

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 December 6, 2013, Vincent Townsend, President of Pay Tel Communications, Inc. ("Pay Tel") and Marcus W. Trathen of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, met with Kalpak Gude, Lynne Engledow, Rhonda Lien, and David Zesiger of the Wireline Competition Bureau to discuss Pay Tel's Petition for Partial Stay filed November 26, 2013, in the above-referenced proceeding. In response to questions from staff, Pay Tel reiterated that:

- The costs of providing ICS in jails demonstrated in the record by Pay Tel are average costs, and do not differentiate between interstate and intrastate jurisdictions. *See, e.g.*, Pay Tel Cost Study, July 23, 2013, Workpapers Section B at 2 ("Costs associated with all call types have been summed to produce Non Service-Specific Costs."); Pay Tel ex parte dated July 26, 2013 (meeting with FCC staff) ("Mr. Wood explained that this cost represents the minimum amount that Pay Tel must recover per minute for all call types (i.e., local and long distance) in order to recover its costs of providing ICS.").
- Under the Order, as written, Pay Tel is unable to recover its total company costs because of the existence of below cost rate caps imposed by state public service commissions and facility contractual requirements. Pay Tel discussed examples of such restrictions and pointed to its previous record submissions regarding below-cost intrastate rate caps. *See, e.g.*, Pay Tel Comments, May 2, 2007 (Docket 96-128), at 7; Ex parte Written Response of Pay Tel, June 16, 2008 (Docket 96-128), at 2 and 8 n. 20 (arguing for preemption of below cost intrastate rates); Pay Tel ex parte, Sept. 9, 2008 (Docket 96-128) (attaching 50-state rate analysis; pointing out the necessity of preempting below cost intrastate rates and identifying below cost rate caps in Tennessee, North Carolina, Florida, South Carolina and Georgia based on the Wood Study demonstrating of ICS costs); Pay Tel Comments, May 2, 2009 (Docket 96-128) at 7 ("Because most states impose price caps on a local call and because many of those capped rates are below the costs incurred to handle the call, ICS providers lose money in many states on every local call."), and at n. 40 ("average rate charged by Pay Tel for all local collect calls (81.2% of total calls) . . . is

33% below the rate proposed by [Petitioners].”); Pay Tel ex parte, July 15, 2009 (Docket 96-128), at 2 (referring to 50-state rate chart submitted with Sept. 9, 2008 ex parte demonstrating that Petitioners’ rate proposal would result in long distance rates that would be lower than the current collect call rate in 32 states) (attaching updated 50-state rate chart showing proposed rates would result in interstate rates lower than local rates in 30 states); Pay Tel Comments, March 25, 2013 (Docket 12-375), at 5 (pointing out existence of below cost intrastate rate caps and necessity of preemption); Pay Tel Reply Comments, April 22, 2013 (Docket 12-375), at 13-14; Pay Tel ex parte, July 3, 2013 (Docket 12-375) (attaching 50-state rate chart showing rate caps on local calling); Pay Tel ex parte, July 26, 2013 (Docket 12-375) (telephonic meeting with David Zesiger, Don Sussman, and Gregory Haledjian of WCB) (pointing specifically to the NC local rate cap of \$1.71 and the 50-state survey of local rate caps); Pay Tel ex parte, Aug. 1, 2013 (Docket 12-375) (demonstration of FCC’s legal authority to preempt below cost intrastate rates); Pay Tel ex parte, Aug. 2, 2013 (Berry meeting) (Docket 12-375).

- A significant driver of ICS costs in jails is the necessity of setting up individualized accounts for each inmate and integrating these accounts with local facility systems, which requirements vary from facility-to-facility in the jail setting.
- With regard to ancillary fees, Pay Tel reiterated its proposal regarding fees stated in its Pay Tel’s Further Comments dated July 17, 2013.

Attached are hand-outs discussed in the meeting.

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: Kalpak Gude (via email)
Lynne Engledow (via email)
David Zesiger (via email)
Rhonda Lien (via email)
Deena Shetler (via email)
Daniel Alvarez (via email)
Rebekah Goodheart (via email)
Christi Barnhart (via email)
Amy Bender (via email)
Nicholas Degani (via email)