

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

In the Matter of	)	
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2015	)	MD Docket No. 15-121
	)	
Amendment of Part 1 of the Commission’s Rules	)	MD Docket No. 15-121
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2014	)	MD Docket No. 14-92
	)	

**JOINT REPLY COMMENTS OF SUBMARINE CABLE COALITION**

The Submarine Cable Coalition (“Coalition”), composed of Cedar Cable Ltd., Columbus Networks USA, Inc., GlobeNet Cabos Submarinos America, Inc., and GU Holdings Inc., submits the following Joint Reply Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”), Report and Order and Order (“RO&O”), addressing procedures for assessment and collection of regulatory fees for Fiscal Year 2015, released May 21, 2015, in the above-captioned dockets.

**I. COMMENTERS SUPPORT REDUCING SUBMARINE CABLE REGULATEE FEES BEYOND THE PROPOSED LEVELS IN THE NPRM**

Comments filed in this proceeding demonstrate support for the Coalition’s proposal to decrease regulatory fee allocations for submarine cable regulatees below those levels proposed in the NPRM. The North American Submarine Cable Association (“NASCA”), for example, correctly points out that the Commission’s pace of reform and reallocation remains too slow and lacks legal justification.<sup>1</sup> As pointed out in the Coalition’s Comments, such a gradual approach

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<sup>1</sup> See Comments of NASCA, at 1.

perpetuates the Commission's legally unsupportable position of subsidizing high-cost regulatees on the backs of low-cost submarine cable regulatees.

Consistent with the Coalition's position, both NASCA and the joint filers Echostar Satellite Operating Corporation and Hughes Network Systems, LLC ("EchoStar") note that the regulatory fees proposed by the Commission do not reflect work performed by the Commission to the benefit of submarine cable operators.<sup>2</sup> The Commission rarely engages in policy activities or rulemakings aimed at specifically at submarine cable matters. Submarine cable-related dockets and activity make up a very small portion of the Commission's database information systems, and the Commission rarely, if ever, undertakes activities on behalf of submarine cable operators in international treaty negotiations.

Rather, most of the Commission's activities that involve submarine cable regulation concern licensing and transaction reviews, for which, as pointed out by the Coalition and NASCA, the Commission is largely reimbursed through application processing fees.<sup>3</sup> If Commission staff review of new cable systems composes the majority of work undertaken by the Commission in this area, then the regulatory fee structure should reflect that fact. The Commission's regulatory fee system should not subsidize new submarine cable operators through assessments on existing submarine cable operators. And, in any case, submarine cable operators should not subsidize the Commission's activities in other areas.

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<sup>2</sup> For example, the Commission almost never engages in enforcement activities concerning submarine cable operators. *See* NASCA Comments at 6; EchoStar Comments, at 3.

<sup>3</sup> *See* Coalition Comments, at 4-5, NASCA Comments at 7.

## **II. THE PROPOSED SUBMARINE CABLE FEES NEED TO BE ADJUSTED TO ACCURATELY REFLECT FTEs ENGAGED IN REGULATING THAT CLASS OF SERVICE**

The Commission has repeatedly conceded that submarine cable system fees are excessive based on the Commission's FTE data, which demonstrate that only two FTEs (out of 111 International Bureau staffers in total)<sup>4</sup> are needed to carry out regulatory oversight of submarine cable operator and the Commission's minimal regulation of submarine cables. When compared to the expected FY2015 revenue to be collected from submarine cable providers of \$5,933,967; the Commission's FY 2015 proposal implies that the two FTEs associated with this category each cost the Commission \$2,966,983. As previously noted by the Coalition, the Commission cannot justify an expense of nearly \$3 million per FTE associated with the activities in the submarine cable regulatory field.

Further, the two FTEs associated with submarine cable operators constitute only 0.45 percent of the 446 direct FTEs identified by the Commission in the NRPM, and 0.13 percent of the FCC's 1,483 total (direct and indirect) FTEs identified in the NPRM. With a total collection of \$339,844,000, the two submarine cable FTEs should account for no more than 0.45 percent of the total collection, which would be approximately \$1,529,000—or one quarter of the current fee collection from submarine cable providers.

Not a single commenter disputes the fact that the proposed (and historic) submarine cable fees are apportioned disproportionately to the services received by this class of service provider, especially on an FTE-basis. The Commission should drastically adjust downward its proposed fee calculation for this class of regulatees, and do so immediately.

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<sup>4</sup> A search of the FCC's online staff directory shows 111 International Bureau staffers in total.

### **III. THE COMMISSION SHOULD URGE A LEGISLATIVE FIX TO THE REGULATORY FEE SYSTEM**

The Coalition agrees with those commenters that call for the Commission to seek legislative changes to make the regulatory fee system more equitable. Specifically, the Commission should request that Congress reform the fee collection system so that FCC application fees are used to offset regulatory fees rather than depositing them with the U.S. Treasury.<sup>5</sup> This will direct application fees to the Commission, which will therefore be directly compensated for the work it undertakes for new applicants, and more fairly distribute the burden of regulatory costs to those that should bear such costs.

The Coalition also agrees that the Commission should seek legislative changes to address over-collection of fees, including authority to apply overpayments to subsequent year's fees or to refund them.<sup>6</sup> Such a framework will ensure that all of the fees paid to the Commission are applied to covering the Commission's actual costs, rather than being deposited with the Treasury (or are refunded to regulatees).

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<sup>5</sup> See Comments of the Satellite Industry Association, at 13.

<sup>6</sup> See Comments of the Satellite Industry Association, at 14.

## CONCLUSION

While the Coalition appreciates the Commission's recognition of the significant overpayment of fees by regulatees in the submarine cable category and its willingness to reduce that burden by five percent, the proposed reduction is inadequate. Under the clear terms of the Act, regulatory fees should be assessed in a manner that is proportional to the benefits rendered to the regulatees by the Commission through its regulatory activities.

Respectively submitted,

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