PATRICK J. TOOMEY
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COMMITTEES:
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BUDGET
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United States Senate

WASHINGTON, DC 20510

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December 11, 2014

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

Dear Chairman Wheeler,

The Federal Communications Commission's interim and proposed regulation of the rates and fees associated with inmate calling services (ICS) have been brought to my attention. As prisons often represent one of the largest costs associated with running a local government, I would urge you to forgo finalizing any additional rate caps or regulations that will have the direct effect of creating unnecessary state and local government budget shortfalls and potentially compromise the security of our communities.

ICS are inherently expensive because of the immense security that is needed to maintain them as part of an efficient correctional system. Prisons need to know who inmates are talking to and what they are talking about in order to ensure that no illegal business is being conducted. It is no secret that prisoners often attempt to run illegal operations from jail. Demented perpetrators will also try to contact their victims despite their incarceration and inmates will even plan their escapes over these communications systems.

Furthermore, it is not unreasonable to allow the use of ICS monies to fund other general services needed at prisons. I have been informed that these funds provide for additional security in prisons as well as rehabilitation programs like GED and life skills workshops.

Accordingly, it's imperative that the FCC discontinue its pursuit of a one-size, Washington-knows-best model for ICS in prisons. I respectfully request that you keep my office apprised of the Commission's future actions on this topic.

Thank you for your attention to this matter.

Sincerely,

Pat Toomey

Patrick Toomey
United States Senator

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 23, 2015

The Honorable Patrick Toomey
United States Senate
510 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Toomey:

Thank you for contacting me to express concerns regarding the Commission's inmate calling services (ICS) proceeding. In your letter, you strongly urge Commission to consider state and local government budget concerns, as well as potential security issues that may result from the proposed changes to ICS. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

On September 26, 2013, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking* on ICS. In the *Report and Order*, the Commission adopted interim reforms of interstate ICS rates, requiring that providers' rates and charges be just, reasonable, and fair. The *Report and Order* also required submission of data from ICS providers on costs and usage, which the Commission received in August 2014.

The *Report and Order* recognized that security measures are an important part of ICS and made clear that it is appropriate for security costs to be recovered through ICS rates. In the associated *Further Notice of Proposed Rulemaking*, the Commission sought public comment on a number of outstanding issues regarding ICS – including reform of intrastate ICS rates and practices – and whether the Commission should adopt a rate structure that distinguishes between jails and prisons.

The *Report and Order* is already having positive results with decreased interstate rates and increased ICS usage enabling more families to connect with inmates. On the other hand, intrastate rates have increased in many states. ICS providers are imposing an increasing array of ancillary charges, and correctional facilities are continuing to demand site commissions, or payments to facilities that are not based on their costs to provision ICS, which represent a significant portion of ICS provider gross revenues.

Under the leadership of Commissioner Clyburn, who has been spearheading the Commission's effort on this issue, on October 17, 2014, the Commission adopted a *Second Further Notice of Proposed Rulemaking* ("*Further Notice*") with a goal of comprehensively reforming the ICS system, including both interstate and intrastate rates. The *Further Notice* seeks comment on the data submitted by ICS providers in August, which included cost data for jails and prisons of all sizes. The *Further Notice* also seeks comment on whether to ban site

commissions, as well as permanent rate caps on all services: local, in-state long distance, and interstate long distance telephone services. Finally, the *Further Notice* seeks comment on providing a multi-year transition period to provide sufficient time for correctional facilities to adjust their budgets.

Please be assured that we will take into consideration the issues and concerns presented by all stakeholders engaged in this proceeding, including state and local governments. The goal of the *Further Notice* is to reform the ICS system comprehensively, while also ensuring appropriate cost recovery and transition periods for correctional facilities.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler