

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

\_\_\_\_\_  
IN THE MATTER OF THE COMMISSION'S )  
NOTICE OF PROPOSED RULE MAKING )  
AND NOTICE OF INQUIRY IN )  
CC DOCKET NO. 94-158 )  
\_\_\_\_\_

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COMMENTS OF THE MINNESOTA DEPARTMENT OF PUBLIC SERVICE

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## INTRODUCTION

The Minnesota Department of Public Service (MDPS, the Department) is the agency that represents all consumers in matters coming before the Minnesota Public Utilities Commission. MDPS supports the Federal Communication Commission's (FCC, the Commission) proposal to expand the definition of "consumer" in the case of a collect toll call to include the called party. MDPS also supports extending the rule regarding the handling of emergency calls by operator service providers to aggregators.

Posted information at telephones pre-subscribed to operator service companies should be updated within 30 days of any change. The Department is also very concerned about the changes occurring in telephone services provided to inmates. MDPS believes that security measures can be maintained while providing reasonably priced telephone service to inmates, to their families, and to other rate payers impacted by inmate phone services.

**I. DEFINITION OF "CONSUMER" FOR COLLECT CALLS SHOULD EXTEND TO CALLED PARTY.**

The Department agrees with the FCC's proposal to expand the definition of "consumer" to include both the calling party and the called party involved in a collect phone call. The presumption that the calling party and called party together initiate a call is appropriate. Consequently, the called party as well as the calling party should receive the benefit of branding prior to incurring charges for a call.

The Department does not collect specific data regarding the cost of compliance with such a proposed rule change nor the ratio of collect calls to all operator-assisted calls. The costs of compliance with the proposed change in the rule should be considered. However, unless these costs are found to be unreasonable, the Department supports the expansion of the definition of "consumer" to include the called party of a collect call.

**II. AGGREGATORS SHOULD BE SUBJECT TO THE SAME EMERGENCY CALL REQUIREMENTS AS OPERATOR SERVICE PROVIDERS.**

The Department believes that extending the requirements for handling emergency calls to aggregators is necessary given the changes in the Telecommunications Authorization Act of 1992. It proposes no other modifications beyond those that apply to operator service companies.

**III. INMATE-ONLY TELEPHONE SERVICE RULES SHOULD BE MODIFIED.**

*A. RATES ARE RISING DRAMATICALLY AND SHOULD BE SUBJECT TO PRICE CAPS TIED TO NON-INMATE TELEPHONE SERVICES.*

The Department recommends that operator service charges for interstate calls be capped at the rates of operator services provided by the dominant toll carrier for non-inmate operator services unless higher rates can be justified on the basis of costs. Operator service charges for collect toll calls originating from inmate telephone service are rising dramatically in Minnesota. LDDS, a provider of telephone service to inmates,

recently raised the operator service charge applicable to inmate service from \$1.40 to \$3.00 in Docket No. P3012/TC-95-18.

Since 1988, the cost of operator services to inmates has been capped in Minnesota via a Minnesota Public Utilities Commission Order which tied the operator service charges to the operator service charge levied by AT&T for toll calls and to the level charged by local exchange companies for local calls. However, AT&T recently introduced "AT&T Prison Collect With Controls Service" with an operator charge of \$3.00, thus lifting the price cap significantly for toll calls. The Department believes that rates charged to inmates should not exceed the charges to non-inmates unless the charges can be justified on the basis of costs.

*B. THE COMMISSION STRUCTURE IS AN IMPORTANT FACTOR IN SELECTING AN INMATE TELEPHONE SERVICE PROVIDER.*

The Department believes that in the absence of price caps for services, the dependence of selecting a company on the basis of its commission structure will have the effect of increasing rates. Therefore, price caps applicable to all companies should be mandated. Based on interviews with the purchasing staff of several Minnesota correctional institutions, the Department concludes that commissions play an important part in the final selection of the provider for inmate telephone services. In some cases, commissions reported by correctional facilities exceed 40 percent of gross revenues.

The Department has only anecdotal data regarding the impact of commission structure on prices. In one case, a correctional facility specified a price ceiling of 25 cents for the price of a local call. It also specified that toll calls be carried at rates equal to AT&T for inter-LATA and interstate calls and those of U S WEST for intra-LATA calls. After qualifying the bidding companies, the selection was made on the basis of the commission. The company which won the bid included a commission for the institution which exceeded 40 percent of gross revenues. The commission of the company which lost the bid was less than half of the commission of the winning company.

In this case, the commission structure had no effect on the rates of telephone services because of price caps set by the institution. However, commissions add

significantly to the costs of providing inmate telephone services. When this is considered along with the fact that institutions base their selection of providers on the size of commission, it strongly suggests that without price caps, rates will increase. The example above suggests that commissions need not be capped if the prices of services have appropriate caps.

C. *BRANDING SHOULD BE A REQUIREMENT FOR INMATE-ONLY COLLECT CALLS.*

Branding a call should be mandatory for collect calls because it alerts called parties to the fact that they are likely to be billed for a call by other than their local exchange company or pre-subscribed long distance company. Branding for calls completed with the assistance of alternative operator services was ordered by the Minnesota Public Utilities Commission on November 19, 1991 in Docket No. P999/CI-88-917. This requirement was extended to include inmate-only operator services in an Order After Reconsideration issued July 19, 1993 in Docket No. P999/CI-91-22.

As a security measure for the called party, the Department recommends that all calls should be branded to the effect that a call is originating from an inmate facility .

D. *POSTED CONSUMER INFORMATION REQUIREMENTS SHOULD BE MINIMAL.*

Consumer information should be posted unless they are prohibited by inmate facility regulations. Posted consumer information requirements should include dialing instructions, the operator service rate, and usage rates. If rates change, posted information should be updated within 30 days of the change.

E. *INSTITUTIONAL SECURITY NEEDS MAY REQUIRE BLOCKING AND LIMIT CHOICES OF TOLL CARRIER AND THE TYPE OF OPERATOR SERVICES OFFERED.*

Rules governing inmate telephone services should consider the special security aspects of telephone services provided to inmates. Rules should not restrict the correctional facility from blocking 900 or other numbers which could result in financial obligations on the part of the institution. Because of a history of fraudulent use of credit

cards and other criminal activity, rules should not require the correctional facility to offer more than one choice of local or toll carrier. For the same reasons, rules should not specify the type of operator service provided by the institution.

The Department recommends that rules not restrict a correctional facility from monitoring calls or implement rules which would hinder an institution's efforts to prevent the perpetration of crimes via the telephone network by inmates. Finally, rules should prohibit any type of calling on the part of inmates which would compromise the branding requirements listed above.

F. *INMATES SHOULD BE PROVIDED WITH REASONABLY PRICED TELEPHONE SERVICES.*

Rules should consider the need for reasonably priced inmate telephone services. In Minnesota, rates for local calls cannot exceed the price of a normal coin call plus a reasonable charge for operator and billing services. Operator services for local calls cannot exceed those charged by local exchange companies unless they can be justified on the basis of costs. Likewise, charges for operator services and usage for toll calls cannot exceed those of the dominant long distance carrier unless they are justified on the basis of costs.

The Department recommends that similar policies be enacted for interstate calls. In addition, if the dominant interstate carrier charges a higher rate for operator services for inmates than for non-inmates, the Department recommends that the carrier be required to justify the higher rates on the basis of costs.

G. *CALLED PARTIES SHOULD BE CONSIDERED "CAPTIVE" CUSTOMERS AND REQUIRE RATE PROTECTION.*

Rules should prioritize the interests of called parties, especially those contacted via collect calls originating at correctional institutions. Because these customers are "captive" customers and are responsible for payment of charges for calls, rate protection is especially important. As stated above, one company in Minnesota recently increased the operator service charge applicable to inmate toll calls from \$1.40 to \$3.00 per call, an increase of 114 percent. Rates for operator services should not exceed the rates for non-

inmate operator services unless the provider of the service can justify the rates on the basis of costs for telephone services provided, exclusive of commission payments.

Rate information should be provided to called parties for collect calls if the called party so requests prior to incurring any charges. Rules should allow for this information to be provided by a live or automated operator. A toll free number should be included on any bill rendered for inmate telephone service so as to facilitate rate payer inquiries.

Called parties should be protected from harassing calls originating from inmate facilities. Upon request from called parties, correctional institutions should be required to block calls originating from inmates when harassment occurs.

Inmate telephone service providers should be required to inform called parties regarding the status of their accounts before blocking their lines from calls originating in an inmate facility. Notice should also be given to the institution. Lack of this type of notice may lead the inmate to believe that the institution itself has blocked the call.

#### **IV. CONSUMER INFORMATION FOR AGGREGATOR TELEPHONES SHOULD BE UPDATED WITHIN 30 DAYS OF CHANGES TO THE PRE-SUBSCRIBED TOLL CARRIER.**

Updates to consumer information posted near aggregator telephones should be updated within 30 days of any changes to pre-subscribed toll carrier. Incorrect information may mislead end users and lead to consumer confusion and possible unnecessary charges. Information from a number of aggregators indicate that phones are serviced anywhere from twice per week to once per month. The Department believes that 30 days is a reasonable time to allow aggregators to make the necessary updates.

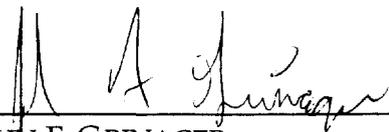
## CONCLUSION

The Minnesota Department of Public Service supports the Federal Communication Commission's proposal to expand the definition of "consumer" in the case of a collect toll call to include the called party. Extending the rule regarding the handling of emergency calls by operator service providers to aggregators will enhance consumer safety and should be approved. Updating information posted at aggregator telephone locations should be completed within 30 days of changes in pre-subscribed toll carriers in order to avoid consumer confusion and possible unnecessary charges.

Dramatic rate increases for inmate telephone service may threaten access to reasonably priced communications between inmates and their families and other affected rate payers. Price caps based upon non-inmate services provided by the dominant interstate toll carrier should be implemented to prevent and/or roll back non-cost based charges.

RESPECTFULLY SUBMITTED,

MINNESOTA DEPARTMENT OF PUBLIC SERVICE

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AFFIDAVIT OF SERVICE

I, **Linda Chavez**, being first duly sworn, deposes and says:

That on the **10th** day of **March**, **1995**, she served the attached **DPS Comments**

**CC Docket No. 94-158**

- X by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid.
- X by personal service
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to all persons at the addresses indicated below or on the attached list:

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Linda Chavez

Subscribed and sworn to before me  
this 10<sup>th</sup> day of March, 1995

Miriam J. Stahl

