

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

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

REPLY COMMENTS OF PAY TEL COMMUNICATIONS, INC.

Pay Tel Communications, Inc. (“Pay Tel”), by its attorneys, respectfully submits these reply comments in response to the Notice of Proposed Rulemaking, WC Docket No. 12-375 (“Notice”), released December 28, 2012, in the above-captioned proceeding.

I. The Wright Petitioners Continue to Modify Their Proposal for Reforming ICS, Which Serves as Compelling Evidence that ICS Reform Must Be Holistic and Comprehensive.

While the Wright Petitioners might express frustration that the debate about which the Commission seeks comment is now a decade old, that delay in action has allowed Petitioners to submit multiple changes to their original proposal. Petitioners have altered their desired outcome from: prohibitions on exclusive inmate calling agreements and collect-call only restrictions;¹ to abolitions on per-call charges, required debit calling, and the establishment of rate caps for all interstate, interexchange ICS at \$0.20 per minute for inmate debit calling service and \$0.25 per minute for inmate collect calling service;² to, now, a call for “the FCC to establish a benchmark ICS rate cap at \$0.07 per minute, for debit, pre-paid, and collect calls, with no per-call rate, and

¹ See Martha Wright *et al.*, Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128 (filed Nov. 3, 2003) at 3.

² See Martha Wright *et al.*, Petitioners’ Alternative Rulemaking Proposal, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128 (filed Mar. 1, 2007) at 6.

no other ancillary fees or taxes, from all private, public, state, county, and local correctional facilities.”³

The Petitioners’ latest modification would drastically lower the proposed benchmark ICS rate cap to a punitive, unrealistic level which would ensure the demise of many small providers, such as Pay Tel, that primarily provide ICS in local jails.⁴ Petitioners purport to justify their current proposal on what they characterize as “considerable” changes to the ICS industry since 2007,⁵ however they do not even come close to providing evidence that the cost structure of the ICS industry has, in effect, been reduced by 300% in six years, as their rate proposal would otherwise suggest. Pay Tel disagrees as to the scope of such changes and the impact they have had on ICS providers’ bottom line, and it vehemently opposes the proposed \$0.07 per minute rate cap. Pay Tel does not dispute, however—and would seek to make explicit—that which the Petitioners’ ever-changing reform approaches implicitly demonstrate: both the ICS providers and the correctional facilities with whom they contract are complex, diverse entities, and applying a fix to only one or even several spheres of the ICS industry is a flawed strategy.

Indeed, the Petitioners’ successive proposals reveal the inefficacy of a piecemeal approach. Had they succeeded in 2003 with their first proposal, Petitioners may well have returned years later seeking benchmark rate caps; had they prevailed a second time, in 2007, perhaps they would be back where they are now, lobbying for further cuts to said benchmarks and also appearing to enlarge the scope of other charges (specifically, all “ancillary fees or

³ Wright Petitioners’ Comments at 3.

⁴ *See id.*

⁵ *Id.* at 2.

taxes”) to be disallowed.⁶ The best way to avoid such constant revision is for the Commission to settle on reforms that are comprehensive and holistic and affect *all* relevant spheres of the ICS industry, rather than addressing one, or even several, at a time. That Petitioners have had to rework their proposals multiple times, coupled with the fact that they seem to have enlarged the scope of the ICS industry they wish the Commission to regulate with each subsequent revision, proves the necessity of a comprehensive approach.

Providers’ comments support this notion as well. As Telmate, LLC (“Telmate”) puts it, “FCC action on interstate rates [alone and without regard to the overall ICS call mix] could . . . have the opposite effect desired by the Commission and the Wright petitioners by making the ICS business unprofitable and driving firms from the market. A blunt regulatory response, in other words, could kill the goose and prevent achievement of the very rehabilitative objectives the Notice contemplates from reductions in ICS prices and corresponding increases in inmate calling.”⁷

⁶ Petitioners’ latest proposal does expressly address some providers’ tactics of charging excessive “add-on” fees, *see id.* at 24–25, an issue Pay Tel agrees demands the Commission’s attention. *See Pay Tel Comments* at 14–16. Additional service and account fees (*e.g.*, so-called validation surcharges, wireless administration fees, regulatory cost recovery fees, direct billing cost recovery fees, and carrier cost recovery fees) represent a significant and growing problem in the ICS industry. As the Petitioners rightly point out, the “add-on” fees drive up consumers’ costs, thereby reducing, sometimes drastically, the available funds families have to accept phone calls. But because the fees are not included in commissionable revenue, these “add-on” fees also negatively impact the funds which are available to correctional facilities to defray the legitimate and very real costs of administering inmate calling services. As noted by commenters in this proceeding, at least at the local level “the commissions . . . received by Sheriff’s Offices from ICS system providers for inmate calls provide the funding necessary to internally administer the phone system. Absent these commissions, counties would need to either increase taxes for the system or jails could potentially cease to provide inmates with this service.” Nat’l Sheriffs’ Ass’n Comments at 2 (hereinafter NSA Comments). Moreover, the add-on fees are in many cases to blame for the escalating commission percentages that providers offer to jails and prisons, as some providers offer economically unsustainable commissions to win business by shifting revenue to non-commissionable “add-on” fees. Although some ICS providers offer facilities commissions at rates as high as an eye-popping 80% of commissionable revenues, in reality such correctional facilities are only receiving that 80% on, in some cases, less than 60% of the total funds that families have spent to receive these calls.

⁷ *See Telmate, LLC Comments* at 10 (hereinafter Telmate Comments).

II. The ICS Industry’s Diversity and Complexity Do Not Comport with One-Size-Fits-All Reform.

Consistent with that required, comprehensive approach, the Commission must recognize that which the Petitioners steadfastly refuse to admit: the countless distinguishing characteristics among both ICS providers and correctional facilities militate strongly against a uniform approach to the setting of benchmark rates and to reform in general.

A. The Wright Petitioners Still Fail to Comprehend the ICS Industry.

Perhaps the Petitioners’ continued, ill-conceived insistence that the best way to reform ICS is for the Commission to establish a uniform, benchmark rate cap applicable to all providers is unsurprising, given that Petitioners do not comprehend the myriad moving parts of the ICS industry.⁸ As an initial matter, Petitioners wrongly characterize the current state of the industry as one in which only “three to five” companies are the “sole” competitors for various ICS contracts.⁹ In today’s environment, this characterization is simply inaccurate, as more ICS providers submitted comments in this very proceeding and, at least in the local jail environment, there are a number of providers that are competing to win contracts. If the Petitioners’ \$0.07 per minute benchmark recommendation is adopted, however, the smaller providers will undoubtedly be squeezed out of the market, creating the very monopoly of dominant national providers of which the Petitioners complain.

Of greater significance are Petitioners’ continued mischaracterizations of the ICS industry as a whole. The fact that Petitioners cling to the idea of benchmark interstate rate caps applied to all providers as a workable solution plainly demonstrates their belief that such caps

⁸ See, e.g., *Ex Parte* Written Response of Pay Tel Communications, Inc., CC Docket No. 96-128 (filed June 12, 2008) at 3–13.

⁹ Wright Petitioners’ Comments at 17.

would impact all providers in more or less the same way. Such is not the case. There is no “typical” provider or facility, and benchmark rates applied to all will have varied, as opposed to uniform, impacts. Petitioners’ expert, Coleman Bazelon, on whom Petitioners rely in support of their \$0.07 per minute proposal, is wrong when he asserts that “technical innovations in the provision of prison phone services imply that variation in costs at different facilities has largely been eliminated. Consequently, facility specific rates are unneeded”¹⁰ Likewise, Petitioners’ err when they contend, broadly, that industry consolidation “has led to the substantial reduction in the costs associated with providing ICS.”¹¹ This contention is soundly contradicted by evidence in the record from providers who consistently state that, while some costs have indeed decreased in recent years, others have risen, leading to a negligible change in overall costs incurred.¹² Indeed, the increasing complexity of the service itself, the increasing technological demands of the confinement facilities, and the need to establish specialized billing arrangements with customers all conspire to increase the costs of ICS. Even local jails are increasingly requesting the most sophisticated calling service platforms and technologies, despite having a much smaller base over which to spread the cost of such services. Costs that may be easily recovered in a 20,000-bed state DOC system are not so easily recovered in a 200-bed local jail.

¹⁰ Declaration of Coleman Bazelon at 5.

¹¹ Wright Petitioners’ Comments at 2.

¹² *See, e.g.*, Pay Tel Comments at 13; Securus Techs., Inc. Comments at 4 (“[A]lthough Securus has gained efficiencies through its deployment and use of a centralized, IP-based transmission network, its cost savings has been offset by an increase in the cost arising from regulatory compliance.”) (hereinafter Securus Comments).

B. A One-Size-Fits-All Approach Will Not Work.

The record is replete with evidence that the ICS industry is one characterized by diversity rather than homogeneity, and, as such, Petitioners' approach would have disparate impacts on providers, potentially driving some of them out of business.¹³ Numerous providers have made this point,¹⁴ perhaps summed up best by Global Tel*Link Corp. ("GTL"): "By requesting a uniform national rate structure for all U.S. correctional facilities, without regard for their size, location, security requirements, and the types of services the facilities require and without taking account of state and local management, policy, and budgetary decisions, Petitioners dramatically oversimplify the security, budgetary, and political challenges confronting prison administrators."¹⁵ Telmate is on point when it describes what it calls the "hodge-podge of price caps, commission levels . . . and prevailing local rates characteristic of today's ICS industry" and properly states that, in such an environment, "it is difficult to contemplate fashioning a single regulatory scheme applicable consistently nationwide."¹⁶ Pay Tel would go further and suggest that a single "fix"—at least as it is proposed by the Petitioners, treating the provision of ICS to

¹³ *See, e.g.*, Telmate Comments at 10 ("Interstate ICS prices have for years, and increasingly so today, in effect cross-subsidized local ICS rates held below cost by state, county and municipal corrections officials. Without careful calibration, a federal cap on interstate inmate rates, while reasonable on a stand-alone basis, could in fact kill the business by making it financially unprofitable overall, for both traditional and new providers.").

¹⁴ *See, e.g.*, Securus Comments at 19 ("The broad spectrum of facility size, service characteristics, and call volume make the adoption of one, fixed rate cap unreasonable."); CenturyLink Comments at 6 ("The vast differences in the communications system infrastructures, physical infrastructures, and security requirements of the multitude of facilities served by ICS providers make uniform rates, or generally applicable rate caps or benchmarks, impractical and potentially harmful.").

¹⁵ Global Tel*Link Corp. Comments at 7 (hereinafter GTL Comments); *see also* CenturyLink Comments at 18 ("Were the FCC to exercise its authority to cap the rates that ICS providers can charge for their services without corresponding adjustments being made by facilities and systems, the result would be to make the ICS market uneconomic to serve. ICS providers would have no incentive to continue serving the ICS market or, if they did continue to serve the market, offer the breadth of services that they provide to facilities and inmates today.").

¹⁶ Telmate Comments at 3.

prisons and jails as one and the same—is not only difficult, but impossible, to credibly contemplate.

That is in part because, as the Petitioners instruct, two ICS providers “control more than 70% of the market.”¹⁷ Quite obviously, a uniform regulatory scheme would impact those providers differently than providers with a smaller market share. GTL readily admits that its economies of scale give it a significant competitive advantage.¹⁸ Metaphorically, a proposed regulatory scheme that takes aim at the largest providers might well deliver them a few body blows, but it would likely knock out smaller providers altogether.

Even Petitioners acknowledge that any scheme in which providers would be forced to cease operations fails Section 276’s command¹⁹: “the rate for inmate telephone service is not ‘fair’ if it is so low as to cause the service provider to fail”²⁰ A \$0.07 per minute rate cap, coupled with the elimination of any per-call charges and ancillary fees, would lead to that scenario, in flagrant contravention of the statute. Upon adoption of that excessively low cap, rate arbitrage would skyrocket. Within weeks, it would become common knowledge that those wishing to receive intrastate local or long distance calls from inmates could purchase prepaid cell phones with non-geographic, interstate numbers in order to avail themselves of the \$0.07 per minute rate. With no upfront surcharges, providers would lose money on every single call, as

¹⁷ Wright Petitioners’ Comments at 2.

¹⁸ See GTL Comments at 13 (“[E]ven if it charges very high rates, a smaller competitor will likely not be able to offer the highest commissions if it has higher telecommunications or maintenance costs than its competitors. In contrast, because GTL is one of the largest providers in the market, it has economies of scale and efficiency that enable it to pay high commissions, provide high-quality service, and still charge lower rates than many other ICS vendors.”).

¹⁹ 47 U.S.C. § 276(b)(1)(A).

²⁰ Wright Petitioners’ Comments at 14.

their costs would exceed revenues in a \$0.07 per minute scheme. In short order—perhaps less than ninety days—many providers, including Pay Tel, would be out of business.²¹

III. ICS Providers Face Stark, Crucial Differences when it Comes to Providing Services in Local Jails Versus State and Federal Prisons—and Those Differences Must be Recognized.

An often-overlooked but particularly relevant reason that a one-size-fits-all reform approach will fail arises from fundamental differences between the ICS environment in local jails and large state and federal prisons. The Petitioners' proposed scheme—or any scheme—that would treat providers who service primarily the former the same as providers who service primarily the latter will prove unworkable. Generally speaking, the inherent and fundamental differences between state prison and county jail calling result in increased costs to providers servicing local facilities. Again, reform that appears laser-focused on remedying perceived ills at larger facilities will tend to have greater, more damaging impacts on providers catering to smaller facilities—and, in turn, to the inmates incarcerated therein and their families.

As stated, providers of ICS in jails simply have a much smaller inmate calling population with which to recover their costs. According to Bureau of Justice statistics, the median number of inmates in prison facilities is 750.²² By comparison, the median number of inmates in the jails for which Pay Tel provides ICS is only 203. The economics of this disparity are obvious. There are simply far fewer potential callers with which to recover costs in a jail environment.

²¹ Rate arbitrage and rate shopping are real phenomena in today's ICS environment, and they have critical security implications. Pay Tel has previously demonstrated, using publicly available data, a more than 400% increase in the percentage of local calls originating from prisons since 2007. *See* Pay Tel Comments at 8. This is unquestionably due to the fact that, currently, local call rates are lower than interstate rates, and customers are substituting low cost local calls for higher interstate calls through technologies like prepaid wireless phones and through alternative calling services like Cons Call Home. *Id.*

²² *See Ex Parte* Written Response of Pay Tel Communications, Inc., CC Docket No. 96-128 (filed June 12, 2008) at 7 n.15 (citing statistics).

Moreover, ICS providers in jails must frequently provide more free calls than providers in prisons.²³ Often these calls include free “booking” calls that correctional facilities require.²⁴ Telmate reports that mandatory free calls represent 31% of its calls from county facilities, and 21% of minutes used at those facilities.²⁵ By contrast, these figures are 7% and 5%, respectively, when it comes to non-local facilities.²⁶ Roughly 13% of Pay Tel’s total calls are non-revenue calls. While these calls may be “free” to inmates and their families, they are anything but for the providers “offering” them, on whom such calls increase cost burdens. The disparity between the number of such calls at jails versus prisons reflects a critical difference between providing ICS to these facilities, and it must be taken into account in any consideration of the costs of ICS service in jails.

Also contributing to providers’ higher costs in jails is the fact that there are significantly more collect calls and prepaid collect calls placed from them than are placed from prisons, a reflection of the inmate population in local facilities.²⁷ Collect calling and prepaid collect calling carry greater provider-incurred costs than debit calling, primarily due to billing expenses and uncollectibles.²⁸ Conversely, debit calling eliminates numerous costs, transferring them either to the correctional facility or to outside vendors, and, consequently, ICS providers generally prefer

²³ *See, e.g.*, Pay Tel Comments at 14.

²⁴ *See* Telmate Comments at 3–4, 15–16.

²⁵ *Id.* at 15.

²⁶ *Id.*

²⁷ *See, e.g.*, CenturyLink Comments at 17; Pay Tel Comments at 11 n.27 (explaining that 62.1% of Pay Tel’s total calls are either prepaid collect or direct bills calls, requiring the set-up of individual accounts with every individual recipient of collect calls).

²⁸ *See* GTL Comments at 20.

them.²⁹ Yet shorter-term detention inmates, housed predominantly in jails (rather than prisons), tend to rely more heavily on collect calling and prepaid collect calling options than do longer-term inmates because “the time required to fund an inmate’s bank or commissary accounts, and for the inmate to transfer funds to his or her telephone account, is simply too long.”³⁰

Moreover, as noted above, experience shows that providers that concentrate on serving jails typically incur numerous additional costs that are not borne by providers catering to prisons. In addition to the free booking calls, jail administrators frequently require that providers integrate their systems with other services, including commissary ordering, inmate trust fund accounts, and internal and external messaging.³¹ This integration yields various services offering benefits to inmates and their families, but the costs associated therewith are absorbed by providers, rather than passed along to customers. As the National Sheriffs’ Association explains, “the leaps in technology of computers and smart phones require that jails continually update ICS systems to ensure that mechanisms are in place to monitor and detect criminal activities. . . . Sheriffs must have flexible and comprehensive monitoring and reporting capabilities built into the next generation ICS systems to deal with the next generation phone technologies.”³² The costs associated with such continuous updating are increased for providers who service jails, primarily as a function of those facilities’ sizes. That is, a provider servicing one state DOC prison system

²⁹ See CenturyLink Comments at 12 (noting that costs eliminated by debit calling include bad debt and credit card charge-backs; credit card fees and manual handling of money orders; and personnel and administrative costs related to funding transactions and answering customer questions).

³⁰ *Id.* at 17. Pay Tel’s call distribution in jails reflects this. Roughly 66% of its calls are either LEC-billed collect or prepaid collect, compared to roughly 21% prepaid calling card or debit. See Pay Tel Comments at Exhibit 2. See also CenturyLink Comments at 13 (reporting that debit calling varies widely by facility and is generally more prevalent in state facilities, where it can make up to 50% of total revenue, relative to county facilities, where the debit calling maxes out at 35% of total revenue).

³¹ See, e.g., NSA Comments at 2; Pay Tel Comments at 13–14; Telmate Comments at 15–16.

³² NSA Comments at 2.

with 20,000 inmates must adhere to *one set* of rules, regulations, and system interfaces, incurring upfront costs and ongoing expenses as those rules, regulations and system interfaces change. A provider servicing jails, on the other hand, is more likely to have the same 20,000 inmates spread out over one hundred-plus jails, having to integrate and adhere to more than a hundred sets of rules, regulations, and system interfaces, necessarily facing exponentially higher upfront and ongoing costs in order to comply with the needs and requirements of each individual facility.

Finally, the overwhelming majority of calls placed in jails are local calls,³³ and the impacts of the rate arbitrage that would result from detrimentally low interstate rate caps would therefore hit ICS providers servicing jails in a disproportionate manner.³⁴ The growth in non-geographic numbers—through services like VoIP, prepaid cellular, Skype and Google Voice—is well documented.³⁵ Today, many call recipients use these non-geographic numbers to take advantage of what are often lower *local* calling rates; the practice, understandably, occurs more often today at state facilities (where more true interstate calls are placed) than at local facilities.³⁶ In fact, Telmate cites data showing that local calling has increased exponentially from 2007 to 2012, growing from 38% of inmate calls to 70% of calls in one state in that time period, clear evidence of jurisdictional arbitrage.³⁷ Slashing interstate rates, as Petitioners propose, would result in widespread arbitrage in “reverse”, as savvy consumers would quickly obtain non-geographic numbers in order to place what appeared to be “interstate” calls that were, in reality,

³³ See, e.g., Telmate Comments at 8; Pay Tel Comments at 7 (showing that 84% of Pay Tel’s calls were local in 2012).

³⁴ As noted above, interstate rates have long effectively subsidized intrastate rates that have been kept artificially low due to state rate caps, amongst other factors. See Telmate Comments at 10.

³⁵ See, e.g., *id.* at 8; GTL Comments at 25; Pay Tel Comments at 6–9.

³⁶ See GTL Comments at 25.

³⁷ Telmate Comments at 8, 10.

local calls. Given the preponderance of local calls currently placed from jails, this newer arbitrage would have a disparate impact on such facilities and the providers serving them. As noted before, the impact of this on providers like Pay Tel would be swift and disastrous, potentially putting providers that service jails out of business in startlingly rapid fashion.

IV. Marginal Location Analysis Remains a Valid Baseline for Assessing ICS Costs and Proposing Just and Reasonable ICS Rates—and is Certainly Superior to the Wright Petitioners’ Methodology.

Subject to the numerous caveats Pay Tel has previously noted,³⁸ the marginal location analysis remains an acceptable means for arriving at proper ICS rates. Such methodology is superior to the methodology utilized by the Petitioners, which fails to take into account the importance of and need for per-call charges and also grossly underestimates the rates at which providers are capable of recovering their costs and remaining in business. Simply put, any methodology which arrives at a \$0.07 per minute, across-the-board solution is inherently flawed.

To the extent the marginal location analysis properly takes into account fixed costs—and, therefore, the need for per-call charges—it is workable. Among providers, Securus appears to demonstrate this need most powerfully, setting forth evidence that only three out of every ten inmate call attempts results in a billable call.³⁹ ICS providers incur costs for every attempted call, and the bulk of their costs are borne prior to a call’s connection.⁴⁰ Removing the ability to

³⁸ Pay Tel Comments at 12–14. Again, Pay Tel hedges its endorsement of the marginal location analysis in that numerous factors must be accounted for in determining whether such analysis still works in the ICS setting, which has seen a dramatic rise in the number of free calls that facilities require providers to offer. *Id.* Primary among these factors is that the costs arrived upon in the 2008 ICS provider cost study were calculated without taking into account the commissions provided to facility owners. Commissions, however, do frequently provide facilities with the funding necessary to support “law enforcement’s ability to monitor and track inmate calling for victim protection, investigative resources, and other public safety purposes.” NSA Comments at 2. As such, commissions must be considered when evaluating the continuing utility of the marginal location analysis methodology.

³⁹ Securus Comments at 16.

⁴⁰ *Id.*

impose per-call charges would take away providers' ability to recover their sunk costs on, as shown, the seven of every ten attempted calls that are unbillable.⁴¹

Critically, the marginal location analysis methodology also properly takes into account the fact that there are differences in providing services to jails, as opposed to prisons; because the methodology, in effect, recognizes the challenges of providing ICS in small facilities, Pay Tel endorses it.

V. The Commission has the Legal Authority to Regulate Intrastate Rates, in Addition to Interstate Rates.

Section 276 requires that all payphone providers, including ICS providers,⁴² “be fairly compensated for each and every completed intrastate and interstate call using their payphone”⁴³ Clearly, the statute requires that which Pay Tel asserts is key to any successful ICS reform: that interstate calls cannot be treated in isolation while ignoring intrastate calls. The Commission is keenly aware of this; in the past it has declined to either preempt state rate caps on local collect calls, or permit ICS providers to collect an additional per-call surcharge above state rate caps, because it believed such providers would be able to cumulatively recover all their costs through both interstate and intrastate call revenues in the *aggregate*.⁴⁴ Any proper view of, or approach to, the ICS industry necessarily must take into account all calls, both interstate and intrastate.

⁴¹ *Id.*

⁴² 47 U.S.C. § 276(d).

⁴³ 47 U.S.C. § 276(b)(1)(A).

⁴⁴ See Pay Tel Comments at 4–5 (citing *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, ¶¶ 23–24 (2002)).

More critical to the current analysis, however, is the fact that it is well-settled that the Commission has legal authority to regulate intrastate rates in addition to interstate rates.⁴⁵ Numerous commenters, including providers⁴⁶ and the Petitioners,⁴⁷ reinforce the same. The National Association of State Utility Consumer Advocates (“NASUCA”) states this most bluntly: Section 276 “gives the Commission plenary authority over ICS calling, both interstate and intrastate.”⁴⁸ NASUCA observes, and Pay Tel concurs, that the Commission’s authority is not without limits.⁴⁹ But the precedent clearly establishes that the Commission has jurisdiction over intrastate inmate calling rates—jurisdiction that will probably have to be exercised in order to address below-cost intrastate rates if meaningful, fair ICS reform is to occur.

⁴⁵ See, e.g., *Ill. Pub. Telecomm. Ass’n v. FCC*, 117 F.3d 555, 562 (D.C. Cir. 1997). In the payphone service provider context, the Commission’s authority pursuant to that statutory command has been construed such that the Section 276(b)(1)(A) “fair compensation” requirement includes the rates paid for local coin calls because they are part of the compensation that payphone service providers receive for their services; accordingly, the Commission’s authority extends to regulating such rates. *Id.* (“[T]here is no indication that the Congress intended to exclude local coin rates from the term ‘compensation’ in § 276 . . . we hold that the statute unambiguously grants the Commission authority to regulate the rates for local coin calls.”).

⁴⁶ See, e.g., Telmate Comments at 4 (implying that the FCC has power under Section 276 to regulate and/or preempt state public service commissions’ regulation of intrastate rates); Pay Tel Comments at 6–7.

⁴⁷ See, e.g., Wright Petitioners’ Comments at 5–7.

⁴⁸ Nat’l Ass’n of State Util. Consumer Advocates Comments at 7 (hereinafter NASUCA Comments).

⁴⁹ NASUCA Comments at 8–9.

Dated: April 22, 2013

Respectfully submitted,

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A handwritten signature in blue ink, appearing to read "Mr. Trathen", written over a horizontal line.

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