

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|---|---|----------------------|
| In the Matter of: |) | |
| |) | |
| Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 |) | CC Docket No. 96-128 |
| |) | |
| Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues In Pending Rulemaking |) | DA 03-4027 |
| |) | |
| |) | |
| |) | |
| |) | |
| |) | |

MOTION FOR EXTENSION OF TIME

Pursuant to Section 1.46(b) of the Commission’s rules,¹ petitioners Martha Wright, *et al.* (“Petitioners”) request a three-week extension of time in which to file a reply to the comments opposing the relief sought in the above-captioned Petition For Rulemaking or, in the Alternative, Petition to Address Referral Issues In A Pending Rulemaking (“Wright Petition”).² A three-week extension will not prejudice any interested party and will aid in the development of a more complete record upon which to resolve the issues raised by the opposing comments (“Oppositions”).

The Federal Register publication of the Commission’s *Public Notice* originally invited interested parties to file comments on the Wright Petition on February 9 and reply comments on

¹ 47 C.F.R. 1.46(b).

² FCC Public Notice, *Petition for Rulemaking Filed Regarding Issues Related to Inmate Calling Services; Pleading Cycle Established*, CC Docket No. 96-128, DA 03-4027 (Dec. 31, 2003) (“*Public Notice*”).

February 19, 2004.³ The Commission subsequently granted the request of Evercom Systems, Inc., T-Netix, Inc., and Corrections Corporation of America for a one-month extension of the deadline to file initial comments until March 10.⁴ The Commission provides additional time to file comments and reply comments in rulemaking proceedings when such an extension is in the public interest and for “good cause.”⁵ As further explained below, good cause exists and the public interest would be served in this case by providing Petitioners with a modest extension of time to respond to the multiple lengthy arguments filed in opposition to the Wright Petition.

The Wright Petition raises controversial, substantive matters regarding the structure of the inmate telephone services market. Many of the Oppositions, some of which were submitted by large communications corporations, are supported by multiple expert affidavits and studies, each of which will require time-consuming analysis and rebuttal by Petitioners’ expert, Douglas A. Dawson. Such analysis and rebuttal will require substantially more time than the 15 days remaining in the comment cycle established by the Commission. Furthermore, Mr. Dawson recently has been suffering from health problems, which has taken him away from work. Mr. Dawson also is already committed to participate in various state hearings over the next month

³ 69 Fed. Reg. 2697 (Jan. 20, 2004).

⁴ *Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order, CC Docket No. 96-128, FCC 04-268 (Feb. 3, 2004). The deadline for reply comments was accordingly also extended until March 31, 2004. The Petitioners notified the Commission that they did not object to this extension of time, but reserved the right to request an additional extension of time to file reply comments. *See* Martha Wright, *et al.*, Response to Joint Motion for Extension of Time, CC Docket No. 96-128 (filed Feb. 3, 2004).

⁵ *See, e.g., Verizon Telephone Companies, Petition for Forbearance From the Current Pricing Rules for the Unbundled Network Element Platform*, 18 FCC Rcd 14600 (2003) (concluding that good cause exists to extend the date to file comments and reply comments due to the complexity of the issues raised in the proceeding).

concerning the implementation of the Commission's *Triennial Review Order*.⁶ Therefore, Mr. Dawson cannot devote his full time and resources, or his usual energy, in the next two weeks to responding to the Oppositions.

The Wright Petition requests that the Commission address anticompetitive practices that result in grossly excessive inmate telephone service rates at privately-administered prisons throughout the United States. The significant and controversial public policy and consumer issues arising from exorbitant inmate telephone service rates, which are borne largely by low-income relatives and loved ones of prison inmates, should not be resolved without providing a fair opportunity for Petitioners to respond to the expert testimony and multiple legal and policy arguments in the Oppositions. Denying Petitioners adequate time to meaningfully respond to the legal, policy, and economic arguments and data set forth in the Oppositions would be unduly prejudicial. Furthermore, any delay in the Commission's decision on the Wright Petition will be vastly outweighed by Petitioners' ability to develop a more complete record in this proceeding, which will assist the Commission in making an informed and appropriate decision. It is crucial for the protection of the interests of those paying for inmate calling services that the Petitioners have sufficient opportunity to fully address all of the arguments raised in the Oppositions.

Moreover, no other party will be prejudiced by a brief extension of the deadline to file reply comments. The Commission routinely provides parties with additional time to file reply

⁶ *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 (2003), *vacated and remanded in part, United States Telecom Association v. FCC*, No. 00-1012 (DC Cir., Mar. 2, 2004). Many state commissions are proceeding with their "impairment" analyses, in spite of the court's reversal of the *Triennial Review Order*. See Herb Kirchhoff, *25% of States With TRO Cases Have Suspended Them*, Comm. Daily, Mar. 8, 2004; Martin Urges States to Keep TRO Dockets Going, Comm. Daily, Mar. 9, 2004.

comments in situations where, such as here, the proceeding raises complex and substantive issues, particularly when other parties would not be harmed by the extension.⁷

Accordingly, Petitioners have shown good cause for a brief extension of three weeks, until April 21, 2004, of the due date for their reply to the Oppositions, as well as to any other comments that may have been filed. The volume of the Oppositions, Mr. Dawson's circumstances and the lack of prejudice to any party, as well as the public interest in protecting ratepayer interests, support the requested relief.

Respectfully submitted,

Martha Wright, *et al.*

By: /s/ Deborah M. Golden

Deborah M. Golden
D.C. Prisoners' Legal Services Project, Inc.
2639 Connecticut Ave., N.W.
Suite 225
Washington, D.C. 20008
(202) 775-0323

Stephen G. Seliger
Laurie S. Elkin
Seliger & Elkin, Ltd.
155 North Michigan Avenue
Suite 500
Chicago, IL 60601
(312) 616-4244

By: /s/ Frank W. Krogh

Charles H. Kennedy
Frank W. Krogh
Jennifer L. Kostyu
Morrison & Foerster, LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006
(202) 887-1500 (Voice)
(202) 887-0763 (Fax)

Barbara J. Olshansky
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
(212) 614-6464 x 439

Dated: March 16, 2004

⁷ See, e.g., *Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925-6425 MHz/ 3700-4200 MHz Bands and 14.0-14.5 GHz/ 11.7-12.2 GHz Bands*, IB Docket No. 02-10, DA No. 04-579 (Mar. 1, 2004) (granting the request for an extension of time to file reply comments because of the complex issues raised in the rulemaking proceeding).

CERTIFICATE OF SERVICE

I, Theresa Rollins, hereby certify on this 16th day of March, 2004, a copy of the foregoing Motion for Extension of Time has been served via electronic mail (*) or first class mail, postage pre-paid, to the following:

Deena Shetler*
Deputy Division Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
Wireline Competition Bureau
445 12th Street, S.W., Room 5-A221
Washington, D.C. 20554
Denna.Shetler@fcc.gov

Qualex International*
Portals II
445 12th Street, S.W., Room CY-B402
Washington, D.C. 20554
qualexint@aol.com

Glenn B. Manishin
Stephanie A. Joyce
Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036

Counsel to T-Netix, Inc.

Larry Fenster
Kecia Boney Lewis
WORLDCOM, Inc., d/b/a MCI
1133 19th Street, N.W.
Washington, D.C. 20036

Joi Nolen*
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
Wireline Competition Bureau
445 12th Street, S.W., Room 5-A221
Washington, D.C. 20554
Joi.Nolen@fcc.gov

Paul C. Besozzi
Patton Boggs LLP
2550 M Street, N.W.
Washington, D.C. 20037

Counsel to Evercom Systems, Inc.

Mark D. Schneider
Anita L. Wallgren
Sidley Austin Brown & Wood, LLP
1501 K Street, N.W.
Washington, D.C. 20005

Counsel to Corrections Corporation of America, Inc.

Anthony J. Annucci
Deputy Commissioner and Counsel
Department of NY Correctional Services
1220 Washington Ave.
Building 2, Harriman State Campus
Albany, NY 12226-2050

Andrew D. Lipman
Kathy L. Cooper
Kathleen G. Ramsey
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Lawrence J. Lafaro
Stephen C. Garavito
Martha Lewis Marcus
AT&T Corporation
One AT&T Way
Bedminster, NJ 07921

Counsel to the Association of Private Correctional
and Treatment Organizations

Aaron M. Panner
Kellogg, Huber, Hansen, Todd & Evans, PLLC
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036

Laura K. Abel
Patricia Allard
Kirsten D. Levingston
Kele Williams
Brennan Center for Justice, NYU School of Law
161 Avenue of the Americas, 12th Floor
New York, NY 10013

Counsel to the RBOC Payphone Coalition

David C. Bergmann
Chair, NASUCA Telecommunications Committee
Assistant Consumers' Counsel
Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

Elizabeth Alexander
Director, National Prison Project
American Civil Liberties Union
733 15th Street, N.W., Suite 620
Washington, D.C. 20005

Roderic V.O. Boggs
Executive Director
Washington Lawyers' Committee for Civil
Rights and Urban Affairs
11 Dupont Circle, N.W., Suite 400
Washington, D.C. 20036

Charles Sullivan, Executive Director
Kay Perry, Chairperson
Citizens United for Rehabilitation of Errants
Post Office Box 2310
Washington, D.C. 20013

/s/ Theresa Rollins