



Regulatory Review

ITU WRESTLES WITH FILING FEES

By Gerry Oberst

When one of the highest policy-making levels of the International Telecommunication Union (ITU) meets next month, among its numerous issues will be how to deal with ITU filing fees for satellite networks. The fee system seems broken and reform is needed.



The highest level of ITU policy-making is the Plenipotentiary Conference, in which ITU member states meet every four years to set general policies, adopt strategic and financial plans and elect key ITU management members. The next such Plenipotentiary is scheduled for late 2006.

Between Plenipotentiaries, the ITU Council considers broad policies and ensures the day-to-day running of the ITU by approving budgets and controlling finances. Up to a quarter of the total ITU member states might attend the Council, based on a selection by the Plenipotentiary.

The next ITU Council meets from July 12 to 22 in Geneva. On this year's agenda is the recurring and most troublesome matter of the ITU budget. One of the more difficult issues connected to the budget is how to charge the satellite industry for the administrative costs of ITU services.

The 1998 ITU Plenipotentiary adopted or amended resolutions on processing charges for satellite network filings. Those resolutions instructed the Council to adopt a methodology to ensure that the fees cover no more than the actual costs of providing products and services. The Council has been wrestling with how to accomplish this goal ever since. Various methods for calculating cost recovery charges have been put in place, but none of them have yet been

satisfactory and Council 2005 will consider yet another set of possibilities.

In 2000 the Council adopted charges based on the number of pages in satellite filings. After this resulted in unexpected levels of filing fees, and because the page count method became outdated with the introduction of electronic filings, the Council in 2002 adopted a new "unit" approach, in which different types of satellite filings were grouped into specific categories under the presumption that they require different levels of processing effort. This change led to very different fees than operators had expected, with some operators receiving invoices of more than 200,000 Swiss francs (about \$165,000 in today's funds) for a single filing. Thus, Council 2003 adopted a sliding cap on the maximum fees to be charged. Nevertheless, the calculation methods for some categories still seemed out of whack, with invoices reaching 400,000 Swiss francs for a single network filing.

Council 2004 adopted minor changes to the process and insisted on studies of how to charge an hourly fee for cost recovery. In the meantime, however, ITU filing fees have become even more dubious, and in April 2005 one operator flatly refused to pay a fee of close to one million Swiss francs for a single, although complex, satellite network.

That April fee represents more than three-quarters of a million dollars to process a single network. Operators claim such fees overstate by 40 to as much as 140 times the real underlying costs, due to flawed calculation methods. The ITU's Radiocommunication Bureau admits as much and in a March 2005 document, the Bureau noted that internal studies show that a complex filing may require up to five times longer to process this than a simple filing. Yet the current cost recover methodologies can lead to charges many multiples higher for a complex filing.

A recent phenomena partially due to the inflated fees is that countries are cancel-

ing satellite filings in large numbers. The Radiocommunication Bureau reported that as of December 2004, some 139 invoices issued in 2002/2003 to 17 administrations were overdue. It later reported, as of March 2005, that another 18 invoices issued in 2004 to six different administrations were overdue. Most of these filings will never be paid and the filings have been cancelled for non-payment.

On the one hand, these cancellations clear out filings that perhaps were never really serious, thus eliminating some of the glut of so-called "paper satellites." On the other hand, the large number of cancellations is affecting the ITU's finances. In a 2004 third quarter report on ITU finances, the ITU general secretariat reported to Council that cost recovery income from satellite network filings was running far below the expected budget.

Creating a cost recovery structure and fiddling almost every year with the method of calculation links the inter-governmental operations of the ITU very closely to commercial operations. Satellite operators always paid close attention to the regulations and recommendations coming from the ITU and its subsidiary bodies. Now, however, with the ITU issuing very substantial invoices for satellite filings that companies must pay in order to obtain access to orbits and frequencies, operators will pay even closer attention to the decision-making and policies of the ITU.

These new dynamics lead to uneasy relations between commercial operators and government departments responsible for ITU inputs as well as satellite filings. As Council 2005 draws closer, operators need to review proposed solutions and watch the ITU budgeting process closely. ♦

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