

**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

JOINT MOTION OF ESCHELON AND  
QWEST FOR SINGLE COMPLIANCE  
FILING OF THE INTERCONNECTION  
AGREEMENT AND, IF GRANTED, A  
REVISED SCHEDULE

The Parties submit this joint motion in connection with Issue Nos. 9-37 – 9-42 in this interconnection agreement (“ICA”) arbitration between Qwest and Eschelon. The FCC, in the *Triennial Review Remand Order* (“TRRO”), established criteria for determining impairment for DS1 and DS3 loop and dedicated transport UNEs and Dark Fiber based on the number of business lines and/or fiber based collocators in a particular wire center.<sup>1</sup> Issue Nos. 9-37 – 9-42 relate to implementation of these criteria and are generally referred to as the “wire center” issues. This Commission also addressed these criteria in the wire center docket (Docket No. UT-053025 – “Wire Center Docket”).<sup>2</sup>

Qwest and Eschelon have both executed a settlement agreement (“Settlement Agreement”) regarding the wire center issues that includes language to be included in the proposed ICA [as agreed upon (closed) language for arbitration Issue Nos. 9-37 – 9-42 if the Settlement Agreement is approved] after the wire center issues are resolved and before the proposed ICA is finalized. The Settlement Agreement, if approved, will resolve all open language encompassed by Arbitration Issue Nos. 9-37 – 9-42. A copy of the Settlement Agreement executed by Qwest and Eschelon is enclosed. The

<sup>1</sup> See 47 CFR § 51.319(a)(4) – (5) and (e)(2)(ii) – (iv) and (e)(3). See also TRRO, ¶¶ 146, 155, 166, 174, 178, 182 and 195.

<sup>2</sup> Washington Commission Order 06 in Docket UT-053025.

compromise ICA language on these issues that will be added to the ICA if the Settlement Agreement is approved and not terminated is set forth in Attachment C to the Settlement Agreement.<sup>3</sup> Qwest and the Joint CLECs, including Eschelon, are submitting the fully executed Settlement Agreement, with attachments, to the Commission for approval in the Wire Center Docket.

Qwest and Eschelon have agreed to a single compliance filing of the ICA to implement both the Commission's eventual arbitration order in this proceeding and the resolution of the wire center issues. Through this filing, the parties are asking the Commission to approve this approach of submitting a single compliance filing. Specifically, the parties request that they be permitted to submit a proposed ICA for approval after the Commission has issued orders that resolve all of the arbitration issues, including the wire center issues (as opposed to, for example, a contract and a later amendment).

If a single compliance filing approach is not acceptable, the parties have not agreed to any joint request to revise the schedule in this arbitration proceeding.<sup>4</sup> If the Commission approves a single compliance filing, however, Qwest and Eschelon request the modifications to the arbitration schedule described below. These modifications will give the Commission time to consider the Settlement Agreement in the Wire Center

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<sup>3</sup> Paragraph VII(A)(1)(b) of the enclosed Settlement Agreement provides: "Eschelon and Qwest have executed a Bridge Agreement and are currently parties to ICA arbitrations. Qwest and Eschelon agree that, in each arbitration, the language in Attachment C will be added as closed (*i.e.*, agreed upon) language to the interconnection agreement that is submitted in the compliance filing for Commission approval in each state. Inserting this language will not re-open or modify any closed language in the proposed interconnection agreement. Eschelon agrees to add the closed language reflected in Attachment C to the negotiations multi-state interconnection agreement negotiations draft within ten (10) business days of the Effective Date of this Settlement Agreement."

<sup>4</sup> If the Commission does not permit a single compliance filing, the Parties reserve their respective rights to file separate requests or filings opposing such requests with the Commission.

Docket and potentially will eliminate the need for supplemental testimony on Arbitration Issue Nos. 9-37 – 9-42 in this proceeding. Accordingly, if the Commission permits a single compliance filing, Qwest and Eschelon jointly seek the following modifications to the arbitration schedule:

- Postpone the June 21, 2007 and June 28, 2007 supplemental testimony deadlines (and a hearing, if any) on Issue Nos. 9-37 – 9-42 until the Commission’s ruling on the issues in the Wire Center Docket. This testimony will be unnecessary if the Commission approves the Settlement Agreement and it is not terminated under Paragraph VII(C) of the Settlement Agreement. If it is necessary to file supplemental testimony on any open issues involving the ICA language regarding Arbitration Issue Nos. 9-37 – 9-42, Qwest and Eschelon continue to agree, subject to approval of the ALJ or the Commission, that a hearing is not needed on Issue Nos. 9-37 – 9-42, which can be decided on the written testimony and briefing (one round of briefs).
- Schedule a single compliance filing of the ICA after resolution of both the wire center issues (either by approving the Settlement Agreement or, if it is not approved or is terminated, via an arbitration order based upon the supplemental testimony and briefing in this case described immediately above) and the other arbitration issues, with a specific date for filing of the ICA to be scheduled after both resolutions occur.

As noted above, if the Commission approves the Settlement Agreement, the language of Attachment C will be added to the ICA before the compliance filing under this approach, and no supplemental testimony on the wire center issues will be needed.

For these reasons, Eschelon and Qwest respectfully request that the Commission grant this joint motion for a single compliance filing of the ICA and, if granted, a revised schedule.

Dated: June 20, 2007

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Authorized to sign on behalf of  
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