

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

In the Matter of)	
)	WC Docket No. 18-60
Iowa Network Access Division)	
Tariff F.C.C. No. 1)	Transmittal No. 38
)	

MEMORANDUM OPINION AND ORDER

Adopted: February 28, 2019

Released: February 28, 2019

By the Commission:

I. INTRODUCTION

1. In this Order, pursuant to our authority under sections 204 and 205 of the Communications Act of 1934, as amended (Act),¹ we conclude the investigation into the lawfulness of Iowa Network Access Division's d/b/a Aureon Network Service's (Aureon's) interstate switched transport rate contained in Transmittal No. 38 of Iowa Network Access Division Tariff F.C.C. No. 1 (Transmittal 38).² We find that substantial questions of lawfulness remain with respect to Aureon's tariffed interstate switched transport rate, including, but not limited to, whether Aureon's cost-based support demonstrates compliance with the Commission's affiliate transaction rules. We direct Aureon to file a revised interstate switched transport rate in Tariff F.C.C. No. 1 and revised cost support, as described in this Order, no later than 60 calendar days from the release date of this Order. The applicable accounting order shall remain in effect.³

II. BACKGROUND

A. Aureon

2. Aureon, which is a division of Iowa Network Services, Inc. (INS), is a centralized equal access (CEA) provider that was created to aggregate traffic for connection between rural incumbent local exchange carriers (LECs) in Iowa and other networks, and to implement long distance equal access obligations (permitting end users to use 1+ dialing to reach the interexchange carrier (IXC) of their choice).⁴ Aureon currently delivers traffic to 206 subtending LECs through several points of interconnection (POIs) across the state.⁵ The Aureon "Access Division" is the regulated entity that

¹ 47 U.S.C. §§ 204, 205.

² Iowa Network Access Division Tariff F.C.C. No. 1, Transmittal No. 38 (filed Sept. 24, 2018) (Aureon Transmittal 38) (available via the Commission's Electronic Tariff Filing System (ETFS), also filed in WC Docket No. 18-60).

³ See *Iowa Network Access Division Tariff F.C.C. No. 1*, Transmittal No. 36, WC Docket No. 18-60, Order, 33 FCC Rcd 2089 (WCB/PPD 2018) (*Tariff Suspension Order*).

⁴ *Application of Iowa Network Access Div.*, Memorandum Opinion, Order and Certificate, 3 FCC Rcd 1468 (CCB 1988) (*Aureon Section 214 Order*).

⁵ See Letter from James U. Troup and Tony S. Lee, Counsel for Aureon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-60, Transmittal No. 36, at 1-2 (filed May 25, 2018). According to Aureon, it has 16 POIs in Iowa, only some of which are currently in use. See *Direct Case of Iowa Network Access Division d/b/a Aureon Network Services*, WC Docket No. 18-60, Transmittal No. 36 at 27, 29 (filed May 3, 2018) (Aureon Transmittal 36 Direct Case).

provides CEA service by leasing facilities from a separate, unregulated “Network Division” of INS. Many of the facilities leased by Aureon are also used by the Network Division, either directly or indirectly, to provide unregulated services.

3. Since its inception, Aureon has been regulated as a dominant carrier subject to the cost-based tariff filing requirements of section 61.38 of the Commission’s rules.⁶ For purposes of the *USF/ICC Transformation Order* and its implementing rules, Aureon also is a competitive LEC.⁷ As a result, Aureon must also comply with the “competitive LEC benchmark rule” and cannot charge more for its services than the competing incumbent LEC charges for the same access services.⁸

B. Legal Authority

4. Section 201(b) of the Act makes it unlawful for a common carrier to charge unjust or unreasonable rates for its services.⁹ Pursuant to section 204 of the Act, if a tariff filing has been suspended, the burden of proof is on the tariffing carrier to show that the new or revised charge is just and reasonable.¹⁰ At the conclusion of an investigation conducted pursuant to section 204 of the Act, the Commission may, pursuant to section 205 of the Act, “determine and prescribe what will be the just and reasonable charge,” or the maximum and/or minimum charge or charges going forward.¹¹

C. Procedural History

5. This is the Commission’s second investigation of Aureon’s tariff filings relating to its compliance with the *Aureon Liability Order* adopted November 8, 2017. In that order, the Commission partially granted a complaint filed by AT&T Corp. (AT&T) alleging that Aureon violated the Commission’s rate cap and rate parity rules by raising its interstate switched transport rate contained in Tariff F.C.C. No. 1 to \$0.00896 per minute of use, and by not lowering its intrastate rates as required by those rules.¹² The Commission, among other things, directed Aureon to file tariff revisions consistent

⁶ 47 CFR § 61.38; *see, e.g., Aureon Section 214 Order*, 3 FCC Rcd at 1469, para. 10; *AT&T Corp. v. Iowa Network Services, Inc. d/b/a Aureon Network Services*, Proceeding No. 17-56, Bureau ID No. EB-17-MD-001, Memorandum Opinion and Order, 32 FCC Rcd 9677, 9692, para. 30 (2017) (*Aureon Liability Order*); Order on Reconsideration, FCC 18-116, 2018 WL 7303276 (Aug. 1, 2018); Second Order on Reconsideration, FCC 18-170, 2018 WL 6266293 (Nov. 29, 2018), *petitions for review pending, AT&T Corp. v. FCC*, No. 18-1007 (D.C. Cir. filed Jan. 8, 2018); *Iowa Network Services, Inc. v. FCC*, No. 18-1257 (D.C. Cir. filed Sept. 18, 2018). Under section 61.38, any tariff changes must include, among other things, the basis for the ratemaking employed and economic information to support the change, including specific cost information and cost projections. 47 CFR § 61.38(b).

⁷ *Aureon Liability Order*, 32 FCC Rcd at 9689, para. 25 (citing 47 CFR §§ 51.901-51.919).

⁸ *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17937, para. 807 (2011) (*USF/ICC Transformation Order*), *aff’d*, *FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). This obligation, adopted in its initial form in 2001, provides that a competitive LEC may not tariff interstate access charges above those of the competing incumbent LEC for similar services. *See* 47 CFR § 61.26; *Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket No. 96-262, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001).

⁹ 47 U.S.C. § 201(b).

¹⁰ *Id.* § 204(a)(1).

¹¹ *Id.* § 205(a).

¹² *Aureon Liability Order*, 32 FCC Rcd at 9689, para. 24.

with the *Aureon Liability Order* and to include all necessary cost studies and support as required by section 61.38 of the Commission's rules.¹³

6. On February 22, 2018, Aureon filed Transmittal No. 36 (Transmittal 36) proposing to reduce its tariffed interstate switched transport rate to \$0.005760 per minute of use.¹⁴ According to Aureon, \$0.005760 was its cost-based rate, which it described as "comparable" to its calculated benchmark rate of \$0.005526.¹⁵ The Wireline Competition Bureau (Bureau) suspended the Transmittal 36 rate for one day, initiated an investigation into the lawfulness of the rate, and imposed an accounting order.¹⁶

7. On July 31, 2018, the Commission concluded its investigation into Transmittal 36, finding that the interstate switched transport rate in Transmittal 36 was unlawful. In the *Tariff Investigation Order* the Commission found that Aureon's tariffed interstate switched transport rate (\$0.005760 per minute of use) was unlawful because: (1) it was higher than the applicable competitive LEC benchmark rate of \$0.005634 per minute of use;¹⁷ and (2) Aureon's cost-based analysis was insufficient to justify its tariffed rate of \$0.005760 per minute of use.¹⁸

8. In analyzing Aureon's cost support, the Commission focused on Aureon's compliance with the Commission's affiliate transaction rules which are intended to protect ratepayers of regulated telecommunications services from bearing the costs and risks associated with a carrier's nonregulated activities.¹⁹ The affiliate transaction rules require carriers to follow appropriate valuation techniques in

¹³ *Aureon Liability Order*, 32 FCC Rcd at 9695, para. 35; 47 CFR § 61.38; Letter from Lisa B. Griffin, Deputy Chief, Market Disputes Resolution Division, FCC Enforcement Bureau, to James F. Bendernagel, Jr., Counsel for AT&T, and James U. Troup, Counsel for Aureon, Proceeding No. 17-56, Bureau ID No. EB-17-MD-001 (filed Jan. 10, 2018) (extending the filing deadline to February 22, 2018).

¹⁴ Iowa Network Access Division Tariff F.C.C. No. 1, Transmittal No. 36 (filed Feb. 22, 2018) (Aureon Transmittal 36) (available via ETFS); Letter from James U. Troup, Counsel for Iowa Network Access, to Marlene H. Dortch, Secretary, FCC, Transmittal No. 36 (filed Feb. 22, 2018).

¹⁵ See Consolidated Reply of Iowa Network Services, Inc. d/b/a Aureon Network Services to the Petitions to Reject or to Suspend and Investigate Filed by AT&T Corp. and Sprint, Transmittal No. 36, WC Docket No. 18-60, at 10 (filed Feb. 28, 2018) (Aureon Transmittal 36 Reply); *Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, Transmittal No. 36, Order Designating Issues for Investigation, 33 FCC Rcd 3825, 3830, para. 16 (WCB/PPD 2018) (*First Designation Order*). As an initial matter, Aureon argued, and continues to argue, that it is not required to comply with the competitive LEC benchmark rule. See Aureon Transmittal 36 Direct Case at 3-10, 65; *Iowa Network Access Division Tariff F.C.C. No. 1*, Memorandum Opinion and Order, 33 FCC Rcd 7517, 7522, para. 13 (2018) (*Tariff Investigation Order*), *pet. for review pending*, *Iowa Network Servs., Inc. v. FCC*, No. 18-1258 (D.C. Cir. filed Sept. 19, 2018).

¹⁶ See *Tariff Suspension Order*, 33 FCC Rcd at 2089, para. 1. In response to the *Tariff Suspension Order*, Aureon submitted Transmittal No. 37 to suspend the revisions made to its Transmittal 36. See Letter from James U. Troup, Counsel for INS, to Marlene H. Dortch, Secretary, FCC, Transmittal No. 37 (filed Mar. 1, 2018) (available via ETFS).

¹⁷ *Tariff Investigation Order*, 33 FCC Rcd at 7535, para. 43; see 47 CFR § 61.26(f). The Commission found that CenturyLink was the competing incumbent LEC for the purposes of the benchmark rule, and that Aureon should have benchmarked its switched access rate to a composite rate of \$0.005634 per minute of use. *Tariff Investigation Order*, 33 FCC Rcd at 7525, 7532, paras. 21, 35.

¹⁸ *Tariff Investigation Order*, 33 FCC Rcd at 7536-37, para. 46.

¹⁹ 47 CFR § 32.27 (affiliate transaction rules); 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers Phase 2, *et al.*, CC Docket No. 00-199 *et al.*, Report and Order, 16 FCC Rcd 19911, 19946, para. 85 (2001) (2000 Biennial Review Order); *Tariff Investigation Order*, 33 FCC Rcd at 7538, para. 52.

recording the transfer of assets and the provision of services between regulated carriers and their nonregulated affiliates,²⁰ and are designed to prevent a nonregulated affiliate from overcharging its regulated affiliate for purposes of artificially inflating the regulated affiliate's rates.²¹

9. The Bureau had designated for investigation the manner by which Aureon determined a network lease expense (Filed Lease Expense) of which \$12,626,315 was jurisdictionally interstate, which represented roughly 84% of Aureon's total \$14,963,685 interstate revenue requirement.²² Because Aureon's Filed Lease Expense was an affiliate transaction in which a nonregulated entity (Network Division) is providing a service leasing facilities to a regulated entity (Access Division), our rules required Aureon to evaluate its Filed Lease Expense against a ceiling determined by the lower of fair market value of the lease or the fully-distributed costs of the facilities.²³ Based on its review of the record, the Commission found that Aureon failed to demonstrate that its Filed Lease Expense is lower than either.²⁴ The Commission directed Aureon to file a revised tariff along with revised cost support, including, among other things, full cost support demonstrating that Aureon's Filed Lease Expense complied with the affiliate transaction rules.²⁵

10. In response to the *Tariff Investigation Order*, on September 24, 2018, Aureon filed Transmittal 38, proposing to reduce its tariffed interstate switched transport rate to \$0.00296 per minute of use.²⁶ Aureon submitted revised cost support material,²⁷ which included a jurisdictionally interstate Filed Lease Expense of \$4,299,427²⁸ and an unseparated Filed Lease Expense of \$4,904,646.²⁹ AT&T

²⁰ 2000 Biennial Review Order, 16 FCC Rcd at 19946, para. 85.

²¹ The inflated costs charged to the regulated carrier flow through to their revenue requirement used to calculate their interstate rates. See *Tariff Investigation Order*, 33 FCC Rcd at 7538, para. 50; *New York Tel. Co., New England Tel. and Tel. Co. Apparent Violations of the Commission's Rules and Policies Governing Transactions with Affiliates*, Order to Show Cause and Notice of Apparent Liability for Forfeitures, 5 FCC Rcd 866, 866-67, para. 4 (1990) ("Transfers of goods and services between affiliates present the opportunity, through improper transfer pricing, to shift costs properly borne by the nonregulated company to the regulated enterprise for recovery from ratepayers through the ratemaking process."); see also *Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities et al.*, CC Docket No. 86-111, Report and Order, 2 FCC Rcd 1298, 1311, para. 109 (1987) (*Joint Cost Order*).

²² See *First Designation Order*, 33 FCC Rcd at 3832-34, paras. 20-27; Aureon Transmittal 36, Description & Justification at 4 (amount of Filed Lease Expense).

²³ See 47 CFR § 32.27(c)(2); see also *Tariff Investigation Order*, 33 FCC Rcd at 7539, para. 56.

²⁴ *Tariff Investigation Order*, 33 FCC Rcd at 7538-39, para. 52.

²⁵ *Id.* at 7567, paras. 122-23.

²⁶ See Tariff F.C.C. No. 1 § 6.8.1(A).

²⁷ See Aureon Transmittal 38, Description & Justification at 3-4.

²⁸ Aureon Transmittal 38 cost support spreadsheet "PUBLIC VERSION JSI INS 2018 FCC Filing," "Sect 4 Part 36 TYCOS" tab (cells F109, I109); Aureon Transmittal 38 cost support spreadsheet "CONFIDENTIAL VERSION - JSI INS Sept 2018 FCC Filing," "Sect 4 Part 36 TYCOS" tab (cell H109) (Aureon Transmittal 38 Cost Support).

²⁹ Aureon Transmittal 38 Cost Support, "Sect 4 Part 36 TYCOS" tab (cells F109, I109). To evaluate Aureon's compliance with our affiliate transaction rules, we must examine Aureon's unseparated Filed Lease Expense (\$4,904,646), not the jurisdictionally interstate Filed Lease Expense (\$4,299,427). The Commission's Part 36 jurisdictional separations rules establish a process for separating jurisdictionally interstate and intrastate costs for purposes of calculating an interstate revenue requirement used to develop rates. 47 CFR Part 36. This process, however, occurs after application of the Commission's Part 32 accounting rules, which include the affiliate transaction rules that govern our inquiry into Aureon's Filed Lease Expense. *Id.* Part 32; § 32.27. Thus, we must evaluate the Filed Lease Expense (\$4,904,646) that has not gone through the Part 36 separations process.

filed a petition on September 27, 2018, asking the Commission to reject or suspend and investigate Transmittal 38.³⁰ In the *Second Tariff Suspension Order* adopted September 28, 2018, the Bureau concluded that substantial questions of lawfulness existed.³¹ Accordingly, pursuant to section 204 of the Act, the Commission suspended Aureon's proposed rate for one day and allowed the rate to become effective on October 1, 2018, continued the previously-imposed accounting order, and initiated an investigation into the lawfulness of Aureon's revised switched transport rate.³² In the *Second Designation Order* adopted November 9, 2018, the Bureau designated issues for investigation regarding the lawfulness of Transmittal 38, focusing on Aureon's cost support, including whether the Filed Lease Expense complies with the Commission's affiliate transaction rules.³³

11. Aureon filed its Direct Case on November 28, 2018, providing responses and data.³⁴ AT&T filed its opposition to Aureon's Direct Case on December 6, 2018 arguing, among other things, that Aureon has not provided sufficient cost support and challenging Aureon's rate calculations.³⁵ Aureon filed its rebuttal to AT&T's opposition on December 12, 2018, providing narrative and financial cost support and defending its rate calculations.³⁶

III. DISCUSSION

12. We find that Aureon's Direct Case and subsequent filings fail to adequately justify the calculations Aureon offers to demonstrate that its tariffed switched transport rate contained in Transmittal 38 are cost-supported, as required by our rules.³⁷ This Order focuses on the most significant defects in Aureon's data and analysis, all of which relate to compliance with our affiliate transaction rules. Specifically, we find that Aureon fails to establish that it is paying its affiliate Network Division less than the lower of: (1) the fair market value of the leased facilities; and (2) the fully-distributed costs of the leased facilities.

13. We emphasize that in this Order we do not attempt to address all of the deficiencies or questions raised in the record regarding the sufficiency of Aureon's cost support and analyses. For example, at this time, we do not decide whether Aureon's cost support justifies Aureon's increase in central office switching investment between Transmittal 36 and Transmittal 38.³⁸ Consistent with our

³⁰ See Petition of AT&T Services, Inc. to Reject, or to Suspend and Investigate, Iowa Network Services Inc. Tariff Filing (filed Sept. 27, 2018) (AT&T Petition).

³¹ *Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, Transmittal No. 38, Order, DA 18-1101, at 1, para. 1 (WCB/PPD Sept. 28, 2018) (*Second Suspension Order*).

³² *Second Suspension Order* at 3, para. 7 (citing 47 U.S.C. § 204).

³³ *Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, Transmittal No. 38, Order Designating Issues for Investigation, DA 18-1149, at 2, para. 1 (WCB Nov. 9, 2018) (*Second Designation Order*). Aureon's separated jurisdictionally interstate Filed Lease Expense (\$4,299,427) accounts for 55.9% of Aureon's year end February 2019 projected interstate revenue requirement (\$7,693,576), which, in turn, is divided by Aureon's projected minutes of use to determine a maximum lawful rate. See Aureon Transmittal 38 Cost Support, "Sect 4 Part 36-TYCOS" tab (cell I109), "Sec 2 Rate Development" tab (cell G24) ($\$4,299,427 / \$7,693,576 = 55.9\%$).

³⁴ Direct Case of Iowa Network Access Division d/b/a Aureon Network Services, WC Docket No. 18-60, Transmittal No. 38 (filed Nov. 28, 2018) (Aureon Direct Case).

³⁵ AT&T Services, Inc.'s Opposition to Direct Case of Iowa Network Access Division d/b/a Aureon Network Services, WC Docket No. 18-60, Transmittal No. 38 (filed Dec. 6, 2018) (AT&T Opposition).

³⁶ Rebuttal of Iowa Network Access Division d/b/a Aureon Network Services, WC Docket No. 18-60, Transmittal No. 38 (filed Dec. 12, 2018) (Aureon Rebuttal).

³⁷ See 47 CFR § 61.38.

³⁸ See *Second Designation Order* at 6, paras. 15-17.

rules, we do, however, expect Aureon's revised tariff filing to include complete cost support and explanatory material covering not only the issues specified here but also the issues and questions raised in the *Tariff Investigation Order* and in the record but not explicitly addressed in this Order.

A. The Fair Market Value Rate of the Leased Facilities

14. As part of this investigation, Aureon submitted several estimates of fair market value of its leased network that it asserts demonstrate that the fair market value rate exceeds the Filed Lease Expense.³⁹ None of its estimates take into account the rates at which its Network Division sells DS3s to third parties (on a nonregulated basis), a matter raised in the *Tariff Investigation Order* and again in the *Second Designation Order*.⁴⁰ We find that Aureon's analysis of fair market value cannot completely ignore sales of DS3 transport services because such services are similar to the CEA transport services at issue in our investigation.

15. Although the affiliate transaction rules do not define the term "fair market value," they do require that estimates of fair market value be made in "good faith."⁴¹ As the Commission has made clear, a good faith determination of fair market value must be based on "methods that are routinely used by the general business community."⁴² For example, "when carriers can estimate the market value of transactions using independent valuation methods, carriers should apply such methods to ascertain fair market value."⁴³ The Commission further added that, "[d]epending on the type of transaction, examples of methods for determining fair market values for both assets and services include appraisals, catalogs listing similar items, competitive bids, replacement cost of an asset, and net realizable value of an asset."⁴⁴

16. We disagree with Aureon's assertion that sales and pricing of unregulated DS3 transport service "do not have any relevance" to determining that fair market value rate.⁴⁵ Specifically, Aureon argues that its DS3 transport service is not comparable to CEA transport service because the latter is a ring-protected service that provides redundant circuit paths in the event of a fiber cut, while the former is an unprotected point-to-point service that will fail if there is a fiber cut.⁴⁶ Aureon provides no information, however, about whether it provides service-level agreements in connection with its provision of DS3 transport service and how such agreements affect a comparison of its DS3 transport service to its

³⁹ Aureon Direct Case at 19.

⁴⁰ See *Tariff Investigation Order*, 33 FCC Rcd at 7541, para. 62 (the Commission required Aureon to "fully address the relevance and accuracy of AT&T's assertions that Aureon's calculation of its Filed Lease Expense can yield lease prices for individual services, such as DS3s that Aureon sells at far lower levels on a nonregulated basis"); *Second Designation Order* at 8, para. 20 (directing Aureon to address "[w]hether the Network Division leases its network facilities to any other entities, who they are and how much the Network Division charges for such services" and "[t]he relevance of Aureon's off-tariff sales of transport to determining the fair market value rate").

⁴¹ See 47 CFR § 32.27(c)(3); *Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539, 17610, paras. 153-54 (1996) (*Accounting Safeguards Order*).

⁴² *Accounting Safeguards Order*, 11 FCC Rcd at 17610, para. 154.

⁴³ *Id.*

⁴⁴ *Id.* The Commission has further specified that "the valuation method chosen by the carrier must succeed in capturing the available supporting information regarding the transaction and must utilize generally accepted techniques and principles regarding the particular type of transaction at issue" and that carriers are not exempted "from their statutory obligation under section 220(c) to justify their accounting entries." *Id.* (citing 47 U.S.C. § 220(c)).

⁴⁵ Aureon Direct Case at 33.

⁴⁶ *Id.* at 8-9; Aureon Rebuttal at 18.

CEA transport service. Aureon also asserts that the pricing of unregulated DS3 services takes into account various factors that are not applicable to CEA transport service, such as whether the service is on routes with significant excess capacity.⁴⁷ Aureon fails to explain, however, the extent to which these factors justify a lower price for the DS3 service or how often these distinguishing factors come into play (e.g., how often excess capacity on a DS3 route results in a lower price for DS3 service). Although CEA transport service may not be exactly the same service as DS3 transport service (e.g., because CEA service includes network redundancy functionalities),⁴⁸ the services are similar enough to warrant some consideration of Aureon's sales and pricing of DS3 transport services in determining the fair market value of its CEA transport service. At a minimum, Aureon's rates for DS3 transport services might help establish a baseline for the fair market value of its CEA transport services, even if the fair market value might need to be adjusted upwards to account for the superior features of the CEA transport services.

17. A review of the limited information currently available to us suggests that Aureon's rates for DS3 transport sold to third parties are **[BEGIN CONF. INFO.]** **[END CONF. INFO.]** the Network Division charges the Access Division per-DS3 per-month.⁴⁹ Although the monthly rates vary, we calculate an average monthly rate of **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-circuit for what Aureon identifies as DS3 transport services supplied by the Network Division to third parties.⁵⁰ AT&T, computes an even lower monthly average of **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-DS3,⁵¹ a figure that we also do not have sufficient information to evaluate. In contrast to Aureon's nonregulated services, our calculations based on the record suggest that the Network Division is charging the Access Division **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-DS3 per-month (assuming that the lease can be equated to a collection of DS3s), which is **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-DS3 per-month more than our calculation of **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-circuit monthly average.⁵² The record also suggests that **[BEGIN CONF. INFO.]** **[END CONF. INFO.]**

⁴⁷ See, e.g., Aureon Direct Case at 9.

⁴⁸ See Aureon Direct Case at 8-9; Aureon Rebuttal at 18; *id.*, Exh. A, Decl. of Pat Vaughan at 8, para. 20.

⁴⁹ See *supra* notes 50-53.

⁵⁰ Our calculation of a **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** monthly rate for DS3 transport services reflects, in many cases, the sum of separate rates for multiple rate elements per DS3 circuit. See Aureon Direct Case spreadsheet "CONFIDENTIAL Third Party Leases," "MRC Pivot" tab (average of cells D5:D2517). It is difficult to understand how Aureon reports, at most, **[BEGIN CONF. INFO.]** **[END CONF. INFO.]** third-party DS3 sales, *see id.* (count of entries in cells D5:D2517), when Aureon's circuit inventory shows that the Network Division has **[BEGIN CONF. INFO.]** **[END CONF. INFO.]** nonregulated DS3s carrying exclusively non-CEA traffic in its network, which raises general questions as to the validity and/or completeness of the data submitted. See Aureon Transmittal 38 Cost Support, "CCT Inventory and Allocations" tab (cells H28, H59:H61).

⁵¹ AT&T Opposition at 20.

⁵² Our **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-DS3 per-month figure is arrived at by dividing the unseparated Filed Lease Expense (\$4,904,646) by the number of CEA DS3s disclosed in Aureon's Transmittal 38 Circuit Inventory **[BEGIN CONF. INFO.]** **[END CONF. INFO.]**. See Aureon Transmittal 38 spreadsheet "CONFIDENTIAL Aureon-Circuit Inventory 9-21-2018," "DS3s Summaries" tab (Aureon Transmittal 38 Circuit Inventory) (sum of column F, "DS3 Equivalent" CEA). AT&T argues that the **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-circuit monthly average should be used to establish the fair market value rate, a rate that is **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** less than what AT&T calculates as the **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-DS3 monthly average that the Network Division charges the Access Division for CEA transport service. AT&T Opposition at 27, 32; *id.*, Appx. 1, Decl. of Brian Pitkin at paras. 10, 13, Fig. 2; Letter from James F. Bendernagel, Jr., Counsel for AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-60, Transmittal No. 38 (confidential version), Attach. at 10 (filed Feb. 6, 2019). AT&T also argues that this **\$(BEGIN CONF. INFO.)** **[END CONF. INFO.]** per-circuit monthly average should form the basis for establishing a prevailing price, a matter that we do not address in this Order. See AT&T Opposition at 25-27.

[END CONF. INFO.].⁵³ This information must be considered when evaluating the fair market value of the Filed Lease Expense.

18. When Aureon files its cost support in compliance with this Order, we direct Aureon to, among other things, provide a comprehensive and well-defined database of third-party sales for DS3 transport service (including the customer, detailed service description including identifying the rate elements that comprise the service, service dates, number of circuits, mileage, and per-circuit rate). We also direct Aureon to provide an explanation regarding how this information should inform the calculation of fair market value in evaluating the Filed Lease Expense.

19. In its Direct Case, Aureon also requests a waiver of the requirement to make a fair market value showing “if the Commission determines that there is no additional, relevant data available from Aureon to make a good faith fair market value estimate for the lease rate.”⁵⁴ Because we make no such finding here, we need not address Aureon’s request for waiver at this time, and we therefore dismiss without prejudice Aureon’s waiver request.

B. Method of Allocating Cable and Wire Facilities For Purposes of Computing the Fully-Distributed Cost Rate of the Leased Facilities

20. Aureon has also failed to demonstrate that its Filed Lease Expense is less than the fully-distributed cost rate of the leased facilities because it has not demonstrated that it has properly allocated cable and wire facilities for purposes of computing the fully distributed costs of the leased facilities. In determining the fully-distributed cost rate for the facilities subject to a lease, the carrier must directly assign costs either to regulated or nonregulated activities to the maximum extent possible.⁵⁵ Thus, costs incurred for assets and labor used exclusively for regulated or nonregulated activities are directly assigned or charged to regulated or nonregulated activities in the books of account. Costs that cannot be directly assigned must be grouped into homogeneous cost categories and allocated in accordance with direct or indirect measures of cost causation.⁵⁶

21. Section 64.901(b)(3) of our rules provides a hierarchy of methods for allocating such homogenous groups in the following order (earlier methods to be performed whenever possible in lieu of later methods): (i) “allocated based upon direct analysis of the origin of the cost[s] themselves;”⁵⁷ (ii) “allocated based upon an indirect, cost-causative linkage to another cost category (or group of cost categories) for which a direct assignment or allocation is available;”⁵⁸ and, finally, (iii) “allocated based upon a general allocator computed by using the ratio of all expenses directly assigned or attributed to regulated and nonregulated activities.”⁵⁹ Section 64.901(b)(4) of the Commission’s rules requires that total central office equipment investment (both central office transmission equipment investment and central office switching equipment investment) and cable and wire facilities investment be allocated based on “the relative regulated and nonregulated usage of the investment during the calendar year when

⁵³ See AT&T Opposition at 30. [BEGIN CONF. INFO.]

[END CONF. INFO.]. See Aureon Rebuttal, Exh. A, Vaughan Decl. at 8, para. 20.

⁵⁴ Aureon Direct Case at 20.

⁵⁵ See *Joint Cost Order*, 2 FCC Rcd at 1299, para. 2; 47 CFR § 64.901(b)(2).

⁵⁶ *Joint Cost Order*, 2 FCC Rcd at 1299, para. 2; 47 CFR § 64.901(b)(3).

⁵⁷ 47 CFR § 64.901(b)(3)(i).

⁵⁸ *Id.* § 64.901(b)(3)(ii).

⁵⁹ *Id.* § 64.901(b)(3)(iii).

nonregulated usage is greatest in comparison to regulated usage during the three calendar years beginning with the calendar year during which the investment usage forecast is filed.”⁶⁰

22. Cable and wire facilities’ costs consist of homogenous common costs shared by Aureon’s Access Division and Network Division including cables and wires used for distribution, as well as the poles, ducts, and conduit that such cables and wires occupy.⁶¹ Such costs are subject to the section 64.901(b)(3) allocation methodology.⁶² In its Direct Case, Aureon allocates cable and wire facilities costs between regulated (CEA) and nonregulated activities for fully-distributed cost purposes based on its analysis of circuit usage.⁶³ Aureon’s allocation methodology begins by evaluating entire rings, some are exclusively used for non-CEA purposes and some for both CEA and non-CEA purposes.⁶⁴ Aureon allocates the costs of mixed-use rings based on “the number of in-use DS-1s carried on those DS-3s.”⁶⁵ On these mixed-use rings, DS3s that provide both CEA and non-CEA service are allocated based on relative quantities of DS1s used for exclusively non-CEA purposes, CEA purposes, and mixed purposes.⁶⁶

1. Unexplained Significant Difference in Aureon’s Circuit Inventory

23. After evaluating the record, we conclude that, among other things, Aureon fails to adequately explain a significant difference in reported DS1 circuits between 2016 and 2018 as required by the *Tariff Investigation Order*.⁶⁷ Although Aureon’s current allocation method is based on relative quantities of DS3s, the DS1 counts remain significant because the DS1 data affects Aureon’s measurement of relative usage by its regulated operations.⁶⁸

24. In the *Tariff Investigation Order*, the Commission sought detailed circuit inventory information from Aureon pertaining both to Network Division circuits that are used by the Access Division for CEA operations as well as circuits used by the Network Division for other purposes. In addition, the Commission required Aureon to include cost allocation calculations based on forecasted data (including circuit forecasts) for each of calendar years 2018, 2019, and 2020.⁶⁹ In Transmittal 38, Aureon

⁶⁰ 47 CFR § 64.901(b)(4).

⁶¹ See 47 CFR § 32.2410; *Tariff Investigation Order*, 33 FCC Rcd at 7538, para. 51.

⁶² See 47 CFR § 64.901(b)(3).

⁶³ Aureon Direct Case at 36, 48. In the *Tariff Liability Order*, the Commission noted that AT&T raised a number of significant questions about Aureon’s CEA practices and rates that deserve further exploration including Aureon’s treatment of its cost allocations. *Tariff Liability Order*, 32 FCC Rcd at 9692, para. 30.

⁶⁴ Aureon Direct Case at 36. No fiber rings are used exclusively for CEA purposes. See *id.*

⁶⁵ *Id.* at 36; see *id.*, Exh. B, Sullivan Decl. at para. 24.

⁶⁶ *Id.* at 36; see *id.*, Exh. B, Sullivan Decl. at para. 26.

⁶⁷ *Second Designation Order* at 9-10, para. 25; *Tariff Investigation Order*, 33 FCC Rcd at 7547, para. 79.

⁶⁸ Stated differently, an increased number of DS1s increases the portion of joint-use DS3s allocated to CEA service. Some DS3s carry both DS1s dedicated to CEA service and DS1s dedicated to unregulated service and can be termed “joint use.” In such instances, Aureon calculates the allocation weight of such DS3s based on the relative number of these types of DS1s. For example, if a DS3 carries a total of 10 DS1s, eight of which carry CEA traffic (and the other two of which carry unregulated traffic), Aureon allocates 0.80 DS3s to CEA use and 0.20 DS3s to unregulated use. Using this example, if two of the CEA DS1s are unnecessary, Aureon would allocate 0.75 DS3s to CEA use ($6 / 8 = 0.75$) and 0.25 DS3s to unregulated use ($2 / 8 = 0.25$). Thus, unnecessary DS1s add to the percentage of the joint-use DS3 allocated to CEA service (in this example, by five percentage points).

⁶⁹ *Tariff Investigation Order*, 33 FCC Rcd at 7547, para. 78.

submitted a full and detailed circuit inventory, as well as necessary projections, and subsequently provided the other requested explanations.⁷⁰

25. Because there may be some confusion regarding the vintage of DS1 data used for Aureon's cost allocation calculations (including projections included in Transmittal 38) as compared to the year of the tariff filing, we provide the following table:

[BEGIN CONF. INFO.]

<u>Tariff Filing</u>	<u>Tariff Filing Year</u>	<u>DS1 Inventory Year</u>	<u>CEA DS1 Count</u>
2014 Biennial	2014	2014	⁷¹
2016 Biennial	2016	2015	⁷²
Transmittal 36	2018	2016	1,827 ⁷³
Transmittal 38	2018	2018	⁷⁴
		2019 projected	⁷⁵
		2020 projected	⁷⁶

[END CONF. INFO.]

26. In the *Tariff Investigation Order*, the Commission recognized the importance of Aureon providing projected cost allocators for 2018-20, in order for the Commission to determine the reasonableness of Aureon's use of 1,827 DS1s⁷⁷ to allocate regulated costs (based on the 2016 inventory used in Transmittal 36) as compared to [BEGIN CONF. INFO.] [END CONF. INFO.] DS1s (based on the 2015 inventory used in the 2016 biennial tariff filing).⁷⁸ AT&T argued that [BEGIN

⁷⁰ See generally Aureon Transmittal 38 Cost Support; see also Aureon Direct Case; Letter from James U. Troup and Tony S. Lee, Counsel for Aureon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-60, Transmittal No. 38 (confidential version) (filed Jan. 2, 2019) (Aureon Jan. 2, 2019 Letter); Letter from James U. Troup and Tony S. Lee, Counsel for Aureon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-60, Transmittal No. 38 (confidential version) (filed Feb. 4, 2019).

⁷¹ AT&T Services, Inc.'s Opposition to Direct Case of Iowa Network Access Division d/b/a Aureon Network Services, WC Docket No. 18-60, Transmittal No. 36, at 51, Tbl. 2 & Exh. 7, Tbl. "Aureon 2014 Circuit Cost Data." (filed May 10, 2018) (AT&T Transmittal 36 Opposition).

⁷² AT&T Transmittal 36 Opposition at 51, Tbl. 2 & Exh. 6, "Aureon 2015 Circuit Cost Data."

⁷³ Aureon Direct Case at 36; see Aureon Transmittal 36 Reply, Exh. B., Decl. of Brian Sullivan, Annex 3. Our understanding that Aureon's CEA DS1 count in Annex 3 is from 2016 is based on Aureon's representations that such data included certain circuits that were [BEGIN CONF. INFO.] [END CONF. INFO.]. See Letter from James U. Troup and Tony S. Lee, Counsel for Aureon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-60, Transmittal No. 38, Attach. 1, Supp. Decl. of Frank Hilton (filed Dec. 20, 2018) (Aureon Dec. 20, 2018 Letter). Further, Aureon provided cost support in response to the investigation of Transmittal 36 that [BEGIN CONF. INFO.] [END CONF. INFO.] See, e.g., Aureon Transmittal 36 cost support spreadsheet "INS Cost Support 022218," "Section 5 Part 64-TYCOS" tab (cells C162, C165).

⁷⁴ Aureon Transmittal 38 Circuit Inventory, "DS3 Summaries" tab (sum of column D, "CEA"); see AT&T Opposition at 52-53, 55 & Exh. 41, Tbl. "Total CEA DS-1 Circuit Comparison;" Aureon Direct Case at 44 (referring to the vintage of the circuit inventory as August 2018).

⁷⁵ Aureon Transmittal 38 Cost Support, "CCT Inventory & Allocations" tab (row 66) [BEGIN CONF. INFO.] [END CONF. INFO.]

⁷⁶ *Id.* [BEGIN CONF. INFO.]

[END CONF. INFO.]

⁷⁷ See Aureon Direct Case at 36; *Tariff Investigation Order*, 23 FCC Rcd at 4577-48, para. 79.

⁷⁸ *Tariff Investigation Order*, 23 FCC Rcd at 4577-48, para. 79. We note that there may have been some past confusion regarding the extent that data used for a tariff filing represents data from that same year. A closer (continued....)

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[END CONF. INFO.].⁷⁹ Aureon attributed the substantial difference to
[BEGIN CONF. INFO.]

[END CONF. INFO.].⁸⁰ Given that at least the first aspect of Aureon's explanation appeared to indicate that the [BEGIN CONF. INFO.]

[END CONF. INFO.] the Commission in the *Tariff Investigation Order* delayed deciding whether the 1,827 CEA-related DSIs Aureon used in Transmittal 36 formed a reasonable basis on which Aureon could base any DSI-driven allocation methodology until Aureon complied with section 64.901(b)(4) by also projecting two years of future allocators.⁸¹ [BEGIN CONF. INFO.]

[END CONF. INFO.].⁸²

27. The DSI projections used by Aureon in Transmittal 38, however, did not reflect [BEGIN CONF. INFO.] [END CONF. INFO.] in CEA DSIs that the Commission expected to see, especially given the [BEGIN CONF. INFO.]

[END CONF. INFO.].⁸³ As a result, the Bureau ordered Aureon to provide more detail.⁸⁴

28. In response, Aureon argued, as it has previously, that reductions in CEA minutes of use do not necessarily directly correlate with reductions in the number of DSIs used to provide CEA services.⁸⁵ In support of this assertion, Aureon submitted information from an outside consultant that relies on his experience with rural LECs.⁸⁶

29. During the current investigation, Aureon has provided information supporting a conclusion that the [BEGIN CONF. INFO.]

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examination of AT&T's exhibits, as well as Aureon's filings, reveals that there is a varying lag, which is discussed in further detail below.

⁷⁹ AT&T Transmittal 36 Opposition at 51-52, 54-55.

⁸⁰ See Rebuttal of Iowa Network Access Division d/b/a Aureon Network Services, WC Docket No. 18-60, Transmittal No. 36, at 43-44 (filed May 17, 2018) (Aureon Transmittal 36 Rebuttal).

⁸¹ Theoretically, the Commission reasoned, if the [BEGIN CONF. INFO.]

[END CONF. INFO.]. *Tariff Investigation Order*, 23 FCC Rcd at 4577-48, para. 79.

⁸² *Tariff Investigation Order*, 33 FCC Rcd at 7547, para. 79.

⁸³ See Surreply of Iowa Network Services, Inc. d/b/a Aureon Network Services to AT&T Services, Inc.'s Surrebuttal, WC Docket No. 18-60, Transmittal No. 36, at 21-22 (filed July 16, 2018) (Aureon Transmittal 36 Surreply); Aureon Direct Case at 43-44; see *Tariff Investigation Order*, 33 FCC Rcd at 7561, para. 109 & n.332; Aureon Dec. 20, 2018 Letter, Attach. 1, Hilton Supp. Decl. at paras. 2-3 & Exh. A, [BEGIN CONF. INFO.]

[END CONF. INFO.]

⁸⁴ *Second Designation Order* at 9, para. 24; *Tariff Investigation Order*, 33 FCC Rcd at 7547-48, para. 79.

⁸⁵ See Direct Case at 43-44; Aureon Transmittal 36 Surreply at 21-22.

⁸⁶ Aureon Transmittal 36 Rebuttal at 43, n. 138; Aureon Transmittal 36 Surreply at 21-22; Aureon Direct Case at 43-44; Aureon Rebuttal at 10; *id.*, Exh. B, Supp. Decl. of Brian Sullivan at 1-2, paras. 2-3.

[END

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30. However, even assuming Aureon's explanations and considering [BEGIN CONF. INFO.]

[END CONF. INFO.].⁸⁹ Aureon explains part of this apparent difference by stating that the new inventory includes 227 "intermachine circuits" used to connect Aureon's two tandem switches that previously were not included in the prior inventory but are included in the current inventory due to the requirement of the *Tariff Investigation Order* to include *all* circuits.⁹⁰ However, even if we exclude those 227 circuits from the CEA DS1 count, we are still left with [BEGIN CONF. INFO.]

[END CONF.

INFO.].

31. This difference in CEA DS1s from the 2016 to 2018 inventories is, in a sense, more problematic than the [BEGIN CONF. INFO.] [END CONF. INFO.] between the 2015 and 2016 inventories because Aureon provides no specific explanation for the 2016 to 2018 difference, beyond a general assertion that there is no direct relationship between circuit counts and CEA minutes of use. Thus, Aureon fails to explain with any specificity why it must maintain such a [BEGIN CONF. INFO.] [END CONF. INFO.]. Because the DS1 circuit counts are a fundamental input into the cable and wire facilities allocation methodology, Aureon must provide a more satisfactory explanation for the reported DS1 difference.⁹¹

2. Aureon's Methodology for Calculating the Cable and Wire Facilities Allocator

32. Under our affiliate transaction rules, Aureon is required to allocate its cable and wire facilities expenses between regulated and nonregulated services. Although Aureon attempts to make the required allocation, the methodology it uses to do so is substantially flawed. Aureon's allocation methodology improperly weights the allocation value of rings by the number of DS3s carried on the ring and also fails to properly weight the allocation value of rings carrying Ethernet circuits.⁹²

⁸⁷ Aureon Dec. 20, 2018 Letter, Attach. 1, Hilton Supp. Decl. at paras. 2-3 & Exh. A, [BEGIN CONF. INFO.] [END CONF. INFO.]

⁸⁸ [BEGIN CONF. INFO.] [END CONF. INFO.]

⁸⁹ [BEGIN CONF. INFO.] [END CONF. INFO.]. Aureon confirmed that the circuit inventory used in Transmittal 38 includes no temporary CEA DS1s. Aureon Rebuttal, Exh. B, Sullivan Supp. Decl. at 2, para. 3.

⁹⁰ Aureon Rebuttal at 9; see *Tariff Investigation Order*, 33 FCC Rcd at 7552, para. 90. The "intermachine circuits" were not previously used for allocation purposes because they did not relate to particular subtending LECs. See Aureon Rebuttal at 9.

⁹¹ Our discussion of Aureon's current CEA DS1 circuit inventory does not concern Aureon's projected DS1 inventories used to comply with section 64.901(b)(4), 47 CFR § 64.901(b)(4), a matter that was also raised in the record. See AT&T Opposition at 54-55. In this Order, we do not address the validity or sufficiency of the support for Aureon's projections.

⁹² See Aureon Transmittal 38 Cost Support, "CCT Inventory and Allocations" tab. In the first level of Aureon's analysis (fiber rings), "% Allocation" of "Total Rings" (cells AF7 and AF8) appear to be calculated based on relative circuit miles, "Cct Miles," (cells AE7 and AE8) which, in turn, are based on DS3 mile totals (cells Q61 and (continued....)

33. Aureon’s allocation methodology ignores the fact that the outside plant construction costs, which drive cable and wire facilities costs, are typically not performed on a DS3 basis, but, rather, at minimum (in terms of levels of aggregation), on a fiber ring basis.⁹³ This is due to the fact that outside construction costs—the costs of trenching, attaching fiber to poles, and routing fiber through ducts and conduit—are much higher than the cost of the fiber itself.⁹⁴ Thus, for example, a ring that carries ten DS3s does not impose twice as much cable and wire facilities’ costs as a ring of equivalent mileage that carries five DS3s because the outside plant costs are not likely to vary between these two rings.⁹⁵ Aureon’s own calculations of replacement cost demonstrate that construction costs drive overall costs more than the cost of fiber. Aureon provides contractors’ invoices which show that the per-mile costs for trenching and digging for [BEGIN CONF. INFO.]

[END CONF. INFO.] whereas the per-mile costs for fiber and related equipment for these same projects were [BEGIN CONF. INFO.]

[END CONF. INFO.].⁹⁶

34. Aureon’s explanations for weighting the allocation value of rings by the number of DS3s are unpersuasive. Aureon asserts that allocating costs based on circuit miles is consistent with industry practice but fails to explain why *DS3* miles rather than *ring* miles are the more relevant driver of cable and wire facilities cost, particularly in light of a circuit inventory from which it can be easily determined which CEA and non-CEA DS3s ride on which fiber rings.⁹⁷ In addition, Aureon asserts that “in an allocation methodology designed to capture ‘relative use’ of the entire Aureon transport network, it was appropriate to give a somewhat higher weighting to the rings that were more fully utilized.”⁹⁸ Again, this assertion ignores the fact that the outside plant construction of the network rings comprises the vast majority of the cable and wire facilities costs, while the cost of the fiber on which the DS3s reside accounts for less than a quarter of the relevant costs.⁹⁹ Accordingly, we find that the cable and wire facilities allocation methodology used by Aureon fails to accurately reflect how costs are actually incurred.

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Q28), which, in turn, are based on the product of ring mileage and DS3 counts (see cells L5-L27, O5-O27, P5-P27, L32-L60, O32-O60, P32-P60). *Id.*

⁹³ See AT&T Opposition, Appx. 1, Pitkin Decl. at paras. 29-32.

⁹⁴ See Aureon Direct Case at 17-18; *id.*, Exh. C, Decl. of Pat Vaughan. Aureon’s fair market value calculations based on replacement cost implicitly recognize that construction costs drive cable and wire facilities costs.

⁹⁵ [BEGIN CONF. INFO.]

[END CONF.

INFO.].

⁹⁶ Aureon Direct Case, Exh. C, Vaughan Decl. at paras. 5-13. [BEGIN CONF. INFO.]

[END CONF. INFO.]

⁹⁷ Aureon Jan. 2, 2019 Letter, Attach. 3, Second Supp. Decl. of Brian Sullivan at 4, para. 7.

⁹⁸ *Id.* Aureon introduces these arguments by envisioning a hypothetical of a TDM ring “more fully loaded with DS3s.” *Id.* It is important to note that this is a relative statement—[BEGIN CONF. INFO.]

[END

CONF. INFO.]. See Aureon Transmittal 38 Circuit Inventory, “Ring Allocations” tab.

⁹⁹ Further, the argument that this (flawed) approach is applied equally to non-CEA and mixed-use rings clearly does not make it appropriate. See Aureon Jan. 2, 2019 Letter, Attach. 3, Sullivan Second Supp. Decl. at 4, para. 7.

35. In addition, Aureon's proposed method of valuing unregulated Ethernet rings for cost allocation purposes is overly simplistic. Aureon's circuit inventory lists [BEGIN CONF. INFO.] [END CONF. INFO.] but states that "Ethernet circuits do not have to utilize dedicated fibers—in fact numerous Ethernet circuits can be carried over single fiber optic strands."¹⁰¹ Aureon does not, however, appear to provide data associating particular Ethernet circuits with physical rings. Thus, to the extent that Aureon abandons its methodology of weighting rings by the number of DS3s (which it likely should), Aureon must apply a reasonable methodology to convert its inventory of Ethernet circuits to physical rings so that a proper number of ring-miles can be allocated to the Ethernet circuits (and, thus, to nonregulated activity). The inventory that Aureon filed in the record does not appear to present a clear method of doing so.

IV. PROCEDURAL MATTERS

36. We conclude that Aureon's interstate switched transport rate of \$0.00296 contained in Transmittal 38 of Tariff F.C.C. No. 1 must be adjusted and recalculated because, among other things, Aureon's cost support fails to demonstrate that the Filed Lease Expense complies with the affiliate transaction rules. Accordingly, we require Aureon to file a revised tariff along with revised cost support no later than 60 calendar days from the release date of this Order. Specifically, Aureon must file full cost support, including, but not limited to, the specific explanations and analyses described in this Order. We require Aureon to provide all requested narrative explanations in the text of its refiled Description and Justification and in complete form. Aureon continues to be subject to the accounting order in this proceeding.¹⁰²

37. All spreadsheets filed by Aureon must be filed in native fully-operational electronic format. Aureon's cost support did not consistently provide the detail and clarity necessary for the Commission to replicate Aureon's methodologies and calculations. We emphasize that all spreadsheet cells that contain entries that are references to or calculations based on other spreadsheet cells must include the formula for such reference or calculation. This includes references and calculations based on entries in different worksheets within the same workbook file. We emphasize that all spreadsheets must contain sufficient detail regarding the methodologies and calculations used to produce specific cells.

38. Given the complexities associated with implementation of the findings made in this Order, we direct the Bureau to ensure that the Commission's findings are properly reflected in Aureon's revised Tariff F.C.C. No. 1. We further direct the Bureau to determine any refunds that may be required once a revised rate is effective.

V. ORDERING CLAUSES

39. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201(b), 203(c), 204(a), 205 and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, 403, and sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, Iowa Network Access Division d/b/a Aureon SHALL FILE REVISED rate(s) in its Tariff F.C.C. No. 1, as described in this Order, no later than 60 calendar days from the release date of this Order.

40. IT IS FURTHER ORDERED that the investigation initiated in WC Docket No. 18-60 IS TERMINATED and that the rate under investigation in this proceeding are unlawful and subject to potential refunds for overearnings.

¹⁰⁰ Aureon Transmittal 38 Circuit Inventory, "Ethernet Rings" tab; *see* Aureon Transmittal 38 Cost Support, "CCT Inventory and Allocations" tab (cells H59:H60).

¹⁰¹ Aureon Direct Case at 47.

¹⁰² *See Tariff Suspension Order.*

41. IT IS FURTHER ORDERED that the rate found unlawful herein which are presently in effect shall continue in effect, pending further Commission Order, unless cancelled by a subsequent Aureon tariff revision.

42. IT IS FURTHER ORDERED that the waiver request on pages nineteen through twenty-three of Aureon's Direct Case IS DISMISSED WITHOUT PREJUDICE for the reasons described herein.

43. IT IS FURTHER ORDERED that the accounting order applicable to Iowa Network Access Division d/b/a Aureon, shall remain in effect until such time as the revised rate is effective.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary