

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Assessment and Collection of Regulatory)	MD Docket No. 19-105
Fees for Fiscal Year 2019)	

REPLY COMMENTS OF INTELSAT LICENSE LLC, AND SES AMERICOM, INC.

Intelsat License LLC, and SES Americom, Inc. (collectively, the “Satellite Companies”) submit this reply to the comments of other parties in response to the Federal Communications Commission’s (“Commission”) above-captioned Notice of Proposed Rulemaking (“NPRM”) concerning proposed regulatory fees for fiscal year 2019.¹ As the Satellite Companies discussed in their initial comments, the NPRM wholly fails to justify the substantial fee increases for satellite service licensees and provides inadequate information to allow informed comment on the underlying fee calculation methodology.² Given the significant and unwarranted fee increases proposed in the NPRM, the Commission must deny requests by some commenters to shift an even greater proportion of costs into the satellite sector. Instead, any reassignment of regulatory costs must reflect a comprehensive analysis of the appropriate distribution of full-time equivalents (“FTEs”).

As discussed in the Satellite Company Comments, fees paid by geostationary orbit (“GSO”) space stations, non-geostationary orbit (“NGSO”) space stations, and earth stations

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Notice of Proposed Rulemaking, MD Dkt No. 19-105, FCC 19-37 (rel. May 8, 2019) (“NPRM”).

² Comments of EchoStar Satellite Operating Corporation, Hughes Network Systems, LLC, Intelsat License LLC, Inmarsat Inc., SES Americom, Inc., Space Exploration Technologies Corp., and WorldVu Satellites Ltd., MD Dkt No. 19-105, filed June 7, 2019 (“Satellite Company Comments”).

would all go up substantially under the schedule set forth in the NPRM: “GSO space station fees increase by 25% from \$127,850 to \$159,625; NGSO space station fees increase 26% from \$122,775 to \$154,875; and earth station fees increase 31% from \$325 to \$425.”³ These changes far outstrip the modest 5.3% increase in the total amount the Commission is instructed to collect via regulatory fees and primarily stem from an unexplained 19.84% increase in the percentage of FTEs assigned to the International Bureau.⁴ As a number of commenters emphasize, the absence of adequate support for the fee changes proposed in the NPRM reflects a history of lack of transparency in fee assessment proceedings and violates the core principles of the Administrative Procedures Act (“APA”).⁵ These fundamental defects preclude the Commission from adopting the proposed increases in satellite service fees on the current record.

³ *Id.* at 4 (footnote omitted).

⁴ NPRM at ¶ 13.

⁵ *See, e.g., Ex Parte* of the National Association of Broadcasters, MD Dkt No. 19-105, filed May 17, 2019, at 2 & n.8 (the limited information regarding FTE assignments makes it impossible to usefully comment and violates APA notice requirements); Comments of the National Association of Broadcasters, MD Dkt No. 19-105, filed June 7, 2019, at 1 & n.3, *citing* U.S. Government Accountability Office, Federal Communications Commission, Regulatory Fee Process Needs to Be Updated, GAO-12-686 (August 2012) (“GAO Report”) (the GAO Report concluded that the Commission’s regulatory fee process lacked transparency and limited the ability of stakeholders to provide meaningful input, and the current NPRM shares the same flaws); Comments of the Named State Broadcasters Associations, MD Dkt No. 19-105, filed June 7, 2019, at 9-10 (highlighting the Commission’s failure to explain the FTE assignments for fiscal year 2019, preventing parties from commenting on these matters); Joint Comments of Nexstar Broadcasting, Inc. and Gray Television, Inc., MD Dkt No. 19-105, filed June 7, 2019, at 7-8 & nn.24-27 (the limited description of fee changes proposed in the NPRM violates the APA); Comments of PMCM TV, LLC, MD Dkt No. 19-105, filed June 7, 2019, at 8 (the NPRM does not meet the minimum standards established by Congress regarding required disclosure of the basis for the proposed fee levels).

Suggestions by some parties that the Commission should increase satellite service fees even more through engaging in a piecemeal reallocation of costs from other categories⁶ must also be rejected as unjustified. If the Commission considers reassessing the relative fee burdens among International Bureau categories, it must do so comprehensively. The NPRM does not explain how International Bureau costs are assigned to various satellite service fee categories, instead simply stating what the proportions are without giving a rationale for those levels.⁷ While the percentages cited by the Commission appear to be consistent with the distribution across fee categories in recent years, the NPRM does not provide any reason for maintaining prior levels without further inquiry. In particular, there is no basis for continuing to collect 61.61% of total International Bureau regulatory fees from GSO space station licensees while NGSO space stations pay only 4.27% and earth stations pay 5.51%. The past few years have seen significant

⁶ See, e.g., *Ex Parte* of the Southeast Asia-US licensees, MD Dkt No. 19-105, filed May 1, 2019, attachment at 2 (claiming that costs should be shifted from undersea cable licensees to other International Bureau categories); Comments of INCOMPAS, MD Dkt No. 19-105, filed June 7, 2019 (“INCOMPAS Comments”) at 2 (same); Comments of North American Submarine Cable Association and the SEA-US Licensees, MD Dkt No. 19-105, filed June 7, 2019, at 10-11 (same); Comments of CenturyLink, MD Dkt No. 19-105, filed June 7, 2019, at 7-8 (asserting without explanation or support that satellite operators should be assessed a greater share of the costs associated with international bearer circuits than terrestrial systems).

The INCOMPAS Comments also complain that the costs of processing submarine cable license applications should be covered by the \$19,855 fee for such applications. INCOMPAS Comments at 4. But the fee amounts paid by applicants for undersea cables do not support shifting regulatory fee costs to satellite services, as satellite operators pay application fees many times higher than those for submarine cable licenses: \$136,930 for a GSO space station and \$471,575 for an NGSO constellation. Moreover, under the existing fee regime, the collection amount set for regulatory fees is based on the Commission’s budget with no offset for application fees. See GAO Report at 4 & n.8 (application fees are deposited directly in the General Fund of the U.S. Treasury and are unavailable for Commission use). Thus, although application fees were established to cover processing costs, the application fees paid by satellite service providers, submarine cable systems, and other licensees are not credited to the Commission and do not reduce the amounts Congress instructs the Commission to collect in regulatory fees.

⁷ See NPRM at ¶ 14.

Commission proceedings focusing on NGSO and earth station operations.⁸ In light of this shift, assuming that ongoing Commission regulatory work associated with GSO space stations currently represents more than fourteen times the effort expended on NGSO space stations and more than eleven times the effort expended on earth stations lacks credibility. Any effort to re-evaluate the assignment of International Bureau costs must correct allocations among satellite service categories in order to properly determine regulatory fee assessments for fiscal year 2019.

⁸ See, e.g., Cut-Off Established for Additional NGSO-Like Satellite Applications or Petitions for Operations in the 10.7-12.7 GHz, 14.0-14.5 GHz, 17.8-18.6 GHz, 18.8-19.3 GHz, 27.5-28.35 GHz, 28.35-29.1 GHz, and 29.5-30.0 GHz Bands, Public Notice, 31 FCC Rcd 7666 (IB 2016); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service*, Notice of Proposed Rulemaking, IB Dkt. No. 17-95, 32 FCC Rcd 4239 (2017); *Updates to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809 (2017); *Streamlining Licensing Procedures for Small Satellites*, Notice of Proposed Rulemaking, IB Dkt No. 18-86, FCC 18-44 (rel. Apr. 17, 2018); *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations*, Notice of Proposed Rulemaking, IB Dkt. No. 18-315, FCC 18-160 (rel. Nov. 16, 2018).

Before the Commission can implement fiscal year 2019 regulatory fee assessments for satellite service providers, it must supply a valid explanation for its proposed changes and give affected parties an opportunity to comment on that rationale. If it determines that fee amounts among International Bureau licensees should be redistributed, it must consider all fee categories in making that reassessment.

Respectfully submitted

INTELSAT LICENSE LLC

Susan H. Crandall
Associate General Counsel

Cynthia J. Grady
Senior Counsel

Intelsat US LLC

June 24, 2019

SES AMERICOM, INC.

Petra A. Vorwig
Senior Legal & Regulatory Counsel