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### Portal32.com on 2007-10-09 - Domain History

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**Domain:** [portal32.com - Domain History](#)

**Cache Date:** 2007-10-09

**Registrar:** GODADDY.COM, INC.

**Registrant** Click on an email address we found in this whois record

**Search:** to see which other domains the registrant is associated with:

[absr21313@netzero.net](#) [nicreq@omnis.com](#)

Registrant:

Domain Name: PORTAL32.COM

Created on: 03-Oct-05

Expires on: 08-Oct-08

Last Updated on: 05-Sep-07

Administrative Contact:

Escobedo, Alberto absr21313@netzero.net

4231 S. Durfee Ave. Pico Rivera, CA 90660, US

5626950883

Technical Contact:

Network, Omnis nicreg@omnis.com

Omnis Network 3655 Torrance Blvd Suite 230 Torrance, CA 90503,

US

(310)316-2744 Fax -- (310)316-4991

Domain servers in listed order:

NS3.SECURESERVER.NET

NS4.SECURESERVER.NET



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# **EXHIBIT 5**



Whois  Domain Search Domain Suggestions For Sale Sales History Auction Search Aftermarket.com Live Auctions Domain Monitor

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## Domain History

Domain Name:

11 records found for **getconnectedus.net**

Red links are a privacy protected record

Similar records are grouped by background color

| 2007                       | 2008                       | 2009                       |
|----------------------------|----------------------------|----------------------------|
| <a href="#">2007-10-18</a> | <a href="#">2008-04-14</a> | <a href="#">2009-02-02</a> |
| <a href="#">2007-12-03</a> | <a href="#">2008-07-01</a> | <a href="#">2009-02-12</a> |
| <a href="#">2007-12-09</a> | <a href="#">2008-09-17</a> | <a href="#">2009-04-19</a> |
|                            | <a href="#">2008-11-29</a> | <a href="#">2009-05-08</a> |

[Discontinue this Unit Service](#)



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### Getconnectedus.net on 2009-04-19 - Domain History

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[Next »](#)

**Domain:** [getconnectedus.net](#) - [Domain History](#)

**Cache Date:** 2009-04-19

**Registrar:** ENOM, INC.

**Registrant** Click on an email address we found in this whois record

**Search:** to see which other domains the registrant is associated with:

[domains@hwsinet.com](mailto:domains@hwsinet.com)

---

Registration Service Provided By: Heritage Web Design

Contact: [domains@hwsinet.com](mailto:domains@hwsinet.com)

Visit: <http://www.heritagewebdesign.com>

Domain name: getconnectedus.net

Registrant Contact:

Heritage Web Design

Heritage Web Design ()

Fax:

1460 Moon River Drive

Provo, UT 84604

US

Administrative Contact:

Heritage Web Design

Heritage Web Design (domains@hwsinet.com)

8016551600

Fax: +1.8017473629

1460 Moon River Drive

Provo, UT 84604

US

Technical Contact:

Heritage Web Design

Heritage Web Design (domains@hwsinet.com)

8016551600

Fax: +1.8017473629

1460 Moon River Drive

Provo, UT 84604

US

Status: Locked

Name Servers:

ns0.heritagedns.com

ns1.heritagedns.com

ns2.heritagedns.com

ns3.heritagedns.com

Creation date: 02 Feb 2007 16:23:34

Expiration date: 02 Feb 2010 16:23:34



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### Getconnectedus.net on 2007-12-03 - Domain History

[« Previous](#)

[Next »](#)

**Domain:** [getconnectedus.net](#) - [Domain History](#)

**Cache Date:** 2007-12-03

**Registrar:** ENOM, INC.

**Registrant** Click on an email address we found in this whois record

**Search:** to see which other domains the registrant is associated with:

[domains@hwsinet.com](mailto:domains@hwsinet.com)

---

Registration Service Provided By: Heritage Web Design

Contact: [domains@hwsinet.com](mailto:domains@hwsinet.com)

Visit: <http://www.heritagewebdesign.com/support.html>

Domain name: getconnectedus.net

Registrant Contact:

Heritage Web Design

Heritage Web Design (domains@hwsinet.com)

8016551600

Fax: +1.8017473629

1460 Moon River Drive

Provo, UT 84604

US

Administrative Contact:

Heritage Web Design

Heritage Web Design (domains@hwsinet.com)

8016551600

Fax: +1.8017473629

1460 Moon River Drive

Provo, UT 84604

US

Technical Contact:

Heritage Web Design

Heritage Web Design (domains@hwsinet.com)

8016551600

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WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

www.kelleydrye.com

DIRECT LINE 202-955-9890

E-MAIL [sjoyce@kelleydrye.com](mailto:sjoyce@kelleydrye.com)

April 16, 2003

NEW YORK, NY  
TYSONS CORNER, VA  
LOS ANGELES, CA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM  
HONG KONG

AFFILIATE OFFICES  
BANGKOK, THAILAND  
JAKARTA, INDONESIA  
MUMBAI, INDIA  
TOKYO, JAPAN

VIA COURIER

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: WCB/Pricing Docket No. 03-14, Opposition to Petition for Declaratory  
Ruling of Outside Connections

Dear Ms. Dortch:

Attached please find the original plus four (4) copies of the Opposition of T-NETIX, Inc. ("T-NETIX") for filing in the above-captioned docket. Also enclosed are copies for the Chief of the Pricing Policy Division and Qualex, as required by the Public Notice (DA 03-874).

Also enclosed is one copy of the Opposition marked "Date Stamp and Return."  
Kindly stamp this document and return it to me in the envelope provided.

Please do not hesitate to contact me with any questions or concerns regarding this matter: 202.955.9890.

Sincerely,



Stephanie A. Joyce  
Counsel for T-NETIX, Inc.

Enclosures

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Petition of Outside Connections, Inc.  
For Declaratory Ruling

WCB/Pricing Docket No. 03-14

**OPPOSITION OF T-NETIX, INC.**

Glenn B. Manishin  
Stephanie A. Joyce  
KELLEY DRYE & WARREN LLP  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, D.C. 20036  
202.955.9600  
202.955.9792 fax

Dated: April 16, 2003

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Petition of Outside Connections, Inc.  
For Declaratory Ruling

WCB/Pricing Docket No. 03-14

OPPOSITION OF T-NETIX, INC.

T-NETIX, Inc. ("T-NETIX"), by its attorneys and pursuant to the Commission's *Notice*,<sup>1</sup> hereby opposes the Petition for Declaratory Ruling filed by Outside Connections, Inc. (the "Petition") in the above-captioned proceeding.

The Petition is an inappropriate request for the Commission to circumvent state correctional authority, perform ratemaking by subterfuge, and reconsider settled decisions that exempt inmate payphones from the "dial-around" and unblocking requirements otherwise applicable to public telephones. The Petition proposes *sub silentio* to jettison nearly a decade of Commission precedent governing inmate phones without even recognizing, let alone justifying, the clearly adverse consequences on correctional institution security requirements that this Commission has buttressed consistently since 1991. The Petition's concern with rates for inmate payphone services can and will be addressed by the Commission in its ongoing inquiry into inmate rates in the *Inmate Rate NPRM* proceeding (CC Docket No. 96-128)<sup>2</sup> initiated last year. Having failed to present any valid rationale why MCI and the New York Department of Corrections ("DOC")

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<sup>1</sup> Public Notice, DA 03-0874 (rel. March 26, 2003). The *Notice* requests comments by April 16, 2003 and reply comments by April 28, 2003.

<sup>2</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Remand and Notice of Proposed Rulemaking, CC Docket No. 96-128, FCC 02-39 (rel. Feb. 21, 2002) ("*Inmate Rate NPRM*").

must permit other carriers to threaten what this Commission has correctly called the “special security requirements” of correctional institutions,<sup>3</sup> Outside Connections’ Petition should be denied.

### BACKGROUND

T-NETIX is the leading provider of inmate telecommunications services and equipment for correctional facilities throughout the United States. T-NETIX’s services comprise payphone service, operator service, and local and long-distance voice communications services. It has served inmates and correctional facilities since 1989.<sup>4</sup> T-NETIX has actively participated in all of this Commission’s inmate payphone-related proceedings, most recently in response to the February 2002 *Inmate Rate NPRM*,<sup>5</sup> and has proposed that this Commission should consider taking more direct action with respect to inmate rates in order to mitigate the “location rents”<sup>6</sup> that are a natural economic consequence of the single-provider market structure for inmate services.

### INTRODUCTION

As the Commission has repeatedly recognized, inmate telecommunications service raises significant penological concerns that make it unique in today’s telecommunications industry.<sup>7</sup>

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<sup>3</sup> *Billed Party Preference for InterLATA 0+ Calls*, Second Report and Order and Order on Reconsideration, 13 FCC Rcd. 6122, ¶ 46 (1998) (“*BPP Second Report & Order*”).

<sup>4</sup> In 1999, T-NETIX acquired Gateway Technologies, Inc. Gateway’s comments on inmate payphone security requirements were cited as one of the Commission’s principal authorities in its first 1991 decision on inmate payphones. *Policies and Rules Concerning Operator Service Providers*, CC Docket No. 90-313, Report and Order, 6 FCC Rcd. 2744, 2752 (1991) (holding that 47 U.S.C. § 226 does not apply to inmate phones) (“*1991 TOCSIA Order*”), *aff’d*, *Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators*, CC Docket No. 94-158, 10 FCC Rcd. 1533, 1534-35 (1995).

<sup>5</sup> See CC Docket No. 96-128, Initial Comments of T-NETIX, Inc. (May 24, 2002); Reply Comments of T-NETIX, Inc. (June 24, 2002).

<sup>6</sup> *Inmate Rate NPRM* ¶ 73.

<sup>7</sup> *1991 TOCSIA Order*, 6 FCC Rcd. at 2752, *aff’d*, 10 FCC Rcd. at 1534-35; *BPP Second Report & Order*, 13 FCC Rcd. 6122, ¶¶ 26-27 (1998) (holding that inmate phones are not required to permit access to “dial-around”).

These penological concerns involve “special security requirements,”<sup>8</sup> as well as core considerations of state correctional authority and policies, that together present what the Commission has termed a set of “exceptional circumstances”<sup>9</sup> affecting correctional institutions, warranting special treatment for inmate payphones. For these reasons, the Commission has consistently declined to impose on inmate services the same access requirements generally applicable to public telephones, or to regulate either the operation or rates of inmate service providers, despite several invitations to do so.

Inmate calls must be closely monitored to prevent illicit phone use, including fraud, witness intimidation and harassment of judges and juries. This monitoring requires the installation of highly specialized equipment and software that can block calls to certain numbers, enforce necessary time limits and monitor inmate phone usage for unlawful activity. In addition, inmate phone systems must prevent callers from circumventing these security measures, for example by blocking call-forwarding, three-way calling and access to live operators. Real-world experience in the inmate service market demonstrates that absent these functions, inmates will engage in unlawful activity.

Because phone service is also a part of inmate rehabilitation, its provision and maintenance is committed as a legal matter to the discretion of correctional officials in each state.<sup>10</sup> State correctional and procurement statutes empower wardens to award contracts for inmate

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<sup>8</sup> *BPP Second Report & Order* ¶ 46.

<sup>9</sup> *1991 TOCSIA Order*, 6 FCC Rcd. at 2752.

<sup>10</sup> In New York, the Commissioner of Corrections has plenary authority over “the superintendence, management and control of the correctional facilities ... and of all matters related to the government, discipline, policing, *contracts* and fiscal concerns thereof.” N.Y. Correct. Law § 6-112 (Consol. 2003) (emphasis added).

phone service on an exclusive basis, pursuant to a public bidding process.<sup>11</sup> Bidders must demonstrate that they can meet specific security requirements as a condition of winning the exclusive contract. This single-provider system, with which the Commission is well acquainted,<sup>12</sup> ensures that all inmate calls are handled by an entity that has demonstrable security qualifications. It thus expressly prevents inmates from reaching alternative service providers that necessarily fall outside the primary carrier's secure platform.<sup>13</sup>

The Commission approved this single-provider system by holding, nearly a decade ago, that inmate payphone services are not subject to the dial-around and unblocking requirements of the Telephone Operator Consumer Services Improvement Act ("TOCSIA"), 47 U.S.C. § 226.<sup>14</sup> The Commission is of course aware that the single-provider inmate phone system can sometimes result in high rates.<sup>15</sup> It has refused, however, to challenge state authority over correctional facilities by overruling the dial-around exemption in the name of ratemaking.<sup>16</sup> Rather, the Commission is at this time addressing rates head-on in the *Inmate Rate NPRM* proceeding, in which it is considering questions such as the unique costs associated with inmate service and whether alternative forms of payment, such as prepaid accounts, may provide rate relief.<sup>17</sup> T-NETIX submits that the crux of the Petition, which purportedly seeks lower rates for inmates, is

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<sup>11</sup> The public contracts process in New York is governed by Article IX of Chapter 56 ("State Finance"). It requires all contracts to be awarded by public bidding, N.Y. State Fin. Law § 9-144 and expressly forbids state contractors from assigning their obligations to other entities without the state's consent, *id.* § 9-138.

<sup>12</sup> "[I]t has generally been the practice of prison authorities at both the federal and state levels, including state political subdivisions, to grant an outbound calling monopoly to a single IXC serving the particular prison. This approach appears to recognize the special security requirements applicable to inmate calls." *BPP Second Report & Order* ¶ 46.

<sup>13</sup> *Id.* ¶¶ 26-27.

<sup>14</sup> *1991 TOCSIA Order*, 6 FCC Rcd. at 2752.

<sup>15</sup> *BPP Second Report & Order* ¶¶ 26-27. See also *Billed Party Preference for InterLATA 0+ Calls*, Second Order on Reconsideration, FCC 01-355 ¶ 15 (rel. Dec. 12, 2001).

<sup>16</sup> *BPP Second Report & Order* ¶ 27.

<sup>17</sup> *Inmate Rate NPRM* ¶¶ 73, 76.

best addressed in the context of this docket, not through fundamental changes to the inmate phone system that are both outside the Commission's jurisdiction and highly ill-advised as a matter of public policy.

**I. THE COMMISSION HAS CONTINUALLY HELD THAT INMATE TELEPHONE SERVICE ENTAILS SIGNIFICANT SECURITY CONCERNS AND THUS IS EXEMPT FROM ORDINARY PAYPHONE REGULATION**

The Petition flies in the face of more than a decade of Commission precedent that exempts inmate phones from dial-around and call-blocking regulations. It is thus incredible that Outside Connections asserts that "the FCC has never held that service of the type that OC seeks to provide violates communications policy." Petition at 11. The service that Outside Connections seeks to provide is, quite simply, inmate dial-around service. *See* Petition at 5. The Commission has been quite clear that such a service is *inconsistent* with the Communications Act's payphone provisions and *contravenes* public policy.

According to the Petition, Outside Connections has, together with PaeTec Communications, devised a network arrangement in which PaeTec acquires terminating phone numbers within the local calling areas of a particular prison location. Petition at 5. PaeTec gives these numbers to Outside Connections, which instructs inmates to call this number — which is not assigned to any end user — when an inmate wishes to call someone outside the prison. *Id.* This number routes a call via MCI's facilities to PaeTec's switch, which is programmed to forward that call (including interLATA and interstate terminations) over PaeTec transport facilities to the called party, who is an Outside Connections customer. *Id.*

As the Petition impliedly concedes, MCI had no idea of this arrangement, and could discern which carrier was taking over its calls only by querying the LIDB database, calling PaeTec, and manually inquiring where each call actually went, and for whom. Petition at 10. In

addition, it is far from clear whether the New York DOC was aware that the dialed numbers were not the true terminating numbers, as the Petition simply explains that inmates “would” inform the DOC of this arrangement in order not to flout security concerns. Petition at 15. In essence, Outside Connections has made itself the beneficiary of the MCI-DOC service contract, becoming an alternative service provider without the approval of the state correctional system and without satisfying either its contractual bidding or payphone security requirements.

This call-forwarding arrangement inherently evades the security restrictions applicable to calls made from the MCI inmate phone system. Yet due to the special security needs of the correctional setting, the Commission has repeatedly held that it would be “unwise” to force inmate phone providers to enable either the caller *or* the called party to choose a different calling platform.<sup>18</sup> Outside Connections acknowledges these holdings. Petition at 12-13. Outside Connections protests, however, that it “seeks to let the called party, not inmates, select the carrier.” Petition at 12 (emphasis in original). This is precisely the point. In 1998 the Commission *rejected* proposals to apply Billed Party Preference to inmate payphone services, thus denying called parties the ability to select a carrier other than the inmate services provider.<sup>19</sup> Consequently, it is immaterial that Outside Connections focuses on the called party rather than the inmate, as settled communications law provides *neither* with the right to use alternative carriers. The Petition is thus nothing more than an extraordinarily late-filed request for reconsideration of this settled communications policy, without any valid grounds for doing so.

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<sup>18</sup> *BPP Second Report & Order* ¶ 27.

<sup>19</sup> As a matter of federal constitutional law, it is well-settled that restricting carrier choice for inmate call recipients is as permissible as restricting the inmates’ choice. *See Wooden v. Norris*, 637 F. Supp. 543, 555-56 (M.D. Tenn. 1986) (collect-only system did not infringe the rights of familial recipients of inmate calls).

**II. THE OUTSIDE CONNECTIONS SCHEME EVADES THE CRUCIAL SECURITY RESTRICTIONS NECESSARILY APPLICABLE TO INMATE PAYPHONES**

According to the network arrangement that the Petition describes, neither the DOC nor MCI has any control over an inmate call once it hits the PaeTec switch. Petition at 5. Outside Connections remarkably concedes that *even it has no control over the call*, and that an OC customer could “forward[] a call made to that OC customer to any location other than the fixed location where the phone rings.” Petition at 13. Having circumvented MCI’s secure platform, the caller can reach any destination, including judges, juries, witnesses and the like whom the DOC seeks to protect.

Outside Connections’ only answer to this problem is that such activity would “violate OC policy” and that “OC would terminate service immediately” to the offending caller. *Id.* These statements provide little comfort, as they concede that the Outside Connections system must first permit inmates to engage in illegal activity, and then detect it. By that point, the harm has already occurred — harm that MCI’s system and the DOC’s exclusive contract were expressly created to prevent. In essence, what Outside Connections proposes is that the inmate phone system should actually regress to a less advanced, less secure environment. This result cannot be deemed appropriate, and the Petition should therefore be denied.

**III. NEITHER THE MCI EXCLUSIVE CONTRACT NOR MCI’S RATES MAY BE CHALLENGED IN THIS PROCEEDING**

Outside Connections believes that inmates must have access to alternative, less-expensive long-distance providers. *See* Petition at 4. In essence, it is challenging MCI’s exclusive contract with the State of New York for the provision of inmate phone service, as well as the rates charged under that contract. These challenges are fruitless under well-established principles of competition and regulatory law.

Exclusive contracts with a state for the provision of service are permissible. As explained above, the New York DOC has the express authority to enter into contracts for the provision of inmate phone service. N.Y. Correct. Law § 6-112. The DOC may require that such contracts must be exclusive. *See id.* Exclusive contracts between state offices and private vendors are not unlawful. *See Otter Tail Power Co. v. United States*, 410 U.S. 366, 370 (1973) (holding that abuse of exclusive power contract with municipality was not immune from antitrust liability); *Sea-Land Service, Inc. v. Alaska Railroad*, 659F.2d 243, 246 (D.C. Cir. 1981) (affirming application of antitrust immunity to railroad wholly owned and operated by the United States). Thus, to the extent that Outside Connections suggests that the DOC-MCI contract is somehow contrary to public policy because it is an exclusive franchise, that position fails.

The New York DOC's express decision to displace competition in the unique inmate service market is an exercise of its sovereign authority over the correctional setting that is exempt from federal law. *United States v. Michigan*, 940 F.2d 143, 155 (6<sup>th</sup> Cir. 1990) (vacating and remanding district court's modification of consent decree with state correctional authorities regarding inmate treatment). This decision, squarely based on the state's interest in maintaining a secure prison environment, is committed to the state government in our federalist system. *See Turner v. Safley*, 482 U.S. 78, 89 (1987) ("when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests"); *Washington v. Reno*, 35 F.3d 1093, 1100 (6<sup>th</sup> Cir. 1994) ("an inmate has not right to unlimited telephone use"). It is also immune from liability under settled antitrust doctrine. *California Retail Liquor Dealers Ass'n v. Midcal Aluminum*, 445 U.S. 97, 105 (1980) (first test of state action immunity is a "clearly articulated and affirmatively expressed ... state policy" to

displace competition); *City of Lafayette v. Louisiana Power & Light Co.*, 435 U.S. 389, 412 (1978) (second test is whether the “state’s policy was actively supervised” by a state actor).

Outside Connections has no right to interfere with the DOC-MCI contract and serve inmates in New York. That right is conferred only with the winning of a public bid, as MCI was made to do. Nothing prevents Outside Connections from participating in the bidding process, unless it is that Outside Connections cannot comply with the DOC’s security requirements — in which case the case for the DOC and MCI in blocking Outside Connections is already proved. Having lost, or failed to participate in, the bidding competition to serve the New York DOC, it is remarkable that Outside Connections now asks a federal agency to reverse the result of that competition by overruling the exclusivity of the DOC arrangement for inmate payphones.<sup>20</sup>

To the extent that Outside Connections is challenging MCI’s rates for inmate service, this effort similarly fails. The filed rate doctrine prohibits any person from obtaining relief based on telecommunications rates that are tariffed and subject to regulatory oversight. *AT&T v. Central Office Tel.*, 524 U.S. 214, 223 (1998); *Maislin Industries, Inc. v. Primary Steel*, 497 U.S. 116 (1990). The filed rate doctrine requires that “the rate of the carrier duly filed is the only lawful charge,” 524 U.S. at 223, even if the customer has no actual notice of the tariff. 497 U.S. at 127 & n.9. Grounded in the essential policies of non-discrimination, judicial restraint, and separation of powers, the filed rate doctrine bars Outside Connections from using the Petition as a means for exacting relief from the Commission. The only proper vehicle for this request would be a

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<sup>20</sup> Outside Connections also complains of what it characterizes as the DOC’s and MCI’s efforts to discourage inmate use of alternative providers, including “intimidation tactics that are beyond the pale.” Petition at 3. These cursory allegations, even if true, may or may not be appropriate or lawful, but certainly violate nothing in the Communications Act or the FCC’s implementing rules.

complaint under Section 208 of the Act.<sup>21</sup> The instant Petition, however, is both unsupported and misplaced.

#### IV. THE COMMISSION CANNOT INTERFERE WITH STATE CORRECTIONAL AUTHORITY AS OUTSIDE CONNECTIONS REQUESTS

The relief that Outside Connections seeks would require the New York DOC to rewrite its regulations for inmate phone use. The Petition on its face impliedly concedes this point, as it openly quotes Rule 121.11, which flatly prohibits “telephone call-forwarding or other third-party phone calls.” Petition at 13. Yet the Commission has no authority to abrogate, directly or indirectly, correctional policy adopted by a state’s prisons, jails or correctional institution officials.

Although, as the D.C. Circuit held in *Illinois Public Telephone*, the Commission has plenary authority over payphone rates, 117 F.3d at 562, that authority does *not* reach into security-related restrictions on inmate phone use. It is not difficult to distinguish between the setting of rates and the setting of correctional policy. As to the manner in which inmates are permitted to use prison amenities, like payphones, the Commission has no authority to act. Such decisions are uniquely the concern of state and local correctional authorities.

Administration of correctional facilities is a clear exercise of a state’s sovereign power. *Michigan*, 940 F.2d at 155. The federal government may not intrude on that power by altering a state’s correctional policies. As the Sixth Circuit has stated, “[a]nchored in the sensitive principles of federalism, this sovereign authority is a prerogative of the state, not a privilege recognized through comity.” *Id.* Further, even absent any federalism concern, “[p]rison administra-

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<sup>21</sup> *AT&T v. FCC*, 978 F.2d 727 (D.C. Cir. 1992), *mandate enforced*, 1993 WL 26078 (D.C. Cir. 1993), *aff’d sub nom. MCI Telecomms. Corp. v. AT&T*, 512 U.S. 218-229-231 (1994) (holding that AT&T must file a Section 208 complaint to challenge validity of MCI tariff). Outside Connections’ standing to pursue a rate complaint is, however, suspect at best, because it is a carrier and not the end user ratepayer. See *Warth v. Seldin*, 422 U.S. 490, 498-99 (1975) (plaintiff must “allege[] such a personal stake in the outcome of the controversy” as to warrant relief in his name).

tors ... should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." *Jones v. North Carolina Prisoners' Labor Union*, 433 U.S. 119, 125 (1977). At least one federal court has applied this deference specifically in the context of inmate phone use. *Miranda v. Michigan*, 168 F. Supp. 685, 691-92 (S.D. Mich. 2001). What Outside Connections requests would directly contravene these principles.

In addition, any attempt by the FCC to preempt state corrections statutes via federal telecommunications policy would fail as a matter of law. The FCC's preemption power rests on the clear intent of Congress, either through express statutory language, *Jones v. Rath Packing*, 104 S. Ct. 2694, 2700 (1984), or as implied through grant of plenary authority over a particular subject matter. *City of New York v. FCC*, 486 U.S. 57, 64 (1988); *Louisiana Pub. Svc. Comm'n v. FCC*, 476 U.S. 355, 368-69 (1986). Here, nothing in TOCSIA authorizes the Commission to nullify state corrections law, nor does it contemplate federal regulations as to the manner in which inmates use telephones. See 47 U.S.C. § 226(b) & (c). The Commission expressly recognizes this jurisdictional limitation: "[n]either TOCSIA nor our rules require telephones for use only by prison inmates to be unblocked."<sup>22</sup> It is for this reason that the Commission has refrained from limiting the rights of state correctional authorities to establish single-provider, collect-only phone systems.

Outside Connections' desire to provide less expensive phone service for inmates, however laudable, is misdirected in this proceeding. Commission action with respect to inmate phone rates must be taken via ratemaking, and not through irresponsible network work-arounds such as the Outside Connections-PaeTec scheme. The fact that the Commission is at this time

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<sup>22</sup> *Billed Party Preference for InterLATA 0+ Calls*, Second Further Notice of Proposed Rulemaking, 11 FCC Rcd. 7274, 7301 (1996).