

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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

**SUPPLEMENTAL COMMENTS OF FLORIDA SHERIFFS ASSOCIATION**

The Florida Sheriffs Association (FSA) previously submitted its comment<sup>1</sup> on the Second Further Notice of Proposed Rulemaking (SFNPRM)<sup>2</sup> concerning the regulation of inmate calling services (ICS). In our initial comment, FSA expressed its support for establishment of a separate rate for jails that would permit sheriffs to recover costs required by the ICS. FSA also recommended a two-year transition period for any newly adopted rules. FSA also submitted a supplemental comment<sup>3</sup> stating that the Commission would be exceeding its authority by regulating ICS rates in jails operated by Florida sheriffs.

Upon the release of the FCC Fact Sheet concerning its upcoming Order establishing rates and procedures for ICS, FSA would like to highlight the following concerns based on information contained in the Fact Sheet:

**90 Day Implementation of the New Rules Citing Budgetary Planning Issues**

The 90 day implementation required to implement the proposed Order will be unmanageable for many Florida sheriffs' offices as their 2016 budget cycle started October 1, 2015. Contracts with ICS providers have already been included in jail budgets and budget meetings between sheriffs' offices and Board of County Commissioners, the entity that approves the sheriff's budget, have already been conducted regarding this upcoming year's budgetary needs.

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<sup>1</sup> WC Docket No. 12-375, Comment, Florida Sheriffs Association, Second Further Notice of Proposed Rulemaking (January 9, 2015).

<sup>2</sup> *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Further Notice of Proposed Rulemaking, FCC 14-158 (rel. October 22, 2014) (*Second Further Notice of Proposed Rulemaking or SFNPRM*).

<sup>3</sup> WC Docket No. 12-375, Supplement, Steve Casey, Second Further Notice of Proposed Rulemaking (April 1, 2015).

Requiring 90 days to implement the proposed changes described in the Fact Sheet may cause budgetary shortfalls if sheriffs are unable to contract with an ICS Provider at a rate similar to the rate that was negotiated and budgeted for the upcoming Fiscal Year. With little time to react to such a great change, jails will have to meet with ICS providers to re-negotiate rates and could potentially need to refigure their budget which could require a meeting with the Board of County Commissioners. This could create a reality where jails are left without ICS for a significant period of time until new rates with ICS providers can be contracted and placed in their budget accordingly. As in our initial comments, FSA continues to recommend a 2 year transition period.

#### **Expedited Waiver Process for Small Jails Unable to Obtain ICS Services Under New Rates**

While the newly proposed rates take into account jail sizes, it may be practical to consider the potential outcome if an ICS provider is unable to provide services at the specific rates to a jail with a low average population. Planning for an expedited waiver process for these situations ahead of time may provide these jails (and inmates) with a solution that will ensure the ICS provider is able to keep servicing the jail and keep inmates connected with their families.

#### **Revenue Sharing with ICS to Fully Recover Operational Cost**

Additionally, as previously stated in our initial comment, FSA would like to reiterate the need jails have for full cost recovery of all ICS expenses in order to provide ICS for inmates and their families. It is paramount that consideration be granted to the jails that incur the costs that will incur costs for providing administration and security related to the ICS. If these jails are not allowed to share in some of the revenue created by the ICS they will go uncompensated for these duties, making an ICS that is functioning at a level conducive to public safety unachievable.

#### **State Rejection of FCC Authority to Regulate Intrastate Call Rates in Jails**

While the FCC has jurisdiction over the rates charged by carriers for interstate and international calls, a number of parties have argued that the FCC does not have jurisdiction to set intrastate rates. In FSA's

supplemental comment, we echoed the concerns of CenturyLink<sup>4</sup> and the Georgia Department of Corrections<sup>5</sup> regarding the Commission's attempt to unlawfully expand its authority and requested the Commission to respect its limitations for regulatory intervention, and to defer to jail administrators, including sheriffs, to establish policies and rates for intrastate ICS.

The Fact Sheet has gone beyond the previous jurisdictional issue we raised with the FCC now seeking to regulate video visitation via the internet within jails, as well as to determine what types of equipment can be installed in jails. Again, neither of the statutes cited by the Commission in the SFNPRM provides sufficient authority for the Commission to engage in these regulations. Sections 276 and 201 may not be broadly interpreted to give the Commission authority to preempt state and local authorities, including sheriffs, from determining the management and operation of prison calling services. FSA again requests the Commission to respect its limitations for regulatory intervention, and to defer to jail administrators, including sheriffs, to establish policies and rates for intrastate ICS.

Respectfully submitted,

**FLORIDA SHERIFFS ASSOCIATION**

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<sup>4</sup> WC Docket No. 12-375, Comments of CenturyLink on Second Further Notice of Proposed Rulemaking (December 20, 2015).

<sup>5</sup> WC Docket No. 12-375, Comments of Georgia Department of Corrections, Second Further Notice of Proposed Rulemaking (January 12, 2015).