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December 2, 2014

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Notice of Ex Parte Presentation – Supplemental Information

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: WC Docket No. 12-375, Petition of Pay Tel Communications, Inc. for Extension of Waiver of Interim ICS Rates

Dear Ms. Dortch:

This Notice serves to supplement the Petition for Extension of Waiver of Interim Interstate ICS Rates filed October 31, 2014 by Pay Tel Communications, Inc. ("Waiver Extension Petition").

By supplemental filing dated November 11, 2014, Pay Tel submitted an updated shortfall analysis that reflects Pay Tel's current business operations (current as of Q3 2014). The updated shortfall analysis showed that, using the Commission's cost-based rate caps as proxies for Pay Tel's costs (consistent with the shortfall analysis Pay Tel presented in January 2014), Pay Tel will be faced with a net intrastate shortfall of $1,676,915 if forced to lower interstate rates to the FCC's interim rate caps.[1]

In response to queries from Commission staff, Pay Tel has prepared a revised analysis demonstrating the impact of the following scenarios on the overall net intrastate shortfall: (1) use of average costs submitted by Pay Tel in response to the Commission's Mandatory Data

[1] This updated projection was generally consistent with the projected net intrastate shortfall of $1,666,412 shown in Pay Tel's January 8, 2014 Petition for Waiver. *See, e.g.*, Pay Tel Communications, Inc., Petition for Waiver of Interim Interstate ICS Rates, WC Docket No. 12-375, at 14 (Jan. 8, 2014).

Collection (the "August 2014 costs") in lieu of the costs submitted by Pay Tel in July 2013; (2) use of the August 2014 costs together with consideration of the impact of the loss by Pay Tel of a client whose locations had previously provided a significant offset to the net intrastate shortfall (this client was identified as Locations 148 and 148A in the updated shortfall analysis);[2] (3) use of the August 2014 costs together with costs for Continuous Voice Biometric Identification[3] (without excluding the existing contribution from Locations 148 and 148A); and (4) use of the August 2014 costs together with costs for Continuous Voice Biometric Identification and also excluding the existing contribution from Locations 148 and 148A. In addition, for each scenario, Pay Tel has calculated a per-MOU amount necessary to recover the respective demonstrated intrastate shortfall and has provided alternative calculations demonstrating the impact of hypothetical 10%, 15% and 20% increases in interstate calling demand over the demand experienced by Pay Tel under its waiver rate. *See generally* Declaration of Don J. Wood, attached hereto as Exhibit B.

The results from these alternative scenarios are as follows:

	Total Intrastate Shortfall Amount	Per-MOU Shortfall Amount	10% Increase	15% Increase	20% Increase
Scenario 1	$755,672	$0.173	$0.1573	$0.1504	$0.1442
Scenario 2	$875,262	$0.200	$0.1822	$0.1742	$0.1670
Scenario 3	$2,443,947	$0.559	$0.5086	$0.4865	$0.4662
Scenario 4	$2,548,599	$0.583	$0.5304	$0.5073	$0.4862

The per-MOU amounts set forth above reflect the amount Pay Tel would need per-MOU above the interim rate caps to recover the shortfall amount illustrated for each of the scenarios (based on application of Pay Tel's August 2014 costs). For example, the table set forth above shows that, assuming a 20% increase in interstate calling demand over Pay Tel's Q3 2014 data,[4] Pay

[2] *See* Letter from Marcus W. Trathen, Counsel to Pay Tel, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte Presentation—Supplemental Information, WC Docket No. 12-375, at n. 9 (Nov. 11, 2014) (explaining loss of facilities as of September 15, 2014).

[3] The rate caps adopted by the Commission in its ICS Order were "based on cost studies that include the cost of advanced security features such as continuous voice biometric identification." Report and Order and Further Notice of Proposed Rulemaking, *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, FCC 13-113, at ¶ 58 (rel. Sept. 26, 2013). Pay Tel demonstrated, and the Commission accepted, that such costs were approximately $0.02/minute. *Id.* at ¶ 75. If Pay Tel is not permitted to recover the costs accepted by the Commission as necessary to provide "advanced security features," Pay Tel will be unable to deploy such technologies in its facilities.

[4] Pay Tel has compared its interstate demand for two weeks under the FCC's interstate rate caps (November 11, 2014 to November 24, 2014) to two weeks under the waiver rate (October 28, 2014 to November 10, 2014). Its analysis shows a 20% increase in interstate calls, a 31% increase in interstate minutes, and a 35% decrease in interstate revenue. This limited dataset shows (a) that the increase in demand is not sufficient to offset the reduction in the rate, and (b) that a reduction from the waiver rate to

(continued …)

Tel would need to recover $0.1442/MOU above the FCC's interim rate caps in order to recover its intrastate shortfall calculated using its August 2014 costs and making no other adjustments for the loss of Locations 148 and 148A, voice biometrics or security costs (i.e., "Scenario 1").

* * *

Please do not hesitate to contact the undersigned should any questions arise concerning this Notice.

Sincerely yours,

/s/ Marcus W. Trathen
Marcus W. Trathen

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a rate level above the interim interstate caps would likely result in an increase in interstate demand in MOU of less than 31%. *See* Declaration of Vincent Townsend, attached hereto as Exhibit A.

EXHIBIT A

DECLARATION OF VINCENT TOWNSEND

I, Vincent Townsend, declare and state as follows:

1. I am the President of Pay Tel Communications, Inc. I am over the age of 21. I am competent to make this declaration and, unless otherwise indicated, all the facts set forth in this declaration are based on my personal knowledge.

2. I have reviewed the foregoing Notice of Ex Parte Presentation—Supplemental Information, and the contents of same are true of my own knowledge except as to those matters and things stated therein upon information and belief, and as to those I believe them to be true.

3. As explained in the Notice of Ex Parte Presentation, Pay Tel has compared demand it has experienced for interstate calling for two different two-week periods, one period during which the Waiver's rate cap of $0.46/minute was in effect (the period of October 28, 2014 to November 10, 2014) and one period during which the *ICS Order*'s interstate rate caps were in effect (the period of November 11, 2014 to November 24, 2014).

4. Pay Tel's analysis shows that, during the two-week period when the *ICS Order*'s interstate rate caps were in effect, Pay Tel experienced across all facilities it serves a 20% increase in interstate calls, a 31% increase in interstate minutes of use, and a 35% decrease in interstate revenues.

5. Although this dataset is very limited, it shows that the increase in interstate calling demand resulting from the reduction in interstate ICS rates to the *ICS Order*'s levels does not provide sufficient revenue to offset the rate reduction. Relatedly, the limited dataset illustrates that a reduction of the Waiver rate of $0.46/minute to some rate above the *ICS Order*'s rate caps, while potentially resulting in an increase in interstate calling demand, would likely result in an increase in interstate calling demand in MOU of less than 31%, if any such increase was achieved.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information and materials are true and correct to the best of my knowledge, information, and belief.

Dated: December 2, 2014

Vincent Townsend

Vincent Townsend

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EXHIBIT B

Declaration of Don J. Wood

1. My name is Don J. Wood. I am a principal in the firm of Wood & Wood, an economic and financial consulting firm. My business address is 914 Stream Valley Trail, Alpharetta, Georgia 30022.

2. I provide economic and regulatory analysis of telecommunications and related convergence industries with an emphasis on economic and regulatory policy, competitive market development, and cost-of-service issues.

3. I am the author of the 2008 Inmate Calling Services Interstate Call Cost Study and the 2013 Pay Tel Communications Cost Study used by the Commission to establish Interim Rate Caps for ICS services in its *Report and Order and Further Notice of Proposed Rulemaking* (FCC 13-113). I also had primary responsibility for the design and development of the Pay Tel cost analysis provided in response to the Commission's 2014 ICS Data Collection.

4. I have been asked by Pay Tel Communications, Inc. (Pay Tel) to analyze the caps applicable to its intrastate calling services in order to determine, with the Commission's interim rate caps in place for interstate services, whether Pay Tel will be able to recover its costs and receive fair compensation for the combination of intrastate and interstate services that it provides. The results of this Intrastate Shortfall Analysis indicate that a net annual intrastate shortfall of $1,676,915 remains.

5. I have developed additional scenarios to show the sensitivity of the calculated shortfall to changes in the assumed mix of facilities and the costs of each call type.

6. For the first alternative scenario, I assumed an average cost of $.22/MOU for Postpaid Collect and $.20/MOU for Prepaid Collect and Debit (these numbers are consistent with the results of Pay Tel's reported 2013 costs provided in response to the Commission's 2014 ICS Data Collection, if no costs for Continuous Voice Biometric Identification are included). These cost assumptions yield a net annual intrastate shortfall of $755,672.

7. For the second alternative scenario, I considered the impact of the loss by Pay Tel of a client whose locations had previously provided a significant offset to the net intrastate shortfall (this client was identified as Locations 148 and 148A in my initial analysis). Without the contribution from this location going forward, Pay Tel faces a net annual intrastate shortfall of $875,262 (if the costs for Continuous Voice Biometric Identification continue to be excluded).

8. For the third alternative scenario, I included the costs for Continuous Voice Biometric Identification and also included the existing contribution from Locations 148 and 148A. These assumptions yield a net annual intrastate shortfall of $2,443,947.

9. For the fourth alternative scenario, I included the costs for Continuous Voice Biometric Identification and considered the impact of the loss of the contribution from Locations 148 and 148A. These assumptions yield a net annual intrastate shortfall of $2,548,599.

10. I have also calculated the additional revenue that would be required from interstate calls, on a per-MOU basis, to recover these intrastate shortfall amounts. From February 11, 2014 until September 30, 2014, Pay Tel's interstate MOUs totaled 2,766,567. On an annualized basis, this equates to 4,368,264 minutes of use. The resulting additional per-MOU revenue amounts required to recover the intrastate shortfall amounts are as follows:

Total Intrastate Shortfall Amount	Per-MOU Shortfall Amount
$755,672	$0.173
$875,262	$0.200
$2,443,947	$0.559
$2,548,599	$0.583

11. These per-MOU shortfall amounts, if added to the existing interstate rate caps, would result in rates that would allow Pay Tel to recover its costs to provide the mix of intrastate and interstate services going-forward.

12. As an additional measure, I have calculated the impact of hypothetical increases in interstate calling demand on these shortfall amounts. The precise relationship between lower interstate rates and calling demand is uncertain, particularly in jails. Calling demand is constrained in many jail facilities by facility calling policies such as limits on the length of permitted calls, and the high turnover rates and short-term stays that characterize jails (in contrast to prisons) further work to constrain the impact of lowered rates. Nonetheless, I have calculated the impact of hypothetical 10%, 15%, and 20% increases in demand for interstate calls to provide an illustration of how per-MOU shortfall amounts could be impacted if interstate demand was to increase beyond that already accounted for in Pay Tel's current data (Q3 2014). The resulting shortfall amounts (expressed per-MOU) for each of the total intrastate shortfall scenarios discussed above are as follows:

Total Intrastate Shortfall Amount	Per-MOU Shortfall at a 10% Increase	Per-MOU Shortfall at a 15% Increase	Per-MOU Shortfall at a 20% Increase
$755,672	0.1573	0.1504	0.1442
$875,262	0.1822	0.1742	0.1670
$2,443,947	0.5086	0.4865	0.4662
$2,548,599	0.5304	0.5073	0.4862

I declare under penalty of perjury under the laws of the United States of America that the foregoing information and materials are true and correct to the best of my knowledge, information, and belief.

December 1, 2014

Don J. Wood