



The voice of mid-size communications companies

July 27, 2015

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Ex Parte Communication: MD Docket Nos. 15-121, 14-92

Dear Ms. Dortch:

On July 27, 2015, Jeb Benedict of CenturyLink and Genny Morelli and the undersigned of ITTA met with Roland Helvajian and Tom Buckley (by phone) in the Office of Managing Director, and Kirk Burgee in the Wireline Competition Bureau to discuss the Commission's annual assessment and collection of regulatory fees.

ITTA expressed concern that the *Notice of Proposed Rulemaking* relating to fiscal year ("FY") 2015 regulatory fees neglected to address proposals to correct the disparity in regulatory fees paid by interstate telecommunications service providers ("ITSPs").¹ Providers and consumers of wireline voice service have borne a disproportionate regulatory fee burden relative to other industry sectors for more than a decade and ITTA has made repeated calls in the past several years for the FCC to address this disparity and to better align ITSP regulatory fees with the actual work of the Commission.² Indeed, in its *FY 2014 Report and Order and Further Notice of Proposed Rulemaking*, the Commission "recognize[d] that there may be merit to more fundamental reform in the regulatory fee process as outlined in [ITTA's] proposals."³ In light of

¹ *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2015; Amendment of Part 1 of the Commission's Rules; Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Notice of Proposed Rulemaking, Report and Order, and Order, MD Docket Nos. 15-121, 14-92, FCC 15-59 (rel. May 21, 2015) ("*FY 2015 NPRM*").

² See, e.g., Comments of ITTA – The Voice of Mid-Size Communications Companies, MD Docket Nos. 14-92, 13-140, 12-201 (filed Nov. 26, 2014); Comments of ITTA – The Voice of Mid-Size Communications Companies, the Eastern Rural Telecom Association, and Windstream Corporation, MD Docket Nos. 14-92, 13-140, 12-201 (filed July 7, 2014); Comments of the Independent Telephone & Telecommunications Alliance, MD Docket Nos. 13-140, 12-201, 08-65 (filed June 19, 2013); Reply Comments of the Independent Telephone & Telecommunications Alliance, MD Docket No. 08-65 (filed June 6, 2008); Comments of the Independent Telephone & Telecommunications Alliance, MD Docket No. 08-65 (filed Sept. 25, 2008).

³ *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*

this conclusion and the Commission's affirmative commitment in 2013 to comprehensively overhaul its regulatory fee regime within three years, the FCC can no longer delay action to address this problem in a meaningful way.⁴

We urged the Commission to move forward with necessary reforms to its regulatory fee structure to remedy the inequitable disparity in regulatory fees paid by providers and consumers of wireline voice service. This disparity harms some of the consumers least able to afford additional fees by increasing the cost of their home phone service. ITSP regulatory fees account for nearly \$128 million of the approximately \$340 million total annual regulatory fee revenue requirement.⁵ That means ITSPs continue to be responsible for almost 40% of the total FCC regulatory fee burden, more than any other industry sector regulated by the Commission.

The Commission previously proposed to address this inequity by combining wireless providers into the ITSP fee category so that all voice providers pay regulatory fees on the same basis.⁶ ITTA continues to endorse this approach. Such action would be consistent with the Commission's decision to incorporate interconnected VoIP providers into the ITSP fee category to ensure that such providers are paying their share of regulatory fees in connection with the Commission's oversight of voice services. Indeed, the logic underlying this decision recently compelled the Commission to correct the long-term imbalance in regulatory fees among video providers by combining DBS operators into the cable/IPTV fee category so that all pay-TV distributors are contributing regulatory fees for the work of the Media Bureau.⁷ This precedent provides a more than adequate legal basis for the Commission to move forward with a similar approach in the voice context.

At a minimum, the Commission should make appropriate adjustments to its regulatory fee structure to reflect that the work of the Wireline Competition Bureau is no longer exclusively focused on ITSPs. Resources expended by Wireline Competition Bureau staff increasingly benefit other industry sectors. The Commission's efforts to modernize the Lifeline program and to conduct a comprehensive analysis of the special access marketplace, for example, generate

and Collection of Regulatory Fees; MD Docket Nos. 14-92, 13-140, 12-201, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 14-129, ¶ 34 (rel. Aug. 29, 2014).

⁴ See *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket Nos. 13-140, 12-201, 08-65, Report and Order, FCC 13-110, ¶ 5 (rel. Aug. 12, 2013) ("*FY 2013 R&O*") (noting that the Commission "intend[s] to conclusively readjust regulatory fees within three years").

⁵ See *FY 2015 NPRM* at Appendix B.

⁶ 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*; MD Docket Nos. 14-92, 13-140, 12-201, Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, FCC 14-88, ¶¶ 36-40 (rel. June 13, 2014) ("*FY 2014 NPRM*").

⁷ See *FY 2015 NPRM* at ¶ 9.

significant benefits for entities that do not pay regulatory fees as ITSPs. Given the Commission's statutory mandate to update its schedule of regulatory fees to "reflect . . . changes in the nature of its services"⁸ so that regulatory fees reflect the Commission's current activities and the benefits regulated entities receive from those activities,⁹ it is incumbent upon the FCC to reform its regulatory fee structure to align with the actual work of the Commission as the marketplace changes and evolves.

We also urged the Commission to phase in the new regulatory fee applicable to DBS providers as quickly as possible to achieve full parity in regulatory fees for providers of video service. An initial rate of \$0.12 for DBS providers is too low. Given the Commission's estimate that the regulatory fee for MVPDs would be \$0.68 per subscriber once DBS providers are fully incorporated, it would take years to phase in DBS providers so they are paying their full share of regulatory fees for Media Bureau FTEs.¹⁰ Although precedent would allow the Commission to phase in the new DBS fee immediately,¹¹ ITTA has no objection to the 3-year timeframe suggested by other commenters in this proceeding.¹²

Finally, we explained that the Commission should reverse its determination to apply the new toll free regulatory fee to RespOrgs that also pay regulatory fees as ITSPs.¹³ If the Commission's purpose in adopting this new fee category is to reduce the fee burden for ITSPs,¹⁴ it makes no sense to subject ITSPs to duplicative and/or increased fees for both their toll free revenues and the toll free numbers they manage.

⁸ See Communications Act § 9(b)(3). ("[T]he Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (1)(A). In making such amendments, the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.").

⁹ See Communications Act § 9(b)(1)(A) ("The fees assessed... shall... be derived by determining the full-time equivalent number of employees... within the... offices of the Commission, 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...").

¹⁰ See *FY 2014 NPRM* at Table 4.

¹¹ When the Commission added IPTV to the cable television category, it set the initial rate for IPTV equal to the cable television rate. See *FY 2013 R&O* at ¶¶ 32-33.

¹² See Comments of the National Cable & Telecommunications Association and the American Cable Association, MD Docket Nos. 14-92, 13-140, 12-201 (filed Nov. 26, 2014), at 14-15.

¹³ See *FY 2015 NPRM* at ¶ 23.

¹⁴ See *id.* at ¶ 10 ("Because toll-free number regulatory fees offset ITSP fees, the ITSP rate would be reduced...").

Ms. Marlene H. Dortch

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Please do not hesitate to contact the undersigned with any questions regarding this submission.

Respectfully submitted,

A handwritten signature in cursive script that reads "Micah M. Caldwell".

Micah M. Caldwell

Vice President, Regulatory Affairs

cc: Kirk Burgee
Tom Buckley
Roland Helvajian