

January 16, 2014

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*Notice of Ex Parte Presentation –
Supplemental Information
(Redacted Confidential Document)*

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

***Re: WC Docket No. 12-375, Petition of Pay Tel Communications, Inc. for Waiver of
Interim Interstate ICS Rates***

Dear Ms. Dortch:

This Notice serves to supplement the Petition for Waiver of Interim Interstate ICS Rates filed January 8, 2014 by Pay Tel Communications, Inc. (“Waiver Petition”). Pay Tel supplements its filing as follows:

I. Adjustment to Intrastate Shortfall Analysis

As noted in the Waiver Petition, using the Commission’s cost-based rate caps as proxies for costs, Pay Tel will be faced with a net intrastate shortfall of \$1,666,412 if forced to lower interstate rates to the rates specified in the Order released September 26, 2013 in the above-referenced proceeding (the “Order”). This shortfall is caused by the prevalence of below average cost rate caps for local collect calls (the vast majority of the calls carried by Pay Tel) in Pay Tel’s service area and represents the amount of Pay Tel’s projected shortfall relative to the total cost of its company-level operations (all calls, all jurisdictions).

As noted in Pay Tel’s filings in this proceeding, Pay Tel’s demonstrated costs for prepaid collect calling and postpaid collect calling differ from the caps established by the Order. If Pay Tel’s demonstrated costs for all calling types are utilized in lieu of the Order’s rate caps, Pay Tel’s intrastate shortfall would be \$2,565,809, instead of \$1,666,412. This showing is

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further evidence of the conservative nature of Pay Tel’s underlying analysis. Attached is a revised version of the Intrastate Shortfall Analysis reflecting this approach.

II. “Change in Law” Provisions

With respect to Pay Tel’s ability to alter existing facility contracts to account for changes in the law, none of Pay Tel’s jail contracts permits it to unilaterally upwardly adjust local collect call rates in light of changes in federal law or regulations (or other circumstances). Instead, in those states without a below average cost cap on local collect call rates, Pay Tel may increase local collect call rates only with the permission of the jail—which is virtually impossible to obtain, as Pay Tel has previously explained. *See, e.g.*, Declaration of Vincent Townsend, filed January 8, 2014.

Approximately 8% of Pay Tel’s facility contracts contain language that allows Pay Tel to request renegotiation of the terms of the agreement or, alternatively, terminate the agreement in the event of a regulatory change impacting Pay Tel’s performance of the contract. Approximately 89% of Pay Tel’s contracts contain language allowing Pay Tel to terminate the agreement in the event of a regulatory change, but not explicitly granting a right of negotiation.

In the case of below average cost local collect calling rates in states with mandatory rate caps, any negotiation language would be of no effect as Pay Tel cannot negotiate to charge rates higher than those legally permissible.

In the case of below average cost local collect calling rates in states that are not subject to mandatory rate caps, the language in 8% of the contracts providing a right of negotiation would give Pay Tel the right to initiate a discussion concerning an increase in the local collect calling rate, but does not grant any fixed right to obtain an increase in the local collect calling rate. To the contrary, as explained in Pay Tel’s previous filings, Pay Tel’s experience is that jails are extremely reluctant to agree to any increase in the local calling rate, and Pay Tel does not believe that such discussions are likely to be fruitful.

III. Commissions

Staff has requested additional information on Pay Tel’s historical payment of commissions on interstate revenues, which are as follows:

Inter-State Revenue: [REDACTED]
Average Commission Percentage: [REDACTED]
Facility Commissions: [REDACTED]

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Please do not hesitate to contact the undersigned should any questions arise concerning this Notice.

Sincerely yours,

/s/ Marcus W. Trathen

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