

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	WC Docket No. 21-191
Core Communications, Inc., et al.)	
Tariff F.C.C. No. 3)	Transmittal No. 17
)	

ORDER

Adopted: May 6, 2021

Released: May 6, 2021

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. On April 22, 2021, Core Communications, Inc., et al. (Core), filed Transmittal No. 17 proposing revisions to its interstate switched access service Tariff F.C.C. No. 3 to revise several tariff provisions (proposed tariff revisions).¹ The proposed tariff revisions are scheduled to become effective May 7, 2021. Because we conclude, on our own motion,² that substantial questions of lawfulness exist regarding Core’s proposed tariff revisions, we suspend the proposed tariff revisions for one day³ and set for investigation the question of whether the proposed revisions comply with the *8YY Access Charge Reform Order*,⁴ the Communications Act of 1934, as amended (Act),⁵ and the Commission’s rules.

II. BACKGROUND

2. As a competitive local exchange carrier (LEC), Core may file tariffs with the Commission for its interstate switched access services.⁶ Such tariffs must comply with the Act and the Commission’s rules governing competitive LECs’ tariffs, as well as those that govern tariffs more generally. Section 61.26 of the Commission’s rules sets forth the requirements for competitive LECs’ tariffing of interstate switched access services.⁷ While section 61.2(a) requires all tariffs to contain “clear

¹ Letter from Carey Roesel, Inteserra Consulting Group, to Secretary, FCC, Transmittal No. 17 (filed Apr. 22, 2021); Core Communications, Inc., et al., Transmittal No. 17, Tariff F.C.C. No. 3, 10th Rev. Page No. 28, § 2.10.4.A (filed Apr. 22, 2021) (Transmittal No. 17); *id.*, 3rd Rev. Page No. 29, § 2.10.5; *id.*, 3rd Rev. Page. No. 33, § 2.13.3.H; *id.*, 3d Rev. Page. No. 40, § 2.21; *id.*, 1st Rev. Page No. 43.1, § 3.3.5.

² See 47 U.S.C. § 204(a)(1) (“Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof.”).

³ When a tariff is advanced for a day, the effective date listed in the tariff is moved to one day earlier so that the suspension of the tariff can occur on that day, thereby allowing the tariff to become effective on the original effective date.

⁴ *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, FCC 20-143, at 10, para. 25 (Oct. 9, 2020) (*8YY Access Charge Reform Order*); 85 Fed. Reg. 75894 (Nov. 27, 2020).

⁵ 47 U.S.C. § 151 et. seq.

⁶ See *Hyperion Telecommunications, Inc. Petition for Forbearance*, Memorandum Opinion and Order, 12 FCC Rcd 8596 (1997) (establishing permissive detariffing for non-incumbent LEC providers of interstate exchange access services).

⁷ 47 CFR § 61.26.

and explicit explanatory statements regarding the rates and regulations” to “remove all doubt as to their proper application.”⁸

3. Core’s proposed tariff revisions propose changes to the terms and conditions of its tariff, including changes to section 2.10.4.A which governs “good faith” billing disputes, and section 2.10.5 which governs late payment fees.⁹ Core also proposes changes to section 2.13.3.H, which provides that if Core “discontinues service, it will provide, in connection with access traffic associated with the discontinued Customer, only those minimal functions necessary to identify the Customer as being the relevant carrier (i.e., 8YY database queries).”¹⁰ Core also proposes revisions to section 2.21 regarding obligations with respect to “fraudulent or otherwise illegal traffic.”¹¹ Finally, Core proposes changes to section 3.3.5 to define when an interexchange carrier (IXC) will be charged for an 8YY database query and declare that IXCs will be “assessed a charge for a completed data base query even if the underlying call is not completed (i.e., the call for which the data base query was made).”¹²

4. On April 28, 2021, Verizon and AT&T Services, Inc. (Petitioners) filed a Petition requesting that the Commission suspend and investigate or reject Core’s proposed tariff revisions.¹³ Petitioners argue that Core’s proposed tariff revisions are unlawful. They contend that “sections 2.10.4(A) and 2.21 are unlawful because they establish a presumption that all 8YY traffic that Core sends to IXCs is lawful if the IXCs do not block it in real time, and provide that an IXC cannot raise a dispute in good faith about such calls unless it first credits its 8YY customer for any charges on those calls.”¹⁴ Petitioners also consider the proposed late payment fee in section 2.10.5 to be usurious¹⁵ and argue that “section 2.10.4(A) is unlawful because it makes Core the sole judge of whether an IXC’s dispute is in good faith,” in conflict with Commission precedent.¹⁶ Finally, Petitioners argue that sections “2.13.3(H) and 3.3.5 are unlawful because they purport to allow Core to continue to profit from its 8YY arbitrage schemes through database query charges even after it has terminated service to a customer for nonpayment and even when neither it nor any other entity completes the underlying 8YY call.”¹⁷

5. Core filed a Reply to the Petition on May 4, 2021, requesting that the Petition be denied.¹⁸ Core claims that the Petitioners present no “credible basis” to support suspension or rejection of the proposed tariff revisions.¹⁹ Core also argues that the Commission should reject the Petition because Petitioners failed “to satisfy the four-part test set forth in 47 C.F.R. § 1.773(a)(ii)” which governs

⁸ 47 CFR § 61.2(a).

⁹ Transmittal No. 17, 10th Rev. Page No. 28, § 2.10.4.A; *id.*, 3rd Rev. Page No. 29, § 2.10.5.

¹⁰ *Id.*, 3rd Rev. Page. No. 33, § 2.13.3.H.

¹¹ *Id.*, 3rd Rev. Page. No. 40, § 2.21.

¹² *Id.*, 1st Rev. Page. No. 43.1, § 3.3.5.

¹³ Petition of Verizon and AT&T to Suspend or Reject Core’s Revised Tariff, WC Docket No. 21-191 (filed Apr. 28, 2021) (Petition).

¹⁴ *Id.* at 2, 6-7.

¹⁵ *Id.* at 2, 8-9.

¹⁶ *Id.* at 2, 7-8 (citing *Sprint Communications Company L.P., Complainant, v. Northern Valley Communications, LLC, Defendant*, File No. EB-11-MD-003, Memorandum Opinion and Order, 26 FCC Rcd 10780, 10786-87, para. 14 (2011)).

¹⁷ Petition at 2, 9-10.

¹⁸ Core Communications, Inc.’s Response to Petition of Verizon and AT&T to Suspend or Reject Core’s Revised Tariff, WC Docket No. 21-191 (filed May 4, 2021) (Reply).

¹⁹ *Id.* at 1.

petitions for suspension or rejection of tariff filings, and that Petitioners inadequately support their substantive challenges to the proposed tariff revisions.²⁰

III. DISCUSSION

6. We find that there are substantial questions regarding the lawfulness of Core's proposed tariff revisions that require further investigation.²¹ In reviewing the proposed tariff revisions, we are guided by the Communications Act, and the Commission's rules, as well as the Commission's orders. In the *8YY Access Charge Reform Order*, the Commission, among other actions, limited toll free 8YY database query charges to a single charge per call is particularly relevant here.²² Based on the current record, we question whether the proposed tariff revisions comply with the *8YY Access Charge Reform Order*, the Act, and the Commission's rules.

7. We find worthy of investigation Petitioners' suggestion that by filing these proposed tariff revisions Core is attempting to "profit from 8YY arbitrage schemes that the Commission has sought to end, while denying IXCs the meaningful ability to challenge those practices and the charges that flow from them."²³ We also have significant concerns about whether Core's proposed tariff revisions contain "clear and explicit explanatory statements regarding the rates and regulations" to "remove all doubt as to their proper application."²⁴

8. Having found that substantial questions exist regarding the lawfulness of Core's proposed tariff revisions, we suspend Core's proposed tariff revisions for one day, impose an accounting order, and initiate an investigation into the lawfulness of the proposed tariff revisions.²⁵ We will identify the specific issues that are the subject of the investigation in an upcoming designation order. Those issues may include, but not be limited to, the issues identified in this Order. We may also, by order, identify other discrete issues that warrant further investigation.

IV. *EX PARTE* REQUIREMENTS

9. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²⁶ Persons making *ex parte* presentations must file in WC Docket No. 21-191 a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the

²⁰ *Id.* at 15.

²¹ Whether there are substantial questions regarding the lawfulness of proposed tariff revisions is the standard we use for determining whether to suspend a tariff. See e.g., *July 1, 2018 Annual Access Charge Tariff Filings; South Dakota Network, LLC Tariff F.C.C. No. 1*, WC Docket No. 18-100, Transmittal No. 13, Order, DA 18-1004 (WCB rel. Oct. 1, 2018); *Northern Valley Communications, LLC Tariff F.C.C. No. 3*, WC Docket No. 20-11, Transmittal No. 12, Order, 35 FCC Rcd 402 (WCB 2020). The Commission may initiate tariff investigations on its own initiative. See 47 U.S.C. § 204(a)(1) ("Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof."). We, therefore, do not need to reach Core's argument that the Petition should be rejected because it does not meet the requirements of section 1.773(a)(ii) of the Commission's rules. Reply at 3-4; 47 CFR § 1.773(a)(ii).

²² *8YY Access Charge Reform Order* at 33, 36-38, paras. 72, 82-84.

²³ Petition at 2.

²⁴ 47 CFR § 61.2(a).

²⁵ See 47 U.S.C. § 204.

²⁶ 47 CFR §§ 1.1200 *et seq.*

presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f), or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

V. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, the effective date of the revisions of Core Communications, Inc., et al., contained in Transmittal No. 17 IS ADVANCED for one day to May 6, 2021, and then SUSPENDED for one day until May 7, 2021, and an investigation IS INSTITUTED.

11. IT IS FURTHER ORDERED that Core Communications, Inc., et al., SHALL FILE a supplement within five business days from the release date of this Order reflecting this suspension. Core Communications, Inc., et al., should cite the "DA" number on the instant Order as the authority for its filing.

12. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 204(a), and pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, Core Communications, Inc., et al., SHALL KEEP ACCURATE ACCOUNT of all amounts received and paid that are associated with the tariff provisions that are subject to this investigation.

13. IT IS FURTHER ORDERED that, the Petition of Verizon and AT&T to Suspend or Reject Core's Revised Tariff is GRANTED to the extent indicated herein.

FEDERAL COMMUNICATIONS COMMISSION

Gil M. Strobel
Chief, Pricing Policy Division
Wireline Competition Bureau