

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Core Communication,
v.
Windstream Penn, Inc.

Docket No.: A-310922F7004

OALJ Hearing

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Department Public Utility Com.
Keystone Building
400 North Street
Harrisburg, PA

September 20, 2007
Commencing at 10:00 a.m.

BTL

BEFORE:

J. DAVID SALAPA, Administrative Law Judge

APPEARANCES:

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ORIGINAL

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For the Respondent

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REPORTER: RYAN GRAFFIUS

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P R O C E E D I N G S

JUDGE J. DAVID SALAPA:

This is the time and the place that the Pennsylvania Public Utility Commission has set for a hearing in the case captioned Petition of Core Communications, Inc. for arbitration of interconnection rates, terms and conditions pursuant to 47 USC Section 252(b) with Windstream Pennsylvania, Inc. at Docket Number A-310922F7004. I'm Administrative Law Judge David Salapa. The Commission has assigned me to preside over this case and to render a decision for the Commission to consider. Appearing this morning is Counsel for Core Communications, Mr. Michael A. Gruin, and appearing on behalf of Windstream Pennsylvania, Inc. is D. Mark Thomas.

We had an e-mail exchange at the end of last week, I believe, commencing September 13th, where the parties indicated to me that they were willing to waive Cross Examination of the witnesses and to simply admit the prepared testimony and other exhibits into the record in this proceeding. We confirmed that by telephonic conference on Tuesday the 18th. So here we are today. Is that still the understanding of the

1 parties, that we're waiving Cross Examination and
2 simply admitting statements and exhibits into the
3 record, Mr. Thomas?

4 ATTORNEY THOMAS:

5 It is on the part of Windstream.

6 JUDGE SALAPA:

7 Mr. Gruin?

8 ATTORNEY GRUIN:

9 Yes, Your Honor.

10 JUDGE SALAPA:

11 Very, well then. Mr. Gruin, let's start
12 with you.

13 ATTORNEY GRUIN:

14 Okay. Well, I guess, I'd like to start
15 with the Joint Exhibit, the final consolidated issues
16 matrix. I'll mark that Joint Exhibit One. This sets
17 forth all the issues that had originally been in
18 dispute between the parties with a brief position of
19 each party and a statement of which issues have been
20 resolved.

21 (Joint Exhibit One marked for
22 identification.)

23 JUDGE SALAPA:

24 Any comments regarding the Joint Exhibit?
25 I take it you want to move them in individually or

1 just in one big mass.

2 ATTORNEY GRUIN:

3 One big mass I'll move them.

4 JUDGE SALAPA:

5 All right.

6 ATTORNEY GRUIN:

7 Then I'll move onto my testimony. What I
8 have here is Core Statement 1.0, the Direct testimony
9 of Timothy Gates and Core Statement 2.0, Direct
10 testimony of Christopher Van de Verg.

11 (Core Exhibits 1.0 and 2.0 marked for
12 identification.)

13 ATTORNEY GRUIN:

14 Moving onto Rebuttal testimony, I have
15 both public and proprietary versions of Core Statement
16 1.1, Rebuttal testimony of Timothy Gates, and Core
17 Statement 2.1, Rebuttal testimony of Christopher Van
18 de Verg.

19 (Core Exhibits 1.1 and 2.1 marked for
20 identification.)

21 ATTORNEY GRUIN:

22 The next one I'm going to have is
23 premarked Core Exhibit One. This is Core's best offer
24 proposed to the connection rates, terms and
25 conditions. This had previously been filed and served

1 on September 10th, 2007.

2 (Core Exhibit One marked for
3 identification.)

4 JUDGE SALAPA:

5 So marked.

6 ATTORNEY GRUIN:

7 And the final document I have would be
8 our Core Exhibit Two. These are Core's Answers to
9 Windstream's set one discovery as amended. They do
10 include a CD-Rom, which contains two interconnection
11 agreements in PDF format. And I believe that is all
12 of the testimony evidence on behalf of Core
13 Communications.

14 (Core Exhibit Two marked for
15 identification.)

16 JUDGE SALAPA:

17 Any objections or comments from
18 Windstream?

19 ATTORNEY THOMAS:

20 We have no objections or comments.

21 ATTORNEY GRUIN:

22 At this time I would like to move the
23 testimony and exhibits into the record.

24 JUDGE SALAPA:

25 Very well. We're moving into the record

1 what has been previously premarked as Joint Exhibit
2 Number One, Core statements number 1.0 and 2.0. The
3 Core public and proprietary versions of statement 1.1
4 and the Core public and proprietary versions of
5 statement 2.1. And Core Exhibit Number One, it's
6 final best offer, and Core Exhibit Number Two, its
7 discovery responses, into evidence in this proceeding
8 and made a part of the record here. Anything further,
9 Mr. Gruin?

10 ATTORNEY GRUIN:

11 One other item is --- I believe we've
12 discussed this before on the phone, that is a
13 stipulation to incorporate the parties' pleadings,
14 which would be Core's arbitration petition and
15 attachments and Windstream's responsive pleading and
16 attachments into the record without requiring
17 additional copies for the testimony file in order to
18 save on reproduction, et cetera.

19 JUDGE SALAPA:

20 Yes. So we're incorporating Core's
21 petition and attachments and Windstream's response and
22 attachments.

23 ATTORNEY THOMAS:

24 That's correct, Your Honor.

25 JUDGE SALAPA:

1 That's very well then. The Core Petition
2 for arbitration and its attachments and Windstream's
3 response and attachments to that petition are
4 incorporated into the record in this proceeding.
5 Anything further?

6 ATTORNEY GRUIN:

7 Nothing further, Your Honor.

8 JUDGE SALAPA:

9 Mr. Thomas?

10 ATTORNEY THOMAS:

11 Thank you, Your Honor. Initially, I'd
12 request to be marked for identification as WPI
13 Statement Number One, which is the Direct testimony of
14 Scott A. Terry. Also as WPI Statement Number 1R, a
15 document entitled Rebuttal testimony of Scott A.
16 Terry. Statement 1R has an exhibit attached to it,
17 which I ask it be marked for identification as WPI
18 Exhibit Number SAT-1R.

19 (Windstream Exhibits 1, 1R and SAT 1R
20 marked for identification.)

21 ATTORNEY THOMAS:

22 I request to be marked for identification
23 as WPI Exhibit Number Two, a document which is
24 entitled Windstream's Responses to Core Communication,
25 Inc. Interrogatories and request for production of

1 documents addressed to Windstream Pennsylvania, Inc.,
2 set one as amended. And there's both a proprietary
3 and non-proprietary version of the document and it
4 likewise contains a disk. I request it to be marked
5 for identification as WPI Exhibit Number Three, a
6 document entitled Windstream Pennsylvania, Inc.'s
7 responses to Core Communication, Inc. Interrogatories
8 and request for production of documents, set two. And
9 finally, I request to be marked for identification as
10 WPI Exhibit Number Four, a document entitled
11 Windstream Supplemental Responses and continuing
12 objections to Interrogatories and Request for
13 Production of Documents, set two. And I'll hand that
14 list to everybody.

15 (Windstream Exhibits Two, Three and Four
16 marked for identification.)

17 JUDGE SALAPA:

18 So marked.

19 ATTORNEY THOMAS:

20 And that concludes the identification of
21 the Windstream exhibits and I ask that their
22 authenticity be stipulated to and they be moved into
23 the record.

24 JUDGE SALAPA:

25 I have one question for you, Mr. Thomas,

1 and maybe I'm just missing something here. Your
2 exhibits start with WPI Exhibit Number Two? There is
3 no WPI Exhibit Number One?

4 ATTORNEY THOMAS:

5 I started at number two because there's
6 an exhibit attached to the supplement testimony, which
7 was the --- I think it's SAT 1. So I started the next
8 exhibit as two.

9 JUDGE SALAPA:

10 All right. Any objections or comments?

11 ATTORNEY GRUIN:

12 No objections.

13 JUDGE SALAPA:

14 All right then. What has previously been
15 marked as WPI statement number one, WPI statement
16 number 1R and the attached exhibit WPI Exhibit SAT 1R,
17 WPI Exhibit Number Two, WPI Exhibit Number Three and
18 WPI Exhibit Number Four which constitutes discovery
19 responses are moved into evidence in this proceeding
20 and made a part of the record herein. Is there
21 anything else at this point, Mr. Thomas?

22 ATTORNEY THOMAS:

23 Windstream has nothing further.

24 JUDGE SALAPA:

25 I believe somewhere in my papers

1 Windstream has already submitted a final and best
2 offer; is that correct?

3 ATTORNEY THOMAS:

4 We are standing on the offer that we
5 submitted with our response, our initial response.
6 It's subject to the modifications shown in the issue
7 matrix. Two additional exhibits have been resolved
8 between the parties.

9 JUDGE SALAPA:

10 All right. Very well. Is there anything
11 further at this point that we need to do or transact
12 here this morning. Mr. Thomas?

13 ATTORNEY THOMAS:

14 Nothing further, Your Honor.

15 JUDGE SALAPA:

16 Mr. Gruin?

17 ATTORNEY GRUIN:

18 Nothing further.

19 JUDGE SALAPA:

20 My review is that according to my
21 prehearing Order Number Four that was issued on June
22 26th, 2007. Main briefs are due in this matter on
23 October 25th, 2007 and reply briefs due November 9th,
24 2007. Is that the parties' understanding at this
25 point, Mr. Gruin?

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ATTORNEY GRUIN:

Yes, Your Honor.

JUDGE SALAPA:

Mr. Thomas?

ATTORNEY THOMAS:

Yes, it is, Your Honor.

JUDGE SALAPA:

All right. Very well. If, for whatever reason, the parties need to have an extension of time on the deadline for filing either briefs or reply briefs, please let me know via e-mail and cc the other party. Since we have no further business to conduct at this point, I'd like to thank you for your cooperation. We are adjourned.

ATTORNEY THOMAS:

Thanks, Judge.

ATTORNEY GRUIN:

Thank you.

* * * * *

HEARING CONCLUDED AT 10:15 A.M.

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C E R T I F I C A T E

I hereby certify, as the
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Court Reporter