

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Establishing Just and Reasonable Rates for	)	WC Docket No. 07-135
Local Exchange Carriers	)	
	)	
Developing an Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	
To: The Commission	)	

**COMMENTS OF INTELIGENT, INC.**

Inteligent, Inc. (“Intelligent”) has been a long-time supporter of the Commission’s efforts to reform intercarrier compensation to eliminate arbitrage. Accordingly, we appreciate the opportunity to respond to the Commission’s Public Notice seeking to refresh the record regarding toll-free access charge reform, and specifically “issues raised by the Commission in the *2011 ICC Transformation FNPRM* with respect to access charges for 8YY (toll free) calls.”<sup>1</sup>

It is important for the Commission to review this area in light of the record compiled in response to AT&T’s 2016 forbearance petition, since the record there demonstrates that the most straightforward way to address 8YY-related abuses is to subject 8YY database query charges (or dip charges) to the competitive local exchange carrier (“CLEC”) benchmark rule at 47 C.F.R. § 61.26.<sup>2</sup> Applying the CLEC benchmark rule to 8YY dip charges will curb abuses highlighted

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<sup>1</sup> Parties Asked to Refresh the Record Regarding 8YY Access Charge Reform, WC Docket Nos. 10-90 and 07-135; CC Docket No. 01-92, *Public Notice*, DA 17-631 (rel. June 29, 2017).

<sup>2</sup> See Petition of AT&T Services, Inc. for Forbearance Under 47 U.S.C. § 160(c), WC Docket No. 16-363 (filed Sept. 30, 2016) (hereinafter “AT&T Petition”); CenturyLink Opposition/Comments to AT&T Forbearance Petition, WC Docket No. 16-363, at 5 (Dec. 2, 2016) (hereinafter “CenturyLink Comments”); Comments of Intelligent, Inc., Bandwith.com,

by AT&T, while at the same time, allow the party providing this origination service (and incurring actual expenses) a reasonable recovery of its costs.

A bill-and-keep approach applied to 8YY origination defeats the very purpose of a toll-free call, which is to alleviate the calling party from paying for the call, and to shift those fees to the toll-free customer, the called party. Accordingly, the Commission should not apply bill-and-keep or similar methodologies, such as mandatory de-tariffing, in the 8YY access charge context. Otherwise, the carrier originating the toll-free call and/or the 8YY tandem provider will be unable to recover its costs. Such a result would not be just and reasonable.

## **I. Inteliquent's Interest in 8YY Access Charge Reform**

Inteliquent has approximately fifteen years of experience as a communications enabler, offering network-based voice and messaging services to wireless, cable, CLECs, VoIP, and other communications services providers.<sup>3</sup> Inteliquent's services allow these companies, including the nation's largest wireless carriers and cable companies, to deliver their products and services to end users efficiently and effectively.

With respect to toll-free service, Inteliquent serves both sides of the toll-free market—operating as both an interexchange carrier (“IXC”) that offers retail inbound toll-free service (e.g., serving companies, such as customer service centers, that use toll-free numbers to facilitate communications with their customer bases) and a CLEC that provides outbound 8YY service (e.g., serving wireless, cable, CLECs, VoIP, and other communications services providers that require assistance transporting outbound calls to IXCs that offer retail inbound toll-free services). And of course, like businesses of all stripes and sizes in the U.S., Inteliquent uses its own toll-

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Inc. and Onvoy, LLC, WC Docket No. 16-363, at 3 (Dec. 2, 2016); Reply Comments of Verizon, WC Docket No. 16-363, at 6 (Dec. 19, 2016) (hereinafter “Verizon Reply Comments”).

<sup>3</sup> See *About Us*, Inteliquent.com, [http://www.intelliquent.com/about\\_us](http://www.intelliquent.com/about_us).

free numbers as a means for customers, potential customers, and other parties to reach its customer service representatives.

As a company with active interests in both sides of the toll-free market, we believe Inteliquent is well-positioned to comment on the Commission’s Public Notice regarding toll-free services.

## **II. To Curb Abuses, the Commission Should Clarify That 8YY Database Dip Charges Are Subject to the CLEC Benchmark Rule**

Toll-free services are different than most other services because the “called party” pays for the call. As the Commission observed in the *2011 ICC Transformation FNPRM*, for 8YY traffic “the IXC carrying the 8YY traffic must use the access service of the LEC subscribed to by the calling party.”<sup>4</sup> This creates the potential for abuse, because, as recognized by the Commission in 2011, “the calling party chooses the access provider but does not pay for the toll call,” and therefore, does not have an incentive to select a provider that charges just and reasonable database query fees.<sup>5</sup> Specifically, when the calling party’s LEC—or the originating 8YY LEC tandem provider—originates an 8YY call, absent reasonable limits, the applicable LEC may impose unreasonably high fees on the IXCs for the 8YY database query.

This 8YY database query arbitrage concern is real and Inteliquent urges the Commission to address it, but for several reasons, bill-and-keep provides the wrong answer to this problem, as does any other policy choice that would allow the IXC serving the toll-free customer to avoid paying the originating carrier or carriers’ reasonable costs associated with delivering the toll-free call to the IXC.

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<sup>4</sup> *In re Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17663, ¶ 1303 (2011) (hereinafter “*2011 ICC Transformation FNPRM*”).

<sup>5</sup> *Id.*

First, toll-free calling differs in fundamental ways from traditional terminating end office access, which has transitioned to bill-and-keep. The very purpose of a toll-free call is to alleviate the calling party from paying fees associated with the calls and to shift those fees to the called party. This “calling party rides for free” is the feature that toll-free customers purchase from their IXC. Consequently, it would be illogical (and commercially impracticable) to direct the originating calling party’s LEC to look to the calling party for compensation of the costs of originating a supposedly “toll-free” call. Recovering the cost from the originating party would take the “free” out of “toll-free calling.”

Second, absent the right to tariff a *reasonable* fee, the originating LEC and/or the 8YY tandem provider will find itself at the mercy of the toll-free customer’s IXC, which could pay an arbitrarily low fee—or even no fee at all—for origination services provided to it. Although Inteliquent itself is an IXC, and would therefore benefit from that result when acting in that capacity, Inteliquent agrees with the comments filed in response to the AT&T petition noting that removing the right to tariff 8YY origination and database access charges entirely could impose potentially severe transaction costs on LECs (especially if IXCs refuse to negotiate or pay any fee at all for 8YY origination or database queries).<sup>6</sup> This approach would artificially lower the IXC’s costs of offering inbound toll-free service at the expense of the originating LEC and/or the intermediate 8YY tandem provider.

Instead of moving to bill-and-keep for 8YY origination, the Commission should make it abundantly clear that the CLEC benchmark rule applies to 8YY database queries. This policy

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<sup>6</sup> See, e.g., Comments of NTCA - The Rural Broadband Association, WC Docket No. 16-363, at 23 (filed Dec. 2, 2016); Reply Comments of Inteliquent, Inc., Bandwith.com, Inc. and Onvoy, LLC, WC Docket No. 16-363, at 3 & n.11 (Dec. 19, 2016).

would prevent CLECs from imposing database query charges that exceed the incumbent local exchange carrier's rate for the same service, which is presumptively a just and reasonable rate.<sup>7</sup> This action would curb 8YY database query arbitrage, while also allowing the LEC performing the query to receive a just and reasonable rate for the service it provides.

The right solution therefore lies in the proposal supported by multiple parties in response to the AT&T Petition: clarify that the CLEC benchmark rule applies to the 8YY database dip charge. *See, e.g.*, CenturyLink Comments at 5 (“The Commission could also better address the underlying problem giving rise to AT&T’s forbearance relief regarding database query charges by adopting a more targeted solution there. Specifically, it should clarify that those charges are subject to the CLEC benchmark rule.”); Verizon Reply Comments at 6 (“[B]enchmarking 8YY database query charges also would go a long way towards solving the problem”).

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<sup>7</sup> *In re Access Charge Reform, et al.*, Seventh Report and Order and Further Notice of Proposed Rulemaking, FCC 01-146, 16 FCC Rcd. 9923, ¶ 41 (2001).

## CONCLUSION

Inteliquent agrees that the current system governing 8YY database access queries creates opportunities for manipulation and arbitrage. The Commission should address these issues not in the context of a forbearance petitions, but instead in response to the *2011 ICC Transformation FNPRM*, and apply the CLEC benchmark rule to 8YY database queries. This solution would serve the Commission's goals by curbing potential arbitrage while at the same time allowing the party providing this origination service (and incurring actual expenses) a reasonable recovery of its costs.

Respectfully submitted,

/s/ Gerard J. Waldron

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