

## Economic Characteristics of Prisons vs. Jails

### Two Factors to Consider: Economies of Scale and Characteristics of Jails vs. Prisons

As Pay Tel has repeatedly expressed, the operational differences between Prisons and Jails and the related impact to cost of providing ICS are significant, independently justifying a separate rate regulation approach for the two types of facilities. Apart from this important operational distinction is the fact that there are a few cost factors which benefit from higher volume associated with serving larger facilities. These economies of scale do not and cannot make up for the higher costs associated with serving Jails vs. Prisons in general.

### Basis for "Safe Harbor" Rate is Invalid

Despite the fact that CenturyLink summary data was generally dismissed for the lack of a proper Cost Study;<sup>1</sup> it appears that the Commission's basis for the Safe Harbor rate is curiously similar to the carrier's average County ICS cost per minute. This is despite the following:

- CenturyLink's "average" calculation specifically excludes the cost per minute for facilities with 100 inmates or less<sup>2</sup>.
- The portion of CenturyLink's current Jail/County client list used to develop these figures averages 1,088 population; far in excess of the average jail size (See Exhibit A)
- Although note explicitly stated, it is very likely that the costs represented by CenturyLink do not include those costs that are otherwise recovered through multiple fees. (In contrast, Pay Tel's cost data is all inclusive, with the only exception being payment processing fees designed to recover cost and not as a profit center.)
- As a division of a much larger corporation offering a variety of communications services, it is unclear if CenturyLink's costs include their direct burden as it relates to bad debt, or what arrangements exist with the parent company that may cause the represented cost per minute to be lower than the cost that any other independent company could reasonably hope to attain. This makes the CenturyLink figures a poor benchmark against which to judge an entire industry.
- The CenturyLink average *does not* include the \$0.04 per minute cost of "current generation security features"<sup>3</sup> which are needed and expected by confinement facilities. Despite acknowledging that these features are needed, the added cost was ignored. When combined, the added cost of current generation features brings CenturyLink's reported Jail cost per minute to the following levels:

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<sup>1</sup> Order at Page 15-16, paragraph 28, including footnotes 98 and 99.

<sup>2</sup> CenturyLink August 2, 2013 Notice of Ex Parte Communications; Page 3 "...For county correctional accounts (excluding facilities with less than 100 beds)..."

<sup>3</sup> CenturyLink August 2, 2013 Notice of Ex Parte Communications; Page 3 "Again, a \$0.040 per minute cost should be added for current generation security features."

CenturyLink Cost Per Minute Without Commission

Low:	\$0.091
High:	\$0.260
Median:	\$0.175
Average:	\$0.177

**Securus Does Not Provide Sufficient Data Upon Which to Base Rate Caps**

Likewise, Securus cost data is insufficient to support any rate cap design applicable to Jails. The economist’s approach of taking ten examples in each of three tiers (High, Medium and Low) leaves a tremendous gap in information.

Call Volume Description	Average Inmate Population per Site*	Cost per Minute Including Commission	Cost per Minute Excluding Commission <sup>4</sup>
Securus’ High 10	3,293	\$0.1748	\$0.043
Pay Tel’s Average	203	\$0.33	\$0.208 Debit \$0.23 Collect/Prepaid
Securus’ Medium 10	92	\$0.5008	\$0.1633
Securus’ Low 10	13	\$1.7106	\$1.3941

(\*See Exhibit B for Specific Securus Facility Information.)

Issues include:

- Low Tier represents an average jail size of only 13 inmates. These are the smallest facilities in the country, typically city jail lock-ups and juvenile residences with the lowest amount of calling.
- Medium Tier represents an average jail size of 92 inmates.
- As pointed out in Commissioner Pai’s dissenting comments, “...most jails in our nation have fewer than 100 inmates, and about 35 percent of jails house fewer than 50.”<sup>5</sup> According to the DOJ report referenced by Commissioner Pai, 58.8% of the nation’s jails have a population of less than 100 inmates.

**TABLE 8**  
**Number of local jail jurisdictions, by size of jurisdiction, 2006**

Region and state	Total	Fewer than 50 inmates	50-99	100-249	250-499	500-999	1,000 inmates or more
U.S. total	2,859	1,129	552	584	272	173	149

- High Tier reflects an average jail size of 3,293 inmates. These facilities are among the largest in the country and comparable in size to most prisons. There are only a handful of jails that fall

<sup>4</sup> Securus’ cost per minute excluding commission was calculated by subtracting the applicable Securus site commission percentage from the cost per minute including commissions. Source of Securus Cost Data: See *Expert Report of Stephen E. Siwek on behalf of Securus Technologies, Inc., WC Docket No. 12-375 Mar. 25, 2013*

<sup>5</sup> U.S. Dep’t of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Census of Jail Facilities (2006)*, available at <http://dx.doi.org/10.3886/ICPSR26602.v1>

into this category and most of these facilities are served by the two largest ICS vendors, Securus & Global Tel\*Link.

- Although not explicitly stated, it is very likely that the costs represented by Securus do not include those costs that are otherwise recovered through multiple fees. (In contrast, Pay Tel's cost data is all inclusive, with the only exception being payment processing fees designed to recover cost and not as a profit center.)

### **“Safe Harbor” Rate is not Sustainable**

The resulting Safe Harbor rate is lower than CenturyLink's stated cost per minute at all but its most efficient sites; and lower than Pay Tel's cost per minute (excluding commissions) at every single facility served. As a result, Pay Tel is faced with the following unacceptable options:

1. Accept the interstate rate reduction and associated lost revenue by charging the “hard cap” rates with the following risks:
  - a. Virtually any complaint to the FCC will result in a rate investigation
  - b. Pay Tel will have to spend the money to defend its costs with little to no direction from the FCC as to which costs are considered acceptable.
  - c. Run the risk of being forced to refund and/or pay fines if any of our costs are deemed unacceptable.
2. Charging the Safe Harbor rates and losing money on every single interstate phone call; forcing the company out of business.
3. Cease offering interstate phone calls, resulting in an inferior service offering for our client facilities.

The practices of the largest ICS vendors, charging unconscionable fees and exorbitant rates forced the FCC to take action. The Order, as written is survivable by the same large ICS vendors because they can cross-subsidize high cost jails with low cost prisons and achieve a profitable average. Ironically, companies like Pay Tel, that charge reasonable rates and cost-based fees all along are the ones to bear the brunt of the resulting punitive regulation.

# EXHIBIT A



[Login to Control Center](#) | [Contact Us](#)

[Residential](#) | [Small - Medium Business](#) | [Large Business](#)

## Correctional Markets

### EPSI

EPSI has contracts to provide payphone services to the inmates at a number of correctional facilities across the country. Our customers are friends or relatives of inmates, their lawyers, and bail bondsmen who receive collect calls from the inmates.

Information pertaining to services offered through EPSI is available on this website. EPSI provides account management services to customers accepting calls from the following facilities:

- [Alabama Department of Corrections](#)
- Charleston County, SC Detention Center
- City of Las Vegas, NV Detention Center
- Clark County, NV Detention Center
- Cole County Jail, Jefferson City, MO
- Cole County, MO Jail
- [East Baton Rouge Parish Sheriff's Office \(EBRPSO\)](#)
- Escambia County, FL Detention Center
- Hernando County, FL Detention Center
- Hernando County, FL Jail
- Hillsborough County, FL Detention Center
- [Johnson County Inmates](#)
- Kansas Department of Corrections
- Larned County, KS Hospital
- Leon County, FL Detention Center
- Luce County, MI Jail
- [Nevada Department of Corrections](#)
- [Milwaukee County Inmates](#)
- Okeechobee County, FL Detention Center
- Pasco County, FL Detention Center
- [Seminole County, FL Detention Center](#)
- South Carolina Dept of Juvenile Justice
- Southwest Indiana Regional Youth Village
- Sumter County, FL Detention Center
- [Texas Department of Criminal Justice Walton County, FL Jail](#)
- Walton County, FL Detention Center

CenturyLink DOC Clients	ADP
Texas Department of Criminal Justice	155,020
Alabama Department of Corrections	30,000
Nevada Department of Corrections	13,200
Kansas Department of Corrections	9,000

CenturyLink County Clients	ADP
Hillsborough County, FL Detention Center	2,891
Clark County, NV Detention Center	2,860
Milwaukee County Jail, WI	2,584
Escambia County, FL Detention Center	1,794
East Baton Rouge Parish Sheriff's Office (EBRPSO)	1,594
Pasco County, FL Detention Center	1,519
City of Las Vegas, NV Detention Center	1,200
Charleston County, SC Detention Center	1,100
Leon County, FL Detention Center	1,083
Seminole County, FL Detention Center	825
South Carolina Dept of Juvenile Justice	736
Johnson County, KS	660
Hernando County, FL Detention Center	557
Okeechobee County, FL Detention Center	244
Sumter County, FL Detention Center	231
Walton County, FL Detention Center	211
Cole County Jail, Jefferson City, MO	206
Cole County, MO Jail	206
Larned County, KS Hospital	172
Southwest Indiana Regional Youth Village*	80
Luce County, MI Jail*	13

Average: 1,088

\*Excluded fromn CenturyLink Cost Calculation

## EXHIBIT B

**Appendix 2: List of Facilities by Group**

Category	Facility Name	Interstate		Stated Site		Flat-Rate Commission Payment	Inmate Average Daily Population*
		Rate per Minute	Rate per Call	Commission Rate	Commission Rate		
High 10	Broward County*	\$ 0.89	\$ 3.95	0.0%	\$ 172,145	5,804	
High 10	Cook County Illinois*	\$ 0.20	\$ 1.00	57.5%	\$ 300,000	10,158	
High 10	Orleans Parish*	\$ 0.89	\$ 3.95	59.0%	\$ 1,039,588	2,892	
High 10	Palm Beach County	\$ 0.69	\$ 3.80	68.0%	\$ -	3,365	
High 10	Louisville / Jefferson County Metro Govt Parent*	\$ 0.89	\$ 3.95	64.0%	\$ 397,400	2,144	
High 10	Suffolk County Sheriff's Department	\$ 0.89	\$ 3.95	50.0%	\$ -	2,501	
High 10	Allegheny Parent	\$ 0.59	\$ 3.00	0.0%	\$ -	2,730	
High 10	East Baton Rouge	\$ 0.89	\$ 3.95	0.0%	\$ -	1,594	
High 10	Suffolk County Sheriff's Department	\$ 0.89	\$ 3.98	50.0%	\$ -	See above	
High 10	Hampden County	\$ 0.89	\$ 3.95	52.0%	\$ -	1,743	
Medium 10	Teller County Jail	\$ 0.20	\$ 2.54	44.0%	\$ -	50	
Medium 10	Parke County Jail*	\$ 0.89	\$ 3.95	45.0%	\$ 10,000	98	
Medium 10	Wilkes County Sheriff's Office- (HLS)	\$ 0.89	\$ 3.95	44.0%	\$ -	98	
Medium 10	Gilpin County Jail	\$ 0.15	\$ 2.54	38.0%	\$ -	55	
Medium 10	Ravalli County Sheriff's Department	\$ 0.89	\$ 4.09	45.0%	\$ -	52	
Medium 10	Jennings County Jail	\$ 0.69	\$ 3.95	50.0%	\$ -	122	
Medium 10	Heart Of America Correctional & Treatment Center*	\$ 0.89	\$ 4.05	30.0%	\$ 7,000	129	
Medium 10	Carbon County Jail	\$ 0.89	\$ 3.95	30.0%	\$ -	72	
Medium 10	Tunica County Sheriff's Dept - JSI*	\$ 0.89	\$ 3.95	0.0%	\$ 20,000	57	
Medium 10	Bibb County Commission	\$ 0.89	\$ 3.95	58.0%	\$ -	55	
Medium 10	Titus County Jail*	\$ 0.89	\$ 3.95	58.0%	\$ 20,000	130	
Low 10	Walla Walla County Juvenile	\$ 0.35	\$ 2.25	0.0%	\$ -	15	
Low 10	Aurora City Police Department	\$ 0.65	\$ 2.60	5.0%	\$ -	10	
Low 10	Keweenaw County Jail	\$ 0.89	\$ 3.95	35.0%	\$ -	7	
Low 10	Marion County Juvenile Detention Facility	\$ 0.50	\$ 2.50	28.0%	\$ -	24	
Low 10	Oakview Juvenile Residential Center	\$ 0.89	\$ 3.95	40.0%	\$ -	15	
Low 10	Furnas County Jail	\$ 0.65	\$ 3.50	30.0%	\$ -	8	
Low 10	Edwards County Jail	\$ 0.50	\$ 3.50	20.0%	\$ -	11	
Low 10	Midlothian City - Northern Ellis Emergency Dispatch	\$ 0.89	\$ 3.95	30.0%	\$ -	9	
Low 10	Sheridan County Jail	\$ 0.89	\$ 3.95	30.0%	\$ -	14	
Low 10	Monett City Police Dept	\$ 0.65	\$ 2.60	0.0%	\$ -	12	

Average = 3,293

Average = 92

Average = 13

\*Facility size information was obtained from AJA - Who's Who in Jail Management Facility Directory and Facility websites