

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	WC Docket No. 18-60
)	
Iowa Network Access Division)	Transmittal No. 38
Tariff F.C.C. No. 1)	
)	

ORDER

Adopted: September 28, 2018

Released: September 28, 2018

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. On September 24, 2018, Iowa Network Access Division d/b/a Aureon (“Aureon”) filed Transmittal No. 38, proposing tariff revisions to Aureon’s interstate access Tariff F.C.C. No. 1, which it alleged are “in compliance with the Federal Communications Commission’s Order, *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1, Services*, WC Docket No. 18-60, FCC 18-105.”¹ The proposed revisions are scheduled to become effective on October 1, 2018.² Because we conclude that substantial questions of lawfulness exist regarding how Aureon revised the switched transport rate contained in its proposed tariff revisions, we suspend the revisions for one day and set for investigation the question of whether Aureon complied with the *Aureon Tariff Order* in revising its switched transport rate.

II. BACKGROUND

2. In the *Aureon Tariff Order*, the Commission concluded that Aureon’s switched transport rate in Transmittal No. 36 of Tariff F.C.C. No. 1 of \$0.00576 was higher than the applicable competitive local exchange carrier (LEC) benchmark rate of \$0.005634, and therefore violated the CLEC benchmark rule.³ The Commission also found that Aureon’s cost-based analysis was insufficient to justify its tariff rate for interstate switched transport services.⁴ The Commission directed Aureon to file full cost support demonstrating: (1) that its jurisdictionally interstate network lease expense (Filed Lease Expense) is lower than the fair market value of the facilities being leased; and (2) that its Filed Lease Expense is lower than the fully distributed cost of the facilities being leased, specifically including: (a) a formal calculation of the fully distributed cost; (b) central office expense (COE) and cable and wire facilities (C&WF) cost allocators that comply with section 64.901(b)(4) of our rules; (c) an appropriate method of allocating cable and wire facilities expense (not treating circuits provisioned as DS1s on a basis equivalent to DS3s); and (d) a proper adjustment of its allocators to account for centralized equal access (CEA) and

¹ Iowa Network Access Division Tariff F.C.C. No. 1. See Letter from James U. Troup, Counsel for Iowa Network Access, to Marlene H. Dortch, Secretary, Federal Communications Commission, Transmittal No. 36 (filed September 24, 2018) (Transmittal Letter). See also *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, Memorandum Opinion and Order, WC Docket No. 18-60, FCC 18-105 (2018) (*Aureon Tariff Order*).

² See Transmittal Letter at 2.

³ *Aureon Tariff Order*, para. 43. See 47 CFR § 61.26(f).

⁴ *Aureon Tariff Order*, para.46.

nonregulated traffic sharing the use of the same circuits.⁵ The Commission also directed Aureon to recalculate its interstate switched access rate consistent with the *Aureon Tariff Order* and to amend Tariff F.C.C. No. 1 to reflect the lower of the competitive LEC benchmark rate or the corrected cost-based rate.⁶ The Commission provided sixty (60) calendar days for Aureon to file the tariff revisions.⁷

3. Aureon filed the above-referenced proposed transmittal on September 24, 2018, to become effective on October 1, 2018.⁸ Aureon reduced its switched transport rate to the cost-based rate it calculated of \$0.00296 per minute of use.⁹ Aureon asserts that this rate “represents a reduction of \$0.0028 or -48.61%.”¹⁰ Aureon also submitted supporting cost support material as required by *Aureon Tariff Order*.¹¹ On September 27, 2018, AT&T filed a petition asking the Commission to reject or suspend and investigate Aureon’s proposed transmittal.¹²

III. DISCUSSION

4. We find that there are substantial questions regarding the lawfulness of Aureon’s tariff revisions that require further investigation. In its petition, AT&T argues that Aureon’s submission fails to comply with the *Aureon Tariff Order* because Aureon’s fair market value analysis is deficient and that serious questions persist with regard to how Aureon calculated its cost of service rate.¹³

5. In light of the arguments presented in the petition, we find that there are substantial questions of lawfulness regarding Aureon’s switched transport rate tariff revisions that require further investigation, and we suspend those tariff revisions for one day, continue the existing accounting order, and initiate an investigation into the lawfulness of the switched transport rate.¹⁴ We will identify the specific issues that are the subject of the investigation in an upcoming designation order and may include, but not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further investigation.

IV. EX PARTE REQUIREMENTS

6. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁵ Persons making *ex parte* presentations must file in WC Docket No. 18-60 a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the

⁵ *Id.*, para. 123.

⁶ *Id.*, para. 122.

⁷ *Id.*, para. 122.

⁸ See Transmittal Letter at 1.

⁹ See Aureon Tariff F.C.C. No. 1 at Section 6.8.1(A).

¹⁰ See Description and Justification, Cost Support Material at 2.

¹¹ See Description and Justification, Cost Support Material at 3-4.

¹² See Petition of AT&T Services, Inc. to Reject, or to Suspend and Investigate, Iowa Network Services Inc. Tariff Filing (filed Sept. 27, 2018) (AT&T Petition).

¹³ AT&T Petition at 2-3.

¹⁴ 47 U.S.C. § 204.

¹⁵ 47 C.F.R. §§ 1.1200 et seq.

presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

V. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the effective date of the switched transport rate of Iowa Network Access Division d/b/a Aureon Tariff F.C.C. No. 1 contained in Transmittal No. 38 IS advanced for one day to September 30, 2018, and then SUSPENDED for one day until October 1, 2018, and an investigation IS INSTITUTED.

8. IT IS FURTHER ORDERED that Iowa Network Access Division d/b/a Aureon SHALL FILE a supplement within five business days from the release date of this order reflecting the suspension. Iowa Network Access Division d/b/a Aureon should cite the "DA" number on the instant order as the authority for the filing.

9. IT IS FURTHER ORDERED that the accounting order applicable to Iowa Network Access Division d/b/a Aureon, shall remain in effect until this investigation is concluded.

10. IT IS FURTHER ORDERED that the Petition of AT&T Reject or Suspend and Investigate the proposed tariff revisions contained in Iowa Network Access Division d/b/a Aureon Transmittal No. 38 IS GRANTED to the extent indicated herein.

FEDERAL COMMUNICATIONS COMMISSION

Pamela S. Arluk
Chief, Pricing Policy Division