

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

In the Matter of)
)
Assessment and Collection of Regulatory Fees for) MD Docket No. 10-87
Fiscal Year 2010)

REPLY COMMENTS OF GLOBAL CROSSING NORTH AMERICA, INC.

Global Crossing North America, Inc. (“GCNA”) respectfully submits these reply comments in the above-captioned proceeding. In its opening comments, GCNA recommended that the Commission place a reasonable limit on the aggregate regulatory fee that an international submarine cable operator with multiple cable landing licenses can be required to pay in a given fiscal year. A subsequent development indicates that absent such action, such operators will incur inequitable fee burdens without any other recourse for relief.

GCNA has explained that the Commission’s “per-system” methodology for assessing submarine cable regulatory fees subjects operators with multiple cable landing licenses to disproportionately high regulatory fees, significantly undermining their investment incentives. To illustrate the problem, GCNA explained that its subsidiary GT Landing II Corp. (“GT Landing II”) has five cable landing licenses, which were obtained at a time when the number of licenses had no impact on regulatory fees. For no reason other than that it happens to hold multiple licenses, GT Landing II now faces a staggering fee obligation of *\$765,100* for fiscal year 2010—higher than the fees owed by most (if not all) of its competitors, and nearly 10 percent of the revenue requirement for this fee category. The fee burden for the last fiscal year was even higher—*\$843,587.50*—which prompted GCNA’s and GT Landing II’s parent company Global Crossing Limited (“GCL”) to file a petition seeking a reduction and corresponding refund of the total fee. In its opening comments, GCNA noted that this petition was still pending.

Subsequently, on May 6, 2010, the Office of Managing Director (“OMD”) denied GCL’s petition.¹ OMD’s decision signals that submarine cable operators with multiple licenses will not be permitted to obtain relief pursuant to the reduction and refund procedures established by the Act and the Commission’s rules.² As a result, absent a narrow amendment to the Commission’s fee methodology as GCNA has proposed, such entities will be forced to incur massive regulatory fees any time they obtain a new cable landing license (whether through the construction or acquisition of cables). In fact, OMD stated in its denial letter that each and every international submarine cable must be separately licensed, meaning that any new cable, no matter the circumstances, will trigger a new—and uniquely high—fee obligation.³ GCNA has explained that this outcome inevitably will discourage operators from expanding their networks to the benefit of consumers and competition—undermining the Commission’s goals in reforming the submarine cable fee methodology in the first place.⁴

Accordingly, for the reasons stated in GCNA’s opening comments, the Commission should consider the impact of its current fee methodology on international submarine cable operators with multiple cable landing licenses and adopt a reasonable limit to ensure that no such entity is disproportionately affected by high regulatory fees. GCNA has explained that the most

¹ Letter from Mark Stephens, Chief Financial Officer, FCC, to Teresa D. Baer *et al.*, Fee Control No. RROG-09-00012077 (May 6, 2010) (“OMD Letter”).

² 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166.

³ OMD Letter at 4 (“[T]he Commission’s rules require that each international submarine cable be licensed.”).

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662 ¶ 29 (2004) (noting the Commission’s concern that high regulatory fees in this area “may provide disincentives to carriers to initiate new services and to use new facilities efficiently”). Contrary to the characterization in the OMD’s denial, *see* OMD Letter at 5, such a disincentive to invest is distinct from any claim of financial hardship, which involves the ability to pay the fee rather than the impact the fee will have on a licensee’s other operational decisions. *See id.* at 5 n.22.

straightforward option would be to limit the number of licenses on which a fee can be assessed; other methods include capping the aggregate fee amount, defining the “system” subject to a fee as an integrated cable network (rather than presuming that each license represents a separate cable system), or adjusting the revenue allocation to produce a more reasonable fee. However the Commission proceeds, it can efficiently complete this aspect of its reform without changing its basic methodology for assessing submarine cable regulatory fees.⁵

Respectfully submitted,

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⁵ GCNA has made clear that it is not asking the Commission to reconsider its fee methodology, and that it need not do so in order to ensure equitable regulatory fees.