

Suzan DeBusk Paiva  
Assistant General Counsel  
Pennsylvania



1717 Arch Street, 3 East  
Philadelphia, PA 19103

Tel: (215) 466-4755  
Fax: (215) 563-2658  
Suzan.D.Paiva@Verizon.com

June 15, 2012

**Via Electronic Filing**

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

Re: Core Communications, Inc.  
v. Verizon Pennsylvania Inc. and Verizon North LLC;  
Docket Nos. C-2011-2253750 and C-2011-2253787

Dear Secretary Chiavetta:

Enclosed please find Verizon's Answer to the Preliminary Objections of Core Communications, Inc. to Verizon's Counterclaims, being filed on behalf of Verizon Pennsylvania Inc. and Verizon North LLC in the above captioned matter.

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

Very truly yours,

  
Suzan D. Paiva

SDP/slb

**Via E-Mail and Federal Express**  
cc: The Honorable Susan D. Colwell  
Attached Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of Verizon's Answer to the Preliminary Objections of Core Communications, Inc. to Verizon's Counterclaims, upon the parties listed below, in accordance with the requirements of §1.54 (relating to service by a party) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 15<sup>th</sup> day of June, 2012.

**Via E-Mail and Federal Express**

Michael A Guin, Esquire  
Stevens & Lee  
17 North Second St., 16<sup>th</sup> Fl.  
Harrisburg, PA 17101

Renardo Hicks (via e-mail only)  
R. L. Hicks & Associates  
17 North Second St., 16<sup>th</sup> Fl.  
Harrisburg, PA 17101



Suzan D. Paiva  
Pennsylvania Bar ID No. 53853  
1717 Arch Street, 3<sup>rd</sup> Floor  
Philadelphia, PA 19103  
(215) 466-4755

Attorney for Verizon

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Core Communications, Inc.,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2011-2253750
	:	Docket No. C-2011-2253787
Verizon Pennsylvania Inc. and	:	
Verizon North LLC,	:	
Respondents.	:	

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

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Pursuant to 52 Pa. Code § 5.101(f), Verizon Pennsylvania Inc. (“Verizon PA”) and Verizon North LLC (“Verizon North”) (collectively, “Verizon”), hereby answer the Preliminary Objections filed by Core Communications, Inc. (“Core”) to Verizon’s Counterclaims I, II, and VI (in part) on June 5, 2012 (hereinafter, “Core POs”).

**INTRODUCTION**

Core suggests that Verizon Counterclaims I, II and part of VI “do not conform with” Pa. Code § 5.62 and are mis-joined because, according to Core, they “have nothing to do with Core’s Complaint against Verizon.” Core POs at ¶¶ 13, 15. Core also asserts that Counterclaim I should be dismissed because it is premised on an erroneous interpretation of the law. Core POs at ¶¶ 22-23. Core finally argues that Counterclaim I should be dismissed to the extent that it relates to charges billed at the rates set forth in Verizon’s federal tariffs. Core POs at ¶ 28.

Core mischaracterizes both the facts and the legal standards applicable to Verizon’s counterclaims. Under Pa. Code § 5.62, “a respondent may seek relief against other parties in a proceeding if common questions of law or fact are present.” Common questions of law and fact

are present here: both parties' claims implicate the same governing contracts, the same federal statutes, and the same Commission law and precedent.<sup>1</sup> They both involve the collection of withheld monies for telecommunications services, and the compliance of each party with the billing and dispute resolution provisions of the contracts. Likewise, they arise out of the same nucleus of operative facts, which is the provision of interconnection arrangements and the bilateral exchange of traffic over those arrangements. Accordingly, the three counterclaims at issue meet the requirements of Pa. Code § 5.62. Moreover, as discussed below, Core's arguments regarding the interpretation of FCC precedent are predicated upon factual assertions that must be adjudicated at hearing, and Core's arguments regarding Verizon's federal tariffs ignore Core's own reliance on the fact that the parties' interconnection agreements ("ICAs") incorporate the rates set forth in the parties' federal tariffs.

Not only do both parties' claims present common questions, but judicial economy demands that the claims be heard together. Verizon has asserted affirmative defenses of unclean hands, setoff and judicial estoppel to Core's Amended Complaint, each of which implicates the same facts and law as Verizon's Counterclaims. Thus, the issues raised by Verizon's Counterclaims I, II, and VI would likely ultimately be joined in this action in any event. Moreover, Verizon's Counterclaims are timely, ripe and subject to Commission jurisdiction, so dismissal would simply require litigation of the same questions of fact and law in two parallel and contemporaneous proceedings. Even if Verizon's Counterclaims did not meet the requirements of Pa. Code § 5.62 – and they clearly do – the matters would likely be consolidated following refiling.

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<sup>1</sup> Verizon's Counterclaims I and II seek redress for Core's breach of the ICAs and breach of Pennsylvania law for Core's failure to pay Verizon for intercarrier compensation and interconnection-related facilities and services. Verizon's Counterclaim VI seeks remedy from Core's multiple breaches of the duty of good faith. Core's Complaint seeks redress for Verizon's alleged breach of the ICAs between the parties resulting from Verizon's disputes with Core's interconnection-related intercarrier compensation charges.

The Commission’s regulations “shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.” 52 Pa. Code § 1.2(a). Thus, even if there were some procedural error here – which there is not – the Counterclaims belong in this proceeding. Core has had the opportunity to answer the substance of Verizon’s new matter, and to raise other preliminary objections. Dismissing two and part of a third of Verizon’s six counterclaims would simply require Verizon to file a separate complaint against Core raising the same claims that most likely would then be consolidated with this proceeding. This procedure would only complicate and render more expensive the resolution of this interrelated set of disputes, contrary to 52 Pa. Code § 1.2(a).

### **BACKGROUND**

**Counterclaims I and II.** As explained in Verizon’s May 16, 2012 Answer, New Matter and Counterclaims to Core’s Amended Complaint (“Verizon’s Answer”), Verizon’s Counterclaims I and II seek redress for Core’s breach of the parties’ ICAs and of Pennsylvania law for Core’s failure to pay Verizon for intercarrier compensation and various facilities and services. As of May 7, 2012, Core owed Verizon \$4,339,663.57 for services rendered by Verizon to Core in Pennsylvania. Core continues to receive services from Verizon without paying for such services. The vast majority of those amounts are owed to Verizon PA, and the remainder to Verizon North. These services, and the relationship between the parties, are governed by the ICAs and Verizon’s tariffs, which are incorporated therein.

The amounts included in Verizon's invoices to Core are primarily for high capacity circuits that Core apparently uses to transport traffic to and from the PSTN, as well as other services such as intercarrier compensation and directory listings. The rates for those services are governed and determined by reference to the parties' ICAs (the same ICAs at issue in Core's Amended Complaint) and Verizon's tariffs, which are incorporated therein.

Core has paid essentially none of Verizon's billings. Of more than \$4.3 million billed, *Core has paid just \$30.66*. Nor has Core properly disputed the unpaid amounts. As Core itself points out in its affirmative claim against Verizon, both the Verizon-PA/Core ICA and the Verizon North/Core ICA require that parties pay those portions of bills not properly in dispute. Identified disputes must, at minimum, specify the particular "amounts" the billed party disputes. The ICAs also require that a disputing party provide "specific details and reasons" for "each item" in dispute, and that it follow specific dispute resolution and escalation procedures. Core has never disputed any particular amount. Core has occasionally propounded general theories as to why it claims Verizon's billings are flawed, but it has never attached these theories to any particular billings (were Core to do so, it would reveal that Core has failed to pay undisputed amounts).

Instead, Core has simply refused to pay.<sup>2</sup> Refusing even to dispute unpaid amounts constitutes the type of conduct that the Commission has previously found untenable. Even Core's own logic – that Verizon allegedly overbilled for one or more rate elements – cannot excuse payment for the lower amount that Core claims should have been billed. If a particular facility has been billed at one rate, and Core claims it should be billed at another, Core must

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<sup>2</sup> This stands in direct contrast to Verizon's current dispute with Core's bills. Verizon has provided the exact amounts that are in dispute and the source of the dispute for each amount.

quantify that amount, and pay at least the amount it claims it should have been billed. But it has not.

Core additionally argues that Counterclaim I is predicated upon an erroneous legal interpretation that has been rejected by the U.S. Supreme Court (*see* Core POs at ¶ 22), but Core's legal argument is predicated on the unsupported factual assertion that it is using the facilities in question *for interconnection purposes*. Core POs at ¶ 21. Verizon disputes this assertion. Because there is a factual dispute (and all inferences must be drawn in Verizon's favor), the Commission must reject Core's preliminary objection in this regard.

Core's arguments relating to rates found in Verizon's federal tariffs are ironic given Core's Amended Complaint, which seeks payment of interstate switched access charges pursuant to the ICAs and Core's FCC tariff.<sup>3</sup> Core's theory seems to be that while the Commission does not have independent jurisdiction to enforce federal tariffs, because the parties' ICAs incorporate their federal tariffs by reference, the Commission may address claims for non-payment of the amounts billed under the ICAs, regardless of the fact that sources of the incorporated rates are, in some instances, FCC tariffs. Should the Commission disagree with that analysis and dismiss Verizon's Counterclaim I on such grounds, the Commission must also sustain Verizon's preliminary objections to Count II of Core's Amended Complaint.<sup>4</sup>

Core's failure to pay its bills for services received, including intercarrier compensation, violate the ICAs and Pennsylvania law. These claims mirror Core's claims against Verizon, in operative fact and in operative law. Accordingly, both the Commission's rules and judicial economy demand that they be heard together.

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<sup>3</sup> See Count II of Core's Amended Complaint, which seeks payment of interstate switched access charges pursuant to the ICAs and Core's FCC tariff.

<sup>4</sup> See Verizon's Preliminary Objections to Amended Complaint (filed May 16, 2012) at 7-8.

**Counterclaim VI.** In this Counterclaim, Verizon seeks Commission relief from Core’s failure to comply with the contractual duty of good faith. The Verizon North/Core ICA, Section 5.0, requires that “[i]n the performance of their obligations under this Agreement, the Parties shall act in good faith.” Exhibit B § 5.0. The Verizon PA/Core ICA, Section 42.1, similarly provides “[i]n the performance of their obligations under this Agreement, the Parties shall cooperate fully and act in good faith and consistently with the intent of the Act.” Exhibit A, Part A § 42.1.

Verizon identifies multiple failures by Core to meet its good-faith obligations, including Core’s willful decision to ignore the dispute resolution procedures of the contract, and its knowing lack of cooperation with Verizon’s legitimate requests for substantiation of Core’s bills – requests Verizon is clearly entitled to make under the ICAs.

Core seeks to dismiss those portions of Counterclaim VI related to Core’s failure to pay Verizon’s invoices, as described in Verizon’s Counterclaims I and II. Such a partial dismissal makes no sense. Core’s willful refusal to timely dispute those bills, its unwillingness to identify or negotiate the lower amount it would apparently agree that it ought to pay, and its willful refusal to pay even the lower rate that it itself claims should apply are part and parcel of Verizon’s claims under the ICAs, and implicate many of the same contract terms and legal standards relied upon by Core in its Complaint.

### **ARGUMENT**

Core’s preliminary objections assert a meritless and improperly narrow view of Pa. Code § 5.62 in an attempt to avoid having the Commission reach the substance of Verizon’s claims in this proceeding. Core’s preliminary objections do not satisfy the heavy burden required for preliminary dismissal without a consideration of the merits. “In ruling on preliminary objections

[the Commission] must accept as true all well-pleaded facts and all inferences reasonably deducible therefrom,” and cannot sustain preliminary objections unless it “appear[s] with certainty that the law will not permit recovery.<sup>5</sup> Moreover, “any” doubt must “be resolved by a refusal to sustain them.” *Id.*

Core’s objections should be rejected for three independent but related reasons: (i) Verizon’s claims meet the requirements of Pa. Code § 5.62; (ii) the legal and factual issues underlying Verizon’s claims will be joined in the proceeding in any event, because they are part and parcel of Verizon’s affirmative defenses; and (iii) Verizon’s claims will be heard by this Commission, so even if Verizon’s Counterclaims were dismissed here and refiled as a separate complaint, judicial economy would require the cases be consolidated.

First, Pa. Code § 5.62(a) requires that “common questions of law or fact are present.”<sup>6</sup> Core asserts that Verizon’s claims for unpaid bills for telecommunications services are “wholly unrelated to the dispute raised by Core in its Complaint” – Core’s claims for unpaid bills for telecommunications services. Core POs at ¶¶ 13, 15. Both parties’ claims involve the same ICAs, and many of the same provisions of those ICAs. Factually, the claims arise out of the parties’ mutual interconnection arrangements, and the bilateral exchange of traffic between their networks. Both parties’ claims involve the respective duties of each party to pay bills for services received, the legitimacy of their disputes under the ICAs, the parties’ compliance with the dispute resolution processes of the ICAs, and the parties’ compliance with state and federal law.

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<sup>5</sup> *Dorfman v. Pennsylvania Social Servs. Union B Local 668*, 752 A.2d 933, 936 (Pa. Commw. Ct. 2000). *See also Valentino v. Dominion Retail, Inc. t/a Peoples Plus*, Docket No. C-20055447, 2006 Pa. PUC LEXIS 27, 3-4 (Order entered January 12, 2006, adopting ID of Chief ALJ Smith).

<sup>6</sup> The standard for a new matter seeking affirmative relief mirrors the Commission’s rule for consolidation of proceedings. The Commission “may order proceedings involving a common question of law or fact to be consolidated.” 52 Pa. Code § 5.81(a).

Core ignores these obvious common issues and instead focuses on small differences to try to distinguish the claims. The attempt fails. Pa. Code § 5.62 does not require perfect identity. Thus, while Core attempts to focus on the difference between Core's and Verizon's tariffs, the salient and common issue is incorporation of the tariffs and tariffed rates into the ICAs for certain services and purposes, including those at issue here.<sup>7</sup> Indeed, both parties' claims involve the same contract terms.

Similarly, Core misreads the Commission's rules by arguing that Verizon's claims are "unrelated" because they do not involve the precise traffic or Core-generated invoices involved in Core's claims. But they do involve traffic between the parties, intercarrier compensation between the parties, and Verizon-generated invoices for those services, which are governed by and implicate the same ICAs and the same or overlapping legal standards and factual questions.

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<sup>7</sup> See, e.g., Verizon-PA/Core ICA, § 1.3: "The Parties acknowledge that some of the services, facilities and arrangements provided pursuant to this Agreement are or will be available under and subject to the terms of the federal or state Tariffs of the Party providing them. To the extent that a Tariff of a Party applies to any service, facility or arrangement provided pursuant to this Agreement, the following shall apply:

1.3.1 The rates and charges set forth in Attachment I shall remain fixed for the term of this Agreement or until superseded by such rates (whether interim or permanent) as may be applied by the Commission, notwithstanding that either of such rates may be different from those set forth in any effective, pending or future Tariff of the providing Party, (including any changes or modifications to any such Tariff--or any new Tariff--filed after the Effective Date of this Agreement); provided, however, this Section 1.3.1 shall remain subject to Section 1.3.3.

1.3.2 This Agreement and any applicable Tariffs of either Party shall be construed whenever possible to avoid any conflict between them. The fact that a condition, term, right or obligation appears in the Agreement and not in a Tariff, or in a Tariff but not in the Agreement, shall not be interpreted as, or deemed grounds for finding, a conflict for the purposes of this Section 1.3.

1.3.3 Any change or modification to any Tariff (including any Tariff filed after the Effective Date hereof) filed by either Party that materially and adversely impacts the provision or receipt of services hereunder or which materially and adversely alters the terms hereof shall only be effective against the other Party to the extent permitted by: (i) that Party's written consent; or (ii) an affirmative order of the Commission. Each Party shall file any required Tariff revisions, modifications or amendments in order to comply with Applicable Law and to continue performance of this Agreement in a lawful manner.

Thus, while Verizon's claims are not – and, of course, could never be – identical to Core's, the relevant test is whether there are common questions of law or fact. There are.

Second, Verizon's Counterclaims involve facts and legal issues that will be joined in the proceeding by virtue of adjudicating Verizon's affirmative defenses. Verizon asserts that Core comes to this Commission with unclean hands. *See* Verizon's Answer at ¶ 147. Verizon's proof of that well-recognized defense will involve, among other things, Core's conduct in failing to pay its bills or properly dispute them, and failing to comply with the related requirements of the ICAs. Similarly, Verizon's affirmative defense of set-off (*id.* at ¶ 148) – a well-recognized defense under Pennsylvania law – will inevitably require joinder of the issues surrounding the several million dollars owed by Core to Verizon. Finally, Verizon's claim of judicial estoppel (*id.* at ¶ 151), a similarly well-recognized affirmative defense, relies directly on Core's inconsistent positions. Core has asserted its right to withhold payments from Verizon, and in withholding payments from Verizon, has conducted itself in a manner under the ICAs that directly conflicts with the positions that it asserts in this proceeding in order to seek remedy from the Commission. Thus, Core's unpaid bills for Verizon's services, and the factual and legal questions surrounding them, will necessarily be joined in this proceeding. That joinder underscores the obvious point that the parties' claims present "common questions of law or fact."

Third, dismissal of Verizon's Counterclaims I, II and part of VI will ill-serve the Commission, squander limited resources, and cause duplicative litigation. Verizon's claims are timely, ripe and subject to Commission jurisdiction. The only thing that could flow from dismissal would be a new filing by Verizon, resulting in likely consolidation (or duplicative, contemporaneous proceedings involving the same parties and many of the same issues). Thus, even if the Commission were inclined to consider Core's incorrect characterization of the claims

under Pa. Code § 5.62, the Commission’s mandate to “secure the just, speedy and inexpensive determination of every action” would require that the “presiding officer ... disregard an error or defect of procedure which does not affect the substantive rights of the parties,” and hear these claims together. 52 Pa. Code § 1.2(a).

### **SPECIFIC ANSWERS TO CORE’S PRELIMINARY OBJECTIONS**

The discussion above responds to the substance of Core’s Preliminary Objections. To the extent not already addressed by the above, below are Verizon’s paragraph-by-paragraph answers to Core’s preliminary objections:

**Core’s Prefatory Discussion (Core POs, pp. 2-3):** Verizon admits that Core has filed preliminary objections, but denies Core’s characterization of Verizon’s Counterclaims, which speak for themselves. The remainder of Core’s prefatory discussion constitutes legal conclusions that are refuted in the Background and Argument sections above.

1. Admitted in part; denied in part. Verizon admits that Core’s Amended Complaint was e-mailed to Verizon on April 16, 2012 and served by the Secretary to the Commission on April 26, 2012, but denies Core’s characterization thereof, as the Amended Complaint speaks for itself.

2. Admitted in part; denied in part. Verizon admits that it filed its Answer, New Matter and Counterclaims to Core’s Amended Complaint on May 16, 2012, and that Verizon’s Counterclaims are set forth in that filing beginning at Paragraph 157, but denies Core’s characterization of Verizon’s Counterclaims, which speak for themselves.

3. Admitted.

4. Admitted. However, as discussed above, Verizon denies that dismissal of its Counterclaims is appropriate on this basis.

5. Admitted. However, as discussed above, Verizon denies that dismissal of its Counterclaims is appropriate on this basis.

6. Admitted. However, as discussed above, Verizon denies that dismissal of its Counterclaims is appropriate on this basis.

7. Admitted. However, as discussed above, Verizon denies that dismissal of its Counterclaims is appropriate on this basis.

8. Admitted.

9. Denied.

10. Admitted in part; denied in part. Verizon admits that its Counterclaims I and II relate to invoices from Verizon to Core, but denies Core's characterization of those counterclaims, which speak for themselves. Verizon denies the remainder of Paragraph 10. As discussed above, Verizon's Counterclaims raise common issues of law and fact as those raised in Core's Amended Complaint.

11. Admitted in part; denied in part. Verizon admits that Core's Amended Complaint alleges breaches of the ICAs between the parties, but denies that its Counterclaims I and II raise entirely different issues of law than Core's Amended Complaint. To the extent that Verizon's Counterclaims mention Verizon's tariffs, it is because the ICAs incorporate the tariffs and tariffed rates by reference. *See* Verizon's Answer at ¶¶ 162-167. Thus, both Verizon's and Core's claims pertain to the interpretation and enforcement of the ICAs' provisions.

12. Denied. As discussed above, Verizon's Counterclaims raise common issues of law and fact as those raised in Core's Amended Complaint, and would not expand the

proceeding inappropriately. Moreover, judicial economy and administrative efficiency demand that Core's and Verizon's claims be heard together.

13. Admitted in part; denied in part. Verizon admits that 52 Pa. Code § 5.62(a) allows a respondent to seek relief against other parties in a proceeding "if common questions of law or fact are present." Verizon denies the remaining allegations of Paragraph 13. As discussed above, Verizon's Counterclaims raise common issues of law and fact as those raised in Core's Amended Complaint. Moreover, judicial economy and administrative efficiency demand that Core's and Verizon's claims be heard together.

14. Denied. As discussed above, Verizon's Counterclaims raise common issues of law and fact as those raised in Core's Amended Complaint. Moreover, judicial economy and administrative efficiency demand that Core's and Verizon's claims be heard together.

15. Denied. As discussed above, Verizon's Counterclaims raise common issues of law and fact as those raised in Core's Amended Complaint. Moreover, judicial economy and administrative efficiency demand that Core's and Verizon's claims be heard together.

16. Admitted.

17. Denied. As alleged in Paragraphs 163 and 165-66 of Verizon's Answer, the Verizon PA ICA contains provisions that result in Verizon's tariffed rates being applicable to Core.

18. Denied. As alleged in Paragraphs 163 and 165-66 of Verizon's Answer, the Verizon PA ICA contains self-effectuating provisions that provide that they are superseded by rates subsequently ordered, or permitted to go into effect, by the FCC, the Commission, or a court of competent jurisdiction. This language includes tariffed rates that the FCC has permitted to go into effect. Core simply wishes to evade the result of these provisions.

19. Admitted in part; denied in part. Verizon admits that the quoted material is an excerpt from the U.S. Supreme Court's *Talk America*<sup>8</sup> decision, but denies that it has application here, as the interconnection arrangements between Core and Verizon are governed by the ICAs, and in any event, the *Talk America* decision applies only to local interconnection facilities pursuant to 47 U.S.C. § 251(c)(2).

20. Admitted in part; denied in part. Verizon admits that the quoted material is an excerpt from a February 10, 2006 Commission order,<sup>9</sup> but denies that it has any application here, as the interconnection arrangements between Core and Verizon are governed by the ICAs, and in any event, the *Talk America* decision applies only to local interconnection facilities pursuant to 47 U.S.C. § 251(c)(2).

21. Denied. The interconnection arrangements between Core and Verizon are governed by the ICAs, and in any event the *Talk America* decision applies only to local interconnection facilities pursuant to 47 U.S.C. § 251(c)(2).

22. Denied. As alleged in Paragraphs 163 and 165-66 of Verizon's Answer, the Verizon PA ICA contains self-effectuating provisions that provide that they are superseded by rates subsequently ordered, or permitted to go into effect, by the FCC, the Commission, or a court of competent jurisdiction. This language includes tariffed rates that the FCC has permitted to go into effect. Core simply wishes to evade the result of these provisions. Moreover, the interconnection arrangements between Core and Verizon are governed by the ICAs, and in any event, the *Talk America* decision applies only to local interconnection facilities pursuant to 47 U.S.C. § 251(c)(2).

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<sup>8</sup> *Talk America, Inc. v. Michigan Bell Tel. Co.*, 131 S. Ct. 2254 (2011).

<sup>9</sup> Order, Pennsylvania Public Utility Commission v. Verizon Pennsylvania Inc. Tariff for Other Telephone Companies (Tariff No. 216) Discontinue CLEC Access to Unbundled Entrance Facilities, Pa. PUC Docket No. R-00050800 (February 10, 2006).

23. Denied. As alleged in Paragraphs 163 and 165-66 of Verizon's Answer, the Verizon PA ICA contains self-effectuating provisions that provide that they are superseded by rates subsequently ordered, or permitted to go into effect, by the FCC, the Commission, or a court of competent jurisdiction. This language includes tariffed rates that the FCC has permitted to go into effect. Core simply wishes to evade the result of these provisions. Moreover, the interconnection arrangements between Core and Verizon are governed by the ICAs, and in any event the *Talk America* decision applies only to local interconnection facilities pursuant to 47 U.S.C. § 251(c)(2).

24. Admitted in part; denied in part. Verizon seeks recovery of amounts billed to Core pursuant to the parties' ICAs, which in turn incorporate the rates set forth in Verizon's FCC tariffs. Verizon denies that it is simply billing Core pursuant to Verizon's federal tariffs.

25. Denied. As alleged in Paragraphs 162-67 of Verizon's Answer, the ICAs incorporate Verizon's tariffs by reference and contain self-effectuating provisions that provide that they are superseded by rates subsequently ordered, or permitted to go into effect, by the FCC, the Commission, or a court of competent jurisdiction. This language includes tariffed rates that the FCC has permitted to go into effect. Core simply wishes to evade the result of these provisions.

26. Admitted in part; denied in part. Verizon admits that it bills Core pursuant to the terms of the ICAs, including any rates incorporated therein by reference, including incorporated rates found in Verizon's FCC tariffs. Verizon denies that it is simply billing Core pursuant to Verizon's federal tariffs.


27. Admitted in part; denied in part. Although it is true that the Commission has no independent jurisdiction to enforce an FCC tariff for interstate services, as Core argues when it

suits Core's interests, "[o]f course the case is different where the ICA itself specifically incorporates provisions of an FCC tariff by reference." Core POs, p. 8, FN 4.

28. Denied.

**WHEREFORE**, Verizon respectfully requests that the Commission deny Core's Preliminary Objections.

Respectfully submitted,



Suzan D. Paiva, I.D. No. 53853  
Verizon Pennsylvania Inc.  
1717 Arch Street, 3<sup>rd</sup> Floor  
Philadelphia, PA 19103  
Phone: (215) 466-4755  
[suzan.d.paiva@verizon.com](mailto:suzan.d.paiva@verizon.com)

Deborah Kuhn, *pro hac vice*  
Assistant General Counsel  
Verizon Communications Inc.  
205 N. Michigan Ave., 7<sup>th</sup> Floor  
Chicago, IL 60601  
Phone: (312) 260-3326  
Fax: (312) 470-5571  
[deborah.kuhn@verizon.com](mailto:deborah.kuhn@verizon.com)

*Counsel for Verizon Pennsylvania Inc.  
and Verizon North LLC*

Dated: June 15, 2012