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PA PUBLIC UTILITY COMMISSION  
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January 20, 2010

*Via Overnight Delivery*

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building, 2<sup>nd</sup> Floor  
400 North Street  
Harrisburg, PA 17120

Re: Core Communications, Inc., v. AT&T Communications of PA, LLC, and TCG  
Pittsburgh, Docket Nos. C-2009-2108186, C-2009-2108239

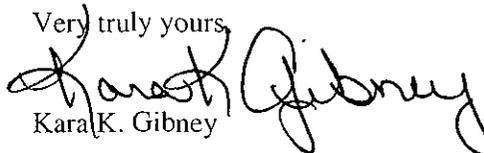
Dear Mr. McNulty:

Please find enclosed an original and three (3) copies of AT&T's Motion to Compel Responses to AT&T's Fourth Set of Interrogatories and Requests for Production of Documents to Core Communications, Inc., for each docket referenced above.

Please also find enclosed two proof of filing copies. I ask that you date stamp each copy, and return one to me and one to Michelle Painter in the enclosed self-addressed postage pre-paid envelopes.

Please contact me if you have any questions or concerns with this matter.

Very truly yours,

  
Kara K. Gibney

Enclosure

cc: Certificate of Service  
Office of Administrative Law Judge

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Core Communications, Inc.            )  
  )  
                          Complainant        )  
  )  
v.    )  
  )  
AT&T Communications of PA, LLC    )  
  )  
and   )  
  )  
TCG Pittsburgh                        )  
  )  
                          Respondents        )

Docket No. C-2009-2108186  
Docket No. C-2009-2108239

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SECRETARY'S BUREAU

**AT&T'S MOTION TO COMPEL RESPONSES TO AT&T'S FOURTH SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO CORE COMMUNICATIONS, INC.**

AT&T Communications of Pennsylvania, LLC and TCG Pittsburgh ("AT&T" and "TCG," collectively "AT&T"), pursuant to 52 Pa. Code § 5.342(g), submits its Motion to Compel Responses to AT&T's Fourth Set of Interrogatories and Requests for Production of Documents to Core Communications, Inc. ("Core"). AT&T asked relevant, targeted discovery of Core on January 6, 2010. Core filed objections on January 18, 2010, refusing to answer all but one of AT&T's ten requests. Core's objections are a baseless attempt to keep relevant information out of this proceeding and, in light of the February 3, 2010 hearing date, AT&T is requesting that Core be compelled to provide answers to AT&T's discovery no later than January 29, 2010, so that AT&T may use the responses at hearing. Though 52 Pa. Code § 342(g)(2) gives the presiding officer up to 15 days to decide this motion, AT&T respectfully requests that

the Administrative Law Judge take into account the February 3, 2010 hearing date and rule on the motion as soon as possible.

I. **CORE'S GENERAL OBJECTIONS ARE BASELESS**

Core asserted three general objections, which it used as a basis for refusing to answer Interrogatories AT&T-Core-4-1 and 4-2. These objections should be denied.

Core's first general objection states:

Core objects to the Interrogatories and Requests for Documents to the extent they seek information without regard for the date on which such information was generated, on the grounds that the request is overly broad, unduly burdensome and seeks information that is not relevant nor reasonably calculated to lead to the discovery of relevant information.

This objection should be denied because the discovery requests to which Core asserted this objection – AT&T-Core-4-1 and 4-2 – plainly include the dates for which information should be produced.

Core's second general objection states:

Core objects to the Interrogatories and Requests for Documents to the extent they seek identification or production of information that was not generated by, or maintained in *the files of, a Core employee at the Director level or above responsible for making decisions regarding matters within the scope of the request*, on the grounds that the request is overly broad, unduly burdensome, vague, oppressive and seeks information that is not relevant nor reasonably calculated to lead to the discovery relevant information. [Emphasis supplied]

This objection should be denied because it is plainly contrary to Pennsylvania law. Core refuses to identify or produce any information or documents that were “not generated by” or “maintained in the files of” a Director level employee or above “responsible for making decisions regarding matters within the scope of the request.” The multiple loopholes Core seeks to fabricate here are completely unsupported by the law. Under 52 Pa. Code § 5.349(a)(1), Core is required to produce any relevant documents “which are in the possession, custody or control”

of Core, not merely in the custody of Director-level employees or above that have decision-making power. Likewise, 52 Pa. Code §5.321(c) broadly states that “a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action,” including “the identity and location of persons having knowledge of a discoverable matter.” These rules contain no qualifying language that would permit Core to withhold relevant documents in its possession simply because they were generated by or maintained in the files of a Core employee below the Director level, or an employee who is not responsible for making decisions regarding matters within the scope of the request.

If Core’s objection were permitted to stand, it could refuse to produce any document in its possession simply by having the Director’s assistant generate the document *or* by keeping the document in the file of an employee below the Director level *or* by changing the title of the person in possession of the document. That is precisely the type of discovery abuse that the broad rules are designed to prevent. The scope of permissible discovery includes relevant documents within *Core’s* possession – whether in the hands of the CEO or a low level employee, or in a computer database.

Core’s attempt to circumvent the rule by claiming that it is too burdensome to produce documents or information generated by or in the possession of employees below the Director level should be seen for what it is – an attempt to keep relevant information out of this proceeding. And its claim that all documents or information in the possession of employees below the Director level are somehow irrelevant is equally untenable. Obviously, Core’s employees below the Director level may have documents relevant to this proceeding and Core cannot be permitted to withhold those documents simply because of the title given to the employee that “generated” or “maintained” the information or documents.

Core's third general objection states:

Core objects to any of the Interrogatories and Requests for Documents that seek documents initially created by parties not affiliated with Core or who were not acting at the direction or on its behalf (e.g. news articles, investment analysts reports, agency or court filings by other parties) on the grounds that the request is overly broad, unduly burdensome and seeks information that is not relevant nor reasonably calculated to lead to the discovery of relevant information and on the ground that the information is equally available from other sources.

Here, Core refuses to produce documents "initially created by parties not affiliated with Core or who were not acting at the direction or on its behalf." But, again, 52 Pa. Code § 5.349(a)(1) does not limit the scope of permissible discovery to documents "initially" created by Core or to documents created "at Core's direction" or "on its behalf." Contracts between Core and one of its ISP customers, for example, may well have been "initially created" by that ISP customer (either at the request of Core or on its own initiative); the same may be true of e-mails or other written correspondence related to the administration of those contracts. It is no more burdensome on Core to store or retrieve such information simply because the document or information was "initially created" by an entity other than Core – nor are such documents and information any less relevant because they were "initially" created by an entity other than Core. Moreover, documents related to Core's revenues and/or payments are equally relevant regardless of the initial author of the document. Taken to its extreme, Core's position would allow it to exclude contracts with relevant information – added during negotiations – simply because the first draft of the agreement was "initially" created by another entity. Further, to the extent that the information was originated or received by a merged entity, that merged entity does not enjoy an exemption on relevant discovery on behalf of the post-merger entity. Again, the rule requires Core to produce any relevant documents which are in the "possession, custody or control" of Core – regardless of how and by whom those documents were created.

**II. CORE'S SPECIFIC OBJECTIONS TO INTERROGATORIES SHOULD BE FLATLY DENIED.**

Core claims that each of AT&T's discovery requests seeks irrelevant information and that some of the requests (4-2 through 4-6) require Core to "undertake a costly, time-consuming, and unreasonable investigation." Core's baseless objections should be denied.

The scope of discovery is broad. 52 Pa. Code §5.321(c) states:

(c) *Scope.* Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The material sought to be discovered need not be admissible. Rather, it must only be reasonably expected to lead to the discovery of admissible evidence. AT&T's discovery requests easily meet this standard.

Core has not provided any support for its claim that producing the requested information and documents would be "costly" and "time-consuming." Moreover, Core's unsupported claim that some of the requests require it to "undertake a costly, time-consuming, and unreasonable investigation" is not a proper basis for refusing to produce relevant information and documents.

For these reasons, and for the reasons explained further below, Core's objections should be denied. Core should be ordered to provide responses to all of AT&T's discovery questions by no later than January 29, 2010.

**REQUESTS RELATING TO CORE'S CUSTOMERS (Requests 4-2 and 4-3):**

**AT&T-Core-4-2.** For each year 2004 through and including 2009, provide the number of customers Core served in Pennsylvania. If Pennsylvania-specific customer information is not available, please explain why and provide separately for each year 2004 through and including 2009 the number of customers Core served across all states.

**Core Objection.** See General Objections. Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information. See Core Response to AT&T-II-13 and II-14 for information regarding current customers. Providing this information on a historical basis would require Core to undertake a costly, time-consuming, and unreasonable investigation. See Core Response to AT&T-3-3.

**AT&T-Core-4-3.** For each year 2004 through and including 2009, please indicate the number of customers Core served in Pennsylvania which are internet service providers ("ISPs"). If Pennsylvania-specific customer information is not available, please explain why and provide separately for each year 2004 through and including 2009 the number of customers Core served across all states which are ISPs.

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information. See Core Response to AT&T-II-14 for information regarding current ISP customers. Providing this information on a historical basis would require Core to undertake a costly, time-consuming, and unreasonable investigation. See Core Response to AT&T-3-3.

**AT&T's Response:** Requests 4-2 and 4-3 seek information regarding the number of customers Core serves in Pennsylvania and the number of those customers that are ISPs. Core claims that such information is irrelevant. Core is wrong. The threshold issue in this case is whether the Commission has jurisdiction over the traffic at issue. It is well-settled that ISP-bound traffic is jurisdictionally interstate traffic. *Pacific Bell v. Pac-West Telecomm, Inc.*, 325 F.3d 1114, 1126 (9<sup>th</sup> Cir. 2003). See also AT&T Motion to Dismiss at 2, 12-16. And because ISP-bound traffic is jurisdictionally interstate, the FCC has exclusive jurisdiction to regulate compensation for it. Accordingly, if the traffic at issue here is entirely ISP-bound traffic, the Commission has no jurisdiction over it and Core's Formal Complaint must be dismissed. While

all indications from Core at this point are that the traffic at issue is largely – if not entirely – ISP-bound traffic (*see* AT&T Motion to Dismiss at 2), Core stood mute in its Answer to AT&T’s Motion to Dismiss Formal Complaint, refusing to address AT&T’s assertion that all the traffic at issue was ISP-bound traffic. Likewise, in his surrebuttal testimony, Mr. Mingo stood mute on the issue of whether all the traffic at issue is ISP-bound traffic, stating only that it is “irrelevant.” The jurisdictional nature of the traffic is not irrelevant, but rather determines whether or not the Commission has jurisdiction over this dispute. AT&T therefore is entitled to confirm through discovery its belief that all the traffic at issue is ISP-bound traffic. Requests 4-2 and 4-3 seek to do just that.

Even if the ALJ decides to deny AT&T’s Motion to Dismiss, the Commission has the ultimate decision-making authority and may determine that it does not have jurisdiction over this case. Therefore, AT&T is entitled to have all factual data necessary to have a complete record regarding the jurisdictional issues, including information about the types and numbers of Core’s customers.

Core claims that providing information “on a historical basis” regarding the number of customers it has in Pennsylvania and, more specifically, the number of ISP customers “would require Core to undertake a costly, time-consuming, and unreasonable investigation.” That is not a proper basis for refusing to provide responses to discovery. Nor has Core provided any explanation or justification as to why its business records contain no responsive information on the number of customers at any point other than the current period. Core clearly exaggerates when it asserts that “compiling” the information on a historical basis would be “costly” or “time-consuming.” First, Core has previously stated that it currently has only 55 ISP customers and 5 non-ISP customers. Therefore, providing historical information on the number of customers for

the past five years can hardly be called burdensome or a special study. Second, Core backbilled AT&T since 2004 and has requested as part of this Complaint that AT&T be required to pay Core for all traffic back to 2004, therefore data back to 2004 is highly relevant and must be produced by Core. In light of the direct and clear relevance of the requested information, Core should be compelled to provide responsive information.

#### **REQUESTS REGARDING CORE'S REVENUES (Requests 4-1, 4-4, 4-5, 4-6 and 4-7)**

**AT&T-Core-4-1.** For each year 2004 through and including 2009, provide separately for each year the total revenues Core derived from its Pennsylvania operations. If Pennsylvania-specific revenues are not available, please explain why and provide separately for each year 2004 through and including 2009 the revenues Core derived from its entire operation across all states.

**Core Objection.** See General Objections. Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information.

**AT&T-Core-4-4.** For each year 2004 through and including 2009, please indicate the dollar amount and the percentage of Core's Pennsylvania total revenues which were derived from Core's customers who were either ISPs or Voice over Internet Protocol ("VoIP") providers (separate out by each type of provider). If Pennsylvania-specific information is not available, please explain why and provide separately for each year 2004 through and including 2009 the percentage of Core's total revenues across all states derived from customers which are ISPs or VoIP providers.

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information. Further, providing this information would also require Core to undertake a costly, time-consuming, and unreasonable investigation.

**AT&T-Core -4-5.** For each year 2004 through and including 2009, please indicate the dollar amount and percentage of Core's Pennsylvania total revenues which were intercarrier compensation payments from other telecommunications carriers. If Pennsylvania-specific information is not available, please explain why and provide separately for each year 2004 through and including 2009 the percentage of Core's total revenues across all states derived from intercarrier compensation payments from other telecommunications carriers.

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information. Further, providing this information would also require Core to undertake a costly, time-consuming, and unreasonable investigation.

**AT&T-Core-4-6:** For each year 2004 through and including 2009, please indicate the dollar amount and percentage of Core's Pennsylvania total revenues which were derived through any source other than from tariffed rates, such as, but not limited to, Individual Case Basis (ICB) pricing, customer specific contracts, or other means. If Pennsylvania-specific information is not available, please explain why and provide separately for each year 2004 through and including 2009 the percentage of Core's total revenues across all states derived from sources other than from tariffed rates.

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information. Further, providing this information would also require Core to undertake a costly, time-consuming, and unreasonable investigation.

**AT&T-Core-4-7.** Referencing Core's response to AT&T-Core-4-6, provide a copy of any and all contracts or other documents by which Core derived revenues from sources other than tariffed rates for each year from 2004 to and including 2009. Please redact any customer-identifying information from your response.

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information.

**AT&T Response.** Requests 4-1, 4-4, 4-5, 4-6, and 4-7 seek information and documents relating to the dollar amount and percentage of Core's revenues derived from its customers. Core claims that its revenues are irrelevant to this dispute and that it would be "costly" and "time-consuming" to produce such information. Plainly, Core is wrong.<sup>1</sup> Matters such as past annual revenues would be in Core's retained business records. Core has not explained why it would not be so.

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<sup>1</sup> Core objects to requests AT&T-Core-4-4, 4-5 and 4-6 on the basis that they would require Core to "undertake a costly, time-consuming, and unreasonable investigation." As previously explained, that is not a proper basis for refusing to provide responses to discovery. Nor has Core provided any explanation or justification as to why compiling the information would be "costly" and "time-consuming." This is especially true given that Core does not have a large amount of customers in Pennsylvania. In addition, Core is demanding payment for amounts backbilled to 2004, therefore AT&T has a right to obtain discovery on all years that are the subject of Core's complaint. In light of the direct and clear relevance of the requested information, Core should be compelled to provide responsive information.

There are two reasons for AT&T requesting information regarding Core's revenues: (1) to show that Core is an arbitrage carrier that should be required to exchange traffic with AT&T on a bill and keep basis, and (2) to refute Core's claims that its economic viability has been threatened, and that it may have to raise its customer's rates, as a result of AT&T's (and other carriers') refusal to pay access charges for the termination of ISP-bound traffic.

In the *ISP Remand Order*,<sup>2</sup> the FCC recognized that Section 251(b)(5)'s reciprocal compensation requirement created incentives for a LEC to engage in regulatory arbitrage, and to profit, not by charging its customers, but by positioning itself to receive a disproportionate amount of reciprocal compensation from other LECs. *ISP Remand Order*, at 9153 ¶ 2. The problem is that a user of "dial-up" internet service will likely make many extended calls to the ISP, but the ISP will rarely, if ever, call the "dial-up" user or anyone else. *Pacific Bell*, 325 F.3d at 1119. Because, under a reciprocal compensation regime, the originating LEC pays the terminating LEC, LECs that serve only ISPs receive but rarely if ever pay reciprocal compensation. This creates an incentive for LECs to serve ISPs at rates well below market cost while deriving their revenues not from their ISP customers, but from the LECs whose customers are calling the ISPs. Given the magnitude of the ISP-bound traffic problem, the FCC decided to establish an appropriate federal cost recovery mechanism for the exchange of this traffic, and it concluded that "the most efficient recovery mechanism for ISP-bound traffic may be bill and keep, whereby each carrier recovers costs from its own end-users." *ISP Remand Order* at 9154 ¶¶ 3-4. And while the FCC developed mechanisms for some carriers to transition toward bill and keep, the FCC explained that those carriers that were not exchanging traffic pursuant to an ICA

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<sup>2</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report and Order*, 16 FCC Rcd 9151 (2001) ("*ISP Remand Order*").

(such as Core and AT&T) were to immediately exchange ISP-bound traffic on a bill and keep basis. *Id.* at 9188-89 ¶ 81.

AT&T intends to – and has the right to – demonstrate that Core is involved in the very type of regulatory arbitrage that the FCC adopted the *ISP Remand Order* to prevent, and therefore Core should be exchanging traffic with AT&T on a bill and keep basis as required by the *ISP Remand Order*. AT&T’s requests are relevant to that showing as they will reveal how much revenue – if any – Core is generating from its customers, and whether Core is subsidizing its entire business through revenues generated from other carriers.

This Commission itself has previously stated that it “would not condone an express shifting of costs...”<sup>3</sup> AT&T has a right to demonstrate that Core is shifting its costs onto other carriers, and that its entire case against AT&T is an attempt to shift its costs onto AT&T rather than its own customers, something which this Commission does not condone. This issue is highly relevant to counter Core’s claims that AT&T is refusing to pay Core solely because AT&T does not want to pay for the use of Core’s network, and instead to demonstrate Core’s true intent in improperly shifting its costs onto AT&T.

Core claims that the *Core Forbearance Order* renders unenforceable the requirement that carriers without an interconnection agreement (like AT&T and Core) exchange ISP traffic on a bill and keep basis. While AT&T disagrees, even if Core were correct, that does not render AT&T’s requests irrelevant. Assuming the ALJ finds that the Commission has jurisdiction over the traffic at issue, and assuming further that the ALJ finds that the *ISP Remand Order* is not dispositive, the information sought is still relevant to the determination of whether any rate

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<sup>3</sup> *Application of Core Communications, Inc. for Authority to Amend its Existing Certificate of Public Convenience and Necessity and to Expand Core’s Pennsylvania Operations to Include the Provision of Competitive Residential and Business Local Exchange Telecommunications Services Throughout the Commonwealth of Pennsylvania*, Docket No. A-310922F0002, AmA *et. al.*, Opinion and Order, December 4, 2006 at p. 39.

should be applied to the termination of ISP-bound traffic. AT&T intends to argue that Pennsylvania interests are not served by having one party (here Core) offer its customers service for free (or very little) and directly subsidize its entire business through revenues generated from other carriers, and that bill and keep is the appropriate compensation regime in that factual situation. Core's revenues are necessary for AT&T to make a showing that Core's business model presents that factual situation. Alternatively, if a rate is going to be set for the termination of ISP-bound traffic, the Commission cannot do so without all the relevant facts, including the amount of revenue Core derives from its customers as compared to the amount derived from other carriers, like AT&T, for the termination of traffic.

Requests 4-1, 4-4, 4-5, 4-6, and 4-7 are relevant to this dispute because Core has put its revenues at issue, specifically, through the testimony submitted by Mr. Mingo. Mr. Mingo claims that the refusal of carriers, including AT&T, to pay access charges for the traffic at issue here has left Core "unable to recover a substantial portion of its network costs" and "threatens Core's economic viability." Mingo Direct at 14. In addition, Mr. Mingo claims that "denying Core intercarrier compensation will have the effect of forcing Core to either (1) raise the rates it charges its customers; or (2) go out of business." Mingo Surrebuttal at 9. AT&T is entitled to investigate these claims of financial ruin through an examination of Core's revenues to see if they have any factual basis or are just rhetoric. Moreover, if Core is not deriving any revenue from its own customers (or very little), and is deriving all (or nearly all) its revenues from other carriers through termination charges, it would undercut Core's entire argument. Indeed, if that is the situation, Core's purported financial problems are more likely the result of its decision not to charge its own customers, and to permit other carriers to subsidize its operations in violation of the *ISP Remand Order*.

**REQUESTS RELATING TO CORE SHARING INTERCARRIER COMPENSATION REVENUES WITH CUSTOMERS (Requests 4-8 and 4-9):**

**AT&T-Core-4-8.** Referencing Core's response to AT&T-Core-4-5, for each year 2004 through and including 2009, please indicate the dollar amount of intercarrier compensation revenues (defined, for the purpose of this question, as any revenue obtained from another carrier for the purpose of terminating voice, ISP or VoIP traffic) derived by Core in Pennsylvania that was shared with (1) purchasers of Core's Superport service pursuant to Core's PA P.U.C. Tariff No.1 and (2) purchasers of any other Core service (answer separately for each of (1) and (2)). If Pennsylvania-specific information is not available, please explain why and provide separately for each year 2004 through and including 2009 the amount of intercarrier compensation revenues derived by Core that was shared with (1) purchasers of Core's Superport service pursuant to Core's PA P.U.C. Tariff No.1 and (2) other Core customers (answer separately for each of (1) and (2)).

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information.

**AT&T-Core-4-9.** Referencing Core's response to AT&T-Core-4-8, for each year 2004 through and including 2009, provide any contract, written agreement or acknowledgement in any form with any (1) purchasers of Core's Superport service pursuant to Core's PA P.U.C. Tariff No.1 or (2) other Core customers in which Core committed to share in any intercarrier compensation revenues.

**Core Objection.** Core objects to this request because it seeks information which is irrelevant, not material to the subject matter involved in this proceeding nor is it reasonably calculated to lead to the discovery of relevant information.

**AT&T Response.** Requests 4-8 and 4-9 ask for documents and information relating to Core sharing intercarrier compensation payments with its customers. Core objects to the requests on the ground that they are not relevant to the dispute. Again, Core is wrong. These requests are relevant for the reasons explained in response to Core's objections to Requests 4-1, 4-4, 4-5, 4-6, and 4-7. The requests seek to find out whether Core has gone so far as to *share* its intercarrier compensation revenues with its ISP and other customer as an incentive for those customers to sign up for Core's service. If Core has engaged in such conduct – essentially paying its customers to be customers, rather than charging them anything for service, and allowing other

carriers to subsidize its entire business operation – it would conclusively show that Core is an arbitrage carrier. It would also show that Core is engaged in conduct that clearly shifts its entire costs onto other carriers – something this Commission does not endorse. Such information is most certainly relevant to Core’s allegations that AT&T is a bad actor by refusing to pay for all of Core’s costs; to Core’s claim that it is entitled to compensation from AT&T; and to the Commission’s determination on whether it should establish any rate at all for the termination of ISP-bound traffic, or whether it should adopt bill and keep as the most appropriate compensation regime for such traffic. In addition, the requested information refutes Core’s claims regarding the purported threat that bill and keep poses to its economic viability.

Requests 4-8 and 4-9 are relevant for an additional reason. The purpose of these questions is to determine whether Core actually levies public, tariffed charges on its customers, or if it is engaged in secret deals designed to inflate incoming traffic on which it seeks to collect reciprocal compensation and switched access revenue.

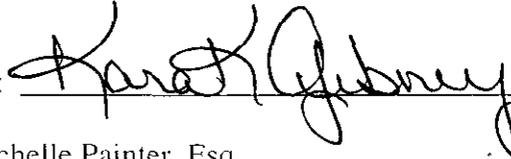
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In sum, Core’s objections to all but one of AT&T’s discovery requests appears to be nothing more than a delay tactic to prevent AT&T from using the highly relevant information requested in the hearing in this matter. AT&T requests that the ALJ promptly dismiss Core’s

objections and order Core to respond to the discovery by no later than January 29, 2010 so that AT&T may use the information obtained in the hearing.

Respectfully submitted,

AT&T Communications of PA, LLC and  
TCG Pittsburgh

By: 

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JAN 20 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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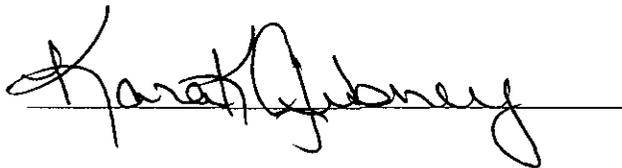
Its Attorneys

DATED: January 20, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of AT&T's Motion to Compel Responses to AT&T's Fourth Set of Interrogatories and Requests for Production of Documents to Core Communications, Inc. was served on January 20, 2010 by e-mail and overnight mail, postage prepaid, on the following party:

Counsel for Core Communications, Inc.  
Deanne O'Dell  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St. – 8<sup>th</sup> Floor  
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DODell@eckertseamans.com

A handwritten signature in black ink, appearing to read "Karat Gubney", is written over a horizontal line.

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JAN 20 2010

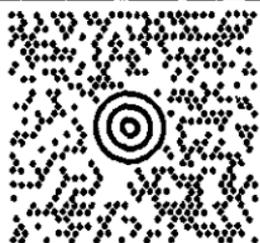
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HARRISBURG PA 17120



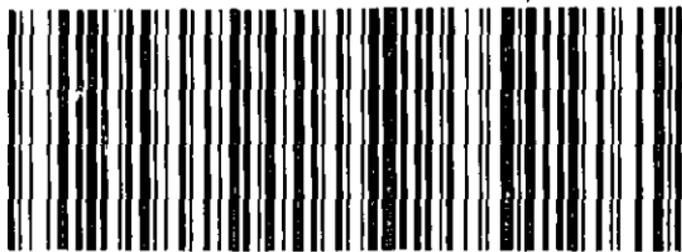
PA 171 9-20



**UPS NEXT DAY AIR**

**1**

TRACKING #: 1Z 6E4 31E 01 3693 1551



BILLING: P/P

PKID:1326275