

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

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

REPLY COMMENTS OF CLEARWIRE CORPORATION

Clearwire Corporation (“Clearwire”) hereby respectfully submits these reply comments in the above-captioned proceedings. Clearwire commends the Commission for its review of the regulatory fee process and its proposals to reform its policies and procedures for assessing and collecting regulatory fees. Clearwire limits these reply comments to one important proposal; whether or not the Commission should assess an additional regulatory fee for “broadband.”¹ As discussed below, Clearwire urges the Commission not to add an additional regulatory fee category for broadband.

I. BACKGROUND

Clearwire operates open, Internet-Protocol (“IP”) 4G wireless broadband networks in markets across the United States and Europe. These networks provide communities with high-speed residential and mobile Internet and interconnected voice over Internet protocol (“VoIP”) services. It is the leader in WiMAX 4G, currently the leading 4G standard in the world. Clearwire has also announced a capacity-rich TDD-LTE deployment that is designed to provide wholesale LTE capacity beginning in the first half of 2013 in dense urban markets where it is needed most. Clearwire is targeting high demand “hot zones” in 31 major urban centers such as

¹ *In the Matter of Procedures for Assessment and Collection of Regulatory Fees*, MD Docket 12-201, *Notice of Proposed Rulemaking*, 27 FCC Rcd 8458, FCC 12-77, ¶29 (2012).

New York City, San Francisco, Los Angeles, Chicago, and Seattle where demand for 4G mobile broadband is high and the need for deep capacity resources is most acute.

Clearwire's 4G network now reaches 134 million people in the U.S. and covers over 70 of the top U.S. markets. Clearwire currently serves approximately 11 million total subscribers consisting of 1.3 million retail subscribers and 9.6 million wholesale subscribers. Clearwire currently markets its 4G service through its own brand called CLEAR® as well as through its 4G wholesale relationships, including Sprint, NetZero, FreedomPop and others. Clearwire provides these services using licensed spectrum in the 2.5 GHz band over both Broadband Radio Service ("BRS") and Educational Broadband Radio Service ("EBS") and using Part 101 Private Operational Fixed Microwave licenses that compose its cutting edge wireless backhaul network. In 2012, Clearwire paid regulatory fees for over 600 owned and leased BRS licenses.² It also paid regulatory fees for more than 10,000 microwave licenses when those licenses are applied for and will pay additional regulatory fees when the microwave licenses are renewed. In addition, Clearwire pays Interstate Telephone Service Provider ("ITSP") regulatory fees, due to its provision of VoIP service.

II. REGULATORY FEES SHOULD NOT BE ASSESSED ON BROADBAND

Clearwire urges the Commission not to assess regulatory fees on broadband service. Doing so would be unfair, harmful, duplicative and unauthorized. Clearwire already pays substantial yearly regulatory fees on its owned BRS licenses, and, through its lease agreements, its leased BRS licenses, and also on its VoIP service. In addition, Clearwire pays regulatory fees of its over 10,000 microwave licenses that compose its advanced wireless backhaul network. Consequently, today the FCC collects regulatory fees associated with each of the key

² In addition, Clearwire pays regulatory fees for a handful of LMDS and CARS licenses that it either owns or is responsible for payment for.

components of Clearwire’s wireless broadband network. Were the Commission to add a new regulatory fee category for “broadband,” Clearwire and companies like it that rely on FCC licensed spectrum to provide broadband service, would be unfairly double-billed, paying regulatory fees for both its licenses and its broadband service. To that end, Clearwire strongly agrees with the comments of AT&T and Verizon that broadband should not be established as a separate regulatory fee category.

As made clear by Verizon, many broadband providers are already assessed regulatory fees through a variety of different ways:

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.³

Broadband is provided over many different platforms, and operators of each of those platforms already pay a variety of regulatory fees either through licensee or number-based fees. Adding an additional “broadband” regulatory fee would be duplicative and unfair. Adding an additional fee could also negatively impact broadband adoption by raising the costs of broadband deployment for carriers.

In addition, as was made clear by AT&T, the Commission does not have the authority to assess regulatory fees on broadband services:

Section 9 of the Act makes it clear that the aim of the regulatory fees scheme is to recover the costs of the “regulatory activities” of the Commission. And Congress has repeatedly made clear that it wants the market to govern the Internet and that the Commission is not to extend its regulatory activities to it. Yet, in the *Notice*,

³ Comments of Verizon and Verizon Wireless at p.5.

the Commission proposes to include “broadband” as a new regulatory fee category. Consequently, this proposal is very much at odds with the stated policy of the Congress and stands alone without any legal justification. Whether adjustments to existing regulatory fee categories could in fact make the assessment of these fees any more just remains to be seen—the proof of the pudding is in the tasting. But there is no justification in the Act for creating a broadband category in the schedule of regulatory fees.⁴

As explained by AT&T, since the Commission does not regulate the Internet, it does not have the ability to assess a regulatory fee on the Internet or the broadband service that is provided over it. Since the Commission already assesses fees on the licenses and numbers used for broadband, there is no need for a separate broadband regulatory fee.

III. CONCLUSION

For the foregoing reasons, Clearwire urges the Commission not to adopt a separate regulatory fee category for broadband.

Respectfully submitted,

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⁴ See Comments of AT&T at p. 4 (footnotes omitted).