

EXCEPTION



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BEFORE THE ARIZONA CORPORATION COMMISSION

2001 OCT -9 P 4:31

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AZ CORP COMMISSION  
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Arizona Corporation Commission

DOCKET

OCT 09 2001

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*msc*

IN THE MATTER OF US WEST COMMUNI-  
CATIONS, INC.'S COMPLIANCE WITH  
§ 271 OF THE TELECOMMUNICATIONS  
ACT OF 1996

Docket No. T-00000A-97-238

COX ARIZONA TELCOM, L.L.C.'S EXCEPTIONS  
TO PROPOSED ORDER ON EMERGING SERVICES

Cox Arizona Telcom, L.L.C. ("Cox") submits the following exceptions to the Recommended Order in this docket concerning "Emerging Services." The Emerging Services issues includes issues on subloop access

Subloop access presents some of the most important and difficult issues in the 271 docket. Adequate and timely access to subloops is critical to competition for residential tenants in apartment complexes and other multi-dwelling units ("MDUs") and for business customers in high rise office buildings and other multi-tenant environments ("MTEs"). Subloop access also is a key to competition being available to the full range of residential and business consumers. For example, approximately 30% to 40% of residential customers in the Phoenix area are MDU tenants. If CLECs do not have prompt and adequate access to subloops, those customers may not enjoy the benefits of competition.

One of the key concerns raised by Cox during the Emerging Services workshops is that the existing Qwest tariffs will act to perpetuate problems with CLEC access to subloops. Qwest's Cable, Wire and Service Termination Policy [Exchange and Network

1 Services Tariff, Section 2.8 (“Qwest Tariff”)], presently provides four options for the  
2 configuration of new facilities to MTEs and MDU campus properties, such as apartment  
3 complexes. Three of those options potentially interfere with CLEC access to MTE/MDU  
4 tenants and increase the cost of that access. During the workshops, Cox urged the  
5 Commission to require Qwest to modify that the Qwest Tariff so that all new Qwest  
6 entrance facilities to MTEs and campus properties (as well as all major reconfigurations of  
7 Qwest entrance facilities at such locations) will have the Minimum Point of Entry  
8 (“MPOE”) and the demarcation point located at the same place near the edge of the  
9 property.

10 The Recommended Order (at Findings of Fact, ¶ 60) notes Cox’s proposal  
11 concerning modifications to the Qwest Tariff. The Recommended Order further states (at  
12 Findings of Fact, ¶ 64) that “Cox’s request to require the demarcation point for new or  
13 reconfigured MTEs be at the MPOE at the edge of the property line *is not unreasonable.*”  
14 (emphasis added). However, it then rejects the proposal (at Findings of Fact, ¶ 64) on the  
15 basis of some unidentified “property rights” that have not been addressed in the  
16 proceedings.

17 The Recommended Order’s basis for rejecting Cox’s proposal is unfounded. Cox’s  
18 proposal regarding the Qwest Tariff was intended to apply *only prospectively*. The  
19 adoption of a modified Qwest Tariff – applicable only on a going-forward basis – will not  
20 impair existing property rights of MTE/MDU owners. Moreover, there is no entitlement  
21 that a particular tariff remain effective in perpetuity – particularly if that tariff interferes  
22 with the development of competition.

23 Cox proposes the following amendments to the Recommended Order:

- 24 1. At page 12, line 18, delete: “Although”.
- 25 2. At page 12, line 19, replace: “it raises issues of property rights that have  
26 not been addressed in this proceeding, and the record is not sufficient to allow the  
27 Commission to impose such a requirement at this time” with: “and Qwest shall submit a

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1 modified Cable, Wire and Service Termination Policy tariff that comports with Cox's  
2 request."

3 3. At page 28, line 7, insert the following phrase after "adopted": "except  
4 that within thirty days of the effective date of this Order, Qwest shall file a modified Cable,  
5 Wire and Service Termination Policy tariff in accordance with the Findings of Fact above."

6 These amendments will increase competition for MTE/MDU tenants and encourage  
7 CLECs to invest in facilities to connect MTEs/MDUs to their networks.

8 Dated: October 9, 2001.

9 **COX ARIZONA TELCOM. L.L.C.**

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# EXCEPTIONS

## Routing Sheet

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