



June 21, 2018

VIA ECFS
Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: *Assessment and Collection of Regulatory Fees for Fiscal Year 2018, Report and Order and Notice of Proposed Rulemaking, FCC 18-65, MD Docket No. 18-175 (FY 2018 Report and Order and FNPRM)*

Dear Ms. Dortch:

The Satellite Industry Association ("SIA")¹ submits these comments in response to the above-captioned *Notice of Proposed Rulemaking*,² which, among other things, seeks input on a proposal to alter the existing method for imposing International Bearer Circuit ("IBC") regulatory fees on satellite operators by moving to a tiered rate structure. SIA continues to oppose use of a tier-based system to calculate fees for the tiny proportion

¹ SIA Executive Members include: AT&T Services, Inc.; The Boeing Company; EchoStar Corporation; Intelsat S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; Ligado Networks; Lockheed Martin Corporation; Maxar Technologies; Northrop Grumman Corporation; OneWeb; SES Americom, Inc.; Space Exploration Technologies Corp.; Spire Global, Inc.; and ViaSat, Inc. SIA Associate Members include: ABS US Corp.; Analytic Graphics Inc.; Artel, LLC; Blue Origin; DataPath Inc.; Eutelsat America Corp; Globecom; Glowlink Communications Technology, Inc.; Hawkeye360; Hughes Government Solutions; Inmarsat, Inc.; Kymeta Corporation; L3 Technologies; Panasonic Avionics Corporation; Planet; Telesat; TrustComm, Inc.; Ultisat, Inc.; and XTAR, LLC. For more information, visit www.sia.org.

This submission is supported by all SIA members except for AT&T.

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2018, Report and Order and Notice of Proposed Rulemaking, FCC 18-65* (rel. May 22, 2018) (the "FY 2018 FNPRM").



of IBCs offered via satellite.³ Instead, the Commission should reconsider exempting satellite IBCs from IBC fees or retain the current assessment method. However, if the Commission implements a tier-based system for satellite IBCs, the system should be crafted in a way that reflects the minute volume of satellite IBCs and avoids an arbitrary increase in fees.

Because satellite operators are not subject to regulation with respect to their provision of IBCs, they should not be assessed IBC fees.

The *Communications Act* requires the allocation of regulatory fees to be “adjusted to take into account factors that are reasonably related to the benefits provided to a payor of the fee by the Commission’s activities.”⁴ Satellite operators pay regulatory fees for earth stations, geostationary orbit space stations, and non-geostationary orbit space stations that are licensed and operational. These fees, which are substantial,⁵ reflect the work done by International Bureau full-time employees (“FTEs”) in overseeing and administering the Commission’s rules and policies governing space and earth station operations.

In contrast, satellite operators are not subject to regulation with respect to their provision of satellite IBCs as they do not generate any Commission costs associated with their provision of IBCs. While the Commission states that “this [tiered] fee structure is also ‘reasonably related to the benefits provided to the payer of the fee by the Commission’s activities,’”⁶ there are no IBC-related benefits in the case of satellite

³ See Comments of the Satellite Industry Association, MD Docket No. 17-134, filed June 22, 2017 (“SIA FY 2017 Comments”); Comments of the Satellite Industry Association, MD Docket No. 17-134, filed December 1, 2017 (“SIA FY 2017 FNPRM Comments”).

⁴ 47 U.S.C. § 159(b)(1)(A).

⁵ For FY 2018, the proposed annual fees are \$ 127,850 per geostationary orbit space station and \$ 122,775 per non-geostationary orbit space station.

⁶ FY 2018 FNPRM at ¶ 25 & n.87, citing 47 U.S.C. § 159(b)(1)(A).



operators, and, as a result of a relatively recent rule change, the FCC no longer even collects satellite circuit information.⁷

As there are no Commission activities reasonably related to the provision of IBCs by satellite operators, the FCC should eliminate the regulatory fee applicable to satellite IBCs.

A tier-based system would not reduce the administrative burden imposed on satellite operators associated with calculating IBCs.

Contrary to the Commission's assertion, a tier-based system would not make calculation of IBC regulatory fees any easier for satellite operators. The Commission argues that under a tiered approach IBC fee liability "would be less burdensome to calculate [than the current structure] because the service providers would not have to count each active circuit on December 31 of each year (*as long as they know which tier they are in*)."⁹ Satellite operators, however, cannot possibly know which tier they are in without counting each active circuit on December 31 of each year. As SIA has emphasized, the costs of determining the number of active circuits are significant and unjustified as satellite operators have no operational reason to track active IBCs, and elements of the definition of IBC, such as "international" and "active" pose special challenges for satellite operators.¹⁰ Accordingly, the record continues to contain no justification for switching to a tier-based system for satellite IBCs.

⁷ Section 43.62 Reporting Requirements for U.S. Providers of International Services 2016 and Biennial Review of Telecommunications Regulations, Report and Order, 32 FCC Rcd 8115 at ¶ 31.

⁹ FY 2018 FNPRM at ¶ 25 (emphasis added).

¹⁰ See SIA FY 2017 FNPRM Comments at 4; Comments of the Satellite Industry Association, MD Docket No. 17-134, filed June 22, 2017 at 45 n.18 (citing an SES estimate that calculation of its IBC regulatory fees takes at least ten hours of in-house counsel time alone, not including the time required to collect the data underpinning the calculation).



Moreover, as SIA previously has explained, a tier-based fee system could result in satellite operators paying substantially more in IBC fees than they do today.¹¹ Such a result would be entirely unjustifiable given that the Commission incurs no costs in regulating satellite IBCs.

Any tier-based system adopted by the Commission should not increase the amount of IBC fees paid by satellite operators.

Given that satellite IBCs represent a miniscule portion of total IBCs,¹² and the fact that satellite operators already pay substantial space and earth station regulatory fees, if the Commission decides to apply a tiered system to satellite IBC fees, the agency must ensure that the tiers are structured to avoid massive and wholly unjustified increases in satellite operators' fee liability. Applying the tiers adopted for extremely high-capacity submarine cable facilities¹³ to the tiny proportion of satellite IBCs would have the arbitrary and capricious result of increasing each satellite operator's IBC fees hundreds to thousands of times of what would be due under the current assessment.¹⁴ In the *Notice of Proposed Rulemaking*, the Commission proposes to develop the tier-based system for terrestrial and satellite IBCs based on the number of circuits, rather than simply extending the capacity-based tiers applied to submarine cable systems,¹⁵ which would allow a more equitable system to be established. SIA also agrees with the

¹¹ SIA FY 2017 FNPRM Comments at 5-6.

¹² *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Notice of Proposed Rulemaking, 32 FCC Rcd 4526 (the "FY 2017 NPRM") at ¶ 26 & n.79, citing the International Bureau's 2014 U.S. International Circuit Capacity Report issued in January, 2016 (the "FY 2015 Circuit Report") at 3. See also SIA FY 2017 FNPRM Comments at 3 (stating that satellite circuits are 0.0056% of the total IBC fees).

¹³ FY 2017 NPRM at ¶ 47.

¹⁴ SIA FY 2017 FNPRM Comments at 5.

¹⁵ FY 2018 FNPRM at ¶ 25 ("The multi-tier rate structure would ...be designed to ensure a providers' fees are assessed at an appropriate level, *based on the number of active circuits.*" emphasis added.)



Commission that any tiered system must have more than two tiers to avoid inappropriate fee levels.¹⁶

While we appreciate the Commission's acknowledgment of SIA's concerns regarding a tier-based system and its attempt to address them, in order to avoid an arbitrary and capricious increase in fees paid by satellite operators, any tiered system must include additional features. SIA proposes that the Commission adopt a *de minimis* tier under which carriers with 100,000 or fewer IBCs would be exempt from IBC regulatory fees. This approach is justified for satellite IBCs as the number of satellite IBCs is a tiny portion of overall IBCs, and the burden of collecting information on such a small number of circuits outweighs the slight amount of fees collected.¹⁷ Alternatively, the Commission could specify two tiers of 50,000 IBCs each at the bottom of the overall structure, with the fee liability for those tiers comparable to what such operators pay under the current system. These steps would avoid having payors with a small number of circuits experience huge increases in the amount of fees they pay should the Commission move to a tier-based system.

Conclusion

For the reasons provided above, SIA urges the Commission to reconsider exempting satellite operators from paying IBC fees or to retain the current assessment method for satellite IBCs. However, if the Commission proceeds with the adoption of a tier-based system for satellite IBCs, in order to ensure future satellite IBC fees are comparable to current fees the agency should adopt a *de minimis* tier of 100,000 circuits or a multi-tiered structure with two 50,000 tiers at the bottom.

¹⁶ FY 2018 FNPRM at ¶ 25.

¹⁷ Under the current method of calculating terrestrial and satellite IBCs, 100,000 circuits results in only \$2,000 in fees.



Respectfully submitted,

/s/

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