BROOKS PIERCE
FOUNDED 1897

Marcus W. Trathen
1600 Wells Fargo Capitol Center
150 Fayetteville Street
Raleigh, NC 27601

T 919.839.0300
F 919.839.0304
mtrathen@brookspierce.com

July 2, 2015

By Electronic Filing

Notice of Ex Parte Presentation – Supplemental Information

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

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

Dear Ms. Dortch:

This Notice serves to further supplement the Petition for Extension of Waiver of Interim Interstate ICS Rates filed October 31, 2014 by Pay Tel Communications, Inc.,[1] as supplemented on November 11,[2] November 13,[3] and December 2, 2014.[4]

As of this date, the Bureau has taken no action on the Waiver Extension Petition. Pay Tel respectfully submits this Notice to rebut any notion or presumption that Pay Tel acquiesces to the Bureau's inaction on its Waiver Extension Petition and, also, to demonstrate that such inaction has resulted in the very harms Pay Tel forecast in its Petition.

Pay Tel supplements its earlier Waiver Extension Petition filings to describe those harms, as well as Pay Tel's efforts to defray the intrastate revenue shortfall resulting from the

[1] Pay Tel Communications, Inc., Petition for Extension of Waiver, WC Docket No. 12-375 (Oct. 31, 2014) ("Waiver Extension Petition" or "Petition").

[2] Letter from Marcus W. Trathen, Counsel to Pay Tel Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-375, Notice of Ex Parte Presentation—Supplemental Information (Nov. 11, 2014) ("November 11 Supplement").

[3] Letter from Marcus W. Trathen, Counsel to Pay Tel Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-375, Notice of Ex Parte Presentation—Supplemental Information (Nov. 13, 2014).

[4] Letter from Marcus W. Trathen, Counsel to Pay Tel Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-375, Notice of Ex Parte Presentation—Supplemental Information (Dec. 2, 2014) ("December 2 Supplement").

interplay of the *ICS Order*'s[5] interim interstate rates, coupled with certain intrastate rate restrictions that the Commission is not yet regulating.

In February 2014, the Bureau concluded in granting Pay Tel a limited Waiver from the interim interstate rate caps that, but for such Waiver, Pay Tel would experience an intrastate revenue shortfall such that it would not recover its costs on a holding company level.[6] Pay Tel explained in its Waiver Extension Petition that circumstances had not materially changed since the Bureau's grant of the Waiver, and that the Company would experience the same intrastate revenue shortfall unless the Waiver was extended.[7]

Pay Tel filed its Waiver Extension Petition October 31, 2014. In the meantime, in the absence of Bureau action, Pay Tel's Waiver expired November 11, 2014, and Pay Tel has charged customers the *ICS Order*'s interim interstate rates since then, despite the continued existence of below-cost rate caps in states served by Pay Tel permitted under the FCC's orders.

Since the expiration of its Waiver, Pay Tel has been forced to confront the mathematical reality presented by the dilemma of providing service in states that do not permit the assessment of rates that provide full recovery of costs—a reality recognized by the Bureau in the Pay Tel Waiver Order.[8] In support of its Waiver Extension Petition, Pay Tel presented various forecasts of the shortfall it would face based on various assumptions concerning its costs and operations.[9] Based on its most recent cost presentation, Pay Tel forecast an intrastate shortfall in excess of $700,000 resulting from the below-cost rate caps on local calling—Pay Tel's predominant form of calling.[10]

In light of the Bureau's inaction on Pay Tel's Waiver Extension Petition, Pay Tel has been forced to take drastic measures—measures which would not otherwise be consistent with the long-term growth and advancement of the Company—to curtail costs. Among these measures, in 2015, in order to help offset the intrastate revenue shortfall it is experiencing, Pay Tel was forced to eliminate five full-time positions within the Company, representing 7% of its workforce. The positions eliminated, representing a total reduction in salaries of $413,394, included the following:

---

[5] Report and Order and Further Notice of Proposed Rulemaking, *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, FCC 13-113 (rel. Sept. 26, 2013) ("*ICS Order*").

[6] *Rates for Interstate Inmate Calling Services*; Pay Tel Communications Inc.'s Petition for Waiver of Interim Interstate ICS Rates, WC Docket No. 12-375, Order, 29 FCC Rcd 1302 (WC Bureau 2014) ("*Pay Tel Waiver Order*").

[7] Pay Tel Waiver Extension Petition, at 13-14.

[8] *See, e.g.*, Pay Tel Waiver Order, at 9.

[9] December 2 Supplement, at 2.

[10] *Id.*; *see also, e.g.*, November 11 Supplement, at 2, Ex. C, ¶ 15.

POSITION	SALARY
Management Position – Information Technology	$XXX,XXX[11]
Developer Position – Information Technology	$XX,XXX
Customer Service Position	$XX,XXX
Management Position – Technical Support	$XXX,XXX
Specialist – Technical Support	$XX,XXX
TOTAL SALARY REDUCTION	**$413,394**

In addition, Pay Tel has been forced to take numerous other cost-saving measures (including the renegotiation of billing, carrier and payment services contracts), resulting in $205,000 in savings, to offset its intrastate revenue shortfall.

And, in order to further counteract the intrastate revenue shortfall, Pay Tel has:

- Not given annual pay raises to its employees for either 2013 or 2014;
- Delayed hiring for positions that Pay Tel had originally included in its 2014 budget;
- Delayed purchases in its capital spending budget; and
- Automated certain processes in order to reduce staffing requirements in its accounting and customer service departments.

The above measures, however, are hopefully temporary in nature and are likely unsustainable in the long-run. Pay Tel always has and always will seek to run a lean, efficient business. But it will have to replace the positions it has cut. And it cannot constantly renegotiate contracts downward.

The waiver process was established by the Commission in the *ICS Order* to address precisely the situation presented by Pay Tel in its Waiver Extension Petition—a situation where a provider is unable to recover its total company costs at the rates established by the Commission.[12] The Commission's failure to preempt below-cost state rate caps violates Section 276's command that the Commission adopt a "compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call,"[13] and the Bureau's failure to renew Pay Tel's Waiver in the face of the Company's compliance with the criteria set forth in the *ICS Order* calls into question the utility of the waiver process in the first place. Indeed, the Commission in its anticipated, forthcoming Order enacting comprehensive ICS reform should make clear that waivers ought to be granted in an efficient manner where, as here, an ICS provider has demonstrated through a showing of good cause that it cannot recover its costs on a holding company level.

[11] Due to concerns regarding disclosure of competitively sensitive information, Pay Tel elects not to disclose the specific salaries that were eliminated.

[12] *See ICS Order*, at ¶¶ 82-83.

[13] 47 U.S.C. § 276(b)(1)(A).

* * *

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

Sincerely yours,

/s/ Marcus W. Trathen
Marcus W. Trathen

cc: Lynne Engledow