INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

August 7, 2013

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

Re: ***Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*****, MD Docket Nos. 13-140, 12-201, 08-65: Ex Parte Communication**

Dear Ms. Dortch:

On August 5, 2013, Genevieve Morelli and Micah Caldwell of the Independent Telephone & Telecommunications Alliance, Jeb Benedict of CenturyLink, Mike Saperstein of Frontier, and Malena Barzilai of Windstream met with Dave Grimaldi in Commissioner Clyburn's Office and Dana Shaffer, Mark Stephens, and Tom Buckley (by phone) in the Office of Managing Director to discuss the Commission's efforts to reform its regulatory fee system to provide long overdue relief with respect to the increasingly disproportionate burden in regulatory fees borne by wireline carriers and their customers.[1]

Given that the wireline industry has been subsidizing other industry sectors through overpayment of regulatory fees for more than a decade, we explained that the Commission should move forward with its proposal to reallocate regulatory fees based on current FTE data immediately and apply any rate increases or reductions resulting from its updated reallocations during this fiscal year. As a result of marketplace changes and a corresponding shift in Commission resources, wireline providers currently pay at least 18% more than they should in regulatory fees.[2] Further delaying necessary adjustments would merely perpetuate the outdated and unjustified distribution of regulatory fees that has existed for many years.

[1] *See In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket Nos. 13-140, 12-201, and 08-65, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 13-74 (rel. May 23, 2013) ("*NPRM*").

[2] This percentage was derived by calculating the percentage decrease in regulatory fees ITSPs would experience when the rate per revenue dollar for FY 2012 (0.00375) is adjusted to the more

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To the extent the Commission deems it necessary to apply a cap on regulatory fee changes this fiscal year ("FY"), however, we emphasized that it should set the cap at a percentage that would provide meaningful change this year, and then proceed with a full transition to new regulatory fees in FY 2014.[3] More specifically, we stated that the Commission should set any FY 2013 cap at no less than 14%, and then fully implement the adjustments to its regulatory fees based on recent FTE data the following year. In light of access line losses of about 9% per year, a benchmark that does not substantially exceed 9% would provide no relief to wireline carriers and their customers because the costs are imposed on a shrinking base.[4] Indeed, despite the Commission's actions in recent years to lower the rate paid by ITSPs, wireline carriers and their customers have continued to experience increases in regulatory fee assessments each year.[5]

Accordingly, we specifically opposed the suggestion that any increases in regulatory fees be capped at 7.5% this year. Such a low cap would effectively prevent wireline carriers, especially incumbent local exchange carriers ("ILECs"), from realizing any meaningful relief. Given continued declines in access lines, ILECs would see a net reduction in fees per line of only about 2.5% in FY 2013 under the Commission's proposal.[6] That is little more than 2012's 2.1% inflation rate or the 2.5% average over the last decade.[7] Some wireline carriers with greater than

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accurate rate of 0.0030577, based on the Commission's FTE data as of September 30, 2012. *See NPRM* at Attachments F and A2.

[3] Adopting ITTA's proposal to combine wireless voice providers with other voice services in the interstate telecommunications service provider ("ITSP") fee category would serve to balance out regulatory fee increases resulting from completing the transition based on updated FTE data. *See NPRM* at ¶¶ 11-12.

[4] *See Local Telephone Competition: Status as of June 30, 2012*, Wireline Competition Bureau, Industry Analysis and Technology Division (rel. June 13, 2013) (*Local Competition Report*), at 2 & Table 1.

[5] *See* Comments of the Independent Telephone & Telecommunications Alliance, MD Docket Nos. 13-140, 12-201, and 08-65 (filed June 19, 2013), at 8 (providing examples of the excessive and ever-increasing regulatory fees paid by ITTA member companies, as follows. CenturyLink: $0.41/access line in 2011-12; $0.43 in 2012-13; and $0.45 in 2013-14. Frontier: $0.35/access line in 2011-12; $0.37 in 2012-13; and $0.41 in 2013-14. HickoryTech: $0.75/access line in 2009-10; $0.83 in 2010-11; $0.92 in 2011-12; and $1.01 in 2012-13).

[6] ITTA's analysis showed that CenturyLink would realize a reduction in regulatory fees per subscriber of just 6.3%, based on 2012 line loss. Frontier would realize a reduction of just 4.0%. HickoryTech would realize a reduction of only a mere 0.6%. *See Local Competition Report* at 14 & Table 3 (quantifying ILEC line losses).

[7] *See*, *e.g.,* U.S. Department of Labor -- Bureau of Labor Statistics, *CPI Detailed Report: Data for June 2013* at 4, 74 (available at http://www.bls.gov/cpi/cpid1306.pdf).

average line loss would actually see their regulatory fees per subscriber go up despite the effect of a 7.5% cap. In addition, absent further additional relief in FY 2014 and beyond, ILECs would actually realize a net *increase* in their regulatory fees per subscriber in subsequent years.

In sum, in moving forward with the proposal to update its fee assessment methodology to more accurately reflect the subject areas worked on by current Commission FTEs, the Commission cannot reasonably adopt a cap that prevents any meaningful regulatory fee relief for the carriers, and their customers, that have so long been overpaying because of the Commission's prior failure to reform its regulatory fee regime. Setting any cap at 14% or higher would ensure that regulatory fees are allocated in a more equitable manner in furtherance of the Commission's goals of achieving "fair, sustainable, and predictable results" and would help reduce the longstanding and increasingly unfair burden such costs impose on wireline carriers and their customers.[8]

Pursuant to Section 1.1206(b) of the Commission's rules, I am filing a copy of this letter in the appropriate dockets.[9]

Respectfully submitted,

Micah M. Caldwell
Vice President, Regulatory Affairs

cc: Dave Grimaldi
Dana Schaffer
Mark Stephens
Thomas Buckley

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[8] *NPRM* at ¶ 14.

[9] 47 C.F.R. § 1.1206(b).