

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

In the Matter of)
)
Assessment and Collection of Regulatory) RM-11312
Fees for Fiscal Year 2006)

REPLY COMMENTS OF VERIZON¹

Verizon opposes VSNL Telecommunications (US) Inc.'s ("VSNL's") proposal to shift a large portion of the responsibility for international bearer circuit fees ("IBCF") imposed on submarine cables from private cables to common carrier cables.² VSNL and the commenters that support it raise three main arguments in support of VSNL's proposal, but the arguments are contrary to fact. Consequently, the Commission should reject VSNL's petition.

Today, the Commission imposes a fee on each 64 Kbps-equivalent circuit for all active circuits connecting the United States with foreign points, regardless of the type of operator or the regulatory classification of the submarine cable.³ VSNL asks the Commission to create a new fee category for non-common carrier submarine cables, allocate 10 percent of the IBCF revenue requirement to the new category, and recover this portion of the IBCF revenue requirement through a flat annual fee on each non-common carrier submarine cable system. Because the fee process mandated by Section 9 of the Act is a "zero-sum" process, the establishment of a

¹ The Verizon companies participating in this filing ("Verizon") are the companies affiliated with Verizon Communications Inc. that hold interests in submarine cables. These are: CODETEL International Communications Incorporated; MCI Communications Corporation; MCI Globenet, Inc.; MCI International, Inc. and Verizon Hawaii International Inc.

² VSNL Petition for Rulemaking, RM-11312, (filed Feb. 3, 2006).

³ *Compliance with Regulatory Fee Requirements by Cable Landing Licensees Operation on a Non-Common Carrier Basis*, 19 FCC Rcd 12318, at 2 (2004).

separate fee category for non-common carrier operators with reduced international bearer circuit fees would leave 90 percent of the fees to be recovered from other licensees, and would necessarily increase their fees.⁴ The Commission has declined to adopt such a proposal in the past, and should do so again here.⁵

First, VSNL argues that recent changes in law and regulations – including the effectiveness of the U.S. commitments in basic telecommunications under the World Trade Organization General Agreement on Trade in Services, the Commission’s implementation of those commitments in the *Foreign Participation Order*, the 1996 Act and the Commission’s related streamlining of its international Section 214 rules, and the Commission’s submarine cable streamlining rulemaking – have changed the level of services the Commission provides to non-common carrier cable licensees, and therefore justify a reduction in the fees charged to non-common carrier licensees.⁶

As AT&T points out, however, many of the changes in law and regulation cited by VSNL, as well as others that VSNL omitted, as they relate to international services and cables, have reduced the regulatory requirements imposed on common carrier cables and U.S. international carriers. As a result, there is *less* disparity in the treatment of non-common carrier and common carrier providers now than before these changes, and such changes do not justify

⁴ See *2004 Regulatory Fee Order*, 19 FCC Rcd 11662, ¶ 10 (2004) (“The fee process specified by section 9 is by necessity a ‘zero-sum’ proposition, since the reduction of fees in one category must be counterbalanced by increases in other categories to ensure that the total amount specified by Congress is collected.”); see also *2005 Regulatory Fee Order*, 20 FCC Rcd 12249, ¶ 9 (2005) (noting that “creating a new section 9 regulatory fee category would impact other international carriers”).

⁵ See *2005 Regulatory Fee Order* ¶¶ 8-9.

⁶ *E.g.*, VSNL Petition at 15-16; FLAG Comments at 8.

reducing the fees paid by non-common carrier cables or increasing the fees paid by common carrier cables.⁷

In addition, a number of the changes in Commission regulation have been broad based, and have benefited all U.S. carriers and submarine cable operators, both common carrier and non-common carrier. Indeed, in its submarine cable streamlining proceeding, the Commission decided to adopt streamlined entry rules that did not favor any particular type of cable structure over another, and determined that it would treat similarly situated applicants on an equal footing, regardless of the ways a company might choose, for business or other reasons, to structure its cable.⁸

Finally, as AT&T points out,⁹ Commission activities such as work with foreign regulators and international representational activities in support of the Commission's longstanding goals "to promote effective competition in the global market for communications services" and "to encourage foreign governments to open their communications markets" have provided significant benefits to non-common carrier submarine cable operators.¹⁰ There is, therefore, no reason to reduce the international bearer circuit fees of non-common carrier cable operators at the expense of common carrier cables.

⁷ See AT&T Comments at 7-8 (citing international 214 and submarine cable streamlining proceedings, elimination of tariffing requirements for U.S. international carriers and removal of International Settlements Policy from most U.S. international routes).

⁸ See *id.* at 6-7 (citing *Submarine Cable Streamlining Order*).

⁹ See *id.* at 9-10.

¹⁰ See, e.g., *Assessment and Collection of Regulatory Fees for Fiscal Year 1998*, 13 FCC Rcd 19820, ¶ 62 (1998) (noting benefits to non-common carrier satellite operators from international representational activities of Commission staff); *Reporting Requirements for U.S. Providers of International Telecommunications Services*, 19 FCC Rcd 6460, ¶ 17 (2004) (Commission's goals in regulating U.S. international marketplace).

Second, VSNL and Level 3 claim that the current fee structure is distorting the marketplace. VSNL and Level 3 argue that the international bearer circuit fees are both suppressing demand for international capacity and, at the same time, are suppressing supply.¹¹ But these arguments are belied by the facts described by VSNL and Level 3. Far from a shortage of supply, VSNL describes “[r]ecent technological developments” that have resulted in “substantial increases in [submarine cable] capacity.”¹² And according to Level 3, there is a “glut of available submarine cable capacity.”¹³ On the demand side, Level 3 explains that “[i]ncreasingly, large, unregulated Internet and other bandwidth-consuming companies seek to acquire massive amounts of international capacity from submarine cable operators, for their own business purposes.”¹⁴ All of this has occurred under the current regulatory fee structure. Accordingly, there is no reason to alter the fee structure.

Third, VSNL and Level 3 complain that some cable operators may not be paying international bearer circuit fees, and that the “failure of any companies to pay applicable IBC fees raises the costs for those that comply.”¹⁵ Verizon shares VSNL’s and Level 3’s concern that noncompliance by some cable operators raises the costs for others, and – like VSNL – would like to see the level of international circuit bearer fees reduced further.¹⁶ But noncompliance by some non-common carrier or private cable operators with the current fee structure is not a circumstance that justifies amending the fee structure. Moreover, it certainly does not justify

¹¹ VSNL Petition at 11-12; Level 3 Comments at 3-4.

¹² VSNL Petition at 11.

¹³ Level 3 Comments at 3.

¹⁴ *Id.* at 2.

¹⁵ Level 3 Comments at 4. *See also* VSNL Petition at 14.

¹⁶ *See 2005 Regulatory Fee Order* ¶ 9 (FY 2005 fee per 64 Kbps circuit reduced by nearly half from FY 2004 fee).

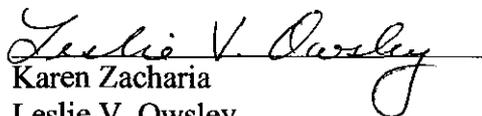
shifting 90 percent of the regulatory revenue requirement to common carrier cables or to operators of small cables.

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For the foregoing reasons, the Commission should deny VSNL's petition for rulemaking and should not adopt VSNL's proposal to restructure the current international bearer circuit fee structure.

Respectfully submitted,

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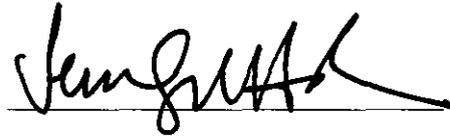
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April 3, 2006

CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of April, 2006, copies of the foregoing "Reply Comments" were sent by first class mail, postage prepaid, to the parties listed below.



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