

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

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VIA E-FILING

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

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

Dear Secretary Chiavetta:

Core asks the Commission to give “due consideration” to the FCC’s recently issued *VoIP Symmetry Order*,¹ but Core’s February 24, 2015 supplemental authority letter fails to mention that the order also specifically concluded that the United States Court of Appeals for the Fourth Circuit was correct in rejecting the switched access charges of Core’s Virginia affiliate based on the same tariff language and arguments at issue here. The Commission need not consider the *VoIP Symmetry Order* because it does not alter (but, rather, only confirms) the outcome of this case.

As an initial matter, the Commission need never reach this issue because Core’s switched access bills in Pennsylvania are invalid for a number of threshold reasons discussed in Verizon’s pleadings, including but not limited to the facts that: (1) this traffic is ISP-bound and if billable to Verizon at all, is subject only to the \$0.0007 FCC rate that Verizon has already paid; (2) Core’s tariffs preclude back-billing; (3) Core is billing Verizon for transited traffic originated by interexchange carriers; and (4) Core’s switched access bills are riddled with calculation and rate

¹ *In the Matter of Connect America Fund – Developing a Unified Intercarrier Compensation Regime*, WC Docket 10-90 (Rel. February 11, 2015) (“*VoIP Symmetry Order*”).

errors making them so flawed and unreliable that Core has failed to sustain its burden of proof as to their validity. *See* VZ Reply Exceptions at 10-13; VZ Initial Brief at 49-53; VZ Reply Brief at 40-41.

But even if the Commission reaches the question of whether Core is permitted to bill for switched access functions it admittedly does not perform, the *VoIP Symmetry Order* does not alter the correct conclusion reached by the Initial Decision in this case. The FCC's order clarified the circumstances under which a CLEC may bill for services "functionally equivalent" to the incumbent's end office switching. However, the FCC also confirmed that this default rule does not mean that "charges for end office switching are due in every circumstance" because "such charges ultimately are governed by applicable tariffs."²

The FCC specifically considered the dispute between the Virginia affiliates of Core and Verizon and found that the Fourth Circuit correctly rejected Core's switched access bills based on the language in its tariffs.³ The FCC found the Fourth Circuit's decision to be fully consistent with the *VoIP Symmetry Order* because it "rests primarily on tariff language describing traditional TDM network architecture and functionality" so that "the service that CoreTel provided did not match the service described in CoreTel's tariff."⁴

The federal tariff under which Core seeks to collect access charges here is the same one at issue in Virginia, and the state tariff has the same relevant language describing the "termination" of "end user lines."⁵ As in the Virginia case, Verizon demonstrated here that Core is not providing the switched access services described by its tariffs.⁶ The Fourth Circuit concluded that Core's affiliate was precluded from billing switched access charges based on the same tariff language, and in the *VoIP Symmetry Order*, the FCC agreed. Here, as in Virginia, Core "does not provide" the service described in its tariffs.⁷

² *VoIP Symmetry Order*, ¶ 19, n. 64.

³ *VoIP Symmetry Order*, ¶¶ 39-40.

⁴ *VoIP Symmetry Order*, ¶¶ 39-40.

⁵ *See* Core's Pennsylvania P.U.C. Tariff No. 4, 1st Revised Sheet No. 48, § 5.2.1 (eff. 7/21/09); VZ Initial Br. at 50, FN 82 (Commission may take administrative notice of Core's tariff).

⁶ *See* VZ Reply Exceptions at 12; VZ Reply Br. at 42 (explaining how Core does not provide "carrier common lines" as described in its tariff even though the bulk of its billings are for the carrier common line charge).

⁷ *VoIP Symmetry Order*, ¶ 39-40. "CoreTel" is Core's Virginia affiliate.

If the Commission considers the FCC's *VoIP Symmetry Order* at all – which it need not at this late stage of the case, particularly given all of the other overwhelming evidence invalidating Core's switched access bills – that order only confirms that Core's switched access bills are invalid. It does not support Core's case or alter the Initial Decision's correct conclusion.

Respectfully,


Suzan D. Paiva

cc: Certificate of Service
Hon. Robert F. Powelson, Chairman
Hon. John F. Coleman, Jr., Vice-Chairman
Hon. James H. Cawley, Commissioner
Hon. Pamela A. Witmer, Commissioner
Hon. Gladys M. Brown, Commissioner
Cheryl Walker Davis, Director, Office of Special Assistants
Administrative Law Judge Susan Colwell

bCERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Verizon's Letter, 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 26th day of February, 2015.

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