Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2017	)	MD Docket No. 17-134
	)	

COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

I. INTRODUCTION

Frontier Communications Corporation, on behalf of itself and its incumbent local exchange carriers operating in twenty-nine states (collectively "Frontier"), hereby submits comments to the Notice of Proposed Rulemaking in the above-referenced docket.[1] In particular, the Commission proposes several common-sense interim solutions to improve the long-time imbalance in regulatory fees faced by interstate telecommunications service providers ("ITSPs") and their customers, including appropriately reallocating Wireline Bureau full-time equivalents ("FTEs") associated with universal service and numbering. While Frontier has previously called for broader regulatory fee reform due to the disproportionate burden paid by ITSPs like Frontier,[2] these interim measures are a clear step in the right direction. As the Commission explains, it "would be inconsistent with [the regulatory fee statute] to delay reallocating . . .

[1] *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Notice of Proposed Rulemaking, 32 FCC Rcd 4526 (2017) ("*NPRM*").

[2] *See generally* Comments of Frontier Communications Corporation, MD Docket No. 16-166 (June 20, 2016).

FTEs, where the reallocation is clearly warranted."[3] Frontier applauds the Commission's proposals and supports the Commission moving forward with them as expeditiously as possible.

II. REALLOCATING FULL-TIME EQUIVALENTS IS REQUIRED TO ENSURE REGULATORY FEES ARE "REASONABLY RELATED TO THE BENEFITS PROVIDED TO THE PAYOR."

As the Commission recognizes, "[r]egulatory fees are to 'be derived by determining the full-time equivalent number of employees performing' these activities, '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."[4] Based on this statutory framework, the Commission proposes to properly reallocate certain universal service FTEs and numbering FTEs in the Wireline Bureau. Based on the plain language of the statute, the Commission should also reallocate all high-cost FTEs and examine additional Wireline Bureau FTEs that continue to serve payors other than ITSPs.

A. The Benefits Provided by All Universal Service FTEs, Including High-Cost FTEs, Are Reasonably Related to the Benefits Provided to All Regulatees.

Frontier agrees that "continuing changes to the USF regulatory landscape requires [the Commission] to reexamine the appropriateness of treating Universal Service Fund FTEs as direct FTEs."[5] In proposing to reallocate the "38 FTEs associated with the non-high-cost programs of the Universal Service Fund [("USF")] as indirect," the FCC is absolutely correct that: (1) all providers with interstate telecom revenues must contribute to the Universal Service Fund

[3] *NPRM* ¶ 14 (citing *See Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, 28 FCC Rcd 12351, ¶¶ 19-20 (2013)).

[4] *Id.* ¶ 2 (quoting 47 U.S.C. § 159(b)(1)(A)).

[5] *Id.* ¶ 9.

("USF"); (2) the E-Rate, Lifeline, and Rural Healthcare Funds benefit non-regulated entities; (3) wireless carriers serve over 90% of Lifeline subscribers;[6] and (4) treating these FTEs as indirect is more consistent with how FTEs working on universal service issues are treated elsewhere in the Commission.[7] Indeed, the plain text of the statute, which, again, requires FTE allocations be "adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee,"[8] requires the Commission to undertake this reallocation and bars the Commission from continuing to "impose regulatory fees on the regulatees of a single bureau even though the benefits provided by those FTEs accrue to regulatees of other bureaus as well as non-regulatees."[9]

The same rationale applies to FTEs working on the High-Cost Fund component of USF. Fundamentally, all universal service programs, including the High-Cost Fund, are programs that benefit the public and all members of the Internet ecosystem, not specifically or uniquely wireline companies. In the case of the High-Cost Fund, the Commission's website, for example, explains that the High-Cost Fund "is designed to ensure that *consumers* in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, *both fixed and mobile*, at rates that are reasonably comparable to those in urban areas."[10] Any carrier with interstate telecommunications revenues, including wireless

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[6] Universal Service Administrative Company, *2016 Annual Report* at 14 (2016), http://bit.ly/2swrLEa (reporting that in 2016, the average number of mobile monthly Lifeline subscribers was 11.5 million out of a total of 12.7 million monthly Lifeline subscribers).

[7] *NPRM* ¶ 10.

[8] 47 U.S.C. § 159(b)(1).

[9] *NPRM* ¶ 10.

[10] *See* FCC, *Universal Service for High Cost Areas – Connect America Fund* (last accessed June 20, 2017), http://fcc.us/2swKAay (emphasis added); *see also Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 ¶ 1 (2011) ("*USF/ICC*

carriers and satellite providers, pay into the Universal Service Fund – an underlying recognition of the network effects benefit that all users and providers experience when all consumers have access to the network[11] – those same carriers should likewise have to pay for associated Universal Service program regulatory fees.

Of course, this statement of purpose from the Commission's website, succinctly embodying the principles of the High-Cost Fund, also reflects the changes to the program noted in the *NPRM*. The Commission's website and the *USF/ICC Transformation Order* explain that the High-Cost Fund supports access to *both fixed and mobile* networks,[12] and as the *NPRM* notes, "[a]lthough the high-cost program has historically been tied to Wireline Competition Bureau regulatees, the Commission's recent actions such as the adoption of the Mobility Fund Phase II and the Connect America Fund Phase II reverse auctions," in addition to the Rural Broadband Experiments, "open eligibility to many other providers" – indeed all providers of providers of broadband networks, including satellite, fixed wireless, and wireline.[13] One of the largest participants in the traditional wireline portion of the program actually plans to meet its CAF Phase II requirements through the deployment of fixed wireless.[14] Accordingly, even

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Transformation Order") ("Today the Commission comprehensively reforms and modernizes the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation.").

[11] *See, e.g.*, Carl Shapiro and Hal R. Varian, *Information Rules: A Strategic Guide to the Network Economy* (1999).

[12] FCC, *Universal Service for High Cost Areas – Connect America Fund* (last accessed June 20, 2017), http://fcc.us/2swKAay; *USF/ICC Transformation Order* ¶ 1.

[13] *NPRM* ¶ 11.

[14] *See, e.g.*, AT&T, *Deployment to Rural and Undeserved Areas* (last accessed June 20, 2017), http://soc.att.com/2fkGcVD ("To connect these mostly rural areas located in 18 states within our

looking beyond the general benefits to the public and all network providers under the High-Cost program, the Commission should look to reallocate at least some portion of the High-Cost Fund FTEs either as indirect FTEs or as wireless FTEs.

B. The Benefits Provided by Numbering FTEs Flow to Wireless Regulatees At Least as Much as They do to Wireline Regulatees.

Like the Commission's proposals for reallocating USF FTEs, the Commission proposal to reallocate four of the approximately seven to eight Wireline FTEs to Wireless is overdue. As the Commission recognizes, wireless connections make up over 73% of all retail telephone connections.[15] Based on this relative level of retail connections, reallocating four FTEs may be conservative. While, for example, the *NPRM* references that Wireless regulatees control 44% of assigned numbers, that is based on data from 2010 and is now seven years old, indicating that Wireless regulatees likely control a much larger percentage of assigned numbers.[16] Unfortunately, this 2010 data appears to be based on the most recent data publicly available at this time.[17] Extrapolating backwards seven years from the 2010 data, Wireless regulatees only controlled 24% of assigned numbers in 2003, suggesting they could control well over 50% of

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traditional service areas, we plan to broadly deploy a technology called Fixed Wireless Internet.").

[15] Wireline Competition Bureau, *Voice Telephone Services: Status as of June 30, 2016* at 2 (April 2017), http://bit.ly/2rzrEXl.

[16] *NPRM* ¶ 13 (citing Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Numbering Resource Utilization in the United States NRUF Data as of June 30, 2010* at 12 Table 1 (2013)).

[17] *See* FCC, *Telephone Numbering Data* (last accessed June 20, 2017), http://fcc.us/2sPtffK.

numbers at this time.[18] In any case, the record and the statute support reallocating four FTEs associated with numbering to Wireless.

C. Publishing Data Regarding Additional Wireline FTEs That Are Providing Substantial Benefits to Regulatees Other than Wireline Regulatees Would Further Rationalize Regulatory Fees in Accordance with the Statute.

In addition to universal service and numbering FTEs, Frontier believes that several other FTEs in the Wireline Bureau continue to be devoted to providing benefits to regulatees other than ITSPs, and thus, under 47 U.S.C. § 159, should be allocated as indirect or apportioned between bureaus. While public data is not available, Frontier believes that FTEs who work extensively for the benefit of regulatees other than Wireline regulatees may include, among others, FTEs that work on net neutrality, privacy, intercarrier compensation, rural call completion, special access, 911, and pole attachments. Providing data on these FTEs, like the Commission has with regard to the numbering and universal service FTEs,[19] will continue to improve the regulatory fee framework.

III. LONGER TERM TRENDS REQUIRE THE COMMISSION TO CONTINUE TO EXAMINE COMBINING WIRELESS AND WIRELINE VOICE INTO A SINGLE REGULATORY FEE CATEGORY.

While the Commission's proposals are certainly common-sense adjustments, longer term underlying trends (e.g., continued line loss) will mean that ITSPs will continue pay fees on a shrinking amount of revenue. This problem is precisely the issue the Government

[18] Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *Numbering Resource Utilization in the United States NRUF Data as of June 30, 2003* at 12 Table 1 (Dec. 2003), http://bit.ly/2sMH0ek.

[19] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Notice of Proposed Rulemaking, 31 FCC Rcd 5757 ¶ 19 (2016); *see also* NPRM ¶¶ 9, 13.

Accountability Office ("GAO") identified in 2012 when it recognized a fundamental imbalance in the regulatory fee framework – wireline carriers continue to lose voice customers and associated revenues while wireless customers continue to gain customers and increase revenues.[20] Given these continuing long-term trends and recognizing this imbalance, the Commission has previously sought comment on combining wireless providers into the ITSP fee category so that all voice providers pay regulatory fees on the same basis.[21] As the Commission explained at that time, "because wireless services are comparable to wireline services, both services encompass similar regulatory policies and programs."[22] With cross-platform convergence in the communications marketplace,[23] Frontier continues to believe that combining the ITSP and wireless categories makes the most sense as a long term solution and asks the Commission to continue to examine this possibility going forward.

IV. CONCLUSION

Frontier applauds the Commission for proposing the long overdue reallocation of universal service and numbering FTEs. The same underlying rationale for reallocation applies to universal service FTEs that work on the High Cost Fund. In addition to these much welcome

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[20] *See* Government Accountability Office, *Federal Communications Commission Regulatory Fee Process Needs to be Updated*, GAO-12-686 at 12-13 (Aug. 2012), http://www.gao.gov/products/GAO-12-686.

[21] *See, e.g., In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2014; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees*, Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, 29 FCC Rcd 6417 ¶¶ 36-40 (June 13, 2014) ("FY 2014 NPRM").

[22] *Id.* ¶ 36 (citing *Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790 ¶ 12 (2013) ("*FY 2013 NPRM*")).

[23] *See, e.g.*, Statement of Commissioner Ajit Pai, *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Notice of Proposed Rulemaking, Report and Order, and Order, 30 FCC Rcd 5354 (2015).

revisions in accordance with 47 U.S.C. § 159, Frontier encourages the Commission to consider releasing public data on FTEs that work on net neutrality, privacy, intercarrier compensation, rural call completion, special access, 911, and pole attachments, and Frontier encourages the Commission to continue considering combining the Wireless and ITSP fee categories in order to account for longer term fundamental trends.

Respectfully submitted,

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