



Qwest
607 14th Street NW, Suite 950
Washington, DC 20005
Phone 202.429.3120
Fax 202.293.0561

Melissa E. Newman
Vice President-Federal Regulatory

EX PARTE

May 24, 2007

FILED/ACCEPTED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

ORIGINAL

MAY 24 2007

Federal Communications Commission
Office of the Secretary

RE: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, WC Docket No. 01-338

Dear Ms. Dortch:

Today, May 24, 2007, Qwest met in separate meetings with Nick Alexander, Legal Advisor to Commissioner Tate; Ian Dillner, Legal Advisor to Chairman Martin; Scott Deutchman, Legal Advisor to Commissioner Copps; Scott Bergmann, Legal Advisor to Commissioner Adelstein; and John Hunter, Legal Advisor to Commissioner McDowell, to discuss the above-captioned proceeding. Lynn Starr, Tom Snyder and Melissa Newman, all of Qwest, attended the meetings with Nick Alexander, Ian Dillner and Scott Deutchman. Lynn Starr and Melissa Newman attended the meetings with Scott Bergmann and John Hunter.

We discussed Cox's request for "direct access" to Incumbent Local Exchange Carrier terminals and inside wire subloop in multi-tenant environments as described in the attached letter and Exhibit A. In addition, Qwest submitted a CD labeled "Notice of Filing of Audit Plan by Cox Arizona Telecom, LLC." This CD is a copy of the Audit Plan filed by Cox in the Arizona Complaint Docket. *Qwest Corp. v. Cox Arizona Telecom, LLC*, Arizona Corporation Commission, Docket Nos. T-01051B-06-0045; T-03471A-06-0045.

Sincerely,

/s/ Melissa E. Newman

Melissa Newman

- Copy to:
- Nick Alexander
- Ian Dillner
- Scott Deutchman
- John Hunter
- Scott Bergmann
- Tom Navin
- Don Stockdale
- Cindy Shewman
- Randy Clarke

No. of Copies rec'd 0
List ABCDE



Qwest
607 14th Street, NW, Suite 950
Washington, DC 20005
Phone 303-383-6655
Facsimile 303-383-8580

Thomas W. Snyder
Corporate Counsel

EX PARTE

FILED/ACCEPTED

May 24, 2007

MAY 24 2007

Federal Communications Commission
Office of the Secretary

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: *In the Matter of Review of the Section 251 Unbundling Obligations
of Incumbent Local Exchange Carriers, CC Docket No. 01-338*

Dear Ms. Dortch:

This letter supplements the Comments filed by Qwest Communications International Inc. ("Qwest") in this docket on December 6, 2004 ("Qwest CC Docket No. 01-338 Comments").¹ In particular, it responds to the ex parte filed by Cox Oklahoma Telcom, L.L.C. (or "Cox") on May 2, 2007² concerning Cox's request for "direct access" to incumbent local exchange carrier ("ILEC") terminals and inside wire subloop in multiple tenant environments ("MTEs").³

Qwest's position is somewhat unique in that, unlike many other facilities-based carriers (including Cox itself), Qwest voluntarily allows direct access.⁴ Qwest has supported competitive

¹ As Qwest noted in its Comments in 2004, Cox Oklahoma Telcom, L.L.C.'s petition is procedurally defective. *See* Qwest CC Docket No. 01-338 Comments at 8-9; *see also* letter from Dee May, Verizon to Ms. Marlene H. Dortch, FCC, filed herein (and in CS Docket No. 95-184 and MM Docket No. 92-260), May 17, 2007, at 2-4 (noting that Cox's request is an impermissible collateral attack on a decision of a state commission that acted in accordance with the Federal Communications Commission's ("Commission") rules and precedent).

² May 2, 2007 letter from J.G. Harrington on behalf of Cox Communications, Inc. to Marlene H. Dortch ("Cox May 2 Ex Parte").

³ This letter uses the term "Qwest" to refer to both Qwest Communications International Inc. and its RBOC subsidiary, Qwest Corporation. Similarly, this letter uses the term "Cox" to refer to Cox Oklahoma Telcom, L.L.C. as well as its affiliates in Arizona (Cox Arizona Telcom, L.L.C.) and Nebraska (Cox Nebraska Telcom, L.L.C.).

⁴ Cox has stated that it will not allow other carriers to access its terminals and inside wire loops in order to provide service to residential MTE customers.

local exchange carrier ("CLEC") direct access since 2002, even though it is not required by law. Qwest's direct access policy is subject only to CLECs providing Qwest proper notice and following established protocols for access. This access is governed by Qwest's "MTE Access Protocol." The Protocol provides terms and conditions designed to ensure that CLECs perform direct access safely. The Protocol requires notice of terminal access so that Qwest may update its records to show where its network has been disconnected and, accordingly, where Qwest will need to deploy a technician on a subsequent customer order.⁵

In its May 2 Ex Parte, Cox asserts that, in performing its own methods of direct access of ILEC-owned MTE terminals and subloop, Cox "never has caused damage to an ILEC's network related to the cutover process. There is no credible evidence to the contrary."⁶

Cox is wrong. Indeed, there is overwhelming evidence to the contrary in both Phoenix and Tucson, Arizona, as well as in Omaha, Nebraska.⁷ Cox's damage to Qwest's facilities has been pervasive and apparently part of Cox's routine direct-access practice. In practicing its version of direct access, Cox has repeatedly and consistently threatened the safety and integrity of Qwest's network. Cox's Arizona methods have included:

- 1) drilling, hack-sawing, prying, and otherwise disturbing the integrity of the wall boxes surrounding the terminals, thereby increasing the potential for moisture and other foreign objects to enter terminals that eventually would damage the terminals and lead to outages;
- 2) improperly disconnecting the Qwest network from the inside wire subloop, including leaving the metal ends of the disconnected Qwest jumpers ("pigtails") dangling in 95% of the terminals inspected, thus increasing the chance for electric shock, fire, and outages;
- 3) "beaning" and otherwise attaching to inside wire subloop in a substandard manner, rather than accessing inside wire subloop through established

⁵ The terms of the MTE Access Protocol apply to access of all Qwest terminals, regardless of whether Qwest owns the inside wire subloop to which the CLEC is seeking attachment. The MTE Access Protocol is incorporated by reference into Qwest's "Subloop Unbundling Amendment," which was drafted as an amendment to existing CLEC interconnection agreements in 2002. Cox signed the Subloop Unbundling Amendment as an amendment to its Arizona Interconnection Agreement in June 2002. Cox, however, has *refused* to sign an equivalent amendment to its Nebraska interconnection agreement, while continuing to access Qwest MTE terminals and subloops in Omaha.

⁶ Cox May 2 Ex Parte, Attachment, p. 2.

⁷ Cox's telephony service in Qwest's region appears to be concentrated in Phoenix, Tucson, and Omaha, insofar as its use of Qwest inside wire subloop is concerned. No other CLEC in Qwest's region currently accesses inside wire subloop in order to provide service, and so the direct access issues in Qwest's region currently are limited to Cox's behavior in these metropolitan areas.

- termination blocks, thereby increasing the chance of disconnections and outages; and
- 4) attaching its ground wire to the Qwest ground wire in violation of NESC standards, thereby increasing the chance for electric shock and outages; and
 - 5) accessing terminals (*including Qwest pedestals*) that were not safely accessible under the MTE Access Protocol, thereby increasing the risk of disconnections and outages.

Cox's practices led Qwest to file a complaint on January 30, 2006 against Cox with the Arizona Corporation Commission (the "Arizona Complaint Proceeding").⁸ During the proceeding, Qwest discovered that Cox never trained any of its network personnel as to the MTE Access Protocol standards or provided any training with respect to interconnection with the Qwest network.⁹ Further, Qwest learned that Cox's actions were much more widespread than originally contemplated, covering *over 30,000 terminals located in over 5,000 complexes* in Phoenix and Tucson.¹⁰

The Arizona Complaint Proceeding, which remains pending, prompted Cox to undertake what has become known as the "Arizona Audit." Under the terms of the Audit, Cox has begun inspecting and remedying dangerous and improper connections to each of the more than 30,000 Qwest terminals which Cox accessed. The Arizona Commission has ordered that Cox take "before and after" photographs of the terminals inspected and repaired.¹¹ In order to train its technicians in connection with the Arizona Audit, Cox compiled over 70 photographs of its existing connections to Qwest terminals as being "illustrative" of its practices. Attached as Exhibit A are several of these photographs, showing Cox's direct access practices. The photographs, which highlight each of the five access methods described above, contain Cox's original narrative stating that these methods for interconnection were "wrong."¹²

⁸ *Qwest Corp. v. Cox Arizona Telcom, LLC*, Arizona Corporation Commission, Docket Nos. T-01051B-06-0045; T-03471A-06-0045 ("Arizona Complaint Proceeding").

⁹ Arizona Complaint Proceeding, Sep. 13, 2006 testimony of John Dossey, Hearing Tr. Pages 339-341, 348.

¹⁰ Arizona Complaint Proceeding, Phase I Hearing Exhibit Q-2, pp. 7-8. *See also* Exhibit B ("Affidavit of Franklin Pike") to *Cox Arizona Telcom, LLC's Opposition to Qwest's Emergency Motion for Order Requiring Cox to Preserve Evidence*, filed in the Arizona Complaint Proceeding on June 16, 2006.

¹¹ Arizona Complaint Proceeding, June 21, 2006 Procedural Conference, Hearing Tr. 12-23.

¹² Aside from ordering that Cox take "before and after" photographs, the Arizona Commission has not yet otherwise ruled in its "Phase I" of the proceeding as to whether Cox's Audit Plan is sufficient for purposes of remedying Cox's practices. The Commission has reserved the award of money damages to Qwest for "Phase II" of the proceeding.

Ms. Marlene H. Dortch
May 24, 2007

Page 4 of 4

Qwest has identified similar direct access practices by Cox in Omaha, where Cox currently has a large market share. Cox's Omaha connections are potentially more troublesome because many of Qwest's Nebraska terminals are hard-wired and not safely accessible without the installation of a termination block, which Cox rarely installs. Cox's refusal to install such terminals reveals the over-simplification of the diagram attached to its May 2 Ex Parte. In that diagram, Cox contemplates that the AT&T terminal would have sufficient space for Cox to install a termination block and swing the subloop from AT&T's block to Cox's block. In these "hard-wired" terminals, no such space exists, and a separate termination block must be installed outside the wall box. Cox has refused to confirm that it will install or otherwise be responsible for the cost of such blocks in all similar terminals.

The attached evidence, generated by Cox itself, directly discredits its assertion that, in connection with performing its own methods of direct access of ILEC-owned MTE terminals and subloop, Cox "never has caused damage to an ILEC's network related to the cutover process. There is no credible evidence to the contrary." Cox's own photographs belie such claims.

In its original Comments Qwest had requested that, if the Commission grants Cox's request, the Commission should continue to ensure two principles: (1) that CLECs provide effective notice to ILECs when CLECs reconfigure or disconnect ILECs' inside wire subloop; and (2) that ILECs receive compensation when they perform work for the CLECs or when CLECs' activities otherwise generate costs. In light of Cox's practices that Qwest discovered since it filed these Comments, the Commission should add a third principle: (3) that CLECs practicing direct access adhere to reasonable ILEC requirements designed to maintain the safety and integrity of the network.

Qwest appreciates the opportunity to have provided its Comments and this supplemental letter.

This submission is made pursuant to Section 1.1206(b) of the rules of the Commission, 47 C.F.R. §1.1206(b).

If you have any questions, please call me on 303-383-6655.

Respectfully,

/s/Thomas W. Snyder

Exhibit A (appended hereto)

EXHIBIT A

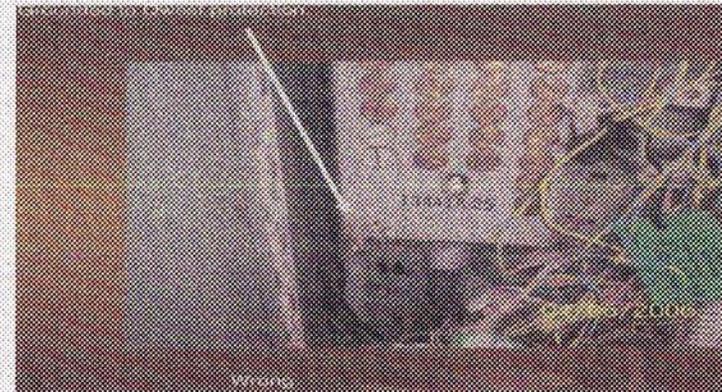
Cox's Photographs and Its Associated
Commentary of Its Direct Access Practices in
Arizona

Qwest Comments Added in Red Italics

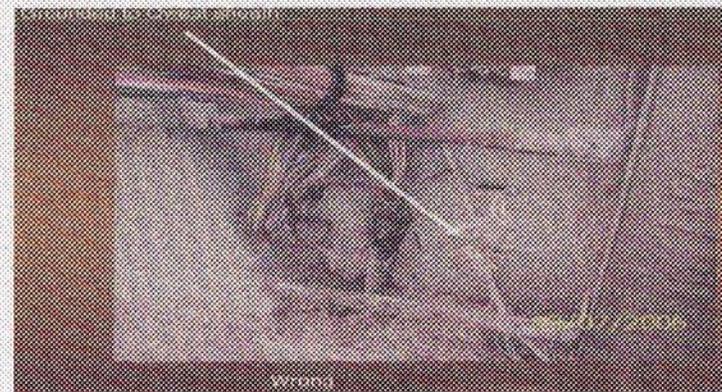
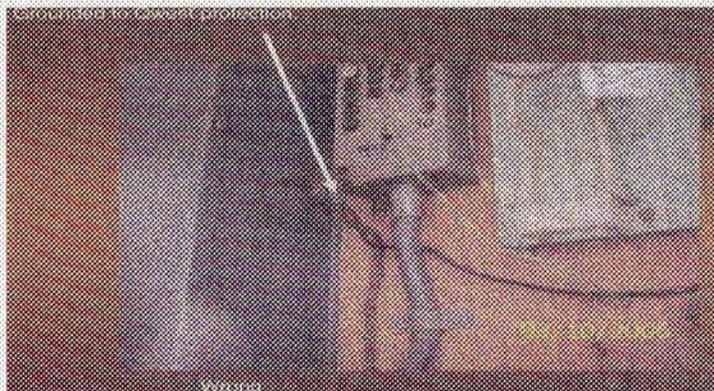
Use of Qwest Ground Wire (Photos from Cox Audit Plan)

Grounding

- All grounds must be connected to the common bond in the wall box. (this is under review)
- We can not be connected to Qwest's protection, sheath or riser.



This improper grounding will cause consumers to have the potential of noise, hum, shock and fire that could result in electrical outages within their own homes. The National Electric Code states that each service provide must provide its own grounding when placing equipment. this is required for personal safety, equipment operation, reliability and noise reduction.



Damage To Qwest Wall Boxes

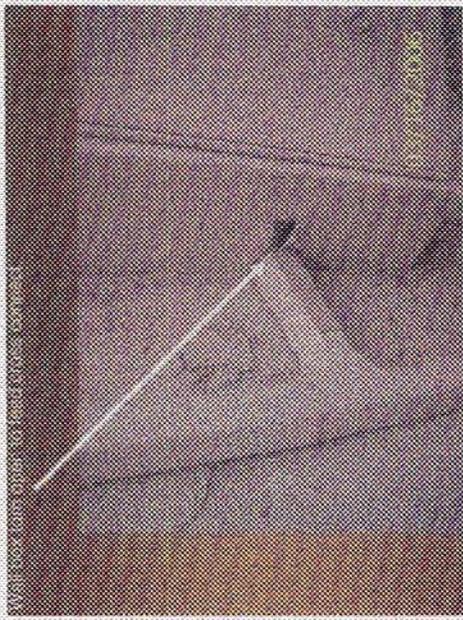
(Photos from Cox Audit Plan)

How we access wall boxes

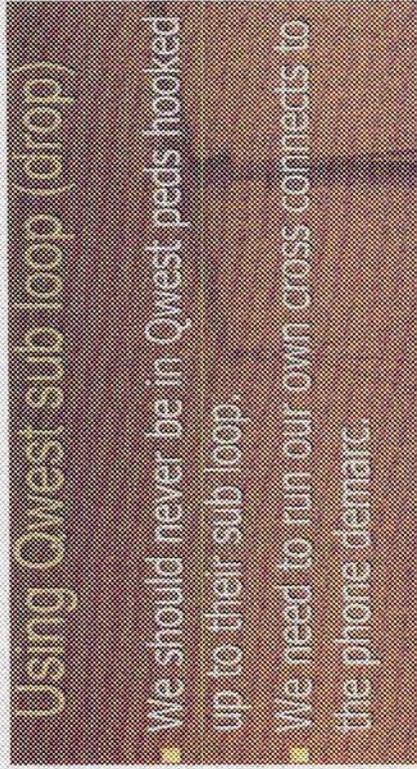
- Should never enter through the Qwest side of the wall box.
- Should never punch a hole in the wall box.
- Our lines should never hinder the operation of the wall box.
- Should be entering the wall boxes from the bottom if at all possible
- Should be using the knock outs as a first option for accessing the box
- When using knock outs first choice is for us to install consult, then grommets and last choice would be RTV
- When knock outs are not available we should be drilling a hole and using grommets



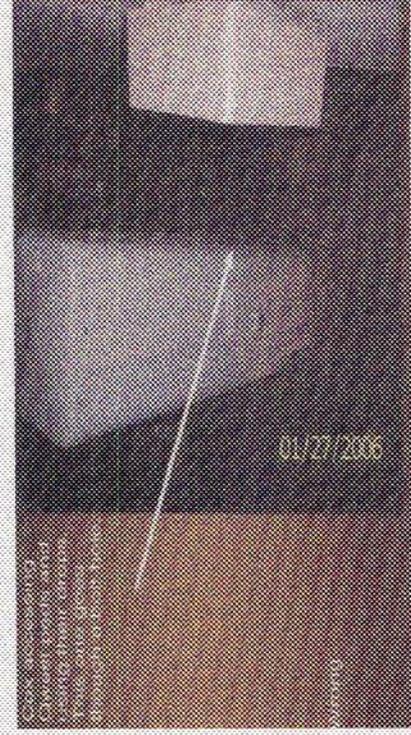
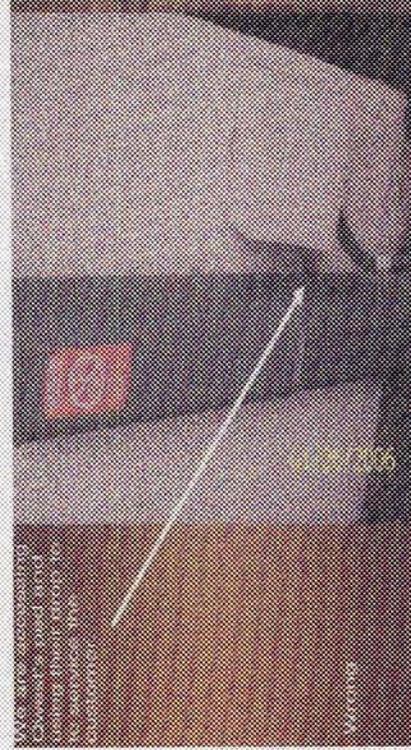
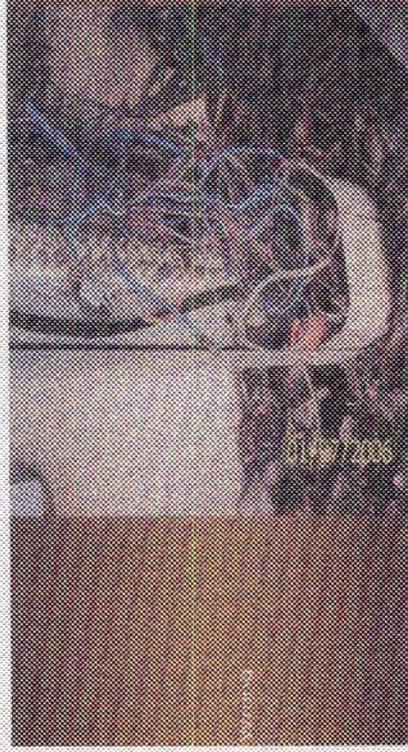
Cox has destroyed the integrity of this box by breaking in the box at the corners or side; potential consumer problems due to moisture, rodents or other foreign objects inside box causing noise on the line or outages.



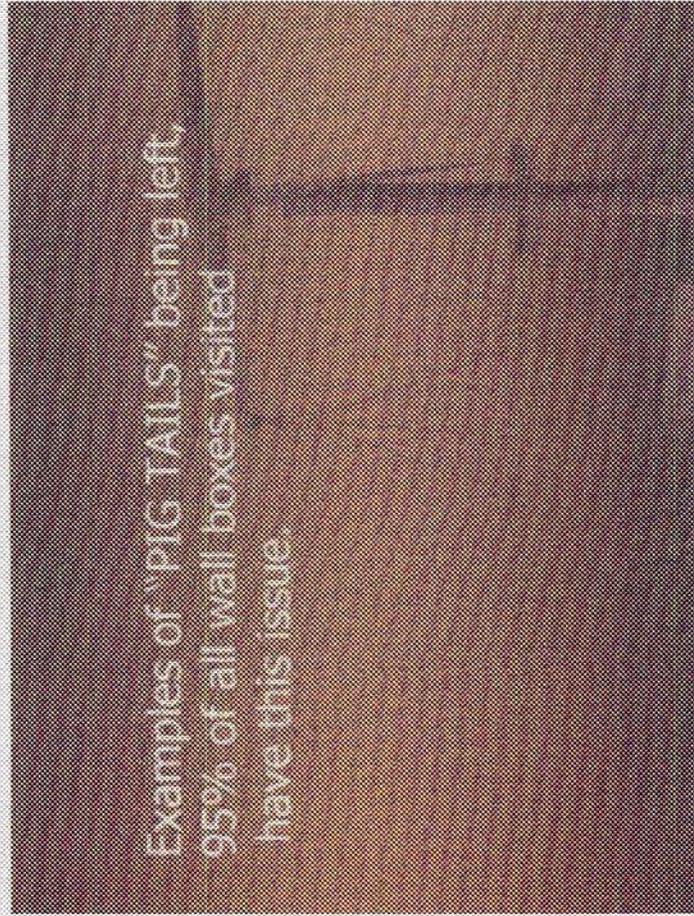
Access to Qwest Pedestals (Photos from Cox Audit Plan)



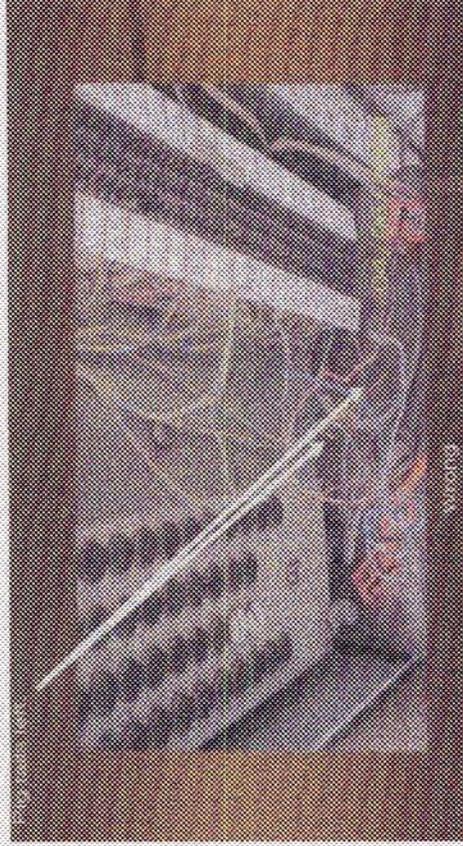
Cox has destroyed the integrity of this box by breaking in the box at the corners or side; potential consumer problems due to moisture, rodents or other foreign objects inside box causing noise on the line or outages.



Pigtails in Boxes (Photos from Cox Audit Plan)



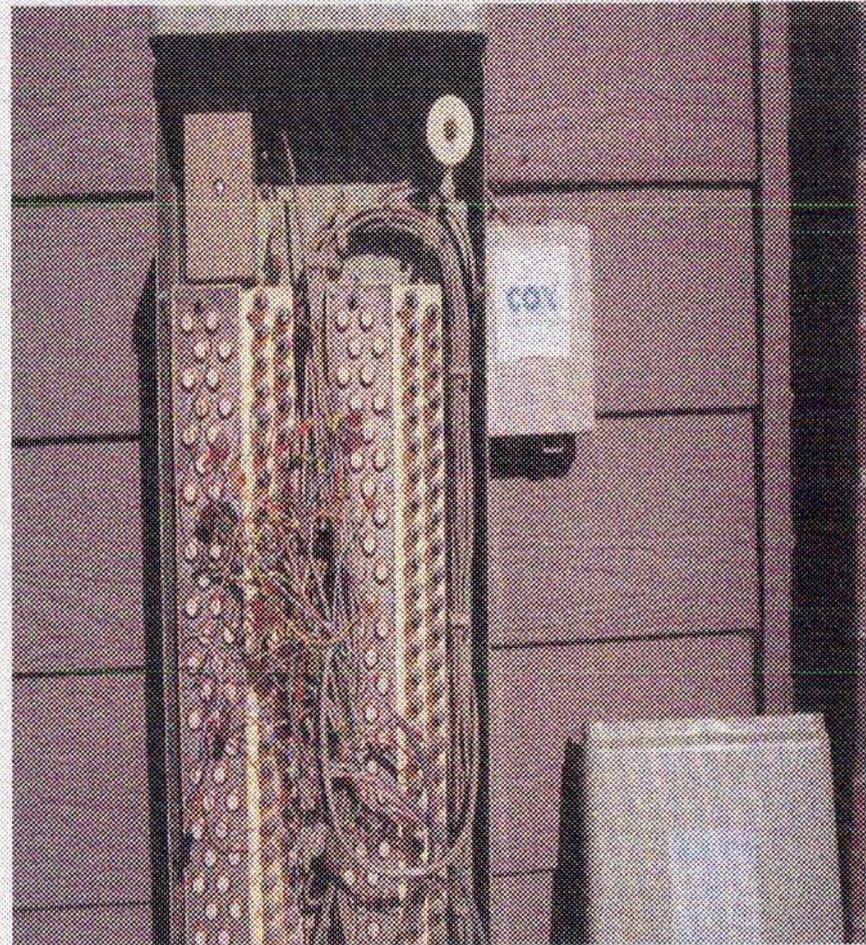
Examples of "PIG TAILS" being left, 95% of all wall boxes visited have this issue.



Cox leaves dangling cables. When dangling cables are left inside a box, consumers have the potential of noise, hum or phantom ringing. Also potential for shorting out other consumers lines.

“Beaning” To Inside Wire Subloop (Qwest Photo)

- *Although Cox’s “beaning” practices are ubiquitous in Arizona, the Cox audit plan does not include a sufficiently descriptive photo.*
- *At right is a photo taken by Qwest on Cox’s “beaning” practices in Omaha.*
- *Cox has subsequently installed its own termination block outside this terminal.*
- *“Beaning” can cause consumers to have noise on the line, as well as potential for shock for improper connection to the terminal.*



DOCKET NO. 01-338

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o This document is confidential (~~NOT FOR PUBLIC INSPECTION~~)
- o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.
- o Microfilm, microform, certain photographs or videotape.
- o Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed (**EXCLUDING CONFIDENTIAL DOCUMENTS**) by contacting an Information Technician at the FCC Reference Information Centers) at 445 12th Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician

1 CD ~~Enclosure~~