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August 2, 2013

***By Electronic Filing***

***Notice of Ex Parte Presentation***

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

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

Dear Ms. Dortch:

On August 1, 2013, Vincent Townsend, President of Pay Tel Communications, Inc. ("Pay Tel"), and Marcus W. Trathen of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, met by phone with Rebekah Goodheart, Legal Advisor to Acting Chairwoman Mignon L. Clyburn, and Travis Litman, Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau. Pay Tel discussed its positions of record in this proceeding and made the following additional points:

- Providers of ICS in jails, where local calling is predominant, face rate caps that are below demonstrated costs; consequently, even if the Commission were to adopt a national benchmark for interstate calls based on Pay Tel's demonstrated costs, Pay Tel would be faced with an economically unsustainable business model if below-cost local rate caps are not simultaneously preempted.
- Should the Commission move forward with reform of interstate rates only, it should exempt jails given: (1) the distinct costs demonstrated in the record that apply uniquely in the jail setting as compared to the prison setting, and (2) the potential for massive disruption to ICS in jails due to arbitrage, with the attendant impairment to ICS security because of the practical inability (due to high population turnover) of jails to address arbitrage activity in real time through measures such as pre-approved number lists and investigation of called names/addresses (which can and do occur in the prison setting).
- Establishing a rate that does not include commissions as a component of ICS rates would leave facility administrators without the funds to cover the legitimate costs required to operate phones in a safe and secure manner and thereby risk cessation or diminution of ICS availability; consequently, the Commission should consider adoption of an explicit rate component designed to recover such costs through issuance of a Further Notice of Proposed Rulemaking.

Pay Tel Communications, Inc. Ex Parte Notice

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Attached are hand-outs discussed in the meeting (both of which have previously been submitted in the record in this proceeding).

In accordance with Section 1.1206 of the Commission's rules, this letter is submitted for inclusion in the record of the above-captioned proceeding. Please do not hesitate to contact the undersigned should any questions arise concerning this notice.

Sincerely yours,

/s/ Marcus W. Trathen

Marcus W. Trathen

cc (via email):

Rebekah Goodheart

Travis Litman



# NATIONAL SHERIFFS' ASSOCIATION

**AARON D. KENNARD**  
Sheriff (Retired)  
Executive Director

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Alexandria, VA 22314  
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July 31, 2013

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

RE: WC Docket No. 12-375 (Rates for Interstate Inmate Calling Services)

Dear Madam Secretary:

I write again on behalf of the National Sheriffs' Association (NSA), and the more than 3,000 elected Sheriffs nationwide, in further follow up to NSA's earlier Comment submitted to the Federal Communications Commission (FCC) on March 25, 2013.

As stated in NSA's previous comments in this proceeding, "we support 'just and reasonable' interstate calling rates. However, NSA strongly opposes any FCC rulemaking that would compromise public safety, put additional burdens on taxpayers, or force Sheriffs to discontinue providing inmates with phone services."

Sheriffs are neither unmindful of, nor unsympathetic in regard to, the financial strains that Inmate Calling Services (ICS) rates can place on the families and friends of inmates. The challenge for Sheriffs is to balance these legitimate needs of inmates, their families, and friends, with the overriding need to ensure effective security within jails and public safety in the community.

There are very real costs associated with the administration of ICS systems, including: monitoring phone calls, analyzing recordings, providing escorts for phone repair technicians, answering questions about the system from inmates and their families, etc. The commissions that jails receive help to offset these costs. Accordingly, if the FCC were to impose new regulations that prohibited the payment of commissions to jails, Sheriffs would be forced to reduce costs associated with ICS in some other manner, most likely by reducing access to inmate phones. In short, Sheriffs cannot afford to jeopardize facility security and public safety—and passing ICS administration costs along to taxpayers, at a time when county budgets are already strained, is unlikely. Thus, neither inmates, their families, or other members of the community would be served by such new FCC regulations.

Any ICS rate changes by the FCC should include, at a minimum, compensation to jails for the administrative and security costs associated with the provision of ICS as an explicit component of ICS charges. Furthermore, if a new rate is to be set that does not include the cost of commissions, NSA encourages the FCC to initiate a *Further Notice of Proposed Rulemaking* to quantify the administrative and security costs of ICS incurred by jails, and then use this data to establish a cost recovery mechanism for jails. Moreover, in order to protect all parties involved, and to prevent any loss or diminution of inmate phone services, it is imperative that any rate cap impacting jails be subject to a transition period that coincides with the establishment of a cost recovery mechanism.

NSA's membership remains extremely concerned about the security risks posed by adoption of the Petitioner's original proposal, which, as we understand it, would establish a single, low ICS rate for interstate calls. Application of this proposal to the jail environment, where local calls predominate, would cause serious disruptions to the ICS calling environment. For example, it is certain that such a decision would create a tremendous incentive for inmates' family and friends to use today's technology to obtain interstate phone numbers in order to take advantage of FCC-mandated low rates. Note, the rates under consideration are lower than the lowest current local call rate cap and would create a "rate arbitrage" incentive for the vast majority of calls placed through the inmate phones in jails. Compounding this effect is the high population turnover in jails (as opposed to prisons, which have more stable inmate populations), which has been addressed in a number of comments and ex parte filings in this Docket. This high level of turnover means that jails typically do not have the time to require inmates to maintain allowed calling lists or for jails to verify phone numbers and physical addresses for called parties, which poses a substantial security risk to inmates and jail staff and to public safety in the community at large.

As Sheriffs, sworn to serve and protect all of our constituents, we urge the FCC to take a balanced approach in this matter and fully consider not only the needs of inmates, their families and friends, and other called parties, but the needs of everyone in the community impacted by the security of our jails and the costs to operate them.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Aaron D. Kennard". The signature is fluid and cursive, written in a professional style.

Sheriff (ret.) Aaron D. Kennard  
Executive Director

Pay Tel Communications, Inc.  
 Cost Summary

2012            2013            2014            2015            Average

Total Costs:					
Locations <i>not using</i> Continuous Voice Biometric Identification					
Collect/Prepaid Collect Call Costs, per Minute	\$0.293	\$0.322	\$0.345	\$0.360	\$0.330
Debit Call Costs, per Minute	\$0.273	\$0.307	\$0.330	\$0.344	\$0.313
Locations <i>using</i> Continuous Voice Biometric Identification <sup>1</sup>					
Collect/Prepaid Collect Call Costs, per Minute	\$0.312	\$0.341	\$0.364	\$0.379	\$0.349
Debit Call Costs, per Minute	\$0.292	\$0.326	\$0.349	\$0.364	\$0.333

Cost <i>Excluding</i> Commissions:					
Locations <i>not using</i> Continuous Voice Biometric Identification					
Collect/Prepaid Collect Call Costs, per Minute	\$0.186	\$0.206	\$0.215	\$0.215	\$0.205
Debit Call Costs, per Minute	\$0.165	\$0.191	\$0.200	\$0.200	\$0.189
Locations <i>using</i> Continuous Voice Biometric Identification <sup>1</sup>					
Collect/Prepaid Collect Call Costs, per Minute	\$0.205	\$0.226	\$0.234	\$0.234	\$0.225
Debit Call Costs, per Minute	\$0.185	\$0.210	\$0.219	\$0.219	\$0.208

Video Relay Service for Hearing Impaired (with video recording capability, 2 units per location)	
Investment per Location	\$6,500
Monthly Expenses, per Location	\$419

Payment Processing Fees	
Payments made via Web/IVR	\$3.14
Payments made using a Live Agent	\$6.55

(1) Includes a Third-Party Vendor Fee of \$0.0193 per minute.