**Before the**

**FEDERAL COMMUNICATIONS COMMISSION**

**Washington, D.C. 20554**

In the Matter of )

)

Connect America Fund ) WC Docket No. 10-90

)

Developing an Unified Intercarrier ) CC Docket No. 01-92

Compensation Regime )

)  
To: The Commission )

**REPLY COMMENTS OF INTELIQUENT, INC.**

Inteliquent, Inc. (“Inteliquent”) appreciates the opportunity to respond to comments filed in response to the Commission’s Public Notice seeking to refresh the record regarding “(1) the network edge for traffic that interconnects with the Public Switched Telephone Network, (2) tandem switching and transport, and (3) transit (the non-access traffic functional equivalent of tandem switching and transport).”[[1]](#footnote-2) Inteliquent has more than 15 years of experience offering network-based voice and messaging services to wireless, cable, CLECs, VoIP, and other communications services providers. A substantial portion of Inteliquent’s offerings are intermediate services such as tandem switching, transport, and transit services that are the subject of the Commission’s present inquiry.

Inteliquent offers these services in a competitive marketplace wherein carriers pay reasonable fees for services that provide value to them. As such, any steps by the Commission to modify the existing regulatory regime should be carefully considered to avoid undermining the existing marketplace or forcing companies like Inteliquent to provide valuable services without reasonable compensation.

Inteliquent agrees with AT&T and other commenters that certain entities have abused the current Intercarrier Compensation (“ICC”) system by engaging in access stimulation, and that the Commission should continue to take steps to remedy these harms. Inteliquent also agrees with several commenters that requiring direct connection in the context of access stimulation activities would go a long way toward curbing these abuses. But transitioning all tandem switching, transport, and transit charges to bill-and-keep, as some parties have proposed, is akin to killing a fly with a sledgehammer. These intermediate services provide real value in a competitive market, and the relatively few entities engaged in arbitrage activities (albeit at large scales) does not justify preventing Inteliquent and other legitimate actors from recovering the reasonable costs of providing those services, which bill-and-keep would do by reducing these rates to zero. Similarly, with respect to 8YY originating access traffic, Inteliquent reiterates its comments in the 8YY refresh comment cycle that arbitrage schemes can be addressed in a rational fashion without fundamentally altering the basic principle of 8YY traffic that the calling party does not pay for the call.

# **Requiring Direct Connection to Entities Engaged in Access Stimulation Would Substantially Curb Abuses.**

In the *2011 ICC Transformation FNPRM*, the Commission recognized that access stimulation schemes “involve service providers exploiting loopholes in [FCC] rules and ultimately cost consumers hundreds of millions of dollars annually.”[[2]](#footnote-3) The Commission cited several harmful effects of access stimulation in 2011, including that it “imposes undue costs on consumers, inefficiently diverting capital away from more productive uses such as broadband deployment.”[[3]](#footnote-4) The Commission’s 2011 efforts to reduce access stimulation were laudable, and the situation is much improved since that time.

Despite the Commission’s efforts, however, Inteliquent agrees with AT&T and others that arbitrage continues to occur, and that “[c]arriers in remote areas of the country should not be allowed to abuse the network edge rules by partnering with unscrupulous tandem or transport providers on the sending carrier’s side of the edge to engage in traffic-pumping schemes or traffic aggregation schemes.”[[4]](#footnote-5)

To curtail these arbitrage schemes, Inteliquent agrees with commenters on both sides of the bill-and-keep debate that the Commission should mandate direct connection when a carrier is engaged in access stimulation. AT&T’s comments also provide support for requiring direct connection in the access stimulation context. AT&T notes that “access stimulation schemes that have endured often involve situations in which carriers have refused direct connections.”[[5]](#footnote-6) To illustrate this point, AT&T cites its FCC Complaint against Iowa Network Services, Inc. (“INS”), and “estimates that, if direct connections were used to carry the traffic, the costs would be a tiny fraction of the tariffed transport charges.”[[6]](#footnote-7) It follows, therefore, that requiring direct connections to entities involved in access stimulation would substantially curb the current abuses that AT&T has highlighted.

The record accordingly provides substantial support for the Commission to require direct connections in the context of access stimulation —“the most efficient technical and economical choice.”[[7]](#footnote-8) At the same time, Inteliquent recognizes that the Commission generally does not mandate a particular network architecture, and therefore may not be inclined to require direct connection in all circumstances. Instead, the Commission should require direct connections in the isolated case of access stimulation, consistent with comments that indicate that direct connection would substantially curtail such practices.[[8]](#footnote-9)

# **The Commission Should Not Undermine the Competitive Market in Tandem Switching, Transport, and Transit Services.**

Inteliquent agrees with those commenters that oppose transitioning tandem switching, transport, and transit services to bill-and-keep. The rationale underlying the bill-and-keep system is that a carrier must “look[] to its end users . . . to pay for the costs of its network.”[[9]](#footnote-10) By definition, intermediate services such as tandem switching, transport, and transit services do not directly serve end-users, but instead provide valuable services to exchange traffic between the networks of other carriers and their end-users. If these intermediate services were transitioned to bill-and-keep, Inteliquent and others would have no means to obtain reasonable compensation for these services.[[10]](#footnote-11)

As CenturyLink correctly emphasizes, these intermediate services “are costly to build and maintain,” and “continued robust investment in these facilities . . . will only occur if carriers are assured of their ability to obtain fair compensation for their services.”[[11]](#footnote-12) As AT&T points out, “these services are now highly competitive in most areas of the country.”[[12]](#footnote-13) A transition to bill-and-keep, however, would put that competition at risk—all based on an overcorrection in response to the actions of relatively few bad actors.[[13]](#footnote-14) As such, Inteliquent agrees with CenturyLink that the Commission “should find that bill and keep should not be mandated” for tandem switching and transport services.[[14]](#footnote-15) Transitioning these intermediate services to bill-and-keep would only serve to undermine the current competitive market where carrier customers purchase services under a permissive tariffing regime and “disincentivize further investment in intermediate network services.”[[15]](#footnote-16)

Instead, these intermediate network services should continue to be “compensable based on market forces,” and “the Commission should refrain from transitioning the remaining elements associated with tandem switching and transport to bill-and-keep.”[[16]](#footnote-17)

# **The Commission Should Take Targeted Steps to Address Abuses in 8YY Charges.**

Although 8YY is not the focus of this comment cycle, the record reflects debate over the proper treatment of 8YY originating access services—including some suggestions to transition these services to bill-and-keep.[[17]](#footnote-18) As Inteliquent explained in the 8YY refresh proceedings, however, “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.”[[18]](#footnote-19)

Thus, instead of a bill-and-keep approach to 8YY origination, Inteliquent continues to urge the Commission to take a targeted approach. A letter recently filed by a broad group of rural LEC associations, cable associations, and other LECs supports such a “targeted action” approach.[[19]](#footnote-20) Inteliquent agrees with these parties that while the Commission should undertake “targeted measures to address abusive 8YY arbitrage schemes,” it should *not* transition 8YY origination charges to bill-and-keep, which “is in tension with the concept of toll-free calling” and would cause consumers to “suffer as rates increase to subsidize a business service.”[[20]](#footnote-21) Nor should 8YY database dip charges transition to bill-and-keep, as LECs are unable to recover these costs from 8YY subscribers with whom they have no relationship, and should not be required to provide database query services for free.[[21]](#footnote-22) Inteliquent agrees, however, that the Commission should take steps to reign in inflated database queries charged by certain CLECs.

CONCLUSION

Inteliquent agrees that the Commission should take targeted steps to address arbitrage schemes, consistent with the goals of the *2011 ICC Transformation FNPRM*. Requiring direct connection to entities engaged in access stimulation would significantly curb these abuses. But transitioning all intermediate services to bill-and-keep, as some have proposed, is the wrong solution. To do so would severely curtail the existing competitive market in intermediate services wherein Inteliquent and others provide valuable services to carriers in exchange for reasonable fees.

Respectfully submitted,

/s/ Gerard J. Waldron

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November 20, 2017

1. Parties Asked to Refresh the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transport, and Transit, WC Docket No. 10-90; CC Docket No. 01-92, *Public Notice*, DA 17-863 (rel. Sept. 8, 2017); *see also* Wireline Competition Bureau Announces the Comment Cycle for Refreshing the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transport, and Transit, WC Docket No. 10-90; CC Docket No. 01-92, *Public Notice*, DA 17-863 (rel. Sept. 26, 2017). [↑](#footnote-ref-2)
2. *In re Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17663, ¶ 649 (2011) (hereinafter “*2011 ICC Transformation NPRM*”). [↑](#footnote-ref-3)
3. *Id.* ¶ 663. [↑](#footnote-ref-4)
4. Comments of AT&T Services Inc. to Refresh the Record, WC Docket No. 10-90; CC Docket No. 01-92, at 3 (Oct. 26, 2017) (hereinafter “AT&T Comments”); *see also* Comments of Verizon, WC Docket No. 10-90; CC Docket No. 01-92, at 4 (Oct. 26, 2017) (hereinafter “Verizon Comments”) (“High transport charges continue to sustain ‘regulatory arbitrage such as access stimulation’ despite the *Transformation Order*’s attempt to curtail traffic pumping. In addition, ‘mileage pumping’—which occurs then ‘service providers designate distant points of interconnection to inflate the mileage used to compute the transport charges’—remains a widespread and growing practice.”) (citations omitted). [↑](#footnote-ref-5)
5. AT&T Comments at 13. [↑](#footnote-ref-6)
6. AT&T Comments at 13 n.15. [↑](#footnote-ref-7)
7. ITTA Comments at 8. [↑](#footnote-ref-8)
8. *See, e.g.*, ITTA Comments at 7 (“In order to substantially curtail arbitrage, the Commission should clarify that a carrier’s duty under Section 251(a) is to interconnect directly where technically feasible.”); Carrier Coalition Comments at 7 (direct connection is “necessary to avoid arbitrage schemes”). [↑](#footnote-ref-9)
9. *2011 ICC Transformation NPRM* ¶ 737. [↑](#footnote-ref-10)
10. *See* Carrier Coalition Comments at 3, 23–24. [↑](#footnote-ref-11)
11. CenturyLink Comments at 5–6. [↑](#footnote-ref-12)
12. AT&T Comments at 17. [↑](#footnote-ref-13)
13. AT&T indicates that a single transport provider, INS, is responsible for more than 12 percent of AT&T’s “*total, nationwide* billed terminating switched access expense—even though AT&T is billed by over 1,300 different LECs,” and that direct connection would effectively resolve the problem with respect to INS. AT&T Comments at 13 & n.15. [↑](#footnote-ref-14)
14. CenturyLink Comments at 3. [↑](#footnote-ref-15)
15. CenturyLink Comments at 7; *see also* Carrier Coalition Comments at 5, 23–24. [↑](#footnote-ref-16)
16. ITTA Comments at 15. [↑](#footnote-ref-17)
17. AT&T Comments at 27. [↑](#footnote-ref-18)
18. Comments of Inteliquent, Inc. WC Docket Nos. 10-90, 07-135; CC Docket No. 01-92, at 2 (July 31, 2017) (hereinafter “Inteliquent 8YY Comments”). [↑](#footnote-ref-19)
19. *See* Letter from Michael R. Romano, et al. to Marlene H. Dortch, *Developing a Unified Intercarrier Compensation Regime,* CC Docket No. 01-92*; Petition of AT&T Services, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Rules for Switched Access Services and Toll Free Database Dip Charges,* WC Docket No. 16-363 (Nov. 1, 2017). [↑](#footnote-ref-20)
20. *Id.* [↑](#footnote-ref-21)
21. *Id.*; *see also* Inteliquent 8YY Comments at 4–5. [↑](#footnote-ref-22)