will provide badges for the Coach and the SDC. These badges will provide access to the two main doors at the Facility from 6:30 am to 6:30 pm.
- 4.1.1.5 Eschelon will provide parking at the Facility free of charge.
- 4.1.2 QWEST shall provide the following equipment so it can provide the services identified in this Agreement.
  - 4.1.2.1 QWEST will provide 2 computers and 2 printers solely for the use of the Coach and SDC.
  - 4.1.2.2 QWEST will install the computers in the secured office provided by Eschelon and connect the computers via dial-up access to appropriate QWEST systems.

## 4.2 Duties and Services

- 4.2.1 Eschelon shall perform the following activities:
  - 4.2.1.1 Eschelon will perform normal order provisioning activities (i.e., order issuance, order updates, and error resolution).
  - 4.2.1.2 Eschelon will escalate and seek the expedition of orders/repairs as it considers appropriate.
  - 4.2.1.3 Eschelon and QWEST will consider the adequacy of assigned human resources every ninety (90) days.
  - 4.2.1.4 Eschelon recognizes that QWEST has an obligation to protect the confidentiality of the data in its computer systems. Eschelon agrees that it shall not, under any circumstances, attempt to access the computers provided by QWEST that allow access to QWEST's computer systems. Inappropriate or unauthorized access by Eschelon to QWEST's computer systems through the computers provided by QWEST is grounds for the immediate termination of this Agreement with cause. Eschelon further agrees to release, indemnify, defend and hold harmless QWEST from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other Party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the breach of this section by Eschelon or any its officers, directors, employees, agents, or subcontractors.

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4.2.1.5 Eschelon agrees to hold in strict confidence all Confidential Information received from QWEST as a result of this Agreement and to use such information solely for the purposes of this Agreement. Eschelon agrees to treat such Confidential Information as confidential unless otherwise agreed to in writing by both parties. In handling the Confidential Information, Eschelon agrees: (a) not to copy any such Confidential Information; (b) not to make disclosure of any such Confidential Information to anyone; and (c) to appropriately notify its employees and subcontractors not to make disclosure of any such Confidential Information to anyone. The obligations set forth herein shall be satisfied by Eschelon through the exercise of at least the same degree of care used to restrict disclosure of its own information of like importance. Upon termination of this Agreement for any reason or upon request by QWEST, Eschelon shall return to QWEST all Confidential information received from QWEST as a result of this Agreement or certify that it has destroyed all Confidential Information received from QWEST as a result of this Agreement.

4.2.2 QWEST shall perform the following activities:

4.2.2.1 QWEST Coach shall participate on conference calls between Eschelon and QWEST as appropriate.

4.2.2.2 The QWEST Coach and SDC shall investigate on a daily basis:

- Reject and other issues arising from Eschelon provisioning activities
- Orders that have not been issued/typed by QWEST
- Confirm information for Firm Order Commitments
- Outstanding issues such as CRM, customer notifications and other issues with QWEST representatives.

4.2.2.3 The QWEST Coach and SDC shall collect data for Eschelon's pending orders.

4.2.2.4 The QWEST Coach and SDC shall use the data to conduct root cause analysis and identify trends for issues, including:

- Order Provisioning Issues (orders, interaction with center processes, policies)
- Request Rejects
- Line Validation (PIC issues, conversions, features)
- Billing Inquiries (including verifying Eschelon CSRs)
- Escalations/expedites
- Chronic Repair and Service Issues (as they relate to order provision functions)

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- FOC timeliness
- Order timeliness/completion

4.2.2.5 The QWEST Coach and SDC shall use the data, root cause analysis and identified trends to:

- Recommend training (as appropriate) to QWEST and/or Eschelon
- Propose process/policy change (as appropriate) to QWEST and/or Eschelon
- Present quarterly reviews of the on-site team's status, successes, and failures to senior management of both Eschelon and QWEST
- Recommend action plans to senior management of both Eschelon and QWEST
- Implement action plans approved by senior management of both Eschelon and QWEST
- Provide feedback (as appropriate) to QWEST and/or Eschelon

4.2.2.5 The QWEST Coach and SDC will act as a liaison with QWEST on other service and order provisioning issues that are not resolved through normal operations and provisioning processes.

4.2.2.6 The QWEST Coach and SDC will provide ongoing support to Eschelon in understanding QWEST's normal operating and provisioning processes.

4.2.2.7 On-Site Reporting:

- For the term of this Agreement, the QWEST Coach and SDC will report and be located at the Facility with occasional return to QWEST for meetings/ongoing training.
- The QWEST Coach or SDC will generally be available on-site during regular business hours.
- The QWEST Coach will provide a schedule to Eschelon to ensure that Eschelon is aware of the Coach's and SDC's planned availability.

4.2.2.8 QWEST and Eschelon will consider the adequacy of assigned human resources within sixty (60) days after this Agreement is signed.

4.2.2.9 QWEST agrees to hold in strict confidence all Confidential Information received from Eschelon as a result of this Agreement and to use such information solely for the purposes of this Agreement. QWEST agrees to treat such Confidential Information as confidential unless otherwise agreed to in writing by both parties. In handling the Confidential Information, QWEST agrees: (a) not to copy any such Confidential Information; (b) not

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to make disclosure of any such Confidential Information to anyone; and (c) to appropriately notify its employees not to make disclosure of any such Confidential Information to anyone. The obligations set forth herein shall be satisfied by QWEST through the exercise of at least the same degree of care used to restrict disclosure of its own information of like importance. Upon termination of this Agreement for any reason or upon request by Eschelon, QWEST shall return to Eschelon all Confidential information received from Eschelon as a result of this Agreement or certify that it has destroyed all Confidential Information received from Eschelon as a result of this Agreement.

**4.2.3 QWEST shall not perform the following activities:**

**4.2.3.1** The QWEST Coach and SDC shall not perform normal order provisioning activities (i.e., order issuance, order updates, or error resolution).

**4.2.3.2** The QWEST Coach and SDC shall not perform account team functions (i.e., contract issues and negotiations).

**4.2.3.3** The QWEST Coach and SDC will not perform escalations or seek expedites on behalf of Eschelon; however, they will support Eschelon in the escalation and expedite process for orders/repairs.

**5. NOTICE.** Each Party shall provide any and all notices required under this Trial Agreement to the other Party at the following address:

**PARTICIPANT'S ADDRESS**

J. Jeffery Oxley  
Executive Director - Law and Policy  
730 Second Avenue South, Suite 1200  
Minneapolis, MN 55402

**QWEST'S ADDRESS**

Elizabeth J. Stamp  
Director - Interconnect  
1801 California Street, Suite 2410  
Denver, CO 80202

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**CONTAINS TRADE SECRET DATA**

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**ATTACHMENT 2  
TO  
TRIAL AGREEMENT**

**Non-Discrimination**

**[Trade Secret Data Begins**

It is the policy of QWEST to provide equal employment opportunity for employees and applicants in connection with employment decisions. Unlawful discrimination against an individual based on race, gender, age, sexual orientation, religion, national origin, disabilities, or "covered veteran" status, or any other form of unlawful discrimination or harassment, is contrary to QWEST policy and strictly prohibited. Each QWEST employee is responsible for promoting a workplace free of unlawful discrimination. Because laws protecting an individual's right to non-discrimination based on sexual orientation only exist on a state or local basis, the Non-Discrimination Policy of the Company with respect to sexual orientation extends to all employees, regardless of whether or not a state or local law applies.

QWEST is committed to a policy of affirmative action to employ and to advance in employment minorities, women, qualified individuals with disabilities, special disabled veterans and veterans of the Vietnam War.

Generally, non-discrimination means making employment decisions without regard to a person's race, gender, age, sexual orientation, religion, national origin, disabilities, or "covered veteran status".

Examples of employment decisions include, but are not limited to: evaluating employees' performance; making recommendations on hires, transfers, and promotions; recommending discipline, corrective action and termination.

In some instances, a disability or a required religious practice may need to be taken into account when the individual is otherwise qualified. An individual may be disabled under Federal or state law if he or she has an ongoing physical or mental condition or impairment that substantially limits his or her life activities. A disability may, but does not necessarily, include ongoing conditions such as epilepsy, diabetes, HIV/AIDS, cancer, etc. The legal duty of nondiscrimination may include a duty to make a reasonable accommodation.

Harassment on the basis of race, gender, age, sexual orientation, religion, national origin, disabilities, or "covered veteran" status will not be tolerated and can be illegal. Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to a basis described above can constitute harassment.

Written or graphic material placed on walls, bulletin boards or elsewhere in the employer's premises, or circulated in the workplace that denigrates or shows hostility toward an individual or group on the basis described above can also constitute harassment.

If you have a violation to report, or if you feel that you have been discriminated against, you should contact your supervisor or manager, the EEO Hotline (1-800-336-4636), or the Human Resources Department.

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Retaliation against an employee who complains about or reports discrimination or who participates in an investigation concerning alleged discrimination is prohibited.

Not only must managers and supervisors conduct themselves in a manner consistent with this policy, they are also responsible for establishing and maintaining a work environment free of unlawful harassment and unlawful discrimination. Managers and supervisors must identify potential incidents of discrimination immediately and report them to the EEO Hotline (1-800-336-4636) or Human Resources.

The interpretation and examples in this policy are illustrative and not intended to be all-inclusive.

### **Workplace Violence**

Employees shall not use violence or threats of violence at work.

QWEST prohibits violence or threats of violence at work. This prohibition includes threatening language, both verbal and written, threatening gestures or behavior, and/or actual physical fighting by any employee. Firearms and/or weapons of any kind are prohibited on Company property, in the work place, in Company vehicles or in an employee's possession while on Company property or on Company business. It is the responsibility of each employee to be aware of, and to adhere to, this policy and report any violations to the appropriate management representative.

Management is responsible to take appropriate action whenever threats of violence or physical violence are observed by or reported to management.

### **Safety & Industrial Hygiene**

QWEST recognizes the importance of providing employees with a safe and healthful workplace free of recognized hazards. To accomplish this, QWEST aims to conduct its operations in a manner that reasonably minimizes the risk of occupational injury and illness, reasonably minimizes property damage, and complies with applicable laws and regulations. In addition, QWEST adopts detailed compliance plans for managing safety risks as necessary.

Employees must understand and adhere to all applicable occupational safety and health requirements, and promptly report unsafe acts, hazardous conditions, or suspected violations of the law.

The rules for QWEST operations and state and federal occupational safety and health laws are complex, and your Environmental Health and Safety (EHS) group has developed detailed compliance plans for various tasks and operations. These plans help managers and employees understand what their occupational safety and health responsibilities are.

Employees must be aware of occupational safety and health requirements, and be alert and responsive to potential violations and hazards. Each QWEST employee must understand and follow those detailed compliance plans that apply to their work and should seek training and

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help where necessary. Employee compliance and reports of hazards are vital to making QWEST an even safer place to work.

Employees must immediately obtain the approval of their EHS group prior to allowing any governmental agency, including the Occupational Safety and Health Administration (OSHA), access to Company facilities. If served with a subpoena or search warrant or if a serious accident occurs involving multiple injuries or a fatality, your EHS group and the EHS lawyer in the QWEST Law Department must be contacted immediately. In either case, call UniCALL 800-654-2525.

### **Sexual Harassment**

Sexual Harassment, a form of sex discrimination, is illegal, contrary to QWEST policy, and strictly prohibited. Each QWEST employee is responsible for promoting a workplace free of unlawful sexual harassment.

**Unlawful Sexual Harassment:** The federal government has defined sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include a range of subtle and not-so-subtle behaviors. Examples of sexual harassment are: unsolicited verbal sexual comments or jokes; subtle pressure for sexual activity; repeated unwelcome flirtations, advances or propositions; graphic remarks about a person's body or sexual activities; or patting, pinching or unnecessary touching.

Sexually oriented gestures, noises, remarks or rumors about a person's sexuality or sexual experience directed at or made in the presence of any employee can be sexual harassment. Engaging in such behavior is unacceptable, whether at the workplace or at any work-related setting outside the workplace, such as a business trip or business-related social event.

Displaying pictures, reading or viewing posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, can also be a form of sexual harassment, and, in any event, is prohibited.

Managers and supervisors have special responsibilities with respect to this sexual harassment policy. Not only must managers and supervisors conduct themselves in a manner consistent with this policy, they are also responsible for establishing and maintaining a workplace free of unlawful sexual harassment. They must identify suspected incidents of sexual harassment

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immediately to their assigned Human Resources Representative and/or the EEO Hotline (1-800-336-4636).

QWEST will not tolerate behavior in violation of this sexual harassment policy of, or by, non-employees, such as customers, dealers/contractors, visitors, or others.

Concerns will be reviewed and investigated as appropriate. Even conduct that does not rise to the level of unlawful sexual harassment may nonetheless constitute poor business judgment and be grounds for discipline.

If you believe that you have been subjected to sexual harassment, promptly contact either your supervisor, the Human Resources Department, or call the EEO Hotline (800/336-4636).

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**CONTAINS TRADE SECRET DATA**

**Q110166**



EXHIBIT  
3

Qwest  
1801 California Street  
Suite 5200  
Denver, CO 80202  
Telephone: 303-992-2787  
Facsimile: 303-992-2789

Greg Casey  
Executive Vice President  
Wholesale Markets

November 15, 2000

CONFIDENTIAL AGREEMENT

VIA ELECTRONIC MAIL AND FACSIMILE

Richard A. Smith  
President and Chief Operating Officer  
Eschelon Telecom, Inc.  
730 Second Avenue South, Suite 1200  
Minneapolis, Minnesota 55402

Re: Escalation procedures and business solutions

Dear Rick:

[Trade Secret Data Begins

As a result of ongoing discussions between Eschelon and Qwest in recent days, the parties have addressed numerous proposals intended to better the parties' business relationship. In principle, the parties have agreed to: (1) develop an implementation plan by which to mutually improve the companies' business relations and to develop a multi-state interconnection agreement; (2) arrange quarterly meetings between executives of each company to address unresolved and/or anticipated business issues; and (3) establish and follow escalation procedures designed to facilitate and expedite business-to-business dispute solutions.

1. IMPLEMENTATION PLAN

By no later than December 31, 2000, the parties agree to meet together (via telephone, live conference or otherwise), and as necessary thereafter, to develop an Implementation Plan. The purpose of the Implementation Plan ("Plan") will be to establish processes and procedures to mutually improve the companies' business relations and to develop a multi-state interconnection agreement. Both parties agree to participate in good faith and dedicate the necessary time and resources to the development of the Implementation Plan, and to finalize an Implementation Plan by no later than April 30, 2001. Any necessary escalation and arbitration of issues arising during development of the Plan must also be completed by April 30, 2001.

During development of the Plan, and thereafter, if an agreed upon Plan is in place by April 30, 2001, Eschelon agrees to not oppose Qwest's efforts regarding Section 271 approval or to file complaints before any regulatory body concerning issues arising out of the Parties' Interconnection Agreements. Both before and after April 30, 2001, Eschelon reserves the right, after notice to Qwest, to participate in regulatory cost proceedings or dockets regarding the establishment of rates. Notwithstanding any other provision of this agreement, if no Plan is agreed upon by April 30, 2001, the Parties will have all remedies available at law and equity in any forum.

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## QUARTERLY MEETINGS

Beginning in 2001 and continuing through the end of 2005, the parties agree to attend and participate in quarterly executive meetings, the purpose of which will be to address, discuss and attempt to resolve unresolved business issues and disputes, anticipated business issues, and issues related to the Parties' Interconnection Agreements, Implementation Plan, and other agreements. The meetings will be attended by executives from both companies at the vice-president and/or above level.

## 3. ESCALATION PROCEDURES

The parties wish to establish a business-to-business relationship and agree that they will resolve any and all business issues that may arise between them, including but not limited to, their Interconnection Agreements and Amendments, in accordance with the escalation procedures set forth herein. The parties agree, subject to any subsequent written agreement between the parties, to: (1) utilize the following escalation process and time frames to resolve such disputes; (2) commit the time, resources and good faith necessary to meaningful dispute resolution; (3) not proceed to a higher level of dispute resolution until either a response is received or expiration of the time frame for the prior level of dispute resolution; (4) grant to one another, at the request of the other party, reasonable extensions of time at Levels 1 and 2 of the dispute resolution process to facilitate a business resolution; and (5) complete Levels 1, 2 and 3 of dispute resolution before seeking resolution through arbitration or the courts.

<u>Level</u>	<u>Participants</u>	<u>Time frame for discussions</u>
LEVEL 1	Vice Presidents (Judy Tinkham/Dave Kunde, Lynne Powers, Bill Markert, or successors)	10 business days
LEVEL 2	Senior Vice Presidents (Greg Casey/Rick Smith, or successors)	10 business days
LEVEL 3	CEOs (Joe Nacchio/Rick Smith, or successors)	10 business days
LEVEL 4	Arbitration according to the provisions of the Parties' Interconnection Agreements and/or other agreements (to be expedited and completed within 90 days, upon request of one of the Parties)	
LEVEL 5	CEOs (Joe Nacchio/Rick Smith, or successors)	10 business days

LEVEL 6 If a dispute is not resolved in Levels 1 through 5, either party may initiate litigation in federal or state court, with all questions of fact and law to be submitted for determination to the judge, not a jury. The parties agree that the exclusive venues for civil court actions initiated by Eschelon are the United States District Court for the District of Minnesota or a court of the State of Minnesota and the exclusive venues for civil court actions initiated by Qwest are the United States District Court for the Districts of Minnesota or Colorado or the courts of the State of Minnesota or Colorado. When a court issues a final order, no longer subject to appeal, the prevailing party shall be awarded reasonable attorneys' fees and expenses. In the event that either party files an action in court, the parties waive: (a) primary jurisdiction in any state utility or service commission; and (b) any tariff limitations on damages or other limitation on actual damages, to the extent that such damages are reasonably foreseeable and acknowledging each party's duty to mitigate damages.

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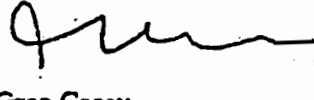
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If the parties agree with the terms set forth above, they will each execute a copy of this letter in the signature spaces provided on the last page. Upon signature of both parties, the parties will be bound by the terms set forth herein. This letter agreement may be executed in counterparts and by facsimile.

**Trade Secret Data Ends]**

Very truly yours,



Greg Casey  
Executive Vice President  
Wholesale Markets

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Q110038

TERMS OF LETTER AGREEMENT ACCEPTED BY:

QWEST CORPORATION



[name]

*svp*

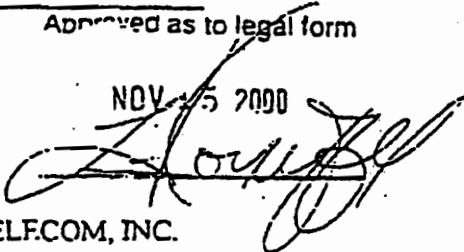
[title]

*11-15-00*

[date]

Approved as to legal form

NOV 15 2000



ESCHELON TELECOM, INC.

[name]

[title]

[date]

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TERMS OF LETTER AGREEMENT ACCEPTED BY:

QWEST CORPORATION

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[title]

\_\_\_\_\_  
[date]

ESCHELON TELECOM, INC.

  
\_\_\_\_\_  
[name]

*President - QCC*  
\_\_\_\_\_  
[title]

*11/15/00*  
\_\_\_\_\_  
[date]

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SUBJECT TO RULE OF EVIDENCE 408

CONFIDENTIAL AMENDMENT TO  
CONFIDENTIAL/TRADE SECRET STIPULATION

**Trade Secret Data Begins**

This Amendment to the Confidential/Trade Secret Stipulation Between ATI and U S WEST ("Agreement"), is hereby entered into by Qwest Corporation ("Qwest"), formerly known as U S WEST, Inc., and Eschelon Telecom, Inc. ("Eschelon"), formerly known as Advanced Telecommunications, Inc., d/b/a Cady Communications, Inc., Cady Telemanagement, Inc., American Telephone Technology, Inc., Electro-Tel, Inc., and Intelcom, Inc., (hereinafter referred to as the "Parties" when referred to jointly) on this 15th day of November, 2000. This Amendment adds terms to the Confidential/Trade Secret Stipulation Between ATI and U S WEST dated February 28, 2000. The Parties acknowledge the recitals and terms contained in the Confidential/Trade Secret Stipulation Between ATI and U S WEST and seek to resolve differences which existed between the Parties as of that date, and continue as of the date of this Agreement, including differences relating to service quality.

ADDITIONAL RECITALS

1. Disputes have arisen between the Parties as to the effective date of Eschelon's ability to provide services through the unbundled network element ("UNE") platform. Eschelon claims that it was eligible to receive platform rates as of March 1, 2000.
2. Qwest believes that Eschelon was unable to provide services through the unbundled network element platform as of March 1, 2000.
3. In an attempt to finally resolve the issues in dispute and to avoid delay and costly litigation, the Parties voluntarily enter into this Confidential Agreement to resolve all disputes, claims and controversies between the Parties, as of the date of this Confidential Agreement that relate to the matters addressed herein, and Eschelon releases Qwest from any claims regarding the issue as described herein.

CONFIDENTIAL AGREEMENT

1. The Parties enter into this Agreement in consideration for the terms described below, and Eschelon's release of any claims that can or could have been brought against Qwest because Eschelon was providing services through resale of finished services instead of providing service through unbundled network elements. Eschelon claims that it had the right to elect platform prices as of March 1, 2000, while Qwest disagrees with Eschelon's claim, as described above.

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2. Eschelon agrees to purchase from Qwest, under this agreement or any other agreement between the parties, at least \$15 million (fifteen million dollars) of telecommunication services and products between October 1, 2000 and September 30, 2001. In consideration for Eschelon's agreement to make such purchases and for such other good and valuable consideration set forth in this agreement and documented in Qwest's November 15, 2000 letter, Qwest agrees to pay Eschelon \$10 million by no later than November 17, 2000 to resolve all issues, outstanding through the date of execution of this agreement, related to the UNE platform and switched access. Further, Qwest will pay to Eschelon the revenue Qwest billed to IXCs at Qwest's established switched access rates for Eschelon platform end users for usage for the month of October 2000. Qwest will pay this amount to Eschelon within 30 days of the date Qwest receives WTN information for Eschelon for all of October 2000. For any month (or partial month), from November 1, 2000 until the mechanized process is in place, during which Qwest fails to provide accurate daily usage information for Eschelon's use in billing switched access, Qwest will credit Eschelon \$13.00 (or pro rata portion thereof) per Platform line per month as long as Eschelon has provided the WTN information to Qwest. After the mechanized process is in place, Eschelon and Qwest will use the established escalation procedures if a dispute arises. Qwest will credit the IXC and other companies for daily usage traffic that Qwest provides to Eschelon to bill to the IXC (to eliminate double billing).

In the event that Eschelon does not purchase, under this agreement or any other agreement, \$15,000,000.00 (fifteen million dollars) in telecommunications services and/or products within the time frame set forth above, Eschelon shall, by December 31, 2001, make a pro rata refund of the payment received from Qwest.

3. Eschelon shall provide to Qwest consulting and network-related services, including but not limited to processes and procedures relating to wholesale service quality for local exchange service ("Services"). These Services will address numerous items, including loop cutover and conversion, repair, billing and other items agreed upon by the Parties. The Services may include all lines of business and methods of local market entry used by Eschelon. Eschelon agrees to utilize knowledgeable and experienced personnel for the Services. Eschelon further agrees to assign, upon request, up to two full time representatives dedicated to working with the Qwest account team or other Qwest organizations to facilitate handling of provisioning issues. The Parties agree to meet together (via telephone, live conference, or otherwise) as necessary to facilitate provisioning of the Services. Executives from both companies agree to address and discuss the progress of the Services at quarterly meetings to begin in 2001 and continue through the end of 2005. In consideration of Eschelon's agreement to provide Services and for such good and valuable consideration set forth in this agreement, Qwest agrees to pay

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Eschelon an amount that is ten percent (10%) of the aggregate billed charges for all purchases made by Eschelon from Qwest from November 15, 2000 through December 31, 2005. Eschelon will invoice Qwest annually. Payment is due within 30 days of the invoice date. In the event that the Confidential Purchase Agreement between Eschelon and Qwest (as of the same date as this Agreement) is terminated, this paragraph of this Agreement also terminates simultaneously with termination of that Confidential Purchase Agreement and any payments made pursuant to this paragraph as of the date of termination will be promptly returned to Qwest. In addition, if Eschelon fails to meet its purchase commitments under sections 2, 2.1, 2.2, 2.3, 2.4 or 2.5 of the Confidential Purchase Agreement, Eschelon will promptly return to Qwest any payments made pursuant to this section.

4. If the Parties fail to finalize the Implementation Plan by April 30, 2001, as required by the Parties' Escalation Procedures Agreement, they agree to immediately terminate the Purchase Agreement, the Confidential Billing Settlement Agreement, this Amendment to the Confidential/Trade Secret Stipulation, the Escalation Procedures Agreement, and the Interconnection Agreement Amendment, all dated November 15, 2000, and cooperate in good faith to determine and promptly return to each other all of the economic benefits each received from the other in consequence of those Agreements. Moreover, all of the claims, whether in law or in equity, that either Party released or discharged in those Agreements shall be restored to them.

5. The Parties will address in their quarterly meetings appropriate price adjustments for the telecommunications services and products purchased by Eschelon and Qwest in the preceding quarter.

6. For valuable consideration mentioned above, the receipt and sufficiency of which are hereby acknowledged, Eschelon does hereby release and forever discharge Qwest and its associates, owners, stockholders, predecessors, successors, agents, directors, officers, partners, employees, representatives, employees of affiliates, employees of parents, employees of subsidiaries, affiliates, parents, subsidiaries, insurance carriers, bonding companies and attorneys, from any and all manner of action or actions, causes or causes of action, in law, under statute, or in equity, suits, appeals, petitions, debts, liens, contracts, agreements, promises, liabilities, claims, affirmative defenses, offsets, demands, damages, losses, costs, claims for restitution, and expenses, of any nature whatsoever, fixed or contingent, known or unknown, past and present asserted or that could have been asserted or could be asserted in any way relating to or arising out of the disputes/matters addressed in "Additional Recitals" paragraphs 1 and 2 above, including all disputes related to the UNE platform and switched access.

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7. The terms and conditions contained in this Confidential Agreement shall inure to the benefit of, and be binding upon, the respective successors, affiliates and assigns of the Parties.

8. Eschelon hereby covenants and warrants that it has not assigned or transferred to any person any claim, or portion of any claims which is released or discharged by this Confidential Agreement.

9. The Parties agree that they will keep the substance of the negotiations and/or conditions of this settlement and the terms or substance of this Confidential Agreement strictly confidential. The Parties further agree that they will not communicate (orally or in writing) or in any way disclose the substance of the negotiations and/or conditions of this settlement and the terms or substance of this Agreement to any person, judicial or administrative agency or body, business, entity or association or anyone else for any reason whatsoever, without the prior express written consent of the other Party unless compelled to do so by law or unless Eschelon pursues an initial public offering, and then only to the extent that disclosure by Eschelon is necessary to comply with the requirements of the Securities Act of 1933 or the Securities Exchange Act of 1934. In the event Eschelon pursues an initial public offering, it will: (1) first notify Qwest of any obligation to disclose some or all of this Confidential Agreement; (2) provide Qwest with an opportunity to review and comment on Eschelon's proposed disclosure of some or all of this Confidential Agreement; and (3) apply for confidential treatment of the Confidential Agreement. It is expressly agreed that this confidentiality provision is an essential element of this Confidential Agreement and negotiations, and all matters related to these matters, shall be subject to Rule 408 of the Rules of Evidence, at the federal and state level.

10. In the event either Party initiates arbitration or litigation regarding the terms of this agreement or has a legal obligation which requires disclosure of the terms and conditions of this Confidential Agreement, the Party having the obligation shall immediately notify the other Party in writing of the nature, scope and source of such obligation so as to enable the other Party, at its option, to take such action as may be legally permissible so as to protect the confidentiality provided in this Agreement.

11. This Confidential Agreement constitutes an agreement between the Parties and can only be changed in a writing or writings executed by both Parties. Each of the Parties forever waives all right to assert that this Confidential Agreement was the result of a mistake in law or in fact.

12. This Confidential Agreement shall be interpreted and construed in accordance with the laws of the State of Minnesota, and shall not be interpreted in favor or against any Party to this Agreement.

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13. The Parties have entered into this Confidential Agreement after conferring with legal counsel.

14. In the event that any provision of this Confidential Agreement should be declared to be unenforceable by any administrative agency or court of law, either Party may initiate an arbitration under the provisions of section 14 below within 90 days of such declaration, to determine the impact of such declaration on the remainder of this Confidential Billing Settlement Agreement. The arbitrator shall have the authority to determine the materiality of the provision and any appropriate remedies, including voiding the agreement in its entirety. If neither Party initiates such an arbitration within 90 days, the remainder of the Confidential Agreement shall remain in full force and effect, and shall be binding upon the Parties hereto as if the invalidated provisions were not part of this Confidential Agreement.

15. Any claim, controversy or dispute between the Parties in connection with this Confidential Agreement shall be resolved by private and confidential arbitration conducted by a single arbitrator engaged in the practice of law under the then current rules of the American Arbitration Association. The arbitration shall be conducted in Minneapolis, Minnesota. Each Party shall have the right to seek from a court of appropriate jurisdiction equitable or provisional remedies (such as temporary restraining orders, temporary injunctions, and the like) before arbitration proceedings have been commenced and an arbitrator has been selected. Once an arbitrator has been selected and the arbitration proceedings are continuing, thereafter the sole jurisdiction with respect to equitable or provisional remedies shall be remanded to the arbitrator. Any arbitrator shall be a retired judge or an attorney who has been licensed to practice for at least ten (10) years and is currently licensed to practice in the state of Minnesota. The arbitrator shall be selected by the Parties within fifteen (15) business days after a request for arbitration has been made by one of the Parties hereto. If the Parties are unable to agree among themselves, the Parties shall ask for a panel of arbitrators to be selected by the American Arbitration Association. If the Parties are unable to select a sole arbitrator from the panel supplied by the American Arbitration Association within ten (10) business days after such submission, the American Arbitration Association shall select the sole arbitrator. The Federal Arbitration Act, 9 U.S.C §§ 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator shall only have the authority to determine breach of this Agreement and award appropriate damages, but the arbitrator shall not have authority to award punitive damages. The arbitrator's decision shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees and shall share equally in the fees and expenses of the arbitrator, except that the arbitrator shall have the discretion award reasonable attorneys' fees and costs in favor of a Party if, in the opinion of the arbitrator, the dispute arose because the other Party was not acting in good faith.

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16. The Parties acknowledge and agree that they have a legitimate billing dispute about the issues described in this Confidential Agreement and that the resolution reached in this Agreement represents a compromise of the Parties' positions. Therefore, the Parties agree that resolution of the issues contained in this Agreement cannot be used against the other Party, including but not limited to admissions.

17. This Confidential Agreement may be executed in counterparts and by facsimile.

**Trade Secret Data Ends]**

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IN WITNESS THEREOF, the Parties have caused this Confidential Agreement to be executed as of this 15<sup>th</sup> day of November 2000.

Escheron Telecom, Inc.

By: 

Title: President - CEO

Date: 11/15/00

Qwest Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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CONTAINS TRADE SECRET DATA

Q110047

IN WITNESS THEREOF, the Parties have caused this Confidential Agreement to be executed as of this 15<sup>th</sup> day of November 2000.

Eschelon Telecom, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Qwest Corporation

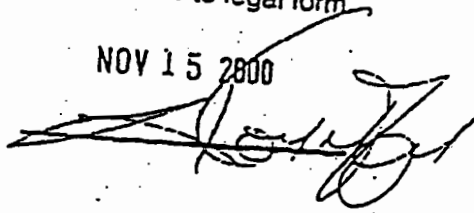
By:  \_\_\_\_\_

Title: EVP

Date: 11-15-00

Approved as to legal form

NOV 15 2000



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Qwest  
1801 California Street, Suite 2350  
Denver, Colorado 80202  
Phone 303-896-5851  
Facsimile 303-896-7473



Audrey McKenney  
Senior Vice President  
Wholesale Markets Business Development

CONFIDENTIAL AND PRIVILEGED  
SUBJECT TO RULE OF EVIDENCE 408

July 3, 2001

Richard A. Smith  
President and Chief Operating Officer  
Eschelon Telecom, Inc.  
730 Second Avenue South  
Suite 1200  
Minneapolis, MN 55402

Re: Status of Switched Access Minute Reporting

Dear Rick:

[Trade Secret Data Begins

Over time, Eschelon has added switches in additional markets and has started to move away from resale to Unbundled Network Element Platform ("UNE-P") for customers not served by those switches. In the course of adding switches and increasing the number of its customers served by those switches in multiple states within Qwest's region, Eschelon has noted a discrepancy between the access minutes recorded for Eschelon customers served by Eschelon's switches (Eschelon's On-Net customers) and the access minutes reported to Eschelon by Qwest for Eschelon UNE-P customers served by Qwest's switches (Eschelon's Off-Net customers). Although Qwest believes that it has accurately recorded switched access minutes, we have agreed to work with Eschelon to verify the accuracy of such records and to determine the reasons why the parties' systems are reporting a different number of switched access minutes. Factors that could potentially be causing the discrepancy include, among other factors, different usage characteristics of Eschelon's On-Net and Off-Net customers, recording and reporting differences between Eschelon's and Qwest's switches, inaccurate reporting by Eschelon to Qwest of Eschelon's Off-Net WTNs, and under reporting of Off-Net access minutes by Qwest.

Eschelon, Inc. has asserted that the tapes which Qwest Corporation provides to Eschelon recording switched access minutes going on the ports of its platform services are lower than the minutes that Eschelon is experiencing based on minutes going through Eschelon's switch. Based on Eschelon's concern, and

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Richard A. Smith  
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Qwest's desire to ensure that its recordings are accurate, Qwest has agreed to perform an audit with Eschelon.

Since November 2000, as an interim measure, Qwest has been paying Eschelon each month an Interim Amount, which is the difference between thirteen dollars (\$13) per line per month and the amount that Eschelon was able to bill IXCs for switched access, per line, based upon the switched access minutes reported to Eschelon by Qwest. Eschelon has devoted substantial internal and external resources to switched access issues, including resources associated with the audit, traffic studies, and hiring of personnel with expertise in access issues. In consideration for this, as of January 1, 2001 and continuing until Qwest and Eschelon agree to do otherwise, Qwest will increase the Interim Amount to the difference between \$16 per line per month and the amount that Eschelon is able to bill IXCs for switched access, based upon the switched access minutes reported to Eschelon by Qwest.

In order to determine whether Qwest's reporting of access minutes has been correct, the parties are undertaking a joint analysis, including an audit of the switched access minutes reported by Qwest and Eschelon (the "Audit"). The Audit will proceed in accordance with the scope of work previously agreed to by the parties. Once the Audit is completed, the parties have agreed to true up the difference between \$13 per line and the actual amount that Eschelon should have been able to bill to its carrier customers as calculated above (less any amount that Eschelon is able to backbill to its carrier customers) based on its tariffed rate.

Eschelon has also noted an issue relating to access records for Qwest's intraLATA toll traffic terminating to customers served by an Eschelon switch. The ongoing analysis and resources expended by Eschelon and Qwest will also address this issue. As of June 1, 2001, until the Parties agree that the issue is resolved, Qwest will pay Eschelon \$2.00 per line per month for such traffic.

Using the results of the Audit, the parties will also negotiate the terms and conditions of any subsequent analysis or procedures to be followed, and for resolution of future discrepancies between the switched access minutes indicated by Qwest and the minutes recorded or believed to be accurate by Eschelon.

Qwest and Eschelon want to avoid complaints and find business solutions to their problems. In working on service issues, while the audit is occurring and depending upon the results of the audit and the negotiations, Eschelon agrees that it will not seek payment of sums due from Qwest to Eschelon, if any, related to the Direct Measures of Quality ("DMOQs") in Minnesota pursuant to the Stipulation and Agreement entered into by the Parties on February 29, 2000. The Parties will meet upon the findings of the audit and will determine whether the DMOQs are appropriate at that time.

CONFIDENTIAL AND PRIVILEGED  
SUBJECT TO RULE OF EVIDENCE 408

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We look forward to working with Eschelon and completing the audit process.<sup>1</sup>

Trade Secret Data Ends]

Sincerely,

  
Audrey McKenney

[Trade Secret Data Begins

<sup>1</sup> Notwithstanding anything herein to the contrary, we also acknowledge that both parties may rely upon, and make use of the contents of this letter as accurately setting forth the matters agreed upon. Trade Secret Data Ends]

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SUBJECT TO RULE OF EVIDENCE 408

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**QWEST/ESCHELON  
IMPLEMENTATION PLAN**

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**1. IMPLEMENTATION PLAN OVERVIEW AND OBJECTIVES**

1.1. Eschelon Telecom, Inc., and its subsidiaries, ("Eschelon") and Qwest Corporation ("Qwest") (collectively, the "Parties") have agreed to develop an Implementation Plan ("Implementation Plan") to document and establish processes and procedures to mutually improve Qwest's and Eschelon's business relations.

1.2. The objective of the Implementation Plan is to give structure as to how Qwest and Eschelon will work as business partners to arrive at mutually satisfying business solutions and settlements.

**2. RESOLUTION OF BUSINESS ISSUES**

2.1. Qwest has established a service account team for Eschelon. Other organizations within Qwest also interact directly with Eschelon personnel. Each functional area has specific functional support responsibilities. (See, for example, Attachment 1).

2.1.1. The Qwest Service Management team will hold weekly meetings with Eschelon to identify and resolve service-related issues.

2.1.2. As desired, the Qwest Service Management team will continue to facilitate other meetings with subject matter experts within Qwest to address Eschelon's service-related issues.

2.1.3 Qwest will provide Eschelon policy and process change information electronically through the use of a centrally maintained database. Detailed Eschelon-specific information will be provided to Eschelon through the Service Management Account Team.

2.2. Qwest has provided Eschelon with an escalation chart and process to follow (Attachment 2) in identifying the names and telephone numbers of the persons at Qwest (or their successors) that Eschelon may contact to escalate service-related issues. Qwest and Eschelon may agree to revise the escalation chart and process from time to time, provided the level of support to Eschelon is not decreased.

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2.3. Each quarter until December 31, 2005, or as otherwise agreed by the Parties, Dana Filip and/or her designee or successor and Rick Smith and/or his designee or successor agree to meet together (via telephone, live conference or otherwise) to review the status of Eschelon's service-related issues.

2.5. The Parties agree to attend and participate in quarterly executive meetings. The purpose of these meetings will be to address, discuss, and attempt to resolve unresolved business issues, anticipated business issues, and issues related to the Parties' interconnection agreements, Implementation Plan, and other agreements. The meetings will be attended by executives from both companies at the vice-president level or above. The parties may agree to meet less frequently.

### **3. TREATMENT OF LOCAL USAGE ASSOCIATED WITH UNE-P SWITCHING FOR ESCHELON'S TOLL TRAFFIC.**

3.1. The Parties have agreed that Qwest will calculate local usage charges associated with Unbundled Network Element Platform ("UNE-P") switching on Eschelon's interLATA and intraLATA toll traffic, and Eschelon will pay undisputed amounts within 30 days from Eschelon's receipt of the monthly invoice from Qwest. (See Attachment 3.2, ¶III(B) of Interconnection Agreement Amendment Terms, Nov. 15, 2000). Qwest will calculate local usage charges in accordance with the procedures set forth on Attachment 3 to this Implementation Plan.

### **4. SERVICE MANAGEMENT AND METRICS**

Eschelon has alleged that Qwest has failed at times to promptly provide services. In order to ascertain Qwest's service levels, the parties have agreed to the following:

4.1. Qwest and Eschelon will track and report performance measurements designed to monitor Qwest's levels of service.

4.2. Representatives from Qwest and Eschelon will hold monthly working meetings to review and discuss the measurements. Quarterly executive level meetings will also be held to review results, performance trends, and set service improvement priorities.

4.3. A jointly developed action plan will be created, implemented and reviewed at the monthly meetings to facilitate the service excellence expected by both Parties.

### **5. COORDINATION REGARDING COMMON ISSUES**

5.1. Appropriate representatives of Eschelon and Qwest will meet and confer as needed to communicate and to minimize conflicts which arise between the Parties. Further, the Parties will work with each other as issues of dispute and conflict arise and will seek in good faith to obtain resolution of those issues.

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6. INTRALATA TOLL

6.1 Eschelon and Qwest agree to negotiate in good faith to obtain an agreement, by September 1, 2001, regarding terms and conditions relating to Qwest's end-user customers who choose Qwest as their retail intraLATA toll carrier.

7. MODIFICATION AND TERM OF IMPLEMENTATION PLAN

7.1 This Implementation Plan is subject to modification as mutually agreed upon, in writing, by the Parties whose signatures are included on this agreement or their designated representatives.

7.2 This Plan becomes effective and will remain in effect until December 31, 2005, unless otherwise mutually terminated or extended by the Parties in writing.

8. COORDINATION FOR CONVERSIONS

Qwest has undertaken certain enhancements to the UNE-P and is in the process of implementing such enhancements. Qwest agrees to take commercially reasonable efforts to ensure that service provided to Eschelon's end-user customers is not adversely affected during the conversion to UNE-P. Qwest will provide notice to Eschelon before changes relating to the conversion are made, plan the conversion jointly with Eschelon, and use a phased approach to converting customers over time on an agreed upon schedule.

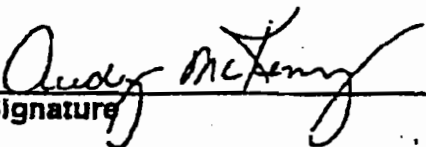
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QWEST/ESCHELON IMPLEMENTATION PLAN TERMS ACCEPTED BY:

Eschelon Telecom, Inc.

Qwest Corporation

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

Richard A. Smith  
Name Printed/Typed

Audrey McKenney  
Name Printed/Typed

President and COO  
Title

SUP - Wholesale Mkt  
Title

July 31, 2001  
Date

July 31, 2001  
Date

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Business Issue Resolution Categories



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Service Center	Service Management	Sales
<ul style="list-style-type: none"> <li>• Pre-order inquiry</li> <li>• Order status</li> <li>• Critical date management</li> <li>• Order expedites [less than standard interval requests]</li> <li>• Tier 1 and 2 order escalation</li> <li>• Delayed order management</li> <li>• CNR [customer-not-ready] notification and management</li> <li>• Order writing process</li> <li>• Order flow process</li> <li>• Center operational issues [i.e., lack of response, service order quality and timeliness issues]</li> <li>• System availability</li> </ul>	<ul style="list-style-type: none"> <li>• Proactive management of service</li> <li>• Tier 3 and 4 order escalation [i.e., failure of center to accelerate critical dates to satisfaction of customer]</li> <li>• Interface on major outages [i.e., switch failures, natural disasters]</li> <li>• Service performance reporting</li> <li>• Action planning with appropriate internal organizations on service performance differences</li> <li>• Lead meetings on resolving priority service and business issues [PSBI]</li> <li>• Document progress of PSBI Team and escalate issues as necessary</li> <li>• Gather trends in service quality and timeliness and conduct post mortems/root cause analysis</li> <li>• Manage interconnection agreements and subsequent amendments</li> <li>• Answer product questions and facilitate modification requests</li> <li>• Serve as customer liaison with Project management, Sales, Service Center, and all other internal organizations</li> </ul>	<ul style="list-style-type: none"> <li>• Account status and growth opportunities</li> <li>• Coordinate forecasting with project management</li> <li>• New product introduction and use</li> <li>• Lead meetings on account status and growth</li> <li>• Funding and costing inquiry</li> </ul>

The center structure is as follows:  
 Service Delivery Coordinators  
 Customer Service Managers  
 Sr Customer Service Manager  
 Sr Director  
 Vice President

Performance related issues regarding the responsibilities within the Service Center should be handled by the appropriate level in this structure.

The Service Management structure is as follows:  
 Service Manager  
 Sr Service Manager  
 Director - Customer Service  
 Sr Director - Customer Service  
 Vice President  
 Sr Vice President

Performance related issues regarding the responsibilities within Service Management should be handled by the appropriate level in this structure.

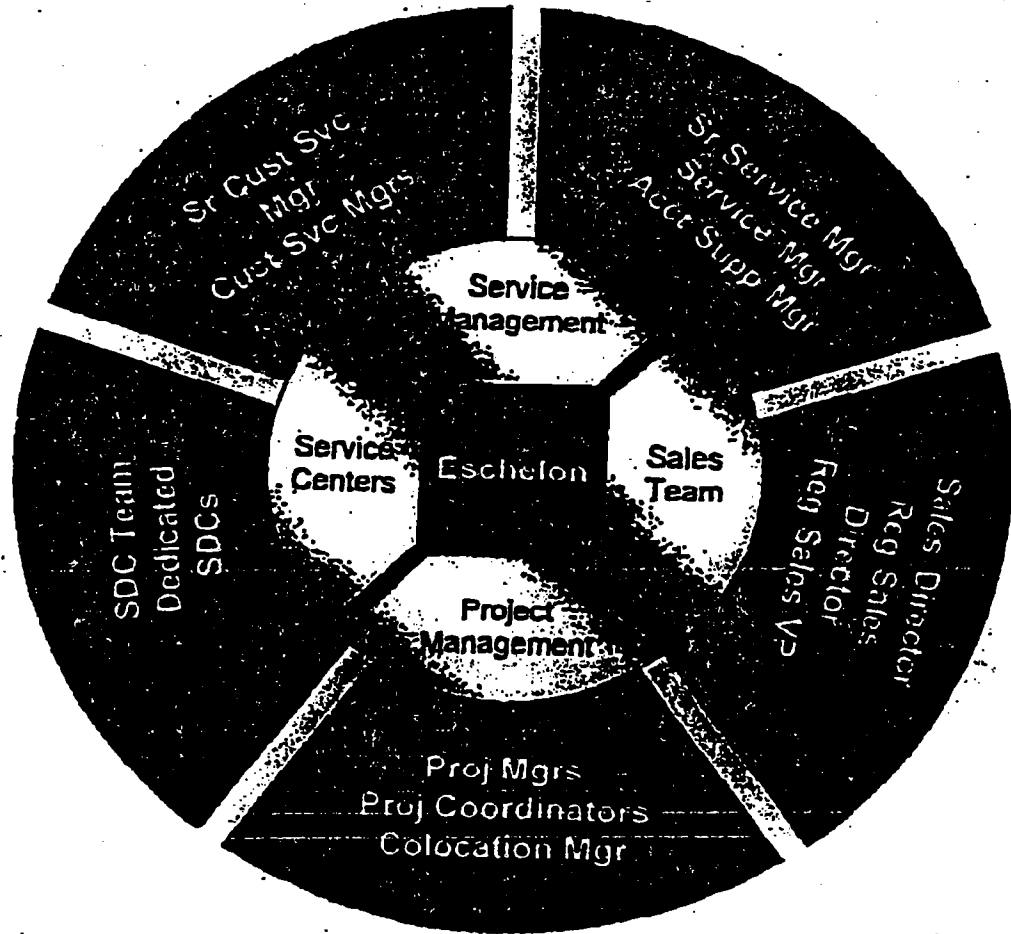
The Sales Management structure is as follows:  
 Sales Director  
 Regional Sales Director  
 Regional VP Sales  
 Sr VP Sales

Performance related issues regarding the responsibilities within Sales Management should be handled by the appropriate level in this structure.

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Attachment 1



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**Qwest**

**Attachment 2**

**Eschelon  
Escalation Tier Contact Information**

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Tier	Contacts	Functions
<b>Des Moines Service Center</b>		
0	N/A	
1	Private Line 800-246-1271  LIS 800-537-0002  Delayed Orders 800-340-9629	<ul style="list-style-type: none"> <li>• Handle Customer Calls</li> <li>• ASR Order Status</li> <li>• Queries on Completion Dates</li> <li>• Questions on Due Dates</li> <li>• FOC questions/Resends of FOC's</li> <li>• Assisting with ASR prep</li> <li>• Answer Questions on Rejects/Delayed Orders.</li> <li>• Manage Critical Dates, Due Date Changes, VP Expedites, Out of Service Conditions, Feature Discrepancies, Delays at Test and Turn up and General Delayed Order Questions</li> <li>• Timely Customer updates, meet call back commitments</li> </ul>
2	All Products 515-286-4067  Duty Pager 800-759-8888 Pin 829-3082  Duty pager is covered during and after center hours	<ul style="list-style-type: none"> <li>• Respond to missed commitments from TIER 1</li> <li>• Assist TIER 1 with unresolved Customer issues</li> <li>• Resolve issues with other departments</li> <li>• Document details in appropriate databases</li> <li>• Timely Customer updates, meet call back commitments</li> <li>• If further escalation is necessary, a commitment is made for a call back from next level</li> </ul>
3	Service Manager  Pat Levene 612-663-6265	<ul style="list-style-type: none"> <li>• Receive escalations on a variety of service order related issues from Service Delivery Coordinators (SDC) and/or directly from the customer</li> <li>• Respond to missed commitments or</li> </ul>

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		<p>calls for assistance from TIER 2</p> <ul style="list-style-type: none"> <li>• Evaluate and Manage special circumstances requiring VP expedites</li> <li>• Resolve issues with other departments</li> <li>• Timely Customer updates, meet call back commitments</li> <li>• Document details in the appropriate databases</li> <li>• If further escalation is necessary, a commitment is made for a call back from next level</li> </ul>
4	Senior Service Manager Steve Sheahan 612-663-7527	<p>Tier 4, 5, 6,7 would become involved in a service order escalation:</p> <ul style="list-style-type: none"> <li>• Major network outage</li> <li>• After normal process of tiered escalations failed to resolve the issue to the customer's satisfaction</li> </ul> <p>It is the role and responsibility of each level to support the decision of the previous level unless another alternative that has not been investigated presents itself. If the resolution of the issue is not possible or implementation of the order can not be accelerated for whatever reason, a clear and complete explanation of the circumstances is necessary so that the customer can respond to the end user with authority.</p>
5	Director Joan Masztaler 303-896-8331	
6	Sr Director Toni Dubuque 612-288-3831	
7	Vice President Christie Doherty 303-896-0848	

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CONTAINS TRADE SECRET DATA





Attachment 2

Eschelon  
Escalation Tier Contact Information

Tier	Contacts	Functions
<b>Minneapolis Service Center</b>		
0	N/A	
1	Centrex 800-279-8806  Complex Resale 800-636-8746  Delayed Orders 888-796-9087	<ul style="list-style-type: none"> <li>• Handle Customer Calls</li> <li>• LSR Order Status</li> <li>• Queries on Completion Dates</li> <li>• Questions on Due Dates</li> <li>• FOC questions/Resends of FOC's</li> <li>• Assisting with LSR prep</li> <li>• Answer Questions on Rejects/Delayed Orders.</li> <li>• Manage Critical Dates, Due Date Changes, VP Expedites, Out of Service Conditions, Feature Discrepancies, Delays at Test and Turn up and General Delayed Order Questions</li> <li>• Timely Customer updates, meet call back commitments</li> </ul>
2	All Products 800-366-9974 Duty Pager 612-622-3624  Delayed Orders 303-787-6503 Duty Pager 800-946-4646 Pin 141-4422  Duty pager is covered during and after center hours	<ul style="list-style-type: none"> <li>• Respond to missed commitments from TIER 1</li> <li>• Assist TIER 1 with unresolved Customer issues</li> <li>• Resolve issues with other departments</li> <li>• Document details in appropriate databases</li> <li>• Timely Customer updates; meet call back commitments</li> <li>• If further escalation is necessary, a commitment is made for a call back from next level</li> </ul>
3	Service Manager	<ul style="list-style-type: none"> <li>• Receive escalations on a variety of service order related issues from</li> </ul>

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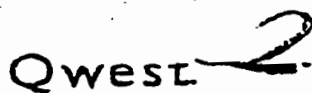
	Pat Levene 612-663-6265	<p>Service Delivery Coordinators (SDC) and/or directly from the customer</p> <ul style="list-style-type: none"> <li>• Respond to missed commitments or calls for assistance from TIER 2</li> <li>• Evaluate and Manage special circumstances requiring VP expedites</li> <li>• Resolve issues with other departments</li> <li>• Timely Customer updates, meet call back commitments</li> <li>• Document details in the appropriate databases</li> <li>• If further escalation is necessary, a commitment is made for a call back from next level</li> </ul>
4	Senior Service Manager Steve Sheahan 612-663-7527	<p>Tier 4, 5, 6,7 would become involved in a service order escalation:</p> <ul style="list-style-type: none"> <li>• Major network outage</li> <li>• After normal process of tiered escalations failed to resolve the issue to the customer's satisfaction</li> </ul> <p>It is the role and responsibility of each level to support the decision of the previous level unless another alternative that has not been investigated presents itself. If the resolution of the issue is not possible or implementation of the order can not be accelerated for whatever reason, a clear and complete explanation of the circumstances is necessary so that the customer can respond to the end user with authority.</p>
5	Director Joan Masztaler 303-896-8331	
6	Sr Director Toni Dubuque 612-288-3831	
7	Vice President Christie Doherty 303-896-0848	

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CONTAINS TRADE SECRET DATA

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Attachment 2

Eschelon  
Escalation Tier Contact Information

Tier	Contacts	Functions
<b>Denver Service Center</b>		
0	Call Center 888-796-9087	<ul style="list-style-type: none"> <li>• Handle Customer Calls</li> <li>• LSR/Order Status</li> <li>• Queries on Completion Dates</li> <li>• FOC questions/Resends of FOC's</li> <li>• Assisting with LSR prep</li> <li>• Answer questions on Rejects/Delayed orders</li> <li>• Document details in appropriate databases</li> </ul>
1	Warm transfer from the call center as appropriate	<ul style="list-style-type: none"> <li>• Receive warm transfer from Call Center using ticketing process</li> <li>• Resolve missed FOC intervals</li> <li>• Manage Critical Dates, Due Date Changes, VP Expedites, Out of Service Conditions, Feature Discrepancies, Delays at Test and Turn up and General Delayed Order Questions</li> <li>• Timely Customer updates, meet call back commitments</li> <li>• Resolve issues with other departments</li> <li>• Document details in appropriate databases</li> </ul>
2	Duty Pager 303-201-4939 [during Center hours] 800-423-3641 [after Center hours]  Delayed Orders 303-787-6503 Duty Pager 800-946-4646 Pin 141-4422  Duty pager is covered during and after Center	<ul style="list-style-type: none"> <li>• Respond to missed commitments from TIER 1</li> <li>• Assist TIER 1 with unresolved Customer issues</li> <li>• Resolve issues with other departments</li> <li>• Document details in appropriate databases</li> <li>• Timely Customer updates, meet call back commitments</li> <li>• If further escalation is necessary, a commitment is made for a call back from next level</li> </ul>

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	hours	
3	<b>Service Manager</b>  Pat Levene 612-663-6265	<ul style="list-style-type: none"> <li>• Receive escalations on a variety of service order related issues from Service Delivery Coordinators (SDC) and/or directly from the customer</li> <li>• Respond to missed commitments or calls for assistance from TIER 2</li> <li>• Evaluate and Manage special circumstances requiring VP expedites</li> <li>• Resolve issues with other departments</li> <li>• Timely Customer updates, meet call back commitments</li> <li>• Document details in the appropriate databases</li> <li>• If further escalation is necessary, a commitment is made for a call back from next level</li> </ul>
4	<b>Senior Service Manager</b> Steve Sheahan 612-612-663-7527	Tier 4, 5, 6,7 would become involved in a service order escalation: <ul style="list-style-type: none"> <li>• Major network outage</li> <li>• After normal process of tiered escalations failed to resolve the issue to the customer's satisfaction</li> </ul> <p>It is the role and responsibility of each level to support the decision of the previous level unless another alternative that has not been investigated presents itself. If the resolution of the issue is not possible or implementation of the order can not be accelerated for whatever reason, a clear and complete explanation of the circumstances is necessary so that the customer can respond to the end user with authority.</p>
5	<b>Director</b> Joan Masztaler 303-896-8331	
6	<b>Sr Director</b> Toni Dubuque 612-288-3831	
7	<b>Vice President</b> Christie Doherty 303-896-0848	

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Omaha Service Center

New Coordinated Install Group	800 486-3986
Existing Hot Cut Group	800 697-0772
IPG (Integrated Pair Gain) Group	888 286-1666
Warranty Group (Technician Testers)	888 304-5777
Toll Free Fax	888 307-3999
Emergency QCCC Pager	888 274-4069
Team Leader Dana Frenking	402 591-8026 Pager 888 827-2717
Director James Mackle	402 591-5600 Pager 888 243-2906
VP Scott Simanson	303 703-2100 Pager 877 616-5044

ACCOUNT MAINTENANCE SUPPORT CENTER (AMSC) Call Center  
 CREATE/STATUS/ESCALATIONS LIST 5-1-01

File		Non Design Services	Designed Services	Info To Provide
		Type of Service CNTX, LNP	Type of Service: HI-CAP (DS1,DS3) DSO Type 2 Trunking	
1	Qwest AMSC Initial Trouble Report	800-223-7881	800-223-7881	Non Design Telephone Number  Designed Services Circuit ID, CLLI Code, 2/6 code or Trunk Group #
2	Status	800-223-7881	800-223-7881	Non Design Telephone Number  Designed Services Qwest Ticket Number
3	Escalations <i>Note: The appropriate Escalation Manager's Name &amp; Number will be provided after the Designed Test Center is contacted</i>	800-223-7881	800-223-7881	<u>Non Design</u> Telephone Number <u>Designed Services</u> Qwest Ticket Number

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4	AMSC Call Center On-Call Duty Manager (On-Call duty 7x24 rotates, please call center to have appropriate Manager contacted.)	800-223-7881	800-223-7881	<u>Non Design</u> Telephone Number <u>Designed Services</u> Qwest Ticket Number
5	AMSC Team Leader	Nina Gable 719-444-9900	Nina Gable 719-444-9900	<u>Non Design</u> Telephone Number <u>Designed Services</u> Qwest Ticket Number
6	AMSC Director	Sheila Thompson 208-385-8783	Sheila Thompson 208-385-8783	<u>Non Design</u> Telephone Number <u>Designed Services</u> Qwest Ticket Number
7	AMSC VP Manager	Rob Williams 303-308-7380	Rob Williams 303-308-7380	<u>Non Design</u> Telephone Number <u>Designed Services</u> Qwest Ticket Number
	911 Trunks	800-357-0911	911 Trunks	Circuit ID or 2/6 Code
	Resold 1FR & 1FB - POTS	800-405-0083	1FR & 1FB	Telephone Number

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ATTACHMENT 3

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Qwest will calculate local usage charges associated with UNE-P switching on Eschelon's interLATA and intraLATA toll traffic as follows:

1. Qwest will utilize the Originating and Terminating long distance minutes of use on Eschelon's UNE-P lines monthly as reported in the switched access minutes of use provided to Eschelon by Qwest. Qwest will identify the usage by state, so appropriate state rates can be applied to each minute of usage.
2. Qwest's invoice will show the rates used to calculate the usage charges. The rate elements applicable to this traffic are local switching ("LS") and shared transport ("ST") as set forth in the Interconnection Agreements between the Parties (not access tariffs). Charges will reflect any rate reductions subsequently made by Qwest either voluntarily or upon regulatory or court order. If there are such reductions after the effective date of this Amendment, Qwest will use any such new rates in the monthly calculation when the rates become effective.
3. Routing of traffic will determine the appropriate rates to apply to each minute. Certain assumptions will be made as to the percent of traffic originating and terminating from a tandem versus traffic routed directly to and from end offices (e.g., Direct End Office Trunking, "DEOT"). The calculations for each revenue stream to Qwest are as follows:

a. Total Originating Local Switching Revenue is equal to Revenue from End Office Routed Traffic plus Revenue from Tandem Routed Traffic (i + ii = Total Originating Local Switching Revenue)

i. Revenue from End Office Routed Traffic is:--

% DEOT Routed Originating Minutes of Use ("MOUs") x Originating MOUs x LS rate element

ii. Revenue from Tandem Routed Traffic is:

[(1 - % DEOT Routed Originating Traffic) x Originating MOUs x LS rate element] + [(1 - % DEOT Routed Originating Traffic) x Originating MOUs x ST rate element]

b. Total Terminating Local Switching Revenue is equal to Revenue from End Office Routed Traffic plus Revenue from Tandem Routed Traffic.

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i. Revenue from End Office Routed Traffic is:

% DEOT Routed Terminating MOUs x Terminating MOUs x LS rate element

ii. Revenue from Tandem Routed Traffic is:

[(1 - % DEOT Routed Terminating Traffic) x Terminating MOUs x LS rate element] + [(1 - % DEOT Routed Terminating Traffic) x Terminating MOUs x ST rate element]

c. Total Local Switching Revenue = (a) Originating Revenue + (b) Terminating Revenue

4. As reflected in the above calculation, the LS rate is applied to all traffic, while the ST rates are only applied to traffic that is routed through an access tandem.

5. The following weighting factors for DEOT and Tandem traffic will be used until the Parties agree to new weighting factors or actual weightings can be obtained.

a. Originating:

i. DEOT Routed: AZ (59.5%); CO (60.0%); MN (47.5%); OR (57.0%); UT (58.5%); WA (58.0%)

ii. Tandem Routed: AZ (41.5%); CO (40.0%); MN (52.5%); OR (43.0%); UT (41.5%); WA (42.0%)

b. Terminating:

i. DEOT Routed: AZ (57.5%); CO (55.5%); MN (50.0%); OR (54.0%); UT (53.5%); WA (54.5%)

ii. Tandem Routed: AZ (42.5%); CO (44.5%); MN (50.0%); OR (46.0%); UT (46.5%); WA (45.5%)

If actual weightings can be obtained, actual weightings will be used.

6. In the event that usage, routing, or network configuration patterns change, the Parties agree to negotiate any material changes to the assumptions in the above calculation.

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April 19, 2000

EXHIBIT

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## **U S WEST Service Level Agreement with Covad Communications Company Unbundled Loop Services**

### **[Trade Secret Data Begins**

U S WEST is committed to provide its customers excellent service. In an effort to meet Covad's request, and to provide increased service to other co-providers, U S WEST agrees to make demonstrable improvements to its provisioning service performance on unbundled loops, in order to reach within a reasonable time the following service quality standards in the metropolitan areas where Covad provides to U S WEST wire center forecasts. These quality standards would apply under normal operating conditions, but they would not establish a level of performance to be achieved during periods of emergency, catastrophe, natural disaster, severe storm or other events affecting large numbers of telecommunications customers. These standards would not apply under extraordinary or abnormal conditions of operations such as those resulting from work stoppage or slowdown, or during periods of civil unrest. They would not apply during events outside the control or responsibility of U S WEST, such as cable cuts by third parties, vandalism, or conditions prompted by vendors or suppliers. The parties have agreed that U S WEST's performance will increase on step-level increments with a commitment to reach these service levels within 90 days.

### **1. FOC Process**

U S WEST will provide 90% of Covad's Firm Order Confirmation (FOC) dates within 48 hours of receipt of properly completed service requests for POTS unbundled loop services. It is understood that these POTS services will not require loop conditioning activity of any sort (load coil or bridged tap removal). U S WEST will notify Covad of any facilities shortage issues for DSL capable, ISDN capable and DS1 capable services within this same 48-hour time period.

For DSL capable, ISDN capable and DS1 capable unbundled loop services, U S WEST will provide 90% of Covad's FOC dates within 72 hours of receipt of properly completed service requests. As part of the 72-hour FOC process, U S WEST will dispatch a technician to verify the existence of suitable facilities prior to providing Covad an FOC date.

## 2. Service Intervals

When facilities are available, U S WEST will provide Covad with unbundled loop service that does not require loop conditioning consistent with U S WEST's published Standard Interval Guide, as of March 31, 2000 at least 90% of the time. The standard intervals will not apply if Covad requests a later completion date, or if the order is delayed for customer cause, or reasons outside U S WEST's control. U S WEST will provide Covad with line sharing service (access to the high frequency spectrum network element) at least 90% of the time within the interval set forth in any line sharing agreement between Covad and U S WEST.

## 3. New Service Failures

U S WEST recognizes the need for a quality provisioning process, and is committed to providing circuits which are properly conditioned, tested and released right the first time. U S WEST will reduce the incidence of failure on new Covad circuits to less than 10% failure within the first 30 calendar days. For purposes of measurement, "failures" would be defined as U S WEST troubles, or troubles attributed to U S WEST facilities and central office equipment, or to U S WEST employees. "Failures" would not include repair tickets which are informational in nature, or troubles isolated outside the U S WEST network.

## 4. Facilities Problems

Covad service requests which are accepted, but can not be completed due to lack of facilities, would be resolved through the U S WEST "held order" process. For those service requests held due to line conditioning, U S WEST will provide Covad the option of paying for the line conditioning at the appropriate rate approved by the relevant State Commission, which U S WEST will complete in 24 days or less 90% of the time. Where U S WEST has committed to bulk conditioning in certain localities, U S WEST will provide Covad the additional option of retaining those service requests until U S WEST has completed the bulk conditioning in that locality. U S WEST will then process the service request and not charge Covad for the line conditioning. In these situations where the end user customer is served by digital loop carrier or off pair gain, U S WEST will notify Covad of that situation and provide the option of submitting a service request for an ISDN capable loop compliant with TR-393 standards and U S WEST Technical Publication 77399. U S WEST will, where technically feasible, either install an appropriate ISDN card for those end user customers served by digital loop carrier or provide another ISDN option for those served off of pair gain in 10 days or less 90% of the time. Where it would not impact a current end user customer, U S WEST will perform a line and station transfer in order to provision the Covad service request in 10 days or less 90% of

U S WEST Service Level Agreement -- Covad Communications Company

the time. In a parallel effort, U S WEST will receive those orders already being held for lack of facilities within the next 60 days in the manner described in this paragraph for new service requests. For all service requests for which facilities cannot be made available in the manner described in this paragraph, U S WEST will notify Covad of that fact and, at the option of Covad, either place the service request on a service inquiry list or cancel or reject the service request.

Based on U S WEST's commitment to meet these service performance standards, Covad commits to withdrawing its opposition to the U S WEST/Owest merger. U S WEST acknowledges that the resolutions reached in this service level agreement are for settlement purposes only and do not necessarily represent the position that Covad would take if it continued to litigate this proceeding. This service level agreement is not intended to modify, alter or waive any existing or future legal or contractual requirements that U S WEST provide service in shorter intervals or at a higher success rate than set forth in this agreement. Covad specifically reserves the right to take positions contrary to the resolutions agreed to in this service level agreement in any future proceeding before any state or federal regulatory, judicial or administrative body and to argue for entirely different results in any future proceeding before any state or federal regulatory, judicial or administrative body.

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Dated: April 19, 2000

Ken G. Marcotte

Ken G. Marcotte  
Vice President, *by Lawrence M. Davis*  
U S WEST Network Complex Services

Catherine Hemmer

Catherine Hemmer  
Executive Vice President,  
Covad Communications Company

## SUBJECT TO RULE OF EVIDENCE 408

Trade Secret Data Begins

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

This Confidential Billing Settlement Agreement ("Agreement"), dated April 28, 2000, is between U S WEST Communications, Inc. ("U S WEST") and McLeodUSA, Inc. ("McLeodUSA") who hereby enter into this Confidential Billing Settlement Agreement with regard to the following:

RECITALS

1. U S WEST is an incumbent local exchange provider operating in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.
2. McLeodUSA is a competitive local exchange provider that will soon operate in all fourteen states of U S WEST's operating region.
3. Whereas both U S WEST and McLeodUSA have entered into interconnection agreements pursuant to the federal Telecommunications Act of 1996 ("Act"), under Section 251 and 262 of that Act, and those agreements have been approved by the appropriate state commissions where those agreements were filed pursuant to the Act. U S WEST and McLeodUSA operate under those agreements in certain states, as well as various state and federal tariffs.
4. McLeodUSA has intervened in the U S WEST/QWEST merger proceedings that have been or are being conducted by several states within U S WEST's 14-state region, including Arizona, Minnesota, Montana, Utah, Washington and Wyoming.
5. Disputes between the parties have arisen in a number of states under

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both the interconnection agreements and tariffs regarding a number of billing issues, including nonblocked Centrex service, subscriber list information charges, reciprocal compensation and interim pricing.

6. In an attempt to finally resolve those issues in dispute, including McLeodUSA's opposition to the merger, and avoid delay and costly litigation, the parties voluntarily enter into this Confidential Billing Settlement Agreement to resolve all disputes, claims and controversies between the parties, as of the date of this Agreement that relate to the matters addressed herein and release all claims related to those matters.

#### CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

1. In consideration for McLeodUSA's withdrawal from the merger dockets, and within five (5) business days after McLeodUSA has withdrawn its opposition to the merger in all states and dismissed its pending FCC complaint regarding subscriber list information charges, U S WEST will pay McLeodUSA \$4.2 million to resolve the nonblocked Centrex service and subscriber list information billing disputes. The form of payment will consist of bill credits (if payment has not been made) or cash payments to McLeodUSA.

2. Effective upon merger closure and subject to the additional terms described below, U S WEST will pay McLeodUSA \$25.5 million to resolve miscellaneous billing disputes. The form of payment will consist of a cash payment to McLeodUSA, payable within five (5) business days following merger closure.

a. Nonblocked Centrex Service: Subject to McLeodUSA's withdrawal from the merger dockets and dismissal of its FCC complaint, McLeodUSA and U S WEST agree

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that upon payment to McLeodUSA of the \$4.2 million described in paragraph 1, all disputed Centrex related charges incurred through March 31, 2000 have been fully resolved and all claims for such charges are released. Effective immediately, for Centrex service charges incurred on a going-forward basis, the parties will continue to negotiate, in good faith, a business-to-business resolution.

b. Subscriber List Information Charges: Subject to McLeodUSA's withdrawal from the merger dockets and dismissal of its FCC complaint, U S WEST and McLeodUSA agree that upon payment to McLeodUSA of the \$4.2 million described in paragraph 1, all disputed amounts incurred through March 31, 2000 have been fully resolved and all claims for such charges are released. McLeodUSA agrees to immediately dismiss its pending FCC complaint regarding subscriber list information charges. Effective immediately, on a going-forward basis, McLeodUSA will pay the \$.04 (per listing for initial load) and \$.06 (per listing for updates) rates for subscriber list information or such other final rates as may be established by any cost docket proceedings or rates the parties may negotiate, in good faith, on a business-to-business basis. Both parties reserve the right to participate fully in future rate determination proceedings.

c. Compensation for Traffic Exchange: Upon payment to McLeodUSA of the \$4.2 million described in paragraph 1, in all existing and future states, for the period of March 1, 2000 through December 31, 2002, the parties agree to immediately amend their existing interconnection agreements to change the reciprocal compensation terms from a usage-based system to a "bill and keep" arrangement for local and Internet-related traffic, and to incorporate such a bill and keep arrangement into any future

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Interconnection agreements in any of U S WEST's fourteen states. Subject to merger closure, both parties agree not to bill usage to one another in any existing or future state between March 1, 2000 and the date of merger closure. However, in the event that the merger between U S WEST and QWEST does not close, U S WEST will retroactively bill McLeodUSA for the true-up for reciprocal compensation for usage through February 29, 2000 at the appropriate state commission-approved rates. Both parties may bill each other retroactively for the usage not billed between March 1, 2000 and the date on which it is officially announced that the merger will not close, based on appropriate state commission-approved rates or the currently existing interconnection agreement(s). U S WEST and McLeodUSA agree to pay the undisputed portion of such retroactive usage billing at the appropriate state commission-approved rates within five (5) business days of receiving each other's invoices for the same. In addition, if the merger does not close, the parties will immediately amend their existing interconnection agreements accordingly.

d. Interim Pricing: Subject to merger closure and in consideration for the bill and keep arrangement agreed upon above, U S WEST and McLeodUSA agree that all interim rates, except reciprocal compensation rates, will be treated as final and any final commission orders entered in any of the 14 states in U S WEST's territory through April 30, 2000, and on a going-forward basis through December 31, 2002, (except as such orders may relate to reciprocal compensation rates for the period between March 1, 2000 and December 31, 2002—reciprocal compensation is addressed in paragraph 2.c. of this agreement) will be applied prospectively to McLeodUSA, and not retroactively. In addition, U S WEST agrees that this settlement term will apply throughout the terms

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of the parties' existing interconnection agreements. Thus, both Parties agree not to bill each other for any true-ups associated with final commission orders that affect interim prices and release claims for such true-ups.

e. Centrex Service Agreements: For McLeodUSA's five-year Centrex Service Agreements that expire before December 31, 2002, the Parties agree to extend the terms and pricing of those agreements until December 31, 2002.

3. For valuable consideration mentioned above, the receipt and sufficiency of which are hereby acknowledged, McLeodUSA and U S WEST do hereby release and forever discharge the other and the other's associates, owners, stockholders, predecessors, successors, agents, directors, officers, partners, employees, representatives, employees of affiliates, employees of parents, employees of subsidiaries, affiliates, parents, subsidiaries, insurance carriers, bonding companies and attorneys, from any and all manner of action or actions, causes or causes of action, in law, under statute, or in equity, suits, appeals, petitions, debts, liens, contracts, agreements, promises, liability, claims, affirmative defenses, offsets, demands, damages, losses, costs, claims for restitution, and expenses, of any nature whatsoever, fixed or contingent, known or unknown, past and present asserted or that could have been asserted or could be asserted in any way relating to or arising out of the billing disputes/matters addressed herein.

4. The terms and conditions contained in this Confidential Billing Settlement Agreement shall inure to the benefit of, and be binding upon, the respective successors, affiliates and assigns of the Parties.

5. McLeodUSA hereby covenants and warrants that it has not assigned or

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transferred to any person any claim, or portion of any claim which is released or discharged by this Confidential Billing Settlement Agreement.

6. The Parties expressly agree that they will keep the substance of the negotiations and or conditions of the settlement and the terms or substance of this Confidential Billing Settlement Agreement strictly confidential. The parties further agree that they will not communicate (orally or in writing) or in any way disclose the substance of negotiations and/or conditions of the settlement and the terms or substance of this agreement to any person, judicial or administrative agency or body, business, entity or association or anyone else for any reason whatsoever, without the prior express written consent of the other party unless compelled to do so by law. It is expressly agreed that this confidentiality provision is an essential element of this Confidential Billing Settlement Agreement. The parties agree that this Confidential Billing Settlement Agreement and negotiations, and all matters related to these two matters, shall be subject to the Rule 408 of the Rules of Evidence, at the federal and state level.

7. In the event either Party has a legal obligation which requires disclosure of the terms and conditions of this Confidential Billing Settlement Agreement, the Party having the obligation shall immediately notify the other Party in writing of the nature, scope and source of such obligation so as to enable the other Party, at its option, to take such action as may be legally permissible so as to protect the confidentiality provided for in this agreement.

8. This Confidential Billing Settlement Agreement constitutes the entire agreement between the Parties and can only be changed in a writing or writings executed by both of the Parties. Each of the Parties forever waives all right to assert

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that this Confidential Billing Settlement Agreement was a result of a mistake in law or in fact.

9. This Confidential Billing Settlement Agreement shall be interpreted and construed in accordance with the laws of the State of Colorado, and shall not be interpreted in favor or against any Party to this agreement.

10. The Parties have entered into this Confidential Billing Settlement Agreement after conferring with legal counsel.

11. If any provision of this Confidential Billing Settlement Agreement should be declared to be unenforceable by any administrative agency or court of law, the remainder of the Confidential Billing Settlement Agreement shall remain in full force and effect, and shall be binding upon the Parties hereto as if the invalidated provision were not part of this Confidential Billing Settlement Agreement.

12. Any claim, controversy or dispute between the Parties in connection with this Confidential Billing Settlement Agreement shall be resolved by private and confidential arbitration conducted by a single arbitrator engaged in the practice of law, under the then current rules of the American Bar Association. The Federal Arbitration Act, 9 U.S.C. §§ 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator shall only have the authority to determine breach of this agreement, but shall not have the authority to award punitive damages. The arbitrator's decision shall be final and binding and may be entered in any court having jurisdiction thereof. Each party shall bear its own costs and attorneys' fees and shall share equally in the fees and expenses of the arbitrator.

13. The Parties acknowledge and agree that they have a legitimate billing

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dispute about the issues described in this Confidential Billing Settlement Agreement and that the resolution reached in this agreement represents a compromise of the Parties' positions. Therefore, the Parties agree that resolution of the issues contained in this agreement cannot be used against the other Party.

14. This Confidential Billing Settlement Agreement may be executed in counterparts and by facsimile.

IN WITNESS THEREOF, the Parties have caused this Confidential Billing Settlement Agreement to be executed as of this day, 28<sup>th</sup> of April 2000.

McLeodUSA, Inc.

By: [Signature]

Title: PRESIDENT

Date: 4/28/2000

U S WEST Communications, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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FROM LITIGATION SUPPORT

(FRI) 4.28.00 15:57/ST. 15:56/NO. 4861183737 P 2

dispute about the issues described in this Confidential Billing Settlement Agreement and that the resolution reached in this agreement represents a compromise of the Parties' positions. Therefore, the Parties agree that resolution of the issues contained in this agreement cannot be used against the other Party.

14. This Confidential Billing Settlement Agreement may be executed in counterparts and by facsimile.

IN WITNESS THEREOF, the Parties have caused this Confidential Billing Settlement Agreement to be executed as of this day, 28<sup>th</sup> of April 2000.

McLeodUSA, Inc.

By: [Signature]

Title: PRESIDENT

Date: 4/28/2000

U S WEST Communications, Inc.

By: [Signature]

Title: President - Wholesale Mkts

Date: 4/28/00

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Q110443



Qwest  
1801 California Street  
Suite 5200  
Denver, CO 80202  
Telephone: 303-992-2787  
Facsimile: 303-992-2789



Greg Casey  
Executive Vice President  
Wholesale Markets

October 26, 2000

**CONFIDENTIAL AGREEMENT**

**VIA ELECTRONIC MAIL AND FACSIMILE**

Blake Fisher  
McLeodUSA  
6400 C Street SW  
Post Office Box 3177  
Cedar Rapids, Iowa 52506-3177

Re: Escalation procedures and business solutions

Dear Blake:

[Trade Secret Data Begins

As a result of ongoing discussions between McLeodUSA and Qwest in recent days, the parties have addressed numerous proposals intended to better the parties' business relationship. In principle, the parties have agreed to: (1) develop an implementation plan by which the parties agree to implement their Interconnection Agreements; (2) arrange quarterly meetings between executives of each company to address unresolved and/or anticipated business issues; and (3) establish and follow escalation procedures designed to facilitate and expedite business-to-business dispute solutions.

**1. IMPLEMENTATION PROCESS**

By no later than November 15, 2000, the parties agree to meet together (via telephone, live conference or otherwise), and as necessary thereafter, to develop an Implementation Process. The purpose of the Implementation Process will be to establish processes and procedures to better implement the parties' Interconnection Agreements. Both parties agree to dedicate the necessary time and resources to the development of the Implementation Process, and to finalize an Implementation Process by no later than December 15, 2000.

**2. QUARTERLY MEETINGS**

Beginning in 2001 and continuing through the end of 2003, the parties agree to attend and participate in quarterly executive meetings, the purpose of which will be to address, discuss and attempt to resolve unresolved business issues and disputes, adjustments to the Purchase Agreements, if any, the Implementation Process, and any anticipated business issues. The meetings will be attended by executives from both companies at the vice-president and/or above level.

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3. ESCALATION PROCEDURES

The parties wish to establish a business-to-business relationship and agree that they will resolve any and all business issues and/or disputes that arise between them in accordance with the escalation procedures set forth herein. The parties agree, subject to any subsequent written agreement between the parties, to: (1) utilize the following escalation process and time frames to resolve disputes; (2) commit the time, resources and good faith necessary to meaningful dispute resolution; (3) not proceed to a higher level of dispute resolution until expiration of the time frame for the prior level of dispute resolution; and (4) complete all levels of dispute resolution before seeking resolution from the American Arbitration Association or any regulatory or judicial forum.

<u>Level</u>	<u>Participants</u>	<u>Time frame for discussions</u>
LEVEL 1	Vice Presidents (Stacey Stewart/Judy Tinkham or successors)	10 business days
LEVEL 2	Senior Vice Presidents (Blake Fisher/Greg Casey or successors)	10 business days
LEVEL 3	CEOs	10 business days
LEVEL 4	Arbitration according to the provisions of the parties' Interconnection Agreements	
LEVEL 5	CEOs	5 business days

**LEVEL 6A** If a dispute is not resolved in Levels 1 through 5, and involves either a technical telecommunications issue requiring telecommunications expertise or an interpretation of legislative or regulatory requirements, and does not involve a determination of penalties or damages, then each party has the right to take such disputes, unresolved after arbitration, to the appropriate state or federal regulatory body for resolution.

**LEVEL 6B** If a dispute is not resolved in Levels 1 through 6A, either party may initiate litigation in federal court, with all questions of fact and law to be submitted for determination to the judge, not a jury. The parties agree that the exclusive venue for civil court actions initiated by McLeodUSA is the United States District Court for the District of Colorado and the exclusive venue for civil court actions initiated by Qwest is the United States District Court for the District of Iowa. If a court issues a final order of dismissal or summary judgment, and such order is not reversed on appeal, then the party bringing the action (in the case of dismissal) or the party that did not prevail on summary judgment shall be responsible for reimbursement to the other party of the reasonable attorneys' fees incurred by the other party. In the event that either party files an action in court, the parties waive: (a) primary jurisdiction in any state utility or service commission, and (b) any tariff limitations on damages or other limitation on actual damages, to the extent that such damages are reasonably foreseeable and acknowledging each party's duty to mitigate damages; and the Interconnection Agreements are hereby amended accordingly.

NONPUBLIC DOCUMENT

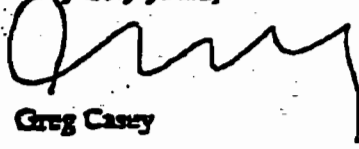
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If the parties agree with the terms set forth above, they will each execute a copy of this letter in the signature spaces provided on the last page. Upon signature of both parties, the parties will be bound by the terms set forth herein.

Trade Secret Data Ends]

Very truly yours,



Greg Casey

TERMS OF LETTER AGREEMENT ACCEPTED BY:

QWEST COMMUNICATIONS INTERNATIONAL, INC.

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[title]

\_\_\_\_\_  
[date]

MCLEODUSA INCORPORATED

  
[name] Blake O. Fisher, Jr.

Group Vice President  
[title]

10/26/2000  
[date]

NONPUBLIC DOCUMENT

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TERMS OF LETTER AGREEMENT ACCEPTED BY:

QWEST COMMUNICATIONS INTERNATIONAL, INC.

[Signature]  
[name]

EXPL. V.P.  
[title]

10. 26. 00  
[date]

MCLEODUSA INCORPORATED

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[title]

\_\_\_\_\_  
[date]

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