

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

In the Matter of)
)
Assessment and Collection of Regulatory Fees) MD Docket No. 04-73
For Fiscal Year 2004)

To: The Commission

**REPLY COMMENTS OF THE
RURAL TELECOMMUNICATIONS GROUP, INC.**

The Rural Telecommunications Group, Inc. (“RTG”),¹ by its attorneys, hereby submits reply comments in support of the petition for reconsideration filed by Cingular Wireless² in response to the Federal Communications Commission’s (“FCC” or “Commission”) *Order* establishing the methodology by which regulatory fees for Fiscal Year 2004 will be collected from Commercial Mobile Radio Services (“CMRS”) providers.³ Specifically, RTG supports the Cingular Petition and the Comments filed in

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG’s members have joined together to speed delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG’s members provide wireless telecommunications services, such as cellular telephone service and Personal Communications Services, among others, to their subscribers. RTG’s members are small businesses serving or seeking to serve secondary, tertiary and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

² Cingular Wireless LLC, *Petition for Reconsideration of Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Docket No. 04-73 (filed August 6, 2004) (“Cingular Petition”).

³ *See Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Docket No. 04-73, *Report and Order*, FCC 04-146 (rel. June 24, 2004) (“*Order*”); *See also*

this proceeding that unanimously agree that the Commission should reconsider its decision to use Numbering Resource Utilization/Forecast (“NRUF”) methodology of reporting instead of utilizing actual subscriber numbers as the basis for its fees.⁴

DISCUSSION

RTG members are concerned that the Commission’s new NRUF methodology of assessing CMRS regulatory fees is inaccurate and unreasonably burdensome, a concern shared by Cingular, CTIA and the Wireless Carriers.⁵ Therefore, RTG urges the Commission to continue to assess regulatory fees based on carriers’ own reports of units in service because that methodology allows carriers to report subscriber counts in a consistent and reliable manner.

RTG fully agrees with the analysis of Cingular, CTIA and the Wireless Carriers that data contained in the NRUF report not only routinely contains numbers that are out of service, but will also contain numbers that have been ported to another carrier, and numbers which have been “contaminated” (*i.e.* numbers that have been previously ported as a result of thousand block number pooling.)⁶ As the Petition and the Comments in this proceeding aptly point out, utilizing the NRUF methodology to determine the number of subscribers, units or circuits held by a specific CMRS carrier will create uncertainty and confusion throughout the industry, and will force CMRS operators to remit regulatory

Public Notice, *Petitions for Reconsideration of Act in Rulemaking Proceeding*, Report No. 2671 (rel. September 2, 2004).

⁴ See Comments of CTIA – The Wireless Association (“CTIA Comments”); and Comments of the Wireless Carriers (“Wireless Carriers Comments”) (collectively, “Comments”). CTIA requests that the Commission apply publicly reported SEC numbers to draft regulatory fee assessment letters and allow carriers the option or correcting discrepancies. RTG does not take issue with this approach.

⁵ Cingular Petition at 5; CTIA Comments at 2-4; Wireless Carriers Comments at 3-4.

⁶ Cingular Petition at 2; CTIA Comments at 2; Wireless Carriers at 3-4.

fees for units that have been pooled, ported or are no longer or not yet in service.⁷ Moreover, the Commission's *Order* acknowledges that the new NRUF methodology is problematic and will not accurately reflect subscriber units.⁸ Accordingly, the imposition of the NRUF methodology of reporting will result in the payment of additional, baseless, regulatory fees, thus posing significant hardships on small, rural CMRS operators—operators already feeling a cash crunch from smaller customer bases and dwindling roaming revenues.

The NRUF methodology not only imposes costs on carriers but also imposes new costs on the Commission. As a direct result of the new methodology for determining subscriber count, Commission staff will be required to reconcile NRUF data against data in the LNP databases in order to estimate the number of active customers, review any challenges to its estimates and prepare a written statement identifying the reasons for identifying the challenge.⁹ RTG agrees with Cingular and the Wireless Carriers that if the Commission's goal is to promote efficiency and keep the financial burden to a minimum then utilizing year-end customers in service data in determining the total amount of regulatory fees owed by each carrier is the appropriate fee collection methodology.¹⁰

⁷ *Id.*

⁸ *Order* at § 46.

⁹ *Order* at § 48.

¹⁰ Cingular Petition at 6; Wireless Carriers Comments at 6.

CONCLUSION

RTG strongly supports comments filed in this proceeding urging the Commission to reconsider and/or clarify its *Order* by confirming that CMRS carriers can use subscriber numbers to calculate carriers' regulatory fee obligations. In so doing, the Commission will ensure that regulatory fees are assessed against all licensees in a fair and equitable manner.

Respectfully submitted,

**RURAL TELECOMMUNICATIONS
GROUP, INC.**

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Dated: October 7, 2004

CERTIFICATE OF SERVICE

I, Linda Braboy, with the law firm of Bennet & Bennet, PLLC, do hereby certify that I have on this 7th day of October, 2004, served copies of the foregoing "REPLY COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC." via electronic transmission to the following:

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