

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

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Inquiry Concerning the Deployment of )  
Advanced Telecommunications )  
Capability to All Americans in a Reasonable )  
and Timely Fashion, and Possible Steps )  
to Accelerate Such Deployment )  
Pursuant to Section 706 of the )  
Telecommunications Act of 1996 )

CC Docket No. 98-146 /

COMMENTS OF THE CITY OF BOULDER, COLORADO

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THE CITY OF BOULDER

October 9, 2001

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**COMMENTS OF THE CITY OF BOULDER, COLORADO**

This is a limited set of comments, to respond to footnote 23 on page 14 of the comments of Qwest Communications International, Inc., dated September 24, 2001. In that footnote, Qwest asserted that: "...the City of Boulder, Colorado recently has refused to issue a permit for a remote VDSL cabinet in a public right-of-way when a neighboring citizen objected. [The] City has [not] advised Qwest what standards it will apply to issue permits..."

The facts are that the City of Boulder has issued a total of 22 permits for the installation of a network of VDSL cabinets in Boulder, including a permit for the cabinet in question, but revoked that permit after an inspection determined that the construction did not comply with the application. The neighborhood then was consulted, and neighborhood opposition was substantial, in part due to the fact that appropriate notice had not been given to the neighbors upon submission of the

application, as required by the agreement between the City of Boulder and Qwest. The City entered into discussions with Qwest and the neighbors in order to determine what site modifications could be made which would moderate or eliminate the neighborhood opposition. The City has paid for two mediation sessions, and a third mediation session is scheduled, after which a final decision will be made on the issuance of the permit.

The City also has been asked to consider adopting citywide standards for the issuance of such permits, and the research is ongoing about how such large telecommunications cabinets have been regulated in other communities. Although the City generally requires undergrounding of utilities in new areas, such as the area in which this particular cabinet is located, Qwest has pleaded that the City not require undergrounding because of the cost, which Qwest asserts to be about four times the cost of a non-undergrounded cabinet. At this point, the City has not required undergrounding of the cabinet of which Qwest has complained.

The City is dismayed that Qwest has taken this dispute to the Federal Communications Commission, in violation of its understanding that the matter was being worked out between the parties, and is particularly aggravated that Qwest has so significantly misrepresented the facts in footnote 23. The City is most disappointed that Qwest gave it no notice of its filing, which was discovered by Mr. Fellman and brought to the City's attention by him. Accordingly, the City has taken the extraordinary action of making these comments in order to show the Federal

Communications Commission the contempt with which providers hold the cities with which they deal and the neighborhoods in which they conduct their business.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth S. Fellman". The signature is fluid and cursive, with a horizontal line drawn underneath it.

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