

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

8YY Access Charge Reform

WC Docket No. 18-156

**REPLY COMMENTS OF IOWA NETWORK SERVICES, INC.
D/B/A AUREON NETWORK SERVICES**

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Iowa Network Services, Inc. d/b/a Aureon Network Services (“Aureon”) hereby files its reply in response to comments submitted regarding the Federal Communications Commission’s (“FCC” or Commission”) Further Notice of Proposed Rulemaking¹ issued in the above-referenced proceeding.

INTRODUCTION AND SUMMARY

Aureon is a provider of centralized equal access (“CEA”) service in Iowa. CEA service is a unique service established by the FCC² that has made it economical for AT&T’s smaller interexchange carrier (“IXC”) competitors to provide service to rural areas by concentrating traffic for 200 rural local exchange carriers (“LECs”) at Aureon’s central access tandem in Des Moines, Iowa. CEA service switches and transports originating traffic, including 8YY traffic,

¹ *In the Matter of 8YY Access Charge Reform*, Further Notice of Proposed Rulemaking, WC Docket No. 18-156, FCC 18-76, 2018 W.L. 2932190 (rel. June 8, 2018) (“FNPRM”).

² *Application of Iowa Network Access Division for Authority Pursuant to Section 214 of the Communications Act of 1934 and Section 63.01 of the Commission’s Rules and Regulations to Lease Transmission Facilities to Provide Access Service to Interexchange Carriers in the State of Iowa*, Memorandum Opinion, Order and Certificate, 3 FCC Rcd 1468, 1471 ¶¶ 20-21 (1988) (“FCC 214 Order”), *aff’d on recon.*, 4 FCC Rcd 2201 (1989) (“FCC 214 Recon. Order”) (holding that CEA service serves the public interest, convenience and necessity); *Nw. Bell Tel. Co. v. Iowa Utils. Bd.*, 477 N.W.2d 678, 681 (Iowa 1991) (distinguishing CEA service from other services and upholding the approval of Aureon’s CEA network).

from the rural exchanges of 200 LECs over an extensive broadband fiber network to a single location in Des Moines,³ where IXC's can connect and receive traffic originating from small towns and rural areas throughout Iowa.

While competition was the initial primary driver for the creation of CEA service, subscribers in rural areas have gained so much more from Aureon's network than just a choice of competitive long distance carriers. Aureon's CEA service and ancillary offerings have made advanced communications services available in rural Iowa communities by concentrating voice, broadband, and video feeds and back office operations at a central location for distribution to disparate rural locations. Furthermore, accelerating the availability of Internet Protocol ("IP") based services for all rural consumers in Iowa will depend upon CEA service, which will provide IP carriers with a single IP point of interconnection to the networks of 200 rural LECs and economically centralize the expensive features and advanced functionalities critical to the all-IP transition. Absent Aureon's network, hundreds of small towns and rural areas of Iowa would struggle to receive the same modern service offerings and technologies that are available in urban areas.

I. Unlike a New Rule Directly Prohibiting 8YY Abuses, the Proposals to Change Intercarrier Compensation or Require Direct Connections will Permit Abuses to Persist, Contrary to the Objective of this Proceeding.

The goal of this proceeding is to "eliminate abuses—including benchmarking, mileage pumping, and traffic pumping schemes—related to 8YY calls."⁴ However, most parties to this

³ CEA service also provides IXC's with the convenience of interconnecting with the CEA network at other locations specified in the CEA tariff on file with the Commission.

⁴ FNPRM ¶ 36.

proceeding agree that the FNPRM's proposals would not accomplish this goal.⁵ The proposals in the FNPRM irredeemably conflict with the FNPRM's objective because those proposals allow 8YY abuses to spread and persist indefinitely.

The proposal to move originating 8YY access charges to bill-and-keep modifies who pays for transporting illegitimate 8YY calls, but does not stop the origination and routing of such illegitimate 8YY calls. Exempting IXC's from paying for tandem-switching and transport merely shifts the financial incentive to engage in 8YY abuses from LECs to IXC's.⁶ Bill-and-keep will incite new financial incentives for IXC's to share revenue with robocallers in order to artificially stimulate the per-minute rates paid by the IXC's' 8YY subscribers. Similarly, the proposal by a few parties calling for direct connections does not eliminate 8YY abuses, but instead merely changes the route for fraudulent calls and the source of revenue for 8YY abuses from tandem-switched transport to direct-trunked transport (plus transit facilities). Consequently, in lieu of the FNPRM's proposals, most comments agree that the Commission should adopt a more surgical approach that directly targets and eliminates illegitimate 8YY calls, such as a rule that prohibits 8YY abuse as an unjust and unreasonable practice.⁷

⁵ Comments of Nebraska Rural Independent Companies at 14; Comments of Charter Communications, Inc. at 5. Comments of ITTA at 2; Comments of West Telecom Services, LLC at 7; Comments of Windstream Services, LLC, Frontier Communications Corp., and NTCA at 7; Comments of WTA at 7.

⁶ As an alternative proposal, the Commission proposes "to move 8YY tandem switching and transport to bill-and-keep only where the originating carrier also owns the tandem." FNPRM ¶ 49. This alternative proposal will also encourage new forms of illegitimate 8YY traffic pumping by IXC's. However, should the Commission adopt this alternative proposal, the LECs connected to Aureon's CEA network should not be deemed "owners" of Aureon's access tandems, as no LEC shareholder owns more than a 10% equity interest in Aureon.

⁷ Comments of ITTA at 2; Comments of West Telecom Services, LLC at 5, 9-10; Comments of Nebraska Rural Independent Companies at 11; Comments of Charter Communications, Inc. at 5; Comments of Windstream Services, LLC, Frontier Communications Corp., and NTCA at 4, 10; Comments of WTA at 1, 4; Comments of Somos, Inc. at 4.

A. A New Rule Directly Prohibiting 8YY Abuses Will Efficiently Eliminate Illegitimate 8YY Calls.

The Commission asked commenters to provide “alternative approaches to address abuses related to 8YY calls” and inquired: “Would our proposal adequately address the problem currently plaguing the 8YY industry?”⁸ As an alternative to the Commission’s proposals, Aureon recommends that the Commission adopt a rule that prohibits 8YY abuse as an unjust and unreasonable practice. Once the illegality of 8YY abuse is clearly established in the Commission’s rules, the industry can work cooperatively and take the legal and technical actions necessary to prevent unlawful 8YY calls. The new rule that Aureon proposes strikes at the heart of the problem; eliminating 8YY abuses while avoiding the unwarranted costs to the industry and consumers associated with either (1) inciting new 8YY abuses by relieving IXCs of any payment responsibility for the tandem switching and transport of 8YY calls or (2) permitting fraudulent 8YY calls to continue to be delivered over direct-trunked transport routes.

The Commission must consider an obvious alternative that will achieve the Commission’s objective. *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 51 (1983). A new rule directly prohibiting 8YY abuses is an obvious alternative to the Commission’s proposals that will successfully achieve the Commission’s objective of eliminating 8YY abuses. By contrast, no connection exists between the proposals in the FNPRM and the achievement of the Commission’s objectives in this proceeding.

Rejecting further indirection, the Commission should decide that 8YY abuses are unjust and unreasonable practices, and by Commission rule, are prohibited. The Commission’s indirect

⁸ FNPRM ¶¶ 30, 33.

approaches, which have so far focused upon financial incentives and modifications to intercarrier compensation, have not stopped access arbitrage. If indirectly targeted rules, such as the bill-and-keep rules adopted years ago by the Commission, had been effective, it would have been unnecessary for the Commission to recently request further proposals on how to stop access arbitrage in a companion rulemaking proceeding.⁹ For similar reasons, the proposed rules in the FNPRM will also fail to solve the problem. It is time for the Commission to take direct action, and adopt a rule that outlaws access arbitrage and 8YY abuses once and for all.

B. Exempting IXC's from Paying for the use of Other Carriers' Networks will Shift the Incentive for 8YY Abuse to IXC's and Allow Illegitimate 8YY Calls to Proliferate.

The Commission requested comments on whether 8YY abuses would be stopped by exempting IXC's from paying for the origination, switching, and transport of 8YY calls.¹⁰ Under the Commission's proposal, such compensation for both legitimate and illegitimate 8YY calls would be taken from LECs by moving interstate and intrastate originating 8YY end office, tandem switching and transport rates to bill-and-keep.¹¹ Most parties agree that this proposal would be ineffective and should not be adopted.¹²

"[R]emoving incentives for abuse" is a primary goal of the Commission's bill-and-keep proposal.¹³ However, exempting IXC's from paying for the use of other carriers' networks to switch and transport 8YY calls creates new incentives for abuse. IXC's currently are discouraged

⁹ *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, Notice of Proposed Rulemaking, WC Docket No. 18-155, FCC 18-68, 83 Fed. Reg. 30628-01 (rel. June 5, 2018).

¹⁰ FNPRM ¶ 33.

¹¹ *Id.*

¹² Comments of ITTA at 2; Comments of West Telecom Services, LLC at 2; Comments of Nebraska Rural Independent Companies at 10-11; Comments of Charter Communications, Inc. at 5; Comments of Windstream Services, LLC, Frontier Communications Corp., and NTCA at 3; Comments of WTA at 7.

¹³ FNPRM ¶ 33.

from partnering with robocallers to artificially inflate 8YY calls because IXC's pay more traffic-sensitive access charges with increases in traffic volume. Bill-and-keep would remove this disincentive for IXC's to engage in 8YY traffic stimulation. Instead, if IXC's no longer pay any access charges associated with increases in illegitimate 8YY calls, IXC's would have a strong financial incentive to increase the traffic-sensitive charges they receive from their 8YY subscribers by artificially inflating the volume of 8YY calls. As West Telecom explains: "The IXC's would have no market discipline to reduce their usage, because they would have no obligation to pay upstream providers anything for that usage. Rather, they would have every incentive to pump as much traffic onto those upstream networks as they can."¹⁴ The Commission's proposal merely moves the incentive for 8YY abuse from LEC's to IXC's. The Commission's proposal modifies who profits from stimulating illegitimate 8YY calls, but does not stop such 8YY abuse.

The Commission's bill-and-keep proposal does nothing to stop IXC's from artificially inflating profits from the traffic-sensitive (per minute) rates they charge 8YY subscribers by sharing their revenue with bad actors that flood 8YY numbers with robocalls. Under the current rules, an IXC has an incentive to ferret out and stop routing illegitimate 8YY calls in order to reduce the access charge payments for the use of other carriers' facilities. However, the Commission's bill-and-keep proposal removes the IXC's motivation to reduce illegitimate 8YY calls because IXC's would no longer experience an increase in payments to other carriers due to inflated 8YY call volumes. Removing that price signal motivates IXC's to increase illegitimate 8YY calls rather than eliminate such abuse.

¹⁴ Comments of West Telecom Services, LLC at 22.

For example, AT&T charges a rate that increases with call volume of \$44.30 for Toll-Free READYLINE service.¹⁵ If, as the Commission proposes, AT&T pays nothing for using the networks of other carriers to switch and transport 8YY traffic, then AT&T has nothing to lose and only profits to gain by artificially pumping the 8YY call volume for which AT&T bills the 800 subscriber \$44.30 on a usage-sensitive basis. Unlike the new rule proposed by Aureon, the Commission's proposal does not directly impose liability on IXC's for such 8YY traffic pumping. Consequently, 8YY subscribers that pay such inflated charges must recover their costs from consumers, who in the end will subsidize such 8YY abuses by IXC's.¹⁶

C. Direct Connections Will Not Solve the 8YY Abuse Problem.

A few parties propose that the Commission require LECs to provide direct connections at their end offices for 8YY traffic.¹⁷ The Commission should reject this proposal, as it lacks a "rationale connection" to the objectives of this proceeding. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. at 56. Rather than eliminate economically wasteful 8YY abuses, this proposal would encourage the continuation of illegitimate 8YY calls by permitting such traffic to be sent over a different route (direct-trunked transport rather than tandem switched transport).

In addition, the investment made by LECs and IXC's to directly interconnect could be stranded. If investment is made in direct connections in order to carry illegitimate 8YY calls

¹⁵ See AT&T Business Service Guide, attached as Exhibit A.

¹⁶ Comments of ITTA at 11 ("under the proposal to transition 8YY originating access to bill-and-keep, *all* local service consumers subsidize 8YY services"); Comments of West Telecom Services, LLC at 23 ("Consumers would subsidize 8YY calling by other customers making more toll free calls"); Comments of Charter Communications, Inc. at 4 ("forcing end users to subsidize a premium business service"); Comments of Windstream Services, LLC, Frontier Communications Corp. , and NTCA at 5 ("consumers will pay more for local exchange service, even if they do not use this service to place 8YY calls").

¹⁷ Comments of West Telecom Services, LLC at 14-16; Comments of GCI Communications Corp. at 12; Comments of AT&T Inc. at 2.

placed by robocallers, and the Commission in the future adopts a policy that eliminates such abuse, then there will no longer be any illegitimate 8YY traffic to route over the direct connections, resulting in waste and stranded investment. A new rule clearly stating that 8YY abuses are unlawful avoids the network construction costs required for direct connections; substantial and unnecessary costs which will ultimately be borne by consumers.

II. The LEC-Must-Pay Proposal is Unreasonable and Will Not Eliminate 8YY Abuse.

The FNPRM asks whether it would be unreasonable to require originating LECs to pay the tandem owner and recover their costs from end users.¹⁸ As with bill-and-keep, this proposal would not achieve the objectives of this proceeding. This proposal modifies who pays for transporting illegitimate 8YY calls generated by robocallers, but does not stop such 8YY abuse. Changing who pays for CEA service (from IXC to LECs) does not achieve the Commission's goal of eliminating wasteful 8YY abuses, but as described *supra*, allows new 8YY abuses by IXCs to fester. Neither originating LECs nor end user consumers should be burdened with the costs of switching and transporting fraudulent 8YY calls, when such costs can be entirely avoided if the Commission adopts a new rule prohibiting 8YY abuse as an unjust and unreasonable practice.

This LEC-must-pay proposal is also unreasonable because it would modify Aureon's Section 214 certificate and upend the regulatory regime for CEA service contrary to the public interest and without furthering any government objective. This proposal would require LECs, rather than IXCs, to pay for CEA service, even though CEA service was designed to benefit IXCs. The CEA network was constructed to foster competition with AT&T and Northwestern

¹⁸ FNPRM ¶ 34.

Bell Telephone Company (now CenturyLink) in rural Iowa by concentrating long distance traffic at a single location in order to make it economical for smaller IXC's to connect to hundreds of rural local exchanges. *FCC 214 Order*, 3 FCC Rcd. at 1468 ¶ 3 (“The [Iowa Network Access Division] INAD proposal is presented as a solution to the problem of how to achieve competition in long distance services in small rural communities”). IXC's competing with the incumbents (AT&T and CenturyLink) have benefitted from the CEA network by avoiding the costs of constructing or leasing facilities in order to connect with hundreds of rural exchanges throughout Iowa. Furthermore, CEA service provides IXC's with equal access and dialing parity, enabling IXC's to offer 1+ long distance service, which prevents their customers from having to dial a large string of digits every time they place a long distance call. There is no rational basis for charging LEC's for CEA service that is provided to and for the benefit of IXC's. Therefore, the Commission should continue to require IXC's to pay for CEA service, consistent with Aureon's Section 214 authorization, which concluded that CEA intercarrier compensation “will serve the public convenience and necessity.” *Id.* at 1471 ¶ 23.

III. Because CEA Service Has No End Users, the Commission Should Permit Aureon to Continue to Bill IXC's Cost-Based Rates for CEA Service.

The FNPRM proposes to “cap tandem switching and transport rates based on the rates charged by the incumbent LEC serving the LATA in which the call originates.”¹⁹ The Commission also sought proposals on how carriers should recover lost revenue if the Commission moves 8YY calls to bill-and-keep.²⁰ CEA service is not provided to end users from whom Aureon could offset the cost recovery shortfall through an increase in end user charges. As noted by CenturyLink, “the underlying rationale for bill-and-keep (i.e. that a provider's end

¹⁹ FNPRM ¶ 49.

²⁰ *Id.* ¶¶ 61-67, 84.

users should ultimately bear the network costs) does not carry-over cleanly to intermediate services.”²¹ Furthermore, AT&T points out that “[i]mposing ‘bill-and-keep’ on third-party tandem providers that do not service the end-user would strand those providers in the middle of the call flow with no customer. That could have major implications for the viability of third-party tandem providers.”²² CEA service also does not receive money from either the Connect America Fund or the Universal Service Fund that could lessen the shortfall in cost recovery if the Commission imposes bill-and-keep for 8YY calls or caps the CEA tariff rates. There are no implicit subsidies for CEA service because Aureon is only permitted by Section 61.38 of the Commission’s rules to bill a rate that recovers the legitimate costs of providing CEA service to IXCs. Given the absence of any other cost recovery mechanism, the Commission should permit Aureon to continue to bill IXCs a cost-based rate for the tandem-switching and transport of 8YY calls.

For its legal authority to adopt proposals in this proceeding, the Commission relies upon Sections 201(b) and 251(b)(5) of the Communications Act,²³ which entitles Aureon to “reciprocal compensation” that is “just and reasonable.”²⁴ Zero compensation under bill-and-keep is not just, reasonable, or reciprocal compensation. Furthermore, a rate cap based on another carrier’s costs and a completely different network, that precludes Aureon from recovering the costs it incurs to provide CEA service, is also neither just nor reasonable.

²¹ Comments of CenturyLink at 7.

²² Comments of AT&T Inc. at 6.

²³ 47 U.S.C. §§ 201(b) and 251(b)(5).

²⁴ FNPRM ¶ 80.

Accordingly, the Commission should allow Aureon to charge IXCs a cost-supported CEA tariff rate for 8YY calls that is just and reasonable, as defined by the “end result standard.”²⁵

That legal standard prescribes a cost-supported rate that is “sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital,” provide sufficient “revenue not only for operating expenses but also for the capital costs of the business,” and include revenue for “service on the debt and dividends on the stock.”²⁶ A rate is not just and reasonable unless the rate “may reasonably be expected to maintain financial integrity, attract necessary capital, and fairly compensate investors for the risks they have assumed, and yet provide appropriate protection to the relevant public interests, both existing and foreseeable.”²⁷ “A basic principle used to ensure that rates are ‘just and reasonable’ is that rates are determined on the basis of cost,”²⁸ and “the true cost characteristics of telephone company plant.”²⁹ Rates also should “provide carriers with a fair opportunity to achieve their regulated rates of return over the long-term.”³⁰ Therefore, in accordance with these legal principles, the new rules adopted in this proceeding should permit Aureon to continue to bill IXCs a cost-based tariff rate for tandem-switching and transport of 8YY calls.

The Commission should provide Aureon with the ability to operate the CEA network not only in a sustainable manner to avoid disenfranchising significant portions of rural Iowa that rely

²⁵ *Jersey Cent. Power & Light Co. v. Fed. Energy Reg. Comm’n*, 810 F.2d 1168, 1177-78 (D.C. Cir. 1987).

²⁶ *Id.* at 1176.

²⁷ *Id.* at 1177.

²⁸ *MCI Telecomm. Corp. v. FCC*, 675 F.2d 408, 410 (D.C. Cir. 1982) (quoting 47 U.S.C. § 201(b)).

²⁹ *Nat’l Ass’n of Reg. Util. Comm’rs v. FCC*, 737 F.2d 1095, 1147 (D.C. Cir. 1984) (quoting *MTS and WATS Market Structure*, 93 F.C.C.2d 241, 251 (1983)).

³⁰ *Virgin Islands Tel. Corp.*, 989 F.2d 1231, 1234 (D.C. Cir. 1993). *See also AT&T v. FCC*, 836 F.2d 1386, 1389-90 (D.C. Cir. 1988) (“The rate of return the Commission prescribes must be sufficient to cover the cost of capital the carrier must raise to do business”).

on the CEA network to connect to the national public switched telephone network, but also to earn sufficient revenues to continue to expand and improve its network and services so that rural areas will not fall victim to a digital and technology divide. Permitting Aureon to continue to bill IXCs a cost-based rate will promote and protect the public interest by ensuring that rural consumers have access to affordable advanced telecommunications services through the preservation of a cost-efficient and financially-sustainable CEA network.

A. The Transition to IP Would be Seriously Impaired if the Commission Precludes Aureon from Continuing to Bill IXCs a Cost-Based Rate for CEA Service.

The FNPRM requested comments on how the Commission’s proposals will impact the transition to all-IP services.³¹ The migration to IP in rural Iowa will be seriously impaired if the Commission precludes Aureon from continuing to bill IXCs a cost-based rate for CEA service. As CenturyLink points out, “intermediate network services will remain critical in IP networks of the future.”³² CEA service has enabled rural consumers to reap the benefits of ever-changing technological advances by concentrating traffic, and making modern telecommunications services more affordable to provide in rural areas.

The Commission providently decided that the CEA network would “speed the availability of high quality varied competitive services to small towns and rural areas.”³³ Similarly, the IUB determined that:

the concentration will benefit the general public in Iowa by assuring that a substantial portion of rural Iowa will have a network in place to deliver information services. . . . A network such as the one to be provided by [Aureon]

³¹ FNPRM ¶ 46.

³² Comments of CenturyLink at 7; *see also*, Comments of Windstream Services, LLC, Frontier Communications Corp., and NTCA at 13 (“if the Commission were to proceed with its proposal to transition 8YY originating access charges to bill-and-keep, then LECs would not be able to pay for the network upgrades necessary to transition to all-IP services”).

³³ *FCC 214 Order* at 1468 ¶ 4 and 1474 ¶ 38.

provides the means to assure timely access to information services in rural Iowa. Without such timely access, the development in rural areas could be impeded.³⁴

The Iowa Supreme Court affirmed these findings, holding that “[t]he network will also offer ‘modern information systems’ to the PTC’s, another feature formerly unavailable because of the thinness of the market in any single independent, local telephone company prior to the [Aureon] collectivization.”³⁵

Aureon’s fiber network is critical and necessary to ensure that rural customers continue to have access to broadband, high definition video, and other advanced services that their urban counterparts take for granted. There are hundreds of small, rural LECs in Iowa, and they simply do not have the capital and technical resources to invest in all of the expensive equipment and other upgrades necessary to provide competing broadband providers with direct connections to their rural customers. Furthermore, the availability of advanced voice, video, and broadband Internet services in rural communities depends upon making those rural areas more attractive for smaller broadband providers to serve because the large carriers are uninterested in providing a comprehensive array of services in small towns due to the high costs and poor return on investment in such rural locations. Indeed, large legacy carriers, such as AT&T, have stated that there is no business case for serving rural areas because the costs to provide service in rural areas far exceed the revenues received from rural subscribers.³⁶ Aureon’s network will enable smaller

³⁴ *Iowa Network Access Division*, Order Granting Rehearing for the Limited Purpose of Modification and Clarification and Denying Intervention, Docket No. RPU-88-2, 1988 Iowa PUC Lexis 1, slip op. at *16-17 (IUB Dec. 7, 1988).

³⁵ *Nw. Bell*, 477 N.W.2d at 681.

³⁶ See, e.g., Transcript of Oral Argument at 24, *AT&T, Inc. v. FCC*, No. 15-1038 (D.C. Cir. Oct. 26, 2017) (FCC stated that “the carriers were looking to be relieved nationwide of this obligation to serve where there’s no support.”); Brief of Petitioner AT&T Inc. at 29, *AT&T v. FCC*, Case No. 15-1038 (D.C. Cir. June 15, 2015) (“AT&T submitted evidence showing that the cost of providing such service is substantial: using the FCC’s own data, AT&T showed it would cost its affiliates between \$1.08 and \$1.8 billion per year to provide standalone voice service throughout their ETC service territories — or up to ten times what those carriers receive in total in frozen support.”); Joint Brief of Petitioners and Intervenors AT&T, CenturyLink, and U.S. Telecom at 57, *AT&T v. FCC*,

IP carriers to connect at a single location to provide advanced services to the rural customers located in the hundreds of LEC exchanges subtending Aureon's CEA tandem.

Without the aggregation of CEA traffic by Aureon's network, smaller providers of advanced services trying to compete with AT&T in rural Iowa will find it uneconomical to build new infrastructure to each of the rural LECs' service areas. Aureon defrays many of those costs by providing a central point to concentrate functionalities, and provides economies of scale that make it cost-effective to serve remote locations that competitive broadband providers would not otherwise be able to serve. For example, Aureon's fiber network is used to distribute video programming to rural areas, and Aureon aggregates video content at a central headend before distributing content to broadband providers that provide digital video or IPTV service to rural customers. Similarly, Aureon's high-capacity fiber network is used to concentrate broadband Internet traffic so that data traffic can be concentrated at one location for efficient routing to other Internet backbone providers. By centralizing traffic, Aureon makes it economical for multiple, competitive broadband providers to make their advanced services available to the customers in the service areas of the 200 LECs connected to the CEA network, and promotes investment in broadband services in rural areas so that rural customers do not fall victims of the "digital divide." Therefore, ensuring that Aureon's network remains financially and technically viable to transport IP traffic (by permitting Aureon to charge IXCs a just and reasonable, cost-supported CEA tariff rate) is vital to the migration to an all IP network in rural Iowa.

B. No Purpose Would Be Served by Imposing an Arbitrary Mileage Limitation on Aureon's Non-Distance-Sensitive Transport Rate That Does Not Vary With Mileage.

Case No. 15-1038 (D.C. Cir. Jul. 12, 2016) ("the cost to AT&T of providing service in 'extremely' high-cost areas, where no support is yet available, is \$360 million/year, of which less than 10% is recovered in revenue").

The FNPRM proposes “to cap the mileage that carriers can charge for tandem switching and transport based on the number of miles between the originating end office and the nearest tandem in the same local access and transport area.”³⁷ Very few parties supported a mileage cap.³⁸ The Commission should not apply a mileage limitation to Aureon’s non-distance-sensitive transport rate because mileage pumping is impossible for a transport rate that does not vary with mileage.³⁹ Furthermore, such an arbitrary cap is based on transport that CEA service does not actually provide. CEA service does not provide transport to end offices, but instead transports traffic from several points of interconnection (“POIs”) throughout Iowa to a central access tandem in Des Moines. The benefits of rural traffic concentration are only made possible because Aureon transports calls on a non-distance-sensitive basis to a single point of interconnection for IXC’s. The Commission authorized a tariff rate for CEA service that is non-distance-sensitive and does not vary on a per mile basis in order to make rural IXC competition more economically viable. The CEA network transports and concentrates rural traffic over an average distance of 103.519 miles, which saves smaller IXC’s and new market entrants the enormous cost of building facilities to the exchanges of the 200 LECs connected to the CEA network.

³⁷ FNPRM ¶ 49.

³⁸ Comments of CenturyLink at 11; Comments of West Telecom Services, LLC at 19.

³⁹ The FCC recently decided that it would be reasonable if Aureon were to charge a composite rate using 103.519 miles of transport to calculate Aureon’s non-distance sensitive CEA rate. *In re Iowa Network Access Division Tariff F.C.C. No. 1*, Memorandum Opinion and Order, WC Docket No. 18-60, Transmittal No. 36, FCC 18-105 at 19 (rel. July 31, 2018).

IV. Proposals for all Intercarrier Compensation to go to Bill-and-Keep Will Cause Significant Market Disruptions and Harm Consumers.

A few commenters propose a system of full bill-and-keep to address the 8YY abuse problem.⁴⁰ The bill-and-keep proposal should be rejected because it would inflict serious economic harm upon rural consumers that are already struggling financially. According to a study this year by United Ways of Iowa, “nearly 40 percent of Iowans can’t afford the basics.”⁴¹ If the FCC were to adopt bill-and-keep for all traffic, this would literally leave no source of revenues for Aureon to operate, let alone maintain or upgrade, the CEA network. CEA service does not have any end user customers, and Aureon obtains all of its revenues for CEA service from the IXC’s that use and benefit from that service. As CenturyLink correctly asserts, such a result would “not satisfy either the Sections 201/332 ‘just and reasonable’ standard or the Section 252(d)(2) ‘mutual and reciprocal recovery of costs’ standard.”⁴² Bill-and-keep for CEA service would inevitably lead to the shutdown of the CEA network and disconnect hundreds of rural Iowa communities, and hundreds of thousands of customers, because the CEA network is the only way for many subtending LECs to route calls to the public switched telephone network (“PSTN”).

If Aureon is prohibited from charging a cost-supported tariff rate, thereby forcing the shutdown of CEA service, the adverse impact on rural consumers resulting from the discontinuance of CEA service would be severe, and for many rural communities, catastrophic.

⁴⁰ See Comments of NCTA at 4; Comments of AT&T Inc. at 3.

⁴¹ Kevin Hardy, *Nearly 40 Percent of Iowan Can’t Afford the Basic – and the Problem is only Getting Worse*, Des Moines Register, June 26, 2018.

⁴² Comments of CenturyLink at 21-24. See also, Comments of Charter Communications, Inc. at 4 (“bill-and-keep also assumes reciprocal compensation and cost recovery”); Comments of Nebraska Rural Independent Companies at 12 (“The FCC’s authority to establish rates governing interstate originating access ultimately rests within Section 201 of the Act and, consistent with prior actions, the establishment of a proper cost recovery mechanism”).

The discontinuance of CEA service by Aureon would negatively impact more than 300,000 rural consumers in Iowa. Specifically, 180,000 rural residents would suffer the complete loss of long distance/toll calling service, and an additional 120,000 would also be negatively impacted by the loss of the CEA network. Approximately 460 out of 600 rural communities would be completely isolated from the rest of the nation because without CEA service, no IXCs would be able to reach those communities even through CenturyLink's network. Another 140 communities in Iowa similarly would be isolated from the national PSTN, and residents living in those areas would only be able to place local calls to other nearby communities through extended area service arrangements.

Bill-and-keep or other changes to intercarrier compensation will not eliminate 8YY abuses by IXCs who will have an incentive to artificially stimulate traffic. As discussed above, removing an IXC's obligation to pay access charges also removes the disincentive for IXCs to partner with robocallers in order to inflate what the IXC charges 8YY subscribers. Aureon's proposed rule to directly prohibit such wasteful IXC traffic stimulation will prevent such 8YY abuse without the harm to rural communities that would result from bill-and-keep.

V. Conclusion.

The objective of the FNPRM is to adopt new rules eliminating 8YY abuses. That goal can be effectively achieved by adopting a new rule directly prohibiting such abuse. In contrast, the new rules proposed in the FNPRM irredeemably conflict with the FNPRM's objective because those proposals allow 8YY abuses to spread and persist indefinitely.

The Commission can outlaw wasteful 8YY abuses and concurrently implement policies that will help maintain and enhance the CEA network in Iowa, which will accelerate the modernization of telecommunications and improve the lives of many thousands of rural

consumers. Those goals are not mutually exclusive. The most effective and reasonable course of action that protects the public welfare is for the Commission to directly abolish 8YY abuses without dismantling intercarrier compensation and hurting rural consumers.

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Date: October 1, 2018

EXHIBIT A



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P-3.2. Toll-Free Usage Charges

Section Effective Date: 15-Sep-2004

Usage charges for Toll-Free Calling Capabilities are specified in the following rate tables:

Toll-Free Usage Rate Tables					
Calling Category	Toll-Free MEGACOM	Toll-Free READYLINE	STARTER-LINE	AT&T Direct Toll-Free	Notes
US Interstate Toll-Free	TF-US	TF-US	TF-US		
International Toll-Free	ITF	ITF		ITF-ADTF	<MUC>
Multimedia Toll-Free (US Interstate & Canada)	TF-MM	TF-MM			
Notes:					
<MUC> Minimum Usage Charges may apply as specified in Rate Table ITF-MUC					

P-3.2.1. Rate Table TF-US: Toll-Free US

Section Effective Date: 01-Aug-2018

Rate Table SDN-TF-US: Toll-Free US			
Time of Day	Toll-Free MEGACOM*	Toll-Free READYLINE*	Notes
Day, per minute	\$16.670	\$44.300	<D>
Evening & Night/Weekend, per minute	\$16.670	\$34.640	<ENW>
Notes:			
<p>* US rates for AT&T Toll-Free MEGACOM Service and AT&T Toll-Free READYLINE Service are set forth as per minute rates, but are applied based on an Initial Period of 30 seconds and Additional Periods of one second. Toll-Free Connected Pricing, SDN OneNet Customers will receive on-net (Dedicated) pricing when the calls terminate using AT&T Prime Local Service. AT&T Toll-Free MEGACOM rates will be applied instead of AT&T Toll-Free READYLINE rates.</p>			
<p><D> Day rates apply for calls that are answered between 8:00 AM and 4:59 PM, Monday – Friday. The time a call is answered is based on the time at the Customer Site at which the call is first answered.</p>			
<p><ENW> Evening Night/Weekend rates apply for all calls to which Day rates do not apply</p>			

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