

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

OPPOSITION TO PETITION FOR PARTIAL RECONSIDERATION

Pursuant to Commission rule 47 C.F.R. §1.429(f), CenturyLink Public Communications, Inc., on behalf of itself and its affiliates (“CenturyLink”), submits this opposition to the Petition for Partial Reconsideration filed by Michael S. Hamden (“Hamden”). Hamden’s Petition for Partial Reconsideration should be denied because it relies upon arguments that have already been fully considered and rejected by the Commission in this proceeding.¹

Hamden primarily requests reconsideration of the Commission’s decision not to ban site commissions in its Second Report and Order and Third Further Notice of Proposed Rulemaking² (the “*Second ICS Order*”).³ In his comments in this proceeding, Hamden, on behalf of undisclosed client(s), argued that site commissions lead to high inmate calling service (“ICS”) rates and that site commissions should therefore be banned as a matter of policy.⁴ However, after first noting that the Commission lacks authority to prohibit site commissions, CenturyLink and other parties pointed out that correctional facilities rely on site commissions to cover the

¹ See 47 C.F.R. §1.429(l)(3).

² *In the Matter of Rates for Interstate Inmate Calling Services*, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 15-136, WC Docket No. 12-375, 30 FCC Rcd 12763 (rel. Nov. 5, 2015).

³ In his Petition for Partial Reconsideration, Hamden also asks the Commission to clarify the meaning of the terms “mandatory fee,” “mandatory tax” and “authorized fee” as they are used in the *Second ICS Order*, and to clarify that the *Second ICS Order*’s single-call rule may not be circumvented by utilizing unregulated subsidiaries. CenturyLink does not speak to these issues at this time.

⁴ See Comments of Michael S. Hamden, pp. 3, 8-9, filed Jan. 12, 2015.

costs of making ICS available, and that elimination of site commissions would likely lead correctional facilities to reduce or eliminate inmate calling.⁵ In the *Second ICS Order*, it is apparent the Commission fully considered Hamden’s arguments and those of others in the record (CenturyLink among them), and decided not to ban site commissions.⁶

In his Petition for Partial Reconsideration, Hamden also argues that the Commission should reconsider its decision not to mandate a “modest” per minute facility cost-recovery fee that would be added to the rate caps prescribed in the *Second ICS Order*. The Commission fully considered this argument and rejected it, as well.⁷ In making this argument, Hamden recognizes that correctional facilities incur legitimate costs to make ICS available and that they should be allowed to recover those costs.⁸ This is absolutely true as pointed out by many parties in this proceeding, including CenturyLink. However, a “modest” cost recovery fee of one to three cents per minute, as was being proposed by some parties, will not be sufficient to cover the costs many correctional facilities incur to make ICS available.⁹ Accordingly, CenturyLink recommended that the Commission set rate caps with sufficient headroom to allow for a

⁵ See, e.g. Reply Comments of CenturyLink, pp. 19-24, filed Jan. 27, 2015; Letter from Thomas M. Dethlefs, Associate General Counsel, CenturyLink, to Marlene H. Dortch, p. 2, filed Aug. 14, 2014.

⁶ *Second ICS Order*, ¶¶ 117-132.

⁷ *Second ICS Order*, ¶¶ 133-140.

⁸ Hamden Petition for Partial Reconsideration, pp. 12-13, filed Jan. 19, 2016.

⁹ Reply Comments of CenturyLink, pp. 19-24, filed Jan. 27, 2015; Letter from Thomas M. Dethlefs, Associate General Counsel, CenturyLink, to Marlene H. Dortch, pp. 1-2, filed Sept. 19, 2014; Comments of Georgia Department of Corrections, p. 18, filed Jan.12, 2015; Comments of the National Sheriffs’ Association, Exhibit A, filed Jan. 12, 2015.

reasonable site commission to cover those costs.¹⁰ On this point, the Commission considered but did not adopt either Hamden's or CenturyLink's recommendation.¹¹

The Commission's rules provide that reconsideration is to be denied where the arguments presented have been fully considered and rejected by the Commission in this proceeding. 47 C.F.R. §1.429(l)(3). Hamden's petition does not raise facts or arguments related to events which have occurred or circumstances that have changed since his last opportunity to present his arguments to the Commission.¹² The Commission has often explained that reconsideration will not be granted in these circumstances.¹³ While other parties may understand and respect Hamden's concerns about the *Second ICS Order*, there are no grounds for the Commission to reconsider the arguments he has made.

Respectfully submitted,

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March 23, 2016

¹⁰ Letter from Thomas M. Dethlefs, Associate General Counsel, CenturyLink, to Marlene H. Dortch, pp. 3-4, filed July 20, 2015.

¹¹ *Second ICS Order*, ¶¶ 139-140.

¹² 47 C.F.R. §1.429(b).

¹³ *In re Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, Order on Reconsideration, DA 14-865, WT Docket No. 05-265, 29 FCC Rcd 7515, 7518, ¶ 8 (rel. June 25, 2014) (noting that reconsideration is generally appropriate only where the petitioner shows either a material error or omission in the original order or raises additional facts not known or existing after the petitioner's last opportunity to respond, and denying reconsideration on ground that argument was specifically considered and rejected by Commission).