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September 6, 2011

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Core Communications, Inc. v. Verizon of Pennsylvania, Inc. and Verizon  
North, LLC  
Docket Nos. C-2011-2253750 and C-2011-2253777.**

Dear Secretary Chiavetta:

Enclosed for filing please find Core Communications, Inc.'s Preliminary Objections to the Counterclaims filed by Verizon of Pennsylvania, Inc. and Verizon North, LLC, which were electronically filed today in this matter. A copy of the Preliminary Objections has been served upon the parties of record in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Sincerely,

STEVENS & LEE



Michael A. Gruin

Enclosures

cc: Certificate of Service  
Honorable Susan Colwell, Administrative Law Judge

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton  
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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CORE COMMUNICATIONS, INC.  
Complainant

v.

VERIZON PENNSYLVANIA INC.  
and

VERIZON NORTH, LLC  
Respondents

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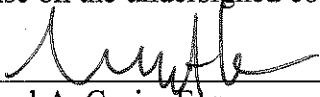
Docket No. C-2011-2253750  
Docket No. C-2011-2253787

**To: *Verizon Pennsylvania, Inc. and Verizon North, Inc.  
c/o Joseph Ruggiero, Esq.***

You are hereby notified to file a written response to the attached Preliminary Objections within ten (10) days from the date of service of this notice. If you do not file a written response within ten (10) days of service, the facts set forth by Core Communications, Inc. may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as Answers to Preliminary Objections must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Second Floor  
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned counsel for Core Communications, Inc.

  
Michael A. Gruin, Esq.  
Stevens & Lee  
17 N. 2<sup>nd</sup> St.  
16<sup>th</sup> Floor  
Harrisburg, PA 17101  
717-255-7365  
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**BEFORE THE  
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Docket No. C-2011-2253750  
Docket No. C-2011-2253787

**CORE COMMUNICATIONS, INC.'S  
PRELIMINARY OBJECTIONS TO THE COUNTERCLAIMS OF VERIZON  
PENNSYLVANIA, INC. AND VERIZON NORTH, LLC**

Core Communications, Inc. (“Core”), pursuant to 52 Pa. Code §§5.101(a), hereby files these Preliminary Objections to the first, second and sixth Counterclaims raised by Verizon Pennsylvania, Inc. and Verizon North, LLC. (collectively “Verizon”) in its New Matter filed on August 16, 2011 in this matter.

Verizon Counterclaims I and II relate to invoices sent by Verizon to Core for services allegedly provided by Verizon to Core. These invoices and the associated “services” are wholly unrelated to the dispute raised by Core in its Complaint in this matter. The Commission’s regulations permit parties to seek affirmative relief from other parties in a single proceeding; however, such relief may only be sought in the same proceeding if “common issues of fact and law are present”. In this case, Verizon’s first and second counterclaims raise causes of action that are based on issues of facts and law that are entirely different than those raised in Core’s Complaint. Core’s Complaint relates to Verizon’s non-payment of intercarrier compensation invoices for the

period from June 1, 2011 through the present, for telecommunications traffic that Verizon sends to Core, pursuant to the parties' ICAs and the *ISP Remand Order*. By contrast, Verizon's Counterclaims I and II relate to alleged unpaid invoices for "high-capacity circuits" and "certain other services" such as "directory listings", switched access services, transport, multiplexing, and trunk ports, for periods going back several years. Verizon's Counterclaims are based primarily on its own access tariffs, in addition to the ICAs. Verizon also alleges that Core violated Commission law by not paying tariffed access charges. For the reasons set forth below, Verizon's Counterclaims I and II, and a portion of Counterclaim VI, should be dismissed from this action, without prejudice, because they do not involve common issues of fact and law with Core's Complaint.

## **I. BACKGROUND**

1. Core's Complaint was served on Verizon on July 26, 2011. Core's Complaint alleged that Verizon had breached the ICAs between the parties by refusing to pay any of Core's June 1, 2011 intercarrier compensation invoices, and by unilaterally deeming that 100% of the traffic that Verizon sends to Core's Pennsylvania network is "non-compensable". Core's Complaint relates only to locally-dialed telecommunications traffic that Verizon sends to Core's network, and Core's intercarrier compensation invoices that Core issues to Verizon in connection with that traffic. Core's Complaint alleges that Verizon's breach occurred beginning on July 1, 2011, when Verizon transmitted its non-payment letters.
2. On August 26, 2011, Verizon filed its Answer and New Matter to Core's Complaint. Verizon's Counterclaims are contained in New Matter, beginning at paragraph 71.
3. Verizon's first and second counterclaims do not relate in any way to the Verizon-originated traffic that is the subject of Core's Complaint, or to the Core-generated invoices that are the subject of Core's Complaint. Instead, Verizon's first and second counterclaims relate to allegedly past due invoices issued by Verizon to Core for various services, including "high

capacity transport charges”, unspecified “intercarrier compensation”, “directory listings”, “switched access DS1 services, transport, trunk termination charges, entrance facilities, channel termination, multiplexing, and trunk ports, among other things”. It is unclear exactly which services and rates Verizon is billing, because the “sample” invoices attached to Verizon’s Counterclaim as Exhibit E simply reference a flat-monthly amount for “monthly access charges”.

4. Verizon claims that Core owes Verizon \$3,584,834.72 for services rendered in Pennsylvania. Verizon’s counterclaims do not specify the time periods for which these amounts were billed, but paragraph 73 of Verizon’s New Matter implies that the alleged balance has accrued since at least 2009.
5. Verizon alleges that it has billed Core for “originating and terminating access charges in interstate toll traffic” in accordance with its FCC and Pennsylvania Tariffs. See Verizon New Matter, at paragraph 81.
6. Verizon alleges that it has billed Core for directory listing services at tariffed rates. See Verizon New Matter, at paragraph 83.
7. Verizon alleges that many of the services it provides to Core are provided under tariff, not the ICA. See footnote 20 of Verizon’s New Matter.

## **II. PRELIMINARY OBJECTIONS**

8. The Commission’s Rules of Administrative Practice and Procedure permit the filing of Preliminary Objections.
9. Pursuant to 52 Pa. Code § 5.101(a)(2), a formal complaint may be dismissed for failure of a pleading to conform to the Commission’s regulations.
10. Pursuant to 52 Pa. Code § 5.101(a)(5), a formal complaint may be dismissed for misjoinder of a cause of action.

**A. Verizon's Counterclaims I and II Should be Dismissed Pursuant to 52 Pa. Code § 5.101(a)(2) and (a)(5), because The Counterclaims Do Not Involve Common Issues of Fact and Law to Core's Complaint**

11. The Commission's regulation at 52 Pa. Code 5.62 states: "[i]n its answer, a respondent may seek relief against other parties in a proceeding **if common questions of law or fact are present.**" (emphasis added).
12. Verizon's Counterclaims I and II do not conform with this regulation.
13. Verizon's Counterclaims I and II involve entirely different issues of fact from Core's Complaint. Core's Complaint relates to Verizon's non-payment of intercarrier compensation invoices for the period from June 1, 2011 through the present, for telecommunications traffic that Verizon sends to Core. Verizon's first and second counterclaims do not relate in any way to the Verizon-originated traffic that is the subject of Core's Complaint, or to the Core-generated invoices that are the subject of Core's Complaint. Instead, Verizon's first and second counterclaims relate to allegedly past due invoices issued by Verizon to Core for various services during some unspecified period of time, including "high capacity transport charges", unspecified "intercarrier compensation", "directory listings", "switched access DS1 services, transport, trunk termination charges, entrance facilities, channel termination, multiplexing, and trunk ports, among other things".
14. Verizon's Counterclaims I and II also raise entirely different issues of law from Core's Complaint. Core's Complaint alleges a breach of the ICAs between the parties, and in particular, the ICAs' terms relating to reciprocal compensation for ISP-bound traffic. By contrast, Verizon's counterclaims are admittedly based in large part on Verizon's FCC and Pennsylvania tariffs. Verizon also alleges that Core violated Pennsylvania law for not paying tariffed access charges, an issue that is not raised in Core's Complaint.

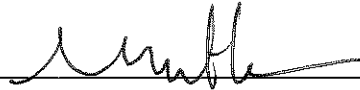
15. Merging Verizon's first and second counterclaims with Core's Complaint would greatly expand the scope of the proceeding, and unjustly distract from the central issues in Core's Complaint, i.e., Verizon's recent, unprecedented and unjustified non-payment for traffic that it sends to Core's network. Verizon's counterclaims would expand the scope of the proceeding factually, legally, and temporally.
16. Verizon's Counterclaims I and II do not conform with the Commission's regulation at 52 Pa. Code 5.62, and therefore should be dismissed pursuant to 52 Pa. Code 5.101(a) (2). Verizon's claims against Core regarding Verizon invoices for various access services over various periods have nothing to do with Core's Complaint against Verizon. The only similarity is the parties involved. The Commission's regulations do not permit a party to raise any lingering counterclaim it may have against an opposing party in a proceeding. To the contrary, only counterclaims involving common issues of fact and law may be raised as a counterclaim.
17. By attempting to raise a counterclaim with wholly unrelated issues of fact and law, Verizon's Counterclaims I and II also constitute improper misjoinders of claims and therefore should be dismissed under 52 Pa. Code § 5.101(a)(5). Verizon is improperly attempting to merge its unrelated access charge claims against Core into Core's Complaint proceeding against Verizon. To the extent that the claims raised by Verizon in its counterclaims I and II are valid, Verizon has the ability to pursue such claims through the Commission's formal complaint process. But because Verizon's claims have no common issues of fact or law with Core's Complaint, it is improper under 52 Pa. Code 5.62 for Verizon's claims to be joined in the proceeding that is underway to resolve Core's Complaint against Verizon.

**B. Verizon's Counterclaim VI Should be Dismissed, in part, Pursuant to 52 Pa. Code § 5.101(a)(2) and a(5).**

18. Verizon's sixth Counterclaim also alleges a cause of action related to Verizon invoices to Core. See paragraphs 161-163 of Verizon's New Matter. This portion of Verizon's sixth counterclaim should also be dismissed, without prejudice, on the same grounds as Verizon's first and second counterclaim should be dismissed, as set forth above.

WHEREFORE, for the foregoing reasons, Core respectfully requests that the Commission dismiss Verizon's first and second Counterclaims in their entirety, and dismiss Verizon's sixth Counterclaim in part, as set forth above.

Respectfully submitted,



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Communications, Inc.*

September 6, 2011

