

INMATE TELEPHONE SERVICE TALKING POINTS

- **In spite of reform efforts in some states, interstate inmate telephone service rates remain extortionate in most prisons. The highest inmate rates are for interstate collect calling, which are as much as \$3.95 per call plus \$0.89 per minute.** Many prisons permit no alternatives to collect calling. The burden of exorbitant inmate collect calling rates falls on innocent families, not prisoners.
- The gathering consensus for effective relief is reflected in reports, recommendations and studies by a national prison commission, the ABA, NARUC, corrections officials and penological experts. Excessive rates sever the community and family ties that are necessary to reduce recidivism. The growing trend in outsourcing incarceration to private entities in other states, precluding family visits, has aggravated the disruptive effects of unreasonable interstate inmate calling rates.
- **Competitive bidding for exclusive prison inmate calling service contracts generates unreasonably high rates because successful bidders are required to pay commissions.** These commissions can amount to as much as 65 percent of gross revenues and must be paid to prison administrators or state corrections departments or treasuries.
- The U.S. District Court in *Wright v. Corrections Corp. of America* referred prison inmate telephone service competition and rates issues to the FCC in 2001. *Wright* is a class action against a private prison facility administrator and five inmate calling service providers. Plaintiffs allege that excessive inmate rates violate constitutional and statutory rights, including Section 201(b) of the Communications Act.
- After extensive FCC mediation efforts, the *Wright* plaintiffs filed a Petition for Rulemaking in 2003 in CC Docket No. 96-128 requesting the FCC to require that private prison facilities permit competition in the provision of interstate long distance inmate calling services. Service providers objected on the grounds that imposing a competitive structure would be too disruptive to prison security and regulatory and that distinctions between private prison entities and public correctional facilities were arbitrary.
- **The *Wright* petitioners responded to these objections by filing their Alternative Rulemaking Proposal in 2007 requesting that the FCC: (1) establish interstate long distance inmate benchmark rates of \$0.20 per minute for debit calling service and \$0.25 per minute for collect calling service for prisoners in all facilities, public and private, with no per-call charges; and (2) require that inmate calling service providers offer debit calling as an option to collect calling.**
- **Petitioners demonstrated that comparable long distance services, including a representative sample of prison inmate calling services, are now provided at rates, net of commission payments, lower than the requested benchmark rates. All state and other large prison systems could be served profitably at the requested benchmark rates.**

- Inmate calling service providers presented no hard cost data to rebut petitioners' comparable rates analysis. Service providers have not explained why they are able to provide interstate inmate calling services at rates, net of commission payments, that are lower than the requested benchmarks at some prison systems but not at others.
- Because the FCC has found that service providers' commission payments constitute profit, comparable inmate calling rates should be calculated net of commissions.
- **The FCC has full authority to provide the requested relief.**
 - **The FCC has exclusive jurisdiction over all interstate rates; setting benchmark rates for interstate inmate calling services does not infringe states' authority.**
 - **The FCC has authority to require that service providers offer an interstate debit calling option and to provide a "fresh look" transition to enable service providers to renegotiate contracts.** Increasing use of inmate debit calling demonstrates that it is consistent with security and other penological goals.
 - **The service providers requested that the *Wright* case be referred to the FCC, and the court expects the FCC to address these issues.** The court found that the FCC has the authority and "clearly is in the best position to resolve the core issues in this case, namely the reasonableness of the rates charged and the feasibility of alternative telephone arrangements in [prison] facilities." *Wright v. Corrections Corp. of America* (D.D.C. Aug. 22, 2001).