

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

In the Matter of)	
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)	
Assessment and Collection of Regulatory)	MD Docket No. 16-166
Fees for Fiscal Year 2016)	
)	

COMMENTS OF AT&T

AT&T Services, Inc., on behalf of AT&T, Inc. and its subsidiaries (“AT&T”), submits these comments in response to the Federal Communications Commission’s proposal to increase the annual per-subscriber regulatory fee imposed on Direct Broadcast Satellite (“DBS”) service.

In 2015, the Commission created a new DBS subcategory of Media Bureau MVPD fees that required DBS providers – for the first time – to pay a per-subscriber regulatory fee of 12 cents to “recover the burden of regulation and oversight”¹ by Media Bureau Full Time Equivalent employees (“FTEs”). One year later, the Commission proposes in its *2016 NPRM* to increase this fee by 15 cents, to a total of 27 cents per subscriber, a 125% increase.² Three years ago, the Commission was solicitous about “sudden and large changes in the amount of fees paid by various classes of regulatees” and capped fee increases at 7.5% in that proceeding to avoid “rate

¹ See Assessment and Collection of Regulatory Fees for Fiscal Year 2015, Amendment of Part 1 of the Commission’s Rules; Assessment and Collection of Regulatory Fees for Fiscal Year 2014, *Notice of Proposed Rulemaking, Report and Order, and Order*, MD Docket Nos. 15-121 and 14-92, FCC 15-59, ¶ 8 (rel. May 21, 2015) (“*2015 NPRM*”).

² See Assessment and Collection of Regulatory Fees for Fiscal Year 2016, *Notice of Proposed Rulemaking*, MD Docket No. 16-166, ¶ 10 (rel. May 19, 2016) (“*2016 NPRM*”).

shock.”³ The Commission has now seemingly made peace with “rate shock,” proposing an increase that is 17 times greater than the cap announced in 2013.

A year ago, in response to the *2015 NPRM*, AT&T affiliate, DIRECTV, made the following significant point:

At present only the Commission itself possesses information related to Media Bureau FTEs. Presumably, this information forms the basis of the Commission’s proposal to charge DBS operators \$0.12 per subscriber in Media Bureau fees (in addition to its International Bureau fees).⁴

While it remains the case that “only the Commission itself possesses information related to the Media Bureau FTEs,” the presumption made in 2015 cannot be made now with regard to the breath-taking increase proposed in the *2016 NPRM*. Indeed, in the *2015 NPRM* the Commission explained that a rate of 12 cents per subscriber per year was “a sensible fee supported by data and analysis” and adding that any rate adjustments in future years would be “based on relevant information... and considering the resources dedicated to this new regulatory fee subcategory.”⁵ Nothing in the *2016 NPRM* justifies the inference that the precipitate 125% increase in DBS regulatory fees is “a sensible fee supported by data and analysis” that is “based on relevant information.”

Indeed, the Media Bureau has failed to provide any internal accounting by which interested parties can verify, question, or confirm the 27-cent figure or even a justifiable explanation that can account for this 125% fee increase. Instead, the *2016 NPRM* mentions but two proceedings in the last year that have presumably affected the resources that Media Bureau FTEs must

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2013, Report and Order*, MD Docket No. 13-140, 28 FCC Rcd. 12351, 12383 (2013) (“*2013 Order*”).

⁴ *Id.* at 3.

⁵ *See 2015 NPRM* ¶ 20.

expend upon DBS providers: new rules that require cable, DBS, and other licensees to post their public file documents to a Commission-hosted database, and the open Notice of Proposed Rulemaking regarding cable and DBS set-top boxes.⁶ AT&T confesses itself at a loss to understand how these two proceedings lead to a 125% increase in DBS fees. The *2016 NPRM* provides no other guide to understanding the basis of the increase.

Finally, is it a banal truism that businesses don't pay taxes; people do. While this regulatory tax may be invisible to consumers, its effects will not be. A 125% regulatory fee increase raises the cost of providing DBS service, which is eventually passed on to consumers.

Two other items require comment. First, the FCC proposes to collect, in addition to \$339,844,000 for operational expenses, "an additional one time amount of \$44,168,497 to offset facilities reduction costs, *i.e.*, to reduce our office space footprint and/or move the FCC office location if necessary."⁷ AT&T objects to the inclusion of this cost in the overall increase in regulatory fees because it has nothing at all to do with recovering "the costs of ... enforcement activities, policy and rulemaking activities, user information services, and international activities," which are the stated justifications for the regulatory fee.⁸ AT&T estimates that about 81% of its projected increase in regulatory fees will be attributable to this "additional one time amount." This sum is especially unsuitable for inclusion in the regulatory fee request because the FCC has, as of September 30, 2015, over collected regulatory fees to tune of \$98.367 million. These overpayments were sent to the U.S. Treasury.⁹ The proper source of funds for the Commission's move to new facilities is, then, Congress.

⁶ See *2016 NPRM* ¶ 10.

⁷ *2016 NPRM*, at n. 24.

⁸ *Id.* ¶ 2.

⁹ *Id.* at n. 1

Second, AT&T objects to the increase on Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN). Fiscal year 2015 was the first year for the assessment of this newly adopted category for RespOrgs. Now, in its second year, the FCC proposes to increase that regulatory fee without clear explanatory language of how the Commission's FTEs increased regulatory oversight of RespOrgs. As with the sudden increase of fees on the newly created category of DBS, AT&T is concerned that that the Commission will continue to assess annual increases on this new category without offering any justification for the increase. A one-cent increase may appear trivial; however, AT&T, like other large carriers, has several millions of these lines, which translates into a significant amount of additional expense. The Commission should either be more forthcoming about the additional burden this category has created for the FCC's FTEs or it should withdraw the proposed increase altogether.

CONCLUSION

For the foregoing reasons, AT&T opposes the Commission's proposal to increase the per-subscriber DBS regulatory fee from 12 cents to 27 cents; to include the costs of its proposed move to new facilities in the regulatory fee increase, and to the proposed increase on RespOrgs. In AT&T's view, nothing in the *2016 NPRM* provides any internal accounting by which interested parties can verify, question, or confirm the proposed increases to DBS and the RespOrgs. The "one time amount" for a proposed move of the FCC's offices should not be part of the regulatory fee request.

Respectfully submitted,

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