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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 1995	)	MD Docket No. 95-3
	)	
	)	

Comments of Bell Atlantic[1]

In its implementation of mandated regulatory fees, the Commission should take care that fees are apportioned on a reasonable basis. Specifically, carrier fees should be based on the number of lines, not on minutes of use. In addition, in order to assure a proper fee allocation, fee levels should be based on the Commission's best estimate of actual users.

Carrier Fees Should Be Based on the Number of Lines.

In its Notice, the Commission recommended basing carriers' fees[2] on the number of customer units served by the carrier at the

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[1] For the purposes of this pleading Bell Atlantic includes Bell Atlantic Mobile and the Bell Atlantic telephone companies. The Bell Atlantic telephone companies are Bell Atlantic - Delaware, Inc.; Bell Atlantic - Maryland, Inc.; Bell Atlantic - New Jersey, Inc.; Bell Atlantic - Pennsylvania, Inc.; Bell Atlantic - Virginia, Inc.; Bell Atlantic - Washington, D.C., Inc.; and Bell Atlantic - West Virginia, Inc.

[2] The Commission has appropriately expanded the schedule of fees to include resellers and other carriers that provide individualized services. Notice of Proposed Rulemaking, ¶ 57 (rel. Jan. 12, 1995). This is a positive step towards regulatory parity for all service providers. Similar requirements should be imposed on resellers of wireless services.

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end of 1994.[3] For local exchange carriers ("LECs"), this means the number of presubscribed lines as described in Section 69.116 of the Commission's Rules.[4] The Commission offered an alternative method for the calculation based on the number of minutes of interstate service. Such an alternative would be less stable and should be rejected by the Commission.

The number of access lines is both an equitable measure of the relative market presence of individual company and at the same time a relatively stable measure. Moreover, number of lines is a standard measure. Not only was this the basis of previous fee allocations, it is also the basis for calculation of Universal Service Fund requirements.[5]

In contrast, minutes of use is highly variable. In any given time period, large fluctuations in minutes of use may lead to anomalies that distort the measure of a companies' market presence. Basing the fee on minutes of use could result in companies receiving an unfair burden of fees or a windfall in reduced fees, unrelated to their actual market size. Moreover, many LEC services are not measured on a minutes of use basis.[6] There is no reason to abandon a working measure and embrace a measure that could lead to distortions in relative burden.

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[3] Notice of Proposed Rulemaking, ¶ 59.

[4] *Id.*

[5] 47 C.F.R. §§ 36.601-641.

[6] For example, Special Access facilities sold to interexchange carriers are not measured by LECs on a minutes of use basis.

Fees Should Be Based on the Commission's Best Estimate of Actual Users.

While basing carriers' fees on the number of access lines will assure equitable apportionment within that group, equity among groups can be assured by basing fees on the Commission's best estimate of actual users. If the Commission calculates its rate per user on an understated number of users for a given service category, the rate will be set too high and that service category will be unfairly burdened.[7]

Specifically, for the Domestic Public Fixed Radio category, the Commission claims to calculate its fee based on an estimate of 1,320 licenses.[8] The fee, however, appears to be based on the number of carrier ***licensees***, not ***licenses*** awarded to those carriers. In fact, the number of licensed call signs is many times larger than the number of licensed carriers.[9]

Similarly, for the Public Mobile/Cellular Radio category, the Commission bases it fee calculation on an estimate of 34 million

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[7] Once the amount to be recovered from each fee category was determined, the Commission determined the actual regulatory fee by dividing that dollar amount by the payee volume (users) associated with the category. If the estimated number of users is less than the actual number of users, the Commission will collect more total fees than were originally assigned to the service category.

[8] Notice of Proposed Rulemaking, ¶ 45.

[9] ***Compare e.g.***, FCC 55th Annual Report/Fiscal Year 1989 at 39 (citing about 1,179 licensed microwave carriers) ***with*** United States Department of Commerce, National Technical Information Service, Catalog of FCC Licensing Data on Microfiche, Licensee Index by Call (March 23, 1989) (lists more than 14,000 call signs). Utilization of a payee volume of 14,000 would result in a new fee of $11.35 per call sign (rather than the $120 proposed by the Commission).

subscribers.[10] Data contained in the study "PCS Technologies Market Demand Forecast Update 1994-2005" by the Personal Communications Industry Association indicate a 1994 total of 23.2 million subscribers for cellular and 24.5 million subscribers for one-way paging.[11] For each category, the Commission should ensure it is using reasonable estimates calculated on the same basis as that used to impose the fees.[12]

Conclusion

Using appropriate measures to calculate fees will not limit the Commission's ability to collect the full fee assigned to that service, but it will avoid imposition of a penalty beyond that fee.

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[10] Notice of Proposed Rulemaking, ¶ 44.

[11] Using a total of 47.7 million subscribers for the fee calculation would result in a fee of ten cents or less per subscriber (rather than the $.13 proposed by the Commission).

[12] This concern is not limited to the specific services referenced above. For example, it is unclear the source from which the Commission calculated payee volume for the Land Mobile (Exclusive), Land Mobile (Shared), and Marine Coast categories. ***Compare*** Notice of Proposed Rulemaking, ¶¶ 17, 22, 23 ***with*** FCC 58th Annual Report/Fiscal Year 1992 at 55.

Respectfully submitted,

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