

25 August 2014

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

*Re: MD Docket Nos. 14-92, 13-140, and 12-201,
Notice of Ex Parte Presentation*

Dear Ms. Dortch:

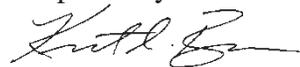
Pursuant to 47 C.F.R § 1.1206(b), the North American Submarine Cable Association (“NASCA”) notifies the Commission of four *ex parte* presentations in the above-referenced proceedings. On August 21, 2014, I, as counsel for NASCA, met separately with:

- Priscilla Argeris, Legal Advisor the Commissioner Jessica Rosenworcel
- Nicholas Degani, Legal Advisor to Commissioner Ajit Pai
- Erin McGrath, Legal Advisor to Commissioner Michael O’Rielly; and
- Roland Helvajian of the Office of Managing Director and Larry Atlas and William Freedman of the Office of Managing Director.

In each of these meetings, I discussed the attached talking points in relation to the above-referenced proceedings.

Should you have any questions, please contact me by telephone at +1 202 730 1337 or by e-mail at kbressie@hwglaw.com

Respectfully submitted,



Kent D. Bressie
*Counsel for the
North American Submarine Cable Association*

cc: Priscilla Argeris William Freedman
Larry Atlas Roland Helvajian
Nicholas Degani Erin McGrath

**VIEWS OF THE NORTH AMERICAN SUBMARINE CABLE ASSOCIATION
RE FY 2014 REGULATORY FEES AND REGULATORY-FEE REFORM**

1. The record strongly supports the Commission’s proposal to “reduce the proportional allocation for submarine cable operators/terrestrial/ satellite circuits and increase the allocation for satellite/earth station operators to more accurately reflect the amount of oversight and regulation for these industries.”
 - Section 9 of the Communications Act provides that fees must be “reasonably related to”, *i.e.*, correlate with, the regulatory benefits provided to particular categories of payors, as represented by full-time equivalent employees (“FTEs”) performing assessable activities (enforcement activities, policy and rulemaking activities, user information services, and international activities).
 - For nearly three years, the Commission has concluded that its regulatory benefits for submarine cable operators equate to two (2) full time employee equivalents (“FTEs”) out of a total of 28 direct FTEs in the International Bureau (“IB”).
 - Nevertheless, the Commission continues to over-recover regulatory fees from submarine cable operators, which pay 36 percent of all fees for IB payors even though submarine cable operators account for only 7.14 percent of direct FTEs.
 - Satellite space station and earth station payors, which account for approximately 89 percent of the IB direct FTEs, pay only approximately 59 percent of the fees of IB payors.
 - The over-recovery from submarine cable operators results from a long-running error in the existing revenue requirement and its inconsistency with the FTE data, which the NPRM recognized, dating from the establishment of the new Submarine Cable System category in 2009.
 - On its face, this allocation and collection is inconsistent with Section 9 and will remain inconsistent with Section 9 until the reallocation is complete and submarine cable operators are no longer paying for direct FTEs providing regulatory benefits exclusively to other payors.
 - No party has challenged that analysis, challenged the Commission’s direct FTE data for submarine cable-related regulatory activity, or otherwise opposed the Commission’s reallocation proposal.

2. The Commission should begin the reallocation of that revenue requirement in establishing FY 2014 fees in order to comply with Section 9, as reflected in the table below.
 - The Commission should be seeking to recover a total of \$1,497,711 from submarine cable operators, rather than the \$7,554,370 proposed in the FY 2014 NPRM.
 - Given the Commission's proposal to continue its cap on annual fee increases at 7.5 percent, this legally-required reallocation could be accomplished over three years and would not pose an undue burden on other Commission payors whose fees would rise as a consequence of this reallocation.
 - This reallocation would result in a realignment of submarine cable regulatory fees with the relevant FTEs over a three-year period.
3. The Commission should decline to limit annual decreases in regulatory fees for particular payors, particularly where a decrease results from Commission efforts to correct a prior error in allocating revenue requirements among services.
 - The rationale for avoiding economic harm to payors does not apply with respect to fee decreases, particularly where required by law.
4. The Commission should reallocate indirect FTEs as direct FTEs for specific categories of payors where such FTEs provide material and sustained regulatory benefits to those specific payors.
 - This is particularly true of many indirect FTEs within the Consumer and Governmental Affairs Bureau and the Enforcement Bureau, which focus on consumer services and/or have divisions specifically established to regulate activities associated exclusively with particular categories of payors.
 - By contrast, submarine cable operators do not offer consumer services and do not use the radio spectrum at all.