



The voice of mid-size communications companies

January 22, 2016

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

Re: Ex Parte Communication: MD Docket No. 15-121

Dear Ms. Dortch:

On January 20, 2016, Jeb Benedict and Shelly Eggert (by phone) of CenturyLink, AJ Burton and Carl Yastremski (by phone) of Frontier, and Genny Morelli and the undersigned of ITTA met with Mark Stephens and Tom Buckley in the Office of Managing Director, Mika Savir in the Enforcement Bureau, and Kirk Burgee in the Wireline Competition Bureau regarding the Commission's annual assessment and collection of regulatory fees.¹

We discussed the disproportionate regulatory fee burden borne by wireline voice providers and their customers and the need for the Commission to adjust its regulatory fee structure to reflect that the work of the Wireline Competition Bureau is no longer focused exclusively on interstate telecommunications service providers ("ITSPs"). We expressed our continued support for the Commission to address this problem by combining wireless voice providers into the ITSP regulatory fee category so that all voice providers pay regulatory fees associated with the work of the Wireline Competition Bureau on the same basis.

There is clear precedent for the Commission to adopt this approach, similar to how it combined interconnected VoIP,² IPTV,³ and DBS providers⁴ into additional fee categories in

¹ See *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order and Further Notice of Proposed Rulemaking, MD Docket No. 15-121 (rel. Sept. 2, 2015) ("*FY 2015 NPRM*").

² See *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, MD Docket No. 07-81, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-140, ¶¶ 11-20 (rel. Aug. 6, 2007) ("*FY 2007 R&O*").

³ 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, 08-65, Report and Order, FCC 13-110, ¶¶ 32-33 (rel. Aug. 12, 2013).

⁴ See *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2015; Amendment of Part 1 of the Commission's Rules; Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, MD Docket Nos. 15-121, 14-92, Notice of Proposed Rulemaking, Report and Order, and Order, FCC 15-59, ¶¶ 28-41 (rel. May 21, 2015).

recognition of the work performed by other core bureaus overseeing such entities. In doing so, the Commission found in general that adding such providers to additional fee categories was warranted because: (i) those services were similar to services provided by other providers in the relevant fee category; (ii) those services encompassed similar regulatory policies and programs overseen by the relevant bureaus; (iii) such providers created costs for the FCC by participating in rulemaking proceedings, waiver petitions, and other matters pending before the relevant bureaus; and (iv) excluding such providers from regulatory fees associated with the relevant bureaus would place existing providers in that fee category at a competitive disadvantage.

Applying that rationale here, the FCC can easily conclude that wireless carriers should be incorporated into the ITSP regulatory fee category for purposes of Wireline Competition Bureau regulatory fees. First, wireless voice services are increasingly used to replace traditional telephone service, continue to grow and attract customers who previously relied on traditional voice service, and are almost indistinguishable, from consumers' point of view, from the service offered by ITSPs. Second, wireless voice services encompass similar regulatory policies and programs as wireline services, such as universal service (e.g., Lifeline), intercarrier compensation, net neutrality, number portability, special access, rate integration, CPNI, pole attachments, and other issues overseen by the Wireline Competition Bureau. Third, wireless carriers create costs for the Commission by participating in rulemaking proceedings, waiver petitions, and other matters within the Wireline Competition Bureau's purview. Finally, excluding wireless carriers from the ITSP regulatory fee category puts wireline voice providers at a competitive disadvantage because they must bear the entire regulatory fee burden for the activities of the Wireline Competition Bureau when much of that work also affects the wireless industry. Thus, wireless carriers should share in the costs of the Wireline Competition Bureau's regulatory activities in the same manner as ITSPs.

It is not necessary that the costs and benefits associated with the Commission's regulation of wireless carriers be identical to those associated with regulating ITSPs; regulatory fee assessments are based on the burdens imposed on the Commission, not benefits realized by regulated entities.⁵

Moreover, it is immaterial that wireless carriers already pay regulatory fees associated with work performed by the Wireless Telecommunications Bureau. The purpose of regulatory fee reform is to ensure that the Commission's fee assessment methodology more accurately reflects the work of Commission employees. Therefore, it is common for entities regulated by the Commission to pay multiple regulatory fees to the extent they provide multiple services and/or create work for multiple bureaus within the Commission. For example, ITSPs that provide video services in addition to voice services pay regulatory fees for the work performed by both the Wireline Competition Bureau and the Media Bureau. The fact that those ITSPs are regulated by one bureau does not shield them from paying regulatory fees for work performed by the other bureau. Those ITSPs share proportionally in the costs with other entities that fall within the relevant fee categories so that all affected entities are contributing fairly to cost recovery for work performed by Commission staff in those bureaus. So, too, should wireless

⁵ See, e.g., *FY 2007 R&O* at ¶ 19.

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carriers pay their fair share toward the work performed by the Wireline Competition Bureau by contributing to the cost of regulatory fees associated with the bureau's regulation of such entities.

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

Respectfully submitted,



Micah M. Caldwell

Vice President, Regulatory Affairs

cc: Mark Stephens
Tom Buckley
Mika Savir
Kirk Burgee