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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526

Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 828-2290
16158.0023

June 29, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

RECEIVED
JUN 29 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**NOTICE OF EX PARTE
PRESENTATION**

Re: CC Docket No. 96-128 (remand of inmate service issues)

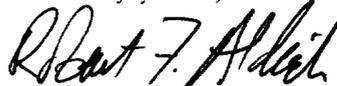
Dear Ms. Salas:

On June 27, 2000, Robert Aldrich of this law firm and Vince Townsend of Pay-Tel Communications, Inc., representing the Inmate Calling Service Providers Coalition, met with Dorothy Attwood, advisor to Chairman Kennard.

We discussed the proceeding regarding inmate calling services on remand from the United States Court of Appeals for the D.C. Circuit. In particular, we discussed (1) the need for the Federal Communications Commission to provide, pursuant to 47 U.S.C. § 276, fair compensation for inmate service providers for local collect calls where state rate ceilings preclude recovery of the cost of the calls; and (2) the need for the Federal Communications Commission to make clear that "inmate telephone service," for purposes of the Section 276 ban on Bell company discriminations and subsidies, as well as the compensation provision, includes not only the equipment but also the collect calling *service* provided for the use of inmates.

The substantive points discussed are reflected in the enclosed documents which were handed out at the meeting. The document entitled "Jails: by State ADP" lists small jails served by one inmate service provider.

Sincerely yours,



Robert F. Aldrich

RFA:nw

cc: Dorothy Attwood

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List ABCDE

1177 Avenue of the Americas • New York, New York 10036
Tel (212) 835-1400 • Fax (212) 997-9880
<http://www.dsmo.com>

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An Approach to Fair Compensation and Reasonable Rates for Inmate Service

Pursuant to 47 U.S.C. § 276, the FCC must ensure that providers of telephone service to inmates of confinement facilities are fairly compensated for each call made from their phones. At the same time, inmates of confinement facilities and their families are entitled to reasonable, cost-based rates. In the pending inmate service remand, the Commission has an opportunity to promote both objectives: (1) *fair compensation* and (2) *reasonable rates* for inmates and their families.

- ◆ Currently, inmate service providers are not fairly compensated for service to jails in a number of states where artificially low state rate ceilings preclude recovery of the full cost of local collect calls.
 - Local calls make up over 80% of the calls from city and county jails.
 - Inmate service providers serving jails in low-rate-cap states like North Carolina, South Carolina, and Tennessee are not profitable on their service as a whole. Providers in these states are undercompensated by approximately one dollar per local call.
- ◆ To fully recover their losses on local calls, providers in these states would have to charge extremely high rates for interstate calls, even higher than AT&T's current tariffed interstate rate of \$12.23 for a 12-minute call.
- ◆ Requiring providers to charge below-cost rates on local calls and rates far above cost on interstate calls conflicts with the FCC's recent findings that "[w]e are unaware of any public policy reason why users of interstate operator services should be required to subsidize users of intrastate operator services" and "it would be an undue burden on interstate commerce to have costs of providing intrastate service to prison inmates cross-subsidized by interstate service ratepayers." *Billed Party Preference for InterLATA 0+ Calls*, CC Docket No. 92-77, *Second Report and Order and Order on Reconsideration*, FCC 98-9, released January 29, 1998, ¶¶ 55, 61.

The Commission should ensure that inmate calling service providers are fairly compensated for local calls by authorizing inmate service providers to charge local collect call rates that recover the per-call costs of local calls in states where the state-imposed rate ceilings applicable to a 12-minute call are lower than per-call costs. The Commission could authorize inmate service providers to exceed a particular state's rate ceiling after submitting cost data showing that the individual provider's per-call costs exceed the local collect call rate ceiling in a particular state.

In addition, to ensure that rates for other calls are fair to inmates and their families, the Commission could require an inmate telephone service provider, as a condition of being allowed to exceed the local call rate ceiling in a particular state, to commit to charging cost-based rates for all their calls – local, intraLATA, and interLATA (intrastate and interstate) – in that state.

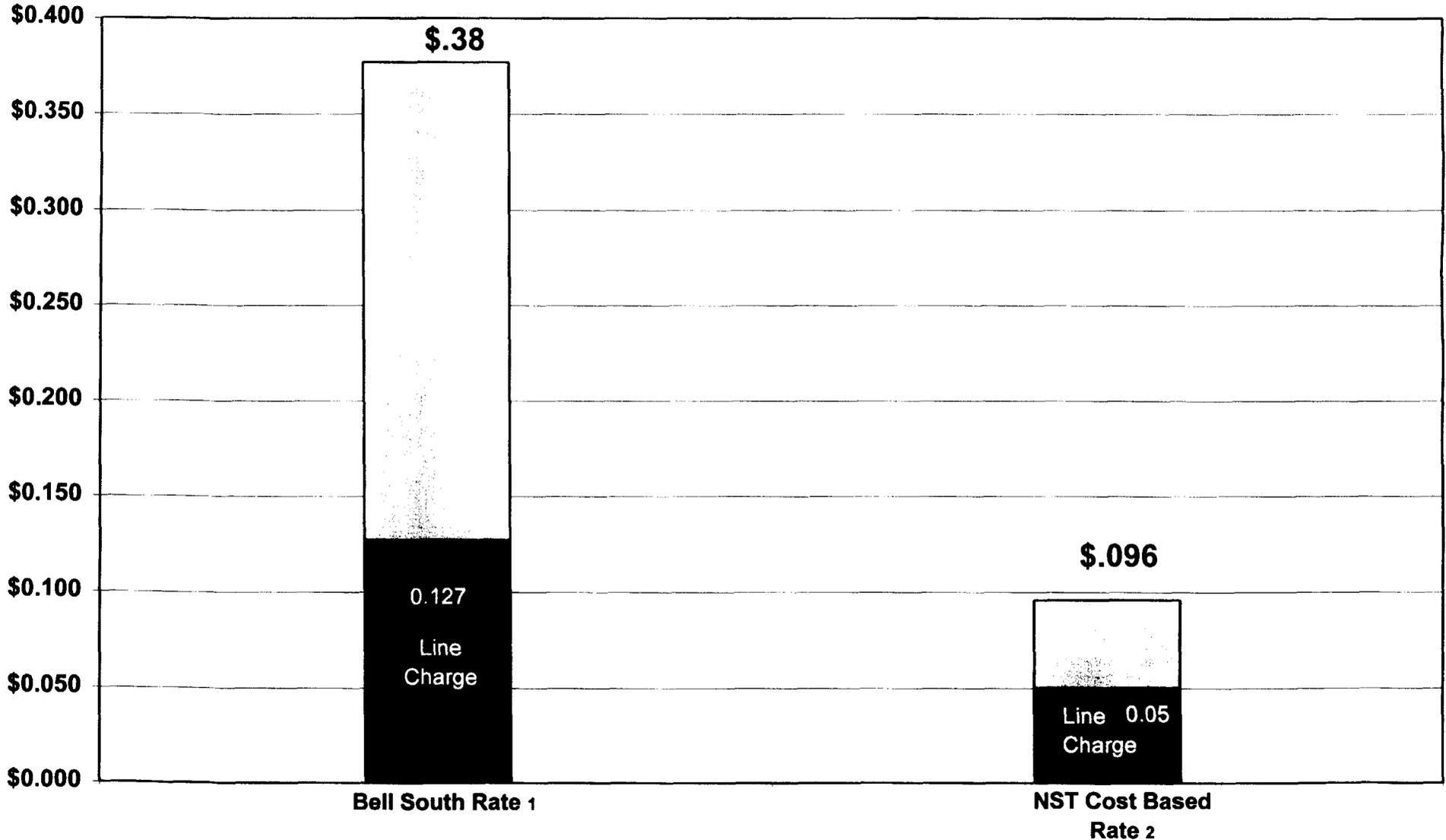
- ◆ A provider would demonstrate its costs for local, intraLATA, and interLATA calls.
- ◆ A provider's per-call costs for each type of call would be developed, using the following cost categories.
 - line charge
 - usage charges
 - validation
 - maintenance and repairs
 - equipment depreciation
 - overhead
 - return
 - commission
 - unbillables/uncollectibles
- ◆ The provider would use consistent methodologies to develop costs for each type of call.
- ◆ The provider would explain any differences in per-call costs incurred for each type of call (*e.g.*, telephone usage charges).
- ◆ The provider would submit proposed rates, based on its demonstrated costs, for each category of call.

While the Commission has “forborne” from exercising authority to regulate interstate rates under Section 203, the Commission may determine, in this proceeding, that in order to provide fair compensation under Section 276, it may indirectly require inmate service providers to develop cost-based rates as a condition of receiving fair compensation for local calls.

**Jails: by State ADP
less than 60 ADP**

Confinement Facility	City	STATE	ADP
Tyrrell County Jail	Columbia	NC	2
Hyde County Jail	Swan Quarter	NC	4
Jones County Jail	Trenton	NC	4
Clay County Jail	Hayesville	NC	6
Yancey County Jail	Burnsville	NC	6
Ashe County Jail	Jefferson	NC	17
Currituck County Jail	Currituck	NC	19
Washington County Jail	Plymouth	NC	19
Guilford Juvenile Detention Ctr.	Greensboro	NC	21
Polk County Jail	Columbus	NC	23
Chowan County Jail	Edenton	NC	24
Greene County Jail	Snow Hill	NC	25
Yadkin County Jail	Yadkinville	NC	25
Alexander County Jail	Taylorsville	NC	28
Alleghany County Jail	Sparta	NC	30
Pamlico County Jail	Bayboro	NC	30
Davie County Jail	Mocksville	NC	31
Caswell County Jail	Yanceyville	NC	35
Warren County Jail	Warrenton	NC	36
Chatham County Jail	Pittsboro	NC	38
Lincoln County Jail	Lincolnton	NC	47
Stokes County Jail	Danbury	NC	49
Wilkes County Jail	Wilkesboro	NC	53
Person County Jail	Roxboro	NC	55
Greer City Jail	Greer	SC	8
Smith County Jail	Carthage	TN	34
Clifton Forge City Jail	Clifton Forge	VA	18
Alleghany County Jail	Covington	VA	20
Page County Jail	Luray	VA	35
Botetourt County Jail	Fincastle	VA	50
Warren County Jail	Front Royal	VA	50

NORTH CAROLINA
12 Minute Daytime Local Collect Call
Bell South Current Rate VS Bell South NST Cost Based Rate



¹ **Line Charge:** Line Rate, EUCL, and PICC ($\$21.70 + \$8.17 + \$4.31 = \$34.18/268$ calls = \$.127). **Measured Service:** \$0.03 first minute plus \$0.02 for each additional minute. \$0.25 for 12 minute call.

² Bell South cost data submitted in North Carolina proceeding (CCB/CPD No. 99-27) including Direct Costs, Indirect Costs and a reasonable allocation for overhead (25%). **Line cost:** $\$13.51/268 = \0.05 per call **Per Minute Cost:** $\$0.0038 \times 12$ minutes = \$0.046 per call.