

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

In the Matter of)	
)	
Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities)	GN Docket No. 13-111
)	
CellAntenna Corp. Request for Amendment of Section 2.807 of the Commission’s Rules (47 C.F.R. § 2.807) to Allow the Use of Radio Frequency Jamming Equipment by Local and State Law Enforcement Agencies and Emergency Response Providers)	RM-11430
)	
Petition of The GEO Group, Inc. for Forbearance from Application of Sections 302, 303, and 333 of the Communications Act of 1934, as amended, and Sections 2.803 and 2.807 of the Commission’s Rules to Allow State and Local Correctional Authorities to Prevent Use of Commercial Mobile Radio Services at Correctional Facilities)	ET Docket No. 08-73
)	
CTIA—The Wireless Association Petition for Declaratory Ruling Regarding the Unlawful Sale and Use of Cellular Jammers and Wireless Boosters and Repeaters)	WT Docket No. 10-4
)	
South Carolina Department of Corrections Request for Authorization of CMRS Jamming Within Correctional Institutions in Order to Improve Public Safety Under Conditions that Protect Legitimate CMRS Users)	PRM09WT
)	
Mississippi Department of Corrections Request for Authorization of Managed Access Systems Within Correctional Institutions in Order to Improve Public Safety Under Conditions that Protect Legitimate CMRS Users)	PRM09WT
)	
Global Tel*Link Corp. Request for Amendment of Sections 22.3(b), 1.931 and)	PRM11WT
)	

Subpart X of the Commission's Rules and)
Creation of New Rule(s) to Authorize a)
Plurality of Technical Solutions to Eradicate)
the Unauthorized Use of Wireless Devices in)
Correctional Facilities)
)
)
CellAntenna Corp. Request for Amendment of)
Section 20.5 of the Commission's Rules, 47)
C.F.R. § 20.5, to Categorically Exclude)
Service to Wireless Devices Located on Local,)
State, or Federal Correctional Facility)
Premises)
_____)

PRM11WT

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REPLY COMMENTS OF GLOBAL TEL*LINK CORPORATION

Global Tel*Link Corporation (“GTL”),¹ by its attorneys, respectfully submits its Reply Comments² in the above-captioned proceeding, initiated to facilitate technological solutions and remove barriers to the development and viability of existing and future technologies used to combat contraband wireless devices in correctional facilities.³

INTRODUCTION AND OVERVIEW

GTL is a leading provider of inmate calling services, software solutions, and equipment used in correctional facilities throughout the United States. The company offers an integrated package of services, software, and equipment on a contractual basis, which is tailored to meet the unique security and public safety demands of each correctional facility customers. GTL serves correctional facilities of all types and sizes, ranging from municipal and county jails housing fewer than ten inmates to state and federal maximum-security systems housing tens of thousands of inmates. Its customers include publicly and privately managed institutions, minimum-security and maximum-security facilities, correctional mental health facilities, remote work

¹ These comments are filed by GTL on behalf of itself and its wholly owned subsidiaries that also provide interstate inmate calling services: DSI-ITI, LLC, Public Communications Services, Inc., and Value-Added Communications, Inc.

² GN Docket No. 13-111, *Comment Deadlines for Contraband Wireless Devices Notice of Proposed Rulemaking*, Public Notice, DA 13-1420 (rel. June 21, 2013). On July 31, 2013, the Commission extended the deadline for reply comments to August 23, 2013. See GN Docket No. 13-111, *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, Order, DA 13-1681 (rel. July 31, 2013).

³ *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities, et al.*, 28 FCC Rcd 6603 (2013) (“NPRM”).

camps, correctional facilities in urban and rural locations, facilities that hold prisoners for a short time and those that house prisoners for extended periods.

In recent years, there has been an explosion of contraband wireless devices in correctional facilities, which undermine the ability of law enforcement and correctional officers to regulate inmate communications to ensure safety inside and outside of the facility. As the Commission’s proposed rules and specific requests for comments recognize, the unauthorized use of wireless devices in prisons is a critical public safety issue that poses a “serious threat to the safety of prison employees, other prisoners, and the general public.”⁴

The rule changes proposed by the Commission represent a significant step toward the goal of facilitating the use of wireless interruption technologies in correctional facilities. The Commission, however, must ensure that its rules do not limit the ability of a correctional facility to utilize the solution that best meets its needs. Each correctional facility is unique and attempting to adopt a one-size-fits all approach will undermine the Commission’s effort to “remove barriers to the deployment and viability of existing and future technologies used to combat contraband wireless devices.”⁵

Successfully achieving the Commission’s goals will require all wireless carriers to actively and fully participate in the development and deployment of the technical solutions needed to stop the use of contraband wireless devices in prisons. Wireless carriers must be partners in the process, and work cooperatively and collaboratively with all stakeholders, including inmate calling service providers, correctional facilities, and technology vendors. The approaches taken by foreign jurisdictions addressing the contraband wireless device problem demonstrate successful solutions exist when all stakeholders are required to participate.

⁴ NPRM ¶ 1.

⁵ NPRM ¶ 1.

Finally, the Commission must address how the solutions to combat contraband devices will be funded. As the Commission notes, any solution has both “costs and benefits” that must be considered.⁶ Prompt deployment of these critical technologies requires the Commission to determine how the costs of deployment will be recovered.

I. THE COMMISSION SHOULD FACILITATE THE USE OF ALL SOLUTIONS PROVEN TO BE EFFECTIVE AND ENSURE ALL STAKEHOLDERS COMMIT TO SUCCESSFUL DEPLOYMENT OF THOSE SOLUTIONS

A. A One-Size-Fits-All Solution Is Unworkable

Most commenters agree that the Commission should avoid limiting the technologies that can be used to combat contraband wireless devices in correctional facilities.⁷ The better approach is to permit the use of any and all solutions that will assist correctional facilities in eliminating this significant security threat. As the comments demonstrate, there is no one solution that is best in all circumstances.⁸ A managed access system may be a cost-prohibitive solution for a smaller facility, while a detection system may be best suited for a prison in an urban setting.⁹ The Commission should ensure that its new or proposed rules do not favor one solution over another. The Commission’s rules should promote, not hinder, the testing, use, and implementation of varying technological solutions to eliminate the problem.¹⁰

These solutions should include the use of jamming technologies when appropriate for a particular correctional facility setting. Many commenters urge the Commission to permit jamming as it often is the most cost-effective and operationally-effective solution to eliminating

⁶ NPRM ¶¶ 24-25.

⁷ See, e.g., American Correctional Association at 1-2; Boeing at 1; CellAntenna at 1; CellSafe at 3; Delaware DOC at 1; Florida DOC at 1; GEO at 7; Indiana DOC at 1; Maryland at 2; NCIC at 1; NTCH at 3; Oklahoma Corrections Professionals at 1; Palm County Sheriff’s Office at 1; Securus at 6; ShawnTech at 5.

⁸ See, e.g., NCIC at 1-2; Securus at 3-6; ShawnTech at 5.

⁹ See, e.g., American Correctional Association at 2; NCIC at 2; Oklahoma Corrections Professionals at 1; Securus at 5.

¹⁰ Maryland at 2.

contraband devices.¹¹ This is particularly true for prisons located in rural areas where there is little, if any, chance of interference with legitimate wireless signals.¹² As GTL explained in its Petition for Rulemaking, correctional facilities should be permitted to implement jamming technologies under stringent parameters to address potential “overjamming” outside of prison walls.¹³ Jamming technology is an effective tool for stopping unauthorized wireless signals in prisons, and when engineered properly, it does not raise issues for legitimate wireless users.¹⁴ The Commission has ample authority to permit the jamming of illegal wireless device signals in a defined setting such as a correctional facility,¹⁵ and it should allow correctional facilities to utilize that solution when appropriate.

The Commission should also explore the option of creating “dead zones” or “quiet zones” around certain prison facilities as suggested by some commenters.¹⁶ Under this approach, areas in and around the correctional facility would be considered outside of the authorized area of the wireless provider, permitting any wireless signals from the prison to be blocked by the wireless provider. It appears this methodology would be workable for most maximum security prisons that are not close to public access areas if Commission defined parameters were met prior to implementation.¹⁷ As NCIC explained, Honduras recently adopted a similar policy for

¹¹ See, e.g., American Correctional Association at 2; CellAntenna at 1; Indiana DOC at 1; Maryland at 4; NCIC at 2; Oklahoma Corrections Professionals at 1.

¹² Maryland at 4.

¹³ PM11WT, *Global Tel*Link Corp. Request for Amendment of Sections 22.3(b), 1.931 and Subpart X of the Commission’s Rules and Creation of New Rule(s) to Authorize a Plurality of Technical Solutions to Eradicate the Unauthorized Use of Wireless Devices in Correctional Facilities*, Petition for Rulemaking of Global Tel*Link Corporation, 19-22 (filed July 20, 2011) (“GTL Petition”). The GTL Petition has been incorporated into this proceeding. See *NPRM* ¶ 52, n.167.

¹⁴ See, e.g., CellAntenna at 1; Marcus at 19.

¹⁵ GTL Petition at 14-19; see also American Correctional Association at 3; Marcus at 27-28.

¹⁶ Marcus at 29; NCIC at 2; NTCH at 3.

¹⁷ Marcus at 29.

unauthorized wireless transmissions in its prisons.¹⁸ In addition, according to NTCH, the Commission utilizes a similar approach for radio astronomy and other research facilities by preventing carriers from transmitting in defined areas, which protects the ability of those facilities to carry out their missions without interference from wireless transmissions in the immediate vicinity.¹⁹

As correctional facilities, vendors, inmate calling service providers, and wireless carriers continue to gain experience with wireless interruption technologies, new and additional solutions may be developed. As the Indiana Department of Corrections (“DOC”) points out, the real problem for correctional facilities is finding the most cost-effective solution that meets the needs of the specific correctional facility.²⁰ While GTL supports the Commission’s proposals as a critical first step toward eliminating the problem of unauthorized wireless devices in prisons, the Commission should ensure that any new or modified rules do not foreclose the possibility of using other nascent technologies to combat the wireless contraband problem.

B. Wireless Carriers Must Be Willing and Active Partners in the Fight against Contraband Wireless Devices in Prisons

The Commission correctly recognized that participation by and coordination with wireless carriers is essential to eliminating the use of unauthorized wireless devices in correctional facilities.²¹ GTL supports the Commission’s proposal to require wireless carriers to terminate service to contraband devices upon a request from a correctional facility as one of the solutions to combat the problem of contraband cell phones. The Commission’s proposal is akin to the wireless industry’s voluntary commitment to terminate service to stolen smartphones after

¹⁸ NCIC at 2.

¹⁹ NTCH at 3.

²⁰ Indiana DOC at 2.

²¹ *NPRM* ¶ 70.

a smartphone is identified as a stolen wireless device.²² As the Commission notes, the wireless industry’s “commitment represents a significant recognition of the public interest benefits of deterring unauthorized use of wireless devices and the feasibility of a technological solution that can uniquely identify a stolen device and terminate service to the device.”²³

The wireless industry must be required to extend its public interest commitment to implement practices that will eliminate the use of unauthorized wireless devices in correctional facilities. Wireless carriers operate not as a matter of right, but by virtue of licenses granted pursuant to specific “terms, conditions, and periods” of time.²⁴ A “fundamental and pervasive” part of the Commission’s authority to issue such licenses is the “power and obligation” to condition them “on compliance with requirements that the Commission deems consistent with the public interest, convenience, and necessity.”²⁵ The existing program put in place by the wireless industry demonstrates that wireless carriers, as gatekeepers of wireless spectrum, must support the introduction of new technologies and practices deemed by the Commission to benefit the public good.

The wireless commenters claim to support the Commission’s effort to combat unauthorized devices in prisons,²⁶ but express concerns about potential liability and the need for court orders before they are willing to terminate service emanating from contraband wireless devices in prisons.²⁷ This reluctance highlights the need for Commission action to ensure the

²² *NPRM* ¶ 57.

²³ *NPRM* ¶ 57.

²⁴ 47 U.S.C. § 301 (noting that the Commission retains authority to regulate “radio communications” and “transmission of energy by radio”).

²⁵ *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; et al.*, 26 FCC Rcd 13615, ¶ 117 (2011) (noting that the promotion of safety of life and property fulfills the public interest, convenience, and necessity).

²⁶ *See generally, e.g.*, AT&T, CTIA, Verizon Wireless.

²⁷ *See, e.g.*, AT&T at 3, 6, 7; CTIA at 5, 9, 10, 12; Verizon Wireless at 4, 8.

wireless industry fully participates, without hesitation or undue interference, in effectuating the solutions adopted to eliminate contraband wireless devices in prisons.²⁸

The record demonstrates the current state-of-affairs is unworkable despite CTIA's claim that the wireless industry works diligently with correctional facilities.²⁹ The vast majority of commenters support the Commission's proposal to require wireless carriers to terminate service to contraband devices.³⁰ GEO claims that wireless providers are slow to act upon requests to suspend service to identified unauthorized devices.³¹ The Mississippi DOC has similar complaints, explaining that wireless providers do not always cooperate with requests to terminate unauthorized service and that obtaining a court order wastes valuable time and resources.³² Court orders should not be required to terminate service to unauthorized cell phones operating in correctional facilities.³³ Wireless carriers should be required to terminate service to contraband devices upon a valid request from authorized correctional facility personnel as well as any third-party entities designated by the correctional facility to request termination of service.

As Securus states, without a commitment by wireless providers to quickly terminate service, a detection system is the least effective solution to eliminate contraband wireless devices.³⁴ It is imperative that the Commission require all wireless carriers to make the commitment to terminate unauthorized service when certain conditions are met. Anything less than a full commitment by all wireless carriers would simply result in non-participating wireless

²⁸ See, e.g., CellAntenna at 3-4; Delaware DOC at 1; GEO at 8; Tecore at 9-12.

²⁹ CTIA at 1, 3-4.

³⁰ See, e.g., California Department of Corrections and Rehabilitation at 4; CellAntenna at 3-4; Delaware DOC at 2; Florida DOC at 2; GEO at 7; Indiana DOC at 2; Maryland at 3; Minnesota DOC at 1; Mississippi DOC at 1-2; Securus at 3; Tecore at 9-10; Texas at 1.

³¹ GEO at 5.

³² Mississippi DOC at 1-2.

³³ CellAntenna at 2.

³⁴ Securus at 3.

carriers becoming the carrier of choice for inmates.³⁵ As CellAntenna points out, cooperation and participation from the wireless industry is the key to success and is essential to controlling contraband devices in correctional facilities.³⁶

C. Other Jurisdictions Have Tackled the Problem of Contraband Wireless Devices

GTL provided information on how various other countries have addressed the issue of contraband wireless devices in correctional facilities.³⁷ These other jurisdictions provide the Commission with useful roadmaps for implementation of successful solutions to eliminate contraband cell phone use in prisons. The approach taken by New Zealand provides an excellent example of how government secured wireless carrier cooperation can produce successful solutions to address contraband wireless devices in correctional facilities.

In New Zealand, government officials and wireless carriers have forged a partnership to ensure the long-term security of correctional facilities. In August 2007, the Department of Corrections and the country's two largest carriers, Vodafone³⁸ and Telecom New Zealand, signed a Memorandum of Understanding ("MOU").³⁹ The MOU provided for the implementation of "mobile phone blocking" systems, intended to prevent inmates from committing additional crimes while incarcerated.⁴⁰ The MOU also laid the groundwork for a

³⁵ Florida DOC at 2.

³⁶ CellAntenna at 3-4.

³⁷ See, e.g., GN Docket No. 12-52, Initial Comments of Global Tel*Link Corporation at 16-20 (filed Apr. 30, 2012) ("GTL Comments"). The GTL Comments have been incorporated into this proceeding. See *NPRM* at n.18.

³⁸ Vodafone owns a significant stake in Verizon Wireless.

³⁹ Elena Balan, *Prisons Will Jam All Mobile Phone Use*, Softpedia, Aug. 22, 2007, <http://news.softpedia.com/news/Prisons-Will-Jam-All-Mobile-Phone-Use-63389.shtml> (last visited Aug. 13, 2013).

⁴⁰ Vodafone, Corporate Responsibility, Mobile phone blocking in prison ("Vodafone Corporate Responsibility"), <http://www.vodafone.co.nz/about/corporate-responsibility/social-impact.jsp> (last visited Aug. 13, 2013); see also, e.g., Australian Mobile Telecommunications Association, Mobile phone jamming introduced to New Zealand prisons, ("New Zealand Corrections Minister Phil Goff explains that "[t]he blocking technology complements the monitoring system on prison pay phones across the country. All prisoner phone calls at prisons are

telecommunications industry code - the 2009 Code for the Control of Unauthorised Use of Mobile Phones in Prisons - that requires wireless carriers to “grant Spectrum Licences to the Department of Corrections to allow the Department of Corrections to detect, monitor, disrupt, interfere and disable wireless transmissions relating to mobile phones and/or electronic radio communication Devices.”⁴¹ In return, the Department of Corrections must provide wireless carriers with detailed technical specifications of transmitting equipment and prison facilities.⁴²

New Zealand’s wireless carriers and the Department of Corrections had begun working together in 2005, in the shadow of “concerns that the [blocking] equipment could affect users outside prison walls.”⁴³ As a result, the parties tested a variety of technologies, including “detectors which identify mobile telephone activity within an area; local blanket jammers which block mobile telephone signals in a localised area; micro cell jammers (towers) which block mobile telephone use in parts, or all, of a prison site; and hand-held mobile telephone detectors.”⁴⁴ These were evaluated according to the “individual characteristics of each prison . . . in order to determine the suitability of each of the above solutions with reference to the geographical location of the prison, the surrounding area, the proximity of residential and other

recorded and monitored by Corrections intelligence teams on both a targeted and random basis. Since the telephone monitoring was piloted in November, evidence gathered has led to charges against prisoners around the country for robberies, harassment, gang activity, illegal drug use and a raft of other offending.”), <http://www.amta.org.au/articles/amta/Mobile.phone.jamming.introduced.to.New.Zealand.prisons> (last visited Aug. 13, 2013).

⁴¹ See Telecommunications Carriers’ Forum, Code for the Control of Unauthorised Use of Mobile Phones in Prisons, 5 (Nov. 7, 2008), available at <http://www.tcf.org.nz/library/e7b0100d-e056-4ef7-9d12-c18e5b4fb103.cmr>.

⁴² *Id.*

⁴³ Jo Best, *Vodafone, Telecom tackle mobile jamming for jails*, ZDNet Australia, Aug. 23, 2007, <http://www.zdnet.com.au/vodafone-telecom-tackle-mobile-jamming-for-jails-339281448.htm> (last visited Aug. 13, 2013).

⁴⁴ Australian Communications and Media Authority, Australian Corrective Services Administrators’ Council Emerging Technology Working Group, Issues with Mobile Phones in Australian Correctional Centers, 12 (2009) (“ACMA Report”), available at http://www.acma.gov.au/webwr/_assets/main/lib311281/csac_submission.pdf.

nearby populated areas and the effect upon legitimate mobile phone users.”⁴⁵ The tests were successful, and the technology was fully implemented across New Zealand’s 20 prisons by February 2009 at a cost of \$5 million.⁴⁶ According to the Australian Corrective Services Administrators’ Council Emerging Technology Working Group, “New Zealand has advised that jamming technology can be sited to operate solely within the prison boundaries which should allay fears about the possible interference with licensed radiocommunications; possible disruption of telecommunications; safety of life issues (such as the interference of 000 calls); interference to licensed services and other services in adjacent spectrum bands; the effect upon legitimate users within a certain radius; and possible radiation levels of jamming devices, particularly in confined areas, **as none of these problems have eventuated.**”⁴⁷

The New Zealand approach demonstrates that effective solutions can be implemented to combat contraband wireless devices in prisons. The Commission has the authority, and the industry has the knowledge and the technology to achieve an equally successful result in the United States. The Commission should exercise its authority to ensure a variety of technologies can be deployed to implement immediate, short-term solutions and long-term solutions; define the parameters associated with the implementation of the solutions that will address this critical public safety issue;⁴⁸ and establish rules that ensure full participation by wireless carriers, correctional facilities, and service vendors.

⁴⁵ *Id.* For example, Rimutaka Prison and the Northland Region Corrections Facility, far from any residential center, were deemed ideal locales for mobile telephone blocking towers, “whereas Mt Eden Prison in central Auckland was considered more suited to a combination of local blanket jammers and detectors.”

⁴⁶ Vodafone, Corporate Responsibility; ACMA Report at 13.

⁴⁷ Corrective Services Administrators’ Council Emerging Technology Working Group – submission to ACMA relating to Issues with Mobile Phones in Correctional Centres, 1 (July 4, 2010) (emphasis added), *available at* http://www.acma.gov.au/webwr/_assets/main/lib311281/nsw_dept_corrective_svces_ifc02-2010.pdf.

⁴⁸ *NPRM* ¶ 1.

II. THE COMMISSION SHOULD ADDRESS HOW IMPLEMENTATION OF MANAGED ACCESS SYSTEMS AND OTHER SOLUTIONS WILL BE FUNDED

Regardless of the technological solution selected by a correctional facility to combat contraband wireless devices, there must be consideration given to the question of how that solution will be paid for and by whom.⁴⁹ As Securus notes, the growing trend is for inmate calling service providers to provide such services to a correctional facility at no additional cost.⁵⁰ Two recent bidding proposals issued by state DOCs illustrate this trend. The Florida DOC issued an Invitation to Negotiate on April 15, 2013, for its statewide inmate telephone system.⁵¹ In addition to telephone service, the Florida DOC also demands that its telephone vendor implement a “managed access solution” to “control and eliminate wireless communications” within the DOC’s institutions, which must “be inclusive of all equipment, installation, infrastructure and network, training, operation and ongoing repairs and maintenance.”⁵² A Request for Proposals issued by the Virginia DOC on April 4, 2013,⁵³ contains a similar requirement and asks vendors “to provide equipment and services to administer managed access services to DOC facilities.”⁵⁴ The managed access services requested by the Virginia DOC are in addition to the numerous other services and security features required to be provided by the

⁴⁹ Indiana DOC at 2 (“Any alternative means to combat illicit CMRS has widely varying costs, which in some cases are directly proportional to the size of the facility.”).

⁵⁰ Securus at 7.

⁵¹ Florida Department of Corrections, Invitation to Negotiate Contractual Services for Statewide Inmate Telephone Services (issued Apr. 15, 2013) (“Florida DOC Invitation to Negotiate”), *available at* http://www.myflorida.com/apps/vbs/vbs_www.ad.view_ad?advertisement_key_num=106999. The Florida DOC states that it “has special security requirements for inmate telephone services and has a prime objective of controlling inmate telephone usage and limiting the use of the telephone service for fraudulent activity. A primary goal is to ensure the safety and security of staff, inmates and the public through the use of current technology.” *Id.* at 8.

⁵² Florida DOC Invitation to Negotiate at 11.

⁵³ Virginia Department of Corrections Request for Proposals on Inmate Phone Services (issued April 4, 2013) (“Virginia DOC RFP”), *available at* <https://vendor.eprocgipdc.com/webapp/VSSAPPX/Advantage>.

⁵⁴ Virginia DOC RFP at 11. The Virginia DOC defines managed access “as a system to track or disable cell phone transmissions in a correctional facility.” *Id.*

inmate calling services vendor.⁵⁵

It is imperative that the Commission address issues relating to the funding of managed access systems and other solutions for combatting contraband wireless devices in correctional facilities. Several correctional facility commenters raise concerns about their budget limitations, and the effect those limitations have on the ability of the correctional facility to implement a managed access system or other solution to combat contraband devices.⁵⁶ The costs of combatting contraband wireless devices in prisons cannot be left to inmate calling service providers. Without a Commission-sanctioned cost recovery mechanism in place, the implementation of needed managed access systems and other cell phone detection tools will increase the cost of providing inmate calling services.⁵⁷

GTL supports Maryland's request that the Commission "examine the extent to which costs can be borne by carriers or shared nationally."⁵⁸ This is similar to the approach taken by the Commission when it implemented E911 obligations for wireless carriers. There, the Commission determined that a cost recovery mechanism for wireless carriers had to be in place before a wireless carrier was obligated to implement E911 services in response to a request for E911 service from a public safety answering point ("PSAP").⁵⁹ The Commission also determined that a PSAP must have a means of recovering its costs of receiving and utilizing the

⁵⁵ Virginia DOC RFP at 15-19 (listing the Virginia DOC's statement of needs). The Virginia DOC also notes its interest in other technologies such as "video visitation services, kiosk technologies, and tablet technologies for MP3 and secured email services." *Id.* at 15.

⁵⁶ See, e.g., Delaware DOC at 2; Indiana DOC at 2; Maryland at 3; Oklahoma Corrections Professionals at 1.

⁵⁷ Securus at 7-8; see also "FCC's Inmate Calling Order Could Thwart Contraband Cellphone Funds, TR Daily, Aug. 12, 2013.

⁵⁸ Maryland at 3.

⁵⁹ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 14 FCC Rcd 20850, ¶ 19 (1999) ("1999 E911 Order").

data associated with E911 service before a wireless carrier was required to transmit E911 data to that PSAP.⁶⁰

On further review, the Commission eliminated the requirement that a cost recovery mechanism for carriers be in place before E911 was implemented.⁶¹ The Commission determined that the cost recovery mechanism for wireless carriers was not necessary because wireless rates were unregulated, and thus the wireless provider had the flexibility to recover its costs of implementing 911 without a mandatory mechanism.⁶² The Commission made the same findings when it imposed 911 requirements on interconnected Voice over Internet Protocol (“VoIP”) service providers.⁶³

The Commission, however, retained the requirement that a PSAP have certain cost recovery measures in place before E911 service could be provided to that PSAP.⁶⁴ Rather than dictating the cost recovery mechanism to be used, the Commission left it up to the states to choose the appropriate approach for funding the implementation of E911, noting that adequate funding was a “critical element” of ensuring timely implementation of E911.⁶⁵ While the Commission required cost recovery to be in place, it emphasized that it did not “intend to interfere with the States’ authority over their 911 systems and how those systems are managed and maintained.”⁶⁶

⁶⁰ 1999 E911 Order ¶ 23; *see also* 47 C.F.R. § 20.18(j)(1).

⁶¹ 1999 E911 Order ¶ 19.

⁶² 1999 E911 Order ¶ 40.

⁶³ *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, n.164 (2005).

⁶⁴ 47 C.F.R. § 20.18(j)(1).

⁶⁵ 1999 E911 Order ¶ 66.

⁶⁶ 1999 E911 Order ¶ 70.

The same concepts apply here. The Commission should ensure that an adequate funding mechanism is in place to support the deployment of technological solutions to eliminate unauthorized wireless devices in prisons, but should leave the decision on how to structure that mechanism up to individual states or correctional facilities. The type of technological solution chosen by a particular state or correctional facility will dictate the costs to implement that solution,⁶⁷ and therefore should drive the way in which the state or correctional facility recoups its costs. Similar to the Commission’s approach to E911 implementation, this policy will “encourage and support local and State authorities in the funding of [technological solutions to combat unauthorized wireless devices] to protect their citizens, and to give those authorities deference in determining how best to do so.”⁶⁸ As they did in the E911 context, states or correctional facilities could adopt a separate, state-mandated cost recovery mechanism to recoup the costs of implementation based on the solution selected by the state or correctional facility.

To the extent inmate calling service providers must bear the costs to implement solutions to combat contraband devices, however, the Commission should explicitly allow inmate calling providers to recover those costs.⁶⁹ Unlike wireless carriers and VoIP service providers, inmate calling service providers will be subject to rate regulation at the federal level as a result of recent Commission action,⁷⁰ and also face some level of rate regulation at the state level. Therefore, to the extent the Commission does not permit a state or correctional facility to make the decision regarding the recovery of costs, it would be appropriate for the Commission to implement a cost recovery mechanism for inmate calling service providers.

⁶⁷ See, e.g., American Correctional Association at 1-2; NCIC at 1.

⁶⁸ 1999 E911 Order ¶ 68.

⁶⁹ Cf. Marcus at 10 (indicating the Commission should consider whether managed access systems should be an allowed cost in determining inmate calling pricing).

⁷⁰ *FCC Bars High Rates for Long Distance Phone Calls in Jails and Prisons Nationwide*, News Release (rel. Aug. 9, 2013).

CONCLUSION

Accordingly, GTL urges the Commission to allow the use of all possible technological solutions to combat the use of contraband wireless devices in prisons, to adopt the rules necessary to require all wireless carriers to support the efficient operation of those technological solutions, and to implement a funding mechanism that spreads the cost of those technological solutions to cost-causers.

Respectfully submitted,

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