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May 22, 2007

FILED/ACCEPTED
MAY 22 2007
Federal Communications Commission
Office of the Secretary

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

Re: WC Docket No. 01-338; Notice of Oral Ex Parte Communication

Dear Ms. Dortch:

I am writing this letter to report that, on May 22, 2007, Lauren Van Wazer, Chief Policy and Technology Counsel of Cox Enterprises, Inc. and the undersigned, representing Cox Communications, Inc. ("Cox"), met to discuss the above-referenced proceeding with John W. Hunter, Chief of Staff & Senior Legal Advisor, Wireline Issues, in the office of Commissioner Robert M. McDowell.

During the meeting, we discussed the issues raised in Cox's petition for declaratory ruling in WC Docket No. 01-338, including the requirements of the Commission's rules as applied to inside wire subloops, the availability of direct access to inside wire subloops in states other than Oklahoma, the specific relief requested by Cox in the proceeding, and the status of the related proceeding in U.S. District Court in Oklahoma, as well as other topics described in the attached materials, which were provided to the Commission participant.

In accordance with the requirements of Section 1.1206 of the Commission's rules, an original and one copy of this notice are being filed within one business day following the meeting, and a copy is being provided to Mr. Hunter.

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Please inform me if any questions should arise in connection with this notice.

Respectfully submitted,

David E. Mills
Counsel to Cox Communications, Inc.

Enclosure

cc: John M. Hunter, Esq.

COX COMMUNICATIONS

Inside Wire Subloop Declaratory Ruling Proceeding

WC Docket No. 01-338

Background

- Cox is a fully facilities-based CLEC, delivering telephone over state-of-the-art broadband networks to more than 2,000,000 residences and over 180,000 business customers.

- Consumers recognize Cox is reliable, cost-effective and customer-friendly. Cox received the highest rating for the last three years in J.D. Power and Associates' Local Residential Telephone Customer Satisfaction Study in the Western Region and in the Southwest and Northeast Regions in 2006.

- To serve residents in multi-tenant environments ("MTEs"), Cox sometimes must use incumbent LECs' inside wire subloops, the wiring between individual customer premises and the point at which the wiring is fed into the ILEC's network. Typically, Cox technicians establish service by accessing customer-dedicated wiring at an ILEC's terminal block and cross-connecting to Cox's own terminal facilities. This is referred to as "direct access."

- In 2004, the Oklahoma Corporation Commission ("OCC") ruled in an arbitration proceeding that AT&T could deny Cox direct access to AT&T's MTE terminal blocks and force Cox to pay for unnecessary services or facilities or provision its own inside wiring to customer premises. Cox challenged the OCC ruling in the U.S. District Court for the Western District of Oklahoma, and the court agreed to stay its review until the Commission acts in this proceeding.

Status of the Court Proceeding

- Earlier this year, the U.S. District Court asked the parties to provide a status update and appear for a scheduling conference. Subsequent to that request, AT&T filed a motion to lift the stay.

- On March 22, the court denied AT&T's motion, but required Cox to provide reports on the status of the Commission proceeding once every three months. The first report is due June 22.

Facilities-Based Competitive LECs Need Direct Access to Inside Wire Subloops

- To compete economically in MTEs, facilities-based competitors like Cox must be permitted direct access to customer-dedicated inside wire at the point where that wire is disaggregated from ILEC transmission facilities, that is, at the ILECs' terminal blocks.

- Alternatives to direct access impose excessive delays and costs on CLECs and create excessive delays and E911 issues for consumers.

  - Allowing ILECs to insist that their technicians perform standard cross-connections results in a waste of time and money – needless delay, an unnecessary ILEC truck roll for every new customer, and cost-prohibitive non-recurring charges for the competitor.

  - Consumers are jeopardized when an installation process that should take a few minutes results in a process that leaves the consumer without a dialtone for hours or even days.

- While some workarounds exist, they require Cox to incur significant additional expense and

sometimes have technical limitations that make them less suitable choices than direct access.

The Commission Consistently and Unanimously Has Affirmed the Importance of Access to Inside Wire Subloops.

- In the 1996 local competition proceedings, the Commission held that access to inside wire subloops in MTEs must be provided at any technically feasible point, including at any "Feeder Distribution Interface" at a "cabinet, CEV, remote terminal, utility room in a multi-dwelling unit, or any other accessible terminal." The Commission explicitly affirmed the direct access requirement in the *Virginia Arbitration Order* and the *Triennial UNE Order*. In both cases, the Commission denied ILEC claims that they should be permitted to engage in practices like those approved by the OCC.

- In the *Building Access Order,* the FCC found that ILECs use their control over on-premises wiring to frustrate competitive access to MTEs, specifically by requiring ILEC technicians to supervise CLEC wiring and by taking unreasonable amounts of time in scheduling such visits.

- The FCC has held that "once one state has determined that it is technically feasible to unbundled subloops at a designated point, it will be *presumed* that it is technically feasible for any incumbent LEC, *in any other state*." Direct access has been found to be technical feasible on at least three separate occasions – by Washington, New York, and the Commission standing in place of the Virginia State Corporation Commission.

AT&T Continues to Deny Direct Access.

- In Cox's experience, only some ILECs allow Cox technicians to access inside wire subloops at MTE terminal blocks. Qwest permits direct access to all CLECs as a matter of written company policy.

- AT&T has refused Cox direct access in Oklahoma, Kansas and Arkansas. The Georgia Commission also has denied CLECs direct access, although it mitigated this error by requiring ILECs to pay for any intermediate cross-connect facilities the ILEC decides must be constructed. The Oklahoma and Georgia rulings conflict with rulings in New York and Washington that mandate direct access in accordance with Commission precedent.

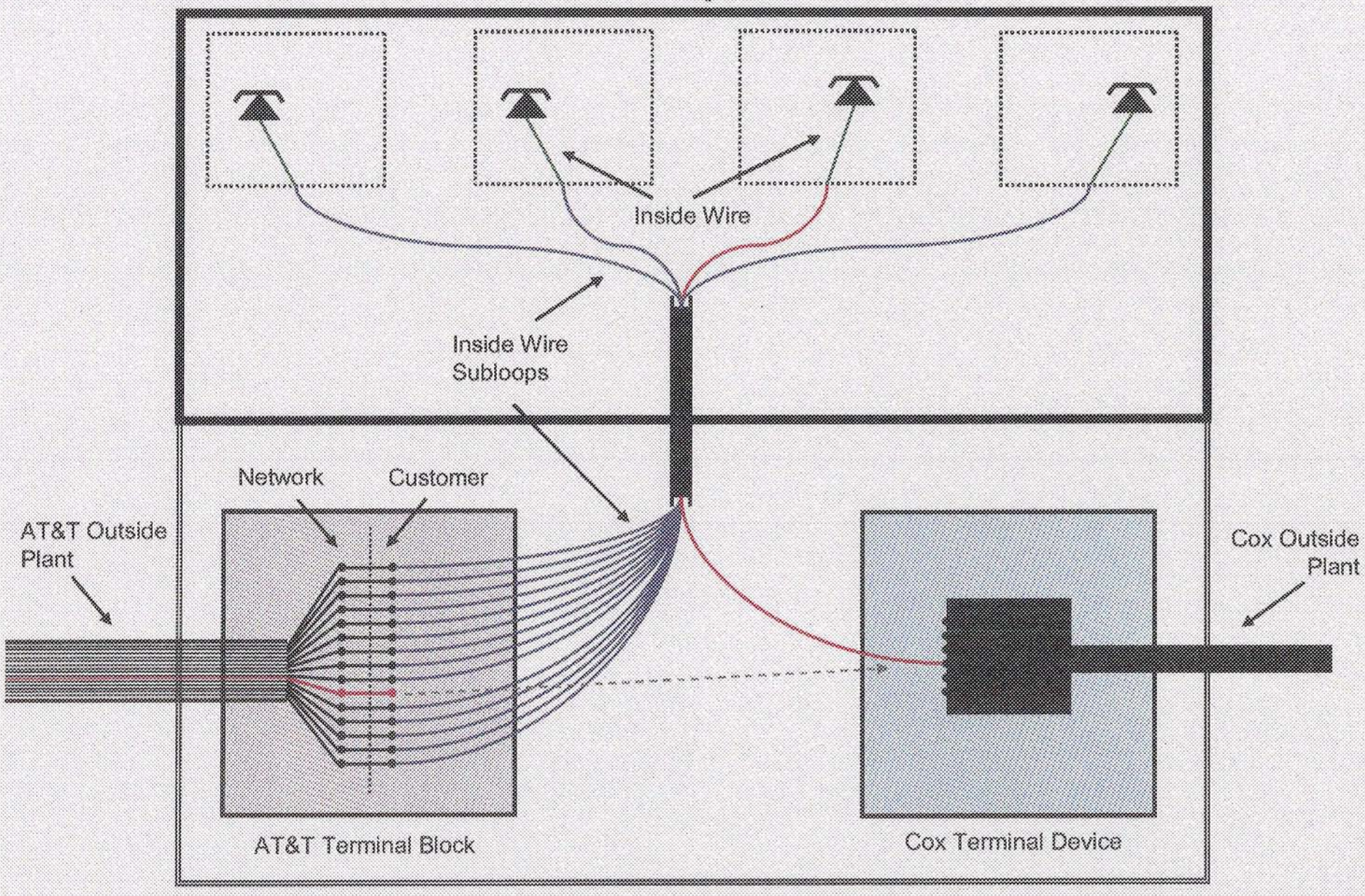
Direct Access Poses No Threat to Incumbent LEC Network Integrity.

- Direct access allows CLECs to use wiring only on the customer side of ILEC terminal blocks; network wiring is undisturbed. The Commission recognized in the *Triennial UNE Order* that direct access will not jeopardize ILECs' networks.

- Direct access is functionally equivalent to the cutover process used when the demarcation point is at the LEC terminal block, a process used thousands of times a day by all carriers without causing any network damage. The only difference is the ownership of the wiring.

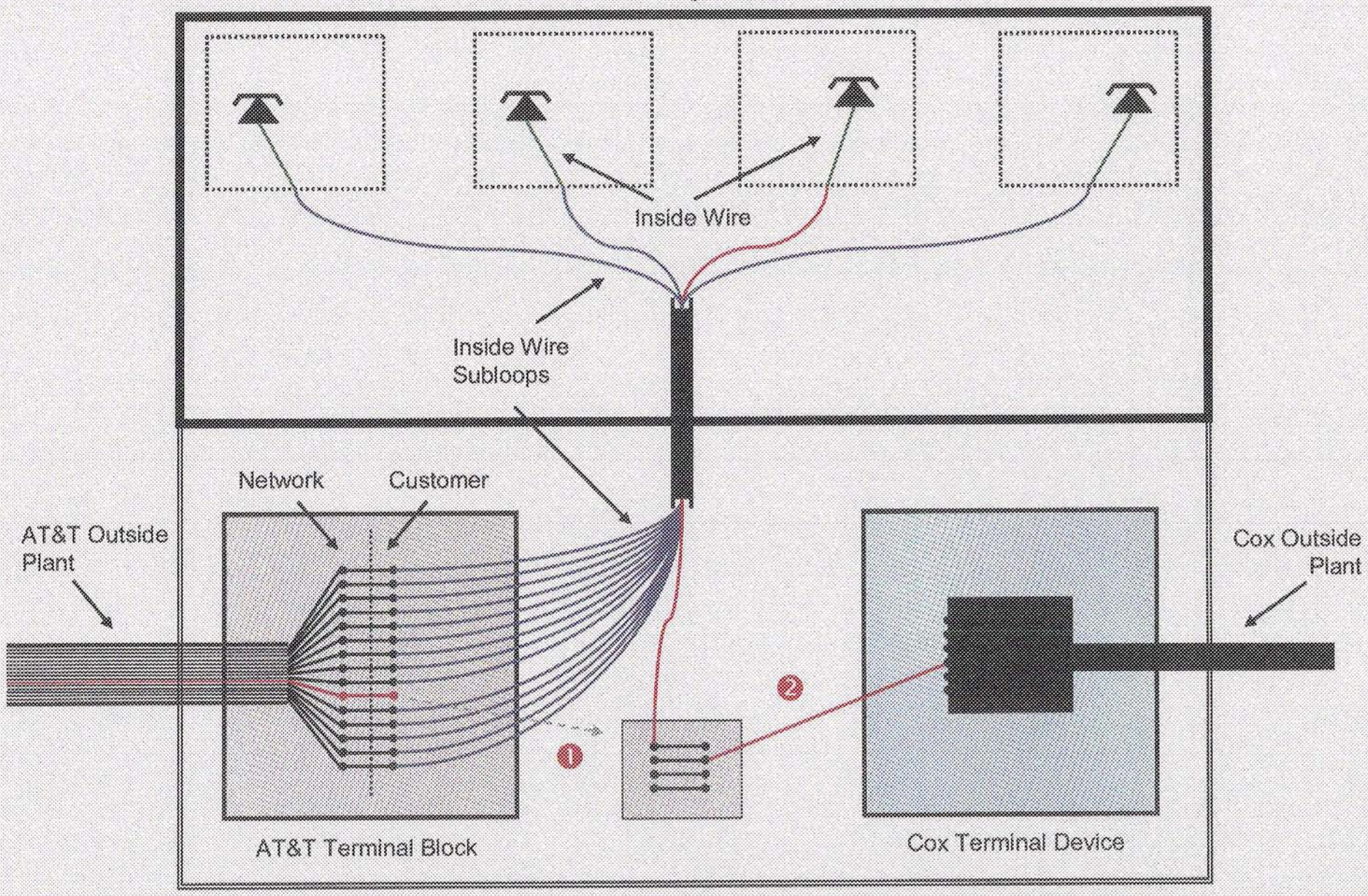
- Cox has performed hundreds of thousands of cross connections throughout its markets, has had few technical problems, and never has caused damage to an ILEC's network related to the cutover process. There is no credible evidence to the contrary.

Cox Proposal



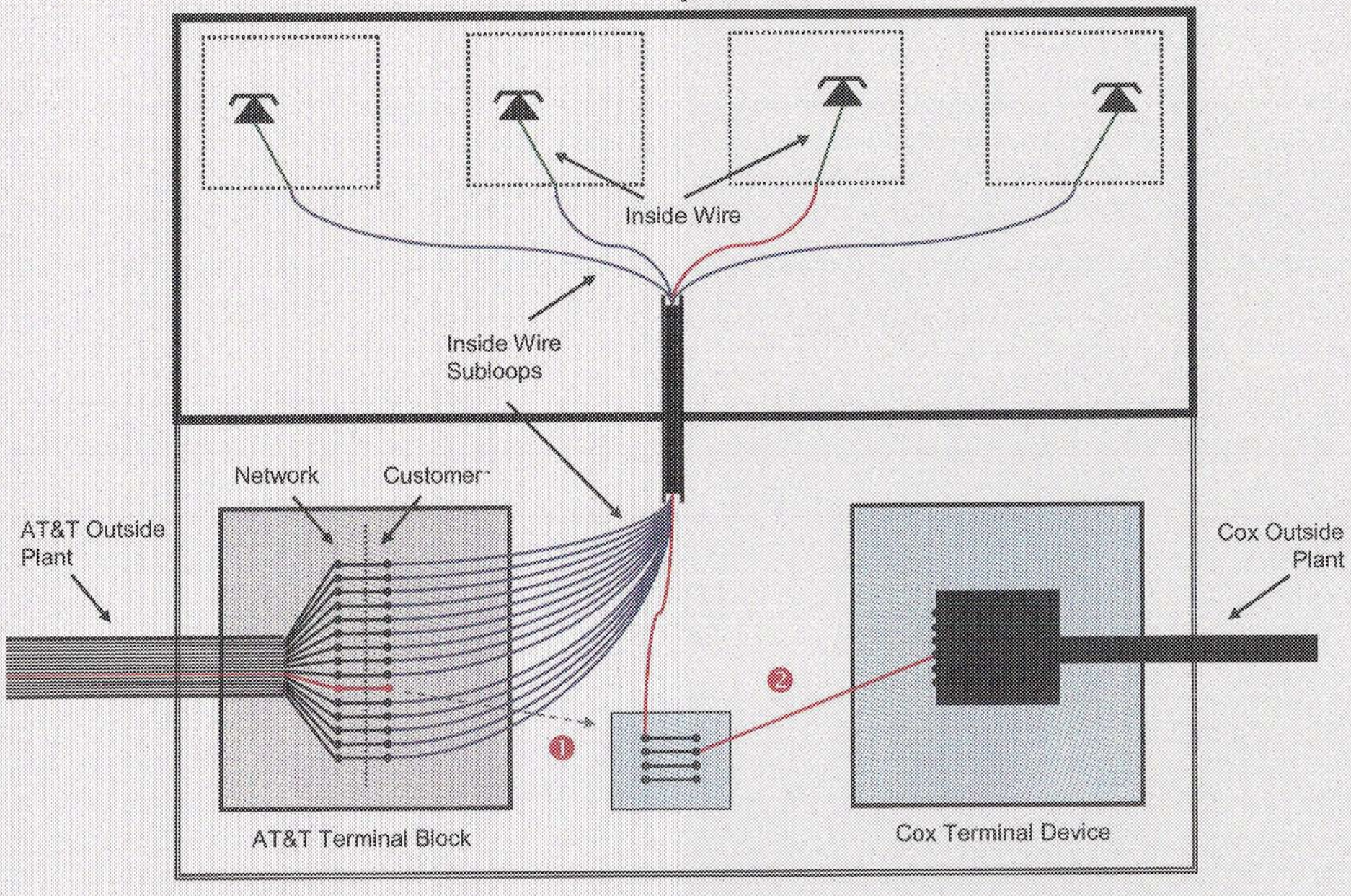
There is no intermediate box. Cox lifts inside wire subloop from customer-side connection in AT&T terminal block and attaches it to customer-side connection in Cox terminal device. No charge from AT&T for cutover.

AT&T Option 1



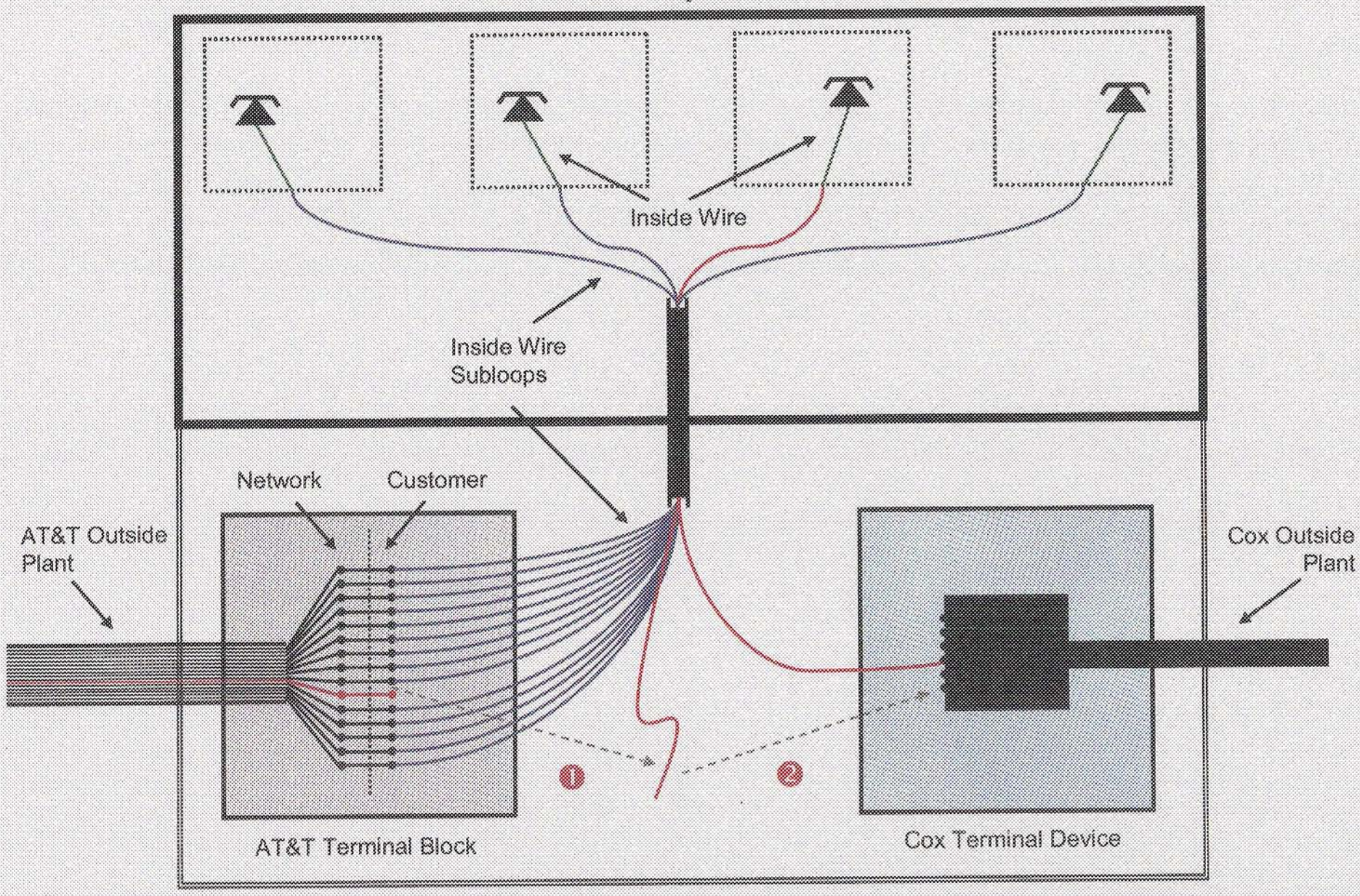
AT&T builds and owns intermediate box; Cox pays for construction. In step 1 of cutover, AT&T moves inside wire subloop to the box. In step 2, Cox connects its own wiring to the box. $448.78 charge per customer cutover.

AT&T Option 2



Cox builds and owns intermediate box; Cox cannot enter the box. In step 1 of cutover, AT&T moves inside wire subloop to the box. In step 2, Cox connects its own wiring to the box. $117.68 charge per customer cutover.

AT&T Option 3



There is no intermediate box. In step 1, AT&T detaches inside wire subloop, coils it, and leaves it hanging outside AT&T terminal. In step 2, Cox connects the subloop to its own terminal. $117.68 charge per customer cutover.