

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2009)	MD Docket No. 09-65
)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2008)	MD Docket No. 08-65
)	

COMMENTS OF AT&T INC.

AT&T Inc., on behalf of its affiliates, (“AT&T”) hereby submits these comments in the above-referenced proceeding.¹ The comments address the following concerns regarding International Bearer Circuit (“IBC”) fees.

AT&T welcomes the adoption of the new IBC system fee for international submarine cables but asks the Commission to modify the proposed payment procedures to include a separate annual fee assessment notification for each cable that would be sent to each licensee for the relevant cable. The provision of assessment notifications to all licensees would ensure that licensees are fully informed of the new fee and would facilitate the allocation and payment of the fee on a timely basis for the significant number of submarine cable systems that have multiple licensees and owners.

As the Commission proposes, IBC per circuit fees should be levied on non-common carrier terrestrial circuits to provide equitable treatment of all providers of this capacity. Also, to

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, MD Docket No. 09-65, Notice of Proposed Rulemaking and Order, FCC 09-138, rel. May 14, 2009 (“Notice”).

provide capacity expansion incentives for facilities subject to IBC per circuit fees, the per circuit fee structure should be amended to include reduced fees for capacity sold in larger increments.

I. THE COMMISSION SHOULD ISSUE SYSTEM FEE ASSESSMENT NOTIFICATIONS TO ALL LICENSEES

The new submarine cable IBC system fee will reduce administrative burdens, increase fee compliance and encourage the continued growth and expansion of these facilities by allowing submarine cable systems with capacity of 20 Gbps and above to increase capacity without incurring additional fees.² To assist in implementing this new fee methodology, particularly for the significant number of submarine cables that are owned on a consortium basis and have multiple licensees that are jointly responsible for payment of the fee, the Commission should ensure that all licensees are individually notified of the new fee methodology and their payment responsibilities.

The proposed text of the rule implementing the system fee methodology states that the fee will be paid “per cable license, for all submarine cable systems operating as of December 31 of the prior year.”³ The Commission also has made clear that “[a] consortium [is] considered to have one cable landing license for regulatory fee purposes.”⁴ Thus, all licensees on each consortium cable share responsibility for payment of this fee. As set forth in the methodology adopted by the Commission, on cable systems owned by multiple providers or licensees, “each cable landing license holder [is] jointly and severally liable for the fee.”⁵

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, Second report and Order, FCC 09-21, rel. Mar. 24, 2009 (“Submarine Cable Order”), ¶¶ 8, 17

³ Notice, App. A (amended Rule 1.1156(c)).

⁴ *Submarine Cable Order*, ¶ 17.

⁵ *Id.*, ¶ 6.

Under the procedures set forth in the Notice, the Commission proposes to rely on cable licensees to self-report and pay system fees. However, almost half of all U.S. international submarine cables are consortium cables owned by both U.S. and foreign carriers. All these consortium cables have five or more licensees and some have as many as sixteen licensees. Additionally, all or most consortium cables have additional owners that are not required to be licensees.⁶ Payment of the new system fee for consortium cables will thus require communication and coordination among multiple domestic and foreign parties all to be completed by the late September payment date.

To assist the timely completion of this process, the Commission should expand the proposed payment procedures to include a separate cable fee assessment notification for each cable system addressed to all licensees for the relevant cable that would be sent by surface mail to each of those licensees at their address of record. Such notifications would ensure that all licensees for each cable are informed of the new methodology and their payment responsibilities and would provide clear notice of the amount due for circulation to other consortium members. The licensees for each cable, together with the other consortium members, would then allocate the fee according to commercial terms.

Other communications related to the system fee, such as the “Proposed Letter to Submarine Cable Operators,” set forth in Appendix F to the Notice, also should be sent to each licensee. Joint licensees should be allowed to appoint one licensee to pay the fee or respond to the Proposed Letter on behalf of the licensees and other owners of the cable system, similar to

⁶ Rule 1.767(h) requires any entity owning or controlling a U.S. landing station for the cable or owning or controlling a 5 percent or greater interest in the cable and using the U.S. points of the cable system to be a licensee. Other cable owners are not required to be licensees.

the Rule 1.767(m)(1) procedures for license amendments and modifications, but the Commission should continue to send all communications to each licensee for each cable to ensure that all licensees remain fully informed concerning the system fee.⁷

II. NON-COMMON CARRIER TERRESTRIAL CIRCUITS SHOULD BE SUBJECT TO IBC FEES

In order to apply IBC fees on a more equitable basis, the Commission proposes to extend IBC fee requirements to non-common carrier terrestrial international circuits.⁸ Presently, IBC per circuit fees are paid on all international satellite circuits, both common carrier and non-common carrier, and on international terrestrial common carrier circuits. Additionally, submarine cable systems, both common carrier and non-common carrier, are now subject to the IBC system fee, which “treats common carriers and non-common carriers identically.”⁹ Thus, IBC fees apply to all common carrier and non-common carrier international circuit capacity other than international terrestrial circuits, where these fees only apply to common carrier circuits. AT&T supports the adoption of the Commission’s proposal to remedy this situation by applying IBC per circuit fees to both common carrier and non-common carrier international terrestrial circuits alike.

⁷ The assessment notifications would be based on the capacity information provided in response to the Proposed Letter, and the Commission should include that capacity information in the annual regulatory fee rulemaking notice. As an interim measure for 2009, the Commission should list the capacity of each cable system in the final order in this proceeding, or in a separate public notice, based on the best current information, such as Table 7 of the March 2009 Section 43.82 Circuit Status Data Report, and should ask licensees to submit any amendments to this information on an expedited basis.

⁸ Notice, ¶ 14.

⁹ *Submarine Cable Order*, ¶ 9.

III. IBC PER CIRCUIT FEE DISCOUNTS SHOULD BE INTRODUCED FOR LARGE UNIT SALES

The Commission has found that the system fee adopted for submarine cables cannot be applied to satellite and terrestrial circuits but has encouraged satellite and terrestrial providers to propose changes to the per circuit fee methodology that would better serve their interests and the public interest.¹⁰ To provide capacity expansion incentives for terrestrial and potentially also satellite circuit capacity, the Commission should reduce the per circuit fees paid on larger capacity services by introducing fee discounts where this capacity is sold in larger units. Currently, larger capacity services are provided over terrestrial circuits, but any larger capacity services that are provided over satellite circuits in the future would also benefit from these reduced fees. As examples of such discounts, per circuit fees could be reduced by 50 percent for sales at the STM-16 level and above, and by 75 percent at the STM-64 level and above.

Respectfully submitted,

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¹⁰ *Id.*, n. 48.