



June 22, 2017

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 2017, MD***  
**Docket No. 17-134**

Dear Ms. Dortch:

The Satellite Industry Association (“SIA”)<sup>1</sup> submits these comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding,<sup>2</sup> which seeks input on the Federal Communications Commission’s (“Commission”) proposed changes to the regulatory fee schedule for Fiscal Year (“FY”) 2017. SIA members have a strong interest in ensuring that the policies developed in this proceeding fairly assess the direct and indirect costs of the Commission’s regulatory activities with respect to licensing and regulating satellite and earth station operators, consistent with statutory requirements.<sup>3</sup> SIA focuses its comments on two areas in which Commission action is needed to ensure that the proposed fee structure aligns with the underlying associated costs for the regulation of satellite space and earth station licensees.

---

<sup>1</sup> SIA Executive Members include The Boeing Company; AT&T Services, Inc.; EchoStar Corporation; Intelsat S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; Ligado Networks; Lockheed Martin Corporation; Northrop Grumman Corporation; OneWeb; SES Americom, Inc.; Space Exploration Technologies Corp.; SSL; and ViaSat Inc. SIA Associate Members include ABS US Corp.; Artel, LLC; Blue Origin; DataPath, Inc; DigitalGlobe Inc.; DRS Technologies, Inc.; Eutelsat America Corp.; Global Eagle Entertainment; Glowlink Communications Technology, Inc.; Hughes; Inmarsat, Inc.; Kymeta Corporation; L-3 Electron Technologies, Inc.; O3b Limited; Panasonic Avionics Corporation; Planet; Semper Fortis Solutions; Spire Global Inc.; TeleCommunication Systems, Inc.; Telesat Canada; TrustComm, Inc.; Ultisat, Inc.; and XTAR, LLC. For more information on SIA, see [www.sia.org](http://www.sia.org).

Comments herein are supported by all SIA members except for AT&T, which abstains from participation.  
<sup>2</sup> Assessment and Collection of Regulatory Fees for Fiscal Year 2017 Notice of Proposed Rulemaking, FCC 17-62 (May 23, 2017) (the “NPRM”).

<sup>3</sup> 47 U.S.C. § 159(b)(1)(A).

First, SIA opposes any reclassification of Full Time Employees (“FTEs”) that work on Universal Service Fund (“USF”) matters in the Wireline Competition Bureau (“WCB”) and Wireless Telecommunications Bureau (“WTB”) to “indirect” FTEs, whose costs must be borne in part by other Bureaus’ regulatees, including satellite operators. Second, SIA urges the Commission to eliminate the international bearer circuit (“IBC”) fee imposed on satellite facility operators, as it makes up a nominal portion of the IBC category and exists merely to recoup the FTE costs involved with collecting the fee.

**The Commission Should Not Reallocate Universal Service Fund FTEs as Indirect Because USF Benefits Are Not Proportionately Distributed Among Fee Payers**

In the NPRM, the Commission questions the appropriateness of treating USF FTEs as direct FTEs. The Commission seeks comment, first, on whether the 38 FTEs associated with non-high cost programs should be reallocated as indirect, and second, whether changes to the high cost program justify reallocating 13 WCB FTEs and 3 WTB FTEs as indirect. SIA opposes designating USF FTEs as indirect for FY 2017, because not all Commission-regulated entities can access the benefits from USF programs. Although satellite operators have recently been approved to participate in USF distribution programs, recent decisions related to weighting and the procedures for allocating USF distributions cast doubt on whether satellite operators will realistically be able to participate when funding rounds and reverse auctions are opened for bidding.<sup>4</sup>

The Commission notes in the NPRM that “wireless carriers now serve a substantial, if not majority, of Lifeline subscribers, and satellite operators, Wi-Fi network installers, and fiber builders may all receive funding through the E-Rate and Rural Healthcare programs.”<sup>5</sup> In fact, as SIA and several of its members have noted in other proceedings, the USF programs do not adhere to the long-standing Commission principle of technology neutrality, but rather are designed to favor one technology above all others.<sup>6</sup> For instance, to be eligible for Lifeline funding, an operator must hold an Eligible Telecommunication Carrier (“ETC”) designation; something no satellite operator has been awarded as of yet. Moreover, the E-Rate program is heavily weighted towards Wi-

---

<sup>4</sup> See e.g. Reply Comments of Hughes Network Systems, LLC in WC Dkt. Nos. 10-90 & 14-58 filed May 30, 2017 (“Hughes CAF II Reply Comments”).

<sup>5</sup> NPRM at ¶ 10 (emphasis added).

<sup>6</sup> See e.g. ViaSat, Inc. Ex Parte in WC Dkt. Nos. 10-90 et. al filed February 16, 2017 (discussing the chilling effect the newly adopted weighting scheme would have on participation by non-fiber bidders); SIA Ex Parte in WC Dkt. No. 10-90 filed May 12, 2016 (urging the Commission to apply principles of technology neutrality when adopting rules for competitive bidding in CAF II reverse auctions); SIA Ex Parte in GN Dkt. No. 10-90 filed December 29, 2015 (objecting to the Utilities Telecom Council’s ex parte urging the Commission to adopt a framework that requires CAF funds to be awarded to fiber-to-the-home technologies before any others).

Fi and fiber buildout for schools and libraries,<sup>7</sup> and the Rural Health Care Program expresses a preference for fiber deployment, including dark fiber, over other technologies.<sup>8</sup>

Given these facts, satellite operators have not had the opportunity to participate in non-high cost USF programs to date. Accordingly, satellite operators do not directly benefit from the contributions of the FTEs that work on those programs. Moreover, USF FTEs working on non-high cost programs still dedicate the majority of their time to providing services to the companies regulated by the WCB under the stated preferences of the original programs. It would therefore be premature at this time to shift these USF FTEs to an indirect classification for FY 2017 under Section 159(b)(1)(A).<sup>9</sup>

The NPRM further asks whether the Commission's recent actions to open the Connect America Fund Phase II ("CAF II") reverse auctions to more providers justifies the reallocation of 13 WCB FTEs and 3 WTB FTEs as indirect.<sup>10</sup> The current CAF II weighting matrix may prevent a satellite operator from winning a bid in an area where it would otherwise be the most efficient provider by levying a penalty for failing to meet set latency and capacity requirements.<sup>11</sup> The weighting matrix adopted by the Commission therefore ensures that the primary beneficiaries of CAF II funding will continue to be fiber-based services. Merely opening the auctions to additional providers does not balance the scales that are weighted heavily in favor of fiber technologies.

Should the Commission nonetheless determine that the recent changes to CAF II justify a reallocation of FTEs from direct to indirect, such a change would be premature in FY 2017. To date, the work completed by the 16 FTEs identified by the NPRM has accrued almost entirely to the regulatees of their respective Bureaus, and will not shift to the wider Commission until the reverse auctions are fully implemented. Accordingly, any reallocation of USF FTEs to indirect for FY 2017 is not merited by the facts.

---

<sup>7</sup> See Memorandum from John Wilkins to Chairman Tom Wheeler, "E-rate Modernization: Progress and the Road Ahead." Jan. 18, 2017. Available at: [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-343099A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-343099A1.pdf)

<sup>8</sup> Rural Health Care Universal Service Support Mechanism Report and Order, WC Docket No. 02-60 (Rel. Dec. 21, 2012).

<sup>9</sup> 47 C.F.R. §159(b)(1)(A).

<sup>10</sup> NPRM at ¶ 11.

<sup>11</sup> Under the CAFII weighting matrix, bids receive a 20% credit for 25/3 Mbps speed (FCC-defined "broadband"), a 40% credit for 100/20 Mbps, and a 60% credit for Gigabit service. There is an additional 25% penalty levied against high-latency services. See *Connect America Fund; ETC Annual Reports and Certifications*, Report and Order and Order on Reconsideration, 32 FCC Rcd 1624. See also Reply Comments of the Satellite Industry Association in GN Dkt. Nos. 16-46 et. al. filed June 8, 2017; Hughes CAF II Reply Comments.

## **Satellite Provision of International Bearer Circuits Creates No Regulatory Costs, Therefore the Commission Must Eliminate the Satellite IBC Regulatory Fee**

The NPRM observes that satellite IBCs represent a very small portion of the total IBC category – just 0.37 percent – and IBC fees are imposed on licensees that already are paying significant regulatory fees for their space station and earth station facilities.<sup>12</sup> In light of these facts, the Commission seeks comment on “whether there is a basis to eliminate the IBC regulatory fee for satellite providers of international communications.” SIA strongly supports elimination of this fee, which does not correspond with any substantive work by the Commission on behalf of satellite operators.

As the NPRM acknowledges, 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 the payor of the fee by the Commission’s activities.”<sup>13</sup> In the case of satellite network operators, “earth station, geostationary orbit space station, and non-geostationary orbit space station licensees pay separate regulatory fees for their facilities that are licensed and operational.”<sup>14</sup> These license-based fees directly reflect the work done by International Bureau FTEs in overseeing and administering the Commission’s rules and policies governing space and earth station operations.

By contrast, the IBCs for which carrier satellite facility providers currently pay fees are subject to no substantive regulation. In its 2015 regulatory fees decision, the Commission identified a number of services provided to submarine cable operators and the common carriers that use IBCs, but did not list any Commission services related to the offering of IBCs by satellite facility operators.<sup>15</sup> Indeed, to SIA’s knowledge, the only Commission staff activity performed that is specific to satellite IBCs stems from collecting the annual circuit capacity reports satellite operators must file, and incorporating that data into the total circuit information released by the Commission.<sup>16</sup> As satellite operators have pointed out in seeking elimination of that report, however, the Commission’s sole rationale for extending the circuit reporting requirement to satellite operators was to assist with calculation of IBC fees.<sup>17</sup> Thus, the Commission has created an entirely circular scheme in which it manufactures work for itself by requiring satellite operators to submit annual circuit capacity reports in order to assist in the collection of

---

<sup>12</sup> NPRM at ¶ 26 & n.79.

<sup>13</sup> *Id.* at ¶2, citing 47 U.S.C. §159(b)(1)(A).

<sup>14</sup> *Id.* at ¶ 26.

<sup>15</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order and Further Notice of Proposed Rulemaking, MD Dkt. No. 15-121 (rel. Sept. 2, 2015) at ¶ 12.

<sup>16</sup> 47 C.F.R. §43.62(a)(1). Moreover, as the Commission notes, satellite IBCs represent only 0.37 percent of the total number of IBCs. NPRM at ¶ 26 & n.79. This tiny percentage underscores that almost no costs are incurred by the Commission with respect to satellite operator IBCs.

<sup>17</sup> See Joint Reply of SES and Intelsat in IB Docket Nos. 17-55, 16-131 (filed June 1, 2017) at 2 & n.8.

bearer circuit fees, then imposes bearer circuit fees on those satellite operators to cover the work the agency expends on processing the circuit capacity reports.<sup>18</sup>

This endless make-work cycle should be terminated immediately. The Commission should eliminate the IBC fee charged to satellite operators and, because it would no longer be justified, eliminate the annual circuit capacity reporting requirement for satellite operators as well.<sup>19</sup>

The Commission's alternative proposals for satellite IBC fee collection share the same defects as the current regime. For example, the NPRM asks whether it should adopt a flat, per-provider fee structure for satellite IBCs.<sup>20</sup> The NPRM suggests that the per-provider fee would be tiered based on capacity,<sup>21</sup> but given the 0.37 percent share represented by satellite IBCs, it seems likely that even the lowest "tier" would require satellite providers to pay a grossly disproportionate amount for their small number of circuits. Moreover, a flat-fee framework that still required satellite operators to calculate IBC numbers in order to determine what "tier" they are in would continue to impose substantial and wholly unjustified costs on satellite operators. Changing to a flat fee for satellite IBCs would not address the true underlying issue – that satellite operators are paying fees that have no basis in Commission costs or benefits provided.

Similarly, the suggestion that IBC fees could be assessed on satellite operators for circuits active at any point during the preceding calendar year<sup>22</sup> would worsen, not improve, the current system. This approach would leave in place an unsupported fee obligation but multiply the cost burden on satellite operators associated with calculating IBC data.

Instead, the Commission should cease collecting IBC regulatory fees from facilities-based satellite service providers. Eliminating the satellite IBC fee is necessary to satisfy the statutory mandate that fees be related to benefits provided and would

---

<sup>18</sup> Moreover, calculating the number of IBCs imposes significant administrative costs on satellite operators that substantially exceed the fee amount. For example, SES estimated that determining the number of circuits that must be reported to the Commission and used to calculate the IBC regulatory fee takes at least ten hours of time by its in-house counsel alone, not taking into account the time expended by personnel in other departments responsible for collecting the necessary data. *See id.* at 4. In comparison to these costs, the total fee receipts for all of the 81,157 satellite IBCs referenced in the NPRM that were subject to Fiscal Year 2015 regulatory fees amounted to just \$2,434.71.

<sup>19</sup> Given the miniscule number of satellite IBCs, even if the IBC reporting requirements are not eliminated for satellite operators, eliminating the satellite bearer circuit fee will not significantly shift additional costs to other IBC fee payors.

<sup>20</sup> NPRM at ¶ 24.

<sup>21</sup> *Id.* at ¶ 24.

<sup>22</sup> *Id.* at ¶¶ 26-27.

relieve an unwarranted additional burden on satellite operators that already pay millions of dollars in license-based regulatory fees.

### **Conclusion**

SIA commends the Commission and its staff for the services that they provide to support the satellite industry and all of its customers. However, SIA opposes the premature reallocation of WCB and WTB FTEs to indirect classification in FY 2017 on the basis that USF programs have yet to imbue benefits on Commission regulatees as a whole. SIA further encourages the Commission to eliminate collection of IBC regulatory fee from facilities-based satellite service providers because these fees do not correspond to any regulatory costs imposed on or benefits conferred by the work of Commission FTEs.

Sincerely,

SATELLITE INDUSTRY ASSOCIATION

Tom Stroup, President  
1200 18th St., N.W., Suite 1001  
Washington, D.C. 20036