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Summary and Background

The Minority Media and Telecommunications Council (“MMTC”) respectfully submits these Comments in response to the Commission’s Notice of Proposed Rulemaking¹ on its regulation of interstate interexchange inmate calling services (“ICS”) at the nation’s jails and prisons. MMTC believes that high interstate ICS rates have myriad negative consequences for low-income and minority Americans. As the Commission considers numerous competing interests and the adoption of several proposals through this proceeding, it should prioritize the development of rules that promote fair interstate ICS rates, as the extraordinary costs that inmates and their families pay to communicate continues to have a “cruel and unusual”² impact on their lives.

¹ See Rates For Interstate Inmate Calling Services, WC Docket No. 12-375 (Dec. 28, 2012) (“NPRM”).

² See p. 11 and n. 40 infra (depriving inmates of communications with loved ones should be regarded as offensive to Eighth Amendment values).

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

In the Matter of)
)
Rates for Interstate Inmate Calling Services) WC Docket No. 12-375
)
)

To The Commission

COMMENTS OF THE MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL

I. Interstate Interexchange Inmate Calling Services Rates Are Not Just And Reasonable And Require Commission Regulation

The Commission’s authority to regulate ICS rates derives from Sections 276(b)(1)(A)³ and 201(b) of the Communications Act of 1934.⁴ Although states enter contracts with ICS providers to administer ICS services, the Commission, under Sections 276(b)(2)(A) and 201(b), must regulate the interstate calling system to reduce the unreasonable ICS rates in effect in many states. These rates are not reasonable and just.⁵ For example, the Commission references rates

³ See 47 U.S.C. §276(b)(1)(A) (2006) (stating that “the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone[.]”)

⁴ See 47 U.S.C. §201(b) (2006) (stating that for common carriers “[a]ll charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.”) Several Commissioners appear to recognize the far-reaching impact of rules that are developed through this proceeding. For example, Chairman Julius Genachowski states that interstate phone rules and rates “affects the families of inmates, prisoner rehabilitation, and prison security.” Commissioner Robert McDowell states that the rulemaking will “refresh the record and allow the Commission to evaluate” prison pay phones issues “with updated data.” See NPRM at pp. 30-31.

⁵ Numerous civil rights organizations and leaders, including the Rev. Jesse Jackson Sr., have urged the Commission to lower ICS rates. Jackson has stated that the rates “cannot be justified,” and are an “unconscionable burden” for many families. See Rev. Jesse Jackson Delivers 30th Annual Everett C. Parker Ethics in Telecommunications Lecture, Broadband and Social Justice Blog (Oct. 7, 2012), available at <http://broadbandandsocialjustice.org/2012/10/rev-jesse-jackson->

for debit or collect-based payphone calling at the nation's jails which demonstrate that inmates and their families pay as much as \$3.95 for connection fees per call and per minute charges up to \$.89 per call.⁶ As a coalition of civil rights organizations and activists has informed the Commission, the costs for inmate calls can "result in charges of \$10-17 for a 15-minute collect call or \$250 per month for a weekly one-hour call."⁷ In one egregious case, an inmate reported paying \$1,000 for prison payphone calls in one month to communicate with his family.⁸ Consumers who are not inmates or who do not have incarcerated family members pay much lower costs to access long-distance calling services. For example, AT&T offers direct dialed long distance service to its customers for \$.07 a minute, Verizon offers long distance service as low as \$.05 a minute, and according to the American Public Communications Council, several of its members "offer long distance rates for as low as \$0.10 per minute" through public payphone service.⁹

[delivers-30th-annual-everett-c-parker-ethics-in-telecommunications-lecture/](#) (last visited March 22, 2013) ("Jackson Remarks").

⁶ See NPRM at ¶2.

⁷ See Leadership Conference on Civil and Human Rights et al., Letter to FCC Chairman Julius Genachowski To Cap Interstate Prison Phone Rates (May 18, 2012), Docket No.

96-128, available at <http://apps.fcc.gov/ecfs/document/view?id=7021918702> (last visited March 15, 2013) ("Leadership Conference et al. Letter").

⁸ See Michael Myser, Inside America's \$37 Billion Prison Economy, CNN Money (March 15, 2007), available at http://money.cnn.com/magazines/business2/business2_archive/2006/12/01/8394995/index.htm (last visited March 14, 2013) ("CNN Report").

⁹ See AT&T Long Distance Service Plans and Rates, available at <http://www.att.com/gen/landing-pages?pid=10933> (last visited March 14, 2013); Verizon Freedom Essentials Phone Plans, available at <http://www2.verizon.com/home/phone/freedom-essentials-callingplans/> (last visited March 18, 2013); American Public Communications Council, Inc., FAQs About The Payphone Industry, available at <http://www.apcc.net/i4a/pages/index.cfm?pageid=40> (last visited March 14, 2013). Providers typically charge similar prices for mobile wireless service plans. For example, AT&T charges a \$.10 per minute rate for prepaid service with nationwide coverage and Verizon offers a prepaid plan at the same price and a \$.25 per minute plan. See, e.g., AT&T 10 Cents A Minute Plan, available at

A. The Commission Should Implement An Interstate ICS Regime In Accordance With Sections 201(b) And 276 Of The Communications Act That Eliminates Excessive and Unnecessary Fees, Reflects The Actual Costs Of Providing ICS Services, And Establishes Interstate Benchmark Rates

Several questionable costs are factored into high ICS rates. These include numerous fees and site commissions charged to ICS providers by states.¹⁰ Many states mandate commissions by statute,¹¹ some states have prohibited them, which have resulted in lower ICS rates.¹²

<http://www.att.com/shop/wireless/plans/voice/sku4950226.html#fbid=FO1f3wHKR2v> (last visited March 19, 2014). See also Verizon Prepaid As You Go Plans, available at <http://www.verizonwireless.com/b2c/prepay/processPrePayRequest.do?type=ppdaily> (last visited March 19, 2013).

¹⁰ Some of the fees associated with prison payphone calls include “security and network costs,” a set-up fee, and “multiple per-call charges” for dropped calls. See NPRM at ¶7, ¶¶18-19.

¹¹ See NPRM at ¶¶37-38. See also Leadership Conference et al. Letter at p. 1 (stating that “the high rates are caused by the system used to procure telephone service at correctional institutions. Prisons request bids from competing telephone companies, requiring each bid to include the payment of a fee or commission to the prison in addition to the provision of telephone service. The costs of the calls are passed on to prisoners’ families in the form of higher telephone rates, while the prison reaps the benefit of the extra fees and commissions. Thus, prisons have every incentive to choose bids that maximize fees and maximize telephone rates—a clear ‘moral hazard.’”) See also National Association of Regulatory Utility Commissioners, TC-1 Resolution Urging the FCC to take Action to Ensure Fair and Reasonable Telephone Rates from Correctional and Detention Facilities (adopted Nov. 14, 2012), available at <http://www.naruc.org/Resolutions/Resolution%20Urging%20the%20FCC%20to%20take%20Action%20to%20Ensure%20Fair%20and%20Reasonable%20Telephone%20Rates%20from%20Correctional%20and%20Detention%20Facilities.pdf> (last visited March 14, 2013) (“NARUC Resolution”) (stating that “According to a Prison Legal News survey, roughly 85% of State prison systems receive commission payments and the average commission to State and local contracting agencies is 42% of the gross revenues from inmates’ phone calls resulting in annual commissions totaling over \$152 million nationwide.”)

¹² See NPRM at ¶7. See also NARUC Resolution at p. 2 (stating that “California, Nebraska, New Mexico, New York, Michigan, Missouri, Rhode Island and South Carolina have banned prison telephone system commissions and, as a result, the cost of prison phone calls in those States have dropped.”) See also NPRM at p. 34 (Commissioner Ajit Pai states “as a general matter, I believe that prices should be set by the free market rather than by government fiat. At the same time, however, we must recognize that choice and competition are not hallmarks of life behind bars. Inmates cannot choose among multiple carriers for lower rates. Instead, prison administrators select the service provider, and their incentives do not necessarily align with those who are incarcerated. Accordingly, I am open to exploring whether there is action we can and should take, consistent with our legal authority, to address the issues identified in Martha Wright’s petition for rulemaking.”)

However, many condemn the arrangements that some states have entered into with ICS providers.¹³ One organization, for example, charges that they are “unjustifiable as a matter of public policy,” similar “to an unlegislated, regressive, and highly selective tax, under which specific individuals are asked to bear the financial burdens that are the proper responsibility of the state,” and thus, are a “form of collective punishment.”¹⁴ Furthermore, many organizations point to that fact that federal prisons do not accept commissions from ICS providers and charge much lower rates for long-distance calls to bolster the assertion that state commissions are unnecessary and regulation of interstate ICS rates is an achievable imperative.¹⁵

MMTC believes that the Commission must implement a regulatory paradigm, pursuant to its authority under applicable statute, which eliminates unnecessary fees, and charges inmates and their families fair rates for ICS services. We also support the proposal made in the 2007 Wright Petition for the Commission to establish an interstate benchmark rate to regulate ICS debit and collect calling rates, subject to Commission analyses of what specific interstate ICS rates are appropriate given the actual costs of service.¹⁶

¹³ See *supra* p. 4 at n. 10.

¹⁴ See, e.g., Center for Constitutional Rights, Factsheet: Corporate Exploitation and the Prison System, available at <http://ccrjustice.org/learn-more/faqs/factsheet%3A-corporate-exploitation-and-prison-system> (last visited March 22, 2013).

¹⁵ See Leadership Conference *et al.* Letter at p. 2, citing Government Accountability Office, Bureau of Prisons, Improved Evaluations and Increased Coordination Could Improve Cell Phone Detection, United States Government Accountability Office, Bureau of Prisons (Sept. 2011), available at <http://www.gao.gov/assets/330/322805.pdf> (last visited March 14, 2013) (“Improved Evaluations Study”).

¹⁶ See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Petitioners’ Alternative Rulemaking Proposal, CC Docket No. 96-128 (Mar. 1, 2007) at p. 6 (“2007 Wright Petition”), available at <http://apps.fcc.gov/ecfs/comment/view?id=5514061566> (last visited March 15, 2013) (stating that “[p]etitioners therefore propose, as an alternative approach to the relief sought in the Wright Petition, that the Commission establish a benchmark rate for domestic interstate interexchange inmate debit calling service of \$0.20 per minute and a benchmark rate for domestic interstate interexchange inmate collect calling service of \$0.25 per minute, with no set-up or other per-call charge. Under this alternative approach, service providers could continue to offer services under

B. Regulating ICS Rates Is Consistent With The Commission’s Universal Service Goals

The Commission has a demonstrated commitment and interest in providing reasonable phones rates to inmates and their families. Support for low-income consumers has been “a priority for states as well as the Federal Government.”¹⁷ The FCC’s goals under the Universal Service Fund (USF) undoubtedly support providing reasonable ICS rates because the populations burdened with the costs of ICS services are those with the least ability to pay.¹⁸ The 1996 Telecommunications Act mandates the “availability of quality services that are just, reasonable and affordable rates for ALL consumers;”¹⁹ and seeks to “advance the availability of such services to all consumers, including those in low-income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas.”²⁰ Despite the clear distinction between the Universal Service programs and prison pay phone services, the affected populations likely overlap. The NPRM states that an inmate’s family often bears the costs of communication with their loved one.²¹ Further, it is well established that there are disproportional incarceration rates among economically disadvantaged populations,²² and almost

exclusive service arrangements and pay commissions to prison administrators, as long as they charged prison inmates, or other bill payers on inmate collect calls, no higher than the benchmark interstate rates for inmate long distance calls.”)

¹⁷ See Lifeline Link Up, Report and Order, 25 FCC Rcd 5079, 5080 (2010).

¹⁸ See, e.g., Mindy Herman-Stahl, Marni L. Kan, and Tasseli McKay, Incarceration and the Family: A Review of Research and Promising Approaches for Serving Fathers and Families, U.S. Department of Health and Human Services (Sept. 2008), available at <http://aspe.hhs.gov/hsp/08/mfs-ip/incarceration&family/index.shtml> (last visited March 14, 2008) (“USDHHS Study”).

¹⁹ See Federal Communications Commission, Universal Service, available at http://transition.fcc.gov/wcb/tapd/universal_service/ (last visited March 15, 2013). See also 47 U.S.C. §254 (2006).

²⁰ See id.

²¹ See NPRM at ¶3.

40 percent of inmates have not completed high school.²³ This suggests that some families may have already suffered an economic disadvantage prior to their loved one's incarceration.

The Universal Service programs do not directly list support for prison pay phone services as an intended goal; however, the goal of USF is to ensure that economically disadvantaged citizens are afforded protection, affordable rates and access to advanced telecommunications services at reasonable rates. Lifeline is the Universal Service Program that specifically targets the availability of telecommunications services for low-income individuals. As such, the overarching goals of the USF program are in line with providing reasonable rates to low-income families who seek to communicate with incarcerated family members. Furthering this objective will undoubtedly help ensure that economically disadvantaged groups are provided meaningful telecommunications services at reasonable rates.

II. High Interstate Interexchange ICS Rates Are Inhumane

As it considers proposals to reduce ICS rates, the Commission should bear in mind how these rates impact the lives of marginalized Americans.

Over the past three decades, the nation's incarceration rates have grown by massive proportions. A U.S. Census working paper shows that while in 1980 500,000 Americans were

²² See Stephanie Ewert and Tara Wildhagen, Housing and Household Economics Statistics Division, Educational Characteristics of Prisoners: Data from the ACS, Presented at the Annual Meeting of the Population Association of America, Washington, D.C., U.S. Census Bureau (April 6, 2011) at pp. 3-4, available at <https://www.census.gov/hhes/socdemo/education/data/acs/index.html> (last visited March 15, 2013) ("U.S. Census Paper").

²³ See id.

incarcerated, that number grew to 2.3 million by 2008.²⁴ The most recent data available from the Bureau of Justice states that more than 2.2 million Americans are behind bars.²⁵

As many note, massive incarceration has created an almost \$40 billion captive market, where numerous private industry companies profit from vulnerable consumers, including inmates and their families who have no alternatives to use telecommunications services for communication with one another.²⁶ MMTC agrees with several consumers' rights groups and organizations that consider high ICS rates to be predatory.²⁷ The high ICS rates that service providers charge raise a dire need for intervention from the Commission, to protect marginalized consumers and promote social justice.

A. Exorbitant Interstate ICS Rates Significantly Disrupt The Lives of Minority And Low-Income Americans

The nation's incarceration problem is largely a problem afflicting minorities, as well as those with low-income and education levels.²⁸ A recent Pew study states that "incarceration is concentrated among men, the young, the uneducated and racial and ethnic minorities – especially African Americans."²⁹ Furthermore, the explosive growth in the nation's inmate population is in part attributable to the drastic increase in incarceration of young minority male inmates:

²⁴ See U.S. Census Paper at p. 3.

²⁵ See One in 34 Adults Under Correctional Supervision in 2011, Lowest Rate Since 2000, U.S. Bureau of Justice Statistics (Nov. 29, 2012), available at <http://bjs.gov/content/pub/press/cpus11ppus11pr.cfm> (last visited March 19, 2013).

²⁶ See, e.g. CNN Report.

²⁷ See, e.g. 2007 Wright Petition at p. 2. See also Leadership Conference et al. Letter at p. 2 (stating that "predatory phone rates discourage regular telephone contact with stable family members and others in the community.")

²⁸ See USDHHS Study.

²⁹ See Bruce Western and Becky Pettit, Collateral Costs: Incarceration's Effect on Economic Mobility, The Pew Charitable Trusts (2010) at p. 3, available at http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Economic_Mobility/Collateral%20Costs%20FINAL.pdf (last visited March 14, 2013) ("Pew Study").

- “One in 87 working-aged white men is in prison or jail, compared with one in 36 Hispanic men and one in 12 African American men.”³⁰
- “More young (20 to 34-year-old) African American men without a high school diploma or GED are currently behind bars (37 percent) than employed (26 percent).”³¹

These at-risk consumers and their families are more prone to lack the literacy and financial savvy to fully understand the charges associated with high ICS rates, making them an easy target for predatory phone rates. As discussed infra these consumers and their families have limited means and few communication options, making them an easy target for predatory phone rates. The Rev. Jesse Jackson Sr. has noted that in the American penal system, “primarily young, black Americans are ripped from familiar surroundings and isolated from loved ones. If they are to return to society as productive citizens, they need the support of those who care about them. They need to communicate with those who love them. Yet, prison phone systems have been designed to exploit prisoners and their families.”³²

1. High ICS Rates Impact Inmates’ Families And Their Attorneys And Implicate Constitutional Concerns Under the First, Sixth, Eighth and Fourteenth Amendments

Commissioner Jessica Rosenworcel has stated: “[w]hen a single call may cost as much as a month of unlimited phone service, the financial burden of staying in touch may be too much for inmates’ families to bear.”³³ ICS collect calls create hard decisions for those desiring to communicate with inmates, including their families and their attorneys. As the Commission states in the NPRM, inmates may be assigned to correctional facilities located far away from their home state and families, thus limiting their ability to have face-to-face communication

³⁰ See Pew Study at p. 3.

³¹ See id.

³² See Jackson Remarks.

³³ See NPRM at p. 33.

through visits from family members.³⁴ As one state department of corrections notes, almost 40 percent of its prisoners do not have any visitors while in prison.³⁵ It is impractical to visit relatives assigned to facilities located thousands of miles away because of the potential cost of the trip.³⁶ Telephone calls become an even more crucial means of communication between inmates and their families because, in many cases, they may be the *only* means of communication. Increasingly, many inmates are using contraband cell phones to avoid high ICS rates.³⁷ However, inmates and families who cannot afford to pay high ICS rates and depend on telephone calls to communicate risk having no contact with each other whatsoever.

Further, a recommendation made by the American Bar Association (ABA) to lower inmate calling rates states that high rates:

make it more difficult for incarcerated people to communicate with their lawyers. Telephone calls are an efficient means for attorneys to communicate with incarcerated clients, particularly when literacy or English-speaking skills are a factor. It is regularly less burdensome for an attorney to speak with a client over the telephone than to travel to the facility and conduct a meeting or personal interview. The high cost of prisoner phone calls makes it difficult or impossible for many prisoners' lawyers to accept their calls. The vast majority of incarcerated people are represented by public defenders or court-appointed attorneys who operate with extremely limited budgets.³⁸

³⁴ See NPRM at ¶3.

³⁵ See Effects of Prison Visitation on Inmate Recidivism, MeshDetect Blog (Dec. 12, 2011), available at <http://prisoncellphones.com/blog/2011/12/15/effects-of-prison-visitation-on-offender-recidivism/> (last visited March 14, 2013).

³⁶ See Heather Steves, Inmates and Their Families Seek More Say in Out-of State Prison Transfers, BDNMaine (April 2011), available at <http://bangordailynews.com/2011/04/01/news/maine-inmates-housed-out-of-state-seek-law-governing-prison-transfer-decisions/> (last visited March 14, 2013).

³⁷ See Drew Kukorowski, The Price To Call Home: State Sanctioned Monopolization In The Prison Phone Industry, Prison Policy Initiative (Sept. 11, 2012) (“Prison Policy Initiative Report”), available at <http://www.prisonpolicy.org/phones/report.html#> (last visited March 16, 2013) (stating that “lower prison telephone rates would also lessen the recent problem of contraband cell phones.”)

³⁸ See American Bar Association, Recommendation Adopted By The House of Delegates (Aug. 8-9, 2005) at pp. 4-5, available at http://www.americanbar.org/content/dam/aba/migrated/leadership/2005/annual/dailyjournal/115_b.authcheckdam.doc (last visited March 15, 2013).

As the ABA maintains, such situations raise concerns with the efficacy of legal representation inmates may receive while incarcerated, in addition to “serious implications given the constitutional protections surrounding a prisoner’s ability to communicate with counsel.”³⁹ High ICS rates have also compelled lawsuits under the First, Fifth and Fourteenth Amendment of the Constitution, and plainly offend Eighth Amendment values.⁴⁰

2. **The Burden Of Paying For High Interstate ICS Rates Disproportionately Falls On Women**

Women tend to shoulder the burden of paying for high ICS rates. A Pew study has demonstrated that women are more likely to handle household finances.⁴¹ The impact of

³⁹ See *id.* at n. 12 (citing *Alabama v. Shelton*, 535 U.S. 654, 661 (2002); *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963) (supporting the proposition that the Sixth Amendment of the U.S. Constitution provides a right to counsel in state criminal prosecutions through the Fourteenth Amendment).

⁴⁰ High prison payphone rates have been challenged (albeit without success to date) by inmates and their families under the First, Fifth and Fourteenth Amendments. See, e.g. *Feigley v. Pa. Pub. Util. Comm’n*, 794 A.2d 428, 430-432 (Pa. Commw. Ct. 2002) (affirming that call recipients failed to establish prison phone contracts constitute a monopoly in violation of Federal Telecommunications Act and failed to establish violations of First Amendment and Equal Protection Clause), *appeal denied*, *C.U.R.E. of Pa. v. Pa. Pub. Util. Comm’n*, 806 A.2d 863 (Pa. 2002); *Arsberry v. Illinois*, 244 F.3d 558, 566-567 (7th Cir. 2001) (dismissing plaintiffs’ federal antitrust, First Amendment, and Fifth Amendment claims where plaintiffs--inmates, their family members, and a public interest law firm—challenged the state practice of awarding prison phone contracts in exchange for a fifty percent commission). Considering the increasing importance of telephone use by inmates and their families, grossly unreasonable ICS rates for inmates could be challenged in federal courts on the grounds that they border on cruel and unusual punishment and, at a minimum, offend Eighth Amendment values. See, e.g., *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981) (citing *Trop v. Dulles*, 356 U.S. 86, 101 (1958) for the proposition that “no static ‘test’ can exist by which courts determine whether conditions of confinement are cruel and unusual, for the Eighth Amendment ‘must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.’”) See also *Jayne v. Bosenko*, 2009 U.S. Dist. LEXIS 116898, p. 22 (stating that “sensory deprivation or excessive limitation of activity may constitute an Eighth Amendment violation,” citing *Baumann v. Ariz. Dep’t of Corr.*, 754 F.2d 841, 846 (9th Cir. 1985)).

⁴¹ See *Women Call the Shots at Home; Public Mixed on Gender Roles in Jobs*, Pew Research Social and Demographic Trends (Sept. 25, 2008), available at <http://www.pewsocialtrends.org/2008/09/25/women-call-the-shots-at-home-public-mixed-on-gender-roles-in-jobs/> (last visited March 14, 2013) (stating that women are more likely to manage a family’s finances).

incarceration on women is significant. For example, research finds that “54% of fathers in state prison reported providing the primary financial support for their children prior to incarceration.”⁴² A study also reveals that “the proportion of women working actually declined after their partners were incarcerated because of the need for childcare and other issues,” and that “many women had to go on public assistance as a result of their partner’s incarceration.”⁴³ Given the dire financial straits of many women with incarcerated relatives, these women might miss the opportunity to communicate with their loved ones behind bars because of high ICS rates that they simply cannot afford.

B. The Commission Should Consider Higher Recidivism Concerns Among The Negative Consequences Of High Interstate ICS Rates

MMTC encourages the Commission to consider higher recidivism among the consequences of high interstate ICS rates.⁴⁴ Commissioner Mignon L. Clyburn has referenced the crucial link between family contact and recidivism by stating that: “maintaining contact with family and friends during incarceration not only helps the inmate, but it is beneficial to our society as a whole. There are well over two million children with at least one parent behind bars and regardless of their circumstances, both children and parents gain from regular contact with one another. Studies also show that those released are less likely to reoffend if they are able to maintain relationships with their loved ones while they are in prison. With seven hundred thousand individuals released every year from these institutions, it is crucial that we do whatever we can to strengthen family ties before these individuals return home. One sure way to realize this is through the provisioning of affordable phone service.”⁴⁵

⁴² See USDHHS Study.

⁴³ See *id.*

⁴⁴ See NPRM at ¶3.

⁴⁵ See NPRM at p. 32.

Pew statistics illustrate that from 2004 to 2007, states averaged a more than 43 percent recidivism rate among inmates released from incarceration.⁴⁶ As the Commission correctly points out, the Government Accountability Office “has twice recognized the conclusions of Federal Bureau of Prison officials that contact with family “aids an inmate’s success when returning to the community” and thus lowers recidivism.”⁴⁷ The Prison Policy Initiative Report confirms that “incarcerated people who maintain supportive relationships with family members have better outcomes such as stable housing, employment when returning to the community.”⁴⁸ Reducing recidivism is a key priority of state lawmakers to increase public safety.⁴⁹ By bringing about reductions in ICS rates, the Commission could complement the efforts of those dedicated to improving public safety through state efforts designed to curb the rates of re-offending by inmates.

Conclusion

Through this proceeding, the Commission has a clear opportunity to help deliver justice for millions of Americans who are faced with the debilitating burden of paying for an essential human activity the Commission regulates: voice communications. The pressing consequences of unfair and unaffordable ICS services are detrimental to the health, safety, and the sense of justice that our nation stands for. The Commission must act now to make interstate ICS rates

⁴⁶ See State of Recidivism: The Revolving Door, Pew Center On The States (April 2011) at pp. 9-11, available at http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/State_Recidivism_Revolving_Door_America_Prisons%20.pdf (last visited March 14, 2013).

⁴⁷ See *id.* at ¶4, citing Growing Inmate Crowding Negatively Affects Inmates, Staff, and Infrastructure, United States Government Accountability Office, Bureau of Prisons (Sept. 2012) at p. 21, available at <http://www.gao.gov/assets/650/648123.pdf> (last visited March 14, 2013); Improved Evaluations Study at p. 18.

⁴⁸ See Prison Policy Initiative Report.

⁴⁹ See e.g., States Report a Reduction in Recidivism, Justice Center: Council of State Governments (Sept. 2012), available at http://www.nationalreentryresourcecenter.org/documents/0000/1569/9.24.12_Recidivism_Reductions_9-24_lo_res.pdf (last visited March 14, 2013).

just and reasonable. MMTC would be privileged to assist the Commission in achieving this vital policy goal.

Respectfully submitted,

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