BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Core Communications, Inc.	
v.	**C-2009-2133609**
XO Communications Services, Inc.	

ANSWER OF XO COMMUNICATIONS SERVICES, LLC TO PETITION OF CORE COMMUNICATIONS, INC. FOR RECONSIDERATION & CLARIFICATION OF THE NOVEMBER 23, 2016 COMMISSION OPINION & ORDER

1. Pursuant to 52 Pa. Admin. Code § 5.572(e), XO Communications Services, LLC[1] ("XO") hereby respectfully requests that the Pennsylvania Public Utility Commission ("Commission") deny the Petition of Core Communications, Inc. ("Core") for Reconsideration and Clarification of the Commission Opinion and Order, entered November 23, 2016 ("Petition") in the above-captioned proceeding. In further support of this Answer, XO avers as follows:

2. The Commission ruled that traffic terminated to internet service providers ("ISP-bound traffic"), dialed in the form of intrastate toll ("toll-dialed") calls, falls under the rulings of the Federal Communications Commission ("FCC") that govern compensation for ISP-bound traffic generally. *See Core Communications, Inc. v. XO Communications Services, Inc.*, Opinion and Order, Case No. C-2009-2133609 (Nov. 23, 2016) ("*Order*") at 19-34. Core objects to that conclusion. Core also objects to the *Order's* decision to limit Core's recovery for toll-dialed ISP-bound traffic to the period from February 2010 forward. There is nothing new or novel here – not previously heard or considered – which was overlooked by the Commission. 66 Pa. C.S. § 703(g). For that reason, and for the reasons set forth below, the Commission should reject both of Core's arguments and permit the rulings in the *Order* to stand.

---

[1] On April 22, 2016, the Commission approved the *pro forma* corporate conversion of XO Communications Services, Inc. into XO Communications Services, LLC in Docket No. A-311331.

The *Order* Correctly Limited Compensation For Toll-Dialed ISP-Bound Calls To $0.0007/Minute

3. The *Order* concluded that ISP-bound calls sent from XO to Core are subject to an FCC-mandated rate cap of $0.0007/minute, notwithstanding the fact that the calls at issue were dialed as toll calls. *Order* at 23-24, 28-34. This ruling was clearly correct and should not be reconsidered.

4. Core's argument challenging this conclusion is based on a simple legal error. Core contends that the FCC's rate-cap regime for ISP-bound calls does not apply to calls that are not dialed "locally," that is, typically dialed using only seven digits, as opposed to ISP-bound calls that are dialed as "1+" toll calls. Petition at ¶¶ 3-22. On this basis, Core claims that the *Order* should be reconsidered and that XO should have to pay Core's tariffed switched access rates for toll-dialed ISP-bound calls.

5. Core's basic contention is wrong. As explained below, the *Order* properly concluded that the FCC's price-cap regime for ISP-bound calls applies to all ISP-bound calls, no matter how they are dialed, and no matter whether the calling party is physically located within a calling area that is "local" to a number that is assigned to an ISP. As a result of rulings by the FCC over the past decade, discussed below, it is clear that states retain jurisdiction to determine what rate ***at or below the FCC's rate cap*** applies to ISP-bound calls. Any rate above the cap, however, is preempted by such FCC's rulings.

6. First, the FCC's 2008 *ISP Mandamus Order* – upheld as providing a legally sound basis for the agency's rate-cap regime for ISP-bound calls – was not in any way limited to traditional "local" or "locally-dialed" calls. *See High-Cost Universal Service Support, et al,* Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475 (2008) ("*ISP Mandamus Order*"), *affirmed, Core Communications, Inc. v. FCC*, 592

F.3d 139 (D.C. Cir. 2010).[2] The *ISP Mandamus Order* found that ***all*** ISP-bound traffic is inherently both "interstate" and "interexchange" in nature. *Id.* at ¶ 6. In fact, it repeated the FCC's earlier conclusion that it had been a "mistake" to view the reciprocal compensation regime of 47 U.S.C. § 251(b)(5) as limited to "local" traffic – however that term might be defined – and went on to state, in applying the rate-cap regime to ISP-bound traffic, that "this interstate, interexchange traffic is to be afforded different treatment from other section 251(b)(5) traffic pursuant to our authority under section 201 and 251(i) of the Act". *Id.* at ¶¶ 7, 9. The FCC went on to state that "the transport and termination of ***all*** telecommunications exchanged with LECs is subject to the reciprocal compensation regime in sections 251(b)(5) and 252(d)(2)." Id. at ¶15 (emphasis added). As a result, the rules for compensation for ISP-bound calling set out in the *ISP Mandamus Order* apply to ***all*** ISP-bound traffic, and the order itself clearly supports the Commission's decision to apply the $0.0007/minute rate cap to the toll-dialed calls routed between XO and Core that are at issue in this proceeding.

7. Second, the FCC emphasized and confirmed the broad scope of Section 251(b)(5) in the *ICC Transformation Order,* where it reaffirmed that the "telecommunications" subject to Section 251(b)(5) is not limited to "local" traffic. *Connect America Fund,* Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 17663 (2011) ("*ICC Transformation Order*"), *affirmed, Direct Communications Cedar Valley v. FCC,* 753 F.3d 1015 (10th Cir. 2014), *cert. denied sub nom. Allband Communs. Corp. v. FCC, et al.,* 135 S. Ct. 2050 (2015). In that ruling, the FCC again stated that the reciprocal compensation regime of Section 251(b)(5) is

[2] As the Commission is aware, the FCC struggled for many years to find a legally sound rationale for its efforts to address the arbitrage problems caused by excessive compensation for ISP-bound calls. *See Core Communications v. FCC, supra,* 592 F.3d at 141-43 (summarizing history). Because the only FCC order to survive review on this topic was the *ISP Mandamus Order, supra,* the Commission should not rely on earlier FCC rulings and on court decisions that are based on those earlier rulings. *See infra.*

comprehensive, because that provision "does not use the term 'local,' but instead speaks more broadly of the transport and termination of 'telecommunications' [which] encompasses communications traffic of any geographic scope (*e.g.,* 'local,' 'intrastate,' or 'interstate') or regulatory classification (*e.g.,* 'telephone exchange service,' 'telephone toll service,' or 'exchange access')." *ICC Transformation Order* at ¶ 761.

8. Finally, this broad reading of the rate-cap regime is confirmed by the FCC's *amicus* brief in *AT&T Communications of California, Inc. v. Pac-West Telecomm, Inc.,* 651 F. 3d 980 (9th Cir. 2011). Contrary to Core's suggestion, *see* Petition at ¶¶ 5, 13, when the FCC addressed this issue in its *amicus* brief, it told the Court of Appeals for the Ninth Circuit that the rate cap regime applies to toll-dialed, as well as locally-dialed, ISP-bound traffic. The key focus of the dispute before the Ninth Circuit was not the scope of traffic embraced by the rate-cap regime for ISP-bound traffic; rather it was whether the regime applied to traffic sent between the two competitive local exchange carriers ("CLECs"). But in describing its views as to the operation of the rate-cap regime, the FCC was expressly aware – and advised the court – that the dispute in that case included both "local" calls and "toll" calls. Specifically, the FCC stated as follows:

> Pac-West and AT&T do not have an interconnection agreement. Decision at 2 (ER 3). Beginning in July 2001, Pac-West billed AT&T for its termination of AT&T-originated traffic based upon the rates ***for the completion of "local calls and intraLATA toll calls***" contained in its state tariff on file with the California Public Utility Commission ("CPUC"). Pac-West Tariffs, ER 311-17. See Decision at 2 (ER 3). AT&T refused to pay ***these charges,*** claiming that Pac-West was not entitled to charge AT&T state-tariffed termination rates for the traffic at issue because the federal new markets rule prescribed a bill-and-keep compensation regime for the traffic terminated by Pac-West. ER 337-38.

Amicus Brief of the [FCC] In Partial Support of Plaintiff-Appellant Urging Reversal, AT&T Communications of California, Inc. v. Pac-West Telecomm Inc., No. 08-17030, 2008 U.S. 9th Cir. Briefs 17030; 2011 U.S. 9th Cir. Briefs LEXIS 117 (Feb. 2, 2011) at [16] – [17] (emphasis

added, footnote omitted). This shows that the FCC clearly understood the dispute between AT&T and Pac-West to involve both "local" and "toll" calls. If the FCC had understood the rate-cap regime to only apply to local calls (somehow defined), it would have stated that the analysis in the *amicus* brief did not apply to the "intraLATA toll calls" that it knew to be in dispute. Instead, the FCC's discussion in its brief makes no distinction between "local" and "toll" calls with regard to the application of the rate-cap regime, which shows that its analysis applies to ***all*** ISP-bound calls.

9. Of course, the FCC could not sensibly have argued that the rules from the *ISP Mandamus Order* only applied to "local" calls, given that that order ***clearly*** said that it had been a "mistake" to have treated the "local" status of the calls as controlling or even relevant. So, when the FCC urged the Ninth Circuit to apply the rate-cap regime to CLEC-to-CLEC calls, it was urging that approach with the full and express knowledge that the calls in dispute in that case included "intraLATA toll calls." For this reason, Core is simply wrong to say that the "FCC *amicus* brief in *Pac-West* does not address – directly or indirectly – the issue of whether a state commission may impose access charges on toll-dialed ISP-bound traffic." Petition at ¶ 13. The question of toll-dialed traffic was squarely before the Ninth Circuit and on the FCC's radar screen when it crafted its *amicus* brief, and its *amicus* brief expressly recognizes that fact.

10. In light of the *ISP Mandamus Order,* the *ICC Transformation Order,* and the FCC's *amicus* brief in *AT&T v. Pac-West,* the Commission accurately assessed the scope of the FCC's rate-cap regime for ISP-bound traffic, and correctly ruled that the rate-cap regime applies to toll-dialed ISP-bound traffic.

11. The timing of the FCC actions is highly relevant here. The *ISP Mandamus Order,* the key FCC ruling which finally eviscerated the notion that the "local" status of ISP-bound traffic might matter to intercarrier compensation, was not issued until 2008 and was not affirmed

by the courts until 2010. The FCC's *amicus* brief, which urged the Ninth Circuit to apply the rate-cap regime to traffic that included "intraLATA toll calls," was not filed until early 2011. Finally, the *ICC Transformation Order*, which confirmed the broad scope of Section 251(b)(5), was not issued until late 2011. As a result, decisions issued prior to that timeframe are wholly irrelevant to the issue before the Commission in the *Order*. For this reason, Core's reliance on *Peevey* and the *Global NAPS* cases – all dating from 2006 – is simply misplaced. *See Verizon California, Inc. v. Peevey*, 462 F.3d 1142 (9th Cir. 2006); *Global NAPS, Inc. v. Verizon New England, Inc.*, 444 F.3d 59 (1st Cir. 2006); *Global NAPs v. Verizon New England, Inc.*, 454 F.3d 91 (2d Cir. 2006). With regard to the issue before the Commission here, those cases are simply no longer good law – they have been superseded by later FCC actions and court decisions, such as *AT&T v. Pac-West* in the Ninth Circuit, and *AT&T v. Core* in the Third Circuit, *see AT&T Corp. v. Core Communications, Inc.*, 806 F.3d 715 (3d Cir. 2015). As a result, the cases on which Core relies should not be followed, even as persuasive precedent, here in Pennsylvania (in the Third Circuit) in 2016.

12. Given all this, the *Order* was clearly correct to conclude that the FCC's rate-cap regime applies to toll-dialed ISP-bound calls. As discussed in the *Order* and in *AT&T v. Core, supra*, this means that state regulators (such as the Commission) retain the authority to adjudicate disputes about compensation for ISP-bound traffic, and also retain the authority to set the rate for such compensation – as long as the rate is at or below the FCC-established cap of $0.0007/minute. *Order* at 28-34. *See also AT&T Corp. v. Core Communications, Inc.*, 806 F.3d 715, 726-29 (3d Cir. 2015) (discussing preemptive effect of FCC's regime). As applicable here, this means that the Commission not only correctly concluded that it had jurisdiction to resolve the case, but also correctly concluded that it was obliged by federal law to set an intercarrier compensation rate for toll-dialed ISP-bound traffic no higher than the maximum $0.0007/minute

rate established by the FCC. It would be error for it to reverse those determinations on reconsideration.

13. Core notes two decisions from the Commission dealing with interconnection arbitrations in support of reconsideration, *see* Petition at ¶¶ 16-19, citing to some language in those decisions that it claims could be viewed as inconsistent with the ruling in the *Order*. Core's reliance is misplaced, for three main reasons.

14. First, the key issue in the arbitrations was the compensation applicable to VNXX-dialed calls to ISPs, and in each case, the Commission ruled that the compensation for such calls would be bill-and-keep.[3] The arbitration rulings thus entirely conform to the FCC's rate-cap regime for ISP-bound calls – as does the ruling in the *Order*. As a result, there is no conflict between ***holdings*** of those arbitration cases and the holding in the *Order* here, or between any of those holdings and the requirements of the FCC's rate-cap regime.

15. Second, in deciding the arbitration cases, the Commission was not confronted with the issue in this case – the application of the FCC's rate-cap regime to toll-dialed calls.[4] To the contrary, in the arbitration cases, the parties all ***agreed*** that toll-dialed ISP-bound calls would

---

[3] *Petition of Core Communications, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions with The United Telephone Company of Pennsylvania d/b/a CenturyLink,* Opinion and Order, Case No. A-310922F7002 (rel. Dec. 19, 2013) at p. 71; *Petition of Core Communications, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions with Windstream Pennsylvania, Inc. Pursuant to 47 U.S.C. §252(b),* Opinion and Order, Case No. A-310922F7004 (rel. July 11, 2014) at p. 71.

[4] *See* Petition of Core Communications, Inc. for Arbitration of Rates, Terms and Conditions with the United Telephone Company of Pennsylvania, Case No. A310922-F7002 (filed April 21, 2006), Appendix 2 ("Statement of Disputed Issues") at 1; Petition of Core Communications, Inc. for Arbitration of Rates, Terms and Conditions with Alltel Pennsylvania, Inc., Case No. A310922-F7004 (filed March 30, 2006), Appendix 2 ("Statement of Disputed Issues") at 10.

be subject to access charges.[5] In negotiating an interconnection agreement, parties can establish any mutually-acceptable terms they want, "without regard to" what Section 251(b)(5) may require. 47 U.S.C. § 252(a)(1). In a case where all parties wanted access charges to apply to toll-dialed ISP-bound calling, it is both unsurprising and irrelevant that the Commission's order might contain *dicta* that assumes a compensation arrangement voluntarily entered into by the parties is permissible under the FCC's regime.

16. Third, the arbitration cases, although concluded relatively recently, actually began a decade ago – in 2006.[6] Those cases, therefore, were litigated, in large measure, without the benefit of the *ISP Mandamus Order*, *AT&T v. Pac-West*, the FCC's *amicus* brief in that case, or the Third Circuit's recent decision in *AT&T v. Core*. Indeed, the Commission's final rulings in each of the arbitration cases were rendered prior to *AT&T v. Core*. For this reason as well, the Commission today is not bound by *dicta* in earlier rulings where the issue in the *Order* was not in dispute, and which therefore would not have focused on how current law applies to that issue.

17. For all these reasons, the arbitration cases are clearly distinguishable, and do not constitute grounds for reconsidering the *Order*. Core's citation to those cases certainly does not amount to a "new and novel argument" of the type that would warrant reconsideration.

18. Core's final substantive argument challenging the Commission's application of the FCC's rate-cap regime to toll-dialed ISP-bound calls is that the concerns about regulatory arbitrage underlying that regime do not apply to such calls. Core's logic, apparently, is that since end users will incur toll charges for toll-dialed calls, arbitrage is not a concern. Petition at ¶¶ 20-

---

[5] Both Core, on the one hand, and the incumbent local exchange carriers ("ILECs"), on the other, evidently believed it to be in their interest to assess access charges on toll-dialed ISP-bound calls, irrespective of whether the FCC's rate-cap regime would require the payment of such access charges.

[6] *See*, note 4, *supra*.

21. This argument is flawed for at least two reasons. First, it is increasingly common for landline telephone services to be offered for a flat monthly fee that includes large or unlimited amounts of combined local and long distance calling for a flat fee, irrespective of whether any particular call is dialed on a "local" or "toll" basis. The same economic forces that drive arbitrage in the case of flat-rated "local" (exchange) calls to ISPs apply to flat-rated "toll" (interexchange) calls as well.

19. Second, the regulatory arbitrage that concerned the FCC in setting up the rate-cap regime was that permitting high intercarrier charges for ISP-bound calls distorted the incentives of the CLECs serving the ISPs, causing them to avoid competing on a broader scale, as Congress intended in passing the 1996 Act in the first place. *See, e.g., AT&T v. Pac-West, supra,* 651 F.3d at 984 n.4. This problem is exacerbated any time a CLEC like Core can receive high rates from other carriers for calls to ISPs, irrespective of whether those high rates are denominated "reciprocal compensation" or "access charges."

20. In this regard, the Petition is misleading in its citation of *AT&T v. Pac-West* as suggesting that the FCC's rate-cap regime in its present form (that is, its final form, established in the 2008 *ISP Mandamus Order*) was focused on "the opportunity for regulatory arbitrage created by [applying the] reciprocal compensation scheme to local ISP-bound traffic." Petition at ¶ 21, *quoting AT&T v. Pac-West, supra,* 651 F.3d at 994. While the quote is literally accurate, the court is discussing the FCC's *ISP Remand Order* from 2001. It is not discussing, much less purporting to limit, the scope and application of the *ISP Mandamus Order* from 2008. Moreover, at the time of the *AT&T v. Pac-West* decision, the FCC's *ICC Transformation Order* had not yet even been issued. Given that it was not until the 2008 *ISP Mandamus Order* that the FCC was able to fashion a legally sound rationale for its rate-cap regime for ISP-bound calling,

the Ninth Circuit's comments on the logic of a much-earlier FCC order are of dubious relevance, and are certainly not controlling, here.

21. For all these reasons, the Commission should reject Core's request to reconsider the *Order's* conclusion that the FCC's rate-cap regime fully applies to toll-dialed ISP-bound calls. Instead, the Commission should reaffirm the *Order's* treatment of that issue which is fully consistent with FCC precedent.

The Commission Should Reject Core's Request To Reconsider The Time Period To Which The Ruling Applies

22. The Commission should also reject Core's request to reconsider those portions of the *Order* limiting Core's recovery to the period from February, 2010 forward. In the ALJ's Initial Decision[7] and the *Order*, Core's claim for intercarrier compensation related to toll-dialed ISP-bound traffic was appropriately limited to the period beginning February, 2010. Core's argument challenging this determination in the section of its Petition labeled "Scope of Traffic" is a "red herring[8]" and should be summarily rejected by the Commission.

23. Contrary to Core's argument, toll-dialed ISP-bound traffic prior to February, 2010 was not excluded based on Section 1312 of the Public Utility Code or its statute of limitations. In fact, the ALJ excluded Core's claim for traffic prior to February, 2010 because she determined that Core's "mismatching data" simply was not credible, nor in compliance with the ALJ's directive. I.D. at 9. Core seeks to avoid this evidentiary determination by reference to a

---

[7] Initial Decision of Administrative Law Judge Kandace F. Melillo in *Core Communications Inc. v XO Communications Systems, Inc.* Docket No. C-2009- 2133609 (rel. May 11, 2012) ("I.D.").

[8] *See*, https://en.wikipedia.org/wiki/Red_herring**;** A **red herring** is something that misleads or distracts from a relevant or important issue. It may be either a logical fallacy or a literary device that leads readers or audiences towards a false conclusion.

purported "statute of limitations." As explained below, after being requested by the ALJ to do so, Core failed to submit credible evidence, in this proceeding, sufficient to permit the ALJ to determine the accurate intrastate MOUs in its claim for toll-dialed ISP-bound traffic for the period prior to February, 2010. I. D. at 9. It is well settled that the presiding officer has the authority to control the receipt of evidence in this proceeding, including ruling on the admissibility of evidence. 52 Pa. Code §5.403(a)(1).

24. Section 1312 of the Public Utility Code limits refunds and credits, consistent with Pennsylvania's statute of limitations for contract actions, to a four-year period during which a contract may be enforced. 66 Pa. C.S. §1312. The excluded evidence in this proceeding was not based upon any dispute concerning the appropriate statute of limitations. It was, in fact, based upon the ALJ's appropriate determination that the evidence presented by Core related to toll-dialed ISP-bound traffic prior to February, 2010 "did not match the underlying CDRs for various sampled months, and that this also cast doubt on the accuracy of the breakdown." I. D. at 9.

25. This Commission and the ALJ properly restricted Core's claim for toll-dialed ISP-bound traffic to the period beginning February, 2010, because, for earlier periods, "the breakdown for these earlier months did not match the billed MOUs." I.D. at 31. In fact, the ALJ was generous in her efforts to provide Core with the opportunity to correct this evidentiary problem. At the hearing, the ALJ found that "Core Ex. BLM-25 contained new claims not previously billed and that the MOUs (both amount and jurisdiction) in identified samples from Core Ex. BLM-25 were inconsistent with the billed MOUs." I. D. at 7. Accordingly, while the ALJ ruled that Core Ex. BLM-25 would not be admitted at that time; she also directed that Core supply additional information for the record, consistent with the billed MOUs. And in the ALJ's Order dated July 13, 2011, Core was given until August 2, 2011, to submit a revised Ex. BLM-

25, consistent with the ALJ's ruling. I.D. at 7. Prior to that deadline, on August 1, 2011, Core requested an additional two (2) week extension of time to re-submit revised exhibits, and with no objection from XO, the ALJ granted Core's extension request. I.D. at 7.

26. When Core eventually submitted its purported corrected data, the ALJ again rightfully determined that "Core's combined "intra toll" and "local" intrastate MOUs" "exceeded the total invoiced intrastate MOUs submitted, because of the reclassification of billed interstate MOUs by Core to intrastate MOUs, for the months prior to February 2010." I.D. at 9. Because this "breakdown data was not in compliance with" the ALJ's "directive that the data match the billed MOUs," the ALJ required that the "mismatching data" be excluded.[9] I.D. at 9.

27. In contrast to the period prior to February, 2010, the ALJ allowed Core to include the "intra toll" and "local" breakdown and the total intrastate MOUs for the months of February 2010 forward in its claim because "the total intrastate MOUs in the breakdown for these months matched the billed intrastate MOUs." I.D. at 9.

28. Core has not demonstrated "good cause" sufficient to warrant reconsideration of the Commission's decision to uphold the evidentiary rulings of the ALJ in this proceeding. Despite Core's attempt to analogize this proceeding to its prior dispute with AT&T, the ALJ did not exclude Core's claim concerning traffic prior to February 2010 based upon Section 1312 of the Public Utility Code or any statute of limitations. This Commission and the ALJ properly excluded Core's claim because Core failed to provide credible evidence, as directed, sufficient to

[9] Core's combined "intra toll" and "local" intrastate MOUs were included in columns on Exs. BLM-27 and BLM-28. Because this breakdown data was not in compliance with her directive that the data match the billed MOUs, the ALJ required that the mismatching data be redacted. I.D. at 9.

permit a determination of the accurate intrastate MOUs in its claim for the period prior to February, 2010.

WHEREFORE, for all of the forgoing reasons, the Commission should reject Core's request to reconsider the *Order's* conclusion that the FCC's rate-cap regime fully applies to toll-dialed ISP-bound calls. Instead, the Commission should reaffirm the *Order's* treatment of that issue. The Commission should also reject Core's request to reconsider those portions of the *Order* limiting Core's recovery for toll-dialed ISP-bound traffic to the period from February, 2010 forward. There is nothing new or novel raised in Core's Petition – not previously heard or considered – which was overlooked by the Commission. Accordingly, XO respectfully requests that the Petition of Core for Reconsideration and Clarification of the Commission Opinion and Order, entered November 23, 2016, be denied.

Respectfully submitted,

Renardo L. Hicks, Esquire
PA Attorney ID No. 40404
R. L. Hicks & Associates, LLC
4740 Mountain View Road
Harrisburg, PA 17110
717-260-3070
717-754-0210 (fax)
rlh@rlhickslaw.com

Christopher W. Savage, Esquire
DAVIS WRIGHT TREMAINE, LLP
1919 Pennsylvania Avenue, N.W., Suite 800
Washington, DC 20006
202-973-4200
202-973-4499 (fax)
chrissavage@dwt.com

Dated: December 19, 2016

Attorneys for XO Communications Services, LLC

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA EMAIL and First Class US Mail

Michael A. Gruin
Stevens & Lee
17 North Second Street, 16th Floor
Harrisburg, PA 17101
mag@stevenslee.com

Pamela G. Polacek, Esquire
McNess Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
ppolacek@mwn.com

Date: December 19, 2016

Renardo L. Hicks

Renardo L. Hicks, Esq.