

BEFORE THE MINNESOTA PUBLIC UTILITIES
COMMISSION
Suite 350
121 Seventh Place East
St. Paul, MN 55101-2147

LeRoy Koppendrayer
Phyllis Reha
Marshall Johnson
Gregory Scott
Kenneth Nickolai

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Request by Eschelon
Telecom for an Investigation regarding
Customer Conversion by Qwest and
Regulatory Procedures

Docket No. P-421/C-03-616

**ESCHELON'S SUPPLEMENTAL COMMENTS REGARDING
QWEST CORPORATION COMPLIANCE FILING AND ADVERTISING
CAMPAIGN**

Eschelon Telecom, Inc. ("Eschelon") submits this second set of Supplemental Comments Regarding the Compliance Filing of Qwest Corporation dated August 29, 2003 ("Compliance Filing"). Eschelon provides additional information that was not available at the time when Eschelon's Reply Comments were due. Although Qwest suggests in its Compliance Filing that its existing practices adequately address the problem of improper Wholesale-Retail contacts and winback activity, a new Qwest advertising campaign raises questions about those practices.

I. UNDISPUTED FACTS

On October 7, 2003, Qwest ran a half-page advertisement in the Minneapolis *Star-Tribune*. See Attachment 9.¹ At least one local radio station (104.1) also carried a similar advertisement on more than one occasion (on October 7, 2003 and October 8, 2003). In the written advertisement, Qwest presents an individual who it identifies as “Craig, Central Office Technician, Qwest.” See *id.* Qwest quotes its CO Technician as saying:

I was on vacation when Doug from Heartland Medical Supply *called on my wireless*. He had chosen another phone company about a year ago and now all five of his lines were down. Again. He wanted to switch to Qwest.® *So I put him through to a service rep and stayed on the line* to make sure his transition to Qwest went smoothly. He was so satisfied, when we offered long-distance in his area, Doug chose that, too. When you choose Qwest, you get the savings and convenience of having it all from one company on one bill. All delivered in the Spirit of Service.™”

See Att. 9 (p. 3 shows enlarged version of this quote for readability) (emphasis added).

In large font, Qwest also includes this “quote,” stating:

When another phone company dropped the ball, I picked it up.

See Att. 9 (emphasis added).

II. DISCUSSION

This Qwest advertisement raises a number of questions.

1. Which company “dropped the ball,” and when did the Qwest CO Technician verify this?

Qwest’s advertisement states that “all five” of the customer’s “lines were down.”

See Att. 9. Often, Qwest causes such service-affecting outages for the end user

¹Attachments 1-6 were enclosed with Eschelon’s previous filings in this matter. Eschelon distributed Attachment 7 (entitled “Qwest Admissions in Five Documents”) during the open meeting on this matter. Attachment 8 was filed with Eschelon’s September 24, 2003 Supplemental Comments. Therefore, the Attachment here is labeled as Attachment 9.

customers of another phone company (a “CLEC”). The Qwest CO technicians know this from working on such outages. In fact, in two recent examples, Eschelon has asked Qwest to investigate whether Qwest CO technicians deliberately caused such outages. *See* Attachment 10. There is ample evidence of Qwest-caused service-affecting errors (including through Qwest’s own performance results)² to preclude a Qwest CO technician from assuming that a CLEC “dropped the ball” when all of the CLEC customer’s lines are down. Qwest often drops the ball, resulting in outages for CLEC customers, who then blame the CLEC. The initial example that Eschelon brought to the Commission in this matter is just one example of Qwest dropping the ball.³

By Qwest’s own admission, however, the Qwest CO Technician did nothing to investigate proper responsibility before creating the impression that switching carriers would solve the problem. The advertisement specifically states that, on the very *same call*, with no calls to anyone else at Qwest or any time to investigate, the CO Technician conferenced in a Qwest retail representative and *stayed on the line* to ensure a Qwest winback. *See* Att. 9. Qwest states that the CO Technician made sure the CLEC customer’s transition to Qwest “went smoothly.” *See id.* In the initial example that prompted this matter, Qwest did not ensure that the CLEC customer’s transition went

² Qwest's self-reported Performance Indicator Definition ("PID") results are publicly available at http://www.qwest.com/wholesale/downloads/2003/030925/MN_271_Sep02-Aug03_Exhibit_PID-Final.pdf. In one month (August, 2003) alone, Qwest reported **2,060** Qwest-caused troubles for the following products in Minnesota: Business Resale, Centrex Resale, Centrex 21 Resale, PBX Resale, DS1 Resale, UNE-P POTS, UNE-P Centrex, UNE-P Centrex 21, Unbundled Loop-Analog, Unbundled DS1-capable Loop, and EELs. Consider, for example, DS1-capable loops. CLEC customers had a trouble rate of 3.41% in August. Extrapolating this rate over a twelve month period, approximately 40% of CLEC circuits would have a Qwest-caused trouble during the year. To make matters worse, Qwest often fails to resolve the trouble right the first time. Again for DS1-capable loops in August, Qwest reports that 24% of the circuits that had trouble also experienced at least one other Qwest-caused trouble within the last 30 days. *See id.* pp. 293 and 295. With Qwest-caused outages being this common of a problem, Qwest’s CO Technicians certainly know that they need to look at who caused an outage before claiming that the other company dropped the ball. This is particularly true because CLECs generally test for and repair their own troubles. Qwest CO technicians generally work on problems in Qwest’s network.

smoothly.⁴ The CO Technician clearly knew that this was another carrier's customer but did nothing to confirm whether circumstances required referral to the CLEC instead of Qwest Retail under Qwest's allegedly "existing" procedures.⁵

2. How and why did the CLEC customer know the Qwest CO Technician's direct wireless number? Was he working in a wholesale capacity?

Qwest admits in its advertisement that the end user customer had been with another carrier for approximately *a year*. See Att. 9. If the CO Technician had worked on the customer's lines in the last year, therefore, he had to have done so in a *wholesale* capacity on behalf, and at the expense, of the CLEC. The advertisement states that the lines were down "again." See *id.* Perhaps this suggests that the Qwest CO Technician was involved in a wholesale role the first time and was already laying the groundwork for winback activity then. Is that how the CLEC customer got the Qwest CO Technician's wireless number? When working in a wholesale capacity, Qwest's CO Technicians are supposed to provide "unbranded" service and are prohibited from providing information about Qwest's products and services to the CLEC's customers.⁶ When questions arise, the CO Technician should refer them to the CLEC.

³ See previous note.

⁴ What steps did Qwest take here that are not taken for a wholesale customer? Was the standard interval applied, for example? If so, how did the CO Technician ensure a smooth transition while on the line, when the standard interval for CLECs would take much longer?

⁵ Even assuming the outage was due to the other carrier's error, the point is that the CO Technician would not have known that at the time and yet did not establish the facts or refer the customer to the CLEC.

⁶ See, e.g., Qwest-Eschelon MN ICA (based on AT&T/MCI ICA), Part A, ¶ 15.1 ("In those instances where CMTI requires USWC personnel to interface directly with CMTI customers, either orally in person or by telephone, or in writing, such personnel shall identify themselves as representing CMTI, and shall not identify themselves as representing USWC. All forms, business cards or other business materials furnished by USWC to CMTI customers shall be subject to CMTI's prior review and approval, and shall bear no corporate name, logo, trademark or tradename other than CMTI's or such other brand as CMTI shall determine. In no event shall USWC personnel acting on behalf of CMTI pursuant to this Agreement provide information to CMTI's local service customers about USWC products or services. USWC shall provide, for CMTI's review and approval, the methods and procedures, training and approaches to be used by USWC to ensure that USWC meets CMTI's branding requirements.").

3. Even assuming the CO Technician was working in a Retail capacity, why did he provide his wireless number to the customer, when Qwest refuses to do the same for its wholesale customers?

Qwest's advertisement suggests that the example in the advertisement is representative of the kind of service that other Retail customers will receive, if they switch to Qwest. What is the purpose of an example in an advertisement, after all, if not to suggest that others will receive the same treatment? Qwest does not provide direct wireless telephone numbers and this kind of access to CO Technicians, however, to its wholesale (CLEC) customers.⁷ CLEC customers of Qwest must work through large centers during scheduled hours.⁸ Qwest claimed that its processes were nondiscriminatory, and this created the impression that its Retail customers did not have that kind of access either. Based on this advertisement, it appears they actually do, unlike for wholesale.

4. What motivates a CO Technician to perform this work while on vacation? Is Qwest providing incentives to allegedly neutral/unbranded or Wholesale CO Technicians to perform Retail winback marketing activities?

In Eschelon's first set of Supplemental Comments, dated September 24, 2003, Eschelon reported another example of Qwest CO Technician involvement in a transfer to Qwest Retail for a winback effort. In footnote 4 to those Supplemental Comments, Eschelon asked whether facts in that situation suggested that there is a formal or informal understanding at Qwest that representatives will be rewarded for helping to winback customers, regardless of the appropriateness of doing so. Whether the incentive existed before, Qwest's new advertising campaign sends a strong message to its employees that

⁷ For the processes CLECs must use, *see, e.g.*, <http://www.qwest.com/wholesale/clecs/maintenance.html>.

⁸ *See, e.g.*, <http://www.qwest.com/wholesale/clecs/escalations.html>.

going after CLEC customers during vulnerable times is strongly encouraged, even if Qwest caused the vulnerability or the Qwest employee has to go out of process to do so.

III. CONCLUSION

Immediately after this Commission ordered Qwest to investigate and take responsibility for its mistakes, Qwest reacted by launching a campaign that accuses CLECs of dropping the balls repeatedly (“again”), regardless of whether the CLEC is actually responsible for the problems. In Qwest’s Compliance Filing, Qwest states that its methods documentation provides for the following procedures:

Never disparage a competitor or imply that the customer will be sorry if they obtain poor service from a competitor. Do not imply that the customer will obtain poor or slow service from a competitor. Attempting to ‘unhook’ the customer from a competitor may result in fines, law suits, and regulatory complaints against Qwest for anti-competitor behavior.

See Qwest Compliance Filing, p. 3. Qwest’s entire advertising campaign, however, implies that the competitor provided poor service by dropping the ball, more than once (“again”), and implies that customers will obtain poor or slow service from competitors.

See Att. 9. The message to Qwest’s own employees about how to portray events to customers is clear.

With respect to the particular example raised by Eschelon in its initial filing in this matter, the Commission has found that Qwest provided inadequate service and has ordered Qwest to remedy the situation. Given the more recent examples presented in both sets of Eschelon’s Supplemental Comments, the Commission may want to take a hard look at the representations in Qwest’s Compliance Filing, as well as determine

whether to investigate the larger issue of wholesale-retail contacts and winback activity further on its own motion.

Dated: October 9, 2003

Karen L. Clauson
Eschelon Telecom, Inc.
730 Second Ave. South, Suite 1200
Minneapolis, MN 55402-2456
612.436.6026