

NORTH CAROLINA PRISONER LEGAL SERVICES, INC.

Michael S. Hamden
Executive Director

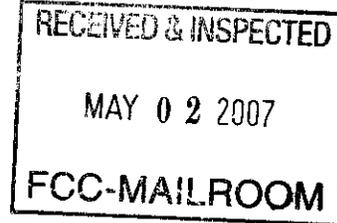
Billy J. Sanders
Administrator

Post Office Box 25397
Raleigh, North Carolina 27611
1110 Wake Forest Rd., Raleigh, NC 27604
(919) 856-2200
Facsimile Transmission (919) 856-2223

Michael G. Awry
Sarah Blair
Ken Butler
Lisa Chun
Elizabeth Coleman Gray
Dawn D. Ducoste
Nicholas Woomer-Deters
J. Phillip Griffin
Hoang Lam
Ravi Manne
Beth McNeill
Elizabeth Raghunanan
Dekhasta B. Rozier
Lynne Rupp
Michele Luecking-Sunman
Staff Attorneys

27 April 2007

DOCKET FILE COPY ORIGINAL



Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Comments on Alternative Rulemaking Proposal
(Martha Wright, *et al.*, CC Docket No. 96-128)

Dear Ms. Dortch

Pursuant to your release of 2 March 2007 in the matter referenced above, please **find** a STATEMENT OF INTEREST AND COMMENTS ON ALTERNATIVE RULEMAKING PROPOSAL REGARDING TO INMATE CALLING SERVICES FILED BY NORTH CAROLINA PRISONER LEGAL SERVICES, INC. Please accept these comments in connection with Martha Wright, *et al.*, CC Docket No. 96-128 (DA 07-961).

Thank you for your attention to this matter. We are also filing this by U.S. Postal Service, first-class mail. Please let me **know** if anything more is required. In the meantime, with all best wishes, I am,

Sincerely yours,

A handwritten signature in cursive script that reads "Michael S. Hamden".

Michael S. Hamden, Executive Director
North Carolina Prisoner Legal Services, Inc.
Post Office Box 25397
Raleigh, NC 27611
(919) 856-2200
www.ncpls.org



No. of Copies rec'd _____
List ABCDE _____

**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...
Michael S. Hamden, Executive Director
...and Thank You for Your Comments**

Your **Confirmation** Number is: '2007427983942 '

Date Received: Apr 27 2007

Docket: 96-128

Number of **Files** Transmitted: 2

DISCLOSURE

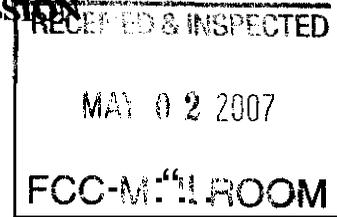
This confirmation verifies that ECFS has received and accepted your filing. However, your filing will be rejected by ECFS if it contains macros, passwords, redlining, read-only formatting, a virus or automated links to source documents that is not included with your filing.

Filers are encouraged to retrieve and view their filing within **24** hours of receipt of this confirmation. For any problems contact the Help Desk at **202-418-0193**.

[FCC Home Page](#)[Search](#)[Commissioners](#)[Bureaus Offices](#)[Finding Info](#)

updated 12/11/03

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



In the Matter of

)
)

Pursuant to the notice published by the Federal Communications Commission on 2 March 2007, and the FCC Order filed 21 March 2007 extending the time for the submission of comments in this proceeding through 2 May 2007, North Carolina Prisoner Legal Services, Inc., submits the following comments in support of the *Alternative Rulemaking Proposal Related to Inmate Calling Services* submitted by *Martha Wright, et al.* (Petitioners) on March 1, 2007.

North Carolina Prisoner Legal Services (NCPLS) is a non-profit, public service law firm that provides legal advice and assistance to people incarcerated in this State. NCPLS addresses matters involving inhumane conditions of confinement or illegal criminal convictions and sentences. Providing North Carolina inmates with information about their legal rights and responsibilities, NCPLS works to reduce frivolous litigation and to resolve legitimate problems through administrative channels. When Serious problems cannot be resolved administratively, NCPLS offers legal representation in all

No. of Copies rec'd 094
List ABCDE

State and Federal courts throughout North Carolina, and beyond. The program has a staff of 37, which includes 17 lawyers, 14 paralegals, and 6 support staff members.

Encompassing some 52,669 square miles, North Carolina incarcerates more than 38,000 people in 78 prisons operated by the North Carolina Department of Correction (NC-DOC). With 100 counties, almost each of which has a jail and/or a municipal lock-up, on any given day an additional 14,000 people are detained pending trial (with some 250,000 annual admissions).

The distance between correctional facilities in North Carolina makes it difficult to communicate with our clients, except by mail.’ Policies of the NC-DOC discourage telephone communications between prisoners and their clients except “where legal deadlines *make* a personal visit or correspondence impractical . . . [in which case] attorneys may initiate a request with the Department’s legal section for approval to contact inmates/clients by *telephone*.”² Moreover, “All telephone calls will be collect and may be monitored. . . . Inmates are not allowed to receive telephone calls. Inmate telephone use is a privilege which may be restricted for *disciplinary purposes*.”³ And, pursuant to a contract between the Department of Correction and AT & T, the phone company is paying a 30% commission for public pay phones (in visitation rooms or officers lounges, for example) and a 55% commission for prisoner-initiated phone calls.

¹ Unfortunately, approximately 40% of the national prison population is functionally illiterate. The Center on Crime, Communities & Culture, *Education as Crime Prevention: Providing Education to Prisoners*, Research Brief: Occasional Paper Series 2 (Sept. 1997).

² NC Dept. of Correction Inmate Rule Book, 18(B)(2), p. 23.
<http://www.doc.state.nc.us/FamilyServices/index.htm> (last accessed 12 April 2007).

³ NC Dept. of Correction Inmate Handbook for Family and Friends, “Can inmates use the Telephone?” at p. 23. This demonstrates the use of telephones by the NC-DOC as a mechanism to control the conduct of prisoners – both as an incentive and as a punitive measure.
<http://www.doc.state.nc.us/FamilyServices/index.htm> (last accessed 12 April 2007).

That means that our clients' families, attorneys, and others are paying almost twice **as much in commissions as the** general public.

Jail and detention facilities throughout the state generally enter into **similar** contracts with various carriers based upon the promise that the carrier will provide services exclusively in **exchange** for payment of the highest possible commission (at a financial and emotional cost to prisoners and their families.)

Thus, exorbitant charges impede communication with family and friends, disrupt ties to communities, and inhibit a prisoner's right to guaranteed constitutional rights (*e.g.*, the right to petition the courts for the redress of grievances and the right to counsel).

With limited resources, and given the excessive cost of prisoner telephone calls, NCPLS declines to accept all but emergency calls. Our inability to accept such calls increases the time it takes to resolve client concerns and sometimes engenders litigation simply to preserve our clients' rights.

The record in this case is replete with citations to findings of various studies, correctional agencies, and professional organizations that the maintenance of ties between a prisoner and the family are key to a successful transition into the community **after** release from prison, and that telephones are essential to the realization of that objective!

⁴ *See, e.g.*, Federal Bureau of Prisons Policy Statement PS5264.06 (Telephone Regulations for Inmates); the National Sheriffs' Association (Resolution of **14 June 1995**); The American Correctional Association (ACA), *Resolution on Excessive Phone Tarriffs* (October **1996**); *Public Correctional Policy on Inmate/Juvenile Offender Access to Telephone* (ACA 2001) and related standards (ACA 2002)(incorporated into standards manuals for 11 types of correctional facilities; and American Bar Association Policy (August 2005); and the report of the Vera Institute of Justice-sponsored Commission on Safety & Abuse In America's Prisons, "*Confronting Confinement*," pp. **36, 39, passim** (June 2006).

But as an important component *of both* maintenance *of* order and *security in* a correctional facility? and *as a* tool that *diminishes* recidivism, telephone usage that imposes excessive charges impinges upon these objectives and the ability of prisoners to keep in touch with their families and others, all of whom are being exploited by monopolistic practices. It is clear that competition and market forces have failed to resolve this long-standing problem, and that prompt remedial action is needed through regulation by the Federal Communications Commission.

CONCLUSION

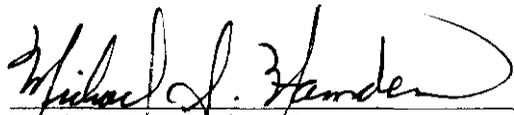
Contracts for telephone services in correctional settings are negotiated and agreed between correctional facilities or entire correctional systems and the carrier. These contracts are exclusive and provide the correctional facilities sources of substantial revenue *through* “commissions” paid on the gross revenue for all calls. Often, the parties *seek* no input from, nor give any consideration to the interests of prisoners or the citizens (family members, friends, or attorneys) who will receive and pay for the calls. Prisoners and citizens generally have no choice but to accept the terms agreed upon between the correctional facility and the carrier if they place or accept any prisoner-initiated call.

The Alternative *Wright* Petition gives the FCC *an* opportunity to take *meaningful* steps to remediate excessive inmate phone service rates and expand the calling options available to inmates and the people they call (*e.g.*, by adopting bench-mark rates that disallow surcharges and require an expansion of available services, such *as* debit *account* and debit card calls). At a *minimum*, NCPLS requests that the Commission provide the relief requested in the Alternative *Wright* Petition by ensuring reasonable long-distance

⁵ *See supra*, footnote 2 and accompanying text.

rates on inmate-initiated **calls** through establishment of an interstate interexchange benchmark, eliminating surcharges, and requiring the broadest possible range of calling options (including debit card and debit account calls)!

Respectfully submitted this 27th day of April, 2007.



Michael S. Hamden, Executive Director
North Carolina Prisoner Legal Services, Inc.
224 South Dawson Street
Post Office Box 25397
Raleigh, NC 27611
(919) 856-2200
MichaelHamden6z@ncpls.org

CERTIFICATE OF SERVICE

I, Michael S. Hamden, hereby certify that a copy of the foregoing STATEMENT OF INTEREST AND COMMENTS ON ALTERNATIVE RULEMAKING PROPOSAL REGARDING TO INMATE CALLING SERVICES FILED BY NORTH CAROLINA PRISONER LEGAL SERVICES, INC. **has** been served by placing the document into an envelope, first-class postage pre-paid, and depositing the envelope into a receptacle for delivery by the United States Postal Service, and addressed **as** follows:

⁶ It is doubtful that the relief sought in the Alternative **Wright** Petition (which would apply only to long-distance calls initiated by an inmate from a private correctional facility) would definitively resolve all of the issues intertwined with the pervasive problems of excessive telephone pricing schemes in the correctional setting. However, a comprehensive resolution might be achieved through blending the interests of the public in “just and reasonable” charges, practices, and regulations (found in Section 201) with the legitimate interest of service providers to receive “fair compensation” for telephone calls (Section 276 of the Communications **Act**). These legislative mandates apply to all calls, whether inter-state or intra-state, local or long distance; or whether in government or privately operated correctional facilities, (including prisons and local jails). These statutes provide a basis upon which the FCC could grant not only the relief sought in the Alternative Wright Petition, but they also authorize the FCC to address and resolve these issues in a comprehensive fashion. Such an approach would require only the establishment of “just and reasonable” benchmark rates which apply to “each and every call” (with a procedure through which service providers can attempt to justify a need for cost-based adjustments under specifically designated circumstances). Such a benchmark would eliminate surcharges, apply to calls of all types, and would require the broadest possible range of calling options (including debit card and debit account calls).

Pamela Arluk
Acting Assistant Division Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Best Copy and Printing, Inc.
Portals II
445 12th Street, S.W., Room CY-B402
Washington, D.C. 20554

Lynne Hewitt Engledow
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

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

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. 20035

Counsel to the RBOC Payphone Coalition

David C. Bergmann, Chair
NASUCA Telecommunications Committee
Assistant Consumers' Counsel
Ohio Consumers' Counsel
12 West Broad Street, Suite 1800
Columbus, OH 43215-3285

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

Stephen A. Young, Legal Counsel
Ohio Dept. of Rehabilitation and Correction
1050 Freeway Drive North, Suite 207
Columbus, OH 43229

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

Counsel to Evercom Systems, Inc.

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.

Albert Lewis
Acting Division Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Douglas Galbi
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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

Counsel to Corrections Corp. of America, Inc.

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

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

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

Elizabeth Alexander, Director
National Prison Project – ACLU
915 15th Street, NW
Seventh Floor
Washington, DC 20005

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

Stephen J. Ingley, Executive Director
American Jail Association
1 135 Professional Court
Hagerstown, MD 21740

Deborah M. Golden
Staff Attorney
D.C. Prisoners' Project
Washington Lawyers' Committee for
Civil Rights and Urban Affairs
11 Dupont Circle, Suit 400
Washington, D.C. 20036

Stephen G. Seliger
Laurie S. Elkin
Seliger & Elkin, Ltd. #500
155 North Michigan Avenue
Chicago, IL 60601

Barbara J. Olshanksy
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

Doane F. Kiechel
Frank W. Krogh
Jennifer L. Kostyu
Morrison & Foerster, LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006

Attorneys for Petitioners *Martha Wright, et al.*

So certified:

