

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

<b>In the Matter of</b>	)	
	)	
<b>Iowa Network Access Division</b>	)	
<b>Tariff F.C.C. No. 1</b>	)	<b>WC Docket No. 18-60</b>

**SPRINT SUPPORT OF AT&T’S PETITION FOR RECONSIDERATION**

Sprint writes in support of AT&T’s Petition for Reconsideration.

Why are free conference call bridges and other high-volume calling operations located in rural Iowa instead of in an urban data center where multiple carriers interconnect to exchange both voice and data traffic? The answer is simple: Continued application of the outdated, pre-1996 Act access regime creates incentives for the high-volume calling companies and their affiliated carriers to locate in areas that are far away from their users and force non-consenting interexchange carriers (“IXC”) to pay dramatically above-cost rates to subsidize their intentionally inefficient operations under the aegis of tariffs and centralized equal access obligations. In effect, the excessive access rates enable high-volume calling companies to provide “free” services to their users because the charges these users generate are imposed on other carriers, and ultimately by consumers that don’t even use the high-volume services.

Nearly three decades after the FCC adopted incentive regulation for access rates in order to prevent the “perverse incentives” caused by rate-of-return regulation<sup>1</sup> and almost eight years

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<sup>1</sup> *Policy and Rules Concerning Rates for Dominant Carriers*, Second Report and Order, CC Docket No. 87-313, 5 FCC Rcd 6786, 6789 (1990) (“*LEC Price Cap Order*”). In 1990, the Commission determined that an incentive-based price cap system would more closely represent the results of a competitive market

after beginning the implementation of the FCC's order designed to reform a broken intercarrier compensation ("ICC") system,<sup>2</sup> carriers and their partners are still routing traffic with the primary purpose of generating millions of dollars in access charges and foisting those charges on others. The Commission should create incentives for carriers to route traffic efficiently. The strongest incentive to do that is to end the pre-1996 Act access charge regime by finishing the transition to bill and keep. In the meantime, the FCC should not allow Aureon to boost its rates by blessing the unnecessary, inefficient routing of its subtending carriers.

Aureon has no incentive to design an efficient network to minimize costs nor do the subtending local exchange carriers have any incentive to minimize transport distances and mileage charges imposed on IXCs. To the contrary, high-volume calling companies have been given a strong incentive to install facilities in a location that maximizes cost to IXCs. The failure to complete ICC reform continues to create and maintain incentives to transfer costs from those creating them onto others that are obligated by Commission rules to deliver traffic to them.

The FCC must quickly take two important steps to address these broken parts of the ICC system. First, the Commission should grant AT&T's Petition for Reconsideration.<sup>3</sup> AT&T persuasively argues that federal law and the Commission's precedents require competing CLECs to match the *rate* charged by the ILEC. CLECs cannot avoid this mandate by matching the *rate*

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than did the prior regulatory method of rate-of-return regulation. Regulatory structures that base a firm's allowed rates directly on the reported costs of the individual firm create perverse incentives, because reimbursing the firm's costs removes the incentive to reduce costs and improve productive efficiency.

<sup>2</sup> *In re Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011).

<sup>3</sup> AT&T Petition for Reconsideration, Iowa Network Access Division Tariff F.C.C. No. 1, Transmittal No. 36, WC Docket No. 18-60 (filed August 30, 2018) ("Petition").

*structure* of the ILEC and then imposing charges far above that of an ILEC by deploying an inefficient network architecture that raises the total cost of terminating traffic through increased mileage charges.

Second, the Commission should issue an order under the pending Notice of Proposed Rulemaking<sup>4</sup> on ICC that completes the transition to bill and keep by eliminating the remaining access charge rate elements—originating, tandem switching, and transport.

**Composite Rates Should Include the Average Mileage of the Competing ILEC**

Aureon computed the weighted average for the mileage of its calls. But that begs the question of why Aureon has such a high average mileage compared to the competing ILEC.

Unlike the benchmark ILEC, CenturyLink, Aureon's network configuration allows it to obtain a windfall. By imposing excessive mileage charges on pumped traffic, Aureon is able to exploit the current access charge regime to inflate charges on interexchange carriers without providing any corresponding benefit to the public or end users. Allowing Aureon to develop a composite rate that includes Aureon's transport distance is inconsistent with the intent of the CLEC Access Orders.<sup>5</sup>

Aureon and the connected LECs route traffic over one hundred miles on a volume-weighted average basis to a single Aureon tandem while CenturyLink has tandems distributed into many parts of Iowa. CenturyLink has tandem switches within proximity to Iowa's population centers, including Cedar Rapids, Davenport, Des Moines, Mason City, Omaha, Sioux

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<sup>4</sup> *Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155.

<sup>5</sup> 96-262 7<sup>th</sup> and 8<sup>th</sup> Report and Orders.

City and Spencer. Mandating interconnection at the one Aureon tandem forces carriers such as IXCs and wireless carriers to use and pay for transport facilities of other carriers when often the IXCs and wireless carriers already have facilities in place to exchange traffic across the state of Iowa. Those existing facilities could easily be used to connect to the closest tandems, the CenturyLink tandems, if not for the FCC's outdated mandate to connect to the Aureon tandem in Des Moines.

If the connecting carriers were permitted to choose an intermediate carrier across Iowa, the CenturyLink tandems distributed throughout the state would be the logical choice because carriers could pay access charges that don't include over 100 miles of transport. True competing carriers can route voice traffic in IP format to those locations for a tiny fraction of the rate that Aureon or even CenturyLink charge. Furthermore, in a rational world, the high-volume calling companies would locate their facilities in Des Moines—or even more efficiently, in Chicago—rather than taking advantage of Commission rules and orders that mandate that carriers route these calls at their expense to rural Iowa.

When the conference bridges and other high-volume call services are used, the callers are from across the nation, presumably in proportion to the population distribution. Few callers are in Iowa, and even fewer in rural Iowa. When a conference bridge links callers from Washington, D.C., New York, Chicago and Los Angeles, there is no rational reason to impose charges for rural Iowa transport. The public interest is served by encouraging cost minimization among all businesses. Allowing a business to unnecessarily increase its costs and pass those along to another that is obligated by law to interact with them is detrimental to the public interest because ultimately it harms consumers and competition.

Therefore, as AT&T argues, the proper benchmark for Aureon's composite access rate is

a rate that includes the average mileage from the competing ILEC tandems, CenturyLink, to the end offices subtending Aureon. The Commission adopted the ILEC rate benchmark as a cap because it recognized competing LECs can take advantage of the efficiencies in fiber, IP, and soft-switch technologies which make costs dramatically lower than those in the networks constructed by the incumbent monopoly providers upon which the ILEC rates are based. The benchmark should not be based on volume-weighted average mileage skewed by traffic pumping between the Aureon tandem and the subtending end offices.

### **Sprint's CLEC Did Not Charge Actual Mileage**

In an analogous situation, Sprint did not attempt to impose charges based on long transport mileages that were attributable to Sprint's network architecture choices on other carriers. In the past, Sprint chose to re-route its 8YY traffic from the local ILEC tandems to a dozen or so Sprint CLEC switches scattered across the country. By doing so, Sprint CLEC charged access charges as an intermediate carrier on the 8YY traffic that originated from Sprint's wireless customers.

When tariffing the composite rate for the intermediate services, Sprint did not use the actual mileage from its wireless switches to the Sprint CLEC switches that performed the toll-free query function. Instead, Sprint used an average mileage of 10 miles in the composite rate calculation because Sprint knew 10 miles was indicative of the mileage ILECs often charged IXCs. Sprint discussed how it was going to develop the composite rate in advance with many of the 8YY providers to gain consensus that the methodology would be deemed reasonable and the IXCs would not dispute the associated charges.

The actual mileage between the Sprint CLEC switches and the subtending Sprint wireless switches could easily have been 100 miles or more on some routes. Sprint could not expect the

IXCs to pay for transport charges for more than 100 miles even if that Sprint CLEC switch was the closest switch that could perform the necessary toll-free query function. Sprint constructed its network in this manner to minimize costs by limiting the number of switches deployed and relying on its existing interoffice transport network. It recovered its costs through a 10-mile charge and did not attempt to impose additional charges that would have been unreasonable. It recognized that it should not and legally could not impose inflated high-mileage access charges on other carriers merely because Sprint wanted to limit the number of switches it maintained across the nation. For the same reasons, Aureon should not expect to collect more than 100 miles of transport when its one tandem is used to serve all of Iowa.

#### **Access Stimulation Must End**

Another factor that makes the weighted average mileage in the Aureon composite rate calculation higher than it otherwise would be is the inclusion of vast amounts of access-stimulated traffic. Although the transition to setting end office rates to bill and keep will finish in 2020, the high-volume calling operations are still located in remote areas to receive end office switching for as long as possible and to increase mileage charges.

The original reason for locating the conference bridges in rural areas was to get the hugely inflated end office charges that were predicated on low traffic volumes to high-cost areas. Now that those charges are moving to zero, the conference bridges and other high-volume providers keep those switches there, which allows Aureon to inflate its mileage-based charges.

In this reconsideration order, the FCC should make it clear CLEC mileage charged is limited to the mileage the competing ILEC would charge. Otherwise, as happens here, a “competitor” that is ostensibly following the rate regulations and matches the ILEC rate is actually exceeding the ILEC rate by charging for more miles. Absent FCC obligations to use

Aureon's service as a centralized equal access provider, IXCs would chose the cheaper ILEC or other CLEC to route its calls, or do it itself. But IXCs face the double whammy of artificially high rates and an obligation to purchase those services despite cheaper options. It is no accident that access stimulators set up shop in Iowa and South Dakota, which are two of the three states with centralized equal access providers.

But granting AT&T's Petition will not end all access stimulation. The only way to end access stimulation is to prevent access charges on all access stimulated traffic. NCTA proposed that access stimulating LECs should change their tariffs to stop charging transport and termination on access stimulated traffic. The LECs should also take financial responsibility for all charges by the intermediate switched access provider on that traffic. Immediate adoption of the NCTA proposal would be an effective step to mitigate access stimulation arbitrage.

Eliminating the access stimulating LEC's ability to impose access charges to terminating carriers and making the access stimulating LEC responsible for intermediate carrier's charge on this traffic will eliminate the access arbitrage and the market distortions it causes. The FCC should act quickly on the Access Stimulation NPRM.

Respectfully submitted,

**SPRINT CORPORATION**



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Keith C. Buell  
*Senior Counsel, Government Affairs*

*Federal Regulatory*

900 Seventh St. NW  
Suite 700  
Washington, DC 20001  
(703) 592-2560

September 26, 2018