Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2008	MD Docket No. 08-65 RM No. 11312

REVISED JOINT PROPOSAL

Through their undersigned counsel, the following operators support the attached revised proposal for reforming IBC fees as assessed on undersea cable operators:

- Brasil Telecom of America, Inc., operator of the Globenet system
- Columbus Networks USA, Inc., ARCOS-1 USA, Inc., and A.SUR Net, Inc., operators of the ARCOS-1 and planned CFX-1 systems
- Global Crossing Ltd., operator of the Atlantic Crossing-1, Atlantic Crossing-2, Pan American Crossing, and South American Crossing systems*
- Level 3 Communications, LLC, operator of the Yellow system
- Hibernia-Atlantic US LLC, operator of the Hibernia system
- Marine Cable Corp., operator of the AmeriCan-1 system*
- Pacific Crossing Limited and its subsidiary PC Landing Corp., cable landing licensee for the PC-1 system
- Reliance Globalcom Limited (fka FLAG Telecom Group Limited) (operator of the FLAG Atlantic-1 system) and its indirect subsidiary, FLAG Network USA Limited (applicant for a submarine cable landing license to operate the proposed FLAG NGN (Pacific) system)
- Tata Communications (US) Inc. (fka VSNL International (US) Inc.) (operator of the TGN-Atlantic and TGN-Pacific systems)*

The operators listed above with an asterisk (*) are new supporters since the filing of the original Joint Proposal. The Revised Joint Proposal reflects a growing consensus among submarine cable system operators regarding the best alternative for reforming the existing regulatory-fee methodology for submarine cable systems in FY 2008.

This Revised Joint Proposal modifies the original Joint Proposal filed in the above-referenced dockets in order to address concerns raised on the record that smaller-capacity systems using older technologies could be disadvantaged by a per-system fee that does not account for the particular circumstances of such systems—systems which represent an increasingly small percentage of the active submarine cable systems connecting the United States to international points.[1] Under the Revised Joint Proposal, small-capacity systems with less than STM-64 of available capacity would pay half the amount that new, higher-capacity systems would pay.

The Revised Joint Proposal makes some textual clarifications of the original Joint Proposal.[2] In particular, the above-listed carriers have clarified that a consortium-owned cable system would be treated as a single system for purposes of paying the SCS Fee, even though the Commission may have issued multiple cable landing licenses for a single system. Under this proposal, consortium members would allocate responsibility for payment of the SCS Fee according to commercial terms agreed among those members. While one party has suggested that private submarine cable operators should be required to file circuit status reports,[3] the Joint

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[1] *See* Joint Proposal, MD Docket No. 08-65, RM-11312 (filed May 30, 2008).

[2] Some of these changes were not included in an earlier version of the Revised Joint Proposal shared with Commission staff on July 9-11, 2008.

[3] *See* Letter from Amy L. Alvarez, AT&T, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 08-65, RM-11312 (filed July 10, 2008).

Proposal represents a simplified, less regulatory approach to addressing the core problem of the IBC fees. Additional reporting obligations do nothing to address legal infirmities or the economic impact of the current IBC fee structure on high-capacity cables. For ease of reference, the above-listed companies have provided clean version of the Revised Joint Proposal (in Attachment 1) and a blacklined version showing where the Revised Joint Proposal differs from the original Joint Proposal (in Attachment 2).

The above-listed operators continue to urge the Commission to adopt the Revised Joint Proposal's methodology in *this year's* annual regulatory fees rulemaking in order to remedy the legal flaws, economic perversities, and administrative shortcomings of the existing fee methodology, as explained in significant depth on the record.

Respectfully submitted,

On behalf of
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11 July 2008

Attachments

Attachment 1: Revised Joint Proposal

REVISED JOINT PROPOSAL

1. **Create New Regulatory Fee Category for Submarine Cable Systems ("SCS Fee")**: This category would include both common carrier and non-common carrier submarine cable systems. Facilities-based common carriers would be separately assessed in the IBC fee category ("New IBC Fee") with respect to their common-carrier services.

2. **Create "Revenue Requirement" for SCS Fee**: split existing revenue requirement for existing IBC Fee ("Old IBC Fee")—$8,149,636 for FY 2008—between SCS Fee category and New IBC Fee category.

   - Use as a starting point a 50-50 split of the Old IBC Fee category, meaning that the starting point for calculating a revenue requirement for the new SCS Fee for FY 2008 would be $4,074,818.

   - Revise downward the percentage allocated to the SCS Fee category based on FCC's internal calculations of regulatory effort expended to regulate undersea cables, which have long suggested that the Commission expends less effort regulating undersea cable operators than international facilities-based common carriers.

3. **Define "Payment Unit" of New SCS Fee**: payment unit defined as submarine cable system connecting international points and for which the FCC has issued a separate cable landing license, unless the system is a small-capacity system.

   - Small-capacity systems—defined as systems with less than STM-64 of available capacity as reported in most recent FCC Circuit Status Report for calendar year ending in the current Fiscal Year—would pay at a half-unit rate, meaning that the per-system fee for small-capacity systems would be half that of the fee for high-capacity systems.

   - Each consortium cable system would be treated as a single licensee and the responsibility for payment of the fee would be governed by the terms agreed among the consortium members.

4. **Determine SCS Fee By Dividing New Revenue Requirement by Number of Payors in SCS Fee Category**

   - Resulting per-system fee for FY 2008 would be a maximum of $121,636 for large systems and a maximum of $60,818 for small systems (these fees would be lower with any downward revision of the revenue allocation, as proposed in Part 2 above), based on 28 large systems and 11 small systems, for total of 33.5 SCS payment units.

   - SCS Fee would apply to submarine cable systems in commercial service as of December 31st of each year.

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5. **Calculate New IBC Fee By Dividing New Revenue Requirement by Number of Active Circuits Reported in Aggregate in Circuit-Status Reports**

- Based on the 7,558,072 active circuits reported in the most recent published circuit-status report, the per-circuit New IBC Fee would be $0.54 per 64 KB circuit or circuit-equivalent.

6. **Address Any Reform for Remaining IBC Fee Payors (*i.e.*, Holders of Facilities-Based International Section 214 Authorizations) in Separate Proceeding**

Attachment 2: Blackline of Revised Joint Proposal, Showing Changes from Original Joint Proposal

REVISED JOINT PROPOSAL

1. **Create New Regulatory Fee Category for Submarine Cable Systems ("SCS Fee")**: ~~facilities-based 214 holders~~ This category would ~~remain~~include both common carrier and non-common carrier submarine cable systems. Facilities-based common carriers would be separately assessed in the IBC fee category ("New IBC Fee") with respect to their common-carrier services.

2. **Create "Revenue Requirement" for SCS Fee**: split existing revenue requirement for existing IBC Fee ("Old IBC Fee")—$8,149,636 for FY 2008—between SCS Fee category and New IBC Fee category.

   - Use as a starting point a 50-50 split of the Old IBC Fee category, meaning that the starting point for calculating a revenue requirement for the new SCS Fee for FY 2008 would be $4,074,818.

   - Revise downward the percentage allocated to the SCS Fee category~~,~~ based on FCC's internal calculations of regulatory effort expended to regulate undersea cables, which have long suggested that the Commission expends less effort regulating undersea cable operators than international facilities-based common carriers.

3. **Define "Payment Unit" of New SCS Fee**: payment unit defined as submarine cable ~~systems~~ system connecting international points and for which the FCC has issued a separate cable landing license, unless the system is a small-capacity system.

   - Small-capacity systems—defined as systems with less than STM-64 of available capacity as reported in most recent FCC Circuit Status Report for calendar year ending in the current Fiscal Year—would pay at a half-unit rate, meaning that the per-system fee for small-capacity systems would be half that of the fee for high-capacity systems.

   - Each consortium cable system would be treated as a single licensee and the responsibility for payment of the fee would be governed by the terms agreed among the consortium members.

4. **Determine SCS Fee By Dividing New Revenue Requirement by Number of Payors in SCS Fee Category**

   - Resulting per-system fee for FY 2008 would be a maximum of $~~100,000 per system~~121,636 for large systems and ~~potentially~~a maximum of $60,818 for small systems (these fees would be lower with ~~a~~ any downward ~~adjustment of the percentage~~revision of the revenue ~~requirement for the Old IBC Fee~~allocation, as proposed in Part 2 above), based on ~~the Commission's calculations~~28 large systems and 11 small systems, for total of ~~its regulatory efforts~~33.5 SCS payment units.

- SCS Fee would apply to submarine ~~cables~~cable systems in commercial service as of December 31st of each year.

5. **Calculate New IBC Fee By Dividing New Revenue Requirement by Number of Active Circuits Reported in Aggregate in Circuit-Status Reports~~:~~**

- ~~Common-carrier undersea cable systems would not pay IBC fees based on the international Section 214 authorization granted to the system concurrent with the cable landing license, but instead only to the extent that an individual owner of a common-carrier system reported active common-carrier circuits in its annual circuit-status report~~

- Based on the 7,558,072 active circuits reported in the most recent published circuit-status report, the per-circuit New IBC Fee would be $0.54 per 64 KB circuit or circuit-equivalent.

~~□~~6. **Address Any Reform for Remaining IBC Fee Payors (*i.e.*, Holders of Facilities-Based International Section 214 Authorizations) in Separate Proceeding**