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FILED ELECTRONICALLY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Attention: Wireline Competition Bureau

**Re: Iowa Network Services, Inc. d/b/a Aureon Network Services
Request for Confidential Treatment of Data Submitted with
Tariff Transmittal No. 44; WC Docket No. 18-60**

Dear Ms. Dortch:

On behalf of Iowa Network Access Division ("INAD"), this letter accompanying Transmittal No. 44 for INAD Tariff F.C.C. No. 1, Access Services, requests confidential treatment of Aureon's circuit inventory data and DS-3 circuit information filed in compliance with the FCC's February 28, 2019 *Second Rate Order*.¹ On March 26, 2018, the FCC entered a *Protective Order* covering confidential materials submitted in WC Docket No. 18-60.² Because this submission is a compliance filing required by the *Second Rate Order*, pursuant to the terms of the *Protective Order*, Aureon has designated certain information in its filing as confidential. A public version of Aureon's Description and Justification is being filed via ETFS. However, the confidential version of Aureon's Description and Justification, separate spreadsheets containing Aureon's cost and traffic studies, circuit inventory, and a supplemental analysis of Aureon's third-party sales for non-regulated DS-3 transport service contained in a separate Excel file, will not be filed publicly via ETFS because they constitute highly confidential, proprietary information. It is important to note that Aureon's cost and traffic studies are fully operational worksheets that cross-reference confidential circuit and other proprietary information that cannot

¹ *In re Iowa Network Access Division Tariff F.C.C. No. 1*, Memorandum Opinion and Order, WC Docket No. 18-60, Transmittal No. 38, FCC 19-14, (rel. Feb. 28, 2019) ("*Second Rate Order*").

² *In re Iowa Network Access Division Tariff F.C.C. No. 1*, Protective Order, WC Docket No. 18-60, Transmittal No. 36, DA 18-294, (rel. Mar. 26, 2018) ("*Protective Order*").

be removed to create a native and working public version of that Excel file. No public versions of Aureon's spreadsheets will be made available through ETFS.

Pursuant to Sections 0.457 and 0.459 of the Commission's Rules, 47 C.F.R. §§ 0.457, 0.459, and the *Protective Order*, Aureon requests confidential treatment of the information required to be submitted by the *Second Rate Order*. In support of this request, and pursuant to Section 0.459(b) of the Commission's rules, 47 C.F.R. § 0.459(b), Aureon hereby states as follows:

1. Identification of the specific information for which confidential treatment is sought.

Pursuant to the *Protective Order*, Aureon seeks confidential treatment of Aureon's cost and traffic studies, circuit inventory data, and supplemental analysis of third-party sales for non-regulated DS-3 transport service filed in native Excel spreadsheets ("Confidential Information"). The Confidential Information relates to Aureon's internal network that is not generally available to the public. Files that contain Confidential Information contain the word "Confidential" in the file name.

2. Description of circumstances giving rise to the submission.

The Confidential Information is being provided as directed by the Commission in the *Second Rate Order*. The FCC has issued a *Protective Order* preventing the disclosure of that information publicly.

3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The information for which Aureon seeks confidential treatment contains sensitive commercial information of Aureon that would customarily be guarded from competitors. Pursuant to the *Protective Order*, Aureon seeks to protect the confidentiality of Confidential Information submitted in compliance with the *Second Rate Order*.

4. Explanation of the degree to which the information concerns a service that is subject to competition.

The Confidential Information submitted in this proceeding contains information relating to commercial matters, including highly sensitive network information, that could be used by competitors to Aureon's disadvantage. Services provided by Aureon are subject to competition.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

Competitors could use Aureon's proprietary commercial and operational information to Aureon's detriment as competitors would gain access to sensitive information about the company's network to enable competitors to target areas where Aureon's facilities are less robust. Such information would result in substantial competitive harm because that would give competitors a significant advantage in future negotiations with Aureon, or to compete against Aureon in areas where Aureon has less capacity. It is Aureon's understanding that AT&T, Verizon, and Sprint, who may have an interest in Aureon's tariff filing, have taken a similar position with respect to their confidential information.

6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure.

Aureon has treated the Confidential Information as confidential, and Aureon has not generally disclosed that information publicly. Aureon has afforded such information confidential treatment consistent with the terms of the FCC's *Protective Order*.

7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

Aureon has not made the Confidential Information public. To the extent that such information has been disclosed to third parties, such disclosure has not been made unless it is covered by a confidentiality agreement or protective order.

8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

The Confidential Information should never be disclosed to the public. Aureon is not submitting confidential information as part of a routine submission to the Commission. Rather, Aureon's Confidential Information is being submitted pursuant to FCC staff's request as part of the above-referenced investigation. Accordingly, there is no need for the Commission to publicly disclose any confidential information submitted as part of this proceeding.

Request for Confidential Treatment Under Exemption 4 of the Freedom of Information Act

To the extent necessary, Aureon also requests confidential treatment of Aureon's Confidential Information pursuant to Exemption 4 of the Freedom of Information Act. Exemption 4, 5 U.S.C. § 552(b)(4), protects commercial or financial information obtained from a person that is privileged or confidential. The exemption affords protection to those submitters who are required to furnish commercial or financial information to the government by

safeguarding them from the competitive disadvantages that could result from disclosure.³ Commercial or financial information is protected from disclosures if such information would be likely to cause substantial harm to the competitive position of the person from whom the information was obtained.⁴ For example, the FCC has granted confidential treatment for wire center line count data submitted by carriers i.e., the filing of the number of lines in individual wire centers, as opposed to total lines in the study area.⁵ Aureon's data is even more granular than that information, and as explained above in its justification for protection under the *Protective Order*, the release of Aureon's circuit inventory data would put Aureon at a significant competitive disadvantage because competitors could target locations where Aureon has limited facilities.

Wherefore, for the foregoing reasons, Aureon requests that the Confidential Information submitted herewith be treated as confidential, and not be subject to public disclosure.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "James U. Troup", with a stylized flourish at the end.

James U. Troup

Counsel for Iowa Network Services, Inc.
d/b/a Aureon Network Services

³ See Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the Freedom of Information Act (Oct. 12, 2001), *reprinted in FOIA Post* (posted Oct 15, 2001).

⁴ See *Nat'l Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).

⁵ *In re Federal-State Joint Board on Universal Service*, Order, 15 FCC Rcd. 8746, 8751 ¶ 10 (2000).