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September 13, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA HAND DELIVERY

RE: Core Communications, Inc. v. XO Communications Services, Inc.;
Docket No. C-2009-2133609

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the original and three (3) copies of the Motion of XO Communications Services, Inc. ("XO") for Extension of Response Deadline. XO seeks a two week extension of the September 15, 2011 deadline to respond to Core's August 16, 2011, Motion for Admission of Exhibits in the above-referenced proceeding.

As indicated on the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Motion, and kindly return them for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Pamela C. Polacek

Counsel to XO Communications Services, Inc.

PCP:cf

Enclosures

c: Administrative Law Judge Kandace F. Melillo (via E-mail and Hand Delivery)
Certificate of Service

2011 SEP 13 PM 3:52
SECRETARY'S BUREAU
PUC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RECEIVED

2011 SEP 13 PM 3:52

Core Communications, Inc. :
v. : Docket No. C-2009-2133609
XO Communications Services, Inc. :

PA PUC
SECRETARY'S BUREAU

**MOTION OF XO COMMUNICATIONS SERVICES, INC.,
FOR EXTENSION OF RESPONSE DEADLINE**

Pursuant to 52 Pa. Code § 5.103(a), 52 Pa. Code § 5.103(a), XO Communications Services, Inc. ("XO") hereby files this Motion to request additional time to analyze and respond to the Motion of Core Communications, Inc. ("Core") for Admission of Exhibits ("Core Motion") filed on August 16, 2011. In support hereof, XO states as follows:

1. On July 13, 2011, Administrative Law Judge Kandace F. Melillo issued an Order Granting, In Part, and Denying, In Part, Motion of Core Communications, Inc. for Admission of Exhibits and Striking Motion of Core Communications, Inc. to Strike ("July 13 Order").
2. In the July 13 Order, ALJ Melillo set forth a schedule and process to "provide Core one final opportunity to submit" an accurate accounting of the monthly intrastate MOUs, including a local/nonlocal breakdown for the record. July 13 Order, p. 6. The breakdown was required to be consistent with the usage as billed by Core to XO.
Id.
3. XO was required to submit for the record copies of all invoices issued by Core within 10 days of the date of the July 13 Order. *Id.*, Ordering ¶ 4.
4. XO submitted the invoices on July 25, 2011.

5. Pursuant to the July 13 Order, Core was provided an opportunity to submit a revised proposed exhibit (Core Exhibit BLM-25(revised)) within 20 days after the date of the July 13 Order.
6. Core requested an additional period of two weeks to compile the revised proposed exhibit. XO did not oppose Core's request.
7. On August 16, 2011, Core filed a Motion for Admission of Exhibits requesting to admit the following four exhibits:
 - a. BLM-25 (revised), which is alleged to be a claim update for XO's CIC 5119;
 - b. BLM-26, which is alleged to be a claim update for XO's CIC 5607;
 - c. BLM-27, which is alleged to be a breakdown of MOU's between "intra toll" and "local" for XO's CIC 5119; and
 - d. BLM-28, which is alleged to be a breakdown of MOU's between "intra toll" and "local" for XO's CIC 5607.
8. Pursuant to the July 13 Order, XO "will be given another thirty (30) days from the date Core Exhibit BLM-25 (revised) is provided, to review the proposed exhibit, conduct necessary discovery, and provide a response, which may include its own proposed exhibit." July 13 Order, Ordering ¶ 7.
9. Based on the August 16 date that the revised exhibits were provided, XO's response is due on September 15, 2011.
10. XO has begun to review all of Core's proposed exhibits and has issued discovery regarding the basis for the exhibits.
11. At this time based on the information that has been provided by Core in discovery, XO is unable to verify the accuracy of the Core exhibits.

12. Core's exhibits do not correspond with the invoices that Core issued to XO that have been entered into the record in this matter.
13. Core's Motion to Admit Exhibits claims that its proposed exhibits and breakdowns are based on switch records. See Core Motion, ¶ 17.
14. XO issued discovery requests for these records, assuming that Core had them on hand and used the records to develop the proposed exhibits.
15. Core responded by indicating that they send switch records with each invoice.
16. Upon investigation by XO, this is incorrect, as records were not forwarded for all months and/or for all CICs.
17. XO desires additional time to attempt to coordinate with Core to obtain the switch records and other data supporting the proposed Core exhibits and, if necessary to move to compel.
18. At this time, XO respectfully requests an additional two weeks to continue analysis and to formulate a substantive response to Core's Motion.
19. If this request for an extension is not granted, XO reserves the right to submit its responsive pleading on September 15th opposing the admission of Core's proposed exhibits due to the discrepancies between the exhibits and the invoices, and the failure to provide supporting data for the exhibits. Further, XO reserves the right to request to dismiss Core's complaint for failure to support its claim, despite the multiple opportunities that Core has been provided to produce an accurate analysis of the breakdown of the MOUs.

20. XO has contacted Core's counsel requesting a two week extension; however, as of the submission of this motion, Core's counsel has not responded.¹

WHEREFORE, for all the foregoing reasons, XO respectfully requests that Your Honor issue an Order granting this Motion for Extension of Time, and providing XO with an additional two (2) weeks to respond to Core's Motion for Admission of Exhibits.

Respectfully submitted,



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Attorneys for XO Communications Services, Inc.

Dated: September 13, 2011

¹ As the ALJ is aware, Central Pennsylvania has recently experienced major flooding. Many area residents are addressing issues related to the flood conditions. Although XO hopes that this is not what is preventing Core's counsel from responding to the extension request, XO must file this Motion to protect its interests prior to confirming Core's position regarding the request.


CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

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Pamela C. Polacek

Counsel to XO Communications Services Inc.

Dated this 13th day of September, 2011, at Harrisburg, Pennsylvania.

2011 SEP 13 PM 3:52
SECRETARY'S BUREAU