

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

In the Matter of )  
)  
Procedures for Assessment and Collection of ) MD Docket No. 12-201  
Regulatory Fees )  
) MD Docket No. 08-65  
Assessment and Collection of Regulatory Fees )  
for Fiscal Year 2008 )  
\_\_\_\_\_ )

**COMMENTS OF VERIZON AND VERIZON WIRELESS**

Verizon and Verizon Wireless<sup>1</sup> support the Commission’s initiative in this proceeding to “undertake[] a comprehensive analysis of all the substantive and procedural aspects of [the] regulatory fee program in light of the current state of the communications industry.”<sup>2</sup> The Commission’s critical examination of the regulatory fee process and its update of the data used to derive the fees are long overdue. But the Commission neglects a key issue in the *Notice*: how to stem the continual rise in regulatory fees. The Commission should focus on operating as efficiently as possible and work toward reducing the magnitude of the fees that are ultimately borne by consumers. With respect to the allocation of those fees, the regulatory fee approach the Commission proposes in the *Notice* largely gets it right. The Commission’s modest change to the current methodology by which it allocates its costs is consistent with the Act and the

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<sup>1</sup> In addition to Verizon Wireless, the Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>2</sup> *Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking, 27 FCC Rcd 8458, ¶ 2 (2012) (“*Notice*”).

“overarching goals” of fairness, administrability, and sustainability that the Commission articulated in the *Notice*.<sup>3</sup>

## DISCUSSION

### I. The Commission Should Strive To Reduce Regulatory Fees To Benefit Consumers.

The Commission should be cognizant of the magnitude of the regulatory fees at issue and the burdens that they impose on consumers. While providers are assessed the fees and directly pay the Commission each year, the burdens ultimately fall on consumers. Regulatory fees are just one of many government-mandated fees and contributions that impact consumers and therefore should be minimized.

Nevertheless, regulatory fees have increased tremendously over the years. Since 1998 – the last year the Commission revised its fee process and obtained cost allocation data from its bureaus – the Commission’s annual regulatory fees have more than *doubled*, increasing from \$162.5 million in 1998 to \$339.8 million in 2012. Regulatory fees have had healthy increases every year, with a compound annual growth rate (CAGR) of 3.2% for that period when adjusted for inflation. Fees have *never* decreased year-to-year.

What’s more, the Commission almost always over-collects the fees. The Government Accountability Office (GAO) recently calculated that over the past ten fiscal years, the Commission collected on average 2% more each year in regulatory fees than it was required to collect.<sup>4</sup> And in *nine* of the ten years, the Commission over-collected fees, resulting in a current balance of excess fees of about \$66 million.<sup>5</sup>

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<sup>3</sup> See *Notice*, ¶¶ 13-16.

<sup>4</sup> See GAO, *Federal Communications Commission: Regulatory Fee Process Needs to Be Updated*, GAO-12-686, <http://www.gao.gov/assets/600/593506.pdf>, at 25 (Aug. 10, 2012) (“GAO Report”).

<sup>5</sup> *Id.* at 25-29.

To reverse this trend, the Commission should endeavor to operate as efficiently as possible. As more and more legacy regulations become unnecessary due to systemic changes in the marketplace, the Commission's workload should be significantly reduced, particularly in oversight and enforcement functions. That does not mean, however, that the Commission should hunt for new ways to regulate in order to keep busy. Rather, the Commission should adhere to the principles for federal agencies in President Obama's 2011 Executive Orders: to "promot[e] economic growth, innovation, competitiveness, and job creation" and to "impose the least burden on society."<sup>6</sup> Stemming the annual growth in regulatory fees and ultimately reducing those fees would help achieve those objectives.

For the same reasons, the Commission should focus on accurately assessing the fees so that it no longer habitually over-collects fees. The Commission should also request Congress to take appropriate action to permit the return of the \$66 million excess fees collected, either in the form of a refund or credit against future fees.

## **II. The Commission Should Adopt the Allocation Approach in the *Notice*.**

Once the Commission determines the total fees it requires to recover its costs, the Commission must properly allocate those fees to different industry sectors. The Commission should adopt the changes to the current cost allocation methodology it proposes in the *Notice*. In particular, the Commission proposes to update its 1998 data based on the current number of full-time equivalent employees in four core bureaus: International, Media, Wireline Competition, and Wireless Telecommunications.<sup>7</sup> The Commission would then proportionately allocate the full-

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<sup>6</sup> President Barack Obama, *Regulation and Independent Regulatory Agencies*, Executive Order 13579 of July 11, 2011, 76 FR 41587 (2011); President Barack Obama, *Improving Regulation and Regulatory Review*, Executive Order 13563 of January 18, 2011, 76 FR 3821 (2011).

<sup>7</sup> See *Notice* ¶ 24.

time equivalent employees of the other “support” bureaus and offices (e.g., Enforcement Bureau, Public Safety and Homeland Security Bureau, etc.) across each of the four core bureaus.<sup>8</sup>

Section 9(b)(1)(A) of the Act requires that regulatory fees be derived from the full-time equivalent number of employees performing the Commission’s regulatory functions and then adjusted by “other factors” relating to the benefits provided to the payor and those in the public interest.<sup>9</sup> In the *Notice*, the Commission sets forth three “overarching goals” to guide how it applies the “other factors”: fairness, administrability, and sustainability.<sup>10</sup>

The Commission’s proposed methodology satisfies both the statute and the Commission’s appropriate objectives. Section 9 provides the Commission with ample flexibility to devise a fee structure based on the full-time equivalent employees in the four core bureaus identified by the Commission. The core bureaus are staffed by a significant percentage of the Commission’s employees, and the bureaus are directly involved in regulating licensees. Treating all work done by full-time equivalent employees in those bureaus the same – rather than subjectively classifying some work as direct while other work as indirect and treating those costs differently – is a reasonable approach that reduces administrative costs and raises no issues of unfairness to any particular segment of industry fee payors. As the Commission stated, “the regulatory fee system should be administrable, both for the Commission and for payors.”<sup>11</sup>

Applying the costs of the “support” bureaus and offices in a proportionate manner across the core bureaus also makes sense. While the focus of those bureaus and offices may vary each year, the cost of capturing the annual fluctuations would far outweigh the benefit.

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<sup>8</sup> *See id.*

<sup>9</sup> 47 U.S.C. § 159(b)(1)(A).

<sup>10</sup> *See Notice* ¶¶ 14-16.

<sup>11</sup> *Id.* ¶ 15.

Along the same lines, the Commission should refrain from assessing a separate fee on broadband providers. Such a fee is unnecessary and would add needless complexity to the process. Specifically, the full-time equivalent employees that would be involved in any permissible regulation of broadband services – which is quite limited – are already covered by one or more of the core bureaus. Given the highly popular bundles of services that include broadband along with other Commission-regulated services like voice and video, the core bureaus receive significant funding from those providers that also offer broadband. In fact, because wireless providers’ regulatory fees are based on the number of assigned telephone numbers, even those wireless customers with data-only plans (e.g., tablet customers with broadband, but not voice service), which all require assigned telephone numbers, are already captured by the fee calculations today.

Finally, the Commission should update its full-time equivalent data on a regular basis. The Commission acknowledges in the *Notice* that “the cost allocation data we currently use were derived in FY 1998.”<sup>12</sup> A span of fifteen years is far too long to refresh this data. The Commission’s inaction has likely caused numerous entities to overpay fees, while granting other entities a free (or reduced) ride.<sup>13</sup>

## CONCLUSION

The Commission should adopt the allocation methodology proposed in the *Notice* and take steps that will reduce the fees going forward to benefit consumers.

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<sup>12</sup> *Id.* ¶ 18.

<sup>13</sup> The GAO too has recognized the harm from relying on “obsolete data” regarding full time equivalent employees: “some entities are most likely overpaying, essentially cross-subsidizing entities in other fee categories, which are underpaying.” *GAO Report*, at 11, 17.

Respectfully submitted,

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