

July 26, 2013

VIE ECFS

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

Re: *Rates for Interstate Inmate Calling Services*
WC Docket No. 12-375

Dear Ms. Dortch:

On July 23, 2013, Richard Torgersrud, founder and CEO, and Kevin O'Neil, President and co-founder, of Telmate, LLC, along with undersigned counsel, met with members of the Commission's staff to discuss the captioned rulemaking proceeding. Attending on behalf of the Wireline Competition Bureau were Deena Shetler, Associate Bureau Chief, Kal Gupke, Chief, Pricing Policy Division, Telecommunications Analyst Don Sussman and Economists Richard Ralph and Doug Galby.

The issues addressed included Telmate's view that the market for inmate communications services is highly competitive, and far more consistent with price competition and technological innovation, than proponents of rate regulation often contend. Specifically, the ICS industry exhibits low barriers to entry and has been characterized by substantial R&D investments resulting in a number of new services benefitting inmates, such as secure social media messaging, voicemail and video visitation, among others. Mr. Torgersrud emphasized that ICS providers do not "set" prices, which are either regulated by state PUCs or determined by correctional officials in the RFP process for selection of a provider, and that there are substantial differences in terms of scale, capacity, broadband costs and inmate "churn" between larger state department of corrections ("DOC") systems and the thousands of smaller county and municipal jails served by ICS providers like Telmate.

Telmate explained that the turnover rate for jails as published by Federal Bureau of Prisons can be as high as 70% per week, and that jail detainees tend to make calls to more parties than convicted inmates serving prison sentences, which substantially increases account set-up and customer service costs of educating new customers on the service and helping them through the process of setting up an accounts. The company pointed out that:

- Telmate is the only ICS firm, of which we are aware, in the industry that moves accounts and funds for an inmate from one institution to another.

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- Due to high inmate turnover in jails, Telmate offers its customers refunds of unused prepaid balances. Such refunds are expensive to process and not usually offered with other prepaid telecommunications services, such as prepaid mobile or prepaid calling plans.
- In the absence of a full cost study for each category of correctional facility, the Commission should look to comparable services offered in unregulated markets, such as prepaid wireless (averaging approximately \$0.25/minute without equipment or repair and maintenance expenses, which are paid for by the end user rather than the provider), as set forth in Telmate's comments in this docket.

The meeting concluded with a frank dialog regarding whether the FCC should as a matter of public policy regulate ICS providers as dominant, rate-of-return entities on a "cost plus" basis. Mr. Torgersrud stated that unlike many small competitive firms in non-regulated markets, Telmate does not maintain or analyze its financial information in the manner of public utilities, and thus does not assign nor allocate overhead and capital costs to individual services or accounts. As a privately held company, Telmate has concerns about releasing its competitively sensitive and proprietary cost data in the absence of compulsory process and confidentiality guarantees. He concluded with the prediction that if the FCC determines to regulate ICS providers in the same manner as rural and other monopoly LECs, the agency would risk sending the industry "back to the stone age" by reducing the incentive for ICS providers and correctional facilities to install and maintain phones, eliminating R&D and technological innovation, and undermining the motivation for new entrants into the market. Mr. Torgersrud pointed out that inmate phone calls are a privilege and not a right, and that in the absence of adequate cost recovery, ICS providers and facilities may not be sufficiently motivated to continue to offer phone service to inmates.

No documents or written communications were distributed at the meeting.

This notice of *ex parte* contact is filed in compliance with section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206. Should you have any questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

/s/Glenn Manishin
Glenn B. Manishin

cc: Deena Shetler, Kal Gupke, Don Sussman (via email)
Richard Ralph, Doug Galby (via email)
Richard Torgersrud, Telmate