

EXHIBIT NO. ____ (RAS-6)



June 24, 2002

By facsimile & U.S. mail

Commissioner Marc Spitzer
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007-2996

Re: Qwest's June 18, 2002 Letter to Commissioner Marc Spitzer;
AZ Docket Nos. RT-00000F-02-0271, T-00000A-97-0238

Dear Commissioner Spitzer:

Eschelon Telecom, Inc. ("Eschelon") received a copy of your letter to the Parties in Arizona Docket Numbers RT-00000F-02-0271 and T-00000A-97-0238. We also received a copy of the June 18, 2002 response to your letter by Qwest Corporation ("Qwest's Letter"). Although Qwest entered into unfiled agreements with several Competitive Local Exchange Carriers ("CLECs"),¹ Qwest discusses the Eschelon agreements specifically in its letter, indicating that it is using these agreements as an illustration. While Eschelon could agree to some of the statements in Qwest's Letter, Eschelon has a different perspective as to the events. Eschelon believes that, now that Qwest has submitted its letter, Eschelon should state its position for the Commission.

Qwest's conduct with respect to Eschelon, McLeod, Covad, or the other small CLECs with which Qwest had agreements needs to be reviewed in context. In the fall of 2000, Qwest's then Chairman and Chief Executive Officer, Joseph Nacchio, publicly announced an agreement with McLeod, which he characterized as a significant positive development. He stood before the Regional Oversight Committee ("ROC") and told members that Qwest was going to go behind closed doors and work out differences with CLECs, rather than litigate them. Representatives of Qwest repeatedly said they wanted to work on a "business-to-business" basis with Eschelon, rather than litigate issues. They also continually attempted to distinguish Qwest from the former company, US West.²

¹See Staff Report and Recommendation, *In the Matter of Qwest Corporation's Compliance with Section 252(e) of the Telecommunications Act of 1996*, AZ Docket No. RT-00000F-02-0271 (June 2, 2002); see also Amended Verified Complaint, *In the Matter of the Complaint of the Minnesota Department of Commerce Against Qwest Corporation Regarding Unfiled Agreements*, MPUC Docket No. P-421/C-02-197 (March 19, 2002). The "small CLECs" identified in the Minnesota Complaint include the following 10 CLECs: HomeTown Solutions, Hutchinson Telecommunications, Mainstreet Communications, Onvoy Communications, NorthStar Access, Otter Tail Telecom, Paul Bunyan Rural Telephone Cooperative, Tekstar Communications, VAL-ED Joint Venture, and WETEC. See *id.* ¶ 196.

²See also "After Joseph P. Nacchio, Qwest Communications International Inc.'s brash, Brooklyn-born chief executive, won the battle for U S West in 1999, he wasted no time deriding the sleepy regional Bell.

Qwest asked for time to make the transition to become a more CLEC-friendly wholesale business. Qwest made these types of statements to others as well.³ As the Escalations and Business Solutions Letter signed by Qwest and Eschelon (Nov. 15, 2000) ("Escalation Letter") shows, Eschelon's management wanted to believe in the promise of a better relationship under new management and attempted to use the non-litigious path touted by Qwest.⁴

Some members of Eschelon's management have worked for incumbent local exchange carriers ("ILECs") themselves. They have also been through changes in ownership and management and know that the related transitions can take time. Eschelon's management was open to working with Qwest and, if it really worked, to saying so publicly and perhaps even at some point supporting Qwest's 271 bid.⁵ Although it could be inferred from Qwest's Letter that it worked, it didn't work.

Despite the suggestion in Qwest's Letter to the contrary, the 271 provision in the Escalation Letter was a condition of obtaining and implementing a plan to improve service quality, not a provision following successful implementation of a plan. Qwest would not agree to develop a plan to address pressing service quality and other problems unless Eschelon dropped its opposition to Qwest's 271 bid. Whereas Qwest's Letter reads as though all service problems were solved *before* Eschelon dropped out of the 271 proceedings, Qwest required Eschelon to *first* drop out of the proceedings. Eschelon thus takes issue with the following statement in Qwest's Letter: "Eschelon's agreement to not oppose Qwest's Section 271 application was . . . expressly contingent upon the parties' ability to agree upon *and implement* a plan that satisfied Eschelon." Qwest's Letter, p. 2 (emphasis in original). The Escalation Letter included only an *agreement to agree* to a plan to implement service quality solutions. It did *not* condition Eschelon's agreement to not oppose Qwest's Section 271 application upon the parties' ability to *implement* a plan,

In senior management meetings, he described the company as 'U S Worst' and publicly likened the company's workers to 'clowns.' He surrounded himself with colleagues from his high-flying upstart, and cut U S West executives out of the loop. When Qwest moved into U.S West's dated-looking headquarters here, Mr. Nacchio installed a sign on the 52nd floor that read: 'Excuse our appearance. We're entrepreneurs. This building was built in a different era and we save cash by not remodeling.'" Solomon, Deborah, "Bad Connection: How Qwest's Merger With a Baby Bell Left Both in Trouble --- Brash Mr. Nacchio Derided U S West After Buying It; Now, It's His Safety Net --- SEC Probes the Accounting," *The Wall Street Journal* (via Dow Jones), p. A1 (April 2002).

³ See, e.g., *id.*

⁴ Generally, public policy favors settling disputes. See, e.g., Minn. Stat. § 237.011 ("Telecommunications goals"; "encouraging voluntary resolution of issues between and among competing providers and discouraging litigation."). In the 271 dockets, Eschelon refrained from litigation while attempting to resolve disputes, including quality of service problems. Eschelon's conduct was legitimate behavior, particularly because Eschelon was not obligated to participate in the 271 proceedings. It is a separate question as to whether any other rule or policy required Qwest to disclose the known problems raised by Eschelon in discovery, pursuant to the burden of proof, or otherwise in the 271 proceedings.

⁵ In fact, when Eschelon experienced improvement in Qwest's performance, Eschelon acknowledged that improvement, even in some cases when the performance still had a ways to go. Eschelon's management hoped that positive reinforcement would encourage progress, and Qwest made it known that it was more willing to negotiate if CLECs made such statements.

as represented in Qwest's Letter. Although Qwest's Letter cites the April 30, 2001, deadline for agreeing to an implementation plan, that deadline was extended more than once. An implementation plan was not agreed upon until July of 2001. The July agreements had to be implemented after that date. From November 15, 2000 through July of 2001 (and afterward), however, Qwest required that Eschelon not participate in 271 proceedings as a condition of continuing negotiations as to the plan and implementation of the plan and later agreements.

Nonetheless, the premise of Qwest's Letter, with respect to Eschelon, appears to be that Eschelon did not participate in 271 proceedings because Eschelon's problems were solved. Qwest's Letter particularly creates this impression for a reader unfamiliar with the underlying facts. But, this is not the case. The problems were not all solved. Qwest points to Eschelon's letter of November 3, 2000, to the Commission to suggest that, if any⁶ problems continued to exist, Eschelon would have continued to raise them in the 271 proceeding. As Qwest knows, however, the later November 15, 2000, Escalation Letter required Eschelon's silence.⁷ Despite Eschelon's arguments to the contrary, Qwest interpreted that agreement more broadly than not opposing Qwest and said that it required Eschelon not to participate in the 271/SGAT proceedings.⁸

⁶ The November 3, 2000, letter related primarily to cutover issues. Most of the problems raised by Eschelon in the Arizona 271 proceeding related to UNE-P. See Eschelon's Comments Addressing UNE Combinations, *In re. US WEST Communications, Inc.'s Compliance with § 271 of the Telecommunications Act of 1996*, Arizona Docket No. T-00000A-97-0238 (Sept. 21, 2000) ("Arizona UNE-P Comments"); see also Verification of Garth Morrisette (same).

⁷ Qwest states that none of the five merger-related agreements in issue contained agreements to refrain from participation in 271 proceedings. See Qwest's Letter, p. 1. Qwest also states that only two agreements of those referred to by Commissioner Spitzer mentioned 271 proceedings. *Id.* If they do not imply that there were no other agreements relating to 271 participation, these statements at least leave the issue unanswered for the Commissioner. According to a news report, McLeod had an agreement not to oppose Qwest in 271 proceedings, but it was an oral agreement. See "States Probe Qwest's Secret Deals To Expand Long-Distance Service," *Wall Street Journal*, p. A10 (April 20, 2002) ("As part of that deal, McLeod agreed to stop its opposition to the Qwest-U S West merger. The company also had a verbal agreement to not oppose Qwest's entry into long-distance, McLeod officials told regulators, a contention that Qwest does not dispute.") Qwest does not state whether there were any others.

⁸ Qwest particularly objected to Eschelon raising publicly any problems with commercial performance. Eschelon argued that it could participate in SGAT proceedings to gain input into the wording of the SGAT without submitting evidence of problems with commercial performance. Eschelon believed that an opportunity to influence the language of the SGAT would have been important and valuable, because Eschelon has a different business plan from other CLECs involved in that process and could have tried to ensure that its issues were addressed. Qwest also uses the SGAT as a negotiation template, and participation in the SGAT proceedings would have allowed Eschelon to gain a better understanding of that template. But, Qwest took the opposite position and claimed that Eschelon's participation would breach the Escalation Letter. In fact, on the one occasion when Eschelon's representative later attended a multi-state 271/SGAT workshop in Denver, Qwest's attorney Charles Steese told her that she should not be there. Qwest's representatives also called Eschelon's top management to complain and made Eschelon "explain" its conduct. Afterward, Eschelon no longer participated in the 271 proceedings, as required by Qwest.

Because Qwest required confidentiality and did not disclose the Escalation Letter,⁹ Qwest was able to create the impression that problems with Qwest's commercial performance were solved when all of them were not. Qwest bears the ultimate burden of proof as to its commercial performance on all checklist items, however, even if "no party files comments challenging compliance with a particular requirement." FCC BANY Order, ¶ 47.¹⁰

Eschelon entered into the plan and related agreements with the expectation that, if an agreement were reached as to service quality issues, Qwest would abide by the agreement. Although Qwest represents in Qwest's Letter that the 271 provision was . . . contingent upon the parties' ability to agree upon and implement a plan "*that satisfied Eschelon*,"¹¹ Qwest still has not implemented a plan to address Eschelon's quality issues to Eschelon's satisfaction. *See, e.g.*, Affidavit of Lynne Powers (June 7, 2002) (copy enclosed).¹² Eschelon had many service problems, access and billing problems, and other issues with Qwest's commercial performance throughout the course of the Arizona 271 proceeding. Qwest was aware of these problems, through many discussions with Eschelon, as well as through monthly Report Cards provided by Eschelon to Qwest during that time. Eschelon could not raise these issues to the ACC, however, because Qwest continued to hold Eschelon to the requirement that Eschelon not oppose Qwest in 271 proceedings.¹³ Therefore, the following statement in Qwest's Letter is also inaccurate: "if it did not [work], Eschelon was free to say so, to the ACC or to anyone else." Although Eschelon was dissatisfied in several respects, pursuant to the November

⁹ Regarding Qwest's obligation to file agreements, Eschelon agrees with the following quotation by Anthony Mendoza, the Minnesota Department of Commerce deputy commissioner for telecommunications: "[Qwest] is the only company that is required to disclose them to the PUC." *See* "Companies didn't clear deals with PUC, regulators say," Steve Alexander, *Minneapolis Star Tribune*, Feb 15, 2002, p. D2. The federal Act places the burden on Qwest to make terms of interconnection, if any, available to other CLECs, and therefore it is Qwest's responsibility to make that determination and file any such agreements pursuant to the Act. Placement of the burden on Qwest makes sense, because Qwest has superior access to information relevant to whether a term or condition is of the type for which filing is required. (For example, while a CLEC may believe that a term is in settlement of an individual dispute, Qwest is in a position to know whether the dispute is truly unique or the experience is shared by other CLECs and whether the same or similar solution is suitable for, and should be made available to, other CLECs.) Eschelon is not aware of anything in the agreements that prevented Qwest from filing them. Qwest could have requested written consent for disclosure from CLECs at any time, if Qwest claims it was concerned about the confidentiality provisions that Qwest required as part of agreements.

¹⁰ *In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404 (rel. December 22, 1999) ["FCC BANY Order"].

¹¹ *See* Qwest's Letter, p. 2 (emphasis added).

¹² Not only were Eschelon's substantive issues not fully addressed, but also Qwest did not even adhere to the terms of the Escalation Letter itself. The letter identified Qwest's then CEO Mr. Nacchio by name and required Mr. Nacchio to meet with Eschelon, but Mr. Nacchio refused to do so.

¹³ For example, the enclosed email, dated May 25, 2001, from Eschelon to Andrew Crain, Charles Steese, and Jim Gallegos of Qwest confirms that Eschelon was not responding to Qwest discovery in the Arizona 271 proceeding, because Eschelon was "not participating in the [Arizona 271] proceeding at Qwest's request."

15, 2000, Escalation Letter, Eschelon was not "free to say so, to the ACC or to anyone else."

In Qwest's Letter, Qwest also points out that Eschelon participated in the Change Management Process ("CMP") (including Re-design) while the 271 proceeding was pending. The CMP is separate from the 271 proceedings, and issues raised in monthly CMP meetings were not necessarily brought to the 271 proceedings. Any issues that were did not have the benefit of explanation by Eschelon, which had first-hand experience with the problems. Eschelon would have participated more fully in CMP, if Qwest had not exerted pressure on Eschelon not to do so. Eschelon argued that CMP was not a 271 proceeding and therefore the Escalation Letter did not prohibit participation in CMP.¹⁴ Qwest took the opposite position and actively enforced it. Qwest had Eschelon representatives pulled from CMP Re-Design meetings, reviewed but did not disclose written comments by Eschelon on a Qwest status report that were critical of that report, required Eschelon to withdraw a Change Request relating to anti-competitive behavior before it was distributed to other CLECs, and took other steps to inhibit Eschelon's participation in CMP/CMP Re-Design and prevent information from becoming known. Finally, Eschelon's President personally attended CMP monthly and Re-Design meetings to determine whether Qwest's attacks on Eschelon representatives were fair and whether Qwest's representations that CMP issues could be resolved just as well outside of CMP were accurate. Eschelon's President concluded that Qwest's statements were not fair or accurate and the Eschelon's CMP participation was appropriate and necessary to resolve critical business issues. Eschelon's President encouraged Gordon Martin of Qwest to also attend the CMP meetings to gain an understanding of that process and Eschelon's perspective. Mr. Martin did not do so. Although Eschelon ultimately maintained some level of participation in CMP, it is difficult and frustrating, in light of the actual events, to read that Qwest is now holding out Eschelon's participation in CMP as evidence of alleged full and uninhibited participation in CMP.

Qwest also states in its letter that: "The purpose of the settlements was not to suppress complaints but rather to *resolve* them." Qwest's Letter, p. 1 (emphasis in original). However, in addition to Qwest's position with respect to CMP and 271/SGAT meetings, on October 30, 2001, Qwest provided two written proposals to Eschelon. In those proposals, Qwest said it would require Eschelon to "deliver to Qwest all reports, work papers, or other documents related to the audit process" relating to missing switched access minutes to Qwest. Qwest also conditioned payments otherwise legitimately due to Eschelon upon Eschelon agreeing that it would "when requested by Qwest file supporting testimony/pleadings/comments and testify whenever requested by Qwest in a manner suitable to Qwest (substantively)." Eschelon refused to sign these proposals. The issues between Eschelon and Qwest could easily have been resolved

¹⁴ In this general time frame, Qwest stopped making payments to Eschelon, despite written contractual obligations to pay Eschelon. When doing so, Qwest was well aware of market conditions and the resulting additional pressure that would be placed on Eschelon from stopping the payments and knew that doing so gave Qwest greater leverage over Eschelon. Eschelon does not know whether any CLEC that did stop its participation in CMP, if any, continued receiving payments whereas the payments to Eschelon stopped.

Commissioner Marc Spitzer

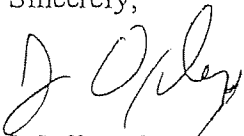
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without these provisions, which did nothing to address problems experienced by Eschelon. But, Qwest included those terms as an integral part of its proposals. Because Qwest has made representations regarding its purpose in proposing settlements, the Commission should have these facts when making that determination.

The telecommunications market is experiencing critical challenges. As a start-up, smaller company, Eschelon is particularly affected by these challenges. Resources are tight, and Eschelon's energy needs to be devoted to meeting the business challenges that it faces daily. Eschelon is also aware that it has settled some of its own claims with Qwest and that it may be viewed as late in speaking out. In light of all of this, Eschelon hesitated to send this letter. Because of Qwest's specific discussion of its dealings with Eschelon in Qwest's Letter, however, Eschelon decided it should share its different perspective.

Sincerely,



J. Jeffery Oxley

Vice President, General Counsel, and Corporate Secretary

cc: Chairman William A. Mundell
Commissioner Jim Irvin
Timothy Berg, Qwest
Todd L. Lundy, Qwest
Richard Corbetta, Qwest
Docket Control (original plus 20 copies)
Service Lists (all parties of record in both dockets)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF MINNESOTA

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

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Commission Investigation Into
Qwest's Compliance with Section 271 of the
Telecommunications Act of 1996 that the
Requested Authorization is Consistent with the
Public Interest, Convenience and Necessity

PUC Docket No. P421/CI-01-1373
OAH Docket No. 6-2500-14488-2

AFFIDAVIT OF
F. LYNNE POWERS

I, F. Lynne Powers, being duly sworn, state:

1. I am the Executive Vice President of Customer Operations for Eschelon Telecom, Inc. ("Eschelon"). My areas of responsibility include provisioning, repair, and customer care.

UNE-Platform

2. In approximately mid-May of 2000, Eschelon began efforts to prepare to order from Qwest UNE-Platform ("UNE-P") lines. UNE-P is a combination of the following unbundled network elements ("UNEs"): loop, switching, and transport. At that time, Qwest did not provide information about feature availability with UNE-P on its web-site. Feature information is critical to developing and marketing a product. It took more than four months for Eschelon to extract that information from Qwest. When Eschelon finally obtained a list of available features, the list was incomplete and unclear.

3. In the absence of receiving a definitive list of available features for UNE-P from Qwest and in the process of compiling its own list of Universal Service Ordering Codes ("USOCs") for ordering, Eschelon attempted to test availability of various features and USOCs by placing trial orders (using employee lines) in Minnesota. Eschelon wanted to submit trial orders in additional states as well. But, at that time, Qwest would not accept orders for UNE combinations anywhere in its territory, except Minnesota, without a contract amendment. Qwest took this position even though Eschelon has an interconnection agreement with Qwest in every one of the states in which it operates¹ that

¹Eschelon does business within Qwest territory in Arizona, Colorado, Minnesota, Oregon, Utah, and Washington. Other than the information relating to the Minnesota UNE-P trial orders (and certain repair information discussed below), the information in this Affidavit (including that relating to UNE-E/UNE-Star) applies in each of these states.

requires Qwest to provide UNEs "in combination" in accordance with the Act, FCC rules, and state law.² In those states, Eschelon has opted in to interconnection agreements of AT&T Communications, Inc. ("AT&T"). Therefore, Eschelon, AT&T, and other opt-in Competitive Local Exchange Carriers ("CLECs") should have been able to order UNE combinations pursuant to the terms of their existing interconnection agreements with Qwest. But, for many months, the only state in Qwest's territory where Qwest would process orders for UNE combinations without a contract amendment was Minnesota. Although Qwest had previously required a contract amendment in Minnesota as well, Qwest changed its position after the Minnesota Public Utilities Commission issued a decision requiring Qwest to provide UNE Combinations.³

4. In Minnesota, where Qwest allowed Eschelon to submit UNE-P orders, the UNE-P trial orders resulted in denial and loss of features, including Qwest deletion of features without notice to Eschelon; unclear and changing processes; and customer-affecting service problems. Minnesota UNE-P trial order customers experienced:

- complete outages, with no dial tone, for a day or more
- inability to call out locally
- inability to place long distance calls
- loss of features
- inability to forward calls between central offices

5. The problems were too numerous to launch a product offering using UNE-P at that time, because doing so would not only have caused Eschelon to incur unnecessary expenses and delays but also exposed Eschelon's end-user customers to these problems. Eschelon also could not afford to leave its Off-Net⁴ customer base on resale, which was prohibitively expensive. UNE combinations not only have lower prices than resale, but also they allow CLECs to collect switched access payments that, with resale, go to the incumbent. Although Eschelon had a contractual right to the lower

² See Eschelon-Qwest Interconnection Agreements: AZ, Part A, ¶ 21 & Att. 3, ¶¶ 3.3 & 18.1; CO Part A, ¶ 8.1 & Att. 3, ¶¶ 2.4 & 15.1; MN, Part A, ¶ 20 & Att. 3, ¶ 14.1; OR, Part A, ¶¶ 19 & 36 & Att. 3, ¶ 14.1; UT, Part A, ¶ 21 & Att. 3, ¶¶ 3.3 & 18.1; WA, Part A, ¶ 21.1 & Att. 3, ¶¶ 1.2.2 & 18.1; *see, e.g.*, Agreement for Local Wireline Network Interconnection and Service Resale Between Advanced Telecommunications, Inc. and U S WEST Communications, Inc., for the State of Arizona, Agreement No. CDS-000106-0212; Decision No. 62489 (Jan. 20, 2000) ("Agreement"). The Arizona Agreement, for example, deals specifically with issues such as the definition of "Combinations," *see id.* Part A, p. 4; cooperative testing of combinations, *see id.* ¶ Att 3, Para 18.1; service order process requirements for combinations, *see id.* Att. 5, ¶ 2.2.2.1, and other issues.

³ See Order After Remand, *In re. the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications, Inc. and AT&T, MCI, MFS, and AT&T Wireless*, Docket No. P-421/C1-99-786 (March 14, 2000) ("MN Order After Remand").

⁴ Eschelon has its own switches for providing voice service. When using its switches to serve its customers, Eschelon orders collocation, loops, *etc.*, from Qwest. In some cases (particularly when a customer is outside of the area served by Eschelon's switch), Eschelon also orders UNE-E, UNE-P, or resale from Qwest to serve customers. Eschelon often refers to customers and lines served through Eschelon's own switching facilities as "On-Net" or "On-Switch" and customers and lines served through UNE-E, UNE-P, or resale as "Off-Net."

prices and the access payments, it found that the UNE-P combination was not, as a practical matter, available from Qwest at an acceptable level of quality.

UNE-Eschelon

6. Eschelon raised these concerns with Qwest.⁵ On November 15, 2000, Eschelon and Qwest executed an interconnection agreement amendment pursuant to which Eschelon could order another UNE combination, or "Platform," which was also a combination of loop, switching, and transport. See Exhibit 1. Qwest initially referred to this product as UNE-Eschelon ("UNE-E"). Qwest presented UNE-E as being like UNE-P, except generally for pricing that includes a flat rate up to a certain number of minutes;⁶ the ability to order Qwest voice messaging and Digital Subscriber Line ("DSL")⁷ (at retail rates); and inclusion of Eschelon's existing resale base customers in the Platform product.⁸ Qwest said that, with UNE-E, Eschelon would be able to collect the switched access revenues that are unavailable with resale. Although switched access is also available with UNE-P, the problems described above with UNE-P remained unsolved. Instead of addressing those problems at that time, Qwest promised Eschelon that it would move Eschelon's base of resale customers to UNE-E. To avoid the provisioning problems associated with submitting separate Local Service Requests ("LSRs") for each line being converted from resale to a UNE combination -- such as the problems Eschelon had experienced when attempting to order UNE-P -- Qwest said that it would develop a tool to do the work on its side. With this tool, Qwest would convert Eschelon's resale base to UNE-E, without the need for individual LSRs from Eschelon and without adverse customer impact.

7. Qwest said that it would not be able to complete the conversion of Eschelon's resale base to UNE-E for a few months. Therefore, in the short-term, Qwest told Eschelon to order UNE-E through the existing resale process. See, e.g., Exhibit 2 (email from Judy Rixe, Qwest's then Account Manager for Eschelon). Qwest said that it would continue to bill Eschelon at the resale rates through the existing resale billing process. See *id.* Qwest said that Qwest Finance would then compare the end-of-month billed revenues to the UNE-E rates and pay Eschelon the difference. See *id.* After the

⁵ In addition, Eschelon described these problems in 55-page comments filed with the Arizona Corporation Commission on September 21, 2000. See Eschelon's Comments Addressing UNE Combinations, *In re. U S WEST Communications, Inc.'s Compliance with § 271 of the Telecommunications Act of 1996*, Arizona Docket No. T-00000A-97-0238 (Sept. 21, 2000) ("Arizona UNE-P Comments"); see also Verification of Garth Morrisette (same).

⁶ See Exhibit 1 (UNE-E Amendment, Att. 3.2, pp. 9-10). Although UNE-E was supposed to be distinguishable from UNE-P because it is flat-rated, Eschelon later learned that UNE-P-Centrex is also flat-rated. See <http://www.qwest.com/wholesale/pcat/unepcentrex.html> ("Until Qwest systems are able to record and bill actual usage information, Shared Transport Originating MOU and Local Switching Originating MOU will be billed at a flat monthly rate based on assumed MOU."). See excerpt attached as Exhibit 3.

⁷ Although Qwest now offers Qwest DSL with UNE-P lines (see Exhibit 8), at that time Qwest's position was that a CLEC could not order DSL with UNE-P lines.

⁸ In the agreement, Qwest did not place limits on the conversion of Eschelon's resale base to the new "Platform." See Exhibit 1. Later, Qwest began imposing limitations, such as excluding certain features and lines from the conversion.

first few months, however, the ordering and billing processes were supposed to change to allow Eschelon to order UNE-E (not resale) and receive accurate UNE-E bills. *See, e.g., id.* (“Develop billing process for flat-rated UNE-Deal”). Although Qwest later pushed out its target dates for the promised changes, Qwest continued to represent that it was proceeding with changes to allow accurate UNE-E ordering and billing. *See, e.g.,* Exhibit 4 (email and memorandum from Freddi Pennington of Qwest).

UNE-Star

8. Shortly after agreeing to provide UNE-E to Eschelon, Qwest began to refer to UNE-E as “UNE-Star.” *See, e.g.,* Exhibit 2 (subject line of “UNE-Star Implementation”).⁹ Qwest said that it had formed an internal team of more than 35 Qwest representatives to implement the “new product.” *See, e.g., id.* Qwest referred to these representatives as its “UNE-STAR Implementation team.” *See, e.g.,* Exhibit 4. In many meetings, Qwest referred to UNE-Star as a Qwest “product.” Sometimes, Qwest applies a one-size-fits-all approach to “products” that does not account for contractual differences. Eschelon agreed to the UNE-E interconnection agreement amendment, *see* Exhibit 1, based on Qwest’s representations that UNE-E would have certain characteristics (such as feature availability and avoiding adverse customer impact). Eschelon expressed concern that it needed visibility into, and participation in, the UNE-Star product implementation to ensure that the product was implemented consistent with the promises made to Eschelon. Eschelon also believed that it could provide a valuable service to Qwest by providing CLEC input that would improve the product. But, Qwest did not allow Eschelon to meet with Qwest’s UNE-STAR Implementation team. Instead, Eschelon had to press Qwest service and product managers, as well as Information Technologies (“IT”) personnel, to provide information and updates to Eschelon about UNE-Star. *See, e.g.,* Exhibits 4 & 5. Qwest said that UNE-E and the UNE-Star product were the same. *See, e.g.,* Exhibit 5.

9. The process experienced many delays. *See, e.g.,* Exhibits 4 & 5. In the meantime, Eschelon had to devote resources to dealing with the UNE-E/UNE-Star problems that Qwest had agreed to solve. Now, I understand that Qwest has testified in the cost case that “we don’t have a product anywhere called UNE-Star” and that “you’re never going to see any offering for like a UNE-Star if that’s the name of an agreement. It’s not the name of one of our products.”¹⁰ These statements cause me to ask whether

⁹Qwest refers to the same product as “UNE Eschelon” (“UNE-E”) when provided to Eschelon; as “UNE-McLeod” (“UNE-M”) when provided to McLeodUSA; and otherwise as “UNE-Star.” *See* Qwest Corporation’s Verified Answer to the Complaint of the Minnesota Department of Commerce, *In re. Complaint of the Minnesota Department of Commerce Against Qwest Corporation*, Docket No. P-421/C-02-197, ¶ 7, p. 12 (March 1, 2002) [“Qwest Verified Answer”] (excerpt attached as Exhibit 6).

¹⁰ Cross-Examination of Kathryn Malone, Transcript Vol. 7, page 104, lines 23-24 & page 105, lines 5-7 (May 21, 2001), *In the Matter of the Commission’s Review and Investigation of Qwest’s Unbundled Network Element (UNE) Prices*, PUC Docket No. P-421/CI-01-1375. *See* excerpt attached as Exhibit 7. Ms. Malone testified that she is “Manager – Wholesale Markets” and that she is “responsible for Wholesale advocacy surrounding interconnection and resale of products and services” at Qwest. *See* Direct Testimony of Kathryn Malone, p. 2, lines 4-6 (March 18, 2002; same docket); excerpt attached as part of Exhibit 7. According to Ms. Rixe, “Wholesale Advocacy” and “Wholesale Marketing” were represented on the Qwest internal UNE-Star implementation team. *See* Exhibit 2.

Qwest ever intended to deliver on its promises to implement UNE-E/UNE-Star long-term product improvements, or whether Qwest was simply delaying Eschelon and causing Eschelon to expend resources on a claimed product that Qwest did not intend to deliver as promised.

10. As discussed, one of the advantages of the November 15, 2000, interconnection agreement amendment was supposed to be that Qwest would convert Eschelon's base from resale to UNE-E/UNE-Star without the necessity of Eschelon placing individual LSRs to convert each customer. Qwest never completed the physical conversion to UNE-E/UNE-Star, however, and the UNE-E/UNE-Star product suffers from its own problems. Now, a year and a half later, Eschelon has had to begin, at this late date, the process of placing individual LSRs to convert customers to UNE-P, due to billing, provisioning, and pricing issues with UNE-E/UNE-Star.¹¹ Although Eschelon has been entitled under its interconnection agreement to UNE-P pricing since before 2000, Eschelon will not receive the benefits of UNE-P pricing until the lines are converted. I estimate that it will take a minimum of seven months and eighteen full-time employees, as well as additional resources, to complete the conversion from UNE-E/UNE-Star to UNE-P. I have already hired 18 people for this purpose. Because we are moving a large number of lines to UNE-P, Eschelon must hope that Qwest has been forced to make sufficient improvements in the UNE-P product to allow the transition and the product to work much more smoothly than Qwest's attempt to provision UNE-P in 2000.

11. Although Eschelon has commenced a conversion of many of its lines to UNE-P, the vast majority of Eschelon's Off-Net lines are still priced according to the UNE-E/UNE-Star product. UNE-E/UNE-Star suffers from billing, provisioning, documentation, switched access, reporting, and repair problems.

Billing

12. Eschelon still receives resale bills for UNE-E/UNE-Star lines, instead of accurate UNE-E/UNE-Star bills. The UNE-E price must be determined to reconcile the resale bills to the UNE-E/UNE-Star price. This was supposed to be an interim process. Qwest said that Eschelon would continue to receive a resale bill until Qwest implemented a process for UNE-E/UNE-Star billing. *See, e.g.*, Exhibit 2. Initially, Qwest estimated that this process would be in place by the first quarter of 2001. But, the process was

¹¹ On March 1, 2002, Eschelon and Qwest entered into a Settlement Agreement. (Paragraph 6 of the Settlement Agreement provides that the Settlement Agreement will be filed with the state commissions in states where Eschelon is certified and has an interconnection agreement. Qwest is to take care of the filing.) Paragraph 3(f) provides that Qwest and Eschelon will form a team for the purpose of developing a plan "to convert UNE-E/UNE-Star lines to UNE-P." Eschelon has started to order UNE-P, and the conversion commenced in April and May of 2002. The conversion has not yet been completed. The lines that were expected to convert as a records only change were converted first. Those lines were on common blocks (so Eschelon had to issue only one order for the conversion of a number of lines). The more time-consuming conversions are other 1FB and Centrex business lines to UNE-P. It is early in the conversion process. Some customer-affecting problems have occurred during the migration of these lines. Although the number does not appear to be great at this early stage, each customer-affecting problem is a serious issue for us. Eschelon is continuing to monitor this issue to determine the cause and extent of any problems.

delayed. *See, e.g.*, Exhibit 4. The process is still not in place, and Eschelon continues to receive resale bills for UNE-E/UNE-Star lines today.

Provisioning

13. Qwest has provisioned the UNE-E/UNE-Star product using a manual process with a known 50% - 70% error rate. From August through October of 2001, Eschelon reviewed service order completion notices to identify order errors and identified an error rate of approximately 50%. Qwest rejected orders in error or removed features without Eschelon's knowledge, and Qwest's translations personnel were unfamiliar with the proper process for translating the UNE-E/Star product in the switch. Many of the errors resulted in adverse end-user customer impact (including repair issues, because the customers did not always experience the impact of the error until some time after the order activity). Eschelon objected to the adverse customer impact and the amount of resources that Eschelon had to expend on dealing with these errors. Eschelon was forced to escalate virtually every problem. In November of 2001, Qwest finally instituted a resource-intensive manual review of the UNE-E/UNE-Star service orders. I attended a meeting during which Toni Dubuque and Chris Siewart of Qwest told Eschelon that Qwest's error rate for UNE-E/UNE-Star service orders was approximately 70%. Qwest has not reported an error rate to Eschelon since then. Although the error rate is high, Qwest's internal review has substantially reduced the number of errors that adversely impact end-user customers. Some customer-affecting problems still occur, however.¹²

14. Eschelon was experiencing even more provisioning problems when first using UNE-E/UNE-Star. UNE-E/UNE-Star essentially provides Centrex functionality on a POTS product. Initially, Qwest required Eschelon to order the needed Centrex-line features on a 1FB. Significant problems arose when a customer was moving to UNE-E/UNE-Star from a Qwest 1FB, often because the features did not interact properly. Qwest told Eschelon that these problems would be addressed by ordering the 1FBs with Custom Calling Management System (CCMS). On July 31, 2001, Qwest and Eschelon entered into two amendments to the interconnection agreement (relating separately to recurring and non-recurring charges) to modify the product to allow ordering of 1FBs with CCMS. *See* Exhibit 1. These amendments were supposed to alleviate the provisioning problems without requiring a change in platform, for which Qwest charges higher rates. The majority of Eschelon's UNE-E/UNE-Star lines require use of 1FB with CCMS. After signing the Amendments, Qwest operational personnel informed Eschelon that CCMS is an old product that the product manager actually wanted to retire and that few people at Qwest are knowledgeable about it. This is consistent with the problems that Eschelon has experienced. Both the service order and the translations personnel at Qwest appear untrained to provide the UNE-E/UNE-Star product. Provisioning the product is requiring additional resources and manual effort by both Qwest and Eschelon. Qwest has indicated that UNE-E/UNE-Star orders will never flow through.

¹² Although Eschelon is converting lines to UNE-P, many lines will be on UNE-E for months as that process continues, and some lines will remain on UNE-E after the conversion (such as lines that Qwest deems "ineligible" for UNE-P, such as lines with Qwest voice mail).

Documentation

15. Other than some job aids, Qwest has provided little documentation to describe and support the UNE-E/UNE-Star product. UNE-E, or UNE Star, is not identified as one of the available "UNE-P products" in the UNE-P Product Description in Qwest's Product Catalog on Qwest's wholesale website. (See <http://www.qwest.com/wholesale/pcat/unep.html>, p. 1, attached as Exhibit 8.) Because Qwest did not clarify the distinctions between the products in its materials, Qwest's UNE-P announcements have caused confusion. Eschelon representatives, including myself, have had to ask Qwest whether UNE-P announcements (such as Qwest notices regarding systems changes) also apply to UNE-E/UNE-Star and, if so, how they apply. See, e.g., Exhibit 5. As discussed, this was supposed to be a short-term problem, but Qwest has not delivered on all of its promises to implement the UNE-E/UNE-Star product. Some references to UNE-Star can now be found in the systems release notes on Qwest's wholesale web page, but product notifications and training were not developed as indicated (see, e.g., Exhibit 5).

Switched Access

16. Over a period of time, Eschelon complained to Qwest that Qwest was not providing complete and accurate records from which Eschelon could bill interexchange carriers access charges for UNE-E/UNE-Star customers.¹³ As an example, if a Qwest retail customer who has selected Qwest as the intraLATA toll PIC calls an Eschelon UNE-E/UNE-Star local customer, Qwest should provide a record of that intraLATA toll call to Eschelon, so that Eschelon can bill Qwest for terminating access. Eschelon needs an accurate report of switched access minutes of use ("MOU"), so that Eschelon may properly bill interexchange carriers for access. Qwest disputed Eschelon's claims as to the vast majority of the missing minutes. Recently, after Eschelon's agreement not to oppose Qwest in 271 proceedings or bring complaints terminated and Eschelon was allowed to raise this issue publicly, the number of minutes reported to Eschelon jumped significantly and became closer to the number of minutes that Eschelon has maintained it should have been receiving all along.¹⁴ The increase in number of minutes occurred very recently, and Eschelon does not know yet whether all of these minutes will be billable or whether this increase in the number of minutes will continue.

Reporting

17. Although the conversion from UNE-E (with resale billing) to UNE-P has only recently commenced, Qwest is already reporting Eschelon's UNE-E/UNE-Star lines as UNE-P lines for purposes of the Regional Oversight Committee (ROC) Performance Indicator Definition (PID) data. Previously, Qwest reported these lines as business lines, which is how the lines appear on the bill received by Eschelon. In reviewing the PID

¹³ This is true for On-Net customers as well.

¹⁴ Although Qwest may claim that this is due to a change from use of an interim process to use of Daily Usage Files ("DUF"), Eschelon previously attempted to move off the interim process. Qwest asked Eschelon to return to the interim process, because the long-term process was not working at that time.

data recently, Eschelon found that Qwest's reporting of the lines changed from business lines to UNE-P lines in approximately November of 2001. *See* Exhibit 9.¹⁵ At that time, Qwest changed its reporting not only on a going forward basis, but also retroactively to January of 2001 so that months previously reported as business lines were then reported as UNE-P lines. *See id.* Eschelon was not notified in advance of this change.

18. Qwest is reporting a nearly perfect billing accuracy rate in the PID data. One hundred percent of the UNE-E/UNE-Star rates billed to Eschelon from Qwest for UNE-E/UNE-Star lines, however, are inaccurate, as discussed. If Qwest is able to report a nearly perfect billing rate under these circumstances, a legitimate question exists as to whether the measure accurately reflects the CLEC experience. Additionally, it is unclear whether the PID measures capture the UNE-E/UNE-Star problems that result from service order writing issues. Qwest is manually handling the UNE-E/UNE-Star orders, which means that a Qwest service order writer re-types the order after Eschelon has typed and submitted it. Orders submitted by Eschelon are often not typed correctly by Qwest's order writer. As a result, problems occur, such as features not being provisioned properly. When this happens, an Eschelon customer will report a trouble, because the feature is not working properly. Qwest will close the trouble ticket and indicate "No Trouble Found," because Qwest takes the position that the problem is a service order issue, even though Eschelon's initial order was submitted correctly. Therefore, the trouble does not appear to be captured in the PID data.

Repair (DSL)

19. On November 15, 2000, Qwest agreed to provide Qwest DSL (at retail rates) with UNE-E/UNE-Star. *See* Exhibit 1, Att. 3.2, ¶ III(D).¹⁶ Although Qwest allows Eschelon to order DSL with UNE-E/UNE-Star, Qwest is not prepared to deal with DSL repair issues. Qwest has said that it does not have back end system records containing the DSL technical information needed for repair for Centron/Centrex Plus lines with DSL. On June 5, 2002, Qwest Process Specialist Susie Wells confirmed this to Bonnie Johnson and Tina Schiller of Eschelon, who are both in my organization. Ms. Wells said that, when the service order is processed, the critical technical DSL information needed for repair drops off and does not populate in the Qwest back end systems. She said this information is lost and cannot be retrieved. Ms. Wells said that this problem occurs in Qwest's Eastern and Central billing regions. Those regions include Arizona, Colorado, Minnesota, and Utah, of Eschelon's states. This issue is of particular concern to

¹⁵ Although separate categories are used for other products (such as UNE-P-POTS), separate categories were not created for UNE-E products (such as UNE-E-POTS). *See* Exhibit 9. If Qwest is claiming that it included UNE-E lines with UNE-P lines because there was not a separate category, Qwest could have simply created another category, as it did with UNE-P-POTS.

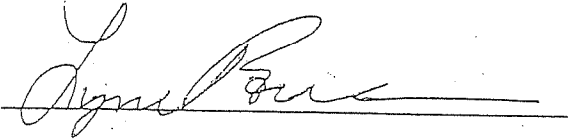
¹⁶ Since then, Qwest has also made Qwest DSL available with UNE-P, including UNE-P-Centrex (and Centron). *See, e.g.,* <http://www.qwest.com/wholesale/pcat/unepcentrex.html> ("You may convert existing Qwest Digital Subscriber Line (DSL) to UNE-P Centrex with Qwest DSL service. You may also request the installation of new Qwest DSL service on an eligible and existing UNE-P Centrex, subject to loop qualification and availability.") (excerpt attached as part of Exhibit 8). Qwest (Susie Wells) has indicated that the DSL repair problem applies to both UNE-E and UNE-P.

Eschelon in Minnesota and Colorado, because of Eschelon's significant number of existing Centrex Plus/Centron lines in those states.

Due to this problem, when Eschelon calls the Qwest repair centers (general repair or DSL repair), the Qwest representative will have no repair record with the information needed to repair a trouble in the DSL portion of the line. The Qwest representative may not even know that the customer has DSL. At a minimum, the customer will experience delays, and Eschelon will have to expend resources on escalating and resolving the problem, if it can be resolved. The DSL may have to be re-installed, because the technical information about the existing DSL service is lost. Qwest has asked Eschelon to provide additional forecasting and conduct additional monitoring of repair issues because of this problem. This imposes extra resource burdens on Eschelon. More importantly, Eschelon's end-user customers will be adversely affected. Also, because Qwest wholesale repair for DSL with Centrex Plus/Centron lines is not truly available for UNE-E or UNE-P, due to the missing repair information, Eschelon is discouraged from selling DSL to its customers.

FURTHER AFFLIANT SAYETH NOT.

Dated this 7th day of June 2002.



F. Lynne Powers

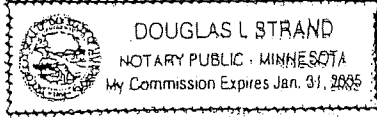
STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

SUBSCRIBED AND SWORN TO before me this 7th day of June, 2002, by F. Lynne Powers who certifies that the foregoing is true and correct to best of her knowledge and belief.

Witness my hand and official seal.

 Douglas L. Strand
Notary Public

My commission expires:
 January 31, 2005



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

From: Clauson, Karen L.
Sent: Friday, May 25, 2001 3:03 PM
To: 'Andrew Crain'; 'Charles Steese'
Cc: 'jhgalle@uswest.com'; Oxley, J. Jeffery
Subject: FW: §271 Proceeding, AZ Docket No. T-00000-97-0238

Andy and Chuck:

We discussed these data requests with Jim Gallegos, and he indicated that he believed they were served on us inadvertently, given that we are currently not participating in the proceeding at Qwest's request. Therefore, we are not responding to them. If for some reason that is not the case, Eschelon reserves all objections.

As far as provision of residential service in Arizona, Eschelon does not provide residential service. Qwest was present at the certification hearing where Garth Morrisette testified to that. We have found one residential (1FR) line on our bill, after finding that Qwest's monthly performance report shows one residential line. We are checking to see if that is a test customer, or perhaps an error in the data. Other than that isolated instance, however, we do not have residential customers in Arizona.

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

From: DPOOLE@FCLAW.com [SMTP:DPOOLE@FCLAW.com]
Sent: Wednesday, May 23, 2001 5:13 PM
To: thc@lrlaw.com; kclauson@eschelon.com
Cc: mabdulq@uswest.com; jragge@uswest.com; JHERRON@FCLAW.com
Subject: §271 Proceeding, AZ Docket No. T-00000-97-0238

Attached is Qwest Corporation's First Set of Data Request to Eschelon. I will also be forwarding separately an attachment to the data requests.

Thank you.

<<PGG%01!.DOC>>

The information contained in this e-mail message is attorney privileged and confidential information, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (602) 916-5000 or reply by e-mail and delete or discard the message. Although this e-mail and any attachments are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by Fennemore Craig, P.C. for any loss or damage arising in any way from its use. Thank



PGG%01!.DOC

you

EXHIBIT NO. ____ (RAS-7)

cc: R. Smith



January 22, 2001

Ms. Judy Tinkham, *by facsimile & by U.S. mail*
Qwest Corporation
200 South 5th Street
Suite 2400
Minneapolis, MN 55402

Re: Escalations pursuant to November 15, 2000 Escalation Procedures

Dear Ms. Tinkham:

Pursuant to Level 1 of the Escalation Procedures set forth in the November 15, 2000 Escalation Procedures and Business Solutions Agreement between Qwest and Eschelon, Eschelon asks you to meet with me and attempt to resolve the following three issues within 10 business days: (1) shortage of central office technicians; (2) Qwest account team understaffing; and (3) Qwest's refusal to process Eschelon's orders for unbundled loops with coordinated cutovers pursuant to the Interconnection Agreement. In preparation for our discussions, I have included below additional background information about each of these issues.

Shortage of Central Office (CO) Technicians in Seattle and Portland

On September 20, 2000, Bob Pickens, David Kunde, and Jeff Oxley met with you to discuss a number of service quality issues, including serious problems with unbundled network element (UNE) loop cut-overs. As you know from that meeting, Eschelon's Test & Turn Up group has experienced a great deal of difficulty with Qwest loop cutovers over the last year, particularly in Portland and Seattle. Qwest's own representatives have attributed these problems to the lack of an adequate number of CO technicians in Qwest central offices. This lack of resources results in our cuts being delayed or canceled repeatedly. Eschelon has been pressing this issue with its account team for more than four months. Numerous conversations have occurred, and Eschelon has provided to Qwest specific documentation regarding the problem. (A summary of these efforts is enclosed. *See* Enclosure 1.) Nonetheless, the problem persists, and we have no indication that Qwest is doing anything to solve it.

We renew the request that we made on September 20th for dedicated and incremental loop cut-over resources, especially in Portland and Seattle.

Ms. Judy Tinkham

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Account Team Understaffing

During the September 20th meeting, Eschelon also discussed with you its request for additional account team support. As we discussed then, Eschelon has had a long-standing request, repeatedly made, for additional support, including additional account team personnel and project managers, as well as more direct contact with Qwest subject matter personnel. Qwest's support for Eschelon has been inadequate. A single account manager is inadequate to handle Eschelon's account. One account manager cannot possibly have sufficient expertise for coordination as to all necessary subjects and does not have sufficient time to address all issues in a timely manner. The account manager, no matter how talented and well meaning, can and does become a bottleneck. In response to Eschelon's concerns, Qwest added Bill Fellman to the account team to assist Judy Rixe with our issues. As indicated on the enclosed chart, Qwest gave Bill Fellman primary responsibility for routing, collocation, forecasting, and Centrex 21 contract issues. (See Enclosure 1.) Support for these issues is certainly a full-time job. We appreciate this additional resource. We have become concerned, however, that Bill Fellman's time will be diverted to other issues, leaving his current issues understaffed. As discussed below, there has been discussion about transferring his primary responsibility to DSL issues without back-filling his support for these other issues.

Even with additional account team personnel, the team can still become a bottleneck, because the team members understandably are not experts on every issue. The account team currently acts as a liaison for many issues for which direct contact with the appropriate people would be preferable. Much time is lost in explaining the issue to the account team, which then explains the issue to internal personnel who have questions that must be passed back to us. Allowing more direct contact with individuals knowledgeable about specific subjects would facilitate better communication and earlier resolution of issues. For example, Eschelon has raised a variety of systems issues at CICMP and with respect to implementation of UNE-STAR. At the January 17, 2001 CICMP meeting, Jeff Thompson of Qwest suggested that I contact Freddi Pennington about a weekly meeting with a team at Qwest including himself to ensure that these systems and implementation issues are addressed. We were very enthusiastic about this suggestion, and I promptly called Freddi. We were very glad that Freddi agreed that such weekly meetings were a good idea, but frustrated that she then funneled the issue back to our account rep. This is only frustrating because I know Judy Rixe, our account rep, is very busy with our normal daily needs. We realize that the account team is busy, but that is all the more reason to allow us to work directly with the appropriate people to move issues forward. If Freddi Pennington would have taken ownership for this at her level, I believe we would progress quicker towards resolving these issues. Instead, this is just one more issue for which we are waiting to hear from our account team.

Assigning dedicated, knowledgeable project managers to specific projects would alleviate some of the burden on the account team and facilitate successful completion of major projects. This sort of arrangement has been used in the access environment and should be considered for local projects as well. Although the need for project managers

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may vary over time, at this time, we need project managers for DSL, collocation, and billing/pricing issues.

For DSL, Eschelon is considering changing vendors from Covad to Qwest. Covad provides one full-time and two half-time individuals to support Eschelon's DSL needs. Eschelon has asked Qwest to provide similar support as a DSL vendor. In response, Qwest first suggested transferring the duties of the dedicated on-site provisioner to handling DSL. Eschelon pointed out that Qwest has not provided a dedicated on-site person since October, due to the departure of the employee who previously held that position. In any event, provisioning is a full-time job which needs a full-time person dedicated to handling those issues. Qwest then indicated that it would ask Bill Fellman to focus his efforts on assisting with DSL issues. Because Bill was already assisting Judy Rixe with account team issues, this proposal is yet another attempt at re-distributing resources, instead of adding more resources. Bill's plate was already full. DSL support should not come at the expense of other areas that need attention. Moreover, we need someone with knowledge about DSL issues to support our DSL needs. The need for DSL project management support is particularly great now, because Qwest is still developing its processes. When a system is place and issues are processed more automatically, less support may be needed. At this time, however, Qwest needs to provide a designated project manager for DSL issues as part of the account team.

Eschelon renews its request for project management support for DSL, collocation, and billing/pricing issues. Once we have implemented the DSL process, worked through our pending collocation requests, and developed better processes for addressing billing and pricing questions, project management support may no longer be needed. While large projects such as these are pending, however, dedicated, knowledgeable support is needed to work through the issues together.

Qwest's Refusal to Process Loop Orders with Cutovers Per the Contract

In Arizona, Qwest rejects Eschelon's orders for unbundled loops with coordinated cutovers on the grounds that Qwest requires a contract amendment before Qwest will process these orders. The existing interconnection agreement between Qwest and Eschelon in Arizona, however, specifically requires Qwest to process such orders. (See Enclosure 3.) Section 3.2.2.5 of Attachment 5 of the Arizona Interconnection Agreement contains detailed provisions requiring Qwest to provide coordinated cut-overs to Eschelon, including activities the parties must perform and time intervals within which those tasks must be completed. The Interconnection Agreement provides that the approved rates for ordering UNEs are those provided in Schedule 1 to Attachment 1 to the Interconnection Agreement. (See Enclosure 2, Att. 1, ¶ 8, p. 5 and Schedule 1.) Therefore, the coordinated cutovers are included in the UNE loop rates provided in Schedule 1. That these charges are included in the loop rate is clear from the cut-over provisions themselves. For example, paragraph 3.3.3.5.4 of Attachment 5 of the Arizona Interconnection Agreement provides:

3.2.2.5.4 Within the appointed thirty (30) minute cut-over time, the U S WEST personnel will call the CO-PROVIDER personnel designated to perform cross-connection work and when the U S WEST person is reached in that interval such work will be promptly performed. If the CO-PROVIDER person is not ready within the appointed interval, and if CO-PROVIDER had not called to reschedule the work at least two (2) hours prior to the start of the interval, U S WEST and CO-PROVIDER will reschedule the work order and CO-PROVIDER will pay the non-recurring installation charge for the unbundled loops scheduled for the missed appointment. In addition, non-recurring installation charges for the rescheduled appointment will apply. If the U S WEST person is not available or not ready at any time during the thirty (30) minute interval, CO-PROVIDER and U S WEST will reschedule and U S WEST will waive the non-recurring charge for the unbundled loops scheduled for that interval. If unusual or unexpected circumstances prolong or extend the time required to accomplish the coordinated cut-over, the Party responsible for such circumstances is responsible for the reasonable labor charges of the other Party. Delays caused by the customer are the responsibility of CO-PROVIDER. In addition, if CO-PROVIDER has ordered INP as a part of the unbundled loop installation, U S WEST will coordinate implementation of INP with the unbundled loop installation.

The existing non-recurring UNE loop installation charge clearly includes the coordinated cut-over under this provision, which provides that Eschelon must pay that charge if it is not ready and reschedules an appointment. In fact, under this paragraph of the Interconnection Agreement, Qwest should be paying Eschelon for its reasonable labor charges when Qwest delays the cut-overs. Qwest has delayed every one of Eschelon's requested coordinated cut-overs in Arizona by refusing to process them and causing Eschelon to incur labor charges associated with addressing this issue and re-submitting the orders.

Other than the rates in the Interconnection Agreement, no additional charges have been approved by the Arizona commission. If additional charges are approved in the future, they will apply if the Arizona commission makes such an order. In the meantime, the Interconnection Agreement clearly requires Qwest to process Eschelon's orders for unbundled loops with coordinated cut-overs.

On at least two previous occasions, Eschelon has discussed these same provisions of the Interconnection Agreement with Qwest. Both times, Eschelon believed it had reached an understanding with Qwest that an amendment is not required in Arizona. (Essentially the same contract language appears in the Utah Interconnection Agreement, and thus an amendment also is not required in Utah. *See* Agreement No. CDS-000106-0272, Attachment 5, ¶ 3.2.2.5.) In September of last year, Qwest presented Eschelon with a proposed "Managed Cuts" amendment. Eschelon told Qwest of its concerns with the amendment, including the fact that no amendment should be required, because our

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current interconnection agreements already govern this issue. We believed that the issue had been put to rest. When Eschelon began placing loop orders with coordinated cut-overs in Arizona in December, however, Qwest's system would not allow Eschelon to place the order. (IMA-GUI will not permit entry of a "Yes" in the CHC field.) We contacted our account team and provided specific examples with telephone and LSR numbers (as well as the specific provisions of our contract). Bill Fellman responded that this was an inadvertent error that would be corrected.

Based on Bill Fellman's assurances, Eschelon continued to attempt to place these orders. On January 16th, we let our account team know that we were still receiving rejections for CHC orders in Arizona. Bill then explained that he was getting some "push back" internally on the answer that he had given us in December, even though he had not informed us of this fact. If he had done so at the time, we could have completed escalation of this issue by now. Instead, another month has been lost, and Qwest is still rejecting our loop orders requesting coordinated cut-overs.

We ask Qwest to begin processing our requests for coordinated cut-overs in Arizona based on our current Interconnection Agreement, without an amendment, immediately.

I would like to discuss these issues with you as soon as possible. Please call me to arrange a convenient time.

Sincerely,



F. Lynne Powers,
Vice President,
Provisioning and Repair

cc: Richard Smith
David Kunde
Garth Morrisette

U S WEST (Qwest) Law Department, *by overnight express*
Attention: General Counsel, Interconnection
1801 California, 51st Floor
Denver, CO 80202

Ms. Judy Rixe, *by facsimile & U.S. mail*
Qwest Corporation
150 South 5th Street, Suite 540
Minneapolis, MN 55402

USWC (Qwest), *by overnight express*
Director of Interconnection
1801 California, Room 2410
Denver, CO 80202



To: Rick Smith
 From: Lynne Powers
 Date: January 14, 2001
 Re: CO Resources in Portland & Seattle

As you are aware from our previous discussions, Eschelon's Test & Turn Up group has experienced a great deal of difficulty with Qwest UNE loop cutovers over the last year. Although there is a cutover team led by Gerry Shypulski with Qwest and Pat Brolsma of Eschelon, we continue to have problems.

We have repeatedly experienced greater problems in Portland and Seattle due to the lack of CO technicians in Qwest central offices. This lack of resources results in our cuts being delayed or canceled repeatedly. Qwest is aware of this issue and the following list provides information on the number of times this issue has been raised with Qwest but to no avail.

Date	Eschelon Representative	Qwest Representative	Response
9-8-00	Lynne Powers, VP of Provisioning	Phil Skinner, DSO Manager in Portland & Seattle & Judy Rixe, Account Executive	Phil stated that he was short on resources and cannot meet the volume of UNE orders and that repair work always takes priority. Judy said she would check into it.
10/19/00	Pat Brolsma, Director of Test & Turn Up	Jim Randol title unkown & Judy Rixe, Account Executive	Meeting Notes: CO Resources - Eschelon (Pat Brolsma) said that in looking at the list of issues, it appeared that the problem was CO resources that would cause Lift and Lay delays. He asked if there were appropriate CO resources. Qwest (Jim Randol) stated that he covers Oregon and can speak for his territory and that the work load for his staff is too high; it has grown 120%. Eschelon (Pat Brolsma) asked if this message had been given to Qwest's upper management. Qwest (Jim Randol) said yes. Eschelon (Pat Brolsma) asked what the response from Qwest upper management was. Qwest (Jim Randol) said that he was told he had what he had and would not be adding a lot of people.

Sept. 00, Oct. 00, Nov. 00	Lynne Powers, VP of Provisioning	Judy Rixe, Account Executive	Repeated conversations regarding the lack of CO resources in Portland & Seattle. Judy indicated that Pat Kline had attempted to resolve this but was unable and that she would ask Kevin Saville to look into it.
12/12/00	Lynne Powers, VP of Provisioning	Kevin Saville, General Manager of Wholesale, Emerging and Diversified Markets, Judy Rixe, Account Manger	Kevin explained that he had looked into this issue and spoke to someone within Qwest responsible for this area and that lack of CO techs did not seem to be a problem. I provided him with a list of cuts that were delayed due to lack of rescources. He said he would take this documentation and check into it further.
1/10/01	Lynne Powers, VP of Provisioning	Gerry Shypulski, Director	In reviewing Eschelon's records regarding the cuts in the trial central offices, it was noted once again that there is a problem due to the lack of CO resources in Portland & Seattle. This issue has been raised repeatedly at the Qwest cutover team meetings. Gerry said he would look at Qwest's internal records regarding missed cuts and provide this data to Audrey McKenny prior to Rick Smith's meeting on January 17, 2001.

As you can see this issue has been a problem for sometime. The attached documentation from Tina Schiller, Test & Turn Up manager, provides further data regarding this issue. Documentation has been provided to Qwest repeatedly, at least two Qwest managers have confirmed that there are not enough CO Techs for the amount of work. Qwest has never provided any documentation to Eschelon that supports that there are enough technicians nor has it committed to hiring any more technicians.

Please discuss this information with Audrey McKenny on January 17, 2001.

cc: Jeff Oxley
Karen Clausen
Pat Brolsma
Tina Schiller
Dave Kunde

Subject/Issue	Primary	Secondary	
E911	Pat	Bill	
Routing	Bill	Pat	
MDSI	Pat	Bill	
Product Development/Enhancement	Judy		
Collocation	Bill	Judy	
Interconnect Orders	Pat	Judy	
LSR Reject issues	Center	Pat	
Legal/Regulatory Issues	Judy		
Billing Questions	Center	Bill	Judy
Forecasting	Bill	Pat	Judy
UNE conversions	Pat	Judy	
MN NPA split	Judy	Pat	
Amendments	Judy	Bill	
IMA questions	Center	Pat	
Centrex 21 contracts	Bill	Judy	
LNP Outages	Pat	Bill	
CICMP forum	Judy		
Centrex Common Blocks/NARS	Pat	Bill	
Service Quality Measures	Judy		
Pricing Requests	Judy	Bill	

AGREEMENT
FOR LOCAL WIRELINE NETWORK INTERCONNECTION
AND
SERVICE RESALE

Between
ADVANCED TELECOMMUNICATIONS, INC.
and
U S WEST Communications, Inc.

For the State of
Arizona

Agreement Number
CDS-000106-0212

6.4 CO-PROVIDER may request U S WEST to provide CO-PROVIDER call detail records identifying each IXC which are sufficient to allow CO-PROVIDER to render bills to IXCs for calls IXCs place to ported numbers in the U S WEST network which U S WEST forwards to CO-PROVIDER for termination. To the extent U S WEST is unable to provide billing detail information within a reasonable time frame, the Parties may agree on an interim method to share access revenues pursuant to a mutually agreed upon surrogate approach.

7. Network Elements

7.1¹¹ U S WEST may receive compensation for electronic interfaces as an initial access fee for its expenditures at such time as the completion of the gateway interfaces are effected. The reimbursement for such expenditures shall be apportioned among all end users of the gateway interfaces in Arizona, including U S WEST. U S WEST and CO-PROVIDER acknowledge that the specific cost-sharing mechanism for electronic interfaces shall be determined by a generic proceeding held by the Commission for this purpose.

7.2 [Intentionally left blank for numbering consistency]

7.3¹² The expense of rebranding operator services and directory assistance, if requested by CO-PROVIDER, shall be included as a forward looking economic cost, such cost to be resolved in the future proceeding to be conducted by the Commission as it considers cost studies.

8. Rate Schedule

8.1 The rates for interconnection, unbundled Network Elements, Ancillary Services, and Reciprocal Compensation are provided in Schedule 1 to this Attachment 1.

¹¹ AT&T Order, p. 26 at Issue 45.

¹² AT&T Order, p. 18 at Issue 30.

Schedule 1 of Attachment 1

ARIZONA
U S WEST and CO-PROVIDER INTERIM PRICE LIST

UNBUNDLED NETWORK ELEMENTS

Unbundled Loop

Network Interface Device, New Customer, Recurring	\$0.2550
Network Interface Device, New Customer, Nonrecurring	\$30.19
Loop Distribution	BFR
Loop Concentrator	BFR
Loop Feeder	BFR
Unbundled 2 Wire Loop, Recurring	\$21.76
Unbundled 4 Wire Loop, Recurring	\$41.63
Residence Nonrecurring	\$41.83
Business Nonrecurring	\$45.67
Cable Unloading and Bridge Tap Removal, One-Time Charge	\$140.00
Extension Technology, Recurring	\$6.75

Switching

Usage Per Minute	\$0.0035835
Per Port, Recurring	\$1.37
Per Port, Nonrecurring	\$56.03

Entrance Facility

DS1, Electrical, Recurring	\$89.42
DS3, Electrical, Recurring	\$357.16
DS1, Electrical, Nonrecurring	\$531.65
DS3, Electrical, Nonrecurring	\$630.65

Direct and Dedicated Transport

DS0 Dedicated, Recurring	\$4.26
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	<u>Fixed</u>	<u>Per Mile</u>
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$35.98	\$0.65
DS1 - Over 8 to 25	\$35.99	\$0.94
DS1 - Over 25 to 50	\$36.00	\$1.75
DS1 - Over 50	\$36.00	\$1.59
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$243.17	\$13.32
DS3 - Over 8 to 25	\$246.15	\$15.90
DS3 - Over 25 to 50	\$250.66	\$22.91
DS3 - Over 50	\$249.26	\$22.49

Schedule 1 of Attachment 1

ARIZONA
U S WEST and CO-PROVIDER INTERIM PRICE LIST

UNBUNDLED NETWORK ELEMENTS

<i>Multiplexing, per arrangement</i>		
DS3 to DS1, Recurring		\$196.85
DS3 to DS1, Nonrecurring		\$394.50
<i>Common Transport/Tandem Transmission, Per Minute, Per Leg</i>		
		\$0.000372
<i>Tandem Switching, Per Minute of Use</i>		
		\$0.002169
<i>Signaling (Note 1)</i>		
<i>Entrance Facility</i>		
DS1, Electrical, Recurring		\$44.71
DS3, Electrical, Recurring		\$178.58
DS1, Electrical, Nonrecurring		\$265.83
DS3, Electrical, Nonrecurring		\$315.33
<i>Direct Link Transport</i>		
	<u>Fixed</u>	<u>Per Mile</u>
DS0 - 0 Miles	None	None
DS0 - Over 0 to 8	\$9.38	\$0.04
DS0 - Over 8 to 25	\$9.38	\$0.05
DS0 - Over 25 to 50	\$9.39	\$0.06
DS0 - Over 50	\$9.39	\$0.05
DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$17.99	\$0.33
DS1 - Over 8 to 25	\$18.00	\$0.47
DS1 - Over 25 to 50	\$18.00	\$0.88
DS1 - Over 50	\$18.00	\$0.80
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$121.59	\$6.66
DS3 - Over 8 to 25	\$123.08	\$7.95
DS3 - Over 25 to 50	\$125.33	\$11.46
DS3 - Over 50	\$124.63	\$11.25
<i>Multiplexing</i>		
DS1 to DS0, Recurring		\$100.04
DS3 to DS1, Recurring		\$98.43
DS1 to DS0, Nonrecurring		\$179.56
DS3 to DS1, Nonrecurring		\$197.25
<i>CCS Link – First Link, Nonrecurring</i>		
		\$237.89
<i>CCS Link – Each additional Link, Nonrecurring</i>		
		\$34.14
<i>STP Port – Per Port, Recurring</i>		
		\$104.29
<i>Signaling Link</i>		
First Link, Recurring		\$9.87
Additional Link, Recurring		\$9.87
<i>SCP/Databases – Per Message</i>		
		\$0.00079

Schedule 1 of Attachment 1

ARIZONA
U S WEST and CO-PROVIDER INTERIM PRICE LIST

ANCILLARY SERVICES

Directory Assistance
Price per Call -- Facilities-Based Providers \$0.28

Listings
Primary Listings, Directory Assistance, White & Yellow Pages No Charge

E911
LEC and CLECs recover costs from PSAP No Charge

Assignment of Numbers
Assignments per industry guidelines No Charge

Busy Line Verification
Per Call \$0.72

Busy Line Interrupt
Per Call \$0.87

Interim Number Portability
Service Establishment, Per Route, Per Switch, Nonrecurring \$20.65
Service Establishment, Per Ported Number, Nonrecurring \$4.47
Service Establishment, Additional and Consecutive Numbers
Per Number Ported, Nonrecurring \$3.32

PHYSICAL AND VIRTUAL COLLOCATION

Common Elements
Quote Preparation Fee, Nonrecurring \$1,055.76

Cable Splicing
Per Setup, Nonrecurring \$439.50
Per Fiber Spliced, Nonrecurring \$27.15

48 Volt Power, Per Ampere, Recurring, Per Month \$12.89

48 Volt Power Cable
20 Ampere Capacity - Recurring \$0.21
40 Ampere Capacity - Recurring \$0.29
60 Ampere Capacity - Recurring \$0.35
20 Ampere Capacity - Nonrecurring \$59.14
40 Ampere Capacity - Nonrecurring \$80.69
60 Ampere Capacity - Nonrecurring \$95.34

Equipment Bay, Per Shelf Rack Space, Recurring \$6.41

Inspector per 1/2 Hour, Regular \$24.49
Inspector per 1/2 Hour, After Hours \$36.24

Training per 1/2 Hour \$23.95

Schedule 1 of Attachment 1

ARIZONA
U S WEST and CO-PROVIDER INTERIM PRICE LIST

PHYSICAL AND VIRTUAL COLLOCATION (Note 2)

Common Elements

Engineering per 1/2 Hour, Regular	\$24.55
Engineering per 1/2 Hour, After Hours	\$35.25
Installation per 1/2 Hour, Regular	\$23.73
Installation per 1/2 Hour, After Hours	\$33.20
Maintenance per 1/2 Hour, Regular	\$22.20
Maintenance per 1/2 Hour, After Hours	\$31.57
Element Group 1	
Entrance Facility - 2 fibers, Recurring	\$1.52
Entrance Facility - 2 fibers, Nonrecurring	\$1,514.67
EICT Channel Terminations	
2-wire DS0 EICT, Recurring	\$0.44
4-wire DS0 EICT, Recurring	\$0.86
DS1 EICT, Recurring	\$4.28
DS3 EICT, Recurring	\$14.98
2-wire DS0 EICT, Nonrecurring	\$141.54
4-wire DS0 EICT, Nonrecurring	\$141.54
DS1 EICT, Nonrecurring	\$160.62
DS3 EICT, Nonrecurring	\$161.46
EICT Regeneration	
DS1 EICT, Regeneration, Recurring	\$6.30
DS3 EICT, Regeneration, Recurring	\$41.32
DS1 EICT, Regeneration, Nonrecurring	\$160.62
DS3 EICT, Regeneration, Nonrecurring	\$161.46
Element Group 2	
Entrance Enclosure:	
Manhole - Per Month Per Manhole	\$13.81
Handhold - Per Month Per Handhold	\$7.61
Conduit & Interduct fm Entrance Enclosure to Cable Vault, Per Foot/Month	\$0.21
Core Drill, Per Core, Nonrecurring	\$181.57
Riser from Cable Vault to Customer Designated Equipment, Per Foot/Mont	\$0.24
Fiber Optic Cable (24 Fiber Increment), Per Foot/Month	\$0.03
Fiber Placement in conduit and riser, Per Foot	\$0.83
Copper Cable 25 Pair, Per Month	\$0.006
Copper Cable Splicing - Per Splice	\$45.64
Copper Cable Placement in Conduit and Riser - Per Foot	\$0.83
Coax Cable RG59 - Per Foot Per Month	\$0.10
AC Power Per WATT, Per Month	\$0.03



Schedule 1 of Attachment 1

ARIZONA
U S WEST and CO-PROVIDER INTERIM PRICE LIST

Humidification Per IEased Physical Space \$28.23

Cage/Hard Wall Enclosure See Attachment 1, Section 3.6
Rent (w/ Maintenance) - per square foot Zone 1, Recurring \$2.75
Rent (w/ Maintenance) - per square foot Zone 2, Recurring \$2.26
Rent (w/ Maintenance) - per square foot Zone 3, Recurring \$2.06

RESALE

Customer Transfer Charge
Business \$30.80
Residence \$29.57
ISDN \$31.08

Resale Discount 17%

Note

- 1 When purchasing signaling links, CO-PROVIDER will pay the appropriate Entrance Facility, Direct Link Trans and Multiplexing price, plus the Signaling Link and CCS Link Price.
- 2 When purchasing Collocation, CO-PROVIDER will pay the listed price for elements in Element Group 1 and Element Group 2.

3.2.2.4 Unless otherwise directed by CO-PROVIDER, when CO-PROVIDER orders Resale Services or Network Elements, all trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability for those services or features which U S WEST controls and which are available under this Agreement.

3.2.2.5 For Customer conversions requiring coordinated cut-over activities, U S WEST and CO-PROVIDER will agree on a scheduled conversion time(s), which will be a designated two-hour time period within a designated date. Unless expedited, U S WEST and CO-PROVIDER shall schedule the cut-over window at least forty-eight (48) hours in advance, and as part of the scheduling, U S WEST shall estimate for CO-PROVIDER the duration of any service interruption that the cut-over might cause.² The cut-over time will be defined as a thirty (30) minute window within which both the CO-PROVIDER and U S WEST personnel will make telephone contact to complete the cut-over.

3.2.2.5.1 U S WEST will coordinate activities of all U S WEST work groups involved with the conversion. This coordination will include, but not be limited to, work centers charged with manual cross-connects, electronic cross-connect mapping, and switch translations (including, but not limited to, implementation of Interim Number Portability translations).

3.2.2.5.2 As soon as possible, but in no event later than one (1) hour after completion, U S WEST will notify CO-PROVIDER when coordinated cut-over is complete.

3.2.2.5.3 End user service interruption shall not exceed twenty (20) minutes during any cut-over. The average interruption caused by the cut-over of CO-PROVIDER Customers shall not exceed ten (10) minutes. If any service interruption is to exceed twenty (20) minutes, however, U S WEST will immediately notify CO-PROVIDER of such delay.

3.2.2.5.4 Within the appointed thirty (30) minute cut-over time, the U S WEST personnel will call the CO-PROVIDER personnel designated to perform cross-connection work and when the U S WEST person is reached in that interval such work will be promptly performed. If the CO-PROVIDER person is not ready within the appointed interval, and if CO-PROVIDER had not called to reschedule the work at least two (2) hours prior to the start of the interval, U S WEST and CO-PROVIDER will reschedule the work order and CO-PROVIDER will pay the non-recurring installation charge for the unbundled loops scheduled for the missed appointment. In addition, non-recurring installation charges for the rescheduled appointment will apply. If the U S WEST person is not available or not ready at any time during the thirty (30) minute interval, CO-PROVIDER and U S WEST will reschedule and U S WEST will waive the non-recurring charge for the unbundled loops scheduled for that

² MCI Order, p. 10 at Issue 13.

interval. If unusual or unexpected circumstances prolong or extend the time required to accomplish the coordinated cut-over, the Party responsible for such circumstances is responsible for the reasonable labor charges of the other Party. Delays caused by the customer are the responsibility of CO-PROVIDER. In addition, if CO-PROVIDER has ordered INP as a part of the unbundled loop installation, U S WEST will coordinate implementation of INP with the unbundled loop installation.

- 3.2.2.6 Service Order: U S WEST shall provide CO-PROVIDER the capability to issue a service order for unbundled Network Elements, Combinations, and Resale Services.
- 3.2.2.7 PLOC Changes: U S WEST shall provide CO-PROVIDER the capability to transfer a customer with no feature changes to CO-PROVIDER through a streamlined PLOC (Primary Local Carrier) transfer process.
- 3.2.2.8 Status: U S WEST shall provide the CO-PROVIDER status on a service order when the status of the order changes.
- 3.2.2.9 Modifies: U S WEST shall provide CO-PROVIDER the capability to modify the service order any time after it has been issued; however, U S WEST may require the issuance of a supplemental or change order.
- 3.2.2.10 Cancel: U S WEST shall provide CO-PROVIDER the capability to cancel the service order any time after it has been issued.
- 3.2.2.11 Coordinated Service Orders: U S WEST shall provide CO-PROVIDER the capability to relate coordinated services orders, and identify those service orders that require coordination with CO-PROVIDER, or the subscriber, or the subscriber's vendor. When so identified, U S WEST will follow any specific instructions indicated on the service order so that the subscriber's service is not negatively affected by the service turn-up activity.
- 3.2.2.12 Expedite Process: U S WEST and CO-PROVIDER shall mutually develop expedite procedures to be followed when CO-PROVIDER determines an expedite is required to meet subscriber service needs.
- 3.2.2.13 Expedites: U S WEST shall provide CO-PROVIDER the capability to expedite a service order. Within two (2) business hours after a request from CO-PROVIDER for an expedited order, U S WEST shall notify CO-PROVIDER of U S WEST's confirmation to complete, or not complete, the order within the expedited interval.

3.2.3 Intercept Treatment and Transfer of Service Announcements

- 3.2.3.1 U S WEST shall provide unbranded intercept treatment and transfer of service announcements to CO-PROVIDER Customers. U S WEST shall provide such treatment and transfer of service announcement for all service disconnects, suspensions, or transfers, in the same manner as that which U S WEST provides to its own end users. U S WEST's current standard time



January 2, 2002

Mr. Gordon Martin (*by email and overnight mail*)
Executive Vice President
Global Wholesale Markets
Qwest
1801 California, 52nd Floor
Denver, Colorado 80202

**Re: Level 2 Escalation of UNE-P Switched Access After October 31, 2001;
Switched Access MOU for On-Net Lines; Service Quality Compensation;
and UNE-E Pricing**

Dear Mr. Martin:

In response to your letter of December 21, 2001, we have agreed to extend the time period for the Level 2 escalation to allow for a face-to-face meeting on January 8, 2002 in Denver. We believe that such a meeting will be useful. Although we will discuss the issues in more detail at that meeting, I need to respond to some of the statements in your letter now. My hope is that this will allow you to come to the meeting with a better understanding of our position.

It really is important for you to understand that Qwest and Eschelon have come to multiple agreements on which Qwest has not followed through. This is true going back to the first set of agreements from November of 2000, which Qwest has not delivered on in the manner anticipated and discussed by the Parties at the time. Without an understanding of this history, you will have difficulty understanding the legitimacy of Eschelon's frustration going in to this escalation. While in your letter you disagree with our statement about multiple agreements, you do not have the benefit of having participated in those conversations. I have participated personally and directly in those discussions. Several executives from Eschelon were present in those discussions, and we uniformly understood that agreements had been reached only to find that Qwest has backed away after the fact.

The clearest example of this is the situation that occurred on October 19-20. When Qwest later backed away from the agreements, Audrey McKenney did not claim that agreements had not been reached. She said that, as it turns out, she did not have the authority to make the agreements. This validates Eschelon's understanding coming out of that meeting that a deal had been made. As Ms. McKenney had negotiated previous agreements, we had no reason to suspect that she did not have authority in this situation. We need to know that we are dealing with individuals with the authority to bind Qwest and with an intent to promptly reduce agreements to writing.

Mr. Gordon Martin
January 2, 2002
Page 2

In your letter, you refer to Qwest's time commitment. We also cleared our calendars to meet with you on December 10 and 11, 2001. We incurred the expense of traveling to Denver to do so. This is only one of many meetings over many months for which we have taken the time, and incurred the expense, necessary to meet with Qwest. Because you referred in your letter to a disproportionate amount of time that Qwest has spent on these issues, I do not believe that you can have been given a true picture of the excessive amount of time, money, and resources that Eschelon has committed to resolving problems with Qwest. In terms of a percentage of total resources, the amount spent by Eschelon is significantly greater than that spent by Qwest. These issues should not take this amount of time and energy to solve.

Just one of the substantial expenses incurred by Eschelon is the more than half a million dollars that Eschelon has spent on the access audit. Eschelon was forced to incur this expense because Qwest failed to resolve the problem of missing minutes on its own. Eschelon has been clear, since it first began raising the access issue, that all data relating to access minutes that Eschelon has and has not received from Qwest and the audit itself belong to Eschelon. Eschelon may use this information as it deems necessary. The information is not subject to any confidentiality agreement. Your reminder of Eschelon's confidentiality obligations is not only unnecessary, but also it is misguided if you meant to extend it to this information. With respect to the KPMG test results, you indicated that they are available for us to review. We appreciate that and request that the results be made available to us as soon as possible.

With respect to UNE-P pricing, I left the meeting in Denver anticipating that Qwest would send us a written proposal. Although you mention that we did not produce written documents until eight days after that meeting, you must recall that Qwest said it would provide a written proposal, and we were waiting to receive it, so we could incorporate it into the documentation. Your failure to acknowledge this in your letter is the type of counter-productive behavior that you ask Eschelon not to engage in. Eschelon has been clear that all of these issues need to be resolved together.

We finally sent the documents, including our own draft on UNE-P pricing, when it became clear that Qwest was not going to provide us with a written proposal after all. The information you have been given about the course of the UNE-P pricing issue is incorrect, because you state incorrectly in your letter that we apparently made a major change in the product package. To the extent that our product changes, changes are not only expected but also most often in response to positions or actions taken by Qwest.

You also state that "Qwest has always made it very clear that UNE-E is a voluntary product offered at a premium because of additional costs associated with providing the product." That is also not the case. Although Ms. McKenney has very recently started to use this language about a "premium," that is not the history of the product's development and pricing. Rather, the pricing was supposed to give us relief from prohibitive resale


Mr. Gordon Martin
January 2, 2002
Page 3

rates with the understanding, as indicated in my December 18 letter to you, that changes would be needed in the UNE-P product and pricing to reflect later changes. Repeatedly throughout the negotiations, Ms. McKenney responded to Eschelon's concerns about possible reductions in UNE-P rates by stating that Qwest would keep Eschelon competitive by adjusting rates to reflect such factors. Despite this, Qwest has failed to adjust the UNE-E rates to reflect changes that have occurred since signing of the UNE-E Amendment, such as geographic deaveraging of the loop rate and reduced retail rates. These anticipated factors are the driving force behind the need for a new amendment, and not changes in direction at Eschelon. In addition, difficulties in provisioning the product at Qwest, which Eschelon had no way to predict, necessitate amending the current arrangement.

We disagree that the documentation we sent to you is dramatically different from the principles that have been discussed by the Parties. Given that we did not receive the anticipated written UNE-P pricing proposal from you and that there was apparently some confusion after the meeting, we were careful to clearly set out the terms agreed upon in principle to ensure that we both had the same understanding of the agreement. The language and structure can change, if necessary. If you believe that the documents need revision, the simplest course would be for you to provide us with a red-lined response so that we may review the proposed changes in preparation for our meeting on January 8. As we have said before, a resolution needs to address UNE-P pricing, in addition to the other issues.

Eschelon also desires to reach an amicable resolution of the outstanding issues. Although you have indicated that doing so is more difficult due to the escalation letters, you need to understand that we receive no action from Qwest in the absence of such escalation of issues. While the issues are new to you, we have devoted substantial resources to resolving them for many months. Escalation is necessary, and the statements in our escalation letters are accurate and fact-based. If you believe otherwise, you have not been given all of the facts. We will be ready to answer any questions you have on January 8. Although the past is a strong influence on our ability to be optimistic, we hope that, under your leadership, we can build a stronger business relationship better serving the needs of both companies.

Sincerely,


Mr. Richard A. Smith
President, Chief Operating Officer & Director

cc: Audrey McKenney (by email)
Rich Corbetta (by email)



February 4, 2002

Mr. Gordon Martin (*by email and U.S. mail*)
Executive Vice President
Global Wholesale Markets
Qwest
1801 California, 52nd Floor
Denver, Colorado 80202

Re: Level 2 Escalation

Dear Mr. Martin:

I received your letter in which you indicate that you are disappointed that our negotiations ended abruptly. I am not sure how to respond to your statement because you stated emphatically several times that you were "done" with discussion. I took you at your word. Given the new issues you raised, your unwillingness to deal with the complexities and detail necessary to conclude a settlement, and your refusal to even discuss some issues of critical importance to us, there really was no point in continuing the negotiations.

We disagree strongly with your statement that Qwest has negotiated in good faith. We have previously reviewed with you and others at Qwest the serious legal and ethical issues raised by Qwest's conduct during the course of these negotiations. As for resources, those devoted by Qwest do not compare with those spent by Eschelon. Further, Qwest is not meeting many of its obligations under our existing agreements and is thereby causing Eschelon extreme economic harm.

You indicate that, from Qwest's perspective, the negotiations reached an impasse with respect to the effective date for applying rates ordered by the Colorado Commission, and you characterize our proposal as "discriminatory." Qwest "discriminates" when it fails to make available to all CLECs interconnection terms it makes available to one CLEC. We were negotiating an amendment to our current UNE-E amendment that would be filed publicly with the commissions and therefore available to other CLECs as well. We question the sincerity of your comment because we have asked you to disclose to us the terms of your agreements with other carriers which Qwest is trying to migrate from UNE-STAR to UNE-P and you have refused to do so.

Mr. Gordon Martin
February 4, 2002
Page 2

Our proposal was to use the Colorado commission's rates effective February 1, 2002, subject to a true-up if the commission adjusts the rates as a result of reconsideration motions. Given that the previous rates are at least four years old and very high, Qwest is placing a great burden on Eschelon in applying those outdated rates.

Your letter neglects the fact that the starting point of our escalation was to obtain more competitive UNE-E rates consistent with recent commission orders -- a commitment long ago made by Audrey McKenney. Also, Qwest revealed, for the first time on the call, that although Qwest has agreed to an effective date of February 1, 2002 for new pricing, we would not begin to receive the benefit of that pricing until after a process to physically convert our lines to UNE-P is in place. This is contrary to our entire course of dealing, in which an effective date for pricing has meant that we are to begin to receive the benefit of that pricing in the month of that effective date, even if a manual process is required to do so. If Qwest was proposing to change that course, it should have been straightforward about it. Further, Qwest refuses to confirm just what rate elements and rates would apply to any UNE-P lines and cannot give us a date for when the new process will be implemented. Our experience with UNE-E is that Qwest promised to implement processes for converting our lines by Q1 of 2001. It is now Q2 of 2002, and Qwest has done neither.

In sum, Qwest has failed to meet its past commitments to Eschelon and now proposes that Eschelon accept a settlement that provides no clear statement of its benefit to us nor the time frame in which we will realize that benefit. Qwest's proposal also leaves Eschelon's entire customer base at risk of a conversion process that Qwest has no incentive to ensure goes smoothly. At present, we have experienced a 70% error rate submitting UNE-E orders for new customers. I cannot risk a conversion of our base to another platform without more confidence than I have now that Qwest will get it right.

It is just as well that you terminated the Level 2 escalation. It has forced us to step back and review the deal as a whole. Even aside from the more troubling aspects of Qwest's conduct, the economics of the deal just do not make sense. Each conversation with Qwest has led to further and further reduction in payments to which we are currently entitled. Any benefit that Eschelon would receive in exchange for those reductions is speculative.

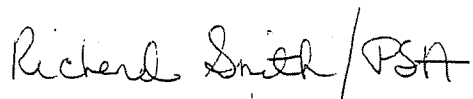
Therefore, we are back to where we were on November 1, 2001. Qwest's offer does not create a benefit to us over the arrangement under which we currently operate. Therefore, we will continue to operate under our existing arrangement, including the letter of July 3, 2001. Although on November 1, 2001, we were willing to voluntarily adjust the payments due under that letter for a period of time while we attempted to work through issues with Qwest, there is no basis to do so any longer. Our voluntary adjustment letter of November 1, 2001 is terminated as of Bill Markert's email notification to Arturo Ibarra on January 30, 2002. Qwest owes Eschelon the full amount due under the July 3, 2001 letter from July 3, 2001 through November 1, 2001, and after January 30, 2002. Qwest owes our self-adjusted amount for the period November 1, 2001 through January

Mr. Gordon Martin
February 4, 2002
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30, 2002. Bill Markert will work with Arturo Ibarra regarding ensuring full payment, by wire transfer or through adjustments and set offs.

With respect to UNE-E, Qwest still has not delivered on its commitment to adjust those prices to reflect changes, such as geographically deaveraged loop rates. Qwest received our calculation of how those rates should be adjusted some time ago. If Qwest promptly provides us with a written response as to its proposal for reducing UNE-E pricing, we will consider it. We cannot agree to further delay of escalation of this issue, however, given the length of time that has already passed without resolution. We are preparing an escalation letter to Mr. Nacchio, which we will copy to you as well.

Sincerely,



Mr. Richard A. Smith
President, Chief Operating Officer & Director

cc: Richard Corbetta (by email)



February 8, 2002

Mr. Joseph P. Nacchio (by email and express delivery)
Chairman and Chief Executive Officer
Qwest
1801 California St.
Denver, Colorado 80202

Re: Level 3 Escalation

Dear Mr. Nacchio:

Pursuant to Level 3 of the Escalation Procedures and Solutions Agreement between Eschelon and Qwest, dated November 15, 2000, I ask you to meet with me and resolve the following issues within 10 business days: Platform/UNE-Eschelon ("UNE-E") pricing and compliance by Qwest with terms of our agreements, including the agreement of July 3, 2001 signed by Ms. Audrey McKenney (attached). More generally, we hope that your involvement will improve the business relationship and change its course.

We have not had the opportunity of meeting yet. In public statements, such as those you have made to the Regional Oversight Committee ("ROC"), you have committed to improving the wholesale business relationship and to treating wholesale businesses as customers. Eschelon is a good customer that pays its bills. Last year, we spent approximately \$30 million with Qwest. Qwest has said that this makes us your second largest CLEC wholesale customer. We anticipate that our volume of business with Qwest will only grow. Qwest has several times quoted me in press releases and various publications to the effect that Qwest has a pro-competitive attitude and, unlike its predecessor US West, Qwest is serious about developing its wholesale business with CLECs. Rather than take our service and pricing issues before Commissions, the ROC, legislatures, and the press, Eschelon has attempted to resolve matters on a business basis.

We ask you to resolve this escalation by:

- Adopting promised adjusted UNE-E pricing: Agree to the attached proposed amendment to our existing UNE-E Amendment, Attachment 3.2 (with prices that include "premium" for UNE-E versus UNE-P).
- Honoring existing agreements, including July 3rd letter agreement: Pay to Eschelon \$2,450,852 for July 3 – Dec. 31, 2001 due under that agreement (by wire transfer for some and agreeing to current adjustments/set offs for remainder).
- Stopping illegal conduct and deal fairly with Eschelon.

Mr. Joseph P. Nacchio

February 8, 2002

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As executives, we like to keep things short and to the point. Because the escalated issues are complex and have been discussed over many months, however, I need to set out some background for you before we meet. I will devote the rest of this letter, therefore, to providing you information that you need to know before we talk.

Before Qwest would resolve previous legitimate business disputes that were pending late in 2000, Qwest required Eschelon to agree not to oppose Qwest in 271 proceedings. Based on their actions since then, Qwest's Senior Vice Presidents Ms. McKenney and Ms. Dana Filip appear to believe that, by capitulating to Qwest's demand, Eschelon has subjected itself to accepting poor service and surrendering any ability to protest actions proposed or undertaken by Qwest that would harm our business interests. Qwest has gone so far as to try to make resolution of legitimate business issues contingent upon our destruction or surrender of an auditor's documents as well as to require us to submit testimony, regardless of its validity, in legal proceedings if "suitable" to Qwest. Despite Eschelon telling Qwest orally and in writing that it believes this kind of conduct is illegal and unethical, such tactics continue. We hope that this is news to you and that you will change the course of dealings quickly and put them on a legitimate track.

In the face of such tactics, Eschelon has spent months attempting to resolve these two issues: the pricing of our Platform product and Qwest's failure to provide us with complete access records. Eschelon entered into agreements with a five-year term to purchase a Platform product from Qwest on November 15, 2000. We would not have agreed to a five-year term without assurances that the pricing of our product would remain competitive, and we received such assurances from Qwest during and after those negotiations. Although the prices in the UNE-E Amendment reflect averaged rates, the Parties anticipated that changes would be needed to ensure that Eschelon remains competitive if rates declined, as both parties expected they would, principally due to geographic deaveraging, as Eschelon's lines are in densely populated urban areas. Repeatedly throughout the previous negotiations, Ms. McKenney responded to Eschelon's concerns about possible reductions in UNE-P rates by stating that Qwest would keep Eschelon competitive by adjusting UNE-E rates to reflect such factors. For this reason, the First Amendment to the Confidential/Trade Secret Amendment, dated November 15, 2000, states in Paragraph 5 that the Parties will address appropriate price adjustments in quarterly meetings. Despite this, Qwest has failed to adjust the UNE-E rates to reflect changes that have occurred since signing the UNE-E Amendment.

We explored an alternative of attempting to negotiate a conversion to UNE-P instead of adjusting UNE-E prices, but that effort failed when Qwest would or could not even confirm the pricing much less address our other concerns about alleged benefits to us. Therefore, we need to pursue our existing UNE-E contract rights, including Qwest's commitment to adjust the pricing. If Qwest has taken any steps to effectuate the UNE-P conversion, Qwest needs to ensure that those steps are reversed. Please ensure that any plans to convert our base to UNE-P are halted. If we want to move any lines to UNE-P, we will simply do so under our current interconnection agreements. Qwest needs to make good on its initial and repeated commitment to provide us with adjusted UNE-E rates.

Mr. Joseph P. Nacchio

February 8, 2002

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Our pricing ask to you is simple: Eschelon and Mr. Arturo Ibarra of Qwest have developed a methodology for determining how our UNE-E rates should be adjusted downward. Attached is pricing that reflects our proposal using that methodology. The proposal is in the form of an amended attachment to the previous UNE-E interconnection agreement amendment. As with the current prices, the adjusted prices would be subject to all of the other terms of the amendment (such as the current revenue commitment, *etc.*). You and I need only settle the issue of Qwest's requested, additional "premium" for advantages that Qwest claims UNE-E offers over UNE-P. Qwest previously proposed \$2.00 for the "premium." We believe that Qwest included in that amount some assumed benefit from receiving DSL with UNE-E, but DSL is now also available with UNE-P. In addition, Qwest's proposed "premium" charge reflects an assumption for features that is higher than the \$0.75 that Qwest proposed as its estimated cost for features in the Utah cost docket. Therefore, we believe the "premium," if applicable at all, is closer to \$1.10. I propose we split the difference and add a "premium" of \$1.55 per line, per month. The attached rates reflect this proposal.

Once we resolve the pricing issue, you and I need to re-establish the Qwest-Eschelon relationship on solid ground. Although much of the past and present negotiations have focused on pricing, Eschelon has consistently indicated that quality of service is of paramount importance to our business. We asked Qwest to deal with quality of service through specific commitments in the first set of agreements in 2000, but Qwest would agree only to a general Implementation Plan that was supposed to establish a process for improving quality of service. Although Qwest's service quality has improved in some areas, significant problems remain. Many of these issues are reflected in a monthly Report Card that Eschelon presents to Qwest. From January through November, on average, more than 65% of the measures have been rated as unsatisfactory. We had to remove the billing accuracy measure from our Report Card, because 100% of our UNE-E bills are inaccurate and will be inaccurate until Qwest completes the process necessary to provide UNE-E, rather than resale, bills (which it committed to do by 1Q of last year). Additionally, Qwest has not performed satisfactorily with respect to generating and reporting switched access minutes of use ("MOU"). Qwest has been shorting Eschelon switched access minutes, and Qwest/Arthur Andersen, your auditor, has recognized that. All of these performance problems affect not only our bottom line but also our reputation, and therefore they threaten our ability to compete in the marketplace.

To mitigate our concern that Qwest was denying us essential facilities on reasonable and nondiscriminatory terms, Ms. McKenney executed an agreement on July 3, 2001. That agreement provided Eschelon with \$150,000 per month as compensation for poor performance and compensated us for underreported access minutes. We agreed that the performance payment would not stop until both parties agreed that performance had improved sufficiently. The Parties also agreed that the access payments issue would be resolved by a joint audit. The joint audit was to continue until the auditor came to agreement, within plus or minus five percent, of the actual number of access minutes.

Mr. Joseph P. Nacchio
February 8, 2002
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Qwest unilaterally terminated the work of its auditors before the audit concluded. Qwest has not paid its obligations under the July 3rd agreement for months. Qwest has made clear its desire to terminate the July 3rd agreement. Eschelon has been willing to accede to Qwest's request, but only if we resolved our pricing, access and service issues. The July 3rd agreement is in full effect, and I expect you to see that Qwest honors its commitments in that letter.

Our access ask to you is simply to bring your payments current under the fully effective and enforceable July 3rd letter agreement. Qwest needs to pay to Eschelon \$1,077,461, in addition to the \$1,373,391 that Eschelon has had to set off in payments to Qwest, to be current through the end of 2001. Since July 3rd, the only amount that Qwest has paid under that agreement is \$450,000. That amount represents only three months (July-September) of the \$150,000 in service credits due each month to Eschelon. The total amount due under the July 3rd letter (after subtracting the \$450,000 paid to date) is \$2,450,852 (\$1,373,391 which Eschelon has withheld in billing adjustments) through December 31, 2001. This total amount includes a voluntary downward adjustment for the time period November 1, 2001 through December 31, 2001 that Eschelon offered to Qwest because Eschelon had hoped Qwest would negotiate in good faith and resolve this issue. Although that did not happen and therefore Eschelon could request the higher amount, Eschelon honors its word and has included this downward adjustment in calculation of the amount due.

As to re-establishing our business relationship on a mutually respectful basis, much needs to be done. Qwest's bad conduct has not been inadvertent or unintentional. Qwest has used threats and inappropriately exploited its monopoly power to convey that service will only get worse and Eschelon will suffer if it does not capitulate to Qwest's unreasonable demands. I offer three compelling examples of Qwest's bad conduct:

Threats and abuse of monopoly power. Ms. Filip, who as Qwest's Executive Vice President for Wholesale holds our lines in her hands, told members of my senior management team that she would make our lives miserable if our employees did not immediately leave a Change Management Re-Design working session. We had every right to be at that session, and we were raising legitimate issues that matter to our everyday business. Given the real harm that someone in Ms. Filip's position could do to a business such as ours, we had no choice but to capitulate. Specifically, on a conference call with the participation of Mr. Greg Casey on October 30, 2001, Ms. Filip threatened that, if our representatives did not leave the meeting immediately, Ms. Filip would *devote all of her energies* to ensuring that Ms. McKenney succeeded in her objectives. This told us two things: (1) that Ms. McKenney's objectives are adversarial to those of Eschelon, even though Ms. McKenney represents that she is attempting to further her customer's interests through a "business-to-business" relationship; and (2) that Ms. Filip would use her position to intentionally harm our business. When we later repeated this incident and Ms. Filip's threat to make our lives miserable on a conference call with Mr. Gordon Martin, Ms. Filip, Ms. McKenney, and Mr. Richard Corbetta, not only did no one deny the incident, but also Mr. Martin expressed no surprise and made no indication that this type of conduct might not

be acceptable to him. Mr. Martin simply said that, while Eschelon appeared to be "passionate" about this issue, he was passionate about other issues.

Request to Destroy and Appropriate Audit Documents. Qwest retained Arthur Andersen, and Eschelon retained Pricewaterhouse Coopers ("PWC") to determine whether Qwest's reporting of access minutes was accurate. Clearly, Qwest has been shorting Eschelon switched access minutes. Qwest claimed that the flaws would be eliminated if Eschelon moved to a mechanized UNE-E access process. Two weeks after Eschelon moved to that process, however, Qwest said it was not working (and Eschelon had to return to the old process). Before we moved to the new process, Ms. McKenney told me, over many months, that our position on this issue was wrong, because other carriers were using the new process without complaint. She specifically identified McLeod as a carrier using the new process. If that were true, the process would have worked when we moved to it. It did not. In other words, Ms. McKenney's representations were false. Even worse, *Qwest told Eschelon that it would condition payments otherwise legitimately due to Eschelon upon Eschelon's destroying any evidence of Qwest's access problem, including the auditor's records.* Specifically, on a conference call with the participation of Mr. Greg Casey on October 30, 2001, Ms. McKenney told me to destroy the access audit records or give them all to her. The same day, she also faxed to Eschelon proposed written agreements, signed by Ms. McKenney, that required Eschelon to "deliver to Qwest all reports, work papers, or other documents related to the audit process described in" the July 3, 2001 letter agreement within 10 days. These documents belong to Eschelon by virtue of its access audit that was paid for solely by Eschelon. Ms. McKenney made it very clear that she wanted no written evidence of the access results documenting missing switched access minutes. Although we realized that we were at great risk due to Qwest's ability to harm our business, we simply could not participate in such conduct and expose our own business to legal liability.

Attempts to Improperly Influence Testimony. In the same discussions of resolving switched access issues, Qwest also brought into the discussion the outside and unrelated issues of Eschelon's "performance" with respect to regulatory proceedings (on any issue, not merely access). In Qwest's proposed agreements faxed to me on October 30, 2001, Qwest conditioned payments otherwise legitimately due to Eschelon upon Eschelon agreeing that it would "when requested by Qwest file supporting testimony/pleadings/comments and testify whenever requested by Qwest in a manner suitable to Qwest (substantively)." The document, signed by Ms. McKenney, provided no limitation on Qwest's requests, such as that the testimony requested be true and accurate. The agreement simply contained an offer of a monetary inducement to obtain testimony upon request. The same document required that the agreement remain confidential. Therefore, if Eschelon agreed to the proposal, it would be placed in the position of having to offer testimony without disclosing a fact that would bear on the veracity of that testimony – it had been induced. Again, Eschelon could not agree to participate in such activity and rejected the offer. Also, on November 12, 2001, Rick Smith discussed his concerns about the proposal with Ms. Filip and told her that he believed the proposal was illegal and embarrassing. When, on

Mr. Joseph P. Nacchio

February 8, 2002

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January 11, 2002, Eschelon later read the offensive language from the proposed agreement to Mr. Martin, in response to a claim by Ms. Filip that Qwest's conduct in this relationship has been "constructive," Mr. Martin expressed no surprise and made no indication that this type of conduct might not be acceptable to him.

In my first meeting with Mr. Martin, I talked with him, in particular, about my concerns regarding Ms. McKenney's behavior. I asked that she be removed from our account, so that we could deal with someone else. Mr. Martin declined that request and, as these examples show, has not given us any indication that he disapproves of her approach. Unless you condone such conduct, these examples must convey to you the seriousness of these issues, the unacceptable position in which they place Eschelon, and the legal risks that they pose to Qwest.

Despite Qwest's conduct, Eschelon has continued to persevere in its attempts to work with Qwest. Qwest is the only available supplier in virtually all cases. We have cooperated with requests by Qwest to support Qwest with favorable comments, when we believed we could legitimately do so. This has included, for example, statements to the press and a letter to state regulatory commissions supporting aspects of Qwest's PAP. Even in these circumstances, Qwest has turned a potentially positive development into a concern. For example, Qwest drafted and published a statement, which Qwest attributed to me, before I ever saw it. Later, I had little choice but to acquiesce, even though I would have phrased the statement differently, if consulted. I asked Qwest to always consult me in the future. Just recently, however, I noticed that Qwest has re-published the previous quote in Qwest's *Lightspeed* publication, without consulting me. Let me make it very clear now that I retract my previous statements in support of Qwest and all authority that Qwest has to use them. A new course needs to be charted for this wholesale business relationship, but until we have done that, I cannot, in all honesty, say anything good about Qwest.

The previous phases of this escalation have taken far too long. We would like to complete this phase within the allotted 10-day time period. We hope to resolve the outstanding issues to avoid bringing the issues to arbitration before the state commissions under our interconnection agreements and before initiating other legal actions, such as an antitrust suit. To do that, we need to move quickly. Please let me know when you are available to meet with me to discuss these escalation issues.

Sincerely,



2/8/02

Mr. Richard A. Smith

President, Chief Operating Officer & Director

cc: Drake S. Tempest (by email & express delivery)
Gordon Martin (by email)
Audrey McKenney (by email)
Dana Filip (by email)
Richard Corbetta (by email)

AMENDED ATTACHMENT 3.2

PRICES FOR OFFERING

STATE	PLATFORM RECURRING	ADDITIONAL CHARGE FOR EACH 50 MINUTE INCREMENT > 525 ORIGINATING LOCAL MOU/MONTH PER LINE
AZ	20.82	0.280
CO	18.18	0.295
ID	33.50	0.295
MN	21.83	0.205
ND	28.65	0.260
NE	36.39	0.300
NM	27.50	0.140
OR	18.78	0.170
UT	22.52	0.270
WA	18.03	0.195

Exhibit A sets forth features that are included in the flat-rated UNE-P Business Recurring Rate, in all forms of those features (except as part of an enhanced service).



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:

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

Richard A. Smith
July 3, 2001
Page 2

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.

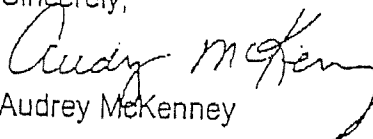
Using the results of the Audit, the parties will also negotiate the terms and conditions of any subsequent analysis or procedures to be followed, and for resolution of future discrepancies between the switched access minutes indicated by Qwest and the minutes recorded or believed to be accurate by Eschelon.

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.

Richard A. Smith
July 3, 2001
Page 3

We look forward to working with Eschelon and completing the audit process.¹

Sincerely,


Audrey McKenney

¹ 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.

Confidential Purchase Agreement

This Purchase Agreement ("PA") is made and entered into by and between Eschelon Telecom, Inc. ("Eschelon") and Qwest Service Corporation ("Qwest") (collectively, the "Parties") effective on the 30th day of October, 2001.

The Parties have entered into enter this PA to facilitate and improve their business and operational activities, agreements and relationships. In consideration of the covenants, agreements and promises contained below the Parties agree to the following:

1. This PA is entered into between the Parties based on the following conditions, which are a material part of this agreement:

1.1 This PA shall be binding on Qwest and Eschelon and each of their respective successors and assigns.

1.2 This PA may be amended or altered only by written instrument executed by authorized representatives of both Parties. Each of the Parties forever waives all right to assert that this Agreement was the result of a mistake in law or in fact.

1.3 The Parties, intending to be legally bound, have executed this PA effective as of October 30, 2001, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

1.4 Unless terminated as provided in this section, the term of this PA is from January 1, 2002 until December 31, 2002. This PA may be terminated during the term of the agreement in the event of a material breach of the terms of this Agreement.

1.5 If either Party's performance of this PA or any obligation under this PA is prevented, restricted or interfered with by causes beyond such Parties' reasonable control, including but not limited to acts of God, fire, explosion, vandalism which reasonable precautions could not protect against, storm or other similar occurrence, any law, order, regulation, direction, action or request of any unit of federal, state or local government, or of any civil or military authority, or by national emergencies, insurrections, riots, wars, strike or work stoppage or material vendor failures, or cable cuts, then such Party shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference (a "Force Majeure").

1.6 The Parties agree that they will keep the terms and conditions, substance of the negotiations and/or conditions of this PA, and any documents exchanged pursuant to this PA 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 the terms or substance of this PA or any documents pursuant to this PA, 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 PA; (2) provide Qwest with an opportunity to review and comment on Eschelon's proposed disclosure of some or all of this PA; and (3) apply for confidential treatment of the PA. In addition to a potential public offering, Eschelon may pursue private placements or other forms of investments in Eschelon or one of its subsidiaries or affiliates. In the event that potential investors require Eschelon to provide them with information subject to this Confidentiality provision, Eschelon will: (1) first notify Qwest of any obligation to disclose some or all of the confidential information; (2) provide Qwest with an opportunity to review and comment on Eschelon's proposed disclosure of some or all of the confidential information; and (3) require the other party to sign a non-disclosure agreement before providing the confidential information. It is expressly agreed that this confidentiality provision is an essential element of this PA 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. In the event either Party has a legal obligation which requires disclosure of the terms and conditions of this 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. At least ten days advance notice under this paragraph shall be provided to the other Party, whenever possible. As noted previously, it is anticipated that the Parties shall exchange confidential information (i.e. most likely that Qwest will deliver to Eschelon confidential information) in performing the obligations contained in this Agreement. The Party receiving such confidential information ("Receiving Party") shall treat such information as it would treat its own confidential information. In addition, the Receiving Party shall not disclose the confidential information outside its company and only with those employees have a need to know. The Receiving Party shall not copy such confidential information without the written consent of the other Party. In addition, the Receiving shall return the confidential information of the other Party upon demand of such Party.

1.7 Neither Party will present itself as representing or jointly marketing services with the other, or market its services using the name of the other Party, without the prior written consent of the other Party.

1.8 This PA 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.

2. In consideration of the agreements and covenants set forth above, Qwest agrees to purchase from Eschelon, during the Term of this PA, \$1.8 million in carrier-related services ("Services"), to be paid ratably within five business days of the last day of each month, for the period January through December 2002. The payment described in this paragraph will made so long as Qwest determines that Eschelon is performing consistent with this Agreement and is providing satisfactory Services. The Services may include, but are not limited to, Eschelon providing Qwest with the following: analyses of carrier pricing by market and market segment and comparisons between carriers; peer group benchmarking, including comparisons of operational and financial aggregate metrics of carriers; consulting services for Qwest's out-of-region CLEC operations on operational, financial or other issues; special projects that may be

requested on an ad hoc basis; monthly consultative meetings with top Eschelon executives; and other consulting services regarding Qwest's products and processes, including but not limited to Change Management functions.

2.1 The Parties will resolve any disputes under this Agreement pursuant to the Escalation Procedures established by the Parties. Any claim, controversy or dispute between the Parties in connection with this 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 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.

3. As part of the Services described herein, it is anticipated that the parties will exchange confidential and proprietary information. Specifically, it is anticipated that Qwest shall provide confidential and proprietary, and sensitive information to Eschelon. Accordingly, as a material element of this PA, unless otherwise requested by Qwest or an affiliate, and out of an abundance of caution that Eschelon not misuse (intentionally or by mistake) such information, Eschelon agrees, during the term of this PA, to refrain from initiating or participating in any proceeding (regulatory, judicial, arbitration, or legislative) where Qwest interests may be implicated, including but not limited to, formal and informal proceedings related to Qwest's or its affiliates' efforts to obtain relief pursuant to section 271 of the Telecommunications Act of 1996, including but not limited to, Change Management Process workshops, performance indicator/assurance dockets and cost dockets. Notwithstanding the foregoing, since Eschelon will help Qwest with, including but not limited to, its business process, products and operations, Eschelon shall, when requested by Qwest file supporting testimony/pleadings/comments and testify whenever requested by Qwest in a manner suitable to Qwest (substantively). In addition, upon request by Qwest, Eschelon will withdraw or dismiss existing proceedings.

Made and entered into on the 30th day of October, 2001, by Eschelon and Qwest.

Eschelon Telecom, Inc.

Qwest Services Corporation

Authorized Signature

Audrey McKenney
Authorized Signature

Name Printed/Typed

Audrey McKenney
Name Printed/Typed

Title

Senior VP - Wholesale MKB
Title

Date

10-30-01
Date

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

This Confidential Billing Settlement Agreement ("Agreement"), dated October 30, 2001, is between Qwest Corporation ("Qwest") and Eschelon Telecom, Inc. ("Eschelon") (collectively the "Parties") who hereby enter into this Confidential Billing Settlement Agreement with regard to the following:

RECITALS

1. Qwest is an incumbent local exchange provider operating in various states.
2. Eschelon is a competitive local exchange provider that operates in various states.
3. Qwest and Eschelon are parties to interconnection agreements, executed pursuant to sections 251 and 252 of the federal Telecommunications Act of 1996 ("Act") and approved by the appropriate state agencies referred to hereinafter as the "Interconnection Agreements."
4. Various billing disputes, including, but not limited to, pricing and switched access minutes, have arisen between the Parties under the Interconnection Agreements and applicable tariffs regarding interconnection services and unbundled network elements, provided by one Party to the other (referred to hereinafter as the "Disputes").
5. In an attempt to finally resolve the Disputes and to avoid delay and costly litigation, and for valuable consideration, the Parties voluntarily enter into this Agreement to resolve fully the Disputes.

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

6. Qwest and Eschelon agree to resolve the Disputes as of the date of this Agreement as follows. In consideration for Qwest's payment to Eschelon described in this paragraph, Eschelon

agrees to the waiver and release described in paragraphs 7 and 8 below. Qwest will make a one-time payment to Eschelon in the amount of \$1.344 million. Qwest will wire that sum of money to Eschelon within five (5) business days of the execution of this Agreement.

7. Eschelon agrees to convert to the mechanized process for receiving access records on November 8, 2001. The current manual and mechanized processes will be run in parallel to identify operational issues, if any. As part of the mechanized process, the Qwest carried intraLATA toll traffic will be part of the mechanized records. Commencing with January 1, 2002, Eschelon will rely solely on the mechanized process. The Parties agree to use the executive business escalation process to address any disputes related to switched access issues. As part of this Agreement, the Parties agree that the July 3, 2001 letter from Audrey McKenney to Richard A. Smith, Re: Status of Switched Access Minutes Reporting, is terminated and that all obligations stated therein have been satisfied. Further, Eschelon agrees to deliver to Qwest all reports, work papers, or other documents related to the audit process described in that letter. Eschelon will certify to Qwest within 10 days of execution of this Agreement that it has delivered to Qwest all reports, work papers, or other documents (originals and copies) as required by this Agreement. If Eschelon violates this provision of this Agreement it shall be a material breach of this Agreement. Regardless, the Parties and their agents or consultants shall treat such information as confidential and subject to Rule of Evidence 408.

8. For valuable consideration to be paid by Qwest to Eschelon as provided in paragraph 6 above, Eschelon hereby releases and forever discharges 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, 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 through the date of the execution of this Agreement in any way relating to or arising out of the Disputes.

9. The terms and conditions contained in this Agreement shall inure to the benefit of, and be binding upon, the respective successors, affiliates and assigns of the Parties. In addition, the terms and conditions of this Agreement, including all facts leading up to the signing of this Agreement shall bind the Parties.

10. Each Party hereby covenants and warrants that it has not assigned or transferred to any person any claim, or portion of any claim which is released or discharged by this Agreement.

11. 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 Agreement strictly confidential. Except for purposes of enforcing this Agreement, 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

14. This 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 except as expressly provided herein.
15. The Parties have entered into this Agreement after conferring with legal counsel.
16. If any provision of this Agreement should be declared to be unenforceable by any administrative agency, court of law, or other tribunal of competent jurisdiction the remainder of the 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 Agreement.
17. Any claim, controversy or dispute between the Parties in connection with this 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 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.
18. The Parties acknowledge and agree that they have legitimate disputes about the billing and provisioning issues and that the resolution reached in this Agreement represents a

10/30/01 TUE 21:53 FAX 612 376 4414
Oct-30-01 07:40pm From-QWEST

ESCHELON TELECOM INC
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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.

19. This 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 30th day of October 2001.

Eschelon Operating Company

QWEST Corporation

By: _____

By: Audrey McHenry

Title: _____

Title: SVP-Wholesale MKB

Joseph P. Nacchio
Chairman & Chief Executive Officer

1801 California Street, 52nd Floor
Denver, Colorado 80202

303.992.1410
303.296.4097 fax

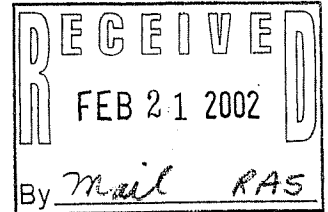


**Attorney-Client Privileged Communication
Attorney Work Product**

February 15, 2002

BY TELECOPY AND FIRST CLASS MAIL

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

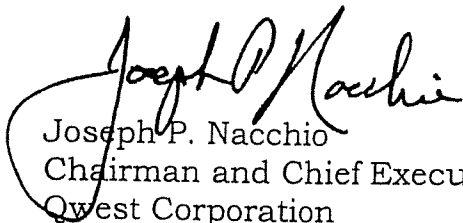


Re: Level 3 Escalation

Dear Mr. Smith:

I am writing in response to your letter dated February 8, 2002, requesting that we meet to resolve certain issues within 10 days, pursuant to Level 3 of the Escalation Procedures and Solutions Agreement between Eschelon Telecom, Inc. and Qwest Corporation, dated November 15, 2000. Afshin Mohebbi and Gordon Martin will be my representatives in addressing the business issues that you raise in your escalation letter. I look forward to hearing about your efforts to resolve issues of common concern to Eschelon and Qwest in a manner that is fair and efficient for both parties.

Sincerely,



Joseph P. Nacchio
Chairman and Chief Executive Officer
Qwest Corporation

cc: Drake S. Tempest, Esq.
Gordon Martin
Audrey McKenney
Dana Filip
Richard Corbetta, Esq.



February 21, 2002

Mr. Joseph P. Nacchio (by email and overnight mail)
Chairman and Chief Executive Officer
Qwest
1801 California St.
Denver, Colorado 80202

Re: Level 3 Escalation

Dear Mr. Nacchio:

I received your letter regarding our Level 3 Escalation today. The Escalation Procedures and Solutions Agreement between Eschelon and Qwest, dated November 15, 2000, specifically identifies you as the individual to whom we escalate our issues at Level 3. There is no provision allowing you to delegate that responsibility, and doing so is inconsistent with the spirit of the agreement. The agreement is intended to allow us to deal directly with you on high-level escalations relating to issues of critical importance to our business.

In addition, although you indicate that Afshin Mohebbi will be your representative in this escalation, Mr. Mohebbi has not participated in any of our conversations to date. We continue to deal directly with Gordon Martin, as though Qwest has granted itself an extension of the Level 2 escalation time period. Eschelon has not agreed to such an extension. As indicated in my earlier letter, the previous phases of the escalation have taken too long, and we needed to proceed expeditiously with Level 3.

Your refusal to meet with us is a breach of the Escalation Procedures and Solutions Agreement. Eschelon will review its options and take any steps necessary to protect its interests.

Sincerely,

Mr. Richard A. Smith
President, Chief Operating Officer & Director

cc: Drake S. Tempest (by email & overnight mail)
Gordon Martin (by email)
Audrey McKenney (by email)
Dana Filip (by email)
Richard Corbetta (by email)

730 Second Avenue South • Suite 1200 • Minneapolis, MN 55402 • Voice (612) 376-4400 • Facsimile (612) 376-4411