

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

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

**COMMENTS OF THE OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION**

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Dated: December 20, 2013

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The Ohio Department of Rehabilitation and Correction (“ODRC”) hereby submits its comments in response to the *Report and Order and Further Notice of Proposed Rulemaking* (FNPRM) issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-referenced docket.¹

I. INTRODUCTION

The ODRC’s stated mission is to reduce Ohio’s recidivism rate² and ODRC supports reform efforts that aim to reduce recidivism. There is little doubt that maintaining community and family ties during incarceration helps an inmate successfully integrate back into society. The ODRC therefore agrees that the rates charged to inmates, both for interstate and intrastate inmate call services (“ICS”), should be reasonable and set in a manner that will not negatively impact an inmate’s ability to successfully reintegrate into his or her community after release.

Any reform efforts that target ICS and rates charged for ICS, however, must be cognizant of the complex and costly operations of ICS in correctional facilities. The ODRC is very concerned that several of the Commission’s proposals would severely undercut its ability to

¹ *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 14107 (2013) (“*Order and FNPRM*”)

² ODRC has been a national leader in reducing recidivism; in February, 2013, ODRC’s recidivism rate was reported to be at 28.7 percent, well below the national average of about 43 percent. See <http://www.drc.ohio.gov/Public/press/press424.htm>.

ensure the safety of inmates, staff, victims of crimes, and the public at large. In particular, the ODRC is concerned that the Commission's proposals relative to call-blocking, intrastate rates, quality of service, and exclusive ICS contracts, do not give full and careful consideration to the unique aspects of the correctional environment and the security and operational concerns involved in the provision of ICS.

II. ODRC'S TELEPHONE SYSTEM, GENERALLY

ODRC administers twenty-six (26) correctional institutions, plus two privately operated and managed institutions, throughout the State of Ohio, housing approximately 51,000 inmates. In order to assist inmates' communication and contacts with their families, friends or attorneys, ODRC operates its Inmate Call-Out Program ("ICOP") across all of its 28 institutions, pursuant to ODRC policies. Inmates are informed of such policies at orientation, and through distribution of an Inmate Handbook.

ODRC policy ensures that all ODRC institutions, including the two privately operated and managed institutions, have the ICOP in place for all general population inmates, thereby providing them with reasonable and equitable access to telephones for maintaining ties with their family and home community. Operation of the ICOP, however, is strictly controlled for obvious safety and security reasons. For those reasons, ODRC's ICOP must be operated and administered in a manner which

1. Enhances an institution's security;
2. Enhances the safety of staff, inmates and public; and
3. Reduces the occurrence of criminal activities or any other activities that could be considered a threat to the orderly operation of the ODRC.

ODRC has an exclusive agreement with Global*Tel*Link ("GTL") to provide the telephone service for the ICOP (the "Agreement"). The ODRC's policies, together with the Agreement, establish the specific parameters for administration and operation of the ICOP.

Generally, during the hours of operation of the ICOP at a given facility, each inmate may place debit/prepaid or collect calls to fifteen (15) phone numbers of individuals on the inmate's approved call list. All such calls are subject to monitoring. Inmates consent to such monitoring as a condition of being allowed to use the telephones. Monitoring ensures that the telephone privilege is not being abused in a manner that is a violation of law or detrimental to the security to the institution, employees or other inmates.

ODRC carries out such monitoring through equipment provided by GTL, per the Agreement. It should be noted that the ICOP, as it is currently structured and administered, has yielded an enormous source of intelligence information about inmates who continue to engage in illegal activities (e.g., violations of institutional rules of conduct and crimes). As explained in Attachment A, (¶¶ 3. A., C., and D.), which is the expert affidavit of Mr. Vinko Kucinic (Kucinic Affidavit), the ODRC continues to use the resources available to it through the ICOP, often in conjunction with other law enforcement agencies, to discipline or prosecute inmates involved in criminal activities both within correctional institutions and in the community.

III. THE ODRC MUST BE THE ENTITY THAT DETERMINES WHETHER MULTIPLE PROVIDERS MEET THEIR CRITERIA FOR EFFECTIVELY MANAGING THEIR FACILITIES

The Commission recognizes that “there is competition among ICS providers to provide service to correctional facilities,” but asks whether it should encourage competition within correctional facilities to reduce rates.³ The only way to encourage competition within a correctional facility would be to allow multiple providers to serve that facility.

³ Order and FNPRM ¶ 176.

The ODRC opposes the Commission's proposal that would require correctional facilities to permit multiple providers to serve a single facility.⁴ The unique security needs of correctional facilities necessitate the use of exclusive contracts for inmate calling services as the Commission previously has recognized.⁵ Multiple vendors increase the risk of a breach in security.⁶ If multiple ICS providers were operating within a single correctional facility, with each running its own systems, software, and recording procedures, no one provider would be responsible for security procedures. Further, a multiple provider environment would undoubtedly increase the ODRCs' overall costs. For example, ODRC staff would need to be trained across multiple systems and platforms, management would need to learn how to interpret and integrate multiple sources and formats of reports, and investigators would frequently have to conduct duplicative search procedures across multiple systems and platforms. Additional costs may be necessary to ensure the compatibility and suitability of the multiple providers. For all of these reasons, having a single provider of ICS "is perhaps the most important component" in ensuring the ODRCs' "quality of service and security needs are met."⁷

A. BENEFITS OF A SINGLE, SECURE, INMATE CALLING SERVICES PLATFORM

The parameters for the ICOP were developed over a number of years and represent an appropriate balancing between the legitimate security, control and monitoring needs of ODRC and the goals of fostering inmate contacts with family and friends to aide in their rehabilitation. As discussed below, an exclusive agreement with a single provider assures consistent quality

⁴ Cf. *Order and FNPRM* ¶ 177.

⁵ *1998 Order* ¶¶ 56-57 (finding that inmate telephone systems are not required to provide the caller access to the carrier of its choice because inmates are limited to the carrier selected by the prison due to the special security requirements applicable to inmate calls).

⁶ CC Docket No. 96-128, Letter from Devon Brown, New Jersey Department of Corrections (filed Feb. 9, 2004).

⁷ CC Docket No. 96-198, New York State Department of Correctional Services Comments in Opposition to Petition for Rulemaking filed Regarding Issues Related to Inmate Calling Services, 12-13 (filed Mar. 9, 2004).

both in service provided and in security measures. It is clear from the Kucinic Affidavit (¶¶ 3.A. - 3.F.), that requiring prison authorities to deal with multiple providers does not provide the type of fundamental assurances that ODRC needs to protect the ODRC's and the public's interests.

If correctional systems were required by the Commission to accommodate inmates choosing among multiple carriers, it would be surrendering its duty to protect and control the inmates in its custody. As discussed below, the company selected to provide a secure calling system has a contractual obligation to maintain the security of communications, backed up with severe penalties for failing to do so. In contrast, the interconnecting carriers would not be contractually obligated to carry out any duties to provide the necessary security and technical requirements needed for an inmate calling services program. Additionally, if multiple carriers are required, then each carrier would have uncertain call volumes and revenue. Consequently, carriers will be unwilling to invest sufficient capital in purchasing equipment to ensure safety and security. In other words, carriers would lack economic incentive to provide the necessary equipment.

ICS providers incur significant additional costs in meeting the security requirements imposed by prison administrators. The ODRC's Agreement with GTL provides for processing of all the calls placed by inmates through the ICOP. To meet this demand, approximately two million dollars worth of equipment in the ODRC's facilities has been installed. As plainly demonstrated in Kucinic Affidavit (¶¶ 3.A. - 3.F.), given the special equipment that is needed to provide and process all inmate phone calls, a single provider and single platform system is best suited to meet ODRC's critical safety and security needs. The single provider allows the ODRC to incorporate complex security features into the ICOP. These features include: how an inmate dials, the number of telephones per inmate, the location of the telephones, the type of telephone, voice prompts, how GTL's processing systems are integrated with ODRC's systems and procedures,

call monitoring, access to billing name and address data (BNA), call blocking, the hours of operation, the prohibition of third party calling and call forwarding. The Agreement states that GTL is obligated to maintain the ICOP as secure as possible:

An ICOP will enable ODRC to provide inmates with controlled calling privileges and provide capabilities to record and monitor these calls. A primary goal is to insure the safety and security of staff, inmates and the public through the use of current technology. ODRC has special security requirements and has a prime objective of controlling inmate telephone usage and limiting the use of the telephone system for fraudulent activity. The ICOP will provide the ODRC with the means to ensure the proper and lawful use of this system by inmates. Insofar as the availability of the ICOP is important to inmate morale and hence correctional facility security, the ICOP is considered by the ODRC to be a critical service element with stringent availability and quality of service objectives. (Agreement, Request for Proposal, Section 1.2).

Given these special security requirements imposed by the ODRC, only a single carrier can provide the special equipment needed to meet the ODRC's goal of best practices security while providing ICS.

B. LEGAL ARGUMENT

The ODRC's Agreement with a single provider—GTL—was specifically designed to address all of the ODRC's safety and security concerns. The Kucinic Affidavit (¶¶ 3.A. - 3.F.), confirms that a single provider system is an important feature in monitoring and controlling inmate activity. The Commission rules, that ensure consumers are able to reach their preferred long distance carriers from public telephones served by operator service providers, do not apply to "inmate only" telephones. This exemption for correctional facilities from the Commission rules comes from the exceptional set of circumstances under which "inmate only" telephone service is provided, including the above-referenced complex security features. These features certainly influence the rates for collect calls from prisons. The ODRC only allows inmates to make calls from "inmate only" telephones, and they do not have a right to access their preferred carrier.

The Commission has recognized that contracts between operator service providers of inmate operator services and state departments of corrections can be with a single, exclusive company. In the Matter of Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators, 11 FCC Rcd. 4532, 4532 (1996), the Commission concluded that correctional agencies were not subject to regulations which apply to those who make telephones available to the public. As a result, callers from prisons “are generally unable to select the carrier of their choice; ordinarily they are limited to the carrier selected by the prison.” *Id.*, 11 FCC Rcd. 7301. See also Inmate Services Order, 11 FCC Rcd. 7362, para. 25 and 26 (1996) wherein the Commission has explicitly stated that the regulatory model for prison payphone service should not also apply to payphones for the general public.

The Commission reiterated that exclusive agreements are necessary to correctional systems due to the unique security considerations, thereby precluding inmates from choosing among multiple carriers and constraining rates for inmate calling services. In the Matter of Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 17 FCC Rcd. 3248, 3282 (Feb. 21, 2002).

We recognize that the provision of inmate calling services implicates important security concerns and, therefore, involves costs unique to the prison environment . . . A prison payphone provider typically is contractually obligated to monitor and control inmate calling to prevent abuse and ongoing criminal activity and to assist in criminal investigations. Correctional facilities must balance the laudable goal of making calling services available to inmates at reasonable rates, so that they may contact their families and attorneys, with necessary security measures and costs related to those measures. For this reason, most prisons and jails contract with a single carrier to provide payphone service and perform associated security functions. Thus, legitimate security considerations preclude reliance on competitive choices, and the resulting market forces, to constrain rates for inmate calling.

Id., 17 FCC Rcd. at 3276 (emphasis added).

In sum, the ODRC's decision to rely on a single provider of ICS is an exercise of its sovereign authority in the context of operating and managing correctional facilities. There is no legal authority to interfere or preempt this decision.

IV. THE ODRC MUST RETAIN ITS ABILITY TO BLOCK INMATE CALLS

The Commission seeks further comment on two types of call blocking that currently occur in correctional facilities, billing-related call blocking and non-geographically based telephone number call blocking.⁸ In the *Order and FNPRM*, the Commission determined that billing-related call blocking of interstate ICS calls is only permissible if the ICS provider offers a "prepaid collect" option at the correctional facility.⁹ Since the ODRC's ICOP offers "prepaid collect" calling, the ODRC should not be prohibited, through limitations placed on ICS providers who do not provide "prepaid collect" option, from deciding when or whether certain inmate-initiated calls may be completed.

The Commission previously has recognized the importance of security in conjunction with ICS, and with respect to call blocking, has found that "legitimate security concerns may justify ICS providers blocking calls in certain circumstances."¹⁰ Now, the Commission appears to be backing away from those findings in an effort to eliminate all call blocking in the ICS context. While call blocking of non-ICS calls may "pose a serious threat" to the

⁸ *Order and FNPRM* ¶¶ 172-75.

⁹ *Order and FNPRM* ¶ 113.

¹⁰ *Policies and Rules Concerning Operator Service Providers, et al.*, 28 FCC Rcd 13913, n.34 (2013) ("legitimate security concerns may justify ICS providers blocking calls in certain circumstances. For example, for security reasons, ICS providers may block attempts by inmates to call victims, witnesses, prosecutors and judges. . . . This Order should not, however, be interpreted to prevent ICS providers from blocking due to legitimate security concerns.").

telecommunications network,¹¹ any such threat is far outweighed by the security needs of the ODRC in the context of ICS calls.

The ODRC has the responsibility for the safety of the inmates they house, the personnel they employ, and the public at large. In making telephone communications available to inmates, the ODRC must ensure that all of these safety concerns are addressed, which requires the ODRC to maintain tight control over the communications between inmates and the parties they are permitted to contact. The ODRC and law enforcement officials have an essential need to know the identity and location of each person to whom an inmate is speaking.¹²

ICS providers must have the ability to block those calls that law enforcement deems to be a security risk. Many corrections administrators require their ICS provider to block the completion of certain types of calls, either via the contract with the ICS provider or pursuant to state regulations.¹³ For example, the Mississippi Department of Corrections requires its ICS provider to implement and enforce contractually-prescribed calling rules that meet its security requirement to ascertain the true identity and verified address of every called party.¹⁴ As the Commission has recognized, ICS systems routinely block calls to particular numbers, prevent inmates from using dial-around or three-way calling arrangements, and restrict calling to

¹¹ *Order and FNPRM* ¶ 172.

¹² *See, e.g.*, WC Docket No. 12-375, Letter from Michael D. Harrison, Alexander County Detention Center (filed Nov. 27, 2013) (“there are significant security risks posed by prohibiting call blocking to routing services which would allow parties to mask their identities and locations”).

¹³ *See, e.g.*, State of Louisiana Department of Public Safety and Corrections, Department Regulation No. B-08-001 (Feb. 20, 2011) (“all third-party telephone calls, including [remote call forwarding] calls, are strictly prohibited and such activity shall result in appropriate disciplinary action”); State of Connecticut Department of Correction, Administrative Directive No. 10.7 (June 19, 2012) (“Any outgoing inmate telephone call placed from a Correctional facility that involves 3-way calling or any form of interruption to the original call, including the use, by a call recipient, of the ‘flash’ button or any other similar telecommunications feature that interrupts the continuity of the original call shall be prohibited.”).

¹⁴ WC Docket No. 09-144, Reply Comments of Global Tel*Link, Exhibit A (filed Sept. 10, 2009) (attaching letter from Mississippi Department of Corrections).

specified, pre-approved numbers.¹⁵ All of these essential security features are frustrated by the use of non-geographic telephone numbers and the inability to verify the identity of the called party due to a lack of billing arrangements. Public safety and correctional facility security require that ICS providers have the ability to block such calls as the corrections administration deems necessary.¹⁶

V. THE INTERIM ICS RATES ESTABLISHED BY THE ORDER ARE TOO LOW AND THE FCC’S JURISDICTION DOES NOT EXTEND TO INTRASTATE ICS RATES

In the *FNPRM*, the Commission adopted unrealistically low per-minute rates for interstate ICS.¹⁷ The interim rate structure adopted by the Commission is unsupported by the record evidence and treats every correctional facility in the nation the same, by applying the same rubric regardless of size or available resources. Rather than address the small number of correctional facilities that may have unjust and unreasonable ICS rates, the Commission’s *FNPRM* is unnecessarily overreaching and punishes all correctional facilities by adopting rate caps and safe harbors that are arbitrary and capricious. Further, the interim rate structure does not have any automatic mechanism for reviewing and updating the rate caps and safe harbors on an on-going basis absent an ICS provider requesting a waiver for a particular correctional facility. In the meantime, an ICS provider is forced to comply with the *FNPRM*’s rate regulations while a waiver request is pending. There may be hundreds or thousands of waiver requests, each of which is based on the individual cost characteristics of the correctional facility at issue, and it is unclear how the Commission will process these waivers in an effective or timely manner. Given

¹⁵ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd 3248, ¶ 9 (2002).

¹⁶ See, e.g., WC Docket No. 12-375, Letter from Jeffrey S. Fewell, Wyandotte County Sheriff’s Office (filed Nov. 20, 2013) (“By prohibiting call blocking, the FCC is taking away one of the tools used by our Agency to ensure that inmate telephone system isn’t being used to perpetrate criminal activity.”).

¹⁷ *Order and FNPRM* ¶¶ 60, 73.

that the *FNPRM* provides no timeframe for review of a waiver request, the ODRC will be faced with the loss of critical security measures and necessary commissions during the pendency of the Commission's review.

As was explained by the Correctional Institutions in their Petition for Stay Pending Judicial Review, the Commission's decision to drastically cut interstate ICS rates affects the provision of necessary security features and functions, and significantly decreases the amount of commissions the Correctional Institutions' receive today. These commissions are used to fund important inmate programs and services.¹⁸ The Commission now asks whether it should make its interstate ICS rate structure permanent, whether it should extend that structure to intrastate ICS rates, or whether it should adopt an all-distance rate of \$0.07 per-minute for all ICS calls.¹⁹ The Commission's proposals will result in "the true costs of phone services to inmates, which include a premium to ensure safety," to be "inappropriately set aside in favor [of] limiting phone rates to provide a perceived necessary benefit to inmates and their families."²⁰ The ODRC strongly opposes any further reduction in interstate ICS rates and any action by the Commission with respect to intrastate ICS rates.

**A. INSTITUTIONAL SECURITY AND ONGOING INMATE PROGRAMS
WILL BE ADVERSELY EFFECTED BY THE COMMISSION'S RATE
PROPOSALS**

Commissioner Pai recognized the problems inherent in the rate structure adopted in the *FNPRM*: "This arbitrarily low rate will impede the continuing deployment of current-generation security measures and the development of next-generation security techniques. . . . [T]he *Order* appropriately notes that 'security features, such as call recording and monitoring . . . advance the

¹⁸ Correctional Institutions Stay Petition at 13-18.

¹⁹ *Order and FNPRM* ¶¶ 153-57.

²⁰ WC Docket No. 12-375, Letter from Charles L. Ryan, Arizona Department of Corrections (filed Sept. 16, 2013).

safety and security of the general public.’ And yet, security does not come cheap.”²¹ Extending the interstate ICS rate structure to intrastate ICS rates or adopting an uniform \$0.07 per-minute rate for all ICS calls only perpetuates and magnifies these problems, and would further undermine the availability of security procedures needed to maintain the safety of inmate communications at the facilities managed by the ODRC. As the Arizona Department of Corrections has explained, “the FCC has not appropriately weighed the importance of security and what the major phone contractors must do to ensure that, in cooperation with the state departments of corrections.”²²

The *FNPRM* has the major effect of abolishing site commissions upon which the ODRC and many of the corrections administrators depend to fund inmate programs and services, as well as offset expenses for their correctional facilities.²³ Indeed, any decreases in commission payments from ICS providers will deprive prisoners of vital services that include: (i) life-skills programs; (ii) GED programs; (iii) vocational and reentry programs; (iv) the purchase of inmate supplies and library resources; (v) the purchase and licensing of computer software that is made available to inmates; (vi) the purchase of medical supplies and services; (vii) indigent inmate welfare packages; (viii) athletic and recreational supplies and equipment; or (xi) subscription services to news-related periodicals and other informational resources.²⁴

The ODRC’s inability to recoup continued commissions (which were freely bargained for and memorialized in its Agreement with GTL) will have a significant, material, negative effect on the public interest. By curtailing the availability of these commissions, the Commission has

²¹ *Order and FNPRM*, Dissent at 129.

²² WC Docket No. 12-375, Letter from Charles L. Ryan, Arizona Department of Corrections (filed Sept. 16, 2013).

²³ Correctional Institutions Stay Petition at 17-18.

²⁴ Correctional Institutions Stay Petition at 7.

placed the ODRC and other state's correctional institutions in the unenviable position of terminating inmate programs and services or attempting to find other ways to cover the costs for these programs. State funding is already being stretched by the ODRC to provide services and programming and no other funding source is currently available. The FCC cannot presume state legislatures will fund services if commissions are no longer available or reduced, and there is no guarantee that the current level of spending would remain the same if these programs were required to be funded by state general funds.

The ODRC uses all of its ICS commissions to directly benefit all of its inmates in the form of inmate earnings, release pay, lower commissary pricing, and advanced inmate job training. All of these benefits have a direct impact on inmate recidivism. The commissions that fund these and other valuable services, in many instances, are based on the rates that ICS providers charge for inmate calls.²⁵ There is no question that decreases in commissions as a result of the interstate rate regulations adopted in the *Order and FNPRM* will cause significant disruptions to the services afforded to inmates.²⁶ Any further reduction in ICS rates or the extension of the Commission's new rate regime to intrastate ICS rates, as suggested by the *Order and FNPRM*, would undercut the ODRC's ability to fund and deliver these critical and valuable programs and services to its inmate population.

²⁵ See, e.g., WC Docket No. 12-375, Comment on Proposed Rule Making by the Louisiana Department of Public Safety & Corrections, 3 (filed Mar. 25, 2013) ("The La. DOC relies upon the commissions earned to provide security monitoring of the telephone calls made from the prisons, assist with operational costs and provide specialized offender education. Many of these programs would be ceased or reduced if the revenue from commissions earned would be lost as no other funding source would be available. As the offenders and their families benefit by the provision of these services and as it was the actions of the offenders that caused their incarceration, it is only fair that the cost of providing telephone services to offenders be borne by the offenders and their families and not the tax payers at large.").

²⁶ WC Docket No. 12-375, Letter from Charles L. Ryan, Arizona Department of Corrections (filed Sept. 16, 2013).

When comparing the ODRC's intrastate rates to other state departments of correction, the ODRC's rates are within the lowest third tier of states.. Seventy-four percent (74%) of the ODRC's calls are local. Significantly, the ODRC provides inmates, their friends and family with one of the lowest local call rates, as compared to other state's departments of corrections. Furthermore, since the inception of the ODRC's ICOP Agreement in October 2009, the amount of time that inmates spend on the phone with friends and family has almost doubled.

For all of the foregoing reasons, the ODRC urges the Commission to refrain from adopting any further reductions in interstate ICS rates and from inappropriately asserting jurisdiction over the ODRC's intrastate ICS rates which are regulated by the Public Utilities Commission of Ohio (PUCO).

The ODRC's intrastate rates fall within rates specified by the PUCO and rule 4901:1-6-22 of the Ohio Administrative Code (OAC) which caps the intrastate "usage sensitive charge" applicable to inmates at \$0.36/minute. Section 4927.18 of the Ohio Revised Code empowers the PUCO to "adopt rules regarding the rates, terms and conditions of intrastate telecommunications service initiated from a telephone instrument set aside for use by inmates". The PUCO adopted rule 4901:1-6-22 which specifies that "the maximum rate of any usage sensitive charge that may be applied by an inmate operator service to any intrastate IOS call shall not exceed thirty six cents per minute of use. The maximum amount of any operator assistance charge or call set up fee that may be applied by an IOS provider to any intrastate IOS call shall not exceed two dollars and seventy-five cents."

B. THE COMMISSION CANNOT ASSERT JURISDICTION OVER INTRASTATE ICS RATES

The FCC does not have jurisdiction over intrastate ICS rates.²⁷ As the National Association of Regulatory Utility Commissioners previously explained, expanding the Commission’s jurisdiction to intrastate ICS would “unnecessarily supplant existing State Public Service Commission decisions over this service.”²⁸

VI. FCC-MANDATED QUALITY OF SERVICE REGULATIONS ARE UNNECESSARY

The Commission asks whether it should adopt minimum, federal quality of service standards that would apply to all correctional facilities on issues concerning the number of telephones available and the maintenance of telephone equipment.²⁹ There is no reasonable basis or need for the Commission to involve itself in these types of specific equipment and operational issues. Various State law or correctional facility policies routinely establish parameters regarding the number of telephones that will be made available to inmates, maintenance of the telephone equipment, and the ratio of inmates to operable telephones.³⁰ These types of decisions are unique to each individual ODRC and other state’s correctional facility, and based on the specific needs of those individual correctional facilities. Therefore, the ODRC urges the Commission to refrain from adopting one-size-fits-all federal mandates, and instead defer to state

²⁷ 47 U.S.C. § 152 (b).

²⁸ WC Docket No. 12-375, Reply Comments of the National Association of Regulatory Utility Commissioners (filed Apr. 22, 2013).

²⁹ *Order and FNPRM* ¶ 178.

³⁰ *See, e.g.*, 7 NYCRR 723.5(b)(5) (requiring that all inmates have equal access to the use of the facility’s inmate telephones); 6 VAC 15-40-660 (mandating that “inmates have reasonable access to telephone facilities, except where safety and security considerations are documented”); 103 Mass. Code Regs. § 482.06(1), (2) (“Each superintendent shall develop procedures to insure that inmates have access to telephones. Access should be regulated in such a manner as to provide for the orderly and safe use of telephones by inmates. Each superintendent shall make arrangements to have an adequate number of inmate telephones available for inmate use.”); Florida Department of Corrections, Invitation to Negotiate Contractual Services for Statewide Inmate Telephone Services, 3.8 (issued Apr. 15, 2013), *available at* http://www.myflorida.com/apps/vbs/vbs_www.ad.view_ad?advertisement_key_num=106999 (dictating the number of telephones to be made available, and requiring the ICS provider to conduct all maintenance, repairs, upgrades and replacement to such telephones at no cost).

and local officials who have the authority and are best able to make determinations regarding institutional needs.

VII. CONCLUSION

For the foregoing reasons, the ODRC urges the Commission to allow it, and its sister state departments of corrections and local-appointed law enforcement personnel to make their own individual determinations regarding the provision of ICS within their respective correctional facilities, and to give full and careful consideration to the unique aspects of the corrections environment, including the overarching importance of safety and security, before making any further decisions regarding interstate or intrastate rates for ICS.

Respectfully submitted,

**OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION**

A handwritten signature in black ink, appearing to read "Gary Mohr", written in a cursive style.

Dated: December 20, 2013

Gary Mohr
Director, Ohio Department of
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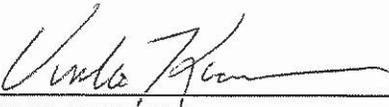
B. Consistency in customer service and complaint resolution would be impacted. For example, if the ODRC received a complaint from a constituent that stated they were being harassed by an inmate, ODRC staff would have to access and review all carriers to determine what provider and which inmate initiated the call.

C. The ODRC currently has the ability to monitor security threat group inmate calls. Having the ability to monitor and listen to these calls is important because STG inmates often times are trying to run their STG group or gang from prison, ordering hits or assaults and passing coded messages. This information is shared with federal, state, and local law enforcement officials. By having multiple providers, this would make the process of compiling this information more difficult. Subpoenas would be required for multiple providers.

D. Correctional investigators need to have the ability to restrict and block calls of inmates so that they can ensure the safety of staff, inmates, victims and the citizens of Ohio. Often times, criminal activity is conducted over the inmate phone system to include drug trafficking, extortion and threats towards victims.

E. The management and maintenance of these multiple systems would cause financial burden and logistical challenges to the ODRC. Additional phones, switches, recording equipment, servers, and data circuits would be required.

F. Multiple vendors or providers could increase the risk of a possible breach of security. Each provider would have to be monitored for compliance with ODRC policies and procedures on a regular basis to ensure that their equipment and technology meets the standards set in place by state and federal laws.


VINKO KUCINIC
Chief, Bureau of Information and Technology Services
Ohio Department of Rehabilitation and Correction

STATE OF OHIO
CITY OF COLUMBUS

Sworn to and before me this 18th day of December, 2013


Stephen P. Young, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.