

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
Assessment and Collection of Regulatory Fees	)	MD Docket No. 18-175
for Fiscal Year 2018	)	

**COMMENTS OF CENTURYLINK<sup>1</sup>**

CenturyLink commends the Commission for acting to rationalize the terrestrial international bearer circuit (IBC) regulatory fee regime by including non-common carrier terrestrial IBCs in the regulatory fee methodology.<sup>2</sup> By these comments, CenturyLink urges the Commission to take additional steps to rationalize that fee category and clarify how it will ensure that it does not over collect for FY 2018.

CenturyLink has previously advocated in support of the Commission’s proposal “to use Gbps as the measurement rather than 64 kbps,”<sup>3</sup> and continues to support that approach. We note, however, that the proposed regulatory fees set forth in Appendix B of the *FY 2018 Order*

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<sup>1</sup> This filing is made on behalf of CenturyLink, Inc.’s regulated affiliates that pay regulatory fees.

<sup>2</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, MD Docket No. 17-134, 32 FCC Rcd 7057, 7071-72, paras. 34-35 (2017).

<sup>3</sup> See Comments of Level 3 Communications, Inc., MD Docket No. 16-166 at 3, filed June 23, 2016. (“Terrestrial IBCs are generally no longer sold as dedicated voice channels, but instead are data transmission media (e.g., Ethernet, SONET) that can be used to transport a wide variety of data, with voice typically a small fraction of the total. Terrestrial IBCs are therefore generally sold in Gbps increments or decimal fractions of Gbps, as is the case with submarine cable systems [citation omitted]. It is administratively simpler for [a] provider to use Gbps instead of 64 kbps when measuring circuit capacity.”) Level 3 was acquired by CenturyLink in November 2017.

and *NPRM* are denominated in 64 kbps-equivalent circuits.<sup>4</sup> CenturyLink recommends that the Commission act on its proposal to assess this fee on a per Gbps basis for the reasons it previously articulated and to provide staff greater flexibility when assigning a dollar value per unit.

Such flexibility is particularly important because the proposed per-circuit fee would appear to put the Commission in serious jeopardy of overcollection for this fee category for FY 2018. The reduction in the IBC regulatory fee from \$.03 in FY 2017 to the proposed \$.02 in FY 2018 indicates that the Commission predicts a 50% increase in the number of reportable IBCs. CenturyLink's internal data, which incorporates increases from the addition of non-common carrier circuits and organic growth from sales of assessable IBCs, indicates that this is a significant underestimate if it is representative of the larger industry.

CenturyLink cannot determine, of course, whether its internal data is representative. In the interest, however, of facilitating an accurate assessment for FY 2018, CenturyLink will voluntarily provide to staff, subject to a request for confidential treatment, an estimate of the number of assessable IBCs it will report for FY 2018. CenturyLink urges other carriers with assessable satellite and terrestrial IBCs to do the same.

CenturyLink also notes, however, that CenturyLink's proposal for a two-tier system would significantly reduce the likelihood of over-recovery in FY 2018, as the number of providers with assessable IBCs is not likely to change by a significant margin – certainly not as wide a margin as the industry's total assessable capacity. Further, as CenturyLink previously has noted, the two-tier approach eliminates the need to identify break points beyond one for “entry level” or “de minimis” providers, which can be done with the Commission's existing historical

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<sup>4</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Notice of Proposed Rulemaking, MD Docket No. 18-175, FCC 18-65 at Appendix B (rel. May 22, 2018) (*FY 2018 Order and NPRM*).

data.<sup>5</sup> This would allow the Commission to resolve this issue in the most expeditious and appropriate manner. Contrary to the Commission's statements in paragraph 25 of the *FY 2018 NPRM*, the number of satellite or terrestrial IBCs a provider has in service has no particular impact on the benefits that provider receives from the Commission's activities or on the Commission's costs. A two-tier system is therefore sufficient to ensure that the satellite and terrestrial IBC regulatory fees do not serve as a barrier to entry for smaller providers while ensuring that larger providers pay a fair and equitable portion of the fee category.

To address the Satellite Industry Association's concerns regarding a tiered approach for satellite IBCs,<sup>6</sup> CenturyLink suggests that the Commission (a) establish separate fee allocations for satellite and terrestrial IBCs, and (b) realign the revenue requirement for submarine cable operators, terrestrial IBC holders, and satellite IBC holders with the corresponding full-time employee (FTE) data before adopting the schedule of regulatory fees. As the North American Submarine Cable Association established in 2015, the Commission has under-collected from satellite space station and earth station regulatees, resulting in overcollection from submarine cable operators and providers with terrestrial IBCs.<sup>7</sup> A separate fee allocation for providers with satellite IBCs would eliminate any possibility that satellite operators would be placed in tiers more appropriate to terrestrial IBC holders, while simultaneously ensuring that fees for each class of provider are appropriately correlated with Commission FTE data so that they are

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<sup>5</sup> Letter from Nicholas G. Alexander, Associate General Counsel, CenturyLink, Inc., to Marlene H. Dortch, Secretary, FCC, MD Docket No. 17-134, filed Feb. 8, 2018.

<sup>6</sup> SIA Comments, MD Docket No. 17-134, at 5-6, filed Dec. 1, 2017.

<sup>7</sup> Comments of The North American Submarine Cable Association, MD Docket Nos. 14-92, 15-121, at 8-10, filed June 22, 2015.

“reasonably related to the benefits provided to the payor of the fee by the Commission’s activities.”<sup>8</sup>

Finally, CenturyLink again asks that the Commission remind all submarine cable licensees that the “capacity” upon which the regulatory fee is to be assessed is the capacity active as of December 31 of the prior year, not the capacity identified in the cable landing license.<sup>9</sup> The Commission clearly stated in the *2009 Submarine Cable Order* that it expected submarine cable operators to update the Commission as to the appropriate fee tier for their cables on an ongoing basis.<sup>10</sup> CenturyLink has been given reason to believe, however, that some submarine cable licensees may believe it appropriate to pay regulatory fees on the basis of a cable’s capacity at the time of licensing. The issuance of a reminder, or clarification, on this point in connection with the adoption of revised tiers will eliminate any possibility of confusion in the industry.

Respectfully submitted,

**CENTURYLINK**

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<sup>8</sup> 47 U.S.C. § 159(b)(1)(A).

<sup>9</sup> Comments of Level 3 Communications, Inc., MD Docket No. 17-134, at 2, filed Dec. 1, 2017.

<sup>10</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, RM-11312, Second Report and Order, 24 FCC Rcd 4208, 4214, para. 15 (“A ‘small’ system may, however, move into a different category as it gets larger. Carriers will be required to advise the Commission of a change in category or subcategory for regulatory fee purposes.”) (note omitted) (2009).