

Cost Recovery for Facility ICS Administration

The Alternative Wright Petition, as did the ICS Order & NPRM before it, misunderstands the nature of the so-called “commissions” that ICS providers pay to confinement facilities. The term “commission,” in this context, is really a misnomer. While a small portion of the amounts paid in some states or counties may be used to compensate the facility for use of the premises as in the payphone analogy relied on by the Commission in denying cost recovery for commission payments, such allocations are rare in Pay Tel’s experience. Rather, the payments made to facilities are typically used to support inmate welfare programs or to recover the facility’s administration costs involved in operating an ICS system for the benefit of its inmates and their families and the protection of the community. In this regard, these payments are directly related to the provision of the service itself and, therefore, are an allowable component of ICS cost.

Every confinement facility incurs costs related to the facility officers’ time to administer the ICS system. These duties focus on protecting the public from abuse and preventing criminal activity, while allowing inmates to place calls. Today’s sophisticated controls and monitoring features require significantly more officer time to administer the system.

Facility officers perform several duties with respect to the basic operation of the ICS system. Thus, one or more facility officers per shift must:

- Be trained on operation of the ICS system
- Answer questions from inmates and family members (how calls are billed, why calls are blocked, how to open an account to receive calls to CLEC and wireless carrier numbers)
- Maintain and administer the list of numbers to be blocked (facility numbers, officers’ numbers, judges’ numbers, witnesses’ numbers, victims’ numbers, jurors’ numbers)
- Take requests from the public to have numbers blocked
- Administer prepaid cards, if utilized
- Administer a debit system, if utilized (set up debit accounts, receive payments, refund unused funds)

- Training inmates on use of inmate phones to include use of commissary ordering via phone, facility information delivered via phone, etc.
- Administer a PIN system, if utilized
- Administer a voice biometric system, if utilized
- Maintain an approved number list, if utilized
- Contact the ICS provider for service issues
- Accompany ICS technicians while in the facility to service inmate phone systems

Facility officers also have responsibilities to manage call traffic, requiring one or more officers per shift to:

- Maintain negative databases of blocked numbers
- Initiate call traffic reviews
- Flag calls to specific phone numbers for review
- Flag calls from various cell blocks to same phone numbers

Facility officers also have responsibilities to record and monitor calls to protect the public from abuse and to prevent criminal activity when inmates make telephone calls. These responsibilities frequently require two or more officers per shift:

- Enrollment and management of inmates into voice biometrics system
- Flag calls for system alerts for real-time call monitoring and investigations
- Conduct real-time monitoring of inmate conversations
- Recording playback and analysis of inmate conversations
- Burn CDs of conversations for further review
- Respond to subpoenas for call detail records and recordings

In addition, facility officers have responsibilities to manage the ICS system, including:

- Increased educational requirements for officers to learn to use the complex ICS system
- Administration of phone use rules and restrictions
- Facility officers having full access and control of the ICS system

- Establishing security levels and clearance codes for various officers
- Removing and implementing administrative blocks
- Administration of special numbers, for PREA, crime tip lines, attorney numbers, etc.
- Generating reports and statistical analyses
- Researching and identifying call traffic patterns

Today's sophisticated ICS equipment requires more technically proficient and experienced facility officers. Inmate phone service can only be provided when trained facility officers can daily monitor and review vast amounts of information to protect the public from abuse and prevent criminal activity.

Thus, a significant purpose of the so-called "commission" paid by ICS providers is intended to recover the costs incurred by the confinement facility to administer the ICS system. Under established cost causation principles, these are true costs that should be borne by users of the system—the inmates and the recipients of their phone calls.

The Commission is well aware of the very serious budget constraints faced by state and local inmate facilities. ICS, of course, is a discretionary service offered for the benefit of inmates and their families. The reality is that if confinement facilities are not permitted to recover their own ICS costs, then some administrators will simply opt to limit significantly or eliminate altogether ICS in their facilities. Such a result is certainly at odds with the goals of this proceeding but is a very real possible outcome of the path urged by the Petitioners.

In sum, if the Commission moves forward to assert jurisdiction over commission payments, the Commission should examine fully the costs of facility ICS system administration and not merely assume a "commission" is a locational rent.