

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Petition of Qwest
Corporation for Arbitration with Eschelon
Telecom, Inc. Pursuant to 47 U.S.C. Section
252 of the Federal Telecommunications Act of
1996**

Docket No. UT-063061

**SURREBUTTAL TESTIMONY OF BONNIE J. JOHNSON
ON BEHALF OF ESCHELON TELECOM, INC.**

APRIL 3, 2007

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Bonnie Johnson and my business address is 730 2nd Avenue South, Suite
3 900, Minneapolis, Minnesota 55402.

4 **Q. ARE YOU THE SAME BONNIE J. JOHNSON WHO FILED DIRECT**
5 **TESTIMONY ON SEPTEMBER 29, 2006 AND REBUTTAL TESTIMONY ON**
6 **DECEMBER 4, 2006 IN THIS PROCEEDING?**

7 A. Yes.

8 **Q. PLEASE IDENTIFY THE EXHIBITS TO YOUR TESTIMONY.**

9 A. As part of my testimony, I have included the following exhibits:

- 10 • BJJ-39 Pages from Covad-Qwest ICA on Testing and Collocation
- 11 • BJJ-40 2/26/04 Notice for 3/4/04 CMP Jeopardy Notification Process review
- 12 meeting (with 2/25/04 materials attached)
- 13 • BJJ-41 Examples: No FOC After Qwest Facility Jeopardy yet Eschelon Accepts
- 14 Circuit
- 15 • BJJ-42 List of CMP Oversight Committee Meeting Minutes Posted On the Qwest
- 16 Wholesale Website
- 17 • BJJ-43 Qwest Service Center and Manager Roles in Relation to CMP
- 18 • BJJ-44 InfoBuddy and RPD: Qwest 6/27/01 Email Re: InfoBuddy; 3/29/06 CMP
- 19 Notice of RPD Retirement; Eschelon objection and Qwest response
- 20 • BJJ-45 Qwest CR PC102704-1ES and CR PC102704-1ES2; Emails Re: Eschelon
- 21 objection to CR completion; Emails Re: March CMP meeting minutes; and
- 22 Updated TRRO PCAT URLs reflecting recent versions (updated from BJJ-28 in
- 23 rebuttal testimony.)
- 24 • BJJ 46 Documentation relating to Qwest PCAT Expedites & Escalations
- 25 Overview, Version 6, 27, 30, and 44, as well as the CMP status history/detail for
- 26 Covad's Change Request entitled "Enhancement to the existing Expedite Process
- 27 for Provisioning."

- 1 • BJJ-47 Expedites: Annotated pages from Qwest Process Notifications for
2 Versions 11, 22, 27 and 30 of the Qwest Expedites and Escalations Overview
3 PCAT (showing that Qwest indicated Versions 11 and 22 were associated with
4 the Covad change request and Versions 27 and 30 were not associated with the
5 Covad or any change request)
- 6 • BJJ-48 Maintenance and Repair and Dispatch PCAT changes: CMP Ad Hoc
7 Meeting Minutes (Oct. 10, 2006); Level 3 Notification (Dec. 1, 2006); Eschelon's
8 Comments (Dec. 15, 2006); Level 3 Notification (Dec. 19, 2006); Eschelon-
9 Qwest Email Exchange (Jan. 2007); Excerpt from Monthly CMP Meeting
10 Minutes (Feb. 21, 2007); Wholesale Calendar Entry (showing ad hoc meeting on
11 Feb. 19, 2007)
- 12 • BJJ-49 Expedites: Examples of Expedite Requests Approved by Qwest for
13 Unbundled Loop Orders (Revised)
- 14 • BJJ-50 Jeopardies: Jeopardies Classification and Firm Order Confirmation:
15 Examples of Qwest's Failure to Provide an FOC or a Timely FOC (including
16 Eschelon's review of Qwest Exhibit RA-28RT¹)
- 17 • BJJ-51 Example of Eschelon Oversight Committee Meeting Request: Meeting
18 Minutes
- 19 • BJJ-52 Two separate Qwest Regulatory TRRO CRs (SCR 102704-1RG and SCR
20 083005-01), both which Qwest withdrew; CMP Oversight meeting minutes from
21 1/4/05 and 1/10/05
- 22 • BJJ-53 Examples of Qwest position that it will not provide requested
23 documentation

24 **Q. WERE SEVERAL OF THE DOCUMENTS USED FOR THESE EXHIBITS**
25 **PREPARED BY QWEST?**

26 **A.** Yes. Exhibits BJJ-40, BJJ-43, BJJ-44 (portions), BJJ-45 (portions),² BJJ-46 (portions),

¹ Response Testimony of Renee Albersheim, WUTC Docket No. UT-063061, December 4, 2006 ("Albersheim Response"), p. 59, footnote 42. Note that Ms. Albersheim actually refers to Confidential Exhibit RA-27 as Qwest's Response to Eschelon Exhibit BJJ-6. However, as shown in the Table of Contents to Ms. Albersheim's response testimony and the numbering of her response exhibits, the correct Qwest exhibit number for Qwest's response to Eschelon Exhibit BJJ-6 is Qwest Exhibit RA-28RT. I will refer to the correct Qwest exhibit number (RA-28RT) in my surrebuttal testimony instead of the exhibit number Ms. Albersheim references in her response testimony at page 59, footnote 42.

1 BJJ-48 (portions), BJJ-51 (portions), BJJ-52 and BJJ-53 (portions) were prepared by
2 Qwest and are posted on Qwest's website. Portions of exhibits BJJ-44, BJJ-45, BJJ-46,
3 BJJ-48, BJJ-51, and BJJ-53 contain email exchanges with Qwest on which I was either
4 copied or have personal knowledge of. With respect to BJJ-47, these CMP notifications
5 (without the annotations) were prepared by Qwest and are posted on the Qwest web site.
6 Eschelon annotated the notices by circling pertinent information related to whether the
7 notice is associated with a change request ("CR") (*i.e.*, a Level 4 change). The exhibits
8 were prepared under my direction and are true and correct copies of those Qwest
9 documents and email exchanges.

10 **Q. DID YOU PREPARE THE REMAINDER OF YOUR EXHIBITS OR HAVE**
11 **THEM PREPARED UNDER YOUR DIRECTION?**

12 A. Yes. Exhibit BJJ-39 contains pages from a publicly available interconnection agreement
13 ("ICA"). This is a true and correct copy. Exhibit BJJ-41 consists of examples prepared
14 under my direction, and is true to the best of my knowledge. Exhibit BJJ-42 is a list of
15 links, compiled under my direction, to documents available on Qwest's website. With
16 respect to the summary of examples in Exhibit BJJ-49, that summary was prepared under
17 my direction, and with respect to BJJ-50, I prepared the exhibit and have personal
18 knowledge of these facts.

19 **Q. MR. STARKEY REFERS IN HIS SURREBUTTAL TESTIMONY TO YOUR**

² The final document in Exhibit BJJ-45 is a list of Qwest non-CMP TRRO PCAT URLs, compiled using information from Qwest's web site.

1 **TESTIMONY AND EXHIBITS. HAVE YOU REVIEWED THAT TESTIMONY,**
2 **AND IF SO, DID HE TAKE ANY STATEMENT OR EVENT OUT OF**
3 **CONTEXT?**

4 A. I have reviewed that testimony and, no, Mr. Starkey did not take any statement or event
5 out of context.

6 **Q. MR. DENNEY REFERS IN HIS SURREBUTTAL TESTIMONY TO YOUR**
7 **TESTIMONY. HAVE YOU REVIEWED THAT TESTIMONY, AND IF SO, DID**
8 **HE TAKE ANY STATEMENT OR EVENT OUT OF CONTEXT?**

9 A. I have reviewed that testimony and, no, Mr. Denney did not take any statement or event
10 out of context.

11 **Q. PLEASE DESCRIBE EXHIBIT BJJ-39 RELATED TO MR. STARKEY'S**
12 **DISCUSSION OF DIFFERENCES BETWEEN THE ICA PROVISIONS OF**
13 **DIFFERENT CLECS.**

14 A. Exhibit BJJ-39 contains pages from the Covad-Qwest ICA relating to charges for repeats
15 (12.3.4.4)³ and pages from the Covad-Qwest ICA relating to CLEC-to-CLEC
16 connections (8.2.1.23 and subparts). I have compared these provisions to the closed
17 language in the Qwest-Eschelon proposed ICA, and there are differences in the language.
18 In both cases, Qwest and Eschelon agreed upon modified language. I am familiar with
19 these provisions through the ICA negotiations. There was no CMP activity associated

³ The closed language reflects Eschelon's own product set and Eschelon's ability and desire to use remote testing in some cases when trouble can be isolated with such testing.

1 with the Covad-Qwest ICA relating to charges for repeats. This exhibit is referenced in
2 Mr. Starkey's testimony regarding CMP. Mr. Starkey discusses the testimony of Qwest
3 witness Ms. Albersheim who said that Qwest needs uniform contract terms because, if
4 terms were different, Qwest personnel would need to understand a unique process, which
5 would jeopardize what Qwest refers to as "outstanding"⁴ service quality.

6 The Covad provisions in Exhibit BJJ-39 are an example of different CLEC ICA
7 provisions. Qwest provides notices of various amendment or agreement terms that it
8 offers to CLECs and sometimes updates that language over time. Some CLECs sign
9 them, and some do not (such as the expedite amendment that Qwest says⁵ other CLECs
10 have signed, but Eschelon has not). Examples of different agreement or amendment
11 terms that Qwest has offered to CLECs include collocation available inventory,
12 collocation transfer of responsibility, CLEC Requested UNE Construction ("CRUNEC")
13 and TRO/TRRO terms.⁶ A CLEC with the signed amendment would have different ICA
14 terms from a CLEC without the signed amendment.

15 In addition, the Qwest amendment or agreement language may change over time, and
16 different CLECs could then sign different versions of the language depending on when

⁴ Albersheim Response, p. 14, line 18.

⁵ Answer, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (May 12, 2006) ["Arizona Complaint Docket"], p. 2, lines 6-9 (indicating other CLECs are subject to Qwest's expedite amendment and Eschelon is not).

⁶ These Qwest "products" are not identified in the SGAT. Qwest has its own ICA proposed language for these products. Not all CLECs sign Qwest's proposed amendments for these products. Qwest representatives, therefore, must keep straight to which CLECs the terms apply or not.

1 they signed them. Eschelon has received announcements of changes to Qwest's TRO and
2 TRRO language over time, for example. Qwest's announcements suggest that some
3 CLECs, unlike Eschelon, have signed the TRRO Amendment, and therefore have
4 different terms from Eschelon.⁷ There is closed language in Eschelon's ICA different
5 from the Qwest template TRO/TRRO agreement/amendment. Eschelon is also unaware
6 of any other CLEC having the Bridge Agreement that has been approved for Qwest-
7 Eschelon.

8 McLeodUSA commented in CMP that a change to Qwest PCAT language on the DC
9 Power Application is different from the language in McLeodUSA's signed
10 interconnection agreement with Qwest.⁸ Qwest responded that:

11 The definition for DC Power Capacity has been documented in the PCATs
12 since sometime in 2003. Your ICA is valid and will not be changed. If you
13 have further questions, please contact your Collocation Service Manager.⁹

14 **Q. PLEASE DESCRIBE EXHIBIT BJJ-40 RELATING TO QWEST'S**

⁷ An APOT notice discussed by Mr. Starkey with respect to Issues 9-43 and 9-44, for example, states: "This document is provided for customers who *have signed* the Triennial Review Remand Order (TRRO) compliant agreement/amendment." PROS.08.31.06.F.04152.TRRO_Reclass_UNE_Conv_V2; "TRRO Reclassification of Terminations; V2.0." (emphasis added); <http://www.qwest.com/wholesale/cnla/uploads/PROS%2E08%2E31%2E06%2EF%2E04152%2ETRRO%5FReclass%5FUNE%5FConv%5FV2%2Edoc>.

⁸ McLeod's August 29, 2006 CMP Comment said: "Power Capacity and Usage Charges" changed from my ICA that was signed. The document we signed stated "DC Power Usage and AC Usage Charges" The Definition for "DC Power Usage" has now been replaced with "Capacity". This completely changes the interpretation of this section and the charge that are applied. Please explain when this section changed or if this section changed on this iteration. This change is not acceptable to McLeod." http://www.qwest.com/wholesale/downloads/2006/060920/1857_Qwest_Resp_to_Comment_PROS_09_20_06_F_04181_FNL_DC_Power_New_Applicat_.doc.

⁹ See *id.* (same URL).

1 **COMMITMENT TO PROVIDE A NEW DATE TO RESOLVE AN ORDER IN**
2 **JEOPARDY THE DAY BEFORE THE DUE DATE.**

3 A. Exhibit BJJ-40 contains meeting materials (dated 2/25/04) provided by Qwest on
4 February 26, 2004 for a March 4, 2004 CMP meeting. The meeting was held to discuss
5 the materials, including an example exchanged by Qwest and Eschelon to confirm
6 Qwest's process related to providing a FOC for orders in jeopardy with a new date the
7 day before the due date and ensure a mutual understanding of the facts. Exhibit BJJ-40
8 (the full text) shows that Eschelon's explanation of events in Exhibit BJJ-5 (excerpts
9 from those materials) related to Qwest's commitment to provide a new due date for
10 orders in jeopardy the day before is accurate. Mr. Starkey refers to this exhibit in his
11 discussion of the "Jeopardies Example" in his surrebuttal testimony.

12 **Q. PLEASE DESCRIBE EXHIBIT BJJ-41, ALSO RELATING TO JEOPARDIES**
13 **AND FIRM ORDER CONFIRMATIONS.**

14 A. Exhibit BJJ-41 contains more than one hundred examples of orders for which Qwest did
15 not send any FOC after a Qwest facility jeopardy, and which Eschelon nevertheless
16 attempted to accept the circuit and succeeded in doing so. Consistent with these
17 examples, Eschelon's proposed language for Issue 12-72 provides that -- even when
18 Qwest does not send an FOC or a timely FOC after a Qwest facility jeopardy -- "CLEC
19 will *nonetheless use its best efforts to accept* the service."¹⁰ Eschelon has included this
20 real life scenario in its proposal and committed to using best efforts, even when it should

¹⁰ Proposed ICA Section 12.2.7.2.4.4.1 (emphasis added).

1 receive an FOC but does not, because of the importance of providing timely service to the
2 customer.

3 In the examples in Exhibit BJJ-41, Eschelon *was* nonetheless able to accept the service
4 *despite* Qwest's failure to provide an FOC. In contrast, another real life scenario covered
5 by Eschelon's language for Issue 12-72 is when, despite best efforts, Eschelon can *not*
6 accept service due to Qwest's failure to provide an FOC or a timely FOC. For example,
7 if access to the customer premise is needed and Qwest does not provide notice via an
8 FOC in sufficient time¹¹ to gain access to the customer premise, Eschelon cannot accept
9 service due to Qwest's failure to provide proper notice. Exhibit BJJ-50 (described below)
10 contains examples of this latter scenario.¹² In such situations, Eschelon's proposed
11 language for Issue 12-72 provides: "***If needed***, the Parties will attempt to set a new
12 appointment time ***on the same day*** and, ***if unable to do so***, Qwest will issue ***a Qwest***
13 ***Jeopardy notice*** and a FOC with a new Due Date."¹³ This proposed language also
14 reflects Eschelon's concern for the customer because it provides that a new appointment
15 time will be set the same day or as soon as possible afterward.¹⁴

¹¹ See, e.g., Exhibit BJJ-50, Row No. 11 (FOC nine minutes before).

¹² See, e.g., Exhibit BJJ-50, Row Nos. 5 & 6.

¹³ Proposed ICA Section 12.2.7.2.4.4.1 (emphasis added).

¹⁴ As discussed by Mr. Starkey, if instead Qwest assigns a CNR jeopardy, Qwest requires a supplemental order with a ***three-day*** interval for the due date. See, e.g., Webber Direct (adopted by Mr. Starkey), p. 117, lines 4-13.

1 Exhibit BJJ-41 and both of these scenarios are discussed in Mr. Starkey's discussion of
2 jeopardies (Issues 12-71 through 12-73).

3 **Q. PLEASE DESCRIBE EXHIBIT BJJ-42 CONCERNING CMP OVERSIGHT**
4 **COMMITTEE MEETING MINUTES.**

5 A. Exhibit BJJ-42 contains a list of CMP Oversight Committee Meeting Minutes posted on
6 Qwest's wholesale website along with URLs that can be used to access the meeting
7 minutes. This shows that several matters have been handled through Section 18.0
8 ("Oversight Review Process") of the CMP Document. Mr. Starkey discusses Exhibit
9 BJJ-42 in the "Expedited Order Example" section of his surrebuttal testimony.

10 **Q. PLEASE DESCRIBE EXHIBIT BJJ-43 CONCERNING QWEST SERVICE**
11 **CENTER AND MANAGER ROLES IN RELATION TO CMP.**

12 A. Exhibit BJJ-43 consists of a Qwest document describing the Qwest Service Center and
13 Manager roles in relation to CMP. Exhibit BJJ-43 indicates that Qwest will conduct a
14 root cause analysis of examples provided by CLECs. Mr. Starkey refers to Exhibit BJJ-
15 43 in his discussion of Issues 12-64 (Root Cause and Acknowledgement of Mistakes) and
16 12-71 – 12-73 (Jeopardies), as well as in the "Expedited Order Example" section of his
17 surrebuttal testimony.

18 **Q. PLEASE DESCRIBE EXHIBIT BJJ-44 RELATING TO INFOBUDDY AND**
19 **RESALE PRODUCT DATABASE ("RPD").**

1 A. Exhibit BJJ-44 consists of a Qwest email dated June 27, 2001 regarding InfoBuddy,
2 Qwest's March 29, 2006 Notice regarding RPD retirement and Eschelon's objection to
3 the retirement of RPD and Qwest's response. Mr. Starkey discusses Exhibit BJJ-44 in
4 the "Expedited Order Example" section of his surrebuttal testimony.

5 **Q. PLEASE DESCRIBE EXHIBIT BJJ-45 REGARDING NON-CMP TRRO PCATs**
6 **AND QWEST'S VERY RECENT CMP ACTIVITY.**

7 A. Exhibit BJJ-45 is comprised of updates to information (CR Detail for PC102704-1ES)
8 discussed in Exhibit BJJ-7 and updates to Exhibit BJJ-28 (List of Qwest Non-CMP
9 "TRRO" PCATs) to my direct testimony. At the time of my direct testimony, the first
10 document in BJJ-45 (CR detail for PC102704-1ES) was in a deferred status.¹⁵ Qwest has
11 since taken the Change Request out of deferred status, and it placed the Change Request
12 temporarily in development status. Although the subject matter should have been part of
13 the same change request, per Qwest, Qwest created the new CR PC10274-1ES2 as a
14 continuation of PC10274-1ES because the original Change Request reached its character
15 limitation. Qwest then told CLECs in the March CMP meeting that Qwest was placing
16 the Change Request in completed status (though all of it was not completed)¹⁶ and was

¹⁵ Per the CMP document, the definition of deferred is: "Deferred - A CR is updated to Deferred status if the originator does not intend to escalate or dispute the CR at the present time, but wants the ability to activate or close the CR at a later date." (See BJJ-1 or http://www.qwest.com/wholesale/downloads/2007/070129/QwestWholesaleChangeManagementDocument_01_29_07.doc, p. 55).

¹⁶ Qwest indicated in its minutes for the meeting that it asked at the meeting if there were any objections to the closure of this Change Request, but the minutes are inaccurate in this respect because Qwest did not ask about objections. Qwest simply announced it was closing the Change Request.

1 instead opening new, separate Change Requests for each of the remaining products
2 Qwest had previously included in the former single Change Request.¹⁷ I have included
3 the PC102704-1ES to reflect recent CMP activity. I have also included Qwest's
4 additional change request (CR PC10274-1ES2) and Qwest-Eschelon email exchanges
5 regarding Eschelon's objection to the Qwest Change Request completion and Eschelon's
6 review of the Qwest March CMP meeting minutes on this issue.

7 Regarding the list of Qwest Non-CMP "TRRO" PCATs that is part of Exhibit BJJ-45,
8 since filing my rebuttal testimony, Qwest has revised some of its TRRO
9 PCATs. The updated version in Exhibit BJJ-45 reflects the versions of the PCATs as of
10 March 9, 2007.¹⁸

11 Mr. Starkey refers to Exhibit BJJ-45 in his discussion of the Secret TRRO PCAT
12 example.

13 **Q. PLEASE DESCRIBE EXHIBIT BJJ-46 RELATING TO EXPEDITES.**

14 A. Exhibit BJJ-46 is comprised of documentation relating to Qwest PCAT Expedites &
15 Escalations Overview, Versions 6, 27, 30, and 44, as well as the CMP status

¹⁷ Per the CMP document, the definition of development is: "Development – A product/process CR is updated to a Development status when Qwest's response requires development of a new or revised process. A systems CR is updated to Development status when development begins for the next OSS Interface Release." (See *BJJ-1* or http://www.qwest.com/wholesale/downloads/2007/070129/QwestWholesaleChangeManagementDocument_01_29_07.doc, at p. 55).

¹⁸ In this list, for each Qwest non-CMP TRRO PCAT, the first URL refers to the PCAT. The other URL is the link to the history log for the PCAT (which shows the number of versions/changes to the PCAT made by non-CMP notifications). As seen from this list, there are 12 Qwest non-CMP TRRO PCATs, and 95 versions of the PCATs (counting the number of versions issued per PCAT) made by non-CMP notifications.

1 history/detail for Covad's Change Request entitled "Enhancement to the existing
2 Expedite Process for Provisioning."

3 Regarding Version 6 (effective May 27, 2003), BJJ-46 contains the Qwest Level 2 CMP
4 announcement in which Qwest states that Version 6 is "Documentation concerning
5 existing process not previously documented: add Expedite reason – medical emergency."

6 It also includes a page from the accompanying Qwest redline showing this change
7 (adding the phrase "Medical emergency" to the documented list of "valid expedite"
8 conditions).¹⁹ It also includes the CLEC comments and Qwest's Response regarding
9 Version 6. AT&T states: "We have had several meetings with Qwest to outline the
10 specifics of the medical expedite process, and none of that information is contained in
11 this PCAT, not the disclosure document for EDI, not other PCATs for ordering and
12 provisioning. It has taken AT&T approximately 5 and a half months to get the
13 information we have been requesting, and still it is not documented." Qwest's Version 6
14 Response confirms that, at this time, expedites were provided at no additional charge for
15 medical emergencies, and Qwest was only documenting this fact:

16 The current process for Expedites will not change. "Medical emergency"
17 is a valid Expedite reason that was not previously documented. The
18 PCAT updates were clarifying updates only in order to provide an
19 additional valid reason to request an expedite" and "Based on the
20 comments received, the PCAT updates were clarifying updates only in
21 order to provide additional information. The current process for Expedites
22 will not change. "Medical emergency" is a valid Expedite reason that was
23 not previously documented. The PCAT is being updated to clarify the
24 actions for Expedite situations along with a link to the field entry

¹⁹ See, Webber Direct (adopted by Mr. Denney), pp. 67-68.

1 requirements in the Local Service Ordering Guide (LSOG). Qwest accepts
2 this comment.

3 Exhibit BJJ-46 also includes a copy of the CMP status history/detail for Covad's Level 4
4 CLEC-initiated Change Request entitled "Enhancement to the existing Expedite Process
5 for Provisioning." This is discussed in connection with Version 11 of Qwest's Expedites
6 & Escalations Overview PCAT (effective July 31, 2004).²⁰

7 Regarding Version 27 of Qwest's Expedites & Escalations Overview PCAT (effective
8 October 27, 2005), Exhibit BJJ-46 includes: (1) the Qwest September 12, 2005 Level 3
9 notification; (2) the pages of the accompanying redlines that refer to expedites (showing
10 that Qwest deleted the phrase "all except 2w/4w analog" and inserted the phrase "Port
11 In/Port Within associated with any of the applicable designed products listed above" in
12 the list of products to which Qwest indicates the fee-added Pre-Approved Expedite
13 process applies);²¹ (3) the October 12, 2005 CLEC Comment and Qwest Response; (4)
14 McLeodUSA's Escalation; (5) Qwest's November 4, 2005 Response to McLeodUSA's
15 escalation; and (6) a March 28, 2006 Qwest-Eschelon email exchange in which Qwest
16 confirms that "we do show that Eschelon did join the escalation."²²

17 Regarding Version 30 of Qwest's Expedites & Escalations Overview PCAT (effective
18 January 3, 2006), Exhibit BJJ-46 includes: (1) Qwest's October 19, 2005 Level 3

²⁰ See, e.g., Exhibit BJJ-3, pp. 6-8.

²¹ See, e.g., Exhibit BJJ-3, pp. 8-9.

²² See, e.g., Exhibit BJJ-3, p. 13.

1 notification; (2) the accompanying redline showing that Qwest made the following
2 changes from the previous version to Version 30 of its PCAT to deny the capability to a
3 CLEC with expedite “language in [its] Interconnection Agreement (ICA)” to expedite
4 any product (including all loops) on Qwest’s expanded Pre-Approved Expedite product
5 list, even when the Original Conditions are met, and to instead require that the ICA “must
6 contain” a “per day” expedite rate:²³

7 Requesting an expedite follows one of two processes, depending on the
8 product being requested. If the request being expedited is for a product
9 contained in the “Pre-Approved Expedites” section below your ICA must
10 contain language supporting expedited requests with a “per day” expedite
11 rate. If the request being expedited is for a product that is not on the
12 defined list, then the expedited request follows the process defined in the
13 “Expedites Requiring Approval” section below.

14 and (3) Qwest November 18, 2005 Final Notice and accompanying Qwest Response to
15 CLEC Comment (with CLEC comments and Qwest Response).

16 Exhibit BJJ-46 also includes Version 44 of Qwest’s Expedites & Escalations Overview
17 PCAT. This is the current version (currently posted on Qwest’s web site) as of the
18 writing of this testimony. The documentation in Exhibit BJJ-46 is discussed with respect
19 to Issues 12-67 and subparts (Expedited Orders) in the testimony of Mr. Denney,
20 including the direct testimony of Mr. Webber, which has been adopted by Mr. Denney.

21 **Q. PLEASE DESCRIBE EXHIBITS BJJ-47 AND BJJ-49, ALSO RELATING TO**
22 **EXPEDITES.**

²³ See, e.g., Exhibit BJJ-3, pp. 10-12.

1 A. Exhibit BJJ-47 contains annotated pages from Qwest Process Notifications for Versions
2 11, 22, 27 and 30 of the Qwest Expedites and Escalations Overview PCAT. Eschelon
3 annotated the notices to circle pertinent information related to whether the notice is
4 associated with a change request (“CR”) (*i.e.*, a Level 4 change). There is a space on
5 Qwest’s form where Qwest indicates whether a noticed change is “associated with” a
6 change request or not. Exhibit BJJ-47 shows that Qwest indicated Versions 11 and 22
7 were associated with the Covad change request and Versions 27 and 30 were *not*
8 associated with the Covad or any other change request.

9 Exhibit BJJ-49 provides examples of expedite requests approved by Qwest for unbundled
10 loop orders under the existing Qwest-Eschelon ICAs (without amendment). It is an
11 updated version of Exhibit BJJ-26. In another proceeding, Qwest pointed out that other
12 products for which Qwest had provided expedited orders had been included in the
13 exhibit, which was inadvertent. Therefore, Eschelon has deleted those examples to limit
14 the exhibit to unbundled loop orders. In any event, Qwest has admitted that it previously
15 provided expedites for unbundled loop orders (which Qwest refers to as “designed”
16 facilities) under the existing Qwest-Eschelon ICAs (without amendment).²⁴ Mr. Denney
17 refers to these exhibits in his surrebuttal testimony.

²⁴ See, Arizona Complaint Docket, Qwest (Ms. Novak) Direct (July 13, 2006), p. 5, lines 5-12 & lines 21-22 (Qwest “uniformly followed the process in existence at the time for expediting orders for unbundled loops”); see also Answer (May 12, 2006) (Arizona Complaint Docket), p. 9, ¶ 14, lines 24-25 (“Qwest previously expedited orders for unbundled loops on an expedited basis for Eschelon”).

1 **Q. PLEASE DESCRIBE EXHIBIT BJJ-48 RELATING TO QWEST**
2 **MAINTENANCE AND REPAIR AND DISPATCH PCATS.**

3 A. Mr. Starkey refers to Exhibit BJJ-48 in his surrebuttal testimony. Exhibit BJJ-48
4 contains the following documents:

5 CMP Ad Hoc Meeting Minutes (Oct. 10, 2006) (pages 1-7)

6 Level 3 Notification (Dec. 1, 2006) (pages 8-10)

7 Eschelon's Comments (Dec. 15, 2006) (pages 11-12)

8 Level 3 Notification (Dec. 19, 2006) (pages 13-14)

9 Eschelon-Qwest Email Exchange (Jan. 2007) (pages 15-16)

10 Excerpt from Monthly CMP Meeting Minutes (Feb. 21, 2007) (pages 17-18)

11 Wholesale Calendar Entry (showing ad hoc meeting on Feb. 19, 2007) (page 19)

12 **Q. PLEASE DESCRIBE EXHIBIT BJJ-50 RELATING TO JEOPARDIES**
13 **CLASSIFICATION AND FIRM ORDER CONFIRMATION ("FOC").**

14 A. Ms. Albersheim indicates that Qwest Exhibit RA-28RT is Qwest's analysis of Eschelon
15 Exhibit BJJ-6 regarding jeopardies.²⁵ Eschelon's Exhibit BJJ-50 is Eschelon's reply to
16 Qwest Exhibit RA-28RT. Jeopardies is Subject Matter 33 (Issues 12-71 – 12-73), which
17 is discussed in Mr. Starkey's testimony. Eschelon Exhibits BJJ-6, BJJ-35, and BJJ-50 are
18 related. Each exhibit builds on the previous one and also includes information responsive

²⁵ Albersheim Response, p. 59, footnote 42. Note that Ms. Albersheim actually refers to Confidential Exhibit RA-27 as Qwest's Response to Eschelon Exhibit BJJ-6. However, as shown in the Table of Contents to Ms. Albersheim's response testimony and the numbering of her response exhibits, the correct Qwest exhibit number for Qwest's response to Eschelon Exhibit BJJ-6 is Qwest Exhibit RA-28RT. I will refer to the correct Qwest exhibit number (RA-28RT) in my surrebuttal testimony instead of the exhibit number Ms. Albersheim references in her response testimony at page 59, footnote 42.

1 to Qwest's review of Eschelon's examples. Therefore, Exhibit BJJ-50 is cumulative and
2 includes pertinent information from both Eschelon's previous exhibits (BJJ-6 and BJJ-35)
3 and Qwest's Exhibit RA-28RT, as further described below. Eschelon has added a "key"
4 to the beginning of Exhibit BJJ-50. The key defines certain codes used in the exhibit and
5 provides some summary information.

6 Exhibit BJJ-6 to my direct testimony is described on pages 120-122 of Mr. Webber's
7 direct testimony (which has been adopted by Mr. Starkey) and page 9 of my direct
8 testimony. Exhibit BJJ-6 is a spreadsheet containing examples of when, despite best
9 efforts, Eschelon could not accept service due to Qwest's failure to provide an FOC or a
10 timely FOC, and yet Qwest classified the jeopardy as Eschelon-caused ("Customer Not
11 Ready" or "CNR"). This is one of the real life scenarios dealt with in Eschelon's
12 proposed language for Issue 12-72 (as discussed above regarding Exhibit BJJ-41).

13 Exhibit BJJ-35 to my rebuttal testimony is discussed in Mr. Webber's rebuttal testimony
14 on Issues 12-71 through 12-73 (Jeopardies) and pages 15-19 of my rebuttal testimony.
15 Exhibit BJJ-35 contains the examples from Exhibit BJJ-6 to my direct testimony, along
16 with columns responsive to Qwest's review provided in the Minnesota arbitration of
17 these Eschelon jeopardy examples. Qwest took Eschelon's examples and added columns
18 of its own called "Qwest's Review." My Washington Exhibit BJJ-35 was compiled by
19 using Eschelon's original data on 22 of the 23 orders in Exhibit BJJ-6 (first four columns

1 labeled “Eschelon Data”),²⁶ Qwest’s Review (next two columns labeled “Qwest
2 Review”), to which I added a column containing Eschelon’s analysis of the comments in
3 Qwest’s Review (the final column labeled “Eschelon Review”). Eschelon has provided
4 this analysis to Qwest in other states as well.

5 With Qwest’s rebuttal testimony, Ms. Albersheim then provided Exhibit RA-28RT in
6 response to Eschelon’s analysis. Qwest inserted two columns labeled “CNR Jeopardy in
7 Error?” and “FOC Sent after original Jeopardy?”

8 In Exhibit BJJ-50, Eschelon replies to Qwest Exhibit RA-28RT. Exhibit BJJ-50 includes
9 Eschelon’s review (from Eschelon Exhibit BJJ-35) and also includes Qwest’s review
10 (from Qwest Exhibit RA-28RT - *i.e.*, Qwest’s two new columns). By maintaining both
11 companies’ reviews in one exhibit, the information can be easily reviewed together.
12 Eschelon then added a new column (the final column of Exhibit BJJ-50) which contains
13 Eschelon’s review of Qwest’s Exhibit RA-28RT.

14 **Q. YOU SAID THAT IN EXHIBIT RA-28RT QWEST ADDED TWO COLUMNS,**
15 **ONE OF WHICH WAS NAMED “FOC SENT AFTER ORIGINAL**
16 **JEOPARDY.”²⁷ WHAT APPEARS TO BE THE EFFECT OF QWEST’S**
17 **INSERTION OF THE TERM “ORIGINAL” BEFORE “JEOPARDY”?**

²⁶ Eschelon gathered these examples as these events were occurring and, at that time, Eschelon confirmed in Qwest’s own systems whether and when an FOC was sent.

²⁷ Albersheim Exhibit RA-28RT final column.

1 A. In Eschelon’s review column, the term “no FOC” was defined via footnotes 4, 5 and 6 in
2 Exhibit BJJ-35 to refer to a particular situation (*i.e.*, the scenario described in Section
3 12.2.7.2.4.4.1 of Eschelon’s proposed language for Issue 12-72). Qwest’s Exhibit RA-
4 28RT does not include this explanatory information. Instead, Qwest inserted its columns,
5 including the one entitled “FOC after *original* jeopardy” (emphasis added). Use of the
6 term “original” before “jeopardy” allowed Qwest to respond “yes” in this column for two
7 of the examples when the answer should be “no” if the correct jeopardy is used for the
8 analysis. In both of these examples, although Qwest sent an FOC after the *first* Qwest
9 facility jeopardy (*i.e.*, “original” jeopardy per Qwest), the orders went into a Qwest
10 facility jeopardy a *second* time. In both cases, Qwest did not send Eschelon an FOC after
11 the second Qwest facility jeopardy. Based on the latter jeopardy notice, however,
12 Eschelon had no reason to expect delivery of the circuit without another FOC.
13 Eschelon’s review in both Exhibit BJJ-35²⁸ and Exhibit BJJ-50 describes these two
14 examples involving multiple Qwest jeopardy examples.²⁹

15 **Q. PLEASE ELABORATE ON THE KEY AND SUMMARY INFORMATION**
16 **PROVIDED AT THE BEGINNING OF EXHIBIT BJJ-50 REGARDING**
17 **JEOPARDIES.**

18 A. The information in the key summarizes the examples by categories (“A” – “C”), with
19 total numbers for each category, and it helps identify areas of agreement and

²⁸ Exhibit BJJ-35, rows 9 and 13.

²⁹ Exhibit RA-28RT Row Number 10 (PON AZ591886T1FAC) and Row Number 14 (PON AZ602905T1FAC); *see also* end note i.

1 | disagreement between the companies. If the disagreements are set aside, there is one fact
2 | on which the companies clearly agree: The companies agree that Qwest sent *no FOC* at
3 | all after the Qwest facility jeopardy was cleared but before delivery or attempted delivery
4 | of the circuit for twelve (12) of the examples. (These twelve examples are identified in
5 | the key and the pertinent rows as part of category “A.”)

6 | When no FOC is sent (as in category “A”), the most recent information available to
7 | Eschelon from the jeopardy and FOC notices is that Eschelon should not expect circuit
8 | delivery, because Qwest had a facility problem to resolve before it can deliver the
9 | circuit.³⁰ Although at the recent Arizona Qwest-Eschelon ICA hearing Ms. Albersheim
10 | seemed to suggest that CLECs should expect delivery in every case despite having
11 | received a jeopardy notice (meaning CLECs could have to use resources to stand ready
12 | and wait for delivery even though no delivery is realistically anticipated), that is not the
13 | process Qwest communicated to CLECs in CMP or the process reflected in Qwest’s own
14 | documentation. As stated in footnote 5 to Exhibits BJJ-35 and BJJ-50, the documented
15 | process in Qwest’s Provisioning and Installation Overview V94.0 PCAT states (with
16 | emphasis added): “If the column contains “Yes” and Qwest has the responsibility to
17 | resolve the jeopardy condition, *we will advise you of the new DD when the jeopardy*
18 | *condition has been resolved*. This is usually within 72 hours.”³¹ In other words, for this
19 | type of jeopardy, the CLEC is told to do nothing to prepare unless Qwest sends a notice

³⁰ See footnote 5 to both BJJ-35 and BJJ-50 regarding Qwest’s documented process.

³¹ Qwest’s Provisioning and Installation Overview PCAT is Qwest Exhibit RA-11.

1 indicating the condition has been resolved. To disregard a jeopardy notice means to plan
2 to prepare to accept delivery as though you had not received a notice. If “yes” is in the
3 column, you do not prepare because you are being told that there is no need to do so
4 *unless you receive a new FOC from Qwest.* Qwest’s PCAT states at
5 <http://www.qwest.com/wholesale/clecs/provisioning.html>:

6 “Qwest differentiates between DD jeopardies and Critical Date jeopardies. DD
7 jeopardies indicate that your due date is in jeopardy; however, Critical Date
8 jeopardies indicate that a critical date prior to the DD is in jeopardy. Critical
9 Date jeopardies can be ignored by you. Critical Date jeopardies are identified in
10 the Jeopardy Data document (see download in the following paragraph) in the
11 column labeled “Is Due Date in Jeopardy?” If the DD is not in jeopardy, this
12 column will contain “No” and you can disregard the jeopardy notice sent for this
13 condition and continue your provisioning process with the scheduled DD. If the
14 column contains “Yes” and Qwest has the responsibility to resolve the jeopardy
15 condition, we will advise you of the new DD when the jeopardy condition has
16 been resolved. This is usually within 72 hours.”

17 As discussed in Eschelon’s previous testimony,³² Qwest has admitted that the FOC is the
18 agreed upon process by which Qwest informs Eschelon of the due date for delivery of a
19 circuit.³³ Despite its failure to send the FOC, Qwest’s Exhibit RA-28RT shows that
20 Qwest maintains for each of these twelve examples that it properly classified the jeopardy
21 as Eschelon-caused (Customer Not Ready or CNR). Eschelon disagrees and, under
22 Eschelon’s proposed language, these would not be classified as CNR.

23 **Q. MS. ALBERSHEIM STATES THAT “THE RECORD SHOWS THAT QWEST**
24 **DID NOT PROVIDE AN FOC BECAUSE OTHER ORDER ACTIVITY BY**

³² Webber Rebuttal, p. 89 (adopted by Mr. Starkey).

³³ Exhibit MS-9, MN ICA Arbitration Transcript, Vol. 1, p. 38, lines 17-19 (Ms. Albersheim).

1 **ESCHELON OR BY QWEST ELIMINATED THE NEED FOR AN FOC.”³⁴ SHE**
2 **CITES EXHIBIT RA-28RT.³⁵ PLEASE RESPOND.**

3 A. I have reviewed Qwest Exhibit RA-28RT, and it does not support Ms. Albersheim’s
4 claim. She does not cite any other part of the record, and I am not aware of anything in
5 the record that supports Ms. Albersheim’s claim. Ms. Albersheim does not even indicate
6 to what “order activity” she is referring. There is no local service request (“LSR”) or
7 Qwest service order activity *before* Qwest assigns the CNR jeopardy that would eliminate
8 the need for an FOC. Qwest has pointed to no provision of the interconnection
9 agreement or even its own PCAT that would suggest there is such activity or identifies
10 that activity. In Exhibit BJJ-35³⁶ and in its direct testimony,³⁷ Eschelon provided the
11 closed language of ICA Section 9.2.4.4.1, which provides that Qwest will provide an
12 FOC in these situations.³⁸ Section 9.2.4.4.1 contains no exception for “order activity.”

³⁴ Albersheim Response, p. 59.

³⁵ Albersheim Response, p. 59, footnote 42. Note that Ms. Albersheim actually refers to Confidential Exhibit RA-27 as Qwest’s Response to Eschelon Exhibit BJJ-6. As explained above, the correct Qwest exhibit number for Qwest’s response to Eschelon Exhibit BJJ-6 is Qwest Exhibit RA-28RT. I will refer to the correct Qwest exhibit number (RA-28RT) in my surrebuttal testimony instead of the exhibit number Ms. Albersheim references in her response testimony at page 59, footnote 42.

³⁶ See footnote 4 to both Exhibit BJJ-35 and BJJ-50.

³⁷ Webber Direct (adopted by Mr. Starkey), p. 126.

³⁸ **ICA Section 9.2.4.4.1:** “. . . If Qwest must make changes to the commitment date, Qwest will promptly issue a Qwest Jeopardy notification to CLEC that will clearly state the reason for the change in commitment date. Qwest will also *submit a new Firm Order Confirmation* that will clearly identify the new Due Date.” (emphasis added). This language appears in the SGAT and Qwest’s negotiations template. *See also* the PCAT provisions (cited in footnote 5 to Exhibits BJJ-35 and BJJ-50) for “DD Jeopardies” that indicate Qwest’s process is to send an FOC after the facility jeopardy notice if the condition is resolved so that the CLEC should expect delivery.

1 If Ms. Albersheim is using the term “order activity” more generally to refer to informal
2 communications regarding an order (such as the possible technician communications she
3 described in Minnesota),³⁹ she has both (1) not provided data in Exhibit RA-28RT to
4 show that informal communications took place (or, if any communication took place, that
5 it occurred separate from attempted delivery sufficiently in advance to allow Eschelon to
6 prepare) in every case or, (2) more importantly, that even if they had taken place,
7 informal communications would eliminate the need for an FOC. There is also no
8 exception to ICA Section 9.2.4.4.1 for informal communications. As described in
9 Eschelon’s rebuttal testimony:

10 Qwest admits, however, that such informal communication even if it
11 occurs is not the agreed upon process by which Qwest informs Eschelon
12 of the due date for circuit delivery.⁴⁰ In addition, Qwest provides no
13 evidence that the CLEC technicians (rather than, for example, CLEC
14 service delivery personnel) are the appropriate contacts with respect to
15 FOCs. Eschelon cannot rely upon informal communications that are
16 outside the appropriate process to plan its business and ensure timely
17 delivery of circuits necessary to meet its Customers’ expectations.⁴¹

18 This Eschelon testimony accurately describes the business structure in which, at both
19 Qwest and Eschelon, a service delivery type organization sends/receives the jeopardy and
20 FOC notices,⁴² and that organization is different in both companies from the network type

³⁹ Ms. Albersheim speculated that it is possible that “communication was happening between Qwest and the CLEC technicians.” Exhibit MS-9 - MN Tr. Vol. I, p. 94, lines 19-20 (Ms. Albersheim).

⁴⁰ *Id.* p. 38, lines 13-19.

⁴¹ Webber Rebuttal (adopted by Mr. Starkey), p. 86, footnote 225.

⁴² *See* Exhibit RA-11, pp. 11-12 (“*Qwest’s Provisioning and Installation Overview*;” If a LSR goes into a jeopardy condition and it is detected: . . . On the DD/ Once the Qwest CSIE is advised of the condition (if the RFS Date is known)/ Qwest sends a jeopardy notice. A FOC is subsequently sent advising you of the new

1 of organization in which the technicians work. Consistent with this business structure,
2 Qwest has admitted that the FOC (*i.e.* not informal communications or other order
3 activity) is the agreed upon process by which Qwest informs Eschelon of the due date for
4 delivery of a circuit.⁴³

5 Ms. Albersheim's explanation of the absence of an FOC has changed from the potential
6 informal communications mentioned in Minnesota to the unspecified order activity
7 referred to in her Washington response testimony. If Ms. Albersheim's "order activity"
8 reference is an attempt to address Eschelon's above-quoted reference to "service delivery
9 personnel," Ms. Albersheim provided no data in her testimony or her Exhibit RA-28RT
10 identifying any order activity by service delivery or any other personnel that would
11 eliminate the agreed upon process of providing an FOC after the Qwest facility jeopardy
12 was cleared but before delivery or attempted delivery of the circuit.⁴⁴ Qwest's argument

DD that Qwest can meet."). Qwest CSIE stands for "Customer Service Inquiry and Education" and was formerly known as the Qwest Interconnect Service Center ("ISC"). The technicians that may call at the time of circuit delivery are in Qwest's network organization; they are not in the Qwest CSIE. Likewise, the personnel who receive a call at the time of circuit delivery are not in the Eschelon organization that receives the jeopardy and FOC notices. By going outside of its own process, not sending an FOC and relying on non-mechanized informal communications, Qwest is creating a situation in which the right hand does not know what the left hand is doing at either company. That creates significant inefficiencies and problems that are avoidable if Qwest just follows its own process – and the contract/SGAT provision – that provide that the FOC is the agreed upon mechanism for providing advance notice. Although (as Eschelon's proposed language and the examples in Exhibit BJJ-41 show) Eschelon will nonetheless use best efforts to accept the circuit without an FOC or a timely FOC, Qwest should not be allowed to now build these inefficiencies into the contract and change FOCs from a useful notice tool to a mere "formality." *See* Qwest-Eschelon ICA Arbitration, Albersheim AZ Rebuttal, AZ Docket Nos. T-03406A-06-0572; T-01051 B-06-0572 (Feb. 7, 2007), p. 15, line 16 ("formality").

⁴³ Exhibit MS-9, MN ICA Arbitration Transcript, Vol. 1, p. 38, lines 17-19 (Ms. Albersheim).

⁴⁴ Exhibit MS-9, MN ICA Arbitration Transcript, Vol. 1, p. 95, lines 19-24 (Ms. Albersheim) ("Q And you would agree that that's not proper, if the CLEC hasn't received an FOC in adequate time to be able to act on it; correct? A According to procedure, yes. Q That's Qwest's procedure? A Yes.").

1 about eliminating the need for an FOC (even though closed language in the ICA says that
2 Qwest will send an FOC), combined with these twelve examples in RA-28RT in which
3 Qwest admits it will assign a CNR (Eschelon-caused) jeopardy even though it sends no
4 FOC to allow Eschelon to be prepared to accept the circuit,⁴⁵ supports placing language
5 in the interconnection agreement to ensure that FOCs and timely FOCs are sent and, if
6 they are not, jeopardies are properly classified. As described by Mr. Starkey, the effect
7 on the due date for end user customers should be considered.⁴⁶

8 **Q. PLEASE DESCRIBE CATEGORY “B” IN EXHIBIT BJJ-50.**

9 A. Category “B” identifies examples for which the companies agree that Qwest sent an
10 FOC, but they disagree as to whether the FOC was sent sufficiently in advance of the due
11 date to allow Eschelon to prepare to accept delivery of the circuit (such as by scheduling
12 personnel and/or arranging premise access with the customer). For example, one of the
13 examples in category “B” is the situation, listed in Exhibits BJJ-6 and BJJ-35, in which
14 Qwest provided an FOC *nine minutes before* attempting to deliver the circuit.⁴⁷
15 Eschelon’s proposed ICA language states that Qwest will provide an FOC “at least the

⁴⁵ Exhibit MS-9, MN ICA Arbitration Transcript, Vol. 1, p. 37, line 20 – p. 38, line 6 (Ms. Albersheim) (Q So you agree with me that Qwest’s current practice is to provide the CLEC with an FOC after a Qwest facilities jeopardy has been cleared; is that right? A Yes. Q And the reason for that is you want to let the CLEC know that the CLEC should be expecting to receive the circuit, right? A Yes. Q And the CLEC needs to have personnel available and it needs to also perhaps make arrangements with the customer to have the premises available; right? A Yes.”).

⁴⁶ Webber Direct (adopted by Mr. Starkey), p. 117 (“Perhaps the *most important consequence* of being assigned fault is the *effect on the due date* for providing service.”); *see also id.* p. 121 (“Eschelon will attempt to overcome these obstacles *because delivery of service to its Customer is of the utmost importance to Eschelon.*”) (emphasis added).

⁴⁷ Exhibit BJJ-50, Row No. 11.

1 day before” Qwest attempts to deliver the circuit.⁴⁸ In Exhibits BJJ-6, BJJ-35 and BJJ-
2 50, therefore, Eschelon identified examples for which Qwest, after a facility jeopardy
3 cleared, provided an FOC less than the day before delivery of the circuit as “invalid”
4 CNR jeopardies. These are the Category “B” examples.

5 Qwest includes eight examples in Category “B,” while Eschelon agrees with only five of
6 these. One of them is not applicable (“NA”), as it was removed in Eschelon’s review of
7 Qwest’s arguments in Exhibit BJJ-35. Exhibit BJJ-50 contains the same twenty-two
8 examples shown in Exhibit BJJ-35. For the other two examples (Row Numbers 9 and
9 13), a pertinent FOC was not sent, as described above and in end note (i) to Exhibit BJJ-
10 50, so Eschelon believes these two examples should be excluded from Category “B”
11 (which is supposed to be examples when a pertinent FOC *was* sent).

12 In the “Jeopardies Example” of his surrebuttal testimony (regarding CMP and contractual
13 certainty), Mr. Starkey discusses the following commitment made by Qwest in CMP that
14 is related to the time period used in for Category B:

15 Action #1: As you can see receiving the FOC releasing the order on the
16 day the order is due does not provide sufficient time for Eschelon to
17 accept the circuit. Is this a compliance issue, *shouldn’t we have received*
18 *the releasing FOC the day before the order is due?* In this example,
19 should we have received the releasing FOC on 1-27-04?

20 Response #1 *This example is non-compliance to a documented process.*
21 *Yes an FOC should have been sent prior to the Due Date.”*⁴⁹

⁴⁸ Eschelon proposal for ICA Section 12.2.7.2.4.4.1.

⁴⁹ Exhibit BJJ-40 (February 26, 2004 CMP materials prepared and distributed by Qwest) (emphasis added).

1 “Bonnie confirmed that the CLEC should always receive the FOC before
2 the due date. *Phyllis agreed, and confirmed that Qwest cannot expect the*
3 *CLEC to be ready for the service if we haven’t notified you.*”⁵⁰

4 On behalf of Eschelon, I relied upon Qwest’s statements and its documentation, including
5 its documentation of these Qwest commitments,⁵¹ when the change request was closed
6 subject to review of Qwest compliance with this process.⁵² Since then, Qwest has
7 attempted to narrowly define the Qwest documentation that reflects the commitments it
8 made during the history of the jeopardy Change Requests as being limited to information
9 in its PCAT.⁵³ That is not how Qwest or the CMP works. Qwest does not document in

⁵⁰ Exhibit BJJ-5 p. 4, March 4, 2004 CMP ad hoc call minutes (emphasis added). *See also* Exhibit RA-23RT, p. 5. The Qwest-prepared minutes include a list of those “in attendance.” *See id.* The minutes confirm that I was in attendance and Ms. Albersheim was not. *See id.* Ms. Albersheim’s name does not appear in the Qwest status history for either of the jeopardy Change Requests discussed by Ms. Albersheim, *see id.*; *see also* Exhibit RA-22RT, nor do I recall her participating in the jeopardy CMP discussions. The first indented quote above (referring to “the day before the order is due”) is taken directly from Qwest-prepared CMP materials (Exhibit BJJ-40), which Ms. Albersheim did not include as part of her exhibits, and the second indented quote above (referring to receiving the “FOC before the due date”) is taken directly from Qwest-prepared CMP materials, which Ms. Albersheim did attach to her testimony. *See* Exhibit RA-23RT, p. 5. Despite this clear Qwest documentation of the commitment that Qwest made to me and other CLECs to provide an FOC the day before the due date, Ms. Albersheim continues to testify here, as she did in Minnesota on September 22, 2006 (Albersheim MN Reply, p. 16, lines 2-3), that “Qwest never made such a commitment.” Albersheim Responsive Testimony, p. 21, lines 18-19. She has not explained how she can make this statement when Qwest’s commitment was documented by Qwest, as indicated in the above quoted language from Qwest’s own documentation.

⁵¹ Exhibit BJJ-40 (February 26, 2004 CMP materials prepared and distributed by Qwest) & Exhibit RA-23RT, p. 5.

⁵² Exhibit RA-23RT, p. 4 (“Jill Martain – Qwest asked if this is a compliance issue or a process problem. Bonnie said it is hard to determine at times, but she is willing to close this CR and handle the compliance issue with the Service Manager. The CLECs agreed to close the CR.”).

⁵³ *See, e.g.*, Qwest-Eschelon CO ICA Arbitration, Albersheim CO Rebuttal, (Docket No. 06B-497T, March 26, 2007), p. 25, lines 4-16 (“**Q. Did Qwest provide documentation demonstrating the changes that were made as a result of the change request?** A. Yes. As discussed in the change request, attached as Exhibit RA-17, documentation changes were sent to the CLECs. The notice for these changes was sent on April 12, 2004, and is attached as exhibit RA-18. The version of the PCAT showing the redlined changes in process that was identified in that notice is attached as exhibit RA-19. Changes to the list of jeopardy codes made to indicate which jeopardy situations could impact the due date, which was also identified in the notice, is

1 the PCAT all of its commitments or every aspect of its processes. When documented,
2 commitments may also appear, for example, in the CMP meeting minutes that Qwest is
3 required to record and post on its web site,⁵⁴ as is the case with the above-quoted
4 commitments. In the particular PCAT referenced by Qwest, Qwest documented in its
5 PCAT some *changes* to its jeopardies process, but Qwest took the position in CMP that
6 providing an FOC at least the day before the due date was already part of its *current*
7 internally documented process (*i.e.*, as an existing process, it did not need to be
8 documented through a PCAT change). Specifically, as shown in the above-quoted
9 language, Qwest said: “This example is non-compliance to a *documented process*. Yes
10 an FOC should have been sent prior to the Due Date.”⁵⁵ Qwest is referring to an
11 internally documented process, as it is not documented in the PCAT. Qwest will not
12 provide such documentation to Eschelon.⁵⁶ Additional documentation is not needed to
13 demonstrate Qwest’s commitment in this case, because Qwest documented its
14 commitment in the above-quoted written and posted CMP materials.

attached as exhibit RA-20. **Q. What is the significance of the documents that were sent to the CLECs?**
A. These documents represent the result of change request PC081403-1. The redlines to these documents
are the specific changes made as a result of the change request.”).

⁵⁴ See Exhibit BJJ-51 (described below).

⁵⁵ Exhibit BJJ-40 (February 26, 2004 CMP materials prepared and distributed by Qwest) (emphasis added).

⁵⁶ See, *e.g.*, Exhibit BJJ-53 (described below).

1 Qwest now denies that its process is to provide the FOC at least the day before the due
2 date.⁵⁷ Therefore, these examples are placed in a separate category (“B”) from the
3 examples in which Qwest agrees that it is part of its process to send the FOC but Qwest
4 failed to do so (“A”).

5 **Q. PLEASE DESCRIBE CATEGORY “C” IN EXHIBIT BJJ-50.**

6 A. Category “C” is the only one of the three categories for which Qwest agrees with the
7 original purpose of Exhibit BJJ-6 (now Exhibit BJJ-50): to show examples of when
8 Qwest incorrectly classified a jeopardy as Eschelon-caused (CNR). There are only three
9 examples in Category C. For these three examples, the companies agree both that no
10 FOC was sent and that Qwest’s assignment of a jeopardy as Eschelon-caused (CNR) was
11 inappropriate. Unlike Qwest, Eschelon considers the absence of the FOC sufficient
12 reason to not assign CNR. It appears from Exhibit RA-28 RT and the underlying data
13 that Qwest has singled out these three examples because there was an additional Qwest
14 facility jeopardy. So, Qwest should have sent another Qwest facility jeopardy notice
15 instead of a CNR jeopardy. (In other words, there was an additional reason, besides
16 Qwest’s failure to send an FOC, upon which Qwest relies for agreeing that its
17 classification was incorrect.) This could happen, for example, if Qwest clears a first

⁵⁷ Exhibit MS-9, MN ICA Arbitration Transcript, Vol. 1, p. 37, lines 16-23 (testimony of Renee Albersheim). Qwest claims that Eschelon’s proposed phrase “at least the day before” is not part of Qwest’s current process. *See id.* p. 37, lines 11-19. Other than that phrase, however, Qwest admits that the remainder of Eschelon’s proposed language reflects Qwest’s current process. *See id.* p. 37, lines 16-23.

1 Qwest jeopardy based on pairs that then turn out to be bad. Qwest's process is to send
2 another Qwest facility jeopardy (for the bad pairs).

3 **Q. MS. ALBERSHEIM SAID THAT QWEST EXHIBIT RA-28RT IS QWEST'S**
4 **ANALYSIS OF YOUR EXHIBIT BJJ-6 REGARDING JEOPARDIES.⁵⁸ AFTER**
5 **REVIEWING EXHIBIT RA-28RT AND PROVIDING THAT REVIEW IN**
6 **EXHIBIT BJJ-50, DOES THE RESULT UNDER EXHIBITS BJJ- 6 OR BJJ-35**
7 **CHANGE?**

8 A. No. As described in Eschelon's rebuttal testimony, "Exhibit BJJ-6 . . . includes twenty-
9 two examples of situations when Eschelon was unable to accept delivery of the circuit on
10 the due date because Qwest sent no FOC or an untimely FOC and yet Qwest erroneously
11 classified this situation as "Customer Not Ready" when it should not have done so."⁵⁹
12 The twenty-two examples in Exhibits BJJ-6, BJJ-35 and now BJJ-50 remain examples of
13 erroneous classification of the jeopardies by Qwest. Qwest's witness has previously
14 testified that: "We don't disagree with the notion that a CNR jeopardy should be assigned
15 appropriately."⁶⁰ Eschelon's proposed ICA language for Issues 12-71 through 12-73
16 reflects this "notion" and, unlike Qwest's conduct as demonstrated in these examples,
17 ensures that jeopardies will actually be assigned appropriately.

⁵⁸ Albersheim Response, p. 59, footnote 42. Note that Ms. Albersheim actually refers to Confidential Exhibit RA-27 as Qwest's Response to Eschelon Exhibit BJJ-6. As discussed above, the correct Qwest exhibit number for Qwest's response to Eschelon Exhibit BJJ-6 is Qwest Exhibit RA-28RT.

⁵⁹ Webber Rebuttal (adopted by Starkey), p. 82.

⁶⁰ Exhibit MS-9, MN ICA Arbitration Transcript, Vol., 1, p. 94, lines 5-6 (testimony of Renee Albersheim).

1 **Q. PLEASE DESCRIBE EXHIBIT BJJ-51 RELATING TO THE CMP OVERSIGHT**
2 **REVIEW PROCESS.**

3 A. Exhibit BJJ-51 provides an example of the type of issue that is subject to CMP Oversight
4 Committee review.⁶¹ Ms. Albersheim discusses the Oversight Review Process on page 6
5 of her rebuttal testimony.

6 Exhibit BJJ-51 includes excerpts from Qwest-prepared CMP Redesign Meeting Minutes,
7 as well as excerpts from the CMP Document (Exhibit BJJ-1). It also includes URLs to
8 the complete documents from which the excerpts were taken. Following the excerpts,
9 there is an Eschelon-Qwest email exchange in which, despite Qwest's documented July
10 2001 commitment in CMP Redesign "to provide minutes from each CICMP meeting and
11 ad hoc meetings/calls," Qwest said "Qwest believes that minutes for ad hoc meetings
12 associated with a change to disposition request are not required under the current CMP
13 Document." The Eschelon-Qwest email exchange also includes Eschelon's request for

⁶¹ Section 18.0 of the CMP Document (Eschelon Exhibit BJJ-1) describes the Oversight Review Process. Section 18.0 provides: "Qwest or a CLEC may identify issues with this CMP using the Oversight Review Process. Issues submitted through this process may include:

Improper notification under CMP

No notification under CMP

Issues regarding scope of CMP

Failures to adhere to CMP

Interpretations of CMP

Gaps in CMP

This Oversight Review Process is optional. It will not be used when one or more processes documented in this CMP are available to obtain the resolution the submitter desires. The submitter is expected to use such available processes."

1 Oversight Committee review. Mr. Starkey refers to Exhibit BJJ-51 in his surrebuttal
2 testimony. Additional communications have taken place between Eschelon and Qwest
3 since that email exchange, but the issue of Qwest providing minutes and allowing for
4 review of minutes per the terms established in CMP Redesign (as reflected in the CMP
5 Document and the CMP Redesign minutes) are not resolved. Therefore, Eschelon is
6 continuing to pursue Oversight Committee review to obtain minutes and review of
7 minutes consistent with the CMP Document's requirements.

8 **Q. PLEASE DESCRIBE EXHIBIT BJJ-52 RELATING TO CMP TRRO RELATED**
9 **MATERIALS.**

10 A. Exhibit BJJ-52 contains material related to Qwest's attempts to implement TRO/TRRO
11 changes. Exhibit BJJ-52 includes:

- 12 (i) Qwest-initiated change request SCR102704-1RG, in which Qwest provided a
13 list of products that would no longer be available to CLECs;
- 14 (ii) Qwest-initiated change request SCR83005-01, in which Qwest sought to
15 implement an edit in IMA to block orders for central offices that Qwest
16 unilaterally declared non impaired;
- 17 (iii) Oversight Committee meeting minutes from January 4, 2005, regarding a
18 Covad request described in the minutes as "Qwest inappropriate use of CMP
19 to drive legal interpretation of the Law, and the desired resolution; the
20 proposed changes (PC102704-1ES) be withdrawn until Qwest can properly
21 follow the CMP governing document"; and
- 22 (iv) Oversight Committee meeting minutes from January 10, 2005, regarding CR
23 PC102704-1ES.

24 Exhibit BJJ-52 supplements the CMP materials provided in Exhibit BJJ-7 to my direct
25 testimony. Mr. Starkey refers to Exhibit BJJ-52 in his surrebuttal testimony.

1 **Q. PLEASE DESCRIBE EXHIBIT BJJ-53 RELATING TO QWEST'S POSITION**
2 **THAT IT WILL NOT PROVIDE CLECs WITH COPIES OF ITS PROCESS**
3 **DOCUMENTATION.**

4 A. Exhibit BJJ-53 contains examples of emails from Qwest service management in which
5 Qwest indicates that it will not provide CLECs with copies of certain process
6 documentation.

7 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 A. Yes, at this time.