



Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, NW | Washington, DC 20036 | tel 202.663.8000 | fax 202.663.8007

Glenn S. Richards
tel 202.663.8215
glenn.richards@pillsburylaw.com

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VIA ECFS

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 12-375 - Notice of Ex parte Communication

Dear Ms. Dortch:

On June 29, 2015, William Pope and Frances L. Schultz, of Network Communications International Corp. (“NCIC”), and the undersigned met with Pamela Arluk, Lynne Engledow, Madeleine Findley, Thomas Parisi and Miriam Strauss (intern) to discuss matters relating to inmate calling services (“ICS”). During the meeting, NCIC discussed issues raised in its prior filings in the above-referenced docket. A PowerPoint presentation and the article “The prison phone industry’s new business model: Fee Harvesting,” by Peter Wagner of the Prison Policy Institute were distributed. Both are attached to this Notice.

During this meeting, Mr. Pope recommended that the FCC cap ancillary fees, consistent with the order of the Alabama Public Service Commission’s (“APSC”). Mr. Pope noted that NCIC has seen increased call volumes as a result of the APSC’s order to impose rate caps. In addition, Mr. Pope said the FCC should not eliminate site commissions that may be paid by ICS providers, noting this could have a detrimental impact on both inmate phone availability and the jails and prisons that rely on these revenue sources to provide inmate phone services.



Discussion regarding ICS FNPRM

June 29, 2015

What is the FCC's opinions on:

- Rates, Fees and Premium Products
- Unregulated Site Commissions
- Does the FCC increase the risk of appeals if attempting to regulate commissions?
- Alabama PSC ruling
- Transition period
- Will the ruling be permanent? Joint proposers asked for 3 years limitation of caps.
- No need to grandfather contracts or allow more than 90-180 day transition period

Alabama PSC Fee and Single Payment product caps

	Joint Proposal	ALPSC
Account Funding (Live Agent)	\$7.95 *	\$5.95
Account Funding (IVR/Web)	\$7.95 *	\$3.00
Convenience / Premium Products	\$14.99/\$9.99 per call	\$5.99 per call
Western Union / MoneyGram	\$2.50	\$0.00
Validation Fee	8%	0%
Bill Statement Fee (LEC / Direct bill)		
Commissary Transfer (Cost)	0%	5%
Collect Call Processing Fee (LEC)	\$0.00	\$3.00

* Denotes \$7.95 is charged per destination number. PSC ruling dictates up to 5 destination numbers per fee

(NCIC feels the APSC set Single Payment Product caps too high, should limit to a max of \$3.75 per call.)

Recent filings and articles

- Andrew Lipman and recent individual filings (Silent Sentence template) appear to focus only on site commissions.
- Prison Policy Initiative recent article on Fee Harvesting
- Huffington Post article seems to demonstrate ICS provider profits went up after elimination of commissions
- Recent filing of Michael Hamden does well to focus on the main points, but misses that site commissions will be controlled by rate/fee/single-payment product caps.
- Martha Wright, et al, the Prison Policy Initiative support site commissions assuming reasonable rates and fees.
- Securus states that fees proposed by CenturyLink / APSC are below their costs.
- National Sheriff's Association submitted a proposal on cost-recovery that would work using the interim rates...except for small jails under 100 beds.
- Sheriff filings explaining costs in offering ICS to inmates

We recommend the FCC consider mirroring Alabama caps

- Rates mirror FCC interim rates of \$.21 & \$.25 per minute. (FCC should consider safe-harbor rates for prisons and interim for county/city jails.)
- Cap ancillary fees and Premium products
- Allow market to control commissions in order to prevent other incentives in lieu of commissions, allows sharing of expenses such as phone maintenance / bandwidth, etc.
- Alabama is having success in dealing with appeals filed by ICS providers

Alabama Test of New Rates

- In January 2015, we moved 14 county / city jails to proposed temporary rate caps of \$.30 per minute, low ancillary fees and \$.30 per minute on premium payment products.
- Calls went up over 40%, revenue increased 1.3%.
- Did not renegotiate commissions

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Results from 14 Alabama Jails Served by NCIC

Effective Jan 1, 2015, NCIC adopted APSC Year One Rate and Fee Caps for Jails (\$0.30/min)

The December 9, 2014 APSC Order Phases in Rate Caps. Year one Rate for jails is \$0.30/min, Year two = \$0.28/min, year three and thereafter = \$0.25/min

Year	Month	Calls Completed	Completed Call Minutes	Completed Call Charges	Avg. Charge Per Call	Avg. Call Duration (Minutes)	Avg. Population	Avg. Calls Per Inmate	Fees	Revenues (Calls + Fees)	Avg. Revenue Per Inmate	Revenue Per Inmate Change
2014	Oct	14,164	137,027	\$ 45,191.89	\$3.19	9.67	862	16	\$4,198.75	\$49,390.64	\$57.30	
2014	Nov	13,132	130,788	\$ 41,436.50	\$3.16	9.96	862	15	\$3,461.90	\$44,898.40	\$52.09	
2014	Dec	14,527	142,540	\$ 44,554.05	\$3.07	9.81	859	17	\$3,939.05	\$48,493.10	\$56.45	
Pre-Adoption Average		13,941	136,785	\$43,727.48	\$3.14	9.81	861	16	\$3,866.57	\$47,594.05	\$55.28	
2015	Jan	17,336	149,017	\$ 38,911.89	\$2.24	8.60	828	21	\$4,517.00	\$43,428.89	\$52.45	
2015	Feb	19,776	158,820	\$ 41,292.62	\$2.09	8.03	817	24	\$4,951.70	\$46,244.32	\$56.60	
2015	Mar	21,492	173,109	\$ 44,849.65	\$2.09	8.05	841	26	\$5,844.15	\$50,693.80	\$60.28	
Post-Adoption Average		19,535	160,315	\$41,684.72	\$2.13	8.21	835	24	\$5,104.28	\$46,789.00	\$56.01	1.3%
Call Stimulation =		40.1%										
<p>Notes: Alabama's Order eliminates the existing \$2.75 cap on local call charges. All calls are priced at call rate X actual minutes used. Inmates made more frequent but shorter duration calls after rate adoption. NCIC's pre-trial ancillary fees were lower than the APSC's fee caps in the December 9, 2014 Order. Implementing the APSC ancillary fee caps results in increased fee revenue for NCIC.</p>												

The prison phone industry's new business model: Fee Harvesting

by [Peter Wagner](#), June 18, 2015



Our analysis of the FCC's [Second Further Notice of Proposed Rule Making](#) is that the agency is clearly onto the industry's dirtiest trick: charging consumers hidden fees. Some of these companies call themselves phone companies, but the phone service is little more than a gimmick to charge fees.

We're thrilled at the FCC's attention to fees, but we haven't yet gotten the media and lay audiences to understand that the distinction between rates and fees is far more important and far less semantic than it appears at first blush. Let me explain:

Rates: This is what you pay per minute, including any higher charge for the first minute of the call.

Fees: This is everything else you pay for "services" related to the call, including fees to open an account, have an account, fund an account, close an account, get a refund, receive a paper bill, or other charges that are made on a per-call basis, such as charges for "regulatory compliance" or "validation".

If the FCC were to ignore the fees, that mistake would undermine any reforms that are made to the rates for the three reasons we discuss in our report [Please Deposit All of Your Money: Kickbacks, Rates and Hidden Fees in the Jail Phone Industry](#):

1. The hidden fees can easily equal or surpass the base cost of a call. We estimate that families pay at least \$386 million a year in charges like \$9.50 for a credit card payment or \$5 to receive a refund. On top of that, Securus and its competitors quietly pocket tens of millions of dollars tacking on an abusive \$13.19 “single call” fee(*) to 20 cent calls.
2. The fees are the direct result of the commission system (explained below) because they are a hidden revenue source that enables the phone companies to promise the facilities an otherwise unsustainable percentage of the call income.
3. Fees have become the new business model that the companies use to circumvent the FCC’s caps on the rates charged.

In sum, the fees allow the companies to both circumvent the FCC’s rate caps and make possible the entire shell game of winning contracts by promising to pay what are actually impossible commissions.

It’s easy enough to understand why high fees are bad for the families paying for the calls, but they are bad for the facilities too. As one of the more ethical phone companies [recently explained in a colorful video](#), the companies are asked to compete on the basis of who will promise the facilities the largest share of the rate pie; but they are never asked to disclose the existence of an entirely separate pie of income extracted from the fees charged to the families. The companies playing the fee game look generous because they are promising to share up to 99% of the rate revenue with facilities, but that “generosity” is only possible because the company is hiding the revenue it collects from fees.

Sadly, some facilities learn about this and then look away. They don’t see a reason to stick up for their taxpayers, nor do they see any self-interest in enforcing ethical behavior with their business partners. This story illustrates what the facilities are missing:

Bonnie and Clyde rob banks and they agree to split the loot 50-50.

It turns out that Bonnie sometimes robs banks on her own without telling Clyde. He’s not going to care, right? As long as she doesn’t do something that gets them both caught, what impact does it have on him?

Well, one day, Clyde notices that they are making less money than they used to. The typical haul is down, but hey, it’s still easy money. But the strange thing is that Bonnie keeps on buying new cars and new clothes as if the hauls

were huge like in the old days. Maybe Bonnie buys things on sale?

Clyde is getting suspicious, and nothing is adding up. It's easy to trust Bonnie, and she is certainly being more helpful than ever. She's always on time; heck, she volunteers to case the banks first and doesn't ask for an extra share of the loot for her extra work.

Then one day, Clyde decides to get to the next bank even earlier to watch Bonnie case the joint. What does he see?

Bonnie isn't casing the bank – she's robbing it first.

What the sheriffs are missing is that by allowing their partners to fleece families out of half a billion dollars a year in fees, they are ensuring that the poorest families in their counties won't have very much money left to pay for the actual, commission-producing, calls.

We made it easy for sheriffs who want to protect their taxpayers and themselves from their partners. All they have to do is ask their vendors these easy questions about how fees and commissions are calculated.

And phones aren't the only industry in which fee harvesting is the new business model. Take our work on release cards. Private companies reach out to jails with offers to take over all of their money management woes – at no cost to the county.. Previously, jails had to keep track of the money people were arrested with or were sent by family members and then, upon release, issue a check or give cash. Now, private companies take the cash and give people pre-paid Mastercards instead. The jails ask: What could be more convenient than that?



The better question is this: How is it even possible to provide a valuable service for free? It's not. These companies exist by charging the people who are forced to use their cards exploitative fees like \$3.50 a week for the account, \$0.95 for purchases, \$3.95 for checking their balance, and \$30 for closing their account.

Most people who run correctional facilities see it as their job to make our communities safer and stronger. One of the simplest ways they can meet that goal would be to start working much harder to ensure that the facilities aren't complicit in

making the poorest among us any poorer.

Focusing on fees is one of the most important ways to ensure that both families and facilities are protected from the companies that have the interests of neither at heart.

Illustrations by Prison Policy Initiative Research Associate Elydah Joyce. To help other organizations explain fee harvesting in their own work, she has made [these illustrations available](#) under a Creative Commons license on Flickr.

Notes:

1. Single call programs are ostensibly designed for people who don't want to set up accounts, but as we explain in [a letter to the FCC](#), these programs are simultaneously the most expensive way possible for a family member to pay for a call and the least lucrative way for the facility to make any income. These programs go by a lot of names, but they typically charge families \$14.99 for a single call if prepaid via credit card and \$9.99 if paid via premium text message. In our letter to the FCC, we explain that in the case of Securus' PayNow credit card program, it is possible to disaggregate the charges: a \$1.80 call charge (with \$1.60 going to the facility and \$0.20 for the actual call) and a fee of \$13.19. To be clear: Securus is charging a \$13.19 fee for a phone call whose real cost is apparently only 20 cents. Based on the size of Securus' business and data on how often PayNow is used in jails, we estimate that Securus makes between \$24 million and \$76 million a year in fees for their PayNow credit card product in jails. That calculation does not include their contracts in state prisons, their \$9.99 Text2Collect product, nor the similar products of any of their competitors.

One Response

1. [Uncovering Securus' profits | Prison Policy Initiative](#) says, 21 hours, 44 minutes after publication:

[...] yesterday, Securus' business model is less about providing phone service than it is about harvesting fees. What this data shows is just how profitable that fee harvesting can [...]

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Meet us

- **July 7, 2015:**
Executive Director Peter Wagner will be speaking to Windsor DL about [Ending Prison Gerrymandering in Connecticut](#) at Windsor's [Union Street Tavern](#) at 7:30pm. [More info.](#)
- **July 19-21, 2015:**
Executive Director Peter Wagner will be in Baltimore Maryland for a conference July 19-21. [Contact us](#) if you'd like to meet up or arrange another event while Peter is in town.

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