

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

In the Matter of:)	
)	WC Docket No. 12-375
)	
Rates For Interstate Inmate)	
Calling Services)	

COMMENTS OF

**MARTHA WRIGHT, ET. AL.,
THE D.C. PRISONERS' LEGAL SERVICES PROJECT, INC.,
CITIZENS UNITED FOR REHABILITATION OF ERRANTS,
PRISON POLICY INITIATIVE, AND
THE CAMPAIGN FOR PRISON PHONE JUSTICE**

Lee G. Petro

DRINKER BIDDLE & REATH LLP
1500 K Street N.W.
Suite 1100
Washington, DC 20005-1209
(202) 230-5857

December 20, 2013

SUMMARY

The Petitioners applaud the FCC for taking a major step in addressing the exorbitant ICS rates and fees by adopting the August 9, 2013, Report and Order in this proceeding. The safe harbor rates and price caps will provide great assistance for those making Interstate ICS calls.

However, the FCC must take the next step and apply the interim safe harbor rates and price caps to Intrastate ICS calls as well. In light of the technology used to route all ICS calls to out-of-state centralized calling centers, there is no practical difference between a call made to an address across the street from the prison, or to someone across the country. The Communications Act unquestionably requires the FCC to eliminate unjust, unreasonable and unfair ICS Intrastate ICS rates, and, as presented herein, the wide divergence in Intrastate ICS rates reflects that the rates being charged ICS customers bears no relation to the actual cost of providing the service.

Furthermore, the FCC must ensure that ancillary fees do not serve as a revenue-generating outlet for ICS providers. Previously, the Petitioners provided evidence that the ancillary fees charged in connection with making an ICS call often cost as much, if not more, than the actual cost of the ICS call. Recent reviews by two state public utility commissions support this conclusion. In the event that the FCC does not eliminate the ability of ICS providers to charge ancillary fees, the FCC must cap the cost of these fees.

Finally, the Petitioners urge the FCC to adopt quality of service and call blocking rules that eliminate the extra fees that ICS customers incur when attempting to reconnect a dropped call, or the requirement to use high-cost “pay now” services to accept an ICS call. The FCC has recognized the important need for inmates to remain in contact with their loved ones, including the 2.7 children with at least one incarcerated parent. While the ICS providers offer this valuable resource for inmates and the correctional facilities, the FCC must ensure that ICS providers do not take advantage of their monopoly to extract unjust, unreasonable, and unfair ICS rates and fees.

TABLE OF CONTENTS

SUMMARY..... i

TABLE OF CONTENTS ii

DISCUSSION 4

I. THE FCC MUST APPLY THE SAME INTERIM SAFE HARBOR RATES AND PRICE CAPS TO INTRASTATE ICS CALLS AND ANCILLARY FEES. 4

 1. Intrastate ICS Calls Are Unjust, Unreasonable and Unfair. 4

 2. The FCC Has The Legal Authority To Establish Safe Harbor/Price Caps for Intrastate Calls and Practices..... 6

II. THE FCC MUST ADOPT A STRUCTURE ESTABLISHING PROCEDURES FOR FUTURE REVIEW BOTH INTRASTATE AND INTERSTATE RATES AND ANCILLARY FEES..... 9

III. THE FCC MUST ENSURE THAT ANCILLARY FEES DO NOT BECOME REPLACEMENT REVENUE SOURCE FOR ICS PROVIDERS.12

IV. THE FCC MUST TAKE STEPS TO ENSURE ICS COMPETITION LEADS TO LOWEST INTERSTATE AND INTRASTATE ICS RATES AND ANCILLARY FEES.16

V. THE FCC MUST ADOPT RULES ENSURING THAT ICS CUSTOMERS RECEIVE SAME QUALITY OF SERVICE AS ALL OTHER FORMS OF INTERSTATE AND INTRASTATE CALLING..... 17

VI. COST/BENEFIT ANALYSIS MUST CONSIDER SAVINGS ASSOCIATED WITH ADOPTION OF ICS SAFE HARBOR RATES AND PRICE CAPS.....18

CONCLUSION 20

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REPLY COMMENTS

Martha Wright, Dorothy Wade, Annette Wade, Ethel Peoples, Mattie Lucas, Laurie Nelson, Winston Bliss, Sheila Taylor, Gaffney & Schember, M. Elizabeth Kent, Katharine Goray, Ulandis Forte, Charles Wade, Earl Peoples, Darrell Nelson, Melvin Taylor, Jackie Lucas, Peter Bliss, David Hernandez, Lisa Hernandez, Vendella F. Oura, along with The D.C. Prisoners' Legal Services Project, Inc., Citizens United for Rehabilitation of Errants, the Prison Policy Initiative, and The Campaign for Prison Phone Justice (jointly, the "Petitioners") hereby submit these Comments in connection with the Further Notice of Proposed Rulemaking in connection with the above-captioned proceeding.¹

The *FNPRM* was released at the same time that the FCC adopted a *R&O* establishing safe harbor rates and price caps for Inmate Calling Service ("ICS") customers.² While the Petitioners had urged the FCC to adopt a benchmark rate of \$0.07 per minute for both Intrastate and Interstate debit, pre-paid, and collect calls, with no per-call rate and no other ancillary fees or taxes, from all private, public, state, county and local correctional and detention facilities, the FCC adopted safe harbor rates of \$0.12 for Interstate pre-paid and debit calls, and \$0.14 for Interstate collect calls, and price caps of \$0.21 for Interstate pre-paid and debit calls, and \$0.25

¹ *Rates for Interstate Inmate Calling Services*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 14,107 (2013)(the "*FNPRM*"). The *FNPRM* was published in the Federal Register on November 13, 2013, and established December 13, 2013, as the deadline for filing Comments in this proceeding. 78 FED REG 68,005 (rel. Nov. 13, 2013).

² The *R&O* was published in the Federal Register on November 13, 2013, and will become effective on February 11, 2014. 78 FED REG 67,956 (rel. Nov. 13, 2013)(the "*R&O*").

for Interstate collect calls. The FCC also directed that all ancillary fees and taxes must be cost-based, and required ICS providers to submit cost and rate information on an annual basis in support of their certification of compliance with the new rules.

In limiting the application of the rules adopted in the *R&O* to just Interstate rates, the FCC issued the *FNPRM* to address several additional considerations. As discussed herein, the Petitioners agree with the FCC's tentative conclusion that it has the requisite legal authority to establish Intrastate ICS rates, and urges the FCC to do so with dispatch. The adoption of rules requiring that Intrastate rates be capped at the same level as those rates adopted in the *R&O* for Interstate ICS rates will eliminate the risk of rate arbitrage and eliminate confusion among consumers.

Furthermore, the FCC should adopt rules to reexamine the safe harbor and price cap rates for Interstate and Intrastate rates in the future. Since ICS providers have refused to provide the specific price and cost data repeatedly requested by the FCC, the FCC should adopt a procedural mechanism to take into account the information provided by the ICS providers in connection with the annual data collection required under the new FCC rules, and reduce rates when necessary.

While the FCC has indicated that ancillary fees charged by ICS providers in connection with providing the telecommunications service must be cost-based, the Petitioners and other parties submitted information indicating that different ICS providers charge widely-divergent charges for providing the same ancillary service. Therefore, the Petitioners restate its request that the FCC adopt rules eliminating the imposition of ICS ancillary fees. The widely-divergent charges for the same service (i.e., an IVR-based deposit of funds) among the ICS providers demonstrates conclusively that the ICS providers currently use ancillary fees as a supplemental revenue-generating device, which most ICS providers do not share with their correctional institution counterparts. Furthermore, the FCC must adopt rules to eliminate ancillary fees to

ensure that such fees do not become a mechanism to recoup the revenue previously earned through the imposition of excessive ICS rates.

Additionally, the Petitioners urge the FCC to extend its call-blocking rules adopted in the *R&O* to include Intrastate rates. As the Petitioners have previously indicated, there is no technical difference between the provision of Interstate and Intrastate ICS calls. Thus, a purely billing-related call blocking practice would be violative of the FCC rules and policies whether the ICS call was going to customer across the street, or across the country.

With respect to the question of non-geographically based telephone number call blocking, the FCC released a Declaratory Ruling in WC Docket 09-144 on September 27, 2013, that would presumably deal directly with the issues raised in the *FNPRM*.³ Specifically, if the ICS provider is able to impose the security measures required by the correctional facility, whether or not the call is routed to a non-geographically based number is irrelevant, and the practice of blocking this type of call should be prohibited.

As the FCC is well aware, the Petitioners first sought to eliminate the exclusive contracts between correctional institutions and the ICS providers as means to reduce the rates charged ICS customers. Seven years after the initial lawsuit was filed, the Petitioners modified its proposal to directly address the rates being charged ICS rates due to the FCC's reluctance in adopting rules eliminating exclusive contracts. In light of the consolidation of the market, and the elimination of legacy Bell companies from the ICS industry, the Petitioners believe that the adoption of a cost-based rate for all ICS rates is the most effective way to ensure that the ICS rates are just, reasonable and fair. While the Petitioners would certainly be interested in the introduction of open competition for ICS service, i.e., more than one provider offering service to a correctional facility, the Petitioners do not believe that the FCC should delay acting on the other matters relating to lowering Intrastate ICS rates and adopting quality of service rules.

³ Petition for Declaratory Ruling of Securus Technologies, Inc., *Declaratory Ruling and Order*, 28 FCC Rcd 13,913 (WC 2013).

Finally, the FCC must ensure that the ICS customers receive the same quality of telecommunications service as the general public. In light of the ICS providers adoption of state of the art VOIP-based technology, there is no reason why ICS customers should experience the level of dropped calls and static as discussed in the Petitioners' Reply Comments. The Petitioners demonstrated that the number of dropped calls had nothing to do with security measures, and, in light of the excessive per-call surcharge imposed by ICS providers, was likely tied to revenue generating mechanism. Therefore, the FCC must take steps to protect ICS customers from unjust, unreasonable and unfair rates and practices.

DISCUSSION

I. THE FCC MUST APPLY THE SAME INTERIM SAFE HARBOR RATES AND PRICE CAPS TO INTRASTATE ICS CALLS AND ANCILLARY FEES.

The first question raised in the *FNPRM* relates to the FCC's legal authority and the need to adopt safe harbor/rates caps for Intrastate ICS calls. As discussed herein, there is no question that the FCC has the legal authority to adopt safe harbor/rate caps for Intrastate ICS rates. Moreover, there is substantial evidence already in the record detailing the need for the adoption of uniform rates for both Intrastate and Interstate ICS rates. As a result, the Petitioners urge the FCC to adopt the Safe Harbor/Price Caps to Intrastate ICS calls as well.

1. Intrastate ICS Calls Are Unjust, Unreasonable and Unfair.

In the *R&O*, the FCC determined that Section 201 and Section 276 of the Communications Act of 1934, as amended, applied to the rates and practices of Interstate ICS calls. Specifically, the FCC acknowledged that Section 201 requires that all rates and practices are just and reasonable, and Section 276 requires that the ICS providers receive "fair" compensation for ICS calling.⁴

⁴ *R&O*, 28 FCC Rcd at 14,114-14,115.

In both contexts, the FCC found that the determination of a “just, reasonable and fair” ICS rates and practices must be cost-based.⁵ The Petitioners and many other parties responded to the FCC’s call for data in support of a cost-based examination of ICS rates and practices, and provided evidence that the widely-divergent rates for Interstate ICS did not reflect the cost of providing the service, but rather illustrated an unjust, unreasonable, and unfair pricing regime that only benefited the ICS providers and the correctional institutions.

As provided herein, the same is true for Intrastate ICS rates and practices. In fact, the rates for Intrastate ICS rates are well above the rates found to be unjust, unreasonable and unfair in the *R&O*. Attached as Exhibit A is a 50-state survey of Intrastate ICS rates charged ICS state prison customers. As with Interstate ICS rates, the divergence between the rates is astounding.

For example, a 15-minute collect call in Delaware will cost \$10.70, but in Rhode Island, the same 15 minute call, provided by the same ICS provider (Global Tel*Link), will only cost 70 cents. In New Mexico, a 15-minute collect call will cost 65 cents, but the same 15-minute collect call, provided by the same ICS provider (Securus), will cost \$5.00 in Arizona.

The wide divergence in Intrastate ICS rates also occur pre-paid and debit calls among the ICS providers:

CenturyLink	Alabama	\$6.75	Prepaid InterLata
CenturyLink	Wisconsin	\$1.80	Prepaid InterLata
Securus	North Dakota	\$6.06	Prepaid InterLata
Securus	Florida	\$1.92	Prepaid InterLata
GTL	Virginia	\$5.20	Prepaid InterLata
GTL	Nebraska	\$1.25	Prepaid InterLata

Nor does the disparity reflect only Intrastate InterLata ICS calls. The disparity also applies to

Intrastate Local ICS calls:

CenturyLink	Texas	\$3.90	Debit Local
CenturyLink	Wisconsin	\$1.80	Debit Local
Securus	Connecticut	\$4.87	Debit Local
Securus	Kentucky	\$1.50	Debit Local

⁵ *Id.*, at 14,131.

GTL	Missouri	\$5.70	Debit Local
GTL	New York	\$0.72	Debit Local

Thus, whether or not one looks at InterLata or Local Calls, and whether or not one looks at Collect, Prepaid, or Debit, the respective difference in charges can exceed \$5.00 for the same company.

Even within a state, the ICS Intrastate rates diverge widely. Attached as Exhibit B are the rates charged in the county jails in New Jersey. As shown therein, a Local call ranges from 1.65 to 3.25 for a 15-minute call, from \$4.00 to \$5.50 for IntraLata calls, and \$5.50 to \$8.50 for InterLata ICS calls.⁶

Therefore, much as the FCC found that the wide divergence between Interstate ICS rates demonstrated that they were unjust, unreasonable and unfair, the information provided herein demonstrates that the Intrastate ICS rates are similarly unjust, unreasonable and unfair. As the evidence illustrates, the rates charged for different classes of Intrastate ICS calls cannot be justified by any cost-based explanation. Simply put, there is no rational, cost-based explanation for CenturyLink to charge \$1.80 for a 15-minute call in Wisconsin, and \$6.75 in Alabama, or for GTL to charge \$5.70 in Missouri, and \$0.72 in New York. Because the difference in rates being charged can't be explained with cost-based justifications, the FCC must find that current Interstate rates are unjust, unreasonable, and unfair.

2. The FCC Has The Legal Authority To Establish Safe Harbor/Price Caps for Intrastate Calls and Practices.

In the *R&O*, the FCC found that a wide divergence of Interstate ICS rates was *prima facie* evidence of unjust, unreasonable and unfair rates and practices.⁷ In the absence of any reasonable justification for the difference in rates among the various correctional institutions,

⁶ Attached as Exhibit C is a chart showing the different rates charged by Securus for the different classes of calls in the two largest counties in each state that it provides ICS services. The range in ICS rates among the various states and counties reflect a similar incompatibility with the idea that the current rates being charged are just, reasonable and fair.

⁷ *R&O*, 28 FCC Rcd at 14,132.

the FCC determined that the Interstate rates charged ICS customers were not cost-based and thus, violated the Communications Act.

In the *FNPRM*, the FCC tentatively concludes that it has the legal authority to address Intrastate ICS rates as well.⁸ The Petitioners wholeheartedly agree with this FCC's tentative conclusion, and urge the FCC to address Intrastate ICS rates under its authority in Section 201 and Section 276 of the Communications Act to regulate Intrastate ICS rates.

Furthermore, the Petitioners agree that it is functionally impossible to separate the Interstate and Intrastate components of ICS, and therefore the FCC is justified in applying Section 2(b) of the Communications Act as well.⁹ As discussed at length in this proceeding, a typical ICS call is routed to a centralized calling center located in most instances in a different state. The ICS provider then applies the security measures requested by the correctional institution, and then the ICS call is routed to the recipient. Thus, whether or not the recipient is across the street from the correctional institution, or across the country, each and every call is routed using VOIP technology to a centralized calling center, and then forwarded on to the recipient.¹⁰

Moreover, several of the ICS providers support the FCC's exercise of regulatory authority over Intrastate ICS rates. CenturyLink, Pay Tel Communications and Telmate have all publically called for the FCC to regulate Intrastate ICS rates.¹¹ In fact, Pay Tel has filed a Motion for Partial Stay of the *R&O*, arguing that the FCC must delay the adoption of Interstate ICS rate reform until it move forward with reforming Intrastate ICS rates.¹² The Petitioners agree with

⁸ *FNPRM*, 28 FCC Rcd at 14,176.

⁹ *Id.*, at 14,177.

¹⁰ As discussed *infra*, the Alabama Public Service Commission recently issued an Order, in which it stated "there is little difference in provider cost for calls that terminate in the local calling area of the inmate facility and those that terminate outside the inmate facility's local calling area." *Alabama Order*, pg. 7.

¹¹ *FNPRM*, 28 FCC Rcd at 14,174.

¹² *Petition For Partial Stay, filed by the Pay Tel Communications, Inc.*

the ICS providers that the FCC must adopt reduced Intrastate ICS rates, and support the application of uniform interim safe harbor and price cap ICS rates for both Interstate and Intrastate ICS calls.

Finally, the record in this proceeding is void of any evidence that there are special prison security or inmate discipline issues associated exclusively with Intrastate ICS rates. Instead, when the hyperbole is peeled away, the arguments presented by correctional institutions rest solely on their interest in preserving their “right” to a portion of the excess revenue earned by ICS providers through the grant of location monopolies. As the *R&O* indicates, however, the application of the Interstate Safe Harbor rates and Price Caps specifically avoided the issue of whether ICS providers and correctional institutions can divvy up the excess revenues.¹³ In fact, the FCC provided the parties a period of time to renegotiate contracts to eliminate the unjust, unreasonable, and unfair ICS rates, rather than just order the ICS providers to immediately reform their rates.¹⁴

Therefore, it is clear that the current Intrastate ICS rates suffer from the same legal infirmities as Interstate ICS rates, and that immediate reform is necessary. Just as there was no reasonable justification for widely-divergent Interstate ICS rates, there is no reason for the same excessive range in rates charged for Intrastate ICS rates. Instead, just as with the Interstate ICS rates, the sole justification for the high rates is the absence of regulations that would limit the gouging of ICS customers from unjust, unreasonable and unfair Intrastate ICS rates. As such, the Petitioners urge the FCC to use its express statutory authority to regulate Intrastate ICS rates, and adopt the same interim ICS rates to Intrastate ICS calls as those that were adopted in the *R&O*.

¹³ *R&O*, 28 FCC Rcd at 14,162.

¹⁴ *Id.*, at 14,163.

II. THE FCC MUST ADOPT A STRUCTURE ESTABLISHING PROCEDURES FOR FUTURE REVIEW BOTH INTRASTATE AND INTERSTATE RATES AND ANCILLARY FEES.

The FCC also sought comment on what further steps it should take to ensure that ICS customers were charged only just, reasonable and fair ICS rates in the future.¹⁵ As discussed in the *FNPRM*, the FCC sought comment on the adoption of permanent ICS rates, and how those rates would be charged.

First, with respect to the adoption of a definition of correctional institution, the Petitioners support the adoption of rules that would apply to any detainee that does not have a choice in determining its calling service provider. The appropriate definition would cover both state-run prisons, county and local jails, detention facilities run by the Federal Bureau of Prisons and the Department of Homeland Security.

To that end, the definition recently adopted by the State of New Mexico is a good start. Specifically, Section 17.11.28.7 of the New Mexico State Administrative Code defines a correctional institution as a “jail, prison, penal facility or other confinement facility.”¹⁶ This definition would appear to cover a facility whose purpose is to hold an individual under the custody of a federal, state, county or local governmental authority. In addition, this definition would also apply to privately-run confinement facilities operating in coordination with federal, state, county or local governmental authorities.

Next, it should be no surprise that the Petitioners wholeheartedly support the adoption of permanent rules that would impose limits on all ICS rates and fees. The Petitioners, along with other reform-minded organizations on both sides of the political spectrum have advocated for such rules for many years.¹⁷ As discussed above, the application of the FCC’s interim Interstate ICS rates to Intrastate ICS rates is required under the Communications Act, and will

¹⁵ *FNPRM*, 28 FCC Rcd at 14,181.

¹⁶ Institutional Operator Service Providers, 17.11.28.7(D) NMAC (Aug, 5, 2013).

¹⁷ *See e.g., Ex Parte Letter*, dated May 18, 2012, CC Dkt. 96-128.

immediately provide relief to millions of individuals. Furthermore, the adoption of the data collection rules serves two ends: (i) verifying that the rates being charged by ICS providers are truly cost-based; and (ii) providing the FCC the information to make alterations to the ICS rules in the future.

The Petitioners provided evidence in connection with the Notice of Proposed Rulemaking that a uniform rate of \$0.07 for all Interstate and Intrastate rates was just, reasonable, and fair, and would still provide adequate revenue for ICS providers to share with correctional institutions. While the ICS providers have vehemently argued against the Petitioners' proposal, the data collection requirements adopted in the *R&O* will assist the FCC to determine if the Petitioners were correct.

Therefore, the Petitioners urge the FCC to adopt rules to review the interim rates no later than 180 day after the ICS providers have submitted their second round of data collected under Section 64.6060 of the Commission's rules. Specifically, the FCC should adopt procedures to solicit comments within 30 days of the second round of data, and make any necessary changes to the interim rates within 180 days. In the event that the implementation of Section 64.6060 is delayed, then the interim ICS rates for Interstate and Intrastate calls must remain in place until the FCC deems that it has sufficient information to make any changes to the interim rates.

As discussed below, the Petitioners are concerned that the interim rate structure may be used to continue to exact unjust, unreasonable and unfair rates. Specifically, the ICS rules permit an ICS provider to apportion the 15-minute price caps adopted in Section 64.6030 of the rules as they see fit.¹⁸ Thus, it is possible that ICS providers will merely charge a set rate for all calls at the 15-minute maximum. In such a case, the Petitioners urge the FCC to adopt regulations to permit the reconnection after involuntary disconnections where there were no security issues implicated. If such protections are not provided, it is possible that a per-call

¹⁸ 47 C.F.R. §64.6030 (2013)(15-minute calls capped at \$3.75 for Collect calls, and \$3.15 for Debit, Prepaid, or Prepaid Collect calls).

charge would be levied against an ICS customer which would double the rate being charged in the event that the call was prematurely disconnected.

Finally, the Petitioners do not support the adoption of a tiered calling structure at this time. The record is wholly insufficient to support the adoption of a tiered structure that would permit higher rates in smaller facilities. Prior to the release of the *NPRM*, the Petitioners had indicated that a tiered structure may be useful to address concerns that certain high-cost facilities may exceed the price caps proposed in the Alternative Proposal. However, the *R&O* adopted a three-tiered structure that is more targeted to the individual needs of ICS providers serving higher-cost facilities, and will permit ICS providers to seek a waiver of the price caps.

In addition, the adoption of a separate rate structure for local and county jails is not necessary. Previously, the Petitioners provided evidence that many local and county jails serve as long-term detention facilities, which undermined the basis for classifying them as high-cost facilities. In particular, the Petitioners noted that several states use local and county jails to house inmates that traditionally have been housed in state prisons.¹⁹ More recently, the Petitioners have conducted additional research that further undermines the argument that jails should be treated separately.

Attached as Exhibit D are excerpts from various jail attendance reports that demonstrate the growing dependence on county and local jails for long-term detainment. For example, the State of California Department of Corrections was forced to move many of its prisons to county jails. As a result, studies have indicated that “the diversion of responsibility for less serious offenders to the counties has increased the population of county jails throughout the state.”²⁰ Moreover, in light of this realignment, longer-sentenced prisons are taking the place of the pretrial detainees, which is the source of the churn that ICS providers have cited to justify higher

¹⁹ *Petitioners’ Ex Parte Comments*, dated July 16, 2013.

²⁰ *Impact of Realignment on County Jail Populations*, pg. 23, rel. June 2013 (located at ppic.org).

ICS rates in jails.²¹ Furthermore, Louisiana incarcerates more than half of its prison population in local jails.²² Other states with a high level of prisoners held in local jail include Kentucky (38%), Tennessee (30%), Mississippi (29%), West Virginia (25%) and Utah (22%).²³

Thus, it is simply not correct that all jails necessarily have higher costs due to high turnover. Instead, sizable portions of local jails are being used for long-term detention of inmates that undermine the “churn” argument presented by certain ICS providers. Furthermore, as the Petitioners have noted, the combination of “first call free” policies eliminating the need to establish five (5) separate accounts, and that smaller facilities only comprise 3.4% of all inmates confined in local jails, make this argument the classic “tail wagging the dog” situation.

As such, the FCC should apply the interim Interstate ICS rates to Intrastate ICS rates without regard to the size of the correctional institution. The ICS rules adopted in the *R&O* include the necessary safety valve that eliminates the need to create an elaborate tiered structure for a very small proportion of the facilities with higher costs.

III. THE FCC MUST ENSURE THAT ANCILLARY FEES DO NOT BECOME REPLACEMENT REVENUE SOURCE FOR ICS PROVIDERS.

The Petitioners have provided substantial evidence demonstrating that ancillary fees, i.e., fees charged by the ICS provider (or a service provider in privity with the ICS provider) that are directly related to the provisioning of ICS calls, were unjust, unreasonable and unfair. Other commenters also submitted information into the record highlighting these excessive charges.²⁴

²¹ *Id.*, pg. 27 (“realignment is increasing pretrial releases at a rate of roughly one for every seven fewer felons sent to prison...We do not know how *much* earlier these releases are occurring, just that these practices have significantly increased as a result of realignment.”).

²² *Prisoners in 2012*, U.S. Department of Justice, pg. 40 (rel. December 2013).

²³ *Id.*

²⁴ *See Prison Policy Initiative Ex Parte Submission*, dated May 9, 2013 (providing a copy of its seminal report - *Please Deposit All of Your Money: Kickbacks, Rates, and Hidden Fees in the Prison Phone Industry*).

In the *R&O*, the FCC adopted rules to require that the ancillary fees charged in connection with the delivery of ICS calls were cost-based.²⁵ The FCC correctly recognized that the long list of ancillary fees imposed by ICS providers did not reflect the cost of providing such services, and therefore, were in violation of Sections 201 and 276 of the Communications Act.²⁶

In the *FNPRM*, the FCC sought additional information regarding ancillary fees, and asked commenters to provide guidance on how to establish rules to ensure that the fees are “just, reasonable and cost-based.”²⁷ The FCC also asked for information relating to the actual costs to the ICS providers for providing the ancillary services.

If “what’s past is prologue”, then the FCC can expect little assistance from the ICS providers as to the actual costs of providing the ancillary services, and certainly not any information regarding the contractual relationships between ICS providers and entities like MoneyGram and Western Union. Fortunately, however, the ICS providers recently have responded to requests from state public utility commissions to provide this information, and we can look to their findings for support that the current pricing regimes result in unjust, unreasonable, and unfair charges.

For example, the New Mexico Public Regulation Commission had requested data from the ICS providers authorized to operate in its state, which included the two largest ICS providers, GTL and Securus. After reviewing the data submissions, new rules were adopted to cap ancillary fees. Specifically, ICS providers in New Mexico are prohibited from charging more than \$3.00 to fund an ICS customer’s account, whether it be by credit card, check or by phone, and whether it be for an initial account set-up, or for any subsequent funding occasions.²⁸

²⁵ *Report and Order*, 28 FCC Rcd at 14,157.

²⁶ *Id.*

²⁷ *FNPRM*, 28 FCC Rcd at 14.187.

²⁸ Institutional Operator Service Providers, 17.11.28.17(A) NMAC (Aug. 5, 2013).

A similar result occurred in Alabama, where the Alabama Public Service Commission requested data from the ICS providers operating in its state. After reviewing the data, an Order Proposing Revised Inmate Phone Service Rules was released in October 2013.²⁹ After reviewing the information collected from ICS providers, the Alabama Order concluded that “ICS providers can influence the amount of the fee charged by Western Union or MoneyGram, based on negotiated arrangements with those financial services.”³⁰ In light of this finding, the Alabama Order stated that ICS providers will be “prohibited from receiving any portion of fees paid by their customers to third-party financial services for submission of payments for ICS and/or for transferring funds into inmate accounts...and [will] require justification from ICS providers for any observed anomalies” among the reporting ICS providers for the same services.³¹

As detailed in the Alabama Order, it was proposed that the maximum cost of funding an account to \$3.00 for website, IVR, or kiosk submission, and \$5.95 for live agent assistance.³² For collect calls, the staff recommended a maximum rate of \$3.00 “regardless of the number of calls included on the customer’s bill, and ICS providers will not be able to charge its customers any bill processing fees, since they are to be considered “normal business overhead”.³³ Finally, the Alabama Order proposed the prohibition of (i) Account set-up fees; (ii) Refund fees; (iii) Provider assessed fines and penalties for prohibited behavior; (iv) any other usage charges and or fees otherwise not specifically permitted.³⁴

Despite the fact that Alabama has yet to adopt a final rule in this proceeding, what should be clear is that the state regulator (i) requested specific cost data from the ICS providers,

²⁹ *Order Proposing Revised Inmate Phone Service Rules and Establishing a Comment Period*, Dkt. 15957 (rel. Oct. 1, 2013), erratum rel. Oct. 7, 2013)(the “Alabama Order”)(attached hereto as Exhibit E).

³⁰ *Alabama Order*, pg. 7.

³¹ *Id.*, pg. 16-17.

³² *Id.*, pg. 16.

³³ *Id.*, pg. 17.

³⁴ *Id.*, pg. 19.

(ii) reviewed the specific cost data provided by the ICS providers, and (iii) made its reasoned decision to recommend adoption of the above-referenced limitations on ancillary fees.

While the FCC is no doubt envious that the State of Alabama was able to obtain the cost data that most ICS providers refused to provide the FCC, the commonality among the recommended fees in Alabama, and those that were adopted in New Mexico, provides clear guidance to the FCC to adopt rules requiring that the ancillary fees imposed by ICS providers are cost based. Again, the Petitioners continue to support the adoption of rules to eliminate of all ancillary fees. However, should the FCC elect to itemize the caps on ancillary fees, then the Alabama Order and the New Mexico rules provides guidance for ascertaining a cost-based rate.

Interestingly, Alabama also reviewed the “no fee” or “pay now” options discussed in in the *FNPRM*, whereby the recipient of an ICS call can elect to accept the call for paying a set fee, with no other charges, and no cap on the number of minutes.³⁵ As noted in the Alabama Order, these charges range from \$9.99 to \$14.99. In the case of the \$14.99 call, apparently the customer is told that “\$1.80 of the charge is for the call, and the remaining \$13.19 is a call processing charge.”³⁶ In light of these findings, the Alabama Order concluded that these charges were “exorbitant” and an “obstacle” to affordable ICS rates, and recommended that the “text-to-collect” option be prohibited, and that the “pay now” option be capped at the recommended “usage rates and payment processing fees.”³⁷

Again, the Petitioners do not support rules permitting ancillary fees. If, however, the FCC does permit cost-based ancillary fees, the Petitioners urge that the FCC following the path of the state commissions in New Mexico and Alabama and establish similar caps for ancillary services. Those states were fortunate enough to receive the data previously requested by the

³⁵ *FNPRM*, 28 FCC Rcd at 14,188.

³⁶ *Alabama Order*, pg. 8. The staff also reviewed the text-to-collect fees, and estimated that “the ICS provider receives 45 to 50% of the \$9.99 charge, the wireless provider receives 35 to 40%, and the third-party ‘middleman’ receives the remainder”.

³⁷ *Id.*, pg. 11.

FCC, and they fully justified the decisions for establishing each of the fees. In light of the heavy-lifting that has already taken place, should the FCC decide to implement caps on ancillary fees, it now has sufficient information to move forward to establish maximum rates for ancillary fees, even if the ICS providers continue to ignore the FCC's request for information.

IV. THE FCC MUST TAKE STEPS TO ENSURE ICS COMPETITION LEADS TO LOWEST INTERSTATE AND INTRASTATE ICS RATES AND ANCILLARY FEES.

As the FCC is well aware, the Petitioners' original request was to have the FCC eliminate exclusive contracts between correctional institutions and ICS providers. Subsequently, in light of the FCC's reluctance to involve itself with the ICS contracts, the Petitioners filed the Alternative Proposal in 2007 seeking an order establishing benchmark ICS rates.

The Petitioners believe that the FCC could, in fact, develop rules that would increase the level of competition among the ICS providers, and even permit more than one party to serve a particular correctional institution. With the development of centralized calling centers that all ICS providers use, the difference between the offerings by ICS providers has shrunk considerably. Rather focusing on the type of security measures that a group of ICS providers can provide, the committee reviewing the competing ICS RFP responses typically focuses on the amount of "value added" services offered by the competitors.

For example, when the Florida Department of Corrections considered the RFP responses of CenturyLink, Securus, and GTL, the reviewing board determined that each respondent "demonstrated the ability to provide the required services."³⁸ The same finding was made by the State of Missouri when it renegotiated its ICS contract, where only one out of eight ICS providers failed to meet the mandatory requirements.³⁹ Of the remaining seven ICS providers, "the evaluation committee felt all of the offerors would be capable of providing a satisfactory

³⁸ See Exhibit F.

³⁹ See Exhibit G.

solution regarding their method of performance, solution functionality and expertise of personnel.” The Petitioners would have preferred to provide additional evaluations, but in most cases, the evaluations are marked “confidential” when a FOIA request is submitted.

However, it would appear that, in the context of evaluating RFP responses, the determining factor for the contracting party is not whether the ICS providers can meet the technical requirements and security measures required by the correctional institutions. Instead, the selection of the winning bidder is based on the extra “add-ons” that an ICS provider will provide, such as free calls, pilot programs, or additional commissions paid to the correctional institution.

Therefore, the Petitioners support the FCC’s investigation whether it would be possible for correctional institutions to produce a list of required services, and then permit more than one ICS provider to provide service to ICS customers. Central to the plan would be to establish a centralized demarcation point where each of the ICS providers would connect to the correctional facilities system, from which an outbound call would then be routed to the appropriate ICS provider. There will be issues, no doubt, regarding the responsibility of maintaining the telephone system within the correctional institution, but the possibility that competing ICS providers will lead to lower Interstate and Intrastate ICS rates merits further investigation. However, the FCC should not delay the application of the interim ICS rates to Intrastate calling while it develops these rules.

V. THE FCC MUST ADOPT RULES ENSURING THAT ICS CUSTOMERS RECEIVE SAME QUALITY OF SERVICE AS ALL OTHER FORMS OF INTERSTATE AND INTRASTATE CALLING.

In their Reply Comments, the Petitioners supplied numerous examples of dropped calls and substandard call quality. In particular, the Petitioners supplied testimony presented to the Massachusetts Department of Telecommunications and Cable from ICS customers (caller and

recipient alike) which detailed the high frequency of dropped calls and static on the line.⁴⁰ The Petitioners advocated in their Comments and Reply Comments for the FCC to eliminate the per-call surcharge imposed by ICS providers when their customers seek to reinitiate a call due to disconnected calls. By eliminating the excessive rates charged merely for placing a call, the impact of disconnected or sub-standard service would be minimized.

In the *R&O*, the FCC adopted safe harbor rates and price caps that effectively eliminated the per-call rates previously in place. Thus, while the ICS customers will still suffer the nuisance of reconnecting ICS calls, they may not suffer the additional expense to reconnect a call.

However, the *R&O* permits ICS providers the option to apportion the overall 15-minute rate as it sees fit.⁴¹ As a result, it still remains possible for an ICS provider to front-load its charges for an ICS call so that each call is charged the maximum amount permitted under the FCC's rules. In such a case, therefore, the charges for reconnecting after a dropped Interstate ICS call would still be between \$1.80 and \$3.75.

As such, the Petitioners renew their call for the FCC to require ICS providers to permit ICS customers to reinitiate dropped calls without being charged additional fees. In event that there is a dropped call, the ICS customer should be credited any per-call charge levied by the ICS provider if the reinitiated call is placed within one (1) minute from the time that the call was terminated. The record established in this docket persuasively demonstrates that there are wide-spread problems with ICS dropped calls, and by adopting consumer protection rules, the FCC will eliminate any monetary incentive for ICS providers to prematurely terminate calls.

VI. COST/BENEFIT ANALYSIS MUST CONSIDER SAVINGS ASSOCIATED WITH ADOPTION OF ICS SAFE HARBOR RATES AND PRICE CAPS.

In its initial Comments and Reply Comments, the Petitioners supplied an economic analysis of the benefits that will arise from the reduction of ICS rates. Not only will ICS

⁴⁰ *Petitioners' Reply Comments*, pgs. 18-20.

⁴¹ *R&O*, 28 FCC Rcd 14,107, nt. 271.

customers derive a direct benefit from the reduced costs, but the impact on the reduction of recidivism will lead to significant savings (+\$250 million) if there is only a 1% reduction. Furthermore, the Petitioners have also submitted analysis by correctional institutions and ICS providers that a reduction of ICS rates will lead to increased call volumes, which will also lead to increased revenues to be divided up with the correctional institutions.

What has been lacking is any quantifiable study on any costs. The Correctional Institutions filed a Motion for Stay of the *R&O*, but did not provide any meaningful analysis as to what the reduction in ICS rates would mean to them. Certainly, any study produced by these organizations would have to take into account the reduction of their costs as the result of lower recidivism rates. Further, such a study would have to take into account the increased revenues that the correctional institutions will be entitled to share through their contractual relationships with the ICS providers.

However, as noted in the Petitioners' comments, no cost-benefit analysis, based on any provision of the Communications Act, could override the absolute command of Section 201(b) that:

all charges, practices...in connection with...communication service shall be just and reasonable, and any...charge, practice...that is unjust or unreasonable is hereby declared to be unlawful.⁴²

Any cost-benefit analysis based on non-Communications Act factors would be *ultra vires*. For that reason, courts have rejected FCC attempts to balance carriers' obligations under Section 201(b) against factors outside the FCC's jurisdiction. For example, in *MCI v. FCC*, the court rejected, as *ultra vires*, the FCC's attempt to "offset" damages from lower rates paid by MCI for some LEC access services, against MCI own damages from excessive LEC rates for other access services. Instead, the court held that such an offset would amount to adjudicating LEC claims against MCI for undercharges, over which the FCC has no jurisdiction.⁴³

⁴² 47 U.S.C. 201(b) (2013).

⁴³ 59 F.3d 1407, 1418-19 (D.C. Cir. 1995), *cert. denied*, 517 U.S. 1219 (1996).

The FCC has also rejected a similar cost-benefit approach in addressing traffic pumping in the *Connect America Fund Order*. There, it correctly held, in response to claims that access stimulation facilitated broadband deployment in rural areas, that “how...revenues are used is not relevant in determining whether...rates are just and reasonable in accordance with Section 201(b).⁴⁴

Finally, claims that the requested relief would amount to FCC regulation of state and local correctional facilities cannot be considered “costs” of applying Section 201(b) to ICS rates and practices. As the D.C. Circuit explained in affirming the FCC regulation of carriers’ payments to entities not regulated by the FCC:

[N]o canon of administrative law requires us to view the regulatory scope of agency actions in terms of their practical or even foreseeable effects. Otherwise, we would have to conclude, for example, that the Environmental Protection Agency regulates the automobile industry when it requires states and localities to comply with national ambient air quality standards, or that the Department of Commerce regulates foreign manufacturers when it collects tariffs on foreign made goods.⁴⁵

As such, while the adoption of a safe harbor rates and price caps for Intrastate ICS may impose some costs on parties outside the jurisdiction of the FCC, the FCC may not rely on these purported costs to avoid its statutory obligations under the Act. Even assuming, however, that the FCC could or should consider non-Communications Act factors in determining how to enforce Section 201(b) in the ICS context, all relevant factors overwhelmingly support Petitioners’ request for relief.

CONCLUSION

There should be no question that only the FCC can protect ICS customers from unjust, unreasonable and unfair ICS rates and practices. The Communications Act grants the FCC

⁴⁴ *Connect America Fund*, 26 FCC Rcd at 17,876.

⁴⁵ *Cable & Wireless P.L.C. v. FCC*, 166 F.3d 1224, 1230 (D.C. Cir. 1999); *See also National Cable & Telecommunications Association v. FCC*, 567 F.3d 659 (D.C. Cir. 2009) (“We decline to put issues relating to their cable service outside the Commission's authority simply because those issues also matter to their landlords.”).

authority to address both Interstate and Intrastate ICS rates and practices, and in light of technological developments, the FCC is best positioned to craft a universal resolution of the deeply imbedded issues associated with the ICS industry.

As presented herein, there is simply no cost-based reason for the wide divergence among Intrastate ICS rates and ancillary fees charged to ICS customers. Instead, the only apparent reason for this practice is that both the ICS provider offering the service, and the correctional institutions granting exclusive access to ICS customers, have a vested interest in extracting and reallocating the revenues earned from the exorbitant ICS rates. Absent FCC action, it is unquestionable that this practice will continue to occur.

The FCC has already taken the important first step to address the rates and practices for Interstate ICS calls, and the Petitioners urge the FCC to act with dispatch to adopt final rules that offer a comprehensive solution. By applying the interim safe harbor rates and price caps to Intrastate ICS calls, and by adopting rules to address ancillary fees, quality of service and dropped calls, the FCC will be fulfilling its mandate under Title One of the Communications Act to “make available...to all the people of the United States without discrimination ...[a]...communication service with adequate facilities at reasonable charges.”

Respectfully submitted,

By: 

Lee G. Petro
DRINKER BIDDLE & REATH LLP
1500 K Street N.W.
Suite 1100
Washington, DC 20005-1209
(202) 230-5857

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EXHIBIT A

STATE 15 MINUTE RATES

Local Calls			IntraState InterLata Calls			State	Company
Collect	Pre-Paid	Debit	Collect	Pre-Paid	Debit		
free	free	free	2.63-7.61	2.63-7.61	2.63-7.61	AK	Securus
\$2.75	\$2.75	\$2.75	\$6.75	\$6.75	\$6.75	AL	CenturyLink
4.80	N/A	4.80	4.80	N/A	4.80	AR	GTL
1.84	1.60	1.60	5.00	4.60	4.60	AZ	Securus
1.44	1.44	N/A	2.03	2.03	N/A	CA	GTL
5.00	3.20	2.75	5.00	3.20	2.75	CO	GTL
4.87	3.65	4.87	4.87	3.65	4.87	CT	Securus
1.22	1.22	1.22	10.70	10.70	10.70	DE	GTL
0.50	0.50	0.50	2.10	1.92	2.10	FL	Securus
2.70	N/A	N/A	4.85	N/A	N/A	GA	GTL
1.95	?	?	2.80-3.55	?	?	HI	Hawaiian Telcom
N/A	N/A	2.00	N/A	N/A	4.85-6.05	IA	GTL
3.80	3.60	3.40	3.80	3.60	3.40	ID	GTL
3.55	3.55	N/A	3.55	3.55	N/A	IL	Securus
3.60	3.60	3.60	3.60	3.60	3.60	IN	GTL
2.70	2.70	2.55	2.70	2.70	2.55	KS	CenturyLink
1.85	1.85	1.50	4.50	4.50	3.60	KY	Securus
0.98	0.88	0.88	4.40-5.30	4.03-4.78	4.03-4.78	LA	Securus
2.36	2.36	1.78	2.36	2.36	1.78	MA	GTL
0.65	0.50	0.50	5.45	4.50	4.50	MD	GTL
5.30	5.30	4.50	5.30	5.30	4.50	ME	GTL
3.00	3.00	2.70	3.00	3.00	2.70	MI	GTL
1.75	N/A	0.35	6.45	N/A	4.80	MN	GTL
1.75	0.75	0.75	1.75	0.75	0.75	MO	Securus
5.70	5.70	5.70	5.70	5.70	5.70	MS	GTL
2.04	2.04	2.04	2.04	2.04	2.04	MT	Telmate
1.25	1.25	1.13	3.40	3.40	3.06	NC	GTL
0.50	0.50	0.75	6.06	6.06	5.10	ND	Securus
0.70	0.50	0.50	1.45	1.25	1.25	NE	GTL
2.20	1.50	1.50	2.70	2.25	2.25	NH	ICSolutions
4.95	4.95	4.95	4.95	4.95	4.95	NJ	GTL
0.66	0.59	0.65	0.65	0.59	0.65	NM	Securus
2.95	2.95	2.95	2.95	2.95	2.95	NV	CenturyLink
0.72	0.72	0.72	0.72	0.72	0.72	NY	GTL
1.14	0.91	0.91	5.87	4.69	4.69	OH	GTL
3.00	3.00	N/A	3.00	3.00	N/A	OK	GTL
2.40	2.40	2.40	2.40	2.40	2.40	OR	Telmate
1.65	1.60	1.52	6.25	5.15	4.89	PA	GTL
0.70	0.70	0.63	0.70	0.70	0.63	RI	GTL
0.99	0.75	0.75	0.99	0.75	0.75	SC	GTL
2.70	0.90	1.00	8.40	2.70	2.70	SD	GTL
0.90	0.81	0.81	3.60	3.24	3.24	TN	GTL
3.90	3.90	3.51	3.90	3.90	3.51	TX	CenturyLink
3.15	3.15	2.50	4.60	4.60	3.75	UT	GTL
1.00	0.90	0.90	6.00	5.20	5.20	VA	GTL
2.30	1.90	1.00	3.50	2.50	2.00	VT	GTL
3.50	3.15	3.15	3.50	3.15	3.15	WA	GTL
1.80	1.80	N/A	1.80	1.80	N/A	WI	CenturyLink
0.85	0.75	N/A	3.85	3.45	N/A	WV	GTL
1.90	1.65	1.25	3.72	3.08	1.25	WY	ICSolutions

* - Highlighted States indicate elimination of commissions.

EXHIBIT B

New Jersey Prison and Jail Phone Rates: Unfair and Unreasonable¹

NJ Prison or County Jail Operator	Current Cost of 15 Minute Call	Distance	Overcharges above FCC Fair Rate ²	Commission	Overcharges Compared to NY ³	Contract End Date
State of NJ No detainees in Immigration and Custom Enforcement (ICE) custody	\$4.95	Flat Rate	\$3.15 (debit) \$2.85 (credit)	41%	\$4.23	March 2014
Bergen Capacity for an estimated 180 detainees in New York ICE custody	\$1.65 (debit) \$1.75 (collect)	Local same prefix	\$0 \$0	60.5%	\$0.93 \$1.03	January 2014 (estimated)
	\$4.80 (debit) \$4.95 (collect)	Intra LATA in area code	\$3.00 \$2.85		\$4.08 \$4.23	
	\$7.30 (debit) \$7.50 (collect)	Inter LATA out of area code	\$5.50 \$5.40		\$6.58 \$6.78	
	\$13.60 (debit) \$13.85 (collect)	Interstate	\$11.80 \$11.75		\$12.88 \$13.13	
	\$19.80	International				
Essex Capacity for 800 detainees in Newark ICE custody & Sussex Under contract with NY ICE to hold 40 detainees	\$1.75	Local	\$0	54%	\$1.03	Tied to State Contract, County Price Matrix: Option 4
	\$4.00 \$4.20	Intra LATA	\$2.20 \$2.10		\$3.28 \$3.48	
	\$5.50 \$5.70	Inter LATA	\$3.70 \$3.60		\$4.78 \$4.98	
	\$12.60 \$12.85	Interstate	\$10.80 \$10.75		\$11.88 \$12.13	
	\$17.85	International				
Hudson Capacity for 450 detainees in NY ICE custody Middlesex & Monmouth No detainees in ICE custody	\$2.50 \$4.75	Local Intra LATA	\$0.70/\$0.40 \$2.95/\$2.65	55%	\$1.78 \$4.03	Tied to State Contract, Option 2
	\$7.75 \$15.10	Inter LATA Interstate	\$5.95/\$5.65 \$13.30 \$13.00		\$7.03 \$14.38	
Mercer, Ocean & Union No detainees in ICE custody	\$3.25 \$5.50	Local Intra LATA	\$1.45/\$1.15 \$3.70/\$3.40	56%	\$2.53 \$4.78	Tied to State Contract, Option 1
	\$8.50 \$15.85	Inter LATA Interstate	\$6.70/\$6.40 \$14.05 \$13.75		\$7.78 \$15.13	

¹ Prepared in December, 2013 by Rebecca Hufstader and Zachary Dorado, NYU Immigrant Rights Clinic, for New Jersey Advocates for Immigrant Detainees with contributions from Roberto Concepción of LatinoJustice PRLDEF and Karina Wilkinson of NJAID.

² This column compares the current cost of a fifteen-minute call to the “safe harbor” rate set by the Federal Communications Commission (FCC), at which companies will not be subject to sanctions because the rates are presumed to be fair and reasonable. The safe harbor rate for a fifteen-minute call is \$1.80 for debit calls and \$2.10 for collect calls. If a company can prove its costs justify higher interstate rates, it may charge up to a “hard cap” of \$3.15 for a fifteen-minute debit call and \$3.75 for a fifteen-minute collect call.

³ This column compares the current cost of a fifteen-minute call to the cost from any New York State Correctional Facility, where the rate is \$0.048/minute or \$0.72 for fifteen minutes. In 2007, the New York state legislature required its Department of Corrections to negotiate a contract with the lowest possible rate and to eliminate commissions from prison phone contracts.

EXHIBIT C

15 Minute Phone Call

State	Largest Two Counties Served	Advance Connect	Direct Bill	Inmate Debt	Traditional Collect
Alabama	Madison County Huntsville Jail	\$3.00	\$3.00	\$3.00	\$3.00
	Montgomery County Jail	\$2.75	\$2.75	\$2.75	\$2.75
Arizona	Pinal County Adult Detention Center	\$5.70	\$5.70	\$5.70	\$5.70
	Cochise County Jail	\$6.40	\$6.40	\$6.40	\$6.40
Arkansas	Pulaski County Regional Detention Facility	\$4.00	\$4.00	\$4.00	\$4.00
	Saline County Detention	\$6.52	\$6.52	\$6.52	\$6.52
California	George Bailey Detention Facility – San Diego	\$4.60	\$4.85	\$4.10	\$4.85
	Maguire Correctional Facility - San Mateo	\$4.37	\$4.37	\$4.37	\$4.37
Colorado	Arapahoe County Sheriff's Office	\$2.50	\$2.50	\$2.50	\$2.50
	Jefferson County Sheriff's Detention Facility	\$4.90	\$4.90	\$4.90	\$4.90
Florida	Broward County Main Jail	\$2.35	\$2.35	\$2.35	\$2.35
	Palm Beach County – West Detention Center	\$6.25	\$6.25	\$6.25	\$6.25
Georgia	Fulton County Jail	\$2.70	\$2.70	\$2.70	\$2.70
	Gwinnett County Sheriff's Office Jail Division	\$2.70	\$2.70	\$2.70	\$2.70
Idaho	Bonneville County Sheriff's Office	\$4.50	\$4.50	\$4.50	\$4.50
	Nez Perce County Adult Detention Center	\$5.25	\$5.25	\$5.25	\$5.25
Illinois	Cook County Jail (Division 11)	\$4.00	\$4.00	\$4.00	\$4.00
	Lake County Adult Correctional Facility	\$3.76	\$3.76	\$2.50	\$3.76
Indiana	Vanderburgh County Detention Center	\$2.95	\$2.95	\$2.95	\$2.95
	Elkhart County Jail	\$6.75	\$6.75	\$6.75	\$6.75
Iowa	Polk County Jail	\$2.65	\$2.65	\$2.43	\$2.65
	Woodbury County Jail	\$4.00	\$4.00	\$4.00	\$4.00
Kansas	Shawnee County Jail	\$4.05	\$4.05	\$4.05	\$4.05
	Butler County Jail	\$5.87	\$5.87	\$5.87	\$5.87
Kentucky	Louisville/Jefferson County Metro Corrections	\$1.85	\$1.85	\$1.85	\$1.85
	Warren County Regional Jail	\$2.75	\$2.75	\$2.75	\$2.75
Louisiana	East Baton Rouge Parish Prison	\$2.31	\$2.31	\$2.31	\$2.31
	Jefferson Parish Correctional Center	\$2.31	\$2.31	\$2.31	\$2.31
Maryland	Allegany County Detention Center	\$1.25	\$1.25	\$1.25	\$1.25
	Worcester County Jail	\$1.00	\$1.00	\$1.00	\$1.00
Massachusetts	Middlesex County Jail	\$4.50	\$4.50	\$4.50	\$4.50
	Worcester County Jail	\$4.50	\$4.50	\$4.50	\$4.50
Michigan	Wayne County Jail Division 1	\$7.20	\$9.60	\$3.75	\$9.60
	Kent County Correctional Facility	\$6.70	\$6.70	\$6.70	\$6.70
Minnesota	Hennepin County Jail	\$2.20	\$2.20	\$2.20	\$2.20
	Ramsey County Jail	\$2.20	\$2.20	\$2.20	\$2.20
Mississippi	Hinds County Detention – Raymond	\$3.98	\$3.98	\$3.98	\$3.98
	Harrison County Adult Detention Center	\$3.00	\$3.00	\$3.00	\$3.00

State	Largest Two Counties Served	Advance Connect	Direct Bill	Inmate Debt	Traditional Collect
Missouri	Jackson County Detention Center	\$2.05	\$2.05	\$1.85	\$2.05
	St. Charles County Jail	\$8.00	\$8.00	\$8.00	\$8.00
Montana	Flathead County Adult Detention	\$2.90	\$2.90	\$2.90	\$2.90
	Cascade County Adult Detention	\$2.90	\$2.90	\$2.90	\$2.90
Nebraska	Sarpy County Jail	\$1.50	\$1.50	\$1.50	\$1.50
	Hall County Jail	\$3.75	\$3.75	\$3.75	\$3.75
Nevada	Washoe County Jail	\$2.79	\$2.79	\$2.79	\$2.79
	Elko County Jail	\$4.75	\$4.75	\$4.75	\$4.75
New Hampshire	Hillsborough County DOC	\$5.60	\$5.60	\$5.60	\$5.60
	Rockingham County DOC	\$1.95	\$1.95	\$1.95	\$1.95
New Jersey	Passaic County Jail	\$4.55	\$4.55	\$4.55	\$4.55
	Cape May County Jail	\$4.25	\$4.25	\$4.25	\$4.25
New Mexico	Bernalillo County Detention Center	\$0.78	\$0.78	\$0.78	\$0.78
	Santa Fe County Adult Correctional Facility	\$0.50	\$0.50	\$0.50	\$0.50
New York	Suffolk County Jail	\$3.25	\$3.25	\$3.25	\$3.25
	Ontario County Jail	\$3.83	\$3.83	\$3.83	\$3.83
North Carolina	Buncombe County Detention Facility	\$1.58	\$1.58	\$1.58	\$1.58
	Cabarrus County Detention Facility	\$1.71	\$1.71	\$1.71	\$1.71
North Dakota	Cass County Jail	\$2.95	\$2.95	\$2.95	\$2.95
	Stark County Jail	\$2.50	\$2.50	\$2.50	\$2.50
Ohio	Lorain County Correctional Facility	\$5.75	\$5.75	\$5.75	\$5.75
	Rogers County Jail	\$3.90	\$3.90	\$3.90	\$3.90
Oklahoma	Washington County Jail	\$3.90	\$3.90	\$3.90	\$3.90
	Multnomah County Inverness Jail	\$5.43	\$5.43	\$4.88	\$5.43
Oregon	Polk County Jail	\$2.78	\$2.78	\$2.78	\$2.78
	Allegheny County Main Jail	\$3.05	\$3.05	\$2.40	\$3.05
Pennsylvania	Erie County Prison	\$3.25	\$3.25	\$3.25	\$3.25
	Horry County Jail	\$1.65	\$1.65	\$1.65	\$1.65
South Carolina	Lexington County Jail	\$1.65	\$1.65	\$1.65	\$1.65
	Brown County Jail	\$10.14	\$10.14	\$10.14	\$10.14
South Dakota	Codington County Jail	\$3.09	\$3.09	\$3.09	\$3.09
	Sumner County Jail	\$1.69	\$1.69	\$1.69	\$1.69
Tennessee	Sullivan Correctional Facility	\$1.60	\$1.60	\$1.60	\$1.60
	Harris County 1200 Baker Street Jail	\$4.00	\$4.00	\$4.00	\$4.00
Texas	Tarrant County Correctional Center	\$3.11	\$3.11	\$3.11	\$3.11
	Davis County Jail	\$3.96	\$3.96	\$3.96	\$3.96
Utah	Cache County Jail	\$3.75	\$3.75	\$8.25	\$3.75
	Newport News City Jail	\$1.75	\$1.75	\$1.50	\$1.75
Virginia	Hampton City Jail	\$1.50	\$1.50	\$1.50	\$1.50
	Pierce County Detention Corrections Center	\$2.74	\$2.74	\$2.74	\$2.74
Washington	Benton County Sheriff's Office	\$6.25	\$6.25	\$6.25	\$6.25

State	Largest Two Counties Served	Advance Connect	Direct Bill	Inmate Debt	Traditional Collect
Wisconsin	Brown County Jail	\$5.75	\$5.75	\$8.50	\$5.75
	Racine County Jail	\$5.00	\$5.00	\$5.00	\$5.00
Wyoming	Laramie County Detention Facility	\$7.80	\$7.80	\$7.80	\$7.80
	Natrona County Detention Center	\$7.07	\$7.07	\$7.07	\$7.07

AdvanceConnect™ is a prepaid calling account that puts you in control of your spending and ensures you can receive calls from correctional facilities. It is our most widely used payment product.

Direct Bill allows you to receive calls from inmates and have the call charges billed directly to you monthly. This account is best suited for attorneys, bail bondsmen, and friends & family of long-stay inmates. A credit check is required to qualify.

Inmate Debit is a prepaid calling account that gives inmates the ability to pay for their own telephone calls. Inmate Debit allows you to add funds directly to an inmate's calling account without having to set up your own account.

A Traditional Collect account conveniently allows you to receive collect calls from inmates and have the call charges included on your monthly bill from your local telephone company.

Source: Securus Call Rate Calculator, collected in September 2013, available at: <https://securustech.net/call-rate-calculator;jsessionid=A7E8C3B43A1C54329F146488E1999BAA.es-wccs02-wccs2>.

EXHIBIT D

Impact of Realignment on County Jail Populations

June 2013

Magnus Lofstrom and Steven Raphael
with research support from Brandon Martin

Supported with funding from the Smith Richardson Foundation

High and Low Jail-Use Counties

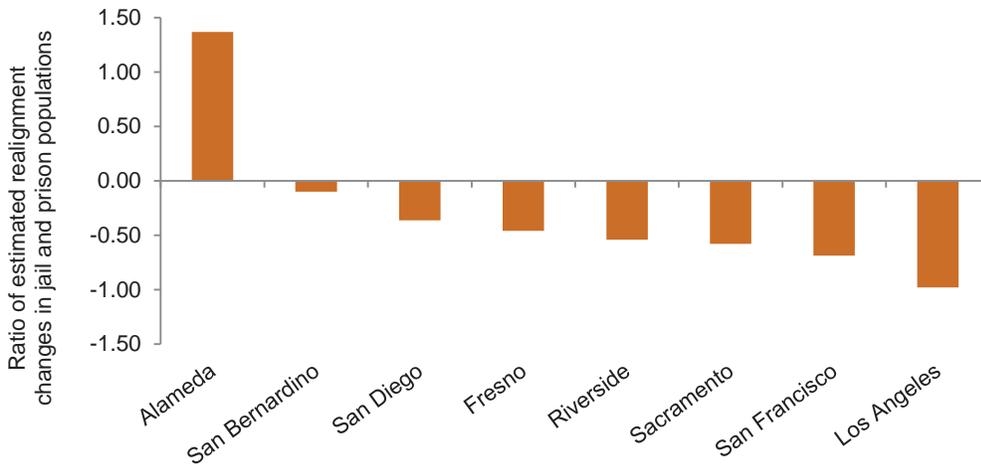
Our analysis of post-realignment jail population growth produced three significant findings:

- Counties differ substantially in their jail incarceration response to realignment.
- Factors other than the realignment dose contribute to the post-realignment changes in the jail population.
- The strongest and most reliable predictors of realignment-adjusted jail population growth are capacity related.

Clearly, the diversion of responsibility for less serious offenders to the counties has increased the population of county jails throughout the state. Our estimates suggest that for every three-person reduction in the prison population caused by realignment, the county jail average daily population has increased by one. Moreover, counties receiving more inmates per capita as a result of realignment also experience relatively larger increases in their jail incarceration rates. However, these responses vary substantially across counties, and the breakdown by court-ordered population caps suggests that capacity constraints are a contributing factor.

Figure 6 presents a measure of the jail-use responses that highlight the range across counties (measures for all counties are shown in Technical Appendix Table A1). The responses represent the ratio of the estimated realignment changes in the jail and prison populations, where -1 represents an increase in the jail population by one for every offender not sent to state prison. The increases in the jail populations in San Diego and Fresno Counties were roughly similar to the overall increases we observed in the state, while in Los Angeles County the jail population increased nearly one-for-one with the reduction in the number of its residents in state prison. At the same time, in a few counties (such as Alameda) the county jail populations declined despite increases in their community corrections caseloads. A number of factors likely contributed to these changes, including the fact discussed above that the realignment dose differs considerably across counties.

FIGURE 6
County jail incarceration responses to realignment



SOURCE: Authors' estimates based on county-level prison admissions and release data provided to the authors by the CDCR and BSCC Jail Profile Survey.

NOTES: The ratios are calculated by first obtaining the change in the respective populations between September 2011 and June 2012. These are then adjusted to account for seasonality and near-term trends by subtracting out the changes between the same months in the year before realignment was implemented (i.e., changes between September 2010 and June 2011). The ratio is then obtained by dividing the adjusted jail population change by the adjusted prison population change. The ratios for all counties, and the changes in jail and prison populations are presented in Technical Appendix Table A1.

Conclusions and Policy Recommendations

California's recent legislation authorizing corrections realignment, AB 109, arguably represents the most significant change in the state's corrections system in decades. This legislation shifted substantial corrections responsibilities and funding from the state to its 58 counties. Motivated by state prison overcrowding, this policy shifts responsibility for managing most lower-level criminal offenders from the state to the counties. Although realignment presents opportunities for reducing expenditures on incarceration and for improving public safety outcomes, there is considerable concern about the impact realignment may have on county jails (including the possibility that the legislation will simply shift the overcrowding problem from the state prisons to county jails). More specifically, apprehensions are increasing with regard to crowded, deteriorating jail conditions (to be followed by lawsuits) as well as with sheriffs lacking the capacity to enforce sanctions and house offenders. The intent of this report has been to shed light on these issues by examining how reductions in the prison population initiated by realignment have affected county jail populations across the state over the first nine months of the new policy's implementation.

We find that the jail population has certainly increased, but not by the magnitude of the corresponding decline in the state prison population. The jail population has increased by an amount equal to roughly one-third of the decline in the state prison population, with most of this driven by an increase in the number of sentenced felons serving their time in county jail. (Parole violators who prior to realignment would be sent to prison constitute another group that exerted pressure on county jails.) Specifically, we estimate that realignment increases the jail population by roughly one inmate for every three-inmate decline in the state prison population. Our analysis also indicates that most of this relationship is driven by relatively large increases in the sentenced jail populations in counties experiencing relatively large doses of realignment (i.e., counties that relied more heavily on state prisons before the policy change).

We find evidence of increasingly binding capacity constraints in the county jail systems; a number of jails statewide are now operating at or above their rated capacity. Our analysis also suggest that newly sentenced realigned felons, as well as released prison inmates now under the jurisdiction of local community corrections, are displacing lower-level offenders from local jails. More specifically, convicted felons sentenced to jail and parolees serving time in jail for parole violations are (at least to a modest degree) displacing pretrial detainees and sentenced inmates serving time for misdemeanor offenses. Our results also provide strong evidence that realignment is leading to increases in early releases of some inmates because of capacity constraints, especially in counties under court-ordered population caps. In cap counties, we estimate that one sentenced inmate per month is released early for every four realigned offenders as a result of housing capacity problems, compared to one early release for every 16 offenders in non-cap counties. Moreover, realignment is increasing pretrial releases at a rate of roughly one for every seven fewer felons sent to prison in cap counties. We do not know how much earlier these releases are occurring, just that these practices have significantly increased as a result of realignment.

Counties vary greatly in how they are using jails in exercising their new responsibilities. To take two extreme examples, the jail population of Los Angeles County has increased almost one-for-one with the number of realigned inmates sent to the county. On the other hand, the jail population of Alameda County has actually declined, despite large increases in their local community corrections caseloads.



Prisoners in 2012

Trends in Admissions and Releases, 1991–2012

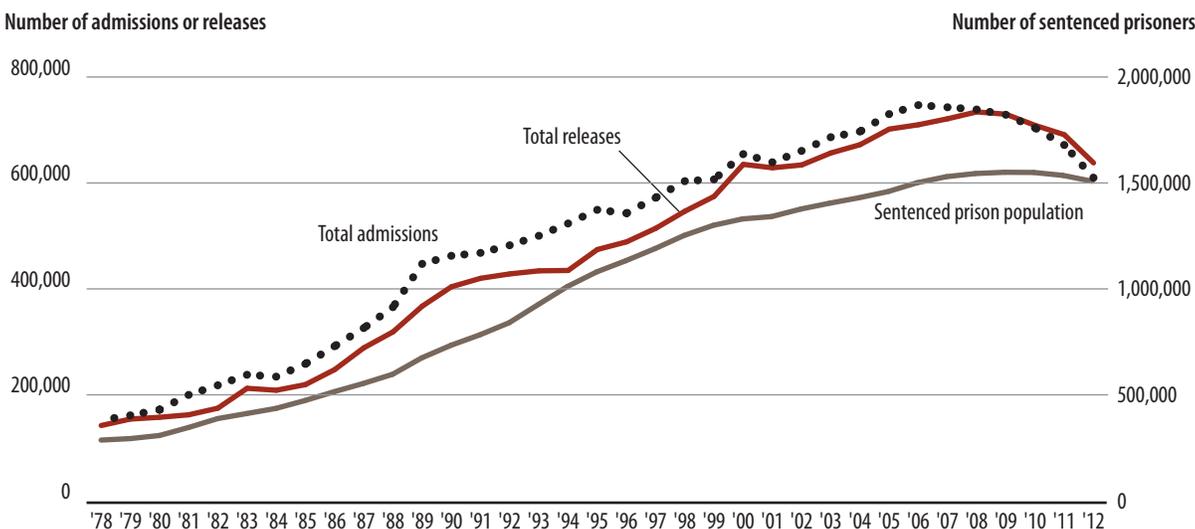
E. Ann Carson and Daniela Golinelli, *BJS Statisticians*

The prisoner population in the United States in 2012 declined for the third straight year, from 1,599,000 at yearend 2011 to 1,570,400 at yearend 2012. On December 31, 2012, the number of persons sentenced to serve more than 1 year (1,511,500) in state or federal prison facilities decreased by 27,400 prisoners from yearend 2011 and by 42,600 from yearend 2009, when the U.S. prison population was at its peak (figure 1). Between 1978 and 2009, the number of prisoners held in federal and state facilities in the United States increased almost 430%, from 294,400 on December 31, 1978, to 1,555,600 on December 31, 2009. This growth occurred because the number of prison admissions exceeded the number of releases from state prisons each year. However, in 2009, prison releases exceeded admissions for the first time in more than 31 years, beginning the decline in the total yearend prison population. Admissions to state and federal prisons

declined by 118,900 offenders (down 16.3%) between 2009 and 2012. In 2012, the number of admissions (609,800) was the lowest since 1999, representing a 9.2% decline (down 61,800 offenders) from 2011.

This report describes changes in the types of state prison admissions and releases between 1991 and 2011. Changes over time in the total yearend prison population are influenced by changes in the number of state prisoners who make up 87% of the total prison population. The report also discusses how these changes influence sex, race, Hispanic origin, offense, and sentence length distributions. The statistics in this report are based on the Bureau of Justice Statistics' (BJS) National Prisoner Statistics (NPS) Program, National Corrections Reporting Program, and the 1991 and 2004 surveys of state prison inmates.

FIGURE 1
Sentenced state and federal prison admissions and releases and yearend sentenced prison population, 1978–2012



Note: Counts based on prisoners with a sentence of more than 1 year. Excludes transfers, escapes, and those absent without leave (AWOL). Includes other conditional release violators, returns from appeal or bond, and other admissions. Missing data were imputed for Illinois and Nevada (2012) and the Federal Bureau of Prisons (1990–1992). See *Methodology*.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 1978–2012.

APPENDIX TABLE 7
Prisoners held in the custody of private prisons and local jails, December 31, 2011 and 2012

Jurisdiction	Inmates held in private prisons ^a				Inmates held in local jails			
	2011	2012	Percent change 2011–2012	Percentage of total jurisdiction, 2012	2011	2012	Percent change 2011–2012	Percentage of total jurisdiction, 2012
U.S. Total	130,972	137,220	4.8%	8.7%	82,053	83,603	1.9%	5.3%
Federal^b	38,546	40,446	4.9	18.6	1,439	795	-44.8	0.4
State	92,426	96,774	4.7%	7.1%	80,614	82,808	2.7%	6.1%
Alabama	545	538	-1.3	1.7	2,148	2,382	10.9	7.3
Alaska ^c	1,688	1,733	2.7	30.8	0	0	0.0	0.0
Arizona	6,457	6,435	-0.3	16.1	0	0	0.0	0.0
Arkansas	0	0	0.0	0.0	883	584	-33.9	4.0
California	697	608	-12.8	0.5	57	0	-100.0	0.0
Colorado	4,303	3,939	-8.5	19.3	116	134	15.5	0.7
Connecticut ^c	855	817	-4.4	4.7	0	0	0.0	0.0
Delaware ^c	0	0	0.0	0.0	0	0	0.0	0.0
Florida	11,827	11,701	-1.1	11.5	1,267	1,197	-5.5	1.2
Georgia	5,615	7,900	40.7	14.2	3,100	4,896	57.9	8.8
Hawaii ^c	1,767	1,636	-7.4	28.1	0	0	0.0	0.0
Idaho	2,332	2,725	16.9	34.1	588	467	-20.6	5.8
Illinois ^d	0	/	/	/	0	/	/	/
Indiana	2,952	4,251	44.0	14.7	1,504	797	-47.0	2.8
Iowa	0	0	0.0	0.0	0	0	0.0	0.0
Kansas	74	83	12.2	0.9	1	0	-100.0	0.0
Kentucky	2,050	812	-60.4	3.7	7,190	8,487	18.0	38.4
Louisiana	2,951	2,956	0.2	7.4	20,866	21,571	3.4	53.7
Maine	0	0	0.0	0.0	110	72	-34.5	3.4
Maryland	78	27	-65.4	0.1	151	178	17.9	0.8
Massachusetts	0	0	0.0	0.0	163	196	20.2	1.7
Michigan	0	0	0.0	0.0	36	42	16.7	0.1
Minnesota	0	0	0.0	0.0	562	614	9.3	6.2
Mississippi	4,669	4,334	-7.2	19.4	5,996	6,528	8.9	29.2
Missouri	0	0	0.0	0.0	0	0	0.0	0.0
Montana	1,418	1,418	0.0	39.3	523	488	-6.7	13.5
Nebraska	0	0	0.0	0.0	56	32	-42.9	0.7
Nevada ^d	0	/	/	/	100	102	2.0	0.8
New Hampshire	0	0	0.0	0.0	20	43	115.0	1.5
New Jersey	2,887	2,717	-5.9	11.7	200	109	-45.5	0.5
New Mexico	2,853	2,999	5.1	44.6	0	0	0.0	0.0
New York	0	0	0.0	0.0	14	0	-100.0	0.0
North Carolina	30	30	0.0	0.1	0	0	0.0	0.0
North Dakota	0	0	0.0	0.0	55	106	92.7	7.0
Ohio	3,004	5,343	77.9	10.5	0	0	0.0	0.0
Oklahoma	6,026	6,423	6.6	25.5	2,088	2,373	13.6	9.4
Oregon	0	0	0.0	0.0	0	0	0.0	0.0
Pennsylvania	1,195	1,219	2.0	2.4	609	489	-19.7	1.0
Rhode Island ^c	0	0	0.0	0.0	0	0	0.0	0.0
South Carolina	20	16	-20.0	0.1	366	374	2.2	1.7
South Dakota	11	15	36.4	0.4	73	64	-12.3	1.8
Tennessee	5,147	5,165	0.3	18.2	8,660	8,618	-0.5	30.3
Texas	18,603	18,617	0.1	11.2	11,906	10,814	-9.2	6.5
Utah	0	0	0.0	0.0	1,529	1,574	2.9	22.6
Vermont ^c	522	504	-3.4	24.8	0	0	0.0	0.0
Virginia	1,569	1,559	-0.6	4.2	7,474	7,389	-1.1	19.9
Washington	0	0	0.0	0.0	386	279	-27.7	1.6
West Virginia	0	0	0.0	0.0	1,677	1,735	3.5	24.5
Wisconsin	36	18	-50.0	0.1	149	70	-53.0	0.3
Wyoming	245	236	-3.7	10.7	9	4	-55.6	0.2

Note: As of December 31, 2001, sentenced felons from the District of Columbia are the responsibility of the Federal Bureau of Prisons. /Not reported.

^aIncludes prisoners held in the jurisdiction's own private facilities, as well as private facilities in another state.

^bIncludes federal prisoners held in nonsecure, privately operated facilities (8,932), as well as prisoners on home confinement (2,659).

^cPrisons and jails form one integrated system. Data include total jail and prison populations.

^dState did not submit 2012 National Prisoner Statistics (NPS) Program data. Local jail value for Nevada estimated based on 2011 data.

Source: Bureau of Justice Statistics, National Prisoner Statistics Program, 2011, 2012.

EXHIBIT E



STATE OF ALABAMA
PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130

TWINKLE ANDRESS CAVANAUGH, PRESIDENT

JOHN A. GARNER, EXECUTIVE DIRECTOR

JEREMY H. ODEN, ASSOCIATE COMMISSIONER

TERRY DUNN, ASSOCIATE COMMISSIONER

Re: GENERIC PROCEEDING CONSIDERING THE)
PROMULGATION OF TELEPHONE RULES) DOCKET 15957
GOVERNING INMATE PHONE SERVICE)

ERRATA AND SUBSTITUTE ORDER PROPOSING REVISED INMATE PHONE
SERVICE RULES AND ESTABLISHING A COMMENT PERIOD

BY THE COMMISSION:

On October 1, 2013, the Commission issued an Order in the above styled proceeding, proposing revised Inmate Phone Service rules and establishing a period, through November 8, 2013, during which interested parties may submit to the Commission comments regarding the proposed changes to the Inmate Phone Service rules.

The Commission's Order of October 1, 2013 is hereby amended by the errata as noted below:

ERRATA

<u>PAGE</u>	<u>LOCATION</u>	<u>AMENDMENT</u>
Page 1	Order heading	Substitute "GOVERNING" for "GOVERING"
Page 4	Paragraph 1, line 5	Substitute "confinement facility." for "inmate facility."
Page 5	Paragraph 1, line 3	Strike: "Opportunities are available for ICS customers to call parties whose residence in relation to the inmate facility would normally be rated as a toll call using the local call rate."

Substitute: “Opportunities are available for ICS customers to utilize the local calling rate for calls to recipients located outside the confinement facility’s local calling area.”

- | | | |
|---------|------------------------|---|
| Page 8 | Paragraph 1, line 6 | Strike: “maximizing commissions to”

Substitute: “the percentage commission offered” |
| Page 8 | Paragraph 1, line 7 | Strike: “no voice whatsoever in the selection of their provider and no choice with regard to the rates they must pay and the provider’s customer service.”

Substitute: “no choice whatsoever in the selection of their provider, the rates charged, and the provider’s service quality.” |
| Page 11 | Paragraph 3, line 2 | Replace “\$0.25 per-minute” with “\$0.25” |
| Page 11 | Paragraph 4, line 6 | Replace “and the existing” with “at the existing” |
| Page 13 | Paragraph 1, line 2 | Replace “expensive, some” with “expensive. Some” |
| Page 17 | Paragraph G(6), line 2 | Replace “as provide in paragraph H” with “as provided in paragraph I” |
| Page 19 | Paragraph 1, line 4 | Replace “F(5)” with “G(6)” |
| Page 20 | Paragraph 3, line 4 | Replace “inquiries, shall” with “inquiries, and shall” |
| Page 22 | Paragraph 3, line 2 | Strike the duplicate period at the end of the sentence |
| Page 23 | Paragraph 3, line 4 | Strike: “unused account balances may be made via check or credits to the customer’s credit/debit card. for prepaid ICSand VVS .”

Substitute: “unused account balances for prepaid ICS and VVS may be made via check or credits to the customer’s credit/debit card.” |
| Page 23 | Paragraph 3, line 6 | Strike the duplicate period at the end of the sentence |
| Page 23 | Paragraph 4, line 9 | Amended to: “used to determine whether abandoned property” |

Page 24	Paragraph 2, line 5	Strike “submitted” and replace with “remitted”
Page 24	Paragraph N, listed items (1), (2) and (3)	Strike: “ICS minutes and associated revenue” Substitute: “ICS minutes, number of calls, and associated revenue”

This Order, amended for the errata listed above, is substituted for and takes the place of the Order entered in the above-referenced Docket on October 1, 2013.

I. BACKGROUND

In the Commission’s November 6, 2012 Order for the above styled proceeding, the Commission staff proposed changes to Commission Telephone Rule T-15.1 for Inmate Phone Service (IPS). Specifically, the staff sought comments from IPS providers on whether the existing local and toll IPS rates, consisting of an operator surcharge and a usage component, should be replaced with a usage rate only. Additionally, staff addressed the charges applied to customer bills when collect calls are terminated to local service providers that do not have collect call billing arrangements with IPS providers and whether such charges should be allowed in excess of the tariff rates for the calls. Comments were solicited from interested parties.

On January 25, 2013, staff submitted a data request to IPS providers for the following information with responses due by March 15, 2013:

1. Revenue and expenses for the most recent three-year period.
2. IPS revenues and minutes of use separated into local, intraLATA toll and interLATA toll categories.
3. Identification of fees charged IPS customers for submitting payment via Western Union and Moneygram, and the fees charged IPS customers by third-parties for billing and collection of IPS charges.
4. Description of each type fee charged plus the total fees assessed IPS customers by fee type.
5. Number of text-to-collect charges assessed IPS customers and the total charges assessed.
6. Credit card fees assessed IPS customers.
7. Refunds and unclaimed property reports filed with the State Treasurer.
8. Alabama Gross Receipts Tax collections and remittances.

9. Whether online and paper account statements are available to customers.

On May 14, 2013, staff submitted another data request to IPS providers requesting the following additional information with responses due by June 17, 2013:

1. How USF fees are assessed by the provider for their IPS and USF remittances.
2. Whether sales taxes are charged by the provider for IPS.

Additionally, staff viewed the FCC workshop on reforming inmate calling services, streamed over the internet on July 10, 2013. Following the workshop, the FCC, on August 9, 2013, issued a news release that it is taking immediate action to reduce interstate inmate calling service rates.

The FCC's reforms are summarized as follows:

- Requires that all interstate inmate calling rates, including ancillary charges, be based on the cost of providing the inmate calling service
- Provides immediate relief to exorbitant rates:
- Adopts an interim rate cap of \$0.21 per minute for debit and pre-paid calls and \$0.25 per minute for collect calls, dramatically decreasing rates of over \$17 for a 15-minute call to no more than \$3.75 or \$3.15 a call
- Presumes that rates of \$0.12 per minute for debit and prepaid calls (\$1.80 for a 15-minute call) and \$0.14 cents per minute for collect calls (\$2.10 for a 15-minute call) are just, reasonable and cost-based (safe-harbor rates)
- These rates include the costs of modern security features such as advanced mechanisms that block calls to victims, witnesses, prosecutors and other prohibited parties; biometric caller verification; real-time recording systems; and monitoring to prevent evasion of restrictions on call-forwarding or three-way calling
- Concludes that "site commissions" payments from providers to correctional facilities may not be included in any interstate rate or charge
- Clarifies that inmates or their loved ones who use Telecommunications Relay Services because of hearing and speech disabilities may not be charged higher rates
- Requires a mandatory data collection, annual certification requirement, and enforcement provisions to ensure compliance with this Order
- Seeks comment on reforming rates and practices affecting calls within a state
- Seeks comment on fostering competition to reduce rates

Based on the additional information obtained by staff and the FCC's action, staff determined that changes to Commission Rule T-15.1 as proposed in the Commission Order of November 6, 2012 are insufficient to address needed reforms in Alabama IPS. Consequently, staff substitutes the proposed revisions to Commission Rule T-15.1 referenced herein for those provided in the rulemaking proceeding established by the November 6, 2012 Commission Order.

II. GENERAL

A. "Inmate Calling Service" Adopted as Service Description

Previous Commission Orders under this Docket and Commission Rule T-15.1 use the terminology "Inmate Phone Service" to describe the telecommunications service provided to those incarcerated in prisons and jails in Alabama. The FCC identifies these services as "Inmate Calling Service". For consistency, staff will hereafter refer to the telecommunications service provided to those incarcerated in prisons and jails in Alabama as "Inmate Calling Service" (ICS).

B. ICS Service in Alabama

Service at confinement facilities is offered under contract with a single ICS provider. Competition for the contracts is intense. In Alabama and many other states, confinement facilities are allowed to receive commissions on ICS revenues at their facilities. The commissions can be as much as 80 percent or higher.

ICS is provided via collect calling, debit accounts, prepaid accounts, and direct billing arrangements. Both debit and prepaid calling accounts are prepaid service. The distinction between the two is that the purchaser of prepaid service pays only for inmate calls to their local telephone number. For debit service, the inmate chooses to use their funds to pay for a call to any phone number that is not otherwise blocked by the confinement facility. Direct billed accounts are established by ICS providers for credit-worthy individuals, bail-bond services, attorneys, public agencies, etc., typically with a credit limit. Debit and Prepaid service are currently the dominant ICS options.

Some confinement facilities require inmates to submit a list of the numbers they intend to call using debit calling service. The maximum duration of inmate calls is in accordance with individual confinement facility policy. Twenty minutes is generally the maximum time allotted. Confinement facilities require that calls be monitored electronically with the capability for a member of the facility staff to listen to conversations as desired. Key words and phrases are scanned, via software, and flagged for additional attention. Three-way calls are prohibited and software is usually provided to detect the presence of such calls.

Video Visitation is a burgeoning inmate calling service. Video Visitation is provided for both the inmates and their visitors at the inmate facility or the “visitor” may connect remotely using a PC with a web camera and high-speed internet connection at home, work, or elsewhere. Additionally some ICS providers offer recorded video messages that can be downloaded by the inmate, as well as inmate email, and text messaging services. Such services are relatively new and are therefore not addressed in previous Commission ICS proceedings.

C. Inmate Calling Rates and Fees

Existing Alabama ICS usage rates are established in two tiers, one for local and one for toll calls. The rate structure was established when collect calling was the dominant service platform. It includes a flat-rate operator surcharge of \$2.25 per local or toll call. The usage charges are capped at \$0.50 per local call and \$0.30 per minute for toll calls. Local calls are thus capped at \$2.75 (\$2.25 operator surcharge plus \$0.50 for usage). The charge for toll calls depends on call duration. For a twenty-minute toll call, as an example, the ICS customer is charged \$8.25 (\$2.25 plus \$0.30 per minute).

Predictably, the economics of such a rate structure incents ICS customers toward local calling when possible, particularly for inmates incarcerated for more than a temporary period. Opportunities are available for ICS customers to utilize the local calling rate for calls to recipients located outside the confinement facility’s local calling area. One of the most common ways to accomplish this is for the inmate’s called party to acquire a cellular phone whose number is within the confinement facility’s wireline local calling area. Another is using a service such as “Cons Call Home”, where for a monthly fee of \$7.50, the called party is provided with a number that is local to the inmate facility or a toll free number. Calls to the local or toll free number is

routed by the service to the called party. Consequently, most ICS traffic in Alabama is rated as local calls. The percentage of ICS minutes at Alabama confinement facilities that are rated as local calls ranges from 56.4% to 93.6% with a statewide average of 81%.

In addition to the tariffed charges for calls, ICS providers typically assess fees for various aspects of the service including an account maintenance fee, biometric or voice verification fee, billing cost recovery fee, bill processing fee, bill statement fee, carrier cost recovery, etc. ICS customers who pre-pay by money transfer at Western Union or MoneyGram are charged a fee by those financial services. ICS providers can influence the amount of the fee charged by Western Union or MoneyGram based on negotiated arrangements with those financial services. Additionally, ICS customers pay the State Utility Gross Tax assessed to the price of their local and intrastate services as well as the Federal Universal Service Fund fee and the Federal TRS Fund fee applicable to interstate calls.

Purchasers of prepaid ICS usually have several payment options. Payment can be made by check or money order. Credit/debit cards can be used on the internet or over the phone using either interactive voice response (IVR) or a live agent. Purchasers may pay using a money transfer service such as Western Union or Money Gram. Kiosks are also available at some confinement facilities providing the capability of depositing funds for prepaid accounts or debit accounts via cash or credit card. Inmates may also transfer funds from their trust/commissary accounts to their inmate phone debit account.

D. ICS Has Evolved

ICS has evolved from exclusive reliance on the public switched network to service routed over an internet protocol (IP) based platform to the provider's switch, frequently located out-of-state. The calls are subsequently routed to their destination over the provider's trunks or those of an underlying carrier. Therefore, there is little difference in provider cost for calls that terminate in the local calling area of the inmate facility and those that terminate outside the inmate facility's local calling area. The use of IP technology avoids originating access expense. Terminating access expenses are incurred.

Collect calls represent a relatively small and declining percentage of ICS traffic. One reason for the shift to prepaid ICS is lower costs for the provider. Prepaid ICS eliminates the

substantial expense of billing agreements and the uncollectable receivables associated with local service provider billing. Additionally, many wireless providers refuse to accept ICS collect calls and the number of ILECs and CLECs that accept ICS collect calls is declining. To ensure the completion of collect calls by local wireline and wireless providers that refuse to accept and bill for collect ICS calls, ICS providers rely on prepaid calling options and/or third-party billing and collection services. Called parties may be charged a bill statement fee when third-party billing and collection services are used by their ICS providers.

Most wireless providers do not offer billing of collect calls creating an opportunity for third-party services to enter into agreements with ICS providers and wireless companies for completing the calls. One such service is “text-to-collect”. The wireless recipient of an attempted collect ICS call is sent a premium text message from the third-party service identifying the calling party and offering to complete the call for a charge of \$9.99. The maximum duration of the call is subject to confinement facility policy; usually no more than 20 minutes and frequently less. Regardless of whether the call lasts 1 minute or 20 minutes, the charge is \$9.99. Based on research, staff estimates the ICS provider receives 45 to 50% of the \$9.99 charge, the wireless provider receives 35 to 40%, and the third-party “middleman” receives the remainder. The premium text message is then billed directly to the wireless customer by the wireless provider. No additional usage charges apply. From the charges assessed the wireless caller, confinement facilities typically receive 30 cents or less commission per call (3% of the total charge).

The lure of such lucrative margins creates a further incentive to eliminate the “middle man” third-party and the wireless provider altogether. At least one ICS provider is doing so under a program called “pay now”. Attempted collect calls to wireless or un-billable wireline parties are temporarily connected to the called party for a short “free call”. However, the provider uses an automated operator to identify the calling party and offers to continue the call for a charge of \$14.99 billed to the recipient’s debit or credit card. Staff has listened to the messages that accompany such calls. The called party is advised that \$1.80 of the charge is for the call and the remaining \$13.19 is a call processing charge. Like “text-to-collect” calls, the maximum duration of the call is subject to confinement facility policy. Regardless of whether the call lasts 1 minute or 20 minutes, the charge is \$14.99. No additional usage charges apply.

From the charges assessed the called party, staff understands that confinement facilities typically receive \$1.60 or less commission (approximately 11% of the total charge).

More ICS providers are likely to pursue “pay now” type call processing, leading staff to conclude that the percentage of inmate calls billed in this manner will increase. According to ICS provider, IC Solutions¹, more than 25 percent of calls at some inmate facilities across the nation are being completed as “pay now” and text-to-collect calls. As more calls are completed using “text-to-collect” and “pay now”, the average price for inmate calling will trend upward regardless of regulatory caps established for ICS usage rates and authorized fees. Additionally confinement facilities, regardless of the contractual percentage commission pledged by ICS providers, will experience decreasing commissions compared to what they would receive from other prepaid, debit, and collect calls.

III. ICS REFORM

A. Commissions Paid to Confinement Facilities

Whether confinement facilities should be allowed to receive commissions from ICS, and the extent thereof, is a decision reserved for state and local policy makers with fiscal oversight for prisons and jails, not the state agency responsible for regulating service provision, pricing, billing, customer relations, and other terms and conditions of ICS at those confinement facilities. Consequently, the Commission takes no position on policy that authorizes or does not otherwise restrict the payment of commissions to confinement facilities from ICS. Nevertheless, staff believes the decision for selection of the exclusive provider of ICS service at a confinement facility, from a group of providers competing for the contract, could be disproportionately influenced by the percentage commission offered the confinement facility. The actual users of ICS services have no choice whatsoever in the selection of their provider, the rates charged, and the provider’s service quality. Therefore, Commission regulation of provider rates and service is undertaken as a proxy for fair market competition to ensure that inmates and their families are provided the highest quality service and customer support at prices that are just and reasonable.

¹ IC Solutions, Bid No. WG13-01, Presented to Baldwin County, Alabama, November 14, 2012, “Rates & Commission (Completed Schedule B)”, Tab 6, Page 4.

In recognition of existing public policy, staff recommendations addressed herein considers the financial interests of ICS customers, ICS providers, and inmate confinement facilities. In the event that public policy regarding commission payments to confinement facilities changes, the staff recommendations in this order shall be revisited and adjusted accordingly.

In the August 9, 2013 announcement capping interstate ICS rates, the FCC presumed the cost of ICS is currently \$0.12 per minute for debit and prepaid ICS calls and \$0.14 per minute for collect ICS calls². ICS providers are promising commissions of 80% or higher to some confinement facilities. Staff calculates the average ICS revenue per call in Alabama at \$0.27 per minute, 80% of which equates to \$0.216 per minute commission. Staff is perplexed at how ICS providers can commit to paying confinement facilities a commission of 21.6 cents on a call that costs the provider 12 cents (total cost to the provider of 33.6 cents) yet generates only 27 cents in revenue. Either ICS providers are operating at a loss, are generating revenue by means other than inmate calls, or are shielding some portion of ICS revenue from commissions. As previously discussed, one way to reduce commissionable ICS revenue is through “text collect” and “pay now” calls. Another way to reduce the revenue against which commissions apply is by shifting a higher proportion of ICS revenues to fees assessed by the provider.

Staff considers the ICS “baseline offering” as debit or prepaid service paid by check or money order with no associated payment processing fee and an online customer account activity statement. With payment by money order or check, customer funds are devoted entirely to ICS service but there is a delay in establishing service availability. Many inmates processed into city/county jails are released after hours or days. Consequently, payment by check or money order is not always viable. Therefore, many customers choose collect calling or the expeditious establishment of prepaid service via money transfers, kiosks, or by credit/debit card. These “above baseline” ancillary services result in additional provider costs. Staff considers these legitimate business costs that the ICS provider should be provided an opportunity to recover. The Commission emphasizes, however, that ICS fees authorized by the Commission are intended

² Staff believes the presumed costs referenced by the FCC are more applicable to high occupancy state and federal correctional facilities but significantly underestimate the average costs applicable to smaller city/county confinement facilities.

only to recover actual provider costs, not generate net income for the ICS provider and/or revenue for the confinement facility. Consequently, confinement facilities shall not seek/accept nor shall ICS providers offer/pay commissions to confinement facilities from ICS customer fees.

The funds most ICS customers can afford to devote to inmate calls are finite. Therefore, any proportion absorbed by unnecessary or excessive ICS provider fees decreases the amount devoted for inmate calls and reduces commissionable revenue. The interests of ICS customers and confinement facilities are best served by eliminating unnecessary or excessive provider fees and thereby maximizing customer funds available for inmate calls. Furthermore, restricting commissionable revenue to ICS usage makes it far easier for confinement facilities to verify they are being paid the full extent of commissions due from the ICS provider.

B. Calls to Recipients Whose Providers Do Not Accept Collect Calls

Staff considers the charges associated with “text-to-collect” and “pay now” ICS call processing to be exorbitant and an obstacle to ensuring that ICS rates are affordable for consumers. “Pay now” call processing demonstrates that “text-to-collect” is not a necessary method for completing calls to customers whose providers refuse to bill collect calls. Staff finds no reason why the ICS provider can’t offer the called party the option to “pay now” and/or the opportunity to establish a prepaid account using the call processing fees and usage rates approved by the Commission.

Staff recommends that “text-to-collect” be prohibited from intrastate ICS in Alabama. Staff further recommends that any “pay now” option for collect calls be restricted to the applicable usage rates and payment processing fees recommended in paragraphs E and F below.

C. Applicable State Taxes

Staff sought guidance from the Alabama Department of Revenue (“ADOR”) on whether the State Utility Gross Receipts Tax or sales taxes apply to ICS. On August 13, 2013, the Commission received a response from the Assistant Director, Sales and Use Tax Division of ADOR (Attachment A). ADOR’s guidance is that the six-percent (6%) State Utility Gross Receipts Tax applies to all ICS local service, intrastate toll and interstate toll charges. Local and State sales taxes do not apply to ICS charges. Section 40-21-80 (11), Code of Alabama, provides

that the tax shall not be applied to provider fees and/or "...services which are ancillary to the provision of telephone service but are not directly related to the transmission of voice, data, or information...". Additionally, the tax is not applicable to government mandated fees.

D. No Up-Front Assessment of Taxes and Government Fees

The provider is unable determine the nature of the calls and their duration until the calls are rated. Consequently, ADOR guidance (Attachment A) is that the State Utility Gross Receipts Tax be applied only as the service is used. Taxes³ and government mandated fees⁴ applicable to ICS in Alabama shall be assessed to each call at the time of the call and not beforehand.

E. ICS Usage Charges

Based on information reported by ICS providers in the staff's January 25, 2013 data request, the composite ICS local and toll revenue, including operator surcharges and usage charges, averaged \$0.27 per minute in Alabama (total reported local and toll ICS calling revenue divided by total reported local and toll minutes).

On August 9, 2013, the FCC capped the price for interstate ICS calls at \$0.21 per minute for prepaid calls and \$0.25 per minute for collect calls with no call set-up allowance. The FCC rates presume that ICS provider costs average \$0.12 per minute for prepaid calls and \$0.14 per minute for collect calls. The staff considered mirroring the FCC rate caps. However, those rates do not take into consideration commissions to confinement facilities. On the other hand, the FCC failed to acknowledge the anticipated effects of call volume stimulation, which can be substantial, increasing both ICS provider revenue and corresponding commissions. Additionally, Intercarrier Compensation Reform is decreasing access costs. Terminating access rates are at interstate levels throughout the state and are being phased down to zero.

The existing ICS rate structure in Alabama is designed for a collect calling service platform with live operator interaction. However, collect calls comprise only a small percentage of total ICS traffic. ICS consists primarily of debit and prepaid calls with direct dialing to the

³ The three percent (3%) Federal Excise Tax on local telephone service is not applicable to ICS.

⁴ The USF fee and Federal Telephone Relay Service ("TRS") Fund fee are applicable only to interstate calls.

authorized telephone number pre-approved by the inmate facility. Operator services are not applicable. Additionally, collect calls are fully automated requiring no live operator interaction.

Staff recommends elimination of existing operator surcharges and establishment of a single per-minute, postalized rate of \$0.25 applicable to both local and toll calls, and to both prepaid and collect calls. Like the FCC ICS rates, the staff's recommended ICS rate is intended to recover all associated ICS biometrics and security monitoring costs. Call durations shall be rated in increments of no greater than one (1) minute.

ICS providers at the FCC workshop testified that postalized ICS call rates (single per-minute rate for calls) and/or lower per-minute rates result in increased call volume. In some cases, the usage stimulation is extensive (above 100%). One ICS provider in Alabama confided to staff that they converted their ICS local rates in Alabama to a postalized rate of \$0.15 per-minute, equating to a 46% decrease in price based on the average duration of a local ICS call in Alabama at the existing rate cap for local calls. Nevertheless, the provider reports that total revenue remained unchanged due to the effects of call stimulation. Staff anticipates that a postalized rate structure and elimination of unnecessary or excessive ICS fees will significantly increase the volume of inmate calls. Along with staff measures addressing "text-to-collect" and "pay now" call delivery, the total commissionable revenue at confinement facilities is expected to increase accordingly.

F. Video Visitation Authority, Rates, and Other Inmate Services

Video Visitation Service ("VVS") is relatively new to Alabama confinement facilities. The service is offered by some certificated ICS providers and by others who do not currently possess a Certificate of Public Convenience and Necessity ("CPVN"). VVS is telephone calling accompanied by video images captured by webcams on either the instrument or via a webcam attachment to a personal computer. VVS is not internet service and those offering the service are not internet service providers. Confinement facilities do not authorize inmate subscription to traditional internet service. In fact, much of VVS is provided exclusively to both parties within the confinement facility. The audio and video, like traditional ICS, is transmitted over broadband facilities. It is essentially enhanced ICS.

VVS offers significant advantages to inmate family and friends. Children are frequently barred from visitation areas in confinement facilities. Without VVS, many inmates and their children have little to no opportunity for face-to-face contact. Studies show that such contact between inmate parents and their children not only lowers the recidivism rate among inmates but decreases the delinquency rate of their children. VVS can also amount to a substantial travel-related cost savings for inmate families, particularly if they live a significant distance from the confinement facility and have access to a computer with web cam. The convenience of remote VVS may also lead to more frequent “visitation”. In some areas, Richmond, VA for one, local churches with prison ministries have established sites with web cam equipped computers for inmate families to utilize the service.

Confinement facilities find VVS advantageous. Traditional visitation areas pose a security risk in terms of transporting inmates to and from visitation. Additionally, contraband is sometimes smuggled to inmates during visitation. The confinement facility must dedicate personnel to transport and monitor inmates during visitation. With in-house VVS, inmate families including their children, may access a VVS terminal located in a secure area of the facility for a “visit” with the inmate at another VVS terminal located inside the cell block. VVS from home or another remote site must be scheduled and approved beforehand.

VVS is not without its potential issues. Many inmates prefer the live face-to-face visitation. Additionally, confinement facilities may be inclined to eliminate free live visitation, especially with the revenue incentive associated with VVS. The service can be relatively expensive. Some ICS providers are charging up to \$1.00 per minute for VVS.

There are non-ICS providers offering VVS to confinement facilities. Among them are Turnkey Corrections, a manufacturer of kiosks and a provider of inmate canteen services; and Homewav. Turnkey Corrections offers VVS for \$0.35 per minute while Homewav provides the service for \$0.50 per minute. Both companies offer commissions to confinement facilities. However, ICS providers offer VVS at rates that are as much as \$1.00 per minute (double the rate of Homewav and nearly triple the Turnkey rate).

VVS is an ICS and, therefore, falls under the Commission’s regulatory jurisdiction. Consequently, providers of VVS in Alabama must possess a CPCN from the Commission. Staff recommends that ICS providers in Alabama that possess a CPCN for ICS from the Commission,

on or before the date of the final order in this rulemaking proceeding, be granted additional VVS authority. Those offering VVS without a CPCN from the Commission must request such authority within 90 days from the date of the final order in this proceeding or cease providing the service.

Staff recommends that the per minute rate for VVS be capped at \$0.50 per minute, with billing increments of no greater than one (1) minute, until such time as ICS providers individually submit to the Commission detailed cost studies for ICS and petition the Commission for alternative rates. Staff's recommended rate cap is based on the VVS rate currently charged by ICS competitor, Homewav, and allows for commissions paid to the confinement facilities.

The provider will not fix the charges for VVS based on minimum call duration. For instance, providers will not offer VVS for \$10.00 with a twenty-minute call allowance regardless of actual call duration. VVS will be priced at the capped rate applied to the actual call duration. Downloadable VVS recorded messages will be capped at \$1.00 for the first minute and \$0.50 for each additional recorded minute. The maximum fees and ancillary charges referenced in Part G (below) are applicable to VVS as are the State Utility Gross Receipts Tax and government mandated fees referenced herein. Affordable VVS rates are in the best interests of Alabama inmates, their families, and the confinement facilities.

Staff requests comments from interested parties on whether the rates for email and text messaging services offered by ICS providers should be capped by the Commission and, if so, at what rates.

G. ICS Fees and Ancillary Charges

Staff emphasizes that authorized fees for ICS service are intended only to recover actual costs incurred by the ICS provider. They are not a profit center for the service provider nor are they to be a source of commissionable revenue for the inmate facility. Any evidence to the contrary constitutes tacit admission that the approved fees are above provider cost. All fees and charges assessed by the ICS provider must be approved by the Commission and will be included in the provider's tariff on file with the Commission.

(1) Payment Processing Fees

Based on the method of payment selected by the purchaser of ICS, costs are incurred by the provider. The ICS customer will be provided the opportunity of paying for debit/prepaid ICS service, via check or money order, without incurring a payment processing fee. Other payment methods that provide establishment of service more expeditiously result in additional costs to the provider from credit or debit card processing services, costs for establishing web-based payment interfaces, costs for IVR and live customer payment processing service, and the costs of providing and servicing kiosks at confinement facilities. Staff recommends recognition of the following maximum fees:

- (a) Payment by check or money order - No charge
- (b) Website payment⁵ via credit or debit card – \$3.00
- (c) IVR phone payment (footnote 5) via credit or debit card - \$3.00
- (d) Live agent phone payment (footnote 5) via credit or debit card - \$5.95
- (e) Kiosk payment (footnote 5) via cash, credit, or debit card - \$3.00
- (f) Money Transfer services (Western Union and MoneyGram) – Staff recognizes that these fees are set by these financial services but is also aware that agents hosting such services are paid a portion of the fee. Additionally merchants may negotiate the fee charged their customers. Staff emphasizes that ICS providers are prohibited from receiving any portion of fees paid by their customers to third-party financial services for submission of payments for ICS and/or for transferring funds into inmate accounts. Any evidence that ICS providers are benefitting financially from fees charged their prospective or existing customers by third-party money transfer services and/or that ICS providers are paying confinement facilities commissions therefrom, constitutes tacit admission that the fees are excessive and shall subject the

⁵ The provider will not establish a ceiling on the payment that may be submitted by a customer, regardless of payment method utilized. Such artificial barriers deprive the customer of available “economies of scale” with little increase in the provider’s actual costs. The staff believes such ceilings can be used to force customers into paying the provider’s processing fees more frequently. Consequently, the maximum payment processing fees referenced herein are flat-rated regardless of the payment amount and method of payment.

provider to Commission regulatory action including, but not limited to, customer refunds with interest. All ICS providers shall submit, for informational purposes to the Commission, the transaction fee charged their customers by Western Union and MoneyGram for ICS payments and will update this information as the fees change. Staff will compare fees submitted by all ICS providers and require justification from ICS providers for any observed anomalies.

ICS providers shall fully inform customers on their websites of all the payment methods available, the payment processing charges associated therewith, including the money order and check payment option available at no charge, and the estimated time required to establish ICS service applicable to each payment option.

(2) Bill Processing Fees

- (a) Collect Calls – ICS providers must pay third-party processing and LEC charges for adding charges to local exchange carrier (“LEC”) bills. Staff recommends a maximum fee of \$3.00 regardless of the number of calls included on the customer’s bill.
- (b) Bill processing fees are not authorized for debit, prepaid, and direct-billed ICS. The Commission considers such costs normal business overhead recovered via the authorized ICS usage charge.

- (3) Convenience Fee – ICS providers are typically required to invest in software interfaces with inmate trust/canteen accounts for purposes of transferring inmate funds into ICS debit accounts. Additionally, inmate trust/canteen service providers typically assess ICS providers a percentage of the inmate funds transferred as a fee for the service. Usually, the transfers are very small amounts (\$3 to \$5). The staff recommends a maximum convenience fee of five-percent (5%) of the funds transferred into the inmate’s ICS account for purposes of recovering the ICS provider’s costs.

- (4) Regulatory Cost Recovery Fee – The Commission considers the costs of complying with regulatory requirements and payment of Inspection and Supervision Fees (“I&S fees”) as normal utility overhead. The Commission has not heretofore authorized a regulatory cost recovery fee for intrastate service telephone service. Any such fees applied to Alabama LEC bills are those specifically authorized by the FCC for interstate carriers subject to FCC regulatory fee assessments and who are required to file interstate tariffs with the FCC. ICS providers were heretofore not regulated by the FCC and have not been assessed FCC regulatory fees. It appears the FCC has asserted regulatory jurisdiction over ICS providers based on its August 9, 2013 action to cap interstate ICS charges. Should the FCC specifically authorize a regulatory cost recovery fee for ICS providers, the Commission will consider its applicability. In the interim, the Commission does not authorize such a fee for intrastate service.

- (5) Returned Check Charge – Section 8-8-15(b) in the Code of Alabama establishes the maximum returned check charge as \$30. This is the maximum allowable returned check charge authorized for ICS in Alabama.

- (6) Paper Bill Fee – All ICS customers (including VVS) will be provided an electronic statement of payments and charges, free-of-charge, as provide in paragraph I, below. Customers may optionally request that a detailed paper bill be mailed or faxed to them for any or all of the account activity corresponding to the most recent three-months statements available online in electronic format. The maximum allowable paper bill fee (including postage and handling) is \$2.00.

H. Other Ancillary Charges Prohibited

- (1) Account set-up fee – The Commission authorizes service installation charges for telephone utilities involving connection/activation and/or transfer of facilities. The provision of ICS to an inmate does not require any connection/activation or transfer of underlying facilities. There is no need to establish customer accounts for ICS collect calls. The called party is billed and a bill processing fee is charged. Account and billing information must be collected

by the ICS provider for debit, prepaid, and direct-billed accounts. However, the migration to these type services resulted in substantial cost savings to providers allowing them to avoid that portion of uncollectable charges typically associated with collect ICS calls. The inherent cost savings associated with debit and prepaid service was cited by ICS providers as justification for seeking Commission approval to introduce debit and prepaid service. It is, therefore, incomprehensible that providers should now insist on charging these customers for the “privilege” of using a service established for the provider’s benefit. The Commission considers account establishment as a normal administrative cost that should be borne exclusively by the provider. Consequently, the Commission does not authorize any fee for ICS account set-up.

- (2) Refund fee - With debit and prepaid service, providers not only avoid uncollectable expenses, they benefit from the interest-free utilization of customer owned funds. No telephone utility certified in Alabama is authorized to assess a service charge for refunding customer funds. The Commission considers administrative costs associated with customer refunds to be normal business overhead to be borne exclusively by the provider and, therefore, does not authorize a refund fee.
- (3) Provider assessed “fines” and penalties for prohibited inmate behavior – The ICS account is established with an expectation that the funds submitted to the provider are exclusively for ICS including applicable taxes and government mandated fees. The funds associated therewith are the property of the ICS customer until utilized in part or in whole for ICS. Providers and/or confinement facilities are not authorized to assess monetary penalties/fines/fees to ICS customer accounts for violation of confinement facility security policies or otherwise access the customer’s ICS prepayments without Commission authorization and the explicit consent of the ICS customer.
- (4) Other fees and charges - Providers are not authorized to assess any usage charges and/or fees other than those specifically referenced herein under Section III, Parts C through G(6), without specific Commission approval. Any proposed tariffs submitted to the Commission

by an ICS provider seeking approval for rates and fees not specifically listed in Section III, Parts C through G(6) of this Order, and/or seeking approval for rates and/or fees that exceed the maximum charges associated therewith, shall not be effective without the provider's formal request that the Commission grant an exemption/waiver from the limitations imposed by Section III, Parts C through G(6). Additionally, the fees/rates shall not be effective absent a Commission Order granting the requested exemption/waiver specified in the provider's request. Any unauthorized fees charged by providers and/or any commissions paid therefrom are subject to Commission regulatory action including, but not limited to, customer refunds with interest.

I. Minimum Customer Account and Service Information Requirements

Commission Telephone Rule T-5(C) requires that detailed monthly electronic or paper account statements be provided to customers at no charge. Monthly, individualized ICS customer account statements must be provided to ICS customers of debit, prepaid, and direct-billed service (including VVS). The default customer account statement shall be in electronic format, available over the internet and printable. The most recent three-months of statements shall be maintained online. In lieu of an electronic statement, a paper bill, mailed or faxed to the customer (customer's option), shall be provided at the request of prepaid and direct-billed customers (debit service excluded), subject to the paper bill fee referenced in G(6), above.

The monthly billing statement shall include the following:

- (1) For each call (including VVS): the date/time for the call, the call destination city and state or called number including area code (necessary only for debit accounts), call duration, and the charge for the call. If charged to the customer's debit, prepaid, or direct billed account, charges for inmate texting service, inmate email service, and video visitation shall be listed in the same detail applicable to inmate calls.
- (2) Applicable Alabama Utility Gross Receipts Taxes shall be listed in a separate category and labeled appropriately. The tax rate, and the total taxes assessed shall be provided.
- (3) Any applicable ICS provider fees will be listed individually in a separate category and labeled appropriately. The name of the applicable fee, amount charged by fee type, and total provider fees shall be clearly identified.

- (4) Government fees shall be listed in a separate category and labeled “Government Fees”. The description and amount for each government fee shall be listed individually.
- (5) The statement shall provide the customer name, beginning and end date of the applicable billing period, beginning account balance, date and amount of payments received, and the ending account balance.

For payments at kiosks, the customer receipt shall provide the customer name, transaction date, identity of the account to which the payment applies, amount paid, payment processing fee, and balance applied to the customer’s ICS account.

Electronic and paper account statements shall include the provider’s toll free number for customers to call in order to inquire about the information listed on their statement of payments/charges and/or to discuss suspected billing errors and/or service issues. Additionally, the Universal Resource Locator (URL) to the provider’s ICS website shall be listed. The provider’s toll-free number and URL shall be prominently displayed in font size that is easily located by the consumer.

The Provider’s ICS website shall have a webpage specifically devoted to Alabama ICS. The Alabama specific ICS webpage shall include the following information:

- (1) available services;
- (2) payment options (including information about kiosks);
- (3) ICS rates;
- (4) ICS fees;
- (5) description and rate/amount of the State Utility Gross Receipts Tax and government fees;
- (6) monthly customer statement options (electronic or paper);
- (7) refund procedures;
- (8) customer service contact information;
- (9) a link to the Alabama PSC ICS webpage (to be provided by the Commission).

The ICS provider’s electronic and paper account statement and their Alabama specific ICS webpage format and content is subject to review and approval by the Commission Telecommunications Division staff.

For purposes of resolving billing disputes, ICS providers shall fax or include as email attachments, copies of the customer’s monthly statements, as requested by the Commission, at no charge to the customer and/or the Commission. These documents will be considered proprietary

by the Commission and will not be released to outside parties, including the ICS customer, without explicit provider approval.

Providers shall submit to the Commission the name(s), telephone number, and email address of a point of contact(s) within the company for purposes of addressing consumer inquiries and resolving customer disputes. The contact information shall be revised and updated as necessary. Providers shall promptly acknowledge receipt of Commission inquiries, and shall fully cooperate with Commission staff to promptly investigate and resolve all inquiries and disputes to the Commission's satisfaction.

J. Records Retention and Auditing Requirements

ICS providers shall maintain electronic and/or paper copies of the following documents, records, or forms applicable to ICS in Alabama for the months in the current calendar year plus the most recent three (3) complete calendar years (Jan – Dec):

- (1) customer monthly account statements, referenced in Part III I;
- (2) forms showing the State Utility Gross Receipts Tax collected and the State Utility Gross Receipts Tax remitted to the Alabama Department of Revenue;
- (3) forms showing USF fee collections and payments submitted to USAC;
- (4) forms showing collections of the federal TRS fee and payments remitted to the TRS Fund Administrator;
- (5) records showing unused customer balances, by customer identification, and records of refunds by customer identification including the date, amount, and method of refund;
- (6) Unclaimed Property Report forms showing submission of unclaimed customer funds to the Alabama State Treasurer.

The records and forms to be retained by the ICS provider, as referenced herein, are subject to audit by the Commission, by the Commission on behalf of the Alabama Department of Corrections and local governments as requested, and other state agencies, including but not limited to the Alabama Department of Revenue, Alabama State Treasurer and State Examiners. Additionally, the ICS provider may be required to make available for inspection to the aforementioned entities other information not specifically identified herein.

For purposes of verifying compliance with tariffs and Commission rules for ICS, providers shall submit to the Commission, upon request, electronic or paper copies of ICS customer monthly account statements associated with ICS service at any confinement facility

designated by Commission staff, for any or all of the most recent three-month period requested by staff. Upon Commission staff request, providers shall submit to the Commission electronic or paper copies of ICS customer monthly account statements associated with ICS service for any service category designated by staff (debit phone, prepaid phone, VVS, etc.) at any of the Alabama confinement facilities served by the provider. All customer account statements submitted to the Commission by the ICS provider will be considered proprietary and will not be released to any party outside the Commission without explicit approval from the ICS provider.

Section 37-1-82 in the Code of Alabama requires all providers under the Commission's jurisdiction to make its books and records available for inspection at a location within the state of Alabama. If all or part of the provider's books, documents, and/or records referenced herein are located outside of Alabama and not made available for inspection at a location within Alabama, the ICS provider is required to reimburse the State of Alabama for all Commission employee travel, meal, lodging, and incidental expenses associated with the inspection of the provider's books, documents, and/or records.

K. Initial Inmate Call and Other Non-rated Calls

To ensure that newly confined inmates are provided ample opportunity to inform family members of their confinement status, identification of the confinement facility ICS provider, and procedures for establishing a prepaid ICS account, staff recommends that new inmates (those transferred from another confinement facility and/or newly processed into the confinement facility regardless of previous booking instances) be provided an initial two (2) minute call, at no charge provided the confinement facility does not block the inmate from calling the number.. A call attempt resulting in a busy signal or when there is no answer does not constitute compliance with this requirement.

The ICS provider shall inform the called party that the inmate is being provided two-minutes of conversation time and that at the end of the two minutes, information will be provided on procedures for establishing an ICS account. However, no part of the inmate's two-minute initial call allowance shall be utilized by the ICS provider to announce the call or for subsequent information regarding procedures for establishing a prepaid ICS account. Staff believes that this arrangement is beneficial to the inmate, the called party, the ICS provider and the confinement

facility. Providers who choose to utilize a collect call arrangement must nevertheless comply with this requirement and offer an initial two-minute call to the inmate, free of charge to the called party. The initial two-minute call allowance does not apply to established direct billing arrangements (attorneys, bail bondsmen, etc.).

ICS providers will not charge inmates for calls to the designated customer service number for the ICS provider.

L. ICS Resale

ICS providers sometimes offer to the facilities they serve, ICS phone cards in increments of \$10, \$20, etc., for resale to inmates. The total price paid by the ICS customer, including any markups by the ICS provider and/or the confinement facility must not exceed the purchasing power of ICS services using the card. Therefore, if the face value of the calling card is, for example, \$10, the inmate may not be charged more than \$10 for the card (including any markups or fees not specifically approved by the Commission) and the card must be redeemable for \$10 of ICS based on the ICS provider's tariffed rates on file with the Commission. Additionally, taxes and government fees will not be assessed up front but are applicable only when calls are placed by the customer.

M. Refunds and Unclaimed Property

Commission Rule T-5(C)(6) requires that providers refund customers any overcharges for the previous thirty-six (36) month period.

ICS providers will be proactive in informing customers of procedures for refunding unused debit and prepaid balances. ICS customers will be refunded their unused balances in full. The provider will not assess any fee to the customer's balance or request any payment from the customer for refunds. Refunds of unused account balances for prepaid ICS and VVS may be made via check or credits to the customer's credit/debit card. Refunds of unused account balances for debit service shall be made by credits to the inmate's trust fund account. The Commission will consider other refund methods, e.g., calling cards that can be used outside the facility, on a case by case basis. However, these methods and the rates/charges applicable to the

calling cards must be approved by the Commission and included within the ICS provider's tariff on file with the Commission.

Title 35, Chapter 12, Article 2A, in the Code of Alabama codifies the Uniform Disposition of Unclaimed Property Act of 2004 ("the Act"). Section 35-12-72(a)(15) is applicable to utility service and defines unclaimed as a "Deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable". The Commission hereby defines the terminology "one year after the deposit or refund becomes payable" to be one year from the date of the last customer generated debit or credit to the customer account, i.e. one year following the last customer payment for ICS in the account or one year after the customer's last usage of funds in the account for ICS, whichever comes later. Section 35-12-74 of the Act identifies the criteria used to determine whether abandoned property should be submitted to the State Treasurer.

Section 35-12-76 of the Act, addresses dormancy charges and whether they are applicable to abandoned property. Paragraph (b) reads:

"A holder may deduct from property presumed abandoned a charge imposed by reason of the apparent owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the apparent owner under which the holder may impose the charge and the holder regularly imposes the charge. The amount of the deduction is limited to an amount that is not unconscionable."

The Commission does not consider ICS provided under exclusive contract with the confinement facility to represent any explicit or implied contractual agreement with users of their ICS service for purposes of determining whether dormancy charges apply to the customer's abandoned property. Furthermore, the Commission prohibits any attempt by ICS providers to include in ICS offerings to their customers, or otherwise in their tariff on file with the Commission, any requirement that the customer's property is subsequently subject to dormancy charges in the event of abandonment. Dormancy charges are not applicable to ICS in Alabama.

Section 35-12-76 of the Act establishes the procedures for submitting a report of abandoned property to the Alabama State Treasurer. Paragraph (c) requires the report to be filed before November 1 each year, for the most recent 12-month period ending June

30. Section 35-12-77 of the Act requires the total amount of unclaimed property for the period covered by the report be remitted with the report to the State Treasurer, Unclaimed Property Division. Attachment B, provided by the State Treasurer, shows prescribed dormancy periods and National Association of Unclaimed Property Administrators (NAUPA) codes.

N. Reporting Requirements

ICS providers will submit the following information to the Commission for each Alabama confinement facility served:

- (1) local ICS minutes, number of calls, and associated revenue;
- (2) intrastate ICS minutes, number of calls, and associated revenue;
- (3) interstate ICS minutes, number of calls, and associated revenue.

The initial report is due January 31, 2014 for the previous six-month period ending December 31, 2013. Thereafter, reports are due quarterly, every year, on the last business day of April, July, October, and January for the most recent three-month period ending in March, June, September, and December respectively.

O. Tariffs

ICS providers will submit revised tariffs that comply with the requirements in the final Order for this proceeding and rules adopted therein. Within the provider's tariff, a separate section will be established identifying all services provided to confinement facilities in Alabama, a description of each service provided, and the associated rates for each service. Additionally, a separate tariff section will be provided that identifies, defines, and provides the associated price for all ICS fees and ancillary charges. The provider will not assess any rate or charge to ICS customers without Commission approval nor will any rates of charges be included in the tariff that are not specifically listed in the separate tariff sections referenced above. No existing or new ICS will be offered by the provider until the service and associated rates are approved by Commission and included in the provider's tariff on file with the Commission.

P. Tariff Filing Requirements

Section 37-1-81 in the Code of Alabama is applicable to ICS. Requests for additions to or revisions in the provider's tariff will be submitted with a requested effective date of no less than thirty (30) days from the date the filing is received at the Commission (file date). The Commission may suspend the tariff for investigation for a period of up to six (6) months from the file date. Commission Rule T-12 provides the specific format for telecommunications tariffs.

Tariffs and additions/revisions thereto filed with the Commission are considered public record and subject to intervention, in accordance with Commission rules and practices, from other providers and affected parties. In the event the Commission suspends the tariff for investigation due to intervention, the Commission may seek comments from other interested parties with regard to any issues identified by intervenors. Additionally, the Commission staff welcomes informal questions and comments from providers and affected parties on any aspect of ICS tariff filings.

Q. Implementation

In responses to the staff data request of January 25, 2013, ICS providers indicated that their contracts with Alabama confinement facilities include a provision that allows for the terms of the contract to be revised in the event of regulatory changes. Therefore, staff recommends that the changes to ICS approved by the Commission be implemented no later than ninety (90) days from the date of Commission's final order for this proceeding.

R. Comment Period

Staff recommends that the Commission consider comments from interested parties on the staff's changes to Commission Rule T-15.1 proposed herein, provided said comments are filed with the Commission on or before November 8, 2013.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission will consider comments from interested parties concerning matters discussed above provided said comments are properly filed with the Secretary of the Commission before the close of business on or before November 8, 2013.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DATED at Montgomery, Alabama, this 7th day of October, 2013.

ALABAMA PUBLIC SERVICE COMMISSION



Twinkle Andress Cavanaugh, President

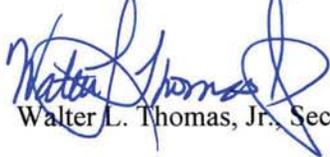


Jeremy H. Oden, Commissioner



Terry L. Dunn, Commissioner

ATTEST: A True Copy



Walter L. Thomas, Jr., Secretary

EXHIBIT F

MEMORANDUM

Date: June 24, 2013
To: Michael Crews, Secretary
From: Negotiation Team – ITN #12-DC-8396,
Statewide Inmate Telephone Services
Shane Phillips, Bureau of Contract Management and Monitoring
Randy Agerton, Bureau of Security Operations
Steve Wilson, Office of the Inspector General
Through: Julyn Hussey, Procurement Manager, Bureau of Procurement & Supply
Subject: Recommendation of Award

In accordance with s. 287.057 (1) (c) 5., the Department's Negotiation Team hereby provides its recommendation of award to Embarq Payphone Services, Inc. dba CenturyLink for ITN # 12-DC-8396 Statewide Inmate Telephone Services.

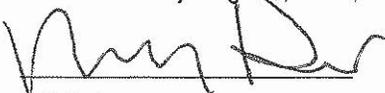
History: The Department released the Invitation to Negotiate (ITN) in April 2013 and opened on May 21, 2013. The Department evaluated the responses against evaluation criteria and conducted negotiations with three (3) companies: Global Tel*Link Corporation, Securus Technologies, Inc. and Embarq Payphone Services, Inc. dba CenturyLink. Subsequent to negotiations, the Department issued its Request for Best and Final Offers (BAFO) and each vendor was provided an opportunity to respond with their BAFO to the Department.

Basis of Selection: While each vendor's BAFO demonstrated the ability to provide the required services as set forth in the ITN, it has been determined that Embarq Payphone Services, Inc. dba Century Link demonstrates the best value and to be the most advantageous to the Department due to the following proposed deliverables.

- A complete turn-key inmate telephone system that provides the Department with enhanced communication, security and forensic investigation options allowing the department to conduct detailed analysis of external and internal calling data.
- A system that will deploy call processing, storage and network which will be 100% dedicated to the Department.
- A pricing structure that increases the department's commission rate by approximately 27% while lowering the cost of a 15 minute collect phone call to inmate family and friends by approximately 25%. The lower cost per call should lead to increased communication between inmates and their family and friends which will ultimately help support the Department's Re-Entry Initiatives.
- Additional negotiated services reflected in the department's recommendation include:
 - Free Calls
 - Forensic Options
 - Investigative Function
 - Cell Phone Detection
 - Interactive Voice Response (IVR) Scheduling
 - Inmate Voice Mail
 - Ability to search by keyword
 - Capability to capture inmate to inmate telephone communications
- A 5-Site video visitation pilot with the ability to implement statewide at the Department's discretion

For these reasons, the negotiation team would like to award the contract to Embarq Payphone Services, Inc. dba CenturyLink.

cc: Mike Dew, Chief of Staff
Jodi Bailey, Director of Procurement & Contract Management
Rosalyn Ingram, Chief, Bureau of Procurement & Supply


Approve

Disapprove

EXHIBIT G

MEMORANDUM

Office of Administration
Division of Purchasing and Materials Management

To: RFP File B2Z11019

From: Brent Dixon

Date: June 28, 2011

RE: Evaluation Summary

Eight proposals were received in response to Request for Proposal (RFP) B2Z11019 for an offender telephone system for the Office of Administration's Information Technology Services Division/Department of Corrections. Proposals were received from the following:

1. CenturyLink of Overland Park, KS
2. Consolidated Communications Public Services of Mattoon, IL
3. Noir & Ocrum, LLC of Columbia, MO
4. PCS of Los Angeles, CA
5. Securus Technologies of Dallas, TX
6. Synergy Telecom Service Company/Telcomate of San Antonio, TX
7. Talktelio of Sarasota, FL
8. Unisys Corporation of Reston, VA

Copies of the proposals and an evaluation memo (as attached) were forwarded to the state agency. Evaluation meetings were held during the months of March, April, and May of 2011 to discuss the proposals and perform a subjective evaluation in accordance with the criteria stated in the RFP.

In evaluating the proposals, the evaluation committee first reviewed the proposals for acceptability to determine if each offeror complied with the mandatory requirements of the RFP. It was determined that competitive negotiations were required to revise some of the RFP language and to ensure that all offerors' proposals were responsive to the mandatory requirements of the RFP. Therefore, pursuant to paragraph 4.2.2 of the RFP, Best and Final Offer (BAFO) #001 was sent to all the offerors. BAFO #001 responses received from CenturyLink, Consolidated Communications Public Services, PCS, Securus, Synergy, Talktelio, and Unisys were determined to be acceptable. Noir & Ocrum's proposal was unacceptable due to their failure to meet mandatory requirements of the RFP. See the unacceptability memo dated May 31, 2011 for details. The committee continued their subjective review in a round-table fashion of the remaining acceptable proposals.

The subjective evaluation of Experience/Reliability of Organization (20 pts.) and Proposed Method of Performance, Solution Functionality and Expertise of Personnel (80 pts.) is included in the attached Subjective Evaluation report. Also attached are memos addressing the evaluation of MBE/WBE Participation (worth 10 pts.) and the evaluation of Blind/Sheltered Workshop participation (worth 10 bonus pts.). The cost evaluation was completed in accordance with the cost evaluation criteria in RFP section 4.3. Since none of the offerors proposed Missouri Service-Disabled Veteran Business Preference, no bonus points were assigned for this category.

RSMo 34.042 mandates that the contract be let to the lowest and best offeror. Therefore, DPMM combined the assigned points for the "best" portion of the evaluation – Experience/Reliability of Organization, Proposed Method of Performance, Solution Functionality and Expertise of Personnel, and MBE/WBE Participation – with the assigned points of the "lowest" portion of the evaluation – Cost, and the Blind/Sheltered Workshop participation bonus. Consequently, the resulting lowest and best proposal is Securus Technologies.

Functionality of proposed platform:

- The platform proposed by Consolidated was not as easily navigated since it required the end user to utilize multiple screens to advance through the features of the system, but it does currently meet all of the functional requirements as demonstrated during the product demonstrations.
- Consolidated's platform met the minimum requirement to allow the state agency to burn call records to CD in the required formats.

Reporting capabilities and exporting files:

- Consolidated stated they are capable of providing all of the required and custom reports and exporting files in all required formats.

Contract monitoring:

- Consolidated proposed an adequate solution to provide call monitoring services that included the use of Nexidia technology, PSRI staff, and Consolidated's staff to perform the required call monitoring of five percent of calls. However, Consolidated did not provide a strategic plan explaining how they were going to manage their call monitoring solution.
- The offender call monitoring staff would be located in Jefferson City, Missouri.

Personnel expertise:

- Consolidated identified a substantial number of staff they currently have in place to service the state's account who have a variety of expertise in providing offender telephone systems.

Economic impact:

- While Consolidated is an Illinois-based company, Consolidated proposed to subcontract with Huber & Associates, PSRI, and Alphonite which are Missouri-based companies.
- Consolidated proposed to subcontract with ShawnTech which is an Ohio-based company with four technicians currently located in Missouri.

Optional features:

- Consolidated did not offer any optional products or services.

Other required costs (pre-paid account set-up fee, international calls, and payphone calls):

- Consolidated Public Services proposed the following other required costs:

Pre-paid Account Set-Up Fee	
*Per Transaction Set-Up Fee for Pre-Paid Account	\$3.00
*One Time Set-up Fee to Establish a Pre-paid Account	\$0.00
International Calls	
*Firm, Fixed Per Minute Price for International Call	\$0.50
*Set Up Charge for International Call	\$0.00
Coin Payphone Calls	
*Firm, Fixed Per Minute Price for Calls Made on Coin Payphone	\$0.20

SUMMARY OF METHOD OF PERFORMANCE, SOLUTION FUNCTIONALITY AND EXPERTISE OF PERSONNEL:

The evaluation committee felt all of the offerors would be capable of providing a satisfactory solution regarding their method of performance, solution functionality, and expertise of personnel.