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November 7, 2013

Ex Parte Filing

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

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

Dear Ms. Dortch:

On November 6, 2013, on behalf of Global Tel\*Link (“GTL”), Aaron Panner, J.B. Ward, and I met with Sean Lev, Jonathan Sallet, Jacob Lewis, Joel Marcus, Deena Shetler, Kalpak Gude, and Lynne Engledow of the Commission to urge that the Commission grant GTL’s petition for a stay of the cost-based rule adopted in the Report and Order released on September 26, 2013 (“*Order*”).

We noted that the *Order*’s adoption of rate-of-return regulation is unlikely to survive judicial scrutiny. The Commission did not provide adequate notice that it might choose this regulatory method rather than the discrete proposals to reduce interstate inmate calling services (“ICS”) rates identified in its 2012 Notice of Proposed Rulemaking. Moreover, the Commission did not give a justification for adopting a cost-based rate-of-return regime it has retreated from for more than twenty years. And the Commission did not give ICS providers enough information to comply with the regime it has created.

We noted that a number of petitions for reconsideration and review of the *Order* are likely to be filed. A limited stay would give the newly constituted Commission the flexibility to resolve the issues raised in these petitions before embarking on all-out rate-of-return regulation, which would impose enormous burdens on the ICS industry and the Commission’s staff.

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During the meeting, we were asked about the revenue effect of the new rules on inmate facilities. Our best estimate was that interstate ICS calls account overall for about 10% of inmate calls, although the numbers will obviously vary widely from facility to facility and we are not aware of any comprehensive statistics on the issue. The anticipated impact of the new regulations on the facilities served by GTL is set forth in the Declaration of Stephen Yow, attached to our stay request.

We emphasized that GTL has requested only a limited stay to address the most immediate and serious harms that will result if the *Order* is permitted to go into effect on schedule. We explained that a stay of the cost-based rule, and the *Order*'s related data reporting requirements and "safe harbors," would not undermine the *Order*'s goal to make ICS more affordable for inmates and their families. If GTL's stay petition is granted, the interstate ICS rate caps will remain intact. Those caps will give inmates and their families exactly the relief they sought in their 2007 rulemaking petition. We also noted that a stay would defer the potential administrative burden on ICS providers and Commission staff, until the validity of rate of return, and other aspects of the *Order* that GTL and other providers plan to challenge, are adjudicated in a court of appeals.

\* \* \* \* \*

If you have any questions concerning this matter, please contact me at (202) 326-7902.

Sincerely,

Handwritten signature of Michael K. Kellogg in black ink, with a slanted signature style and a slash followed by the initials 'jbw'.

Michael K. Kellogg  
*Counsel for Global Tel\*Link*

cc: Sean Lev  
Jonathan Sallet  
Jacob Lewis  
Joel Marcus  
Deena Shetler  
Kalpak Gude  
Lynne Engledow