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May 4, 2015

**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 LLC  
Docket No. C-2014-2406550

Dear Secretary Chiavetta:

Enclosed please find Verizon Pennsylvania LLC's Replies to Core's Exceptions, being filed in the above referenced matter.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

  
Suzan D. Paiva

SDP/slb  
Enc.

**Via E-Mail and Federal Express**

cc: The Honorable Susan D. Colwell  
Cheryl Walker Davis, Esquire, OSA  
Attached Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of Verizon's Replies to Core's Exceptions, upon the party, 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 4<sup>th</sup> day of May, 2015.

**Via E-Mail and Federal Express**

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\*\* Service being made by E-Mail only

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                            |   |                           |
|----------------------------|---|---------------------------|
| Core Communications, Inc., | : |                           |
|                            | : |                           |
| Complainant,               | : |                           |
|                            | : |                           |
| v.                         | : | Docket No. C-2014-2406550 |
|                            | : |                           |
| Verizon Pennsylvania LLC,  | : |                           |
|                            | : |                           |
| Respondent.                | : |                           |

**VERIZON'S REPLIES TO CORE'S EXCEPTIONS**

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*Counsel for Verizon Pennsylvania LLC*

Dated: May 4, 2015

The April 3, 2015 Initial Decision (“ID”) thoroughly analyzed the facts and the parties’ interconnection agreement and correctly rejected Core’s<sup>1</sup> facilities bills to Verizon.<sup>2</sup> The bills are for the same type of facilities charges that both the United States District Court for the Eastern District of Virginia and the United States Court of Appeals for the Fourth Circuit (in a unanimous decision) also found invalid in litigation between Verizon’s and Core’s affiliates.<sup>3</sup> Core raises the same arguments about the same types of charges that two federal courts have already considered and rejected. The Commission should reach the same correct conclusion as the federal courts and adopt the ID.<sup>4</sup>

This dispute arose in early 2012, during the mediation of Core’s other Pennsylvania state commission complaint case, when Core suddenly expanded the disputed issues by issuing sizeable back-bills for an array of new charges, including attempting, for the first time, to charge Verizon for tandem trunk ports and multiplexing functions (referred to as “facilities” bills). Although the parties’ interconnection agreement had been in place since 2000, Core never billed these facilities charges during the first twelve years of that agreement’s existence – throughout which Verizon terminated local traffic to Core’s network in the same manner over trunks that Verizon had self-provisioned at its own expense. Nothing had changed in the parties’ interconnection agreement or physical network interconnection configuration in 2012, when

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<sup>1</sup> Core Communications, Inc. (“Core”).

<sup>2</sup> Verizon Pennsylvania LLC (“Verizon”).

<sup>3</sup> *CoreTel Virginia, LLC v. Verizon Virginia LLC et al.*, 2013 U.S. Dist. LEXIS 58649 (E.D. Va. April 22, 2013), *rev’d in part, remanded*, 752 F.3d 364 (4<sup>th</sup> Cir. 2014), *judgment entered on remand*, 2014 U.S. Dist. LEXIS 166879 (E.D. Va. December 2, 2014) (“*VA District Court Decision*”); *CoreTel Virginia, LLC v. Verizon Virginia LLC et al.*, 752 F.3d 364 (4<sup>th</sup> Cir. 2014) (“*VA Fourth Circuit Decision*”).

<sup>4</sup> Verizon continues to maintain that the doctrine of issue preclusion (collateral estoppel) bars Core from re-litigating here the same questions of law or fact decided against Core’s affiliate by the Fourth Circuit. VZ Initial Br. 40-43. While ruling in Verizon’s favor on other grounds, the ID found issue preclusion inapplicable but held that the federal decisions were “persuasive authority.” ID at 29. *See MCI Worldcom, Inc. v. PUC*, 577 Pa. 294, 313 (Pa. 2004) (holding that interconnection issues should be decided by the federal courts and “governed uniformly by standards established by federal law.”)

Core suddenly issued millions of dollars of facilities back-bills to Verizon (which billings have continued to this day).

As detailed in Verizon's testimony and in its initial and reply briefs, the parties' interconnection agreement does not permit Core to bill Verizon for these functions when Verizon terminates traffic to Core over Verizon's self-provisioned trunks. That agreement instead limits Core's compensation for the transport and termination of local traffic to the reciprocal compensation charges that Verizon has already paid (and dedicated transport charges only under limited circumstances not present here). The interconnection agreement does not even contain Core rates for the tandem ports, multiplexing, entrance facilities and TELRIC transport for which Core has attempted to bill Verizon. Even if the agreement permitted Core to bill for any of these functions – and it does not – Core's facilities bills are rife with errors that invalidate them for a number of additional reasons, including use of inflated and outdated rate elements and improper billings in Altoona that are precluded by an interconnection agreement amendment that Core omitted from the Complaint.

Core's exceptions falsely attempt to portray this matter as a simple corollary of the case at Docket C-2011-2253750 where, among many other issues, Verizon seeks payment for Core's use of Verizon's facilities. But the cases are not comparable. In the other case, Core did not build out its network to carry traffic to Verizon or other carriers, but instead knowingly ordered trunks from Verizon to fulfill its obligation to deliver traffic to Verizon, as well as to exchange traffic between Core and interexchange carriers. The interconnection agreement requires Core to pay for the trunks it used, but that matter is before the Commission in the other case. In this case, Verizon self-provisioned facilities to carry its traffic all the way to the Interconnection Point and the interconnection agreement provides that Core was already compensated by

Verizon’s payment of reciprocal compensation. The network configuration in Virginia was the same and the federal courts had both sets of bills for the parties’ Virginia affiliates before them – Verizon’s facilities bills to Core and Core’s to Verizon – and concluded that while Core was required to pay Verizon (albeit at different rates), Core’s facilities bills were invalid in their entirety. The ID properly reached the same conclusion here.

### REPLIES TO CORE’S EXCEPTIONS

#### Reply to Core Exception No. 1: Verizon Did Not Order Facilities from Core

The ID properly rejected Core’s argument that the internal Access Service Request (“ASR”) forms that Verizon used to submit trunking orders to Verizon’s own internal provisioning system to self-provision – *at its own expense* – the trunks used to carry local traffic to Core’s network constituted orders for facilities from Core. ID at 31-36. Core argues that the ID erred in this conclusion, repeating its assertion that because the parties’ interconnection agreement<sup>5</sup> discusses the use of ASRs when one party orders facilities from the other, *any* ASR thus constitutes an order for facilities from the other party.<sup>6</sup> Core argues this is true even when, as a matter of fact, the ordering party is self-provisioning the facilities via its own internal provisioning system and simply notifying the other party to prepare to receive traffic over them, as was the case here.<sup>7</sup>

Exception 1 is a red herring because it is ultimately irrelevant whether Verizon’s self-provisioning ASRs constituted “orders,” since the parties’ interconnection agreement does not

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<sup>5</sup> Verizon and Core interconnect pursuant to an interconnection agreement dated March 31, 2000 and approved by the Commission in Docket No. A-310922F0002 (“Interconnection Agreement”). The full agreement is included in the record as Stipulated Joint Exhibit 1 and relevant excerpts are attached to Verizon’s testimony.

<sup>6</sup> See “Exceptions of Core Communications, Inc. to Initial Decision” (April 23, 2015) at 4-7.

<sup>7</sup> See “Verizon’s Initial Post-Hearing Brief” (December 12, 2015) (“VZ Initial Br.”) at 7, FN 13; “Verizon’s Post-Hearing Reply Brief” (January 12, 2015) (“VZ Reply Br.”) at 3-8. All citations to Verizon’s briefs incorporate by reference the extensive record citations included therein.

allow Core to bill Verizon for the facilities at issue in any event.<sup>8</sup> As the United States Court of Appeals for the Fourth Circuit explained in addressing the ASR issue in the proceeding between Core's and Verizon's Virginia affiliates:

CoreTel supports its claim with documents that, it contends, reflect orders from Verizon for these facilities.... CoreTel was not entitled to bill Verizon for these facilities regardless of whether Verizon submitted orders for them ... [because it] is to be compensated for the use of these facilities, on its side of the interconnection point, exclusively under the rubric of reciprocal compensation.<sup>9</sup>

Even if the Commission chooses to address the subject, the record is clear that the ASRs were forms that Verizon used for self-provisioning purposes. Indeed, for the first twelve years of the parties' interconnection agreement, Core recognized that Verizon used the ASRs to self-provision trunks used to carry local traffic to Core's network for termination. Verizon provided Core with copies of Verizon's internal ASRs for those self-provisioned facilities so that Core could prepare to receive local traffic over them.<sup>10</sup> During those twelve years, Core never treated Verizon's self-provisioning ASRs as orders to Core and never billed Verizon for facilities.<sup>11</sup> Verizon witness Mr. Bando testified that Core's sudden about-face in 2012 was unprecedented, and that in his 28 years of experience, neither he nor his colleagues had seen any carrier besides Core (and its affiliates) assert that self-provisioning ASRs constituted orders to the other party.<sup>12</sup> The United States District Court for the Eastern District of Virginia rejected the same assertion by Core's Virginia affiliate, concluding that while "CoreTel contends the Defendants ordered facilities from CoreTel as evidenced by Access Service Requests ('ASRs') sent by Defendants,

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<sup>8</sup> VZ Initial Br. at 16-31; VZ Reply Br. at 13-26.

<sup>9</sup> *VA Fourth Circuit Decision*, 752 F.3d at 372-73.

<sup>10</sup> VZ Reply Br. at 4-5.

<sup>11</sup> VZ Reply Br. at 4-5.

<sup>12</sup> VZ Reply Br. at 4-5.

...[t]he ASR that was provided to this Court as evidence of an order was in fact part of an e-mail and only evidences the sharing of this data with CoreTel so CoreTel could configure its own network.”<sup>13</sup> The Fourth Circuit upheld this finding.<sup>14</sup>

The factual record developed here supports the same result. Verizon witness Mr. Bando identified four separate fields on the ASR on which Core witness Mr. Mingo relied<sup>15</sup> and explained how each demonstrated that the ASR was *not* an order for facilities from Core,<sup>16</sup> but a “Verizon order, placed via Verizon’s own provisioning system, for a new set of *self-provisioned* trunks to ride on the *self-provisioned* DS3s that Verizon installed to carry local traffic to Core.”<sup>17</sup> Mr. Mingo had full opportunity to offer oral surrejoinder to this testimony but said nothing.<sup>18</sup>

Core attempts to argue that because the parties’ interconnection agreement provides that orders “between the parties” are to be processed via an ASR, *any* order reflected in an ASR is, conversely, an order from one party to the other. Core Exceptions at 5. That simply is not the case. While the interconnection agreement does address orders “*between* the parties” (that is, placed by one party for facilities provided by the other<sup>19</sup>), it does not dictate or limit Verizon’s own internal self-provisioning processes, as even Core admits.<sup>20</sup> Core’s claim that the ID’s conclusion is “based on a misunderstanding of the nature of the facilities that are at issue” (Core Exceptions at 5) is similarly wrong. Core attempts to confuse the Commission by inserting

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<sup>13</sup> See VZ Reply Br. at 5; see also *VA District Court Decision*, 2013 U.S. Dist. LEXIS 58649, \*10.

<sup>14</sup> *VA Fourth Circuit Decision*, *supra*, 752 F.3d at 372-73.

<sup>15</sup> Core Stmt. 1.0 at 12.

<sup>16</sup> VZ Reply Br. at 5-6.

<sup>17</sup> VZ Stmt. 1.1 at 3. Verizon’s *self-provisioning* of this trunking is well-established in the record (VZ Stmt. 1.0 at 3-4, 14-15; VZ Stmt. 1.1 at 2-3; VZ Stmt. 2.0 at 5, 10, 20, 22-23; VZ Stmt 2.1 at 2, 13-14, 16-17; Tr. 74-75 and 90-91), rendering specious Core’s unsupported assertion that “there is no question that Verizon ordered trunking from Core.” Core Exceptions at 5.

<sup>18</sup> VZ Reply Br. at 6.

<sup>19</sup> Interconnection Agreement, Part B and Attachment IV, Section 4.3.1.

<sup>20</sup> Core Exceptions at 7; Interconnection Agreement, Attachment IV, Section 1.2.1.2.

diagrams and arguing that the citation to Attachment IV, Section 1.2.1.2 of the interconnection agreement was incorrect because “this case does not involve facilities on Verizon’s side of the [Point of Interconnection].”<sup>21</sup> Yet the ID merely cited that section of the interconnection agreement to demonstrate that it does not dictate a process for how Verizon self-provisions its own facilities, which Core has conceded. ID at 36.

The ID correctly concluded that the interconnection agreement “does not authorize Core to bill Verizon for facilities based on Verizon’s internal ASRs for the engineering of its own network.” ID at 36.

**Reply to Core Exception No. 2: The Interconnection Agreement Does Not Permit Core to Bill the Rates It Charged**

Core presents the issues backwards by arguing in its second exception about what rates apply. But the substantive provisions of the interconnection agreement do not authorize Core to bill Verizon at all for ports, multiplexing or transport under the facts here, as explained in response to Core’s exceptions 3 through 6. Therefore, the Commission need not even reach the question of what rates would apply if Core could bill for those functions. Nonetheless, Verizon responds to Core’s arguments as follows:

**A. The Interconnection Agreement Does Not Permit Core to Bill Verizon the Rates Set Forth in the Verizon Section of the Pricing Appendix**

The ID appropriately rejected Core’s claim that it could merely adopt (and bill) Verizon’s rates for any services for which Core had no rate of its own.<sup>22</sup> The interconnection agreement’s Pricing Appendix<sup>23</sup> contains two discrete sections – Section A, setting forth the rates that *Verizon*

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<sup>21</sup> Core Exceptions at 5; all emphasis in original.

<sup>22</sup> ID at 39-42 and Findings of Fact (“FOF”) 40-43, 47-49, 52-55, 61-67; *see also* Pricing Appendix, included in Exhibit 1 to VZ Stmt. 2.0.

<sup>23</sup> The relevant Pricing Appendix is the Pricing Appendix to Core’s agreement adopting the September 3, 1997 interconnection agreement between MCImetro Access Transmission Services, Inc. and Bell Atlantic –

may charge *Core*, and Section B, delineating the rates that *Core* may charge *Verizon* – and makes plain that each party is to bill the rates from its own section. *Core* argues that the bifurcated structure of the Pricing Appendix is irrelevant, because all rates set forth therein, whether *Verizon*'s or *Core*'s, morph into “CORE’s ... otherwise generally available rates”<sup>24</sup> once *Core* places them on a bill. However, as the ID recognized, the *Verizon* rates are just that – *Verizon* rates, not *Core* rates – and “*Core* has no basis for billing *Verizon* for the rates it does not have.”<sup>25</sup> ID at 40. This is the same conclusion reached by the Virginia federal courts based on a Pricing Appendix with the same bifurcated structure.<sup>26</sup>

*Core* admits that it has no tariffed rates for the facilities at issue (*Core* Exceptions at 8), which forces *Core* to claim that it instead has “otherwise generally available rates.” To support its unjustified attempt to use the *Verizon* rates from *Section A* of the Pricing Appendix as its own, *Core* offers nothing beyond a retread of the unsuccessful argument in its briefs: that by issuing invoices to *Verizon* that charge the *Verizon* rates (without publishing those rates publicly or making them generally available to others), those *Verizon* rates constitute “CORE’s ... otherwise generally available rates” per Section B.V. of the Pricing Appendix. *Id.* at 8. The ID detailed why *Core*'s interpretation is nonsensical, both grammatically and logically, as did *Verizon*'s briefs.<sup>27</sup>

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Pennsylvania, Inc. as *Core*'s ICA with *Verizon* (*see* Exhibit 1 to VZ Stmt. 2.0), not the Pricing Appendix to the underlying adopted interconnection agreement.

<sup>24</sup> *See* Interconnection Agreement, Pricing Appendix, Section B.V.

<sup>25</sup> *Core* cautions against “accord[ing] undue substantive weight” to the headings in the Pricing Appendix, citing the Fourth Circuit’s discussion of the headings “Unbundled Transport” and “Unbundled Access.” *Core* Exceptions at 16. *Core*'s apparent suggestion that the headings in the bifurcated Pricing Appendix that delineate *Verizon*'s rates as distinct from *Core*'s are merely superfluous is patently absurd.

<sup>26</sup> *See* Exhibit E to VZ Stmt. 1.0. Both the federal district court and Fourth Circuit held that the interconnection agreement did not allow *Core*'s Virginia affiliate to bill *Verizon* for facilities. *VA District Court Decision, supra*, 2013 U.S. Dist. LEXIS 58649 at \*\* 9-11; *VA Fourth Circuit Decision, supra*, 752 F.3d at 372-73.

<sup>27</sup> ID at 40; VZ Initial Br. at 18-19, 23-24, 29-30; VZ Reply Br. at 8-11.

Core's assertion that Section B.V. of the Pricing Appendix permits it to "mirror" the Verizon rates contained in Section A thereof is similarly untenable. Core Exceptions at 8. The term "mirroring" implies that the Pricing Appendix permits Core to adopt any Verizon rate in Section A of the Pricing Appendix as Core's own rate. But Section B.V. says no such thing. Rather, it imposes a cap on "CORE's tariffed or otherwise generally available rates," prohibiting any such rates from exceeding "[Verizon] rates for equivalent services to CORE." The Pricing Appendix thus recognizes that rates for some services might be found in the respective parties' tariffs (and that such rates might change from time to time), and it limits Core's ability to raise the tariffed rates it charges to Verizon. But any such tariffed rate would, in addition to the contractual rate cap, remain subject to the generally applicable filing and approval requirements that apply before any tariffed rate may take effect. Section B.V. does not simply convert the Verizon rates in Section A of the Pricing Appendix into Core rates, and even if it authorized Core to "mirror" Verizon's rates (and it does not), Core has admittedly not done so in a tariff or any other publicly available rate sheet. Core Exceptions at 8.

Core argues that the cap language in Section B.V. of the Pricing Appendix renders the *VA District Court Decision* and *VA Fourth Circuit Decision* inapposite here because the Virginia pricing appendix language did not include this additional prohibition against Core's attempt to use the Verizon rates as its own. Core Exceptions at 9. Core misses the point: that the Pennsylvania pricing appendix additionally includes a cap on all Core rates – whether tariffed or "otherwise generally available" – is simply an additional impediment to Core's attempt to bill Verizon. If it was otherwise appropriate to bill for some service (and here, it is not), and if Core had a valid tariff that established an effective rate for the service (and here it does not), the

interconnection agreement's rate cap simply requires that the otherwise-valid rate cannot exceed the rate charged by Verizon.

The interconnection agreement's Pricing Appendix does not allow Core to bill the Verizon rates in Section A thereof, and the ID correctly rejected Core's attempt to do so.<sup>28</sup>

**B. The Interconnection Agreement Prohibits Core from Billing Superseded Verizon Rates**

In addition to billing Verizon improperly, using rates drawn from the *Verizon* section of the interconnection agreement's Pricing Appendix, Core billed superseded rates for tandem ports, entrance facilities and TELRIC transport.<sup>29</sup> In so doing, Core disregarded both: (1) the Commission's 2004 order approving new Verizon TELRIC rates, which were automatically incorporated into the Pricing Appendix by virtue of Footnote 1 thereto, and (2) the express prohibition in Section B.V. of the Pricing Appendix against Core billing any rate that exceeds Verizon's. The ID correctly confirmed that the rates in the Pricing Appendix were automatically superseded upon issuance of the Commission order approving new rates in 2004,<sup>30</sup> in accordance with the self-executing Footnote 1 to the Pricing Appendix.<sup>31</sup>

Core admits to billing superseded rates, but asserts that the ID erred in finding these charges to be improper because the language of Footnote 1 to the Pricing Appendix is not self-executing. Core Exceptions at 10. While conceding that Footnote 1 states that the Unbundled Network Element ("UNE") rates set forth in the Pricing Appendix apply only "until such time as

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<sup>28</sup> ID at 39-42 and Findings of Fact ("FOF") 40-43, 47-49, 52-55, 61-67.

<sup>29</sup> See VZ Initial Br. at 21-23, 29-31; VZ Reply Br. at 11-13; ID at 41-42 and FOF 44-49, 63-67.

<sup>30</sup> See *Generic Investigation Re Verizon Pennsylvania Inc.'s Unbundled Network Element Rates*, Docket No. R-00016683 (Compliance Order entered July 16, 2004); *Generic Investigation Re Verizon Pennsylvania Inc.'s Unbundled Network Element Rates*; *Verizon Pennsylvania Inc.'s Petition to Stay the Effectiveness of Certain Rate Changes Pending Further Action by the FCC*; *Verizon Pennsylvania Inc.'s Petition for Expedited Adoption of an Interim Rate Pending Determination of Final Rates*, Docket Nos. R-00016683 and R-00049812 (Order entered September 30, 2004) (together, "2004 Rate Implementation Orders").

<sup>31</sup> ID at 41-42 and FOF 47-49, 66-67.

they are replaced by new rates as may be approved or allowed into effect by the Commission from time to time,” Core argues that the provision does not say “when or how this should occur,” and therefore requires written amendment. *Id.* But the “when” and “how” are clear – the “when” being when the Commission has approved or allowed new rates to go into effect, and the “how” being the means of Commission action (an order, or failure to suspend a tariff filing by the deadline). No logical reading of Footnote 1 could lead to the result that the TELRIC rates listed in the Pricing Appendix continued to apply after the Commission issued its *2004 Rate Implementation Orders* superseding them. Those orders replaced Verizon’s old TELRIC rates with new ones, triggering automatic self-execution under Footnote 1 of the Pricing Appendix.<sup>32</sup>

Core again raises a straw man argument, asserting that a different part of the interconnection agreement – Part A, Section 1.3 – provides terms governing how the agreement should be modified as a result of *tariff* changes (Core Exceptions at 11), but that is irrelevant here. *First*, Section A of the interconnection agreement’s Pricing Appendix does not simply cross-reference Verizon’s UNE tariff PA PUC No. 216; rather, it lists actual rates for trunk ports, multiplexing, entrance facilities and transport. Thus, Verizon tariff changes are not at issue here.<sup>33</sup>

*Second*, Core ignores that Part A, Section 1.3 of the interconnection agreement extends only to a limited subset of tariff changes. That section applies to tariff changes by “either party that materially and adversely alter[] the terms” of the interconnection agreement for the other party. When Verizon reduced its own TELRIC rates billable to Core in compliance with a

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<sup>32</sup> See generally, *2004 Rate Implementation Orders*.

<sup>33</sup> When the Commission ordered new TELRIC rates in the 2004 cost proceeding, it also required Verizon to file tariffs containing those rates – but Footnote 1 to the interconnection agreement’s Pricing Appendix makes plain that it is the TELRIC rate order, not the compliance tariff filing, that establishes the rates “approved” by the Commission.

commission order, this could not possibly be taken as an “adverse[.]” alteration of the terms to Core.<sup>34</sup> Core’s position is nonsensical. ID at 41.

*Third, even if* Section A of the Pricing Appendix simply included a cross-reference to Verizon tariff PA PUC No. 216, and *even if* including lower Verizon TELRIC rates in that tariff could be deemed materially adverse to Core because Core planned to use those rates *eight years in the future* to bill Verizon for facilities for which Core had no tariffed or otherwise generally available rates of its own,<sup>35</sup> Core omits that Part A, Section 1.3 of the interconnection agreement permits materially adverse tariff changes *without* the other party’s consent upon “an affirmative order of the Commission.”<sup>36</sup> There is no dispute that the Commission approved (and ordered tariffing of) the new Verizon TELRIC rates via affirmative order, rendering Core’s consent irrelevant even under these erroneous hypotheticals.<sup>37</sup> Indeed, if Core’s illogical argument were correct, then Verizon could have continued to bill its outdated and largely higher TELRIC rates to all CLECs that had the same fairly common pricing attachment structure (including Core), which it did not.

As the ID correctly observed:

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<sup>34</sup> Core halfheartedly attempts to avoid this conclusion by arguing that a decrease in Verizon’s rates to Core would, under the “mirroring” logic that is thoroughly debunked above, require a decrease in Core’s rates to Verizon, so that the rate decrease could actually constitute a materially adverse change. This is nonsense. Consider, for example, how Core’s theory would render it impossible to determine whether a particular rate change constituted a net benefit or net adversity in a particular situation: Core’s theory would require a total network audit (along with a crystal ball) just to determine whether an amendment was necessary.

<sup>35</sup> The Commission should reject Core’s absurd argument given that Core benefitted from being billed at the lower rates, but to the extent the Commission accepts Core’s position, it must likewise require Core to pay Verizon the higher, superseded TELRIC rates in Dockets C-2011-2253750 and C-2011-2253787. Core cannot claim that the 2004 Verizon rates are applicable when Verizon bills Core, but not when Core purports to bill the Verizon rate for the same facilities.

<sup>36</sup> See Interconnection Agreement, Part A, Section 1.3 (included in Stipulated Joint Exhibit 1).

<sup>37</sup> This is so despite Core’s attempt to inject extra words into Part A, Section 1.3, claiming that the Commission’s TELRIC compliance order “was not ‘an affirmative order’ *which changed or modified the ICA’s pricing*” (emphasis added). Core Exceptions at 11-12. Part A, Section 1.3 of the interconnection agreement does not require an order regarding changes to the interconnection agreement; it simply mentions an order permitting the tariff changes.

The rates listed in Section A of the Pricing Appendix for the facilities for which Core billed Verizon are not simply cross-references to Verizon tariffs, but are actual dollars and cents rates (compare Sections A.II.A, A.II.C, A.III.D of the Pricing Appendix, which list actual prices, with Section A.XI, which simply references Verizon's interstate and intrastate access tariffs). Thus, while the new TELRIC rates approved by the Commission in 2004 were incorporated into Verizon's tariff PA P.U.C. No. 216 (as ordered by the Commission), they were, as Verizon claims, also automatically incorporated into Section A of the interconnection agreement's Pricing Appendix upon Commission approval, replacing the superseded rates. Core's apparent claim that the tariff-related provisions of Part A, Section 1.3 of the interconnection agreement invalidate the provisions of footnote 1 on page 1 of the Pricing Appendix regarding updates to the rates contained therein is specious and contrary to Part A, Section 1.3.2's directive that the agreement be construed to avoid conflicts. *See* Stipulated Joint Exhibit 1.<sup>38</sup>

The Commission should reject Core's continued attempts to bill the *Verizon* rates in Section A of the interconnection agreement's Pricing Appendix, including the outdated Verizon tandem port, entrance facility and TELRIC transport rates that were automatically superseded a decade ago.

**Reply to Core Exception No. 3: The Interconnection Agreement Does Not Permit Core to Bill Verizon Tandem Port Charges in Addition to Reciprocal Compensation**

The ID appropriately rejected Core's attempt to bill Verizon tandem port charges in addition to the reciprocal compensation charges that already encompass usage of Core's tandem ports.<sup>39</sup> Core nevertheless continues to assert that the parties' interconnection agreement permits this billing (as well as its use of superseded Verizon tandem port rates). Core Exceptions at 12-14. Core's unauthorized tandem port charges account for 93% of the amount in dispute as of the filing of the Complaint (\$3,673,057.61 of the \$3,955,679.11 claimed there).<sup>40</sup> Yet, nothing in the parties' interconnection agreement permits Core to bill Verizon tandem port charges at all, much

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<sup>38</sup> ID at 41.

<sup>39</sup> ID at 42-44 and FOF 31-34, 38-49, 51. The ID also rejected Core's attempt to bill Verizon *triple* the applicable Verizon tandem port rate. ID at 41-42 and FOF 42-49. Core's reliance on superseded Verizon rates is addressed in Section II above.

<sup>40</sup> VZ Initial Br. at 16.

less at the \$214.57 monthly rate (per port) that Core purports to charge, which is triple the current Verizon UNE rate for unbundled tandem trunk ports.

Under Attachment IV, Section 2.1.1 of the parties' interconnection agreement, "[e]ach (originating) Party is responsible for bringing their traffic to a POI." Interconnection Agreement, Attachment IV, Section 2.1.1 (included in Stipulated Joint Exhibit 1). "POI" refers to the Point of Interconnection, defined in Attachment IV, Section 1.2.1.2 of the interconnection agreement (quoted in full at page 13 of the VZ Brief). Pursuant to Attachment IV, Sections 2.2.1, 2.2.1.1 and 2.2.1.2 of the interconnection agreement, the only charges Core may impose for carrying Verizon's traffic past the POI are those for "Transport" and "Termination" of local traffic – that is, "Reciprocal Compensation" as defined in Part B (Definitions) of the interconnection agreement. VZ Brief at 13-15; *see also* Stipulated Joint Exhibit 1. Those definitions do not allow Core to charge Verizon for tandem ports – or *any* trunk ports, for that matter. Rather, as described above, they limit Core's compensation for the termination of local traffic, including "the switching of Local Traffic," to reciprocal compensation. Interconnection Agreement, Appendix IV, Sections 2.2.1, 2.2.1.1 and 2.2.1.2; Part B (definition of Reciprocal Compensation). This is one of the grounds upon which the United States Court of Appeals for the Fourth Circuit upheld the Virginia federal district court's denial of the port charges of Core's Virginia affiliate:

CoreTel also contends that it was entitled to bill Verizon for its use of these facilities because they were "necessary" to the use of Verizon's self-provisioned facilities. But CoreTel points to no provision of the ICA that authorizes CoreTel to simply levy facilities charges for any piece of equipment that handles Verizon's traffic. Instead, the ICA provides that CoreTel is to be compensated for the use of these facilities, on its side of the interconnection point, exclusively under the rubric of reciprocal compensation.<sup>41</sup>

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<sup>41</sup> *See VA Fourth Circuit Decision, supra*, 752 F.3d at 373.

Like its affiliate in Virginia, Core has failed to demonstrate that the interconnection agreement authorizes it “to simply levy facilities charges for any piece of equipment that handles Verizon’s traffic.” Per the discussion above, the Pennsylvania interconnection agreement, like the one in Virginia, provides that Core’s exclusive compensation for tandem ports on its side of the IP is reciprocal compensation.

Core claims that the terms “Tandem Switching” and “trunk-connect facilities” in the parties’ interconnection agreement permit this double-billing. As detailed in Verizon’s reply brief and as the ID found “persuasive,” while the definition of “Tandem Switching” includes tandem ports by reference to “trunk connect facilities,”<sup>42</sup> the interconnection agreement’s definition of “Reciprocal Compensation” already encompasses compensation for “Tandem Switching,” because “Reciprocal Compensation” includes both “transport and termination of Local Traffic.”<sup>43</sup> “Transport,” in turn, already includes “any necessary Tandem Switching...”<sup>44</sup> In other words, because Verizon is paying reciprocal compensation, Core is already receiving compensation for the tandem port costs incurred in its provision of tandem switching, which is subsumed in the transport component of its reciprocal compensation charges.

Core misleadingly cites individual rates from the interconnection agreement’s Pricing Appendix to support its unauthorized billing (Core Exceptions at 12-13), without acknowledging that these are Verizon rates, found in the Verizon section (Section A) of the Pricing Appendix. More importantly, they all pertain to individual UNEs that Verizon provides on an unbundled basis, rather than the combined offering known as Reciprocal Compensation. As a non-

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<sup>42</sup> VZ Reply Br. at 16-17; ID at 44; *see also* Interconnection Agreement, Attachment III, Section 14.1.1, included in Stipulated Joint Exhibit 1.

<sup>43</sup> Interconnection Agreement, Part B (Definition of “Reciprocal Compensation”).

<sup>44</sup> Interconnection Agreement, Attachment IV, Section 2.2.1.1.

incumbent local exchange carrier, Core does not provide UNEs. Given that, its argument that the *Verizon section* of the Pricing Appendix contains separate UNE rates for “Unbundled Switching” and “Trunk Ports – Tandem” is irrelevant, and certainly does not authorize Core to bill for unbundled tandem trunk ports in addition to reciprocal compensation, which encompasses the individual UNEs comprising that charge, including trunk ports.<sup>45</sup>

To the contrary, the ID found that Verizon persuasively established that the three trunk ports for which Core seeks to double-bill it each month are already included in the per-minute reciprocal compensation rate.<sup>46</sup> And while Core shamelessly repeats the flat-out falsehood that Verizon bills Core for tandem ports under “equivalent circumstances” (Core Exceptions at 14), as explained in Verizon’s testimony and briefs, Verizon bills Core for tandem ports only on *non-local* (interexchange) traffic subject to its access tariffs, and *not* on *local* traffic, which is the only traffic at issue here.<sup>47</sup> Core admits as much (as it must) in referring to “Verizon’s *access tariff charges for trunk ports* ....” Core Exceptions at 14 (emphasis added).

The ID correctly held that “[t]o allow Core to bill Verizon tandem port charges in addition to reciprocal compensation would permit Core to double-recover tandem port charges and is not permitted by the interconnection agreement.” ID at 44.

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<sup>45</sup> Core claims that the cost recovery for tandem ports “may encompass or overlap with ‘Reciprocal Compensation,’ but [is] plainly more expansive than just ‘Reciprocal Compensation,’” but offers no citation to support its bald assertion. Core Exceptions at 13.

<sup>46</sup> ID at 39; VZ Reply Br. at 17-20.

<sup>47</sup> VZ Initial Br. at 20, FN 23 (explaining that the traffic reflected in Proprietary Exhibit Q to Core Stmt. 2.0, upon which Core relies, was all *interexchange* traffic, not *local*); VZ Reply Br. at 17.

**Reply to Exception No. 4: The Interconnection Agreement Does Not Support Core's Multiplexing Charges**

“Multiplexing” is a functionality that disaggregates a concentrated DS3 signal into smaller DS0 signals. VZ Initial Br. at 23. The ID correctly rejected Core’s attempt to charge Verizon for multiplexing, as did the Virginia District Court and the Fourth Circuit when Core’s Virginia affiliate tried to do so.<sup>48</sup> As with the trunk ports discussed above, the parties’ interconnection agreement does not permit Core to impose a separate charge for multiplexing because it limits Core to billing Verizon for the “Transport and Termination” of local traffic (Reciprocal Compensation), and Dedicated Transport from the POI to the IP only “if necessary” to purchase from Core. As such, the section of the Pricing Appendix that sets forth Core’s rates to Verizon contains no Core-to-Verizon multiplexing rates. Core has no tariffed rates for multiplexing, and therefore has no “tariffed or otherwise generally available” multiplexing rates that could apply.<sup>49</sup>

Core contends that the interconnection agreement allows it to charge for “multiplexing ‘separately from’ Dedicated Transport” – in other words, to charge for stand-alone multiplexing where Verizon provides its own trunks to transport traffic all the way to Core’s switch. Core Exceptions at 15. But Core misinterprets the applicability of Attachment III, Section 10 of the interconnection agreement, which governs *Verizon’s* provision of unbundled network elements *to Core*, and not *Core’s* provision of services, facilities or arrangements *to Verizon*.<sup>50</sup> That Section 10.1.3.1 of Attachment III states that when *Verizon* provides Dedicated Transport “as a

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<sup>48</sup> *VA District Court Decision, supra*, 2013 U.S. Dist. LEXIS 58649 at \*10; *VA Fourth Circuit Decision, supra*, 752 F.3d at 372-73.

<sup>49</sup> See Pricing Appendix, Section B (included in Exhibit 1 to VZ Stmt. 2.0).

<sup>50</sup> See, e.g., Interconnection Agreement, Attachment III, Sections 1.1 (“[Verizon] shall provide unbundled Network Elements ...”), 2.1 (“[Verizon] shall offer Network Elements to [Core] on an unbundled basis...”); 10.1.2 (“[Verizon] shall offer Dedicated Transport as a circuit dedicated to [Core].”). See Stipulated Joint Exhibit 1.

circuit,” it will “have available ... “[o]ptional multiplexing functionality,” and that Section 10.2.4 requires *Verizon* to offer multiplexing “both together with and separately from Dedicated Transport” does not support Core’s attempt to bill Verizon for “standalone multiplexing” because Attachment III does not address *Core’s* provision of “Dedicated Transport” or “standalone multiplexing” – or *any* unbundled network elements (which, as a CLEC, Core does not provide). In any event, when Core is attempting to charge stand-alone multiplexing, it is not providing Dedicated Transport “as a circuit.” The language does not support Core’s argument that it can charge for multiplexing in the absence of a Dedicated Transport circuit.

Core also argues that it can bill Verizon for “standalone multiplexing” because Verizon bills Core for multiplexing. Core Exceptions at 15, n. 18. But the question of what Verizon is entitled to bill for the trunks Core leased from Verizon (and at what rates) is not before the Commission in this case.<sup>51</sup> The only question here is what the interconnection agreement permits Core to bill. The interconnection agreement says nothing about Core providing “standalone multiplexing.” The ID correctly held that Core is not permitted “to charge Verizon for a separate multiplexing charge” but rather is “limited to billing Verizon for the “Transport and Termination” of local traffic (Reciprocal Compensation), and Dedicated Transport from the POI to the IP, “if necessary” to purchase from Core.” ID at 44.

**Reply to Exception No. 5: The ID Correctly Rejected Core’s Entrance Facility and Dedicated Transport Charges**

In addition to reciprocal compensation, the interconnection agreement also provides for transport charges between the POI and the IP in limited situations. The agreement states that “[t]he Party delivering traffic to the other Party’s IP(s) shall do so *by purchasing from the other*

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<sup>51</sup> Core chose to opt into an interconnection agreement that authorizes Verizon to bill Core for multiplexing and contains a Verizon rate for multiplexing. Interconnection Agreement, Attachment III, Section 10; Pricing Appendix, Section A.II.C (included in Stipulated Joint Exhibit 1).

*Party* transport between the POI(s) and the IP(s), *if necessary*” (emphasis added).<sup>52</sup> If it is “necessary” for Verizon to purchase such transport from Core, the agreement allows Core to bill Dedicated Transport at a rate that “shall not exceed [Verizon’s] equivalent charge.” *Id.*

Core excepts to the ID’s denial of its charges for Entrance Facilities and TELRIC Transport associated with the Philadelphia LATA beginning in 2013 (it did not bill transport there before 2013, or at any time for the other LATAs). The ID correctly denied these charges because: (1) it was not “necessary” for Verizon to purchase transport from Core; (2) Core “manipulated the designation of POIs in order to maximize the transport revenues”; and (3) Core has no rates for these service, and even if it were permitted to bill Verizon’s rates, it misapplied them and overcharged.

Core began billing transport in January 2013, ostensibly as a result of a facilities rearrangement in Philadelphia. Core’s wire center is located at 401 North Broad Street in Philadelphia, while Verizon’s is at 900 Race Street. VZ Stmt. 2.0 at 19. Before the change, Verizon had its own trunks in place to carry its traffic to Core’s switch at 401 North Broad Street.

In 2013, Core contacted Verizon via email stating that it was “abandoning a Philly location, and need[ed] to discuss migrating DS’3s [sic] from 401 N Broad 9<sup>th</sup> floor to 900 Race street.” *Id.* at 21 and Exhibit 6 thereto. Core now contends that the relocation of Verizon’s self-provisioned transport facilities to 900 Race Street – at *Core’s* request – authorizes Core to bill Verizon for transporting Verizon’s local traffic from 900 Race Street *back to* 401 North Broad Street, where Verizon’s own trunks had carried it until Core asked Verizon to move them.

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<sup>52</sup> Interconnection Agreement, Appendix IV, Sections 1.2.2 and 2.4.2 (included in Exhibit 1 to VZ Stmt. 2.0).

Core's choice of the word "abandoning" appears calculated to make Verizon's employees think that Core was no longer maintaining a switch or network node at the North Broad Street location. Core's claim that it was "abandoning a Philly location" did not indicate that Core was actually keeping its switch there and asking Verizon to relocate its self-provisioned facilities so that Core could bill Verizon transport on a route where Verizon had already built the transport necessary to carry its traffic to Core's switch. Mr. Mingo admitted on cross-examination that Core was not in fact "abandoning" the 401 North Broad Street location, but rather simply consolidating its space to the 4<sup>th</sup> floor at that location. Tr. at 59-67. He also admitted that Core never advised Verizon that Core was not in fact "abandoning" the 401 North Broad Street building, and never asked if Verizon would simply move its self-provisioned facilities from the 9<sup>th</sup> floor to the 4<sup>th</sup> floor to continue delivering traffic to Core's switch as it had been doing. *Id.* at 62; 65-66. Core's behavior induced Verizon to expend resources reconfiguring its own network, for no purpose, as it turns out, other than to enable Core's claim that it is entitled to charge Verizon for transport.

In this case, it was not "necessary" for Verizon to purchase transport from Core. Therefore, the interconnection agreement does not require Verizon to pay "Dedicated Transport" charges to Core. The facilities rearrangement was for Core's convenience, not Verizon's necessity. Verizon already had facilities in place to carry its traffic all the way to the building housing Core's switch at 401 North Broad Street, until Core misleadingly directed Verizon to relocate those facilities to 900 Race Street – only to turn around and bill Verizon transport charges to carry Verizon's traffic right back to the original 401 North Broad Street location, which Core had not "abandoned" after all. On cross-examination, Mr. Mingo admitted that the interconnection agreement permits *Verizon* to decide how to send its traffic to Core, including

self-provisioning transport or obtaining it from a third party. Tr. at 73-75. Verizon had already self-provisioned the transport facilities needed to carry local traffic to 401 North Broad Street and had no reason or necessity to stop using those facilities. Because it was not “necessary” for Verizon to purchase transport from Core, the interconnection agreement does not authorize Core to bill transport. ID at 11, FOF 37.

Even if the Commission finds that it is “necessary” under the interconnection agreement terms for Verizon to obtain transport from Core, the interconnection agreement still precludes Core’s transport charges because of Core’s lack of candor in misrepresenting that it was “abandoning” the 401 North Broad Street location. Core cites cases arguing that an “implied” duty of good faith cannot override express contractual terms. Core Exceptions at 17. But Core’s duty to act in good faith here is not implied. The agreement imposes an express contractual duty of good faith dealing.<sup>53</sup> In addition to requiring Core to deal generally with Verizon fairly and in good faith, the interconnection agreement has a specific provision allowing the Commission to disallow transport charges under the facts here. Attachment IV, Section 1.2.2 not only states that “[t]he party delivering traffic to the other Party’s IP(s) shall do so by purchasing from the other Party transport between the POI(s) and the IP(s), if necessary,” but further provides that Verizon “may request relief from the Commission if [Verizon] reasonably believes that [Core] has manipulated the designation of POIs in order to maximize the transport revenues [Verizon] must pay to [Core]” (emphasis added). The Commission should disallow Core’s transport charges under this provision since Verizon had the facilities in place to transport its own traffic to Core’s switch.

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<sup>53</sup> Interconnection Agreement, Part A, Section 42.1, included in Exhibit 9 to VZ Stmt. 2.1.

But even if the Commission concludes that Core is entitled to bill Verizon Dedicated Transport on the route between 401 N. Broad Street and 900 Race Street in Philadelphia after its facilities rearrangement, Core's transport bills are flawed and overstated. *First*, as discussed above in conjunction with Exception No. 2, Core does not have its own rates for these services, but rather has billed Verizon's rates for DS3 Entrance Facilities and DS3 TELRIC Transport that appear in the *Verizon* section of the interconnection agreement's Pricing Appendix (Section A), not the *Core* section (Section B). And Core has not even billed Verizon's rates correctly. Like the Verizon's trunk port rate, the Verizon DS-3 Channel Termination and Dedicated Unbundled DS3 Transport rates listed in the Pricing Appendix were superseded by new rates approved by the Commission in 2004, but Core used the superseded pre-2004 rates.

*Second*, Core also applied those rates incorrectly. The interconnection agreement limits Core to billing charges that "shall not exceed [Verizon's] equivalent charge," but Verizon's Mr. D'Amico explained in unrebutted testimony (despite Core's opportunity for oral surrebuttal) that in equivalent circumstances Verizon would bill only one charge, most likely a DS-3 Channel Termination (also known as an entrance facility), and it would not also bill TELRIC Transport since the facility is not connecting two Core serving wire centers.<sup>54</sup> Also unrebutted was Verizon's explanation that Core should only have billed for two DS-3 circuits, not four.

Correcting these errors would reduce Core's transport billings from \$41,506.92 to \$12,500.04 as of the date of the Complaint, and also reduce them going forward.<sup>55</sup> The Commission should deny Core's Exception No. 5.

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<sup>54</sup> VZ Stmt. 2.0 at 26; VZ Initial Br. at 30-31.

<sup>55</sup> VZ Initial Br. at 29-31; ID at FOF 69-71.

**Reply to Core Exception No. 6: Core’s Facilities Charges for the Altoona LATA Are Invalid**

Core claims that the ID incorrectly rejected its facilities charges associated with the Altoona LATA on the basis that Amendment No. 1 to the parties’ interconnection agreement – referred to as the “Altoona Amendment”<sup>56</sup> – bars Core’s attempt to charge Verizon for facilities there. Core Exceptions at 19-21. However, the ID appropriately rejected Core’s Altoona facilities charges based not only on the plain language of the Altoona Amendment,<sup>57</sup> but also based on its broader findings that the parties’ interconnection agreement does not authorize Core to bill Verizon for tandem trunk ports or multiplexing in *any* LATA.<sup>58</sup>

Core asserts that “[a]ccording to the I.D., the key provision [of the Altoona Amendment] is ¶ 1(d)...” Core Exceptions at 19. However, nowhere does the ID single out Paragraph 1(d) as a “key provision.” Rather, the ID details why Paragraphs 1(a) and 1(d) of the Altoona Amendment, coupled with Core’s failure to secure a further amendment when it moved its Altoona switch, bar Core’s attempt to bill Verizon facilities charges for the Altoona LATA. ID at 47-48.

Core conveniently ignores the ID’s citation to Paragraph 1(a) of the Altoona Amendment, which identifies special interconnection arrangements agreed to for the Altoona LATA at Core’s request and states that “Core has agreed at Verizon’s request that *Verizon is not responsible for any ... payment ... or similar obligations in connection with such arrangements*” (emphasis

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<sup>56</sup> The Commission approved Amendment No. 1 to the parties’ interconnection agreement with an effective date of January 10, 2003, nearly a decade before Core began sending the facilities invoices at issue. *See Joint Petition for the Approval of Amendment No. 1 to the Interconnection Agreement Between Verizon Pennsylvania Inc. and Core Communications, Inc. under Section 252(e) of the Telecommunications Act of 1996*, Docket No. A-310922F7000 (Opinion and Order entered July 1, 2003). Amendment No. 1 is included in Exhibit 1 to VZ Stmt. 2.0, as well as in Stipulated Joint Exhibit 1.

<sup>57</sup> ID at 47-48 and FOF 73-77; *see also* VZ Initial Br. at 31-34; VZ Reply Br. at 26.

<sup>58</sup> ID at 31-46, FOF 40-55; *see also* VZ Initial Br. at 16-24; VZ Reply Br. at 13-24.

added). ID at 47. The ID also cites Paragraph 1(d) of the amendment, which confirms that “*for the avoidance of any doubt, Core may not assess any charge(s) upon Verizon for the transport of traffic delivered by Verizon over the OC-12 fiber optic system to Core’s POP . . .*” (emphasis added). ID at 47-48.

In other words, Paragraph 1(d) of the Altoona Amendment underscores Paragraph 1(a)’s broad prohibition against billing Verizon *anything* in conjunction with the special arrangements provided to Core in Altoona by confirming that the prohibition extends to transport. Paragraph 1(d) of the Altoona Amendment does not limit Paragraph 1(a)’s billing prohibition merely to “transport” charges, as Core would have the Commission believe. Thus, while Core asserts that trunk ports and multiplexing are “technically not ‘transport’ as set forth in section 1.d. of the amendment,”<sup>59</sup> that claim is ultimately irrelevant since Paragraph 1(a) prohibits any charges to Verizon in the Altoona LATA.

Core lastly complains that the ID improperly agreed that because Core unilaterally moved its Altoona switch without further amendment to the parties’ interconnection agreement, it could not argue that Verizon violated the Altoona Amendment by not maintaining connections to Core’s non-existent former switch location, as Core had asserted.<sup>60</sup> Core Exceptions at 20-21. Core mischaracterizes Verizon’s (and the ID’s) position as being that Core could not move its switch without amending the interconnection agreement, and then attempts to knock down that straw man by arguing that Verizon takes inconsistent positions on whether a written amendment is required to alter the terms of the interconnection agreement.<sup>61</sup> *Id.*

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<sup>59</sup> Moreover, Core offers no support for its assertion – nor can it, since the Altoona Amendment does not define “transport” as used in Paragraph 1(d), but instead uses the broadest possible language to preclude charges levied “in connection” with such facilities.

<sup>60</sup> Core Stmt. 2.0 at 19-20.

<sup>61</sup> Core makes this argument in light of Verizon’s position on the incorporation of the Commission-ordered 2004 TELRIC rates into the Pricing Appendix by virtue of Footnote 1 thereto (*see* discussion of Exception No. 2

Verizon’s point was simple, and the ID was right to accept it: because Core unilaterally moved its Altoona switch without amending the interconnection agreement for its new location, Core could not argue that Verizon had failed to comply with the Altoona Amendment by not maintaining connections to a non-existent Core switch at the former switch location. ID at 48. Core’s contention that if its actions “voided” the Altoona Amendment, they also voided the amendment’s billing prohibitions does not even pass the “straight face test.” Core Exceptions at 21. Verizon did not argue that the amendment was void. Verizon stated that it could not be found in violation of an obligation with which Core had rendered it impossible for Verizon to comply.

The ID appropriately rejected Core’s contention that because Verizon had not done what Core had rendered physically impossible, Core was now free to disregard the billing prohibitions of Paragraphs 1(a) and 1(d) of the Altoona Amendment and bill Verizon nearly a million dollars in unauthorized facilities charges. The Commission should deny Core’s Exception No. 6.

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above). As explained therein, Verizon does not assert that the interconnection agreement may be amended without a written amendment. Rather, Verizon argued – and the ID agreed – that no amendment was necessary to incorporate the new rates in the agreement because Footnote 1 of the Pricing Appendix was self-executing upon issuance of the Commission’s order approving new TELRIC rates.

## CONCLUSION

For the foregoing reasons and based on Verizon's briefs and testimony, the Commission should deny Core's exceptions and adopt the ID as its final decision in this matter.

Respectfully submitted,



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