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Re: GENERIC PROCEEDING CONSIDERING THE	)	
PROMULGATION OF TELEPHONE RULES	)	DOCKET 15957
GOVERNING INMATE PHONE SERVICE	)	

FURTHER ORDER ADOPTING REVISED INMATE PHONE SERVICE RULES

CONTENTS

Subject	Paragraph(s)
1.00 BACKGROUND	1.01 thru 1.02
2.00 TERMINOLOGY	2.01
3.00 SUMMARY OF JULY 7, 2014 COMMISSION ORDER	3.01 thru 3.18
4.00 SITE COMMISSIONS	4.01 thru 4.08
5.00 ICS BASIC SERVICE REQUIREMENTS	
Customer Account Statement Format	5.01 thru 5.02
Kiosk Receipts for ICS Payments	5.03 thru 5.04
Customer Payment Limits	5.05 thru 5.12
Limitations to Calling List Associated with Prepaid ICS Account	5.13 thru 5.16
6.00 ICS RATES	
Security Biometrics	6.01 thru 6.04
Interim ICS Rate Caps	6.05 thru 6.22
Single Payment Services	6.23 thru 6.44
Restrictions on ICS Resale	6.45 thru 6.55
Video Visitation Service	6.56 thru 6.59
7.00 UNAUTHORIZED ANCILLARY FEES	
Regulatory Cost Recovery Fee	7.01 thru 7.02

Subject	Paragraph(s)
8.00 AUTHORIZED ANCILLARY FEES	
Debit/Credit Card Payment Fee	8.01 thru 8.06
Payment Transfer Fees	8.07 thru 8.27
Inmate Canteen/Trust Fund Transfer Fees	8.28 thru 8.33
9.00 REFUNDS AND UNCLAIMED PROPERTY	
Refunds Required	9.01 thru 9.06
Refund Procedures	9.07 thru 9.09
10.00 TARIFF REQUIREMENTS	10.01 thru 10.04
11.00 RECORD RETENTION AND REPORTING REQUIREMENTS	11.00 thru 11.06
12.00 COST STUDIES	12.01 thru 12.03
13.00 IMPLEMENTATION	13.01 thru 13.07
Analysis of a Revenue Report in an Alabama Jail	Appendix A
Commission's ICS Rate Caps	Appendix B
Pay Tel's Schedule of Recommended Ancillary Fees	Appendix C
Commission's Caps on Ancillary Fees	Appendix D
Pay Tel Refund Procedures for Accounts Inactive for 6 months or more	Appendix E
Template – Abbreviated Tariff	Appendix F
Commission's Adopted ICS Requirements	Appendix G

BY THE COMMISSION:

1.00 BACKGROUND

1.01 In the Commission's[1] October 1, 2013 Order for the above styled proceeding, as amended and supplanted by the Errata and Substitute Order Proposing Revised Inmate Phone Service Rules and Establishing a Comment Period issued on October 7, 2013, the Commission proposed reforms to Inmate Calling Service ("ICS") in Alabama and

[1] The term "Commission" used throughout this document refers to the Alabama Public Service Commission.

established a comment cycle ending November 8, 2013. Thereafter, the Commission released a Further Order (the "Order") under this Docket on July 7, 2014. The Order modified the proposed changes to ICS rules provided in the October 1, 2013 Order. Therefore, the Commission established a period, through August 11, 2014, for interested parties to submit comments to the Order.

1.02 Comments were received from the following parties: Telmate, LLC ("Telmate"), CenturyLink Public Communications, Inc. d/b/a CenturyLink '("CenturyLink"), Securus Technologies, Inc. ("Securus"), Global Tel*Link Corporation ("GTL"), Network Communications International Corporation ("NCIC"), Pay Tel Communications, Inc. ("Pay Tel"), and Tech Friends, Inc.

2.00 TERMINOLOGY

2.01 Although all inmate calls are automated collect, the following terms are used throughout the Order to describe the types of inmate collect calls and the manner in which they are billed:

> "Collect Calls" refers to inmate calls charged to the call recipient by the recipient's service provider. Some wireline local exchange carriers and the majority of wireless carriers will not bill ICS provider collect calls.
>
> "Prepaid Calls" refers to collect calls which are debited from a pre-funded account established with the ICS provider by a non-inmate and controlled by the non-inmate. Prepaid account subscribers are typically inmate family members or other inmate acquaintances. The prepaid subscriber selects the phone number(s) to which calls from a specific inmate may be debited from the pre-funded account balance.
>
> "Debit Calls" refers to collect calls which are debited from a pre-funded account established with the provider in the inmate's name. The inmate chooses the call recipients subject to oversight by the confinement facility. Collect calls using Prepaid inmate calling cards are also inmate debit calls.

> "Direct Billed" refers to collect calls billed to the account of a recipient that has an arrangement with the provider allowing for post-payment of the charges. Typically, bail bondsmen and defense attorneys have direct billed accounts.

"Single Payment Services" are inmate collect calls to wireless recipients that are billed in one of two ways: (1) to the recipient's wireless account via a third-party billing service; or (2) to the recipient's debit or credit card by a third-party billing service.

3.00 SUMMARY OF JULY 7, 2014 COMMISSION ORDER

Section 5.00 (ICS Basic Service Requirements):

3.01 Requires prepaid and direct billed customers be provided a toll-free number for customer service inquiries. (5.08)

For prepaid and direct billed service, monthly electronic customer account statements shall be provided, at no charge. Customers will be provided access to their electronic account statements for the most recent three months activity.

Optional paper bills shall be provided for prepaid and direct billed ICS.

Electronic and paper account statements shall include the provider's toll free number. Additionally, the URL for the Commission's ICS webpage shall be listed on the account statement. (5.14)

For debit ICS, electronic account statements are not required. However, if requested by the confinement facility, monthly account statements on paper shall be provided, without charge to the inmates or the facility, for dissemination by facility personnel to inmates in the manner cited by CenturyLink.

The account statement format is detailed in ¶ 5.16.

Paragraph 5.18 identifies specific requirements for kiosk receipts.

Paragraph 5.22 revised earlier requirements for website information. Providers are not required to establish an Alabama

specific page of rates and services on their website. The Commission shall create a webpage for ICS in Alabama and ICS providers shall include a link to the Commission ICS webpage on their website.

Paragraph 5.27 establishes funding maximums. There is no limit for funding accounts using cash, money order, check, and online banking. The ICS provider may establish a maximum limit of $100 per payment for debit/credit card transactions in conjunction with a limit of $300 for total debit/credit card payments during the most recent 30 (thirty) day period. Providers may, at their discretion, increase the maximum funding limits for selected customers on a case by case basis. Providers are prohibited from establishing any funding minimums for debit/prepaid ICS.

Paragraph 5.29 requires providers to include, at no additional charge, up to 5 wireline/wireless numbers on the call list for prepaid ICS. Additional charges or fees based on the underlying telecommunications technology associated with any telephone number (e.g. wireless administration fee) are prohibited.

Section 6.00 (ICS Rates):

3.02 Paragraph 6.01 affirms the Commission's intent to eliminate the existing operator surcharge element from the calling rates and to establish a rate structure that consists only of the per-minute usage charges.

Beginning in ¶ 6.06 (Service to Prisons Versus Jails), the Commission establishes the position that the average per-minute cost for serving jails is higher than the per-minute cost for service to prisons.

The Commission's rate caps include recovery of costs for continuous voice biometrics (¶¶ 6.13 and 6.24) as do the FCC's interim rates caps (¶ 6.17).

Paragraph 6.22 (Interim ICS Rate Caps) establishes that the Commission will consider separating out the continuous voice biometrics cost element in future cost and rate analyses.

Additionally, ICS providers are required to submit to the Commission, by no later than the implementation date for this Order, a list of the security biometric features provided at each Alabama confinement facility served along with a detailed description of the features and functionality associated therewith and the vendor source for the product(s).

3.03 Paragraph 6.23 sets revised rate caps for all facilities. The rate structure for prisons provides for lower rates in recognition that the per-minute costs for service

in prisons is lower than it is for jails.

The targeted rate caps for prisons is $0.25/min (collect) and $0.21/min (debit and prepaid), mirroring the FCC caps for interstate rates. The targeted rate caps for jails is $0.25/min (collect, debit, and prepaid).

However, to ensure policy makers have ample opportunity to correct any funding shortfalls resulting from potential reductions in site commissions; the Commission establishes a phase down approach for achieving the targeted rate caps.

Upon implementation of the Order, the rate cap for jails is $0.30/min, which shall be reduced to $0.28/min beginning on the first anniversary following implementation, reduced further to $0.25/min on the second anniversary following implementation.

Upon implementation of the Order, the rate cap for prisons is $0.25/min (collect, debit, and prepaid). Beginning on the first anniversary following implementation, the rate cap for debit and prepaid calls is reduced to $0.23/min, reduced further to $0.21/min on the second anniversary following implementation.

3.04 Beginning with ¶ 6.25, the Order addresses single payment services. The Commission asserts in ¶ 6.34 that single payment services allow for de facto circumvention of the Commission's ICS rate caps.

In ¶ 6.42, the Commission imputes a 12-minute call allowance, or call duration, for single payment service calls. The Commission's collect call rate cap for the facility from which the call originates is applied to the 12-minute call allowance for purposes of determining the usage price element of the call. The provider may then add the capped $3.00 credit card payment fee to the usage price element of a single payment service call billed to a credit card or the $3.00 bill processing fee for a single payment service call billed to the recipient's wireless account.

Paragraph 6.43 requires providers to include within their intrastate tariff the single payment services offered, the terms and conditions associated with the service(s), the price to the end-user for the service(s), the underlying provider(s) of the service(s), and the webpage and/or other contact information associated with the charge on the call recipient's mobile phone bill and/or credit card statement. It also includes informational requirements for single payment service customers and information which must be provided to the Commission upon request.

3.05 Beginning with ¶ 6.44, restrictions on ICS resale are addressed. Paragraph 6.45 prohibits providers from offering ICS service to resellers that mark up the price paid by the inmate such that the effective price for the service exceeds the maximum cap authorized by the Commission for debit calls. ICS providers shall include on each prepaid inmate calling card the face value for ICS commensurate with Commission approved ICS rates. Providers shall not offer Prepaid inmate

calling cards for resale to any confinement facility or canteen/trust fund service that resells or is suspected of reselling the calling cards at a price greater than the face value listed thereon.

Paragraph 6.47 provides that inmates using ICS prepaid phone cards shall be charged for actual usage at rates no greater than the maximum debit calling rates authorized by the Commission plus Alabama Utility Gross Receipts Tax. Absent specific approval from the Commission, ICS providers are not authorized to assess additional intrastate charges/fees for Prepaid inmate calling card service nor are ICS providers authorized to charge inmates for calls of a predetermined minimum usage allowance (no flat-rated calls with minimum usage threshold).

Paragraphs 6.48 and 6.49 address replacement of damaged/lost/stolen Prepaid inmate calling cards, balance transfers, card expiration, and refund requirements. Providers are required to issue replacement prepaid calling cards in circumstances when the Prepaid inmate calling card is damaged, lost, or stolen and restore to the replacement card the unused balance from the card it replaces at no charge to the card holder.

Providers shall fully transfer, at no charge to the inmate, unused balances from Prepaid inmate calling cards to new prepaid calling cards purchased by or for the inmate. Additionally, providers shall transfer unused balances from an expired inmate calling card to a new calling card purchased by or for the same inmate. Paragraph 6.50 sets the expiration date for Prepaid inmate calling cards at no less than six months from the purchase date.

Paragraph 6.51 requires providers to refund the Prepaid inmate calling card unused balance, at no charge to the inmate, upon the earlier of an inmate request for refund or the inmate's release from the confinement facility. The refund shall be based upon the purchase price paid by the inmate, not the price paid by the reseller. Paragraph 6.52 prohibits refunds using prepaid telephone calling cards for use over the public switched network.

3.06 Video visitation service (VVS) and inmate voice mail is covered beginning with ¶ 6.53. The Commission asserts its regulatory jurisdiction over such services in ¶ 6.58.

In ¶ 6.61, the Commission defers the establishment of maximum rates for these services to a later date. ICS providers are required to submit to the Commission's Utility Services Division, copies of VVS User agreements with Alabama confinement facilities. Any user agreement that includes restrictions on face-to-face visitation and/or facility disciplinary measures as a precondition for deploying VVS must be accompanied by a letter signed by the warden or confinement facility administrator indicating that restrictions on face-to-face visitations cited in the agreement are the facility's official policy and/or that the facility concurs with any restrictions to its available disciplinary measures

provided in the agreement.

3.07 Section 7.00 (Unauthorized Ancillary Charges):

Beginning with ¶ 7.01, the federal Regulatory Cost Recovery Fee & USF Collection Admin Fee is addressed. The FCC has not established a specific fee for either. The Commission does not object to the assessment of such fees to the extent that a specific fee is approved by the FCC and is specifically quantified and listed in the ICS provider's approved interstate tariff or such fee is specifically authorized and quantified in an Order published in the Combined Federal Register. Absent FCC approval for a specified Regulatory Cost Recovery Fee and/or USF Collection Admin Fee, these fees are illegitimate and shall not be assessed for service provided from Alabama confinement facilities served under authority granted by the Commission to the ICS provider in their Certificate of Public Convenience and Necessity ("Certificate").

In ¶¶ 7.03 and 7.05, the Commission affirms that it has not approved nor does it authorize the assessment of an intrastate regulatory recovery fee by entities over which the Commission exercises regulatory jurisdiction.

In ¶ 7.06, providers are prohibited from assessing refund fees. Account Set-up and Account Maintenance fees are prohibited in 7.07. Provider assessed fines of any type are barred by ¶ 7.08.

Paragraph 7.09 emphasizes that no ancillary charge or fee, except those specifically referenced and quantified by the Commission in the section of the Order addressing "Authorized Ancillary Charges" shall be assessed to intrastate ICS customers in Alabama.

Section 8.0 (Authorized Ancillary Charges)

3.08 General - providers may assess an ancillary charge ("fee") for debit/credit card payment processing and for transfers of funds from inmate canteen/trust accounts to an ICS debit call account. Fees will not be assessed for payment via check, money order, or via online banking. Providers are authorized to charge recipients of inmate collect calls, billed by the recipient's carrier, a bill processing fee to recover the associated billing costs. Additionally, provider fees may be charged for an optional paper billing statement and for returned checks. No other ICS provider fees are authorized without specific approval via a Commission Order. (8.01)

3.09 In ¶ 8.11, the Commission reaffirms its proposal to cap payment fees. The maximum debit/credit card payment fee for funds submitted online, by phone using IVR, and via kiosk is $3.00. The $3.00 debit/credit card payment fee cap also applies to the transaction fee portion of "Pay Now" type calls. For

debit/credit card payments submitted over the phone through a live agent at the provider's service center, the maximum fee is $5.95.

Providers may charge a maximum $3.00 bill processing fee for collect calls billed by the call recipient's serving carrier. The fee is applicable once during the carrier's normal billing cycle for all collect calls billed to the call recipient by the ICS provider. The bill processing fee shall also apply to the transaction fee portion of text-connect calls but, because text-connect is a single pay service, the bill processing fee may be charged for each collect call accepted by the call recipient. (8.12)

3.10 Beginning with ¶ 8.13, payment transfer fees are addressed.

Prior to implementation date specified in the Order, providers shall submit to the Commission's Utility Services Division the payment transfer fees charged its customers by third-party payment transfer services.

For any third-party payment transfer fees that exceed $5.95, the provider shall submit a sworn affidavit signed by the provider's Owner, President, or Chief Executive Officer and notarized, affirming that the ICS provider, its parent company, nor any subsidiary/affiliate of the provider or its parent company receives no portion of the revenue charged the provider's customers by the listed third-party payment transfer services.

For any payment transfer fee that exceeds $5.95, the ICS provider shall also provide to the Commission a copy of the provider's contract with the third-party payment transfer service and shall justify to the Commission in writing, signed by the provider's Owner, President, or Chief Executive Officer, why it is unable to arrange for payment transfer services at fees that do not exceed $5.95. Such filings are subject to full investigation by the Commission and to Commission regulatory proceedings. (8.20)

3.11 Paragraph 8.22 reaffirms the Commission's proposed maximum 5% convenience fee for inmate canteen/trust account transfers into the inmate's ICS account.

Paragraph 8.24 reaffirms the Commission's proposed $2.00 maximum paper bill fee for monthly account statements that may be requested by the customer in lieu of the online account statement which are provided at no charge.

Section 9.00 (Taxes and Government Fees)

3.12 In accordance with ¶ 9.01, the 6% Alabama Utility Gross Receipts Tax ("Gross Receipts Tax") applies to ICS in Alabama to include Prepaid inmate calling cards (9.03). Sales taxes do not apply. Paragraph 9.04 prohibits providers from assessing taxes and applicable government fees to the purchase price for debit and

prepaid ICS. The Alabama Utility Gross Receipts Tax applies to inmate calls only when the call duration is known. For interstate calls, the USF fee and federal TRS fee apply only when the total usage charges (USF) and call duration is known (TRS).

3.13 Section 10.00 (Refunds and Unclaimed Property)

In ¶ 10.01, the Commission affirms that prepaid balances remaining, after deducting authorized charges for ICS, remain the property of the account holder, including any unused balances associated with Prepaid inmate calling cards. ICS providers shall refund unused debit, Prepaid inmate calling card, and prepaid collect funds.

ICS providers are not authorized to permanently retain any unused prepaid ICS balances, unless specifically authorized by the Commission, nor are providers authorized to permanently retain unclaimed customer refunds.

The Commission authorizes ICS providers the option of foregoing a prepayment refund for an amount less than $1.00. Nevertheless, non-refunded prepayments shall not be permanently retained by the provider. Non-refunded prepaid balances of $0.01 up to $1.00 shall be aggregated and submitted to the Alabama State Treasurer, along with unclaimed refunds of $1.00 or more, in accordance with Alabama's Uniform Disposition of Unclaimed Property Act. (10.02)

Section 11.00 (Tariff Requirements)

3.14 Paragraph 11.03 requires providers to identify all services, along with the rates and fees associated therewith, provided at/from confinement facilities in Alabama including but not limited to single payment services, Prepaid inmate calling cards, and video visitation service.

An abbreviated version of the tariff is due within ten (10) days following implementation of this Order and the full version of the tariff no later than sixty (60) days following the Order implementation.

Section 12.00 (Record Retention and Reporting Requirements)

3.15 Paragraph 12.04 lists the Commission's record retention requirements and 12.08 lists the reporting requirements.

Section 13.00 (Patents and Acquisitions)

3.16 Paragraphs 13.01 through 13.05 address the control that Securus exerts over the ICS industry via control of patents and through its acquisition of vendors upon which the industry depends.

Section 14.00 (Cost Studies)

3.17 Paragraph 14.02 addresses the Commission's intent to analyze costs supporting future intrastate ICS rates, provider ancillary charges, and confinement facility cost reimbursement. To assist the staff in developing cost study procedures, the Commission seeks to establish a workgroup consisting of staff and selected representatives from ICS providers that serve or intend to provide ICS service to Alabama confinement facilities; one provider that serves primarily jails and another with extensive experience serving prisons. The proposed cost study procedures and supporting requirements developed by the study group shall be subject to review and comment by all ICS providers before adoption.

Section 15.00 (Implementation)

3.18 The proposed implementation date was October 1, 2014.

4.00 SITE COMMISSIONS

Comments from Parties to the Proceeding

4.01 Securus contends that the FCC precludes the payment of site commissions.

> In Section 4.05 of the Order, the Commission erroneously states that the FCC does not preclude ICS providers like Securus from paying site commission in In the Matter of Rates for Interstate Inmate Calling Services, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, rel. September 26, 2013 ("FCC ICS Order"). On the contrary, the FCC ICS Order established that ICS providers, like Securus, are precluded from including the cost of site commission payments to confinement facilities in their interstate calling rates. The FCC ICS Order implemented on February 11, 2014 is abundantly clear when it said "site commission payments and other provider expenditures that are not reasonably related to the provision of ICS are not recoverable through ICS rates, and therefore may not be passed on to inmates and their friends and families" (¶58).[2]

4.02 GTL supports the Commission's position that any ICS rate regime must consider the costs associated with commissions, which in Alabama are mandated by law. It is not appropriate to cap ICS rates while ignoring the single largest component affecting ICS

[2] RE: Generic Proceeding Considering the Promulgation of Telephone Service Rules Governing Inmate Phone Service, Comments of Securus Technologies, Inc., dated August 11, 2014 ("Securus Comments"), page 4.

> rates – the commissions required to be paid to correctional facilities. In addition, it is not enough to merely hope that reductions in ICS rates will result in reduced site commissions. As long as site commissions are required to be paid, "fair and reasonable" ICS usage rates must be set to ensure recovery of the costs associated with those commissions unless and until the requirement to pay commissions is eliminated.[3]
>
> Although the Order's caps will not eliminate site commissions completely, they will have a significant negative effect on the amount of revenue available for some facilities. In concert with its rejection of regulatory recovery and account maintenance fees, the Order therefore forces ICS providers to recover related costs through the capped rates. The Commission acknowledged that ICS providers such as Telmate use fees to recover the cost of providing ICS; it acknowledged that site commissions are a cost of providing ICS; and, it observed that in some instances, ICS providers pay site commissions in excess of eighty percent; but, it concluded ultimately that the Order's interim ICS rates should be sufficient to cover those costs. To the extent the Commission believes that ICS providers can recover in rates revenue sufficient to support all existing site commission payments, that conclusion is incorrect.[4]
>
> Notwithstanding the Commission's decision to phase-in rate caps over a three-year period, the magnitude of the Order's reforms still will force dramatic site commission reductions at some facilities before "policy makers with fiscal oversight deal with any projected budgetary shortfalls from potential site commission reductions.[5]

Commission Response

4.03 Securus is correct that the FCC precludes site commissions as an element of costs when setting rates. However, that is not equivalent to precluding the payment of site commissions and the FCC makes that abundantly clear.

We do not conclude that ICS providers and correctional facilities

[3] RE: Docket No 15957, Comments of Global Tel*Link Corporation on Further Order Adopting Revised Inmate Phone Rules, dated August 11, 2014 ("GTL Comments"), pages 2-3.
[4] RE: Generic Proceeding Considering the Promulgation of Telephone Service Rules Governing Inmate Phone Service, Comments of comments of Tel mate, LLC in response to the Further Order Adopting Revised Inmate Phone Service Rules, dated August 11, 2014 ("Telmate Comments"), pages 3-4.
[5] Telmate Comments, page 4.

> cannot have arrangements that include site commissions. We conclude only that, under the Act, such commission payments are not costs that can be recovered through interstate ICS rates. Our statutory obligations relate to the rates charged to end users—the inmates and the parties whom they call. We say nothing in this Order about how correctional facilities spend their funds or from where they derive. We state only that site commission payments as a category are not a compensable component of interstate ICS rates. We note that we would similarly treat "in-kind" payment requirements that replace site commission payments in ICS contracts.[6]

There are ICS providers in Alabama that continue paying interstate site commissions. Obviously, those providers do not concur with Securus' interpretation of the FCC's intent with respect to site commissions.

4.04 GTL improperly interpreted the Commission's position with respect to site commissions. Nowhere in the Order do we state, as GTL concludes, that "…any ICS rate regime must consider the costs associated with commissions." Paragraph 4.08 in the Order states "The Commission acknowledges that confinement facilities may incur costs associated with providing ICS and is committed to identifying and quantifying such costs to the extent they exist and are quantifiable." This is same approach adopted by the FCC.[7] The Commission is keenly aware that site commission payments are currently "embedded within the current and projected funding for many confinement facilities".[8] Therefore, the Order proposed a two-year phase down of rates to the targeted rate caps. This action in no way implies that "…any ICS rate regime must consider the costs associated with commissions." To the contrary, the Commission anticipates that site commission payments may be reduced as a result of the Commission's actions and seeks to mitigate the immediate impact of budgetary shortfalls resulting from reduced site commissions by phasing down the rates upon which such payments are made. To prevent any misinterpretation of the Commission's intent with respect to this matter, the following language in ¶ 6.23 of its Order is hereby repealed.

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[6] In the Matter of Rates for Interstate Inmate Calling Services, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, rel. September 26, 2013 ("FCC ICS Order"), ¶56.
[7] FCC ICS Order, footnote 203.
[8] Order, ¶ 4.08.

> The Commission seeks comments from interested parties on whether it should consider reducing the ICS rate caps to the third-year targeted level, on a case-by-case basis any time during the first and second year following implementation, should any ICS provider disproportionately reduce site commission payments to a confinement facility.

4.05 GTL claims §45 in the Code of Alabama (the "Code") mandates the payment of site commissions. Such an inference is entirely incorrect. Title 45 addresses Local Laws. The Code authorizes sheriffs in the various counties to operate a jail canteen and inmate telephone system and to deposit any revenues obtained therefrom in the Sheriff's Jail Fund. Authorizing is not a mandate. Therefore, ICS providers are not required under Alabama law to pay site commissions. GTL and other providers may choose to pay site intrastate commissions or discontinue them. Such payments are a contractual matter between ICS providers and confinement facilities. The Commission lacks authority to prohibit site commission payments.

4.06 The Commission neither requires nor precludes the payment of intrastate site commissions. Our regulatory obligation is to ensure that ICS rates and charges are fair and reasonable. We satisfy that regulatory obligation through caps on ICS rates, ancillary fees, single payment services and the requirement that providers refund unused balances for prepaid ICS. After complying with our rate caps and rules, the provider is free to utilize their net profit as they see fit without interference from the Commission. Once the Commission's regulatory obligations are met with respect to ICS rates and fees, the payment of site commissions neither increases the prices consumers pay for ICS nor will elimination of site commissions reduce ICS prices.

4.07 Telmate correctly cites the statement included in the Commission's December 13, 2013 reply comments to the FCC ICS Order. The Commission's current interpretation of its regulatory obligations with regard to site commission payments has changed since the filing of those comments. Such language is found nowhere in our Order. To be clear, the Commission is under no obligation to include site commission payments as costs for

purposes of establishing ICS rates. Therefore the Commission is not "forcing" ICS providers to recover their costs and the costs of site commissions from capped rates. Indeed, the Commission has neither the authority to demand site commission payments nor to preclude them. Site commissions always have been and shall remain discretionary in Alabama. Telmate and other providers are free to decide how net profits will be utilized.

4.08 Telmate cited ¶ 7.05 in the Order for its comment "…to the extent the Commission believes that ICS providers can recover in rates revenue sufficient to support all existing site commission payments, that conclusion is incorrect." However ¶ 7.05 is under Section 7.00 (Unauthorized Ancillary Charges) in the Order and refers exclusively to an intrastate regulatory recovery fee rather than site commissions, concluding that ICS rates are sufficient to recover the provider's regulatory compliance costs.

The Commission reaffirms its recommendation in the Order with respect to regulatory recovery fees. Separate intrastate regulatory recovery fees are not authorized in Alabama. The interim intrastate ICS rates recommended herein are considered sufficient to recover reasonable regulatory costs incurred by the provider.[9]

5.00 ICS BASIC SERVICE REQUIREMENTS

Customer Account Statement Format

Comments from Parties to the Proceeding

5.01 GTL objects to some requirements in the proposed statement format:

> …it is not standard practice for an ICS provider to list the call rate in the call detail of its customer account statements. This is not a standard field in GTL's billing system, and GTL recommends that the Commission eliminate that requirement. The customer should

[9] Order, ¶ 7.05.

> be able to determine the applicable call rate by dividing the call duration with the total call charge. Second, it is not standard practice for telecommunications company bills to list the payment method for a particular payment. If a customer has a specific question about a payment method used for a payment reflected its account statement, the customer can contact GTL customer service to discuss that issue. GTL therefore recommends the Commission eliminate this requirement.[10]

Commission Response

5.02 Account statements wherein call detail including the date for each call, its duration, and the charge associated therewith is critical consumer information. It aids the customer's understanding of their charges and is invaluable in helping the providers and the Commission resolve billing disputes. The Commission revises its July Order to eliminate the requirement for the call rate field and identification of payment method provided the account statement lists the detail for each call, as referenced above, and separates from the individual call detail the applicable taxes, and government fees. In lieu of identifying the payment method, the provider shall list the amount of the payment and disclose/list separately the amount of any provider assessed ancillary fee applicable to the customer's payment submission. The Commission also clarifies that account activity statements for inmate debit accounts shall, subject to facility rules, be provided upon inmate request. The majority of jail inmates are released within 72 hours of booking. Therefore, it is impractical for the inmate to wait until a billing cycle has elapsed before acquiring access to a statement of the activity in their debit call account. This is particularly crucial when the inmate questions and/or disputes the provider's charges.

<u>Kiosk Receipts for ICS Payments</u>

Comments from Parties to the Proceeding

5.03 Securus contends that providers are not responsible for the format of receipts at kiosks

[10] GTL Comments, page 21.

that are not owned and controlled by the provider.

> Section 5.17 of the Order establishes requirements for certain information to be included on customer receipts associated with kiosk payments. However, many kiosks in confinement facilities are not controlled by ICS providers and are used for purposes other than funding inmate or end-user telephone accounts. In many instances, the kiosks are controlled by the confinement facility's commissary or an outside financial institution. Because the ICS provider lacks responsibility for the kiosks in many instances, the Commission should not impose requirements on the ICS provider related to the information on receipts produced by the kiosks or requirements for signage posted at such kiosks.[11]

Commission Response

5.04 The Commission concurs with Securus that providers cannot dictate the format for receipts at kiosks owned and controlled by canteen or inmate trust fund operators. The Commission hereby revises ¶ 5.18 in the Order to clarify that the information requirements contained therein are applicable only for customer payments or deposits at kiosks supplied to the facility by the ICS provider. The kiosk receipt shall list payee identification information, the method of payment, the date and amount of payment and the description and amount of the payment fee assessed by the provider. Alternatively, ICS providers may post signage on or within close proximity of the kiosk which prominently identifies the applicable cash/credit card payment fee. Taxes and government fees shall be assessed only when the ICS service is used and, therefore, shall not be assessed with the kiosk payment.

<u>Customer Payment Limits</u>

Comments from Parties to the Proceeding

CenturyLink:

5.05 CenturyLink appreciates the Commission's recognition of the

[11] Securus Comments, page 5.

necessity for a funding maximum for debit/credit cards; however, CenturyLink believes that the $100 allowable maximum is too high. There is a direct correlation between funding amount and chargeback levels, and an increase in chargeback amounts could endanger CenturyLink's merchant agreements, which currently have a $50 transaction maximum. The $50 per transaction maximum is also in place to protect the consumer in the event of credit card theft. It is also worth noting that the average household spends $24 per month on inmate communications, so that increasing the limit to $100 will have no benefit to the vast majority of consumers.[12]

GTL:

5.06 GTL disagrees with the maximum funding limits proposed by the Commission when, at the same time, the Commission is proposing to cap the amount of transaction and payment processing fees an ICS provider may impose for credit card transactions. ICS providers are subject to more fraud risk and expense when customers can deposit larger amounts. Credit card transaction fees vary based on the deposit amount - the larger the deposit from the customer, the larger the credit card transaction fee imposed on GTL. GTL must be able to recoup the costs that will result from allowing customers to deposit larger amounts using their credit/debit card. Accordingly, the Commission needs to either lower its payment maximums or increase the allowed credit card transaction fees to accommodate for these larger deposit amounts. This is especially true for canteen/trust fund deposits.[13]

Commission Response

5.07 The Commission questions CenturyLink's source for its claim that the average household spends $24 per month on inmate communications. The Commission is unsure whether CenturyLink is referring to households wherein a member of the immediate family is incarcerated for a period that exceeds one-month, for any period of time, or to all households regardless of whether a member of immediate family is incarcerated. For households wherein a child, spouse and/or parent, or partner in a romantic relationship are

[12] In re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service; Docket No. 15957, CenturyLink Public Communications, Inc. d/b/a CenturyLink's ("CenturyLink") Motion for Rehearing or Reconsideration of the Further Order Adopting Revised Inmate Payphone Service Rules, dated August 6, 2014 ("CenturyLink Comments"), page 14.
[13] GTL Comments, page 22.

incarcerated for a period longer than a few days, we believe average household spending for inmate phone calls far exceeds $24 per month[14]. In households where an inmate's adult sibling, other relatives, friends and acquaintances of the inmate reside, average monthly ICS spending is likely much lower.

5.08 The Commission reviewed Pay Tel's cost data[15] submitted to the FCC under Docket 12-375. The data is confidential and cannot be disclosed in this Order. Nevertheless, Worksheet H includes the calculation of average payment processing costs. The chargeback amount per payment is a very small portion of credit card payment processing costs. Without being specific, it is much lower than 5 percent of the total credit card payment costs. Consequently, we believe that CenturyLink's concerns are overblown. Inmate Calling Solutions (ICSolutions) is the CenturyLink merchant providing ICS at Alabama Department of Corrections (DOC) facilities. ICSolutions also provides inmate service as a stand-alone provider in Alabama jails but failed to submit comments for this proceeding. If ICSolutions has serious concerns about the Commission's payment maximums, they had ample opportunity to express those concerns but elected to remain silent on the issue. It is, therefore, incomprehensible that CenturyLink's contract with ICSolutions is in peril over an issue that ICSolutions has not opposed.

5.09 Funding maximums serve another purpose that has nothing to do with controlling chargebacks. Artificially low funding limits can be used by the provider to force customers into making a higher number of payment transactions and, with each transaction; a payment fee is accessed by the provider. The Commission suspects CenturyLink may be correct in its assertion that a funding maximum of $100 will not benefit the vast majority of consumers. Therefore, any exposure to increased chargebacks will be minimal. With respect to transfers from canteen service company kiosks into ICS accounts, canteen service companies charge ICS providers a fee of up to 5% of the

[14] NCIC reports that the average monthly revenue per inmate for the Shelby County Jail, one of Alabama's largest facilities, is $55. NCIC also serves the Escambia County, AL Jail where the average monthly revenue per inmate is $61 to $65. Inmate local calls in Alabama are capped at $2.75 and the vast majority of calls at both jails are local. That cap will be eliminated with this Order. CenturyLink serves Alabama DOC facilities where incarceration periods are much longer. The Commission anticipates that average revenue per inmate at DOC facilities is higher than at jails.

[15] Pay Tel Communications, Inc., Inmate Calling Services Cost Presentation, dated July 23, 2013, rec. July 24, 2013.

amount transferred. We authorize ICS providers to assess a 5% fee on the amount transferred from canteen service company kiosks to ICS accounts. Therefore, the ICS provider is unaffected by transfers of the $100 payment limit from inmate trust funds.

5.10 GTL is correct that the amount providers pay merchant account processors for credit card transactions is based on the amount of the transaction. The amount paid merchant account processors, however, is a relatively small portion of the payment fee assessed to the ICS customer. Depending on the merchant account processor and the provider's transaction volume, the merchant processor transaction fee ranges from 3.0% to a maximum of 3.5% of the transaction. The remainder of the payment fee is to recover costs for the payment gateway, PCI equipment/software and PCI compliance, IT monitoring, costs for broadband facilities, costs for web and IVR development, and allocated general administrative costs. The majority of costs recovered via the payment fee assessed the customer do not vary in accordance with the amount of the payment. The Commission notes, however, that costs which vary in accordance with the number of transactions processed may be avoided with fewer transactions.

5.11 No party to this proceeding has submitted cost data to the Commission in support of a higher credit card payment fee despite ample opportunity to do so. The Commission relied on cost support submitted by Pay Tel to the FCC. Pay Tel is a relatively small ICS provider that serves small to medium-sized jails. The Commission expects lower per payment costs for larger providers, such as GTL. Pay Tel's credit card payment fee is $3.00, which is what the Commission adopts in this Order. Pay Tel is a party to these proceedings and expressed no objections to the Commission's proposed funding maximum. Nevertheless, the Commission welcomes cost studies supporting a different payment fee, provided the studies are subject to protective order allowing parties that comply with the protective order to view and submit proprietary comments to the Commission regarding the cost data and analysis.

5.12 The Commission is not persuaded that the $100 maximum payment limitation should be decreased.

Limitations to Calling List Associated with Prepaid ICS Account

Comments from Parties to the Proceeding

GTL:

5.13 Associating multiple telephone numbers with one prepaid account can be done, but requires certain technical and operational changes to ensure the telephone numbers are not used to circumvent the safety and security requirements of a correctional facility. GTL therefore recommends that the Commission allow for a longer implementation period for this requirement so that ICS providers can modify their inmate calling systems as may be necessary. In addition, GTL recommends that ICS providers be permitted to impose a fee for giving customers the convenience of associating more than one telephone number with a single prepaid account.[16]

Securus:

5.14 Although Securus does not object to the requirement to allow up to 5 numbers on a prepaid ICS account, Securus does object to the Commission's prohibition on Securus' ability to assess charges or fees for wireless or cellular numbers added to such prepaid ICS accounts. Due to the nature of wireless accounts, Securus incurs additional costs when adding or maintaining wireless numbers. Many correctional facilities consider wireless phone numbers a security risk and require the ICS provider to perform additional steps to mitigate any security threat. This may include assessing the class of service as prepaid (i.e., disposable, "burn" phones) or long term contract and denying all calls to prepaid wireless phone numbers. At some confinement facilities, calls to wireless phone numbers are prohibited. Determining the class of service requires personnel to screen friend and family applications for service ICS providers should be permitted to recover these additional costs which are unavoidable and imposed by third parties.[17]

Commission Response

5.15 Both providers should note that this requirement is included within the framework of what the Commission has determined is ICS basic service. Additional fees do not apply to ICS

[16] GTL Comments, page 23.
[17] Securus Comments, pages 5-6.

basic service. The purpose is for an inmate household to associate multiple telephone numbers (home phone, wireless phone, work number, and children's phones) with a single prepaid account. Otherwise, the customer is required to open multiple prepaid accounts or pay the provider's monthly fee for each additional number in excess of the primary number associated with account merely for the "convenience" of receiving calls from the inmate wherever they or their children are located. The Commission's requirement is not onerous. NCIC associates up to 10 numbers to a prepaid account at no additional charge. The requirement is in the Commission's Order dated July 7, 2014 and the proposed implementation October 1, 2014 implementation date for that Order was postponed by over one month. Consequently, the Commission rejects GTL's assertion that more time is required to implement this measure. No other party to the proceeding finds it necessary to seek additional time to implement the requirement and no parties other than GTL and Securus seek fees for providing this basic service.

5.16 Validation costs were included in the data used by the FCC to establish the exiting interim rate caps. Consequently, these costs are already accounted for in the Commissions rate caps, which except for calls at prisons, exceed the FCC's interim rate caps. Call validation is fully automated and involves real-time 'dips' into a Telcordia database for which the provider pays a flat subscription on a quarterly basis and/or dips into the Line Information Database (LIDB). Securus contends that some confinement facilities prohibit calls to wireless numbers. The Commission invites Securus to submit a list of Alabama confinement facilities it serves that prohibit calls to wireless numbers. At such confinement facilities, Pay Now and Text2Connect calls should be prohibited at those same confinement facilities as well since they are inmate collect calls to wireless numbers.

The Commission requirement for associating up to 5 numbers with a prepaid ICS account at no additional charge stands. Providers may charge a fee for each number in excess of the 5 provided free as part of ICS basic service. The fee, along with supporting cost data, must be submitted by the provider for Commission approval.

6.00 ICS RATES

Security Biometrics

Comments from Parties to the Proceeding

Securus:

6.01 The Order states that ICS providers like Securus cannot recover the costs of security biometrics in the call rates imposed by ICS providers. The Order acknowledges the value of security biometrics for prison security and public safety but nonetheless fails to allow for recovery of the security biometrics price component from intrastate rates when the Order is implemented. This proposal is unreasonable and confiscatory because it would force ICS providers to provide security features - which are integral to the telecommunications service - without any compensation.[18]

Commission Response

6.02 The rate caps proposed herein include the costs for providing continuous voice biometrics.[19] The FCC's interim rate caps, upon which the Commission's rate caps are based, include an allowance of $0.017/min (collect) and $0.016/min (debit and prepaid) to recover the cost of providing continuous voice biometrics.[20] Securus uses JLG Technologies' "Investigator Pro" continuous voice biometrics program. However, the JLG website shows that it is not deployed in Alabama.[21] Consequently, the rate caps provide an allowance for recovery of continuous voice biometric costs that Securus is not incurring in Alabama. Therefore, the Commission questions Securus' rationale that the Commission's rate caps are "confiscatory".

6.03 Some providers are aggressively pursuing development and marketing of their own security applications and seek the capability to include them in inmate rates without justifying to regulators their applicability to ICS.

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[18] Securus Comments, page 6.
[19] Order, ¶ 6.13
[20] FCC ICS Order, ¶¶ 75-76. See also ¶ 58 wherein the FCC states emphatically: "Our interim rate caps are based on cost studies that include the cost of advanced security features such as continuous voice biometric identification."
[21] See URL: http://jlgtechnologies.com/customers/index.shtml

> Securus requests that the Commission consider permitting Securus and other ICS providers the opportunity to recover (1) the costs to process customer accounts with wireless numbers, (2) the costs to provide voice biometrics as required by Alabama confinement facilities for security purposes, and (3) the costs to provide specialized investigative and tracking services as required by Alabama confinement facilities for security purposes. Such cost recovery should be permitted by the Commission without the requirement for prior Commission approval.[22]
>
> The Commission should permit automatic recovery of costs associated with innovative ICS products if, in light of the benefits and cost, the correctional facilities deem them appropriate. Telmate, for example, developed and deploys a secure verification process called TelmateVerified. This patent-pending product, not available through any other industry participant, helps law enforcement prevent and solve crimes—even in real time. That service, however, is too expensive to provide at the recommended rate and does not neatly fall within a proposed fee category. The proposed framework therefore prevents inmates, law enforcement, and the public from immediately benefitting from TelmateVerified's many advantages.[23]

6.04 The Commission recognizes the necessity for basic security biometrics at confinement facilities, the cost of which should be recovered via inmate rates. Nevertheless, only those security features essential for protecting the inmate population and the general public from abuses associated with inmate calling should be recoverable via inmate rates. The cost of features that have no direct bearing on inmate call security, providing no direct and significant protection for inmates and the general public, should be borne by the cost causer, not inmates and inmate families. Alabama inmates and their families shall not be used to recover the developmental costs and ensure the profitability for every security feature providers seek to develop and market to law enforcement.

[22] Order, ¶ 6.14 and associated footnote no. 71.
[23] Order ¶ 6.13 and associated footnote no. 70.

Interim ICS Rate Caps

Comments from Parties to the Proceeding

CenturyLink:

6.05 CenturyLink did not oppose the rate caps originally proposed in the October 2013 Order, other than to request that existing contracts be grandfathered. However, in the Further Order, the Commission now proposes not only the initial rate caps, but declining rates caps effective on the first and second anniversary of the implementation of the Order. (¶6.23). These declining rate caps were not mentioned in the October 2013 Order and, therefore, were not addressed in CenturyLink's prior comments. Further, CenturyLink is unclear as to the record basis for this new proposal. CenturyLink does not believe any information has been provided that would support these declining rate reductions and requests the Commission to reject them. Instead, the Commission should leave the caps at the original $0.25 rate that was proposed in the October 2013 Order.[24]

GTL:

6.06 In support of its proposed rates, the Commission relies on the FCC ICS Order and FNPRM, which adopted cost-based ICS rates.[25]

As GTL noted in its December 6 Comments, the Commission's proposed rate caps are irrationally low when compared to non-inmate, intrastate collect calling offered to the general public in Alabama. While the Commission claims this comparison is meaningless because those providers are no longer regulated by the Commission, the record demonstrates that Alabama carriers are charging rates for non-inmate intrastate collect calling well above the rate caps proposed by the Commission for ICS. These non-inmate collect calling services require no integrated security functionality, but are priced significantly higher than what the Commission has proposed for inmates who make the same type of calls with integrated security features that are an essential element of ICS. The Commission's proposed rate caps ignore the security costs inherent in ICS rates.[26]

[24] CenturyLink Comments, pages 14-15.
[25] GTL Comments, page 3.
[26] GTL Comments, pages 4-5.

> Moreover, the Commission provides no justification to support the setting of rates for prepaid/debit calls lower than the rates for automated collect calls.[27]

Securus:

6.07 The interim rate caps are unlawful, unreasonable and confiscatory. Unless the Commission clearly mandates that site commissions or similar payments are prohibited, the proposed ICS rate caps will be below Securus' costs at all confinement facilities where such payments are required. Securus fully understands the need for confinement facilities to have sources of revenue to pay for vital programs. Securus does not object to the payment of site commissions if, and only if, the proposed rate caps are adjusted upward to recover these additional commission payment costs. If the Commission wishes to follow the lead of the FCC, when the low proposed intrastate rate caps are implemented, the payment of site commissions must be simultaneously eliminated. If the Commission does not wish to mandate the elimination of site Commissions, it must raise the proposed rate cap by an amount that will allow the ICS provider to recover all its costs PLUS any allowed site commission payment. But to permit site commissions while slashing rates will make it impossible for ICS carriers to provide service in Alabama. In many cases, the proposed ICS rate caps will be below Securus costs even if the Commission prohibits the payment of site commissions or similar payments.[28]

6.08 CenturyLink's observation that the Commission revised its recommended rate caps for prisons in the July 7, 2014 Further Order is accurate. For October 7, 2013 Order in this proceeding, the recommendation was to apply the same rates for both prisons and jails. The Commission Order was approved by the Commission on October 1, 2013 and a substitute Order was released on October 7 to correct the errata for the earlier Order. The FCC ICS Reform Order was released just 4 days prior to release of the Commission's Order. Thereafter, upon thorough review of the FCC Order, the Commission revised its recommended rate caps for prisons. We addressed the issue of rates for prisons versus jails in ¶ 6.06 of the Order.

> In response to the FCC's 2012 ICS NPRM, CenturyLink did not file a cost study but "…did file summary cost information for its ICS operations. Specifically, CenturyLink reported that its per

[27] GTL Comments, page 5.
[28] Securus Comments, pages 6-7.

> minute costs to serve state departments of corrections facilities (excluding site commission payments) averaged $0.116 and that its per-minute costs to serve county correctional facilities (excluding sit commission payments) averaged $0.137". CenturyLink indicates that the state departments of corrections facilities it serves produced a median per-minute cost of $0.108, a low per-minute cost of $0.058 and high per-minute cost of $0.188. Pay Tel serves only jails. The cost data Pay Tel submitted to the FCC supports "…average total costs for collect and debit per-minute calling of approximately $0.23 and $0.21, respectively, (including the cost of an advanced security feature known as continuous voice biometric identification)." Therefore, the record suggests a lower interim rate cap is appropriate for prisons.[29]

Therefore, the Commission revised its targeted rate cap for prisons to match the FCC's interim rate caps of $0.25/min (collect) and $0.21/min (debit and prepaid). The targeted rate cap for jails is unchanged from the October 2013 Order: $0.25/min (collect, debit and prepaid).

6.09 The FCC ICS Order and FNPRM, adopted safe harbor rates of $0.14/min (collect) and $0.12/min (debit and prepaid) and the interim rate caps of $0.25/min (collect) and $0.21/min (debit and prepaid). The FCC affirms that the interim rate caps, upon which the Commission's rate caps are predicated, are not a cost based finding.

> We adopt interim rate caps to place an upper limit on rates providers may charge for interstate ICS. As explained below, the interim rate caps we establish are $0.21 per minute for debit and prepaid interstate calls and $0.25 per minute for collect interstate calls. We adopt the interim rate caps to provide immediate relief to consumers. As of the effective date of this Order (90 days after Federal Register publication), providers' rates for interstate ICS must be at or below these levels.[30]
>
> We believe that the rate caps we establish here are set at sufficiently conservative levels to account for all costs ICS providers will incur in providing ICS pending our further examination of such costs through the accompanying FNPRM and data collection. The interim rate caps we establish are not a finding of cost-based ICS rates because we use the highest costs in the record, which include the costs of advanced ICS security features,

[29] Order ¶ 6.06.
[30] FCC ICS Order, ¶ 73.

> to set an upper bound for interstate rates that will be subject to cost justification.[31]

6.10 Responding to the Petition for Review of the FCC's ICS Order filed in the in the United States Court Of Appeals for the District of Columbia Circuit filed by Securus, the FCC's brief[32] argued that it reasonably concluded that most inmate calling providers can recover their costs within uniformly applicable hard caps. On January 13, 2014, the appellate court ruled on Securus' motion for a stay of the FCC's order, granting the motion in part and denying it in part. As a result, several key provisions of the order were placed on hold pending the outcome of Securus' lawsuit including the proposed safe harbor rates. The FCC's interim rate caps ($0.25 per minute for collect calls and $0.21 per minute for debit and prepaid calls) were not stayed and went into effect on February 11, 2014. Therefore, GTL's claim "In support of its proposed rates, the Commission relies on the FCC ICS Order and FNPRM, which adopted cost-based ICS rates" is misleading and inaccurate. The Commission does not adopt the cost-based safe harbor rates stayed by the DC Appellate Court. The Commission adopts the FCC interim rate caps for prisons. For jails, the Commission adopts rate caps that exceed those adopted by the FCC in that the rate for all calls is $0.25/min. Additionally, the rates for both prisons and jails will be phased in over a two-year period.

6.11 GTL seeks to demonstrate equivalency between ICS services and unregulated toll services provided by carriers using the Public Telephone Switched Network ("PTSN"). Collect calling over the PTSN is an infrequently used service that is experiencing rapid displacement by cellular phones and prepaid calling cards. With declining use, the costs associated with providing the service must be recovered from an ever decreasing number of calls thereby exerting upward pressure on prices. By contrast, all inmate calls must be completed via automated collect. There are no equivalent delivery means competing with and displacing automated collect inmate calls and the service is not in decline.

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[31] FCC ICS Order, ¶ 74.

[32] RE: Securus Technologies, Inc., et al., Petitioners, V. Federal Communications Commission and United States of America, Respondents, Brief for the Federal Communications Commission in the United States Court of Appeals for the District Of Columbia Circuit, USCA Case #13-1280, Document #1503814, Filed: 07/21/2014.

6.12 A better comparison with service offered by the ICS provider is domestic prepaid calling card service. AT&T's prepaid calling card rates in Alabama range from $0.04/min to $0.07/min when purchased directly from AT&T. Rechargeable AT&T calling cards, with per-minute rates of $0.035/min in the lower 48 states, may be purchased at any Walmart. Users call a central number provided on the card which routes the caller to an automated system where, using IVR prompts, the user must enter the personal identification number (PIN) associated with the card and the called number from their keypad. Similarly, inmates place debit calls by dialing into a central number where they enter their PIN.

6.13 Prepaid calling card service has similarities with ICS absent the inmate security features. Of course, retail prepaid calling card service is not equivalent to ICS but the comparison is no more meaningless than GTL's cherry-picked comparisons with unregulated, collect call offerings. Moreover, GTL's ancillary fees, which comprise part of the total price for ICS, must be allocated to the charges for GTL's inmate calls before making the otherwise meaningless price comparison with non-inmate services. ICS is a unique service provided in a unique environment for which there is no comparable counterparts offered by carriers over the PTSN.

6.14 GTL contends that the Commission's proposed rate caps ignore the security costs inherent in ICS rates. However, the FCC's interim rate caps, upon which the Commission's rate caps are based, include an allowance of $0.017/min (collect) and $0.016/min (debit and prepaid) to recover the cost of providing continuous voice biometrics. Therefore, GTL is mistaken that the Commission's proposed rate caps ignore security costs. The Commission seeks affirmation from GTL that it is indeed providing the continuous voice biometrics in Alabama confinement facilities from which it is currently being compensated via interstate rates and for which it will receive similar compensation under our intrastate rate caps.

6.15 GTL comments "the Commission provides no justification to support the setting of rates for prepaid/debit calls lower than the rates for automated collect calls." GTL's comments are accurate. The Commission omitted justification for higher sent-collect rates because

the reasons for doing so are universally accepted and understood by the industry and by regulators. The rate differential is fully supported by cost data. Ironically, it was a representative of GTL that first made a presentation to Commission staff during the transition from purely sent-collect service to prepaid service. GTL's reason for moving to prepaid service was to avoid the expense associated with charges billed by other carriers that are subsequently disputed by customers or are otherwise uncollectable. The FCC notes in ¶ 22 of its ICS order that providers cite billing and collection as justification for higher collect call costs (see also ¶ 75).

6.16 The FCC's interim rate caps, upon which the Commission's rates are based, were established using Pay Tel's cost study and 2008 cost data submitted by ICS providers (see FCC ICS Order, para. 76-80). The data indicates higher average costs for collect calls. Consequently, the FCC adopted interstate rate caps of $0.25/min (collect) and $0.21/min (debit and prepaid). The Commission's targeted rate caps for prisons mirror the FCC's interim rate caps. The targeted rate cap for jails is $0.25/min for collect, debit and prepaid calls in recognition of what the Commission believes are higher costs for jails. We note that GTL serves only jails in Alabama.

6.17 Securus claims that unless the Commission mandates elimination of site commissions or similar payments, the proposed ICS rate caps will be below Securus' costs at all confinement facilities where such payments are required. The Commission's regulatory obligation is to ensure that ICS rates and charges are just and reasonable. The authority to prohibit intrastate site commissions in Alabama rests with the Alabama Legislature rather than with regulators at either the state or federal level. In those states where intrastate site commissions are prohibited, it is the legislatures in those states that took the action. Therefore, Securus should address its plea for site commission elimination to the Alabama Legislature.

6.18 The payment of site commissions is not required by the Commission or by Alabama law. Securus and other ICS providers may offer them or choose not to do so. Our jurisdiction is limited to ensuring provider compliance with our prescribed rates, fees, and other requirements for the provision of ICS. Thereafter, any site commission payments offered

by providers have no bearing upon the prices inmates and their families pay for ICS. Securus and most other providers include a "force majeure" clause in their contracts with facilities that allow them to renegotiate or terminate the contract based on changes imposed by regulators. Neither Securus nor any other ICS provider is compelled to provide intrastate ICS in Alabama. If any providers are unable to compete profitably, based on the rates and fees prescribed by the Commission, they may freely elect to exit the ICS market in this state.

6.19 Securus' claim that the interim rate caps are unlawful, unreasonable and confiscatory is contradicted by data submitted to the Commission by parties to this proceeding. Based on calendar year 2012 calls and revenue data submitted in response to a January 2013 staff data request, the average ICS call revenue in Alabama was $0.27/minute. The average revenue for toll calls (17.4% of all calls) was $0.46/min and the average revenue for local calls (82.6% of all calls) was $0.22/min. The difference in revenue between local and toll calls is explained by the existing $2.75 cap on local calls. Both the operator surcharge and the local call cap are removed under the rates proposed in this Order. Therefore, the average revenue per call for jails will be $0.30/min in year 1, $0.28/min in year 2, and $0.25/min beginning in year 3. The Commission's recommendations can in no way be construed as "slashing rates", the hyperbole used by Securus in its comments to describe our proposed rate caps. Compared to the $0.27/min average revenue realized in 2012, the rate caps we adopt are neither unreasonable nor confiscatory and are certainly not unlawful.

6.20 One of the largest jails in Alabama, the Shelby County Jail (located near Birmingham), voluntarily adopted the Commission's targeted intrastate rates for prisons, $0.25/min and $0.21/min on October 1, 2014; a full two years before the rates are applicable in Alabama prisons. We note that the Commission's targeted rate cap for jails is $0.25/min for collect, debit and prepaid calls and that Shelby County adopted the lower prison rates. NCIC, the ICS provider serving the Shelby County Jail, reports a comparison of the usage between September and October indicates calls have increased by 27% and that revenue is virtually unchanged. NCIC also reports paying reasonable site commissions to the Shelby

County Jail. Consequently, the Commission rejects Securus' claim that the concomitant payment of site commissions under our rate caps, which we have no authority to require nor preclude, make it impossible for ICS carriers to provide service under the rate structure the Commission adopts.

6.21 The FCC authorizes ICS providers the flexibility to impute a 15-minute minimum call allowance for interstate calls thereby charging for 15 minutes usage regardless of whether the inmate talks for 1 minute or 15 minutes.[33] Thus, an interstate prepaid or debit call is priced at $3.15 (15 min @$0.21/min) when it is dialed by those providers that exercise the flexibility granted by the FCC. One of the advantages of implementing a postalized[34] rate and charging based on actual usage is avoidance of the administrative and economic implications associated with dropped calls, which despite assurances[35] to the contrary given to the FCC staff, is a significant issue in jails and prisons and a frequent source of complaints from inmates and those they call. Flat-rated call pricing creates an incentive for disconnecting calls based on suspected "three-way call" violations which must be re-dialed by the inmate incurring an additional flat-rated, 15-minute charge. Charging a per-minute rate based on actual usage eliminates dropped call issues. Moreover, with flat-rated call pricing, ICS providers dictate the inmate's call time. An inmate call that requires only 3 minutes of conversation time is charged for the full 15 minutes. The Commission does not authorize such pricing flexibility for intrastate ICS calls in Alabama.

6.22 The FCC released an FNPRM on October 22, 2014 for WC Docket 12-375 (Inmate Calling Services). The rate caps adopted herein, including the phase down period to the target rates, are subject to change pursuant to any pending FCC rulings that impact intrastate rates and site commissions.

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[33] See FCC ICS Order, ¶ 63, and 88-89. See also Securus letter to Julie Veach, Chief, Wireline Competition Bureau, Re: WC Docket No. 12-375, Rates for Interstate Inmate Calling Services, dated February 10, 2014 and Securus Notice of Ex Parte WC Docket No. 12-375, dated February 27, 2014.

[34] By "postalized" we mean pricing based only on a per-minute rate without an up-front call set-up charge; i.e. without an operator surcharge component.

[35] Securus Notice of Ex Parte WC Docket No. 12-375, dated February 27, 2014, page 2.

Single Payment Services

Comments from Parties to the Proceeding

GTL:

6.23 These services are offered as a "convenience" to a customer who may not want to establish a prepaid ICS account, or may have no other way to accept a collect call from an inmate. ICS providers do not offer consumers the ability to use these services in order to "circumvent" ICS rate caps. Rather, these services give the consumer additional options for receiving and paying for inmate initiated calls. The concept of paying more for a service or product for the convenience of using a preferred billing method is not unique to ICS.

Many of these charges imposed for single payment services are not established or billed by the ICS provider. They are established and imposed by wireless providers or payment processing companies over which the Commission does not have jurisdiction. Single payment services also are not required to be tariffed. ICS providers are subject to the tariffing requirements of the Alabama Code, which requires a utility to file a tariff "[w]henever a utility desires to put in operation a new rate or service regulation." The rates and service regulations for single payment services are not established by ICS providers; the wireless carrier or the entity providing the third-party payment processing service dictates the "rate or service regulation" for single payment services. The ICS provider does not control the "rates and service regulations" for single payment services, and therefore has no responsibility to place those services or rates in its tariffs.

Finally, the Commission cannot dictate the content of the script used to explain single payment services to customers or how the charges for single payment services are reflected on a customer's mobile phone bills and/or credit card statements. ICS providers are not responsible for the scripts used by third-party payment processing services, and have no say in how the charge appears on a consumer's mobile phone bill or credit card statement. Those matters are determined based on the contractual agreement between the third-party payment processing service and the wireless carrier or credit card company. GTL agrees to inform its customers about all of the payment options available to the customer, including those that do not include an additional charge, but GTL cannot control the actions of third-party payment processing providers.[36]

[36] GTL Comments, pages 12-14.

Securus:

6.24 The Order caps rates for "single payment service" calls at the new rate set for a collect call that is 12 minutes in duration. This action exceeds the Commission's jurisdiction and, even if an ICS provider could effectuate this rate, would preclude the ICS provider's recovery of its cost of service.

In addition to Securus' previous comments acknowledged by the Commission in the Order, Securus reminds the Commission that Securus itself does not provide the third-party call processing Text2Connect or Pay Now services. Instead, such services are provided by 3Clnteractive ("3CI"). 3CI is a billing entity that is not regulated by the Commission. The Text2Connect and PayNow services are simply "optional" services that any customer can opt to receive or to reject. Alternatively, a customer can receive inmate calls at Securus' published rates without incurring any fees associated with the use of the Text2Connect or Pay Now services.

With the Order, the Commission is attempting to interfere with the contracts of outside vendors like 3CI over which the Commission possesses no jurisdiction in much the same way as if the Commission sought to exercise jurisdiction over third-party computer companies, equipment suppliers, accounting firms or printing services which impact the cost of the ICS provided by Securus but over which the Commission has or exerts no jurisdiction. If the Commission overreaches to exert jurisdiction in this manner, the inmates and their families may end up with fewer payment options available as providers like Securus may no longer offer such services.

In addition, applying the collect call cap to single payment services would be illegal and confiscatory because it would impose below-cost rates. Securus incurs charges from third parties like 3CI in order to give inmates new and valuable calling options. The collect call cap (for a 12- minute call) is far lower than the cost that Securus must pay to the vendor. As such, the rate is unreasonable and contrary to law.[37]

CenturyLink:

6.25 In the Further Order, the Commission reverses and revises the October 2013 Order as it relates to certain "single-payment" fees, including "text-connect" and "pay-now" fees. (¶¶ 6.42, 6.43). CenturyLink objects to the Commission's determination that these

[37] Securus Comments, pages 7-8.

types of fees are permissible. CenturyLink believes such a decision has the potential to completely undermine what the Further Order otherwise seeks to accomplish through its caps on rates and caps or prohibitions on other fees and surcharges.

For example, allowing these single-payment charges circumvents the purpose of the initial free call, which CenturyLink understands to be the opportunity to provide consumers sufficient up-front information to allow them to choose the most cost-effective payment and funding mechanisms for their needs. Single payment charges also preclude the opportunity for consumers to spread capped transaction fees over the cost of multiple calls, effectively making the maximum funding amount for single-pay services equal to the cost of a 12-minute phone call, rather than the $100 mandated for all other calls.

The Further Order attempts to minimize the inconsistency of allowing single-call surcharges by limiting the allowable charges to reflect the rate and fee caps applicable to comparable non-single payment services and by requiring single-payment providers to prominently disclose charges and the availability of other payment mechanisms. (¶ 6.43). Despite these restrictions, CenturyLink believes the implementation of these charges will be almost impossible for the Commission to police. Therefore, CenturyLink believes that the Commission should prohibit them entirely, since several other, more reasonably priced and more easily enforceable, payment methodologies are available.

If the Commission continues to believe it is in the public interest to allow these single pay services, then they must be charged in a method consistent with other calls: (1) they must be charged only through per minute charges, not per-call surcharges and (2) the assessed transaction fee must be "pro-rated" over at least a $50 funding event, noting that mandated prepaid account funding maximums are set at $100. A per minute rate would be far more consistent with the stated purpose of the rate and fee caps and surcharge prohibitions otherwise adopted in the Further Order.[38]

Commission Response

6.26 Single payment services such as Pay Now and Text2Collect provide one means of completing sent-collect inmate calls to wireless recipients whose carriers do not accept

[38] CenturyLink Comments, pages 15-16.

collect calls. Inmates originate the calls over the provider's instruments and telecommunications facilities. At the provider's switch, the provider may access a database that is used to determine the identity of the provider serving the dialed number and whether that provider is a wireless carrier. The provider also has the capability from the database of determining whether the call recipient's phone is enabled for SMS (short message service) more commonly referred to as premium text messaging. The provider routes the call to the call recipient who is advised, via an automated message that the inmate is attempting to call them collect. The call recipient is provided information about charging the single call to their wireless account or an opportunity to reject the call. A number is associated with each option and the called recipient indicates their preference by pressing the number on the keypad corresponding to their preference. ICS providers typically do not have agreements with wireless providers which allow them to charge collect calls directly to the recipient's wireless carrier bill. Therefore, they contract with third-party services that have established collect billing arrangements with wireless carriers for that capability.

6.27 There are several such third-party vendors including 3Cinteractive ("3CI") and Bill to Mobile. These third-party providers are necessary only after the call recipient is reasonably informed of their payment options, including the establishment of prepaid service, and thereafter choose to have the call billed to their wireless carrier account. Once the call is complete, the call recipient receives a premium text message confirming that the charge that will be added to their wireless phone bill. Securus and GTL[39] use 3CI to process single payment calls billed to the recipient's wireless account. Securus' service is branded "Text2Connect" while GTL's service is branded "Collect2Phone". Providers that offer single payment calls typically do not charge in accordance with the actual duration of the call. Instead, they authorize a maximum usage allowance (typically, 15 or 20 minutes) for one price. The ICS provider may or may not offer the call recipient an opportunity, up front, to establish a prepaid account. If the called party is offered that

[39] Telmate also offers single payment services which in other locales are branded "Telmate Mobile Pay" and "QuickConnect". The prices for these services are currently undisclosed but copies of RFPs for Oregon show the commission paid to facilities for QuickConnect (credit card single payment service) is the same as Securus' Pay Now and GTL's Collect2Card.

opportunity and chooses to establish a prepaid account with the provider, the call is routed to the provider's call center where a prepaid account can be established using a credit card while the inmate remains on hold.

6.28 For single payment calls to a credit card, Securus and GTL inexplicably bypass their own call centers and route such calls to 3CI. Securus' single payment service by credit card is branded "Pay Now" and GTL's product is branded "Collect2Card". However, it is unnecessary for either provider to use a third-party service for processing a credit card payment when both providers routinely process credit card payments at their own call center. If a prepaid account can be established with a credit card when such calls are routed to the provider's call center, a single payment call can likewise be charged to a credit card at the provider's call center. NCIC now offers "Bank Card Collect" service from its call center. The maximum duration of the call is 15 minutes rated at the regulated collect call rate for the facility. Currently, NCIC is not assessing a credit card payment fee to the call charge.

6.29 Securus, GTL, and Telmate failed to seek Commission approval to offer single payment collect calls in Alabama. Moreover, they failed to disclose to the Commission that such services are being offered. From the Commission's rules for Inmate Phone Service:

> All IPS providers must file tariffs with the Commission which set forth the services provided along with the charges and surcharges for those services. Tariffs shall also identify the billing and collection methods utilized by the IPS provider; such as LEC or direct billed collect, prepaid calling card, debit account, prepaid collect account and any other payment alternatives.[40]
>
> The operator service and per-minute rates charged the customer for any local (intraLATA/interLATA) collect call shall not exceed the currently effective caps ordered by the Commission.[41]

6.30 The price charged by Securus and GTL for Pay Now and Collect2Card, respectively, is

[40] APSC Telephone Rules, T-15.1(A)(2) approved by the Commission on March 3, 2009.
[41] APSC Telephone Rules, T-15.1(B)(4) approved by the Commission on March 3, 2009.

$14.99 which equates to an effective collect call rate of $1.00/min for a 15-minute call. The price charged for Text2Connect and Collect2Phone is $9.99 which equates to $0.67/min for a 15-minute call. Those charges far exceed the Commission's rate caps approved in 2009 and our collect call rate caps in this Order. In ¶ 6.34 of our July Order for this proceeding, we concluded that single payment services allow for de facto circumvention of the Commission's capped ICS rates. Furthermore, ICS providers are shielding single payment service revenues from the Commission's inspection and supervision fees ("I&S fees") and may be shielding charges for single payment calls from the Alabama Utility Gross Receipts Tax. I&S fees and the Alabama Utility Gross Receipts Tax are applicable to other intrastate ICS.

6.31 Many providers offer a brief period of free talk time for the initial inmate collect call to a number served by a carrier that does not bill for inmate collect calls. After the brief period of free time, the call is redirected to the ICS provider's call center where a prepaid account may be established or the call recipient is provided with a toll-free number to call and establish a prepaid account. GTL provides this option in other states. The following from the website[42] of a New York jail served by GTL, is one such example:

> **Free Chat™ Feature**
> A first-time called-party can use the Free Chat™ feature with the inmate before the party is prompted to setup an ADVANCEPAY® account. The Free Chat™ service is provided only once per destination number. The automated operator´s opening message to the first-time called-party includes the standard branding announcement (that informs the party that the call is from an inmate at the correctional facility, naming both the inmate and the facility, and that the call may be monitored and recorded). Prior to being prompted to accept or reject that call, the party is informed that collect calls are not permitted to that number and the Free Chat™ and ADVANCEPAY® options are explained.
>
> If the party accepts the call, GTL makes the final connection so the inmate and called-party can talk. After using Free Chat™, the automated operator breaks into the call and begins the set-up process for establishing an ADVANCEPAY® account so customers can accept future calls.

[42] URL: http://www.co.jefferson.ny.us/index.aspx?page=324

> **How Does It Work?**
> ADVANCEPAY® allows inmates to call your number without the restrictions of standard billing. When an inmate attempts to make a collect call to you and your number cannot accept collect call billing, the ADVANCEPAY® automated operator will provide you with the option of setting up a prepaid account with a Visa or MasterCard payment of either $25 or $50. If you do so at this time, you will be re-connected to the inmate and the cost of this call will be deducted from your newly established ADVANCEPAY® account. If you cannot establish an ADVANCEPAY® account at that time, the inmate will be disconnected and you can call 1-800-483-8314 to establish an ADVANCEPAY® account at a later time.

Securus and GTL can offer the same alternative call processing and billing for inmate collect calls to wireless recipients from Alabama confinement facilities but elect not to do so without explanation.

6.32 Securus and GTL claim their single payment offerings are convenient and optional. However, a service is optional only to the extent that the call recipient is reasonably aware of their alternatives. As indicated in their comments "[GTL] agrees to inform its customers about all of the payment options available to the customer, including those that do not include an additional charge…" However, when and how such information is positioned within the call script provided to the call recipient is critical. Based on Commission test calls, call scripts used by Securus and GTL make no mention of lower priced prepaid service unless the consumer first rejects the provider's single payment service offering and then only after a pause. Call scripts structured in such a way are misleading and deceptive. They create the misconception that the consumer's only options are to either accept the inmate's call at the provider's single payment service price or reject the inmate's collect call.

6.33 Consumers that accept a Securus Pay Now call are provided a web address beneath the $14.99 charge on their credit card statement that directs them to a separate website[43] from the one[44] wherein Securus' AdvanceConnect prepaid service is described. The 1tel.com website for Pay Now does not provide a link to Securus' website so that customers

[43] See URL: http://www.1tel.com/
[44] See URL: https://securustech.net/phone-services

charged for Pay Now are informed of the alternative lower priced prepaid service. Moreover, the website makes no mention of Securus AdvanceConnect or any other Securus service other than Pay Now. Similarly, consumers that accept GTL Collect2Card service are directed to a separate website[45] from the one[46] wherein GTL's "Friends and Family" services are described. The 2fon.net website for Collect2Card does not include a link to GTL's website nor does it mention any GTL service other than Collect2Card. The same is true for GTL's Collect2Phone single payment service.[47] Therefore, GTL's claim that it agrees to inform its customers about all of the payment options available to them does not ring true.

6.34 Securus, GTL, and Telmate, collectively, submitted what is referred to as a consensus proposal[48] for the FCC's ICS proceeding. The Proposal includes the following recommendations for both interstate and intrastate ICS:

> The following conditions should be required to be satisfied for an ICS provider to impose a premium payment fee on a customer:
>
> - The ICS provider shall provide the customer an option to pay for an inmate-initiated call without incurring a payment processing fee, such as mailed payment by check or money order.
>
> - The ICS provider shall fully inform customers of all payment methods available (including the no-charge option), the payment processing charges associated with each payment method, and the estimated time required to establish service applicable to each payment option.
>
> - The ICS provider shall clearly and conspicuously identify the required information. The information should be presented clearly and prominently so that it is actually noticed and understood by the customer.
>
> o The ICS provider shall provide a brief, clear, non-

[45] See URL: http://www.2fon.net/
[46] See URL: http://www.gtl.net/friends-and-family-information/
[47] See URL: http://www.collect2phone.com/
[48] Letter to Commissioners Wheeler, Clyburn, Rosenworcel, Pai, and O'Rielly, dated September 15, 2014, RE: WC Docket No. 12-375, from Richard A. Smith, Chief Executive Officer, Securus Technologies, Inc., Brian D. Oliver, Chief Executive Officer Global Tel*Link Corporation, and Kevin O'Neil, President, Telmate, LLC (the "Proposal")

misleading, plain language description of the required information. The description must be sufficiently clear in presentation and specific enough in content so that the customer can accurately assess each of the available payment methods.

- An ICS provider shall clearly and conspicuously disclose any information the customer may need to make inquiries about the available payment methods, such as a toll-free number, e-mail address, or web site address by which customers may inquire or dispute any charges. An ICS provider shall include any restrictions or limitations applicable to each payment method available.[49]

6.35 The Commission agrees with Securus, GTL, and Telmate that ICS providers should be required to be satisfy those conditions before imposing a premium payment [single payment service] fee on a customer. If wireless recipients of inmate collect calls are offered the provider's much lower priced prepaid alternatives up front, or if the single payment calls charged to credit cards are processed at the provider's call center using lower priced regulated rates and approved payment processing fees, we believe that many customers will choose the lower priced options. However, such calls would then be revenue reportable to the facility served by the provider and, as such, are subject to contractual site commissions. Consequently, we conclude that single payment services may be purposely diverted to third-party payment processors where exorbitant unregulated rates are charged by the provider and the revenues associated therewith are purposely concealed not only from regulators but from the facility served by the provider.

6.36 The Commission obtained access to the site commission report at a medium-size county jail in Alabama served by Securus. The data from the months of February and March 2014 and the analysis thereof is shown in Appendix A, attached hereto. The provider reports calls, usage minutes, and revenue for inmate debit, prepaid, and collect calls but reports to the facility only the number of Pay Now and Text2Connect calls originating from the facility. Our observations are as follows:

- The provider reported 5,405 calls (line 22), 66,983 minutes (line 26), and $15,972

[49] Proposal, page 6.

of revenue (line 10) for inmate debit, prepaid, and collect calls from the facility.

- The provider reported 906 Pay Now and Text2Connect calls to the facility (line 23).
    - Based on the charges for Pay Now and Text2Connect and a 15-minute maximum call allowance[50], 13,590 minutes (line 27) and $11,506 in revenue (line 13) from Pay Now and Text2Connect calls were not reported to the jail.
- The provider collected $27,478 in revenue from inmate calls originating at the facility (line 16) but reported only $15,972 in revenue to the jail (line 10).
- The jail was paid a commission of 54.1% on the reported inmate call revenue (line 12) but the provider paid a commission of just 7.9% on unreported revenue (line 15).
- Therefore, the effective commission paid to the jail was 34.8% of the actual inmate call revenue collected by the provider (line 18) which is substantially less than the 54.1% contractual site commission rate (line 12).
- Pay Now and Text2Connect accounted for only 16.9% of the inmate call minutes at the facility (line 29) but accounted for 41.9% of the provider call revenue generated at the facility (line 20).
- Unreported revenue was 72% of reported revenue (line 21)
- The effective rate for reported revenue at the jail (debit, prepaid, collect) was $0.238/min (line 28).
    - We attribute this to the $2.75 cap for local calls that the Commission approved in 2009 and the extremely high proportion of local calls to total calls. Along with elimination of the operator surcharge, this Order eliminates the cap on local call charges.
- The effective rate for unreported revenue at the jail (Pay Now and Text2Connect calls) was $0.847/min (line 31), assuming the call allowance provided the customer with those calls is 15 minutes. Typically, single payment services provide a call allowance that is 15 minutes in duration, for one charge, regardless of whether the customer talks with the inmate for the allowed call duration. For single payment services provided from some facilities, the provider's call allowance may be as up to 20 minutes in duration.

[50] The provider sets a usage allowance for single payment service calls and the customer pays for the authorized call minutes regardless of whether the call extends to the maximum duration.

6.37 The site commissions at facilities served by providers that offer single payment services are actually much lower when unreported inmate call revenue is taken into account. Clearly, single payment services are a very large percentage of the total inmate call revenue generated at a facility where such calls are offered. When the average inmate call revenue for single payment services is $0.85/min compared to $0.24/min for inmate collect, debit, and prepaid service, there exists an incentive to conceal such revenue and shield it from regulation in the same manner other inmate calls are regulated. The minutes and revenue associated with inmate collect calls terminated on a wireline phone are reported to facilities. There is no plausible justification for providers to conceal the minutes and revenue associated with collect calls terminated on wireless phones.

6.38 CenturyLink correctly points out that the Commission reversed our initial proposal to eliminate such calls in our October 2013 Order for this proceeding. We also agree with CenturyLink that "…such a decision has the potential to completely undermine what the Further Order otherwise seeks to accomplish through its caps on rates and caps or prohibitions on other fees and surcharges." The Commission determined, however, that we should not prohibit options available to ICS customers for terminating collect calls to wireless phones provided those calls are priced in compliance with the rates and ancillary fees applicable to inmate collect calls to wireline phones. Beginning in ¶ 6.37 of our July Order, we establish a plan for pricing single payment services that ensures compliance with our caps on rates and ancillary fees. Inmate collect calls to wireline phones are priced at the capped collect call rate and may assessed the capped bill processing fee used to offset the wireline carrier (or third-party billing aggregator) charge for billing the call to the recipient's wireline account. ICS customers that pay for service using a debit or credit card are assessed the capped credit card payment fee. The Commission's cap for both the bill processing fee and the credit card payment fee is $3.00.

6.39 The pricing plan calls for imputing a 12-minute maximum call allowance to single payment service calls. We derived the 12-minute allowance by subtracting the $3.00 ancillary fee from the lowest priced single payment service offered by an ICS provider in Alabama—NCIC's $5.99 charge for its Bill to Mobile offering. We concluded that the

$2.99 remaining after subtracting the ancillary fee is the portion of the single payment service applicable to the charge for call usage. Dividing the targeted $0.25/min collect call cap into the $2.99 call usage charge yields a call duration of 12 minutes. The Commission notes that the average ICS call duration in Alabama during Calendar year 2012 is 10.4 minutes based on data submitted by the providers in response to our January 2013 data request. Therefore, the imputed call duration exceeds the average inmate call length and should be sufficient for most inmate collect calls. Our plan calls for pricing single payment services by applying the applicable capped collect rate to the 12-minute imputed call duration and adding to it the applicable ancillary fee. Single payment service calls priced in accordance with this plan are compliant with our caps on rates and ancillary fees.

6.40 In their comments, Securus claims the collect call cap for a 12-minute call allowance is lower than the cost that Securus must pay 3CI. However, neither Securus nor GTL have disclosed 3CI's charges despite ample opportunity to do so nor have they disclosed the portion of revenue they retain from single payment service charges. Until that data is disclosed, the claim is unsupported. NCIC charged $5.99 for their Collect To Mobile single payment offering which is fully compliant with the Commission's rate and ancillary fee caps. Therefore, we conclude that Securus and GTL are capable of complying as well. For single payment services billed to the recipient's credit card (Securus' Pay Now and GTL's Collect2Card), we have heretofore stated that the use of a third-party provider to bill for such calls is unnecessary when the provider has the capability within its own call center to process credit card payments.

6.41 Securus asserts "…the Commission is attempting to interfere with the contracts of outside vendors like 3CI over which the Commission possesses no jurisdiction in much the same way as if the Commission sought to exercise jurisdiction over third-party computer companies, equipment suppliers, accounting firms or printing services which impact the cost of the ICS provided by Securus but over which the Commission has or exerts no jurisdiction.." We challenge Securus to identify any language in the Commission's July Order for this Docket or within this Order wherein we impose any requirements on 3CI.

Securus is free to subcontract the billing portion of its single payment services with 3CI or with any of 3CI's competitors but such contracts and the costs thereof are an economic decision for Securus in light of the maximum end user price the Commission authorizes for single payment services. Bill processing is but one component of fully regulated inmate calls and 3CI is not the ICS service provider nor can they be without a Certificate from the Commission granting them authority to provide ICS from Alabama confinement facilities. The Commission's authority over end user rates and charges for ICS is not supplanted simply because the provider elects to subcontract the bill processing portion of ICS collect calls to a non-regulated third-party vendor. The Commission notes that other utilities under our jurisdiction sometimes rely on third-party vendors for billing, facility construction, and for administrative support functions. Nevertheless, those utilities charge the rates approved by the Commission. As the provider holding a Certificate from this Commission granting it conditional authority to provide ICS in Alabama, Securus is obligated to ensure that the service is compliant with Commission rates, rules, and our orders.

6.42 While Securus and GTL challenge the Commission's jurisdiction to regulate the charges for single payment services in comments to our July Order, they acknowledge regulatory jurisdiction over the services in their Proposal to the FCC.

> ICS providers would be permitted to impose fees for certain "premium" payment options, but such fees should be capped based on the ICS provider's existing fee amounts for such options for a period of three (3) years.[51]

The providers propose that the FCC cap interstate and intrastate single payment services while simultaneously contending that the intrastate regulator has no such jurisdiction. Such an argument is illogical and contradictory. Essentially, Securus is seeking complete autonomy with respect to the prices they charge wireless recipients of inmate collect calls in Alabama. Such abrogation of our regulatory obligation is tantamount to authorizing de facto circumvention of our approved rates and shields one segment of inmate calls from

[51] Proposal, page 6.

regulated rates and fees that are otherwise applied to wireline collect calls and to wireline and wireless prepaid inmate calls. Ensuring end users are charged fair and reasonable ICS rates is a regulatory obligation regardless of whether the called party uses wireline or wireless technology. Therefore, we affirm our jurisdiction over ICS single payment services and cap single payment services in accordance with the pricing plan described beginning in ¶ 6.37 of our July Order for this proceeding.

6.43 ICS providers may petition for a waiver of the Commission's rate cap on the bill processing portion of the price for single payment services billed to the recipient's wireless account. We will entertain such petitions provided the following[52] are fully disclosed:

1. End-to-end call handling procedures/call process flow for the single payment service;
2. A detailed description of the services performed by the third-party service for the ICS provider and the charge(s) associated therewith;
3. Description of any competitive pricing sought from other third-party billing services and the criteria used for selection of the third-party service used by the ICS provider;
4. Identification of any corporate/financial relationship between the third-party billing service and the ICS provider and/or the third-party billing service and the ICS provider's parent company or equity investors.
5. The proposed single payment service charge.

The petition for a waiver of the Commission's price cap is subject to our established procedures and available remedies including intervention, discovery, a public hearing, and refund obligations if the petition is subsequently denied in whole or in part. The petition for waiver must be filed with the Commission within thirty (30) days from the effective date for this Order. For inmate single payment collect calls billed to a wireless recipient's debit/credit card, we conclude that ICS providers have the capability within their own call center to process debit/credit card payments. Therefore, the Commission will not entertain a petition for waiver of our approved price cap for this single payment service.

[52] The requirements listed herein supplant the waiver requirements in ¶ 6.40 of our July Order.

6.44 We hereby require all ICS providers offering single payment services to fully inform the called party of the prepaid service options available to them including the rates and payment fee associated therewith.[53] This information shall be included, up front, in the call processing script before single payment service options are disclosed. Call recipients shall, as a minimum, be provided an opportunity to establish a prepaid calling account with the provider, choose a single payment option, or reject the inmate collect call. Providers shall submit via email to the Commission, within 24 hours of our request, electronically recorded call scripts for all single payment services offered to collect call recipients from Alabama confinement facilities.

Restrictions on ICS Resale

Comments from Parties to the Proceeding

CenturyLink:

6.45 In the Further Order, the Commission attempts to prohibit the resale of ICS for inmate calling by penalizing ICS providers if the confinement facility decides to mark up inmate-paid prepaid services (often called "debit") sold through canteens or other channels. (¶ 6.45). Century Link objects to this prohibition because neither the Commission nor the inmate providers have authority over the confinement facilities to enforce it. It is unreasonable of the Commission to penalize inmate payphone providers who have done nothing wrong, because of the actions of the confinement facility. Therefore, the Commission should reconsider and eliminate this requirement in the Order.[54]

The Further Order establishes requirements and provisions for issuing replacement calling cards. (¶ 6.48). CenturyLink objects to these requirements because prepaid cards can be used for improper purposes, such as bartering or gambling and for fraud. Typically, the facility defines the rules and regulations for calling card replacements, which is appropriate due to the potential security issues involved. The Commission should honor these valid concerns of the confinement facility and eliminate these proposed

[53] In this Order, the Commission eliminates minimum payment or deposit requirements. Therefore, the ICS provider will not require a minimum prepayment amount when informing the called party of their prepayment options.
[54] CenturyLink Comments, page 16.

regulations related to calling card replacement.[55]

Securus:

6.46 In Section 6.45 of the Order, the Commission prohibits the resale of ICS by penalizing ICS providers if the confinement facilities mark up the price paid by the inmate such that the effective price for the ICS exceeds the maximum cap established by the Commission for debit calls. But ICS providers have no control, either physically or contractually, over the practices of confinement facilities. Nor does the Commission have jurisdiction or authority over the facilities. Because the Commission and the ICS providers lack authority over confinement facilities to enforce this policy, Securus objects to the prohibition and suggests that the Commission reconsider this prohibition.[56]

Once Securus has sold the calling cards to the confinement facility, the facility exercises its discretion to determine how the calling cards are sold to the inmates although the confinement facility may not charge more than the face value of the calling card. In some cases, the confinement facility may have the correctional officers handle the sale to inmates. In other cases, the calling cards are sold through the commissary. Any replacement of lost or stolen cards or issuance of cash refunds of balances would need to be handled by the confinement facility or commissary that initially sold the card to the inmate. To do otherwise would be equivalent to the Commission imposing a refund requirement on convenience stores that sell long distance calling cards if such cards became lost or stolen.[57]

Commission Response

6.47 The Commission Order imposes no penalties on ICS providers as CenturyLink claims. Paragraph 6.45 in our July Order provides:

> …the Commission exercises its jurisdiction to prohibit providers from offering ICS service to resellers that mark up the price paid by the inmate such that the effective price for the service exceeds the maximum cap authorized by the Commission for debit calls. ICS providers shall include on each prepaid inmate calling card the face value for ICS commensurate with Commission approved ICS rates.

[55] CenturyLink Comments, page 17.
[56] Securus Comments, pages 8-9.
[57] Securus Comments, page 9.

> Providers shall not offer prepaid inmate calling cards for resale to any confinement facility or canteen/trust fund service that resells or is suspected of reselling the calling cards at a price greater than the face value listed thereon. Upon suspected violations, the Commission shall exercise its available remedies that include investigation of the reseller prices and suspension of ICS provider sales to the reseller. ICS providers shall establish new or amend existing agreements/contracts with resellers that include the above restrictions for resale of its ICS services and identify the Commission's remedies for suspected violations of the resale restrictions. The resale user agreement shall require the reseller to acknowledge by signature and date their understanding of the resale limitations and consequences for violations of the agreement. ICS providers shall provide a copy of the reseller user agreement upon Commission request.

6.48 We require ICS providers to redeem prepaid inmate calling cards for call minutes on the basis of the inmate's purchase price for the phone card divided by the Commission's approved rate cap for inmate debit calls (i.e., the retail or "face value"). We also require the ICS provider to permanently and prominently affix the face value to each prepaid inmate calling card before delivery to the reseller and ensure the reseller is fully informed that their sales price to the inmate shall not exceed the card's face value.

6.49 Many ICS providers sell prepaid inmate calling cards to confinement facilities for a price that includes an agreed upon discount on the retail value of the card. The usage associated with prepaid inmate calling cards resold by confinement facilities is excluded from monthly usage and revenue reports provided to the facility. Pay Tel, however, sells their prepaid calling card to the confinement facilities at face value and includes the minutes associated therewith in the monthly usage and revenue report upon which their normal facility site commissions are paid. Canteen service companies that resell the provider's prepaid calling card typically take payments from inmates for the cards via the kiosk dedicated to canteen service. Prepaid inmate calling cards are usually unnecessary at facilities wherein the ICS provider has installed their own payment kiosks dedicated to ICS service. Prior to routing the inmate payment for the calling card to the ICS provider, the canteen service company withholds an agreed upon percentage from the payment. The usage associated with prepaid calling cards sold by the canteen service company is

normally included in the monthly usage and revenue report to the facility.

6.50 The term "reseller", as applied to inmate calling cards, conveys a different meaning than the same term applied to resale of local exchange or toll service on the public switched telephone network. The resellers of local exchange or toll service purchase the retail services from an incumbent provider at wholesale then sell the service to end users under their own brand in accordance with the reseller's pricing schedule rather than the prices of the wholesale provider. The end user's contractual relationship is with the reseller, not the wholesale provider. Prepaid Inmate Calling Card Service is not rebranded and re-priced. The card carries the ICS provider's brand and is sold to the inmate at the ICS provider's retail price. Canteen service companies and confinement facilities that resell the cards are simply intermediaries between the ICS provider and the provider's customer—the inmate. At no point does the reseller become the end user's ICS provider.

6.51 In their comments referenced above, Securus contends:

> "Any replacement of lost or stolen cards or issuance of cash refunds of balances would need to be handled by the confinement facility or commissary that initially sold the card to the inmate. To do otherwise would be equivalent to the Commission imposing a refund requirement on convenience stores that sell long distance calling cards if such cards became lost or stolen."

The equivalency that Securus associates with sales of prepaid phone cards at convenience stores contradicts their justification that replacement of calling cards, balance transfers, and refunds of unused account balances are the responsibility of the reseller. The convenience store is simply an intermediary between the providers of long distance calling cards and the end users just as confinement facilities and canteen service companies are intermediaries between the ICS provider and their end users. Long distance calling cards are sold to the convenience store at a price discount in relation to the card's face value. The convenience store does not rebrand the card and at no point are they the provider of the service. Consequently, requiring resellers to replace inmate calling cards or to transfer/refund unused balances associated therewith is the equivalent of imposing the same requirement on convenience stores that resell long distance calling

cards.

6.52 CenturyLink claims prepaid inmate calling cards can be used for bartering or gambling and for fraud. That some inmates ***could*** use prepaid inmate calling cards for bartering or gambling is not a reasonable justification for denying inmates an opportunity to restore their unused prepaid calling card balance when, for whatever reason, cards are unusable, lost, or stolen nor should the inmate be denied the opportunity to transfer any remaining balance from an existing inmate calling card to a newly purchased card. Otherwise, the inmate's money is confiscated without delivering the service for which the funds are intended. The Commission is unclear what is meant by CenturyLink's claim that the prepaid inmate calling card can be used for fraud. Any inmate calling service can be used to commit fraud. It is not limited to use of prepaid inmate calling cards.

6.53 If the reseller is to replace unusable, lost, or stolen calling cards, the ICS provider must transfer any unused balance from the exiting personal identification number (PIN) to a replacement calling card PIN assigned by the provider. Likewise, unused balances in an inmate's existing prepaid calling card account must be transferred to any subsequent prepaid call card purchased by that inmate. Only the ICS provider can ensure compliance with these requirements. Moreover, inmates must be refunded any unused prepaid inmate calling card balance upon request, subject to our requirement in this Order that the unused balance is $1.00 or more. When resellers obtain prepaid inmate calling cards from ICS providers at a discount price based on the card's face value, the reseller and provider are sharing in the revenue from the inmate's purchase price. The reseller cannot be expected to refund the provider's portion of the inmate's unused calling card balance nor is it reasonable to require inmates to request separate refunds from the reseller and the provider.

6.54 We are obligated to ensure that inmates are afforded the same consumer protections afforded other purchasers of services regulated by the Commission. CenturyLink and Securus correctly assert that the Commission lacks regulatory authority over confinement facilities and canteen service companies. Nevertheless, we exert regulatory authority over

ICS provided within the confinement facilities. The provider of prepaid inmate calling card service is the ICS provider, not resellers who are merely intermediaries. ICS providers are the controlling party in ICS resale agreements. Consequently, they exert influence over the procedures associated therewith. Providers are expected to arrange for necessary settlement procedures with resellers to ensure the provider fully complies with our requirements. Therefore, we affirm that ICS providers are responsible for restoring unusable, lost, or stolen prepaid calling cards, for transferring unused balances from existing to newly purchased cards, and for refunding to inmates the unused prepaid balance remaining on their calling card.

6.55 CenturyLink and Securus contend that our Order penalizes providers for the actions of resellers. We require only that ICS providers suspend sales of prepaid inmate calling cards to entities that are known or suspected of reselling the cards in excess of the card's face value. There is nothing in our Order that suggests providers will otherwise face penalties for the actions of canteen service companies or the confinement facility. Only when the provider knowingly and wantonly violates the Commission rule by failing to suspend sales to an entity that that is reselling the provider's prepaid inmate calling cards at a price that exceeds the card's face value will the Commission pursue its available remedies with respect to the provider.

Video Visitation Service

Comments from Parties to the Proceeding

CenturyLink:

6.56 The Further Order describes video visitation as a service that involves a terminal in the cell block where the inmate is located which is connected (through a broadband connection) to a similar terminal in the visiting area, which allows the inmate and the visitor to see and speak to each other. (¶ 2.10). Clearly, these services are explicitly excluded from the Commission's jurisdiction under ALA. CODE§ 37-2A-4 (1975 as amended) as broadband or VoIP services and are services that have never been held to be included in the scope of telephone services regulated by the

Commission. Nevertheless, the Commission asserts broad regulatory authority over the rates, terms and conditions for these services. (¶ 6.61). This assertion of jurisdiction is in error, as it ignores the plain language of ALA. CODE § 37-2A-4, as well as the scope of the Commission's jurisdiction under ALA. CODE § 37-2-1. For these reasons, the Commission should reconsider its ruling and find that it does not have regulatory jurisdiction over video visitation services.[58]

GTL:

6.57 Regulation of any aspect of VVS also is beyond the Commission's statutory jurisdiction. VVS "is transmitted over broadband facilities" and is an "enhanced" service. VVS is not subject to regulation by the Commission. Accordingly, the Commission should not require ICS providers to submit VVS contracts for review or to include VVS in ICS provider tariffs, and should take no further action with respect to VVS.[59]

Commission Response

6.58 Regulatory authority over Video Visitation Service ("VVS") is one of the issues under review by the FCC in its Further Notice of Proposed Rulemaking (the "FNPRM") for WC Docket No. 12-375, released October 22, 2014. The Commission hereby vacates those portions of our October 1, 2013 Order related to VVS and ¶¶ 6.53 through 6.61 of our July Order under this Docket. Subject to subsequent FCC Orders which may deem VVS a regulated ICS service, we defer intrastate rulemaking for VVS to a later date.

6.59 The Commission caps on ICS rates are shown in Appendix B, attached hereto. The provider shall submit a letter to the Commission's Utility Services Division with the filing of their tariff and annually thereafter, on the anniversary of the tariff's effective date, disclosing and describing all services not listed in the tariff, provided for a charge to ICS customers in Alabama. This requirement includes those services the provider considers unregulated. Our intent is to verify that services not included within the provider's tariff are appropriately excluded therefrom. The letter shall include a point of contact name for

[58] CenturyLink Comments, pages 7-8.
[59] GTL Comments, pages 17-18.

responding to Commission questions about the services, the point of contact's phone number, and their email address. Providers will fully cooperate and promptly respond to questions from Commission staff with respect to these non-tariffed services.

7.00 UNAUTHORIZED ANCILLARY FEES

Regulatory Cost Recovery Fee

Comments from Parties to the Proceeding

GTL:

7.01 The Further Order determines that certain types of fees are not permissible. One of the "unauthorized" fees is an interstate cost recovery fee. The Commission has no jurisdiction to restrict ICS providers from imposing fees related to interstate ICS. The FCC specifically permits carriers "to recover legitimate administrative and other costs," and to "recover those legitimate administrative and other related costs through rates or other line items." There is no prohibition against the recovery of interstate costs through the use of interstate fees or other line item charges. The FCC has determined that the "costs associated with the business of providing telecommunications service . . . may be recovered through rates or other line item charges," and the decision "whether to include these charges as part of their rates, or to list the charges in separate line items" is left to carriers. This well-established FCC precedent applies to ICS providers, which are regulated (and always have been regulated) as interexchange carriers at the federal level. There is no support for the Commission's proposal to prohibit ICS providers from imposing interstate cost recovery fees on their Alabama customers making interstate ICS calls.[60]

Commission Response

7.02 GTL erroneously concludes that the Commission prohibits interstate cost recovery fees. Our position is unambiguous:

> To the extent that any interstate regulatory recovery fee and/or USF

[60] GTL Comments, pages 10-11.

> Administrative Fee is specifically quantified and listed in the ICS provider's FCC approved interstate tariff or such fee is specifically quantified and approved by FCC Order included in the Combined Federal Register, the Commission acknowledges that such fees are applicable to ICS service in Alabama.[61]

The Commission recognizes our jurisdiction does not extend to interstate rates but objects to the imposition of interstate regulatory fees on Alabama consumers that are unquantified and whose level is subject solely to the discretion of the ICS provider. We require ICS providers that impose such fees to cite the source granting the provider authority to assess the fee and the specific amount thereof. The imposition of interstate regulatory recovery fees is an issue under review in the FNPRM. The Commission does not authorize the assessment of an intrastate regulatory recovery fee.[62] We choose, however, to vacate the provisions of our Order that prohibits assessment of interstate regulatory fees that are unquantified by the federal regulator and await the FCC Order for the FNPRM to determine whether we shall revisit this issue at a later date. We note that GTL proposed elimination of interstate and intrastate regulatory recovery fees in its September 15, 2014 letter to the FCC.[63]

8.00 AUTHORIZED ANCILLARY FEES

Debit/Credit Card Payment Fee

Comments from Parties to the Proceeding

8.01 **GTL:**

> The Further Order identifies certain fees that are authorized to be charged by ICS providers, but places arbitrary caps on those fees.[64]
>
> In the Order, the Commission correctly recognized that ancillary products offered by ICS providers "result in additional provider costs," and that ICS providers "should be provided an opportunity to recover" these "legitimate business costs." The proposed maximum fee caps, however, fail to provide recovery of these

[61] Order, ¶ 7.02.
[62] Order, ¶ 7.03.
[63] Proposal, page 4 and attachment thereto.
[64] GTL Comments, page 8.

> recognized costs. For example, the Commission proposes an arbitrary limit on the amount that may be charged to a customer for the convenience of paying for a call by using a debit or credit card. The Commission relies on information submitted by Pay Tel in the FCC's ICS proceeding to establish its maximum fee amounts, and posits that larger ICS providers can negotiate even lower credit card transaction fees. Credit card transaction fees are set by the credit card company, not ICS providers, and there is no support in the record for the Commission's conclusion that larger ICS providers have more bargaining power than Pay Tel or smaller ICS providers with respect to such transaction fees. The concept of paying more for a service or product for the convenience of using a credit/debit card is not unique to ICS.[65]

Commission Response

8.02 GTL alleges the Commission's caps on ancillary fees are arbitrary. We base our ancillary fee caps on Pay Tel's confidential and proprietary cost study submitted to the FCC.[66] The cost study supports Pay Tel's Further Comments to the FCC[67] in which Pay Tel recommends adoption of the caps on ICS provider ancillary fees shown in Appendix C, page 1. Pay Tel's existing ancillary fees are shown on Appendix C, page 2. We add to the caps on ancillary fees recommended by Pay Tel a convenience fee for transfers from the inmate's trust fund to the inmate's ICS account via the canteen service company's kiosk. The cap on the convenience fee is 5%. We also add a $3.00 bill processing fee to cover the billing cost for collect inmate calls to a wireline/wireless carrier customer account and a $2.00 paper bill fee when prepaid customers request an optional paper copy of their electronic monthly account statement provided free-of-charge.

8.03 GTL is correct that there is no support in the record that larger ICS providers can negotiate lower credit card transaction fees than smaller providers but one would certainly expect they are no higher. Moreover, the card transaction fee paid to financial institutions is but one component of the authorized credit card payment fee we authorize. As we note

[65] GTL Comments, pages 8-9.
[66] Further Data Substantiating the Cost of ICS Service as Presented in the Further Comments of Pay Tel Communications filed July 17, 2013, Docket No. 12-375, Pay Tel Notice of Ex Parte, rec. July 24, 2013.
[67] Further Comments of Pay Tel Communications, Inc., WC Docket No. 12-375, dated July 17, 2013.

in ¶ 8.08 of our July Order "Credit card merchant account processors typically charge ICS providers 3% to 3.5% of the [customer] payment for processing debit/credit card transactions." Therefore, the negotiable element of payment processing costs is only one component that we take into account when establishing our cap on credit card payment fees.

> Additional ICS provider payment processing costs are incurred for credit card chargebacks, fraud management and refund processing, IVR and web capability, broadband/telecom facilities, and applicable administrative costs. Many of these costs are volume sensitive - a higher number of credit card transactions results in a lower average cost per transaction with the caveat that, at various stages of increased transaction volume, additional bandwidth and server capacity is required. The Commission notes that, with the exception of merchant account processor costs, the remaining card payment costs are controlled by ICS providers rather than third parties.[68]

8.04 Pay Tel's cost study included all of these cost elements. Our July Order references the largest ICS providers' lack of cost information with respect to ancillary fees.

> All ICS providers had an opportunity to submit comments with respect to ancillary charges. Pay Tel complied with the FCC's request and submitted supporting cost studies. With regard to the largest ICS providers, the FCC makes note of their failure to adequately comply in footnote 316 of the FCC ICS Reform Order:
>
> > See also Petitioners July 24, 2013 Ex Parte Letter at 2 (noting that the three largest ICS providers, who control "at least 90% of the ICS market," were "remarkably silent" when asked to submit data regarding ancillary charges).[69]

8.05 Counsel for Martha Wright ("The Wright Petition") also notes the lack of cost data provided by GTL, Securus, and Telmate:

> Despite the fact that the FCC specifically requested that the ICS providers to supply data regarding their own Ancillary Fees, two of

[68] Order, ¶ 8.09.
[69] Order, ¶ 8.03.

> the largest ICS providers failed to file a response, and the largest ICS provider took the reader on a trip through the rate regulations from the 1980s and 1990s. While GTL feigned a response, it flatly refused to provide any other information than "rates and fees charged by interstate ICS providers are comparable to those being charged by other non-dominate providers for non-inmate operation service calling." But at least GTL acknowledged the FCC's public notice, even though it declined to follow the FCC's instructions. Securus did not file any response to the public notice. Nor did CenturyLink.
>
> NCIC and Pay Tel did submit comments in response to the Public Notice, which proffered information and proposals on reforming Ancillary Fees. However, these filings must not distract the FCC from the fact that the three largest ICS providers, who control 95% of the state DOC ICS contracts, and more than 90% of the ICS industry's revenues, have simply refused to cooperate with the FCC in this proceeding.[70]

8.06 The Commission notes that the only ICS providers who submitted comments opposing the Commission's caps on ancillary fees are Securus and GTL. Both providers charge ancillary fees that are among the highest in the industry. CenturyLink, NCIC, Pay Tel, and AmTel support our caps on ancillary fees. The ancillary fees charged by these providers presently comply or very nearly comply with the Commission's caps adopted herein.

Payment Transfer Fees

Comments from Parties to the Proceeding

GTL:

8.07 ICS providers cannot control the fees established by third-parties, such as Western Union or MoneyGram. While the Commission concludes that ICS providers can enter into payment transfer service arrangements for a fee that does not exceed $5.95 per payment, there is no evidence that such arrangements are available to ICS providers in the marketplace. Further, ICS providers' agreements with third-party financial service providers like

[70] Rates for Interstate Inmate Calling Services, WC Docket No. 12-375, Comments of Lee G. Petro, Drinker Biddle & Reath LLP, on behalf of Martha Wright, et al (the "Petitioners"), dated July 24, 2013, pp 1-2.

Western Union and MoneyGram are not subject to regulation.[71]

Securus

8.08 The Order states that any "third-party payment transfer fees that exceed $5.95" require a special officer certification to justify the rate. Again, the Commission seeks to exert jurisdiction over third-party financial vendors and institutions with which ICS providers like Securus have relationships to provide alternative payment options for ICS customers. The Commission is trying to cap the amounts that financial service providers like Western Union and MoneyGram can charge customers for payment transfer services. This decision is unlawful and unreasonable on several grounds:

- The Commission's order does recognize that Western Union and MoneyGram offer different levels of service and charge different fees for these various levels of service.

- The Commission does not have jurisdiction over these entities and cannot dictate the level of service to which ICS providers subscribe.

- Likewise, the Commission does not have authority to regulate the fees of other financial institutions such as banks and credit unions, simply because a Securus customer may pay their Securus account using a cashier's check, money order, wire transfer or other payment transfer instrument from one of these financial service providers.

- It is also inappropriate, beyond the Commission's jurisdiction, and prohibited, for the Commission to require an ICS provider to provide the Commission with its contracts with any financial entity or require the ICS to allow the Commission to have open access with the financial service provider to discuss the services the ICS may receive.[72]

Western Union and MoneyGram provide different levels of service and have different charges for such services. Securus has negotiated in good faith for a national contract with both Western Union and MoneyGram that Securus cannot adjust for a single jurisdiction like Alabama. Moreover, Securus is not, and should not be, privy to the type or level of service that Western Union and MoneyGram provide to its competitors just as Securus is not privy

[71] GTL Comments, pages 9-10.
[72] Securus Comments, pages 12-13.

> to any such agreement these competitors have with other financial institutions. Should the Commission seek to exceed its jurisdiction and interfere with Securus' contracts with third parties like Western Union and MoneyGram, Securus may be forced to cause Western Union and MoneyGram to discontinue providing these services to Securus customers in Alabama.[73]

Commission Response

8.09 GTL contends that "ICS providers cannot control the fees established by third-parties, such as Western Union or MoneyGram" while Securus admits that it has "…**negotiated** in good faith for a national contract with both Western Union and MoneyGram." The Commission asserts that third-party payment transfer fees assessed to an ICS provider's customers are negotiable. The record shows that Western Union payment transfer fees range from $5.00 (NCIC) to $11.95 (Securus). MoneyGram payment transfer fees range from $4.99 (NCIC) to $10.99 (Securus). ICS providers are well aware of the fees charged their competitors' customers.

8.10 ICS providers are the exclusive providers in confinement facilities they serve. The end user of ICS is not the confinement facilities but the inmates and those they call from the facility. Unfortunately, they have no voice whatsoever in selecting the ICS provider. That decision is made by facility operators whose interests do not typically coincide with those of ICS end users. Therefore, the end users of the service are unable to exert any influence over prices charged to them by or on behalf of the provider. Free from such market constraints, ICS providers have no incentive to seek the lowest possible third-party charges for their customers. What's more, some providers may purposely manipulate the fees charged by third-party providers for purposes of sharing in the revenue generated therefrom even though the ICS providers do not provide the payment transfer services. In such situations, the regulator is compelled to act in order to protect the consumers from unfair, unreasonable, and unjust ancillary fees imposed by or on behalf the only inmate phone service provider available to them.

[73] Securus Comments, pages 13-14.

8.11 ICS users may fund accounts using checks, money orders, and, in some cases, via online banking transfers. However, there is a latency issue associated with the use of such payment methods. Securus states that the delay between payment submission and processing of the payment may be as long as 7 to 10 business days[74]. Including weekends and holidays, 7 to 10 business days can mean a delay of nearly 2 calendar weeks before a prepaid ICS account is activated and the party is able to receive calls from the inmate. Most inmates, particularly those in jails, are released within 72 hours making such delayed payment methods impractical. ICS users that possess debit/credit cards may establish service quickly by paying for the service online or over the phone via the ICS provider's call service center. However, for ICS customers without debit/credit cards, a third-party payment transfer service is the only viable option for quickly establishing an ICS prepaid account. The effective price those customers pay for ICS is heavily influenced by the payment transfer fee charged by the payment transfer service. On their website[75], Pay Tel thoroughly informs consumers about debit cards that can be purchased and funded for $3.00 at Walmart stores then used to purchase Pay Tel's prepaid service online or over the phone subject to their $3.00 credit card payment fee (total cost for the consumer to fund their account is $6.00).

8.12 The two preeminent payment transfer services are Western Union and MoneyGram. ICS providers have established agreements with one or both payment transfer services with respect to the fees charged the provider's customers for payment transfers. Securus contends that the Commission's order does recognize that Western Union and MoneyGram offer different levels of service and charge different fees for these various levels of service. To the contrary, we identified the differences in third-party payment transfer services in our Order.

> Western Union's charge for "Quick Collect" service is $9.95. With Quick Collect, customer name and address is forwarded to the Inmate Calling Service provider along with the 10-digit account number and payment amount.

[74] See URL: http://apps.securustech.net/paymentmethods.asp
[75] See URL: http://www.paytel.com/paymentoptions.html

> However, Western Union also offers a "Prepaid Services" option for $5.95 and a Swift Pay option for $5.50. For these options, only the 10-digit account number and payment amount is submitted to the ICS provider.[76]
>
> MoneyGram's standard fee is $5.65 at its Walmart locations and $5.95 at other MoneyGram service centers but these fees appear somewhat negotiable. The customer's name, address, 10-digit account number and payment amount are provided to the ICS provider.[77]

8.13 The 10-digit account number is the area code and phone number associated with the prepaid account. For Western Union's $5.95 and lower payment transfer fee options the customer name and address are usually omitted from the information Western Union forwards to the ICS provider. Name and address are not required for ICS providers to activate the customer's account. However, providers must eventually follow up to obtain that information from customer's establishing a new account, associating a different telephone number to an account than previously used, or who previously had an account with the provider which was subsequently deactivated. For replenishment of funds in established accounts wherein the customer's phone number associated with the account is unchanged and the account remains active, it is unnecessary to follow up with the customer for purposes of acquiring their name and address. That information is already on record with the provider. Therefore, customers replenishing the funds in their existing ICS account are paying a premium with Quick Collect for their ICS provider to acquire information the provider has and does not need. MoneyGram provides all the information to ICS providers that Western Union includes in their Quick Collect service for a payment transfer fee of $5.95 ($5.65 for MoneyGram payment centers located at Walmart).

8.14 As discussed in ¶ 8.15 of our July Order, Western Union and MoneyGram negotiate payment transfer fees with ICS providers. NCIC, for instance, negotiated payment transfer fees for their customers with Western Union. NCIC customers pay $5.00 for

[76] Order, ¶ 8.15.
[77] Order, ¶ 8.17.

same day delivery of their payments. Western Union provides NCIC with customer name and address, the 10-digit account number, and the payment amount. The customer's account is immediately activated. NCIC does accept any portion of the customer's payment transfer fee to Western Union. Unfortunately, the same cannot be said for providers that arrange for assessment of Western Union's Quick Collect payment transfer fee.

8.15 As indicated in ¶ 8.15 of the July Order, the record shows a portion of the $9.95 Quick Collect, payment transfer fee is shared with the ICS provider. The Commission asserts in ¶ 8.14 of that Order that some ICS providers appear to have arranged for revenue sharing in the fees charged to their customers by Western Union and MoneyGram. Pay Tel made the same observation in its comments to the FCC:

> Many ICS vendors typically characterize fees charged by third party payment services such as MoneyGram or Western Union as being "set by the third party provider." In reality, the ICS vendors have the option of selecting different third party payment services rates and, based on the inflated rates selected by some providers; it appears that some ICS providers may have entered into profit sharing arrangements with the payment processors. Pay Tel has not elected to enter into such arrangements and instead has negotiated the lowest fees possible for its customers. Meaningful reform of the ICS industry will require attention to all fees, including third party payment services, to ensure that the payment options are priced for cost recovery and not used as a way to circumvent rate caps.[78]

8.16 To date, not one ICS provider in this proceeding refutes the claim. In addition to the $5.00 Western Union payment transfer fee for NCIC, Western Union charges the following fees to ICS provider customers: CenturyLink ($5.50), Pay Tel ($5.95), AmTel ($5.95)[79], GTL ($10.95), and Securus ($11.95). The Commission notes that GTL and Securus arrange with Western Union to charge their customers Quick Collect fees that are higher than Western Union's $9.95 fee for the service, indicating an arrangement by those providers with Western Union for increased revenue sharing of their customers' payment

[78] Further Comments of Pay Tel Communications, Inc., WC Docket No. 12-375, dated July 17, 2013, page 5.
[79] AmTel arranged with Western Union recently for the $5.95 payment transfer fee for their customers.

transfer fee. While MoneyGram charges Pay Tel customers $5.95 to transfer payments ($5.65 at MoneyGram Walmart locations), and charges NCIC customers a flat rate $4.99 for payment transfers, they charge Securus customers $10.99 for the same service.

8.17 Securus, GTL, and Telmate seek FCC approval to tack on an additional $2.50 to the payment transfer fees that Western Union and MoneyGram currently assess their customers.[80] That request is, from the Commission's perspective, indicative of a mindset that payment transfer fees are viewed by these ICS providers as a potential source of additional revenue and that pursuing fair and reasonable prices for their customers is not a management priority. We find no justification whatsoever for ICS providers to share in the fees for a service they do not provide. Essentially, their customers are charged twice for payment transfer: the portion attributable to the payment service Western Union or MoneyGram provide and the portion of the customer charge not applicable to the payment transfer but reserved exclusively for and remitted to the ICS provider.

8.18 The Commission grants authority for ICS providers to operate in the State of Alabama contingent upon providing service to the public in a manner which in the public interests. Therefore, the ICS provider is obligated to seek fair and reasonably priced third-party service arrangements for its customers to extent that such third-party services support the provider's operations and to the extent that the prices associated therewith are negotiable. The Commission has clearly demonstrated that ICS providers can arrange for payment transfer fees for its customers at both Western Union and MoneyGram that are no higher than $5.95.

8.19 In ¶ 8.20 our July Order, the Commission requires that ICS providers comply with following:

> 1. ICS providers shall submit to the Commission's Utility Services Division the payment transfer fees charged its customers by third-party payment transfer services.

[80] Proposal, page 5.

2. For any third-party payment transfer fees that exceed $5.95, the provider shall submit a sworn affidavit signed affirming that the ICS provider, its parent company, nor any subsidiary/affiliate of the provider or its parent company receives a portion of the revenue charged the provider's customers by the listed third-party payment transfer services.

3. For any payment transfer fee that exceeds $5.95, the ICS provider shall also provide to the Commission a copy of the provider's contract with the third-party payment transfer service and shall justify to the Commission in writing why it is unable to arrange for payment transfer services at fees that do not exceed $5.95.

4. Such filings are subject to full investigation by the Commission and to Commission regulatory proceedings. ICS providers shall fully cooperate with the Commission investigation to include submitting, in writing, to the third-party payment service (copied to the Commission) its approval for the Commission to discuss all aspects of the provider's contract with the third-party payment service.

8.20 Both Securus and GTL claim the Commission is attempting to assert jurisdiction over third-party payment transfer services and regulate the fees they charge ICS providers. Nowhere in our July Order or in this Order do we attempt to impose any requirements on Western Union and MoneyGram nor do we attempt to limit their fees. All of our requirements are for purposes of seeking justification from ICS providers as to why they are unable or unwilling to seek payment transfer fees for their customers that are unquestionably provided to the customers of other ICS providers by Western Union and MoneyGram. Additionally, the Commission seeks confirmation from ICS providers that they are not receiving a portion of the payment transfer fees charged their customers by Western Union and MoneyGram. We have determined that ICS providers are not entitled to any portion of the fee for a payment transfer service they do not provide.

8.21 In their comments, GTL contends there is no evidence that such arrangements [payment transfer fees of $5.95] are available to ICS providers in the marketplace. Indeed, there is clear and undeniable evidence. The existing payment transfer fees at Western Union and/or MoneyGram for customers of NCIC, Pay Tel, AmTel, and CenturyLink are $5.95

or less. Other than Securus and GTL, all the commenting parties to this proceeding either (A) have arranged with Western Union and/or MoneyGram for payment transfer fees of $5.95 or less for their customers; or (B) have not objected to the requirement that they do so. Perhaps not coincidentally, the payment transfer fees that are assessed by Western Union and/or MoneyGram to Securus and GTL customers are among the highest in the industry. Securus warns: "Should the Commission seek to exceed its jurisdiction and interfere with Securus' contracts with third parties like Western Union and MoneyGram, Securus may be forced to cause Western Union and MoneyGram to discontinue providing these services to Securus customers in Alabama." The Commission has no requirement that ICS providers utilize the services of Western Union or MoneyGram. If Securus is unwilling to secure for its customers payment transfer fees of $5.95 or less, it is free to eliminate third-party payment transfers from its available payment methods.

8.22 Securus asserts it has negotiated for a national contract with both Western Union and MoneyGram that Securus cannot adjust for a single jurisdiction like Alabama. Yet Securus provided no evidence that Western Union and MoneyGram will not negotiate for the same fees they are currently charging customers of other ICS providers in Alabama. The Commission questions why Securus does not seek for its customers in every state the lower payment transfer fees that Western Union and MoneyGram currently charge customers of other ICS providers. In ¶ 8.19 of our July Order, we established that ICS providers may cancel existing contracts with Western Union on 30-days' notice. Moreover, Western Union contracts include a provision requiring vendor compliance with all regulatory requirements as well as local, state, and federal laws. Providers can cancel contracts with MoneyGram on 15-days' notice. The record is clear that ICS providers can secure payment transfer fees of $5.95 or less for their customers at Western Union/MoneyGram and we expect ICS providers operating in Alabama, under authority granted by the Commission, to do so. The Commission concludes that negotiated payment transfer fees priced at $5.95 or less are fair and reasonable for the provider's customers. Therefore, for those providers that arrange for payment transfer fees compliant with that price, we require no demonstration by the provider that the fees exclude any form of revenue sharing.

8.23 We hereby supplant the requirements in ¶ 8.20 of our July Order for this proceeding. ICS providers shall submit to the Commission's Utility Services Division, within 15 days from the effective date of this Order, a letter identifying the payment transfer fees charged its customers by third-party payment transfer services[81]. Providers will thereafter notify the Commission's Utility Services Division of any decreases in the fees charged its customers by third-party payment transfer services within fifteen (15) days from the effective date of the decreased fees.

8.24 For proposed increases in the payment transfer fees charged the provider's customers by Western Union/MoneyGram, the ICS provider shall notify the Commission thirty (30) days prior to the effective date for the proposed fee increases, by letter to Commission's Utility Services Division. The notification shall include a listing of the proposed fees and a detailed justification of the reasons for the proposed increases. The notification of proposed fee increases is considered non-proprietary and subject to Commission's established procedures and available remedies including intervention, discovery, a public hearing, and redress.

8.25 For payment transfer fees charged the provider's customers by Western Union/MoneyGram that exceed $5.95 as of the 15th day from the effective date of this Order, the provider shall submit a letter to the Commission's Utility Services Division identifying it efforts and progress associated therewith to acquire for its customers payment transfer fees from Western Union/MoneyGram that are $5.95 or less.

8.26 By the 45th day[82] from the effective date of this Order, Providers whose customers are charged payment transfer fees by Western Union/MoneyGram that exceed $5.95 shall submit the following to the Commission:

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[81] The Commission notes that payment transfer fees assessed the provider's customers by third-party payment transfer services are established based on agreements between the provider and the third-party payment transfer service. Such agreements are necessary in order to identify the provider to which the payment will be submitted, the provider's address and the financial entity to which payments are transferred. Additionally, it is customary for the provider to negotiate the fees charges its customers by payment transfer services.

[82] Or on the next business day if the 45th day from the effective date of this Order falls on a weekend or federally recognized holiday.

A petition for waiver from the requirement to arrange payment transfer fees of no more than $5.95. The petition for waiver shall include the following:

A detailed explanation of why the provider is unable to arrange with Western Union/MoneyGram for payment transfer fees of $5.95 or less for its customers.

A sworn affidavit signed by the ICS Provider CEO or President affirming that the ICS provider receives no portion of the revenue charged the provider's customers by the applicable payment transfer services.

Identification of the payment transfer fee(s) charged the provider's customers by Western Union/MoneyGram and the additional services the provider receives from Western Union/MoneyGram for assessing payment transfer fees that are higher than the fees charged the customers of other ICS providers.

8.27 The petition for waiver from this requirement is subject to the Commission's established procedures and available remedies including intervention, discovery, a public hearing, and redress.

Inmate Canteen/Trust Fund Transfer Fee

Comments from Parties to the Proceeding

Pay Tel:

8.28 Pay Tel acknowledges that vendors engaged in the sale of Commissary products to confinement facilities are in a unique position where the profitable recurring sales of goods to inmates at (unregulated) prices easily supports the installation and maintenance of deposit kiosks with no cash deposit fee. However, the same economic model does not exist for ICS vendors who are solely providing the kiosk for inmate telephone account funding purposes. In contrast, an ICS provider's rates are regulated with a limited profit margin, leaving little room to pay for the purchase and installation of a kiosk. Credit Card payments via kiosk (for which a fee is still permitted) represent a small fraction of transactions, and are wholly insufficient to cover kiosk expenses. A recent review of transactions at a kiosk in a 1,200 bed facility

revealed that credit card transactions represent only 10% of total transactions.

Kiosk Expenses include:

- Initial investment in kiosk, installation, training, internet bandwidth to connect to ICS platform
- Cost of licensing and on-going compliance with Money Transfer Agent regulations
- Recurring Cost of internet bandwidth
- Recurring Cost of repairs, maintenance, printer maintenance, etc.
- Recurring Cost of cash pickup, armored car
- Cost of integration with Commissary Vendor

For this reason, we respectfully request the Commission modify its proposed rules to permit a reasonable $3.50 kiosk cash fee. Without this revenue to defray the costs; it will be difficult if not impossible to justify the expense of a lobby kiosk in all but the largest jails. In Alabama, only 3 out of 67 cities or counties with jails would have sufficient volume to qualify. ICS vendors who just so happen to be owned by or affiliated with commissary companies will be the only ones able to afford the expense at the other 64 locations. We are concerned that the prohibition against this fee will potentially eliminate a convenient cash payment option for consumers in a significant number of facilities in Alabama; forcing them to utilize more expensive options such as Western Union or MoneyGram.

Kiosk Providers Must Comply with State and Federal Registration Requirements

While the regulation of money transfers is adequately governed by the Alabama Securities Commission and the United States Department of the Treasury, it would be prudent to refer to those regulations as a compliance requirement for the provision of an ICS-provider kiosk. We ask you to consider an addition to the rules which states the following: Prior to establishing kiosk service for the acceptance of money to be applied to called party accounts and/or transferred to inmate trust account holders; the kiosk-providing vendor (whether an ICS vendor or kiosk subcontractor) must fully comply with: a) applicable Alabama Statues; b) the rules of the Alabama Securities Commission (ASC), including registration, licensure and bonding of money transmitters; and c) US Department of the Treasury registration requirements through the Financial Crimes Enforcement Network (FinCen). Each vendor's annual report should be required to include: proof of State ASC and FinCen registration by the vendor or its kiosk

subcontractor or an affidavit from a company officer indicating that no kiosk services are provided in the State of Alabama.[83]

NCIC:

8.29 NCIC approves of all of the Commission's proposed changes, however, encourages the Commission to allow for a $3.00 fee on Kiosk payments via Cash, as originally proposed in the Further Order Proposing Revised Inmate Phone Service Rules and Establishing A Comment Cycle, Docket No. 15957, dated October 1, 2013. There are many different costs associated with these kiosks, some of which include routine maintenance, recurring software fees, and the actual cost of collecting the deposits from the kiosks. This fee would help cover these costs and ensure that payment by cash remains a convenient option for the customer. Cash paying customers are the primary users of kiosks, and as such a kiosk within the facility is necessary to accommodate these specific customers. Without the cash payment fee the likelihood of an ISP providing a kiosk as a convenience to the customer is not feasible.[84]

Commission Response

8.30 Canteen service companies provide payment kiosks strictly for deposits into inmate trust funds. The canteen operators assess fees to users of their kiosks for deposits. ICS providers have agreements with canteen service companies whereby inmates may transfer funds into their inmate calling account requiring an electronic interface between the canteen service company and the ICS provider's jail management system. The ICS provider is charged from three to five percent of the amount transferred depending on the canteen service company. Increasingly, however, ICS providers are installing their own payment kiosks used exclusively for ICS payments and must assess fees to recover their capital investment as well as recover the expense associated with servicing and maintaining the kiosks.

[83] RE: Docket 15957 -Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service, Comments of Pay Tel Communications Inc., dated August 11, 2014 ("Pay Tel Comments").
[84] Comments - Revised Proposed Rules for Inmate Calling Services (ICS) - Generic Proceeding considering the promulgation of telephone rules governing inmate phone service, Network Communications International Corp, dated August 9, 2014.

8.31 In our October 1, 2013 Proposed Order under this Docket, the Commission authorized assessment of a $3.00 fee for cash payments and a $3.00 fee for credit card payments at kiosks installed at the confinement facility by the ICS provider. In our July 7, 2014 Further Order under this Docket, the $3.00 cash payment fee was omitted. We recognize the necessity for charging a payment fee to recover the associated provider costs for customer deposits into inmate calling accounts at the ICS provider's kiosk using both cash and credit card. Consequently, we hereby reinstate the $3.00 cash payment fee for customer deposits at ICS provider kiosks.

8.32 We concur with Pay Tel that the kiosk-providing vendor (whether an ICS vendor or kiosk subcontractor) must fully comply with: a) applicable Alabama Statues; b) the rules of the Alabama Securities Commission (ASC), including registration, licensure and bonding of money transmitters; and c) US Department of the Treasury registration requirements through the Financial Crimes Enforcement Network (FinCen). However, we decline at this time to impose the specific reporting requirements recommended by Pay Tel. As part of our confinement facility visits and inspections, the Commission staff routinely checks ICS provider kiosks to ensure compliance with our rates and consumer information requirements. Therefore, we find it prudent that ICS providers submit to the Commission's Utility Services Division a report showing the number of provider kiosks at each Alabama confinement facility. The report shall be submitted semiannually by December 1st and July 1st each year and shall indicate the number of kiosks provided by confinement facility location as of the first day of the preceding month (November 1st and June 1st). The Commission shall make the reports available to the Alabama Securities Commission upon request.

8.33 The Commission's caps on ICS ancillary fees are shown in Appendix D, attached hereto. The provider shall fully disclose, within the letter to the Commission's Utility Services Division referenced in ¶ 6.59 of this Order, all ancillary fees not listed in the tariff, charged to ICS customers in Alabama and the amount of the charge associated therewith. This requirement includes ancillary fees the provider considers unregulated. Our intent is to verify that ancillary fees not included within the provider's tariff are appropriately

excluded therefrom. Providers will fully cooperate and promptly respond to questions from Commission staff with respect to these non-tariffed ancillary fees.

9.00 REFUNDS AND UNCLAIMED PROPERTY

Refunds Required

Comments from Parties to the Proceeding

GTL:

9.01 GTL's approved ICS tariff states that unused funds in an inmate debit account are refundable upon request by the inmate, that the balance of available usage expires three months from the date of last activity, and that no refunds of unused balances are available after the expiration date. Similarly, GTL's approved ICS tariff states that Advance Pay accounts (i.e., prepaid accounts established by an inmate's friends and family) may be closed by the customer at any time, that a refund may be issued when requested by the customer, and that the account is automatically dissolved after three months of no activity (no calls placed, no account replenishment, no customer service inquiries). ICS providers should not be required to automatically refund "unused debit, prepaid inmate calling card, and prepaid collect funds" as suggested in the Further Order. Refunds should be given when requested by a customer and consistent with the existing process outlined in GTL's approved Alabama tariff.

Under the Uniform Disposition of Unclaimed Property Act of 2004, a deposit or refund is considered "unclaimed" one year after the deposit or refund becomes payable. With respect to ICS, the Commission has interpreted this to mean a refund or deposit becomes "unclaimed" one year following the last customer payment for ICS in the account or one year after the customer's last usage of funds in the account for ICS, whichever comes later. Under the terms of GTL's approved tariff, the requirements of the Alabama Uniform Disposition of Property Act do not apply to GTL's inmate debit and prepaid ICS accounts as there will be no "unclaimed" refund one year following the last customer payment or usage.[85]

[85] GTL Comments, pages 14-15.

Commission Response

9.02 Alabama's Uniform Disposition of Unclaimed Property Act of 2004[86] establishes unclaimed property requirements. Property is defined in section 35-12-71(11) and includes credit balances, customer overpayments, and refunds. Section 35-12-72, which addresses the presumption of abandonment, provides that a deposit or refund owed to a subscriber by a utility, is considered abandoned one year after the deposit or refund becomes payable (35-12-72(15)). Thereafter, abandoned property is subject to the custody of the State of Alabama (35-12-74). Section 35-12-76 requires the holder of the abandoned property to file a report with and remit the abandoned funds to the Treasurer, State of Alabama. The State Treasurer maintains on their website[87] a database listing unclaimed property along with the name and last known address associated with the unclaimed property, if available. The website identifies the reason unclaimed property is handled in this manner:

> "Each year, millions of dollars in assets are turned over to the Alabama Treasurer's Office by financial institutions and businesses that lose contact with the owners. These assets may be in the form of cash, stocks, bonds, insurance benefits and even valuables from safe deposit boxes. By law, once these funds are deemed abandoned, they are turned over to the state. The Alabama State Treasury serves as custodian of these assets and makes every effort to return them to the rightful owner or their heirs."

9.03 GTL cannot blatantly ignore Alabama's Uniform Disposition of Unclaimed Property Act, craft its own dormancy period for refunds, seize refunds owed their former customers, then retain those funds rather than remit them to the Alabama State Treasurer as required by law. The Commission requested from the State Treasurer, copies of unclaimed property reports submitted by ICS providers over the previous three-year period. GTL filed unclaimed property reports with the Treasurer but each year claims that it held $0.00 in unclaimed property. GTL is not alone in that respect. The preponderance[88] of ICS

[86] Title 35, Chapter 12, Article 2A, Code of Alabama, 1975.
[87] See URL: http://www.moneyquestalabama.com/
[88] Pay Tel and Securus are notable exceptions.

providers operating in Alabama failed to file reports with and remit any unclaimed property to the State Treasurer. One would, therefore, reasonably conclude that these providers are improperly increasing their profitability by seizing funds to which they are not entitled. Commission Rule T-5(C)(6) requires that providers refund customers any overcharges for the previous thirty-six (36) month period. Therefore, the Commission could, by its own rules, initiate action requiring ICS providers to identify all refunds due Alabama ICS customers over the previous thirty-six (36) month period and to file amended unclaimed property reports with the State Treasurer. Such actions would provide these property owners a reasonable opportunity to claim the funds due them as required under Alabama law.

9.04 GTL cites provisions in its revised ICS tariff submitted to the Commission in compliance with Commission Rule T-15.1(A)(2) as justification for non-compliance with Alabama's Uniform Disposition of Unclaimed Property Act. The Commission's Order implanting the existing Commission rules for ICS under this Docket, is dated March 3, 2009. The Order authorized providers to simply revise existing tariffs for changes in our rules.[89] We clarify that the Commission did not vote to approve GTL's tariff but considered it and other revised ICS tariffs presumptively valid. Alabama law supersedes Commission policies, rules, and administrative requirements. Moreover, Alabama's Uniform Disposition of Unclaimed Property Act establishes the legal basis for the refund dormancy period and unclaimed property obligations in Alabama, not GTL's nor any other ICS provider tariff. The staff's inattentiveness to the refund provisions in GTL's revised tariff and/or lack of familiarity with the requirements in Alabama's Uniform Disposition of Unclaimed Property Act when the tariff was reviewed for completeness neither indemnifies nor holds GTL harmless from its failure to comply with Alabama law. Contrary to GTL's claim that "Refunds should be given when requested by a customer and consistent with the existing process outlined in GTL's approved Alabama tariff", GTL is responsible for ensuring that its refund procedures fully comply with Alabama law and that it tariff reflects that compliance.

[89] *Re: Generic Proceeding Considering the Promulgation of Telephone Rules Governing Inmate Phone Service*, Commission Order for Docket 15957, March 3, 2009, page 6.

9.05 GTL comments that "…unused funds in an inmate debit account are refundable upon request by the inmate, that **the balance of available usage expires three months from the date of last activity**, and that **no refunds of unused balances are available after the expiration date**." GTL comments further:

> Under the Uniform Disposition of Unclaimed Property Act of 2004, a deposit or refund is considered "unclaimed" one year after the deposit or refund becomes payable.
>
> With respect to ICS, the Commission has interpreted this to mean a refund or deposit becomes "unclaimed" one year following the last customer payment for ICS in the account or one year after the customer's last usage of funds in the account for ICS, whichever comes later.
>
> Under the terms of GTL's approved tariff, **the requirements of the Alabama Uniform Disposition of Property Act do not apply** to GTL's inmate debit and prepaid ICS accounts as there will be no "unclaimed" refund one year following the last customer payment or usage.

9.06 We summarize GTL's position as follows: (1) Alabama law says that a refund due an ICS customer is unclaimed if not requested one year after it becomes payable; (2) the Commission requires that ICS providers refund unused prepaid balances and has defined when the one-year dormancy period ends for the refund to be deemed unclaimed; (3) GTL invokes its own rule by tariff which provides that the customer's unused prepaid balance in the account expires after three months; (4) GTL does not permit refunds after that date despite Alabama law and/or Commission rules to the contrary; (5) there is no unclaimed refund after one year because GTL seized the customer's funds after three months; (5) therefore, GTL is compliant with Alabama law and/or Commission rules.

The Commission rejects GTL's flawed, misguided, and legally non-compliant treatment of customer refunds and unclaimed property. Unused balances in prepaid ICS accounts including inmate debit, prepaid inmate calling cards, and all other prepaid ICS accounts cannot legally be declared "expired" by the ICS provider. The ICS provider will make such unused balances in prepaid accounts available for refund to the customer for a period of one year after the refund is deemed "payable" pursuant to the Commission's definition

for "payable". The ICS provider is prohibited from retaining any portion of unclaimed refunds. The provider shall submit an unclaimed property report and remit all unclaimed refunds to the Treasurer, State of Alabama in accordance with Alabama's Uniform Disposition of Unclaimed Property Act of 2004. Any ICS provider that fails to comply with these requirements is subject to investigation and the remedies available to the Commission.

Refund Procedures

Comments from Parties to the Proceeding

Pay Tel:

9.07 While Pay Tel agrees that unused prepaid account balances must be refunded and handled in accordance with State Unclaimed Property/Escheat laws; the absolute prohibition against Prepaid Calling Cards for Refunds is overly broad. First and foremost, a refund can be requested and will be provided by Pay Tel at any time and at no charge. If the refund is requested within 90 days of a credit/debit card deposit; the funds are refunded to that same card. If the refund request is outside of that 90 day window, the refund is issued in the form of a check. We firmly agree that all ICS Vendors should respond to refund requests in this manner. **Our concern is solely based on the handling of inactive accounts with unused balances for which a refund has not been requested.** For example, the following Pay Tel policy ONLY applies to accounts when no refund has been requested and no activity has occurred for a minimum period of six (6) months.

After a six month period of inactivity, Pay Tel proactively notifies the account holder that funds remain in the account. A Prepaid Card (Sample provided as Exhibit A) is sent to the account holder which offers three options:

1) Use the card information (together with the PIN the customer established with their prepaid account) as a calling card for regular domestic phone calls placed to any number from any phone at a competitive rate of $.08 per minute, which is filed in Pay Tel's state tariff;

2) Return the card to Pay Tel to receive a full refund for no charge; or

3) Contact Pay Tel to request a transfer of the remaining balance to another (active) prepaid account.

A copy of Pay Tel's Inactive Account Policy is attached as Exhibit B, and describes the steps involved in inactive account handling. Any funds that are not used or claimed after this process are handled in accordance with the applicable state escheat policy. Unused Prepaid Account funds never simply expire and are never absorbed by Pay Tel. The Customer may, at any time prior to funds being transferred to the state under the escheat policy, obtain a refund of any remaining balance by contacting Pay Tel and verifying their identity. This is done at no charge to the customer.

Clearly, the above process is more involved than simply sending out checks to the last known address. Why? Simply put, in Pay Tel's direct experience with refunding inactive accounts, we found that sending out refund checks to account holders after a period of inactivity creates several significant administrative issues:

a. Relocation of Account Holder - Due to addresses changes, refund checks may/may not reach the actual account holder, which creates exposure for the ICS vendor and the true account holder:

i. Recipient doesn't recognize the sender and throws the refund away.

ii. Recipient deposits or cashes a check that is not rightfully theirs.

iii. True Account holder does not receive refund.

iv. Amounts are generally small (the vast majority are less than $10) which means that less scrutiny is given when cashing or depositing and there is little incentive to prosecute theft.

b. Check Fraud - Checks have been altered and cashed for a larger amount.

c. Refund Timing - Well over half of the remaining balances on inactive accounts are resolved through an account-holder refund request or re-activation of the account within 6 months.

For these reasons, and the significant administrative effort and

exposure involved in issuing refund checks in this manner; Pay Tel adopted its current Inactive Account Policy described above and detailed in Exhibits A and B.

We ask that the Commission maintain its regulations on responding to refund requests from account-holders and expand that regulation only as it pertains to the method of refunding inactive account balances in those instances when no refund has been requested by the account holder. In the alternative, please provide the method by which alternate process (such as the one described above) can be submitted for approval. If a pre-paid card refund solution is accepted for inactive account refunds; **we recommend a rate cap of $0.10 per minute for such calls, which should be included in the ICS vendor tariff.**[90]

Commission Response

9.08 Our July Order establishes the following refund procedures:

1. ICS customers will be refunded their unused balances in full.

2. The provider will not assess any fee to the customer's balance or request any payment from the customer for refunds.

3. Refunds of prepaid ICS, wherein payment was submitted via debit/credit cards, may be issued by crediting the refund amount to the card account, by debit card, or by check.

4. The preferred method for refunding unused prepaid debit account balances[91] is via debit release cards at the time the inmate is released from custody or by transfer of funds to the inmate canteen/trust account for refund. Alternatively, refunds shall be made using checks.

5. The Commission does not authorize the issuance of refunds to any class of customers using prepaid telephone calling cards. When a prepaid telephone calling card is used for refunds, the ICS provider, rather than the customer, dictates how refunds shall be spent. Many customers use wireless phones for their telecommunication requirements and have little need for prepaid telephone calling cards. Moreover, the Commission would be required to regulate the calling rates/terms to which the ICS refund is converted along with the associated expiration date for the card.[92]

[90] Pay Tel Comments, pages 2-4.
[91] Includes unused balances in prepaid inmate calling cards.
[92] Order, ¶ 10.02

9.09 Pay Tel's requests to use prepaid calling cards for refunds is limited to those situations wherein the customer has not requested a refund after six months of account inactivity. The Commission commends Pay Tel for its proactive and ethical approach to ICS customer refunds. The intent of the Alabama's Uniform Disposition of Unclaimed Property Act is to provide opportunities for the return of property to the property's rightful owner. We find that Pay Tel's refund procedures are very reasonable and conclude that the procedures comply with the both the spirit and intent of Alabama law. However, we eliminate from Pay Tel's recommended procedures the following provision included under "Refund", page 2 of 3:

> A monthly account maintenance fee will be applied to any balance existing more than twelve (12) months after the account is classified as inactive and/or an Inactive Prepaid Account Phone Card has been issued. The Company will waive the monthly card maintenance fee if a Customer requests a refund at any time.

The Commission does not authorize the assessment of such a fee. Moreover, compliance with Alabama's Uniform Disposition of Unclaimed Property Act precludes the opportunity to apply such a fee. We encourage all ICS providers to adopt Pay Tel's procedures for those refunds due but not requested following six months of account inactivity. The amended procedures are attached hereto as Appendix E. We further adopt Pay Tel's recommended $0.10/min cap for the prepaid calling card issued for refund purposes. ICS providers electing to adopt these procedures will list them in their tariff along with the capped usage rate.

10.00 TARIFF REQUIREMENTS

Comments from Parties to the Proceeding

GTL:

10.01 The Further Order requires ICS providers to identify all services (along with associated rates and fees) provided at or from correctional facilities in Alabama including, but not limited to, single payment services, prepaid inmate calling cards, and VVS. As

> discussed above, single payment services and VVS are not telecommunications services subject to regulation and tariffing requirements under Alabama law.
>
> The Further Order also requires ICS providers to file an abbreviated version of the new Commission-prepared template ICS tariff within 10 days following implementation of the new requirements. Ten days is not an adequate amount of time for ICS providers to prepare and file new tariffs based on the Commission-prepared template. GTL therefore recommends that the Commission extend the time for filing the abbreviated version of the new Commission prepared template ICS tariff to 30 days following implementation of the new requirements, with final tariffs due within 60 days following implementation.[93]

Commission Response

10.02 As heretofore addressed, the Commission hereby vacates those portions of our October 1, 2013 Order related to VVS and ¶¶ 6.53 through 6.61 of our July Order under this Docket. Subject to subsequent FCC Orders which may deem VVS a regulated ICS service, we defer intrastate rulemaking for VVS to a later date. Therefore, we also vacate the requirement to include VVS rates in the intrastate tariff until such time as the issue is resolved.

10.03 The Commission rejects GTL's claim that single payment services are not subject to regulation and tariffing. Single payment services are inmate collect calls from confinement facilities to wireless recipients over the ICS provider's network. The regulation of collect calls to wireline recipients, as well as prepaid inmate calls to both wireless and wireline recipients is unquestioned. Further, the regulation of inmate collect calls to wireless recipients that are routed to the ICS provider's call center for payment is undisputed. As noted previously in this Order, bill processing is but one component of fully regulated inmate calls. The Commission's authority over end user rates and charges for ICS is not supplanted simply because the provider elects to subcontract the bill processing portion of ICS collect calls to a non-regulated third-party vendor. The

[93] GTL Comments, pages 23-24.

Commission further questions how GTL arrived at the determination that single payment services are not subject to regulation. None of the service providers requested a determination from this Commission with respect to whether single payment services are free from regulatory oversight in Alabama. Consequently, we can only surmise that providers made this determination themselves and, having done so, are under the illusion that their interpretation supersedes the Commission's authority to determine otherwise. The Commission is obligated to ensure that end users are charged fair and reasonable ICS rates regardless of whether the called party uses wireline or wireless technology and whether the provider chooses to bill the call or subcontract that function to a third-party vendor. Therefore, we affirm our jurisdiction over ICS single payment services and require that ICS providers holding a Certificate from this Commission to provide ICS in Alabama verify, via the tariff, that their charges for single payment services are compliant with our rates, rules, and orders.

10.04 The abbreviated tariff required by the Commission consists of a page or pages that list only the rates for ICS services and the ancillary fees minus terms, conditions, and definitions. The tariff shall also identify a provider point of contact for questions about the tariff and a point of contact for customer service inquiries, including the contact name, mailing address, telephone number, and email address. Therefore, we conclude that submission of the abbreviated tariff ten (10) days following the effective date of this Order is in no way an onerous requirement. The template for abbreviated tariff is attached hereto as Appendix F.

11.00 RECORD RETENTION AND REPORTING REQUIREMENTS

Comments from Parties to the Proceeding

GTL:

11.01 …GTL does not maintain its records on a correctional facility-by-correctional facility basis as would be required under the new record retention requirements. Further, the proposal would require data retention "[o]n a monthly basis, beginning with January 2013."

Implementation of this proposal would require ICS providers to re-calculate and re-format their existing data (assuming such data exists) in the newly prescribed format for record retention. The burden to redo nearly two years of records far exceeds any potential benefit and none has been demonstrated to support this proposed requirement. Finally, any proposed requirements pertaining to the retention of interstate call information interferes with the primary jurisdiction of the FCC. Some of these issues could be remedied by: having the new record retention requirements take effect 90 days after a final order is issued in this proceeding; applying the new record retention requirements on a prospective basis only; and removing any reference to interstate call information.

It also is important to note that any new record retention and reporting requirements come at a cost to ICS providers, who are facing significant rate reductions as a result of the other actions proposed in the Further Order. If the Commission's record retention and reporting proposals are adopted, the Commission should allow ICS providers to apply a regulatory cost recovery fee to offset the added expense.[94]

Securus:

11.02 The requirements have a level of detail and granularity that deviate from the company's standard bookkeeping practices. The requirements propose to be retroactive to January 2013. In many case this data simply does not exist in the granularity proposed and it may not be possible to "reinvent the wheel" back to the beginning of 2013. In some cases the proposals want data for service at Alabama confinement facilities but the services are not facility specific. For example, a Securus customer's prepaid collect account can be used to receive calls from any Securus served confinement facility, including out of state facilities. This is very common with bail bond companies, attorneys, inmate service groups, and even friends and families. Therefore, prepaid accounts are not associated with a particular correctional facility. Tracking of monthly data on a facility by facility basis is tremendously burdensome and will result in a massive amount of data that will be extremely difficult, if not impossible, to use effectively. These Commission proposals, if adopted, are not supported by any evidence to suggest that these burdens on ICS providers are necessary to protect the public interests of the ICS providers' inmate customers and the confinement facilities who allow these services to be provided to them. The Commission should revise the record retention and annual reporting requirements to the level currently shown in 12.06

[94] GTL Comments, pages 24-25.

> of the Order without interstate data, to provide reports on total minutes, total calls, and total revenue for local and intrastate toll. Additionally, the Commission should make it explicit in the Order that any ICS provider's data provided pursuant to the reporting requirements is to be considered confidential and proprietary.[95]

Commission Response

11.03 GTL claims it does not maintain records on a correctional facility basis. Securus also claims that some of its data is not facility specific. Such claims lead us to question how GTL and Securus pay site commissions without facility specific data and whether settlement reports provided to the facilities include all the usage from that facility. GTL and Securus are the nation's largest ICS providers but the only two in this proceeding claiming they do not maintain adequate records for compliance with this requirement. Securus contends that some prepaid and direct-billed accounts may provide for calling from multiple facilities. If so, the calls should be included in the monthly calls and usage reports that Securus provides to facilities.

11.04 The record retention requirements[96] are:

1. On a monthly basis, beginning with January 2013, segregated into collect, prepaid collect, prepaid debit, prepaid inmate phone card, and direct-billed service at each Alabama confinement facility served:

   (a) Number of local calls, local minutes of use, and associated local call revenue.
   (b) Number of intrastate toll calls, intrastate toll minutes of use, and associated intrastate toll revenue.
   (c) Number of interstate toll calls, interstate toll minutes of use, and associated interstate toll revenue.

2. On a monthly basis, beginning with January 2013, for service originating at Alabama confinement facilities:

   (a) Number of single payment service calls billed to mobile phones (text-connect) and associated revenue.

[95] Securus Comments, pages 14-15.
[96] Order, ¶ 12.04.

(b) Number of single payment service calls billed to debit/credit cards (Pay Now) and associated revenue.
(c) Alabama Utility Gross Receipts Tax collected.
(d) Unused prepaid collect, prepaid debit, and prepaid inmate phone card account balances refunded by service type, customer name, customer mailing address and phone number (if known), PIN (if applicable) and confinement facility association.
(e) Unclaimed funds by service type, customer name, last known customer mailing address and phone number, PIN (if applicable), Alabama confinement facility association, and date funds are declared unclaimed.

3. The record retention requirements beginning with implementation of the Order are:

(a) Monthly prepaid minutes associated with single payment services (imputed call duration for collect calls billed using text-connect type service and for collect calls billed to a debit/credit card).
(b) Monthly data identifying the total single payment service calls originating from Alabama confinement facilities and the number of single payment service calls terminated for suspected three-way call violations.
(c) Monthly data, by confinement facility, identifying the total number of ICS calls and the total number of ICS calls disconnected for suspected three-way call violations.
(d) Monthly customer account detail separated into prepaid collect, prepaid debit, prepaid inmate phone card, and direct-billed service with customer name, customer mailing address and phone number (if known), PIN (if applicable), and Alabama confinement facility association. Monthly customer account detail shall be retained for 36 months.

4. Proof of the following beginning with implementation of the Order:

(a) Alabama Utility Gross Receipts Tax remittance reports to the ADOR.
(b) Unclaimed Property Report to the Alabama State Treasurer.

11.05 We seek a historical record of the data for item 1 and items 2(a) and 2(b) for purposes of analyzing the effects of our reforms on call usage and revenue by call type. We seek a historical record for items 2(c) through 2(e) to determine if our Order is having an effect

on taxes collected and whether compliance with refund and unclaimed property requirements is improved. One of the most frequent complaints we receive from inmates and inmate families is disconnected calls for suspected three-way call violations. Such disconnections are particularly problematic for single payment calls where the customer prepays for a usage allotment. The Commission intends to monitor the situation going forward and information providers are required to retain under item 3 supports that objective. Item 4 includes information the provider must maintain for compliance with Alabama law. All of this information is subject to Commission, Alabama Department of Revenue, and State Treasurer compliance audits.

11.06 With respect to the request by Securus that "the Commission should make it explicit in the Order that any ICS provider's data provided pursuant to the reporting requirements is to be considered confidential and proprietary.", we find no reason to make the data confidential and proprietary. Unlike company specific cost data, the information requirements we establish pertain to ICS operations in public sector correctional facilities. The information should be public record and we will make it publicly available.

12.00 COST STUDIES

Comments from Parties to the Proceeding

CenturyLink:

12.01 Although the plan for cost studies described in the Further Order is somewhat vague, it appears to contemplate the involvement of a very limited number of ICS providers in the initial development of the cost study with an abbreviated opportunity for participation, through comments, of other affected companies. In contrast, ALA. CODE § 37-1-80 (1975 as amended) contemplates rate setting for individual utilities to ensure a fair rate of return based on each utility's individual costs. While the statute does provide for Commission approval of "alternative regulation," it says nothing about representative cost studies that would be applied to all providers regardless of any demonstration of their individual costs and needs. In addition, the proposed requirements impose undue and unnecessary burdens on inmate payphone providers and,

potentially, their affiliates and subsidiaries, that go well beyond what is necessary to protect the public interest. Specifically, the Further Order indicates that the cost studies will require specific cost information from affiliates and subsidiaries of ICS providers, whether or not these entities are otherwise under the regulatory or rate setting jurisdiction of the Commission. The Commission even asserts that these subsidiaries and affiliates will be required to respond to Commission discovery requests, regardless of the Commission's authority to assert such jurisdiction under applicable statutory authority and rules. (¶ 14.01).[97]

GTL:

12.02 The Further Order indicates the Commission's desire to conduct cost studies to "analyze costs supporting future intrastate ICS rates, provider ancillary charges, and confinement facility cost reimbursement." GTL urges the Commission to reconsider the need and value of collecting individual company cost data. Alabama and federal law demonstrate that cost data is not necessary to establish a rate cap regime for ICS rates. The Commission adopted the current ICS rate caps in 2009 based on proposals from Staff, which were the same rates previously approved for AT&T's ICS service. There was no need for the Commission to conduct cost studies or review individual company cost data in establishing the current ICS rates, and no such information is necessary now.[98]

Commission Response

12.03 In its Further Notice of Proposed Rulemaking (the "FNPRM") for WC Docket No. 12-375, released October 22, 2014, the FCC is considering whether and to what extent provider costs should be used in establishing rates. The Commission hereby vacates ¶¶ 14.01 through 14.03 of our July Order under this Docket and shall defer action on intrastate cost study requirements to a later date.

[97] CenturyLink Comments, pages 10-11.
[98] GTL Comments, page 25.

13.00 IMPLEMENTATION

Comments from Parties to the Proceeding

CenturyLink:

13.01 By providing for an effective date of October 1, 2014 for the Further Order, the Commission has failed to consider the impacts of the various requirements on existing contracts, on confinement facilities' budgeting processes and on ICS providers' existing processes and systems. CenturyLink asks the Commission, at a minimum, to reconsider the effective date of the Order and extend it to December 31, 2015, at the earliest. This date will provide one full budget cycle for confinement facilities to make budget adjustments necessitated by the reduction in revenue sharing (through site commissions) that will inevitably result from implementation of the provisions of the Further Order. It will also allow ICS providers sufficient time to revise their processes and systems to implement the requirements. Without this time to perform software development necessary to comply with certain rules in the Order, which are required for Alabama and no other jurisdiction, to CenturyLink's knowledge, providers could be forced to operate outside of compliance until the necessary software development is completed.

CenturyLink is the current provider under the ADOC state confinement facilities contract. As CenturyLink has consistently stated, there is no provision in that contract for amendments to accommodate regulatory changes. Therefore, any new requirements cannot be implemented through negotiations of an amendment to the current contract. That contract's "base" three-year term is scheduled to expire in June 2015, with two one-year extension options thereafter. Notwithstanding the fact that the Order's implementation would deprive CenturyLink of the opportunity for two years' worth of extension options upon which it relied in its original offer, a December 31, 2015 effective date for the Further Order will, at an absolute minimum, allow the contract to be re-bid with the new requirements in mind, while allowing CenturyLink and the ADOC to continue to honor the terms of the existing base contract period.

In any event, the implementation of the various requirements in the Further Order will significantly affect the level of revenue-sharing with confinement facilities (through commissions) that inmate service providers will be [un]able to cost effectively support. This effect on commissions occurs even though the Commission has

declined to specifically restrict or bar commissions in the Order. This effect on commissions arises as a result of the rate and fee caps and prohibitions, as well as the additional costs imposed through the substantial expansion of recordkeeping and reporting requirements. Because implementation of the Further Order will likely significantly reduce the revenues available to confinement facilities, they will need time to revise their budgets to accommodate these reductions. One budget cycle is the minimum amount of time needed for these facilities, and state and local governments that operate the facilities, to revise their budget plans. A December 31, 2015 effective date will allow this minimum necessary implementation time.

The Further Order imposes a multitude of new customer billing, recordkeeping, reporting and other systems-impacting requirements on inmate payphone service providers. (¶¶ 5.14, 5.15, 5.16, 5.22, 5.29, 12.04, 12.05, and 12.08). These new requirements while not necessarily objectionable per se, will require significant time and investment to implement, especially since many of the requirements will apply only in Alabama and, therefore, will require Century Link to create separate systems for Alabama compliance only. Again, to accommodate these concerns, Century Link requests that the Commission defer implementation of the Further Order until no earlier than December 31, 2015.[99]

GTL:

13.02 …any changes to the existing rate caps in Alabama must be implemented with "regard to existing agreements established prior to the Commission's Order in this proceeding." When the Commission amended its ICS rate caps in 2009, it allowed ICS providers "to grandfather existing contracts through the scheduled contract expiration" in light "of the contractual nature between [ICS] providers and inmate facilities." Any new changes to ICS rates should be implemented in the same way. The services chosen by prison administrators and other local officials, and their budgetary decisions, are reflected in the contracts negotiated by and between ICS providers and correctional facilities. ICS pricing, to a large extent, is determined based on the terms of the individual case basis services required by each correctional facility and the costs of providing the requested services to the specific facility. Any Commission action with respect to ICS rates will affect every contract between GTL and its correctional facility customers in Alabama regardless of whether the Commission intends to interfere with these individual customer arrangements or not. As such, ICS

[99] CenturyLink Comments, pages 12-14.

> providers and correctional facilities require sufficient time to adjust their existing contractual arrangements that have been tailored to their individual business needs to renegotiate (or terminate) their ICS contracts or to address their obligations under state law requiring the payment of commissions.[100]

Securus:

13.03 The Commission also is impairing private contracts in contravention of the Constitution of the State of Alabama. Securus therefore suggests that the Commission reconsider the implementation date and instead provide that the provisions set forth in the Order, as may be adjusted or revised prior to the implementation date, do not apply to existing contracts but instead only apply to new or renewed contracts entered after October 1, 2014 and to all contracts, whether expired or not, after October 1, 2017. Such additional time prior to implementation of the final Order allows ICS providers and confinement facilities to timely budget and plan appropriately, and allows ICS providers time to perform necessary adjustments to their systems and processes. Otherwise, ICS providers may be unable to comply with the terms of the Order if implemented on October 1, 2014.[101]

Commission Response

13.04 The Commission's January 25, 2013 data request to Alabama ICS providers, included the following question:

> Does your company include within its contract with Alabama inmate facilities, a provision that provides for renegotiation of the contract's terms following changes in regulatory requirements?

Both GTL and Securus responded that their contracts include provisions that allow them to renegotiate contracts when there are regulatory changes. Securus responded as follows:

> Yes. Securus' current standard Master Service Agreement contract language contains the provision below. To the extent that any legacy contract might not include such a provision, Securus stands willing to renegotiate a contract's terms following changes in regulatory requirements, subject however, to Securus likewise retaining the right, reasonably exercised; to terminate any such

[100] GTL Comments, page 7.
[101] Securus Comments, pages 2-3.

> contract as below should such regulatory changes negatively impact Securus' business.
>
> "Uncontrollable Circumstance. We reserve the right to renegotiate or terminate this Agreement upon sixty (60) days advance written notice if circumstances outside our control related to the Facilities (including, without limitation, changes in rates, regulations, or operations mandated by law; material reduction in inmate population or capacity; material changes in jail policy or economic conditions; acts of God; actions you take for security reasons (such as lock-downs)) negatively impact our business; however, we shall not unreasonably exercise such right. Further, Customer acknowledges that Provider's provision of the services is subject to certain federal, state or local regulatory requirements and restrictions which are subject to change from time-to-time and nothing contained herein to the contrary shall restrict Provider from taking any steps necessary to perform in compliance therewith."

Therefore, the Commission questions Securus' claim that we are impairing contracts when Securus, having given forethought to the prospect of regulatory changes, indemnified themselves in their contracts with confinement facilities from any negative impact associated with future regulatory changes.

13.05 CenturyLink responded that its contracts do not contain language allowing it to renegotiate contracts due to regulatory changes. The FCC addressed the issue of effects on contracts between providers and facilities:

> We conclude that our actions herein do not require us to abrogate existing contracts between correctional facilities and ICS providers; to the extent that any agreement may need to be revisited, it is only because those agreements cannot supersede our authority over rates charged to end users.[102]

The contract between CenturyLink and the Alabama Department of Corrections ("DOC") was implemented with the full knowledge that the Commission regulates ICS and, as part of our regulatory obligation, may revisit rates and policies from time to time. CenturyLink, like other ICS providers, should have made provisions in its contract for the renegotiation in the event of regulatory changes. The Commission cannot make special

[102] FCC ICS Order, ¶ 12.

provisions for CenturyLink without affording the same to other ICS providers. We conclude that the agreements between providers and correctional facilities do not supersede our authority over rates and services. The effective date of the Order is as provided herein.

13.06 CenturyLink responds that "…the new customer billing, recordkeeping, reporting and other systems-impacting requirements on inmate payphone service providers. These new requirements while not necessarily objectionable per se, will require significant time and investment to implement, especially since many of the requirements will apply only in Alabama and, therefore, will require Century Link to create separate systems for Alabama compliance only." The ICS provided by CenturyLink is unique from other providers in that, while CenturyLink has the DOC contract in Alabama, it subcontracts the actual ICS operation to ICSolutions—an ICS provider that has its own jail contracts in Alabama. Therefore, the changes in customer recordkeeping, billing, and recordkeeping will impact ICSolutions at the DOC facilities and the jails it serves. Yet ICSolutions remained notably silent during these proceedings and failed to comment on any aspect thereof.

13.07 Our requirements for ICS in Alabama, pursuant to this Order, are shown in Appendix G, attached hereto, which shall be the basis for our revisions to Commission Rule T-15.1

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the changes to Inmate Calling Service in Alabama as provided herein and by the attached appendices attached hereto are hereby adopted and shall be implemented thirty (30) days from the effective date.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 9th day of December, 2014.

ALABAMA PUBLIC SERVICE COMMISSION

Twinkle Andress Cavanaugh, President

Jeremy H. Oden, Commissioner

Chris "Chip" Beeker, Jr., Commissioner*

*The vote of the Commission to approve this Order occurred prior to Commissioner Beeker's November 4, 2014, election to the Commission

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

IMPACT OF SECURUS "PAY NOW & TEXT-CONNECT" IN AN ALABAMA JAIL

Line No		Inmate Debit			Prepaid Collect			Direct Billed Collect		
	Period	Calls	Minutes	Revenue	Calls	Minutes	Revenue	Calls	Minutes	Revenue
1	Feb-14	24	299	$64.12	2636	33376	$8,061.00	11	63	$29.15
2	Mar-14	143	1316	$340.31	2537	31582	$7,352.96	54	347	$119.55
3	**TOTAL**	167	1615	$404.43	5173	64958	$15,413.96	65	410	$148.70

		Pay Now[Note 1]				Text2Connect[Note 2]			
	Period	Calls	Revenue	Minutes[Note 3]	Commissions	Calls	Revenue	Minutes[Note 3]	Commissions
4	Feb-14	316	$4,736.84	4740	$505.60	224	$2,237.76	3360	$67.20
5	Mar-14	175	$2,623.25	2625	$280.00	191	$1,908.09	2865	$57.30
6	**TOTAL**	491	$7,360.09	7365	$785.60	415	$4,145.85	6225	$124.50

NOTES

1 Pay Now Charge is $14.99. Total calls are reported but revenue and minutes of use are not disclosed

2 Text-Connect Charge is $9.99. Total calls are reported but revenue and minutes of use are not disclosed

3 Assuming a maximum 15-minute usage allowance

	Period	Total Site Commisions Paid	Portion Attributable to Debit, Prepaid, Collect	Portion Attributable to Pay Now & Text2Connect
7	Feb-14	$5,102.89	$4,530.09	$572.80
8	Mar-14	$4,454.98	$4,117.68	$337.30
9	**TOTAL**	$9,557.87	$8,647.77	$910.10

Reported Versus Effective Site Commissions Paid

10	Total Revenue Reported by Provider to Facility = billed collect, prepaid collect, and inmate debit.	$15,972.15
11	Total commissions Paid by Provider on above revenue	$8,647.77
12	**Site Commission Percentage based on Reported Revenue**	**54.1%**
13	Unreported Revenue Attributable to Pay Now and Text2Connect:	$11,505.94
14	Total commissions Paid by Provider for Pay Now and Text2Connect	$910.10
15	**Site Commission Percentage for Unreported Revenue (Pay Now and Text2Connect) =$910.10/$11505.94**	**7.9%**
16	Actual Revenue Collected by Provider for Calls from Facility = $15,972.15 + $11,505.94 =	$27,478.09
17	Total Commissions Paid by Provider with Pay Now and Text2Connect	$9,557.87
18	**Effective Site Commission Percentage = $9557.87/$27478.09**	**34.8%**

Revenue and Unreported Revenue

19	Reported Revenue as a Proportion of Actual Revenue for all inmate calls from the facility: $15,972.15/$27,478.09 =	**58.1%**
20	Unreported Revenue as a Proportion of Actual Revenue for all inmate calls from the facility: $11,505.94/$27,478.09 =	**41.9%**

Pay Now and Text2Connect Revenue as a Percentage of Reported Revenue

21	Unreported Pay Now & Text2Connect Revenue as a Percentage of Revenue Reported from Debit, Prepaid and Collect Calling: $11,505.94/$15,972.15 =	**72.0%**

IMPACT OF SECURUS "PAY NOW & TEXT-CONNECT" IN AN ALABAMA JAIL

Reported/Unreported/Calls and Minutes

22	Calls Attributable to Debit, Prepaid, Collect	5,405
23	Calls Attributable to Pay Now and Text2Connect	906
24	Total Calls Originating from Facility: 5405 + 906 =	6,311
25	Pay Now and Text2Connect Calls as a Proportion of Total: 906/6311 =	14.4%
26	Minutes Attributable to Debit, Prepaid, Collect	66,983
27	Minutes Attributable to Pay Now and Text2Connect: 906*15=	13590
28	Total Inmate call Minutes Originating from Facility: 66983 + 13590 =	80573
29	Pay Now and Text2Connect Minutes as a Proportion of Total: 13590/80573	16.9%

Reported/Unreported/Composite Per-Minute Rate

30	The average per-minute revenue from billed collect, prepaid collect, and inmate debit service is $15,972.15/66,983 =	**$0.238**
31	The average per-minute revenue from Pay Now and Text2Connect is $11,505.94/13,590 =	**$0.847**
32	The Average per-minute revenue from both sources combined is: $27,478.09/80,573 =	**$0.341**

ICS RATE CAPS

	PRISON		JAIL	
	Collect/Min	Prepaid/Min	Collect/Min	Prepaid/Min
Effective Date	$0.25	$0.25	$0.30	$0.30
Beginning First Anniversary Following Effective Date	$0.25	$0.23	$0.28	$0.28
Beginning Second Anniversary Following Effective Date	$0.25	$0.21	$0.25	$0.25
Prepaid Inmate Calling Card	Call mins equal to or > Card Face Value Divided by Prepaid Rate		Call mins equal to or > Card Face Value Divided by Prepaid Rate	
Single Payment Call Billed by Carrier (text-collect) **SEE NOTE**	(Collect/Min Rate * 12 min) + Capped Bill Processing Fee		(Collect/Min Rate * 12 min) + Capped Bill Processing Fee	
Single Payment Call Billed to Credit Card	(Collect/Min Rate * 12 min) + Capped Credit Card Payment Fee		(Collect/Min Rate * 12 min) + Capped Credit Card Payment Fee	

NOTE: Provider may submit request for waiver of single payment text-collect cap

EXTRACT

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Rates for Interstate Inmate Calling Services	)	WC Docket No. 12-375
	)	

ICS providers should be permitted to assess payment processing fees as follows:

Type	Proposed Cap
Web payments	Not to exceed $3.00
Automated IVR Phone Payments	Not to exceed $3.00
Live Agent Payments	Not to exceed $5.95
Third Party Payments (WesternUnion, MoneyGram and other unaffiated payment processors)	Lowest payment option available from the Third Party Vendor with no fee revenue share commission paid to the ICS Vendor
Mail Payments	No fee

Further Data Substantiating the Cost of ICS Service as Presented in the Further Comments of Pay Tel Communications filed July 17, 2013, Docket No. 12-375, Pay Tel Notice of Ex Parte, rec. July 23, 2013, pages 5-6.

Business Model with Low Payment Fees

Pay Tel has negotiated the lowest available third party payment processing fees in the ITS industry ***with no markup or profit share to Pay Tel***.

Payment Options:	Pay Tel Negotiated Third Party Fee:	Other ITS Vendor Fees as High as:
Automated Phone Payment Processor – Credit/Debit Cards	$3.00	$10.00*
Customer Service Representative Payment Processor – Credit/Debit Cards	$5.95	$10.00*
Website Payments – Credit/Debit Cards	$3.00	$10.00*
Money Gram® – Wal-Mart	$5.65	$7.95 Including vendor mark-up or fee
Western Union	$5.95	$12.95 Including vendor mark-up or fee
Optional - Lobby Kiosks: - Cash Payments to Inmate Trust Accounts	$3.00	$9.50*

*Some vendors will represent to you that they do not charge any fees, however they capture non-commissionable revenues by labeling these charges as "local, county, state, and federal surcharges and regulatory assessments" that are non-existent.

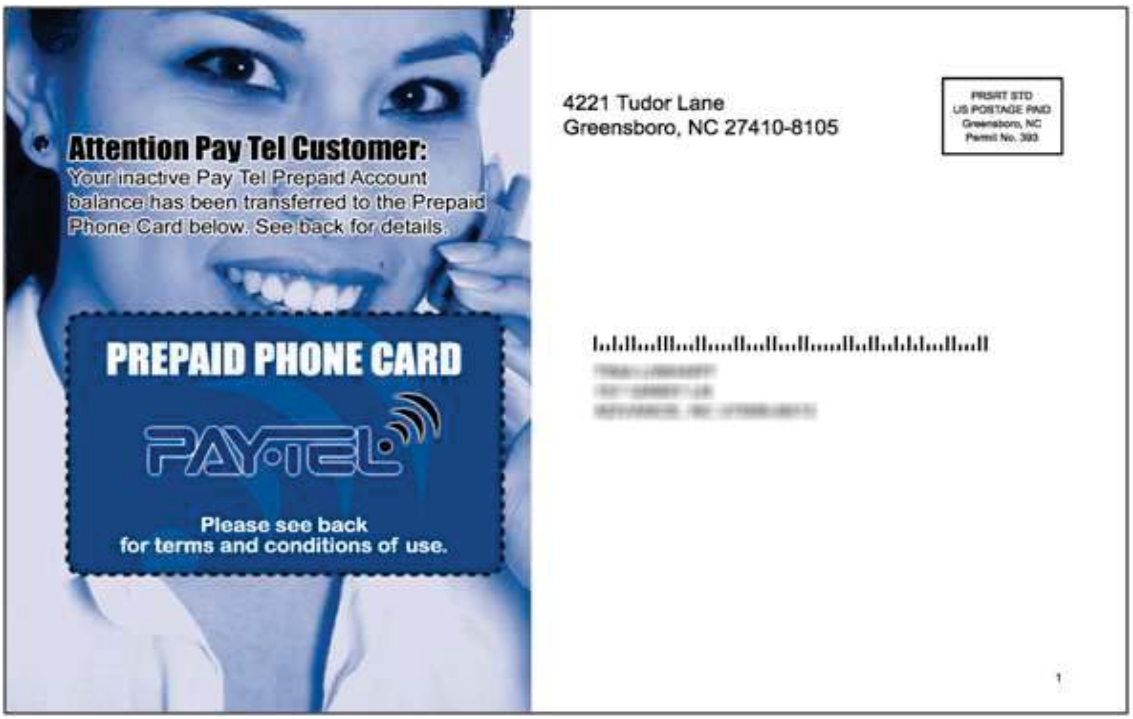
Ancillary Fee Caps

PAYMENT FEES	MAXIMUM FEE
Money order or check mailed to provider or payment via online banking transfer	$0.00
Debit/credit card online or telephonically via interactive voice response (IVR); or by cash or debit/credit card at the ICS provider's kiosk	$3.00
Debit/Credit card telephonically via a live agent	$5.95
Bill processing fee for collect calls billed by the call recipient's carrier **See Note**	$3.00
Convenience Fee for transfers from the inmate's canteen/trust fund	5% of transfer amount
OTHER Fee for Optional Paper Billing Statement	$2.00

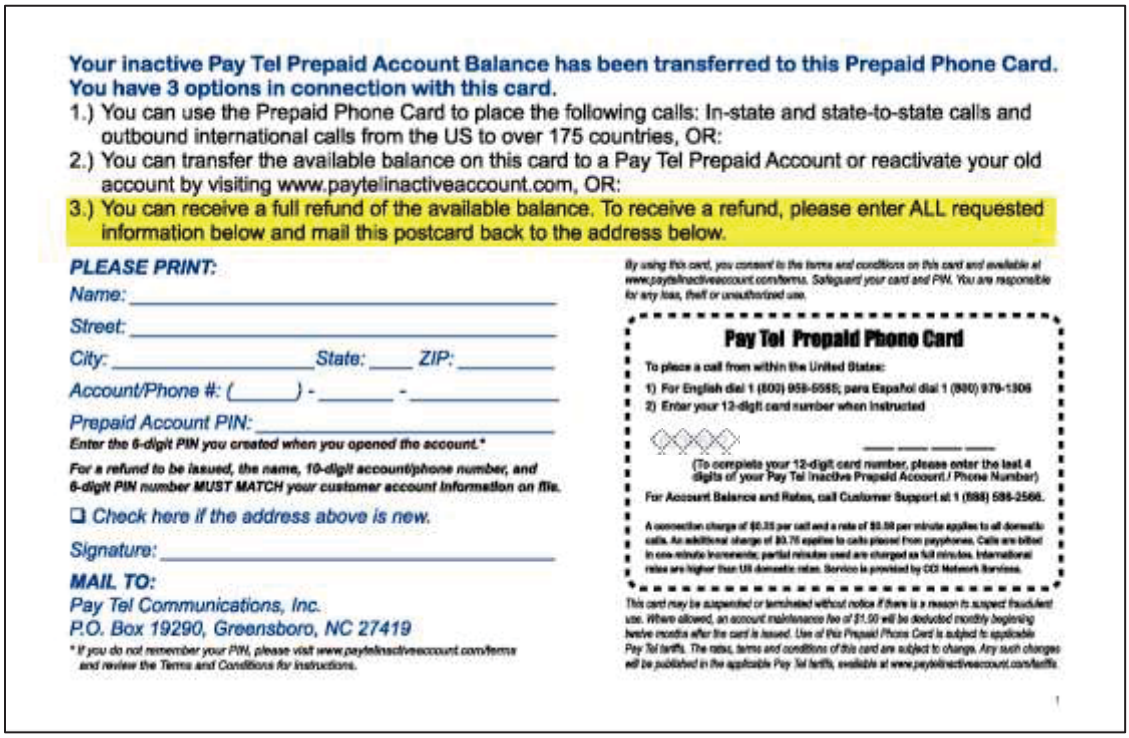
Note: For non-single payment service collect calls billed by the call recipient's carrier, the Bill Processing Fee is charged only once per carrier billing cycle regardless of collect calls billed.

No other ancillary fees may be charged by the provider for intrastate ICS unless the provider first files a petition with the Commission seeking approval for the fee and approval is subsequently granted by Order from the Commission.

Pay Tel Refund Post Card - Prepaid Calling Card



(Front of prepaid phone card postcard mailed to inactive account holders)



Your inactive Pay Tel Prepaid Account Balance has been transferred to this Prepaid Phone Card. You have 3 options in connection with this card.

1.) You can use the Prepaid Phone Card to place the following calls: In-state and state-to-state calls and outbound international calls from the US to over 175 countries, OR:

2.) You can transfer the available balance on this card to a Pay Tel Prepaid Account or reactivate your old account by visiting www.paytelinactiveaccount.com, OR:

3.) You can receive a full refund of the available balance. To receive a refund, please enter ALL requested information below and mail this postcard back to the address below.

PLEASE PRINT:

Name: _____

Street: _____

City: _____ *State:* ____ *ZIP:* _____

Account/Phone #: (_____) - _____ - _____

Prepaid Account PIN: _____

Enter the 6-digit PIN you created when you opened the account.*

For a refund to be issued, the name, 10-digit account/phone number, and 6-digit PIN number MUST MATCH your customer account information on file.

❑ *Check here if the address above is new.*

Signature: _____

MAIL TO:

Pay Tel Communications, Inc.
P.O. Box 19290, Greensboro, NC 27419

* If you do not remember your PIN, please visit www.paytelinactiveaccount.com/terms and review the Terms and Conditions for instructions.

By using this card, you consent to the terms and conditions on this card and available at www.paytelinactiveaccount.com/terms. Safeguard your card and PIN. You are responsible for any loss, theft or unauthorized use.

Pay Tel Prepaid Phone Card

To place a call from within the United States:

1) For English dial 1 (800) 959-5555; para Español dial 1 (800) 979-1306
2) Enter your 12-digit card number when instructed

(To complete your 12-digit card number, please enter the last 4 digits of your Pay Tel Inactive Prepaid Account / Phone Number)

For Account Balance and Rates, call Customer Support at 1 (888) 586-2566.

A connection charge of $0.35 per call and a rate of $0.08 per minute applies to all domestic calls. An additional charge of $0.75 applies to calls placed from payphones. Calls are billed in one minute increments; partial minutes used are charged as full minutes. International rates are higher than US domestic rates. Service is provided by CCI Network Services.

This card may be suspended or terminated without notice if there is a reason to suspect fraudulent use. Where allowed, an account maintenance fee of $1.50 will be deducted monthly beginning twelve months after the card is issued. Use of this Prepaid Phone Card is subject to applicable Pay Tel tariffs. The rates, terms and conditions of this card are subject to change. Any such changes will be published in the applicable Pay Tel tariffs, available at www.paytelinactiveaccount.com/tariffs.

(Back of prepaid phone card postcard)

Pay Tel Inactive Account Policy

Obligations of Customer
The Customer agrees to notify the Company of changes in the customer's contact information, including email address, phone number, and mailing address. In particular, Customer agrees to notify the Company if Customer no longer subscribes to the telephone number upon which Customer's Prepaid Account is based. Customer understands and acknowledges that if Customer does not inform the Company of changes to Customer's contact information, the Company may be unable to locate the Customer and notify the Customer of account status or changes.

Account Notification
In the event that Customers' Prepaid Account has no activity for a period of not less than three (3) months, the Company will inform the Customer of the account status and provide directions on how to access account information.

Balance Transfer
In the event that Customer's Prepaid Account has been inactive for a period of not less than six (6) months, and the Customer has not requested a refund, the Company may classify the account as inactive and transfer any Prepaid Account balance with more than a *de minimis* balance to an Inactive Prepaid Account Phone Card and issue the Card to Customers with an address. The Company will only issue Inactive Prepaid Account Phone Cards to those Prepaid Account Customers who meet the criteria described herein, and the Company will not make Inactive Prepaid Account Phone Cards available to any other customer or person, or under any other circumstance than that specifically described in this Section 3.6.8.

This process is necessary to protect the balance of the Customer's funds. Upon account opening, a Customer's account is identified by and associated with the ten-digit phone number then in use by the Customer. If at some point the Customer no longer subscribes to that particular telephone number, then the number in question typically is assigned to another telephone subscriber. That new telephone subscriber may attempt to open an account with the Company using the telephone number formerly used by the Customer. To protect the Customer's funds and avoid confusion in the event a new subscriber attempts to open an account with the Company using the same telephone number, the Company will transfer the Customer's funds to an Inactive Prepaid Account Phone Card identified by the Customer's original phone number preceded by two digits. This transfer will maintain the Customer's account balance with the customer's name, address and Personal Identification Number ("PIN") created when the account was opened. The Company will issue the Inactive Prepaid Account Phone Card to the Customer in the manner the Company determines to be the most effective and efficient, (via U.S. Postal mail or email).

Inactive Prepaid Account Phone Card for Inactive Prepaid Account Customers
The Customer can use the Inactive Prepaid Account Phone Card to make calls from any telephone, transfer the balance to an existing active Prepaid Account or to open a new Prepaid Account with the Company. The call restrictions applicable to calls made from Confinement Facilities set out in Section 2.2 hereof are not applicable to the Inactive Prepaid Account Phone Card calls described in this Section 3.6.8. Network usage will be debited from the funds available on the Inactive Prepaid Account Phone Card on a real time basis in full minute increments as the call progresses. Call timing is rounded up to the nearest one (1) minute increment after the initial minimum period of one (1) minute.

Refund
The Customer may, at any time, transfer the available balance on the Inactive Prepaid Account Phone Card to an existing active Prepaid Account, open a new Prepaid Account with the Company or obtain a refund of any remaining balance by mailing the Inactive Prepaid Account Phone Card to the Company at the address printed on the Card. In the event the Customer does not receive the Inactive Prepaid Account Phone Card from the Company or otherwise does not possess the Card and contacts the Company for the purposes of obtaining a refund, the Company will refund the Customer's funds provided the Customer can show proof of identity.

Proof of Identity

The Company cannot discuss any account information with a Customer unless the Customer has previously established a Personal Identification Number (PIN) for security purposes. When a Customer first contacts the Company, the Customer is provided instructions via the Company automated phone system or website on how to create a personal six-digit PIN. When a customer speaks with a Customer Service Representative, the PIN must be confirmed to verify the identity of the Customer before personal account information is discussed. The PIN requirement is a federal requirement to protect the Customer's personal information.

To use an Inactive Prepaid Account Phone Card, the Customer must provide the PIN originally created by the Customer when the Prepaid Account was established.

If the PIN is Forgotten

If the Customer forgets their PIN, they have two choices: 1) create a new PIN using the Company website; or 2) create a new PIN with Proof of Identity.

Create a new PIN using the Company website: if the Customer's account was established on Pay Tel's website and the Customer provided an answer to a security question, the Customer can visit www.paytelinactiveaccount.com and follow the "Forgot Your PIN" instructions on the Customer Log In page. When the requested information is provided, the Customer will then be able to enter a new PIN.

Create a New PIN with Proof of Identity: If the Customer forgets their PIN and the account was not set up on the Company website, a new PIN will need to be created with proof of identity. To create a new PIN, the Customer must fax or mail a copy of their drivers license and a copy of their most recent telephone bill showing they are the responsible party for the telephone account. Also, the Customer must include with the fax or mailed copy a new six-digit PIN they wish to use.

Fax No. 1-800-776-8423 or mail to: Pay Tel Communications, Inc., PO Box 19290, Greensboro, NC 27419.

Abbreviated Tariff Guideline

XYZ Company
d/b/a ZYX Company

Alabama Abbreviated Tariff
Page 1 of __pages

INMATE CALLING SERVICES

1. Rates (per minute)

A. Billed Collect calls

Prison: $0.25
Jail: $0.30

B. Inmate Debit and Prepaid Collect calls

Prison: $0.25
Jail: $0.30

C. Single Payment Call Billed by Wireless Carrier

Prison:
Jail:

D. Single Payment Call Billed to Debit/Credit Card

Prison:
Jail:

E. Prepaid Calling Cards Used for Refunds: $0.10

Issued: (Date)

Effective[1]: (Date)

[1] For the abbreviated tariff, the issue date is the date the abbreviated tariff is filed with the Commission. The effective date is the effective date for this Order.

INMATE CALLING SERVICES

2. Ancillary Fees

A. Payment by debit/credit card online or telephonically via interactive voice response (IVR); or by cash or debit/credit card at the provider's kiosk:

$3.00

B. Payment by debit/Credit card telephonically via a live agent:

$5.95

C. Bill processing fee for collect calls billed by the call recipient's carrier:

$3.00

D. Convenience Fee for transfers from the inmate's canteen/trust fund:

5% of amount transferred

E. Optional Paper Bill Statement Fee:

$2.00

(Name of Company) hereby affirms to the Commission that no ancillary fees other than those listed above are assessed to ICS customers in Alabama.

INMATE CALLING SERVICES

3. Provider Point of Contact:

Name:
Title:
Telephone No:
Email:

Requirements Applicable to Commission Rule T-15.1 (Inmate Phone Service)

ICS Basic Service

Inmate Calling Basic Service includes the following at no additional charge:

1. Account Statements:

   A. For prepaid (excluding inmate debit) and direct-billed customers, online access to the most recent three months of account statements.
   B. For inmate debit accounts, access to account activity statements shall be provided to detention staff for dissemination to inmates upon request.

2. A toll-free number to the provider for customer service and billing inquiries for prepaid (excluding inmate debit) and direct-billed customers.

3. Account set up and maintenance.

   A. Calling is technology neutral. There shall be no price differential or added fees for prepaid calls to either wireline or wireless recipients.
   B. Up to 5 numbers (wireline and/or wireless) shall be added to the authorized calling list for prepaid customers at no additional charge to the customer.

      i. Providers may charge a fee for each number in excess of the 5 provided free as part of ICS basic service. The fee, along with supporting cost data, must be submitted by the provider for Commission approval.

4. Provider will not assess charges for customer payment by money order, check, or online banking.

5. Provider shall transfer prepaid account balances and issue refunds without charge.

Optional Services

ICS basic service excludes single payment services, payment (funding) by debit/credit card, cash payment at ICS provider kiosks, bill processing for collect calls billed by wireline or wireless carriers, transfers from inmate canteen/trust accounts, and paper account statements for prepaid (excludes inmate debit) and direct-billed accounts.

Call Rates

1. Providers will charge no more than the capped rates approved by the Commission for prisons and jails (whichever is applicable).

2. Billing increments shall not exceed one (1) minute. Any call duration that includes a residual of less than a whole minute shall be rounded up to the nearest whole minute for purposes of pricing the call.

3. Operator surcharges and/or call set-up charges shall not be assessed by the provider.

4. Flat rate pricing (imputed minimum call duration) shall not be used except for optional single payment collect calls to wireless recipients.

Taxes and Government Fees

1. The Alabama Utility Gross Receipts Tax applies to ICS in Alabama. Sales taxes are not applicable to ICS.

2. With the exception of single payment calls, providers will only assess taxes and government fees following usage of the service. Taxes and government fees are applicable to each call after the charge[1] for call usage is determined.

3. The charge for a single payment call is based on a minimum usage allowance. Therefore, the call duration is known before the call is

[1] Derived by applying the Commission's maximum authorized rate for the call (or a lower rate) to the call duration.

completed. Providers may assess taxes and government fees for single payment calls up front upon receipt of the customer's payment.

Ancillary Fees

1. Providers shall assess only those ancillary fees approved by the Commission[2].

2. Providers must first petition the Commission for approval to assess any ancillary fee not specifically approved by the Commission and may not assess any ancillary fee absent a Commission Order approving the fee.

Other Charges

1. Providers will fully disclose all services/charges assessed to inmates and/or those they call from Alabama confinement facilities, regardless of whether the provider deems the service/charge subject to the Commission's jurisdiction, in order that the Commission may make the determination regarding jurisdiction.

2. Providers shall not introduce a service for which a charge is assessed to inmates and/or those they call without first notifying the Commission by letter about the proposed service/charge and without first obtaining written confirmation from the Commission with respect to the Commission's jurisdiction over the proposed service/charge.

3. Providers are prohibited from assessing any fines or penalties on inmates and/or those they call due to suspected or actual three-way call violations or for any other reason absent specific Commission approval.

Customer Account (Activity) Statement Format

1. General Information: Statements shall include the customer's name and account number, the account statement date, the applicable billing period, a toll-free number to the provider for addressing billing

[2] The ancillary fees authorized by the Commission are provided in Appendix D to this Order.

inquiries, and the URL (hyperlink) to the Commission's Inmate Calling Service webpage.

2. The beginning and ending account balance shall be listed.

3. Payments (deposits) the amount thereof and the date received shall be listed separately and shall exclude any ancillary fees, taxes, or government fees.

4. Call detail: Calls shall be listed individually and shall include call date/time, duration (in call minutes); the number called and the call charge (excluding any taxes and government fees).

5. Ancillary fees, to include any payment fees assessed by the provider, shall be listed separately and include a description of the fee, the date applied, and the charge associated therewith.

6. Taxes, government mandated fees, and any authorized federal regulatory fee shall be listed individually.

Provider Kiosks

1. The provider's kiosk receipt shall list the account to which the payment applies, the payment (deposit) amount, the date of the payment, the applicable payment ancillary fee (listed separately), and the balance applied to the inmate calling account.

2. The kiosk-providing vendor (whether an ICS vendor or kiosk subcontractor) must fully comply with:

   A. Applicable Alabama Statues;
   B. The rules of the Alabama Securities Commission (ASC), including registration, licensure and bonding of money transmitters;
   C. US Department of the Treasury registration requirements through the Financial Crimes Enforcement Network (FinCen).

Funding Limits

1. Providers will establish no funding limit less than $100 per payment and no total funding transactions limit of less than $300 over the most recent thirty (30) day period of activity.

2. Providers will not establish a minimum funding limit.

Single Payment Calls

1. Single payment calls consist of two components that determine the maximum price that may be charged for the call: the usage charge and the billing/processing charge.

2. For purposes of pricing intrastate single payment calls, providers shall utilize a call duration allowance of 12 minutes. Call allowances of more than 12 minutes are authorized provided the usage portion of the single payment call is based on usage of 12 minutes. The capped collect call rate applicable to the facility from which the call originates (or a lower rate) shall be applied to the 12-minute call allowance for purposes of determining the usage charge for the single payment call.

3. Providers may add a billing/processing charge to the usage charge for a single payment call. The sum of the two components constitutes the Commission's maximum single payment call price.

   A. For single payment calls billed to the wireless account of call recipients, the authorized[3] billing/processing charge shall not exceed the Commission's maximum Bill Processing Fee[4].
   B. For single payment calls billed to the recipient's debit/credit card, the authorized billing/processing charge shall not exceed the Commission's maximum Credit Card Payment Fee[5].

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[3] ICS providers may petition the Commission for a waiver of the maximum billing/processing charge applicable to single payment calls billed to the wireless account of call recipients.
[4] The maximum Bill Processing Fee as provided in Appendix D of this Order is $3.00.
[5] The maximum Credit Card Payment Fee as provided in Appendix D of this Order is $3.00.

4. ICS providers offering single payment services shall inform the called party of the prepaid service options available to them including the rates and payment fee associated therewith.

   A. This information shall be included, up front, in the call processing script before single payment service options are disclosed.
   B. Call recipients shall, as a minimum, be provided an opportunity to establish a prepaid calling account with the provider, choose a single payment option, or reject the inmate collect call.
   C. Providers shall submit via email to the Commission, within 24 hours of the Commission's request, the scripts[6] applicable to their single payment services in Alabama.

Prepaid Inmate Calling Cards

1. ICS providers shall permanently and prominently affix the face value to prepaid inmate calling cards before transfer of the cards to the reseller. The face value is the inmate's purchase price for the card.

2. Providers shall redeem prepaid inmate calling cards for call minutes on the basis of the face value of the calling card divided by the Commission's maximum debit call rate applicable to the facility.

3. ICS providers shall suspend sales of prepaid inmate calling cards to resellers that are known or suspected of reselling the cards in excess of the card's face value.

4. ICS providers shall, at no charge to the inmate, restore the unused prepaid calling card balance associated with lost, stolen, or unusable calling cards and shall transfer any unused balance remaining on a prepaid calling card to a prepaid inmate calling card subsequently purchased by the inmate.

5. ICS providers shall, at no charge to and by request of the inmate, refund any unused balance on prepaid inmate calling cards.

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[6] A script in this case refers to the information the provider exchanges with wireless recipients of inmate collect calls to include prompts for the customer to select payment options presented by the provider.

6. Providers may establish an expiration date for prepaid inmate calling cards of no less than six (6) months after the date of card purchase by the inmate. Nevertheless, providers shall transfer any unused balance on expired cards to cards subsequently purchased by inmates or shall otherwise refund the unused prepaid balance on the card.

7. Unused balances associated with prepaid inmate calling cards not transferred to a calling card subsequently purchased by the inmate or for which the refund due the inmate is unclaimed, are subject to Alabama's Uniform Disposition of Unclaimed Property Act.

8. Prepaid Inmate Calling Card refunds shall be based on the unused portion of the inmate's purchase price for the card (face value) without any adjustment for the discount arrangement between the provider and the reseller. Providers may settle with resellers for any differential associated with the card's face value and the reseller discount.

Refunds

1. Prepaid balances of less than $1.00 are considered de minimis and need not be refunded by the provider. Nevertheless, such de minimis amounts shall not be retained by the provider but aggregated and remitted to the Treasurer, State of Alabama in accordance with Alabama's Uniform Disposition of Unclaimed Property Act.

2. ICS providers shall not assess any charge for refunding unused prepaid ICS balances. Dormancy charges are not applicable.

3. On the date the provider ceases providing service to a confinement facility, refunds are due to all inmate debit account (including inmate calling card) customers. Such refunds are not conditional upon a customer request for refund but shall be generated automatically by the provider.

4. In accordance with Alabama's Uniform Disposition of Unclaimed Property Act, unused prepaid ICS balances shall be held for one-year after the refund becomes payable[7].

[7] See §§ 35-12-71(11), 35-12-72, and (35-12-72(15)) in the Code of Alabama, 1975.

A. For inmate prepaid debit ICS (including inmate calling card) accounts, refunds become payable upon:

   i. The inmate's release from custody;
   ii. Or upon the inmate's request for refund;
   iii. Or, barring the release of the inmate or a request for refund, three (3) months after the last customer generated debit or credit to the account.

B. For prepaid ICS accounts wherein the subscriber is a non-inmate, refunds become payable upon:

   i. The customer's request for refund;
   ii. Or, barring a request for refund, three (3) months after the last customer generated debit or credit to the prepaid account.

C. ICS providers shall honor customer refund requests during the one-year dormancy period after the refund becomes payable.
D. If one (1) year elapses from the time the refund becomes payable, the refund shall be considered unclaimed.
E. Unclaimed refunds shall be remitted to the Treasurer, State of Alabama, in accordance with their submission requirements[8].

Refund Procedures

1. When an inmate is released from custody, debit release cards are the preferred method for refunding unused prepaid debit account balances and unused prepaid calling card balances. Alternatively, providers may, at no cost to the inmate, transfer refunds due the inmate to the inmate canteen/trust account for refund. Providers may also issue refunds to inmates using checks (least preferred method).

2. For prepaid ICS accounts wherein the subscriber is a non-inmate, refunds shall be issued via credits to the subscriber's debit/credit card if that payment method was used by the subscriber. For accounts where credits to the subscriber's debit/credit card is no longer possible or where the subscriber used an alternate payment (funding) method, refunds may be issued by debit card, or by check.

[8] See URL: http://www.moneyquest.alabama.gov/report.aspx?id=109

3. Refunds to any class of customers using prepaid telephone calling cards are not authorized except as provided below.

   A. In the event the customer's prepaid account has been inactive for a period of not less than six (6) months, and the customer has not requested a refund, the provider may classify the account as inactive and transfer any prepaid account balance with more than a de minimis balance to an inactive prepaid account phone card and issue the card to customers with an address.
   B. The customer can use the inactive prepaid account phone card to make calls[9] from any telephone, transfer the balance to an existing active prepaid account, open a new prepaid account with the provider or, at any time, obtain a refund of any remaining balance, via check or debit card, by mailing the inactive prepaid account phone card to the provider at the address printed on the card.[10]

Tariffs

1. The provider shall identify all ICSA services, along with the rates and fees associated therewith, provided at/from confinement facilities in Alabama including inmate billed collect service, prepaid inmate debit, prepaid collect, direct-billed service, single payment services, and prepaid inmate calling cards.

2. All rates and ancillary fees shall be identified and listed together along with the applicable rate/charge/fee in a standalone section of the tariff. No rate/charge/fee shall be included in other sections of the provider's tariff unless it is also listed in the standalone section of the provider's tariff reserved for that purpose.

3. Refund/unclaimed property procedures shall be listed in a standalone section of the tariff.

4. Procedures applicable to resale of prepaid inmate calling cards shall be included in the tariff along with procedures for notifying wireless

[9] The rate for such calls is capped at $0.10/min. Provider's electing to issue refunds using prepaid calling cards after six months of account inactivity shall include their procedures for doing so and the capped calling rate in their tariff.
[10] Detailed procedures for applying the procedures described in 3A and 3B are attached to this Order as Appendix E.

recipients of inmate collect calls of their available service/payment options.

5. The tariff shall identify a provider point of contact for questions about the tariff and a point of contact for customer service inquiries including the contact name, mailing address, telephone number, and email address.

6. Providers will submit an abbreviated tariff within ten (10) days following the effective date of this Order. The abbreviated tariff is the standalone tariff section referenced in item 2 (above) consisting of rates/fees/charges but absent any terms or conditions[11].

7. The provider's complete tariff shall be submitted with sixty (60) days following the effective date of this Order.

Record Retention Requirements

1. On a monthly basis, beginning with January 2013, segregated into collect, prepaid collect, prepaid debit, prepaid inmate calling card, and direct-billed service at each Alabama confinement facility served:

   A. Number of local calls, local minutes of use, and associated local call revenue.
   B. Number of intrastate toll calls, intrastate toll minutes of use, and associated intrastate toll revenue.
   C. Number of interstate toll calls, interstate toll minutes of use, and associated interstate toll revenue.

2. On a monthly basis, beginning with January 2013, for service originating at Alabama confinement facilities:

   A. Number of single payment service calls billed to mobile phones (text-connect) and associated revenue.

[11] Essentially, the abbreviated tariff is the ICS provider price list and serves as a "placeholder" ensuring that the Commission's capped rates, fees, and charges are implemented during the interim that precedes the provider filing of the complete tariff 60 days after the effective date. See Appendix F to this Order for an abbreviated tariff guideline.

B. Number of single payment service calls billed to debit/credit cards (Pay Now) and associated revenue.
C. Alabama Utility Gross Receipts Tax collected.
D. Unused prepaid collect, prepaid debit, and prepaid inmate phone card account balances refunded by service type, customer name, customer mailing address and phone number (if known), PIN (if applicable) and confinement facility association.
E. Unclaimed funds by service type, customer name, last known customer mailing address and phone number, PIN (if applicable), Alabama confinement facility association, and date funds are declared unclaimed.

3. Beginning with the effective date of the Order:

A. Monthly prepaid minutes associated with single payment services (imputed call duration for collect calls billed using text-connect type service and for collect calls billed to a debit/credit card).
B. Monthly data identifying the total single payment service calls originating from Alabama confinement facilities and the number of single payment service calls terminated for suspected three-way call violations.
C. Monthly data, by confinement facility, identifying the total number of ICS calls and the total number of ICS calls disconnected for suspected three-way call violations.
D. Monthly customer account detail separated into prepaid collect, prepaid debit, prepaid inmate phone card, and direct-billed service with customer name, customer mailing address and phone number (if known), PIN (if applicable), and Alabama confinement facility association. Monthly customer account detail shall be retained for 36 months.
E. Alabama Utility Gross Receipts Tax remittance reports to the Alabama Department of Revenue.
F. Unclaimed Property Reports to the Alabama State Treasurer.

Reporting Requirements

1. From the Record Retention Requirements listed in the preceding section, providers shall report the following, electronically, to the Commission Utility Services Division by no later than February 28,

2015 for the period ending on the last day of the preceding December and annually thereafter:

A. Items 1A through 1C.
B. Items 2A through 2E.
C. Items 3A through 3C and 3E through 3F.

2. Providers shall submit to the Commission's Utility Services Division a report showing the number of provider kiosks at each Alabama confinement facility. The initial report is due by no later than February 28, 2015. Subsequent reports shall be submitted semiannually by December 1st and July 1st each year and shall indicate the number of kiosks provided by confinement facility location as of the first day of the preceding month (November 1st and June 1st).

3. Providers shall submit to the Commission's Utility Services Division a report of the security biometric features provided at each Alabama confinement facility served along with a description of the features and functionality associated therewith and the vendor source for the product(s). The initial report is due by no later than February 28, 2015 and annually thereafter.

4. Providers shall submit to the Commission's Utility Services Division a list of the Alabama confinement facilities they serve including the contract start date and term of the contract. The initial report is due by no later than February 28, 2015. Providers will update the report as additional facilities are added, upon renewal of existing contracts, or when the provider no longer serves a facility included in a prior report.

5. The provider shall submit a letter to the Commission's Utility Services Division with the filing of their tariff and annually thereafter, on the anniversary of the tariff's effective date, disclosing and describing:

   A. All services, not listed in the tariff, provided for a charge to ICS customers in Alabama. This requirement includes those services the provider considers unregulated.
   B. All ancillary fees, not listed in the tariff, charged to ICS customers in Alabama and the amount of the charge associated therewith. This requirement includes ancillary fees the provider considers unregulated.

6. For payment transfer fees charged the provider's customers by Western Union/MoneyGram that exceed $5.95 as of the 15th day from the effective date of this Order, the provider shall submit a letter to the Commission's Utility Services Division identifying the provider's efforts and progress associated therewith to acquire for its customers payment transfer fees from Western Union/MoneyGram that are $5.95 or less.