

Law Offices

January 13, 2017

1500 K Street N. W.  
Suite 1100  
Washington, D.C.  
20005-1209  
  
(202) 842-8800  
(202) 842-8465 fax  
www.drinkerbiddle.com

**By ECFS**

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

RE: *Ex Parte Submission - WC Docket 12-375 & GN Docket 13-111*

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, the Wright Petitioners, Prison Policy Initiative, New Jersey Advocates for Immigrant Detainees and United Church of Christ, OC Inc. (collectively, the "ICS Advocates"), hereby submit this Ex Parte Notice regarding the aforementioned parties' submission of Comments on the Draft #Solutions2020 Action Plan on January 11, 2017.<sup>1</sup> Pursuant to the Notice, a copy of the ICS Advocates' Comments is being submitted in the dockets of the above-referenced open proceedings.

As provided in the Comments, the ICS Advocates expressed their deep appreciation for Commissioner Mignon Clyburn's dedication to protect American consumers, and in particular, inmates and their families. While the Notice sought comment on the draft Action Plan covering a number of different issues, the ICS Advocates focused solely on those issues that impact inmates and their families.

In particular, the ICS Advocates presented a "snapshot" of intrastate ICS rates charged by six ICS providers, which was gathered by undersigned counsel for the Wright Petitioners, and the staff of the Prison Policy Initiative, over a period of three weeks in late 2016. Due to the efforts of ICS providers and correctional facilities, the rate caps on intrastate ICS that were adopted in 2015, and adjusted in 2016, have been stayed in federal court, and the "snapshot" was intended to highlight the current ICS landscape.<sup>2</sup>

The most significant discovery made from reviewing the current pricing policies of the ICS providers was that several ICS providers have imposed a rate structure for intrastate ICS calls that bear a remarkable similarity to the now-prohibited "connection fee" which was prohibited in the 2015 Second Report and Order, and memorialized in Section 64.6080 of the Commission's rules.<sup>3</sup>

<sup>1</sup> See #Solutions2020 Call to Action Plan, Public Notice # 342689 (rel. Dec. 19, 2016) (the "Notice").

<sup>2</sup> See Rates for Interstate Inmate Calling Services, Second Report and Order, 30 FCC Rcd 12,763 (2015), *aff'd mem.*, Order on Reconsideration, 31 FCC Rcd 9,300 (2016). See also *Securus Technologies Inc. v. FCC*, No. 16-1321 (D.C. Cir. Nov. 2, 2016).

<sup>3</sup> See 47 C.F.R. §64.6080 (2016). This rule was not stayed by the DC Circuit.

For example, Securus Technologies charges the following rates for intrastate ICS calls from county facilities, whereas a 15-minute ICS call from that facility to any other state in the United States would cost \$3.15:

State	Facility	1st Min. Charge (\$)	Add. Min Charge (\$)	15 Min. Rate (\$)	15 Min. Interstate Call (\$)
MI	Sanilac County Jail	8.20	0.01	8.34	3.15
WI	Iron County Sheriff	5.80	0.95	19.10	3.15
TX	Oldham County Jail	5.76	0.41	11.50	3.15
KS	Ford County Jail	5.50	0.83	17.12	3.15
AR	Arkansas County Jail	5.35	1.40	24.95	3.15

Global Tel\*Link has followed the similar practice of charging substantially higher 1st minute rates than for any subsequent minute for county jails:

State	Facility	1st Min. Charge (\$)	Add. Min Charge (\$)	15 Min. Rate (\$)	15 Min. Interstate Call (\$)
OR	Douglas County	5.31	0.89	17.77	3.15
AR	Jefferson County	4.64	0.69	14.30	3.15
VA	Culpeper County	4.64	0.69	14.30	3.15
WI	Clark County Jail	4.64	0.69	14.30	3.15
MI	Monroe County	4.60	0.65	13.70	3.15

Finally, Legacy Inmate Communications, a company that has admitted that it failed to participate in the 2014 Mandatory Data Collection, violates both the letter and spirit of Section 64.6080 by charging a per-call connection fee, and also by following the same rate structure as Securus and GTL, for county and local facilities:

State	Facility	1st Min. Charge (\$)	Add. Min Charge (\$)	15 Min. Rate (\$)	15 Min. Interstate Call (\$)
TX	Sommerville County Jail	13.56	1.15	30.81	3.15
MA	Everett Police Department	11.99	1.29	31.34	3.15
NJ	Lindenwold Police Department	11.99	1.29	31.34	3.15
CA	Yolo County Sheriff	9.50	1.49	31.85	3.15
NY	Lancaster Police Department	9.66	0.89	23.01	3.15

The ICS Advocates also supplied information relating to serious questions regarding the efficacy of Managed Access Systems, and the impact that these costly systems could have on inmates and their families if ICS rates and fees are increased to permit ICS providers to recover their investments. The ICS Advocates noted that there is overwhelming evidence that a substantial share of contraband cellphones are used by inmates seeking to avoid paying unjust, unreasonable and unfair ICS rates and fees.

As such, while the ICS Advocates acknowledged that there is the potential for serious harm arising from contraband cellphones, the Commission should ensure that ICS consumers are not left footing the bill for these costly systems (which can cost more than \$1 million/facility) without first requiring that correctional authorities take reasonable, substantially-less costly steps to stop the flow of contraband cellphones into correctional facilities.

Should you have any questions regarding these matters, please contact undersigned counsel.

Respectfully submitted,



Lee G. Petro

*Counsel for the Wright Petitioners*

cc (by/email):

Chairman Thomas Wheeler

Commissioner Mignon Clyburn

Commissioner Ajit Pai

Commissioner Michael O'Rielly

Howard J. Symons, General Counsel

Travis LeBlanc, Chief, Enforcement Bureau

Matthew S. DelNero, Chief, Wireline Competition Bureau

Ruth Milkman, Chief of Staff for Chairman Thomas Wheeler

Lisa Hone, Legal Advisor to Chairman Thomas Wheeler

Claude Aiken, Legal Advisor to Commissioner Clyburn

Nicholas Degani, Legal Advisor to Commissioner Pai

Brendan Carr, Legal Advisor to Commissioner Pai

Amy Bender, Legal Advisor to Commissioner O'Rielly

Erin McGrath, Legal Advisor to Commissioner O'Reilly

Madeleine Findley, Deputy Bureau Chief, Wireline Competition Bureau

Pamela Arluk, Chief, Pricing Policy Division, Wireline Competition Bureau

Gil Strobel, Deputy Division Chief, Pricing Policy Division, Wireline Competition Bureau