



February 11, 2013

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

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

Dear Ms. Dortch:

On February 7, 2013, Genevieve Morelli and Micah Caldwell of the Independent Telephone & Telecommunications Alliance (“ITTA”), and Mike Saperstein of Frontier Communications, met with Mika Savir of the Enforcement Bureau, and Roland Helvajian and Thomas Buckley of the Office of Managing Director, regarding the Commission’s efforts to reform its regulatory fee assessment system.<sup>1</sup>

In the meeting, we discussed ITTA’s proposal for the Commission to assess all voice service providers on the basis of revenues and to update its fee methodology to ensure that regulatory fees are applied in a competitively neutral manner that correlates to industry trends and the Commission’s workload.<sup>2</sup> Specifically, providers of wireless voice services should be included in the International Telecommunications Service Provider (“ITSP”) category for assessment of regulatory fees. The Commission has demonstrated the reasonableness of this approach by including VoIP providers in the ITSP group, and ITTA urges the Commission to extend this model to include wireless providers in the ITSP base.

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<sup>1</sup> *In the Matter of Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking, MD Docket Nos. 12-201, 08-65 (rel. July 17, 2012) (“NPRM”).

<sup>2</sup> See Letter from Genevieve Morelli and Micah Caldwell, ITTA, to Marlene H. Dortch, FCC, MD Docket Nos. 12-201, 08-65 (filed Nov. 14, 2012); Reply Comments of the Independent Telephone & Telecommunications Alliance, MD Docket No. 08-65 (filed June 6, 2008); Comments of the Independent Telephone & Telecommunications Alliance, MD Docket No. 08-65 (filed Sept. 25, 2008); Letter from Joshua Seidemann, ITTA, to Marlene H. Dortch, FCC, MD Docket No. 08-65 (filed July 17, 2008).

Wireline companies continue to bear the most significant burden in regulatory fees among industry sectors, yet they no longer require the same expenditure of Commission resources as they did in 1998 when the current fee calculation rules were established. The most glaring disparity is between wireline and wireless providers.<sup>3</sup> While wireline carriers face an ever-increasing fee burden on a declining revenue and subscriber base, the relationship between wireless subscribers and the amount of the Commission's regulatory fee imposed on them has been inversely proportional. As a result, ITTA members and other wireline providers are placed at a competitive disadvantage relative to their wireless competitors as providers of substitutable voice services (and their customers) bear dissimilar responsibility for the Commission's regulatory costs.

The Commission should take the following steps to update its fee assessment methodology and promote its goals of fairness, administrative ease, and sustainability.<sup>4</sup> First, the Commission should update its fee assessment analysis to ensure that it accurately reflects the expenditure of Commission resources for each relevant fee category. This data should be updated on a regular basis (annually or biennially) to ensure that the fee process continues to reflect the Commission's actual costs by industry sector as the industry changes and evolves.

Second, the Commission should assess all voice service providers on the basis of revenues. Including wireless providers in the revenues-based ITSP fee category would ensure that like services are treated in a similar, straightforward manner.<sup>5</sup> Wireless carriers utilize Form 499-A to report their revenues to the Commission just as wireline carriers do; therefore, this approach would not create a meaningful administrative burden.

Finally, the Commission should account for cross-over issues when staff works on items affecting multiple industry sectors. For example, the Commission could rely on Bureau estimates of the industry impact of cross-industry proceedings to which staff has been assigned to further calibrate regulatory fees after it has taken the first two steps described above.

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<sup>3</sup> For instance, "in fiscal year 2008, the wireless industry paid about 17 percent of the regulatory fees while the Wireless Telecommunications Bureau incurred about 27 percent of the FCC's total costs. In contrast, the wireline industry paid about 47 percent of the total fees while the Wireline Competition Bureau incurred about 23 percent of the FCC's total costs." Government Accountability Office, "Regulatory Fee Process Needs to be Updated," GAO 12-686 (Aug. 2012) ("GAO Report"), at 14. Indeed, wireline carriers have been over-assessed regulatory fees for more than a decade in comparison to the wireless sector. Between 1998 and 2011, the percentage of total regulatory fees the wireline industry was expected to pay declined by only 4 percent (from 48 to 44 percent), despite a significant decline (44 percent) in wireline voice revenues. *Id.* at 12. In contrast, wireless industry subscribership grew 437 percent during this time period, yet the percentage of the total regulatory fees the wireless industry was expected to pay grew by only 5 percent – from 10 to 15 percent. *Id.* at 13.

<sup>4</sup> *NPRM* at ¶¶ 14-16.

<sup>5</sup> Certain fee categories in the wireless sector, *i.e.*, licenses, would necessarily remain as per unit fees.

Adopting ITTA's approach would recognize the significant industry changes and shift in Commission priorities that have occurred since 1998, simplify the Commission's regulatory fee system, and be consistent with the approach adopted by similar agencies.<sup>6</sup> Moreover, by ensuring that fee collections from each category are more closely aligned to the actual costs to regulate the entities or services that fall within such categories, the Commission can make sure that "the burdens of regulatory fees are borne in an equitable manner that does not distort the marketplace."<sup>7</sup>

Please do not hesitate to contact me with any questions regarding this submission.

Respectfully submitted,



Micah M. Caldwell  
Vice President, Regulatory Affairs

cc: Mika Savir  
Roland Helvajian  
Thomas Buckley

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<sup>6</sup> Although there may be concerns that overhauling a system that has been in place for many years might create substantial shifts in regulatory fee burdens, this does not provide a valid basis to continue with an antiquated approach that does not reflect the realities of a rapidly evolving industry and the change in Commission priorities over the past decade-and-a-half. Moreover, the Commission may be able to utilize the excess regulatory fees it has previously collected to help minimize the impact (if any) of such changes.

<sup>7</sup> *NPRM* at ¶ 14.