

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

**In the Matter of**

**Iowa Network Access Division  
d/b/a Aureon  
FCC Tariff No. 1**

**WC Docket No. 18-60**

**Transmittal No. 38**

**PETITION OF SPRINT COMMUNICATIONS COMPANY L.P. FOR  
SUSPENSION OF REVISED TARIFF FILING BY IOWA NETWORK  
ACCESS DIVISION D/B/A AUREON NETWORK SERVICES**

Pursuant to Section 1.733 of the Commission’s rules, Sprint Communications Company, L.P. (“Sprint”) hereby respectfully requests that the Commission suspend the revisions to the above-captioned tariff recently filed by Iowa Network Access Division d/b/a Aureon Network Services (“Aureon”). As further set forth below, the new tariff contains extensive changes and an enormous volume of purportedly supporting data—primarily in response to the Commission’s recent determination that “Aureon’s cost-based analysis was insufficient to justify its tariffed rate for interstate switched transport services.”<sup>1</sup>

Unfortunately, Sprint has limited ability to analyze this new data. As Sprint recently reiterated to the Commission, the existing Protective Order permits access only to Sprint’s *lawyers*. And lawyers cannot fully substitute for subject-matter experts when it comes to performing the rigorous economic analysis needed to determine whether Aureon has substantiated its tariff.<sup>2</sup> Sprint accordingly asks the Commission to suspend Aureon’s new tariff

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<sup>1</sup> See *In re Iowa Network Access Division Tariff F.C.C. No. 1*, Memorandum Opinion and Order, 2018 WL 3641034 (F.C.C.) (July 31, 2018) (“*2018 Aureon Order*”).

<sup>2</sup> See Motion of Sprint Communications L.P. Joining AT&T Services, Inc.’s Renewed Motion to Amend Protective Order, WC Docket No. 18-60, Transmittal No. 36, (Sept. 19, 2018) (“Sprint Motion to Amend”); see also Motion of AT&T Services, Inc. to Amend Protective Order and for Expedited Ruling, WC Docket No. 18-60, Transmittal No. 36, (Apr. 23, 2018) See Renewed

filing and to grant the pending motions for amendment of the protective order so that Sprint's in-house experts can conduct a careful analysis of the new data that Aureon advances.

## **BACKGROUND**

As the Commission is aware, the procedural history of this matter is extensive. Because the *2018 Aureon Order* sets forth much of the relevant history in detail, we summarize it only briefly here. After AT&T filed a formal complaint against Aureon for raising its tariffed interstate switched transport rate above the applicable cap, the Commission issued a 2017 order partially granting the complaint and requiring Aureon to file tariff revisions.<sup>3</sup> On February 22, 2018, Aureon filed those revisions to its tariff, which it asserted complied with the *2017 Aureon Order*.<sup>4</sup> AT&T and Sprint filed petitions asking the Commission to reject, or alternatively to suspend and investigate, Aureon's proposed revisions.<sup>5</sup> On April 19, 2018, the Wireline Competition Bureau released an order designating issues regarding the lawfulness of the Aureon tariff revisions for investigation.<sup>6</sup> After extensive filings in support by Aureon and oppositions by AT&T and Sprint, the Commission issued an Order on July 31, 2018 finding the challenged tariff unlawful and directing Aureon to amend it.<sup>7</sup>

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Motion of AT&T Services, Inc. to Amend Protective Order, WC Docket No. 18-60, Transmittal No. 36, (Sept. 14, 2018).

<sup>3</sup> See *AT&T Corp. v. Iowa Network Services, Inc., d/b/a Aureon Network Services*, Memorandum Opinion and Order, 32 FCC Rcd 9677 (2017) ("2017 Aureon Order").

<sup>4</sup> Iowa Network Access Division Tariff F.C.C. No.1, Transmittal No. 36 (Feb. 22, 2018).

<sup>5</sup> Petition of AT&T to Reject or to Suspend and Investigate Iowa Network Services Inc. Tariff Filing, Transmittal No. 36 (filed Feb. 26, 2018); Petition of Sprint to Reject or Suspend and Investigate Iowa Network Access Division d/b/a Aureon Tariff, Transmittal No. 36 (filed Feb. 28, 2018).

<sup>6</sup> *Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, Transmittal No. 36, Order Designating Issues for Investigation, DA 18-395 (WCB Apr. 19, 2018).

<sup>7</sup> See 2018 Aureon Order, ¶ 2.

On September 24, 2018, Aureon filed its revised tariff and supporting material.<sup>8</sup> That material included a new “Description and Justification,” as well as spreadsheets containing cost data and rate development information. That information was, of course, submitted pursuant to the Commission’s March 26, 2018 Protective Order in this proceeding.<sup>9</sup> But, again, that Protective Order is overly restrictive because it does not permit any inside experts or consultants access to confidential information—which severely limits Sprint’s ability to analyze and challenge the data through which Aureon purports to substantiate its tariff.<sup>10</sup>

## **ARGUMENT**

### **I. THE COMMISSION SHOULD AMEND THE PROTECTIVE ORDER TO ALLOW CAREFUL ANALYSIS OF AUREON’S LATEST REVISIONS TO ITS TARIFF.**

Aureon’s new filing underscores the need for the amendment to the Protective Order that Sprint and AT&T have requested in their pending motions. Again, as noted above, the new tariff contains complicated economic information purporting to justify the proposed rate. But Sprint’s in-house experts with the greatest ability to analyze that information are not allowed to see it.

The evolution of Aureon’s rates in this case, however, demonstrates the need for such analysis. As set forth above, just since 2017 the Commission has *twice* held Aureon’s proposed tariff to be unlawful. The 2017 Aureon Order rejected Aureon’s interstate switched transport rate of \$0.00819 as a violation of the Commission’s rate cap.<sup>11</sup> And the 2018 Aureon Order found that Aureon’s cost-based analysis was insufficient to justify its new rate of \$0.005634. Aureon’s new filing proposes a rate for the same services of \$0.00296.

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<sup>8</sup> Iowa Network Access Division Tariff F.C.C. No.1, Transmittal No. 38 (Sept. 24, 2018).

<sup>9</sup> *Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, Transmittal No. 36, Protective Order, DA 18-294 (WCB Mar. 26, 2018).

<sup>10</sup> See Sprint Motion to Amend at 1.

<sup>11</sup> See 2018 Aureon Order, ¶ 10.

Clearly, the decline from \$0.00819 to \$0.00296 in this short span of time is precipitous. While certainly welcome, this trajectory raises substantial questions about Aureon's methodology in the past, and how that methodology has evolved over time to produce such different rates. But, again, Sprint is in no position to answer such methodological questions because its in-house experts lack access to the relevant data. Sprint therefore reiterates its request that the Commission amend the overly restrictive Protective Order here to permit such internal analysis. Such an amendment need not, of course, open the door to a broad array of individuals, but rather could limit access to only those in-house experts strictly needed to conduct the analysis

## **II. THE COMMISSION SHOULD SUSPEND THE TARIFF TO PERMIT INTERESTED PARTIES TO CONDUCT THEIR ANALYSES.**

As set forth above, Sprint's and AT&T's in-house experts require access to the information in Aureon's filing to analyze the lawfulness of the proposed rate, and the Commission should amend the Protective Order to provide that access. But petitioners also need the Commission to act now to suspend the tariff pending further analysis. Given that the new tariff contains extensive changes and an enormous volume of purportedly supporting data, even with expert support, the analysis of the changes and data will require time. The analysis certainly requires more than three days. Absent Commission action, the tariff revision will acquire deemed lawful status, which Aureon will likely argue precludes future Commission review of the lawfulness of the rates and terms contained within the revisions. Sprint therefore respectfully urges the Commission to suspend Aureon's tariff in conjunction with granting the pending motions to amend the Protective Order.

Respectfully submitted,

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