



Oregon

John A. Kitzhaber, MD, Governor

Oregon Department of Corrections

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December 9, 2014



Chairman Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Commissioner Mignon Clyburn
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Commissioner Ajit Pai
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Commissioner Michael O'Rielly
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WC Docket No. 12-375

Dear Federal Communications Commissioners,

On August 20, 2014, the FCC clarified, through WC Docket No 12-375, that it will continue administering its adjudication process to determine, pursuant to complaints, that inmate phone service rates are just and reasonable under Section 201 of the Communications Act of 1934, despite the Partial Stay Order issued by the U.S. Court of Appeals in January 2014 regarding the ongoing payment of site commissions. Through this clarification, the Oregon Department of Correction (ODOC) requests the Federal Communications Commission's (FCC) input on a proposed process in identifying reasonable and just administrative support costs.

The ODOC recognizes the efforts the FCC has put forth to ensure the costs of inmate phone services are justified and reasonable. The phone services provided for incarcerated individuals are a key resource in ensuring they are able to maintain communications with their families and friends. This communication is critical in the rehabilitation process and provides the needed support for inmates to successfully reenter their communities after release. It is imperative that the cost of these services does not impede these individuals' ability to receive this necessary support.

At the same time, like all programs and services, there is a cost to providing inmate phone services. Certainly, ODOC's Inmate Phone Service (IPS) providers incur costs associated with providing the equipment and services necessary to allow for effective communication. In addition, the correctional facilities in which these services are provided also incur costs. Similar

to all of ODOC's programs, there is a level of security that must be in place at all times to monitor activities and behaviors while these services are being used. When issues of concern are identified or observed, there may be investigations, reviews, and/or disciplinary actions that become necessary. These responsibilities, along with the general office administration associated with IPS, have a cost.

In Oregon, the ODOC has absorbed these types of costs and, as opposed to billing the ISP for a higher rate of costs, we have worked in partnership to establish a more reasonable site commission fee, which keeps the cost for inmates at an affordable rate of \$0.16 per minute for both intra and interstate calls. The funds collected from the site commission payments are deposited in the ODOC's Inmate Welfare Fund to provide other valuable inmate services.

The Public Notice dated August 20, 2014, states that the FCC believes the site commissions are a significant contributor to high rates for inmate phone services and, as a category, are not reasonable and directly related to the provision of these services. The ODOC's interpretation of this notice is that while site commissions may continue, the FCC, if responding to complaints on rates, will be looking for specific documentation and/or support for administrative costs within correctional facilities that match or exceed the total revenue collected for site commissions.

On September 15, 2014, ODOC's current IPS provider, Telmate, LLC, and two other providers sent a letter to the FCC suggesting the adoption of some form of capped administrative support payment in lieu of a site commission payment. ODOC supports this idea; however, we would like to suggest that the FCC allow for a process, similar to the method used to establish federal indirect cost rates, that enables correctional facilities to document and justify a pre-determined rate and/or cost. These rates and/or costs can be readjusted through periodic evaluations. This process would be in contrast to a more tedious and administrative-costly process of doing direct time capture and allocation.

Should the FCC agree to this type of process, the ODOC would collaborate with its IPS provider to conduct an acceptable cost study that provides the estimated administrative support fee and/or cost based on actual activities performed. We would capture these activities through a combination of random time sampling (security) and direct expenses (surveillance, investigation, contracting/fiscal). We could then compare the results of this cost study to the current revenue generated through the site commission fee and, as necessary, make adjustments to ensure alignment of revenue and cost (up to established caps).

The ODOC believes this would be a practical solution that is efficient and manageable for both the agency and its IPS provider, and at the same time provide the FCC assurance that the rates for inmate phones services in Oregon are reasonable and justified. To effectively implement a

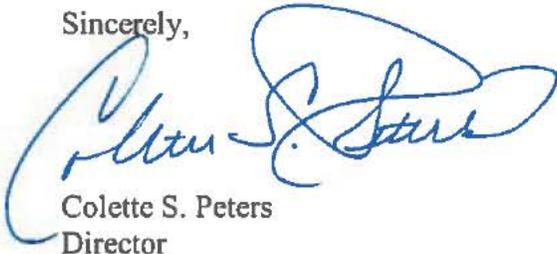
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quality cost study and plan, it will require a high level of commitment and resources by the ODOC. Before we begin this process, ODOC requests input from the FCC on whether this is an acceptable methodology for assuring reasonable administrative costs and if there are any parameters or additional guidance that would need to be incorporated into the process.

If the FCC deems this type of methodology to be acceptable, the ODOC would also like to request that there be an appropriate period of time given to complete and implement all necessary work associated with this type of change. Not only would the actual cost study need to be completed, we would also need to make any necessary changes to the ODOC budget and the IPS provider contract. For ODOC, a time period that aligns with our current budget, July 1, 2015, would be most effective.

The ODOC appreciates you taking the time to consider our request and we look forward to your response and guidance. If you have any questions, please direct them to Legislative and Government Relations Manager Marie Garcia by phone at (503) 945-0957 or email at marie.d.garcia@doc.state.or.us. She will ensure you receive a response.

Sincerely,



Colette S. Peters
Director

cc: Rick Crager, Chief Financial Officer
Marie Garcia, Legislative and Government Relations Manager
Kelley Morton, Operations Division Policy and Fiscal Manager