

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Core Communications, Inc.)	Transmittal No. 22
)	
FCC Tariff No. 3)	

**CORE COMMUNICATIONS, INC.’S RESPONSE TO
PETITION OF VERIZON AND AT&T TO REJECT OR
SUSPEND AND INVESTIGATE CORE’S REVISED TARIFF**

INTRODUCTION

Core *is* at it again; and it will be until it is paid for compensable traffic and granted a deemed lawful tariff that protects Core’s right to collect those fees. Core will continue to pursue lawful means to collect on lawful traffic because it has been left with no choice. After 4 years of failing to pay Core a dime on any and all calls Core transmitted to AT&T and Verizon¹ (hereinafter the “IXCs”), the IXCs continue their campaign to stop Core from obtaining the benefit of a deemed lawful tariff. These IXCs, the nation’s two largest long distance telephone carriers, have coordinated their attacks on Core—depriving Core of the vast majority of charges it is owed for its business. They have no valid legal grounds for their actions. But they seek to deprive Core of any ability to collect its charges and, thus, Core has been forced to seek protection in courts and through the tariffing system. In the IXCs’ latest attempt to thwart Core, they present a half-hearted tariff challenge full of mud-slinging but empty on substance to satisfy the applicable burden here. The Commission should not suspend or reject Core’s tariff.

¹ AT&T made minimal payments over the years, which it claims was a mistake and demanded refunded.

The IXCs challenge Core’s tariff and the entire deemed lawful tariff system for carriers they don’t like. They twist the Commission’s October 6 Order² and use it as a basis to claim that Core should not be permitted the benefit of a revised tariff. But the IXCs do not stop there. They go one step further and urge the Commission to “sanction” Core and stop other carriers from obtaining deemed lawful tariffs. *See* Tariff Challenge at 7 (“If there are no penalties for such a flagrant attempt to evade a recently issued Commission order, unscrupulous carriers will be emboldened to continue to file substantively identical — but slightly modified — tariffs until one sneaks through that they then will claim is deemed lawful.”)³ This is a ridiculous request, unsupported by any rule or law. This where the IXCs’ true colors shine through— they do not want CLECs to have the benefit of a deemed lawful tariff under which the IXCs would be obligated to actually pay. The IXCs’ modus operandi is to escape scrutiny for their conduct in the shroud of uncertainty of lawful v. unlawful call traffic. They also seek to perpetuate their “self-help”⁴ measures indefinitely by robbing Core and others the benefit of a deemed lawful tariff requiring payment for compensable traffic.

The IXCs take the liberty of referring to Core as “unscrupulous” while reaping enormous profits from connecting the 8YY traffic Core sends to it. The IXCs refuse to pay Core based on specious claims of “fraud” all the while charging its customers at rates exponentially higher than Core’s. The IXCs claim Core’s traffic is illegal or non-compensable, without referring to any applicable standard. There is no rule, order, law, or statute underpinning these claims. However,

² Memorandum Opinion and Order, *Core Communications, Inc. et al. Tariff F.C.C. No. 3*, FCC 21-109, WC Docket No. 21-191, (“*Core Tariff Order*”)

³ That the IXCs state Core should be sanctioned is wildly out of order here. Core filed a compliance tariff following the *Core Tariff Order*. The proposed tariff does nothing to change its compliance with that Order. Core remains committed to obtaining payment on compensable call traffic and will continue to pursue its regulatory and legal rights to do so, including through the long standing tariff system.

⁴ Labeling the IXCs’ conduct as self-help is an egregious misnomer and can be more properly referred to as “take and exploit” as it accepts the call traffic Core sends to it and charges its customers handsomely for it.

based on these allegations, the IXCs do not pay Core for calls from Vonage, Telnyx, and ANI when they pay others for the same 8YY calls.

To combat this destructive conduct, Core's proposed tariff filing defines the parameters of a good faith dispute in accordance with firmly established standards. The proposed tariff is uncontroversial and should be unnecessary. Core's customers, pursuant to its tariff, are permitted to withhold payments for good faith disputes but "good faith" cannot be meaningless. Core's tariff revisions merely intend to provide meaning to a "good faith" dispute, requiring customers to pay Core for compensable traffic. Core's tariff revisions do not create new law but rather refer to established law on the parameters of "non-compensable" call traffic. This is a measure Core has been forced to take as a result of joint efforts of the coordinating IXCs.

The IXCs do not claim that Core's definition for non-compensable traffic is deficient for any substantive reason. The IXCs did not propose a missing category of non-compensable call traffic in Core's tariff. Rather, they seek to foreclose a meaningful definition of compensability and continue with a vague, fluid category of non-compensable traffic of their own making. This is not the forum to do that. The IXCs can and should file a petition for rulemaking proceeding instead. Core agrees that harmful and untoward call traffic should be universally penalized and a rulemaking proceeding should be initiated to do so.

1. Core's tariff says nothing about a presumption of lawfulness.

The IXCs' claim that Core's tariff filing unilaterally establishes a presumption that all traffic Core sends to IXCs is legal traffic. This is wrong and is a misapplication of the *Core Tariff Order*. The FCC's objection to the previous tariff was that traffic not blocked by the IXCs was granted some *additional* presumption of lawfulness. The proposed tariff is designed to counter what IXCs assert is their right to unilaterally, and unlawfully, establish a presumption of non-compensability. With their false narrative, the IXCs have switched the burden of

“compensability.” It is not the case that all traffic billed by all carriers under lawful tariff is presumed non-compensable until proven compensable under standards established by the IXCs. Such a result is madness, allowing the IXCs to pick winners and losers in the industry. The Commission cannot allow such anticompetitive conduct to persist and should not suspend or reject Core’s tariff.

2. Core’s Tariff Is Not Ambiguous or Improper

These IXCs claim Core’s tariff is ambiguous and contains improper cross-references to formal FCC Orders. For a tariff to be improperly vague it must be written in such a way that Customers “cannot reasonably ascertain the proper application of the tariff at the time it is filed.” That is not the case here. Core’s proposed provision could hardly be more straightforward. The tariff contains a provision that simply says traffic is non-compensable if the FCC has made a determination (or makes one in the future) that that traffic is non-compensable. This should not be controversial, it is common sense. ILEC tariffs – including the IXCs’ – make numerous references to Commission orders and rules. These references include the specifics of *existing* orders and rules, as well as potential *future* orders. *See* Exhibits A-D.

3. Core is entitled to be paid for traffic that is not demonstrably non-compensable.

As Core has documented, it is actively and aggressively involved in the fight against illegal robocalling – and explicitly identifies its willingness to negotiate on the compensability of this traffic where it exists. But IXCs make a bold claim with no supporting reference or documentation that Core cannot charge for artificially generated robocalls where it is not the fraudster. IXCs imagine themselves as the sole arbiters of what traffic is non-compensable (while still compensable to *them* at retail rates). Where there is no rule to cite, IXCs just assert what they want to be true as if it is the law of the land.

4. Core is not shifting fraud filtering responsibility to the IXCs.

As the IXCs belabor their argument about obligation shifting, they include a telling footnote:

²¹ *Id.* ¶ 47. The possibility of obtaining a Commission ruling that some “traffic is . . .formally identified . . . as non-compensable switched access traffic” — a ruling that would be issued, presumably, in response to a petition by IXCs — also shifts to IXCs Core’s obligation to ensure that it only purchases legitimate toll-free traffic.

This footnote admits that Petitioner – until such a Commission ruling is issued or obtained – is again acting as the sole judge of what traffic is non-compensable. It is an odd inclusion. The IXCs declare that Core’s traffic is wholly non-compensable. Core replies by filing a tariff affirming it is the Commission which establishes the standards of what is non-compensable. These IXCs then claims “obligation shifting” since to obtain this standard would apparently require it to petition the Commission. These IXCs are only satisfied when they are able to continue applying standards of compensability that only they control and determine. The last thing they want is a tariff that says the Commission is responsible for such standards.

5. Core’s definition of compensability does not impose a financial barrier.

Trying to capitalize on the *Core Tariff Order*, the IXCs claim that “Core is again “impos[ing] an unreasonable financial barrier to raising a dispute.” There is no such barrier. Core’s definition of “non-compensable” traffic reasonably allows Core and the IXCs to work together to agree on types of traffic that may be non-compensable and includes *an example of* traffic both parties may agree is non-compensable to either of them. This objection does nothing but illustrate these IXCs’ dogged commitment to “compensable to me but not to Core.” The path to dispute resolution in the IXC’s favor is clear in the proposed tariff. Non-compensable traffic is defined in the tariff and there is a provision that allows for Core and its customers to agree to *additional* categories of traffic that are non-compensable. These IXCs would like to be continue

defining Core's traffic as wholly non-compensable without such external constraints – but Core, in this tariff filing, is taking steps to address this unlawful behavior. Should the Commission seek to create rules or orders on the compensability of call traffic it can initiate a rulemaking proceeding, which would protect consumers from the high 8YY retail prices AT&T and Verizon charge their customers on calls for which they claim they should not have to pay Core.

CONCLUSION

In a tariff challenge the Commission must follow the applicable standards. Contrary to the IXCs' arguments, the tariff provisions are entirely lawful and the IXCs do not identify any tariff provision that raises "substantial questions of law and fact." Nor is there a "substantial risk that ratepayers or competitors would be harmed if the proposed tariff revisions were allowed to take effect." Stated differently, the factors in § 1.773(a)(1)(ii) that are required to suspend Core's tariff filing have not been met.

Respectfully submitted,

/s/ Carey Roesel
Carey Roesel

Inteserra Consulting Group, Inc.
151 Southhall Lane, Suite 450
Maitland, FL 32751
(407) 740-3006

Consultant to Core Communications, Inc.

December 6, 2021

CERTIFICATE OF SERVICE

I, Carey Roesel, do hereby certify that, on this 6th Day of December 2021, the foregoing **RESPONSE OF CORE COMMUNICATIONS, INC. TO PETITION OF VERIZON AND AT&T TO REJECT OR SUSPEND AND INVESTIGATE CORE'S REVISED TARIFF** was served on the following parties via email:

Scott H. Angstreich
Derek Reinbold
KELLOGG, HANSEN, TODD, FIGEL
& FREDERICK, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900
sangstreich@kellogghansen.com
dreinbold@kellogghansen.com
Counsel for Verizon

Michael J. Hunseder
Spencer D. Driscoll
SIDLEY AUSTIN, LLP
1501 k Street, N.W.
Washington D.C. 20005
(202) 736-8000
mhunseder@sidley.com
sdriscoll@sidley.com
Counsel for AT&T Services, Inc.
William H. Johnson
Tamara L. Preiss
VERIZON
1300 I Street, N.W., Suite 500 East
Washington, D.C. 20005
(202) 515-2540
tamara.preiss@verizon.com
Counsel for Verizon

Brett Farley
AT&T SERVICES, INC.
1120 20th Street, NW, Suite 1100
Washington, D.C. 20036
(202) 457-2253
bf4773@att.com
Counsel for AT&T Services, Inc.

David Zesiger
Lynne Engledow
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554
David.Zesiger@fcc.gov
Lynne,Engledow@fcc.gov

Chief Regulatory Counsel
Core Communications Inc.
213 South Main Street
Anderson, SC 29624
ralph@gleatonlaw.com

/s/ Carey Roesel
Carey Roesel

EXHIBIT A

Ameritech Operating Companies
Tariff F.C.C. No. 2

6. Switched Access Service (Cont'd)

6.8 Rate Regulations

Rates are subject to subsequent adjustment, effective retroactively in light of *USTA v. FCC*, (Case No. 97-1469) (slip. op. May 21, 1999) (D.C. Cir.), or pursuant to pending motions or petitions or any other adjustment pursuant to a Commission or court order.

This section contains the specific regulations governing the rates and charges that apply for Switched Access Service.

6.8.1 Rate Zones

- Rate zones are applicable to LT-1, LT-3 and Tandem-Switched Transport.

For LT-1 and LT-3 services installed under an Optional Payment Plan term on or after November 18, 2000, wire center rate zone assignments 1, 2, 3, 4, and 5 can be found in the National Exchange Carrier Association, Inc. (NECA) F.C.C. Tariff No. 4. All other telephone company offices are assigned to zone 5. For LT-1 and LT-3 services installed under an Optional Payment Plan term prior to November 18, 2000, wire center rate zone assignments are as described in Section 7.7 following. For Tandem-Switched Transport services installed on or after November 18, 2000, wire center rate zone assignments 1, 2, 3, 4, and 5 can be found in the National Exchange Carrier Association, Inc. (NECA) F.C.C. Tariff No. 4. All other telephone company offices are assigned to zone 5. For Tandem-Switched Transport services installed prior to November 18, 2000, wire center rate zone assignments are as described in Section 7.7 following.

- Entrance Facility rates are dependent upon the zone assignment of the Serving Wire Center.
- Tandem Switching and Dedicated Tandem Trunk Port rates will be determined by the location of the access tandem.
- Dedicated and Common Multiplexing rates will be determined by the location of the multiplexing arrangement.
- When the offices/wire centers involved are assigned to different rate zones, the transport rates in the higher rate zone will apply to all transport rate elements. For Direct Transport and Tandem-Switched Transport, the rate zone that applies depends on the zone assignments of the offices involved, as follows:

For Direct Transport between a Serving Wire Center and an End Office, the Channel Mileage Termination and Channel Mileage rates are dependent upon the zone assignment of the serving wire center and the end office and will be assessed based on the highest rates zone.

(This page filed under Transmittal No. 1735)

EXHIBIT B

Ameritech Operating Companies
Tariff F.C.C. No. 2
8YY Revisions

6. Switched Access Service (Cont'd)

6.9 Rates and Charges (Cont'd)

6.9.1 Switched Transport (Cont'd)

(A) Usage Charges (Cont'd)

Premium Rates (Cont'd)

- Host-Remote Transport
- Host-Remote Transport Termination

	All States		Terminating To		(C)
	Originating 8YY	Non-8YY	non-Telephone Company's 3 rd party locations	Telephone Company's own end office	
	Per Access Minute Rate	Per Access Minute Rate	Per Access Minute Rate	Per Access Minute Rate	
Zone 1	\$.000000 (R)	\$.000000 (N)	N/A	\$.00	
Zone 2	.000000 (R)	.000000 (N)	N/A	.00	
Zone 3	.000000 (R)	.000000 (N)	N/A	.00	
Zone 4	.000000 (R)	.000000 (N)	N/A	.00	
Zone 5	.000000 (R)	.000000 (N)	N/A	.00	(C)

Rates contained in this transmittal are subject to subsequent adjustment, effective retrospectively, in the event the Commission or a court subsequently authorizes Ameritech to correct its rates pursuant to pending motions, or petitions for reconsideration or waiver, or in the event of any other adjustment to an order of the Commission or a court.

(This page filed under Transmittal No. 1893)

EXHIBIT C

Pacific Bell Telephone Company
Tariff F.C.C. No. 1

ACCESS SERVICE

2. General Regulations (Cont'd)

2.6 Definitions (Cont'd)

Unbundled Network Elements (UNEs) ⁽¹⁾

Denotes the network elements the Telephone Company is required to provide on an unbundled basis pursuant to Section 251(c)(3) of the Communications Act of 1934, as amended.

(Nx)

Unicast Traffic

Ethernet frames forwarded from one station to another using the individual address.

(Nx)

Uniform Service Order Code (USOC)

The term "Uniform Service Order Code" denotes a three or five character alphabetic, numeric, or an alphanumeric code that identifies a specific item of service or equipment. Uniform Service Order Codes are used in the Telephone Company billing system to generate recurring rates and nonrecurring charges.

The Uniform Service Order Code listing is as follows:

- If one USOC is listed, this USOC is used in CABS and CRIS,
- If two USOCs are listed, the first USOC is used in CABS and the second is used in CRIS,
- If there are more than two USOCs listed, a footnote has been inserted to describe which USOCs are used by CABS and which are used by CRIS.

Unknown Unicast Traffic

Ethernet frames that contain a destination address that has not been "learned" by the network equipment for an address with no dynamic filtering entry present.

(Nx)

(Nx)

V and H Coordinates Method

The term "V and H Coordinates Method" denotes a method of computing airline miles between two points by utilizing an established formula which is based on the vertical and horizontal coordinates of the two points.

⁽¹⁾ In the event the Commission or a court, pursuant to any regulatory or judicial review of the Commission's Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338 FCC 03-36, para. 581 (released Aug. 21, 2003) (Triennial Review Order), vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring ILECs to permit commingling, the terms and conditions of this tariff authorizing commingling, which are identified with a footnote, shall cease to be effective as of the effective date of the Commission order or the issuance of the court's mandate. In that event, the Telephone Company will provide customers that have commingled UNE(s) and/or UNE Combination(s) with wholesale services obtained under this Tariff written notice that, within 30 days, customers must either convert such UNE(s) or UNE Combination(s) to a comparable service, or disconnect such UNE(s) and/or UNE Combination(s) from those wholesale services. Failure to provide the Telephone Company instructions to convert or disconnect such UNE(s) and/or UNE Combination(s) within 30 days, as described above, shall be deemed authorization to convert the UNE(s) and/or UNE Combination(s) to comparable access services at month-to-month rates.

(x) Issued under the Authority of Special Permission No. 05-017 of the FCC.

(This page filed under Transmittal No. 215)

EXHIBIT D

Southwestern Bell Telephone Company
Tariff F.C.C. No. 73

ACCESS SERVICE

2. General Regulations (Cont'd)2.4 Jurisdictional Reports (Cont'd)2.4.2 Percentage of Interstate Use (PIU) for Texas (Cont'd)(A) Report Requirements for Ordering Access Services (Cont'd)(6) Switched Transport Services (Cont'd)(b) Tandem-Switched Transport

Customers ordering Tandem-Switched Transport must provide the Telephone Company with an interstate percentage of use as set forth following:

Usage rated charges (such as Tandem-Switched Transmission, Tandem-Switched Directory Transmission, Tandem Switching and Directory Tandem Switching) shall be apportioned by the Telephone Company between interstate and intrastate based upon the PIUs used to apportion the rates and charges for the tandem routed feature groups and BSAs using the facility.

For monthly recurring rates (such as Direct-Trunked Transport) and for nonrecurring charges, the customer must provide a PIU as set forth in (a) preceding for Direct-Trunked Transport.

(C)

(7) Telecommunications Relay Interconnection Service (TRIS)

Upon ordering TRIS, the customer will provide an interstate percentage of use for each TRIS facility requested.

(8) Incidental InterLATA SS7 Transport (SS7 Transport)

For SS7 Transport, where jurisdiction can be determined from the records, the Telephone Company will bill according to such jurisdiction by developing a projected interstate percentage. The projected interstate percentage will be developed on a monthly basis, by Originating Point Code (OPC).

When the Telephone Company receives insufficient records to determine the jurisdiction of the customer's use of the STP and the SS7 Transport Service is available in the intrastate jurisdiction, the Telephone Company will designate a PIU factor of 50% for the use of the STP octets of information.

Rates contained in this transmittal are subject to subsequent adjustment, effective retrospectively back to the transmittal's original effective date, in the event the Commission or a court subsequently authorizes SWBT to correct its rates to allow it to calculate its price cap formulas to exclude USF contributions from the operation of the X-factor, or in the event of any other adjustment pursuant to an order of the Commission or a court.

(This page filed under Transmittal No. 2705)

Issued: June 16, 1998

Effective: July 1, 1998

Four AT&T Plaza, Dallas, Texas 75202