

determine the whereabouts of Jesse James Caston. Now imagine the results if this individual had used the services of OC. There would be no valid destination number or billing name and address for the individual on file with the ICS provider or the DOC and the resulting delay in the investigative process could have yielded much different results.

In support of our contention, attached to our comments are several letters from our law enforcement customers expressing their concern over the nature of OC's petition and outlining the security reasons that this Petition should be denied by the FCC.

IV. CONCLUSION

Because of the status of ICS providers as resellers of inmate telecommunications and not LECs, the strict prohibitions by correctional facilities against call forwarding and the compelling requirements of law enforcement to have accurate and valid information regarding the destination of inmate calls, we respectfully request that the Commission summarily deny OC's Petition for Declaratory Ruling and allow all ICS providers to block services such as those provided by OC.

Respectfully Submitted,



Craig Ferguson, President
GLOBAL TEL*LINK CORPORATION
2609 Cameron Street
Mobile, Alabama 36607
Phone: 251-479-4500

April 16, 2003

Louisiana State Penitentiary



M. J. "Mike" Foster, Jr.
Governor

Burl Cain
Warden

Richard L. Stalder
Secretary

January 4, 2001

George Talbot, Jr.
Vice President
Global Tel*link, Inc.
3501 Holiday Drive, Suite 405
New Orleans, LA 70114

RE: **LazerVoice**

Dear George,

The LazerVoice recording and monitoring system installed at the Louisiana State Penitentiary continues to prove to be an invaluable tool in intelligence gathering. In December, our investigative unit provided information obtained through LazerVoice on the whereabouts of Jessie James Caston, one of the FBI's 10 most-wanted fugitives, to the FBI and Louisiana State Police, which was vital in the capture of Caston on December 20, 2000.

Although LazerVoice has proven its effectiveness at the Louisiana State Penitentiary, as we have developed numerous cases against inmates involved in illegal activities and a few involving correctional officers, it has now proven its effectiveness in assisting other law enforcement agencies in the apprehension of armed and extremely dangerous fugitives, such as Caston.

Please allow me this opportunity to again thank you for this system; it is a proven asset in our daily operations and in the safety of the general public. We are extremely proud to have the LazerVoice system in operation at the Louisiana State Penitentiary!

Sincerely,

A handwritten signature in black ink, appearing to read "Burl Cain", written over a horizontal line.

Burl Cain
Warden

BC:aln

xc: File



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
INTERNAL AFFAIRS
100 BOMAR BOULEVARD
NASHVILLE, TENNESSEE 37209-1100
TELEPHONE (615) 741-7144
FAX (515) 741-0758

Crossville Office
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Johnson City Office
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FAX (423) 434-6548

Dyersburg Office
1160 Henry Street
Suite 8
Dyersburg, TN 38024
Tel. (901) 288-8031
FAX (901) 288-8030

April 14, 2003

Mr. Craig Ferguson, President
Global Tel*Link Corporation
2609 Cameron Street
Mobile, Alabama 36607

Re: Petition of Outside Connection, Inc.
WCB/Pricing 03-14

Dear Craig:

This letter is to address the current Petition before the FCC by Outside Connection, Inc. I respectfully request that Global Tel*Link submit this letter to the FCC.

Due to the extensive security measures contained in our inmate telephone system, we are completely opposed to any company providing second and third party telecommunications services for inmate calling.

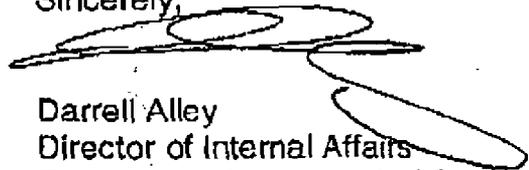
With the current configuration of your LazerPhone Inmate Telephone System, our Investigators can be assured that the destination telephone numbers as shown in the LazerPhone System are accurate. This information is vital to the State and ensures that law enforcement can respond quickly and accurately in the instances of a jail escape, inmates conducting criminal operations via the telephone or any of the myriad threats to correctional personnel and public safety which arise in a correctional facility.

I cannot stress enough how important it that your system continue to provide accurate information regarding the called party. With the inmate call configuration as described by Outside Connections in its Petition, law enforcement would be forced to subpoena two to three separate entities for accurate information regarding the called party. Contrast this with our current set up wherein an Investigator simply queries the LazerPhone System and is immediately given accurate information regarding the called party's destination number. Therefore, we cannot find any justification nor benefit for the FCC to sustain the Petition of Outside Connection and request that the FCC take the appropriate action to suspend and/or eliminate this type of service.

The Inmate calling method advocated by Outside Connection in its Petition would jeopardize public safety and cause innumerable delays for law enforcement in obtaining vital security information regarding inmate telephone calling activities. It would also violate the contractual terms of services regarding security of inmate calls mandated by the State.

Your inmate telephone system has been and continues to be a source of invaluable investigative assistance to law enforcement in Tennessee and we urge the FCC not to take action which comprises the critical security features of your inmate telephone system.

Sincerely,



Darrell Alley
Director of Internal Affairs
Tennessee Department of Corrections

SHERIFF



JACK TILLMAN

MOBILE COUNTY • MOBILE, ALABAMA
33601-0113

TELEPHONE (334) 690-8630
P. O. Box 113

April 14, 2003

Mr. Craig Ferguson, President
Global Tel*Link Corporation
2609 Cameron Street
Mobile, Alabama 36607

Re: Petition of Outside Connection, Inc.
WCB/Pricing 03-14

Dear Craig:

This letter is to address the current Petition before the FCC by Outside Connection, Inc. The Mobile County Sheriff's Department strongly suggests that Global Tel*Link submit this letter to the FCC. Due to security measures contained in our inmate telephone system, we are completely opposed to any company providing second and third party telecommunications services for inmate calling.

With the current configuration of your LazerPhone Inmate Telephone System, our investigators can be assured that the destination telephone numbers, as shown in the telephone system are accurate. This information is vital to the Sheriff's Office and ensures that law enforcement can respond quickly and accurately in the instances of illegal inmate activity via the telephone, such as coordinating escapes and other criminal operations. There are currently a myriad of threats that correctional personnel must deal with on a daily basis, without providing inmates a new tool to circumvent the system.

As you are aware, numerous local law enforcement agencies currently rely on the LazerPhone Inmate Telephone System in Metro Jail. The agencies include the Mobile Police Department, Federal Bureau of Investigation, U.S. Marshall's Service, Mobile County District Attorney's Office and several of the smaller municipal police departments in Mobile County. I cannot overstate the significance of your system in providing accurate information regarding the called party. With the inmate call configuration as described by Outside Connections in its Petition, law enforcement would be forced to subpoena two to three separate entities for accurate information regarding the called party. Contrast this with our current set up wherein an Investigator simply queries the LazerPhone System and is immediately given accurate information regarding the called party's destination number. Therefore, we cannot find any justification nor benefit for the FCC to sustain the Petition of Outside Connection and request that the

FCC take the appropriate action to suspend and/or eliminate this type of service. To put it simply, the inmate calling method advocated by this Petition would jeopardize public safety and cause innumerable delays for law enforcement in obtaining vital security information regarding inmate telephone calling activities.

Sincerely,

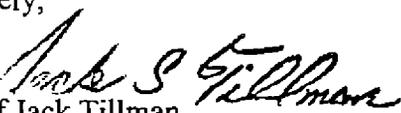

Sheriff Jack Tillman

EXHIBIT 9

COPY



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April 28, 2003

Katrina C. Gleber
(202) 457-6451
kgleber@pattonboggs.com

COURIER

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

Re: WCB/Pricing 03-14, Joint Reply Comments

Dear Ms. Dortch:

Enclosed please find the original plus one (1) copy of the Joint Reply Comments of Evercom, Inc. and Public Communications Services, Inc. for filing in the above-captioned docket. I have also included copies for the Chief of the Pricing Policy Division (2 copies), the Reference Information Center (1 copy), and Qualex (1 copy), as required by the Public Notice (DA 03-874).

Please date stamp the copy marked "Stamp-in" and return via courier. If there are any questions, please do not hesitate to contact me at (202) 457-6451.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Katrina C. Gleber'.

Katrina C. Gleber

KCG:mmd

Enclosures

cc: See Service List

Before The
Federal Communications Commission
Washington, DC 20554

In The Matter Of

Petition For Declaratory Ruling
Filed By Outside Connection, Inc.

DA 03-874
WCB/Pricing 03-14

JOINT REPLY COMMENTS OF EVERCOM, INC.
AND PUBLIC COMMUNICATIONS SERVICES, INC.

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Before The
Federal Communications Commission
Washington, DC 20554

In The Matter Of

Petition For Declaratory Ruling
Filed By Outside Connection, Inc.

DA 03-874
WCB/Pricing 03-14

**JOINT REPLY COMMENTS OF EVERCOM, INC.
AND PUBLIC COMMUNICATIONS SERVICES, INC.**

Evercom, Inc. and Public Communications Services, Inc., jointly acting through counsel and in accordance with the Commission's Public Notice DA 03-874, released March 26, 2003, hereby submit their joint reply comments in opposition to the Petition For Declaratory Ruling ("Petition") filed by Outside Connection, Inc. ("OC").

I. BACKGROUND

1. Evercom, Inc. and its affiliates (collectively hereafter "Evercom") provide traditional inmate calling services ("ICS") at approximately 2,000 locations in 43 states and the District of Columbia. Most of the locations served by Evercom are modest-sized correctional facilities such as city and county jails. Similarly, Public Communications Services, Inc. ("PCS") offers ICS at numerous locations in over 20 states, mostly at comparably-sized installations.¹

2. Evercom/PCS have collectively invested millions of dollars for the specialized equipment and software necessary to provide ICS at the facilities they serve. At all these locales, the security policies and legitimate concerns about potential inmate misuse substantially mirror those

¹ Evercom and PCS are hereafter collectively referred to as "Evercom/PCS" or "ICS Providers."

described by WorldCom, Inc. ("WorldCom") and the New York Department of Corrections.² Therefore, the Commission's decision on the Petition could fundamentally affect the way Evercom/PCS conduct their ICS businesses. As a result, each clearly has the requisite standing to participate in this proceeding.

II. SUMMARY OF EVERCOM/PCS COMMENTS

3. Evercom/PCS strongly support those who oppose the relief requested in the Petition. From the Evercom/PCS perspective, OC demands the benefits of providing ICS without assuming any of the substantial associated risks and burdens. OC claims the right to a "free ride" on the back of the substantial investments made by Evercom/PCS, investments made in furtherance of contracts fairly won with correctional facilities around the country. OC, seeking to cloak itself in the mantle of the cause of "competition," wants the Commission's blessing to siphon calls via a call forwarding scheme that undermines the judicially and administratively recognized security protections applicable to the provision of ICS. OC's proposed "safeguards" only impose burdens and costs on ICS providers; most importantly, however, there is absolutely no guarantee of their effectiveness. OC claims that Federal communications laws and the Commission's Rules mandate that Evercom/PCS and the prison administrators to which they are responsible take this gamble. That is not the case. Nor do misleading claims about ICS charges justify the risk. WorldCom and other opponents of the Petition have articulated effectively an array of reasons for rejecting the Petition. There is no basis for the Commission to turn its back on the appropriate regulatory balance for ICS that it has struck in the past and legitimize what, in effect, is no better than OC's theft of service.

² See generally Comments of WorldCom, Inc., dated April 16, 2003, and Attachments thereto (hereafter "WorldCom Comments"). No commenter in this proceeding, even those supporting the Petition, denies that these concerns exist or asserts that they are inappropriate.

III. OC'S SERVICE CLEARLY CONSTITUTES CALL FORWARDING

4. WorldCom and others have ably addressed the potential dangers of allowing call forwarding in the ICS setting.³ The identical, generic security concerns apply in the case of the facilities served by Evercom/PCS. More specifically, the policies and conditions governing their provision of ICS at these facilities embrace similar restrictions on the use of call forwarding techniques like those advocated by OC.

5. It is disingenuous at best for OC to now suggest that the configuration of its system somehow takes it "outside" of the call forwarding category.⁴ Indeed, PaeTec Communications, Inc. ("PaeTec"), which plays an integral role in OC's provision of its service, expressly concedes that "remote call forwarding," which "parallels traditional foreign exchange service," is exactly what OC is engaged in.⁵ The Commission should not succumb to OC's repeated incantations that its service is really a horse of a different color. A call made to one telephone number in PaeTec's switch gets forwarded to another telephone number in another exchange, another state or possibly even another country. That is call forwarding. The Commission only last year recognized the legitimate security concerns with any "scheme to evade calling restrictions via call-forwarding or three-way calling."⁶

IV. THE SAFEGUARDS PROPOSED BY OC ARE UNRELIABLE AND UNDULY BURDENSOME

6. Nevertheless, OC claims that through the provision by PaeTec and/or OC of billing name and address ("BNA") data, along with employment of other "verification" techniques, ICS

³ See, e.g., WorldCom Comments, at pp. 19-21.

⁴ See Petition, at pp. 13-14.

⁵ See PaeTec Comments, dated April 16, 2003, at pp. 2, 3. So do other proponents of OC's positions. See Comments of Mr. Allen Ostenso, dated April 10, 2003, at p. 1 (hereafter "Ostenso Comments").

⁶ See Attachment 7 to WorldCom Comments, at p. 21.

providers like Evercom/PCS can ameliorate any and all potential security gaps created by the use of call forwarding services like OC's offering. OC has utterly failed to make that case.⁷

7. First, OC outlines how ICS providers could obtain up-to-date BNA information to verify who (and where) are the parties actually receiving the calls forwarded by PaeTec and OC. However, as WorldCom points out, even assuming OC faithfully provided updated BNA data, it would be up to the ICS provider to ensure that such data were received and accurately incorporated into the requisite databases for the ICS provider facility.⁸ These activities would require the allocation and expenditure of time and resources by both the ICS provider and facility administrators in order to accommodate OC's "right" to provide service – time and resources diverted from the task of monitoring the inmates and the equipment installed and maintained by the ICS provider. It is hard to see how such diversions would help maintain, versus potentially dilute, the requisite level of security.

8. Second, if such an accommodation is offered to OC, the same presumably must be offered to OC's competitors, only magnifying the potential burdens placed on ICS and facility providers.⁹ At the same time, it is the ICS provider, like Evercom/PCS, that has the contractual

⁷ Global Tel Link ("Global") minces no words in describing the impact of OC-type services on traditional validation techniques: "all of the . . . security controls become useless." Global Comments, dated April 16, 2003, at p. 6 (emphasis supplied); see also Affidavit of James D. Shutt, dated April 15, 2003, at p. 6 (para.16); Opposition of T-NETIX, Inc., dated April 16, 2003, at p. 7 ("T-NETIX Opposition").

⁸ See WorldCom Comments, at pp. 22-23; Attachment 7 to WorldCom Comments, at pp. 7-8. Moreover, contrary to the "permanency" suggested by the North Carolina Prisoner Legal Services, Inc. ("NCPLS") and Ostenso Comments, there is no legal or technical assurance that the telephone number to which the calls are being forwarded could not be changed, without the prior knowledge of the ICS provider or the facility, further complicating the database update problem. Compare NCPLS Comments, dated April 14, 2003, at p. 3 and Ostenso Comments, at p. 1 with Comments of Ohio Department of Rehabilitation and Correction, dated April 16, 2003, at pp. 2-3.

⁹ Id.; see Affidavit of John D. Shaffer, Ph.D, dated April 15, 2003, at p.6 (para. 17-18)("Shaffer Affidavit"). And such other call forwarding service providers might not be nearly as faithful or as

obligation to the facility and that has invested the substantial sums to comply with the required security protections. It is this provider that is on the legal hook to ensure compliance. OC has no such privity of contract and therefore could not be compelled (or held liable) by the facility administrators.¹⁰ Its proposed “protections” in no way change that status.

9. Indeed, in the context of smaller-sized correctional facilities, such as those serviced by Evercom/PCS, these costs and administrative burdens could become even more telling. In many of the facilities that they service, the personnel and technical resources are less plentiful and would be more taxed by additional responsibilities for receiving and tracking data provided, possibly quite frequently, by call forwarding service providers like OC. Again, focusing on these tasks would no doubt divert attention from monitoring the inmates themselves. So imposing such a requirement on these types of facilities would have an even more impractical impact.

10. Further, the verification techniques suggested by OC (e.g., national reverse directory assistance) only require further efforts to tap. Most importantly, however, the record shows that they are of dubious reliability at best.¹¹

11. So OC’s “cure alls” do not rectify the genuine security concerns that form the primary basis for banning the use of call forwarding technologies. It is for precisely these types of concerns that both the Courts and the Commission have recognized that the unique circumstances surrounding the provision of ICS justify use of single ICS providers.¹² Moreover, for very similar

trustworthy as OC. Some may engage in tactics such as the use of false addresses to set up services in the first place. See Exhibit 1 attached hereto.

¹⁰ See Comments of Value-Added Communications, Inc., dated April 16, 2003, at p. 7 (“Value-Added Comments”).

¹¹ WorldCom Comments, at p. 23; Attachment 7 to WorldCom Comments, at p. 6.

¹² Attachment 7 to WorldCom Comments, at pp. 9-11. As also pointed out, for the same reasons the Commission has not applied the requirements of 47 U.S.C. Section 226, regarding access to alternative long-distance providers, to confinement facilities. Id., at pp. 19-21.

reasons the Commission previously declined to adopt a system where the party billed for the inmate's call gets to choose the carrier.¹³ OC is advocating just such a regime in its Petition.

V. THE AMENDED COMMUNICATIONS ACT DOES NOT PREEMPT THE WELL-ESTABLISHED REGULATORY TREATMENT OF ICS

12. OC (and PaeTec) seek to invoke the 1996 revisions to the Communications Act of 1934 (i.e., the Telecommunications Act of 1996) (collectively the "Act") and the FCC's Rules to counter the long-recognized special circumstances surrounding the provision of ICS.

13. First, OC's self-righteous citations to Sections 251 and 253 are hardly, as WorldCom points out, made with clean hands.¹⁴ From the Evercom/PCS perspective, OC comes to the table seeking the FCC's blessing to interfere, for its own economic benefit, with the contractual relationship established by the ICS Providers with each of the correctional facilities that they serve. Without ever having incurred any of the requisite investments made by Evercom/PCS, OC claims that the Act was intended to protect its right to hijack traffic which the ICS Providers are contractually entitled to carry, without any legal obligations on the part of OC to Evercom/PCS or the correctional facilities. WorldCom properly describes this as stealing for OC's own gain,¹⁵ and at Evercom/PCS's expense.¹⁶ This is hardly the form of "competition" that the Act was intended to protect or promote.

14. Second, the equities aside, OC's (and PaeTec's) legal arguments also don't fit. Neither Evercom nor PCS, which collectively are authorized to provide ICS in almost every state in the

¹³ See In the Matter of Billed Party Preference for InterLATA 0+ Calls, 13 FCC Rcd. 6122, 6156 (para. 57)(1998).

¹⁴ See WorldCom Comments, at pp. 12, 17, 18.

¹⁵ Id., at p. 18.

¹⁶ As Value-Added Communications observes, the end result of this theft is "significantly reduced cost recovery of inmate telephone service providers." Value-Added Comments, at p. 7. At the same time of course there is no offsetting reduction in the ICS Providers' costs needed to be recovered.

Union, are (or are required to be) certified as a local exchange carrier.¹⁷ Further, as WorldCom explains in detail, the services provided by Evercom/PCS and other ICS providers do not fit the Act's definition of local exchange service.¹⁸ So the obligations imposed by Section 251(b) do not apply to Evercom/PCS and similar ICS providers.¹⁹

15. OC (and PaeTec) also invoke Section 253 of the Act, involving the removal of barriers to competition. Neither the Courts nor the FCC have held that this statute preempts the long string of precedent recognizing the special circumstances surrounding the provision of ICS. Indeed, as noted by WorldCom, the FCC, only last year and long after passage of Section 253, specifically cited the legitimate security interest in prohibiting "a scheme to evade calling restrictions via call-forwarding or three-way calling."²⁰ These inveterate security concerns are embodied in the "public safety" safe harbor of Section 253(b), a safe harbor that would extend to facilities housing inmates charged with violating state laws or operated pursuant to uniform statewide policies.

16. OC also claims that ICS providers must follow certain "procedures" under Part 64 of the Commission's Rules to, in effect, play "BNA detective." That way such providers might determine that OC (or some similar call forwarding service provider) was the customer who should

¹⁷ See Global Comments, at p. 5.

¹⁸ See WorldCom Comments, at pp. 9-10.

¹⁹ PaeTec in its comments also claims that Section 251(a) of the Act, concerning telecommunications carriers' general interconnection obligations, mandates OC's "right" to forward these calls. PaeTec Comments, at p. 6. This bald claim ignores the special circumstances surrounding the provision of ICS services described above and the conduct of OC in pirating the traffic as it does. Nothing in the Act or its regulatory progeny requires a telecommunications carrier to interconnect for those purposes. Interestingly in its own tariff for New York, OC represents that there are no connecting carriers necessary to provide its service. See Attachment 6 to WorldCom Comments, at Original Sheet 4.

²⁰ See Attachment 7 to WorldCom Comments, at p. 21.

be billed for local collect calls made to the number leased by PaeTec to OC.²¹ Having “discovered” this, the ICS provider is, according to OC, required to direct bill the call in accordance with “industry policy set forth in Rule 64.1201.”²²

17. Contrary to OC’s implicit suggestion, there is nothing in Section 64.1201 of the Commission’s Rules that obligates or directs ICS providers to do what OC now demands. As WorldCom noted, despite the fact that “OC might want MCI to purchase BNA from PaeTec, and then allow OC to use its operator service, ... MCI has absolutely no obligation to do so.”²³ Section 64.1201 creates no such requirement to do that or to search out BNA information to satisfy OC’s business needs.

VI. SUPPORTERS OF OC’S POSITION ARE OFF BASE ON ICS CHARGES

18. In their comments justifying and supporting OC’s position, Mr. Ostenso and the NCPLS paint a misleading and self-serving picture about charges for ICS.

19. First, Mr. Ostenso characterizes them as “unregulated.” This misnomer totally ignores the fact that in many States ICS charges are based on tariffs approved by the relevant state

²¹ See Petition, at pp. 10-11.

²² *Id.*, at p. 11.

²³ WorldCom Comments, at p. 13. According to OC’s own New York tariff, the non-recurring “Activation Charge” for BNA is \$250.00, with a recurring BNA Data Charge (Per Phone No.) of \$.50. Nothing in the Act or the FCC’s Rules requires ICS providers to incur these additional expenses so that OC can provide its service.

regulatory commission.²⁴ Moreover, in many such States, there are regulatory-imposed rate caps on the charges of ICS providers.²⁵ So the assertion that ICS charges are “unregulated” is unfounded.²⁶

20. Second, the NCPLS characterizes the rates as “excessive” and “extortionate,” creating the impression that ICS providers like Evercom/PCS engage in some massive markup over the rates a “traditional” payphone customer would pay for collect-calling services. That is just not the case. In most jurisdictions, the cost to an inmate of placing a collect call using Evercom/PCS does not vary widely from the cost of a collect call made from a public payphone in the visitor’s center of the facility or on the street corner down the block.²⁷ Moreover, to the extent that there is a variance, the NCPLS conveniently ignores the fact that the ICS Providers incur significant additional costs in meeting the security requirements imposed by facility administrators; so the “cost” of an ICS collect

²⁴ As T-NETIX points out, as tariffed rates they are subject to the filed rate doctrine. T-NETIX Opposition, at pp. 9-10. Tariffs aside, in most States, ICS providers must receive a certificate or some other form of authorization by that commission. Some States have gone beyond just tariffing. In the State of Alaska, for example, the regulatory agency has restricted the extent to which commissions paid to facility administrators can be treated as a cost recoverable through rates.

²⁵ Indeed, the Commission recognized their existence and has left them in place. See In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 17 FCC Rcd. 3248 (2002).

²⁶ The NCPLS also suggests that the FCC has somehow been asleep at the switch when it has come to ICS issues. NCPLS Comments, at p. 2 (citing “inaction by the FCC”). But the FCC has recognized and reviewed the special regulatory challenges involved with ICS a number of times in at least two dockets over the last seven years.

²⁷ Evercom/PCS’s rates are typically set no higher than dominant carrier rates for the same services. The NCPLS also claims that Section 276 of the Act, 47 U.S.C. Section 276, incorporates special rate standards for ICS services. See NCLPS Comments, at p. 2. That provision focuses on leveling the competitive advantages previously held by the Bell Operating Companies in the provision of payphone services. It does not set standards for end-user charges from payphones, including those of the ICS variety.

call is not necessarily the same.²⁸ Contrary to the NCPLS suggestion, ICS are not totally “like services” to those provided to the “general public.”

21. Third, the NCPLS suggests that there is “profiteering” reflected in the rate and commission structure. At the same time, the NCPLS concedes that these “profits” may be used to “meet institutional needs.” Indeed, in many jurisdictions, commissions paid on ICS are used for prisoner welfare activities (such as commissaries and recreational activities). So it is unfair to imply that charges are established to line the pockets of ICS providers or the facility administrators.

22. Fourth, Mr. Ostenso asserts that ICS costs “severely restrict access to legal representation essential to [an inmate’s] case.” The NCPLS, which presumably should know, does not suggest any such thing.²⁹ Indeed, in the Evercom/PCS experience in many jurisdictions calls to attorneys, at least to some degree, are free or subsidized. Mr. Ostenso’s bald assertions cannot be the basis for the FCC reversing its field on call forwarding schemes.

23. Fifth, Mr. Ostenso also complains that ICS providers will – of all things – cut off services for the stated reason of unpaid bills. But in this regard, ICS providers are no different than presumably OC or, for that matter, any other telecommunications service provider.

24. Sixth, both the NCPLS and Mr. Ostenso imply that ICS providers have evidenced little interest in alternatives such as prepaid or debit card systems for ICS. But Evercom/PCS both have, where permitted by both governing telecommunications and correctional regulatory authorities,

²⁸ Again, of course, OC will not have to bear these costs. OC’s rates might be decidedly different if it were required to shoulder them and the associated legal responsibilities. But then again, under its Petition, it is perfectly content to leave those obligations to WorldCom and Evercom/PCS.

²⁹For that matter NCPLS notes there is no constitutional right to unrestricted telephone communication and no legal requirement that telephone access be permitted at all, so long as there are alternative means of communication. NCPLS Comments, at p. 1.

implemented prepaid collect and/or prepaid debit payment mechanisms, which in certain cases mean savings over the conventionally billed collect call charges.³⁰

VII. THERE ARE OTHER SOUND REASONS TO DENY THE PETITION

25. WorldCom and other opponents have set forth ample additional reasons for the Commission to promptly deny the Petition. Among the more substantive are the procedural defects and misrepresentation of service. They constitute independent grounds for promptly denying the Petition.³¹

26. As WorldCom outlines, OC has not been forthcoming with its customers about the true nature of its relationship with MCI or in describing that relationship with its customers.³² Evercom's prior experiences with other call forwarding service providers were similarly not based on any arms-length, negotiated resale basis; Evercom/PCS have never been paid by any such provider for use of the local portion of their ICS offerings.³³

³⁰ Indeed, one component of the Evercom case before the Regulatory Commission of Alaska ("RCA") cited by PaeTec was exactly that – an effort to introduce a prepaid inmate calling card service in addition to conventional collect call billing, not as PaeTec characterizes prepayment as a requirement to make a collect call. PaeTec Comments, at p. 6. The other component was establishing parameters for extending credit to billed parties where there was no billing and collection agreement with the local exchange carrier and there was a demonstrated risk of non-payment. In any case, in Evercom/PCS's experience, most facility administrators still prefer conventional collect calling because of the ease of administration and the potential for problems among prisoners when some have prepaid cards and others do not.

³¹ OC, having apparently lost in Court, seeks a second (or apparently third) bite at the apple on the same issue. Further, the idea that it is legitimately "purchasing" service from WorldCom or any other unsuspecting ICS providers from which it diverts traffic is ludicrous. See WorldCom Comments, at pp. 16-18.

³² WorldCom Comments, at pp. 16-18. As noted therein, if OC were a ICS provider it should be complying with the various disclosure and related requirements that apply.

³³ Evercom has previously dealt with a call forwarding service provider called Private Lines, Inc. which offers an analogous service.

VIII. CONCLUSION

27. OC drapes with beneficial aura of competition a call forwarding service that jeopardizes legitimate and established security concerns associated with providing inmates with telephone services. OC asserts that those concerns can be protected by imposing new and additional responsibilities on the ICS providers, without exposing OC to any of the contractual obligations or potential liabilities. In other words, OC wants to reap the benefits of the investments made by ICS providers like Evercom/PCS, without assuming the burdens. The Courts and the Commission have recognized the unique circumstances surrounding the provision of ICS. The Commission has, through its disclosure requirements³⁴, taken steps to allow consumers to make informed judgments. It has properly recognized that the FCC is not in the business of being a prison administrator and struck a regulatory balance that accommodates the realities of prison conditions and concerns. In its self-serving Petition OC has given the Commission no substantive reasons to impose on ICS providers and facility administrators the demonstrated risks of going further by accommodating the demands of OC and its competitors.³⁵

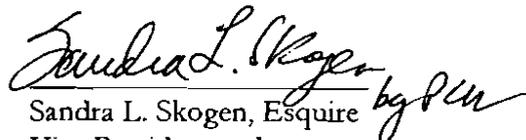
³⁴ See 47 C.F.R. Section 64.710.

³⁵ It should not be lost on the Commission that any decision that it might make on interstate ICS calls would not, unless the Commission decided to preempt all state regulation, cover any state regulatory prohibitions of call forwarding to the extent they affected intrastate calls. Such a bifurcated system would no doubt create more problems for prison administrators.

Respectfully submitted,

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April 28, 2003

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POST A TOPIC

POST REPLY

irisheyes66
Hostess with the Mostest!

TeleNet update



Registered: Aug 2002
Location: Providence, RI; my man is in El Dorado, KS....
Posts: 506

Well, my service with TeleNet has finally kicked in....and I can't tell you how great it felt to hear Shawn's voice on the other end of my phone!!!! My heart was just soaring when he said "I love you" that first time!

When I got home from work on Monday, the pre-recorded "This is a call from a correctional facility" was on my answering machine...so I knew everything had been approved, and the service was working. He had called 6 or 7 times during the day, LOL....I guess he was just as anxious to hear my voice as well 😊

When we finally "connected" later on in the evening, it was pure heaven....I have missed talking with him soooo much. It's only been a couple of months since we've spoken, but it took hearing his voice again to make me appreciate how important our calls really are, to both of us. Letters are great, but nothing takes the place of being able to hear your honey's voice expressing love, discussing plans for the future, or even just saying your name softly. He said "I love you" so many times...I started laughing at one point and couldn't stop! He always ends each call by trying to say it as many times as he can before the recording comes on, and the call ends....very sweet.

I called Southwestern Bell after the call, to verify the rates....And including the connection fee, an hour's conversation was just what I figured; \$12.27 plus tax. We spoke for three hours this week, for less than HALF of what a single hour with AT&T would have been!!!! Unbelievable!

An amusing anecdote, LOL

When I finalized my paperwork with TeleNet, I mentioned that I would also need an address that 'matches' my new number, as the Kansas DOC insists on it. I was a bit worried that the prison might

do a check on the information, but John at TeleNet assured me that none of their other Kansas customers have ever had a problem with this. So, he "dug up" an address for me, and told me to submit it right along with the number. LOLOL...it turns out that "1111 West Central Avenue" is actually a large hotel in the El Dorado area 🌐

When Shawn got my letter with the new number and address, he was so excited...because he thought I had finally sold my house and moved to Kansas, and hadn't told him so it could be a surprise!!!! LOLLOL...He immediately wrote a letter and sent it off to that address! I wonder if the hotel staff read the letter, and are now beyond confused!!!! LOL!

On the phone, he told me what he had done (he was pretty embarrassed---wonder what was in THAT letter, anyway?), and we had a great laugh over it....And I told him when I do sell my house (hopefully soon, I have a few offers I am considering), he'll be the first to know. My original relocation destination was Arizona, but I have been finding more and more nice homes in Kansas within my budget. And...being that close to my man is definitely an added incentive 🌐

I hope everyone's TeleNet service is up and running soon....may you all be whispering "I love you" in time for the holidays!

Susan in Providence, whose heart is pounding all over again every time the phone rings!!!

"A court is in session; a verdict is in
No appeal on the docket today, just my own sin
The walls cold and pale
The cage made of steel
Screams fill the room
Alone, I drop and kneel

Silence now the sound, my breath the only motion around
Demons cluttering around...my face showing no emotion
Shackled by my sentence
Expecting no return
Here there is no penance
My skin begins to burn

So I held my head up high
Hiding hate that burns inside
Which only fuels their selfish pride
We're all held captive out from the sun
A sun that shines on only some
We the meek are all in one..."

Lyrics by Creed

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