

Suzan DeBusk Paiva
Assistant General Counsel



1717 Arch Street, 3 East
Philadelphia, PA 19103

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

March 25, 2013

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd 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 the Surreply Brief of the Verizon Companies, filed on behalf of Verizon Pennsylvania LLC and Verizon North LLC (collectively, "Verizon") in the above captioned matter. Because the Surreply Brief includes certain Proprietary information the Public Version of the Initial Brief is being e-filed, with the Proprietary Version being provided via overnight delivery.

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 Surreply Brief, 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 25th day of March, 2013.

Via E-Mail and Federal Express

Michael A Gruin, Esquire
Stevens & Lee
17 North Second St., 16th Fl.
Harrisburg, PA 17101



Suzan D. Paiva
Pennsylvania Bar ID No. 53853
1717 Arch Street, 3rd 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.	:	

VERIZON'S POST-HEARING SURREPLY BRIEF

PUBLIC VERSION

Suzan D. Paiva, I.D. No. 53853
Verizon
1717 Arch Street, 3rd Floor
Philadelphia, PA 19103
Phone: (215) 466-4755
Suzan.D.Paiva@verizon.com

Deborah L. Kuhn, *Pro Hac Vice*
Verizon
205 N. Michigan Avenue, 7th Floor
Chicago, IL 60601
Phone: (312) 260-3326
Deborah.Kuhn@verizon.com

*Counsel for Verizon Pennsylvania LLC
and Verizon North LLC*

Dated: March 25, 2013

INTRODUCTION

Core continues to confuse and obfuscate what is essentially a straightforward set of facts – Core pays nothing for Verizon’s services while overcharging Verizon in various ways. Core’s reply brief continues this tactic by presenting an eleventh hour sideshow centered on a jointly submitted late-filed exhibit that Core depicts as some sort of “smoking gun.”¹ But Joint Proprietary Exhibit 1 (“JPE 1”) is simply cumulative of the other record evidence. Core’s attempts to stretch and manipulate the facts to portray the document in a different light do not survive closer scrutiny.

JPE 1 neither refutes Verizon’s position in this proceeding nor supports Core’s. It is merely a snapshot of a limited subset of the traffic that traversed Verizon’s network in several states during a single month, generated without regard to the multiple documents and legal authorities that govern the parties’ respective intercarrier compensation obligations. Core’s attempt to parlay the document into “proof” that Verizon’s suspicions regarding the invalidity of Core’s billings were unfounded or that Core is entitled to collect additional intercarrier compensation from Verizon is baseless. In the end, JPE 1 only confirms what the record has already established – that Core billed Verizon for copious amounts of third party traffic for which it was not entitled to bill.

DISCUSSION

I. Background

The parties stipulated to the admission of JPE 1, as well as Verizon’s Affidavit of Raymond A. Gillis, Jr. as Joint Proprietary Exhibit 2 (“JPE 2”) and Core’s Affidavit of Bret Mingo as Joint Proprietary Exhibit 3 (“JPE 3”).² JPE 1 is [BEGIN PROPRIETARY] ³

¹ Verizon Pennsylvania LLC (“Verizon PA”) and Verizon North LLC (“Verizon North”) (together, “Verizon”) submit this limited surreply brief pursuant to Paragraph 9 of the March 4, 2013 “Joint Motion of Verizon and Core for Admission of Late Filed Exhibits.”

² The parties agreed to the admission of JPE 2 and 3 as the sworn testimony of each party, without hearing or cross-examination, but did not stipulate to the truth of the statements in each other’s affidavit.

³ “OCN” stands for Operating Carrier Number.

[END

PROPRIETARY]

Core had no role in the development and use of the proprietary Verizon system from which JPE 1 was generated and Core's affiant, Mr. Mingo, has no personal knowledge of that system, the scope and sources of the data it processes, or how properly to interpret the reports it generated. By contrast, Verizon provided an affidavit from a 34-year Verizon employee who was not only part of the original design team for [BEGIN PROPRIETARY] [END PROPRIETARY], but who has continued to work on developing and improving it for more than a decade (*see* JPE 2 at ¶¶ 1-2). To the

extent any information about this document is probative, Verizon's affidavit is a far superior and more credible evidentiary source.

II. The Document Does Not Undermine Verizon's Assertions About the Events Leading Up to This Case

A. Core Misrepresents a June 30, 2011 Verizon E-Mail in an Attempt to Manufacture an Inconsistency Where None Exists

Core first argues that JPE 1 "completely undermines and exposes as false and hypocritical" Verizon's "key factual assertions" about "the events leading up to Core's initial filing of its original complaint."⁴ Core claims that a June 30, 2011 Verizon e-mail stated that Verizon "did not maintain any of its own data relating to its own outbound traffic, and was entirely dependent on Core to maintain records for such traffic," which Core asserts is untrue given the existence of JPE 1. Core Reply at 44. Core does not quote the June 30, 2011 e-mail, nor did it attach it to its testimony, but Verizon included the entire e-mail string as an exhibit to its own responsive testimony. See Verizon Statement ("VZ Stmt.") 2.0 at Ex. 17-R. Reviewing the actual e-mails (rather than just Core's self-serving summary⁵) makes clear that Verizon was seeking *Core's* terminating switch records for calls terminated to Core because *Verizon* does not generate switch records on locally-dialed calls originated by Verizon customers, making *Core* the *only source* of such data. The SS7 data measured by JPE 1 are SS7 signaling records, not switch records. As Verizon employee Mr. Ken Roos advised Core's Mr. Mingo:

And I'm not sure why you keep saying that Verizon has the data already. For local-dialed (flat-rated) calls, Verizon does not generate switch records. Core should be generating call records on the terminating side, in support of its billing to Verizon.⁶

Mr. Roos also clearly indicated – contrary to Core's claim that "Verizon told Core by email that it did not maintain any of its own data relating to its outbound traffic"⁷ – that Verizon had some data of

⁴ See March 18, 2013 "Reply Brief of Core Communications, Inc." ("Core Reply") at 43-44; see also *id.* at 7.

⁵ Core Statement ("Core Stmt.") 1.0 at 22.

⁶ See VZ Stmt. 2.0 at Ex. 17-R (emphasis added).

its own (“the data I see has volumes that are much less than Core is billing”). VZ Stmt. 2.0 at Ex. 17-R; *see also* Core Stmt. 1.0 at 22 (“Verizon claimed that its own data showed volumes that are much less than Core is billing”).

It was reasonable for Mr. Roos to look to Core’s switch records to “verify” that Core is “billing VZ correctly,” the stated goal of the request in the e-mails. As Verizon explained in its rebuttal testimony, the SS7 data measured by JPE 1 is not used to generate bills and “would not necessarily match with what was actually billed” due to issues such as “differences in the time clocks in the multitude of switches in the Verizon network and the SS7 monitoring equipment, as well as how the switch AMA records are processed into EMI records,” including the fact that SS7 records can be created for zero hold time calls even though such calls are not billed. VZ Stmt. 2.0 at 47-48. And, as noted above, JPE 1 itself is not a complete summary of all the traffic exchanged between Core and Verizon in Pennsylvania in May of 2011, as [BEGIN PROPRIETARY]

[END PROPRIETARY] JPE 2 at ¶¶ 10 and

16.

Simply put, (1) the data reflected in JPE 1 is *not* the Core terminating switch data that Verizon repeatedly sought from Core (which the Commission eventually ordered Core to produce⁸), (2) Verizon had no other source of that data than Core, and (3) Verizon freely advised Core that Verizon had some other data of its own. Accordingly, JPE 1 does not “expose” as “false and hypocritical” Verizon’s asserted need for the switch records that only Core could provide.

B. JPE 1 Does Not Undermine Verizon’s Initial Suspicions About Core’s Traffic

⁷ Core Reply at 44.

⁸ *See* “Opinion and Order” (September 23, 2011) at 21 (Ordering Paragraph 5).

Core next asserts that that JPE 1 – generated on [BEGIN PROPRIETARY] [END PROPRIETARY] – undermines the sincerity of suspicions Verizon developed *six months earlier* regarding the invalidity of Core’s intercarrier compensation billings to Verizon. Core Reply at 45. It is hard to understand Core’s point, as it concedes that JPE 1 did not exist in January 2011, or even at the time Verizon disputed Core’s May 2011 invoices and withheld payment thereon. To the extent Core is attempting to paint Verizon’s suspicions as unfounded or insincere at the time due to the information later developed in JPE 1, the timeline of events simply does not support such claims. And, as detailed in Verizon’s testimony and briefs throughout this case, Verizon’s initial suspicions were proven to be well-placed, and were only augmented by additional facts developed during this proceeding. As discussed below, Core’s arguments about JPE 1 simply confirm that Core was billing Verizon for third-party transit and IXC traffic. As such it is merely cumulative of the other evidence in the record and, if it has any probative value at all, confirms the validity of Verizon’s claims.

C. JPE 1 Does Not Show That Verizon Was Sending Core “Compensable” Traffic, Nor Does It Verify Core’s Bills

Core asserts that JPE 1 shows that at the time it disputed Core’s bills, Verizon “well knew” that it was “sending Core large amounts of compensable local traffic.” Core Reply at 45-46. First, it bears mention that Core quotes selectively from Verizon’s August 1, 2011 Answer to Core’s Petition for Interim Emergency Relief (Core Reply at 45), using ellipses to imply that the *only* question Verizon raised was whether Core was in fact terminating all the traffic it claimed to be terminating. However, the language selectively omitted by Core – reflected in bold Italics below – shows that Verizon also disputed the compensability by Verizon of the traffic that Core was terminating: “Instead, the issue is whether Core is actually terminating the traffic reflected in its bills, ***and whether any traffic it is terminating meets the requirements for compensation in the contracts*** [the parties’ interconnection agreements].” See Verizon’s August 1, 2011 Answer at 8.

To support its contention that Verizon “well knew” that it was sending Core “large amounts of compensable, local traffic” (Core Reply at 45), Core points to pages 3 and 5 of JPE 1, asserting that they indicate that [BEGIN PROPRIETARY]

[END PROPRIETARY]

However, JPE 1 [BEGIN PROPRIETARY]

[END

PROPRIETARY] See JPE 2 at ¶ 17. As such, the short form terms that appear as column headings at p. 3 of JPE 1 do not have the same meaning as those terms as defined in the parties’ interconnection agreements, tariffs, and other controlling documents establishing the parties’ respective legal obligations.⁹ JPE 1 therefore does not establish that traffic is or is not “compensable.” For example, third party and IXC traffic is not “compensable” by Verizon even though it is measured by SS7 tracking.

JPE 1 also does not establish that Core is “actually terminating the traffic reflected in its bills,” as Core implies. As discussed above, SS7 records are not used for billing and include calls that were never connected. Moreover, Core’s “analysis” of JPE 1 fails to acknowledge that the [BEGIN PROPRIETARY]

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⁹ [BEGIN PROPRIETARY]

[END

PROPRIETARY] upon which Core places great weight. Core Reply at 45.

¹⁰ This figure was generated by adding together the MOU totals reflected at p. 15 of JPE 1 for only the *Pennsylvania* point codes, which are [BEGIN PROPRIETARY]

[END PROPRIETARY] Yet, the May 2011 Core invoice that Core discusses in its reply brief (Exhibit BLM-7, Tab A) shows that Core billed Verizon for [BEGIN PROPRIETARY]

[END PROPRIETARY] MOUs for May 2011, an amount that is not supported by or consistent with JPE 1. In short, no meaningful conclusions about whether Core actually terminated all of the traffic for which it billed, or whether the traffic for which Core billed Verizon was in fact compensable by Verizon, can be drawn from the figures Core cites.

III. JPE 1 Does Not Support Core's Claims in this Proceeding

A. JPE 1 Is Not Relevant to the LNP Lookup Analysis

Core asserts that JPE 1 confirms the “unreliability” of what Core refers to as Verizon witness Mr. William Munsell’s “LNP Lookup method.” Core Reply at 46. Core’s argument is founded on its misrepresentation of Mr. Munsell’s study, which Verizon has already squarely refuted. Core sets up a straw man by portraying the LNP lookup process as Verizon’s proposal for Core to identify the third party responsible for compensating Core for the termination of a transited call, and then knocks it down by arguing that a LNP look up might not identify the carrier to be billed. But, as Verizon has repeatedly stated throughout its testimony and briefs in this proceeding (most recently at page 26 of the Verizon Reply), the LNP lookup process was offered into evidence to identify the third party traffic *for which Core should not have billed Verizon*. It was not offered (or intended) to identify with 100% certainty the identity of the actual originator for purposes of billing the originator. Core’s argument that JPE 1 shows that the LNP lookup might not correctly identify the carrier to be billed is a red herring, as its only purpose is to exclude Verizon as financially responsible, which it reliably accomplishes.¹¹

[END PROPRIETARY] See JPE 1 at p. 15 (MOU counts) and JPE 3 at ¶ 10 (listing and defining Pennsylvania point source codes).

¹¹ In Core’s example, if Level 3 were routing transit traffic through Verizon for which the OCN belongs to Comcast, an OCN look-up would only identify Comcast, but the EMI records that Core uses for billing would identify Level 3 as the

B. JPE 1 Does Not Validate Core's Attempt to Bill Switched Access Charges

Core next asserts that JPE 1 supports Core's attempts to collect nearly \$5 million in interstate and intrastate switched access charges from Verizon because the document [BEGIN PROPRIETARY]

[END PROPRIETARY] Core Reply at 46-47. But Core misinterprets or misrepresents JPE 1.

First, even if this were ordinary switched access traffic (*i.e.*, putting aside the factual and legal arguments Verizon has detailed in its briefs), the identification of access traffic in the SS7 records does not mean the traffic is compensable by Verizon. As Core noted in its affidavit, JPE 1 includes traffic coming to Core over LITGs and ATCTs. JPE 3 at ¶¶ 12-13. By definition, the Verizon incumbent local exchange carriers (the litigants in this proceeding) cannot be liable for compensating Core for interexchange traffic compensable, if at all, by the IXCs sending it to Core for termination.¹² Moreover, as noted above, page 5 of JPE 1 [BEGIN PROPRIETARY]

[END PROPRIETARY]. Thus, the mere fact that some JPE 1 columns may include the word "Access" is irrelevant to determining whether Core's switched access bills to Verizon are valid, as the parties' interconnection agreements, tariffs, and

delivering carrier based on the trunk group over which the call came into the Verizon tandem. *See* VZ Stmt. 1.0 at 53; VZ Stmt. 2.0 at 15.

¹² The record shows that only toll calls that are "non-Feature Group D intraLATA toll calls" would be delivered over the LITGs (and not all of that traffic would be originated by Verizon, since it also includes CLEC and RLEC transit traffic). VZ Stmt 2.0 at 20. All other switched access traffic would come over the ATCTs and would be sent to Core by IXCs, which are responsible for paying the terminating charges.

applicable state and federal law – not JPE 1 – set forth the basis for determining the validity of Core’s access bills. Verizon has raised a number of detailed factual and legal arguments demonstrating why Core’s switched access bills are invalid.¹³

C. JPE 1 Does Not Demonstrate That Core’s Bills are Accurate or Reliable

Core claims that the similarity between the number of minutes that JPE 1 reflects as having been sent to three specific Core switches and the minutes for which Core billed Verizon for traffic termination in those three LATAs demonstrates the reliability of Core’s billings to Verizon. Core Reply at 47-48. But a comparison of JPE 1 to Core’s invoice for May 2011 (Exhibit BLM-7, Tab A) shows quite the opposite. The total number of minutes Core billed for May 2011 was [BEGIN PROPRIETARY]

[END PROPRIETARY]

[BEGIN PROPRIETARY]

[END PROPRIETARY] minutes from Verizon to Core over Pennsylvania trunks for that period, and even that figure includes third party transit and IXC traffic, and calls that were never completed – none of which are billable to Verizon. Thus, Core’s statement that “Core and Verizon actually shared a pretty close picture of the total amount of traffic Verizon was sending Core” (Core Reply at 48) is inaccurate when the entirety of the traffic reflected on both documents is considered.

And even for the [BEGIN PROPRIETARY]

[END PROPRIETARY], the fact that the measured SS7 and billed minutes match up so closely actually supports Verizon’s case, because if Core was indeed billing for virtually all of the minutes measured by JPE 1, it was indisputably billing Verizon for third party transit traffic, IXC traffic and incomplete calls – none of which are compensable by Verizon – and thus grossly overbilling Verizon. The only reasonable conclusion to draw from the similarity of the minutes measured and billed is that Core billed Verizon for all traffic flowing to it from Verizon’s tandem

¹³ See, e.g., the detailed discussion at pp. 39-40 and 48-58 of Verizon’s January 23, 2013 Initial Post-Hearing Brief (“VZ Initial Brief”), and at pp. 39-44 of the Verizon Reply.

switches, including traffic that was not compensable by Verizon – exactly what Verizon has shown in this case.¹⁴

CONCLUSION

Despite Core's mischaracterization, misinterpretation and misuse of JPE 1, the document neither undermines Verizon's positions in this case, nor bolsters Core's. To the extent it is even probative given its limitations, JPE 1 is consistent with the conclusion that Core has repeatedly and systematically overbilled Verizon, as Verizon suspected long before the document was created, and as the record already developed in this case confirms.

Respectfully submitted,



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

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

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

¹⁴ Verizon has estimated that overbilling at 35%. VZ Initial Brief at 28. While the limitations in [BEGIN PROPRIETARY]

[END PROPRIETARY] to the 28% third party traffic figure that Verizon witness Mr. Munsell calculated for this same time period, using Core's own switch records (VZ Reply at 29), thus supporting, rather than refuting, Verizon's claims.