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December 9, 2013

By Electronic Filing ***Notice of Ex Parte Presentation***

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

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

Dear Ms. Dortch:

On November 19, 2013, Vincent Townsend, President of Pay Tel Communications, Inc. ("Pay Tel") and Marcus W. Trathen of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, met with Daniel Alvarez, Legal Advisor to Chairman Tom Wheeler, concerning the Commission's Order released September 26, 2013 ("*Order*") in the above-referenced docket.

Pay Tel advocated grant of its Petition for Partial Stay filed on November 26, 2013, seeking stay of the rate caps and related provisions as applied to jails pending adoption of permanent rates pursuant to the pending Further Notice of Proposed Rulemaking. Pay Tel emphasized that the *Order*'s failure to account for the cost of providing ICS in jails will make the provision of ICS in jails economically unsustainable and many high cost small to medium size jail facilities will be left without a service provider. In Pay Tel's case, 73% of Pay Tel's 160 client locations have at least once category of intrastate calls in which average revenue per minute is below cost, and the total amount by which intrastate capped rates are below cost is $2,864,081—or about 11% of Pay Tel's revenues. In this regard, the FCC's *Order* violates, on its face, Section 276's command that the Commission "ensure that all [ICS] providers are fairly compensated for each and every completed intrastate and interstate call" (47 U.S.C. § 276(b)(1)(A)) as well as the Commission's interpretation of this requirement in its ICS Orders. *See* Order on Remand and Notice of Proposed Rulemaking, *In re Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, 3254–59, ¶¶ 23–24, CC Docket No. 96-128 (rel. Feb. 21, 2002) ("[T]he critical factor is that the costs must ultimately be recovered . . . . Unless an ICS provider can show that . . . the overall profitability of its payphone operations is deficient because the provider fails to recover its total costs from its aggregate revenues (including both revenues from interstate and intrastate calls), then we would see no reason to conclude that the provider has not been 'fairly compensated'"); *Order* at ¶ 123 ("the language in Section 276 that ICS providers be 'fairly compensated' for each and every completed call [] requires that an ICS provider be fairly compensated on the basis of either the whole of its ICS business or by groupings that reflect reasonably related cost characteristics . . . "); Order Denying Stay Petitions and Petition to Hold in Abeyance, WC Docket No. 12-375 (rel. Nov. 21, 2013), at ¶ 17 n. 73 (same).

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: Daniel Alvarez (via email)